



Social Security Act 1979

1979 CHAPTER 18

An Act to amend the law relating to social security.

[22nd March 1979]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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.”.

Status: This is the original version (as it was originally enacted).

- (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) 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—

“(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;

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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.
- (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.

Status: This is the original version (as it was originally enacted).

SCHEDULES

SCHEDULE 1

Section 5.

AMENDMENT OF PRINCIPAL ACT, PENSIONS ACT AND ACT OF 1977

PART I

MISCELLANEOUS AMENDMENTS OF PROVISIONS RELATING TO RETIREMENT AND INVALIDITY PENSIONS

Principal Act

- 1 In section 15(4) of the principal Act (disregard of certain amounts in calculating amount of pension by reference to which certain invalidity pensions are calculated) there are inserted after paragraph (b) the words “and
- (c) if he is also entitled to an invalidity allowance, any increase under section 28(7) or 29(8) of this Act (increase in Category A and B retirement pensions by amount equal to invalidity allowance).”.
- 2 In section 39(1)(c)(ii) of the principal Act (certain increases to be disregarded in determining entitlement to Category D retirement pension) after the word "disregarding" there are inserted the words "any additional component, any increase so far as attributable to any additional component or to any increase in a guaranteed minimum pension, any graduated retirement benefit and ".
- 3 In paragraph 5 of Schedule 3 to the principal Act (contribution conditions for retirement pensions etc.), for sub-paragraphs (6) and (7) (which provide for the second condition to be deemed to be satisfied in certain circumstances) there is substituted the following sub-paragraph—
- “(6) The second condition shall be deemed to be satisfied notwithstanding that paragraphs (a) and (b) of sub-paragraph (3) above are not complied with as respects each of the requisite number of years if—
- (a) those paragraphs are complied with as respects at least half that number of years (or at least 20 of them, if that is less than half); and
- (b) in each of the other years the contributor concerned was, within the meaning of regulations, precluded from regular employment by responsibilities at home.”.

Pensions Act

- 4 In section 8(1) of the Pensions Act (provision for Category B retirement pension for a widower in certain circumstances) the following paragraph is substituted for paragraph (c)—

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- “(c) before her death she satisfied the contribution conditions specified in paragraph 5 of Part I of Schedule 3 to the principal Act.”.
- 5 In section 20(1) of the Pensions Act (use of former spouse's contributions), after the words " those conditions " there are inserted the words " (but only in respect of any claim for a Category A retirement pension) ".
- 6 In paragraph 4 of Schedule 1 to the Pensions Act (deferred retirement) there is inserted, after sub-paragraph (2), the following sub-paragraph—
- “(3) Where—
- (a) there is a period between the death of the former spouse and the date on which the surviving spouse becomes entitled to a Category A or Category B retirement pension, and
- (b) one or more orders have come into force under section 124 of the principal Act (increases in rates of benefit) during that period, the amount of the increase to which the surviving spouse is entitled under this paragraph shall be determined as if the order or orders had come into force before the beginning of that period.”.
- 7 In the said Schedule 1, the following paragraph is inserted after paragraph 4—
- “4A (1) Where a woman is entitled to a Category A or Category B retirement pension and—
- (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 guaranteed minimum pension with an increase under section 35(6) of this Act; or
- (ii) would have been so entitled if he had retired on the date of his death,
- the rate of her pension shall be increased by an amount equal to the sum of the following amounts, that is to say, an amount equal to one-half of that increase ; the appropriate amount; and an amount equal to any increase to which he had been entitled under this paragraph.
- (2) Where a man is entitled to a Category A or Category B retirement pension and—
- (a) he has had a wife and she has died, and he was married to her when she died ; and
- (b) he was over pensionable age when she died ; and
- (c) the wife either—
- (i) was entitled to a guaranteed minimum pension with an increase under section 35(6) of this Act; or
- (ii) would have been so entitled if she had retired on the date of her death,
- the rate of his pension shall be increased by an amount equal to the sum of the following amounts, that is to say, an amount equal to that increase ; the appropriate amount; and an amount equal to any increase to which she had been entitled under this paragraph.
- (3) The " appropriate amount " means either—

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- (a) the amount by which the deceased person's Category A or Category B retirement pension had been increased under section 126A of the principal Act (up-rating of increments in guaranteed minimum pensions), or
 - (b) the amount by which his Category A or Category B retirement pension would have been so increased had he died immediately before his surviving spouse became entitled to a Category A or Category B retirement pension,
- whichever is the greater.”.

Act of 1977

- 8 In section 4(1) of the Act of 1977 (provision for payment of Category D retirement pension and Category A or Category B retirement pension at the same time) for the words " a Category D retirement pension " there are substituted the words " a Category C or Category D retirement pension ".

PART II

MODIFICATION OF CERTAIN PROVISIONS IN RELATION
 TO EVENTS OCCURRING BEFORE 6TH APRIL 1979

- 9 Expressions used in this Part of this Schedule and in the principal Act shall have the same meaning in this Part as they have in that Act.

Principal Act

- 10 In section 16 (rates at which invalidity allowance is payable)—
- (a) the following paragraphs are substituted for paragraphs (a) and (b) of subsection (2)—
 - “(a) at the higher rate specified in relation thereto in Schedule 4, Part I, if—
 - (i) the qualifying date fell before 5th July 1948 ; or
 - (ii) on the qualifying date the beneficiary was under the age of 35 ; or
 - (iii) on the qualifying date the beneficiary was under the age of 40 and had not attained pensionable age before 6th April 1979 ;
 - (b) at the middle rate so specified if paragraph (a) above does not apply and either—
 - (i) on the qualifying date the beneficiary was under the age of 45 : or
 - (ii) on the qualifying date the beneficiary was under the age of 50. and had not attained pensionable age before 6th April 1979 ;”;
 - (b) the following subsection is inserted after subsection (2)—
 - “(2A) No payment shall be made by virtue of subsection (2)(a)(iii) or (6)(ii) above in respect of any period before 6th April 1979.”.

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11 Section 28(2) (entitlement of married woman to Category A retirement pension) shall, notwithstanding its repeal by section 19(4) of and Schedule 5 to the Pensions Act, continue to apply in relation to any woman who attained pensionable age before 6th April 1979.

12 In section 59 (increase of unemployability supplement) the following words are inserted at the end of subsection (1)—

“Provided that no payment shall be made by virtue of heads (aa) or (bb) of that paragraph in respect of any period before 6th April 1979.”.

13 In paragraph 5 of Part V of Schedule 4 (weekly rates of the increase in unemployability supplement)—

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

“(aa) if head (a) above does not £415.”
apply and on the qualifying date the
beneficiary was under the age of 40
and he had not attained pensionable
age before 6th April 1979

(b) in paragraph (b) for the words " head (a) above does " there are substituted the words " heads (a) and (aa) above do ";

(c) for paragraph (c) there are substituted the following paragraphs—

“(bb) if heads (a), (aa) and (b) above £2.60;
do not apply and on the qualifying date
the beneficiary was under the age of 50
and had not attained pensionable age
before 6th April 1979

(c) in any other case £1.30”.

Pensions Act

14 Section 8(1) (Category B retirement pension for widower) shall not apply in any case where the death of the wife occurred before 6th April 1979.

15 Section 9 (special provision for surviving spouses) shall not apply in any case where the death of the wife or husband (as the case may be) occurred before 6th April 1979 and the surviving spouse had attained pensionable age before that date.

16 Section 10 (special provision for married women) shall not apply in any case where both the husband and the wife attained pensionable age before 6th April 1979.

17 Section 15 (invalidity pension for widows) shall not apply in relation to a widow unless she ceased to be entitled to a widow's allowance or a widowed mother's allowance after 5th April 1979.

18 Section 16 (invalidity pension for widowers) shall not apply in any case where the wife died before 6th April 1979.

19 Section 17 (which is superseded by paragraphs 10 and 13 above) is hereby repealed.

20 Section 20 (use of former spouse's contributions) shall not apply in relation to any person who attained pensionable age before 6th April 1979 if the termination of

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his marriage (or, if he had been married more than once, his last marriage) also occurred before that date.

21 In paragraph 2(2)(b) of Schedule 1 (which defines " period of deferment" for the purpose of enabling an increase of pension to be paid where retirement is deferred) for the words from " in relation to " to the end there are substituted the words—

“(i) in relation to any person who attains pensionable age after 5th April 1979, means the period beginning with the date on which he attains that age and ending with the day before that of his retirement;

(ii) in relation to any person who reaches pensionable age before 6th April 1979, means the period beginning with that date and ending with the day before the date of his retirement.”.

22 In paragraph 4 of Schedule 1 (increase of pension where pensioner's deceased spouse had deferred his retirement) the following sub-paragraph is inserted at the end—

“(4) The preceding provisions of this paragraph shall not apply in any case where the deceased spouse died before 6th April 1979 and the widow or widower attained pensionable age before that date.”.

SCHEDULE 2

Section 6(2).

SCHEDULE INSERTED IN ACT OF 1976 IN SUBSTITUTION FOR SCHEDULE 4

“SCHEDULE 4

CONSTITUTION, JURISDICTION AND PROCEEDINGS OF APPEAL TRIBUNALS

1 Every tribunal shall consist of—

- (a) one member drawn from a panel of persons appearing to the Secretary of State to have knowledge or experience of conditions in the area to which the panel relates and of the problems of people living on low incomes ;
- (b) one member drawn from a panel of persons appearing to the Secretary of State to represent work-people ; and
- (c) a person drawn from those selected by the Secretary of State to act as chairmen of the tribunals.

2 Panels of the kinds mentioned in paragraph 1 above shall be constituted by the Secretary of State for the whole of Great Britain and each panel shall relate to such area as he thinks fit, and be composed of such persons as he sees fit to appoint.

3 Before appointing members to either of the panels, the Secretary of State may take into consideration recommendations from such organisations or persons as he considers appropriate.

4 A tribunal shall have jurisdiction in respect of the area to which the panels from whose members it is constituted relate.

5 So far as is practicable—

- (a) each member of a panel shall be summoned in turn to serve on a tribunal;

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- (b) where several persons are selected to act as chairmen for a particular area they shall be invited in turn to preside over a tribunal;
 - (c) at least one of the members of the tribunal shall be of the same sex as the claimant.
- 6 The Secretary of State shall pay to the chairman of a tribunal such remuneration, and to any member thereof such travelling and other allowances (including compensation for the loss of remunerative time), as he may, with the consent of the Minister for the Civil Service, determine.
- 7 (1) The Secretary of State shall assign to serve the tribunals having jurisdiction in respect of each area a clerk and such other officers and servants and shall pay them such salaries or fees and such allowances as he may, with the consent of the Minister for the Civil Service, determine.
 - (2) Before assigning a clerk under this paragraph the Secretary of State shall, if one or more Senior Chairmen have been appointed under paragraph 11 below, consult him or such one of them as he considers appropriate.
 - (3) The Secretary of State shall consider any representations made to him by a Senior Chairman as to the desirability of terminating the assignment of a clerk and shall take such action, if any, as he considers appropriate.
- 8 A person appointed to act as a member of a panel shall hold and vacate office in accordance with the terms of his appointment.
- 9 (1) The Secretary of State may make rules—
 - (a) as to the procedure of tribunals and the procedure in connection with the bringing of matters before a tribunal, and as to the time within which matters may be brought before tribunals ;
 - (b) as to the payment by the Secretary of State to persons attending proceedings before tribunals of travelling and other allowances (including compensation for loss of remunerative time);
 - (c) for authorising proceedings notwithstanding that the members of the tribunal are not all present.
 - (2) The power to make rules as to procedure under this paragraph includes power to make provision as to the representation of one person in any proceedings by another person.
 - (3) In any case where proceedings take place in accordance with rules made under subparagraph (1)(c) above the tribunal shall, notwithstanding anything in this Act, be deemed to be properly constituted, and the chairman shall have a second or casting vote.
- 10 Notwithstanding the preceding provisions of this Schedule—
 - (a) a tribunal shall have jurisdiction in respect of such area as the Secretary of State may direct; and
 - (b) the chairman and other members may, if the Secretary of State so directs, be drawn from among those selected or appointed in relation to different areas.

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SENIOR CHAIRMEN

- 11 (1) The Lord Chancellor may, after consultation with the Lord Advocate, appoint persons who are barristers, advocates or solicitors of not less than 7 years' standing to act in relation to the tribunals as Senior Chairmen.
- (2) A person appointed under this paragraph to act as a Senior Chairman shall have such functions in relation to the tribunals, including the function of acting as chairman of a tribunal, as the Secretary of State may from time to time assign to him.
- (3) Section 7 of the Tribunals and Inquiries Act 1971 (chairmen of certain tribunals) and paragraph 5(b) above shall not apply in relation to a Senior Chairman acting as chairman of a tribunal by virtue of sub-paragraph (2) above.
- (4) A Senior Chairman shall hold and vacate office in accordance with the terms of his appointment.
- (5) The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of Senior Chairmen or any of them as, with the consent of the Minister for the Civil Service, he may determine.
- (6) Senior Chairmen shall have such officers and staff as the Secretary of State may, with the consent of the Minister for the Civil Service as to numbers and as to remuneration and other terms and conditions of service, see fit to appoint."

SCHEDULE 3

Section 21(4).

MINOR AND CONSEQUENTIAL AMENDMENTS

THE FAMILY INCOME SUPPLEMENTS ACT 1970 (c.55)

- 1 In section 7(2) of the Family Income Supplements Act 1970 (appeals to Appeal Tribunals), for the words " be final" there are substituted the words "subject to section 15A of the Supplementary Benefits Act 1976 (appeal from Appeal Tribunals) be final.

Nothing in this subsection shall make a finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of a further decision."

- 2 In section 10(2)(z) of that Act (review of determinations by the Supplementary Benefits Commission and Appeal Tribunals), at the end there are inserted the words " or by a National Insurance Commissioner or Tribunal of Commissioners by virtue of rules under section 15A of the Supplementary Benefits Act 1976 ".

THE SOCIAL SECURITY ACT 1973 (c.38)

- 3 In section 68(1) of the Social Security Act 1973 (reference of proposed regulations to the Occupational Pensions Board) for the words from " (other than " to " passing of this Act)" there are substituted the words " (other than regulations made for the purpose only of consolidating other regulations revoked thereby) ".

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THE SOCIAL SECURITY ACT 1975 (c.14)

- 4 In section 4(6) of the principal Act (Class 1 contributions), after the words " regulations under" there are inserted the words " subsection (7) or ".
- 5 In section 13(5) of the principal Act (calculation of earnings factors) after the words " any tax year " there are inserted the words " (including earnings factors as increased by any order under section 21 of the Pensions Act). ".
- 6 In section 14(6) of the principal Act (disregard of certain increases in computing unemployment and sickness benefit) after paragraph (a) there is inserted the following paragraph—
“(aa) any increase under section 126A of this Act;”.
- 7 In section 15(4) of the principal Act (disregard of certain increases in computing invalidity pension) after paragraph (a) there is inserted the following paragraph—
“(aa) any increase under section 126A of this Act; and”.
- 8 In section 110(1) of the principal Act (review of decision of medical board or medical appeal tribunal) for the words from " in consequence of" to the end there are substituted the words "in ignorance of a material fact or was based on a mistake as to a material fact
- 9 In section 119 of the principal Act—
(a) in subsection (3)(a), there are inserted at the end the words " or out of a requirement to repay any amount by virtue of subsection (2A) above ";
- (b) in subsection (4)—
(i) in paragraph (c) for the words " subsections (1) and (2)" there are substituted the words " subsections (1) to (2A) ";
- (ii) in paragraph (cc) (inserted by Schedule 4 to the Pensions Act) the words " by way of a mobility allowance " are hereby repealed ; and
- (iii) in paragraph (d) after the words " subsection (1)" there are inserted the words " or (2A) ".
- 10 In paragraph 8 of Schedule 3 to the principal Act (satisfaction of contribution conditions) the following sub-paragraph is substituted for sub-paragraph (3)—
“(3) For the purposes of satisfaction by the contributor concerned of paragraph (b) of the first contribution condition for unemployment benefit, sickness benefit, a maternity grant or a maternity allowance, or of paragraph (b) of the contribution condition for a widow's allowance, all earnings factors derived from his contributions of a relevant class actually paid by him before the relevant time may be aggregated and that aggregate sum shall be treated as his earnings factor for the last complete year before the beginning of the benefit year in which the relevant time falls.”
- 11 In paragraph 9 of Part I of Schedule 4 to the principal Act (as amended by paragraph 62 of Schedule 4 to the Pensions Act) for the words " £6.90 " there are substituted the words " £11.70 ".

THE HOUSE OF COMMONS DISQUALIFICATION ACT 1975 (c.24)

- 12 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (offices the holders of which are disqualified) at the end of the entry beginning " Chairman of an Appeal Tribunal" there are inserted the words " or Senior Chairman in relation to such a tribunal ".

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THE SOCIAL SECURITY PENSIONS ACT 1975 (c.60)

- 13 In sections 6(3) and 35(4) of the Pensions Act the words from " and rounding " to the end are hereby repealed.
- 14 In section 6(4) of the Pensions Act (increase of earnings factors) for the words " any order or orders that have come into force under section 21 below " there are substituted the words " the last order under section 21 below to come into force ".
- 15 In section 11 of the Pensions Act (application of earnings rule) after the words " the additional component" there are inserted the words " , of any increase so far as attributable to any additional component or to any increase in a guaranteed minimum pension " .
- 16 In section 23(1)(c) of the Pensions Act (up-rating of certain increases under Schedule 1) after the words " such pensions " there are inserted the words " or to increases in guaranteed minimum pensions " .
- 17 In section 34(6) of the Pensions Act (increase of earnings) for the words " any order or orders coming into force under section 21 above" there are substituted the words " the last order under section 21 above to come into force " .
- 18 In section 35 of the Pensions Act (earner's guaranteed minimum)—
- (a) in subsection (5) (increase of earnings factors) for the words " any order or orders that have come into force under section 21 above " there are substituted the words " the last order under section 21 above to come into force ";
 - (b) in subsection (7) (early retirement) for the words " any order or orders that come into force under the said section 21 " there are substituted the words " the last order under the said section 21 to come into force " .
- 19 In section 37(3) of the Pensions Act (earner's salary as factor of widow's pension) for the words " any order or orders coming into force under section 21 above " there are substituted the words " the last order under section 21 above to come into force " .
- 20 In section 59(7) of the Pensions Act, after the words "this section " (in the two places where they occur after the definition of " lump sum ") there are inserted in each case the words " and section 59A of this Act " .
- 21 In section 61(2) of the Pensions Act (reference of proposed regulations to the Occupational Pensions Board) for the words from "to be made" to "passing of this Act" there are substituted the words " made for the purpose only of consolidating other regulations revoked thereby " .
- 22 In sections 66(2) and 68(3)(a) of the Pensions Act, for the words " section 59 " there are, in each case, substituted the words " sections 59 and 59A " .
- 23 In paragraph 4 of Schedule 1 to the Pensions Act (deferred retirement) at the end of both sub-paragraph (1) and sub-paragraph (2) there are inserted the words " under this Schedule apart from paragraph 4A. " .

THE SUPPLEMENTARY BENEFITS ACT 1976 (c. 71)

- 24 In section 2(1) of the Act of 1976 (determination of benefit, subject to provisions of section 15 as to appeals) for the words " section 15" there are substituted the words " sections 15 and 15A " .

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- 25 In section 14(2)(d) of the Act of 1976 (review of determinations), at the end there are inserted the words " or by a National Insurance Commissioner or Tribunal of Commissioners by virtue of rules under section 15A of this Act ".
- 26 In section 15 of the Act of 1976 (appeals to Appeal Tribunals), in subsection (3) the words from " and any " to the end are omitted and at the end there is inserted the following subsection:—
- “(4) Subject to section 15A of this Act, any determination of an Appeal Tribunal shall be final; but nothing in this section shall make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision.”.
- 27 In section 33 of the Act of 1976 (rules and regulations) the following subsection is inserted after subsection (1)—
- “(1A) Rules and regulations under this Act may make different provision for different classes of case and otherwise for different circumstances.”.
- 28 In paragraph 8 of Schedule 2 to the Act of 1976 (increase of amount of award on appeal), in sub-paragraph (a) after the words " section 15 " there are inserted the words " or 15A ".

THE SOCIAL SECURITY (MISCELLANEOUS PROVISIONS) ACT 1977 (c.5)

- 29 In the Act of 1977—
- (a) section 3(3) to (5),
 - (b) section 5(2), and
 - (c) section 13(2),
- are hereby repealed.

THE EMPLOYMENT PROTECTION (CONSOLIDATION) ACT 1978 (c.44)

- 30 In section 132 of the Employment Protection (Consolidation) Act 1978—
- (a) in subsection (3)(e) for the words " and (3)" there are substituted the words " to (4) "; and
 - (b) in subsection (4)(a) for the words " and (2) " there are substituted the words " (2) and (2A) ".

THE SUPPLEMENTARY BENEFIT (APPEAL TRIBUNAL) RULES 1971 (S.I. No. 680)

- 31 Rule 2 of the Supplementary Benefit (Appeal Tribunal) Rules 1971 (tenure of office of members of Appeal Tribunals) is hereby revoked.

THE MOBILITY ALLOWANCE (VEHICLE SCHEME BENEFICIARIES) REGULATIONS 1977 (S.I. No. 1229)

- 32 In Regulation 6 of the Mobility Allowance (Vehicle Scheme Beneficiaries) Regulations 1977 the following paragraph is substituted for paragraph (a)—
- “(a) section 37A(5) of the principal Act shall have effect as though the words " or over the age of 75 " and paragraph (aa) were omitted ;”.