



DÁIL ÉIREANN

**AN BILLE LEASA SHÓISIALAIGH AGUS PINSEAN (UIMH.
2) 2009**

SOCIAL WELFARE AND PENSIONS (NO. 2) BILL 2009

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

DÁIL ÉIREANN

AN BILLE LEASA SHÓISIALAIGH AGUS PINSEAN (UIMH. 2) 2009

SOCIAL WELFARE AND PENSIONS (NO. 2) BILL 2009 —COMMITTEE STAGE

Leasuithe Amendments

SECTION 1

1. In page 3, subsection (1), line 11, after “the”, where it secondly occurs, to insert “Reduced”.

—Aengus Ó Snodaigh.

SECTION 3

Section opposed.

—Denis Naughten.

SECTION 4

Section opposed.

—Denis Naughten.

SECTION 6

2. In page 5, lines 21 to 24, to delete paragraph (b) and substitute the following:

“(b) in section 142A (inserted by section 6(c) of the Act of 2009)—

(i) in subsection (1)(a), by substituting “22” for “20”,

(ii) by substituting the following paragraph for subsection (4)(a):

“(a) the period of interruption of employment commenced on or before 30 December 2009 and where, in the period prior to that date, the claimant was not a person to whom this section applied,”

and

(iii) in subsection (4)(d), by substituting “22” for “20”.

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

3. In page 6, line 1, to delete “(as inserted)” and substitute “(inserted)”.

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

4. In page 6, to delete lines 35 to 37 and substitute the following:

“(a) the period of interruption of employment commenced on or before 30 December 2009 and where, in the period prior to that date, the claimant was not a person to whom section 142A applied.”

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

[SECTION 6]

5. In page 6, lines 43 to 47, to delete all words from and including “or” in line 43 down to and including “section.”” in line 47 and substitute the following:

“(c) a claimant was in receipt of disability allowance immediately before he or she makes the claim under this section, or

(d) a claimant is participating in the work placement programme.

(4) In subsection (3), ‘work placement programme’ means the programme commonly known by that name and administered by An Foras Áiseanna Saothair.”.”.

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

Section opposed.

—Denis Naughten.

SECTION 7

Section opposed.

—Denis Naughten.

SECTION 8

Section opposed.

—Denis Naughten.

SECTION 9

Section opposed.

—Denis Naughten.

SECTION 10

Section opposed.

—Denis Naughten.

SECTION 11

Section opposed.

—Denis Naughten.

SECTION 12

Section opposed.

—Denis Naughten.

SECTION 13

6. In page 10, line 17, to delete paragraph (b) and substitute the following:

“(b) in subsection (3), by substituting the following paragraph for paragraph (a):

“(a) has been in continuous receipt of the allowance from a date on or before 30 December 2009 and where, in the period prior to that date the claimant was not a person to whom subsection (2) applied,”

[SECTION 13]

(c) in subsection (3)(b), by substituting “22” for “20”, and”.

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

7. In page 10, line 37, after “2009” to insert the following:

“ and where, in the period prior to that date the claimant was not a person to whom subsection (2) applied”.

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

Section opposed.

—Denis Naughten.

SECTION 14

Section opposed.

—Denis Naughten.

SECTION 15

8. In page 11, before section 15, to insert the following new section:

“Amendment to section 246 of Principal Act.

15.—Section 246 (as amended by the Social Welfare and Pensions Act 2008) of the Principal Act is amended by inserting the following subsections after subsection (4):

“(5) Notwithstanding subsections (1) to (4) and subject to subsection (9), a person who does not have a right to reside in the State shall not, for the purposes of this Act, be regarded as being habitually resident in the State.

(6) The following persons shall, for the purpose of subsection (5), be taken to have a right to reside in the State:

- (a) an Irish citizen under the Irish Nationality and Citizenship Acts 1956 to 2004;
- (b) a person who has a right to enter and reside in the State under the European Communities (Free Movement of Persons) (No.2) Regulations 2006 (S.I. No. 656 of 2006), the European Communities (Aliens) Regulations 1977 (S.I. No. 393 of 1977) or the European Communities (Right of Residence for Non-Economically Active Persons) Regulations 1997 (S.I. No. 57 of 1997);
- (c) a person in respect of whom a declaration within the meaning of section 17 of the Act of 1996 is in force;
- (d) a member of the family of a refugee, or a dependent member of the family of a refugee, in respect of whom permission has been granted to enter and reside in the State under, and in accordance with, section 18(3)(a) or, as the case may be, section 18(4)(a) of the Act of 1996;
- (e) a programme refugee within the meaning of section 24 of the Act of 1996;
- (f) a person who has been granted permission to remain in the State under Regulation 4(4) of the Regulations of 2006;

[SECTION 15]

- (g) a person who has been granted permission to enter, and reside in, the State under Regulation 16(3)(a) or 16(4)(a) of the Regulations of 2006 by the Minister for Justice, Equality and Law Reform;
- (h) a person whose presence in the State is in accordance with a permission to be in the State given by or on behalf of the Minister for Justice, Equality and Law Reform under and in accordance with section 4 or 5 of the Immigration Act 2004.

(7) The following persons shall not be regarded as being habitually resident in the State for the purpose of this Act:

- (a) a person who has made an application under section 8 of the Act of 1996 and where the Minister for Justice, Equality and Law Reform has not yet made a decision as to whether a declaration under section 17 of the Act of 1996 will be given in respect of such application;
- (b) a person in respect of whom an application for subsidiary protection has been made under Regulation 4 of the Regulations of 2006 and where a determination under that Regulation has not yet been made in respect of such application;
- (c) a person who has been notified under section 3(3)(a) of the Immigration Act 1999 that the Minister for Justice, Equality and Law Reform proposes to make a deportation order, whether or not that person has made representations under section 3(3)(b) of that Act, and where the Minister for Justice, Equality and Law Reform has not yet made a decision as to whether a deportation order is to be made in respect of such person;
- (d) a person who has made an application under section 8 of the Act of 1996 which has been refused by the Minister for Justice, Equality and Law Reform;
- (e) a person in respect of whom an application for subsidiary protection has been made under Regulation 4 of the Regulations of 2006 and a determination has been made that the person is not eligible for subsidiary protection under the Regulations of 2006;
- (f) a person in respect of whom a deportation order has been made under section 3(1) of the Immigration Act 1999.

(8) For the purpose of this Act, where a person—

- (a) is given a declaration that he or she is a refugee under section 17 of the Act of 1996,
- (b) is granted permission to enter and remain in the State under section 18(3)(a) or 18(4)(a) of the Act of 1996,
- (c) is granted permission to remain in the State under Regulation 4(4) of the Regulations of 2006,
- (d) is granted permission to enter and reside in the State under Regulation 16(3)(a) or 16(4)(a) of the Regulations of 2006, or

[SECTION 15]

(e) is granted permission to remain in the State under and in accordance with the Immigration Act 1999 or the Immigration Act 2004,

he or she shall not be regarded as being habitually resident in the State for any period before the date on which the declaration referred to in paragraph (a) was given or the permission referred to in paragraph (b), (c), (d) or (e), was granted.

(9) Notwithstanding that a person has, or is taken to have in accordance with subsection (6), a right to reside in the State the determination as to whether that person is habitually resident in the State shall be made in accordance with subsections (1) and (4).

(10) In this section—

‘Act of 1996’ means the Refugee Act 1996;

‘Regulations of 2006’ means the European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of 2006).”.

—An tAire Gnóthaí Sóisialacha agus Teaghlaigh.

SCHEDULE 1

Schedule opposed.

—Denis Naughten.

SCHEDULE 2

Schedule opposed.

—Denis Naughten.

TITLE

9. In page 3, line 7, after “1990” to insert “AND TO ENCOURAGE EMIGRATION”.

—Aengus Ó Snodaigh.