Proposed Amendments to the Social Welfare (Bereaved Partner's Pension) Bill 2025

Submission to the Joint Oireachtas Committee on Social Protection, Rural and Community Development

June 2025

About FLAC

FLAC (Free Legal Advice Centres) is an independent legal, human rights and equality organisation, which exists to promote access to justice.

FLAC provides early and preventive legal assistance through a Telephone Information & Referral Line and Telephone Legal Advice Clinics.

As an Independent Law Centre, FLAC takes on a number of cases in the public interest each year, and operates a Roma Legal Clinic and Traveller Legal Service.

FLAC makes policy recommendations in relation to social welfare law, equality and anti-discrimination law, housing law, human rights and access to justice. This includes policy reports and submissions to national and international bodies, including Oireachtas Committees and human rights monitoring bodies.

FLAC is a member of the Department of Social Protection's Migrant Consultative Forum and is represented on the Steering Group of the All Island Social Security Network.

Table of Contents	Page

Introduction & Summary

FLAC welcomes the opportunity to make a submission to the Joint Oireachtas Committee on Social Protection, Rural and Community Development about the Social Welfare (Bereaved Partner's Pension) Bill 2025 ("the 2025 Bill") which will soon progress to Committee Stage.

The 2025 Bill will give effect to the Supreme Court's decision in *O'Meara*.[1] FLAC represented John O'Meara and his children in their successful challenge to the legislation that excluded them from access to a Widower's Contributory Pension. The Supreme Court declared that the legislation (which only provides for payments to bereaved families in circumstances where the parents had been married or in a civil partnership) is unconstitutional by reference to the Constitution's guarantee of equality before the law.[2]

The 2025 Bill would expand entitlement to the social welfare schemes aimed at bereaved partners and families to qualified cohabitants and their children.[3] FLAC very much welcomes the Government's implementation of the *O'Meara* decision and the 2025 Bill, in particular its inclusion of bereaved cohabitants who do not have children in the expanded scope of the relevant schemes (which is not strictly required by the *O'Meara* judgment).[4] The legislation will have a significant positive impact for cohabiting families and couples who, like the O'Meara family, suffer a bereavement (and the emotional and financial impact that that inevitably entails).

Proposed removal of entitlement of divorced and separated people

Regrettably, the 2025 Bill also proposes to remove the entitlement of people who are divorced or separated to a survivors' pensions if their former partner dies. Such entitlement has been in place for almost 20 years. It was introduced after the second Divorce referendum in recognition of the fact that the death of a divorced or separated partner can bring about a financial loss for families (who may have been reliant on maintenance from the deceased).

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[1] *O'Meara & Ors v The Minister for Social Protection* [2024] IESC 1.

[2] For a more detailed discussion of the background to the case and the Supreme Court's decision, see: FLAC (2024), *Analysis & Recommendations concerning the General Scheme of the Social Welfare (Bereaved Partner's Pension) Bill 2024*, section 1.

[3] As per the Explanatory Memorandum, the 2025 Bill "*provides for the expansion of the eligibility criteria for the [Widows, Widower's or Surviving Civil Partner's (Contributory) Pension] to include certain surviving qualified cohabitants who meet the criteria set out in the Bill… The Bill also amends other related schemes such as the Widowed Parent Grant, the Widow's, Widower's or Surviving Civil Partner's Pension payable under the Occupational Injuries Benefit and the Widow's, Widower's or Surviving Civil Partner's (Non-Contributory) Pension to provide access to these schemes for surviving qualified cohabitants*". See: Houses of the Oireachtas (2025), *Explanatory Memorandum to the Social Welfare (Bereaved Partner's Pension) Bill 2025*.

[4] See FLAC's earlier analyses of the legislation: FLAC (2024), *Analysis & Recommendations concerning the General Scheme of the Social Welfare (Bereaved Partner's Pension) Bill 2024* & FLAC (2025), *Preliminary Response to the Social Welfare (Bereaved Partner's Pension) Bill 2025*.

As is outlined in detail in section 2 of this submission, FLAC believes there is a strong legal, policy and practical rationale for removing the proposals to reduce the social welfare entitlements of divorced and separated people from the 2025 Bill. We do not accept the various arguments which have been put forward by the Minister for Social Protection which attempt to justify the changes proposed.

The changes are not required by *O'Meara* (and may be inconsistent with that judgment)

The reduction in the social welfare entitlements of a particularly vulnerable category of lone parents and their children (i.e. those who were reliant on maintenance from a former partner who has died) is in no way required by the *O'Meara* decision. In fact, the proposed changes may be inconsistent with the equality and children's rights principles which underpin that landmark judgment.

The 2025 Bill is proposing to treat the children of separated or divorced parents less favourably than children whose parents are married, in a civil partnership or cohabiting. This is despite the fact that, in the *O'Meara* judgment, the Chief Justice placed an emphasis on "*the rights of all children, and obligations of their parents, irrespective of the status of their parents".*

The approach taken in the 2025 Bill seeks to achieve equality by 'levelling-down' existing levels of entitlement, when it is entirely possible to take a more generous and equitable 'levelling-up' approach by expanding entitlement to include divorced and separated cohabitants.

The restrictive new conditions will impact all future applicants for the payments

The proposed changes will mean that all future applicants for a survivor's pension will be required to prove to the Department of Social Protection that they were living with their partner in an intimate and committed relationship in the two years before that partner's death, even where they were married and living in the same house. At present, the existence of a marriage or civil partnership is sufficient to establish entitlement to a survivor's pension (subject to the other conditions for receiving the relevant payments). The new rules require the potentially invasive examination of the nature of a couple's relationship and whether they were living together. This would occur after a bereavement when respecting the surviving partner's right to privacy and dignity should be of tantamount concern.

The numbers of separated and divorced people who require the payments are small

The Irish social welfare system has long been concerned with the particular needs of bereaved people and families and has made special provision for them. Since the introduction of divorce in the mid-1990s, the social welfare system has provided a safety-net for families where the surviving parent was separated or divorced (but has not remarried or begun cohabiting with

someone else). That safety-net is still needed in 2025. Lone parents remain one of the groups most at risk of experiencing poverty and disadvantage.

Separated and divorced people make up a very small fraction of the number of people receiving Widow/Widower's Contributory Pensions. The Department estimates that there are only approximately 100 new "*divorced claimants*" for that payment each year.

Failure to undertake human rights, equality and anti-poverty impact assessments

It is a significant cause for concern that the Department does not seem to have conducted any human rights, equality or anti-poverty impact assessments concerning the proposals to reduce the social welfare entitlements of divorced and separated people whose former partner has died. This is despite the fact that the Public Sector Human Rights and Equality Duty requires the Department to have regard to human rights, equality and anti-poverty concerns in carrying out its policy-making functions.

FLAC's Proposed Amendments to the 2025 Bill

As is outlined in detail in section 1 of this submission, FLAC has drafted a number of amendments to the 2025 Bill which would address our concerns about the legislation and ensure that the relevant social welfare payments remain available to bereaved families where the parents were divorced or separated. We hope to see adopted these amendments adopted as the Bill undergoes Committee Stage. The amendments have three specific aims:

- To delete the provisions of the 2025 Bill which would remove the entitlement of divorced and separated people to survivor's pensions.
- To ensure that qualified cohabitants who were separated from their deceased ex-partner are also entitled to those payments (in line with the existing entitlement of divorced and separated people who were married or in a civil partnership).
- To restore the entitlement of people who suffer a second bereavement to their original pension after the loss of a second partner (which the 2025 Bill currently proposes to remove).

FLAC would be happy to meet with the Committee or any of its members to discuss this submission and its recommendations, or to provide any additional information which would be of assistance to the Committee as it considers this very important legislation.

1. Proposed Amendments to the 2025 Bill

FLAC has drafted a number of proposed amendments to the 2025 Bill which we hope to see adopted as it undergoes Committee Stage. This section outlines the existing rules concerning the entitlement of divorced and separated people to 'survivor's pensions', how the 2025 Bill would change those rules, and how FLAC would amend the 2025 Bill to remove those changes.

The appendix to this submission (which begins on page 16) shows the relevant sections of the 2025 Bill marked up with FLAC's proposed amendments. The rationale for these amendments is outlined in detail in the next section of this submission.

1.1. Restoring the Entitlement of Divorced & Separated People

At present, people who are separated or divorced from a spouse or civil partner may access a survivor's pension if that spouse or civil partner dies, provided that they (the surviving partner) have not remarried and are not cohabiting with someone else.[5] By contrast, the 2025 Bill would exclude:

- Divorced people whose former partner died. The 2025 Bill does this by defining "*civil partner*", "*widow*" and "*widower*" as "*not [including]*" people whose marriage or civil partnership "*has been dissolved*".[6]
- People who are separated from their partner at the time of that partner's death. The 2025 Bill does this by excluding "*spouses [that] had lived apart and were not in an intimate and committed relationship for a period of at least 2 years immediately preceding the date of death of the deceased spouse [or civil partner]*"[7] from the definition of "*bereaved partner*". The 2025 Bill provides that the Minister may make regulations specifying the circumstances where couples who were living apart (including because one of them is resident in a hospital or nursing home) may be considered as "*living together*" for the purposes of the legislation.[8]

[5] See: the definitions of "*civil partner*", "*widow*" and "*widower*" in section 123 of the Social Welfare Consolidation Act 2005, as well as sections 124(2) and (3) of that legislation.
[6] Section 5 of the 2025 Bill proposes to create a new section 123(1) of the Social Welfare Consolidation Act 2005 which includes these new definitions.
[7] See: the proposed new section 123(2) of the Social Welfare Consolidation Act 2005 which would be created by section 5 of the 2025 Bill and the proposed new section 81(7) of the Social Welfare Consolidation Act 2005 which would be created by section 4 of the 2025 Bill.
[8] See: the new section 123(3) of the Social Welfare Consolidation Act 2005 which would be created by section 5 of the 2025 Bill, and the new section 123A(4)(b) of the Social Welfare Consolidation Act 2005 which would be created by section 6 of the 2025 Bill.

The 2025 Bill includes a 'saver clause' which provides that divorced or separated people who were receiving the pension or who were entitled to it before the 2025 Bill is passed will not lose their payment.[9]

FLAC is proposing amendments which would remove these proposed reductions in the scope of the payments for bereaved partners and families from the 2025 Bill:

- Amendments 2, 4 and 5 would change the definitions of "*civil partner*", "*widow*" and "*widower*" in the 2025 Bill so that they explicitly include divorced people (as is the case in the existing legislation).
- Amendments 1, 3, and 6 would delete the provisions which exclude separated people from the definition of "*bereaved partner*".
- Amendment 7 would remove the relevant 'saver clause' from the 2025 Bill (on the basis that it would no longer be necessary if the 2025 Bill is amended in line with Amendments 1 to 6).

These amendments would leave in place the rules which remove entitlement where a person receiving the pension begins cohabiting with someone else, remarries, enters a civil partnership, or becomes a qualified cohabitant.[10]

PROPOSED AMENDMENTS TO RETAIN THE EXISTING ENTITLEMENT OF DIVORCED AND SEPARATED PEOPLE

SECTION 4

1. In page 4, to delete lines 34 to 41, and in page 5, to delete lines 1 to 21.

SECTION 5

2. In page 5, line 30, to delete "not".

3. In page 5, to deletes lines 39 and 40, and in page 6, to delete lines 1 to 3.

4. In page 6, line 32, to delete "not".

5. In page 6, line 35, to delete "not".

6. In page 7, to delete lines 6 to 43, and in page 8, to delete lines 1 and 2.

SECTION 9

7. In page 11, to delete lines 1 to 31.

[9] Section 9 of the 2025 Bill proposes to insert this saver clause as a new section 123B(1) of the Social Welfare Consolidation Act 2005.

[10] The 2025 Bill would retain the current rules which provide that a person is disqualified from receiving a pension while they are cohabiting with someone else, and that a person will lose their entitlement to a pension if they enter a marriage or civil partnership. It will add a new rule which provides that a person will lose their entitlement to a pension if they become a qualified cohabitant. See: the proposed new sections 124A(3) and (4) of the Social Welfare Consolidation Act 2005 which would be created by section 8 of the 2025 Bill.

1.2. Adding Entitlement for Separated Qualified Cohabitants

The 2025 Bill will include "*surviving qualified cohabitants*" in the definition of bereaved partners who are entitled to a survivor's pension. However, it excludes qualified cohabitants who were separated from their deceased former partner for over two years. It does this by:

- Defining "*qualified cohabitant*" as people who were in a relationship with their deceased partner at the time of their death (i.e. who were not separated), or as people "*whose relationship ended not more than 2 years before the date of death of his or her deceased partner*" (i.e. people who were separated for less than two years).[11]
- Excluding qualified cohabitants from accessing a pension "*if he or she had been living apart from the person in relation to whom a claim is based for more than 2 years before that person's death*".[12]

In line with our proposed amendments concerning people who were married or in civil partnerships, FLAC is proposing amendments to the 2025 Bill which would ensure that separated qualified cohabitants may access the relevant payments for bereaved partners and families (except where they are cohabiting, or married, in a civil partnership or have become a qualified cohabitant with a new partner):

- Amendment 8 would expand the definition of "*qualified cohabitant*" to expressly include separated qualified cohabitants.
- Amendments 9 and 10 would remove the proposed exclusions concerning qualified cohabitants who were separated from their deceased partner for more than two years.

PROPOSED AMENDMENTS TO ADD ENTITLEMENT FOR SEPARATED QUALIFIED COHABITANTS

SECTION 6

8. In page 8, line 20, to delete "not more than 2 years".

9. In page 8, to delete lines 34 to 37.

10. In page 9, to delete lines 32 to 37.

[11] These provisions are contained in the proposed new section 123A(1)(b) of the Social Welfare Consolidation Act 2005 which would be inserted by section 6 of the 2025 Bill.

[12] This provision is contained in the proposed new section 123A(2)(d) of the Social Welfare Consolidation Act 2005 which would be inserted by section 6 of the 2025 Bill.

1.3. Restoring the Entitlement of People who suffer a Second Bereavement

At present, people who were in receipt of a Widow or Widower's Contributory Pension who have remarried but whose new partner then dies are able to claim the pension (or rate of pension) which they previously received after the loss of their first partner.[13] This operates as an exception to the general rule whereby remarriage extinguishes entitlement to the pension.

The 2025 Bill proposes to remove this exception, subject to a saver clause which provides that anyone who was receiving the pension or was entitled to it on the basis of the exception before the 2025 Bill is passed will not lose their payment.[14]

FLAC is proposing amendments to the 2025 Bill which would restore entitlement for remarried people who suffer a second bereavement:

- Amendment 11 would restore the previous exception for remarried people who suffer a second bereavement (with the text slightly amended to reflect the addition of the concept of 'qualified cohabitants' to the legislation).
- Amendment 12 would remove the relevant 'saver clause' from the 2025 Bill (on the basis that it would no longer be necessary in circumstances where Amendment 11 is adopted).

PROPOSED AMENDMENTS TO RESTORE ENTITLEMENT FOR PEOPLE WHO SUFFER A SECOND BEREAVEMENT

SECTION 8

11. In page 10, after line 35, to insert the following:

"(5) A person who, having ceased to be entitled to a pension by virtue of that person's marriage or remarriage, his or her entry into a civil partnership or a new civil partnership, or his or her becoming a qualified cohabitant or again becoming a qualified cohabitant shall, on again becoming a widow, widower, surviving civil partner, or surviving qualified cohabitant, be entitled to a pension at the rate which would have been payable had the person not married, remarried, entered into a civil partnership or a new civil partnership, become a qualified cohabitant or again become a qualified cohabitant where the person—

(a) fails to satisfy the conditions set out in subsection (1), or

(b) on satisfying the conditions set out in subsection (1), is entitled to a pension at a rate below that which would have been payable had the person not married, or remarried, not entered into a civil partnership or a new civil partnership, or not become a qualified cohabitant or again become a qualified cohabitant."

SECTION 9

12. In page 11, to delete lines 32 to 36.

[13] Section 124(4) of the Social Welfare Consolidation Act 2005.

[14] Section 9 of the 2025 Bill proposes to insert this saver clause as a new section 123B(2) of the Social Welfare Consolidation Act 2005.

2. Rationale for the Proposed Amendments

This section outlines the legal, policy and practical reasons for FLAC's proposed amendments. It also responds to the various rationales which have been put forward by the Minister and his Department for the reductions in the social welfare entitlements of divorced and separated people contained in the 2025 Bill.

Our proposed amendments reflect the unanimous recommendations of the Government and opposition members of the previous Oireachtas Social Protection Committee which endorsed:

- "*retaining the current entitlement of divorced and separated partners to a survivor's pension and [expanding] it to surviving qualified cohabitants who were separated as opposed to taking the 'levelling-down' approach outlined in the General Scheme*", and
- "*retaining the favourable treatment afforded to those who have lost two partners and expand it to include situations where the bereaved and the deceased were qualifying cohabitants in either or both instances*."[15]

2.1. Ensuring Consistency with the Constitution & *O'Meara* Judgment

The changes to the entitlement for divorced and separated people in the 2025 Bill may run contrary to the principles underpinning the *O'Meara* decision. In that decision, the Supreme Court declared that the provisions of the Social Welfare Consolidation Act 2005 which treat the children of cohabiting parents less favourably than the children of parents who are married or in a civil partnership are unconstitutional. The 2025 Bill is proposing to treat the children of separated or divorced parents less favourably than children whose parents are married, in a civil partnership or cohabiting.

In *O'Meara*, the Chief Justice placed an emphasis on "*the rights of all children, and obligations of their parents, irrespective of the status of their parents (emphasis added)*."[16] He also highlighted the importance of the Widower's Contributory Pension in addressing the financial impact that the death of a parent may have on families:

> "*WCP addresses a particular need: the financial loss experienced by a spouse and children on the loss of a partner and parent, who may have been a financial provider for the family or did work that will otherwise have to be accounted for. It also recognises the desirability that the surviving spouse should be relieved of the financial obligation to work in the period following the death of a spouse and parent*."[17]

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[15] Houses of the Oireachtas (2024), *Joint Committee on Social Protection, Rural and Community Development, and the Islands - Report on the Pre-Legislative Scrutiny of the General Scheme of the Social Welfare (Bereaved Partner's Pension) Bill 2024*, p.9.
[16] *O'Meara*, para.32.
[17] *O'Meara*, para.34.

The 2025 Bill (as presently drafted) provides for the entitlement of qualified cohabitants to a survivor's pension but excludes people who were legally married (but separated from) their deceased spouse. This proposal may not be consistent with the very high level of protection for families 'based on marriage' under Article 41 of the Constitution.

The Minister and his Department have repeatedly asserted that the inclusion of divorced people in Widower's Pension scheme was identified as an "*anomaly*" by the Supreme Court in the *O'Meara* decision.[18] This is incorrect.[19] In the relevant section of the judgment, the Chief Justice highlights a number of features of the existing scheme which underscore the irrationality of excluding cohabitants.[20] He notes that there is no basis for treating divorced people *"differently and better than otherwise comparable parents who had never married at all*".[21] However, his decision does not at any point suggest that cohabitants should be treated *"differently and better*" than divorced people. In fact, his judgment is explicitly concerned with ensuring equal treatment and not arbitrarily excluding any family which is based on a "*committed, stable and long-term*"[22] relationship. The judgment does not specify or require that that relationship must or should still be in place at the time of a bereavement for an entitlement to a survivor's pension to arise. As will be discussed in more detail below, the introduction of that requirement runs contrary to one of the primary reasons why survivor's pension are provided which, as noted by the Supreme Court, is to address the financial and emotional impact which the loss of a parent may have on a family.

The Minister has stated that:

> "*In the absence of removing entitlement for divorced and separated people, there is now a danger that inequalities could be repeated if the scheme were to allow a situation that divorced or separated couples, who were no longer in an ongoing relationship, were to be treated in a different manner to a couple who had previously cohabited but were no longer in an ongoing relationship*."[23]

The Minister suggests that the only way to achieve equality is to exclude all divorced and separated people from entitlement to a survivor's pension and that this approach is "*reasonable*"[24]. However, FLAC's proposed amendments to the 2025 Bill make it clear that it is possible to achieve equality by maintaining the entitlement of divorced and separated people

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[18] Houses of the Oireachtas, *Supplemental Submission of the Department of Social Protection concerning the General Scheme of the Social Welfare (Bereaved Partner's Pension) Bill 2024*.
[19] In fact, the words "*anomaly*", "*anomalies*" or "*anomalous*" are not used at all in the Chief Justice's decision.
[20] *O'Meara*, paras. 33-5.
[21] *O'Meara*, para. 33.
[22] *O'Meara*, para. 32.
[23] Houses of the Oireachtas (2025), *Response of the Minister for Social Protection to Parliamentary Questions 25553/25, 25554/25, 25555/25, 25556/25, 25559/25 & 25560/25*.
[24] Houses of the Oireachtas (2025), *Response of the Minister for Social Protection to Parliamentary Questions 25553/25, 25554/25, 25555/25, 25556/25, 25559/25 & 25560/25*.

who were previously married or in a civil partnership *and* by adding entitlement for separated qualified for cohabitants. The approach taken in the 2025 Bill essentially seeks to achieve equality by 'levelling-down' existing levels of entitlement rather than by 'levelling-up' entitlement to include groups who were previously excluded. As discussed above, this has the knock-on effect of introducing a new inequality for families with divorced and separated parents. It is also diametrically opposed to the approach recommended by the previous Oireachtas Social Protection Committee.

2.2. The Policy Basis for Survivors' Pensions: Protecting Families who suffer financially because of a Bereavement

The Supreme Court's decision in O'Meara effectively identifies the State's policy basis for providing survivor's pensions as part of the social welfare system. The payments address a "*particular need*", namely the financial impact that the death of a parent may have on families. The death of a divorced or separated partner can still bring about a financial loss for families who may have been economically dependent on the deceased (pursuant to the strong maintenance provisions in Irish family law which are underpinned by the constitutional rights of children).[25]

The Original Policy Basis for the Current Rules on Entitlement

The Irish social welfare system has long been concerned with the particular needs of bereaved families (including families where the parents were divorced or separated). Ireland's leading social welfare academics have noted:

- "*the view held by many members of the general public and many members of the Oireachtas that widows should receive favourable treatment*"[26], and
- that the existing provisions concerning the entitlement of divorced families to survivors' pensions were introduced for the explicit purpose of "*[ensuring] that 'widows' did not lose out as a result of the introduction of divorce*".[27]

An analysis of the social welfare measures introduced during the 2010s (at the height of the "*Great Recession*") highlights that widows and widowers were *"unaffected by changes [to social welfare entitlements] and the small number of widow(er)s who might have been affected by the lone parents changes were specifically excluded*."[28]

[25] Separated or divorced spouses have an obligation to maintain their children and may also have an obligation to maintain each other. Such obligations only end on death or remarriage. The amount of maintenance paid (whether decided by a judge or through agreement) will reflect the needs and living costs of the couple and children concerned. See: FLAC (2016), *Maintenance*.
[26] Mel Cousins & Gerry Whyte, *Social Security Law in Ireland* (3rd edn, Wolters Kluwer, 2021), p.150.
[27] ibid at p.251.
[28] Mel Cousins (2019), *Welfare Conditionality in Ireland after the Great Recession*, Journal of Social Security Law.

The Social Welfare Act 1996 introduced the entitlement of divorced and separated people to survivors' pensions and the rules creating favourable treatment for people who suffer a second bereavement (both of which would be removed by the 2025 Act). In the Dáil debates concerning the 1996 Act, the then Minister for Social Welfare, Proinsias De Rossa TD, highlighted that the provisions were part of a suite of measures to ensure that "*no spouse would lose out in terms of his or her social welfare entitlements on becoming divorced*". He also highlighted the need to ensure that the "*pension position of [people who suffer a second bereavement] will… be protected under legislation and… to reduce what was seen as a [financial] disincentive to marriage by widowed persons*".[29] However, the current Minister for Social Protection insists that:

> *"The basis upon which earlier rules for the scheme were framed, including (a) the entitlement of divorced partners, at the time when divorce was first introduced, and, (b) rates of payment based on an earlier marriage, which… was based on a policy of encouraging marriage, have now to be considered in light of new rights to the payment created for surviving qualifying cohabitants."*[30]

It is difficult to accept this reasoning. The basis for "*the entitlement of divorced partners*" is identical to the basis for the entitlement of surviving qualified cohabitants. The loss of a parent in both circumstances may have a significant financial and emotional impact on the family concerned. The legislation, as introduced in 1996, created a safety-net for families where the surviving divorced parent had not remarried or begun cohabiting with someone else. The Minister has not identified any reason why it is no longer necessary to provide such a safety-net in 2025. Lone parents are one of the groups most at risk of disadvantage.[31]The number of people who need to avail of that safety-net are very small. The Department estimates that there are only approximately 100 new "*divorced claimants*" for the Widow/Widower's Contributory Pension each year.[32] In 2023, 125,943 people received a Widow/Widower's Contributory Pension.[33] Figures in respect of April of that year show that only 3,221 of those recipients had been previously divorced or separated.[34]

The Need for Human Rights, Equality & Anti-Poverty Impact Assessments

The Minister's responses to parliamentary questions about the changes proposed in the 2025 Bill suggest that his Department has not conducted any human rights and equality impact

[29] Houses of the Oireachtas (1996), *Social Welfare Bill, 1996: Second Stage*.
[30] Houses of the Oireachtas (2025), *Response of the Minister for Social Protection to Parliamentary Questions 25553/25, 25554/25, 25555/25, 25556/25, 25559/25 & 25560/25*.
[31] Luke Clements, *Clustered Injustice and the Level Green* (Legal Action Group, 2020), pp.5-6.
[32] Houses of the Oireachtas, *Supplemental Submission of the Department of Social Protection concerning the General Scheme of the Social Welfare (Bereaved Partner's Pension) Bill 2024*.
[33] Department of Social Protection (2024), *Statistical Information on Social Welfare Services Annual Report 2023*, p.24.
[34] Houses of the Oireachtas (2025), *Response of the Minister for Social Protection to Parliamentary Question 25557/25*.

assessment concerning the proposals to reduce the social welfare entitlements of divorced and separated people whose former partner has died.[35] This is despite the fact the Public Sector Human Rights and Equality Duty requires his Department to have regard to human rights and equality in carrying out their policy-making functions.[36] It also appears that the Department has not conducted "*any risk assessment or poverty-proofing process concerning the proposals*".[37] Aside from asserting that "*any person who has a financial need may qualify for an appropriate assistance payment from my Department where they meet the relevant criteria*", the Minister was also unable to outline any "*plans which are in place to mitigate the financial impact of these proposals on divorced and separated individuals and their children who suffer a bereavement after the enactment of the 2025 Bill*".[38]

Other Reasons for the Changes which have been put forward

FLAC disagrees with the various other reasons which have been outlined to justify the provisions in the 2025 Bill concerning the entitlement of divorced and separated people:

The Minister for Social Protection has asserted that the reductions in the scope of payments proposed in the 2025 Bill are designed to avoid a "*[complex] situation where multiple payments to multiple former partners could potentially be funded through the Social Insurance Fund*."[39] The Department has also stated that it has adopted a "*policy position*" of *"[preventing] the situation whereby the death of an individual results in multiple claims for [a bereaved Partner's Contributory Pension]*."[40] No clear legal or practical basis has been offered to justify the adoption of this policy position. Under the existing legislation, a death may result in multiple claims for a Widow or Widower's Contributory Pension. For example, where the deceased was remarried at the time of death and also had a previous spouse from whom they were divorced (and that previous spouse had not remarried or begun cohabiting with a new partner after the divorce). There is a clear policy rationale behind this because both the present and former partner (and their families) may have been financially dependent on the deceased. There is no evidence to suggest that current legislation is so complex as to give rise to any practical problems in administering it.

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[35] Houses of the Oireachtas (2025), *Response of the Minister for Social Protection to Parliamentary Questions 25553/25, 25554/25, 25555/25, 25556/25, 25559/25 & 25560/25*.

[36] Section 42 of the Irish Human Rights and Equality Commission Act 2014.

[37] Such as assessment is also required under the Public Sector Duty. Gerry Whyte has highlighted that "there are some indications that the Irish courts recognise, at least in some contexts, the State's duty to refrain from taking action that would directly push a person into penury or, at least, to refrain from relying on the consequences of such action in a way that would further disadvantage that person". See: Gerry Whyte, *Lord Ellenborough's Law of Humanity and the Legal Duty to Relieve Destitution*, The Irish Jurist: 2018, 60(60), 1-32.

[38] Houses of the Oireachtas (2025), *Response of the Minister for Social Protection to Parliamentary Questions 25553/25, 25554/25, 25555/25, 25556/25, 25559/25 & 25560/25*.

[39] Houses of the Oireachtas (2025), *Official Report of Parliamentary Debates in Dáil Éireann on 27 March 2025*, p.101.

[40] Houses of the Oireachtas, *Supplemental Submission of the Department of Social Protection concerning the General Scheme of the Social Welfare (Bereaved Partner's Pension) Bill 2024*.

The Department has also asserted that the exclusion of people who are separated for more than two years is "*consistent with the [Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010] whereby the exercise of entitlements for qualified cohabitants ends two years after the breakdown of the relationship*."[41] This is also incorrect. The 2010 Act includes a mechanism for bereaved qualified cohabitants to apply for "*for provision from [the] estate of [their] deceased cohabitant*".[42] Although the general rule is that these applications cannot be made "*where the relationship concerned ended 2 years or more before the death of the deceased*", there are numerous exceptions to this rule including circumstances where the applicant "*was in receipt of periodical payments from the deceased*".[43] The 2010 Act effectively recognises the impact that the loss of an ex-partner who provided financial support may have on individuals and families.

2.3. Avoiding introducing Complexity & Delay

FLAC also has practical concerns about the proposed new rules excluding people who were separated from their deceased partner for more than two years before their death. Under Irish social welfare law, the burden is on the claimant/applicant to establish that they are entitled to a payment. As a result, the new rules concerning separation will place the onus on recently bereaved partners to establish that they were living with their partner in an intimate and committed relationship in the two years before that partner's death. The rules require the potentially invasive examination of the nature of a couple's relationship and whether they were living together at a time (after a bereavement) when respecting an individual's right to privacy and dignity should be of tantamount concern.

The new rules are also quite convoluted and onerous. They specify that even applicants who lived in the same house as their deceased husband or wife will have to "*[satisfy] the Minister*" that they were "*[living] together as a couple in an intimate and committed relationship*".[44] These rules would add considerable complexity to decision-making in this area which could result in an increased rate of incorrect decisions, refusals/negative decisions and social welfare appeals. There are already significant issues with the quality of first-instance social welfare decision-making and delays in the decision-making and appeal processes.[45]

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[41] Houses of the Oireachtas, *Supplemental Submission of the Department of Social Protection concerning the General Scheme of the Social Welfare (Bereaved Partner's Pension) Bill 2024*.
[42] Section 194 of the 2010 Act.
[43] Section 194(2) of the 2010 Act.
[44] See: the proposed new sub-sections 123(2)(b)(i) and (ii) of the Social Welfare Consolidation Act 2005 which would be created by section 5 of the 2025 Bill.
[45] The long-standing issues with the quality of first instance social welfare decision-making are reflected in the high number of social welfare appeals and the consistent trend whereby most appeals result in a favourable outcome for the appellant. The Social Welfare Appeals Office decides on around 20,000 appeals each year. Between 2015 and 2022, almost 60% of appeal led to decisions in favour of the appellant. See: Christopher Bowes (2024), *All Island Social Security Network Conference Paper: A Human Rights and Equality Analysis of Social Welfare Decision-Making in Ireland*, pp.12-13.

Appendix - Social Welfare (Bereaved Partner's Pension) Bill 2025 marked up with FLAC's Proposed Amendments.

Death benefit for bereaved partners and increases for qualified children, etc.

4. The Principal Act is amended by the substitution of the following section for section 81:

"81. (1) Subject to subsection (2), death benefit shall be payable to the bereaved partner of a deceased partner.

(2) Subject to sections 241(2) and 242, a bereaved partner whose claim for death benefit is based on being a surviving qualified cohabitant shall, regardless of the date of death of his or her deceased partner, be entitled to a pension under this section from 22 January 2024 or the date of death of the deceased partner, whichever is the later date.

(3) Death benefit shall be a pension at the weekly rate set out in column (2) of Part 1 of Schedule 2, and where the beneficiary has attained pensionable age and is living alone, that rate shall be increased by the amount set out in column (6) of that Part.

(4) A bereaved partner shall be disqualified for receiving a pension under subsection (3) if and so long as he or she is a cohabitant.

(5) A pension under subsection (3) shall cease as and from—

(a) the date of marriage or remarriage of the beneficiary,

(b) the date of entry by the beneficiary into a civil partnership or a new civil partnership, or

(c) the date on which the beneficiary becomes a qualified cohabitant or again becomes a qualified cohabitant.

(6) The weekly rate of pension under subsection (3) shall be increased by the amount set out—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary,

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary,

(c) in column (7) of Part 1 of Schedule 2 where the beneficiary has attained the age of 80 years, and

(d) in column (8) of Part 1 of Schedule 2 where the beneficiary has attained pensionable age and is ordinarily resident on an island.

~~(7) (a) For the purpose of this section, and subject to any regulations under section 123(3), where the death of the deceased partner occurred on or after the date of the passing of the *Social Welfare (Bereaved Partner's Pension) Act 2025*, a person shall not be considered a bereaved partner if the Minister is satisfied in all the circumstances that—~~

~~(i) in the case of a married couple, the spouses had lived apart and were not in an intimate and committed relationship for a period~~

~~of at least 2 years immediately preceding the date of death of the deceased spouse, or~~

~~(ii) in the case of a civil partnership, the civil partners had lived apart and were not in an intimate and committed relationship for a period of at least 2 years immediately preceding the date of death of the deceased civil partner.~~

~~(b) For the purpose of paragraph (a)—~~

~~(i) spouses who live in the same dwelling as one another shall be considered as living apart from one another if the Minister is satisfied that, while so living in the same dwelling, the spouses do not live together as a couple in an intimate and committed relationship,~~

~~(ii) civil partners who live in the same dwelling as one another shall be considered as living apart from one another if the Minister is satisfied that, while so living in the same dwelling, the spouses do not live together as a couple in an intimate and committed relationship,~~

~~(iii) a relationship does not cease to be an intimate relationship merely because it is no longer sexual in nature.~~

~~(8) In this section, 'bereaved partner' and 'deceased partner' each have the meaning given to them in section 123.".~~

Proposed Amendment 1: In page 4, to delete lines 34 to 41, and in page 5, to delete lines 1 to 21.

Purpose: To delete the provisions which exclude separated people from the definition of "bereaved partner".

Chapter 18 - Interpretation

5. The Principal Act is amended by the substitution of the following section for section 123:

"123. (1) Subject to subsection (2), in this Chapter—

'Act of 2025' means the *Social Welfare (Bereaved Partner's Pension) Act 2025*;

'bereaved partner' means a widow, a widower, a surviving civil partner or a surviving qualified cohabitant;

'civil partner'—

(a) shall ~~not~~ include a person who would otherwise be a civil partner but for the fact that his or her civil partnership has been dissolved, being a dissolution that is recognised as valid in the State, and

(b) in relation to a surviving civil partner who has been party to a civil partnership more than once, refers only to the surviving civil partner's last civil partner;

'deceased partner' means, in respect of a bereaved partner, the last deceased spouse, civil partner or qualified cohabitant, as the case may be, of the bereaved partner;

~~'medical institution' means—~~

~~(a) a hospital,~~

Proposed Amendment 2: In page 5, line 30, to delete "not".

Purpose: To change the definition of "civil partner" to explicitly include divorced people (as is the case in the existing legislation).

~~(b) a nursing home within the meaning of the Nursing Homes Support Scheme Act 2009, or~~

~~(c) such other medical institution as may be prescribed;~~

'pension' means a bereaved partner's (contributory) pension payable in respect of a deceased partner;

'relevant time' means—

(a) where the contribution conditions are being satisfied on the bereaved partner's insurance record—

(i) the date of death of the deceased partner,

(ii) where the bereaved partner attained pensionable age before the date of death of the deceased partner, the date on which he or she attained that age, or

(iii) where the bereaved partner is a person born on or after 1 January 1958, who has attained pensionable age and has paid qualifying contributions or voluntary contributions after attaining pensionable age and before the date of death of the deceased partner, the date upon which the last such qualifying contribution or voluntary contribution was paid,

or

(b) where the contribution conditions are being satisfied on the deceased partner's insurance record—

(i) the date on which the deceased partner attained pensionable age,

(ii) where the deceased partner died before attaining pensionable age, the date of his or her death, or

(iii) where the deceased partner was a person born on or after 1 January 1958, who had attained pensionable age and had paid qualifying contributions or voluntary contributions after attaining pensionable age, the date upon which the last such qualifying contribution or voluntary contribution was paid;

'spouse', in relation to a widow or widower who has been married more than once, refers only to the widow's or widower's last spouse;

'widow' shall ~~not~~ include a woman who would otherwise be a widow but for the fact that her marriage has been dissolved, being a dissolution that is recognised as valid in the State;

'widower' shall ~~not~~ include a man who would otherwise be a widower but for the fact that his marriage has been dissolved, being a dissolution that is recognised as valid in the State;

'yearly average' means the average per contribution year of contribution weeks in respect of which the bereaved partner or deceased partner, as the case may be, has qualifying contributions, voluntary contributions or credited contributions in the appropriate

Proposed Amendment 3: In page 5, to deletes lines 39 and 40, and in page 6, to delete lines 1 to 3.

Purpose: To delete the provisions which exclude separated people from the definition of "bereaved partner".

Proposed Amendment 4: In page 6, line 32, to delete "not".

Purpose: To change the definition of "widow" to explicitly include divorced people (as is the case in the existing legislation).

Proposed Amendment 5: In page 6, line 35, to delete "not".

Purpose: To change the definition of "widower" to explicitly include divorced people (as is the case in the existing legislation).

period specified in section 125(1)(b) and where the average so calculated is a fraction of a whole number consisting of one-half or more it shall be rounded up to the nearest whole number and where it is a fraction of less than one-half it shall be rounded down to the nearest whole number.

~~(2) (a) For the purposes of this Chapter, Chapter 21 and Chapter 6 of Part 3 and subject to any regulations under subsection (3), where the death of the deceased partner occurred on or after the date of the passing of the Act of 2025, a person shall not be considered a bereaved partner if the Minister is satisfied in all the circumstances that —~~

~~(i) in the case of a married couple, the spouses had lived apart and were not in an intimate and committed relationship for a period of at least 2 years immediately preceding the date of death of the deceased spouse, or~~

~~(ii) in the case of a civil partnership, the civil partners had lived apart and were not in an intimate and committed relationship for a period of at least 2 years immediately preceding the date of death of the deceased civil partner.~~

~~(b) For the purpose of paragraph (a)~~

~~(i) spouses who live in the same dwelling as one another shall be considered as living apart from one another if the Minister is satisfied that, while so living in the same dwelling, the spouses do not live together as a couple in an intimate and committed relationship,~~

~~(ii) civil partners who live in the same dwelling as one another shall be considered as living apart from one another if the Minister is satisfied that, while so living in the same dwelling, the spouses do not live together as a couple in an intimate and committed relationship,~~

~~(iii) a relationship does not cease to be an intimate relationship merely because it is no longer sexual in nature.~~

~~(3) The Minister may by regulations —~~

~~(a) specify the circumstances (including residence in a medical institution) in which, and the periods during which (including periods longer than 2 years), spouses who are in an intimate and committed relationship but are living apart may, for the purpose of subsection (2)(a)(i) and section 81, be deemed to be periods when they are living together, and~~

~~(b) specify the circumstances (including residence in a medical institution) in which, and the periods during which (including periods longer than 2 years), civil partners who are in an intimate and committed relationship but are living apart may, for the~~

~~purpose of subsection (2)(a)(ii) and section 81, be deemed to be periods when they are living together.".~~

Proposed Amendment 6: In page 7, to delete lines 6 to 43, and in page 8, to delete lines 1 and 2.

Purpose: To delete the provisions which exclude separated people from the definition of "bereaved partner".

Qualified cohabitant

6. The Principal Act is amended by the insertion of the following section after section 123:

"123A. (1) For the purposes of this Act, and subject to subsections (2) to (4), a person shall be a qualified cohabitant if—

(a) the person is one of 2 adults (whether of the same or the opposite sex) who are not related to each other within the prohibited degrees of relationship or married to each other or civil partners of each other and who have been living together in an intimate and committed relationship as a couple—

(i) for a period of 2 years or more, in a case where there are one or more children of the relationship, and

(ii) for a period of 5 years or more, in any other case,

or

(b) the person—

(i) is a person referred to in paragraph (a) on the date of death of his or her deceased partner, or

(ii) is a person referred to in paragraph (a) whose relationship ended ~~not more than 2 years~~ before the date of death of his or her deceased partner.

Proposed Amendment 8: In page 8, line 20, to delete "not more than 2 years".

Purpose: To expand the definition of "qualified cohabitant" to expressly include separated qualified cohabitants.

(2) For the purpose of this Act—

(a) 2 adults are within a prohibited degree of relationship if they would be prohibited from marrying each other in the State, or they are in a relationship referred to in the Third Schedule to the Civil Registration Act 2004,

(b) qualified cohabitants who live in the same dwelling as one another shall be considered as living apart from one another if the Minister is satisfied that, while so living in the same dwelling, the qualified cohabitants do not live together as a couple in an intimate and committed relationship,

(c) a relationship does not cease to be an intimate relationship merely because it is no longer sexual in nature,

~~(d) subject to any regulations under subsection (4)(b), a person shall not be a qualified cohabitant if he or she had been living apart from the person in relation to whom a claim is based for more than 2 years before that person's death, and~~

Proposed Amendment 9: In page 8, to delete lines 34 to 37.

Purpose: To remove the exclusions concerning qualified cohabitants who were separated from their deceased partner for more than two years.

(e) a reference to a 'qualified cohabitant' in relation to a person who has been a qualified cohabitant more than once, refers only to the last qualified cohabitant of the person concerned.

(3) In determining whether or not a person is a qualified cohabitant, the Minister shall take into account all the circumstances of the relationship in question and in particular shall have regard to the following:

(a) the duration of the relationship;

(b) the basis on which the couple lived together;

(c) the degree of financial dependence of either adult on the other and any agreements in respect of their finances;

(d) the degree and nature of any financial arrangements between the adults including any joint purchase of an estate or interest in land or joint acquisition of personal property;

(e) whether there are one or more children of the relationship;

(f) any payment under this Act payable to one or both of the adults and the conditions in relation to the payment;

(g) the degree to which the adults present themselves to others as a couple;

(h) whether one of the adults cares for and supports the children of the other.

(4) (a) The Minister may, for the purposes of section 81, this Chapter, Chapter 21 of Part 2 and Chapter 6 of Part 3, by regulations, make provision in relation to the documentary proof, including information or specific documentation to be provided by a person in support of an application, where any of the matters specified in subsection (3) are relied on for a claim based on the person being a qualified cohabitant and, notwithstanding the generality of the foregoing, any such regulations may provide for—

(i) any additional evidence that may be offered by a person to demonstrate the nature, extent and duration of the relationship,

(ii) such other matters as the Minister considers appropriate for the purposes of section 81, this Chapter, Chapter 21 of Part 2 and Chapter 6 of Part 3.

~~(b) The Minister may by regulations specify the circumstances (including residence in a medical institution) in which, and periods during which (including periods longer than 2 years), qualified cohabitants who are in an intimate and committed relationship but are living apart may, for the purpose of subsection (2)(d), be deemed to be periods when they are living together.~~

(5) The question as to whether a person is a qualified cohabitant, there being no legal impediment, in accordance with subsection (2), to such a determination, is a question that may be decided by a deciding officer having taken into account the matters specified in

Proposed Amendment 10: In page 9, to delete lines 32 to 37.

Purpose: To remove the exclusions concerning qualified cohabitants who were separated from their deceased partner for more than two years.

subsection (3), including any information or documentation required in accordance with any regulations made under subsection (4).

(6) In this section, 'child of the relationship' means any child of whom both of the qualified cohabitants are the parents.".

Repeal of section 124 of Principal Act

7. Section 124, insofar as it is still in operation, of the Principal Act is repealed.

Entitlement to bereaved partner's pension

8. The Principal Act is amended by the insertion of the following section:

"124A. (1) Subject to this Act, a bereaved partner shall be entitled to a pension—

(a) where the contribution conditions set out in section 125(1) are satisfied on either the insurance record of the bereaved partner or that of his or her deceased partner,

(b) where the deceased partner was entitled to a State pension (contributory) which included an increase in respect of the bereaved partner by virtue of section 112(1) in respect of a period ending on the deceased partner's death, or

(c) where the deceased partner would have been entitled to a State pension (contributory) at an increased weekly rate by virtue of section 112(1), in the deceased partner's own right, in respect of a period ending on his or her death, but for the receipt by the bereaved partner of a State pension (non-contributory), a blind pension or a carer's allowance.

(2) Subject to sections 241(2) and 242, a bereaved partner whose claim is based on being a surviving qualified cohabitant shall, regardless of the date of death of his or her deceased partner, be entitled to a pension under this section from 22 January 2024 or the date of death of the deceased partner, whichever is the later date.

(3) A bereaved partner shall be disqualified for receiving a pension under this section if and so long as he or she is a cohabitant.

(4) A pension under this section shall cease as and from—

(a) the date of marriage or remarriage of the beneficiary,

(b) the date of entry by the beneficiary into a civil partnership or a new civil partnership, or

(c) the date on which the beneficiary becomes a qualified cohabitant or again becomes a qualified cohabitant.".

Operation of section 124A and repeal of section 124-savers

9. The Principal Act is amended by the insertion of the following section after section 124A:

Proposed Amendment 11: In page 10, after line 35, to insert the following:

"(5) A person who, having ceased to be entitled to a pension by virtue of that person's marriage or remarriage, his or her entry into a civil partnership or a new civil partnership, or his or her becoming a qualified cohabitant or again becoming a qualified cohabitant shall, on again becoming a widow, widower, surviving civil partner, or surviving qualified cohabitant, be entitled to a pension at the rate which would have been payable had the person not married, remarried, entered into a civil partnership or a new civil partnership, become a qualified cohabitant or again become a qualified cohabitant where the person—

(a) fails to satisfy the conditions set out in subsection (1), or

(b) on satisfying the conditions set out in subsection (1), is entitled to a pension at a rate below that which would have been payable had the person not married, or remarried, not entered into a civil partnership or a new civil partnership, or not become a qualified cohabitant or again become a qualified cohabitant."

Purpose: To restore the previous exception which creates an entitlement for remarried people who suffer a second bereavement (with the text slightly amended to reflect the addition of the concept of 'qualified cohabitants' to the legislation).

~~**"124B.** (1) Notwithstanding anything in section 124A, a person who—~~

~~(a) by virtue of being a woman who would otherwise have been a widow but for the fact that her marriage was dissolved, being a dissolution that was recognised as valid in the State—~~

~~(i) was in receipt of a widow's (contributory) pension on the passing of the Act of 2025, or~~

~~(ii) would have been entitled to a widow's (contributory) pension immediately before the passing of the Act of 2025 by virtue of the date of death of her husband preceding such passing,~~

~~(b) by virtue of being a man who would otherwise have been a widower but for the fact that his marriage was dissolved, being a dissolution that was recognised as valid in the State—~~

~~(i) was in receipt of a widower's (contributory) pension on the passing of the Act of 2025, or~~

~~(ii) would have been entitled to a widower's (contributory) pension immediately before the passing of the Act of 2025 by virtue of the date of death of his wife preceding such passing,~~

~~or~~

~~(c) by virtue of being a person who would have been a surviving civil partner but for the fact that his or her civil partnership was dissolved, being a dissolution that was recognised as valid in the State, where he or she—~~

~~(i) was in receipt of a surviving civil partner's (contributory) pension on the passing of the Act of 2025, or~~

~~(ii) would have been entitled to a surviving civil partner's (contributory) pension immediately before the passing of the Act of 2025 by virtue of the date of death of his or her civil partner preceding such passing,~~

~~shall, on the passing of the Act of 2025, having satisfied the conditions in subsection (1) of section 124A, be regarded as being entitled to a bereaved partner's pension.~~

~~(2) Notwithstanding the repeal of section 124 by *section 7* of the *Act of 2025*, a person who immediately before the passing of that Act was entitled to a pension in accordance with subsection (4) of section 124, shall continue to be entitled to a pension as if that section was still in operation.~~

(3) In this section—

'civil partner's (contributory) pension', 'surviving civil partner', 'widow', 'widow's (contributory) pension', 'widower' and 'widower's (contributory) pension' each have the same meaning as they had in this Act before the passing of the Act of 2025.".

Proposed Amendment 7: In page 11, to delete lines 1 to 31.

Purpose: To remove the 'saver clause' from the 2025 that it would no longer be necessary if the 2025 Bill is amended in line with Amendments 1 to 6 i.e. if the entitlement of divorced and separated people is restored.

Proposed Amendment 12: In page 11, to delete lines 32 to 36.

Purpose: To remove the relevant 'saver clause' from (on the basis that it would no longer be necessary in circumstances where Amendment 11 is adopted).