



# Social Security Act 1973

## 1973 CHAPTER 38

### PART I

#### THE BASIC SCHEME

#### CHAPTER I:

#### CONTRIBUTIONS

##### *Preliminary*

### **1 Outline of basic scheme contributory system.**

- (1) The funds required—
- (a) for paying such benefits under Chapter II below as are payable out of the National Insurance Fund and not out of other public money;
  - (b) for the making of payments under Chapter III below towards the cost of the national health service and into the Redundancy Fund; and
  - (c) for paying benefit under the Industrial Injuries Acts and the Old Cases Acts, shall be provided by means of contributions payable to the Secretary of State by earners, employers and others, together with the Treasury supplements specified in subsection (5) below.
- (2) Contributions under this Part of this Act shall be of the following four classes—
- Class 1, earnings-related, payable under section 2, being—
    - (a) primary Class 1 contributions from employed earners, and
    - (b) secondary Class 1 contributions from employers and other persons paying earnings;
  - Class 2, flat-rate, payable weekly under section 3 by self-employed earners;
  - Class 3, payable under section 4 by earners and others voluntarily with a view to providing entitlement to benefit, or making up entitlement; and

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Class 4, payable under section 5 in respect of the profits or gains of a trade, profession or vocation, or in respect of equivalent earnings.

- (3) The amounts and rates of contributions in this Chapter and the other figures therein which affect the liability of contributors shall be subject to regulations under Chapter III and, to the extent provided for by sections 7 and 8 of this Act, to alteration by orders made by the Secretary of State from year to year under those sections.
- (4) Schedule 1 to this Act—
- (a) shall have effect with respect to the computation, collection and recovery of contributions of Classes 1, 2 and 3, and otherwise with respect to contributions of those classes; and
  - (b) shall also, to the extent provided by regulations made under section 5(10) of this Act, have effect with respect to the computation, collection and recovery of Class 4 contributions, and otherwise with respect to such contributions, where under that subsection provision is made for contributions of that class to be recovered by the Secretary of State and not by the Inland Revenue under section 5(1) to (3).
- (5) Subject to section 41(2) below (mariners, etc.), there shall by way of supplement to contributions be paid out of money provided by Parliament, in such manner and at such times as the Treasury may determine, amounts the total of which for any year is equal to 18 per cent, of so much of all contributions (of the four classes) paid in that year as remains after deducting the appropriate national health service allocation and the appropriate allocation to the Redundancy Fund.
- (6) In respect of any period beginning on or after the appointed day no contributions shall be payable—
- (a) under section 1 of the National Health Service Contributions Act 1965 ; or
  - (b) under section 2(1)(a) of the Industrial Injuries Act; or
  - (c) under section 27 of the Redundancy Payments Act 1965 ;
- nor shall there be payable the Treasury supplement under section 2(1)(b) of the Industrial Injuries Act.
- (7) In this Act "employed earner" means a person who is gainfully employed in Great Britain either under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E; and " self-employed earner " means a person who is gainfully employed in Great Britain otherwise than in employed earner's employment (whether or not he is also employed in such employment).
- (8) Regulations may provide—
- (a) for employment of any prescribed description to be disregarded in relation to liability for contributions otherwise arising from employment of that description;
  - (b) for a person in employment of any prescribed description to be treated, for the purposes of this Act, as falling within one or other of the categories of earner defined in subsection (7) above, notwithstanding that he would not fall within that category apart from the regulations.
- (9) For the purposes of this Act, a person shall be treated as a self-employed earner as respects any week during any part of which he is such an earner (without prejudice to Ms being also treated as an employed earner as respects that week by reference to any other employment of his).

- (10) No person shall—
- (a) be liable to pay Class 1 or Class 2 contributions unless he fulfils prescribed conditions as to residence or presence in Great Britain ;
  - (b) be entitled to pay Class 3 contributions unless he fulfils such conditions; or
  - (c) be entitled to pay Class 1 or Class 2 contributions other than those which he is liable to pay, except so far as he is permitted by regulations to pay them.

*The four classes of contributions*

**2 Class 1 contributions.**

- (1) For the purposes of this Act, there shall for every year (which in this Part of this Act means an income tax year, except where it is otherwise stated, or the context is one relating to a person's age) be—
- (a) a lower earnings limit for Class 1 contributions, being the level of weekly earnings at which employed earners become liable for such contributions in respect of the earnings from their employments ; and
  - (b) an upper earnings limit for Class 1 contributions, being the maximum amount of weekly earnings in respect of which such contributions are payable ;
- and the lower and upper earnings limits shall be respectively £8 and £48.
- (2) Where in any income tax week earnings are paid to or for the benefit of an earner in respect of any one employment of his, being employed earner's employment, and—
- (a) he is over school-leaving age ; and
  - (b) the amount paid is equal to or exceeds the current lower earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly),
- there shall be payable, in accordance with this section (and, except as provided by this Act, without regard to any other payment of earnings to or for the benefit of the earner in respect of any other employment), a primary and a secondary Class 1 contribution.
- (3) The primary contribution shall be payable by the earner and the secondary contribution shall be payable by the secondary Class 1 contributor.
- (4) Subject to subsection (5) below, the secondary contributor, in relation to any payment of earnings to or for the benefit of an employed earner, is—
- (a) in the case of an earner employed under a contract of service, his employer;
  - (b) in the case of an earner employed in an office with emoluments, either—
    - (i) such person as may be prescribed in relation to that office, or
    - (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office.
- (5) In relation to employed earners who—
- (a) are paid earnings in an income tax week by more than one person in respect of different employments; or
  - (b) work under the general control or management of a person other than their immediate employer,
- and in relation to any other case for which it appears to the Secretary of State that such provision is needed, regulations may provide that for the purposes of this section the

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prescribed person is to be treated as the secondary Class 1 contributor in respect of earnings paid to or for the benefit of an earner.

- (6) The amount of a Class 1 contribution shall be a percentage of so much of the earnings paid in the week, in respect of the employment in question, as does not exceed the current upper earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly); and (subject to regulations under Chapter III)—
- (a) the primary contribution shall be 5.25 per cent, or 0.6 per cent., according to whether the earner is liable to contribute at the standard rate or the reduced rate; and
  - (b) the secondary contribution shall be 7.5 per cent.
- (7) An employed earner liable for a primary Class 1 contribution shall be liable to contribute at the standard rate except where the earner—
- (a) is over pensionable age and has retired from regular employment; or
  - (b) although over pensionable age, has not retired from regular employment, and at the time when he attained pensionable age did not satisfy the contribution conditions for a Category A retirement pension; or
  - (c) is a married woman or widow who has elected, in accordance with regulations under section 42(2) or (4) of this Act, to contribute at the reduced rate and has not revoked her election;

and in any of those cases the earner shall be liable to contribute at the reduced rate.

### **3 Class 2 contributions.**

- (1) Subject to the provisions of this section, every self-employed earner shall, if he is over school-leaving age, be liable to pay Class 2 contributions at the rate of £1.68 a week.
- (2) Class 2 contributions shall not be payable—
- (a) by an earner who is over pensionable age and has retired from regular employment; or
  - (b) by an earner who, although over pensionable age, has not retired from regular employment and at the time when he attained pensionable age did not satisfy the contribution conditions for a Category A retirement pension; or
  - (c) by a married woman or widow who has elected, in accordance with regulations under section 42(2) or (4) of this Act, to be under no liability for Class 2 contributions and has not revoked her election.
- (3) The Secretary of State may by order direct that, in the year beginning with the appointed day or in any of the 4 subsequent years, the weekly rate of Class 2 contributions shall for women be a specified rate lower than the rate for other Class 2 contributors in respect of that year.
- (4) Regulations may make provision so that an earner is liable for a weekly rate of Class 2 contributions higher than that specified in subsection (1) above where—
- (a) in respect of any employment of his, he is treated by regulations under section 1(8)(b) of this Act as being a self-employed earner ; and
  - (b) in any period or periods he has earnings from that employment and—
    - (i) those earnings are such that (disregarding their amount) he would be liable for Class 1 contributions in respect of them if he were not so treated in respect of the employment, and

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(ii) no Class 4 contribution is payable in respect of the earnings by virtue of regulations under section 5(9) of this Act.

- (5) Regulations may provide for an earner otherwise liable for Class 2 contributions in respect of employment as a self-employed earner to be excepted from the liability in respect of any period in which his earnings from such employment are, or are treated by regulations as being, less than £468 a year.
- (6) Regulations made for the purposes of subsection (5) above shall not except a person from liability to pay contributions otherwise than on his own application, but may provide for so excepting a person with effect from any date not earlier than 13 weeks before the date on which his application was made.

#### **4 Class 3 contributions.**

- (1) Regulations shall provide for earners and others, if over school-leaving age, to be entitled if they so wish, but subject to any prescribed conditions, to pay Class 3 contributions ; and the amount of a Class 3 contribution shall be £1.33.
- (2) Payment of Class 3 contributions shall be allowed only with a view to enabling the contributor to satisfy contribution conditions of entitlement to basic scheme benefit by acquiring the requisite earnings factor for the purposes described in section 9 of this Act; and regulations—
- (a) may provide for Class 3 contributions, although paid in one year, to be appropriated in prescribed circumstances to the earnings factor of another year; and
  - (b) shall provide for the return of such contributions which have been paid, where they are insufficient to provide any entitlement or additional entitlement.
- (3) Where for any year a contributor's earnings factor derived from his Class 1 or Class 2 contributions (or both) already stands at a figure which is 50 times that year's lower earnings limit for Class 1 contributions, no Class 3 contributions shall be payable by him in respect of the year ; and if Class 3 contributions are paid in such number that the contributor's earnings factor will exceed that figure, so much of those contributions as brings the earnings factor above that figure—
- (a) shall be repaid to him (subject to regulations excluding repayment where the amount in question is inconsiderable) ; and
  - (b) if repayable, shall then be treated as not having been paid for any purposes other than those of this section.

#### **5 Class 4 contributions.**

- (1) Class 4 contributions shall be payable in respect of all annual profits or gains immediately derived from the carrying on or exercise of one or more trades, professions or vocations, being profits or gains chargeable to income tax under Case I or Case II of Schedule D for any year of assessment beginning on or after the appointed day; and the contributions shall be payable—
- (a) in the same manner as any income tax which is, or would be, chargeable in respect of those profits or gains (whether or not income tax in fact falls to be paid); and
  - (b) by the person on whom the income tax is (or would be) charged,
- in accordance with assessments made from time to time under the Income Tax Acts.

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- (2) A Class 4 contribution for any year shall be an amount equal to 5 per cent, of so much of the profits or gains referred to in subsection (1) above (as computed in accordance with Schedule 2 to this Act) as exceeds £1,150 and does not exceed £2,500.
- (3) Except as provided by or under subsections (8) to (10) below, and except as provided by Schedule 2 to this Act, all the provisions of the Income Tax Acts as they have effect from time to time (including, but without prejudice to the generality of the foregoing, provisions as to assessment, collection, repayment and recovery, and the provisions of Part X of the Taxes Management Act 1970 (penalties)) shall with the necessary modifications apply in relation to Class 4 contributions as if those contributions were income tax chargeable under Case I or Case II of Schedule D; and Schedule 2 to this Act shall have effect (without prejudice to the foregoing provisions of this subsection) for the application or modification, in relation to the contributions, of certain provisions of those Acts, and the exclusion of other provisions, and generally with respect to the contributions.
- (4) The Inland Revenue shall, at such times and in such manner as the Treasury may direct, account to the Secretary of State for, and pay to him, the sums estimated by the Inland Revenue (in the manner so directed) to have been collected by them as Class 4 contributions.
- (5) So much of any money received by the Secretary of State under subsection (4) above as is estimated by him, in accordance with any directions of the Treasury, to represent Class 4 contributions collected from persons in Northern Ireland shall be paid over by him to the Northern Ireland Ministry and be treated as contributions collected by that Ministry for the purposes of the basic scheme as it operates in Northern Ireland.
- (6) The Secretary of State may by regulations made with the concurrence of the Inland Revenue provide—
- (a) for excepting persons from liability to pay Class 4 contributions in accordance with subsections (1) to (3) above; or
  - (b) for deferring any person's liability,
- and may certify from time to time to the Inland Revenue the persons who are excepted from liability, or whose liability is to be deferred, and who accordingly are not required (except in accordance with the regulations) to be assessed for contributions.
- (7) Exception from liability, or deferment, under subsection (6) above may (without prejudice to the generality of that subsection) be by reference—
- (a) to a person otherwise liable for contributions being under a prescribed age at the beginning of a year;
  - (b) to a person having attained pensionable age and retired from regular employment;
  - (c) to a person being in receipt of earnings in respect of which primary Class 1 contributions are, or may be, payable; or
  - (d) to a person not satisfying prescribed conditions as to residence or presence in the United Kingdom.
- (8) The Secretary of State may, by regulations made with the concurrence of the Inland Revenue—
- (a) provide, in relation to Class 4 contributions recovered by the Inland Revenue, for any incidental matters arising out of the payment of such contributions, including in particular their return in whole or in part where payment has been made in error or repayment ought for any other reason to be made ;

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- (b) provide, in relation to cases where liability for such contributions is to be deferred in pursuance of regulations made under subsection (6) above, for any matters arising out of the deferment, including in particular provision for the amount of a person's profits or gains (as computed under Schedule 2 to this Act) to be certified by the Inland Revenue to the Secretary of State and the person liable;

but so that no such certificate as is referred to in paragraph (b) above shall relate to a person's profits or gains so far as they exceed whatever is for the time being the higher of the two money sums specified in subsection (2) above.

- (9) Provision may be made by regulations so that where—
  - (a) an earner, in respect of any one or more employments of his, is treated by regulations under section 1(8)(b) of this Act as being self-employed ; and
  - (b) in any year he has earnings from any such employment (one or more) which fall within section 3(4)(b)(i), but is not liable for a higher weekly rate of Class 2 contributions by virtue of regulations under that subsection ; and
  - (c) the total of those earnings exceeds £1,150,he is to be liable, in respect of those earnings, to pay a Class 4 contribution of an amount equal to 5 per cent, of so much of the total as exceeds £1,150 and does not exceed £2,500.
- (10) It shall be for the Secretary of State, and not the Inland Revenue, to recover Class 4 contributions payable by virtue of regulations under subsection (9) above and generally to be responsible for the relevant administration; and regulations may in relation to contributions so payable—
  - (a) apply any of the provisions of Schedule 1 to this Act (except a provision conferring power to make regulations) ; and
  - (b) make any such provision as may be made by regulations under that Schedule, except paragraph 5.

## **6 General power to regulate liability for contributions.**

- (1) Regulations may provide, either generally or in relation to any prescribed category of earners, or to earners in any prescribed category of employments, that their liability in a particular year in respect of contributions of prescribed classes is not to exceed such maximum amount or amounts as may be prescribed.
- (2) Regulations made for the purposes of subsection (1) above may provide—
  - (a) for an earner whose liability is subject to a maximum prescribed thereunder to be liable in the first instance for the full amount of any contributions due from him apart from the regulations, or to be relieved from liability for such contributions in prescribed circumstances and to the prescribed extent; and
  - (b) for contributions paid in excess of any such maximum to be repaid at such times, and in accordance with such conditions, as may be prescribed.
- (3) Regulations may provide, in relation to earners otherwise liable for contributions of any class, for excepting them from the liability for such periods, and in such circumstances, as may be prescribed.

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*Alteration of rates, etc., by order*

**7 Annual review of contributions.**

- (1) As soon as may be after he has made an order appointing a day for the coming into force of this section, the Secretary of State shall review the general level of earnings obtaining in Great Britain and the changes in that level which have taken place in and since the year 1971-72, with a view to determining whether, in respect of basic scheme contributions, an order should be made under this section to have effect in relation to the first year of operation of sections 2 to 5 of this Act.
- (2) In that year, and thereafter in each subsequent year, the Secretary of State shall carry out a further review of the general level of earnings, taking into account changes in that level which have taken place since his last review under this section, with a view to determining whether, in respect of basic scheme contributions, an order should be made under this section, to have effect in relation to the next following year.
- (3) For the purposes of any review under this section, the Secretary of State—
  - (a) shall estimate the general level of earnings in such manner as he thinks fit; and
  - (b) shall take into account any other matters appearing to him to be relevant to his determination whether or not an order should be made under this section including, in the case of the second and any subsequent review, the current operation of this Part of this Act.
- (4) If the Secretary of State determines, as a result of a review under this section, that having regard to changes in the general level of earnings which have taken place, and to any other matters taken into account on the review, an order under this section should be made for the amendment of this Chapter, he shall prepare and lay before each House of Parliament a draft of such an order framed so as to give effect to his conclusions on the review.
- (5) An order under this section may amend this Chapter by altering any one or more of the following figures—
  - (a) the figures specified in section 2(1) as the lower and upper earnings limits for Class 1 contributions ;
  - (b) the figure specified in section 3(1) as the weekly rate of Class 2 contributions;
  - (c) the figure specified in section 3(5) as the amount of earnings below which regulations under that subsection may except an earner from liability for Class 2 contributions ;
  - (d) the figure specified in section 4(1) as the amount of a Class 3 contribution;
  - (e) the figures specified in section 5(2) as the lower and upper limits of profits or gains which are to be taken into account for the purposes of Class 4 contributions.
- (6) An order under this section, if it contains an amendment altering either of the figures specified in section 5(2), shall make the same alteration of the corresponding figure specified in section 5(9).
- (7) If the Secretary of State determines as a result of a review under this section that, having regard to his conclusions in respect of the general level of earnings and otherwise, no such amendments of this Chapter are called for as can be made for the purposes of subsection (5) above, and determines accordingly not to lay a draft of



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an order before Parliament, he shall instead prepare and lay before each House of Parliament a report explaining his reasons for that determination.

- (8) Where the Secretary of State lays before Parliament a draft of an order under this section, he shall lay with it a copy of a report by the Government Actuary on the effect which, in the Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund; and, where he determines not to lay a draft order, he shall with the report laid before Parliament under subsection (7) above lay a copy of a report by the Government Actuary on the consequences for the Fund which may, in the Actuary's opinion, follow from that determination.
- (9) Where the Secretary of State has laid before Parliament a draft of an order under this section, then if the draft is approved by a resolution of each House, the Secretary of State shall make an order in the form of the draft.
- (10) An order under this section shall be made so as to be in force from the beginning of the year following that in which it received Parliamentary approval, and to have effect for that year and any subsequent year (subject to the effect of any subsequent order under this section or under section 8 below); and for this purpose the order is to be taken as receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.

## **8 Additional power to alter figures in ss. 2 to 5.**

- (1) Without prejudice to section 7 of this Act, the Secretary of State may at any time, if he thinks it expedient to do so with a view to adjusting the level at which the National Insurance Fund stands for the time being and having regard to the sums which may be expected to be paid from the Fund in any future period, make an order amending this Chapter by altering any one or more of the following figures—
  - (a) the percentage rates for primary and secondary Class 1 contributions specified in section 2(6);
  - (b) the figure specified in section 3(1) as the weekly rate of Class 2 contributions;
  - (c) the figure specified in section 4(1) as the amount of a Class 3 contribution;
  - (d) the percentage rate for Class 4 contributions specified in section 5(2).
- (2) An order under subsection (1) above shall, if it contains an amendment altering the percentage rate for Class 4 contributions specified in section 5(2), make the same alteration of the percentage rate specified in section 5(9).
- (3) An order under subsection (1) above may—
  - (a) if it contains an amendment altering the figure specified in section 3(1) as the weekly rate of Class 2 contributions and the Secretary of State thinks it expedient in consequence of that amendment, amend section 3(5) by altering the figure there specified as the amount of earnings below which regulations under that subsection may except an earner from liability for Class 2 contributions;
  - (b) if the Secretary of State thinks it expedient in consequence—
    - (i) of any amendments of this Chapter made by the order, or
    - (ii) of any regulations under Chapter III which he has made or proposes to make with a view to adjusting the percentage rate of Class 1 contributions in the case of particular categories or descriptions of earners,

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amend section 45(3) of this Act by altering any one or more of the percentages there specified in relation to the appropriate national health service allocation and the appropriate allocation to the Redundancy Fund.

- (4) Without prejudice to the foregoing provisions, but subject to subsection (6) below, the Secretary of State may at any time, if he thinks it expedient to do so with a view to adjusting the level at which the Redundancy Fund stands for the time being and having regard to the sums which may be expected to be paid from that Fund in any future period, make an order amending section 2(6) of this Act by altering the percentage rate for secondary Class 1 contributions specified in that subsection.
- (5) Where the Secretary of State determines to make an order under subsection (4) above, the order shall also provide for the amendment of section 45(3) of this Act by increasing or reducing the percentage there specified in relation to the appropriate allocation to the Redundancy Fund by the same amount as that by which the order increases or reduces the percentage rate for secondary Class 1 contributions.
- (6) No order shall be made under this section so as to increase the percentage rate for primary or secondary Class 1 contributions, or for Class 4 contributions, to a percentage more than 0.25 per cent, higher than that which is specified in section 2(6) or, as the case may be, section 5(2) of this Act as originally passed.
- (7) No order shall be made under this section unless a draft of the order has been laid before, and approved by, a resolution of each House of Parliament.
- (8) Where the Secretary of State lays before Parliament a draft of an order under this section, he shall lay with it a copy of a report by the Government Actuary on the effect which, in the Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund:

Provided that no such report need be laid if the order is made by virtue only of subsections (4) and (5) above.

- (9) An order under this section shall be made so as to be in force from the beginning of the year following that in which it received Parliamentary approval, and to have effect for that year and any subsequent year (subject to the effect of any subsequent order under this section or under section 7 above); and for this purpose the order is to be taken as receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.

## CHAPTER II:

### BENEFITS

#### *Preliminary*

## 9 Descriptions of benefits; the earnings factor; crediting of contributions.

- (1) Basic scheme benefits shall be of the following descriptions, namely—
  - (a) unemployment benefit (with earnings-related supplement, and increase for adult and child dependants);
  - (b) sickness benefit (with earnings-related supplement, and increase for adult and child dependants);

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- (c) invalidity benefit, comprising—
    - (i) invalidity pension (with increase for adult and child dependants),
    - (ii) invalidity allowance;
  - (d) attendance allowance (payable without regard to contributions) ;
  - (e) maternity benefit, comprising—
    - (i) maternity grant,
    - (ii) maternity allowance (with earnings-related supplement, and increase for adult and child dependants);
  - (f) widow's benefit, comprising—
    - (i) widow's allowance (with earnings-related addition, and increase for child dependants),
    - (ii) widowed mother's allowance (with increase for child dependants),
    - (iii) widow's pension;
  - (g) guardian's allowance (payable without regard to contributions) ;
  - (h) retirement pensions of the following categories—
    - Category A, payable to a person by virtue of his own contributions (with increase for adult and child dependants),
    - Category B, payable to a woman by virtue of her husband's contributions (with increase for child dependants),
    - Category C, payable (without regard to contributions) to certain persons who were over pensionable age on 5th July 1948 and their wives and widows (with increase for adult and child dependants), and
    - Category D, payable (without regard to contributions) to persons over the age of 80 ;
  - (i) age addition payable, in the case of persons over the age of 80, by way of increase of a retirement pension of any category or of another pension or allowance;
  - (j) child's special allowance ;
  - (k) death grant.
- (2) In this Part of this Act, "short-term benefit" means unemployment benefit, sickness benefit, maternity grant, maternity allowance and widow's allowance.
- (3) The amounts and rates of benefits given in this Chapter and the other figures therein which affect those amounts and rates or the entitlement of any beneficiary shall, to the extent provided for by section 39 of this Act (annual up-rating review), be subject to alteration by orders made by the Secretary of State from year to year under that section.
- (4) In the case of the following benefits only, entitlement shall depend on contribution conditions being satisfied (either by the claimant or by some other person, according to the particular benefit); and there are set out below, in relation to each such benefit, the class or classes of contribution which for this purpose are relevant thereto:—

*Short-term benefit*

Unemployment benefit

Class 1

Sickness benefit

Class 1 or 2

Maternity grant

Class 1, 2 or 3

Maternity allowance

Class 1 or 2

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Widow's allowance	Class 1, 2 or 3
<i>Other benefits</i>	
Widowed mother's allowance	} Class 1, 2 or 3
Widow's pension	
Category A retirement pension	
Category B retirement pension	
Child's special allowance	
Death grant	

- (5) Subject to the following subsections, a person shall be treated as having annual earnings factors derived from his contributions in respect of each year, being contributions of any of the classes specified in subsection (4) above; and this shall be for the purposes—
- (a) of establishing entitlement to any benefit specified in that subsection by reference to satisfaction of contribution conditions; and
  - (b) of arriving at the weekly rate—
    - (i) of earnings-related supplement of unemployment benefit, sickness benefit or a maternity allowance, or
    - (ii) of earning-related addition to a widow's allowance.
- (6) No earnings factor shall be derived from primary Class 1 contributions paid at the reduced rate, or from secondary Class 1 contributions; and for the purposes of earnings-related supplement of, or addition to, any benefit there shall be disregarded any Class 2 or Class 3 contributions, and any Class 1 contributions not actually paid.
- (7) Regulations may provide for crediting contributions of any class for the purpose of bringing a person's earnings factor for any year to a figure which will enable him to satisfy contribution conditions of entitlement to any prescribed description of benefit (whether his own entitlement or another person's), but not so as to entitle him or any other person to earnings-related supplement of, or addition to, any benefit.
- (8) Earnings factors derived from a person's contributions in respect of any year shall be expressed as whole numbers of pounds and be made ascertainable from tables to be drawn up by the Secretary of State and embodied in regulations; and tables of earnings factors shall be drawn up so that in general—
- (a) any amount of Class 1 contributions in respect of a year gives rise to an earnings factor for that year equal or approximating to the minimum actual earnings sufficient to yield contributions of that amount; and
  - (b) any number of Class 2 or Class 3 contributions in respect of a year gives rise to an earnings factor for that year equal or approximating to that year's lower earnings limit for Class 1 contributions multiplied by the number of contributions ;
- and separate earnings factors shall be derived from contributions of different classes paid or credited in the same year, and from contributions which have been actually paid, as opposed to those not paid but credited.
- (9) In relation to the benefits specified in subsection (4) above, the relevant contribution conditions are those specified in Part I of Schedule 3 to this Act; and in that Schedule and in subsection (11) below—

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- (a) " the contributor concerned ", for the purpose of any contribution condition, means the person by whom the condition is to be satisfied ;
  - (b) "a relevant class", in relation to any benefit, means a class of contributions specified in relation to that benefit in subsection (4) above; and
  - (c) " the earnings factor ", in relation to a person's contributions of any class or classes, means the aggregate of his earnings factors derived from all those contributions.
- (10) In this Part of this Act, " benefit year " means a period beginning with the first Sunday in January in any calendar year and ending with the Saturday immediately preceding the first Sunday in January in the following calendar year:
- Provided that for any prescribed purposes of this Chapter " benefit year " may by regulations be made to mean such other period (whether or not a period of 12 months) as may be specified in the regulations.
- (11) Part II of Schedule 3 to this Act shall have effect as to the satisfaction of contribution conditions for benefit in certain cases where a claim for short-term benefit is, or has on a previous occasion been, made in the first or second year after that in which the contributor concerned first became liable for primary Class 1 or Class 2 contributions.

*Unemployment benefit, sickness benefit and invalidity benefit*

**10 Unemployment benefit and sickness benefit.**

- (1) Subject to the provisions of this section, a person who satisfies any of the three conditions of subsection (2) below shall be entitled—
- (a) to unemployment benefit in respect of any day of unemployment which forms part of a period of interruption of employment; and
  - (b) to sickness benefit in respect of any day of incapacity for work which forms part of such a period.
- (2) The conditions of this subsection are that—
- (a) the person is under pensionable age on the day in question and satisfies the contribution conditions specified for unemployment or, as the case may be, sickness benefit in Part I of Schedule 3 to this Act; or
  - (b) the person would on that day have been entitled to a Category A retirement pension if he had retired from regular employment on attaining pensionable age; or
  - (c) the person is a woman and—
    - (i) she would on that day have been entitled to a Category B retirement pension and the husband by virtue of whose contributions she would have been so entitled is dead, but
    - (ii) she has made an election for the purposes of section 26(2) of this Act (return to work after retirement) and has not revoked her election.
- (3) A person shall not be entitled either to unemployment benefit or to sickness benefit for the first 3 days of any period of interruption of employment.
- (4) In the case of a person entitled under subsection (2)(a) above, unemployment or sickness benefit shall be payable—

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- (a) at the higher rate specified in relation thereto in Part I of Schedule 4 to this Act—
    - (i) in the case of a married woman, during any period falling within subsection (5) below, and
    - (ii) in the case of a person other than a married woman; and
  - (b) at the lower rate so specified in the case of a married woman during any period not falling within that subsection.
- (5) The periods during which unemployment or sickness benefit is payable to a married woman at the higher rate are—
- (a) any period during which she is entitled to an increase of benefit in respect of her husband under section 34(2) of this Act (dependant husband incapable of self-support) ; and
  - (b) any period during which she is residing with her husband and he is entitled to an invalidity pension, to a Category A, Category C or Category D retirement pension or to any unemployability supplement or allowance; and
  - (c) any period during which she is not residing with her husband nor is he contributing to her maintenance at a weekly rate not less than the difference between the higher rate and the lower rate of the benefit.
- (6) The reference in subsection (5)(b) above to unemployability supplement or allowance shall be construed in accordance with Schedule 5 to this Act.
- (7) In the case of a person entitled under subsection (2)(b) or (c) above (being over pensionable age), unemployment benefit or sickness benefit shall be payable at the weekly rate at which, apart from any increase to be disregarded for the purposes of this subsection, the retirement pension referred to in the applicable paragraph of subsection (2) would have been payable; and the increases to be so disregarded are—
- (a) any increase (for days of increment between pensionable age and retirement) under section 24(4) or (5) or 25(10) of this Act;
  - (b) any increase (for dependants) under section 31 or 35; and
  - (c) where the claim is for unemployment benefit, any increase (for invalidity) under section 24(7);

and, in determining for the purposes of this subsection the rate at which a retirement pension would have been payable, section 26(1) of this Act (earnings rule) shall be taken not to apply.

- (8) Where a person is entitled to unemployment or sickness benefit, he shall also be entitled to earnings-related supplement of the benefit, at a weekly rate ascertained in accordance with Part I of Schedule 6 to this Act, for any day of unemployment or incapacity for work, being a day—
- (a) on which he is under pensionable age ; and
  - (b) which forms part of a period of interruption of employment and is not earlier than the 13th day of that period;

but where he has been entitled to the supplement in respect of an aggregate of 156 days in the same period of interruption of employment (including for this purpose, in the case of a woman, any days in that period in respect of which she has been entitled to earnings-related supplement of a maternity allowance), he shall not be entitled thereto in respect of any further day in that period.

This subsection shall be subject to Part II of Schedule 6 to this Act.

- (9) The amount payable by way of benefit under this section for any day of unemployment or of incapacity for work shall be  $\frac{1}{6}$ th of the appropriate weekly rate.

## **11 Invalidity benefit.**

- (1) Subject to the following provisions of this section, where in respect of any period of interruption of employment a person has been entitled to sickness benefit for 168 days (including, in the case of a woman, any day for which she was entitled to a maternity allowance), then—
- (a) he shall cease to be entitled to that benefit for any subsequent day of incapacity for work falling within that period; and
  - (b) he shall be entitled to an invalidity pension for any day of incapacity for work in that period for which, by virtue only of paragraph (a) above, he is not entitled to sickness benefit if on that day either—
    - (i) he is under pensionable age, or
    - (ii) being over that age and not having retired from regular employment, he satisfies either of the conditions of subsection (2) below;and any day in the first 3 days of a period of interruption of employment which was a day of incapacity for work shall be treated for the purposes of this subsection as a day on which he was so entitled.
- (2) The conditions of this subsection are that—
- (a) the person would on that day have been entitled to a Category A retirement pension if he had retired from regular employment on attaining pensionable age; or
  - (b) the person is a woman and—
    - (i) she would on that day have been entitled to a Category B retirement pension and the husband by virtue of whose contributions she would have been so entitled is dead, but
    - (ii) she has made an election for the purposes of section 26(2) of this Act (return to work after retirement) and has not revoked her election.
- (3) Subject to subsection (4) below, an invalidity pension shall be payable at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act.
- (4) In the case of a person entitled to an invalidity pension under subsection (2) (a) or (b) above (being over pensionable age), the pension shall be payable at the weekly rate at which, apart from any increase to be disregarded for the purposes of this subsection, the retirement pension referred to in the applicable paragraph of subsection (2) would have been payable; and the increases to be so disregarded are—
- (a) any increase (for days of increment between pensionable age and retirement) under section 24(4) or (5) or 25(10) of this Act; and
  - (b) any increase (for dependants) under section 31 or 35.
- (5) If a person is more than 5 years below pensionable age on the qualifying date in any period of interruption of employment then, in respect of every day of that period in respect of which he is entitled to an invalidity pension, he shall also be entitled to an invalidity allowance at the appropriate weekly rate specified in relation thereto in Part I of Schedule 4 to this Act; and "the qualifying date" means the first day in that period (whether before the coming into force of this section or later) which is a day of incapacity for work or such earlier day as may be prescribed.

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- (6) An invalidity allowance shall be payable—
- (a) at the higher rate specified in relation thereto in Part I of Schedule 4 to this Act, if on the qualifying date the beneficiary was under the age of 35, or if that date fell before 5th July 1948 ;
  - (b) at the middle rate so specified if paragraph (a) above does not apply and on the qualifying date the beneficiary was under the age of 45 ;
  - (c) at the lower rate so specified if paragraphs (a) and (b) above do not apply, and on the qualifying date the beneficiary was a man under the age of 60 or a woman under the age of 55.
- (7) The amount payable by way of benefit under this section for any day of incapacity for work shall be 1 /6th of the appropriate weekly rate.

## **12 Determination of days for which benefit is payable.**

- (1) For the purposes of any provision of this Act relating to unemployment benefit, sickness benefit or invalidity benefit—
- (a) subject to the provisions of this Act, a day shall not be treated in relation to any person—
    - (i) as a day of unemployment unless on that day he is capable of work and he is, or is deemed in accordance with regulations to be, available to be employed in employed earner's employment; or
    - (ii) as a day of incapacity for work unless on that day he is, or is deemed in accordance with regulations to be, incapable of work by reason of some specific disease or bodily or mental disablement;
  - (b) where a person is an employed earner and his employment as such has not been terminated, then in any week a day on which in the normal course that person would not work in that employment or in any other employed earner's employment shall not be treated as a day of unemployment unless each other day in that week (other than the day referred to in paragraph (e) below) on which in the normal course he would so work is a day of interruption of employment;
  - (c) the expression "day of interruption of employment" means a day which is a day of unemployment or of incapacity for work;
  - (d) any two days of interruption of employment, whether consecutive or not, within a period of 6 consecutive days shall be treated as a period of interruption of employment and any two such periods not separated by a period of more than 13 weeks (" week " for this purpose meaning any period of 7 days) shall be treated as one period of interruption of employment;
  - (e) Sunday or such other day in each week as may be prescribed shall not be treated as a day of unemployment or of incapacity for work and shall be disregarded in computing any period of consecutive days.
- (2) Regulations may—
- (a) make provision (subject to subsection (1) above) as to the days which are or are not to be treated for the purposes of unemployment benefit, sickness benefit, invalidity benefit and a maternity allowance as days of unemployment or of incapacity for work;
  - (b) prescribe respective circumstances in which, for the purposes of subsection (1) (b) above—



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- (i) employment which has not been terminated may be treated as if it had been terminated; or
  - (ii) a day which falls in a period when an employed earner's employment is suspended but does not fall to be so treated and which, apart from the regulations, would not fall to be treated as a day of interruption of employment may be treated as such a day.
- (3) The foregoing provisions of this section shall, for the purposes of earnings-related supplement under section 10(8) of this Act and, on and after such day as the Secretary of State may by order appoint, for all other purposes of this Chapter, have effect—
  - (a) with the substitution for paragraph (b) of subsection (1) of the following paragraph—
    - “(b) where a person is an employed earner and his employment as such has not been terminated but has been suspended by the employer, a day shall not be treated in relation to that person as a day of unemployment unless it is the 7th or a later day in a continuous period of days on which that suspension has lasted, there being disregarded for the purposes of determining the first 6 days of the period (but for no other purpose)—
      - (i) Sunday or such other day in each week as may have been prescribed under paragraph (e) of this subsection,
      - (ii) any day of recognised or customary holiday in connection with the suspended employment,
      - (iii) such other day or days as may be prescribed ;”and
  - (b) with the substitution for paragraph (b) of subsection (2) of the following paragraph—
    - “(b) prescribe respective circumstances in which for the purposes of subsection (1)(b) above an employed earner's employment may be treated—
      - (i) as having been or, as the case may be, as not having been terminated, or
      - (ii) as having been or, as the case may be, as not having been suspended.”.

### **13 Exhaustion of, and requalification for, unemployment benefit.**

- (1) A person who, in respect of any period of interruption of employment, has been entitled to unemployment benefit for 312 days shall not thereafter be entitled to that benefit for any day of unemployment (whether in the same or a subsequent period of interruption of employment) unless before that day he has requalified for benefit.
- (2) Where a person has exhausted his right to unemployment benefit, he shall requalify for it when—
  - (a) he has again been in employment as an employed earner and has been so employed in 13 weeks since the last day for which he was entitled to that benefit; and
  - (b) in each of those weeks he has worked in such employment for 21 hours or more.

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- (3) Where a person requalifies for unemployment benefit, subsection (1) above shall again apply to him but, in a case where the period of interruption of employment in which he exhausted his right to that benefit continues after his requalification, as if the part before and the part after his requalification were distinct periods of interruption of employment.

#### **14 Disqualifications and special conditions.**

- (1) A person who has lost employment as an employed earner by reason of a stoppage of work which was due to a trade dispute at his place of employment shall be disqualified for receiving unemployment benefit so long as the stoppage continues, except in a case where, during the stoppage, he has become bona fide employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation; but this subsection shall not apply in the case of a person who proves—
- (a) that he is not participating in or financing or directly interested in the trade dispute which caused the stoppage of work; and
  - (b) that he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at his place of employment any of whom are participating in or financing or directly interested in the dispute.
- (2) A person shall be disqualified for receiving unemployment benefit for such period not exceeding 6 weeks as may be determined in accordance with Part IV of the former principal Act if—
- (a) he has lost his employment as an employed earner through his misconduct, or has voluntarily left such employment without just cause;
  - (b) after a situation in any suitable employment has been properly notified to him as vacant or about to become vacant, he has without good cause refused or failed to apply for that situation or refused to accept that situation when offered to him ;
  - (c) he has neglected to avail himself of a reasonable opportunity of suitable employment;
  - (d) he has without good cause refused or failed to carry out any official recommendations given to him with a view to assisting him to find suitable employment, being recommendations which were reasonable having regard to his circumstances and to the means of obtaining that employment usually adopted in the district in which he resides ; or
  - (e) he has without good cause refused or failed to avail himself of a reasonable opportunity of receiving training approved by the Secretary of State in his case for the purpose of becoming or keeping fit for entry into, or return to, regular employment.
- (3) Regulations may provide for disqualifying a person for receiving sickness benefit or invalidity benefit for such period not exceeding 6 weeks as may be determined in accordance with Part IV of the former principal Act if—
- (a) he has become incapable of work through his own misconduct; or
  - (b) he fails without good cause to attend for, or to submit himself to, such medical or other examination or treatment as may be required in accordance with the regulations, or to observe any prescribed rules of behaviour.

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- (4) Regulations may also provide for imposing, in the case of any prescribed category of persons, additional conditions with respect to the receipt of unemployment benefit, sickness benefit or invalidity benefit, and restrictions on the rate and duration thereof, if, having regard to special circumstances, it appears to the Secretary of State necessary to do so for the purpose of preventing inequalities, or injustice to the general body of employed earners, or of earners generally, as the case may be.
- (5) For the purposes of this section, employment shall not be deemed to be employment suitable in the case of any person if it is either—
- (a) employment in a situation vacant in consequence of a stoppage of work due to a trade dispute; or
  - (b) employment in his usual occupation in the district where he was last ordinarily employed at a rate of remuneration lower, or on conditions less favourable, than those which he might reasonably have expected to obtain having regard to those which he habitually obtained in his usual occupation in that district, or would have obtained had he continued to be so employed; or
  - (c) employment in his usual occupation in any other district at a rate of remuneration lower, or on conditions less favourable, than those generally observed in that district (by agreement between associations of employers and of employees or, failing any such agreement, than those generally recognised in that district by good employers;

but, after the lapse of such an interval from the date on which he becomes unemployed as in the circumstances of the case is reasonable, employment shall not be deemed to be unsuitable by reason only that it is employment of a kind other than employment in his usual occupation if it is employment at a rate of remuneration not lower, and on conditions not less favourable, than those generally observed by agreement between associations of employers and of employees or, failing any such agreement, than those generally recognised by good employers.

- (6) In this section—
- (a) " place of employment " in relation to any person, means the factory, workshop, farm or other premises or place at which he was employed, so however that, where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments shall for the purposes of this paragraph be deemed to be a separate factory or workshop or farm or separate premises or a separate place, as the case may be ;
  - (b) " trade dispute " means any dispute between employers and employees, or between employees and employees, which is connected with the employment or non-employment or the terms of employment or the conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises, or not;
  - (c) " properly notified ", in subsection (2)(b), means notified by an employment exchange, the Employment Service Agency, a local education authority or some other recognised agency, or by or on behalf of an employer;
  - (d) " official recommendations ", in subsection (2)(d), means recommendations in writing made by an officer of an employment exchange, the Employment Service Agency or a local education authority ;
  - (e) " employment exchange " has the same meaning as in the Employment and Training Act 1948; and

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- (f) " week " means any period of 7 days.

*Attendance allowance*

**15 Attendance allowance.**

- (1) A person shall be entitled to an attendance allowance if he satisfies prescribed conditions as to residence or presence in Great Britain and either—
- (a) he is so severely disabled physically or mentally that, by day, he requires from another person either—
    - (i) frequent attention throughout the day in connection with his bodily functions, or
    - (ii) continual supervision throughout the day in order to avoid substantial danger to himself or others; or
  - (b) he is so severely disabled physically or mentally that, at night, he requires from another person either—
    - (i) prolonged or repeated attention during the night in connection with his bodily functions, or
    - (ii) continual supervision throughout the night in order to avoid substantial danger to himself or others.
- (2) Subject to the following provisions of this section, the period for which attendance allowance is payable to any person shall be that specified in a certificate issued in respect of him by the Attendance Allowance Board as being—
- (a) a period throughout which he has satisfied or is likely to satisfy the condition mentioned in subsection (1)(a) above or that mentioned in (1)(b), or both ; and
  - (b) a period immediately preceded by one of not less than 6 months throughout which he satisfied or is likely to satisfy one or both of those conditions;
- and the weekly rate of the attendance allowance payable to a person for any period shall be the higher rate specified in relation thereto in Part I of Schedule 4 to this Act if the certificate states both as regards that period and as regards the preceding 6 months that he has satisfied or is likely to satisfy both those conditions, and shall be the lower rate so specified if the certificate does not so state.
- (3) An attendance allowance shall not be payable to a person for any period preceding the date on which he makes a claim for it; but, except in so far as regulations otherwise provide—
- (a) a claim for an attendance allowance may be made during the period of 6 months mentioned in subsection (2) (b) above, and an award may be made in pursuance of the claim subject to the condition that throughout that period the person to whom the claim relates satisfies the conditions there mentioned or, if the award is at the lower rate, one of those conditions; and (W an award so made may be reviewed if at any time it is found that during the period of the award or the interval between the making of the award and the beginning of that period the conditions so mentioned were at some time not both satisfied or, in the case of an award at the lower rate, were at some time not either of them satisfied.
- (4) Regulations may provide that subsections (1) to (3) above, and any other provision of this Act so far as the provision relates to any of those subsections, shall have effect, in relation to any severely disabled person who is under the age of 16, subject to

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such modifications as may be prescribed; but nothing in this subsection authorises any increase in the rate of an attendance allowance.

- (5) Regulations may provide that an attendance allowance shall not be payable in respect of a person for any period when he is a person for whom accommodation is provided—
- (a) in pursuance of Part III of the National Assistance Act 1948, section 12 of the Health Services and Public Health Act 1968 or Part IV of the Social Work (Scotland) Act 1968 ; or
  - (b) in circumstances in which the cost is, or may be, borne wholly or partly out of public or local funds, in pursuance of any other enactment relating to persons under disability or to young persons or to education or training.
- (6) The Attendance Allowance Board constituted under section 5 of the National Insurance Act 1970 shall continue in being by that name and have (in addition to the functions conferred on them by any provision of this Act other than this section)—
- (a) the functions of advising the Secretary of State on such matters as he may refer to them relating to—
    - (i) the operation of the provisions of this Part of this Act in relation to attendance allowance (including questions as to the advisability of amending those provisions),
    - (ii) the exercise, in relation to attendance allowance, of his powers under those provisions ; and
  - (b) such other functions, if any, as the Secretary of State may determine.
- (7) Schedule 7 to this Act shall have effect with respect to the Attendance Allowance Board and their affairs ; and—
- (a) Part I of the Schedule relates to the Board's membership and the method by which their functions are to be performed;
  - (b) Part II relates to the Board's personnel, administration and expenses; and
  - (c) Part III relates to the Board's determination of questions arising in connection with claims and to reviews of determinations and appeals therefrom;
- but regulations may make further provision as to the constitution and procedure of the Board.

### *Maternity benefit*

## **16 Maternity grant.**

- (1) A woman shall be entitled to a maternity grant of the amount specified in relation thereto in Part II of Schedule 4 to this Act if she has been confined and either—
- (a) she or her husband satisfies the contribution conditions for a maternity grant specified in Part I of Schedule 3 to this Act; or
  - (b) she satisfies either—
    - (i) the contribution conditions for a maternity allowance specified in that Part of Schedule 3, or
    - (ii) any contribution conditions which she is required to satisfy in order to become entitled to maternity allowance at a reduced rate by virtue of regulations under section 37 of this Act (partial satisfaction of contribution conditions).

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- (2) In subsection (1)(a) above, the reference to a woman's husband includes a widow's late husband in a case where she has been confined of a posthumous son or daughter of his.
- (3) Except where regulations otherwise provide, a woman shall not be entitled to a maternity grant in respect of a confinement if on the date of the confinement she was outside Great Britain.
- (4) Regulations may provide that a woman confined of twins or a greater number of children shall, if the other conditions for the payment of a maternity grant are satisfied in respect of the confinement, be entitled to a maternity grant for each of them.
- (5) Regulations may provide that the provisions of this section shall apply to a woman, in a case where her claim indicates that she so desires, with the substitution for the condition that she has been confined of the condition that she is pregnant and has reached a stage in her pregnancy which is not more than the prescribed number of weeks before that in which it is to be expected that she will be confined, and may modify the contribution conditions for a maternity grant in their application to such a case.
- (6) Subject to subsection (4) above, a woman shall not be entitled to more than one maternity grant in respect of any one confinement.

## 17 **Maternity allowance.**

- (1) A woman shall be entitled to a maternity allowance at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act if—
  - (a) she is pregnant and has reached a stage in her pregnancy which is not more than the prescribed number of weeks before that in which it is to be expected that she will be confined (in this section referred to as " the expected week of confinement "); and
  - (b) she satisfies the contribution conditions for a maternity allowance specified in Part I of Schedule 3 to this Act.
- (2) Subject to the following provisions of this section, the period for which a maternity allowance is payable shall be the period of 18 weeks beginning with the 11th week before the expected week of confinement; and this shall be the maternity allowance period for the purposes of this section and the relevant contribution conditions.
- (3) A day for which a woman is entitled to a maternity allowance shall be deemed for the purposes of this Part of this Act to be for her a day of incapacity for work.
- (4) Where a woman is entitled to a maternity allowance, she shall also be entitled to earnings-related supplement of the allowance, at a weekly rate ascertained in accordance with Part I of Schedule 6 to this Act, in respect of every day of the maternity allowance period which forms part of a period of interruption of employment and is not earlier than the 13th day of the latter period; but where she has been entitled to the supplement in respect of an aggregate of 156 days in the same period of interruption of employment (including for this purpose any days in that period in respect of which she has been entitled to earnings-related supplement of unemployment or sickness benefit) she shall not be entitled thereto in respect of any further day in that period.

This subsection shall be subject to Part II of Schedule 6 to this Act.

- (5) A woman who has become entitled to a maternity allowance shall cease to be entitled to it if she dies before the beginning of the maternity allowance period; and if she

- dies after the beginning, but before the end, of that period the allowance shall not be payable for any week subsequent to that in which she dies.
- (6) Regulations may provide that a woman who has become entitled to a maternity allowance shall cease to be entitled to it if her pregnancy is terminated otherwise than by confinement.
- (7) Regulations may make provision, as respects cases where the date of the confinement occurs after the end of the expected week of confinement, for extending the maternity allowance period until the end of such week (not being later than the 6th week after that in which the date of the confinement occurs) as may be prescribed.
- (8) Regulations may modify subsections (1)(a) and (b), (2) and (5) above in relation to cases where a woman has been confined and either—
- (a) she has not made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed); or
  - (b) she has made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed), but the date of the confinement was more than 11 weeks before the expected week of confinement.
- (9) Regulations may provide for disqualifying a woman for receiving a maternity allowance if—
- (a) during the maternity allowance period, she does any work in employment as an employed or self-employed earner, or fails without good cause to observe any prescribed rules of behaviour; or
  - (b) at any time before her confinement occurs she fails without good cause to attend for, or submit herself to, any medical examination required in accordance with the regulations.
- (10) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of a maternity allowance—
- (a) Sunday or such other day in each week as may be prescribed shall be disregarded; and
  - (b) the amount payable by way of that allowance for any other day shall be taken as 1/6th of the weekly rate of the allowance.

## **18 Supplementary provisions as to maternity benefit.**

- (1) In this Part of this Act-
- (a) " confinement " means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead, and " confined " shall be construed accordingly ; and
  - (b) references to the date of the confinement shall be taken as referring, where labour begun on one day results in the issue of a child on another day, to the date of the issue of the child, or if the woman is confined of twins or a greater number of children, to the date of the issue of the last of them.
- (2) The fact that the mother of an illegitimate child is entitled to maternity benefit shall not be taken into consideration—
- (a) by any justices in England and Wales in deciding whether or not they shall make an order under the Affiliation Proceedings Act 1957 for the payment of the expenses incidental to the birth of the child ; or

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- (b) by any court in Scotland in awarding inlying expenses in connection with the birth of the child.

### *Widow's benefit*

## **19 Widow's allowance.**

- (1) A woman who has been widowed shall be entitled to a widow's allowance at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act if—
  - (a) she was under pensionable age at the time when her late husband died, or he was then not entitled to a Category A retirement pension; and
  - (b) her late husband satisfied the contribution condition for a widow's allowance specified in Part I of Schedule 3 to this Act.

- (2) The period for which a widow's allowance is payable to a widow shall be the 26 weeks next following the husband's death:

Provided that the allowance shall not be payable for any period after the widow's death or remarriage or for any period during which she is cohabiting with a man as his wife.

- (3) A woman entitled to a widow's allowance shall be entitled to earnings-related addition to the allowance, at a weekly rate ascertained in accordance with Part I of Schedule 6 to this Act, in respect of each week of the period for which the allowance is payable.

This subsection shall be subject to Part II of Schedule 6 to this Act.

## **20 Widowed mother's allowance.**

- (1) A woman who has been widowed shall be entitled to a widowed mother's allowance at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act if her late husband satisfied the contribution conditions for a widowed mother's allowance specified in Part I of Schedule 3 to this Act and either—

- (a) the woman has a family which satisfies the condition specified in subsection (2) below ; or
- (b) subject to such exceptions and conditions as may be prescribed, she has residing with her a person who—
  - (i) is under the age of 19 and is or has been a child falling within any of the paragraphs of that subsection, or
  - (ii) is under that age and would have been such a child but for the fact that, at the time when the woman's late husband died, the person had attained school-leaving age or was not in Great Britain; or
- (c) the widow is pregnant by her late husband.

- (2) The condition referred to in subsection (1)(a) above is that the woman's family includes a child with respect to whom one of the conditions specified in section 33(1) of this Act (conditions of payment of increase for child dependants) is for the time being satisfied and who either—

- (a) at her late husband's death was, or could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as, a child of his family; or
- (b) is a son or daughter of theirs; or
- (c) subject to such exceptions and conditions as may be prescribed, having at the death of a previous husband of the widow by a marriage which ended with



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that husband's death been a child of that husband's family, was at the death of her late husband a child of the woman's family.

- (3) The period for which a widowed mother's allowance is payable to a woman shall be any period during which she satisfies the requirements of subsection (1)(a), (b) or (c) above and for which she is not entitled to a widow's allowance:

Provided that the allowance shall not be payable for any period after the widow's remarriage or for any period during which she is cohabiting with a man as his wife.

## **21 Widow's pension.**

- (1) A woman who has been widowed shall be entitled to a widow's pension at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act if her late husband satisfied the contribution conditions for a widow's pension specified in Part I of Schedule 3 to this Act and either—

- (a) she was, at the husband's death, over the age of 40 but under the age of 65 ; or
- (b) she ceased to be entitled to a widowed mother's allowance at a time when she was over the age of 40 but under the age of 65.

- (2) The weekly rate of a widow's pension payable to a woman who was under the age of 50 at the time when her late husband died or, as the case may be, when she ceased to be entitled to a widowed mother's allowance shall be reduced by an amount equal to 7 per cent, of its amount apart from this subsection multiplied by the number of years by which her age at that time was less than 50 (any fraction of a year being counted as a year).

- (3) The period for which a widow's pension is payable to a woman shall be any period during which she is under the age of 65 and for which she is not entitled to a widow's allowance or a widowed mother's allowance :

Provided that the pension shall not be payable for any period after the widow's remarriage or for any period during which she is cohabiting with a man as his wife.

### *Guardian's allowance*

## **22 Guardian's allowance.**

- (1) Subject to the provisions of this Act (and in particular to those of section 33 imposing limitations on payment of benefit in respect of children), a person shall be entitled to a guardian's allowance at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act in respect of a child of his family, where the circumstances are any of those specified in subsection (2) below.

- (2) The circumstances referred to in subsection (1) are—

- (a) that both of the child's parents are dead ; or
- (b) that one of the child's parents is dead and the person claiming a guardian's allowance shows that he was at the date of the death unaware of, and has failed after all reasonable efforts to discover, the whereabouts of the other parent; or
- (c) that one of the child's parents is dead and the other is in prison.

- (3) There shall be no entitlement to a guardian's allowance in respect of a child unless at least one of the child's parents satisfies, or immediately before his death satisfied,

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such conditions as may be prescribed as to nationality, residence, place of birth or other matters.

(4) Regulations—

- (a) may modify subsection (2) or (3) above in relation to cases in which a child has been adopted or is illegitimate, or the marriage of a child's parents has been terminated by divorce;
  - (b) shall prescribe the circumstances in which a person is to be treated for the purposes of this section as being in prison (by reference to his undergoing a sentence of imprisonment for life or of a prescribed minimum duration, or to his being in legal custody in prescribed circumstances); and
  - (c) may, for cases where entitlement to a guardian's allowance is established by reference to a person being in prison, provide—
    - (i) for requiring him to pay to the National Insurance Fund sums paid by way of a guardian's allowance;
    - (ii) for suspending payment of an allowance where a conviction, sentence or order of a court is subject to appeal, and for matters arising from the decision of an appeal;
    - (iii) for the cases in which a child is to be treated as a child of the claimant's family ; and
    - (iv) for reducing the rate of an allowance in cases where the person in prison contributes to the cost of providing for the child.
- (5) In the case of a child who is a child of the family of a man and his wife, the wife only shall be entitled to a guardian's allowance; but subsections (2) to (6) of section 4 of the Family Allowances Act (which specify the persons who are to receive an allowance under that Act payable in respect of such a child) shall apply in relation to a guardian's allowance as they apply in relation to an allowance under that Act.
- (6) No person shall be entitled to a guardian's allowance in respect of a child of which he or she is the parent.

*Retirement pensions and age addition*

**23 Matters affecting entitlement to pension.**

- (1) In this Act " pensionable age " means—
  - (a) in the case of a man, the age of 65 ; and
  - (b) in the case of a woman, the age of 60.
- (2) For the purposes of this Act a person's working life is the period between (inclusive) the year in which he attained the age of 16 and (exclusive) the year in which he attained pensionable age or died under that age.
- (3) For those purposes, a person may (subject to the following subsection) be treated as having retired from regular employment at any time after he has attained pensionable age—
  - (a) whether or not he has previously been an earner;
  - (b) notwithstanding that he is, or intends to be, an earner, if—
    - (i) he is or intends to be so only occasionally or to an inconsiderable extent, or otherwise in circumstances not inconsistent with retirement,
    - or

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- (ii) his earnings can be expected not to exceed, or only occasionally to exceed, the amount any excess over which would, under section 26(1) below (earnings rule), involve a reduction of the weekly rate of his pension ;

and a person so treated under this subsection shall not cease to be so treated except in pursuance of an election under section 26(2) of this Act (return to work after retirement).

- (4) Subject to the following subsection, a person shall not be treated as having retired from regular employment unless he has complied with the prescribed requirements as to the giving of notice of the date of his retirement; and where the date of retirement specified in the notice falls before the date when the notice is given, the person shall not be treated as having so retired earlier than on the date of commencement of the prescribed period before the giving of the notice.
- (5) For the purposes of this Act a person who has not previously retired from regular employment shall be deemed so to retire on the expiration of 5 years from his attaining pensionable age; and references in this Part of this Act to the date of a person's retirement shall be construed in accordance with this section.
- (6) No person shall be entitled for the same period to more than one retirement pension; but where under the following sections in this Chapter a person would otherwise be entitled to more than one such pension, he shall be entitled (whichever pension he may apply for) to whichever one is from time to time the most favourable to him.

## **24 Category A retirement pension.**

- (1) a person shall be entitled to a Category A retirement pension at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act if—
  - (a) he is over pensionable age and has retired from regular employment; and
  - (b) he satisfies the contribution conditions for a Category A retirement pension specified in Part I of Schedule 3 to this Act;and the pension shall commence from the date of retirement and (subject to section 26(1) of this Act (earnings rule)) be payable for the pensioner's life.
- (2) A woman who on attaining pensionable age is married shall not be entitled to a Category A retirement pension unless either—
  - (a) her marriage (to the man to whom she is married on attaining that age) took place on or after the date on which she attained the age of 55 ; or
  - (b) the number of years of her working life (disregarding the year in which that marriage took place and any previous year) for which her earnings factor was sufficient for satisfaction by her of paragraph (b) of the second contribution condition for a Category A retirement pension specified in Part I of Schedule 3 to this Act was at least—
    - (i) one half of the number of complete years between (exclusive) the year in which that marriage took place and (exclusive) the year in which she attained pensionable age, or
    - (ii) if that number of years is an odd number, one half of the next lowest even number.
- (3) Where a woman is a widow at the time when she attains pensionable age and does not with her own contributions satisfy the second contribution condition for a Category A retirement pension specified in Part I of Schedule 3 to this Act, then the contributions

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of her husband (which, if she has been more than once married, means her last husband) may, to the extent provided by Schedule 8 to this Act, be treated as if they were contributions of her own.

(4) The weekly rate of a Category A retirement pension shall be increased by 1/8th per cent, of its rate apart from this subsection for every 6 days (excluding Sundays) which—

- (a) fall in the period beginning with the day on which the pensioner attained pensionable age and ending with the day before that of his retirement; and
- (b) are treated by regulations as being, in relation to him and his pension, days of increment under this subsection,

but only if the number of such days is at least 48; and a day may be so treated by reference to the pensioner or some other person having received, or not having received, benefit of any prescribed description (whether or not under this Act) in respect of that day or a period in which it falls or by reference to any other circumstances whatsoever.

(5) In the case of a woman entitled to a Category A retirement pension, the rate of the pension (with or without any increase under subsection (4) above) shall, if—

- (a) she has had a husband and he has died, and she was married to him when he died; and
- (b) the husband either—
  - (i) was entitled to a Category A retirement pension with increases under subsection (4) above, or
  - (ii) would have been so entitled if he had retired on the date of his death,

be increased by 1/16th per cent, of the rate of the pension to which he was (or would have been) entitled for every 6 days which were (or would have been) in relation to him and that pension days of increment under subsection (4), but only if the number of such days is at least 48.

(6) Where under subsection (4) or (5) above an increase is calculated as a percentage applied to a rate, there shall in arriving at that rate be disregarded any increase otherwise than under subsection (7) below.

(7) The weekly rate of a Category A retirement pension shall be increased under this subsection if the pensioner was entitled to an invalidity allowance in respect of—

- (a) any day falling within the period of 13 weeks ending immediately before the day on which he attains pensionable age, or
- (b) the last day before the beginning of that period ;

and the increase shall be of an amount equal to the weekly rate of the invalidity allowance (whether the higher, the middle or the lower rate) to which he was entitled on that day.

(8) In ascertaining—

- (a) for the purposes of subsection (5) above, the rate of the pension of a woman's former husband; and
- (b) for the purposes of subsection (7) above, the rate of a pensioner's invalidity allowance,

regard is to be had to the rates in force from time to time as increased by orders under section 39 of this Act (annual up-rating review) or by any Act passed after this Act.

**25 Category B retirement pension (for a woman, based on her husband's contributions).**

- (1) A woman who is or has been married, and has attained pensionable age, shall be entitled to a Category B retirement pension by virtue of the contributions of her husband ; and the cases in which a woman is to be so entitled are those specified in subsections (2) to (5) below.
- (2) The first case of entitlement is where the woman is married to that husband at the time when she attains pensionable age and—
  - (a) he also has attained pensionable age, and both of them have retired from regular employment; and
  - (b) he satisfies the relevant contribution conditions.
- (3) The second case of entitlement is where the woman marries after attaining pensionable age and—
  - (a) her husband has also attained pensionable age and both of them have retired from regular employment; and
  - (b) he satisfies the relevant contribution conditions.
- (4) The third case of entitlement is where the woman's husband is dead and his death was after she attained pensionable age, and—
  - (a) she was married to him when he died ; and
  - (b) before his death he satisfied the relevant contribution conditions.
- (5) The fourth case of entitlement is where the woman's husband is dead and his death was before she attained pensionable age, and—
  - (a) she has retired from regular employment; and
  - (b) she was a widow immediately before attaining pensionable age and is entitled (or is treated by regulations as entitled) to a widow's pension; and
  - (c) she became entitled to the pension in consequence of the husband's death.
- (6) The relevant contribution conditions for the purposes of the first, second and third cases of entitlement are those specified in paragraph 5 of Part I of Schedule 3 to this Act (Category B retirement pension or widow's pension, as the case may be).
- (7) A woman's Category B retirement pension—
  - (a) in the first and second cases of entitlement shall—
    - (i) during any period in which the husband is alive, be at the lower rate specified in relation thereto in Part I of Schedule 4 to this Act, and
    - (ii) during any period after he is dead, be at the higher rate so specified ; and
  - (b) in the third case of entitlement, shall be at the higher rate so specified ; and
  - (c) in the fourth case of entitlement, shall be at the same weekly rate as her widow's pension.
- (8) Where a woman would but for section 23(6) of this Act be entitled both to a Category A and also to a Category B retirement pension, and section 24(7) of this Act would apply for the increase of the former pension, it shall be taken as applying also for the increase of the latter.

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- (9) Subject to the provisions of this Act, a woman's Category B retirement pension shall commence from the date on which she becomes entitled under whichever of subsections (2) to (5) above is applicable in her case, and shall be payable for her life.
- (10) Where a woman is entitled to a Category B retirement pension by virtue of the contributions of her husband, the weekly rate of the pension shall be increased—
- (a) during any period in which he is alive (and she remains his wife) by 1/16th per cent, of his pension for every 6 days (excluding Sundays) which—
    - (i) fall in the period beginning with the day on which he attained pensionable age and ending with the day before that of his retirement and not in a period before she married him or attained pensionable age; and
    - (ii) in relation to him and his pension, were days of increment under section 24(4),
 but only if the number of such days is at least 48 ; and
  - (b) during any period after he is dead, if she was married to him when he died, by that amount plus an additional 1/16th per cent, of the husband's pension for every 6 days which were in relation to him and his pension days of increment under section 24(4), but only if the number of such days is at least 48.
- (11) References in subsection (10) above to the husband's pension are to that pension without any increase otherwise than under section 24(7) of this Act; and in ascertaining the rate of his pension for the purposes of subsection (10) regard is to be had to the rates in force from time to time as increased by orders under section 39 of this Act (annual up-rating review), or by any Act passed after this Act.
- (12) Where a woman has made an election in accordance with regulations under section 26(2) of this Act (return to work after retirement) and has not revoked her election, there shall be taken into account, as days of increment in relation to her for the purposes of any increase of her pension under subsection (10)(b) above, any days after the date of her election and after the date of the death of her husband by virtue of whose contributions she is entitled to the pension, being days which would, if she were entitled to a Category A retirement pension, be days of increment under section 24(4) of this Act in relation to her and that pension.

## **26 Supplementary provisions as to Category A and B retirement pensions.**

- (1) Where the earnings of a person entitled to a Category A or Category B retirement pension, being a person who is less than 5 years over pensionable age, have exceeded £9.50 for the week ending last before any week for which he is entitled to the pension, the weekly rate of pension for the last-mentioned week shall be reduced—
- (a) where the excess is less than £4, by 5 pence for each complete 10 pence of the excess ; and
  - (b) where the excess is not less than £4, by 5 pence for each complete 10 pence of the excess up to £4 and by 5 pence for each complete 5 pence of any further excess:

Provided that this subsection shall not affect the rate of the pension for the first week after the date of the beneficiary's retirement.

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In this subsection " week", where used in the expression " week for which he is entitled to the pension " and in the proviso, means such period of 7 days as may be prescribed by regulations relating to the payment of pensions.

(2) Regulations may provide that in the case of a person of any prescribed description who—

- (a) has retired from regular employment or has otherwise become entitled to a retirement pension (whether Category A or Category B) but is, in the case of a woman, under the age of 65 or, in the case of a man, under the age of 70 ; and
- (b) elects in such manner and in accordance with such conditions as may be prescribed that the regulations shall apply in his case,

this Part of this Act shall have effect as if that person had not retired or become entitled to such a retirement pension ; and any such regulations may make such modifications of this Part, as it applies in a case where a person makes an election under the regulations, as may appear to the Secretary of State necessary or expedient.

(3) Where a husband and wife have both become entitled to retirement pensions and—

- (a) the husband's pension is Category A ; and
- (b) the wife's pension is Category B by virtue of that husband's contributions,

the husband shall not be entitled to make an election in accordance with regulations made under subsection (2) above without the consent of the wife, unless that consent is unreasonably withheld.

(4) Where a person has given notice for the purposes of regulations under section 23(4) of this Act and the date of retirement specified in the notice falls after the date when the notice was given, a Category A or Category B retirement pension may be awarded as from the date of retirement so specified, but if so awarded shall be conditional on the person's having retired on or before that date.

## **27 Category C and D retirement pensions for old people, and related benefits.**

(1) Subject to the provisions of this Act—

- (a) a person who was over pensionable age on 5th July 1948 and satisfies such conditions as may be prescribed shall be entitled to a Category C retirement pension at the appropriate weekly rate ;
- (b) a woman whose husband is entitled to a Category C retirement pension -shall, if she is over pensionable age and has retired from regular employment and satisfies such other conditions as may be prescribed, be entitled to such a pension at the appropriate weekly rate; and
- (c) a person who is over the age of 80 and satisfies such conditions as may be prescribed shall be entitled to a Category D retirement pension at the appropriate weekly rate if—
  - (i) he is not entitled to a Category A, Category B or Category C retirement pension ; or
  - (ii) he is entitled to such a pension but it is payable at a weekly rate which, disregarding any increase (for dependants) under section 31 or 35 of this Act, is less than the appropriate weekly rate.

(2) The appropriate weekly rate of a Category C or Category D retirement pension—

- (a) shall be the lower rate specified in relation thereto in Part I of Schedule 4 to this Act where—

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- (i) the pensioner is a married woman, and
  - (ii) she has not, at any time since she became entitled to her pension, ceased to be a married woman; and
  - (b) shall be the higher rate so specified in any other case.
- (3) A Category C or Category D retirement pension shall be payable for the pensioner's life.
- (4) Regulations may provide for the payment—
- (a) to a widow whose husband was over pensionable age on 5th July 1948 ; or
  - (b) to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death,
- of a Category C retirement pension, or of benefit corresponding to a widow's pension or a widowed mother's allowance; and any such pension or benefit shall be at the prescribed rate.

## **28 Age addition.**

- (1) A person who is over the age of 80 and entitled to a retirement pension of any category shall be entitled to an increase of the pension, known as age addition.
- (2) Where a person is in receipt of a pension or allowance payable by the Secretary of State by virtue of any prescribed enactment or instrument (whether passed or made before or after this Act) and—
- (a) he is over the age of 80 ; and
  - (b) he fulfils such other conditions as may be prescribed,
- he shall be entitled to an increase of that pension or allowance, also known as age addition.
- (3) Age addition shall be payable for the life of the person entitled, at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act.

### *Child's special allowance*

## **29 Child's special allowance.**

Subject to the provisions of this Act (and in particular to those of section 33 imposing limitations on payment of benefit in respect of children), a woman whose marriage has been terminated by divorce shall be entitled to a child's special allowance at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act if—

- (a) -the husband of that marriage is dead and satisfied the contribution condition for a child's special allowance specified in Part I of Schedule 3 to this Act; and
- (b) she has a family which includes a child and at that husband's death the child—
  - (i) was either a child of her family or, where the child is issue of theirs within the meaning of the Family Allowances Act, a child of that husband's family, or
  - (ii) would have been within sub-paragraph (i) above but for the fact that the child was not then in Great Britain; and
- (c) either—
  - (i) that husband had before his death been contributing at not less than the prescribed weekly rate to the cost of providing for that child, or



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- (ii) at the date of that husband's death she was entitled, under an order of a court, trust or agreement which she has taken reasonable steps to enforce, to receive (whether from that husband or from another person) payments in respect of that child at not less than the weekly rate provided or procured by that husband:

Provided that the allowance shall not be payable for any period after the woman's remarriage or for any period during which she is cohabiting with a man as his wife.

#### *Death grant*

### **30 Death grant.**

- (1) Subject to the provisions of this Act, a death grant of the amount specified in relation thereto in Part II of Schedule 4 to this Act shall be payable in respect of the death of any person (in this section and in that Part of the Schedule referred to as " the deceased ") where the case is one falling within any of the paragraphs of Schedule 9 to this Act; and in that Schedule and subsection (2) below references to a person being, or having been, a qualifying contributor are to his satisfying or having satisfied the contribution condition specified for death grant in Part I of Schedule 3 to this Act.
- (2) Regulations may provide that, in a case where the deceased—
  - (a) was a child either at his death or at any time during the year in which he died or the preceding year; or
  - (b) was at his death over the age of 16 and under the age of 19 and was then incapacitated for regular employment (within the meaning given to that expression by paragraph 5 of Schedule 9 to this Act),but (in either case) a death grant is not payable by virtue of subsection (1) above, it shall nevertheless be payable if a person having such connection with the deceased as may be prescribed is or was at any time a qualifying contributor.
- (3) A death grant shall not be payable in respect of the death of a person who attained pensionable age before 5th July 1948 nor, except in prescribed cases, in respect of a death occurring outside Great Britain.

#### *Child dependants*

### **31 Increase of benefit for child dependants.**

- (1) Subject to section 26(1) of this Act and to the following provisions of this Chapter, the weekly rate of any benefit to which this subsection applies shall, for any period for which the beneficiary has a family which includes a child or children, be increased in respect of that child, or each respectively of those children, by the appropriate amount specified in relation to the benefit in question in column (2), (3) or (4) of Part III of Schedule 4 to this Act.
- (2) Subsection (1) above applies to—
  - (a) unemployment benefit;
  - (b) sickness benefit;
  - (c) invalidity pension;
  - (d) maternity allowance;

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- (e) widow's allowance ; and
  - (f) Category A, B or C retirement pension.
- (3) In the application of subsection (1) of this section to a maternity allowance, references therein to a child or children shall include references to any child or children born to the beneficiary on the occasion of the confinement by reason of whose actual or expected occurrence she became entitled to the allowance.
- (4) Subject to section 33 of this Act, the weekly rate of a widowed mother's allowance payable by virtue of section 20(1)(a) of this Act shall be increased for any period in respect of the child or, if more than one, each respectively of the children falling within paragraph (a), (b) or (c) of section 20(2) for the time being included in her family by the appropriate amount specified in relation to that allowance in column (2), (3) or (4) of Part III of Schedule 4 to this Act.
- (5) Subject to section 33 of this Act, the weekly rate of a child's special allowance shall, for any period for which the beneficiary has a family which includes 2 or more children with respect to whom the conditions specified in section 29(b) and (c) of this Act are satisfied, be increased in respect of each respectively of those children other than the elder or eldest by the appropriate amount specified in relation to that allowance in column (3) or (4) of Part III of that Schedule.
- (6) Where the beneficiary by whom an increase of benefit under this section is claimed is a married woman residing with her husband, it shall be an additional condition with respect to receipt of that increase that her husband is incapable of self-support.

### **32 Additional provisions as to increase under s. 31.**

- (1) The provisions of this section shall have effect with respect to increases under section 31 of this Act of benefits other than a child's special allowance.
- (2) Subject to section 33 of this Act, a child of the family of any woman for the time being residing with the beneficiary shall be treated for the purposes of section 31 as a child of the beneficiary's family if the child—
- (a) is an illegitimate son or daughter of theirs ; or
  - (b) was born not less than 6 months before the day for which the increase provided for by that section is claimed and was wholly or mainly maintained by the beneficiary throughout the 6 months ending immediately before that day.
- (3) Subject to section 33, where a man is entitled to unemployment benefit, sickness benefit, an invalidity pension, or a Category A or C retirement pension, there shall be treated for the purposes of section 31 as included in the beneficiary's family any child to whom this subsection applies; and this subsection applies to—
- (a) a child who, on the day for which the increase provided by section 31 is claimed, could (though not otherwise included in the beneficiary's family) have been treated as so included by virtue of paragraph 3 of the Schedule to the Family Allowances Act; and
  - (b) a child who could have been so treated but for the fact that the beneficiary is contributing at the appropriate rate to the cost of providing for the child;
- and, for the purposes of paragraph (b) above, the appropriate rate is a weekly rate which, though not less than the prescribed rate, is less than the minimum rate for the time being required for the purposes of section 3(2) of the Family Allowances Act.
- (4) In the case of retirement pensions (except Category D)—

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- (a) where a man and his wife are both entitled to a retirement pension (being a Category A or C pension in his case and a Category B or C pension in hers)—
  - (i) they shall not both be entitled for the same period to an increase under section 31(1) in respect of the same child, nor shall they both be entitled for the same period, in respect of different children, to such an increase at the rate applicable to an only, elder or eldest child, nor both to such an increase at the rate applicable to a second child;
  - (ii) where one of them is entitled to such an increase at either of the rates above mentioned in respect of a child not included or treated as included in the other's family, the rates of any such increases to which the other is entitled shall be the rates which would have been appropriate if that child had been the elder or eldest or, as the case may be, the second child of the other's family;
- (b) for any reference in subsection (2) above to the day for which the increase provided for by section 31(1) is claimed there shall be substituted a reference to the date of retirement or, where the beneficiary is a woman who became entitled to the pension without having retired, the date when she so became entitled;

and where, but for paragraph (a) above, a man and his wife would both be entitled to an increase of a retirement pension under section 31(1), regulations may make provision as to their priority.

### **33 Limitations on payment of benefit in respect of child dependants.**

- (1) Where, apart from this subsection, a person is entitled to receive, in respect of a particular child who is, or who falls to be treated for the purposes of the relevant provision as a child of that person's family, payment of an amount by way of a guardian's allowance under section 22, or a child's special allowance under section 29, or of an increase under any of the provisions of section 31 of any benefit, that amount shall not be payable unless one of the following conditions is satisfied—
  - (a) that the child in question is living with the beneficiary; or
  - (b) that the requisite contributions are being made to the cost of providing for the child.
- (2) In relation to the payment of such an amount as is specified in subsection (1) above, the condition specified in paragraph (b) of that subsection shall be treated as satisfied if, and only if—
  - (a) such contributions are being made at a weekly rate not less than that amount—
    - (i) by the beneficiary, or
    - (ii) where the beneficiary is one of two spouses living together, by them together ; and
  - (b) where an allowance under the Family Allowances Act is payable in respect of the child as a child of the beneficiary's family, the contributions are over and above those required for the purposes of satisfying section 3(2) of that Act or (as the case may be) the proviso to paragraph 1(1) of the Schedule to that Act.
- (3) For the purposes of subsection (1) above, a child's special allowance shall be treated as a payment in respect of an only, or the elder or eldest, child with respect to whom the conditions specified in section 29(b) and (c) of this Act are satisfied, without prejudice, however, to any payment by way of an increase of the allowance in respect of any other such child under section 31(5) of this Act.

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- (4) Where a person is entitled in respect of a child to a guardian's allowance under section 22 of this Act, the amount (if any) payable to that or any other person by way of any other benefit under this Act in respect of children of any family shall be such, and such only, as would be payable if the first-mentioned child were not included or treated as included in any family.

*Adult dependants*

**34 Increase of certain short-term benefits in respect of adult dependants.**

- (1) Subject to the provisions of this section, the weekly rate of unemployment benefit or sickness benefit shall be increased by the amount specified in relation to the benefit in question in column (5) of Part III of Schedule 4 to this Act for any period during which—
- (a) the beneficiary is—
    - (i) residing with his wife; or
    - (ii) contributing to the maintenance of his wife at a weekly rate of not less than that amount; and
  - (b) his wife is not engaged in any one or more employments from which her weekly earnings exceed that amount.
- (2) Subject to the following subsections, the weekly rate—
- (a) of unemployment benefit or sickness benefit in the case of a beneficiary not entitled to an increase in respect of his wife under subsection (1) above; and
  - (b) of a maternity allowance in any case,
- shall be increased by the amount specified in relation to the benefit in question in column (5) of Part III of Schedule 4 to this Act for any of the periods mentioned in subsection (3) below.
- (3) Those periods are—
- (a) any period during which the beneficiary's husband is incapable of self-support and either they are residing together or she is contributing to his maintenance at a weekly rate of not less than the amount so specified;
  - (b) any period during which the beneficiary has residing with him, and is wholly or mainly maintaining, such other relative as may be prescribed, being a relative in relation to whom such further conditions as may be prescribed are fulfilled ;
  - (c) any period during which some female person (not being a child) has the care of a child or children of the beneficiary's family, or of a child or children treated as such for the purposes of section 31 of this Act, being a person in relation to whom such further conditions as may be prescribed are fulfilled.
- (4) A beneficiary shall not under subsection (2) above be entitled for the same period to an increase of benefit in respect of more than one person.
- (5) Where a person is entitled to unemployment benefit or sickness benefit under section 10(2) (b) or (c) of this Act—
- (a) he shall not be entitled to an increase under subsection (2) above in respect of any such period as is mentioned in paragraph (a) or (b) of subsection (3); and
  - (b) if he would have been entitled only by virtue of section 37 of this Act (partial satisfaction of contribution conditions) to the retirement pension by reference

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to which the weekly rate of the unemployment benefit or sickness benefit is determined, the amount of any increase under this section of that weekly rate shall be that which would have been applicable by virtue of that section in the case of such an increase of the weekly rate of that pension.

- (6) In this section, "relative" does not include any person who is a child, but includes a person who is a relative by marriage or adoption and a person who would be a relative if some person born illegitimate had been born legitimate.

### **35 Increase of long-term benefit in respect of adult dependants.**

- (1) Subject to the provisions of this section, the weekly rate of a Category A or Category C retirement pension, or of an invalidity pension, when payable to a man, shall be increased by the amount respectively specified in relation to the relevant pension in column (5) of Part III of Schedule 4 to this Act—
- (a) for any period during which the pensioner is residing with his wife ; or
  - (b) for any period during which the pensioner is contributing to the maintenance of his wife at a weekly rate of not less than that amount, and his wife is not engaged in any one or more employments from which her weekly earnings exceed that amount.
- (2) Where the pensioner is residing with his wife, and the earnings of his wife for the week ending last before any week for which he is entitled to benefit under this section exceeded £9.50, the weekly rate of benefit under this section shall for the last-mentioned week be reduced—
- (a) where the excess is less than £2, by 5 pence for each complete 10 pence of the excess, and
  - (b) where the excess is not less than £2, by 5 pence for each complete 10 pence of the excess up to £2 and by 5 pence for each complete 5 pence of any further excess.

In this subsection " week", where used in the expression " week for which he is entitled to benefit", means such period of 7 days as may be prescribed by regulations made for the purposes of this subsection.

- (3) Subject to the following provisions of this section, the weekly rate—
- (a) of a Category A retirement pension ; or
  - (b) of a Category C retirement pension by virtue of section 27(1) (a) of this Act; or
  - (c) of an invalidity pension,
- shall be increased by the amount specified in column (5) of Part III of Schedule 4 to this Act for any period during which some female person (not being a child) has the care of a child or children of the pensioner's family, or of a child or children treated as such for the purposes of section 31 of this Act.
- (4) Subsection (3) above shall not apply if the pensioner is a man whose wife is entitled to a Category B retirement pension, or to a Category C retirement pension by virtue of section 27(1)(b) of this Act.
- (5) Regulations may, in a case within subsection (3) above in which the female person there referred to is residing with the pensioner and fulfils such further conditions as may be prescribed, authorise an increase of benefit under this section, but subject to a reduction in respect of the female person's earnings, other than such of her earnings

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from employment by the pensioner as may be prescribed, comparable to the reduction under subsection (2) above.

- (6) Subject to subsection (7) below, the weekly rate of an invalidity pension shall be increased by the amount specified in column (5) of Part III of Schedule 4 to this Act—
- (a) for any period during which the pensioner's husband is incapable of self-support and either they are residing together or she is contributing to his maintenance at a weekly rate of not less than the amount so specified ; or
  - (b) for any period during which the pensioner has residing with him and is wholly or mainly maintaining such other relative as may be prescribed, being a relative in relation to whom such further conditions as may be prescribed are fulfilled.

In this subsection " relative" has the meaning given to it by section 34(6) above.

- (7) Where a person is entitled to an invalidity pension at a weekly rate determined under section 11(4) of this Act—
- (a) subsection (6) above shall not apply ; and
  - (b) if the pensioner would have been entitled only by virtue of section 37 of this Act to the retirement pension by reference to which the weekly rate of the invalidity pension is determined, the amount of any increase under this section of that weekly rate shall be that which would have been applicable by virtue of that section in the case of such an increase of the weekly rate of that pension.
- (8) A pensioner shall not under this section be entitled for the same period to an increase of benefit in respect of more than one person.
- (9) So far as this section relates to the amount of the increase of a retirement pension, it shall have effect subject to section 26(1) of this Act; and any reduction to be made under that subsection shall be made, so far as necessary—
- (a) first against the amount of the benefit set out in Part I of Schedule 4 to this Act plus any increase under section 24(4) or (5) or 25(10);
  - (b) secondly against the increase under this section (and before any reduction to be made under subsection (2) above); and
  - (c) lastly, against any increase under section 31 of this Act.

### *Supplementary*

#### **36 Review of provision for chronically sick and disabled persons.**

The Secretary of State shall review social security provision for chronically sick and disabled persons, and shall lay a report on his review before Parliament by 31st October 1974.

#### **37 Partial satisfaction of contribution conditions.**

- (1) This section applies to—
- (a) unemployment benefit;
  - (b) sickness benefit;
  - (c) maternity allowance;
  - (d) widowed mother's allowance ;
  - (e) widow's pension;

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- (f) Category A retirement pension ; and
  - (g) Category B retirement pension.
- (2) Subject to the provisions of this section, regulations may provide for persons to be entitled to a benefit to which this section applies, in cases where the first contribution condition specified in relation to that benefit in Part I of Schedule 3 to this Act is satisfied, and the second contribution condition so specified is not.
- (3) Regulations under this section shall provide for benefit payable by virtue of any such regulations to be payable at a rate, or to be of an amount, less than that specified in Schedule 4 to this Act, and the rate or amount prescribed by the regulations may vary with the extent to which the relevant contribution conditions are satisfied; but the amount of any increase of benefit in respect of a child shall be the same as if both of the relevant contribution conditions had been fully satisfied.

### **38 Ancillary provisions about benefit.**

The provisions of Schedule 10 to this Act (being provisions which substantially replace certain provisions of Parts I and IV of the former principal Act and the enactments amending that Act relating to benefit under that Act and, in certain cases, also to benefit under the Industrial Injuries Acts and payments under the Family Allowances Act) shall have effect with respect to the manner of claiming benefit, payment of benefit, disqualifications, overlapping benefits, set-off of overpayments, alienation of benefit, administration of benefit and other matters ancillary to this Chapter and, to the extent provided by the Schedule, ancillary also to those Acts.

#### *Annual review of benefits*

### **39 Annual review of benefits for purpose of up-rating.**

- (1) As from the beginning of the first year after that in which this section first comes into force, and thereafter as from the beginning of each subsequent year, the Secretary of State shall review the rates of social security benefits then in force; and the review shall be completed in such period as will enable him (if he so determines) to prepare and lay before Parliament, not later than 30th June in the year in which the review is begun, an order under this section increasing rates of benefit.
- (2) In this section, " social security benefits "—
- (a) in relation to a review carried out at any time before the other provisions of this Chapter come into force, means benefits under the former principal Act, the Industrial Injuries Act and the Old Cases Act; and
  - (b) otherwise, means benefits under this Part of this Act and the two last-mentioned Acts.
- (3) In the course of a review of social security benefits under this section, the Secretary of State shall consider—
- (a) the extent to which current rates appear to him to have retained their value in relation to the general level of prices obtaining in Great Britain from time to time since the beginning of the year in which this section first came into force or, as the case may be, the end of the period to which he had regard for the purposes of the last previous review under this section ; and

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- (b) apart from the considerations of paragraph (a) above, whether any of the rates ought to be increased having regard to—
- (i) the general level of prices and earnings obtaining in Great Britain at the time of the review,
  - (ii) the national economic situation as a whole and the general standard of living, and
  - (iii) such other matters as the Secretary of State thinks relevant to his review of benefits;
- and for the above purposes the Secretary of State shall estimate general levels of prices and earnings in such manner as he considers appropriate having regard to the objects of the review.
- (4) If on his review the Secretary of State concludes that current rates have not retained their value as mentioned in subsection (3)(a) above, he shall prepare and lay before each House of Parliament, not later than the date referred to in subsection (1) above, the draft of an order for the purposes of subsection. (5) below, framed so as to increase the rates there mentioned at least to such extent as appears to him necessary to restore their value in accordance with his conclusions on the review, and to such further extent (if any) as he thinks justified by reference to the considerations of subsection (3)(b).
- (5) Where the Secretary of State is required by subsection (4) above to lay before Parliament the draft of an order under this section, it shall be an order—
- (a) amending—
    - (i) Part I of Schedule 4 to this Act by increasing all the figures specified in the second column of that Part of the Schedule, and
    - (ii) Part III of that Schedule by increasing all the figures specified in columns (2), (3), (4) and (5) of that Part; and
  - (b) amending Schedule 3 to the Industrial Injuries Act by increasing all the following figures specified in that Schedule—
    - (i) the figures specified in the second column of paragraphs 1 (injury benefit) and 2 (maximum disablement gratuity),
    - (ii) the figures specified in columns (2) and (3) of the Table setting out the rates of disablement pension for the purposes of paragraph 3,
    - (iii) the figures specified in the second column of paragraphs 4 (unemployability supplement), 4A (increase of unemployability supplement in cases of early onset of incapacity for work), 7 (increase of benefit in respect of children, where no entitlement to unemployability supplement), 7A (the same, where there is entitlement to the supplement), 8 (increase of rate of injury benefit or disablement pension in respect of adult dependant), 9 (widow's pension), 11 (allowance in respect of children of deceased person's family) and 12 (maximum aggregate rate of benefit for successive accidents).
- (6) In an order made for the purposes of subsection (5) above, the increase—
- (a) of the figures for injury benefit under the Industrial Injuries Act (Schedule 3 to the Act, paragraph 1(a) and (b)) shall be at least as much as that of the figure for the higher rate of sickness benefit under this Chapter (Schedule 4, Part I, paragraph 1(a));



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- (b) of the figure for the initial rate of a widow's pension under that Act (Schedule 3 to the Act, paragraph 9(a)) shall be at least as much as that of the figure for a widow's allowance under this Chapter (Schedule 4, Part I, paragraph 6); and
  - (c) of the figure for the higher permanent rate of a widow's pension under that Act (Schedule 3 to the Act, paragraph 9(b)) shall be at least as much as that of the figure for a widow's pension under this Chapter (Schedule 4, Part I, paragraph 8).
- (7) Notwithstanding subsection (4) above, if it appears to the Secretary of State, in the case of any rate which is otherwise required to be increased by such an order, that by reference to the considerations of subsection (3)(a) above the increase would be only of an inconsiderable amount, the order need not increase that rate; and the order need not in the case of any rate increase it by reference to those considerations so as to result in the figure for the rate including a fraction of a penny.
- (8) An order under this section may, if the Secretary of State thinks it expedient in consequence of any provision made by the order for the purposes of subsection (5) above, and having regard to any other matters which he considers to be material to rates of social security benefits, include provision amending this Chapter, or the Industrial Injuries Act or the Old Cases Act, by altering any one or more of the figures specified in Schedule 11 to this Act (being rates of benefit or figures affecting the amount payable to a beneficiary); but no amendment shall be made under this subsection so as to reduce any rate, or the amount so payable.
- (9) In this section " rate " includes amount; and in subsections (5) to (8) above, and in Schedule 11 to this Act, " figure " means only a money sum.
- (10) If, following the completion of his review of social security benefits, the Secretary of State determines that he is not required by subsection (4) above to lay a draft of an order under this section, he shall (subject to subsection (11) below) lay before each House of Parliament a report containing an explanation of his reasons for arriving at that determination.
- (11) Where the Secretary of State so determines he may nevertheless lay before each House of Parliament a draft of an order under this section (but not later than the date referred to in subsection (1) above) if his conclusions on the review are such that, having regard to the considerations of subsection (3)(b) above, an order should in his opinion be made increasing rates of benefit; and if he lays a draft of an order in pursuance of this subsection, no report shall be required to be laid for the purposes of subsection (10) above.
- (12) Where the Secretary of State lays before Parliament a draft of an order under this section, he shall lay with it a copy of a report by the Government Actuary on die effect which, in the Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund; and where the Secretary of State determines that he is not required by subsection (4) above to lay a draft order, and also determines not to lay a draft order in pursuance of subsection (11), he shall lay before each House of Parliament, with his report under subsection (10), a copy of a report by the Government Actuary on the consequences for the Fund which may, in the Actuary's opinion, follow from those determinations.
- (13) Where the Secretary of State has laid before Parliament a draft of an order under this section, then if the draft is approved by a resolution of each House the Secretary of State shall make an order in the form of the draft.

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- (14) An order under this section made in consequence of a review of social security benefits by the Secretary of State—
- (a) shall be made so as to come into force not earlier than 16th November following the date of Parliamentary approval (being the date on which the draft of the order is approved by the second House to approve it) or later than 30th November following that date;
  - (b) may provide for any amendment made by it of this Part of this Act, the Industrial Injuries Act or the Old Cases Act which results in any increase of benefit to apply to benefit payable at any time after the amendment comes into force regardless—
    - (i) of when any period began in which, or in respect of which, benefit is payable, and
    - (ii) of any extent to which entitlement to, or the rate of, any particular benefit depends or may depend on events occurring in the past;
  - (c) may provide for different amendments to operate from different dates;
  - (d) shall include provision for increasing any amount by which a retirement pension payable under the former principal Act has been increased, or fell to be increased, under section 31(1) or 34(1) of that Act, any such increase provided for by the order being as nearly as may be proportional to the increase of the rate of a Category A retirement pension which results from the order; and
  - (e) may include such transitional and other supplementary and incidental provisions as the Secretary of State thinks necessary or expedient, including—
    - (i) adaptations of provisions of the order and of the Acts amended by it, and
    - (ii) the variation or revocation and replacement of the whole or any part of any previous order under this section,
 so far as appearing to him to be required in consequence of the order or the partial or postponed operation of any of its provisions.

### CHAPTER III:

#### SUPPLEMENTARY PROVISIONS

##### *Modifications for special categories of earners*

#### **40 Crown servants, armed forces, etc.**

- (1) This Act shall apply to persons employed by or under the Crown (subject to any special provision made by or under this section) in like manner as if such persons were employed earners in the employment of a private person.
- (2) Subject to the following provisions of this section, any person who is serving as a member of Her Majesty's forces shall, while he is so serving, be treated for the purposes of this Act as an employed earner in respect of his membership of those forces.

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- (3) The Secretary of State may make regulations modifying this Part of this Act, in such manner as he thinks proper, in its application to persons who are or have been members of Her Majesty's forces; and regulations under this section may in particular provide—
- (a) in the case of persons who are employed earners in respect of their membership of Her Majesty's forces, for reducing the rate of the contributions payable in respect of their employment and for determining—
    - (i) the amounts payable on account of those contributions by the Secretary of State and the time and manner of payment, and
    - (ii) the deductions (if any) to be made on account of those contributions from the pay of those persons;
  - (b) for preventing a person who is discharged from Her Majesty's forces at his own request from being thereby disqualified for receiving unemployment benefit on the ground that he has voluntarily left his employment without just cause.
- (4) For the purposes of this Act, Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed, being establishments and organisations in which persons serve under the control of the Defence Council.

#### **41 Mariners and airmen.**

- (1) The Secretary of State may make regulations modifying this Part of this Act, in such manner as he thinks proper, in its application to persons who are or have been employed on board any ship, vessel, hovercraft or aircraft; and such regulations may in particular provide—
- (a) for this Part to apply to such persons notwithstanding that it would not otherwise apply;
  - (b) for excepting such persons from the application of this Part where they neither are domiciled nor have a place of residence in any part of Great Britain ;
  - (c) for requiring the payment of secondary Class 1 contributions in respect of such persons, whether or not they are (within the meaning of this Part) employed earners ;
  - (d) for the taking of evidence, for the purposes of any claim to benefit, in a country or territory outside Great Britain, by a British consular official or such other person as may be prescribed;
  - (e) for enabling persons who are or have been so employed to authorise the payment of the whole or any part of any benefit to which they are or may become entitled to such of their dependants as may be prescribed.
- (2) Any secondary Class 1 contribution payable by an employer—
- (a) in respect of payments to a person employed on board a ship, vessel or hovercraft, where that person is by virtue of this section excepted from liability to pay a primary Class 1 contribution in respect of the payments; or
  - (b) by virtue of this section in respect of a person so employed who is not an employed earner for the purposes of this Act,
- shall be excluded from the contributions which under section 1(5) of this Act are to be taken into account for the purpose of arriving at the amount of any Treasury supplement and shall be administered and applied in such manner and for such purposes as may be prescribed.
- (3) In this section, " hovercraft" has the same meaning as in the Hovercraft Act 1968.

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## **42 Married women and widows.**

- (1) The Secretary of State may make regulations modifying this Part of this Act, in such manner as he thinks proper, in its application to women who are or have been married.
- (2) Regulations under this section shall provide for enabling a married woman or widow to elect that in any year—
  - (a) her liability in respect of primary Class 1 contributions shall be a liability to contribute at the reduced, instead of the standard, rate; or
  - (b) she shall be under no liability for Class 2 contributions, and to revoke any such election.
- (3) Regulations made for the purposes of subsection (2) above shall provide so that—
  - (a) a woman's election for those purposes is not to be made or revoked otherwise than in respect of a complete year (whether the year in which the election is made, or any subsequent year); and
  - (b) an election made or revoked for either one of the purposes mentioned in subsection (2) is to be deemed to be made or revoked for the other purpose also; and
  - (c) while an election has effect, the woman who made it is not entitled to pay any Class 3 contributions.
- (4) Regulations may, in relation to women who have been widowed, provide—
  - (a) for excepting them generally from liability for contributions or for excepting them from liability for contributions of any prescribed class ;
  - (b) for enabling women who are excepted under paragraph (a) above from liability for contributions of any class to elect to be liable for contributions of that class or not to be so liable, and for enabling them to revoke any such election ; and
  - (c) for enabling women who are so excepted in respect of primary Class 1 contributions to elect to contribute at the standard, or at the reduced, rate ;but any provision made by regulations under this subsection shall be subject to whatever provision is made by regulations for the purposes of subsection (3) above.

## **43 Persons outside Great Britain.**

- (1) The Secretary of State may make regulations modifying, in such manner as he thinks proper, the provisions of this Part of this Act in their application to persons who are or have been outside Great Britain at any prescribed time or in any prescribed circumstances.
- (2) The Secretary of State may by regulations make provision for modifying the provisions of this Part of this Act in their application to persons in any prescribed employment (whether under a contract of service or not) in connection with the exploitation of the resources mentioned in section 1(1) of the Continental Shelf Act 1964 or with the exploration of the sea bed and subsoil in any area designated under section 1(7) of that Act and in particular (but without prejudice to the generality of this subsection) for any prescribed provision of this Part of this Act to apply to such a person notwithstanding that he does not fall within the description of an employed or self-employed earner, or does not fulfil the conditions prescribed under section 1(10) of this Act as to residence or presence in Great Britain.

## *Finance*

### **44 The National Insurance Fund.**

- (1) The National Insurance Fund shall continue to be maintained under the control and management of the Secretary of State.
- (2) The Industrial Injuries Fund and the National Insurance (Reserve) Fund shall be wound up and on the appointed day all liabilities and assets which immediately before that day were liabilities or assets of either of those Funds shall be transferred to, and become liabilities and assets of, the National Insurance Fund.
- (3) Accounts of the National Insurance Fund shall be prepared in such form, and in such manner and at such times, as the Treasury may direct, and the Comptroller and Auditor-General shall examine and certify every such account and shall lay copies thereof, together with his report thereon, before Parliament.
- (4) Any money in the National Insurance Fund may from time to time be paid over to the National Debt Commissioners and be invested by them, in accordance with such directions as may be given by the Treasury, in any such manner as may be specified by an order of the Treasury for the time being in force under section 22(1) of the National Savings Bank Act 1971.
- (5) The National Debt Commissioners shall present to Parliament annually an account of the securities in which money in the National Insurance Fund is for the time being invested.
- (6) There shall be made out of the National Insurance Fund into the Consolidated Fund, or out of money provided by Parliament into the National Insurance Fund, such payments by way of adjustment as the Secretary of State determines in accordance with any directions of the Treasury to be appropriate in consequence of the operation of any enactment or regulations relating to the repayment or offsetting of benefit or other payments; and where in other circumstances payments fall to be made by way of adjustment—
  - (a) out of the National Insurance Fund either to the Secretary of State or another government department, or into the Reserve Pension Fund established under Part III of this Act, or into the Consolidated Fund; or
  - (b) into the National Insurance Fund out of the Reserve Pension Fund or out of money provided by Parliament,

then, in such cases or classes of case as may be specified by the Secretary of State by order made with the consent of the Treasury, the amount of the payments to be made shall be taken to be such, and payments on account thereof shall be made at such times and in such manner, as may be determined by the Secretary of State in accordance with any directions given by the Treasury.

### **45 Destination of contributions and Treasury supplements.**

- (1) Contributions received by the Secretary of State under Chapter I (including those paid over to him by the Inland Revenue under section 5(4) of this Act and Schedule 1, paragraph 5(3)), shall be paid by him into the National Insurance Fund after deducting—
  - (a) from contributions of any class, the appropriate national health service allocation in the case of contributions of that class ; and

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- (b) from secondary Class 1 contributions, the appropriate allocation to the Redundancy Fund.
- (2) The Treasury supplements shall be paid, in accordance with any directions given by the Treasury, into the National Insurance Fund.
- (3) In subsection (1) above, " the appropriate national health service allocation " means—
- (a) in the case of primary Class 1 contributions, 0.4 per cent, of the amount determined to be that of the earnings in respect of which those contributions were paid;
  - (b) in the case of secondary Class 1 contributions, 0.6 per cent, of the amount determined to be that of the earnings in respect of which those contributions were paid;
  - (c) in the case of Class 2 contributions, 8 per cent, of the amount determined to be the total of those contributions ;
  - (d) in the case of Class 3 contributions, 8 per cent, of the amount determined to be the total of those contributions ; and
  - (e) in the case of Class 4 contributions, 0-4 per cent, of the amount determined to be that of the earnings in respect of which those contributions were paid;
- and " the appropriate allocation to the Redundancy Fund ", in the case of secondary Class 1 contributions, means 0.2 per cent, of the amount determined to be that of the earnings in respect of which those contributions were paid; and in this subsection " determined" means determined by the Secretary of State in accordance with any directions given by the Treasury.
- (4) So much of any contributions as is to be deducted under subsection (1) above before payment of the remainder into the National Insurance Fund shall be dealt with as follows—
- (a) from the national health service allocation in respect of contributions of any class there shall be deducted such amount as the Secretary of State may estimate to be the portion of the total expenses incurred by him 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 Secretary of State, be taken as paid towards the cost—
    - (i) of the national health service in England ;
    - (ii) of that service in Wales, and
    - (iii) of that service in Scotland,
 in such shares as the Treasury may determine ;
  - (b) from the appropriate allocation to the Redundancy Fund there shall be deducted such amount as the Secretary of State may estimate to be the portion of the total expenses incurred by him or any other government department in collecting secondary Class 1 contributions which is fairly attributable to that allocation, and the remainder shall be paid by the Secretary of State into that Fund; and
  - (c) any amounts deducted in accordance with paragraphs (a) and (b) above shall be paid by the Secretary of State into the Consolidated Fund ;
- and any estimate by the Secretary of State for the purposes of those paragraphs shall be made in accordance with any directions given by the Treasury.

#### **46 General financial arrangements.**

- (1) All benefit—
  - (a) under Chapter II, except a Category C or Category D retirement pension, age addition (other than age addition to a Category A or Category B retirement pension), an attendance allowance, or any benefit payable under section 27(4); and
  - (b) under the Industrial Injuries Acts and the Old Cases Acts,shall be paid out of the National Insurance Fund.
- (2) Any administrative expenses of the Secretary of State or other government department in carrying this Act, the Industrial Injuries Acts or the Old Cases Acts into effect, and any of the benefits which by virtue of subsection (1)(a) above are not payable out of the National Insurance Fund, shall be paid out of money provided by Parliament, 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) above include those in connection with any enquiry undertaken on behalf of the Secretary of State with a view to obtaining statistics relating to the operation of this Act, the Industrial Injuries Acts or the Old Cases Acts.
- (4) There shall be paid out of the National Insurance Fund into the Consolidated Fund, at such times and in such manner as the Treasury may direct, such sums as the Secretary of State may estimate in accordance with any directions given by the Treasury to be the amount of the administrative expenses incurred as mentioned in subsection (2) above, excluding—
  - (a) expenses attributable to the carrying into effect of provisions of this Act relating to the benefits which by virtue of subsection (1)(a) above are not payable out of the National Insurance Fund ; and
  - (b) any other category of expenses which the Treasury may direct, or any enactment may require, to be excluded from the Secretary of State's estimate under this subsection.

#### **47 Reports by Government Actuary.**

- (1) As from the end of the period of 5 years from the appointed day, or such shorter period as the Treasury may direct, the Government Actuary shall review the operation during that period of this Part of this Act, the Industrial Injuries Acts, and the Old Cases Acts.
- (2) Thereafter as from the end of each period of 5 years, or such shorter period as the Treasury may direct in respect of any review, the Government Actuary shall review the operation (during the period since the end of the last period to be the subject of a review) of this Act and those Acts.
- (3) It shall be the object of a review by the Government Actuary under this section to determine the extent to which the level at which the National Insurance Fund stands from year to year may be expected in the longer term to bear a proper relation to demands in respect of payments of benefit; and for this purpose the Actuary shall take into account current rates of contributions, the yield to be expected from contributions in the longer term, and such other matters as he considers to be relevant as affecting the present and future level of the Fund.

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- (4) After completing his review, the Government Actuary shall report to the Secretary of State his opinion on the question referred to in subsection (3) above; and the Secretary of State shall lay a copy of the report before Parliament.

*National Insurance Advisory Committee*

**48 The Committee and its functions.**

- (1) The National Insurance Advisory Committee constituted under section 88 of the former principal Act shall continue in being by that name, to give advice and assistance to the Secretary of State in connection with the discharge of his functions under this Part of this Act and to perform such other duties as may be assigned to them by or under this Part; and—
- (a) the provisions of Part I of Schedule 12 to this Act (being provisions which replace with only minor and consequential amendments those of Schedule 8 to the former principal Act) shall have effect with respect to the constitution of the Committee and otherwise with respect to the Committee and its affairs;
  - (b) the Secretary of State—
    - (i) may from time to time refer to the Committee for consideration and advice such questions relating to the operation of this Part of this Act as he thinks fit (including questions as to the advisability of amending it), and
    - (ii) shall furnish to the Committee such information as they may reasonably require for the proper discharge of their functions under this Act.
- (2) Subject to the provisions of this section, where the Secretary of State proposes to make any regulations to which this subsection applies, he shall (unless it appears to him that by reason of the urgency of the matter it is inexpedient to do so) refer the proposals, in the form of draft regulations or otherwise, to the National Insurance Advisory Committee; and this subsection applies to all such regulations as are specified in Part II of Schedule 12 to this Act, with the exception of those specified in Part III of that Schedule.
- (3) The Committee shall consider any proposals referred to them under this section and make to the Secretary of State a report containing such recommendations with regard to the subject matter of the proposals as they think appropriate; and if after receiving the report of the Committee the Secretary of State lays before Parliament any regulations or draft regulations which comprise the whole or any part of the subject matter of the proposals referred to the Committee, he shall lay with the regulations or draft a copy of the Committee's report and a statement showing—
- (a) the extent (if any) to which the Secretary of State 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, his reasons why not.
- (4) In relation to any regulations required or authorised under this Act to be made by the Joint Authority (within the meaning of section 49 of this Act) or by the Secretary of State or Joint Authority in conjunction with the Treasury, any reference in the foregoing provisions of this section to the Secretary of State shall be construed as a reference to the authority or authorities making or proposing to make the regulations.



### *Northern Ireland*

#### **49 The basic scheme in Northern Ireland.**

- (1) This Part of this Act, except sections 7, 8, 36, 39, 40(2) to (4), 43(2), 47 and 48 and Schedules 11 and 12, extends to Northern Ireland, but with the adaptations set out in Schedule 13 to this Act; and other provisions of this Act applying for the interpretation of this Part also extend to Northern Ireland with those adaptations.
- (2) Whenever the Secretary of State makes an order under section 7, 8 or 39 of this Act, the Northern Ireland Ministry shall make a corresponding order for Northern Ireland, amending—
  - (a) this Part of this Act as it has effect in Northern Ireland ;
  - (b) the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 ; or
  - (c) the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1966,in the same way, and to the same effect, and from as nearly as may be the same date or dates, as this Part of this Act, the Industrial Injuries Act or the Old Cases Act (as the case may be) is amended by the order of the Secretary of State.
- (3) The Secretary of State with the consent of the Treasury and the Northern Ireland Minister with the consent of the Ministry of Finance may make arrangements (" the joint arrangements ") for co-ordinating the operation of this Part of this Act in Great Britain and its operation in Northern Ireland with a view to securing that, to the extent allowed for in the arrangements, the basic scheme as it operates in both territories does so as a single system.
- (4) The Joint Authority constituted under section 104 of the former principal Act (arrangements with Northern Ireland for unified system), consisting of the Secretary of State and the Northern Ireland Minister, shall continue in being for the purposes also of this Part of this Act and is referred to in this Act as " the Joint Authority " ; and Schedule 14 to this Act (reproducing Schedule 10 to the former principal Act) shall have effect with respect to the Authority.
- (5) The responsibility of the Joint Authority shall include that of giving effect to the joint arrangements, with power—
  - (a) to make any necessary financial adjustments between the National Insurance Fund and the Northern Ireland National Insurance Fund; and
  - (b) to discharge such other functions as may be provided under the joint arrangements.
- (6) The Secretary of State in relation to Great Britain and the Northern Ireland Ministry in relation to Northern Ireland may make regulations for giving effect to the joint arrangements; and any such regulations may for any purpose of the basic scheme provide—
  - (a) for adapting legislation (including subordinate legislation) for the time being in force in Great Britain or, as the case may be, in Northern Ireland so as to secure its reciprocal operation between the two territories ;
  - (b) without prejudice to paragraph (a) above, for securing that acts, omissions and events having any effect for the purposes of this Part of this Act in relation to Great Britain or, as the case may be, Northern Ireland, have a corresponding effect in relation to Northern Ireland or, as the case may be, Great Britain ;

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- (c) for the Joint Authority to be substituted for the Secretary of State and the Northern Ireland Ministry in relation to any power under this Part of this Act to make regulations (other than regulations under this paragraph) or orders.
- (7) Regulations made by the Joint Authority may apply section 40(2) to (4) of this Act to Northern Ireland, with or without modifications, and provide for determining—
- (a) the persons who, being employed earners in respect of their membership of Her Majesty's forces, are to be treated as belonging to Northern Ireland ; and
  - (b) the sums paid as contributions by and in respect of those persons.
- (8) Any sums determined by regulations under subsection (7)(b) above shall be treated as paid as basic scheme contributions under this Part of this Act as it applies to Northern Ireland, and not as it applies to Great Britain, for the purposes—
- (a) of arriving at the amount of any Treasury supplement or Northern Ireland Exchequer supplement; and
  - (b) of making any adjustment between the National Insurance Fund and the Northern Ireland National Insurance Fund.

*Foreign systems of social security*

**50 Reciprocal agreements with other countries.**

- (1) For the purpose of giving effect to any agreement with the Government of any country outside the United Kingdom providing for reciprocity in matters relating to payments in respect of interruption of employment by unemployment, sickness or otherwise, or payments in respect of the need of handicapped persons for attendance, the confinement of women, widowhood, orphanhood, retirement, old age or death, Her Majesty may by Order in Council make provision for modifying this Part of this Act, Part IV of this Act so far as relating to this Part, and Part IV of the former principal Act, in their application to cases affected by the agreement.
- (2) The modifications of this Part of this Act which may be made by virtue of subsection (1) above shall include provision—
- (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 shall have a corresponding effect for the purposes of this Act (but not so as to confer a right to double benefit);
  - (b) for determining, in cases where rights accrue both under this Act and under the law of that country, which of those rights shall be available to the person concerned ;
  - (c) for making any necessary financial adjustments.

## PART II

### OCCUPATIONAL PENSION SCHEMES

#### *Recognition*

#### **51 Recognised pensionable employment.**

- (1) Subject to the provisions of this Act, the employment of an earner in employed earner's employment shall be recognised pensionable employment in relation to him during any period in which he is of requisite age and—
  - (a) his service in the employment is for the time being service which qualifies him (on the assumption that it continues for the appropriate period) for the minimum benefits of an occupational pension scheme ; and
  - (b) the scheme is a recognised scheme in relation to that employment; and
  - (c) there is in force a certificate, issued by the Occupational Pensions Board and known as a " recognition certificate ", that the employment is recognised pensionable employment by reference to the scheme.
- (2) For the purposes of this section, an earner is of requisite age at any time after the end of the income tax year in which he attained the age of 21 and before the beginning of the income tax year in which he will attain pensionable age.
- (3) In this Act—
  - (a) " occupational pension scheme " means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category; and
  - (b) " public service pension scheme " means an occupational pension scheme established by or under an enactment or the Royal prerogative or a Royal charter, being a scheme—
    - (i) all the particulars of which are set out in, or in a legislative instrument made under, an enactment, Royal warrant or charter, or
    - (ii) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department,and includes any occupational pension scheme prescribed by regulations made by the Secretary of State and the Minister for the Civil Service jointly as being a scheme which ought in their opinion to be treated as a public service pension scheme for the purposes of this Part of this Act.
- (4) An occupational pension scheme can be a recognised scheme in relation to an earner's employment only if—
  - (a) the resources of the scheme are derived (in whole or in part) either—
    - (i) from payments made or to be made (either under actual or contingent legal obligation or in the exercise of a power conferred, or duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to

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- the disbursement or allocation of public money) by one or more employers of earners to whom the scheme applies, or
- (ii) from such other payments by the earner or his employer, or both, as may be prescribed for different categories of schemes ; and
- (b) it complies in all respects with sections 53 to 60 of this Act in respect of minimum personal and death benefits, and of the other matters mentioned in those sections, or, in such cases or classes of cases as may be prescribed, with those sections as modified by regulations; and
- (c) it neither contains any provision (operating in relation to minimum benefits, their allowance or computation, or to any rights available in connection with minimum benefits) which by any of those sections is stated to be inadmissible in relation to the minimum benefits of a recognised scheme, nor is subject to the terms of any instrument or agreement containing or implying such a provision; and
- (d) the rules of the scheme applying to minimum benefits are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of recognised schemes, and with such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Board as a condition of recognition, either generally or in relation to a particular scheme ; and
- (e) either it is a public service pension scheme or the Board are satisfied that it complies with regulations prescribing—
- (i) the means by which the minimum benefits of occupational pension schemes are to be secured (whether irrevocable trust, policy of insurance, annuity contract or other means), and
- (ii) the conditions which are required by the regulations to be satisfied in relation to any means adopted.
- (5) References in subsection (4)(a) above and in the following provisions of this Part of this Act to employers are to be treated, in relation to persons within the application of an occupational pension scheme and qualifying or prospectively qualifying for its benefits, as including references to persons who in relation to them and their employments are treated by regulations as being employers for the purposes of this Part of this Act.
- (6) It is hereby declared that nothing in this section is to be taken—
- (a) to preclude an occupational pension scheme from being so framed as to provide benefits on any ampler scale, or payable at any earlier time, or otherwise more favourable to beneficiaries, than is required for recognition "purposes ;
- (b) to require a scheme, or any rule contained in a scheme, to comply for recognition purposes with any provision in sections 53 to 60 of this Act by adopting the particular words of that provision, subject to any requirements of regulations, or of the Board, under subsection (4)(d) above, so long as the Board are satisfied that the provision is complied with in spirit and intent.
- (7) The Secretary of State may make such regulations as he thinks appropriate for securing that earners, notwithstanding their terms of employment, are freed from any liability to be or become members of, or to contribute to, an occupational pension scheme—
- (a) which is not for the time being recognised in relation to any employment; and

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- (b) in whose case the Board are satisfied that the benefits of the scheme are not adequately secured, or that it is otherwise unsound in respect of its management or financing.
- (8) In this Act any reference to the minimum benefits of an occupational pension scheme includes both minimum personal pension and minimum death benefit (except where the context otherwise requires) and is to be taken as referring only to benefit provided by the scheme in respect of employed earner's employment in accordance with such minimum requirements as must be complied with for recognition purposes.
- (9) Where by any provision in this Part of this Act recognition of a scheme in relation to an employment depends on the satisfaction of a particular condition, continued recognition of the scheme shall be dependent on continued satisfaction of the condition ; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for cancellation of the recognition certificate.
- (10) Regulations may, for any purpose of this Part of this Act, prescribe the persons who are to be regarded as members or prospective members of an occupational pension scheme and as to the times at which, and the circumstances in which, a person is to be treated as becoming, or as ceasing to be, a member or prospective member.

## **52 Certification of employments.**

- (1) Regulations shall provide—
  - (a) for the issue by the Occupational Pensions Board to employers of recognition certificates specifying the employments which are to be treated, either generally or in relation to any specified category or description of earners, as recognised pensionable employments; and
  - (b) for the cancellation, variation or surrender of any certificate, or the issue of an amended certificate on any change of circumstances affecting the treatment of an employment as recognised pensionable employment;and (subject to the exclusion by section 51 of this Act of earners not of requisite age) any recognition certificate for the time being in force in respect of an employed earner's employment shall be conclusive that the employment is recognised pensionable employment.
- (2) Subject to the provisions of this Act, an employment otherwise satisfying the conditions for inclusion in a recognition certificate shall be so included if and so long as the employer so elects and not otherwise; and subject to any prescribed restrictions an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.
- (3) Except in prescribed circumstances, no recognition certificate, and no cancellation, variation or surrender of such a certificate shall have effect from a date earlier than that on which the certificate is issued or the cancellation, variation or surrender is made.
- (4) A recognition certificate in respect of any employment—
  - (a) subject to subsection (5) below, may be issued by the Board notwithstanding that in respect of some earners in that employment the relevant scheme satisfies some, but not all the requirements of sections 53 to 58 of this Act (but only if the Board think it expedient to issue the certificate in particular circumstances where the number of earners in respect of whom the scheme fails to satisfy any particular requirement appears to them to be insignificant

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in relation to the number of those in respect of whom all the requirements of those sections are satisfied); and

- (b) may be withheld or cancelled by the Board (notwithstanding that the scheme is one which they would otherwise treat as proper to be recognised in relation to all earners in that employment) if there appear to the Board to be circumstances relating to the scheme or its management which make it inexpedient that the employment should be or, as the case may be, continue to be recognised pensionable employment by reference to the scheme.
- (5) A recognition certificate may be issued by virtue of subsection (4)(a) above only if the Board are satisfied that, in the case of the earners in respect of whom the relevant scheme does not satisfy all the requirements of sections 53 to 58 of this Act and whose employments are to be included in the certificate, written consent to the exercise of the Board's powers under that paragraph has been given by or on behalf of those earners.
  - (6) Where in relation to an earner's employment there are in force two or more occupational pension schemes, no one of which can by itself be a recognised scheme, the Board may if they think fit (but subject to section 51 of this Act and the foregoing provisions of this section) treat them for recognition purposes as one single scheme.
  - (7) Regulations shall provide for the determination by the Board of any question whether an employment is to be treated as recognised pensionable employment, or as to the persons in relation to whom, or the period for which, an employment is to be so treated.
  - (8) Regulations may for the purposes of recognition, and for any other purposes of this Part of this Act, prescribe persons who, in the case of a scheme of any prescribed category, are to be regarded as the trustees or managers of a scheme of that category.
  - (9) The provisions of Schedule 15 to this Act shall have effect with respect to recognised pensionable employments, recognition certificates and recognised occupational pension schemes.

### **53 Minimum personal pension (entitlement).**

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment it must, in accordance with this section, provide him with minimum personal pension on termination of recognised pensionable employment otherwise than by his death.
- (2) Subject to the provisions of this Part of this Act, minimum personal pension must be provided for an earner in any case in which, on termination of a period of service in recognised pensionable employment—
  - (a) he qualifies for a pension immediately payable under the scheme; or
  - (b) he is then no longer of requisite age for the purposes of section 51 of this Act; or
  - (c) he has attained the age of 26 and has at least 5 years' qualifying service accrued since the appointed day; or
  - (d) the period of service terminated is one in respect of which the scheme either—
    - (i) conforms with the preservation requirements (section 63 of this Act and Schedule 16), so as to entitle the earner to short service benefit within the meaning of those requirements ; or
    - (ii) makes any provision which under those requirements is permitted as an alternative to short service benefit (other than, in such cases as may

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be prescribed, provision for return of contributions or benefit in the form of a lump sum).

- (3) In subsection (2)(c) above, " 5 years' qualifying service " means 5 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 5 years) in which the earner was at all times employed either—
- (a) in pensionable service under the scheme within the meaning of the preservation requirements ; or
  - (b) in service in recognised pensionable employment, by reference to the scheme ; or
  - (c) in service under another scheme, being linked qualifying service within the meaning of section 58 of this Act,
- no regard being had to whether or not it was the same description of service in the whole of the 5 years, but excluding, in the case of service specified in paragraph (a) or (b), any period of service in the same employment which has been previously terminated.
- (4) Minimum personal pension must be in the form either—
- (a) of a pension payable as from termination of the relevant employment or from when the earner attains pensionable age, whichever is the later; or
  - (b) of a deferred pension, coming into payment when he attains that age or (with his consent in writing) at some later time.
- (5) The pension must, in either of the cases referred to in subsection (4) above, be a pension payable out of the resources of the scheme or secured by such means as may be prescribed (whether policy of insurance, annuity contract or other means), the security satisfying such conditions as may be prescribed in relation to the means adopted.
- (6) The scheme must conform with any regulations prescribing the time from which minimum personal pension (immediate or deferred) is to become payable.
- (7) Any provision which has for its effect that qualification for minimum personal pension is conditional upon retirement being postponed beyond a certain time shall be inadmissible in relation to the minimum benefits of a recognised scheme, if that time is more than 6 months after pensionable age.
- (8) The scheme must so provide that minimum personal pension, as and from the time when it comes into payment, is payable for life, subject only to such provision (if any) as may be made by the scheme for the pension to be terminated or suspended in such circumstances as may be prescribed.
- (9) Subject to the approval of the Occupational Pensions Board, the scheme may provide, in the case of an earner who is a woman, for minimum personal pension to be at a lower rate where provision is made for the payment of benefit to dependants on her death.

#### **54 Rate of minimum personal pension.**

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment, it must comply with the requirements of this section as respects the rate of minimum personal pension.
- (2) Subject to the following subsections, minimum personal pension must be at an annual rate equal to the following percentage of the earner's reckonable earnings from an employment to which the scheme applies—

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| <p>(a) for a man—</p> <p>(i) if the pension is subject to increases complying with section 57 of this Act</p> <p>(ii) if not</p> <p>(b) for a woman—</p> <p>(i) if the pension is so subject</p> <p>(ii) if not</p> | <p>1.00 per cent. 1.</p> <p>1.25 per cent.</p> <p>0.70 per cent.</p> <p>0.90 per cent.</p> |
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- (3) In this Part of this Act, references to an earner's reckonable earnings from any employment are to his earnings from that employment so far as comprised in any payment of earnings made to him or for his benefit (at a time when the employment was recognised pensionable employment) where the payment either—
- (a) gave rise to liability under Part I of this Act for a primary Class 1 contribution ; or
  - (b) was made in such circumstances that regulations require it to be treated (for the purposes of this subsection only) as giving rise to such liability.
- (4) If regulations so permit, but subject to subsection (5) below and to any prescribed conditions, the rate of minimum personal pension may be calculated—
- (a) by reference to contributions paid from time to time by the earner, or by the employer in respect of him, and the earner's age at the time when contributions were paid; or
  - (b) as a prescribed fraction or percentage of—
    - (i) the annual rate of the earner's reckonable earnings in any prescribed period of 12 months before termination of service, or
    - (ii) his average annual reckonable earnings in any prescribed period before termination of service,
 the fraction or percentage being determined by reference to the period (expressed as a number of years or of months, or a combination of years and months) of the earner's service in recognised pensionable employment and varying (to any extent required by the regulations) by reference to the duration of any period of such service.
- (5) Regulations shall enable the rate of minimum personal pension to be calculated in accordance with paragraph (a) of subsection (4) above only if the scheme so provides that—
- (a) the contributions of the earner and those of the employer together, or those of the employer alone, amount to, or to the equivalent of, at least 5 per cent, of the earner's reckonable earnings ; and
  - (b) the contributions of the employer alone amount to, or to the equivalent of, at least 2-5 per cent, of those earnings.
- (6) Regulations—
- (a) may enable the basis of calculating the rate of minimum personal pension to be varied (subject to any prescribed conditions) where the rules of the scheme require an earner who is a man and is married when he attains pensionable age to surrender part of his minimum personal pension in order to provide minimum death benefit for his widow or other dependants;



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- (b) so far as made for the purposes of subsection (4) above, may prescribe different bases of calculation according to whether minimum personal pension is or is not subject to increases complying with section 57 of this Act.
- (7) Where minimum personal pension is subject to increases complying with section 57 of this Act, but does not come into payment at its full rate until after pensionable age, the scheme must make such provision as is necessary to secure that its full rate when it comes into payment is not less than what would have been the increased rate if it had come into payment at its full rate at that age.
- (8) Without prejudice to subsection (7) above, the scheme must provide, in the case of minimum personal pension not coming into payment at its full rate until after pensionable age (where the earner remains in the relevant employment after attaining that age, or consents in writing to postponement), for the pension to be adjusted so as to take into account any period between pensionable age and the time when the pension comes into payment at its full rate ; and—
- (a) this provision must be made in such a way as to satisfy the Occupational Pensions Board as to its adequacy; and
  - (b) recognition of the scheme may be made subject to prescribed conditions as to the adjustment of benefit in such cases.

## **55 Minimum death benefit (entitlement).**

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment, it must provide for minimum death benefit to be payable on his death in the cases specified in subsection (2) below, if at his death he leaves a widow.
- (2) The cases above referred to are the following—
- (a) where the earner at the time of his death was in recognised pensionable employment by reference to the scheme;
  - (b) where the earner at his death had ceased to be in recognised pensionable employment by reference to the scheme and had become entitled thereunder to minimum personal pension (whether deferred or in payment) and either—
    - (i) he had not surrendered his entitlement in exchange for recognition credits allowed under another scheme, or by way of commutation, or
    - (ii) he had so surrendered it, but the surrender extended only to minimum personal pension and not to minimum death benefit.
- (3) Regulations may provide for the requirements of this section and section 56 of this Act to apply with prescribed modifications in relation to an earner whose marriage takes place after the termination of his service in recognised pensionable employment by reference to the scheme, and may restrict their application to cases where the marriage takes place not less than a prescribed period before the earner's death.
- (4) For the purposes of subsection (2)(a) above the length of the earner's period of service in recognised pensionable employment must be treated as immaterial.
- (5) In any of the cases specified in subsection (2) above the scheme may, with the approval of the Occupational Pensions Board, exclude minimum death benefit where the deceased earner had on the appointed day attained an age within 5 years of pensionable age or (if earlier) an age within 5 years of whatever age was for him normal pension age under the scheme.

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- (6) Minimum death benefit must be payable to the widow, except that the scheme may, with the approval of the Board, confer on the trustees or managers discretion to direct that the benefit be paid instead to any dependant of the deceased earner, or be apportioned between the widow and one or more dependants, or between dependants other than the widow.
- (7) Minimum death benefit must—
- (a) in a case where at his death the earner had attained pensionable age, be in the form of a pension; and
  - (b) in any other case, be in the form either of a pension or of a lump sum ;
- but subject to the foregoing paragraphs the scheme may deal differently, as respects the form of the benefit, with different cases and classes of cases.
- (8) The scheme must so provide that minimum death benefit must be payable as from the earner's death and, in the case of benefit in pension form, be payable for the pensioner's life, subject only—
- (a) to regulations prescribing the provision which may or must be included in the scheme with respect to the time when the benefit (whether in pension form or otherwise) is to become payable ;
  - (b) to such provision (if any) as may be made by the scheme for the pension to be terminated or suspended in prescribed circumstances.

## **56 Rate or amount of minimum death benefit.**

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment it must comply with the requirements of this section as respects the rate or amount of minimum death benefit.
- (2) Subject to the provisions of this section, minimum death benefit, if in the form of a pension, must be at an annual rate not less than one half that of the deceased earner's own pension; and if in the form of a lump sum, it must be either—
- (a) an amount not less than 14 times that rate if the pension was subject to increases complying with section 57 of this Act and 11 times that rate if it was not so subject; or
  - (b) an amount not less than 1.5 times—
    - (i) the annual rate of the deceased's reckonable earnings in any prescribed period of not more than 12 months before his death, or
    - (ii) his average annual reckonable earnings in any prescribed longer period before his death, (which period need not in either case be a period ending with the death).
- (3) Where the scheme provides for the earner's minimum personal pension to be subject to increases complying with section 57 of this Act, minimum death benefit in pension form must be also subject to increases complying with that section.
- (4) Where minimum personal pension is calculated on any basis prescribed under section 54(4) of this Act or varied under section 54(6)(a), the rate or amount of minimum death benefit must be not less than a rate or amount calculated on any basis prescribed for the purposes of this section.
- (5) In subsection (2) above, references to the deceased earner's own pension are—

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- (a) in a case where he died in service in recognised pensionable employment, to the minimum personal pension for which he would have qualified had he at his death attained pensionable age ; and
  - (b) in any other case, to the minimum personal pension (whether immediate or deferred) for which he qualified at any time before his death,
- allowing in the last-mentioned case for increases of pension (being increases complying with section 57 of this Act) which were or would have been payable between pensionable age and death.
- (6) Subsection (5) of section 53 of this Act shall apply in relation to minimum death benefit as it applies in relation to minimum personal pension.
  - (7) To such extent, and in such cases, as may be authorised by regulations, a scheme may provide—
    - (a) for excluding minimum death benefit where the rate or amount of benefit would be less than a prescribed rate or amount;
    - (b) for less than the rate specified in subsection (2) above, or prescribed under subsection (4), to be payable where the deceased earner's widow or, in a case to which section 55(6) of this Act applies, any dependant of his, was more than a prescribed number of years younger than he was.

## **57 Increase of pension after it comes into payment.**

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment, in so far as recognition depends on provisions of the scheme relating to pension-increases complying with this section, the scheme must (subject to subsection (2) below) by its rules provide such increases of minimum pension (whether personal pension or death benefit in pension form) as to satisfy the Occupational Pensions Board—
  - (a) that the first increase after the pension comes into payment is payable after a period which is reasonable, and that the increase is of an adequate amount;
  - (b) that increases thereafter will be payable at not more than yearly intervals and will be calculated on a basis which either—
    - (i) appears to the Board to correspond with that adopted in relation to official pensions under section 2 of the Pensions (Increase) Act 1971 (increase by reference to rise in cost of living), or
    - (ii) provides increases at a rate of not less than 3 per cent, a year compound;and, where the scheme's rules provide for the increase of any year (computed on either of the alternative bases specified in paragraph (b) above) to be withheld if it is of less than a prescribed amount, the rules must provide for that year's increase to be carried forward and brought into computation in calculating the increases of subsequent years.
- (2) The scheme may be recognised in relation to the employment in question (if otherwise qualifying for recognition) in any case where the Board, having regard—
  - (a) to the nature and scope of the provision made by the scheme's rules for increasing pensions after they come into payment;
  - (b) to the means adopted, or to be adopted, for financing the scheme; and
  - (c) to any increases which have been made of pensions already in payment under the scheme,

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are satisfied that, taking one year with another, present and future pensioners under the scheme are likely to be protected to the same extent as they would have been if subsection (1)(b)(ii) above were complied with.

- (3) Subject to the foregoing provisions of this section, the scheme may in respect of pension-increases deal differently with different categories of pensioners.
- (4) The scheme may include provision enabling the basis of calculating pension-increases to be altered from time to time, whether in relation to all pensioners present and future, or to any particular category or categories of pensioners; but a scheme rule to this effect must provide for the alteration to be made only with the Board's approval.

## **58 Transfer of benefit between schemes: linked qualifying service.**

(1) In this Act-

- (a) " transfer credits " means rights allowed to an earner under the rules of an occupational pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme ;
- (b) " accrued rights ", in relation to a scheme, includes any transfer credits allowed under that scheme; and
- (c) " recognition credits " means transfer credits allowed to an earner under the rules of a scheme in respect of—
  - (i) minimum benefits (whether minimum personal pension or minimum death benefit, or both) accrued under, and transferred from, another scheme by reference to which the earner has previously been in recognised pensionable employment, or benefits which include minimum benefits so accrued, or
  - (ii) transfer credits previously allowed under any scheme, so far as representing or replacing, or otherwise allowed in respect of, minimum benefits so accrued (or benefits including them),

and in this subsection " rights " includes rights to benefit and also options to have benefit paid in a particular form or at a particular time.

(2) For the purposes of this Act, any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—

- (a) under the rules of a scheme applying to him in the earlier period of service there was made a transfer of his accrued rights under that scheme to another scheme applying to him in the later period of service ; and
- (b) in consequence of that transfer, there are (or were) allowed to him transfer credits under the rules of that other scheme,

except that, for any service to be taken into account as linked qualifying service, it must be actual service, no regard being had to any scheme rule which provides for service to be treated, for any purposes of benefit or otherwise, as longer or shorter than it actually is.

(3) Where in relation to any employment the rules of a scheme allow for the transfer of accrued rights to another scheme, then for the scheme to be recognised in relation to that employment it must so provide that any transfer of minimum benefits (or benefits including them) or recognition credits can be made only to a scheme which—

- (a) is recognised in relation to any employment; or

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- (b) falls within some category or description of schemes prescribed for the purpose of this subsection.
- (4) Where the rules of a scheme provide for the allowance of transfer credits, then for the scheme to be recognised in relation to any employment it must provide for them, if and so far as they consist of recognition credits, to be in such form, and subject to such conditions, as may be prescribed.
- (5) Any provision which has for its effect that a transfer of accrued rights can be made otherwise than with the earner's consent shall be inadmissible in relation to the minimum benefits of an occupational pension scheme, except in such cases as may be prescribed.

## **59 Financing and security of minimum benefits.**

- (1) For the purposes of this Part of this Act, the resources of an occupational pension scheme are the funds out of which the benefits provided by the scheme (whether minimum or other benefits) are payable from time to time, including the proceeds of any policy of insurance taken out, or annuity contract entered into, for the purposes of the scheme.
- (2) For a scheme (other than a public service pension scheme) to be recognised in relation to an earner's employment, the Occupational Pensions Board must be satisfied—
  - (a) that the resources of the scheme are sufficient for all claims in respect of the minimum benefits of the scheme (so far as falling to be met out of those resources) to be met from time to time having regard to the anticipated extent of the scheme's resources, and to its other liabilities, at any time when claims may be expected to arise; and
  - (b) generally as to the arrangements in force or to be in force from time to time for securing the minimum benefits of the scheme.
- (3) If the scheme contains a rule as to the priority of claims on a winding up, and the rule is so framed as to accord priority, in the event of a winding up, to particular liabilities, and those liabilities consist of or include—
  - (a) pensions and other benefits in respect of which entitlement to payment has arisen ;
  - (b) prospective minimum benefits; and
  - (c) equivalent pension benefits under Part III of the former principal Act or the corresponding Northern Ireland legislation,(with or without priority as between particular liabilities), over all other liabilities under the scheme except any arising in respect of the expenses of administration (so far as those expenses are payable out of the resources of the scheme), then, subject to the following subsection, the Board must be satisfied that, in the event of an immediate winding up, those resources would be sufficient for the particular liabilities accorded priority, and also liabilities in respect of the expenses of administration (so far as so payable), to be met.
- (4) In applying subsection (3) above, the Board may disregard liabilities with priority, in so far as their priority ranks lower than that of the liabilities specified in paragraphs (a) to (c) of the subsection and lower also than liabilities in respect of the expenses of administration.

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- (5) References in subsections (2) and (3) above to the minimum benefits of the scheme are to be taken as including references to recognition credits.
- (6) If the scheme contains no such rule as is referred to in subsection (3) above the Board must be satisfied that the resources of the scheme would be sufficient, in the event of an immediate winding-up, to meet in full all the liabilities falling to be discharged out of those resources.
- (7) Where recognition or continued recognition depends on the Board being satisfied as mentioned in subsection (2), (3) or (6) above, the scheme may be recognised or continue to be recognised (as the case may be) in relation to any employment subject to such conditions as the Board think fit to impose for securing that the resources of the scheme are brought to, and maintained at, a level satisfactory to them (including conditions requiring steps to be taken, at the instance of the Board, to increase those resources at any time after recognition, including a time when the scheme has ceased to be recognised); and non-compliance with any condition imposed by the Board under this subsection shall be grounds on which the Board may cancel a recognition certificate issued in respect of any employment within the application of the scheme.
- (8) In considering a scheme by reference to the considerations of subsections (2), (3) or (6) above, the Board shall have regard to any investments held for the purposes of the scheme; and the Board may by reference to those considerations make it a condition of recognition (or continued recognition) that—
  - (a) no part, or no more than a specified proportion, of the scheme's resources shall be invested in investments of a specified class or description;
  - (b) there shall be realised, before the expiration of a specific period, the whole or a specified proportion of investments of a specified class or description forming part of the scheme's resources when the condition is imposed;
 and in the event of any such condition not being complied with, this shall be a ground on which the Board may withhold recognition or cancel a recognition certificate issued in respect of any employment within the application of the scheme.
- (9) Any provision which permits the payment out, otherwise than in prescribed circumstances, of any sum representing the surrender value of a policy of insurance taken out for the purposes of the scheme shall be inadmissible in relation to the minimum benefits of a recognised scheme.

**60 Provisions barring commutation, surrender or forfeiture of minimum benefit.**

- (1) Except as provided by the following subsections, any provision having effect so as to enable the whole or part of any minimum benefit to be commuted or surrendered, or to be subject to any charge, lien or set-off, shall be inadmissible in relation to the minimum benefits of a recognised scheme.
- (2) Subsection (1) above shall not prevent a scheme qualifying for recognition with any of the following provisions—
  - (a) provisions enabling an earner (subject to section 58 of this Act) to surrender his accrued minimum benefits in exchange for recognition credits allowed under another scheme;
  - (b) provisions enabling minimum benefit in the form of a pension (whether personal benefit alone, or death benefit alone, or both benefits together) to be commuted, in prescribed circumstances, where the annual rate would not exceed a prescribed amount; or

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- (c) provisions approved by the Occupational Pensions Board and permitting an earner to commute his mini-mum personal pension in exceptional circumstances of serious ill-health;

nor shall that subsection prevent a scheme qualifying for recognition with provisions whereby minimum personal pension is calculated on any basis prescribed under section 54(4) of this Act or varied under section 54(6)(a).

- (3) Any provision having effect so as to involve the forfeiture of any minimum benefit, otherwise than in such circumstances as may be prescribed, shall be inadmissible in relation to the minimum benefits of a recognised scheme.

## **61 Minimum benefit to be inalienable.**

- (1) Where a person is entitled or prospectively entitled to minimum benefit under an occupational pension scheme, and the person's entitlement is in respect of his or another person's service in recognised pensionable employment by reference to that scheme, every assignment of, or charge on, that benefit, and every agreement to assign or charge the benefit (whether or not made at a time when the employment was recognised pensionable employment or the scheme a recognised scheme in relation to that employment) shall be void.

- (2) On the bankruptcy of a person who is entitled, or prospectively entitled, as mentioned in subsection (1) above, minimum benefit the assignment of which is or would be made void by that subsection shall not pass to any trustee or other person acting on behalf of his creditors.

- (3) The foregoing subsections apply to recognition credits as they apply to minimum benefits.

- (4) In the application of this section to Scotland—

- (a) the reference to assignment of benefit shall be read as a reference to its assignation, "assign" being construed accordingly; and
- (b) the reference to a person's bankruptcy shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 14 of the Bankruptcy (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958,

and in its application to Northern Ireland the reference to a person's bankruptcy shall be read as including the vesting of a person's estate and effects in the official assignee under section 349 of the Irish Bankrupt and Insolvent Act 1857.

## **62 Supervision of schemes after withdrawal of recognition.**

- (1) Where a recognition certificate in respect of any employment is cancelled or surrendered, the following provisions of this section shall apply in respect of any occupational pension scheme (not being a public service pension scheme) by reference to which that employment was recognised pensionable employment ; and those provisions shall continue so to apply for as long as any person qualifies (immediately or prospectively) for any of the minimum benefits of the scheme.

- (2) The Occupational Pensions Board shall be under a duty to satisfy themselves from time to time as to—

- (a) the matters in respect of which they are required to be satisfied for recognition purposes under section 59 of this Act (that is to say, the matters dealt with

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in subsection (2) of that section and those dealt with in subsection (3) or (6), whichever is applicable); and

- (b) the soundness and adequacy of any investments held for the purposes of the scheme (so far as relevant to the considerations of those subsections);

and where the scheme was recognised subject to such conditions as are referred to in section 59(7) or (8), those conditions shall continue to be binding notwithstanding that there is no recognition certificate in force.

- (3) For the purposes of subsection (2) (a) above the Board may (either by way of enforcement of such conditions as are referred to in section 59(7), or otherwise) by order require employers to make such payments to increase the resources of the scheme or for any other purpose as the Board think expedient for securing the minimum benefits of the scheme; and in the case of an employer failing to make any payment required by such an order—
  - (a) the Board may make a further order declaring the amount which the employer has failed to pay to be a debt due from him to the Board and may recover it from him accordingly; and
  - (b) any amount so recovered shall be paid over by the Board (on the employer's behalf) in accordance with the terms of the original order.
- (4) In so far as the Board are not satisfied as mentioned in subsection (2)(b) above, they may by order modify the scheme's rules or by order direct the scheme's trustees or managers to take such steps as the order may specify, in either case with a view to ensuring that the minimum benefits of the scheme are adequately secured to its beneficiaries, both present and future.
- (5) If it appears to the Board that there has been, or is likely to be, a breach of any rule of the scheme relating to the matters dealt with in sections 53 to 60 of this Act, the Board may take such steps as they think expedient with a view to remedying or preventing the breach; and for this purpose they may themselves take any proceedings for enforcement of the rules which would be open to a person as an actual or prospective beneficiary under the scheme, or as one of its trustees or managers, or as being otherwise concerned with the scheme or its benefits, and may assume the conduct of proceedings for enforcement brought by any such person.
- (6) Where the Board are satisfied that the minimum benefits of the scheme are not, and cannot be, adequately secured to its beneficiaries, they may by order—
  - (a) require the scheme to be wound up in accordance with such directions in that behalf as may be contained in the order; or
  - (b) direct the trustees or managers to take such steps for the winding-up of the scheme as the order may specify;

and, on a winding-up in pursuance of an order of theirs under this subsection, the same powers shall be exercisable by the Board in relation to the scheme's winding-up rules as are exercisable by them under subsection (5) above in relation to other rules.

- (7) References in this section to the minimum benefits of a scheme—
  - (a) include references to recognition credits ; but
  - (b) subject to paragraph (a) above, are only to benefits to which immediate or prospective entitlement arises by virtue of service in employment which has been recognised pensionable employment by reference to the scheme;

and, in relation to a scheme of any prescribed category, the reference in subsection (3) above to employers shall include such persons as may be prescribed as among those



to whom an order of the Board under that subsection may be directed in the case of a scheme of that category after it has ceased to be recognised.

*Preservation of benefit under occupational pension schemes*

**63 Requirements relating to preservation of benefits.**

- (1) The requirements of this Part of this Act relating to preservation of benefit under occupational pension schemes (" the preservation requirements ") are those set out in Part I of Schedule 16 to this Act; and Part II of that Schedule shall have effect for enabling the Secretary of State to make regulations modifying the preservation requirements and generally in relation to the preservation of benefit under occupational pension schemes.
- (2) This section shall have effect for securing that occupational pension schemes in force on the appointed day or coming into force thereafter conform with the preservation requirements in so far as conformity can be achieved by the use of powers conferred by this section (in addition to any powers otherwise exercisable) on those concerned with such schemes and on the Occupational Pensions Board.
- (3) It is hereby declared that nothing in the foregoing provisions of this section or in Schedule 16 to this Act is to be taken—
  - (a) to apply with direct effect to any scheme (whether having effect before or after this section comes into force), or to the rights or liabilities of any person in, under or by virtue of a scheme ; or
  - (b) to preclude a scheme from being so framed as to provide benefits on any ampler scale, or (subject to any express provision made in the Schedule) payable at any earlier time or otherwise more favourable to beneficiaries, than is called for by the preservation requirements.
- (4) In the case of an occupational pension scheme whose resources are derived as mentioned in section 51(4)(a) of this Act, it shall be the responsibility—
  - (a) of the trustees and managers of the scheme or, in the case of a public service pension scheme, of the Minister, government department or other person or body concerned with its administration, to take such steps as are open to them for bringing the scheme into conformity (if it does not otherwise conform) with the preservation requirements; and
  - (b) of the Occupational Pensions Board to advise the trustees and managers, or, if it is a public service pension scheme, the Minister, department or others concerned with the scheme as to whether it does or does not (in the Board's opinion) conform with those requirements and, if the Board are of opinion that the scheme does not conform, to indicate the steps which they consider should be taken with a view to securing conformity;and the following provisions of this section shall have effect in relation to schemes whose resources are so derived, but not in relation to public service pension schemes.
- (5) On an application made to them in respect of an occupational pension scheme by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination as to whether or not the scheme conforms with the preservation requirements; and the persons competent to make such an application in respect of a scheme are—
  - (a) the trustees or managers of the scheme;

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- (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
  - (c) any person who is an employer of persons in service in an employment to which the scheme applies;
  - (d) any member or prospective member of the scheme;
  - (e) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.
- (6) The Board may at any time of their own motion issue, in respect of a scheme which has come to their notice (including in particular a scheme which they are considering with a view to recognition, or one in respect of which an application has been made to them under section 64 of this Act for an order authorising the modification of the scheme, or modifying it), any determination which they could issue in the case of that scheme on an application to them under subsection (5) above.
- (7) If the Board determine, in the case of a scheme, that it does not conform with the preservation requirements they shall, either at the time of issuing their determination or as soon thereafter as they think expedient—
- (a) by order direct the trustees or managers of the scheme, or any such persons as are referred to in subsection (5) (b) above, to exercise such powers as they possess for modifying the scheme with a view to bringing it into conformity with those requirements (for which purpose the Board shall include in their order such directions as they think appropriate to indicate the modification appearing to them to be called for); or
  - (b) if there is no person with power to modify the scheme as required by the Board, by order authorise the trustees or managers, or other persons named in the order (who may in particular include such an employer as is specified in subsection (5)(c) above) to make that modification; or
  - (c) themselves by order modify the scheme with a view to achieving the purposes above-mentioned.
- (8) The Board may exercise their powers under subsection (7) above from time to time in relation to any scheme in respect of which they have issued a determination under this section, and may exercise the powers together or separately.
- (9) Any modification of a scheme made in pursuance of an order of the Board under subsection (7)(b) or (c) above shall be as effective in law as if it had been made under powers conferred by or under the scheme; and such an order may be made and complied with in relation to a scheme—
- (a) notwithstanding any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the modification being made;
  - (b) without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure, or the obtaining of any consent, with a view to the making of the modification.
- (10) An order of the Board under subsection (7) (a) above may require persons to exercise a power retrospectively (whether or not the power could otherwise be so exercised), and an order under subsection (7)(b) or (c) may operate retrospectively; and in this subsection " retrospectively " means with effect from a date before that on which the

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power is exercised or, as the case may be, the order is made, not being in either case a date earlier than the appointed day.

- (11) At any time when the Board are concerned with an occupational pension scheme for the purposes of issuing a determination under this section, they may include a determination (whether or not applied for) as to any of the particular matters specified in Part I of Schedule 16 to this Act (including that Part as modified by regulations under Part II of that Schedule).
- (12) For the purpose of arriving at a determination under this section in respect of a scheme the Board may, if they think it expedient having regard—
- (a) to the structure and character of the scheme ; and
  - (b) to any anomalous or impractical consequences that may be expected to follow from its modification to achieve conformity with any particular provision of Part I of Schedule 16 to this Act (including that Part as modified under Part II of that Schedule),

disregard that provision in relation to the scheme, or direct that it be applied with such modification as may be specified in their determination.

#### *Modification and winding-up of schemes*

### **64 Modification and winding-up by order of Occupational Pensions Board.**

- (1) On an application made to them in respect of an occupational pension scheme by persons competent to make such an application in respect of it the Occupational Pensions Board may make an order—
- (a) authorising the modification of the scheme with a view to achieving any one or more of the purposes specified in subsection (3) below ;
  - (b) modifying the scheme with a view to achieving any one or more of those purposes; or
  - (c) directing or authorising the scheme to be wound up on grounds specified in subsection (4) below.
- (2) Nothing in this section applies to public service pension schemes.
- (3) The purposes referred to in subsection (1)(a) and (b) above are those of enabling the scheme—
- (a) to be so treated that an employment to which it applies may be recognised pensionable employment by reference to it;
  - (b) to qualify for the approval of the Inland Revenue for the purposes of Chapter II of Part II of the Finance Act 1970 or to provide benefits enhanced up to the limits suitable in a scheme for which such approval is sought;
  - (c) to provide for the transfer of accrued rights to another scheme with a view to the acquisition, for those whose rights are transferred, of rights under the other scheme in connection with change of employment or otherwise, and for the allowance of transfer credits;
  - (d) to comply with the preservation requirements (without prejudice, however, to anything in section 63(5) to (12) of this Act);
  - (e) to provide for accrued entitlement to benefit (whether in payment or not), so far as payable out of the resources of the scheme, to be surrendered by beneficiaries (at their option and not otherwise, so long as the scheme remains in force and is not being, or to be, wound up) in exchange for other rights

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assured by means of one or more policies of insurance or annuity contracts, or by other means;

- (f) to qualify under section 69 of this Act or to have included in, or removed from, it provisions designed to avoid the effect of the rules of law relating to perpetuities,

or of enabling the trustees or managers of the scheme, or others concerned with, or having rights under, it to enter into alternative arrangements having regard to any provision of this Act, or of any other Act (passed or to be passed) amending or replacing any such provision, or making provision for similar purposes.

- (4) The grounds on which the Board may direct or authorise a scheme to be wound up, on an application made to them in that behalf under subsection (1) above, are that, having regard to any provision of this Act, or to any other Act (passed or to be passed) amending or replacing any such provision or making provision for similar purposes, the scheme ought to be replaced (in whole or in part) by a different scheme, or is no longer required.

- (5) In relation to an occupational pension scheme, the persons competent to make an application to the Board under this section are—

- (a) the trustees or managers of the scheme ;
- (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
- (c) any person who is an employer of persons in service in an employment to which the scheme applies; and
- (d) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.

- (6) The Board shall not entertain an application for an order by them under this section unless they are satisfied that the purposes of the application (whether the modification or the winding-up of the scheme in question)—

- (a) cannot be achieved otherwise than by means of such an order; or
- (b) can only be achieved in accordance with a procedure which is liable to be unduly complex or protracted, or involves the obtaining of consents which cannot be obtained, or can only be obtained with undue delay or difficulty;

but subject to this the Board may on such an application make (with the consent of the applicants) any one or more such orders as are specified in subsection (1) above and may exercise any of the powers of this section from time to time; and the extent of their powers under this section is not limited, in relation to any purposes for which they are exercisable, to the minimum necessary to achieve those purposes.

- (7) The Board shall not make an order under this section (whether related to the modification or to the winding-up of a scheme) unless they are satisfied that it is reasonable in all the circumstances to make it; and they shall not make any such order as would or might in their opinion result in any existing or prospective entitlement of a member of the scheme, in respect of a period of service before the coming into force of the order or of any modification which the order authorises, being diminished or curtailed without his consent, unless they are satisfied that it is in the interests of the generality of members that the order should be made.

- (8) In considering whether or not to make an order, the Board shall have regard to the structure and character of the scheme and the benefits provided by it, to the provisions

of this Act and Chapter II of Part II of the Finance Act 1970, and generally to all the circumstances.

- (9) An order of the Board under this section—
- (a) if it is an order authorising the modification of a scheme, shall be framed so as to confer the power of modification on such persons as the Board think proper (including persons who were not parties to any application made to the Board) and shall include directions indicating the modifications which they consider to be called for;
  - (b) if it is an order authorising a scheme to be wound up, shall include directions with respect to the manner and timing of the winding-up;
- and any reference in this subsection to directions is to such directions as the Board think appropriate having regard to the purposes of the order.
- (10) Subsection (9) of section 63 of this Act shall apply with the necessary modifications in relation to an order of the Board under this section as it applies in relation to an order of theirs under subsection (7)(b) or (c) of that section, references in subsection (9) to modification being construed for this purpose as including references to winding-up; and—
- (a) an order authorising modification may enable those exercising any power conferred by the order to exercise it retrospectively (whether or not the power could otherwise be so exercised); and
  - (b) an order modifying a scheme may modify it retrospectively ;
- and in this subsection " retrospectively " means with effect from a date before that on which the power is exercised or, as the case may be, the order is made, but only such date as may be proposed for the purposes of this subsection by the persons applying for the order.
- (11) In section 22 of the Finance Act 1971 (provisions for amendment of schemes with a view to obtaining Inland Revenue approval), subsections (4) to (10) (powers of Chief Registrar of Friendly Societies to amend schemes) shall cease to have effect.

## **65 Modification, etc., of public service pension schemes.**

- (1) Subject to the provisions of this section, the appropriate authority shall, in relation to a public service pension scheme, have power to make such provision for the modification or winding-up of the scheme as could be made by an order of the Occupational Pensions Board under section 64(1)(6) or (c) of this Act in the case of a scheme other than a public service pension scheme ; and in this section " the appropriate authority ", in relation to a scheme, means such Minister of the Crown or government department as may be designated by the Minister for the Civil Service or, in Northern Ireland, the Ministry of Finance as having responsibility for the particular scheme.
- (2) The powers of the appropriate authority under this section shall be exercisable by means of an order—
- (a) directly modifying the scheme (without regard, in the case of a scheme contained in, or made under powers conferred by, an enactment, to the terms of the enactment or any of its restrictions);
  - (b) modifying an enactment under which the scheme was made or by virtue of which it has effect; or

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- (c) directing that the scheme be wound up and including directions with respect to the manner and timing of the winding-up;
- and any such order shall contain such incidental, supplementary and transitional provisions as the appropriate authority considers to be required for the purposes of the order, including provisions adapting, amending or repealing any such enactment as is referred to in paragraph (a) or (b) above.

### *The Occupational Pensions Board*

## **66 Establishment of the Board; their functions and procedure.**

- (1) The Occupational Pensions Board shall be a body corporate by that name and have—
- (a) the functions conferred on them by this Act; and
  - (b) such advisory functions as may be conferred on them by the Secretary of State in respect of occupational pension schemes (including public service pension schemes).
- (2) The Board shall consist of a chairman, a deputy chairman and not less than 8 nor more than 12 other members, all appointed by the Secretary of State; and of the members other than the chairman and deputy chairman, one shall be appointed after consultation with organisations representative of employers, and one shall be appointed after consultation with organisations representative of employed earners (being in either case such organisations as the Secretary of State thinks it appropriate to consult).
- (3) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (bodies of which all members are disqualified) there shall be inserted at the appropriate place in alphabetical order—
- “The Occupational Pensions Board”;
- and the same words shall also be inserted at the appropriate place in alphabetical order in the Part substituted for Part II by Schedule 3 to that Act in relation to the Senate and House of Commons of Northern Ireland.
- (4) The Board shall be included among the tribunals in relation to which the Council on Tribunals may under section 5 of the Tribunals and Inquiries Act 1971 make general recommendations as to appointments to membership ; and the functions of the Council shall include that of keeping under review, and from time to time reporting on—
- (a) the constitution of the Board; and
  - (b) their working, so far as relating to matters dealt with by the Board by means of a formal hearing, or on review.
- (5) Schedule 17 to this Act shall have effect with respect to the Board and their affairs.
- (6) It shall be the duty of the Board, as soon as practicable after the end of each calendar year, to make to the Secretary of State a report on the exercise of their functions in that year; and the Secretary of State shall lay a copy of the report before each House of Parliament.
- (7) The Secretary of State may make regulations generally as to the procedure to be followed by the Board in the exercise of their functions and the manner in which their functions are to be exercised and may in particular make provision—

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- (a) as to the procedure to be adopted in connection with the issue, cancellation, variation or surrender of recognition certificates, and with applications, determinations and the making of orders ;
  - (b) as to the hearing of parties, the taking of evidence and the circumstances (if any) in which a document of any prescribed description is to be treated, for the purposes of any proceedings before the Board, as evidence, or conclusive evidence, of any prescribed matter;
  - (c) as to the time to be allowed for making any application or renewed application to the Board (whether for an order or determination of the Board, or for the review of a determination, or otherwise);
  - (d) as to the manner in which parties to any proceedings before the Board may, or are to, be represented for the purposes of the proceedings.
- (8) Regulations under subsection (7) above may provide for enabling the Board to summon persons to attend before them and give evidence (including evidence on oath) for any purposes of proceedings in connection with an occupational pension scheme, to produce any documents required by the Board for those purposes, or to furnish any information which the Board may require relating to any such scheme which is the subject matter of proceedings pending before them.
- (9) So far as regulations under subsection (7) above relate to procedure on any formal hearing by the Board, the power of the Secretary of State to make them shall be exercisable only after consultation with the Council on Tribunals.

## **67 Review of Board's determinations.**

- (1) Subject to the provisions of this section and section 86 of this Act (appeal on point of law), where the Occupational Pensions Board have—
- (a) determined to issue, cancel or vary a recognition certificate ; or
  - (b) determined to make, or not to make, any order which they have power to make under this Part of this Act; or
  - (c) determined any other question which it is within their functions to determine, their determination shall be final.
- (2) The Board may on the application of a person appearing to them to be interested—
- (a) at any time review any such determination of theirs as is mentioned in subsection (1) above, or a determination given by them on a previous review, if they are satisfied that there has been a relevant change of circumstances since the determination was made, or that the determination was made in ignorance of a material fact or based on a mistake as to a material fact;
  - (b) at any time within a period of 6 months from the date of the determination, or within such longer period as they may allow in any particular case, review such a determination on any ground.
- (3) The Board's powers on a review under this section shall include power to vary or revoke any determination or order previously made, to substitute a different determination or order, and generally to deal with the matters arising on the review as if they had arisen on the original determination.
- (4) Subject to subsection (5) below, regulations made by the Secretary of State may make provision with respect to the procedure to be adopted on any application for a review under this section and generally with respect to such applications and reviews; but

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nothing in this subsection shall be taken to prevent such a review being entered upon by the Board without an application being made.

- (5) The power of the Secretary of State to make regulations under subsection (4) above shall be exercisable only after consultation with the Council on Tribunals.

**68 Submission to the Board of proposals to make regulations.**

- (1) Where the Secretary of State proposes to make any regulations under this Part of this Act (other than regulations to be made before the expiration of 6 months after the passing of this Act) he shall refer the proposals, in the form of draft regulations or otherwise, to the Occupational Pensions Board.
- (2) The Board shall consider any proposals referred to them under this section and make a report to the Secretary of State containing such recommendations as they think fit with regard to the subject-matter of the proposals; and if after receiving the Board's report the Secretary of State lays before Parliament regulations or draft regulations which comprise the whole or any part of the subject-matter of proposals referred to the Board he shall lay with the regulations or draft a copy of the report and a statement showing—
- (a) the extent (if any) to which the Secretary of State has, in framing the regulations, given effect to the recommendations contained in the Board's report; and
  - (b) in so far as effect has not been given to any such recommendations, his reasons why not.
- (3) In relation to any regulations required or authorised under this Act to be made by the Secretary of State in conjunction with the Treasury, any reference in the foregoing provisions of this section to the Secretary of State shall be construed as a reference to him and the Treasury acting jointly.

*Miscellaneous*

**69 Rule against perpetuities.**

- (1) At any time when an occupational pension scheme qualifies under this section it shall be exempt from the operation of any rules of law relating to perpetuities which would otherwise invalidate, or might be taken to invalidate, any of the trusts of the scheme or any disposition made under it or for its purposes (whether trusts created, or dispositions made, before or after the scheme first qualified under this section).
- (2) A public service pension scheme qualifies under this section at all times ; and otherwise a scheme qualifies at any time when—
- (a) it is recognised under this Part of this Act in relation to any employment; or
  - (b) it satisfies the requirements of regulations under this subsection.
- (3) Regulations under subsection (2) above may require a scheme—
- (a) to contain provisions in any prescribed form, or to any prescribed effect; or
  - (b) to have, or to be such that it may be expected to qualify for, tax-exemption or tax-approval;



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and the regulations may be so framed that, in prescribed circumstances, the requirements can be treated as satisfied if application has been duly made to the Inland Revenue with a view to obtaining tax-approval for the scheme.

- (4) In subsection (3) above, " tax-exemption" and " tax-approval " mean respectively exemption from tax and approval of the Inland Revenue in either case under any such provision of the Income Tax Acts as may be prescribed by regulations.
- (5) Regulations may include provision whereby a scheme which ceases to be recognised, or ceases to satisfy the requirements of regulations under subsection (2) above, may nevertheless be treated as continuing to qualify under this section for a further period of 2 years from the cesser, or for such longer period as the Occupational Pensions Board consider to be reasonable in the case of a particular scheme.
- (6) As respects the operation of the rules of law referred to in subsection (1) above—
  - (a) this section does not validate with retrospective effect any trusts created or dispositions made under or for the purpose of a scheme if (taking into account, where applicable, section 3(1) of the Perpetuities and Accumulations Act 1964 (" wait and see ") or the corresponding Northern Ireland enactment) those trusts or dispositions were already required to be treated as void under the rules before the scheme qualified under this section ; and
  - (b) if a scheme ceases to qualify, trusts so created and dispositions so made shall then again be subject to the rules as if the scheme had never qualified (but without prejudice to any rights which vested during the period of qualification).
- (7) There shall cease to have effect—
  - (a) the Superannuation and other Trust Funds (Validation) Act 1927 (power to register superannuation schemes, with consequent exemption from the rule against perpetuities), except section 9 and section 11 so far as it provides for citation and extends section 9 to Northern Ireland; and
  - (b) the corresponding Northern Ireland enactment, that is to say the Superannuation and other Trust Funds (Validation) Act (Northern Ireland) 1928 ;but regulations may provide, in relation to a scheme whose fund was registered under either Act immediately before its repeal took effect, for the scheme to retain the benefit of the Act, subject to prescribed conditions and either indefinitely or for a prescribed period.
- (8) The said Acts of 1927 and 1928 shall each, until its repeal by subsection (7) above, have effect with the following modifications—
  - (a) no new application shall be made under section 3 of the Act for the registration of any fund (without prejudice to the effectiveness of any application previously made or pending); and
  - (b) the registration of a fund may be cancelled notwithstanding that the fund has not been wound up, if the trustees apply in writing to the registrar stating that they desire its cancellation.

## **70 Legal restrictions of doubtful application.**

- (1) This section has effect for the removal of doubt as to the application, or possible application, of certain enactments in relation to occupational pension schemes.

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- (2) Nothing in the Truck Acts 1831 to 1940, or the Truck Acts (Northern Ireland) 1831 to 1940, the Hosiery Manufacture (Wages) Act 1874 or the Stannaries Act 1887 has, or ever has had, effect so as to prevent the deduction from a person's earnings, on their payment to him, of his contributions to an occupational pension scheme, or of sums to be applied for the purpose of acquiring rights under such a scheme, whether for himself or for his widow or dependants.
- (3) An occupational pension scheme is not, nor ever has been, a shop club or thrift fund for the purposes of the Shop Clubs Act 1902.

## 71 Friendly societies.

- (1) The Secretary of State may, after consultation with the Chief Registrar of Friendly Societies or, in Northern Ireland, the Registrar of Friendly Societies for Northern Ireland, make such regulations as he thinks appropriate for enabling a registered society to conduct approved group insurance business with a view to the establishment of occupational pension schemes by reference to which the employment of members of the society can be recognised pensionable employment.
- (2) The power to make regulations under this section shall extend to enabling registered societies to conduct such business as is mentioned in subsection (1) above freed from any restrictions of the relevant legislation as to the amounts which a member, or a person claiming through a member, is entitled to receive from any one or more societies or branches.
- (3) Regulations under this section may include such adaptations and modifications of the relevant legislation, and such other supplementary and incidental provisions, as the Secretary of State considers to be necessary or expedient for achieving the purposes referred to in subsection (1) above.
- (4) In this section—
  - (a) as it applies to Great Britain—
    - (i) " the relevant legislation " means the Friendly Societies Acts 1896 to 1971 and Part II of Schedule 8 to the Finance Act 1966,
    - (ii) " registered society " has the same meaning as in the said Acts of 1896 to 1971, and
    - (iii) " approved group insurance business " has the same meaning as in section 10 of the Friendly Societies Act 1971;
  - (b) as it applies to Northern Ireland—
    - (i) " the relevant legislation " means the Friendly Societies Act (Northern Ireland) 1970,
    - (ii) " registered society " has the same meaning as in that Act, and
    - (iii) " approved group insurance business " has the same meaning as in paragraph 11(5) of Schedule 2 to that Act.

## 72 Fees for official services to schemes.

Where at the request of the trustees or managers of an occupational pension scheme or of any employer of earners who are members of such a scheme, official services are provided in connection with the operation or administration of the scheme either by the Secretary of State or by the Occupational Pensions Board on his behalf, the Secretary of State may require the payment of fees for the provision of those services.

## PART III

### THE RESERVE PENSION SCHEME

#### *Establishment of the scheme under the Reserve Pension Board*

#### **73 The Reserve Pension Board.**

- (1) There shall be a body corporate known as "the Reserve Pension Board ", with responsibility for administering the reserve pension scheme established by this Part of this Act.
- (2) The Board shall have such other functions as are conferred on them by or under this Act, and in particular they shall be responsible for advising the Secretary of State from time to time on such matters relating to the reserve pension scheme as he may refer to them for their opinion.
- (3) The Board shall make such arrangements with the Secretary of State and the Northern Ireland Ministry as appear expedient for associating the administration of the reserve pension scheme with that of—
  - (a) the basic scheme as it operates in Great Britain and Northern Ireland respectively ; and
  - (b) the Industrial Injuries Acts and the corresponding Northern Ireland legislation, and for the exchange of information in that behalf.
- (4) The Board shall consist of a chairman, a deputy chairman and not less than 6 nor more than 12 other members all appointed by the Secretary of State; and of the members other than the chairman and deputy chairman one shall be appointed after consultation with organisations representative of employers, and one shall be appointed after consultation with organisations representative of employed earners (being in either case such organisations as the Secretary of State thinks it appropriate to consult).
- (5) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (bodies of which all members are disqualified) there shall be inserted at the appropriate place in alphabetical order—

“The Reserve Pension Board”;

and the same words shall also be inserted at the appropriate place in alphabetical order in the Part substituted for Part II by Schedule 3 to that Act in relation to the Senate and House of Commons of Northern Ireland.
- (6) Part I of Schedule 18 to this Act shall have effect with respect to the Board and their affairs.

#### **74 The Reserve Pension Fund.**

- (1) There shall be established under the control and management of the Reserve Pension Board a fund to be known as " the Reserve Pension Fund " .
- (2) There shall be paid into the Reserve Pension Fund—
  - (a) by the Secretary of State and the Northern Ireland Ministry respectively all contributions and premiums paid to them under this Part of this Act, after deduction of the relevant administrative expenses; and

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- (b) by the Board, all money received by them, whether in the nature of income or capital (including any money which they borrow).
- (3) The reference in subsection (2)(a) above to the relevant administrative expenses—
- (a) as regards the Secretary of State, is to such sums as he may estimate to be the expenses falling on him or any other government department in Great Britain, in collecting reserve scheme contributions and premiums and paying them into the Reserve Pension Fund ; and
  - (b) as regards the Northern Ireland Ministry, is to such sums as that Ministry may estimate to be the expenses so falling on it or any other department of the Government of Northern Ireland;
- and any estimate for the purposes of paragraph (a) or (b) above shall be arrived at in accordance with any directions of the Treasury or, in Northern Ireland, the Ministry of Finance.
- (4) There shall be paid out of the Reserve Pension Fund—
- (a) the reserve scheme pensions provided for by sections 80 and 81 of this Act;
  - (b) any expenditure of the Reserve Pension Board in the exercise of their functions (including expenditure on administration and the repayment of money borrowed by the Board and the payment of any interest on money so borrowed); and
  - (c) any sums which are payable by the Board to the Secretary of State or the Northern Ireland Ministry in respect of administrative services provided in pursuance of arrangements made for the purposes of section 73(3) of this Act.
- (5) There shall be paid out of the Reserve Pension Fund—
- (a) into the Consolidated Fund, sums representing expenses falling on any government department in Great Britain and attributable to this Part of this Act, being expenses in respect of the functions—
    - (i) under section 75(6) of this Act, of the Government Actuary, and
    - (ii) under section 85 of this Act (as it applies to Great Britain) of the Secretary of State, insurance officers, local tribunals and National Insurance Commissioners;
  - (b) into the Exchequer of Northern Ireland, sums representing expenses falling on any department of the Government of Northern Ireland and so attributable, being expenses in respect of functions under section 85 of this Act (as it applies to Northern Ireland) of the Northern Ireland Ministry, insurance officers, local tribunals and National Insurance Commissioners;
- and payments under this subsection shall be made at such times and in such manner, and the amount of any expenses referred to in paragraph (a) or paragraph (b) shall be estimated in such manner, as the Treasury or, in Northern Ireland, the Ministry of Finance may direct.
- (6) The Secretary of State and the Northern Ireland Ministry respectively shall in respect of each financial year prepare accounts showing—
- (a) the sums received by them in that year and paid into the Reserve Pension Fund as contributions and premiums under this Part of this Act;
  - (b) any sums paid by them in that year on behalf of the Reserve Pension Board as reserve scheme pensions (in pursuance of arrangements made for the purposes of section 73(3) of this Act);

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- (c) the relevant administrative expenses for the purposes of subsection (2)(a) above ; and
- (d) any receipts by them under subsection (4)(c);

and these accounts shall be prepared in such form, and in such manner and at such times, as the Treasury or, in Northern Ireland, the Ministry of Finance, may direct; and the Comptroller and Auditor General shall examine the Secretary of State's accounts and lay copies thereof, together with his report thereon, before Parliament; and the Comptroller and Auditor General for Northern Ireland shall examine the accounts of the Northern Ireland Ministry and lay copies thereof, together with his report thereon, before the Parliament of Northern Ireland.

(7) Where payments fall to be made by way of adjustment—

- (a) out of the Reserve Pension Fund either to the Secretary of State or another government department in Great Britain, or into the National Insurance Fund or the Consolidated Fund; or
- (b) into the Reserve Pension Fund out of the National Insurance Fund or out of money provided by Parliament,

then in such cases or classes of case as may be specified by the Secretary of State by order made with the consent of the Treasury, the amount of the payments to be made shall be taken to be such, and payments on account thereof shall be made at such times and in such manner, as may be determined by the Secretary of State in accordance with any directions given by the Treasury.

(8) Where payments fall to be made by way of adjustment—

- (a) out of the Reserve Pension Fund, to a department of the Government of Northern Ireland or into the Northern Ireland National Insurance Fund or the Exchequer of Northern Ireland; or
- (b) into the Reserve Pension Fund, out of the Northern Ireland National Insurance Fund or out of other public money belonging to Northern Ireland,

then in such cases or classes of case as may be specified by the Northern Ireland Ministry by order made with the consent of the Ministry of Finance the amount of the payments to be made shall be taken to be such, and payments on account thereof shall be made at such times and in such manner, as may be determined by that Ministry in accordance with any directions given by the Ministry of Finance.

(9) Exemption from income tax shall, on a claim being made in that behalf, be allowed—

- (a) in respect of income derived from investments or deposits of the Reserve Pension Fund ;
- (b) in respect of underwriting commissions if, or to such extent as the Inland Revenue are satisfied, the underwriting commissions are applied for the purposes of the reserve pension scheme and would (but for this paragraph) be chargeable to tax under Case VI of Schedule D;

and for the purposes of capital gains tax a gain shall not be a chargeable gain where it accrues to the Fund on any disposal of its investments.

(10) Subject to subsection (6) above, Part II of Schedule 18 to this Act shall have effect with respect to the accounts of the Fund and their annual audit.

## **75 Management of the Fund and its investments.**

- (1) In exercising their functions under this Part of this Act, and in particular in their management and investment of the Reserve Pension Fund, the Board shall have

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paramount regard to the interests of existing and future pensioners with pensions paid or to be paid out of die Fund.

(2) The Reserve Pension Fund may be invested by the Board in any manner they think expedient; but—

- (a) they shall so exercise their powers that any interest of the Fund in shares comprised in relevant share capital of a company to which this subsection applies is limited to less than 10 per cent, at any one time of the nominal value of that share capital;
- (b) if at any time the Fund's interest in any such shares exceeds the limits imposed by paragraph (a) above, it shall be the Board's duty to effect such dispositions as are necessary for the purposes of compliance with that paragraph; and
- (c) the duty imposed by paragraph (b) above shall be carried out by the Board without delay, except such delay (if any) as they think necessary to avoid any abnormal fluctuation of the market;

and a company to which this subsection applies is one in the case of which there has, as respects the whole or any proportion of its share capital, been granted a quotation on any recognised stock exchange.

(3) The following shall have effect as to the interpretation of subsection (2) above—

- (a) subject to the following paragraphs, the subsection shall be construed as if contained in the Companies Act 1948 ;
- (b) " company " includes a company within the meaning of the Companies Act (Northern Ireland) 1960;
- (c) " recognised stock exchange " includes a stock exchange recognised for the purposes of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940 ;
- (d) section 28 of the Companies Act 1967 (so far as applicable) shall be applied in construing the reference in paragraph (a) of the subsection to an interest of the Reserve Pension Fund in shares ; and
- (e) " relevant share capital", in relation to a company, means issued share capital of a class carrying rights to vote in all circumstances at general meetings of the company.

(4) The Board shall have power to borrow money (whether by way of overdraft or otherwise), against the security of any of their assets or otherwise, or against the security of any assets comprised in the Fund ; but this subsection shall not be taken to exempt the Board from the provisions of any order under section 1 of the Borrowing (Control and Guarantees) Act 1946 or section 2 of the Loans Guarantee and Borrowing Regulation Act (Northern Ireland) 1946, or from the provisions of the Exchange Control Act 1947.

(5) The Secretary of State may, with the approval of the Treasury, lend to the Board any sums which the Board have power to borrow under subsection (4) above up to such amount as he may (with that approval) determine to be necessary to enable the Board to establish and bring into operation the reserve pension scheme; and any loan which the Secretary of State makes in pursuance of this subsection shall be repaid to him at such times by such methods, and interest on the loan shall be paid to him at such rates and at such times, as he may with the approval of the Treasury from time to time determine.

(6) The Government Actuary shall—

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- (a) as from the end of the period of 3 years beginning with the appointed day or such shorter period beginning with that day as the Board may request; and
- (b) thereafter as from the beginning of every third year after that in which he last began such a review, or of such earlier year as the Board may request,

review the financial condition of the Fund as at the end of the year last ended before the beginning of the review and generally review the operation of this Part of this Act in past years and the way in which it may be expected to operate in the future; and after completing his review the Government Actuary shall report his conclusions thereon to the Board (without prejudice to any interim report which he thinks it expedient, or the Board request him, to make.

## **76 Annual report to Secretary of State.**

- (1) It shall be the duty of the Reserve Pension Board to make to the Secretary of State, as soon as practicable after the end of each financial year, a report on—
  - (a) the performance of their functions during that year; and
  - (b) the operation in that year of the reserve pension scheme.
- (2) The Board's report to the Secretary of State in respect of any year shall be accompanied by a copy of their statement of the accounts of the Reserve Pension Fund for that year, of the auditors' report on the accounts and of any report which has been made to the Board by the Government Actuary under section 75(6) of this Act and which the Board have not previously submitted to the Secretary of State.
- (3) The report shall include a statement as to the current investments of the Reserve Pension Fund as at the end of the year in question; and the statement, so far as relating to the Fund's current investments, shall—
  - (a) be in such form, and contain such particulars, as may be prescribed; and
  - (b) describe the Fund's investments in such manner, and in such categories or divisions and sub-divisions of categories, as regulations made for the purposes of this subsection may require;but the making of regulations for the purposes of this section shall not be taken as preventing the Board from including in their statement any such particulars as they think should be contained in it.
- (4) The Secretary of State shall lay before each House of Parliament a copy of the Board's annual report under this section, together with copies—
  - (a) of the Board's statement of the accounts of the Reserve Pension Fund for the year in question ;
  - (b) of the auditors' report on the accounts ; and
  - (c) of any report which has been made to the Board by the Government Actuary under section 75(6) of this Act and has not previously been laid before Parliament.

### *Contributions and premiums payable to the Fund*

## **77 Reserve scheme contributions.**

- (1) Subject to the provisions of this Act, where in any income tax week earnings are paid to or for the benefit of an earner in respect of employed earner's employment and—

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- (a) he is of the requisite age for the purposes of section 51 of this Act and that employment is not in relation to him recognised pensionable employment; and
- (b) the amount paid is equal to or exceeds the current basic scheme lower earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly),

there shall be payable to the Secretary of State or, in Northern Ireland, to the Northern Ireland Ministry (and, except as provided by this Act, without regard to any other payment of earnings to or for the benefit of the earner in respect of any other employment) a primary and a secondary reserve scheme contribution.

- (2) The primary contribution shall be payable by the earner, and the secondary contribution shall be payable by the secondary reserve scheme contributor; and—
  - (a) for the purposes of this section the secondary contributor, in relation to any payment of earnings to or for the benefit of an earner, is the same as is (or would be), for the purposes of Chapter I of Part I of this Act, the secondary Class 1 contributor in relation to that payment of earnings; and
  - (b) section 2(5) of this Act shall apply also in relation to the secondary reserve scheme contributor.
- (3) The amount of a reserve scheme contribution shall be a percentage of so much of the earnings paid in the week, in respect of the employment in question, as does not exceed the current basic scheme upper earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly); and—
  - (a) the primary contribution shall be 1-5 per cent.; and
  - (b) the secondary contribution shall be 2-5 per cent.
- (4) Section 6(1) and (3) of, and Schedule 1 to, this Act shall apply as if primary and secondary reserve scheme contributions were respectively primary and secondary Class 1 contributions.

In those provisions as they apply by virtue of this subsection—

- (a) for " Great Britain " read " the United Kingdom " ; and
- (b) in relation to contributions payable in Northern Ireland—
  - (i) for the Secretary of State substitute the Northern Ireland Ministry (except where he is first referred to in Schedule 1, paragraph 6(2), and in paragraph 8), and
  - (ii) for the Treasury substitute the Ministry of Finance.
- (5) Without prejudice to subsection (4) above, regulations may provide—
  - (a) for treating secondary reserve scheme contributions payable (in respect of any earnings paid to or for the benefit of an earner) but not paid, as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, the earner; and
  - (b) for treating reserve scheme contributions wrongly paid, or paid as to the wrong amount, as paid (wholly or in part) in discharge of a liability for other reserve scheme contributions or for basic scheme contributions, or for a reserve scheme premium.
- (6) No person shall—
  - (a) be liable to pay any reserve scheme contribution unless he fulfils such conditions as to residence or presence in the United Kingdom as may be prescribed;



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- (b) be entitled (except in such cases or classes of cases as may be prescribed) to pay any reserve scheme contribution other than one which he is liable to pay.
- (7) Regulations may provide for the adjustment of liability for reserve scheme contributions in cases where an earner, at the time of any payment of earnings to him or for his benefit which gives rise, or would apart from the regulations give rise, to liability for such contributions, is employed in two or more employed earner's employments (whether or not under the same employer), one or more of them being, and one or more of them not being, recognised pensionable employment in relation to the earner; and such regulations may provide for payments of earnings in respect of any or of all the employments concerned to be disregarded for the purposes of liability for primary reserve scheme contributions.
- (8) For the purpose of Chapter III of Part IX of the Income and Corporation Taxes Act 1970, the reserve pension scheme shall not be a sponsored superannuation scheme.

## **78 Reserve scheme premium on termination of recognised pensionable employment.**

- (1) Subject to the provisions of this section, where an earner's service in recognised pensionable employment ("the relevant employment") is terminated and either he is under the age of 26 or he has not at least 5 years' qualifying service (within the meaning of section 53(3) of this Act) accrued since the appointed day, there shall be payable to the Secretary of State, or in Northern Ireland to the Northern Ireland Ministry, a reserve scheme premium.
- (2) The person liable for the premium shall be—
  - (a) in a case where in the relevant employment the earner has been employed under a contract of service, his employer in that employment;
  - (b) in a case where the earner has been employed in an office with emoluments, either—
    - (i) such person as may be prescribed in relation to that office, or
    - (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office; and
  - (c) in any other case, such person as may be prescribed in relation to the relevant employment.
- (3) The amount of a reserve scheme premium shall—
  - (a) if there was no previous linked qualifying service, be an amount equal to the aggregate of all primary and secondary reserve scheme contributions which would have been payable, in respect of the earner's period of service in the relevant employment, if it had not been recognised pensionable employment in relation to him; and
  - (b) if there was a period of previous linked qualifying service, or there were two or more such periods, be that amount plus such amount (if any) as would have been payable by way of reserve scheme premium on the termination of any such period of service, if it had not been linked qualifying service (disregarding in either case any application of regulations made for the purposes of subsection (5) below).
- (4) In the following cases no reserve scheme premium shall be payable—
  - (a) where at the time of termination the earner is no longer of requisite age for the purposes of section 51 of this Act;

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- (b) where the period of the earner's service in the relevant employment is terminated by his death ;
  - (c) where the period of that service is terminated otherwise than by the earner's death and—
    - (i) he becomes entitled under the relevant occupational pension scheme to such minimum personal pension as is mentioned in paragraph (a) or (b) of section 53(4) of this Act with full entitlement also in respect of any recognition credits allowed him under the rules of that scheme, or
    - (ii) that scheme includes such provision as is required for recognition purposes by section 58(3) of this Act and a transfer of the earner's accrued rights has been, or is to be, made in accordance with that provision with a view to the allowance of recognition credits under another scheme.
- (5) No premium shall be payable where its amount would be less than such amount as may be prescribed; and no person shall be entitled (except in such cases or classes of cases as may be prescribed) to pay any premium unless either he is liable under this section to pay it or he would be so liable but for the amount being less than that which is prescribed for the purposes of this subsection.
- (6) The supplementary provisions contained in Schedule 19 to this Act shall apply with respect to reserve scheme premiums and matters incidental and ancillary to this section.
- (7) The foregoing provisions of this section shall apply whether an earner's period of service in the relevant employment is terminated by reason of his ceasing to be employed in that employment or of the employment ceasing to be recognised pensionable employment; and—
  - (a) subject to regulations made under paragraph 4 of Schedule 15 to this Act, where the period is terminated by the death of an employer, this section shall apply as if the period had been terminated immediately before the death ; and
  - (b) for the purposes of this section, if an employment becomes, or has ceased to be, recognised pensionable employment in the course of a person's service in it, his service before and after the time when the recognition certificate in respect of that employment takes effect or, as the case may be, ceased to be in force shall be treated as service in different employments.
- (8) Payment of a reserve scheme premium shall become due at such time as may be prescribed after the end of the period of service to which it relates.
- (9) In this section " the relevant occupational pension scheme", in relation to the relevant employment, means the occupational pension scheme by reference to which that employment is or has been recognised pensionable employment in relation to the earner concerned.
- (10) The Secretary of State may by regulations modify this section and section 79 below in their application to employments in the case of which earners under different employers qualify, by virtue of their respective service in those employments, for the benefits of the same occupational pension scheme; and regulations made for the purposes of this subsection may provide—
  - (a) for the trustees or managers of the scheme to be liable for a reserve scheme premium instead of those otherwise liable under subsection (2) above; and

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- (b) for the adjustment (whether as a consequence of provision made under paragraph (a) above, or otherwise) of rights and liabilities as between earners, employers and the trustees or managers.

## **79 Deduction of premium from refund of contributions.**

- (1) Where an earner's service in recognised pensionable employment is terminated and—
  - (a) he (or by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him for the purposes of the relevant scheme towards the provision of benefits under the scheme; and
  - (b) a reserve scheme premium falls to be paid in respect of him under this Part of this Act,

then, subject to the provisions of this section, the person liable for the premium shall be entitled on paying it or any part of it to recover  $\frac{3}{8}$ ths of the payment or part from the person liable for the refund.

- (2) The amount recoverable under this section shall not exceed the amount of the refund or so much of it as has not been made.
- (3) Where the period taken into account in fixing the amount of the premium does not coincide with that in respect of which the refund is to be made, then (subject to subsection (4) below) the amount recoverable under this section shall be determined by reference to so much of the payment and of the refund as are referable to the same period.
- (4) The amount which may be recovered under this section in respect of any premium shall be increased by such amount as may be prescribed where the refund—
  - (a) is made in respect of more than one period of service, and one or more of those periods are periods of previous linked qualifying service; and
  - (b) includes any amount paid under a recognised scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme.
- (5) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this section from another person liable for the refund.
- (6) The amount of the refund shall be reduced by any amount recovered or retained under this section; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this section to be exercised, and shall have effect notwithstanding anything in any enactment relating to the making of the refund.
- (7) Where an earner's service in recognised pensionable employment is terminated and—
  - (a) he (or by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him under the relevant scheme in relation to any previous recognised pensionable employment of his, being payments towards the provision of benefits under that scheme ; and
  - (b) a reserve scheme premium falls to be paid in respect of him and the amount of the premium includes an amount for reserve scheme contributions which would have been payable in respect of him and his earnings arising from that previous employment;

then in respect of that premium the person liable for it shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out

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of a refund in respect of a later employment) as a person has under the foregoing provisions of this section where a reserve scheme premium and a refund fall to be made on the termination of service in the employment in respect of which the refund is to be made; and subsection (6) above shall apply accordingly.

- (8) Notwithstanding any contract to the contrary, a person shall not be entitled to recover any part of a reserve scheme premium from the earner in respect of whose service it is payable or, except in accordance with this section, to recover or retain any part of such a premium out of any money payable to or for the benefit of the earner or any other person.
- (9) The foregoing provisions of this section shall apply in relation to such a refund as is referred to in subsection (1)(a) or (7)(a) above which becomes payable after the termination of an earner's service in recognised pensionable employment as they apply to such a refund becoming payable on the termination of an earner's service in such employment; and where he (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, those provisions shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1) (a) above.
- (10) For the purposes of subsection (9) above, a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being or having been a member of an occupational pension scheme, being a payment which either—
- (a) is made or to be made otherwise than out of the resources of the scheme ; or
  - (b) is made or to be made out of those resources but by way of distribution on a winding-up ; or
  - (c) falls within such other description of payments as may be prescribed for the purposes of subsection (9).
- (11) In this section, " the relevant scheme " in relation to any employment means the recognised scheme by reference to which that employment is or was recognised pensionable employment in relation to the earner concerned.

#### *Reserve scheme pensions*

### **80 Reserve scheme personal pension.**

- (1) Subject to the provisions of this Act, an earner in respect of whose earnings any reserve scheme contributions or premiums have at any time been paid, shall be entitled when he attains pensionable age to a reserve scheme personal pension.
- (2) The weekly rate of such a pension shall be ascertained, in accordance with Schedule 20 to this Act, by reference to the factors specified in paragraph 1 of that Schedule; but the rate shall be subject to increase, in accordance with section 82 of this Act, by reference to the normal and interim bonuses declared from time to time by the Reserve Pension Board.
- (3) Subject to and in accordance with regulations, a person with entitlement or prospective entitlement to a reserve scheme pension may, at any time before the pension comes into payment, elect for payment of the pension to be postponed for any period (whether determinate or not), but not beyond the age of 70 in the case of a man, or 65 in the case of a woman; and where a person so elects, the rate of pension shall be subject to

adjustment in the prescribed manner, so as to take into account any period between pensionable age and the time when the pension comes into payment.

## **81 Reserve scheme widow's pension.**

- (1) Subject to the provisions of this Act, on the death of a man ("the deceased contributor") in respect of whose earnings there have at any time been paid reserve scheme contributions or reserve scheme premiums, there shall, if he was married at the time of his death, be payable to his widow a reserve scheme widow's pension.
- (2) The basic weekly rate of such a pension—
  - (a) if the deceased contributor was at the date of his death under pensionable age, shall be one half the rate of the reserve scheme personal pension to which he would himself have been entitled on attaining that age; and
  - (b) in any other case, shall be one half the rate of the reserve scheme personal pension to which the deceased contributor was himself entitled immediately before his death;but the rate shall be subject to increase, in accordance with section 82 of this Act, by reference to the normal and interim bonuses declared from time to time by the Reserve Pension Board.
- (3) For the purpose of ascertaining, under subsection (2)(a) above, the rate of pension to which the deceased contributor would have been entitled—
  - (a) there shall be taken into account under Schedule 20 to this Act all such contributions and premiums as became due from or in respect of him up to the date of his death and have been actually paid (whether before or after that date) or are treated as actually paid by regulations under section 77(5) or under Schedule 1 to this Act as applied by section 77(4);
  - (b) no assumption shall be made as to contributions or premiums which might have become payable in respect of him had he not died; and
  - (c) there shall be disregarded any normal or interim bonus declared by the Reserve Pension Board, under section 82 of this Act, with an effective date which is that of, or follows, the date of the contributor's death.
- (4) Regulations shall make provision modifying this section in relation to cases where the deceased contributor had made an election for the purposes of section 80(3) of this Act.

## **82 Declaration of bonuses by Reserve Pension Board.**

- (1) So soon as is practicable after they have received and considered a report of the Government Actuary made to them under section 75(6) of this Act, the Reserve Pension Board shall, if they think it right to do so having regard to the Actuary's report on the condition of the Reserve Pension Fund, declare a normal bonus, which shall (subject to subsection (8) below) be a uniform percentage increase, effective from such date as may be specified in the declaration as the effective date of the bonus, of the current rate of all reserve scheme pensions qualifying for normal bonus.
- (2) The pensions qualifying for normal bonus are those—
  - (a) in respect of which entitlement has arisen at the effective date of the bonus; or
  - (b) in respect of which entitlement has not arisen at that date but whose rate, when entitlement arises, will be arrived at wholly or partly by reference to reserve

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scheme contributions and premiums paid before the end of the last year before the beginning of the Government Actuary's review.

- (3) For the purposes of subsection (1) above, the current rate of a pension qualifying for normal bonus is its rate computed—
- (a) in case (a) of subsection (2) above, as at the effective date of the bonus; and
  - (b) in case (b) of that subsection, as at the end of the last year before the beginning of the Government Actuary's review,
- with (in either case) any increase derived from a previous normal bonus, but disregarding any interim bonus.
- (4) Without prejudice to subsection (1) above, the Board may, without any report being made to them by the Government Actuary, declare an interim bonus, which shall (subject to subsection (8) below) be a uniform percentage increase, effective from such date as may be specified in the declaration as the effective date of the bonus, of the current rate of all reserve scheme pensions qualifying for interim bonus.
- (5) The pensions qualifying for interim bonus are those—
- (a) in respect of which entitlement has arisen at the effective date of the bonus; or
  - (b) in respect of which entitlement will arise in the period beginning with the effective date and ending with whatever may be the effective date of the next normal bonus.
- (6) For the purposes of subsection (4) above, the current rate of a pension qualifying for interim bonus is its rate computed—
- (a) in case (a) of subsection (5) above, as at the effective date of the interim bonus ; and
  - (b) in case (b) of that subsection, as at the time when entitlement arises,
- with (in either case) any increase derived from a previous normal bonus, but disregarding any interim bonus.
- (7) Where a normal bonus is declared, any resultant pension increase shall take effect in substitution for, and to the exclusion of, increases derived from any previous interim bonus.
- (8) When declaring a bonus, the Board may, in so far as they think it equitable to do so—
- (a) specify for particular categories of pensioners (present or future) a rate of increase greater or less than the uniform rate; and
  - (b) deal differently as between categories of pensions, or as between different parts of a pension of any category, either by specifying different increases, or by excluding any category or part from the application of any increase, by reference to when the contributions or premiums going to the rate of a pension were paid, or to the part of a pension which derives from any previous bonus.
- (9) Regulations may make such provision as the Secretary of State thinks expedient—
- (a) with respect to the amounts by which reserve scheme pensions are to be increased by reference to any bonus declared by the Board ;
  - (b) as to the application of any normal or interim bonus to pensions in respect of which elections have been made for the purposes of section 80(3) of this Act; and
  - (c) for enabling any relevant figures to be adjusted so as to admit of tabulation, and so as to avoid fractional amounts or otherwise facilitate computation.

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- (10) The Board shall furnish to the Secretary of State particulars—
- (a) of any determination made by them for the purposes of subsection (1) above (whether a determination to declare a normal bonus, or not to declare one), these particulars being accompanied by a copy of the relevant report of the Government Actuary, in any case where the Secretary of State has not previously been furnished with a copy of that report; and
  - (b) of any determination by the Board under subsection (4) above to declare an interim bonus ;
- and in either case the Secretary of State shall lay a copy of the particulars before each House of Parliament, together with (where relevant) a copy of the report of the Government Actuary.

### **83 Supplementary provisions as to reserve scheme pensions.**

- (1) A reserve scheme personal or widow's pension shall be payable for life, subject to regulations providing for it to be suspended or forfeited in prescribed circumstances, or making provision as to the time when it is to be treated as terminated when a pensioner dies:

Provided that a widow's pension shall not be payable for any period after the widow's death or remarriage, or for any prescribed period during which she is cohabiting with a man as his wife.

- (2) Regulations may permit a pension to be commuted, when its weekly rate is less than such rate as may be prescribed, in exchange for payment of a lump sum provided from the Reserve Pension Fund; and a commutation effected in accordance with such regulations shall be treated as extinguishing any further entitlement to a reserve scheme pension in the case of the person effecting it, including any reserve scheme pension for his widow on his death.
- (3) Subject to subsection (2) above, every assignment of, or charge on, a reserve scheme pension, and every agreement to assign or charge such a pension, shall be void and, on the bankruptcy of any person actually or prospectively entitled to such a pension, his entitlement shall not pass to any trustee or other person acting on behalf of his creditors.

In the application of this subsection to Scotland—

- (a) the reference to the assignment of a pension shall be read as a reference to its assignation, "assign" being construed accordingly;
- (b) the reference to a person's bankruptcy shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 14 of the Bankruptcy (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958,

and in its application to Northern Ireland, the reference to a person's bankruptcy includes the vesting of a person's estate and effects in the official assignee under section 349 of the Irish Bankrupt and Insolvent Act 1857.

- (4) Paragraphs 2(6) and (7) and 8(1), (2)(a) and (3) of Schedule 10 to this Act as they apply to Great Britain shall, for the whole of the United Kingdom, have effect in relation to reserve scheme pensions as they have effect in relation to basic scheme benefits, but in paragraph 2(6) of the Schedule as applied by this subsection the Reserve Pension Board shall be substituted for the Secretary of State.

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## PART IV

### MISCELLANEOUS AND GENERAL

#### *Adjudication*

#### **84 Questions arising under the basic scheme.**

- (1) Any of the following questions arising under Part I of this Act shall be determined by the Secretary of State in accordance with Part IV of the former principal Act—
  - (a) any 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, any question—
    - (i) whether the contribution conditions for any benefit are satisfied, or
    - (ii) otherwise relating to a person's contributions or his earnings factor ;
  - (c) any question which of two or more persons satisfying the conditions for an increase of benefit, whether benefit of the same or a different description, shall be entitled to the increase where by virtue of some provision of Part I of this Act not more than one of those persons is so entitled ;
  - (d) any question as to the person to be treated as maintaining a child, or as to the family in which a child is to be treated as included, in a case where by virtue of the Schedule to the Family Allowances Act that question falls to be decided by the Secretary of State in his discretion;
  - (e) any question arising under paragraph 1(4) of Schedule 10 to this Act.
- (2) Subsection (1)(b) above includes any question arising—
  - (a) under section 5(6) of this 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 5(8), (9) or (10);
 but not any other question relating to Class 4 contributions, nor any question to which subsection (5)(b) below applies.
- (3) A decision of the Secretary of State on any such question as is mentioned in paragraph (d) of subsection (1) above may be given so as to have effect with respect to a period before the date of the decision.
- (4) The Secretary of State may, if he thinks fit, before determining any question such as is mentioned in subsection (1)(a) to (c) above, appoint a person to hold an inquiry into the question, or any matters arising in connection therewith, and to report on the question, or on those matters, to the Secretary of State.
- (5) Any question arising under Part I of this Act—
  - (a) as to the right to benefit (but not such a question as is referred to in paragraph 14 of Schedule 7); or
  - (b) whether a person would by reason of the provisions of, or of any regulations made under, section 14(2) or (3) of this Act have been disqualified for receiving unemployment benefit, sickness benefit or invalidity benefit if he had otherwise had a right thereto,



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shall be determined in accordance with the provisions of sections 68 to 72 of the former principal Act by an insurance officer, a local tribunal or a National Insurance Commissioner.

- (6) Part IV of the former principal Act (determination of claims and questions), so far as it remains in force, shall be amended as shown in Part I of Schedule 21 to this Act and, as so amended and with the repeals effected by this Act and any other Act of the same session in which this Act is passed, shall have effect as set out in Part II of that Schedule.

## **85 Questions arising under the reserve scheme.**

- (1) The following provisions of this subsection shall apply in the case of questions arising under Part III of this Act,; other than such a question as is referred to in subsection, (4) below or as may be prescribed by regulations under' subsection (5)—
- (a) any question so arising as to a person's liability for reserve scheme contributions or a reserve scheme premium shall be determined by the Secretary of State;
  - (b) any question so arising as to the reserve scheme contributions or premiums paid by or in respect of any person, so far as relating to his or another person's entitlement to a reserve scheme pension, shall be referred by the Reserve Pension Board to, and be determined by, the Secretary of State ;
  - (c) any question so arising as to a person's entitlement to a reserve scheme pension, or as to any other matter relating to such a pension (but not such a question as is referred to in paragraph (b) above), shall be determined by the Reserve Pension Board; and
  - (d) any question so arising as to whether a person's employment at any time is or was recognised pensionable employment in relation to him shall be referred by the Secretary of State to, and be determined by, the Occupational Pensions Board.
- (2) The Secretary of State may, if he thinks fit, before determining any such question as is referred to in subsection (1)(a) or (b) above, appoint a person to hold an inquiry into the question, or any matters arising in connection therewith, and report on the question, or on those matters, to the Secretary of State.
- (3) In subsections (1) and (2) above, as they apply to Northern Ireland and questions arising there, the Northern Ireland Ministry shall be substituted for the Secretary of State.
- (4) Where any question arises before the Reserve Pension Board under Part III of this Act—
- (a) as to a person's age ; or
  - (b) as to what was the date of a person's death; or
  - (c) as to whether a man was at the time of his death married to a particular woman ;  
or
  - (d) as to whether a woman previously married' has remarried and, if so, what was the date of her remarriage,

that question shall be referred by the Board to an insurance officer for determination by him in accordance with Part IV of the former principal Act or the corresponding Northern Ireland legislation: and the said Part IV or that legislation, as the case may

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be, shall then apply as if it were such a question as is referred to in section 84(5) of this Act.

- (5) Regulations may prescribe questions arising before the Reserve Pension Board under Part III of this Act (not being such questions as are referred to in paragraphs (a) to (d) of subsection (4) above) which may or must in prescribed circumstances be referred by the Board to an insurance officer under Part IV of the former principal Act or the corresponding Northern Ireland legislation; and any question so prescribed shall in accordance with the regulations be so referred, and the said Part IV or that legislation, as the case may be, shall then apply as if it were such a question as is referred to in section 84(5) of this Act.
- (6) The Reserve Pension Board may, on new facts being brought to their notice, or if they are satisfied that their decision was given in ignorance of, or was based on a mistake as to, some material fact, review any decision given by them on any such question as is mentioned in subsection (1)(c) above:

Provided that such a decision shall not be reviewed while an appeal under section 86 of this Act is pending against the decision of the Board on a question of law arising in connection therewith, or before the time for so appealing has expired.

## **86 References and appeals from the two Boards.**

- (1) Any question of law arising in connection with—
- (a) any matter arising under Part II of this Act for determination by the Occupational Pensions Board ;
  - (b) any matter which under section 85(1) of this Act falls to be determined by that Board or the Reserve Pension Board;
  - (c) any matter arising on an application to either Board for a review of a determination by that Board, or on a review by either Board entered upon without an application,
- may, if the Board concerned think fit, be referred for decision to the court.
- (2) In this section " the court " means—
- (a) in England and Wales, the High Court;
  - (b) in Scotland, the Court of Session ; and
  - (c) in Northern Ireland, the Court of Appeal in Northern Ireland.
- (3) In the event of either Board determining in accordance with subsection (1) above to refer any question of law to the court, they shall give notice in writing of their intention to do so—
- (a) in a case where the question arises on an application made to the Board, to the applicant; and
  - (b) in any case to such persons as appear to them to be concerned with the question.
- (4) Any person aggrieved—
- (a) by a determination of the Occupational Pensions Board given on a review under section 67 of this Act, or by the refusal of that Board to review a determination; or
  - (b) by the determination by the Reserve Pension Board of any such question as is referred to in section 85 of this Act, or by the refusal of that Board to review a determination,

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where the determination in either case involves a question of law and that question is not referred by the Board concerned to the court under subsection (1) above, may on that question appeal from the determination to the court.

- (5) The Board concerned shall be entitled to appear and be heard on any reference or appeal under this section.
- (6) The provision made by rules of court or by rules made under section 7 of the Northern Ireland Act 1962 shall include provision for regulating references and appeals to the court under this section and for limiting the time in which such appeals may be brought.
- (7) So much of section 63(1) of the Supreme Court of Judicature (Consolidation) Act 1925 as requires an appeal from any person to the High Court to be heard and determined by a divisional court shall not apply to appeals under this section.
- (8) Notwithstanding anything in any enactment, the decision of the court on a reference or appeal under this section shall be final; and on any such reference or appeal the court may order the Board concerned to pay the costs or, in Scotland, the expenses of any other person, whether or not the decision is in that other person's favour and whether or not the Board appear on the reference or appeal.
- (9) In the foregoing provisions of this section, " the Board concerned" means the Occupational Pensions Board or the Reserve Pension Board, as the case may be.

## **87 National Insurance Commissioners.**

- (1) For the purposes of section 84 of this Act, Part IV of the former principal Act and Part III of the Industrial Injuries Act, Her Majesty may from time to time appoint, from among persons who are barristers or advocates of not less than 10 years' standing, a Chief National Insurance Commissioner and such number of other National Insurance Commissioners as Her Majesty may think fit.
- (2) If it appears to the Chief National Insurance Commissioner (or, in the case of his inability to act, to such other of the National Insurance Commissioners as the Chief National Insurance Commissioner may have nominated to act for the purpose) that any appeal falling to be heard by one of those Commissioners involves a question of law of special difficulty, he may direct that the appeal shall be dealt with, not by that Commissioner alone, but by a tribunal consisting of any three of those Commissioners, and if the decision of any such tribunal is not unanimous, the decision of the majority shall be the decision of the tribunal.
- (3) Unless the context otherwise requires, any reference in this Act, the former principal Act or the Industrial Injuries Acts to, or falling to be construed as a reference to, a Commissioner appointed under this section shall include a reference to any tribunal constituted under subsection (2) above.

*Administration, enforcement, etc.*

## **88 Administrative provisions.**

- (1) For the purposes of this Act, the Secretary of State may appoint such inspectors as he may with the consent of the Minister for the Civil Service determine, and pay to them such salaries or remuneration as may be so determined; and the provisions of

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Part I of Schedule 22 to this Act (being provisions which substantially replace those of section 90(2) to (8) of the former principal Act and enactments amending that section) shall have effect in relation to the Secretary of State's inspectors, and their powers and duties.

- (2) The provisions of Part II of Schedule 22 to this Act (being provisions which substantially replace sections 91, 112 and 113 of the former principal Act and section 12 of the National Insurance Act 1971) shall have effect with respect to—
- (a) the information to be provided under the enactments relating to registration for the purposes of proving age, marriage or death;
  - (b) the furnishing of addresses in connection with maintenance proceedings between husband and wife and other family litigation; and
  - (c) the treatment to be accorded under this Act to voidable and polygamous marriages,
- and, to the extent mentioned in that Part of Schedule 22, apply also for the purposes of the Industrial Injuries Act and the Family Allowances Act.
- (3) Part III of Schedule 22 to this Act shall have effect for the purpose of bringing section 64 of the Industrial Injuries Act (inspectors, etc.) into conformity with Part I of that Schedule in respect of penalties for obstruction and other matters.

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

- (1) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to Inland Revenue shall prevent information obtained in connection with the assessment or collection of income tax under Schedule E from being disclosed to the Secretary of State or the Northern Ireland Minister, or to an officer of either of them authorised to receive such information, in connection with the operation of any enactment relating to the calculation or collection of contributions under this Act, or the payment of benefit thereunder.
- (2) No such obligation as is referred to in subsection (1) above shall prevent information from being disclosed to any member of the Occupational Pensions Board, or an officer of the Board authorised to receive it, in connection with the exercise by the Board of any of their functions.
- (3) Subsections (1) and (2) above extend only to disclosure by or under the authority of the Inland Revenue ; and information which is the subject of disclosure to any person by virtue of either subsection shall not be further disclosed to any other person, except where the further disclosure is made—
- (a) to a person to whom disclosure could by virtue of this section have been made by or under the authority of the Inland Revenue ; or
  - (b) for the purposes of any proceedings (civil or criminal) in connection with the operation of any enactment relating to the calculation or collection of contributions under this Act, or the payment of benefit thereunder ; or
  - (c) for any purposes of section 84 of this Act or Part IV of the former principal Act or the corresponding Northern Ireland legislation;
- or where the further disclosure is made to the trustees or managers of an occupational pension scheme and relates to a member of the scheme and is made with his consent.
- (4) In this section, references to contributions include references to reserve scheme premiums, and references to benefit include references to reserve scheme pensions.

**90 Exemption from stamp duty.**

Stamp duty shall not be chargeable upon any document authorised by virtue of Part I of this Act or otherwise required in order to give effect to that Part or in connection with any description of business thereunder.

**91 Information to be given to employees.**

- (1) Every statement given to an employee under section 4(1) of the Contracts of Employment Act 1972 (particulars as to terms of employment, etc.) after the appointed day shall contain a note stating—
- (a) whether, for the employment in respect of which the statement is given, a recognition certificate is in force;
  - (b) if not—
    - (i) whether the employer has applied, or intends to apply, to the Occupational Pensions Board for such a certificate and, if so, when he did so or, as the case may be, intends to do so; and
    - (ii) that, during any period in which no such certificate is in force, reserve scheme contributions will be payable under section 77 of this Act in respect of the employee's earnings from the employment.
- (2) The Contracts of Employment Act 1972 shall be construed and amended as follows—
- (a) any reference in section 4(5) of the Act (alternative method of conveying information to the employee) or in section 5(1) or (3) (changes in terms of employment, etc.) to that which is, or is to be, included, given or referred to in a statement under section 4(1) of the Act shall be construed as including a reference to a note under subsection (1) above ;
  - (b) any reference to that which is, or is to be, included, given or referred to in a statement under section 5(1) of the Act shall be construed in a corresponding way ;
  - (c) any reference in section 8(1) to (6) of the Act (employee's right of reference to industrial tribunal) shall be similarly construed, but subject to subsection (4) below ; and
  - (d) in section 6 of the Act (exclusion of section 4 requirements where information is given to employees in another way), after paragraph (c) there shall be added—
    - “and
    - (d) such a note as is mentioned in section 91(1) of the Social Security Act 1973 has been given to the employee, or he has reasonable opportunities of reading such a note in the course of his employment, or such a note is made reasonably accessible to him in some other way”.
- (3) Without prejudice to sections 4 to 6 of the Contracts of Employment Act 1972 or subsection (1) above, the Secretary of State may make such regulations as he thinks expedient for requiring employers to inform their employees, and keep them informed, in such manner and at such times as may be prescribed—
- (a) whether an employment is or is not, or will or will not be, or has ceased or may cease to be, recognised pensionable employment in relation to any category of earners;

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- (b) as to the employer's intentions in respect of applying to the Occupational Pensions Board for a recognition certificate for any employment, or for the cancellation or variation of such a certificate ;
- (c) that, during any period in which a recognition certificate is not in force in respect of an employment, employees in that employment will be liable for reserve scheme contributions in respect of their earnings from it;

and regulations made for the purposes of this section shall include provision requiring employers to afford to those of their employees who are concerned, or to organisations representing them, reasonable opportunities of making representations with respect to the matters which are to be included in a notice under the regulations.

- (4) Nothing in section 8 of the Contracts of Employment Act 1972 (reference to tribunal as to particulars of terms of employment) shall authorise or require a tribunal to determine any question whether an employment is or has at any time been, or will at any time be, recognised pensionable employment, or whether reserve scheme contributions are, were or will be payable in respect of earnings from any employment.
- (5) The Contracts of Employment Act 1972 and this section shall be construed as if this section were contained in that Act.

## **92 Offences, penalties and proceedings.**

- (1) If any person fails to pay at or within the time prescribed for the purpose—
  - (a) any basic scheme or reserve scheme contribution which he is liable under Part I or, as the case may be, Part III of this Act to pay (other than a Class 4 contribution recoverable by the Inland Revenue); or
  - (b) any reserve scheme premium which he is liable under Part III of this Act to pay,

he shall be liable on summary conviction to a fine of not more than £50.

- (2) If any person—
  - (a) buys, sells or offers for sale, takes or gives in exchange, or pawns or takes in pawn any contribution card or any used contribution stamp ; or
  - (b) affixes any used contribution stamp to any contribution card; or
  - (c) for the purpose of obtaining any benefit or other payment under this Act, whether for himself or some other person, or for any other purpose connected with this Act—
    - (i) knowingly makes any false statement or false representation; or
    - (ii) produces or furnishes, or 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 liable on summary conviction to a fine of not more than £400, or to imprisonment for a term not exceeding 3 months, or to both.

- (3) Regulations may provide for the recovery on summary conviction of penalties for offences under this Act of contravening or failure to comply with regulations; but penalties so provided shall not exceed—
  - (a) for any one offence, £50 ; or
  - (b) for an offence of continuing any such contravention or failure after conviction, £10 for each day on which it is so continued.

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- (4) The provisions of Schedule 23 to this Act (being provisions which substantially replace those of sections 94 and 95 of the former principal Act and section 10(1) to (4) and (6) of the National Insurance Act 1966) shall have effect with respect to prosecutions under this Act, the recovery of contributions following prosecution to conviction and otherwise with respect to proceedings under this Act, both civil and criminal; and so much of that Schedule as provides for the construction of references to a contribution card or a used contribution stamp shall apply also to any such reference in subsection (2) above.
- (5) Where in any proceedings—
- (a) for an offence under this Act; or
  - (b) involving any question as to the payment of contributions under Part I or Part III of this Act (other than a Class 4 contribution recoverable by the Inland Revenue) or of a reserve scheme premium under Part III; or
  - (c) for the recovery of any sums due to the Secretary of State, the National Insurance Fund or the Reserve Pension Fund,
- any such question arises as is mentioned in section 84(1)(a) to (c) or section 85(1)(a) or (b) of this Act, then, unless an appeal under section 65 of the former principal Act or section 86 of this Act is pending, or the time for appealing has not expired, or a question has been raised with a view to a review of the Secretary of State's decision, the decision of the Secretary of State shall be conclusive for the purposes of those proceedings.
- (6) If a decision of any such question is necessary for the determination of proceedings, and the decision of the Secretary of State 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 Secretary of State for determination or review in accordance (subject to any necessary modifications) with Part IV of the former principal Act.
- (7) Where any appeal mentioned in subsection (5) above is pending, or the time for appealing has not expired, or where any question so mentioned has been referred to the Secretary of State, the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.
- (8) Subsection (2) above (without paragraphs (a) and (b)), and paragraphs 1 to 4 and 6 of Schedule 23, shall have effect for the purposes of the Industrial Injuries Act as if in those provisions references to this Act or to regulations or an inspector included respectively references to that Act and to regulations and an inspector under that Act; and subsection (3) above shall have effect for the purposes of that Act (subject to any express provisions of that Act) but shall not apply to a contravention of, or failure to comply with, regulations under that Act requiring a person to submit himself to medical treatment.

### **93 Priority of certain debts in bankruptcy, etc.**

- (1) Subject to and in accordance with Schedule 24 to this Act, the debts specified in subsection (2) of this section shall be included among those accorded priority under the relevant enactments specified in that Schedule (being enactments relating to personal insolvency, companies' winding-up and the remedies of debenture holders and chargees); and in subsection (2) below " the relevant event " has the meaning indicated by that Schedule.
- (2) The debts referred to in subsection (1) above are—

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- (a) any sum owed on account of Class 1 contributions (primary or secondary) or Class 2 contributions payable in either case in the period of 12 months immediately preceding the date of the relevant event;
  - (b) any sum owed on account of an earner's contributions to an occupational pension scheme, or of primary reserve scheme contributions, being in either case contributions deducted from earnings paid in the period of 4 months immediately preceding the date of the relevant event, or otherwise due in respect of earnings paid or payable in that period;
  - (c) subject to subsection (4) below, any sum owed on account of an employer's contributions to a recognised occupational pension scheme in respect of recognised pensionable employment, and payable in the period of 12 months immediately preceding the date of the relevant event (the reference to an employer being construed in accordance with regulations made under section 51(5) of this Act);
  - (d) any sum owed on account of secondary reserve scheme contributions payable in the period of 12 months immediately preceding the date of the relevant event; and
  - (e) subject to subsection (5) below, any sum owed on account of a reserve scheme premium payable at any time before, or in consequence of, the occurrence of the relevant event.
- (3) Any priority accorded by the enactments relating to personal insolvency which are specified in Schedule 24 to this Act to debts consisting of income tax assessed and unpaid shall be accorded, to the same extent and subject to the same limitations, to debts consisting of Class 4 contributions assessed and unpaid, so far as owed to the Inland Revenue and not to the Secretary of State or the Northern Ireland Ministry.
- (4) Contributions falling within subsection (2)(c) above are those payable, in respect of earners in recognised pensionable employment by reference to the recognised scheme in question, towards the provision for those earners of the minimum benefits of the scheme; and insofar as contributions cannot from the terms of the scheme be identified as being so payable, the following shall apply—
- (a) the amount of the debt having priority by virtue of that paragraph shall be deemed to be an amount equal to—
    - (i) 4 per cent, of the total reckonable earnings paid, in the period of 12 months referred to in that paragraph, to or for the benefit of non-contributing earners; or
    - (ii) 2.5 per cent, of the total reckonable earnings paid in that period to or for the benefit of contributing earners;
  - (b) the earnings to be taken into account under paragraph (a) above as reckonable earnings are those paid to or for the benefit of earners in recognised pensionable employment (by reference to the scheme) in the whole or any part of that period ; and
  - (c) for the purposes of the above paragraphs—
    - (i) " reckonable earnings " has the same meaning as in section 54(3) of this Act, and " paid " includes payable; and
    - (ii) earners are to be identified as contributing, or non-contributing, in relation to any service of theirs in recognised pensionable employment by reference to the scheme, according to whether or not in the period in question they were liable under the terms of the



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scheme to contribute (in respect of that service) towards the provision of the minimum benefits of the scheme.

- (5) Where any such premium as is mentioned in subsection (2)(e) above is payable in respect of a period of service of more than 12 months (taking into account any previous linked qualifying service), the amount to be paid in priority under the enactments specified in Schedule 24 to this Act shall be limited to the amount of the premium which would have been payable if the service had been confined to the last 12 months taken into account in fixing the actual amount of the payment.
- (6) Where—
- (a) by virtue of subsection (1) above the whole or part of a reserve scheme premium is required to be paid in priority to other debts of the debtor or his estate; and
  - (b) the person liable for the payment would be entitled to recover the whole or part of any sum paid on account of it from another person either under section 79 of this Act or under any provision made by the relevant scheme for the purposes of that section,

then that other person shall be liable for any part of the premium for the time being unpaid ; but so that no person shall be liable by virtue of this subsection for an amount in excess of the sum which might thereunder be recovered from him if the premium had been paid in full by the person liable for it, after deducting from that sum any amount which has been or may be recovered from him in respect of any part of that payment paid otherwise than under this subsection.

- (7) The payment under subsection (6) above of any amount in respect of a reserve scheme premium shall have the same effect upon the rights and liabilities of the person making it (other than his liabilities under that subsection) as if it had been a payment of that amount on account of the sum recoverable from him in respect of the premium as mentioned in subsection (6) (b).

#### *The Industrial Injuries Acts*

### **94 Assimilation of Industrial Injuries Acts to basic scheme.**

- (1) Part I of the Industrial Injuries Act (insured persons and contributions), but not Part I of Schedule 1 to that Act (insurable employments), shall cease to have effect.
- (2) Throughout the Industrial Injuries Acts any reference to an insured person or to insured persons shall be replaced by a reference to an employed earner or employed earners as the case may be, and any reference to insurable employment or to insurable employments, or to insured person's employment, shall be replaced by a reference to employed earner's employment or employed earners' employments, as the case may be; and, subject to subsection (3) below, in those Acts—
- (a) subject to paragraph (b) below, "employed earner" shall have the meaning given by section 1(7) of this Act;
  - (b) " employed earner's employment" shall be taken to mean any employment by virtue of which a person is, or is treated by regulations under those Acts as being, an employed earner for the purposes of those Acts ; and
  - (c) " the Social Security Act" means this Act.
- (3) Every employment specified in Part I of Schedule 1 to the Industrial Injuries Act shall be employed earner's employment for the purposes of the Industrial Injuries Acts,

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and regulations under those Acts may provide for any employment prescribed by the regulations—

- (a) to be treated for those purposes as included in that Part of that Schedule during any period in which it is treated by regulations under this Act as being employed earner's employment for the purposes of this Act; or
  - (b) not to be treated for the purposes of the Industrial Injuries Acts as such employment, notwithstanding that it would be so treated apart from the regulations.
- (4) For the purposes of the Industrial Injuries Acts, an employment shall be an employed earner's employment in relation to an accident if (and only (f) it is, or is treated by regulations under those Acts as being, such an employment when the accident occurs.
- (5) Subject to the provisions of Part IV of the Industrial Injuries Act (extension to diseases etc.) and this section, a person who is, or is treated for the purposes of those Acts as being, in employed earner's employment shall be entitled in accordance with Part IV of that Act to benefit in respect of any disease prescribed under that Part, and of any injury so prescribed (but not an injury caused by accident arising out of and in the course of his employment), being a disease or injury due to the nature of that employment and developed after 4th July 1948.
- (6) The repeal by this Act of section 56(1) of the Industrial Injuries Act shall not take away any entitlement to benefit otherwise arising by virtue of that subsection.
- (7) Throughout the Industrial Injuries Acts and the Old Oases Acts and schemes made thereunder, any reference to the Industrial Injuries Fund shall be replaced by a reference to the National Insurance Fund.
- (8) Regulations made by the Secretary of State under the Industrial Injuries Acts may modify those Acts, in such manner as he thinks proper, in their application to persons who are or have been, or are to be, employed on board any ship, vessel, hovercraft (within the meaning of the Hovercraft Act 1968) or aircraft.
- (9) There shall be included among the regulations to which section 62(2) of the Industrial Injuries Act (regulations which, before being made, are to be referred to the Industrial Injuries Advisory Council) does not apply—
- (a) regulations contained in a statutory instrument which states that it contains only regulations made for the purpose of making provision consequential upon the coming into force of an order under section 39 of this Act;
  - (b) regulations made before the expiration of 6 months beginning with the date of the passing of any Act passed after this Act and directed to be construed as one with the Industrial Injuries Act or this Act, where the regulations are contained in a statutory instrument which states that it contains only regulations made for the purpose of making provision consequential on the passing of that Act and the Act does not exclude this paragraph in respect of the regulations ;
  - (c) regulations in so far as they consist only of procedural rules within the meaning of section 10 of the Tribunals and Inquiries Act 1971 for a tribunal mentioned in that section;
  - (d) regulations contained in a statutory instrument which states that it contains only regulations which are substantially to the same effect as regulations already made or to be made under this Act or under Part IV of the former principal Act; and
  - (e) regulations made by virtue of paragraph 14(6) of Schedule 22 to this Act.

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- (10) The repeal by this Act of sections 46 and 47 of the former principal Act (supplementary schemes) shall not affect their continued application, by virtue of section 82(2) of the Industrial Injuries Act, to a supplementary scheme submitted under section 82(1) of that Act.
- (11) The Industrial Injuries Act and this section shall be construed as if this section were contained in that Act.

### *Northern Ireland*

## **95 Further provisions as to Northern Ireland.**

- (1) Subject to the following provisions of this section, Parts II and III of this Act, and this Part, extend to Northern Ireland.
- (2) The following provisions of this Part of this Act, namely—
  - (a) sections 84(1) to (5), 88, 92, 94(1) to (8), (10) and (11) and 96;
  - (b) Schedule 22, paragraphs 1 to 7, and 13 to 15, and Schedules 23 and 26 ; and
  - (c) any provision applying for the interpretation of those sections and Schedules, extend to Northern Ireland with the adaptations set out in Part I of Schedule 25 to this Act.
- (3) The following provisions of this Part of this Act do not extend to Northern Ireland, namely—
  - (a) sections 84(6), 87, 91, 94(9) and 98;
  - (b) Schedule 21 and paragraphs 8 to 12 of Schedule 22; and
  - (c) so much of section 100 and Schedules 27 and 28 as has effect for the amendment and repeal of enactments not extending to Northern Ireland.
- (4) The provisions of Parts II, III and IV of Schedule 25 to this Act (being provisions which correspond to, or replace, certain of those excluded by subsection (3) above or supplement those of section 97) extend to Northern Ireland only.
- (5) The power of the Parliament of Northern Ireland to make laws shall include power to enact legislation corresponding to any provision of this Act, except sections 40(2) to (4) and 43(2); and this Act shall, so far as it relates to matters in respect of which that Parliament has power to make laws, be deemed for the purposes of section 6 of the Government of Ireland Act 1920 to have been passed before the day referred to in that section as the appointed day.

### *Subordinate legislation*

## **96 Orders and regulations (general provisions).**

- (1) Any power under this Act to make regulations or an order (except a power of the Northern Ireland Ministry, or a power of the Occupational Pensions Board to make orders under Part II) shall be exercisable by statutory instrument.
- (2) Except in so far as this Act otherwise provides, any power conferred thereby to make an Order in Council, regulations or an order may be exercised—

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- (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 any power to make Orders in Council, regulations or an order for the purposes of any one provision of this Act shall be without prejudice to any power to make regulations or an order for the purposes of any other provision.

- (3) Without prejudice to any specific provision in this Act, any power conferred by this Act to make an Order in Council, regulations or an order shall include power to make thereby such incidental or supplementary provision as appears to Her Majesty, or the authority making the regulations or order, as the case may be, to be expedient for the purposes of the Order in Council, regulations or order.
- (4) Any power conferred by this Act to make an Order in Council or an order shall include power to vary or revoke any such Order in Council or order by a subsequent Order in Council or, as the case may be, order.
- (5) Subsections (1) to (4) above shall apply in relation to powers under Part IV of the former principal Act, and to regulations made in the exercise of such a power, as they apply in relation to powers and regulations under this Act.
- (6) Any power conferred on the Secretary of State or the Joint Authority by any provision of this Act (other than paragraph 4 of Schedule 10) or of Part IV of the former principal Act to make any regulations or order, where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.
- (7) Any power under section 40 to 43, 49 and 50 of this Act to prescribe, or to make provision by Order in Council for, modifications of this Act shall be exercisable in relation to any enactment passed after this Act which is directed to be construed as one with this Act; but this subsection shall apply only so far as a contrary intention is not expressed in the Act so passed, and shall be without prejudice to the generality of any such direction.

## **97 Parliamentary control of orders and regulations.**

- (1) Subject to the provisions of this section, no regulations shall be made wholly or partly by virtue of any of the following provisions of this Act, namely section 3(4), 5(9), 14(4), 41 or 42, and no order shall be made wholly or partly by virtue of section 12(3), unless a draft of the regulations or order has been laid before Parliament and been approved by resolution of each House of Parliament.
- (2) Subsection (1) above shall not apply in the case of—

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- (a) regulations under section 41 of this Act, where the instrument containing the regulations states that the regulations are made for the purpose of making provision consequential upon the making of an order under section 7 or 8 of this Act;
  - (b) regulations to be made for the purpose only of consolidating regulations thereby revoked;
  - (c) regulations which, in so far as they are made under the powers conferred by the provisions mentioned in subsection (1) above, only replace provisions of previous regulations with new provisions to the same effect;
  - (d) regulations or orders made by the Northern Ireland Ministry.
- (3) All regulations made under this Act or Part IV of the former principal Act by the Secretary of State or the Joint Authority, other than regulations to which subsection (1) above applies, and all orders so made by the Secretary of State, except an order under section 7, 8, 12(3), 39 or 101, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of section 48(3) or 68(2) of this Act shall be deemed to be satisfied as respects either House of Parliament if a copy of the report and the statement referred to in the relevant subsection are laid before that House not later than the second day on which the House sits after the laying of the regulations.

#### *General*

### **98 Financial provisions.**

- (1) Without prejudice to section 46(2) of this Act, there shall be paid out of money provided by Parliament—
- (a) any expenses falling on the Secretary of State or other government department under this Act, including those incurred by the Secretary of State in making any loan to the Reserve Pension Board ;
  - (b) any increase attributable to this Act in the expenses of any Minister of the Crown or government department falling to be paid out of money so provided under any other enactment.
- (2) There shall be paid into the Consolidated Fund—
- (a) any sums deducted by the Secretary of State under section 74(2)(a) of this Act or receivable by him under section 74(4)(c);
  - (b) any sums received by the Secretary of State by way of repayment of any loan made by him to the Reserve Pension Board or as interest on any such loan;
  - (c) any sums recovered by the Secretary of State in pursuance of regulations under paragraph 1(b) of Schedule 19 to this Act.

### **99 Interpretation.**

- (1) In this Act except where the context otherwise requires—
- " the basic scheme " means the scheme of social security contributions and benefits established by Part I of this Act, and " basic scheme contributions ", " basic scheme benefits " and similar expressions shall be construed accordingly,

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- " benefit year " has the meaning given by section 9(10) of this Act;
- " confinement " has the meaning given by section 18(1);
- " contract of service " means any contract of service or apprenticeship whether written or oral or whether expressed or implied;
- " current ", in relation to the lower and upper earnings limits under section 2(1) of this Act, means for the time being in force;
- " earnings " includes any remuneration or profit derived from an employment, and " earner " shall be construed accordingly;
- " employed earner " and " self-employed earner " shall be construed in accordance with section 1(7) and regulations under Part I;
- " employment " includes any trade, business, profession, office or vocation and " employed " shall be construed accordingly except in the expression " employed earner ";
- " family allowance " means an allowance under the Family Allowances Act;
- " the Family Allowances Act " means the Family Allowances Act 1965;
- " financial year ", in sections 74(6) and 76(1) and in Schedule 18, Part II, means the period from the beginning of April in one year to the end of March in the next;
- " the former principal Act " means the ational Insurance Act 1965;
- " incapable of work " means incapable of work by reason of some specific disease or bodily or mental disablement, or deemed in accordance with regulations to be so incapable;
- " income tax week " means one of the successive periods in an income tax year beginning with the first day of that year and every 7th day thereafter (the last day of an income tax year, or, in the case of an income tax year ending in a leap year, the last two days thereof being accordingly treated as a separate income tax week);
- " income tax year " means the 12 months beginning with 6th April in any year ;
- " the Industrial Injuries Act " means the National Insurance (Industrial Injuries) Act 1965, and "the Industrial Injuries Acts " means die National Insurance (Industrial Injuries) Acts 1965 to 1972 ;
- " the Inland Revenue " means the Commissioners of Inland Revenue;
- " the Joint Authority " means the Authority continued in being by section 49(4) of this Act;
- " linked qualifying service " shall be construed in accordance with section 58(2);
- " the Ministry of Finance " means the Ministry of Finance for Northern Ireland;
- " the Northern Ireland Minister " and " the Northern Ireland Ministry " mean respectively the Minister and the Ministry of Health and Social Services for Northern Ireland;
- " occupational pension scheme " has the meaning given by section 51(3) (a);
- " the Old Cases Act" means the Industrial Injuries and Diseases (Old Cases) Act 1967, and "the Old Cases Acts " means the Industrial Injuries and Diseases (Old Cases) Acts 1967 to 1972 ;
- " pensionable age " has the meaning given by section 23(1);

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- " prescribed " means prescribed by regulations ;
- " public service pension scheme " has the meaning given by section 51 (3) (b);
- " recognised pensionable employment " and " recognition certificate " shall be construed in accordance with section 51(1);
- " recognition credits " has the meaning given by section 58(1)(c);
- " the reserve scheme " means the reserve pension scheme established by Part III of this Act, and references to " reserve scheme contributions", " reserve scheme premiums " and " reserve scheme pensions" shall be construed accordingly;
- " resources ", in relation to an occupational scheme, shall be construed in accordance with section 59(1) of this Act;
- " transfer credits " has the meaning given by section 58(1)(a);
- " week " means a period of 7 days beginning with midnight between Saturday and Sunday, except in sections 12(1)(d), 14, 26(1) and 35(2), where the expression is otherwise defined; and
- " year ", in Part I of this Act, means an income tax year, except where it is otherwise stated, or the context is one relating to a person's age.
- (2) Except where the context otherwise requires, references in this Act to any Part of it include references to the Schedules of that Part.
- (3) Where any provision of this Act refers to regulations and the authority with power to make them is neither specified nor to be implied from the context, the reference is to regulations made by the Secretary of State except that, in and for any purpose of Part I as it applies to Northern Ireland, it is to regulations made by the Northern Ireland Ministry.
- (4) In any provision of this Act (except section 95(5)) containing a reference to " the appointed day " that expression shall be taken to have whatever meaning may be given by the order under section 101 of this Act which brings that provision into force.
- (5) Where a provision of this Act which extends to Northern Ireland contains a reference to a government department and does not expressly or by implication from the context refer only to a department of the Government of the United Kingdom, then in the application of that provision to Northern Ireland the reference is to be taken to be, or to include (as the context may require), a department of the Government of Northern Ireland.
- (6) Where under Part I of this Act a person is to be treated by reference to any employment of his as an employed earner, then he is to be so treated for all purposes of this Act, and references throughout this Act to employed earner's employment shall be construed accordingly.
- (7) References in this Act to " the lower earnings limit" and " the upper earnings limit", whether or not in a context contained in Part I, are to the lower and upper limits respectively referred to in section 2(1) of this Act; and references to the lower or upper earnings limit of an income tax year are to whatever is (or was) for that year the limit in force under section 2(1).
- (8) For the purpose of this Act—
- (a) " child " means a person who would be treated as a child for the purposes of the Family Allowances Act;

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- (b) a person shall be deemed to have attained or not to have attained school-leaving age if he would be treated as being, as the case may be, over or under the upper limit of the compulsory school age for the purposes of that Act (disregarding any regulations made by virtue of section 2 of the Family Allowances and National Insurance Act 1967 (construction of references to school-leaving age));
  - (c) a person shall be deemed to have a family which includes a child or children if that person (not being a child) and a child or children (with or without a wife or husband of that person) would be treated for the purposes of that Act as constituting a family, and references to a child of a person's family shall be construed accordingly.
- (9) For the purposes of this Act, two persons shall not be deemed to have ceased to reside together by reason of any temporary absence of either or both of them, and in particular by reason of any such absence at school or while receiving medical treatment as an in-patient in a hospital or similar institution or by reason of any absence of either or both of them in such circumstances as may be prescribed.
- (10) For the purposes of this Act—
- (a) a person shall be deemed to be over or under a particular age if he has or, as the case may be, has not attained that age; and
  - (b) a person shall be deemed to be between two particular ages if he has attained the first-mentioned age but has not attained the second-mentioned age.
- (11) For the purposes of this Act, a person shall be deemed to be incapable of self-support if, but only if, he is incapable of supporting himself by reason of physical or mental infirmity and is likely to remain so incapable for a prolonged period.
- (12) Any reference in Part I of this Act to a woman's late husband shall, in relation to a woman who has been more than once married, be taken as referring to her last husband.
- (13) Anything which under any provision of this Act is authorised or required to be done by the Government Actuary may be done instead by the Deputy Government Actuary, and references to the Government Actuary shall be construed accordingly.
- (14) For the purposes of this Act, the amount of a person's earnings for any period, or the amount of his earnings to be treated as comprised in any payment made to him or for his benefit, shall be calculated or estimated in such manner and on such basis as may be prescribed; and regulations made for these purposes may prescribe that payments of a particular class or description made or falling to be made to or by a person shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of that person's earnings.
- (15) Any reference in this Act to an enactment shall, except in so far as the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any enactment including an enactment contained in this Act; and "enactment", in this Act, includes an enactment of the Parliament of Northern Ireland and any reference in this Act to an enactment of that Parliament shall include a reference to an enactment re-enacting it with or without modification.
- (16) Any reference in this Act, in relation to any enactment of the Parliament of the United Kingdom, to the corresponding Northern Ireland legislation is a reference to, or to any provision of, an Act of the Parliament of Northern Ireland, or any order made under or having the same effect as such an Act, for the time being in force corresponding to that enactment.



- (17) Any reference in section 48, 68, 96, or 97 of this Act to an Order in Council, or an order or regulations, under this Act or any Part thereof shall include a reference to an Order in Council, an order or regulations, made under any provision of an enactment passed after this Act and directed to be construed as one with this Act or, as the case may be, that Part; but this subsection shall apply only so far as a contrary intention is not expressed in the enactment so passed, and shall be without prejudice to the generality of any such direction.
- (18) The Ministry of Social Security Act 1966 is cited in this Act as the Supplementary Benefit Act 1966 and may be so cited in any other Act or instrument.

#### **100 Transitional provisions; minor and consequential amendments; repeals.**

- (1) The provisions of Schedule 26 to this Act shall have effect with respect to the transition from the operation of the National Insurance Acts 1965 to 1972 and the corresponding Northern Ireland legislation, and the other enactments repealed by this Act, to the operation of this Act.
- (2) Subject to any provision made by or under subsection (1) above—
- (a) the enactments and Orders specified in Schedule 27 to this Act shall (without prejudice to any other provision of this Act) have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act;
  - (b) the enactments and Orders specified in Schedule 28 to this Act (which include certain spent provisions and other provisions which are no longer required or will cease to be required on the coming into force of the amendments made by Schedule 27) are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Where this Act amends an enactment of the Parliament of Northern Ireland, or an Order made under, or having the same effect as, an enactment of that Parliament, the enactment or Order as amended shall be subject to the Interpretation Act (Northern Ireland) 1954 in the same way as an Act of that Parliament is so subject.
- (4) Section 38 of the Interpretation Act 1889 (effect of repeals) shall have the same operation in relation to any repeal by this Act of an enactment of the Parliament of Northern Ireland (or of any provision of an Order made under an enactment of that Parliament) as it has in relation to the repeal of an Act of the Parliament of the United Kingdom, references in that section of the Act of 1889 to Acts and enactments being construed accordingly.

#### **101 Citation and commencement.**

- (1) This Act may be cited as the Social Security Act 1973.
- (2) This Act shall come into force on such day as the Secretary of State may appoint by order; and—
- (a) different days may be so appointed for, or for different purposes of, any one or more provisions of this Act (including, in the case of section 100 of this Act, the amendment or repeal of different enactments specified in Schedule 27 or 28 to this Act, or of different provisions of any enactment so specified); and
  - (b) an order under this subsection appointing a day for the coming into force of any provision (whether for all purposes or for particular purposes specified in

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*Status: This is the original version (as it was originally enacted).*

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the order) shall, if that provision contains a reference to " the appointed day ", specify the day (being a day not earlier than the making of the order nor later than the coming into force of the provision) which is to be the appointed day for any purposes for which the provision is brought into force.

- (3) An order under subsection (2) above may make such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with provisions of this Act which are thereby brought (wholly or in part) into force, and may make such adaptations of those provisions or of any provisions of this Act then in force as appear to the Secretary of State to be necessary or expedient in consequence of the partly postponed or postponed operation of any provision of this Act (whether before, on or after the day appointed by the order).
- (4) Any statutory instrument containing an order made under this section shall be laid before Parliament after being made.