



# Social Security Administration (Northern Ireland) Act 1992

## 1992 CHAPTER 8

### PART I

#### CLAIMS FOR AND PAYMENTS AND GENERAL ADMINISTRATION OF BENEFIT

##### *Necessity of claim*

#### **1 Entitlement to benefit dependent on claim.**

- (1) Except in such cases as may be prescribed, and subject to the following provisions of this section and to section 3 below, no person shall be entitled to any benefit unless, in addition to any other conditions relating to that benefit being satisfied—
  - (a) he makes a claim for it in the manner, and within the time, prescribed in relation to that benefit by regulations under this Part of this Act; or
  - (b) he is treated by virtue of such regulations as making a claim for it.
- (2) Where under subsection (1) above a person is required to make a claim or to be treated as making a claim for a benefit in order to be entitled to it—
  - (a) if the benefit is a widow's payment, she shall not be entitled to it in respect of a death occurring more than 12 months before the date on which the claim is made or treated as made; and
  - (b) if the benefit is any other benefit except disablement benefit or reduced earnings allowance, the person shall not be entitled to it in respect of any period more than 12 months before that date,except as provided by section 3 below.
- (3) Where a person purports to make a claim on behalf of another—
  - (a) for an attendance allowance by virtue of section 66(1) of the Contributions and Benefits Act; or

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- (b) for a disability living allowance by virtue of section 72(5) or 73(12) of that Act,
- that other shall be regarded for the purposes of this section as making the claim, notwithstanding that it is made without his knowledge or authority.
- (4) In this section and section 2 below “benefit” means—
- (a) benefit as defined in section 121 of the Contributions and Benefits Act; and
- (b) any income-related benefit.
- (5) This section (which corresponds to section 154A of the 1975 Act, as it had effect immediately before this Act came into force) applies to claims made on or after 1st October 1990 or treated by virtue of regulations under that section or this section as having been made on or after that date.
- (6) Schedule 1 to this Act shall have effect in relation to other claims.

**Modifications etc. (not altering text)**

- C1** S. 1 applied (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\)](#), ss. [121\(1\)](#), [173\(4\)](#) (with s. [108\(5\)](#))

**2 Retrospective effect of provisions making entitlement to benefit dependent on claim.**

- (1) This section applies where a claim for benefit is made or treated as made at any time on or after 2nd September 1985 (the date on which section 154A of the 1975 Act (general provision as to necessity of claim for entitlement to benefit), as originally enacted, came into force) in respect of a period the whole or any part of which falls on or after that date.
- (2) Where this section applies, any question arising as to—
- (a) whether the claimant is or was at any time (whether before, on or after 2nd September 1985) entitled to the benefit in question, or to any other benefit on which his entitlement to that benefit depends; or
- (b) in a case where the claimant’s entitlement to the benefit depends on the entitlement of another person to a benefit, whether that other person is or was so entitled,
- shall be determined as if the relevant claim enactment and any regulations made under or referred to in that enactment had also been in force, with any necessary modifications, at all times relevant for the purpose of determining the entitlement of the claimant, and, where applicable, of the other person, to the benefit or benefits in question (including the entitlement of any person to any benefit on which that entitlement depends, and so on).
- (3) In this section “the relevant claim enactment” means section 1 above as it has effect in relation to the claim referred to in subsection (1) above.
- (4) In any case where—
- (a) a claim for benefit was made or treated as made (whether before, on or after 2nd September 1985, and whether by the same claimant as the claim referred to in subsection (1) above or not), and benefit was awarded on that claim, in respect of a period falling wholly or partly before that date; but

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- (b) that award would not have been made had the current requirements applied in relation to claims for benefit, whenever made, in respect of periods before that date; and
- (c) entitlement to the benefit claimed as mentioned in subsection (1) above depends on whether the claimant or some other person was previously entitled or treated as entitled to that or some other benefit,

then, in determining whether the conditions of entitlement to the benefit so claimed are satisfied, the person to whom benefit was awarded as mentioned in paragraphs (a) and (b) above shall be taken to have been entitled to the benefit so awarded, notwithstanding anything in subsection (2) above.

- (5) In subsection (4) above “the current requirements” means—
  - (a) the relevant claim enactment, and any regulations made under or referred to in that enactment, or referred to in it, as in force at the time of the claim referred to in subsection (1) above, with any necessary modifications; and
  - (b) subsection (1) (with the omission of the words following “at any time”) and subsections (2) and (3) above.

**Modifications etc. (not altering text)**

- C2 S. 2 applied (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\)](#), [ss. 121\(1\)\(c\), 173\(4\)](#) (with [s. 108\(5\)](#))

VALID FROM 01/12/1999

*[<sup>F1</sup>Work-focused interviews]*

**Textual Amendments**

- F1 [Ss. 2A, 2B](#) and preceding cross-heading inserted (1.12.1999) by [S.I. 1999/3147 \(N.I. 11\)](#), [arts. 1\(4\), 54](#)

**[<sup>F2</sup>2A Claim or full entitlement to certain benefits conditional on work-focused interview.**

- (1) Regulations may make provision for or in connection with—
  - (a) imposing, as a condition falling to be satisfied by a person who—
    - (i) makes a claim for a benefit to which this section applies, and
    - (ii) is under the age of 60 at the time of making the claim,a requirement to take part in a work-focused interview;
  - (b) imposing, at a time when—
    - (i) a person is under that age and entitled to such a benefit, and
    - (ii) any prescribed circumstances exist,a requirement to take part in such an interview as a condition of that person continuing to be entitled to the full amount which is payable to him in respect of the benefit apart from the regulations.
- (2) The benefits to which this section applies are—

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- (a) income support;
  - (b) housing benefit;
  - (c) widow's and bereavement benefits falling within section 20(1)(e) and (ea) of the Contributions and Benefits Act (other than a bereavement payment);
  - (d) incapacity benefit;
  - (e) severe disablement allowance; and
  - (f) invalid care allowance.
- (3) Regulations under this section may, in particular, make provision—
- (a) for securing, where a person would otherwise be required to take part in interviews relating to two or more benefits—
    - (i) that he is only required to take part in one interview, and
    - (ii) that any such interview is capable of counting for the purposes of all those benefits;
  - (b) for determining the persons by whom interviews are to be conducted;
  - (c) conferring power on such persons or the designated authority to determine when and where interviews are to take place (including power in prescribed circumstances to determine that they are to take place in the homes of those being interviewed);
  - (d) prescribing the circumstances in which persons attending interviews are to be regarded as having or not having taken part in them;
  - (e) for securing that the appropriate consequences mentioned in subsection (4) (a) or (b) below ensue if a person who has been notified that he is required to take part in an interview—
    - (i) fails to take part in the interview, and
    - (ii) does not show, within the prescribed period, that he had good cause for that failure;
  - (f) prescribing—
    - (i) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any failure to comply with the regulations, or
    - (ii) circumstances in which a person is or is not to be regarded as having or not having good cause for any such failure.
- (4) For the purposes of subsection (3)(e) above the appropriate consequences of a failure falling within that provision are—
- (a) where the requirement to take part in an interview applied by virtue of subsection (1)(a) above, that as regards any relevant benefit either—
    - (i) the person in question is to be regarded as not having made a claim for the benefit, or
    - (ii) if (in the case of an interview postponed in accordance with subsection (7) below) that person has already been awarded the benefit, his entitlement to the benefit is to terminate immediately;
  - (b) where the requirement to take part in an interview applied by virtue of subsection (1)(b) above, that the amount payable to the person in question in respect of any relevant benefit is to be reduced by the specified amount until the specified time.
- (5) Regulations under this section may, in relation to any such reduction, provide—

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- (a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed;
  - (b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent;
  - (c) where the person in question is entitled to two or more relevant benefits, for determining the extent, and the order, in which those benefits are to be reduced in order to give effect to the reduction required in his case.
- (6) Regulations under this section may provide that any requirement to take part in an interview that would otherwise apply to a person by virtue of such regulations—
- (a) is, in any prescribed circumstances, either not to apply or not to apply until such time as is specified;
  - (b) is not to apply if the designated authority determines that an interview—
    - (i) would not be of assistance to that person, or
    - (ii) would not be appropriate in the circumstances;
  - (c) is not to apply until such time as the designated authority determines, if that authority determines that an interview—
    - (i) would not be of assistance to that person, or
    - (ii) would not be appropriate in the circumstances,until that time;

and the regulations may make provision for treating a person in relation to whom any such requirement does not apply, or does not apply until a particular time, as having complied with that requirement to such extent and for such purposes as are specified.

- (7) Where—
- (a) a person is required to take part in an interview by virtue of subsection (1)(a) above, and
  - (b) the interview is postponed by or under regulations made in pursuance of subsection (6)(a) or (c) above,

the time to which it is so postponed may be a time falling after an award of the relevant benefit to that person.

- (8) In this section—
- “the designated authority” means such of the following as may be specified—
- (a) a Northern Ireland department;
  - (b) a person providing services to a Northern Ireland department;
  - (c) any other body established by or under a statutory provision;
  - (d) a person providing services to, or authorised to exercise any function of, any such body;

“interview” (in subsections (3) to (7) above) means a work-focused interview;

“relevant benefit”, in relation to any person required to take part in a work-focused interview, means any benefit in respect to which that requirement applied by virtue of subsection (1)(a) or (b) above;

“specified” means prescribed by or determined in accordance with regulations;

“work-focused interview”, in relation to a person, means an interview conducted for such purposes connected with employment or training in the case of that person as may be specified;

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and the purposes which may be so specified include purposes connected with a person's existing or future employment or training prospects or needs, and (in particular) assisting or encouraging a person to enhance his employment prospects.]

#### Textual Amendments

**F2** Ss. 2A, 2B and preceding cross-heading inserted (1.12.1999) by S.I. 1999/3147 (N.I. 11), arts. 1(4), 54

### [<sup>F3</sup>2AA Full entitlement to certain benefits conditional on work-focused interview for partner

- (1) Regulations may make provision for or in connection with imposing, at a time when—
- (a) a person (“the claimant”) who—
    - (i) is under the age of 60, and
    - (ii) has a partner who is also under that age, is entitled to a benefit to which this section applies at a higher rate referable to his partner; and
  - (b) prescribed circumstances exist,
- a requirement for the partner to take part in a work-focused interview as a condition of the benefit continuing to be payable to the claimant at that rate.
- (2) The benefits to which this section applies are—
- (a) income support;
  - (b) an income-based jobseeker's allowance other than a joint-claim jobseeker's allowance;
  - (c) incapacity benefit;
  - (d) severe disablement allowance; and
  - (e) invalid care allowance.
- (3) For the purposes of this section a benefit is payable to a person at a higher rate referable to his partner if the amount that is payable in his case—
- (a) is more than it would be if the person concerned was not a member of a couple; or
  - (b) includes an increase of benefit for his partner as an adult dependant of his.
- (4) Regulations under this section may, in particular, make provision—
- (a) for securing, where the partner of the claimant would otherwise be required to take part in work-focused interviews relating to two or more benefits—
    - (i) that the partner is required instead to take part in only one such interview, and
    - (ii) that the interview is capable of counting for the purposes of all those benefits;
  - (b) in a case where the claimant has more than one partner, for determining which of those partners is required to take part in the work-focused interview or requiring each of them to take part in such an interview;
  - (c) for determining the persons by whom work-focused interviews are to be conducted;

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- (d) conferring power on such persons or the designated authority to determine when and where work-focused interviews are to take place (including power in prescribed circumstances to determine that they are to take place in the homes of those being interviewed);
  - (e) prescribing the circumstances in which partners attending work-focused interviews are to be regarded as having or not having taken part in them;
  - (f) for securing that if—
    - (i) a partner who has been notified of a requirement to take part in a work-focused interview fails to take part in it, and
    - (ii) it is not shown (by him or by the claimant), within the prescribed period, that he had good cause for that failure,the amount payable to the claimant in respect of the benefit in relation to which the requirement applied is to be reduced by the specified amount until the specified time;
  - (g) prescribing—
    - (i) matters which are or are not to be taken into account in determining whether a partner does or does not have good cause for any failure to comply with the regulations, or
    - (ii) circumstances in which a partner is or is not to be regarded as having or not having good cause for any such failure.
- (5) Regulations under this section may, in relation to a reduction under subsection (4) (f) above, provide—
- (a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed;
  - (b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent;
  - (c) where the claimant is entitled to two or more benefits in relation to each of which a requirement to take part in a work-focused interview applied, for determining the extent to, and the order in, which those benefits are to be reduced in order to give effect to the reduction required in his case.
- (6) Regulations under this section may provide that any requirement to take part in a work-focused interview that would otherwise apply to a partner by virtue of such regulations—
- (a) is, in any prescribed circumstances, either not to apply or not to apply until the specified time;
  - (b) is not to apply if the designated authority determines that such an interview would not be of assistance to him or appropriate in the circumstances;
  - (c) is not to apply until such time as the designated authority determines (if that authority determines that such an interview would not be of assistance to him or appropriate in the circumstances until that time),
- and the regulations may make provision for treating a partner to whom any such requirement does not apply, or does not apply until a particular time, as having complied with that requirement to such extent and for such purposes as are specified.
- (7) In this section—
- “couple” means a married or unmarried couple (within the meaning of Part VII of the Contributions and Benefits Act);
  - “designated authority” means such of the following as may be specified—

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- (a) a Northern Ireland department;
- (b) a person providing services to a Northern Ireland department;
- (c) any other body established by or under a statutory provision;
- (d) a person providing services to, or authorised to exercise any function of, any such body;

“partner” means a person who is a member of the same couple as the claimant;

“specified” means prescribed by or determined in accordance with regulations;

“work-focused interview” has the same meaning as in section 2A above.]

#### **Textual Amendments**

**F3** S. 2AA inserted (prosp.) by [Social Security Act \(Northern Ireland\) 2002 \(c. 10\)](#), **ss. 5, 9**

#### **[<sup>F4</sup>2B Supplementary provisions relating to work-focused interviews.**

- (1) Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 (social security decisions and appeals) shall have effect in relation to relevant decisions subject to and in accordance with subsections (3) to (8) below (and in those subsections “the 1998 Order” means that Order).
- (2) For the purposes of this section a “relevant decision” is a decision made under regulations under section 2A above that a person—
  - (a) has failed to comply with a requirement to take part in an interview which applied to him by virtue of the regulations, or
  - (b) has not shown, within the prescribed period mentioned in section 2A(3)(e)(ii) above, that he had good cause for such a failure.
- (3) Article 9(1)(c) of the 1998 Order (decisions falling to be made under certain statutory provisions are to be made by the Department) shall have effect subject to any provisions of regulations under section 2A above by virtue of which relevant decisions fall to be made otherwise than by the Department.
- (4) For the purposes of each of Articles 10 and 11 of the 1998 Order (revision and supersession of decisions of Department) any relevant decision made otherwise than by the Department shall be treated as if it were such a decision made by the Department (and accordingly may be revised by it under Article 10 or superseded by a decision made by it under Article 11).
- (5) Subject to any provisions of regulations under either Article 10 or 11 of the 1998 Order, any relevant decision made, or (by virtue of subsection (4) above) treated as made, by the Department may be—
  - (a) revised under Article 10 by a person or authority exercising functions under regulations under section 2A above other than the Department, or
  - (b) superseded under Article 11 by a decision made by such a person or authority,
 as if that person or authority were the Department.



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- (6) Regulations shall make provision for conferring (except in any prescribed circumstances) a right of appeal under Article 13 of the 1998 Order (appeal to appeal tribunal) against—
- (a) any relevant decision, and
  - (b) any decision under Article 11 of that Order superseding any such decision, whether made by the Department or otherwise.
- (7) Subsections (4) to (6) above apply whether—
- (a) the relevant decision, or
  - (b) (in the case of subsection (6)(b)) the decision under Article 11 of the 1998 Order,
- is as originally made or has been revised (by the Department or otherwise) under Article 10 of that Order; and regulations under subsection (6) above may make provision for treating, for the purposes of Article 13 of that Order, any decision made or revised otherwise than by the Department as if it were a decision made or revised by it.
- (8) Article 13 of the 1998 Order shall not apply to any decision falling within subsection (6) above except in accordance with regulations under that subsection.
- (9) In the following provisions, namely—
- (a) section 3(1) of the Social Security Act 1998 (use of information), and
  - (b) Article 69(6) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (supply of information),
- any reference to information relating to social security includes any information supplied by a person for the purposes of an interview which he is required to take part in by virtue of section 2A above.
- (10) In this section “interview” means a work-focused interview within the meaning of section 2A above.]

#### Textual Amendments

- F4** Ss. 2A, 2B and preceding cross-heading inserted (1.12.1999) by S.I. 1999/3147 (N.I. 11), arts. 1(4), 54

#### [<sup>F5</sup>2C Optional work-focused interviews.

- (1) Regulations may make provision for conferring on the prescribed authorities functions in connection with conducting work-focused interviews in cases where such interviews are requested or consented to by persons to whom this section applies.
- (2) This section applies to persons making claims for or entitled to—
- (a) any of the benefits listed in section 2A(2) above, or
  - (b) any prescribed benefit;
- and it so applies regardless of whether such persons have, in accordance with regulations under section 2A above, already taken part in interviews conducted under such regulations.

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- (3) The functions which may be conferred on the prescribed authorities by regulations under this section include functions relating to—
- (a) the obtaining and receiving of information for the purposes of work-focused interviews conducted under the regulations;
  - (b) the recording and forwarding of information supplied at, or for the purposes of, such interviews;
  - (c) the taking of steps to identify potential employment or training opportunities for persons taking part in such interviews.
- (4) Regulations under this section may make different provision for different areas.
- (5) In this section—
- “authorities” means a Northern Ireland department and any other body established by or under a statutory provision;
- “work-focused interview”, in relation to a person to whom this section applies, means an interview conducted for such purposes connected with employment or training in the case of such a person as may be prescribed; and the purposes which may be so prescribed include—
- (a) purposes connected with the existing or future employment or training prospects or needs of such a person, and
  - (b) (in particular) assisting or encouraging such a person to enhance his employment prospects.]

#### Textual Amendments

**F5** S. 2C inserted (1.12.1999) by S.I. 1999/3147 (N.I. 11), arts. 1(4), 55

### *Widowhood benefit*

#### **3 Late claims for widowhood benefit where death is difficult to establish.**

- (1) This section applies where a woman’s husband has died, or may be presumed to have died, and the circumstances are such that—
- (a) more than 12 months have elapsed since the date of death (whether he died, or is presumed to have died, before or after the coming into force of this section);
  - (b) either—
    - (i) the husband’s body has not been discovered or identified or, if it has been discovered and identified, the woman does not know that fact; or
    - (ii) less than 12 months have elapsed since she first knew of the discovery and identification of the body; and
  - (c) no claim for any of the widowhood benefits, that is to say—
    - (i) widow’s benefit,
    - (ii) an invalidity pension under Article 17 of the Pensions Order, or
    - (iii) a Category A retirement pension by virtue of paragraph (5) of that Article,

was made or treated as made in respect of the death by the <sup>M1</sup>woman before 14th August 1990 (the date of the coming into operation of Article 8 of the

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Social Security (Northern Ireland) Order 1990, which inserted in the 1975 Act section 154C, the provision of that Act corresponding to this section).

(2) Where this section applies, notwithstanding that any time prescribed for making a claim for a widowhood benefit in respect of the death has elapsed, then—

(a) in any case falling within paragraph (b)(i) of subsection (1) above where it has been determined—

(i) under subsection (1)(b) of section 18 below on a claim made by the woman; or

(ii) under subsection (4) of that section on the submission of a question by her,

that the husband has died or is presumed to have died; or

(b) in any case falling within paragraph (b)(ii) of subsection (1) above where the identification was made not more than 12 months before the woman first knew of the discovery and identification of the body,

such a claim may be made or treated as made at any time before the expiration of the period of 12 months beginning with the date on which that determination was made or, as the case may be, the date on which she first knew of the discovery and identification.

(3) If, in a case where a claim for a widowhood benefit is made or treated as made by virtue of this section, the claimant would, apart from subsection (2) of section 1 above, be entitled to—

(a) a widow's payment in respect of the husband's death more than 12 months before the date on which the claim is made or treated as made; or

(b) any other widowhood benefit in respect of his death for a period more than 12 months before that date,

then, notwithstanding anything in that section, she shall be entitled to that payment or, as the case may be, to that other benefit (together with any increase under section 80(5) of the Contributions and Benefits Act).

**Modifications etc. (not altering text)**

**C3** S. 3 applied (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\)](#), [ss. 121\(1\)\(c\), 173\(4\)](#) (with [s. 108\(5\)](#))

**Marginal Citations**

**M1** [S.I. 1990/1511 \(N.I. 15\)](#).

#### 4 Treatment of payments of benefit to certain widows.

In any case where—

(a) a claim for a widow's pension or a widowed mother's allowance is made, or treated as made, before 14th August 1990 (the date of the coming into operation of paragraph 16(2) of Schedule 6 to the <sup>M2</sup>Social Security (Northern Ireland) Order 1990); and

(b) the Department has made a payment to or for the claimant on the ground that, if the claim had been received immediately after that date, she would have been entitled to that pension or allowance, or entitled to it at a higher rate, for the period in respect of which the payment is made,

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the payment so made shall be treated as a payment of that pension or allowance; and, if and to the extent that an award of the pension or allowance, or an award at a higher rate, is made for the period in respect of which the payment was made, the payment shall be treated as made in accordance with that award.

**Marginal Citations**

M2 [S.I. 1990/1511 \(N.I. 15\)](#).

*Claims and payments regulations*

**[<sup>F6</sup>5] Regulations about claims for and payments of benefit.**

(1) Regulations may provide—

- (a) for requiring a claim for a benefit to which this section applies to be made by such person, in such manner and within such time as may be prescribed;
- (b) for treating such a claim made in such circumstances as may be prescribed as having been made at such date earlier or later than that at which it is made as may be prescribed;
- (c) for permitting such a claim to be made, or treated as if made, for a period wholly or partly after the date on which it is made;
- (d) for permitting an award on such a claim to be made for such a period subject to the condition that the claimant satisfies the requirements for entitlement when benefit becomes payable under the award;
- (e) for a review of any such award if those requirements are found not to have been satisfied;
- (f) for the disallowance on any ground of a person's claim for a benefit to which this section applies to be treated as a disallowance of any further claim by that person for that benefit until the grounds of the original disallowance have ceased to exist;
- (g) for enabling one person to act for another in relation to a claim for a benefit to which this section applies and for enabling such a claim to be made and proceeded with in the name of a person who has died;
- (h) for requiring any information or evidence needed for the determination of such a claim or of any question arising in connection with such a claim to be furnished by such person as may be prescribed in accordance with the regulations;
- (i) for a claim for any one benefit to which this section applies to be treated, either in the alternative or in addition, as a claim for any other such benefit that may be prescribed;
- (j) for the person to whom, time when and manner in which a benefit to which this section applies is to be paid and for the information and evidence to be furnished in connection with the payment of such a benefit;
- (k) for notice to be given of any change of circumstances affecting the continuance of entitlement to such a benefit or payment of such a benefit;
- (l) for the day on which entitlement to such a benefit is to begin or end;
- (m) for calculating the amounts of such a benefit according to a prescribed scale or otherwise adjusting them so as to avoid fractional amounts or facilitate computation;

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- (n) for extinguishing the right to payment of such a benefit if payment is not obtained within such period, not being less than 12 months, as may be prescribed from the date on which the right is treated under the regulations as having arisen;
  - (o) for suspending payment, in whole or in part, where it appears to the Department that a question arises whether—
    - (i) the conditions for entitlement are or were fulfilled;
    - (ii) an award ought to be revised;
    - (iii) an appeal ought to be brought against an award;
  - (p) for withholding payments of a benefit to which this section applies in prescribed circumstances and for subsequently making withheld payments in prescribed circumstances;
  - (q) for the circumstances and manner in which payments of such a benefit may be made to another person on behalf of the beneficiary for any purpose, which may be to discharge, in whole or in part, an obligation of the beneficiary or any other person;
  - (r) for the payment or distribution of such a benefit to or among persons claiming to be entitled on the death of any person and for dispensing with strict proof of their title;
  - (s) for the making of a payment on account of such a benefit—
    - (i) where no claim has been made and it is impracticable for one to be made immediately;
    - (ii) where a claim has been made and it is impracticable for the claim or an appeal, reference, review or application relating to it to be immediately determined;
    - (iii) where an award has been made but it is impracticable to pay the whole immediately.
- [<sup>F7</sup>(t) for treating any payment on account made by virtue of paragraph (s) above as made on account of any benefit to which this section applies that is subsequently awarded or paid.]
- (2) This section applies to the following benefits—
- (a) benefit as defined in section 121 of the Contributions and Benefits Act;
  - (b) income support;
  - (c) family credit;
  - (d) disability working allowance;
  - (e) housing benefit;
  - (f) any social fund payments such as are mentioned in section 134(1)(a) or (2) of the Contributions and Benefits Act;
  - (g) child benefit; and
  - (h) Christmas bonus.
- (3) Subsection (1)(o) above shall have effect in relation to housing benefit as if the reference to the Department were a reference to the authority paying the benefit.
- (4) Subsection (1)(g), (j), (m), (q) and (r) above shall have effect as if statutory sick pay and statutory maternity pay were benefits to which this section applies.]
- [<sup>F8</sup>(5) As it has effect in relation to housing benefit subsection (1)(q) above authorises provision requiring the making of payments of benefit to another person, on behalf of the beneficiary, in such circumstances as may be prescribed.]

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### Textual Amendments

- F6** S. 5(4A) inserted (8.12.2002) by [The Employment \(Northern Ireland\) Order 2002 \(S.I. 2002/2836\)](#), arts. 1(2)(3), 17(1), [Sch. 2 para. 2\(1\)](#) (with art. 16); S.R. 2002/356, [art. 2\(2\)](#), Sch. 1 Pt. II
- F7** S. 5(1)(t) added (*retrospectively*) by S.I. 1993/1579 (N.I. 8), [art. 3\(1\)\(4\)](#)
- F8** S. 5(5) inserted (*retrospectively*) by S.I. 1995/2597 (N.I. 20), [art. 3\(1\)\(2\)](#)

VALID FROM 01/12/1999

### *[<sup>F9</sup> Sharing of functions as regards certain claims and information]*

### Textual Amendments

- F9** S. 5A and preceding cross-heading inserted (1.12.1999) by S.I. 1999/3147 (N.I. 11), [arts. 1\(4\)](#), 68

### **[<sup>F10</sup>5A Sharing of functions as regards certain claims and information.**

- (1) Regulations may, for the purpose of supplementing the persons or bodies to whom claims for relevant benefits may be made, make provision as regards any relevant benefit, for claims for that benefit to be made to any relevant authority (if such claims could not otherwise be made to that authority).
- (2) Regulations may make provision for or in connection with—
  - (a) the forwarding by a relevant authority of—
    - (i) claims received by virtue of any provision authorised by subsection (1) above, and
    - (ii) information or evidence supplied in connection with making such claims (whether supplied by persons making the claims or by other persons);
  - (b) the receiving and forwarding by a relevant authority of information or evidence relating to social security matters supplied by, or the obtaining by a relevant authority of such information or evidence from—
    - (i) persons making, or who have made, claims for a relevant benefit, or
    - (ii) other persons in connection with such claims,
 including information or evidence not relating to the claims or benefit in question;
  - (c) the recording by a relevant authority of information or evidence relating to social security matters supplied to, or obtained by, the authority and the holding by the authority of such information or evidence (whether as supplied or obtained or as recorded);
  - (d) the giving of information or advice with respect to social security matters by a relevant authority to persons making, or who have made, claims for a relevant benefit.
- (3) In paragraphs (b) and (d) of subsection (2) above—
  - (a) references to claims for a relevant benefit are to such claims whether made as mentioned in subsection (1) above or not; and

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- (b) references to persons who have made such claims include persons to whom awards of benefit have been made on the claims.
- (4) Regulations under this section may make different provision for different areas.
- (5) Regulations under any other statutory provision may make such different provision for different areas as appears to the Department expedient in connection with any exercise by regulations under this section of the power conferred by subsection (4) above.
- (6) In this section—
  - (a) “benefit” includes child support (any reference to a claim being read, in relation to child support, as a reference to an application under the Child Support (Northern Ireland) Order 1991 for a maintenance assessment);
  - (b) “relevant authority” means—
    - (i) a Northern Ireland department,
    - (ii) a person providing services to a Northern Ireland department,
    - (iii) any other body established by or under a statutory provision, or
    - (iv) a person providing services to, or authorised to exercise any function of, such a body;
  - (c) “relevant benefit” means housing benefit or any other benefit prescribed for the purposes of this section;
  - (d) “social security matters” means matters relating to social security, child support or war pensions and in this paragraph “war pension” means a war pension within the meaning of section 25 of the Social Security Act 1989 (establishment and functions of war pensions committees).]

#### Textual Amendments

**F10** S. 5A and preceding cross-heading inserted (1.12.1999) by S.I. 1999/3147 (N.I. 11), arts. 1(4), 68

### *Industrial injuries benefit*

## 6 Notification of accidents, etc.

Regulations may provide—

- (a) for requiring the prescribed notice of an accident in respect of which industrial injuries benefit may be payable to be given within the prescribed time by the employed earner to the earner’s employer or other prescribed person;
- (b) for requiring employers—
  - (i) to make reports, to such person and in such form and within such time as may be prescribed, of accidents in respect of which industrial injuries benefit may be payable;
  - (ii) to furnish to the prescribed person any information required for the determination of claims, or of questions arising in connection with claims or awards;
  - (iii) to take such other steps as may be prescribed to facilitate the giving notice of accidents, the making of claims and the determination of claims and of questions so arising.

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## **7 Medical examination and treatment of claimants.**

- (1) Regulations may provide for requiring claimants for disablement pension—
  - (a) to submit themselves from time to time to medical examination for the purpose of determining the effect of the relevant accident, or the treatment appropriate to the relevant injury or loss of faculty;
  - (b) to submit themselves from time to time to appropriate medical treatment for the injury or loss of faculty.
- (2) Regulations under subsection (1) above requiring persons to submit themselves to medical examination or treatment may—
  - (a) require those persons to attend at such places and at such times as may be required; and
  - (b) with the consent of the Department of Finance and Personnel provide for the payment by the Department to those persons of travelling and other allowances (including compensation for loss of remunerative time).

## **8 Obligations of claimants.**

- (1) Subject to subsection (3) below, regulations may provide for disqualifying a claimant for the receipt of industrial injuries benefit—
  - (a) for failure without good cause to comply with any requirement of regulations to which this subsection applies (including in the case of a claim for industrial death benefit, a failure on the part of some other person to give the prescribed notice of the relevant accident);
  - (b) for wilful obstruction of, or other misconduct in connection with, any examination or treatment to which he is required under regulations to which this subsection applies to submit himself, or in proceedings under this Act for the determination of his right to benefit or to its receipt,

or for suspending proceedings on the claim or payment of benefit as the case may be, in the case of any such failure, obstruction or misconduct.
- (2) The regulations to which subsection (1) above applies are—
  - (a) any regulations made by virtue of section 5(1)(h), (j) or (k) above, so far as relating to industrial injuries benefit; and
  - (b) regulations made by virtue of section 6 or 7 above.
- (3) Regulations under subsection (1) above providing for disqualification for the receipt of benefit for any of the following matters, that is to say—
  - (a) for failure to comply with the requirements of regulations under section 7(1) or (2) above;
  - (b) for obstruction of, or misconduct in connection with, medical examination or treatment,

shall not be made so as to disentitle a claimant to benefit for a period exceeding 6 weeks on any disqualification.

### *Disability working allowance*

## **9 Initial claims and repeat claims.**

- (1) In this section—



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“initial claim” means a claim for a disability working allowance made by a person—

- (a) to whom it has not previously been payable; or
- (b) to whom it has not been payable during the period of 2 years immediately preceding the date on which the claim is made or is treated as made; and

“repeat claim” means any other claim for a disability working allowance.

- (2) On an initial claim a declaration by the claimant that he has a physical or mental disability which puts him at a disadvantage in getting a job is conclusive, except in such circumstances as may be prescribed, that for the purposes of section 128(1)(b) of the Contributions and Benefits Act he has such a disability (in accordance with regulations under section 128(3) of that Act).

- (3) If—

- (a) a repeat claim is made or treated as made not later than the end of the period of 8 weeks commencing with the last day of the claimant’s previous award; and
- (b) on the claim which resulted in that award he qualified under section 128(2) of the Contributions and Benefits Act by virtue—
  - (i) of paragraph (a) of that subsection; or
  - (ii) of there being payable to him a benefit under an enactment having effect in Great Britain and corresponding to a benefit mentioned in that paragraph,

he shall be treated on the repeat claim as if he still so qualified.

#### *The social fund*

### **10 Necessity of application for certain payments.**

- (1) A social fund payment such as is mentioned in section 134(1)(b) of the Contributions and Benefits Act may be awarded to a person only if an application for such a payment has been made by him or on his behalf in such form and manner as may be prescribed.
- (2) The Department may by regulations—
  - (a) make provision with respect to the time at which an application for such a social fund payment is to be treated as made;
  - (b) prescribe conditions that must be satisfied before any determination in connection with such an application may be made or any award of such a payment may be paid;
  - (c) prescribe circumstances in which such an award becomes extinguished.

#### *Child benefit*

### **11 Necessity of application for child benefit.**

- (1) Subject to the provisions of this Act, no person shall be entitled to child benefit unless he claims it in the manner, and within the time, prescribed in relation to child benefit by regulations under section 5 above.
- (2) Except where regulations otherwise provide, no person shall be entitled to child benefit for any week on a claim made by him after that week if child benefit in respect of the

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same child has already been paid for that week to another person, whether or not that other person was entitled to it.

### *Statutory sick pay*

## **12 Duties of employees etc. in relation to statutory sick pay.**

- (1) Any employee who claims to be entitled to statutory sick pay from his employer shall, if so required by his employer, provide such information as may reasonably be required for the purpose of determining the duration of the period of entitlement in question or whether a period of entitlement exists as between them.
- (2) The Department may by regulations direct—
  - (a) that medical information required under subsection (1) above shall, in such cases as may be prescribed, be provided in a prescribed form;
  - (b) that an employee shall not be required under subsection (1) above to provide medical information in respect of such days as may be prescribed in a period of incapacity for work.
- (3) Where an employee asks an employer of his to provide him with a written statement, in respect of a period before the request is made, of one or more of the following—
  - (a) the days within that period which the employer regards as days in respect of which he is liable to pay statutory sick pay to that employee;
  - (b) the reasons why the employer does not so regard the other days in that period;
  - (c) the employer's opinion as to the amount of statutory sick pay to which the employee is entitled in respect of each of those days,
 the employer shall, to the extent to which the request was reasonable, comply with it within a reasonable time.

### *Statutory maternity pay*

## **13 Duties of women etc. in relation to statutory maternity pay.**

- (1) A woman shall provide the person who is liable to pay her statutory maternity pay—
  - (a) with evidence as to her pregnancy and the expected date of confinement in such form and at such time as may be prescribed; and
  - (b) where she commences work after her confinement but within the maternity pay period, with such additional information as may be prescribed.
- (2) Where a woman asks an employer or former employer of hers to provide her with a written statement, in respect of a period before the request is made, of one or more of the following—
  - (a) the weeks within that period which he regards as weeks in respect of which he is liable to pay statutory maternity pay to the woman;
  - (b) the reasons why he does not so regard the other weeks in that period; and
  - (c) his opinion as to the amount of statutory maternity pay to which the woman is entitled in respect of each of the weeks in respect of which he regards himself as liable to make a payment,
 the employer or former employer shall, to the extent to which the request was reasonable, comply with it within a reasonable time.

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*[<sup>F11</sup> Payments in respect of mortgage interest, etc.]*

**Textual Amendments**

**F11** S. 13A and cross-heading inserted (retrospective to 1.7.1992) by S.I. 1992/1309 (N.I. 9), art. 3(2), Sch. para. 1

**<sup>F12</sup>13A Payment out of benefit of sums in respect of mortgage interest, etc.**

- (1) This section applies in relation to cases where—
- (a) mortgage interest is payable to a qualifying lender by a person (“the borrower”) who is entitled, or whose partner, former partner or qualifying associate is entitled, to income support; and
  - (b) a sum in respect of that mortgage interest is or was brought into account in determining the applicable amount for the purposes of income support in the case of the borrower or the partner, former partner or qualifying associate;
- and any reference in this section to “the relevant beneficiary” is a reference to the person whose applicable amount for the purposes of income support is or was determined as mentioned in paragraph (b) above.
- (2) Without prejudice to paragraphs (j) and (q) of section 5(1) above, regulations may, in relation to cases where this section applies, make provision—
- (a) requiring that, in prescribed circumstances, a prescribed part of any relevant benefits to which the relevant beneficiary is entitled shall be paid by the Department directly to the qualifying lender and applied by that lender towards the discharge of the liability in respect of the mortgage interest;
  - (b) for the expenses of the Department in administering the making of payments under the regulations to be defrayed, in whole or in part, at the expense of qualifying lenders, whether by requiring them to pay prescribed fees or by deducting and retaining a prescribed part of the payments that would otherwise be made to them under the regulations or by such other method as may be prescribed;
  - (c) for requiring a qualifying lender, in a case where by virtue of paragraph (b) above the amount of the payment made to him under the regulations is less than it would otherwise have been, to credit against the liability in respect of the mortgage interest (in addition to the payment actually made) an amount equal to the difference between—
    - (i) the payment that would have been so made, apart from paragraph (b) above; and
    - (ii) the payment actually made;
- and, in any such case, for treating the amount so credited as properly paid on account of benefit due to the relevant beneficiary;
- (d) for enabling a body which, or person who, would otherwise be a qualifying lender to elect not to be regarded as such for the purposes of this section, other than this paragraph;
  - (e) for the recovery from any body or person—
    - (i) of any sums paid to that body or person by way of payment under the regulations that ought not to have been so paid; or
    - (ii) of any fees or other sums due from that body or person by virtue of paragraph (b) above;

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- (f) for cases where the same person is the borrower in relation to mortgage interest payable in respect of two or more different loans; and
- (g) for any person of a prescribed class or description who would otherwise be regarded for the purposes of this section as the borrower in relation to any mortgage interest not to be so regarded, except for the purposes of this paragraph;

but the Department shall not make any regulations under paragraph (b) above unless it has consulted with such organisations representing qualifying lenders likely to be affected by the regulations as it considers appropriate.

(3) The bodies and persons who are “qualifying lenders” for the purposes of this section are—

- (a) any authorised institution, within the meaning of the Banking Act 1987<sup>F13</sup>, to which section 67 of that Act applies (companies and partnerships which may describe themselves as banks, etc.);
- (b) any building society incorporated under the Building Societies Act 1986<sup>F14</sup>;
- (c) any body or person carrying on insurance business, within the meaning of the Insurance Companies Act 1982<sup>F15</sup>;
- (d) any district council;
- (e) the Housing Executive;

and such bodies or persons not falling within paragraphs (a) to (e) above as may be prescribed.

(4) In this section—

“mortgage interest” means interest on a loan which is secured by a mortgage of or charge over land and which has been taken out to defray money applied for any of the following purposes, that is to say—

- (a) acquiring any residential land which was intended, at the time of the acquisition, for occupation by the borrower as his home;
- (b) carrying out repairs or improvements to any residential land which was intended, at the time of taking out the loan, for occupation by the borrower as his home;
- (c) paying off another loan; or
- (d) any prescribed purpose not falling within paragraphs (a) to (c) above;

but interest shall be regarded as mortgage interest by virtue of paragraph (c) above only to the extent that interest on that other loan would have been regarded as mortgage interest for the purposes of this section had the loan not been paid off;

“partner” means—

- (a) any person to whom the borrower is married and who is a member of the same household as the borrower; or
- (b) any person to whom the borrower is not married but who lives together with the borrower as husband and wife, otherwise than in prescribed circumstances;

and “former partner” means a person who has at some time been, but no longer is, the borrower’s partner;

“qualifying associate”, in relation to the borrower, means a person who, for the purposes of income support, falls to be treated by regulations under Part VII of the Contributions and Benefits Act as responsible for so much of the expenditure which relates to housing costs (within the meaning of those regulations) as consists

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of any of the mortgage interest payable by the borrower, and who falls to be so treated because—

- (a) the borrower is not meeting those costs, so that the person has to meet them if he is to continue to live in the dwelling occupied as his home; and
- (b) the person is one whom it is reasonable, in the circumstances, to treat as liable to meet those costs;

“relevant benefits” means such of the following benefits as may be prescribed, namely—

- (a) benefits, as defined in section 121 of the Contributions and Benefits Act;
- (b) income support;

“residential land” means any land which consists of or includes a dwelling.

(5) For the purposes of this section, regulations may make provision—

- (a) as to circumstances in which residential land is or is not to be treated as intended for occupation by the borrower as his home; or
- (b) as to circumstances in which persons are to be treated as being or not being members of the same household.

#### Textual Amendments

**F12** S. 13A inserted (retrospective to 1.7.1992) by S.I. 1992/1309 (N.I. 9), art. 3(2), Sch. para. 1

**F13** 1987 c. 22

**F14** 1986 c. 53

**F15** 1982 c. 50

### *Emergency payments*

#### **14 Emergency payments by Health and Social Services Boards and other bodies.**

(1) The Department may make arrangements—

- (a) with a Board; or
- (b) with any other body,

for the making on behalf of the Department by members of the staff of any Board or body of payments on account of benefits to which section 5 above applies in circumstances corresponding to those in which the Department itself has the power to make such payments under subsection (1)(s) of that section; and a Board shall have power to enter into any such arrangements.

(2) A payment under any such arrangements shall be treated for the purposes of any statutory provision as if it had been made by the Department.

(3) The Department shall repay a Board or other body such amount as the Department determines to be the reasonable administrative expenses incurred by the Board or body in making payments in accordance with arrangements under this section.

(4) In this section “Board” means a Health and Social Services Board.

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## PART II

### ADJUDICATION

#### Modifications etc. (not altering text)

- C4** Part II (ss. 15-68): Power to modify conferred (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 116\(2\), 171\(8\), 173\(4\)](#) (with s. 108(5))
- Part II (ss. 15-68): Power to modify conferred (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 117\(1\), 171\(8\), 173\(4\)](#) (with s. 108(5))
- Part II (ss. 15-68): Power to modify conferred (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 119, 171\(8\), 173\(4\)](#) (with s. 108(5))
- Part II (ss. 15-68) amended (25.8.1995) by [S.R. 1995/293, reg. 43\(2\)](#)
- Part II (ss. 15-68) applied (with modifications) (25.8.1995) by [S.R. 1995/293, reg. 44\(2\)\(a\)](#)
- Part II (ss. 15-68): power to modify (*temp.*) conferred (24.3.1999) by [S.I. 1999/671, arts. 1\(2\)\(c\), 14\(2\)\(a\)](#)
- Part. II (ss. 15-68) (except ss. 22 and 50) ceased to have effect (5.7.1999, 6.9.1999, 5.10.1999, 18.10.1999 and 29.11.1999 for different purposes, otherwise *prosp.*) by virtue of [S.I. 1998/1506 \(N.I. 10\), arts. 1\(2\), 39\(3\)](#) (with transitory provisions in [Sch. 5](#)); [S.R. 1999/310, art. 2\(1\)\(b\), Sch. 1](#) (with arts. 4, 14); [S.R. 1999/371, art. 2\(b\), Sch. 1](#) (with arts. 4, 18); [S.R. 1999/407, art. 2\(b\), Sch.](#) (with art. 4); [S.R. 1999/428, art. 2\(b\), Sch. 1](#) (with arts. 4, 16) and [S.R. 1999/472, art. 2\(1\), Sch. 1](#) (with arts. 20-22 and subject to art. 2(2) of that S.R.)

#### *Adjudication by the Department*

### 15 Questions for the Department.

- (1) Subject to this Part of this Act, any of the following questions shall be determined by the Department—
- (a) a question whether a person is an earner and, if he is, as to the category of earners in which he is to be included;
  - (b) subject to subsection (2) below, a question whether the contribution conditions for any benefit are satisfied, or otherwise relating to a person's contributions or his earnings factor;
  - (c) a question whether a Class 1A contribution is payable or otherwise relating to a Class 1A contribution;
  - (d) a question whether a person is or was employed in employed earner's employment for the purposes of Part V of the Contributions and Benefits Act;
  - (e) a question as to whether a person was, within the meaning of regulations, precluded from regular employment by responsibilities at home;
  - (f) any question as to which surpluses are to be taken into account under section 45(1) of the Contributions and Benefits Act;
  - (g) any question arising under any provision of Part XI of the Contributions and Benefits Act or this Act, or under any provision of regulations [<sup>F16</sup>or an order] under that Part, as to—
    - (i) whether a person is, or was, an employee or employer of another;
    - (ii) whether an employer is entitled to make any deduction from his contributions payments in accordance with [<sup>F17</sup>an order under section 155A] of the Contributions and Benefits Act;

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- (iii) whether a payment falls to be made to an employer in accordance with the regulations [<sup>F18</sup>or order];
  - (iv) the amount that falls to be so deducted or paid;
  - (v) the amount of an employer's contributions payments for any period for the purposes of [<sup>F19</sup>an order under section 155A] of the Contributions and Benefits Act; or
  - (vi) whether two or more employers or two or more contracts of service are, by virtue of regulations made under section 159(5) of that Act, to be treated as one; <sup>F20</sup> . . .
- (h) any question arising under any provision of Part XII of that Act or this Act, or under any provision of regulations under that Part, as to—
- (i) whether a person is, or was, an employee or employer of another;
  - (ii) whether an employer is entitled to make any deduction from his contributions payments in accordance with regulations under section 163 of the Contributions and Benefits Act;
  - (iii) whether a payment falls to be made to an employer in accordance with the regulations;
  - (iv) the amount that falls to be so deducted or paid; or
  - (v) whether two or more employers or two or more contracts of service are, by virtue of regulations made under section 167(2) of that Act, to be treated as one [<sup>F21</sup>; and
- (i) any question arising under Article 29 of the Jobseekers (Northern Ireland) Order 1995, or under any provision of regulations under that Article, as to—
- (i) whether a person is, or was, an employee or employer of another;
  - (ii) whether an employer is entitled to make any deduction from his contributions payments in accordance with regulations under Article 29 of that Order;
  - (iii) whether a payment falls to be made to an employer in accordance with those regulations;
  - (iv) the amount that falls to be so deducted or paid; or
  - (v) whether two or more employers are, by virtue of regulations under Article 29 of that Order, to be treated as one.]

and any question arising under regulations made by virtue of paragraph (c), (d) or (f) of section 160(9) of that Act.

- (2) Subsection (1)(b) above includes any question arising—
- (a) under section 17(1) of the Contributions and Benefits Act as to whether by regulations under that subsection a person is excepted from liability for Class 4 contributions, or his liability is deferred; or
  - (b) under regulations made by virtue of section 17(3) or (4) or 18 of that Act;
- but not any other question relating to Class 4 contributions, nor any question within section 18(1)(c) below.
- (3) Regulations may make provision restricting the persons who may apply to the Department for the determination of any such question as is mentioned in subsection (1) above.
- (4) The Department may, if it thinks fit, before determining any such question as is mentioned in subsection (1) above, appoint a person to hold an inquiry into the

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question, or any matters arising in connection with it, and to report on the question, or on those matters, to the Department.

#### Textual Amendments

- F16** Words in s. 15(1)(g) inserted (6.4.1995) by S.R. 1995/69, **art. 6(2)(a)(ii)**
- F17** Words in s. 15(1)(g)(ii) substituted (6.4.1995) by S.R. 1995/69, **art. 6(2)(a)(ii)**
- F18** Words in s. 15(1)(g)(iii) inserted (6.4.1995) by S.R. 1995/69, **art. 6(2)(a)(iii)**
- F19** Words in s. 15(1)(g)(v) substituted (6.4.1995) by S.R. 1995/69, **art. 6(2)(a)(iv)**
- F20** Word in s. 15(1) omitted (6.4.1996) and repealed (7.10.1996) by S.I. 1996/2705 (N.I. 15), **arts. 2, 40, Sch. 2 para. 24, Sch. 3**; S.R. 1996/26, **art. 2**; S.R. 1996/401, **art. 2**
- F21** S. 15(1)(i) and the preceding word inserted (6.4.1996) by S.I. 1995/2705 (N.I. 15), **art. 2, Sch. 2 para. 24**; S.R. 1996/26, **art. 2(e)**

#### Modifications etc. (not altering text)

- C5** S. 15 applied (7.2.1994) by 1993 c. 49, **s. 166(2)**; S.R. 1994/17, **art. 2**
- C6** S. 15(1) extended (7.2.1994) by 1993 c. 49, **s. 165(1)**; S.R. 1994/17, **art. 2**  
S. 15(1) excluded (7.2.1994) by 1993 c. 49, **s. 165(4)**; S.R. 1994/17, **art. 2**

## 16 Appeal on question of law.

- (1) A question of law arising in connection with the determination by the Department of any such question as is mentioned in section 15(1) above may, if the Department thinks fit, be referred for decision to the Court of Appeal.
- (2) If the Department determines in accordance with subsection (1) above to refer any question of law to the court, it shall give notice in writing of its intention to do so—
  - (a) in a case where the question arises on an application made to the Department, to the applicant; and
  - (b) in any case to such persons as appear to it to be concerned with the question.
- (3) Any person aggrieved by the decision of the Department on any question of law within subsection (1) above which is not referred in accordance with that subsection may appeal from that decision to the court.
- (4) The Department shall be entitled to appear and be heard on any such reference or appeal.
- (5) Rules of court may include provision for regulating references and appeals to the court under this section.
- (6) Notwithstanding anything in any Act, the decision of the court on a reference or appeal under this section shall be final.

#### Modifications etc. (not altering text)

- C7** S. 16 applied (7.2.1994) by 1993 c. 49, **s. 166(2)**; S.R. 1994/17, **art. 2**  
s. 16 modified (6.4.1996 for certain purposes otherwise 6.4.1997) by 1993 c. 49, **s. 165(7)(8)** as added by S.I. 1995/3213 (N.I. 22), **art. 147, Sch. 3 para. 60(3)**; S.R. 1996/91, **art. 2, Sch. Pt. IV**; S.R. 1997/192, **art. 2**



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## 17 Review of decisions.

- (1) Subject to subsection (2) below, the Department may review any decision given by it on any such question as is mentioned in section 15(1) above, if—
  - (a) new facts have been brought to its notice; or
  - (b) it is satisfied that the decision—
    - (i) was given in ignorance of some material fact;
    - (ii) was based on a mistake as to some material fact; or
    - (iii) was erroneous in point of law.
- (2) A decision shall not be reviewed while an appeal under section 16 above is pending against the decision of the Department on a question of law arising in connection with it, or before the time for so appealing has expired.
- (3) On a review any question of law may be referred under subsection (1) of section 16 above or, where it is not so referred, may be the subject of an appeal under subsection (3) of that section, and the other provisions of that section shall apply accordingly.

### Modifications etc. (not altering text)

**C8** S. 17 applied (7.2.1994) by 1993 c. 49, s. 166(2); S.R. 1994/17, art. 2

S. 17 modified (6.4.1996 for certain purposes, otherwise 6.4.1997) by 1993 c. c. 49, s. 165(7)(8) as added by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 para. 60(c); S.R. 1996/91, art. 2, Sch. Pt. IV; S.R. 1997/192, art. 2

### *Adjudication by adjudication officers*

## 18 Claims and questions to be submitted to adjudication officer.

- (1) Subject to section 52 below, there shall be submitted forthwith to an adjudication officer for determination in accordance with this Part of this Act—
  - (a) any claim for a benefit to which this section applies;
  - (b) subject to subsection (2) below, any question arising in connection with a claim for, or award of, such a benefit; and
  - <sup>F22</sup>(c) any question whether, if he otherwise had a right to it, a person would be disqualified under or by virtue of any provision of the Contributions and Benefits Act for receiving a benefit to which this section applies.]
- (2) Subsection (1) above does not apply to any question which falls to be determined otherwise than by an adjudication officer.
- (3) Any question as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay may be submitted to an adjudication officer—
  - (a) by the Department; or
  - (b) subject to and in accordance with regulations, by the employee concerned, for determination in accordance with this Part of this Act.
- (4) If—
  - (a) a person submits a question relating to the age, marriage or death of any person; and

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- (b) it appears to the adjudication officer that the question may arise if the person who has submitted it to him submits a claim to a benefit to which this section applies,  
the adjudication officer may determine the question.
- (5) Different aspects of the same claim or question may be submitted to different adjudication officers; and for that purpose this section and the other provisions of this Part of this Act with respect to the determination of claims and questions shall apply with any necessary modifications.
- (6) This section applies to the following benefits—
- (a) benefit as defined in section 121 of the Contributions and Benefits Act;
  - (b) income support;
  - (c) family credit;
  - (d) disability working allowance;
  - (e) any social fund payment such as is mentioned in section 134(1)(a) or (2) of the Contributions and Benefits Act;
  - (f) child benefit;
  - (g) statutory sick pay; and
  - (h) statutory maternity pay.

#### Textual Amendments

**F22** S. 18(1)(c) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), SCh. 1 Pt. II para. 45; S.R. 1994/450, art. 2, Sch. Pt. IV

#### Modifications etc. (not altering text)

**C9** S. 18(1) excluded (7.2.1994) by 1993 c. 49, s. 165(4); S.R. 1994/17, art. 2

## 19 Decision of adjudication officer.

- (1) An adjudication officer to whom a claim or question is submitted under section 18 above (other than a claim which under section 28(12) or (13) or 33(7) below falls to be treated as an application for a review) shall take it into consideration and, so far as practicable, dispose of it, in accordance with this section, and with procedure regulations under section 57 below, within 14 days of its submission to him.
- (2) Subject to subsection (3) and section 35 below, the adjudication officer may decide a claim or question himself or refer it to a social security appeal tribunal.
- (3) The adjudication officer must decide a claim for or question relating to an attendance allowance, a disability living allowance or a disability working allowance himself.
- (4) Where an adjudication officer refers a question as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay to a social security appeal tribunal, the employee and employer concerned shall each be given notice in writing of the reference.
- (5) In any other case notice in writing of the reference shall be given to the claimant.
- (6) Where—

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- (a) a case has been referred to a social security appeal tribunal (“the tribunal”); and
  - (b) the claimant makes a further claim which raises the same or similar questions; and
  - (c) that further claim is referred to the tribunal by the adjudication officer,
- then the tribunal may proceed to determine the further claim whether or not notice has been given under subsection (4) or (5) above.

**Modifications etc. (not altering text)**

**C10** S. 19 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 2

*Appeals from adjudication officers - general*

**20 Appeal to social security appeal tribunal.**

- (1) Subject to subsection (3) below, where the adjudication officer has decided a claim or question other than a claim or question relating to an attendance allowance, a disability living allowance or a disability working allowance—
  - (a) if it relates to statutory sick pay or statutory maternity pay, the employee and employer concerned shall each have a right to appeal to a social security appeal tribunal; and
  - (b) in any other case the claimant shall have a right to do so.
- (2) A person with a right of appeal under this section shall be given such notice of a decision falling within subsection (1) above and of that right as may be prescribed.
- (3) No appeal lies under this section where—
  - (a) in connection with the decision of the adjudication officer there has arisen any question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer; and
  - (b) the question has been determined; and
  - (c) the adjudication officer certifies that the decision on that question is the sole ground of his decision.
- (4) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.
- (5) Where an adjudication officer has determined that any amount, other than an amount—
  - (a) of an attendance allowance;
  - (b) of a disability living allowance;
  - (c) of a disability working allowance;
  - (d) of statutory sick pay; or
  - (e) of statutory maternity pay,
 is recoverable under or by virtue of section 69 or 72 below, any person from whom he has determined that it is recoverable shall have the same right of appeal to a social security appeal tribunal as a claimant.
- (6) In any case where—

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- (a) an adjudication officer has decided any claim or question under Part V of the Contributions and Benefits Act; and
- (b) the right to benefit under that Part of that Act of any person other than the claimant is or may be, under Part VI of Schedule 7 to that Act, affected by that decision,

that other person shall have the like right of appeal to a social security appeal tribunal as the claimant.

- (7) Subsection (2) above shall apply to a person with a right of appeal under subsection (5) or (6) above as it applies to a claimant.

**Modifications etc. (not altering text)**

- C11** S. 20 excluded (14.11.1994) by S.R. 1987/82, reg. 64(2) (as substituted by S.R. 1994/396, reg. 2(2))  
 S. 20 modified (25.8.1995) by S.R. 1995/293, reg. 46  
 S. 20 excluded (25.8.1995) by S.R. 1995/293, reg. 56(2)  
 S. 20 modified (1.7.1998) by S.R. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 3

**21 Appeal from social security appeal tribunal to Commissioner.**

- (1) Subject to the provisions of this section, an appeal lies to a Commissioner from any decision of a social security appeal tribunal under section 20 above on the ground that the decision of the tribunal was erroneous in point of law.
- (2) In the case of statutory sick pay or statutory maternity pay an appeal lies under this section at the instance of any of the following—
- (a) an adjudication officer;
  - (b) the employee concerned;
  - (c) the employer concerned;
  - (d) a trade union, where—
    - (i) the employee is a member of the union at the time of the appeal and was so immediately before the question at issue arose; or
    - (ii) the question at issue is a question as to or in connection with entitlement of a deceased person who was at the time of his death a member of the union;
  - (e) an association of employers of which the employer is a member at the time of the appeal and was so immediately before the question at issue arose.
- (3) In any other case an appeal lies under this section at the instance of any of the following—
- (a) an adjudication officer;
  - (b) the claimant;
  - (c) in any of the cases mentioned in subsection (5) below, a trade union; and
  - (d) a person from whom it is determined that any amount is recoverable under section 69 or 72 below.
- (4) In a case relating to industrial injuries benefit an appeal lies under this section at the instance of a person whose right to benefit is, or may be, under Part VI of Schedule 7 to the Contributions and Benefits Act, affected by the decision appealed against, as well as at the instance of any person or body such as is mentioned in subsection (3) above.

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- (5) The following are the cases in which an appeal lies at the instance of a trade union—
- (a) where the claimant is a member of the union at the time of the appeal and was so immediately before the question at issue arose;
  - (b) where that question in any way relates to a deceased person who was a member of the union at the time of his death;
  - (c) where the case relates to industrial injuries benefit and the claimant or, in relation to industrial death benefit, the deceased, was a member of the union at the time of the relevant accident.
- (6) Subsections (2), (3) and (5) above, as they apply to a trade union, apply also to any other association which exists to promote the interests and welfare of its members.
- (7) Where the Commissioner holds that the decision was erroneous in point of law, he shall set it aside and—
- (a) he shall have power—
    - (i) to give the decision which he considers the tribunal should have given, if he can do so without making fresh or further findings of fact; or
    - (ii) if he considers it expedient, to make such findings and to give such decision as he considers appropriate in the light of them; and
  - (b) in any other case he shall refer the case to a tribunal with directions for its determination.
- (8) Subject to any direction of the Commissioner, the tribunal on a reference under subsection (7)(b) above shall consist of persons who were not members of the tribunal which gave the erroneous decision.
- (9) No appeal lies under this section without the leave—
- (a) of the person who was the chairman of the tribunal when the decision was given or, in a prescribed case, the leave of some other chairman; or
  - (b) subject to and in accordance with regulations, of a Commissioner.
- (10) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.

#### Modifications etc. (not altering text)

**C12** S. 21 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, **Sch. 5**, para. 4

**C13** S. 21(7)-(10) applied (5.2.1996 for certain purposes and otherwise 7.10.1996) by S.I. 1995/2705, **art. 13(8)**; S.R. 1996/26, art. 2(b), **Sch.**; S.R. 1996/401, **art. 2(b)**

S. 21(7)-(10) applied (5.9.1997 for certain purposes, otherwise 6.10.1997) by S.I. 1997/1183 (N.I. 12), **art. 28(3)**; S.R. 1997/400, art. 2(1), **Sch. Pt. II**

## 22 Appeal from Commissioners on point of law.

- (1) Subject to subsections (2) and (3) below, an appeal on a question of law shall lie to the appropriate court from any decision of a Commissioner.
- (2) No appeal under this section shall lie from a decision except—
- (a) with the leave of the Commissioner who gave the decision or, in a prescribed case, with the leave of a Commissioner selected in accordance with regulations; or

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- (b) if he refuses leave, with the leave of the appropriate court.
- (3) An application for leave under this section in respect of a Commissioner’s decision may only be made by—
- (a) a person who, before the proceedings before the Commissioner were begun, was entitled to appeal to the Commissioner from the decision to which the Commissioner’s decision relates;
  - (b) any other person who was a party to the proceedings in which the first decision mentioned in paragraph (a) above was given;
  - (c) the Department, in a case where it is not entitled to apply for leave by virtue of paragraph (a) or (b) above;
  - (d) any other person who is authorised by regulations to apply for leave;
- and regulations may make provision with respect to the manner in which and the time within which applications must be made to a Commissioner for leave under this section and with respect to the procedure for dealing with such applications.
- (4) On an application to a Commissioner for leave under this section it shall be the duty of the Commissioner to specify as the appropriate court—
- (a) the Court of Appeal in Northern Ireland if it appears to him that the relevant place is in Northern Ireland;
  - (b) the Court of Appeal if it appears to him that the relevant place is in England or Wales; and
  - (c) the Court of Session if it appears to him that the relevant place is in Scotland, except that if it appears to him, having regard to the circumstances of the case and in particular to the convenience of the persons who may be parties to the proposed appeal, that he should specify a different court mentioned in paragraphs (a) to (c) above as the appropriate court, it shall be his duty to specify that court as the appropriate court.
- (5) In this section—
- “the appropriate court”, except in subsection (4) above, means the court specified in pursuance of that subsection;
- “the relevant place”, in relation to an application for leave to appeal from a decision of a Commissioner, means the premises where the authority whose decision was the subject of the Commissioner’s decision usually exercises its functions.
- (6) The powers to make regulations conferred by this section shall be exercisable by the Lord Chancellor.

**Modifications etc. (not altering text)**

**C14** S. 22 modified (10.3.1999 for certain purposes, otherwise 1.6.1999) by S.I. 1991/2628 (N.I. 23), art. 43A (as inserted by S.I. 1998/1506 (N.I. 10), art. 78(1), Sch. 6 para. 29; S.R. 1999/102, art. 2(a), Sch. Pt. I; S.I. 1999/246, art. 2, Sch. 1

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## Reviews - general

### 23 Review of decisions.

- (1) Subject to the following provisions of this section, any decision under this Act of an adjudication officer, a social security appeal tribunal or a Commissioner (other than a decision relating to an attendance allowance, a disability living allowance or a disability working allowance) may be reviewed at any time by an adjudication officer or, on a reference by an adjudication officer, by a social security appeal tribunal, if—
  - (a) the officer or tribunal is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
  - (b) there has been any relevant change of circumstances since the decision was given;
  - (c) it is anticipated that a relevant change of circumstances will so occur;
  - (d) the decision was based on a decision of a question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer, and the decision of that question is revised; or
  - (e) the decision falls to be reviewed under section [F2325A(4) or (5)] of the Contributions and Benefits Act.
- (2) Any decision of an adjudication officer (other than a decision relating to an attendance allowance, a disability living allowance or a disability working allowance) may be reviewed, upon the ground that it was erroneous in point of law, by an adjudication officer or, on a reference from an adjudication officer, by a social security appeal tribunal.
- (3) Regulations may provide that a decision may not be reviewed on the ground mentioned in subsection (1)(a) above unless the officer or tribunal is satisfied as mentioned in that paragraph by fresh evidence.
- (4) In its application to family credit, subsection (1)(b) and (c) above shall have effect subject to section 127(3) of the Contributions and Benefits Act (change of circumstances not to affect award or rate during specified period).
- (5) Where a decision is reviewed on the ground mentioned in subsection (1)(c) above, the decision given on the review—
  - (a) shall take effect on the day prescribed for that purpose by reference to the date on which the relevant change of circumstances is expected to occur; and
  - (b) shall be reviewed again if the relevant change of circumstances either does not occur or occurs otherwise than on that date.

#### Textual Amendments

**F23** Words in s. 23(1)(e) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. II**, para. 46; S.R. 1994/450, art. 2, **Sch. Pt. IV**

#### Modifications etc. (not altering text)

**C15** Ss. 23-27 modified (25.8.1995) by S.R. 1995/293, **reg. 46**

S. 23 restricted (25.8.1995) by S.R. 1995/293, **regs. 63(1), 67**

**C16** S. 23(1)(b)(c) modified (12.12.1995) by S.R. 1995/293, **reg. 63(7)-(11)** (as amended by S.R. 1995/434, **reg. 3**)

**C17** S. 23(2) restricted (28.2.1994) by S.R. 1987/82, **reg. 64A(3A)** (as inserted by S.R. 1994/21, **reg. 2(2)**)

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## 24 Procedure for reviews.

- (1) A question may be raised with a view to a review under section 23 above by means of an application in writing to an adjudication officer, stating the grounds of the application.
- (2) On receipt of any such application, the adjudication officer shall proceed to deal with or refer any question arising on it in accordance with sections 19 to 21 above.
- (3) Regulations may provide for enabling, or requiring, in prescribed circumstances, a review under section 23 above notwithstanding that no application for a review has been made under subsection (1) above.

### Modifications etc. (not altering text)

**C18** Ss. 23-27 modified (25.8.1995) by S.R. 1995/293, regs. 46, 67

## 25 Reviews under s. 23 - supplementary.

- (1) Regulations—
  - (a) may prescribe what are, or are not, relevant changes of circumstances for the purposes of section 23 above; and
  - (b) may make provision restricting the payment of any benefit, or any increase of benefit, to which a person would, but for this subsection, be entitled by reason of a review in respect of any period before or after the review (whether that period falls wholly or partly before or after the making of the regulations).
- (2) Regulations under subsection (1)(b) above shall not restrict the payment to or for a woman of so much of—
  - (a) any widow's benefit, any [<sup>F24</sup>incapacity benefit] under section 40 of the Contributions and Benefits Act or any Category A or Category B retirement pension; or
  - (b) any increase of such a benefit or pension,
 as falls to be paid by reason of a review which takes place by virtue of section 23(1)(a) or (b) above in consequence of a claim for a widowhood benefit, within the meaning of section 3 above, which is made or treated as made by virtue of that section.

### Textual Amendments

**F24** Words in s. 25(2)(a) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), Sch. 1, Pt. II para. 47; S.R. 1994/450, art. 2, Sch.

### Modifications etc. (not altering text)

**C19** Ss. 23-27 modified (25.8.1995) by S.R. 1995/293, regs. 46, 67

## 26 Appeals following reviews or refusals to review.

A decision given on a review under section 23 above, and a refusal to review a decision under that section, shall be subject to appeal in like manner as an original decision, and sections 19 to 21 above shall, with the necessary modifications, apply in relation to a decision given on such a review as they apply to the original decision of a question.



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#### Modifications etc. (not altering text)

**C20** Ss. 23-27 modified (25.8.1995) by S.R. 1995/293, regs. 46, 67

### 27 Review after claimant appeals.

Where a claimant has appealed against a decision of an adjudication officer and the decision is reviewed by an adjudication officer under section 23 above—

- (a) if the adjudication officer considers that the decision which he has made on the review is the same as the decision that would have been made on the appeal had every ground of the claimant's appeal succeeded, the appeal shall lapse; but
- (b) in any other case, the review shall be of no effect and the appeal shall proceed accordingly.

#### Modifications etc. (not altering text)

**C21** Ss. 23-27 modified (25.8.1995) by S.R. 1995/293, regs. 46, 67

*Attendance allowance, disability living allowance and disability working allowance*

### 28 Reviews of decisions of adjudication officers.

- (1) On an application under this section made within the prescribed period, a decision of an adjudication officer under section 19 above which relates to an attendance allowance, a disability living allowance or a disability working allowance may be reviewed on any ground subject, in the case of a disability working allowance, to section 128(6) of the Contributions and Benefits Act.
- (2) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 19 above which relates to an attendance allowance or a disability living allowance may be reviewed if—
  - (a) the adjudication officer is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
  - (b) there has been any relevant change of circumstances since the decision was given;
  - (c) it is anticipated that a relevant change of circumstances will so occur;
  - (d) the decision was erroneous in point of law; or
  - (e) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,
 but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.
- (3) Regulations may prescribe what are, or are not, relevant changes of circumstances for the purposes of subsection (2)(b) and (c) above.
- (4) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 19 above that a person is or was

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at any time terminally ill for the purposes of section 66(1), 72(5) or 73(12) of the Contributions and Benefits Act may be reviewed if there has been a change of medical opinion with respect to his condition or his reasonable expectation of life.

(5) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 19 above which relates to a disability working allowance may be reviewed if—

- (a) the adjudication officer is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
- (b) subject to section 128(6) of the Contributions and Benefits Act, there has been any prescribed change of circumstances since the decision was given;
- (c) the decision was erroneous in point of law; or
- (d) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,

but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.

(6) The claimant shall be given such notification as may be prescribed of a decision which may be reviewed under this section and of his right to a review under subsection (1) above.

(7) A question may be raised with a view to a review under this section by means of an application made in writing to an adjudication officer stating the grounds of the application and supplying such information and evidence as may be prescribed.

(8) Regulations—

- (a) may provide for enabling or requiring, in prescribed circumstances, a review under this section notwithstanding that no application under subsection (7) above has been made; and
- (b) if they do so provide, shall specify under which provision of this section a review carried out by virtue of any such regulations falls.

(9) Reviews under this section shall be carried out by adjudication officers.

(10) Different aspects of any question which arises on such a review may be dealt with by different adjudication officers; and for this purpose this section and the other provisions of this Part of this Act which relate to reviews under this section shall apply with any necessary modifications.

(11) If a review is under subsection (1) above, the officer who took the decision under review shall not deal with any question which arises on the review.

(12) Except in prescribed circumstances, where a claim for a disability living allowance in respect of a person already awarded such an allowance by an adjudication officer is made or treated as made during the period for which he has been awarded the allowance, it shall be treated as an application for a review under this section.

(13) Where—

- (a) a claim for an attendance allowance, a disability living allowance or a disability working allowance in respect of a person has been refused; and
- (b) a further claim for the same allowance is made in respect of him within the period prescribed under subsection (1) above,

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the further claim shall be treated as an application for a review under that subsection.

**Modifications etc. (not altering text)**

**C22** S. 28(2)(d) restricted (28.2.1994) by S.R. 1987/82, **reg. 64A(3A)** (as inserted by S.R. 1994/21, **reg. 2(2)**)

**29 Further reviews.**

- (1) Subsections (2), (4) and (5) of section 28 above shall apply to a decision on a review under subsection (1) of that section as they apply to a decision of an adjudication officer under section 19 above but as if the words “made after the end of the prescribed period” were omitted from each subsection.
- (2) Subsections (1), (2), (4) and (5) of section 28 above shall apply—
  - (a) to a decision on a review under subsection (2), (4) or (5) of that section; and
  - (b) to a refusal to review a decision under subsection (2), (4) or (5) of that section, as they apply to a decision of an adjudication officer under section 19 above.
- (3) The claimant shall be given such notification as may be prescribed—
  - (a) of a decision on a review under section 28 above;
  - (b) if the review was under section 28(1), of his right of appeal under section 31 below; and
  - (c) if it was under section 28(2), (4) or (5), of his right to a further review under section 28(1).

**30 Reviews of decisions as to attendance allowance, disability living allowance or disability working allowance - supplementary.**

- (1) An award of an attendance allowance, a disability living allowance or a disability working allowance on a review under section 28 above replaces any award which was the subject of the review.
- (2) Where a person who has been awarded a disability living allowance consisting of one component applies or is treated as applying for a review under section 28 above and alleges that he is also entitled to the other component, the adjudication officer need not consider the question of his entitlement to the component which he has already been awarded or the rate of that component.
- (3) Where a person who has been awarded a disability living allowance consisting of both components applies or is treated as applying for a review under section 28 above and alleges that he is entitled to one component at a rate higher than that at which it has been awarded, the adjudication officer need not consider the question of his entitlement to the other component or the rate of that component.
- (4) Where a person has been awarded a component for life, on a review under section 28 above the adjudication officer shall not consider the question of his entitlement to that component or the rate of that component or the period for which it has been awarded unless—
  - (a) the person awarded the component expressly applies for the consideration of that question; or

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- (b) information is available to the adjudication officer which gives him reasonable grounds for believing that entitlement to the component, or entitlement to it at the rate awarded or for that period, ought not to continue.
- (5) No decision which relates to an attendance allowance or a disability living allowance shall be reviewed under section 28 above on the ground that the person is or was at any time terminally ill, within the meaning of section 66(2) of the Contributions and Benefits Act, unless an application for review is made expressly on that ground either—
- (a) by the person himself; or
  - (b) by any other person purporting to act on his behalf, whether or not that other person is acting with his knowledge or authority;
- and a decision may be so reviewed on such an application, notwithstanding that no claim under section 66(1), 72(5) or 73(12) of that Act has been made.
- (6) Where a decision is reviewed under section 28 above on the ground that it is anticipated that a change of circumstances will occur, the decision given on review—
- (a) shall take effect on the day prescribed for that purpose by reference to the date on which the change of circumstances is expected to occur; and
  - (b) shall be reviewed again if the change of circumstances either does not occur or occurs otherwise than on that date.
- (7) Where a claimant has appealed against a decision of an adjudication officer under section 31 below and the decision is reviewed again under section 28(2), (4) or (5) above by an adjudication officer, then—
- (a) if the adjudication officer considers that the decision which he has made on the review is the same as the decision that would have been made on the appeal had every ground of the appeal succeeded, then the appeal shall lapse; but
  - (b) in any other case, the review shall be of no effect and the appeal shall proceed accordingly.
- (8) Regulations may make provision restricting the payment of any benefit, or any increase of benefit, to which a person would, but for this subsection, be entitled by reason of a review in respect of any period before or after the review (whether that period falls wholly or partly before or after the making of the regulations).
- (9) Where an adjudication officer has determined that any amount paid by way of an attendance allowance, a disability living allowance or a disability working allowance is recoverable under or by virtue of section 69 below, any person from whom he has determined that it is recoverable shall have the same right of review under section 28 above as a claimant.
- (10) This Act and the Contributions and Benefits Act shall have effect in relation to a review by virtue of subsection (9) above as if any reference to the claimant were a reference to the person from whom the adjudication officer has determined that the amount in question is recoverable.

### **31 Appeals following reviews.**

- (1) Where an adjudication officer has given a decision on a review under section 28(1) above, the claimant or such other person as may be prescribed may appeal—
- (a) in prescribed cases, to a disability appeal tribunal; and
  - (b) in any other case, to a social security appeal tribunal.

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- (2) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.
- (3) An award on an appeal under this section replaces any award which was the subject of the appeal.
- (4) Where a person who has been awarded a disability living allowance consisting of one component alleges on an appeal that he is also entitled to the other component, the tribunal need not consider the question of his entitlement to the component which he has already been awarded or the rate of that component.
- (5) Where a person who has been awarded a disability living allowance consisting of both components alleges on an appeal that he is entitled to one component at a rate higher than that at which it has been awarded, the tribunal need not consider the question of his entitlement to the other component or the rate of that component.
- (6) The tribunal shall not consider—
  - (a) a person's entitlement to a component which has been awarded for life;
  - (b) the rate of a component so awarded; or
  - (c) the period for which a component has been so awarded,unless—
  - (i) the appeal expressly raises that question; or
  - (ii) information is available to the tribunal which gives it reasonable grounds for believing that entitlement to the component, or entitlement to it at the rate awarded or for that period, ought not to continue.

**Modifications etc. (not altering text)**

C23 S. 31 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 3(2)

**32 Appeal from social security appeal tribunals or disability appeal tribunals to Commissioners and appeals from Commissioners.**

- (1) Subject to the provisions of this section, an appeal lies to a Commissioner from any decision of a social security appeal tribunal or disability appeal tribunal under section 31 above on the ground that the decision of the tribunal was erroneous in point of law.
- (2) An appeal lies under this section at the instance of any of the following—
  - (a) an adjudication officer;
  - (b) the claimant;
  - (c) a trade union—
    - (i) where the claimant is a member of the union at the time of the appeal and was so immediately before the question at issue arose;
    - (ii) where that question in any way relates to a deceased person who was a member of the union at the time of his death; and
  - (d) a person from whom it is determined that any amount is recoverable under section 69 below.

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- (3) Subsection (2) above, as it applies to a trade union, applies also to any other association which exists to promote the interests and welfare of its members.
- (4) Subsections (7) to (10) of section 21 above have effect for the purposes of this section as they have effect for the purposes of that section.
- (5) Section 22 above applies to a decision of a Commissioner under this section as it applies to a decision of a Commissioner under section 21 above.

**Modifications etc. (not altering text)**

**C24** S. 32 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 4(2)

### 33 Reviews of decisions on appeal.

- (1) Any decision under this Act of a social security appeal tribunal, a disability appeal tribunal or a Commissioner which relates to an attendance allowance or a disability living allowance may be reviewed at any time by an adjudication officer if—
  - (a) he is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
  - (b) there has been any relevant change of circumstances since the decision was given;
  - (c) it is anticipated that a relevant change of circumstances will so occur;
  - (d) the decision was that a person is or was at any time terminally ill for the purposes of section 66(1), 72(5) or 73(12) of the Contributions and Benefits Act and there has been a change of medical opinion with respect to his condition or his reasonable expectation of life; or
  - (e) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,

but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.

- (2) Regulations may prescribe what are, or are not, relevant changes of circumstances for the purposes of subsection (1)(b) and (c) above.
- (3) Any decision under this Act of a social security appeal tribunal, a disability appeal tribunal or a Commissioner which relates to a disability working allowance may be reviewed at any time by an adjudication officer if—
  - (a) he is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
  - (b) subject to section 128(6) of the Contributions and Benefits Act, there has been any prescribed change of circumstances since the decision was given; or
  - (c) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,

but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.

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- (4) A question may be raised with a view to a review under this section by means of an application made in writing to an adjudication officer, stating the grounds of the application and supplying such information and evidence as may be prescribed.
- (5) Regulations may provide for enabling or requiring, in prescribed circumstances, a review under this section notwithstanding that no application for a review has been made under subsection (4) above.
- (6) Reviews under this section shall be carried out by adjudication officers.
- (7) Except in prescribed circumstances, where a claim for a disability living allowance in respect of a person already awarded such an allowance on an appeal is made or treated as made during the period for which he has been awarded the allowance, it shall be treated as an application for a review under this section.
- (8) Subsections (1), (2), (4) and (5) of section 28 above shall apply—
  - (a) to a decision on a review under this section; and
  - (b) to a refusal to review a decision such as is mentioned in subsection (1) above, as they apply to a decision of an adjudication officer under section 19 above.
- (9) The person whose claim was the subject of the appeal the decision on which has been reviewed under this section shall be given such notification as may be prescribed—
  - (a) of the decision on the review; and
  - (b) of his right to a further review under section 28(1) above.
- (10) Regulations may make provision restricting the payment of any benefit, or any increase of benefit, to what a person would, but for this subsection, be entitled by reason of a review in respect of any period before or after the review (whether that period falls wholly or partly before or after the making of the regulations).
- (11) Where a decision is reviewed on the ground mentioned in subsection (1)(c) above, the decision given on the review—
  - (a) shall take effect on the day prescribed for that purpose by reference to the date on which the relevant change of circumstances is expected to occur; and
  - (b) shall be reviewed again if the relevant change of circumstances either does not occur or occurs otherwise than on that date.
- (12) Sections 28(10) and 30(1) to (5) above shall apply in relation to a review under this section as they apply to a review under section 28 above.

### *Questions first arising on appeal*

## **34 Questions first arising on appeal.**

- (1) Where a question which but for this section would fall to be determined by an adjudication officer first arises in the course of an appeal to a social security appeal tribunal, a disability appeal tribunal or a Commissioner, the tribunal, subject to subsection (2) below, or the Commissioner may, if they or he think fit, proceed to determine the question notwithstanding that it has not been considered by an adjudication officer.

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- (2) A social security appeal tribunal may not determine a question by virtue of subsection (1) above if an appeal in relation to such a question would have lain to a disability appeal tribunal.

*Reference of special questions*

**35 Reference of special questions.**

- (1) Subject to subsection (2) below—
- (a) if on consideration of any claim or question an adjudication officer is of opinion that there arises any question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer, he shall refer the question for such determination; and
  - (b) if on consideration of any claim or question a social security appeal tribunal or Commissioner is of opinion that any such question arises, the tribunal or Commissioner shall direct it to be referred by an adjudication officer for such determination.
- (2) The person or tribunal making or directing the reference shall then deal with any other question as if the referred question had not arisen.
- (3) The adjudication officer, tribunal or Commissioner may—
- (a) postpone the reference of, or dealing with, any question until other questions have been determined;
  - (b) in cases where the determination of any question disposes of a claim or any part of it, make an award or decide that an award cannot be made, as to the claim or that part of it, without referring or dealing with, or before the determination of, any other question.

**Modifications etc. (not altering text)**

C25 S. 35 modified (25.8.1995) by S.R. 1995/293, reg. 46

*Adjudication officers and the Chief Adjudication Officer*

**36 Adjudication officers.**

- (1) Adjudication officers shall be appointed by the Department, subject to the consent of the Department of Finance and Personnel as to number, and may include officers of the Department of Social Security appointed with the concurrence of the Secretary of State.
- (2) An adjudication officer may be appointed to perform all the functions of adjudication officers under any enactment or such functions of such officers as may be specified in his instrument of appointment.

**37 The Chief Adjudication Officer.**

- (1) The Department shall appoint for Northern Ireland a Chief Adjudication Officer.



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- (2) It shall be the duty of the Chief Adjudication Officer to advise adjudication officers on the performance of their functions under this or any other enactment.
- (3) The Chief Adjudication Officer shall keep under review the operation of the system of adjudication by adjudication officers and matters connected with the operation of that system.
- (4) The Chief Adjudication Officer shall report annually in writing to the Department on the standards of adjudication and the Department shall publish his report.

### *Social security appeal tribunals*

#### **38 Panels for appointment to social security appeal tribunals.**

- (1) The President shall constitute for the whole of Northern Ireland to act for such areas as he thinks fit and to be composed of such persons as he thinks fit to appoint, panels of persons to act as members of social security appeal tribunals.
- (2) The panel for an area shall be composed of persons appearing to the President to have knowledge or experience of conditions in the area and to be representative of persons living or working in the area.
- (3) Before appointing members of a panel, the President shall take into consideration any recommendations from such organisations or persons as he considers appropriate.
- (4) The members of the panels shall hold office for such period as the President may direct, but the President may at any time terminate the appointment of any member of a panel.

#### **39 Constitution of social security appeal tribunals.**

- (1) A social security appeal tribunal shall consist of a chairman and two other persons.
- (2) The members other than the chairman shall be drawn from the appropriate panel constituted under section 38 above.
- (3) The President shall nominate the chairman.
- (4) The President may nominate as chairman—
  - (a) himself;
  - (b) one of the full-time chairmen appointed under section 49(1)(b) below; or
  - (c) a person drawn from the panel appointed by the Lord Chancellor under section 49(1)(c) below.
- (5) If practicable, at least one of the members of the appeal tribunal hearing a case shall be of the same sex as the claimant.
- (6) Schedule 2 to this Act shall have effect for supplementing this section.

#### **Modifications etc. (not altering text)**

**C26** S. 39 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 1

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### *Disability appeal tribunals*

#### **40 Panels for appointment to disability appeal tribunals.**

- (1) The President shall constitute for the whole of Northern Ireland, to act for such areas as he thinks fit and be composed of such persons as he thinks fit to appoint, panels of persons to act as members of disability appeal tribunals.
- (2) There shall be two panels for each area.
- (3) One panel shall be composed of medical practitioners.
- (4) The other shall be composed of persons who are experienced in dealing with the needs of disabled persons—
  - (a) in a professional or voluntary capacity; or
  - (b) because they are themselves disabled,but may not include medical practitioners.
- (5) In considering the appointment of members of the panels the President shall have regard to the desirability of appointing disabled persons.
- (6) Before appointing members of a panel, the President shall take into consideration any recommendations from such organisations or persons as he considers appropriate.
- (7) The members of the panels shall hold office for such periods as the President may direct, but the President may at any time terminate the appointment of any member of a panel.

#### **41 Constitution of disability appeal tribunals.**

- (1) A disability appeal tribunal shall consist of a chairman and two other persons.
- (2) Of the members of a tribunal other than the chairman, one shall be drawn from the panel mentioned in subsection (3) of section 40 above.
- (3) The other shall be drawn from the panel mentioned in subsection (4) of that section.
- (4) The President shall nominate the chairman.
- (5) The President may nominate as chairman—
  - (a) himself;
  - (b) one of the full-time chairmen appointed under section 49(1)(b) below; or
  - (c) a person drawn from the panel appointed by the Lord Chancellor under section 49(1)(c) below.
- (6) In summoning members of a panel to serve on a tribunal, the clerk to the tribunal shall have regard to the desirability of at least one of the members of the tribunal being a disabled person.
- (7) If practicable, at least one of the members of the tribunal shall be of the same sex as the claimant.
- (8) Schedule 2 to this Act shall have effect for supplementing this section.

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*Adjudication in relation to industrial injuries and disablement benefit*

**42 Declaration that accident is an industrial accident.**

- (1) Where, in connection with any claim for industrial injuries benefit, it is determined that the relevant accident was or was not an industrial accident, an express declaration of that fact shall be made and recorded and (subject to subsection (3) below) a claimant shall be entitled to have the question whether the relevant accident was an industrial accident determined notwithstanding that his claim is disallowed on other grounds.
- (2) Subject to subsection (3) below and to section 58 below, any person suffering personal injury by accident shall be entitled, if he claims the accident was an industrial accident, to have that question determined, and a declaration made and recorded accordingly, notwithstanding that no claim for benefit has been made in connection with which the question arises; and this Part of this Act applies for that purpose as if the question had arisen in connection with a claim for benefit.
- (3) The adjudication officer, social security appeal tribunal or Commissioner (as the case may be) may refuse to determine the question whether an accident was an industrial accident if satisfied that it is unlikely to be necessary to determine the question for the purposes of any claim for benefit; but any such refusal of an adjudication officer or social security appeal tribunal shall be subject to appeal to a social security appeal tribunal or Commissioner, as the case may be.
- (4) Subject to the provisions of this Part of this Act as to appeal and review, any declaration under this section that an accident was or was not an industrial accident shall be conclusive for the purposes of any claim for industrial injuries benefit in respect of that accident.
- (5) Where subsection (4) above applies—
  - (a) in relation to a death occurring before 11th April 1988; or
  - (b) for the purposes of section 60(2) of the Contributions and Benefits Act,it shall have effect as if at the end there were added the words “ whether or not the claimant is the person at whose instance the declaration was made ”.
- (6) For the purposes of this section (but subject to section 58(3) below), an accident whereby a person suffers personal injury shall be deemed, in relation to him, to be an industrial accident if—
  - (a) it arises out of and in the course of his employment;
  - (b) that employment is employed earner’s employment for the purposes of Part V of the Contributions and Benefits Act;
  - (c) payment of benefit is not under section 94(5) of that Act precluded because the accident happened while he was outside Northern Ireland.
- (7) A decision under this section shall be final except that sections 23 to 27 above apply to a decision under this section that an accident was or was not an industrial accident as they apply to a decision under sections 19 to 21 above if, but only if, the adjudication officer or social security appeal tribunal, as the case may be, is satisfied that the decision under this section was given in consequence of any wilful non-disclosure or misrepresentation of a material fact.

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**Modifications etc. (not altering text)**

C27 S. 42 excluded (25.8.1995) by S.R. 1995/293, reg. 44(1)

**43 Disablement questions.**

(1) In relation to industrial injuries benefit and severe disablement allowance, the “disablement questions” are the questions—

- (a) in relation to industrial injuries benefit, whether the relevant accident has resulted in a loss of faculty;
- (b) in relation to both benefits, at what degree the extent of disablement resulting from a loss of faculty is to be assessed, and what period is to be taken into account by the assessment;

but questions relating to the aggregation of percentages of disablement resulting from different accidents are not disablement questions (and accordingly fall to be determined by an adjudication officer).

(2) Subject to and in accordance with regulations, the disablement questions shall be referred to and determined—

- (a) by an adjudicating medical practitioner;
- (b) by two or more adjudicating medical practitioners;
- (c) by a medical appeal tribunal; or
- (d) in such cases relating to severe disablement allowance as may be prescribed, by an adjudication officer.

(3) Where—

- (a) the case of a claimant for disablement benefit has been referred by the adjudication officer to one or more adjudicating medical practitioners for determination of the disablement questions; and
- (b) on that or any subsequent reference, the extent of the disablement is provisionally assessed,

the case shall again be referred under this section, to one or more adjudicating medical practitioners as regulations may provide for the purposes of such subsequent references, not later than the end of the period taken into account by the provisional assessment.

(4) Where, in the case of a claimant for disablement benefit, the extent of any disablement of his resulting from an aggregable accident (that is to say, an accident other than the one which is the basis of the claim in question) has been assessed in accordance with paragraph 6(3) of Schedule 6 to the Contributions and Benefits Act at less than 14 per cent., then—

- (a) the adjudication officer may refer the disablement questions relating to the aggregable accident to one or more adjudicating medical practitioners for fresh determination; and
- (b) on any such reference—
  - (i) those questions shall be determined as at the first day of the common period; and
  - (ii) the period to be taken into account shall be the period beginning with that day.

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- (5) In subsection (4) above “the first day of the common period” means whichever is the later of—
- (a) the first day of the period taken into account by the assessment of the extent of the claimant’s disablement resulting from the accident which is the basis of the claim in question;
  - (b) the first day of the period taken into account by the assessment of the extent of his disablement resulting from the aggregable accident.
- (6) In the following provisions of this Act “adjudicating medical practitioner” means, in relation to any case, one such practitioner, unless regulations applicable to cases of that description provide for references to more than one.

#### **44 Medical appeals and references.**

- (1) This section has effect where the case of a claimant for disablement benefit or severe disablement allowance has been referred by the adjudication officer to an adjudicating medical practitioner for determination of the disablement questions.
- (2) Subject to subsection (3) below, if the claimant is dissatisfied with the decision of the adjudicating medical practitioner, he may appeal in the prescribed manner and within the prescribed time, and the case shall be referred to a medical appeal tribunal.
- (3) If—
- (a) the Department notifies the adjudication officer within the prescribed time that it is of the opinion that any decision of the adjudicating medical practitioner ought to be considered by a medical appeal tribunal; or
  - (b) the adjudication officer is of the opinion that any such decision ought to be so considered,
- the adjudication officer shall refer the case to a medical appeal tribunal for their consideration, and the tribunal may confirm, reverse or vary the decision in whole or in part as on an appeal.

#### **45 Review of medical decisions.**

- (1) Any decision under this Act of an adjudicating medical practitioner or a medical appeal tribunal may be reviewed at any time by an adjudicating medical practitioner if satisfied that the decision was given in ignorance of a material fact or was based on a mistake as to a material fact.
- (2) Any decision under this Act of an adjudicating medical practitioner may be reviewed at any time by such a practitioner if he is satisfied that the decision was erroneous in point of law.
- (3) Regulations may provide that a decision may not be reviewed under subsection (1) above unless the adjudicating medical practitioner is satisfied as mentioned in that subsection by fresh evidence.
- (4) Any assessment of the extent of the disablement resulting from the relevant loss of faculty may also be reviewed by an adjudicating medical practitioner if he is satisfied that since the making of the assessment there has been an unforeseen aggravation of the results of the relevant injury.

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- (5) Where in connection with a claim for disablement benefit made after 20th October 1953 it is decided that the relevant accident has not resulted in a loss of faculty, the decision—
- (a) may be reviewed under subsection (4) above as if it were an assessment of the extent of disablement resulting from a relevant loss of faculty; but
  - (b) subject to any further decision on appeal or review, shall be treated as deciding the question whether the relevant accident had so resulted both for the time about which the decision was given and for any subsequent time.
- (6) For the purposes of subsection (5) above, a final assessment of the extent of the disablement resulting from a loss of faculty made for a period limited by reference to a definite date shall be treated as deciding that at that date the relevant accident had not resulted in a loss of faculty.
- (7) An assessment made, confirmed or varied by a medical appeal tribunal shall not be reviewed under subsection (4) above without the leave of a medical appeal tribunal, and (notwithstanding the provisions of Part V of the Contributions and Benefits Act) on a review under that subsection the period to be taken into account by any revised assessment shall only include a period before the date of the application for the review if and in so far as regulations so provide.
- (8) Subject to the foregoing provisions of this section, an adjudicating medical practitioner may deal with a case on a review in any manner in which he could deal with it on an original reference to him, and in particular may in any case relating to disablement benefit make a provisional assessment notwithstanding that the assessment under review was final.
- (9) Section 44 above applies to an application for a review under this section and to a decision of an adjudicating medical practitioner in connection with such an application as it applies to an original claim for disablement benefit or severe disablement allowance, as the case may be, and to a decision of an adjudicating medical practitioner in connection with such a claim.
- (10) In subsection (6) above the reference to a final assessment does not include an assessment made for the purpose of section 12(1)(a) or (b) of the <sup>M3</sup>National Insurance (Industrial Injuries) Act (Northern Ireland) 1946 as originally enacted and having the effect that benefit is not payable.

#### **Modifications etc. (not altering text)**

- C28** S. 45(1) modified (25.8.1995) by S.R. 1995/293, **art. 36(1)**  
 S. 45(1) restricted (25.8.1995) by S.R. 1995/293, **reg. 61**
- C29** S. 45(2) modified (25.8.1995) by S.R. 1995/293, **reg. 36(1)**
- C30** S. 45(5) excluded (25.8.1995) by S.R. 1995/293, **reg. 44(1)**
- C31** S. 45(7) excluded (25.8.1995) by S.R. 1995/293, **reg. 51**
- C32** S. 45(8) modified (25.8.1995) by S.R. 1995/293, **reg. 52**

#### **Marginal Citations**

- M3** 1946 c. 21 (N.I.).

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#### 46 Appeal etc. on question of law to Commissioner.

- (1) Subject to this section, an appeal lies to a Commissioner from any decision of a medical appeal tribunal (if given after 6th April 1987) on the ground that the decision is erroneous in point of law, at the instance of—
  - (a) an adjudication officer;
  - (b) the claimant;
  - (c) a trade union of which the claimant was a member at the time of the relevant accident or, in a case relating to severe disablement allowance, at the prescribed time; or
  - (d) the Department.
- (2) Subsection (1) above, as it applies to a trade union, applies also to any other association which exists to promote the interests and welfare of its members.
- (3) No appeal lies under subsection (1) above without the leave—
  - (a) of the person who was the chairman of the medical appeal tribunal when the decision was given or, in a prescribed case, the leave of some other chairman of a medical appeal tribunal; or
  - (b) subject to and in accordance with regulations, of a Commissioner, and regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.
- (4) On any such appeal, the question of law arising for the decision of the Commissioner and the facts on which it arises shall be submitted for his consideration in the prescribed manner.
- (5) Where the Commissioner holds that the decision was erroneous in point of law he shall set it aside and refer the case to a medical appeal tribunal with directions for its determination.
- (6) Subject to any direction of the Commissioner, the tribunal on a reference under subsection (5) above shall consist of persons who were not members of the tribunal which gave the erroneous decision.

#### **Modifications etc. (not altering text)**

**C33** S. 46 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 4(3)

#### *Adjudicating medical practitioners and medical appeal tribunals*

#### 47 Adjudicating medical practitioners.

- (1) Adjudicating medical practitioners shall be appointed by the Department.
- (2) The Department may make arrangements whereby any adjudicating medical practitioners for the purposes of the Great Britain Administration Act shall be adjudicating medical practitioners for the purposes of this Act.
- (3) Subject to subsections (1) and (2) above, the appointment of adjudicating medical practitioners shall be determined by regulations.

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#### **48 Constitution of medical appeal tribunals.**

- (1) A medical appeal tribunal shall consist of a chairman and two other persons.
- (2) The members other than the chairman shall be medical practitioners appointed by the President after consultation with such academic medical bodies as appear to him to be appropriate.
- (3) The President shall nominate the chairman.
- (4) The President may nominate as chairman—
  - (a) himself;
  - (b) one of the full-time chairmen appointed under section 49(1)(b) below; or
  - (c) a person drawn from the panel appointed by the Lord Chancellor under section 49(1)(c) below.
- (5) The Department may make arrangements whereby a medical appeal tribunal for the purposes of the Great Britain Administration Act shall be a medical appeal tribunal for the purposes of this Act.
- (6) Subject to subsections (1) to (4) above, the constitution of medical appeal tribunals shall be determined by regulations.
- (7) Schedule 2 to this Act shall have effect for supplementing this section.

#### *The President and chairmen of tribunals*

#### **49 The President of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals and chairmen.**

- (1) The Lord Chancellor may appoint for Northern Ireland—
  - (a) a President of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals;
  - (b) full-time chairmen of such tribunals; and
  - (c) a panel of persons who may be appointed part-time chairmen of such tribunals.
- (2) A person is qualified to be appointed President if he is a barrister or solicitor of at least 10 years' standing.
- (3) A person is qualified to be appointed a full-time chairman if he is a barrister or solicitor of at least 7 years' standing.
- (4) A person is qualified to be appointed to the panel referred to in subsection (1)(c) above if he is a barrister or solicitor of at least 5 years' standing.
- (5) Schedule 2 to this Act shall have effect for supplementing this section.

#### *Social Security Commissioners*

#### **50 Appointment of Commissioners.**

- (1) Her Majesty may from time to time appoint for Northern Ireland, from among persons who are barristers or solicitors of at least 10 years' standing—
  - (a) a Chief Social Security Commissioner; and



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- (b) such number of other Social Security Commissioners,  
as Her Majesty thinks fit.
- (2) If the Lord Chancellor considers that, in order to facilitate the disposal of the business of Social Security Commissioners, he should make an appointment in pursuance of this subsection, he may appoint—
- (a) a member of the bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing;
  - (b) a person who has a 10 year general qualification within the meaning of section 71 of the <sup>M4</sup>Courts and Legal Services Act 1990; or
  - (c) an advocate or solicitor in Scotland of at least 10 years' standing,
- to be a Social Security Commissioner (but to be known as a deputy Commissioner) for such period or on such occasions as the Lord Chancellor thinks fit.
- (3) Schedule 2 to this Act shall have effect for supplementing this section.

#### Marginal Citations

M4 1990 c. 41.

*References to medical practitioners, the Disability Living Allowance Advisory Board etc.*

## 51 Power of adjudicating authorities to refer matters to experts.

- (1) An authority to which this section applies may refer any question of special difficulty arising for decision by the authority to one or more experts for examination and report.
- (2) The authorities to which this section applies are—
- (a) an adjudication officer;
  - (b) an adjudicating medical practitioner, or two or more such practitioners acting together;
  - (c) a specially qualified adjudicating medical practitioner appointed by virtue of section 60 below, or two or more such practitioners acting together;
  - (d) a social security appeal tribunal;
  - (e) a disability appeal tribunal;
  - (f) a medical appeal tribunal;
  - (g) a Commissioner;
  - (h) the Department.
- (3) Regulations may prescribe cases in which a Commissioner shall not exercise the power conferred by subsection (1) above.
- (4) In this section “expert” means a person appearing to the authority to have knowledge or experience which would be relevant in determining the question of special difficulty.

## 52 Claims relating to attendance allowance, disability living allowance and disability working allowance.

- (1) Before a claim for an attendance allowance, a disability living allowance or a disability working allowance or any question relating to such an allowance is submitted to an

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adjudication officer under section 18 above the Department may refer the person in respect of whom the claim is made or the question is raised to a medical practitioner for such examination and report as appears to the Department to be necessary—

- (a) for the purpose of providing the adjudication officer with information for use in determining the claim or question; or
- (b) for the purpose of general monitoring of claims for attendance allowances, disability living allowances and disability working allowances.

(2) An adjudication officer may refer—

- (a) a person in respect of whom such a claim is made or such a question is raised;
- (b) a person who has applied or is treated as having applied for a review under section 28 or 33 above,

to a medical practitioner for such examination and report as appears to the adjudication officer to be needed to enable him to reach a decision on the claim or question or the matter under review.

(3) The Department may direct adjudication officers to refer for advice to a medical practitioner who is an officer of the Department any case falling within a specified class of cases relating to attendance allowance or disability living allowance, and an adjudication officer may refer for advice any case relating to attendance allowance or disability living allowance to such a medical practitioner without such a direction.

(4) An adjudication officer may refer for advice any case relating to disability working allowance to such a medical practitioner.

(5) A medical practitioner who is an officer of the Department and to whom a case or question relating to an attendance allowance or a disability living allowance is referred under section 51 above or subsection (3) above may refer the case or question to the Disability Living Allowance Advisory Board for advice.

(6) Such a medical practitioner may obtain information about such a case or question from another medical practitioner.

(7) A medical practitioner who is an officer of the Department and to whom a question relating to disability working allowance is referred under section 51 above may obtain information about it from another medical practitioner.

[<sup>F25</sup>(7A) Any reference in subsections (3) to (7) above to a medical practitioner who is an officer of the Department includes a reference to a medical practitioner who is provided by any person in pursuance of a contract entered into with the Department.]

(8) Where—

- (a) the Department has exercised the power conferred on it by subsection (1) above or an adjudication officer has exercised the power conferred on him by subsection (2) above; and
- (b) the medical practitioner requests the person referred to him to attend for or submit himself to medical examination; but
- (c) he fails without good cause to do so,

the adjudication officer shall decide the claim or question or matter under review against him.

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### Textual Amendments

**F25** S. 52(7A) inserted (3.1.1995) by 1994 c. 40, ss. 76, 82(2), Sch. 16, para. 24(1)

## 53 Medical examination etc. in relation to appeals to disability appeal tribunals.

- (1) Where an appeal has been brought under section 31 above, a person who may be nominated as chairman of a disability appeal tribunal may, if prescribed conditions are satisfied, refer the claimant to a medical practitioner for such examination and report as appears to him to be necessary for the purpose of providing a disability appeal tribunal with information for use in determining the appeal.
- (2) At a hearing before a disability appeal tribunal, except in prescribed circumstances, the tribunal —
  - (a) may not carry out a physical examination of the claimant; and
  - (b) may not require the claimant to undergo any physical test for the purpose of determining whether he satisfies the condition mentioned in section 73(1)(a) of the Contributions and Benefits Act.

### *Determination of questions of special difficulty*

## 54 Assessors.

- (1) Where it appears to an authority to which this section applies that a matter before the authority involves a question of fact of special difficulty, then, unless regulations otherwise provide, the authority may direct that in dealing with that matter they shall have the assistance of one or more assessors.
- (2) The authorities to which this section applies are—
  - (a) two or more adjudicating medical practitioners acting together;
  - (b) two or more specially qualified adjudicating medical practitioners, appointed by virtue of section 60 below, acting together;
  - (c) a social security appeal tribunal;
  - (d) a disability appeal tribunal;
  - (e) a medical appeal tribunal;
  - (f) a Commissioner;
  - (g) the Department.

## 55 Tribunal of 2 or 3 Commissioners.

- (1) If it appears to the Chief Social Security Commissioner (or, in the case of his inability to act, to such other of the Commissioners as he may have nominated to act for the purpose) that an appeal falling to be heard by one of the Commissioners involves a question of law of special difficulty, he may direct that the appeal be dealt with, not by that Commissioner alone, but by a Tribunal consisting of any 2 or 3 of the Commissioners.
- (2) If the decision of the Tribunal is not unanimous, the decision of the majority, or, in the case of a Tribunal consisting of 2 Commissioners, the decision of the presiding member, shall be the decision of the Tribunal.

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VALID FROM 01/07/1997

*[<sup>F26</sup> Medical examinations]*

**Textual Amendments**

**F26** S. 55A and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 17; S.R. 1997/316, art. 2, Sch.

**[<sup>F27</sup> 55A Medical examinations of persons awarded attendance allowance or disability living allowance.**

Regulations may make provision—

- (a) enabling the Department to require a person to whom attendance allowance or disability living allowance has been awarded to submit to medical examination in prescribed circumstances;
- (b) for withholding payments of benefit in prescribed circumstances where a person has failed to submit himself to a medical examination to which he has been required to submit in accordance with regulations under paragraph (a) above; and
- (c) for the subsequent making in prescribed circumstances of payments withheld in accordance with regulations under paragraph (b) above.]

**Textual Amendments**

**F27** S. 55A and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 17; S.R. 1997/316, art. 2., Sch.

*Regulations*

**56 Regulations as to determination of questions and matters arising out of, or pending, reviews and appeals.**

- (1) Subject to the provisions of this Act, provision may be made by regulations for the determination—
  - (a) by the Department; or
  - (b) by a person or tribunal appointed or constituted in accordance with the regulations,
 of any question arising under or in connection with the Contributions and Benefits Act or the former legislation, including a claim for benefit.
- (2) In this section “the former legislation” means the National Insurance Acts (Northern Ireland) 1965 to 1974 and the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1965 to 1974 and the 1975 Act and Part III of the 1986 Order.
- (3) Regulations under subsection (1) above may modify, add to or exclude any provisions of this Part of this Act, so far as relating to any questions to which the regulations relate.

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- (4) It is hereby declared for the avoidance of doubt that the power to make regulations under subsection (1) above includes power to make regulations for the determination of any question arising as to the total or partial recoupment of unemployment benefit in pursuance of regulations under Article 72(1) of the <sup>M5</sup>Industrial Relations (Northern Ireland) Order 1976 (including any decision as to the amount of benefit).
- (5) Regulations under subsection (1) above may provide for the review by the Department of decisions on questions determined by it.
- (6) The Lord Chancellor may by regulations provide—
- (a) for officers authorised by him to determine any question which is determinable by a Commissioner and which does not involve the determination of any appeal, application for leave to appeal or reference;
  - (b) for the procedure to be followed by any such officer in determining any such question;
  - (c) for the manner in which determinations of such questions by such officers may be called in question.
- (7) A determination which would have the effect of preventing an appeal, application for leave to appeal or reference being determined by a Commissioner is not a determination of the appeal, application or reference for the purposes of subsection (6) above.
- (8) Regulations under subsection (1) above may provide—
- (a) for the reference to the Court of Appeal for decision of any question of law arising in connection with the determination of a question by the Department; and
  - (b) for appeals to that court from the decision of the Department on any such question of law;
- and subsections (5) and (6) of section 16 above shall apply to a reference or appeal under this subsection as they apply to a reference or appeal under subsections (1) to (3) of that section.

**Modifications etc. (not altering text)**

**C34** S. 56 extended (7.2.1994) by 1993 c. 49, s.163(3); S.R. 1994/17, art. 2

**Marginal Citations**

**M5** S.I. 1976/1043 (N.I. 16).

**57 Procedure.**

- (1) Regulations (in this section referred to as “procedure regulations”) may make any such provision as is specified in Schedule 3 to this Act.
- (2) Procedure regulations may deal differently with claims and questions relating to—
- (a) benefit under Parts II to IV of the Contributions and Benefits Act;
  - (b) industrial injuries benefit;
  - (c) each of the other benefits to which section 18 above applies.

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- (3) At any inquiry held by virtue of procedure regulations the witnesses shall, if the person holding the inquiry thinks fit, be examined on oath; and the person holding the inquiry shall have power to administer oaths for that purpose.
- (4) In proceedings for the determination of a question mentioned in section 15(1)(c) above (including proceedings on an inquiry), there shall be available to a witness (other than the person who is liable, or alleged to be liable, to pay the Class 1A contribution in question) any privilege against self-incrimination or incrimination of a spouse which is available to a witness in legal proceedings.
- (5) It is hereby declared—
  - (a) that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not; and
  - (b) that the power to provide for the manner in which questions arising for determination by the Department are to be raised includes power to make provision with respect to the formulation of any such questions, whether arising on a reference under section 111 below or otherwise.
- (6) Except so far as it may be applied by procedure regulations, the <sup>M6</sup>Arbitration Act (Northern Ireland) 1937 shall not apply to any proceedings under this Part of this Act.

#### Marginal Citations

M6 1937 c. 8 (N.I.).

## 58 Finality of decisions.

- (1) Subject to the provisions of this Part of this Act, the decision of any claim or question in accordance with the foregoing provisions of this Part of this Act shall be final; and subject to the provisions of any regulations under section 56 above, the decision of any claim or question in accordance with those regulations shall be final.
- (2) Subsection (1) above shall not make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision.
- (3) A decision (given under subsection (2) of section 42 above or otherwise) that an accident was an industrial accident is to be taken as determining only that paragraphs (a), (b) and (c) of subsection (5) of that section are satisfied in relation to the accident, and neither any such decision nor the reference to an adjudicating medical practitioner or a medical appeal tribunal under section 43 above of the disablement questions in connection with any claim to or award of disablement benefit is to be taken as importing a decision as to the origin of any injury or disability suffered by the claimant, whether or not there is an event identifiable as an accident apart from any injury that may have been received; but—
  - (a) a decision that on a particular occasion when there was no such event a person had an industrial accident by reason of an injury shall be treated as a decision that, if the injury was suffered by accident on that occasion, the accident was an industrial accident; and
  - (b) a decision that an accident was an industrial accident may be given, and a declaration to that effect be made and recorded in accordance with section 42

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above, without its having been found that personal injury resulted from the accident (saving always the discretion under subsection (3) of that section to refuse to determine the question if it is unlikely to be necessary for the purposes of a claim for benefit).

- (4) Notwithstanding anything in subsection (2) or (3) above (but subject to the provisions of this Part of this Act as to appeal and review), where for purposes of disablement pension or disablement gratuity in respect of an accident it has been found by an adjudicating medical practitioner or a medical appeal tribunal, on the determination or last determination of the disablement questions, that an injury resulted in whole or in part from the accident, then for purposes of industrial death benefit in respect of that accident the finding shall be conclusive that the injury did so result.
- (5) Subsections (2) to (4) above shall apply as regards the effect to be given in any proceedings to any decision, or to a reference under section 43 above, whether the decision was given or reference made or the proceedings were commenced before or after the passing of the <sup>M7</sup>National Insurance Act 1972 (section 5 of which originally contained the provisions contained in this section), except that it shall not affect the determination of any appeal under section 46 above from a decision of a medical appeal tribunal given before the passing of that Act, nor affect any proceedings consequent on such an appeal from a decision so given; and accordingly—
- (a) any decision given before the passing of that Act that a claimant was not entitled to industrial death benefit may be reviewed in accordance with this Part of this Act to give effect to subsection (4) above; and
  - (b) the references in subsections (2) and (3) above to provisions of this Act, and the reference in this subsection to section 43 above shall (so far as necessary) include the corresponding provisions of previous Acts.

#### Modifications etc. (not altering text)

C35 S. 58(1) excluded (25.8.1995) by S.R. 1995/293, reg. 54(2)

#### Marginal Citations

M7 1972 c. 57.

## 59 Regulations about supplementary matters relating to determinations.

- (1) Regulations may make provision as respects matters arising—
- (a) pending the determination under this Act (whether in the first instance or on an appeal or reference, and whether originally or on review)—
    - (i) of any claim for benefit to which this section applies;
    - (ii) of any question affecting any person's right to such benefit or its receipt; or
    - (iii) of any person's liability for contributions under Part I of the Contributions and Benefits Act; or
  - (b) out of the revision on appeal or review of any decision under this Act on any such claim or question.
- (2) Without prejudice to the generality of subsection (1) above, regulations under that subsection may include provision as to the date from which any decision on a review is to have effect or to be deemed to have had effect.

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- (3) Regulations under subsection (1) above as it applies to child benefit may include provision as to the date from which child benefit is to be payable to a person in respect of a child in a case where, before the benefit was awarded to that person, child benefit in respect of the child was awarded to another person.
- (4) This section applies to the following benefits—
- (a) benefit as defined in section 121 of the Contributions and Benefits Act;
  - (b) child benefit;
  - (c) statutory sick pay;
  - (d) statutory maternity pay;
  - (e) income support;
  - (f) family credit;
  - (g) disability working allowance; and
  - (h) any social fund payments such as are mentioned in section 134(1)(a) or (2) of the Contributions and Benefits Act.

*[<sup>F28</sup> Incapacity for work]*

**Textual Amendments**

**F28** S. 59A and the preceding cross-heading inserted (21.11.1994 for certain purposes, otherwise 13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 8(2); S.R. 1994/450, art. 2, Sch. Pts. II, IV

**<sup>F29</sup>59A Adjudication: incapacity for work.**

- (1) The following provisions apply in relation to the determination, for any purpose for which the provisions of Part XIIA of the Contributions and Benefits Act apply, whether a person—
- (a) is, or is to be treated as, capable or incapable of work; or
  - (b) falls to be disqualified for any period in accordance with regulations under section 167E of that Act;
- and to the determination for any such purpose of such other related questions as may be prescribed.

- (2) Provision may be made by regulations for a determination made for one such purpose to be treated as conclusive for another such purpose.

Regulations may in particular provide that a determination that a person is disqualified for any period in accordance with regulations under section 167E of the Contributions and Benefits Act shall have effect for such purposes as may be prescribed as a determination that he is to be treated as capable of work for that period, and *vice versa*.

- (3) Provision may be made by regulations for questions of such descriptions as may be prescribed to be determined by an adjudication officer, notwithstanding that other questions fall to be determined by another authority.
- (4) Provision may be made by regulations—
- (a) requiring a social security appeal tribunal to sit with one or more medical assessors in such classes of case as may be prescribed; and



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- (b) as to the constitution of panels of medical practitioners to act as medical assessors in such cases;
- and regulations under this subsection may confer on the President, or such other person as may be prescribed, such functions as may be prescribed.

#### Textual Amendments

**F29** S. 59A and the preceding cross-heading inserted (21.11.1994 for certain purposes, otherwise 13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 8(2); S.R. 1994/450, art. 2, Sch. Pts. II, IV

#### Modifications etc. (not altering text)

**C36** S. 59A: power to make regulations modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3), 73

### *Industrial diseases*

#### **60 Adjudication as to industrial diseases.**

- (1) Regulations shall provide for applying, in relation—
- (a) to claims for benefit under sections 108 to 110 of the Contributions and Benefits Act; and
  - (b) to questions arising in connection with such claims or with awards of such benefit,
- the provisions of this Part of this Act subject to any prescribed additions or modifications.
- (2) Regulations for those purposes may in particular provide—
- (a) for the appointment of specially qualified adjudicating medical practitioners and the appointment of medical officers for the purposes of the regulations (which shall be taken to include, in the case of specially qualified adjudicating medical practitioners, the purposes for which adjudicating medical practitioners are appointed and medical appeal tribunals are established); and
  - (b) for the payment by the prescribed persons of fees of the prescribed amount in connection with any medical examination by specially qualified adjudicating medical practitioners or any such officer and their return in any prescribed cases, and (so far as not required to be returned) their payment into the National Insurance Fund and recovery as sums due to that Fund.

### *Housing benefit*

#### **61 Adjudication.**

- (1) Regulations shall require a person who has claimed housing benefit to be notified of the determination of the claim.
  - (2) Any such notification shall be given in such form as may be prescribed.
- [<sup>F30</sup>(2A) Regulations may make provision requiring the Housing Executive, where claims for housing benefit are made to it by, or in respect of, persons how have been

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entitled to a jobseeker’s allowance or to income support to give priority, in prescribed circumstances, to those claims over other claims for that benefit.]

- (3) Regulations shall make provision for reviews of determinations relating to housing benefit.

#### Textual Amendments

**F30** S. 61(2A) inserted (5.2.1996 for certain purposes and otherwise 1.4.1996) by S.I. 1995/2705 (N.I. 15), art. 30(2); S.R. 1996/26, art. 2(d)

*Social fund officers and inspectors and the social fund Commissioner*

## 62 Social fund officers.

- (1) The Department shall appoint officers, to be known as “social fund officers”, for the purpose of performing functions in relation to payments out of the social fund such as are mentioned in section 134(1)(b) of the Contributions and Benefits Act.
- (2) A social fund officer may be appointed to perform all the functions of social fund officers or such functions of such officers as may be specified in his instrument of appointment.
- (3) The Department may nominate for an area a social fund officer who shall issue general guidance to the other social fund officers in the area about such matters relating to the social fund as the Department may specify.

## 63 The social fund Commissioner and inspectors.

- (1) There shall continue to be an officer known as “the social fund Commissioner” (in this section referred to as “the Commissioner”).
- (2) The Commissioner shall be appointed by the Department.
- (3) The Commissioner—
  - (a) shall appoint such social fund inspectors; and
  - (b) may appoint such officers and staff for himself and for social fund inspectors, as he thinks fit, but with the consent of the Department and the Department of Finance and Personnel as to numbers.
- (4) Appointments under subsection (3) above shall be made from persons made available to the Commissioner by the Department.
- (5) It shall be the duty of the Commissioner—
  - (a) to monitor the quality of decisions of social fund inspectors and give them such advice and assistance as he thinks fit to improve the standard of their decisions;
  - (b) to arrange such training of social fund inspectors as he considers appropriate; and
  - (c) to carry out such other functions in connection with the work of social fund inspectors as the Department may direct.

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- (6) The Commissioner shall report annually in writing to the Department on the standards of reviews by social fund inspectors and the Department shall publish his report.

## 64 Reviews.

- (1) A social fund officer—
- (a) shall review a determination made under the Contributions and Benefits Act by himself or some other social fund officer, if an application for a review is made within such time and in such form and manner as may be prescribed by or on behalf of the person who applied for the payment to which the determination relates; and
  - (b) may review such a determination in such other circumstances as he thinks fit; and may exercise on a review any power exercisable by an officer under Part VIII of the Contributions and Benefits Act.
- (2) The power to review a determination conferred on a social fund officer by subsection (1) above includes power to review a determination made by a social fund officer on a previous review.
- (3) On an application made by or on behalf of the person to whom a determination relates within such time and in such form and manner as may be prescribed a determination of a social fund officer which has been reviewed shall be further reviewed by a social fund inspector.
- (4) On a review a social fund inspector shall have the following powers—
- (a) power to confirm the determination made by the social fund officer;
  - (b) power to make any determination which a social fund officer could have made;
  - (c) power to refer the matter to a social fund officer for determination.
- (5) A social fund inspector may review a determination under subsection (3) above made by himself or some other social fund inspector.
- (6) In determining a question on a review a social fund officer or social fund inspector shall have regard, subject to subsection (7) below, to all the circumstances of the case and, in particular, to the matters specified in section 136(1)(a) to (e) of the Contributions and Benefits Act.
- (7) An officer or inspector shall determine any question on a review in accordance with any general directions issued by the Department under section 136(2) of the Contributions and Benefits Act and any general directions issued by the Department with regard to reviews and in determining any such question shall take account of any general guidance issued by the Department under that subsection or with regard to reviews.
- (8) Directions under this section may specify—
- (a) the circumstances in which a determination is to be reviewed; and
  - (b) the manner in which a review is to be conducted.
- (9) In reviewing a question under this section a social fund officer shall take account (subject to any directions or guidance issued by the Department under this section) of any guidance issued by the social fund officer nominated for his area under section 62(3) above.

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- (10) A social fund inspector reviewing a determination shall be under the same duties in relation to such guidance as the social fund officer or inspector who made the determination.

**Modifications etc. (not altering text)**

C37 S. 64 modified (1.7.1998) by S.I. 1998/1506, arts. 1(3)(c)(d), 77, Sch. 5 para. 7

*Christmas bonus*

**65 Determination of questions.**

- (1) A determination by the competent authority that a person is entitled or not entitled to payment of a qualifying benefit in respect of a period which includes a day in the relevant week shall be conclusive for the purposes of section 144 of the Contributions and Benefits Act; and in this subsection “competent authority” means, in relation to a payment of any description of a qualifying benefit, an authority that ordinarily determines whether a person is entitled to such a payment.
- (2) Any question arising under that section other than one determined or falling to be determined under subsection (1) above shall be determined by the Department whose decision shall, except as provided by subsection (3) below, be final.
- (3) The Department may reverse a decision under subsection (2) above on new facts being brought to its notice or if it is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact.
- (4) Expressions used in this section to which a meaning is assigned by section 146 of the Contributions and Benefits Act have that meaning in this section.

*Restrictions on entitlement to benefit following erroneous decision*

**66 Restrictions on entitlement to benefit in certain cases of error.**

- (1) This section applies where—
- (a) on the determination, whenever made, of a Commissioner or the court (the “relevant determination”), a decision made by an adjudicating authority is or was found to have been erroneous in point of law; and
  - (b) after both—
    - (i) 14th August 1990 (the date of the coming into operation of section 154D of the 1975 Act, the provision of that Act corresponding to this section); and
    - (ii) the date of the relevant determination,
 a claim which falls, or which would apart from this section fall, to be decided in accordance with the relevant determination is made or treated under section 5(1)(i) above as made by any person for any benefit.
- (2) Where this section applies, any question which arises on, or on the review of a decision which is referable to, the claim mentioned in subsection (1)(b) above and which relates to the entitlement of the claimant or any other person to any benefit—

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- (a) in respect of a period before the relevant date; or
- (b) in the case of a widow's payment, in respect of a death occurring before that date,

shall be determined as if the decision referred to in subsection (1)(a) above had been found by the Commissioner or court in question not to have been erroneous in point of law.

- (3) In determining whether a person is entitled to benefit in a case where—
- (a) his entitlement depends on his having been entitled to the same or some other benefit before attaining a particular age; and
  - (b) he attained that age—
    - (i) before both the date of the relevant determination and the date of the claim referred in subsection (1)(b) above, but
    - (ii) not before the earliest day in respect of which benefit could, apart from this section, have been awarded on that claim,

subsection (2) above shall be disregarded for the purpose only of determining the question whether he was entitled as mentioned in paragraph (a) above.

- (4) In this section—
- “adjudicating authority” means—
- (a) an adjudication officer or, where the original decision was given on a reference under section 19(2) or 23(1) above, a social security appeal tribunal, a disability appeal tribunal or a medical appeal tribunal;
  - (b) any of the following former bodies or officers, that is to say, the National Assistance Board for Northern Ireland, the Supplementary Benefits Commission for Northern Ireland, the Attendance Allowance Board for Northern Ireland, a benefit officer, an insurance officer or a supplement officer; or
  - (c) any of the officers who, or tribunals or other bodies which, in Great Britain correspond to those mentioned in paragraph (a) or (b) above;
- “benefit” means—
- (a) benefit as defined in section 121 of the Contributions and Benefits Act;
  - (b) any income-related benefit;
- “the court” means the High Court, the Court of Appeal, the Court of Session, the High Court or Court of Appeal in England and Wales, the House of Lords or the Court of Justice of the European Community;
- “the relevant date” means whichever is the latest of—
- (a) the date of the relevant determination;
  - (b) the date which falls 12 months before the date on which the claim referred to in subsection (1)(b) above is made or treated under section 5(1)(i) above as made; and
  - (c) the earliest date in respect of which the claimant would, apart from this section, be entitled on that claim to the benefit in question.

- (5) For the purposes of this section—
- (a) any reference in this section to entitlement to benefit includes a reference to entitlement—
    - (i) to any increase in the rate of a benefit; or
    - (ii) to a benefit, or increase of benefit, at a particular rate; and
  - (b) any reference to a decision which is “referable to” a claim is a reference to—

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- (i) a decision on the claim,
  - (ii) a decision on a review of the decision on the claim, or
  - (iii) a decision on a subsequent review of the decision on the review,
- and so on.
- (6) The date of the relevant determination shall, in prescribed cases, be determined for the purposes of this section in accordance with any regulations made for that purpose.

**Modifications etc. (not altering text)**

**C38** S. 66 applied (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), s. 121\(1\)\(c\), 173\(4\)](#) (with s. 108(5))

**67 Determination of questions on review following erroneous decisions.**

- (1) Subsection (2) below applies in any case where—
- (a) on the determination, whenever made, of a Commissioner or the court (the “relevant determination”), a decision made by an adjudicating authority is or was found to have been erroneous in point of law; and
  - (b) in consequence of that determination, any other decision—
    - (i) which was made before the date of that determination; and
    - (ii) which is referable to a claim made or treated as made by any person for any benefit,
 falls (or would, apart from subsection (2) below, fall) to be revised on a review carried out under section 23(5) above after 14th August 1990 (the date of the coming into force of section 104(7) to (10) of the 1975 Act, the provision of that Act corresponding to this section) or on a review under section 28 above on the ground that the decision under review was erroneous in point of law.
- (2) Where this subsection applies, any question arising on the review referred to in subsection (1)(b) above, or on any subsequent review of a decision which is referable to the same claim, as to any person’s entitlement to, or right to payment of, any benefit—
- (a) in respect of any period before the date of the relevant determination; or
  - (b) in the case of a widow’s payment, in respect of a death occurring before that date,
- shall be determined as if the decision referred to in subsection (1)(a) above had been found by the Commissioner or court in question not to have been erroneous in point of law.
- (3) In determining whether a person is entitled to benefit in a case where his entitlement depends on his having been entitled to the same or some other benefit before attaining a particular age, subsection (2) above shall be disregarded for the purpose only of determining the question whether he was so entitled before attaining that age.
- (4) For the purposes of this section—
- (a) “adjudicating authority” and “the court” have the same meaning as they have in section 66 above;
  - (b) any reference to—
    - (i) a person’s entitlement to benefit; or

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- (ii) a decision which is referable to a claim, shall be construed in accordance with subsection (5) of that section; and
- (c) the date of the relevant determination shall, in prescribed cases, be determined in accordance with any regulations made under subsection (6) of that section.

#### Modifications etc. (not altering text)

- C39** S. 67 modified (25.8.1995) by S.R. 1995/293, **reg. 46**  
 S. 67 restricted (25.8.1995) by S.R. 1995/293, **reg. 67**  
 S. 67 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, **Sch. 5 para. 6**

#### Correction of errors

### 68 Regulations as to correction of errors.

- (1) Regulations may make provision with respect to—
- (a) the correction of accidental errors in any decision or record of a decision given with respect to a claim or question arising under or in connection with any relevant enactment by a body or person authorised to decide the claim or question; and
  - (b) the setting aside of any such decision in a case where it appears just to set the decision aside on the ground that—
    - (i) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by, a party to the proceedings or a party’s representative or was not received at an appropriate time by the body or person who gave the decision; or
    - (ii) a party to the proceedings or a party’s representative was not present at a hearing related to the proceedings.
- (2) Nothing in subsection (1) above shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from regulations made by virtue of that subsection.
- (3) In this section “relevant enactment” means any enactment contained in—
- (a) the National Insurance Measures (Northern Ireland) 1966 to 1974;
  - (b) the National Insurance (Industrial Injuries) Measures (Northern Ireland) 1966 to 1974;
  - (c) the Workmen’s Compensation (Supplementation) Measures (Northern Ireland) 1966 to 1974;
  - (d) the <sup>M8</sup>Social Security Act 1973;
  - (e) the Social Security (Northern Ireland) Acts 1975 to 1991;
  - (f) the Old Cases Act;
  - (g) the <sup>M9</sup>Child Benefit (Northern Ireland) Order 1975;
  - (h) the <sup>M10</sup>Family Income Supplements Act (Northern Ireland) 1971;
  - (i) the <sup>M11</sup>Supplementary Benefits (Northern Ireland) Order 1977;
  - (j) the Contributions and Benefits Act;
  - (k) this Act. [<sup>F31</sup>or
  - (l) the Pensions Act]

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#### Textual Amendments

**F31** Words in s. 68(3) added (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para.38**; S.R. 1994/17, **art. 2**

#### Marginal Citations

**M8** 1973 c. 38.

**M9** S.I. 1975/1504 (N.I. 16).

**M10** 1971 c. 8 (N.I.).

**M11** S.I. 1977/2156 (N.I. 27).

## PART III

### OVERPAYMENTS AND ADJUSTMENTS OF BENEFIT

#### Modifications etc. (not altering text)

**C40** Pt. III (ss. 69-76) restricted (1.12.1999) by S.I. 1999/3147 (N.I. 11), **arts. 1(4), 65**

#### *Misrepresentation etc.*

#### **69 Overpayments - general.**

- (1) Where it is determined that, whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact and in consequence of the misrepresentation or failure—
  - (a) a payment has been made in respect of a benefit to which this section applies; or
  - (b) any sum recoverable by or on behalf of the Department in connection with any such payment has not been recovered,
 the Department shall be entitled to recover the amount of any payment which the Department would not have made or any sum which the Department would have received but for the misrepresentation or failure to disclose.
- (2) Where any such determination as is referred to in subsection (1) above is made on an appeal or review, there shall also be determined in the course of the appeal or review the question whether any, and if so what, amount is recoverable under that subsection by the Department.
- (3) An amount recoverable under subsection (1) above is in all cases recoverable from the person who misrepresented the fact or failed to disclose it.
- (4) In relation to cases where payments of a benefit to which this section applies have been credited to a bank account or other account under arrangements made with the agreement of the beneficiary or a person acting for him, circumstances may be prescribed in which the Department is to be entitled to recover any amount paid in excess of entitlement; but any such regulations shall not apply in relation to any payment unless before he agreed to the arrangements such notice of the effect of the regulations as may be prescribed was given in such manner as may be prescribed to the beneficiary or to a person acting for him.



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- (5) Except where regulations otherwise provide, an amount shall not be recoverable under subsection (1) above or regulations under subsection (4) above unless—
- (a) the determination in pursuance of which it was paid has been reversed or varied on an appeal or revised on a review; and
  - (b) it has been determined on the appeal or review that the amount is so recoverable.
- (6) Regulations may provide—
- (a) that amounts recoverable under subsection (1) above or regulations under subsection (4) above shall be calculated or estimated in such manner and on such basis as may be prescribed;
  - (b) for treating any amount paid to any person under an award which it is subsequently determined was not payable—
    - (i) as properly paid; or
    - (ii) as paid on account of a payment which it is determined should be or should have been made,and for reducing or withholding any arrears payable by virtue of the subsequent determination;
  - (c) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
    - (i) the other person is himself entitled to a payment for that period; or
    - (ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person,and for reducing or withholding any arrears payable for that period by virtue of the subsequent determination.
- (7) Circumstances may be prescribed in which a payment on account by virtue of section 5(1)(s) above may be recovered to the extent that it exceeds entitlement.
- (8) Where any amount paid is recoverable under—
- (a) subsection (1) above;
  - (b) regulations under subsection (4) or (7) above; or
  - (c) section 72 below,
- it may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.
- (9) Where any amount paid in respect of a married or unmarried couple is recoverable as mentioned in subsection (8) above, it may, without prejudice to any other method of recovery, be recovered, in such circumstances as may be prescribed, by deduction from prescribed benefits payable to either of them.
- (10) Any amount recoverable under the provisions mentioned in subsection (8) above shall, if the county court so orders, be enforceable as if it were payable under an order of that court.
- (11) This section applies to the following benefits—
- (a) benefit as defined in section 121 of the Contributions and Benefits Act;
  - (b) subject to section 70 below, income support;
  - (c) family credit;
  - (d) disability working allowance;

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- (e) any social fund payments such as are mentioned in section 134(1)(a) or (2) of the Contributions and Benefits Act; and
- (f) child benefit.

VALID FROM 05/10/1998

**[<sup>F32</sup>69ZA Overpayments out of the social fund.**

- (1) Subject to subsection (2) below, section 69 above shall apply in relation to social fund payments to which this section applies as it applies in relation to payments made in respect of benefits to which that section applies.
- (2) Section 69 above as it so applies shall have effect as if—
  - (a) in paragraph (a) of subsection (5) and subsection (5A), for the words “reversed or varied on an appeal or has been revised under Article 10 or superseded under Article 11” there were substituted the words “revised on a review under Article 38”;
  - (b) in paragraph (b) of subsection (5), for the words “on the appeal or under that Article” there were substituted the words “on the review”; and
  - (c) subsections (7) and (10A) were omitted.
- (3) This section applies to social fund payments such as are mentioned in section 134(1)(b) of the Contributions and Benefits Act.]

**Textual Amendments**

**F32** S. 69ZA inserted (5.10.1998) by S.I. 1998/1506 (N.I. 10), **art. 71(1)**; S.R. 1998/312, **art. 2(c)**

**Modifications etc. (not altering text)**

**C41** S. 69ZA modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), **arts. 1(3)(c)(d), 77, Sch. 5 para. 8**

*[<sup>F33</sup> Jobseeker’s Allowance]*

**Textual Amendments**

**F33** S. 69A and the preceding cross-heading inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), **art. 20**; S.R. 1996/401, **art. 2**

VALID FROM 07/10/1996

**[<sup>F34</sup>69A Recovery of jobseeker’s allowance: severe hardship cases.**

- (1) Where—
  - (a) a severe hardship direction is revoked; and
  - (b) it is determined by an adjudication officer that—
    - (i) whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact; and

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- (ii) in consequence of the failure of misrepresentation, payment of a jobseeker's allowance has been made during the relevant period to the person to whom the direction related, an adjudication officer may determine that the Department is entitled to recover the amount of the payment.
- (2) In this section—  
“severe hardship direction” means a direction given under Article 18 of the Jobseekers (Northern Ireland) Order 1995; and  
“the relevant period” means—  
(a) if the revocation is under Article 18(3)(a) of that Order, the period beginning with the date of the change of circumstances and ending with the date of the revocation; and  
(b) if the revocation is under Article 18(3)(b) or (c) of that Order, the period during which the direction was in force.
- (3) Where a severe hardship direction is revoked, the Department may certify whether there has been misrepresentation of a material fact or failure to disclose a material fact.
- (4) If the Department certifies that there has been such misrepresentation or failure to disclose, it may certify—  
(a) who made the misrepresentation or failed to make the disclosure; and  
(b) whether or not a payment of jobseeker's allowance has been made in consequence of the misrepresentation or failure.
- (5) If the Department certifies that a payment has been made, it may certify the period during which a jobseeker's allowance would not have been paid but for the misrepresentation or failure to disclose.
- (6) A certificate under this section shall be conclusive as to any matter certified.
- (7) Subsections (3) and (6) to (10) of section 69 above apply to a jobseeker's allowance recoverable under subsection (1) above as they apply to a jobseeker's allowance recoverable under section 69(1) above.
- (8) The other provisions of section 69 above do not apply to a jobseeker's allowance recoverable under subsection (1) above.]

#### Textual Amendments

**F34** S. 69A and the preceding cross-heading inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 20; S.R. 1996/401, art. 2

## 70 Special provision as to recovery of income support.

- (1) Where—  
(a) a direction under section 124(1) of the Contributions and Benefits Act is revoked; and  
(b) it is determined by an adjudication officer that, whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact and in consequence of the misrepresentation or failure a payment of

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- income support has been made during the relevant period to the person to whom the direction related,
- an adjudication officer may determine that the Department shall be entitled to recover the amount of the payment.
- (2) In subsection (1) above “the relevant period” means—
    - (a) if the revocation is under subsection (3) of section 124 of the Contributions and Benefits Act, the period beginning with the date of the change of circumstances and ending with the date of the revocation; and
    - (b) if the revocation is under subsection (4) of that section, the period during which the direction was enforced.
  - (3) Where a direction under section 124(1) of the Contributions and Benefits Act is revoked, the Department may certify whether there has been misrepresentation of a material fact or failure to disclose a material fact.
  - (4) If the Department certifies that there has been such misrepresentation or failure to disclose, it may also certify—
    - (a) who made the misrepresentation or failed to make the disclosure; and
    - (b) whether or not a payment of income support has been made in consequence of the misrepresentation or failure.
  - (5) If the Department certifies that a payment has been made, it may certify the period during which income support would not have been paid but for the misrepresentation or failure to disclose.
  - (6) A certificate under this section shall be conclusive for the purposes of this section as to any matter certified.
  - (7) Section 69(3) and (6) to (11) above apply to income support recoverable under subsection (1) above as they apply to income support recoverable under section 69(1) above.
  - (8) The other provisions of section 69 above do not apply to income support recoverable under subsection (1) above.

#### *Adjustments of benefits*

### **71 Overlapping benefits - general.**

- (1) Regulations may provide for adjusting benefit as defined in section 121 of the Contributions and Benefits Act which is payable to or in respect of any person, or the conditions for its receipt, where—
  - (a) there is payable in his case any such pension, allowance or benefit as is described in subsection (2) below; or
  - (b) the person is, or is treated under the regulations as, undergoing medical or other treatment as an in-patient in a hospital or similar institution.
- (2) Subsection (1)(a) above applies to any pension, allowance or benefit payable out of public funds (including any other benefit as so defined, whether it is of the same or a different description) which is payable to or in respect of—
  - (a) the person referred to in subsection (1);
  - (b) that person’s wife or husband;

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- (c) any child or adult dependant of that person; or
  - (d) the wife or husband of any adult dependant of that person.
- (3) Where but for regulations made by virtue of subsection (1)(a) above two persons would both be entitled to an increase of benefit in respect of a third person, regulations may make provision as to their priority.
- (4) Regulations may provide for adjusting benefit payable to or in respect of any person where there is payable in his case any such benefit as is described in subsection (5) below.
- (5) Subsection (4) above applies to any benefit payable under the legislation of any member State other than the United Kingdom which is payable to or in respect of—
- (a) the person referred to in that subsection;
  - (b) that person’s wife or husband;
  - (c) any child or adult dependant of that person; or
  - (d) the wife or husband of any adult dependant of that person.

## 72 Income support and other payments.

- (1) Where—
- (a) a payment by way of prescribed income is made after the date which is the prescribed date in relation to the payment; and
  - (b) it is determined that an amount which has been paid by way of income support would not have been paid if the payment had been made on the prescribed date,
- the Department shall be entitled to recover that amount from the person to whom it was paid.
- (2) Where—
- (a) a prescribed payment which apart from this subsection falls to be made from public funds in the United Kingdom or under the law of any other member State is not made on or before the date which is the prescribed date in relation to the payment; and
  - (b) it is determined that an amount (“the relevant amount”) has been paid by way of income support that would not have been paid if the payment mentioned in paragraph (a) above had been made on the prescribed date,
- then—
- (i) in the case of a payment from public funds in the United Kingdom, the authority responsible for making it may abate it by the relevant amount; and
  - (ii) in the case of any other payment, the Department shall be entitled to receive the relevant amount out of the payment.
- (3) Where—
- (a) a person (in this subsection referred to as A) is entitled to any prescribed benefit for any period in respect of another person (in this subsection referred to as B); and
  - (b) either—
    - (i) B has received income support for that period; or
    - (ii) B was, during that period, a member of the same family as some person other than A who received income support for that period; and

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- (c) the amount of the income support has been determined on the basis that A has not made payments for the maintenance of B at a rate equal to or exceeding the amount of the prescribed benefit,
- the amount of the prescribed benefit may, at the discretion of the authority administering it, be abated by the amount by which the amounts paid by way of income support exceed what it is determined that they would have been had A, at the time the amount of the income support was determined, been making payments for the maintenance of B at a rate equal to the amount of the prescribed benefit.
- (4) Where an amount could have been recovered by abatement by virtue of subsection (2) or (3) above but has not been so recovered, the Department may recover it otherwise than by way of abatement—
- (a) in the case of an amount which could have been recovered by virtue of subsection (2) above, from the person to whom it was paid; and
- (b) in the case of an amount which could have been recovered by virtue of subsection (3) above, from the person to whom the prescribed benefit in question was paid.
- (5) Where a payment is made in a currency other than sterling, its value in sterling shall be determined for the purposes of this section in accordance with regulations.

**[72A] <sup>F35</sup>Payment of benefit where maintenance payments collected by Department.**

- (1) This section applies where—
- (a) a person (“the claimant”) is entitled to a benefit to which this section applies;
- (b) the Department is collecting periodical payments of child or spousal maintenance made in respect of the claimant or a member of the claimant’s family; and
- (c) the inclusion of any such periodical payment in the claimant’s relevant income would, apart from this section, have the effect of reducing the amount of the benefit to which the claimant is entitled.
- (2) The Department may, to such extent as it considers appropriate, treat any such periodical payment as not being relevant income for the purposes of calculating the amount of benefit to which the claimant is entitled.
- (3) The Department may, to the extent that any periodical payment collected by it is treated as not being relevant income for those purposes, retain the whole or any part of that payment.
- (4) Any sum retained by the Department under subsection (3) shall be paid by the Department into the Consolidated Fund.
- (5) In this section—
- “child” means a person under the age of 16.
- “child maintenance”, “spousal maintenance” and “relevant income” have such meaning as may be prescribed;
- “family” means—
- (a) a married or unmarried couple;
- (b) a married or unmarried couple and a member of the same household for whom one of them is, or both are, responsible and who is a child or a person of a prescribed description;

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- (c) except in prescribed circumstances, a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child or a person of a prescribed description;
- “married couple” means a man and woman who are married to each other and are members of the same household; and
- “unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances.
- (6) For the purposes of this section, the Department may by regulations make provision as to the circumstances in which—
- (a) persons are to be treated as being or not being members of the same household;
- (b) one person is to be treated as responsible or not responsible for another.
- (7) The benefits to which this section applies are income support, an income-based jobseeker’s allowance and such other benefits (if any) as may be prescribed.]

#### Textual Amendments

**F35** S. 72A inserted (16.11.1995) by S.I. 1995/2702 (N.I. 13), art. 18; S.I. 1995/428, art. 2, Sch.

### *Housing benefit*

#### **73 Overpayments of housing benefit.**

- (1) Except where regulations otherwise provide, any amount of housing benefit paid in excess of entitlement may be recovered by the Department, the Department of the Environment or by the Housing Executive in such manner as may be prescribed.
- (2) Regulations may require the Department of the Environment or the Housing Executive to recover such an amount in such circumstances as may be prescribed.
- (3) An amount recoverable under this section is in all cases recoverable from the person to whom it was paid; but, in such circumstances as may be prescribed, it may also be recovered from such other person as may be prescribed.
- (4) Any amount recoverable under this section may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

### *Social fund awards*

#### **74 Recovery of social fund awards.**

- (1) A social fund award which is repayable shall be recoverable by the Department.
- (2) Without prejudice to any other method of recovery, the Department may recover an award by deduction from prescribed benefits.
- (3) The Department may recover an award—
- (a) from the person to or for the benefit of whom it was made;

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- (b) where that person is a member of a married or unmarried couple, from the other member of the couple;
  - (c) from a person who is liable to maintain the person by or on behalf of whom the application for the award was made or any person in relation to whose needs the award was made.
- (4) Payments to meet funeral expenses may in all cases be recovered, as if they were funeral expenses, out of the estate of the deceased, and (subject to section 69 above) by no other means.
- (5) In this section—
- “married couple” means a man and woman who are married to each other and are members of the same household;
  - “unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances within the meaning of section 133 of the Contributions and Benefits Act.
- (6) For the purposes of this section—
- (a) a man shall be liable to maintain his wife and any children of whom he is the father;
  - (b) a woman shall be liable to maintain her husband and any children of whom she is the mother;
  - (c) a person shall be liable to maintain another person throughout any period in respect of which the <sup>M12</sup>first-mentioned person has, on or after 24th June 1980 (the date of the making of the Social Security (Northern Ireland) Order 1980) and either alone or jointly with a further person, given an undertaking in writing in pursuance of immigration rules within the meaning of the <sup>M13</sup>Immigration Act 1971 to be responsible for the maintenance and accommodation of the other person; and
  - (d) “child” includes a person who has attained the age of 16 but not the age of 19 and in respect of whom either parent, or some person acting in the place of either parent, is receiving income support.
- [<sup>F36</sup>(7) Any reference in subsection (6) to children of whom the man or the woman is the father or the mother shall be construed in accordance with Article 155 of the Children (Northern Ireland) Order 1995.]
- (8) A document bearing a certificate which—
- (a) is signed by a person authorised in that behalf by the Secretary of State; and
  - (b) states that the document apart from the certificate is, or is a copy of, such an undertaking as is mentioned in subsection (6)(c) above,
- shall be conclusive of the undertaking in question for the purposes of this section and section 101 below; and a certificate purporting to be so signed shall be deemed to be so signed until the contrary is proved.

#### Textual Amendments

**F36** S. 74(7) substituted (1.7.1995) by S.I. 1995/755 (N.I. 2), art. 185(1), **Sch. 9**, para. 186; S.R. 1995/248, art. 2(f)



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#### Marginal Citations

M12 S.I. 1980/870 (N.I. 8).

M13 1971 c. 77.

### *Great Britain payments*

#### 75 Recovery of Great Britain payments.

Without prejudice to any other method of recovery—

- (a) amounts recoverable under any statutory provision having effect in Great Britain and corresponding to a statutory provision mentioned in section 69(8) above shall be recoverable by deduction from benefits prescribed under that subsection;
- (b) amounts recoverable under any statutory provision having effect in Great Britain and corresponding to section 73 above shall be recoverable by deduction from benefits prescribed under subsection (4) of that section; and
- (c) amounts recoverable under Part III of the Great Britain Administration Act shall be recoverable by deduction from benefits prescribed under subsection (2) of section 74 above and subsection (3) of that section shall have effect in relation to such awards as it has effect in relation to awards out of the social fund under this Act.

### *Adjustment of child benefit*

#### 76 Child benefit - overlap with benefits under legislation of other member States.

Regulations may provide for adjusting child benefit payable in respect of any child in respect of whom any benefit is payable under the legislation of any member State other than the United Kingdom.

## PART IV

### RECOVERY FROM COMPENSATION PAYMENTS

#### 77 Interpretation of Part IV.

(1) In this Part of this Act—

“benefit” means any benefit under the Contributions and Benefits Act except child benefit and, subject to regulations under subsection (2) below, the “relevant benefits” are such of those benefits as may be prescribed for the purposes of this Part of this Act;

“certificate of deduction” means a certificate given by the compensator specifying the amount which he has deducted and paid to the Department in pursuance of section 78 below;

“certificate of total benefit” means a certificate given by the Department in accordance with this Part of this Act;

“compensation payment” means any payment falling to be made (whether voluntarily, or in pursuance of a court order or an agreement, or otherwise)—

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- (a) to or in respect of the victim in consequence of the accident, injury or disease in question, and
- (b) either—
  - (i) by or on behalf of a person who is, or is alleged to be, liable to any extent in respect of that accident, injury or disease; or
  - (ii) in pursuance of a compensation scheme for motor accidents,

but does not include benefit or an exempt payment or so much of any payment as is referable to costs incurred by any person;

“compensation scheme for motor accidents” means any scheme or arrangement under which funds are available for the payment of compensation in respect of motor accidents caused, or alleged to have been caused, by uninsured or unidentified persons;

“compensator”, “victim” and “intended recipient” shall be construed in accordance with section 78(1) below;

“payment” means payment in money or money’s worth, and cognate expressions shall be construed accordingly;

“the recoupment provisions” means this Part and section 101 of the Great Britain Administration Act;

“relevant deduction” means the deduction required to be made from the compensation payment in question by virtue of the recoupment provisions;

“relevant payment” means the payment required to be made to the Department by virtue of the recoupment provisions;

“relevant period” means—

- (a) in the case of a disease, the period of 5 years beginning with the date on which the victim first claims a relevant benefit in consequence of the disease; or
- (b) in any other case, the period of 5 years immediately following the day on which the accident or injury in question occurred;

but where before the end of that period the compensator makes a compensation payment in final discharge of any claim made by or in respect of the victim and arising out of the accident, injury or disease, the relevant period shall end on the date on which that payment is made;

“total benefit” means the gross amount referred to in section 78(1)(a) below.

<sup>F37</sup>(2) .....

- (3) For the purposes of this Part of this Act the following are the “exempt payments”—
  - (a) any small payment, as defined in section 81 below;
  - (b) any payment made to or for the victim under Article 3 of the <sup>M14</sup>Criminal Justice (Northern Ireland) Order 1980 ;
  - (c) any payment to the extent that it is made—
    - (i) in consequence of an action under the <sup>M15</sup>Fatal Accidents (Northern Ireland) Order 1977; or
    - (ii) in circumstances where, had an action been brought, it would have been brought under that Order;
  - (d) without prejudice to section 6(4) of the <sup>M16</sup>Vaccine Damage Payments Act 1979 (which provides for the deduction of any such payment in the assessment

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- of any award of damages), any payment made under that Act to or in respect of the victim;
- (e) any award of compensation made to or in respect of the victim by the Secretary of State under Article 3 or 10 of the <sup>M17</sup>Criminal Injuries (Compensation) (Northern Ireland) Order 1988;
  - (f) any payment made in the exercise of a discretion out of property held subject to a trust in a case where no more than 50 per cent. by value of the capital contributed to the trust was directly or indirectly provided by persons who are, or are alleged to be, liable in respect of—
    - (i) the accident, injury or disease suffered by the victim in question; or
    - (ii) the same or any connected accident, injury or disease suffered by another;
  - (g) any payment made out of property held for the purposes of any prescribed trust (whether the payment also falls within paragraph (f) above or not);
  - (h) any payment made to the victim by an insurance company within the meaning of the <sup>M18</sup>Insurance Companies Act 1982 under the terms of any contract of insurance entered into between the victim and the company before—
    - (i) the date on which the victim first claims a relevant benefit in consequence of the disease in question; or
    - (ii) the occurrence of the accident or injury in question;
  - (i) any redundancy payment falling to be taken into account in the assessment of damages in respect of an accident, injury or disease.
- (4) Regulations may provide that any prescribed payment shall be an exempt payment for the purposes of this Part of this Act.
- (5) Except as provided by any other statutory provision, in the assessment of damages in respect of an accident, injury or disease the amount of any relevant benefits paid or likely to be paid shall be disregarded.
- (6) If, after making the relevant deduction from the compensation payment, there would be no balance remaining for payment to the intended recipient, any reference in this Part to the making of the compensation payment shall be construed in accordance with regulations.
- (7) This Part of this Act shall apply in relation to any compensation payment made after 3rd September 1990 (the date of the coming into operation of Article 24 of the <sup>M19</sup>Social Security (Northern Ireland) Order 1989 which, with Schedule 4 to that Order, made provision corresponding to that made by this Part) to the extent that it is made in respect of—
  - (a) an accident or injury occurring on or after 1st January 1989; or
  - (b) a disease, if the victim's first claim for a relevant benefit in consequence of the disease is made on or after that date.

#### Textual Amendments

**F37** S. 77(2) repealed (6.4.1994) by S.I. 1994/766 (N.I. 5), arts. 1, 3(2)

#### Marginal Citations

**M14** S.I. 1980/704 (N.I. 6).

**M15** S.I. 1977/1251 (N.I. 18).

**M16** 1979 c. 17.

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- M17** [S.I. 1988/793 \(N.I. 4\).](#)  
**M18** [1982 c. 50.](#)  
**M19** [S.I. 1989/1342 \(N.I. 13\).](#)

*Recovery from damages, etc. of sums equivalent to benefit*

**78 Recovery of sums equivalent to benefit from compensation payments in respect of accidents, injuries and diseases.**

- (1) A person (“the compensator”) making a compensation payment, whether on behalf of himself or another, in consequence of an accident, injury or disease suffered by any other person (“the victim”) shall not do so until the Department has furnished him with a certificate of total benefit and shall then—
- (a) deduct from the payment an amount, determined in accordance with the certificate of total benefit, equal to the gross amount of any relevant benefits paid or likely to be paid to or for the victim during the relevant period in respect of that accident, injury or disease;
  - (b) pay to the Department an amount equal to that which is required to be so deducted; and
  - (c) furnish the person to whom the compensation payment is or, apart from this section, would have been made (“the intended recipient”) with a certificate of deduction.
- (2) Any right of the intended recipient to receive the compensation payment in question shall be regarded as satisfied to the extent of the amount certified in the certificate of deduction.

*Payments, deductions and certificates*

**79 Time for making payment to Department.**

The compensator’s liability to make the relevant payment arises immediately before the making of the compensation payment, and he shall make the relevant payment before the end of the period of 14 days following the day on which the liability arises.

**80 The certificate of total benefit.**

- (1) It shall be for the compensator to apply to the Department for the certificate of total benefit and he may, subject to subsection (5) below, from time to time apply for fresh certificates.
- (2) The certificate of total benefit shall specify—
- (a) the amount which has been, or is likely to be, paid on or before a specified date by way of any relevant benefit which is capable of forming part of the total benefit;
  - (b) where applicable—
    - (i) the rate of any relevant benefit which is, has been, or is likely to be paid after the date so specified and which would be capable of forming part of the total benefit; and

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- (ii) the intervals at which any such benefit is paid and the period for which it is likely to be paid;
  - (c) the amounts (if any) which, by virtue of the recoupment provisions, are to be treated as increasing the total benefit; and
  - (d) the aggregate amount of any relevant payments made on or before a specified date (reduced by so much of that amount as has been paid by the Department to the intended recipient before that date in consequence of the recoupment provisions).
- (3) On issuing a certificate of total benefit, the Department shall be taken to have certified the total benefit as at every date for which it is possible to calculate an amount that would, on the basis of the information so provided, be the total benefit as at that date, on the assumption that payments of benefit are made on the days on which they first become payable.
- (4) The Department may estimate, in such manner as it thinks fit, any of the amounts, rates or periods specified in the certificate of total benefit.
- (5) A certificate of total benefit shall remain in force until such date as may be specified in the certificate for that purpose and no application for a fresh certificate shall be made before that date.
- (6) Where a certificate ceases to be in force, the Department may issue a fresh certificate, whether or not an application has been made to it for such a certificate.
- (7) The compensator shall not make the compensation payment at any time when there is no certificate of total benefit in force in respect of the victim, unless his liability to make the relevant deduction and the relevant payment has ceased to be enforceable by virtue of section 92 below.

## **81 Exemption from deduction in cases involving small payments.**

- (1) Regulations may make provision exempting persons from liability to make the relevant deduction or the relevant payment in prescribed cases where the amount of the compensation payment in question, or the aggregate amount of two or more connected compensation payments, does not exceed the prescribed sum.
- (2) Regulations may make provision for cases where an amount has been deducted and paid to the Department which, by virtue of regulations under subsection (1) above, ought not to have been so deducted and paid, and any such regulations may, in particular, provide for the Department to pay that amount to the intended recipient or the compensator or to pay a prescribed part of it to each of them.
- (3) The reference in section 77(3)(a) above to a “small payment” is a reference to a payment from which by virtue of this section no relevant deduction falls to be made.
- (4) For the purposes of this section—
  - (a) two or more compensation payments are “connected” if each is made to or in respect of the same victim and in respect of the same accident, injury or disease; and
  - (b) any reference to a compensation payment is a reference to a payment which would be such a payment apart from section 77(3)(a) above.

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## **82 Multiple compensation payments.**

- (1) This section applies where—
  - (a) a compensation payment (an “earlier payment”) has been made to or in respect of the victim; and
  - (b) subsequently another such payment (a “later payment”) falls to be made to or in respect of the same victim in respect of the same accident, injury or disease (whether by the same or another compensator).
- (2) In determining the amount of the relevant deduction and payment required to be made in connection with the later payment, the amount referred to in section 78(1)(a) above shall be reduced by the amount of any relevant payment made in connection with the earlier payment, or, if more than one, the aggregate of those relevant payments.
- (3) In relation to the later payment, the compensator shall take the amount of the reduction required by subsection (2) above to be such as may be specified under section 80(2)(d) above in the certificate of total benefit issued to him in connection with that later payment.
- (4) In any case where—
  - (a) the relevant payment made in connection with an earlier payment is not reflected in the certificate of total benefit in force in relation to a later payment, and
  - (b) in consequence, the aggregate of the relevant payments made in relation to the later payment and every earlier payment exceeds what it would have been had that relevant payment been so reflected,the Department shall pay the intended recipient an amount equal to the excess.
- (5) In determining any rights and liabilities in respect of contribution or indemnity, relevant payments shall be treated as damages paid to or for the intended recipient in respect of the accident, injury or disease in question.

## **83 Collaboration between compensators.**

- (1) This section applies where compensation payments in respect of the same accident, injury or disease fall (or apart from the recoupment provisions would fall) to be made to or in respect of the same victim by two or more compensators.
- (2) Where this section applies, any two or more of those compensators may give the Department notice that they are collaborators in respect of compensation payments in respect of that victim and that accident, injury or disease.
- (3) Where such a notice is given and any of the collaborators makes a relevant payment in connection with such a compensation payment, each of the other collaborators shall be treated as if the aggregate amount of relevant payments specified in his certificate of total benefit, as in force at the time of that relevant payment, or in a fresh certificate which does not purport to reflect the payment, were increased by the amount of that payment.

## **84 Structured settlements.**

- (1) This section applies where—
  - (a) in final settlement of a person’s claim, an agreement is entered into—

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- (i) for the making of periodical payments (whether of an income or capital nature) to or in respect of the victim; or
    - (ii) for the making of such payments and one or more lump sum payments; and
  - (b) apart from this section, those payments would fall to be regarded for the purposes of the recoupment provisions as compensation payments.
- (2) Where this section applies, the recoupment provisions (other than this section) shall have effect on the following assumptions, that is to say—
  - (a) the relevant period in the case of the compensator in question shall be taken to end (if it has not previously done so) on the day of settlement;
  - (b) the compensator in question shall be taken—
    - (i) to have been liable to make on that day a single compensation payment of the amount referred to in section 78(1)(a) above (reduced or increased in accordance with such of the recoupment provisions as would have applied in the case of a payment on that day); and
    - (ii) to have made from that single payment a relevant deduction of an amount equal to it; and
  - (c) the payments under the agreement referred to in subsection (1) above shall be taken to be exempt payments.
- (3) The intended recipient shall not by virtue of anything in this section become entitled to be paid any sum, whether by the compensator or the Department, and if on a review or appeal under section 93 or 95 below it appears that the amount paid by a compensator in pursuance of this section was either greater or less than it ought to have been, then—
  - (a) any excess shall be repaid to the compensator instead of to the intended recipient; but
  - (b) any deficiency shall be paid to the Department by the intended recipient.
- (4) Where any further compensation payment falls to be made to or in respect of the victim otherwise than under the agreement in question, subsection (2)(a) above shall be disregarded for the purpose of determining the end of the relevant period in relation to that further payment.
- (5) In any case where—
  - (a) the person making the periodical payments (“the secondary party”) does so in pursuance of arrangements entered into with another (as in a case where an insurance company purchases an annuity for the victim from another such company), and
  - (b) apart from those arrangements, that other (“the primary party”) would have been regarded as the compensator,then for the purposes of the recoupment provisions, the primary party shall be regarded as the compensator and the secondary party shall not be so regarded.
- (6) In determining for the purposes of this section whether any periodical payments would fall to be regarded as compensation payments, section 77(3)(a) above shall be disregarded.
- (7) In this section “the day of settlement” means—
  - (a) if the agreement referred to in subsection (1) above is approved by a court, the day on which that approval is given; and
  - (b) in any other case, the day on which the agreement is entered into.

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## 85 Insolvency.

Where the intended recipient has been adjudged bankrupt, nothing in the <sup>M20</sup>Insolvency (Northern Ireland) Order 1989 shall affect the operation of the recoupment provisions.

### Marginal Citations

**M20** [S.I. 1989/2405 \(N.I. 19\)](#).

## 86 Protection of legal aid charges.

(1) In any case where—

- (a) the compensation payment is subject to any charge under the <sup>M21</sup>Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, and
- (b) after the making of the relevant deduction, the balance of the compensation payment is insufficient to satisfy that charge,

the Department shall make such a payment as will secure that the deficiency is made good to the extent of the relevant payment.

(2) Where the Department makes a payment under this section, then for the purposes of section 80 above, the amount of the payment shall be treated as increasing the total benefit.

### Marginal Citations

**M21** [S.I. 1981/228 \(N.I. 8\)](#).

## 87 Overpaid benefits.

In any case where—

- (a) during the relevant period, there has, in respect of the accident, injury or disease, been paid to or for the victim any relevant benefit to which he was not entitled (“the overpaid benefit”), and
- (b) the amount of the relevant payment is such that, after taking account of the rest of the total benefit, there remains an amount which represents the whole or any part of the overpaid benefit,

then, notwithstanding anything in section 69 above or any regulations under that section or Article 54 of the 1986 Order, the receipt by the Department of the relevant payment shall be treated as the recovery of the whole or, as the case may be, that part of the overpaid benefit.

## 88 Death.

In the case of any compensation payment the whole or part of which is made—

- (a) in consequence of an action under the <sup>M22</sup>Fatal Accidents (Northern Ireland) Order 1977, or
- (b) in circumstances where, had an action been brought, it would have been brought under that Order,



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regulations may make provision for estimating or calculating the portion of the payment which is to be regarded as so made for the purposes of section 77(3)(c) above.

#### Marginal Citations

M22 S.I. 1977/1251 (N.I. 18).

### 89 Payments into court.

- (1) Nothing in the recoupment provisions requires a court to make any relevant deduction from, or payment out of, money in court.
- (2) Where a party to an action makes a payment into court which, had it been paid directly to the other party, would have constituted a compensation payment, the making of that payment shall be regarded for the purposes of the recoupment provisions as the making of a compensation payment, but the compensator—
  - (a) may either—
    - (i) withhold from the payment into court an amount equal to the relevant deduction; or
    - (ii) make such a payment into court before the certificate of total benefit has been issued to him; and
  - (b) shall not become liable to make the relevant payment, or to furnish a certificate of deduction, until he has been notified that the whole or any part of the payment into court has been paid out of court to or for the other party.
- (3) Where a person making a payment into court withholds an amount in accordance with subsection (2)(a)(i) above—
  - (a) he shall, at the time when he makes that payment, furnish the court with a certificate of the amount so withheld; and
  - (b) the amount paid into court shall be regarded as increased by the amount so certified,but no person shall be entitled by virtue of this subsection to the payment out of court of any amount which has not in fact been paid into court.
- (4) Where a payment into court is made as mentioned in subsection (2)(a)(ii) above, the compensator—
  - (a) shall apply for the certificate of total benefit no later than the day on which the payment into court is made; and
  - (b) shall become liable to make the relevant payment as mentioned in subsection (2)(b) above, notwithstanding that the relevant deduction has not been made.
- (5) Where any such payment into court as is mentioned in subsection (2) above is accepted by the other party to the action within the initial period, then, as respects the compensator in question, the relevant period shall be taken to have ended on the day on which the payment into court (or, if there were two or more such payments, the last of them) was made; but where the payment into court is not so accepted, then—
  - (a) the relevant period as respects that compensator shall end on the day on which he is notified that the payment has been paid out of court to or for that other party; and

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- (b) in determining the amount of the relevant payment, that compensator shall be treated as if his payment into court had been made on that day.
- (6) In subsection (5) above “the initial period” means the period of 21 days following the making of the payment into court (or, if there were two or more such payments, the last of them), but rules of court may make provision varying the length of that period.
- (7) Where a payment into court is paid out wholly to or for the party who made the payment (otherwise than to or for the other party to the action) the making of the payment into court shall cease to be regarded as the making of a compensation payment.
- (8) Rules of court may make provision regulating or prescribing the practice and procedure to be followed in relation to such payments into court as are mentioned in subsection (2) above.

#### *Administration and adjudication*

### **90 Provision of information.**

- (1) Any person who is, or is alleged to be, liable in respect of an accident, injury or disease, or any person acting on his behalf, shall furnish the Department with the prescribed information relating to any person seeking compensation, or in respect of whom compensation is sought, in respect of that accident, injury or disease.
- (2) Any person who claims a relevant benefit or who has been in receipt of such a benefit or, if he has died, the personal representatives of such a person, shall furnish the Department with the prescribed information relating to any accident, injury or disease suffered by that person.
- (3) A person who makes any payment (whether a compensation payment or not) on behalf of himself or another—
  - (a) in consequence of any accident, injury or disease suffered, or any damage to property sustained, by any other person, or
  - (b) which is referable to any costs incurred by any such other person by reason of such an accident, injury, disease or damage,
 shall, if the Department so requests him in writing, furnish the Department with such particulars relating to the size and composition of the payment as may be specified in the request.
- (4) Any person—
  - (a) who is the employer of a person who suffers or has suffered an accident, injury or disease, or
  - (b) who has been the employer of such a person at any time during the relevant period,
 shall furnish the Department with the prescribed information relating to the payment of statutory sick pay in respect of that person.
- (5) In subsection (4) above “employer” has the same meaning as it has in Part XI of the Contributions and Benefits Act.
- (6) Any person furnishing information under this section shall do so in the prescribed manner, at the prescribed place and within the prescribed time.

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## **91 Applications for certificates of total benefit.**

- (1) If at any time before he makes the compensation payment in question the compensator requests the Department to furnish him with a certificate of total benefit relating to the victim in question—
  - (a) the Department shall comply with that request before the end of the period of 4 weeks, or such other number of weeks as may be prescribed, following the day on which the request is, or is deemed in accordance with regulations to be, received, and
  - (b) any certificate so furnished shall, in particular, specify for the purposes of section 80(2)(a) above a date not earlier than the date of the request.
- (2) Where the Department furnishes any person with a certificate of total benefit, it shall also provide the information contained in that certificate to the person who appears to it to be the victim in relation to the compensation payment in question.
- (3) The victim may apply to the Department for particulars of the manner in which any amount, rate or period specified in a certificate of total benefit has been determined.

## **92 Liability of compensator unenforceable if certificate not issued within time limit.**

- (1) The liability of the compensator to make the relevant deduction and payment relating to the first compensation payment after the default date shall not be enforceable if—
  - (a) he has made a request under section 91(1) above which—
    - (i) accurately states the prescribed particulars relating to the victim and the accident, injury or disease in question; and
    - (ii) specifies the name and address of the person to whom the certificate is to be sent;
  - (b) he has in his possession a written acknowledgment, sent to him in accordance with regulations, of the receipt of the request; and
  - (c) the Department does not, within the time limit referred to in section 91(1) above, send the certificate to the person specified in the request as the person to whom the certificate is to be sent, at the address so specified;and accordingly, where those liabilities cease to be enforceable, nothing in the recoupment provisions shall prevent the compensator from making that compensation payment.
- (2) In any case where—
  - (a) the liability to make the relevant deduction and payment becomes unenforceable by virtue of this section, but
  - (b) the compensator nevertheless makes that deduction and payment,he shall be treated for all purposes as if the liability had remained enforceable.
- (3) Where the compensator, in reliance on this section, does not make the relevant deduction and payment, then—
  - (a) he shall within 14 days of the default date give the Department notice of that fact together with such other particulars as may be prescribed; and
  - (b) in determining the amount of the relevant deduction and payment to be made in connection with any subsequent compensation payment made by the same or any other compensator, the amount which, apart from this section, would have fallen to be deducted and paid by him shall continue to form part of the total benefit and shall not be treated as if it had been paid.

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- (4) If, in the opinion of the Department, circumstances have arisen which adversely affect normal methods of communication—
- (a) the Department may by order provide that no liability shall become unenforceable by virtue of this section during a specified period not exceeding three months; and
  - (b) the Department may continue any such order in force for further periods not exceeding three months at a time.
- (5) In this section “the default date” means the date on which the time limit mentioned in subsection (1)(c) above expires.

### **93 Review of certificates of total benefit.**

- (1) The Department may review any certificate of total benefit if the Department is satisfied that it was issued in ignorance of, or was based on a mistake as to, some material fact or that a mistake (whether in computation or otherwise) has occurred in its preparation.
- (2) On any such review the Department may either—
- (a) confirm the certificate, or
  - (b) issue a fresh certificate containing such variations as the Department considers appropriate,
- but the Department shall not so vary the certificate as to increase the total benefit.
- (3) In any case where—
- (a) one or more relevant payments have been made, and
  - (b) in consequence of a review under this section, it appears that the aggregate amount so paid exceeds the amount that ought to have been paid,
- the Department shall pay the intended recipient an amount equal to the excess.

### **94 Appeals.**

- (1) An appeal shall lie in accordance with this section against any certificate of total benefit at the instance of the compensator, the victim or the intended recipient, on the ground—
- (a) that any amount, rate or period specified in the certificate is incorrect, or
  - (b) that benefit paid or payable otherwise than in consequence of the accident, injury or disease in question has been brought into account.
- (2) No appeal shall be brought under this section until—
- (a) the claim giving rise to the compensation payment has been finally disposed of; and
  - (b) the relevant payment, or where more than one such payment may fall to be made, the final relevant payment, has been made.
- (3) Notwithstanding subsection (2) above, where—
- (a) an award of damages (“provisional damages”) has been made under paragraph 10(2)(a) of Schedule 6 to the <sup>M23</sup>Administration of Justice Act 1982; and
  - (b) the relevant payment or, where more than one such payment falls to be made, the final relevant payment in relation to the provisional damages so awarded has been made,

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an appeal may be brought under this section against any certificate of total benefit by reference to which the amount of that relevant payment, or any of those relevant payments, was made.

- (4) Regulations may make provision—
- (a) as to the manner in which, and the time within which, appeals under this section are to be brought, and
  - (b) for the purpose of enabling any such appeal to be treated as an application for review under section 93 above,
- and regulations under paragraph (b) above may, in particular, provide that the circumstances in which such a review may be carried out shall not be restricted to those specified in section 93 above.
- (5) If any of the medical questions arises for determination on an appeal under this section, the Department shall refer that question to a medical appeal tribunal, whose determination shall be binding, for the purposes of the appeal, on any social security appeal tribunal to whom a question is referred under subsection (7) below.
- (6) A medical appeal tribunal, in determining any of the medical questions, shall take into account any decision of any court relating to the same, or any similar, issue arising in connection with the accident, injury or disease in question.
- (7) If any question concerning any amount, rate or period specified in the certificate of total benefit arises for determination on an appeal under this section, the Department shall refer that question to a social security appeal tribunal, but where any medical questions arising on the appeal have been referred to a medical appeal tribunal—
- (a) the Department shall not refer any question to the social security appeal tribunal until the Department has received the determination of the medical appeal tribunal on the questions referred to them; and
  - (b) the Department shall notify the social security appeal tribunal of the determinations of the medical appeal tribunal.
- (8) On a reference under subsection (7) above a social security appeal tribunal may either—
- (a) confirm the amounts, rates and periods specified in the certificate of total benefit; or
  - (b) specify any increases, reductions or other variations which are to be made on the issue of the fresh certificate under subsection (9) below.
- (9) When the Department has received the determinations of the tribunals on the questions referred to them under subsections (5) and (7) above, it shall in accordance with those determinations either—
- (a) confirm the certificate against which the appeal was brought, or
  - (b) issue a fresh certificate.
- (10) Regulations may make provision with respect to the procedure for the reference under this section of questions to medical appeal tribunals or social security appeal tribunals.
- (11) An appeal shall lie to a Commissioner at the instance of the Department, the compensator, the victim or the intended recipient from a decision of a medical appeal tribunal or a social security appeal tribunal under this section on the ground that the decision was erroneous in point of law; and for the purposes of appeals under this subsection—

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- (a) section 21(7) to (10) above shall apply in relation to an appeal from the decision of a social security appeal tribunal; and
  - (b) section 46(3) above shall apply in relation to an appeal from the decision of a medical appeal tribunal.
- (12) In this section “the medical questions” means—
- (a) any question whether, as the result of a particular occurrence, the victim suffered an injury, sickness or disease;
  - (b) any question as to the period for which the victim suffered any injury, sickness or disease.

**Marginal Citations**

**M23** 1982 c. 53.

**95 Recovery in consequence of an appeal.**

- (1) Where it appears, in consequence of an appeal under section 94 above, that the aggregate amount of the relevant payment or payments actually made exceeds the amount that ought to have been paid, the Department shall pay the intended recipient an amount equal to that excess.
- (2) Where it appears, in consequence of such an appeal, that the aggregate amount of the relevant payment or payments actually made is less than the amount that ought to have been paid, the intended recipient shall pay the Department an amount equal to the deficiency.
- (3) Without prejudice to any other method of enforcement, an amount payable under subsection (2) above may be recovered by deduction from any benefits which are prescribed benefits for the purposes of section 69 above.

**96 Recovery of relevant payment in cases of default.**

- (1) This section applies in any case where the compensator has made a compensation payment but—
  - (a) has not requested a certificate of total benefit in respect of the victim, or
  - (b) if he has done so, has not made the relevant payment within the time limit imposed by section 79 above.
- (2) Where this section applies, the Department may—
  - (a) if no certificate of total benefit has been issued to the compensator, issue to him such a certificate and a demand for the relevant payment to be made forthwith, or
  - (b) if a certificate of total benefit has been issued to the compensator, issue to him a copy of that certificate and such a demand,
 and the amount so certified shall, to the extent that it does not exceed the amount of the compensation payment, be recoverable by the Department from the compensator.
- (3) Any amount recoverable under this section shall, if the county court so orders, be enforceable as if it were payable under an order of that court.
- (4) A document bearing a certificate which—

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- (a) is signed by a person authorised in that behalf by the Department, and
  - (b) states that the document, apart from the certificate, is a record of the amount recoverable under this section,
- shall be conclusive evidence that that amount is so recoverable; and a certificate purporting to be signed as aforesaid shall be deemed to be so signed unless the contrary is proved.
- (5) Where this section applies in relation to two or more connected compensators, the Department may proceed against them as if they were jointly and severally liable for an amount equal to the difference between—
    - (a) the total benefit determined in accordance with the latest connected certificate of total benefit issued to any of them, and
    - (b) the aggregate amount of any connected relevant payments previously made.
  - (6) Nothing in subsection (5) above authorises the recovery from any person of an amount in excess of the compensation payment by virtue of which this section applies to him (or, if there are two or more such payments which are connected, the aggregate amount of those payments).
  - (7) In subsections (5) and (6) above, “connected” means relating to the same victim and the same accident, injury or disease.

#### *Miscellaneous*

### **97 Foreign compensators: duties of intended recipient.**

- (1) Where, immediately before the making of the compensation payment, the compensator is not resident and does not have a place of business in Northern Ireland, any deduction, payment or other thing which would, apart from this section, fall to be made or done under the recoupment provisions by the compensator shall instead be made or done by the intended recipient and references to the compensator shall be construed accordingly.
- (2) The Department may by regulations make such provision as it considers expedient for the purpose of modifying the recoupment provisions in their application in such a case.

### **98 Interest on damages: reductions in respect of relevant payments.**

In assessing the amount of interest payable in respect of an award of damages, the amount of the award shall be treated as reduced by a sum equal to the amount of the relevant payment (if any) required to be made in connection with the payment of the damages and, if both special and general damages are awarded, any such reductions shall be treated as made first against the special damages and then, as respects any remaining balance, against the general damages.

### **[99 The Crown.**

This Part of this Act applies in relation to the making of a compensation payment by the Crown as it applies in relation to the making of a compensation payment by any other compensator.]

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**Modifications etc. (not altering text)**

**C42** S. 99 omitted (*temp.*) by [Social Security \(Consequential Provisions\) \(Northern Ireland\) Act 1992 \(c. 9\)](#), ss. 6, 7(2), [Sch. 4, Pt. I, paras.1, 11](#)

## PART V

### INCOME SUPPORT AND THE DUTY TO MAINTAIN

#### **100 Failure to maintain - general.**

- (1) If—
- (a) any person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain; and
  - (b) in consequence of his refusal or neglect income support is paid to or in respect of him or such a person,
- he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of an amount not exceeding level 4 on the standard scale or to both.
- (2) For the purposes of subsection (1) above a person shall not be taken to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.
- (3) Subsections (6) to (8) of section 74 above shall have effect for the purposes of this Part of this Act as they have effect for the purposes of that section.

#### **101 Recovery of expenditure on benefit from person liable for maintenance.**

- (1) Subject to the following provisions of this section, if income support is claimed by or in respect of a person whom another person is liable to maintain or paid to or in respect of such a person, the Department may make a complaint under Part VIII of the <sup>M24</sup>Magistrates' Courts (Northern Ireland) Order 1981 against the liable person for an order under this section.
- (2) Except in a case falling within subsection (3) below, this section does not apply where the person who is liable to be maintained is an illegitimate child of the liable person.
- (3) A case falls within this subsection if—
- (a) the liable person is someone other than the child's father; or
  - (b) the liable person is liable because he is a person such as is mentioned in section 74(6)(c) above.
- (4) On the hearing of a complaint under this section the court shall have regard to all the circumstances and, in particular, to the income of the liable person, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate, except that in a case falling within section 74(6)(c) above that sum shall not include any amount which is not attributable to income support (whether paid before or after the making of the order).



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- (5) In determining whether to order any payments to be made in respect of income support for any period before the complaint was made, or the amount of any such payments, the court shall disregard any amount by which the liable person's income exceeds the income which was his during that period.
- (6) Any payments ordered to be made under this section shall be made—
  - (a) to the Department in so far as they are attributable to any income support (whether paid before or after the making of the order);
  - (b) to the person claiming income support or (if different) the dependant; or
  - (c) to such other person as appears to the court expedient in the interests of the dependant.
- (7) Any proceedings for an order under this section shall be included among the proceedings which are domestic proceedings within the meaning of the Magistrates' Courts (Northern Ireland) Order 1981; and Article 88 of that Order (definition of "domestic proceedings") shall have effect accordingly.

#### Marginal Citations

M24 S.I. 1981/1675 (N.I. 26).

## 102 Recovery of expenditure on income support: additional amounts and transfer of orders.

- (1) In any case where—
  - (a) the claim for income support referred to in section 101(1) above is or was made by the parent of one or more children in respect of both himself and those children; and
  - (b) the other parent is liable to maintain those children but, by virtue of not being the claimant's husband or wife, is not liable to maintain the claimant,the sum which the court may order that other parent to pay under subsection (4) of that section may include an amount, determined in accordance with regulations, in respect of any income support paid to or for the claimant by virtue of such provisions as may be prescribed.
- (2) Where the sum which a court orders a person to pay under section 101 above includes by virtue of subsection (1) above an amount (in this section referred to as a "personal allowance element") in respect of income support by virtue of paragraph 1(2) of Schedule 2 to the <sup>M25</sup>Income Support (General) Regulations (Northern Ireland) 1987 (personal allowance for lone parent) the order shall separately identify the amount of the personal allowance element.
- (3) In any case where—
  - (a) there is in force an order under subsection (4) of section 101 above made against a person ("the liable parent") who is the parent of one or more children, in respect of the other parent or the children; and
  - (b) payments under the order fall to be made to the Department by virtue of subsection (6)(a) of that section; and
  - (c) that other parent ("the dependent parent") ceases to claim income support,the Department may, by giving notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer to the dependent parent the

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right to receive the payments under the order, exclusive of any personal allowance element, and to exercise the relevant rights in relation to the order, except so far as relating to that element.

(4) Notice under subsection (3) above shall not be given (and if purportedly given, shall be of no effect) at a time when there is in force a maintenance order made against the liable parent—

- (a) in favour of the dependent parent or one or more of the children; or
- (b) in favour of some other person for the benefit of the dependent parent or one or more of the children;

and if such a maintenance order is made at any time after notice under that subsection has been given, the order under section 101(4) above shall cease to have effect.

(5) Except as provided by subsections (7) and (8) below, where the Department gives notice under subsection (3) above, it shall cease to be entitled—

- (a) to receive any payment under the order in respect of any personal allowance element; or
- (b) to exercise the relevant rights, so far as relating to any such element,

notwithstanding that the dependent parent does not become entitled to receive any payment in respect of that element or to exercise the relevant rights so far as so relating.

(6) If, in a case where the Department gives notice under subsection (3) above, a payment under the order is or has been made to the Department wholly or partly in respect of the whole or any part of the period beginning with the day on which the transfer takes effect and ending with the day on which the notice under subsection (3) above is given to the liable parent, the Department shall—

- (a) repay to or for the liable parent so much of the payment as is referable to any personal allowance element in respect of that period or, as the case may be, the part of it in question; and
- (b) pay to or for the dependent parent so much of any remaining balance of the payment as is referable to that period or part;

and a payment under paragraph (b) above shall be taken to discharge, to that extent, the liability of the liable parent to the dependent parent under the order in respect of that period or part.

(7) If, in a case where the Department has given notice under subsection (3) above, the dependent parent makes a further claim for income support, then—

- (a) the Department may, by giving a further notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer back from the dependent parent to the Department the right to receive the payments and to exercise the relevant rights; and
- (b) that transfer shall revive the Department's right to receive payment under the order in respect of any personal allowance element and to exercise the relevant rights so far as relating to any such element.

(8) A transfer under subsection (3) or (7) above does not transfer or otherwise affect the right of any person—

- (a) to receive a payment which fell due to him at a time before the transfer took effect; or
- (b) to exercise the relevant rights in relation to any such payment;

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and, where notice is given under subsection (3), subsection (5) above does not deprive the Department of its right to receive such a payment in respect of any personal allowance element or to exercise the relevant rights in relation to such a payment.

(9) For the purposes of this section—

- (a) a transfer under subsection (3) above takes effect on the day on which the dependent parent ceases to be in receipt of income support in consequence of the cessation referred to in paragraph (c) of that subsection, and
- (b) a transfer under subsection (7) above takes effect on—
  - (i) the first day in respect of which the dependent parent receives income support after the transfer under subsection (3) above took effect, or
  - (ii) such later day as may be specified for the purpose in the notice under subsection (7),

irrespective of the day on which notice under the subsection in question is given.

(10) In this section—

“child” means a person under the age of 16, notwithstanding section 74(6) (d) above;

“court” shall be construed in accordance with section 101 above;

“maintenance order” means an order for the making of periodical payments or the payment of a lump sum under any statutory provision prescribed for the purposes of this subsection;

“the relevant rights”, in relation to an order under section 101(4) above, means the right to bring any proceedings, take any steps or do any other thing under or in relation to the order which the Department could have brought, taken or done apart from any transfer under this section.

#### **Marginal Citations**

**M25** S.R. (N.I.) 1987 No. 459.

### **103 Reduction of expenditure on income support: certain maintenance orders to be enforceable by the Department.**

(1) This section applies where—

- (a) a person (“the claimant”) who is the parent of one or more children is in receipt of income support either in respect of those children or in respect of both himself and those children; and
- (b) there is in force a maintenance order made against the other parent (“the liable person”)—
  - (i) in favour of the claimant or one or more of the children, or
  - (ii) in favour of some other person for the benefit of the claimant or one or more of the children;

and in this section “the primary recipient” means the person in whose favour that maintenance order was made.

(2) If, in a case where this section applies, the liable person fails to comply with any of the terms of the maintenance order—

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- (a) the Department may bring any proceedings or take any other steps to enforce the order that could have been brought or taken by or on behalf of the primary recipient; and
  - (b) any court before which proceedings are brought by the Department by virtue of paragraph (a) above shall have the same powers in connection with those proceedings as it would have had if they had been brought by the primary recipient.
- (3) The Department's powers under this section are exercisable at the Department's discretion and whether or not the primary recipient or any other person consents to their exercise; but any sums recovered by virtue of this section shall be payable to or for the primary recipient, as if the proceedings or steps in question had been brought or taken by him or on his behalf.
- (4) The powers conferred on the Department by subsection (2)(a) above include power—
- (a) to apply for the registration of the maintenance order under—
    - (i) section 17 of the <sup>M26</sup>Maintenance Orders Act 1950;
    - (ii) section 11 of the <sup>M27</sup>Maintenance and Affiliation Orders Act (Northern Ireland) 1966; or
    - (iii) the <sup>M28</sup>Civil Jurisdiction and Judgments Act 1982; and
  - (b) to make an application under section 2 of the <sup>M29</sup>Maintenance Orders (Reciprocal Enforcement) Act 1972 (application for enforcement in reciprocating country).
- (5) Where this section applies, the prescribed person shall in prescribed circumstances give the Department notice of any application—
- (a) to alter, vary, suspend, discharge, revoke, revive or enforce the maintenance order in question; or
  - (b) to remit arrears under that maintenance order;
- and the Department shall be entitled to appear and be heard on the application.
- (6) Where, by virtue of this section, the Department commences any proceedings to enforce a maintenance order, the Department shall, in relation to those proceedings, be treated for the purposes of any statutory provision relating to maintenance orders as if it were a person entitled to payment under the maintenance order in question (but shall not thereby become entitled to any such payment).
- (7) Where, in any proceedings under this section, the court makes an order for the whole or any part of the arrears due under the maintenance order in question to be paid as a lump sum, the Department shall inform the Incorporated Law Society of Northern Ireland of the amount of that lump sum if the Department knows—
- (a) that the primary recipient received legal aid under Part II of the <sup>M30</sup>Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 in connection with the proceedings in which the maintenance order was made, and
  - (b) that a sum remains unpaid on account of the contribution required of the primary recipient under Article 12 of that Order in respect of those proceedings.
- (8) In this section “maintenance order” has the same meaning as it has in section 102 above, but does not include any such order for the payment of a lump sum.

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### Marginal Citations

- M26** 1950 c. 37.  
**M27** 1966 c. 35 (N.I.).  
**M28** 1982 c. 27.  
**M29** 1972 c. 18.  
**M30** S.I. 1981/228 (N.I. 8).

## PART VI

### ENFORCEMENT

#### Modifications etc. (not altering text)

- C43** Pt. VI: power to amend conferred (7.2.1994) by 1993 c. 49, s.173; S.R. 1994/17, art. 2

### *Inspection*

VALID FROM 02/04/2001

#### <sup>F38</sup>103A Authorisations for investigators

- (1) An individual who for the time being has the Department's authorisation for the purposes of this Part shall be entitled, for any one or more of the purposes mentioned in subsection (2) below, to exercise any of the powers which are conferred on an authorised officer by sections 103B and 103C below.
- (2) Those purposes are—
  - (a) ascertaining in relation to any case whether a benefit is or was payable in that case in accordance with any provision of the relevant social security legislation;
  - (b) investigating the circumstances in which any accident, injury or disease which has given rise, or may give rise, to a claim for—
    - (i) industrial injuries benefit, or
    - (ii) any benefit under any provision of the relevant social security legislation,
 occurred or may have occurred, or was or may have been received or contracted;
  - (c) ascertaining whether provisions of the relevant social security legislation are being, have been or are likely to be contravened (whether by particular persons or more generally);
  - (d) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of benefit offences.
- (3) An individual has the Department's authorisation for the purposes of this Part if, and only if, the Department has granted him an authorisation for those purposes and he is—

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- (a) an official of a government department;
  - (b) an individual employed by the Housing Executive; or
  - (c) an individual authorised to carry out functions of the Housing Executive relating to housing benefit.
- (4) An authorisation granted for the purposes of this Part to an individual of any of the descriptions mentioned in subsection (3) above—
- (a) shall be contained in a certificate provided to that individual as evidence of his entitlement to exercise powers conferred by this Part;
  - (b) may contain provision as to the period for which the authorisation is to have effect; and
  - (c) may restrict the powers exercisable by virtue of the authorisation so as to prohibit their exercise except for particular purposes, in particular circumstances or in relation to particular benefits or particular provisions of the relevant social security legislation.
- (5) An authorisation granted under this section may be withdrawn at any time by the Department.
- (6) Where the Department grants an authorisation for the purposes of this Part to an individual employed by the Housing Executive, or to an individual authorised to carry out functions of the Housing Executive relating to housing benefit—
- (a) the Department and the Housing Executive shall enter into such arrangements (if any) as they consider appropriate with respect to the carrying out of functions conferred on that individual by or in connection with the authorisation granted to him; and
  - (b) the Department may make to the Housing Executive such payments (if any) as the Department thinks fit in respect of the carrying out by that individual of any such functions.
- (7) The matters on which a person may be authorised to consider and report to the Department under section 128A below shall be taken to include the carrying out by any such individual as is mentioned in subsection (3)(b) or (c) above of any functions conferred on that individual by virtue of any grant by the Department of an authorisation for the purposes of this Part.
- (8) The powers conferred by sections 103B and 103C below shall be exercisable in relation to persons holding office under the Crown and persons in the service of the Crown, and in relation to premises owned or occupied by the Crown, as they are exercisable in relation to other persons and premises.]

#### Textual Amendments

**F38** Ss. 103A-103C substituted for s. 104 (2.4.2001) by 2000 c. 4 (N.I.), s. 68(1), **Sch. 6 para. 2** (with s. 66(6)); S.I. 2001/141, art. 2(1)(a), **Sch. Pt. I**

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VALID FROM 02/04/2001

**F39 103B Power to require information**

- (1) An authorised officer who has reasonable grounds for suspecting that a person—
- (a) is a person falling within subsection (2) below, and
  - (b) has or may have possession of or access to any information about any matter that is relevant for any one or more of the purposes mentioned in section 103A(2) above,
- may, by written notice, require that person to provide all such information described in the notice as is information of which he has possession, or to which he has access, and which it is reasonable for the authorised officer to require for a purpose so mentioned.
- (2) The persons who fall within this subsection are—
- (a) any person who is or has been an employer or employee within the meaning of any provision made by or under the Contributions and Benefits Act;
  - (b) any person who is or has been a self-employed earner within the meaning of any such provision;
  - (c) any person who by virtue of any provision made by or under that Act falls, or has fallen, to be treated for the purposes of any such provision as a person within paragraph (a) or (b) above;
  - (d) any person who is carrying on, or has carried on, any business involving the supply of goods for sale to the ultimate consumers by individuals not carrying on retail businesses from retail premises;
  - (e) any person who is carrying on, or has carried on, any business involving the supply of goods or services by the use of work done or services performed by persons other than employees of his;
  - (f) any person who is carrying on, or has carried on, an agency or other business for the introduction or supply, to persons requiring them, of persons available to do work or to perform services;
  - (g) any district council acting in its capacity as an authority responsible for the granting of any licence;
  - (h) any person who is or has been a trustee or manager of a personal or occupational pension scheme;
    - (i) any person who is or has been liable to make a compensation payment or a payment to the Department under Article 8 of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 (payments in respect of recoverable benefits); and
  - (j) the servants and agents of any such person as is specified in any of paragraphs (a) to (i) above.
- (3) The obligation of a person to provide information in accordance with a notice under this section shall be discharged only by the provision of that information, at such reasonable time and in such form as may be specified in the notice, to the authorised officer who—
- (a) is identified by or in accordance with the terms of the notice, or
  - (b) has been identified, since the giving of the notice, by a further written notice given by the authorised officer who imposed the original requirement or another authorised officer.

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- (4) The power of an authorised officer under this section to require the provision of information shall include a power to require the production and delivery up and (if necessary) creation of, or of copies of or extracts from any such documents containing the information as may be specified or described in the notice imposing the requirement.
- (5) No one shall be required under this section to provide any information (whether in documentary form or otherwise) that tends to incriminate either himself or, in the case of a person who is married, his spouse.

#### Textual Amendments

**F39** Ss. 103A-103C substituted for s. 104 (2.4.2001) by 2000 c. 4 (N.I.), s. 68(1), **Sch. 6 para. 2** (with s. 66(6)); S.I. 2001/141, art. 2(1)(a), **Sch. Pt. I**

VALID FROM 24/02/2003

#### <sup>F40</sup>**103B** Power of Department to require electronic access to information

- (1) Subject to subsection (2) below, where it appears to the Department—
  - (a) that a person falling within section 103B(2A) above keeps any electronic records,
  - (b) that the records contain or are likely, from time to time, to contain information about any matter that is relevant for any one or more of the purposes mentioned in section 103A(2) above, and
  - (c) that facilities exist under which electronic access to those records is being provided, or is capable of being provided, by that person to other persons,
 the Department may require that person to enter into arrangements under which authorised officers are allowed such access to those records.
- (2) An authorised officer—
  - (a) shall be entitled to obtain information in accordance with arrangements entered into under subsection (1) above only if his authorisation states that his authorisation applies for the purposes of that subsection; and
  - (b) shall not seek to obtain any information in accordance with any such arrangements other than information which relates to a particular person and could be the subject of a requirement under section 103B above.
- (3) The matters that may be included in the arrangements that a person is required to enter into under subsection (1) above may include—
  - (a) requirements as to the electronic access to records that is to be made available to authorised officers;
  - (b) requirements as to the keeping of records of the use that is made of the arrangements;
  - (c) requirements restricting the disclosure of information about the use that is made of the arrangements; and
  - (d) such other incidental requirements as the Department considers appropriate in connection with allowing access to records to authorised officers.



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- (4) An authorised officer who is allowed access in accordance with any arrangements entered into under subsection (1) above shall be entitled to make copies of, and to take extracts from, any records containing information which he is entitled to require under section 103B above.]

### Textual Amendments

**F40** S. 103BA inserted (24.2.2003) by 2001 c. 17 (N.I.) , ss. 2(1), 17(1); S.R. 2002/406, art. 2(2)

VALID FROM 02/04/2001

### <sup>F41</sup>103C Powers of entry

- (1) An authorised officer shall be entitled, at any reasonable time and either alone or accompanied by such other persons as he thinks fit, to enter any premises which—
- (a) are liable to inspection under this section; and
  - (b) are premises to which it is reasonable for him to require entry in order to exercise the powers conferred by this section.
- (2) An authorised officer who has entered any premises liable to inspection under this section may—
- (a) make such an examination of those premises, and
  - (b) conduct any such inquiry there,
- as appears to him appropriate for any one or more of the purposes mentioned in section 103A(2) above.
- (3) An authorised officer who has entered any premises liable to inspection under this section may—
- (a) question any person whom he finds there;
  - (b) require any person whom he finds there to do any one or more of the following—
    - (i) to provide him with such information,
    - (ii) to produce and deliver up and (if necessary) create such documents or such copies of, or extracts from, documents,
 as he may reasonably require for any one or more of the purposes mentioned in section 103A(2) above; and
  - (c) take possession of and either remove or make his own copies of any such documents as appear to him to contain information that is relevant for any of those purposes.
- (4) The premises liable to inspection under this section are any premises (including premises consisting in the whole or a part of a dwelling house) which an authorised officer has reasonable grounds for suspecting are—
- (a) premises which are a person's place of employment;
  - (b) premises from which a trade or business is being carried on or where documents relating to a trade or business are kept by the person carrying it on or by another person on his behalf;

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- (c) premises from which a personal or occupational pension scheme is being administered or where documents relating to the administration of such a scheme are kept by the person administering the scheme or by another person on his behalf;
  - (d) premises where a person who is the compensator in relation to any such accident, injury or disease as is referred to in section 103A(2)(b) above is to be found;
  - (e) premises where a person on whose behalf any such compensator has made, may have made or may make a compensation payment is to be found.
- (5) An authorised officer applying for admission to any premises in accordance with this section shall, if required to do so, produce the certificate containing his authorisation for the purposes of this Part.
- (6) Subsection (5) of section 103B applies for the purposes of this section as it applies for the purposes of that section.

#### Textual Amendments

**F41** Ss. 103A-103C substituted for s. 104 (2.4.2001) by 2000 c. 4 (N.I.), s. 68(1), **Sch. 6 para. 2** (with s. 66(6)); S.I. 2001/141, art. 2(1)(a), **Sch. Pt. I**

### 104 Appointment and powers of inspectors.

- (1) For the purposes of the legislation to which this section applies the Department may appoint such inspectors, and pay to them such salaries or remuneration, as it may determine with the consent of the Department of Finance and Personnel.
- (2) An inspector appointed under this section shall, for the purposes of the execution of that legislation, have the following powers—
- (a) to enter at all reasonable times any premises liable to inspection under this section;
  - (b) to make such examination and inquiry as may be necessary—
    - (i) for ascertaining whether the provisions of the legislation are being, or have been, complied with in any such premises; or
    - (ii) for investigating the circumstances in which any accident, injury or disease which has given or may give rise to a claim for industrial injuries benefit, or for any benefit which is a relevant benefit, occurred or may have occurred, or was or may have been received or contracted;
  - (c) to examine, either alone or in the presence of any other person, as he thinks fit, in relation to any matters under the legislation on which he may reasonably require information, every person whom he finds in any such premises or whom he has reasonable cause to believe to be or to have been a person liable to pay—
    - (i) contributions under Part I of the Contributions and Benefits Act;
    - (ii) a state scheme premium; or
    - (iii) a compensation payment or a relevant payment,
 and to require every such person to be so examined;

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- (d) to exercise such other powers as may be necessary for carrying the legislation into effect.
- (3) The premises liable to inspection under this section are any where an inspector has reasonable grounds for supposing that—
- (a) any persons are employed;
  - (b) there is being carried on any agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services;
  - (c) a personal or occupational pension scheme is being administered; or
  - (d) any person—
    - (i) who is the compensator in relation to any such accident, injury or disease as is referred to in subsection (2)(b)(ii) above; or
    - (ii) on whose behalf any such compensator has or may have made, or may make, a compensation payment,carries on business or is to be found,
- but do not include any private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.
- (4) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises for the purpose of the legislation shall, if so required, produce the certificate.
- (5) Where any premises are liable to be inspected by an inspector or officer appointed or employed by, or are under the control of, some other government department, the Department may make arrangements with that department for any of the powers or duties of inspectors under this section to be carried out by an inspector or officer employed by that department.
- (6) In accordance with this section, persons shall furnish to an inspector all such information, and produce for his inspection all such documents, as he may reasonably require for the purpose of ascertaining—
- (a) whether—
    - (i) any contribution under Part I of the Contributions and Benefits Act;
    - (ii) any state scheme premium; or
    - (iii) any compensation payment or relevant payment,is or has been payable, or has been duly paid, by or in respect of any person; or
  - (b) whether benefit is or was payable to or in respect of any person.
- (7) The following persons are under the duty imposed by subsection (6) above—
- (a) the occupier of any premises liable to inspection under this section;
  - (b) any person who is or has been an employer or an employee within the meaning of any provision of the Contributions and Benefits Act;
  - (c) any person carrying on an agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services;
  - (d) any person who is or has at any time been a trustee or manager of a personal or occupational pension scheme;
  - (e) any person who is or has been liable—
    - (i) to pay contributions or state scheme premiums; or
    - (ii) to make any compensation payment or relevant payment;

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(f) the servants or agents of any such person as is specified in any of the preceding paragraphs,

but no one shall be required under this section to answer any questions or to give evidence tending to incriminate himself or, in the case of a person who is married, his or her spouse.

(8) This section applies to the following legislation—

- (a) the Social Security Act 1973;
- (b) the Contributions and Benefits Act;
- (c) this Act;
- (d) the Pensions Order; and
- [<sup>F42</sup>(e) the Pensions Act]

(9) In this section “relevant benefit” and “relevant payment” mean a relevant benefit and relevant payment within the meaning of Part IV of this Act.

#### Textual Amendments

**F42** S. 104(8)(e) substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para.39**; S.R. 1994/17, **art. 2**

#### Modifications etc. (not altering text)

**C44** S. 104(6)(7) modified (6.4.1996) by S.I. 1995/2705 (N.I. 15), **art. 34**; S.R. 1996/26, **art. 2**

VALID FROM 01/04/1999

#### [<sup>F43</sup>104Z] ~~R~~owers exercisable by officers of Inland Revenue.

(1) For the purposes of the enactments to which this section applies, the Inland Revenue may authorise any of their officers to exercise the powers conferred by this section.

(2) An officer authorised under this section shall, for the purposes of the execution of those enactments, have the following powers—

- (a) to enter at all reasonable times any premises liable to inspection under this section;
- (b) to make such examination and inquiry as may be necessary for ascertaining whether the provisions of the enactments are being, or have been, complied with in any such premises;
- (c) to examine, either alone or in the presence of any other person, as he thinks fit, in relation to any matters under the enactments on which he may reasonably require information, every person whom he finds in any such premises or whom he has reasonable cause to believe to be or to have been a person liable to pay—
  - (i) contributions; or
  - (ii) a contributions equivalent premium,
 and to require every such person to be so examined.

(3) Premises are liable to inspection under this section if an officer has reasonable grounds for believing that—

- (a) any persons are employed there;

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- (b) a trade or business is being carried on from there;
  - (c) any records relating to a trade or business are kept there; or
  - (d) a personal or occupational pension scheme is being administered there;
- but a private dwelling-house is not liable to inspection under this section unless an officer has reasonable grounds for believing that a trade or business is being carried on from the dwelling-house and that the trade or business is not also being carried on from premises other than a dwelling-house.
- (4) Every officer authorised under this section shall be furnished with a certificate of his authorisation, and on applying for admission to any premises for the purpose of the enactments shall, if so required, produce the authorisation.
- (5) In accordance with this section, persons shall furnish to an officer all such information, and produce for his inspection all such documents, as he may reasonably require for the purpose of ascertaining—
- (a) whether—
    - (i) any contribution; or
    - (ii) any contributions equivalent premium,
 is or has been payable, or has been duly paid, by or in respect of any person; or
  - (b) whether statutory sick pay or statutory maternity pay is or was payable to or in respect of any person.
- (6) The following persons are under the duty imposed by subsection (5) above—
- (a) any person who is or has been an employer or an employee within the meaning of any provision of the Contributions and Benefits Act;
  - (b) any person carrying on an agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services;
  - (c) any person who is or has at any time been a trustee or manager of a personal or occupational pension scheme;
  - (d) the servants or agents of any such person as is specified in any of the preceding paragraphs.
- (7) This section applies to the following enactments—
- (a) the Contributions and Benefits Act so far as relating to contributions, statutory sick pay or statutory maternity pay;
  - (b) this Act; and
  - (c) Part III of the Pensions Act.
- (8) Any reference in this section to a contributions equivalent premium includes a reference to state scheme premiums payable before 6th April 1997 (the day on which Article 138 of the Pensions (Northern Ireland) Order 1995 came into operation).]

#### Textual Amendments

- F43** S. 104ZA inserted (1.4.1999) by S.I. 1999/671, art. 5, Sch. 4 para. 3; S.R. 1999/149, art. 2(c), Sch. 2 (subject to arts. 3-6 of that S.R.)

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VALID FROM 01/07/1997

**[<sup>F44</sup>104A Appointment of inspectors by the Housing Executive.**

- (1) The Housing Executive may appoint persons to be inspectors.
- (2) The Department may notify the Housing Executive as to—
  - (a) the number of persons who may be appointed as inspectors by the Executive; and
  - (b) the manner in which appointments shall be made.
- (3) The Housing Executive may only appoint as inspectors persons employed by—
  - (a) the Executive; or
  - (b) a person authorised to exercise any function of the Executive relating to housing benefit.
- (4) A person within subsection (3)(b) above may only be appointed as an inspector with the consent of the Department.
- (5) Appointment as an inspector shall be for a period not exceeding one year; but such an appointment—
  - (a) may be renewed any number of times; and
  - (b) may be terminated at any time by the Housing Executive or, in the case of a person within subsection (3)(b) above, by either the Executive or the Department.
- (6) Every person appointed as an inspector shall be given a certificate of his appointment.]

**Textual Amendments**

**F44** Ss. 104A, 104B inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 11; S.R. 1997/316, art. 2, Sch.

**Modifications etc. (not altering text)**

**C45** S. 104A: functions modified (*prosp.*) by S.I. 1999/3147 (N.I. 11), arts. 1(2), 67, Sch. 8 para. 32

VALID FROM 24/02/2003

**[<sup>F45</sup>104A Power of Housing Executive to require electronic access to information**

- (1) Subject to subsection (2) below, where it appears to the Housing Executive—
  - (a) that a person falling within section 103B(2A) above keeps any electronic records,
  - (b) that the records contain or are likely, from time to time, to contain information about any matter that is relevant for any one or more of the purposes mentioned in section 104A(2) above, and
  - (c) that facilities exist under which electronic access to those records is being provided, or is capable of being provided, by that person to other persons,

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the Housing Executive may require that person to enter into arrangements under which authorised officers are allowed such access to those records.

- (2) An authorised officer—
  - (a) shall be entitled to obtain information in accordance with arrangements entered into under subsection (1) above only if his authorisation states that his authorisation applies for the purposes of that subsection; and
  - (b) shall not seek to obtain any information in accordance with any such arrangements other than information which—
    - (i) relates to a particular person; and
    - (ii) could be the subject of any such requirement under section 103B above as may be imposed in exercise of the powers conferred by section 104A(7) above.
- (3) The matters that may be included in the arrangements that a person is required to enter into under subsection (1) above may include—
  - (a) requirements as to the electronic access to records that is to be made available to authorised officers;
  - (b) requirements as to the keeping of records of the use that is made of the arrangements;
  - (c) requirements restricting the disclosure of information about the use that is made of the arrangements; and
  - (d) such other incidental requirements as the Housing Executive considers appropriate in connection with allowing access to records to authorised officers.
- (4) An authorised officer who is allowed access in accordance with any arrangements entered into under subsection (1) above shall be entitled to make copies of, and to take extracts from, any records containing information which he is entitled to make the subject of a requirement such as is mentioned in subsection (2)(b) above.
- (5) The Housing Executive shall not—
  - (a) require any person to enter into arrangements for allowing authorised officers to have electronic access to any records; or
  - (b) otherwise than in pursuance of a requirement under this section, enter into any arrangements with a person specified in section 103B(2A) above for allowing anyone acting on behalf of the Housing Executive for purposes connected with any benefit to have electronic access to any private information contained in any records,except with the consent of the Department and subject to any conditions imposed by the Department by the provisions of the consent.
- (6) A consent for the purposes of subsection (5) above may be given in relation to a particular case, or in relation to any case that falls within a particular description of cases.
- (7) In this section “private information”, in relation to the Housing Executive, means any information held by a person who is not entitled to disclose it to the Housing Executive except in compliance with a requirement imposed by the Housing Executive in exercise of its statutory powers.]

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### Textual Amendments

**F45** S. 104AA inserted (24.2.2003) by 2001 c. 17 (N.I.), ss. 2(2), 17(1); S.R. 2002/406, art. 2(2)(b)

VALID FROM 01/07/1997

### <sup>F46</sup>104B Powers of inspectors appointed under section 104A.

- (1) An inspector may—
  - (a) on showing his certificate of appointment as an inspector (if required to do so), enter any premises liable to inspection under this section at any reasonable time together with such other persons as he considers it necessary to take with him;
  - (b) make inquiries about, and examine documents relating to, any person believed by him to be a benefit claimant or a benefit recipient; and
  - (c) interview any person found by him in any premises liable to inspection under this section or believed by him to hold or have access to information or documents relating to any person believed by him to be a benefit claimant or a benefit recipient.
- (2) Any person liable to supply information or produce documents under this section shall—
  - (a) supply to an inspector all such information; and
  - (b) produce for his inspection, or supply him with a copy of, all such documents, as he may reasonably require for the purpose of ascertaining whether housing benefit is or was payable to or in respect of any person.
- (3) Information, documents and copies supplied or produced under subsection (2) above shall be in such form as the inspector may reasonably require.
- (4) No one shall be required under subsection (2) above to answer any questions or to give evidence tending to incriminate himself or, in the case of a person who is married, his or her spouse.
- (5) Premises are liable to inspection under this section if an inspector has reasonable grounds for believing that—
  - (a) any persons are employed there;
  - (b) a trade or business is being carried on from there; or
  - (c) any records relating to a trade or business are kept there;
 but a private dwelling-house is not liable to inspection under this section unless an inspector has reasonable grounds for believing that a trade or business is being carried on from the dwelling-house and that the trade or business is not also being carried on from premises other than a dwelling-house.
- (6) For the purposes of this section—
  - (a) a benefit claimant is a person who has claimed housing benefit; and
  - (b) a benefit recipient is a person to whom housing benefit has been paid.
- (7) Persons are liable to supply information or produce documents under this section if they—



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- (a) occupy any premises liable to inspection under this section or are found by an inspector in any such premises;
  - (b) are believed by an inspector to be benefit claimants or benefit recipients;
  - (c) are believed by an inspector to hold or have access to information or documents relating to a person within paragraph (b) above; or
  - (d) are employees or agents of a person within any of paragraphs (a) to (c) above.
- (8) The Housing Executive may make arrangements for any power under this section which may be exercised in relation to any premises to be exercised—
- (a) by any inspector appointed by, or an officer of, the Executive if the premises are liable to be inspected by that inspector or officer or are under the control of the Executive; or
  - (b) by any inspector appointed by, or an officer of, a government department if the premises are liable to be inspected by that inspector or officer or are under the control of that department.
- (9) In this section—
- “inspector” means (except in subsection (8) above) an inspector appointed under section 104A above; and
  - “document” means anything in which information of any description is recorded.]

#### Textual Amendments

**F46** Ss. 104A, 104B inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 11; S.R. 1997/316, art. 2, Sch.; and a new s. 104A was substituted for the inserted ss. 104A, 104B (2.4.2001) by 2000 c. 4 (N.I. 4), s. 68(1), Sch. 6 para. 3 (with ss. 66(6)); S.I. 2001/141, art. 2(1)(a), Sch. Pt. I

### 105 Delay, obstruction etc. of inspector.

- (1) If a person—
- (a) wilfully delays or obstructs an inspector in the exercise of any power under this Act; or
  - (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this Act,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Where a person is convicted of an offence under subsection (1)(b) above and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which it is continued.

VALID FROM 01/07/1997

#### [<sup>F47</sup>105A Dishonest representations for obtaining benefit etc.

- (1) If a person dishonestly—
- (a) makes a false statement or representation;

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- (b) produces or furnishes, or causes or allows to be produced or furnished, any document or information which is false in a material particular;
- (c) fails to notify a change of circumstances which regulations under this Act require him to notify; or
- (d) causes or allows another person to fail to notify a change of circumstances which such regulations require the other person to notify,

with a view to obtaining any benefit or other payment or advantage under the social security legislation (whether for himself or for some other person), he shall be guilty of an offence.

(2) In this section “the social security legislation” means the legislation to which section 104 above applies and the Jobseekers (Northern Ireland) Order 1995.

(3) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum, or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding seven years, or to a fine, or to both.]

#### Textual Amendments

**F47** S. 105A inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), **art. 12**; S.R. 1997/316, **art. 2**, **Sch.**

#### Modifications etc. (not altering text)

**C46** S. 105A restricted (5.10.1999) by 1999 c. 10, ss. 2(3), 20(2), **Sch. 2 Pt. IV para. 13**

### 106 False representations for obtaining benefit etc.

(1) If a person for the purpose of obtaining any benefit or other payment under the legislation to which section 104 above applies, whether for himself or some other person, or for any other purpose connected with that legislation—

- (a) makes a statement or representation which he knows to be false; or
- (b) produces or furnishes, or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 3 months, or to both.

### 107 Breach of regulations.

Regulations and schemes under any of the legislation to which section 104 above applies may provide for contravention of, or failure to comply with, any provision contained in regulations made under that legislation to be an offence under that legislation and for the recovery, on summary conviction of any such offence, of penalties not exceeding—

- (a) for any one offence, level 3 on the standard scale; or

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- (b) for an offence of continuing any such contravention or failure after conviction, £40 for each day on which it is so continued.

## **108 Offences relating to contributions.**

- (1) If a person fails to pay, at or within the time prescribed for the purpose, any contribution which he is liable under Part I of the Contributions and Benefits Act to pay, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) If a person fails to pay at or within the time prescribed for the purpose any sums which he is required by regulations made by virtue of paragraph 6 of Schedule 1 to the Contributions and Benefits Act to pay, he shall be liable to be proceeded against and punished under subsection (1) above without proof of his failure so to pay any particular contribution.
- (3) Subsection (1) above does not apply to Class 4 contributions recoverable by the Inland Revenue.
- (4) If a person—
  - (a) buys, sells or offers for sale, takes or gives in exchange, or pawns or takes in pawn a contribution card or a used contribution stamp; or
  - (b) affixes a used contribution stamp to a contribution card,he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 3 months, or to both.
- (5) In any proceedings under subsection (4) above with respect to used stamps a stamp shall be deemed to have been used if it has been affixed to a contribution card or cancelled or defaced in any way whatsoever and whether or not it has actually been used for the payment of a contribution.
- (6) In this Act “contribution card” means any card issued under regulations for the purpose of payment of contributions by affixing stamps to it.

## **[<sup>F48</sup>108A Penalties relating to contributions.**

- (1) If a person fails to pay, at or within the time prescribed for the purpose, any contribution which he is liable to pay, he shall be liable to a penalty.
- (2) If a person fails to pay, at or within the time prescribed for the purpose, any sums which he is required by regulations made by virtue of paragraph 6 or 7B of Schedule 1 to the Contributions and Benefits Act to pay, he shall be liable to a penalty under subsection (1) above without proof of his failure so to pay any particular contribution.
- (3) For the purposes of subsection (1) above, regulations shall—
  - (a) prescribe the amount or rate of penalty, or provide for how it is to be ascertained;
  - (b) provide for the penalty to be imposed by the Department—
    - (i) within 6 years after the date on which the penalty is incurred; or
    - (ii) where the amount of the penalty is to be ascertained by reference to the amount of any contributions payable, at any later time

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within 3 years after the final determination of the amount of those contributions;

- (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
  - (d) prescribe the means by which the penalty is to be enforced; and
  - (e) provide for enabling the Department, in its discretion, to mitigate or to remit any such penalty, or to stay or to compound any proceedings for a penalty.
- (4) Subsection (1) above does not apply—
- (a) to any failure by a person in respect of which he has been convicted of an offence under section 108(1) above; or
  - (b) to Class 4 contributions recoverable by the Inland Revenue.]

#### Textual Amendments

**F48** Ss. 108, 108A substituted for s. 108 (10.3.1999 for certain purposes, otherwise 6.4.1999 (except in so far as relating to s. 108A) by S.I. 1998/1506 (N.I. 10), arts. 1, 57; S.R. 1999/102, art. 2(a), Sch. 1 Pt. II; and s. 108A was repealed (1.4.1999) without having come into force by S.I. 1999/671, art. 5, Sch. 4 para. 6, Sch. 9 Pt. I; S.R. 1999/149, art. 2(c), Sch. 2 (subject to arts. 3-6 of that S.R.)

#### 109 Offences by bodies corporate.

Section 20(2) and (3) of the <sup>M31</sup> Interpretation Act (Northern Ireland) 1954 (offences by bodies corporate) shall apply to this Act as if it were an enactment within the meaning of section 1(b) of that Act.

#### Marginal Citations

**M31** 1954 c. 33 (N.I.).

VALID FROM 21/11/1997

#### [<sup>F49</sup>109A] Penalty as alternative to prosecution.

- (1) This section applies where an overpayment is recoverable from a person by, or due from a person to, the Department or the Housing Executive under or by virtue of section 69, 69A or 73 above and it appears to the Department or the Executive that—
- (a) the making of the overpayment was attributable to an act or omission on the part of that person; and
  - (b) there are grounds for instituting against him proceedings for an offence (under this Act or any other statutory provision) relating to the overpayment.
- (2) The Department or the Housing Executive may give to the person a written notice—
- (a) stating that he may be invited to agree to pay a penalty and that, if he does so in the manner specified by the Department or the Executive, no such proceedings will be instituted against him; and
  - (b) containing such information relating to the operation of this section as may be prescribed.

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- (3) The amount of the penalty shall be 30 per cent. of the amount of the overpayment (rounded down to the nearest whole penny).
- (4) If the person agrees in the specified manner to pay the penalty—
- (a) the amount of the penalty shall be recoverable by the same methods as those by which the overpayment is recoverable; and
  - (b) no proceedings will be instituted against him for an offence (under this Act or any other statutory provision) relating to the overpayment.
- (5) The person may withdraw his agreement to pay the penalty by notifying the Department or the Housing Executive, in the manner specified by the Department or the Executive, at any time during the period of 28 days beginning with the day on which he agrees to pay it; and if he does so—
- (a) so much of the penalty as has already been recovered shall be repaid; and
  - (b) subsection (4)(b) above shall not apply.
- (6) Where, after the person has agreed to pay the penalty, it is decided on a review or appeal or in accordance with regulations that the overpayment is not recoverable or due, so much of the penalty as has already been recovered shall be repaid.
- (7) Where, after the person has agreed to pay the penalty, the amount of the overpayment is revised on a review or appeal or in accordance with regulations—
- (a) so much of the penalty as has already been recovered shall be repaid; and
  - (b) subsection (4)(b) above shall no longer apply by reason of the agreement;
- but if a new agreement is made under this section in relation to the revised overpayment, the amount already recovered by way of penalty, to the extent that it does not exceed the amount of the new penalty, may be treated as recovered under the new agreement instead of being repaid.
- (8) In this section “overpayment” means—
- (a) a payment which should not have been made;
  - (b) a sum which the Department should have received;
  - (c) an amount of benefit paid in excess of entitlement; or
  - (d) an amount equal to an excess of benefit allowed;
- and the reference in subsection (1)(a) above to the making of the overpayment is to the making of the payment, the failure to receive the sum, the payment of benefit in excess of entitlement or the allowing of an excess of benefit.]

#### Textual Amendments

- F49** S. 109A inserted (21.11.1997 for certain purposes, otherwise 18.12.1997) by S.I. 1997/1182 (N.I. 11), art. 14 (with art. 1(4)); S.R. 1997/508, art. 2

#### Modifications etc. (not altering text)

- C47** S. 109A restricted (5.10.1999) by 1999 c. 10, ss. 2(3), 20(2), Sch. 2 Pt. IV para. 15  
S. 109A: functions exercisable by the Department of the Environment for Northern Ireland transferred (26.6.2001) to the Department of Finance and Personnel in Northern Ireland by S.R. 2001/229, art. 4(1) (with art. 12)

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VALID FROM 01/05/2002

**[<sup>F50</sup>109B Penalty as alternative to prosecution: colluding employers, etc.**

- (1) This section applies where it appears to the Department or the Housing Executive—
  - (a) that there are grounds for instituting proceedings against any person (“the responsible person” for an offence (whether or not under this Act) in respect of any conduct; and
  - (b) that the conduct in respect of which there are grounds for instituting the proceedings is conduct falling within subsection (2) below.
- (2) Conduct in respect of which there appear to be grounds for instituting proceedings falls within this subsection if—
  - (a) those proceedings would be for an offence under this Act in connection with an inquiry relating to the employment of relevant employees or of any one or more particular relevant employees; or
  - (b) it is conduct which was such as to facilitate the commission of a benefit offence by a relevant employee (whether or not such an offence was in fact committed).
- (3) The Department or the Housing Executive may give to the responsible person a written notice —
  - (a) specifying or describing the conduct in question;
  - (b) stating that he may be invited to agree to pay a penalty in respect of that conduct;
  - (c) stating that, if he does so in the manner specified by the Department or the Housing Executive, no criminal proceedings will be instituted against him in respect of that conduct; and
  - (d) containing such information relating to the operation of this section as may be prescribed.
- (4) If the recipient of a notice under subsection (3) above agrees, in the specified manner, to pay the penalty—
  - (a) the amount of the penalty shall be recoverable as a civil debt, and shall be capable of being set off against an amount of relevant benefit payable to the recipient of the notice; and
  - (b) no criminal proceedings shall be instituted against him in respect of the conduct to which the notice relates;

and section 69(10) above shall apply in relation to an amount recoverable by virtue of paragraph (a) above as it applies in relation to an amount recoverable under the provisions mentioned in section 69(8) above..
- (5) The amount of the penalty shall be—
  - (a) in a case in which the conduct in question falls within paragraph (a) of subsection (2) above but not within paragraph (b) of that subsection, £1,000;
  - (b) in a case in which that conduct falls within paragraph (b) of that subsection and the number of relevant employees by reference to whom it falls within that subsection is five or more, £5,000; and

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- (c) in any other case, the amount obtained by multiplying £1,000 by the number of relevant employees by reference to whom that conduct falls within that subsection.
- (6) The responsible person may withdraw his agreement to pay a penalty under this section by notifying the Department or the Housing Executive, in the manner specified by the Department or the Housing Executive, at any time during the period of 28 days beginning with the day on which he agrees to pay it.
- (7) Where the responsible person withdraws his agreement in accordance with subsection (6) above—
- (a) so much of the penalty as has already been recovered shall be repaid; and
  - (b) subsection (4)(b) above shall not apply.
- (8) For the purposes of this section an individual is a relevant employee in relation to any conduct of the responsible person if—
- (a) that conduct was at or in relation to a time when that individual was an employee of the responsible person;
  - (b) that conduct was at or in relation to a time when that individual was an employee of a body corporate of which the responsible person is or has been a director; or
  - (c) the responsible person, in engaging in that conduct, was acting or purporting to act on behalf of, in the interests of or otherwise by reason of his connection with, any person by whom that individual is or has been employed.
- (9) In this section —
- “conduct” includes acts, omissions and statements;
- “the Department” also includes the Department of Finance and Personnel;
- “director”—
- (a) in relation to a company (within the meaning of the Companies (Northern Ireland) Order 1986), includes a shadow director;
  - (b) in relation to any such company that is a subsidiary of another, includes any director or shadow director of the other company; and
  - (c) in relation to a body corporate whose affairs are managed by its members, means a member of that body corporate;
- “employee” means any person who—
- (a) is employed under a contract of service or apprenticeship, or in an office (including an elective office), or
  - (b) carries out any work under any contract under which he has undertaken to provide his work,
- and “employment” shall be construed accordingly;
- “relevant benefit” means benefit prescribed for the purposes of section 69(8) above;
- “shadow director” means a shadow director as defined in Article 9(2) of the Companies (Northern Ireland) Order 1986;
- “subsidiary” means a subsidiary as defined in Article 4 of the Companies (Northern Ireland) Order 1986.]

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### Textual Amendments

**F50** S. 109B inserted (1.5.2002) by 2001 c. 17, ss. 14(1), 17(1); S.R. 2002/165, art. 2

### *Legal proceedings*

#### **110 Legal proceedings.**

- (1) Any person authorised by the Department, the Department of the Environment or the Housing Executive in that behalf may conduct any proceedings under this Act before a magistrates' court, although not a barrister or solicitor.
- (2) Notwithstanding anything in any statutory provision—
  - (a) proceedings for an offence under this Act other than an offence relating to housing benefit may be begun at any time within the period of 3 months from the date on which evidence, sufficient in the opinion of the Department to justify a prosecution for the offence, comes to its knowledge or within a period of 12 months from the commission of the offence, whichever period last expires; and
  - (b) proceedings for an offence under this Act relating to housing benefit may be begun at any time within the period of 3 months from the date on which evidence, sufficient in the opinion of the Department of the Environment or the Housing Executive to justify a prosecution for the offence, comes to its knowledge or within a period of 12 months from the commission of the offence, whichever period last expires.
- (3) For the purposes of subsection (2) above—
  - (a) a certificate purporting to be signed by or on behalf of the Head or a secretary, under secretary or assistant secretary of the Department or of the Department of the Environment as to the date on which such evidence as is mentioned in paragraph (a) or (b) of that subsection came to its knowledge shall be conclusive evidence of that date; and
  - (b) a certificate purporting to be signed by a member of the Housing Executive or by an officer of the Executive authorised by it to act for the purposes of this section as to the date on which such evidence as is mentioned in paragraph (b) of that subsection came to the Executive's knowledge shall be conclusive evidence of that date.
- (4) Any proceedings in respect of any act or omission of an adjudication officer which, apart from this subsection, would fall to be brought against a person appointed by virtue of section 36(1) above who is resident in Great Britain, other than proceedings for an offence, may instead be brought against the Chief Adjudication Officer; and, for the purposes of any proceedings so brought, the acts or omissions of the adjudication officer shall be treated as the acts or omissions of the Chief Adjudication Officer.
- (5) Subject to subsection (6) below, in proceedings for an offence under this Act, the wife or husband of the accused is competent to give evidence, whether for or against the accused.
- (6) The wife or husband is not compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him by the accused during the marriage.



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#### Modifications etc. (not altering text)

C48 S. 110 applied (with modifications) (7.2.1994) by 1993 c. 49, s.163(2); S.R. 1994/17, art. 2

### 111 Questions arising in proceedings.

- (1) Where in any proceedings—
- (a) for an offence under this Act;
  - (b) involving any question as to the payment of contributions (other than a Class 4 contribution recoverable by the Inland Revenue); or
  - (c) for the recovery of any sums due to the Department or the National Insurance Fund,
- any such question arises as is mentioned in section 15(1) above, the decision of the Department shall be conclusive for the purposes of the proceedings.
- (2) If—
- (a) a decision of any such question is necessary for the determination of proceedings; and
  - (b) the decision of the Department has not been obtained or a question has been raised with a view to a review of the decision obtained,
- the question shall be referred to the Department for determination or review in accordance (subject to any necessary modifications) with Part II of this Act.
- (3) Subsection (1) above does not apply if—
- (a) an appeal under section 16 above is pending;
  - (b) the time for appealing has not expired; or
  - (c) a question has been raised with a view to a review of the Department's decision under section 17 above,
- and the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.

VALID FROM 01/04/1999

#### <sup>[F51]</sup> 111A Issues arising in proceedings: contributions, etc.

- (1) This section applies to proceedings before a court—
- (a) for an offence under this Act or the Jobseekers (Northern Ireland) Order 1995; or
  - (b) involving any question as to the payment of contributions (other than a Class 4 contribution recoverable in accordance with section 15 of the Contributions and Benefits Act); or
  - (c) for the recovery of any sums due to the Inland Revenue or the National Insurance Fund.
- (2) A decision of an officer of the Inland Revenue which—
- (a) falls within Article 7(1) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; and
  - (b) relates to or affects an issue arising in the proceedings,

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shall be conclusive for the purposes of the proceedings.

(3) If—

- (a) any such decision is necessary for the determination of the proceedings, and
- (b) the decision of an officer of the Inland Revenue has not been obtained under Article 7 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999,

the decision shall be referred to such an officer to be made in accordance (subject to any necessary modifications) with Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.

(4) Subsection (2) above does not apply where, in relation to the decision—

- (a) an appeal has been brought but not determined;
- (b) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired; or
- (c) an application for variation of the decision has been made under regulations made under Article 9 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.

(5) In a case falling within subsection (4) above the court shall adjourn the proceedings until such time as the final decision is known; and that decision shall be conclusive for the purposes of the proceedings.]

#### Textual Amendments

**F51** S. 111A inserted (1.4.1999) by S.I. 1999/671, art. 5, **Sch. 6 para. 10**; S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6 of that S.R.)

### *Unpaid contributions etc.*

#### **112 Evidence of non-payment.**

(1) Subsection (2) below applies with respect to any period during which, under regulations made by virtue of paragraph 5(1) of Schedule 1 to the Contributions and Benefits Act (deduction with PAYE), contributions fall to be paid in like manner as income tax.

(2) A certificate of a collector of taxes that any amount by way of contributions which a person is liable to pay to that collector for any period has not been paid—

- (a) to him; or
- (b) to the best of his knowledge and belief, to any other person to whom it might lawfully be paid,

shall until the contrary is proved be sufficient evidence in any proceedings before any court that the sum mentioned in the certificate is unpaid and due.

(3) A document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

(4) A statutory declaration by an officer of the Department or of the Secretary of State that the searches specified in the declaration for a particular contribution card or for a

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record of the payment of a particular contribution have been made, and that the card in question or a record of the payment of the contribution in question has not been found, is admissible in any proceedings for an offence as evidence of the facts stated in the declaration.

- (5) Nothing in subsection (4) above makes a statutory declaration admissible as evidence in proceedings for an offence except in a case where, and to the extent to which, oral evidence to the like effect would have been admissible in those proceedings.
- (6) Nothing in subsections (4) and (5) above makes a statutory declaration admissible as evidence in proceedings for an offence—
- (a) unless a copy of it has, not less than 7 days before the hearing or trial, been served on the person charged with the offence in any manner in which a summons in a summary prosecution may be served; or
  - (b) if that person, not later than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, gives notice to the prosecutor requiring the attendance at the trial of the person by whom the declaration was made.

### 113 Recovery of unpaid contributions on prosecution.

- (1) Where—
- (a) a person has been convicted of an offence under section 108(1) above of failing to pay a contribution at or within the time prescribed for the purpose; and
  - (b) the contribution remains unpaid at the date of the conviction,
- he shall be liable to pay to the Department a sum equal to the amount which he failed to pay.
- (2) Where—
- (a) a person is convicted of an offence—
    - (i) under section 108(3)(b) above;
    - (ii) under section 13 of the <sup>M32</sup>Stamp Duties Management Act 1891 as applied by regulations made under paragraph 8(3) of Schedule 1 to the Contributions and Benefits Act; or
    - (iii) of contravening or failing to comply with regulations; and
  - (b) the evidence on which he is convicted shows that he, for the purposes of paying any contribution which he was liable or entitled to pay, has affixed to any contribution card any used contribution stamp; and
  - (c) the contribution (not being a Class 3 contribution) in respect of which the stamp was affixed remains unpaid at the date of the conviction,
- he shall be liable to pay to the Department a sum equal to the amount of the contribution.

#### Marginal Citations

M32 1891 c. 38.

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#### **114 Proof of previous offences.**

- (1) Subject to and in accordance with subsections (2) to (5) below, where a person is convicted of an offence mentioned in section 113(1) or (2)(a) above, evidence may be given of any previous failure by him to pay contributions within the time prescribed for the purpose; and in those subsections “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.
- (2) Such evidence may be given only if notice of intention to give it is served with the summons or warrant on which the person appeared before the court which convicted him.
- (3) If the offence is one of failure to pay a Class 1 contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person) such contributions or any Class 1A contributions or state scheme premiums on the date of the offence, or during the 2 years preceding that date.
- (4) If the offence is one of failure to pay a Class 1A contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person or the same car) such contributions, or any Class 1 contributions or state scheme premiums, on the date of the offence, or during the 2 years preceding that date.
- (5) If the offence—
  - (a) is one of failure to pay Class 2 contributions; or
  - (b) is one of those mentioned in section 113(2)(a) above,
 evidence may be given of his failure to pay such contributions during those 2 years.
- (6) On proof of any matter of which evidence may be given under subsection (3), (4) or (5) above, the person convicted shall be liable to pay to the Department a sum equal to the total of all amounts which he is so proved to have failed to pay and which remain unpaid at the date of the conviction.

#### **115 Unpaid contributions - supplementary.**

- (1) Where a person charged with an offence mentioned in section 113(1) or (2)(a) above is convicted of that offence in his absence under Article 24(2) of the <sup>M33</sup>Magistrates’ Courts (Northern Ireland) Order 1981 then if—
  - (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by magistrates’ courts rules under Part IV of that Order, that notice under section 114(2) above has been duly served specifying the other contributions in respect of which the complainant intends to give evidence; and
  - (b) the clerk of petty sessions has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other contributions so specified or any of them,
 section 114 above shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.
- (2) Where a person is convicted of an offence mentioned in section 113(1) or (2)(a) above and an order is made under the <sup>M34</sup>Probation Act (Northern Ireland) 1950 placing the offender on probation or discharging him absolutely or conditionally, sections 113 and 114 above, and subsection (1) above, shall apply as if it were a conviction for all purposes.

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- (3) Any sum which a person is liable to pay under section 113 or 114 above or under subsection (1) above shall be recoverable from him as a penalty.
- (4) Sums recovered by the Department under the provisions mentioned in subsection (1) above, so far as representing contributions of any class, are to be treated for all purposes of the Contributions and Benefits Act and this Act (including in particular the application of section 142 below) as contributions of that class received by the Department.
- (5) Without prejudice to subsection (5) above, in so far as such sums represent primary Class 1 or Class 2 contributions, they are to be treated as contributions paid in respect of the person in respect of whom they were originally payable; and enactments relating to earnings factors shall apply accordingly.

#### Marginal Citations

**M33** S.I. 1981/1675 (N.I. 26).

**M34** 1950 c. 7 (N.I.).

VALID FROM 10/03/1999

#### [<sup>F52</sup>115A Recovery of contributions, etc.

- (1) If—
  - (a) a person is served at any time with a copy of a certificate under section 112(1) above; and
  - (b) he neglects or refuses to pay the contributions, interest or penalty to which the certificate relates within 30 days of that time,
 the Judgments Enforcement (Northern Ireland) Order 1981 (“the 1981 Order”) shall apply in relation to the amount in respect of which the certificate was issued, to the extent that it remains unpaid, as a money judgment, but subject to subsections (2) and (3) below, and such amount unpaid shall be enforceable by the Enforcement of Judgments Office on an application to it by the Department.
- (2) Without prejudice to Article 141 of the 1981 Order (power to make Judgment Enforcement Rules) the Department may, with the consent of the Lord Chancellor, make such regulations with respect to the enforcement by the Enforcement of Judgments Office of amounts unpaid on certificates under section 112(1) above as it considers appropriate.
- (3) Regulations made under subsection (2) above may, in particular, provide for the modification of any provision made by or under the 1981 Order in its application to certificates under section 112(1) above.
- (4) In subsection (3) above, “modification” includes the making of additions, omissions or amendments.]

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### Textual Amendments

**F52** S. 115A inserted (10.3.1999 for certain purposes, otherwise 6.4.1999) by S.I. 1998/1506 (N.I. 10), art. 59; S.R. 1999/102, art. 2(b), Sch. Pt. II

### [115B] <sup>F53</sup> Liability of directors, etc. for company's contributions.

- (1) This section applies to contributions which a body corporate is liable to pay, where—
  - (a) the body corporate has failed to pay the contributions at or within the time prescribed for the purpose; and
  - (b) the failure appears to the Department to be attributable to fraud or neglect on the part of one or more individuals who, at the time of the fraud or neglect, were officers of the body corporate ("culpable officers").
- (2) The Department may issue and serve on any culpable officer a notice (a "personal liability notice")—
  - (a) specifying the amount of the contributions to which this section applies ("the specified amount");
  - (b) requiring the officer to pay to the Department—
    - (i) a specified sum in respect of that amount; and
    - (ii) specified interest on that sum; and
  - (c) where that sum is given by paragraph (b) of subsection (3) below, specifying the proportion applied by the Department for the purposes of that paragraph.
- (3) The sum specified in the personal liability notice under subsection (2)(b)(i) above shall be—
  - (a) in a case where there is, in the opinion of the Department, no other culpable officer, the whole of the specified amount; and
  - (b) in any other case, such proportion of the specified amount as, in the opinion of the Department, the officer's culpability for the failure to pay that amount bears to that of all the culpable officers taken together.
- (4) In assessing an officer's culpability for the purposes of subsection (3)(b) above, the Department may have regard both to the gravity of the officer's fraud or neglect and to the consequences of it.
- (5) The interest specified in the personal liability notice under subsection (2)(b)(ii) above shall be at the prescribed rate and shall run from the date on which the notice is issued.
- (6) An officer who is served with a personal liability notice shall be liable to pay to the Department the sum and the interest specified in the notice under subsection (2)(b) above.
- (7) Where, after the issue of one or more personal liability notices, the amount of contributions to which this section applies is reduced by a payment made by the body corporate—
  - (a) the amount that each officer who has been served with such a notice is liable to pay under this section shall be reduced accordingly;
  - (b) the Department shall serve on each such officer a notice to that effect; and

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- (c) where the reduced liability of any such officer is less than the amount that he has already paid under this section, the difference shall be repaid to him together with interest on it at the prescribed rate.
- (8) Any amount paid under a personal liability notice shall be deducted from the liability of the body corporate in respect of the specified amount.
- (9) In this section—
- “contributions” includes any interest or penalty in respect of contributions;
- “officer”, in relation to a body corporate, means—
- (a) any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act as such; and
  - (b) in a case where the affairs of the body corporate are managed by its members, any member of the body corporate exercising functions of management with respect to it or purporting to do so;
- “the prescribed rate” means the rate from time to time prescribed under paragraph 6 of Schedule 1 to the Contributions and Benefits Act for the purposes of the corresponding provision of that paragraph, that is to say—
- (a) in relation to subsection (5) above, sub-paragraph (2)(a);
  - (b) in relation to subsection (7) above, sub-paragraph (2)(b).]

#### Textual Amendments

**F53** S. 115B inserted (*prosp.*) by S.I. 1998/1506 (N.I. 10), arts. 1, 60

#### [115C <sup>F54</sup> Appeals in relation to personal liability notices.

- (1) No appeal shall lie in relation to a notice except as provided by this personal liability section.
- (2) An individual who is served with a personal liability notice may appeal to an appeal tribunal against the Department’s decision as to the issue and content of the notice on the ground that—
  - (a) the whole or part of the amount specified under subsection (2)(a) of section 115B above (or the amount so specified as reduced under subsection (7) of that section) does not represent contributions to which that section applies;
  - (b) the failure to pay that amount was not attributable to any fraud or neglect on the part of the individual in question;
  - (c) the individual was not an officer of the body corporate at the time of the alleged fraud or neglect; or
  - (d) the opinion formed by the Department under subsection (3)(a) or (b) of that section was unreasonable.
- (3) The Department shall give a copy of any notice of an appeal under this section, within 28 days of the giving of the notice, to each other individual who has been served with a personal liability notice.
- (4) On an appeal under this section, the burden of proof as to any matter raised by a ground of appeal shall be on the Department .
- (5) Where an appeal under this section—

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(a) is brought on the basis of evidence not considered by the Department, or on the ground mentioned in subsection (2)(d) above; and

(b) is not allowed on some other basis or ground,

the appeal tribunal shall either dismiss the appeal or remit the case to the Department, with any recommendations it sees fit to make, for the Department to consider whether to revise its decision as to the issue and content of the personal liability notice.

(6) In this section—

“appeal tribunal” means an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998;

“officer”, in relation to a body corporate, has the same meaning as in section 115B above;

“personal liability notice” has the meaning given by subsection (2) of that section;

“revise” means revise under Article 10 of the Social Security (Northern Ireland) Order 1998.]

#### Textual Amendments

**F54** S. 115C inserted (*prosp.*) by S.I. 1998/1506 (N.I. 10), arts. 1, 60

VALID FROM 22/11/2000

#### [<sup>F55</sup>115C Interpretation of Part VI

(1) In this Part “the relevant social security legislation” means the provisions of any of the following, except so far as relating to contributions, working families’ tax credit, disabled person’s tax credit, statutory sick pay or statutory maternity pay, that is to say-

- (a) the Contributions and Benefits Act;
- (b) this Act;
- (c) the Pensions Act, except Part III;
- (d) Article 9 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994;
- (e) the Jobseekers (Northern Ireland) Order 1995;
- (f) the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997;
- (g) Parts II and V of the Social Security (Northern Ireland) Order 1998;
- (h) Part VI of the Welfare Reform and Pensions (Northern Ireland) Order 1999;
- (i) the Social Security Pensions (Northern Ireland) Order 1975;
- (j) the Social Security Act 1973;
- (k) any statutory rule or statutory instrument made, or having effect as if made, under any statutory provision specified in paragraphs (a) to (j) above.

(2) In this Part “authorised officer” means a person acting in accordance with any authorisation for the purposes of this Part which is for the time being in force in relation to him.

(3) For the purposes of this Part -



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- (a) references to a document include references to anything in which information is recorded in electronic or any other form;
  - (b) the requirement that a notice given by an authorised officer be in writing shall be taken to be satisfied in any case where the contents of the notice—
    - (i) are transmitted to the recipient of the notice by electronic means; and
    - (ii) are received by him in a form that is legible and capable of being recorded for future reference.
- (4) In this Part “premises” includes—
- (a) moveable structures and vehicles, vessels, aircraft and hovercraft;
  - (b) installations that are offshore installations for the purposes of the Mineral Workings (Offshore Installations) Act 1971; and
  - (c) places of all other descriptions whether or not occupied as land or otherwise,
- and references in this Part to the occupier of any premises shall be construed, in relation to premises that are not occupied as land, as references to any person for the time being present at the place in question.
- (5) In this Part—
- “benefit” includes any allowance, payment, credit or loan;
  - “benefit offence” means a criminal offence committed in connection with a claim for benefit under a provision of the relevant social security legislation, or in connection with the receipt or payment of such a benefit; and
  - “compensation payment” has the same meaning as in the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997.
- (6) In this Part—
- (a) any reference to a person authorised to carry out any function relating to housing benefit shall include a reference to a person providing services relating to that benefit directly or indirectly to the Housing Executive; and
  - (b) any reference to the carrying out of a function relating to housing benefit shall include a reference to the provision of any services relating to it.]

#### Textual Amendments

**F55** S. 115CA inserted (22.11.2000 for certain purposes, otherwise 2.4.2001) by 2000 c. 4 (N.I.), s. 58, Sch. 6 para. 8 (with s. 66(6)); S.R. 2000/358, art. 2, Sch. Pt. I; S.R. 2001/141, art. 2(1), Sch. Pt. I

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## PART VII

### PROVISION OF INFORMATION

VALID FROM 01/04/1999

*[<sup>F56</sup>Information relating to, or required for purposes of, contributions, statutory sick pay or statutory maternity pay]*

#### Textual Amendments

**F56** Ss. 115D, 115E and preceding cross-heading inserted (1.4.1999) by S.I. 1999/671, art. 6, Sch. 5 para. 1; S.R. 1999/149, art. 2(c), Sch. 2 (subject to arts. 3-6 of that S.R.)

#### <sup>F57</sup>115D Supply of contributions, etc. information held by Inland Revenue.

- (1) This section applies to information which is held for the purposes of functions relating to contributions, statutory sick pay or statutory maternity pay—
  - (a) by the Inland Revenue, or
  - (b) by a person providing services to them, in connection with the provision of those services.
- (2) Information to which this section applies may, and must if an authorised officer so requires, be supplied—
  - (a) to the Department or the Secretary of State, or
  - (b) to a person providing services to the Department or the Secretary of State, for use for the purposes of functions relating to social security or child support.
- (3) In subsection (2) “authorised officer” means an officer of the Department or the Secretary of State authorised for the purposes of this section by the Department or the Secretary of State.

#### Textual Amendments

**F57** Ss. 115D, 115E and preceding cross-heading inserted (1.4.1999) by S.I. 1999/671, art. 6, Sch. 5 para. 1; S.R. 1999/149, art. 2(c), Sch. 2 (subject to arts. 3-6 of that S.R.)

#### <sup>F58</sup>115E Supply to Inland Revenue for purposes of contributions, etc. of information held by Department or Secretary of State.

- (1) This section applies to information which is held for the purposes of functions relating to social security or child support—
  - (a) by the Department or the Secretary of State, or
  - (b) by a person providing services to the Department or the Secretary of State, in connection with the provision of those services.
- (2) Information to which this section applies may, and must if an officer of the Inland Revenue authorised by the Inland Revenue for the purposes of this section so requires, be supplied—

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- (a) to the Inland Revenue, or
  - (b) to a person providing services to the Inland Revenue,
- for use for the purposes of functions relating to contributions, statutory sick pay or statutory maternity pay.

#### Textual Amendments

**F58** Ss. 115D, 115E and preceding cross-heading inserted (1.4.1999) by S.I. 1999/671, art. 6, Sch. 5 para. 1; S.R. 1999/149, art. 2(c), Sch. 2 (subject to arts. 3-6 of the said S.R.)

### *Inland Revenue*

#### **116 Disclosure of information by Inland Revenue.**

- (1) No obligation as to secrecy imposed by statute or otherwise on a person employed in relation to the Inland Revenue shall prevent information obtained or held in connection with the assessment or collection of income tax from being disclosed—
  - (a) to the Department;
  - (b) to the Secretary of State; or
  - (c) to an officer of either of them authorised to receive such information in connection with the operation of the Contributions and Benefits Act or this Act or of any enactment applying in Great Britain corresponding to either of them.
- (2) In relation to persons who are carrying on or have carried on a trade, profession or vocation income from which is chargeable to tax under Case I or II of Schedule D, disclosure under subsection (1) above relating to that trade, profession or vocation shall be limited to information about the commencement or cessation of, and employed earners engaged in, the trade, profession or vocation, but sufficient information may also be given to identify the persons concerned.
- (3) Subsection (1) above extends only to disclosure by or under the authority of the Commissioners of Inland Revenue; and information which is subject to disclosure to any person by virtue of that subsection shall not be further disclosed to any person except where the further disclosure is made—
  - (a) to a person to whom disclosure could by virtue of that subsection have been made by or under the authority of the Commissioners of Inland Revenue;
  - (b) for the purposes of proceedings (civil or criminal) in connection with the operation of the Contributions and Benefits Act or this Act or of any enactment applying in Great Britain corresponding to either of them; or
  - (c) for any purposes of sections 15 to 60 above and any corresponding provisions applying in Great Britain.

VALID FROM 09/09/2002

#### **[<sup>F59</sup>116Z] Supply of tax information to assess certain employment or training schemes**

- (1) This section applies to information which—

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- (a) relates to the commencement or cessation of employment or self-employment of persons who have participated in any designated employment or training scheme; and
  - (b) is required by the Department or the Secretary of State in order to assess policy relating to such schemes.
- (2) In subsection (1) “designated employment or training scheme” means any scheme which—
- (a) is operated by the Department or the Secretary of State (whether under arrangements with any other person or not) for any purposes connected with employment or training; and
  - (b) is designated by the Department for the purposes of this section.
- (3) In subsection (1) the reference to the commencement or cessation of the self-employment of any person is a reference to the commencement or cessation of any trade, profession or vocation carried on by him.
- (4) No obligation as to secrecy imposed by statute or otherwise on a person employed in relation to the Inland Revenue shall prevent any such information obtained or held in connection with the assessment or collection of income tax from being disclosed to—
- (a) the Department;
  - (b) the Secretary of State; or
  - (c) an officer of either of them authorised to receive such information for the purposes of this section.
- (5) This section extends only to disclosure by or under the authority of the Inland Revenue.
- (6) Information which is the subject of disclosure to any person by virtue of this section shall not be further disclosed to any person except where the further disclosure is made—
- (a) to a person to whom disclosure could be made by virtue of subsection (4); or
  - (b) for the purposes of any civil or criminal proceedings relating to the Contributions and Benefits Act, the Jobseekers (Northern Ireland) Order 1995 or this Act or to any enactment applying in Great Britain corresponding to any of them.]

#### Textual Amendments

**F59** S. 116ZA inserted (9.9.2002) by [Employment Act 2002 \(c. 22\)](#), s. 50, [Sch. 6 para. 8](#); S.I. 2002/2256, [art. 2](#)

VALID FROM 01/04/1999

#### <sup>F60</sup>**116A** Disclosure of contributions, etc. information by Inland Revenue.

- (1) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to the Inland Revenue shall prevent information held for the purposes of the functions of the Inland Revenue in relation to contributions, statutory sick pay or statutory maternity pay from being disclosed—

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- (a) to any of the authorities to which this paragraph applies, or any person authorised to exercise any function of that authority, for the purposes of the functions of that authority, or
  - (b) in a case where the disclosure is necessary for the purpose of giving effect to any agreement to which an order under section 155(1) below relates.
- (2) The authorities to which subsection (1)(a) above applies are—
- (a) the Health and Safety Executive for Northern Ireland,
  - (b) the Government Actuary's Department,
  - (c) the Northern Ireland Statistical and Research Agency, and
  - (d) the Occupational Pensions Regulatory Authority.]

#### Textual Amendments

**F60** S. 116AA inserted (1.4.1999) by S.I. 1999/671, art. 6, Sch. 5 para. 3; S.R. 1999/149, art. 2(c), Sch. 2 (subject to arts. 3-6 of the said S.R.)

VALID FROM 01/07/1997

#### [<sup>F61</sup>116A Supply of information by Inland Revenue for purposes of contributions.

- (1) This section applies to information which is held—
- (a) by the Commissioners of Inland Revenue; or
  - (b) by a person providing services to the Commissioners of Inland Revenue in connection with the provision of those services.
- (2) Information to which this section applies may, with the authority of the Commissioners, be supplied to, or to a person providing services to, the Department or the Secretary of State for use for any purpose relating to contributions.
- (3) Information supplied under subsection (2) above shall not be supplied by the recipient to any other person or body unless—
- (a) it could be supplied to that person or body under that subsection; or
  - (b) it is supplied for the purposes of any civil or criminal proceedings relating to the Contributions and Benefits Act, the Jobseekers (Northern Ireland) Order 1995 or this Act or to any enactment applying in Great Britain corresponding to any of them;
- and shall not be so supplied in those circumstances without the authority of the Commissioners.
- (4) But where information supplied under subsection (2) above has been used in amending or supplementing other information, it is lawful for it to be—
- (a) supplied to any person or body to whom that other information could be supplied; or
  - (b) used for any purpose for which that other information could be used.
- (5) This section does not limit the circumstances in which information may be supplied apart from this section.]

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### Textual Amendments

**F61** Ss. 116, 116A, and cross-heading substituted (1.7.1997) for s. 116 and cross-heading by 1997 c. 47, s. 1(2); S.I. 1997/1577, art. 1(2), Sch.

VALID FROM 01/07/1997

### [<sup>F62</sup> Other government information]

### Textual Amendments

**F62** S. 116B and the preceding cross-heading inserted (1.7.1997) by 1997 c. 47, s. 2(2); S.I. 1997/1577, art. 2, Sch.

### <sup>F63</sup> 116B Supply of other government information for fraud prevention and verification.

- (1) This section applies to information which is held by, or by a person providing services to, a Minister of the Crown or a Northern Ireland department or other government department and which relates to—
  - (a) passports, immigration and emigration, nationality or prisoners; or
  - (b) any other matter which is prescribed.
- (2) Information to which this section applies may be supplied to, or to a person providing services to, the Department or the Secretary of State—
  - (a) for use in the prevention, detection, investigation or prosecution of offences relating to social security; or
  - (b) for use in checking the accuracy of information relating to benefits, contributions or national insurance numbers or to any other matter relating to social security and (where appropriate) amending or supplementing such information.
- (3) Information supplied under subsection (2) above shall not be supplied by the recipient to any other person or body unless—
  - (a) it could be supplied to that person or body under that subsection;
  - (b) it is supplied for the purposes of any civil or criminal proceedings relating to the Contributions and Benefits Act, the <sup>M35</sup>Jobseekers (Northern Ireland) Order 1995 or this Act or to any enactment applying in Great Britain corresponding to any of them; or
  - (c) it is supplied to the Housing Executive.
- (4) But where information supplied under subsection (2) above has been used (in accordance with paragraph (b) of that subsection) in amending or supplementing other information, it is lawful for it to be—
  - (a) supplied to any person or body to whom that other information could be supplied; or
  - (b) used for any purpose for which that other information could be used.

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- (5) This section does not limit the circumstances in which information may be supplied apart from this section.

#### Textual Amendments

**F63** S. 116B and the preceding cross-heading inserted (1.7.1997) by 1997 c. 47, s. 2(2); S.I. 1997/1577, art. 2, Sch.

#### Marginal Citations

**M35** S.I. 1995/2705 (N.I.15).

VALID FROM 01/07/1997

### *[<sup>F64</sup>The Housing Executive]*

#### Textual Amendments

**F64** Ss. 116C, 116D and the preceding cross-heading inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 3; S.R. 1997/316, art. 2, Sch.

### *[<sup>F65</sup>116C Supply of information to the Housing Executive.*

- (1) This section applies to information relating to social security which is held—
  - (a) by the Department or the Secretary of State; or
  - (b) by a person providing services to the Department or the Secretary of State in connection with the provision of those services.
- (2) Information to which this section applies may be supplied to—
  - (a) the Housing Executive; or
  - (b) a person authorised to exercise any function of the Housing Executive relating to housing benefit,  
for use in the administration of housing benefit.
- (3) But where information to which this section applies has been supplied to the Department, the Secretary of State or the person providing services under section 116 or 116B above it may only be supplied under subsection (2) above—
  - (a) for use in the prevention, detection, investigation or prosecution of offences relating to housing benefit; or
  - (b) for use in checking the accuracy of information relating to housing benefit and (where appropriate) amending or supplementing such information.
- (4) The Department or the Secretary of State—
  - (a) may impose conditions on the use of information supplied under subsection (2) above; and
  - (b) may charge a reasonable fee in respect of the cost of supplying information under that subsection.

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- (5) Where information is supplied to the Housing Executive or other person under subsection (2) above, the Executive or other person shall have regard to it in the exercise of any function relating to housing benefit.
- (6) Information supplied under subsection (2) above shall not be supplied by the recipient to any other person or body unless—
- (a) it is supplied—
    - (i) by the Housing Executive to a person authorised to exercise any function of the Executive relating to housing benefit; or
    - (ii) by a person authorised to exercise any function of the Housing Executive relating to housing benefit to the Executive;
  - (b) it is supplied for the purposes of any civil or criminal proceedings relating to the Contributions and Benefits Act, the Jobseekers (Northern Ireland) Order 1995 or this Act or to any enactment applying in Great Britain corresponding to any of them; or
  - (c) it is supplied under section 116D below.
- (7) This section does not limit the circumstances in which information may be supplied apart from this section (in particular by reason of section 116(4) or 116B(4) above).]

#### Textual Amendments

**F65** SS. 116C, 116D and the preceding *cross-heading* inserted (1.7.1997) by [S.I. 1997/1182 \(N.I. 11\)](#), [art. 3](#); [S.R. 1997/316](#), [art. 2](#), [Sch.](#)

#### [<sup>F66</sup>116D Supply of information by the Housing Executive.

- (1) The Department or the Secretary of State may require—
- (a) the Housing Executive; or
  - (b) a person authorised to exercise any function of the Housing Executive relating to housing benefit,
- to supply benefit administration information held by the Executive or other person to, or to a person providing services to, the Department or the Secretary of State for use for any purpose relating to social security.
- (2) The Department or the Secretary of State may require—
- (a) the Housing Executive; or
  - (b) a person authorised to exercise any function of the Housing Executive relating to housing benefit,
- to supply benefit policy information held by the Executive or other person to, or to a person providing services to, the Department or the Secretary of State.
- (3) Information shall be supplied under subsection (1) or (2) above in such manner and form, and in accordance with such requirements, as may be prescribed.
- (4) In subsection (1) above “benefit administration information”, in relation to the Housing Executive or other person, means any information which is relevant to the exercise of any function relating to housing benefit by the Executive or other person.
- (5) In subsection (2) above “benefit policy information” means any information which may be relevant to the Department or the Secretary of State—



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- (a) in preparing estimates of likely future expenditure on housing benefit; or
- (b) in developing policy relating to housing benefit.]

#### Textual Amendments

**F66** Ss. 116C, 116D and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 3; S.R. 1997/316, art. 2, Sch.

#### Modifications etc. (not altering text)

**C49** S. 116D: functions modified (*prosp.*) by S.I. 1999/3147 (N.I. 11), arts. 1(2), 67, Sch. 8 para. 32  
S. 116D: functions exercisable by the Department of the Environment for Northern Ireland transferred (26.6.2001) to the Department of Finance and Personnel in Northern Ireland by S.R. 2001/229, art. 4(1) (with art. 12)

*Persons employed or formerly employed in social security administration or adjudication*

### 117 Unauthorised disclosure of information relating to particular persons.

- (1) A person who is or has been employed in social security administration or adjudication is guilty of an offence if he discloses without lawful authority any information which he acquired in the course of his employment and which relates to a particular person.
- (2) A person who is or has been employed in the audit of expenditure or the investigation of complaints is guilty of an offence if he discloses without lawful authority any information—
  - (a) which he acquired in the course of his employment;
  - (b) which is, or is derived from, information acquired or held by or for the purposes of any of the government departments or other bodies or persons referred to in Part I of Schedule 4 to this Act or in any corresponding enactment having effect in Great Britain; and
  - (c) which relates to a particular person.
- (3) It is not an offence under this section—
  - (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it; or
  - (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (4) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—
  - (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or
  - (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (5) A person guilty of an offence under this section shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both; or

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- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (6) For the purposes of this section, the persons who are “employed in social security administration or adjudication” are—
- (a) any person specified in Part I of Schedule 4 to this Act or in any corresponding enactment having effect in Great Britain;
  - (b) any other person who carries out the administrative work of any of the government departments or other bodies or persons referred to in that Part of that Schedule or that corresponding enactment; and
  - (c) any person who provides, or is employed in the provision of, services to any of those departments, persons or bodies;
- and “employment”, in relation to any such person, shall be construed accordingly.

[<sup>F67</sup>(6A) Subsection (6) above shall have effect as if any medical practitioner who, for the purposes of section 52 above, is provided by any person in pursuance of a contract entered into with the Department were specified in Part I of Schedule 4 to this Act]

- (7) For the purposes of subsections (2) and (6) above, any reference in Part I of Schedule 4 to this Act or in any corresponding enactment having effect in Great Britain to a government department shall be construed in accordance with Part II of that Schedule or any corresponding enactment having effect in Great Britain, and for this purpose “government department” shall be taken to include—
- (a) the Commissioners of Inland Revenue; and
  - (b) the Scottish Courts Administration.
- (8) For the purposes of this section, the persons who are “employed in the audit of expenditure or the investigation of complaints” are—
- (a) the Comptroller and Auditor General for Northern Ireland;
  - (b) the Northern Ireland Parliamentary Commissioner for Administration;
  - (c) the Northern Ireland Commissioner for Complaints;
  - (d) the Comptroller and Auditor General;
  - (e) the Parliamentary Commissioner for Administration;
  - (f) any member of the staff of the Northern Ireland Audit Office or the National Audit Office;
  - (g) any other person who carries out the administrative work of either of those Offices, or who provides, or is employed in the provision of, services to either of them;
  - (h) the Health Service Commissioner for England, Wales or Scotland; and
  - (i) any officer of any of the Commissioners referred to in paragraph (b), (c), (e) or (h) above;

and “employment”, in relation to any such person, shall be construed accordingly.

- (9) For the purposes of this section a disclosure is to be regarded as made with lawful authority if, and only if, it is made—
- (a) in accordance with his official duty—
    - (i) by a civil servant; or
    - (ii) by a person employed in the audit of expenditure or the investigation of complaints, who does not fall within subsection (8)(g) above;
  - (b) by any other person either—

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- (i) for the purposes of the function in the exercise of which he holds the information and without contravening any restriction duly imposed by the person responsible; or
- (ii) to, or in accordance with an authorisation duly given by, the person responsible;
- (c) in accordance with any statutory provision or order of a court;
- (d) for the purpose of instituting, or otherwise for the purposes of, any proceedings before a court or before any tribunal or other body or person referred to in Part I of Schedule 4 to this Act or in any corresponding enactment having effect in Great Britain; or
- (e) with the consent of the appropriate person;

and in this subsection “the person responsible” means the Department, the Lord Chancellor or any person authorised by the Department or the Lord Chancellor for the purposes of this subsection and includes a reference to “the person responsible” within the meaning of any corresponding enactment having effect in Great Britain.

(10) For the purposes of subsection (9)(e) above, “the appropriate person” means the person to whom the information in question relates, except that if the affairs of that person are being dealt with—

- (a) under a power of attorney;
- (b) by a controller appointed under Article 101 of the <sup>M36</sup>Mental Health (Northern Ireland) Order 1986 or by a receiver appointed under section 99 of the <sup>M37</sup>Mental Health Act 1983;
- (c) by a Scottish mental health custodian, that is to say—
  - (i) a curator bonis, tutor or judicial factor; or
  - (ii) the managers of a hospital acting on behalf of that person under section 94 of the <sup>M38</sup>Mental Health (Scotland) Act 1984; or
- (d) by a mental health appointee, that is to say—
  - (i) a person directed or authorised as mentioned in sub-paragraph (a) of rule 38(1) of Order 109 of the Rules of the <sup>M39</sup>Supreme Court (Northern Ireland) 1980 or sub-paragraph (a) of rule 41(1) of the <sup>M40</sup>Court of Protection Rules 1984; or
  - (ii) a controller ad interim appointed under sub-paragraph (b) of the said rule 38(1) or any receiver ad interim appointed under sub-paragraph (b) of the said rule 41(1),

the appropriate person is the attorney, controller, receiver, custodian or appointee, as the case may be, or, in a case falling within paragraph (a) above, the person to whom the information relates.

#### Textual Amendments

F67 S. 117(6A) inserted (3.1.1995) by 1994 c. 40, ss. 76, 82(2)(f), Sch. 16 para. 25

#### Marginal Citations

M36 S.I. 1986/595 (N.I. 4).

M37 1983 c. 20.

M38 1984 c. 36.

M39 S.R. (N.I.) 1980 No. 346.

M40 S.I. 1984/2035.

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### Notification of deaths

#### 118 Regulations as to notification of deaths.

- (1) Regulations may provide that it shall be the duty of the Registrar General or any registrar to furnish the Department, for the purpose of its functions under the Contributions and Benefits Act and this Act and the functions of the Secretary of State under any enactment applying in Great Britain corresponding to either of them, with the prescribed particulars of such deaths as may be prescribed.
- (2) The regulations may make provision as to the manner in which and times at which the particulars are to be furnished.
- (3) In subsection (1) “Registrar General” and “registrar” have the meanings assigned to them in the <sup>M41</sup>Births and Deaths Registration (Northern Ireland) Order 1976.

#### Modifications etc. (not altering text)

**C50** S. 118 applied (with modifications) (7.2.1994) by 1993 c. 49, s.163(2); S.R. 1994/17, art. 2

#### Marginal Citations

**M41** S.I. 1976/1041 (N.I. 14).

### Personal representatives - income support and supplementary benefit

#### 119 Personal representatives to give information about the estate of a deceased person who was in receipt of income support or supplementary benefit.

- (1) The personal representatives of a person who was in receipt of income support or supplementary benefit at any time before his death shall provide the Department with such information as it may require relating to the assets and liabilities of that person’s estate.
- (2) If the personal representatives fail to supply any information within 28 days of being required to do so under subsection (1) above, then—
  - (a) the county court may, on the application of the Department, make an order directing them to supply that information within such time as may be specified in the order, and
  - (b) any such order may provide that all costs of and incidental to the application shall be borne personally by any of the personal representatives.

VALID FROM 08/10/1997

[<sup>F68</sup>Landlords and agents]

#### Textual Amendments

**F68** S. 119A and the preceding cross-heading inserted (8.10.1997) by S.I. 1997/1182 (N.I. 11), art. 10; S.R. 1997/449, art. 2

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**<sup>F69</sup> 119A Power to require information from landlords and agents.**

- (1) Regulations shall provide that where a claim for housing benefit in respect of a dwelling is made to the Housing Executive and the circumstances are such as are prescribed—
  - (a) the Executive; or
  - (b) a person authorised to exercise any function of the Executive relating to housing benefit,may require any appropriate person to supply information of a prescribed description to the Executive or other person.
- (2) Subject to subsection (4) below, for the purposes of subsection (1) above a person is an appropriate person in relation to a dwelling if he is—
  - (a) a person to whom anyone is, or claims to be, liable to make relevant payments;
  - (b) a person to whom, or at whose direction, a person within paragraph (a) above has agreed to make payments in consequence of being entitled to receive relevant payments; or
  - (c) a person acting on behalf of a person within paragraph (a) or (b) above in connection with any aspect of the management of the dwelling.
- (3) In subsection (2) above “relevant payments”, in relation to a dwelling, means payments in respect of the dwelling which are of a description in relation to which housing benefit may be paid.
- (4) Regulations may provide that any prescribed person, or any person of a prescribed description, is not an appropriate person for the purposes of subsection (1) above.
- (5) The descriptions of information which may be prescribed for the purposes of subsection (1) above include, in particular, any description of information relating to, or to any interest in or other connection with, dwellings and other property situated anywhere in the United Kingdom.
- (6) Information shall be supplied under subsection (1) above in such manner and form, and at such time and in accordance with such other requirements, as may be prescribed.
- (7) Information supplied to the Housing Executive or other person under subsection (1) above may be used by the Executive or other person only in the exercise of any function relating to housing benefit.
- (8) The provisions of section 116D above apply in relation to any information supplied under subsection (1) above which is not benefit administration information (within the meaning of those provisions) as if it were.]

**Textual Amendments**

**F69** S. 119A and the preceding cross-heading inserted (8.10.1997) by S.I. 1997/1182 (N.I. 11), **art. 10**; S.R. 1997/449, **art. 2**

**Modifications etc. (not altering text)**

**C51** S. 119A: functions modified (*prosp.*) by S.I. 1999/3147 (N.I. 11), **arts. 1(2), 67, Sch. 8 para. 32** (with **art. 75**)

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### *Housing benefit*

#### **120 Information for purposes of housing benefit.**

- (1) The Department may supply to the Housing Executive such information of a prescribed description obtained by reason of the exercise of any of the Department's functions under the Contributions and Benefits Act or this Act as the Executive may require in connection with any of the Executive's functions relating to housing benefit.
- (2) The Housing Executive shall supply to the Department such information of a prescribed description obtained by reason of the exercise of the Executive's functions relating to housing benefit as the Department may require in connection with any of its functions under the Contributions and Benefits Act or this Act.
- (3) It shall also be the duty of the Housing Executive to supply the Department, in the prescribed manner and within the prescribed time—
  - (a) with such information as the Department may require concerning the Executive's performance of any of the Executive's functions relating to housing benefit; and
  - (b) with such information as the Department may require to enable it—
    - (i) to prepare estimates of likely future amounts of housing benefit expenditure; and
    - (ii) to decide questions relating to the development of housing benefit policy.

### *Statutory sick pay and other benefits*

#### **121 Disclosure by the Department for purpose of determination of period of entitlement to statutory sick pay.**

Where the Department considers that it is reasonable for information held by the Department to be disclosed to an employer, for the purpose of enabling that employer to determine the duration of a period of entitlement under Part XI of the Contributions and Benefits Act in respect of an employee, or whether such a period exists, the Department may disclose the information to that employer.

#### **122 Duties of employers - statutory sick pay and claims for other benefits.**

- (1) Regulations may make provision requiring an employer, in a case falling within subsection (3) below to furnish information in connection with the making, by a person who is, or has been, an employee of that employer, of a claim for—
  - <sup>F70</sup>(a) short-term incapacity benefit;
  - (b) a maternity allowance;
  - <sup>F71</sup>(c) long-term incapacity benefit;
  - (d) industrial injuries benefit; or
  - (e) a severe disablement allowance.
- (2) Regulations under this section shall prescribe—
  - (a) the kind of information to be furnished in accordance with the regulations;
  - (b) the person to whom information of the prescribed kind is to be furnished; and
  - (c) the manner in which, and period within which, it is to be furnished.

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(3) The cases are—

- (a) where, by virtue of paragraph 2 of Schedule 11 to the Contributions and Benefits Act or of regulations made under paragraph 1 of that Schedule, a period of entitlement does not arise in relation to a period of incapacity for work;
- (b) where a period of entitlement has come to an end but the period of incapacity for work which was running immediately before the period of entitlement came to an end continues; and
- (c) where a period of entitlement has not come to an end but, on the assumption that—
  - (i) the period of incapacity for work in question continues to run for a prescribed period; and
  - (ii) there is no material change in circumstances,the period of entitlement will have ended on or before the end of the prescribed period.

(4) Regulations—

- (a) may require employers to maintain such records in connection with statutory sick pay as may be prescribed;
- (b) may provide for—
  - (i) any person claiming to be entitled to statutory sick pay; or
  - (ii) any other person who is a party to proceedings arising under Part XI of the Contributions and Benefits Act,to furnish to the Department, within a prescribed period, any information required for the determination of any question arising in connection therewith; and
- (c) may require employers who have made payments of statutory sick pay to furnish to the Department such documents and information, at such times, as may be prescribed.

**Textual Amendments**

**F70** S. 122(1)(a) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. II para. 48(a)**; S.R. 1994/450, art. 2, **Sch. 1 Pt. IV**

**F71** S. 122(1)(c) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. II para. 48(b)**; S.R. 1994/450, art. 2, **Sch. 1 Pt. IV**

*Statutory maternity pay and other benefits*

**123 Disclosure by the Department for purpose of determination of period of entitlement to statutory maternity pay.**

Where the Department considers that it is reasonable for information held by the Department to be disclosed to a person liable to make payments of statutory maternity pay for the purpose of enabling that person to determine—

- (a) whether a maternity pay period exists in relation to a woman who is or has been an employee of his; and

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- (b) if it does, the date of its commencement and the weeks in it in respect of which he may be liable to pay statutory maternity pay,  
the Department may disclose the information to that person.

## 124 Duties of employers - statutory maternity pay and claims for other benefits.

- (1) Regulations may make provision requiring an employer in prescribed circumstances to furnish information in connection with the making of a claim by a woman who is or has been his employee for—
- (a) a maternity allowance;
  - (b) [<sup>F72</sup>short-term incapacity benefit];
  - (c) a [<sup>F73</sup>long-term incapacity benefit under section 30A], 40 or 41 of the Contributions and Benefits Act; or
  - (d) a severe disablement allowance.
- (2) Regulations under this section shall prescribe—
- (a) the kind of information to be furnished in accordance with the regulations;
  - (b) the person to whom information of the prescribed kind is to be furnished; and
  - (c) the manner in which, and period within which, it is to be furnished.
- (3) Regulations—
- (a) may require employers to maintain such records in connection with statutory maternity pay as may be prescribed;
  - (b) may provide for—
    - (i) any woman claiming to be entitled to statutory maternity pay; or
    - (ii) any other person who is a party to proceedings arising under Part XII of the Contributions and Benefits Act,
 to furnish to the Department, within a prescribed period, any information required for the determination of any question arising in connection therewith; and
  - (c) may require persons who have made payments of statutory maternity pay to furnish to the Department such documents and information, at such times, as may be prescribed.

### Textual Amendments

- F72** Words in s. 124(1)(b) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. II**, para. 49(a); S.R. 1994/450, art. 2, **Sch. Pt. IV**
- F73** Words in s. 124(1)(c) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. II**, para. 49(b); S.R. 1994/450, art. 2, **Sch. Pt. IV**

### *Maintenance proceedings*

## 125 Furnishing of addresses for maintenance proceedings, etc.

- (1) The Department may incur expenses for the purpose of furnishing the address at which a man or woman is recorded by it as residing, where the address is required for the purpose of taking or carrying on legal proceedings to obtain or enforce an order for the making by the man or woman of payments—



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- (a) for the maintenance of the man’s wife or former wife, or the woman’s husband or former husband; or
- (b) for the maintenance or education of any person as being the son or daughter of the man or his wife or former wife, or of the woman or her husband or former husband.

(2) In subsection (1)(b) above “son or daughter” includes an illegitimate son or daughter.

## PART VIII

### ARRANGEMENTS FOR HOUSING BENEFIT

#### *Housing benefit*

#### **126 Arrangements for housing benefit.**

- (1) Housing benefit provided by virtue of a scheme under section 122 of the Contributions and Benefits Act (in this Act referred to as “the housing benefit scheme”)—
- (a) is to be in the form of a rate rebate, if it is in respect of payments by way of rates;
  - (b) is to be in the form of a rent rebate, if it is in respect of payments, other than payments by way of rates, to be made to the Housing Executive; and
  - (c) is in any other case to be in the form of a rent allowance.
- (2) The rebates and allowances referred to in subsection (1) above may take any of the following forms, that is to say—
- (a) a payment or payments by the Housing Executive or the Department of the Environment, as the case may be, to the person entitled to the benefit; and
  - (b) a reduction in the amount of any payments which that person is liable to make to the Housing Executive or the Department of the Environment, as the case may be, by way of rent or rates; or
  - (c) such a payment or payments and such a reduction;
- and in any statutory provision (whenever passed or made) “pay”, in relation to housing benefit, includes discharge in any of those forms.
- (3) Housing benefit shall be administered by—
- (a) the Housing Executive in so far as it relates to persons who are tenants of the Executive, private tenants or tenants of registered housing associations;
  - (b) the Department of the Environment in so far as it relates to persons who own and occupy their dwellings.
- (4) Regulations may provide that in prescribed cases a payment made by a person entitled to a rent allowance shall be treated for the purposes of subsection (1)(a) above as being, to such extent as may be prescribed, a payment by way of rates.
- (5) Circumstances may be prescribed in which a rate rebate may be treated as if it fell to be paid as a rent allowance.
- (6) In this section—
- “private tenants” means tenants under any tenancy except—
    - (a) a tenancy under which the estate of the landlord belongs to—

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- (i) the Housing Executive; or
- (ii) a registered housing association;
- (b) a tenancy the purpose of which is to confer on the tenant the right to occupy a dwelling-house for a holiday;
  - “registered housing association” means a housing association registered in the register maintained under [<sup>F74</sup>Part II of the Housing (Northern Ireland) Order 1992 <sup>M42</sup>].

#### Textual Amendments

**F74** Words in definition in s. 126(6) substituted (15.9.1992) by S.I. 1992/1725 (N.I. 15), art. 107, **Sch. 8**, para.6.

#### Modifications etc. (not altering text)

**C52** S. 126(2)(3)(b): functions transferred (1.12.1999) from the Department of the Environment to the Department of Finance and Personnel by S.R. 1999/481, art. 6(b), **Sch. 4 Pt. II**

#### Marginal Citations

**M42** S.I. 1992/1725

### 127 Housing benefit finance.

- (1) The Department shall in respect of each financial year pay to the Housing Executive a grant towards the expenditure incurred or to be incurred by the Executive in that year under this Part (including, if the Department so determines, an amount towards the cost of administering housing benefit).
- (2) The amount of the grant under subsection (1) above which is to be paid to the Housing Executive shall be such as the Department may, with the approval of the Department of Finance and Personnel, determine.
- (3) A grant under subsection (1) above shall be payable by the Department at such time and in such manner as the Department may think fit.

#### Modifications etc. (not altering text)

**C53** S. 127(2)(3) applied (2.7.2001) by 2000 c. 4 (N.I.), s. 61(2) (with s. 66(6)); S.R. 2001/249, art. 2(a)

### 128 Claims etc.

- (1) Unless the Department otherwise determines, a grant under section 127 above shall not be payable until the Housing Executive has made a claim for it in such form as the Department may determine.
- (2) The Department may withhold from the Housing Executive so much of any grant under section 127 above as it thinks fit until either—
  - (a) the Executive has supplied it with prescribed particulars relating to its claim for a grant and complied with prescribed conditions as to records, certificates, audit or otherwise; or
  - (b) the Department is satisfied that there is a good reason for the Executive’s failure to supply those particulars or comply with those conditions.

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- (3) If the Housing Executive fails to make a claim for a grant within such period as the Department considers reasonable, the Department may withhold from the Executive such part of the grant as it thinks fit for so long as it thinks fit.
- (4) Where the amount of the grant paid to the Housing Executive for any year is found to be incorrect, the amount payable to it for any subsequent year may be adjusted for the purpose of rectifying that mistake in whole or in part.

VALID FROM 01/07/1997

### [<sup>F75</sup> Reports]

#### Textual Amendments

**F75** Ss. 128A-128C and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 5; S.R. 1997/316, art. 2, Sch.

### [<sup>F76</sup> 128A Persons to report on administration.

- (1) The Department may authorise persons to consider and report to it on the administration by the Housing Executive of housing benefit and, in particular, the Executive's performance in the prevention and detection of fraud relating to that benefit.
- (2) A person may be authorised under subsection (1) above on such terms and for such period as the Department thinks fit.]

#### Textual Amendments

**F76** Ss. 128A-128C and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 5; S.R. 1997/316, art. 2, Sch.

### [<sup>F77</sup> 128B Powers of investigation.

- (1) A person authorised under section 128A(1) above—
  - (a) has a right of access at all reasonable times to any document relating to the administration of housing benefit;
  - (b) is entitled to require from any person holding or accountable for any such document such information and explanation as he thinks necessary; and
  - (c) is entitled, if he thinks it necessary, to require any such person to produce any such document or to attend before him in person to give such information or explanation.
- (2) A person authorised under section 128A(1) above is entitled to require any officer or member of the Housing Executive or any person involved in the administration of housing benefit for the Executive—
  - (a) to give him such information and explanation relating to the administration of housing benefit as he thinks necessary; and

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- (b) if he thinks it necessary, to require any such person to attend before him in person to give the information or explanation.
- (3) A person who without reasonable excuse fails to comply with a requirement under subsection (1) or (2) above is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) A person authorised under section 128A(1) above may—
- (a) require any document or information which is to be given to him under subsection (1) or (2) above to be given in any form reasonably specified by him; and
  - (b) take copies of any document produced to him.
- (5) In this section “document” means anything in which information of any description is recorded.]

#### Textual Amendments

**F77** Ss. 128A-128C and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 5; S.R. 1997/316, art. 2, Sch.

#### [<sup>F78</sup>128C] Reports.

- (1) A report about the Housing Executive by a person authorised under section 128A(1) above may include recommendations about improvements which could be made by the Executive in its administration of housing benefit and, in particular, in the prevention and detection of fraud relating to that benefit.
- (2) When the Department receives a report about the Housing Executive from a person authorised under section 128A(1) above, it shall send a copy to the Executive.]

#### Textual Amendments

**F78** Ss. 128A-128C and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 5; S.R. 1997/316, art. 2, Sch.

VALID FROM 01/07/1997

#### [<sup>F79</sup>Directions by Department]

#### Textual Amendments

**F79** S. 128D and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 8; S.R. 1997/316, art. 2, Sch.

#### [<sup>F80</sup>128D] Directions.

- (1) This section applies where—

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- (a) a copy of a report has been sent to the Housing Executive under section 128C(2) above;
  - (b) a copy of a report has been sent to the Housing Executive under Article 21 of the Housing (Northern Ireland) Order 1981 and to the Department under Article 7(2) of the Social Security Administration (Fraud) (Northern Ireland) Order 1997; or
  - (c) a copy of a report has been sent to the Housing Executive under Article 6(7) of the Social Security Administration (Fraud) (Northern Ireland) Order 1997.
- (2) The Department may invite the Housing Executive to consider the report and to submit proposals for—
- (a) improving the Executive’s performance in relation to the prevention and detection of fraud relating to housing benefit or otherwise in relation to the administration of that benefit; and
  - (b) remedying any failings identified by the report.
- (3) After considering the report and any proposals made by the Housing Executive in response to it, the Department may give directions to the Executive as to —
- (a) standards which the Executive is to attain in the prevention and detection of fraud relating to housing benefit or otherwise in the administration of that benefit; and
  - (b) the time within which the standards are to be attained.
- (4) When giving directions to the Housing Executive under subsection (3) above, the Department may make recommendations to the Executive setting out any course of action which the Department thinks the Executive might take to attain the standards which it is directed to attain.]

#### Textual Amendments

**F80** S. 128D and the preceding cross-heading inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 8; S.R. 1997/316, art. 2, Sch.

#### [128E <sup>F81</sup> Information about attainment of standards.

- (1) Where directions have been given to the Housing Executive under section 128D(3) above, the Department may require the Executive to supply to it any information which the Department considers may assist it in deciding—
  - (a) whether the Executive has attained the standards which it has been directed to attain; or
  - (b) whether the Executive is likely to attain those standards within the time specified in the directions.
- (2) Information shall be supplied under subsection (1) above in such manner and form as the Department may require.]

#### Textual Amendments

**F81** Ss.128E-128H inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 9; S.R. 1997/316, art. 2, Sch.

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VALID FROM 01/12/1999

**[<sup>F82</sup>128EE Financing of other expenditure.**

- (1) The Department may make to any relevant authority such payments as it thinks fit in respect of expenses incurred by that authority in connection with the carrying out of any relevant function—
- (a) by that authority,
  - (b) by any person providing services to that authority, or
  - (c) by any person authorised by that authority to carry out that function.
- (2) In subsection (1)—
- “relevant authority” means any authority (other than a government department) for the purposes of section 2A, 2C or 5A above;
- “relevant function” means any function conferred by virtue of section 2A, 2C or 5A above.]

**Textual Amendments**

**F82** S. 128EE inserted (1.12.1999) by S.I. 1999/3147 (N.I. 11), art. 74, **Sch. 9 para. 56** (with art. 75)

**[<sup>F83</sup>128F Enforcement notices.**

- (1) Where directions have been given to the Housing Executive under section 128D(3) above and the Department—
- (a) is not satisfied that the Executive has attained the standards which it has been directed to attain; or
  - (b) is not satisfied that the Executive is likely to attain those standards within the time specified in the directions,
- the Department may serve on the Executive a written notice under this section.
- (2) The notice shall—
- (a) identify the directions and state why the Department is not satisfied as mentioned in paragraph (a) or (b) of subsection (1) above; and
  - (b) require the Housing Executive to submit a written response to the Department within a time specified in the notice.
- (3) If any person (other than the Housing Executive) carrying out work relating to the administration of housing benefit may be affected by any determination which may be made under section 128G below, the Executive shall—
- (a) consult that person before submitting its response; and
  - (b) include in its response any relevant observations made by that person.
- (4) The Housing Executive’s response shall either—
- (a) state that the Executive has attained the standards, or is likely to attain them within the time specified in the directions, and justify that statement; or
  - (b) state that the Executive has not attained the standards, or is not likely to attain them within that time, and (if the Executive wishes) give reasons why

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a determination under section 128G below should not be made or should not include any particular provision.

- (5) The notice may relate to any one or more matters covered by the directions.
- (6) The serving of a notice under this section relating to any directions or matter does not prevent the serving of further notices under this section relating to the same directions or matter.]

#### Textual Amendments

**F83** Ss.128E-128H inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 9; S.R. 1997/316, art. 2, Sch.

#### <sup>F84</sup>128G Enforcement determinations.

- (1) Where, after the time specified in the notice under section 128F above has expired, the Department—
  - (a) is not satisfied that the Housing Executive has attained the standards in question; or
  - (b) is not satisfied that the Executive is likely to attain those standards within the time specified in the directions,the Department may make a determination under this section.
- (2) The determination may be made whether or not the Housing Executive has responded to the notice under section 128F above.
- (3) The determination shall be designed to secure the attainment of the standards in question and—
  - (a) shall include provision such as is specified in subsection (4) below; and
  - (b) may also include provision such as is specified in subsection (5) below.
- (4) The provision referred to in paragraph (a) of subsection (3) above is provision that the Housing Executive must comply with specified requirements as to inviting, preparing, considering and accepting bids to carry out any work which—
  - (a) falls to be carried out in pursuance of the Executive's functions relating to the administration of housing benefit; and
  - (b) is of a description specified in the determination.
- (5) The provision referred to in paragraph (b) of that subsection is provision of any one or more of the following kinds relating to the work, or any specified category of the work, to which the determination relates—
  - (a) provision that it may not be carried out by the Housing Executive;
  - (b) provision that it may not be carried out by any person (other than the Executive) who has been carrying it out; and
  - (c) provision that any contract made by the Executive with any person for carrying it out shall include terms requiring a level of performance which will secure, or contribute to securing, the attainment of the standards in question.]

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#### Textual Amendments

**F84** Ss.128E-128H inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), **art. 9**; S.R. 1997/316, **art. 2**, **Sch.**

#### [<sup>F85</sup>128H Enforcement determinations: supplementary.

- (1) The provisions included in a determination under section 128G above shall take effect from a date specified in the determination; and different dates may be specified in relation to different provisions.
- (2) The making of a determination under section 128G above in relation to any directions does not prevent the making of further determinations under that section in relation to the same directions.
- (3) The provision included in a determination by virtue of section 1286(3) above may include—
  - (a) requirements that the Department be satisfied as to any specified matter; and
  - (b) requirements that the Department authorise or consent to any specified matter.
- (4) The provision so included may also include provision as to the time at which any contract for the carrying out of work to which the determination relates (and which is not previously discharged) is to be taken to be frustrated by the determination.
- (5) A determination under section 128G above shall have effect in spite of any statutory provision under or by virtue of which the Housing Executive is required or authorised to carry out any work to which the determination relates.]

#### Textual Amendments

**F85** Ss.128E-128H inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), **art. 9**; S.R. 1997/316, **art. 2**, **Sch.**

## PART IX

### ALTERATION OF CONTRIBUTIONS AND BENEFITS

#### *Alteration of contributions, etc.*

#### 129 Amendments following alterations in Great Britain.

Whenever the Secretary of State makes an order under section 141, 143, 145 or 146 of the Great Britain Administration Act (alteration of contributions), the Department may make a corresponding order for Northern Ireland.

#### 130 Revaluation of earnings factors.

Whenever the Secretary of State makes an order under section 148 of the Great Britain Administration Act [<sup>F86</sup>(revaluation of earnings factors), the Department may make a corresponding order for Northern Ireland].



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#### Textual Amendments

**F86** Words in s. 130 substituted (16.12.1995 subject to Sch. 2 of the amending S.I.) by S.I. 1995/3213 (N.I. 22), arts. 1, 125(3) (with art. 125(4)-(6))

#### Modifications etc. (not altering text)

**C54** S. 130 extended (1.7.1992) by Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), ss. 44(8), 173(4) (with s. 108(5))

VALID FROM 08/01/2001

#### [<sup>F87</sup>130A Revaluation of low earnings threshold

Whenever the Secretary of State makes an order under section 148A of the Great Britain Administration Act (revaluation of low earnings threshold), the Department may make a corresponding order for Northern Ireland.]

#### Textual Amendments

**F87** S. 130A inserted (8.1.2001 for certain purposes, otherwise 1.2.2001) by 2000 c. 4 (N.I.), s. 32, (with s. 66(6)); S.R. 2000/358, art. 2(e), Sch. Pt. IV (as amended by S.R. 2000/374, art. 3); S.R. 2001/34, art. 2(c)

#### [<sup>F88</sup>131 Statutory sick pay - power to alter limit for small employers' relief.

Whenever the Secretary of State makes regulations prescribing an amount which an employer's contributions payments must not exceed if he is to be a small employer for the purposes of section 154 of the Great Britain Contributions and Benefits Act, the Department shall make corresponding regulations for Northern Ireland.]

#### Textual Amendments

**F88** S. 131 ceased to have effect (6.4.1995) by virtue of S.R. 1995/96, art. 6(2)(b)

### *Review and alteration of benefits*

#### **132 Annual up-rating of benefits.**

- (1) Whenever the Secretary of State makes an order under section 150 of the Great Britain Administration Act the Department may make a corresponding order for Northern Ireland.
- (2) An increase in a sum such as is specified in subsection (3)(b) below shall form part of the Category A or Category B retirement pension of the person to whom it is paid and an increase in a sum such as is specified in subsection (3)(a) below shall be added to and form part of that pension but shall not form part of the sum increased.
- (3) The sums referred to in subsection (2) above are those which are—

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- (a) payable by virtue of [<sup>F89</sup>section 11(1) of the Pensions Act] to a person who is also entitled to a Category A or Category B retirement pension (including any sum payable by virtue of [<sup>F89</sup>section 13(2) of that Act]); or
  - (b) payable to such a person as part of his Category A or Category B retirement pension by virtue of—
    - (i) an order made under this section corresponding to an order made under section 150 of the Great Britain Administration Act by virtue of paragraph (e)(ii) of subsection (1) of that section;
    - (ii) an order made under section 120 of the <sup>M43</sup>1975 Act corresponding to an order made under section 126A of the Social Security Act 1975; or
    - (iii) an order made under Article 64 of the <sup>M44</sup>1986 Order corresponding to an order made under section 63(1)(d) of the Social Security Act 1986.
- [<sup>F90</sup>(3A) Where a member of an appropriate personal pension scheme or a money purchase contracted-out scheme continues in employment after attaining pensionable age and the commencement of his pension under the scheme is postponed, the preceding provisions of this section shall have effect as if—
- (a) the guaranteed minimum pension to which he is treated as entitled by virtue of section 44(2)(a) of the Pensions Act were subject to increases in accordance with the provisions of section 11(1) of that Act; and
  - (b) the amounts of any notional increases referred to in paragraph (a) above were subject to annual up-rating in the same way as if they were sums to which subsection (3)(a) above applied.]
- (4) Where any increment under [<sup>F91</sup>section 11(1) of the Pensions Act]—
- (a) is increased in any tax year by an order under [<sup>F91</sup>section 105 of that Act]; and
  - (b) in that tax year also falls to be increased by an order under this section,
- the increase under this section shall be the amount that would have been specified in the order, but for this subsection, less the amount of the increase under Article 39A of the Pensions Order.
- (5) Where sums are payable to a person by virtue of [<sup>F92</sup>section 11(1) of the Pensions Act] (including such sums payable by virtue of [<sup>F92</sup>section 13(2) of that Act]) during a period ending with the date on which he became entitled to a Category A or Category B retirement pension, then, for the purpose of determining the amount of his Category A or Category B retirement pension, orders made under this section during that period shall be deemed to have come into force (consecutively in the order in which they were made) on the date on which he became entitled to that pension.
- (6) The reference in subsection (1) above to an order made under section 150 of the Great Britain Administration Act includes a reference to an order made in exercise of the powers conferred by regulations made under subsection (11) of that section.

#### Textual Amendments

**F89** Words in s. 132(3)(a) substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 41(a)**; S.R. 1994/17, **art. 2**

**F90** S. 132(3A) inserted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 41(b)**; S.R. 1994/17, **art. 2**

**F91** Words in s. 132(4) substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 41(c)**; S.R. 1994/17, **art. 2**

**F92** Words in s. 132(5) substituted (7.2.1994) by 1993 c. 49, s. 184, 186(2), **Sch. 7 para. 41(d)**

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#### Modifications etc. (not altering text)

- C55** S. 132: certain functions of the Secretary of State or the Department of Health and Social Services for Northern Ireland transferred (5.10.1999) to the Treasury by 1999 c. 10, ss. 2, 20(2), **Sch. 2 Pt. I para. 4**
- C56** S. 132(2) modified (5.10.1999) by 1999 c. 10, ss. 2, 20(2), **Sch. 2 Pt. V para. 20(f)**

#### Marginal Citations

- M43** 1975 c. 14.  
**M44** 1986 c. 50.

### 133 Rectification of mistakes in up-rating orders.

Whenever the Secretary of State makes an order under section 152 of the Great Britain Administration Act, the Department may make a corresponding order for Northern Ireland.

### 134 Social security benefits in respect of children.

- (1) Regulations may, with effect from any day on or after that on which there is an increase in the rate or any of the rates of child benefit, reduce any sum specified in any of the provisions mentioned in subsection (2) below to such extent as the Department thinks appropriate having regard to that increase.
- (2) The provisions referred to in subsection (1) above are the following provisions of Schedule 4 to the Contributions and Benefits Act—
- paragraph 6 of Part I (child's special allowance);
  - paragraph 5 of Part III (guardian's allowance);
  - column (2) of Part IV (increase for child dependants);
  - paragraph 7 of Part V (increase of weekly rate of disablement pension in respect of child dependants);
  - paragraph 12 of Part V (allowance in respect of deceased's children).

## PART X

### COMPUTATION OF BENEFITS

### 135 Effect of alteration of rates of benefit under Parts II to V of Contributions and Benefits Act.

- (1) This section has effect where the rate of any benefit to which this section applies is altered—
- by a statutory provision made subsequent to this Act;
  - by an order under section 132 or 133 above; or
  - in consequence of any such statutory provision or order altering any maximum rate of benefit;

and in this section “the commencing date” means the date fixed for payment of benefit at an altered rate to commence.

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- (2) This section applies to benefit under Part II, III, IV or V of the Contributions and Benefits Act.
- (3) Subject to such exceptions or conditions as may be prescribed, where—
- (a) the weekly rate of a benefit to which this section applies is altered to a fixed amount higher or lower than the previous amount; and
  - (b) before the commencing date an award of that benefit has been made (whether before or after the making of the relevant statutory provision),
- except as respects any period falling before the commencing date, the benefit shall become payable at the altered rate without any claim being made for it in the case of an increase in the rate of benefit or any review of the award in the case of a decrease, and the award shall have effect accordingly.
- (4) Where—
- (a) the weekly rate of a benefit to which this section applies is altered; and
  - (b) before the commencing date (but after that date is fixed) an award is made of the benefit,
- the award either may provide for the benefit to be paid as from the commencing date at the altered rate or may be expressed in terms of the rate appropriate at the date of the award.
- (5) Where in consequence of the making of a statutory provision altering the rate of disablement pension, regulations are made varying the scale of disablement gratuities, the regulations may provide that the scale as varied shall apply only in cases where the period taken into account by the assessment of the extent of the disablement in respect of which the gratuity is awarded begins or began after such day as may be prescribed.
- (6) Subject to such exceptions or conditions as may be prescribed, where—
- (a) for any purpose of any statutory provision the weekly rate at which a person contributes to the cost of providing for a child, or to the maintenance of an adult dependant, is to be calculated for a period beginning on or after the commencing date for an increase in the weekly rate of benefit; but
  - (b) account is to be taken of amounts referable to the period before the commencing date,
- those amounts shall be treated as increased in proportion to the increase in the weekly rate of benefit.
- [<sup>F93</sup>(7) So long as sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966 (graduated retirement benefit) continue in force by virtue of regulations made under Schedule 3 to the Social Security (Consequential Provisions) Act 1975 or under Schedule 3 to the Consequential Provisions Act, regulations may make provision for applying the provisions of this section—
- (a) to the amount of graduated retirement benefit payable for each unit of graduated contributions,
  - (b) to increases of such benefit under any provisions made by virtue of Article 26(1)(a) of the Pensions Order or section 62(1)(a) of the Contributions and Benefits Act, and
  - (c) to any addition under section 36(1) of the National Insurance Act (Northern Ireland) 1966 (addition to weekly rate of retirement pension for widows and widowers) to the amount of such benefit.]

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#### Textual Amendments

**F93** S. 135(7) inserted (19.12.1995) by S.I. 1995/3213 (N.I. 22), arts. 1(2), 165, Sch. 4, para. 3; S.R. 1995/477, art. 2, Sch. Pt. I

#### Modifications etc. (not altering text)

**C57** S. 135(3) restricted (12.4.1993) by S.R. 1993/159, reg. 2 (with exceptions as indicated in S.R. 1994/75, art. 2)

s. 135(3) restricted (10.4.1995) by S.R. 1995/72, art. 2

s. 135 applied (29.1.1996) by S.R. 1978/105, reg. 1A (as inserted by S.R. 1995/483, art. 2)

S. 135(3) restricted (12.4.1999) by S.R. 1999/139, art. 2

VALID FROM 16/11/1998

#### [<sup>F94</sup>135A Power to anticipate pensions up-rating order.

- (1) This section applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—
- (a) the amounts by which he proposes, by an order under section 150 of the Great Britain Administration Act, to increase—
    - (i) the weekly sums that are payable by way of retirement pension; or
    - (ii) the amount of graduated retirement benefit payable for each unit of graduated contributions; and
  - (b) the date on which he proposes to bring the increases into force (“the commencing date”).
- (2) Where, before the commencing date and after the date on which the statement is made, an award is made of a retirement pension or a graduated retirement benefit, the award either may provide for the pension or benefit to be paid as from the commencing date at the increased rate or may be expressed in terms of the rate appropriate at the date of the award.]

#### Textual Amendments

**F94** S. 135A inserted (16.11.1998) by S.I. 1998/1506 (N.I. 10), art. 72; S.R. 1998/395, art. 2(2) (subject to art. 3)

#### [<sup>F95F95</sup>136 Up-rating under section 132 of pensions increased under section 52(3) of Contributions and Benefits Act.

- (1) This section applies in any case where a person is entitled to a Category A retirement pension with an increase, under section 52(3) of the Contributions and Benefits Act, in the additional pension on account of the contributions of a spouse who has died.
- (2) Where in the case of any up-rating order under section 132 above—
- (a) the spouse’s final relevant year is the tax year preceding the tax year in which the up-rating order comes into force, but
  - (b) the person’s final relevant year was an earlier tax year,

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then the up-rating order shall not have effect in relation to that part of the additional pension which is attributable to the spouse's contributions.

- (3) Where in the case of any up-rating order under section 132 above—
- (a) the person's final relevant year is the tax year preceding the tax year in which the up-rating order comes into force, but
  - (b) the spouse's final relevant year was an earlier tax year,
- then the up-rating order shall not have effect in relation to that part of the additional pension which is attributable to the person's contributions.]

#### Textual Amendments

**F95** S. 136 substituted (16.12.1995 subject to Sch. 2 of the amending S.I.) by S.I. 1995/3213 (N.I. 22), arts. 1(3), 127

### 137 Effect of alteration of rates of child benefit.

- (1) Subsections (3) and (4) of section 135 above shall have effect where there is an increase in the rate or any of the rates of child benefit as they have effect in relation to the rate of benefit to which that section applies.
- (2) Where in connection with child benefit—
- (a) any question arises in respect of a period after the date fixed for the commencement of payment of child benefit at an increased rate—
    - (i) as to the weekly rate at which a person is contributing to the cost of providing for a child; or
    - (ii) as to the expenditure that a person is incurring in respect of a child; and
  - (b) in determining that question account falls to be taken of contributions made or expenditure incurred for a period before that date,
- the contributions made or expenditure incurred before that date shall be treated as increased in proportion to the increase in the rate of benefit.

### 138 Treatment of excess benefit as paid on account of child benefit.

- (1) In any case where—
- (a) any benefit as defined in section 121 of the Contributions and Benefits Act or any increase of such benefit (“the relevant benefit or increase”) has been paid to a person for a period in respect of a child; and
  - (b) subsequently child benefit for that period in respect of the child becomes payable at a rate which is such that, had the relevant benefit or increase been awarded after the child benefit became payable, the rate of the relevant benefit or increase would have been reduced,
- then, except in so far as regulations otherwise provide, the excess shall be treated as paid on account of child benefit for that period in respect of the child.
- (2) In subsection (1) above “the excess” means so much of the relevant benefit or increase as is equal to the difference between—
- (a) the amount of it which was paid for the period referred to in that subsection; and

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- (b) the amount of it which would have been paid for that period if it had been paid at the reduced rate referred to in paragraph (b) of that subsection.

### **139 Effect of alteration in the component rates of income support.**

- (1) Subject to such exceptions and conditions as may be prescribed, where—
  - (a) an award of income support is in force in favour of any person (“the recipient”); and
  - (b) there is an alteration in any of the relevant amounts, that is to say—
    - (i) any of the component rates of income support;
    - (ii) any of the other sums specified in regulations under Part VII of the Contributions and Benefits Act; or
    - (iii) the recipient’s benefit income; and
  - (c) the alteration affects the computation of the amount of income support to which the recipient is entitled,

then subsection (2) or (3) below (as the case may be) shall have effect.

- (2) Where, in consequence of the alteration in question, the recipient becomes entitled to an increased or reduced amount of income support (“the new amount”), then, as from the commencing date, the amount of income support payable to or for the recipient under the award shall be the new amount, without any further decision of an adjudication officer, and the award shall have effect accordingly.

- (3) Where, notwithstanding the alteration in question, the recipient continues on and after the commencing date to be entitled to the same amount of income support as before, the award shall continue in force accordingly.

- (4) In any case where—
  - (a) there is an alteration in any of the relevant amounts; and
  - (b) before the commencing date (but after that date is fixed) an award of income support is made in favour of a person,

the award either may provide for income support to be paid as from the commencing date, in which case the amount shall be determined by reference to the relevant amounts which will be in force on that date, or may provide for an amount determined by reference to the amounts in force at the date of the award.

- (5) In this section—
  - “alteration” means—
    - (a) in relation to—
      - (i) the component rates of income support; or
      - (ii) any other sums specified in regulations under Part VII of the Contributions and Benefits Act,

their alteration by or under any statutory provision whether or not contained in that Part; and

- (b) in relation to a person’s benefit income, the alteration of any of the applicable sums—
    - (i) by any statutory provision; or
    - (ii) by an order under section 132 or 133 above,
- to the extent that any such alteration affects the amount of his benefit income;

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“applicable sums” means sums to which an order made under section 132 above corresponding to an order made under section 150 of the Great Britain Administration Act by virtue of subsection (1) of that section may apply;

“benefit income”, in relation to any person, means so much of his income as consists of—

- (a) benefit under the Contributions and Benefits Act, other than income support; or
- (b) a war disablement pension or war widow’s pension;

“the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in the case of the person in question;

“component rate”, in relation to income support, means the amount of—

- (a) the sum referred to in section 125(5)(b)(i) and (ii) of the Contributions and Benefits Act; or
  - (b) any of the sums specified in regulations under section 131(1) of that Act;
- “relevant amounts” has the meaning given by subsection (1)(b) above.

**Modifications etc. (not altering text)**

**C58** S. 139 excluded (25.8.1995) by [S.R. 1995/293](#), [reg. 63\(2\)](#)

VALID FROM 07/10/1996

**[<sup>F96</sup>139A Effect of alteration of rates of a jobseeker’s allowance.**

- (1) This section applies where—
  - (a) an award of a jobseeker’s allowance is in force in favour of any person (“the recipient”); and
  - (b) an alteration—
    - (i) in any component of the allowance, or
    - (ii) in the recipient’s benefit income, affects the amount of the jobseeker’s allowance to which he is entitled.
- (2) Subsection (3) applies where, as a result of the alteration, the amount of the jobseeker’s allowance to which the recipient is entitled is increased or reduced.
- (3) As from the commencing date, the amount of the jobseeker’s allowance payable to or for the recipient under the award shall be the increased or reduced amount, without any further decision of an adjudication officer, and the award shall have effect accordingly.
- (4) In any case where—
  - (a) here is an alteration of a kind mentioned in subsection (1)(b); and
  - (b) before the commencing date (but after that date is fixed) an award of a jobseeker’s allowance is made in favour of a person,
 the award may provide for the jobseeker’s allowance to be paid as from the commencing date, in which case the amount of the jobseeker’s allowance shall be determined by reference to the components applicable on that date, or may provide for an amount determined by reference to the components applicable at the date of the award.



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(5) In this section—

“alteration” means—

- (a) in relation to any component of a jobseeker’s allowance, its alteration by or under any enactment; and
- (b) in relation to a person’s benefit income, the alteration of any of the applicable sums by any enactment or by an order under section 132 above, to the extent that any such alteration affects the amount of the recipient’s benefit income;

“applicable sums” has the same meaning as in section 139 above;

“benefit income”, in relation to a recipient, means so much of his income as consists of—

- (a) benefit under the Contributions and Benefits Act; or
- (b) a war disablement pension or war widow’s pension;

“the commencing date” in relation to an alteration, means the date on which the alteration comes into operation in relation to the recipient;

“component”, in relation to a jobseeker’s allowance, means any of the sums specified in regulations under the Jobseekers (Northern Ireland) Order 1995 which are relevant in calculating the amount payable by way of a jobseeker’s allowance.]

#### Textual Amendments

**F96** S. 139A inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 26; S.R. 1996/401, art. 2(b)

VALID FROM 02/12/2002

#### [<sup>F97</sup> 139B Effect of alterations affecting state pension credit

(1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) below shall have effect where—

- (a) an award of state pension credit is in force in favour of any person (“the recipient”); and
- (b) an alteration—
  - (i) in any component of state pension credit,
  - (ii) in the recipient’s benefit income,
  - (iii) in any component of a contribution-based jobseeker’s allowance, or
  - (iv) in the recipient’s war disablement pension or war widow’s or widower’s pension,

affects the computation of the amount of state pension credit to which he is entitled.

(2) Where, as a result of the alteration, the amount of state pension credit to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of state pension credit payable in the case of the recipient under the award shall be the increased or reduced amount, without any further decision of the Department, and the award shall have effect accordingly.

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- (3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount of state pension credit as before, the award shall continue in force accordingly.
- (4) Subsection (5) below applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—
- (a) in relation to any of the items referred to in subsection (1)(b)(i) to (iv) above, the amount of the alteration which he proposes to make by an order under section 150 or 152 of the Great Britain Administration Act or by or under any other enactment; and
  - (b) the date on which he proposes to bring the alteration into force (“the proposed commencing date”).
- (5) If, in a case where this subsection applies, an award of state pension credit is made in favour of a person before the proposed commencing date and after the date on which the statement is made, the award—
- (a) may provide for state pension credit to be paid as from the proposed commencing date at a rate determined by reference to the amounts of the items specified in subsection (1)(b)(i) to (iv) above which will be in force on that date; or
  - (b) may be expressed in terms of the amounts of those items in force at the date of the award.
- (6) In this section—
- “alteration” means—
- (a) in relation to any component of state pension credit, its alteration by or under any enactment;
  - (b) in relation to a person’s benefit income, the alteration of any of the applicable sums by any enactment or by an order under section 132 or 133 above to the extent that any such alteration affects the amount of his benefit income;
  - (c) in relation to any component of a contribution-based jobseeker’s allowance, its alteration by or under any enactment; and
  - (d) in relation to a person’s war disablement pension or war widow’s or widower’s pension, its alteration by or under any enactment;
- “benefit income”, in relation to a person, means so much of his income as consists of benefit under the Contributions and Benefits Act;
- “the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;
- “component”—
- (a) in relation to contribution-based jobseeker’s allowance, means any of the sums specified in regulations under the Jobseekers (Northern Ireland) Order 1995 which are relevant in calculating the amount payable by way of a jobseeker’s allowance;
  - (b) in relation to state pension credit, means any of the sums specified in regulations under section 2, 3 or 12 of the State Pension Credit Act (Northern Ireland) 2002;
- “war disablement pension” means—
- (a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under—

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- (i) the Air Force (Constitution) Act 1917;
- (ii) the Personal Injuries (Emergency Provisions) Act 1939;
- (iii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939;
- (iv) the Polish Resettlement Act 1947; or
- (v) Part VII or section 151 of the Reserve Forces Act 1980; or
- (b) without prejudice to paragraph (a), any retired pay or pension to which subsection (1) of section 315 of the Income and Corporation Taxes Act 1988 (c. 1) applies;
  - “war widow’s or widower’s pension” means—
  - (a) any widow’s or widower’s pension or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment mentioned in paragraph (a) of the definition of “war disablement pension”; or
  - (b) a pension or allowance for a widow or widower granted under any scheme mentioned in section 315(2)(e) of the Income and Corporation Taxes Act 1988.]

#### Textual Amendments

**F97** S. 139B inserted (2.12.2002 for certain purposes, otherwise prosp.) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\)](#), ss. 14, 21(2), [Sch. 2 Pt. 2 para. 15](#); S.R. 2002/366, [art. 2\(I\)](#)

### 140 Implementation of increases in income support due to attainment of particular ages.

- (1) This section applies where—
  - (a) an award of income support is in force in favour of a person (“the recipient”); and
  - (b) there is a component which becomes applicable, or applicable at a particular rate, in his case if he or some other person attains a particular age.
- (2) If, in a case where this section applies, the recipient or other person attains the particular age referred to in paragraph (b) of subsection (1) above and, in consequence,
  - (a) the component in question becomes applicable, or applicable at a particular rate, in the recipient’s case (whether or not some other component ceases, for the same reason, to be applicable, or applicable at a particular rate, in his case); and
  - (b) after taking account of any such cessation, the recipient becomes entitled to an increased amount of income support,
 then, except as provided by subsection (3) below, as from the day on which he becomes so entitled, the amount of income support payable to or for him under the award shall be that increased amount, without any further decision of an adjudication officer, and the award shall have effect accordingly.
- (3) Subsection (2) above does not apply in any case where, in consequence of the recipient or other person attaining the age in question, some question arises in relation to the

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recipient's entitlement to any benefit under the Contributions and Benefits Act, other than—

- (a) the question whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in his case; and
  - (b) the question whether, in consequence, the amount of his income support falls to be varied.
- (4) In this section “component”, in relation to a person and his income support, means any of the sums specified in regulations under section 131(1) of the Contributions and Benefits Act.

VALID FROM 07/10/1996

**[140A <sup>F98</sup> Implementation of increases in income-based jobseeker's allowance due to attainment of particular ages.**

- (1) This section applies where—
  - (a) an award of an income-based jobseeker's allowance is in force in favour of a person (“the recipient”); and
  - (b) a component has become applicable, or applicable at a particular rate, because he or some other person has reached a particular age (“the qualifying age”).
- (2) If, as a result of the recipient or other person reaching the qualifying age, the recipient becomes entitled to an income-based jobseeker's allowance of an increased amount, the amount payable to or for him under the award shall, as from the day on which he becomes so entitled, be that increased amount, without any further decision of an adjudication officer; and the award shall have effect accordingly.
- (3) Subsection (2) above does not apply where, in consequence on the recipient or other person reaching the qualifying age, a question arises in relation to the recipient's entitlement to—
  - (a) a benefit under the Contributions and Benefits Act; or
  - (b) a jobseekers's allowance.
- (4) Subsection (3)(b) above does not apply to the question—
  - (a) whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in the recipient's case; and
  - (b) whether, in consequence, the amount of his income-based jobseeker's allowance falls to be varied.
- (5) In this section “component”, in relation to a recipient and his jobseeker's allowances, means any of the amounts determined in accordance with regulations made under Article 6(5) of the Jobseekers (Northern Ireland) Order 1995.]

**Textual Amendments**

**F98** S. 140A inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 27; S.R. 1996/401, art. 2

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## PART XI

### FINANCE

#### 141 National Insurance Fund.

- (1) The National Insurance Fund shall continue to be maintained under the control and management of the Department.
- (2) Accounts of the National Insurance Fund shall be prepared in such form, and in such manner and at such times, as the Department of Finance and Personnel may direct, and the Comptroller and Auditor General for Northern Ireland shall examine and certify every such account and shall lay copies of it, together with his report on it, before the Assembly.
- (3) Any money in the National Insurance Fund may from time to time be paid over to the Department of Finance and Personnel and be invested by that Department in any such manner for the time being specified in Part II of Schedule 1 to the <sup>M45</sup>Trustee Investments Act 1961 as the Treasury may specify by an order of which a draft has been laid before Parliament.
- (4) The Department of Finance and Personnel shall certify a statement of the securities in which money forming part of the National Insurance Fund is for the time being invested and that statement so certified shall be included with the accounts of that Fund laid before the Assembly under subsection (2) above.

#### Marginal Citations

M45 1961 c. 62.

#### 142 Destination of contributions.

- (1) Contributions received by the Department under Part I of the Contributions and Benefits Act shall be paid by it into the National Insurance Fund after deducting from contributions of any class, the appropriate health service allocation in the case of contributions of that class.
- (2) The contributions referred to in subsection (1) above include those paid over to the Department by the Secretary of State under section 16(5) of the Great Britain Contributions and Benefits Act and by the Inland Revenue under paragraph 6(8) of Schedule 1 to the Contributions and Benefits Act.
- (3) The additions paid under section 1(5) of the Contributions and Benefits Act shall be paid, in accordance with any directions given by the Department of Finance and Personnel, into the National Insurance Fund.
- (4) The sums paid to the Department by the Secretary of State under section 16(5) of the Great Britain Contributions and Benefits Act and by the Inland Revenue under paragraphs 6(8)(b) and 7 of Schedule 1 to the Contributions and Benefits Act in respect of interest and penalties recovered by them in connection with contributions of any class shall be paid, in accordance with any directions given by the Department of Finance and Personnel, into the National Insurance Fund.
- (5) In subsection (1) above “the appropriate health service allocation” means—

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- (a) in the case of primary Class 1 contributions, 1.05 per cent. of the amount estimated to be that of [F<sup>99</sup>so much of the earnings in respect of which those contributions were paid as exceeded the lower earnings limit but did not exceed the upper earnings limit];
  - (b) in the case of secondary Class 1 contributions, 0.9 per cent. of the amount estimated to be that of the earnings in respect of which those contributions were paid;
  - (c) in the case of Class 1A contributions, 0.9 per cent. of the amount estimated to be the aggregate of the cash equivalents of the benefits of the cars and car fuel used in calculating those contributions;
  - (d) in the case of Class 2 contributions, 15.5 per cent. of the amount estimated to be the total of those contributions;
  - (e) in the case of Class 3 contributions, 15.5 per cent. of the amount estimated to be the total of those contributions; and
  - (f) in the case of Class 4 contributions, 1.15 per cent. of the amount estimated to be that of the earnings in respect of which those contributions were paid.
- (6) In subsection (5) above “estimated” means estimated by the Department in any manner which the Department considers to be appropriate and which the Department of Finance and Personnel has approved.
- [F<sup>100</sup>(6A) In the case of earners paid other than weekly, the reference in subsection (5)(a) above to the lower or upper earnings limit shall be taken as a reference to the equivalent of that limit prescribed under section 8(3) of the Contributions and Benefits Act.]
- (7) The Department may by order amend any of paragraphs (a) to (e) of subsection (5) above in relation to any tax year, by substituting for the percentage for the time being specified in that paragraph a different percentage.
- (8) No order under subsection (7) above shall substitute a figure which represents an increase or decrease in the appropriate health service allocation of more than—
- (a) 0.1 per cent. of the relevant earnings, in the case of paragraph (a) or (b);
  - (b) 0.1 per cent. of the relevant aggregate, in the case of paragraph (c);
  - (c) 4 per cent. of the relevant contributions, in the case of paragraph (d) or (e); or
  - (d) 0.2 per cent. of the relevant earnings, in the case of paragraph (f).
- (9) From the health service allocation in respect of contributions of any class there shall be deducted such amount as the Department may estimate to be the portion of the total expenses incurred by it or any other government department in collecting contributions of that class which is fairly attributable to that allocation, and the remainder shall, in the hands of the Department, be taken as paid towards the cost of the health service in Northern Ireland.
- (10) Any amounts deducted in accordance with subsection (9) above shall be paid by the Department into the Consolidated Fund.
- (11) Any estimate by the Department for the purposes of subsection (9) above shall be made in accordance with any directions given by the Department of Finance and Personnel.
- (12) The Department may make regulations modifying this section, in such manner as it thinks appropriate, in relation to the contributions of persons referred to in the following provisions of the Contributions and Benefits Act—
- (a) section 116(2) (H.M. Forces);

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(b) section 117(1) (mariners, airmen, etc.),  
and in relation to any contributions which are reduced under section 6(5) of that Act.

#### Textual Amendments

**F99** Words in s. 142(5)(a) substituted (*retrospective to 1.7.1992*) by S.I. 1994/765 (N.I. 4), **art. 4(1)(3)**

**F100** S. 142(6A) inserted (*retrospective to 1.7.1992*) by S.I. 1994/765 (N.I. 4), **art 4(2)(3)**

### 143 General financial arrangements.

- (1) There shall be paid out of the National Insurance Fund—
- (a) benefit under Part II of the Contributions and Benefits Act;
  - (b) guardian's allowance;
  - (c) Christmas bonus if the relevant qualifying benefit is payable out of that Fund;
  - (d) any sum falling to be paid by or on behalf of the Department under regulations relating to statutory sick pay or statutory maternity pay;
  - (e) any expenses of the Department in making payments under section 81, 93 or 95 above to the extent that it estimates that those payments relate to sums paid into the National Insurance Fund.
- (2) There shall be paid out of money appropriated by Measure—
- (a) any administrative expenses of the Department or any other government department in carrying into effect the Contributions and Benefits Act or this Act;
  - (b) benefit under Part III of that Act, other than guardian's allowance;
  - (c) benefit under Part V of that Act;
  - (d) any expenses of the Department in making payments under sections 81, 93 or 95 above to the extent that it estimates that those payments relate to sums paid into the Consolidated Fund;
- except in so far as they may be required by any enactment to be paid or borne in some other way.
- (3) The administrative expenses referred to in subsection (2)(a) above include those in connection with any inquiry undertaken on behalf of the Department with a view to obtaining statistics relating to the operation of Parts I to VI and XI of the Contributions and Benefits Act.
- (4) Any sums required by [<sup>F101</sup>any person] for the purpose of paying any secondary Class 1 contributions [<sup>F102</sup>, or any Class 1A contributions,] which are payable by him in respect of an earner in consequence of the earner's employment in an office of which the emoluments are payable out of the Consolidated Fund shall be paid out of that Fund.
- (5) Any expenditure in respect of the payment of interest or repayment supplements under or by virtue of paragraph 6 of Schedule 1 to the Contributions and Benefits Act or paragraph 6 of Schedule 2 to that Act shall be defrayed out of the National Insurance Fund in accordance with any directions given by the Department of Finance and Personnel.

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### Textual Amendments

- F101** S. 143(4) to have effect (*retrospectively*) as if for “a secondary Class 1 contributor” there were substituted “any person” by S.I. 1998/1506 (N.I. 10), arts. 1(3), 62(1)
- F102** S. 143(4) to have effect (*retrospectively*) as if after “any secondary Class 1 contributions” there were inserted “, or any Class 1A contributions,” by S.I. 1998/1506 (N.I. 10), arts. 1(3), 62(1)

## 144 Destination of repayments, etc.

- (1) Subject to the following provisions of this section, so far as it relates to payments out of money appropriated by Measure, any sum recovered by the Department under or by virtue of this Act shall be paid into the Consolidated Fund.
- (2) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that Fund.
- (3) So far as any such sum relates to a payment out of the social fund, it shall be paid into that fund.
- (4) Sums repaid by virtue of paragraph 1(3)(e) of Schedule 6 to this Act as it has effect for the purposes of regulations under paragraph 2 of Schedule 8 to the Contributions and Benefits Act shall be paid into the Consolidated Fund.
- (5) There shall be paid into the National Insurance Fund—
  - (a) fees so payable under regulations made by virtue of section 60(2)(b) above;
  - (b) sums recovered by the Department under regulations made by virtue of paragraph 2 or 4 of Schedule 8 to the Contributions and Benefits Act making provision corresponding to that made by or by virtue of section 69 above.
- (6) Any sums [<sup>F103</sup>recovered by the Department under section 13A above or paid to it] in pursuance of section 78 above shall be paid—
  - (a) into the Consolidated Fund to the extent that it estimates that those sums relate to payments out of money appropriated by Measure; and
  - (b) into the National Insurance Fund to the extent that it estimates that they relate to payments out of that Fund.
- [<sup>F104</sup>(7) Any sums received by the Department under regulations made by virtue of section 13A(2)(b) above shall be paid into the Consolidated Fund.]
- [<sup>F105</sup>(7) Any sums repaid to the Department in pursuance of section 119(1) of the 1975 Act (which related to the effect of adjudication and was repealed subject to a saving in relation to certain reviews and appeals) shall—
  - (a) be paid by it into the Consolidated Fund in so far as they represent benefit which under section 143 above is payable out of money appropriated for the purpose and not out of the National Insurance Fund; and
  - (b) otherwise, be paid by it into that Fund.]

### Textual Amendments

- F103** Words in s. 144(6) substituted (*retrospectively*) (11.6.1992) for specified purposes by S.I. 1992/1309 (N.I. 9), art. 3(2), Sch. para. 2(1).
- F104** S. 144(7) added (*retrospectively*) (11.6.1992) for specified purposes by S.I. 1992/1309 (N.I. 9), art. 3(2), Sch. para. 2(2).



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**F105** S. 144(7) inserted at the end of s. 144(temp.)(1.7.1992) by Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), ss. 6, 7(2), Sch. 4, Pt. I, paras. 1,14.

## 145 Adjustments between National Insurance Fund and Consolidated Fund.

- (1) There shall be made out of the National Insurance Fund into the Consolidated Fund or out of money appropriated by Measure into the National Insurance Fund such payments by way of adjustment as the Department determines (in accordance with any directions given by the Department of Finance and Personnel) to be appropriate in consequence of the operation of any statutory provision relating to—
  - (a) family credit;
  - (b) disability working allowance;
  - (c) statutory sick pay;
  - (d) statutory maternity pay; or
  - (e) the repayment or offsetting of benefit as defined in section 121 of the Contributions and Benefits Act or other payments.
- (2) Where any such payments as are specified in subsection (3) below fall to be made by way of adjustment, then, subject to subsection (4) below,—
  - (a) the amount of the payments to be made shall be taken to be such, and
  - (b) payments on account of them shall be made at such times and in such manner, as may be determined by the Department in accordance with any directions given by the Department of Finance and Personnel.
- (3) The payments mentioned in subsection (2) above are the following, that is to say—
  - (a) any such payments falling to be made by way of adjustment under subsection (1)(a) to (d) above;
  - (b) any such payments falling to be made by way of adjustment in consequence of the operation of any enactment or regulations relating to child benefit—
    - (i) out of the National Insurance Fund into the Consolidated Fund, or
    - (ii) into the National Insurance Fund out of money appropriated by Measure; and
  - (c) any such payments falling to be made by way of adjustment in circumstances other than those mentioned in subsection (1) or paragraph (b) above—
    - (i) out of the National Insurance Fund either to the Department or another government department or into the Consolidated Fund; or
    - (ii) into the National Insurance Fund out of money appropriated by Measure.
- (4) In relation to payments falling within paragraph (a) or (c) of subsection (3) above, subsection (2) above only applies in such cases or classes of case as may be specified by the Department by order.
- (5) There shall be paid out of the National Insurance Fund into the Consolidated Fund, at such times and in such manner as the Department of Finance and Personnel may direct, such sums as the Department may estimate (in accordance with any directions given by the Department of Finance and Personnel) to be the amount of the administrative expenses incurred as mentioned in section 143(2)(a) above, excluding—
  - (a) expenses attributable to the carrying into effect of provisions of the Contributions and Benefits Act or this Act relating to the benefits which

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by virtue of section 143(2) above are payable out money appropriated by Measure; and

- (b) any other category of expenses which the Department of Finance and Personnel may direct, or any enactment may require, to be excluded from the Department's estimate under this subsection;

but none of the administrative expenses of the Christmas bonus shall be excluded from that estimate by virtue of paragraph (a) or (b) above.

#### **146 The social fund.**

- (1) The fund known as the social fund shall continue in being by that name.
- (2) The social fund shall continue to be maintained under the control and management of the Department and payments out of it shall be made by the Department.
- (3) The Department shall make payments into the social fund of such amounts, at such times and in such manner as the Department may with the approval of the Department of Finance and Personnel determine.
- (4) Accounts of the social fund shall be prepared in such form, and in such manner and at such times, as the Department of Finance and Personnel may direct, and the Comptroller and Auditor General for Northern Ireland shall examine and certify every such account and shall lay copies of it, together with his report, before the Assembly.
- (5) The Department shall prepare an annual report on the social fund.
- (6) A copy of every such report shall be laid before the Assembly.

#### **147 Allocations from social fund.**

- (1) The Department shall allocate amounts for payments from the social fund such as are mentioned in section 134(1)(b) of the Contributions and Benefits Act.
- (2) The Department may specify the amounts either as sums of money or by reference to money falling into the social fund on the repayment or partial repayment of loans, or partly in the former and partly in the latter manner.
- (3) Allocations—
  - (a) may be for payments by a particular social fund officer or group of social fund officers;
  - (b) may be of different amounts for different purposes;
  - (c) may be made at such time or times as the Department considers appropriate; and
  - (d) may be in addition to any other allocation to the same officer or group of officers or for the same purpose.
- (4) The Department may at any time re-allocate amounts previously allocated, and subsections (2) and (3) above shall have effect in relation to a re-allocation as they have effect in relation to an allocation.
- (5) The Department may give general directions to social fund officers or groups of social fund officers, or to any class of social fund officers, with respect to the control and management by social fund officers or groups of social fund officers of the amounts allocated to them under this section.

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## **148 Adjustments between social fund and other sources of finance.**

- (1) There shall be made—
- (a) out of the social fund into the Consolidated Fund or the National Insurance Fund;
  - (b) into the social fund out of money appropriated by Measure or the National Insurance Fund,
- such payments by way of adjustment as the Department determines (in accordance with any directions of the Department of Finance and Personnel) to be appropriate in consequence of any statutory provision relating to the repayment or offsetting of a benefit under the Contributions and Benefits Act.
- (2) Where in any other circumstances payments fall to be made by way of adjustment—
- (a) out of the social fund into the Consolidated Fund or the National Insurance Fund; or
  - (b) into the social fund out of money appropriated by Measure or the National Insurance Fund,

then, in such cases or classes of case as may be specified by the Department by order, the amount of the payments to be made shall be taken to be such, and payments on account of it shall be made at such times and in such manner, as may be determined by the Department in accordance with any direction given by the Department of Finance and Personnel.

## **PART XII**

### **ADVISORY BODIES AND THE DUTY TO CONSULT**

#### *Consultation with the Social Security Advisory Committee*

## **149 Functions of Social Security Advisory Committee in relation to legislation and regulations.**

- (1) The Department may from time to time refer to the Social Security Advisory Committee for consideration and advice such questions relating to the operation of any of the relevant enactments as the Department thinks fit (including questions as to the advisability of amending any of them).
- (2) Subject—
- (a) to subsection (3) below; and
  - (b) to section 150 below,
- where the Department proposes to make regulations under any of the relevant enactments, it shall refer the proposals, in the form of draft regulations or otherwise, to the Social Security Advisory Committee.
- (3) Subsection (2) above does not apply to the regulations specified in Schedule 5 to this Act.
- (4) The Department shall furnish the Social Security Advisory Committee with such information as the Committee may reasonably require for the proper discharge of its functions.

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- (5) In this section “the relevant enactments” means—
- (a) the provisions of the Contributions and Benefits Act [<sup>F106</sup>, this Act and the Social Security (Incapacity for Work) (Northern Ireland) Order 1994], except as they apply to industrial injuries benefit and Old Cases payments; and
  - (b) the provisions of Part II of Schedule 3 to the Consequential Provisions Act, except as they apply to industrial injuries benefit; [<sup>F107</sup> and
  - (c) Article 52A(10), Part VA and Articles 691 and 70ZA of the Social Security Pensions (Northern Ireland) Orders 1975.]

#### Textual Amendments

**F106** Words in s. 149(5)(a) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. II para. 50**; S.R. 1994/450, art. 2, **Sch. Pt. IV**

**F107** S. 149(5)(c) and 'and' preceding it repealed (7.2.1994) by 1993 c. 49, s. 182(1), **Sch. 4 Pt. I**; S.R. 1994/17

#### 150 Cases in which consultation with Committee is not required.

- (1) Nothing in any statutory provision shall require any proposals in respect of regulations to be referred to the Committee if—
  - (a) it appears to the Department that by reason of the urgency of the matter it is inexpedient so to refer them; or
  - (b) the Committee has agreed that they shall not be referred.
- (2) Where by virtue only of subsection (1)(a) above the Department makes regulations without proposals in respect of them having been referred, then, unless the Committee agrees that this subsection shall not apply, the Department shall refer the regulations as soon as practicable after making them.
- (3) Where the Department has referred proposals to the Committee, the Department may make the proposed regulations before the Committee has made its report only if after the reference it appears to the Department that by reason of the urgency of the matter it is expedient to do so.
- (4) Where by virtue of this section regulations are made before a report of the Committee has been made, the Committee shall consider them and make a report to the Department containing such recommendations with regard to the regulations as the Committee thinks appropriate; and a copy of any report made to the Department on the regulations shall be laid by it before the Assembly together, if the report contains recommendations, with a statement—
  - (a) of the extent (if any) to which the Department proposes to give effect to the recommendations; and
  - (b) in so far as it does not propose to give effect to them, of its reasons why not.
- (5) Except to the extent that this subsection is excluded by a statutory provision passed or made after 5th November 1986, nothing in any statutory provision shall require the reference to the Committee of any regulations contained in either—
  - (a) a statutory rule made before the end of the period of 6 months beginning with the coming into operation of the statutory provision under which those regulations are made; or
  - (b) a statutory rule—

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- (i) which states that it contains only regulations made by virtue of, or consequential upon, a specified statutory provision; and
  - (ii) which is made before the end of the period of 6 months beginning with the coming into operation of that specified statutory provision.
- (6) In this section and in section 151 below—
- “the Committee” means the Social Security Advisory Committee;
  - “regulations” means regulations under any statutory provision, whenever passed or made.

### **151 Committee’s report on regulations and Department’s duties.**

- (1) The Committee shall consider any proposals referred to it by the Department under section 149 above and shall make to the Department a report containing such recommendations with regard to the subject-matter of the proposals as the Committee thinks appropriate.
- (2) If, after receiving a report of the Committee, the Department lays before the Assembly any regulations which comprise the whole or any part of the subject-matter of the proposals referred to the Committee, the Department shall lay with the regulations a copy of the Committee’s report and a statement showing—
  - (a) the extent (if any) to which the Department has, in framing the regulations, given effect to the Committee’s recommendations; and
  - (b) in so far as effect has not been given to them, the Department’s reasons why not.
- (3) Section 41(3) of the <sup>M46</sup>Interpretation Act (Northern Ireland) 1954 (procedure for laying documents before the Assembly) shall apply in relation to any document which by virtue of subsection (2) above is required to be laid before the Assembly as if it were a statutory document within the meaning of that Act.
- (4) In relation to regulations required or authorised to be made by the Department in conjunction with the Department of Finance and Personnel, any reference in this section or section 150 above to the Department shall be construed as a reference to the Department and the Department of Finance and Personnel.

#### **Marginal Citations**

**M46** 1954 c. 33 (N.I.).

### *The Disability Living Allowance Advisory Board*

### **152 The Disability Living Allowance Advisory Board.**

- (1) The Disability Living Allowance Advisory Board for Northern Ireland (in this section referred to as “the Board”) constituted under Article 5(1) of the <sup>M47</sup>Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991 shall continue in being by that name.
- (2) Regulations shall confer on the Board such functions relating to disability living allowance or attendance allowance as the Department thinks fit and shall make provision for—

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- (a) the Board's constitution;
  - (b) the qualifications of its members;
  - (c) the method of their appointment;
  - (d) the term of office and other terms of appointment of its members;
  - (e) their removal.
- (3) Regulations may also make provision—
- (a) enabling the Board to appoint persons as advisers to it on matters on which in its opinion they are specially qualified;
  - (b) for the appointment of officers and servants of the Board;
  - (c) enabling the Board to act notwithstanding any vacancy among its members;
  - (d) enabling the Board to make rules for regulating its procedure (including its quorum).
- (4) The expenses of the Board to such an amount as may be approved by the Department of Finance and Personnel shall be paid by the Department.
- (5) There may be paid as part of the expenses of the Board—
- (a) to all or any of the members of the Board, such salaries or other remuneration and travelling and other allowances;
  - (b) to advisers to the Board, such fees; and
  - (c) to such other persons as may be specified in regulations such travelling and other allowances (including compensation for loss of remunerative time),
- as the Department may with the consent of the Department of Finance and Personnel determine.
- (6) The Department may furnish the Board with such information as it considers that the Board may need to enable it to discharge its functions.

**Marginal Citations**

**M47** [S.I. 1991/1712](#) (N.I.).

**PART XIII**

SOCIAL SECURITY SYSTEMS OUTSIDE NORTHERN IRELAND

*Co-ordination*

**153 Co-ordination with Great Britain.**

- (1) The Department may with the consent of the Department of Finance and Personnel make arrangements with the Secretary of State (“the joint arrangements”) for co-ordinating the operation of the legislation to which this section applies with a view to securing that, to the extent allowed for in the arrangements, it provides a single system of social security for the United Kingdom.
- (2) The responsibility of the Joint Authority shall include that of giving effect to the joint arrangements, with power—

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- (a) to make any necessary financial adjustments between the Northern Ireland National Insurance Fund and the National Insurance Fund; and
  - (b) to discharge such other functions as may be provided under the joint arrangements.
- (3) The Department may make regulations for giving effect to the joint arrangements; and any such regulations may for the purposes of the arrangements provide—
- (a) for adapting legislation (including subordinate legislation) for the time being in force in Northern Ireland so as to secure its reciprocal operation with Great Britain;
  - (b) without prejudice to paragraph (a) above, for securing that acts, omissions and events having any effect for the purposes of the enactments in force in Great Britain have a corresponding effect in relation to Northern Ireland (but not so as to confer any double benefit); and
  - (c) for determining, in cases where rights accrue both in relation to Northern Ireland and in relation to Great Britain, which of those rights shall be available to the person concerned.
- (4) This section applies—
- (a) to the Contributions and Benefits Act and this Act; and
  - (b) to the Great Britain Contributions and Benefits Act and the Great Britain Administration Act,
- except in relation to the following benefits—
- (i) income support;
    - (ii) family credit;
    - (iii) disability working allowance;
    - (iv) housing benefit;
  - (v) child benefit;
    - (vi) Christmas bonus;
    - (vii) statutory sick pay;
    - (viii) statutory maternity pay.
- (5) Nothing in this Act prejudices the making of any arrangement by the Department under section 11 of the <sup>M48</sup>Northern Ireland Constitution Act 1973 for the exercise and performance by or by officers of a department of the Government of the United Kingdom on behalf of the Department of any of the powers and duties of the Department under this Act.

**Modifications etc. (not altering text)**

**C59** S. 153 applied (with modifications) (7.2.1994) by 1993 c. 49, s.163(2); S.R. 1994/17, art. 2

**Marginal Citations**

**M48** 1973 c. 36.

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*Status:* Point in time view as at 06/04/1996. This version of this Act contains provisions that are not valid for this point in time.

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### Reciprocity

#### 154 Reciprocal arrangements with Great Britain - income-related benefits and child benefit.

- (1) The Department may with the consent of the Department of Finance and Personnel make reciprocal arrangements with the authority administering any scheme in force in Great Britain and appearing to the Department to correspond substantially with a scheme contained in the Contributions and Benefits Act and this Act concerning any of the benefits to which this section applies for co-ordinating the operation of those schemes, and such arrangements may include provision for making any necessary financial adjustments.
- (2) This section applies to the following benefits—
  - (a) income support;
  - (b) family credit;
  - (c) disability working allowance;
  - (d) housing benefit; or
  - (e) child benefit.
- (3) Regulations may make provision for giving effect to any such arrangements; and such regulations may in particular provide—
  - (a) for modifying any provision of this Act or the Contributions and Benefits Act or any regulations made under such a provision;
  - (b) without prejudice to paragraph (a) above, for securing that acts, omissions and events having any effect for the purposes of the scheme in force in Great Britain shall have a corresponding effect for the purposes of this Act and the Contributions and Benefits Act (but not so as to confer any double benefit);
  - (c) for determining, in cases where rights accrue both under that scheme and under this Act and the Contributions and Benefits Act, which of those rights shall be available to the person concerned.

#### 155 Reciprocal agreements with countries outside the United Kingdom.

- (1) For the purpose of giving effect—
  - (a) to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of legislation to which this section applies, or
  - (b) to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Northern Ireland, the government of the United Kingdom has made to the other government in question,

the Secretary of State may by order make provision for modifying or adapting such legislation in its application to cases affected by the agreement or proposed alterations.

- (2) An order made by virtue of subsection (1) above may, instead of or in addition to making specific modifications or adaptations, provide generally that legislation to which this section applies shall be modified to such extent as may be required to give effect to the provisions contained in the agreement or, as the case may be, alterations in question.



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- (3) The modifications which may be made by virtue of subsection (1) above include provisions—
- (a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made have a corresponding effect for the purposes of this Act and the Contributions and Benefits Act (but not so as to confer a right to double benefit);
  - (b) for determining, in cases where rights accrue both under such legislation and under the law of that country, which of those rights is to be available to the person concerned;
  - (c) for making any necessary financial adjustments.
- (4) This section applies—
- (a) to the Contributions and Benefits Act; and
  - (b) to this Act,
- except in relation to the following benefits—
- (i) payments out of the social fund;
  - (ii) Christmas bonus;
  - (iii) statutory sick pay; and
  - (iv) statutory maternity pay.
- (5) The power conferred by subsection (1) above shall also be exercisable in relation to regulations made under the Contributions and Benefits Act or this Act and concerning—
- (a) income support;
  - (b) family credit;
  - (c) disability working allowance;
  - (d) housing benefit; or
  - (e) child benefit.

VALID FROM 14/02/2003

**[<sup>F108</sup>155A] Exchange of information with overseas authorities**

- (1) This section applies where it appears to the Department—
- (a) that there are arrangements in force for the exchange of relevant information between the Department and any authorities in a country outside the United Kingdom ('the overseas country'); and
  - (b) that the arrangements and the law in force in the overseas country are such as to ensure that there are adequate safeguards in place against any improper use of information disclosed by the Department under this section
- (2) For the purpose of facilitating the carrying out by authorities in the overseas country of any function relating to anything corresponding to, or in the nature of, a social security benefit, the Department may make any such disclosure of relevant information to authorities in the overseas country as the Department considers necessary to give effect to the arrangements.
- (3) It shall be the duty of the Department to take all such steps as may be reasonable for securing that relevant information disclosed to it in accordance with the arrangements

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is not used for any purpose in which its use is not expressly or impliedly authorised by or under the arrangements.

- (4) This section does not apply where provision is in force under section 155 above for giving effect to the arrangements in question.
- (5) The purposes for which information may be required to be disclosed to the Department under section 116D above or section 122D of the Great Britain Administration Act (information required from authorities administering housing benefit or council tax benefit) shall be deemed to include the further disclosure of that information in accordance with this section.
- (6) In this section 'relevant information' means any information held by the Department or any authorities in a country outside the United Kingdom for the purposes of any functions relating to, or to anything corresponding to or in the nature of, a social security benefit.]

#### Textual Amendments

**F108** S. 155A inserted (14.2.2003) by 2001 c. 11 , ss. 5(2), 20; S.I. 2003/273, art. 2

## PART XIV

### MISCELLANEOUS

#### *Travelling expenses*

#### **156 Payment of travelling expenses by Department.**

The Department may pay such travelling expenses as, with the consent of the Department of Finance and Personnel, the Department may determine—

- (a) to persons required by the Department to attend any interview in connection with the operation of the Contributions and Benefits Act or this Act;
- (b) to persons attending social security offices of the Department in connection with the operation—
  - (i) of the Contributions and Benefits Act or this Act; or
  - (ii) of any prescribed statutory provision.

#### Modifications etc. (not altering text)

**C60** S. 156 applied (with modifications) (7.2.1994) by 1993 c. 49, s.163(2); S.R. 1994/17, art. 2

VALID FROM 01/04/1999

#### **[<sup>F109</sup>156A] Payment of travelling expenses by the Commissioners of Inland Revenue**

The Inland Revenue may pay such travelling expenses as they may determine—

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- (a) to persons required by them to attend any interview in connection with the operation of the Contributions and Benefits Act, this Act, or Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999;
- (b) to persons attending local offices in connection with the operation of the Contributions and Benefits Act, this Act, or Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.]

#### Textual Amendments

**F109** S. 156A inserted (1.4.1999) by S.I. 1999/671, art. 17, **Sch. 6 para. 11** (subject to transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6 of the said S.R.)

### Offences

#### 157 Impersonation of officers.

If any person, with intent to deceive, falsely represents himself to be a person authorised by the Department to act in any capacity (whether under this Act or otherwise) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### 158 Illegal possession of documents.

- (1) If any person—
  - (a) as a pledge or a security for a debt; or
  - (b) with a view to obtaining payment from the person entitled to it of a debt due either to himself or to any other person,receives, detains or has in his possession any document issued by or on behalf of the Department in connection with any benefit, pension or allowance (whether payable under the Contributions and Benefits Act or otherwise) he shall be guilty of an offence.
- (2) If any such person has such a document in his possession without lawful authority or excuse (the proof whereof shall lie on him) he shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 4 on the standard scale or to both.

VALID FROM 05/04/1999

*[<sup>F110</sup> Redirection of post]*

#### Textual Amendments

**F110** S. 158A and the preceding *cross-heading* inserted (5.4.1999) by 1997 c. 47, s. 20(2); S.I. 1999/1046, art. 2

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### **[158A Return of social security post.**

- (1) A social security authority may require—
  - (a) the Post Office; or
  - (b) any other person who conveys postal packets,
 to return to the sender social security post sent by or on behalf of the authority which would otherwise be redirected.
- (2) A social security authority shall make payments of such amount as the Department considers reasonable in respect of the return of social security post in compliance with a requirement imposed by the authority under subsection (1) above.
- (3) In subsections (1) and (2) above “social security authority” means—
  - (a) the Department;
  - (b) the Housing Executive;
  - (c) the Secretary of State; or
  - (d) any local or other authority administering housing benefit or council tax benefit (other than the Housing Executive).
- (4) In subsections (1) and (2) above “social security post” means postal packets—
  - (a) the contents of which relate to any benefit, contributions or national insurance number or to any other matter relating to social security; and
  - (b) which are marked, in a manner approved by the Post Office or other person conveying them, with the name and address of the sender and with an indication that they are to be returned rather than redirected.
- (5) In this section—
  - (a) “redirected”, in relation to any postal packet, means delivered to an address other than that indicated by the sender on the packet; and
  - (b) “postal packet” has the same meaning as in the <sup>M49</sup>Post Office Act 1953.
- (6) Any requirement imposed under subsection (1) above has effect subject to any order under—
  - (a) Article 342 of the <sup>M50</sup>Insolvency (Northern Ireland) Order 1989 or section 371 of the <sup>M51</sup>Insolvency Act 1986 (redirection of bankrupt’s letters to trustee in bankruptcy);
  - (b) paragraph 15 of Schedule 1 to the <sup>M52</sup>Solicitors (Northern Ireland) Order 1976 or paragraph 10 of Schedule 1 to the <sup>M53</sup>Solicitors Act 1974 (redirection of letters following intervention by Law Society); or
  - (c) paragraph 10 of Schedule 5 to the <sup>M54</sup>Administration of Justice Act 1985 (redirection of letters following intervention by Council for Licensed Conveyancers).]

#### **Modifications etc. (not altering text)**

**C61** S. 158A restricted (5.10.1999) by 1999 c. 10, ss. 2(3), 20(2), **Sch. 2 Pt. IV para. 16**

#### **Marginal Citations**

**M49** 1953 c. 36.

**M50** S.I. 1989/2405 (N.I.19).

**M51** 1986 c. 45.

**M52** S.I. 1976/582 (N.I.12).

**Status:** Point in time view as at 06/04/1996. This version of this Act contains provisions that are not valid for this point in time.

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**M53** 1974 c. 47.

**M54** 1985 c. 61.

**[158B** <sup>F111</sup>**Requirement to supply information about redirection of post.**

- (1) The Department or the Secretary of State may require the Post Office or any other person who conveys postal packets to supply information relating to arrangements for the redirection of postal packets to, or to a person supplying services to, the Department or the Secretary of State—
  - (a) for use in the prevention, detection, investigation or prosecution of offences relating to social security; or
  - (b) for use in checking the accuracy of information relating to benefits, contributions or national insurance numbers or to any other matter relating to social security and (where appropriate) amending or supplementing such information.
- (2) The Housing Executive or any other local or other authority administering housing benefit or council tax benefit may require the Post Office or any other person who conveys postal packets to supply information relating to arrangements for the redirection of postal packets to the authority or a person authorised to exercise any function of the authority relating to housing benefit or council tax benefit—
  - (a) for use in the prevention, detection, investigation or prosecution of offences relating to such a benefit; or
  - (b) for use in checking the accuracy of information relating to such a benefit and (where appropriate) amending or supplementing such information.
- (3) Information shall be supplied under subsection (1) or (2) above in such manner and form, and in accordance with such requirements, as may be prescribed.
- (4) Payments of such amount as the Department considers reasonable shall be made by a person or authority imposing a requirement under subsection (1) or (2) above in respect of the supply of information in compliance with the requirement.
- (5) Information supplied under subsection (1) or (2) above shall not be supplied by the recipient to any other person or body unless—
  - (a) it could be supplied to that person or body under either of those subsections; or
  - (b) it is supplied for the purposes of any civil or criminal proceedings relating to the Contributions and Benefits Act, the <sup>M55</sup>Jobseekers (Northern Ireland) Order 1995 or this Act or to any enactment applying in Great Britain corresponding to any of them.
- (6) But where information supplied under subsection (1) or (2) above has been used (in accordance with paragraph (b) of the subsection concerned) in amending or supplementing other information, it is lawful for it to be—
  - (a) supplied to any person or body to whom that other information could be supplied; or
  - (b) used for any purpose for which that other information could be used.
- (7) In subsections (1) and (2) above “arrangements for the redirection of postal packets” means arrangements made with the Post Office or other person conveying postal packets for the delivery of postal packets to addresses other than those indicated by senders on the packets.

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(8) In this section “postal packet” has the same meaning as in the <sup>M56</sup>Post Office Act 1953.]

#### Textual Amendments

**F111** S. 158B inserted (5.4.1999) by 1997 c. 47, s. 21(2); S.I. 1999/1046, art. 2

#### Modifications etc. (not altering text)

**C62** S. 158B restricted (5.10.1999) by 1999 c. 10, ss. 2(3), 20(2), Sch. 2 Pt. IV para. 16

S. 158B: functions modified (*prosp.*) by S.I. 1999/3147 (N.I. 11), arts. 1(2), 67, Sch. 8 para. 32 (with art. 75)

#### Marginal Citations

**M55** S.I. 1995/2705 (N.I.15).

**M56** 1953 c. 36.

VALID FROM 01/07/1997

### <sup>F112</sup>National insurance numbers]

#### Textual Amendments

**F112** S. 158C and preceding cross-heading inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), s. 19(1), Sch. 1 para. 6(1); S.R. 1997/316, art. 2

### <sup>F113</sup>[ **Requirement to apply for national insurance number.**

158C

(1) Regulations may make provision person to apply for a national insurance number to be allocated to him.

(2) An application required by regulations under subsection (1) above shall be accompanied by information or evidence enabling such a number to be allocated.]]

#### Textual Amendments

**F113** S. 158C and preceding cross-heading inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 19(1), Sch. 1 para. 6; S.R. 1997/316, art. 2

### *Industrial injuries and diseases*

#### 159 **Research on industrial injuries, etc.**

(1) The Department may promote research into the causes and incidence of accidents arising out of and in the course of employment, or injuries and diseases which—

(a) are due to the nature of employment; or

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- (b) it is contemplated might be prescribed for the purposes of sections 108 to 110 of the Contributions and Benefits Act,  
either by itself employing persons to conduct such research or by contributing to the expenses of, or otherwise assisting, other persons engaged in such research.
- (2) The Department may pay to persons so employed by it such salaries or remuneration, and such travelling and other allowances, as it may determine with the consent of the Department of Finance and Personnel.

## **160 Control of pneumoconiosis.**

- (1) As respects pneumoconiosis, regulations may provide—
  - (a) for requiring persons to be medically examined before, or within a prescribed period after, becoming employed in any occupation in relation to which pneumoconiosis is prescribed, and to be medically examined periodically while so employed, and to furnish information required for the purposes of any such examination;
  - (b) for suspending from employment in any such occupation, and in such other occupations as may be prescribed, persons found on such an examination—
    - (i) to be suffering from pneumoconiosis or tuberculosis, or
    - (ii) to be unsuitable for such employment, having regard to the risk of pneumoconiosis and such other matters affecting their susceptibility to pneumoconiosis as may be prescribed;
  - (c) for the disqualification for the receipt of benefit as defined in section 121 of the Contributions and Benefits Act in respect of pneumoconiosis of any person who fails without good cause to submit himself to any such examination or to furnish information required by the regulations or who engages in any employment from which he has been suspended as mentioned in paragraph (b) above;
  - (d) for requiring employers—
    - (i) to provide facilities for such examinations,
    - (ii) not to employ in any occupation a person who has been suspended as mentioned in paragraph (b) above from employment in that occupation or who has failed without good cause to submit himself to such an examination,
    - (iii) to give to such officer as may be prescribed the prescribed notice of the commencement of any prescribed industry or process;
  - (e) for the recovery on summary conviction of monetary penalties in respect of any contravention of or failure to comply with any such requirement as is mentioned in paragraph (d) above, but those penalties shall not exceed £5 for every day on which the contravention or failure occurs or continues;
  - (f) for such matters as appear to the Department to be incidental to or consequential on provisions included in the regulations by virtue of paragraphs (a) to (d) above or section 110(1) of the Contributions and Benefits Act.

*Status:* Point in time view as at 06/04/1996. This version of this Act contains provisions that are not valid for this point in time.

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*Workmen's compensation, etc.*

**161 Administration of workmen's compensation etc.**

- (1) Schedule 6 to this Act shall have effect in relation to regulations under paragraphs 2 and 4 of Schedule 8 to the Contributions and Benefits Act.
- (2) Regulations may provide for applying in relation to payments under Part II of that Schedule 8 the provisions of this Act relating to the making of claims and the determination of claims and questions in so far as those provisions apply in relation to—
  - (a) an unemployability supplement;
  - (b) an increase of a disablement pension in respect of a child or adult dependant; or
  - (c) an increase of a disablement pension in respect of the need for constant attendance or exceptionally severe disablement,
 (as the case may be) subject to any additions or modifications.

*Supplementary benefit etc.*

**162 Application of provisions of Act to supplementary benefit, etc.**

Schedule 7 to this Act shall have effect for the purposes of making provision in relation to the benefits there mentioned.

*Miscellaneous*

**163 Certain benefit to be inalienable.**

- (1) Subject to the provisions of this Act, every assignment of, or charge on—
  - (a) benefit as defined in section 121 of the Contributions and Benefits Act;
  - (b) any income-related benefit; or
  - (c) child benefit,
 and every agreement to assign or charge such benefit shall be void; and, on the bankruptcy of a beneficiary, such benefit shall not pass to any trustee or other person acting on behalf of his creditors.
- (2) In calculating for the purposes of Article 30, 73(5)(b), 99(6)(b) or 107 of the <sup>M57</sup>Judgments Enforcement (Northern Ireland) Order 1981 or Article 101(5)(b) of the <sup>M58</sup>Magistrates' Courts (Northern Ireland) Order 1981 the means of any beneficiary, no account shall be taken of any increase of disablement benefit in respect of a child, or of industrial death benefit.

**Marginal Citations**

**M57** S.I. 1981/226 (N.I. 6).

**M58** S.I. 1981/1675 (N.I. 26).



*Status:* Point in time view as at 06/04/1996. This version of this Act contains provisions that are not valid for this point in time.

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## **164 Exemption from stamp duty.**

- (1) Stamp duty shall not be chargeable on any document to which this subsection applies.
- (2) Subsection (1) above applies to any document authorised by virtue—
  - (a) of Parts I to VI of the Contributions and Benefits Act; or
  - (b) of any provision of this Act so far as it operates in relation to matters to which those Parts relate,
 or otherwise required in order to give effect to those Parts or to any such provision so far as it so operates or in connection with any description of business thereunder.
- (3) Stamp duty shall not be chargeable upon such documents used in connection with business under paragraphs 2 and 3 of Schedule 8 to the Contributions and Benefits Act and paragraph 1 of Schedule 6 to this Act as may be specified in regulations made under paragraph 2 of Schedule 8 to that Act.

## **PART XV**

### **GENERAL**

#### *Subordinate legislation*

## **165 Regulations and orders - general.**

- (1) Subject to subsection (2) below and to any specific provision of this Act, regulations and orders under this Act shall be made by the Department.
- (2) Regulations with respect to proceedings before the Commissioners (whether for the determination of any matter or for leave to appeal to or from the Commissioners) shall be made by the Lord Chancellor.
- (3) Any power conferred by this Act to make regulations or orders is exercisable by statutory rule for the purposes of the <sup>M59</sup>Statutory Rules (Northern Ireland) Order 1979.
- (4) Except in the case of regulations under section 22 or 152 above and in so far as this Act otherwise provides, any power conferred by this Act to make regulations or an order may be exercised—
  - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
  - (b) so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act;
    - (iii) any such provision either unconditionally or subject to any specified condition;

and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and powers

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to make regulations or an order for the purposes of any one provision of this Act are without prejudice to powers to make regulations or an order for the purposes of any other provision.

- (5) Without prejudice to any specific provision of this Act, any power conferred by this Act to make regulations or an order (other than the power conferred by section 22), includes power to make thereby such incidental, supplementary, consequential or transitional provision as appears to the authority making the regulations or order to be expedient for the purposes of the regulations or order.
- (6) Without prejudice to any specific provision of this Act, a power conferred by any provision of this Act, except sections 12, 24, 122 and 152, to make regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.
- (7) Any power conferred by Part VIII of this Act to make regulations relating to housing benefit shall include power to make different provision for different areas.
- (8) Regulations under Part VIII of this Act relating to housing benefit administered by the Department of the Environment under section 126(3)(b) above shall not be made without the consent of that Department.
- (9) Any power to make—
  - (a) regulations prescribing relevant benefits for the purposes of Part IV of this Act;
  - (b) regulations under section 81 or 152(5)(c) above;
  - (c) an order under section 142(7), 145(4) or 148(2) above,
 shall be exercisable with the consent of the Department of Finance and Personnel.
- (10) Any power of the Department under any provision of this Act, except sections 76, 134, 152 and 154, to make any regulations or an order, where the power is not expressed to be exercisable with the consent of the Department of Finance and Personnel, shall if that Department so directs be exercisable only in conjunction with it.
- (11) A power under any of sections 153 to 155 above to make regulations, or to make provision by an order, for modifications or adaptations of the Contributions and Benefits Act or this Act shall be exercisable in relation to any enactment passed or made after this Act which is directed to be construed as one with them, except in so far as any such enactment relates to a benefit in relation to which the power is not exercisable; but this subsection applies only so far as a contrary intention is not expressed in the enactment, and is without prejudice to the generality of any such direction.
- (12) Any reference in this section or section 166 below to an order or regulations under this Act includes a reference to an order or regulations made under any provision of an enactment passed or made after this Act which is directed to be construed as one with this Act; but this subsection applies only so far as a contrary intention is not expressed in the enactment, and is without prejudice to the generality of any such direction.

**Modifications etc. (not altering text)**

**C63** S. 165(4)(5)(6)(10) applied (5.9.1997) by S.I. 1997/1183 (N.I. 12), art. 28(3); S.R. 1997/400, art. 2(1), Sch. Pt. I

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### Marginal Citations

M59 S.I. 1979/1573 (N.I. 12).

## 166 Assembly, etc. control of orders and regulations.

- (1) The regulations and orders to which this subsection applies shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations or order, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations or a new order) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have, or the order has, been approved by a resolution of the Assembly.
- (2) Subsection (1) above applies—
  - (a) to any regulations made by the Department under section 97(2), 131 or 134 above; and
  - (b) to any order made by the Department under section 129, 132, 133 or 142 above.
- (3) Subsection (1) above does not apply to regulations which, in so far as they are made under the powers conferred by subsection (2)(a) above, only replace provisions of previous regulations with new provisions to the same effect.
- (4) Subject to subsection (8) below, all regulations and orders made under this Act by the Department, other than regulations or orders to which subsection (1) above applies, shall be subject to negative resolution.
- (5) Subject to subsection (10) below, all regulations made under this Act by the Lord Chancellor shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the<sup>M60</sup>Statutory Instruments Act 1946 shall apply accordingly.
- (6) Section 41(3) of the<sup>M61</sup>Interpretation Act (Northern Ireland) 1954 (laying statutory instruments or statutory documents before the Assembly) shall apply in relation to any instrument or document which by virtue of any provision of this Act is required to be laid before the Assembly as if it were a statutory instrument or statutory document within the meaning of that Act.
- (7) This subsection applies to any regulations or order made under this Act which—
  - (a) but for subsection (8) below, would be subject to negative resolution, and
  - (b) are or is contained in a statutory rule which includes any regulations or order subject to the confirmatory procedure.
- (8) Any regulations or order to which subsection (7) above applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.
- (9) This subsection applies to any regulations or order made under this Act which—
  - (a) but for subsection (10) below, would be subject to annulment in pursuance of a resolution of either House of Parliament, and
  - (b) are, or is, contained in an instrument which is subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament.

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- (10) Any regulations or order to which subsection (9) above applies shall not be subject as mentioned in paragraph (a) of that subsection, but shall be subject to the procedure described in paragraph (b) of that subsection.
- (11) During the interim period (as defined by section 1(4) of the <sup>M62</sup>Northern Ireland Act 1974), subsections (1) and (4) above have effect subject to paragraph 3 of Schedule 1 to that Act.
- (12) In this section—
- “the confirmatory procedure” means the procedure described in subsection (1) above;
- “subject to negative resolution” has the meaning assigned by section 41(6) of the Interpretation Act (Northern Ireland) 1954 (but as if the regulations or orders in question were statutory instruments within the meaning of that Act).

**Modifications etc. (not altering text)**

**C64** S. 166(1) applied (17.3.1993) by S.I. 1993/592 (N.I. 2), art. 4(8)

**Marginal Citations**

**M60** 1946 c. 36.

**M61** 1954 c. 33 (N.I.).

**M62** 1974 c. 28.

*Supplementary*

**167 Interpretation.**

- (1) In this Act, unless the context otherwise requires—
- “the Assembly” means the Northern Ireland Assembly;
- “the 1975 Act” means the <sup>M63</sup>Social Security (Northern Ireland) Act 1975;
- “benefit” means benefit under the Contributions and Benefits Act;
- “Christmas bonus” means a payment under Part X of the Contributions and Benefits Act;
- “claimant” (in relation to contributions under Part I and to benefit under Parts II to IV of the Contributions and Benefits Act) means—
- (a) a person whose right to be excepted from liability to pay, or to have his liability deferred for, or to be credited with, a contribution, is in question;
- (b) a person who has claimed benefit;
- and includes, in relation to an award or decision, a beneficiary under the award or affected by the decision;
- “claim” is to be construed in accordance with “claimant”;
- “claimant” (in relation to industrial injuries benefit) means a person who has claimed such a benefit and includes—
- (a) an applicant for a declaration under section 42 above that an accident was or was not an industrial accident; and
- (b) in relation to an award or decision, a beneficiary under the award or affected by the decision;

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“Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner and includes a Tribunal of 2 or 3 Commissioners constituted under section 55 above;

“compensation payment” has the meaning assigned by section 77 above;

“compensator” has the meaning assigned by section 78 above;

“the Consequential Provisions Act” means the <sup>M64</sup>Social Security (Consequential Provisions) (Northern Ireland) Act 1992;

“Consolidated Fund” means the Consolidated Fund of Northern Ireland;

“contribution card” has the meaning assigned to it by section 108(6) above;

“the Contributions and Benefits Act” means the <sup>M65</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the Department” means the Department of Health and Social Services for Northern Ireland;

“the Department of the Environment” means the Department of the Environment for Northern Ireland;

“the Department of Finance and Personnel” means the Department of Finance and Personnel in Northern Ireland;

“disablement benefit” is to be construed in accordance with section 94(2) (a) of the Contributions and Benefits Act;

“the disablement questions” is to be construed in accordance with section 43 above;

“dwelling” means any residential accommodation, whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;

“the Great Britain Administration Act” means the <sup>M66</sup>Social Security Administration Act 1992;

“the Great Britain Contributions and Benefits Act” means the <sup>M67</sup>Social Security Contributions and Benefits Act 1992;

“the Housing Executive” means the Northern Ireland Housing Executive;

“income-related benefit” means—

- (a) income support;
- (b) family credit;
- (c) disability working allowance; and
- (d) housing benefit;

“industrial injuries benefit” means benefit under Part V of the Contributions and Benefits Act, other than under Schedule 8;

<sup>F114</sup> . . .

“Joint Authority” means the Head of the Department and the Secretary of State;

“medical examination” includes bacteriological and radiographical tests and similar investigations, and “medically examined” has a corresponding meaning;

“medical practitioner” means—

- (a) a registered medical practitioner; or
- (b) a person outside the United Kingdom who is not a registered medical practitioner, but has qualifications corresponding (in the Department’s opinion) to those of a registered medical practitioner;

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“medical treatment” means medical, surgical or rehabilitative treatment (including any course of diet or other regimen), and references to a person receiving or submitting himself to medical treatment are to be construed accordingly;

[<sup>F115</sup>“money purchase contracted-out scheme” has the same meaning as in section 4(1)(a)(ii) of the Pensions Act;]

“National Insurance Fund” means the Northern Ireland National Insurance Fund;

“occupational pension scheme” has the same meaning as in [<sup>F116</sup>section 1 of the Pensions Act];

“the Old Cases Act” means the <sup>M68</sup>Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975;

“Old Cases payments” means payments under Part I of Schedule 8 to the Contributions and Benefits Act;

“the 1986 Order” means the <sup>M69</sup>Social Security (Northern Ireland) Order 1986;

[<sup>F115</sup>“pensionable age” has the same meaning as in section 121 of the Contributions and Benefits Act;]

[<sup>F117</sup>“the Pensions Act” means the Pension Schemes (Northern Ireland) Act 1993;]

“the Pensions Order” means the <sup>M70</sup>Social Security Pensions (Northern Ireland) Order 1975;

“personal pension scheme” has the meaning assigned to it by [<sup>F118</sup>section 1 of the Pensions Act][<sup>F119</sup>and “appropriate”, in relation to such a scheme, shall be construed in accordance with section 3 of that Act];

“prescribe” means prescribe by regulations;

“President” means the President of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals;

“regulations” means regulations made by the Department or the Lord Chancellor under this Act;

“statutory provision” has the meaning assigned to it by section 1(f) of the <sup>M71</sup>Interpretation Act (Northern Ireland) 1954 ;

“tax year” means the 12 months beginning with 6th April in any year;

“widow’s benefit” has the meaning assigned to it by section 20(1)(e) of the Contributions and Benefits Act.

- (2) For the purposes of Part III of the <sup>M72</sup>Northern Ireland Constitution Act 1973 (validity of Measures of the Northern Ireland Assembly, including Orders in Council under the <sup>M73</sup>Northern Ireland Act 1974), provisions of this Act which re-enact provisions of a Measure of the Assembly or such an Order are to be treated as provisions of such a Measure or Order.

#### Textual Amendments

**F114** Definition in s. 167(1) repealed (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1)(2), Sch. 1 Pt. II, para. 51, Sch. 2; S.R. 1994/450, art. 2, Sch. Pt. IV

**F115** Definitions in s. 167(1) added (7.2.1994) by 1993 c. 49, s. 184, Sch. 7 para. 42(a); S.R. 1994/17, art. 2

**F116** Words in definition in s. 167(1) substituted (7.2.1994) by 1993 c. 49, s. 184, Sch. 7 para. 42(b); S.R. 1994/17, art. 2

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**F117** Definition in s. 167(1) inserted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 42(c)**; S.R. 1994/17, **art. 2**

**F118** Words in definition in s. 167(1) substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 42(d)**; S.R. 1994/17, **art. 2**

**F119** Words in definition in s. 167(1) added (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 42(d)**; S.R. 1994/17, **art. 2**

#### Marginal Citations

**M63** 1975 c. 15.

**M64** 1992 c. 9.

**M65** 1992 c. 7.

**M66** 1992 c. 5.

**M67** 1992 c. 4.

**M68** 1975 c. 17.

**M69** S.I. 1986/1888 (N.I. 18).

**M70** S.I. 1975/1503 (N.I. 15).

**M71** 1954 c. 33 (N.I.).

**M72** 1973 c. 36.

**M73** 1974 c. 28.

#### 168 Short title, commencement and extent.

- (1) This Act may be cited as the Social Security Administration (Northern Ireland) Act 1992.
- (2) This Act is to be read, where appropriate, with the Contributions and Benefits Act and the Consequential Provisions Act.
- (3) The enactments consolidated by this Act are repealed, in consequence of the consolidation, by the Consequential Provisions Act.
- (4) Except as provided in Schedule 4 to the Consequential Provisions Act, this Act shall come into force on 1st July 1992.
- (5) Subject to subsection (6) below, this Act extends to Northern Ireland only.
- (6) Section 22 above and this section also extend to Great Britain.

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