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*Number 37 of 2010*

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**SOCIAL WELFARE AND PENSIONS ACT 2010**

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[No. 37.] *Social Welfare and Pensions Act 2010.* [2010.]

ACTS REFERRED TO

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Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010	2010, No. 24
Civil Service Regulation Acts 1956 to 2005	
Criminal Justice (Theft and Fraud Offences) Act 2001	2001, No. 50
Defence Act 1954	1954, No. 18
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European Parliament (Irish Constituency Members) Act 2009	2009, No. 17
Finance Act 1970	1970, No. 14
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Financial Emergency Measures in the Public Interest Act 2009	2009, No. 5
Insurance Act 1989	1989, No. 3
Labour Services Act 1987	1987, No. 15
Labour Services Acts 1987 to 2010	
Local Government Act 2001	2001, No. 37
Maternity Protection Acts 1994 and 2004	
Minimum Notice and Terms of Employment Acts 1973 to 2005	
Organisation of Working Time Act 1997	1997, No. 20
Parental Leave Acts 1998 and 2006	
Pensions Act 1990	1990, No. 25
Pensions Acts 1990 to 2009	
Protection of Employees (Fixed-Term Work) Act 2003	2003, No. 29
Protection of Employees (Part-Time Work) Act 2001	2001, No. 45
Public Service Management (Recruitment and Appointments) Act 2004	2004, No. 33
Redundancy Payments Acts 1967 to 2007	
Safety, Health and Welfare at Work Act 2005	2005, No. 10
Social Welfare (Miscellaneous Provisions) Act 2008	2008, No. 22
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Social Welfare and Pensions Act 2007	2007, No. 8
Social Welfare and Pensions Act 2008	2008, No. 2
Social Welfare and Pensions (No. 2) Act 2009	2009, No. 43
Social Welfare Consolidation Act 2005	2005, No. 26
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Number 37 of 2010

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**SOCIAL WELFARE AND PENSIONS ACT 2010**

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AN ACT TO AMEND AND EXTEND THE SOCIAL WELFARE ACTS, TO CONFER CERTAIN FUNCTIONS RELATING TO EMPLOYMENT SCHEMES AND RELATED SCHEMES AND PROGRAMMES ON THE MINISTER FOR SOCIAL PROTECTION; TO AMEND THE LABOUR SERVICES ACT 1987 AND TO PROVIDE FOR THE TRANSFER OF CERTAIN ASSETS, LIABILITIES, PROPERTY AND STAFF OF AN FORAS ÁISEANNA SAOTHAIR, TO PROVIDE FOR THE CONTINUANCE OF CERTAIN SCHEMES PROVIDED BY AN FORAS ÁISEANNA SAOTHAIR AND FOR THE PROVISION BY THE MINISTER FOR SOCIAL PROTECTION OF THOSE SCHEMES; TO PROVIDE FOR THE TRANSFER OF CERTAIN ASSETS, LIABILITIES, PROPERTY AND EMPLOYEES OF THE HEALTH SERVICE EXECUTIVE; TO AMEND THE CRIMINAL JUSTICE (THEFT AND FRAUD OFFENCES) ACT 2001, THE PENSIONS ACT 1990, AND THE TAXES CONSOLIDATION ACT 1997; AND TO PROVIDE FOR RELATED MATTERS.

[21st December, 2010]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Social Welfare and Pensions Act 2010.

Short title,  
construction,  
collective citation  
and  
commencement.

(2) The Social Welfare Acts and *Parts 1, 2 and 4, section 29 and Schedules 1, 2 and 3* shall be read together as one.

(3) The Labour Services Acts 1987 to 2010 and *sections 30 and 35* may be cited together as the Labour Services Acts 1987 to 2010.

(4) *Sections 4, 11(1), 12, 13 and 15 to 26 and Parts 3 and 4*, 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 or different provisions.

Pr.1 [No. 37.] *Social Welfare and Pensions Act 2010.* [2010.]

Definitions. 2.—In this Act—

“Act of 2006” means the Social Welfare Law Reform and Pensions Act 2006;

“Act of 2007” means the Social Welfare and Pensions Act 2007;

“Act of 2008” means the Social Welfare (Miscellaneous Provisions) Act 2008;

“Act of 2010” means the Social Welfare (Miscellaneous Provisions) Act 2010;

“Commissioners” means the Commissioners of Public Works in Ireland;

“Minister” means the Minister for Social Protection;

“Principal Act” means the Social Welfare Consolidation Act 2005.

## PART 2

### AMENDMENTS TO SOCIAL WELFARE ACTS

Duration of illness benefit payment. 3.—(1) Section 44 (amended by section 4 of the Act of 2006) of the Principal Act is amended—

(a) in subsection (1), by substituting the following paragraph for paragraph (b):

“(b) before that day was entitled, in respect of any period of interruption of employment (whether including that day or not), to illness benefit for 312 days,”

(b) in subsection (1A) (inserted by section 15(2) of the Act of 2008), by substituting the following paragraph for paragraph (b):

“(b) before that day was entitled, in respect of any period of interruption of employment (whether including that day or not) during the period beginning on 5 January 2009, to illness benefit for 624 days,” and

(c) by inserting the following subsection after subsection (2):

“(2A) Notwithstanding subsection (1)—

(a) where a period of incapacity for work commences before 3 January 2011 and continues on or after that date, subsection (1)(b) shall apply as if the words ‘during the period beginning on the date one year immediately before that day’ were inserted after ‘(whether including that day or not)’, and

(b) where a period of incapacity for work commences on or after 3 January 2011 and forms part of a period of interruption of employment during which a previous period of incapacity for work commenced before 3 January 2011, the period for which illness benefit shall be paid in respect of the period of incapacity for work commencing on or after 3 January 2011 shall be 312 days less the cumulative number of days for which illness benefit was determined as having been paid at the end of the last period of incapacity for work that commenced before 3 January 2011.”.

(2) This section shall come into operation on 3 January 2011.

4.—The Principal Act is amended—

Proving  
unemployment by  
electronic  
communication.

(a) in section 2(1) (amended by section 24 of the Act of 2010) by inserting the following definition:

“ ‘electronic’ includes digital, magnetic, optical, electromagnetic, biometric, photonic and any other form of related technology;”.

(b) in section 2 by inserting the following subsection after subsection 7:

“(8) In sections 62, 141 and 274A, ‘electronic communication’ means the communication of information that is generated, transmitted, processed, received, recorded, stored or displayed by electronic means or in electronic form, and includes—

(a) information communicated in the form of speech which is processed at its destination by an automatic voice recognition system,

(b) a communication transmitted by means of the internet or by means of mobile phone telephony, and

(c) the transmission of a signature by electronic means.”.

(c) in section 62 by inserting the following subsection after subsection (1):

“(1A) Without prejudice to the generality of subsection (1)(b), for the purposes of that subsection a person may prove unemployment and may make a declaration for that purpose, by means of an electronic communication, in the prescribed manner.”.

(d) in section 141 by inserting the following subsection after subsection (1):

“(1A) Without prejudice to the generality of subsection (1)(b), for the purposes of that subsection a person may prove unemployment and may make a declaration for that purpose, by means of an electronic communication, in the prescribed manner.”.

and

(e) by inserting the following section after section 274:

“Evidence in proceedings in relation to proving unemployment by electronic communication.

274A.—(1) Where a person is required, for the purposes of section 62 or 141, to prove unemployment and make a declaration for that purpose and the person has proved unemployment and made a declaration in the prescribed manner, by means of an electronic communication—

(a) a certificate signed by an officer of the Minister, authorised by the Minister in that behalf, stating—

(i) that he or she has examined the record relating to the proving of unemployment and the making of a declaration for that purpose by the person by means of the electronic communication in the prescribed manner,

(ii) that a record of that electronic communication has been made, and

(iii) the date on which that electronic communication was made,

shall be admissible in evidence in any proceedings (whether civil or criminal) before a court and shall be evidence of those facts unless the contrary is proved in any such proceedings, and

(b) it shall be presumed, unless the contrary is proved in any such proceedings, that—

(i) a declaration that purports to have been made by a person by means of an electronic communication, was made by that person,

(ii) a declaration which purports to have been made by a person by means of an electronic communication in respect of a particular period, was made in respect of that period,



(iii) any equipment used to make the electronic communication operated effectively, and

(iv) the method of electronic communication used for the purpose of making a declaration operated effectively.

(2) Any declaration made by means of an electronic communication in accordance with this Act shall be deemed to be a declaration made in the prescribed manner under section 62 or 141.

(3) Any declaration made by means of an electronic communication in accordance with this Act shall be deemed to be a statement or representation for the purposes of section 251.

(4) A document purporting to be a certificate referred to in subsection (1)(a) shall be deemed to be such a certificate and to have been signed by the person purporting to have signed it and to have been signed in accordance with an authorisation referred to in subsection (1)(a) unless the contrary is proved.”.

5.—Section 141 of the Principal Act is amended—

Jobseeker’s allowance — days of unemployment.

(a) in subsection (3), by substituting “Subject to subsection (3A), in this Chapter,” for “In this Chapter,” and

(b) by inserting the following subsections after subsection (3):

“(3A) For the purposes of this section—

(a) jobseeker’s allowance shall be paid for the payment week in which the last day of unemployment, which forms a week of unemployment, falls,

(b) where in any payment week jobseeker’s allowance is payable in respect of a week of unemployment—

(i) any day of unemployment which forms part of such week of unemployment, but which does not fall within that payment week, and

(ii) any other day of unemployment occurring in that payment week,

shall not be taken into account in establishing any other week of unemployment, and

- (c) where, in any payment week, jobseeker's allowance is payable in respect of a week of unemployment, the weekly means of that person derived from employment under a contract of service shall be determined by reference to the number of days worked in that payment week.

(3B) In subsection (3A) 'payment week' means the period commencing on the Wednesday of one week and ending on the Tuesday of the following week."

Calculation of means for rent and mortgage supplement.

6.—Section 198 of the Principal Act is amended by inserting the following subsection after subsection (1):

"(1A) Notwithstanding section 196(1)(a), in determining entitlement to a supplement in accordance with this section, where the person has not attained the age of 25 years and is not in receipt of a payment under section 142A, 142B, 197(2) or 197(4), the weekly needs of that person shall be taken to be—

- (a) in the case of a person who has no means, the amount calculated in accordance with section 197(1), or
- (b) in the case of a person who has means, the amount calculated in accordance with section 197(1) which would be appropriate if that person had no means, reduced by €1 per week for every €1 of his or her weekly means."

Provision by landlord of tax reference number for rent supplement.

7.—(1) Section 198 of the Principal Act is amended in subsection (3) (amended by section 14 of the Act of 2008) by substituting "(3E), (4), (4A) and (4B) and section 198A" for "(3E) and (4)".

(2) Section 198 of the Principal Act is amended by inserting the following subsections after subsection (4):

"(4A) Subject to subsection (4B), the payment, referred to in subsection (3), of a supplement towards the amount of rent payable by a person in respect of his or her residence shall not be made where, in respect of each tenancy for which a supplement is payable—

- (a) the landlord of such residence has not provided the Executive with his or her tax reference number in the prescribed form, or
- (b) the landlord of such residence does not have a tax reference number and has not provided the Executive with a notification, in the prescribed form, to that effect and the reasons for which he or she does not have a tax reference number.

(4B) Notwithstanding subsection (4A), where an application for the payment of a supplement towards the amount of rent is made on or after 1 January 2011 and the information specified in that subsection has not been provided by a landlord, the Executive—

- (a) may, for the purpose of the avoidance of undue hardship, pay the supplement referred to in subsection (4A) where it is satisfied that, having regard to all the circumstances of the person concerned, the payment is appropriate, and
- (b) shall, where that payment is made, send a notification in writing to the landlord of the residence in respect of which the supplement was paid—
  - (i) requesting the landlord to provide the Executive, in the prescribed form, on or before a date (in this section referred to as the ‘information date’) specified in the notification, with—
    - (I) his or her tax reference number, or
    - (II) where the landlord does not have a tax reference number, a statement in writing to that effect and the reasons for which he or she does not have a tax reference number,
  - and
  - (ii) stating that—
    - (I) the payment of a supplement under this section shall cease on a specified date (in this section referred to as the ‘cessation date’) unless the information is provided on or before the information date, and
    - (II) where rent supplement has been paid in respect of the residence, failure to provide the information is an offence.

(4C) Where a notification referred to in subsection (4B)(b) or section 198A(2) is to be sent to a landlord it shall be addressed to the person concerned by name and may be sent or given—

- (a) by delivering it to the person,
- (b) by leaving it at the address at which the person ordinarily resided or, in a case where an address for service has been furnished, at that address, or
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case where an address for service has been furnished, to that address.

(4D) In this section, sections 198A and 198B—

‘landlord’ means the person for the time being entitled to receive (otherwise than as agent for another person) the rent payable under a tenancy in respect of a residence, referred to in subsection (3), in respect of which a supplement, referred to in that subsection, is paid;

‘tax reference number’ has the same meaning as it has in subsection (3) (inserted by section 123 of the Finance Act 2007) of section 888 of the Act of 1997;

‘tenancy’ includes a periodic tenancy and a tenancy for a fixed term, whether oral or in writing or implied, and includes a sub-tenancy.”.

(3) The Principal Act is amended by inserting the following sections after section 198:

“Payment of rent supplement in certain circumstances.

198A.—(1) Notwithstanding section 198(4A), where a supplement towards the amount of rent payable by a person in respect of his or her residence is paid immediately before 1 January 2011 and continues to be paid immediately after 1 January 2011 in respect of that residence under the same tenancy and the information specified in subsection (2) has not been provided by a landlord, the Executive may, in accordance with this Act, continue to pay the supplement for that residence under the same tenancy—

- (a) for a period commencing on 1 January 2011 and ending on the cessation date specified in a request under subsection (2), and
- (b) where the Executive, having regard to all the circumstances of the person, is satisfied that the payment is appropriate for the purpose of avoiding undue hardship, for a period commencing on the cessation date and ending not later than 31 March 2012.

(2) For the purposes of subsection (1), the Executive shall send a notification in writing to the landlord of a residence referred to in that subsection in respect of which a supplement was paid—

- (a) requesting the landlord to provide the Executive, in the prescribed form, on or before a date (in this section referred to as the ‘information date’) specified in the notification, with—
  - (i) his or her tax reference number, or
  - (ii) where the landlord does not have a tax reference number, a statement in writing to that effect and the reasons for which he or she does not have a tax reference number, and
- (b) stating that—
  - (i) the payment of a supplement under this section shall cease on a specified date (in this section referred to as the ‘cessation date’) unless the information is provided on or before the information date, and
  - (ii) where rent supplement has been paid in respect of the residence,

failure to provide the information is an offence.

(3) Where—

- (a) rent supplement has been paid in respect of a residence referred to in subsection (1),
- (b) the Executive has, in accordance with subsection (2), sent a notification in writing to a landlord referred to in that subsection, and
- (c) the landlord has, following that notification, failed to provide the tax reference number referred to in subsection (2)(a)(i) or the statement referred to in subsection (2)(a)(ii), by the information date referred to in that notification,

he or she shall be guilty of an offence.

Offence for failing to provide certain information following payment of rent supplement under section 198.

198B.—Where—

- (a) rent supplement has been paid in respect of a residence referred to in section 198(4B),
- (b) the Executive has, in accordance with section 198(4B), sent a notification in writing to a landlord referred to in that section, and
- (c) the landlord has, following that notification, failed to provide the tax reference number referred to in section 198(4B)(b)(i)(I) or the statement referred to in section 198(4B)(b)(i)(II), by the information date referred to in that notification,

he or she shall be guilty of an offence.”.

(4) This section shall come into operation on 1 January 2011.

8.—Section 262(3)(a) of the Principal Act is amended—

(a) by substituting the following subparagraphs for subparagraphs (xb) and (xc) (inserted by section 32 of the Act of 2007):

“(xb) where required, a photograph of the person, except where the person is deceased;

(xc) where required, the person’s signature, except where the person is deceased;” and

(b) by inserting the following subparagraph after subparagraph (xc):

Information required for personal public service number.

“(xd) any other information as may be required for authentication purposes that is uniquely linked to or is capable of identifying that person;”.

Public services card. 9.—(1) Section 263 (amended by section 32 of the Act of 2007) of the Principal Act is amended by substituting the following subsections for subsection (1):

“(1) The Minister may issue a card (in this Act referred to as a ‘public services card’) to a person in such form as the Minister considers fit for the purposes of carrying out a transaction.

(1A) Where a public services card is issued to a person the following information shall be inscribed on it:

- (a) the name of that person;
- (b) the personal public service number of that person;
- (c) a photograph of that person;
- (d) the signature of that person;
- (e) the issue number of the public services card;
- (f) the expiry date of the public services card;
- (g) such other information (if any) as may be prescribed by the Minister.

(1B) A public services card shall in addition to the information referred to in subsection (1A) contain the following information which shall be in non-legible form and be capable of being recovered by electronic means:

- (a) the name of that person;
- (b) the personal public service number of that person;
- (c) the date of birth of that person;
- (d) the place of birth of that person;
- (e) the sex of that person;
- (f) the nationality of that person;
- (g) all former surnames (if any) of that person;
- (h) all former surnames (if any) of the mother of that person;
- (i) a photograph of that person;
- (j) the signature of that person;
- (k) the issue number of the public services card;
- (l) the expiry date of the public services card;

(m) such other information (if any) as may be prescribed by the Minister.”.

(2) Section 264 of the Principal Act is amended by substituting the following subsections for subsection (1):

“(1) Without prejudice to section 263, for the purpose of the payment of benefit, the Minister may issue a card, other than a public services card, to a person in such form that the Minister determines.

(1A) A card to which subsection (1) applies shall contain such information (if any) either inscribed on the card or in non-legible form capable of being recovered by electronic means, as may be prescribed by the Minister.”.

(3) The Principal Act is amended by substituting “public services card” for “public service card” in each place where it occurs.

(4) Section 24 of the Criminal Justice (Theft and Fraud Offences) Act 2001 is amended, in paragraph (p) of the definition of “instrument”, by substituting “public services card” for “public service card”.

**10.**—Part 5 (amended by section 8 of the Social Welfare and Pensions Act 2008) of Schedule 3 to the Principal Act is amended—

Carer’s allowance  
— assessment of  
means.

(a) in paragraph (5) of Rule 1 by inserting “any benefit, pension, assistance, allowance or supplement under this Act or” after “other than means derived from”,

(b) by inserting the following Rules after Rule 1:

“1A. In the case of carer’s allowance, in calculating the weekly means of a carer who is not one of a couple the following shall be disregarded—

(a) an amount, not exceeding the maximum amount set out in column (2) at reference 3 of Part 1 of Schedule 2, of a social security payment payable under the legislation of another state, and

(b) an amount, not exceeding the maximum amount set out in column (4) at reference 3 of Part 1 of Schedule 2, of a social security payment payable under the legislation of another state in respect of each qualified child for whom an increase is granted under section 181(1).

1B. In Rules 1, 1A and 4, ‘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.”,

(c) in Rule 4, by substituting the following paragraph for paragraph (2):

“(2) In the case of carer’s allowance, in calculating the weekly means of a couple the following shall be disregarded—

- (a) an amount, not exceeding the maximum amount set out in column (2) at reference 3 of Part 1 of Schedule 2, of a social security payment payable under the legislation of another state, and
- (b) an amount, not exceeding half the amount set out in column (4) at reference 3 of Part 1 of Schedule 2, of a social security payment payable under the legislation of another state in respect of each qualified child for whom an increase is granted under section 181(1).”,
- (d) in Rule 4(3), by inserting “any benefit, pension, assistance, allowance or supplement under this Act or” after “other than means derived from”, and
- (e) by deleting Rule 4(4).

Supplementary  
welfare allowance  
— amendments.

**11.—(1)** The Principal Act is amended in the manner specified in *Schedule 2*.

(2) Schedule 1 to the Social Welfare and Pensions Act 2008 is amended by—

- (a) substituting the following paragraph for paragraph (c) of the amendment to section 200 of the Principal Act set out in column (2) of that Schedule opposite the mention of section 200 in column (1):

“(c) In subsection (3), substitute ‘by a designated person’ for ‘by the Executive’.”,

- (b) substituting the following amendment for the amendment to sections 206 and 207 of the Principal Act:

“

Provision affected (1)	Amendment (2)
Section 207	Repeal this section.

”,

and

- (c) substituting the following subparagraph for subparagraph (ii) of paragraph (a) of the amendment to section 300 of the Principal Act set out in column (2) of that Schedule opposite the mention of section 300 in column (1):

“(ii) substitute the following for paragraph (b):

‘(b) Part 3 (social assistance), being a question other than one relating to supplementary welfare allowance (unless it relates to a category of claim specified in subsection (3A) or section 195, 200, 201, 202, 203, 204 or 205),’.”

(3) The amendments (effected by *subsection (2)*) to Schedule 1 to the Social Welfare and Pensions Act 2008 are deemed to have been included in each of those provisions with effect from the passing of



the Social Welfare and Pensions Act 2008 and each of those provisions (amended by *subsection (2)*) shall come into operation in accordance with section 1(6) of that Act.

**12.—(1)** Part 2 of the Principal Act is amended by inserting the following Chapter after Chapter 8: Partial capacity benefit.

“CHAPTER 8A

*Partial Capacity Benefit*

Entitlement to benefit. 46A.—(1) Subject to this Act, a person shall be entitled to partial capacity benefit where the person—

- (a) has applied for that benefit,
  - (b) is assessed by a medical assessor as having a profound restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work,
  - (c) on the day immediately before the day for which benefit is claimed—
    - (i) was in receipt of—
      - (I) illness benefit for at least 26 weeks in a period of interruption of employment, or
      - (II) invalidity pension, or
    - (ii) other than in the case of a person to whom section 46C(3)(a)(ii) applies, has exhausted the period of entitlement to partial capacity benefit provided for in section 46C or regulations made under that section,
- and
- (d) is under pensionable age.

- (2) For the purposes of—
- (a) the assessment required under subsection (1)(b), the Minister may prescribe the conditions for which a person shall be assessed as having a profound restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work, and
  - (b) the assessment referred to in subsection (4), the Minister may prescribe the conditions for which a person shall be

assessed as having a mild restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work.

(3) Notwithstanding subsection (1), where subsection (1)(b) is not satisfied a person may, subject to subsections (4) and (5), be entitled to partial capacity benefit.

(4) A person who is assessed by a medical assessor as having a mild restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work shall not be entitled to partial capacity benefit.

(5) Where partial capacity benefit is provided pursuant to subsection (3)—

- (a) the rate of that benefit shall be payable at a rate, or rates, less than that provided for in section 46B(1)(a), and
- (b) the Minister may prescribe the reduced rate or rates.

(6) Regulations made by the Minister for the purposes of subsection (5) shall provide for the reduced rate, or rates, of partial capacity benefit pursuant to subsection (3), and the reductions in the rate, or rates, of partial capacity benefit shall relate to the extent to which subsection (1)(b) is not satisfied, but such reduction shall not affect any entitlement to an increase in respect of a qualified adult or qualified children or an increase where the beneficiary is ordinarily resident on an island.

(7) Where a person qualifies for partial capacity benefit by virtue of subsection (1)(c)(i)(I), each day for which that benefit is paid shall be—

- (a) treated as a day of incapacity for work, and
- (b) deemed to be a day for which illness benefit is paid for the purposes of Chapter 8.

(8) In this Chapter, ‘medical assessor’ means an officer of the Minister who is a registered medical practitioner.

Rates of benefit.

46B.—(1) Subject to this Act, the weekly rate of partial capacity benefit payable shall—

- (a) in the case of a person to whom section 46A(1)(c)(i) applies, be the weekly rate of illness benefit or invalidity pension that was being paid to that person on the day immediately before the day

for which partial capacity benefit is awarded, including any increase in that benefit or pension, where payable, and

- (b) in the case of a person to whom section 46A(1)(c)(ii) applies, be prescribed in regulations.

(2) Notwithstanding subsection (1)—

- (a) any change in circumstances that would have resulted in a variation in the rate of illness benefit or invalidity pension payable, if that person had continued receiving the said benefit or pension, or
- (b) any general variation in the weekly rates of benefits, pensions, allowances or supplements under this Act,

shall have similar effect in relation to the rate of partial capacity benefit payable in that case.

(3) For the purposes of subsection (2) a change in circumstances shall include a situation where a person, who initially qualifies for partial capacity benefit by virtue of section 46A(1)(c)(i)(I), subsequently continues to qualify for partial capacity benefit by virtue of being deemed to satisfy the qualifying conditions for invalidity pension in accordance with section 46C(3)(b).

(4) Subsections (2) and (3) shall apply to the weekly rate prescribed in regulations under subsection (1)(b), and the regulations may provide for a change in circumstances referred to in subsections (2) and (3) and a general variation referred to in subsection (2).

Duration.

46C.—(1) Subject to this Chapter, partial capacity benefit shall be paid for a maximum period of 156 weeks.

(2) Subject to subsection (3), where partial capacity benefit is paid in accordance with regulations made under section 46A(6), the Minister may by regulations provide that partial capacity benefit shall be paid for a period, or periods, less than that specified in subsection (1) and the duration of such lesser period, or periods, shall relate to the extent to which section 46A(1)(b) is not satisfied.

(3) Notwithstanding subsections (1) and (2), where a person qualifies for partial capacity benefit by virtue of section 46A(1)(c)(i)(I)—

- (a) the duration of partial capacity benefit shall be limited to—
  - (i) the period specified in subsection (1) or in regulations made under

subsection (2) as appropriate to the circumstances, or

- (ii) the remaining period of entitlement to illness benefit in the period of interruption of employment concerned that would have been paid if the person had continued to claim illness benefit,

whichever is the shorter period, and

- (b) subject to subsection (4), payment of partial capacity benefit may continue beyond the period specified in paragraph (a)(ii) where immediately on the termination of the entitlement of the person entitled to partial capacity benefit under paragraph (a)(ii) the person is deemed to satisfy the qualifying conditions for invalidity pension.

(4) Where a person is paid partial capacity benefit for a period referred to in subsection (3)(a)(ii) and such payment is continued in accordance with subsection (3)(b), the total period for which partial capacity benefit shall be paid under paragraphs (a)(ii) and (b) of subsection (3) shall not exceed 156 weeks or such lesser period as may be provided for in regulations under subsection (2).

Regulations. 46D.—(1) The Minister may make regulations to provide for—

- (a) disqualifying a person for receiving partial capacity benefit where the person fails without good cause to—
  - (i) attend for, or submit to, any medical or other examination or treatment,
  - (ii) comply with medical advice and instructions provided by a registered medical practitioner that relates to his or her incapacity, and
  - (iii) make himself or herself available to meet with an officer of the Minister in respect of his or her claim for partial capacity benefit, and
- (b) subject to subsection (2), the circumstances and conditions in which a person may relinquish entitlement to partial capacity benefit and subsequently reclaim that benefit.

(2) Where a person has been paid partial capacity benefit and the person relinquishes entitlement to that benefit and subsequently reclaims

that benefit, the total duration for which that benefit shall be paid in respect of both the period prior to the relinquishment and the period in which it is reclaimed shall not exceed 156 weeks or such lesser period as may be provided for in regulations under section 46C(2).”.

(2) The Principal Act is amended—

(a) in section 39(1) (amended by section 4 of, and Schedule 1 to, the Act of 2006), by inserting the following paragraph after paragraph (a):

“(aa) partial capacity benefit,”

(b) in section 46 by—

(i) substituting the following subsection for subsection (1A) (inserted by section 5 of the Act of 2007):

“(1A) Subject to subsection (1B), a person in receipt of or entitled to illness benefit shall not engage in work.”,

and

(ii) inserting the following new subsection after subsection (1A):

“(1B) A person shall not be disqualified for receipt of illness benefit while engaging in such class or classes of employment or training and subject to such circumstances and conditions as may be prescribed.”,

and

(c) in section 118 by inserting the following subsection after subsection (3) (amended by section 16 of the Act of 2007):

“(3A) Subject to subsection (4), a person in receipt of or entitled to invalidity pension shall not engage in work.”.

**13.**—Section 91 of the Principal Act is amended by—

Amendment to  
section 91 of  
Principal Act.

(a) substituting the following subsection for subsection (1A) (inserted by section 11 of the Act of 2007):

“(1A) Subject to subsection (1B), a person in receipt of or entitled to injury benefit or an increase of disablement benefit under section 77 shall not engage in work.”,

and

(b) by inserting the following new subsection after subsection (1A):

“(1B) A person shall not be disqualified for receipt of injury benefit or an increase of disablement benefit under section 77 while engaging in such class or classes of employment or training and subject to such circumstances and conditions as may be prescribed.”.

Contributions by  
public office  
holders.

**14.—(1)** Part 2 of the Principal Act is amended by inserting the following Chapter after Chapter 5:

“CHAPTER 5A

*Contributions by Public Office Holders*

Definitions. 30A.—In this Chapter—

‘public office holder’ means—

- (a) the President,
- (b) the holder of a qualifying office,
- (c) a member of either House of the Oireachtas,
- (d) a member of the judiciary,
- (e) a military judge appointed under Chapter IVC of Part V of the Defence Act 1954 (amended by the Defence (Amendment) Act 2007),
- (f) the Attorney General,
- (g) the Comptroller and Auditor General,
- (h) a member of a local authority (within the meaning of the Local Government Act 2001),
- (i) a member of the European Parliament for a constituency in the State, being a member who is in receipt of the salary specified in section 2(2) of the European Parliament (Irish Constituency Members) Act 2009;

‘public body’ means—

- (a) a Department of State,
- (b) a local authority, or
- (c) a body established by any enactment;

‘qualifying office’ has the same meaning as it has in the Financial Emergency Measures in the Public Interest Act 2009;

‘remuneration’ means emoluments to which Chapter 4 of Part 42 of the Act of 1997 applies or is applied and which are payable by or on behalf of a public body to a public office holder.

Contributions  
by public  
office holders.

30B.—(1) Contributions shall be paid by public office holders in accordance with this Chapter.

(2) A public body that is responsible for, or authorises, the payment of remuneration to a public office holder shall collect, or cause to be collected, a contribution at the rate of 4 per cent of the total remuneration payable to that public office holder in respect of the holding of a public office.

(3) Subject to this section, the liability for a contribution under subsection (1) applies to the payment of any remuneration to a public office holder in respect of the holding of a public office—

(a) in respect of the contribution year commencing on 1 January 2011, and

(b) in respect of each subsequent contribution year.

(4) Where in any contribution week a payment of not more than €100 per week (or the equivalent thereof in respect of a public office holder remunerated otherwise than on a weekly basis) is made to or for the benefit of a public office holder in respect of the remuneration of that person arising from the holding of a public office, a contribution under subsection (1) shall not be payable by that public office holder in respect of that remuneration arising from the holding of that public office.

(5) Where the total amount of remuneration arising from the holding of a public office does not exceed €5,200 in any contribution year, any contributions under subsection (1) in respect of that contribution year shall be repaid to the public office holder.

Payment of contributions into Social Insurance Fund.

30C.—All contributions under section 30B shall be paid into the Social Insurance Fund.

Payment of contributions and keeping of records.

30D.—The provisions contained in section 17 in relation to the payment and keeping of records of employment contributions under Chapter 2 shall apply in like manner to the payment and keeping of records of a contribution under this Chapter.”.

(2) This section comes into operation on 1 January 2011.

**15.—**(1) Section 2(1) (amended by section 24 and Schedule of the Act of 2010) of the Principal Act is amended by inserting the following definitions:

Amendment to section 2 of Principal Act.

“ ‘civil partner’ means a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘civil partnership’ means—

- (a) a civil partnership registration referred to in section 3(a) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, or
- (b) a legal relationship referred to in section 3(b) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘cohabitant’ means a cohabitant within the meaning of section 172(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

‘surviving civil partner’ means one civil partner of a couple who were both parties to the same civil partnership and whose civil partner is deceased and includes one civil partner of a couple who were both parties to the same civil partnership, who would otherwise be a surviving civil partner but for the fact that his or her civil partnership has been dissolved being a dissolution that is recognised as valid in the State;”.

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

- (a) in paragraph (a), by inserting “, civil partner or cohabitant of that person” after “a spouse”,
- (b) in paragraph (a)(i), by inserting “, civil partner or cohabitant of that person” after “a spouse”,
- (c) in paragraph (a)(ii), by inserting “, civil partner or cohabitant of that person” after “a spouse”,
- (d) in paragraph (a)(iii), by inserting “, civil partner or cohabitant of that person” after “a spouse”,
- (e) in paragraph (a)(iv), by inserting “, civil partner or cohabitant of that person” after “a spouse” in each place where it occurs,
- (f) in paragraph (a)(v), by inserting “, civil partner or cohabitant of that person” after “a spouse”,
- (g) in paragraph (a)(vi), by inserting “, civil partner or cohabitant of that person” after “a spouse”,
- (h) in paragraph (a)(vii), by inserting “, civil partner or cohabitant of that person” after “a spouse”,
- (i) in paragraph (b)(iii), by deleting “or”,
- (j) in paragraph (b) by inserting the following subparagraphs after subparagraph (iv):

“(v) a surviving civil partner, or

- (vi) a civil partner who is not living with and is neither wholly or mainly maintaining, nor being wholly or mainly maintained by, his or her civil partner.”.

(3) Section 2 of the Principal Act is amended by the substitution of the following subsection for subsection (7):



“(7) Subject to Part 12, ‘liable relative’ means in relation to any person—

(a) a man who is liable to maintain all or any of the following:

(i) his—

(I) wife;

(II) his former wife where the marriage has been dissolved, being a dissolution that is recognised as valid in the State;

(III) his civil partner;

(IV) his former civil partner where the civil partnership has been dissolved, being a dissolution that is recognised as valid in the State;

while all or any of the persons specified in clauses (I) to (IV) are, or is, in receipt of an allowance or a benefit, and

(ii) any qualified child of his in respect of whom an increase in allowance or a benefit is payable to the mother,

or

(b) a woman who is liable to maintain all or any of the following:

(i) her—

(I) husband;

(II) her former husband where the marriage has been dissolved, being a dissolution that is recognised as valid in the State;

(III) her civil partner;

(IV) her former civil partner where the civil partnership has been dissolved, being a dissolution that is recognised as valid in the State;

while all or any of the persons specified in clauses (I) to (IV) are, or is, in receipt of an allowance or benefit,

and

(ii) any qualified child of hers in respect of whom an increase in allowance is payable to the father.”.

**16.**—Section 3 of the Principal Act is amended—

(a) by substituting the following subsection for subsection (10):

Amendment to section 3 of Principal Act.

“(10) For the purposes of sections 43(3), 66(3), 76(3), 112(3), 117(3), 122(3), 134, 141(2)(d), 146, 149(2), 149(4), 150(3), 152, 158, 161, 181(4), 210(2), 211(3), 214(2), 216, 219(2), 250(2)(b), 297 and 298 and Chapter 9 of Part 3—

(a) ‘spouse’ means each person of a married couple who are living together, and

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

and

(b) by substituting the following subsection for subsection (11):

“(11) For the purposes of determining the entitlement of a person to an increase in respect of a qualified adult—

(a) references to a spouse in the definition of ‘qualified adult’ contained in section 2(2) and regulations made under that provision shall be read as including a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State, and

(b) references to a civil partner in the definition of ‘qualified adult’ contained in section 2(2) and regulations made under that provision shall be read as including a party to a civil partnership that has been dissolved, being a dissolution that is recognised as valid in the State.”.

Amendment to Part 2 of Principal Act. **17.**—(1) Section 39(1) (amended by section 10(a) of the Act of 2007) of the Principal Act is amended by substituting the following paragraph for paragraph (n):

“(n) widowed or surviving civil partner grant (paid by virtue of receipt of a benefit under Part 2).”.

(2) Section 81 of the Principal Act is amended by—

(a) substituting the following subsection for subsection (1):

“(1) Death benefit shall be payable to the widow, widower or surviving civil partner of the deceased.”,

(b) substituting the following subsection for subsection (3):

“(3) A pension under subsection (2) shall not be payable for any period after the marriage or remarriage of the beneficiary or the entry by the beneficiary into a civil partnership or a new civil partnership.”,

and

(c) in subsection (4), by substituting “he or she is a cohabitant” for “he or she and any person are cohabiting as husband and wife”.

(3) The Principal Act is amended in section 123—

(a) by inserting the following definition:

“ ‘civil partner’, in relation to a surviving civil partner who has been party to a civil partnership more than once, refers only to the surviving civil partner’s last civil partner and for this purpose that last civil partner shall be read as including a party to a civil partnership that has been dissolved, being a dissolution that is recognised as valid in the State;”,

(b) by substituting the following definition for the definition of “pension”:

“ ‘pension’ means a widow’s (contributory) pension in the case of a widow, a widower’s (contributory) pension in the case of a widower and a surviving civil partner’s (contributory) pension in the case of a surviving civil partner;”,

(c) by substituting the following definition for the definition of “relevant time”:

“ ‘relevant time’ means—

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

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

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

or

(b) where the contribution conditions are being satisfied on the deceased spouse’s or deceased civil partner’s insurance record—

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

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

and

(c) in the definition of “yearly average”, by substituting “widow, widower, deceased spouse, surviving civil partner or deceased civil partner” for “widow, widower or deceased spouse”.

(4) The Principal Act is amended by substituting the following section for section 124 (amended by section 17 and Schedule 3 of the Act of 2006):

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

- (a) where the contribution conditions set out in section 125 are satisfied on either the insurance record of the widow, widower or surviving civil partner or that of his or her deceased spouse or deceased civil partner,
- (b) where the widow’s or widower’s spouse or surviving civil partner’s civil partner was entitled to a State pension (contributory) or a State pension (transition) which included an increase in respect of him or her by virtue of section 112(1) or 117(1) in respect of a period ending on the spouse’s or civil partner’s death, or
- (c) where his or her spouse or civil partner would have been entitled to a State pension (contributory) or a State pension (transition) at an increased weekly rate by virtue of section 112(1) or 117(1), but for the receipt by that widow, widower or surviving civil partner of a State pension (non-contributory), a blind pension or a carer’s allowance in his or her own right, in respect of a period ending on his or her death.

(2) A pension shall not be payable to a widow or widower or surviving civil partner for any period after his or her marriage or remarriage, or his or her entry into a civil partnership or a new civil partnership.

(3) A widow, widower or surviving civil partner shall be disqualified for receiving a pension if and so long as he or she is a cohabitant.

(4) A person who, having ceased to be entitled to a pension by virtue of that person’s marriage or remarriage, or his or her entry into a civil partnership or a new civil partnership shall, on again becoming a widow, widower or surviving civil partner, be entitled to a pension at the rate which would have been payable had the person not married, remarried, entered into a civil partnership or a new civil partnership where the person—

- (a) fails to satisfy the conditions set out in subsection (1), or

(b) on satisfying the conditions set out in subsection (1), is entitled to a pension at a rate below that which would have been payable had the person not married, or remarried or not entered into a civil partnership or a new civil partnership.”.

(5) Section 125(1) of the Principal Act is amended by substituting the following subsection for subsection (1):

“(1) The contribution conditions for pension are—

- (a) that the widow, widower or surviving civil partner has qualifying contributions in respect of not less than 156 contribution weeks in the period beginning with his or her entry into insurance and ending immediately before the relevant time, and
- (b) that, where at the relevant time, 4 years or longer has elapsed since the widow’s, widower’s or surviving civil partner’s entry into insurance—
  - (i) the yearly average for the 3 contribution years, or (where warranted by his or her insurance record) 5 contribution years, ending with the end of the last complete contribution year before the relevant time is not less than 39, or
  - (ii) the yearly average in respect of the period commencing at the beginning of the contribution year in which his or her entry into insurance occurred and ending at the end of the last complete contribution year before the relevant time is not less than 48,

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

(6) Section 134 (amended by section 4 and Schedule 1 of the Act of 2006) of the Principal Act is amended—

(a) in subsection (1)(b) by substituting the following subparagraph for subparagraph (iii):

“(iii) the widow, widower or surviving civil partner of a deceased insured person, or”,

and

(b) in subsection (3), in the definition of “pensioner”—

- (i) in paragraph (e), by deleting “or”,
- (ii) in paragraph (f) by inserting “or” after “benefit”, and
- (iii) by inserting the following paragraph after paragraph (f):

“(g) surviving civil partner’s (contributory) pension”,

and

- (iv) by substituting “a surviving civil partner’s (non-contributory) pension or a carer’s allowance at a higher rate” for “or a carer’s allowance at a higher rate”.

Widowed or surviving civil partner grant.

**18.**—Section 137 (amended by section 11 of the Act of 2008) of the Principal Act is amended by substituting the following section for section 137:

“Entitlement to widowed or surviving civil partner grant. 137.—(1) Subject to this Act, a grant (in this section referred to as a ‘widowed or surviving civil partner grant’) of €6,000 or any higher amount that may be prescribed, shall be paid to a widow, widower or surviving civil partner on the death of his or her spouse or civil partner who—

- (a) is entitled to or in receipt of bereavement grant, or
- (b) is entitled to or in receipt of—
  - (i) death benefit under section 81,
  - (ii) widow’s (contributory) pension under Chapter 18 of Part 2,
  - (iii) widower’s (contributory) pension under Chapter 18 of Part 2,
  - (iv) widow’s (contributory) pension under Chapter 18 of Part 2 or widower’s (contributory) pension under Chapter 18 of Part 2 by virtue of Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004 or by virtue of a reciprocal agreement under section 287,
  - (v) one-parent family payment,
  - (vi) State pension (non-contributory), or
  - (vii) surviving civil partner (contributory) pension under Chapter 18 of Part 2,

which includes an increase in respect of a qualified child.

(2) In this Chapter—

‘spouse’ includes a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State and in relation to a

widow or widower who has been married more than once, refers only to the widow's or widower's last spouse;

'surviving civil partner' means a surviving civil partner who has at least one qualified child who normally resides with him or her at the date of death of his or her civil partner;

'widow' means a person who has at least one qualified child who normally resides with her at the date of death of her spouse or whose child is born within 10 months of the date of death of her spouse, and includes 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 person who has at least one qualified child who normally resides with him at the date of death of his spouse, and includes 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."

**19.—(1)** The Principal Act is amended in section 139(1) (amended by section 16(a) of the Social Welfare and Pensions Act 2008):

Miscellaneous amendments to Part 3 of Principal Act.

(a) by substituting the following paragraph for paragraph (e):

“(e) widow’s (non-contributory) pension, widower’s (non-contributory) pension, surviving civil partner’s (non-contributory) pension and guardian’s payment (non-contributory),”

and

(b) by substituting the following paragraph for paragraph (f):

“(f) widowed or surviving civil partner grant (paid by virtue of one-parent family payment or State pension (non-contributory) under this Part),”

(2) The Principal Act is amended in section 142—

(a) in subsection (1)(a)(ii), by substituting the following clause for clause (IA) (inserted by section 20 of the Act of 2007):

“(IA) widow’s (non-contributory) pension, widower’s (non-contributory) pension or surviving civil partner’s (non-contributory) pension, but has ceased to be entitled to that pension by virtue of no longer being regarded as a widow, widower or surviving civil partner within the meaning of section 162(1), or”

and

(b) by substituting the following subsection for subsection (4):

“(4) In subsection (3), ‘couple’ means—

- (a) a married couple who are living together,
- (b) both civil partners of a civil partnership who are living together, or
- (c) both cohabitants.”.

(3) The Principal Act is amended in section 144—

(a) by substituting the following definition for the definition of “couple”:

“ ‘couple’ means—

- (a) a married couple who are living together,
- (b) both civil partners of the same civil partnership who are living together, or
- (c) both cohabitants.”,

and

(b) by inserting the following subsection after subsection (3):

“(4) In this section—

- (a) a reference to a civil partner is a reference to each civil partner of a couple in relation to the other, and
- (b) a reference to a cohabitant is a reference to each cohabitant in relation to the other.”.

(4) Section 149 of the Principal Act is amended—

(a) in subsection (1)(c), by inserting the following subparagraph after subparagraph (ii):

“(ii) being a civil partner who is not living with the other civil partner of the civil partnership and who has not engaged in remunerative employment or self-employment at any time in the preceding period that may be prescribed, or”,

(b) in subsection (2)(a), by inserting the following paragraph after paragraph (a):

“(aa) For the purposes of subsection (1)(c)(ii) and subject to section 3(10), a civil partner who is not living with his or her civil partner shall continue to be regarded as such where the civil partnership has been dissolved, being a dissolution that is recognised as valid in the State.”,

and

(c) in subsection (2), by substituting the following paragraph for paragraph (b):

“(b) Pre-retirement allowance shall, subject to this Chapter, continue to be payable to a person to



whom subsection (1)(c)(ii) or subsection (1)(c)(iia) applies, unless that person marries, remarries, enters into a civil partnership or a new civil partnership or is a cohabitant.”

(5) The Principal Act is amended—

(a) in section 152 (amended by section 37 of and Schedule 7 to the Act of 2006) by inserting the following definition:

“ ‘civil partner’ includes a civil partner whose civil partnership has been dissolved, being a dissolution that is recognised as valid in the State;”,

and

(b) in section 161 (amended by section 20 of the Act of 2006) by inserting the following definition:

“ ‘civil partner’ includes a civil partner whose civil partnership has been dissolved, being a dissolution that is recognised as valid in the State;”.

(6) The Principal Act is amended in section 162 (amended by section 17 of and Schedule 3 to the Act of 2006)—

(a) in subsection (1), by substituting the following definition for the definition of “pension”:

“ ‘pension’ means—

(a) a widow’s (non-contributory) pension in the case of a widow,

(b) a widower’s (non-contributory) pension in the case of a widower, and

(c) a surviving civil partner’s (non-contributory) pension in the case of a surviving civil partner;”,

and

(b) in subsection (2)—

(i) in paragraph (a), by deleting “and” after “Schedule 3,”,

(ii) in paragraph (b), by inserting “or entered into a civil partnership” after “a widow who has remarried”,

(iii) in paragraph (b), by inserting “or entered into a civil partnership” after “a widower who has remarried”,

(iv) in paragraph (b), by substituting “wife, and” for “wife.”, and

(v) by inserting the following paragraph after paragraph (b):

“(c) a surviving civil partner who has entered into a new civil partnership or has married shall not be regarded as the surviving civil partner of his or her former civil partner.”.

(7) The Principal Act is amended in section 163 (amended by section 21 of the Act of 2006) by substituting the following subsections for subsections (1) and (2):

“(1) Subject to this Act, a pension shall be payable to a widow, widower or surviving civil partner who has not attained pensionable age.

(2) A pension payable to a widow, widower or surviving civil partner shall, subject to this Chapter, continue to be payable unless the beneficiary marries or remarries or enters into a civil partnership or a new civil partnership and in that case the pension shall cease as and from the beneficiary’s marriage or remarriage or entry into a civil partnership or a new civil partnership.”.

(8) The Principal Act is amended by—

(a) substituting the following section for section 166:

“Disqualifications. 166.—A widow, widower or surviving civil partner, as the case may be, shall not, if and so long as he or she is a cohabitant, be entitled to and shall be disqualified for receiving payment of pension.”,

and

(b) inserting the following section after section 167:

“Avoidance of double pensions in relation to surviving civil partner’s (contributory) pension.	167A.—Where a surviving civil partner would, but for this section, be entitled to both a surviving civil partner’s (contributory) pension and a pension under this Chapter, the latter pension shall not be payable except insofar as is provided by regulations under section 247.”.
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(9) Section 196(2) of the Principal Act is amended by substituting the following paragraph for paragraph (a):

“(a) where—

- (i) a husband and wife,
- (ii) both civil partners of a civil partnership, or
- (iii) both cohabitants,

are members of the same household, their needs and means shall be aggregated and shall be regarded as the needs and means of the claimant;”.

(10) The Principal Act is amended in section 217 (amended by section 4 of and Schedule 1 to the Act of 2006) by substituting the following subsection for subsection (3):

“(3) In this section ‘couple’ means—

- (a) a married couple who are living together,
- (b) both civil partners of a civil partnership who are living together, or
- (c) both cohabitants.”.

**20.**—(1) The Principal Act is amended in section 172(1) (amended by section 13 of the Act of 2008) in the definition of “qualified parent”— One-parent family payment.

- (a) in paragraph (d), by deleting “or” after “person,”,
- (b) in paragraph (e), by inserting “or” after “6 months,”, and
- (c) by inserting the following paragraphs after paragraph (e) of that definition:

- “(f) a surviving civil partner,
- (g) a civil partner who is not living with the other civil partner of the civil partnership, or
- (h) a person who is not a party to a civil partnership.”.

(2) Section 172(2) of the Principal Act is amended by—

- (a) substituting the following paragraph for paragraph (b):

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

- (b) inserting the following paragraph after paragraph (b):

“(ba) a surviving civil partner who has entered into a new civil partnership or who marries shall not be regarded as the surviving civil partner of his or her former civil partner, and”,

and

- (c) substituting the following paragraph for paragraph (c):

“(c) a reference to a qualified parent shall include a reference to a person who would otherwise be a qualified parent but for the fact that—

- (i) the person’s marriage has been dissolved, being a dissolution that is recognised as valid in the State, or
- (ii) the person’s civil partnership has been dissolved, being a dissolution that is recognised as valid in the State.”.

(3) The Principal Act is amended in section 173 (amended by section 25 of the Act of 2010) by substituting the following for subsection (2):

“(2) A one-parent family payment payable to a qualified parent shall, subject to this Act, continue to be payable unless the qualified parent marries, remarries, enters into a civil partnership or enters into a new civil partnership, and in such a case the one-parent family payment shall cease as and from the date of marriage or remarriage or the date of entry into a civil partnership or new civil partnership, as the case may be.”.

(4) The Principal Act is amended in section 173A (inserted by section 25 of the Act of 2010)—

(a) in subsection (1)(a), by substituting “dies,” for “dies, and”,

(b) in subsection (1)(b), by substituting the following paragraph for paragraph (b):

“(b) to a surviving cohabitant where both cohabitants are, on the relevant date, cohabiting and one of them dies, and”,

(c) in subsection (1), by inserting the following paragraph after paragraph (b):

“(c) to a surviving civil partner where both civil partners of a civil partnership are, on the relevant date, living together and one of them dies,”,

(d) in subsection (1)—

(i) by substituting “and the surviving spouse, surviving cohabitant or surviving civil partner” for “and the surviving spouse or surviving person”, and

(ii) by substituting “with that surviving spouse, surviving cohabitant or surviving civil partner” for “with that surviving spouse or surviving person”,

(e) in subsection (2) by substituting “to a surviving spouse, surviving cohabitant or surviving civil partner” for “to a surviving spouse or surviving person”, and

(f) by substituting the following subsection for subsection (3):

“(3) In this section, ‘relevant date’ means the date of death of—

(a) the spouse of the surviving spouse,

(b) the cohabitant of the surviving cohabitant, or

(c) the civil partner of the surviving civil partner.”.

(5) The Principal Act is amended in section 173B (inserted by section 25 of the Act of 2010)—

(a) in subsection (1)(a), by substituting “dies,” for “dies, and”,

(b) by substituting the following paragraph for paragraph (b):

“(b) to a surviving cohabitant where both cohabitants are, on the relevant date, cohabiting and one of them dies, and”,

(c) by inserting the following paragraph after paragraph (b):

“(c) to a surviving civil partner where both civil partners are, on the relevant date, living together and one of them dies,”,

(d) in subsection (1)—

(i) by substituting “the surviving spouse, surviving cohabitant or surviving civil partner is” for “the surviving spouse or surviving person is”, and

(ii) by substituting “that surviving spouse, surviving cohabitant or surviving civil partner and” for “that surviving spouse or surviving person and”,

and

(e) in subsection (2), by substituting “surviving spouse, surviving cohabitant or surviving civil partner” for “surviving spouse or surviving person”.

(6) The Principal Act is amended by substituting the following section for section 175:

“Disqualification. 175.—A qualified parent shall not, if and so long as that parent is a cohabitant, be entitled to and shall be disqualified for receiving payment of one-parent family payment.”.

(7) The Principal Act is amended in section 177 by substituting the following paragraph for paragraph (a):

“(a) a person is to be regarded as being a separated spouse or a civil partner is to be regarded as a civil partner who is not living with the other civil partner of the civil partnership.”.

**21.**—Section 187 (amended by section 12 of the Social Welfare and Pensions (No. 2) Act 2009) of the Principal Act is amended in the definition of “qualified adult”— Qualified adult.

(a) by substituting the following for paragraph (a):

“(a) in relation to the beneficiary—

(i) the spouse of the beneficiary who is being wholly or mainly maintained by the beneficiary,

(ii) the civil partner of the beneficiary who is being wholly or mainly maintained by the beneficiary, or

(iii) the cohabitant of the beneficiary who is being wholly or mainly maintained by the beneficiary,

or”,

(b) in paragraph (b)(iii), by substituting “widower,” for “widower, or”,

(c) in paragraph (b)(iv), by substituting “the married person’s spouse,” for “the married person’s spouse;”, and

(d) inserting the following subparagraphs after paragraph (b)(iv):

“(v) a surviving civil partner, or

(vi) a civil partner who is not living with and is neither wholly nor mainly maintaining, nor being wholly or mainly maintained by, his or her civil partner;”.

Amendment to Part 6 of Principal Act. **22.**—The Principal Act is amended in section 227 (amended by section 22 of the Act of 2008)—

(a) by inserting the following definition:

“ ‘civil partner’ includes a civil partner whose civil partnership has been dissolved, being a dissolution that is recognised as valid in the State;”,

(b) in the definition of “family”, by substituting the following paragraph for paragraph (b):

“(b) where that person is living with or wholly or mainly maintaining—

(i) his or her spouse,

(ii) his or her civil partner, or

(iii) his or her cohabitant,

that spouse, civil partner or cohabitant, and”,

and

(c) in the definition of “spouse”, by deleting paragraph (b).

Amendments to Part 9 of Principal Act.

**23.**—(1) The Principal Act is amended in section 248(1) (amended by section 4 of and Schedule 1 to the Act of 2006) in the definition of “benefit”, by substituting the following paragraph for paragraph (p):

“(p) widow’s (contributory) pension, widower’s (contributory) pension or surviving civil partner’s (contributory) pension.”.

(2) Section 262(1) of the Principal Act is amended by substituting the following definition for the definition of “spouse”:

“ ‘spouse’ means each person of a married couple;”.

(3) The Principal Act is amended in section 285(1) (amended by section 4 of and Schedule 1 to the Act of 2006) by substituting “by virtue of being a widow, widower or surviving civil partner, widow’s

(non-contributory) pension, widower’s (non-contributory) pension or surviving civil partner’s (non-contributory) pension” for “by virtue of being a widow or widower, widow’s (non-contributory) pension, widower’s (non-contributory) pension”.

**24.**—(1) The Principal Act is amended in section 344(1) by inserting the following definition: Amendments to Part 12 of Principal Act.

“ ‘civil partner’ in relation to a civil partner who has entered into a civil partnership more than once, refers only to his or her last civil partner and for this purpose that last civil partner shall be read as including the civil partner with whom, but for the fact the civil partnership has been dissolved, being a dissolution recognised as valid in the State, he or she entered into that civil partnership;”.

(2) The Principal Act is amended in section 345 (amended by section 37 and Schedule 7 of the Act of 2006)—

(a) in paragraph (a), by substituting the following subparagraph for subparagraph (i):

“(i) his wife or civil partner, and”,

and

(b) in paragraph (b), by substituting the following subparagraph for subparagraph (i):

“(i) her husband or civil partner, and”.

**25.**—(1) Schedule 3 of the Principal Act is amended in Part 1 (amended by section 19(a) of the Social Welfare and Pensions (No. 2) Act 2009) by— Amendments to Schedule 3 of Principal Act.

(a) inserting the following definition:

“ ‘civil partner’ means each civil partner of a couple who are civil partners of the same civil partnership and who are living together;”,

and

(b) substituting the following for the definition of “spouse”:

“ ‘spouse’ means each person of a married couple who are living together.”.

(2) Schedule 3 of the Principal Act is amended in Part 2 (amended by section 19(b) of the Social Welfare and Pensions (No. 2) Act 2009) by substituting the following Rule for Rule 2(1):

“2. (1) Notwithstanding this Schedule and subject to paragraph (2), for the purposes of disability allowance, the gross proceeds derived from the sale of the principal residence of the claimant or beneficiary or, in the case of a married couple who are living together or both civil partners of the same civil partnership who are living together, the spouse or civil partner of the claimant or beneficiary shall not, subject to the limit and under the conditions and circumstances and for the periods that

shall be prescribed, be taken into account in calculating the means of the claimant or beneficiary.”.

(3) Schedule 3 of the Principal Act is amended in Part 3 (amended by section 35 of the Act of 2007) by—

(a) substituting the following for Rule 3(1):

“3. (1) Notwithstanding this Schedule and subject to paragraph (2), the gross proceeds derived from the sale of the principal residence of the claimant or beneficiary or, in the case of a married couple who are living together or civil partners of the same civil partnership who are living together, the spouse or civil partner of the claimant or beneficiary where the spouse or civil partner has attained pensionable age, shall not, subject to the limit and under the conditions and circumstances and for the periods that shall be prescribed, be taken into account in calculating the means of the claimant, beneficiary or pensioner.”,

and

(b) substituting the following for Rule 4(2):

“4. (2) In this Rule ‘couple’ means—

- (a) a married couple who are living together,
- (b) both civil partners who are parties to the same civil partnership and who are living together, or
- (c) both cohabitants.”.

(4) Schedule 3 of the Principal Act is amended in Part 5 by—

(a) substituting the following for Rule 1B:

“1B. In Rules 1, 1A and 4, ‘couple’ means—

- (a) a married couple who are living together,
- (b) both civil partners who are parties to the same civil partnership and who are living together, or
- (c) both cohabitants.”,

and

(b) substituting the following for Rule 3(1):

“3. (1) Notwithstanding this Schedule and subject to paragraph (2), for the purposes of blind pension, the gross proceeds derived from the sale of the principal residence of the claimant or beneficiary or, in the case of a married couple who are living together, or both civil partners of the same civil partnership who are living together, the spouse or civil partner of the claimant or beneficiary where the spouse or civil partner has attained pensionable age, shall not, subject to the limit and under the conditions and circumstances and for the periods that shall be prescribed,



be taken into account in calculating the means of the claimant, beneficiary or pensioner.”.

**26.**—The Principal Act is amended in the manner specified in *Schedule 3*.

Amendments to Principal Act relating to the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

**27.**—The Principal Act is amended—

Status of persons engaged in work experience pursuant to certain placements.

(a) by inserting the following section after section 247:

“Disqualification for benefit while participating in certain employment programmes. 247A.—A person shall be disqualified for receiving—

(a) any benefit specified in section 39(1), other than death benefit by way of a grant in respect of funeral expenses, bereavement grant or widowed parent grant,

(b) any assistance specified in section 139(1), other than a widowed parent grant, or

(c) infectious diseases maintenance allowance,

while he or she is engaged by another person to carry out work or perform any duty or service pursuant to a placement under the programme referred to in paragraph (b) of subsection (1) of section 298A (inserted by section 27(b) of the *Social Welfare and Pensions Act 2010*).”.

(b) by inserting the following Part after Part 9:

“PART 9A

STATUS OF PERSONS PARTICIPATING IN CERTAIN EMPLOYMENT PROGRAMMES

Status of persons engaged in work experience pursuant to certain placements.

298A.—(1) A person who is engaged by another person to carry out work or perform any duty or service pursuant to a placement under—

(a) the work placement programme within the meaning of subsection (3) of section 142B,

(b) the programme described as the skills development and internship programme approved by the Government on 18 November 2010, or

- (c) any variation, extension or replacement of a programme referred to in paragraph (a) or (b),

shall, for the purposes of any enactment or rule of law (other than the Safety, Health and Welfare at Work Act 2005), be deemed not to be an employee of the other person or to carry out such work or perform such duties pursuant to a contract of service.

(2) The Minister shall, for the purposes of any enactment or rule of law, be deemed not to be the employer of the person first-mentioned in subsection (1).”,

- (c) by inserting the following paragraph in Rule 2 of Part 4 of Schedule 3:

“(aa) any income paid by the person second-mentioned in subsection (1) of section 298A.”.

### PART 3

#### EMPLOYMENT SCHEMES AND OTHER SCHEMES AND PROGRAMMES

Interpretation.

**28.**—In this Part—

“Act of 1987” means the Labour Services Act 1987;

“An Foras” means An Foras Áiseanna Saothair.

Functions of Minister in relation to employment schemes and related schemes and programmes.

**29.**—(1) The Principal Act is amended by inserting the following Part after Part 12:

#### “PART 12A

#### EMPLOYMENT SCHEMES AND OTHER SCHEMES AND PROGRAMMES

Functions of Minister in relation to employment schemes and related schemes and programmes.

359A.—(1) The Minister may—

- (a) provide, or arrange for and co-ordinate the provision of—
- (i) employment schemes,
  - (ii) assistance in obtaining employment,
  - (iii) assistance in obtaining work experience,
  - (iv) job placement schemes that facilitate persons seeking employment in obtaining employment, including the provision of—

(I) guidance, advice and information in respect of choice of career and employment, and

(II) services, whereby persons seeking employment are introduced to persons offering employment, and

(b) assist, whether financially or otherwise, in the provision of schemes and programmes referred to in paragraph (a).

(2) Without prejudice to the generality of subsection (1), the Minister may provide for any employment scheme or other scheme or programme provided, immediately before the coming into operation of *section 30* of the *Social Welfare and Pensions Act 2010*, by An Foras Áiseanna Saothair, pursuant to paragraphs (b) to (g) of section 4(1) of the Labour Services Act 1987 including the following schemes and programme provided by An Foras Áiseanna Saothair immediately before the coming into operation of *section 30* of the *Social Welfare and Pensions Act 2010*:

(a) the scheme known as Community Employment;

(b) the programme commonly known as the work placement programme referred to in section 142B(4);

(c) the scheme known as the Jobs Initiatives Scheme referred to in section 234.

(3) The Minister may amend or terminate, at any time, a scheme or programme referred to in subsection (2).

(4) The Minister shall not be, or be deemed to be, an employer, within the meaning of the Terms of Employment (Information) Acts 1994 and 2001 by reason only of the provision of funding by him or her to a person pursuant to a scheme or programme provided under this section.”.

(2) The Principal Act is amended in the manner specified in *Schedule 1*.

**30.**—The Act of 1987 is amended in section 4(1) by deleting paragraphs (b), (c), (d), (e), (f) and (g).

Amendment of section 4 of Act of 1987.

**31.**—(1) The Minister for Education and Skills may, with the consent of the Minister, designate by instrument in writing any contract or commitment (express or implied) entered into by An Foras before the designation for transfer to the Minister.

Transfer of rights and liabilities.

(2) All rights and liabilities arising by virtue of any contract or commitment so designated shall, on the transfer day, stand transferred to the Minister.

(3) Every right and liability transferred by *subsection (2)* may, on and after the transfer day, be sued on, recovered or enforced by or against the Minister in the name of the Minister and it shall not be necessary for the Minister to give notice to the person whose right or liability is transferred by that subsection of such transfer.

(4) (a) The Minister shall, by order, appoint a day (in this section referred to as the “transfer day”) for the purposes of this section.

(b) For the purposes of *paragraph (a)*, the Minister may appoint different transfer days for different purposes and different provisions.

Transfer of certain property.

**32.—**(1) For the purposes of this section, the Minister for Education and Skills may, with the consent of the Minister, designate by instrument in writing lands that immediately before being so designated were vested in An Foras.

(2) On the transfer day all lands designated under *subsection (1)* and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the Commissioners.

(3) For the purposes of this section, the Minister for Education and Skills may, with the consent of the Minister, designate in writing property other than land, including choses-in-action, that immediately before being so designated was the property of An Foras.

(4) All property other than land, including choses-in-action, designated under *subsection (3)* shall, on the transfer day, stand vested in the Minister without any assignment.

(5) Every chose-in-action vested in the Minister by virtue of this section may, on and after the transfer day, be sued upon, recovered or enforced by the Minister in the name of the Minister and it shall not be necessary for the Minister to give notice to any person bound by the chose-in-action of the transfer effected by that subsection.

(6) (a) The Minister shall, by order, appoint a day (in this section referred to as the “transfer day”) for the purposes of this section.

(b) For the purposes of *paragraph (a)*, the Minister may appoint different transfer days for different purposes and different provisions.

Transfer of certain members of staff of An Foras.

**33.—**(1) The Minister may, with the consent of the Minister for Education and Skills, designate a person who, immediately before the designation, is a member of the staff of An Foras (other than a fixed-term employee) for appointment to an unestablished position in the Civil Service.

(2) A person designated under *subsection (1)* shall, on the appointment day, stand appointed to such unestablished position in the Civil Service as is specified in the designation.

(3) The Minister may, with the consent of the Minister for Education and Skills, designate a person who, immediately before the designation, is a fixed-term employee of An Foras for appointment to an unestablished position in the Civil Service for the period remaining unexpired under the contract of employment under which he or she was employed by An Foras.

(4) A person designated under *subsection (3)* shall, on the appointment day, stand appointed to such unestablished position in the Civil Service as is specified in the designation for the period remaining unexpired under the contract of employment under which he or she was employed by An Foras.

(5) A designation under this section shall be in writing.

(6) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person appointed under this section shall not, on the appointment day, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the appointment day.

(7) The previous service with An Foras of a person appointed under this section shall be reckonable for the purposes of, but subject to, any exceptions or exclusions in:

- (a) the Redundancy Payments Acts 1967 to 2007;
- (b) the Protection of Employees (Part-Time Work) Act 2001;
- (c) the Act of 2003;
- (d) the Organisation of Working Time Act 1997;
- (e) the Terms of Employment (Information) Acts 1994 and 2001;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- (g) the Unfair Dismissals Acts 1977 to 2007;
- (h) the Maternity Protection Acts 1994 and 2004;
- (i) the Parental Leave Acts 1998 and 2006;
- (j) the Adoptive Leave Acts 1995 and 2005;
- (k) the Carer's Leave Act 2001.

(8) The rules of a superannuation scheme, or superannuation schemes, that at the appointment day govern benefits applicable to or in respect of a person appointed under this section shall continue to apply to or in respect of that person after the appointment day, save in accordance with a collective agreement with a recognised trade union or staff association and the approval of the Minister for Finance.

(9) Where the rules of a superannuation scheme, or superannuation schemes, referred to in *subsection (8)* provide for the exercise of discretion, the Minister for Finance shall, on and after the appointment day, exercise any such discretion.

(10) The pension payments and other superannuation liabilities of An Foras in respect of its former members of staff who have been appointed under this section become, on the appointment day, the liabilities of the Minister for Finance.

(11) A person appointed under this section shall undertake such duties as the Minister may from time to time direct.

(12) A person appointed under this section shall be subject to and employed in accordance with the Civil Service Regulation Acts 1956 to 2005 and the Ethics in Public Office Acts 1995 and 2001.

(13) (a) The Minister shall, by order, appoint a day (in this section referred to as the “appointment day”) for the purposes of this section.

(b) For the purposes of *paragraph (a)*, the Minister may appoint different appointment days in respect of different classes of person designated under this section.

(14) In this section—

“Act of 2003” means the Protection of Employees (Fixed-Term Work) Act 2003;

“Act of 2004” means the Public Service Management (Recruitment and Appointments) Act 2004;

“Civil Service” has the meaning assigned to it by the Act of 2004;

“contract of employment” has the meaning assigned to it by the Act of 2003;

“fixed-term employee” has the meaning assigned to it by the Act of 2003;

“recognised trade union or staff association” means a trade union or staff association recognised by the Minister for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees;

“unestablished position” has the meaning assigned to it by the Act of 2004.

Amendment of Act of 2010.

**34.—**(1) Part 3 of the Act of 2010 is repealed.

(2) Section 34 of the Act of 2010 is amended by substituting “Part 4” for “Parts 3 and 4”.

(3) Notwithstanding the repeal of Part 3 of the Act of 2010, the Minister may, in respect of the relevant period, direct An Foras to prepare and submit to the Minister, a report, within such period as may be specified in the direction, in relation to—

(a) the activities referred to in section 29(1)(a) of the Act of 2010,

(b) the provision of services referred to in section 29(1)(b) of the Act of 2010,

(c) the financial information referred to in section 29(1)(c) of the Act of 2010,

- (d) any other matter, referred to in section 29(1)(d) of the Act of 2010, relating to the performance by An Foras of the functions referred to in that section, and
- (e) additional information referred to in section 29(2) of the Act of 2010.

(4) An Foras shall comply with a direction under this section.

(5) The Minister may, following the submission to him or her of the report pursuant to a direction under *subsection (3)*, give a direction to An Foras to provide additional information to him or her in respect of matters referred to in the report.

(6) In this section “relevant period” means the period commencing on the coming into operation of section 29 of the Act of 2010 and ending on the coming into operation of this section.

**35.**—Notwithstanding the repeal by *section 30* of paragraphs (b) to (g) of section 4(1) of the Act of 1987, any employment scheme or other scheme or programme provided, immediately before the coming into operation of *section 30*, by An Foras pursuant to those paragraphs shall, after the coming into operation of *section 30*, continue in being and be provided by the Minister under, and in accordance with, section 359A of the Principal Act including the following schemes and programme provided, immediately before the coming into operation of *section 30*, by An Foras pursuant to paragraphs (b) to (g) of section 4(1) of the Act of 1987 which shall, on the coming into operation of *section 30*, continue in being and be provided by the Minister under, and in accordance with, section 359A of the Principal Act:

Savings and transitional provisions relating to *section 30*.

- (a) the scheme known as Community Employment;
- (b) the programme commonly known as the work placement programme referred to in section 142B(4) of the Principal Act;
- (c) the scheme known as the Jobs Initiatives Scheme referred to in section 234 of the Principal Act.

#### PART 4

##### TRANSFER OF CERTAIN EMPLOYEES, PROPERTY, ETC. OF HEALTH SERVICE EXECUTIVE

**36.**—(1) The Executive may, with the consent of the Minister and the Minister for Health and Children, designate by instrument in writing any contract or commitment (express or implied) entered into by the Executive before the designation for transfer to the Minister.

Transfer of certain rights and liabilities of Executive.

(2) All rights and liabilities arising by virtue of any contract or commitment so designated shall, on the transfer day, stand transferred to the Minister.

(3) Every right and liability transferred by *subsection (2)* may, on and after the transfer day, be sued on, recovered or enforced by or against the Minister in the name of the Minister and it shall not be

necessary for the Minister to give notice to the person whose right or liability is transferred by that subsection of such transfer.

- (4) (a) The Minister shall, by order, appoint a day (in this section referred to as the “transfer day”) for the purposes of this section.
- (b) For the purposes of *paragraph (a)*, the Minister may appoint different transfer days for different purposes and different provisions.

Transfer of certain property of Executive.

**37.—(1)** For the purposes of this section, the Executive may, with the consent of the Minister and the Minister for Health and Children, designate by instrument in writing lands that immediately before being so designated were vested in the Executive.

(2) On the transfer day all lands designated under *subsection (1)* and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the Commissioners.

(3) For the purposes of this section, the Executive may, with the consent of the Minister and the Minister for Health and Children, designate in writing property other than land, including choses-in-action, that immediately before being so designated was the property of the Executive.

(4) All property other than land, including choses-in-action, designated under *subsection (3)* shall, on the transfer day, stand vested in the Minister without any assignment.

(5) Every chose-in-action vested in the Minister by virtue of this section may, on and after the transfer day, be sued upon, recovered or enforced by the Minister in the name of the Minister and it shall not be necessary for the Minister to give notice to any person bound by the chose-in-action of the transfer effected by that subsection.

- (6) (a) The Minister shall, by order, appoint a day (in this section referred to as the “transfer day”) for the purposes of this section.
- (b) For the purposes of *paragraph (a)*, the Minister may appoint different transfer days for different purposes and different provisions.

Transfer of certain employees of Executive.

**38.—(1)** The Minister may, with the consent of the Executive and the Minister for Health and Children, designate a person who, immediately before the designation, is an employee of the Executive (other than a fixed-term employee) for appointment to an unestablished position in the Civil Service.

(2) A person designated under *subsection (1)* shall, on the appointment day, stand appointed to such unestablished position in the Civil Service as is specified in the designation.

(3) The Minister may, with the consent of the Executive and the Minister for Health and Children, designate a person who, immediately before the designation, is a fixed-term employee of the Executive for appointment to an unestablished position in the Civil Service for the period remaining unexpired under the contract of employment under which he or she was employed by the Executive.



(4) A person designated under *subsection (3)* shall, on the appointment day, stand appointed to such unestablished position in the Civil Service as is specified in the designation for the period remaining unexpired under the contract of employment under which he or she was employed by the Executive.

(5) A designation under this section shall be in writing.

(6) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person appointed under this section shall not, on the appointment day, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the appointment day.

(7) The previous service with the Executive of a person appointed under this section shall be reckonable for the purposes of, but subject to, any exceptions or exclusions in:

- (a) the Redundancy Payments Acts 1967 to 2007;
- (b) the Protection of Employees (Part-Time Work) Act 2001;
- (c) the Act of 2003;
- (d) the Organisation of Working Time Act 1997;
- (e) the Terms of Employment (Information) Acts 1994 and 2001;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- (g) the Unfair Dismissals Acts 1977 to 2007;
- (h) the Maternity Protection Acts 1994 and 2004;
- (i) the Parental Leave Acts 1998 and 2006;
- (j) the Adoptive Leave Acts 1995 and 2005;
- (k) the Carer's Leave Act 2001.

(8) The rules of a superannuation scheme, or superannuation schemes, that at the appointment day govern benefits applicable to or in respect of a person appointed under this section shall continue to apply to or in respect of that person after the appointment day, save in accordance with a collective agreement with a recognised trade union or staff association and the approval of the Minister for Finance.

(9) Where the rules of a superannuation scheme, or superannuation schemes, referred to in *subsection (8)* provide for the exercise of discretion, the Minister for Finance shall, on and after the appointment day, exercise any such discretion.

(10) The pension payments and other superannuation liabilities of the Executive in respect of its former employees who have been appointed under this section become, on the appointment day, the liabilities of the Minister for Finance.

(11) A person appointed under this section shall undertake such duties as the Minister may from time to time direct.

(12) A person appointed under this section shall be subject to and employed in accordance with the Civil Service Regulation Acts 1956 to 2005 and the Ethics in Public Office Acts 1995 and 2001.

(13) (a) The Minister shall, by order, appoint a day (in this section referred to as the “appointment day”) for the purposes of this section.

(b) For the purposes of *paragraph (a)*, the Minister may appoint different appointment days in respect of different classes of person designated under this section.

(14) In this section:

“Act of 2003” means the Protection of Employees (Fixed-Term Work) Act 2003;

“Act of 2004” means the Public Service Management (Recruitment and Appointments) Act 2004;

“Civil Service” has the meaning assigned to it by the Act of 2004;

“contract of employment” has the meaning assigned to it by the Act of 2003;

“fixed-term employee” has the meaning assigned to it by the Act of 2003;

“recognised trade union or staff association” means a trade union or staff association recognised by the Minister for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees;

“unestablished position” has the meaning assigned to it by the Act of 2004.

Amendment to section 208 of Principal Act.

**39.**—Section 208 of the Principal Act is amended—

(a) in subsection (1), by substituting “Subject to subsection (4), all property” for “All property”,

(b) in subsection (2), by substituting “Subject to subsection (4), every chose-in-action” for “Every chose-in-action”,

(c) in subsection (3), by substituting “Subject to subsection (4), every bond” for “Every bond”, and

(d) by inserting the following subsection after subsection (3):

“(4) This section shall not apply to any property, chose-in-action, bond, guarantee or other security of a continuing character that is designated and transferred under *Part 4* of the *Social Welfare and Pensions Act 2010*.”.

## PART 5

### APPROVAL OF CERTAIN POLICIES OR CONTRACTS OF ASSURANCE

Definition.

**40.**—In this Part “Principal Act” means the Pensions Act 1990.

**41.**—The Principal Act is amended in section 48 by substituting the following for paragraph (b) of subsection (3): Amendment of section 48 of Principal Act.

“(b) the making of one or more payments under policies or contracts of assurance that are effected on behalf of the member with one or more undertakings (within the meaning of the Insurance Act 1989) which policies or contracts are approved—

(i) by the Revenue Commissioners under Chapter 1 of Part 30 of the Taxes Consolidation Act 1997, or

(ii) by the Board under section 53B (inserted by section 42 of the *Social Welfare and Pensions Act 2010*),

and which policies or contracts of assurance shall not be deemed to be an occupational pension scheme for the purposes of this Act, or”.

**42.**—The Principal Act is amended by inserting the following Part after Part IV: New Part IVA of Principal Act.

“PART IVA

APPROVAL OF CERTAIN POLICIES OR CONTRACTS OF ASSURANCE

Definition. 53A.—In this Part ‘undertaking’ means an undertaking within the meaning of the Insurance Act 1989.

Approval of policy or contract of assurance for discharge of benefits. 53B.—(1) The Board may approve a policy or contract of assurance, submitted to the Board by an undertaking in that behalf, in respect of schemes that are approved by the Revenue Commissioners under Chapter 1 of Part 30 of the Taxes Consolidation Act 1997, where it is satisfied that the policy or contract of assurance secures the benefits payable—

(a) to the scheme in respect of a person who under the scheme—

(i) is receiving benefits, or

(ii) has reached normal pensionable age,

or

(b) to or in respect of a person who under a scheme—

(i) is receiving benefits, or

(ii) has reached normal pensionable age.

(2) For the purpose of obtaining approval under subsection (1) an undertaking shall furnish

to the Board such information in such form as may be prescribed for the purposes of this section.

(3) A policy or contract of assurance referred to in subsection (1) may include a policy or contract of assurance which is referenced by—

(a) securities issued under section 54(1) of the Finance Act 1970 and known as bonds, or

(b) securities issued under the laws of a Member State (other than the State) that correspond to securities referred to in *paragraph (a)*.

Register of Policies or Contracts of Assurance approved under section 53B.

53C.—The Board shall—

(a) keep a register in which there shall be entered such particulars as may be prescribed, for the purposes of this Part, in relation to policies or contracts of assurance that have been approved under section 53B and such register shall be open for inspection by any member of the public at all reasonable times on payment of such fee as the Board may determine, and

(b) maintain, in accordance with regulations, an up to date database of information relating to particulars referred to in paragraph (a).

Existing Policies or Contracts of Assurance.

53D.—(1) A policy or contract of assurance that has been approved by the Revenue Commissioners under Chapter 1 of Part 30 of the Taxes Consolidation Act 1997 shall, on the coming into operation of section 53B, be deemed to have been approved by the Board under that section.

(2) An undertaking shall, not later than 60 days after the coming into operation of section 53B, furnish information as may be prescribed, for the purposes of this section, to the Board in relation to a policy or contract of assurance referred to in *subsection (1)*.”

Amendment of section 59 of Principal Act.

**43.**—The Principal Act is amended in section 59 by inserting the following subsections after subsection (2):

“(3) The trustees of a scheme may, at any time, notwithstanding anything contained in the rules of the scheme and without the consent of the members—

(a) make one or more payments on behalf of the scheme to a policy or contract of assurance approved by the Board under section 53B whereby all sums payable under such policy or contract will as and when received by the trustees, be held by them upon trust for the purposes of the scheme,

(b) discharge the liability of the scheme for some or all of the benefits payable to or in respect of a person—

(i) receiving benefits under the scheme, or

(ii) who has reached normal pensionable age,

by making on behalf of that person, one or more than one payment to a policy or contract of assurance approved by the Board under section 53B.

(4) If, in any proceedings brought against a trustee of a scheme for breach of trust in relation to the performance by him or her of a function conferred under subsection (3), it appears to the court hearing the case that the trustee is or may be liable in respect of the breach of trust but that he or she acted honestly and reasonably and that having regard to all of the circumstances of the case he or she ought fairly to be excused for the breach of trust, the court may relieve him or her in whole or in part from his or her liability on such terms as the court deems appropriate.”.

**44.**—The Taxes Consolidation Act 1997 is amended in section 772 by inserting the following subsection after subsection (3F):

Amendment of Taxes Consolidation Act 1997.

“(3G) A retirement benefits scheme shall not cease to be an approved scheme where the trustees of the scheme, notwithstanding anything contained in the rules of the scheme as approved, discharge liabilities of the scheme under section 59(3) of the Principal Act (inserted by section 43 of the *Social Welfare and Pensions Act 2010*).”.

**45.**—(1) The Pensions Acts 1990 to 2009 and this Part may be cited together as the Pensions Acts 1990 to 2010.

Collective citation and commencement.

(2) This Part shall come into operation on 1 January 2011.

Section 29.

SCHEDULE 1

AMENDMENTS TO PRINCIPAL ACT

Provision affected (1)	Amendment (2)
Sections 62(8)(a)(i), 68(4), 71(11), 141(6)(a), 147(1)(b), 198(3A)(b)(ii) and 218(1)(a)	Substitute “scheme provided by the Minister and known as Community Employment” for “scheme administered by An Foras Áiseanna Saothair and known as Community Employment” in each place where it occurs
Sections 234(1)(a)(ii), 234(2)(a), Reference 12 of Part 1 of Schedule 1 and Reference 6 of Part 2 of Schedule 1	Substitute “scheme provided by the Minister and known as Community Employment” for “scheme administered by an Foras Áiseanna Saothair and known as Community Employment” in each place where it occurs
Section 62(8)(a)	Delete subparagraphs (iii) and (iv)
Section 141(6)	Delete paragraphs (c) and (d)
Section 142B(4)	Substitute “provided by the Minister” for “administered by An Foras Áiseanna Saothair”
Section 234(2)(b)	Substitute “provided by the Minister” for “funded by an Foras Áiseanna Saothair”

## SCHEDULE 2

Section 11.

## AMENDMENTS RELATING TO SUPPLEMENTARY WELFARE ALLOWANCE

No. (1)	Provision affected (2)	Amendment (3)
1	Section 198(3F)	Substitute “a designated person” for “the Executive”
2	Section 198(4A)(a) and (b)	Substitute “a designated person” for “the Executive”
3	Section 198(4B)	Substitute “a designated person” for “the Executive”
4	Section 198(4B)(b)(i)	Substitute “a designated person” for “the Executive”
5	Section 198(5B)	Substitute “a designated person” for “the Executive”
6	Section 198(9)	Substitute “a designated person” for “the Executive”
7	Section 198A	Substitute “a designated person” for “the Executive” in each place it occurs
8	Section 198B(b)	Substitute “a designated person” for “the Executive”
9	Section 241(1A)	Substitute “a designated person” for “the Executive”

SCHEDULE 3

AMENDMENTS TO PRINCIPAL ACT RELATING TO THE CIVIL PARTNERSHIP AND CERTAIN RIGHTS AND OBLIGATIONS OF COHABITANTS ACT 2010

Item No. (1)	Provision affected (2)	Amendment (3)
1	Sections 26(2) and 241(2)(a) and Schedule 1, Part 3, Rule 5	Insert “, surviving civil partner’s (contributory) pension” after “widower’s (contributory) pension”.
2	Sections 21(1)(e), 248(2)(f) and 285(1)	Insert “surviving civil partner’s (contributory) pension” after “widower’s (contributory) pension.”.
3	Section 244(1)(c)(ii)	Substitute “widower’s (contributory) pension or surviving civil partner’s (contributory) pension” for “or widower’s (contributory) pension”.
4	Section 23(5)(a)	Insert “or civil partner” after “husband”.
5	Section 23(5)(b)	Substitute “, the wife or the civil partner” for “or the wife”.
6	Sections 129(1)(a), 129(2)(a) and 129(3)	Insert “or surviving civil partner” after “widow”.
7	Sections 159 and 159(b) and Schedule 3, Part 5, Rule 1.(2)(b)(v)	Substitute “, widower’s (non-contributory) pension or surviving civil partner’s (non-contributory) pension” for “or widower’s (non-contributory) pension”.
8	Sections 170(2) and 249(13)(c) and Schedule 3, Part 5, Rule 1.(2)(b)(vii)	Insert “, a surviving civil partner’s (non-contributory) pension” after “widower’s (non-contributory) pension”.
9	Schedule 3, Part 5, Rule 5.(1)(a)	Insert “surviving civil partner’s (non-contributory) pension,” after “widower’s (non-contributory) pension”.
10	Section 161E(1)	Insert “or surviving civil partner’s (contributory) pension” after “widower’s (contributory) pension”.
11	Sections 160(1), 161E(2) and 161E(3)	Insert “, surviving civil partner’s (contributory) pension” after “widower’s (contributory) pension”.
12	Sections 160(2) and 160(3)	Insert “surviving civil partner’s (contributory) pension,” after “widower’s (contributory) pension.”.
13	Sections 241(2)(c), 248(2)(f), 249(10) and 285(2) and Schedule 3, Part 5, Rules 1.(2), 5.(1) and 5.(1)(a)	Insert “surviving civil partner’s (non-contributory) pension,” after “widower’s (non-contributory) pension.”.



Item No. (1)	Provision affected (2)	Amendment (3)
14	Section 287(1) and Schedule 3, Part 5, Rule 1.(2)(b)(ii)	Insert “, surviving civil partner’s (non-contributory) pension” after “widower’s (non-contributory) pension”.
15	Section 241(2)(c)	Substitute “widowed or surviving civil partner grant” for “widowed parent grant”.
16	Sections 247(1)(a), 247(1)(b), 247(2)(a) and 247(2)(b)	Substitute “widowed or surviving civil partner grant,” for “widowed parent grant.”.
17	Section 249(5)	Substitute “and widowed or surviving civil partner grant,” for “and widowed parent grant.”.
18	Section 249(2)	Substitute “husband, wife or civil partner” for “husband or wife”.
19	Schedule 1, Part 2, Rule 1	Substitute “husband, wife or civil partner” for “husband or wife”.
20	Schedule 3, Part 4, Rule 1.(2)	Insert “or not being one of a civil partnership” after “not being one of a couple” in each place where it occurs.
21	Schedule 4, in Part 1, in column (1) at reference 6	Insert “, surviving civil partner’s (non-contributory) pension” after “widower’s (non-contributory) pension”.
22	Schedule 2, in Part 1, in column (1) at reference 5	Substitute “Widower’s (Contributory) Pension and Surviving Civil Partner’s (Contributory) Pension” for “and Widower’s (Contributory) Pension”.
23	Schedule 2, in Part 1, in column (1) at references 2 and 2(a)	Substitute “, widower or surviving civil partner” for “or widower”.
24	Sections 43(3), 43(4), 56(3), 56(4), 66(3), 66(4), 76(3), 76(4), 77(1A), 102(2), 112(3), 117(3), 122(3), 134(1)(a)(iii), 134(1)(b)(ii), 137(1), 141(2)(ca), 141(2)(d), 144(2)(b), 146, 146(b), 149(3A), 149(4), 150(3), 150(3)(b), 157(1)(a), 157(2), 157(3)(a), 157(3)(b), 157(4), 158, 161C(1)(a), 161C(2), 161D, 181(4), 198(4)(a)(iii), 198(6), 210(2), 211(3), 211(3)(b), 214(2), 214(6), 216, 216(b), 217(1), 219(2), 248(2)(a), 250(2)(b), 262(4), 297(1), 297(2), 298(1), Schedule 1, Part 3, Rule 4, Schedule 3, Part 2, Rules 1.(1), 1.(2), 1.(2)(iv)(II), 1.(2)(v), 1.(2)(vi), 1.(2)(xi),	Insert “, civil partner or cohabitant” after “spouse” in each place where it occurs.

Item No. (1)	Provision affected (2)	Amendment (3)
	1.(3), 1.(3)(a), 1.(3)(b), 1.(4), 1.(7), 1.(8), 1.(9)(b), 1A, 1A(a), 1A(b), Schedule 3, Part 3, Rules 5.(1), 5.(1)(a), 5.(1)(b), Schedule 3, Part 4, Rules 1.(2)(b)(v)(II)(A), 1.(2)(v)(III)(A), 1A.(3), 2.(ii) and 2A, Schedule 3, Part 5, Rules 1.(2)(b)(ix), 5.(1), 5.(1)(a), 5.(1)(b) and 6A.(1) and Schedule 3, Table 2, paragraphs 12, 13, 14 and 19	
25	Section 134(3) in the definition of “qualified child”.	Insert “or civil partner” after “spouse” in each place where it occurs.
26	Section 134(3), in the definition of “relevant insured person”	Insert “or, civil partner” after “spouse” in each place where it occurs.
27	Section 172(1), in the definition of “qualified parent”, in paragraph (e)	Insert “or civil partner” after “spouse”.
28	Section 258(4) and Schedule 1, Part 3, Rule 4	Insert “or civil partner” after “spouse”.