



# **DÁIL ÉIREANN**

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## **AN BILLE LEASA SHÓISIALAIGH, 2015 SOCIAL WELFARE BILL 2015**

### **LEASUITHE COISTE COMMITTEE AMENDMENTS**

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# DÁIL ÉIREANN

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## AN BILLE LEASA SHÓISIALAIGH, 2015 —ROGHFHOCHOISTE

### SOCIAL WELFARE BILL 2015 —SELECT SUB-COMMITTEE

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#### *Leasuithe Amendments*

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#### SECTION 1

1. In page 3, line 10, to delete “Social Welfare Act 2015.” and substitute “Social Welfare and Pensions Act 2015.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

2. In page 3, line 11, to delete “read together as one.” and substitute “construed together as one Act.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

3. In page 3, between lines 11 and 12, to insert the following:

“(3) The Pensions Acts 1990 to 2014 and *Part 3\** shall be construed together as one Act and may be cited together as the Pensions Acts 1990 to 2015.

(4) *Part 3\** shall come into operation on such day or days as the Minister for Social Protection 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 or different provisions.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

[\**This is a reference to the Part proposed to be inserted by amendments 34 to 38.*]

#### SECTION 2

4. In page 3, to delete line 16 and substitute the following:

“ “Act of 2010” means the Social Welfare and Pensions Act 2010;”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

5. In page 3, between lines 16 and 17, to insert the following:

“ “Act of 2013” means the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013;”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

[SECTION 3]

SECTION 3

6. In page 4, to delete lines 16 and 17 and substitute the following:

“

3. State Pension (Contributory) and State Pension (Transition):	235.30	156.50	29.80	143.00	14.00	10.00	12.70
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”

—Willie O'Dea.

7. In page 5, line 28, to delete “Act of 2010” and substitute “Social Welfare Act 2010”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

SECTION 4

8. In page 6, line 12, to delete “Act of 2010” and substitute “Social Welfare Act 2010”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

9. In page 6, to delete lines 15 to 17 and substitute the following:

“

4. State Pension (Non- Contributory)	224.00	-	29.80	143.00	14.00	10.00	12.70
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”

—Willie O'Dea.

10. In page 7, between lines 7 and 8, to insert the following:

“(3) Persons who reach the age of 65 on or after 1 January 2016 and who qualify for jobseekers allowance or benefit shall be exempt from the requirement of being available for and genuinely seeking full-time employment.”.

—Willie O'Dea.

SECTION 6

11. In page 7, between lines 15 and 16, to insert the following:

**“Amendment of section 172(1) of the Principal Act**

6. Section 172(1) of the Principal Act is amended by the deletion of paragraph (b) of the definition of relevant age and the substitution of the following:

“(b) in any other case 12 years;”.

—Aengus Ó Snodaigh.

SECTION 8

12. In page 8, line 3, to delete “€1,112” and substitute “€1,212”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

[SECTION 9]

SECTION 9

13. In page 8, between lines 5 and 6, to insert the following:

**“Amendment of section 228 of the Principal Act**

9. The Principal Act is amended by the insertion of the following subsection in section 228 (amended by section 5 of the Social Welfare and Pensions (No. 2) Act 2009):

“(2) This allowance shall be paid at a rate higher than that which preceded the passage of this Act and shall be increased by 10 per cent.”.

—Aengus Ó Snodaigh.

NEW SECTION

14. In page 9, after line 22, to insert the following:

**“Liability to maintain family**

11. The Principal Act is amended—

- (a) in section 2(7) (amended by section 15 of the Act of 2010)—
  - (i) in clause (I) of paragraph (a)(i), by the substitution of “spouse” for “wife”,
  - (ii) in clause (II) of paragraph (a)(i), by the substitution of “former spouse” for “former wife”,
  - (iii) in paragraph (a)(ii), by the substitution of “other parent of that qualified child” for “mother”,
  - (iv) in clause (I) of paragraph (b)(i), by the substitution of “spouse” for “husband”,
  - (v) in clause (II) of paragraph (b)(i), by the substitution of “former spouse” for “former husband”, and
  - (vi) in paragraph (b)(ii), by the substitution of “other parent of that qualified child” for “father”,
- (b) in section 344(1) (amended by section 24 of the Act of 2010)—
  - (i) by the deletion of the definitions of “husband” and “wife”, and
  - (ii) by the insertion of the following definition:

“ ‘spouse’ in relation to a person who has been married more than once, refers only to the last spouse of that person and for this purpose that last spouse shall be read as including the person to whom, but for the fact that the marriage has been dissolved, being a dissolution recognised as valid in the State, that person would be married.”,
- and
- (c) in section 345 (amended by section 24 of the Act of 2010)—

[NEW SECTION]

- (i) in paragraph (a)(i), by the substitution of “spouse” for “wife”, and
- (ii) in paragraph (b)(i), by the substitution of “spouse” for “husband”.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

15. In page 9, after line 22, to insert the following:

**“Meaning of spouse and civil partner for certain purposes**

12. Section 3 (amended by section 16 of the Act of 2010) of the Principal Act is amended by the substitution of the following subsection for subsection (10):

“(10) For the purposes of sections 43, 56, 66, 76, 77A, 102, 112, 117, 122, 134, 141(2)(d), 146, 149(4), 150(3), 158, 161D, 181(4), 210(2), 211(3), 214(2), 216, 219(2), 250(2)(b), 297 and 298, Chapter 9 of Part 3 and Part 7A—

- (a) ‘spouse’ means each person of a married couple who are living together, and
- (b) ‘civil partner’ means each civil partner of a couple who are both parties to a civil partnership who are living together.”.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

16. In page 9, after line 22, to insert the following:

**“Meaning of widow and widower for purposes of widow’s (non-contributory) pension, widower’s (non-contributory) pension, etc.**

13. Section 162(2) (amended by section 19 of the Act of 2010) of the Principal Act is amended by the substitution of the following paragraph for paragraph (b):

“(b) a widow who has remarried or entered into a civil partnership shall not be regarded as the widow of her former spouse and a widower who has remarried or entered into a civil partnership shall not be regarded as the widower of his former spouse, and”.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

17. In page 9, after line 22, to insert the following:

**“Meaning of widow and widower for purposes of one-parent family payment**

14. Section 172(2) (amended by section 20 of the Act of 2010) of the Principal Act is amended by the substitution of the following paragraph for paragraph (b):

“(b) a widow who has remarried or entered into a civil partnership shall not be regarded as the widow of her former spouse and a widower who has remarried or entered into a civil partnership shall not be regarded as the widower of his former spouse,”.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

[NEW SECTION]

18. In page 9, after line 22, to insert the following:

**“Calculation of supplementary welfare allowance**

15. Section 196(2) (amended by section 19 of the Act of 2010) of the Principal Act is amended, in paragraph (a), by the substitution of the following subparagraph for subparagraph (i):

“(i) both spouses of a married couple.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

19. In page 9, after line 22, to insert the following:

**“Absence from State or imprisonment**

16. Section 249 of the Principal Act is amended by the substitution of the following subsection for subsection (2) (amended by section 26 of the Act of 2010):

“(2) Except where regulations otherwise provide, where any benefit under Part 2 to which a person is entitled includes an increase in respect of a qualified adult, that increase shall not be payable for any period during which the qualified adult—

(a) is absent from the State, or

(b) is undergoing imprisonment or detention in legal custody.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

20. In page 9, after line 22, to insert the following:

**“Excepted employments and excepted self-employed contributors**

17. Schedule 1 to the Principal Act is amended—

(a) in Part 2, by the substitution, in paragraph 1 (amended by section 26 of the Act of 2010), of “spouse” for “husband, wife”, and

(b) in Part 3, by the substitution, in paragraph 1(ii) (amended by section 19 of the Social Welfare and Pensions Act 2014), of “spouse” for “husband, wife”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

21. In page 9, after line 22, to insert the following:

**“Elections under Taxes Consolidation Act 1997 relating to charging, collection and recovery of certain contributions**

18. (1) Section 23 of the Principal Act is amended—

(a) in subsection (5) (amended by section 5 of the Act of 2013)—

(i) in paragraph (a), by the substitution of “by the spouse in respect of whom the election is made” for “by a wife”,

[NEW SECTION]

(ii) in paragraph (a), by the substitution of “the other spouse” for “her husband”,  
and

(iii) in paragraph (b), by the substitution of “each spouse” for “the husband or the  
wife”,

and

(b) by the insertion of the following subsection after subsection (6):

“(7) In subsection (5), ‘spouse’ means each person of a married couple who  
are living together.”.

(2) Section 30G (inserted by section 6 of the Act of 2013) is amended—

(a) in subsection (5)—

(i) in paragraph (a), by the substitution of “by the spouse in respect of whom the  
election is made” for “by a wife”,

(ii) in paragraph (a), by the substitution of “the other spouse” for “her husband”,  
and

(iii) in paragraph (b), by the substitution of “each spouse” for “the husband or  
wife”,

and

(b) by the insertion of the following subsection after subsection (7):

“(8) In subsection (5), ‘spouse’ means each person of a married couple who  
are living together.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

22. In page 9, after line 22, to insert the following:

**“Medical assessor – registered nurse**

19. Section 2 of the Principal Act is amended in subsection (1)—

(a) in the definition of “medical assessor” (inserted by section 3 of the Social  
Welfare (Miscellaneous Provisions) Act 2015)—

(i) in paragraph (a), by the deletion of “or”, and

(ii) by the insertion of the following paragraph after paragraph (a):

“(aa) an officer of the Minister who is a registered nurse, or”,

and

(b) by the insertion of the following definition:

“ ‘registered nurse’ has the same meaning as it has in the Nurses  
and Midwives Act 2011;”.

—An Tánaiste agus Aire Coimirce Sóisialaí.



[NEW SECTION]

23. In page 9, after line 22, to insert the following:

**“Budgeting in relation to social welfare payments – amendment**

20. Section 290 of the Principal Act is amended—

- (a) in subsection (1), by the insertion of “, subject to subsection (3A),” after “paid”,
- (b) in subsection (3), by the insertion of the following paragraph after paragraph (bc) (inserted by section 19 of the Social Welfare and Pensions Act 2012):

“(bd) a credit union within the meaning of the Credit Union Act 1997,”,

and

- (c) by the insertion of the following subsections after subsection (3):

“(3A) For the purposes of subsection (1), a payment to a credit union referred to in subsection (3)(bd) may be made—

- (a) in respect of a scheme that—

- (i) is approved by the Minister, and
- (ii) relates to a class or classes of borrowings from a credit union as may be prescribed,

and

- (b) where the beneficiary concerned is a member of the credit union to which the payment is made under this section.

(3B) Without prejudice to subsections (1) or (2), for the purposes of subsection (3A), the Minister may, in regulations made under this section, prescribe—

- (a) a class or classes of borrowings by a beneficiary from a credit union in respect of which payments under this section are to be made,
- (b) the maximum amount of such borrowings which shall not exceed €2,000,
- (c) the interest rate charged in respect of such borrowings, the maximum amount of which shall not exceed 1 per cent for each month, and
- (d) the duration of the period for repayment, by the beneficiary concerned, of the borrowings.”.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

[NEW SECTION]

24. In page 9, after line 22, to insert the following:

**“Poverty-proofing recovery of over-payments**

11. Section 341 of the Social Welfare Consolidation Act 2005 is amended by the substitution of the following for subsection (7A):

“(7A) The weekly amount of any benefit or assistance to be deducted for the purposes of the recovery of any benefit, assistance, supplement or payment in accordance with subsection (7) shall not, without the prior consent of the person liable to repay the overpayment, result in a weekly rate of payment of benefit or assistance lower than the rate of Supplementary Welfare Allowance.”.

—Aengus Ó Snodaigh.

25. In page 9, after line 22, to insert the following:

**“Due process in recovery of over-payments**

11. Section 341 of the Social Welfare Consolidation Act 2005 is amended by the insertion of the following after subsection (1):

“(1A) The Minister shall by regulation introduce a statute of limitations to govern the recovery of historic overpayments.”.

—Aengus Ó Snodaigh.

26. In page 9, after line 22, to insert the following:

**“Recouping Social Welfare payments from employer in wrongful dismissal cases**

11. Any employer who has had a finding made against them of unfair dismissal under the Unfair Dismissals Acts 1977 to 2007, shall reimburse the State the cost of the unfairly dismissed former employee’s social welfare payments for the period of time between the date of the former employee’s dismissal and the date on which the finding is made against the employer under the aforementioned Acts.”.

—Aengus Ó Snodaigh.

27. In page 9, after line 22, to insert the following:

**“Amendment of Schedule 4 of the Principal Act**

11. (a) The Principal Act is amended in Part 1 of Schedule 4 at reference 1 by the deletion of reference (c) and the substitution of the following:

“(c) in the case of a person  
to whom section 142A  
applies 120.00 — — — — —”.

(b) The Principal Act is amended in Part 1 of Schedule 4 at reference 1 by the deletion of reference (d) and the substitution of the following:

[NEW SECTION]

“(d) in the case of a person to whom Section 142b applies 164.00 — — — — —”.

—Aengus Ó Snodaigh.

**28.** In page 9, after line 22, to insert the following:

“**11.** This section shall delete section 4 of the Social Welfare and Pensions Act 2012.”.

—Willie O'Dea.

**29.** In page 9, after line 22, to insert the following:

“**11.** The fuel allowance will be available for 32 weeks of the year.”.

—Willie O'Dea.

**30.** In page 9, after line 22, to insert the following:

“**11.** Section 62 of the Social Welfare Consolidation Act 2005 as amended and Article 44(1) of S.I.142 of 2007 is amended in section 44(1)(b)(i) by replacing €12.70 with €20.00.”.

—Willie O'Dea.

**31.** In page 9, after line 22, to insert the following:

“**11.** The Minister shall, within 4 weeks of the passing of this Act, prepare and lay a report before the Houses of the Oireachtas, reviewing all expenditure reductions or the ceasing of payments in relation to the household benefits package, including the gas allowance, electricity allowance, telephone allowance since 2011, and setting out the options for restoring those payments to their previous levels.”.

—Willie O'Dea.

**32.** In page 9, after line 22, to insert the following:

“**11.** The Minister shall review all expenditure reductions or the ceasing of payments in relation to the treatment benefits package since 2011 and shall prepare and lay a report before the Houses of the Oireachtas setting out the options for restoring those payments to their previous levels.”.

—Willie O'Dea.

**33.** In page 9, after line 22, to insert the following:

“**11.** The Minister shall review the abolition of the bereavement grant and shall prepare and lay a report before the Houses of the Oireachtas setting out the options for restoring the payment.”.

—Willie O'Dea.

[NEW SECTION]

34. In page 9, after line 22, to insert the following:

“PART 3\*

PENSIONS OMBUDSMAN

**Definition**

21. In this Part “Principal Act” means the Pensions Act 1990.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

[\**The proposed new Part comprehends the inclusion of amendments 34 to 38.*]

35. In page 9, after line 22, to insert the following:

**“Amendment of section 126 of Principal Act**

22. Section 126 of the Principal Act is amended, in subsection (1), by the insertion of the following definitions:

“ ‘Act of 1942’ means the Central Bank Act 1942;

‘Act of 2004’ means the Central Bank and Financial Services Authority of Ireland Act 2004;

‘Financial Services Ombudsman’ means the Financial Services Ombudsman referred to in section 57BJ of the Act of 1942 (inserted by section 16 of the Act of 2004);”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

36. In page 9, after line 22, to insert the following:

**“Amendment of section 128 of Principal Act**

23. Section 128 of the Principal Act is amended—

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

“(1A) Without prejudice to subsection (1), the Minister may, subject to the consent of the Minister for Finance, appoint a person who also holds the office of Financial Services Ombudsman to hold the office of the Pensions Ombudsman.

(1B) An appointment referred to in subsection (1A) shall be made for a period that does not exceed the remaining period of appointment of the person concerned as Financial Services Ombudsman.”,

and

(b) by the insertion of the following subsection after subsection (2):

“(3) In subsection (1B), ‘remaining period’ means, in relation to an

[NEW SECTION]

appointment of a person, the period commencing on the appointment of the person under this section and ending on the expiry of the period of the appointment of that person as Financial Services Ombudsman under section 57BJ of the Act of 1942.”.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

37. In page 9, after line 22, to insert the following:

**“Amendment of section 129 of Principal Act**

24. Section 129 of the Principal Act is amended by the insertion of the following subsection after subsection (6):

“(7) Subsection (6) shall not apply to a person who holds the office of Financial Services Ombudsman, where that person is also appointed to be the Pensions Ombudsman pursuant to section 128(1A).”.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

38. In page 9, after line 22, to insert the following:

**“Amendment of section 130 of Principal Act**

25. Section 130 of the Principal Act is amended by the insertion of the following subsection after subsection (2):

“(2A) Notwithstanding subsections (1) and (2), in a case where the person who holds the office of Financial Services Ombudsman is also appointed, pursuant to section 128(1A), to hold the office of Pensions Ombudsman—

(a) subsection (1) shall not have effect in relation to remuneration, and

(b) subsection (2) shall not have effect in relation to superannuation benefits.”.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

39. In page 9, after line 22, to insert the following:

“11. The Pensions Act 1990 is amended by inserting a new section 48A as follows:

“48A. A solvent firm shall not be allowed to close a defined benefit pension scheme except where the scheme has reached a minimum 90 per cent funding standard.”.”.

—Willie O’Dea.

40. In page 9, after line 22, to insert the following:

“11. The Pensions Act 1990 is amended by inserting a new section 48A as follows:

“48A. An appeals mechanism for pension scheme members shall be put in place where trustees have decided upon reduced benefits for members, and such

[NEW SECTION]

appeals mechanism shall ensure that any category of such pension scheme members have not been unfairly treated in any restructuring arrangement.”.”.

—Willie O'Dea.

TITLE

**41.** In page 3, line 5, after “Acts;” to insert the following:

“to amend and extend the Pensions Act 1990 to provide for the appointment, as Pensions Ombudsman, of the person who also holds the Office of Financial Services Ombudsman;”.

—An Tánaiste agus Aire Coimirce Sóisialaí.