



Number 4 of 2003

**SOCIAL WELFARE (MISCELLANEOUS PROVISIONS) ACT
2003**

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AN ACT TO AMEND AND EXTEND THE SOCIAL WELFARE ACTS, THE HEALTH CONTRIBUTIONS ACT 1979, THE NATIONAL TRAINING FUND ACT 2000, THE OMBUDSMAN ACT 1980, THE FREEDOM OF INFORMATION ACT 1997 AND THE PENSIONS ACT 1990. [28th March, 2003]

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 (Miscellaneous Provisions) Act 2003.

Short title, construction, collective citation and commencement.

(2) The Social Welfare Acts and *sections 1 to 18* of this Act shall be read together as one.

(3) *Section 24* of this Act and the Pensions Acts 1990 to 2002 may be cited together as the Pensions Acts 1990 to 2003.

(4) *Sections 11, 13, 15, 16, 17, 18, 20, 21, 23* and *24* 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 fixed for different purposes and different provisions and for the amendments effected by the said *section 24* to the Pensions Act 1990.

PART 2

AMENDMENTS TO THE SOCIAL WELFARE ACTS

2.—In this Act—

Definitions.

“Act of 1997” means the Social Welfare Act 1997;

“Act of 1999” means the Social Welfare Act 1999;

“Act of 2000” means the Social Welfare Act 2000;

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Pr.2 S.2 “Act of 2001” means the Social Welfare Act 2001;
 “Act of 2002” means the Social Welfare Act 2002;
 “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 (inserted by section 2 of the Social Welfare (Miscellaneous Provisions) Act 2002):

“PART III

AMOUNTS OF CHILD BENEFIT

Amount for each of first 2 children (1)	Amount for each child in excess of 2 (2)
€125.60	€157.30

”.

(2) This section comes into operation on 1 April 2003.

Respite care grant — increase. **4.—(1)** The Principal Act is amended in sections 82F(1) and 168A(2) (both as amended by section 3 of the Social Welfare (Miscellaneous Provisions) Act 2002) by substituting “€1,470” for “€1,270” and “€735” for “€635”.

(2) This section comes into operation on 1 June 2003.

Qualified child — extension of entitlement. **5.—(1)** The Principal Act is amended—
 (a) in section 2, by substituting the following for subsections (3), (4) (inserted by section 38 of the Social Welfare Act 1996) and (4A) (inserted by section 7 of the Social Welfare (Miscellaneous Provisions) Act 2002):

“(3) Subject to section 114(2), in this Act ‘qualified child’ means a person who is ordinarily resident in the State, is not detained in a reformatory or an industrial school, and—

(a) for the purposes of—

- (i) section 34(2), in the case of an applicant for disability benefit other than as referred to in paragraph (b),
- (ii) section 41E(2) (inserted by the European Communities (Social Welfare) Regulations 1995 (S.I. No. 25 of 1995)), in the case of an applicant for health and safety benefit other than as referred to in paragraph (b),
- (iii) section 45(2), in the case of an applicant for unemployment benefit other than as referred to in paragraph (b),

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(iv) section 55(2), in the case of an applicant for injury benefit other than as referred to in paragraph (b), and

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(v) section 121(1)(b)(ii), in the case of an applicant for unemployment assistance other than as referred to in paragraph (b),

is under the age of 18 years or is of or over the age of 18 years, and is regarded as attending a course of study referred to in section 126(3)(a),

and

(b) for the purposes of—

(i) sections 60(9), 62(1), 82D(1), 87(2), 91(2), 99(2), 104(1), 106, 116A, 128(1)(b), 136(1), 148(1), 159(1), 165(1), 191C(1)(b), 191N(1)(b) and 198,

(ii) section 34(2), in the case of an applicant who, in respect of any period of interruption of employment has been entitled to or is in receipt of disability benefit for not less than 156 days, or, subject to such conditions and in such circumstances as may be prescribed, has been entitled to or has been in receipt of disability benefit and a relevant payment for not less than 156 days,

(iii) section 41E(2), in the case of an applicant who, in respect of a period of health and safety leave under the Maternity Protection Act 1994, has been entitled to or is in receipt of health and safety benefit for not less than 156 days, or, subject to such conditions and in such circumstances as may be prescribed, has been entitled to or has been in receipt of health and safety benefit and a relevant payment for not less than 156 days,

(iv) section 45(2) or section 121(1)(b)(ii), in the case of an applicant who, in any continuous period of unemployment as read in accordance with section 120(3), has been entitled to or is in receipt of unemployment benefit or unemployment assistance for not less than 156 days, or, subject to such conditions and in such circumstances as may be prescribed, has been entitled to or has been in receipt of unemployment benefit or unemployment assistance and a relevant payment for not less than 156 days, and

(v) section 55(2), as it applies to disablement pension or in the case of an applicant

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who, in respect of any period of interruption of employment, has been entitled to or is in receipt of injury benefit and a relevant payment for not less than 156 days, subject to such conditions and in such circumstances as may be prescribed,

and for the purposes of this paragraph—

- (I) is under the age of 18 years, or
- (II) is of or over the age of 18 years and under the age of 22 years and is receiving full-time education, the circumstances of which shall be specified in regulations, or
- (III) is of or over the age of 18 years and is regarded as attending a course of study referred to in section 126(3)(a).

(3A) In subsection (3) ‘relevant payment’ means any benefit specified in section 30(1) (other than old age (contributory) pension) or any assistance specified in section 118(1) (other than old age (non-contributory) pension).

(4) (a) Notwithstanding subsection (3)(b)(II), a person receiving full-time education, in accordance with that provision, who attains the age of 22 years during an academic year shall continue to be regarded as a qualified child for the purposes of that provision, while receiving full-time education for the duration of that academic year.

(b) In this subsection ‘academic year’ has the same meaning as in section 126(2).

(4A) (a) Subject to paragraph (b) and notwithstanding subsection (3)(a), a person who attains the age of 18 years while attending a full-time day course of study, instruction or training at an institution of education, shall continue to be regarded as a qualified child for the purposes of that subsection until the earlier of the next following 30 June or until he or she completes the full-time day course.

(b) For the purposes of paragraph (a), the Minister may prescribe the conditions subject to which a person shall be regarded as attending a full-time day course of study, instruction or training at an institution of education.

(c) In this subsection—

‘institution of education’ has the same meaning as in section 126(2);

‘relevant payment’ means any benefit specified in section 30(1) (other than old age (contributory) pension) or any assistance

specified in section 118(1) (other than old age Pt.2 S.5 (non-contributory) pension).”,

(b) in section 170 (as amended by section 28 of the Act of 1997), by deleting the definition of “child dependant”, and

(c) by inserting the following after section 170:

“Definition of ‘child dependant’.

170A.—(1) In this Chapter ‘child dependant’ means, in relation to a beneficiary, any child, not being a qualified adult, who is dependent on that beneficiary for support and—

(a) in the case of a beneficiary (other than a beneficiary referred to in paragraph (b)), is under the age of 18 years or is of or over the age of 18 years and is regarded as attending a course of study referred to in section 126(3)(a), or

(b) in the case of a beneficiary who has been in receipt of supplementary welfare allowance for not less than 26 weeks or, subject to such conditions and in such circumstances as may be prescribed, has been entitled to or has been in receipt of supplementary welfare allowance and a relevant payment for not less than 156 days—

(i) is under the age of 18 years, or

(ii) is of or over the age of 18 years and under the age of 22 years and is receiving full-time education, the circumstances of which shall be specified in regulations, or

(iii) is of or over the age of 18 years and is regarded as attending a course of study referred to in section 126(3)(a).

(2) (a) Subject to paragraph (b) and notwithstanding subsection (1)(a), a person who attains the age of 18 years while attending a full-time day course of study, instruction or training at an institution of education, shall continue to be regarded as a child dependant for the purposes of the said subsection (1)(a) until the earlier of the next following 30 June or until he

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or she completes the full-time day course.

(b) For the purposes of paragraph (a), the Minister may prescribe the conditions subject to which a person shall be regarded as attending a full-time day course of study, instruction or training at an institution of education.

(c) In this subsection ‘institution of education’ has the same meaning as in section 126(2).”.

(2) This section comes into operation—

(a) in so far as it relates to unemployment assistance, pre-retirement allowance and farm assist, on 24 September 2003,

(b) in so far as it relates to unemployment benefit, on 25 September 2003, and

(c) in so far as it relates to disability benefit, health and safety benefit, injury benefit and supplementary welfare allowance, on 29 September 2003.

Island allowance — improvements.

6.—(1) The Principal Act is amended—

(a) in section 99, by substituting the following for subsection (6) (inserted by section 15 of the Act of 2001):

“(6) The weekly rate of invalidity pension shall be increased by the amount set out in column (8) of Part I of the Second Schedule where the beneficiary is ordinarily resident on an island.”,

(b) in section 191C(1) (as amended by section 17 of the Act of 2001)—

(i) in paragraph (b), by deleting “and”, and

(ii) by substituting the following for paragraph (c):

“(c) the amount set out in column (6) of that Part where the claimant or beneficiary is living alone, and

(d) the amount set out in column (8) of Part I of the Fourth Schedule where the claimant or beneficiary is ordinarily resident on an island.”,

(c) by substituting the following for Part IV of the Second Schedule (inserted by section 2 of the Act of 2002):

INCREASES OF DISABLEMENT PENSION

Description of Increase	Weekly Rate	Increase where the person is living alone	Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable)
(1)	(2)	(3)	(4)
	€	€	€
1. Increase where the person is permanently incapable of work	124.80	7.70	12.70
2. Increase where the person requires constant attendance	139.70	—	—

”,

and

(d) by inserting “12.70” in column (8) at reference 3 of Part I (amended by section 3 of the Act of 2002) of the Fourth Schedule.

(2) This section comes into operation—

(a) in so far as it relates to disability allowance on 2 April 2003,

(b) in so far as it relates to invalidity pension on 3 April 2003, and

(c) in so far as it relates to disablement pension on 4 April 2003.

7.—(1) Section 210(2) (as amended by section 18 of the Act of 2001) of the Principal Act is amended by inserting the following after paragraph (aa) (inserted by section 25 of the Act of 2000):

Payments after death — improvements.

“(aaa) where a person who is in receipt of disability benefit, unemployment benefit, invalidity pension, unemployment assistance, unemployability supplement, supplementary welfare allowance, pre-retirement allowance, disability allowance or farm assist dies, and his or her spouse is in receipt of a benefit specified in paragraphs (a) to (kkkk) and (p) of subsection (1) in his or her own right, payment of the deceased person’s benefit shall continue to be made for a period of 6 weeks after the date of death and shall, during that period, be made to such person and subject to such conditions as may be prescribed, and”.

(2) This section comes into operation on 1 June 2003.

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Assessment of means — amendments.

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

(a) in Part I—

(i) in Rule 1(2) (as amended by section 26 of the Act of 1997)—

(I) by inserting “and such non-cash benefits as may be prescribed,” after “household or otherwise,” and

(II) by inserting the following after subparagraph (s) (as amended by section 21 of the Act of 2000):

“(ss) 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) and for the purpose of this subparagraph—

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

and

(ii) by substituting the following for Rule 1(5) (as amended by section 26 of the Act of 1997):

“(5) other than in the case of disability allowance and persons who have 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 such benefit and privilege may be calculated.”,

(b) in Part II, in Rule 1(4), by substituting the following for paragraph (s):

“(s) for the purposes of old age (non-contributory) pension, blind pension, widow’s (non-contributory) pension and one-parent family payment, 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 such maximum amount as 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) and for the purpose of this subparagraph—

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

- (c) in Part III, in Rule 1(1) (as amended by section 13 of the Act of 2001), by inserting “and such non-cash benefits as may be prescribed” after “personal exertions”, and
- (d) in Part IV, in Rule 1(3) (as amended by section 13 of the Act of 2001), by—
- (i) inserting “and such non-cash benefits as may be prescribed,” after “household or otherwise,”, and
- (ii) inserting the following after subparagraph (q):
- “(qq) 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) and for the purpose of this subparagraph—
- ‘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 payment’ means any payment received under or pursuant to any maintenance arrangement that may be prescribed,”.
- (2) (a) Subject to *paragraph (b)* of this subsection, the amendments effected by *paragraphs (a)(i)(II), (b) and (d) of subsection (1)* of this section shall not apply to a person who is entitled to or is in receipt of any payment to which those paragraphs refer immediately before the coming into operation of this subsection in relation to that payment, where those amendments have the effect of increasing the means assessed in respect of that person under the Third Schedule to the Principal Act.

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(b) Where, after the coming into operation of the amendments referred to in *paragraph (a)* of this subsection, a person referred to in that paragraph has not been entitled to or has not been in receipt of any payments to which those amendments refer for a period of more than 52 consecutive weeks after the said coming into operation, then the said paragraph shall cease to apply to that person.

(3) This section, other than *paragraphs (a)(i)(I), (c)* and *(d)(i)*, comes into operation—

(a) in so far as it relates to unemployment assistance, pre-retirement allowance and farm assist, on 30 April 2003,

(b) in so far as it relates to disability allowance, on 7 May 2003, and

(c) in so far as it relates to old age (non-contributory) pension, blind pension, widow's and widower's (non-contributory) pension, and orphan's (non-contributory) pension, on 9 May 2003.

Orphan's payments
— amendment.

9.—(1) The Principal Act is amended—

(a) by substituting the following for section 106:

“106.—(1) Subject to this Act, orphan's (contributory) allowance shall be payable in respect of an orphan if the contribution condition in section 107 is satisfied.

(2) Orphan's (contributory) allowance shall not be payable for any period during which a payment is made under Article 14 of the Child Care (Placement of Children in Foster Care) Regulations 1995 (S.I. No. 260 of 1995) or Article 14 of the Child Care (Placement of Children with Relatives) Regulations 1995 (S.I. No. 261 of 1995).”

and

(b) by inserting the following after section 148(3):

“(4) A pension shall not be payable in respect of any period during which a payment is made under Article 14 of the Child Care (Placement of Children in Foster Care) Regulations 1995 or Article 14 of the Child Care (Placement of Children with Relatives) Regulations 1995.”

(2) This section comes into operation on 1 April 2003.

Personal public
service number —
extension of
provisions.

10.—The definition of “specified body” in section 223(1) (as amended by section 56 of the Pensions (Amendment) Act 2002) of the Principal Act is amended—

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

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

“(o) the Central Statistics Office,

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(p) the Central Applications Office, Pt.2 S.10

(q) the National Cancer Registry Board,

(r) an tÚdarás um Ard-Oideachas,

(s) National Education Welfare Board,

(t) a body established by the Minister for Education and Science under section 54 of the Education Act 1998, or

(u) such other persons as may be prescribed;”,

and

(c) by substituting the following for section 223D (inserted by section 32 of the Act of 2000):

“223D.—Notwithstanding anything contained in any other enactment, a specified body may share such information as may be prescribed with—

(a) the Minister for Education and Science, where that Minister requires the information for the purpose of enabling him or her to provide education in accordance with section 6(b) of the Education Act 1998, or

(b) an tÚdarás um Ard-Oideachas, where that body requires the information for the purpose of performing its functions under paragraph (a), (b) or (d) of section 3 of the Higher Education Authority Act 1971.”.

11.—Section 247 (as amended by section 31 of the Act of 2000) of the Principal Act is amended by inserting the following after subsection (3): Award of child benefit in certain cases.

“(4) Notwithstanding subsections (1) to (3) and subject to subsection (5), where a person is in receipt of child benefit, the Minister may provide for the award of child benefit to that person in respect of a second or subsequent child on receipt of the 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.

(5) In the case of an award made under subsection (4), any question which arises subsequently in relation to whether child benefit is or is not payable, or in relation to who is entitled to receive child benefit, shall be referred to a deciding officer for decision.”.

12.—Section 10 of the Social Welfare (Miscellaneous Provisions) Act 2002 is amended by substituting “6 January 2003 and ending on 4 January 2004 and the benefit year commencing on 5 January 2004 and ending on 2 January 2005,” for “6 January 2003 and ending on 4 January 2004,” in each place where those words occur. Amendments consequential on alignment of income tax year with calendar year.

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Supplementary
welfare allowance
— amendment to
conditions of
entitlement.

13.—Section 179 (as amended by paragraph 3 of the Sixth Schedule to the Principal Act) of the Principal Act is amended by inserting the following after subsection (2):

“(3) Without prejudice to the generality of subsection (1) and subject to subsection (4), regulations under subsection (1) may provide for the payment of a supplement towards the amount of rent payable by a person in respect of his or her residence.

(4) (a) A person shall not be entitled to a payment referred to in subsection (3) where—

(i) the person is not lawfully in the State, or

(ii) the person has made an application to the Minister for Justice, Equality and Law Reform for a declaration under paragraphs (a) or (c) of section 8(1) of the Refugee Act 1996, other than a person—

(I) in respect of whom a declaration within the meaning of section 17 of the Refugee Act 1996 is in force,

(II) who is entitled under section 18 of the Refugee Act 1996 to enter and reside in the State,

(III) who is entitled under section 24 of the Refugee Act 1996 to enter and remain in the State, or

(IV) who has the permission of the Minister for Justice, Equality and Law Reform to remain in the State under the Aliens Act 1935.

(b) This subsection does not apply to persons who were in receipt of a payment referred to in subsection (3) before the coming into operation of this subsection.”.

Conditions for grant
of supplementary
welfare allowance
— amendment.

14.—The Principal Act is amended by substituting the following for section 176 (as amended by section 30 of the Act of 1999):

“Conditions
for grant of
supplementary
welfare
allowance.

176.—A health board or deciding officer may, subject to regulations made by the Minister under section 188, determine or decide that a person shall not be entitled to supplementary welfare allowance unless the person is—

(a) registered for employment in such manner as the Minister may prescribe,

(b) satisfies the conditions set out in subsections (1)(b) and (3A) of section 120, and

(c) makes application for any statutory or other benefits or assistance to which the person may be entitled including such

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benefits or assistance from countries other than the State.” Pt.2 S.14

15.—Section 182(1) (as amended by section 30 of the Act of 1999) of the Principal Act is amended by substituting “, 174 or 179” for “or 174”. Grant of supplementary welfare allowance in cases of urgency — amendment.

16.—Section 2(1) of the Principal Act is amended— Amendments to section 2 of Principal Act.

(a) by inserting the following after the definition of “developing country” (inserted by section 11 of the Social Welfare (No. 2) Act 1993):

“‘emolument’ means an emolument to which Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 applies;”

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

“‘reckonable earnings’ means, subject to regulations and to section 78, emoluments derived from insurable employment or insurable (occupational injuries) employment;”

(c) in the definition of “reckonable emoluments” by deleting “, non-pecuniary emoluments”, and

(d) in the definition of “reckonable income” by deleting “, non-pecuniary income”.

17.—Section 10(1) (as amended by section 8 of the Act of 2001) of the Principal Act is amended by inserting the following after paragraph (d): Employment contributions — amendment.

“(e) For the purposes of this Chapter—

‘payment’ includes a notional payment;

‘notional payment’ shall be read in accordance with the specified provision;

‘specified provision’ means any provision in a Bill entitled the Finance Bill 2003 presented by the Minister for Finance on 4 February 2003 in so far as that provision relates to the application of section 985 of the Taxes Consolidation Act 1997 to certain perquisites.”

18.—Section 14(5) of the Principal Act is amended by substituting “emoluments” for “earnings”. Employment contributions — amendment to payment of contribution and keeping of records.

19.—The Principal Act is amended— Employed contributors and insured persons — agency workers.

(a) in section 9, by inserting the following after subsection (3):

“(4) For the purposes of this Part, with regard to employment specified in paragraph 13 (inserted by section 19 of the *Social Welfare (Miscellaneous Provisions) Act 2003*) of Part I of the First Schedule, the

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person who is liable to pay the wages or salary of the individual concerned in respect of the work or service concerned is deemed to be the individual's employer.”,

and

- (b) in the First Schedule, by inserting the following after paragraph 12 (inserted by section 12 of the Social Welfare Act 1996):

“13. Employment whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract and whether or not the third person pays the wages or salary of the individual in respect of the work or service).”.

PART 3

MISCELLANEOUS AMENDMENTS

Amendments to
Health
Contributions Act
1979.

20.—The Health Contributions Act 1979 is amended—

- (a) in section 1, by substituting the following for the definition of “*emoluments*”:

“‘*emoluments*’ means, subject to regulations, emoluments to which Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 applies, but without regard to section 1017 of that Act, other than payments under the Social Welfare (Consolidation) Act 1993;”.

- (b) in section 6, by inserting the following after subsection (2):

“(3) For the purposes of this section—

‘*payment*’ includes a notional payment;

‘*notional payment*’ shall be read in accordance with the specified provision;

‘*specified provision*’ means any provision in a Bill entitled the Finance Bill 2003 presented by the Minister for Finance on 4 February 2003 in so far as that provision relates to the application of section 985 of the Taxes Consolidation Act 1997 to certain prerequisites.”.

and

- (c) in section 10—

- (i) by substituting the following for subsection (1):

“(1) In relation to health contributions referred to in section 6 or 7 of this Act, the Minister may make regulations, subject to this Act, providing for—

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- (a) the determination of liability for health contributions; Pr.3 S.20
- (b) the time and manner of payment of health contributions;
- (c) the collection and the recovery of, and the furnishing of information in relation to, health contributions;
- (d) the charging of interest due on arrears of health contributions;
- (e) the waiving of interest due on arrears of health contributions;
- (f) the estimation of amounts due in respect of health contributions, and the review of such estimates;
- (g) adjustment in any case of underpayment or overpayment of health contributions;
- (h) any matter ancillary or incidental to any of the matters referred to in paragraphs (a) to (g) of this subsection.”,

and

- (ii) in subsection (3)(a), by substituting the following for subparagraph (i):

“(i) the provisions of any enactment, regulation or rule of court relating to the inspection of records, the estimation, collection and recovery (including the provisions relating to the offset of taxes and appropriation of payments in Chapter 5 of Part 42 of the Taxes Consolidation Act 1997) of income tax, or relating to appeals in relation to income tax, or the publication of names of persons under section 1086 of the Taxes Consolidation Act 1997, shall apply in relation to health contributions which the Collector-General is obliged to collect as if the contributions were an amount of income tax.”.

21.—The National Training Fund Act 2000 is amended—

Amendments to
National Training
Fund Act 2000.

- (a) in section 4 by inserting the following after subsection (12):

“(13) For the purposes of this section—

‘payment’ includes a notional payment;

‘notional payment’ shall be read in accordance with the specified provision;

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‘specified provision’ means any provision in a Bill entitled the Finance Bill 2003 presented by the Minister for Finance on 4 February 2003 in so far as that provision relates to the application of section 985 of the Taxes Consolidation Act 1997 to certain perquisites.”,

and

(b) in section 5—

(i) in subsection (1), by substituting “Chapter 4 of Part 42” for “Part 42”, and

(ii) by substituting the following for subsection (6):

“(6) The provisions of any enactment, regulation or rule of court relating to the inspection of records, the estimation, collection and recovery (including the provisions relating to the offset of taxes and appropriation of payments in Chapter 5 of Part 42 of the Taxes Consolidation Act 1997) of income tax, or relating to appeals in relation to income tax, or the publication of names of persons under section 1086 of the Taxes Consolidation Act 1997, shall apply in relation to the National Training Fund Levy which the Collector-General is obliged to collect as if the said levy were an amount of income tax which the employer was liable to remit.”.

Amendment of Ombudsman Act 1980.

22.—The Ombudsman Act 1980 is amended in section 5(1) by renumbering paragraph (gg) (inserted by section 58 of the Pensions (Amendment) Act 2002) as paragraph (ggg).

Amendments to Freedom of Information Act 1997.

23.—The Freedom of Information Act 1997 is amended—

(a) in section 2(1), in the definition of “head of a public body”, by inserting the following after paragraph (jj) (inserted by the Ombudsman for Children Act 2002):

“(jjj) in relation to the office of Pensions Ombudsman, the Pensions Ombudsman,”,

and

(b) in section 46(1)(c) (as amended by the Ombudsman for Children Act 2002)—

(i) by deleting “or” at the end of subparagraph (iii), and

(ii) by substituting the following for subparagraph (iv):

“(iv) an examination or investigation carried out by the Ombudsman for Children under the Ombudsman for Children Act 2002, or

(v) an examination or investigation carried out by the Pensions Ombudsman under the Pensions Act 1990,”,

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and

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- (iii) in clause (II), by substituting “, the office of the Ombudsman for Children or the office of the Pensions Ombudsman” for “or the office of the Ombudsman for Children”.

24.—The Pensions Act 1990 is amended to the extent specified in the *Schedule* to this Act. Amendments to Pensions Act 1990.

SCHEDULE

AMENDMENTS TO PENSIONS ACT 1990

Item	Provision affected	Amendment
1	Section 2	<p>In the definition of “contract of employment” (inserted by the Pensions (Amendment) Act 2002) substitute the following for paragraph (a):</p> <p>“(a) a contract of service or apprenticeship, or”.</p>
2	Section 34	<p>Substitute the following for the proviso to subsection (2) (as amended by the Pensions (Amendment) Act 2002):</p> <p>“Provided that, in the case of a defined benefit scheme, if the actuary advises the trustees that he is reasonably satisfied that, if he were to prepare an actuarial funding certificate under section 42 having an effective date of the day upon which the amount of the transfer payment is expected to be made, he would not certify that the scheme satisfies the funding standard provided for in section 44, the amount of the transfer payment applied by the trustees after 2 April 2003 may be reduced by the trustees, on the advice of the actuary, having regard to the provisions of section 48.”.</p>
3	Section 43	<p>(a) Substitute the following for subsection (2):</p> <p>“(2) Subject to subsections (3) and (4), an actuarial funding certificate shall be submitted to the Board by the trustees of the scheme within 9 months (or such other period as may be prescribed) of the effective date of the certificate.”.</p> <p>(b) Insert the following after subsection (3):</p> <p>“(4) The Board, on application to it in that behalf by the trustees of a scheme, may extend the time limit provided for by subsection (2) or (3) or in regulations made under subsection (3), as the case may be, for a period not exceeding 6 months where it considers the extension is appropriate having regard to the circumstances of the application concerned.”.</p>
4	Section 49	<p>(a) In subsection (2), substitute “Subject to subsection (3), a funding proposal shall” for “A funding proposal shall”.</p> <p>(b) Substitute the following for subsection (3):</p> <p>“(3) 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—</p> <p>(a) for the purposes of subsection (2)(a), specify a date later than the effective date of the next actuarial funding certificate where—</p> <p>(i) the actuary concerned certifies that the failure of the scheme to satisfy the funding standard relates wholly or mainly 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</p>

Item	Provision affected	Amendment
4	Section 49— <i>contd.</i>	<p>(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,</p> <p>and</p> <p>(b) modify the requirements of paragraphs (b), (c) or (d) of subsection (2) where—</p> <p>(i) administrative difficulties have arisen from circumstances outside the control of the trustees of the scheme or schemes,</p> <p>(ii) the modification does not materially alter those subsections, and</p> <p>(iii) the Board considers the modification necessary or appropriate and that it is not contrary to the interests of the members of that scheme.”.</p>
5	Section 58A (inserted by the Pensions (Amendment) Act 2002)	<p>(a) Substitute the following for subsection (4):</p> <p>“(4) Notwithstanding subsection (3), an employer may disregard for the purposes of the statement referred to in that subsection any amount deducted from the wages or salary of an employee, and any amount paid on behalf or in respect of an employee, that is not to be applied as a contribution to secure long service benefit.</p> <p>(5) The requirements of subsection (3) relating to an employee shall be regarded as having been satisfied if particulars of the amount remitted under subparagraph (i) of that subsection or the amount paid under subparagraph (ii) of that subsection are included in the statement given to the employee concerned under section 4 of the Payment of Wages Act 1991.</p> <p>(6) In subsections (1) and (2) ‘month’ means—</p> <p>(a) a calendar month, or</p> <p>(b) a period of 28 days beginning on a day to be determined by the trustees of the scheme concerned, and each consecutive period of 28 days thereafter (or such shorter period as the trustees of the scheme may determine) each such consecutive period beginning on the day after the last day of the period immediately preceding such period.”.</p>
6	Section 65	<p>(a) Delete the definition of “equality officer” (inserted by the Social Welfare Act 1993).</p> <p>(b) Insert the following definition after the definition of “the Court”:</p> <p>“‘the Director’ means the Director of Equality Investigations appointed under section 75(1) of the Employment Equality Act 1998;”.</p>

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Item	Provision affected	Amendment
7	Section 76	<p>(a) Substitute the following marginal note for the marginal note to that section:</p> <p>“Director of Equality Investigations.”.</p> <p>(b) Substitute “the Director” for “an equality officer” in each place where those words occur.</p> <p>(c) In subsection (5)(b), substitute “the Director” for “the equality officer”.</p>
8	Section 77	In subsection (3)(d), substitute “the Director’s” for “the equality officer’s”.
9	Section 83	<p>Substitute the following for subsection (2B) (inserted by the Pensions (Amendment) Act 2002):</p> <p>“(2B) Where a relevant person referred to in section 82(j) has reason to believe that a PRSA provider has not operated a custodian account in accordance with the requirements of Part X that person shall, as soon as practicable, report the matter in writing to the Board.”.</p>
10	Section 96	In subsection (3), substitute “paragraph (b) and paragraph (e) of the said subsection (1)” for “that paragraph (e)”.
11	Section 111 (inserted by the Pensions (Amendment) Act 2002)	<p>Insert the following after subsection (5):</p> <p>“(6) The Minister may make regulations providing that some or all of the following information shall be provided by a PRSA provider or intermediary to the person referred to in subsection (1) and contributors before the conclusion of the PRSA contract concerned:</p> <p>(a) whether the PRSA contract replaces, in whole or in part, an existing PRSA contract or retirement annuity contract with the PRSA provider concerned or any other PRSA provider or insurer which has been or is to be cancelled or in respect of which any benefit or cover has been or is to be reduced;</p> <p>(b) where an existing PRSA contract or retirement annuity contract has been or is to be cancelled or any benefit or cover has been or is to be reduced, the financial consequences, if any, for the contributor.</p> <p>(7) In this section, ‘insurer’ has the meaning assigned to it by section 2 of the Insurance Act 1989.</p> <p>(8) The Minister may make regulations providing that some or all of the information contained in a preliminary disclosure certificate or required to be disclosed in accordance with subsection (6) shall be prepared in accordance with—</p> <p>(a) the advice of the PRSA actuary, and</p> <p>(b) any guidance notes issued by the Society of Actuaries in Ireland for that purpose.”.</p>
12	Section 113 (inserted by the Pensions (Amendment) Act 2002)	<p>(a) Insert the following after subsection (4):</p> <p>“(5) Without prejudice to the generality of subsection (4), regulations under that subsection may prescribe—</p> <p>(a) that some or all of the information contained in a certificate referred to in subsection (1)(a) and the statement referred to in subsection (1)(b) shall be prepared in accordance with—</p> <p>(i) the advice of the PRSA actuary, and</p>

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Item	Provision affected	Amendment
12	Section 113— <i>contd.</i>	<p>(ii) any guidance notes issued by the Society of Actuaries in Ireland for that purpose,</p> <p>and</p> <p>(b) that some or all of the information contained in the statement of the benefits to be furnished by trustees under subsection (2) shall be prepared in accordance with—</p> <p>(i) the advice of the scheme actuary, in the case of a defined benefit scheme, and</p> <p>(ii) any guidance notes issued by the Society of Actuaries in Ireland for that purpose.”</p> <p>(b) In subsection (2), substitute “paragraph (a) of subsection (1)” for “subsection (1)(a)”.</p>
13	Section 116 (inserted by the Pensions (Amendment) Act 2002)	<p>Insert the following after subsection (4):</p> <p>“(5) The Minister may by regulations prescribe that some or all of the information contained in a Statement of Reasonable Projection shall be prepared in accordance with—</p> <p>(a) the advice of the PRSA actuary, and</p> <p>(b) any guidance notes issued by the Society of Actuaries in Ireland for that purpose.”.</p>
14	Section 119 (inserted by the Pensions (Amendment) Act 2002)	<p>Substitute the following for subsection (3):</p> <p>“(3) Regulations may prescribe that in—</p> <p>(a) making a determination under this section,</p> <p>(b) preparing a certificate under this section, or</p> <p>(c) signing a certificate required under section 94(1)(b),</p> <p>a PRSA actuary shall comply with any applicable professional guidance issued by the Society of Actuaries in Ireland for this purpose and specified in the regulations or with any applicable guidance issued by any other person (including the Minister) and specified in those regulations.</p> <p>(4) For the purpose of enabling a PRSA actuary to make a determination under subsection (1), regulations may prescribe the form and manner and content of a declaration to be furnished by the PRSA provider that all information requested by the PRSA actuary pursuant to his or her functions under this Part and regulations made under this Part has been provided to the PRSA actuary and is accurate.”.</p>
15	Section 121 (inserted by the Pensions (Amendment) Act 2002)	<p>Substitute the following for subsection (6):</p> <p>“(6) The requirements of subsection (5) relating to an employee shall be regarded as having been satisfied if particulars of the amount remitted under subparagraph (i) of that subsection or the amount paid under subparagraph (ii) of that subsection are included in the statement given to the employee concerned under section 4 of the Payment of Wages Act 1991.</p> <p>(6A) In subsections (3) and (4) ‘month’ means—</p> <p>(a) a calendar month, or</p> <p>(b) a period of 28 days beginning on a day to be determined by the trustees of the scheme concerned, and each consecutive period of 28 days thereafter (or such shorter period as the trustees of the scheme concerned may determine) each such consecutive period beginning on the day after the last day of the period immediately preceding such period.”.</p>

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Item	Provision affected	Amendment
16	Second Schedule (as amended by the Pensions (Amendment) Act 2002)	<p>Substitute the following paragraph for paragraph 4(c):</p> <p>“(c) an amount calculated in accordance with the formula—</p> $A \times \frac{B_2}{C}$ <p>where</p> <p>A has the value ascribed to it in paragraph 2(1) but calculated on the basis described in paragraph 2(2)(a) if the basis of calculating long service benefit has altered between 1 January 1991 or, if later, the date of commencement of the member’s relevant employment and the date of termination of the member’s relevant employment,</p> <p>B₂ is the period of reckonable service completed up to 1 January 1991, and</p> <p>C has the value ascribed to it in paragraph 2(1).”.</p>
17	Third Schedule (as amended by the Pensions (Amendment) Act 2002)	<p>(a) Substitute the following for paragraph 3(a)(i):</p> <p>“(i) the preserved benefits to which the member is entitled under section 28 and which are referred to in paragraph 1(1)(a), (b) and (c) of the Second Schedule (including future revaluations thereof and those benefits payable on the death of the member entitled to preserved benefit) calculated in accordance with Part III, and”.</p> <p>(b) Substitute the following for paragraph 3(b)(i):</p> <p>“(i) the preserved benefits to which the member would be entitled under section 28 and which are referred to in paragraph 1(1)(a), (b) and (c) of the Second Schedule (including future revaluations thereof and those benefits payable on the death of the member entitled to preserved benefit) calculated in accordance with Part III, and”.</p> <p>(c) Substitute the following for paragraph 5(a)(i):</p> <p>“(i) the preserved benefits to which the member is entitled under section 28 and which are referred to in paragraph 1(1)(d) of the Second Schedule (including future revaluations thereof and those benefits payable on the death of the member entitled to preserved benefit) calculated in accordance with Part III.”.</p> <p>(d) Substitute the following for paragraph 5(b)(i):</p> <p>“(i) the preserved benefits to which the member would be entitled under section 28 and which are referred to in paragraph 1(1)(d) of the Second Schedule (including future revaluations thereof and those benefits payable on the death of the member entitled to preserved benefit) calculated in accordance with the provisions of Part III.”.</p>