DÁIL ÉIREANN

AN BILLE LEASA SHÓISIALAIGH 2009
SOCIAL WELFARE BILL 2009

LEASUITHE COISTE
COMMITTEE AMENDMENTS

[No. 17 of 2009] [28 April, 2009]

[Printers Reference]

DÁIL ÉIREANN

AN BILLE LEASA SHÓISIALAIGH 2009
—AN COISTE

SOCIAL WELFARE BILL 2009
—COMMITTEE STAGE

Leasuithe
Amendments

SECTION 1

1. In page 3, subsection (1), line 10, to delete "Social Welfare Act 2009" and substitute "Social Welfare and Pensions Act 2009".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

SECTION 2

2. In page 3, between lines 13 and 14, to insert the following:

" "Act of 1979" means the Health Contributions Act 1979;".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

SECTION 3

3. In page 3, before section 3, but in Part 2, to insert the following new section:

"Nursing homes.

3.—The Minister shall as soon as may be after the passing of this Act prepare and lay before both Houses of the Oireachtas a report on the implications of new control measures to make it compulsory for a registered nursing home (public and private) to notify the Department if a person is resident with them for a month or more.".

—Róisín Shortall.

Section opposed.

—Olwyn Enright.

SECTION 4

4. In page 4, between lines 15 and 16, to insert the following new section:

"4.—This section shall allow for the abolition of the current PRSI ceiling and will come into operation on 1 May 2009.".

—Arthur Morgan.

Section opposed.

—Arthur Morgan.

SECTION 5

Section opposed.

—Róisín Shortall.

[*SECTION 6*]

SECTION 6

5. In page 5, to delete lines 26 to 32.

—Arthur Morgan.

6. In page 5, between lines 32 and 33, to insert the following:

"(*b*) in section 141 by inserting the following subsection after subsection (4):

"(5) The Minister shall ensure that sufficient provision is made to ensure the ready availability of officers and courses of education as required for all persons affected by section 141(4).".".

—Olwyn Enright.

7. In page 6, line 48, to delete "section 67, or" and substitute "section 67,".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

8. In page 6, line 52, to delete "claim under this section.".” and substitute the following:

"claim under this section, or

(*d*) a claimant has attained the age of 18 years and has not attained the age of 20 years and at any time during the period of 12 months before he or she has so attained the age of 18 years—

(i) he or she was in or was placed in the care of the Executive pursuant to an order of the High Court, or

(ii) he or she was in or was placed in the care of the Executive—

(I) pursuant to an order of the District Court or the Circuit Court on appeal from the District Court made under Part III, IV, IVA, (inserted by section 16 of the Children Act 2001) or VI of the Child Care Act 1991,

(II) under a voluntary care arrangement pursuant to section 4 of the Child Care Act 1991, or

(III) under an accommodation arrangement pursuant to section 5 of the Child Care Act 1991.".".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

9. In page 6, after line 52, to insert the following new subsection:

"(5) The Minister shall, prior to the commencement of this section, publish the types of courses that shall apply under this section, the availability of those courses and the arrangements that have been made to ensure sufficient provision of public transport to such courses.".

—Olwyn Enright.

Section opposed.

—Róisín Shortall.

SECTION 7

10. In page 7, line 3, to insert the following new subsection:

"(1) The Minister shall, within three months of the commencement of this section, ensure that all rents the subject of this section shall be renegotiated to reflect existing market conditions.".

—Olwyn Enright.

11. In page 7, line 3, to insert the following new subsection:

"(1) The Minister shall ensure that any reduction made in a payment made under this section shall be proportionate and reflect the market reality in the residential area to which it applies.".

—Olwyn Enright.

12. In page 7, line 3, to insert the following new subsection:

"(1) The Minister shall, within three months of the commencement of this section, ensure that the Revenue Commissioners are notified of the details of all properties to which a payment under this section applies or shall apply in the future.".

—Olwyn Enright.

13. In page 7, line 3, to insert the following new subsection:

"(1) The Minister shall, within three months of the commencement of this section, establish a deposit protection scheme for all tenants the subject of this section.".

—Olwyn Enright.

14. In page 7, to delete lines 33 to 36 and substitute the following:

"(3) Subsection (2) shall not apply in the case of a claim for supplementary allowance where the claimant—

(*a*) has been in continuous receipt of the allowance from a date on or before 29 April 2009, or

(*b*) has attained the age of 18 years and has not attained the age of 20 years and at any time during the period of 12 months before he or she has so attained the age of 18 years—

(i) he or she was in or was placed in the care of the Executive pursuant to an order of the High Court, or

(ii) he or she was in or was placed in the care of the Executive—

(I) pursuant to an order of the District Court or the Circuit Court on appeal from the District Court made under Part III, IV, IVA, (inserted by section 16 of the Children Act 2001) or VI of the Child Care Act 1991,

(II) under a voluntary care arrangement pursuant to section 4 of the Child Care Act 1991, or

(III) under an accommodation arrangement pursuant to section 5 of the Child Care Act 1991.",".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

15. In page 8, lines 6 to 41, to delete paragraph (*c*).

—Arthur Morgan.

16. In page 8, to delete lines 24 to 28 and substitute the following:

"(*c*) deducting the sum achieved by making the calculation referred to at paragraph (*b*) from the sum achieved by making the calculation referred to at paragraph (*a*).".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

Section opposed.

—Róisín Shortall, Olwyn Enright.

SECTION 8

17. In page 8, subsection (2), line 47, to delete "1 January 2010" and substitute "1 December 2009".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

Section opposed.

—Róisín Shortall, Arthur Morgan, Olwyn Enright.

SECTION 9

18. In page 9, line 5, after "benefit" to insert the following:

", including information relating to a claimant's language skills, educational attainment and length of residency in the State,".

—Róisín Shortall.

19. In page 9, between lines 19 and 20, to insert the following new subsection:

"(1C) The Minster shall, within three months of the commencement of this section, lay before the Houses of the Oireachtas the details of what is required to be furnished by persons affected by this section.".

—Olwyn Enright.

SECTION 11

Section opposed.

—Róisín Shortall.

SECTION 12

20. In page 10, before section 12, but in Part 3, to insert the following new section:

"Amendments to Act of 1979.

12.—(1) The Act of 1979 is amended—

(*a*) by inserting the following definitions in section 1:

" 'Act of 1997' means the Taxes Consolidation Act 1997;

'reckonable earnings' means emoluments—

(*a*) derived from insurable employment or insurable (occupational injuries) employment within the meaning of the Social Welfare Acts, and

(*b*) to which Chapter 4 of Part 42 of the Act of 1997 applies, but without regard to sections 1015 to 1024 of the Act of 1997,

reduced by so much of the allowable contribution referred to in regulations 41 and 42 of the Regulations of 2001 as is deducted on payment of those emoluments;

'reckonable emoluments' means emoluments (other than reckonable earnings) reduced by so much of the allowable contribution referred to in regulations 41 and 42 of the Regulations of 2001 as is deducted on payment of those emoluments;

'reckonable income' means, in relation to an individual, the aggregate of the individual's income from all sources for a contribution year estimated in accordance with the provisions of the Income Tax Acts, but without regard to sections 1015 to 1024 of the Act of 1997, and after—

(*a*) the deduction from that income of so much of the allowable contribution referred to in regulations 41 and 42 of the Regulations of 2001 as is deducted on payment of emoluments, and

(*b*) the deduction from that income (other than emoluments) of so much of any deduction allowed by virtue of the provisions referred to in the definition of 'capital allowance' in section 2 (1) of the Act of 1997 as is to be deducted from or set off against that income in charging the income to income tax;

'Regulations of 2001' means Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001).",

(*b*) by the repeal of section 2,

(*c*) by inserting the following section after section 4:

"Rates in respect of health contributions.

4A.—(1) For the contribution year 2009, the health contribution payable by an individual on his or her reckonable income for that contribution year shall be at the rates specified in the table to this subsection.

TABLE

	Part of reckonable income	Rate of health contribution
	The first €75,036	3.333%
	The next €25,064	4%
	The remainder	4.16%

(2) For a contribution year subsequent to the contribution year 2009 the health contribution payable by an individual on his or her reckonable income for that contribution year shall be at the rates specified in the table to this subsection.

TABLE

	Part of reckonable income	Rate of health contribution
	The first €75,036	4%
	The remainder	5%

.",

(*d*) in section 5—

(i) in subsection (1)(*a*) by substituting "the health contribution being calculated in accordance with the rates specified in the table referred to in section 4A(1) or 4A(2) as the case may be in respect of such reckonable earnings" for "the health contribution being calculated at the rate of two per cent of the amount of such reckonable earnings", and

(ii) by substituting the following subsections for subsections (1A) and (1B):

"(1A) Subject to section 4A(1) as respects reckonable earnings paid in the period beginning on 1 January 2009 and ending on 30 April 2009, where the amount of the reckonable earnings exceeds—

(*a*) €1,925, in the case where the period in respect of which the payment concerned is made is a week, or

(*b*) a corresponding amount, in the case where the period in respect of which the payment concerned is made is greater or less than a week,

the health contribution payable under this section shall be calculated at the rate of—

(i) 2 per cent of €1,925 or of the corresponding amount, as the case may be, and

(ii) 2.5 per cent of the amount of the excess.

(1B) Subject to section 4A(1) as respects reckonable earnings paid on or after 1 May 2009, where the amount of the reckonable earnings exceeds—

(*a*) €1,443, in the case where the period in respect of which the payment concerned is made is a week, or

(*b*) a corresponding amount, in the case where the period in respect of which the payment concerned is made is greater or less than a week,

the health contribution payable under this section shall be calculated at the rate of—

(i) 4 per cent of €1,443 or of the corresponding amount, as the case may be, and

(ii) 5 per cent of the amount of the excess.",

(*e*) in section 6—

(i) in subsection (1) by substituting "the health contribution being calculated in accordance with the rates specified in the table referred to in section 4A(1) or 4A(2) as the case may be in respect of such reckonable emoluments." for "a health contribution shall be payable of an amount calculated at the rate of two per cent of the amount of the reckonable emoluments to which such payment relates.", and

(ii) by substituting the following for subsections (1A) and (1B):

"(1A) Subject to section 4A(1) as respects reckonable emoluments paid in the period beginning on 1 January 2009 and ending 30 April 2009, where the amount of the reckonable emoluments exceeds—

(*a*) €1,925, in the case where the period in respect of which the payment concerned is made is a week, or

(*b*) a corresponding amount, in the case where the period in respect of which the payment concerned is made is greater or less than a week,

the health contribution payable under this section shall be calculated at the rate of—

(i) 2 per cent of €1,925 or of the corresponding amount, as the case may be, and

(ii) 2.5 per cent of the amount of the excess.

(1B) Subject to section 4A(1) as respects reckonable emoluments paid on or after 1 May 2009 where the amount of the reckonable emoluments exceeds—

(*a*) €1,443, in the case where the period in respect of which the payment concerned is made is a week, or

(*b*) a corresponding amount, in the case where the period in respect of which the payment concerned is made is greater or less than a week,

the health contribution payable under this section shall be calculated at the rate of—

(i) 4 per cent of €1,443 or of the corresponding amount, as the case may be, and

(ii) 5 per cent of the amount of the excess.",

(*f*) by the repeal of section 7, and

(*g*) by inserting the following sections after section 7B:

"Adjustment to take account of aggregate calculations.

7C.—Notwithstanding sections 5(1A), 5(1B), 6(1A) and 6 (1B), calculations made in accordance with those sections may be adjusted by an employer of an employed contributor to take account of aggregate reckonable earnings or aggregate reckonable emoluments, or both aggregate reckonable earnings and aggregate reckonable emoluments as the case may be, paid in the contribution year and the payment of the health contribution may be made in accordance with the figure achieved as a result of the calculation so adjusted.

Repayment of contributions.

7D.—(1) Where an individual's health contribution was calculated in accordance with section 5 or 6 in respect of the contribution year 2009 and where, as a result of that calculation, the individual paid in respect of that year, an amount in excess of the rates specified in the second column in the table referred to in section 4A(1) in respect of the parts of reckonable income specified in the first column of that table, the individual shall be repaid that excess amount.

(2) Where an individual's health contribution was calculated in accordance with section 5(1B) or 6(1B) in respect of the contribution year 2010 or any contribution year thereafter and the individual's reckonable earnings or reckonable emoluments for the particular contribution year do not exceed €75,036, sections 5(1B) or 6(1B), as the case may be shall be construed as if "4 per cent" were substituted for "5 per cent" and any health contributions overpaid in respect of that contribution year shall be repaid to the individual.

Provision in respect of ex gratia redundancy payments.

7E.—(1) This section applies to emoluments paid to an individual in the period 1 January 2009 to 30 April 2009 in the form of any ex gratia payment made on the occasion of the redundancy of that individual, which is chargeable to tax under section 123 of the Act of 1997, in respect of which health contributions are payable in accordance with section 4A.

(2) Notwithstanding any other provision of this Act and subject to section 7A, to the extent that emoluments are emoluments to which this section applies—

(*a*) health contributions shall be paid in respect of those emoluments for the contribution year 2009 at the rate of—

(i) 2 per cent on the first €100,100 of such emoluments, and

(ii) 2.5 per cent on the balance,

and

(*b*) those emoluments shall not be reckoned in calculating relevant income for that year for any other purpose of this Act.".

(2) References to reckonable earnings in regulations under the Act of 1979 that were in force immediately before the commencement of this section shall be construed as references to reckonable earnings within the meaning of that Act as amended by this section.

(3) References to reckonable emoluments in regulations under the Act of 1979 that were in force immediately before the commencement of this section shall be construed as references to reckonable emoluments within the meaning of that Act as amended by this section.

(4) References to reckonable income in regulations under the Act of 1979 that were in force immediately before the commencement of this section shall be construed as references to reckonable income within the meaning of that Act as amended by this section.

(5) Regulations 4, 5 and 6 of the Health Contributions Regulations 1979 (S.I. No. 107 of 1979) are revoked.

(6) This section comes into operation on 1 May 2009.".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

[*Acceptance of this amendment involves the deletion of section 12 of the Bill.*]

Section opposed.

—Róisín Shortall.

NEW SECTIONS

21. In page 13, after line 42, to insert the following new section:

"PART 4

AMENDMENT TO THE FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST ACT 2009

Amendment of Financial Emergency Measures in the Public Interest Act 2009.

13.—The Financial Emergency Measures in the Public Interest Act 2009 is amended in section 2 by substituting the following for subsection (3) with effect from 1 May 2009:

"(3) The person who is responsible for, or authorises, the payment of remuneration to a relevant person shall, subject to subsection (3A), deduct or cause to be deducted an amount—

(*a*) in the case of the period 1 March 2009 to 30 April 2009 where a relevant person not later than 30 April 2009 ceases to be a public servant and does not again become a relevant person in 2009, at the applicable rate or rates specified in Table A to this subsection in respect of that period,

(*b*) in the case of the period 1 March 2009 to 30 April 2009 (other than where paragraph (*a*) or subsection (3A) applies), at the applicable rate or rates specified in Table B to this subsection in respect of that period,

(*c*) in the case of the period 1 May 2009 to 31 December 2009 (other than where subsection (3A) applies), at the applicable rate or rates specified in Table C to this subsection in respect of that period, and

(d) in the case of the year 2010 and each subsequent year, at the applicable rate or rates specified in Table D to this subsection in respect of that year,

from the remuneration from time to time payable to the relevant person for the period concerned or any such year.

TABLE A

Amount of Remuneration	Rate of deduction
Up to €15,000	3 per cent
Any excess over €15,000 but not over €20,000	6 per cent
Any amount over €20,000	10 per cent

TABLE B

Amount of Remuneration	Rate of deduction
Up to €2,727.27	3 per cent
Any excess over €2,727.27 but not over €3,636.36	6 per cent
Any amount over €3,636.36	10 per cent

TABLE C

Amount of Remuneration	Rate of deduction
Up to €12,272.73	Exempt
Any excess over €12,272.73 but not over €16,363.64	5 per cent
Any excess over €16,363.64 but not over €49,090.91	10 per cent
Any amount over €49,090.91	10.5 per cent

TABLE D

Amount of Remuneration	Rate of deduction
Up to €15,000	Exempt
Any excess over €15,000 but not over €20,000	5 per cent
Any excess over €20,000 but not over €60,000	10 per cent
Any amount over €60,000	10.5 per cent

(3A) If in any case where—

(*a*) a public servant was a relevant person at any time between 1 March 2009 and 30 April 2009 and either—

(i) was on 30 April 2009 a relevant person and continued to be a relevant person on 1 May 2009 but subsequently ceased to be a relevant person on or before 31 December 2009, or

(ii) having ceased to be a public servant before 1 May 2009, becomes a relevant person again on or before 31 December 2009,

and

(*b*) the application of Table B and Table C to subsection (3) to so much of the period 1 March 2009 to 31 December 2009 as the public servant was a relevant person would result or has resulted in a higher amount being deducted than would have been deducted had Table A to subsection (3) applied to the entire of that period,

then, unless the amount of remuneration concerned exceeds €160,000 during the period 1 March 2009 to 31 December 2009, Table A to that subsection shall be applied in respect of the period 1 March 2009 to 31 December 2009.".".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

22. In page 13, after line 42, to insert the following new section:

"PART 5*

PROVISIONS IN RELATION TO PENSION SCHEMES

Definition.

14.—(1) In this Part—

"Principal Act" means the Pensions Act 1990;

"relevant scheme" has the same meaning as it has in Part IV of the Principal Act.".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

[* *The proposed new Part comprehends the inclusion of amendments 23 to 31.*]

23. In page 13, after line 42, to insert the following new section:

"Amendment of section 41 of Principal Act.

15.—Section 41 of the Principal Act is amended by the substitution of the following paragraph for paragraph (*b*) of subsection (2) (inserted by section 31 of the Social Welfare and Pensions Act 2005):

"(*b*) subsections (1), (1A), (1B) and (2) of section 48 (amended by *section 16** of the *Social Welfare and Pensions Act 2009*) shall apply to any scheme other than a defined contribution scheme, and"."

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

[* *This is the correct reference if amendment 24 is accepted.*]

24. In page 13, after line 42, to insert the following new section:

"Priorities on winding up of relevant scheme.

16.—Section 48 (inserted by section 33 of the Pensions (Amendment) Act 2002) of the Principal Act is amended by—

(*a*) the insertion of the following subsections after subsection (1):

"(1A) Notwithstanding subsection (1), in applying the resources of a relevant scheme that is wound up after the passing of the *Social Welfare and Pensions Act 2009*, the trustees shall discharge the liabilities of the scheme for the following benefits in the following order:

(*a*) firstly, all additional benefits secured or granted by way of additional voluntary contributions or a transfer of rights from another scheme to which paragraph 2 of the Third Schedule relates to the extent that the rights to which the transfer relates were originally secured or granted by way of additional voluntary contributions;

(*b*) secondly, the benefits (not including post-retirement increases in such benefits) specified in paragraph 1 of the Third Schedule to or in respect of those persons, who, at the date of the winding up of the scheme, were within the categories referred to in that paragraph, to the extent that those benefits have not already been discharged;

(*c*) thirdly, the benefits (not including post-retirement increases in such benefits) specified in paragraphs 2, 3 and 4 of the Third Schedule to or in respect of those members of the scheme who, at the date of winding up of the scheme, were within the categories referred to in those paragraphs, to the extent that those benefits have not already been discharged; and

(*d*) fourthly, the benefits specified in paragraphs 1, 2 , 3 and 4 of the Third Schedule to or in respect of those persons and members of the scheme, who at the date of the winding up of the scheme, were within any of the categories referred to in any of those paragraphs, to the extent that those benefits have not already been discharged,

before discharging the liabilities of the scheme for other benefits.

(1B) The liabilities of the scheme in respect of the benefits to which paragraph (*d*) of subsection (1A) applies shall rank equally between each other and shall be paid in full unless the resources of the scheme are insufficient to meet those liabilities, in which case they shall abate in equal proportions as between each other.",

and

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

"(5) For the purposes of this section, a relevant scheme is wound up on the date of the doing of such act, the happening of such event, or the making of such decision as, under the rules of the scheme, requires that the scheme be wound up, and "date of the winding up" shall, in relation to a relevant scheme, be construed accordingly.

(6) References in the Third Schedule to effective date of the certificate shall, for the purposes of this section, be construed as references to the date of the winding up of the relevant scheme concerned.".".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

25. In page 13, after line 42, to insert the following new section:

"Amendment of section 50 of Principal Act.

17.—Section 50 of the Principal Act is amended—

(*a*) by the substitution of the following subsections for subsection (1):

"(1) The Board may, by notice in writing, direct the trustees of a relevant scheme to take such measures in respect of members of the scheme then in relevant employment, who have not reached normal pensionable age, or members whose service in relevant employment has ceased, who have not reached normal pensionable age and who have an entitlement to a preserved benefit or any other benefit under the scheme, the payment of which has not commenced, as may be necessary to reduce the benefits that would be payable to or in respect of those members from the scheme where—

(*a*) the trustees of the scheme fail to submit an actuarial funding certificate within the period specified in section 43,

(*b*) the actuarial funding certificate certifies that the scheme does not satisfy the funding standard and the trustees of the scheme have not submitted a funding proposal in accordance with section 49,

(*c*) the actuarial funding certificate certifies that the scheme does not satisfy the funding standard and the trustees of the scheme have submitted a funding proposal in accordance with section 49, or

(*d*) the Board consents to the amendment of a scheme in accordance with section 50A (inserted by *section 18** of the *Social Welfare and Pensions Act 2009*).

(1A) The Board may, by notice in writing, direct the trustees of a scheme to take such measures as may be necessary to reduce future increases in benefits payable from the scheme to or in respect of persons receiving benefits under the scheme or persons who have reached normal pensionable age, where —

(*a*) the trustees of the scheme fail to submit an actuarial funding certificate within the period specified in section 43,

(*b*) the actuarial funding certificate certifies that the scheme does not satisfy the funding standard and the trustees of the scheme have not submitted a funding proposal in accordance with section 49,

(*c*) the actuarial funding certificate certifies that the scheme does not satisfy the funding standard and the trustees of the scheme have submitted a funding proposal in accordance with section 49, or

(*d*) the Board consents to the amendment of a scheme in accordance with section 50A (inserted by *section 18** of the *Social Welfare and Pensions Act 2009*).",

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

"(2) Paragraph 2(2) of the Second Schedule and paragraph 4(*b*)(i)(I) of the Third Schedule shall not apply in so far only as they conflict with a reduction in benefits pursuant to a direction under subsection (1).

(2A) A reduction in benefits effected pursuant to a direction under subsection (1) or (1A) shall—

(*a*) be such as, in the opinion of the actuary concerned, ensures that, immediately following the reduction, the scheme will satisfy the funding standard in accordance with section 44, or

(*b*) in the case of a scheme referred to in subsection (1)(*c*) or (1A)(*c*), be such as, in the opinion of the actuary concerned, ensures that the scheme could reasonably be expected to satisfy the funding standard at the effective date of the next actuarial funding certificate or, where applicable, any later date specified under section 49(3).",

and

(*c*) in subsection (3), by—

(i) the substitution of "subsection (1) or (1A)" for "subsection (1)", and

(ii) the substitution of the following subparagraph for subparagraph (i) of paragraph (*a*) (inserted by section 19 of the Pensions (Amendment) Act 1996):

"(i) take such measures to reduce, in respect of—

(I) members of the scheme then in relevant employment who had not reached normal pensionable age,

(II) members whose service in relevant employment has ceased and who have not reached normal pensionable age and who have an entitlement to a preserved benefit or any other benefit under the scheme, and

(III) persons receiving benefits under the scheme or who have reached normal pensionable age,

the benefits that would be payable to or in respect of them from the scheme as—

(A) are necessary for the purpose of ensuring that the scheme will, in the opinion of the actuary concerned, satisfy the funding standard in accordance with section 44 immediately following the reduction, or

(B) in the opinion of the actuary concerned, will, in the case of a scheme in respect of which a funding proposal has been submitted to the Board pursuant to section 49, ensure that the scheme could reasonably be expected to satisfy the funding standard at the effective date of the next actuarial funding certificate or, where applicable, any later date specified under section 49(3), and".".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

[**This is the correct reference if amendment 26 is accepted.*]

[*NEW SECTIONS*]

26. In page 13, after line 42, to insert the following new section:

"Power to amend relevant scheme.

18.—The Principal Act is amended by the insertion of the following new 'section:

"50A.—(1) Subject to this section and section 50, the trustees of a scheme may—

(*a*) for the purpose of ensuring that the winding up of the scheme will not be required by reason only of the scheme not having sufficient resources to enable the liabilities of the scheme to be discharged,

(*b*) after compliance with regulations (if any) under this section, and

(*c*) with the consent of the Board,

make such amendments to the scheme as they consider appropriate.

(2) The Minister may make regulations requiring the trustees of a relevant scheme to give notice to the members of the scheme of any proposal to amend the scheme pursuant to this section and to give those members an opportunity to make representations to the trustees of the scheme in relation to the proposal before any amendment to the scheme is made.

(3) Regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations.

(4) Notwithstanding the rules of a relevant scheme, the consent of the members of the scheme to the amendment of the scheme pursuant to this section shall not be required.

(5) This section shall not operate to limit any power to amend the rules of a relevant scheme, that apart from this section, vests in the trustees of the scheme.".".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh

27. In page 13, after line 42, to insert the following new section:

"Power of court to grant relief from liability for breach of trust.

19.—(1) If, in any proceedings brought against a trustee of a scheme for breach of trust, it appears to the court hearing the case that the trustee is or may be liable in respect of the breach of trust but that he or she acted honestly and reasonably and that having regard to all of the circumstances of the case he or she ought fairly to be excused for the breach of trust, the court may relieve him or her in whole or in part from his or her liability on such terms as the court deems appropriate.

(2) This section shall not operate to limit any relief from liability of a trustee of a scheme in respect of breach of trust conferred by the rules of the scheme.".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

28. In page 13, after line 42, to insert the following new section:

"Amendment of section 3 of Principal Act.

20.—Section 3 of the Principal Act is amended by the substitution of the following subsections for subsection (3):

"(3) Subject to subsection (3A), a person guilty of an offence under subsection (1), (2) or (2A) shall be liable—

(*a*) on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding one year, or to both, or

(*b*) on conviction on indictment to a fine not exceeding €25,000 or imprisonment for a term not exceeding 2 years, or to both.

(3A) A person guilty of an offence under this Act consisting of a contravention of subsection (1) or (2) of section 58A shall be liable—

(*a*) on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding one year, or to both, or

(*b*) on conviction on indictment to a fine not exceeding €25,000 or imprisonment for a term not exceeding 5 years, or to both.”.”.

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

29. In page 13, after line 42, to insert the following new section:

“Evidence in proceedings for an offence.

21.—The Principal Act is amended by the insertion of the following sections after section 3B (inserted by section 39 of the Social Welfare Law Reform and Pensions Act 2006):

“Admissibility of certain documents in proceedings for an offence.

3C.—(1) In proceedings for an offence under this Act consisting of a contravention of subsection (1) or (2) of section 58A—

(*a*) a payroll document, or a document that purports to be a payroll document, shall be admissible as evidence of the matters specified in the document,

(*b*) a document (other than a payroll document) prepared or kept in the ordinary course of business, or that purports to have been prepared or kept in the ordinary course of business, by a person who had, or may reasonably be considered to have had, personal knowledge of the matters specified in the document shall be admissible as evidence of the matters specified in the document, and

(*c*) a document that purports to be a reproduction in legible form of a document to which paragraph (*a*) or (*b*) applies stored in non-legible form shall be admissible as evidence of the matters specified therein, if the court before which the proceedings have been brought is satisfied that it was reproduced in the course of the normal operation of the reproduction system concerned.

(2) Subsection (1)(*b*) and subsection (1)(*c*) (in so far as it relates to a document to which subsection (1)(*b*) applies) shall not apply to a document—

(*a*) containing information that is privileged from disclosure in proceedings for an offence,

(*b*) prepared for the purposes, or in contemplation, of—

(i) the investigation of any offence,

(ii) an investigation or inquiry carried out pursuant to or under any enactment,

(iii) any proceedings whether civil or criminal, or

(iv) proceedings of a disciplinary nature, or

(*c*) prepared after the alleged commission of the offence concerned.

(3) Nothing in this section shall operate to render inadmissible in proceedings for an offence any document as evidence of any matter specified therein, that is so admissible by virtue of any rule of law or enactment other than this Act.

(4) In this section—

'business' includes any trade, profession or other occupation carried on—

(*a*) for reward or otherwise, and

(*b*) either in the State or outside the State;

'payroll document' means a payslip, payroll ledger, book of account or other document prepared or kept by or on behalf of an employer in respect of one or more than one of his or her employees that contains a record of payments or deductions made by, or on behalf of, that employer in respect of the employee or employees concerned.

Presumptions in proceedings for an offence.

3D.—(1) In proceedings for an offence under this Act consisting of a contravention of subsection (1) or (2) of section 58A, it shall be presumed, unless the contrary is shown, that a payroll document referred to in section 3C found on the premises of any employer relates to an employee of that employer.

(2) Where a document is retrieved from an electronic storage and retrieval system, it shall be presumed, unless the contrary is shown, that the person who ordinarily uses that system is the author of the document.".".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

30. In page 13, after line 42, to insert the following new section:

"Pensions Insolvency Payment Scheme.

22.—(1) The Minister may, after consultation with the Minister for Social and Family Affairs, make a scheme (to be known, and in this section referred to, as the "Pensions Insolvency Payment Scheme") providing for the payment, in accordance with that scheme, of monies to or in respect of relevant pensioners.

(2) The Pensions Insolvency Payment Scheme shall contain such provisions as the Minister shall determine and, without prejudice to the generality of the foregoing, may make provision in relation to—

(*a*) the conditions for the application of the Pensions Insolvency Payment Scheme to eligible pension schemes,

(*b*) the exclusion from the application of the Pensions Insolvency Payment Scheme of such—

(i) schemes or classes of scheme,

(ii) employers or classes of employer, or

(iii) businesses or classes of business,

as may be specified in the Pensions Insolvency Payment Scheme,

(*c*) the payment of monies to relevant pensioners under the Pensions Insolvency Payment Scheme including the conditions upon which those monies are paid,

(*d*) the terms upon which such monies shall be paid and the conditions in relation to which compliance is required in order for such monies to become payable or for any entitlement to the payment of such monies to accrue,

(*e*) the terms relating to the calculation by the Minister of such sums payable by the trustees of a participating pension scheme as, in the opinion of the Minister, will fund in full the payment of monies under the Pensions Insolvency Payment Scheme to or in respect of relevant pensioners of the participating pension scheme,

(*f*) terms and conditions relating to the payment of sums referred to in *paragraph (e)*,

(*g*) such other terms and conditions as the Minister considers necessary to ensure that the payments and expenses advanced out of the Central Fund in respect of a particular participating pension scheme will not be greater than the sum paid, in accordance with the Pensions Insolvency Payment Scheme, by the trustees of that participating pension scheme to the Minister,

(*h*) such terms and conditions as the Minister considers necessary for the protection of the Central Fund and the growing produce thereof,

(*i*) terms and conditions in connection with the operation and application of *subsection (6)*, including terms and conditions relating to the repayment to the trustees of a participating pension scheme to which that subsection applies of sums paid by them to the Minister.

(3) Upon the application of the trustees of an eligible pension scheme, the Minister may, at his or her sole discretion and in accordance with the Pensions Insolvency Payment Scheme, certify, in writing, that that scheme is a participating pension scheme.

(4) The Minister shall not certify a pension scheme under this section unless—

(*a*) he or she is satisfied that the pension scheme concerned is an eligible pension scheme,

(*b*) the trustees of the pension scheme agree, in writing, to comply with the terms of the Pensions Insolvency Payment Scheme, and

(*c*) the trustees of the pension scheme agree to pay to the Minister such sum as may be specified by the Minister.

(5) The sum referred to in *subsection (4)(c)* shall, in respect of each participating pension scheme, be calculated by the Minister in accordance with the terms of the Pensions Insolvency Payment Scheme.

(6) Where the trustees of a participating pension scheme fail or refuse to comply with the terms of the Pensions Insolvency Payment Scheme the Minister may, by notice in writing, inform the trustees of the pension scheme that the pension scheme is no longer a participating pension scheme and, upon the service of that notice, that pension scheme shall cease to be a participating pension scheme.

(7) The Pensions Insolvency Payment Scheme shall not make provision for future increases in benefits to relevant pensioners.

(8) The Minister for Finance may, after consultation with the Minister for Social and Family Affairs, appoint such person as he or she considers appropriate to make payments, in accordance with the Pensions Insolvency Payment Scheme, to or in respect of relevant pensioners.

(9) Sums required to be paid by the trustees of an eligible pension scheme, as a condition of its being certified to be a participating pension scheme under *subsection (3)* or otherwise in accordance with the Pensions Insolvency Payment Scheme shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister directs.

(10) All monies required for the making of payments in accordance with the Pensions Insolvency Payment Scheme and for the payment of expenses incurred in connection with the administration of the Pensions Insolvency Payment Scheme shall be advanced from the Central Fund or the growing produce thereof.

(11) The First Schedule to the National Treasury Management Agency Act 1990 is amended by the insertion of the following paragraph after paragraph (*t*):

"(*u*) *section 22(5)** of the *Social Welfare and Pensions Act 2009*,".

(12) The Minister shall, not later than 3 years after the making of the Pensions Insolvency Payment Scheme (if not already revoked under *subsection (13)*) conduct a review of its operation.

(13) The Minister may make a scheme amending or revoking the Pensions Insolvency Payment Scheme.

(14) A notice under *subsection (6)* shall be addressed to the trustees concerned by name, and may be served on or given to them in one of the following ways:

(*a*) by delivering it to the trustees or any one of them;

(*b*) by leaving it at the address at which the trustees ordinarily reside or, in a case in which an address for service has been furnished, at that address; or

(*c*) by sending it by post in a prepaid registered letter to the address at which the trustees ordinarily reside or, in a case in which an address for service has been furnished, to that address.

(15) For the purposes of *subsection (14)*, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

[*NEW SECTIONS*]

(16) For the purposes of this section, the date of the winding up of a defined benefit pension scheme is the date of the doing of such act, the happening of such event, or the making of such decision as, under the rules of the scheme, requires that the scheme be wound up.

(17) In this section—

"eligible pension scheme" means a defined benefit scheme within the meaning of the Principal Act—

(*a*) the winding up of which has commenced,

(*b*) the resources of which are insufficient to discharge the liabilities of the scheme on the date of the commencement of the winding up,

(*c*) certified in writing by the Pensions Board as being a defined benefit scheme that complies with such requirements as may be prescribed by regulations made by the Minister after consultation with the Minister for Social and Family Affairs, and

(*d*) where the employer concerned is insolvent for the purposes of the Protection of Employees (Employers' Insolvency) Act 1984;

"Minister" means the Minister for Finance;

"participating pension scheme" means a pension scheme that, for the time being, stands certified under *subsection (3)*;

"relevant pensioner" means, in relation to a participating pension scheme, a person who immediately before the date of the winding up of the scheme was—

(*a*) in receipt of benefits under the scheme, or

(*b*) had reached normal pensionable age (within the meaning of the Principal Act) and was entitled to receive benefits under that scheme.".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

[** This is the correct reference if this amendment is accepted.*]

31. In page 13, after line 42, to insert the following new section:

"Collective citation and commencement.

23.—The Pensions Acts 1990 to 2008 and this Part may be cited together as the Pensions Acts 1990 to 2009.".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

TITLE

32. In page 3, line 6, after "ACTS" to insert the following:

", THE FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST ACT 2009".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

33. In page 3, line 6, to delete "1979" and substitute the following:

"1979; TO MAKE PROVISION IN RELATION TO THE PRIORITIES UPON THE WINDING UP OF A PENSION SCHEME AND THE REDUCTION IN BENEFITS PAYABLE UNDER CERTAIN PENSION SCHEMES; TO

[*TITLE*]

PROVIDE FOR THE ADMISSIBILITY OF CERTAIN DOCUMENTS IN EVIDENCE IN PROCEEDINGS FOR CERTAIN OFFENCES; FOR THOSE PURPOSES TO AMEND THE PENSIONS ACT 1990; TO ENABLE THE MINISTER FOR FINANCE TO MAKE A SCHEME PROVIDING FOR THE MAKING OF CERTAIN PAYMENTS IN RESPECT OF CERTAIN INSOLVENT PENSION SCHEMES; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH".

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.