



AN BILLE COMHDHLÚITE LEASA SHÓISIALAIGH 2005
SOCIAL WELFARE CONSOLIDATION BILL 2005

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As initiated

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SOCIAL WELFARE CONSOLIDATION BILL 2005

AN ACT TO CONSOLIDATE THE SOCIAL WELFARE ACTS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

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PART 1

PRELIMINARY

1.—This Act may be cited as the Social Welfare Consolidation Act 2005. Short title.

2.—(1) In this Act, save where the context otherwise requires— Interpretation.

10 “Act of 1997” means the Taxes Consolidation Act 1997; [1993 s2(1); 2005 (SW&P) s23 & Sch 1]

“appeals officer” means a person holding office as an appeals officer under *section 306*;

“assistance” means assistance under *Part 3*;

15 “beneficiary” means a person entitled to any benefit, assistance, child benefit or family income supplement, as the case may be;

“benefit” means, subject to *section 250* and *Part 9*, benefit under *Part 2*;

20 “benefit year” means the period beginning on the first Monday in a particular year and ending on the Sunday before the first Monday in the following year;

“bureau officer” means an officer of the Minister appointed as a bureau officer under *section 8(1)(a)(iii)* of the Criminal Assets Bureau Act 1996; [1999 s30 & Sch F]

25 “claimant” means a person who has made a claim for any benefit, assistance, child benefit or family income supplement, as the case may be;

“Collector-General” means the Collector-General appointed under *section 851* of the Act of 1997;

30 “contribution week” means one of the successive periods of 7 consecutive days in a contribution year beginning on the first day of that contribution year, or on any 7th day after that day, the last day of a contribution year (or the last 2 days of a contribution year ending in

a leap year) being taken as included in the last contribution week of that contribution year;

“contribution year” means a year of assessment within the meaning of the Income Tax Acts;

“credited contribution” means, in relation to any insured person, a contribution credited to that person by virtue of *section 33*; 5

“day of incapacity for work” has the meaning given to it by *section 40(1)*;

“day of unemployment”, in relation to *Part 2*, has the meaning given to it by *section 62*, and in relation to *Chapter 2* of *Part 3*, has the meaning given to it by *section 141(4)* or *(7)*; 10

“deciding officer” means a person holding office as a deciding officer under *section 301*;

[1993 (No. 2)
s11(a)]

“developing country” means any country which the Minister, having regard to the countries so designated by the United Nations, the World Bank or the International Labour Organisation as developing countries and after consultation with the Minister for Foreign Affairs, may determine, for the purposes of this Act, to be a developing country; 15

“employed contributor” has the meaning given to it by *section 12(1)*; 20

“employer’s contribution” has the meaning given to it by *section 6(1)(a)*;

“employment contribution” has the meaning given to it by *section 6(1)(a)*;

“entry into insurance” means, subject to *sections 35(3)* and *125(7)* and *Chapters 15* and *16* of *Part 2*, in relation to a person, the date on which the person became an insured person; 25

[2005 (SW&P)
s23 & Sch 1]

“Executive” means the Health Service Executive;

“health board” means—

(a) a health board established under the Health Act 1970, 30

(b) the Eastern Regional Health Authority established under the Health (Eastern Regional Health Authority) Act 1999, or

(c) an Area Health Board established under the Health (Eastern Regional Health Authority) Act 1999; 35

“incapable of work” means incapable of work by reason of some specific disease or bodily or mental disablement or deemed, in accordance with regulations, to be so incapable;

“infectious diseases maintenance allowance” means a payment under section 44 of the Health Act 1947 to a person suffering from an infectious disease; 40

“insurable employment” means employment such that a person, over the age of 16 years and under pensionable age, employed in that employment would be an employed contributor;

- “insurable (occupational injuries) employment” has the meaning given to it by *section 71*;
- 5 “insurable self-employment” means self-employment of such a nature that a person engaged in that employment would be a self-employed contributor;
- “insured person” means a person insured under *Part 2*;
- “island” means any island lying off the coast of the State, that is prescribed; [2001 s15(1)(a)]
- 10 “local authority” has the meaning given to it by the Local Government Act 2001;
- “Member State” means a Member State of the European Communities;
- “Minister” means the Minister for Social and Family Affairs;
- 15 “non-governmental agency” means any organisation which has as one of its functions the promotion of relief and development in developing countries through the sponsoring or aiding of projects involving the employment of volunteer development workers in those countries;
- 20 “occupational injuries insurance” has the meaning given to it by *section 70(2)*; [1993 (No. 2) s11(b)]
- “optional contribution” means a contribution paid under *Chapter 5 of Part 2*; [1993 (No. 2) s3(a)]
- “optional contributor” means a person engaged in share fishing paying optional contributions; [1993 (No. 2) s3(a)]
- 25 “orphan” means a qualified child— [1995 s20(1); 2005 (SW&P) s18]
- (a) both of whose parents are dead, or
- (b) one of whose parents is dead or unknown or has abandoned and failed to provide for the child, as the case may be, and whose other parent—
- 30 (i) is unknown, or
- (ii) has abandoned and failed to provide for the child, where that child is not residing with a parent, adoptive parent or step-parent;
- 35 “outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired or adapted for sale in the person’s own home or on other premises not under the control or management of the person who gave out the articles or materials for the purposes of the trade or business of the last-mentioned person;
- 40 “pensionable age” means the age of 66 years;
- “person engaged in share fishing” means a self-employed contributor who is a member of the crew of a fishing vessel and whose principal means of livelihood is derived from a share in the profits or the gross earnings of the working of the vessel; [1993 (No. 2) s3(b)]

	“prescribed” means prescribed by regulations;	
[2001 s8(1)]	“qualifying contribution” means the appropriate employment contribution or self-employment contribution which was paid or would have been paid but for <i>section 13(2)(c)</i> in respect of any insured person or the appropriate optional contribution which was paid or would have been paid but for <i>section 29(1)(b)</i> ;	5
[1999 s26(2)]	“record” means any book, document or any other written or printed material in any form including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form;	10
[2004 (MP) s13(1)(b)]	“reckonable earnings” means, subject to regulations, earnings derived from insurable employment or insurable (occupational injuries) employment;	
[2005 (SW&P) s26 & Sch 4]	“reckonable emoluments”, in relation to a self-employed contributor, means emoluments (other than reckonable earnings and any other emoluments that may be prescribed) to which Chapter 4 of Part 42 of the Act of 1997 applies, reduced by so much of the allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)) as is deducted on payment of those emoluments;	15 20
	“reckonable income”, in relation to a self-employed contributor or an optional contributor, means the aggregate income (excluding reckonable earnings, reckonable emoluments and any other income that may be prescribed) from all sources for the contribution year as estimated in accordance with the Income Tax Acts, but without regard to—	25
	(a) sections 195, 231 and 232 of the Act of 1997, or	
	(b) save in the case of a person to whom <i>paragraph 1 of Part 3 of Schedule 1</i> applies, Chapter 1 of Part 44 of the Act of 1997, after deducting from the income so much of any deduction allowed by virtue of the provisions of the definition of “capital allowance” in section 2(1) of the Act of 1997;	30
	“regulations” means regulations made by the Minister under this Act;	35
	“Regulations of 1996” means the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996);	
	“self-employed contributor” has the meaning given to it by <i>section 20</i> ;	
	“self-employment contribution” has the meaning given to it by <i>section 6</i> ;	40
	“short-time employment” means employment in which, for the time being, a number of days is systematically worked in a working week which is less than the number of days which is normal in a working week in the employment concerned;	45
	“Social Insurance Fund” means the Fund to which <i>section 9</i> relates;	
[2005 (SW&P) s26 & Sch 4]	“social welfare inspector” means a person appointed by the Minister under <i>section 252</i> to be a social welfare inspector for the purposes of <i>Parts 2, 3, 4, 5, 6, 7, 8, 9 and 12</i> ;	

“statutory declaration” means a statutory declaration within the meaning of the Statutory Declarations Act 1938;

5 “trade dispute” means any dispute between employers and employees, or between employees and employees, which is connected with the employment or non-employment or the terms of employment or the conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises or not;

“voluntary contribution” has the meaning given to it by *section 25*;

10 “voluntary contributor” has the meaning given to it by *section 24*;

“volunteer development worker” means a person who is employed temporarily outside the State in a developing country and has secured that employment either—

15 (a) by or through the organisation known as the Agency for Personal Services Overseas or by or through a non-governmental agency in the State, or

(b) by or through a governmental or non-governmental agency in any Member State other than the State, or

20 (c) directly with the government of a developing country, and who is employed by any of those agencies or by the government of the developing country or by both under conditions of remuneration similar to local conditions applying in that country and who was resident in the State immediately before taking up that employment;

25 “Workmen’s Compensation Acts” means the Workmen’s Compensation Acts 1934 to 1955 and the enactments repealed by the Workmen’s Compensation Act 1934.

(2) In this Act “qualified adult”, subject to *sections 134, 187* and *299*, means in relation to a person—

30 (a) a spouse who is wholly or mainly maintained by that person but does not include—

(i) a spouse in employment (other than employment specified in *paragraph 4* or *5* of *Part 2* of *Schedule 1*), or

35 (ii) a spouse who is self-employed, or

(iii) a spouse who is entitled to or is in receipt of any benefit, pension, assistance or allowance (other than supplementary welfare allowance) under *Part 2* or *3*, or

40 (iv) a spouse who, by virtue of *section 68(1)* or *147(2)*, is or would be disqualified for receiving unemployment benefit payable under *Chapter 12* of *Part 2* or unemployment assistance payable under *Chapter 2* of *Part 3* in his or her own right with the exception of a spouse who qualifies as a qualified adult by virtue of regulations made under *paragraph (c)*, or

45

(v) a spouse who is entitled to or is in receipt of an allowance the rate of which is related to the rates of unemployment assistance payable under *section 142* or unemployment benefit payable under *section 65* or *66*, in respect of a non-craft full-time course approved by An Foras Áiseanna Saothair under the Industrial Training Act 1967, or 5

(vi) a spouse who is entitled to or in receipt of an allowance the rate of which is related to the rates of unemployment assistance payable under *section 142* or unemployment benefit payable under *section 65* or *66*, in respect of participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme, or 10
15

(vii) a spouse who is entitled to or in receipt of an allowance the rate of which is related to the rates of unemployment assistance payable under *section 142* or unemployment benefit payable under *section 65* or *66*, in respect of participation in a scheme administered by the Minister and known as— 20

(I) Back to Education Allowance, or

(II) Back to Work Allowance, or

(III) Back to Work Enterprise Allowance, or

(IV) Part-Time Job Incentive, 25

or

(b) a person over the age of 16 years being wholly or mainly maintained by that person and having the care of one or more than one qualified child who normally resides with that person where that person is— 30

(i) a single person,

(ii) a widow,

(iii) a widower, or

(iv) a married person who is not living with and is neither wholly or mainly maintaining, nor being wholly or mainly maintained by, the married person's spouse, 35

or

(c) any person whom the Minister may by regulations specify to be a qualified adult for the purposes of this Act.

[1993 s2(3); 2003 (MP) s5(1)(a)]

(3) Subject to *section 134(3)*, in this Act “qualified child” means a person who is ordinarily resident in the State, is not detained in a reformatory or an industrial school, and— 40

(a) for the purposes of—

(i) *section 43(2)*, in the case of an applicant for disability benefit other than as referred to in *paragraph (b)*, 45

- 5 (ii) *section 56(2)*, in the case of an applicant for health and safety benefit other than as referred to in *paragraph (b)*,
- (iii) *section 66(2)*, in the case of an applicant for unemployment benefit other than as referred to in *paragraph (b)*,
- (iv) *section 76(2)*, in the case of an applicant for injury benefit other than as referred to in *paragraph (b)*, and
- 10 (v) *section 142(1)(b)(ii)*, in the case of an applicant for unemployment assistance other than as referred to in *paragraph (b)*,

15 is under the age of 18 years or is of or over the age of 18 years and is regarded as attending a course of study referred to in *section 148(3)(a)*,

and

(b) for the purposes of—

- 20 (i) *sections 81(5), 83(1), 102(1), 112(2), 117(2), 122(2), 127(1), 130, 137, 150(1)(b), 157(1), 169(1), 175(1), 181(1), 213(1)(b), 217(1)(b)* and 230,
- 25 (ii) *section 43(2)*, in the case of an applicant who, in respect of any period of interruption of employment has been entitled to or is in receipt of disability benefit for not less than 156 days or, subject to the conditions and in the circumstances that may be prescribed, has been entitled to or has been in receipt of disability benefit and a relevant payment for not less than 156 days,
- 30 (iii) *section 56(2)*, in the case of an applicant who, in respect of a period of health and safety leave under the Maternity Protection Act 1994, has been entitled to or is in receipt of health and safety benefit for not less than 156 days or, subject to the conditions and in the circumstances that may be prescribed, has been entitled to or has been in receipt of health and safety benefit and a relevant payment for not less than 156 days,
- 35 (iv) *section 66(2)* or *142(1)(b)(ii)*, in the case of an applicant who, in any continuous period of unemployment as read in accordance with *section 141(3)*, has been entitled to or is in receipt of unemployment benefit or unemployment assistance for not less than 156 days, or, subject to the conditions and in the circumstances that may be prescribed, has been entitled to or has been in receipt of unemployment benefit or unemployment assistance and a relevant payment for not less than 156 days, and
- 40
- 45
- 50 (v) *section 76(2)*, as it applies to disablement pension or in the case of an applicant who, in respect of any period of interruption of employment, has been entitled to or is in receipt of injury benefit and a relevant payment for not less than 156 days, subject

to the conditions and in the circumstances that may be prescribed,

and for the purposes of this paragraph—

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

(II) is of or over the age of 18 years and under the age of 22 years and is receiving full-time education, the circumstances of which shall be specified in regulations, or

(III) is of or over the age of 18 years and is regarded as attending a course of study referred to in *section 148(3)(a)*.

[2003 s5(1)(a)] (4) In *subsection (3)* “relevant payment” means any benefit specified in *section 39(1)* (other than old age (contributory) pension) or any assistance specified in *section 139(1)* (other than old age (non-contributory) pension).

[1993 s2(4); 2003 s5(1)(a)] (5) (a) Notwithstanding *subsection (3)(b)(v)(II)*, a person receiving full-time education, in accordance with that provision, who attains the age of 22 years during an academic year shall continue to be regarded as a qualified child for the purposes of that provision, while receiving full-time education for the duration of that academic year.

(b) In this subsection “academic year” has the meaning given to it by *section 148(2)*.

[2003 s5(1)(a)] (6) (a) Subject to *paragraph (b)* and notwithstanding *subsection (3)(a)*, a person who attains the age of 18 years while attending a full-time day course of study, instruction or training at an institution of education, shall continue to be regarded as a qualified child for the purposes of that subsection until the following 30 June or until the person completes the full-time day course, whichever is the earlier.

(b) For the purposes of *paragraph (a)*, the Minister may prescribe the conditions subject to which a person shall be regarded as attending a full-time day course of study, instruction or training at an institution of education.

(c) In this subsection—

“institution of education” has the meaning given to it by *section 148(2)*;

“relevant payment” means any benefit specified in *section 39(1)* (other than old age (contributory) pension) or any assistance specified in *section 139(1)* (other than old age (non-contributory) pension).

[1998 s24(1)] (7) Subject to *Part 12*, “liable relative” means in relation to any person—

(a) a man who is liable to maintain—

(i) his wife,

- (ii) his former wife where the marriage has been dissolved, being a dissolution that is recognised as valid in the State,
while she is in receipt of an allowance or benefit, and
- 5 (iii) any qualified child of his in respect of whom an increase in allowance or benefit is payable to the mother,
or
- (b) a woman who is liable to maintain—
- 10 (i) her husband,
- (ii) her former husband where the marriage has been dissolved, being a dissolution that is recognised as valid in the State,
while he is in receipt of an allowance, and
- 15 (iii) any qualified child of hers in respect of whom an increase in allowance is payable to the father.

3.—(1) For the purposes of this Act—

Interpretation generally.

- (a) a person is deemed to be over any age mentioned in this Act where the person has attained that age and is deemed to be under any age mentioned in this Act where the person has not attained that age; [1993 s3(1); 1995 (No. 2) s10(3)]
- 20 (b) a person is deemed to be between 2 ages mentioned in this Act where the person has attained the first-mentioned age but has not attained the second-mentioned age;
- 25 (c) a person is deemed not to have attained the age of 16 years until the beginning of the 16th anniversary of the day of the person's birth, and similarly with respect to any other age;
- 30 (d) regulations may provide that, for the purpose of determining whether a contribution is payable in respect of a person, or at what rate a contribution is payable, the person shall be treated as having attained at the beginning of a contribution week, or as not having attained until the end of a contribution week, any age which that person attains during the course of that week;
- 35 (e) the circumstances in which a person is to be regarded as living alone shall be specified in regulations;
- (f) regulations shall provide for determining the circumstances in which a person is or is not to be regarded to be wholly or mainly maintaining another person.
- 40

(2) Any reference in this Act to contributions, where the reference is without qualification, shall be read, save where the context otherwise requires, as including a reference to employment contributions, self-employment contributions and voluntary contributions. [1993 s3(2)]

[1993 s3(3)]	(3) Regulations may, in relation to any class or description of insurable employment or insurable (occupational injuries) employment, specify the persons to be treated for the purposes of this Act as the employers of employed contributors employed in that employment.	5
[1993 s3(4)]	(4) References in this Act to an employed contributor's employer shall not be read as including his or her employer in any employment other than insurable employment or insurable (occupational injuries) employment.	
[1993 s3(5)]	(5) Any question relating to the normal residence of a qualified child shall, subject to <i>section 222(2)</i> , be decided in accordance with regulations made under that subsection.	10
[1993 s3(6)]	(6) Where a child has been or becomes adopted under the Adoption Acts 1952 to 1998, then for the purposes of this Act—	
	(a) the child shall after the adoption be treated as if he or she were the child of the adopter or adopters born to that adopter or adopters and were not the child of any other person and, where the child was an orphan immediately before the adoption, as having ceased to be an orphan, and	15 20
	(b) where there is one adopter only, in any application after the adoption with respect to the child of the definition of "orphan" contained in <i>section 2(1)</i> , "the parent of whom is dead" is substituted in <i>paragraph (a)</i> of that definition for "both of whose parents are dead".	25
	(7) In this Act—	
[1993 s3(9)]	(a) a reference to a Part, Chapter, section or Schedule is to a Part, Chapter or section of or Schedule to this Act, unless it is indicated that reference to some other enactment is intended,	30
[1993 s3(10)]	(b) a reference to a subsection, paragraph, subparagraph or clause is to the subsection, paragraph, subparagraph or clause of the provision (including a Schedule) in which the reference occurs, unless it is indicated that reference to some other provision is intended, and	35
[1993 s3(7)]	(c) a reference to any other enactment shall, unless the context otherwise requires, be read as a reference to that enactment as amended or extended by or under any subsequent enactment.	
[1993 s3(8)]	(8) References in any other enactment to the "Social Welfare Acts" means this Act and every enactment which is to be read together with it as one.	40
[1993 s3(11)]	(9) In this Act, any reference to this Act shall be read as including a reference to regulations made under or applying the provisions of this Act.	45
[1993 s3(12); 2004 (MP) s18]	(10) For the purposes of <i>sections 43(3), 66(3), 76(3), 112(3), 117(3), 122(3), 134, 141(2)(d), 146, 149(2), 150(3), 159, 181(4), 212(2), 213(3), 218, 221(2), 299 and 300 and Chapter 9 of Part 3</i> , "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 husband and wife.

5 (11) For the purposes of determining the entitlement of a person to an increase in respect of a qualified adult, references to a spouse in the definition of “qualified adult” contained in *section 2(2)* and regulations made under that provision shall be read as including: [1993 s3(13); 1997 s28(4) & Sch F]

10 (a) a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State, or

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

4.—(1) The Minister may make regulations— Regulations.

15 (a) for any purpose in relation to which regulations are provided for by any of the provisions of this Act, and [1993 s4(1)]

(b) for prescribing any matter or thing referred to in this Act as prescribed or to be prescribed.

(2) Except in so far as this Act otherwise provides, any power conferred by this Act to make regulations may be exercised— [1993 s4(2)]

20 (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case, and

25 (b) so as to make, as regards the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by exception or otherwise),

30 (ii) the same provision for all cases in relation to which the power is exercised or different provision for different cases or classes of case, or different provision in relation to the same case or class of case for different purposes of this Act,

(iii) any such provision either unconditionally or subject to any specified condition.

35 (3) Without prejudice to any specific provision in this Act, regulations may contain any incidental or supplementary provisions that may appear to the Minister to be expedient for the purposes of the regulations. [1993 s4(3)]

40 (4) The following are subject to the sanction of the Minister for Finance: [1993 s4(4); 2005 (SW&P) s25 & Sch 3]

45 (a) regulations for the purposes of *sections 2(2), 13, 14, 15, 16, 17, 20(2)(d), 22, 23, 25(1)(d), 41(4), 41(7), 49, 60, 62(3), 62(5), 62(7), 64(6), 70(3), 71(7), 71(8), 71(9), 99(3), 108(6), 108(7), 109(8), 109(11), 109(14), 109(16), 114(6), 114(7), 115(4), 115(5), 115(7), 119(1), 119(2), 120, 125(3), 125(5), 135(2), 135(3), 141(1), 142(5), 151, 174(4), 179(1),*

186(2)(b), 198, 234(2), 234(3), 235, 243(7), 291, 294, 299, 344 and 365 and, in *Schedule 3, Rule 1(2)(b)(iv)(I), (6) and (7) of Part 2, Rule 2(3) of Part 3 and Rule 2 of Part 4 and Reference 14 and 19 in Table 2;*

(b) a draft of regulations under any of the provisions mentioned in *subsection (5)*. 5

[1993 s4(5); 2005 (SW&P) s25 & Sch 3] (5) Where regulations are proposed to be made for the purposes of *section 12(2), 12(3), 13(3)(a), 20(2)(a), 20(2)(b), 20(2)(c), 32, 41(6), 58(3), 64(5), 101(2), 109(7), 115(3), 119(6), 125(2), 131(2), 135(2), 264(3), 265(1) or 266(1)*, or, in *Schedule 3, Rule 4(a) of Part 2, Rule 7 of Part 3 or Rule 2(a) of Part 4, or Schedule 5*, a draft of those regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House. 10

[1993 s4(6); 2005 (SW&P) s26 & Sch 4] (6) Regulations or rules (not being regulations of which a draft is required by this Act to be approved of by resolution of each House of the Oireachtas) shall be laid before each House of the Oireachtas as soon as practicable after they are made and, if a resolution annulling the regulations or rules is passed by either House within the next 21 days on which that House has sat after the regulations or rules have been laid before it, the regulations or rules shall be annulled accordingly, but without prejudice to the validity of anything previously done under those regulations or rules. 15 20

[1993 s4(7)] (7) Where the Minister revokes regulations made under any of the provisions mentioned in *subsection (5)* and makes regulations which he or she certifies to be substantially to the like effect as the regulations so revoked, a requirement that a draft of the proposed regulations be laid before each House of the Oireachtas shall not apply. 25

Expenses. [1993 s5(1)] 5.—(1) Any expenses incurred by the Minister or any other Minister in carrying this Act into effect shall, to the extent that may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 30

[1993 s5(2)] (2) There shall be paid to the Minister for Finance out of the Social Insurance Fund, at the times and in the manner the Minister for Finance may direct, any sums that the Minister may estimate, on the basis that may be agreed on between the Minister and the Minister for Finance, to be the part of those expenses of the Minister or any other Minister which relates to the scheme of social insurance provided for in *Part 2* and any sums so paid shall be appropriated in aid of moneys provided by the Oireachtas for carrying this Act into effect. 35 40

[1993 s5(3)] (3) In estimating expenses for the purposes of *subsection (2)*, there shall be included an amount that, in the opinion of the Minister for Finance, represents the amount of the accruing liability in respect of any superannuation or other retiring allowances, lump sums or gratuities accruing in respect of the employment of any officer or other person for the purposes of this Act. 45

[1993 s5(4)] (4) Any expenses incurred by An Post under *Part 2* (determined on the basis that may be agreed on between the Minister, the Minister for Finance and An Post) shall be paid by the Minister out of the Social Insurance Fund to An Post at the times and in the manner the Minister for Finance may direct. 50

5 (5) Any fees in respect of an audit of the Social Insurance Fund [1996 s40]
which are payable to the Comptroller and Auditor General in
accordance with section 12 of the Comptroller and Auditor General
(Amendment) Act 1993 shall be paid by the Minister out of that
Fund.

10 (6) There shall be paid to the Minister for Enterprise, Trade and [Redundancy
Employment out of the Social Insurance Fund, at the times and in Payments Act 2003
the manner the Minister for Finance may direct, the sums that the s2]
Minister for Enterprise, Trade and Employment may estimate, on
the basis that may be agreed on between the Minister for Enterprise,
Trade and Employment, the Minister and the Minister for Finance,
to be part of the expenses incurred in carrying into effect—

(a) the Protection of Employees (Employers' Insolvency)
Acts 1984 to 2004, and

15 (b) the Redundancy Payments Acts 1967 to 2003,

and any sums so paid shall be appropriated in aid of moneys pro-
vided by the Oireachtas for carrying into effect the Acts referred to
in *paragraphs (a) and (b)*.

PART 2

20 SOCIAL INSURANCE

CHAPTER 1

Social Insurance Fund

25 6.—(1) For the purposes of providing moneys for meeting the Sources of moneys
expenditure on benefit and making any other payments which, under for benefits.
this Act (other than *section 8*), the Redundancy Payments Acts 1967 [1993 s6(1);
to 2003 and the Protection of Employees (Employer's Insolvency) National Training
Acts 1984 to 2004, are to be made out of the Social Insurance Fund, Fund Act 2000
there shall be— s4(10)]

30 (a) contributions (referred to in this Act as “employment
contributions”) in respect of employed contributors, each
of which shall comprise a contribution by the employed
contributor and a contribution (referred to in this Act as
“the employer's contribution”) by the employer of the
employed contributor,

35 (b) contributions (referred to in this Act as “self-employment
contributions”) in respect of self-employed contributors,

(c) contributions in respect of optional contributors, [1993(No.2) s5(a)]

(d) contributions in respect of voluntary contributors, and

(e) payments out of moneys provided by the Oireachtas.

40 (2) Employment contributions, self-employment contributions, [1993 s6(2);
optional contributions and voluntary contributions shall be paid into 1993(No.2) s5(b)]
the Social Insurance Fund.

Social Insurance Fund — expenditure on benefit.	7.—(1) Benefit shall be paid or provided for out of the Social Insurance Fund.	
[2000 s29(a)] [2000 s29(a)]	(2) A reference to benefit in <i>section 6</i> and this section includes:	
	(a) the benefits described in <i>section 39</i> ,	
	(b) a relevant payment within the meaning of <i>section 18(1)(a)</i> of the Social Welfare Act 1996,	5
	(c) schemes administered by the Minister and known as—	
	(i) Free Fuel Allowance,	
	(ii) Free Electricity Allowance,	
	(iii) Free Television Licence,	10
	(iv) Free Telephone Rental Allowance,	
	(v) Free Natural Gas Allowance, and	
	(vi) Free Bottled Gas Allowance,	
	where those allowances are payable in respect of a person in receipt of a benefit under <i>section 39(1)</i> or a relevant payment within the meaning of <i>section 18(1)(a)</i> of the Social Welfare Act 1996,	15
[2002 (MP) s13]	(d) a payment under regulations made under <i>section 138</i> in respect of dental treatment or optical treatment and appliances which would have been payable in respect of a person but for the fact that the person availed of a service in respect of dental treatment or optical treatment and appliances under <i>sections 45 and 67</i> of the Health Act 1970,	20
	(e) any benefit to which <i>section 39(1)</i> refers which would have been payable in respect of a person but for the receipt by that person of old age (non-contributory) pension,	25
	(f) any increase in any benefit to which <i>section 39(1)</i> refers which would have been payable in respect of a person, but for the receipt by that person of an old age (non-contributory) pension in his or her own right, and	30
	(g) unemployment benefit which would have been payable in respect of a person but for the receipt by that person of unemployment assistance.	
[2000 s29(a)]	(3) Benefit to be paid or provided for out of the Social Insurance Fund shall include such sums as the Minister may estimate on the basis that may be agreed on between the Minister and the Minister for Finance in respect of the benefits set out in <i>subsection (2)(c), (d), (e), (f) and (g)</i> .	35
[2000 s29(a)]	(4) There shall be paid out of the Social Insurance Fund—	40
	(a) to the Minister for Health and Children the sum agreed between the Minister and the Minister for Finance in respect of the benefit set out in <i>subsection (2)(d)</i> , and	

(b) to the Exchequer in respect of the sums agreed between the Minister and the Minister for Finance in respect of the benefits set out in *subsection (2)(c), (e), (f) and (g)*, in the manner and at the times the Minister may determine.

5 **8.**—The Minister shall make payments out of the Social Insurance Fund into the National Training Fund equalling those paid into the first-mentioned fund pursuant to section 5(3) and (4) of the National Training Fund Act 2000.

Social Insurance Fund — payments to National Training Fund.

[National Training Fund Act 2000 s5(5)]

10 **9.**—(1) The Social Insurance Fund (in this section and in *section II* referred to as “the Fund”), established under the Social Welfare Act 1952 and continued in being under section 7 of the Social Welfare (Consolidation) Act 1993, shall continue in being and to comprise a current account and an investment account.

Social Insurance Fund.

[1993 s7(1)]

15 (2) The Minister shall manage and control the current account of the Fund.

[1993 s7(2)]

(3) The Minister for Finance shall manage and control the investment account of the Fund.

[1993 s7(3)]

(4) Save where otherwise specifically provided—

[1993 s7(4); 1998 s16]

20 (a) sums payable into the Fund shall be paid into either the current account of the Fund or the investment account of the Fund, and

(b) sums payable out of the Fund shall be paid out of the current account of the Fund.

25 (5) Moneys standing to the credit of the current account of the Fund and not required to meet current expenditure shall be transferred to the investment account of the Fund.

[1993 s7(5)]

30 (6) Whenever the moneys in the current account of the Fund are insufficient to meet the liabilities of that account, there shall be paid into that account from the investment account of the Fund the moneys necessary to meet those liabilities.

[1993 s7(6)]

(7) Subject to *subsection (6)*, moneys standing to the credit of the investment account of the Fund shall be invested by the Minister for Finance and income arising from any such investment shall be paid into that account.

[1993 s7(7)]

35 (8) An investment under *subsection (7)* may be—

[1993 s7(8)]

(a) in securities in which trustees are for the time being by law empowered to invest trust funds, or

40 (b) in any of the stocks, funds and securities which are for the time being authorised by law as investments for Post Office Savings Bank Funds.

(9) (a) The amount by which the income of the Fund for any financial year is less than its expenditure shall be paid into the Fund out of moneys provided by the Oireachtas.

[1993 s7(9)]

	(b) The income and expenditure of the Fund for a financial year shall be determined for the purposes of this subsection by the Minister on the basis that may be agreed on between the Minister and the Minister for Finance.	
[1993 s7(10)]	(10) Any sum payable into the Fund under <i>subsection (9)(a)</i> shall be paid in the manner and at the times as the Minister for Finance may determine.	5
[1993 s7(11)]	(11) Accounts of the Fund shall be prepared in the form and manner and at the times the Minister for Finance may direct and the Comptroller and Auditor General shall examine and certify every account and a copy of every account, together with the report thereon of the Comptroller and Auditor General, shall be laid before each House of the Oireachtas.	10
Actuarial review.	10.— (1) The Minister shall cause—	
[1998 s17]	(a) actuarial reviews to be made of the financial condition of the Social Insurance Fund by the persons the Minister may decide for the purpose of determining the extent to which the Fund may be expected, in the longer term, to meet the demands in respect of payment of benefits and other payments, having regard, in particular, to the adequacy or otherwise of the contributions to support benefits and other payments and any other matters the Minister considers to be relevant as affecting the current and future financial condition of the Fund,	15 20
	(b) a report to be made to the Minister on completion of any such review, and	25
	(c) a copy of every report under this section to be laid before each House of the Oireachtas within 6 months of the completion of the review.	
[1998 s17]	(2) The date of completion of the first actuarial review under this section shall be a date not later than 31 December 2002, and the date of completion of each subsequent review shall be a date not later than 5 years after the date of completion of the immediately preceding review.	30
Payments from Fund for acquisition of land, etc.	11.— (1) Payments may be made out of the Fund in respect of expenditure by the Minister on the acquisition of lands, premises, furniture or equipment or the construction or reconstruction of premises, and any such lands, premises, furniture or equipment shall be held by the Minister on behalf of the Fund.	35
[1993 s8(1)]		
[1993 s8(2)]	(2) A payment shall not be made under <i>subsection (1)</i> save with the consent of the Minister for Finance.	40
[1993 s8(3)]	(3) The Minister may dispose of any lands, premises, furniture or equipment which he or she has acquired, constructed or reconstructed under this section and any moneys which the Minister receives in respect of any such disposal shall be paid into the Fund.	45
[1993 s8(4)]	(4) A disposal shall not be effected under <i>subsection (3)</i> save with the consent of the Minister for Finance.	

Employed Contributors and Employment Contributions

- 12.—(1) Subject to this Act—
- 5 (a) subject to *paragraph (b)*, every person who, being over the age of 16 years and under pensionable age, is employed in any of the employments specified in *Part 1 of Schedule 1*, not being an employment specified in *Part 2* of that Schedule, shall be an employed contributor for the purposes of this Act, and [1993 s9(1)]
- 10 (b) every person, irrespective of age, who is employed in insurable (occupational injuries) employment shall be an employed contributor and references in this Act to an employed contributor shall be read accordingly, and
- 15 (c) every person becoming for the first time an employed contributor shall thereby become insured under this Act and shall thereafter continue throughout his or her life to be so insured.
- (2) Regulations may provide for including among employed contributors persons employed in any of the employments specified in *Part 2 of Schedule 1*. [1993 s9(2)]
- 20 (3) Regulations may provide for— [1993 s9(3)]
- (a) excluding particular employments or any classes of employment from the employments specified in *Part 1 of Schedule 1*, or
- 25 (b) adding to the employments so specified particular employments or any classes of employment,
- and, where the Minister considers that any modifications of this Act are appropriate having regard to the purpose for which the regulations are made, the regulations may make those modifications.
- 30 (4) For the purposes of this Part, with regard to employment specified in *paragraph (13) of Part 1 of Schedule 1*, the person who is liable to pay the wages or salary of the individual concerned in respect of the work or service concerned is deemed to be the individual's employer. [2003 (MP) s19(a)]
- 35 13.—(1) Employment contributions shall be paid by employed contributors and their employers in accordance with this section. Employment contributions. [1993 s10(1)(a)]
- 40 (2) (a) Where in any contribution week a payment of not more than €287 per week (or the equivalent thereof in respect of an employed contributor remunerated otherwise than on a weekly basis) is made to or for the benefit of an employed contributor in respect of reckonable earnings of that contributor relating to an employment, a contribution shall not be payable by that employed contributor in respect of those earnings from that employment. [SWA 2000 s8; SWA 2001 s8, 36 & Sch E]

[SWA 1995 s6;
SWA 2001 s8, 36 &
Sch E]

(b) Subject to *paragraph (c)* and to regulations under *section 14*, where in any contribution week a payment of more than €287 is made to or for the benefit of an employed contributor in respect of reckonable earnings of that employed contributor, there shall be payable a contribution by the employed contributor at the rate of 4 per cent of the amount of reckonable earnings in excess of €127 in that week in respect of each employment (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis) to which that payment relates.

[1993 s10(1); 2004
s5(1)]

(c) Where in a particular contribution year an employed contributor's reckonable earnings have amounted to the sum of €44,180 and the contributions payable under *paragraph (b)* have been paid in respect of those reckonable earnings, no further such contribution shall be payable in respect of any reckonable earnings of that employed contributor by the employed contributor in that contribution year.

(d) Subject to *subsection (8)* and to regulations under *section 14*, where in any contribution week a payment is made to or for the benefit of an employed contributor in respect of reckonable earnings of that employed contributor, there shall be payable a contribution by the employed contributor's employer—

(i) at the rate of 7.8 per cent of the amount of the reckonable earnings in that week to which that payment relates where those reckonable earnings do not exceed €356 (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis), and

(ii) at the rate of 10.05 per cent of the amount of the reckonable earnings in that week to which that payment relates where those reckonable earnings exceed €356 (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis).

[2003 (MP) s17;
2003 s13]

(e) For the purposes of this Chapter—

“payment” includes a notional payment;

“notional payment” has the meaning given to it by section 985A (inserted by section 6 of the Finance Act 2003) of the Act of 1997.

[1993 s10(2); 2001
s8(2)(e)]

(3) (a) The Minister may by regulations vary the sums specified in *subsection (2)(c)* and any variation has effect from the beginning of the contribution year following that in which the regulations are made.

(b) When making regulations under this subsection to vary the sum specified in *subsection (2)(c)* the Minister shall take into account any changes in the average earnings of workers in the transportable goods industries so recorded by the Central Statistics Office since the date by reference to which the sum specified in *subsection (2)(c)* was last determined.

- 5 (4) The employer shall, in relation to any employment contribution, be liable in the first instance to pay both the employer's contribution comprised therein and also, on behalf of and to the exclusion of the employed contributor, the contribution comprised therein payable by the contributor. [1993 s10(3)]
- 10 (5) An employer shall be entitled, subject to and in accordance with regulations, to recover from an employed contributor the amount of any contribution paid or to be paid by the employer on behalf of that contributor and, notwithstanding anything in any enactment, regulations for the purposes of this subsection may authorise recovery by deductions from the employed contributor's remuneration, but those regulations shall provide that— [1993 s10(4)]
- 15 (a) where the employed contributor does not receive any pecuniary remuneration either from the employer or from any other person, the employer shall not be entitled to recover the amount of any such contribution from that contributor, and
- 20 (b) where the employed contributor receives any pecuniary remuneration from the employer, the employer shall not be entitled to recover any such contribution otherwise than by deductions.
- 25 (6) Notwithstanding any contract to the contrary, an employer shall not be entitled to deduct from the remuneration of a person employed by the employer, or otherwise to recover from the person, the employer's contribution in respect of that person. [1993 s10(5)]
- (7) Any sum deducted by an employer from remuneration under regulations for the purposes of this section is deemed to have been entrusted to the employer for the purpose of paying the contribution in respect of which it was deducted. [1993 s10(6)]
- 30 (8) In the case of employment specified in *paragraph 12 of Part 1 of Schedule 1, subsection (2)(d)* shall be read as if "0.5 per cent" were substituted for "7.8 per cent" and "10.05 per cent". [1996 s12(1); 2001 (No.2) s5(1)(c)]
- 35 (9) Regulations may, subject to the conditions and in the circumstances that may be prescribed, exempt an employer who employs an employee under and by virtue of a scheme administered by the Department of Social and Family Affairs, known as the Employers' Pay-Related Social Insurance Exemption Scheme, from the liability to pay the contribution specified in *section 13(2)(d)* in respect of that employee. [1995 s10]
- 40 (10) Where, for a year of assessment (within the meaning of the Tax Acts), the Revenue Commissioners and an employer enter into an agreement under a specified provision of the Act of 1997 whereby the employer will account to the Revenue Commissioners, in accordance with that provision, in respect of the income tax due on qualifying emoluments (within the meaning of that provision) and where that agreement is not null and void, then in respect of those qualifying emoluments— [2004 (MP) s14]
- 45 (a) the employer—
- 50 (i) as part of that agreement and in so far as the qualifying emoluments are comprised of reckonable earnings of an employed contributor to which the agreement applies, shall pay a contribution at a rate of 14.05 per cent in respect of the aggregate of the

amount of those reckonable earnings and the amount of income tax payable under the agreement in respect of them, and

- (ii) notwithstanding *section 13(4)* or Article 7 of the Regulations of 1996, shall not be entitled to recover from an employed contributor any part of a contribution paid in accordance with *subparagraph (i)*,

and

- (b) a contribution paid in accordance with *paragraph (a)(i)* shall not be regarded as an employment contribution for the purposes of any benefit specified in *section 39(1)*.

[2004 (MP) s14] (11) In *subsection (10)* “specified provision” means such provision that may be prescribed for the purposes of that subsection.

Modified insurance. **14.—(1)** Regulations may modify this Part in its application in the case of—

[1993 s11(1); 2005 (SW&P) s26 & Sch 4]

- (a) persons employed in any of the employments specified in *paragraphs 2, 3, 4, 5, 9 and 10 of Part 1 of Schedule 1*, or

[1996 s12(2); 2005 (SW&P) s26 & Sch. 4]

- (b) in the cases that may be prescribed, persons employed in eircom plc, or

[2001 s28]

- (c) in such cases as may be prescribed, persons who, on 5 April 1995 were employed in an employment to which *paragraph (a)* or *(b)* applies and which is prescribed, and who cease to be so employed, but immediately on such cessation become employed in another employment which is prescribed, under terms and conditions which provide that the person continues to be employed in a permanent and pensionable capacity and for payment during illness on a basis considered adequate by the Minister, or

- (d) persons employed in a statutory transport undertaking, or

- (e) persons employed as teachers in primary schools which are recognised schools within the meaning of the Education Act 1998, or

- (f) persons employed as teachers in training colleges recognised by the Minister for Education and Science for teachers in primary schools, or

- (g) persons employed as teachers in post-primary schools which are recognised schools within the meaning of the Education Act 1998, or

- (h) persons employed as teachers in domestic science training colleges funded by moneys voted by the Oireachtas for that purpose, or

- (i) persons employed as members of the Army Nursing Service, or

- (j) persons employed in voluntary hospitals to which grants are paid from moneys provided by the Oireachtas in recoupment of revenue deficits, or

(k) persons employed by voluntary organisations which are providing district nursing services, or

(l) persons employed in an employment which is an insurable (occupational injuries) employment under *section 71*.

5 (2) This section is without prejudice to the generality of any other provision of this Part providing for regulations. [1993 s11(2)]

10 **15.**—(1) For the purposes of this Part, reckonable earnings may be calculated or estimated, either for a person or a class of persons, in the manner, by reference to the matters and on the basis that may be prescribed. Calculation of reckonable earnings. [1993 s12(1)]

(2) Regulations may provide for the calculation of the amounts payable in respect of employment contributions in accordance with prescribed scales, and for adjustments of those amounts to facilitate computation and to avoid fractions of 1 cent in the amounts. [1993 s12(2); 2001 s37 & Sch F]

15 **16.**—Regulations may provide for the determination of liability for the payment of employment contributions in the case of a person who works under the general control or management of a person who is not his or her immediate employer. Employment by more than one employer. [1993 s13; 2001 s8(3)]

17.—(1) Regulations may provide for—

20 (a) the time and manner of payment of employment contributions, Payment of contributions and keeping of records. [1993 s14(1)]

(b) the collection and the recovery of, and the furnishing of returns by employers in relation to, employment contributions,

25 (c) the charging of interest on arrears of employment contributions,

(d) the waiving of interest due on arrears of employment contributions,

30 (e) the estimation of amounts due in respect of employment contributions and appeals in relation to those estimates,

(f) the furnishing of returns by employers in relation to periods of insurable employment,

35 (g) the deduction by an employer from the reckonable earnings of an employed contributor of any employment contribution reasonably believed by the employer to be due by the contributor, and adjustment in any case of overdeduction, and

(h) any matter ancillary or incidental to any of the matters referred to in any of *paragraphs (a) to (g)*.

40 (2) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may provide for— [1993 s14(2)]

(a) the assignment of any function relating to any matter referred to in that subsection to the Collector-General or to any person engaged under contract by the Minister,

- with the consent of the Minister for Finance, for this purpose,
- (b) the assignment to the Collector-General of any function conferred on the Minister by *section 274* and the modification for that purpose of any provision of that section, 5
 - (c) the inspection by or on behalf of the Revenue Commissioners of records prescribed under *subsection (5)*,
 - (d) treating, for the purpose of any right to benefit, contributions paid after the due dates as paid on those dates or on any later dates that may be prescribed, or as not having been paid, and 10
 - (e) treating as paid, for the purpose of any right to benefit, employment contributions payable by an employer in respect of an insured person which have not been paid, where the failure to pay those contributions is shown not to have been with the consent or connivance of the insured person or attributable to any negligence on the part of the insured person. 15
- [1993 s14(3)] (3) Nothing in any regulations under this section affects the liability of the employer under *section 13(4)* to pay employment contributions. 20
- [1993 s14(4); 2002 (MP) s14(a)] (4) The provisions of any enactment, regulation or rule of court relating to—
- (a) the inspection of records, the estimation, collection and recovery (including the provisions relating to the offset of taxes and appropriation of payments in Chapter 5 of Part 42 of the Act of 1997) of, or the furnishing of returns by employers in relation to, income tax, or 25
 - (b) appeals in relation to income tax, or
 - (c) the publication of names of persons under section 1086 of the Act of 1997, 30
- shall apply in relation to employment contributions which the Collector-General is obliged to collect as if the contributions were an amount of income tax which the employer was liable to remit to the Collector-General under the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001). 35
- [1993 s14(5); 2004 (MP) s16(1)] (5) For the purposes of this Part, regulations may require employers to keep any records that may be prescribed in relation to the earnings of persons employed by them and the periods during which those persons were employed, and to retain those records for prescribed periods. 40
- Priority debts to Social Insurance Fund in a company winding-up. 18.—For the purposes of section 285(2)(e) of the Companies Act 1963—
- (a) the amount referred to in that subsection is deemed to include any amount— 45
 - (i) which, apart from Article 9 of the Regulations of 1996 would otherwise have been an amount due at the relevant date in respect of sums which an employer
- [1993 s15(1); 1997 s35 & Sch G]

5 is liable under *Chapter 2* or *3* of *Part 2* and any regulation thereunder (other than the said Article 9) to deduct from reckonable earnings or reckonable emoluments, to which those Chapters apply, paid by the employer during the period of 12 months next before the relevant date, and

(ii) with the addition of any interest payable under Article 10 of the Regulations of 1996,

and

10 (b) notwithstanding subsection (1) of section 285 of the Companies Act 1963, the relevant date is deemed to be the date which is the ninth day after the end of the income tax month in which the relevant date (within the meaning of that subsection) occurred.

15 **19.**—(1) In this section “Act of 1988” means the Bankruptcy Act 1988.

Winding-up and
bankruptcy.

[1993 s16(1); 2005
(SW&P) s26 & Sch
4]

(2) The assets of a limited company in a winding-up under the Companies Acts 1963 to 2005 shall not include— [1993 s16(2)]

20 (a) any sum deducted by an employer from the remuneration of an employee of the employer paid before the winding-up in respect of an employment contribution due and unpaid by the employer in respect of that contribution, or

25 (b) any sum which would have been deducted from the remuneration of an employee in respect of an employment contribution for a period of employment before a winding-up had that remuneration been paid before the winding-up,

30 and in such a winding-up a sum equal in amount to the sum so deducted and unpaid or which would have been deducted and payable shall, notwithstanding anything in those Acts, be paid to the Social Insurance Fund in priority to the debts specified in section 285(2) of the Companies Act 1963.

35 (3) A sum equal in amount to any sum deducted by an employer from the remuneration of an employee of the employer in respect of an employment contribution due by the employer and unpaid by the employer in respect of the contribution before the date of the order of adjudication or the filing of the petition for arrangement (as the case may be) shall not form part of the property of the bankrupt or arranging debtor so as to be included among the debts which under section 81 of the Act of 1988 are in the distribution of that property to be paid in priority to all other debts, but shall, before the distribution and notwithstanding anything in the Act of 1988, be paid to the Social Insurance Fund in priority to the debts specified in section 81 of the Act of 1988.

[1993 s16(3); 2005
(SW&P) s26 & Sch
4]

45 (4) Formal proof of a debt to which priority is given by this section is not required except where required by or under the Act of 1988 or the Companies Act 1963.

[1993 s16(4); 2005
(SW&P) s26 & Sch
4]

[1993 s16(5); 2005 (SW&P) s26 & Sch 4]

(5) There shall be included among the debts which under section 81 of the Act of 1988 are, in the distribution of the property of a bankrupt or arranging debtor, to be paid in priority to all other debts, all employment contributions payable by the bankrupt or arranging debtor during the 12 months before the date of the order of adjudication in the case of a bankrupt or the filing of the petition for arrangement in the case of an arranging debtor, and that Act has effect accordingly, and formal proof of the debts to which priority is given under this subsection is not required except in cases where it may otherwise be provided by general orders made under that Act.

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CHAPTER 3

Self-Employed Contributors and Self-Employment Contributions

Self-employed contributors and insured persons.

[1993 s17(1)]

20.—(1) Subject to this Act—

- (a) every person who, being over the age of 16 years and under pensionable age (not being a person included in any of the classes of person specified in *Part 3 of Schedule 1*) who has reckonable income or reckonable emoluments, shall be a self-employed contributor for the purposes of this Act regardless of whether the person is also an employed contributor,
- (b) every person becoming for the first time a self-employed contributor shall become insured under this Act and shall thereafter continue throughout his or her life to be so insured, and
- (c) in the case of a person who, not having been an employed contributor at any time, becomes for the first time a self-employed contributor, the first day of the contribution year in which the person becomes a self-employed contributor shall be regarded as the date of entry into insurance.

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[1993 s17(2)]

(2) Regulations may provide for—

- (a) including among self-employed contributors classes of person or part of any class of person specified in or included in *Part 3 of Schedule 1*,
- (b) adding to the classes of person specified in *Part 3 of Schedule 1*,
- (c) the modification of any of the provisions of this Act relating to self-employed contributors,
- (d) the application (with or without modification) to self-employed contributors or self-employment contributions payable under *section 21(1)(a), (b) or (c)* of any provisions of this Act which apply to employed contributors or employment contributions.

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Rates of self-employment contributions and related matters.

[1993 s18(1); 2001 s36 & Sch E]

21.—(1) Self-employment contributions shall be paid by self-employed contributors in accordance with the following provisions:

- (a) subject to *paragraphs (b) and (f)*, where in any contribution year a self-employed contributor has reckonable income there shall be payable by him or her a self-employment contribution which shall be the greater of an

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amount equal to 3 per cent of the reckonable income or the amount of €253;

5 (b) where for any contribution year a self-employed contributor is informed by the Revenue Commissioners that he or she is not required to make a return of income within the meaning of section 1084 of the Act of 1997, self-employment contributions shall be paid by the self-employed contributor (whether by instalments or otherwise as may be prescribed) amounting to €157 in respect of that contribution year;

10 (c) subject to *paragraph (f)*, where in any contribution year a payment is made to a self-employed contributor in respect of reckonable emoluments of that self-employed contributor, there shall be payable by him or her a self-employment contribution which shall be the greater of an amount equal to 3 per cent of the reckonable emoluments or the amount of €253;

15 (d) subject to regulations under *section 22*, where a self-employment contribution has been paid by a self-employed contributor of not less than the amount that he or she is liable to pay under *paragraph (a)* or the amount specified in *paragraph (b)*, whichever is appropriate, the self-employed contributor shall be regarded as having paid contributions for each contribution week in that contribution year and, where the contribution paid is less than that appropriate amount, no contribution shall be regarded as having been paid by the self-employed contributor in respect of any week of that contribution year;

20 (e) subject to *section 26(3)*, self-employment contributions [1999 s19(2)] shall be disregarded in determining whether the contribution conditions for any benefit other than old age (contributory) pension, widow's (contributory) pension, widower's (contributory) pension, orphan's (contributory) allowance, maternity benefit, adoptive benefit or bereavement grant are satisfied;

25 (f) a person who, but for this paragraph, would be liable for contributions of €253 under *paragraphs (a)* and *(c)* shall be liable only for a single contribution of €253.

30 (2) Regulations may provide for adjustments in the calculation [1993 s18(2); 2001 s37 & Sch F] of amounts payable in respect of self-employment contributions to facilitate computation and for the elimination from self-employment contributions of amounts of not more than 5 cent and for the rounding up of amounts of more than 5 cent but less than 10 cent.

35 (3) Where, for a year of assessment (within the meaning of the Tax Acts), the Revenue Commissioners and an employer enter into an agreement under a specified provision of the Act of 1997 whereby the employer will account to the Revenue Commissioners, in accordance with that provision, in respect of the income tax due on qualifying emoluments (within the meaning of that provision) and where that agreement is not null and void, then in respect of those qualifying emoluments—

(a) the employer—

(i) as part of that agreement and in so far as the qualifying emoluments are comprised of reckonable emoluments of a self-employed contributor to which the agreement applies, shall pay a contribution at a rate of 3 per cent in respect of the aggregate of the amount of those reckonable emoluments and the amount of income tax payable under the agreement in respect of them, and 5

(ii) notwithstanding Article 7 of the Regulations of 1996, shall not be entitled to recover from an employed contributor any part of a contribution paid in accordance with *subparagraph (i)*, 10

and

(b) a contribution paid in accordance with *paragraph (a)(i)* shall not be regarded as a self-employment contribution for the purposes of determining entitlement to any benefit specified in *section 39(1)*. 15

[2004 (MP) s15] (4) In *subsection (3)* “specified provision” means such provision as may be prescribed for the purposes of that subsection.

Regulations providing for determination of contributions payable. 22.—(1) Regulations may provide for the determination of the contributions payable, the amount or rates of those contributions, and the contribution weeks in respect of which those contributions shall be regarded as having been paid, in the case of a person who— 20

[1993 s19(1); 2001 s9(2)(a)]

- (a) becomes for the first time a self-employed contributor,
- (b) ceases to be a self-employed contributor, 25
- (c) is both an employed contributor and a self-employed contributor whether concurrently or not,
- (d) in any contribution year has reckonable emoluments but does not have reckonable income,
- (e) in any contribution year has both reckonable emoluments and reckonable income, or 30
- (f) in any contribution year has reckonable emoluments which relate to a period less than the full year.

[1993 s19(2); 2001 s9(2)(b)]

(2) The Minister may by regulations specify the circumstances in which contributions payable by a self-employed contributor may be treated as paid. 35

[1993 s19(4); 2001 s9(2)(b)]

- (3) For the purposes of this section “contributions” means—
- (a) employment contributions payable under *section 13*, and
 - (b) self-employment contributions payable under *section 21*.

Regulations providing for collection of self-employment contributions, etc.

23.—(1) For the purposes of self-employment contributions payable under *section 21(1)(a)*, *(b)* and *(c)*, regulations may provide for— 40

[1993 s20(1); 1997 s33(1)(a)]

- (a) the time and manner of payment of self-employment contributions,

- (b) the collection and the recovery of and the furnishing of details in relation to self-employment contributions,
- (c) the charging of interest on arrears of self-employment contributions,
- 5 (d) the waiving of interest due on arrears of self-employment contributions,
- (e) the estimation of amounts due in respect of self-employment contributions and appeals in relation to those estimates,
- 10 (f) the furnishing of returns by employers in relation to periods of insurable self-employment,
- (g) the deduction by an employer from the reckonable emoluments of a self-employed contributor of any self-employment contribution reasonably believed by the employer to be due by the contributor, and adjustment in any case of over-deduction, and
- 15 (h) any matter ancillary or incidental to any of the matters referred to in *paragraphs (a) to (g)*.

(2) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may provide for the assignment of any function relating to a matter referred to in that subsection to the Collector-General or any other specified person. [1993 s20(2)]

(3) The provisions of any enactment or instrument made under any enactment relating to— [1993 s20(3); 2002 (MP) s14(b)]

- 25 (a) the estimation, collection and recovery (including the provisions relating to the offset of taxes and appropriation of payments in Chapter 5 of Part 42 of the Act of 1997) of income tax or the inspection of records for those purposes, or
- 30 (b) appeals in relation to income tax, or
- (c) the publication of names of persons under section 1086 of the Act of 1997,

shall apply in relation to self-employment contributions in respect of reckonable emoluments which the Collector-General is obliged to collect as if the contributions were an amount of income tax which the employer was liable to remit to the Collector-General under the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001).

(4) Other than in the case of the class or classes of self-employed contributors that may be prescribed, self-employment contributions payable by a self-employed contributor for a contribution year under *section 21(1)(a)* in respect of reckonable income shall be assessed, charged and paid in all respects as if they were an amount of income tax and they may be stated in one sum (hereafter in this subsection referred to as the “aggregated sum”) with the income tax contained in any computation of or assessment to income tax made by or on the self-employed contributor for the year of assessment (within the meaning of the Income Tax Acts) which coincides with the contribution year and for this purpose the self-employed contributions may be so stated notwithstanding that there is no amount of income tax contained in that computation or assessment and all the provisions [1993 s20(4); 1997 s33(1)(b)]

of the Income Tax Acts, other than any such provisions in so far as they relate to the granting of any allowance, deduction or relief, apply as if the aggregated sum were a single sum of income tax.

- [1993 s20(5); Taxes Consolidation Act 1997 Sch 31] (5) (a) Subject to *paragraph (b)*, where an election made or deemed to be made under section 1018 of the Act of 1997 has effect for the year of assessment the self-employment contributions payable by a wife shall be charged, collected and recovered as if they were the contributions of her husband. 5
- (b) The question as to the amount of the self-employment contributions payable in respect of the husband or the wife are not affected by this subsection. 10
- [1993 s20(6); 2001 s25(1)] (6) In any proceedings instituted by virtue of this Act, a certificate purporting to be signed by an officer of the Revenue Commissioners or by any officer duly appointed by the Minister in that behalf which certifies that an amount in respect of employment or self-employment contributions is due and payable by the defendant shall be evidence until the contrary is proved that that amount is so due and payable. 15

CHAPTER 4 20

Voluntary Contributors and Voluntary Contributions

- Voluntary contributors. 24.—(1) Subject to this Act, where a person ceases to be—
- [1993 s21(1); 1997 s12(2)] (a) an employed contributor, or
- (b) a self-employed contributor,
- otherwise than by reason of attaining pensionable age and the person has qualifying contributions in respect of not less than 260 contribution weeks, he or she shall, on making application in the prescribed manner and within the prescribed period, be entitled to become an insured person paying contributions under this Act voluntarily (in this Act referred to as “a voluntary contributor”). 25 30
- [1993 s21(2)] (2) The occupational injuries insurance of a person shall be disregarded in determining the person’s right to become, or to continue to be, a voluntary contributor and the rate of voluntary contribution payable in any case shall not be affected by that insurance.
- [1993 s21(3)] (3) A voluntary contributor shall— 35
- (a) where he or she becomes an employed contributor, cease to be a voluntary contributor except insofar as is provided in *section 25(2)*, or
- (b) where he or she becomes a self-employed contributor, cease to be a voluntary contributor. 40
- Voluntary contributions by former employed contributors. 25.—(1) (a) Subject to *paragraph (c)*, a contribution (in this Act referred to as a “voluntary contribution”), in the case of a person who becomes a voluntary contributor by virtue of *section 24(1)(a)* and who is under pensionable age, shall be payable in each contribution year, at the time or times and in the manner that the Minister shall prescribe, at a percentage rate, as set out in *paragraph (b)*, of the 45
- [1993 s22(1)]

amount of the reckonable income (if any) of the contributor in the preceding contribution year or in an amount (“minimum annual amount”), as set out in *paragraph (b)*, whichever is the greater.

- 5 (b) (i) In the case of a voluntary contributor who, immediately before ceasing to be an employed contributor, was employed in employment in respect of which the employment contributions payable are not reckonable for the purposes of old age (contributory) pension, the percentage rate shall be 2.6 per cent and the minimum annual amount shall be €126. [1993 s22(1)]
- 10
- (ii) In the case of a voluntary contributor who, immediately before ceasing to be an employed contributor, was employed in employment in respect of which the employment contributions payable are reckonable for the purposes of old age (contributory) pension, the percentage rate shall be 6.6 per cent and the minimum annual amount shall be €317. [1993 s22(1)]
- 15
- (iii) In the case of a person to whom *subsection (2)* applies and who, by virtue of compliance with that subsection, continues to be a voluntary contributor, the percentage rate shall be 4 per cent and the minimum annual amount shall be €190. [1993 s22(1)]
- 20
- (c) A contribution under *paragraph (a)* shall not be payable in respect of reckonable income in any contribution year which exceeds the sum specified in *section 13(2)(c)*. [1993 s22(1)]
- 25
- (d) “Reckonable income” for the purposes of this subsection means, subject to regulations, income derived from any employment, including any trade, business, profession, office or vocation. [1993 s22(1); 2001 s36 & Sch E]
- 30
- (2) In the case of a person who, on 31 March 1974, was a voluntary contributor entitled to pay voluntary contributions and who became an employed contributor in respect of whom special rate contributions were payable under section 17(1) of the Social Welfare Act 1975, that person shall, notwithstanding *section 24(3)*, continue to be entitled to be a voluntary contributor on applying to the Minister in writing for that entitlement. [1993 s22(2)]
- 35
- (3) Voluntary contributions paid under *subsection (2)* by a person to whom that subsection applies shall be disregarded in determining whether the contribution conditions for any benefit other than old age (contributory) pension, retirement pension or bereavement grant are satisfied. [1993 s22(3); 1999 s19 & Sch E]
- 40
- (4) Notwithstanding any other provision of this Act, but subject to *subsection (5)*, a voluntary contributor shall not be entitled to disability benefit, unemployment benefit, maternity benefit, invalidity pension or treatment benefit and, where any voluntary contributions paid by the voluntary contributor are at the percentage rate for the time being payable under *subsection (1)(b)(i)*, they shall be disregarded in determining whether the contribution conditions for old age (contributory) pension, retirement pension or bereavement grant are satisfied. [1993 s22(4); 1999 s19 & Sch E]
- 45
- 50
- (5) Notwithstanding *subsection (4)*, any benefit mentioned in that subsection may be granted to a voluntary contributor in the circumstances and subject to the limitations that may be prescribed. [1993 s22(5)]

[1993 s22(6)] (6) A voluntary contribution paid under *subsection (1)(a)* shall be regarded, where the contribution relates to a full contribution year, as having been paid for each contribution week in that contribution year or, where the contribution relates to a shorter period, as having been paid for each contribution week in that period. 5

Voluntary contributions by former self-employed contributors. 26.—(1) A voluntary contribution, in the case of a person who becomes a voluntary contributor by virtue of *section 24(1)(b)*, shall be at the rate of €253 in a contribution year payable at the time or times and in the manner that the Minister may prescribe.

[1993 s23(1); 2001 s36 & Sch E]

[1993 s23(2); 1996 s27 & Sch G] (2) Subject to *subsection (3)*, voluntary contributions paid by a person under *subsection (1)* shall be disregarded for all benefit other than old age (contributory) pension, widow's (contributory) pension, widower's (contributory) pension and orphan's (contributory) allowance. 10

[1993 s23(3); 1999 s19 & Sch E] (3) Self-employment contributions paid by a person who, being a voluntary contributor becomes a self-employed contributor on or after 6 April 1988, and any subsequent voluntary contributions paid by those persons, shall also be reckonable for retirement pension and bereavement grant in the case of a person whose rate of voluntary contribution, immediately before ceasing to be a voluntary contributor, was determined under *section 25(1)(b)(ii)* or *(iii)*. 15 20

[1993 s23(4)] (4) A voluntary contribution paid under *subsection (1)* shall be regarded as having been paid for each contribution week in that contribution year.

Calculation of voluntary contributions. 27.—Regulations may provide for the calculation of the amounts payable in respect of voluntary contributions in accordance with prescribed scales, and for adjustments of those amounts to facilitate computation and to avoid fractions of one cent in those amounts. 25

[1993 s24; 2001 s37 & Sch F]

CHAPTER 5

Optional Contributors and Optional Contributions 30

Optional contributors and optional contributions. 28.—(1) A person engaged in share fishing shall, subject to the conditions that may be prescribed, be entitled to opt to become an insured person ("optional contributor") paying contributions under this Chapter ("optional contributions") which shall be payable in each contribution year with effect from the contribution year ending on 5 April 1994 at the time and in the manner that may be prescribed. 35

[1993 (No. 2) s4] (2) An optional contributor ceases to be an optional contributor where he or she—

(a) ceases to be a person engaged in share fishing, 40

(b) ceases to be a self-employed contributor, or

(c) fails, in any contribution year, to pay an optional contribution which by virtue of being an optional contributor, he or she is liable to pay.

29.—(1) Optional contributions shall be payable by optional contributors in accordance with the following provisions:

Rates of optional contributions and related matters.

5 (a) subject to *paragraph (b)*, an optional contributor shall pay an optional contribution of the greater of an amount equal to 4 per cent of his or her reckonable income in excess of €2,500 in the preceding contribution year, or €200;

[1993 (No.2) s4; 2004 s6(1)]

10 (b) an optional contribution shall not be payable in respect of so much (if any) of the reckonable income of an optional contributor in any contribution year which exceeds €44,180.

15 (2) Subject to regulations under *section 30*, where an optional contribution has been paid by an optional contributor of not less than the amount that he or she is liable to pay under *subsection (1)*, he or she shall be regarded as having paid contributions for each contribution week in that contribution year and, where the contribution paid is less than that appropriate amount, no contribution shall be regarded as having been paid by the optional contributor in respect of any week of that contribution year.

[1993 (No.2) s4]

20 (3) Regulations may provide for adjustments in the calculation of amounts payable in respect of optional contributions to facilitate computation and for the elimination from optional contributions of amounts of not more than 5 cent and for the rounding up of amounts of more than 5 cent but less than 10 cent to 10 cent.

[1993 (No.2) s4; 2001 s37 & Sch F]

25 (4) (a) Subject to *paragraph (b)*, optional contributions shall be disregarded in determining whether the contribution conditions for any benefit other than disability benefit, unemployment benefit or treatment benefit are satisfied.

[1993 (No.2) s4]

30 (b) The contribution conditions for the benefits referred to in *paragraph (a)* shall not be regarded as being satisfied unless all optional contributions payable by an optional contributor in accordance with this Chapter have been paid.

30.—Regulations may provide for—

Regulations providing for determination of optional contributions payable and related matters.

35 (a) the determination of optional contributions payable, the amount or rates of those contributions, and the contribution weeks in respect of which those contributions shall be regarded as having been paid, in the case of a person who—

[1993 (No.2) s4]

40 (i) becomes for the first time an optional contributor,
(ii) ceases to be an optional contributor, or
(iii) in any contribution year has reckonable earnings and reckonable income,

and

45 (b) any matter ancillary or incidental to any of the matters referred to in *paragraph (a)*.

Employment outside State. [1993 s25(1)]	31.— (1) Regulations may modify the provisions of this Part and <i>Schedule 1</i> in their application in the case of persons who are or have been outside the State while insured under this Part.	5
[1993 s25(2)]	(2) The modifications which may be made by regulations for the purposes of <i>subsection (1)</i> shall, in particular, include the deletion of “in the State” in <i>paragraph 1 of Part 1 of Schedule 1</i> .	
[1993 s25(3)]	(3) This section is without prejudice to the generality of any other provision of this Part providing for regulations.	10
Regulations varying rates and amounts of contributions.	32.— Regulations may alter the rates or amounts of employment, self-employment or voluntary contributions.	
[1993 s26] Exceptions and credits.	33.— Regulations may provide for—	
[1993 s27; 1996 s24(1)(c)]	(a) making exceptions from the liability to pay contributions for any specified periods, and	15
	(b) crediting contributions to insured persons for any specified periods, including, in particular—	
	(i) periods for which there is an exception from the liability to pay contributions by virtue of <i>paragraph (a)</i> ,	
	(ii) the period between the beginning of the contribution 20 year last preceding that in which they become insured persons and their entry into insurance, and	
	(iii) periods in any contribution year in which they become or cease to be a homemaker within the meaning of <i>section 108(2)</i> .	25
Return of contributions paid in error. [1993 s28; 1993 (No.2) s6]	34.— Regulations may provide for the return, subject to any conditions, restrictions and deductions specified in the regulations, of any sums paid in error by means of employment, self-employment, voluntary or optional contributions.	
Return of contributions where entry into insurance occurs after specified age. [1993 s29(1)]	35.— (1) Regulations shall provide for the return, subject to any conditions, restrictions and deductions specified in the regulations of so much of any employment contribution paid by an employed contributor or voluntary contribution payable under <i>section 25</i> by a voluntary contributor whose entry into insurance occurred—	30
	(a) after he or she had attained the age of 60 years,	35
	(b) after he or she had attained the age of 58 years in the case of a person who attained the age of 57 years on or after 1 July 1974,	
	(c) after he or she had attained the age of 57 years in the case of a person who attained the age of 56 years on or after 1 April 1975, or	40

(d) after he or she had attained the age of 56 years in the case of a person who attained the age of 55 years on or after 1 October 1977,

5 as is determined in accordance with the regulations to have been paid in respect of old age (contributory) pension.

(2) (a) In the case of a person who attained the age of 56 years [1993 s29(2)] on or after 1 April 1975, *subsection (1)(b)* shall not apply on his or her attaining the age of 57 years.

10 (b) In the case of a person who attained the age of 55 years on or after 1 October 1977, *subsection (1)(c)* shall not apply on his or her attaining the age of 56 years and *subsection (1)(b)* shall not apply on attaining the age of 57 years.

15 (3) For the purposes of this section, the entry into insurance of an [1993 s29(3)] employed contributor or a voluntary contributor by virtue of *section 24(1)(a)*, subject to *subsection (6)*, is deemed to have occurred after he or she had attained the appropriate age under *subsection (1)* where after the time of that attainment he or she became for the first time an employed contributor in respect of whom contributions
20 reckonable for the purposes of the contribution conditions for an old age (contributory) pension are payable and he or she had not been an employed contributor under the National Health Insurance Acts 1911 to 1952 before attaining that age.

25 (4) Regulations shall provide for the return, subject to any con- [1993 s29(4)] ditions, restrictions and deductions specified in the regulations, of so much of any self-employment contribution paid by a self-employed contributor or a voluntary contribution payable under *section 26* by a voluntary contributor, who entered into insurance for the purposes of *section 109(1)* after he or she had attained the age of 56 years, as
30 is determined in accordance with regulations to have been paid in respect of old age (contributory) pension.

35 (5) Regulations shall provide for the return, subject to any con- [1993 s29(5)] ditions, restrictions and deductions specified in the regulations, of so much of any employment contribution paid by an employed contributor or voluntary contribution payable under *section 25* by a voluntary contributor who entered into insurance for the purposes of *section 115(1)* after he or she had attained the age of 55 years as is determined in accordance with the regulations to have been paid in respect of retirement pension.

40 (6) For the purposes of this section, in the case of a relevant per- [1993 s29(6)] son within the meaning of *section 108(4)*, “entry into insurance” has the meaning given to it by *section 108(5)* or (6).

45 (7) Regulations shall provide for the return, subject to any con- [1997 s33(2)] ditions, restrictions and deductions specified in regulations, of so much of any self-employment contribution paid by a self-employed contributor or a voluntary contribution paid under *section 26* by a voluntary contributor, who—

(a) had attained the age of 56 years on 6 April 1988, and

50 (b) became a self-employed contributor within the meaning of *section 20* on or after 6 April 1988,

as may be determined in accordance with the regulations to have been paid in respect of old age (contributory) pension.

Return of employment contributions - master or seaman. [1997 s33(3)]

36.—Regulations shall provide for the return, subject to any conditions, restrictions and deductions specified in the regulations, of so much of any employment contribution, as may be prescribed, paid by virtue of *section 13(2)(d)*, in respect of a master or a seaman (within the meaning of section 742 of the Merchant Shipping Act 1894), in respect of his or her employment on the class or classes of vessel that may be prescribed. 5

Return of contributions - maintenance arrangements. [2000 s23(1)]

37.—Regulations may provide for the return of so much, if any, as may be prescribed subject to any conditions that may be prescribed, of any employment contribution, self-employment contribution, voluntary contribution or optional contribution paid by a contributor, in respect of any payment made by him or her under or pursuant to a maintenance arrangement within the meaning of section 1025 of the Act of 1997, relating to a marriage for the benefit of the other party to the marriage, unless section 1026 of that Act applies in respect of that payment. 10 15

Return of contributions - payments to personal pensions. [2002 (MP) s11]

38.—(1) Regulations may provide for the return, subject to any conditions, restrictions or deductions that may be prescribed, of so much, if any, as may be prescribed of any employment contribution under *section 13(2)(d)* paid by, or in respect of, an employed contributor, or of any self-employment contribution paid by a self-employed contributor under *section 21(1)(c)*, in respect of the amount that may be prescribed of— 20

(a) any payment made by the person to a Personal Retirement Savings Account, 25

(b) any payment made by the person which is a qualifying premium under an annuity contract for the time being approved by the Revenue Commissioners under Chapter 2 of Part 30 of the Act of 1997, or

(c) any payment made by the person which is a contribution allowable under section 774 or 776 of the Act of 1997 as a deduction from emoluments in assessing those emoluments to income tax under Schedule E of that Act. 30

[2002 (MP) s11; 2005 (SW&P) s26 & Sch 4]

(2) In this section “Personal Retirement Savings Account” has the meaning given to it by section 91 of the Pensions Act 1990. 35

CHAPTER 7

Description of Benefits

Description of benefits. [1993 s30(1); 2005 (SW&P) s26 & Sch 4]

39.—(1) Benefits under this Part shall be of the following descriptions and are so described in this Act—

(a) disability benefit, 40

(b) maternity benefit,

(c) health and safety benefit,

(d) adoptive benefit,

(e) unemployment benefit,

(f) occupational injuries benefit, 45

- (g) carer's benefit,
- (h) old age (contributory) pension,
- (i) retirement pension,
- (j) invalidity pension,
- 5 (k) widow's (contributory) pension and widower's (contributory) pension,
- (l) orphan's (contributory) allowance,
- (m) bereavement grant,
- 10 (n) widowed parent grant (paid by virtue of receipt of a benefit under *Part 2*).

(2) Subject to *section 138* and so long as that section remains in force, benefit shall, in addition to including the benefits referred to in *subsection (1)*, also include treatment benefit under that section. [1993 s30(2)]

CHAPTER 8

15 *Disability Benefit*

40.—(1) Subject to this Act, a person shall be entitled to disability benefit in respect of any day of incapacity for work (in this Act referred to as “a day of incapacity for work”) which forms part of a period of interruption of employment, where— Entitlement to benefit. [1993 s31(1)]

- 20 (a) the person is under pensionable age on the day for which the benefit is claimed, and
- (b) he or she satisfies the contribution conditions in *section 41*.

(2) A person shall not be entitled to disability benefit for the first 3 days of any period of incapacity for work. [1993 s31(2)]

25 (3) For the purposes of any provision of this Act relating to disability benefit— [1993 s31(3); 2003 s8]

- (a) a day shall not be treated in relation to an insured person as a day of incapacity for work unless on that day the person is incapable of work,
- 30 (b) “day of interruption of employment” means a day which is a day of incapacity for work or of unemployment,
- (c) any 3 days of interruption of employment, whether consecutive or not, within a period of 6 consecutive days shall be treated as a period of interruption of employment and any 2 such periods not separated by a period of more than 26 weeks shall be treated as one period of interruption of employment,
- 35 (d) any 3 days of incapacity for work, whether consecutive or not, within a period of 6 consecutive days shall be treated as a period of incapacity for work and any two such periods not separated by more than 3 days shall be treated as one period of incapacity for work and a period of incapacity for work is deemed to include any day or
- 40

days of unemployment in the period of 3 consecutive days before the first day of incapacity for work,

- (e) notwithstanding *paragraph (d)*, in the case of a person who, on or after 1 April 2002, has been in receipt of disability benefit for not less than 1,560 days in respect of a period of incapacity for work and who, within the same period of interruption of employment, has subsequent periods of incapacity for work, any such subsequent periods of incapacity for work within that period of interruption of employment not separated by a period of more than 13 weeks shall be treated as one period of incapacity for work, 5
- (f) Sunday or any other day in each week that may be prescribed shall not be treated as a day of incapacity for work or of unemployment and shall be disregarded in computing any period of consecutive days, 15
- (g) a day shall not be treated in relation to an insured person as a day of incapacity for work where, in respect of that day, the insured person is being paid by his or her employer in respect of holiday leave, 20
- (h) any 2 periods of incapacity for work separated by a period in respect of which an insured person is being paid by his or her employer in respect of holiday leave shall be treated as one period of incapacity for work.

[1993 s31(4)] (4) Subject to *subsection (3)*, regulations may make provision as to the days which are or are not to be treated for the purposes of disability benefit as days of incapacity for work or of unemployment. 25

[1993 s31(5); 2001 s37 & Sch F] (5) The amount payable by way of benefit for any day of incapacity for work 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 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and being rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent. 30

[1993 s31(6)] (6) A person who was in receipt of maternity benefit under *section 47* on any of the 3 days before the day in respect of which a claim for disability benefit is made shall not be entitled to disability benefit for the first 3 days of incapacity for work in respect of that claim. 35

Conditions for receipt. **41.—(1)** The contribution conditions for disability benefit are— 40

[1993 s32(1); 2003 s9(1)] (a) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the period between his or her entry into insurance and the day for which the benefit is claimed, and

[2005 (SW&P) s11(a)] (b) that the claimant— 45

- (i) 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 second last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed, or 50

- 5 (ii) has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year which includes the day for which the benefit is claimed,
- and
- (c) that the claimant has— [1993 (No. 2) s7]
- (i) prescribed reckonable weekly earnings, or
- 10 (ii) in the case of a person who qualifies for disability benefit by virtue of having paid optional contributions, prescribed reckonable weekly income,
- in excess of a prescribed amount in the prescribed period.
- 15 (2) In the case of a claim for disability benefit where the period of interruption of employment began before 6 April 1987, *subsection (1)(a)* shall be read as if “26” were substituted for “52”. [1993 s32(2); 2005 (SW&P) s26 & Sch 4]
- (3) In the case of a claim for disability benefit where the period of interruption of employment began on or after 6 April 1987 and before 5 April 2004, *subsection (1)(a)* shall be read as if “39” were substituted for “52”. [2003 s9(1)(b)]
- 20 (4) Regulations may provide for entitling to disability benefit, subject to the conditions that may be prescribed, the class or classes of persons who would be entitled to that benefit but for the fact that the requirement in *subsection (1)(b)* that there must be qualifying contributions in respect of at least 13 contribution weeks in the second last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed is not satisfied. [1993 s32(3); 2005 (SW&P) s11(a)]
- 25 (5) Where a person has been entitled to payment of disability benefit in respect of any day which is on or after 3 January 1981, or would but for *section 40(2)* or *46(1)* have been so entitled, then, in relation to disability benefit, the benefit year which includes the first such day in every period of incapacity for work which is, or is deemed to be, a separate period of incapacity shall, for the purpose of the condition contained in *subsection (1)(b)*, be regarded as continuing for each day of incapacity for work in that period in respect of which the person’s right to that benefit has not been exhausted up to and including the 312th day in that period in respect of which the benefit has been paid. [1993 s32(4)]
- 30 (6) Regulations may provide for modifications of the contribution conditions set out in *subsection (1)*. [1993 s32(5)]
- 35 (7) Subject to *subsection (8)*, regulations may provide for entitling to disability benefit persons who would be entitled to that benefit but for the fact that the condition in *subsection (1)(c)* is not satisfied. [1993 s32(6)]
- 45 (8) Regulations under *subsection (7)* shall provide that benefit payable by virtue of those regulations shall be payable at a rate less than that specified in *Schedule 2* and the rate specified by the regulations may vary with the extent to which either of the conditions set out in *subsection (1)(c)* is satisfied. [1993 s32(7)]

[1993 s32(8)]	(9) The requirement contained in <i>subsection (1)(b)(i)</i> that there must be qualifying contributions in respect of at least 13 contribution weeks in the relevant contribution year shall not apply to any period of incapacity for work beginning before 1 July 1992.	
[1993 (No. 2) s12; 1999 s24(1)]	(10) The requirement contained in <i>subsection (1)(c)</i> that the claimant must have prescribed reckonable weekly earnings in excess of a prescribed amount in the prescribed period shall not apply in the case of a claim for disability benefit made by a person in the benefit year in which that person, having been a volunteer development worker, returns to the State from a developing country or in the next 2 succeeding benefit years.	5 10
[2005 (SW&P) s4(1)]	(11) In the case of any claim for disability benefit, where, at the time of application for that benefit, the claimant — (a) is in receipt of or entitled to unemployment assistance under <i>section 142(1)(a)</i> , and (b) has qualifying contributions in respect of not less than 260 weeks, <i>subsection (1)(b)(i)</i> shall be read as if “39 contribution weeks” were substituted for “39 contribution weeks, of which at least 13 must be qualifying contributions” and <i>subsection (1)(c)</i> shall not apply.	15 20
[2005 (SW&P) s4(1)]	(12) In the case of any claim for disability benefit where, on the date immediately before the claim, a person was in receipt of or entitled to occupational injury benefit, <i>subsection (1)(b)(i)</i> shall be read as if “in the second last or third last complete contribution year” were substituted for “in the second last complete contribution year”.	25
Rate of benefit. [1993 s33]	42. —Subject to this Act, the weekly rate of disability benefit shall be as set out in <i>column (2)</i> of <i>Part 1</i> of <i>Schedule 2</i> .	
Increases for qualified adult and qualified children. [1993 s34(1); 1997 s28(4) & Sch F]	43. —(1) The weekly rate of disability benefit shall be increased by the amount set out in <i>column (3)</i> of <i>Part 1</i> of <i>Schedule 2</i> for any period during which the beneficiary has a qualified adult, subject to the restriction that a beneficiary shall not be entitled for the same period to an increase of benefit under this subsection in respect of more than one person.	30
[1993 s34(2); 1994 s32 & Sch F]	(2) The weekly rate of disability benefit shall be increased by the amount set out in <i>column (4)</i> of <i>Part 1</i> of <i>Schedule 2</i> in respect of each qualified child who normally resides with the beneficiary.	35
[1993 s34(3); 2003 s10(1)(a)]	(3) Subject to <i>subsection (4)</i> , any increase of disability benefit payable under <i>subsection (2)</i> in respect of a qualified child who normally resides with the beneficiary and with the spouse of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the beneficiary is not a qualified adult and <i>subsection (2)</i> shall be read and have effect accordingly.	40
[2003 s10(1)(a)]	(4) <i>Subsection (3)</i> shall not apply and no increase of disability benefit payable under <i>subsection (2)</i> in respect of a qualified child who normally resides with the beneficiary and with the spouse of a beneficiary shall be payable where the weekly income of that spouse, calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed.	45

- 44.—(1) Where a person—
- (a) has qualifying contributions in respect of less than 260 contribution weeks in the period between his or her entry into insurance and any day of incapacity for work, and
- 5 (b) before that day has been entitled, in respect of any period of interruption of employment (whether including that day or not) during the period beginning on the date one year immediately before that day, to disability benefit for 312 days,
- 10 the person shall not be entitled to disability benefit for that day unless since the last of those 312 days and before that day he or she has requalified for benefit.
- (2) In the case of a claim for disability benefit which was made before 5 April 1993 *subsection (1)(b)* shall be read as if “3 years” were substituted for “one year”.
- 15 (3) Notwithstanding *subsection (1)*, where in any period a person has exhausted entitlement to disability benefit he or she shall not requalify for that benefit unless he or she satisfies the conditions set out in *subsection (4)*.
- 20 (4) Where a person has exhausted his or her right to disability benefit—
- (a) he or she shall requalify for that benefit when he or she has qualifying contributions in respect of 13 contribution weeks begun or ended since the last day for which he or she was entitled to benefit, and
- 25 (b) on his or her requalifying for that benefit, *subsection (1)* shall again apply to the person but, in a case where the period of interruption of employment in which the person exhausted his or her right to benefit continues after his or her requalification, as if the part before and the part after his or her requalification were distinct periods of interruption of employment.
- 30 (5) For the purposes of this section, any period in respect of which a person is disqualified for receiving disability benefit by virtue of *section 46(1)* shall be treated as though it were a period in respect of which disability benefit was paid.
- 35 (6) Regulations may provide for treating a person for the purposes of this section as having been entitled to benefit for any day where he or she would have been so entitled but for any delay or failure on his or her part to make or prosecute a claim but a person shall not be so treated where he or she shows that he or she did not intend, by failing to acquire or establish a right to benefit for that day, to avoid the necessity of requalifying for benefit under this section.
- 40 (7) Where a person has qualifying contributions in respect of not less than 260 contribution weeks on the 312th day on which benefit is paid in respect of a period of incapacity for work, and the person would be entitled to disability benefit but for the fact that the contribution condition in *section 41(1)(b)(i)* or *(ii)* is not satisfied, the person is deemed to satisfy that contribution condition in respect of every subsequent day of incapacity in that period of incapacity for work.
- 50

Duration of
payment.

[1993 s35(1)]

[1993 s35(2)]

[1993 s35(3)]

[1993 s35(4)]

[1993 s35(5)]

[1993 s35(6)]

[1993 s35(7)]

[1993 s35(8)]	(8) In the case of a claim for disability benefit where the period of interruption of employment in respect of incapacity for work beyond 312 days began before 6 April 1987, <i>subsection (1)(a)</i> shall be read as if “156” were substituted for “260”.	
[1993 s35(9)]	(9) In the case of a claim for disability benefit where the period of interruption of employment in respect of incapacity for work beyond 312 days began on or after 6 April 1987 and before 4 January 1988, <i>subsection (1)(a)</i> shall be read as if “208” were substituted for “260”.	5
[1993 s35(10)]	(10) <i>Subsections (8) and (9)</i> shall not apply to any claim for disability benefit where the period of incapacity for work began on or after 4 July 1988.	10
Duration of payment (optional contributors).	45. —(1) Notwithstanding <i>section 44</i> , where in any period of interruption of employment a person, having satisfied the contribution conditions contained in <i>section 41</i> by virtue of having paid optional contributions, has been entitled to disability benefit for 312 days, he or she shall not be entitled to that benefit for any subsequent day of incapacity for work unless before that day the person has requalified for benefit in accordance with <i>subsection (2)</i> .	15
[1993 (No.2) s7]		
[1993 (No.2) s7]	(2) Where a person to whom <i>subsection (1)</i> applies has paid optional contributions in the contribution year following the benefit year which includes that 312th day, he or she shall requalify for disability benefit in the benefit year after the contribution year in respect of which those optional contributions have been paid.	20
Disqualifications. [1993 s36(1)]	46. —(1) Regulations may provide for disqualifying a person for receiving disability benefit for such period not exceeding 9 weeks as may be determined under this Part where—	25
	(a) the person has become incapable of work through his or her own misconduct, or	
	(b) the person fails without good cause to attend for or to submit himself or herself to any medical or other examination or treatment that may be required in accordance with the regulations, or to observe any prescribed rules of behaviour.	30
[1993 s36(2)]	(2) Regulations may also provide for imposing in the case of any class of persons additional conditions in relation to the receipt of disability benefit and restrictions on the rate and duration of that benefit where, having regard to special circumstances, it appears to the Minister necessary so to do for the purpose of preventing inequalities or injustice.	35 40
[1993 s36(3)]	(3) Regulations may also provide for disqualifying a person for the receipt of disability benefit where he or she fails, on becoming or again becoming incapable of work, to make a claim within the prescribed time, but those regulations may provide for extending, subject to any prescribed conditions, the time within which the claim may be made.	45

Maternity Benefit

47.—(1) Subject to this Act, a woman shall be entitled to maternity benefit where—

Entitlement to and duration of benefit.

- 5 (a) it is certified by a registered medical practitioner or otherwise to the satisfaction of the Minister that it is to be expected that the woman will be confined in a week specified in the certificate (hereafter in this section referred to as “the expected week of confinement”) not
10 being more than the prescribed number of weeks after that in which the certificate is given,
- (b) in the case of an employed contributor, it is certified by the woman’s employer that she is entitled to maternity leave under section 8 of the Maternity Protection Act
15 1994, and
- (c) subject to *subsection (2)*, she satisfies the contribution conditions in *section 48*.

[1993 s37(1); 1997 s10(1)]

(2) The requirement in *subsection (1)(c)* shall not apply in the case of a claim for maternity benefit made by a woman who was in receipt of health and safety benefit under *section 52* at any time during the pregnancy as a result of which it is expected that she will be confined.

[1997 s10(1)]

(3) Regulations may provide for entitling to maternity benefit, subject to the conditions and in the circumstances that may be prescribed, the class or classes of women who would be entitled to that benefit but for the fact that the contribution conditions in *section 48* are not satisfied.

[1993 s37(2); 1997 s10(1)]

(4) (a) Subject to this Act and *paragraph (b)*, where a woman, who has been delivered of a living child, dies at any time before the expiry of the twenty-second week following the week of her confinement, the father of the child shall, subject to satisfying the contribution conditions in *section 48*, be entitled to benefit under this Chapter as if he were a woman and the provisions of this Chapter (other than *section 50(b)*) apply in all respects in the case of that man.

[1997 s10(1); 2001 s12(1)(a)]

(b) *Paragraph (a)* applies in the case of an employed contributor where it is certified by his employer that he is entitled to leave under section 16 of the Maternity Protection Act 1994.

(c) In this Act, a reference to maternity benefit shall be read as including a reference to benefit payable to a man under this subsection.

(5) Subject to this Chapter, maternity benefit shall be payable to—

[1997 s10(1); 2004 (MP) s8(1)]

(a) a woman, who is an employed contributor, for the period of maternity leave to which she is entitled under section 8 of the Maternity Protection Act 1994 (including any extension of that period by virtue of section 12 of that Act),

- (b) a woman, who is in insurable self-employment, for 18 weeks—
- (i) beginning not later than 2 weeks before the end of the expected week of confinement, and
 - (ii) ending not earlier than 4 weeks after the end of the expected week of confinement, 5
- but if the date of confinement occurs in a week after the expected week of confinement, the period in respect of which benefit shall be payable shall be extended by the number of consecutive weeks, subject to a maximum of 4 consecutive weeks, after the week in which the date of confinement occurs as ensures compliance with *subparagraph (ii)*, 10
- (c) a man, who—
- (i) is an employed contributor, for the period of leave to which he is entitled under section 16 of the Maternity Protection Act 1994, or 15
 - (ii) is in insurable self-employment, for a period beginning on the day after the day on which the death of the mother occurs— 20
 - (I) where the mother dies before the expiry of the sixteenth week following the week of her confinement, to the end of the sixteenth week following the week of her confinement, or
 - (II) where the mother dies after the expiry of the sixteenth week but before the expiry of the twenty-fourth week following the week of her confinement, to the end of the twenty-fourth week following the week of her confinement: 25

but if the beneficiary dies, the benefit shall not be payable for any subsequent day. 30
- [1997 s10(1)] (6) Regulations may modify *subsections (1) and (5)* 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 35
 - (b) a certificate referred to in *subsection (1)(a)* has not been given.
- [2004 (MP) s8] (7) Regulations may provide for the postponement of the payment of maternity benefit in the event of the hospitalisation of the child in respect of whose birth the person is entitled to that benefit, subject to the conditions and in the circumstances that may be prescribed. 40
- [1993 s37(6); 2001 s37 & Sch F] (8) For the purposes of this section, a Sunday shall not in any week be treated as a day of entitlement to maternity benefit and, accordingly, the amount payable by way of that benefit 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 10 cent where it is a 45

multiple of 5 cent but not also a multiple of 10 cent, and being rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.

5 (9) In the case of an employed contributor, where the employ- [1997 s10(1)]
ment ceases (whether due to the death of the employer or otherwise)
during the period for which maternity benefit is payable under *sub-*
section (5), the beneficiary shall continue to be treated as if the event
which caused the cesser of employment had not occurred.

10 (10) Regulations may provide for requiring an employer or any [1993 s37(8); 1997
other person to furnish any information that may be required for the s10(1)]
purposes of determining a claim for maternity benefit.

48.—The contribution conditions for maternity benefit are— Conditions for receipt.

(a) in the case of an employed contributor—

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

and

20 (II) (A) that the claimant has qualifying contri-
butions or credited contributions in respect
of not less than 39 contribution weeks in
the second last complete contribution year
before the beginning of the benefit year in
25 which the relevant day occurs or in a sub-
sequent complete contribution year before
the relevant day, or

30 (B) that the claimant has qualifying contri-
butions in respect of not less than 26 con-
tribution weeks in each of the second last
and third last complete contribution years
before the beginning of the benefit year in
which the relevant day occurs,

or

35 (ii) that the claimant has qualifying contributions in
respect of not less than 39 contribution weeks in the
12 months immediately before the relevant day, or
having been in insurable self-employment, she satis-
fies the contribution conditions in *paragraph (b)*,

40 (b) in the case of a person in insurable self-employment— [1997 s10(1)]

45 (i) that the claimant has qualifying contributions in
respect of not less than 52 contribution weeks in the
second last complete contribution year or in the third
last complete contribution year before the beginning
of the benefit year in which the relevant day occurs,
or in a subsequent complete contribution year before
the relevant day, or

(ii) where the claimant was previously an employed con-
tributor, that she satisfies the contribution conditions

in *paragraph (a)(i)* or that she has employment contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day.

Rate of benefit. [1993 s39(1); 2004 SWA s7]	49.— (1) Subject to this Act, the weekly rate of maternity benefit shall be an amount equal to the greater of—	5
	(a) 75 per cent of the reckonable weekly earnings, reckonable weekly emoluments or reckonable weekly income, as the case may be, of the woman to whom the benefit is payable in the income tax year prescribed for the purposes of this section, or	10
	(b) the amount of disability benefit, including any increases of that benefit, which the woman would otherwise receive if she was entitled to that benefit, or	
	(c) any amount that shall be prescribed.	15
[1993 s39(3); 1997 s10(1)]	(2) In this section “reckonable weekly earnings”, “reckonable weekly emoluments” and “reckonable weekly income” mean the average amount, calculated in accordance with regulations, of reckonable earnings, reckonable emoluments, reckonable income and any other income that may be prescribed, received in a week up to that limit that may be prescribed.	20
Disqualifications. [1993 s40; 1997 s10(1)]	50.— Regulations may provide for disqualifying a woman for receiving maternity benefit where—	
	(a) during the period for which the benefit is payable, she engages in any occupation other than domestic activities in her own household, or	25
	(b) she fails, without good cause, to attend for or to submit herself to any medical examination that may be required in accordance with regulations made under this section.	
Supplementary provisions. [1993 s41(1); 1997 s10(1)]	51.— (1) In this Chapter—	30
	(a) “confinement” means labour resulting in the issue of a living child, or labour after 24 weeks of pregnancy resulting in the issue of a child whether alive or dead, and “confined” shall be read accordingly;	
	“registered medical practitioner” means a person registered in the General Register of Medical Practitioners established under section 26 of the Medical Practitioners Act 1978;	35
	“relevant day” means the first day for which maternity benefit is claimed;	40
	(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, where a woman is confined with twins or a greater number of children, to the date of the issue of the last child.	45

5 (2) In deciding whether or not to make an order under section 21A (inserted by the Status of Children Act 1987) of the Family Law (Maintenance of Spouses and Children) Act 1976, 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 benefit. [1993 s41(2); 1997 s10(1)]

CHAPTER 10

Health and Safety Benefit

10 **52.—**(1) In this Chapter— Entitlement to benefit.
“confined” and “confinement” have the meanings given to them by *section 51*; [SI 25/95 Art 6]

“relevant period” has the meaning given to it by section 18(6) of the Maternity Protection Act 1994.

15 (2) Subject to this Act, a woman shall be entitled to health and safety benefit, where— [SI 25/95 Art 6]

20 (a) it is certified by a registered medical practitioner or otherwise to the satisfaction of the Minister that it is to be expected that she will be confined or that she has been confined, as the case may be, in a week specified in the certificate,

25 (b) it is certified by her employer, in accordance with section 18(2) of the Maternity Protection Act 1994, that she has been granted leave under section 18 of that Act (hereafter in this Chapter referred to as “health and safety leave”), and

(c) she satisfies the conditions in *section 53*.

(3) For the purposes of this Chapter— [SI 25/96 Art 6; 2001 s37 & Sch F]

30 (a) any 2 periods of health and safety leave arising in a relevant period shall be treated as one period of health and safety leave, and

35 (b) a Sunday shall not in any week be treated as a day of entitlement to health and safety benefit and, accordingly, the amount payable by way of that benefit 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 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent, and being rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.
40

53.—(1) The conditions for health and safety benefit are— Conditions for receipt.

45 (a) (i) that the claimant has qualifying contributions in respect of not less than 13 contribution weeks in the 12 months immediately before the expected date of confinement or the actual date of confinement, as the case may be, or [SI 25/96 Art 6; 2005 (SW&P) s11(c)]

	(ii) (I) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the period beginning with her entry into insurance and ending immediately before the first day for which health and safety benefit is claimed, and	5
	(II) (A) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year or in a subsequent complete contribution year which includes the first day for which health and safety benefit is claimed, or	10
	(B) that the claimant has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year which includes the first day for which health and safety benefit is claimed,	15 20
	and	
	(b) that the claimant has prescribed reckonable weekly earnings in excess of a prescribed amount in a prescribed period.	25
[2003 s9(2)(b)]	(2) In the case of a claim for health and safety benefit where the period of health and safety leave began before 5 April 2004, <i>subsection (1)(a)(ii)(1)</i> shall be read as if “39” were substituted for “52”.	
[SI 25/95 Art 6]	(3) The requirement in <i>subsection (1)(a)</i> shall not apply in the case of a claim for health and safety benefit which is made in a relevant period where the claimant was previously in receipt of maternity benefit under <i>section 47</i> in that relevant period.	30
[SI 25/95 Art 6]	(4) Subject to <i>subsection (5)</i> , regulations may provide for entitling to health and safety benefit a woman who would be entitled to that benefit but for the fact that the condition in <i>subsection (1)(b)</i> is not satisfied.	35
[SI 25/95 Art 6]	(5) Regulations for the purposes of <i>subsection (4)</i> shall provide that benefit payable by virtue of that subsection shall be payable at a rate less than that specified in <i>Schedule 2</i> , and the rate specified by the regulations may vary with the extent to which the condition in <i>subsection (1)(b)</i> is satisfied.	40
[1999 s24(3)]	(6) The requirement contained in <i>subsection (1)(b)</i> that the claimant must have prescribed reckonable weekly earnings in excess of a prescribed amount in the prescribed period shall not apply in the case of a claim for health and safety benefit made by a person in the benefit year in which that person, having been a volunteer development worker, returns to the State from a developing country or in the next 2 succeeding benefit years.	45
Duration of payment.	54.—(1) Subject to this Chapter, health and safety benefit shall be payable from the day immediately following the last of the 21 days of health and safety leave in respect of which the claimant is entitled to receive remuneration from her employer under section 18(4) of	50
[SI 25/95 Art 6]		

the Maternity Protection Act 1994 and regulations made under that subsection and shall continue to be payable for the period of health and safety leave granted to the claimant under Part III of the Maternity Protection Act 1994.

5 (2) Health and safety benefit shall not be payable for any day in respect of which maternity benefit under *section 47* is payable. [SI 25/95 Art 6]

(3) Where the woman who is entitled to health and safety benefit dies, the benefit shall not be payable for any subsequent day. [SI 25/95 Art 6]

10 **55.**—Subject to this Act, the weekly rate of health and safety benefit shall be as set out in *column (2) of Part 1 of Schedule 2*. Rate of benefit. [SI 25/95 Art 6]

15 **56.**—(1) The weekly rate of health and safety benefit shall be increased by the amount set out in *column (3) of Part 1 of Schedule 2* for any period during which the beneficiary has a qualified adult, subject to the restriction that a beneficiary shall not be entitled for the same period to an increase of benefit under this subsection in respect of more than one person. Increases for qualified adult and qualified children. [SI 25/95 Art 6; 1997 s28(4) & Sch F]

20 (2) The weekly rate of health and safety benefit shall be increased by the appropriate amount set out in *column (4) of Part 1 of Schedule 2* in respect of each qualified child who normally resides with the beneficiary. [SI 25/95 Art 6]

25 (3) Subject to *subsection (4)*, any increase of health and safety benefit payable under *subsection (2)* in respect of a qualified child who normally resides with the beneficiary and with the spouse of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the beneficiary is not a qualified adult and *subsection (2)* shall be read and have effect accordingly. [SI 25/95 Art 6; 2003 s10(1)(b)]

30 (4) *Subsection (3)* shall not apply and no increase of health and safety benefit payable under *subsection (2)* in respect of a qualified child who normally resides with the beneficiary and with the spouse of a beneficiary shall be payable where the weekly income of that spouse, calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed. [2003 s10(1)(b)]

35 **57.**—A woman shall be disqualified for receiving health and safety benefit during any period in which she engages in any occupation other than domestic activities in her own household. Disqualifications. [SI 25/95 Art 6]

CHAPTER 11

Adoptive Benefit

40 **58.**—(1) In this Chapter—
“adopting parent”— Entitlement to and duration of adoptive benefit.

(a) in the case of an employed contributor, has the meaning given to it by section 2(1) of the Adoptive Leave Act 1995, and [1997 s11(1)]

45 (b) in the case of a person in insurable self-employment means—

- (i) a woman in whose care a child (of whom she is not the natural mother) has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption, 5
- (ii) a man, in whose care a child has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption, where the woman in whose care the child (of whom she is not the natural mother) has been placed or is to be placed has died, and 10
- (iii) a man, other than a man to whom *subparagraph (ii)* applies, in whose sole care a child has been placed or is to be placed with a view to making an adoption order, or to the effecting of a foreign adoption or following any such adoption; 15

“certificate of placement” has the meaning given to it by section 13 of the Adoptive Leave Act 1995;

“day of placement” has the meaning given to it by section 2(1) of the Adoptive Leave Act 1995; 20

“foreign adoption” has the meaning given to it by the Adoption Act 1991 (as amended by section 10 of the Adoption Act 1998).

[1997 s11(1)] (2) Subject to this Act, an adopting parent shall be entitled to adoptive benefit where— 25

(a) (i) in the case of an employed contributor, it is certified by the adopting parent’s employer that the adopting parent is entitled to adoptive leave under the Adoptive Leave Act 1995, or

(ii) in the case of a person in insurable self-employment, a certificate of placement is issued to the adopting parent, 30

and

(b) the adopting parent satisfies the contribution conditions in *section 59*. 35

[1997 s11(1)] (3) Regulations may provide for entitling to adoptive benefit, subject to the conditions and in the circumstances that may be prescribed, the class or classes of adopting parents who would be entitled to that benefit but for the fact that the contribution conditions in *section 59* are not satisfied. 40

[1997 s11(1); 2004 (MP) s9] (4) Subject to this Chapter, adoptive benefit shall be payable—

(a) in the case of an employed contributor, for the period of adoptive leave to which the adopting parent is entitled under section 6 or 9, as the case may be, of the Adoptive Leave Act 1995, 45

(b) in the case of a person in insurable self-employment, being—

- (i) an adopting parent within the meaning of *subsection (1)(b)(i)* or *(iii)*, for 16 consecutive weeks beginning on the day of placement, or
- 5 (ii) an adopting parent within the meaning of *subsection (1)(b)(ii)*, where the adopting mother dies before the day of placement, 16 consecutive weeks beginning on the day of placement or where the adopting mother dies on or after the day of placement, for a
- 10 period of 16 weeks less a period equivalent to the period beginning on the day of placement and ending on the date of her death,

but where the beneficiary dies, the benefit shall not be payable for any subsequent day.

(5) For the purposes of this section, a Sunday shall not in any [1997 s11(1); 2001
15 week be treated as a day of entitlement to adoptive benefit and, accordingly, the amount payable by way of that benefit 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 10 cent where it is a
20 multiple of 5 cent but not also a multiple of 10 cent, and being rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.

(6) In the case of an employed contributor, where the employ- [1997 s11(1)]
ment ceases (whether due to the death of the employer or otherwise) during the period for which adoptive benefit is payable in accordance with *subsection (4)*, the beneficiary 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 or any [1997 s11(1)]
30 other person to furnish any information that may be required for the purposes of determining a claim for adoptive benefit.

59.—(1) The contribution conditions for adoptive benefit are— Conditions for receipt.

(a) in the case of an employed contributor—

[1997 s11(1); 2005 (SW&P) s 11(d)]

(i) (I) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with the claimant's entry into insurance and ending immediately before the relevant day, and

(II) (A) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year in which the relevant day occurs or in a subsequent complete contribution year before the relevant day, or

(B) that the claimant has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year in which the relevant day occurs,

or

- (ii) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day, or having been in insurable self-employment satisfies the contribution conditions in *paragraph (1)(b)*, 5

(b) in the case of a person in insurable self-employment—

- (i) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the second last complete contribution year or in the third last complete contribution year before the beginning of the benefit year in which the relevant day occurs, or in a subsequent complete contribution year before the relevant day, or 10
- (ii) where the claimant was previously an employed contributor, that he or she satisfies the contribution conditions in *paragraph (a)(i)* or that he or she has employment contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day. 20

[1997 s11(1)] (2) In *subsection (1)* “relevant day” means the first day for which adoptive benefit is claimed.

Rates of adoptive benefit. **60.**—(1) Subject to this Act, the weekly rate of adoptive benefit shall be an amount equal to the greater of—

[1997 s11(1); 2004 SWA s7]

- (a) 75 per cent of the reckonable weekly earnings, reckonable weekly emoluments or reckonable weekly income, as the case may be, of the adopting parent to whom the benefit is payable in the income tax year prescribed for the purposes of this section, or 25
- (b) the amount of disability benefit, including any increases of that benefit, which the adopting parent would otherwise receive if entitled to that benefit, or 30
- (c) any amount that shall be prescribed.

[1997 s11(1)] (2) In this section “reckonable weekly earnings”, “reckonable weekly emoluments” and “reckonable weekly income” mean the average amount, calculated in accordance with regulations, of reckonable earnings, reckonable emoluments, reckonable income and any other income received in a week that may be prescribed up to the limit that may be prescribed. 35

Disqualification. **61.**—Regulations may provide for disqualifying an adopting parent for receiving adoptive benefit where, during the period for which the benefit is payable, the adopting parent engages in any occupation other than domestic activities in that parent’s own household. 40

[1997 s11(1)]

Unemployment Benefit

- 5 **62.—**(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, where—
- Entitlement to benefit.
[1993 s42(1); 1994 s19(1)(a)]
- (a) he or she is under pensionable age on the day for which the benefit is claimed,
- (b) he or she proves unemployment in the prescribed manner,
- 10 (c) he or she satisfies the contribution conditions in *section 64*, and
- (d) other than in the case of a person engaged in casual employment, he or she has sustained a substantial loss of employment in any period of 6 consecutive days.
- 15 (2) The circumstances in which a person is to be regarded, for the purposes of *subsection (1)*, as being engaged in casual employment shall be specified in regulations. [1994 s19(1)(b)]
- (3) 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. [1993 s42(2)]
- 20 (4) A person shall not be entitled to unemployment benefit for the first 3 days of any period of interruption of employment. [1993 s42(3)]
- 25 (5) For the purposes of any provision of this Act relating to unemployment benefit— [1993 s42(4); 2003 s8]
- (a) a day shall not be treated in relation to an insured person as a day of unemployment unless on that day—
- (i) he or she is capable of work,
- 30 (ii) he or she is, or by reason of his or her participation in an activity prescribed for the purposes of this subsection and subject to the conditions that may be prescribed, is deemed to be, or is exempted from being required to be, available for employment, and
- 35 (iii) he or she is genuinely seeking, but is unable to obtain, employment suitable for him or her having regard to his or her age, physique, education, normal occupation, place of residence and family circumstances,
- (b) “day of interruption of employment” means a day which is a day of unemployment or of incapacity for work,
- 40 (c) any 3 days of interruption of employment, whether consecutive or not, within a period of 6 consecutive days shall be treated as a period of interruption of employment and any 2 such periods not separated by a period of more than 26 weeks shall be treated as one period of interruption of employment,
- 45

	(d) Sunday or such other day in each week as may be prescribed shall not be treated as a day of unemployment or of incapacity for work and shall be disregarded in computing any period of consecutive days.	
[1994 s19; 1997 s30(1)(a)]	(6) Notwithstanding <i>subsection (5)(c)</i> , where in respect of any day of unemployment (referred to in this subsection as “the relevant day of unemployment”) which forms part of a period of interruption of employment a person has not, before the relevant day of unemployment, been entitled, in that period of interruption of employment, to unemployment benefit in respect of a day of unemployment within the 2 years before the relevant day of unemployment, that day shall be treated as the first day of unemployment in a separate period of interruption of employment subject to <i>subsection (4)</i> not applying in relation to that separate period of interruption of employment.	5 10
[1997 s30(1)(a)]	(7) For the purposes of this Chapter and <i>Chapter 2 of Part 3</i> , the Minister shall make regulations specifying the circumstances in which a person is or is not to be regarded as being available for or genuinely seeking employment and these circumstances may vary in relation to—	15
	(a) the person’s previous work experience,	20
	(b) the period for which he or she has been unemployed, and	
	(c) the prevailing employment conditions.	
[1993 s42(5); 2005 (SW&P) s12(a)]	(8) Notwithstanding anything contained in <i>subsection (5)</i> , any period, not exceeding 1 year in duration, of—	
	(a) employment under a scheme administered by An Foras Áiseanna Saothair and known as Community Employment,	25
	(b) employment under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme,	30
	(c) participation in a scheme administered by An Foras Áiseanna Saothair and known as the Enterprise Allowance Scheme,	
	(d) participation in a scheme administered by An Foras Áiseanna Saothair and known as the Alternance Scheme,	35
	(e) attendance at a training course provided or approved of by An Foras Áiseanna Saothair,	
	(f) participation in a scheme administered by the Commission of the European Union and known as the European Voluntary Service Initiative,	40
	(g) participation in a scheme administered by the Minister and known as the Part-Time Job Incentive Scheme, or	
	(h) participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme,	45
	shall be disregarded in treating, under <i>subsection (5)(c)</i> , any 2 periods of interruption of employment not separated by more than 26 weeks as one period of interruption of employment.	

(9) Regulations may make provision (subject to *subsection (5)*) as to the days which are or are not to be treated for the purposes of unemployment benefit as days of unemployment or of incapacity for work. [1993 s42(6)]

5 (10) The amount payable by way of benefit 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 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and being rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent. [1993 s42(7); 2001 s37 & Sch F]

10 (11) Notwithstanding *subsection (1)*, the number of days of unemployment in respect of which a person engaged in short-time employment shall be entitled to unemployment benefit in any week shall be limited so that the total of the number of days in respect of which that benefit is paid and the number of days worked shall not exceed 5, and in that case the amount payable by way of that benefit for any day of unemployment in that week shall, notwithstanding *subsection (10)*, be one-fifth 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 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and being rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent. [1993 s42(8); 2001 s37 & Sch F]

25 **63.—(1)** It shall be a condition for the receipt of unemployment benefit in respect of any day by a person engaged in share fishing that— Condition for receipt (optional contributors).

(a) it is not a day on which he or she is engaged in share fishing and it is a day in respect of which he or she makes reasonable efforts to obtain such work, and [1993 (No. 2) s8(a)]

30 (b) there was no work on, or in connection with, the fishing vessel of which he or she is a member of the crew available for him or her on that day because—

(i) as a consequence of weather conditions, the fishing vessel could not reasonably have put to sea for the purposes of fishing, or

35 (ii) the fishing vessel was undergoing repairs or maintenance, not being repairs or maintenance constituting work within the meaning of *subsection (2)*.

(2) For the purposes of *subsection (1)*, work includes any work done to the fishing vessel or its nets or gear by way of repairs (including running repairs) or maintenance, or in connection with the laying up of nets and gear or their preparation for fishing which at the time of its performance is necessary for the safety or reasonable efficiency of the fishing vessel, or is likely to become so necessary in the near future, and which it is the duty of a person engaged in share fishing (whether by agreement, custom, practice or otherwise) to undertake without remuneration other than by way of a share in the profits or the gross earnings of the working of the fishing vessel, but any other work done to the fishing vessel or its nets or gear, shall be disregarded. [1993 (No. 2) s8(a)]

Conditions for receipt.

64.—(1) The contribution conditions for unemployment benefit are that the claimant—

[1993 s43(1); 2005 (SW&P) s11(e)]

(a) has qualifying contributions in respect of not less than 52 contribution weeks in the period between his or her entry into insurance and the day for which the benefit is claimed, 5

(b) (i) has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed, or 10

(ii) has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year which includes the day for which the benefit is claimed, 15

and

(c) has—

(i) prescribed reckonable weekly earnings, or

(ii) in the case of a person who qualifies for unemployment benefit by virtue of having paid optional contributions, prescribed reckonable weekly income, 20

in excess of a prescribed amount in the prescribed period.

[1993 s43(2); 2005 (SW&P) s26 & Sch 4]

(2) In the case of any claim for unemployment benefit where the period of interruption of employment began before 6 April 1987, *subsection (1)(a)* shall be read as if “26” were substituted for “52”. 25

[2003 s9(3)(b)]

(3) In the case of any claim for unemployment benefit where the period of interruption of employment began on or after 6 April 1987 and before 5 April 2004 *subsection (1)(a)* shall be read as if “39” were substituted for “52”. 30

[1993 s43(3)]

(4) Where a person under 65 years of age has been entitled to payment of unemployment benefit in respect of any day or would but for *section 62(4)*, *68(1)* or *68(6)* have been so entitled then, in relation to unemployment benefit, the benefit year which includes the first such day in every period of interruption of employment, which is, or is deemed to be, a separate period of interruption of employment, shall, for the purpose of the condition contained in *subsection (1)(b)(i)* or *(ii)*, be regarded as continuing so long as the period of interruption of employment continues. 35

[1993 s43(4)]

(5) Regulations may provide for modifications of the contribution conditions set out in *subsection (1)*. 40

[1993 s43(5)]

(6) Subject to *subsection (7)*, regulations may provide for entitling to unemployment benefit persons who would be entitled to that benefit but for the fact that the condition in *subsection (1)(c)* is not satisfied. 45

[1993 s43(6)]

(7) Regulations for the purposes of *subsection (6)* shall provide that benefit payable by virtue of those regulations shall be payable at a rate less than that specified in *Schedule 2*, and the rate specified

by the regulations may vary with the extent to which the condition in *subsection (1)(c)* is satisfied.

5 (8) The condition in *subsection (1)(c)* that the claimant must have prescribed reckonable weekly earnings in excess of a prescribed amount in the prescribed period shall not apply in the case of a claim for unemployment benefit made by a person in the benefit year in which that person, having been a volunteer development worker, returns to the State from a developing country or in the next 2 succeeding benefit years. [1993 (No. 2) s13; 1999 s24(2)]

10 **65.**—Subject to this Act, the weekly rate of unemployment benefit shall be as set out in *column (2)* of *Part 1* of *Schedule 2*. Rate of benefit. [1993 s44]

15 **66.**—(1) The weekly rate of unemployment benefit shall be increased by the amount set out in *column (3)* of *Part 1* of *Schedule 2* for any period during which the beneficiary has a qualified adult, subject to the restriction that a beneficiary shall not be entitled for the same period to an increase of benefit under this subsection in respect of more than one person. Increases for qualified adult and qualified children. [1993 s45(1); 1997 s28(4) & Sch F]

20 (2) The weekly rate of unemployment benefit shall be increased by the amount set out in *column (4)* of *Part 1* of *Schedule 2* in respect of each qualified child who normally resides with the beneficiary. [1993 s45(2); 1994 s32 & Sch F]

25 (3) Subject to *subsection (4)*, any increase of unemployment benefit payable under *subsection (2)* in respect of a qualified child who normally resides with the beneficiary and with the spouse of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the beneficiary is not a qualified adult and *subsection (2)* shall be read and have effect accordingly. [1993 s45(3); 2003 s10(1)(c)]

30 (4) *Subsection (3)* shall not apply and no increase of unemployment benefit payable under *subsection (2)* in respect of a qualified child who normally resides with the beneficiary and with the spouse of a beneficiary shall be payable where the weekly income of that spouse, calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed. [2003 s10(1)(c)]

35 **67.**—(1) A person who, in respect of any period of interruption of employment, has been entitled to unemployment benefit for 156 days shall not thereafter, subject to *subsection (3)* or *(4)*, be entitled to that benefit for any day of unemployment (whether in the same or a subsequent period of interruption of employment) unless before that day he or she has requalified for benefit or unless, in the case of a person over 65 years of age, he or she has qualifying contributions in respect of not less than 156 contribution weeks in the period between his or her entry into insurance and the day for which unemployment benefit is claimed. Duration of payment. [1993 s46(1); 2003 s11(1)(a)]

45 (2) Where a person entitled to unemployment benefit for 156 days has exhausted his or her right to unemployment benefit— [1993 s46(2)]

(a) he or she shall requalify for that benefit when he or she has qualifying contributions in respect of 13 contribution weeks begun or ended since the last day for which he or she was entitled to that benefit, and

- (b) on his or her requalifying for that benefit, *subsection (1)* shall again apply to the person, but, in a case where the period of interruption of employment in which the person exhausted his or her right to that benefit continues after his or her requalification, as if the part before and the part after his or her requalification were distinct periods of interruption of employment. 5
- [1993 s46(3); 2003 s11(1)(b)] (3) *Subsection (1)* shall, in respect of a person who is over the age of 18 years and who has qualifying contributions in respect of not less than 260 contribution weeks, have effect as if “390 days” were substituted for “156 days”. 10
- [2003 s11(1)(b)] (4) *Subsection (1)* shall, in respect of a person who is over the age of 18 years and who has qualifying contributions in respect of less than 260 contribution weeks, have effect as if “312 days” were substituted for “156 days”. 15
- [1993 s46(4); 2003 s11(1)] (5) Where a person entitled to unemployment benefit for 312 days or 390 days has exhausted his or her right to that benefit—
- (a) the person shall requalify for that benefit when he or she has qualifying contributions (other than optional contributions) in respect of 13 contribution weeks begun or ended since the 156th day for which he or she was entitled to that benefit, and 20
- (b) on his or her requalifying for that benefit, *subsections (1), (3) and (4)* as the case may be, shall again apply to him or her, but, in a case where the period of interruption of employment in which the person exhausted his or her right to benefit continues after his or her requalification, as if the part before and the part after the exhaustion were distinct periods of interruption of employment. 25
- [1993 (No.2) s8(c)] (6) Notwithstanding this Chapter, in the case of a person who satisfies the contribution conditions contained in *section 64* by virtue of having paid optional contributions— 30
- (a) where he or she has been entitled to unemployment benefit for 78 days in any benefit year he or she shall not thereafter be entitled to that benefit in respect of any day of unemployment in that benefit year, and 35
- (b) the first day of unemployment in any benefit year shall be treated as the beginning of a separate period of interruption of employment.
- [1993 s46(5)] (7) Regulations may provide for treating a person for the purposes of this section as having been entitled to benefit for any day where the person would have been so entitled but for any delay or failure on his or her part to make or prosecute a claim but a person shall not be so treated where he or she shows that he or she did not intend, by failing to acquire or establish a right to benefit for that day, to avoid the necessity of requalifying for benefit under this section. 40
45
- [1993 s46(6); 1996 s22(4)] (8) For the purpose of this section, where a person receives unemployment assistance in respect of any week of unemployment, within the meaning of *section 141(3)*, which includes any day in respect of which that person is entitled to unemployment benefit, any day of unemployment in that week shall be treated as though it were a day in respect of which unemployment benefit was paid. 50

(9) For the purposes of this section, any period in respect of which a person is disqualified for receiving unemployment benefit by virtue of *section 68(6)* shall be treated as though it were a period in respect of which unemployment benefit was paid. [1993 s46(7)]

5 **68.—**(1) Subject to *subsection (2)*, 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 or she was employed shall be disqualified for receiving unemployment benefit so long as the stoppage of work continues, except in a case where the person has, during the stoppage of work, become bona fide employed elsewhere in the occupation which he or she usually follows or has become regularly engaged in some other occupation. [1993 s47(1)] Disqualifications.

10 (2) *Subsection (1)* shall not apply to a person who is not participating in or directly interested in the trade dispute which caused the stoppage of work. [1993 s47(1)]

15 (3) 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 on the same premises or at the same place, each of those departments, for the purposes of *subsection (1)*, is deemed to be a separate factory, workshop or farm or separate premises or a separate place, as the case may be. [1993 s47(2)]

20 (4) A person shall be disqualified for receiving unemployment benefit during any week in which he or she is employed under a scheme administered by An Foras Áiseanna Saothair and known as Community Employment. [1993 s47(3); 1995 s18(a)]

25 (5) A person shall be disqualified for receiving unemployment benefit during any week in which he or she is employed under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme. [2005 (SW&P) s13(a)]

30 (6) A person shall be disqualified for receiving unemployment benefit for a period not exceeding 9 weeks as may be determined under this Act where he or she— [1993 s47(4)]

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

(b) has refused an offer of suitable employment,

40 (c) has without good cause refused or failed to avail himself or herself of any reasonable opportunity of receiving training provided or approved of by An Foras Áiseanna Saothair as suitable in his or her case,

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

45 (e) being a person under the age of 55 years who, in accordance with the Redundancy Payments Acts 1967 to 2003, has been dismissed by his or her 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 those Acts or under an agreement with his or her employer,

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

[1993 s47(5)] (7) Regulations may also provide for imposing in the case of any class of persons additional conditions with respect to the receipt of unemployment benefit and restrictions on the rate and duration of that benefit, where, having regard to special circumstances, it appears to the Minister necessary so to do for the purpose of preventing inequalities or preventing injustice. 5

[1993 s47(6)] (8) For the purpose of this section, employment shall not be deemed to be suitable employment in the case of any person where it is— 10

(a) employment in a situation vacant in consequence of a stoppage of work due to a trade dispute, 15

(b) employment in the district where the person was last ordinarily employed at a rate of remuneration lower, or on conditions less favourable, than those which he or she habitually obtained in his or her usual employment in that district, or would have obtained had he or she continued to be so employed, or 20

(c) employment in any other district at a rate of remuneration lower, or on conditions less favourable, than those generally observed in that district by agreement between associations of employers and of employees or, failing such agreement, than those generally recognised in that district by good employers. 25

CHAPTER 13

Occupational Injuries Benefits

Interpretation. [1993 s48(1)] **69.—(1)** In this Chapter, save where the context otherwise requires— 30

“apprentice” means a person undergoing full-time training for any trade, business, profession, office, employment or vocation;

“claimant” means a person claiming occupational injuries benefit and also includes an applicant for a declaration that an accident was or was not an occupational accident, and reference to a claim shall be read accordingly; 35

“the deceased” means, in relation to death benefit, the person in respect of whose death the benefit is claimed or payable;

“disablement gratuity” has the meaning given to it by *section 75(8)*;

“disablement pension” has the meaning given to it by *section 75(9)* or *(10)*; 40

“injury benefit period” means, in relation to any accident, the period of 156 days (Sundays being disregarded) beginning with the day of the accident, or the part of that period for which, under *section 75(3)*, disablement benefit in respect of the accident is not available to the insured person; 45

“medical examination” includes bacteriological and radiographical tests and similar investigations, and references to being medically examined shall be read accordingly;

“medical treatment” has the meaning given to it by *section 93(1)*;

5 “occupational accident” shall be read in accordance with *section 90*;

“relevant accident” and “relevant injury” mean respectively, in relation to any benefit, the accident and injury in respect of which the benefit is claimed or payable;

10 “relevant loss of faculty” means the loss of faculty resulting from the relevant injury;

“unemployability supplement” has the meaning given to it by *section 77(3)*.

15 (2) References in this Chapter to loss of physical faculty shall be read as including references to disfigurement, whether or not accompanied by any actual loss of faculty. [1993 s48(2)]

70.—(1) Subject to this Part, every person, irrespective of age, who is employed in insurable (occupational injuries) employment shall be insured under this Part against personal injury caused by accident arising out of and in the course of that employment. [1993 s49(1)]

20 (2) Any reference in this Act to occupational injuries insurance shall be read as a reference to the insurance provided for by this section. [1993 s49(2)]

25 (3) Notwithstanding *subsection (1)*, regulations may provide for entitling to such and so many of the benefits which comprise occupational injuries benefits, that may be prescribed, subject to the conditions and circumstances that may be prescribed, the class or classes of persons that may be prescribed. [1994 s31(1)]

30 **71.**—(1) Any reference in this Act to insurable (occupational injuries) employment shall, subject to *subsections (2) to (11)*, be read as a reference to any employment for the time being specified in *Part 1 of Schedule 1*, not being an employment specified in *Part 2* of that Schedule. [1993 s50(1)]

35 (2) (a) For the purposes of this section, the following employments shall be taken as being added to the employments specified in *Part 1 of Schedule 1*— [1993 s50(2)]

40 (i) employment in the State in plying for hire with any vehicle, vessel, aircraft, machine or animal, the use of which is obtained under any contract of bailment (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise,

45 (ii) employment under any contract of service or apprenticeship entered into in the State (otherwise than as captain, master or a member of the crew) on board a ship or aircraft, being employment for the purpose of the ship or aircraft or of any passengers or cargo or mails carried by the ship or aircraft, and

(iii) employment in the State as a member or as a person training to become a member of any fire brigade, rescue brigade, first-aid party or salvage party at a factory, mine or works, that may be prescribed, or of any similar organisation that may be prescribed. 5

(b) In *paragraph (a)(ii)*—

“ship” means—

- (i) any ship registered in the State, or
- (ii) any other ship or vessel of which the owner or, where there is more than one owner, the managing owner 10 or manager, resides or has his or her principal place of business in the State;

“aircraft” means—

- (i) any aircraft registered in the State, or
- (ii) any other aircraft of which the owner or, where there 15 is more than one owner, the managing owner or manager, resides or has his or her principal place of business in the State.

[1993 s50(3)] (3) For the purposes of this section, the following employments shall be taken as being added to the employments specified in *Part 2 of Schedule 1*— 20

- (a) employment as a member of the Defence Forces,
- (b) employment, which is neither wholetime as may be defined in regulations nor under contract of service, as a member of the crew of a fishing vessel where the 25 employed person is wholly remunerated by a share in the profits or the gross earnings of the working of the vessel,
- (c) employment under any local or other public authority in the execution of any contract for services,
- (d) employment, otherwise than under contract of service, 30 specified in *paragraph 10 of Part 1 of Schedule 1*.

[1993 s50(4)] (4) For the purposes of this section, *paragraph 2 of Part 2 of Schedule 1* shall be taken as not including employment of a casual nature for the purposes of any work in or about the residence of the employer. 35

[1993 s50(5)] (5) For the purposes of this section, a pilot to whom the Pilotage Act 1913 applies, when employed on any ship (within the meaning of *subsection (2)(b)*), is deemed to be a member of the crew of that ship.

[1993 s50(6)] (6) The Minister may, in relation to *paragraphs 4 and 5 of Part 2 of Schedule 1*, by regulations provide that an employment specified 40 as being subsidiary employment or an employment specified as being of inconsiderable extent shall be taken for the purposes of this section as not being so specified.

[1993 s50(7)] (7) The Minister may by regulations provide that any specified employment under any local or other public authority shall be taken 45 for the purposes of this section as being added to *Part 2 of Schedule 1*.

(8) Where it appears to the Minister— [1993 s50(8)]

5 (a) that the nature or other circumstances of the service rendered or the work performed in any employment which, apart from this subsection, is insurable (occupational injuries) employment and in any employment which, apart from this subsection, is not such employment (whether by reason of the fact that it is an excepted employment or otherwise) are so similar as to result in anomalies in the operation of this Part, and

10 (b) that either—

(i) the first-mentioned employment can conveniently be included among the excepted employments, or

15 (ii) the second-mentioned employment can conveniently be included among the insurable (occupational injuries) employments,

the Minister may by regulations provide that the employment shall be so included.

(9) The Minister may by regulations modify this Part in its application in the case of persons employed in employments specified in subsection (2)(a)(ii). [1993 s50(9)]

25 (10) A person who is unemployed, while in attendance at any course that may be prescribed and provided by any person who may be prescribed, is deemed, for the purposes of this Part, to be in insurable (occupational injuries) employment and to be employed by the person by whom the course is being provided. [1993 s50(10)]

(11) A person employed under a scheme administered by An Foras Áiseanna Saothair and known as Community Employment is deemed, for the purposes of this Part, to be in insurable (occupational injuries) employment, where the person's employment under that scheme began before 6 April 1996. [1993 s50(11); 1996 s12(1)(e)]

72.—(1) An accident arising in the course of an insured person's employment is deemed for the purposes of this Part, in the absence of evidence to the contrary, also to have arisen out of that employment.

Extension of meaning of references to accidents arising out of and in course of employment.

[1993 s51(1)]

35 (2) An accident shall be treated for the purposes of this Part, where it would not apart from this section be so treated, as arising out of an insured person's employment where— [1993 s51(2)]

(a) the accident arises in the course of the employment,

(b) the accident—

40 (i) either is caused by another person's misconduct, negligence or misbehaviour, or by steps taken in consequence of any such misconduct, negligence or misbehaviour or by the behaviour or presence of an animal (including a bird, fish or insect), or

45 (ii) is caused by or consists in the insured person's being struck by any object or by lightning,

and

- (c) the insured person did not directly or indirectly cause or contribute to the happening of the accident by his or her conduct outside the employment or by any act not incidental to the employment. 5

[1993 s51(3)] (3) An accident is deemed for the purposes of this Part to arise out of and in the course of an insured person's employment, notwithstanding that the person is at the time of the accident acting in contravention of any statutory or other regulations applicable to his or her employment, or of any orders given by or on behalf of his or her employer, or that the person is acting without instructions from his or her employer, where— 10

- (a) the accident would have been deemed for the purposes of this Part so to have arisen had the act not been done in contravention of any statutory or other regulations applicable to the person's employment, or of any orders given by or on behalf of his or her employer or without instructions from his or her employer, as the case may be, and 15

- (b) the act is done for the purposes of and in connection with the employer's trade or business. 20

[1993 s51(4)] (4) An accident happening to an insured person while travelling to or from his or her place of work, subject to the conditions that may be prescribed, is deemed for the purposes of this Part to arise out of and in the course of his or her employment. 25

[1993 s51(5)] (5) An accident happening to an insured person in or about any premises at which the person is for the time being employed for the purposes of his or her employer's trade or business is deemed for the purposes of this Part to arise out of and in the course of his or her employment where it happens while the person is taking steps, in an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property. 30

[1993 s51(6)] (6) An accident happening to an insured person who is an apprentice, while he or she is in attendance at a technical school or other place for training or instruction (whether during ordinary hours of employment or otherwise), is deemed for the purposes of this Part, in the absence of evidence to the contrary, to have arisen out of and in the course of his or her employment where his or her attendance at that school or place is with his or her employer's consent or is required by direction of his or her employer or under his or her contract of apprenticeship. 35 40

Accidents in illegal employment and accidents outside State.

[1993 s52(1)] **73.—**(1) Where a claim for occupational injuries benefit is made under this Part in respect of any accident or of any disease or injury prescribed for the purposes of *section 87*, or an application is made thereunder for a declaration that any accident was an occupational accident or for a corresponding declaration as to any such disease or injury, the Minister may direct that for the purposes of this Part the relevant employment shall, in relation to that accident, disease or injury, be treated as having been insurable (occupational injuries) employment, notwithstanding that, by reason of a contravention of or non-compliance with some provision contained in or having effect 45 50

under any enactment passed for the protection of employed persons or of any class of employed persons—

- (a) the contract purporting to govern the employment was void, or
- 5 (b) the employed person was not lawfully employed in that employment at the time when or in the place where the accident happened or the disease or injury was contracted or received.

(2) In *subsection (1)* “relevant employment” means— [1993 s52(1)]

- 10 (a) in relation to an accident, the employment out of and in the course of which the accident arises, and
- (b) in relation to a disease or injury, the employment to the nature of which the disease or injury is due.

(3) Except where regulations otherwise provide, an occupational [1993 s52(3)]
15 injuries benefit is not payable in respect of an accident happening while the insured person is outside of the State.

74.—(1) Subject to this Act, an insured person who suffers personal injury caused on or after 1 May 1967 by accident arising out of and in the course of his or her employment, being insurable [1993 s53(1)]
20 (occupational injuries) employment, shall be entitled to injury benefit in respect of any day on which, as the result of the injury, the person is incapable of work during the injury benefit period.

(2) An insured person shall not be entitled to injury benefit in [1993 s53(1)]
25 respect of the first 3 days on which, as a result of the injury, he or she is incapable of work.

(3) For the purposes of this section, a day shall not be treated in [1993 s53(2)]
relation to an insured person as a day of incapacity for work where, in respect of that day, the insured person is being paid by his or her employer in respect of holiday leave.

(4) In determining whether the insured person is incapable of [1993 s53(3)]
30 work on the day of the accident, any part of that day before the happening of the accident shall be disregarded.

(5) Subject to this Part, injury benefit shall be an allowance payable at the weekly rate set out in *column (2)* of *Part 1* of *Schedule 2*. [1993 s53(4)]

(6) The amount payable by way of injury benefit for any day of [1993 s53(5); 2001
35 incapacity shall be one-sixth of the appropriate weekly rate, subject to the total amount being paid at any time by virtue of this subsection being rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and being rounded to the
40 nearest 10 cent where it is not a multiple of 5 cent or 10 cent.

(7) A person under the age of 16 years shall not be entitled to [1993 s53(6)]
injury benefit except in so far as may be provided by regulations.

75.—(1) Subject to this Act, an insured person who suffers personal injury caused on or after 1 May 1967 by accident arising out of and in the course of his or her employment, being insurable [1993 s54(1)]
45 (occupational injuries) employment, shall be entitled to disablement benefit where he or she suffers as a result of the accident from loss

of physical or mental faculty such that the extent of the resulting disablement assessed in accordance with *subsections (3) to (11)* amounts to not less than 1 per cent.

[1993 s54(1)] (2) For the purposes of *subsections (3) to (11)*, there is deemed not to be any relevant loss of faculty when the extent of the resulting disablement, if assessed in accordance with those provisions, would not amount to 1 per cent. 5

[1993 s54(2)] (3) Disablement benefit shall not be available to an insured person until after the 3rd day of the period of 156 days (Sundays being disregarded) beginning with the day of the relevant accident, nor until after the last day, if any, of that period on which he or she is incapable of work as a result of the relevant accident but where the person is not so incapable on any day, being the 4th or a later day after the relevant accident, before the end of that period, he or she may claim, and if otherwise entitled, be awarded, disablement benefit as from that day, but in that event the fact that the person is or may be so incapable on a subsequent day of the period shall be disregarded for the purposes of this subsection. 10 15

[1993 s54(3)] (4) For the purposes of this section, the extent of disablement shall be assessed, by reference to the disabilities incurred by the claimant as a result of the relevant loss of faculty, in accordance with the following general principles: 20

(a) save as provided in this subsection, the disabilities to be taken into account shall be all disabilities (whether or not involving a loss of earning power or additional expense) to which the claimant may be expected, having regard to his or her physical and mental condition at the date of the assessment, to be subject during the period taken into account by the assessment as compared with a person of the same age and sex whose physical and mental condition is normal; 25 30

(b) any such disability shall be treated as having been incurred as a result of the relevant loss of faculty except that, subject to any regulations made under *subsection (5)*, it shall not be so treated in so far as the claimant either— 35

(i) would in any case have been subject to that disability as the result of a congenital defect or of an injury or disease received or contracted before the relevant accident, or

(ii) would not have been subject to that disability but for some injury or disease received or contracted after, and not directly attributable to, that accident; 40

(c) the assessment shall be made without reference to the particular circumstances of the claimant other than age, sex and physical and mental condition; 45

(d) the disabilities resulting from any loss of faculty that may be prescribed shall be taken as amounting to 100 per cent disablement and other disabilities shall be assessed accordingly.

[1993 s54(4)] (5) (a) Provision may be made by regulations for further defining the principles on which the extent of disablement is to be assessed, and those regulations may in particular direct 50

that a prescribed loss of faculty shall be treated as resulting in a prescribed degree of disablement.

- 5 (b) In relation to any direction in regulations made under *paragraph (a)*, nothing in *subsection (4)(c)* shall be taken as preventing the making of different provision, in the case of loss of faculty in or affecting hand or arm, for right-handed and for left-handed persons.
- 10 (6) (a) Subject to *paragraph (b)*, the period to be taken into account by an assessment of the extent of a claimant's disablement shall be the period (beginning not earlier than the end of the injury benefit period, and limited by reference either to the claimant's life or to a definite date) during which the claimant has suffered and may be expected to continue to suffer from the relevant loss of faculty. [1993 s54(5)]
- 15 (b) If on any assessment the condition of the claimant is not such, having regard to the possibility of changes in that condition (whether predictable or not), as to allow of a final assessment being made up to the end of the period referred to in *paragraph (a)*—
- 20 (i) a provisional assessment shall be made, taking into account such shorter period only as seems reasonable having regard to his or her condition and that possibility, and
- 25 (ii) on the next assessment the period to be taken into account shall begin with the end of the period taken into account by the provisional assessment.
- (7) (a) Subject to *paragraph (b)*, an assessment shall state the degree of disablement in the form of a percentage and shall specify the period taken into account by the assessment and, where that is limited by reference to a definite date, whether the assessment is provisional or final. [1993 s54(6)]
- 30 (b) For the purposes of *paragraph (a)*—
- 35 (i) the percentage and period referred to in that paragraph shall not be specified more particularly than is necessary for the purpose of determining in accordance with this section the claimant's rights as to disablement benefit, and
- 40 (ii) a percentage between 20 and 100 which is not a multiple of 10 shall be treated—
- (I) where it is a multiple of 5, as being the next higher percentage which is a multiple of 10, and
- (II) where it is not a multiple of 5, as being the nearest percentage which is a multiple of 10.
- 45 (8) (a) Where the extent of the disablement is assessed for the period taken into account as amounting to less than 20 per cent, disablement benefit shall be a gratuity (in this Chapter referred to as "a disablement gratuity")— [1993 s54(7)]

- (i) of an amount fixed, in accordance with the length of that period and the degree of disablement, by a prescribed scale, but not in any case exceeding the amount set out in *Part 2 of Schedule 2*,
 - (ii) payable, if and in the cases provided by regulations, by instalments. 5
- (b) The scale prescribed for the purposes of *paragraph (a)* shall be the same for all persons.
- [1993 s54(8)] (9) (a) Subject to *paragraph (b)*, where the extent of the disablement is assessed for the period taken into account as amounting to 20 per cent or more, disablement benefit shall be a pension (in this Chapter referred to as “a disablement pension”) for that period at the weekly rate set out in *column (2) of Part 3 of Schedule 2* appropriate to the degree of disablement. 10
15
- (b) Where the period referred to in *paragraph (a)* is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before that date.
- [1993 s54(9)] (10) (a) Where, apart from this subsection, a gratuity would be paid under *subsection (8)* in a case in which the period taken into account by the assessment of disablement is the period of the claimant’s life or a period exceeding 7 years and the extent of disablement is assessed as amounting to not less than 10 per cent and not more than 19 per cent, *subparagraphs (i) to (iii)* apply where the claimant opts, before the gratuity is paid, for the substitution of a pension for the gratuity: 20
25
- (i) the gratuity shall not be paid;
 - (ii) the disablement benefit shall be a pension (in this Chapter also referred to as “a disablement pension”) at the weekly rate appropriate in accordance with a prescribed scale; 30
 - (iii) the disablement pension shall be for the period taken into account by the assessment of disablement but where that period is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before that date. 35
- (b) The following provisions apply in relation to the scale prescribed for the purposes of this subsection:
- (i) the scale shall be the same for all persons; 40
 - (ii) different amounts may be specified in relation to the different percentages under 20 per cent, but each such amount shall not be less than the amount which bears to the appropriate amount of disablement pension (set out in *Part 3 of Schedule 2*) for a degree of disablement of 20 per cent, the same proportion as the percentage with respect to which it is specified bears to 20 per cent. 45
- [1993 s54(10)] (11) In the case of any assessment of disablement where the period to be taken into account by the assessment began before 1 May 1990, *subsection (10)(a)* shall be read as if the reference to “and 50

the extent of disablement is assessed as amounting to not less than 10 per cent and not more than 19 per cent” were deleted.

5 **76.—**(1) The weekly rate of injury benefit shall be increased by the amount set out in *column (3)* of *Part 1* of *Schedule 2* for any period during which the beneficiary has a qualified adult, subject to the restriction that a beneficiary shall not be entitled for the same period to an increase of injury benefit under this subsection in respect of more than one person.

Increase of injury benefit and disablement pension for qualified adult and qualified children.

[1993 s55(1); 1997 s28(4) & Sch F]

10 (2) The weekly rate of injury benefit shall be increased by the amount set out in *column (4)* of *Part 1* of *Schedule 2* in respect of each qualified child who normally resides with the beneficiary.

[1993 s55(2); 1994 s32 & Sch F]

15 (3) Subject to *subsection (4)*, any increase of injury benefit payable under *subsection (2)* in respect of a qualified child who normally resides with the beneficiary and with the spouse of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the beneficiary is not a qualified adult and *subsection (2)* shall be read and have effect accordingly.

[1993 s55(3); 2003 s10(1)(d)]

20 (4) *Subsection (3)* shall not apply and no increase of injury benefit payable under *subsection (2)* in respect of a qualified child who normally resides with the beneficiary and with the spouse of a beneficiary shall be payable where the weekly income of that spouse, calculated or estimated in the manner that may be prescribed, exceeds any amount that may be prescribed.

[2003 s10(1)(d)]

25 (5) *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 and any increase under *subsection (2)* in respect of a qualified child who normally resides with the beneficiary and with the spouse of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the beneficiary is not a qualified adult and *subsection (2)* shall be read and have effect accordingly.

[2003 s10(1)(d)]

77.—(1) Subject to this Act, the weekly rate of disablement pension shall be increased—

Increase of disablement pension on account of unemployability.

35 (a) by the amount set out in *column (2)* of *Part 4* of *Schedule 2* where, as a result of the relevant loss of faculty, the beneficiary is incapable of work and likely to remain permanently so incapable, and

[1993 s56(1)]

40 (b) by the amount set out in *column (3)* of *Part 4* of *Schedule 2* where the beneficiary is living alone and by the amount set out in *column (4)* of *Part 4* of *Schedule 2* where the beneficiary is ordinarily resident on an island.

[1993 s56(1); 2005 (SW&P) s10(a)]

45 (2) (a) For the purposes of this section, a person may be treated as being incapable of work, and likely to remain permanently incapable of work, notwithstanding that the loss of faculty is not such as to prevent the person being capable of work, where it is likely to restrict him or her to earning not more than the amount that may be prescribed.

[1993 s56(2)]

50 (b) In *paragraph (a)* the reference to “earning” includes a reference to receiving any remuneration or profit derived from gainful occupation.

[1993 s56(3)]	(3) An increase of pension under this section (in this Chapter referred to as “an unemployability supplement”) shall be payable for the period that may be determined at the time it is granted, but may be renewed from time to time.	
Increase of disablement pension where constant attendance needed.	78.— (1) Where a disablement pension is payable in respect of an assessment of 50 per cent or more, then, where as a result of the relevant loss of faculty the beneficiary requires constant attendance, the weekly rate of the pension shall be increased by the amount set out in <i>Part 4 of Schedule 2</i> .	5
[1993 s57(1); 2001 s19(1)]		
[1993 s57(2); 2001 s19(1)]	(2) An increase of pension under this section shall be payable for the period that may be determined at the time it is granted, but may be renewed from time to time but no increase shall be payable in respect of any period during which the beneficiary is receiving medical treatment as an in-patient in a hospital or similar institution.	10
Adjustments for successive accidents.	79.— (1) Where a person suffers 2 or more successive accidents against which he or she is insured by occupational injuries insurance, regulations may provide for adjusting—	15
[1993 s.58(1); 2005 (SW&P) s5]		
	(a) injury benefit or disablement benefit, or the conditions for the receipt of injury benefit or disablement benefit, in any case where the person has received, or may be entitled to, a disablement gratuity,	20
	(b) any increase of benefit referred to in <i>subsection (2)</i> , or the conditions for the receipt of any such increase.	
[1993 s58(2); 2005 (SW&P) s5(1)]	(2) An increase of benefit referred to in <i>subsection (1)</i> is an increase in the rate of injury benefit or of disablement pension under <i>sections 76, 77 and 78</i> .	25
Entitlement to death benefit.	80.— Subject to this Act, death benefit shall be payable as provided for in <i>sections 81 to 84</i> where—	
[1993 s59; 1997 s14(1)]		
	(a) an insured person dies as a result of personal injury caused on or after 1 May 1967 by accident arising out of and in the course of his or her employment, being insurable (occupational injuries) employment, or	30
	(b) an insured person dies and where immediately before the date of death he or she was entitled to a disablement pension in respect of disablement assessed at 50 per cent or more.	35
Death benefit for widows and widowers and increases for qualified children, etc.	81.— (1) Death benefit shall be payable to the widow or widower of the deceased.	
[1993 s60; 1997 s14(1)]		
[1997 s14(1)]	(2) Death benefit shall be a pension at the weekly rate set out in <i>column (2) of Part 1 of Schedule 2</i> , and where the beneficiary has attained pensionable age and is living alone, that rate shall be increased by the amount set out in <i>column (6) of that Part</i> .	40

(3) A pension under *subsection (2)* shall not be payable for any [1997 s14(1)] period after the remarriage of the beneficiary.

5 (4) A beneficiary shall be disqualified for receiving a pension [1997 s14(1)] under this section if and so long as he or she and any person are cohabiting as husband and wife.

(5) The weekly rate of pension under *subsection (2)* shall be [1997 s14(1)] increased by the amount set out in *column (4)* of *Part 1* of *Schedule 2* in respect of each qualified child who normally resides with the beneficiary.

10 (6) The weekly rate of pension under *subsection (2)* shall be [2004 (MP) increased by the amount set out in *column (7)* of *Part 1* of *Schedule s6(1)(a)* 2 where the beneficiary has attained the age of 80 years.

15 (7) The weekly rate of pension under *subsection (2)* shall be [2001 s15(1)(b)] increased by the amount set out in *column (8)* of *Part 1* of *Schedule 2* where the beneficiary has attained pensionable age and is ordinarily resident on an island.

20 **82.—(1)** A parent of the deceased shall be entitled to death benefit where, at the deceased's death, the parent was being wholly or mainly maintained by the deceased, or would but for the relevant accident have been so maintained. [1993 s61(1)]
Death benefit — parents.

(2) Subject to *subsections (3)* and *(4)*, the death benefit shall be a [1993 s61(2); 2001 pension at the weekly rate set out in *column (2)* of *Part 1* of *Schedule s15(1)(c)* 2, increased, in the case of a person who has attained pensionable age—

25 (a) by the amount set out in *column (6)* of *Part 1* of *Schedule 2* where the beneficiary is living alone, and

(b) by the amount set out in *column (8)* of *Part 1* of *Schedule 2* where the beneficiary is ordinarily resident on an island.

30 (3) Subject to *subsection (4)*, the weekly rate of pension payable [1993 s61(3)] to a parent shall be—

(a) at the reduced weekly rate, where the deceased was at death a married person,

(b) at the maximum weekly rate, where the deceased was at death a widower, a widow or a single person—

35 (i) in any case where the parent is the father and was, at the death of the deceased, incapable of self-support by reason of some physical or mental infirmity and likely to remain permanently so incapable,

40 (ii) in any case where the parent is the mother, having been, at the death of the deceased, a widow or having thereafter become a widow, or

(iii) in any case where the parent is the mother, not being a widow, and a pension at the maximum weekly rate is not payable to her husband,

45 (c) at the reduced weekly rate in any other case.

[1993 s61(4)]	(4) Where a person, to whom <i>subsection (3)(b)(i)</i> applies, ceases at any time to be incapable of self-support by reason of some physical or mental infirmity, the pension shall thereafter be payable at the reduced weekly rate and, where at that time <i>subsection (3)(b)</i> applies to his wife, that pension shall thereafter be payable at the maximum weekly rate.	5
[1993 s61(5)]	(5) In this section— “reduced weekly rate” means the reduced weekly rate of death benefit by way of parent’s pension as set out in <i>column (2) at reference 2(b)(i)</i> in <i>Part 1 of Schedule 2</i> ; “maximum weekly rate” means the maximum weekly rate of death benefit by way of parent’s pension as set out in <i>column (2) at reference 2(b)(ii)</i> in <i>Part 1 of Schedule 2</i> .	10
[1993 s61(6)]	(6) Where a parent was partly maintained by each of 2 or more insured persons who have died as a result of accidents arising out of and in the course of their employments, being insurable (occupational injuries) employments, the parent may be treated for the purposes of this section— (a) as having received from the last of those insured persons to die contributions to the maintenance of the parent equal to the aggregate amount which those insured persons were together contributing before the first of the accidents happened, and (b) as having received nothing from the other or others.	15 20
[1993 s61(7)]	(7) A pension under this section payable to a woman who, at the deceased’s death, was a widow or an unmarried woman shall not be payable for any period after her remarriage or marriage.	25
[1993 s61(8)]	(8) A widow or an unmarried woman shall be disqualified for receiving a pension under this section if and so long as she and any person are cohabiting as husband and wife.	30
[1993 s61(9)]	(9) For the purposes of <i>subsections (1)</i> and <i>(6)</i> “parent”, where the deceased was adopted under the Adoption Acts 1952 to 1998, shall be taken as referring to the adopters or the adopter, and includes a step-parent.	
Death benefit — orphans.	83.— (1) Death benefit shall be payable in respect of an orphan who is a child or step-child of the deceased and in respect of an orphan who was wholly or mainly maintained by the deceased at the date of his or her death.	35
[1993 s62(1)]		
[1993 s62(2)]	(2) In the case of an orphan death benefit shall be a pension at the weekly rate set out in <i>column (2) of Part 1 of Schedule 2</i> .	40
[1993 s62(3)]	(3) <i>Section 133</i> applies to a pension under this section as it applies to an orphan’s (contributory) allowance.	
Death benefit — funeral expenses.	84.— (1) Death benefit by way of a grant in respect of funeral expenses shall be payable in respect of the death of the deceased.	
[1993 s63(1)]		
[1993 s63(2)]	(2) Subject to <i>subsection (3)</i> , the grant shall be the amount set out in <i>Part 2 of Schedule 2</i> .	45

(3) In any case that may be specified by regulations, the grant shall be any lesser amount that may be specified by the regulations for that case. [1993 s63(3)]

5 (4) Except where regulations otherwise provide, a grant under this section shall not be payable in respect of a death occurring outside the State. [1993 s63(4)]

85.—(1) Regulations shall provide for conferring on persons who—

Supplements to workmen's compensation payments.

10 (a) are or have been on or after 1 October 1965 entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts, and [1993 s64(1); 2005 (SW&P) s26 & Sch 4]

15 (b) as the result of the injury or disease are, or could for the purpose of the provisions of this Chapter relating to unemployability supplement be treated as being, incapable of work and likely to remain permanently so incapable,

20 the like right to payments under this Chapter by way of unemployability supplement and the like right to payments under this Chapter in respect of a qualified child or qualified adult as if the injury or disease were one in respect of which a disablement pension were for the time being payable.

(2) Regulations shall also provide for conferring on persons who— [1993 s64(2)]

25 (a) are or have been on or after 1 October 1965 entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts, and

30 (b) as the result of that injury or disease require constant attendance,

the like right to payments under this Chapter in respect of the need of constant attendance as if the injury or disease were one in respect of which a disablement pension were for the time being payable in respect of an assessment of 100 per cent.

35 (3) Regulations referred to in *subsections (1) and (2)* may further provide for applying, in relation to payments under this section, the provisions of this Part relating to benefit and to the making of claims and the determination of claims and questions in so far as those provisions apply in relation to an unemployability supplement, to an increase of a disablement pension in respect of a qualified child or qualified adult, or to an increase of a disablement pension in respect of the need of constant attendance, as the case may be, subject to any additions or modifications. [1993 s64(3); 2005 (SW&P) s26 & Sch 4]

45 (4) All payments under this section shall be paid out of the Social Insurance Fund. [1993 s64(4)]

Cost of medical care.	86.—(1) Subject to this section, the cost of medical care which, in the opinion of the Minister, is reasonably and necessarily incurred by an insured person as a result of an injury or disease against which, when it was sustained or contracted, he or she was insured under this Part, shall be payable out of the Social Insurance Fund to the extent that the cost is not met under—	5
	(a) the Health Acts 1947 to 2005, or	
	(b) the Mental Health Acts 1945 to 2001, or	
	(c) regulations made under <i>section 138</i> .	
[1993 s65(2); 2005 (SW&P) s23, 26 & Sch 1, 4]	(2) Where an insured person is eligible to avail himself or herself of services provided under the Health Acts 1947 to 2005 or the Mental Health Acts 1945 to 2001 or treatment benefit under regulations made under <i>section 138</i> but does not do so, the amount payable under this section shall not exceed that which would have been payable had he or she availed himself or herself of those services or that benefit.	10 15
[1993 s65(3)]	(3) Where an insured person receives medical care during any period in which he or she is an in-patient in a hospital or similar institution, the amount payable under this section in respect of that care shall not exceed—	20
	(a) the maximum amount which would be chargeable under section 53 of the Health Act 1970 to an insured person to whom the institutional services provided under that section are made available for that period, or	
	(b) the maximum amount which would be chargeable under section 231A of the Mental Treatment Act 1945 (inserted by section 71 of the Health Act 1953) to an insured person to whom mental hospital assistance is made available for that period,	25
	as may be appropriate.	30
[1993 s65(4)]	(4) The amount payable under this section in respect of medical care provided otherwise than during a period in which the insured person is an in-patient in a hospital or similar institution shall be the sum that is, in the opinion of the Minister, reasonably appropriate to the care afforded, having regard to the reasonable necessity for that care and the customary charge for that care.	35
[1993 s65(5)]	(5) (a) Where an insured person requires medical care as a result of an injury or disease against which, when it was sustained or contracted, the person was insured under this Part, he or she or any other person who may be prescribed shall, within the period that may be prescribed, give written notice to the Minister of the care required by him or her, and shall give any particulars that may be required of that care.	40
	(b) No payment under this section shall be made unless the notice referred to in <i>paragraph (a)</i> is given and, where any particulars are required under that paragraph, those particulars are given.	45
[1993 s65(6)]	(6) Where notice is given under <i>subsection (5)</i> , the insured person may be required to submit himself or herself to medical examination for the purpose of establishing that the medical care is necessary as	50

a result of the relevant accident or disease and that it is reasonable in his or her case, and no payment shall be made under this section where the person fails to comply with the requirement.

5 (7) Payments under this section shall be made to those persons that the Minister thinks fit and, in particular, where the cost of the medical care payable under this section is due to the Executive, payment may be made to the Executive. [1993 s65(7); 2005 (SW&P) s23 & Sch 1]

10 (8) Regulations may provide for applying in relation to payments under this section any of the provisions of this Part relating to benefit and to the making of claims, subject to any additions or modifications. [1993 s65(8)]

(9) For the purposes of this section medical care shall comprise, subject to any additions which may be made by regulations— [1993 s65(9)]

15 (a) general practitioner and specialist care, including domiciliary visiting,

(b) nursing care at home except where the cost is met by an increase under *section 78* in respect of constant attendance, and nursing care and maintenance in hospitals, convalescent homes, sanatoria or other medical institutions,

20 (c) pharmaceutical and other medical or surgical supplies, including prosthetic and aural appliances, prescribed by a registered medical practitioner, kept in repair and replaced where necessary,

(d) dental and optical treatment and appliances,

25 (e) the care given, on the prescription of a registered medical practitioner, by members of professions allied to the medical profession, including physiotherapists and chiropodists, and

30 (f) conveyance to and from the place where medical care as specified in this subsection is provided.

35 **87.—**(1) Subject to this section, a person who is insured under this Part against personal injury caused by accident arising out of and in the course of his or her employment shall be insured also against any prescribed disease and against any prescribed personal injury not so caused, being a disease or injury due to the nature of that employment and developed on or after 1 May 1967. [1993 s66(1)] Insurance against prescribed diseases and injuries not caused by accident.

(2) A disease or injury shall be prescribed for the purposes of this section in relation to any insured persons, where the Minister is satisfied that— [1993 s66(2)]

40 (a) it ought to be treated, having regard to its causes and any other relevant considerations, as a risk of their occupations and not as a risk common to all persons, and

45 (b) it is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty.

(3) Regulations prescribing any disease or injury for the purposes of this section may provide that a person who developed the disease [1993 s66(3)]

or injury on or at any time after a date specified in the regulations, being a date before the regulations came into force but not before 1 May 1967, shall be treated for the purposes of this section, subject to any prescribed modifications, as if the regulations had been in force when the person developed the disease or injury.

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[1993 s66(4)]

(4) Provision may be made by regulations for determining—

(a) the time at which a person is to be treated for the purposes of this Part as having developed any disease or injury prescribed for the purposes of this section, and

(b) the circumstances in which any such disease or injury is, where the person in question has previously suffered from that disease or injury, to be treated as having recurred or as having been contracted or received afresh.

10

[1993 s66(5)]

(5) The benefit payable under this section in respect of a prescribed disease or injury, and the conditions for the receipt of that benefit, shall be the same as in the case of personal injury by accident arising out of and in the course of a person's employment, subject, however, to the power to make different provision by regulations in relation to any matter which is to be prescribed and to *subsections (6) to (8)*.

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[1993 s66(6)]

(6) Regulations may provide, in relation to prescribed diseases and injuries—

(a) for modifying the provisions of this Chapter relating to injury benefit and disablement benefit and for adapting references in this Chapter to accidents, and

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(b) for modifying the provisions of this Part in their application in relation to claims for benefit and in relation to questions arising in connection with those claims or with an award of benefit on any such claim.

[1993 s66(7)]

(7) Without prejudice to the generality of *subsection (6)*, regulations under that subsection may in particular include provision—

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(a) for presuming any prescribed disease or injury—

(i) to be due, unless the contrary is proved, to the nature of a person's employment where he or she was employed in any prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, the person developed the disease or injury,

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(ii) not to be due to the nature of a person's employment unless he or she was employed in some prescribed employment at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, the person developed the disease or injury,

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and

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(b) for any matters that appear to the Minister to be incidental to or consequential on provisions included in the regulations by virtue of this section.

5 (8) Nothing in this section affects the right of any person to benefit in respect of a disease which is a personal injury by accident within the meaning of this Chapter except that a person shall not be entitled to benefit in respect of a disease as being an injury by accident arising out of and in the course of any employment where at the time of the accident the disease is in relation to the person a prescribed disease by virtue of the occupation in which he or she is engaged in that employment. [1993 s66(8)]

10 **88.—**(1) Regulations may provide for requiring the prescribed notice of any accident in respect of which occupational injuries benefit or any amount under *section 86* may be payable to be given within the prescribed time by the insured person or, where within that time his or her death results from the accident, by any other person who may be prescribed, to the insured person's employer or another prescribed person. Notice of accidents. [1993 s67(1)]

20 (2) In a case of failure without good cause to give the prescribed notice referred to in *subsection (1)* (including, in the case of a claim for death benefit, a failure on the part of some other person to give the prescribed notice of the relevant accident), regulations may provide for disqualification for receipt of occupational injuries benefit or any amount under *section 86* for the period that may be determined in accordance with the regulations. [1993 s67(2)]

25 **89.—**Regulations may provide for requiring employers—
(a) to make reports, to the person and in the form and within the time that may be prescribed, of accidents in respect of which occupational injuries benefit or any amount under *section 86* may be payable, Reporting of accidents by employers. [1993 s68]
(b) to give to the prescribed person any information required for the determination of claims for occupational injuries benefit or of questions arising in connection with claims for or awards of that benefit, and
(c) to take such other steps as may be prescribed to facilitate the giving of notices of accidents in respect of which occupational injuries benefit or any amount under *section 86* may be payable, the making of claims for that benefit and the determination of claims for that benefit and of questions arising in connection with claims for or awards of that benefit.

40 **90.—**(1) Where, in relation to any claim for occupational injuries benefit, it is decided that the relevant accident was or was not an occupational accident, an express declaration of that fact shall be made and recorded and, subject to *subsection (3)*, a claimant shall be entitled to have the question whether the relevant accident was an occupational accident decided notwithstanding that his or her claim is disallowed on other grounds. Declaration that accident is an occupational accident. [1993 s69(1)]

50 (2) Subject to *subsection (3)*, any person suffering personal injury by accident shall be entitled, where he or she claims that the accident was an occupational accident, to have that question decided, and a declaration made and recorded accordingly, notwithstanding that no claim for occupational injuries benefit has been made in connection with which the question arises, and this Act applies for that purpose [1993 s69(2)]

as if the question had arisen in relation to a claim for occupational injuries benefit.

[1993 s69(3)] (3) Notwithstanding anything contained in *subsections (1) and (2)*, the deciding officer or appeals officer, as the case may be, may refuse to determine the question whether an accident was an occupational accident where satisfied that it is unlikely that it will be necessary to decide the question for the purposes of any claim for occupational injuries benefit, but any such refusal of a deciding officer shall, on notice of appeal being given to the Chief Appeals Officer within the prescribed time, be referred to an appeals officer. 5 10

[1993 s69(4)] (4) Subject to this Act as to appeal and revision, any declaration under this section that an accident was or was not an occupational accident shall be conclusive for the purposes of any claim for occupational injuries benefit in respect of that accident, whether or not the claimant is the person at whose instance the declaration was made. 15

[1993 s69(5)] (5) For the purposes of this section, an accident whereby a person suffers personal injury is deemed, in relation to him or her, to be an occupational accident where— 20
(a) it arises out of and in the course of his or her employment,
(b) that employment is insurable (occupational injuries) employment, and
(c) payment of occupational injuries benefit is not precluded because the accident happened while the person was outside the State. 25

and reference in other sections of this Chapter to an occupational accident shall be read accordingly.

Disqualifications for injury benefit or disablement benefit and suspension of proceedings. 91.—(1) Regulations may provide for disqualifying a person for receiving injury benefit or disablement benefit for any period not exceeding 9 weeks, or for suspending proceedings on any claim for, or on any payment of, injury benefit or disablement benefit, where the person fails without good cause— 30

[1993 s70(1)] (a) to submit himself or herself from time to time to medical examination for the purpose of determining— 35
(i) the effect of the relevant accident,
(ii) whether the accident has resulted in a loss of faculty,
(iii) at what degree the extent of disablement resulting from a loss of faculty is to be assessed and what period is to be taken into account by the assessment, or 40
(iv) the treatment appropriate to the relevant injury or loss of faculty,
(b) to submit himself or herself from time to time to appropriate medical treatment for the relevant injury or loss of faculty, 45

(c) to attend at the places and times that may be required for the purposes of that medical examination or treatment, or

(d) to observe any prescribed rules of behaviour.

5 (2) Regulations under this section shall provide for payment to any person attending for medical examination or treatment referred to in *subsection (1)* of the amount that may be determined by the Minister as the amount of the reasonable and necessary travelling and other expenses (including any expense consisting of loss of
10 remunerative time) incurred by the person in respect of the attendance. [1993 s70(2)]

92.—Regulations may provide for treating a person for the purposes of this Chapter as incapable of work as the result of an accident or injury when he or she would not be so treated apart from the
15 regulations, and may also make provision— [1993 s71] Treating person as incapable of work, etc.

(a) as to the days which, in the case of a person who at any time is, or is to be treated as, incapable of work as the result of an accident or injury, are or are not to be treated for the purpose of occupational injuries benefit as days
20 of incapacity for work, and

(b) as to the day which, in the case of night workers and other special cases, is to be treated for the purpose of occupational injuries benefit as the day of the accident.

93.—(1) For the purposes of this Chapter “medical treatment” means medical, surgical or rehabilitative treatment (including any course of diet or other regimen), and references in this Chapter to
25 “a person receiving or submitting himself or herself to medical treatment” shall be read accordingly. [1993 s72(1)] Medical treatment.

(2) Regulations may provide that where a person receives medical
30 treatment as an in-patient for 2 or more distinct periods separated by an interval or intervals of less than a specified duration, he or she shall be treated for the purposes of this Chapter as receiving it continuously from the beginning of the first period until the end of the last period. [1993 s72(2)]

94.—(1) The Minister may make any contributions that he or she may determine, with the consent of the Minister for Finance, towards the cost of rehabilitation services (including rehabilitation services provided under section 68 of the Health Act 1970) for persons entitled to disablement benefit.
35 [1993 s73(1)] Rehabilitation.

(2) The amounts required for any contributions under this section shall be paid out of the Social Insurance Fund. [1993 s73(2)]

95.—(1) The Minister may promote research into the causes, incidence and methods of prevention of—
40 [1993 s74(1)] Research.

(a) accidents and injuries against which occupational injuries insurance is provided, or

(b) diseases against which that insurance is provided or which it is contemplated may be prescribed for the purposes of *section 87*,

either by the Minister employing persons to conduct the research or by contributing to the expenses of, or otherwise assisting, other persons engaged in the research. 5

[1993 s74(2)] (2) The Minister may pay to persons employed for the purposes of *subsection (1)* the salaries or other remuneration, and travelling or other allowances, that he or she may, with the consent of the Minister for Finance, determine. 10

[1993 s74(3)] (3) The amounts required for any payments under this section shall be paid out of the Social Insurance Fund.

Taking account of benefit in assessing damages. [1993 s75(1)] **96.**—(1) Notwithstanding *section 2* of the Civil Liability (Amendment) Act 1964 and *section 287*, in an action for damages for personal injuries (including any such action arising out of a contract) there shall in assessing those damages be taken into account, against any loss of earnings or profits which has accrued or probably will accrue to the injured person from the injuries, the value of any rights which have accrued or will probably accrue to him or her therefrom in respect of injury benefit (disregarding any right in respect of injury benefit payable by virtue of *section 250*, after the death of the injured person) or disablement benefit (disregarding any increase of that benefit under *section 78* in respect of constant attendance) for 5 years beginning with the time when the cause of action accrued. 15
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[1993 s75(2)] (2) The reference in *subsection (1)* to assessing the damages for personal injuries shall, in cases where the damages otherwise recoverable are subject to reduction under the law relating to contributory negligence or are limited by or under any Act or by contract, be taken as referring to the total damages which would have been recoverable apart from the deduction or limitation. 30

[1993 s75(3)] (3) Notwithstanding *section 50* of the Civil Liability Act 1961, in assessing damages in respect of a person's death under Part IV of that Act, account may be taken of any death benefit, by way of grant under *section 84* in respect of funeral expenses, resulting from that person's death. 35

[1993 s75(4)] (4) Notwithstanding the Garda Síochána (Compensation) Acts 1941 to 2003, there shall in assessing compensation be taken into account, against—
(a) any loss of earnings or profits which has accrued or probably will accrue to the injured person from the injuries, 40
(b) the detrimental effect which the injuries might reasonably be expected to have on the future earning power generally of the injured person and in particular (where the injuries do not preclude the injured person from continuing to be a member of the Garda Síochána), on his or her future career in that force, and 45
(c) the pain and suffering occasioned by the injuries to the injured person and also to any disease or tendency to disease caused by the injuries, 50

5 the value of any rights which have accrued or will probably accrue to him or her therefrom in respect of disablement benefit (disregarding any increase of that benefit under *section 78* in respect of constant attendance) for 5 years beginning with the time when the cause of action accrued.

(5) Notwithstanding the Garda Síochána (Compensation) Acts 1941 to 2003, in assessing compensation under those Acts in respect of— [1993 s75(5)]

10 (a) a person's death, account may be taken of any death benefit by way of grant under *section 84* in respect of funeral expenses, resulting from that person's death, and

15 (b) any medical or surgical expenses incurred or likely to be incurred by the injured person in respect or in consequence of the injuries, account may be taken of any medical care payment under *section 86*, resulting from those injuries for 5 years beginning with the time when the cause of action accrued.

20 (6) *Subsections (4) and (5)* shall not apply to any proceedings instituted for compensation under the Garda Síochána (Compensation) Acts 1941 and 1945 before 6 April 1989. [1993 s75(6)]

25 **97.**—The Workmen's Compensation Acts, as amended by Part V of the Civil Liability Act 1961, shall continue to apply to cases to which they would have applied if the Social Welfare (Occupational Injuries) Act 1966 had not been passed, being cases where a right to compensation arose in respect of employment before 1 May 1967, except where, in the case of a disease or injury prescribed for the purposes of *section 87*, the right did not arise before that date and the workman, before it arose, has been insured under this Chapter against that disease or injury. [1993 s76] Saver for repeal of Workmen's Compensation Acts.

30 **98.**—The references to the Social Welfare (Occupational Injuries) Act 1966 in— Construction of certain references in Local Government (Superannuation) Act 1956. [1993 s77]

(a) the definitions of "service day" and "wages" in section 2 of the Local Government (Superannuation) Act 1956 as amended by section 42 of the first-mentioned Act, and

35 (b) section 43 of the Local Government (Superannuation) Act 1956, as so amended,

shall be read as references to this Chapter.

CHAPTER 14

Carer's Benefit

40 **99.**—(1) Subject to this Act, in this Chapter— Interpretation.

"carer" means a person who has attained the age of 16 years and who— [2000 s10; 2005 (SW&P) s6(a)]

(a) resides with and provides full-time care and attention to a relevant person, or

	(b) subject to the conditions and in the circumstances that may be prescribed, does not reside with but provides full-time care and attention to a relevant person;	
	“relevant period” means the period of 26 weeks immediately before the first day in respect of which a claim to carer’s benefit is made;	5
	“relevant person” means a person who has such a disability that he or she requires full-time care and attention.	
[2000 s10]	(2) For the purposes of <i>subsection (1)</i> , a relevant person shall be regarded as requiring full-time care and attention where—	
	(a) the person has such a disability that he or she requires from another person—	10
	(i) continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or	
	(ii) continual supervision in order to avoid danger to himself or herself,	15
	and	
	(b) the nature and extent of his or her disability has been certified in the prescribed manner by a medical practitioner.	
[2000 s10]	(3) The Minister may make regulations specifying the circumstances and conditions under which a person is to be regarded as providing full-time care and attention to a relevant person.	20
Entitlement to benefit.	100.—(1) Subject to this Act, a benefit (in this Act referred to as “carer’s benefit”) shall be payable to a carer where he or she—	
[2000 s10; 2005 (SW&P) s6(b)]	(a) was engaged in remunerative full-time employment as an employed contributor for not less than 8 weeks, whether consecutive or not, within the relevant period,	25
	(b) does not engage in employment or self-employment, and	
	(c) satisfies the contribution conditions in <i>section 101</i> .	
[2000 s10; 2005 (SW&P) s6(b)]	(2) <i>Subsection (1)(a)</i> shall not apply in respect of a claimant who was in receipt of carer’s benefit within the relevant period.	30
[2000 s10]	(3) Notwithstanding <i>subsection (1)(b)</i> , the Minister may make regulations to provide that a carer may engage in employment or self-employment subject to the limitations in relation to hours or remuneration that may be prescribed and subject to the conditions and in the circumstances that may be prescribed.	35
[2000 s10]	(4) <i>Subsection (1)(c)</i> shall not apply in the case of a claimant who was previously in receipt of carer’s benefit.	
[2000 s10; 2005 (SW&P) s6(b)]	(5) In this section “remunerative full-time employment” means remunerative employment for not less than 16 hours a week within the 8 weeks referred to in <i>subsection (1)(a)</i> or any period that may be prescribed under <i>subsection (6)</i> , provided that where any 2 of those weeks are consecutive, the requirement in relation to those 2 weeks may be satisfied by an aggregate of not less than 32 hours in that fortnight.	40 45

5 (6) Regulations may provide that, subject to the conditions and in the circumstances that may be prescribed, in the case of a person who was absent from his or her employment within the relevant period referred to in *subsection (1)(a)*, by reason of being on such leave from that employment as may be prescribed, the condition specified in *subsection (1)(a)* shall be regarded as being satisfied in respect of that person if he or she was engaged in remunerative full-time employment as an employed contributor for 8 weeks, whether consecutive or not, within the relevant period (other than the relevant period referred to in that subsection) that may be prescribed (and the period that may be so prescribed may comprise 2 or more periods which, taken together, amount to a period of 26 weeks).

[2001 s26(1)(b)(ii);
2005 (SW&P) s6(b)]

15 **101.**—(1) The contribution conditions for carer's benefit are that the carer has qualifying contributions in respect of not less than 156 contribution weeks in the period between his or her entry into insurance and the first day for which the benefit is claimed, and qualifying contributions in respect of not less than—

Conditions for receipt.

[2000 s10; 2005 (SW&P) s11(f)]

20 (a) 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year which includes the first day for which the benefit is claimed, or

(b) 39 contribution weeks in the 12 months immediately before the first day for which the benefit is claimed, or

25 (c) 26 weeks in each of the second last and third last complete contribution years before the beginning of the benefit year which includes the first day for which the benefit is claimed.

(2) Regulations may provide for modification of the contribution conditions set out in *subsection (1)*.

[2000 s10]

30 **102.**—(1) Subject to this Act, the rate (in this Chapter referred to as the “scheduled rate”) of carer's benefit shall be—

Rate of benefit.

(a) in the case of a person who is a carer of more than one relevant person, the weekly rate set out in *column (2)* at *reference 7(b)* in *Part 1 of Schedule 2*, and

[2000 s10; 2005 (SW&P) s26 & Sch 4]

35 (b) in any other case, the weekly rate set out in *column (2)* at *reference 7(a)* in *Part 1 of Schedule 2*,

increased by the appropriate amount set out in *column (4)* of that Part opposite that reference in respect of each qualified child who normally resides with the beneficiary.

40 (2) Any increase in carer's benefit payable under *subsection (1)* in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount and *subsection (1)* shall be read and have effect accordingly.

[2000 s10]

45 **103.**—A carer who has been in receipt of carer's benefit for 65 weeks, whether consecutive or not, in respect of the full-time care and attention being provided to a relevant person, shall not thereafter be entitled to that benefit in respect of the full-time care and attention being provided to the same relevant person.

Duration of payment.

[2000 s10]

Medical examination. [2000 s10]	104. —(1) A relevant person, in respect of whose full-time care and attention a carer is entitled to or in receipt of carer's benefit, shall attend for or submit to any medical or other examination that may be required in accordance with regulations.	
[2000 s10]	(2) Regulations under <i>subsection (1)</i> may also provide for disqualifying a person for receiving carer's benefit where the relevant person, in respect of whose full-time care and attention the benefit is payable, fails without good cause to attend for or to submit to any medical or other examination that may be required in accordance with those regulations.	5 10
Payment of benefit. [2000 s10; 2005 (SW&P) s14(a)]	105. —Notwithstanding this Chapter—	
	(a) only one carer's benefit shall be payable to a carer, and only one carer's benefit shall be payable in any week in respect of the full-time care and attention being provided to a relevant person,	15
[2001 s26(1)]	(b) carer's benefit shall not be payable in respect of the full-time care and attention being provided to a relevant person in any case where the relevant person is in receipt of an increase of disablement pension under <i>section 78</i> in respect of constant attendance,	20
	(c) carer's benefit shall not be payable in respect of the full-time care and attention being provided to a relevant person in any case where a carer's allowance under <i>Part 3</i> is being paid to any person in respect of the full-time care and attention being provided to the same relevant person, and	25
	(d) a prescribed relative allowance under <i>Chapter 8 of Part 3</i> shall cease to be payable to a relevant person or prescribed relative, as the case may be, where the prescribed relative or any other person becomes entitled to and receives a carer's benefit in respect of the full-time care and attention being provided to that relevant person.	30
Disqualification. [2000 s10]	106. —A person who, having been in receipt of carer's benefit for less than 6 weeks in respect of the full-time care and attention being provided to a relevant person, ceases to be entitled to that benefit, shall be disqualified for receipt of carer's benefit in respect of the full-time care and attention being provided to the same relevant person for 6 weeks from the last day for which he or she was entitled to the benefit.	35
Regulations. [2000 s10]	107. —Regulations may provide for requiring an employer or any other person to give any information that may be required for the purpose of determining a claim to carer's benefit.	40

Old Age (Contributory) Pension

- 5 **108.**—(1) Subject to this Act, a person shall be entitled to old age (contributory) pension where he or she has attained pensionable age and satisfies the contribution conditions in *section 109*. Entitlement to pension. [1993 s83(1)]
- (2) In this Chapter— [1993 s83(2); 2005 (SW&P) s22]
- “homemaker” means a person who—
- (a) is resident in the State and is under pensionable age,
- 10 (b) is not engaged in remunerative employment, other than employment specified in *paragraph 5 of Part 2 of Schedule 1*,
- (c) either—
- (i) resides with and cares for a child under 12 years of age on a full-time basis, or
- 15 (ii) resides with and provides full-time care and attention to a person who is so incapacitated as to require full-time care and attention within the meaning of *section 179(4)*, or
- 20 (iii) subject to the conditions and in the circumstances that may be prescribed, does not reside with but provides full-time care and attention to a person who is so incapacitated as to require full-time care and attention within the meaning of *section 179(4)*,
- and
- 25 (d) other than in the case of the class or classes of person that may be prescribed, makes application to be regarded as a homemaker in the prescribed manner and within the prescribed time;
- “yearly average” means, subject to *subsection (3)*, in relation to any
- 30 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 beginning—
- (a) on 5 January 1953 in case the claimant is a man, or on 6 July 1953 in case the claimant is a woman, or
- 35 (b) at the beginning of the contribution year in which the claimant’s entry into insurance occurred (where after 5 January 1953 in the case of a man, or 6 July 1953 in the case of a woman),
- (whichever is the later) and ending at the end of the last complete
- 40 contribution year before the date of his or her 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 beginning on 6 April 1979 and ending at the end of the last complete contribution year before the date of his or her attaining pensionable age.

[1996 s24] (3) In the case of a claimant who was a homemaker for the duration of any complete contribution year, beginning on or after 6 April 1994, in which the claimant does not have any credited contributions or voluntary contributions, that contribution year shall be disregarded for the purposes of determining the yearly average of that claimant subject to the total number of contribution years so disregarded not exceeding 20. 5
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[1993 s83(3); 1997 s35 & Sch G] (4) In this Chapter, “relevant person” means—
(a) a person who first becomes—
(i) an insured person by virtue of *section 12(1)* insured for old age (contributory) pension purposes, or 15
(ii) an insured person by virtue of *section 20*,
on or after 6 April 1991, or
(b) a person who fails to satisfy the contribution condition in *section 109(1)(c)* and had periods in which he or she had been— 20
(i) employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996 were paid, and
(ii) an employed contributor, a self-employed contributor 25
or a voluntary contributor in respect of whom contributions, reckonable for the purposes of the contribution conditions for entitlement to old age (contributory) pension were paid in respect of or credited to him or her. 30

[1993 s83(4)] (5) For the purposes of this Chapter, in the case of a relevant person—
“entry into insurance” means, subject to *subsection (8)*, in relation to any person whichever occurs first—
(a) the date on which the person first becomes an insured person by virtue of *section 12(1)*, except where he or she becomes an insured person by virtue of *paragraph (b)* of *section 12(1)* only, or 35
(b) the date on which he or she first becomes an insured person by virtue of *section 20*, 40

and that date shall be regarded as the date of entry into insurance for the purposes of *section 109(1)(a)* and *(c)*.

[1993 s83(5)] (6) Notwithstanding *subsection (5)*, regulations may provide that the date on which a relevant person first becomes an employed person or a self-employed person, insurable for old age (contributory) pension purposes under the legislation of another Member State, or under the legislation of any other State with which the Minister has 45

made a reciprocal arrangement under *section 289*, may be regarded as the date of entry into insurance.

5 (7) Notwithstanding *subsections (5) and (6)*, regulations may [1993 s83(6)] provide that where a date of entry into insurance occurs before a date to be prescribed, that day may be regarded as the date of entry into insurance.

10 (8) For the purposes of this Chapter, in the case of a person who [1993 s83(7)] became a self-employed contributor on 6 April 1988 and who at any time before that date was an employed contributor, the date on which the person first entered into insurance or 6 April 1988, whichever is the more favourable to him or her, shall be regarded as the date of entry into insurance but where a date other than that on which the claimant first entered into insurance is so regarded, that date shall be regarded as the date of entry into insurance for the purposes of *section 109(1)(a) and (c)*.

109.—(1) The contribution conditions for old age (contributory) pension are— Conditions for receipt.

- 20 (a) subject to *subsection (3)*, that the claimant has entered into insurance before attaining the age of 56 years, [1993 s84(1)]
- (b) that the claimant has qualifying contributions in respect of not less than 156 contribution weeks since his or her entry into insurance, and
- 25 (c) that the claimant has a yearly average or, in the case of a person who attains pensionable age on or after 6 April 1992, an alternative yearly average of not less than 48.

30 (2) In the case of a person, other than a person who on or before 6 April 1997 is a voluntary contributor paying contributions under *Chapter 4 of Part 2*, who attained pensionable age on or after 6 April 2002, but before 6 April 2012, *subsection (1)(b)* shall be read as if “260” were substituted for “156”. [1997 s12(1)(a)]

- (3) (a) In the case of a person who attained the age of 57 years before 1 July 1974, *subsection (1)(a)* shall be read as if “60” were substituted for “56”. [1993 s84(2)]
- 35 (b) In the case of a person who attained the age of 57 years on or after 1 July 1974, *subsection (1)(a)* shall be read as if “58” were substituted for “56”.
- (c) In the case of a person who attained the age of 56 years on or after 1 April 1975, *subsection (1)(a)* shall be read as if “57” were substituted for “56” and *paragraph (b)* shall not apply on his or her attaining the age of 57 years.
- 40 (d) In the case of a person who attained the age of 55 years on or after 1 October 1977, *paragraph (c)* shall not apply on his or her attaining the age of 56 years and *paragraph (b)* shall not apply on his or her attaining the age of 57 years.
- 45 (e) In the case of a person who became a self-employed contributor for the first time on or after 6 April 1988 and was not previously an employed contributor under this Act or the National Health Insurance Acts 1911 to 1952 before becoming so insured, and who on or before 6
- 50

April 1988 had attained the age of 56 years but had not attained the age of 62 years, *subsection (1)(a)* shall be read as if “62” were substituted for “56” for the purposes of qualifying for a pension under *subsections (18) and (19)*.

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- [1993 s84(3)] (4) (a) A person who attained the age of 69 years on or after 1 July 1974 but before 5 January 1976 may have his or her entitlement to old age (contributory) pension determined under the Acts relating to social welfare in operation before 1 July 1974 where that would be to the person’s advantage. 10
- (b) A person who attained the age of 69 years before 1 July 1974 and has been awarded an old age (contributory) pension under the Acts relating to social welfare in operation before that date shall on and after that date have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in his or her case under those Acts. 15
- [1993 s84(4)] (5) (a) A person who attained the age of 68 years on or after 1 April 1975 but before 3 January 1977 may have his or her entitlement to old age (contributory) pension determined under the Acts relating to social welfare in operation before 1 April 1975 where that would be to the person’s advantage. 20
- (b) A person who attained the age of 68 years before 1 April 1975 and has been awarded an old age (contributory) pension under the Acts relating to social welfare in operation before that date shall on and after that date have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in his or her case under those Acts. 25
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- [1993 s84(5)] (6) (a) A person who attained the age of 67 years on or after 1 October 1977 but before 1 January 1979 may have his or her entitlement to old age (contributory) pension determined under the Acts relating to social welfare in operation before 1 October 1977 where that would be to the person’s advantage. 35
- (b) A person who attained the age of 67 years before 1 October 1977 and has been awarded an old age (contributory) pension under the Acts relating to social welfare in operation before that date shall, on and after that date, have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in his or her case under those Acts. 40
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- [1993 s84(6)] (7) Regulations may provide for modifications of the meaning of yearly average contained in *section 108(2)* or of the contribution conditions set out in this section.
- [1993 s84(7); 1997 s12(1)(b)] (8) (a) Subject to *paragraph (b)* and *subsection (9)*, regulations may provide for entitling to old age (contributory) pension a claimant who would be entitled to that pension but for the fact that he or she has a yearly average of less than 48. 50

- 5 (b) For the purposes of *paragraph (a)*, in the case of a claimant who has a yearly average of less than 20, he or she is required to have qualifying contributions in respect of not less than 260 contribution weeks since his or her entry into insurance.
- (9) Regulations under *subsection (8)* shall provide, subject to *subsection (10)*, that old age (contributory) pension payable by virtue of those regulations shall be payable at a rate less than that specified in *Schedule 2*, 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 112(2)* shall be the same as if the claimant had a yearly average of not less than 48. [1993 s84(8); 2001 s27(1)]
- (10) In the case of person who, on 5 April 2001, is entitled to or in receipt of a pension by virtue of regulations under *subsection (8)* which includes an increase under *section 112(1)*, *subsection (9)* shall not operate so as to reduce the rate of the increase payable under *section 112(1)* below the rate that may be prescribed. [2001 s27(1)]
- (11) Contributions paid or credited under this Part, or paid, excused or deemed to be or treated as paid under the National Health Insurance Acts 1911 to 1952 (other than, in the case of a person who is not a relevant person, contributions paid by or in respect of a person at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996), shall be taken into account in the manner and subject to the conditions and limitations that may be prescribed for the purpose of the satisfaction of the contribution conditions for old age (contributory) pension. [1993 s84(9); 1997 s35 & Sch G]
- (12) Regulations under *subsection (11)* may also provide for modifications, in the case of persons who were insured under the National Health Insurance Acts 1911 to 1952 or who were absent from the State before 3 October 1960, of any of the contribution conditions for old age (contributory) pension. [1993 s84(10)]
- (13) Where a person, other than in the case of a relevant person, becomes an employed contributor by virtue of *paragraph (b)* of *section 12(1)* and would not, apart from that paragraph, be an employed contributor, his or her entry into insurance by virtue of that paragraph is deemed not to be an entry into insurance for the purposes of *subsection (1)* and for those purposes the person's entry into insurance is deemed to occur when he or she first becomes an employed contributor by virtue of *paragraph (a)* of *section 12(1)*. [1993 s84(11)]
- (14) Subject to *subsection (15)*, regulations may provide for entitling to old age (contributory) pension a person who would be entitled to that pension but for the fact that the contribution condition in *subsection (1)(c)* is not satisfied where that person, having earlier ceased to be an employed contributor became, as a consequence and at the time of the coming into operation of section 12 of the Social Welfare Act 1973, an employed contributor in respect of whom contributions reckonable for the purposes of the contribution conditions for entitlement to old age (contributory) pension were payable. [1993 s84(12)]
- (15) Regulations for the purposes of *subsection (14)* shall provide that old age (contributory) pension payable by virtue of those regulations shall be payable at a rate less than that specified in *Schedule 2*, and the rate specified by the regulations may vary with the extent to which the contribution condition in *subsection (1)(c)* is satisfied. [1993 s84(13)]

[1993 s84(14); 1997 s35 & Sch G] (16) Regulations may provide, subject to *subsection (17)*, for entitling to old age (contributory) pension a relevant person who would be entitled thereto but for the fact that the contribution condition set out in *subsection (1)(c)* is not satisfied and who does not have an entitlement to an old age (contributory) pension by virtue of Regulation (EEC) No. 1408/71¹ of the Council of the European Communities or by virtue of a reciprocal arrangement under the provisions of *section 289* and who in respect of any period has been employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996 were paid.

[1993 s84(15); 2001 s37 & Sch F] (17) Regulations for the purposes of *subsection (16)* shall provide that old age (contributory) pension payable by virtue of those regulations shall—

(a) be payable at a rate less than that specified in *Schedule 2*, and the rate specified by the regulations may vary in relation to the proportion to which the number of—

(i) employment contributions paid in respect of or credited to the insured person, and

(ii) self-employment contributions paid by him or her, and

(iii) voluntary contributions paid by him or her,

reckonable for old age (contributory) pension purposes bears to the total number of those employment contributions, self-employment contributions and voluntary contributions, but any increase of pension in respect of a qualified child shall be paid at the rate specified in *Schedule 2*, and

and

(b) where the amount calculated in accordance with *paragraph (a)* is not a multiple of €2.50, be increased to the next multiple of €2.50.

[1999 s21(b)] (18) Subject to *subsection (19)*, a pension shall be payable in the case of a person who—

(a) became a self-employed contributor for the first time on or after 6 April 1988 and who on or before that date had attained the age of 56 years and who fails to satisfy the contribution conditions in *subsection (1)(c)* or (8), or

(b) satisfies the contribution condition in *section 109(1)(a)* by virtue of *subsection (3)(e)* and who, but for *subsection (3)(e)* fails to satisfy the contribution conditions in *subsection (1)* or (8),

and who has qualifying contributions in respect of not less than 260 weeks since becoming a self-employed contributor.

[1999 s21(b)] (19) The rate of pension payable in accordance with *subsection (18)* shall be payable at half the rate specified in *column (2)* at *reference 3* of *Part 1* of *Schedule 2* and any increases payable under *section 112(1)* or (2) shall be payable at half the rate specified in *columns (3)* and (4) at *reference 3* of *Part 1* of *Schedule 2*.

¹OJ No. L149, 5.7.1971, p. 2

- (20) The total amount payable by way of pension in accordance with *subsections (18) and (19)* shall be rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and shall be rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent. [1999 s21(b); 2001 s37 & Sch F]
- 5
- 110.**—(1) In the case of a person who, having been a self-employed contributor, makes a claim for old age (contributory) pension on or after 6 April 1995, the contribution conditions contained in *section 109* shall not be regarded as having been satisfied unless, in accordance with *section 21*— Disregard of self-employment contributions in certain cases.
[1993 s85(1); 1995 s19(2)]
- 10
- (a) the person has paid self-employment contributions in respect of at least one contribution year before attaining pensionable age, and
- (b) all self-employment contributions payable by him or her have been paid.
- 15
- (2) Notwithstanding *subsection (1)*, the Minister may, where he or she is satisfied that in all the circumstances of the case it would be appropriate to do so, direct that *subsection (1)* shall not be applied in that case. [1993 s85(2); 1995 s19(2)]
- 20
- 111.**—Subject to this Part, the weekly rate of old age (contributory) pension shall be as set out in *column (2) of Part 1 of Schedule 2*. Rate of pension.
[1993 s86]
- 25
- 112.**—(1) Subject to this Part, the weekly rate of old age (contributory) pension shall be increased by the amount set out in *column (3) of Part 1 of Schedule 2* for any period during which the beneficiary has a qualified adult, subject to the restriction that a beneficiary shall not be entitled for the same period to an increase of pension under this subsection in respect of more than one person. Increases (including increases for qualified adult and qualified children).
[1993 s87(1); 1999 s21(c)]
- (2) Subject to this Part, the weekly rate of old age (contributory) pension shall be increased by the amount set out in *column (4) of Part 1 of Schedule 2* in respect of each qualified child who normally resides with the beneficiary. [1993 s87(2); 1999 s21(c)]
- 30
- (3) Any increase of old age (contributory) pension payable under *subsection (2)* in respect of a qualified child who normally resides with a beneficiary and with the spouse of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the beneficiary is not a qualified adult, and *subsection (2)* shall be read and have effect accordingly. [1993 s87(3); 1997 s28(4) & Sch F]
- 35
- (4) The weekly rate of old age (contributory) pension shall be increased by the amount set out in *column (6) of Part 1 of Schedule 2* where the beneficiary is living alone. [1993 s87(4); 1994 s32 & Sch F]
- 40
- (5) The weekly rate of old age (contributory) pension shall be increased by the amount set out in *column (7) of Part 1 of Schedule 2* where the beneficiary has attained the age of 80 years. [1993 s87(5); 1994 s32 & Sch F]
- 45
- (6) The weekly rate of old age (contributory) pension shall be increased by the amount set out in *column (8) of Part 1 of Schedule 2* where the beneficiary is ordinarily resident on an island. [2001 s15(1)(d)]

Pre-1953 pension.

[2000 s16]

113.—(1) Notwithstanding this Chapter and regulations made under this Chapter and subject to *subsection (2)*, a pension shall be payable in accordance with this section in the case of a person who—

- (a) has attained pensionable age,
- (b) was an employed contributor under the National Health Insurance Acts 1911 to 1952, and 5
- (c) has paid—
 - (i) contributions as an employed contributor under the National Health Insurance Acts 1911 to 1952, or
 - (ii) a combination of those contributions and qualifying 10 contributions,
in respect of not less than 260 contribution weeks since the person first became insured under the National Health Insurance Acts 1911 to 1952.

[2000 s16]

(2) Only one pension shall be payable to or in respect of a person 15 under this Chapter.

[2000 s16]

(3) In taking into account under this section contributions paid by or in respect of an employed contributor under the National Health Insurance Acts 1911 to 1952, every 2 such contributions under those Acts shall be reckoned as 3 contributions paid in respect of 3 contribution weeks, with any odd contribution being reckoned as 2 contributions paid in respect of 2 contribution weeks. 20

[2000 s16]

(4) A pension payable in accordance with this section shall be payable at half the rate specified in *column (2)* at *reference 3* of *Part 1* of *Schedule 2*. 25

[2000 s16; 2001 s15(1)(e)(ii)]

(5) The weekly rate of old age (contributory) pension payable in accordance with this section shall be increased by—

- (a) half the amount set out in *column (3)* at *reference 3* of *Part 1* of *Schedule 2* for any period during which the beneficiary has a qualified adult, subject to the restriction that a beneficiary shall not be entitled for the same period to an increase of pension under this subsection in respect of more than one person, 30
- (b) half the amount set out in *column (4)* at *reference 3* of *Part 1* of *Schedule 2* in respect of each qualified child who normally resides with the beneficiary, 35
- (c) the amount set out in *column (6)* at *reference 3* of *Part 1* of *Schedule 2* where the beneficiary is living alone,
- (d) the amount set out in *column (7)* at *reference 3* of *Part 1* of *Schedule 2* where the beneficiary has attained the age of 80 years, and 40
- (e) the amount set out in *column (8)* at *reference 3* of *Part 1* of *Schedule 2* where the beneficiary is ordinarily resident on an island.

Retirement Pension

5 **114.**—(1) Subject to this Act, a person who has attained the age of 65 years shall be entitled to retirement pension for any period of retirement where he or she satisfies the contribution conditions in *section 115*. Entitlement to pension. [1993 s88(1)]

(2) The periods which shall be regarded for the purposes of this section as periods of retirement shall be specified by regulations. [1993 s88(2)]

(3) In this Chapter— [1993 s88(3)]

10 “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 beginning either—

15 (a) on 5 January 1953 in case the claimant is a man, or on 6 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 (where after 5 January 1953 in the case of a man, or 6 July 1953 in the case of a woman),

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

25 “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 beginning on 6 April 1979 and ending at the end of the last complete contribution year before the date of the claimant attaining the age of 65 years.

(4) In this Chapter, “relevant person” means— [1993 s88(4); 1997 s35 & Sch G]

30 (a) a person who first becomes—

(i) an insured person by virtue of *section 12(1)* insured for old age (contributory) pension purposes, or

(ii) an insured person by virtue of *section 20*,

on or after 6 April 1991,

35 or

(b) a person who fails to satisfy the contribution condition in *section 115(1)(c)* and had periods in which he or she had been—

40 (i) employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996, and

	(ii) an employed contributor, a self-employed contributor or a voluntary contributor, in respect of whom contributions, reckonable for the purposes of the contribution conditions for entitlement to old age (contributory) pension were paid in respect of or credited to him or her.	5
[1993 s88(5)]	(5) For the purposes of this Chapter, in the case of a relevant person “entry into insurance” means in relation to any person the earlier of the following 2 dates—	
	(a) the date on which the person first becomes an insured person by virtue of <i>section 12(1)</i> , except where he or she becomes an insured person by virtue of <i>paragraph (b)</i> of <i>section 12(1)</i> only, or	10
	(b) the date on which he or she first becomes an insured person by virtue of <i>section 20</i> ,	15
	and that that date shall be regarded as the date of entry into insurance for the purposes of <i>section 115(1)(a)</i> and <i>(c)</i> .	
[1993 s88(6)]	(6) Notwithstanding <i>subsection (5)</i> , regulations may provide that the date on which a relevant person first becomes an employed person or a self-employed person, insurable for retirement pension purposes under the legislation of another Member State, or under the legislation of any other State with which the Minister has made a reciprocal arrangement under <i>section 289</i> , may be regarded as the date of entry into insurance.	20
[1993 s88(7)]	(7) Notwithstanding <i>subsections (5)</i> and <i>(6)</i> , regulations may provide that where a date of entry into insurance occurs before a date to be prescribed, that day may be regarded as the date of entry into insurance.	25
Conditions for receipt.	115.—(1) The contribution conditions for retirement pension are—	30
[1993 s89(1)]	(a) that the claimant has entered into insurance before attaining the age of 55 years,	
	(b) that the claimant has qualifying contributions in respect of not less than 156 contribution weeks since his or her entry into insurance, and	35
	(c) that the claimant has a yearly average or in the case of a person who attains the age of 65 years on or after 6 April 1992 an alternative yearly average of not less than 48.	
[1997 s12(3)(a)]	(2) In the case of a person, other than a person who on or before 6 April 1997 is a voluntary contributor paying contributions under <i>Chapter 4 of Part 2</i> , who attained the age of 65 years on or after 6 April 2002 but before 6 April 2012, <i>subsection (1)(b)</i> shall be read as if “260” were substituted for “156”.	40
[1993 s89(2)]	(3) Regulations may provide for modifications of the meaning of “yearly average” contained in <i>section 114(3)</i> or of the contribution conditions set out in this section.	45
[1993 s89(3)]	(4) Contributions paid under the National Health Insurance Acts 1911 to 1952 by or in respect of an employed contributor may be taken into account in the manner and subject to the conditions and	

limitations that may be prescribed for the purpose of the satisfaction by the employed contributor of the contribution conditions for retirement pension.

5 (5) Subject to *subsection (6)*, regulations may provide for entitling to retirement pension a claimant who would be entitled to that pension but for the fact that he or she has a yearly average of less than 48. [1993 s89(4)]

10 (6) Regulations under *subsection (5)* shall provide that retirement pension payable by virtue of those regulations shall be payable at a rate less than that specified in *Schedule 2*, 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 117(1) or (2)* shall be the same as if the claimant had a yearly average of not less than 48. [1993 s89(5)]

15 (7) Regulations may provide, subject to *subsection (8)*, for entitling to retirement pension a relevant person who would be entitled to that pension but for the fact that the contribution condition set out in *subsection (1)(c)* is not satisfied and who in respect of any period, has been employed mainly in one or more of the 20 employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996 were paid. [1993 s89(6); 1997 s35 & Sch G]

(8) Regulations for the purposes of *subsection (7)* shall provide that retirement pension payable by virtue of those regulations shall— [1993 s89(7); 2001 s37 & Sch F]

25 (a) be payable at a rate less than that specified in *Schedule 2*, and the rate specified by the regulations may vary in relation to the proportion to which the number of—

(i) employment contributions paid in respect of or credited to the insured person, and

30 (ii) voluntary contributions paid by the insured person,

35 reckonable for retirement pension purposes bears to the total number of those employment contributions, self-employment contributions and voluntary contributions, but any increase of pension in respect of a qualified child shall be paid at the rate specified in *Schedule 2*,

and

(b) where the amount calculated in accordance with *paragraph (a)* is not a multiple of €2.50, be increased to the next multiple of €2.50.

40 **116.**—Subject to this Part, the weekly rate of retirement pension shall be as set out in *column (2)* of *Part 1* of *Schedule 2*. Rate of pension. [1993 s90]

45 **117.**—(1) The weekly rate of retirement pension shall be increased by the amount set out in *column (3)* of *Part 1* of *Schedule 2* for any period during which the beneficiary has a qualified adult, subject to the restriction that the beneficiary shall not be entitled for the same period to an increase of pension under this subsection in respect of more than one person. Increases (including increases for qualified adult and qualified children). [1993 s91(1); 1997 s28(4) & Sch F]

[1993 s91(2); 1994 s32 & Sch F]	(2) The weekly rate of retirement pension shall be increased by the amount set out in <i>column (4) of Part 1 of Schedule 2</i> in respect of each qualified child who normally resides with the beneficiary.	
[1993 s91(3); 1997 s28(4) & Sch F]	(3) Any increase of retirement pension payable under <i>subsection (2)</i> in respect of a qualified child who normally resides with a beneficiary and with the spouse of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the beneficiary is not a qualified adult, and <i>subsection (2)</i> shall be read and have effect accordingly.	5
[1993 s91(4); 1994 s32 & Sch F]	(4) The weekly rate of retirement pension shall be increased by the amount set out in <i>column (6) of Part 1 of Schedule 2</i> where the beneficiary has attained pensionable age and is living alone.	10
[1993 s91(5); 1994 s32 & Sch F]	(5) The weekly rate of retirement pension shall be increased by the amount set out in <i>column (7) of Part 1 of Schedule 2</i> where the beneficiary has attained the age of 80 years.	15
[2001 s15(1)(f)]	(6) The weekly rate of retirement pension shall be increased by the amount set out in <i>column (8) of Part 1 of Schedule 2</i> where the beneficiary has attained pensionable age and is ordinarily resident on an island.	

CHAPTER 17 20

Invalidity Pension

Entitlement to pension.	118.— (1) Subject to this Act, a person shall be entitled to invalidity pension where he or she—	
[1993 s95(1)]	(a) is permanently incapable of work, and	
	(b) satisfies the contribution conditions in <i>section 119</i> .	25
[1993 s95(2)]	(2) The conditions under which a person shall be regarded for the purposes of this section as being permanently incapable of work shall be specified by regulations.	
[1993 s95(3)]	(3) Regulations may provide for disqualifying a person for receiving invalidity pension where he or she fails without good cause to observe any prescribed rules of behaviour.	30
Conditions for receipt.	119.— (1) The contribution conditions for invalidity pension are that before the relevant date the claimant has—	
[1993 s96(1)]	(a) qualifying contributions in respect of not less than 260 contribution weeks since his or her entry into insurance, and	35
	(b) qualifying contributions or credited contributions in respect of not less than 48 contribution weeks in the last complete contribution year before that date.	
[1993 s96(2)]	(2) In this section “relevant date” means—	
	(a) any date after the completion of one year of continuous incapacity for work, or	40
	(b) any lesser period that may be prescribed, subject to the conditions and in the circumstances that may be prescribed,	

where the insured person has entered into a continuous period of incapacity for work and he or she is subsequently proved to be permanently incapable of work.

5 (3) In the case of person who is in receipt of invalidity pension [1993 s96(3)]
where—

(a) the period of entitlement to invalidity pension began before 6 April 1987, or

10 (b) the period of entitlement to invalidity pension began on or after 6 April 1987 but before 4 January 1988 and who, immediately before that date, had been in receipt of disability benefit for a period greater than 312 days, *subsection (1)(a)* shall be read as if “156” were substituted for “260”.

15 (4) In the case of person who is in receipt of invalidity pension [1993 s96(4)]
where—

(a) the period of entitlement to invalidity pension began on or after 6 April 1987 and before 4 January 1988, or

20 (b) the period of entitlement to invalidity pension began on or after 4 January 1988 and who, immediately before that date, had been in receipt of disability benefit for a period greater than 312 days, *subsection (1)(a)* shall be read as if “208” were substituted for “260”.

25 (5) *Subsections (3) and (4)* shall not apply to any claim for invalidity pension where the period of incapacity for work begins on or after 7 July 1988. [1993 s96(5)]

(6) Regulations may provide for modifications of the contribution conditions set out in *subsection (1)*. [1993 s96(6)]

30 **120.**—Contributions paid under the National Health Insurance Acts 1911 to 1952 by or in respect of an employed contributor may be taken into account in the manner and subject to the conditions and limitations that may be prescribed for the purpose of the satisfaction by the employed contributor of the contribution conditions for invalidity pension. Contributions paid under the National Health Insurance Acts. [1993 s97]

35 **121.**—Subject to this Part, the weekly rate of invalidity pension shall be as set out in *column (2) of Part 1 of Schedule 2*. Rate of pension. [1993 s98]

40 **122.**—(1) The weekly rate of invalidity pension shall be increased by the amount set out in *column (3) of Part 1 of Schedule 2* for any period during which the beneficiary has a qualified adult, subject to the restriction that a beneficiary shall not be entitled for the same period to an increase of pension under this subsection in respect of more than one person. Increases (including increases for qualified adult and qualified children). [1993 s99(1); 1997 s28(4) & Sch F]

(2) The weekly rate of invalidity pension shall be increased by the amount set out in *column (4) of Part 1 of Schedule 2* in respect of each qualified child who normally resides with the beneficiary. [1993 s99(2); 1994 s32 & Sch F]

45 (3) Any increase of invalidity pension payable under *subsection (2)* in respect of a qualified child who normally resides with a beneficiary and with the spouse of a beneficiary shall be payable at the [1993 s99(3); 1997 s28(4) & Sch F]

rate of one-half of the appropriate amount in any case where the spouse of the beneficiary is not a qualified adult, and *subsection (2)* shall be read and have effect accordingly.

[1993 s99(4); 2001 s17(1)(b)] (4) The weekly rate of invalidity pension shall be increased by the amount set out in *column (6)* of *Part 1* of *Schedule 2* where the beneficiary is living alone. 5

[1993 s99(5); 1994 s32 & Sch F] (5) The weekly rate of invalidity pension shall be increased by the amount set out in *column (7)* of *Part 1* of *Schedule 2* where the beneficiary has attained the age of 80 years.

[2001 s15(1)(g); 2003 (MP) s6(1)(a)] (6) The weekly rate of invalidity pension shall be increased by the amount set out in *column (8)* of *Part 1* of *Schedule 2* where the beneficiary is ordinarily resident on an island. 10

CHAPTER 18

Widow's (Contributory) Pension or Widower's (Contributory) Pension 15

Interpretation. **123.—**In this Chapter—

[1994 s11; 1996 s27(2), 28(1) & Sch G] “pension” means a widow’s (contributory) pension in the case of a widow and a widower’s (contributory) pension in the case of a widower;

“relevant time” means— 20

(a) where the contribution conditions are being satisfied on the widow’s or widower’s insurance record—

(i) the date of the spouse’s death, or

(ii) where the widow or widower attained pensionable age before the date of the spouse’s death, the date on which he or she attained that age, 25

or

(b) where the contribution conditions are being satisfied on the deceased spouse’s insurance record—

(i) the date on which the spouse attained pensionable age, or 30

(ii) where the spouse died before attaining pensionable age, the date of his or her death;

“spouse”, in relation to a widow or widower who has been married more than once, refers only to the widow’s or widower’s last spouse and for this purpose that last spouse shall be read as including a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State; 35

“widow” means a widow or a woman who would otherwise be a widow but for the fact that her marriage has been dissolved, being a dissolution that is recognised as valid in the State; 40

“widower” means a widower or a man who would otherwise be a widower but for the fact that his marriage has been dissolved, being a dissolution that is recognised as valid in the State;

“yearly average” means the average per contribution year of contribution weeks in respect of which the widow, widower or deceased spouse (as the case may be) has qualifying contributions, voluntary contributions or credited contributions in the appropriate period specified in *section 125(1)(b)*.

- 5
- 124.—**(1) Subject to this Act, a widow or widower shall be entitled to pension—
- 10
- (a) where the contribution conditions set out in *section 125* are satisfied on either the insurance record of the widow or widower or that of his or her deceased spouse,
- 15
- (b) where the widow’s or widower’s spouse was entitled to an old age (contributory) pension or a retirement pension which included an increase in respect of him or her by virtue of *section 112(1)* or *117(1)* in respect of a period ending on the spouse’s death, or
- 20
- (c) where his or her spouse would have been entitled to an old age (contributory) pension or a retirement pension at an increased weekly rate by virtue of *section 112(1)* or *117(1)*, but for the receipt by that widow or widower of an old age (non-contributory) pension, a blind pension or a carer’s allowance in his or her own right, in respect of a period ending on his or her death.
- (2) A pension shall not be payable to a widow or widower for any period after his or her remarriage.
- 25
- (3) A widow or widower shall be disqualified for receiving a pension if and so long as he or she and any person are cohabiting as husband and wife.
- (4) A person who, having ceased to be entitled to a pension by virtue of that person’s remarriage, shall, on again becoming a widow or widower, be entitled to a pension at the rate which would have been payable had the person not remarried where the person—
- 30
- (a) fails to satisfy the conditions set out in *subsection (1)*, or
- (b) on satisfying the conditions set out in *subsection (1)*, is entitled to a pension at a rate below that which would have been payable had the person not remarried.
- 35

- 125.—**(1) The contribution conditions for pension are—
- 40
- (a) that the widow or widower has qualifying contributions in respect of not less than 156 contribution weeks in the period beginning with his or her entry into insurance and ending immediately before the relevant time, and
- 45
- (b) that, where at the relevant time, 4 years or longer has elapsed since the widow’s or widower’s entry into insurance—
- (i) the yearly average for the 3 contribution years, or (where warranted by his or her insurance record) 5 contribution years, ending with the end of the last complete contribution year before the relevant time is not less than 39, or

(ii) the yearly average in respect of the period commencing at the beginning of the contribution year in which his or her entry into insurance occurred and ending at the end of the last complete contribution year before the relevant time is not less than 48, 5

but, where those conditions are not satisfied on the widow's or widower's insurance record, they may be satisfied on his or her deceased spouse's insurance record (the widow's or widower's insurance record being disregarded).

[1994 s11] (2) Regulations may provide for modifications of the meaning of yearly average contained in *section 123* or of the contribution conditions set out in this section. 10

[1994 s11; 1996 s27(2) & Sch G] (3) Subject to *subsection (4)*, regulations may provide for entitling to pension a person who would be entitled to that pension but for the fact that the contribution condition in *subsection (1)(b)* is not satisfied. 15

[1994 s11] (4) Regulations for the purposes of *subsection (3)* shall provide that pension payable by virtue of those regulations shall be payable at a rate less than that specified in *Schedule 2*, and the rates specified by the regulations may vary with the extent to which the contribution condition in *subsection (1)(b)* is satisfied, but any increase of pension payable under *section 127(1)* shall be the same as if that condition had been fully satisfied. 20

[1994 s11] (5) Subject to *subsection (6)*, regulations may provide for entitling to pension a person who would be entitled to that pension but for the fact that the contribution condition in *subsection (1)(b)* is not satisfied by reference to the insurance record of a person where that person, having earlier ceased to be an employed contributor, became an employed contributor as a consequence of the coming into operation of *section 12* of the Social Welfare Act 1973. 25 30

[1994 s11] (6) Regulations for the purposes of *subsection (5)* shall provide that pension payable by virtue of those regulations shall be payable at a rate less than that specified in *Schedule 2*, and the rates specified by the regulations may vary with the extent to which the contribution condition in *subsection (1)(b)* is satisfied. 35

[1994 s11] (7) Where a person becomes an employed contributor by virtue of *paragraph (b)* of *section 12(1)* and would not, apart from that paragraph, be an employed contributor, his or her entry into insurance by virtue of that paragraph is deemed not to be an entry into insurance for the purposes of *subsection (1)* and for those purposes the person's entry into insurance is deemed to occur when he or she first becomes an employed contributor by virtue of *paragraph (a)* of *section 12(1)*. 40

[1994 s11] (8) In the case of a person who became a self-employed contributor on 6 April 1988 and who at any time before that date was an employed contributor, the date on which the person first entered into insurance or 6 April 1988, whichever is more favourable, shall be regarded as the date of entry into insurance for the purposes of *subsection (1)(b)*. 45

Rate of pension. **126.**—Subject to this Act, the weekly rate of pension shall be as set out in *column (2)* of *Part 1* of *Schedule 2*. 50

[1994 s11; 1996 s27(2) & Sch G]

- 127.—(1) The weekly rate of pension shall be increased by the amount set out in *column (4) of Part 1 of Schedule 2* in respect of each qualified child who normally resides with the beneficiary. Increases (including increases for qualified children).
[1994 s11; 1996 s27(2) & Sch G]
- 5 (2) The weekly rate of pension shall be increased by the amount set out in *column (6) of Part 1 of Schedule 2* where the beneficiary has attained pensionable age and is living alone. [1994 s11; 1996 s27(2) & Sch G]
- (3) The weekly rate of pension shall be increased by the amount set out in *column (7) of Part 1 of Schedule 2* where the beneficiary has attained the age of 80 years. [1994 s11; 1996 s27(2) & Sch G]
- 10 (4) The weekly rate of pension shall be increased by the amount set out in *column (8) of Part 1 of Schedule 2* where the beneficiary has attained pensionable age and is ordinarily resident on an island. [2001 s15(1)(h)]
- 128.—(1) In the case of any claim for pension made on or after 6 April 1995, where the insurance record of a person who, having been a self-employed contributor, is being used to establish entitlement to pension, the contribution conditions contained in *section 125* shall not be regarded as having been satisfied unless, in accordance with *section 21*— Disregard of self-employment contributions in certain cases.
[1994 s11; 1996 s27(2) & Sch G]
- 15 (a) the person has paid self-employment contributions in respect of at least 1 contribution year before the relevant time, and
- 20 (b) all self-employment contributions payable by the person have been paid.
- (2) Notwithstanding *subsection (1)*, where the Minister is satisfied that in all the circumstances of the case it would be appropriate to do so, he or she may direct that *subsection (1)* shall not be applied in that case. [1994 s11; 1995 s19(1)]
- 25 (2) (a) Entitlement to pension which is due to be determined by reference to the insurance record of a person who attained the age of 69 years before 5 January 1976 may be determined under the provisions of the Acts relating to social welfare in operation before 1 July 1974 where this would be to the advantage of the widow. Certain claims.
[1994 s11; 1996 s27(2) & Sch G]
- 30 (b) A widow who, under the provisions of the Acts relating to social welfare in operation before 1 July 1974, has been awarded a pension on the basis of her own or her spouse's insurance record at the date on which she or her spouse attained the then pensionable age shall on and after 1 July 1974 have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in her case under those provisions. [1994 s11]
- 35 (2) (a) Entitlement to pension which is due to be determined by reference to the insurance record of a person who attained the age of 68 years before 3 January 1977, may be determined under the provisions of the Acts relating to social welfare in operation before 1 April 1975 where this would be to the advantage of the widow. [1994 s11; 1996 s27 & Sch G]
- 40 45

[1994 s11]	(b) A widow who, under the provisions of the Acts relating to social welfare in operation before 1 April 1975, has been awarded a pension on the basis of her own or her spouse's insurance record at the date on which she or her spouse attained the then pensionable age shall on and after 1 April 1975 have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in her case under those provisions.	5
[1994 s11; 1996 s27 & Sch G]	(3) (a) Entitlement to pension which is due to be determined by reference to the insurance record of a person who attained the age of 67 years before 1 January 1979 may be determined under the provisions of the Acts relating to social welfare in operation before 1 October 1977 where this would be to the advantage of the widow.	10 15
[1994 s11]	(b) A widow who, under the provisions of the Acts relating to social welfare in operation before 1 October 1977, has been awarded a pension on the basis of her own or her spouse's insurance record at the date on which she or her spouse attained the then pensionable age shall on and after 1 October 1977 have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in her case under those provisions.	20

CHAPTER 19 25

Orphan's (Contributory) Allowance

Entitlement to allowance. [1993 s106; 2003 (MP) s9(1)(a)]	130.— (1) Subject to this Act, orphan's (contributory) allowance shall be payable in respect of an orphan where the contribution condition in <i>section 131</i> is satisfied.	
[2003 (MP) s9(1)(a)]	(2) Orphan's (contributory) allowance shall not be payable for any period during which a payment is made under Article 14 of the Child Care (Placement of Children in Foster Care) Regulations 1995 (S.I. No. 260 of 1995) or Article 14 of the Child Care (Placement of Children with Relatives) Regulations 1995 (S.I. No. 261 of 1995).	30
Condition for receipt. [1993 s107(1)]	131.— (1) The contribution condition for orphan's (contributory) allowance is that one of the following persons has qualifying contributions for not less than 26 contribution weeks—	35
	(a) a parent of the orphan,	
	(b) a step-parent of the orphan.	
[1993 s107(2)]	(2) Regulations may provide for modifications of the contribution condition set out in this section.	40
Rate of allowance. [1993 s108]	132.— Subject to this Part, the weekly rate of orphan's (contributory) allowance shall be as set out in <i>Part 1 of Schedule 2</i> .	
Payment of allowance. [1993 s109(1)]	133.— (1) Subject to <i>subsection (3)</i> , orphan's (contributory) allowance shall be paid to the guardian of the orphan in respect of whom the allowance is payable.	45

(2) In this Chapter “guardian” means the person in whose care an orphan normally resides. [2005 (SW&P) s19(a)]

5 (3) The Minister may, where he or she thinks fit, direct that a payment under this Chapter, payable to the guardian of an orphan, be paid to some other person for the benefit of the orphan or, subject to the conditions and in the circumstances that may be prescribed, directly to an orphan who has attained the age of 18 years where that orphan is not normally residing with a guardian. [1993 s109(2); 2005 (SW&P) s19(a)]

CHAPTER 20

10 *Bereavement Grant*

134.—(1) Subject to this Act, a bereavement grant shall be payable, to the person or persons that may be prescribed, on the death of— Entitlement to grant. [1999 s19(1)]

(a) (i) a pensioner,

15 (ii) a qualified adult,

(iii) a spouse of a pensioner,

(iv) a qualified child in respect of whom an increase of pension specified in *paragraphs (a) to (f)* in the definition of “pensioner” in *subsection (3)* was being paid at the time of death,

20

(v) an orphan, or

(vi) a person to whom an orphan’s (contributory) allowance is payable under *section 133*,

or

25 (b) (i) an insured person,

(ii) the spouse of an insured person,

(iii) the widow or widower of a deceased insured person, or

(iv) a qualified child other than a qualified child referred to in *paragraph (a)(iv)*,

30

where the contribution conditions in *section 135* are satisfied.

(2) Only one bereavement grant shall be paid by virtue of this section on any one death. [1999 s19(1)]

35 (3) In this Chapter— [1999 s19(1)]

“orphan” means a person in respect of whom an orphan’s (contributory) allowance is payable under *Chapter 19*;

“pensioner” means a person who, at the time of his or her death, was in receipt of one of the following payments—

40 (a) old age (contributory) pension,

- (b) retirement pension,
- (c) invalidity pension,
- (d) widow's (contributory) pension,
- (e) widower's (contributory) pension, or
- (f) deserted wife's benefit, 5

or would have been in receipt of one of those payments but for receipt by the person of an old age (non-contributory) pension, a blind pension, a widow's (non-contributory) pension or widower's (non-contributory) pension or a carer's allowance at a higher rate;

"qualified adult" means a person in respect of whom an increase of benefit specified in *paragraphs (a) to (c)* in the definition of "pensioner" was being paid at the time of death, or in respect of whom that increase would have been payable but for the receipt by the qualified adult of an old age (non-contributory) pension, a blind pension or a carer's allowance in his or her own right; 10 15

"qualified child", in *section 134(1)(b)*, means a person—

- (a) who, at the date of death, is under the age of 18 years or over the age of 18 years and under the age of 22 years, and is receiving full-time education, the circumstances of which will be specified in regulations, 20
- (b) who is ordinarily resident in the State on that date, and
- (c) in respect of whose death the relevant contribution conditions for bereavement grant are not satisfied by the person's insurance or the insurance of that person's spouse;

"relevant date" means the date of death of the deceased person or the date of death of the relevant insured person or the date of attainment of pensionable age of the relevant insured person, whichever occurs first, whether the deceased is the relevant insured person or not; 25

"relevant insured person" means— 30

- (a) in case the deceased person was a qualified child—
 - (i) the father or mother of the deceased person,
 - (ii) the person with whom the deceased person at the date of death is determined, in accordance with regulations made under *section 3(5)*, to have been normally residing or with whom he or she would have been normally so residing if he or she had not been committed to a reformatory or an industrial school, or 35
 - (iii) the spouse of the person referred to in *subparagraph (ii)*, 40
- or
- (b) in any other case, the deceased person or the spouse of the deceased person;

“yearly average” means the average per contribution year of contribution weeks in respect of which the relevant insured person has qualifying contributions, voluntary contributions or credited contributions in the appropriate period specified in *section 135(1)(b)(ii)*.

- 5 **135.—**(1) The contribution conditions for a bereavement grant are that before the relevant date the relevant insured person has qualifying contributions in respect of not less than—
- Conditions for receipt.
[1999 s19(1); 2005 (SW&P) s11(g)]
- (a) 156 contribution weeks since his or her entry into insurance, or
- 10 (b) 26 contribution weeks since his or her entry into insurance, and
- (i) has qualifying contributions, voluntary contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year in which the relevant date occurs, or
- 15 (ii) has a yearly average of 39 qualifying contributions, voluntary contributions or credited contributions for the 3 or 5 complete contribution years immediately before the last complete contribution year before the beginning of the benefit year in which the relevant date occurs, or
- 20 (iii) has a yearly average of 26 qualifying contributions, voluntary contributions or credited contributions since his or her entry into insurance or the beginning of the contribution year beginning on 6 April 1979 (whichever is the later) and ending at the end of the last complete contribution year before the beginning of the benefit year in which the relevant date occurs, or
- 25 (iv) has a yearly average of 26 qualifying contributions, voluntary contributions or credited contributions since his or her entry into insurance or the beginning of the contribution year next following 1 October 1970 (whichever is the later) and ending at the end of the last complete contribution year before the beginning of the benefit year in which the relevant date occurs.
- 30
- 35
- 40 (2) Regulations may provide for modifications of the contribution conditions for receipt of bereavement grant. [1999 s19(1)]
- 45 (3) Regulations may provide for modifications of the contribution conditions for bereavement grant in the case of a person who was an insured person on 1 October 1970 and who, during the year after that date, was absent from the State for any period or was credited with contributions in respect of any period of unemployment, incapacity for work or retirement or is or becomes a voluntary contributor paying contributions at the rate specified in *section 25(1)(b)(ii)*. [1999 s19(1)]

136.—Subject to this Act, the amount of bereavement grant shall be as set out in *column (2) of Part 5 of Schedule 2*.

Amount of grant.
[1999 s19(1)]

Widowed Parent Grant

Entitlement to grant. [2000 s13 2003 s7]	137. —(1) Subject to this Act, a grant (in this section referred to as a “widowed parent grant”) of €2,700, or any higher amount that may be prescribed, shall be paid to a widowed parent on the death of his or her spouse.	5
[2000 s13]	(2) In this Chapter—	
	“spouse” includes a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State and in relation to a widow or widower who has been married more than once, refers only to the widow’s or widower’s last spouse;	10
	“widow” includes a woman who would otherwise be a widow but for the fact that her marriage has been dissolved, being a dissolution that is recognised as valid in the State;	
	“widowed parent” means a widow or widower who—	15
	(a) has at least one qualified child who normally resides with him or her, and	
	(b) (i) is entitled to or in receipt of bereavement grant, or	
	(ii) is entitled to or in receipt of—	
	(I) death benefit under <i>section 81</i> , or	20
	(II) widow’s (contributory) pension, or	
	(III) widower’s (contributory) pension, or	
	(IV) widow’s or widower’s (contributory) pension by virtue of Council Regulation (EEC) No. 1408/71 of the Council of 14 June 1971 ² or by virtue of a reciprocal agreement under <i>section 289</i> , or	25
	(V) one-parent family payment,	
	which includes an increase in respect of a qualified child;	
	“widower” includes a man who would otherwise be a widower but for the fact that his marriage has been dissolved, being a dissolution that is recognised as valid in the State.	30

Treatment Benefit

General provisions as to benefit. [1993 s117(1)]	138. —(1) A person shall, subject to satisfaction of the prescribed conditions, be entitled to such treatment benefit as may be specified by regulations.	35
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²OJ No. L149, 5.7.1971, p.2

(2) The regulations for the purposes of this section may specify [1993 s117(2)] the payment of the whole or any part of the cost of any of the following—

- (a) dental treatment,
- 5 (b) optical treatment and appliances,
- (c) hearing aids,
- (d) any other benefits of the same character as any of those mentioned in *paragraphs (a) to (c)*.

(3) The payments referred to in *subsection (2)* shall not exceed in [1993 s117(3)] the aggregate such sums as may from time to time be agreed on between the Minister and the Minister for Finance.

(4) This section shall remain in force until the day appointed [1993 s117(4)] under *subsection (5)* and shall then expire.

(5) The Minister may by order appoint a day to be the day on [1993 s117(5)] 15 which this section expires.

PART 3

SOCIAL ASSISTANCE

CHAPTER 1

Description of Social Assistance

20 **139.**—(1) Assistance under this Part shall be of the following Description of descriptions and is, in each case, so described in this Act— assistance.

- (a) unemployment assistance, [1993 s118(1); 2000 s14 & Sch D]
- (b) pre-retirement allowance,
- (c) old age (non-contributory) pension,
- 25 (d) blind pension,
- (e) widow's (non-contributory) pension, widower's (non-contributory) pension and orphan's (non-contributory) pension,
- 30 (f) widowed parent grant (paid by virtue of receipt of one-parent family payment under this Part),
- (g) one-parent family payment,
- (h) carer's allowance,
- (i) supplementary welfare allowance,
- (j) disability allowance, and
- 35 (k) farm assist.

(2) Assistance shall be paid out of moneys provided by the [1993 s118(2)] Oireachtas.

Unemployment Assistance

Interpretation.	140.— (1) In this Chapter—	
[1993 s119(1); 2005 (SW&P) s25 & Sch 3]	“beneficiary” means a person entitled to unemployment assistance;	
	“weekly means”, subject to <i>subsection (2)</i> and <i>Rule 1(1), (5), (6) or (7)</i> , as the case may be, of <i>Part 2 of Schedule 3</i> shall be the yearly means divided by 52 but the amount so calculated shall be rounded up to the nearest €1 where it is a multiple of 50 cent but not also a multiple of €1 and shall be rounded to the nearest €1 where it is not a multiple of 50 cent or €1.	5 10
[1993 s119(2); 2005 (SW&P) s25 & Sch 3]	(2) In this Chapter references to means shall be read as references to means as calculated in accordance with the Rules contained in <i>Part 2 of Schedule 3</i> .	
[1993 s119(3)]	(3) Where, immediately before 29 July 1992, a person was 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 that person qualifying for a qualification certificate is deemed to be a decision under <i>section 141(1)(c)</i> .	15
Entitlement to assistance.	141.— (1) Subject to this Act, a person shall be entitled to unemployment assistance in respect of any week of unemployment where—	20
[1993 s120(1); 1996 s22(1)]	(a) the person has attained the age of 18 years and has not attained pensionable age,	
	(b) the person proves unemployment in the prescribed manner, and	25
	(c) the person’s weekly means, subject to <i>subsection (2)(d)</i> , do not exceed the amount of unemployment assistance (including any increases of unemployment assistance) that would be payable to the person under this Chapter if that person had no means.	30
[1993 s120(2); 1997 s30(2)(a)]	(2) (a) Otherwise than as provided for in regulations, a person shall not be entitled to unemployment assistance in respect of the first 3 days of unemployment in any continuous period of unemployment.	
	(b) For the purpose of this section, any period before the relevant date of application for unemployment assistance shall not be reckoned as, or as part of, a continuous period of unemployment.	35
	(c) 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 that person.	40
[1997 s28(1)]	(d) Where the spouse of a claimant for unemployment assistance is not the claimant’s qualified adult, or is a spouse in respect of whom an increase is payable by virtue of	45

regulations made under *section 299*, the means of the claimant shall be taken to be one-half the means.

- 5 (3) In this Chapter, any 3 days of unemployment, whether consecutive or not, within a period of 6 consecutive days shall be treated as a week of unemployment and any 2 such weeks not separated by more than 52 weeks shall be treated as one continuous period of unemployment, and references in this Chapter to being continuously unemployed or to continuous unemployment shall be read accordingly. [1993 s120(3); 1996 s22(1)]
- 10 (4) For the purposes of this Chapter, a day shall not be treated in relation to any person as a day of unemployment unless on that day, the person— [1996 s22(1)]
- (a) is capable of work,
 - 15 (b) is, or by reason of the person's participation in an activity prescribed for the purposes of this subsection and subject to any conditions that may be prescribed, is deemed to be, or is exempted from being required to be, available for employment, and
 - 20 (c) is genuinely seeking, but is unable to obtain, suitable employment having regard to the person's age, physique, education, normal occupation, place of residence and family circumstances.
- (5) Sunday shall not be treated as a day of unemployment and shall be disregarded in computing any period of consecutive days. [1993 s120(4)]
- 25 (6) Notwithstanding *subsection (3)*, any period of continuous— [1993 s120(5); 2005 (SW&P) s12(b)]
- (a) employment under a scheme administered by an Foras Áiseanna Saothair and known as Community Employment,
 - 30 (b) employment under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme,
 - (c) participation in a scheme administered by an Foras Áiseanna Saothair and known as the Enterprise Allowance Scheme,
 - 35 (d) participation in a scheme administered by an Foras Áiseanna Saothair and known as the Alternance Scheme,
 - (e) attendance at a training course provided or approved by an Foras Áiseanna Saothair,
 - 40 (f) participation in a scheme administered by the Commission of the European Union and known as the European Voluntary Service Initiative,
 - (g) participation in a scheme administered by the Minister and known as the Part-Time Job Incentive Scheme,
 - 45 (h) participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme,

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

(j) receipt of or entitlement to pre-retirement allowance,

shall be disregarded in treating, under *subsection (3)*, any 2 continuous periods of unemployment not separated by more than 52 weeks as one continuous period of unemployment. 5

[1993 s120(6)] (7) 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.

[1993 s120(7)] (8) *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 or her application for unemployment assistance is made, to be entitled to unemployment benefit— 10

(a) by reason of having, by virtue of *section 67*, exhausted his or her entitlement to that benefit, or 15

(b) where the person is of or over 65 years of age, by reason of having failed to satisfy the contribution condition in *section 64(1)(b)*.

[2004 (MP) s17 & Sch 1; 2005 (SW&P) s26 & Sch 4] (9) A person shall not be entitled to unemployment assistance under this section unless he or she is habitually resident in the State at the date of the making of the application for unemployment assistance. 20

Rates of assistance and effect of means on rates. **142.—(1)** Subject to this section and to *sections 144* and *146*, the rate (in this Chapter referred to as “the scheduled rate”) of unemployment assistance shall be— 25

[1993 s121(1)]

[1995 s16]

(a) in the case of a person who—

(i) in any continuous period of unemployment, as read in accordance with *section 141(3)*, has been in receipt of unemployment benefit or unemployment assistance in respect of not less than 390 days of unemployment, or 30

(ii) immediately before the week of unemployment for which unemployment assistance is claimed, was in receipt of— 35

(I) one-parent family payment, but has ceased to be entitled to that allowance by virtue of no longer being regarded as a qualified parent within the meaning of *section 173(1)*, or

(II) carer’s allowance, but has ceased to be entitled to that allowance by virtue of no longer being regarded as a carer within the meaning of *section 179(1)*, 40

the weekly rate set out in *column (2)* at *reference 1(a)* in *Part 1 of Schedule 4*, 45

- (b) in any other case, the weekly rate set out in *column (2)* at *reference 1(b)* in *Part 1* of *Schedule 4*, increased by—
- 5 (i) the amount set out in *column (3)* of that Part opposite that reference for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of assistance under this subparagraph in respect of more than one person, and
- 10 (ii) the appropriate amount set out in *column (4)* of that Part opposite that reference in respect of each qualified child who normally resides with the claimant or beneficiary.
- 15 (2) (a) Subject to *paragraph (b)*, unemployment assistance shall be payable where the weekly means of the claimant or beneficiary—
- (i) are less than €1, at the scheduled rate,
- (ii) are equal to €1, at the scheduled rate reduced by €1, and
- 20 (iii) exceed €1, at the scheduled rate, reduced by €1 for each amount (if any) of €1 by which those weekly means exceed €1. [1993 s121(2); 2001 s37(3)(a)]
- (b) Where the weekly means of the claimant or beneficiary are equal to or exceed the scheduled rate, no unemployment assistance shall be payable.
- 25 (3) Notwithstanding *subsection (2)(a)(iii)*, where the sole means of a claimant for unemployment assistance, who is not one of a couple, are assessed under *Rule 1(10)* of *Part 2* of *Schedule 3* and where the rate of assistance payable to or in respect of the claimant, as calculated in accordance with *subsection (2)(a)(iii)*, would be a weekly amount which is 10 cent or more, but less than €40, the claimant shall be entitled to payment of unemployment assistance at the weekly rate of €40. [1993 s121(3); 2005 (SW&P) s25 & Sch 3]
- 30 (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 husband and wife. [1993 s121(4)]
- 35 (b) For the purposes of *Rule 1(10)* of *Part 2* of *Schedule 3* when applied to *subsection (3)*, “spouse” means each person of a couple in relation to the other. [1993 s121(4); 2005 (SW&P) s25 & Sch 3]
- 40 (5) In the application of *subsection (2)* in the case of the persons or classes of persons that may be prescribed, regulations may provide for disregarding, in the manner that may be prescribed, any part of the weekly means of a claimant or beneficiary up to an amount not exceeding €2.50. [1993 s121(5); 2001 s37 & Sch F]
- 45 (6) The Minister may, notwithstanding regulations made under *subsection (5)* providing for weekly means of up to €2.50 in the case of certain persons or classes of persons to be disregarded, apply *subsection (2)* to those persons or classes of persons at any time. [1993 s121(6); 2001 s37 & Sch F]

[1993 s121(7)]	(7) Regulations made under <i>subsection (5)</i> may apply to the whole State or to a specified part or parts of the State.	
Regulations. [1996 s22(3)]	143. —Regulations may entitle a person to unemployment assistance in respect of a day of unemployment and the amount of unemployment assistance so payable for any such day shall be one-sixth of the appropriate weekly rate.	5
Total amount payable to couple. [1993 s122(1); 1999 s32(1)(a)]	144. —(1) In the case of a couple, where each of the couple is entitled to unemployment assistance or pre-retirement allowance, the total amount payable to them under this Chapter shall not exceed the amount which would be payable if only one of them was entitled to be paid unemployment assistance or pre-retirement allowance, as the case may be, (including any increases thereof, where appropriate) and each of them shall be entitled to be paid one-half of the amount (including any increases thereof, where appropriate) which would be payable to him or her if only one of them were in receipt of unemployment assistance or pre-retirement allowance as the case may be.	10 15
	(2) (a) In this subsection “relevant benefit or pension” means disability benefit, unemployment benefit, injury benefit, disablement pension, old age (contributory) pension, old age (non-contributory) pension, retirement pension or invalidity pension.	20
[1993 s122(4); 1999 s32(1)(b)]	(b) Where one of a couple is entitled to a relevant benefit or pension and the other is entitled to unemployment assistance, the total of the amount payable to them by way of the relevant benefit or pension, as the case may be, and unemployment assistance (in this subsection referred to as “the relevant amount”), shall not exceed the total amount of the relevant benefit or pension, as the case may be, (including any increases thereof, where appropriate), or the total amount of unemployment assistance (including any increases thereof, where appropriate), 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 the relevant benefit or pension or unemployment assistance, as the case may be, 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 unemployment assistance shall be reduced by the amount of the excess.	25 30 35 40
[1995 s16(3)(a)]	(3) In this section—	
[1993 s122(5)]	“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 husband and wife;	45
[1993 s122(6)]	“spouse” means each person of a couple in relation to the other.	
[1993 s122(7)]	(4) For the purposes of this section, a reference to “unemployment assistance” shall be read as including a reference to pre-retirement allowance.	
[1994 s27]	(5) This section shall not apply in the case of a person who was entitled to or in receipt of pre-retirement allowance before 2 April 1993.	50

5 **145.**—(1) A person who, on or after 9 May 1989, claims or has claimed, in respect of a period before 7 June 1989, unemployment assistance of an amount to which the person would not be entitled if *section 144* were applicable shall be entitled to be paid that assistance only in accordance with *section 144*. Certain claims.
[1993 s123(1)]

10 (2) (a) A person who has not, before 9 May 1989, specifically claimed, in respect of a period before 7 June 1989, any additional amount for unemployment assistance being an amount to which the person would not be entitled if *section 144* were applicable shall not be entitled to be paid the additional amount. [1993 s123(2)]

(b) In *paragraph (a)* “claimed” means claimed in writing from the Minister or claimed in proceedings instituted against the Minister in any court.

15 (3) An amount properly paid to any person before 7 June 1989 by way of unemployment assistance which as a result of the Social Welfare (No. 2) Act 1989 would be recoverable by the Minister shall not be so recoverable. [1993 s123(3)]

20 **146.**—Any increase of unemployment assistance payable under *section 142(1)* in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the claimant or beneficiary is not a qualified adult, and *section 142(1)* shall be read and have effect accordingly. Amount of increases payable in respect of qualified child in certain cases.
[1993 s124; 1997 s28(4) & Sch F]

147.—(1) A person shall be disqualified for receiving unemployment assistance while he or she is— Disqualifications.

(a) an inmate of an institution maintained wholly or partly out of public moneys or by a local authority, [1993 s125(1); 2005 (SW&P) s13(b)]

30 (b) employed during any week under a scheme administered by an Foras Áiseanna Saothair and known as Community Employment, or

35 (c) employed during any week under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme.

40 (2) 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 or she was employed shall be disqualified for receiving unemployment assistance so long as the stoppage of work continues, except in the case where the person has, during the stoppage of work, become bona fide employed elsewhere in the occupation which he or she usually follows or has become regularly engaged in some other occupation but 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. [1993 s125(3)]

(3) Where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places [1993 s125(4)]

are in any case carried on in separate departments of the same premises or at the same place, each of those departments, for the purposes of *subsection (2)*, is deemed to be a separate factory, workshop or farm or separate premises or a separate place, as the case may be.

[1993 s125(5)] (4) A person shall be disqualified for receiving unemployment assistance for the period that may be determined by a deciding officer, but in any case not exceeding 9 weeks, where the person— 5

(a) has lost his or her employment through his or her own misconduct or has voluntarily left his or her employment without just cause, 10

(b) has refused an offer of suitable employment,

(c) has without good cause refused or failed to avail himself or herself of any reasonable opportunity of receiving training provided or approved of by an Foras Áiseanna Saothair as suitable in the person's case, or 15

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

and the period of disqualification shall begin on the day on which the loss or leaving of employment, refusal, failure or neglect, as the case may be, occurred. 20

[1993 s125(6)] (5) For the purpose of this section, employment is not deemed to be suitable employment in the case of any person where it is employment in a situation vacant in consequence of a stoppage of work due to a trade dispute. 25

[1993 s125(7)] (6) Unemployment assistance and unemployment benefit shall not both be payable in respect of the same day or days.

Disqualifications - attending a course of study. **148.—(1)** A person shall not be entitled to receive unemployment assistance while attending a course of study, other than in the circumstances and subject to the conditions and for the periods that may be prescribed. 30

[1993 s126(1)]

[1993 s126(2); 2005 (SW&P) s26 & Sch 4] (2) In this section—

“academic year” means a period in which a course of study begins in one year and finishes in the following year and includes term vacations; 35

“a course of study” means, subject to *subsection (3)*, a full-time day course of study, instruction or training at an institution of education;

“institution of education” means—

(a) a school, 40

(b) a university,

(c) a college of a university,

(d) any institution which the Minister for Education and Science has designated in regulations made under section 1 of the Higher Education Authority Act 1971 as an institution of higher education for the purposes of that Act, 45

- (e) any institution to which the Qualifications (Education and Training) Act 1999 applies,
- (f) any institution established under the Regional Technical Colleges Act 1992,
- 5 (g) any institution incorporated under the Dublin Institute of Technology Act 1992,
- (h) any institution which is not an institution for the purposes of *paragraphs (a) to (g)* and to which the Local Authorities (Higher Education Grants) Acts 1968 to 1992 apply, or
- 10 (i) any other institution that may be prescribed.

(3) For the purposes of this section, a person shall be regarded, [1993 s126(3)] subject to regulations made under *subsection (1)*, as attending a course of study—

- 15 (a) for 3 months immediately following the completion or the leaving by that person of second level education or the completion by him or her of the leaving certificate examination of the Department of Education and Science, whichever is the later,
- 20 (b) for the duration of an academic year, or
- (c) for the period immediately following the completion of one academic year, other than the final academic year of a course of study, up to the beginning of the following academic year.

25 CHAPTER 3

Pre-Retirement Allowance

149.—(1) Subject to this Act, an allowance (in this Chapter referred to as “pre-retirement allowance”) shall be payable in respect of any period of retirement to a person—

Entitlement to allowance.

- 30 (a) who has attained the age specified by regulations but has not attained pensionable age,
- (b) whose weekly means, subject to *subsection (4)*, do not exceed the amount of pre-retirement allowance (including any increases of that allowance) that would be payable to the person under this Chapter if that person had no means, and
- 35 (c) (i) who has been in receipt of unemployment benefit or unemployment assistance in respect of not less than 390 days of unemployment in any continuous period of unemployment in the immediately preceding period as read in accordance with *section 141(3)*,
- 40 (ii) being a separated spouse, has not engaged in remunerative employment or self-employment at any time in the preceding period that may be prescribed, or
- 45

[1993 s127; 1998 s18]

- (iii) immediately before the week in respect of which pre-retirement allowance is claimed, was in receipt of—
- (I) one-parent family payment, but has ceased to be entitled to that payment by virtue of no longer being regarded as a qualified parent within the meaning of *section 173(1)*, or 5
- (II) carer's allowance, but has ceased to be entitled to that allowance, by virtue of no longer being regarded as a carer within the meaning of *section 179(1)*. 10
- [1998 s18] (2) (a) For the purposes of *subsection (1)(c)(ii)* and subject to *section 3(10)* a person who is separated from his or her spouse, shall continue to be regarded as a separated spouse where the marriage has been dissolved, being a dissolution that is recognised as valid in the State. 15
- (b) Pre-retirement allowance shall, subject to this Chapter, continue to be payable to a person to whom *subsection (1)(c)(ii)* applies, unless that person remarries or cohabits as husband and wife, in which case the allowance shall cease. 20
- [1998 s18; 2005 (SW&P) s25 & Sch 3] (3) (a) In this Chapter “weekly means” shall, subject to *paragraph (b)* and *Rule 1(1)* or (7) as the case may be of *Part 2* of *Schedule 3*, be the yearly means divided by 52 and means shall be calculated in accordance with the Rules contained in *Part 2* of *Schedule 3*. 25
- (b) The amount calculated in accordance with *paragraph (a)* shall be rounded up to the nearest €1 where it is a multiple of 50 cent but not also a multiple of €1 and shall be rounded to the nearest €1 where it is not a multiple of 50 cent or €1. 30
- [1998 s18] (4) Where the spouse of a claimant for pre-retirement allowance is not the claimant's qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under *section 299*, the means of the claimant shall be taken to be one-half of the means. 35
- [2002 (MP) s6(2)] (5) For the purposes of *subsection (6)*, any 2 periods of retirement not separated by more than 52 weeks shall be treated as one continuous period of retirement.
- [2002 (MP) s6(2)] (6) *Subsection (1)(c)* shall not apply in the case of a claim to pre-retirement allowance made by a person in respect of a period of retirement which is a continuous period of retirement as read in accordance with *subsection (5)*. 40
- Rate of allowance (including increases for qualified adult and qualified children). **150.**—(1) Subject to this section and *section 144*, the rate of pre-retirement allowance (in this Chapter referred to as “the scheduled rate”) shall be the weekly rate set out in *column (2)* of *Part 1* of *Schedule 4* increased by— 45
- [1998 s18] (a) the amount set out in *column (3)* of that Part for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that the claimant or beneficiary shall not be entitled to an increase under this paragraph in respect of more than one person, and 50

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

5 (2) (a) Subject to *paragraph (b)*, pre-retirement allowance shall be payable where the weekly means of the claimant or beneficiary— [1998 s18; 2001 s37 & Sch F]

(i) are less than €1, at the scheduled rate,

(ii) are equal to €1, at the scheduled rate reduced by €1, and

10 (iii) exceed €1, at the scheduled rate reduced by €1 for each amount (if any) of €1 by which those weekly means exceed €1.

15 (b) Where the weekly means of the claimant or beneficiary are equal to or exceed the scheduled rate, no pre-retirement allowance shall be payable.

20 (3) Any increase of pre-retirement allowance payable under *subsection (1)(b)* in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the claimant or beneficiary is not a qualified adult and *subsection (1)(b)* shall be read and have effect accordingly. [1998 s18]

25 **151.**—The Minister may make regulations for the purpose of giving effect to this Chapter and those regulations may, in particular and without prejudice to the generality of the foregoing— Regulations.

(a) specify the age for the purposes of *section 149(1)(a)*,

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

30 (c) specify the circumstances in which a person is to be regarded as a separated spouse for the purposes of *section 149(1)(c)(ii)*, and

35 (d) vary the weekly rate of pre-retirement allowance under *section 150*, but any such variation shall not reduce the weekly rates applicable immediately before the commencement of the regulations. [1993 s129; 1998 s18]

40 **152.**—(1) Notwithstanding this Chapter and regulations made under this Chapter, where, immediately before 5 November 1992 (in this Chapter referred to as “the appointed day”), a woman who had not attained pensionable age was in receipt of single woman’s allowance, pre-retirement allowance shall be payable to the woman from the appointed day at the same rate as the single woman’s allowance which was payable to her immediately before that day so long as the woman continues to satisfy the conditions as to means in accordance with *section 149(3)*. Integration of single woman’s allowance scheme with pre-retirement allowance scheme. [1993 s130(1); 1998 s18]

45 (2) For the purposes of *subsection (1)*, a woman who was in receipt of single woman’s allowance immediately before the appointed day is deemed— [1993 s130(2); 1998 s18]

- (a) to be retired within the meaning of regulations made for the purposes of *section 151(b)*, and
 - (b) to have complied with the requirement contained in *section 149(1)(b)*.
- [1993 s130(3); 1998 s18] (3) 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 before the appointed day is deemed to be a decision to award pre-retirement allowance to that woman on and from that day. 5
- [1993 s130(4); 1998 s18] (4) In this Chapter a reference to "single woman's allowance" means single woman's allowance which was payable by virtue of section 198 (repealed by section 37 of the Social Welfare Act 1992) of the Social Welfare (Consolidation) Act 1981 and regulations made under that section. 10

CHAPTER 4

Old Age (Non-Contributory) Pension 15

- Interpretation. **153.**—In this Chapter—
- [1993 s132] "spouse", subject to *section 3(10)*, includes—
- (a) a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State, or
 - (b) a man and woman who are not married to each other but are cohabiting as husband and wife; 20
- [1995 (No. 2) s10]
- [2000 s17(2) & Sch E 2005 (SW&P) s25 & Sch 3] "weekly means" shall, subject to *Rule 1(1) of Part 3 of Schedule 3*, be the yearly means divided by 52.
- Entitlement to pension. **154.**—Subject to this Act, every person in whose case the conditions laid down by this Chapter for the receipt of an old age (non-contributory) pension (in this Chapter referred to as statutory conditions) are fulfilled, shall be entitled to receive that pension under this Chapter so long as those conditions continue to be fulfilled, and so long as he or she is not disqualified under this Chapter for the receipt of the pension. 25
- [1993 s133] 30
- Statutory conditions. **155.**—The statutory conditions for the receipt of an old age (non-contributory) pension by any person are—
- (a) the person must have attained pensionable age,
 - (b) the means of the person as calculated in accordance with the Rules contained in *Part 3 of Schedule 3* do not exceed the appropriate highest amount of means at which pension may be paid to that person in accordance with *section 157*, and 35
 - (c) the person must be habitually resident in the State at the date of the making of the application for that pension. 40
- [1993 s134; 2004 (MP) s17 & Sch 1]
- Special conditions for receipt of pension. **156.**—Where a person who has attained pensionable age is in receipt of or entitled to, a widow's (contributory) pension, widower's (contributory) pension or old age (contributory) pension or is a person in respect of whom an increase of old age (contributory) pension
- [1993 s135; 1996 s19, 27 & Sch E, Sch G]

is payable by virtue of *section 112(1)* and would but for *section 161* be qualified for the receipt of an old age (non-contributory) pension—

- 5 (a) the person may, notwithstanding anything contained in *section 161*, be paid the old age (non-contributory) pension for any period during which the rate of pension payable would be greater than the rate of widow's (contributory) pension, widower's (contributory) pension, old age (contributory) pension or the increase thereof, as the case may be, payable, and
- 10 (b) in any case where the old age (non-contributory) pension is so paid, entitlement to widow's (contributory) pension, widower's (contributory) pension, old age (contributory) pension or the increase thereof, as the case may be, shall continue but the amount of any such pension or increase payable during any such period shall not be paid to or in respect of the person. [2000 s29(c)]
- 15

20 **157.—(1)** Subject to *section 160*, the rate (in this Chapter referred to as “the scheduled rate”) of old age (non-contributory) pension shall be the weekly rate set out in *column (2)* of *Part 1 of Schedule 4* increased by the appropriate amount set out in *column (4)* of that Part in respect of each qualified child who normally resides with the claimant or beneficiary. Rate of pension and increase for qualified child. [1993 s136(1); 1999 s17(2) & Sch D]

- (2) (a) The pension shall be payable where the weekly means of the claimant or beneficiary— [1993 s136(2); 2001 s37(1)]
- 25 (i) do not exceed €7.60, at the scheduled rate, and
- (ii) subject to *paragraph (b)*, exceed €7.60, at the scheduled rate reduced by €2.50 for each amount (if any) of €2.50 by which those weekly means exceed €7.60, any fraction of €2.50 in those weekly means being treated for this purpose as €2.50.
- 30 (b) Where the rate calculated under *paragraph (a)(ii)* at which, but for this paragraph, the pension would be payable is less than €2.50, the pension shall not be payable.

35 **158.—(1)** Subject to *subsection (2)* and *section 160*, the weekly rate of old age (non-contributory) pension payable in accordance with *section 157* shall be increased— Increases (including increase for one of a couple). [1993 s137]

- (a) by the amount calculated in accordance with *Part 2 of Schedule 4* where the beneficiary is living with, or is wholly or mainly maintaining, his or her spouse, subject to the restriction that the beneficiary shall not be entitled for the same period to an increase of pension under this paragraph in respect of more than one person,
- 40 (b) by the amount set out in *column (6)* of *Part 1 of Schedule 4* where the beneficiary is living alone,
- 45 (c) by the amount set out in *column (7)* of *Part 1 of Schedule 4* where the beneficiary has attained the age of 80 years, and

	(d) by the amount set out in <i>column (8) of Part 1 of Schedule 4</i> where the beneficiary is ordinarily resident on an island.	
[2001 s24(2)(b)]	(2) An increase under <i>subsection (1)(a)</i> shall not be payable where the spouse is—	
	(a) in receipt of any benefit, pension, assistance or allowance under <i>Part 2</i> or this Part, or	5
	(b) entitled to or in receipt of an allowance the rate of which is related to the rates of unemployment assistance payable under <i>section 142</i> or unemployment benefit payable under <i>section 65</i> or <i>66</i> , in respect of participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme, or	10
	(c) entitled to or in receipt of an allowance the rate of which is related to the rates of unemployment assistance payable under <i>section 142</i> or unemployment benefit payable under <i>section 65</i> or <i>66</i> , in respect of participation in a scheme administered by the Minister and known as—	15
	(i) Back to Education Allowance, or	
	(ii) Back to Work Allowance, or	20
	(iii) Back to Work Enterprise Allowance, or	
	(iv) Part-Time Job Incentive.	
Amount of increases payable in respect of qualified child normally resident with beneficiary.	159. —Subject to <i>section 160</i> , the increase payable under <i>section 157(1)</i> in respect of a qualified child who normally resides with the beneficiary and the spouse of the beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the beneficiary is entitled to any benefit, assistance, allowance (other than supplementary welfare allowance) or any other pension under this Act.	25
[1993 s138; 1999 s17(2) & Sch D]		
Rate of pension for persons in receipt of farm assist.	160. —In the case of a person who was in receipt of farm assist under <i>Chapter 11 of Part 3</i> immediately before becoming entitled to old age (non-contributory) pension, the weekly rate of pension payable shall be the greater of—	30
[1999 s17(1)(b)]		
	(a) the rate payable in accordance with <i>sections 157, 158</i> and <i>159</i> , or	35
	(b) an amount equal to the rate of farm assist which was payable in accordance with <i>sections 217</i> and <i>218</i> immediately before becoming entitled to old age (non-contributory) pension.	
Disqualifications.	161. —(1) Except as provided in <i>section 156</i> , receipt of old age (contributory) pension by a person shall disqualify that person for old age (non-contributory) pension.	40
[1993 s139(1)]		
[1993 s139(2); 2005 (SW&P) s26 & Sch 4]	(2) A person in respect of whom the weekly rate of old age (contributory) pension payable to another person is increased by virtue of <i>section 112(1)</i> shall, except as provided in <i>section 156</i> , be disqualified, for any period in respect of which the weekly rate of that	45

pension payable to that other person is so increased, for receiving old age (non-contributory) pension.

5 (3) A person who has attained pensionable age and is in receipt of a widow's (contributory) pension or widower's (contributory) pension shall, except as provided in *section 156*, be disqualified for receiving old age (non-contributory) pension for any period in respect of which the person is in receipt of the widow's (contributory) pension or widower's (contributory) pension. [1993 s139(3); 1996 s27(2) & Sch G]

CHAPTER 5

10 *Blind Pension*

162.—(1) Subject to this Act— Entitlement to pension.

15 (a) subject to *paragraph (b)*, every blind person who has attained the age of 18 years shall be entitled to receive and to continue to receive such pension (in this Act referred to as a "blind pension") as, under *Chapter 4* of this Part, he or she would be entitled to receive if he or she had attained pensionable age, subject to the modification that— [1993 s141]

20 (i) the rate of blind pension payable shall be the weekly rate set out in *column (2), reference 5* in *Part 1* of *Schedule 4*, and

(ii) the increase payable by virtue of *section 158(1)(a)*, shall be as set out—

25 (I) where the beneficiary and his or her spouse have attained pensionable age, in *Part 2* of *Schedule 4*,

(II) where the beneficiary and his or her spouse have not attained pensionable age, in *Part 3* of *Schedule 4*,

30 (III) where the beneficiary has not attained pensionable age and his or her spouse has attained that age, in *Part 4* of *Schedule 4*, and

35 (IV) where the beneficiary has attained pensionable age and his or her spouse has not attained that age, in *Part 5* of *Schedule 4*, [2000 s30(1)]

and

40 (b) *Chapter 4* of this Part applies in all respects in the case of such person, subject to the modifications that for the statutory conditions contained in *section 155(a)* there shall be substituted the conditions that the person must—

(i) have attained the age of 18 years, and

(ii) be so blind that he or she either cannot perform any work for which eyesight is essential or cannot continue his or her ordinary occupation. [1993 s141(1); 1998 s19]

45 (2) A blind person in respect of whom a pension is payable under this section shall not be a qualified child for the purposes of this Act. [1993 s141(2)]

*Widow's (Non-Contributory), Widower's (Non-Contributory) and
Orphan's (Non-Contributory) Pensions*

<p>Interpretation. [1993 s142(1)]</p>	<p>163.—(1) In this Chapter, save where the context otherwise requires—</p> <p>“pension” means a widow’s (non-contributory) pension in the case of a widow and a widower’s (non-contributory) pension in the case of a widower;</p>	<p>5</p>
<p>[2000 s17(2) & Sch E; 2005 (SW&P) s25 & Sch 3]</p>	<p>“weekly means” shall, subject to <i>Rule 1(1) of Part 3 of Schedule 3</i>, be the yearly means divided by 52;</p> <p>“widow” means a widow or a woman who would otherwise be a widow but for the fact that her marriage has been dissolved, being a dissolution that is recognised as valid in the State;</p> <p>“widower” means a widower or a man who would otherwise be a widower but for the fact that his marriage has been dissolved, being a dissolution that is recognised as valid in the State.</p>	<p>10</p> <p>15</p>
<p>[1993 s142(2); 2005 (SW&P) s25 & Sch 3]</p>	<p>(2) For the purposes of this Chapter—</p> <p>(a) means shall be calculated in accordance with the Rules contained in <i>Part 3 of Schedule 3</i>, and</p> <p>(b) a widow who has remarried shall not be regarded as the widow of her former husband and a widower who has remarried shall not be regarded as the widower of his former wife.</p>	<p>20</p>
<p>Entitlement to pension. [1993 s143(1); 1997 s19]</p>	<p>164.—(1) Subject to this Act, a pension shall be payable to a widow or a widower.</p>	<p>25</p>
<p>[1993 s143(3); 1997 s19]</p>	<p>(2) A pension payable to a widow or widower shall, subject to this Chapter, continue to be payable unless the beneficiary remarries and in that case the pension shall cease as and from the beneficiary’s remarriage.</p>	
<p>[2004 (MP) s17 & Sch 1]</p>	<p>(3) A person shall not be entitled to a pension under this section unless he or she is habitually resident in the State at the date of the making of the application for that pension.</p>	<p>30</p>
<p>Rate of pension. [1993 s144(1); 1997 s19]</p>	<p>165.—(1) The rate (in this Chapter referred to as “the scheduled rate”) of pension shall be the weekly rate set out in <i>column (2) of Part 1 of Schedule 4</i>.</p>	<p>35</p>
<p>[1993 s144(2); 2001 s37(1)]</p>	<p>(2) (a) A pension shall be payable—</p> <p>(i) where the weekly means of the claimant or beneficiary do not exceed €7.60, at the scheduled rate, and</p> <p>(ii) subject to <i>paragraph (b)</i>, where the weekly means of the claimant or beneficiary exceed €7.60, at the scheduled rate reduced by €2.50 for each amount (if any) of €2.50 by which those weekly means exceed</p>	<p>40</p>

€7.60, any fraction of €2.50 in those weekly means being treated for this purpose as €2.50.

5 (b) Where the rate calculated under *paragraph (a)(ii)* at which, but for this paragraph, the pension would be payable is less than €2.50, the pension shall not be payable.

166.—The weekly rate of pension payable in accordance with *section 165* shall be increased—

10 (a) by the amount set out in *column (6) of Part 1 of Schedule 4* where the beneficiary has attained pensionable age and is living alone,

(b) by the amount set out in *column (7) of Part 1 of Schedule 4* where the beneficiary has attained the age of 80 years, and

15 (c) by the amount set out in *column (8) of Part 1 of Schedule 4* where the beneficiary has attained pensionable age and is ordinarily resident on an island.

20 **167.**—A widow or widower, as the case may be, shall not, if and so long as she or he and any person are cohabiting as husband and wife, be entitled to and shall be disqualified for receiving payment of pension.

25 **168.**—Where a widow or widower would, but for this section, be entitled to both a widow's (contributory) pension or a widower's (contributory) pension, as the case may be, and a pension under this Chapter, the latter pension shall not be payable except insofar as is provided by regulations under *section 249*.

169.—(1) Subject to this Act, an orphan's (non-contributory) pension shall be payable in respect of an orphan.

(2) Not more than one pension shall be payable in respect of any one orphan.

30 (3) A pension shall not be payable in respect of an orphan in respect of whom an increase under *section 127(1)* or *175(1)* is claimable.

35 (4) A pension shall not be payable in respect of any period during which a payment is made under Article 14 of the Child Care (Placement of Children in Foster Care) Regulations 1995 (S.I. No. 260 of 1995) or Article 14 of the Child Care (Placement of Children with Relatives) Regulations 1995 (S.I. No. 261 of 1995).

40 (5) A person shall not be entitled to a pension under this section unless he or she is habitually resident in the State at the date of the making of the application for that pension.

170.—(1) The weekly rate (in this Chapter referred to as "the scheduled rate") of orphan's (non-contributory) pension shall be the weekly rate set out in *column (2) of Part 1 of Schedule 4*.

Increases.
[1993 s145; 2001 s15(1)(f)]

Disqualification.
[1993 s146; 1997 s19]

Avoidance of double pension.
[1993 s147; 1997 s19]

Entitlement to orphan's (non-contributory) pension.
[1993 s148(1)]

[1993 s148(2)]

[1993 s148(3)]

[2003 (MP) s9(1)(b)]

[2004 (MP) s17 & Sch 1]

Rate of pension.
[1993 s149(1)]

- [1993 s149(2); 2001 s37(1)] (2) (a) An orphan's (non-contributory) pension shall be payable where—
- (i) the weekly means of the claimant or beneficiary do not exceed €7.60, at the scheduled rate, and
 - (ii) subject to *paragraph (b)*, those weekly means exceed 5
€7.60, at the scheduled rate reduced by €2.50 for
each amount (if any) of €2.50 by which those weekly
means exceed €7.60, any fraction of €2.50 in those
weekly means being treated for this purpose as 10
€2.50.
- (b) Where the rate calculated under *paragraph (a)(ii)* at which, but for this paragraph, the pension would be payable is less than €2.50, the pension shall not be payable.

Civil proceedings. **171.**—(1) Where, in any civil proceedings in any court, it is shown to the satisfaction of the court that pursuant to a claim of or on behalf of a person a pension was allowed or awarded or that the amount of a pension payable to or in respect of a person was varied and that the pension as so allowed or awarded or as so varied was at any time in course of payment to the person to whom the pension was payable, that person shall, in each case, be presumed, unless the contrary is shown, to have been in receipt of a pension of the amount so allowed or awarded or as so varied, as the case may be, from the date on which the pension of the amount so allowed or awarded or as so varied, as the case may be, became payable until the date, if any, on which the amount of the pension is varied or further varied, as the case may be, or the date on which the pension ceases to be payable, whether by reason of the death of the person or otherwise, whichever should first occur. 15
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[1997 s20(3)] (2) In this section “pension” means a widow’s (non-contributory) pension, a widower’s (non-contributory) pension or an orphan’s (non-contributory) pension, as the case may require. 30

Payment of pension. **172.**—(1) Subject to this section, orphan’s (non-contributory) pension shall be paid to the guardian of the orphan in respect of whom that pension is payable.

[1993 s151(1)] (2) In this Chapter “guardian” means the person in whose care 35
the orphan normally resides.

[1993 s151(2); 2005 (SW&P) s19(b)] (3) The Minister may, where he or she thinks fit, direct that a payment under this Chapter, payable to the guardian of an orphan, be paid to some other person for the benefit of the orphan or, subject to the conditions and in the circumstances that may be prescribed, 40
directly to an orphan who has attained the age of 18 years where that orphan is not normally residing with a guardian.

CHAPTER 7

One-Parent Family Payment

Interpretation. **173.**—(1) In this Chapter— 45

[1996 s17(1)] “qualified parent” means, subject to regulations under *section 178*—

- (a) a widow,

- (b) a widower,
- (c) a separated spouse,
- (d) an unmarried person, or
- (e) a person whose spouse has been committed in custody to a prison or place of detention for not less than 6 months,

5 who has at least one qualified child normally residing with that person;

“weekly means” means, subject to *Rule 1(1)* and (4) of *Part 3* of *Schedule 3*, the yearly means divided by 52. [2000 s17(2) & Sch E; 2005 (SW&P) s25 & Sch 3]

10 (2) For the purposes of this Chapter— [1996 s17(1); 2005 (SW&P) s25 & Sch 3]

(a) means shall be calculated in accordance with the Rules contained in *Part 3* of *Schedule 3*,

15 (b) a widow who has remarried shall not be regarded as the widow of her former husband and a widower who has remarried shall not be regarded as the widower of his former wife, and

(c) a reference to a qualified parent shall include a reference to a person who would otherwise be a qualified parent but for the fact that the person’s marriage has been dissolved, being a dissolution that is recognised as valid in the State. [1996 s20(1)]

174.—(1) Subject to this Act and to regulations made under this Act, a payment shall be payable to a qualified parent (“one-parent family payment”). Entitlement to payment. [1996 s17(1)]

25 (2) A one-parent family payment payable to a qualified parent shall, subject to this Act, continue to be payable unless the qualified parent marries or remarries, and in such a case the one-parent family payment shall cease as and from the date of marriage or remarriage. [1996 s17(1)]

30 (3) Subject to this Act, a one-parent family payment shall not be payable to a qualified parent whose gross weekly earnings (including wages and profit from any form of self-employment) exceed €293. [1996 s17(1); 1999 s31(a)]

35 (4) Regulations may, subject to the conditions and in the circumstances and for the periods that may be prescribed, entitle to one-parent family payment a qualified parent who, having been in receipt of that payment for 52 consecutive weeks, ceases to be entitled to that payment by virtue of having earnings in excess of the amount specified in *subsection (3)*. [1996 s17(1) 2001 s21(1)]

40 (5) Regulations under *subsection (4)* shall provide that one-parent family payment payable by virtue of those regulations shall be payable at a rate less than that specified in *Schedule 4* and the rate specified by the regulations may vary with the extent to which the person’s earnings exceed the amount specified in *subsection (3)*. [1996 s17(1)]

45 (6) A one-parent family payment shall not be payable to a qualified parent under this Chapter unless the qualified parent is habitually resident in the State at the date of the making of the application for that payment. [2004 (MP) s17(1) & Sch 1]

Rate of allowance and increases for qualified children. [1996 s17(1)]	175.— (1) The rate (in this section referred to as “the scheduled rate”) of one-parent family payment shall be the weekly rate set out in <i>column (2) of Part 1 of Schedule 4</i> increased by the appropriate amount set out in <i>column (4)</i> of that Part in respect of each qualified child who normally resides with the beneficiary.	5
[1996 s17(1); 2001 s37(1)]	(2) (a) A one-parent family payment shall be payable— (i) where the weekly means of the claimant or beneficiary do not exceed €7.60, at the scheduled rate, and (ii) subject to <i>paragraph (b)</i> , where the weekly means exceed €7.60, at the scheduled rate reduced by €2.50 for each amount (if any) of €2.50 by which those weekly means exceed €7.60, any fraction of €2.50 in those weekly means being treated for this purpose as €2.50. (b) Where the rate calculated under <i>paragraph (a)(ii)</i> at which, but for this paragraph, the one-parent family payment would be payable is less than €2.50, the payment shall not be payable.	10 15
[1996 s17(1)]	(3) The weekly rate of one-parent family payment shall be increased by the amount set out in <i>column (7) of Part 1 of Schedule 4</i> where the beneficiary has attained the age of 80 years.	20
[2001 s15(1)(k)]	(4) The weekly rate of one-parent family payment shall be increased by the amount set out in <i>column (8) of Part 1 of Schedule 4</i> where the beneficiary has attained pensionable age and is ordinarily resident on an island.	25
Disqualification. [1996 s17(1)]	176.— A qualified parent shall not, if and so long as that parent and any person are cohabiting as husband and wife, be entitled to and shall be disqualified for receiving payment of one-parent family payment.	
Continuation of payment. [1996 s17(1)]	177.— In the case of a qualified parent to whom payment under <i>section 173(1)(e)</i> applies, one-parent family payment shall continue to be paid for 4 weeks after the release of that parent’s spouse from a prison or place of detention.	30
Regulations. [1996 s17(1)]	178.— The Minister shall make regulations in relation to one-parent family payment and the regulations may, in particular and without prejudice to the generality of the foregoing, specify the circumstances in which, for the purposes of this Chapter— (a) a person is to be regarded as being a separated spouse, (b) a person is to be regarded as being an unmarried person.	35
	CHAPTER 8	40
	<i>Carer’s Allowance</i>	
Interpretation. [1993 s163(1)]	179.— (1) Subject to this Act, in this Chapter— “carer” means—	

(a) a person who resides with and provides full-time care and attention to a relevant person, or

5 (b) a person who, subject to the conditions and in the circumstances that may be prescribed, does not reside with but who provides full-time care and attention to a relevant person. [1999 s10(b)]

“prescribed relative” means a prescribed relative within the meaning of the Social Welfare (Prescribed Relative Allowance) Regulations 1989 (S.I. No. 361 of 1989);

10 “prescribed relative allowance” means an increase for a prescribed relative under section 50(11), 51(2)(a), 81(3), 86(3), 91(3), 95(2), 103(2), 162(1)(a) or 179(a) of the Social Welfare (Consolidation) Act 1981 or under regulations applying section 179(a) of that Act;

15 “relevant person” means a person (other than a person in receipt of an increase of disablement pension under *section 78* in respect of constant attendance) who has such a disability that he or she requires full-time care and attention, and who—

(a) has attained the age of 16 years, or

20 (b) is under the age of 16 years and is a person in respect of whom an allowance is paid for domiciliary care of children under section 61 of the Health Act 1970; [1999 s10(a); 2005 (SW&P) s26 & Sch 4]

“weekly means” means, subject to *Rule 1(1) of Part 3 of Schedule 3*, the yearly means divided by 52. [2000 s17 & Sch E; 2005 (SW&P) s25 & Sch 3]

25 (2) The Minister may make regulations specifying the circumstances and conditions under which a person is to be regarded as providing full-time care and attention to a relevant person. [1997 s23(1); 1999 s13 & Sch C]

(3) For the purposes of this Chapter, means shall be calculated in accordance with the Rules contained in *Part 3 of Schedule 3*. [1993 s163(2); 2005 (SW&P) s25 & Sch 3]

30 (4) For the purposes of *subsection (1)*, a relevant person shall be regarded as requiring full-time care and attention where— [1993 s163(3); 2000 s28(1)(b)]

(a) the person has such a disability that he or she requires from another person—

35 (i) continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or

(ii) continual supervision in order to avoid danger to himself or herself,

40 (b) the person has such a disability that he or she is likely to require full-time care and attention for at least 12 consecutive months, and

(c) the nature and extent of the person’s disability has been certified in the prescribed manner by a medical practitioner.

Entitlement to allowance. [1993 s164; 2004 (MP) s17 & Sch 1]	180. —(1) Subject to this Act, an allowance (in this Act referred to as “carer’s allowance”) shall, in the circumstances and subject to the conditions that may be prescribed, be payable to a carer.	5
[2004 (MP) s17 & Sch 1]	(2) A carer shall not be entitled to an allowance under this section unless he or she is habitually resident in the State at the date of the making of the application for the allowance.	5
Rate of allowance. [1993 s165(1); 2001 s15(1)]	181. —(1) Subject to this Act, the rate (in this Chapter referred to as “the scheduled rate”) of carer’s allowance shall be—	10
	(a) in the case of a person who is a carer of more than one relevant person, the weekly rate set out in <i>column (2)</i> at <i>reference 8(a)</i> in <i>Part 1</i> of <i>Schedule 4</i> , and	10
	(b) in any other case, the weekly rate set out in <i>column (2)</i> at <i>reference 8(b)</i> in <i>Part 1</i> of <i>Schedule 4</i> ,	10
	increased by —	15
	(i) the appropriate amount set out in <i>column (4)</i> of that Part opposite that reference in respect of each qualified child who normally resides with the beneficiary, and	15
	(ii) the amount set out in <i>column (8)</i> of that Part opposite that reference where the beneficiary has attained pensionable age and is ordinarily resident on an island.	20
[1993 s165(2); 2001 s37(1)]	(2) (a) A carer’s allowance shall be payable where—	25
	(i) the weekly means of the claimant or beneficiary do not exceed €7.60, at the scheduled rate, and	25
	(ii) subject to <i>paragraph (b)</i> , the weekly means exceed €7.60, at the scheduled rate reduced by €2.50 for each amount (if any) of €2.50 by which those weekly means exceed €7.60, any fraction of €2.50 in those weekly means being treated for this purpose as €2.50.	25
	(b) Where the rate calculated under <i>paragraph (a)(ii)</i> at which, but for this paragraph, the carer’s allowance would be payable is less than €2.50, the allowance shall not be payable.	30
[1993 s165(3)]	(3) Notwithstanding <i>subsection (2)</i> , where, immediately before 1 November 1990, a prescribed relative allowance was being paid to or in respect of a claimant for a carer’s allowance, the carer’s allowance shall be paid at a weekly rate corresponding to the rate of prescribed relative allowance specified in <i>column (5)</i> of <i>Part 1</i> of <i>Schedule 4</i> , unless the weekly rate of carer’s allowance as calculated in accordance with <i>subsection (2)</i> payable to that claimant is greater than that specified rate, in which case the greater amount shall be paid.	35 40
[1993 s165(4)]	(4) Any increase in carer’s allowance payable under <i>subsection (1)</i> in respect of a qualified child who normally resides with a beneficiary and with the spouse of a beneficiary shall be payable at one-half of the appropriate amount.	45

	182. —Notwithstanding this Chapter—	Payment of allowance.
5	(a) only one carer’s allowance shall be payable to a carer, and only one carer’s allowance shall be payable in any week in respect of the full-time care and attention being provided to a relevant person, and	[1993 s166; 2005 (SW&P) s14(b)]
10	(b) carer’s allowance shall not be payable in respect of the full-time care and attention being provided to a relevant person in any case where a carer’s benefit under <i>Part 2</i> is being paid to any person in respect of the full-time care and attention being provided to the same relevant person.	
15	183. —(1) A prescribed relative allowance which, by virtue of the Social Welfare (Consolidation) Act 1981, and regulations made under or applying that Act, is payable immediately before the commencement of this Act shall, subject to <i>section 184</i> , continue to be paid at the rate set out in <i>column (5) of Part 1 of Schedule 2</i> or <i>column (5) of Part 1 of Schedule 4</i> , as appropriate, for as long as—	Prescribed relative allowance. [1993 s167(1); 1994 s32 & Sch F]
20	(a) the beneficiary remains so incapacitated as to require full-time care and attention,	
25	(b) a prescribed relative of the beneficiary is residing with the beneficiary for the purpose of providing that care and attention, and	
	(c) the conditions contained in the Social Welfare (Prescribed Relative Allowance) Regulations 1989 (S.I. No. 361 of 1989) continue to be fulfilled.	
	(2) The Social Welfare (Prescribed Relative Allowance) Regulations 1989 (S.I. No. 361 of 1989) shall continue to have effect for the purposes of this section.	[1993 s167(2)]
30	184. —(1) A prescribed relative allowance shall cease to be paid to a relevant person or prescribed relative, as the case may be, where the prescribed relative becomes entitled to and receives a carer’s allowance.	Entitlement to prescribed relative allowance. [1993 s168(1); 1999 s13 & Sch C]
35	(2) Notwithstanding anything contained in this Act, a prescribed relative allowance shall not be paid where a claim for that allowance is made on or after 1 November 1990.	[1993 s168(2)]
40	185. —(1) A relevant person in respect of whose full-time care and attention a carer is entitled to or in receipt of carer’s allowance shall attend for or submit to such medical or other examination as may be required in accordance with regulations.	Medical examination. [2000 s11(1)(c)]
45	(2) Regulations under <i>subsection (1)</i> may also provide for disqualifying a person for receiving carer’s allowance where the relevant person in respect of whose full-time care and attention the allowance is payable fails without good cause to attend for or submit to such medical or other examination as may be required in accordance with those regulations.	[2000 s11(1)(c)]

Regulations. **186.**—(1) The Minister shall make regulations for the purpose of giving effect to this Chapter.

[1993 s169(1)]

[1993 s169(2); 2005 (SW&P) s25 & Sch 3] (2) Regulations under this section may, in particular and without prejudice to the generality of *subsection (1)*—

- (a) provide for amounts paid in respect of prescribed relative allowance on or after 1 November 1990 to be treated as payment on account of carer’s allowance, 5
- (b) provide for—
 - (i) entitling to carer’s allowance the class or classes of person that may be prescribed who would be entitled to that allowance but for the fact that the conditions as to means as calculated in accordance with the Rules contained in *Part 3 of Schedule 3* are not satisfied, or 10
 - (ii) entitling to carer’s allowance at a rate higher than that calculated in accordance with *section 181(2)* the class or classes of person that may be prescribed, and the rate of allowance so payable may vary in accordance with the claimant’s means. 15

CHAPTER 9

20

Supplementary Welfare Allowance

Interpretation. **187.**—In this Chapter—

[1993 s170; 2003 (MP) s5(1)(b)]

“Act of 1939” means the Public Assistance Act 1939;

“qualified adult” means—

- (a) the spouse of the beneficiary who is being wholly or mainly maintained by him or her, or 25
- (b) a person over the age of 16 years being wholly or mainly maintained by the beneficiary and having the care of one or more than one qualified child who normally resides with the beneficiary where the beneficiary is— 30
 - (i) a single person,
 - (ii) a widow,
 - (iii) a widower, or
 - (iv) a married person who is not living with and is neither wholly nor mainly maintaining, nor being wholly or mainly maintained by, the married person’s spouse; 35

“home assistance” means home assistance within the meaning of the Act of 1939;

“public assistance authority” means a former public assistance authority referred to in section 8 of the Act of 1939 as extended by section 7 of the Health Authorities Act 1960 and section 84 of the Health Act 1970; 40

“supplementary welfare allowance” means an allowance in cash or in kind granted under this Chapter.

5 **188.**—(1) In this Chapter “qualified child” means, in relation to a beneficiary, any child, not being a qualified adult, who is dependent on that beneficiary for support and—

Definition of qualified child.

[2003 (MP) s5(1)(c); 2005 (SW&P) s26 & Sch 4]

10 (a) in the case of a beneficiary (other than a beneficiary referred to in *paragraph (b)*), is under the age of 18 years or is of or over the age of 18 years and is regarded as attending a course of study referred to in *section 148(3)(a)*, or

15 (b) in the case of a beneficiary who has been in receipt of supplementary welfare allowance for not less than 26 weeks or, subject to the conditions and in the circumstances that may be prescribed, has been entitled to or has been in receipt of supplementary welfare allowance and a relevant payment for not less than 156 days—

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

20 (ii) is of or over the age of 18 years and under the age of 22 years and is receiving full-time education, the circumstances of which shall be specified in regulations, or

(iii) is of or over the age of 18 years and is regarded as attending a course of study referred to in *section 148(3)(a)*.

25 (2) (a) Subject to *paragraph (b)* and notwithstanding *subsection (1)(a)*, a person who attains the age of 18 years while attending a full-time day course of study, instruction or training at an institution of education, shall continue to be regarded as a qualified child for the purposes of *subsection (1)(a)* until the earlier of the next following 30 June or until he or she completes the full-time day course.

[2003 (MP) s5(1)(c)]

30 (b) For the purposes of *paragraph (a)*, the Minister may prescribe the conditions subject to which a person shall be regarded as attending a full-time day course of study, instruction or training at an institution of education.

35 (c) In this subsection “institution of education” has the meaning given to it by *section 148(2)*.

40 **189.**—Subject to this Act, every person in the State whose means are insufficient to meet his or her needs and the needs of any qualified adult or qualified child of the person shall be entitled to supplementary welfare allowance.

Entitlement to supplementary welfare allowance.

[1993 s171; 2005 (SW&P) s26 & Sch 4]

45 **190.**—(1) A person shall not be entitled to receive supplementary welfare allowance while attending a course of study within the meaning of *section 148*, other than in the circumstances and subject to the conditions that may be prescribed.

Exclusion of persons receiving full-time education.

[1993 s172(1); 1994 s24]

[1993 s172(2); 2005 (SW&P) s26 & Sch 4]	(2) <i>Subsection (1)</i> is without prejudice to the entitlement of any person to receive supplementary welfare allowance in respect of a person referred to in that subsection who is a qualified adult or qualified child.	
[1993 s172(3)]	(3) Notwithstanding <i>subsection (1)</i> , supplementary welfare allowance may, in a case in which there are exceptional circumstances, be granted to a person who would be entitled to receive supplementary welfare allowance but for that subsection.	5
Exclusion of persons in full-time employment. [1993 s173(1); 1994 s25]	191. —(1) Subject to <i>subsections (2) and (3)</i> , a person shall not, other than in the circumstances and subject to the conditions that may be prescribed, be entitled to supplementary welfare allowance in relation to any period during which he or she is engaged in remunerative full-time work.	10
[1993 s173(2)]	(2) The Minister may by regulations provide for the postponement of the operation of <i>subsection (1)</i> in respect of any class of persons becoming engaged in remunerative full-time work until such period after the beginning of the engagement as may be specified in the regulations.	15
[1993 s173(3)]	(3) <i>Subsection (1)</i> shall not apply in the case of any person engaged in remunerative full-time work where the earning power of the person is, by reason of any physical or mental disability, substantially reduced in comparison with the earning power of other persons engaged in similar work.	20
Exclusion of persons not habitually resident in the State. [2004 (MP) s17 & Sch 1]	192. —A person shall not be entitled to an allowance (other than an allowance under <i>sections 201 and 202</i>) under this Chapter unless he or she is habitually resident in the State at the date of the making of the application for the allowance.	25
Persons affected by trade disputes. [1993 s174(1); 2005 (SW&P) s26 & Sch 4]	193. —(1) In any case where, by reason of a stoppage of work due to a trade dispute at his or her place of employment, a person is without employment for any period during which the stoppage continues, and the person has not, during that stoppage, become bona fide employed elsewhere in the occupation which he or she usually follows, or has not become regularly engaged in some other occupation, the person's needs for that period shall be disregarded for the purpose of ascertaining his or her entitlement to supplementary welfare allowance except in so far as those needs include the need to provide for a qualified adult or any qualified children.	30 35
[1993 s174(2)]	(2) <i>Subsection (1)</i> shall not apply to a person who is not participating in or directly interested in the trade dispute which caused the stoppage of work.	40
[1993 s174(3)]	(3) In this section "place of employment", in relation to any person, means the factory, workshop, farm or other premises or place at which he or she was employed, but, 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 on the same premises or at the same place, each of those departments, for the purposes of this section, is deemed to be a separate factory or workshop or farm or separate premises or a separate place, as the case may be.	45

5 **194.**—(1) Subject to the general direction and control of the Minister, the Executive, in respect of its functional areas, shall be responsible for the administration of functions performable under this Chapter and the functions relating to supplementary welfare allowance other than—

Administration.

[1993 s175(1); 2005 (SW&P) s23 & Sch 1]

(a) functions relating to claims for supplementary welfare allowance decided by a deciding officer, and

10 (b) making the categories of payment that may be prescribed in the circumstances and conditions that may be prescribed.

(2) Any categories of payment prescribed under *subsection (1)* shall be made by the Minister and regulations made under that subsection may apply to the whole State or to a functional area of the Executive or to a part of a functional area of the Executive and may relate to supplementary welfare allowance generally or to supplementary welfare allowance payable by virtue of specific provisions in this Chapter.

[1996 s36; 2005 (SW&P) s23 & Sch 1]

20 (3) Subject to *subsection (1)*, the Executive shall grant to every person in its functional areas who is eligible therefor the supplementary welfare allowance determined, in accordance with this Chapter, to be due to that person.

[1993 s175(2); 2005 (SW&P) s23 & Sch 1]

25 **195.**—The Executive or deciding officer may, subject to regulations made by the Minister, determine or decide that a person shall not be entitled to supplementary welfare allowance unless the person—

Conditions for grant of supplementary welfare allowance.
[1993 s176; 2005 (SW&P) s23 & Sch 1]

(a) is registered for employment in the manner that the Minister may prescribe,

(b) satisfies the conditions set out in *section 141(1)(b)* and (4), and

30 (c) makes application for any statutory or other benefits or assistance to which the person may be entitled including any benefits or assistance from countries other than the State.

35 **196.**—(1) Subject to *section 343(7)* the amount of supplementary welfare allowance to which a person is entitled shall be the amount by which the person's means fall short of his or her needs, and for the purpose of ascertaining that amount—

Calculation of supplementary welfare allowance.

[1993 s177(1); 2005 (SW&P) s21(a), 25, 26 & Sch 3, 4]

(a) the weekly needs of a person shall, subject to any payment under *section 198*, be taken to be—

40 (i) in the case of a person who has no means, the amount calculated in accordance with *section 197*, or

45 (ii) in the case of a person who has means, the amount calculated in accordance with *section 197* which would be appropriate in the person's case if he or she had no means, reduced by €1 per week for every €1 of his or her weekly means,

and

	(b) subject to <i>paragraph (c)</i> , the weekly means of any person for the purpose of ascertaining his or her entitlement to supplementary welfare allowance shall be calculated in accordance with the Rules contained in <i>Part 4 of Schedule 3</i> .	5
	(c) The amount calculated in accordance with <i>paragraph (b)</i> shall be rounded up to the nearest €1 where it is a multiple of 50 cent but not also a multiple of €1 and shall be rounded to the nearest €1 where it is not a multiple of 50 cent or €1.	10
[1993 s177(2)]	(2) In calculating the amount of supplementary welfare allowance payable to any person, the following apply:	
	(a) where—	
	(i) a husband and wife, or	
	(ii) a man and woman who are not married to each other but are cohabiting as husband and wife,	15
	are members of the same household, their needs and means shall be aggregated and shall be regarded as the needs and means of the claimant;	
	(b) in the case of a person with a qualified child his or her needs shall be taken to include the needs of that qualified child;	20
	(c) where the needs of any person are taken into account in determining the entitlement of any other person to supplementary welfare allowance, only that other person shall be entitled to an allowance.	25
Weekly amounts of supplementary welfare allowance for persons of no means.	197. —In the case of a person who has no means as determined by this Chapter and subject to any payment under <i>section 198</i> , the weekly amount of supplementary welfare allowance payable shall be as set out in <i>column (2)</i> of <i>Part 1 of Schedule 4</i> , increased by—	30
[1993 s178(1); 2005 (SW&P) s26 & Sch 4]	(a) the amount set out in <i>column (3)</i> of that Part for any period during which the beneficiary has a qualified adult, and	
	(b) the appropriate amount set out in <i>column (4)</i> of that Part in respect of each qualified child.	35
Weekly or monthly supplements.	198. —(1) Subject to this Chapter, in the case of a person whose means are insufficient to meet his or her needs, regulations may provide for a weekly or monthly payment to supplement that person's income.	
[1993 s179(1); SI 381/1995]		
[1993 s179(2); SI 381/1995]	(2) Regulations under <i>subsection (1)</i> may prescribe the class or classes of persons to whom and the conditions and circumstances under which a payment under <i>subsection (1)</i> may be made and the amount of such a payment (either generally or in relation to a particular class or classes of persons).	40
[2003 (MP) s13]	(3) Without prejudice to the generality of <i>subsection (1)</i> and subject to <i>subsection (4)</i> , regulations under <i>subsection (1)</i> may provide	45

for the payment of a supplement towards the amount of rent payable by a person in respect of his or her residence.

(4) (a) A person shall not be entitled to a payment referred to in subsection (3) where— [2003 (MP) s13; 2003 s12(1)]

- 5 (i) the person is not lawfully in the State,
- (ii) the person has made an application to the Minister for Justice, Equality and Law Reform for a declaration under section 8(1)(a) or (c) of the Refugee Act 1996, other than a person—
- 10 (I) in respect of whom a declaration within the meaning of section 17 of the Refugee Act 1996 is in force,
- (II) who is entitled under section 18 of the Refugee Act 1996 to enter and reside in the State,
- 15 (III) who is entitled under section 24 of the Refugee Act 1996 to enter and remain in the State, or
- (IV) who has the permission of the Minister for Justice, Equality and Law Reform to remain in the State under the Aliens Act 1935 or the
- 20 Immigration Act 2004,

or

(iii) during any period that person, or his or her spouse, is engaged in remunerative full-time work.

(b) This subsection does not apply to persons who were in receipt of a payment referred to in subsection (3) before the coming into operation of this subsection.

25

(5) Without prejudice to the generality of subsection (1) and subject to subsection (6), regulations under subsection (1) may provide for the payment of a supplement towards the amount of mortgage interest payable by a person in respect of his or her residence.

30

(6) A person shall not be entitled to a supplement referred to in subsection (5), during any period, where that person or his or her spouse, is engaged in remunerative full-time work. [2003 s12(1)]

199.—(1) For the purposes of this section—

Disqualifications.

35 “Act of 1997” means the Housing (Miscellaneous Provisions) Act 1997; [Housing (MP) Act 1997 s16]

“mortgage interest” means the proportion of any amount payable by a person to a mortgage lender as is for the time being attributable to interest under an agreement entered into by the person with the mortgage lender for the purpose of defraying money employed to purchase, repair or improve that person’s dwelling or to pay off another loan used for that purpose;

40

“mortgage lender” has the meaning given to it by section 2(1) of the Consumer Credit Act 1995;

“rent” includes any periodic payment in the nature of rent made in return for a special possession of a dwelling or for the use, occupation or enjoyment of a dwelling.

- [Housing (MP) Act 1997 s16] (2) This section applies to a person who—
- (a) has been required to deliver up possession of a dwelling provided by a housing authority or a body approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992 and the reasons for that requirement include anti-social behaviour or the interests of good estate management, or
 - (b) is a person to whom a letting has been refused or deferred under section 14 of the Act of 1997, or
 - (c) is a respondent to an excluding order or an interim excluding order made under section 3 or 4 of the Act of 1997, or
 - (d) is a person who has been directed to leave a house under section 20 of the Act of 1997.
- [Housing (MP) Act 1997 s16; 2005 (SW&P) s23 & Sch 1] (3) The Executive may determine that, notwithstanding anything contained in any enactment, a person to whom this section applies shall not be entitled to a payment to supplement the person’s income in respect of rent or mortgage interest, or may terminate or suspend the payment.
- [Housing (MP) Act 1997 s16; 2005 (SW&P) s23 & Sch 1] (4) Where a person to whom this section applies resides with another person who is in receipt of, or would but for this section be entitled to a supplement in respect of rent or mortgage interest, the Executive may, notwithstanding anything contained in any enactment, determine that the amount of the supplement payable shall be reduced by the amount that, in the opinion of the Executive, is reasonably attributable to the first mentioned person.
- [Housing (MP) Act 1997 s16; 2005 (SW&P) s23 & Sch 1] (5) In making a determination under *subsection (3)* or *(4)*, the Executive shall have regard to any information provided by a housing authority or a specified person referred to in section 15 of the Act of 1997, in relation to a person to whom this section applies.
- Allowances in kind. **200.—**(1) Whenever it appears to the Executive or deciding officer that by reason of exceptional circumstances the needs of a person can best be met by the provision of goods or services instead of the whole or part of any payment to which he or she would otherwise be entitled under this Chapter, the Executive or deciding officer may determine or decide that the goods or services be provided for the person under arrangements made by the Executive.
- [1993 s180(1); 2005 (SW&P) s23 & Sch 1] (2) In making a determination under this section to meet sudden and urgent need, the Executive or deciding officer may dispense with inquiry into means or other circumstances and with compliance with any regulations made under this Chapter.
- [1993 s180(2); 2005 (SW&P) s23 & Sch 1] (3) In relation to any goods or services provided by the Executive or deciding officer under *subsection (1)*, references in this Chapter to the amount of supplementary welfare allowance are deemed to be references to the value of the goods or services so provided.
- [1993 s180(3); 2005 (SW&P) s23 & Sch 1] (3) In relation to any goods or services provided by the Executive or deciding officer under *subsection (1)*, references in this Chapter to the amount of supplementary welfare allowance are deemed to be references to the value of the goods or services so provided.
- Power to make single payment for exceptional need. **201.—**The Executive or deciding officer may, in any case where the Executive or deciding officer considers it reasonable, having

regard to all the circumstances of the case, so to do, determine or decide that supplementary welfare allowance shall be paid to a person by way of a single payment to meet an exceptional need.

5 **202.**—(1) Nothing in *section 190, 191, 193 or 198* shall prevent the payment of supplementary welfare allowance in an urgent case and, in determining or deciding whether an allowance is payable by virtue of this section and the amount or nature of the allowance, the Executive or deciding officer shall not be bound by anything contained in *sections 195 to 198 and Part 4 of Schedule 3* or in any regulations made under this Chapter which appears to the Executive or deciding officer inappropriate in the circumstances of the case.

Grant of supplementary welfare allowance in cases of urgency.
[1993 s182(1); 2005 (SW&P) s23, 25 & Sch 1, 3]

15 (2) Where under *subsection (1)* supplementary welfare allowance is paid to a person who is engaged in remunerative full-time work, the Executive or deciding officer may, where the Executive or deciding officer is satisfied that in all the circumstances of the case it would be equitable so to do, determine or decide that the whole or part of the allowance so paid shall be recoverable from the person to whom it is paid.

[1993 s182(2); 2005 (SW&P) s23 & Sch 1]

20 **203.**—Where—
(a) in respect of any period the Executive or deciding officer has granted supplementary welfare allowance to or in respect of a person and infectious diseases maintenance allowance, including any increase thereof, subsequently becomes payable to or in respect of that person in respect of the period (or part of that period) for which supplementary welfare allowance was paid, and

Supplementary welfare allowance granted to persons in receipt of certain Health Service Executive payments.
[1993 s183; 2005 (SW&P) s23 & Sch 1]

25
30 (b) the supplementary welfare allowance is in excess of the amount which would have been granted to or in respect of the person if the infectious diseases maintenance allowance, including any increase thereof that allowance of, had been paid during that period, the excess supplementary welfare allowance shall be treated as payment on account of that allowance.

35 **204.**—Where—
(a) in respect of any period the Executive or deciding officer 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 a relevant payment, and

Recoupment of supplementary welfare allowance.
[1993 s184; 2005 (SW&P) s23 & Sch 1]

40 (b) the supplementary welfare allowance is in excess of the amount which would have been granted to that person if he or she had been in receipt of a relevant payment, and

45 (c) the Executive or deciding officer has certified to the Minister the amount (in this section referred to as “the excess”) so paid in excess in respect of that period by the Executive,

50 the Minister may reduce any such relevant payment which is or may become payable to the person during the relevant continuous period of entitlement to that relevant payment by the amount of the excess

and the amount shall be treated as having been paid on account of the relevant payment.

Recoupment of supplementary welfare allowance (continued).

[1995 s21; 2005 (SW&P) s23 & Sch 1]

205.—Where—

- (a) in respect of any period the Executive or deciding officer has granted supplementary welfare allowance to or in respect of a person who, though entitled under the legislation of a Member State (other than the State) to a social security payment (in this section referred to as “the relevant payment”), is not in receipt of such payment, and 5
- (b) the supplementary welfare allowance is in excess of the amount which would have been granted to that person if he or she had been in receipt of the relevant payment, and 10
- (c) the Executive or deciding officer has certified to the competent institution of the relevant Member State the amount of supplementary welfare allowance in excess of which the person would have been entitled (in this section referred to as “the excess”) in respect of that period by the Executive, the Executive or deciding officer may request that competent institution to deduct the amount of the excess from the relevant payment. 15 20

Arrangements for burials.

[1993 s185(1); 2005 (SW&P) s23 & Sch 1]

206.—(1) The Executive may provide for the burial of any of the following persons—

- (a) a person who died within any of its functional areas and in respect of whose burial suitable arrangements are not otherwise being made, 25
- (b) a person who has been drowned and cast ashore within any of its functional areas or who has otherwise perished and been found dead within any of those areas and (in either case) whose body has not been claimed for burial. 30

[1993 s185(2); 2005 (SW&P) s23 & Sch 1]

(2) The Executive may, in any case in which it thinks proper, bring into and bury in any of its functional areas the body of a person eligible for supplementary welfare allowance who has died outside that functional area.

[1993 s185(3); 2005 (SW&P) s23 & Sch 1]

(3) The Executive may defray all expenses necessarily incurred in the burial under this section of a person or in the bringing of the body of a person into any of its functional areas for burial. 35

[1993 s185(4); 2005 (SW&P) s23 & Sch 1]

(4) Where the Executive incurs under this section expenses in relation to the body of a deceased person, it may obtain repayment of those expenses from the estate of the deceased person or from any person who was liable to maintain the deceased person immediately before his or her death. 40

Financing of Health Service Executive expenditure on supplementary welfare allowance.

[1993 s187(8); 2005 (SW&P) s23 & Sch 1]

207.—The Minister shall, out of moneys provided by the Oireachtas, make grants to the Executive to defray the expenditure on supplementary welfare allowance and costs of administration of that allowance. 45

208.—(1) All property transferred by section 22 of the Social Welfare (Supplementary Welfare Allowances) Act 1975 to a health board and which immediately before 1 July 1977 was standing in the book of any bank or was registered in the books of any bank, corporation or company in the name of a public assistance authority shall, on the request of the Executive, be transferred in the books by the bank, corporation or company into the name of the Executive.

Transfer of certain property.

[1993 s189(1); 2005 (SW&P) s23 & Sch 1]

(2) Every chose-in-action transferred by section 22 of the Social Welfare (Supplementary Welfare Allowances) Act 1975 to a health board may be sued on, recovered or enforced by the Executive in its own name and it shall not be necessary for the Executive to give notice to the person bound by the chose-in-action of the transfer effected by that section.

[1993 s189(2); 2005 (SW&P) s23 & Sch 1]

(3) Every bond, guarantee or other security of a continuing character made or given by a public assistance authority in pursuance of its functions under the Act of 1939 to another person, or by any person to a public assistance authority in connection with those functions, which was in force immediately before 1 July 1977, and every contract or agreement in writing in connection with those functions made between a public assistance authority and another person which was not fully executed and completed before that date shall be read and have effect as if the name of the Executive were substituted therein for the name of the public assistance authority, and the security, contract or agreement shall be enforceable by or against the Executive accordingly.

[1993 s189(3); 2005 (SW&P) s23 & Sch 1]

209.—(1) Any question arising as to whether a particular officer or officers of a particular class of a public assistance authority was or were transferred to a health board under section 23 of the Social Welfare (Supplementary Welfare Allowances) Act 1975 shall be referred to and decided by the Minister after consultation with the Minister for Health and Children or the Minister for the Environment, Heritage and Local Government whichever is appropriate and, where it is decided that any such officer was so transferred, then, for the purpose of any enactment relating to superannuation, his or her office under the public assistance authority is deemed not to have been abolished.

Transfer of certain officers and enforceability of contracts.

[1993 s190(1)]

(2) Every contract of service, express or implied, which— [1993 s190(2)]

(a) was made between a public assistance authority and any person who was not an officer of that authority but was a person to be transferred to a health board under section 23 of the Social Welfare (Supplementary Welfare Allowances) Act 1975, and

(b) was continued in force by subsection (6) of that section and was in force immediately before 24 February 1981,

shall continue in force and shall continue to be read and have effect as if the Executive were substituted therein for the public assistance authority, and every such contract shall be enforceable by or against the Executive accordingly.

(3) Any question arising in relation to subsection (2) as to whether a particular person or persons of a particular class was or were a person or persons to be transferred under section 23 of the Social Welfare (Supplementary Welfare Allowances) Act 1975 shall be referred to and decided by the Minister after consultation with the

[1993 s190(3)]

Transitional provisions. [1993 s191(1)]	210.— (1) The Minister may by regulations make, in respect of any statute, order or regulation in force on 1 July 1977 and relating to any matter or thing dealt with or affected by this Chapter, any adaptation or modification which appears to the Minister to be necessary to enable that statute, order or regulation to have effect in conformity with this Chapter.	5
[1993 s191(2); 2005 (SW&P) s23 & Sch 1]	(2) Any proceedings for the recovery of a sum which, if the Social Welfare (Supplementary Welfare Allowances) Act 1975 had not been passed, could have been taken by a public assistance authority may be taken by the Executive.	10
[1993 s191(3); 2005 (SW&P) s23 & Sch 1]	(3) Any proceedings for the enforcement, variation or revocation of an order under section 29 of the Act of 1939 for the payment of money which by virtue of <i>section 208</i> is payable to the Executive may be brought and maintained by the Executive.	15

CHAPTER 10

Disability Allowance

Interpretation. [1996 s13; 2005 (SW&P) s25 & Sch 3]	211.— (1) In this Chapter— “institution” means a hospital, convalescent home or home for people suffering from physical or mental disability or ancillary accommodation, nursing home for the care and maintenance of dependent elderly people and any other similar establishment providing residence, maintenance or care where the cost of a person’s maintenance in that institution is being met in whole or in part by or on behalf of the Executive; “weekly means” means, subject to <i>Rule 1(1)</i> of <i>Part 2</i> of <i>Schedule 3</i> , the yearly means divided by 52 and the amount so calculated shall be rounded to the nearest €1 where it is not a multiple of 50 cent or €1.	20 25 30
[1996 s13; 2005 (SW&P) s25 & Sch 3]	(2) In this Chapter, references to means shall be read as references to means as calculated in accordance with the Rules contained in <i>Part 2</i> of <i>Schedule 3</i> .	
Entitlement to allowance. [1996 s13; 2005 (SW&P) s26 & Sch 4]	212.— (1) Subject to this Act, an allowance (“disability allowance”) shall be payable to a person— (a) who has attained the age of 16 years but has not attained pensionable age, (b) who is by reason of a specified disability substantially restricted in undertaking employment (in this Chapter referred to as “suitable employment”) of a kind which, if the person was not suffering from that disability, would be suited to that person’s age, experience and qualifications, whether or not the person is availing of a service for the training of disabled persons under section 68 of the Health Act 1970, and (c) whose weekly means, subject to <i>subsection (2)</i> , do not exceed the amount of disability allowance (including any	35 40 45

increases of that allowance) which would be payable to the person under this Chapter if that person had no means.

5 (2) Where the spouse of a claimant for disability allowance is not the claimant's qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under *section 299*, the means of the claimant shall be taken to be one-half the means. [1996 s13; 1997 s28(3)]

10 (3) Subject to *subsections (4), (5) and (6)*, a person shall not be entitled to receive disability allowance for any period during which that person is resident in an institution. [1996 s13; 2005 (SW&P) s8(1)]

15 (4) Subject to this Chapter, regulations may, subject to the conditions and in the circumstances that may be prescribed, provide for entitling to disability allowance a person who would be entitled to that allowance but for the fact that he or she is resident in an institution, where the person is temporarily resident elsewhere for— [1997 s22; 2000 s21(1)]

(a) a period of not less than 2 days a week, or

(b) any other period that may be prescribed.

20 (5) Notwithstanding *subsections (3) and (4)*, where a person who, on or after 1 August 1999, being a beneficiary of disability allowance, is subsequently admitted to an institution, that person shall, if at the time of admittance to the institution, he or she would otherwise be entitled to receive disability allowance, continue to be so entitled. [1999 s20]

25 (6) Subject to *subsection (7)*, a person who would be entitled to disability allowance but for *subsection (3)* shall be entitled to a weekly payment of €35 (in this Chapter referred to as the “disability allowance personal expenses rate”). [2005 (SW&P) s8]

(7) A payment under *subsection (6)* shall be payable— [2005 (SW&P) s8]

30 (a) at the disability allowance personal expenses rate where the rate of disability allowance, calculated in accordance with *section 213*, that would be payable but for *subsection (3)*, is greater than or equal to the disability allowance personal expenses rate, or

35 (b) at a rate equivalent to that rate of disability allowance, calculated in accordance with *section 213*, that would be payable but for *subsection (3)*, where that rate is less than the disability allowance personal expenses rate.

40 (8) The conditions under which a person shall be regarded for the purposes of this section as being substantially restricted in undertaking suitable employment by reason of a specified disability shall be specified by regulations. [1996 s13; 2005 (SW&P) s26 & Sch 4]

(9) A person shall not be entitled to disability allowance under this section unless he or she is habitually resident in the State at the date of the making of the application for that allowance. [2004 (MP) s17 & Sch 1]

45 **213.—**(1) The rate (in this Chapter referred to as “the scheduled rate”) of disability allowance shall be the weekly rate set out in *column (2) of Part 1 of Schedule 4* increased by— Rate of allowance (including increases for qualified adult and qualified children).

(a) the amount set out in *column (3)* of that Part for any period during which the claimant or beneficiary has a [1996 s13]

	qualified adult, subject to the restriction that, except where regulations otherwise provide, the claimant or beneficiary shall not be entitled to an increase under this paragraph in respect of more than one person,	
	(b) the appropriate amount set out in <i>column (4)</i> of that Part in respect of each qualified child who normally resides with the claimant or beneficiary,	5
	(c) the amount set out in <i>column (6)</i> of that Part where the claimant or beneficiary is living alone, and	
[2003 (MP) s6(1)(b)]	(d) the amount set out in <i>column (8)</i> of <i>Part 1 of Schedule 4</i> where the claimant or beneficiary is ordinarily resident on an island.	10
[1996 s13; 2001 s37(1)]	(2) (a) Disability allowance shall be payable—	
	(i) where the weekly means of the claimant or beneficiary do not exceed €2.50, at the scheduled rate, and	15
	(ii) subject to <i>paragraph (b)</i> , where the weekly means exceed €2.50, at the scheduled rate reduced by €2.50 for each amount (if any) of €2.50 by which those weekly means exceed €2.50, any fraction of €2.50 in those weekly means being treated for this purpose as €2.50.	20
	(b) Where the rate calculated under <i>paragraph (a)(ii)</i> at which, but for this paragraph, the allowance would be payable is less than €2.50, the allowance shall not be payable.	25
[1996 s13; 1997 s28(4) & Sch F]	(3) Any increase of disability allowance payable under <i>subsection (1)(b)</i> in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the claimant or beneficiary is not a qualified adult and <i>subsection (1)(b)</i> shall be read and have effect accordingly.	30
Disqualification. [1996 s13]	214. —Regulations may provide for disqualifying a person for receiving disability allowance where that person fails without good cause to attend for or to submit himself or herself to such medical or other examination as may be required in accordance with the regulations, or to observe any prescribed rules of behaviour.	35

CHAPTER 11

Farm Assist

Interpretation. [1999 s15; 2005 (SW&P) s25 & Sch 3]	215. —(1) In this Chapter and in <i>Schedule 3</i> —	40
	“farming” means farming farm land including commonage, which—	
	(a) is owned, and used for the purposes of husbandry,	
	(b) is leased, and used for the purposes of husbandry, or	
	(c) does not form part of a larger holding and is used for the purposes of husbandry,	45

by the claimant;

“farmer” means a person engaged in farming;

“husbandry” means the working of the land with the object of extracting the traditional produce of the land;

5 “weekly means” means, subject to *Rule 1(1) of Part 2 of Schedule 3*, [2000 s17 & Sch E] the yearly means divided by 52 and the amount so calculated shall be rounded up to the nearest €1 where it is a multiple of 50 cent but not also a multiple of €1 and shall be rounded to the nearest €1 where it is not a multiple of 50 cent or €1.

10 (2) For the purposes of this Chapter, means shall be calculated in accordance with the Rules contained in *Part 2 of Schedule 3*. [1999 s15; 2005 (SW&P) s25 & Sch 3]

216.—(1) Subject to this Act and to regulations made under this Act, an allowance (in this Act referred to as “farm assist”) shall be payable to a farmer where— Entitlement to allowance. [1999 s15]

15 (a) he or she has attained the age of 18 years and is under pensionable age, and

(b) his or her weekly means, subject to *subsection (2)*, do not exceed the amount of farm assist (including any increases of farm assist) that would be payable to the farmer under this Chapter if he or she had no means.

20 (2) Where the spouse of a claimant for farm assist is not the claimant’s qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under *section 299*, the means of the claimant shall be taken to be one-half the means. [1999 s15]

25 **217.**—(1) Subject to this Chapter, the rate (in this Chapter referred to as “the scheduled rate”) of farm assist shall be the weekly rate set out in *column (2) at reference 11 in Part 1 of Schedule 4*, increased by— Rate of allowance (including increases for qualified adult and qualified children). [1999 s15]

30 (a) the amount set out in *column (3) of that Part* opposite that reference for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that, except where regulations otherwise provide, the claimant or beneficiary shall not be entitled for the same period to an increase of the allowance under this subparagraph in respect of more than one person, and

35 (b) the appropriate rate set out in *column (4) of that Part* opposite that reference in respect of each qualified child who normally resides with the claimant or beneficiary.

(2) Farm assist shall be payable— [1999 s15; 2001 s37(3)]

40 (a) where the weekly means of the claimant or beneficiary are less than €1, at the scheduled rate,

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

45 (c) where the 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 but, where the weekly

means of the claimant or beneficiary are equal to or exceed the scheduled rate, no farm assist shall be payable.

Amount of payment in respect of qualified child in certain cases. [1999 s15]	218. —Any increase of farm assist payable under <i>section 217</i> in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the claimant or beneficiary is not a qualified adult, and <i>section 217</i> shall be read and have effect accordingly.	5
Total amount payable to a couple. [1999 s15]	219. —(1) Where one of a couple is entitled to disability benefit, unemployment benefit, injury benefit, disablement pension, old age (contributory) pension, old age (non-contributory) pension, retirement pension or invalidity pension and the other is entitled to farm assist, the total of the amount payable to them by way of that benefit or pension and farm assist (in this subsection referred to as “the relevant amount”) shall not exceed the total amount of benefit or pension, as the case may be, (including any increases thereof, where appropriate), or the total amount of farm assist (including any increases thereof, where appropriate), 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 farm assist, as the case may be, and, if the relevant amount would but for this subsection exceed the greater amount, the amount of farm assist payable to the spouse who is entitled to such farm assist shall be reduced by the amount of the excess.	10 15 20 25
[1999 s15; 2001 s16(1)(b)]	(2) Where one of a couple is entitled to unemployment assistance, pre-retirement allowance or farm assist and the other is entitled to farm assist, the total amount payable to them under this Act shall not exceed the amount which would be payable if only one of them was entitled to be paid unemployment assistance, pre-retirement allowance or farm assist, as the case may be, (including any increases thereof, where appropriate), and each of them shall be entitled to be paid one-half of the amount which would be payable to him or her if only one of the couple were in receipt of the assistance or allowance.	30
[1999 s15]	(3) 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 husband and wife.	35
Disqualifications. [1999 s15; 2005 (SW&P) s13(a)]	220. —(1) A farmer shall be disqualified for receiving farm assist while he or she is— (a) employed during any week under a scheme administered by An Foras Aiseanna Saothair and known as Community Employment, (b) employed during any week under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme, (c) participating in a scheme administered by the Minister and known as Back To Work Allowance, (d) participating in a scheme administered by the Minister and known as Part-Time Job Incentive, or	40 45 50

(e) participating in a scheme administered by the Minister and known as Area Enterprise Allowance.

5 (2) A farmer shall not be entitled to receive farm assist while attending a course of study, other than in the circumstances and subject to the conditions and for the periods that may be prescribed. [1999 s15]

(3) In *subsections (2) and (4)* “academic year”, “a course of study” and “institution of education” have the meanings given by *section 148(2)*. [1999 s15]

10 (4) In this section, a farmer shall be regarded, subject to regulations made under *subsection (2)*, as attending a course of study— [1999 s15]

15 (a) for 3 months immediately following the completion or the leaving by that person of second level education or the completion of the Leaving Certificate Examination of the Department of Education and Science (whichever is the later),

(b) for the duration of an academic year, or

20 (c) for the period immediately following the completion of one academic year, other than the final academic year of a course of study, up to the beginning of the following academic year.

PART 4

CHILD BENEFIT

25 **221.**—(1) A child shall be a qualified child (in this Part referred to as “a qualified child”) for the purposes of child benefit where— [1993 s192(1); 1995 s5(2)]

(a) he or she is under the age of 16 years, or

(b) having attained the age of 16 years he or she is under the age of 19 years and—

30 (i) is receiving full-time education, the circumstances of which shall be specified in regulations, or

(ii) is, by reason of physical or mental infirmity, incapable of self-support and likely to remain so incapable for a prolonged period, and

(c) he or she is ordinarily resident in the State, and

35 (d) he or she is not detained in a reformatory or an industrial school and is not undergoing imprisonment or detention in legal custody.

(2) Notwithstanding *subsection (1)*, a child who resides with a qualified person and that person’s spouse while the qualified person or that person’s spouse— [1993 s192(2); 1996 s5(5)]

40 (a) being a member of the Defence Forces or a civil servant in the civil service of the Government or the State, is in the service, outside the State, of the Government, the State or an international organisation,

(b) is a volunteer development worker, or

(c) is an insured person employed outside the State in respect of whom employment contributions under *Part 2* are payable in accordance with regulations made under *section 31*,

5

shall be a qualified child for the purposes of this Part.

Qualified person.

[1993 s193(1); 2004 (MP) s17 & Sch 1]

222.—(1) Subject to *subsection (3)*, a person with whom a qualified child normally resides shall be qualified for child benefit in respect of that child and is in this Part referred to as “a qualified person”.

10

[1993 s193(2)]

(2) For the purpose of *subsection (1)* —

(a) the Minister may make rules for determining with whom a qualified child shall be regarded as normally residing,

(b) a qualified child shall not be regarded as normally residing with more than one person, and

15

(c) where a qualified child is resident in an institution and contributions are made towards the cost of his or her maintenance in that institution, that child shall be regarded as normally residing with the person with whom in accordance with the rules made under *paragraph (a)* he or she would be determined to be normally residing if he or she were not resident in an institution but, where the person with whom the child would thus be regarded as normally residing has abandoned or deserted the child, the child shall be regarded as normally residing with the head of the household of which he or she would normally be a member if he or she were not resident in an institution.

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[2004 (MP) s17 & Sch 1]

(3) A qualified person, other than a person to whom *section 221(2)(a), (b) or (c)* applies, shall not be qualified for child benefit under this section unless he or she is habitually resident in the State at the date of the making of the application for child benefit.

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Amounts of child benefit.

[1993 s194(1); 1994 s5(1)]

223.—(1) Subject to this Act, a person who is qualified for child benefit shall, so long as he or she remains so qualified, be paid out of moneys provided by the Oireachtas a monthly benefit of the amount set out in *column (1) of Part 6 of Schedule 4* in respect of each of the first 2 qualified children and, in addition, the amount set out in *column (2) of that Part* in respect of each qualified child (if any) in excess of 2.

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[1993 s194(2); 1998 s6(2)]

(2) Notwithstanding anything in this Part, the monthly benefit payable to a qualified person in respect of a qualified child whose birth was part of—

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(a) a multiple birth of 2 children, of whom 2 remain qualified, shall be 150 per cent of the amount as set out in *Part 6 of Schedule 4*, or

45

(b) a multiple birth of 3 or more children, of whom—

(i) not less than 3 remain qualified, shall be 200 per cent of the amount as set out in *Part 6 of Schedule 4*,

(ii) not less than 2 remain qualified, shall be 150 per cent of the amount as set out in *Part 6 of Schedule 4*, and

(iii) one remains qualified, shall be payable at the amount set out in *Part 6 of Schedule 4*.

5 (3) Subject to this Act, a person who is qualified for child benefit shall be paid a grant in accordance with *subsection (4)* in respect of 2 or more qualified children where the birth of each child was part of the same multiple birth. [1993 s194(3)]

10 (4) The amount of the grant payable in accordance with *subsection (3)* shall be €635. [1993 s194(4) 2001 s37 & Sch F]

(5) *Subsection (3)* applies in the case of any multiple birth occurring on or after 1 July 1993. [1993 s194(5)]

15 (6) A grant under *subsection (3)* shall become payable on the date of birth of the last-born of the qualified children of the multiple birth. [1993 s194(6)]

(7) Subject to this Act, a person who is qualified for child benefit shall be paid a grant of €635 in respect of a multiple birth of 2 or more qualified children, on the 4th and 12th anniversary of the birth of the last born of that multiple birth. [1996 s5; 2001 s37 & Sch F]

20 (8) Payment of a grant under *subsection (3)* or (7) shall be in addition to any child benefit payable by way of a monthly benefit under this Part in respect of the children concerned. [1993 s194(7); 1998 s6(2)]

25 **224.**—Income from child benefit shall not be reckoned for the purpose of any abatement provisions in any enactment relating to superannuation or pensions. Exclusion of child benefit for superannuation or pension purposes.

[1993 s195]

225.—Where a qualified person is for the time being absent from the State, an application on his or her behalf in respect of child benefit may be accepted from such person as the Minister thinks fit. Payments to persons absent from State.

[1993 s196]

PART 5

30 RESPITE CARE GRANT

226.—(1) In this Part— Interpretation.

“carer” means a person ordinarily resident in the State who has attained the age of 16 years and— [2005 (SW&P) s7(1)]

35 (a) is in receipt of or entitled to carer’s benefit or carer’s allowance, or

(b) is a prescribed relative within the meaning of *section 179* in respect of whom an allowance is payable under *section 183*, or

40 (c) is providing full-time care and attention to a person who is in receipt of an increase of disablement pension under *section 78* in respect of the need for constant attendance, or

	(d) resides with and has provided, is providing or is likely to provide full-time care and attention for such periods and on such date as may be prescribed to a relevant person, or	
	(e) subject to the conditions and in the circumstances that may be prescribed, does not reside with but has provided, is providing or is likely to provide full-time care and attention for such periods and on such date as may be prescribed to a relevant person;	5
	“institution” means a hospital, convalescent home or home for people suffering from physical or mental disability or ancillary accommodation, nursing home for the care and maintenance of dependent elderly people or any other similar establishment providing residence, maintenance or care;	10
[2005 (SW&P) s7(1)]	“relevant person” means a person who is ordinarily resident in the State and is so incapacitated that he or she requires full-time care and attention within the meaning of <i>subsection (2)</i> .	15
[2005 (SW&P) s7(1)]	(2) For the purposes of <i>subsection (1)</i> , a relevant person shall be regarded as requiring full-time care and attention where—	
	(a) the person is so incapacitated that he or she requires from another person—	20
	(i) continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or	
	(ii) continual supervision in order to avoid danger to himself or herself,	25
	and	
	(b) the nature and extent of the person’s incapacity has been certified in the prescribed manner by a medical practitioner.	30
[2005 (SW&P) s7(1)]	(3) The Minister may make regulations specifying the circumstances and conditions under which a person is to be regarded as providing full-time care and attention to a relevant person.	
Entitlement to respite care grant. [2005 (SW&P) s7(1)]	227.—(1) Subject to <i>subsections (2) and (5)</i> , an annual grant (in this Act referred to as a “respite care grant”) in the amount of €1,000 shall be payable to a carer in respect of each relevant person in his or her care and only one such annual grant shall be payable in respect of a relevant person.	35
[2005 (SW&P) s7(1)]	(2) Subject to <i>subsections (3) and (4)</i> , a grant shall not be payable to a carer where—	40
	(a) he or she engages in employment or self-employment, or	
	(b) he or she is entitled to or in receipt of unemployment benefit or unemployment assistance, or	
	(c) he or she is a person to whom article 58 of the Regulations of 1996 applies in respect of proven unemployment, or	45

5 (d) he or she is entitled to or is in receipt of an allowance for domiciliary care of children under section 61 of the Health Act 1970 (other than where the carer is also in receipt of or entitled to carer's benefit or carer's allowance), or

(e) the relevant person is resident in an institution.

10 (3) The Minister may by regulations provide that a carer may engage in employment or self-employment subject to the limitations in relation to the hours or remuneration that may be prescribed and subject to the conditions and in the circumstances that may be prescribed. [2005 (SW&P) s7(1)]

15 (4) The Minister may by regulations provide for entitling to a respite care grant a carer who would be entitled to the grant but for the fact that the relevant person is temporarily resident in an institution or temporarily residing with another person. [2005 (SW&P) s7(1)]

(5) Regulations made under this section may provide for the date in each year on which a respite care grant shall become payable to a carer. [2005 (SW&P) s7(1)]

20 **228.—**(1) A relevant person in respect of whose full-time care and attention a carer is entitled to a respite care grant shall attend for or submit to any medical or other examination that may be required in accordance with regulations. Medical examination. [2005 (SW&P) s7(1)]

25 (2) Regulations under *subsection (1)* may provide for disqualifying a person from receiving a respite care grant where the relevant person, in respect of whose full-time care and attention the grant is payable, fails without good cause to attend for or to submit to any medical or other examination that may be required in accordance with those regulations. [2005 (SW&P) s7(1)]

PART 6

30 FAMILY INCOME SUPPLEMENT

229.—In this Part—

Interpretation.

“child”, in relation to a family, means a qualified child as defined in *section 2(3)* who normally resides with that family; [1993 s197; 2005 (SW&P) s26 & Sch 4]

“family” means—

35 (a) a person who is engaged in remunerative full-time employment as an employee,

(b) where that person is living with or wholly or mainly maintaining his or her spouse, that spouse, and

(c) a child or children;

40 “family income supplement” shall be read in accordance with *section 230*;

“spouse” includes—

(a) a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State, or

- (b) a man and woman who are not married to each other but are cohabiting as husband and wife;

“weekly family income” means, subject to regulations under *section 234*, the amount of income received in a week by a family, less—

- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001), 5
- (b) any income tax payable under the Income Tax Acts as defined in section 1 of the Act of 1997 applicable to Schedule E, 10
- (c) any contributions payable under *section 13(2)(b)* or regulations under *section 14*,
- (d) any contributions payable under section 5 of the Health Contributions Act 1979,
- (e) any contributions payable under section 16 of the Youth Employment Agency Act 1981, or 15
- (f) any income of a person who in respect of that family is a child.

Entitlement to supplement.

[1993 s198; 2004 s4(1)]

230.—Subject to this Act, an allowance (in this Act 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— 20

- (a) in the case of a family which includes only 1 child, €446,
- (b) in the case of a family which includes 2 children, €472,
- (c) in the case of a family which includes 3 children, €497, 25
- (d) in the case of a family which includes 4 children, €522,
- (e) in the case of a family which includes 5 children, €554,
- (f) in the case of a family which includes 6 children, €580,
- (g) in the case of a family which includes 7 children, €601, or
- (h) in the case of a family which includes 8 or more children, €623. 30

Rate of supplement.

[1993 s199(1)]

231.—(1) Subject to this Part, the weekly rate of family income supplement shall be 60 per cent of the amount by which the weekly family income is less than the amount appropriate in the particular case under *section 230*. 35

[1993 s199(2); 2001 s37 & Sch F]

(2) In calculating the weekly rate of family income supplement under *subsection (1)*, any fraction of €1 shall be treated as €1 and where the weekly rate so calculated is below a prescribed amount, the supplement shall be payable at the prescribed amount.

Period of payment.

[1993 s200(1)]

232.—(1) Family income supplement shall be payable for a period of 52 weeks (or such other period as may be prescribed) beginning 40

on the date on which it is receivable in accordance with regulations and, except where regulations otherwise provide, the weekly rate of family income supplement payable shall not be affected by any change of circumstances during that period.

5 (2) Where family income supplement is payable in respect of a particular family for any period, no person who was included in that family at the beginning of that period shall be regarded as a member of any other family during that period. [1993 s200(2)]

10 **233.**—Family income supplement shall be payable to the member of the family (other than a child) who is engaged in remunerative full-time employment as an employee or, where there are 2 members of the family so engaged, to the member whose weekly income as calculated for the purposes of family income supplement forms the greater part of the weekly family income as so calculated. Person to whom supplement is payable. [1993 s201]

15 **234.**—(1) The Minister may make regulations for the purpose of giving effect to this Part. Regulations. [1993 s202(1)]

(2) Regulations under this section may, in particular and without prejudice to the generality of *subsection (1)*: [1993 s202(2)]

20 (a) provide for the manner of calculation or estimation of weekly family income;

(b) provide, in calculating or estimating weekly family income, for the disregarding in whole or in part of any amount of that income from any source specified in the regulations;

25 (c) determine the circumstances in which a person shall be regarded as being engaged in remunerative full-time employment as an employee;

(d) require employers to give such information as the Minister may require for the purpose of determining a claim for family income supplement.

30 (3) The Minister may by regulations vary— [1993 s202(3)]

(a) the amounts specified in *section 230*, and

(b) the percentage rate specified in *section 231(1)*,

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

40 **235.**—(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. Receipt of claims. [1993 s203(1)]

(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 that supplement, and

- (b) that benefit or assistance is in excess of the amount which would have been granted to that person if he or she had been in receipt of family income supplement, 5

[1993 s203(2)] the Minister may reduce any such supplement which is or may become payable to that person by the amount of the excess and that amount shall be treated as having been paid on account of the family income supplement. 10

PART 7

CONTINUED PAYMENT FOR QUALIFIED CHILDREN

Entitlement to payment. 236.—(1) Subject to this Act, a continued payment for qualified children (in this Part referred to as a “continued payment”) shall be payable out of moneys provided by the Oireachtas to a person— 15
[1996 s7(1), 22 & Sch C 1997 s7]

- (a) (i) other than a person who is engaged in short-time employment, who—

(I) has been in receipt of unemployment benefit, unemployment assistance, or unemployment benefit and unemployment assistance in respect of not less than 312 days of unemployment in— 20

(A) a period of interruption of employment, within the meaning of *section 62(5)(c)*, where the person is in receipt of unemployment benefit, or 25

(B) a continuous period of unemployment, within the meaning of *section 141(3)*, where the person is in receipt of unemployment assistance,

in the immediately preceding period, and 30

(II) is in receipt of unemployment benefit or unemployment assistance which includes an increase in respect of at least one qualified child who normally resides with the person and is not a person to whom *section 66(3)*, *146* or *299* (as the case may require) applies, 35

or

- (ii) who is engaged in employment under a scheme administered by an Foras Áiseanna Saothair and known as Community Employment and who, if he or she were in receipt of unemployment benefit or unemployment assistance would be entitled to an increase in respect of at least one qualified child who normally resides with the person and would not be a person to whom *section 66(3)*, *146* or *299* (as the case may require) applies, 40 45

and

5 (b) who, in the case of a person to whom *paragraph (a)(i)* or
(ii) applies, ceases, by virtue of having become engaged
in employment which is expected to continue for a mini-
mum of 4 weeks, to be entitled to unemployment benefit
or unemployment assistance or ceases to be engaged in
Community Employment.

(2) In this Part, “employment” means insurable employment or [1996 s7(1); 1997 s7]
insurable self-employment, other than—

10 (a) employment under a scheme administered by an Foras
Aiseanna Saothair and known as Community
Employment,

(b) employment under any scheme which is funded by an
Foras Aiseanna Saothair, other than a scheme known as
the Jobs Initiatives Scheme, or

15 (c) employment of a seasonal nature.

20 **237.**—(1) Subject to *subsection (2)*, the weekly rate of continued Weekly rate of
payment shall be the amount payable to the person by way of an payment.
increase in unemployment benefit or unemployment assistance (as [1996 s7(1)]
the case may require) in respect of each qualified child normally
residing with the person immediately before that person takes up
employment.

25 (2) In the case of a person who immediately before he or she [1996 s7(1)]
takes up employment was in receipt of unemployment assistance,
where the rate calculated under this section exceeds the rate of
unemployment assistance which was payable to the person, the con-
tinued payment shall be payable at that rate of unemployment
assistance.

30 **238.**—A continued payment shall be payable for the period during Period of payment.
which the person is engaged in employment, up to a maximum of 13 [1996 s7(1)]
weeks, beginning on the date on which it is receivable in accordance
with regulations and the weekly rate of continued payment shall not
be affected by any change of circumstances during that period.

35 **239.**—(1) Except as provided for in *subsection (2)*, receipt of a Disqualification.
continued payment by a person shall be a disqualification for the [1996 s7(1)]
receipt by that person of family income supplement.

40 (2) Where a person is in receipt of or entitled to a continued pay- [1996 s7(1)]
ment and would but for *subsection (1)* be qualified for the receipt of
family income supplement, the person may be paid the family income
supplement for any period during which the rate of supplement pay-
able would be greater than the rate of continued payment and the
Minister may reduce any such supplement which is or may become
payable to that person by the amount of the continued payment
which shall be treated as having been paid on account of the family
income supplement.

45 **240.**—(1) The Minister may make regulations for the purpose of Regulations.
giving effect to this Part. [1996 s7(1)]

(2) Regulations under this section may, in particular and without [1996 s7(1)]
prejudice to the generality of *subsection (1)*, require employers to

give such information as the Minister may require for the purpose of determining a claim for a continued payment.

PART 8

EU PAYMENTS

Certain EU payments — entitlement to island allowance. [2005 (SW&P) s10(b)]	241. —Where a person is ordinarily resident on an island and entitled to or in receipt of a payment from another Member State corresponding to a payment under—	5
	(a) <i>section 81, 82, 111, 113, 116, 126, 157, 165 or 175</i> and he or she has attained pensionable age, or	
	(b) <i>section 77, 121 or 213,</i>	10
	he or she shall be entitled to a weekly allowance of €12.70 or any amount that may be prescribed.	

PART 9

GENERAL PROVISIONS RELATING TO SOCIAL INSURANCE, SOCIAL ASSISTANCE AND INSURABILITY 15

Preliminary

Definition. [1993 s204; 1996 s7(3) & Sch C]	242. —Except where otherwise provided, in this Part— “benefit” means—	
	(a) any benefit described in <i>section 39(1),</i>	
	(b) any assistance described in <i>section 139(1),</i>	20
	(c) child benefit,	
	(d) family income supplement, or	
	(e) continued payment for qualified children.	

CHAPTER 1

Claims and Payments 25

Claims. [1993 s205(1)]	243. —(1) It shall be a condition of any person’s right to any benefit that he or she makes a claim for that benefit in the prescribed manner.	
[1993 s205(2); 2005 (SW&P) s26 & Sch 4]	(2) Where a person fails to make a claim for benefit (including any increases of that benefit) within the prescribed time, he or she shall be disqualified for payment—	30
	(a) in the case of old age (contributory) pension, retirement pension, widow’s (contributory) pension, widower’s (contributory) pension or orphan’s (contributory) allowance, in respect of any period more than 12 months before the date on which the claim is made,	35

- (b) in the case of invalidity pension, in respect of any period more than 6 months before the date on which the claim is made,
- 5 (c) in the case of unemployment benefit, health and safety benefit, adoptive benefit, occupational injuries benefit (other than disablement benefit under *section 75*, an increase in disablement benefit under *sections 77 and 78* or death benefit by way of pension under *sections 81, 82 and 83*), carer's benefit, bereavement grant, widowed parent grant, unemployment assistance, pre-retirement allowance, old age (non-contributory) pension, blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, orphan's (non-contributory) pension, one-parent family payment, carer's allowance, farm assist and family income supplement, in respect of
10 any period before the date on which the claim is made,
- (d) in the case of disability benefit, or disability allowance, in respect of any period more than 7 days before the date on which the claim is made,
- 20 (e) in the case of maternity benefit—
- (i) where the claim is made before the end of the week of confinement, in respect of any period before the beginning of the week in which the claim is made,
- 25 (ii) where the claim is made after the end of the week of confinement, in respect of any period before the beginning of the 7th week before the week in which the claim is made not being earlier than the beginning of the week of confinement,
- and
- 30 (f) in the case of disablement benefit under *section 75*, an increase in disablement benefit under *section 77* or *78* or death benefit by way of pension under *section 81, 82* or *83*, in respect of any period more than 3 months before the date on which the claim is made.
- 35 (3) Notwithstanding *paragraphs (c), (d), (e) and (f) of subsection (2)*, in the case of a benefit to which those paragraphs apply, where a claimant proves to the satisfaction of a deciding officer or an appeals officer that— [1998 s21(b)]
- 40 (a) on a date earlier than the date on which his or her claim for benefit (including any increase of benefit) was made, apart from satisfying the condition of making a claim, the claimant was entitled to benefit, and
- (b) throughout the period between the earlier date and the date on which his or her claim was made there was good
45 cause for the delay in making a claim,
- he or she shall not be disqualified for receiving payment in respect of any such period referred to in *paragraph (a)* which does not exceed 6 months before the date on which the claim is made.
- 50 (4) A person who fails to make a claim for child benefit within the prescribed time shall be disqualified for payment in respect of any day before the date on which the claim is made unless a deciding [1997 s32]

	officer or appeals officer is satisfied that there was good cause for delay in making the claim, in which case, child benefit shall be payable from the first day of the month following that in which the claimant became a qualified person within the meaning of <i>section 222</i> .	5
[1997 s32]	(5) A claimant for disability benefit or injury benefit, who fails or neglects for a period exceeding 6 months to submit or to continue to submit medical or other satisfactory evidence of the incapacity, shall be disqualified for receiving benefit in respect of any such period but where a deciding officer or an appeals officer is satisfied that there was good cause for delay in submitting or continuing to submit evidence of incapacity, the deciding officer or appeals officer may extend the period of 6 months to the date on which the evidence is submitted.	10
[1997 s32]	(6) Where a person fails to make a claim for continued payment for qualified children within the prescribed time, he or she shall be disqualified for receiving that payment.	15
[1997 s32; 1998 s21(c)]	(7) Notwithstanding <i>subsection (2)</i> , the periods specified in that subsection in respect of which payment may be made before the date on which a claim is made may, subject to the conditions and in the circumstances that may be prescribed, be extended by a deciding officer or an appeals officer, as the case may be.	20
[1993 s205(3)]	(8) Regulations may provide for provisionally allowing a claim for benefit before the date on which the claimant will actually become entitled to that benefit, in the manner and subject to the conditions that may be prescribed.	25
[1993 s205(4)]	(9) For the purposes of this Act, any claim or notice made or sent by post or by any other method is deemed to have been made or given on the date of receipt of the claim or notice by an officer of the Minister.	30
Payments.	244.— (1) Regulations may provide for—	
[1993 s206(1)]	(a) the time and manner of payment of benefit,	
	(b) the information and evidence to be given by a claimant or beneficiary when applying for payment of benefit, and	
	(c) in consultation with An Post, the payment of specified benefits through An Post.	35
[1993 s206(2)]	(2) Regulations made under this section as to the time of payment of benefit may provide—	
	(a) notwithstanding anything contained in this Act—	
	(i) in the case of specified benefits (other than child benefit), for adjusting the commencement and termination of that benefit, or for changes in the rate of that benefit, so that payments shall not be made in respect of periods less than a week or at different rates for different parts of a week,	40 45
	(ii) in the case of child benefit, for adjusting the commencement and termination of that benefit, or for changes in the rate of that benefit, so that payments	

shall not be made at different rates for different parts of a month,

5 (b) for extinguishing the right to any sum payable by way of benefit where payment of that benefit is not obtained within 6 months or any shorter period that may be prescribed from the time at which that sum is receivable in accordance with regulations.

10 (3) Notwithstanding this Act, regulations may provide for payment of benefit, in the circumstances and subject to the conditions and for the periods that may be prescribed, to a claimant or beneficiary who has attained pensionable age. [1996 s35]

15 **245.—**(1) Where a person makes a claim for any benefit in accordance with *section 243* and the payment of that claim is delayed for a period exceeding 12 months due solely or mainly to circumstances within the control of the Department of Social and Family Affairs and the person has not contributed to the delay, regulations may provide for a payment to be made in respect of the loss of purchasing power, subject to the conditions and in the circumstances that may be prescribed. [1998 s11] Payment in respect of loss of purchasing power.

20 (2) In the case of a person to whom *subsection (1)* applies, the Minister may make regulations to provide for payment of an amount of costs, subject to the minimum and maximum limits that may be prescribed, actually and necessarily incurred by that person. [1998 s11]

246.—(1) Regulations may provide—

25 (a) for enabling a person to whom benefit is payable to nominate another person to receive that benefit on his or her behalf, [1993 s207(1); 1999 s17 & Sch D] Payment to persons other than claimant or beneficiary.

30 (b) for enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who is under 16 years of age or who may be or become unable for the time being to act, any right or power which the claimant or beneficiary may be entitled to exercise under this Act and for authorising a person so appointed to receive and deal with any sum payable by way of benefit on behalf of the claimant or beneficiary, 35

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

40 (i) in respect of disability benefit, unemployment benefit, injury benefit, old age (contributory) pension, retirement pension, invalidity pension, unemployment assistance, farm assist, pre-retirement allowance, old age (non-contributory) pension, blind pension or disability allowance, so much of the benefit, pension, 45 assistance or allowance, as the Minister considers reasonable in the circumstances but in no case shall the amount to be received and dealt with as provided for in this subparagraph exceed the total amount payable less the amount payable by virtue of *section 43(1), 66(1), 76(1), 112(1), 117(1), 122(1), 142(1)(b)(i), 150(1)(a), 158(1)(a), 213(1)(a)* or *217(1)(a)*, as appropriate, 50

(ii) in respect of widow's (contributory) pension or widower's (contributory) pension so much of the pension as is payable by virtue of *section 127(1)*, or in respect of one-parent family payment, so much of the payment as is payable in respect of a qualified child by virtue of *section 175(1)*, 5

(iii) in respect of disablement pension, child benefit or family income supplement, so much of the pension, benefit or supplement as the Minister considers reasonable in the circumstances, 10

(d) in connection with the death of any person, for enabling a claim for benefit to be made or proceeded with in the person's name, subject to the conditions that may be prescribed.

[1993 s207(2)] (2) 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 benefit, and that in any such case the sum may be paid to or distributed among the persons appearing in the manner provided by the regulations to be entitled to receive that sum or any part of that sum, either as being persons beneficially entitled to that sum 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 those persons excluding the others. 15 20

Statutory declarations. [1993 s208] **247.**—Regulations prescribing a form of application for any purpose may require that all or any of the statements made by the claimant in the form be verified by a statutory declaration and that the statutory declaration may be taken and received by a deciding officer or by any other officer of the Minister or any other person authorised by the Minister in that behalf. 25 30

Provision with respect to habitual residence. [2004 (MP) s17 & Sch 1] **248.**—(1) For the purpose of each provision of this Act specified in *subsection (3)*, it shall be presumed, until the contrary is shown, that a person is not habitually resident in the State at the date of the making of the application concerned unless the person has been present in the State or any other part of the Common Travel Area for a continuous period of 2 years ending on that date. 35

[2004 (MP) s17 & Sch 1] (2) In *subsection (1)* “other part of the Common Travel Area” means the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man.

[2004 (MP) s17 & Sch 1] (3) The provisions of this Act referred to in *subsection (1)* are *sections 141(9), 155(c), 164(3), 169(5), 174(6), 180, 192, 212(9) and 222(3)*. 40

CHAPTER 2

Provisions Relating To Entitlement

Avoidance of multiple payments. [1993 s209(1); 2005 (SW&P) s26 & Sch 4] **249.**—(1) Where, but for this subsection, more than one of the following would be payable to or in respect of a person in respect of the same period, only one shall be paid— 45

- (a) any benefit specified in *section 39(1)* other than death benefit by way of a grant in respect of funeral expenses, bereavement grant or widowed parent grant,
- 5 (b) any assistance specified in *section 139(1)* other than supplementary welfare allowance or widowed parent grant, or
- (c) infectious diseases maintenance allowance.
- (2) Where, but for this subsection, more than one of the following would be payable to or in respect of a qualified child in respect of the same period, only one shall be paid— [1993 s209(2); 2005 (SW&P) s26 & Sch 4]
- 10 (a) any benefit specified in *section 39(1)* other than death benefit by way of a grant in respect of funeral expenses, bereavement grant or widowed parent grant,
- 15 (b) any assistance specified in *section 139(1)* other than supplementary welfare allowance or widowed parent grant,
- (c) infectious diseases maintenance allowance,
- (d) any increase in a benefit referred to in *paragraph (a)* in respect of a qualified adult,
- 20 (e) any increase in assistance referred to in *paragraph (b)* in respect of a qualified adult,
- (f) any increase in a benefit referred to in *paragraph (a)* in respect of a qualified child, or
- (g) any increase in assistance referred to in *paragraph (b)* in respect of a qualified child.
- 25 (3) For the purposes of this section— [1993 s209(3); 1996 s15(4) & Sch D]
- (a) an increase of infectious diseases maintenance allowance may be regarded as a separate payment, and
- 30 (b) any payment specified in *subsection (1)(a), (b) or (c)* payable in respect of a person may be regarded as such specified payment payable to that person.
- (4) Notwithstanding *subsections (1) and (2)*, the Minister may make regulations enabling more than one of the payments specified in those subsections to be paid to or in respect of a person in respect of the same period. [1993 s209(4)]
- 35 (5) Regulations made under *subsection (4)* may provide for reducing the amount of any payments specified in *subsections (1) and (2)* (including the partial payment of any such payments). [1993 s209(5)]
- (6) Where, but for this subsection, family income supplement and— [1993 s209(6); 1999 s17(2) & Sch D]
- 40 (a) unemployment benefit,
- (b) retirement pension,
- (c) unemployment assistance,
- (d) pre-retirement allowance, or

	(e) farm assist,	
	would be payable to or in respect of a person in respect of the same period, only one shall be paid.	
[1993 s209(7)]	(7) Where, but for this subsection, family income supplement would be payable to a person in a period of incapacity for work in respect of which disability benefit or injury benefit is also payable to that person, family income supplement shall not be payable to that person for that part of the period of incapacity for work which exceeds 6 weeks.	5
[1996 s7(2)]	(8) Where a continued payment for qualified children under <i>Part 7</i> is payable to a person for any period, any child who is regarded as a qualified child of that person shall not, for that period, be regarded as a qualified child for the purposes of entitling any person to an increase in benefit or assistance under this Act.	10
[1996 s7(2)]	(9) In the case of a person who is participating in an initiative administered by the Minister and known as Back to Work Allowance and who is not entitled to, or in receipt of, family income supplement, any sums paid by way of a continued payment for qualified children under <i>Part 7</i> shall be treated as paid on account of the allowance payable under the Back to Work Allowance initiative.	15 20
[1993 s209(8); 1999 s19 & Sch E]	(10) Where in respect of the death of a person, a bereavement grant and death benefit by way of a grant in respect of funeral expenses would, but for this subsection, be payable, only one such grant shall be payable.	
[1993 s209(9)]	(11) Regulations may provide for treating any payment specified in <i>subsection (1) or (2)</i> , which it is subsequently decided was not payable, as paid on account of any other payment specified in those subsections which it is decided was payable.	25
Payments after death.	250.—(1) In this section—	
[1993 s210(1); 2005 (SW&P) s26 & Sch 4]	“benefit” means—	30
	(a) disability benefit,	
	(b) unemployment benefit,	
	(c) injury benefit,	
	(d) carer’s benefit,	
	(e) old age (contributory) pension,	35
	(f) retirement pension,	
	(g) invalidity pension,	
	(h) unemployment assistance,	
	(i) old age (non-contributory) pension,	
	(j) blind pension,	40
	(k) unemployability supplement,	
	(l) supplementary welfare allowance,	

- (m) pre-retirement allowance,
- (n) disability allowance,
- (o) farm assist,
- 5 (p) widow's (contributory) pension or widower's (contributory) pension,
- (q) one-parent family payment,
- (r) death benefit under *section 81*,
- (s) carer's allowance;

“relevant person” has the meaning given to it by *section 99(1)* or, as
 10 appropriate, *section 179(1)*.

(2) Notwithstanding any provisions to the contrary in this Act— [1993 s210(2); 2004
 (MP) s5(1)]

- 15 (a) where a person who is in receipt of a benefit which includes an increase in respect of a qualified adult, or where the spouse is in receipt of any benefit in his or her own right, dies, payment of the benefit shall continue to be made for 6 weeks after the date of death and shall, during that period, be made to the person and subject to the conditions that may be prescribed,
- 20 (b) where a qualified child, in respect of whom an increase of a benefit is being paid, dies, the amount of the increase shall continue to be made for 6 weeks after the date of death,
- 25 (c) where a person is in receipt of one-parent family payment by virtue of having not more than one qualified child and that qualified child dies, payment of the one-parent family payment including the increase in respect of that child shall continue to be made for 6 weeks after the date of death of the qualified child,
- 30 (d) where a qualified adult in respect of whom an increase of benefit is being paid, dies, payment of the increase shall continue to be made for 6 weeks after the date of death,
- 35 (e) where a person is in receipt of carer's benefit or carer's allowance and the relevant person in respect of whom that carer is providing full-time care and attention dies, payment of the carer's benefit or carer's allowance shall continue to be made for 6 weeks after the death of the relevant person,
- 40 (f) in any case where payment is made by virtue of *paragraph (a)* or *(d)*, entitlement to widow's (contributory) pension, widower's (contributory) pension, widow's (non-contributory) pension, widower's (non-contributory) pension, orphan's (contributory) allowance, orphan's (non-contributory) pension, death benefit under *section 81* or *83* or entitlement to one-parent family payment by virtue of being a widow or widower, shall not begin until after
 45 the end of the period of 6 weeks mentioned in *paragraph (a)* or *(d)* except and to the extent that regulations otherwise provide.

Absence from State or imprisonment. [1993 s211(1)]	<p>251.—(1) Except where regulations otherwise provide, a person shall be disqualified for receiving any benefit under <i>Part 2</i> (including any increase of benefit) for any period during which that person—</p> <p>(a) is absent from the State, or</p> <p>(b) is undergoing penal servitude, imprisonment or detention in legal custody.</p>	5
[1993 s211(2)]	<p>(2) Except where regulations otherwise provide, where any benefit to which a person is entitled includes an increase under <i>section 43(1), 66(1), 76(1), 112(1), 117(1) or 122(1)</i> in respect of the husband or wife of that person, the increase shall not be payable for any period during which the husband or wife—</p> <p>(a) is absent from the State, or</p> <p>(b) is undergoing penal servitude, imprisonment or detention in legal custody.</p>	10
[1993 s211(3)]	<p>(3) Regulations may provide for the suspension of payment to or in respect of any person during any period mentioned in <i>subsection (1) or (2)</i> which is excepted from the operation of that subsection or which is payable otherwise than in respect of that period.</p>	15
[1993 s211(4)]	<p>(4) Notwithstanding a disqualification by virtue of <i>subsection (1)</i> for receiving a benefit which includes an increase, the increase shall, in the cases that may be prescribed, be paid to the prescribed person.</p>	20
[1993 s211(5); 2000 s14 & Sch D]	<p>(5) Regulations for the purposes of this section may be so framed as to make payment of bereavement grant, invalidity pension, retirement pension and widowed parent grant, subject to any specified conditions, limitations or restrictions and, in particular, in the case of persons absent from the State, may modify the periods which may be regarded for the purposes of <i>section 114</i> as periods of retirement.</p>	25
[1993 s211(6); 1999 s17 & Sch D]	<p>(6) A person shall be disqualified for receipt of unemployment assistance, pre-retirement allowance, disability allowance or farm assist while he or she is—</p> <p>(a) resident, whether temporarily or permanently, outside the State, or</p> <p>(b) undergoing penal servitude, imprisonment or detention in legal custody.</p>	30
[1993 s211(7)]	<p>(7) Subject to <i>subsection (8)</i>, a sum shall not be paid on account of an old age (non-contributory) pension or blind pension to any person while absent from the State.</p>	35
[1993 s211(8)]	<p>(8) Where a person who takes up or has taken up residence in Northern Ireland was, immediately before the commencement of that residence, in receipt of old age (non-contributory) pension or blind pension, payment of the pension may, notwithstanding anything contained in <i>subsection (7)</i>, be made until the earlier of—</p> <p>(a) the expiration of 5 years from the beginning of that residence during which the person was continuously resident in Northern Ireland, or</p> <p>(b) the receipt by the person of a payment by way of old age pension or public assistance from the appropriate authority in Northern Ireland.</p>	40 45

- 5 (9) Where a person has been convicted of any offence and ordered to be imprisoned without the option of a fine or to suffer any greater punishment, the person shall be disqualified for receiving or continuing to receive old age (non-contributory) pension or blind pension while he or she is detained in prison in consequence of the order. [1993 s211(9)]
- 10 (10) Except where regulations otherwise provide, a person shall be disqualified for receiving widow's (non-contributory) pension, widower's (non-contributory) pension, deserted wife's allowance, prisoner's wife's allowance or one-parent family payment, (including, in the case of one-parent family payment, any increase for a qualified child) for any period during which he or she is undergoing penal servitude, imprisonment or detention in legal custody. [1993 s211(10); 1996 s19(3)]
- 15 (11) Regulations may provide for the suspension of payment of pension or allowance, as the case may be, to or in respect of any beneficiary during any period mentioned in *subsection (10)* which is excepted from the operation of that subsection or which is payable otherwise than in respect of that period. [1993 s211(11)]
- 20 (12) Notwithstanding a disqualification by virtue of *subsection (10)* for receiving a one-parent family payment, an increase in respect of a qualified child, shall, in the cases that may be prescribed, be paid to the prescribed person. [1993 s211(12)]
- (13) (a) Where during any period a person is resident outside the State: [1993 s211(13)]
- 25 (i) a pension shall not be granted to or in respect of that person;
- (ii) if a pension has been granted to or in respect of that person, no sum shall be payable during that period on account of that pension.
- 30 (b) Nothing in *paragraph (a)* shall operate to prevent, in the case of a person resident for any period outside the State—
- 35 (i) a pension being granted to or in respect of that person where a claim for that pension was made before that person became so resident, or
- (ii) a pension granted by virtue of *paragraph (a)* being paid for any period before (but not after) that person became so resident, or
- 40 (iii) any arrears of a pension granted to or in respect of that person (being arrears due for a period before that person became so resident) being paid.
- (c) In this subsection "pension" means a widow's (non-contributory) pension, widower's (non-contributory) pension or orphan's (non-contributory) pension.
- 45 (14) A person shall be disqualified for receiving one-parent family payment, deserted wife's allowance and prisoner's wife's allowance while he or she is resident, whether temporarily or permanently, outside the State. [1993 s211(14); 1996 s19(3)]
- (15) Child benefit shall be paid only within the State. [1993 s211(15)]

Appointment and Duties of Social Welfare Inspectors

- Social welfare inspectors. [1993 s212(1); 2005 (SW&P) s7(c) & 10(b)]
- 252.**—(1) The Minister, or an officer authorised in that behalf by special or general directions of the Minister, may appoint such and so many officers as is appropriate to be social welfare inspectors for the purposes of those provisions of *Parts 2, 3, 4, 5, 6, 7, 8 and 12* and this Part as he or she may determine in the case of those appointments. 5
- [1993 s212(2)] (2) Every social welfare inspector shall investigate and report to the Minister on any claim for or in respect of benefit and any question arising on or in relation to that benefit which may be referred to him or her by the Minister, and may, for the purpose of the investigation and report require— 10
- (a) a claimant or a beneficiary,
 - (b) the spouse or any employer of the claimant or beneficiary, 15
 - (c) in the case of child benefit, any person in charge of a child in respect of whom the claim is made,
 - (d) a person liable to contribute under *section 348(1)* or any employer of that person, and
 - (e) the personal representative of a person who was at any time in receipt of any benefit, 20
- to give to the social welfare inspector the information and to produce to him or her the documents, within the period that may be prescribed, as he or she may reasonably require.
- [1993 s212(3); 2004 (MP) s12(a)] (3) A social welfare inspector shall, for the purposes of this Act or section 121(1)(a) of the Pensions Act 1990, have power to do all or any of the following— 25
- (a) to enter, without prior notification, at all reasonable times, any premises or place liable to inspection under this section; 30
 - (b) in that premises or place—
 - (i) to make such examination or enquiry,
 - (ii) to inspect and take copies of or extracts from any records (including, in the case of information in a non-legible form, a copy of or extract from that information in permanent legible form), found there, and 35
 - (iii) to remove and retain those records for such period as may be reasonable for further examination,
- as may be necessary to ascertain whether this Act is being complied with and while making any examination or enquiry to ascertain whether *Chapter 2 of Part 2* is being complied with shall also have power to examine or enquire as to whether section 121(1)(a) of the Pensions Act 1990 is being complied with and to report, where necessary, to the Pensions Board; 40 45

- (c) to secure for later inspection any such records;
- (d) to examine, either alone or in the presence of any other person, as the social welfare inspector thinks fit in relation to any matters on which he or she may reasonably require information for the purposes of this Act, every person whom he or she finds in that premises or place, or whom he or she has reasonable cause to believe to be or to have been an insured person, and to require every such person to be so examined and to sign a declaration of the truth of the matters in respect of which the person is so examined; and
- (e) for the purposes of answering or clarifying any questions that the social welfare inspector may have consequent on the inspection of the premises or place, to summon the occupier of the premises or place, any person who is or has been employing persons there or such person as may be designated by the occupier or employer as competent to answer or clarify any such questions, to attend at that premises or place (or at an office of the Minister), at any reasonable time specified, by written notice given to him or her at the premises or place or sent there to him or her by registered post.
- (4) The occupier of any premises or place liable to inspection under this section, and any other person who— [1993 s212(4); 2004 (MP) s12(b)]
- (a) is or has been employing—
- (i) any person in insurable employment or insurable (occupational injuries) employment, or
- (ii) any claimant or beneficiary,
- or
- (b) engages or has engaged a person under a contract for service to perform a service,
- and the employees of, or any other person providing bookkeeping, clerical or other administrative services to, any such occupier or other person and any insured person, claimant or beneficiary, or any person in respect of whom such a benefit is claimed, shall give to a social welfare inspector all such information and produce for inspection all such registers, cards, wages sheets, records of wages and other documents as the social welfare inspector may reasonably require for the purposes of ascertaining whether contributions are or have been payable, or have been duly paid in respect of any person, or whether any benefit is or was payable to or in respect of any person or whether section 121(1)(a) of the Pensions Act 1990 is being complied with.
- (5) Any person who holds a certificate of authorisation under Chapter 2 of Part 18 of the Act of 1997 shall, on the request of a social welfare inspector, furnish that certificate for inspection by him or her. [1993 s212(5)]
- (6) A person who — [1993 s212(6); 1999 s26(1)(b)]
- (a) wilfully delays or obstructs a social welfare inspector in the exercise of any duty or power under this section, or

- (b) refuses or neglects to answer any question or to give any information or to produce any record 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 inspector or any other person appointed under this section, 5
- is guilty of an offence.
- [1993 s212(8); 2005 (SW&P) s7(c) & 10(c)] (7) Every social welfare inspector shall be given a certificate of his or her appointment, and on entering any premises or place for the purposes of *Parts 2, 3, 4, 5, 6, 7, 8 and 12* and this Part shall, if so requested, produce that certificate. 10
- [1993 s212(9)] (8) The premises or places liable to inspection under this section are any premises or places where a social welfare inspector has reasonable grounds for believing that— 15
- (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 inspector has reasonable grounds for believing that any documents relating to persons in employment or to self-employed persons are kept. 20
- [1993 s212(10)] (9) Where any premises or place is liable to be inspected by an inspector or by an officer appointed, employed by, or under the control of, another Minister of the Government, the Minister may make arrangements with that other Minister for any of the powers or duties of a social welfare inspector appointed under this section to be vested in the inspector or officer employed by that other Minister and, where such an arrangement is made, that inspector or officer shall have all the powers of a social welfare inspector appointed under this section for the purposes of the inspection. 25
- [1994 s28(b)] (10) A social welfare inspector may exercise any of the powers or duties conferred on him or her by this section to investigate, at the request of the competent authority of another Member State or any other country with which the Minister has made a reciprocal arrangement under the provisions of *section 289*, any claim, by a person resident in the State, for or in respect of any social security payment under the legislation of another Member State, or under the legislation of any other country with which the Minister has made a reciprocal arrangement under those provisions. 30
35
- [1993 s212(11)] (11) Where a person is required by *subsection (4)* to produce records required under regulations made under *section 17(5)*, he or she shall, on the request of a social welfare inspector, produce those records at his or her registered address or his or her principal place of business. 40
- [1993 s212(12)] (12) A person who fails to comply with a request to produce records under *subsection (11)* within 21 days following the issue of that written request sent by registered post to the person at his or her registered address or his or her principal place of business is guilty of an offence. 45
- [1993 s212(13)] (13) Records of persons employed which an employer is obliged to maintain under regulations made under *section 17(5)* which are produced to a social welfare inspector shall be *prima facie* evidence 50

that those persons were employed by that employer and of the earnings of those persons and of the periods during which those persons were employed by the employer.

5 (14) Where an employer issues to an employee a statement containing the particulars specified in section 3 of the Terms of Employment (Information) Act 1994, he or she shall retain a copy of the statement for 2 years from the date on which that statement was issued and shall give that copy on demand to a social welfare inspector for inspection under this section. [1993 s212(14); 1996 s43]

10 (15) A social welfare inspector may, where he or she considers it necessary, be accompanied by a member of the Garda Síochána when performing any power conferred on a social welfare inspector under this section. [1999 s26(1)(c)]

15 (16) A social welfare inspector may, for the purposes of ensuring compliance with this Act, if accompanied by a member of the Garda Síochána in uniform— [1999 s26(1)(c)]

(a) stop any vehicle which he or she reasonably suspects is used in the course of employment or self-employment, and

20 (b) on production of his or her certificate of appointment, where so requested, question and make enquiries of any person in the vehicle or require that person to give to the social welfare inspector any record relating to his or her employment or self-employment which the person has possession of in the vehicle, and examine it.
25

CHAPTER 4

Offences, Miscellaneous Control Provisions and Proceedings

253.—(1) Where, for the purpose of—

30 (a) obtaining or establishing entitlement to payment of any benefit for himself or herself or for any other person, or

False statements and offences, including offences relating to bodies corporate.

(b) obtaining or establishing entitlement to payment of any benefit for himself or herself or for any other person which is in excess of that to which he or she was entitled, or

[1993 s213(1)]

35 (c) avoiding the making by himself or herself or any other person of any repayment under this Act,

or for any other purpose connected with this Act, any person—

40 (i) knowingly makes any statement or representation (whether written or verbal) which is to his or her knowledge false or misleading in any material respect, or knowingly conceals any material fact, or

(ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he or she knows to be false in a material particular,

45 he or she is guilty of an offence.

- [1993 s213(2)] (2) An employer or any 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)* is guilty of an offence.
- [1993 s213(3)] (3) A person convicted of an offence under this section in relation to child benefit shall be disqualified for the receipt of child benefit for 3 months immediately following the date of the conviction. 5
- [1993 s213(4)] (4) Where a person is convicted of an offence under *subsection (1)* or *(2)* and by reason of that offence any benefit (other than child benefit) was received by the person's employee which he or she was not entitled to receive, that person shall be liable to pay to the Minister on demand a sum not exceeding the amount of that benefit which by reason of that offence was paid to that employee while in his or her employment and that sum, if not so repaid, may be recovered by the Minister as a debt under statute in any court of competent jurisdiction. 10 15
- [1993 s213(5)] (5) Notwithstanding *subsection (4)* or any other provisions of this Act under which amounts of benefit (other than child benefit) may be recovered, the amount recovered by the Minister in any case may not exceed the amount of benefit received by the employee which he or she was not entitled to receive. 20
- [1993 s213(6)] (6) Regulations under this Act may provide for offences consisting of contraventions of or failures to comply with those regulations and, where those offences are provided for, a person guilty of any such offence is liable on summary conviction to the penalties provided for in *section 259(a)*. 25
- [1993 s213(7)] (7) Where an offence under this Act 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, and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to any wilful neglect on the part of any person, being a director, manager, secretary or any other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence. 30 35
- [1993 s213(8)] (8) It shall be a defence to a prosecution for an offence under *subsection (7)* for a person to show that the offence was committed without his or her knowledge and that the person exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised, having regard to the nature of his or her position as director, manager, secretary or other officer and to all the circumstances. 40
- [1993 s213(9)] (9) Any summons or other document required to be served for the purpose of proceedings under this Act on a body corporate may be served— 45
- (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 50
 - (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.

5 (10) Where a person is in receipt of assistance or has made a claim for assistance which has not been finally determined, and his or her means have increased since the date of latest investigation of those means, or, where no such investigation has taken place, since the date of making the claim, the person shall, within the period that may be prescribed, give or cause to be given to the Minister written notification of the increase. [1993 s213(10)]

10 (11) A person who fails or neglects to comply with *subsection (10)* is guilty of an offence. [1993 s213(11)]

254.—(1) An employer who—

Offences in relation to employment contributions.

- (a) fails to pay at or within a prescribed time any employment contribution which he or she is liable to pay under *Part 2*, [1993 s214(1); 1994 s7 & Sch C]
- 15 (b) deducts or attempts to deduct the whole or any part of any employer's contribution in respect of a person from that person's remuneration,
- (c) makes a deduction from the remuneration of a person in respect of any employment contribution which the employer is liable under *Part 2* to pay and fails to pay at or within a prescribed time the employment contribution in respect of which the deduction was made,
- 20 (d) adjusts the method of payment of reckonable earnings to an employed contributor who was employed in consecutive weeks in order to ensure that the employed contributor is exempted in any week from the employment contribution payable under *section 13(2)(b)* and regulations made under *section 13(10)*, or
- 25 (e) adjusts the amount of payment of reckonable earnings to an employed contributor in order to avoid payment of contributions at the rate specified in *section 13(2)(d)(ii)*,
- 30

is guilty of an offence.

35 (2) An employer, or a servant or agent acting on behalf of the employer, who, for the purpose of evading or reducing the amount of his or her liability in respect of employment contributions which the employer is liable to pay under *Part 2* and which he or she has not paid— [1993 s214(2)]

- 40 (a) knowingly makes any statement or representation (whether written or verbal) which is to his or her knowledge false or misleading in any material respect, or knowingly conceals any material fact, or
- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he or she knows to be false in a material particular,

45 is guilty of an offence.

(3) Where records are required to be kept by employers under regulations made under *section 17(5)* in so far as they relate to the recording of payment of earnings and the periods to which those [1993 s214(3)]

earnings refer the records shall be recorded at or before the time of payment of those earnings.

- [1993 s214(4)] (4) A person who fails to comply with *subsection (3)* is guilty of an offence.
- [1993 s214(5)] (5) A person who is guilty of an offence under this section (other than an offence under *subsection (1)(d)*) is liable—
- (a) on summary conviction, to the penalties provided in *section 259(a)*, or
- [2005 (SW&P) s26 & Sch 4] (b) on conviction on indictment, to a fine not exceeding €13,000 or the amount that is equivalent to twice the amount so unpaid or deducted, whichever is the greater, or to imprisonment for a term not exceeding 3 years, or to both.
- [1993 s214(6); 2005 (SW&P) s26 & Sch 4] (6) A person who is guilty of an offence under *subsection (1)(d)* is liable on summary conviction to a fine not exceeding €1,500 or on conviction on indictment to a fine not exceeding €13,000.
- [1993 s214(7)] (7) (a) Where an employer has been convicted under this section of the offence of failing to pay any employment contributions which he or she is liable under *Part 2* to pay, he or she is liable to pay to the Social Insurance Fund a sum equal to the amount which he or she has failed to pay and, on such conviction, if notice of the intention to do so has been served with the summons or warrant, evidence may be given of the failure on the part of the employer to pay other employment contributions in respect of the same person during the 3 years before the date when the notice was so served, and on proof of that failure the court may order the employer to pay to the Social Insurance Fund a sum equal to the total of all the employment contributions which he or she is so proved to have failed to pay, and the employer's right of appeal against the conviction under the section shall include a right to appeal against that order.
- (b) Any sum paid by an employer under this subsection shall be treated as a payment in satisfaction of the unpaid employment contributions, and the insured person's portion of those employment contributions shall not be recoverable by the employer from the insured person.
- [1993 s214(8)] (8) Nothing in this section or in regulations under this section shall be read as preventing the Minister from recovering by means of civil proceedings any sums due to the Social Insurance Fund.
- Notification by employer or other person of commencement of employment. **255.—(1)** The Minister may require—
- [1993 s215(1)] (a) an employer or any other person to notify the Minister of the date of the commencement of the employment of—
- (i) any person in his or her employment,
- (ii) any person engaged by him or her under a contract for service to perform a service,

or

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

(2) The circumstances in which notification may be required under *subsection (1)* and the manner of that notification shall be prescribed in regulations. [1993 s215(2)]

10 (3) A person who fails to comply with this section or regulations made under this section is guilty of an offence. [1993 s215(3)]

256.—(1) For the purposes of this Act, the Minister may by regulations require— Records to be maintained.

15 (a) an employer or any other person to maintain the records that may be prescribed of any person in his or her employment and of any person engaged by him or her under a contract for service to perform a service, or [1993 (No.2) s14]

20 (b) a person engaged under a contract for service to perform a service to maintain the records that may be prescribed of any person engaged to perform that service either with him or her or on his or her behalf whether under a contract for service or under any other arrangements made or to be made by him or her.

25 (2) Records required to be maintained under *subsection (1)* shall be held at the place and for the period that may be prescribed. [1993 (No.2) s14]

(3) A person who fails to comply with this section is guilty of an offence. [1993 (No.2) s14]

30 **257.—**(1) An employer shall give to the Minister in writing in respect of any person who is or was in his or her 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 benefit by or in respect of that person. Information to be given by employers to Minister. [1993 s216(1)]

35 (2) Regulations may specify the particulars which an employer shall give under *subsection (1)* and prescribe the manner in which those particulars shall be so given. [1993 s216(2)]

(3) A person who fails to comply with this section or regulations made under *subsection (2)* is guilty of an offence. [1993 s216(3)]

258.—Where—

40 (a) (i) the employer of an employed contributor is charged with an offence in relation to payment of employment contributions in respect of that contributor, or Application of Probation of Offenders Act 1907. [1993 s217]

(ii) a person is charged under this Act with an offence in relation to the receipt of any benefit,

and

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

the court shall not make the order until it is satisfied that all arrears in respect of those contributions have been paid by the employer or any amounts due to be repaid in respect of that benefit have been repaid. 5

Penalties.

[1993 s218; 2005 (SW&P) s26 & Sch 4]

259.—Except where otherwise provided for, a person guilty of an offence under this Act is liable—

(a) on summary conviction, to a fine not exceeding €1,500 or imprisonment for a term not exceeding 6 months, or to both, or 10

(b) on conviction on indictment, to a fine not exceeding €13,000 or imprisonment for a term not exceeding 3 years, or to both.

Failure to keep records.

[1993 s219(1); 1994 s29]

260.—(1) Where— 15

(a) an employer has failed to keep records under regulations made under *section 17(5)* or *256* or has failed to make a notification under regulations made under *section 255*, or

(b) any other person who engages a person (referred to in this section as a “contracted person”) under a contract for service to perform a service, has failed to keep records under regulations made under *section 256* or has failed to make a notification under regulations made under *section 255*, 20

and an employee or a contracted person (as the case may be) receives payment, due wholly or partly by reason of that failure, of benefit which he or she was not entitled to receive in respect of any day on which he or she was in the employment of that employer or engaged under a contract for service by the other person, the employer or other person (as the case may be) shall be liable to pay to the Minister on demand a sum not exceeding the amount of benefit which was paid to the employee or contracted person (as the case may be) and that sum, where not repaid by the employee or contracted person (as the case may be), may be recovered by the Minister as a simple contract debt in any court of competent jurisdiction. 25 30 35

[1993 s219(2); 1994 s29]

(2) It shall be presumed until the contrary is shown that any payment referred to in *subsection (1)* was made wholly or partly by reason of the failure of the employer or other person who engages a person under a contract for service to keep the records or to make the notification referred to in that subsection. 40

[1993 s219(3); 1994 s29]

(3) Where there is a material difference between any document issued by or on behalf of an employer or other person who engages a person under a contract for service, to an employee or contracted person (as the case may be) and any other document given to the Minister or to the Collector-General and the employee or contracted person (as the case may be) wholly or partly as a result of that difference, receives benefit to which he or she was not entitled, the employer or other person (as the case may be) shall be liable to pay to the Minister on demand a sum not exceeding the amount of benefit which was paid to the employee or contracted person (as the 45 50

case may be) and that sum, where not repaid by the employee or contracted person (as the case may be), may be recovered by the Minister as a simple contract debt in any court of competent jurisdiction.

5 (4) For the purposes of *subsection (3)* an employee or contracted person (as the case may be) shall include the employee's or contracted person's spouse and any other member of the employee's or contracted person's household (as the case may be) whose entitlement to benefit is regulated or adjusted by the income of the employee or
10 contracted person (as the case may be). [1993 s219(4); 1994 s29]

(5) Notwithstanding *subsection (1)* or *(3)* or any other provisions of this Act under which amounts of benefit may be recovered, the amount recovered by the Minister in any case may not exceed the amount of benefit received by the employee or contracted person
15 (as the case may be) which he or she was not entitled to receive. [1993 s219(5); 1994 s29]

261.—(1) Where an employer has failed or neglected— Loss of benefit due to employer's default.

(a) to pay any employment contribution which under *Part 2* he or she is liable to pay in respect of an employed contributor in his or her employment, or [1993 s220(1)]

20 (b) to comply, in relation to any such employed contributor, with any requirement of *Part 2* or regulations which relate to the payment or collection of employment contributions,

25 and by reason thereof the employed contributor or any other person has lost, in whole or in part, any benefit to which he or she would have been entitled, the contributor or other person shall be entitled to recover from the employer as a simple contract debt in any court of competent jurisdiction a sum equal to the amount of the benefit so lost.

30 (2) Where an employed contributor or other person has lost benefit in a case referred to in *subsection (1)* and has not taken proceedings under that subsection, the Minister may, in the name of and on behalf of the contributor or other person, recover from the employer as a simple contract debt in any court of competent jurisdiction a sum equal to the amount of the benefit lost.
35 [1993 s220(2)]

(3) Where, by virtue of regulations made under *section 17*— [1993 s220(3)]

(a) employment contributions which have not been paid have been treated as paid, or

40 (b) employment contributions which have been paid late have been treated as paid on the due dates,

and by reason thereof benefit which would otherwise have been lost was paid, there shall be due to the Social Insurance Fund by the employer the amount of the benefit which would have been so lost.

45 (4) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provision of *Part 2* or this *Part* in respect of the same failure or neglect. [1993 s220(4)]

(5) In ascertaining, for the purposes of this section, the amount of benefit lost by an employed contributor or other person by reason of a failure or neglect referred to in *subsection (1)*, account shall not [1993 s220(5)]

be taken of any assistance paid to the contributor or other person during a period when he or she was losing benefit by reason of that failure or neglect.

[1993 s220(6)] (6) The amount of assistance paid to an employed contributor or other person during a period when he or she was losing benefit by reason of a failure or neglect referred to in *subsection (1)* may be recovered by the Minister— 5

(a) in case the full amount of the benefit which was lost has been recovered by the contributor or other person, from that contributor or other person— 10

(i) by deduction from any benefit or assistance to which the contributor or other person may be or become entitled, or

(ii) as a simple contract debt in any court of competent jurisdiction, 15

or

(b) in any other case, from the employer guilty of the failure or neglect as a simple contract debt in any court of competent jurisdiction,

and, where the amount of the assistance is recovered by the Minister from the employer, the sum recoverable by the contributor or other person from the employer under this section shall be reduced by the amount of that assistance. 20

[1993 s220(7)] (7) Any sums recovered by the Minister under *subsection (6)* shall be paid into the Exchequer. 25

[1993 s220(8)] (8) In this section “benefit” means benefit under *Part 2*.

Information required by Minister. [1993 s221; 1998 s22] **262.**—(1) For the purposes of controlling and investigating entitlement to any benefit, under this Act or under schemes administered by or on behalf of the Minister, the Minister may require the persons that may be prescribed to provide the Minister with the information in relation to those persons or classes of persons that may be prescribed. 30

[1998 s22; 2005 (SW&P) s26 & Sch 4] (2) A person who fails to comply with a requirement made of him or her under *subsection (1)* or regulations made under that subsection is guilty of an offence and is liable on summary conviction to a fine not exceeding €2,000. 35

Exchange of information. [1993 s222(1)] **263.**—(1) Information held by the Minister for the purposes of this Act (including the purpose of collection by the Revenue Commissioners of employment and self-employment contributions) may be transferred by the Minister to the Revenue Commissioners, and information held by the Revenue Commissioners for the purposes of this Act or the Income Tax Acts, relating to employers, the reckonable earnings of employed contributors or reckonable income or reckonable emoluments of self-employed contributors or of any payments made under this Act, may be transferred by the Revenue Commissioners to the Minister. 40 45

5 (2) Information held by the Minister for the purposes of this Act or the control of schemes administered by or on behalf of the Minister or the Department of Social and Family Affairs may be transferred by the Minister to another Minister of the Government or a specified body, and information held by another Minister of the Government or a specified body which is required for those purposes or the control of any such scheme administered by another Minister of the Government or a specified body may be transferred by that Minister of the Government or the specified body to the Minister. [1993 s222(2)]

10 (3) In *subsection (2)* “specified body” means a local authority, the Executive, the Garda Síochána or any other body established— [1993 s222(3); 2005 (SW&P) s23 & Sch 1]

(a) by or under any enactment (other than the Companies Acts 1963 to 2005), or

15 (b) under the Companies Acts 1963 to 2005, in pursuance of powers conferred by or under any other enactment,

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

20 **264.**—(1) Subject to this section, in this section and *sections 265 to 272*— Personal public service number.

“personal public service number” means a number allocated and issued in accordance with *subsection (2)*; [1993 s223(1); 2005 (SW&P) s26 & Sch 4]

25 “primary account number”, in relation to a public service card or a card issued under *section 266*, means a number consisting of—

(a) an issuer number, issued under licence from the International Standards Organisation,

(b) a personal public service number, and

30 (c) a card number allocated, in the case of a public service card, by the Minister or, in any other case, by the person who issued the card;

“public service identity”, in relation to a person, means the information specified in *subsection (3)* and the person’s personal public service number;

35 “specified body” shall be read in accordance with *Schedule 5*;

“spouse” means—

(a) each of a married couple, or

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

40 “transaction” means—

(a) an application,

(b) a claim,

(c) a communication,

(d) a payment, or

(e) a supply of a service,

relating to a public function of a specified body which relates to a natural person.

[1993 s223(2); 2002 (MP) s12(1)(b)] (2) The Minister may allocate and issue a personal public service number to each person who is the subject of any transaction with a specified body. 5

[1993 s223(3); 2002 (MP) s12(1)(b)] (3) (a) For the purposes of allocating and issuing a personal public service number, a person or, in the case of a deceased person, a personal representative, who has any transaction with a specified body shall give to the Minister the following information in relation to the person or the deceased person, as the case may be: 10

(i) surname;

(ii) forename; 15

(iii) date of birth;

(iv) place of birth;

(v) sex;

(vi) all former surnames (if any);

(vii) all former surnames (if any) of his or her mother; 20

(viii) address;

(ix) nationality;

(x) date of death;

(xi) any other information that may be prescribed which, in the opinion of the Minister, is relevant to and necessary for the allocation of a personal public service number. 25

(b) Where a person who has a transaction with a specified body is under the age of 18 years, the following information in relation to the person shall be given to the Minister— 30

(i) the information specified in *paragraph (a)*,

and

(ii) the public service identity of his or her mother and father. 35

[1993 s223(4); 2002 (MP) s12(1)(b)] (4) A person shall give to a specified body his or her personal public service number and the personal public service numbers of his or her spouse and children, where relevant, as required by the body for the purposes of the person's transaction.

[2002 (MP) s12(1)(b)] (5) Where a specified body collects from a person any of the information specified in *subsection (3)*, that information shall also be 40

collected for the purpose of maintaining the person's public service identity.

5 (6) (a) Where a specified body has a transaction with a person, the Minister may share the person's public service identity with the specified body to the extent necessary for authentication by the specified body of the person's public service identity. [2002 (MP) s12(1)(b)]

10 (b) A specified body may use a person's public service identity in performing its public functions insofar as those functions relate to the person concerned.

(7) Where an tArd-Chláraitheoir collects information relating to the registration of the birth of a person, the information shall also be collected for the purpose of allocating the person's personal public service number. [2002 (MP) s12(1)(b)]

15 (8) In this section a reference to a personal public service number shall be read as including a reference to a number known as a revenue and social insurance number. [2002 (MP) s12(1)(b)]

(9) A person, other than— [2002 (MP) s12(1)(b)]

20 (a) the person to whom the personal public service number concerned refers,

(b) a specified body,

25 (c) a person who has a transaction with a specified body where the personal public service number is relevant to the transaction between the person and the specified body, or

(d) a person who is required to comply with *section 262* or *263* or regulations made under those sections,

30 who uses a personal public service number or seeks to have a personal public service number disclosed to him or her is guilty of an offence.

265.—(1) The Minister may issue a card (in this Act referred to as a "public service card") to a person in the format that the Minister deems fit, with— Public service card. [1998 s14(1)]

35 (a) the person's name, personal public service number, primary account number and date of issue inscribed, and

(b) the person's date of birth, gender, primary account number, expiry date of card and card service code electronically encoded,

40 on the card and with any other information that may be prescribed either inscribed or electronically encoded on the card.

(2) A person may, on request in that behalf to the Minister, obtain within 28 days of that request, where practicable, information which is electronically encoded on his or her public service card. [1998 s14(1)]

45 (3) A person shall produce his or her public service card at the request of a specified body for the purposes of a transaction. [1998 s14(1)]

[1998 s14(1)] (4) A person who uses or attempts to use a public service card or seeks to have a public service card produced to him or her, other than—

(a) the person who is the holder of the card or a person appointed to act on behalf of the cardholder, 5

(b) a specified body, for the purposes of a transaction, or

(c) a person who has a transaction with a specified body where the personal public service number on the card is relevant to the transaction between that person and the specified body, 10

is guilty of an offence.

Payment card. [1998 s14(1)] **266.—**(1) The Minister may permit any information, that may be prescribed, to be either inscribed or electronically encoded onto a card, which is capable of being so inscribed or encoded, other than a public service card for the purpose of payment of benefit. 15

[1998 s14(1)] (2) A person may, on request in that behalf to the Minister, obtain within 28 days of that request, where practicable, information which is inscribed or electronically encoded on the card to which *subsection (1)* applies and which relates to the person.

[1998 s14(1)] (3) A person who uses or attempts to use a card to which *subsection (1)* applies, who is not the holder of the card or a person appointed to act on behalf of the cardholder, for the purposes of obtaining payment of benefit is guilty of an offence. 20

Sharing of information. [1998 s14(1); 2000 s32(1)(b)] **267.—**(1) In this section—

“data controller” and “personal data” have the meanings given to them by section 1 of the Data Protection Act 1988; 25

“information” means any personal data or information extracted from that data, whether collected before or after 5 February 1999;

“relevant purpose” means—

(a) for the purposes of determining entitlement to or control of— 30

(i) benefit,

(ii) a service provided by or under sections 45, 58, 59 and 61 of the Health Act 1970 or regulations made thereunder, 35

(iii) a payment under section 44(3) of the Health Act 1947,

(iv) an allowance under the Blind Persons Act 1920,

(v) a grant awarded in accordance with regulations made under *section 2* (as amended by section 3 of the Local Authorities (Higher Education Grants) Act 1992) of the Local Authorities (Higher Education Grants) Act 1968, or 40

(vi) legal aid awarded under the Civil Legal Aid Act 1995,

or

(b) for the purposes of—

- (i) making an assessment in accordance with section 9 of the Housing Act 1988,
- 5 (ii) a letting in accordance with section 11 of the Housing Act 1988,
- (iii) the determining of rent or other payment in accordance with section 58 of the Housing Act 1966,

or the control thereof.

10 (2) A specified body holding information may share that information with another specified body who has a transaction with a natural person relating to a relevant purpose, where the specified body seeking the information provides the personal public service number of the person who is the subject of the transaction and satisfies the data controller of the specified body holding the information that the information requested is relevant to the transaction for that purpose between the person and the specified body seeking the information.

20 (3) A specified body may only seek information for the purposes of a transaction relating to a relevant purpose.

(4) Where information shared between one specified body and another is found to be inaccurate, the specified body on making the discovery shall confirm with the person the correct information and advise the other specified body of the amended information.

25 (5) A person who knowingly seeks or transfers any information held by a specified body relating to another by using that other's personal public service number, other than where the seeking or transferring of information is provided for under this Act or any other enactment, is guilty of an offence.

30 **268.**—Notwithstanding anything contained in any other enactment, a specified body may share any information that may be prescribed with—

- 35 (a) the Minister for Education and Science, where that Minister requires the information for the purpose of enabling him or her to provide education in accordance with section 6(b) of the Education Act 1998, or
- 40 (b) an tÚdáras um Ard-Oideachas, where that body requires the information for the purpose of performing its functions under section 3(a), (b) or (d) of the Higher Education Authority Act 1971.

45 **269.**—(1) Notwithstanding anything contained in any other enactment, a specified body may share any information, that may be prescribed, with the Minister for the purpose of seeking from the Minister the personal public service number for each person in respect of whom the information is shared.

(2) Information received by the Minister under *subsection (1)* may be used by the Minister for the purpose of identifying the personal

public service number for each person in respect of whom such information is received and for updating the Minister’s own records in respect of that person.

[2000 s32(1)] (3) Where a specified body has sought a personal public service number under *subsection (1)* in respect of a person, the Minister may share any information, that may be prescribed, in respect of that person with that specified body for the purpose of giving that specified body the personal public service number relating to the person. 5

Data exchange — health provisions. [2000 s32(1)] **270.**—Notwithstanding anything contained in any other enactment, a specified body may share with another specified body information relating to a person using that person’s personal public service number, where that information, other than the personal public service number, is being shared in accordance with the Health (Provision of Information) Act 1997. 10

Data exchange — rented accommodation. [2000 s32(1)] **271.**—(1) Notwithstanding anything contained in any other enactment, the Minister may share any information, that may be prescribed, in relation to— 15

- (a) a house let for rent,
- (b) a landlord of a house let for rent or his or her agent, or
- (c) a tenant of a house let for rent, 20

with a local authority for the purposes of—

- (i) assisting a fire authority, within the meaning of the Fire Services Act 1981, in the exercise of its functions under that Act, or
- (ii) assisting a housing authority, within the meaning of section 25 23 (as amended by section 16 of the Housing (Miscellaneous Provisions) Act 2002) of the Housing (Miscellaneous Provisions) Act 1992, in the exercise of its functions under sections 17, 18 and 20 of that Act,

in relation to that house let for rent, the landlord of a house let for rent or his or her agent or the tenant of a house let for rent. 30

[2000 s32(1)] (2) Information received by a local authority under *subsection (1)* may be used by that local authority for the purposes specified in *subparagraphs (i)* and *(ii)* of that subsection.

[2000 s32(1)] (3) In this section “house” has the meaning given to it by section 1 of the Housing (Miscellaneous Provisions) Act 1992. 35

Data exchange — correction of inaccurate information. [2000 s32(1)] **272.**—Where the information shared between one specified body and another under *section 268, 269, 270* or *271* is found to be inaccurate, the specified body on making the discovery shall confirm with the person the correct information and advise the other specified body of the amended information. 40

Definition of information. [2000 s32(1)] **273.**—(1) In *sections 268* to *272* “information” means any personal data or information extracted from that data.

(2) Sections 268 to 273 apply to information used for the purposes of section 268, 269, 270 or 271 whether collected before or after 31 July 2000. [2000 s32(2)]

5 274.—(1) A prosecution for a summary offence may be brought at the suit of— Provisions relating to prosecutions.

(a) the Minister,

[1993 s224(1); 2005 (SW&P) s23 & Sch 1]

(b) the Executive in any case arising out of the exercise of its functions under this Act, where the offence has occurred within any of its functional areas, or

10 (c) the Collector-General in any case arising out of the exercise of his or her functions under this Act.

(2) An officer of the Minister shall not institute any summary proceedings for an offence under this Act at the suit of the Minister unless the officer is authorised in that behalf by special or general directions of the Minister or the Minister has consented to the initiation of those proceedings. [1993 s224(2); 1999 s28(1)]

(3) Notwithstanding subsection (1) or any provision in any enactment specifying the period within which proceedings may be commenced, a prosecution for a summary offence under this Act may be brought at any time within whichever of the following periods later expires— [1993 s224(3); 2005 (SW&P) s17]

(a) 2 years commencing on the date on which the offence was committed, or

25 (b) 18 months commencing on the date on which evidence sufficient to justify the institution of the prosecution came into the possession of the Minister.

(4) For the purposes of subsection (3), a certificate, sealed with the official seal of the Minister, as to the date on which the evidence referred to in that subsection came into his or her possession shall be sufficient evidence thereof until the contrary is shown. [1993 s224(4)]

(5) Where in a prosecution for an offence under this Act it is shown to the satisfaction of the court— [1993 s224(5)]

35 (a) that an application has been made by a person (in this section referred to as “the defendant”) for any benefit, and

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

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

45 (6) (a) For the purpose of the institution of proceedings under this Act a certificate, purporting to be given by an officer of the Minister authorised in that behalf by the Minister and to be signed by that officer, certifying the facts set [1993 s224(6)]

out in *paragraph (b)*, shall be sufficient evidence in any legal proceedings of the matters certified in the certificate, until the contrary is shown.

(b) The facts referred to in *paragraph (a)* are that a person is an officer of the Minister and that he or she has been authorised under a special or general direction of the Minister to institute the proceedings, or that the Minister has consented to the institution of those proceedings. 5

[1993 s224(7); 2001 s25(1)] (7) (a) In proceedings instituted by virtue of *section 17*, a certificate purporting to be signed by an officer of the Revenue Commissioners which certifies that a stated amount is due and payable by the defendant shall be evidence until the contrary is proved that that amount is due and payable, and when tendered in evidence is deemed until the contrary is proved to have been signed by that officer. 10 15

[1993 s224(7)] (b) For the purposes of this subsection, the rules of the court concerned for the time being applicable to civil proceedings applies to proceedings by virtue of *section 17*.

Civil proceedings — Criminal Assets Bureau. [1999 s28(2)] **275.**—Any proceedings, other than for the prosecution of an offence, arising out of the exercise by an officer of the Minister who is a bureau officer, of his or her powers or duties under this Act may be brought by or against the Criminal Assets Bureau. 20

Evidence. [1993 s225(1)] **276.**—(1) In this section—
“copy record” means any copy of an original record being a record made for the purposes of or in connection with this Act or schemes administered by the Department of Social and Family Affairs or a copy of that copy made in accordance with either of the methods referred to in *subsection (2)* and accompanied by the certificate referred to in *subsection (3)*; 25

“original record” means any document, record, or record of an entry in a document or record or information stored by means of any mechanical or electronic device, whether or not in a legible form, which was made or stored by the Minister or a specified agency for the purposes of or in connection with this Act or schemes administered by the Department of Social and Family Affairs at the time of or shortly after the event recorded and which is in the possession of the Minister or a specified agency; 30 35

“provable record” means an original record or a copy record;

“specified agency” means An Post or a person authorised to carry on banking business under section 9 of the Central Bank Act 1971. 40

[1993 s225(2)] (2) The Minister or a specified agency may, where by reason of the deterioration of, or inconvenience in storing, or technical obsolescence in the manner of keeping any original record or any copy record, make a legible copy of the record or store information concerning that record otherwise than in a legible form so that the information is capable of being used to make a legible copy of the record, and the Minister or the specified agency may thereupon destroy the original record or the copy record provided that any authorisation required by the National Archives Act 1986 for such destruction has been granted. 45 50

5 (3) In any proceedings a certificate signed by an officer of the Minister or a specified agency, as the case may be, stating that a copy record has been made in accordance with *subsection (2)* shall be evidence of the fact of the making of the copy record and that it is a true copy, until the contrary is shown. [1993 s225(3)]

(4) A document purporting to be a certificate under *subsection (3)* is deemed to be such a certificate without proof of the signature of the person purporting to sign the certificate or that the person was a proper person to so sign, until the contrary is shown. [1993 s225(4)]

10 (5) In any proceedings any provable record may be given in evidence and shall be prima facie evidence of any fact stated in or event recorded by that record, if the court is satisfied of the reliability of the system used to make or compile, in the case of an original record, that record, and in the case of a copy record, the original on which
15 it was based. [1993 s225(5)]

(6) Where information contained in a provable record is in a form which would normally not be comprehensible to a person who has no knowledge of that type of information, an explanation of its meaning by a suitably qualified person shall be admissible. [1993 s225(6)]

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

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

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

(c) that the system is such that the only reasonable explanation for the absence of a record is that the event did not happen.

35 (8) This section applies to any original record or to any copy record made before 26 March 1989, in accordance with either of the methods referred to in *subsection (2)* but the proviso in that subsection shall not have effect in relation to anything deemed to have been done under that subsection before the commencement of section 7 of the National Archives Act 1986. [1993 s225(8)]

40

CHAPTER 5

Alienation of Books and Documents

45 **277.**—In this Chapter “a document to which this Chapter applies” means every book, card, order, voucher or other document issued to any person and on the delivery or production or in respect of the possession of which by that person on or after a date indicated expressly or by implication in that document and after the issue of that document any benefit is payable to him or her. Application. [1993 s226]

Prohibition of alienation of documents. [1993 s227]	278. —Every person who buys, takes in exchange or takes in pawn any document to which this Chapter applies is guilty of an offence.	
Avoidance of alienation of documents. [1993 s228]	279. —Every alienation or purported alienation of a document to which this Chapter applies, whether made by way of sale, exchange or hypothecation is and is deemed always to have been void and of no effect.	5
Return of documents on demand. [1993 s229(1)]	280. —(1) Every person who, by virtue of an alienation or purported alienation declared by this Chapter to be void, has in his or her possession a document to which this Chapter applies shall, in the case of any such document issued in respect of any benefit, on demand by a social welfare inspector immediately deliver the document to the inspector or, where no such demand is made by a social welfare inspector, on demand by the owner of the document or his or her duly authorised agent, immediately deliver the document to the owner or agent.	10 15
[1993 s229(2)]	(2) Every person who, on a demand being made on him or her under this section, fails to deliver in accordance with this section a document which he or she is required by this section so to deliver is guilty of an offence.	
[1993 s229(3)]	(3) Where a person is convicted of an offence under this section the court by which he or she is so convicted may, where the circumstances so require, make such order as the court shall think proper for securing the delivery of the document in respect of which the offence was committed to the owner of the document or, where appropriate, to a social welfare inspector.	20 25

CHAPTER 6

Miscellaneous Provisions

Provisions relating to maintenance. [1993 s230]	281. —Regulations may provide for determining the circumstances in which a person is or is not to be deemed for the purposes of <i>Part 2</i> to be wholly or mainly maintaining another person.	30
Free certificates. [1993 s231(1); 1997 s22(3)] [1993 s231(2)]	282. —(1) The Minister may arrange for the issue for the purposes of <i>Part 2</i> or <i>3</i> of medical certificates or certificates of expected or actual confinement free of charge. (2) The expenses incurred in giving effect to this section shall not exceed such sums as may from time to time be agreed on between the Minister and the Minister for Finance.	35
Stamp duty. [1993 s232]	283. —Stamp duty shall not be chargeable on any document by which any payment, refund, repayment or return under this Act is made.	
Birth, marriage and death certificates. [1993 s233(1)]	284. —(1) Where, for the purposes of this Act (other than <i>Chapter 9</i> of <i>Part 3</i>), the age, marriage or death of any person is required to be proved by the production of a certificate of birth, marriage or death any person shall, on presenting a written requisition in the form and containing the particulars that may be directed by the Minister for Health and Children, be entitled to obtain, on payment of the fee set out therefor—	40 45

- (a) a copy of an entry in a register of birth — 89 cent,
- (b) a copy of an entry in a register of deaths — 89 cent,
- (c) a copy of an entry in a register of marriages — 89 cent,

5 certified under the hand of the registrar or superintendent registrar or other person having the custody thereof.

(2) Where, for the purposes of *Chapter 9 of Part 3* or regulations [1993 s233(2)] made under that Chapter, the age, marriage or death of any person is required to be proved by the production of a certificate of birth, marriage or death, any person shall, on presenting a written request in the form and containing the particulars that may be directed by the Minister for Health and Children, be entitled free of charge to obtain a certified copy of the entry of the birth, marriage or death (as the case may be) of that person in the register of births, marriages or deaths (as the case may be) under the hand of the registrar or superintendent registrar or other person having the custody thereof.

(3) Forms for the purposes of *subsections (1) and (2)* shall be supplied on request without any charge by every registrar of births and deaths and by every superintendent registrar or other person having the custody of the register. [1993 s233(3)]

20 (4) The Minister for Health and Children may, with the consent of the Minister and the Minister for Finance, by regulations alter the fees set out in *subsection (1)*. [1993 s233(4)]

25 **285.**—Subject to this Act, every assignment of or charge on, and every agreement to assign or charge, any benefit shall be void on the bankruptcy of any person entitled to benefit, shall not pass to any trustee or other person acting on behalf of the creditors. Inalienability. [1993 s234]

286.—Any sum received by any person by way of benefit shall not be included in calculating that person's means for the purposes of section 6 of the Debtors Act (Ireland) 1872. Means for purpose of Debtors Act (Ireland) 1872. [1993 s235]

30 **287.**—(1) In assessing damages in any action under the Fatal Injuries Act 1956, or Part IV of the Civil Liability Act 1961, whether commenced before or after 24 February 1981, there shall not be taken into account any child benefit, widow's (contributory) pension, widower's (contributory) pension, orphan's (contributory) allowance, one-parent family payment in the case of a person who qualifies for that payment by virtue of being a widow or widower, widow's (non-contributory) pension, widower's (non-contributory) pension or orphan's (non-contributory) pension. Exclusion in assessment of damages. [1993 s236(1); 1997 s20 & Sch E]

40 (2) Subject to *sections 96 and 288*, in assessing damages in any action in respect of injury or disease or in computing the amount of compensation under paragraph (1)(a)(ii) of the First Schedule to the Workmen's Compensation Act 1906 or under Rule 2 or 4 of the Second Schedule to the Workmen's Compensation Act 1934, there shall not to be taken into account any benefit under *Part 2*, widow's (non-contributory) pension, widower's (non-contributory) pension, orphan's (non-contributory) pension or child benefit. [1993 s236(2); 1997 s20 & Sch E]

<p>Taking account of disability benefit and invalidity pension in assessing certain damages.</p> <p>[1993 s237(1); 2005 (SW&P) s26 & Sch 4]</p>	<p>288.—(1) Notwithstanding section 2 of the Civil Liability (Amendment) Act 1964, and <i>section 287</i>, in assessing damages in any action in respect of liability for personal injuries not causing death relating to the use of a mechanically propelled vehicle, there shall be taken into account the value of any rights arising from those injuries which have accrued, or are likely to accrue, to the injured person in respect of disability benefit or invalidity pension under <i>Part 2</i> for 5 years beginning with the time when the cause of action accrued.</p>	<p>5</p>
<p>[1993 s237(2)]</p>	<p>(2) The reference in <i>subsection (1)</i> to damages shall, in a case where the damages are subject to reduction under the law of contributory negligence or are limited by or under any Act, be read as a reference to the total damages which would have been recoverable apart from the reduction or limitation.</p>	<p>10</p>
<p>[1993 s237(3)]</p>	<p>(3) This section applies—</p> <p style="padding-left: 20px;">(a) in assessing damages in any action in respect of liability for personal injuries not causing death relating to the use of a mechanically propelled vehicle, which is required to be covered by an approved policy of insurance, where the action is instituted on or after 30 March 1984, and</p> <p style="padding-left: 20px;">(b) in assessing damages in any other action in respect of liability for personal injuries not causing death relating to the use of a mechanically propelled vehicle, where the action is instituted on or after 4 April 1990.</p>	<p>15</p> <p>20</p>
<p>[1993 s237(4)]</p>	<p>(4) In this section—</p> <p>“approved policy of insurance” means a policy of insurance which, by virtue of section 62 of the Road Traffic Act 1961 (as amended by the European Communities (Road Traffic) (Compulsory Insurance) Regulations 1975 (S.I. No. 178 of 1975)) is an approved policy of insurance for the purposes of that Act;</p> <p>“mechanically propelled vehicle” has the meaning given to it by section 3 of the Road Traffic Act 1961.</p>	<p>25</p> <p>30</p>
<p>Reciprocal arrangements.</p> <p>[1993 s238(1); 1997 s20 & Sch E]</p>	<p>289.—(1) The Minister may make such orders as may be necessary to carry out any reciprocal or other arrangements made with any international organisation, any other state or government or the proper authority under any other government, in respect of matters relating to insurance and benefits under <i>Part 2</i>, old age (non-contributory) and blind pensions, widow’s (non-contributory) pension, widower’s (non-contributory) pension or orphan’s (non-contributory) pension, unemployment assistance and child benefit, and may by any such order make any adaptations of and modifications in respect of these matters that he or she considers necessary.</p>	<p>35</p> <p>40</p>
<p>[1993 s238(2)]</p>	<p>(2) The Minister may by order amend or revoke an order under this section.</p>	
<p>Provision of consultancy, training and contract services, etc.</p> <p>[1994 s33]</p>	<p>290.—(1) The Minister may, with the consent of the Minister for Finance, for gain or otherwise, promote and enter into, with a specified body—</p> <p style="padding-left: 20px;">(a) a contract or an agreement for the provision by him or her to, or</p>	<p>45</p>

(b) a contract, agreement or a joint venture for the provision by him or her with,

5 that body, of consultancy, advisory, training, technical assistance or contract services or the sale or provision of computer products, inside and outside the State.

(2) In this section “specified body” means— [1994 s33]

(a) a body established by or under any enactment (other than the Companies Acts 1963 to 2005),

10 (b) a body established under the Companies Acts 1963 to 2005,

(c) a body formed or established under the laws of a state other than the State and corresponding to a body referred to in *paragraphs (a) and (b)*,

(d) an institution of the European Communities,

15 (e) a competent authority of a state other than the State, or

(f) the United Nations, the World Bank or any other international institution recognised by the State.

20 **291.**—(1) The Minister may delegate to those persons that may be prescribed, any function in relation to the administration of any benefit that may be prescribed and any such delegation shall be subject to the conditions and in the circumstances that may be prescribed. Administration of social welfare schemes. [1993 s239(1)]

(2) Regulations made under this section may apply to the whole State or to a specified part or parts of the State. [1993 s239(2)]

25 **292.**—(1) The Minister may make regulations to provide that where a beneficiary consents, an amount of his or her benefit, which is determined by consultation and agreement between the Minister and the beneficiary, may be withheld and paid separately by the Minister to any specified body designated by the beneficiary. Budgeting in relation to social welfare payments. [1993 s240(1)]

30 (2) Regulations made under *subsection (1)* may, in particular and without prejudice to the generality of that subsection, provide for— [1993 s240(2)]

(a) the withdrawal of consent by a beneficiary,

(b) the time and manner in which the withdrawal shall take place, and

35 (c) the adjustment of any amount of benefit as a result of that withdrawal.

(3) In this section “a specified body” means— [1993 s240(3); 1996 s42]

(a) a local authority,

(b) any other body established—

40 (i) by or under any enactment (other than the Companies Acts 1963 to 2005), or

(ii) under the Companies Acts 1963 to 2005, in pursuance of powers conferred by or under other enactments, and financed wholly or partly by means of moneys provided or loans made or guaranteed by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government and a subsidiary of any such body, 5

or

(c) any other body that may be prescribed.

Regulations in relation to unpaid rent. 293.—The Minister may, after consultation with the Minister for the Environment, Heritage and Local Government, make regulations to provide that where rent due to a housing authority by a beneficiary is unpaid for a specified period or where the amount of rent unpaid exceeds a specified amount, an amount of the beneficiary's benefit may, notwithstanding any provision of this Act, on application by the housing authority to the Minister, be withheld without the beneficiary's consent and paid separately by the Minister to the housing authority, provided that the amount so withheld in any week shall not exceed the amount of the weekly rent payable by the beneficiary. 10 15 20

[Housing (MP) Act 1997 s17]

Regulations varying rates of benefit or assistance. 294.—(1) Notwithstanding anything in this Act the Minister may by regulations increase temporarily or vary all or any of the rates of benefit (other than child benefit or family income supplement).

[1993 s241(1)]

[1993 s241(2)]

(2) Regulations under *subsection (1)* shall not so vary the rate of any benefit as to reduce the amount of the rate payable at the commencement of the regulations. 25

Effect of means on certain rates of assistance. 295.—Notwithstanding the provisions of this Act, in the case of a person who is in receipt of any assistance under *Part 3* and whose means exceed a prescribed amount, the Minister may by regulations, where the amount payable is not a multiple of €2.50, increase that amount to the next multiple of €2.50 in respect of the class of person or classes of persons that may be prescribed. 30

[1993 s242 2001 s37(1)(b)]

Regulations in relation to benefit or assistance. 296.—The Minister may make regulations in relation to any benefit, and the regulations may apply (with or without modification) or make provisions corresponding (with or without modification) to any provisions of this Act. 35

[1993 s243]

Application of provisions of this Act, etc. by regulations. 297.—(1) In the case of any section of this Act which confers powers on the Minister to apply by regulations any provisions of this Act to matters referred to in that section, those powers are deemed to include powers to apply any provisions of any enactment, whether passed before or after 26 March 1989, which amends or extends this Act. 40

[1993 s244(1)]

[1993 s244(2)]

(2) The powers conferred on the Minister under section 23(3) of the Housing (Private Rented Dwellings) Act 1982 in relation to regulations under subsection (1) of that section (which relates to payments under the rent allowance scheme) to apply (with or without modification), or make provision corresponding (with or without modification) to, any provisions of this Act are deemed to include 45

powers to apply any provisions of, or provisions made under, any enactment, whether passed before or after 26 March 1989, which amends or extends this Act.

5 **298.**—The Minister may provide by regulations for the payment of increases in respect of qualified children at the full rate to either parent of the children concerned notwithstanding that each parent is entitled to an increase in benefit in respect of qualified children.

Payment of increases in respect of qualified children.

[1993 s245]

10 **299.**—(1) Subject to *subsection (2)*, regulations may provide for entitling to an increase of benefit or assistance (other than supplementary welfare allowance), as the case may be, payable in respect of a qualified adult, a claimant or beneficiary who would be entitled to an increase but for the fact that his or her spouse has income in excess of a prescribed amount.

Regulations in relation to payment of qualified adult increase in certain cases.

[1995 s15(1); 1997 s28(4) & Sch F]

15 (2) Regulations for the purposes of *subsection (1)* shall provide that the increase payable by virtue of those regulations shall be payable at a rate less than the appropriate rate specified in *Schedule 2* or *4*, as the case may be, and the rate specified by the regulations may vary by reference to the amount by which the income of the spouse exceeds the amount prescribed for the purposes of *subsection (1)*.

[1995 s15(1)]

20 (3) In this section “benefit” means benefit under *Part 2*.

[1995 s15(1); 2000 s20(1)]

25 **300.**—(1) A person who, apart from this section, would be a qualified adult for the purposes of a scheme to which this section applies shall not be a qualified adult for the purposes of that scheme unless the person is a spouse within the meaning of this Act.

Qualified adult (administrative schemes).

[2004 (MP) s19]

(2) Notwithstanding any enactment but without prejudice to *subsection (1)*, the circumstances in which there arises an entitlement to—

[2004 (MP) s19]

30 (a) an allowance under a scheme to which this section applies, or

(b) an increase in the amount of that allowance,

by reference to the status or description of one or both, or all, of 2 or more persons residing or living together are those circumstances expressly set out in the scheme and not otherwise.

35 (3) This section applies to the following schemes administered by the Minister and known as—

[2004 (MP) s19]

(a) the Free Travel Scheme,

(b) the National Fuel Scheme,

(c) the Part-Time Job Incentive Scheme,

40 (d) the Back to Education Allowance,

(e) the Back to School Clothing and Footwear Allowance,

(f) the Back to Work Allowance (Employees),

(g) the Back to Work Enterprise Allowance,

- (xi) as to whether a person is or was in insurable self-employment, or
- (xii) as to the rate of self-employment contribution which is or was payable by a self-employed contributor,
- 5 (b) *Part 3* (social assistance) other than *Chapter 9* (supplementary welfare allowance),
- (c) *Part 4* (child benefit),
- (d) *Part 5* (respite care grant),
- (e) *Part 6* (family income supplement),
- 10 (f) *Part 7* (continued payment for qualified children),
- (g) *Part 8* (EU payments),
- (h) *Part 9* (general provisions relating to social insurance, social assistance and insurability), and
- (i) *Part 12* (liability to maintain family).
- 15 (3) In the case of a deciding officer who is a bureau officer this section also applies to every question arising under *Chapter 9* of *Part 3*. [1999 s30(1)(b)]
- (4) A reference in *subsection (2)(a)* to a question arising in relation to a claim for benefit includes a reference to a question
20 whether benefit is or is not or was or was not payable. [1993 s247(3)]
- (5) Notwithstanding *subsections (1) to (4)* and subject to *subsection (7)*, where a person is in receipt of child benefit, the Minister may provide for the award of child benefit to that person in respect
25 of a second or subsequent child on receipt of the information that may be prescribed, verified in the manner that may be prescribed, where the Minister is satisfied that the information is adequate to ensure that the award is made in accordance with this Act. [2003 (MP) s11]
- (6) Notwithstanding *subsections (1) to (4)* and subject to *subsection (8)*, the Minister may provide for the award of a bereavement
30 grant or a payment under *section 250*, in the circumstances and subject to the conditions that may be prescribed, on receipt of information that may be prescribed, verified in the manner that may be prescribed, where the Minister is satisfied that the information is adequate to ensure that the award is made in accordance with this
35 Act. [2005 (SW&P) s16(a)]
- (7) In the case of an award made under *subsection (5)*, any question which arises subsequently in relation to whether child benefit is or is not payable, or in relation to who is entitled to receive child benefit, shall be referred to a deciding officer for decision. [2003(MP) s11]
- 40 (8) In the case of an award made under *subsection (6)*, any question which arises subsequently in relation to whether a bereavement grant or a payment under *section 250* is or is not payable, or in relation to who is entitled to receive a bereavement grant or a payment under *section 250*, shall be referred to a deciding officer for
45 decision. [2005 (SW&P) s16(a)]

Revision of
decisions by
deciding officers.

[1993 s248(1)]

303.—(1) A deciding officer may, at any time—

- (a) revise any decision of a deciding officer, where it appears to him or her that the decision was erroneous in the light of new evidence or of new facts which have been brought to the notice of the deciding officer since the date on which it was given or by reason of some mistake having been made in relation to the law or the facts, or where it appears to the deciding officer that there has been any relevant change of circumstances since the decision was given, or
- (b) revise any decision of an appeals officer where it appears to him or her that there has been any relevant change of circumstances which has come to notice since the decision was given,

and the provisions of this Part as to appeals apply to the revised decision in the same manner as they apply to an original decision of a deciding officer.

[1999 s30(1)(c);
2005 (SW&P) s23 &
Sch 1]

(2) A deciding officer who is a bureau officer may at any time make a decision revising a determination of an employee of the Executive, including an employee of the Executive designated under *section 325*, to entitlement to supplementary welfare allowance where it appears to the deciding officer that the determination ought to be revised having regard to the facts as they are established to the satisfaction of the deciding officer and the application of this Act to those facts and the provisions of this Part as to appeals shall apply to the revised decision in the same manner as they apply to an original decision of a deciding officer.

[1993 s248(2)]

(3) *Subsection (1)(a)* shall not apply to a decision relating to a matter which is on appeal or reference under *section 305* or *313* unless the revised decision would be in favour of a claimant.

[1999 s30(1)(d)]

(4) *Subsection (2)* shall not apply to a determination relating to a matter which is on appeal under *section 314* or *325*, as the case may require, unless the revised decision would be in favour of the claimant.

Effect of revised
decisions by
deciding officers.

[1993 s249; 1999
s30(2) & Sch F]

304.—A revised decision given by a deciding officer shall take effect as follows:

- (a) where any benefit, assistance, child benefit, family income supplement or continued payment for qualified children will, by virtue of the revised decision be disallowed or reduced and the revised decision is given owing to the original decision or determination having been given, or having continued in effect, by reason of any statement or representation (whether written or verbal) which was to the knowledge of the person making it false or misleading in a material respect or by reason of the wilful concealment of any material fact, it shall take effect from the date on which the original decision or determination took effect, but the original decision or determination may, in the discretion of the deciding officer, continue to apply to any period covered by the original decision or determination to which the false or misleading statement or representation or the wilful concealment of any material fact does not relate;

5 (b) where any benefit, assistance, child benefit, family income supplement or continued payment for qualified children will, by virtue of the revised decision be disallowed or reduced and the revised decision is given in the light of new evidence or new facts (relating to periods before and after the commencement of this Act) which have been brought to the notice of the deciding officer since the original decision or determination was given, it shall take effect from the date that the deciding officer shall determine having regard to the new facts or new evidence and the circumstances of the case;

(c) in any other case, it shall take effect as from the date considered appropriate by the deciding officer having regard to the circumstances of the case.

15 **305.**—A deciding officer may, where he or she thinks proper, instead of deciding it himself or herself, refer in the prescribed manner any question to be decided by the deciding officer to an appeals officer. Reference by deciding officer to appeals officer. [1993 s250]

CHAPTER 2

20 *Appeals Officers, Chief Appeals Officer and Decisions by Appeals Officers*

25 **306.**—The Minister may appoint such and so many of his or her officers as he or she thinks proper to be appeals officers for the purposes of this Act, and every person so appointed shall hold office as an appeals officer during the pleasure of the Minister. Appointment of appeals officers. [1993 s251; 1996 s30(1)(a)]

307.—One of the appeals officers shall be designated by the Minister to be the Chief Appeals Officer and another of them shall be designated by the Minister to act as the deputy for the Chief Appeals Officer when that Officer is not available. Chief Appeals Officer. [1993 s252]

30 **308.**—The Chief Appeals Officer may, where he or she considers it appropriate, refer any question which has been referred to an appeals officer, other than a question to which *section 322* applies, for the decision of the High Court. Reference to High Court. [1993 s253]

35 **309.**—(1) Whenever a person has appealed a decision of a deciding officer then, where the Chief Appeals Officer certifies that the ordinary appeals procedures set out in this Chapter are inadequate to secure the effective processing of that appeal, the Chief Appeals Officer shall cause a direction to be issued to the person who has submitted the appeal directing the person to submit the appeal not later than 21 days from receipt of the direction to the Circuit Court and the Circuit Court may, on hearing the appeal as it thinks proper, affirm the decision or substitute the decision of the deciding officer in accordance with this Act and on the same evidence as would otherwise be available to the Appeals Officer. Appeals to Circuit Court. [1997 s34; 1999 s29(1)]

45 (2) The appellant shall give notice of the appeal as submitted to the Circuit Court to the deciding officer. [1997 s34]

(3) No appeal shall lie from a decision of the Circuit Court on an appeal under this section. [1997 s34]

Annual report. [1993 s254(1)]	310. —(1) As soon as may be after the end of each year, but not later than 6 months thereafter, the Chief Appeals Officer shall make a report to the Minister of his or her activities and the activities of the appeals officers under this Part during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.	5
[1993 s254(2)]	(2) A report under <i>subsection (1)</i> shall be in such form and shall include information in regard to such matters (if any) other than those referred to in that subsection as the Minister may direct.	
[1993 s254(3); 2005 (SW&P) s26 & Sch 4]	(3) The Chief Appeals Officer shall, whenever so requested by the Minister, give to the Minister information in relation to the matters that the Minister may specify concerning his or her activities or the activities of appeals officers under this Part.	10
Appointment of assessors. [1993 s255]	311. —(1) The Chief Appeals Officer may appoint any person whom he or she considers suitable to sit as an assessor with an appeals officer when any question, which appears to the Chief Appeals Officer to require the assistance of assessors, is heard.	15
	(2) The Chief Appeals Officer may constitute, on the basis of districts or otherwise as he or she considers appropriate, panels of persons to sit as assessors with appeals officers and members may be selected in the manner that he or she may determine from those 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.	20
Other functions of Chief Appeals Officer. [1993 s256(1)]	312. —(1) The Chief Appeals Officer shall have any other functions in relation to appeals under this Part that may be prescribed.	25
[1993 s256(2)]	(2) In this section “functions” includes powers, duties and obligations.	
Appeals and references to appeals officers. [1993 s257(1)]	313. —(1) Where any person is dissatisfied with the decision given by a deciding officer, the question shall, on notice of appeal being given to the Chief Appeals Officer within the prescribed time, be referred to an appeals officer.	30
[1993 s257(2)]	(2) Regulations may provide for the procedure to be followed on appeals and references under this Part.	
[1993 s257(3); 2005 (SW&P) s23 & Sch 1]	(3) An appeals officer, when deciding a question referred under <i>subsection (1)</i> or <i>section 314</i> , shall not be confined to the grounds on which the decision of the deciding officer, or the determination of the employee of the Executive, as the case may require, was based, but may decide the question as if it were being decided for the first time.	35 40
Supplementary welfare allowance — appeals. [1996 s30(1)(b); 2005 (SW&P) s23 & Sch 1]	314. —Where a person is dissatisfied with the determination of an appeal by the person under <i>section 325</i> in relation to a claim for supplementary welfare allowance, the question shall, on notice of appeal being given to the Executive within the prescribed time, be forwarded by it to the Chief Appeals Officer for referral to an appeals officer.	45

- 315.—An appeals officer shall, on the hearing of any matter referred to him or her under this Part have power to take evidence on oath and for that purpose may administer oaths to persons attending as witnesses at that hearing. Power to take evidence on oath.
[1993 s258]
- 5 **316.**—(1) An appeals officer may, by giving written notice in that behalf to any person, require the person to attend at the time and place specified in the notice to give evidence in relation to any matter referred to the appeals officer under this Part or to produce any documents in the person’s possession, custody or control which relate to any such matter. Notification to persons to attend and give evidence or produce documents at appeal hearing.
[1993 s259(1)]
- 10 (2) A notice under *subsection (1)* may be given either by delivering it to the person to whom it relates or by sending it by post in a prepaid registered letter addressed to that person at the address at which he or she ordinarily resides or at his or her place of business. [1993 s259(2)]
- 15 (3) A person to whom a notice under *subsection (1)* has been given and who refuses or wilfully neglects to attend in accordance with the notice or who, having so attended, refuses to give evidence or refuses or wilfully fails to produce any document to which the notice relates is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,500. [1993 s259(3); 2005 (SW&P) s26 & Sch 4]
- 20 (4) Where a person required to attend to give evidence or to produce documents under *subsection (1)* fails to attend or to produce those documents, an appeals officer may, on serving notice on that person, apply to the District Court for an order directing that person to attend or to produce those documents as required. [1993 s259(4)]
- 25 **317.**—Any matter referred to an appeals officer under this Part and to be heard by the appeals officer sitting with an assessor appointed under *section 311* may, with the consent of the parties appearing at the hearing, but not otherwise, be proceeded with in the absence of the assessor. Procedure where assessor appointed.
[1993 s260]
- 30 **318.**—(1) In relation to any matter referred to an appeals officer under this Part the following apply: Award of expenses.
[1993 s261(1); 1996 s34]
- 35 (a) subject to *paragraph (b)*, an award shall not be made in respect of any costs (whether in respect of the representation of the appellant or otherwise in relation to the matter) incurred by a person;
- 40 (b) an appeals officer may make an award to a person appearing before the officer towards the person’s expenses, which shall be payable by the Minister.
- (2) In *subsection (1)(b)*, “expenses” means— [1996 s34]
- (a) expenses necessarily incurred by the appellant or a witness in respect of his or her travel and subsistence or loss of remuneration, and
- 45 (b) in the case of a person appearing before an appeals officer in a representative capacity, an amount only in respect of that person’s actual attendance.

[1993 s261(2)]	(3) The Minister may pay to assessors referred to in <i>section 311</i> the amounts in respect of expenses (including expenses representing loss of remunerative time) as the Minister, with the sanction of the Minister for Finance, determines.	
Revision by appeals officer of decision of appeals officer. [1993 s262]	319. —An appeals officer may, at any time revise any decision of an appeals officer, where it appears to the appeals officer that the decision was erroneous in the light of new evidence or of new facts brought to his or her notice since the date on which it was given, or where it appears to the appeals officer that there has been any relevant change of circumstances since the decision was given.	5 10
Revision by Chief Appeals Officer of decision of appeals officer. [1993 s263]	320. —The Chief Appeals Officer may, at any time, revise any decision of an appeals officer, where it appears to the Chief Appeals Officer that the decision was erroneous by reason of some mistake having been made in relation to the law or the facts.	
Effect of revised decision by appeals officer. [1993 s264; 1996 s32 & Sch H]	321. —A revised decision given by an appeals officer shall take effect as follows: (a) where any benefit, assistance, child benefit, family income supplement or continued payment for qualified children will, by virtue of the revised decision be disallowed or reduced and the revised decision is given owing to the original decision having been given, or having continued in effect, by reason of any statement or representation (whether written or verbal) which was to the knowledge of the person making it false or misleading in a material respect or by reason of the wilful concealment of any material fact, it shall take effect from the date on which the original decision took effect, but the original decision may, in the discretion of the appeals officer, continue to apply to any period covered by the original decision to which the false or misleading statement or representation or the wilful concealment of any material fact does not relate; (b) where any benefit, assistance, child benefit, family income supplement or continued payment for qualified children will, by virtue of the revised decision, be disallowed or reduced and the revised decision is given in the light of new evidence or new facts (relating to periods before and after the commencement of this Act) which have been brought to the notice of the appeals officer since the original decision was given, it shall take effect from the date the appeals officer shall determine having regard to the new facts or new evidence and the circumstances of the case; (c) in any other case, it shall take effect from the date considered appropriate by the appeals officer having regard to the circumstances of the case.	15 20 25 30 35 40 45
Decision of appeals officer to be final and conclusive. [1993 s265; 2005 (SW&P) s7(1)(c) & 10(c)]	322. —The decision of an appeals officer on any question— (a) specified in <i>section 302(2)(a)(i), (ii) or (iii)</i> , other than a question arising under <i>Chapter 13 of Part 2</i> as to whether an accident arose out of and in the course of employment, and	50

(b) arising under Part 3, 4, 5, 6, 7, 8, 9 or 11 or this Part,

shall, subject to sections 303(1)(b), 319, 320, 326(1)(c) and 329, be final and conclusive.

5 **323.**—For the purposes of supplementary welfare allowance, every reference in this Part to a decision shall be read as a reference to a determination.

Supplementary welfare allowance.
[1996 s30(1)(h)]

CHAPTER 3

Supplementary Welfare Allowance — Determinations and Appeals

10 **324.**—Any function in relation to the determination of the entitlement of any person to supplementary welfare allowance and the amount of any such allowance shall, subject to section 302, 314 or 325, be a function of the chief executive officer of the Executive.

Determination of entitlement to supplementary welfare allowance.
[1993 s266; 2005 (SW&P) s23 & Sch 1]

15 **325.**—Where a person is dissatisfied with the determination by an employee of the Executive of a claim by him or her for supplementary welfare allowance, an appeal shall lie against the determination to another employee of the Executive appointed or designated by the Minister.

Appeals.
[1993 s267(1); 2005 (SW&P) s23 & Sch 1]

20 **326.**—(1) An employee of the Executive (in this subsection referred to as the “first-named employee”) who is duly authorised to determine entitlement to a supplementary welfare allowance may, at any time—

Revision of determination of entitlement to supplementary welfare allowance.

25 (a) revise a determination of another employee of the Executive, other than an employee appointed or designated under section 325, to such allowance if it appears to the first-named employee that the determination was erroneous in the light of new evidence or of new facts which have been brought to the notice of the first-named employee since the date on which the determination was given or by reason of some mistake having been made in relation to the law or the facts, or if it appears to the first-named employee that there has been any relevant change of circumstances since the determination was given,

[1993 s268; 2005 (SW&P) s23 & Sch 1]

30 (b) revise the determination of another employee of the Executive appointed or designated under section 325, if it appears to the first-named employee that there has been any relevant change of circumstances which has come to notice since the determination was given, or

35 (c) revise the decision of an appeals officer, if it appears to the first-named employee that there has been any relevant change of circumstances which has come to notice since the decision was given,

and the provisions of this Part as to appeals shall apply to the revised determination in the same manner as they apply to an original determination of an employee of the Executive.

45 (2) Subsection (1)(a) and (b) shall not apply to a determination relating to a matter which is on appeal under section 314 or 325, as

[1996 s30(1)(g)]

the case may require, unless the revised determination would be in favour of a claimant.

Effect of revised determination by employee of Health Service Executive.

327.—A revised determination of entitlement to a supplementary welfare allowance given by an employee of the Executive shall take effect as follows:

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[1993 s269; 2005 (SW&P) s23 & Sch 1]

- (a) where any supplementary welfare allowance will, by virtue of the revised determination be disallowed or reduced and the revised determination is given owing to the original determination having been given, or having continued in effect, by reason of any statement or representation (whether written or verbal) which was to the knowledge of the person making it false or misleading in a material respect or by reason of the wilful concealment of any material fact, it shall take effect from the date on which the original determination took effect, but the original determination may, in the discretion of the employee of the Executive, continue to apply to any period covered by the original determination to which the false or misleading statement or representation or the wilful concealment of any material fact does not relate;
- (b) where any supplementary welfare allowance will, by virtue of the revised determination, be disallowed or reduced and the revised determination is given in the light of new evidence or new facts (relating to periods before and after the commencement of this Act) which have been brought to the notice of the employee of the Executive since the original determination was given, it shall take effect from the date that the employee of the Executive shall determine having regard to the new facts or new evidence and the circumstances of the case;
- (c) in any other case, it shall take effect from the date considered appropriate by the employee of the Executive having regard to the circumstances of the case.

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CHAPTER 4

General Provisions Relating to Decisions and Appeals

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Appeals — oral hearings.

[1993 s270]

328.—Notwithstanding *section 313(2)*, where the Minister or a person designated by the Minister considers that the circumstances of a particular case warrant an oral hearing of the appeal, the Minister or any person so designated by him or her may direct the Chief Appeals Officer that the appeal be determined by way of an oral hearing.

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Appeals to High Court.

[1993 s271]

329.—Any person who is dissatisfied with—

- (a) the decision of an appeals officer, or
(b) the revised decision of the Chief Appeals Officer,

on any question, other than a question to which *section 322* applies, may appeal that decision or revised decision, as the case may be, to the High Court on any question of law.

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Certificate by deciding officer, appeals officer or employee of Health Service Executive.

330.—A document purporting to be a certificate of a decision made under this Act by a deciding officer or an appeals officer and

[1993 s272]

to be signed by him or her shall be prima facie evidence of the making of the decision and of the terms of that decision, without proof of the signature of the officer or of his or her official capacity.

5 **331.**—A reference in this Part to a revised decision given by a deciding officer or an appeals officer or a revised determination given by an employee of the Executive includes a reference to a revised decision or determination which reverses the original decision or determination. Revision to include revision consisting of reversal.
[1993 s273; 2005 (SW&P) s23 & Sch 1]

10 **332.**—The Minister may make regulations specifying the procedures to be followed by— Regulations.
[1996 s31; 2005 (SW&P) s23 & Sch 1]

(a) a deciding officer, when deciding questions under *sections 302 and 303*,

(b) an appeals officer, when deciding questions under *sections 305, 313 and 314*, and

15 (c) an employee of the Executive in making determinations in relation to supplementary welfare allowance including determinations under *section 325*.

CHAPTER 5

Social Welfare Tribunal

20 **333.**—Where, in relation to a stoppage of work or a trade dispute, a deciding officer or an appeals officer has decided that a person is disqualified under *section 68(1)* for receipt of unemployment benefit or under *section 147(2)* for receipt of unemployment assistance, that person may, notwithstanding any other provision of this Act, apply Application for adjudication by Social Welfare Tribunal.
[1993 s274; 1996 s33]

25 to the Social Welfare Tribunal (in this Chapter referred to as “the Tribunal”) for an adjudication under this Chapter.

334.—(1) The following provisions apply in relation to an adjudication under this Chapter: Adjudications by Social Welfare Tribunal.

30 (a) the Tribunal shall, before making the adjudication, take into account all the circumstances of the stoppage of work concerned and of the trade dispute which caused the stoppage of work, including (without prejudice to the generality of the foregoing)— [1993 s275]

35 (i) the question whether the applicant is or was available for work and willing to work, but is or was deprived of his or her employment through some act or omission on the part of the employer concerned which amounted to unfair or unjust treatment of the applicant,

40 (ii) the question whether the applicant is or was prevented by the employer from attending for work at his or her place of employment or was temporarily laid off by the employer, without (in either such case) any reasonable or adequate consultation by the employer with the applicant or with a trade union acting on his or her behalf, or without (in either case) 45 the use by the employer or by any body acting on

his or her behalf of the services normally availed of by employers in the interests of good industrial relations,

(iii) the question whether any action or decision by the employer, amounting to a worsening of the terms or conditions of employment of the applicant and taken without any or any adequate consultation with, or any or any adequate notice to, the applicant, was a cause of the stoppage of work or of the trade dispute which caused the stoppage of work and was material grounds for the stoppage or the trade dispute,

(iv) the question whether the conduct of the applicant or of a trade union acting on his or her behalf was reasonable;

(b) the Tribunal shall, having heard the evidence adduced before it, and the representations made to it, by the applicant and the employer and having considered whether the conduct of the applicant or of a trade union acting on his or her behalf was reasonable and whether the employer or a body acting on his or her behalf was willing to avail of the services normally availed of in the interests of good industrial relations, decide whether the applicant is or was unreasonably deprived of his or her employment and whether (if it decides that he or she is or was so deprived) the applicant shall, notwithstanding the decision under *section 68(1)* or under *section 147(2)* of the deciding officer or appeals officer, subject to the other conditions for the receipt of such benefit or assistance being satisfied, be qualified to receive unemployment benefit or unemployment assistance and (where appropriate) the period during which he or she shall be so qualified;

(c) subject to *subsection (2)*, a decision of the Tribunal on an application for an adjudication shall be final and conclusive, but an appeal shall lie to the High Court on a question of law.

[1993 s275] (2) A person interested (including the Minister) may apply to the Tribunal for a review of its decision and, where the Tribunal is satisfied that a material change has occurred in the circumstances of the stoppage of work or of the trade dispute which caused the stoppage of work, or that there is new evidence or new facts which in the opinion of the Tribunal could have affected its decision, it may review its decision and such a review shall be treated as an adjudication under this section.

Social Welfare Tribunal. **335.—(1)** There shall be a Tribunal, which shall be known as the Social Welfare Tribunal, to hear and decide applications for adjudications under this Chapter.

[1993 s276(1)]

[1993 s276(2)] (2) The Tribunal shall consist of a chairman and 4 ordinary members.

[1993 s276(3)] (3) The members of the Tribunal shall be appointed by the Minister and shall be eligible for re-appointment.

[1993 s276(4)] (4) (a) 2 ordinary members of the Tribunal shall be persons representative of workers and nominated for appointment as

such members by the body known as the Irish Congress of Trade Unions.

- 5 (b) The 2 other ordinary members of the Tribunal shall be persons representative of employers and nominated for appointment as such members by an organisation representative of employers.
- (5) The term of office of a member of the Tribunal shall be the period specified by the Minister when appointing the member. [1993 s276(5)]
- 10 (6) (a) A member of the Tribunal may, by letter addressed to the Minister, resign his or her membership. [1993 s276(6)]
- (b) A member of the Tribunal may be removed from office by the Minister.
- 15 (7) (a) Whenever a vacancy occurs in the membership of the Tribunal and is caused by the resignation, removal from office or death of an ordinary member mentioned in *subsection (4)(a)*, the vacancy shall be filled by the Minister by appointment in the manner specified in that subsection. [1993 s276(7)]
- 20 (b) Whenever a vacancy occurs in the membership of the Tribunal and is caused by the resignation, removal from office or death of an ordinary member mentioned in *subsection (4)(b)*, the vacancy shall be filled by the Minister by appointment in the manner specified in that subsection.
- 25 (8) In the case of a member of the Tribunal filling a vacancy caused by the resignation, removal from office or death of a member before the completion of the term of office of the last-mentioned member, the member filling that vacancy shall hold office for the remainder of the term of office of the person who resigned, died or was removed from office. [1993 s276(8)]
- 30 (9) A member of the Tribunal shall be paid the remuneration (if any) and allowances that may be determined by the Minister with the consent of the Minister for Finance. [1993 s276(9)]
- 35 (10) The Minister may, with the consent of the Minister for Finance, appoint such employees of the Tribunal as he or she considers necessary to assist the Tribunal in the performance of its functions, and those employees shall hold office on such terms and receive such remuneration as the Minister for Finance determines. [1993 s276(10)]
- 40 (11) (a) The Tribunal, on the hearing of an application under this Chapter, shall have power to take evidence on oath and for that purpose may cause oaths to be administered to persons attending as witnesses at the hearing. [1993 s276(11)]
- 45 (b) Where a person gives false evidence before the Tribunal in such circumstances that, if the person had given the evidence before a court, he or she would be guilty of perjury, he or she is guilty of that offence.
- 50 (c) The Tribunal may, by giving written notice in that behalf to any person, require the person to attend at the time and place specified in the notice to give evidence in relation to any matter referred to the Tribunal under this

Chapter or to produce any documents in his or her possession, custody or control which relate to any such matter.

(d) A notice under *paragraph (c)* may be given either by delivering it to the person to whom it relates or by sending it by post in a prepaid registered letter addressed to the person at the address at which he or she ordinarily resides. 5

[2005 (SW&P) s26 & Sch 4]

(e) A person to whom a notice under *paragraph (c)* has been given and who refuses or wilfully neglects to attend in accordance with the notice or who, having so attended, refuses to give evidence or refuses or wilfully fails to produce any document to which the notice relates is guilty of an offence and is liable on summary conviction to a fine not exceeding €150. 10 15

[1993 s276(12)]

(12) The Minister may make regulations giving effect to this section and those regulations may, in particular but without prejudice to the generality of the foregoing, provide for all or any of the following matters:

(a) the procedure to be followed regarding the making of applications to the Tribunal; 20

(b) the times and places of hearings by the Tribunal;

(c) the representation of parties attending hearings by the Tribunal;

(d) the procedure regarding the hearing of applications by the Tribunal; 25

(e) the publication and notification of decisions of the Tribunal;

(f) notices relating to applications or hearings by the Tribunal; 30

(g) the award by the Tribunal of costs and expenses and the payment of those awards;

(h) an official seal of the Tribunal.

PART 11

OVERPAYMENTS, REPAYMENTS, SUSPENSION OF PAYMENT, ETC. 35

Interim payments and suspension of payment.

336.—(1) Regulations may make provision in relation to matters arising—

[1993 s277(1); 2005 (SW&P) s7(1)(c) & 10(c)]

(a) pending the decision or determination under *Part 2, 3, 4, 5, 6, 7, 8, 9 or 10* or this Part (whether in the first instance or on an appeal or reference, and whether originally or on revision) of any claim for benefit, assistance, child benefit, family income supplement or continued payment for qualified children or of any question affecting any person's right to any such benefit, assistance, child benefit, family income supplement or continued payment 40 45

for qualified children or to receipt thereof or any person's liability for contributions, or

5 (b) out of the effect of any appeal or revision of any decision or determination under *Part 2, 3, 4, 5, 6, 7, 8, 9 or 10* or this Part on any such claim or question.

(2) Where it appears to the Minister that a question has arisen or may arise as to whether— [1993 s277(2); 2005 (SW&P) s23 & Sch 1]

10 (a) the conditions for the receipt of benefit, assistance (other than supplementary welfare allowance determined by the Executive), child benefit, family income supplement or continued payment for qualified children payable under a decision are or were fulfilled, or

15 (b) a decision that any such benefit, assistance, child benefit, family income supplement or continued payment for qualified children is payable ought to be revised under this section,

20 the Minister may direct that payment of that benefit, assistance, child benefit, family income supplement or continued payment for qualified children shall be suspended in whole or in part until the question has been decided.

(3) Where it appears to an employee of the Executive who is duly authorised to determine entitlement to supplementary welfare allowance that a question has arisen or may arise as to whether— [1993 s277(3); 2005 (SW&P) s23 & Sch 1]

25 (a) the conditions for the receipt of an allowance payable under a determination are or were fulfilled, or

(b) a determination of entitlement ought to be revised under this section,

payment of the supplementary welfare allowance may be suspended in whole or in part until that question has been determined.

30 **337.**—Where, in accordance with *section 304, 321 or 327*, a decision or determination is varied or reversed by a deciding officer, an appeals officer or an employee of the Executive (as the case may be) so as to disallow or reduce any benefit, assistance, child benefit, family income supplement or continued payment for qualified children paid or payable to a person— Overpayments. [1993 s278; 2005 (SW&P) s23 & Sch 1]

40 (a) any benefit paid in pursuance of the original decision shall be repayable to the Social Insurance Fund to the extent to which it would not have been payable if the decision on the appeal or revision had been given in the first instance and the person and any other person to whom the benefit was paid on behalf of that person, or the personal representative of that person, shall be liable to pay to the Fund, on demand made in that behalf by an officer of the Minister, the sum so repayable,

45 (b) any assistance (other than supplementary welfare allowance determined by the Executive under *Part 3*), child benefit, family income supplement or continued payment for qualified children paid in pursuance of the original decision shall be repayable to the Minister to the extent to which it would not have been payable if the decision
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on the appeal or revision had been given in the first instance and the person and any other person to whom that assistance, child benefit, family income supplement or continued payment for qualified children (as the case may be) was paid on behalf of that person, or the personal representative of that person, shall be liable to pay to the Minister, on demand made in that behalf by an officer of the Minister, the sum so repayable, 5

(c) any supplementary welfare allowance determined by the Executive paid in pursuance of the original determination shall be repayable to the Executive to the extent to which it would not have been payable if the revised determination had been given in the first instance and the person and any other person to whom the supplementary welfare allowance was paid on behalf of that person, or the personal representative of that person, shall be liable to pay on demand by the Executive the sum so repayable, 10 15

(d) any supplementary welfare allowance paid in pursuance of the original determination shall be repayable to the Minister to the extent to which it would not have been payable if the revised decision made in accordance with *section 303(2)* had been given in the first instance and the person and any other person to whom the supplementary welfare allowance was paid on behalf of that person, or the personal representative of that person, shall be liable to pay on demand by the Minister the sum so repayable. 20 25

Repayment of benefit, assistance, etc. overpaid.

[1993 s279; 2005 (SW&P) s23 & Sch 1]

338.—Where, in any case, other than a case involving a revised decision or determination in accordance with *section 304, 321 or 327*, a person has been—

(a) in receipt of any benefit, assistance, child benefit, family income supplement or continued payment for qualified children for any period during which that person was not entitled thereto, or 30

(b) in receipt of that benefit, assistance, child benefit, supplement or payment at a rate higher than that to which he or she was entitled, 35

then that person and any other person to whom that benefit, assistance, child benefit, supplement or payment was paid on behalf of that person, or the personal representative of that person, shall be liable to pay— 40

(i) to the Social Insurance Fund, in the case of benefit,

(ii) to the Minister, in the case of assistance (other than supplementary welfare allowance determined by the Executive), child benefit, family income supplement or continued payment for qualified children, and 45

(iii) to the Executive, in the case of supplementary welfare allowance determined by the Executive,

on demand, any sums paid to that person in respect of that benefit, assistance, child benefit, supplement or payment during that period or, as the case may be, a sum representing the difference between that benefit, assistance, child benefit, supplement or payment at the 50

rate actually paid and benefit, assistance, child benefit, supplement or payment at the rate to which the person was entitled.

5 **339.**—Where a person is convicted of an offence under section 32 of the Larceny Act 1916 or Part 2 of the Criminal Justice (Theft and Fraud Offences) Act 2001, by virtue of having received any benefit, assistance, child benefit or family income supplement which he or she was not entitled to receive, that person is liable to pay—

Liability to repay where person convicted of offence.

[1997 s31(a); 2005 (SW&P) s23, 26 & Schs 1, 4]

(a) to the Social Insurance Fund, in the case of benefit,

10 (b) to the Minister, in the case of assistance (other than supplementary welfare allowance determined by the Executive), child benefit or family income supplement, and

(c) to the Executive, in the case of supplementary welfare allowance determined by the Executive,

15 on demand, a sum not exceeding the amount of the benefit, assistance, child benefit or family income supplement to which that conviction applies.

20 **340.**—Where a person has received moneys from the Department of Social and Family Affairs, which he or she was not entitled to receive, the person shall be liable to repay—

Recovery of debts.

[1998 s20(1); 2005 (SW&P) s23 & Sch 1]

(a) to the Social Insurance Fund, in the case of benefit,

25 (b) to the Minister, in the case of assistance (other than supplementary welfare allowance determined by the Executive), child benefit, family income supplement or continued payment for qualified children,

(c) to the Executive, in the case of supplementary welfare allowance determined by the Executive,

on demand a sum not exceeding the amount of the money received.

30 **341.**—(1) The personal representative of a person who was at any time in receipt of assistance shall, not less than 3 months before beginning to distribute the assets of that person—

Distribution of assets.

[1993 s280(1)]

35 (a) inform the Minister, by written notice delivered to the Minister, of his or her intention to distribute the assets, and provide the Minister with a schedule of the assets of the estate, and

40 (b) where requested in writing by the Minister within 3 months of giving the notice and schedule of assets referred to in *paragraph (a)*, ensure that sufficient assets are retained, to the extent (if any) appropriate, to repay any sum which may be determined to be due to the Minister or the State (as the case may be) in respect of—

(i) payment of assistance to the person at a time when the person was not entitled to receive assistance, or

45 (ii) payment of assistance to the person of an amount in excess of the amount which the person was entitled to receive.

[1993 s280(2)] (2) Notwithstanding any other provision of this Act, for the purposes of determining the sum which is due to the Minister under *subsection (1)*, the means of the deceased person for the period in respect of which assistance was paid to him or her shall, in the absence of evidence to the contrary, be calculated on the basis that the deceased person's assets at the time of his or her death belonged to him or her for that entire period. 5

[1993 s280(3)] (3) A personal representative who contravenes *subsection (1)* and who distributes the assets of the person whose estate he or she represents without payment of any sum which is due to the Minister in respect of— 10

(a) payments of assistance to the person at a time when the person was not entitled to receive assistance, or

(b) payments of assistance to the person of amounts in excess of the amounts which the person was entitled to receive, 15

shall be personally liable to repay to the Minister an amount equal to the amount (if any) which the Minister would have received if, in the administration of the estate of the person, that sum had been duly taken into account and repaid to the Minister to the extent (if any) appropriate, having regard to the assets of the person, and that amount shall be a debt due by the personal representative to the Minister. 20

[1993 s280(4); 1996 s41(a)] (4) Any proceedings to recover assistance due to the Minister as a debt due to the State under *section 343(3)* shall be maintainable against the estate of a deceased person if brought at any time within the 6 years beginning on the later of the date on which the notice or the date on which the schedule of assets under *subsection (1)(a)* is received by the Minister. 25

Recovery of payments from financial institutions.
[2001 s22] **342.—**(1) Notwithstanding any enactment or rule of law, where sums are due to the Minister or the Social Insurance Fund in accordance with *section 338* or *340* because benefit or assistance which was intended for a beneficiary was paid to a financial institution for the credit of an account kept with that institution by the beneficiary and he or she dies before the payment or payments were made, the benefit or assistance may be recovered from the financial institution in accordance with *subsection (2)*. 30 35

[2001 s22] (2) The Minister may give written notice to a financial institution requiring the institution to pay to the Minister, within the period specified in the notice, the lesser of the following amounts:

(a) the amount specified in the notice, being the amount of benefit or assistance recoverable in accordance with *subsection (1)*; or 40

(b) the amount standing to the credit of the account when the notice is received by the institution;

and the financial institution shall comply with such a direction. 45

[2001 s22] (3) In this section "financial institution" means—

(a) a bank which is the holder of a licence under section 9 of the Central Bank Act 1971,

- (b) a trustee savings bank within the meaning of the Trustee Savings Banks Act 1989,
- (c) a building society within the meaning of the Building Societies Act 1989,
- 5 (d) a post office savings bank established under the Post Office Savings Bank Acts 1861 to 1958, or
- (e) any other body that may be prescribed.

10 **343.**—(1) All sums due to the Social Insurance Fund, other than in accordance with *section 338*, shall be recoverable as debts due to the State and, without prejudice to any other remedy (notwithstanding the assignment by any regulations under *section 17(2)* to the Collector-General or any other person of any function referred to in that section in relation to employment contributions or the assignment by any regulations under *section 23(2)* to the Collector-General of any function referred to in that section in relation to self-employment contributions), may be recovered by the Minister as a debt under statute or simple contract debt in any court of competent jurisdiction.

Recovery of sums due by civil proceedings or by deduction from other payments.

[1993 s281(1)]

20 (2) Notwithstanding *section 274*, or any provision in any other enactment specifying the period within which proceedings may be commenced to recover a debt under statute or simple contract debt, any proceedings for the recovery of any sums due to the Social Insurance Fund by way of employment contributions under *section 13(1)* or self-employment contributions under *section 21(1)* may be brought and shall be maintainable at any time.

[1993 s281(2)]

30 (3) All sums due to the Minister, other than in accordance with *section 338*, under this Act shall be recoverable as debts due to the State and, without prejudice to any other remedy, may be recovered by the Minister as a debt under statute or simple contract debt in any court of competent jurisdiction.

[1993 s281(3)]

(4) Section 9 of the Civil Liability Act 1961 shall not apply to an action for the recovery of a debt due to the Minister or to the State under this Act.

[1996 s41(b)]

35 (5) Every sum repaid to or recovered by the Minister under this Act shall be paid into or disposed of for the benefit of the Exchequer or the Social Insurance Fund, as appropriate, in the manner that the Minister for Finance shall direct.

[1993 s281(4)]

40 (6) All sums due to the Executive under this Act shall be recoverable as debts due to the State and may, without prejudice to any other remedy, be recovered by the Executive as a debt under statute or simple contract debt in any court of competent jurisdiction.

[1993 s281(5); 2005 (SW&P) s23 & Sch 1]

45 (7) Any benefit, assistance, supplement or payment repayable in accordance with *section 337, 338, 339 or 340* may, without prejudice to any other method of recovery, be recovered by deduction, subject to the conditions and in the circumstances that shall be prescribed, from any benefit, assistance, supplement or payment to which the person concerned is or becomes entitled.

[1993 s281(6); 2005 (SW&P) s21(b)]

50 (8) Any child benefit repayable in accordance with *section 337, 338, 339 or 340* may, without prejudice to any other method of recovery, be recovered by deduction from any payment or payments on

[1993 s281(7); 1998 s20(2)]

account of child benefit to which such person then is or becomes entitled.

[1993 s281(8); 2005 (SW&P) s23 & Sch 1]

(9) The power conferred on the Minister by this section to deduct from any payments on account of benefit, assistance, child benefit or family income supplement to which a person becomes entitled any sums payable by the person to the Minister or the Executive under this section, may be exercised, notwithstanding that proceedings have been instituted in a court for the recovery of the sums which the person is liable to repay to the Minister or the Executive as aforesaid or that an order has been made by a court requiring the payment by the person of the sums which he or she is liable to pay to the Minister or the Executive under this section, and any costs required by that order to be paid to the Minister or the Executive are deemed, for the purposes of this section, to be sums payable by the person to the Minister or the Executive (as the case may be) under this section.

Repayment of amounts due to be deferred, suspended, reduced or cancelled.

[1993 s282; 2005 (SW&P) s21(c), 23 & Sch 1]

344.—Notwithstanding anything to the contrary, where a person is required to repay an amount of any benefit, assistance, child benefit, family income supplement or continued payment for qualified children in accordance with this Act, an officer of the Minister authorised by him or her for this purpose, or in the case of supplementary welfare allowance determined by an employee of the Executive, may, subject to the conditions and in the circumstances that shall be prescribed, defer, suspend, reduce or cancel repayment of any such amount.

Effect of decision for purposes of proceedings.

[1993 s283]

345.—In any proceedings for an offence under this Act, or in any proceedings involving any issue related to the payment of contributions, or for the recovery of any sums due to the Minister or the Social Insurance Fund, a decision on any question relevant to the proceedings given in accordance with this Act shall, unless an appeal or reference in respect of the decision is pending or the prescribed time for appealing against the decision has not expired, be conclusive for the purpose of those proceedings and—

(a) if any such decision which might be so given has not been obtained and the decision is necessary for the determination of the proceedings, the question shall be submitted for decision in accordance with this Act, and

(b) where any such appeal or reference is pending or the time for so appealing has not expired or any question has been submitted under *paragraph (a)*, the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.

PART 12

LIABILITY TO MAINTAIN FAMILY

Interpretation.

[1993 s284(1); 2005 (SW&P) s23 & Sch 1]

346.—(1) In this Part—

“allowance” means one-parent family payment, supplementary welfare allowance or a relevant payment by virtue of section 18(1)(a) or (b) of the Social Welfare Act 1996;

“antecedent order” means—

(a) an order under *section 348(5)*,

(b) an order under *section 348(6)* (insofar as it is deemed to be an order under section 17 of the Enforcement of Court Orders Act 1926), or

5 (c) an order under *section 348(6)* (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 349*;

10 “competent authority”, in relation to one-parent family payment, means the Minister, and, in relation to supplementary welfare allowance, means the Executive which granted that allowance to a recipient, or the Minister where the allowance was granted by a deciding officer;

“earnings” means any sums payable to a person—

15 (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),

20 (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);

25 “husband” in relation to a woman who has been married more than once, refers only to her last husband and for this purpose that last husband shall be read as including the man to whom, but for the fact the marriage has been dissolved, being a dissolution recognised as valid in the State, she would be married; [1997 s29]

30 “order of the Court” means a maintenance order (including maintenance specified in the order to be in respect of a child), including a lump sum order, a variation order or an interim order, made by a court under the Guardianship of Infants Act 1964, the Family Law (Maintenance of Spouses and Children) Act 1976, the Status of Children Act 1987, the Judicial Separation and Family Law Reform Act 1989, the Family Law Act 1995 or under any other enactment relating to maintenance, as the case may be, or an order of the court made on foot of a separation agreement; [1997 s29]

40 “wife” in relation to a man who has been married more than once, refers only to his last wife and for this purpose that last wife shall be read as including the woman to whom, but for the fact that the marriage has been dissolved, being a dissolution recognised as valid in the State, he would be married. [1997 s29]

45 (2) Every reference in this Part to a person who is liable to maintain another person shall be read as meaning a person who by virtue of *section 347* is liable to maintain that other person. [1993 s284(2)]

Liability to
maintain family.
[1993 s285; 1996
s19(1) & Sch E]

347.—For the purposes of *sections 174 and 189* and without prejudice to any obligations imposed by law or otherwise, the following provisions apply—

- (a) a man shall be liable to maintain—
- (i) his wife, and 5
 - (ii) any child of his, being a child who is under the age of 18 years or (save for the purposes of *section 189*) who is of or over that age and under the age of 21 years, and is receiving full-time education or instruction by day at any university, college, school or other educational establishment, 10
- and
- (b) a woman shall be liable to maintain—
- (i) her husband, and
 - (ii) any child of hers, being a child who is under the age of 18 years or (save for the purposes of *section 189*) who is of or over that age and under the age of 21 years, and is receiving full-time education or instruction by day at any university, college, school or other educational establishment. 20

Contribution
towards benefit or
allowance.
[1993 s286(1); 1997
s29(3)]

348.—(1) Where an allowance is paid to any recipient, every person who is liable to maintain that recipient or to maintain any child in respect of whom an increase in that allowance is granted, shall be liable to contribute to the competent authority the amount that may be determined to be appropriate towards that allowance. 25

[1997 s29(3)(b)]

(2) Subject to *subsection (1)*, the Minister may make regulations, in particular and without prejudice to the generality of this Part to provide for the basis on which the amount which a liable relative, within the meaning of *subsection (3)*, is liable to contribute by virtue of *subsection (1)* is determined, and for this purpose the regulations may— 30

- (a) disregard in whole or in part any amount of the income of a liable relative from any source specified in the regulations, and
- (b) require an employer or any other person to give the information that may be required for the purposes of determining the amount which a liable relative is required to contribute. 35

[1993 s286(2); 1996
s19(1) & Sch E]

(3) Where a person who is liable to contribute under *subsection (1)* (subsequently referred to in this Part as “the liable relative”) fails or neglects to contribute, the competent authority may apply to the District Court for an order directing the liable relative to make that contribution towards the allowance. 40

[1993 s286(3)]

(4) The competent authority, before making an application to the District Court under *subsection (3)*, shall serve notice of the application on the liable relative. 45

[1993 s286(4); 1998
s24(5)]

(5) Where a judge of the District Court is satisfied that, at the time of the hearing of an application by the competent authority

under *subsection (3)*, the liable relative had failed or neglected to make the contribution required under this section and was able to contribute to the allowance granted, the judge shall order the payment of that contribution to the competent authority in the manner he or she considers proper.

5 (6) An order made by the District Court under *subsection (5)* is, [1993 s286(5)] for the purposes of its variation or enforcement, deemed to be an order for payment by instalments made under section 17 of the Enforcement of Court Orders Act 1926, and that section shall be read accordingly.

(7) The District Court may, on the application of either the liable relative or the competent authority, vary in accordance with section 5 of the Enforcement of Court Orders Act 1940, an order made by it under *subsection (5)* and that section shall, with any necessary modifications, be read accordingly but any such application made by either party shall be notified to the other party in advance.

(8) The District Court may, on application by the competent authority in whose favour an order was made under *subsection (5)* 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 that section.

(9) The following provisions shall not apply to orders made under *subsection (5)*: [1993 s286(8)]

25 (a) section 4(1) (inserted by section 3(3) of the Courts (No. 2) Act 1986) of the Enforcement of Court Orders Act 1940 (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 (duration of variation orders).

30 ~~349~~—(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 are to be paid, make an attachment of earnings order.

35 (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.

40 (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 after the making of the order) has the liable relative in his or her employment and shall operate as a direction to that person to make, at the times that may be specified in the order, periodical deductions of the amounts (specified in the order) that 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 amounts deducted at the times 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.

[1993 s287(3)]	(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.	
[1993 s287(4)]	(4) An attachment of earnings order shall—	5
	(a) specify the normal deduction rate, being 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—	10
	(i) securing payment of the sums that are 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,	15
	(b) specify the protected earnings rate, being 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	20
	(c) contain, so far as they are known to the District Court, the particulars it considers appropriate for the purpose of enabling the liable relative to be identified by the person to whom the order is directed.	25
[1993 s287(5)]	(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 be required to be made under the relevant antecedent order.	30
Employer's obligations in relation to attachment of earnings order.	350.— (1) Where an attachment of earnings order or an order varying it is made, the employer for the time being affected by it shall, where it has been served on him or her, comply with it but the employer shall be under no liability for non-compliance with the order before 10 days have elapsed since the service.	35
[1993 s288(1)]	(2) Where an attachment of earnings order is served on any person and the liable relative is not in his or her employment or the liable relative subsequently ceases to be in his or her employment, that person shall (in either case) within 10 days from the date of service or, as the case may be, the cesser, give notice of that fact to the District Court.	40
[1993 s288(2)]		
[1993 s288(3)]	(3) On any occasion when a person makes, in compliance with an attachment of earnings order, a deduction from a liable relative's earnings, the person shall give to the liable relative a written statement of the total amount of the deduction.	45
[1993 s288(4)]	(4) The court registrar or court clerk 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 service may be effected by leaving the order or	50

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.

5 **351.**—Any payments made to a District Court clerk under an attachment of earnings order, when transmitted by the District Court clerk to the competent authority entitled to receive those payments, are deemed to be payments made by the liable relative so as to discharge any sums payable under the relevant antecedent order. Payments under attachment of earnings order. [1993 s289]

10 **352.**—(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— Powers of District Court. [1993 s290(1)]

15 (a) order the liable relative to give to the District Court, within a specified period, a written statement signed by the liable relative containing—

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

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

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

 and

25 (b) order that any person appearing to the District Court to have the liable relative in his or her employment to give to the Court, within a specified period, a statement signed by that person, or on his or her behalf, containing specified particulars of the liable relative's earnings and expected earnings.

30 (2) Notice of an application for an attachment of earnings order served on a liable relative may include a requirement that he or she shall give to the District Court, within the period and in the manner specified in the notice, a written statement of the matters referred to in *subsection (1)(a)* 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. [1993 s290(2)]

35 (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 *subsection (1)(a)* or *(b)* 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 is deemed, unless the contrary is shown, to be a statement so given. [1993 s290(3)]

353.—Where an attachment of earnings order is in force— Changes in employment.

45 (a) the liable relative shall notify in writing the District Court that made the order of every occasion on which he or she leaves any employment, or becomes employed or re-employed, not later (in each case) than 10 days from the date on which he or she does so, [1993 s291]

- (b) the liable relative shall, on any occasion on which he or she becomes employed or re-employed, include in his or her notification under *paragraph (a)* particulars of his or her earnings and expected earnings from the relevant employment, 5
- (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 10 days of him or her becoming the liable relative's employer or of acquiring that knowledge (whichever is the later), notify the District Court in writing that he or she is the liable relative's employer, and include in his or her notification a statement of the liable relative's earnings and expected earnings, and 10
- (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 10 days of such occurrence notify the competent authority and the District Court in writing of any increase in earnings paid to the liable relative. 15

Determinations by District Court.

[1993 s292(1)]

354.—(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 of those payments) 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. 20 25

[1993 s292(2)]

(2) Where an application under this section is made by the employer, he or she shall not incur any liability for non-compliance with the order in relation to any payments (or any portions of those payments) of the class or description specified by the application which are made by the employer 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 this subsection shall not, unless the District Court otherwise orders, apply in relation to those payments (or any portions of those payments) where the employer subsequently withdraws the application or, as the case may be, abandons the appeal. 30 35

Liable relative in service of State.

[1993 s293(1); 2005 (SW&P) s23 & Sch 1]

355.—(1) Where a liable relative is in the service of the State, a local authority, a harbour authority within the meaning of the Harbours Act 1946, the Executive, 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— 40

- (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 may from time to time designate) shall, for the purposes of this Act, be regarded as having the liable relative in his or her employment, 45 50

[2005 (SW&P) s23 & Sch 1]

- (b) in a case where a liable relative is in the service of such an authority or committee or the Executive, its chief officer

shall, for the purposes of this Act, be regarded as having the liable relative in his or her employment,

5 (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-General 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 or her employment, and

10 (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-General 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.

20 (2) Where 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. [1993 s293(2)]

25 (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 proceedings mentioned in that subsection, be admissible in evidence and be deemed, unless the contrary is shown, to contain an accurate statement of that determination. [1993 s293(3)]

30 (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. [1993 s293(4)]

35 **356.**—(1) The District Court that made an attachment of earnings order may, where 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. Discharge, variation or lapse of attachment of earnings order. [1993 s294(1); 2005 (SW&P) s26 & Sch 4]

40 (2) Where an order varying an attachment of earnings order is made under this section, the employer shall, where it has been served on the employer, comply with it, but he or she shall be under no liability for non-compliance before 10 days have elapsed since the service. [1993 s294(2)]

45 (3) Where an employer affected by an attachment of earnings order ceases to have the liable relative in his or her employment, the order shall, in so far as that employer is concerned, lapse (except in relation to 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). [1993 s294(3)]

50 (4) The lapse of an order under subsection (3) shall not prevent its remaining in force for other purposes. [1993 s294(4)]

Cesser. [1993 s295(1)]	357. —(1) An attachment of earnings order shall cease to have effect on 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.	5
[1993 s295(2)]	(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.	5
Offences. [1993 s296(1)]	358. —(1) Where, without reasonable excuse, a person— (a) fails to comply with <i>section 350(1)</i> or (2) or 353 or an order under <i>section 352</i> or 356(2), or (b) gives to a court a statement under <i>section 352(1)</i> , or a notification under <i>section 353</i> , that is false or misleading, or fails to give any statement,	10
	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 that sum is to be paid, and that court may order the person to pay to the competent authority or the District Court clerk, as appropriate, the amount (not exceeding the sum aforesaid) that in all the circumstances the court considers proper for distribution in the manner and in the amounts that the court may specify to the competent authority for whose benefit the attachment of earnings order was made.	15 20
[1993 s296(2); 2005 (SW&P) s26 & Sch 4]	(2) Where a person gives to a District Court— (a) a statement under <i>section 352</i> , or (b) a notification under <i>section 353</i> ,	25
	that is to his or her knowledge false or misleading, the person is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,500 or to imprisonment for a term not exceeding 6 months or to both.	30
[1993 s296(3); 2005 (SW&P) s26 & Sch 4]	(3) A person who contravenes <i>section 350(3)</i> is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,500.	
Payments under order of court to offset contributions. [1993 s297; 1996 s19(1) & Sch E]	359. —Where an order of the court has been granted to a person who is in receipt of an allowance, the payments made under that order shall offset either in whole or part, as the competent authority may determine, contributions due by the person liable to contribute under <i>section 348(1)</i> to that allowance.	35
Recipient of benefit or allowance to transfer to competent authority payments under order of court. [1993 s298(1); 1996 s17(1), 19(1) & Sch E]	360. —(1) Subject to regulations, a person who is in receipt of an allowance shall be liable to transfer to the competent authority payments made to that person in compliance with an order of the court.	40

5 (2) Subject to regulations, a person who claims an 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 an allowance to that person. [1993 s298(2); 1996 s17(1), 19(1) & Sch E]

(3) Where a person who is in receipt of an allowance fails to comply with *subsection (1)* the allowance being paid to that person shall be reduced by the amount which that person is liable under *subsection (1)* to transfer to the Minister. [1993 s298(3); 1996 s19(1) & Sch E]

10 **361.**—(1) The Executive may investigate into any question arising on or in relation to supplementary welfare allowance granted by the Executive and may, for the purpose of the investigation, require a liable relative or any employer of any such person to give to the Executive the information and to produce to the Executive for inspection the documents relating to that person that the Executive may reasonably require. Investigations by Health Service Executive. [1993 s299(1); 2005 (SW&P) s23 & Sch 1]

15 (2) Where a liable relative or the employer of any such person fails to comply with *subsection (1)* he or she is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,500^{4]} or on conviction on indictment to a fine not exceeding €13,000. [1993 s299(2); 2005 (SW&P) s26 & Sch 4]

PART 13

COMMENCEMENT, REPEALS AND CONTINUANCE

25 **362.**—(1) Subject to *subsection (2)*, the enactments specified in *column (2)* of *Schedule 7* (referred to in this Part as “the repealed enactments”) are repealed to the extent specified in *column (3)* of that Schedule. Repeals. [1993 s300]

30 (2) Without prejudice to the Interpretation Act 1937, the repealed enactments shall continue to apply to benefit, assistance, child benefit or family income supplement before the commencement of this Act to the same extent as if this Act had not been passed. [1993 s300]

363.—The continuity of the operation of the law relating to the matters provided for in the repealed enactments shall not be affected by the substitution of this Act for those enactments, and— Continuity of repealed enactments.

35 (a) so much of any enactment or document (including enactments contained in this Act) as refers, whether expressly or by implication, to, or to things done or to be done under or for the purposes of, any provision of this Act, shall, if and so far as the nature of the subject matter of the enactment or document permits, be read as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or, as the case may be, to things done or to be done under or for the purposes of, that corresponding provision, [1993 s301]

45 (b) so much of any enactment or document (including repealed enactments and enactments and documents passed or made after the commencement of this Act) as refers, whether expressly or by implication, to, or to things done

	or to be done under or for the purposes of, any provision of the repealed enactments shall, if and so far as the nature of the subject matter of the enactment or document permits, be read as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or, as the case may be, to things done or deemed to be done or to be done under or for the purposes of, that corresponding provision.	5
Continuance of officers, instruments and documents.	364.— (1) All officers appointed under the repealed enactments or any enactments repealed by the Social Welfare (Consolidation) Act 1993 and holding office immediately before the commencement of this Act shall continue in office as if appointed under this Act.	10
[1993 s302(1)]		
[1993 s302(2)]	(2) All instruments made and documents issued under the repealed enactments or any enactments repealed by the Social Welfare (Consolidation) Act 1993 and in force immediately before the commencement of this Act (other than the provisions of any instruments which are incorporated in this Act) shall continue in force as if made or issued under this Act.	15
Continuity of insurance under old codes.	365.— (1) Regulations may be made, subject to such modifications, additions and exceptions as may be specified, for the purpose of ensuring that persons insured or deemed to be or treated as insured within the prescribed period before 5 January 1953, under the National Insurance Act 1911, the Unemployment Insurance Act 1920 (or any scheme under that Act) or the Widows' and Orphans' Pensions Act 1935, may continue to be insured under <i>Part 2</i> or otherwise to preserve the rights conferred on them by virtue of those enactments.	20
[1993 s303(1)]		25
[1993 s303(2)]	(2) Regulations under <i>subsection (1)</i> shall, in the manner and subject to the conditions that may be specified, in particular, provide in relation to persons so insured, for modifying the contribution conditions for receipt of benefit under <i>Part 2</i> to take account of contributions paid or deemed to be paid or treated as paid under those enactments and periods of insurance under those enactments.	30
[1993 s303(3)]	(3) Without prejudice to any specific power conferred by <i>subsections (1) and (2)</i> , regulations may be made for facilitating their operation or the introduction of the system of insurance established by the Social Welfare Act 1952 including, in particular, regulations providing—	35
	(a) for modifying, in relation to the period before 5 January 1953, any provisions of or made under any enactment repealed or amended by Part V of that Act, or	40
	(b) for making any savings or additional savings from the effect of any repeal or amendment effected by that Act.	
Commencement.	366.— (1) Subject to this Part, this Act shall come into operation on such day as the Minister shall appoint by order.	45
	(2) The provisions of <i>Schedule 6</i> shall come into operation—	
	(a) in respect of <i>paragraph 1</i> , on such day as the Minister may appoint by order,	

5

- (b) in respect of *paragraph 2*, on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions,
- (c) in respect of *paragraph 3*, on 6 April 2012, and
- (d) in respect of *paragraph 4*, on such day as the Minister may appoint by order.

SCHEDULE 1

EMPLOYMENTS, EXCEPTED EMPLOYMENTS AND
EXCEPTED SELF-EMPLOYED CONTRIBUTORS

Section 12.

PART 1

[1993 Sch 1 2003
(MP) s19]

EMPLOYMENTS

5

1. Employment in the State under a contract of service or apprenticeship, written or oral, whether expressed or implied, and whether the employed person is paid by the employer or some other person, and whether under one or more employers and whether paid by time or by the piece or partly by time and partly by the piece, or otherwise or without any money payment. 10
2. Employment under such a contract referred to in *paragraph 1*—
 - (a) as master or a member of the crew of— 15
 - (i) any ship registered in the State, or
 - (ii) any other ship or vessel of which the owner or, where there is more than one owner, the managing owner or manager, resides or has his or her principal place of business in the State, or 20
 - (b) as captain or a member of the crew of—
 - (i) any aircraft registered in the State, or
 - (ii) any other aircraft of which the owner or, where there is more than one owner, the managing owner or manager, resides or has his or her principal place of business in the State. 25
3. Employment in the civil service of the Government or the civil service of the State and employment such that the service of the employed person is, or is capable of being, deemed under section 24 of the Superannuation Act 1936 to be service in the civil service of the Government or the civil service of the State. 30
4. Employment as a member of the Defence Forces.
5. Employment under any local or other public authority.
6. Employment as a court messenger under section 4 of the Enforcement of Court Orders Act 1926. 35
7. (a) Employment as a trainee midwife, student midwife, pupil midwife, probationary midwife, trainee nurse, student nurse, pupil nurse or probationary nurse.
 - (b) In this paragraph “nurse” includes a nursery or children’s nurse. 40
8. Employment by the Minister as manager of an employment office.

9. Employment as a member of the Garda Síochána.
- 5 10. Employment where the employed person is a person in Holy Orders or other minister of religion or a person living in a religious community as a member of that community.
11. Employment by An Post as a sub-postmaster remunerated by scale payment.
- 10 12. Employment under a scheme administered by an Foras [1996 s12(1)(a)] Aiseanna Saothair and known as Community Employment or employment under a programme known as the Part-Time Job Opportunities Programme administered by or on behalf of the Conference of Religious of Ireland, where—
- (a) that employment begins on or after 6 April 1996, or
- 15 (b) in any other case, where, subject to the conditions and in the circumstances that may be prescribed, the person employed in either of those employments, elects to be an employed contributor within the meaning of *section 12(1)(a)*.
- 20 13. Employment whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract and whether or not the third person pays the wages or salary of the individual in respect of the work or service). [2003 (MP) s19(b)]
- 25

PART 2

Section 12.

- 30 EXCEPTED EMPLOYMENTS [1993 Sch 1; 1996 s12(1)(b)]
1. Employment in the service of the husband or wife of the employed person.
- 35 2. Employment of a casual nature otherwise than for the purposes of the employer's trade or business, and otherwise than for the purposes of any game or recreation where the persons employed are engaged or paid through a club.
- 40 3. Employment by a prescribed relative of the employed person, being either employment in the common home of the employer and the employed person or employment specified by regulations as corresponding to employment in the common home of the employer and the employed person.
- 45 4. Employment specified in regulations as being of such a nature that it is ordinarily adopted as subsidiary employment only and not as the principal means of livelihood.
5. Employment specified in regulations as being of inconsiderable extent.

6. Employment under a scheme administered by an Foras Áiseanna Saothair and known as Community Employment, where that employment began before 6 April 1996.

Section 20.

PART 3

[1993 Sch 1]	EXCEPTED SELF-EMPLOYED CONTRIBUTORS	5
	1. A prescribed relative of a self-employed contributor not being a partner, where he or she participates in the business of the self-employed contributor and performs the same tasks or ancillary tasks.	
[1999 s17(2) & Sch D]	2. A self-employed contributor who by virtue of—	10
	(a) Chapter 2 of Part 3 is in receipt of unemployment assistance,	
	(b) Chapter 3 of Part 3 is in receipt of pre-retirement allowance, or	
	(c) Chapter 11 of Part 3 is in receipt of farm assist.	15
	3. A person, the aggregate of whose total reckonable income, reckonable emoluments or reckonable earnings (if any) before deducting so much of any deduction—	
[Taxes Consolidation Act 1997 Sch 31]	(a) allowed by virtue of the provisions referred to in the definition of “capital allowance” in section 2(1) of the Act of 1997 to be deducted or set off against income in charging it to income tax, or	20
[2005 (SW&P) s26 & Sch 4]	(b) allowed in accordance with Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001) to be deducted on payment of emoluments or earnings,	25
	is below a prescribed amount.	
[Taxes Consolidation Act 1997 Sch 31]	4. An employed contributor or a person who is in receipt of a pension arising from a previous employment of his or her or of his or her spouse, in the case of either of whom the income for the contribution year does not include reckonable emoluments or in the case of reckonable income, income to which Chapter 3 of Part 4, or Part 43, of the Act of 1997 applies.	30 35
[1993 Sch 1; 1996 s27(2) & Sch G]	5. A person employed in any one or more of the employments specified in regulations under section 14, being employments in respect of which the contribution payable under those regulations are reckoned only in relation to the grant of widow’s (contributory) pension, widower’s (contributory) pension or orphan’s (contributory) allowance and are not reckoned in relation to the grant of any other benefit.	40
[Taxes Consolidation Act 1997 Sch 31]	6. A person who is regarded as not resident or not ordinarily resident in the State in accordance with the Income Tax Acts and whose reckonable income for that year does not include income to which Chapter 3 of Part 4, or Part 43, of the Act of 1997 applies.	45

SCHEDULE 2

RATES OF BENEFITS

PART 1

RATES OF PERIODICAL BENEFITS AND INCREASES								[1993 Sch 2 2004 s2(1) & Sch A]
5	Description of benefit	Weekly rate	Increase for qualified adult (where payable)	Increase for each qualified child (where payable)	Increase for pre-scribed relative under section 183 (where payable)	Increase where the person is living alone (where payable)	Increase where the person has attained the age of 80 years (where payable)	Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		€	€	€	€	€	€	€
10	1. Disability Benefit, Unemployment Benefit, Injury Benefit and Health and Safety Benefit	148.80	98.70	16.80	—	—	—	—
	2. Death Benefit:							
15	(a) pension payable to a widow or widower (section 81)	177.60	—	21.60	103.10	7.70	2.00	12.70
20	additional increase for a widow or widower (under section 81) who has attained pensionable age	6.10	—	—	—	—	—	—
	(b) pension payable to a parent:							
	(i) reduced rate	85.90	—	—	103.10	7.70	—	—
	(ii) maximum rate	177.60	—	—	103.10	7.70	—	—
	(c) pension payable to an orphan	124.30	—	—	—	—	—	—
25	3. Old Age (Contributory) Pension and Retirement Pension:	179.30	119.50	19.30	103.10	7.70	6.40	12.70
30	additional increase for a qualified adult who has attained pensionable age	—	19.00	—	—	—	—	—
	4. Invalidity Pension:	154.30	110.10	19.30	103.10	7.70	6.40	12.70
35	additional increase for a beneficiary who has attained the age of 65 years	25.00	—	—	—	—	—	—
40	additional increase where qualified adult has attained pensionable age	—	28.40	—	—	—	—	—

Description of benefit	Weekly rate	Increase for qualified adult (where payable)	Increase for each qualified child (where payable)	Increase for pre-scribed relative under section 183 (where payable)	Increase where the person is living alone (where payable)	Increase where the person has attained the age of 80 years (where payable)	Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
5. Widow's and Widower's (Contributory) Pension and a relevant payment by virtue of section 18(1)(a) of the Social Welfare Act 1996:	154.30	—	21.60	103.10	7.70	6.40	12.70
additional increase for a beneficiary who has attained pensionable age	25.00	—	—	—	—	—	—
6. Orphan's (Contributory) Allowance	121.00	—	—	—	—	—	—
7. Carer's Benefit:							
(a) in the case of a person to whom section 102(1)(b) applies	163.70	—	16.80	—	—	—	—
(b) in the case of a person to whom section 102(1)(a) applies	245.60	—	16.80	—	—	—	—

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Section 75.

PART 2

[1993 Sch 2; 2004 s2(1) & Sch A]

OCCUPATIONAL INJURIES BENEFITS — GRATUITIES AND GRANT

Description of Grant	Amount	
(1)	(2)	
	€	
1. Disablement Benefit: Maximum gratuity	12,590	
2. Death Benefit	635	25

PART 3

Section 75.

DISABLEMENT PENSION

[1993 Sch 2; 2004 s2(1) & Sch A]

Degree of disablement (1)	Weekly rate (2)
5	€
100 per cent... ..	179.90
90 per cent... ..	161.90
80 per cent... ..	143.90
70 per cent... ..	125.90
10 60 per cent... ..	107.90
50 per cent... ..	90.00
40 per cent... ..	72.00
30 per cent... ..	54.00
20 per cent... ..	36.00

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PART 4

Sections 77, 78.

INCREASES OF DISABLEMENT PENSION

[1993 Sch 2; 2004 s2(1) & Sch A]

Description of increase (1)	Weekly rate (2)	Increase where the person is living alone (3)	Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable) (4)
	€	€	€
20 1. Increase where the person is permanently incapable of work	148.80	7.70	12.70
25 2. Increase where the person requires constant attendance	163.70	—	—

PART 5

Section 134.

BEREAVEMENT GRANT

[1993 Sch 2; 2001(No.2) s2(1)]

Description of Grant (1)	Amount (2)
30	€
Bereavement Grant:	635

SCHEDULE 3

RULES AS TO CALCULATION OF MEANS

[1993 Sch 3; 2005
(SW&P) s24 & Sch
2]

PART 1

DEFINITIONS

1. In this Schedule— 5
- “fisherman” means a person engaged in sea fishing as a self-employed person—
- (a) on a fishing boat entered in the Register of Fishing Boats, or
 - (b) on a fishing boat and in a place in respect of which a fishing licence (within the meaning of section 3 of the Fisheries (Consolidation) Act 1959) for fishing for salmon at sea has been issued; 10
- “gross proceeds derived from the sale of the principal residence” means— 15
- (a) the agreed sale price of the residence, or
 - (b) where the claimant or beneficiary purchases alternative accommodation, the difference between the agreed sale price of the former residence and the agreed purchase price of the replacement residence; 20
- “housing costs” means rent or repayment of a loan entered into solely for the purpose of defraying money employed in the purchase, repair or essential improvement of the residence in which the person is, for the time being, residing; 25
- “maintenance grant” means a grant issued under—
- (a) a scheme administered by the Minister for Education and Science under the Local Authorities (Higher Education Grants) Acts 1968 to 1992, or 30
 - (b) a scheme administered under the aegis of the Minister for Education and Science and known as the— 35
 - (i) Maintenance Grants Scheme for Students attending Post-Leaving Certificate Courses,
 - (ii) Vocational Education Committees Scholarship Scheme, or
 - (iii) Third-Level Maintenance Grants Scheme 40 for Trainees;
- “maintenance payments” means any payment received under or pursuant to any maintenance arrangement that may be prescribed;

“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 husband and wife.

PART 2

Sections 140, 149,
211 and 216.

UNEMPLOYMENT ASSISTANCE, PRE-RETIREMENT ALLOWANCE,
DISABILITY ALLOWANCE AND FARM ASSIST

1. In the calculation of the means of a person for the purposes of *Chapters 2, 3, 10 and 11 of Part 3*, account shall be taken of the following—

(1) other than in the circumstances and subject to the conditions and for the periods that may be prescribed, the weekly value of property belonging to the person or to his or her spouse (not being property personally used or enjoyed by the person or his or her spouse or a farm of land leased either by the person or his or her spouse) which is invested or otherwise put to profitable use or is capable of being, but is not, invested or put to profitable use and the weekly value, calculated in accordance with *Table 1* to this Schedule, constitutes the weekly means of a person from that property but, in the case of farm assist, no account shall be taken under any other provision of these Rules of any appropriation of the property for the purpose of current expenditure;

(2) all income in cash and any non-cash benefits that may be prescribed which the person or his or her spouse may reasonably expect to receive during the succeeding year, whether as contributions to the expenses of the household or otherwise, but—

(a) excluding the amounts at *references 1 to 19 in Table 2* to this Schedule, and

(b) excluding—

(i) in the cases that may be prescribed, any moneys received by way of a maintenance grant,

(ii) any moneys received by way of maintenance payments (including maintenance payments made to or in respect of a qualified child) in so far as those payments do not exceed the annual housing costs actually incurred by the person subject to the maximum amount that may be prescribed, together with one-half of any amount of maintenance payment in excess of the amount disregarded in respect of housing costs actually incurred (if any),

(iii) in the case of unemployment assistance, any moneys, subject to the limit that may be

prescribed, received by way of repayment of expenses necessarily incurred in relation to travel and meals while undergoing a course of education, training or development approved by the Minister, 5

(iv) in the case of—

(I) unemployment assistance and pre-retirement allowance and subject to *paragraph (5)* all moneys earned by the person in respect of current personal employment under a contract of service, 10

(II) farm assist and subject to *paragraph (8)*, all moneys earned by the person or his or her spouse in respect of current personal employment under a contract of service, 15

(v) in the case of unemployment assistance, pre-retirement allowance and farm assist and subject to *paragraphs (6), (7) and (8)*, any moneys earned by the person or his or her spouse from insurable employment of a seasonal nature, 20

(vi) the amount that may be prescribed of all moneys earned by the person's spouse from insurable employment, 25

(vii) any moneys, except in so far as they exceed €134 per year, received by the person or by his or her spouse in respect of work as an outworker under a scheme that is, in the opinion of the Minister, charitable in character and purpose, 30

(viii) in the case of disability allowance, the amount that may be prescribed of earnings from employment or self-employment of a rehabilitative nature, 35

(ix) in the case of unemployment assistance, pre-retirement allowance and farm assist, all income received under the following schemes: 40

(I) the Rural Environment Protection Scheme administered by the Minister for Agriculture and Food;

(II) the Special Areas of Conservation Scheme administered by the Minister for Community, Rural and Gaeltacht Affairs, 45

except in so far as that income exceeds the sum of—

(A) €2,540, plus 50

(B) one-half of any amount in excess of €2,540 and

(C) any expenses necessarily incurred;

5 (x) in the case of unemployment assistance and pre-retirement allowance, and subject to paragraph (9), any income derived by a fisherman from any form of self-employment,

10 (xi) where the person or his or her spouse is engaged on a seasonal basis in the occupation of fishing, one-half of so much of the income derived from that occupation as does not exceed €153 per year and one-third of so much of the income as exceeds €153 per year but does not exceed €381 per year, and

15 (xii) in the case of farm assist, an amount of €1,270 per annum from the harvesting of seaweed;

20 (3) the yearly value ascertained in the prescribed manner of any advantage accruing to the person or to his or her spouse from—

25 (a) 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 the person or by his or her spouse, and

(b) the leasing by the person or by his or her spouse of a farm of land;

30 (4) all income and the value of all property of which the person or his or her spouse has directly or indirectly deprived himself or herself in order to qualify for the receipt of unemployment assistance, pre-retirement allowance, disability allowance or farm assist, but where the income or the value of the property has reduced since the date of calculation, the calculation may be revised, subject to the conditions and in the circumstances that may be prescribed, but any such regulations shall not cause the income or value of the property taken to be part of the means to be increased;

35 (5) in the case of a person engaged in employment under a contract of service, the value, ascertained in the prescribed manner of any moneys derived from that employment and the value so calculated constitutes the weekly means of that person from that employment for the purposes of Chapter 2 of Part 3;

40 (6) in the case of a person who makes a claim for unemployment assistance during a period in which he or she is engaged in insurable employment of a seasonal nature, the value, ascertained in the prescribed manner, of any moneys derived from that employment and the value so calculated constitutes the weekly

means of that person from that employment for the purposes of *Chapter 2 of Part 3*;

(7) in the case of unemployment assistance and pre-retirement allowance, the value of all moneys derived by his or her spouse from insurable employment of a seasonal nature, ascertained in the prescribed manner, during the period in which his or her spouse is engaged in that employment, and the value so calculated constitutes the weekly means of that person from such employment; 5 10

(8) in the case of a farmer or his or her spouse engaged in current personal or seasonal employment, the value, ascertained in the prescribed manner, of any moneys derived from that employment and the value so calculated constitutes the weekly means of that person from that employment; 15

(9) (a) in the case of a fisherman, the gross income derived from any form of self-employment, or

(b) in the case of a farmer entitled to or in receipt of farm assist, the gross yearly income which the farmer or his or her spouse may reasonably be expected to receive from farming or any other form of self-employment, 20

less—

(i) any expenses necessarily incurred in carrying on any form of self-employment, and 25

(ii) where the fisherman or farmer has a qualified child, who normally resides with him or her, an amount of—

(I) €254 per annum in respect of each of the first 2 qualified children, and 30

(II) €381 per annum in respect of each subsequent qualified child,

calculated at the rate of 70 per cent;

(10) in the case of a person entitled to or in receipt of unemployment assistance and who has not attained the age that may be prescribed, the yearly value of any benefit or privilege enjoyed by that person by virtue of residing with a parent or step-parent, and the Minister may prescribe by regulations the manner in which the value of the benefit and privilege may be calculated. 35 40

2. (1) Notwithstanding this Schedule and subject to *paragraph (2)*, for the purposes of disability allowance, the gross proceeds derived from the sale of the principal residence of the claimant or beneficiary or, in the case of a married couple who are living together, the spouse of the claimant or beneficiary shall not, 45

subject to the limit and under the conditions and circumstances and for the periods that shall be prescribed, be taken into account in calculating the means of the claimant or beneficiary.

- 5 (2) *Paragraph (1)* 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.
- 10 3. For the purposes of *Rule 1(2)* and *(10)*, 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 before the date of calculation.
4. The Minister may by regulations vary—
- 15 (a) *Rule 1(1)* and *Table 1* to this Schedule in relation to the calculation of the weekly value of property belonging to a person, and
- (b) *Rules 1(2)* to *(10)*, in the case of farm assist.

PART 3

- 20 OLD AGE (NON-CONTRIBUTORY), BLIND, WIDOW'S OR WIDOWER'S *Sections 155, 163,*
 (NON-CONTRIBUTORY), AND ORPHAN'S (NON-CONTRIBUTORY) *169, 173 and 179.*
 PENSIONS, ONE-PARENT FAMILY PAYMENT AND CARER'S ALLOWANCE

 1. Subject to *paragraphs (2)* and *(3)*, in calculating the means of a person, account shall be taken of the following—

- 25 (1) other than in the circumstances and subject to the conditions and for the periods that may be prescribed, the weekly value of property belonging to the person (not being property personally used or enjoyed by the person or a farm of land leased by him or her) which is invested or is otherwise put to profitable use by the person or
- 30 which, though capable of investment or profitable use is not invested or put to profitable use and the weekly value, calculated in accordance with *Table 1* to this Schedule, constitutes the weekly means of a person from that property but, no account shall be taken under any other provision of these Rules of any appropriation of the property for the purpose of current expenditure;
- 35

 (2) all income in cash (including, in the case of widow's or widower's (non-contributory) pension, orphan's (non-contributory) pension and one-parent family payment, the net cash value of such non-cash benefits as may be prescribed), and the income received by a

40 qualified child or qualified children that may be prescribed which the person may reasonably expect to receive during the year succeeding the date of calculation, but—

 (a) excluding the amounts at *references 1 to 19* in *Table 2* to this Schedule, and

- 45 (b) excluding—

 (i) in the case of blind pension or one-parent family payment, any moneys received by way of a maintenance grant,

- (ii) in the case of old age (non-contributory) pension, blind pension, widow's or widower's (non-contributory) pension or one-parent family payment, any moneys received by way of maintenance payments (including maintenance payments made to or in respect of a qualified child) in so far as they do not exceed the annual housing costs actually incurred by the person subject to the maximum amount that may be prescribed, together with one-half of any amount of maintenance payment in excess of the amount disregarded in respect of housing costs actually incurred (if any), 5 10
- (iii) in the case of one-parent family payment, any moneys, subject to the limit that may be prescribed, received by way of repayment of expenses necessarily incurred in relation to travel and meals while undergoing a course of education, training or development approved by the Minister, 15
- (iv) in the case of a blind person, any income arising from a grant or allowance in pursuance of a scheme for promoting the welfare of the blind prepared under section 2 of the Blind Persons Act 1920, 20
- (v) in the case of a person who has attained pensionable age, any moneys received under a scheme administered by the Minister for Agriculture and Food and known as the Early Retirement Scheme from Farming operated under Council Regulation (EEC) No. 2079/92 of 30 July 1992³, or Council Regulation (EC) No. 1257/99 of 17 May 1999⁴, 25
- (vi) for the purposes of old age (non-contributory) pension and widow's or widower's (non-contributory) pension, any moneys received in respect of rent from a person who resides with the claimant or beneficiary and but for the residence of the person the claimant or beneficiary would reside alone, 30 35
- (vii) any sums arising from the investment or profitable use of property (not being property personally used or enjoyed by the person or a farm of land leased by him or her),
- (viii) in the case of old age (non-contributory) pension, widow's or widower's (non-contributory) pension, orphan's (non-contributory) pension, one-parent family payment or carer's allowance, any moneys, except in so far as they exceed €67 per year, received by the person in respect of employment as an out-worker under a scheme that is, in the opinion of the Minister, charitable in character and purpose, 40 45
- (ix) in the case of a recipient of one-parent family payment, subject to *paragraph (4)*, any moneys received by way of earnings (including wages and profit from any form of self-employment), 50

³OJ No. L215, 30.7.92, p.91

⁴OJ No. L160, 26.6.99, p.80

5 (x) in the case of a blind person, his or her earnings (including wages and profit from any form of self-employment) other than employment of a rehabilitative nature, except and in so far as the annual amount of those earnings is calculated to exceed an amount made up as follows—

10 €400, plus €265 if the person's spouse is living with or is wholly or mainly maintained by him or her or, being a single person, widow or widower, is maintaining wholly or mainly a person over the age of 16 years having the care of one or more than one qualified child who normally resides or reside with the person, plus €133 for 15 each qualified child normally residing with the person of whom account has not already been taken in accordance with this paragraph in calculating the means of another person,

20 (xi) in the case of a blind person, the amount that may be prescribed of his or her earnings from employment of a rehabilitative nature,

25 (xii) in the case of a person who is in receipt of old age (non-contributory) pension, orphan's (non-contributory) pension or carer's allowance and who has a qualified child who normally resides with him or her, his or her earnings (including wages and profit from any form of self-employment), except and in so far as the annual amount of those earnings is calculated to exceed €133 for each such child of whom account has not already been taken in accordance with this paragraph in calculating the means of another person,

30 (xiii) in the case of old age (non-contributory) pension, an amount of €2,540 together with one-half of any amount in excess of €2,540 received under the following schemes:

(I) the Rural Environment Protection Scheme administered by the Minister for Agriculture and Food;

40 (II) the Special Areas of Conservation Scheme administered by the Minister for Community, Rural and Gaeltacht Affairs,

45 and that income shall, in the absence of other means for ascertaining it, be taken to be that actually received during the year immediately before the date of calculation but where that income is attributable to a period before 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;

50 (3) the yearly value of any advantage accruing to the person from—

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

- (b) a farm of land leased by the person;
- (4) (a) subject to *subparagraph (b)*, in the case of a recipient of one-parent family payment who has earnings (including wages and profit from any form of self-employment), the gross weekly earnings constitute the weekly means of that parent from earnings for the purposes of *Chapter 7 of Part 3*; 5
- (b) in calculating the gross weekly earnings of a recipient of one-parent family payment, for the purposes of *subparagraph (a)*, an amount of €146.50 together with half the gross weekly earnings in excess of that amount shall be disregarded; 10
- (5) in the case of carer's allowance, in calculating the weekly means of a carer who is not one of a couple (other than means derived from a social security payment payable under the legislation of another state), that amount that may be prescribed shall be disregarded; 15
- (6) in the case of carer's allowance, the amount that the Minister determines that the relevant person (as defined in *section 179*) could reasonably be expected to contribute to the support of the carer but in determining that amount, no account shall be taken of any sums received by the relevant person under *Part 2, 3 or 4*. 20
2. (1) Subject to *paragraph (2)*, if it appears that any person has, whether before or after the commencement of this Act, directly or indirectly deprived himself or herself of any income or property in order to qualify himself or herself for the receipt of the pension or allowance in question, or for the receipt of the pension or allowance at a higher rate than that to which he or she would otherwise be entitled, that income or the value of that property shall for the purposes of these Rules be taken to be part of the means of that person. 25 30
- (2) *Paragraph (1)* shall not apply to any assignment—
- (a) which is an assignment to a child or children of the assignor, and
- (b) which is an assignment of property consisting of a farm of land (together with or without the stock and chattels thereon) and of which the assignor is the owner and the occupier or the occupier only. 35
- (3) In the case of a person to whom *paragraph (1)* applies, where the income or the value of the property taken to be part of his or her means for the purposes of that paragraph has reduced since the date of calculation, the calculation may be revised, subject to the conditions and in the circumstances that may be prescribed, but regulations made under this paragraph shall not cause the income or the value of the property taken to be part of his or her means to be increased. 40 45
- (4) For the purposes of this Rule, "assignment" includes any form of conveyance, transfer or other transaction by which a person parts with the ownership or possession of property.
3. (1) Notwithstanding this Schedule and subject to *paragraph (2)*, for the purposes of— 50
- (a) old age (non-contributory) pension or blind pension, or

- (b) widow's (non-contributory) pension or widower's (non-contributory) pension, or one-parent family payment, where the claimant or beneficiary has attained pensionable age,
- 5 the gross proceeds derived from the sale of the principal residence of the claimant or beneficiary or, in the case of a married couple who are living together, the spouse of the claimant or beneficiary where the spouse has attained pensionable age, shall not, subject to the limit and under the conditions and circumstances and for the periods
- 10 that shall be prescribed, be taken into account in calculating the means of the claimant, beneficiary or pensioner.
- (2) *Paragraph (1)* 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.
- 15 4. (1) In the case of an old age (non-contributory) pension, blind pension or a carer's allowance, the following apply 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;
- 20 (b) the person is 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;
- 25 (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;
- 30 (d) where one member of the couple dies, nothing which was reckoned for the purposes of pension, or would (if the 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 before or part of which was before that death.
- 35
- 40 (2) In the case of carer's allowance, in calculating the means of the other member of the couple for the purposes of *paragraph (1)*, the following shall be disregarded—
- (a) an amount, not exceeding the maximum amount set out in
- 45 *column (2), reference 3 of Part 1 of Schedule 2*, of a social security payment payable under the legislation of another state, and
- (b) an amount, not exceeding half the amount set out in *column (4), reference 3 of Part 1 of Schedule 2*, of a social security payment payable under the legislation of another state in respect of each qualified child for which an
- 50 increase is granted under *section 181(1)*.

(3) In the case of carer's allowance, in calculating the weekly means of the couple (other than means derived from a social security payment payable under the legislation of another state), the amount that may be prescribed shall be disregarded.

(4) In this Rule "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 husband and wife. 5

(5) In calculating the means of a person who is one of a married couple living apart from his or her spouse, any sum paid by him or her to his or her spouse under a separation order shall be deducted in calculating his or her means. 10

5. (1) Notwithstanding these Rules, where—

(a) an old age (non-contributory) pension, blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, orphan's (non-contributory) pension, one-parent family payment or carer's allowance is in course of payment to or in respect of a person or the spouse of the person or both of them, and 15

(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, 20

in calculating the means of the person or of the spouse or of both of them for the purposes of old age (non-contributory) pension, blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, orphan's (non-contributory) pension, one-parent family payment or carer's allowance (as the case may require), 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. 25 30 35

(2) Any amount excluded from the calculation of means in accordance with *reference 16* in *Table 2* to this Schedule shall be subject to *Rule 5(1)*.

6. Notwithstanding this Schedule, the amount of any allowance, special allowance, dependent's allowance, disability pension or wound pension under the Army Pensions Acts 1923 to 1980, or pension under the Military Service Pensions Acts 1924 to 1964, arising out of service in the period commencing on 23 April 1916 and ending on 30 September 1923, or pension under the Connaught Rangers (Pensions) Acts 1936 to 1964, shall be disregarded in the calculation of means for the purposes of *Chapters 4* to *8* of *Part 3*. 40 45

7. The Minister may by regulations vary *Rule 1(1)* and *Table 1* to this Schedule in relation to the calculation of the weekly value of property belonging to a person.

1. In calculating the weekly means of a person for supplementary welfare allowance account shall be taken of the following—

- 5 (1) the value of any property belonging to the person (not being property personally used or enjoyed by the person or a farm of land leased by him or her) which is invested or is otherwise put to profitable use or which, though capable of investment or profitable use, is not invested or put to profitable use, the yearly value of the first
10 €520 of the property being taken to be one-twentieth part of the capital value and the yearly value of so much of the capital value of the property as exceeds the sum of €520 being taken to be one-tenth part of the capital value; and the weekly value of the property being calculated as one fifty-second part of the yearly value so calculated;
- 15 (2) all income in cash, including the net cash value of any non-cash earnings derived from personal exertions and the non-cash benefits that may be prescribed and the actual or estimated amount of any household income, whether as contributions to the expenses of the household or otherwise, but—
- 20 (a) excluding the amounts at *references 2 to 11 and 19 in Table 2* to this Schedule, and
- (b) excluding—
- (i) in the cases that may be prescribed, any moneys received by way of a maintenance grant,
- 25 (ii) any income arising from a grant or allowance in pursuance of a scheme for promoting the welfare of the blind prepared under section 2 of the Blind Persons Act 1920,
- 30 (iii) any sums arising from the investment or profitable use of property (not being property personally used or enjoyed by such person or a farm of land leased by the person),
- (iv) the amount that may be prescribed of earnings from employment of a rehabilitative nature, and
- 35 (v) in the case of a person in receipt of a supplement under *section 198* towards the amount of mortgage interest or rent payable by him or her in respect of his or her residence:
- 40 (I) €60, or any higher amount that may be prescribed, from the amount of income derived when gross earnings from any employment that may be prescribed, have been reduced by the aggregate of—
- 45 (A) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),

(B) any amount deducted from reckonable earnings under *section 13* and regulations made under *section 14*,

(C) any amount deducted from reckonable earnings under *section 5* of the Health Contributions Act 1979, and 5

(D) an amount equal to the amount of reduction, if any, in the rate of unemployment assistance or one-parent family payment under *Part 3* consequent on receipt of those earnings from employment; 10

(II) the amount by which carer's allowance exceeds the amount of supplementary welfare allowance set out in *column (3)* at *reference 10* of *Schedule 4*, in the case of a claimant, or his or her spouse, who is in receipt of carer's allowance under *Part 3*, 15

(III) the amount by which carer's allowance exceeds the amount of supplementary welfare allowance set out in *column (2)* at *reference 10* of *Schedule 4*, in the case of a claimant who, not being one of a couple, is in receipt of carer's allowance under *Part 3*, 20

(IV) the amount that may be prescribed from attendance at any training course that may be prescribed; 25

(3) the value of any advantage accruing to the person from—

(a) the use or enjoyment of property (other than a domestic dwelling or a farm building owned and occupied, or furniture and personal effects) which is personally used or enjoyed by him or her, and 30

(b) the leasing by the person of a farm of land;

(4) all income and the value of all property of which the person has directly or indirectly deprived himself or herself in order to qualify himself or herself for the receipt of supplementary welfare allowance; 35

(5) the value of any benefit or privilege enjoyed by the person.

2. The Minister may by regulations vary—

(a) *Rule 1(1)* in relation to the calculation of the yearly value of property belonging to a person, and 40

(b) *Rule 1(2)*, (3), (4) and (5).

Table 1

The weekly value of the property referred to in *Rule 1(1)(a)* of *Part 2* and *Rule 1(1)(a)* of *Part 3* shall be calculated as follows:

- 5 (a) the first €20,000 of the capital value of the property shall be excluded;
- (b) the weekly value of so much of the capital value of the property as exceeds €20,000 but does not exceed €30,000 shall be assessed at €1 per each €1,000;
- 10 (c) the weekly value of so much of the capital value of the property as exceeds €30,000 but does not exceed €40,000 shall be assessed at €2 per each €1,000, and
- (d) the weekly value of so much of the capital value of the property as exceeds €40,000 shall be assessed at €4 per each €1,000.

Table 2

Reference No.	Amount
15	1. any moneys received by way of benefit, pension, assistance, allowance, supplement or continued payment for qualified children under <i>Part 2, 3, 4, 5, 6, 7 or 8</i> ;
	2. any moneys received by way of child benefit under <i>Part 4</i> or a payment corresponding to that benefit from another Member State;
	3. any allowance received under section 61 of the Health Act 1970 and known as domiciliary care allowance;
	4. any moneys received by way of a mobility allowance payable under section 61 of the Health Act 1970;
20	5. 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 and Children for the purposes of the provision of such training);
25	6. payments by the Health Service Executive in respect of a child who is boarded out;
	7. payments by the Health Service Executive in respect of the provision of accommodation for a child under section 5 of the Child Care Act 1991;
	8. payments in respect of not more than 2 persons boarded out under section 10 of the Health (Nursing Homes) Act 1990, received from the Health Service Executive or a person boarded out, in so far as the aggregate amount of payment received in respect of each person boarded out does not exceed an amount equivalent to the rate set out in <i>column (2)</i> at <i>reference 4</i> of <i>Part 1</i> of <i>Schedule 4</i> ;
30	9. the amount that may be prescribed of income from employment by the Health Service Executive or by a person approved by the Health Service Executive, as a home help;
35	10. in the case of a qualified applicant under a scheme administered by the Minister for Community, Rural and Gaeltacht Affairs and known as <i>Scéim na bhFoghlaimoairí Gaeilge</i> , 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 that temporary resident;
40	11. 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;
45	12. any moneys received by the person's spouse in respect of participation in a scheme administered by the Minister and known as: <ul style="list-style-type: none"> (a) Back to Education Allowance, or (b) Back to Work Allowance, or (c) Back to Work Enterprise Allowance, or (d) Part-Time Job Incentive;

Reference No.	Amount
13.	any moneys received by the person's spouse in respect of participation in a course approved by An Foras Áiseanna Saothair under the Industrial Training Act 1967;
14.	any moneys received by the person's spouse in respect of participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme;
15.	any income arising from a bonus under a scheme administered by the Minister for Community, Rural and Gaeltacht Affairs for the making of special grants to parents or guardians resident in the Gaeltacht or Breac Gaeltacht (as defined in such scheme) of children attending primary schools;
16.	an amount of an allowance, dependant's allowance, disability pension or wounds pension under the Army Pensions Acts 1923 to 1980 (including, for the purposes of this subparagraph, a British War Pension), or of a combination of those allowances and pensions, except in so far as the amount exceeds €104 per year;
17.	any expenses necessarily incurred in carrying on any form of self-employment;
18.	any income arising by way of an infectious diseases maintenance allowance to or in respect of the person or a qualified adult or any qualified children;
19.	any other income that may be prescribed received by a person or his or her spouse and in the circumstances that may be prescribed.

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SCHEDULE 4

RATES OF ASSISTANCE

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[1993 Sch 4; 2004 s3(1) & Sch B]

PART 1

RATES OF PERIODICAL SOCIAL ASSISTANCE AND INCREASES

Description of assistance	Weekly rate	Increase for qualified adult (where payable)	Increase for each qualified child (where payable)	Increase for prescribed relative under section 183 (where payable)	Increase where the person is living alone (where payable)	Increase where the person has attained the age of 80 years (where payable)	Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	€	€	€	€	€	€	€
1. Unemployment Assistance:							
(a) in the case of a person to whom section 142(1)(a) applies	148.80	98.70	16.80	—	—	—	—
(b) in the case							

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Description of assistance	Weekly rate	Increase for qualified adult (where payable)	Increase for each qualified child (where payable)	Increase for prescribed relative under section 183 (where payable)	Increase where the person is living alone (where payable)	Increase where the person has attained the age of 80 years (where payable)	Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
5 of a person to whom section 142(1)(b) applies	148.80	98.70	16.80	—	—	—	—
2. Pre-Retirement Allowance	148.80	98.70	16.80	—	—	—	—
10 3. Disability Allowance	148.80	98.70	16.80	—	7.70	—	12.70
4. Old Age (Non-Contributory) Pension	166.00	—	16.80	103.10	7.70	6.40	12.70
15 5. Blind Pension: additional increase for a beneficiary who has attained pensionable age	148.80 17.20	— —	16.80 —	103.10 —	7.70 —	6.40 —	12.70 —
20 6. Widow's (Non-Contributory) Pension, Widower's (Non-Contributory) Pension and a relevant payment by virtue of section 18(1)(b) or (c) of the Social Welfare Act 1996	148.80	—	—	103.10	7.70	6.40	12.70
30 additional increase for a beneficiary who has attained pensionable age	17.20	—	—	—	—	—	—
7. One-Parent Family Payment:	148.80	—	19.30	—	—	6.40	12.70
35 additional increase for a beneficiary who has attained pensionable age	17.20	—	—	—	—	—	—
40 8. Carer's Allowance: (a) in the case of a person to whom section 181(1)(a) applies	230.40	—	16.80	—	—	—	12.70
45 additional increase for a beneficiary who has attained pensionable age	24.30	—	—	—	—	—	—

Description of assistance	Weekly rate	Increase for qualified adult (where payable)	Increase for each qualified child (where payable)	Increase for prescribed relative under section 183 (where payable)	Increase where the person is living alone (where payable)	Increase where the person has attained the age of 80 years (where payable)	Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
(b) in the case of a person to whom section 181(1)(b) applies	153.60	—	16.80	—	—	—	12.70
additional increase for a beneficiary who has attained pensionable age	16.20	—	—	—	—	—	—
9. Orphan's (Non-Contributory) Pension	121.00	—	—	—	—	—	—
10. Supplementary Welfare Allowance	148.80	98.70	16.80	—	—	—	—
11. Farm Assist	148.80	98.70	16.80	—	—	—	—

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PART 2

[1993 Sch 4; 2004 s3(1) & Sch B]

INCREASE OF OLD AGE (NON-CONTRIBUTORY) PENSION FOR ONE OF A COUPLE AND INCREASE IN BLIND PENSION FOR ONE OF A COUPLE WHERE BOTH BENEFICIARY AND SPOUSE HAVE ATTAINED PENSIONABLE AGE 15

Means of claimant or pensioner	Weekly rate of increase
	€
Where the weekly means of the claimant or pensioner do not exceed €7.60	109.70
exceed €7.60 but do not exceed € 10.10	108.00
exceed €10.10 but do not exceed €12.60	106.40
exceed €12.60 but do not exceed €15.10	104.70
exceed €15.10 but do not exceed €17.60	103.10
exceed €17.60 but do not exceed €20.10	101.40
exceed €20.10 but do not exceed €22.60	99.80
exceed €22.60 but do not exceed €25.10	98.10
exceed €25.10 but do not exceed €27.60	96.50
exceed €27.60 but do not exceed €30.10	94.80
exceed €30.10 but do not exceed €32.60	93.20
exceed €32.60 but do not exceed €35.10	91.50
exceed €35.10 but do not exceed €37.60	89.90
exceed €37.60 but do not exceed €40.10	88.20
exceed €40.10 but do not exceed €42.60	86.60

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	Means of claimant or pensioner	Weekly rate of increase
	exceed €42.60 but do not exceed €45.10	84.90
	exceed €45.10 but do not exceed €47.60	83.30
	exceed €47.60 but do not exceed €50.10	81.60
	exceed €50.10 but do not exceed €52.60	80.00
5	exceed €52.60 but do not exceed €55.10	78.30
	exceed €55.10 but do not exceed €57.60	76.70
	exceed €57.60 but do not exceed €60.10	75.00
	exceed €60.10 but do not exceed €62.60	73.40
	exceed €62.60 but do not exceed €65.10	71.70
10	exceed €65.10 but do not exceed €67.60	70.00
	exceed €67.60 but do not exceed €70.10	68.40
	exceed €70.10 but do not exceed €72.60	66.70
	exceed €72.60 but do not exceed €75.10	65.10
	exceed €75.10 but do not exceed €77.60	63.40
15	exceed €77.60 but do not exceed €80.10	61.80
	exceed €80.10 but do not exceed €82.60	60.10
	exceed €82.60 but do not exceed €85.10	58.50
	exceed €85.10 but do not exceed €87.60	56.80
	exceed €87.60 but do not exceed €90.10	55.20
20	exceed €90.10 but do not exceed €92.60	53.50
	exceed €92.60 but do not exceed €95.10	51.90
	exceed €95.10 but do not exceed €97.60	50.20
	exceed €97.60 but do not exceed €100.10	48.60
	exceed €100.10 but do not exceed €102.60	46.90
25	exceed €102.60 but do not exceed €105.10	45.30
	exceed €105.10 but do not exceed €107.60	43.60
	exceed €107.60 but do not exceed €110.10	42.00
	exceed €110.10 but do not exceed €112.60	40.30
	exceed €112.60 but do not exceed €115.10	38.70
30	exceed €115.10 but do not exceed €117.60	37.00
	exceed €117.60 but do not exceed €120.10	35.40
	exceed €120.10 but do not exceed €122.60	33.70
	exceed €122.60 but do not exceed €125.10	32.10
	exceed €125.10 but do not exceed €127.60	30.40
35	exceed €127.60 but do not exceed €130.10	28.70
	exceed €130.10 but do not exceed €132.60	27.10
	exceed €132.60 but do not exceed €135.10	25.40
	exceed €135.10 but do not exceed €137.60	23.80
	exceed €137.60 but do not exceed €140.10	22.10
40	exceed €140.10 but do not exceed €142.60	20.50
	exceed €142.60 but do not exceed €145.10	18.80
	exceed €145.10 but do not exceed €147.60	17.20
	exceed €147.60 but do not exceed €150.10	15.50
	exceed €150.10 but do not exceed €152.60	13.90

Means of claimant or pensioner	Weekly rate of increase	
exceed €152.60 but do not exceed €155.10	12.20	
exceed €155.10 but do not exceed €157.60	10.60	
exceed €157.60 but do not exceed €160.10	8.90	
exceed €160.10 but do not exceed €162.60	7.30	
exceed €162.60 but do not exceed €165.10	5.60	
exceed €165.10 but do not exceed €167.60	4.00	5
exceed €167.60 but do not exceed €170.10	2.30	
exceed €170.10	Nil	

PART 3

[1993 Sch 4; 2004 s3(1) & Sch B]

INCREASE OF BLIND PENSION FOR ONE OF A COUPLE WHERE BOTH BENEFICIARY AND SPOUSE HAVE NOT ATTAINED PENSIONABLE AGE 10

Means of claimant or pensioner	Weekly rate of increase	
	€	
Where the weekly means of the claimant or pensioner do not exceed €7.60	98.70	
exceed €7.60 but do not exceed € 10.10	97.00	
exceed €10.10 but do not exceed €12.60	95.40	15
exceed €12.60 but do not exceed €15.10	93.70	
exceed €15.10 but do not exceed €17.60	92.10	
exceed €17.60 but do not exceed €20.10	90.40	
exceed €20.10 but do not exceed €22.60	88.80	
exceed €22.60 but do not exceed €25.10	87.10	20
exceed €25.10 but do not exceed €27.60	85.40	
exceed €27.60 but do not exceed €30.10	83.80	
exceed €30.10 but do not exceed €32.60	82.10	
exceed €32.60 but do not exceed €35.10	80.50	
exceed €35.10 but do not exceed €37.60	78.80	25
exceed €37.60 but do not exceed €40.10	77.10	
exceed €40.10 but do not exceed €42.60	75.50	
exceed €42.60 but do not exceed €45.10	73.80	
exceed €45.10 but do not exceed €47.60	72.20	
exceed €47.60 but do not exceed €50.10	70.50	30
exceed €50.10 but do not exceed €52.60	68.90	
exceed €52.60 but do not exceed €55.10	67.20	
exceed €55.10 but do not exceed €57.60	65.50	
exceed €57.60 but do not exceed €60.10	63.90	
exceed €60.10 but do not exceed €62.60	62.20	35
exceed €62.60 but do not exceed €65.10	60.60	
exceed €65.10 but do not exceed €67.60	58.90	
exceed €67.60 but do not exceed €70.10	57.20	
exceed €70.10 but do not exceed €72.60	55.60	
exceed €72.60 but do not exceed €75.10	53.90	40
exceed €75.10 but do not exceed €77.60	52.30	

	Means of claimant or pensioner	Weekly rate of increase
	exceed €77.60 but do not exceed €80.10	50.60
	exceed €80.10 but do not exceed €82.60	49.00
	exceed €82.60 but do not exceed €85.10	47.30
	exceed €85.10 but do not exceed €87.60	45.60
	exceed €87.60 but do not exceed €90.10	44.00
5	exceed €90.10 but do not exceed €92.60	42.30
	exceed €92.60 but do not exceed €95.10	40.70
	exceed €95.10 but do not exceed €97.60	39.00
	exceed €97.60 but do not exceed €100.10	37.30
	exceed €100.10 but do not exceed €102.60	35.70
10	exceed €102.60 but do not exceed €105.10	34.00
	exceed €105.10 but do not exceed €107.60	32.40
	exceed €107.60 but do not exceed €110.10	30.70
	exceed €110.10 but do not exceed €112.60	29.10
	exceed €112.60 but do not exceed €115.10	27.40
15	exceed €115.10 but do not exceed €117.60	25.70
	exceed €117.60 but do not exceed €120.10	24.10
	exceed €120.10 but do not exceed €122.60	22.40
	exceed €122.60 but do not exceed €125.10	20.80
	exceed €125.10 but do not exceed €127.60	19.10
20	exceed €127.60 but do not exceed €130.10	17.40
	exceed €130.10 but do not exceed €132.60	15.80
	exceed €132.60 but do not exceed €135.10	14.10
	exceed €135.10 but do not exceed €137.60	12.50
	exceed €137.60 but do not exceed €140.10	10.80
25	exceed €140.10 but do not exceed €142.60	9.20
	exceed €142.60 but do not exceed €145.10	7.50
	exceed €145.10 but do not exceed €147.60	5.80
	exceed €147.60 but do not exceed €150.10	4.20
	exceed €150.10 but do not exceed €152.60	2.50
30	exceed €152.60	Nil

PART 4

INCREASE OF BLIND PENSION FOR ONE OF A COUPLE WHERE
 BENEFICIARY HAS NOT ATTAINED PENSIONABLE AGE AND SPOUSE HAS
 ATTAINED PENSIONABLE AGE

[1993 Sch 4; 2004
 s3(1) & Sch B]

	Means of claimant or pensioner	Weekly rate of increase
		€
	Where the weekly means of the claimant or pensioner do not exceed €7.60	109.70
	exceed €7.60 but do not exceed €10.10	107.90
	exceed €10.10 but do not exceed €12.60	106.00
40	exceed €12.60 but do not exceed €15.10	104.20
	exceed €15.10 but do not exceed €17.60	102.30

Means of claimant or pensioner	Weekly rate of increase	
exceed €17.60 but do not exceed €20.10	100.50	
exceed €20.10 but do not exceed €22.60	98.60	
exceed €22.60 but do not exceed €25.10	96.80	
exceed €25.10 but do not exceed €27.60	95.00	
exceed €27.60 but do not exceed €30.10	93.10	
exceed €30.10 but do not exceed €32.60	91.30	5
exceed €32.60 but do not exceed €35.10	89.40	
exceed €35.10 but do not exceed €37.60	87.60	
exceed €37.60 but do not exceed €40.10	85.70	
exceed €40.10 but do not exceed €42.60	83.90	
exceed €42.60 but do not exceed €45.10	82.10	10
exceed €45.10 but do not exceed €47.60	80.20	
exceed €47.60 but do not exceed €50.10	78.40	
exceed €50.10 but do not exceed €52.60	76.50	
exceed €52.60 but do not exceed €55.10	74.70	
exceed €55.10 but do not exceed €57.60	72.80	15
exceed €57.60 but do not exceed €60.10	71.00	
exceed €60.10 but do not exceed €62.60	69.20	
exceed €62.60 but do not exceed €65.10	67.30	
exceed €65.10 but do not exceed €67.60	65.50	
exceed €67.60 but do not exceed €70.10	63.60	20
exceed €70.10 but do not exceed €72.60	61.80	
exceed €72.60 but do not exceed €75.10	59.90	
exceed €75.10 but do not exceed €77.60	58.10	
exceed €77.60 but do not exceed €80.10	56.30	
exceed €80.10 but do not exceed €82.60	54.40	25
exceed €82.60 but do not exceed €85.10	52.60	
exceed €85.10 but do not exceed €87.60	50.70	
exceed €87.60 but do not exceed €90.10	48.90	
exceed €90.10 but do not exceed €92.60	47.00	
exceed €92.60 but do not exceed €95.10	45.20	30
exceed €95.10 but do not exceed €97.60	43.30	
exceed €97.60 but do not exceed €100.10	41.50	
exceed €100.10 but do not exceed €102.60	39.70	
exceed €102.60 but do not exceed €105.10	37.80	
exceed €105.10 but do not exceed €107.60	36.00	35
exceed €107.60 but do not exceed €110.10	34.10	
exceed €110.10 but do not exceed €112.60	32.30	
exceed €112.60 but do not exceed €115.10	30.40	
exceed €115.10 but do not exceed €117.60	28.60	
exceed €117.60 but do not exceed €120.10	26.80	40
exceed €120.10 but do not exceed €122.60	24.90	
exceed €122.60 but do not exceed €125.10	23.10	
exceed €125.10 but do not exceed €127.60	21.20	
exceed €127.60 but do not exceed €130.10	19.40	

	Means of claimant or pensioner	Weekly rate of increase
	exceed €130.10 but do not exceed €132.60	17.50
	exceed €132.60 but do not exceed €135.10	15.70
	exceed €135.10 but do not exceed €137.60	13.90
	exceed €137.60 but do not exceed €140.10	12.00
5	exceed €140.10 but do not exceed €142.60	10.20
	exceed €142.60 but do not exceed €145.10	8.30
	exceed €145.10 but do not exceed €147.60	6.50
	exceed €147.60 but do not exceed €150.10	4.60
	exceed €150.10 but do not exceed €152.60	2.80
10	exceed €152.60	Nil

PART 5

INCREASE OF BLIND PENSION FOR ONE OF A COUPLE WHERE
BENEFICIARY HAS ATTAINED PENSIONABLE AGE AND SPOUSE HAS NOT
ATTAINED PENSIONABLE AGE

[1993 Sch 4; 2004
s3(1) & Sch B]

15	Means of claimant or pensioner	Weekly rate of increase
		€
	Where the weekly means of the claimant or pensioner do not exceed €7.60	98.70
	exceed €7.60 but do not exceed €10.10	97.20
	exceed €10.10 but do not exceed €12.60	95.70
20	exceed €12.60 but do not exceed €15.10	94.20
	exceed €15.10 but do not exceed €17.60	92.80
	exceed €17.60 but do not exceed €20.10	91.30
	exceed €20.10 but do not exceed €22.60	89.80
	exceed €22.60 but do not exceed €25.10	88.30
25	exceed €25.10 but do not exceed €27.60	86.80
	exceed €27.60 but do not exceed €30.10	85.30
	exceed €30.10 but do not exceed €32.60	83.80
	exceed €32.60 but do not exceed €35.10	82.30
	exceed €35.10 but do not exceed €37.60	80.90
30	exceed €37.60 but do not exceed €40.10	79.40
	exceed €40.10 but do not exceed €42.60	77.90
	exceed €42.60 but do not exceed €45.10	76.40
	exceed €45.10 but do not exceed €47.60	74.90
	exceed €47.60 but do not exceed €50.10	73.40
35	exceed €50.10 but do not exceed €52.60	71.90
	exceed €52.60 but do not exceed €55.10	70.50
	exceed €55.10 but do not exceed €57.60	69.00
	exceed €57.60 but do not exceed €60.10	67.50
	exceed €60.10 but do not exceed €62.60	66.00
40	exceed €62.60 but do not exceed €65.10	64.50
	exceed €65.10 but do not exceed €67.60	63.00
	exceed €67.60 but do not exceed €70.10	61.50

Means of claimant or pensioner	Weekly rate of increase	
exceed €70.10 but do not exceed €72.60	60.10	
exceed €72.60 but do not exceed €75.10	58.60	
exceed €75.10 but do not exceed €77.60	57.10	
exceed €77.60 but do not exceed €80.10	55.60	
exceed €80.10 but do not exceed €82.60	54.10	5
exceed €82.60 but do not exceed €85.10	52.60	
exceed €85.10 but do not exceed €87.60	51.10	
exceed €87.60 but do not exceed €90.10	49.60	
exceed €90.10 but do not exceed €92.60	48.20	
exceed €92.60 but do not exceed €95.10	46.70	10
exceed €95.10 but do not exceed €97.60	45.20	
exceed €97.60 but do not exceed €100.10	43.70	
exceed €100.10 but do not exceed €102.60	42.20	
exceed €102.60 but do not exceed €105.10	40.70	
exceed €105.10 but do not exceed €107.60	39.20	15
exceed €107.60 but do not exceed €110.10	37.80	
exceed €110.10 but do not exceed €112.60	36.30	
exceed €112.60 but do not exceed €115.10	34.80	
exceed €115.10 but do not exceed €117.60	33.30	
exceed €117.60 but do not exceed €120.10	31.80	20
exceed €120.10 but do not exceed €122.60	30.30	
exceed €122.60 but do not exceed €125.10	28.80	
exceed €125.10 but do not exceed €127.60	27.40	
exceed €127.60 but do not exceed €130.10	25.90	
exceed €130.10 but do not exceed €132.60	24.40	25
exceed €132.60 but do not exceed €135.10	22.90	
exceed €135.10 but do not exceed €137.60	21.40	
exceed €137.60 but do not exceed €140.10	19.90	
exceed €140.10 but do not exceed €142.60	18.40	
exceed €142.60 but do not exceed €145.10	16.90	30
exceed €145.10 but do not exceed €147.60	15.50	
exceed €147.60 but do not exceed €150.10	14.00	
exceed €150.10 but do not exceed €152.60	12.50	
exceed €152.60 but do not exceed €155.10	11.00	
exceed €155.10 but do not exceed €157.60	9.50	35
exceed €157.60 but do not exceed €160.10	8.00	
exceed €160.10 but do not exceed €162.60	6.50	
exceed €162.60 but do not exceed €165.10	5.10	
exceed €165.10 but do not exceed €167.60	3.60	
exceed €167.60 but do not exceed €170.10	2.10	40
exceed €170.10	Nil	

PART 6

AMOUNTS OF CHILD BENEFIT		[1993 Sch 4; 2005 (SW&P) s3(1)]
Amount for each of first 2 children	Amount for each child in excess of 2	
(1)	(2)	
5	€141.60	€177.30

SCHEDULE 5

SPECIFIED BODIES

Section 264.

1. Each of the following shall be a specified body for the purposes of this Schedule and *sections 264 to 272*: [2005 (SW&P)
s26 & Sch 5]

- 10 (1) a Minister of the Government,
the Commission for Public Service Appointments,
the Public Appointments Service,
the Revenue Commissioners;
- 15 (2) a local authority (for the purposes of the Local Government Act 2001);
(3) the Health Service Executive;
- 20 (4) a body established by the Minister for Education and Science under section 54 of the Education Act 1998,
An Foras Áiseanna Saothair,
An Garda Síochána and the Defence Forces in respect of their own members,
An Post,
An tArd-Chláraitheoir,
an tÚdaras um Ard-Oideachas,
- 25 Coillte Teoranta,
Enterprise Ireland,
National Educational Welfare Board,
the Central Applications Office,
the Central Statistics Office,
- 30 the Companies Registration Office,
the General Medical Services (Payments) Board,
the Legal Aid Board,

the Mental Health Commission,	
the National Breast Screening Board,	
the National Cancer Registry Board,	
the Pensions Board,	
the Personal Injuries Assessment Board,	5
the Private Residential Tenancies Board;	
(5) the following Voluntary Hospitals:	
Beaumont Hospital, Dublin,	
Cappagh National Orthopaedic Hospital, Dublin,	
Coombe Women's Hospital, Dublin,	10
Dublin Dental Hospital,	
Hume Street Hospital, Dublin,	
Incorporated Orthopaedic Hospital of Ireland, Clontarf, Dublin,	
Leopardstown Park Hospital,	15
Mater Misericordiae University Hospital, Dublin,	
Mercy Hospital, Cork,	
National Maternity Hospital, Dublin,	
National Rehabilitation Hospital, Dun Laoghaire,	
Our Lady's Hospice, Dublin,	20
Our Lady's Hospital for Sick Children, Crumlin, Dublin,	
Portiuncula Hospital, Ballinasloe, Co. Galway,	
Rotunda Hospital, Dublin,	
Royal Victoria Eye and Ear Hospital, Dublin,	25
South Infirmery/Victoria Hospital, Cork,	
St. James's Hospital, Dublin,	
St. John's Hospital, Limerick,	
St. Luke's Hospital, Dublin,	
St. Mary's Hospital and Residential School, Baldoyle, Dublin,	30
St. Michael's Hospital, Dun Laoghaire,	
St. Vincent's University Hospital, Elm Park, Dublin,	

St. Vincent's Hospital, Fairview, Dublin,

The Adelaide and Meath Hospital, Dublin incorporating the National Children's Hospital,

The Children's Hospital, Temple Street, Dublin,

5 The Royal Hospital, Donnybrook,

University Dental School and Hospital, Cork.

2. Each of the following shall be a specified body for the purposes of this Schedule and *section 268*:

10 a person who provides, organises or procures a programme of education or training,

a recognised school or centre for education (within the meaning of section 2 of the Education Act 1998),

15 a vocational education committee (within the meaning of section 7 of the Vocational Education Act 1930),

a university to which the Universities Acts 1997 and 1999 apply,

an educational institution to which the Regional Technical Colleges Acts 1992 to 2001 apply,

20 the Dublin Institute of Technology,

the Further Education and Training Awards Council,

the Higher Education and Training Awards Council,

the National Qualifications Authority of Ireland.

25 3. The Minister may by regulations amend *paragraph 1* or *2* by adding a specified body to, deleting a specified body from, or amending a reference to a specified body in, those paragraphs.

SCHEDULE 6

30 COMMENCEMENT OF CERTAIN PROVISIONS *Section 264.*

1. (1) This Act is amended by substituting the following for *section 251*:

“251.—(1) Subject to *section 221*, a person shall be disqualified from receiving—

35 (a) any benefit (including any increase of that benefit) while that person is absent from the State or is undergoing penal servitude, imprisonment or detention in legal custody, or

Disqualification from benefit while absent from State or undergoing imprisonment, etc.

[1995 s22]

(b) any increase of benefit payable in respect of that person's spouse for any period during which that spouse is absent from the State or is undergoing penal servitude, imprisonment or detention in legal custody. 5

(2) Notwithstanding *subsection (1)*, the Minister may make regulations enabling payment of any benefit or assistance to be made, subject to the conditions and in the circumstances that may be prescribed, to or in respect of any person who is absent from the State or is undergoing penal servitude, imprisonment or detention in legal custody.”. 10

Miscellaneous amendments.
[1995 (No. 2) s10(4)]

2. Each provision of this Act mentioned in *column (1)* of the Table to this section is amended in the manner specified in *column (2)* of that Table opposite the mention of that provision in *column (1)*. 15

Table

Provisions affected (1)	Amendment (2)	
Sections 43(1), 66(1), 76(1), 112(1), 117(1), 122(1), 142(1), 150(1)(a) and 158(1)(a).	The insertion after “subject to the restriction that” of “, except where regulations otherwise provide,”.	20

Old age (contributory) and retirement pension — extension of entitlement to reduced rate pension and changes in contribution conditions.
[1997 s12]

3.—(1) This Act is amended—

(a) in *section 109*, by substituting the following for *subsection (16)*: 25

“(16) (a) Subject to *paragraph (b)*, regulations may provide for entitling to old age (contributory) pension a relevant person who would be entitled but for the fact that the contribution conditions set out in *subsection (1)(b)* and *(c)* are not satisfied and who, in respect of any period, has been employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996 were paid. 30
35

(b) For the purposes of *paragraph (a)* the claimant is required to have qualifying contributions in respect of not less than 260 contribution weeks since his or her entry into insurance and has an aggregate of not less than 520 qualifying contributions and contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996.”. 40
45

and 50

(b) in section 115, by substituting the following for subsection (7):

5 “(7) (a) Regulations may provide, subject to paragraph (b) and subsection (8), for entitling to retirement pension a relevant person who would be entitled to that pension but for the fact that the contribution conditions set out in subsection (1)(b) and (c) are not satisfied and who, in respect of any period, has been mainly employed in one or more of the employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996 were paid.

20 (b) For the purposes of paragraph (a), the claimant is required to have qualifying contributions in respect of not less than 260 contribution weeks since his or her entry into insurance and an aggregate of not less than 520 qualifying contributions and contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996.”

30 (2) Each provision of this Act mentioned in column (1) of the Table to this section is amended in the manner specified in column (2) of that Table opposite the mention of that provision in column (1).

Table

Provision affected (1)	Amendment (2)
35 Sections 109 and 115	In subsection (1) of each section, substitute the following for paragraph (b): “(b) that the claimant— (i) has qualifying contributions in respect of at least 520 contribution weeks, or (ii) in the case of a person who on or before 6 April 1997, is a voluntary contributor paying contributions under Chapter 4 of Part 2, has an aggregate of qualifying contributions and voluntary contributions in respect of 520 contribution weeks, of which not less than 156 are qualifying contributions, or (iii) in any other case, has an aggregate of qualifying contributions and voluntary contributions in respect of 520 contribution weeks of which not less than 260 are qualifying contributions, since his or her entry into insurance.”

4. This Act is amended—

(a) in section 194—

(i) by substituting the following for subsection (1): [2000 s31]

Supplementary welfare allowance — transfer of functions.

55 “(1) Subject to the general direction and control of the Minister, the Executive shall, in

respect of its functional area, be responsible for the administration of functions under this Chapter and the functions relating to supplementary welfare allowance other than—

- (a) functions relating to claims for supplementary welfare allowance which may be decided by a deciding officer under *section 302(2)(b)*, 5
- (b) functions relating to claims for supplementary welfare allowance decided by a deciding officer under *section 302(3)*, and 10
- (c) making such categories of payment as may be prescribed in the circumstances and conditions that may be prescribed.”, 15

(ii) by inserting the following after *subsection (3)*:

“(4) Where any doubt or dispute arises as to whether an entitlement to supplementary welfare allowance is to be determined by an employee of the Executive or decided by a deciding officer, it shall be resolved by the Minister.”, 20

(b) in *section 302*—

(i) in *subsection (2)*—

(I) by substituting “*subsections (3) and (3A)*” for “*subsection (3)*”, and 25

(II) by substituting the following for *paragraph (b)*:

“(b) *Part 3* (social assistance) excluding supplementary welfare allowance other than such categories of claims as may be prescribed under *subsection (3A)*”, 30

and

(ii) by inserting the following after *subsection (3)*: 35

“(3A) Regulations may provide that the categories of claims for supplementary welfare allowance to be decided by a deciding officer shall be—

- (a) claims made under *section 197* in any case where a person has made an application for such benefit under *Part 2* or such assistance under *Part 3* as may be prescribed, and entitlement to that benefit or that assistance has not yet been decided or has been decided and that decision is the subject of an appeal under *section 314*, and 40 45

5 (b) claims under *section 198* for a supplement towards the amount of rent or mortgage interest payable by a person in respect of his or her residence in such categories of cases as may be prescribed.”,

(c) in *section 303*—

(i) by inserting the following after *subsection (2)*:

10 “(2A) A deciding officer may, at any time revise a determination of an employee of the Executive including an employee of the Executive designated under *section 325*, if it appears to him or her that the determination was erroneous in the light of new evidence or of new facts which have been brought to his or her notice since the date on which it was given or by reason of some mistake having been made in relation to the law or the facts, or if it appears to him or her that there has been any relevant change of circumstances since the determination was given and the provisions of this Part as to appeals shall apply to the revised decision in the same manner as they apply to an original decision of a deciding officer.”,

25 and

(ii) in *subsection (4)*, by substituting “*subsection (2)* or *(2A)*” for “*subsection (2)*”, and

(d) in *section 337(d)*, by substituting “*section 303(2)* and *(2A)*” for “*section 303(2)*”.

30 SCHEDULE 7

ENACTMENTS REPEALED

Section 362.

Number and Year (1)	Short Title (2)	Extent of Repeal (3)
35 No. 27 of 1993	Social Welfare (Consolidation) Act 1993	The whole Act.
No. 32 of 1993	Social Welfare (No. 2) Act 1993	The whole Act (other than sections 1(1) and 15).
No. 4 of 1994	Social Welfare Act 1994	The whole Act (other than section 1(1) and Part VII).
40 No. 3 of 1995	Social Welfare Act 1995	The whole Act (other than sections 1(1), 2 (insofar as it relates to the definition of “the Act of 1994”) and Part V).
45 No. 23 of 1995	Social Welfare (No. 2) Act 1995	The whole Act.
50 No. 7 of 1996	Social Welfare Act 1996	The whole Act (other than sections 1(1), 2 (insofar as it relates to the definitions of “the Principal Act” and “the Act of 1995”), 18 and Parts X and XI).

Number and Year (1)	Short Title (2)	Extent of Repeal (3)	
No. 10 of 1997	Social Welfare Act 1997	The whole Act (other than sections 1(1), 2 (insofar as it relates to the definition of the "the Act of 1996") and Parts VIII, IX and X).	
No. 6 of 1998	Social Welfare Act 1998	The whole Act (other than section 1(1), 2 (insofar as it relates to the definition of "the Act of 1997") and Parts VI and VII).	5
No. 3 of 1999	Social Welfare Act 1999	The whole Act (other than sections 1(1), 2 (insofar as it relates to the definitions of "the Act of 1996" and "the Act of 1998") and 23 and Parts VII and VIII).	10
No. 4 of 2000	Social Welfare Act 2000	The whole Act (other than sections 1(1), 2 (insofar as it relates to the definitions of "the Act of 1996" and "the Act of 1999"), 24(1), 34 and 35).	15
No. 5 of 2001	Social Welfare Act 2001	The whole Act (other than sections 1(1), 2 (insofar as it relates to definitions of "Act of 1995", "Act of 1997", "Act of 1999", "Act of 2000", "No. 2 Act of 1993" and "Principal Act"), 29 and 30 and Part 7).	20 25
No. 51 of 2001	Social Welfare (No. 2) Act 2001	The whole Act.	
No. 8 of 2002	Social Welfare (Miscellaneous Provisions) Act 2002	The whole Act (other than sections 1 (insofar as it relates to the definitions of "Act of 1997", "Act of 1999", "Act of 2000", "Act of 2001" and "Principal Act"), 10, 16, 17(1) and (3) and the Schedule).	30 35
No 31 of 2002	Social Welfare Act 2002	The whole Act.	
No. 4 of 2003	Social Welfare (Miscellaneous Provisions) Act 2003	The whole Act (other than sections 1(1), (3) and (4), 2 (insofar as it relates to the definition of "Principal Act"), 8(2), 12, 20 to 24 and Schedule).	40
No. 41 of 2003	Social Welfare Act 2003	The whole Act (other than sections 14, 15 and 16(1)).	45
No. 9 of 2004	Social Welfare (Miscellaneous Provisions) Act 2004	The whole Act (other than sections 1(1), (3) and (4), 10, Part 3 and Schedule 2).	
No. 41 of 2004	Social Welfare Act 2004	The whole Act (other than sections 8 and 9(1)).	50
No. 4 of 2005	Social Welfare and Pensions Act 2005	The whole Act (other than sections 1(1), (3), (4) and (6) and Part 3).	



**AN BILLE COMHDHLÚITE LEASA SHÓISIALIGH 2005
SOCIAL WELFARE CONSOLIDATION BILL 2005**

EXPLANATORY MEMORANDUM

This Bill, which has been certified by the Attorney General to be a Consolidation Bill, consolidates all of the enactments relating to Social Welfare. Those enactments comprise the Social Welfare (Consolidation) Act, 1993 together with all of the Acts which amend that legislation, enacted from 1993 to 2005 inclusive.

A Consolidation Bill is a Bill drafted to consolidate existing statute law on a particular subject matter. Substantive amendments of the statute law are not permissible. However, amendments solely designed to remove ambiguities or inconsistencies, substitute modern for archaic language and to achieve uniformity of expression are permissible.

This Bill will replace the provisions of the Social Welfare (Consolidation) Act, 1993, and the 18 subsequent amending Social Welfare Acts, and those amendments effected in other legislation. The Bill consists of thirteen (13) Parts and seven (7) Schedules, as follows:

Part 1 provides for the definitions and interpretation for the purposes of the Bill, together with general provisions in relation to Regulations. *Part 2* contains the provisions relating to social insurance and the social insurance schemes, and *Part 3* contains the provisions relating to the social assistance schemes. *Parts 4, 5 and 6* provide for Child Benefit, Respite Care Grant and Family Income Supplement respectively. *Part 7* provides for continued payment in respect of a qualified child, and *Part 8* provides for entitlement to Island Allowance for recipients of certain EU payments.

Part 9 contains the general provisions relating to social welfare payments and insurability, including provisions in relation to:

- making claims and payments,
- appointment and duties of Social Welfare Inspectors,
- offences and proceedings, and
- alienation of books and documents.

Part 10 contains the provisions governing decisions and appeals in relation to social welfare payments and the Supplementary Welfare Allowance scheme. This Part also contains the provisions governing the Social Welfare Tribunal.

Part 11 contains the provisions governing overpayment, repayment and suspension of payments, and *Part 12* contains the Liable Relative