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*Number 12 of 2012*

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**SOCIAL WELFARE AND PENSIONS ACT 2012**

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ACTS REFERRED TO

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Finance Act 1972	1972, No. 19
Gas (Interim) (Regulation) Act 2002	2002, No. 10
Immigration Act 2004	2004, No. 1
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Number 12 of 2012

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**SOCIAL WELFARE AND PENSIONS ACT 2012**

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AN ACT TO AMEND AND EXTEND THE SOCIAL WELFARE ACTS AND THE PENSIONS ACTS 1990 TO 2011 AND TO PROVIDE FOR RELATED MATTERS.

[1st May, 2012]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Social Welfare and Pensions Act 2012.

Short title, collective citations, construction and commencement.

(2) The Social Welfare Acts and *Parts 1* and *2* shall be read together as one.

(3) The Pensions Acts 1990 to 2011 and *Part 3* shall be read together as one and may be cited together as the Pensions Acts 1990 to 2012.

(4) *Sections 9, 12, 14, 15, 16, 17* and *19* shall come into operation on such day or days as the Minister for 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 different provisions.

PART 2

AMENDMENTS TO SOCIAL WELFARE ACTS

2.—In this Part—

Definitions.

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

“Act of 2011” means the Social Welfare and Pensions Act 2011.

Voluntary contributors — amendment.

3.—(1) Section 24 of the Principal Act is amended—

(a) in subsection (1) by substituting “520 contribution weeks” for “260 contribution weeks”, and

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

“(1A) In the case of a person who becomes a voluntary contributor paying contributions under this Chapter before 6 April 2013, subsection (1) shall be read as if ‘260 contribution weeks’ were substituted for ‘520 contribution weeks’.

(1B) In the case of a person who becomes a voluntary contributor paying contributions under this Chapter on or after 6 April 2013 but before 6 April 2014, subsection (1) shall be read as if ‘364 contribution weeks’ were substituted for ‘520 contribution weeks’.

(1C) In the case of a person who becomes a voluntary contributor paying contributions under this Chapter on or after 6 April 2014 but before 6 April 2015, subsection (1) shall be read as if ‘468 contribution weeks’ were substituted for ‘520 contribution weeks’.”.

(2) This section comes into operation on 6 April 2013.

One-parent family payment — amendments.

4.—(1) Section 172(1) of the Principal Act is amended—

(a) by inserting the following definition:

“ ‘relevant age’ means—

(a) 16 years where a payment under Chapter 8A of Part 3 is being made in respect of a child, and

(b) in any other case—

(i) 12 years in respect of any claim for one-parent family payment relating to any day during the period beginning on 3 May 2012 and expiring on 2 January 2013,

(ii) 10 years in respect of any claim for one-parent family payment relating to any day during the period beginning on 3 January 2013 and expiring on 1 January 2014, and

(iii) 7 years in respect of any claim for one-parent family payment relating to any day occurring on or after 2 January 2014;”.

and

(b) in the definition of “relevant child” (inserted by section 9 of the Act of 2011), by substituting the following paragraph for paragraph (c):

“(c) has not attained the relevant age;”.

(2) This section comes into operation on 3 May 2012.

5.—(1) The Principal Act is amended by substituting the following section for section 173A (amended by section 9 of the Act of 2011):

Entitlement to one-parent family payment — amendments.

“Entitlement to one-parent family payment where youngest child has attained relevant age.

173A.—(1) This section applies to—

- (a) a surviving spouse where both spouses of a married couple are, on the relevant date, living together and one of them dies,
- (b) a surviving cohabitant where both cohabitants are, on the relevant date, cohabiting and one of them dies, and
- (c) a surviving civil partner where both civil partners of a civil partnership are, on the relevant date, living together and one of them dies,

and where the surviving spouse, surviving cohabitant or surviving civil partner is the parent, step-parent, adoptive parent or legal guardian of at least one child who normally resides with that surviving spouse, surviving cohabitant or surviving civil partner and the youngest child has, on the relevant date, attained the relevant age.

(2) Notwithstanding—

- (a) that the youngest child has attained the relevant age, and
- (b) section 178C,

one-parent family payment shall be payable to a surviving spouse, surviving cohabitant or surviving civil partner to whom this section applies for the shorter of—

- (i) the period commencing on the relevant date and ending on the day that is 2 years after that date, or
- (ii) the period commencing on the relevant date and ending on the date that the youngest child attains the age of 18 years.”.

(2) The Principal Act is amended by substituting the following section for section 173B (amended by section 9 of the Act of 2011):

“Entitlement to one-parent family payment in certain circumstances.

173B.—(1) This section applies to—

- (a) a surviving spouse where both spouses of a married couple are, on the relevant date, living together and one of them dies,
- (b) a surviving cohabitant where both cohabitants are, on the relevant date, cohabiting and one of them dies, and

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

and where the surviving spouse, surviving cohabitant or surviving civil partner is the parent, step-parent, adoptive parent or legal guardian of at least one relevant child who normally resides with that surviving spouse, surviving cohabitant or surviving civil partner and the youngest relevant child is, on the relevant date, within 2 years of attaining the relevant age.

(2) Notwithstanding section 178C, where one-parent family payment is payable to a qualified parent who is a surviving spouse, surviving cohabitant or surviving civil partner to whom this section applies, that payment shall continue to be payable for a period of 2 years commencing on the relevant date and if, during that period, the relevant child attains the relevant age, that payment shall continue to be paid for that period.”.

- (3) The Principal Act is amended by substituting the following section for section 176 (amended by section 9 of the Act of 2011):

“Continuation of payment — amendment. 176.—Where one-parent family payment is being paid to a person under this Chapter by virtue of that person’s spouse or civil partner having been committed in custody to a prison or place of detention for not less than 6 months, one-parent family payment shall continue to be paid for 4 weeks after the release of such spouse or civil partner from the prison or place of detention.”.

- (4) The Principal Act is amended by inserting the following new sections:

“One-parent family payment — transitional provisions in certain circumstances where child attains age of 14. 178B.—(1) This section applies to a person who—

- (a) immediately before 27 April 2011 was in receipt of one-parent family payment, and
- (b) would have continued to receive that payment—
  - (i) immediately after 26 April 2011 but for the fact that the youngest child attained the age of 14 years before 27 April 2011, or
  - (ii) on or after 27 April 2011 but for the fact that the youngest child has attained the age of 14 years on or after 27 April 2011.

(2) A person to whom this section applies shall, subject to subsection (3), continue to be entitled to the payment referred to in subsection (1) as follows:



- (a) during the period commencing on 27 April 2011 and ending on 2 January 2013, until the youngest child attains the age of 18 years;
- (b) during the period commencing on 3 January 2013 and ending on 1 January 2014, until the youngest child attains the age of 17 years;
- (c) during the period commencing on 2 January 2014 and ending on 31 December 2014, until the youngest child attains the age of 16 years.

(3) For the purposes of this section one-parent family payment shall, subject to subsection (4), continue to be paid to a person to whom this section applies where—

- (a) the youngest child has attained the age of 18 years and has not attained the age of 22 years, and
- (b) that youngest child is receiving full-time education as may be prescribed.

(4) For the purposes of subsection (3), one-parent family payment shall be paid to a person to whom this section applies until the end of the academic year which commences in 2012 and which applies to such course of full-time education, as may be prescribed, which that youngest child is receiving.

(5) This section shall cease to have effect on 31 December 2014.

One-parent family payment — transitional provisions in certain circumstances where child attains relevant age.

178C.—(1) This section applies to a person who—

- (a) becomes entitled to one-parent family payment during the period commencing on 27 April 2011 and ending on 2 May 2012,
- (b) immediately before 3 May 2012 is in receipt of that payment, and
- (c) would have continued to be entitled to receive that payment—
  - (i) immediately after 2 May 2012 until the date on which the youngest child attained the age of 14 years, but for the fact that the youngest child attained the age of 12 years before 3 May 2012, or
  - (ii) on or after 3 May 2012 until the date on which the youngest child attained the age of 14 years, but for the fact that the youngest child

has attained the age of 12 years on or after 3 May 2012.

(2) A person to whom this section applies shall continue to be entitled to the payment referred to in subsection (1) as follows:

- (a) during the period commencing on 3 May 2012 and ending on 2 January 2013, until the youngest child attains the age of 14 years;
- (b) during the period commencing on 3 January 2013 and ending on 1 January 2014, until the youngest child attains the age of 12 years;
- (c) during the period commencing on 2 January 2014 and ending on 31 December 2014, until the youngest child attains the age of 10 years.

(3) For the purposes of this section nothing in subsection (2) shall affect the entitlement of a person to whom this section applies to continue to be entitled to one-parent family payment until the youngest child attains 16 years, where that child is a child in respect of whom a payment under Chapter 8A of Part 3 is in payment.

(4) This section shall cease to have effect on 31 December 2014.

One-parent family payment — continuation following certain disqualifications.

178D.—(1) Where a person has—

- (a) been in receipt of one-parent family payment for a period of 52 consecutive weeks and is disqualified for receipt of that payment by virtue of—
  - (i) having gross weekly earnings in excess of the amount specified in section 173(3), or
  - (ii) participation in a scheme administered by the Minister and known as Back to Education Allowance,

and
- (b) but for that disqualification the person would be entitled to that one-parent family payment,

the person shall again become entitled to that payment at the expiration of the disqualification subject to, and in accordance with—

- (i) section 178B, in the case of a person who first became entitled to one-parent family payment before 27 April 2011, or

- (ii) section 178C, in the case of a person who first became entitled to one-parent family payment during the period commencing on 27 April 2011 and ending on 2 May 2012.

(2) This section shall cease to have effect on 31 December 2014.

One-parent family payments — miscellaneous provisions relating to claims made on certain dates.

178E.—(1) Where—

- (a) a person made a claim for one-parent family payment before 27 April 2011 and the claim had not been fully determined by that date, and
- (b) that person would have been entitled to that payment but for the fact that the youngest child had attained the age of 14 years before 27 April 2011,

the entitlement of that person to that payment shall be determined in accordance with section 178B.

(2) Where—

- (a) a person made a claim for one-parent family payment before 3 May 2012 and the claim had not been fully determined by that date, and
- (b) that person would have been entitled to that payment but for the fact that the youngest child attained the age of 12 years before 3 May 2012,

the entitlement of that person to that payment shall be determined in accordance with section 178C.”.

(5) Section 178A of the Principal Act is amended by deleting subsections (6), (6A), (7), (8), (9) and (10).

(6) This section comes into operation on 3 May 2012.

6.—Schedule 5 to the Principal Act is amended—

Schedule 5 — amendments.

(a) in paragraph 1—

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

“(2A) a vocational education committee (within the meaning of section 7 of the Vocational Education Act 1930);”

and

- (ii) in subparagraph (4) (amended by section 20 of the Act of 2011) by inserting “the Pensions Ombudsman,” after “the Pensions Board,”

and

- (b) in paragraph 2, by deleting “a vocational education committee (within the meaning of section 7 of the Vocational Education Act 1930),”.

Disqualification from certain payments while participating in Community Employment.

7.—Section 247B(1) (inserted by section 12 of the Social Welfare Act 2011) of the Principal Act is amended in paragraph (c) by substituting the following subparagraph for subparagraph (i):

- “(i) a weekly or monthly payment payable in accordance with section 198,”.

Reckonable earnings — amendment.

8.—Section 2(1) of the Principal Act is amended—

- (a) by substituting the following definition for the definition of “reckonable earnings” (amended by section 13 of the Act of 2011):

“ ‘reckonable earnings’ means, subject to section 13(2)(da)—

- (a) in the case of an employed contributor, not being a special contributor, emoluments derived from insurable employment or insurable (occupational injuries) employment (other than such emoluments that may be prescribed) to which Chapter 4 of Part 42 of the Act of 1997 applies, but without regard to Chapter 1 of Part 44 of that Act, and

- (b) in the case of a special contributor—

- (i) salaries, wages or other remuneration including non-pecuniary remuneration derived from insurable employment or insurable (occupational injuries) employment to which the Act of 1997 (other than Chapter 4 of Part 42) applies or would apply if the employed contributor in receipt of the remuneration were resident in the State, but without regard to Chapter 1 of Part 44 of that Act, and

- (ii) payments to persons attending or engaged in courses or schemes provided or approved by—

(I) An Foras Áiseanna Saothair,

(II) Teagasc, or

(III) the National Tourism Development Authority,

and reckonable earnings shall include—

- (A) share-based remuneration realised, acquired or appropriated, as the case may be, on or after 1 January 2011, and

(B) the ‘specified amount’ within the meaning of section 825C of the Act of 1997;”,

and

(b) by substituting the following definition for the definition of “reckonable emoluments” (amended by section 13 of the Act of 2011):

“ ‘reckonable emoluments’, in relation to a self-employed contributor, means emoluments (other than reckonable earnings and any other emoluments that may be prescribed) to which Chapter 4 of Part 42 of the Act of 1997 applies and reckonable emoluments shall include—

(a) share-based remuneration realised, acquired or appropriated, as the case may be, on or after 1 January 2011, and

(b) the ‘specified amount’ within the meaning of section 825C of the Act of 1997;”.

9.—Section 13 of the Principal Act is amended by substituting the following subsection for subsection (4A) (inserted by section 13 of the Social Welfare Act 2011):

Employer not liable to deduct employment contributions in certain circumstances.

“(4A) Where a person realises a gain by—

(a) the exercise of a right in accordance with section 128 of the Act of 1997, or

(b) the exercise of a right in accordance with section 519A of the Act of 1997 and, at the time of realising that gain, that person has ceased to be an employee of the employer who granted that right,

subsection (4) shall not apply to—

(i) the employer who granted that right, or

(ii) if that person is employed by another employer at the time the gain is realised, that other employer.”.

10.—Section 2(1) of the Principal Act is amended in the definition of “share-based remuneration” (inserted by section 13 of the Social Welfare Act 2011)—

Share-based remuneration — amendments to PRSI liability.

(a) in paragraph (d), by substituting “section 510(2) of that Act,” for “section 510(2) of that Act, and”,

(b) in paragraph (e), by substituting “section 519A of that Act, and” for “section 519A of that Act,”, and

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

“(f) in the case of emoluments (within the meaning of section 983 of the Act of 1997) received by an employee or director in the form of shares (including stock) in—

- (i) the company in which the employee or director holds his or her office or employment, or
- (ii) a company which has control (within the meaning of section 432 of the Act of 1997) of that company,

the amount referred to in section 985A(3) of the Act of 1997.”

Return of contributions — share-based remuneration.

**11.—(1)** Section 34A(1)(a) (inserted by section 13 of the Social Welfare Act 2011) of the Principal Act is amended—

(a) in subparagraph (i)—

- (i) by substituting “pursuant to paragraph (a)(ii) or (b)(ii) of the definition of ‘reckonable earnings’ specified in” for “by virtue of clauses (I) to (VI) of paragraphs (a) and (b) of the definition of ‘reckonable earnings’ contained in”,
- (ii) by inserting “(amended by the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2010 (S.I. No. 684 of 2010))” after “Article 3”, and
- (iii) by deleting “(inserted by Article 4 of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2010 (S.I. No. 684 of 2010))”,

and

(b) in subparagraph (ii) by substituting “that section applies,” for “that section applies, and”.

(2) Section 34A(1) of the Principal Act is amended by substituting the following paragraph for paragraph (b):

“(b) paid in accordance with section 13(2)(d)—

- (i) pursuant to paragraph (a)(ii) or (b)(ii) of the definition of ‘reckonable earnings’ specified in Article 3 (amended by the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2010 (S.I. No. 684 of 2010)) of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996), or
- (ii) in respect of the amount referred to in section 985A(3) of the Act of 1997 in the case of emoluments (within the meaning of section 983 of the Act of 1997) received by an employee or director in the form of shares (including stock) in—
  - (I) the company in which the employee or director holds his or her office or employment, or

(II) a company which has control (within the meaning of section 432 of the Act of 1997) of that company,

and”.

(3) Section 34A(1) of the Principal Act is amended by inserting the following paragraph after paragraph (b):

“(c) paid in accordance with section 21 in respect of share-based remuneration received by way of forfeitable shares to which section 128E of the Act of 1997 refers, where subsection (6) of that section applies.”.

(4) Section 34A(2) of the Principal Act is amended—

(a) by substituting “to an employed contributor, the employer of an employed contributor and a self-employed contributor,” for “to an employed contributor and to the employer of an employed contributor,” and

(b) in paragraph (b) by substituting “on the death of an employed contributor and a self-employed contributor” for “on the death of an employed contributor”.

**12.**—Section 198 of the Principal Act is amended by inserting the following subsections after subsection (5A) (inserted by section 14 of the Social Welfare (Miscellaneous Provisions) Act 2008):

Entitlement to mortgage interest supplement.

“(5AA) A person shall not be entitled to the supplement referred to in subsection (5) unless, at the time of making an application for that supplement, a designated person is satisfied that the person making the application has engaged with his or her mortgage lender in order to meet his or her mortgage repayment obligations, and

(a) has, arising from such engagement, entered into and, where required, is complying with an alternative repayment arrangement agreed between that person and his or her mortgage lender in respect of his or her mortgage repayment obligations for a period of not less than 12 months, or

(b) has—

(i) arising from such engagement, entered into and, where required, is complying with an alternative repayment arrangement agreed between that person and his or her mortgage lender in respect of his or her mortgage repayment obligations for a period of less than 12 months in respect of that alternative repayment arrangement, and

(ii) prior to entering into the alternative repayment arrangement referred to in subparagraph (i) the person had entered into and had complied with a different alternative repayment arrangement agreed between that person and his or her mortgage lender in respect of his or her mortgage repayment obligations,

and the total number of months in respect of which that person has complied with the alternative repayment arrangements referred to in subparagraphs (i) and (ii) is a period of not less than 12 months.

(5AB) Subsection (5AA) shall apply to a person who makes an application for the supplement referred to in subsection (5) on or after the day on which *section 12* of the *Social Welfare and Pensions Act 2012* comes into operation.

(5AC) In subsection (5AA)—

‘alternative repayment arrangement’ means any arrangement entered into by an applicant for the supplement referred to in subsection (5) with his or her mortgage lender—

- (a) in respect of his or her mortgage that incorporates a change in any terms or conditions of the mortgage that applied when the mortgage took effect, and
- (b) for the purpose of assisting that person to resolve any difficulties he or she may have in meeting his or her mortgage repayment obligations,

and, without prejudice to the generality of the foregoing, includes any practice, referred to in a code of practice drawn up under section 117 of the Central Bank Act 1989, that is specified for the purpose of resolving any difficulties with meeting mortgage repayment obligations.”.

Sharing of  
information —  
amendment.

**13.**—Section 265(1) of the Principal Act is amended in paragraph (a) by substituting the following subparagraph for subparagraph (v):

“(v) a grant—

(I) that—

- (A) was awarded in accordance with section 2 (amended by section 3 of the Local Authorities (Higher Education Grants) Act 1992) of the Local Authorities (Higher Education Grants) Act 1968, and
- (B) was continued under subsections (2) and (3) of section 6 of the Student Support Act 2011,

(II) that—

- (A) was awarded pursuant to a scheme administered by a vocational education committee (within the meaning of section 7 of the Vocational Education Act 1930) whereby grants were provided to students to assist them in attending courses in higher or further education, and
- (B) was continued under subsections (2) and (3) of section 6 of the Student Support Act 2011,



or

- (III) that was awarded under a scheme of grants made pursuant to section 16 of the Student Support Act 2011,

or”.

**14.—(1)** The Principal Act is amended by inserting the following section after section 198B (inserted by section 7 of the Social Welfare and Pensions Act 2010):

Investigation and determination of claims for rent supplement under section 198.

“Determination of claims for rent supplement under section 198.

198C.—(1) A designated person may, for the purposes of determining entitlement to the payment of a supplement referred to in section 198(3) towards the amount of rent payable by a person in respect of his or her residence, request the landlord of such residence to provide, within the prescribed period, to the designated person—

(a) a statement in writing—

- (i) confirming that the person in respect of whom that supplement has been, or is to be, paid is a person from whom the landlord is, under a tenancy, entitled to receive rent in respect of the residence of that person,
- (ii) as to whether the landlord is receiving rent solely from the person referred to in subparagraph (i) or from any other person under that tenancy in respect of that residence,
- (iii) specifying the period of the tenancy of the person referred to in subparagraph (i), and
- (iv) confirming that the person referred to in subparagraph (i) has resided, and, where appropriate, continues to reside, at that residence for the period for which that supplement has been, or is to be, paid,

and

- (b) such other information, in writing, relating to the tenancy of the person referred to in paragraph (a)(i) as the designated person may require for the purposes of determining entitlement to that supplement.

(2) Where a request is to be made to a landlord by a designated person under subsection (1), it shall be sent to the landlord in writing and addressed to the person concerned by name and may be sent or given—

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

(3) In this section—

‘landlord’ means the person for the time being entitled to receive (including as an agent for another person) the rent payable under a tenancy in respect of a residence, referred to in section 198(3), in respect of which a supplement referred to in that section, is paid;

‘tenancy’ has the meaning assigned to it by section 198(4D).

(4) A landlord who fails to comply with a request made by a designated person within the prescribed period in accordance with this section shall be guilty of an offence.”.

(2) Section 250 of the Principal Act is amended by inserting the following subsections after subsection (2):

“(2A) A social welfare inspector may, for the purposes of investigating and reporting to the Minister on any claim for, or in respect of, and any question arising on or in relation to, the payment of a supplement referred to in section 198(3) towards the amount of rent payable by a person in respect of his or her residence, request the landlord of such residence to provide, within the prescribed period, to the social welfare inspector—

- (a) a statement in writing—
  - (i) confirming that the person in respect of whom that supplement has been, or is to be, paid is a person from whom the landlord is, under a tenancy, entitled to receive rent in respect of the residence of that person,
  - (ii) as to whether the landlord is receiving rent solely from the person referred to in subparagraph (i) or from any other person under that tenancy in respect of that residence,
  - (iii) specifying the period of the tenancy of the person referred to in subparagraph (i), and
  - (iv) confirming that the person referred to in subparagraph (i) has resided, and where appropriate, continues to reside, at that residence for the period for which that supplement has been, or is to be, paid,

and

- (b) such other information, in writing, relating to the tenancy of the person referred to in paragraph (a)(i) as the social welfare inspector may reasonably require for the purposes of the investigation concerned.

(2B) Where a request is to be made to a landlord by a social welfare inspector under subsection (2A), it shall be sent to the landlord in writing and addressed to the person concerned by name and may be sent or given—

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

(2C) In subsections (2A) and (2B)—

‘landlord’ has the meaning assigned to it by section 198C(3); and  
‘tenancy’ has the meaning assigned to it by section 198(4D).”.

**15.—(1)** Section 241 of the Principal Act is amended—

Provision of information for the purpose of establishing identity.

- (a) in subsection (1) by substituting the following for “that he or she makes a claim for that benefit in the prescribed manner”:

“that he or she—

- (a) makes a claim for that benefit in the prescribed manner, and
- (b) satisfies the Minister as to his or her identity.”,

and

- (b) by inserting the following subsections after subsection (1B) (amended by section 12 of the Social Welfare and Pensions Act 2011):

“(1C) For the purposes of satisfying himself or herself as to the identity of a person who makes a claim for benefit, the Minister may, without prejudice to any other method of authenticating the identity of that person, request that person—

- (a) to attend at an office of the Minister or such other place as the Minister may designate as appropriate,
- (b) to provide to the Minister, at that office or other designated place, such information and to produce any document to the Minister as the

Minister may reasonably require for the purposes of authenticating the identity of that person,

- (c) to allow a photograph or other record of an image of that person to be taken, at that office or other designated place, in electronic form, for the purposes of the authentication, by the Minister, at any time, of the identity of that person, and
- (d) to provide, at that office or other designated place, a sample of his or her signature in electronic form for the purposes of the authentication, by the Minister, at any time, of the identity of that person.

(1D) The Minister shall retain in electronic form—

- (a) any photograph or other record of an image of a person taken pursuant to subsection (1C)(c), and
- (b) any signature provided pursuant to subsection (1C)(d),

in such manner that allows such photograph, other record or signature to be reproduced by electronic means.”

(2) Section 262 of the Principal Act is amended—

- (a) in subsection (2), by inserting “, subject to subsection (2A),” after “The Minister may”, and
- (b) by inserting the following subsection after subsection (2):

“(2A) The Minister shall not allocate and issue a personal public service number to a person unless the Minister is satisfied as to the identity of the person to whom such number is to be allocated and issued.”

(3) Section 263 of the Principal Act is amended—

- (a) in subsection (1) (amended by section 9 of the Social Welfare and Pensions Act 2010), by inserting “, subject to subsection (1C),” after “The Minister may”, and
- (b) by inserting the following subsection after subsection (1B) (inserted by section 9 of the Social Welfare and Pensions Act 2010):

“(1C) The Minister shall not issue a public services card to a person unless the Minister is satisfied as to the identity of the person to whom such card is to be issued.”

(4) The Principal Act is amended by inserting the following section after section 263A (inserted by section 15 of the Social Welfare and Pensions Act 2011):

“Authentication of identity. 263B.—(1) For the purposes of satisfying himself or herself as to the identity of a person in respect of whom a personal public service number is to be allocated and issued under section 262, or

in respect of whom a public services card is to be issued under section 263, the Minister may, without prejudice to any other method of authenticating the identity of that person, request that person—

- (a) to attend at an office of the Minister or such other place as the Minister may designate as appropriate,
- (b) to provide to the Minister, at that office or other designated place, such information and to produce any document to the Minister as the Minister may reasonably require for the purposes of authenticating the identity of that person,
- (c) to allow a photograph or other record of an image of that person to be taken, at that office or other designated place, in electronic form, for the purposes of the authentication, by the Minister, at any time, of the identity of that person, and
- (d) to provide, at that office or other designated place, a sample of his or her signature in electronic form for the purposes of the authentication, by the Minister, at any time, of the identity of that person.

(2) The Minister shall retain in electronic form—

- (a) any photograph or other record of an image of a person taken pursuant to subsection (1)(c), and
- (b) any signature provided pursuant to subsection (1)(d),

in such manner that allows such photograph, other record or signature to be reproduced by electronic means.”.

**16.**—Section 62 of the Principal Act is amended—

Entitlement to  
jobseeker’s benefit  
— amendment.

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

“(10) Subject to subsection (10B), the amount payable by way of jobseeker’s benefit for any day of unemployment shall be—

- (a) 16.67 per cent of the appropriate weekly rate where a person is entitled to jobseeker’s benefit for 6 days of unemployment in any payment week,

- (b) 16 per cent of the appropriate weekly rate where a person is entitled to jobseeker's benefit for 5 days of unemployment only in any payment week,
- (c) 15 per cent of the appropriate weekly rate where a person is entitled to jobseeker's benefit for 4 days of unemployment only in any payment week,
- (d) 13.33 per cent of the appropriate weekly rate where a person is entitled to jobseeker's benefit for 3 days of unemployment only in any payment week, and
- (e) 10 per cent of the appropriate weekly rate where a person is entitled to jobseeker's benefit for 2 days of unemployment only in any payment week.”,

and

- (b) by inserting the following subsections after subsection (10):

“(10A) Notwithstanding subsection (1), where a person, other than a person to whom subsection (11) applies, would, but for this subsection, be entitled to jobseeker's benefit for one day of unemployment only in any payment week, that person shall not be entitled to jobseeker's benefit in respect of that day of unemployment.

(10B) The total amount of jobseeker's benefit payable at any time by virtue of subsection (10) shall be rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and shall be rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.

(10C) Without prejudice to subsection (5)(d), in subsections (10) and (10A) ‘payment week’ means the period commencing on the Thursday of one week and ending on the Wednesday of the following week.”.

Social welfare inspectors — amendment.

**17.—Section 250 of the Principal Act is amended—**

- (a) by inserting the following subsections after subsection (16) (amended by section 13 of the Act of 2011):

“(16A) For the purposes of ensuring compliance with this Act, a social welfare inspector may attend at any port.

(16B) Where, while attending at any port for the purposes of ensuring compliance with this Act, a social welfare inspector—

- (a) has reasonable grounds to believe that there has been a contravention of this Act, and
- (b) is accompanied by—
  - (i) a member of the Garda Síochána,

- (ii) an officer of Customs and Excise, or
- (iii) an immigration officer,

the social welfare inspector concerned may, on production of his or her certificate of appointment—

- (i) question and make enquiries of a person who is a passenger at the port and is preparing to embark, or is embarking, from, or has landed in, the State in relation to any matter that concerns compliance with this Act, and
- (ii) request such person to produce to that inspector any documents or other information as that inspector may reasonably require for the purposes of establishing the identity, and, where appropriate, the habitual residence, of that person.”,

and

- (b) by substituting the following subsection for subsection (17) (inserted by section 16 of the Social Welfare and Pensions (No. 2) Act 2009):

“(17) In this section—

‘immigration officer’ shall be construed in accordance with section 3(1) of the Immigration Act 2004;

‘officer of Customs and Excise’ has the meaning assigned to it by the Customs Act 1956;

‘passenger’ means any person, other than a member of a crew, travelling or seeking to travel on board a ship or aircraft;

‘port’ has the meaning assigned to it by section 1(1) of the Immigration Act 2004.”.

**18.—**Section 9 of the Principal Act is amended—

Social Insurance Fund.

- (a) in subsection (4)(a), by inserting “subject to subsection (9)(f),” before “sums payable”, and
- (b) in subsection (9), by inserting the following paragraphs after paragraph (b):

“(c) The Minister may, for the purpose of maintaining a sufficient amount of moneys in the current account of the Fund, having regard to the sums payable from the current account, request the Minister for Finance to advance moneys to the special account of the Fund from the Central Fund.

(d) A request under paragraph (c) shall be approved by the Minister for Finance, following consultation with the Minister for Public Expenditure and Reform before any moneys are advanced to the special account of the

Fund pursuant to a request under that paragraph.

- (e) For the purposes of moneys advanced to the Fund pursuant to a request under paragraph (c) an account (in this section referred to as the ‘special account of the Fund’) shall be established which shall be—
  - (i) in the name of the Minister, and
  - (ii) an account with the Paymaster General.
- (f) The Minister shall, subject to such conditions as the Minister for Finance considers appropriate, manage and control the special account of the Fund for the purpose of maintaining an amount of moneys in the current account of the Fund that is sufficient to meet the sums payable from that current account.
- (g) Subject to subsection (6), whenever the moneys in the current account of the Fund are insufficient to meet the sums payable from that account, there shall be paid into that current account from the special account of the Fund the moneys necessary to meet those sums payable.”.

Budgeting in relation to social welfare payments — amendments.

**19.**—Section 290 of the Principal Act is amended in subsection (3), in the definition of “a specified body” by inserting the following paragraphs after paragraph (ba) (inserted by section 33 of the Social Welfare and Pensions Act 2007):

“(bb) a person granted a licence to supply electricity in accordance with section 14(1) of the Electricity Regulation Act 1999,

(bc) a person granted a licence to supply natural gas in accordance with section 16(1) of the Gas (Interim) (Regulation) Act 2002.”.

### PART 3

#### AMENDMENTS TO PENSIONS ACT 1990

Definition.

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

Amendment of section 2 of Principal Act.

**21.**—Section 2 of the Principal Act is amended—

- (a) in subsection (1) by inserting the following definitions:

“ ‘effective date of the actuarial funding certificate’ has the meaning assigned to it by section 42;

‘effective date of the funding standard reserve certificate’ has the meaning assigned to it by section 42;



‘funding standard liabilities’ in relation to a relevant scheme, means on any date the aggregate of the liabilities and estimated expenses referred to in section 44(1), calculated as if the actuary had prepared an actuarial funding certificate having that date as the effective date and as if the percentage referred to in section 44(1)(a)(v) was 100 per cent but, for the purposes of section 44(2), shall exclude liabilities for benefits which relate to contributions or a transfer of rights from another scheme to the extent that the benefits provided are directly determined by the accumulated value of those contributions or the amount transferred and a given investment performance is not guaranteed or specified in relation to those contributions or the amount transferred;

‘funding standard reserve’ in relation to a relevant scheme, means on any date an amount calculated in accordance with section 44(2) in relation to the scheme on that date;

‘funding standard reserve certificate’ has the meaning assigned to it by section 42;”,

and

- (b) by inserting the following new subsection after subsection (4):

“(5) References in this Act to the provision of information by any person to the Board shall, unless the context otherwise requires, be construed as including references to the provision of the information by that person to the Board in such form as the Board may require, including by electronic means.”.

**22.**—The Principal Act is amended by substituting the following section for section 7A:

Guidance of Society of Actuaries in Ireland, Board or any other person.

“7A.—So long as any:

- (a) professional guidance issued by the Society of Actuaries in Ireland;
- (b) guidance issued by the Board; or
- (c) guidance issued by any other person;

for any purpose of this Act is for the time being specified by regulations made under this Act, any such guidance so specified shall not be altered by the Society, the Board or other person respectively without the prior consent of the Minister.”.

**23.**—Section 33 of the Principal Act is amended—

Amendment of section 33 of Principal Act.

- (a) in subsection (4) by substituting “adjusted” for “increased”,
- (b) by substituting the following subsection for subsection (5):

“(5) The percentage prescribed under subsection (4) in respect of a revaluation year shall be—

- (a) in respect of a revaluation year ending on or before 31 December 2012—
  - (i) the percentage that equals the increase in the general level of consumer prices during that year calculated by the Minister in such manner as he or she thinks appropriate, or
  - (ii) 4 per cent,
 whichever is the lesser, and
- (b) in respect of a revaluation year ending on or after 1 January 2013—
  - (i) the percentage that equals the increase or decrease in the general level of consumer prices during that year calculated by the Minister in such manner as he or she thinks appropriate, or
  - (ii) 4 per cent,
 whichever is the lesser.”,
- (c) by substituting the following subsection for subsection (6):
 

“(6) The Minister may by regulations—

  - (a) vary the percentage specified in subparagraph (ii) of subsection (5)(a) or subparagraph (ii) of subsection (5)(b), but any such variation shall not apply in the case of a preserved benefit the entitlement to which arises before the date of the making of the regulations concerned, and
  - (b) increase the percentage specified in subparagraph (ii) of subsection (5)(b) in respect of any revaluation year to wholly or partly take account of any negative percentage prescribed under subsection (5)(b) in a previous revaluation year in respect of a member whose benefit had previously been adjusted by that negative percentage.”,

and

  - (d) in subsection (7) by substituting “change” for “increase”.

Amendment of section 34 of Principal Act.

**24.**—Section 34 of the Principal Act is amended—

- (a) in subsection (2) by substituting “or with any other applicable guidance issued by any other person (including the Board or the Minister) and specified in the regulations” for “or with any applicable guidance issued by any other person (including the Minister) and specified in the regulations”, and
- (b) in paragraph (b) of subsection (3) by substituting “approved by the Revenue Commissioners for the purposes of Chapter I of Part 30 of the Taxes Consolidation

Act 1997,” for “approved of by the Revenue Commissioners under Chapter II of Part I of the Finance Act, 1972,”.

**25.**—Section 40 of the Principal Act is amended—

Amendment of section 40 of Principal Act.

(a) by inserting the following definition:

“ ‘additional resources’ means, on any date, resources in addition to the resources used to determine whether the scheme satisfies the funding standard on the same date;”,

and

(b) by deleting the definitions of “the effective date”, “funding standard” and “relevant scheme”.

**26.**—Section 41(2) of the Principal Act is amended by—

Amendment of section 41 of Principal Act.

(a) substituting “Notwithstanding subsection (1) but subject to paragraph (aa)—” for “Notwithstanding subsection (1)—”, and

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

“(aa) the provisions of this Part which relate to the funding standard reserve shall not apply to—

(i) a defined contribution scheme which is a regulatory own funds scheme, or

(ii) a small scheme of the type referred to in paragraph (b) of subsection (1) which is a regulatory own funds scheme.”.

**27.**—Section 42 of the Principal Act is amended—

Amendment of section 42 of Principal Act.

(a) in subsection (1) by substituting “Act” for “Part and the Third Schedule”,

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

“(1A) On and after 1 June 2012, the trustees of a relevant scheme shall, from time to time in accordance with section 43, submit to the Board a certificate, in this Act referred to as ‘a funding standard reserve certificate’.”,

(c) in subsection (2) by substituting—

(i) “in this Act referred to as ‘the effective date of the actuarial funding certificate’ ” for “in this Part referred to as ‘the effective date’ ”, and

(ii) “44(1)” for “44” in both places where it occurs,

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

“(2A) The trustees of a relevant scheme shall cause funding standard reserve certificates to be prepared by an actuary who shall certify therein that as at the date, in this

Act referred to as ‘the effective date of the funding standard reserve certificate’, on which the funding standard reserve is calculated for the purposes of section 44(2) either—

- (a) the scheme satisfies the funding standard reserve, or
- (b) the scheme does not satisfy the funding standard reserve.”,
- (e) in subsection (4)(a) by inserting “and a funding standard reserve certificate” after “an actuarial funding certificate”,
- (f) in subsection (4)(b)—
  - (i) by inserting “and a funding standard reserve certificate” after “an actuarial funding certificate”, and
  - (ii) by substituting “(including the Board or the Minister)” for “(including the Minister)”,
 and
- (g) in subsection (5) by substituting “(1), (1A), (2) and (2A)” for “(1) and (2)”.

Amendment of section 43 of Principal Act.

**28.**—Section 43 of the Principal Act is amended by—

- (a) inserting the following subsection after subsection (1D):

“(1E) In the case of a relevant scheme, a funding standard reserve certificate shall have the same effective date as the actuarial funding certificate for the scheme where the effective date of that actuarial funding certificate falls on or after 1 June 2012.”,

- (b) substituting the following subsection for subsection (2):

“(2) Subject to subsections (2A), (3), (3A), (3B) and (4), an actuarial funding certificate and, on or after 1 June 2012, a funding standard reserve 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 relevant certificate.”,

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

“(2A) Notwithstanding the foregoing provisions of this section, the Board may, by notice in writing to the trustees of a relevant scheme, require the trustees to submit to the Board, by such date as may be specified in the notice, an actuarial funding certificate or funding standard reserve certificate having as an effective date such date as is specified in that notice and the trustees shall comply with any such notice.”,

- (d) substituting the following subsection for subsection (3):

“(3) If an annual report prepared under subsection (1) of section 55—

- (a) does not contain the statement by an actuary required under subsection (3) or (4) of that section, as appropriate,
- (b) contains the statement by an actuary required under that subsection (3) but the actuary does not state therein that he or she is reasonably satisfied that, if he or she were to prepare under section 42 an actuarial funding certificate and, on or after 1 June 2012, a funding standard reserve certificate having an effective date of the last day of the period to which the annual report relates, he or she would certify, in the case of an actuarial funding certificate, that the scheme satisfies the funding standard, or, in the case of a funding standard reserve certificate, that the scheme satisfies the funding standard reserve, or
- (c) contains the statement by an actuary required under that subsection (4) but the actuary does not state therein that he or she is reasonably satisfied, in the case of an actuarial funding certificate that the scheme will satisfy the funding standard at the effective date of the next actuarial funding certificate or, where applicable, any later date specified under subsection (3) or (3B) of section 49, and, in the case of a funding standard reserve certificate, that the scheme will satisfy the funding standard reserve at the effective date of the next funding standard reserve certificate, or, where applicable, any later date specified under section 49(3B),

then, subject to subsection (3A), in each case, the trustees of the scheme shall submit an actuarial funding certificate and, on or after 1 June 2012, a funding standard reserve certificate to the Board within 12 months of the last day of the period to which the annual report relates and such certificate or certificates shall have an effective date not earlier than the last day of the period to which the annual report relates,”

and

- (e) in subsection (4) by substituting “may extend the time limit within which an actuarial funding certificate or a funding standard reserve certificate shall be submitted to the Board under subsection (2), (2A), (3) or (3B)” for “may extend the time limit within which an actuarial funding certificate shall be submitted to the Board under subsection (2), (3) or (3B)”.

**29.**—The Principal Act is amended by substituting the following section for section 44:

Provisions relating to funding standard and funding standard reserve.

“44.—(1) Subject to the subsequent provisions of this Part, a relevant scheme shall be deemed to have satisfied the funding standard if, in the opinion of the actuary, the resources of the scheme at the effective date of the actuarial funding certificate would have been sufficient, if the scheme had been wound up on that date, to provide for—

- (a) the liabilities of the scheme consisting of—
- (i) additional benefits secured or granted by way of additional voluntary contributions or a transfer of rights from another scheme to which paragraph 2 of the Third Schedule relates to the extent that the rights to which the transfer relates were originally secured or granted by way of additional voluntary contributions,
  - (ii) benefits in the course of payment to which paragraph 1 of the Third Schedule relates,
  - (iii) benefits, other than those referred to in subparagraphs (i) and (ii), which consist of a transfer of rights from another scheme to which paragraph 2 of the Third Schedule relates,
  - (iv) benefits, other than those referred to in subparagraphs (i), (ii) and (iii), to which paragraphs 3 and 4 of the Third Schedule relate, and
  - (v) the percentage (in this Part referred to as the 'specified percentage') of any benefits, other than those referred to in subparagraphs (i), (ii) and (iii), to which paragraph 5 of the Third Schedule relates,
- and
- (b) the estimated expenses of administering the winding up of the scheme.

(2) Subject to the subsequent provisions of this Part, a relevant scheme shall be deemed to have satisfied the funding standard reserve if, in the opinion of the actuary, the additional resources of the scheme at the effective date of the funding standard reserve certificate are at least equal to the aggregate of—

- (a) an amount equal to  $A \times (B - C)$  where—

A is 15 per cent (or such higher percentage, being not more than 50 per cent, or lower percentage, being not less than zero per cent as may be prescribed by the Minister),

B is the amount of the funding standard liabilities of the scheme at the effective date of the funding standard reserve certificate, and

C is the amount, subject to a maximum of an amount equal to the funding standard liabilities, of the resources of the scheme invested in the following assets—

- (i) securities issued under section 54(1) of the Finance Act 1970 and known as bonds,
- (ii) securities issued under the laws of a Member State (other than the State) that correspond to securities referred to in subparagraph (i),
- (iii) cash deposits with one or more credit institutions,

- (iv) such other assets of a type that offers a similar degree of security to those assets referred to in subparagraphs (i), (ii) or (iii) as may be prescribed by the Minister,

and

- (b) the amount by which the funding standard liabilities of the scheme would increase on the effective date of the funding standard reserve certificate if the interest rate or interest rates assumed for the purposes of determining the funding standard liabilities was one half of one per cent (or such higher percentage, being not more than 5 per cent, or lower percentage, being not less than zero per cent, as may be prescribed by the Minister) less than the interest rate or interest rates (as appropriate) assumed for the purposes of determining the funding standard liabilities for the actuarial funding certificate which has the same effective date as the funding standard reserve certificate less the amount by which the resources of the scheme would increase at the same date as a result of the same change in interest rate or interest rates.
- (c) For the purposes of paragraphs (a) and (b), resources shall not include resources which relate to contributions or a transfer of rights from another scheme to the extent that the benefits provided are directly determined by the accumulated value of those contributions or the amount transferred and a given investment performance is not guaranteed or specified in relation to those contributions or the amount transferred.”.

**30.**—Section 45(2)(b)(i) of the Principal Act is amended by substituting “44(1)” for “44”. Amendment of section 45 of Principal Act.

**31.**—Section 46 of the Principal Act is amended— Amendment of section 46 of Principal Act.

- (a) in subsection (1) by substituting “In completing an actuarial funding certificate or funding standard reserve certificate” for “In completing an actuarial funding certificate”,
- (b) in subsection (1)(b) by substituting—
  - (i) “44(1)(a)” for “44(a)”, and
  - (ii) “44(1)(a)(v)” for “44(a)(v)”;

and
- (c) in subsection (1)(c) by substituting “the Society of Actuaries in Ireland or any other person (including the Board or the Minister) in relation to the preparation of actuarial funding certificates or funding standard reserve certificates” for “the Society of Actuaries in Ireland in relation to the preparation of actuarial funding certificates”.

Limitations on calculation of resources of relevant schemes.

**32.**—The Principal Act is amended by substituting the following section for section 47:

“47.—(1) In respect of any calculation made for the purposes of this Part, the resources of a relevant scheme on any date to which such calculation relates shall exclude resources or investments within a prescribed class or type or in excess of a prescribed percentage.

(2) The Minister may make regulations requiring the trustees of a relevant scheme to comply with any applicable guidance issued by any person (including the Board or the Minister) and specified in the regulations in relation to determining whether or not resources or investments shall be included for the purposes of any calculation made for the purposes of this Part.”.

Amendment of section 48 of Principal Act.

**33.**—Section 48 of the Principal Act is amended—

(a) in subsection (2) by substituting “subsection (1)(b) or (1A) applies for the benefits specified in those subsections” for “subsection (1)(b) applies for the benefits specified in that subsection”,

(b) in subsection (3)(b)(ii) by substituting “in a form which has been certified by the Board” for “certified by the Board”,

(c) in subsection (3A) by substituting—

(i) “subsection (1)(b) and paragraphs (a), (b), (c) and (d) of subsection (1A)” for “subsection (1)(b)”, and

(ii) “actuarial funding certificates or funding standard reserve certificates” for “actuarial funding certificates”, and

(d) in subsection (3B) by substituting—

(i) “subparagraphs (i), (ii) and (iii) of subsection (1)(b) and paragraphs (a), (b), (c) and (d) of subsection (1A)” for “subparagraphs (i), (ii) and (iii) of subsection (1)(b)”, and

(ii) “subparagraph (ii) of subsection (1)(b) and paragraph (b) of subsection (1A)” for “subparagraph (ii) of subsection (1)(b)”.

Amendment of section 49 of Principal Act.

**34.**—Section 49 of the Principal Act is amended by—

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

“(1) Where, in accordance with the provisions of section 43, the trustees of a scheme (other than a regulatory own funds scheme)—

(a) submit an actuarial funding certificate which certifies that at the effective date of the certificate the scheme does not satisfy the funding standard, or



- (b) on or after 1 January 2016, submit a funding standard reserve certificate which certifies that at the effective date of the certificate the scheme does not satisfy the funding standard reserve,

they shall, subject to regulations under subsection (2A), submit to the Board a proposal (in this Part referred to as a ‘funding proposal’) in accordance with the provisions of this section.”,

- (b) substituting the following subsection for subsection (2):

“(2) A funding proposal shall—

- (a) contain a proposal designed to ensure that, in the opinion of the actuary—
  - (i) the scheme could reasonably be expected to satisfy the funding standard at the effective date of the next actuarial funding certificate or any later date specified under subsection (3) or (3B) where the funding proposal is submitted before 1 January 2016 and the effective date of the next actuarial funding certificate or any later date specified under subsection (3) or (3B) is before that date, and
  - (ii) in any other case, the scheme could reasonably be expected to satisfy the funding standard at the effective date of the next actuarial funding certificate or any later date specified under subsection (3) or (3B) and the funding standard reserve at the effective date of the next funding standard reserve certificate or any later date specified under subsection (3B),

and

- (b) comply with regulations made under subsection (2A),
- (c) be certified by the actuary as meeting the requirements of paragraph (a),
- (d) be signed by or on behalf of the employer and by or on behalf of the trustees of the scheme, in each case signifying agreement to the proposal, and
- (e) be submitted by the trustees of the scheme with the actuarial funding certificate or funding standard reserve certificate to which it relates.”,

- (c) substituting the following subsection for subsection (2A):

“(2A) Regulations under this section may—

- (a) require the actuary, in certifying a funding proposal under subsection (2) or the failure of the

scheme to satisfy the funding standard in accordance with subsection (3), to comply with any applicable professional guidance issued by the Society of Actuaries in Ireland and specified in the regulations or with any other applicable guidance issued by any other person (including the Board or the Minister) and specified in the regulations,

(b) require the trustees to comply with any applicable guidance issued by any person (including the Board or the Minister), and specified in the regulations, setting out—

(i) the requirements with which a funding proposal shall comply, and

(ii) the terms on and the circumstances in which the trustees are required to notify the Board of a failure by any person to comply with a term of a funding proposal,

(c) prescribe the terms on and circumstances in which—

(i) a date later than the effective date of the next actuarial funding certificate or next funding standard reserve certificate may be specified by the Board in accordance with subsection (3B),

(ii) the trustees are not required to submit a funding proposal under subsection (1), and

(iii) the Board may, by notice in writing to the trustees, declare that a funding proposal is no longer a valid funding proposal for the purposes of this section where there has been a failure to comply with a term of the funding proposal or the trustees of the scheme so request,

and

(d) prescribe guidance issued by any person (including the Board or the Minister) in respect of the matters specified in subparagraphs (i) to (iii) of paragraph (c).”,

(d) in subsection (3) by substituting—

(i) “Before 1 June 2012, subject to regulations under this section” for “Subject to Regulations under this section”, and

(ii) “(2)(a)(i)” for “(2)(a)”,

(e) in subsection (3A) by substituting “(b), (c), (d) or (e)” for “(b), (c) or (d)”,

(f) inserting the following new subsection after subsection (3A):

“(3B) On or after 1 June 2012, the Board on application to it in that behalf by the trustees of a scheme (other than a regulatory own funds scheme) may, in relation to the scheme, on the terms and in the circumstances prescribed or set out in guidance prescribed by regulations made under subsection (2A)—

- (a) for the purposes of subsection (2)(a)(i) specify a date later than the effective date of the next actuarial funding certificate, and
- (b) for the purposes of subsection (2)(a)(ii) specify a date later than the effective date of the next actuarial funding certificate or funding standard reserve certificate.”,

and

- (g) in subsection (4) by inserting the following after “1997”:

“or, where the Board is of the opinion that there is no such principal employer or that it is not possible to identify such employer, such other employer or employers participating in the scheme as the Board, in its absolute discretion, may, on application to it by the trustees of the scheme, specify and notify in writing to the trustees”.

35.—Section 50 of the Principal Act is amended by—

Amendment of section 50 of Principal Act.

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

“(1) The Board may, by notice in writing, following an application by the trustees or otherwise, direct the trustees of a relevant scheme (other than a regulatory own funds scheme) to take such measures as may be specified by the Board in the notice or, if no measures are specified in the notice, such measures as may be necessary in respect of members of the scheme then in relevant employment, who have not reached normal pensionable age and members whose service in relevant employment has ceased, who have not reached normal pensionable age and who have an entitlement to a preserved benefit or any other benefit under the scheme, the payment of which has not commenced, to reduce the benefits that would be payable to or in respect of those members from the scheme where—

- (a) the trustees of the scheme fail to submit an actuarial funding certificate within the period specified in section 43,
- (b) the actuarial funding certificate certifies that the scheme does not satisfy the funding standard and the trustees of the scheme have not submitted a funding proposal in accordance with section 49,
- (c) the actuarial funding certificate certifies that the scheme does not satisfy the funding standard and the trustees of the scheme have submitted a funding proposal in accordance with section 49,

- (d) the Board consents to the amendment of a scheme in accordance with section 50A (inserted by section 18 of the Social Welfare and Pensions Act 2009),
  - (e) the trustees of the scheme fail to submit a funding standard reserve certificate within the period specified in section 43,
  - (f) the funding standard reserve certificate certifies that the scheme does not satisfy the funding standard reserve and the trustees of the scheme have not submitted a funding proposal in accordance with section 49, or
  - (g) the funding standard reserve certificate certifies that the scheme does not satisfy the funding standard reserve and the trustees of the scheme have submitted a funding proposal in accordance with section 49.”,
- (b) substituting the following subsection for subsection (1A):

“(1A) The Board may, by notice in writing, following an application by the trustees or otherwise, direct the trustees of a scheme (other than a regulatory own funds scheme) to take such measures as may be specified by the Board in the notice or, if no measures are specified in the notice, such measures as may be necessary to reduce future increases in benefits payable from the scheme to or in respect of persons receiving benefits under the scheme or persons who have reached normal pensionable age, where—

- (a) the trustees of the scheme fail to submit an actuarial funding certificate within the period specified in section 43,
- (b) the actuarial funding certificate certifies that the scheme does not satisfy the funding standard and the trustees of the scheme have not submitted a funding proposal in accordance with section 49,
- (c) the actuarial funding certificate certifies that the scheme does not satisfy the funding standard and the trustees of the scheme have submitted a funding proposal in accordance with section 49,
- (d) the Board consents to the amendment of a scheme in accordance with section 50A (inserted by section 18 of the Social Welfare and Pensions Act 2009),
- (e) the trustees of the scheme fail to submit a funding standard reserve certificate within the period specified in section 43,
- (f) the funding standard reserve certificate certifies that the scheme does not satisfy the funding standard reserve and the trustees of the

scheme have not submitted a funding proposal in accordance with section 49, or

- (g) the funding standard reserve certificate certifies that the scheme does not satisfy the funding standard reserve and the trustees of the scheme have submitted a funding proposal in accordance with section 49.”,

- (c) substituting the following subsection for subsection (2):

“(2) In relation to a direction made under subsection (1) or (1A)—

- (a) paragraph 2(2) of the Second Schedule and paragraph 4(b)(i)(I) of the Third Schedule shall not apply in so far only as they conflict with the reduction in benefits pursuant to such a direction, and

- (b) the benefits which may be reduced following such a direction shall include—

- (i) a preserved benefit where an entitlement to the preserved benefit has arisen, and

- (ii) any revaluation of a preserved benefit under section 33 where such revaluation relates to a revaluation year which ends,

prior to the date with effect from which measures are put in place pursuant to the direction.”,

- (d) substituting the following subsection for subsection (2A):

“(2A) A reduction in benefits effected pursuant to a direction under subsection (1) or (1A) shall—

- (a) be such as, in the opinion of the actuary concerned, ensures that, immediately following the reduction, the scheme will satisfy the funding standard and, on or after 1 January 2016, the funding standard reserve, or

- (b) in the case of a scheme referred to in paragraph (c) or (g) of subsection (1) or paragraph (c) or (g) of subsection (1A), be such as, in the opinion of the actuary concerned, ensures that the scheme could reasonably be expected to—

- (i) satisfy the funding standard at the effective date of the next actuarial funding certificate or any later date specified under subsection (3) or (3B) of section 49 where the funding proposal is submitted before 1 January 2016 and the effective date of the next actuarial funding certificate or any later date specified under the said subsection (3) or (3B) is before that date, and

- (ii) in any other case, satisfy the funding standard at the effective date of the next actuarial funding certificate or any later date specified under subsection (3) or (3B) of section 49 and the funding standard reserve at the effective date of the next funding standard reserve certificate or any later date specified under the said subsection (3B).”,

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

“(3) Where the Board gives a direction under subsection (1) or (1A), the trustees of the scheme shall—

- (a) (i) within one month of the date of the notice, put in place such measures as may be specified in the notice or, if no measures are specified, such measures as may be necessary to reduce the benefits under the scheme, in respect of all or any of the—

- (I) members of the scheme then in relevant employment who had not reached normal pensionable age,

- (II) members whose service in relevant employment has ceased and who have not reached normal pensionable age and who have an entitlement to a preserved benefit or any other benefit under the scheme, and

- (III) persons receiving benefits under the scheme or who have reached normal pensionable age,

that would be payable to or in respect of them from the scheme, but, in respect of persons specified in clause (III), only those benefits referred to in subsection (1A), and

- (ii) within a period of 2 months of the date of the notice, or such longer period as the Board considers appropriate, notify the members of the scheme and other persons who are receiving benefits under the scheme or who have reached normal pensionable age, of the reduction in benefits,

(b) within a period of 3 months of the date of the notice, submit to the Board—

- (i) confirmation that the trustees have complied with paragraph (a),

- (ii) copies of the notifications issued to members of the scheme and other persons under subparagraph (ii) of paragraph (a), and

(iii) (I) an actuarial funding certificate and, on or after 1 January 2016, a funding standard reserve certificate certifying that at the effective date, being the effective date of the reduction in benefits, the scheme satisfies the funding standard and, on or after 1 January 2016, the funding standard reserve, or

(II) in the case of a scheme where a funding proposal has been submitted to the Board pursuant to section 49 and paragraph (c) or (g) of subsection (1) or paragraph (c) or (g) of subsection (1A) applies, a statement by an actuary in such form as may be prescribed that he or she is reasonably satisfied that at the effective date of the reduction in benefits—

(A) the scheme will satisfy the funding standard at the effective date of the next actuarial funding certificate or, where applicable, any later date specified under subsection (3) or (3B) of section 49 where the funding proposal has been submitted before 1 January 2016 and the effective date of the next actuarial funding certificate or any later date specified under the said subsection (3) or (3B) is before that date, or

(B) in any other case the scheme will satisfy the funding standard at the effective date of the next actuarial funding certificate or, where applicable, any later date specified under subsection (3) or (3B) of section 49, and the funding standard reserve at the effective date of the next funding standard reserve certificate, or where applicable, any later date specified under the said subsection (3B).”,

and

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

“(4) The Minister may make regulations requiring the trustees of a relevant scheme to comply with any applicable guidance issued by any person (including the Board or the Minister) and specified in the regulations setting out—

(a) the form by which the trustees of a relevant scheme may apply to the Board for a direction under this section, and

- (b) the requirements to be met by the trustees in relation to any such application, including a requirement that the trustees give notice to the members of the scheme or other persons receiving benefits under the scheme of any proposal to apply for a direction under this section and to give those members and other persons an opportunity to make representations to the trustees in relation to the proposal before the application for a direction is made.”.

Amendment of section 51A of Principal Act.

**36.**—Section 51A of the Principal Act is amended in subsection (5)(b) by inserting “or funding standard reserve certificates” after “funding certificates”.

Amendment of section 53E of Principal Act.

**37.**—Section 53E of the Principal Act is amended by deleting the definition of “funding standard liabilities”.

Amendment of section 55 of Principal Act.

**38.**—Section 55 of the Principal Act is amended by—

- (a) substituting the following subsection for subsection (3):

“(3) Where an actuarial funding certificate having an effective date after 1 January 2001 and, on or after 1 June 2012, a funding standard reserve certificate has been prepared under section 42 in relation to a scheme each annual report prepared under subsection (1) which relates to a period ending on a day which falls after the effective date of the actuarial funding certificate or funding standard reserve certificate shall, unless subsection (4) applies to it, include a statement by an actuary, in such form as may be prescribed, as to whether he or she is reasonably satisfied that, if he or she were to prepare under section 42 an actuarial funding certificate and, on or after 1 June 2012, a funding standard reserve certificate having an effective date of the last day of the period to which the annual report relates, he or she would certify—

- (a) in the case of the actuarial funding certificate, that the scheme satisfies the funding standard provided for in section 44(1), and
- (b) in the case of the funding standard reserve certificate, that the scheme satisfies the funding standard reserve provided for in section 44(2).”.

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

“(4) Where in the most recent actuarial funding certificate or funding standard reserve certificate prepared under section 42 in relation to a scheme the actuary certifies that, in the case of an actuarial funding certificate, at the effective date of the actuarial funding certificate the scheme does not satisfy the funding standard, or, in the case of a funding standard reserve certificate, at the effective date of the funding standard reserve certificate the scheme does not satisfy the funding standard reserve and a funding proposal has been submitted by the trustees of



the scheme to the Board in accordance with section 49, each annual report prepared under subsection (1) which relates to a period ending on a day which falls after the effective date of the actuarial funding certificate or funding standard reserve certificate shall include a statement by an actuary, in such form as may be prescribed, as to whether he or she is reasonably satisfied at the last day of the period to which the annual report relates that—

- (a) in the case of the actuarial funding certificate, the scheme will satisfy the funding standard at the effective date of the next actuarial funding certificate or, where applicable, any later date specified under subsection (3) or (3B) of section 49, or
  - (b) in the case of the funding standard reserve certificate, the scheme will satisfy the funding standard reserve at the effective date of the next funding standard reserve certificate or, where applicable, any later date specified under section 49(3B).”,
- (c) substituting the following subsection for subsection (5):

“(5) Where an annual report prepared under subsection (1)—

- (a) does not contain the statements by the actuary required under subsection (3) or (4), as appropriate, or
- (b) contains the statements by an actuary required under subsection (3)(a) and (b) but the actuary does not state therein that he or she is reasonably satisfied that, if he or she were to prepare under section 42 an actuarial funding certificate and a funding standard reserve certificate having an effective date of the last day of the period to which the annual report relates, he or she would certify, in the case of an actuarial funding certificate, that the scheme satisfies the funding standard provided for in section 44(1), or, in the case of a funding standard reserve certificate, that the scheme satisfies the funding standard reserve provided for in section 44(2), or
- (c) contains the statements by an actuary required under subsection (4)(a) and (b) but the actuary does not state therein that he or she is reasonably satisfied at the last day of the period to which the annual report relates that, in the case of an actuarial funding certificate, the scheme will satisfy the funding standard at the effective date of the next actuarial funding certificate or, where applicable, any later date specified under subsection (3) or (3B) of section 49, or that, in the case of a funding standard reserve certificate, the scheme will satisfy the funding standard reserve by the effective date of the next funding standard reserve certificate or,

where applicable, any later date specified under section 49(3B),

then in each case the trustees of the scheme shall notify the Board in writing to that effect within such time limit as may be prescribed.”,

and

(d) in subsection (6) by—

(i) substituting “statements” for “statement”, and

(ii) inserting “(including the Minister or the Board)” after “any other person”.

Trustee consent for early retirement.

**39.**—The Principal Act is amended by substituting the following section for section 59G:

“59G.—In the case of a defined benefit scheme the rules of which include an early retirement rule, notwithstanding the terms of that rule—

(a) if the actuary advises the trustees that he or she is reasonably satisfied that if the actuary were to prepare an actuarial funding certificate under section 42 having an effective date of the day on which any member’s immediate retirement benefit by virtue of that early retirement rule is expected to commence, the actuary would not certify that the scheme satisfies the funding standard provided for in section 44(1), or

(b) on or after 1 January 2016, if the actuary advises the trustees that he or she is reasonably satisfied that if the actuary were to prepare a funding standard reserve certificate under section 42 having an effective date of the day on which any member’s immediate retirement benefit by virtue of that early retirement rule is expected to commence, the actuary would not certify that the scheme satisfies the funding standard reserve provided for in section 44(2),

the member’s right to the immediate retirement benefit by virtue of that early retirement rule is subject to the consent of the trustees of the scheme.”.

Amendment of Second Schedule to Principal Act.

**40.**—Paragraph 5 of Part B of the Second Schedule to the Principal Act is amended—

(a) by substituting the following subparagraph for subparagraph (1):

“(1) Any preserved benefit, including any previous revaluation, payable under a defined benefit scheme shall be revalued annually at the end of each revaluation year, by adjusting the amount of preserved benefit as at—

(a) the last day of the previous calendar year,

- (b) the date of termination of relevant employment in any case where a member's relevant employment has terminated since the last day of the previous calendar year, or
- (c) in any case where the amount of preserved benefit has been reduced pursuant to a direction under subsection (1) of section 50 since the last day of the previous calendar year or termination of relevant employment (as appropriate), the date on which such reduction was effected,

by the appropriate amount.”,

and

- (b) in subparagraph (2) by substituting—

“P is the amount of preserved benefit as at—

- (a) the last day of the previous calendar year,
- (b) the date of termination of relevant employment in any case where a member's relevant employment has terminated since the last day of the previous calendar year, or
- (c) in any case where the amount of preserved benefit has been reduced pursuant to a direction under subsection (1) of section 50 since the last day of the previous calendar year or termination of relevant employment (as appropriate), the date on which such reduction was effected, and”

for—

“P is the amount of preserved benefit as at the last day of the previous calendar year (or as at the date of termination of relevant employment in any case where a member's relevant employment has terminated since the last day of the previous calendar year), and”.