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**AN BILLE LEASA SHÓISIALAIGH (FORÁLACHA  
ILGHNÉITHEACHA), 2015  
SOCIAL WELFARE (MISCELLANEOUS PROVISIONS) BILL  
2015**

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**EXPLANATORY MEMORANDUM**

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**Purpose of Bill**

The main purpose of this Bill is to amend the Social Welfare Consolidation Act 2005 in order to provide the legislative basis for the introduction of the Back to Work Family Dividend, as announced in Budget 2015, to help jobseekers with families and lone parents to return to work. The Taxes Consolidation Act 1997 is also being amended to provide that this Dividend will not be taxable.

The Bill also provides for a number of other changes to the Social Welfare Consolidation Act 2005 arising from policy, administrative and operational matters, including—

- (a) the extension of the Jobseeker's Allowance transitional arrangements to all lone parents where the youngest child is between the ages of 7 and 13 years,
- (b) the strengthening of the legislative provisions relating to the authentication of the identity of a person presenting to a post office for a social welfare payment, and
- (c) the inclusion of the Pyrite Resolution Board in the list of bodies allowed to use PPS numbers.

In addition, this Bill amends the procedures for the issuing of statements for the purposes of the recovery of social welfare benefits from compensation in personal injury cases, extends the period of validity of these statements and makes a consequential amendment to section 38 of the Personal Injuries Assessment Board Act 2003 in light of these changes.

**Provisions Contained in Bill**

The Bill contains 14 sections, which are arranged in 3 Parts, together with a Schedule.

**Part 1 — Preliminary and General**

*Section 1* provides for the short title of the Bill and for its construction and collective citation with the Social Welfare Acts.

## **Part 2 — Amendments to Social Welfare Acts**

*Section 2* provides for the definition of the term “Principal Act” for the purposes of Part 2 of the Bill as meaning the Social Welfare Consolidation Act 2005.

### *Full-time care and attention for purposes of Carer’s Benefit, Carer’s Allowance and Respite Care Grant Schemes*

*Section 3* provides for the amendment of the Carer’s Benefit, Carer’s Allowance and Respite Care Grant schemes in order to—

- clarify the circumstances in which a person is to be considered as requiring full-time care and attention for the purposes of qualifying for these schemes, and
- clarify that eligibility for these schemes is determined by a deciding officer on the basis of all the information provided to support the applicant’s claim, including all relevant medical evidence in relation to the requirement for care.

### *Extension of Jobseeker’s Allowance Transitional Arrangements*

*Section 4* amends the qualifying conditions applying to the Jobseeker’s Allowance transitional arrangements. Under these transitional arrangements, certain former recipients of the One-Parent Family Payment are exempt from a number of the conditions applying to the Jobseeker’s Allowance scheme, such as the requirement to be available for and genuinely seeking full-time employment, up until their youngest child reaches 14 years of age. Eligibility for the Jobseeker’s Allowance transitional arrangements is being extended to all lone parents where their youngest child is between the ages of 7 and 13 years, whether or not that person has previously been in receipt of the One-Parent Family Payment. This will mean that a person who becomes a lone parent for the first time and whose youngest child is aged between 7 and 13 years, will be eligible to apply for Jobseeker’s Allowance under the transitional arrangements.

### *Back to Work Family Dividend*

Budget 2015 announced the introduction of the Back to Work Family Dividend scheme to provide a financial incentive to jobseekers and recipients of One-Parent Family Payment who have children and who cease claiming their social welfare payment on account of that person or, where appropriate, that person’s spouse, civil partner or cohabitant, taking up employment, increasing hours of employment or taking up self-employment. This Dividend will act as a further incentive to work, in addition to the existing Family Income Supplement. The Dividend will operate during the period of economic recovery and will be available to jobseekers and lone parents who take up or increase the level of their employment at any stage, up until the end of March 2018.

A person who meets the eligibility criteria for the scheme will be entitled to a weekly payment for up to 2 years following on from the ending of the claim for the jobseekers payment or One-Parent Family Payment. The rate of the Back to Work Family Dividend will be based, in the first year, on the rate of Qualified Child Increase which was being paid to that person immediately before he or she ceases to claim the jobseekers payment or One-Parent Family Payment, subject to a maximum overall weekly payment of €119.20

and will be half of that rate in the second year, subject to a maximum overall weekly payment of €59.60.

While the Back to Work Family Dividend scheme will commence on the enactment of this Bill, applications are being accepted from people who have taken up employment or self-employment or increased their hours of employment since 5 January 2015. However, the first payments will not be made until the legislative provisions underpinning the scheme come into operation on the enactment of this Bill. Payments will be backdated where the date of application is between January and the date of enactment of this Bill.

A number of the provisions contained in the Bill deal with the introduction of the new Back to Work Family Dividend and consequential matters i.e.—

- section 5 provides for the discontinuance of the existing scheme of continued payments for qualified children,
- section 6 provides the legislative basis for the Back to Work Family Dividend,
- section 11, together with the Schedule, provide for consequential amendments to the Social Welfare Consolidation Act 2005 arising from the introduction of the Back to Work Family Dividend, and
- section 13 amends the Taxes Consolidation Act 1997 to provide that the Dividend is not taxable.

*Section 5* provides for the discontinuance of the existing scheme of continued payments for qualified children. Under this scheme the payment of the increases in jobseekers payments in respect of qualified children can continue for up to 13 weeks after the person takes up full-time employment which is expected to continue for at least 4 weeks. This scheme is being discontinued on the introduction of the Back to Work Family Dividend.

*Section 6* provides for the legislative basis for the Back to Work Family Dividend scheme by inserting a new Part 7A (sections 238A to 238F) into the Social Welfare Consolidation Act 2005.

New section 238A provides for the definition of a number of terms for the purposes of the Back to Work Family Dividend scheme, including the definition of employment and self-employment to mean employment and self-employment that is insurable for social insurance purposes.

New section 238B sets out the conditions for entitlement to the Back to Work Family Dividend and the circumstances in which a person will not be entitled to the Dividend. In general, a person will be eligible for the Back to Work Family Dividend if he or she—

- is aged under 66,
- has qualified children,
- has been in receipt of certain social welfare payments or participating in certain employment or training schemes, and
- is habitually resident in the State.

The qualifying social welfare payments are—

- Jobseeker's Benefit,

- Jobseeker’s Allowance, including the Jobseeker’s Allowance transitional arrangements, and
- One-Parent Family Payment.

The Dividend will also be available to people who would have been in receipt of one of the above social welfare payments but for the fact that the person was participating in a specified education, training, supported employment or work placement scheme (e.g. Community Employment, Rural Social Scheme, Tús, Gateway etc.). These schemes are defined in new section 238A as “qualifying schemes”.

In the case of recipients of Jobseeker’s Benefit or Jobseeker’s Allowance, other than the Jobseeker’s Allowance transitional arrangements, such recipients must have been receiving payment for at least 12 months in total (and at least 6 months in the last year) before claiming the Back to Work Family Dividend. However, such recipients will be able to combine time spent on an education, training, supported employment or work placement scheme with time spent on a jobseekers payment in order to meet the “12 month” eligibility requirement.

In the case of recipients of One-Parent Family Payment or the Jobseeker’s Allowance transitional arrangements who claim Back to Work Family Dividend, there will be no requirement to have been in receipt of either of these payments for a minimum period of time in order to qualify for the Dividend.

In addition to the above eligibility conditions, a former recipient of One-Parent Family Payment will be eligible for the Dividend where that person no longer qualifies for One-Parent Family Payment due to the age-related reforms that have been introduced in that scheme in recent years and where that person was engaged in employment or self-employment prior to ceasing to claim the One-Parent Family Payment.

A person who has qualified for the Back to Work Family Dividend will cease to be entitled to the Dividend if that person or his or her spouse, civil partner or cohabitant receives a weekly social welfare payment, participates in an education, training, supported employment or work placement scheme or ceases to be employed or self-employed. However, a person will be able to receive Illness Benefit or Injury Benefit for up to 6 weeks without the Dividend being withdrawn if he or she is temporarily incapacitated for work.

Only one Back to Work Family Dividend will be paid per couple.

New section 238C provides that the Dividend will be paid for a maximum duration of 2 years, provided that the person remains in employment. If the person returns to claim a social welfare payment at any time during the two year period, the Dividend will cease to be paid. Payment of the Dividend may recommence for the unexpired portion of the 2 year period of entitlement if the person or his or her spouse, civil partner or cohabitant gets another job. However, the recommencement of the Back to Work Family Dividend will be limited to 2 occasions per claim.

New section 238D provides that the Back to Work Family Dividend will be paid on a weekly basis and the rate of payment will be related to the number of children in respect of whom a qualified child increase was being paid before the Dividend is claimed.

The Back to Work Family Dividend will be paid at a standard weekly rate of €29.80 per child, subject to an overall ceiling of €119.20 per week in the first year (which equates to the rate of qualified child increase payable in respect of 4 children). The rate payable in the second year will be half of that payable in the first year, subject to an overall ceiling of €59.60 per week (which equates to half the rate of qualified child increase payable in respect of 4 children).

Payment of the Back to Work Family Dividend will not be made in respect of any child who claims a weekly social welfare payment in his or her own right or who is regarded as a qualified child or a qualified adult for the purposes of any other person who is claiming an increase in a weekly social welfare payment. In addition, payment of the Dividend will not be made in respect of any child who participates in an education, training, supported employment or work placement scheme in his or her own right.

New section 238E enables the Minister for Social Protection to make regulations to require employers to provide relevant information which is required for the purposes of determining eligibility for the Dividend and to prescribe additional education, training, supported employment and work placement schemes for the purposes of the definition of a qualifying scheme in section 238A.

New section 238F provides that the Back to Work Family Dividend will cease to operate with effect from 1 April 2021.

#### *Authentication of Identity when Presenting for Payment*

Section 7 of the Bill provides for the strengthening of the legislative provisions relating to the authentication of the identity of a person presenting at a post office for a social welfare payment on his or her own behalf or, where appointed to act as an agent on behalf of a social welfare beneficiary, the authentication of that person. For instance, a person who is presenting for payment on his or her own behalf at a post office will be required to produce his or her public services card or, where the person does not have a public services card, to produce his or her social services card, together with other identifying information.

Section 7 also specifies the identifying information or other documentation that must be provided to a post office by a person who has been nominated to receive payment on behalf of another person or who has been appointed to act on behalf of another person. In addition, section 7 enables the Minister for Social Protection to make special arrangements for specific categories of persons for the furnishing of identifying information directly to the post office where payment will be made.

#### *Clarification of Operation of Section 342A of Social Welfare Consolidation Act*

Section 8 provides for the clarification of the application of certain provisions relating to the recovery of social welfare payments that have been fraudulently obtained. Section 342A of the Social Welfare Consolidation Act 2005, which was inserted by section 18 of the Social Welfare and Pensions Act 2011, provides that an overpayment that results from the fraudulent claiming of a social welfare payment cannot be reduced by any other social welfare payment that may have been due to that person during the period in which the fraud occurred.

The purpose of section 8 of this Bill is to clarify the operation of section 342A where a revised decision is made on or after the date of enactment of the Social Welfare and Pensions Act 2011 (29<sup>th</sup> June 2011) in relation to a person's entitlement to a social welfare payment and that revised decision results in an overpayment. Section 8 clarifies that such an overpayment can relate to periods during which a social welfare payment has been claimed fraudulently, whether or not that period occurs before 29<sup>th</sup> June 2011 or on or after that date.

### *Statements of Recoverable Benefits*

This Bill provides for a number of amendments to the operation of the provisions relating to the recovery of the value of certain illness-related social welfare payments from compensation awards made to persons as a consequence of personal injuries claims, which were provided for in the Social Welfare and Pensions Act 2013 and which came into operation in August 2014.

Section 13 of the Social Welfare and Pensions Act 2013 inserted a new Part 11B (sections 343L to 343W) into the Social Welfare Consolidation Act 2005 which provides that where a compensator intends making a compensation payment to a person as a consequence of a non-fatal personal injury, the compensator must pay the Minister for Social Protection an amount equal to the illness-related social welfare payments that have also been paid as a consequence of that personal injury. Depending on the circumstances, this amount can be partially or fully offset by the compensator against any compensation for loss of earnings or profits.

In particular, section 343P of the Social Welfare Consolidation Act 2005 provides that a compensator must apply to the Minister for Social Protection for a statement of recoverable benefits before making a compensation payment to an injured person and that the Personal Injuries Assessment Board must also apply for such a statement before issuing an order to pay under the terms of the Personal Injuries Assessment Board Act 2003. Section 343Q further provides that the statement of recoverable benefits issued by the Minister will remain valid for 3 months after its issue, while section 343R imposes an obligation on a compensator to pay the amount specified in the statement of recoverable benefits to the Minister before making the compensation payment to the injured person.

The amendments to the recoverable benefits provisions that are being provided for in this Bill are contained in sections 9 and 14. Section 9 amends Part 11B and a number of related provisions in the Social Welfare Consolidation Act 2005, while section 14 amends section 38 of the Personal Injuries Assessment Board Act 2003.

*Section 9* provides for—

- the issuing of statements of recoverable benefits directly by the Minister for Social Protection in certain cases,
- the issuing of revised statements of recoverable benefits in certain cases,
- extending the period of validity of statements of recoverable benefits in certain cases, and
- consequential amendments to the social welfare decisions and appeals systems.

Under the current arrangements, a statement of recoverable benefits can only be issued where the compensator makes an application for such a statement. New section 343PA of the Social

Welfare Consolidation Act 2005 enables the Minister to issue a statement of recoverable benefits directly to a compensator in cases where a compensator fails to apply for such a statement before making a compensation payment in respect of personal injuries. The Minister may also issue a statement of recoverable benefits to the Personal Injuries Assessment Board in cases where the Board has not applied to the Minister for such a statement before issuing an order to pay to the compensator. In addition, new section 343PA enables the Minister for Social Protection to issue a revised statement of recoverable benefits where an illness-related social welfare payment is awarded or varied subsequent to the issuing of the initial statement of recoverable benefits.

Provision is also made in new section 343PA for the issuing of a copy of such a statement or revised statement of recoverable benefits to the injured person and for the making of regulations enabling the Minister to prescribe any necessary information to be provided by a compensator or the injured person for the purposes of issuing such a statement or revised statement of recoverable benefits.

Section 343Q of the Social Welfare Consolidation Act 2005 is being amended to provide for an extension of the period of validity of statements of recoverable benefits in certain cases. Under the present arrangements, a statement of recoverable benefits remains valid for 3 months after its issue. Section 343Q is being amended to provide that—

- where there are no recoverable benefits identified at the time of the issuing of the statement or revised statement of recoverable benefits, such statements will remain valid for 12 months or until such time as a decision is made to award a social welfare benefit that is recoverable, if earlier,
- where recoverable benefits have been identified, but at the time of the issuing of the statement or revised statement of recoverable benefits no such benefits are in payment, such statements will remain valid for 12 months or until such time as a decision is made to vary the rate of such social welfare benefit or to award another social welfare benefit that is recoverable, if earlier, and
- where recoverable benefits have been identified and such benefits are being paid at the time of the issuing of the statement or revised statement of recoverable benefits, such statements will remain valid for 3 months or until such time as a decision is made to vary the rate of such social welfare benefit, if earlier.

As a consequence of the changes being made in sections 343PA and 343Q, new definitions of the terms “statement of recoverable benefits” and “revised statement of recoverable benefits” are being provided for in section 343L. The definition of the term “recoverable benefits” contained in section 343L is also being amended to reflect the changes outlined above and a consequential amendment is being made to section 343U, which provides for refunds to be made to a compensator who has overpaid the amount of recoverable benefits to the Minister.

In addition, in order to clarify the amount of benefits that must be paid by a compensator to the Minister where the compensator has been issued with both a statement of recoverable benefits and a revised statement of recoverable benefits and the period of validity of both of those statements overlap, a new term “relevant statement

of recoverable benefits” is being defined in section 343L. This definition provides that, in such cases, the amount to be paid by the compensator is the amount that is specified in the revised statement of recoverable benefits.

The term relevant statement of recoverable benefits is required for the purposes of sections 343R and 343V. Section 343R, which imposes an obligation on a compensator to pay the amount specified in the statement of recoverable benefits to the Minister before making the compensation payment to the injured person, is being amended to refer to the amount specified in a relevant statement of recoverable benefits. Section 343V, which relates to the consequences of the outcome of an appeal against a decision as to whether a benefit paid to an injured person is a recoverable benefit, is also being amended to refer to the amount of recoverable benefits specified in a relevant statement of recoverable benefits, rather than in the statement of recoverable benefits.

New section 343X is a transitional provision which is included to clarify the position regarding the continuing validity of statements of recoverable benefits which have been issued before the commencement of the new arrangements being provided for in this Bill. Any statement of recoverable benefits that has been issued before the commencement of this Bill will continue to be valid for the balance of the period of validity, if any, provided for in that statement or until a decision is made to award or vary social welfare benefits that are recoverable, whichever is earlier.

*Section 9* of the Bill also amends sections 300 and 311 of the Social Welfare Consolidation Act 2005 to take account of the issuing of revised statements of recoverable benefits. Section 300 of the Consolidation Act specifies the questions that are to be decided by deciding officers, including any question as to whether a benefit specified in a statement of recoverable benefits is a recoverable benefit. Section 311 provides that, in general, where a person is dissatisfied with a decision of a deciding officer, that decision can be appealed to a social welfare appeals officer. However, where a person wishes to appeal a decision in relation to whether a benefit specified in a statement of recoverable benefits is a recoverable benefit, that appeal will not be considered until the amount of such recoverable benefits has been paid to the Minister. Section 9 of the Bill also amends section 300(2)(hh) of the Consolidation Act to clarify that it applies to a question as to whether a social insurance benefit or a social assistance payment is a recoverable benefit.

#### *Use of PPS Numbers by Pyrite Resolution Board*

*Section 10* provides for the inclusion of the Pyrite Resolution Board in the list of bodies specified in Schedule 5 to the Social Welfare Consolidation Act 2005. Bodies that are specified for the purposes of Schedule 5 to the Social Welfare Consolidation Act 2005 are authorised to use Personal Public Service (PPS) numbers and the public services card for the purposes of carrying out transactions with members of the public, sharing personal data and information for the purposes of carrying out relevant transactions and exchanging data for the purposes of controlling social welfare schemes and other schemes and services administered by specified bodies.

The Pyrite Resolution Board is responsible for the implementation of the pyrite remediation scheme which is aimed at remediating certain dwellings affected by significant pyritic damage due to the presence of pyrite in the sub-floor hardcore. The Pyrite Resolution Board intends using the PPS number as a unique identifier for the



purposes of ensuring that an applicant can only have one house included in the pyrite remediation process.

#### *Amendments to Social Welfare Consolidation Act Consequential on Back to Work Family Dividend*

*Section 11*, together with the *Schedule* to this Bill, provide for a range of consequential amendments to the Social Welfare Consolidation Act 2005 arising from the introduction of the Back to Work Family Dividend scheme. The *Schedule* to the Bill provides for the inclusion of references to the Back to Work Family Dividend in various general provisions of the Consolidation Act relating to —

- making claims for and paying social welfare payments,
- the powers of social welfare inspectors to investigate claims for social welfare payments,
- the powers of deciding officers and appeals officers to make decisions and revised decisions in relation to claims for social welfare payments,
- overpayments and the recovery of overpayments, and
- the exemption of social welfare payments for means test purposes.

#### *Miscellaneous Amendments to Schedule 3 to the Social Welfare Consolidation Act*

*Section 12* provides for a number of amendments to the Social Welfare Consolidation Act 2005 to delete or update obsolete references to a number of schemes that are contained in the Act and to correct a minor typographical error.

*Section 2(1)* of the Social Welfare Consolidation Act defines the term “day of unemployment” for the purposes of qualification for Jobseeker’s Benefit and Jobseeker’s Allowance, including the Jobseeker’s Allowance transitional arrangements for former recipients of One-Parent Family Payment. *Section 12(1)* of the Bill amends the current reference to section 148A(5)(c) in this definition to correctly refer to section 148A(4)(c).

*Schedule 3* to the Social Welfare Consolidation Act sets out the rules for calculating means for social assistance payment purposes, including the specification of various types of income which are regarded as being assessable as means and the exclusion of various other types of income which are regarded as not being assessable as means. *Section 12(2)* of the Bill amends *Schedule 3* to update a number of obsolete and outdated references to certain types of income which are excluded for means-testing purposes, i.e. student grants and income received from various rural environmental and conservation schemes.

In the case of the exemption of income received by way of student grants, the current legislative basis for such grants is being updated in the light of the provisions of the Student Support Act 2011.

A partial disregard of means for relevant social assistance payments applies in the case of the assessment of income received under the Rural Environment Protection and the Special Areas of Conservation Schemes. The reference to the Special Areas of Conservation Scheme is being deleted, as this scheme no longer applies. In addition to the Rural Environment Protection Scheme, two additional rural environmental and conservation schemes are being included in the partial disregard of means—

- the Agri-Environment Options Scheme, administered by the Minister for Agriculture, Food and the Marine, and
- the National Parks and Wildlife Service Farm Plan Scheme, administered by the Minister for Arts, Heritage and the Gaeltacht.

### **Part 3 — Amendment to Other Acts**

#### *Exemption of Back to Work Family Dividend for Income Tax Purposes*

*Section 13* amends the Taxes Consolidation Act 1997 to provide for the exemption of income received under the Back to Work Family Dividend scheme, as provided for in *section 6*, for the purposes of liability for income tax.

#### *Consequential Amendment to Personal Injuries Assessment Board Act 2003*

Section 14 of the Social Welfare and Pensions Act 2013 amended section 38 of the Personal Injuries Assessment Board Act 2003 as a consequence of the introduction of the recovery of benefits provisions to provide that an order to pay issued by the Personal Injuries Assessment Board shall state that the respondent to whom it is issued is liable to pay the Minister for Social Protection the amount of recoverable benefits specified in the statement of recoverable benefits, if any. *Section 14* of this Bill provides for a further amendment to section 38 of the 2003 Act, as a consequence of the issuing of revised statements of recoverable benefits as provided for in new section 343PA of the Social Welfare Consolidation Act 2005.

*An Roinn Coimirce Sóisialaí,  
Feabhra, 2015.*