



Number 48 of 2019

Social Welfare (No. 2) Act 2019



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SOCIAL WELFARE (NO. 2) ACT 2019

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Number 48 of 2019

SOCIAL WELFARE (NO. 2) ACT 2019

An Act to amend and extend the Social Welfare Acts; to amend the National Minimum Wage Act 2000 and the National Training Fund Act 2000; and to provide for related matters. [24th December, 2019]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, construction and commencement

1. (1) This Act may be cited as the Social Welfare (No. 2) Act 2019.
- (2) The Social Welfare Acts and *Part 2* shall be construed together as one Act.
- (3) *Sections 4* and *16* shall come into operation on such day or days as the Minister for Employment Affairs and Social Protection may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

PART 2

AMENDMENTS TO SOCIAL WELFARE ACTS

Definitions

2. In this Part—
 - “Act of 2018” means the Social Welfare, Pensions and Civil Registration Act 2018;
 - “Principal Act” means the Social Welfare Consolidation Act 2005.

Employment contributions

3. (1) Section 13(2) of the Principal Act is amended by the insertion of the following paragraphs after paragraph (db):

- “(dc) Subject to paragraphs (dd) and (de), where the Minister has made an order under subsection (1A) of section 10D of the National Minimum Wage Act 2000, he or she may, by order, vary the amount of reckonable earnings specified in subparagraphs (i) and (ii) of paragraph (d).
- (dd) An order under paragraph (dc) shall come into operation on the same date as the order under subsection (1A) of section 10D of the National Minimum Wage Act 2000 to which it relates.
- (de) An order under paragraph (dc) shall, in so far as practicable, provide that the same proportion of the reckonable earnings of an employed contributor is subject to the rate specified in subparagraphs (i) and (ii) of paragraph (d) on and after the date on which the order comes into operation as it was subject to immediately before that date.”.
- (2) The amendments effected by *subsection (1)* shall come into operation on the passing of this Act and shall cease to have effect on the date on which a recommendation under section 10C of the National Minimum Wage Act 2000 is next made to the Minister.

Entitlement to benefit or allowance

4. The Principal Act is amended—

- (a) in section 40, by the substitution of the following subsection for subsection (1):
- “(1) Subject to this Act, a person shall only be entitled to illness benefit in respect of any day of incapacity for work (in this Act referred to as “a day of incapacity for work”) which forms part of a period of interruption of insurable employment, where—
- (a) the person is under pensionable age on the day for which the benefit is claimed,
- (aa) he or she is incapable of work,
- (ab) the reason for the period of interruption of employment is as a direct result of the person concerned being incapable of work and for no other reason, and
- (b) he or she satisfies the contribution conditions in section 41.”,
- (b) in section 46A(1), by the substitution of the following paragraph for paragraph (b):
- “(b) has a profound restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work, and the reason for which restriction is as a direct result of the person concerned being incapable of work and for no other reason,”,

(c) in section 118—

(i) in subsection (1), by the substitution of the following paragraphs for paragraph (a):

“(a) is permanently incapable of working in insurable employment or insurable self-employment, and the reason for which incapacity is as a direct result of the person concerned being incapable of work and for no other reason,

(aa) would be available to work in insurable employment or insurable self-employment were it not for this incapacity, and”,

and

(ii) in subsection (3A), by the substitution of “engage in insurable employment or insurable self-employment” for “engage in work”,

(d) in section 161A, by the substitution of the following paragraphs for paragraph (b):

“(b) the reason for the person’s incapacity to perform any insurable employment or insurable self-employment for which eyesight is essential or to continue his or her ordinary occupation is as a direct result of his or her blindness and for no other reason,

(bb) were it not for this incapacity he or she would be available to work in insurable employment or insurable self-employment,”,

and

(e) in section 210—

(i) in subsection (1)—

(I) in paragraph (b), to substitute “Health Act 1970,” for “Health Act 1970, and”, and

(II) by the insertion of the following paragraphs after paragraph (b):

“(ba) subject to subsection (10), the reason for whose substantial restriction in undertaking suitable employment is as a direct result of the person concerned being incapable of work and for no other reason,

(bb) who, were it not for the substantial restriction, would be available to work in insurable employment or insurable self-employment, and”,

and

(ii) by the insertion of the following subsection after subsection (9):

“(10) A person shall not be disqualified for receipt of a disability allowance while engaging in a prescribed course of education, training or development.”.

Supplementary provisions

5. Section 51(1)(a) of the Principal Act is amended by the substitution of the following definition for the definition of “confinement”:

“ ‘confinement’ means—

- (i) labour resulting in the issue of a living child,
- (ii) labour, after 24 weeks of pregnancy, resulting in the issue of a child whether alive or dead, or
- (iii) labour resulting in the issue of a child who, at birth, weighs not less than 500 grammes, whether alive or dead,

and ‘confined’ shall be construed accordingly;”.

Rates of assistance – jobseeker’s allowance

6. (1) Section 142A(4) of the Principal Act is amended—

- (a) in paragraph (c), by the deletion of “or”,
- (b) in sub-clause (III) of clause (ii) of paragraph (d) by the substitution of “Child Care Act 1991, or” for “Child Care Act 1991.”, and
- (c) by the insertion of the following paragraph after paragraph (d):

“(e) a claimant is in receipt, in his or her own right, of—

- (i) rent supplement payable in accordance with section 198(3),
- (ii) housing assistance, in accordance with Part 4 of the Housing (Miscellaneous Provisions) Act 2014, or
- (iii) social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009.”.

- (2) This section comes into operation on 1 January 2020.

Poverty impact assessment of reduced jobseeker rates for 18-24 year olds

7. The Minister shall carry out a poverty impact assessment of maintaining reduced rates of jobseeker payments for young jobseekers aged 18-24 years and that the assessment shall be presented to the Oireachtas Joint Committee on Employment Affairs and Social Protection within 3 months of the enactment of this Act.

Jobseeker’s allowance – repeal of section 142B and consequential amendments

8. (1) The Principal Act is amended—

- (a) in section 141A—

- (i) in subsection (2), by the substitution of “142(1A) or, as the case may be, section 142A(1A)” for “142(1A), 142A(1A) or, as the case may be, section 142B(1A)”,

- (ii) in subsection (4), by the substitution of “142(1A) or, as the case may be, section 142A(1A)” for “142(1A), 142A(1A) or, as the case may be, section 142B(1A)”, and
 - (iii) in subsection (7), by the substitution of “142(1A) or, as the case may be, section 142A(1A)” for “142(1A), 142A(1A) or, as the case may be, section 142B(1A)”,
- (b) in section 141B—
- (i) in subsection (1), by the substitution of “142(1A) or, as the case may be, section 142A(1A)” for “142(1A), 142A(1A) or, as the case may be, section 142B(1A)”, and
 - (ii) in subsection (2), by the substitution of “142(1A) or, as the case may be, section 142A(1A)” for “142(1A), 142A(1A) or, as the case may be, section 142B(1A)”,
- (c) in section 142—
- (i) in subsection (1), by the substitution of “142A, 144” for “142A, 142B, 144”, and
 - (ii) in subsection (3), by the substitution of “subsection (2)(a)(iii) and section 142A(a)(iii),” for “subsection (2)(a)(iii), section 142A(2)(a)(iii) and section 142B(2)(a)(iii),” in each place where it occurs,
- (d) by the repeal of section 142B,
- (e) in section 198(1A), by the substitution of “142A, 197(2)” for “142A, 142B, 197(2)”, and
- (f) in Part 1 (amended by section 23 of the Act of 2018) of Schedule 4, by the deletion of reference 1(d).
- (2) This section comes into operation on 1 January 2020.

Carer’s allowance

9. Section 179(1) of the Principal Act is amended in the definition of “relevant person” by the substitution of the following paragraph for paragraph (b):

“(b) is under the age of 16 years and is a person in respect of whom a payment under Chapter 8A of Part 3 is being made;”.

Supplementary welfare allowance – repeal of certain provisions and consequential amendments

10. (1) The Principal Act is amended—

(a) in section 195A—

- (i) in subsection (2), by the substitution of “(1A) or, as the case may be, (2A) of section 197” for “(1A), (2A) or, as the case may be, (4A) of section 197”,

- (ii) in subsection (4), by the substitution of “(1A) or, as the case may be, (2A) of section 197” for “(1A), (2A) or, as the case may be, (4A) of section 197”, and
 - (iii) in subsection (8), by the substitution of “(1A) or, as the case may be, (2A) of section 197” for “(1A), (2A) or, as the case may be, (4A) of section 197”,
- (b) in section 195B—
- (i) in subsection (1), by the substitution of “(1A) or, as the case may be, (2A) of section 197” for “(1A), (2A) or, as the case may be, (4A) of section 197”, and
 - (ii) in subsection (2), by the substitution of “(1A) or, as the case may be, (2A) of section 197” for “(1A), (2A) or, as the case may be, (4A) of section 197”,
- (c) in section 197, by the repeal of subsections (4), (4A), (5) and (6),
- (d) in subsection 198(1A)—
- (i) by the substitution of “25 years” for “26 years”, and
 - (ii) by the substitution of “section 142A or 197(2)” for “section 142A, 142B, 197(2) or 197(4)”,
- and
- (e) in Part 1 (amended by section 23 of the Act of 2018) of Schedule 4, by the deletion of reference 10(c).
- (2) This section comes into operation on 6 January 2020.

Rates of assistance – supplementary welfare allowance

- 11.** (1) Section 197(3) of the Principal Act is amended—
- (a) in paragraph (aa) by the substitution of “applied,” for “applied, or”, and
 - (b) by the insertion of the following paragraph after paragraph (aa)—
 - “(ab) is in receipt, in his or her own right, of—
 - (i) rent supplement payable in accordance with section 198(3),
 - (ii) housing assistance in accordance with Part 4 of the Housing (Miscellaneous Provisions) Act 2014, or
 - (iii) social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009, or”.
- (2) This section comes into operation on 6 January 2020.

Working family payment – new weekly rates in certain circumstances

- 12.** (1) Section 228 (amended by section 10 of the Social Welfare Act 2017) of the Principal Act is amended—

- (a) in paragraph (a), by the substitution of “€531” for “€521”,
 - (b) in paragraph (b), by the substitution of “€632” for “€622”, and
 - (c) in paragraph (c), by the substitution of “€733” for “€723”.
- (2) This section comes into operation on 9 January 2020.

Guardian’s payments – concurrent payment in certain circumstances

13. Section 247 of the Principal Act is amended by the insertion of the following subsections after subsection (2):

“(2A) For the purposes of this Act, where—

- (a) a payment is made to or in respect of a person and in respect of a benefit referred to in subsection (1)(a) or any assistance referred to in subsection (1)(b) (whether subsection (1) applies to the payment of such benefit or assistance or otherwise), and
- (b) during the same period, the person referred to in paragraph (a) is a person to whom a payment specified in subsection (2B) would be payable to or in respect of an orphan,

nothing in this Act shall prevent the payment of the benefit or assistance referred to in paragraph (a) being paid to a person referred to in that paragraph where, during the same period, that person is a person referred to in paragraph (b) to whom a payment referred to in that paragraph would also be made.

(2B) The payments referred to in subsection (2A)(b) are—

- (a) guardian’s payment (contributory),
- (b) guardian’s payment (non-contributory), or
- (c) death benefit by way of pension under section 83.”.

Working family payment – avoidance of multiple payments

14. Section 247 (amended by section 6 of, and the Schedule to, the Social Welfare Act 2019) of the Principal Act is amended, by the substitution of the following subsection for subsection (6):

“(6) Where, but for this subsection, working family payment and—

- (a) partial capacity benefit,
- (b) jobseeker’s benefit,
- (c) jobseeker’s benefit (self-employed),
- (d) carer’s benefit,
- (e) jobseeker’s allowance,

- (f) carer's allowance, or
 - (g) farm assist,
- would be payable to or in respect of a person in respect of the same period, only one shall be paid.”.

Payments after death

15. Section 248 of the Principal Act is amended—

(a) in subsection (1)—

- (i) in paragraph (s), by the substitution of “allowance,” for “allowance;”, and
- (ii) by the insertion of the following paragraphs after paragraph (s):

“(t) working family payment,

(u) back to work family dividend;”,

and

(b) in subsection (2)—

- (i) by the substitution of the following paragraph for paragraph (a):

“(a) where a person who is in receipt of a benefit dies, and—

(i) he or she was receiving an increase in respect of a qualified adult, or

(ii) his or her spouse, civil partner or cohabitant is in receipt of a benefit in his or her own right,

payment of the deceased person's benefit shall, subject to such conditions as may be prescribed, continue to be made for 6 weeks after his or her death and shall be paid, as the case may be, to the deceased person's qualified adult, spouse, civil partner or cohabitant,”,

- (ii) by the insertion of the following paragraphs after paragraph (eb) (inserted by section 13 of the Act of 2018):

“(ec) where a person who is in receipt of working family payment dies, that payment shall continue to be paid, as the case may be, to his or her spouse, civil partner or cohabitant for 6 weeks (or for the remainder of the 52 week period provided for in accordance with section 230, whichever is the lesser) after the date of death of the deceased person,

(ed) where a person who is in receipt of back to work family dividend dies, that payment shall continue to be paid, as the case may be, to his or her spouse, civil partner or cohabitant for 6 weeks (or for the remainder of the 104 week period provided for in accordance with

section 238C, whichever is the lesser) after the date of death of the deceased person,”

and

- (iii) in paragraph (f), by the substitution of “paragraph (a), (d), (ec) or (ed)” for “paragraph (a) or (d)” in each place where it occurs.

Birth, marriage and death certificates

16. (1) Section 282 of the Principal Act is repealed.

(2) Where before the coming into operation of this section—

- (a) a written requisition referred to in section 282(1), or
- (b) a written request referred to in section 282(2),

had, in accordance with section 282 of the Principal Act, been presented and the certified copy of an entry referred to in subsection (1) or (2) of that section had not been made before such coming into operation, nothing in the repeal of section 282 by *subsection (1)* shall prevent the provision of the certificate concerned to the person who presented such requisition or request.

Recovery of certain benefits and assistance

17. Part 11B (amended by section 12 of the Social Welfare (Miscellaneous Provisions) Act 2015) of the Principal Act is amended—

(a) in section 343O—

- (i) in paragraph (f), by the substitution of “Part 3;” for “Part 3.”, and
- (ii) by the insertion of the following paragraph after paragraph (f):

“(g) supplementary welfare allowance paid under Chapter 9 of Part 3.”,

and

- (b) in section 343P(3), by the substitution of “within 25 working days” for “within 4 weeks”.

Social insurance benefits – new rates of increase for qualified child and living alone allowance

18. (1) Schedule 2 (amended by section 18 of the Act of 2018) to the Principal Act is amended—

- (a) in column (4) of Part 1, by the substitution of “36.00” for “34.00” in each place where it occurs,
- (b) in column (5) of Part 1, by the substitution of “40.00” for “37.00” in each place where it occurs,

- (c) in column (6) of Part 1, by the substitution of “14.00” for “9.00” in each place where it occurs,
 - (d) in column (4) of Part 4, by the substitution of “36.00” for “34.00”,
 - (e) in column (5) of Part 4, by the substitution of “40.00” for “37.00”, and
 - (f) in column (6) of Part 4, by the substitution of “14.00” for “9.00”.
- (2) This section comes into operation—
- (a) in so far as it relates to jobseeker’s benefit, on 2 January 2020,
 - (b) in so far as it relates to—
 - (i) illness benefit,
 - (ii) health and safety benefit, and
 - (iii) injury benefit,on 6 January 2020,
 - (c) in so far as it relates to—
 - (i) carer’s benefit,
 - (ii) invalidity pension, and
 - (iii) a payment referred to in paragraph (a) of the definition of “relevant payment” in section 178(1) of the Principal Act,on 9 January 2020, and
 - (d) in so far as it relates to—
 - (i) death benefit under Chapter 13 (other than section 84) of the Principal Act,
 - (ii) widow’s (contributory) pension,
 - (iii) widower’s (contributory) pension,
 - (iv) surviving civil partner’s (contributory) pension,
 - (v) State pension (contributory), and
 - (vi) disablement pension,on 10 January 2020.

Earnings disregarded for certain social assistance payments

- 19.** (1) Rule 1(2)(b) (amended by section 20 of the Act of 2018) of Part 2 of Schedule 3 to the Principal Act is amended—
- (a) in subparagraph (xi), by the substitution of “per year,” for “per year, and”,
 - (b) in subparagraph (xii), by the substitution of “seaweed, and” for “seaweed;”, and
 - (c) by the insertion of the following subparagraph after subparagraph (xii):

“(xiii) 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;”.

(2) This section comes into operation on 10 January 2020.

One-parent family payment – weekly earnings disregard

20. (1) Part 5 of Schedule 3 to the Principal Act is amended in Rule 1(4) (amended by section 22 of the Act of 2018)—

(a) by the substitution of the following subparagraph for subparagraph (dc):

“(dc) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 28 March 2019 but before 9 January 2020, an amount of €150, together with half the weekly earnings in excess of that amount, shall be disregarded;”.

and

(b) by the insertion of the following subparagraph after subparagraph (dc):

“(dd) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 9 January 2020, an amount of €165, together with half the weekly earnings in excess of that amount, shall be disregarded.”.

(2) This section comes into operation on 9 January 2020.

Amendment of Schedule 3 to Principal Act

21. Schedule 3 to the Principal Act is amended, in Table 2—

(a) by the substitution of the following reference for reference 6:

“6. payments—

(a) of the amounts specified in accordance with article 14 of the Child Care (Placement of Children in Foster Care) Regulations 1995 (S.I. No. 260 of 1995),

(b) of the amounts specified in accordance with article 14 of the Child Care (Placement of Children with Relatives) Regulations 1995 (S.I. No. 261 of 1995),

(c) made in accordance with an aftercare plan within the meaning of the Child Care Act 1991;”.

and

(b) by the substitution of the following reference for reference 8:

- “8. payments in respect of not more than 2 persons boarded out under section 10 of the Health (Nursing Homes) Act 1990 in so far as the aggregate amount of payment received in respect of each such person does not exceed an amount equivalent to the rate set out in column (2) at reference 4 of Part 1 of Schedule 4;”.

Social assistance payments – new rates of increase for qualified child and living alone allowance

22. (1) Part 1 (amended by section 23 of the Act of 2018) of Schedule 4 to the Principal Act is amended—
- (a) in column (4), by the substitution of “36.00” for “34.00” in each place where it occurs,
 - (b) in column (5), by the substitution of “40.00” for “37.00” in each place where it occurs, and
 - (c) in column (6), by the substitution of “14.00” for “9.00” in each place where it occurs.
- (2) This section comes into operation—
- (a) in so far as it relates to—
 - (i) jobseeker’s allowance (other than where payable in accordance with section 148A of the Principal Act), and
 - (ii) farm assist,on 1 January 2020,
 - (b) in so far as it relates to supplementary welfare allowance, on 6 January 2020,
 - (c) in so far as it relates to disability allowance, on 8 January 2020,
 - (d) in so far as it relates to—
 - (i) one-parent family payment (other than where payable in respect of a widow, widower or surviving civil partner),
 - (ii) jobseeker’s allowance payable in accordance with section 148A of the Principal Act, and
 - (iii) carer’s allowance,on 9 January 2020, and
 - (e) in so far as it relates to—
 - (i) State pension (non-contributory),
 - (ii) blind pension, and
 - (iii) one-parent family payment (payable in respect of a widow, widower or surviving civil partner),

on 10 January 2020.

Report on the cost of hearing aids and the adequacy of financial supports

23. The Minister shall prepare and lay a report before the Houses of the Oireachtas on the cost of hearing aids and the adequacy of financial supports available, taking into account the low level of hearing aid uptake in Ireland and that the report shall be presented to the Oireachtas Joint Committee on Employment Affairs and Social Protection within 6 months of the enactment of this Act.

Review of the criteria to qualify for the treatment benefit scheme

24. The Minister shall conduct a review and lay a report before the Houses of the Oireachtas on the current criteria in place in order to qualify for treatment benefit and specifically to examine the number of contributions required for 25-65 year olds and that the report shall be presented to the Oireachtas Joint Committee on Employment Affairs and Social Protection within 6 months of the enactment of this Act.

Report on current and projected future increases in carbon tax

25. The Minister shall undertake an impact assessment on the current and projected future increases in carbon tax on low income families and shall bring forward a report on same within six months of this Act being signed into law.

Report on appropriate State pension age

26. The Minister shall conduct research, including examining pension ages across the European Union, engage with key stakeholders, including trade unions and make recommendations and report on all aspects of the most appropriate age at which a person should become entitled to receive the State pension and that the report shall be presented to the Oireachtas Joint Committee on Employment Affairs and Social Protection within 6 months of the enactment of this Act.

Review of qualifying conditions for Fuel Allowance in respect of certain social welfare payments

27. The Minister shall conduct a review and lay a report before the Houses of the Oireachtas on the current qualifying conditions in place in order for those in receipt of Jobseekers Allowance and Supplementary Welfare Allowance to qualify for the Fuel Allowance and that the report shall be presented to the Oireachtas Joint Committee on Employment Affairs and Social Protection within 6 months of the enactment of this Act.

PART 3

AMENDMENTS TO OTHER ACTS

Amendment of section 10D of National Minimum Wage Act 2000

28. (1) The National Minimum Wage Act 2000 is amended, in section 10D (inserted by section 8 of the National Minimum Wage (Low Pay Commission) Act 2015)—

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

“(1A) Where the Minister—

(a) having received a recommendation and report submitted to him or her under section 10C(2), having considered the report and recommendation and, having had regard to section 10C(3), has declined to make an order in accordance with subsection (1)(b), and

(b) has, in accordance with subsection (2)(b), prepared and laid before both Houses of the Oireachtas a statement of his or her reasons for declining to make such order,

the Minister may by order declare a national minimum hourly rate of pay in the terms recommended by the Commission or in other terms.”,

and

(b) in subsection (2)—

(i) in paragraph (a), by the deletion of “or”, and

(ii) by the insertion of the following paragraph after paragraph (a):

“(ab) by order declares a national minimum hourly rate of pay in accordance with subsection (1A), or”.

(2) The amendments effected by *subsection (1)* shall come into operation on the passing of this Act and shall cease to have effect on the date on which a recommendation under section 10C of the National Minimum Wage Act 2000 is next made to the Minister.

Amendment of section 4 of National Training Fund Act 2000

29. (1) Section 4 of the National Training Fund Act 2000 (amended by section 31 of the Act of 2018) is amended by the substitution of the following subsection for subsection (1):

“(1) Where in any contribution week a payment is made to or for the benefit of an employed contributor in respect of reckonable earnings of that employed contributor, a levy shall be payable by the employed contributor’s employer at the rate of 1.0 per cent of the amount of the reckonable earnings in that week to which that payment relates.”.

[2019.]

Social Welfare (No. 2) Act 2019.

[No. 48.] Pt.3 S.29

(2) This section comes into operation on 1 January 2020.