

**Joint Oireachtas Committee on Employment Affairs and Social
Protection on 20 February 2019**

**Opening Remarks of the Minister Employment Affairs and Social
Protection**

Chairperson,

I would like to thank the Committee for the invitation to come here today to discuss the Miscellaneous Provisions (Withdrawal of the United Kingdom from the European Union on 29 March 2019) Bill 2019.

Parts 11 and 12 of the Bill fall within my remit.

I very much appreciate your time and engagement as we bring forward this Bill to address a range of critical issues that may arise in the context of a no deal Brexit.

There are only 5 weeks remaining until 29 March. The Government and the EU remain committed to securing a negotiated Brexit outcome. My Department and I have been planning for all Brexit scenarios. In light of uncertainties in London and the Brexit deadline of 29 March, the Government decided at its meeting of 11 December last that immediate priority must be given to preparations

for a no deal Brexit and that Government Departments and State Agencies should urgently take forward work on that basis and that is what we have been doing.

This is a very wide ranging Bill, but given the emergency nature of this legislation, the Government took the decision that progressing this through the Houses as an omnibus Bill is the most sensible way to ensure that we have the necessary legislation enacted before 29 March. The Bill covers the issues in primary legislation that need to be addressed immediately in the event of a no deal Brexit.

Measures relevant in the case of a no deal Brexit were identified following a detailed examination by all Departments of legislation currently in force. The Government published the General Scheme of the Omnibus Bill on 24 January. The draft Bill contains 16 parts, addressing primary legislative issues which would require immediate attention in a no deal scenario.

Since the publication of the General Scheme of the Omnibus Bill, intensive work has been carried out between Government Departments and the Attorney General's Office. On the basis of this work there have been some updates and amendments to parts of the draft Bill.

The Government has discussed this proposed legislation throughout our meetings in January and February. Its provisions were also the subject of intensive and daily engagements between Departments and Parliamentary Counsel.

The Bill will underpin the **Common Travel Area (CTA)**, and ensures that the associated rights and entitlements of Irish and British citizens under this longstanding arrangement will continue in any circumstance. This is one of the Government's four key Brexit priorities.

I will outline the purpose of Parts 11 and 12 of the Bill in turn.

Part 11 Amendment to the Social Welfare (Consolidation) Act 2005

Part 11 sets out amendments to the Social Welfare (Consolidation) Act 2005 in order to maintain the status quo in the Common Travel Area.

My key area of concern, a concern shared by this Committee, is the impact of Brexit on those current reciprocal arrangements for social insurance (which includes pensions) and social assistance (means tested schemes linked to residency rights) and child benefit between Ireland and the UK, including Northern Ireland.

There are approximately 132,000 people in receipt of a UK State Pension living in this country and approximately 1,000 customers receiving child benefit payments from the UK for children residing in Ireland.

There are 28,760 people residing in the UK who are in receipt of a state pension (contributory) from Ireland. 840 people residing in the UK are in receipt of full rate child benefit payments from my Department. These payments are in respect of 1,830 children, 95% of whom reside in Northern Ireland. A further 920 people residing in the UK are in receipt of child benefit supplement payments from my Department, in respect of 2,010 children, 97% of whom reside in

Northern Ireland. We want to ensure the continuation of these payments and that is what we are doing with this legislation.

My objective is to ensure that the reciprocity of social welfare rights and entitlements, which currently exist for Irish and UK citizens moving within the Common Travel Area, are safeguarded and maintained.

Ireland and the UK share a long history of cooperation and reciprocity in social security matters. The principle of reciprocity has been reinforced in bilateral agreements and arrangements on social security between the two countries since 1924.

That reciprocity is underpinned by the principle of equal treatment so that Irish citizens enjoy the same benefits as UK citizens and vice versa.

These rules are designed to protect people moving and working between each State and to minimise any disadvantages they might experience.

From a social welfare perspective, maintenance of this status quo through safeguarding and preserving that very reciprocity is of critical importance to me and the Government.

Because of the unique nature of the Common Travel Area and the associated rights and privileges which it provides and will continue to provide for Irish and British citizens in each other's countries, it was agreed that Ireland and the UK would formalise the pre-existing Common Travel Area social protection arrangements in a legally binding agreement.

That agreement was signed on 1st February and is now subject to ratification processes in both Ireland and the UK. Under the terms of the agreement all existing arrangements with regard to recognition of, and access to, social insurance entitlements will be maintained in both jurisdictions. This means that the rights of Irish citizens living in Ireland to benefit from Social Insurance contributions made when working in the UK and to access Social Insurance payments if resident in the UK are protected and vice versa.

As part of the ratification process the agreement was laid before the Houses on 7th and 8th February and it was the subject of a Dáil Motion on 12th February and I will be discussing it at the Select Committee tomorrow (21st February). The ratification process in the UK is also underway.

While I am confident that the ratification will be completed in both jurisdictions before 29th March I want to be absolutely certain that export and payment of benefits between Ireland and the United Kingdom and vice versa can continue even if all the necessary steps in the ratification process are not completed on that date. That is the overall purpose of the amendments in Part 11.

The draft Heads as published in the General Scheme were intended to provide the Minister for Employment Affairs and Social Protection with power to make Regulations relating to a range of issues such as:

- the treatment of events of facts occurring in the UK;
- taking account of social insurance contributions paid in the UK;
- the habitual residence condition;
- the avoidance of multiple payments;
- arrangements in relation to the absence from the State provisions;
- arrangements regarding frontier workers, where the frontier crossed is that between Ireland and the UK;
- the exchange of information; and
- arrangements to ensure maintenance of the current arrangements vis a vis the UK as the current

arrangements governed by the EU Regulations are more expansive than the existing bilateral with the UK.

There have been a number of changes made to Part 11 as the drafting process progressed although it is important to note that the overall aims and outcomes remain unchanged.

During the drafting process a more streamlined approach emerged which effectively allows the Minister to make an order to provide for the implementation of a signed agreement which has not yet been ratified where she is satisfied that the other party is in the process of ratifying it. An Order has also been drafted to give this effect if required.

As a result, most of the provisions initially envisaged are not required as they were intended to achieve the same ends so the Bill as published will look quite different to the General Scheme in this regard. In addition, the regulations which were envisaged by the initial draft Heads will not now be required.

Other amendments insert specific references to the UK into a number of sections of the Social Welfare Consolidation Act so that the same rules will be applied with regard to the treatment of the UK

under these provisions when the UK is no longer covered by existing references to Member State in those provisions.

These amendments will ensure maintenance of the status quo with regard to social welfare payments in the event of no deal Brexit.

Part 12 Amendment to the
Protection of Employees (Employers' Insolvency) Act 1984

Part 12 amends the Protection of Employees (Employers' Insolvency) Act 1984 which provides for the insolvency payments scheme.

The scheme covers wage related entitlements of employees who are employed in Ireland by an employer who has become insolvent in Ireland or another EU Member State, including the UK.

Once the UK leaves the EU, employers in a state of insolvency under the laws of the UK will not fall within the scope of the Act. That means employees of those employers, who work and pay their insurance in Ireland, would no longer be covered by the protections set out in the Act unless the amendments set out in this Part of the Bill are made.

The purpose of the amendments in this Part of the Bill is to ensure that those employees will continue to be covered by the scheme, after a no-deal Brexit.

In order to achieve that, the amendments in this Part of the Bill provide:

- for updates to existing definitions to terms such as “competent authority”; and “relevant officer”;
- for employees who are employed or habitually employed in Ireland whose employers are made insolvent under the laws of the UK continued to be covered by the scheme;
- that the date an employer is made insolvent under the laws of the UK will continue to be the date an employer will be regarded as having become insolvent for the purposes of the scheme;
- that amounts certified by an actuary or a person performing a similar task in relation to employers made insolvent in the UK, and the employees are habitually employed in Ireland, continue to be covered by the scheme; and

- that information can be exchanged, in line with the provisions of the General Data Protection Regulation, with a relevant officer appointed to an employer which is in a state of insolvency under the laws of the United Kingdom.

In the economic uncertainties which may prevail in a no-deal scenario it is vital that we continue to provide this protection to workers in Ireland and that is why I am introducing these amendments.

Timetable for the Bill

The Government expects to publish the full Omnibus Bill on 22 February. It is our intention that:

- it would go before the Dáil for second stage from 26-28 February;
- it would go through Dáil Committee and Report Stage from 4 – 8 March;
- it would then go to the Seanad for Second Stage on 11-12 March;
- followed by Committee and Report Stage in the Seanad on 13-14 March.

Concluding Remarks

This legislation is an essential part of our whole-of-Government preparations for Brexit.

I appreciate the cooperation of this Committee and your support and cooperation to ensure that we can get this Bill through the relevant stages and enact this legislation by 29 March.

Chairperson and members of the Committee, thank you for allowing me to outline the aspects of my legislative planning. I would like to

thank you for your attention and I will be happy to respond to any questions that Members may have.

[ENDS]