



An Bille Leasa Shóisialaigh (Uimh. 2), 2019
Social Welfare (No. 2) Bill 2019

Meabhrán Mínitheach
Explanatory Memorandum



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SOCIAL WELFARE (NO. 2) BILL 2019

EXPLANATORY MEMORANDUM

Introduction

Main Provisions

This Bill is designed to give legislative effect to a range of Social Welfare measures announced in the Budget on 8 October 2019.

The Bill also provides for a number of technical changes to the Social Welfare Consolidation Act 2005 to ensure that certain provisions are updated (for example, to reflect the establishment of TUSLA insofar as it affects the application of income disregards for people who are engaged in fostering) or to bring legislative measures fully into line with policy and practice (e.g. in relation to the treatment of payments after death).

The Bill also provides an amendment to the National Minimum Wage Act 2000 to provide that where the Minister of the day is not in a position to implement the recommendations of the Low Pay Commission, as is the case currently as a consequence of the uncertainties associated with Brexit, he or she may subsequently issue an Order in respect of the year or part of the year to which Commission's recommendation relates.

Finally, the Bill provides for an amendment to the National Training Fund Act 2000 to provide for a 0.1% increase (from 0.9% to 1.0%) in the National Training Fund levy payable by employers.

The Bill contains 21 sections in 3 Parts.

Part 1

Short title, construction, collective citations and commencement

Section 1 provides for the short title of the Bill, its construction and citations, and commencement provisions.

Part 2

Amendments to the Social Welfare Acts

Definitions

Section 2 provides for definitions of terms used in this Part of the Bill.

Supplementary provisions

Section 3 amends the definition of 'confinement' for Maternity Benefit purposes to bring it into line with the definition used in the Civil Registration Acts. This measure will ensure that where a child is stillborn and has a birth weight of 500 grammes, the child's mother will qualify for Maternity

Benefit irrespective of the child's gestational age. Hitherto, entitlement in such unfortunate circumstances was dependant on the child having attained a gestational age of 24 weeks.

Rates of assistance – jobseeker's allowance

Section 4 provides that the reduced rate of Jobseeker's Allowance for claimants aged 18 to 24 will no longer apply where the claimant lives independently and is in receipt of housing supports. The full rate of Jobseeker's Allowance will be paid to these persons with effect from 1 January 2020.

Jobseeker's allowance – repeal of section 142B and consequential amendments

Section 5 provides that, from 1 January 2020, the age-related reduced rate of Jobseeker's Allowance will no longer apply to younger claimants once they have attained the age of 25.

Carer's allowance

Section 6 is a technical amendment and updates the legislative provisions governing entitlement to Carer's Allowance to confirm that the definition of a relevant person (i.e. a person who requires full-time care and attention) means, in the case of a person aged under 16, a person in respect of whom a Domiciliary Care Allowance is in payment.

Supplementary welfare allowance – repeal of certain provisions and consequential amendments

Section 7 mirrors the amendment in section 5 to provide that the age-related reduced rate of Supplementary Welfare Allowance will no longer apply to younger claimants once they have attained the age of 25. This provision will come into effect on 6 January 2020

Rates of assistance – supplementary welfare allowance

Section 8 mirrors the amendment in section 4 as respects claimants of Supplementary Welfare Allowance. The age-related reduced rate of Supplementary Welfare Allowance payable to those aged 18 to 24 will no longer apply where the claimant lives independently and is in receipt of housing supports. The full rate of Supplementary Welfare Allowance will be paid to these persons from 6 January 2020.

Working family payment – new weekly rates in certain circumstances

Section 9 provides for a €10 increase in the income thresholds which determine the level of Working Family Payment for families with up to three children. This change will take effect from 9 January 2020.

Guardian's payments – concurrent payments in certain circumstances

Section 10 is a technical amendment which clarifies the legislation relating to Guardian's Payments. It confirms that the payment of Guardian's Payments in respect of an orphan does not affect the right of the guardian to claim welfare payment in his or her own right.

Working family payment – avoidance of multiple payments

Section 11 updates section 247 of the Act to set out the payments which may not be paid concurrently with the Working Family Payment.

Payments after death

Section 12 brings the legislative provisions relating to social welfare payments after the death of a claimant fully into line with long-standing policy and practice and confirms that such payments are made to the surviving spouse, civil partner or cohabitant of the deceased.

Birth, marriage and death certificates

Section 13 provides for the repeal of section 282 of the Social Welfare Consolidation Act 2005 which currently provides for reduced cost life event (birth, marriage or death) certificates.

This provision will be commenced in parallel with the commencement of sections 27 (a) and 30 (a) of the Civil Registration (Amendment) Act 2014. Those provisions will allow regulations to be made by the Minister for Employment Affairs and Social Protection for the purpose of setting the fees (if any) for the provision of life event certificates.

Recovery of certain benefits and assistance

Section 14 provides for the inclusion of Supplementary Welfare Allowance in the list of specified benefits which may be recovered by the Minister where a compensator is also paying compensation in respect of the same injury, accident or disease that gave rise to the claim for a social welfare payment. This section of the Bill also provides for the adjustment of the period within which the Minister must respond to a request to provide a statement of recoverable benefits to the compensator from 4 weeks to 25 working days.

Social insurance benefits – new rates of increase for qualified child and living alone allowance

Section 15 provides for a €2.00 increase in the rate of the qualified child increase for children aged under 12, from €34.00 to €36.00 per week, and an increase of €3.00, from €37.00 to €40.00 per week for children aged 12 and over where the claimant is in receipt of a social insurance benefit. The Living Alone Allowance is also increased by €5.00 per week. Depending on the scheme involved, these measures come into effect on dates between 2 January 2020 and 10 January 2020.

Earnings disregarded for certain social assistance payments

Section 16 provides that the Blind Welfare Allowance (a payment made by the HSE) will be disregarded in the means-test for certain social assistance payments, and in particular for Disability Allowance. This measure comes into effect from 10 January 2020.

One-parent family payment – weekly earnings disregard

Section 17 provides for an increase in the earnings disregard for One-Parent Family Payment from €150 to €165 per week. This measure comes into effect from 9 January 2020.

Income disregarded for certain social assistance payments

Section 18 amends Table 2 of Schedule 3 to the Act to (i) update references in the Act relating to the disregard of payments received in connection with foster care to reflect, in particular, the establishment of Túsla, the Child and Family Agency, which is now responsible for the payment of foster-care allowances, including the aftercare allowance and (ii) clarify that both payments received directly from the Health Service Executive (HSE) and from agencies acting on behalf of the HSE, in respect of persons who are ‘boarded out’ under section 10 of the Health (Nursing Homes) Act 1990, will be subject to the income disregard for such payments.

Social assistance payments – new rates of increase for qualified child and living alone allowance

Section 19 provides for a €2.00 increase in the rate of the qualified child increase for children aged under 12, from €34.00 to €36.00 per week, and an increase of €3.00, from €37.00 to €40.00 per week for children aged 12 and over, where the claimant is in receipt of a social assistance payment. The Living Alone Allowance is also increased by €5.00 per week. Depending

on the scheme involved, these measures come into effect on dates between 1 January 2020 and 10 January 2020.

PART 3
Miscellaneous

Amendment of section 10D of National Minimum Wage Act 2000

Section 20 amends section 10D of the National Minimum Wage Act 2000 to provide that, where the recommendation of the Low Pay Commission has not been implemented, the Minister may nonetheless subsequently issue an Order. The amendment is designed to cater for situations such as the current uncertainty surrounding the timing and effects of Brexit.

Amendment of section 4 of National Training Fund Act 2000

Section 21 provides for an amendment to the National Training Fund Act 2000 to provide for a 0.1% increase (from 0.9% to 1.0%) in the National Training Fund levy payable by employers in respect of reckonable earnings of employees in Class A and Class H employments with effect from 1st January 2020.

*An Roinn Gnóthaí Fostaíochta agus Coimirce Sóisialaí,
Samhain, 2019.*