



Social Security Act 1979

1979 CHAPTER 18

Interpretation

1 Interpretation

In this Act—

- " the principal Act" means the Social Security Act 1975 ;
- "the Pensions Act" means the Social Security Pensions Act 1975;
- " the Act of 1976 " means the Supplementary Benefits Act 1976;
- " the Act of 1977 " means the Social Security (Miscellaneous Provisions) Act 1977.

Allowances and pensions

2 Attendance allowance

- (1) Section 35 of the principal Act is amended as follows.
- (2) In subsection (2)(b) for the words " immediately preceded " there are substituted the words " preceded immediately, or within such period as may be prescribed, ".
- (3) After subsection (2) there is inserted the following subsection—

“(2A) For the purposes of subsection (2) above a person who suffers from renal failure and is undergoing such form of treatment as may be prescribed shall, in such circumstances as may be prescribed, be deemed to satisfy or to be likely to satisfy one or both of those conditions.”
- (4) In subsection (3), for the words "preceding 6 months" there are substituted the words " period of 6 months mentioned in subsection (2)(b) above ".
- (5) In subsection (4)(a), for the words " mentioned in subsection (2) (b) above " and " there mentioned " there are substituted, respectively, the words " immediately preceding the period for which the allowance is payable " and " mentioned in subsection (2) (b) above " and after the words " that period " there are inserted the words " of 6 months ".

(6) After subsection (5) there is inserted the following subsection—

“(5A) Regulations may provide that, in such circumstances and for such purposes as may be prescribed, a person who is, or is treated under the regulations as, undergoing treatment for renal failure in a hospital or other similar institution otherwise than as an in-patient shall be deemed not to satisfy or to be unlikely to satisfy one or both of the conditions mentioned in subsection (1)(a) and (b) above.”.

3 **Mobility allowance**

(1) Section 37A of the principal Act is amended as follows.

(2) In subsection (4) (increase in rate of mobility allowance) for the words " and such other matters as he thinks relevant" there are substituted the words " any changes in taxation which directly affect the cost of motoring for persons in receipt of mobility allowance and such other matters as he thinks relevant; and he shall lay before Parliament a statement setting out his conclusion and the reasons therefore as soon as is reasonably practicable. ".

(3) In subsection (5) (periods for which mobility allowance is not payable)—

(a) in paragraph (a) (allowance not payable to a person for any period in which he is under the age of 5 or over pensionable age) for the words " pensionable age " there are substituted the words " the age of 75 "; and

(b) the following paragraph is inserted after paragraph (a)—

“(aa) in respect of a period in which he is over the age of 65 but under the age of 75 unless either—

(i) he had been entitled to a mobility allowance in respect of a period ending immediately before the date on which he attained the age of 65 ; or

(ii) he would have been so entitled but for paragraph (b) below and a claim for the allowance by or in respect of him is made before the date on which he attained the age of 66 ;”.

(4) The following subsections are inserted after subsection (6)—

“(6A) Regulations may provide that this section shall have effect in relation to prescribed categories of persons in respect of whom certificates issued in pursuance of regulations made under section 13 of the Social Security (Miscellaneous Provisions) Act 1977 (mobility allowance for person eligible for invalid carriage) are in force as if, in subsection (5), the words " or over the age of 75 " and paragraph (aa) were omitted.

(6B) Where, before the coming into force of this subsection, a person has been awarded a mobility allowance for a specified period ending with the date on which he will attain pensionable age, that award shall have effect as if it referred instead to a period ending with the date on which he will attain the age of 75 years.”.

(5) Where an application for a certificate under the Mobility Allowance (Vehicle Scheme Beneficiaries) Regulations 1977 was refused before the commencement of the Mobility Allowance (Vehicle Scheme Beneficiaries) Amendment Regulations 1978

any question whether the application was properly refused shall be determined as if that commencement had preceded the refusal.

4 Amendment of provisions relating to earnings after retirement age

(1) In section 30 of the principal Act (supplementary provisions about retirement pensions) the following subsection is inserted at the end—

“(6) The Secretary of State may by order—

- (a) substitute for the period of 5 years mentioned in section 27(5) of this Act and subsection (1) above a shorter period ; and
- (b) substitute for the ages of 65 and 70 mentioned in sections 26(1) and (3), 36(5), 37(6) and 79(2)(a) of this Act and subsection (3) above such lower ages as are appropriate in consequence of any provision made by virtue of paragraph (a) above.”.

(2) In section 167 of the principal Act (Parliamentary control of orders and regulations)—

- (a) in subsection (1) the following paragraph is inserted after paragraph (b)—
“(c) no order shall be made under section 30(6),”; and
- (b) in subsection (3) after the words " section 17(3) " there is inserted " 30(6), ".

(3) In Part II of Schedule 15 to the principal Act (regulations not requiring prior submission to National Insurance Advisory Committee) the following paragraph is inserted after paragraph 17—

“17A Regulations contained in a statutory instrument which states that it contains only provisions in consequence of an order under section 30(6) of this Act.”.

5 Amendment of principal Act, Pensions Act and Act of 1977

(1) The provisions of the principal Act, the Pensions Act and the Act of 1977 specified in Part I of Schedule 1 to this Act shall have effect subject to the amendments there specified (miscellaneous amendments of provisions relating to retirement and invalidity pensions).

(2) The provisions of the principal Act and the Pensions Act specified in Part II of Schedule 1 to this Act shall have effect subject to the amendments there specified (modification of certain provisions in relation to events occurring before 6th April 1979).

Appeals and reviews, etc.

6 Appeals from and to Supplementary Benefit Appeal Tribunals

(1) After section 15 of the Act of 1976 (appeals from Supplementary Benefits Commission) there is inserted the following section—

“15A Appeals from Appeal Tribunal.

(1) The Secretary of State may by rules make provision for any party to proceedings before an Appeal Tribunal (whether under this or any other Act)

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to appeal to a National Insurance Commissioner against a decision of the tribunal.

- (2) Rules under this section may, in particular, make provision—
- (a) as to the cases and circumstances in which, and the conditions subject to which, appeals may be made, including provision either generally or in relation to specified classes of case for appeals—
 - (i) to be confined to points of law;
 - (ii) to be made only with leave ;
 - (b) as to the manner in which, and the time within which, appeals are to be brought and (where appropriate) applications are to be made for leave to appeal;
 - (c) as to the procedure to be followed on appeals;
 - (d) as to the payment by the Secretary of State to persons attending proceedings before a Commissioner of travelling and other allowances (including compensation for loss of remunerative time).
- (3) The power to make provision as to procedure under subsection (2)(c) above includes power to make provision as to the representation of one person in any proceedings by another person.
- (4) Rules under this section may provide for a Commissioner hearing an appeal—
- (a) to give any decision which might have been given by the tribunal;
 - (b) to refer the case to another tribunal, with directions;
 - (c) to dispose of the appeal in such other manner as may be specified ;
- and in any case where directions are given to a tribunal in accordance with rules under this section the tribunal shall proceed accordingly.
- (5) In this section " National Insurance Commissioner " has the same meaning as in the Social Security Act 1975 and includes a Tribunal of Commissioners under section 116 of that Act.”
- (2) For Schedule 4 to the Act of 1976 (constitution, jurisdiction and proceedings of appeal tribunals) there is substituted the Schedule set out in Schedule 2 to this Act.
- (3) In section 14(2) of the Act of 1976 (power to make regulations) after paragraph (e) there is inserted the following paragraph—
- “(ee) for suspending the payment of supplementary benefit pending the determination of questions ; and”.

7 Incompatible benefits

In section 86 of the principal Act (set-off of overpayments) the following subsection is substituted for subsection (2)—

- “(2) Where on review or appeal a decision awarding or refusing a person benefit is revised, or is reversed or varied, but he retains any sums paid either in pursuance of the original decision or of any other decision awarding him benefit and those sums would not have been payable if the decision on the review or appeal had been given in the first instance, then, except in so far as regulations otherwise provide.—
- (a) where the decision on the review or appeal reverses a decision refusing the person benefit, the decision on the review or appeal shall direct

that those sums shall be treated as having been paid on account of that benefit (except to the extent that they exceed the amount of that benefit);

- (b) in any other case, any subsequent decision awarding the person other benefit, being a benefit to which a right to any of those sums would by virtue of any such provision as is mentioned in subsection (1) above have disentitled him, shall direct that those sums shall be treated as having been paid on account of the other benefit (except to the extent that they exceed the amount of that other benefit).”.

8 Repayment of benefit

After subsection (2) of section 119 of the principal Act there is inserted the following subsection—

“(2A) Where, in pursuance of a decision, an amount of benefit was paid which would not have been paid if the facts established for the purpose of any subsequent decision by an insurance officer, local tribunal or Commissioner had been known and—

- (a) the subsequent decision is given in relation to the same benefit but is not given on an appeal against or a review of the earlier decision; and
- (b) the circumstances are not such as to enable the earlier decision to be reviewed ;

the subsequent decision shall require repayment of that amount (except so much of it as is directed by the decision to be treated as having been properly paid) unless it is shown to the satisfaction of the insurance officer, tribunal or Commissioner that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.”.

9 Qualification of National Insurance Commissioners in Great Britain and Northern Ireland

- (1) In section 97(3) of the principal Act, after the word " barristers " there is inserted the word " solicitors " .
- (2) In section 97(3) of the Social Security (Northern Ireland) Act 1975 after the word " barristers " there are inserted the words " or solicitors " .

Increases in rates etc.

10 Revaluation of earnings factors

- (1) Section 21 of the Pensions Act (revaluation of earnings factors) is amended as follows.
- (2) In subsection (2) (review of general level of earnings and of changes in that level) for the words " since the last review " there are substituted the words " since the end of the period taken into account for the last review " .
- (3) For subsection (3) (increase of earnings factors) there is substituted the following subsection—

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“(3) If on any such review the Secretary of State concludes, having regard to earlier orders under this section, that earnings factors for any previous tax year (not being earlier than 1978-79) have not, during the period taken into account for that review, maintained their value in relation to the general level of earnings, he shall prepare and lay before each House of Parliament the draft of an order directing that those earnings factors shall, for the purpose of any such calculation as is mentioned in subsection (1) above, be increased by such percentage of their amount, apart from earlier orders under this section, as he thinks necessary to make up that fall in their value together with other falls in their value which had been made up by such earlier orders.”.

(4) For subsection (7) (provisions as to first review) there is substituted the following subsection—

“(7) The first review under this section shall be in the tax year 1979-80; and in relation to that review subsection (2) above shall have effect as if for the reference to the end of the period taken into account for the last review there were substituted a reference to the beginning of the latest twelve-month period for which figures are available at the time the review is carried out.”.

11 Increase of official pensions

(1) in section 59 of the Pensions Act (increase of official pensions), in subsection (5) for the words from " a person " to " by reference " (in the second place where they occur) there is substituted—

- “(a) a person is entitled to a guaranteed minimum pension when an order under this section comes into force; and
- (b) entitlement to that guaranteed minimum pension arises from an employment from which (either directly or by virtue of the payment of a transfer credit under section 38 of this Act) entitlement to the official pension also arises;

the amount by reference”.

(2) In subsection (7) of section 59, in the definition of " base period ", for the words from " the first" to the end there are substituted the words " 13th November 1978 (date of the relevant order under section 124 of the principal Act, increasing rates of benefit); ".

(3) At the end of section 59 there is inserted the following subsection—

“(8) Where, for the purposes of this section, it is necessary to calculate the number of complete months in any period an incomplete month shall be treated as a complete month if it consists of at least 16 days.”.

(4) After section 59 there is inserted the following section—

“59A Modification of effect of section 59(5).

- (1) This section applies where the amount by reference to which an increase in an official pension is to be calculated would, but for the provisions of this section, be reduced under section 59(5) of this Act by an amount equal to the rate of a guaranteed minimum pension.

- (2) The Minister for the Civil Service may direct that in such cases or classes of case as may be specified in the direction—
 - (a) no such reduction shall be made; or
 - (b) the reduction shall be of an amount less than the rate of the guaranteed minimum pension;and in any case to which such a direction applies the increase shall, in respect of such period or periods as may be specified in the direction, be calculated in accordance with the direction, notwithstanding section 59(5).
- (3) A direction under this section may provide that where it has applied in any case and ceases to apply in that case, the rate of the official pension for any period following the date on which the direction ceases to apply shall, in such circumstances as may be specified in the direction, be calculated as if the direction had never applied.
- (4) A direction under this section may provide that the rate of an official pension shall, in such circumstances as may be specified in the direction, be calculated as if the direction had been in force at all times during such period as may be so specified.
- (5) A direction made under subsection (2) above may be varied or revoked by a subsequent direction.”.

12 Up-rating of increments in guaranteed minimum pensions.

The following section is inserted in the principal Act after section 126—

“126A Up-rating of increments in guaranteed minimum pensions.

- (1) The Secretary of State shall in each tax year review the sums which are payable—
 - (a) by virtue of section 35(6) of the Pensions Act (increments in guaranteed minimum pension where retirement is postponed), including such sums which are payable by virtue of section 36(3) of that Act, to a person who is also entitled to a Category A or Category B retirement pension (in this section referred to as a "beneficiary"); and
 - (b) by virtue of this section to a beneficiary as part of his Category A or Category B retirement pension ;for the purpose of determining whether those sums have retained their value in relation to the general level of prices (estimated in such manner as the Secretary of State thinks fit) obtaining in Great Britain.
- (2) If the Secretary of State concludes that those sums have not retained their value he shall prepare and lay before Parliament the draft of an order increasing the beneficiary's Category A or Category B retirement pension at least by an amount equal to the percentage of the aggregate of the sums under review by which in the opinion of the Secretary of State that aggregate amount would have to be increased in order to restore its value.
- (3) If the draft order is approved by resolution of each House of Parliament the Secretary of State shall make the order in the form of the draft.

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- (4) Section 126 above (supplementary provisions as to up-rating orders) shall have effect as if—
- (a) the reference therein to section 125 above included a reference to this section ;
 - (b) the references to subsection (3) of that section included references to subsection (2) of this section ; and
 - (c) the reference to an up-rating order included a reference to an order under this section.
- (5) Where sums are payable to a person by virtue of section 35(6) of the Pensions Act (including such sums payable by virtue of section 36(3) of that Act) during a period ending with the date on which he became entitled to a Category A or Category B retirement pension, then, for the purpose of determining the amount of his Category A or Category B retirement pension, orders made under this section during that period shall be deemed to have come into force (consecutively in the order in which they were made) on the date on which he became entitled to that pension.”.

Miscellaneous

13 Maternity grant and death grant

The Secretary of State shall in the tax year 1978-79 and each subsequent tax year review the sums specified in Part II of Schedule 4 to the principal Act for the purpose of determining whether those sums have retained their value in relation to the general level of earnings or prices obtaining in Great Britain.

14 Adjustment of secondary Class 1 contributions for exceptions to redundancy provisions

- (1) The following subsection is inserted at the end of section 4 of the principal Act—
- “(7) Regulations may provide for reducing secondary Class 1 contributions which are payable in respect of persons to whom section 81 (redundancy payments) of the Employment Protection (Consolidation) Act 1978 does not apply by virtue of section 144(2), 145 or 149 of that Act.”
- (2) In section 134 of the principal Act (destination of contributions) the following words are inserted at the end of subsection (6) (power to modify section) " and in relation to any contributions which are reduced under section 4(7) of this Act ".

15 Overlap with benefits under legislation of other member States

- (1) The following subsections are inserted at the end of section 85 of the principal Act (overlapping benefits)—
- “(4) Regulations may provide for adjusting benefit payable to or in respect of any person where there is payable in his case any such benefit as is described in subsection (5) below.

- (5) Subsection (4) above applies to any benefit payable under the legislation of any member State other than the United Kingdom which is payable to or in respect of—
- (a) the person referred to in that subsection ;
 - (b) that person's wife or husband ;
 - (c) any child or adult dependant of that person ; or
 - (d) the wife or husband of any adult dependant of that person.”.
- (2) In Part II of Schedule 15 to the principal Act (regulations not requiring prior submission to National Insurance Advisory Committee) the following paragraph is inserted after paragraph 12—
- “12A Regulations under section 85(4) of this Act (overlap with benefits under legislation of other member States).”.
- (3) The following section is inserted in the Child Benefit Act 1975 after section 4—

“4A Overlap with benefits under legislation of other member States.

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

16 Criminal proceedings

For the purposes of the Criminal Evidence Act 1965 as it applies in relation to proceedings for any offence which is connected with—

- (a) the obtaining or receipt of any benefit under the Family Income Supplements Act 1970, the Industrial Injuries and Diseases (Old Cases) Act 1975, the Child Benefit Act 1975, the principal Act or the Act of 1976 ; or
- (b) the failure to pay any Class 1 or Class 2 contribution (within the meaning of Part I of the principal Act),

" business " shall include the activities of the Secretary of State.

17 Reference of regulations to National Insurance Advisory Committee

Section 139(1) of the principal Act (reference of proposed regulations to the National Insurance Advisory Committee) shall not apply in relation to regulations—

- (a) made under section 119 of the principal Act (effect of adjudication on payment and recovery) by virtue of paragraph 9 of Schedule 3 to this Act;
- (b) made by virtue of section 14 of this Act; or
- (c) made under paragraph 4(a) of Schedule 1 to the principal Act (calculation and adjustment of amounts) in relation to contributions reduced under section 4(7) of that Act;

and made within 6 months of the passing of this Act.

18 Treatment of insignificant amounts

The following section is inserted in the Pensions Act after section 60:—

“60A Treatment of insignificant amounts.

Where an amount is required to be calculated in accordance with the provisions of sections 6(3), 35(4) and (6) and 36(3) of, and paragraphs 2(3) and 4A of Schedule I to, this Act and, apart from his section, the amount so calculated is less than 2p, then, notwithstanding any other provision of this Act, that amount shall be taken to be zero, and other amounts so calculated shall be rounded to the nearest whole penny, taking $\frac{1}{2}$ p as nearest to the next whole penny above”.

19 Enactment of same provisions for Northern Ireland

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it operates only so far as to make for Northern Ireland provision corresponding to provisions contained in this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament), but
- (b) shall be subject to annulment by resolution of either House.

20 Financial provisions

- (1) There shall be paid out of money provided by Parliament any increase attributable to any of the provisions of this Act in sums so payable under any other Act.
- (2) Section 60(1) of the Scotland Act 1978 (modification of enactments authorising payments out of money provided by Parliament etc.) shall have effect as if subsection (1) above were contained in an Act passed before that Act.
- (3) As respects any increase attributable to this Act in the expenses which under subsection (3)(a) of section 135 of the principal Act are to be paid out of money provided by Parliament, subsection (1) above is without prejudice to the provision made by subsection (5) of that section for reimbursement out of the National Insurance Fund.

21 Short title, etc.

- (1) This Act may be cited as the Social Security Act 1979, and this Act, the principal Act, the Pensions Act and the Act of 1977 may be cited together as the Social Security Acts 1975 to 1979.
- (2) Section 3(3) of this Act shall not come into force in relation to women who on the passing of this Act have attained the age of 60 but not the age of 65 until such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be so appointed in relation to women of different ages.

An order under this subsection shall be laid before Parliament after being made.

- (3) Sections 11 and 12 of, and paragraphs 2 to 22 of Schedule 1 and paragraphs 5, 6, 7, 11, 14 to 20, 22, 23, and 29(a) and (b) of Schedule 3 to, this Act shall not come into force until 6th April 1979.
- (4) The Acts and instruments mentioned in Schedule 3 to this Act shall have effect subject to the minor and consequential amendments specified in that Schedule.

- (5) Sections 9(2) and 19 of, and paragraphs 3 and 12 of Schedule 3 to, this Act, and this section so far as it applies for the purposes of those provisions, extend to Northern Ireland but the other provisions of this Act do not.