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**An Bille Leasa Shóisialaigh (Pinsean Comhchónaitheora Mharthanaigh), 2021**  
**Social Welfare (Surviving Cohabitant's Pension) Bill 2021**

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*Mar a tionscnaíodh*

*As initiated*

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**AN BILLE LEASA SHÓISIALAIGH (PINSEAN COMHCHÓNAITHEORA  
MHARTHANAIGH), 2021**  
**SOCIAL WELFARE (SURVIVING COHABITANT'S PENSION) BILL 2021**

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*Mar a tionscnaíodh*  
*As initiated*

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ACTS REFERRED TO

Social Welfare Act 1973 (No. 10)

Social Welfare Consolidation Act 2005 (No. 26)



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AN BILLE LEASA SHÓISIALAIGH (PINSEAN COMHCHÓNAITHEORA  
MHARTHANAIGH), 2021  
SOCIAL WELFARE (SURVIVING COHABITANT'S PENSION) BILL 2021

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# Bill

*entitled*

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An Act to amend the Social Welfare Consolidation Act 2005 to entitle surviving cohabitants to a contributory pension; and to provide for related matters.

**Be it enacted by the Oireachtas as follows:**

## **Definition**

1. In this Act, “Principal Act” means the Social Welfare Consolidation Act 2005. 10

## **Amendment of section 123 of Principal Act**

2. Section 123 of the Principal Act is amended—

- (a) by the insertion of the following after the definition of “spouse”:

“ ‘surviving cohabitant’ means a cohabitant who was a cohabitant with a deceased cohabitant at the date of the death;”, 15

- (b) by the substitution of the following for the definition of “relevant time”:

“ ‘relevant time’ means—

- (a) where the contribution conditions are being satisfied on the widow’s, widower’s, surviving civil partner’s or surviving cohabitant’s insurance record— 20

(i) the date of the spouse’s, civil partner’s or cohabitant’s death,

(ii) where the widow, widower, surviving civil partner or surviving cohabitant attained pensionable age before the date of the spouse’s, or civil partner’s death, the date on which he or she attained that age, or 25

(iii) where the surviving cohabitant attained pensionable age before the date of the cohabitants’ death, the date on which he or she attained that age, provided that the surviving cohabitant was a cohabitant with a deceased cohabitant at the date thereof,

or

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- (b) where the contribution conditions are being satisfied on the

deceased spouse's, deceased civil partner's or deceased cohabitant's insurance record—

(i) the date on which the spouse, civil partner or cohabitee attained pensionable age, or

(ii) where the spouse, civil partner or cohabitant died before 5  
attaining pensionable age, the date of his or her death;

provided that the surviving cohabitant was a cohabitant with a deceased cohabitant at the relevant date thereof;”,

and

(c) by the substitution of the following for the definition of “yearly average”: 10

“ ‘yearly average’ means the average per contribution year of contribution weeks in respect of which the widow, widower or deceased spouse widow, widower, deceased spouse, surviving civil partner or deceased civil partner, surviving cohabitant or deceased cohabitant (as the case may be) has qualifying contributions, voluntary 15  
contributions or credited contributions in the appropriate period specified in section 125(1)(b) and where the average so calculated is a fraction of a whole number consisting of one-half or more it shall be rounded up to the nearest whole number and where it is a fraction of less than one-half it shall be rounded down to the nearest whole 20  
number.”.

### **Entitlement to pension**

3. The Principal Act is amended by the substitution of the following for section 124—

#### **“Entitlement to pension**

124. (1) Subject to this Act, a widow, widower, surviving civil partner or 25  
surviving cohabitant shall be entitled to a pension—

(a) where the contribution conditions set out in section 125 are satisfied on either the insurance record of the widow, widower, surviving civil partner surviving cohabitant or that of his or her deceased spouse, deceased civil partner, or deceased cohabitant, 30

(b) where the widow's or widower's spouse, surviving civil partner's civil partner or surviving cohabitant's cohabitant was entitled to a State pension (contributory) or a State pension (transition) which included an increase in respect of him or her by virtue of section 112(1) or 117(1) in respect of a period ending on the spouse's, civil 35  
partner's or cohabitant's death, or

(c) where his or her spouse, civil partner or cohabitant's would have been entitled to a State pension (contributory) or a State pension (transition) at an increased weekly rate by virtue of section 112(1) or 117(1), but for the receipt by that widow, widower, surviving 40  
civil partner or surviving cohabitant of a State pension (non-contributory), a blind pension or a carer's allowance in his or her

own right, in respect of a period ending on his or her death.

- (2) A pension shall not be payable to a widow or widower or surviving civil partner for any period after his or her marriage or remarriage, or his or her entry into a civil partnership or a new civil partnership.
- (3) A widow, widower, surviving civil partner or surviving cohabitant shall be disqualified for receiving a pension if and so long as he or she is a cohabitant. 5
- (4) A person who, having ceased to be entitled to a pension by virtue of that person's marriage or remarriage, or his or her entry into a civil partnership or a new civil partnership shall, or his or her again becoming a cohabitant, on again becoming a widow, widower or surviving civil partner or surviving cohabitant, be entitled to a pension at the rate which would have been payable had the person not married, remarried, entered into a civil partnership or a new civil partnership or not entered a new cohabitation where the person— 10 15
  - (a) fails to satisfy the conditions set out in subsection (1), or
  - (b) on satisfying the conditions set out in subsection (1), is entitled to a pension at a rate below that which would have been payable had the person not married, or remarried or not entered into a civil partnership or a new civil partnership or not again becoming a cohabitant.”. 20

#### Conditions for receipt

4. (1) The Principal Act is amended by the substitution of the following for section 125—

#### “Conditions for receipt

125. (1) The contribution conditions for pension are— 25
- (a) that the widow, widower, surviving civil partner or surviving cohabitant 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 30
  - (b) that, where at the relevant time, 4 years or longer has elapsed since the widow's, widower's, surviving civil partner's or surviving cohabitant's entry into insurance—
    - (i) the yearly average for the 3 contribution years, or (where warranted by his or her insurance record) 5 contribution years, ending with the end of the last complete contribution year before the relevant time is not less than 39, or 35
    - (ii) the yearly average in respect of the period commencing at the beginning of the contribution year in which his or her entry into insurance occurred and ending at the end of the last complete contribution year before the relevant time is not less than 48, 40

but, where those conditions are not satisfied on the widow's, widower's, surviving civil partner's or surviving cohabitant's insurance record, they may be satisfied on his or her deceased spouse's or deceased civil partner's or deceased cohabitant's insurance record (the widow's, widower's, surviving civil partner's or surviving cohabitant's insurance record being disregarded). 5

- (2) Where the date of death occurs before 27 December 2013, subsection (1)(a) shall be read as if '156' were substituted for '260'.
- (3) Regulations may provide for modifications of the meaning of yearly average contained in section 123 or of the contribution conditions set out in this section. 10
- (4) Subject to subsection (5), regulations may provide for entitling to pension a person who would be entitled to that pension but for the fact that the contribution condition in subsection (1)(b) is not satisfied.
- (5) Regulations for the purposes of subsection (4) shall provide that pension payable by virtue of those regulations shall be payable at a rate less than that specified in Schedule 2, and the rates specified by the regulations may vary with the extent to which the contribution condition in subsection (1)(b) is satisfied, but any increase of pension payable under section 127(1) shall be the same as if that condition had been fully satisfied. 15 20
- (6) Subject to subsection (7), regulations may provide for entitling to pension a person who would be entitled to that pension but for the fact that the contribution condition in subsection (1)(b) is not satisfied by reference to the insurance record of a person where that person, having earlier ceased to be an employed contributor, became an employed contributor as a consequence of the coming into operation of section 12 of the Social Welfare Act 1973. 25
- (7) Regulations for the purposes of subsection (6) shall provide that pension payable by virtue of those regulations shall be payable at a rate less than that specified in Schedule 2, and the rates specified by the regulations may vary with the extent to which the contribution condition in subsection (1)(b) is satisfied. 30
- (8) Where a person becomes an employed contributor by virtue of paragraph (b) of section 12(1) and would not, apart from that paragraph, be an employed contributor, his or her entry into insurance by virtue of that paragraph is deemed not to be an entry into insurance for the purposes of subsection (1) and for those purposes the person's entry into insurance is deemed to occur when he or she first becomes an employed contributor by virtue of paragraph (a) of section 12(1). 35 40
- (9) In the case of a person who became a self-employed contributor on 6 April 1988 and who at any time before that date was an employed contributor, the date on which the person first entered into insurance or 6 April 1988, whichever is more favourable, shall be regarded as the date of entry into insurance for the purposes of subsection (1)(b).". 45

**Short title, collective citation and construction**

5. (1) This Act may be cited as the Social Welfare (Surviving Cohabitant's Pension) Act 2021.
- (2) The Social Welfare Acts and this Act shall be construed together as one Act.

An Bille Leasa Shóisialaigh (Pinsean  
Comhchónaitheora Mharthanaigh), 2021

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# BILLE

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht do leasú an Achta Comhdhlúite Leasa Shóisialaigh, 2005 chun teideal chun pinsin ranníocaigh a thabhairt do chomhchónaitheoirí marthanacha; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

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*Na Seanadóirí Mark Wall, Annie Hoey, Rebecca Moynihan agus Marie Sherlock, a thug isteach,*

*21 Deireadh Fómhair, 2021*

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Social Welfare (Surviving Cohabitant's  
Pension) Bill 2021

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# BILL

*(as initiated)*

*entitled*

An Act to amend the Social Welfare Consolidation Act 2005 to entitle surviving cohabitants to a contributory pension; and to provide for related matters.

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*Introduced by Senators Mark Wall, Annie Hoey, Rebecca Moynihan and Marie Sherlock,*

*21st October, 2021*

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