



DÁIL ÉIREANN

**AN BILLE LEASA SHÓISIALAIGH, 2011
SOCIAL WELFARE BILL 2011**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

DÁIL ÉIREANN

AN BILLE LEASA SHÓISIALAIGH, 2011

—AN COISTE SOCIAL WELFARE BILL 2011 —COMMITTEE STAGE

Leasuithe Amendments

SECTION 3

Section opposed.

—Barry Cowen, Aengus Ó Snodaigh.

SECTION 4

Section opposed.

—Barry Cowen, Aengus Ó Snodaigh.

SECTION 5

Section opposed.

—Richard Boyd Barrett, Barry Cowen.

SECTION 6

1. In page 8, before section 6, to insert the following new section:

“Widow’s
(contributory)
pension, widower’s
(contributory)
pension and
surviving civil
partner’s
(contributory)
pension.

6.—(1) Section 125 of the Principal Act is amended—

(a) in subsection (1) (amended by section 17 of the Act of 2010) by substituting the following paragraph for paragraph (a):

“(a) that the widow, widower or surviving civil partner has qualifying contributions in respect of not less than 260 contribution weeks in the period beginning with his or her entry into insurance and ending immediately before the relevant time, and”,

and

(b) by inserting the following subsection after subsection (1):

“(1A) Where the date of death occurs before 27 December 2013, subsection (1)(a) shall be read as if ‘156’ were substituted for ‘260’.”.

(2) This section comes into operation on 27 December 2013.”.

—An tAire Coimisce Sóisialaí.

[Acceptance of this amendment involves the deletion of section 6 of the Bill.]

Section opposed.

—Richard Boyd Barrett, Aengus Ó Snodaigh.

[SECTION 7]

SECTION 7

Section opposed.

—Barry Cowen, Aengus Ó Snodaigh.

SECTION 8

Section proposed to be deleted.

—An tAire Coimirce Sóisialaí.

Section opposed.

—Catherine Murphy, Barry Cowen, Aengus Ó Snodaigh.

SECTION 9

Section proposed to be deleted.

—An tAire Coimirce Sóisialaí.

Section opposed.

—Catherine Murphy, Barry Cowen, Aengus Ó Snodaigh.

SECTION 10

Section proposed to be deleted.

—An tAire Coimirce Sóisialaí.

Section opposed.

—Catherine Murphy, Barry Cowen, Aengus Ó Snodaigh.

SECTION 11

Section opposed.

—Richard Boyd Barrett, Barry Cowen, Aengus Ó Snodaigh.

SECTION 12

Section opposed.

—Barry Cowen, Aengus Ó Snodaigh.

SECTION 13

Section opposed.

—Barry Cowen, Aengus Ó Snodaigh.

SECTION 14

Section opposed.

—Richard Boyd Barrett, Barry Cowen, Aengus Ó Snodaigh.

SECTION 15

2. In page 17, before section 15, but in Part 2, to insert the following new section:

[SECTION 15]

“Disqualification from certain payments while participating in Community Employment.

15.—(1) The Principal Act is amended by inserting the following section after section 247A (inserted by section 27 of the Act of 2010):

“Disqualification from certain payments while participating in Community Employment.

247B.—(1) A person shall be disqualified from receiving—

- (a) any benefit specified in section 39(1), other than—
 - (i) disablement benefit payable in accordance with section 75,
 - (ii) death benefit by way of a grant in respect of funeral expenses,
 - (iii) bereavement grant, and
 - (iv) widowed or surviving civil partner grant,
 - (b) an increase, payable under section 77, in disablement pension on account of incapacity,
 - (c) any assistance specified in section 139(1), other than—
 - (i) supplementary welfare allowance in so far as it relates to the payment of a supplement towards the amount of rent payable by a person in respect of his or her residence in accordance with section 198,
 - (ii) supplementary welfare allowance in so far as it relates to the payment of that allowance in accordance with section 200, 201, 202 or 206, and
 - (iii) a widowed or surviving civil partner grant,
- and
- (d) infectious diseases maintenance allowance,

for any week or part of a week during which he or she is employed under a scheme provided by the Minister and known as Community Employment.

(2) Subsection (1) shall not apply to a person receiving any benefit, increase, assistance or allowance specified in paragraphs (a) to (d) of subsection (1) while he or she is employed under a Community Employment scheme where the period of employment under that Community Employment scheme commenced before 16 January 2012.”

(2) This section comes into operation on 16 January 2012.”

—An tAire Coimirce Sóisialaí.

3. In page 17, before section 15, but in Part 2, to insert the following new section:

“Extension of PRSI liability to share-based remuneration.

16.—(1) Section 2(1) of the Principal Act is amended—

- (a) by substituting the following definition for the definition of “reckonable earnings” (amended by section 13 of the Social Welfare Act 2010):

[SECTION 15]

“ ‘reckonable earnings’ means, subject to section 13(2)(da)—

(a) in the case of an employed contributor, not being a special contributor, emoluments derived from insurable employment or insurable (occupational injuries) employment (other than such emoluments that may be prescribed) to which Chapter 4 of Part 42 of the Act of 1997 applies, but without regard to Chapter 1 of Part 44 of that Act, and

(b) in the case of a special contributor—

(i) salaries, wages or other remuneration including non-pecuniary remuneration derived from insurable employment or insurable (occupational injuries) employment to which the Act of 1997 (other than Chapter 4 of Part 42) applies or would apply if the employed contributor in receipt of the remuneration were resident in the State, but without regard to Chapter 1 of Part 44 of that Act, and

(ii) payments to persons attending or engaged in courses or schemes provided or approved by—

(I) An Foras Áiseanna Saothair,

(II) Teagasc, or

(III) the National Tourism Development Authority, and

reckonable earnings shall include, in the case of employed contributors and special contributors, share-based remuneration realised, acquired or appropriated, as the case may be, on or after 1 January 2011;”,

(b) by substituting the following definition for the definition of “reckonable emoluments” (amended by section 12 of the Social Welfare Act 2010):

“ ‘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 and reckonable emoluments shall include share-based remuneration realised, acquired or appropriated, as the case may be, on or after 1 January 2011;”,

and

(c) by inserting the following definitions:

“ ‘share-based remuneration’ means—

(a) any gain realised by the exercise, assignment or release of a right in accordance with section 128 of the Act of 1997,

(b) in the case of convertible securities within the meaning of section 128C of the Act of 1997, the chargeable amount computed in accordance with that section,

(c) in the case of restricted shares within the meaning of section 128D of the Act of 1997, the chargeable amount computed in accordance with that section,

[SECTION 15]

- (d) in the case of a profit sharing scheme approved by the Revenue Commissioners in accordance with Part 2 of Schedule 11 to the Act of 1997, the initial market value of the appropriated shares within the meaning of section 510(2) of that Act, and
- (e) in the case of a savings-related share option scheme approved by the Revenue Commissioners in accordance with Schedule 12A to the Act of 1997, any gain realised by the exercise of a right in accordance with section 519A of that Act,

where that gain, chargeable amount, value or amount is realised, acquired or appropriated, as the case may be, on or after 1 January 2011, but share-based remuneration shall not include any such gain, chargeable amount, value or amount realised, acquired or appropriated, as the case may be—

- (i) during the contribution year commencing on 1 January 2011 in respect of shares (including stock) that are the subject of a written contract or agreement that is in place before 1 January 2011, or
- (ii) in respect of shares (including stock) that were acquired before 1 January 2011 by an employee share ownership trust to which section 519 of the Act of 1997 applies;

‘special contributor’ means an employed contributor—

- (a) in receipt of reckonable earnings referred to in paragraph (b) of the definition of reckonable earnings, or
- (b) to whom paragraphs (a) and (b) of section 13(4A) apply;”.

(2) Section 13(2) of the Principal Act is amended in paragraph (da) (inserted by section 13 of the Social Welfare Act 2010)—

- (a) in subparagraph (ii), by substituting “Regulations 2001, and” for “Regulations 2001.”, and
- (b) by inserting the following subparagraph after subparagraph (ii):

“(iii) the amount of any share-based remuneration.”.

(3) Section 13(4) of the Principal Act is amended by substituting “Subject to subsections (4A) and (4B), the employer shall,” for “The employer shall,”.

(4) Section 13 of the Principal Act is amended by inserting the following subsections after subsection (4):

“(4A) Where—

- (a) a person realises a gain by the exercise, assignment or release of a right, as the case may be, in accordance with section 128 or section 519A of the Act of 1997, and
- (b) at the time of realising that gain that person has ceased to be an employee of the employer who granted that right,

subsection (4) shall not apply to—

[SECTION 15]

- (i) the employer who granted that right, or
- (ii) if that person is employed by another employer at the time the gain is realised, acquired or appropriated, as the case may be, that other employer.

(4B) A person to whom paragraphs (a) and (b) of subsection (4A) applies shall be—

- (a) deemed to be an employed contributor, where that person, having attained the age of 16 years and not having attained pensionable age, is no longer employed in an employment specified in Part 1 of Schedule 1, not being an employment specified in Part 2 of that Schedule, and
- (b) liable to pay, in the prescribed manner, contributions in accordance with section 13(2)(b) in respect of the gain so realised.”.

(5) Section 17 of the Principal Act is amended—

(a) in subsection (1) by inserting the following paragraph after paragraph (f):

“(fa) the furnishing of returns by employed contributors to whom section 13(4B) applies in relation to employment contributions and share-based remuneration,”

and

(b) by inserting the following subsection after subsection (5):

“(6) For the purposes of this Part, regulations may require employers to keep any records that may be prescribed in relation to rights to shares (including stock) granted by that employer to his or her directors, former directors, employees and former employees and the periods during which those persons were employed, and to retain those records for prescribed periods.”.

(6) The Principal Act is amended by inserting the following section after section 34:

“Return of contributions – share-based remuneration. 34A.—(1) The Minister may return, subject to any conditions, restrictions and deductions, any contributions—
(a) paid in accordance with section 13(2)(b)—

[SECTION 15]

- (i) by virtue of clauses (I) to (VI) of paragraphs (a) and (b) of the definition of ‘reckonable earnings’ contained in Article 3 of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) (inserted by Article 4 of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2010 (S.I. No. 684 of 2010)), in respect of any gain, chargeable amount, value or amount realised, acquired or appropriated, as the case may be, during the contribution year commencing on 1 January 2011 which is the subject of a written contract or agreement that is in place before 1 January 2011, or
- (ii) in respect of share-based remuneration received by way of forfeitable shares to which section 128E of the Act of 1997 refers, where subsection (6) of that section applies,

and

- (b) paid in accordance with section 13(2)(d), by virtue of clauses (I) to (VI) of paragraphs (a) and (b) of the definition of ‘reckonable earnings’ contained in Article 3 of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) (inserted by Article 4 of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2010 (S.I. No. 684 of 2010)).

(2) The Minister may make regulations providing for the return, subject to any conditions, restrictions and deductions specified in the regulations, of the contributions referred to in subsection (1), to an employed contributor and to the employer of an employed contributor, as the case may be, and such regulations may include

- (a) prescribing the procedure for an application for such return, and
- (b) prescribing the procedure for such return on the death of an employed contributor.”.

(7) Section 250 of the Principal Act is amended by inserting the following subsection after subsection (4):

“(4A) A social welfare inspector shall—

- (a) for the purposes of answering or clarifying any questions that the social welfare inspector may have in relation to the payment of employment contributions by employed contributors for the purposes of section 13(4B), and
- (b) for the purposes of estimating the amount due in respect of employment contributions by employed contributors for the purposes of section 13(4B),

[SECTION 15]

have the power to request that employed contributor to—

- (i) produce for inspection all records of share-based remuneration realised, acquired or appropriated, as the case may be, by that employed contributor, and
- (ii) provide details of the employer who granted the shares (including stock) which gave rise to that share-based remuneration,

at the address at which the person ordinarily resides or at an office of the Minister.”.

(8) Section 252 of the Principal Act is amended by inserting the following subsection after subsection (2):

“(2A) An employed contributor to whom section 13(4B) applies who—

- (a) fails to pay at or within a prescribed time any employment contribution which he or she is liable to pay under Part 2, or
- (b) for the purposes of evading or reducing the amount of his or her liability in respect of employment contributions which he or she is liable to pay under Part 2 and which he or she has not paid—
 - (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,

is guilty of an offence.”.

—An tAire Coimisce Sóisialaí.

4. In page 17, before section 15, but in Part 2, to insert the following new section:

“Abolition of employer PRSI relief on employee pension contributions.

17.—(1) Section 13(2) of the Principal Act is amended in paragraph (da) (amended by *section 16**) by deleting subparagraph (ii).

(2) This section comes into operation on 1 January 2012.”.

—An tAire Coimisce Sóisialaí.

[*Note: This is a reference to the section proposed to be inserted by amendment No. 3]

5. In page 17, before section 15, but in Part 2, to insert the following new section:

“15.—(1) The Principal Act is amended by inserting the following section after section 247A (inserted by section 27 of the Act of 2010):

[SECTION 15]

“247B.—(1) A person shall not be disqualified from receiving any benefit specified in section 39(1) for any week or part of a week during which he or she is employed under a scheme provided by the Minister and known as Community Employment.”.

—Richard Boyd Barrett.

Section opposed.

—Barry Cowen, Aengus Ó Snodaigh.