



Number 10 of 1997

SOCIAL WELFARE ACT, 1997

ARRANGEMENT OF SECTIONS

PART I

Preliminary

Section

1. Short title and construction.
2. Definitions.

PART II

Increases

3. Social insurance benefits (new rates).
4. Social assistance payments (new rates).
5. Child benefit (new rates).
6. Family income supplement (new weekly rates etc.).
7. Continued payment for qualified children.
8. Employment contributions (new rates of contributions, increases in earnings ceilings, etc.).
9. Self-employment contributions (increase in earnings ceiling).

PART III

Social Insurance Improvements

10. Maternity benefit (self-employed contributors).
11. Adoptive benefit (self-employed contributors).

Section

12. Old age (contributory) and retirement pension — extension of entitlement to reduced rate pension and changes in contribution conditions.
13. Unemployment benefit — requalifying for benefit.
14. Occupational injuries benefits — extension of entitlements.

PART IV

Sickness Allowance

15. Sickness allowance.
16. Amendments consequential on *section 15*.
17. Disability benefit and invalidity pension — changes in title.
18. Commencement (*Part IV*).

PART V

Widow's and Widower's (Non-Contributory) Pension

19. Widow's and widower's (non-contributory) pension.
20. Amendments consequential on *section 19*.
21. Commencement (*Part V*).

PART VI

Other Social Assistance Improvements

22. Disability allowance — extension of entitlement etc.
23. Carer's allowance — extension of entitlement.
24. Pre-retirement allowance — extension of entitlement.
25. Assessment of means — standardisation of provisions relating to assessment of property (capital).
26. Assessment of means — consolidation of disregards etc.
27. Commencement (*Part VI*).

PART VII

Miscellaneous Amendments

28. Adult dependant — change in title and payment of reduced rate.
29. Liability to maintain family.
30. Unemployment benefit and unemployment assistance — relaxation of waiting days requirement etc.

Section

- 31. Repayment of benefit, assistance, etc. on personation.
- 32. Disqualifications for claims made outside prescribed time.
- 33. Collection and refund of contributions.
- 34. Appeals to Circuit Court.
- 35. Amendment to references following consolidation of regulations.
- 36. Continuance of instruments.

PART VIII

Amendment of Section 4 of National Social Service Board Act,
1984

- 37. National Social Service Board — functions.

PART IX

Amendment of Health Contributions Act, 1979 and Youth
Employment Agency Act, 1981

- 38. Amendment of section 7A of Health Contributions Act,
1979.
- 39. Amendment of section 18A of Youth Employment Agency
Act, 1981.

PART X

Amendment to the Pensions Act, 1990

- 40. Amendment of Pensions Act, 1990.

SCHEDULE A

SCHEDULE B

SCHEDULE C

SCHEDULE D

SCHEDULE E

SCHEDULE F

SCHEDULE G

SCHEDULE H

[No. 10.] *Social Welfare Act, 1997.* [1997.]

Acts Referred to

Adoption Act, 1991	1991, No. 14
Adoptive Leave Act, 1995	1995, No. 2
Army Pension Acts, 1923 to 1980	
Blind Persons Act, 1920	1920, c. 49
Child Care Act, 1991	1991, No. 17
Corporation Tax Act, 1976	1976, No. 7
Family Law (Maintenance of Spouses and Children) Act, 1976	1976, No. 11
Family Law Act, 1995	1995, No. 26
Finance Act, 1983	1983, No. 15
Guardianship of Infants Act, 1964	1964, No. 7
Health Act, 1970	1970, No. 1
Health Contributions Act, 1979	1979, No. 4
Judicial Separation and Family Law Reform Act, 1989	1989, No. 6
Larceny Act, 1916	1916, c. 50
Local Authorities (Higher Education Grants) Acts, 1968 to 1992	
Maternity Protection Act, 1994	1994, No. 34
Medical Practitioners Act, 1978	1978, No. 4
Merchant Shipping Act, 1894	1894, c. 60
National Social Service Board Act, 1984	1984, No. 2
Pensions Act, 1990	1990, No. 25
Social Welfare Act, 1993	1993, No. 5
Social Welfare Act, 1994	1994, No. 4
Social Welfare Act, 1995	1995, No. 3
Social Welfare (No. 2) Act, 1995	1995, No. 23
Social Welfare Act, 1996	1996, No. 7
Social Welfare (Consolidation) Act, 1993	1993, No. 27
Status of Children Act, 1987	1987, No. 26
Youth Employment Agency Act, 1981	1981, No. 32



Number 10 of 1997

SOCIAL WELFARE ACT, 1997

AN ACT TO AMEND AND EXTEND THE SOCIAL WELFARE ACTS, SECTION 4 OF THE NATIONAL SOCIAL SERVICE BOARD ACT, 1984, SECTION 7A OF THE HEALTH CONTRIBUTIONS ACT, 1979, SECTION 18A OF THE YOUTH EMPLOYMENT AGENCY ACT, 1981, AND THE PENSIONS ACT, 1990. [2nd April, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary

1.—(1) This Act may be cited as the Social Welfare Act, 1997.

Short title and construction.

(2) The Social Welfare Acts and this Act (other than Parts VIII, IX and X) shall be construed together as one.

2.—In this Act—

Definitions.

“the Principal Act” means the Social Welfare (Consolidation) Act, 1993;

“the Act of 1994” means the Social Welfare Act, 1994;

“the Act of 1995” means the Social Welfare Act, 1995;

“the No. 2 Act of 1995” means the Social Welfare (No. 2) Act, 1995;

“the Act of 1996” means the Social Welfare Act, 1996.

PART II

Increases

3.—(1) The Principal Act is hereby amended by the substitution for Parts I to IV (inserted by section 3 of the Act of 1996) of the Second Schedule thereto of the Parts set out in *Schedule A* to this Act.

Social insurance benefits (new rates).

(2) This section shall come into operation—

Pt.II S.3

- (a) in so far as it relates to unemployment benefit, on the 5th day of June, 1997,
- (b) in so far as it relates to disability benefit, health and safety benefit, injury benefit, disablement gratuity and disablement pension, on the 9th day of June, 1997,
- (c) in so far as it relates to retirement pension, invalidity pension and a relevant payment by virtue of section 18 (1) (a) of the Act of 1996, on the 12th day of June, 1997, and
- (d) in so far as it relates to death benefit under section 60, 61, 62 or 63 of the Principal Act, old age (contributory) pension, widow's (contributory) pension, widower's (contributory) pension and orphan's (contributory) allowance, on the 13th day of June, 1997.

Social assistance payments (new rates).

4.—(1) The Principal Act is hereby amended by the substitution for Parts I and II (inserted by section 4 of the Act of 1996) of the Fourth Schedule thereto of the Parts set out in *Schedule B* to this Act.

(2) This section shall come into operation—

- (a) in so far as it relates to unemployment assistance and disability allowance, on the 4th day of June, 1997,
- (b) in so far as it relates to supplementary welfare allowance, on the 9th day of June, 1997,
- (c) in so far as it relates to pre-retirement allowance, one-parent family payment (other than where payable in respect of a widow or widower), carer's allowance, prescribed relative allowance and a relevant payment by virtue of section 18(1)(b) or (c) of the Act of 1996, on the 12th day of June, 1997, and
- (d) in so far as it relates to old age (non-contributory) pension, blind pension, widow's (non-contributory) pension, one-parent family payment payable in respect of a widow or widower and orphan's (non-contributory) pension, on the 13th day of June, 1997.

Child benefit (new rates).

5.—(1) The Fourth Schedule to the Principal Act is hereby amended by the substitution for Part III (inserted by section 5 of the Act of 1996) of the following Part:

“PART III

Amounts of Child Benefit

Amount for each of first 2 children (1)	Amount for each child in excess of 2 (2)
£30	£39

”.

(2) This section shall come into operation on the 1st day of September, 1997.

[1997.]

Social Welfare Act, 1997.

[No. 10.]

6.—(1) Section 197 of the Principal Act is hereby amended by the substitution for the definition of “weekly family income” of the following definition:

Pt. II
Family income supplement (new weekly rates etc.).

“‘weekly family income’ means, subject to regulations under section 202, the amount of income received in a week by a family, less—

- (i) any allowable contribution referred to in Regulations 59 and 60 (inserted by the Income Tax (Employment) Regulations, 1972 (S.I. No. 260 of 1972)) of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960),
- (ii) any amount deducted from reckonable earnings pursuant to—
 - (A) section 10 and regulations made under section 11,
 - (B) section 5 of the Health Contributions Act, 1979, and
 - (C) section 16 of the Youth Employment Agency Act, 1981,and
- (iii) any income of a person who in respect of that family is a child.”.

(2) *Subsection (1)* shall apply in the case of a claim to family income supplement made on or after the 12th day of June, 1997.

(3) The Principal Act is hereby amended by the substitution for section 198 (inserted by section 6 of the Act of 1996) of the following section:

“Entitlement to supplement.

198.— Subject to this Act, an allowance (in this Act referred to as ‘family income supplement’) shall be payable out of moneys provided by the Oireachtas in respect of a family where the weekly family income is less than—

- (a) in the case of a family which includes only 1 child, £205,
- (b) in the case of a family which includes 2 children, £225,
- (c) in the case of a family which includes 3 children, £245,
- (d) in the case of a family which includes 4 children, £265,
- (e) in the case of a family which includes 5 children, £290,
- (f) in the case of a family which includes 6 children, £310,
- (g) in the case of a family which includes 7 children, £327,

or

(h) in the case of a family which includes 8 or more children, £344.”.

(4) *Subsection (3)* shall come into operation on the 12th day of June, 1997.

Continued payment for qualified children.

7.—The Principal Act is hereby amended by the substitution for section 203A (inserted by section 7 of the Act of 1996) of the following section:

“Entitlement to payment.

203A.—(1) Subject to this Act, a continued payment for qualified children (in this Part referred to as a ‘continued payment’) shall be payable out of moneys provided by the Oireachtas to a person—

(a) other than a person who is engaged in short-time employment, who—

(i) has been in receipt of unemployment benefit, unemployment assistance, or unemployment benefit and unemployment assistance in respect of not less than 312 days of unemployment in—

(A) a period of interruption of employment, within the meaning of section 42 (4) (c), where the person is in receipt of unemployment benefit, or

(B) a continuous period of unemployment, within the meaning of section 120(3), where the person is in receipt of unemployment assistance,

in the immediately preceding period, and

(ii) is in receipt of unemployment benefit or unemployment assistance which includes an increase in respect of at least one qualified child, who normally resides with the person, and is not a person to whom sections 45 (3), 124 (1) or 245A (3) (as the case may require) applies, or

(b) who is engaged in employment under a scheme administered by an Foras Áiseanna Saothair and known as Community Employment and who, if he or she were in receipt of unemployment benefit or unemployment assistance would be entitled to an increase in respect of at least one

[1997.]

Social Welfare Act, 1997.

[No. 10.]

qualified child who normally resides with him or her and would not be a person to whom section 45 (3), 124 (1) or 245A (3) (as the case may require), applies, and

Pt.II S.7

(c) who, in the case of a person to whom paragraph (a) or (b) applies, ceases, by virtue of having become engaged in employment which is expected to continue for a period of a minimum of 4 weeks, to be entitled to unemployment benefit or unemployment assistance or ceases to be engaged in Community Employment.

(2) In this Part, 'employment' means insurable employment or insurable self-employment, other than—

(a) employment under a scheme administered by an Foras Áiseanna Saothair and known as Community Employment,

(b) employment under any scheme which is funded by an Foras Áiseanna Saothair, other than a scheme known as the Jobs Initiatives Scheme, or

(c) employment of a seasonal nature.”.

8.—(1) Section 10 of the Principal Act is hereby amended by—

Employment contributions (new rates of contributions, increases in earnings ceilings, etc.).

(a) the substitution in subsection (1) (b) of “4.5 per cent.” for “5.5 per cent.”,

(b) the substitution in subsection (1) (c) of “£23,200” for “£22,300” (inserted by section 8 (1) (b) of the Act of 1996),

(c) the substitution in subsection (1) (d) (i) and (ii) of “£260” for “£250” (inserted by section 8 (1) (c) (iii) of the Act of 1996), and

(d) the substitution in subsection (1) (e) of “£27,900” for “£26,800” (inserted by section 8 (1) (d) of the Act of 1996).

(2) This section shall come into operation on the 6th day of April, 1997.

9.—(1) Section 18 (1) of the Principal Act is hereby amended by the substitution in paragraph (d) of “£23,200” for “£22,300” (inserted by section 9 (1) (c) of the Act of 1996).

Self-employment contributions (increase in earnings ceiling).

(2) This section shall come into operation on the 6th day of April, 1997.

PART III

Social Insurance Improvements

Maternity benefit
(self-employed
contributors).

10.—(1) The Principal Act is hereby amended by the substitution for Chapter 8 of Part II of the following Chapter:

“CHAPTER 8

Maternity Benefit

Entitlement to and
duration of benefit.

37.—(1) Subject to this Act, a woman shall be entitled to maternity benefit if—

(a) it is certified by a registered medical practitioner or otherwise to the satisfaction of the Minister that it is to be expected that she will be confined in a week specified in the certificate (hereafter in this section referred to as ‘the expected week of confinement’) not being more than the prescribed number of weeks after that in which the certificate is given,

(b) where she is an employed contributor, it is certified by her employer that she is entitled to maternity leave under section 8 of the Maternity Protection Act, 1994, and

(c) subject to subsection (2), she satisfies the contribution conditions in section 38.

(2) The requirement in subsection (1) (c) shall not apply in the case of a claim for maternity benefit made by a woman who was in receipt of health and safety benefit under section 41A at any time during the pregnancy as a result of which it is expected that she will be confined.

(3) Regulations may provide for entitling to maternity benefit, subject to such conditions and in such circumstances as may be prescribed, such class or classes of women who would be entitled thereto but for the fact that the contribution conditions in section 38 are not satisfied.

(4) (a) Subject to this Act, where a woman, who has been delivered of a living child dies at any time before the expiry of the fourteenth week following the week of her confinement, the father of the child shall, subject to satisfying the contribution conditions in section 38, be entitled to benefit under this Chapter as if he was a woman and the provisions of this Chapter (other than section 40 (b)) shall apply in all respects in the case of such a man:

Provided that in the case of an employed contributor, it is certified by his employer that he is entitled to leave under section 16 of the Maternity Protection Act, 1994. Pt.III S.10

(b) In this Act, a reference to maternity benefit shall be construed as including a reference to benefit payable to a man under this subsection.

(5) Subject to this Chapter, maternity benefit shall be payable to—

- (a) a woman, who is an employed contributor, for the period of maternity leave to which she is entitled under section 8 of the Maternity Protection Act, 1994 (including any extension of that period by virtue of section 12 of that Act),
- (b) a woman, who is in insurable self-employment, for a period of 14 weeks—
 - (i) commencing not later than 4 weeks before the end of the expected week of confinement, and
 - (ii) ending not earlier than 4 weeks after the end of the expected week of confinement:

Provided that where the date of confinement occurs in a week after the expected week of confinement, the period in respect of which benefit shall be payable shall be extended by such number of consecutive weeks, subject to a maximum of 4 consecutive weeks, after the week in which the date of confinement occurs as ensures compliance with subparagraph (ii),

- (c) a man, who—
 - (i) is an employed contributor, for the period of leave to which he is entitled under section 16 of the Maternity Protection Act, 1994, or
 - (ii) is in insurable self-employment, for a period commencing on the day after the day on which the death of the mother occurs—
 - (A) where the mother dies before the expiry of the

tenth week following the week of her confinement, to the end of the tenth week following the week of her confinement, or

- (B) where the mother dies after the expiry of the tenth week but before the expiry of the fourteenth week following the week of her confinement, to the end of the fourteenth week following the week of her confinement:

Provided that where the beneficiary dies, the benefit shall not be payable for any subsequent day.

(6) Regulations may modify subsections (1) and (5) in relation to cases where—

- (a) it is certified by a registered medical practitioner or otherwise to the satisfaction of the Minister that a woman has been confined, and
- (b) no such certificate as is referred to in subsection (1) (a) has been given.

(7) For the purposes of this section, a Sunday shall not in any week be treated as a day of entitlement to maternity benefit and, accordingly, the amount payable by way of such benefit for any other day of a week shall be one-sixth of the appropriate weekly rate, subject to the total amount being paid at any time by virtue of this subsection being rounded up to the nearest 10p where it is a multiple of 5p but not also a multiple of 10p, and being rounded to the nearest 10p where it is not a multiple of 5p or 10p.

(8) In the case of an employed contributor, where the employment ceases (whether due to the death of the employer or otherwise) during the period for which maternity benefit is payable in accordance with subsection (5), the beneficiary shall continue to be treated as if the event which caused the cesser of employment had not occurred.

(9) Regulations may provide for requiring an employer or any other person to furnish such information as may be required for the purposes of determining a claim for maternity benefit.

Conditions for receipt.

38.—The contribution conditions for maternity benefit are—

- (a) in the case of an employed contributor—
 - (i) (A) that the claimant has qualifying contributions in respect

of not less than 39 contribution weeks in the period beginning with her entry into insurance and ending immediately before the relevant day, and

(B) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the last complete contribution year before the beginning of the benefit year in which the relevant day occurs or in a subsequent complete contribution year before the relevant day, or

(ii) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the 12 months immediately preceding the relevant day, or having been in insurable self-employment, she satisfies the contribution conditions in paragraph (b),

(b) in the case of a person in insurable self-employment, that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the last complete contribution year or in the second last complete contribution year before the beginning of the benefit year in which the relevant day occurs, or where the claimant was previously an employed contributor that she satisfies the contribution conditions in paragraph (a).

Rates of benefit.

39.—(1) Subject to this Act, the weekly rate of maternity benefit shall be an amount equal to—

(a) 70 per cent. of the reckonable weekly earnings, reckonable weekly emoluments or reckonable weekly income, as the case may be, of the woman to whom the benefit is payable in the income tax year prescribed for the purposes of this section, or

(b) the amount of disability benefit, including any increases thereof, which the woman would otherwise receive if she was entitled to the said benefit, or

(c) such amount as shall be prescribed,

whichever is the greater.

(2) In this section 'reckonable weekly earnings', 'reckonable weekly emoluments' and

[No. 10.]

Social Welfare Act, 1997.

[1997.]

Pt.III S.10

'reckonable weekly income' mean the average amount, calculated in accordance with regulations, of reckonable earnings, reckonable emoluments, reckonable income and such other income as may be prescribed, received in a week up to such limit as may be prescribed.

Disqualifications.

40.—Regulations may provide for disqualifying a woman for receiving maternity benefit if—

- (a) during the period for which the benefit is payable, she engages in any occupation other than domestic activities in her own household, or
- (b) she fails, without good cause, to attend for or to submit herself to any medical examination that may be required in accordance with regulations made under this section.

Supplementary provisions.

41.—(1) In this Chapter—

- (a) 'confinement' means labour resulting in the issue of a living child, or labour after 24 weeks of pregnancy resulting in the issue of a child whether alive or dead, and 'confined' shall be construed accordingly,

'registered medical practitioner' means a person registered in the General Register of Medical Practitioners established under section 26 of the Medical Practitioners Act, 1978,

'the relevant day' means the first day for which maternity benefit is claimed, and

- (b) references to the date of the confinement shall be taken as referring, where labour begun on one day results in the issue of a child on another day, to the date of the issue of the child or, if a woman is confined of twins or a greater number of children, to the date of the issue of the last child.

(2) In deciding whether or not to make an order under section 21A (inserted by the Status of Children Act, 1987) of the Family Law (Maintenance of Spouses and Children) Act, 1976, in so far as any such order relates to the payment of expenses incidental to the birth of a child, the Circuit Court or the District Court, as the case may be, shall not take into consideration the fact that the mother of the child is entitled to maternity benefit.'.

[1997.]

Social Welfare Act, 1997.

[No. 10.]

(2) Section 18 (1) (g) (as amended by section 27 of the Act of 1996) of the Principal Act is hereby amended by the substitution for “or orphan’s (contributory) allowance” of “, orphan’s (contributory) allowance, maternity benefit or adoptive benefit”.

Pt.III S.10

(3) This section shall come into operation on such day as the Minister may appoint by order.

11.—(1) The Principal Act is hereby amended by the substitution for Chapter 8B (inserted by section 11 of the Act of 1995) of Part II of the following Chapter:

Adoptive benefit (self-employed contributors).

“CHAPTER 8B

Adoptive Benefit

Entitlement to and duration of adoptive benefit.

41G.—(1) In this Chapter—
‘adopting parent’—

- (a) in the case of an employed contributor, has the meaning assigned to it by section 2 (1) of the Adoptive Leave Act, 1995, and
- (b) in the case of a person in insurable self-employment means—
 - (i) a woman in whose care a child (of whom she is not the natural mother) has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption,
 - (ii) a man, in whose care a child has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption, where the woman in whose care the child (of whom she is not the natural mother) has been placed or is to be placed has died, and
 - (iii) a man, other than a man to whom subparagraph (ii) applies, in whose sole care a child has been placed or is to be placed with a view to making an adoption order, or to the effecting of a foreign adoption or following any such adoption,

‘certificate of placement’ has the meaning assigned to it by section 13 of the Adoptive Leave Act, 1995,

'day of placement' has the meaning assigned to it by section 2 (1) of the Adoptive Leave Act, 1995,

'foreign adoption' has the meaning assigned to it by the Adoption Act, 1991.

(2) Subject to this Act, an adopting parent shall be entitled to adoptive benefit if—

(a) (i) in the case of an employed contributor, it is certified by the adopting parent's employer that the adopting parent is entitled to adoptive leave under the Adoptive Leave Act, 1995, or

(ii) in the case of a person in insurable self-employment, a 'certificate of placement' is issued to the adopting parent, and

(b) the adopting parent satisfies the contribution conditions in section 41H.

(3) Regulations may provide for entitling to adoptive benefit, subject to such conditions and in such circumstances as may be prescribed, such class or classes of adopting parents who would be entitled thereto but for the fact that the contribution conditions in section 41H are not satisfied.

(4) Subject to this Chapter, adoptive benefit shall be payable—

(a) in the case of an employed contributor, for the period of adoptive leave to which the adopting parent is entitled under section 6 or 9, as the case may be, of the Adoptive Leave Act, 1995,

(b) in the case of a person in insurable self-employment, being—

(i) an adopting parent within the meaning of section 41G (1) (b) (i) or (iii), for the period of 10 consecutive weeks commencing on the day of placement, or

(ii) an adopting parent within the meaning of section 41G (1) (b) (ii), where the adopting mother dies before the day of placement, the period of 10 consecutive weeks commencing on the day of placement or where the adopting mother dies on or after the day of placement, for a period of 10 weeks less a period equivalent to the period beginning on the day of placement and ending on the date of her death:

Provided that, where the beneficiary dies, the benefit shall not be payable for any subsequent day. Pt.III S.11

(5) For the purposes of this section, a Sunday shall not in any week be treated as a day of entitlement to adoptive benefit and, accordingly, the amount payable by way of such benefit for any other day of a week shall be one-sixth of the appropriate weekly rate, subject to the total amount being paid at any time by virtue of this subsection being rounded up to the nearest 10p where it is a multiple of 5p but not also a multiple of 10p, and being rounded to the nearest 10p where it is not a multiple of 5p or 10p.

(6) In the case of an employed contributor, where the employment ceases (whether due to the death of the employer or otherwise) during the period for which adoptive benefit is payable in accordance with subsection (4), the beneficiary shall continue to be treated as if the event which caused the cesser of employment had not occurred.

(7) Regulations may provide for requiring an employer or any other person to furnish such information as may be required for the purposes of determining a claim for adoptive benefit.

Conditions for receipt.

41H.—(1) The contribution conditions for adoptive benefit are—

(a) in the case of an employed contributor—

(i) (A) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with the claimant's entry into insurance and ending immediately before the relevant day, and

(B) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the last complete contribution year before the beginning of the benefit year in which the relevant day occurs or in a subsequent complete contribution year before the relevant day, or

(ii) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in

the 12 months immediately preceding the relevant day, or having been in insurable self-employment she satisfies the contributions in subsection (1) (b),

- (b) in the case of a person in insurable self-employment, that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the last complete contribution year or in the second last complete contribution year before the beginning of the benefit year in which the relevant day occurs, or where the claimant was previously an employed contributor that she satisfies the contribution conditions in subsection (1) (a).

(2) In subsection (1), 'relevant day' means the first day for which adoptive benefit is claimed.

Rates of adoptive benefit.

41I.—(1) Subject to this Act, the weekly rate of adoptive benefit shall be an amount equal to—

- (a) 70 per cent. of the reckonable weekly earnings, reckonable weekly emoluments or reckonable weekly income, as the case may be, of the adopting parent to whom the benefit is payable in the income tax year prescribed for the purposes of this section, or
- (b) the amount of disability benefit, including any increases thereof, which the adopting parent would otherwise receive if entitled to the said benefit, or

(c) such amount as shall be prescribed,

whichever is the greater.

(2) In this section 'reckonable weekly earnings', 'reckonable weekly emoluments' and 'reckonable weekly income' mean the average amount, calculated in accordance with regulations, of reckonable earnings, reckonable emoluments, reckonable income and such other income received in a week as may be prescribed up to such limit as may be prescribed.

Disqualification.

41J.—Regulations may provide for disqualifying an adopting parent for receiving adoptive benefit if, during the period for which the benefit is payable, the adopting parent engages in any occupation other than domestic activities in that parent's own household.'.

(2) This section shall come into operation on such day as the Minister may appoint by order.

[1997.]

Social Welfare Act, 1997.

[No. 10.]

12.—(1) Section 84 (as amended by section 26 of the Act of 1996) of the Principal Act is hereby amended by—

Pt.III

Old age (contributory) and retirement pension — extension of entitlement to reduced rate pension and changes in contribution conditions.

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

“(1A) In the case of a person, other than a person, who on or before the 6th day of April, 1997, is a voluntary contributor paying contributions under Chapter 4 of Part II, who attained pensionable age on or after the 6th day of April, 2002, but before the 6th day of April, 2012, subsection (1) (b) shall be construed as if ‘260’ were substituted for ‘156’”,

(b) the substitution for subsection (7) of the following subsection:

“(7) Subject to subsection (8), regulations may provide for entitling to old age (contributory) pension a claimant who would be entitled thereto but for the fact that he has a yearly average of less than 48:

Provided that in the case of a claimant who has a yearly average of less than 20, he has qualifying contributions in respect of not less than 260 contribution weeks since his entry into insurance.”, and

(c) the substitution for subsection (14) of the following subsections:

“(14) Regulations may provide, subject to subsection (15), for the entitling to old age (contributory) pension a relevant person who would be entitled thereto but for the fact that the contribution conditions set out in subsection (1) (b) and (1) (c) are not satisfied and who, in respect of any period, has been employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in Article 81 (2) (a), 82 (2) (a) or 83 (2) (a) of the Regulations of 1996, were paid:

Provided that the claimant has qualifying contributions in respect of not less than 260 contribution weeks since his entry into insurance and has an aggregate of not less than 520 qualifying contributions and contributions at the rate specified in Article 81 (2) (a), 82 (2) (a) or 83 (2) (a) of the Regulations of 1996.

(14A) In this section, ‘the Regulations of 1996’ mean the Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 (S.I. No. 312 of 1996).”.

(2) Section 21 of the Principal Act is hereby amended by the substitution in subsection (1) for “156” of “260”.

(3) Section 89 (as amended by section 26 of the Act of 1996) of the Principal Act is hereby amended by—

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

“(1A) In the case of a person, other than a person, who on or before the 6th day of April, 1997, is a voluntary contributor paying contributions under Chapter 4 of Part II, who attained the age of 65 years on or after the 6th day of April, 2002, but before the 6th day of April, 2012,

subsection (1) (b) shall be construed as if '260' were substituted for '156'.", and

(b) the substitution for subsection (6) of the following subsection:

“(6) Regulations may provide, subject to subsection (7), for entitling to retirement pension a relevant person who would be entitled thereto but for the fact that the contribution conditions set out in subsection (1) (b) and (c) are not satisfied and who, in respect of any period, has been employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in Article 81 (2) (a), 82 (2) (a) and 83 (2) (a) of the Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 (S.I. No. 312 of 1996), were paid:

Provided that the claimant has qualifying contributions in respect of not less than 260 contribution weeks since his entry into insurance and has an aggregate of not less than 520 qualifying contributions and contributions at the rate specified in the said articles.”.

(4) Each provision of the Principal Act mentioned in *column (1)* of *Schedule H* to this Act is hereby amended in the manner specified in *column (2)* of that Schedule opposite the mention of that provision in *column (1)*.

(5) This section shall come into operation—

(a) in so far as it relates to *subsection (1) (b)* on such day as the Minister may appoint by order,

(b) in so far as it relates to *subsection (2)* on the 6th day of April, 2002,

and

(c) in so far as it relates to *subsections (1) (c), (3) (b) and (4)* on the 6th day of April, 2012.

Unemployment benefit — requalifying for benefit.

13.—Section 46 (4) (as amended by section 17 of the Act of 1995) of the Principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) he shall requalify therefor when he has qualifying contributions (other than optional contributions) in respect of 13 contribution weeks begun or ended since the 156th day for which he was entitled to that benefit, and”.

Occupational injuries benefits — extension of entitlements.

14.—(1) The Principal Act is hereby amended by the substitution for sections 59 and 60 (as amended by section 32 of the Act of 1994) of the following sections:

“Entitlement to death benefit.

59.—Subject to this Act, death benefit shall be payable as provided for in sections 60 to 63 where—

(a) an insured person dies as a result of personal injury caused on or after the 1st

[1997.]

Social Welfare Act, 1997.

[No. 10.]

day of May, 1967, by accident arising Pt.III S.14
out of and in the course of his or her
employment, being insurable (occup-
ational injuries) employment, or

(b) an insured person dies and where
immediately before the date of death
he or she was entitled to a dis-
ablement pension in respect of dis-
ablement assessed at 50 per cent. or
more.

Death benefit for
widows and
widowers and
increases for
qualified children.

60.—(1) Death benefit shall be payable to the
widow or widower of the deceased.

(2) Death benefit shall be a pension at the
weekly rate set out in column (2) of Part 1 of
the Second Schedule, and if the beneficiary has
attained pensionable age and is living alone, that
rate shall be increased by the amount set out in
column (6) of that Part.

(3) A pension under subsection (2) shall not
be payable for any period after the remarriage of
the beneficiary.

(4) A beneficiary shall be disqualified for
receiving a pension under this section if and so
long as he or she and any person are cohabiting
as husband and wife.

(5) The weekly rate of pension under subsec-
tion (2) shall be increased by the amount set out
in column (4) of Part 1 of the Second Schedule in
respect of each qualified child who normally
resides with the beneficiary.”.

(2) Part 1 of the Second Schedule to the Principal Act is hereby
amended by the substitution in Column 1 for reference 2 (a) of the
following reference:—

“(a) Pension payable to a widow or
widower (section 60).”.

(3) Section 2 (a) of the No. 2 Act of 1995 is hereby repealed.

PART IV

Sickness Allowance

15.—Part III of the Principal Act is hereby amended by the inser- Sickness allowance.
tion after Chapter 12 (inserted by section 13 of the Act of 1996) of
the following Chapter:

“Chapter 13

Sickness Allowance

Interpretation.

191F.—(1) In this Chapter, ‘weekly means’
means the yearly means divided by 52:

Provided that the amount so calculated shall be rounded up to the nearest £1 where it is a multiple of 50p but not also a multiple of £1 and shall be rounded to the nearest £1 where it is not a multiple of 50p or £1.

(2) In this Chapter, references to means shall be construed as references to means prescribed for the purposes of this Chapter.

Entitlement to allowance.

191G.—(1) Subject to this Act, a person shall be entitled to sickness allowance in respect of any day of incapacity for work which forms part of a period of interruption of employment, if—

- (a) the person has attained the age of 18 years and is under pensionable age, and
- (b) the person's weekly means, subject to subsection (2), do not exceed the amount of sickness allowance (including any increases thereof) that would be payable to the person under this Chapter if that person had no means.

(2) Where the spouse of a claimant for sickness allowance is not the claimant's qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 245A the means of the claimant shall be taken to be one-half the means.

- (3) (a) Other than in the case of a person who immediately before the first day of incapacity for work in respect of which the allowance is claimed was in receipt of any benefit or assistance, a person shall not be entitled to sickness allowance for such period, commencing on the first day of incapacity within a period of interruption of employment, as may be prescribed,
- (b) any period during which a person is disqualified for receiving sickness allowance shall not be reckoned in the computation of any continuous period of interruption of employment of such person.

(4) For the purposes of any provision of this Act relating to sickness allowance—

- (a) a day shall not be treated in relation to any person as a day of incapacity for work unless on that day the person is incapable of work,

[1997.]

Social Welfare Act, 1997.

[No. 10.]

- (b) 'day of interruption of employment' Pt.IV S.15
means a day which is a day of incapacity for work or of unemployment,
- (c) any 3 days of interruption of employment, whether consecutive or not, within a period of 6 consecutive days shall be treated as a period of interruption of employment and any two such periods not separated by a period of more than 13 weeks shall be treated as one period of interruption of employment,
- (d) Sunday shall not be treated as a day of incapacity for work or of unemployment and shall be disregarded in computing any period of consecutive days,
- (e) a day shall not be treated in relation to any person as a day of incapacity for work if, in respect of that day, the person is being paid by his employer.

(5) The amount payable by way of allowance for any day of incapacity for work shall be one-sixth of the appropriate weekly rate, subject to the total amount being paid at any time by virtue of this subsection being rounded up to the nearest 10p where it is a multiple of 5p but not also a multiple of 10p and being rounded to the nearest 10p where it is not a multiple of 5p or 10p.

(6) Regulations may make provision (subject to subsection (4)) as to the days which are or are not to be treated for the purposes of sickness allowance as days of incapacity for work and the regulations may provide that the circumstances in which days are or are not to be treated as days of incapacity for work may vary in relation to the nature and duration of the incapacity.

Rates of allowance and effect of means on rates.

191H.—(1) Subject to this Chapter, the rate (in this Chapter referred to as 'the scheduled rate') of sickness allowance shall be—

- (a) in the case of a person who, in any period of interruption of employment as construed in accordance with section 191G(4), has been in receipt of sickness allowance, sickness benefit, disability allowance, unemployment benefit or unemployment assistance for not less than 390 days of incapacity for work or of unemployment, the weekly rate set out in column (2) at reference 10 (a) in Part I of the Fourth Schedule,
- (b) in any other case, the weekly rate set out in column (2) at reference 10 (b) in Part I of the Fourth Schedule,

increased by—

- (i) the amount set out in column (3) of that Part opposite that reference for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that, except where regulations otherwise provide, the claimant or beneficiary shall not be entitled for the same period to an increase of the allowance under this subparagraph in respect of more than one person, and
- (ii) the appropriate rate set out in column (4) of that Part opposite that reference in respect of each qualified child who normally resides with the claimant or beneficiary.

(2) Sickness allowance shall be payable—

- (a) where the weekly means of the claimant or beneficiary are less than £1, at the scheduled rate,
- (b) where such weekly means are equal to £1, at the scheduled rate reduced by £1, and
- (c) where such weekly means exceed £1, at the scheduled rate, reduced by £1 for each amount (if any) of £1 by which those weekly means exceed £1:

Provided that, if the weekly means of the claimant or beneficiary are equal to or exceed the scheduled rate, no sickness allowance shall be payable.

Amount of increases payable in respect of qualified child in certain cases.

191I.—Any increase of sickness allowance payable pursuant to section 191H in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the claimant or beneficiary is not a qualified adult, and section 191H shall be construed and have effect accordingly.

Total amount payable to a couple.

191J.—(1) Where one of a couple is entitled to sickness benefit, unemployment benefit, injury benefit, disablement pension, old age (contributory) pension, old age (non-contributory) pension, retirement pension or disability pension and the other is entitled to sickness allowance, the total of the amount payable to them by way of such benefit or pension, as the case may be, and such sickness allowance (in this subsection referred to as ‘the relevant amount’) shall not exceed the total amount of benefit or pension, as the case may be, or the total amount of sickness allowance, whichever is the greater (in this subsection

[1997.]

Social Welfare Act, 1997.

[No. 10.]

referred to as 'the greater amount') that would be payable if only one of the couple were in receipt of benefit, pension or sickness allowance, as the case may be, and the benefit, pension or sickness allowance included an increase in respect of the other as his qualified adult; and, if the relevant amount would but for this subsection exceed the greater amount, the amount of sickness allowance payable to the spouse who is entitled to such sickness allowance shall be reduced by the amount of the excess. Pt.IV S.15

(2) Where one of a couple is entitled to unemployment assistance, pre-retirement allowance or disability allowance and the other is entitled to sickness allowance, the total amount payable to them pursuant to this Act shall not exceed the amount which would be payable if only one of them was entitled to be paid unemployment assistance, pre-retirement allowance, disability allowance or sickness allowance, as the case may be, and the other was a qualified adult, and each of them shall be entitled to be paid one-half of the amount which would be payable to him if the other were his qualified adult.

(3) In this section 'couple' means a married couple who are living together or a man and woman who are not married to each other but are cohabiting as husband and wife.

Disqualifications.

191K.—Regulations may provide for disqualifying a person for receiving sickness allowance for such period not exceeding 9 weeks as may be determined under the provisions of this Chapter if he or she fails without good cause to attend for or to submit himself or herself to such medical or other examination or treatment as may be required in accordance with the regulations, or to observe any prescribed rules of behaviour."

16.—(1) The Principal Act is hereby amended by—

Amendments
consequential on
section 15.

(a) the substitution in section 2 for the definition of "day of incapacity for work" of the following definition:

"'day of incapacity for work' save where the context otherwise requires in relation to Part II, has the meaning assigned in section 31, and in relation to Chapter 13 of Part III, has the meaning assigned in section 191G (4);"

(b) the insertion in section 35 after subsection (5) of the following subsection:

"(5A) For the purposes of this section, any day in respect of which a person receives sickness allowance while he is entitled to sickness benefit shall be treated as though it were a day in respect of which sickness benefit was paid."

Pt.IV S.16

(c) the insertion in section 118 (1) after paragraph (k) (inserted by section 15 of the Act of 1996) of the following paragraph:

“(l) sickness allowance.”, and

(d) the insertion in Part I (inserted by section 4 of this Act) of the Fourth Schedule after the rate of allowance contained at reference 9 (inserted by section 15 of the Act of 1996) of the following rates:

“10 Sickness Allowance..

(a) in the case of a person to whom section 191H (1) (a) applies	67.50	40.00	13.20	—	—	—
(b) in the case of a person to whom section 191H (1) (b) applies	65.40	40.00	13.20	—	—	—

..”.

(2) Section 210 (as amended by section 15 of the Act of 1996) of the Principal Act is hereby amended by—

(a) the insertion in the definition of “benefit” in subsection (1) after paragraph (kk) of the following paragraph:

“(kkk) sickness allowance.”,

(b) the substitution in paragraph (a) of subsection (2) for “to (kk)” of “to (kkk)”, and

(c) the substitution in paragraph (c) of subsection (2) for “to (kk)” of “to (kkk)”.

(3) Each provision of the Principal Act mentioned in column (1) of Schedule C to this Act is hereby amended in the manner specified in column (2) of that Schedule opposite the mention of that provision in column (1).

Disability benefit and invalidity pension — changes in title.

17.—(1) Each provision of the Principal Act mentioned in column (1) of Schedule D to this Act is hereby amended in the manner specified in column (2) of that Schedule opposite the mention of that provision in column (1).

(2) Every reference in the Principal Act or any other enactment to—

(a) disability benefit shall be construed as a reference to sickness benefit, and,

(b) invalidity pension shall be construed as a reference to disability pension.

Commencement (Part IV).

18.—This Part shall come into operation on such day or days as the Minister 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 and different provisions.

PART V

Widow's and Widower's (Non-Contributory) Pension

19.—Chapter 6 of Part III of the Principal Act is hereby amended by the substitution for sections 142 to 147 (as amended by section 13 of the Act of 1994) of the following sections:

Widow's and widower's (non-contributory) pension.

“Interpretation.

142.—(1) In this Chapter, save where the context otherwise requires—

‘pension’ means a widow’s (non-contributory) pension in the case of a widow and a widower’s (non-contributory) pension in the case of a widower;

‘weekly means’ shall be the yearly means divided by 52;

‘widow’ means a widow or a woman who would otherwise be a widow but for the fact that her marriage has been dissolved, being a dissolution that is recognised as valid in the State;

‘widower’ means a widower or a man who would otherwise be a widower but for the fact that his marriage has been dissolved, being a dissolution that is recognised as valid in the State.

(2) For the purposes of this Chapter—

(a) means shall be calculated in accordance with the Rules contained in Part II of the Third Schedule, and

(b) a widow who has remarried shall not be regarded as the widow of her former husband and a widower who has remarried shall not be regarded as the widower of his former wife.

Entitlement to pension.

143.—(1) Subject to this Act, a pension shall be payable to a widow or a widower.

(2) A pension payable to a widow or widower shall, subject to this Chapter, continue to be payable unless the beneficiary remarries and in such a case the pension shall cease as and from the beneficiary’s remarriage.

Rate of pension.

144.—(1) The rate (in this Chapter referred to as ‘the scheduled rate’) of pension shall be the weekly rate set out in column (2) of Part I of the Fourth Schedule.

(2) A pension shall be payable—

(a) where the weekly means of the claimant or beneficiary do not exceed £6, at the scheduled rate, and

(b) where such weekly means exceed £6, at the scheduled rate reduced by £2 for

each amount (if any) of £2 by which those weekly means exceed £6, any fraction of £2 in those weekly means being treated for this purpose as £2:

Provided that, if the rate calculated pursuant to this paragraph at which, but for this proviso, the pension would be payable is less than £2, the pension shall not be payable.

Increases.

145.—The weekly rate of pension payable in accordance with section 144 shall be increased—

(a) by the amount set out in column (6) of Part I of the Fourth Schedule where the beneficiary has attained pensionable age and is living alone, and

(b) by the amount set out in column (7) of Part I of the Fourth Schedule where the beneficiary has attained the age of 80 years.

Disqualification.

146.—A widow or widower, as the case may be, shall not, if and so long as she or he and any person are cohabiting as husband and wife, be entitled to and shall be disqualified for receiving payment of pension.

Provisions against double pensions.

147.—Where a widow or widower would, but for this section, be entitled to both a widow's (contributory) pension or a widower's (contributory) pension, as the case may be, and a pension under this Chapter, the latter pension shall not be payable except insofar as is provided by regulations under section 209."

Amendments consequential on section 19.

20.—(1) Each provision of the Principal Act mentioned in *column (1) of Schedule E* to this Act is hereby amended in the manner specified in *column (2) of that Schedule*.

(2) In the Principal Act and in any other enactment every reference to a widow's (non-contributory) pension shall be construed as a reference to a widow's (non-contributory) pension or a widower's (non-contributory) pension, as the case may require.

(3) Section 150 of the Principal Act is hereby amended by the renumbering of that section as subsection (1) thereof and the insertion of the following subsection:

“(2) In this section, ‘pension’ means a widow's (non-contributory) pension, a widower's (non-contributory) pension or an orphan's (non-contributory) pension, as the case may require.”.

Commencement (Part V).

21.—This Part shall come into operation on such day or days as the Minister 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 and different provisions.

PART VI

Other Social Assistance Improvements

22.—(1) Section 191B (inserted by section 13 of the Act of 1996) is hereby amended by the substitution for subsection (3) of the following subsections: Disability allowance
— extension of
entitlement etc.

“(3) Subject to subsection (3A), a person shall not be entitled to receive disability allowance for any period during which that person is resident in an institution, except and insofar as that person, being a beneficiary, is admitted to such institution for the purposes of undergoing medical or other treatment of a temporary nature therein for a period not exceeding 13 weeks.

(3A) Subject to this Chapter, regulations may, subject to such conditions and in such circumstances as may be prescribed, provide for entitling to disability allowance a person who would be entitled thereto but for the fact that he or she is resident in an institution, where the person is temporarily resident elsewhere for—

- (i) a period of not less than two days a week, or
- (ii) such other period as may be prescribed:

Provided that in the case of a person to whom paragraph (i) applies, disability allowance payable by virtue thereof shall be payable at a rate less than that specified in the Fourth Schedule.”.

(2) Section 191E (inserted by section 13 of the Act of 1996) of the Principal Act is hereby amended by the substitution for “, old age (non-contributory) pension, retirement pension or invalidity pension” of “or retirement pension”.

(3) Section 231 of the Principal Act is hereby amended by the insertion in subsection (1) after “Part II” of “or Part III”.

23.—(1) Section 163 (as amended by section 12 of the Act of 1995) of the Principal Act is hereby amended by the insertion after subsection (1) of the following subsection: Carer’s allowance
— extension of
entitlement.

“(1A) The Minister may make regulations specifying the circumstances and conditions under which a person is to be regarded as providing full-time care and attention to a relevant pensioner.”.

(2) Section 165 (as amended by section 16 of the Act of 1994) of the Principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Subject to this Act, the rate (in this Chapter referred to as ‘the scheduled rate’) of carer’s allowance shall be—

- (a) in the case of a person who is a carer of more than one relevant pensioner, the weekly rate set out in column (2) at reference 6 (a) in Part I of the Fourth Schedule,
- (b) in any other case, the weekly rate set out in column (2) at reference 6 (b) in Part I of the Fourth Schedule,

Pt.VI S.23

increased by the appropriate amount set out in column (4) of that Part opposite that reference in respect of each qualified child who normally resides with the beneficiary.”.

(3) This section shall come into operation on the 12th day of June, 1997.

Pre-retirement allowance — extension of entitlement.

24.—Section 127 of the Principal Act is hereby amended by the substitution for subsection (1) (c) (inserted by section 25 of the Act of 1996) of the following paragraph:

- “(c) (i) who has been in receipt of unemployment benefit or unemployment assistance in respect of not less than 390 days of unemployment in any continuous period of unemployment in the immediately preceding period as construed in accordance with section 120 (3),
- (ii) being a separated spouse, has not engaged in remunerative employment or self-employment at any time in such preceding period as may be prescribed, or
- (iii) immediately before the week in respect of which pre-retirement allowance is claimed, was in receipt of—
- (A) one-parent family payment, but has ceased to be entitled to such payment by virtue of no longer being regarded as a qualified parent within the meaning of section 157 (1), or
- (B) carer’s allowance, but has ceased to be entitled to such allowance by virtue of no longer being regarded as a carer within the meaning of section 163 (1).”.

Assessment of means — standardisation of provisions relating to assessment of property (capital).

25.—(1) Rule 1 (as amended by section 17 (3) of the Act of 1996) of Part II of the Third Schedule to the Principal Act is hereby amended by—

- (a) the substitution for “Subject to paragraphs (2) and (3)” of “Subject to paragraphs (2A) and (3)”,
- (b) the substitution for paragraphs (1) and (2) of the following paragraph:

“(1) other than in such circumstances and subject to such conditions and for such periods as may be prescribed, the yearly value of property belonging to the person (not being property personally used or enjoyed by the person or a farm of land leased by him or her) which is invested or is otherwise put to profitable use by the person or which, though capable of investment or profitable use is not invested or put to profitable use by the person, the yearly value of the property being calculated as follows:

- (a) the first £2,000 of the capital value of the property shall be excluded,
- (b) the yearly value of the next £20,000 of the capital value of the property shall be assessed at 7.5 per cent., and

[1997.]

Social Welfare Act, 1997.

[No. 10.]

- (c) the yearly value of so much of the capital value of the property as exceeds £22,000 shall be assessed at 15 per cent.,

Pt.VI S.25

but no account shall be taken under any other provision of these Rules of any appropriation of the property for the purpose of current expenditure;”,

- (c) the deletion in paragraph (2A) (inserted by section 17 of the Act of 1996) of “widow’s (non-contributory) pension, orphan’s (non-contributory) pension”, and

- (d) the substitution for paragraph (3) of the following paragraph:

“(3) where, for the purposes of a relevant payment under the provisions of section 18 (1) (b) or (c) of the Social Welfare Act, 1996, the means are or include means assessed in accordance with paragraph (2A) and the means as so assessed are not less than £52, the means shall be taken to be increased by £52;”.

(2) The provisions of this section shall not have the effect of reducing the rate of assistance payable below the rate payable immediately before the commencement of this section.

26.—(1) The Third Schedule to the Principal Act is hereby amended by—

Assessment of means — consolidation of disregards etc.

- (a) the substitution for paragraph (2) (as amended by section 15 of the Act of 1996) of Rule 1 of Part I of the following paragraph:

“(2) all income which he or his spouse may reasonably expect to receive during the succeeding year in cash, whether as contributions to the expenses of the household or otherwise, but excluding—

- (a) such amount as may be prescribed of all moneys earned by his spouse from insurable employment,
- (b) any moneys received by way of benefit, pension, assistance, allowance, supplement or continued payment for qualified children under Part II, III, IV, V or VA or by way of a payment corresponding to child benefit under Part IV, from another Member State,
- (c) any income arising from a bonus under a scheme administered by the Minister for Arts, Culture and the Gaeltacht for the making of special grants to parents or guardians resident in the Gaeltacht or Breac-Ghaeltacht (as defined in such scheme) of children attending primary schools,
- (d) in the case of a qualified applicant under a scheme administered by the Minister for Arts, Culture and the Gaeltacht and known as Scéim na bhFoghlaimoirí Gaeilge, any income received under that scheme in respect of a person who is temporarily resident with the qualified applicant, together with

any other income received in respect of such temporary resident,

- (e) an amount of an allowance, dependant's allowance, disability pension or wound pension under the Army Pensions Acts, 1923 to 1980, or a combination of such allowances and such pensions so far as such amount does not exceed £80 per year,
- (f) any moneys received from a charitable organisation, being a body whose activities are carried on otherwise than for profit (but excluding any public or local authority) and one of whose functions is to assist persons in need by making grants of money to them,
- (g) such amount, as may be prescribed, of income from employment by a health board or by a person approved by a health board, as a home help,
- (h) any moneys received by way of training allowance from an organisation while undergoing a course of rehabilitation training provided by the organisation (being an organisation approved of by the Minister for Health for the purposes of the provision of such training),
- (i) any moneys, except so far as they exceed £104 per year, received by such person or by the spouse of such person in respect of work as an outworker under a scheme that is, in the opinion of the Minister, charitable in character and purpose,
- (j) where he or his spouse is engaged on a seasonal basis in the occupation of fishing, one-half of so much of the income derived therefrom as does not exceed £120 per year and one-third of so much of such income as exceeds £120 per year but does not exceed £300 per year,
- (k) payments by a health board in respect of a child who is boarded out,
- (l) other than in the case of disability allowance and subject to paragraph (7), all moneys earned by him or her in respect of current personal employment under a contract of service,
- (m) in such cases as may be prescribed, any moneys received by way of a maintenance grant under a scheme administered by the Minister for Education under the Local Authorities (Higher Education Grants) Acts, 1968 to 1992,
- (n) any moneys received by way of a mobility allowance payable under section 61 of the Health Act, 1970,
- (o) other than in the case of disability allowance, such income, as may be prescribed, arising from such activities as may be prescribed,
- (p) other than in the case of disability allowance and subject to paragraph (6), any moneys derived from insurable employment of a seasonal nature,

[1997.]

Social Welfare Act, 1997.

[No. 10.]

Pt.VI S.26

(q) payments by a health board in respect of the provision of accommodation for a child under section 5 of the Child Care Act, 1991,

(r) other than in the case of disability allowance, all moneys received, except and in so far as they exceed such amount as may be prescribed, under a scheme administered by the Minister for Agriculture, Food and Forestry and known as the Rural Environment Protection Scheme,

(s) in the case of disability allowance—

(i) any sums received by way of assistance in the maintenance at home of handicapped children under section 61 of the Health Act, 1970, and known as domiciliary care allowance, and

(ii) such amount as may be prescribed of earnings from employment of a rehabilitative nature,

(t) such other income received by a person or his or her spouse as may be prescribed;”,

(b) the substitution for paragraph (5) of Rule 1 of Part I of the following paragraph:

“(5) other than in the case of disability allowance the yearly value, ascertained in the prescribed manner, of any benefit or privilege enjoyed by that person by virtue of residing with a parent or step-parent.”,

(c) the substitution for paragraph (4) (as amended by section 17 of the Act of 1996) of Rule 1 of Part II of the following paragraph:

“(4) all income in cash (including, in the case of widow’s (non-contributory) pension, orphan’s (non-contributory) pension and one-parent family payment, the net cash value of such non-cash benefits as may be prescribed), and such income received by a qualified child or qualified children as may be prescribed which the person may reasonably expect to receive during the year succeeding the date of calculation, but excluding—

(a) any sums arising from the investment or profitable use of property (not being property personally used or enjoyed by the person or a farm of land leased by him or her),

(b) any sums received by way of pension, benefit, allowance, assistance, supplement or continued payment for qualified children under Part II, III, IV, V or VA or by way of a payment, corresponding to child benefit under Part IV, from another Member State,

(c) any income arising from a bonus under a scheme administered by the Minister for Education for the making of special grants to parents or guardians resident in the Gaeltacht or Breac-Ghaeltacht (as defined in such scheme) of children attending primary schools,

- (d) in the case of a qualified applicant under a scheme administered by the Minister for Arts, Culture and the Gaeltacht and known as Scéim na bhFoghlaimoiri Gaeilge, any income received under that scheme in respect of a person who is temporarily resident with the qualified applicant, together with any other income received in respect of such temporary resident,
- (e) any moneys from a charitable organisation, being a body whose activities are carried on otherwise than for profit (but excluding any public or local authority) and one of whose functions is to assist persons in need by making grants of money to them,
- (f) any income arising by way of—
- (i) infectious diseases maintenance allowance to or in respect of the person or the person's dependants,
 - (ii) payments by a health board in respect of a child who is boarded out, or
 - (iii) a mobility allowance payable under section 61 of the Health Act, 1970, to the person,
- (g) subject to Rule 5, an amount of an allowance, dependant's allowance, disability pension or wound pension under the Army Pensions Acts, 1923 to 1980 (including, for the purposes of this subparagraph, a British war pension) or of a combination of such allowances and such pensions except so far as such amount exceeds £80 per year,
- (h) in the case of a blind person—
- (i) his earnings (including wages and profit from any form of self-employment) other than employment of a rehabilitative nature, as a blind person except and in so far as the annual amount of such earnings is calculated to exceed an amount made up as follows—

£312, plus £208 if his or her spouse is living with or is wholly or mainly maintained by him or her or, being a single person, widow or widower, is maintaining wholly or mainly a person over the age of 16 years having the care of one or more than one qualified child who normally resides or reside with him or her, plus £104 for each qualified child normally residing with him or her of whom account has not already been taken in accordance with this paragraph in calculating the means of another person,
 - (ii) such amount as may be prescribed of his or her earnings from employment of a rehabilitative nature, or

[1997.]

Social Welfare Act, 1997.

[No. 10.]

- (iii) any income arising from a grant or allowance in pursuance of a scheme for promoting the welfare of the blind prepared under section 2 of the Blind Persons Act, 1920, Pt.VI S.26
- (j) in the case of a person who is not a blind person or a qualified parent within the meaning of section 157, and who has a qualified child who normally resides with him or her, his or her earnings (including wages and profit from any form of self-employment), except and in so far as the annual amount of such earnings is calculated to exceed £104 for each such child of whom account has not already been taken in accordance with this paragraph in calculating the means of another person,
- (j) in the case of a qualified parent, within the meaning of section 157, who has earnings (including wages and profit from any form of self-employment), an annual amount of such gross earnings of £6,000 together with one-half of the amount of that parent's gross earnings, if any, in excess of that amount,
- (k) in the case of a person who is not a blind person, any moneys, except so far as they exceed £52 per year, received by the person in respect of employment as an outworker under a scheme that is, in the opinion of the Minister, charitable in character and purpose,
- (l) such amount, as may be prescribed, of income from employment by a health board or by a person approved by a health board, as a home help,
- (m) any moneys received by way of a training allowance from an organisation while undergoing a course of rehabilitation training provided by the organisation (being an organisation approved by the Minister for Health for the purposes of the provision of such training),
- (n) in the case of blind pension or one-parent family payment, any moneys received by way of a maintenance grant under a scheme administered by the Minister for Education under the Local Authorities (Higher Education Grants) Acts, 1968 to 1992,
- (o) such income, as may be prescribed, arising from such activities as may be prescribed,
- (p) payments by a health board in respect of the provision of accommodation for a child under section 5 of the Child Care Act, 1991,
- (q) in the case of old age (non-contributory) pension, all moneys received, except and in so far as they exceed such amount as may be prescribed, under a scheme administered by the Minister for Agriculture, Food and Forestry and known as the Rural Environment Protection Scheme,

(r) in the case of a person who has attained pensionable age, any moneys received under a scheme administered by the Minister for Agriculture, Food and Forestry and known as the Early Retirement Scheme from Farming operated under Council Regulation (EEC) No. 2079/92 of 30 July 1992*,

(s) for the purposes of one-parent family payment, any moneys received by way of maintenance payments (including maintenance payments made to or in respect of a qualified child) except and in so far as they exceed the annual housing costs actually incurred by the qualified parent, subject to such maximum amount as shall be prescribed and for this purpose—

‘housing costs’ means rent or repayment of a loan entered into solely for the purpose of defraying money employed in the purchase, repair or essential improvement of the residence in which the qualified parent is, for the time being, residing; and

‘maintenance payments’ means any payment received under or pursuant to such maintenance arrangement as may be prescribed,

(t) for the purposes of old age (non-contributory) pension, any moneys in respect of rent received from a person who resides with the applicant and but for the residence of such person the applicant would reside alone,

(u) such other income received by a person or his or her spouse as may be prescribed,

and such income shall, in the absence of other means for ascertaining it, be taken to be that actually received during the year immediately preceding the date of calculation:

Provided that, where such income is attributable to a period prior to the year immediately preceding the date of calculation but is received in a subsequent year, it shall be regarded for the purposes of this paragraph as having been received in the year to which it is attributable;”, and

(d) the substitution for paragraph (1) (as amended by section 37 of the Act of 1996) of Rule 1 of Part III of the following paragraph:

“(1) all income in cash, including the net cash value of any non-cash earnings derived from personal exertions and the actual or estimated amount of any household income, whether as contributions to the expenses of the household or otherwise, but excluding—

(a) any sums received by way of child benefit under Part IV or a payment corresponding to the said benefit from another Member State,

* (O.J. No. L215, 30.7.92 p.91)

[1997.]

Social Welfare Act, 1997.

[No. 10.]

- (b) payments by a health board in respect of a child who is boarded out, Pt.VI S.26
- (c) in the case of a qualified applicant under a scheme administered by the Minister for Arts, Culture and the Gaeltacht and known as Scéim na bhFoghlaimoirí Gaeilge, any income received under that scheme in respect of a person who is temporarily resident with the qualified applicant, together with any other income received in respect of such temporary resident,
- (d) any sums received by way of allowance for domiciliary care of handicapped children under section 61 of the Health Act, 1970,
- (e) any sums arising from the investment or profitable use of property (not being property personally used or enjoyed by such person or a farm of land leased by him or her),
- (f) any moneys received from a charitable organisation, being a body whose activities are carried on otherwise than for profit (but excluding any public or local authority) and one of whose functions is to assist persons in need by making grants of money to them,
- (g) such amount, as may be prescribed, of income from employment by a health board or by a person approved by a health board, as a home help,
- (h) any moneys received by way of a training allowance from an organisation while undergoing a course of rehabilitation training provided by the organisation (being an organisation approved of by the Minister for Health for the purposes of the provision of such training),
- (i) any moneys received by way of a mobility allowance payable under section 61 of the Health Act, 1970,
- (j) such income, as may be prescribed, arising from such activities as may be prescribed,
- (k) any income arising from a grant or allowance in pursuance of a scheme for promoting the welfare of the blind prepared under section 2 of the Blind Persons Act, 1920,
- (l) payments by a health board in respect of the provision of accommodation for a child under section 5 of the Child Care Act, 1991,
- (m) such amount, as may be prescribed, of earnings from employment of a rehabilitative nature,
- (n) in such cases as may be prescribed, any moneys received by way of a maintenance grant under a scheme administered by the Minister for Education under the Local Authorities (Higher Education Grants) Acts, 1968 to 1992,

Pt. VI S.26

(o) such other income received by a person or his or her spouse as may be prescribed;”.

(2) Section 4 (4) (as amended by section 37 of the Act of 1996) of the Principal Act is hereby amended by the substitution for “1 (2) (m), 1 (2) (u)” of “1 (2) (j), 1 (2) (t)”.

Commencement
(Part VI).

27.—This Part shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purposes or provision and different days may be so appointed for different purposes and different provisions.

PART VII

Miscellaneous Amendments

Adult dependant —
change in title and
payment of reduced
rate.

28.—(1) Section 120(2) (inserted by section 22 of the Act of 1996) is hereby amended by the substitution for paragraph (d) of the following paragraph:

“(d) Where the spouse of a claimant for unemployment assistance is not the claimant’s qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 245A, the means of the claimant shall be taken to be one-half the means.”.

(2) Section 127 of the Principal Act is hereby amended by the substitution for subsection (2) (inserted by section 22 of the Act of 1996) of the following subsection:

“(2) Where the spouse of a claimant for pre-retirement allowance is not the claimant’s qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 245A, the means of the claimant shall be taken to be one-half the means.”.

(3) Section 191B (inserted by section 13 of the Act of 1996) of the Principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Where the spouse of a claimant for disability allowance is not the claimant’s qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 245A, the means of the claimant shall be taken to be one-half the means.”.

(4) Each provision of the Principal Act mentioned in *column (1)* of *Schedule F* to this Act is hereby amended in the manner specified in *column (2)* of that Schedule opposite the mention of that provision in *column (1)*.

(5) Every reference in the Principal Act or any other enactment to “adult dependant” shall be construed as a reference to “qualified adult”.

Liability to
maintain family.

29.—(1) Section 247 of the Principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

[1997.]

Social Welfare Act, 1997.

[No. 10.]

Pt.VII S.29

“(1) Subject to this Act, every question to which this section applies shall, save where the context otherwise requires, be decided by a deciding officer.”, and

- (b) the substitution in subsection (1) for paragraph (dd) (inserted by section 7(3) of the Act of 1996) and (e) of the following paragraphs:

“(e) Part VA (continued payment for qualified children),

(f) Part VI (general provisions relating to social insurance, social assistance and insurability), and

(g) Part IX (liability to maintain family).”.

(2) Section 284(1) (as amended by section 19 of the Act of 1996) of the Principal Act is hereby amended by—

- (a) the substitution for the definition of “allowance” and “order of the Court” of the following definitions:

“‘allowance’ means one-parent family payment, supplementary welfare allowance or a relevant payment payable by virtue of section 18(1)(b) of the Social Welfare Act, 1996;”,

“‘order of the Court’ means a maintenance order (including maintenance specified in the order to be in respect of a child), including a lump sum order, a variation order or an interim order, made by a court under the Guardianship of Infants Act, 1964, the Family Law (Maintenance of Spouses and Children) Act, 1976, the Status of Children Act, 1987, the Judicial Separation and Family Law Reform Act, 1989, the Family Law Act, 1995 or under any other enactment relating to maintenance, as the case may be, or an order of the court made on foot of a separation agreement;”,

- (b) the insertion after the definition of “earnings” of the following definition—

“‘husband’ in relation to a woman who has been married more than once, refers only to her last husband and for this purpose that last husband shall be construed as including the man to whom, but for the fact the marriage has been dissolved, being a dissolution recognised as valid in the State, she would be married;”, and

- (c) the insertion after the definition of “order of the Court” of the following definition—

“‘wife’ in relation to a man who has been married more than once, refers only to his last wife and for this purpose that last wife shall be construed as including the woman to whom, but for the fact that the marriage has been dissolved, being a dissolution recognised as valid in the State, he would be married.”.

(3) Section 286 of the Principal Act is hereby amended by—

- (a) the substitution in subsection (1) for “that authority may determine” of “may be determined”, and

(b) the insertion after subsection (1) of the following subsection:

“(1A) Subject to subsection (1), the Minister may make regulations, in particular and without prejudice to the generality of this Part to provide for the basis on which the amount which a liable relative, within the meaning of section 286(2), is liable to contribute by virtue of section 286(1) is determined, and for this purpose the regulations may—

- (a) disregard in whole or in part any amount of the income of a liable relative from any source specified in the regulations, and
- (b) require an employer or any other person to furnish such information as may be required for the purposes of determining the amount which a liable relative is required to contribute.”.

(4) This section shall come into operation on such day as the Minister may appoint by order.

Unemployment benefit and unemployment assistance — relaxation of waiting days requirement etc.

30.—(1) Section 42 of the Principal Act is hereby amended by—

(a) the substitution for subsection (4A) (inserted by section 19(1)(c) of the Act of 1994) of the following subsections:

“(4A) Notwithstanding subsection (4)(c), where in respect of any day of unemployment (referred to in this subsection as ‘the relevant day of unemployment’) which forms part of a period of interruption of employment a person has not, before the relevant day of unemployment, been entitled, in the said period of interruption of employment, to unemployment benefit in respect of a day of unemployment within the period of two years prior to the relevant day of unemployment, that day shall be treated as the first day of unemployment in a separate period of interruption of employment subject to the provisions of subsection (3) not applying as respects such separate period of interruption of employment.

(4B) For the purposes of this Chapter and Chapter 2 of Part III, the Minister shall make regulations specifying the circumstances in which a person is or is not to be regarded as being available for or genuinely seeking employment and these circumstances may vary in relation to—

- (a) the person’s previous work experience,
- (b) the period for which he has been unemployed, and
- (c) the prevailing employment conditions.”.

(b) the insertion in section 42(5), after paragraph (d), of the following paragraph—

“(e) participation in a scheme administered by the Commission of the European Union and known as the European Voluntary Service Initiative.”.

(2) Section 120 of the Principal Act is hereby amended by— Pt.VII S.30

(a) the substitution in subsection (2) (inserted by section 22(1)(a) of the Act of 1996) for paragraph (a) of the following paragraph:

“(a) otherwise than as provided for in regulations, a person shall not be entitled to unemployment assistance in respect of the first 3 days of unemployment in any continuous period of unemployment.”, and

(b) the insertion in subsection (5) after paragraph (d) of the following paragraph:

“(e) participation in a scheme administered by the Commission of the European Union and known as the European Voluntary Service Initiative.”.

(3) Section 4(4)(a) of the Principal Act is hereby amended by the insertion after “42(4),” of “42(4B),”.

31.—The Principal Act is hereby amended by—

Repayment of benefit, assistance etc. on personation.

(a) the insertion after section 279 of the following section:

“279A.—Where a person is convicted of an offence under section 32 of the Larceny Act, 1916, by virtue of having received any benefit, assistance, child benefit or family income supplement which he was not entitled to receive, that person shall be liable to pay—

(a) to the Social Insurance Fund, in the case of benefit,

(b) to the Minister, in the case of assistance (other than supplementary welfare allowance), child benefit or family income supplement, and

(c) to the health board, in the case of supplementary welfare allowance,

on demand a sum not exceeding the amount of such benefit, assistance, child benefit or family income supplement to which, the said conviction applies.”, and

(b) the substitution in subsections (6) and (7) of section 281 for “or section 279” of “, 279 or 279A” in each place where it occurs.

32.—(1) Section 205 of the Principal Act is hereby amended by the substitution for subsection (2) of the following subsections:

Disqualifications for claims made outside prescribed time.

“(2) Where a person fails to make a claim for benefit (including any increases thereof) within the prescribed time, he or she shall be disqualified for payment—

(a) in the case of old age (contributory) pension, retirement pension, widow’s (contributory) pension, widower’s (contributory) pension or orphan’s (contributory) allowance, in respect of any period more than 12 months before the date on which the claim is made,

- (b) in the case of invalidity pension, in respect of any period more than 6 months before the date on which the claim is made,
- (c) in the case of unemployment benefit, health and safety benefit, adoptive benefit, occupational injuries benefit, death grant, unemployment assistance, pre-retirement allowance, old age (non-contributory) pension, blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, orphan's (non-contributory) pension, one-parent family payment, carer's allowance and family income supplement, in respect of any period before the date on which the claim is made,
- (d) in the case of disability benefit, sickness allowance or disability allowance, in respect of any period more than 7 days before the date on which the claim is made, and
- (e) in the case of maternity benefit—
- (i) where the claim is made before the end of the week of confinement, payment in respect of any period before the beginning of the week in which the claim is made,
 - (ii) where the claim is made after the end of the week of confinement, payment in respect of any period before the beginning of the 7th week before the week in which the claim is made not being earlier than the commencement of the week of confinement:

Provided that in the case of a benefit to which paragraphs (c), (d) or (e) apply, where a claimant proves to the satisfaction of a deciding officer or an appeals officer that—

- (I) on a date earlier than the date on which his or her claim for benefit (including any increases thereof) was made, apart from satisfying the condition of making a claim, he or she was entitled thereto, and
- (II) throughout the period between the earlier date and the date on which his or her claim was made there was good cause for the delay in making a claim,

he or she shall not be disqualified for receiving payment in respect of any such period referred to in subparagraph (I) which does not exceed 6 months before the date on which the claim is made.

(2A) A person who fails to make a claim for child benefit within the prescribed time shall be disqualified for payment in respect of any day before the date on which the claim is made unless a deciding officer or appeals officer is satisfied that there was good cause for delay in making the claim, in which case, child benefit shall be payable from the 1st day of the month following that in which the claimant became a qualified person within the meaning of section 193.

[1997.]

Social Welfare Act, 1997.

[No. 10.]

Pt.VII S.32

(2B) A claimant for disability benefit or injury benefit who fails or neglects for a period exceeding 6 months to submit or to continue to submit medical or other satisfactory evidence of the incapacity, shall be disqualified for receiving benefit in respect of any such period but where a deciding officer or an appeals officer is satisfied that there was good cause for delay in submitting or continuing to submit evidence of incapacity, he or she may extend the period of 6 months to the date on which the evidence is submitted.

(2C) Where a person fails to make a claim for continued payment for qualified children within the prescribed time, he or she shall be disqualified for receiving the said payment.

(2D) Notwithstanding subsection (2), the periods specified in that subsection in respect of which payment may be made before the date on which a claim is made may, subject to such conditions and in such circumstances as may be prescribed, be extended by an officer of the Minister appointed by the Minister for this purpose.”.

(2) Section 4 (4) (a) of the Principal Act is hereby amended by the insertion after “203(1),” of “205(2D),”.

(3) Articles 104, 104A, 105, 107 (4), 107 (5), 109 (1)(b) and 109 (2) of the Social Welfare (Consolidated Payments Provisions) Regulations, 1994 (S.I. No. 417 of 1994), and Articles 11A (3), 11A (4), 11A (7) and 11B (inserted by Article 9 of the Social Welfare (Claims and Payments) (Amendment) Regulations, 1967 (S.I. No. 85 of 1967), of the Social Welfare (Claims and Payments) Regulations, 1952 (S.I. No. 374 of 1952), are hereby revoked.

(4) This section shall apply in respect of a claim for any benefit, assistance, family income supplement, child benefit or continued payment for qualified children under the Principal Act made on or after the 1st day of January, 1997.

(5) This section shall come into operation on such day as the Minister may appoint by order.

33.—(1) Section 20 of the Principal Act is hereby amended by—

Collection and refund of contributions.

(a) the substitution in subsection (1) for “18 (1) (b) and (c)” of “18 (1) (a), (b) and (c)”, and

(b) the substitution in subsection (4) for “Self-employment contributions payable” of “Other than in the case of such class or classes of self-employed contributors as may be prescribed, self-employment contributions payable”.

(2) Section 29 of the Principal Act is hereby amended by the insertion after subsection (6) of the following subsection:

“(7) Regulations shall provide for the return, subject to any conditions, restrictions and deductions specified in the regulations, of so much of any self-employment contribution paid by a self-employed contributor or a voluntary contribution paid under section 23 by a voluntary contributor, who—

(a) had attained the age of 56 years on the 6th day of April, 1988, and

Pt.VII S.33

(b) became a self-employed contributor within the meaning of section 17 on or after the 6th day of April, 1988,

as may be determined in accordance with the regulations to have been paid in respect of old age (contributory) pension.”.

(3) The Principal Act is hereby amended by the insertion after section 29 of the following section:

“Return of employment contributions.

29A.—Regulations shall provide for the return, subject to any conditions, restrictions and deductions specified in regulations, of so much of any employment contribution, as may be prescribed, paid by virtue of section 10(1)(d), in respect of a master or a seaman (within the meaning of section 742 of the Merchant Shipping Act, 1894), in respect of his or her employment on such class or classes of vessel as may be prescribed.”.

Appeals to Circuit Court.

34.—The Principal Act is hereby amended by the insertion after section 253 of the following section:

“Appeals to Circuit Court.

253A.—(1) Whenever a person has appealed a decision of a deciding officer then, where the Chief Appeals Officer certifies that the ordinary appeals procedures set out in this Chapter are inadequate to secure the effective processing of such appeal, the Chief Appeals Officer shall cause a direction to be issued to the person who has submitted the appeal directing him or her to submit the appeal to the Circuit Court and the Circuit Court may, on hearing the appeal as it thinks proper, affirm the decision or substitute the decision of the deciding officer in accordance with this Act and upon the same evidence as would otherwise be available to the Appeals Officer.

(2) The appellant shall give notice of the appeal as submitted to the Circuit Court to the deciding officer.

(3) No appeal shall lie from a decision of the Circuit Court on an appeal under this section.”.

Amendment to references following consolidation of regulations.

35.—Each provision of the Principal Act mentioned in *column 1* of *Schedule G* to this Act is hereby amended in the manner specified in *column (2)* of that Schedule opposite the mention of that provision in *column (1)*.

Continuance of instruments.

36.—An instrument that is made under a provision of the Principal Act (other than section 205(2)) that is amended by this Act and that is in force immediately before the commencement of the amendment shall continue in force as if made under the provision so amended.

[1997.]

Social Welfare Act, 1997.

[No. 10.]

PART VIII

Amendment of Section 4 of National Social Service Board Act, 1984

37.—(1) The National Social Service Board Act, 1984 is hereby amended by—

National Social Service Board — functions.

(a) the substitution in section 4 (as amended by the National Social Service Board Regulations, 1988 (S.I. No. 19 of 1988)) for subsection (1) of the following subsection:

“(1) The functions of the Board shall be—

- (a) to advise the Minister and keep him or her informed on the development of social services generally,
- (b) whenever the Minister so requests to advise him or her and keep him or her informed on such social services generally, or aspects or branches thereof, as he or she may specify,
- (c) to support, promote and develop the provision of impartial information on the impact of social policy for Government and to service providers in order to highlight issues of concern to users of social services and to contribute to the planning and delivery of these services,
- (d) to promote greater accessibility, co-ordination and public awareness of social services and of information, advice and advocacy services delivered for those purposes by both the statutory and voluntary sectors,
- (e) to promote and support the development of independent information, advice and advocacy services throughout the country to ensure that all citizens have access to accurate, comprehensive and clear information to enable them to avail of the full range of social services,
- (f) to promote and support the development of the independent voluntary social services sector,
- (g) to give effect to their support where appropriate by providing financial or other resources such as integrated information, training and development services,
- (h) to promote, develop, encourage and assist, whether by means of the provision of financial or material aid, personnel or services or otherwise, the work in relation to social services of such persons as the Minister may specify, and
- (i) to develop services to address identified needs whenever the Minister so requests.”, and

(b) the substitution in section 1 for the definition of “Minister” of the following definition:

“ ‘Minister’ means the Minister for Social Welfare.”.

(2) Regulations 4, 5 and 6 of the National Social Service Board Regulations, 1988 (S.I. No. 19 of 1988), are hereby revoked.

PART IX

Amendment of Health Contributions Act, 1979 and Youth Employment Agency Act, 1981

Amendment of section 7A of Health Contributions Act, 1979.

38.—(1) Section 7A of the Health Contributions Act, 1979, is hereby amended—

(a) in subsection (1), by—

(i) the substitution in paragraph (a) of “£197” for “£188” (inserted by section 45(1)(a) of the Act of 1996),

(ii) the substitution in paragraph (b) of “£10,250” for “£9,750” (inserted by section 45(1)(b) of the Act of 1996), and

(iii) the substitution for paragraph (c) of the following paragraphs:

“(c) any payment made by him under or pursuant to a maintenance arrangement within the meaning of section 3 of the Finance Act, 1983, relating to a marriage for the benefit of the other party to the marriage, unless the provisions of section 4 of that Act apply in respect of such payment, or

(d) any distribution within the meaning of the Corporation Tax Act, 1976, in relation to which section 83(4) of that Act applies.”, and

(b) the substitution in subsection (2) of “£10, 250” for “£9, 750” (inserted by section 45(1)(c) of the Act of 1996).

(2) This section shall come into operation on the 6th day of April, 1997.

Amendment of section 18A of Youth Employment Agency Act, 1981.

39.—(1) Section 18A of the Youth Employment Agency Act, 1981, is hereby amended—

(a) in subsection (1), by—

(i) the substitution in paragraph (a) of “£197” for “£188” (inserted by section 46(1)(a) of the Act of 1996),

(ii) the substitution in paragraph (b) of “£10,250” for “£9,750” (inserted by section 46(1)(b) of the Act of 1996), and

[1997.]

Social Welfare Act, 1997.

[No. 10.]

(iii) the substitution for paragraph (c) of the following Pt.IX S.39 paragraphs:

“(c) any payment made by him under or pursuant to a maintenance arrangement within the meaning of section 3 of the Finance Act, 1983, relating to a marriage for the benefit of the other party to a marriage, unless the provisions of section 4 of that Act apply in respect of such payment, or

(d) any distribution within the meaning of the Corporation Tax Act, 1976, in relation to which section 83(4) of that Act applies.”, and

(b) the substitution in subsection (2) of “£10, 250” for “£9, 750” (inserted by section 46(1)(c) of the Act of 1996).

(2) This section shall come into operation on the 6th day of April, 1997.

PART X

Amendment to the Pensions Act, 1990

40.—The Pensions Act, 1990, is hereby amended by the insertion after section 5A (inserted by section 44 of the Social Welfare Act, 1993) of the following section: Amendment of Pensions Act, 1990.

“External schemes.

5B.—Regulations may exclude external schemes or certain categories of external schemes from the application of some or all of the provisions of this Act and of regulations made thereunder.”.

SCHEDULE A

“Second Schedule

Rates of Benefits

PART I

Rates of Periodical Benefits and Increases Thereof

Description of benefit (1)	Weekly rate (2)	Increase for adult dependant (where payable) (3)	Increase for each qualified child (where payable) (4)	Increase for prescribed relative under section 167 (where payable) (5)	Increase where the person has attained pensionable age and is living alone (where payable) (6)	Increase where the person has attained the age of 80 years (where payable) (7)
	£	£	£	£	£	£
1. Disability Benefit, Unemployment Benefit, Injury Benefit and Health and Safety Benefit ...	67.50	40.00	13.20	—	—	—
2. Death Benefit:						
(a) pension payable to a widow or widower ...	89.40	—	17.00	38.80	6.00	—
(b) pension payable to a parent						
(i) reduced rate ...	41.80	—	—	38.80	6.00	—
(ii) maximum rate ...	89.40	—	—	38.80	6.00	—
(c) pension payable to an orphan ...	47.90	—	—	—	—	—
3. Old Age (Contributory) Pension and Retirement Pension:	78.00	51.00	15.20	38.80	6.00	5.00
additional increase for an adult dependant who has attained pensionable age	—	4.40	—	—	—	—
4. Invalidity Pension:	69.20	45.10	15.20	38.80	6.00	5.00
additional increase for a beneficiary who has attained the age of 65 years ...	8.80	—	—	—	—	—
5. Widow's and Widower's (Contributory) Pension and a relevant payment by virtue of section 18(1)(a) of the Social Welfare Act, 1996 ...	71.10	—	17.00	38.80	6.00	5.00
6. Orphan's (Contributory) Allowance ...	45.60	—	—	—	—	—

PART II

Sch.A

Occupational Injuries Benefits — Gratuities and Grant

Description of Grant (1)	Amount (2)
	£
1. Disablement Benefit: Maximum gratuity	6,380
2. Death Benefit: Grant in respect of funeral expenses	320

PART III

Disablement Pension

Degree of disablement (1)	Weekly rate (2)
	£
100 per cent.	91.20
90 " "	82.10
80 " "	73.00
70 " "	63.80
60 " "	54.70
50 " "	45.60
40 " "	36.50
30 " "	27.40
20 " "	18.20

PART IV

Increases of Disablement Pension

Description of Increase (1)	Weekly Rate (2)
1. Increase where the person is permanently incapable of work ...	£ 67.50
2. Increase where the person requires constant attendance:	
(a) limit of increase except in cases of exceptionally severe dis- ablement	38.80
(b) limit in any other case	74.60

”.

SCHEDULE B

“Fourth Schedule
Rates of Assistance

PART I

Rates of Periodical Social Assistance and Increases Thereof

Description of assistance (1)	Weekly rate (2)	Increase for adult dependant (where payable) (3)	Increase for each qualified child (where payable) (4)	Increase for prescribed relative under section 167 (where payable) (5)	Increase where the person has attained pensionable age and is living alone (where payable) (6)	Increase where the person has attained the age of 80 years (where payable) (7)
	£	£	£	£	£	£
1. Unemployment Assistance:						
(a) in the case of a person to whom section 121 (1) (a) applies ...	67.50	40.00	13.20	—	—	—
(b) in the case of a person to whom section 121 (1) (b) applies ...	65.40	40.00	13.20	—	—	—
2. Pre-Retirement Allowance ...	67.50	40.00	13.20	—	—	—
3. Old Age (Non-Contributory) Pension and Blind Pension ...	67.50	—	13.20	38.80	6.00	5.00
4. Widow's (Non-Contributory) Pension, and a relevant payment by virtue of Section 18(1)(b) or (c) of the Social Welfare Act, 1996 ...	67.50	—	—	38.80	6.00	5.00
5. One-Parent Family Payment ...	67.50	—	15.20	—	—	5.00
6. Carer's Allowance:						
(a) in the case of a person to whom section 165(1)(a) applies ...	105.80	—	13.20	—	—	—
(b) in the case of a person to whom section 165(1)(b) applies ...	70.50	—	13.20	—	—	—
7. Orphan's (Non-Contributory) Pension ...	45.60	—	—	—	—	—
8. Supplementary Welfare Allowance ...	65.40	40.00	13.20	—	—	—
9. Disability Allowance ...	67.50	40.00	13.20	—	—	—

PART II

Sch.B

Increase of Old Age (Non-Contributory) Pension and Blind Pension for One
of a Couple

Means of claimant or pensioner	Weekly rate of increase
	£
Where the weekly means of the claimant or pensioner	
do not exceed £6	40.00
exceed £6 but do not exceed £8	39.00
exceed £8 but do not exceed £10	38.00
exceed £10 but do not exceed £12	37.00
exceed £12 but do not exceed £14	36.00
exceed £14 but do not exceed £16	35.00
exceed £16 but do not exceed £18	34.00
exceed £18 but do not exceed £20	33.00
exceed £20 but do not exceed £22	32.00
exceed £22 but do not exceed £24	31.00
exceed £24 but do not exceed £26	30.00
exceed £26 but do not exceed £28	29.00
exceed £28 but do not exceed £30	28.00
exceed £30 but do not exceed £32	27.00
exceed £32 but do not exceed £34	26.00
exceed £34 but do not exceed £36	25.00
exceed £36 but do not exceed £38	24.00
exceed £38 but do not exceed £40	23.00
exceed £40 but do not exceed £42	22.00
exceed £42 but do not exceed £44	21.00
exceed £44 but do not exceed £46	20.00
exceed £46 but do not exceed £48	19.00
exceed £48 but do not exceed £50	18.00
exceed £50 but do not exceed £52	17.00
exceed £52 but do not exceed £54	16.00
exceed £54 but do not exceed £56	15.00
exceed £56 but do not exceed £58	14.00
exceed £58 but do not exceed £60	13.00
exceed £60 but do not exceed £62	12.00
exceed £62 but do not exceed £64	11.00
exceed £64 but do not exceed £66	10.00
exceed £66 but do not exceed £68	9.00
exceed £68 but do not exceed £70	8.00
exceed £70	Nil

”.

Section 16.

SCHEDULE C

Provision of Principal Act Amended (1)	Nature of Amendment (2)
Section 2(3)(a)	The deletion in subparagraph (ii) after "benefit," of "and". The substitution for subparagraph (iii) of the following subparagraphs: “(iii) section 121(1) in the case of an applicant for unemployment assistance to whom section 121(1)(b) applies, and (iv) section 191H(1) in the case of an applicant for sickness allowance to whom section 191H(1)(b) applies.”.
Section 2(3)(b) (as amended by section 15 of the Act of 1996)	The deletion in subparagraph (ii) after "198," of "and". The substitution for subparagraph (iii) of the following subparagraphs: “(iii) section 121(1) in the case of an applicant for unemployment assistance to whom section 121(1) (a) applies, and (iv) section 191H(1) in the case of an applicant for sickness allowance to whom section 191H(1)(a) applies”.
Section 3(12) (as amended by section 15 of the Act of 1996)	The insertion after "191C(3)," of "191G(2), 191I,”.
Section 191E(2) (inserted by section 13 of the Act of 1996)	The insertion before "unemployment assistance" of "sickness allowance," in each place where it occurs.
Section 207(1)(c)(j) (as amended by section 15 of the Act of 1996)	The substitution for "blind pension or disability allowance," of "blind pension, disability allowance or sickness allowance,". The substitution for "or 191C(1)(a)," of "191C(1)(a) or 191H(i),”.

Section 17.

SCHEDULE D

Provision of Principal Act Amended (1)	Nature of Amendment (2)
Section 22(4), 30(1)(i), 95, 96, 97, 98, 99, 122(4), 163(1) (in the definition of "relevant pensioner" (substituted by section 12 of the Act of 1995)), 207(1)(c)(j) (as amended by section 15 of the Act of 1996), 210(1)(f) (in the definition of "benefit"), 211(5), 237(1) and Reference 4 of Part I (inserted by section 3 of this Act) of the Second Schedule	The substitution for "invalidity pension" of "disability pension" in each place where it occurs.
Section 22(4), 30(1)(a), 31, 32, 33, 34, 35, 35A (inserted by section 7 of the No. 2 Act of 1993), 36, 39(1)(b) (inserted by section 10 of this Act), 41I(1)(b) (inserted by section 11 of this Act), 79(1)(b), 96, 122(4), 191E(1) (inserted by section 13 of the Act of 1996), 207(1)(c)(j) (as amended by section 15 of the Act of 1996), 209(7), 210(1)(a) (in the definition of "benefit" (as amended by section 27 of the Act of 1996)), 237 and Reference 1 of Part 1 (inserted by section 3 of this Act) of the Second Schedule	The substitution for "disability benefit" of "sickness benefit" in each place where it occurs.

SCHEDULE E

Section 20.

Provision of Principal Act Amended (1)	Nature of Amendment (2)
Section 118(e)	The substitution of "widow's (non-contributory) pension, widower's (non-contributory) pension and orphan's (non-contributory) pension," for "widow's and orphan's (non-contributory) pensions,".
Section 210(2)(f) (as amended by section 27 of the Act of 1996)	The substitution of "widow's (non-contributory) pension, widower's (non-contributory) pension," for "widow's (non-contributory) pension,".
Section 236 (as amended by section 19 of the Act of 1996)	The substitution of "widow's (non-contributory) pension, widower's (non-contributory) pension or orphan's (non-contributory) pension" for "widow's or orphan's (non-contributory) pension" in both places where it occurs.
Section 238(1)	The substitution of widow's (non-contributory) pension, widower's (non-contributory) pension or orphan's (non-contributory) pension," for "widow's or orphan's (non-contributory) pensions,".
Rules 1(4) and 5 of Part II (as amended by section 19 of the Act of 1996)	The substitution of "widow's (non-contributory) pension, widower's (non-contributory) pension," for "widow's (non-contributory) pension," in each place where it occurs.
Rule 2(2) of Part II of the Third Schedule	The substitution for paragraph (a) of the following paragraph: “(a) widow's (non-contributory) pension or widower's (non-contributory) pension,”.
Reference 4 of Part 1 (inserted by section 4 of this Act) of the Fourth Schedule	The substitution of "Widow's (Non-Contributory) Pension, Widower's (Non-Contributory) Pension," for "Widow's (Non-Contributory) Pension,".

SCHEDULE F

Section 28.

Provision of Principal Act Amended (1)	Nature of Amendment (2)
Sections 2(2), 2(2)(a) (iv), 2(2)(c), 3(13), 34(1), 34(3), 41E (inserted by the European Communities (Social Welfare) Regulations, 1995 (S.I. No. 25 of 1995)), 45(1), 45(3), 55(1), 55(3), 87(1), 87(3), 91(1), 91(3), 99(1), 99(3), 121(1), 122(1), 122(4), 124(1), 127(2), 128(1)(a), 128(3), 170, 178(1)(a), 191C(1)(a) and 191C(3) (inserted by section 13 of the Act of 1996), 210(2)(a), 210(2)(c), 210(2)(e), 245A (inserted by section 15 of the Act of 1995), column (3) of Part I of the Second Schedule and column (3) of Part I of the Fourth Schedule	The substitution of "qualified adult" for "adult dependant" in each place where it occurs.

SCHEDULE G

Section 35.

Provision of Principal Act Amended (1)	Nature of Amendment (2)
Section 15	<p>The substitution in subsection (1)(a) for subparagraphs (i) and (ii) of the following:</p> <p>“(i) which, apart from the provisions of Article 9 of the Regulations of 1996 would otherwise have been an amount due at the relevant date in respect of sums which an employer is liable under Chapter 2 or 3 of Part II of this Act, and any regulation thereunder (other than the said Article 9) to deduct from reckonable earnings or reckonable emoluments, to which the said Chapters 2 and 3 apply, paid by him during the period of twelve months next before the relevant date, and</p> <p>(ii) with the addition of any interest payable under Article 10 of the Regulations of 1996.”.</p> <p>The substitution for subsection (2) of the following subsection:</p> <p>“(2) In this section—</p> <p>‘the Regulations of 1996’ means the Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 (S.I. No. 312 of 1996).”.</p>
Section 83(3)(1)(b), 84(9), 84(14) 88(4)(b)(1) and 89(6) (as amended by section 26 the Act of 1996)	<p>The substitution for “(5)(2)(a), 6(2)(a) or 7(2)(a) of the Social Welfare (Modifications of Insurance) Regulations, 1991 to 1995” of “81(2)(a), 82(2)(a) or 83(2)(a) of the Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 (S.I. No. 312 of 1996)” in each place where it occurs.</p>
Section 212 (as amended by Section 7 of the Act of 1996)	The deletion of subsection (7).

SCHEDULE H

Section 12.

Provision of Principal Act Amended (1)	Nature of Amendment (2)
Sections 84 and 89	<p>The substitution in subsection (1) for paragraph (b) of the following paragraph:</p> <p>“(b) that the claimant—</p> <ul style="list-style-type: none"> (i) has qualifying contributions in respect of at least 520 contribution weeks, or (ii) in the case of a person who on or before the 6th day of April, 1997, is a voluntary contributor paying contributions under Chapter 4 of Part II, has an aggregate of qualifying contributions and voluntary contributions in respect of 520 contribution weeks, of which not less than 156 are qualifying contributions, or (iii) in any other case, has an aggregate of qualifying contributions and voluntary contributions in respect of 520 contribution weeks of which not less than 260 are qualifying contributions, <p>since his entry into insurance.”.</p>