



Number 4 of 2005

SOCIAL WELFARE AND PENSIONS ACT 2005

ARRANGEMENT OF SECTIONS

PART 1

SHORT TITLE, CONSTRUCTION, COLLECTIVE CITATION AND
COMMENCEMENT

Section

1. Short title, construction, collective citation and commencement.

PART 2

AMENDMENTS TO THE SOCIAL WELFARE ACTS

2. Definitions (*Part 2*).
3. Child benefit — new rates.
4. Disability benefit.
5. Injury benefit — removal of limit.
6. Carer's benefit — improvement to entitlement conditions.
7. Respite care grant — improvements to entitlement conditions.
8. Disability allowance — extension of payment.
9. Assessment of capital means for certain assistance payments.
10. Certain EU payments — entitlement to island allowance.
11. Amendments consequential on the alignment of the income tax year with the calendar year.
12. Unemployment benefit and unemployment assistance — amendment to entitlement.
13. Unemployment benefit, unemployment assistance and farm assist — amendment to disqualifications.
14. Carer's benefit and carer's allowance — amendment.

[2005.] *Social Welfare and Pensions Act* [No. 4.]
2005.

SCHEDULE 1

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON THE HEALTH
ACT 2004

SCHEDULE 2

THIRD SCHEDULE — RULES AS TO CALCULATION OF MEANS

SCHEDULE 3

AMENDMENTS CONSEQUENTIAL ON SUBSTITUTION OF THIRD SCHEDULE
OF PRINCIPAL ACT

SCHEDULE 4

PRE-CONSOLIDATION AMENDMENTS

SCHEDULE 5

NINTH SCHEDULE — SPECIFIED BODIES

ACTS REFERRED TO

Army Pensions Acts 1923 to 1980	
Bankruptcy Act 1988	1988, No. 27
Blind Persons Act 1920	1920, c.49
Child Care Act 1991	1991, No. 17
Civil Liability (Amendment) Act 1964	1964, No. 17
Companies Act 1990	1990, No. 33
Connaught Rangers (Pensions) Acts 1936 to 1964	
Criminal Justice (Theft and Fraud Offences) Act 2001	2001, No. 50
Education Act 1998	1998, No. 51
Finance Act 1921	11 & 12 Geo. 5, c.32
Finance Act 1958	1958, No. 25
Fisheries (Consolidation) Act 1959	1959, No. 14
Health (Nursing Homes) Act 1990	1990, No. 23
Health Act 1970	1970, No. 1
Health Act 2004	2004, No. 42
Health Contributions Act 1979	1979, No. 4
Housing (Miscellaneous Provisions) Act 1997	1997, No. 21
Income Tax Act 1967	1967, No. 6
Industrial Training Act 1967	1967, No. 5
Larceny Act 1916	6 & 7 Geo. 5, c.50
Local Authorities (Higher Education Grants) Acts 1968 to 1992	

[No. 4.] *Social Welfare and Pensions Act* [2005.]
2005.

Local Government Act 2001	2001, No. 37
Mental Health Act 2001	2001, No. 25
Mental Health Acts 1945 to 2001	
Mental Treatment Act 1945	1945, No. 19
Mental Treatment Acts 1945 to 1966	
Military Service (Pensions) Acts 1924 to 1964	
National Council for Education Awards Act 1979	1979, No. 30
Pensions (Amendment) Act 1996	1996, No. 18
Pensions (Amendment) Act 2002	2002, No. 18
Pensions Act 1990	1990, No. 25
Pensions Acts 1990 to 2004	
Qualifications (Education and Training) Act 1999	1999, No. 26
Regional Technical Colleges Acts 1992 to 2001	
Social Welfare (Consolidation) Act 1993	1993, No. 27
Social Welfare (Miscellaneous Provisions) Act 2002	2002, No. 8
Social Welfare (Miscellaneous Provisions) Act 2003	2003, No. 4
Social Welfare (Miscellaneous Provisions) Act 2004	2004, No. 9
Social Welfare (No. 2) Act 1993	1993, No. 32
Social Welfare Act 1992	1992, No. 5
Social Welfare Act 1993	1993, No. 5
Social Welfare Act 1996	1996, No. 7
Social Welfare Act 1997	1997, No. 10
Social Welfare Act 1998	1998, No. 6
Social Welfare Act 1999	1999, No. 3
Social Welfare Act 2000	2000, No. 4
Social Welfare Act 2001	2001, No. 5
Social Welfare Acts	
Taxes Consolidation Act 1997	1997, No. 39
Universities Acts 1997 and 1999	
Vocational Education Act 1930	1930, No. 29



Number 4 of 2005

SOCIAL WELFARE AND PENSIONS ACT 2005

AN ACT TO AMEND AND EXTEND THE SOCIAL WELFARE ACTS AND, FOR THE PURPOSE OF GIVING EFFECT TO DIRECTIVE 2003/41/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL¹ AND FOR OTHER PURPOSES, TO AMEND AND EXTEND THE PENSIONS ACT 1990. [14th March, 2005]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

SHORT TITLE, CONSTRUCTION, COLLECTIVE CITATION AND COMMENCEMENT

1.—(1) This Act may be cited as the Social Welfare and Pensions Act 2005.

Short title, construction, collective citation and commencement.

(2) The Social Welfare Acts and *sections 1 to 26* of this Act shall be read together as one.

(3) *Sections 27 to 39* of this Act and the Pensions Acts 1990 to 2004 may be cited together as the Pensions Acts 1990 to 2005.

(4) *Sections 7(1), 16 and 24 to 39* of this Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions.

(5) An order under *subsection (4)* may, in respect of the repeals or amendments effected by *section 26* of this Act of the provisions specified in *Schedule 4* to this Act, appoint different days for the repeal or amendment of different provisions or for the repeal or amendment for different purposes of any provision.

(6) Without prejudice to the generality of the foregoing, different days may be so appointed for the coming into operation of *section 37* of this Act as respects different provisions of the Part inserted in the Pensions Act 1990 by that section.

¹ OJ No. L235 29.9.2003, p.10

[No. 4.] *Social Welfare and Pensions Act* [2005.]
2005.

PART 2

AMENDMENTS TO THE SOCIAL WELFARE ACTS

Definitions (*Part 2*). **2.**—In this Part—

- “Act of 1996” means the Social Welfare Act 1996;
- “Act of 1997” means the Social Welfare Act 1997;
- “Act of 1998” means the Social Welfare Act 1998;
- “Act of 1999” means the Social Welfare Act 1999;
- “Act of 2000” means the Social Welfare Act 2000;
- “Act of 2001” means the Social Welfare Act 2001;
- “Act of 2002” means the Social Welfare (Miscellaneous Provisions) Act 2002;
- “Act of 2003” means the Social Welfare (Miscellaneous Provisions) Act 2003;
- “Act of 2004” means the Social Welfare (Miscellaneous Provisions) Act 2004;
- “Principal Act” means the Social Welfare (Consolidation) Act 1993.

Child benefit —
new rates.

3.—(1) The Fourth Schedule to the Principal Act is amended by substituting the following for Part III (as amended by section 3 of the Act of 2004):

“PART III

AMOUNTS OF CHILD BENEFIT

Amount for each of first 2 children (1)	Amount for each child in excess of 2 (2)
€141.60	€177.30

”.

(2) This section comes into operation on 1 April 2005.

Disability benefit.

4.—(1) Section 32 (as amended by *section 11* of this Act) of the Principal Act is amended by inserting the following after subsection (9):

“(10) In the case of any claim for disability benefit, where, at the time of application for that benefit, the claimant—

- (a) is in receipt of or entitled to unemployment assistance under section 121(1)(a), and
- (b) has qualifying contributions in respect of not less than 260 weeks,

subsection (1)(b)(i) shall be read as if ‘39 contribution weeks’ were substituted for ‘39 contribution weeks, of which at least 13 must be qualifying contributions’ and subsection (1)(c) shall not apply.

(11) In the case of any claim for disability benefit where, on the date immediately before the claim, a person was in receipt of or entitled to occupational injury benefit, subsection (1)(b)(i) shall be read as if ‘in the second last or third last complete contribution year’ were substituted for ‘in the second last complete contribution year’ ”.

(2) This section comes into operation on 2 May 2005.

5.—(1) Section 58 of the Principal Act is amended—

Injury benefit —
removal of limit.

(a) by deleting subsection (1)(a), and

(b) in subsection (2), by substituting “An increase of benefit referred to in subsection (1) is an increase” for “The increases of benefit referred to in subsection (1) are increases”.

(2) This section comes into operation on 2 May 2005.

6.—The Principal Act is amended—

Carer’s benefit —
improvement to
entitlement
conditions.

(a) in section 82A (inserted by section 10 of the Act of 2000), in subsection (1), by inserting the following before the definition of “relevant person”:

“ ‘relevant period’ means the period of 26 weeks immediately before the first day in respect of which a claim to carer’s benefit is made;”,

(b) in section 82B (as amended by section 15 of the Act of 2002):

(i) by substituting the following for paragraph (a) of subsection (1):

“(a) was engaged in remunerative full-time employment as an employed contributor for not less than 8 weeks, whether consecutive or not, within the relevant period,”,

(ii) by substituting the following for subsection (2):

“(2) Subsection (1)(a) shall not apply in respect of a claimant who was in receipt of carer’s benefit within the relevant period.”,

and

(iii) by substituting the following for subsections (5) and (6):

“(5) In this section ‘remunerative full-time employment’ means remunerative employment for not less than 16 hours a week within the 8 weeks referred to in subsection (1)(a) or any period that

may be prescribed under subsection (6), provided that where any 2 of those weeks are consecutive, the requirement in relation to those 2 weeks may be satisfied by an aggregate of not less than 32 hours in that fortnight.

(6) Regulations may provide that, subject to the conditions and in the circumstances that may be prescribed, in the case of a person who was absent from his or her employment within the relevant period referred to in subsection (1)(a), by reason of being on any leave from that employment that may be prescribed, the condition specified in subsection (1)(a) shall be regarded as being satisfied in respect of that person if he or she was engaged in remunerative full-time employment as an employed contributor for 8 weeks, whether consecutive or not, within the relevant period (other than the relevant period referred to in that subsection) that may be prescribed (and the period that may be so prescribed may comprise 2 or more periods which, taken together, amount to a period of 26 weeks).”.

Respite care grant
— improvements to
entitlement
conditions.

7.—(1) The Principal Act is amended—

(a) by inserting the following after Part IV:

“PART IVA
RESPITE CARE GRANT

Interpretation.

196A.—(1) In this Part—

‘carer’ means a person ordinarily resident in the State who has attained the age of 16 years and who—

- (a) is in receipt of or entitled to carer’s benefit or carer’s allowance, or
- (b) is a prescribed relative within the meaning of section 163 in respect of whom an allowance is payable under section 167, or
- (c) is providing full-time care and attention to a person who is in receipt of an increase of disablement pension under section 57 in respect of the need for constant attendance, or
- (d) resides with and has provided, is providing or is likely to provide full-time care and attention for such periods and on such date as may be prescribed to a relevant person, or
- (e) subject to the conditions and in the circumstances that may be prescribed, does not reside with but has provided,

is providing or is likely to provide full-time care and attention for such periods and on such date as may be prescribed to a relevant person;

‘institution’ means a hospital, convalescent home or home for people suffering from physical or mental disability or ancillary accommodation, nursing home for the care and maintenance of dependent elderly people or any other similar establishment providing residence, maintenance or care;

‘relevant person’ means a person who is ordinarily resident in the State and is so incapacitated that he or she requires full-time care and attention within the meaning of subsection (2).

(2) For the purposes of subsection (1), a relevant person shall be regarded as requiring full-time care and attention where—

(a) the person is so incapacitated that he or she requires from another person—

(i) continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or

(ii) continual supervision in order to avoid danger to himself or herself,

and

(b) the nature and extent of the person’s incapacity has been certified in the prescribed manner by a medical practitioner.

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

Entitlement to
respite care grant.

196B.—(1) Subject to subsections (2) and (5), an annual grant (in this Act referred to as a ‘respite care grant’) in the amount of €1,000 shall be payable to a carer in respect of each relevant person in his or her care and only one such annual grant shall be payable in respect of a relevant person.

(2) Subject to subsections (3) and (4), a grant shall not be payable to a carer where—

(a) he or she engages in employment or self-employment, or

(b) he or she is entitled to or in receipt of unemployment benefit or unemployment assistance, or

- (c) he or she is a person to whom article 58 of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) applies in respect of proven unemployment, or
- (d) he or she is entitled to or is in receipt of an allowance for domiciliary care of children under section 61 of the Health Act 1970 (other than where the carer is also in receipt of or entitled to carer's benefit or carer's allowance), or
- (e) the relevant person is resident in an institution.

(3) The Minister may by regulations provide that a carer may engage in employment or self-employment subject to the limitations in relation to the hours or remuneration that may be prescribed and subject to the conditions and in the circumstances that may be prescribed.

(4) The Minister may by regulations provide for entitling to a respite care grant a carer who would be entitled thereto but for the fact that the relevant person is temporarily resident in an institution or temporarily residing with another person.

(5) Regulations made under this section may provide for the date in each year on which a respite care grant shall become payable to a carer.

Medical
examination.

196C.—(1) A relevant person in respect of whose full-time care and attention a carer is entitled to a respite care grant shall attend for or submit to any medical or other examination that may be required in accordance with regulations.

(2) Regulations under subsection (1) may provide for disqualifying a person from receiving a respite care grant where the relevant person, in respect of whose full-time care and attention the grant is payable, fails without good cause to attend for or to submit to any medical or other examination that may be required in accordance with those regulations.”

- (b) by repealing sections 82F and 168A,
- (c) by substituting “IV, IVA,” for “IV,” in each place where it occurs in the following provisions—
 - (i) subsections (1) and (8) of section 212 (as amended by section 23 of the Act of 1998),
 - (ii) paragraph (b) of section 265 (as amended by section 7 of the Act of 1996),

(iii) subsection (1) of section 277 (as amended by section 7 of the Act of 1996), and

(iv) Reference 1 in Table 2 to the Third Schedule (as amended by *section 24* of this Act),

and

(d) in section 247(2), by inserting the following after paragraph (c):

“(ca) Part IVA (Respite Care Grant),”.

(2) The Principal Act is amended—

(a) by substituting the following for subsection (1) (as amended by section 4 of the Act of 2004) of section 82F:

“(1) Subject to subsection (2), a respite care grant in the amount of €1,000 shall be payable to a carer in respect of each relevant person in his or her care.”,

and

(b) by substituting the following for subsection (2) (as amended by section 4 of the Act of 2004) of section 168A:

“(2) Subject to subsection (3), a respite care grant in the amount of €1,000 shall be payable to a carer in respect of each relevant person in his or her care.”.

8.—(1) Section 191B (inserted by section 13 of the Act of 1996) of the Principal Act is amended— Disability allowance
— extension of
payment.

(a) in subsection (3) (as amended by section 20 of the Act of 1999), by substituting “subsections (3A), (3B) and (3C)” for “subsections (3A) and (3B)”, and

(b) by inserting the following after subsection (3B) (inserted by section 20 of the Act of 1999):

“(3C) Subject to subsection (3D), a person who would be entitled to disability allowance but for subsection (3) shall be entitled to a weekly payment of €35 (in this Chapter referred to as the ‘disability allowance personal expenses rate’).

(3D) A payment under subsection (3C) shall be payable—

(a) at the disability allowance personal expenses rate where the rate of disability allowance, calculated in accordance with section 191C, that would be payable but for subsection (3), is greater than or equal to the disability allowance personal expenses rate, or

(b) at a rate equivalent to that rate of disability allowance, calculated in accordance with section 191C, that would be payable but for subsection (3), where that rate is less than the disability allowance personal expenses rate.”.

(2) This section comes into operation on 1 June 2005.

Assessment of
capital means for
certain assistance
payments.

9.—(1) The Third Schedule to the Principal Act is amended—

(a) in Part I, by substituting the following for subparagraph (b) of Rule 1(1) (as amended by section 17(1)(a) of the Act of 2000):

“(b) The weekly value of the property referred to in subparagraph (a) shall be calculated as follows—

- (i) the first €20,000 of the capital value of the property shall be excluded,
- (ii) the weekly value of so much of the capital value of the property as exceeds €20,000 but does not exceed €30,000 shall be assessed at €1 per each €1,000,
- (iii) the weekly value of so much of the capital value of the property as exceeds €30,000 but does not exceed €40,000 shall be assessed at €2 per each €1,000, and
- (iv) the weekly value of so much of the capital value of the property as exceeds €40,000 shall be assessed at €4 per each €1,000.”,

(b) in Part II, by substituting the following for subparagraph (b) of Rule 1(1) (as amended by section 17(1)(b) of the Act of 2000):

“(b) The weekly value of the property referred to in subparagraph (a) shall be calculated as follows—

- (i) the first €20,000 of the capital value of the property shall be excluded,
- (ii) the weekly value of so much of the capital value of the property as exceeds €20,000 but does not exceed €30,000 shall be assessed at €1 per each €1,000,
- (iii) the weekly value of so much of the capital value of the property as exceeds €30,000 but does not exceed €40,000 shall be assessed at €2 per each €1,000, and
- (iv) the weekly value of so much of the capital value of the property as exceeds €40,000 shall be assessed at €4 per each €1,000,

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

and

- (c) in Part IV, by substituting the following for subparagraph (b) of Rule 1(2) (as amended by section 17(1)(d) of the Act of 2000):

“(b) The weekly value of the property referred to in subparagraph (a) shall be calculated as follows:

- (i) the first €20,000 of the capital value of the property shall be excluded,
- (ii) the weekly value of so much of the capital value of the property as exceeds €20,000 but does not exceed €30,000 shall be assessed at €1 per each €1,000,
- (iii) the weekly value of so much of the capital value of the property as exceeds €30,000 but does not exceed €40,000 shall be assessed at €2 per each €1,000, and
- (iv) the weekly value of so much of the capital value of the property as exceeds €40,000 shall be assessed at €4 per each €1,000,

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

- (2) This section comes into operation—

- (a) in so far as it relates to carer’s allowance, on 7 April 2005,
- (b) in so far as it relates to unemployment assistance, disability allowance, pre-retirement allowance and farm assist, on 1 June 2005, and
- (c) in so far as it relates to old age (non-contributory) pension, blind pension, widow’s or widower’s (non-contributory) pension, one-parent family payment, orphan’s (non-contributory) pension and a relevant payment by virtue of section 18(1)(b) or (c) of the Act of 1996, on 2 June 2005.

- 10.**—The Principal Act is amended—

- (a) in section 56(1) (as amended by section 17(1)(a) of the Act of 2001), by substituting “, by the amount set out in column (3) of Part IV of the Second Schedule where the beneficiary is living alone and by the amount set out in column (4) of Part IV of the Second Schedule where the beneficiary is ordinarily resident on an island” for “and by the amount set out in column (3) of Part IV of the Second Schedule where the beneficiary is living alone”,
- (b) by inserting the following after Part VA (inserted by section 7 of the Act of 1996):

Certain EU payments — entitlement to island allowance.

“PART VB

EU PAYMENTS

Certain EU payments—entitlement to island allowance. 203F.—Where a person is ordinarily resident on an island and entitled to or in receipt of a payment from another Member State corresponding to a payment under—

(a) section 60, 61, 86, 87A, 90, 103, 136, 144 or 159 and he or she has attained pensionable age, or

(b) section 56(1), 98 or 191C,

he or she shall be entitled to a weekly allowance of €12.70 or any amount that may be prescribed.”,

(c) by substituting “VA, VB,” for “VA,” in each place where it occurs in sections 212(1) and (8), 265(b) and 277(1) (each as amended by *section 7* of this Act),

(d) in the Third Schedule, by substituting “,VA or VB,” for “or VA” in each place where it occurs in the following provisions—

(i) Part I, in Rule 1(2)(b),

(ii) Part II, in Rule 1(4)(b), and

(iii) Part IV, in Rule 1(3)(a),

and

(e) in section 247(2) (as amended by *section 7* of this Act), by inserting the following after paragraph (e) (as amended by section 24 of the Act of 1998):

“(ea) Part VB (EU payments),”.

Amendments consequential on the alignment of the income tax year with the calendar year.

11.—The Principal Act is amended—

(a) in section 32—

(i) in subsection (1)(b) (as amended by section 20 of the Act of 2001)—

(I) in subparagraph (i), by substituting “second last complete contribution year” for “last complete contribution year”, and

(II) in subparagraph (ii), by substituting “of the second last and third last complete contribution years” for “of the last two complete contribution years”,

and

- (ii) in subsection (3) (as amended by section 10 of the Act of 2002), by substituting “second last complete contribution year” for “last complete contribution year”,

(b) in section 38—

- (i) in paragraph (a)(i) (as amended by section 20 of the Act of 2001)—

- (I) in clause (B)(I), by substituting “second last complete contribution year” for “last complete contribution year”, and

- (II) in clause (B)(II), by substituting “of the second last and third last complete contribution years” for “of the last two complete contribution years”,

and

- (ii) in subparagraph (i) of paragraph (b) (as amended by section 9 of the Act of 2002), by substituting “in the second last complete contribution year or in the third last complete contribution year” for “in the last complete contribution year or in the second last complete contribution year”,

(c) in section 41B—

- (i) in subsection (1)(a)(ii) (as amended by section 20 of the Act of 2001)—

- (I) in clause (B)(I), by substituting “second last complete contribution year” for “last complete contribution year”, and

- (II) in clause (B)(II), by substituting “of the second last and third last complete contribution years” for “of the last two complete contribution years”,

(d) in section 41H—

- (i) in subsection (1)(a)(i) (as amended by section 20 of the Act of 2001)—

- (I) in clause (B)(I), by substituting “second last complete contribution year” for “last complete contribution year”, and

- (II) in clause (B)(II), by substituting “of the second last and third last complete contribution years” for “of the last two complete contribution years”,

and

- (ii) in subparagraph (i) of subsection (1)(b) (as amended by section 9 of the Act of 2002), by substituting “in the second last complete contribution year or in the

third last complete contribution year” for “in the last complete contribution year or in the second last complete contribution year”,

(e) in section 43, in subsection (1)(b) (as amended by section 20 of the Act of 2001)—

(i) in subparagraph (i), by substituting “second last complete contribution year” for “last complete contribution year”, and

(ii) in subparagraph (ii), by substituting “of the second last and third last complete contribution years” for “of the last two complete contribution years”,

(f) in section 82C, in subsection (1) (as amended by section 10 of the Act of 2002)—

(i) in paragraph (a), by substituting “second last complete contribution year” for “last complete contribution year”, and

(ii) in paragraph (c), by substituting “of the second last and third last complete contribution years” for “of the last two complete contribution years”,

and

(g) in section 115, in subsection (1)(b)—

(i) in subparagraph (i) (as amended by section 30 of the Act of 2001), by substituting “second last complete contribution year” for “last complete contribution year”, and

(ii) in subparagraph (ii) (as amended by section 10 of the Act of 2002), by substituting “the 3 or 5 complete contribution years immediately before the last complete contribution year” for “the last 3 or 5 complete contribution years”.

Unemployment benefit and unemployment assistance — amendment to entitlement.

12.—The Principal Act is amended—

(a) in section 42(5), by inserting the following after paragraph (a):

“(aa) employment under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme,”

and

(b) in section 120(5), by inserting the following after paragraph (a):

“(aa) employment under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme,”.

13.—The Principal Act is amended—

Unemployment benefit, unemployment assistance and farm assist — amendment to disqualifications.

(a) by inserting the following after section 47(3):

“(3A) A person shall be disqualified for receiving unemployment benefit during any week in which he or she is employed under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme.”,

(b) by substituting the following for subsection (1) (as amended by section 27 of the Act of 2000) of section 125:

“(1) A person shall be disqualified for receiving unemployment assistance while he or she is—

(a) an inmate of an institution maintained wholly or partly out of public moneys or by a local authority,

(b) employed during any week under a scheme administered by An Foras Áiseanna Saothair and known as Community Employment, or

(c) employed during any week under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme.”,

and

(c) by inserting the following after section 191Q(1)(a) (inserted by section 15 of the Act of 1999):

“(aa) employed during any week under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme.”,

14.—The Principal Act is amended—

Carer’s benefit and carer’s allowance — amendment.

(a) in paragraph (a) of section 82H (inserted by section 10 of the Act of 2000), by inserting “in any week” before “in respect of the full-time care”, and

(b) in paragraph (a) of section 166 (as amended by section 28 of the Act of 2000), by inserting “in any week” before “in respect of the full-time care”.

15.—The Principal Act is amended in section 223(1) (as amended by section 11 of the Act of 2004), in the definition of “specified body”—

Personal public service number — extension of provisions.

(a) in paragraph (y), by deleting “or”, and

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

“(z) the Mental Health Commission, or

(za) such other persons as may be prescribed;”.

Award of bereavement grant and payments after death in certain cases.

16.—The Principal Act is amended in section 247 (as amended by section 11 of the Act of 2003)—

(a) by inserting the following after subsection (4):

“(4A) Notwithstanding subsections (1) to (3) and subject to subsection (6), the Minister may provide for the award of a bereavement grant or a payment under section 210, in the circumstances and subject to the conditions that may be prescribed, on receipt of information that may be prescribed, verified in the manner that may be prescribed, where the Minister is satisfied that the information is adequate to ensure that the award is made in accordance with this Act.”,

and

(b) by inserting the following after subsection (5):

“(6) In the case of an award made under subsection (4A), any question which arises subsequently in relation to whether a bereavement grant or a payment under section 210 is or is not payable, or in relation to who is entitled to receive a bereavement grant or a payment under section 210, shall be referred to a deciding officer for decision.”.

Provisions relating to prosecutions.

17.—The Principal Act is amended by substituting the following for subsection (3) of section 224:

“(3) Notwithstanding the provisions of subsection (1) or any provision in any enactment specifying the period within which proceedings may be commenced, a prosecution for a summary offence under this Act may be brought at any time within whichever of the following periods later expires—

(a) 2 years commencing on the date on which the offence was committed, or

(b) 18 months commencing on the date on which evidence sufficient to justify the institution of the prosecution came into the possession of the Minister.”.

Amendment of section 2 of Principal Act (interpretation).

18.—Section 2(1) of the Principal Act is amended by substituting the following for the definition of “orphan”:

“ ‘orphan’ means a qualified child—

(a) both of whose parents are dead, or

(b) one of whose parents is dead or unknown or has abandoned and failed to provide for the child, as the case may be, and whose other parent—

(i) is unknown, or

(ii) has abandoned and failed to provide for the child,

where that child is not residing with a parent, adoptive parent or step-parent;”.

19.—The Principal Act is amended—

Orphan's
(contributory)
allowance and
orphan's (non-
contributory)
pension —
amendments.

(a) in section 109—

(i) by inserting the following after subsection (1):

“(1A) In this Chapter ‘guardian’ means the person in whose care an orphan normally resides.”,

and

(ii) by substituting the following for subsection (2):

“(2) The Minister may, where he or she thinks fit, direct that a payment under this Chapter, payable to the guardian of an orphan, be paid to some other person for the benefit of the orphan or, subject to the conditions and in the circumstances that may be prescribed, directly to an orphan who has attained the age of 18 years where that orphan is not normally residing with a guardian.”,

and

(b) in section 151—

(i) by inserting the following after subsection (1):

“(1A) in this Chapter ‘guardian’ means the person in whose care the orphan normally resides.”,

and

(ii) by substituting the following for subsection (2):

“(2) The Minister may, where he or she thinks fit, direct that a payment under this Chapter, payable to the guardian of an orphan, be paid to some other person for the benefit of the orphan or, subject to the conditions and in the circumstances that may be prescribed, directly to an orphan who has attained the age of 18 years where that orphan is not normally residing with a guardian.”.

20.—Part III of the Third Schedule to the Principal Act is amended in Rule 1(1)—

Assessment of
means —
amendments.

(a) in paragraph (p)(i) (inserted by section 26 of the Act of 2000), by substituting “such employment as may be prescribed” for “employment”, and

(b) by deleting paragraphs (q), (r) and (s) (all inserted by section 24 of the Act of 2001).

21.—The Principal Act is amended—

Recovery of
overpayments.

(a) in section 177(1) (as amended by section 37 of the Act of 2001), by substituting “Subject to section 281(6), the amount of supplementary welfare allowance” for “The amount of supplementary welfare allowance”,

(b) by substituting the following for subsection (6) (as amended by section 20 of the Act of 1998) of section 281:

“(6) Any benefit, assistance, supplement or payment repayable in accordance with section 278, 279, 279A or 279B may, without prejudice to any other method of recovery, be recovered by deduction, subject to the conditions and in the circumstances that shall be prescribed, from any benefit, assistance, supplement or payment to which the person concerned is or becomes entitled.”,

and

(c) in section 282 (as amended by section 30 of the Act of 1999)—

(i) by deleting “(other than supplementary welfare allowance determined by a health board)”, and

(ii) by substituting “subject to the conditions and in the circumstances that shall be prescribed” for “in accordance with such code of practice as shall be prescribed”.

Old age (contributory) pension — amendment to definition of “homemaker”.

22.—Section 83 of the Principal Act is amended in subsection (2), in the definition of “homemaker” (inserted by section 24 of the Act of 1996), by substituting the following for subparagraph (ii) of paragraph (c):

“(ii) resides with and provides full-time care and attention to a person who is so incapacitated as to require full-time care and attention within the meaning of section 163(3), or

(iii) subject to the conditions and in the circumstances that may be prescribed, does not reside with but provides full-time care and attention to a person who is so incapacitated as to require full-time care and attention within the meaning of section 163(3),

and,”.

Amendments to Principal Act consequential on Health Act 2004.

23.—The Principal Act is amended as indicated in *Schedule 1* to this Act.

Third Schedule to Principal Act (Rules as to calculation of means).

24.—The Principal Act is amended by substituting the Schedule set out in *Schedule 2* to this Act for the Third Schedule.

Amendments consequential on section 24.

25.—The Principal Act is amended as indicated in *Schedule 3* to this Act.

Pre-consolidation amendments to Principal Act.

26.—The Principal Act is amended—

(a) as indicated in *Schedule 4* to this Act, and

(b) by inserting the Schedule set out in *Schedule 5* to this Act after the Eighth Schedule (inserted by the European

Communities (Social Welfare) Regulations 1994 (S.I. No. 312 of 1994)),

being amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of the Social Welfare Acts.

PART 3

AMENDMENTS TO THE PENSIONS ACT 1990

27.—In this Part— Definitions (*Part 3*).

“Act of 1996” means the Pensions (Amendment) Act 1996;

“Act of 2002” means the Pensions (Amendment) Act 2002;

“Principal Act” means the Pensions Act 1990.

28.—Section 2 of the Principal Act is amended— Amendment of section 2 of Principal Act.

(a) by inserting the following after the definition of “defined contribution scheme”:

“ ‘Directive’ means Directive 2003/41/EC of the European Parliament and of the Council²;”,

(b) in the definition of “employer” (inserted by section 6 of the Act of 2002), by inserting “and subject to section 154” after “Part VII”,

(c) in the definition of “member” (as amended by section 53 of the Social Welfare Act 1992), by substituting “sections 62 and 154” for “section 62”,

(d) by substituting the following for the definition of “occupational pension scheme” (as amended by section 42 of the Social Welfare Act 1993):

“ ‘occupational pension scheme’ means any scheme or arrangement other than an overseas pension scheme within the meaning of section 770(1) of the Taxes Consolidation Act 1997—

(a) which is comprised in one or more instruments or agreements, and

(b) subject to section 154, which provides or is capable of providing in relation to employees in any description of employment within the State, benefits, and

(c) (i) which has been approved of by the Revenue Commissioners for the purpose of Chapter 1 of Part 30 of the Taxes Consolidation Act 1997, or

(ii) the application for approval of which under Chapter 1 of Part 30 of the Taxes Consolidation Act 1997 is being considered, or

²OJ No. L235 29.9.2003, p.10

[No. 4.] *Social Welfare and Pensions Act* [2005.]
2005.

- (iii) which is a statutory scheme to which section 776 of the Taxes Consolidation Act 1997 applies, or
- (iv) which is a scheme to which section 790B of the Taxes Consolidation Act 1997 applies, or
- (v) which is a scheme, other than a scheme specified in subparagraph (i), (ii) or (iii), the benefits of which are paid in whole or in part out of moneys provided from the Central Fund or moneys provided by the Oireachtas, or
- (vi) which has been approved by the Revenue Commissioners for the purpose of one or more of the following—
 - (I) section 32 of the Finance Act 1921, or
 - (II) section 34 of the Finance Act 1958, or
 - (III) section 222 or 229 of the Income Tax Act 1967;”,

(e) by inserting the following after the definition of “sectionalised scheme” (inserted by section 6 of the Act of 2002):

“ ‘small scheme’ means a scheme with less than 100 members who are entitled to but are not receiving an immediate retirement benefit under the scheme;”,

and

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

“(4) A word or expression that is used in this Act and is also used in the Directive has, unless the contrary intention appears, the same meaning in this Act as it has in the Directive.”.

Amendment of section 7A of Principal Act.

29.—The Principal Act is amended by substituting the following for section 7A (inserted by section 12 of the Act of 2002):

“Professional guidance of the Society of Actuaries in Ireland. 7A.—So long as any professional guidance issued by the Society of Actuaries in Ireland for any purpose of this Act is for the time being specified by regulations made under this section, any such professional guidance so specified shall not be altered by the Society without the prior consent of the Minister.”.

Amendment of section 18 of Principal Act.

30.—Section 18 of the Principal Act (as amended by section 14 of the Act of 2002) is amended—

- (a) in subsection (5)—
- (i) in paragraph (b)—
- (I) by inserting “or fails” after “refuses”, and
- (II) by inserting “or to the Board” after “to such person”,
- and
- (ii) in paragraph (c)—
- (I) by inserting “or fails” after “refuses”, and
- (II) by inserting “or by the Board” after “authorised person”,
- and
- (b) in subsection (6), by inserting “administrators,” after “actuaries,”.

31.—The Principal Act is amended—

Funding standard.

- (a) in section 41 (as amended by section 27 of the Act of 2002), by substituting the following for subsection (2):
- “(2) Notwithstanding subsection (1)—
- (a) this Part shall apply to a defined contribution scheme which is paying benefits to members where those benefits are not secured under a policy or policies of assurance,
- (b) subsections (1) and (2) of section 48 shall apply to any scheme other than a defined contribution scheme, and
- (c) subsections (3) and (4) of section 48 shall apply to every scheme.”,
- (b) in section 43—
- (i) in subsection (1) (as amended by section 29 of the Act of 2002):
- (I) by substituting “and, subject to subsection (1A), a subsequent” for “and a subsequent”,
- (II) in paragraph (b), by inserting “and” after “the scheme.”, and
- (III) by inserting the following after paragraph (b):
- “(c) in the case of a scheme to which this Part applies by virtue of the amendment effected by section 32(a) of the *Social Welfare and Pensions Act 2005*, not later than 1 January 2007.”,

and

- (ii) by inserting the following after subsection (1):

“(1A) Where, in accordance with subsection (1), an actuarial funding certificate, having an effective date after 22 September 2005, has been prepared, any subsequent actuarial funding certificate shall have an effective date not later than 3 years after the effective date of the immediately preceding certificate.”,

(c) in section 49—

- (i) by inserting the following after subsection (2):

“(2A) Regulations under this section may require the actuary, in certifying a funding proposal under subsection (2) or the failure of the scheme to satisfy the funding standard in accordance with subsection (3), to comply with any applicable professional guidance issued by the Society of Actuaries in Ireland and specified in the regulations or with any other applicable guidance issued by any other person (including the Minister) and specified in the regulations.”,

and

- (ii) by substituting the following for subsection (3) (as amended by section 24 of the Social Welfare (Miscellaneous Provisions) Act 2003):

“(3) Subject to Regulations under this section, the Board, on application to it in that behalf by the trustees of a scheme, may, in relation to the scheme, in the circumstances and on the terms that it considers appropriate, for the purposes of subsection (2)(a), specify a date later than the effective date of the next actuarial funding certificate where the actuary concerned certifies that the failure of the scheme to satisfy the funding standard relates wholly or mainly to either or both of the following—

(a) the assets of the scheme being less than expected where—

- (i) this is due to the performance of relevant markets in relation to investments made with the resources of the scheme and that the performance of those markets in relation to those investments is not inconsistent with the performance generally of relevant markets for investment in the same period, and
- (ii) having regard to the performance generally of relevant markets for investment, the Board considers that specifying a later date is necessary or appropriate and not contrary to the interests of the members of the scheme,

or

(b) the liabilities of the scheme being greater than expected where—

(i) this is due to such factors and circumstances as shall be prescribed, and

(ii) the Board considers that specifying a later date is necessary or appropriate and not contrary to the interests of members of the scheme.

(3A) The Board, on application to it in that behalf by the trustees of a scheme, may, in relation to the scheme, in the circumstances and on the terms that it considers appropriate, modify the requirements of paragraphs (b), (c) or (d) of subsection (2) where—

(a) administrative difficulties have arisen from circumstances outside the control of the trustees of the scheme or schemes,

(b) the modification does not materially alter those paragraphs, and

(c) the Board considers the modification necessary or appropriate and that it is not contrary to the interests of the members of the scheme.”,

(d) in section 56, by inserting the following after subsection (2):

“(2A) The trustees of a defined contribution scheme shall cause the liabilities of the scheme to be valued in such manner and at such times as may be prescribed.”,

and

(e) by inserting the following after section 59F (inserted by section 43 of the Act of 2002):

“Trustee consent for early retirement.

59G.—In the case of a defined benefit scheme the rules of which include an early retirement rule, notwithstanding the terms of that rule, if the actuary advises the trustees that he is reasonably satisfied that, if the actuary were to prepare an actuarial funding certificate under section 42 having an effective date of the day on which any member’s immediate retirement benefit by virtue of that early retirement rule is expected to commence, the actuary would not certify that the scheme satisfies the funding standard provided for in section 44, the member’s right to the immediate retirement benefit by virtue of that early retirement rule is subject to the consent of the trustees of the scheme.”.

Small scheme exemptions.

32.—The Principal Act is amended—

- (a) in section 41 (as amended by section 27 of the Act of 2002), in subsection (1)(b) and (c), by substituting “a small scheme” for “a scheme” in each place where it occurs,
- (b) in section 55 (as amended by section 37 of the Act of 2002), in subsection (2)(b) and (c), by substituting “small scheme” for “scheme” in each place where it occurs,
- (c) in section 56 (as amended by section 38 of the Act of 2002), in subsection (6)(a)(iii) and (iv), by substituting “a small scheme” for “a scheme” in each place where it occurs, and
- (d) in section 57 (as amended by section 40 of the Act of 2002) by substituting “being modifications the making of which are compatible with the Directive and that, in the opinion of the Minister, are reasonable” for “being modifications that, in the opinion of the Minister are reasonable”.

Amendment of section 59 of Principal Act.

33.—Section 59 of the Principal Act (amended by section 42 of the Act of 2002) is amended—

- (a) by substituting the following for paragraph (b) of subsection (1):

“(b) to provide for the proper investment of the resources of the scheme in accordance with regulations and, subject to those regulations and subsection (2), in accordance with the rules of the scheme;”,

and

- (b) by inserting the following after subsection (1):

“(1A) The regulations referred to in subsection (1)(b) shall prescribe rules which shall be adhered to by the trustees of a scheme in providing for the proper investment of the resources of the scheme, in particular, in accordance with paragraph (1) of Article 18 of the Directive.

(1B) Trustees of a scheme, other than a small scheme, shall, subject to subsection (1C)—

- (a) prepare and maintain a written statement of the investment policy principles applied to the resources of the scheme,
- (b) review the statement at least every 3 years, and
- (c) revise the statement at any time following any change in investment policy which is inconsistent with the statement.

(1C) The statement referred in subsection (1B) shall include the prescribed matters and shall be prepared and maintained in the form and manner that may be prescribed.”.

34.—The Principal Act is amended—

Qualifications of trustees.

- (a) in section 26, in subsections (1) and (6), by inserting “, 59A” after “58” in each place where it occurs,
- (b) by re-numbering section 59A (inserted by section 23 of the Act of 1996) as section 59AA,
- (c) by inserting the following after section 59:

“Qualifications of trustees. 59A.—(1) A person shall not act as a trustee of a scheme where the person—

- (a) is an undischarged bankrupt, or
- (b) has made a composition or arrangement with his creditors and has not discharged his obligations under that composition or arrangement, or
- (c) has been convicted of an offence involving fraud or dishonesty, or
- (d) is a company and any director of the company is prohibited under this section from being a trustee of the scheme, or
- (e) is a person in respect of whom a declaration under section 150 of the Companies Act 1990 has been made.

(2) Regulations shall—

- (a) provide that trustees of a scheme shall possess, or employ or enter into arrangements with advisers who possess, the qualifications and experience specified in those regulations, and
- (b) specify the circumstances in which trustees will be regarded as possessing the specified qualifications and experience referred to in paragraph (a).

(3) Any question as to whether a trustee or a person proposing to act as trustee satisfies the requirements of this section shall be determined by the Board—

- (a) on its own initiative for the purpose of carrying out its supervisory functions under this Act, or
- (b) at the request in writing of the trustee or person to whom the question relates.

(4) For the purpose of making a determination under subsection (3), the Board may by giving notice in writing in that behalf require any trustee of a scheme or any other person to submit to it the information that may be prescribed in the form and manner and within the time that may be prescribed.

(5) The Board shall notify in writing the trustee or person to whom the question relates of its determination and of its reasons for the determination.

(6) No claim shall lie against the Board arising directly or indirectly from any determination of the Board under this section.

(7) Subject to subsection (9), a person to whom a determination under subsection (3) relates may appeal to the High Court from the determination on a point of law within 21 days after the date of the notification of the determination to the person under subsection (5).

(8) In the case of a person who is a trustee of a scheme, a determination by the Board under subsection (3) that the person does not satisfy the requirements of this section shall have the effect of removing that person as trustee but without prejudice to the validity of any acts done by the trustee before removal under this section.

(9) (a) A trustee in respect of whom a determination is made under subsection (3) that the trustee does not satisfy the requirements of this section may, within 21 days after the date of the notification under subsection (5) (or such longer period as the High Court may fix, being a period that, having regard to the circumstances of any particular case, the court considers to be reasonable), appeal to the High Court against the making of the determination to which the notification relates.

(b) On an appeal under this subsection the High Court may make such order confirming, annulling or varying the determination concerned and such order as to costs as it thinks fit.

(c) The Board, the trustees, the employer and the members of the scheme concerned shall be

entitled to be represented and heard on any appeal under this subsection.

(d) A determination under this section shall not come into operation—

(i) during the period of 21 days after the date of the notification under subsection (5), or

(ii) if an appeal against the determination is brought during the period referred to in subparagraph (i), before the final determination of the appeal or any appeal from such determination or the withdrawal of either such appeal.

(10) In the case of a person who is a trustee of a scheme, a determination by the Board under subsection (3) shall not operate as a discharge of any liabilities of that person.”,

(d) in section 62(1) (inserted by section 15 of the Social Welfare (No. 2) Act 1993), by inserting “, subject to section 59A,” after “The Minister shall”, and

(e) in section 63B (inserted by section 27 of the Act of 1996) by inserting “prohibited from being a trustee of a scheme under section 59A or” after “while”.

35.—Section 90 (inserted by section 39 of the Act of 1996) of the Principal Act is amended by inserting the following after subsection (3): Amendment of section 90 of Principal Act.

“(4) (a) If, on application to it by the Board, the Court is satisfied—

(i) that the Board has received a request from the competent authority of another Member State (within the meaning of section 148) for assistance in prohibiting the free disposal of assets of an institution for occupational retirement provision registered or authorised in that Member State and which are held by a custodian or depositary in the State, and

(ii) that the request referred to in subparagraph (i) is appropriate and necessary to prevent or remedy any irregularities prejudicial to the interests of members and beneficiaries,

the Court may grant an injunction restraining any person from disposing of or otherwise dealing with the assets to which the application refers.

Pt.3 S.35 [No. 4.] *Social Welfare and Pensions Act* [2005.]
2005.

(b) If the Court grants an injunction under paragraph (a), it may by order make provision for such ancillary and consequential matters as it considers necessary or expedient to enable the competent authority that made the request to perform any of its functions in relation to the assets to which the injunction applies.”.

Amendment to Part VI of Principal Act. **36.**—Part VI of the Principal Act is amended by the insertion after section 61A (inserted by section 25 of the Act of 1996) of the following section:

“Restriction on borrowing. 61B.—(1) Notwithstanding anything in the rules of the scheme and subject to regulations under subsection (2), trustees of a scheme may neither borrow money nor act as a guarantor on behalf of a third party.

(2) Subject to the Directive, regulations may provide that in the circumstances and subject to the conditions and restrictions that may be prescribed, trustees of a scheme may borrow money.”.

Cross-border schemes. **37.**—The Principal Act is amended by inserting the following after Part XI (inserted by section 5 of the Act of 2002)—

“PART XII

CROSS-BORDER SCHEMES

Interpretation (Part XII). 148.—(1) In this Part—

‘Court’ means the High Court;

‘EEA Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

‘undertaking’, in relation to a scheme, means a sponsoring undertaking located in another Member State which makes or proposes to make contributions to the scheme;

‘relevant statutory requirements’ means the statutory provisions relevant to the field of schemes, that may be prescribed;

‘social and labour law’, in relation to a Member State, means the social and labour law (within the meaning of Article 20 of the Directive) of that State relevant to occupational pension schemes (within the meaning of that article).

(2) In this Part Member State shall be read as including reference to those States which are Contracting Parties to the EEA Agreement.

Authorisation
to operate
cross-border
schemes.

149.—(1) The trustees of a scheme shall not accept any contributions to a scheme from an undertaking unless—

(a) the trustees are authorised by the Board under this section, and

(b) approval has been granted or deemed to have been granted under section 151 in relation to the undertaking concerned.

(2) An application for authorisation under this section shall—

(a) be in writing and be in the form that may be prescribed, and

(b) contain the information that may be prescribed and different information may be prescribed for different schemes or categories of schemes.

(3) The trustees of a small scheme who wish to apply for authorisation under this section shall, notwithstanding that it is a small scheme and in addition to the other requirements of subsection (2), comply with the provisions of this Act that are prescribed from time to time for the purposes of this section.

(4) The conditions of authorisation are that—

(a) the trustees and the scheme comply with the provisions of this Act applicable to the trustees and the scheme and, in the case of a small scheme, comply with subsection (3),

(b) in the case of a scheme to which section 44 applies, the scheme satisfies the funding standard provided for in section 44, and

(c) the trustees and the scheme comply with any other conditions that may be prescribed.

(5) The Board shall, where it is satisfied that the scheme satisfies all the conditions for authorisation under subsection (4), grant the authorisation.

(6) An authorisation under this section shall be in writing.

Revocation
of
authorisation.

150.—(1) The Board may revoke an authorisation under section 149—

(a) on being satisfied that the conditions of authorisation have not been complied with, or

(b) where the trustees of the scheme make a written request to the Board for revocation of the authorisation including the reasons for that request.

(2) Before revoking an authorisation under this section the Board shall—

(a) notify the trustees of the scheme in writing of its intention to revoke the authorisation and of the reasons for the revocation,

(b) notify the trustees in writing that the trustees or a person acting on their behalf may make representations to the Board in relation to the intended revocation within 14 days after the date of issue of the notification, and

(c) consider any representations made under paragraph (b) before deciding whether or not to proceed with the revocation.

(3) Where the Board revokes an authorisation under this section, it shall notify in writing the trustees of the scheme and the competent authorities of any relevant host Member State of the revocation.

(4) Where the trustees of the scheme receive notification of revocation under subsection (3), they shall immediately notify in writing any undertaking from whom they accept contributions to the scheme and shall cease to accept any further contributions from those undertakings from the date of receipt of the notification.

(5) The Board shall publish or cause to have published notice of revocation of an authorisation in *Iris Oifigiúil* and in at least one daily newspaper circulating in the State within 21 days after the date of the notification of the revocation under subsection (3).

(6) Where the Board revokes an authorisation under this section, the trustees may, within 21 days after the date of the notification of the revocation under subsection (3), appeal to the Court against the decision of the Board to revoke.

(7) On the hearing of an appeal, the Court may make one of the following orders—

(a) an order confirming the decision appealed against, or

(b) an order quashing that decision.

(8) The Court may also make such ancillary orders as it considers appropriate.

(9) Nothing in this section in regard to the revocation of an authorisation shall affect the validity of anything done in accordance with the authorisation before the revocation of the authorisation.

(10) Unless the Court otherwise orders, revocation under this section of an authorisation takes effect on and from the date of receipt of the notification under subsection (3), irrespective of whether or not the trustees appeal against the revocation under this section.

Approval to
accept
contributions.

151.—(1) Where the trustees of a scheme who are authorised under section 149 propose to accept contributions to the scheme from a particular undertaking the trustees shall notify the Board in writing.

(2) A notification under subsection (1) shall be in the form that may be prescribed and shall contain the following particulars:

- (a) the name and location of the undertaking from whom the trustees propose to accept contributions;
- (b) the name of any host Member State;
- (c) any other information that may be prescribed.

(3) On receipt of a notification under subsection (1), the Board may request the trustees to provide further information in relation to the notification.

(4) Unless the Board has reason to doubt that the proposed arrangement between the undertaking and the individuals in respect of whom the undertaking makes or proposes to make contributions is compatible with the scheme, the Board, within 3 months after the date of receipt of the notification in accordance with subsection (1), or within 3 months after the date of receipt of any further information requested under subsection (3), whichever is the later, shall notify in writing—

- (a) the competent authority of the host Member State of any relevant information contained in the notification, and
- (b) the trustees of the scheme that approval has been granted by it in relation to the undertaking specified in the notification.

(5) If no notification is received from the Board under subsection (4) within the period specified in that subsection approval is deemed to have been granted in relation to the undertaking

specified in the notification under subsection (1) at the end of that period.

(6) Where the Board has notified a competent authority under subsection (4), and, pursuant to paragraphs 5 or 8 of Article 20 of the Directive, the competent authority informs the Board as to the requirements of the social and labour law of the host Member State and any rules that are to be applied in accordance with Article 18(7) and Article 20(7) of the Directive, the Board shall, as soon as reasonably practicable following receipt of the information provide that information to the trustees of the scheme concerned.

(7) Where approval is granted or deemed to have been granted under this section, the trustees shall not accept contributions from the undertaking specified in the notification under subsection (1) until the earlier of—

- (a) 2 months after the date on which the Board notifies the trustees of the scheme under subsection (4), or 2 months after the date on which the approval is deemed to have been granted under subsection (5) has expired, or
- (b) the date the trustees of the scheme have received information from the Board in accordance with subsection (6).

Miscellaneous provisions relating to monitoring and enforcement.

152.—(1) The trustees of a scheme to whom approval has been granted or deemed to have been granted under section 151 shall ensure that the scheme is operated in a manner which is consistent with the social and labour law, investment and information requirements of any relevant host Member State.

(2) Where—

- (a) the competent authorities of the host Member State, in pursuance of Article 20(9) of the Directive, inform the Board that the trustees of the scheme are operating the scheme in a manner which is not consistent with the social and labour law or the information requirements of that host Member State, or
- (b) it otherwise comes to the attention of the Board that the arrangement between the undertaking and the individuals in respect of whom the undertaking makes or proposes to make contributions is no longer compatible with the scheme,

the Board may give a direction in writing to the trustees—

- (i) to take or refrain from taking the steps specified in the direction, or
- (ii) to cease taking further contributions from the undertaking.

(3) Where the Board gives a direction to the trustees of a scheme under subsection (2), the Board may, if it is satisfied that the direction has not been complied with, apply to the Court and the Court may confirm, vary or set aside the direction on the terms and for the period the Court considers appropriate.

(4) Where the Board gives a direction under subsection (2), the trustees of the scheme may appeal to the Court from the direction within 21 days after the date of the direction and the Court may confirm, vary or set aside the direction on the terms and for the period that the Court considers appropriate.

(5) Where the trustees of a scheme receive contributions from an undertaking the Board may, in the form and manner that may be prescribed, require trustees of the scheme to take, or refrain from taking, any steps that may be prescribed for the purpose of ring-fencing some or all of the assets or liabilities (or both) of the scheme.

Functions of the Board in relation to institutions in another Member State.

153.—(1) Where an employer makes or proposes to make contributions to an institution for occupational retirement provision that has its main administration in another Member State, any function which Article 20 of the Directive requires or authorises to be exercised by the competent authorities of the State is exercisable by the Board.

(2) Where the Board receives a notification pursuant to Article 20(4) of the Directive from the competent authority in another Member State, the Board shall inform the competent authority of the relevant statutory requirements within 2 months after the date of that notification.

(3) Where there is a significant change in any relevant statutory requirements, the Board shall as soon as reasonably practicable inform any competent authority to which it has provided information under subsection (2) of that change.

(4) Where an employer makes contributions to an institution referred to in subsection (1) the Board shall—

- (a) monitor compliance by the institution with the relevant statutory requirements, and

- (b) if the Board becomes aware of any contravention by the institution of any relevant statutory requirement, inform the competent authority of the Member State concerned of the contravention.

(5) If the Board is satisfied that, despite the notification referred to in subsection (4)(b), the contravention persists, the Board may, after informing the competent authority of the Member State concerned, give a direction in writing to the employer—

- (a) to take or refrain from taking the steps specified in the direction, or
- (b) to cease making further contributions to the institution concerned.

(6) Where the Board gives a direction to an employer under subsection (5), the Board may, if it is satisfied that the direction has not been complied with, apply to the Court and the Court may confirm, vary or set aside the direction on the terms and for the period the Court considers appropriate.

(7) Where the Board gives a direction under subsection (5), the employer may appeal to the Court from the direction within 21 days after the date of the direction and the Court may confirm, vary or set aside the direction on the terms or for the period the Court considers appropriate.

Application
of this Act to
members in
another
Member
State.

154.—(1) Regulations may provide that any provisions of this Act which are for the time being prescribed as relevant statutory requirements, shall not apply to schemes or trustees of schemes with regard to individuals in respect of whom an undertaking makes or proposes to make contributions to the scheme concerned.

(2) Save where otherwise provided for by this Act, references in this Act and regulations made under this Act—

- (a) to members, shall be read as including references to individuals in respect of whom an undertaking makes or proposes to make contributions to a scheme,
- (b) to a scheme or schemes, shall be read as including references to a scheme which provides or is capable of providing benefits to the individuals referred to in paragraph (a) in another Member State, and

[2005.] *Social Welfare and Pensions Act* [No. 4.] Pt.3 S.37
2005.

(c) to an employer, shall be read as including references to an undertaking with regard to any individuals in respect of whom an undertaking makes or proposes to make contributions to a scheme.”.

38.—Section 111 (inserted by section 3 of the Act of 2002) of the Principal Act is amended in subsection (3) by substituting “30 days” for “15 days”. Amendment of section 111 of Principal Act.

39.—Section 113 (inserted by section 3 of the Act of 2002) of the Principal Act is amended in subsection (3) by substituting “€10,000” for “€4,000”. Amendment of section 113 of Principal Act.

[No. 4.] *Social Welfare and Pensions Act* [2005.]
2005.

Section 23.

SCHEDULE 1

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON THE HEALTH ACT
2004

Item No.	Provisions affected	Amendment
1.	Section 2	In subsection (1), insert the following after the definition of “entry into insurance”: “ ‘Executive’ means the Health Service Executive;”.
2.	Section 65	In subsection (7), substitute “due to the Executive, payment may be made to the Executive” for “due to a health board, payment may be made to that board”.
3.	Section 175	(a) In subsection (1) (as amended by section 30 of the Act of 1999), substitute “the Executive shall, in respect of its functional areas” for “each health board shall, in respect of its functional areas”. (b) In subsection (1A) (inserted by section 36 of the Act of 1996), substitute “may apply to the whole State or to a functional area of the Executive or to a part of a functional area of the Executive” for “may apply to the whole State or to a specified health board or to a part of the functional area of a health board”. (c) In subsection (2) (as amended by section 30 of the Act of 1999), substitute “the Executive shall grant to every person in its functional areas” for “every health board shall grant to every person in its functional area”. (d) Delete subsection (3).
4.	Section 176 (as amended by section 14 of the Act of 2003) Section 179A(2) (inserted by section 16 of the Housing (Miscellaneous Provisions) Act 1997) Sections 180(1) and (3), 181, 182(2), 183(a), 184(a) and 184A(a) (each as amended by section 30 of the Act of 1999) Sections 185, 189(2) and 191(3) Section 191A(1) (as amended by section 8 of the Act of 2003)	Substitute “the Executive” for “a health board” in each place where it occurs.

Item No.	Provisions affected	Amendment
	<p>Section 222(3)</p> <p>The definition of 'specified body' in 223(1)</p> <p>Section 224(1)(b) (as amended by section 28 of the Act of 1999)</p> <p>Sections 224(1)(b), 277(2)(a), 278(b) and (c), 279 and 279A(b) (each as amended by section 30 of the Act of 1999)</p> <p>Section 279B(b)</p> <p>Section 281(5)</p> <p>Section 282 (as amended by section 21 of this Act)</p> <p>Section 293(1)</p> <p>Section 299(1)</p> <p>In Part I of the Third Schedule, in Rule 1(2)(g) and (k) (both as amended by section 26 of the Act of 1997), (kk) (as amended by section 13 of the Act of 2001) and (q) (as amended by section 26 of the Act of 1997)</p> <p>In Part II of the Third Schedule, in Rule 1(4)(f)(ii) and (iii) (both as amended by section 13 of the Act of 2001), (l) and (p) (both as amended by section 26 of the Act of 1997)</p> <p>In Part III of the Third Schedule, in Rule 1(1)(b) (as amended by section 26 of the Act of 1997), (bb) (inserted by section 13 of the Act of 2001), (g) and (l) (both as amended by section 26 of the Act of 1997)</p> <p>In Part IV of the Third Schedule, in Rule 1(3)(f) and (j) (both inserted by section 16 of the Act of 1999), (jj) (inserted by section 13 of the Act of 2001) and (p) (inserted by section 16 of the Act of 1999)</p>	

[No. 4.] *Social Welfare and Pensions Act* [2005.]
2005.

Item No.	Provisions affected	Amendment
5.	<p>Section 179A(3) (inserted by section 16 of the Housing (Miscellaneous Provisions) Act 1997)</p> <p>Sections 180(1) and (2) (both as amended by section 30 of the Act of 1999)</p> <p>Section 181</p> <p>Section 182(1) (as amended by section 15 of the Act of 2003)</p> <p>Sections 182(2) and 184(c)</p> <p>Section 184A (as amended by section 30 of the Act of 1999)</p> <p>Sections 189(1) and (2), 190(2)(b) and 191(3)</p> <p>Section 257A (inserted by section 30 of the Act of 1996)</p> <p>Sections 278(c) and 279(iii)</p> <p>Section 279A(c) (as amended by section 30 of the Act of 1999)</p> <p>Section 279B(c) (as amended by section 30 of the Act of 1999)</p> <p>Section 281(5) and (8)</p> <p>The definition of “competent authority” in section 284(1) (as amended by section 24 of the Act of 1998)</p> <p>Section 299(1)</p>	Substitute “the Executive” for “the health board” in each place where it occurs.
6.	Sections 184(c) and 184A(c)	Substitute “the Executive” for “such health board” in each place where it occurs.
7.	Section 184(c)	Substitute “the Executive or deciding officer has certified” for “the health board has certified”.
8.	Sections 179A(3) and (4), 180(1), 189(2) and 299(1)	Substitute “the Executive” for “the board” in each place where it occurs.

Item No.	Provisions affected	Amendment
9.	<p>Section 248(1A) (inserted by section 30 of the Act of 1999)</p> <p>Section 267(1) (as amended by section 30 of the Act of 1996)</p> <p>Section 268 (as amended by section 30 of the Act of 1996)</p> <p>Sections 269 and 273</p> <p>Section 273A(c) (inserted by section 31 of the Act of 1996)</p> <p>Section 277(3)</p>	<p>Substitute “employee of the Executive” for “officer of a health board” in each place where it occurs.</p>
10.	<p>Section 257(3) (as amended by section 30 of the Act of 1996)</p> <p>Sections 267(1) and 269(a)</p> <p>Section 269(b) (as amended by section 32 of the Act of 1996)</p> <p>Section 269(c)</p> <p>Section 278 (as amended by section 7 of the Act of 1996)</p> <p>Section 282</p>	<p>Substitute “employee of the Executive” for “officer of the health board” in each place where it occurs.</p>
11.	<p>Section 185</p>	<p>(a) In subsection (1)—</p> <p>(i) in paragraph (a), substitute “within any of its functional areas” for “within the functional area of the health board”, and</p> <p>(ii) in paragraph (b)—</p> <p>(I) substitute “within any of its functional areas” for “within its functional area”, and</p> <p>(II) substitute “within any of those areas” for “within that area”.</p> <p>(b) Substitute the following for subsection (2):</p> <p>“(2) The Executive may, in any case in which it thinks proper, bring into and bury in any of its functional areas the body of a person eligible for supplementary welfare allowance who has died outside that functional area.”.</p> <p>(c) In subsection (3), substitute “into any of its functional areas” for “into its functional area”.</p>

Item No.	Provisions affected	Amendment
12.	Section 187	Substitute the following for subsection (8): “(8) The Minister shall, out of moneys provided by the Oireachtas, make grants to the Executive to defray the expenditure on supplementary welfare allowance and costs of administration of that allowance.”.
13.	Section 189	In subsection (3)— (a) substitute “as if the name of the Executive were substituted therein” for “as if the name of the health board in whose functional area the functional area of the public assistance authority is included were substituted therein”, and (b) substitute “by or against the Executive” for “by or against the health board”.
14.	Section 191	In subsection (2), substitute “the Executive” for “the health board in whose functional area the functional area of the public assistance authority was included immediately before the 1st day of July, 1977”.
15.	Section 224 (as amended by section 28 of the Act of 1999)	In subsection (1)(b), substitute “any of its functional areas” for “its functional area”.
16.	Section 266 (as amended by section 30 of the Act of 1999)	Substitute “the chief executive officer of the Executive” for “the chief executive officer (within the meaning of section 13 of the Health Act, 1970) of the health board”.
17.	Section 268	Substitute the following for subsection (1) (as amended by section 30 of the Act of 1996): “(1) An employee of the Executive (in this subsection referred to as the ‘first named employee’) who is duly authorised to determine entitlement to a supplementary welfare allowance may, at any time— (a) revise a determination of another employee of the Executive, other than an employee appointed or designated under section 267(1), to such allowance if it appears to the first-named employee that the determination was erroneous in the light of new evidence or of new facts which have been brought to the notice of the first-named employee since the date on which the determination was given or by reason of some mistake having been made in relation to the law or the facts, or if it appears to the first-named employee that there has been any relevant change of circumstances since the determination was given,

Item No.	Provisions affected	Amendment
		<p>(b) revise the determination of another employee of the Executive appointed or designated under section 267(1), if it appears to the first-named employee that there has been any relevant change of circumstances which has come to notice since the determination was given, or</p> <p>(c) revise the decision of an appeals officer, if it appears to the first-named employee that there has been any relevant change of circumstances which has come to notice since the decision was given,</p> <p>and the provisions of this Part as to appeals shall apply to the revised determination in the same manner as they apply to an original determination of an employee of the Executive.”.</p>
18.	Section 293	In subsection (1)(b), substitute “in a case where the liable relative is in the service of such an authority or committee or the Executive” for “in a case where the liable relative is in the service of such an authority, board or committee”.

SCHEDULE 2

“THIRD SCHEDULE — RULES AS TO CALCULATION OF MEANS

PART 1

DEFINITIONS

1. In this Schedule—

‘fisherman’ means a person engaged in seafishing as a self-employed person—

- (a) on a fishing boat entered in the Register of Fishing Boats, or
- (b) on a fishing boat and in a place in respect of which a fishing licence (within the meaning of section 3 of the Fisheries (Consolidation) Act 1959) for fishing for salmon at sea has been issued;

‘gross proceeds derived from the sale of the principal residence’ means—

- (a) the agreed sale price of the residence, or
- (b) where the claimant or beneficiary purchases alternative accommodation, the difference between the agreed sale price of the former residence and the agreed purchase price of the replacement residence;

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

‘maintenance grant’ means a grant issued under—

- (a) a scheme administered by the Minister for Education and Science under the Local Authorities (Higher Education Grants) Acts 1968 to 1992, or
- (b) a scheme administered under the aegis of the Minister for Education and Science and known as the—
 - (i) Maintenance Grants Scheme for Students attending Post-Leaving Certificate Courses,
 - (ii) Vocational Education Committees Scholarship Scheme, or
 - (iii) Third-Level Maintenance Grants Scheme for Trainees;

‘maintenance payments’ means any payment received under or pursuant to any maintenance arrangement that may be prescribed;

‘spouse’ means—

- (a) each person of a married couple who are living together, or

- (b) a man and woman who are not married to each other but are cohabiting as husband and wife.

PART 2

Sections 119, 127,
191A and 191M.

UNEMPLOYMENT ASSISTANCE, PRE-RETIREMENT ALLOWANCE,
DISABILITY ALLOWANCE AND FARM ASSIST

1. In the calculation of the means of a person for the purposes of Chapters 2, 3, 12 and 14 of Part III, account shall be taken of the following:

(1) other than in the circumstances and subject to the conditions and for the periods that may be prescribed, the weekly value of property belonging to the person or to his or her spouse (not being property personally used or enjoyed by the person or his or her spouse or a farm of land leased either by the person or his or her spouse) which is invested or otherwise put to profitable use or is capable of being, but is not, invested or put to profitable use and the weekly value, calculated in accordance with Table 1 to this Schedule, constitutes the weekly means of a person from that property but, in the case of farm assist, no account shall be taken under any other provision of these Rules of any appropriation of the property for the purpose of current expenditure;

(2) all income in cash and any non-cash benefits that may be prescribed which the person or his or her spouse may reasonably expect to receive during the succeeding year, whether as contributions to the expenses of the household or otherwise, but—

(a) excluding the amounts at references 1 to 19 in Table 2 to this Schedule, and

(b) excluding—

(i) in the cases that may be prescribed, any moneys received by way of a maintenance grant,

(ii) any moneys received by way of maintenance payments (including maintenance payments made to or in respect of a qualified child) in so far as those payments do not exceed the annual housing costs actually incurred by the person subject to the maximum amount that may be prescribed, together with one-half of any amount of maintenance payment in excess of the amount disregarded in respect of housing costs actually incurred (if any),

(iii) in the case of unemployment assistance, any moneys, subject to the limit that may be prescribed, received by way of repayment of expenses necessarily incurred in relation to travel and meals while undergoing a course of education, training or development approved by the Minister,

(iv) in the case of—

(I) unemployment assistance and pre-retirement allowance and subject to paragraph

- (5) all moneys earned by the person in respect of current personal employment under a contract of service,
- (II) farm assist and subject to paragraph (8), all moneys earned by the person or his or her spouse in respect of current personal employment under a contract of service,
- (v) in the case of unemployment assistance, pre-retirement allowance and farm assist and subject to paragraphs (6), (7) and (8), any moneys earned by the person or his or her spouse from insurable employment of a seasonal nature,
- (vi) the amount that may be prescribed of all moneys earned by the person's spouse from insurable employment,
- (vii) any moneys, except in so far as they exceed €134 per year, received by the person or by his or her spouse in respect of work as an outworker under a scheme that is, in the opinion of the Minister, charitable in character and purpose,
- (viii) in the case of disability allowance, the amount that may be prescribed of earnings from employment or self-employment of a rehabilitative nature,
- (ix) in the case of unemployment assistance, pre-retirement allowance and farm assist, all income received under the following schemes:
 - (I) the Rural Environment Protection Scheme administered by the Minister for Agriculture and Food;
 - (II) the Special Areas of Conservation Scheme administered by the Minister for Community, Rural and Gaeltacht Affairs,

except in so far as that income exceeds the sum of—

 - (A) €2,540, plus
 - (B) one-half of any amount in excess of €2,540 and
 - (C) any expenses necessarily incurred,
- (x) in the case of unemployment assistance and pre-retirement allowance, and subject to paragraph (9), any income derived by a fisherman from any form of self-employment,
- (xi) where the person or his or her spouse is engaged on a seasonal basis in the occupation of fishing, one-half of so much of the income derived from that occupation as does not exceed €153 per year and one-third of so much of the income as

exceeds €153 per year but does not exceed €381 per year,

(xii) in the case of farm assist, an amount of €1,270 per annum from the harvesting of seaweed;

(3) the yearly value ascertained in the prescribed manner of any advantage accruing to the person or to his or her spouse from—

(a) the use of property (other than a domestic dwelling or farm building owned and occupied, furniture and personal effects) which is personally used or enjoyed by the person or by his or her spouse, and

(b) the leasing by the person or by his or her spouse of a farm of land;

(4) all income and the value of all property of which the person or his or her spouse has directly or indirectly deprived himself or herself in order to qualify for the receipt of unemployment assistance, pre-retirement allowance, disability allowance or farm assist, but where the income or the value of the property has reduced since the date of calculation, the calculation may be revised, subject to the conditions and in the circumstances that may be prescribed but any such regulations shall not cause the income or value of the property taken to be part of the means to be increased;

(5) in the case of a person engaged in employment under a contract of service, the value, ascertained in the prescribed manner of any moneys derived from that employment and the value so calculated constitutes the weekly means of that person from that employment for the purposes of Chapter 2 of Part III;

(6) in the case of a person who makes a claim for unemployment assistance during a period in which he or she is engaged in insurable employment of a seasonal nature, the value, ascertained in the prescribed manner, of any moneys derived from that employment and the value so calculated constitutes the weekly means of that person from that employment for the purposes of Chapter 2 of Part III;

(7) in the case of unemployment assistance and pre-retirement allowance, the value of all moneys derived by his or her spouse from insurable employment of a seasonal nature, ascertained in the prescribed manner, during the period in which his or her spouse is engaged in that employment, and the value so calculated constitutes the weekly means of that person from such employment;

(8) in the case of a farmer or his or her spouse engaged in current personal or seasonal employment, the value, ascertained in the prescribed manner, of any moneys derived from that employment and the value so calculated constitutes the weekly means of that person from that employment;

(9) (a) in the case of a fisherman, the gross income derived from any form of self-employment, or

- (b) in the case of a farmer entitled to or in receipt of farm assist, the gross yearly income which the farmer or his or her spouse may reasonably be expected to receive from farming or any other form of self-employment,

less—

- (i) any expenses necessarily incurred in carrying on any form of self-employment, and
- (ii) where the fisherman or farmer has a qualified child, who normally resides with him or her, an amount of—
- (I) €254 per annum in respect of each of the first 2 qualified children, and
- (II) €381 per annum in respect of each subsequent qualified child,

calculated at the rate of 70 per cent;

(10) in the case of persons entitled to or in receipt of unemployment assistance who have not attained the age that may be prescribed, the yearly value of any benefit or privilege enjoyed by that person by virtue of residing with a parent or step-parent, and the Minister may prescribe by regulations the manner in which the value of the benefit and privilege may be calculated.

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, the spouse of the claimant or beneficiary shall not, subject to the limit and under the conditions and circumstances and for the periods as shall be prescribed, be taken into account in calculating the means of the claimant or beneficiary.

(2) Paragraph (1) shall not apply to any sums arising from the investment or profitable use of the gross proceeds derived from the sale of the principal residence.

3. For the purposes of Rule 1(2) and (10), the income of a person shall, in the absence of other means of ascertaining it, be taken to be the income actually received during the year immediately before the date of calculation.

4. The Minister may by regulations vary—

- (a) Rule 1(1) and Table 1 to this Schedule in relation to the calculation of the weekly value of property belonging to a person, and
- (b) Rule 1(2) to (10), in the case of farm assist.

PART 3

Sections 134, 142,
157 and 163.

OLD AGE (NON-CONTRIBUTORY), BLIND, WIDOW'S OR
WIDOWER'S (NON-CONTRIBUTORY), AND ORPHAN'S (NON-
CONTRIBUTORY) PENSIONS, ONE-PARENT FAMILY PAYMENT AND
CARER'S ALLOWANCE

1. Subject to paragraphs (2) and (3), in calculating the means of a person, account shall be taken of the following—

(1) other than in the circumstances and subject to the conditions and for the periods that may be prescribed, the weekly value of property belonging to the person (not being property personally used or enjoyed by the person or a farm of land leased by him or her) which is invested or is otherwise put to profitable use by the person or which, though capable of investment or profitable use is not invested or put to profitable use and the weekly value, calculated in accordance with Table 1 to this Schedule, constitutes the weekly means of a person from that property but, no account shall be taken under any other provision of these Rules of any appropriation of the property for the purpose of current expenditure;

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

(a) excluding the amounts at references 1 to 19 in Table 2 to this Schedule, and

(b) excluding—

(i) in the case of blind pension or one-parent family payment, any moneys received by way of a maintenance grant,

(ii) in the case of old age (non-contributory) pension, blind pension, widow's or widower's (non-contributory) pension and one-parent family payment, any moneys received by way of maintenance payments (including maintenance payments made to or in respect of a qualified child) in so far as they do not exceed the annual housing costs actually incurred by the person subject to the maximum amount that may be prescribed, together with one-half of any amount of maintenance payment in excess of the amount disregarded in respect of housing costs actually incurred (if any),

(iii) in the case of one-parent family payment, any moneys, subject to the limit that may be prescribed, received by way of repayment of expenses necessarily incurred in relation to travel and meals while undergoing a course of education, training or development approved by the Minister,

- (iv) in the case of a blind person, any income arising from a grant or allowance in pursuance of a scheme for promoting the welfare of the blind prepared under section 2 of the Blind Persons Act 1920,
- (v) in the case of a person who has attained pensionable age, any moneys received under a scheme administered by the Minister for Agriculture and Food and known as the Early Retirement Scheme from Farming operated under Council Regulation (EEC) No. 2079/92 of 30 July 1992³, or Council Regulation (EC) No. 1257/99 of 17 May 1999⁴,
- (vi) for the purposes of old age (non-contributory) pension and widow's and widower's (non-contributory) pension, any moneys received in respect of rent from a person who resides with the claimant or beneficiary and but for the residence of the person the claimant or beneficiary would reside alone,
- (vii) any sums arising from the investment or profitable use of property (not being property personally used or enjoyed by the person or a farm of land leased by him or her),
- (viii) in the case of old age (non-contributory) pension, widow's or widower's (non-contributory) pension, orphan's (non-contributory) pension, one-parent family payment or carer's allowance, any moneys, except in so far as they exceed €67 per year, received by the person in respect of employment as an outworker under a scheme that is, in the opinion of the Minister, charitable in character and purpose,
- (ix) in the case of a recipient of one-parent family payment, subject to paragraph (4), any moneys received by way of earnings (including wages and profit from any form of self-employment),
- (x) in the case of a blind person, his or her earnings (including wages and profit from any form of self-employment) other than employment of a rehabilitative nature, except and in so far as the annual amount of those earnings is calculated to exceed an amount made up as follows—

€400, plus €265 if the person's spouse is living with or is wholly or mainly maintained by him or her or, being a single person, widow or widower, is maintaining wholly or mainly a person over the age of 16 years having the care of one or more than one qualified child who normally resides or reside with the person, plus €133 for each qualified child normally residing with the person of whom account has not already been taken in accordance with

³ OJ No. L215, 30.7.92, p.91

⁴ OJ No. L160, 26.6.99, p.80

this paragraph in calculating the means of another person,

(xi) in the case of a blind person, the amount that may be prescribed of his or her earnings from employment of a rehabilitative nature,

(xii) in the case of a person who is in receipt of old age (non-contributory) pension, orphan's (non-contributory) pension or carer's allowance and who has a qualified child who normally resides with him or her, his or her earnings (including wages and profit from any form of self-employment), except and in so far as the annual amount of those earnings is calculated to exceed €133 for each such child of whom account has not already been taken in accordance with this paragraph in calculating the means of another person,

(xiii) in the case of old age (non-contributory) pension, an amount of €2,540 together with one-half of any amount in excess of €2,540 received under the following schemes:

(I) the Rural Environment Protection Scheme administered by the Minister for Agriculture and Food;

(II) the Special Areas of Conservation Scheme administered by the Minister for Community, Rural and Gaeltacht Affairs,

and that income shall, in the absence of other means for ascertaining it, be taken to be that actually received during the year immediately before the date of calculation but where that income is attributable to a period before the year immediately preceding the date of calculation but is received in a subsequent year, it shall be regarded for the purposes of this paragraph as having been received in the year to which it is attributable;

(3) the yearly value of any advantage accruing to the person from—

(a) the use or enjoyment of property (other than a domestic dwelling or a farm building owned and occupied, furniture and personal effects) which is personally used or enjoyed by the person, and

(b) a farm of land leased by the person;

(4) (a) subject to subparagraph (b), in the case of a recipient of one-parent family payment who has earnings (including wages and profit from any form of self-employment), the gross weekly earnings, constitutes the weekly means of that parent from earnings for the purposes of Chapter 9 of Part III,

(b) in calculating the gross weekly earnings of a recipient of one-parent family payment, for the purposes of subparagraph (a), an amount of €146.50 together with half the gross weekly earnings in excess of that amount shall be disregarded;

(5) in the case of carer's allowance, in calculating the weekly means of a carer who is not one of a couple (other than means derived from a social security payment payable under the legislation of another state), that amount that may be prescribed shall be disregarded;

(6) in the case of carer's allowance, the amount that the Minister determines that the relevant person (as defined in section 163) could reasonably be expected to contribute to the support of the carer but in determining that amount, no account shall be taken of any sums received by the relevant person under Part II, III or IV.

2. (1) Subject to paragraph (2), if it appears that any person has, whether before or after the commencement of this Act, directly or indirectly deprived himself or herself of any income or property in order to qualify himself or herself for the receipt of the pension or allowance in question, or for the receipt of the pension or allowance at a higher rate than that to which he or she would otherwise be entitled, that income or the value of that property shall for the purposes of these Rules be taken to be part of the means of that person.

(2) Paragraph (1) shall not apply to any assignment—

(a) which is an assignment to a child or children of the assignor, and

(b) which is an assignment of property consisting of a farm of land (together with or without the stock and chattels thereon) and of which the assignor is the owner and the occupier or the occupier only.

(3) In the case of a person to whom paragraph (1) applies, where the income or the value of the property taken to be part of his or her means for the purposes of that paragraph has reduced since the date of calculation, the calculation may be revised, subject to the conditions and in the circumstances that may be prescribed, but regulations made under this paragraph shall not cause the income or the value of the property taken to be part of his or her means to be increased.

(4) For the purposes of this Rule, 'assignment' includes any form of conveyance, transfer or other transaction by which a person parts with the ownership or possession of property.

3. (1) Notwithstanding this Schedule and subject to paragraph (2), for the purposes of—

(a) old age (non-contributory) pension or blind pension, or

(b) widow's (non-contributory) pension or widower's (non-contributory) pension, or one-parent family payment, where the claimant or beneficiary has attained pensionable age,

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, the spouse of the claimant or beneficiary where the spouse 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.

(2) Paragraph (1) shall not apply to any sums arising from the investment or profitable use of the gross proceeds derived from the sale of the principal residence.

4. (1) In the case of an old age (non-contributory) pension, blind pension or a carer's allowance, the following apply when calculating the means of a person who is one of a couple living together:

- (a) the means of the person shall be taken to be one-half of the total means of the couple;
- (b) the person is deemed to be entitled to one-half of all property to which the person or the other member of the couple is entitled or to which the person and the other member of the couple are jointly entitled;
- (c) for the purposes of this Rule, the means of each member of the couple shall first be determined in accordance with these Rules (each being regarded as an applicant for a pension or a pension at a higher rate or carer's allowance, as the case may be) and the total means shall be the sum of the means of each member as so determined;
- (d) where one member of the couple dies, nothing which was reckoned for the purposes of pension, or would (if the deceased member had been entitled to receive any pension) have been so reckoned, as means of the deceased member shall be so reckoned as means of the surviving member for the purpose of reducing the pension of the surviving member if any payment in respect of that pension was made before the death of the deceased member or becomes payable in respect of a period before or part of which was before that death.

(2) In the case of carer's allowance, in calculating the means of the other member of the couple for the purposes of paragraph (1) the following shall be disregarded—

- (a) an amount, not exceeding the maximum amount set out in column (2), reference 3 of Part I of the Second Schedule, 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), reference 3 of Part I of the Second Schedule, of a social security payment payable under the legislation of another state in respect of each qualified child for which an increase is granted under section 165(1).

(3) In the case of carer's allowance, in calculating the weekly means of the couple (other than means derived from a social security payment payable under the legislation of another state), the amount that may be prescribed shall be disregarded.

(4) In this Rule '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.

(5) In calculating the means of a person who is one of a married couple living apart from his or her spouse, any sum paid by him or her to his or her spouse under a separation order shall be deducted in calculating his or her means.

5. (1) Notwithstanding these Rules, where—

(a) an old age (non-contributory) pension, blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, orphan's (non-contributory) pension, one-parent family payment or carer's allowance is in course of payment to or in respect of a person or the spouse of the person or both of them, and

(b) a pension or pensions (in this Rule referred to as 'the other pension'), not being a pension or pensions mentioned in paragraph (a), is in course of payment to or in respect of the person or the spouse of the person or both of them,

in calculating the means of the person or of the spouse or of both of them for the purposes of old age (non-contributory) pension, blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, orphan's (non-contributory) pension, one-parent family payment or carer's allowance (as the case may require), any portion of the amount of an increase in the other pension or the aggregate increase, where more than one increase in the other pension has occurred, which, if it were reckoned as means, would result in a reduction in the amount of the pension or combined pensions (as the case may be) which would be greater than the amount by which the other pension has been increased, shall not be reckoned as means.

(2) Any amount excluded from the calculation of means in accordance with reference 16 in Table 2 shall be subject to Rule 5(1).

6. Notwithstanding this Schedule, the amount of any allowance, special allowance, dependent's allowance, disability pension or wound pension under the Army Pensions Acts 1923 to 1980, or pension under the Military Service (Pensions) Acts 1924 to 1964, arising out of service in the period commencing on 23 April 1916 and ending on 30 September 1923, or pension under the Connaught Rangers (Pensions) Acts 1936 to 1964, shall be disregarded in the calculation of means for the purposes of Chapters 4 to 10 of Part III.

7. The Minister may by regulations vary Rule 1(1) and Table 1 to this Schedule in relation to the calculation of the weekly value of property belonging to a person.

PART 4

Section 177.

SUPPLEMENTARY WELFARE ALLOWANCE

1. In calculating the weekly means of a person for supplementary welfare allowance account shall be taken of the following—

(1) the value of any property belonging to the person (not being property personally used or enjoyed by the person or a farm of land leased by him or her) which is invested or is otherwise put to profitable use or which, though capable of investment or profitable use, is not invested or put to profitable use, the yearly value of the first €520 of the property being taken to be one-twentieth part of the capital value and the yearly value of so much of the capital value of the property as exceeds the sum of €520 being taken to be one-tenth part of the capital value; and the weekly value of the property being calculated as one fifty-second part of the yearly value so calculated;

(2) all income in cash, including the net cash value of any non-cash earnings derived from personal exertions and the non-cash benefits that may be prescribed and the actual or estimated amount of any household income, whether as contributions to the expenses of the household or otherwise, but—

(a) excluding the amounts at references 2 to 11 and 19 in Table 2 to this Schedule, and

(b) excluding—

(i) in the cases that may be prescribed, any moneys received by way of a maintenance grant,

(ii) any income arising from a grant or allowance in pursuance of a scheme for promoting the welfare of the blind prepared under section 2 of the Blind Persons Act 1920,

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

(iv) the amount that may be prescribed of earnings from employment of a rehabilitative nature,

(v) in the case of a person in receipt of a supplement under section 179 towards the amount of mortgage interest or rent payable by him or her in respect of his or her residence:

(I) €60, or any higher amount that may be prescribed, from the amount of income derived when gross earnings from such employment that may be prescribed, have been reduced by the aggregate of—

(A) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),

- (B) any amount deducted from reckonable earnings under section 10 and regulations made under section 11,
 - (C) any amount deducted from reckonable earnings under section 5 of the Health Contributions Act 1979, and
 - (D) an amount equal to the amount of reduction, if any, in the rate of unemployment assistance or one-parent family payment under Part III consequent on receipt of those earnings from employment;
- (II) the amount by which carer's allowance exceeds the amount of supplementary welfare allowance set out in column (3) at reference 10 of the Fourth Schedule, in the case of a claimant, or his or her spouse, who is in receipt of carer's allowance under Part III,
 - (III) the amount by which carer's allowance exceeds the amount of supplementary welfare allowance set out in column (2) at reference 10 of the Fourth Schedule, in the case of a claimant who, not being one of a couple, is in receipt of carer's allowance under Part III,
 - (IV) the amount that may be prescribed from attendance at any training course that may be prescribed;
- (3) the value of any advantage accruing to the person from—
- (a) the use or enjoyment of property (other than a domestic dwelling or a farm building owned and occupied, or furniture and personal effects) which is personally used or enjoyed by him or her, and
 - (b) the leasing by the person of a farm of land;
- (4) all income and the value of all property of which the person has directly or indirectly deprived himself or herself in order to qualify himself or herself for the receipt of supplementary welfare allowance;
- (5) the value of any benefit or privilege enjoyed by the person.
2. The Minister may by regulations vary—
- (a) Rule 1(1) in relation to the calculation of the yearly value of property belonging to a person, and
 - (b) Rule 1(2), (3), (4) and (5).

Table 1

<p>The weekly value of the property referred to in Rule 1(1)(a) of Part 2 and Rule 1(1)(a) of Part 3 shall be calculated as follows:</p> <p>(a) the first €20,000 of the capital value of the property shall be excluded;</p> <p>(b) the weekly value of so much of the capital value of the property as exceeds €20,000 but does not exceed €30,000 shall be assessed at €1 per each €1,000;</p> <p>(c) the weekly value of so much of the capital value of the property as exceeds €30,000 but does not exceed €40,000 shall be assessed at €2 per each €1,000, and</p> <p>(d) the weekly value of so much of the capital value of the property as exceeds €40,000 shall be assessed at €4 per each €1,000.</p>

Table 2

Reference No.	Amount
1.	any moneys received by way of benefit, pension, assistance, allowance, supplement or continued payment for qualified children under Part II, III, IV, IVA, V, VA or VB;
2.	any moneys received by way of child benefit under Part IV or a payment corresponding to that benefit from another Member State;
3.	any allowance received under section 61 of the Health Act 1970, and known as domiciliary care allowance;
4.	any moneys received by way of a mobility allowance payable under section 61 of the Health Act 1970;
5.	any moneys received by way of training allowance from an organisation while undergoing a course of rehabilitation training provided by the organisation (being an organisation approved of by the Minister for Health and Children for the purposes of the provision of such training);
6.	payments by the Health Service Executive in respect of a child who is boarded out;
7.	payments by the Health Service Executive in respect of the provision of accommodation for a child under section 5 of the Child Care Act 1991;
8.	payments in respect of not more than 2 persons boarded out under section 10 of the Health (Nursing Homes) Act 1990, received from the Health Service Executive or a person boarded out, in so far as the aggregate amount of payment received in respect of each person boarded out does not exceed an amount equivalent to the rate set out in column (2) at reference 4 of Part I of the Fourth Schedule;
9.	the amount that may be prescribed of income from employment by the Health Service Executive or by a person approved by the Health Service Executive, as a home help;
10.	in the case of a qualified applicant under a scheme administered by the Minister for Community, Rural and Gaeltacht Affairs and known as Scéim na bhFoghlaimoírí Gaeilge, any income received under that scheme in respect of a person who is temporarily resident with the qualified applicant, together with any other income received in respect of that temporary resident;

Reference No.	Amount
11.	any moneys received from a charitable organisation, being a body whose activities are carried on otherwise than for profit (but excluding any public or local authority) and one of whose functions is to assist persons in need by making grants of money to them;
12.	any moneys received by the person's spouse in respect of participation in a scheme administered by the Minister and known as: <ul style="list-style-type: none"> (a) Back to Education Allowance, or (b) Back to Work Allowance, or (c) Back to Work Enterprise Allowance, or (d) Part-time Job Incentive;
13.	any moneys received by the person's spouse in respect of participation in a course approved by An Foras Áiseanna Saothair under the Industrial Training Act 1967;
14.	any moneys received by the person's spouse in respect of participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme;
15.	any income arising from a bonus under a scheme administered by the Minister for Community, Rural and Gaeltacht Affairs for the making of special grants to parents or guardians resident in the Gaeltacht or Breac Ghaeltacht (as defined in such scheme) of children attending primary schools;
16.	an amount of an allowance, dependant's allowance, disability pension or wounds pension under the Army Pensions Acts 1923 to 1980 (including, for the purposes of this subparagraph, a British War Pension), or of a combination of those allowances and pensions, except in so far as the amount exceeds €104 per year;
17.	any expenses necessarily incurred in carrying on any form of self-employment;
18.	any income arising by way of an infectious diseases maintenance allowance to or in respect of the person or a qualified adult or any qualified children;
19.	any other income that may be prescribed received by a person or his or her spouse and in the circumstances that may be prescribed.

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[2005.] *Social Welfare and Pensions Act* [No. 4.]
2005.

SCHEDULE 3

Section 25.

AMENDMENTS CONSEQUENTIAL ON SUBSTITUTION OF THIRD SCHEDULE
OF PRINCIPAL ACT

In the provisions of the Principal Act specified in *column (1)* of the following Table the words set out in *column (3)* are substituted for the words set out in the corresponding entry in *column (2)*.

Provisions amended (1)	Words to be replaced (2)	Words to be substituted (3)
Section 4(4)(a) (as amended by section 11 of the Act of 2000)	Rule 1(2)(l), 1(2)(t), 1(6), 1(6A) of Part I	Rule 1(2)(b)(iv)(I), (6) and (7) of Part 2 and Reference 14 in Table 2 to the Third Schedule
	Rule 1(4)(u) and 3(3) of Part II	Rule 2(3) of Part 3
	Rule 1(1)(o) and 2 of Part III	Reference 19 in Table 2 to the Third Schedule and Rule 2 of Part 4
Section 4(5) (as amended by section 12 of the Act of 2002)	Rule 1(1A) of Part I	Rule 4(a) of Part 2
	Rule 1(3A) of Part II	Rule 7 of Part 3
	Rule 1(2A) of Part III	Rule 2(a) of Part 4
	Rule 1(2A) of Part IV	Rule 4(a) of Part 2
Section 119(1) (as amended by section 37 of the Act of 2004)	Rule 1(1), 1(6), 1(6A) or 1(7) of Part I	Rule 1(1), (5), (6) or (7) of Part 2
Section 119(2)	Rules contained in Part I	Rules contained in Part 2
Section 121(3) (as amended by section 7 of the Act of 2004)	Rule 1(5) of Part I	Rule 1(10) of Part 2
Section 121(4)(b)	Rule 1(5) of Part I	Rule 1(10) of Part 2
Section 127(3) (as amended by sections 23 and 37 of the Act of 2001)	Rule 1(1) or 1(6A) as the case may be, of Part I	Rule 1(1) or (7) as the case may be, of Part 2
	Rules contained in Part I	Rules contained in Part 2
Section 132 (as amended by section 17 of the Act of 2000)	Rule 1(1) of Part II	Rule 1(1) of Part 3
Section 134(b) (as amended by section 17 of the Act of 2004)	Rules contained in Part II	Rules contained in Part 3
Section 142 (as amended by section 19 of the Act of 1997)	Rule 1(1) of Part II	Rule 1(1) of Part 3
	Rules contained in Part II	Rules contained in Part 3
Section 157 (as amended by section 19 of the Act of 1997)	Rule 1(1) and 1(7) of Part II	Rule 1(1) and (4) of Part 3
	Rules contained in Part II	Rules contained in Part 3
Section 163(1) (as amended by section 17 of the Act of 2000)	Rule 1(1) of Part II	Rule 1(1) of Part 3

[No. 4.] *Social Welfare and Pensions Act* [2005.]
2005.

Provisions amended (1)	Words to be replaced (2)	Words to be substituted (3)
Section 163(2)	Rules contained in Part II	Rules contained in Part 3
Section 169	Rules contained in Part II	Rules contained in Part 3
Section 177(1)(b) (as amended by section 37 of the Act of 2001)	Rules contained in Part III	Rules contained in Part 4
Section 182(1) (as amended by section 15 of the Act of 2003)	Part III	Part 4
Section 191A(1) (as amended by section 8 of the Act of 2002)	Rule 1(1) of Part I	Rule 1(1) of Part 2
Section 191A(2)	Rules contained in Part I	Rules contained in Part 2
Section 191L (as amended by section 17 of the Act of 2000)	Rule 1(2) of Part IV Rules contained in Part IV	Rule 1(1) of Part 2 Rules contained in Part 2

SCHEDULE 4

Section 26.

PRE-CONSOLIDATION AMENDMENTS

Item No.	Provisions affected	Amendment
1.	Section 2	<p>In subsection (1)—</p> <p>(a) in the definition of “reckonable emoluments” substitute “Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)” for “Regulations 59 and 60 (inserted by the Income Tax (Employments) Regulations, 1972 (S.I. No. 260 of 1972)) of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)”, and</p> <p>(b) substitute the following for the definition of “social welfare inspector”:</p> <p>“ ‘social welfare inspector’ means a person appointed by the Minister under section 212 to be a social welfare inspector for the purposes of Parts II, III, IV, IVA, V, VA, VB, VI and IX;”.</p>
2.	Section 4	<p>In subsection (6), substitute “not being regulations of which a draft is required” for “not being regulations or rules of which a draft is required”.</p>
3.	Section 11	<p>In subsection (1)—</p> <p>(a) in paragraph (aa) (inserted by section 12 of the Act of 1996), substitute “eircom plc” for “Bord Telecom Eireann”,</p> <p>(b) delete paragraph (c), and</p> <p>(c) substitute the following for paragraphs (d) to (g):</p> <p>“(d) persons employed as teachers in primary schools which are recognised schools within the meaning of the Education Act 1998, or</p> <p>(e) persons employed as teachers in training colleges recognised by the Minister for Education and Science for teachers in primary schools, or</p> <p>(f) persons employed as teachers in post-primary schools which are recognised schools within the meaning of the Education Act 1998, or</p> <p>(g) persons employed as teachers in domestic science training colleges, funded by moneys voted by the Oireachtas for that purpose, or”.</p>
4.	Section 16	<p>(a) Substitute the following for subsection (1):</p> <p>“(1) In this section ‘Act of 1988’ means the Bankruptcy Act 1988.”.</p> <p>(b) Substitute “section 81 of the Act of 1988” for “section 4 of the Act of 1889” in each place where it occurs.</p> <p>(c) Substitute “Act of 1988” for “Act of 1889” in each place where it occurs.</p>

[No. 4.] *Social Welfare and Pensions Act* [2005.]
2005.

Item No.	Provisions affected	Amendment
5.	Section 29C (inserted by section 11 of the Act of 2002)	Substitute the following for subsection (2): “(2) In this section ‘Personal Retirement Savings Account’ has the meaning given to it by section 91 of the Pensions Act 1990”.
6.	Section 30	In subsection (1)— (a) delete paragraph (aa) (inserted by Regulation 5 of the European Communities (Social Welfare) Regulations 1994 (S.I. No. 312 of 1994)), and (b) delete paragraph (e).
7.	Section 32	In subsection (2), substitute “52” for “39”.
8.	Sections 41A to 41G (inserted by Regulation 4 of the European Communities (Social Welfare) Regulations 1994 (S.I. No. 312 of 1994))	Repeal the sections.
9.	Section 43	In subsection (2), substitute “52” for “39”.
10.	Section 64 (as amended by section 28 of the Act of 1997)	In subsections (1) and (3) substitute “qualified child or qualified adult” for “child or qualified adult” in each place where it occurs.
11.	Section 65	Substitute “Mental Health Acts 1945 to 2001” for “Mental Treatment Acts 1945 to 1966” wherever it occurs in that section.
12.	Section 82D (inserted by section 10 of the Act of 2000)	In subsection (1)(b), substitute “column (2)” for “column (1)”.
13.	Section 120	In subsection (8) (inserted by section 17 of the Act of 2004), substitute “unemployment assistance under this section” for “an allowance under this section”.
14.	Section 126	In subsection (2), in paragraph (e) of the definition of “institution of education”, substitute “Qualifications (Education and Training) Act 1999” for “National Council for Education Awards Act 1979”.
15.	Section 139	Substitute the following for subsection (2): “(2) A person in respect of whom the weekly rate of old age (contributory) pension payable to another person is increased by virtue of section 87(1) shall, except as provided in section 135, be disqualified, for any period in respect of which the weekly rate of that pension payable to that other person is so increased, for receiving old age (non-contributory) pension.”.
16.	Section 140	(a) In subsection (1), insert “or in an approved centre within the meaning of the Mental Health Act 2001” after “Mental Treatment Act 1945”. (b) In subsection (2), substitute “Clinical Director” for “Resident Physician and Governor”.

Item No.	Provisions affected	Amendment
17.	Section 163	In subsection (1), in the definition of “relevant person” (as amended by section 10 of the Act of 1999), delete “handicapped”.
18.	Section 170A (inserted by section 5 of the Act of 2003)	Substitute “qualified child” for “child dependant”.
19.	Section 171	Substitute “qualified adult or qualified child” for “adult or child dependant”.
20.	Section 172	In subsection (2), substitute “a qualified adult or qualified child” for “his adult or child dependant”.
21.	Section 174	In subsection (1), substitute “a qualified adult or any qualified children” for “his adult or child dependants”.
22.	Section 177	In subsection 2(b), substitute “qualified child” for “child dependant” in each place where it occurs.
23.	Section 178	(a) In subsection (1)(b), substitute “qualified child” for “child dependant”. (b) Delete subsection (2).
24.	Section 186	Repeal the section.
25.	Section 187	Delete subsections (1) to (7), (9) and (10).
26.	Section 188	Repeal the section.
27.	Section 191B (inserted by section 13 of the Act of 1996)	In subsections (1)(b) and (4), substitute “substantially restricted” for “substantially handicapped” in each place where it occurs.
28.	Section 197 (as amended by section 7 of the Act of 1998)	In paragraph (i) of the definition of “weekly family income” substitute “Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)” for “Regulations 59 and 60 (inserted by the Income Tax (Employments) Regulations, 1972 (S.I. No. 260 of 1972)) of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960),”.
29.	Section 205 (as amended by section 21 of the Act of 1998)	In subsection (2)(d), delete “, sickness allowance”.
30.	Section 209	In subsections (1)(a) and (2)(a) (both as amended by section 14 of the Act of 2000), delete “pay-related benefit,” in each place where it occurs.
31.	Section 210 (as amended by section 5 of the Act of 2004)	In subsection (1), in the definition of “benefit”, substitute the following for paragraph (b): “(b) unemployment benefit,”.
32.	Section 214	(a) In subsection (5)(b), substitute “€13,000” for “£10,000”. (b) In subsection (6)— (i) substitute “€1,500” for “£1,000”, and (ii) substitute “€13,000” for “£10,000”.

Item No.	Provisions affected	Amendment
33.	Section 218	(a) In subsection (1)(a)— (i) substitute “€1,500” for “£1,000”, and (ii) substitute “6 months” for “12 months”. (b) In subsection (1)(b), substitute “€13,000” for “£10,000”.
34.	Section 221 (as amended by section 22 of the Social Welfare Act 1998)	In subsection (2), substitute “€2,000” for “£1,500”.
35.	Section 223 (as amended by section 15 of this Act)	In subsection (1), substitute the following for the definition of “specified body”: “ ‘specified body’ shall be read in accordance with the Ninth Schedule;”.
36.	Section 237 (as amended by section 17 of the Act of 1997)	In subsection (1)— (a) substitute “Civil Liability (Amendment) Act 1964” for “Civil Liability Act, 1964”, and (b) delete “(including any amount payable therewith by way of pay-related benefit)”.
37.	Section 254	In subsection (3), substitute “the Minister may specify” for “he may specify”.
38.	Section 259	In subsection (3), substitute “€1,500” for “£1,000”.
39.	Section 276	In subsection (11)(e), substitute “€150” for “£100”.
40.	Section 279A (inserted by section 31 of the Act of 1997)	Insert “or Part 2 of the Criminal Justice (Theft and Fraud Offences) Act 2001” after “section 32 of the Larceny Act 1916”.
41.	Section 294	In subsection (1), substitute “competent authority” for “competent attachment of authority”.
42.	Section 296	Substitute “€1,500” for “£1,000” in each place where it occurs.
43.	Section 299	In subsection (2)— (a) substitute “€1,500” for “£1,000”, and (b) substitute “€13,000” for “£10,000”.
44.	First Schedule	In Part III, paragraph 3(b) substitute “Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)” for “Regulations 59 and 60 of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960) (inserted by the Income Tax (Employments) Regulations, 1972 (S.I. No. 260 of 1972))”.
45.	Second Schedule	In Part I, delete the rates of benefit contained at reference 1A (inserted by Regulation 6 of the European Communities (Social Welfare) Regulations 1994 (S.I. No. 312 of 1994)).

Item No.	Provisions affected	Amendment
46.	Third Schedule	<p>(a) In Part I, in Rule 1(2)(s)(i)(amended by section 26 of the Act of 1997), delete “handicapped”.</p> <p>(b) In Part III—</p> <p>(i) in Rule 1(1)(d) (amended by section 26 of the Act of 1997), delete “handicapped”, and</p> <p>(ii) in Rule 1(1)(p)(i)(I) (inserted by section 26 of the Act of 2000), substitute “Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)” for “Regulations 59 and 60 (inserted by the Income Tax (Employments) Regulations, 1972 (S.I. No. 260 of 1972)) of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)”.</p>
47.	Seventh and Eighth Schedules (inserted by Regulation 7 of the European Communities (Social Welfare) Regulations 1994 (S.I. No. 312 of 1994))	Repeal the Schedules.

SCHEDULE 5

Section 26.

“NINTH SCHEDULE—SPECIFIED BODIES

1.—Each of the following shall be a specified body for the purposes of this Schedule and sections 223 to 223H:

- (1) a Minister of the Government,
 - the Commission for Public Service Appointments,
 - the Public Appointments Service,
 - the Revenue Commissioners;
- (2) a local authority (for the purposes of the Local Government Act 2001);
- (3) the Health Service Executive;
- (4) a body established by the Minister for Education and Science under section 54 of the Education Act 1998,
 - An Foras Áiseanna Saothair,
 - An Post,
 - An tArd-Chláraitheoir,
 - an tÚdarás um Ard-Oideachas,
 - Coillte Teoranta,
 - Enterprise Ireland,

National Educational Welfare Board,
the Central Applications Office,
the Central Statistics Office,
the Companies Registration Office,
the Garda Síochána and the Defence Forces in respect of
their own members,
the General Medical Services (Payments) Board,
the Legal Aid Board,
the Mental Health Commission,
the National Breast Screening Board,
the National Cancer Registry Board,
the Pensions Board,
the Personal Injuries Assessment Board,
the Private Residential Tenancies Board;

(5) the following Voluntary Hospitals:

Beaumont Hospital, Dublin,
Cappagh National Orthopaedic Hospital, Dublin,
Coombe Women's Hospital, Dublin,
Dublin Dental Hospital,
Hume Street Hospital, Dublin,
Incorporated Orthopaedic Hospital of Ireland, Clontarf,
Dublin,
Leopardstown Park Hospital,
Mater Misericordiae University Hospital, Dublin,
Mercy Hospital, Cork,
National Maternity Hospital, Dublin,
National Rehabilitation Hospital, Dun Laoghaire,
Our Lady's Hospice,
Our Lady's Hospital for Sick Children, Crumlin, Dublin,
Portiuncula Hospital, Ballinasloe, Co. Galway,
Rotunda Hospital, Dublin,
Royal Victoria Eye and Ear Hospital, Dublin,
South Infirmary/Victoria Hospital, Cork,
St. James's Hospital,
St. John's Hospital, Limerick,
St. Luke's Hospital, Dublin,
St. Mary's Hospital and Residential School, Baldoyle,
Dublin,
St. Michael's Hospital, Dun Laoghaire,
St. Vincent's University Hospital, Elm Park, Dublin,
St. Vincent's Hospital, Fairview,

The Adelaide and Meath Hospital, Dublin incorporating
the National Children's Hospital,
The Children's Hospital, Temple Street, Dublin,
The Royal Hospital, Donnybrook,
University Dental School and Hospital.

2.—Each of the following shall be a specified body for the purposes of this Schedule and section 223D:

a person who provides, organises or procures a programme of education or training,

a recognised school or centre for education (within the meaning of section 2 of the Education Act 1998),

a vocational education committee (within the meaning of section 7 of the Vocational Education Act 1930),

a university to which the Universities Acts 1997 and 1999 apply,

an educational institution to which the Regional Technical Colleges Acts 1992 to 2001 apply,

the Dublin Institute of Technology,

the Further Education and Training Awards Council,

the Higher Education and Training Awards Council,

the National Qualifications Authority of Ireland.

3.—The Minister may by regulations amend paragraph 1 or 2 by adding a specified body to, deleting a specified body from, or amending a reference to a specified body in, those paragraphs.”.