



# Social Security (Northern Ireland) Act 1975

## 1975 CHAPTER 15

### PART IV

#### GENERAL PROVISIONS AS TO OPERATION AND ADMINISTRATION OF THIS ACT

##### *Re-rating of contributions and up-rating of benefits*

#### **120 Amendments following alterations in Great Britain**

Whenever the Secretary of State makes an order under section 120, 122 or 124 of the Social Security Act 1975 (re-rating of contributions; up-rating of benefits), the Department, or, where the Secretary of State's order is made under section 122(4) of that Act, the Department of Manpower Services, may make a corresponding order for Northern Ireland, amending this Act or the Old Cases Act in the same way, and to the same effect, and from as nearly as may be the same date or dates, as the Social Security Act 1975 or the Industrial Injuries and Diseases (Old Cases) Act 1975 (as the case may be) is amended by the order of the Secretary of State.

#### **121 Supplementary provisions as to up-rating**

Schedule 14 to this Act has effect with respect to benefit under this Act or the Old Cases Act, where rates of benefit are altered—

- (a) by any Act passed, or Measure of the Northern Ireland Assembly enacted, subsequent to this Act, or by an up-rating order; or
- (b) in consequence of any such Act, Measure or order altering any maximum rate of benefit.

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### *Special classes of earners*

#### **122 Crown employment**

- (1) Subject to the provisions of this section, this Act applies to persons employed by or under the Crown in like manner as if they were employed by a private person.
- (2) This section does not apply to persons serving as members of Her Majesty's forces ; and employment as a member of those forces and any other prescribed employment under the Crown are not, and are not to be treated as, employed earner's employment for any of the purposes of Chapter IV or V of Part II of this Act.

#### **123 Her Majesty's forces**

- (1) Subject to section 122(2) above and to this section, a 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.
- (2) The Secretary of State may make regulations modifying Parts I, II and III of this Act, in such manner as he thinks proper, in their 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 those 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.
- (3) For the purposes of this Act, Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed by regulations made by the Secretary of State, being establishments and organisations in which persons serve under the control of the Defence Council.

#### **124 Mariners, airmen, etc.**

- (1) The Department may make regulations modifying provisions of Parts I, II and III of this Act, in such manner as the Department thinks proper, in their application to persons who are or have been, or are to be, employed on board any ship, vessel, hovercraft or aircraft.
- (2) Regulations under subsection (1) above may in particular provide—
  - (a) for any such provision to apply to such persons, notwithstanding that it would not otherwise apply ;
  - (b) for excepting such persons from the application of any such provision where they neither are domiciled nor have a place of residence in Northern Ireland;

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- (c) for requiring the payment of secondary Class 1 contributions in respect of such persons, whether or not they are (within the meaning of Part I) employed earners;
  - (d) for the taking of evidence, for the purposes of any claim to benefit, in a country or territory other than Northern Ireland, 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.
- (3) 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 within the meaning of Part I,
- 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 supplement under that subsection and shall be administered and applied in such manner and for such purposes as may be prescribed.

## **125 Married women and widows**

- (1) The Department may make regulations modifying any of the following provisions of this Act, namely—
- Part I, and
  - Chapters I, II and III of Part II (except section 33 in Chapter I),
- in such manner as it thinks proper, in their application to women who are or have been married.
- (2) Regulations under this section shall provide (subject to any prescribed conditions and exceptions) for enabling a married woman or widow to elect that in any tax 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 tax 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.

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## **126 Persons outside Northern Ireland**

The Department may make regulations modifying Parts I, II and III of this Act, in such manner as it thinks proper, in their application to persons who are or have been outside Northern Ireland at any prescribed time or in any prescribed circumstances.

### *Finance*

## **127 National Insurance Fund**

- (1) The National Insurance Fund shall continue to be maintained under the control and management of the Department.
- (2) Accounts of the National Insurance Fund shall be prepared in such form, and in such manner and at such times, as the Department of Finance may direct, and the Comptroller and Auditor-General for Northern Ireland shall examine and certify every such account and lay copies thereof, together with his report thereon, before the Northern Ireland Assembly.
- (3) Any money in the National Insurance Fund may from time to time be paid over to the Department of Finance and by that Department invested 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.
- (4) The Department of Finance shall certify a statement of the securities in which money forming part of the National Insurance Fund is for the time being invested and that statement so certified shall be included with the accounts of that Fund laid before the Northern Ireland Assembly under subsection (2).
- (5) There shall be made out of the National Insurance Fund into the Consolidated Fund of Northern Ireland, or out of money hereafter appropriated for that purpose into the National Insurance Fund, such payments by way of adjustment as the Department determines (in accordance with any directions of the Department of Finance) to be appropriated in consequence of the operation of any enactment or regulations relating to the repayment or offsetting of benefit or other payments.
- (6) Where in other circumstances payments fall to be made by way of adjustment—
  - (a) out of the National Insurance Fund either to the Department or another government department, or into the Reserve Pension Fund or the Consolidated Fund of Northern Ireland; or
  - (b) into the National Insurance Fund out of the Reserve Pension Fund or out of money hereafter appropriated for that purpose,then, in such cases or classes of case as may be specified by the Department by order made with the consent of the Department 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 the Department in accordance with any directions given by the Department of Finance.

## **128 Destination of contributions and supplements**

- (1) Contributions received by the Department under Part I of this Act shall be paid by it into the National Insurance Fund after deducting—

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- (a) from contributions of any class, the appropriate health service allocation in the case of contributions of that class; and
  - (b) from secondary Class 1 contributions, the appropriate allocation to the Redundancy Fund.
- (2) The contributions referred to in subsection (1) above include those paid over to the Department by the Secretary of State under section 9(6) of the Social Security Act 1975 and by the Inland Revenue under paragraph 5(3) of Schedule 1 to this Act.
- (3) The supplements under section 1(5) of this Act shall be paid, in accordance with any directions given by the Department of Finance, into the National Insurance Fund.
- (4) In subsection (1) above, "the appropriate 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, 0.6 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 Department in accordance with any directions given by the Department of Finance.
- (5) 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 health service allocation in respect of contributions of any class there shall be deducted such amount as the Department may estimate to be the portion of the total expenses incurred by it or any other government department in collecting contributions of that class which is fairly attributable to that allocation, and the remainder shall, in the hands of the Department, be taken as paid towards the cost of the health service in Northern Ireland;
  - (b) from the appropriate allocation to the Redundancy Fund there shall be deducted such amount as the Department may estimate to be the portion of the total expenses incurred by it or any other government department in collecting secondary Class 1 contributions which is fairly attributable to that allocation, and the remainder shall be paid by the Department into that Fund; and
  - (c) any amounts deducted in accordance with paragraphs (a) and (b) above shall be paid by the Department into the Consolidated Fund of Northern Ireland;
- and any estimate by the Department for the purposes of those paragraphs shall be made in accordance with any directions given by the Department of Finance.
- (6) The Department may make regulations modifying this section, in such manner as it thinks proper, in relation to the contributions of persons referred to in—

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section 123(2) (H.M. forces); and  
 section 124(1) (mariners, airmen, etc.).

## 129 General financial arrangements

- (1) Subject to subsection (2) below, all benefit under Part II of this Act shall be paid out of the National Insurance Fund.
- (2) Subsection (1) does not apply to any of the following benefits, namely—
  - (a) an attendance allowance ;
  - (b) a non-contributory invalidity pension ;
  - (c) an invalid care allowance ;
  - (d) a Category C or Category D retirement pension ;
  - (e) age addition payable—
    - (i) under section 40(1), in respect of a retirement pension of either of those Categories, or
    - (ii) under section 40(2);
  - (f) benefit payable under section 39(4) (benefits for old people payable under regulations and corresponding to Category C pension, etc.).
- (3) There shall be paid out of money hereafter appropriated for that purpose—
  - (a) any administrative expenses of the Department or other government department in carrying this Act and the Old Cases Act into effect; and
  - (b) any of the benefits which by virtue of subsection (2) above are not payable out of the National Insurance Fund,

except in so far as they may be required by any enactment to be paid or borne in some other way.
- (4) The administrative expenses referred to in subsection (3)(a) above include those in connection with any inquiry undertaken on behalf of the Department with a view to obtaining statistics relating to the operation of this Act or the Old Cases Act.
- (5) There shall be paid out of the National Insurance Fund into the Consolidated Fund of Northern Ireland, at such times and in such manner as the Department of Finance may direct, such sums as the Department may estimate (in accordance with any directions given by the Department of Finance) to be the amount of the administrative expenses incurred as mentioned in subsection (3)(a) above, excluding—
  - (a) expenses attributable to the carrying into effect of provisions of this Act relating to the benefits which by virtue of subsection (2) above are not payable out of the National Insurance Fund; and
  - (b) any other category of expenses which the Department of Finance may direct, or any enactment may require, to be excluded from the Department's estimate under this subsection.
- (6) Any sums repaid to the Department in pursuance of section 119(1) (effect of adjudication) shall—
  - (a) be paid by it into the Consolidated Fund of Northern Ireland in so far as they represent benefit which under this section is payable out of money hereafter appropriated for the purpose and not out of the National Insurance Fund; and
  - (b) otherwise, be paid by it into that Fund.

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### **130 Payments for purposes of s. 92**

- (1) The Department may, with the consent of the Department of Finance—
  - (a) issue out of the National Insurance Fund sums equal to the respective amounts (as estimated in accordance with this section) which, but for any arrangement to which section 92 of this Act applies, would have been paid out of that Fund by way of benefit; and
  - (b) deal with those sums in accordance with the following provisions of this section.
- (2) Any such sum which is attributable to an arrangement relating to the members, officers and servants of the Post Office shall be paid to the Post Office; and, subject to this, any such sum shall be paid to such person or fund (including the Consolidated Fund of Northern Ireland) as the Department of Finance may direct.
- (3) The amounts mentioned in subsection (1)(a) above shall be estimated—
  - (a) where the payment is to be made into the Consolidated Fund of Northern Ireland, by the Department; and
  - (b) in any other case in such manner as may be agreed between the person receiving the payment (or responsible for the fund to which the payment is made) and the Department acting with the consent of the Department of Finance.
- (4) Subsection (1) above shall not apply where the pay during absence from work covered by the relevant arrangement forms part of the expenses within section 129(5) above.

### **131 Payments for purposes of vocational training, etc.**

There may be paid out of the National Insurance Fund such contributions as the Department, with the consent of the Department of Finance, may determine towards the cost of the provision, under the Disabled Persons (Employment) Act (Northern Ireland) 1945, for persons entitled to disablement benefit, of vocational training courses, industrial rehabilitation courses or facilities in connection with employment or work under special conditions; and any such contributions shall, in accordance with the directions of the Department of Finance, be applied as an appropriation in aid of the moneys appropriated by Measure of the Northern Ireland Assembly for the expenses of the Department of Manpower Services under that Act.

*Advice*

### **132 Advisory functions in relation to attendance allowance**

- The Attendance Allowance Board shall have (in addition to their other functions)—
- (a) the functions of advising the Department on such matters as it may refer to them relating to—
    - (i) the operation of provisions 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 the Department's powers under those provisions ; and
  - (b) such other functions, if any, as the Department may determine.

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### *Social security systems outside Northern Ireland*

#### **133 Co-ordination with Great Britain**

- (1) The Department may with the consent of the Department of Finance make arrangements with the Secretary of State (" the joint arrangements ") for co-ordinating the operation of this Act and the Social Security Act 1975 with a view to securing that, to the extent allowed for in the arrangements, those Acts provide a single system of social security for the United Kingdom.
- (2) The responsibility of the Joint Authority continued in being by section 142(2) of the Social Security Act 1975 shall include that of giving effect to the joint arrangements, with power—
  - (a) to make any necessary financial adjustments between the Northern Ireland National Insurance Fund and the National Insurance Fund ; and
  - (b) to discharge such other functions as may be provided under the joint arrangements.
- (3) The Department may make regulations for giving effect to the joint arrangements; and any such regulations may for the purposes of the arrangements provide—
  - (a) for adapting legislation (including subordinate legislation) for the time being in force in Northern Ireland so as to secure its reciprocal operation with Great Britain;
  - (b) without prejudice to paragraph (a) above, for securing that acts, omissions and events having any effect for the purposes of the enactments in force in Northern Ireland have a corresponding effect in relation to Great Britain.
- (4) Nothing in this Act prejudices the making of any arrangement by the Department under section 11 of the Northern Ireland Constitution Act 1973 for the exercise and performance by or by officers of a department of the Government of the United Kingdom on behalf of the Department of any of the powers and duties of the Department under this Act.

#### **134 Reciprocity with other countries**

- (1) For the purpose of giving effect to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to—
  - (a) payments in respect of interruption of employment by unemployment, sickness or otherwise ;
  - (b) payments in respect of the need of handicapped persons for attendance, the confinement of women, widowhood, orphanhood, retirement, old age, or death; or
  - (c) the payment of compensation or benefit to employed persons in respect of industrial or similar injuries,

Her Majesty may by Order in Council make provision for modifying or adapting this Act in its application to cases affected by the agreement.
- (2) The modifications of this Act which may be made by virtue of subsection (1) above 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 have a

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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 is to be available to the person concerned ;
- (c) for making any necessary financial adjustments.

### *Enforcement*

## **135 Appointment and powers of inspectors**

- (1) For the purposes of this Act, the Department may appoint such inspectors, and pay to them such salaries or remuneration, as it may determine with the consent of the Department of Finance.
- (2) An inspector appointed under this section shall, for the purposes of the execution of this Act, have the following powers—
  - (a) to enter at all reasonable times any premises liable to inspection under this Act;
  - (b) to make such examination and inquiry as may be necessary—
    - (i) for ascertaining whether the provisions of this Act are being, or have been, complied with in any such premises, or
    - (ii) for investigating the circumstances in which any injury or disease which has given or may give rise to a claim for industrial injuries benefit was or may have been received or contracted;
  - (c) to examine, either alone or in the presence of any other person, as he thinks fit, in relation to any matters under this Act on which he may reasonably require information, every person whom he finds in any such premises or whom he has reasonable cause to believe to be or to have been a person liable to pay contributions under this Act, and to require every such person to be so examined;
  - (d) to exercise such other powers as may be necessary for carrying this Act into effect.
- (3) The premises liable to inspection under this Act are any where an inspector has reasonable ground for supposing that—
  - (a) any persons are employed ; or
  - (b) there is being carried on any agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services ;

but do not include any private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.
- (4) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises for the purposes of this Act shall, if so required, produce the certificate.
- (5) Where any premises are liable to be inspected by an inspector or officer appointed or employed by, or are under the control of, some other government department, the Department may make arrangements with that department for any of the powers or duties of inspectors under this Act to be carried out by an inspector or officer employed

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by that department; and, where such an arrangement is made, such inspectors or officers shall have all the powers of an inspector under this Act.

- (6) In this section and section 136 below " premises " includes any place ; and in subsection (2)(b) and (c) above the references to this Act include the former principal Act and the former Industrial Injuries Act.

### **136 Duty to submit to inspection**

- (1) In accordance with this section, persons shall furnish to an inspector all such information, and produce for his inspection all such documents, as he may reasonably require for the purpose of ascertaining—
- (a) whether any contributions under this Act are or have been payable, or have been duly paid, by or in respect of any person; or
  - (b) whether benefit is or was payable to or in respect of any person.
- (2) The following persons are under the duty imposed by subsection (1) above—
- (a) the occupier of any premises liable to inspection under this Act;
  - (b) any person who is or has been employing another;
  - (c) any person carrying on an agency or other business for the introduction or supply to persons requiring them of persons available to do work or perform services ;
  - (d) the servants or agents of any such person as is specified in paragraph (a), (b) or (c) above ; and
  - (e) any person who is or has been liable to pay such contributions;
- but no one shall be required under this section to answer any questions or to give any evidence tending to incriminate himself or, in the case of a person who is married, his or her spouse.
- (3) If a person—
- (a) wilfully delays or obstructs an inspector in the exercise of any power under this Act; or
  - (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required so to do under this Act;
- he shall be liable on summary conviction to a fine not more than £50.
- (4) Where a person is convicted of an offence under subsection (3)(b) above and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not more than £10 for each day on which it is so continued.

### **137 Offences and penalties**

- (1) If a person fails to pay, at or within the time prescribed for the purpose, any contribution which he is liable under Part I of this Act to pay, he shall be liable on summary conviction to a fine not more than £50.
- (2) Subsection (1) above does not apply to Class 4 contributions recoverable by the Inland Revenue.
- (3) If a person—

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- (a) buys, sells or offers for sale, takes or gives in exchange or pawns or takes in pawn a contribution card or a used contribution stamp ; or
- (b) affixes a used contribution stamp to a contribution card; 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 not more than £400, or to imprisonment for a term not more than 3 months, or to both.

- (4) In this Act " contribution card " means any card issued under regulations for the purpose of payment of contributions by affixing stamps to it; and in any proceedings under subsection (3) above with respect to used stamps a stamp shall be deemed to have been used if it has been affixed to a contribution card or cancelled or defaced in any way whatsoever and whether or not it has actually been used for the payment of a contribution.
- (5) Subject to other express provisions of this Act, 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;

but this subsection does not apply to a contravention of, or failure to comply with, regulations requiring a person to submit himself to medical treatment.

### **138 General provisions as to prosecutions**

- (1) Proceedings for an offence under this Act shall not be instituted except by or with the consent of the Department or by an inspector or other officer authorised for that purpose by special or general directions of the Department.
- (2) An inspector or other officer so authorised may, although not of counsel or a solicitor, prosecute or conduct before a magistrates' court any proceedings for such an offence.
- (3) Notwithstanding any enactment prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Act may be commenced at any time within the period of 3 months from the date on which evidence, sufficient in the opinion of the Department to justify a prosecution for the offence, comes to its knowledge, or within the period of 12 months after the commission of the offence, whichever period last expires.

For the purposes of this subsection, a certificate purporting to be signed by the Head of the Department or a secretary or assistant secretary of the Department as to the date on which the evidence in question came to the knowledge of the Department is conclusive evidence of the date on which it did so.

- (4) In proceedings for an offence under this Act, the wife or husband of the accused is competent to give evidence, whether for or against the accused :

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Provided that the wife or husband is not compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him by the accused during the marriage.

- (5) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.

Where the affairs of a body corporate are managed by its members, this paragraph applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

### 139 Questions arising in proceedings

- (1) 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 (other than a Class 4 contribution recoverable by the Inland Revenue); or
  - (c) for the recovery of any sums due to the Department or the National Insurance Fund,
- any such question arises as is mentioned in section 93(1) of this Act, the decision of the Department shall be conclusive for the purposes of the proceedings.
- (2) If a decision of any such question is necessary for the determination of proceedings, and the decision of the Department has not been obtained or a question has been raised with a view to a review of the decision obtained, the question shall be referred to the Department for determination or review in accordance (subject to any necessary modifications) with Part III of this Act.
- (3) Subsection (1) above does not apply if an appeal under section 94 is pending, or the time for appealing has not expired, or a question has been raised with a view to a review of the Department's decision; and the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.

#### *Unpaid contributions*

### 140 Evidence of non-payment

- (1) Subsection (2) below applies with respect to any period during which, under regulations made by virtue of paragraph 5(1) of Schedule 1 to this Act (deduction with P.A.Y.E.), contributions fall to be paid in like manner as income tax.
- (2) A certificate of a collector of taxes that any amount by way of contributions which a person is liable to pay to that collector for any period has not been paid—
- (a) to him, or
  - (b) to the best of his knowledge and belief, to any other person to whom it might lawfully be paid,
- shall until the contrary is proved be sufficient evidence in any proceedings before any court that the sum mentioned in the certificate is unpaid and due.

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- (3) A document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.
- (4) A statutory declaration by an officer of the Department or of the Secretary of State that the searches specified in the declaration for a particular contribution card or for a record of the payment of a particular contribution have been made and that the card in question or a record of the payment of the contribution in question has not been found is admissible in any proceedings for an offence as evidence of the facts stated in the declaration.
- (5) Nothing in subsection (4) above makes a statutory declaration admissible as evidence in proceedings for an offence except in a case where, and to the extent to which, oral evidence to the like effect would have been admissible in those proceedings.
- (6) Nothing in subsections (4) and (5) above makes a statutory declaration admissible as evidence in proceedings for an offence—
  - (a) unless a copy of it has, not less than 7 days before the hearing or trial, been served on the person charged with the offence in any manner in which a summons in a summary prosecution may be served ; or
  - (b) if that person, not later than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, gives notice to the prosecutor requiring the attendance at the trial of the person by whom the declaration was made.

#### **141 Recovery on prosecution**

- (1) Where a person has been convicted of the offence under section 137(1) of this Act of failing to pay a contribution at or within the time prescribed for the purpose and the contribution remains unpaid at the date of the conviction, he shall be liable to pay to the Department a sum equal to the amount which he failed to pay.
- (2) Where—
  - (a) a person is convicted of an offence under section 137(3)(b) of this Act, or of an offence under section 13 of the Stamp Duties Management Act 1891 as applied by regulations made under paragraph 6(3) of Schedule 1 to this Act, or of an offence of contravening or failing to comply with regulations ; and
  - (b) the evidence on which he is convicted shows that he, for the purpose of paying any contribution which he was liable or entitled to pay, has affixed to any contribution card any used contribution stamp ; and
  - (c) the contribution (not being a Class 3 contribution) in respect of which the stamp was affixed remains unpaid at the date of the conviction,he shall be liable to pay to the Department a sum equal to the amount of the contribution.

#### **142 Proof of previous offences**

- (1) Subject to and in accordance with the following subsections, where a person is convicted of an offence mentioned in section 141(1) or (2)(a) above, evidence may be given of any previous failure by him to pay contributions under this Act, or reserve scheme contributions or premiums under the 1973 Act, within the time prescribed for the purpose; and in those subsections " the conviction " and " the offence " mean

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respectively the conviction referred to in this subsection and the offence of which the person is convicted.

- (2) Such evidence may be given only if notice of intention to give it is served with the summons or warrant on which the person appeared before the court which convicted him.
- (3) If the offence is one of failure to pay a Class 1 contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person) such contributions, or reserve scheme contributions or premiums, on the date of the offence, or during the 2 years preceding that date.
- (4) If the offence is one of failure to pay Class 2 contributions or is one of those mentioned in section 141(2)(a), evidence may be given of his failure to pay such contributions during those 2 years.
- (5) On proof of any matter of which evidence may be given under subsection (3) or (4) above, the person convicted shall be liable to pay to the Department a sum equal to the total of all amounts (whether contributions, premiums or both) which he is so proved to have failed to pay and which remain unpaid at the date of the conviction.

### **143 Provisions supplementary to ss. 141, 142**

- (1) Where a person is convicted of an offence to which section 141(1) or (2)(a) applies and an order is made under the Probation Act (Northern Ireland) 1950 placing the offender on probation or discharging him absolutely or conditionally, sections 141 and 142 above shall apply as if it were a conviction for all purposes.
- (2) Where a body corporate fails to pay any sum which it is liable to pay under sections 141 and 142, that sum (or such part of it as remains unpaid) shall be a debt due to the Department jointly and severally from any directors of the body corporate who knew, or could reasonably be expected to have known, of the failure to pay the contributions or premiums in question.
- (3) Any sum which a person is liable to pay under those provisions shall be recoverable from him as a penalty.
- (4) Sums recovered by the Department under those provisions, so far as representing contributions of any class payable under Part I of this Act, are to be treated for all purposes of this Act (including in particular the supplements under section 1(5) and the application of section 128) as contributions of that class received by the Department.
- (5) Without prejudice to subsection (4) above, insofar as such sums represent primary Class 1 or Class 2 contributions, they are to be treated as contributions paid in respect of the person in respect of whom they were originally payable; and provisions of this Act relating to earnings factors shall apply accordingly.
- (6) Subsections (4) and (5) above, as they apply to sums recovered by the Department under the provisions mentioned in subsection (2), apply also to any sums recovered under paragraph 9 of Schedule 23 to the 1973 Act (recovery of contributions etc. for purposes of reserve scheme).

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#### **144 Priority in bankruptcy, etc.**

- (1) Subject to and in accordance with Schedule 15 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).
- (2) The debts referred to above are any sums owed on account of Class 1 contributions (primary or secondary) or Class 2 contributions payable in either case under this Act or the Social Security Act 1975 in the period of 12 months immediately preceding the date of the relevant event (which expression has the meaning indicated by Schedule 15).
- (3) Any priority accorded by the enactments relating to personal insolvency which are specified in Schedule 15 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 (under this Act or the Social Security Act 1975) assessed and unpaid, so far as owed to the Inland Revenue and not to the Department or the Secretary of State.

*Matters particularly relating to industrial injuries, etc.*

#### **145 Research on industrial injuries, etc.**

- (1) The Department may promote research into the causes and incidence of accidents arising out of and in the course of employment, or injuries and diseases which—
  - (a) are due to the nature of employment; or
  - (b) it is contemplated might be prescribed for the purposes of Chapter V of Part II of this Act,either by itself employing persons to conduct such research or by contributing to the expenses of, or otherwise assisting, other persons engaged in such research.
- (2) The Department may pay to persons so employed by it such salaries or remuneration, and such travelling and other allowances, as it may determine with the consent of the Department of Finance.

#### **146 Control of pneumoconiosis**

As respects pneumoconiosis, regulations may provide—

- (a) for requiring persons to be medically examined before, or within a prescribed period after, becoming employed in any occupation in relation to which pneumoconiosis is prescribed, and to be medically examined periodically while so employed, and to furnish information required for the purposes of any such examination ;
- (b) for suspending from employment in any such occupation, and in such other occupations as may be prescribed, persons found on such an examination—
  - (i) to be suffering from pneumoconiosis or tuberculosis; or
  - (ii) to be unsuitable for such employment, having regard to the risk of pneumoconiosis and such other matters affecting their susceptibility thereto as may be prescribed;

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- (c) for the disqualification for the receipt of benefit in respect of pneumoconiosis of any person who fails without good cause to submit himself to any such examination or to furnish information required by the regulations for the purposes thereof or who engages in any employment from which he has been suspended as aforesaid;
- (d) for requiring employers—
  - (i) to provide facilities for such examinations;
  - (ii) not to employ in any occupation a person who has been suspended as aforesaid from employment therein or who has failed without good cause to submit himself to such an examination;
  - (iii) to give to such medical board or officer as may be prescribed the prescribed notice of the commencement of any prescribed industry or process;
- (e) for the recovery on summary conviction of monetary penalties in respect of any contravention of or failure to comply with any such requirement as is mentioned in paragraph (d) above, so, however, that such penalties shall not exceed £5 for every day on which the contravention or failure occurs or continues ;
- (f) for such matters as appear to the Department to be incidental to or consequential on provisions included in the regulations by virtue of the foregoing provisions of this section or section 78(1).

#### **147 Accidents in course of illegal employment**

- (1) Where under this Act—
  - (a) a claim is made for industrial injuries benefit in respect of an accident, or of a prescribed disease or injury ; or
  - (b) an application is made under section 107 for a declaration that an accident was an industrial accident, or for a corresponding declaration as to a prescribed disease or injury,
 subsection (2) below has effect.
- (2) The Department may direct that for the purposes of this Act the relevant employment shall, in relation to that accident, disease or injury, be treated as having been employed earner's employment notwithstanding that by reason of a contravention of, or non-compliance with, some provision contained in or having effect under an enactment passed for the protection of employed persons or any class of employed persons, either—
  - (a) the contract purporting to govern the employment was void; or
  - (b) the employed person was not lawfully employed in the relevant employment at the time when, or in the place where, the accident happened or the disease or injury was contracted or received.
- (3) In subsection (2) above, " relevant employment" means—
  - (a) in relation to an accident, the employment out of and in the course of which the accident arises ; and
  - (b) in relation to a prescribed disease or injury, the employment to the nature of which the disease or injury is due.

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## **148 Persons treated as employers for certain purposes**

In relation to—

- (a) a person who is an employed earner for the purposes of Chapters IV and V of Part II of this Act otherwise than by virtue of a contract of service or apprenticeship ; or
- (b) any other employed earner—
  - (i) who is employed for the purpose of any game or recreation and is engaged or paid through a club, or
  - (ii) in whose case it appears to the Department there is special difficulty in the application of all or any of the provisions of Chapters IV to VI of Part II relating to employers,

regulations may provide for a prescribed person to be treated in respect of industrial injuries benefit and its administration as the earner's employer.

## **149 Supplementary schemes**

- (1) A body of persons claiming to represent, or to be entitled to be treated as representing, employed earners of any class and their employers may submit to the Department a scheme (" a supplementary scheme") for supplementing the rights conferred on those earners by Chapters IV and V of Part II of this Act, whether by providing for additional payments in cases for which benefit is provided by those Chapters, or by providing for payments in other cases, or otherwise.
- (2) Schedule 16 to this Act has effect with respect to supplementary schemes; and the provisions of this Act other than this section, and the provisions of regulations, shall not (except in so far as they are applied by a supplementary scheme) apply to, or have effect in relation to or for the purposes of, the scheme.

## **150 Payments for pre-1948 cases**

- (1) This section applies to. any person who is or has been at any time after 4th July 1948—
  - (a) entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts; or
  - (b) entitled to payments on account of an injury pension under or by virtue of any enactment in respect of an injury received or disease contracted by him before 5th July 1948 or in respect of his retirement in consequence of such an injury or disease.
- (2) In subsection (1) above—
  - (a) " the Workmen's Compensation Acts " means the Workmen's Compensation Acts (Northern Ireland) 1927 to 1943 or the enactments repealed by the Workmen's Compensation Act (Northern Ireland) 1927 or those repealed by the Workmen's Compensation Act 1906; and
  - (b) " injury pension " includes any pension or similar benefit payable in respect of a person's employment or former employment, being a pension or benefit which would not be payable or would be payable at a less rate but for an injury or disease referable to that employment.
- (3) Regulations may provide—
  - (a) for conferring on persons to whom this section applies who as a result of the injury or disease in question are, or could for the purpose of the provisions of

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this Act relating to unemployability supplement be treated as being, incapable of work and likely to remain permanently so incapable—

- (i) the like right to payments under this Act by way of unemployability supplement, and
  - (ii) the like right to payments under this Act in respect of a child or adult dependant,
- as if the injury or disease were one in respect of which a disablement pension were for the time being payable ;
- (b) for conferring on persons to whom this section applies who as a result of the injury or disease in question require constant attendance—
    - (i) the like right to payments under this Act in respect of the need for constant attendance, and
    - (ii) the like right to an increase for exceptionally severe disablement, as if the injury or disease were one in respect of which a disablement pension were for the time being payable in respect of an assessment of 100 per cent.;
  - (c) for applying in relation to payments under this section the provisions of this Act relating to industrial injuries benefit, and to the making of claims and the determination of claims and questions in so far as those provisions apply in relation to—
    - (i) an unemployability supplement,
    - (ii) an increase of a disablement pension in respect of a child or adult dependant, or
    - (iii) an increase of a disablement pension in respect of the need for constant attendance or exceptionally severe disablement,
 (as the case may be) subject to any additions or modifications.

(4) All payments under this section shall be made out of the National Insurance Fund.

*Other administrative provisions*

**151 Furnishing of addresses for maintenance proceedings, etc.**

- (1) The Department may incur expenses for the purpose of furnishing the address at which a man or woman is recorded by it as residing, where the address is required for the purpose of taking or carrying on legal proceedings to obtain or enforce an order for the making by the man or woman of payments—
  - (a) for the maintenance of the man's wife or former wife, or the woman's husband or former husband; or
  - (b) for the maintenance or education of any person as being the son or daughter of the man or his wife or former wife, or of the woman or her husband or former husband.
- (2) In subsection (1)(b) above " son or daughter " includes a son or daughter by adoption and an illegitimate son or daughter.

**152 Treatment of certain marriages**

Regulations may provide—

- (a) for a voidable marriage which has been annulled, whether before or after the date when the regulations come into force, to be treated for the purposes

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of such provisions of, or of any regulations under, this Act, subject to such exceptions or conditions as may be prescribed, as if it had been a valid marriage which was terminated by divorce at the date of annulment;

- (b) as to the circumstances in which, for the purposes of this Act,—
- (i) a marriage celebrated under a law which permits polygamy; or
  - (ii) any marriage during the subsistence of which a party to it is at any time married to more than one person,

is to be treated as having, or not having, the consequences of a marriage celebrated under a law which does not permit polygamy ;

and regulations made for the purposes of subsection (6) above may make different provision in relation to different purposes and circumstances.

### **153 Exemption from stamp duty**

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

### **154 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 Department or the Secretary of State, 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 Social Security Act 1975, or the payment of benefit under either of those enactments.
- (2) Subsection (1) above extends 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 that 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 Social Security Act 1975, or the payment of benefit thereunder ; or
  - (c) for any purposes of Part III of this Act or Part III of that Act.