



Health and Social Security Act 1984

1984 CHAPTER 48

PART II

SOCIAL SECURITY

11 Severe disablement allowance

- (1) The following section shall be substituted for section 36 of the Social Security Act 1975—

“36 Severe disablement allowance.

- (1) Subject to the provisions of this section, a person shall be entitled to a severe disablement allowance for any day (" the relevant day ") if he satisfies—
- (a) the conditions specified in subsection (2) below; or
 - (b) the conditions specified in subsection (3) below.
- (2) The conditions mentioned in subsection (1)(a) above are that—
- (a) on the relevant day he is incapable of work ; and
 - (b) he has been incapable of work for a period of not less than 196 consecutive days—
 - (i) beginning not later than the day on which he attained the age of 20 ; and
 - (ii) ending immediately before the relevant day.
- (3) The conditions mentioned in subsection (1)(b) above are that—
- (a) on the relevant day he is both incapable of work and disabled ; and
 - (b) he has been both incapable of work and disabled for a period of not less than 196 consecutive days ending immediately before the relevant day.
- (4) A person shall not be entitled to a severe disablement allowance if—
- (a) he is under the age of 16 ; or

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- (b) he is receiving full-time education ; or
 - (c) he does not satisfy the prescribed conditions—
 - (i) as to residence in Great Britain; or
 - (ii) as to presence there ; or
 - (d) he has attained pensionable age and was not entitled to a severe disablement allowance immediately before he attained it and is not treated by regulations as having been so entitled immediately before he attained it.
- (5) A person is disabled for the purposes of this section if he suffers from loss of physical or mental faculty such that the assessed extent of the resulting disablement amounts to not less than 80 per cent.
- (6) A severe disablement allowance shall be paid at the weekly rate specified in relation thereto in Schedule 4, Part III, paragraph 2.
- (7) Regulations—
- (a) may direct that persons who—
 - (i) have attained retiring age ; and
 - (ii) were entitled to a severe disablement allowance immediately before they attained it,
 shall continue to be so entitled notwithstanding that they do not satisfy the conditions specified in subsection (2) or (3) above;
 - (b) may direct—
 - (i) that persons who have previously been entitled to a severe disablement allowance shall be entitled to such an allowance notwithstanding that they do not satisfy the conditions specified in subsection (2)(b) or (3)(b) above ;
 - (ii) that those paragraphs shall have effect in relation to such persons subject to such modifications as may be specified in the regulations;
 - (c) may prescribe the circumstances in which a person is or is not to be treated—
 - (i) as incapable of work ; or
 - (ii) as receiving full-time education; and
 - (d) may provide for disqualifying a person from receiving a severe disablement allowance for such period not exceeding 6 weeks as may be determined in accordance with sections 97 to 104 below if—
 - (i) he has become incapable of work through his own misconduct; or
 - (ii) he fails without good cause to attend for, or to submit himself to, such medical or other examination or treatment as may be required in accordance with the regulations, or to observe any prescribed rules of behaviour.
- (8) In this section—
- " assessed " means assessed in accordance with Schedule 8 to this Act; and
 - " retiring age " means, in the case of a man, 70 and, in the case of a woman, 65.”.

- (2) Schedule 4 to this Act, which makes amendments to other enactments consequential on subsection (1) above, shall have effect.

12 Pension increase in respect of husbands

The following section shall be inserted after section 45 of the Social Security Act 1975—

“45A Pension increase (husband).

- (1) Where a Category A retirement pension is payable to a woman for any period—
- (a) which began immediately upon the termination of a period for which the pensioner was entitled to an increase in unemployment benefit, sickness benefit or invalidity pension by virtue of section 44(3)(a) or 47(1)(a) of this Act (increases in respect of adult dependants); and
 - (b) during which the conditions specified in subsection (2) below are satisfied (without interruption),
- then the weekly rate of the pensioner's Category A retirement pension shall be increased by the amount specified in relation thereto in Schedule 4, Part IV, column 3 (" the specified amount").
- (2) The conditions referred to in subsection (1)(b) above are—
- (a) that the pensioner is residing with her husband or is contributing to his maintenance at a weekly rate not less than the specified amount; and
 - (b) that the pensioner's husband is not engaged in any one or more employments from which his weekly earnings exceed the specified amount.”.

13 Dependent children

Schedule 5 to this Act, which makes amendments to the Social Security Act 1975 and the Industrial Injuries and Diseases (Old Cases) Act 1975 in relation to increases in benefits payable in respect of dependent children, shall have effect.

14 Earnings to include occupational pensions for purposes of benefits in respect of dependants

In the Social Security Act 1975—

- (a) the following section shall be inserted after section 47A—

“47B Earnings to include occupational pensions for purposes of benefits.

- (1) Except as may be prescribed—
- (a) in section 41 and sections 44 to 47 above any reference to earnings includes a reference to payments by way of occupational pension; and
 - (b) in sections 44, 45, 45A and 47 above any reference to a period during which a person is not engaged in any employment

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includes a reference to a period in respect of which a person is not entitled to any payment by way of occupational pension.

- (2) For the purposes of the provisions mentioned in subsection (1) above, the Secretary of State may by regulations provide, in relation to cases where payments by way of occupational pension are made otherwise than weekly, that any necessary apportionment of the payments shall be made in such manner and on such basis as may be prescribed.”; and
- (b) the following section shall be inserted after section 66—

“66A Earnings to include occupational pensions for purposes of disablement pension.

- (1) Except as may be prescribed, any reference to earnings in section 64 or 66 above includes a reference to payments by way of occupational pension.
- (2) For the purposes of those sections, the Secretary of State may by regulations provide, in relation to cases where payments by way of occupational pension are made otherwise than weekly, that any necessary apportionment of the payments shall be made in such manner and on such basis as may be prescribed.”.

15 Attendance allowance: daily entitlement

- (1) In this section—

" the 1975 Regulations " means the Social Security (Claims and Payments) Regulations 1975 ;

" the 1977 amendment Regulations " means the Social Security (Attendance Allowance) Amendment Regulations 1977;

" the 1979 Regulations " means the Social Security (Claims and Payments) Regulations 1979 ;

" the 1980 amendment Regulations " means the Social Security (Attendance Allowance) Amendment Regulations 1980;

" regulation 16A " means regulation 16A of the 1975 Regulations, which was added by regulation 9 of the 1977 amendment Regulations;

"regulation 18 " means regulation 18 of the 1979 Regulations, both as originally made and as substituted by regulation 6(2) of the 1980 amendment Regulations ;

"appropriate pay day " means a day for payment under regulation 15(7) of the 1975 Regulations or regulation 16(7) of the 1979 Regulations of weekly sums on account of an attendance allowance; and

"13 week period " means the period mentioned in regulation 16A or regulation 18.

- (2) Regulation 16A and regulation 18 shall be deemed always to have had effect as if—
- (a) the words " Notwithstanding anything in the foregoing provisions of these regulations " were inserted at the beginning;
- (b) any reference to attendance allowance being payable for a period were a reference to attendance allowance which would have been payable for that period but for—

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- (i) regulation 15(9) or (10) of the 1975 Regulations ; or
- (ii) regulation 16(10) or (11) of the 1979 Regulations ; and
- (c) in relation to any case where a 13 week period does not end on an appropriate pay day, any reference to a 13 week period in paragraph (1) were a reference to that period together with any days after its end but before the next appropriate pay day.

16 Constitution of panels for social security appeal tribunals

In the Social Security Act 1975—

- (a) the following subsection shall be substituted for subsections (2A) and (2B) of section 97—

“(2A) Members of a social security appeal tribunal other than the chairman shall be drawn from the appropriate panel constituted under Schedule 10 to this Act.”; and

- (b) the following sub-paragraphs shall be substituted for paragraph 1(2) to (5) of Schedule 10—

“(2) The panel for an area shall be composed of persons appearing to the President to have knowledge or experience of conditions in the area and to be representative of persons living or working in the area.

(2A) Before appointing members of a panel, the President shall take into consideration any recommendations from such organisations or persons as he considers appropriate.”.

17 Late paid Class 2 contributions

- (1) In subsection (1) of section 7 (Class 2 contributions) of the Social Security Act 1975 after the word " section " there shall be inserted the words " and section 7A below ".
- (2) The following section shall be inserted after that section—

“7A Late paid Class 2 contributions.

- (1) This section applies to any Class 2 contribution paid in respect of a week falling within a tax year (" the contribution year ") earlier than the tax year in which it is paid (" the payment year ").
- (2) Subject to subsections (3) to (5) below, the amount of a contribution to which this section applies shall be the amount which the earner would have had to pay if he had paid the contribution in the contribution year.
- (3) Subject to subsections (4), (5) and (6) below, in any case where—
 - (a) the earner pays an ordinary contribution to which this section applies after the end of the tax year immediately following the contribution year; and
 - (b) the weekly rate of ordinary contributions for the contribution year differs from the weekly rate for the payment year,the amount of the contribution shall be computed by reference to the weekly rate of ordinary Class 2 contributions for the payment year.

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- (4) The Secretary of State may by regulations direct that subsection (3) above shall have effect in relation to a higher-rate contribution to which this section applies subject to such modifications as may be prescribed.
- (5) Subject to subsection (6) below, for the purposes of proceedings in any court relating to an earner's failure to pay Class 2 contributions, the amount of each contribution which he is to be treated as having failed to pay is the amount which he would have paid in accordance with subsections (1) to (3) above or regulations under subsection (6) below if he had paid that contribution on the date on which the proceedings commenced.
- (6) The Secretary of State may by regulations provide that the amount of any contribution which, apart from the regulations, would fall to be computed in accordance with subsection (3) or (5) above shall instead be computed by reference to a tax year not earlier than the contribution year but earlier—
- (a) in a case falling within subsection (3) above, than the payment year; and
 - (b) in a case falling within subsection (5) above, than the tax year in which the proceedings commenced.
- (7) For the purposes of this section—
- (a) proceedings in the High Court or a county court commence when an action commences ; and
 - (b) proceedings under section 146 below commence when an information is laid.
- (8) In this section—
- " ordinary contribution " means a contribution under subsection (1) of section 7 above; and
- " higher-rate contribution " means a contribution under regulations made under subsection (4) of that section."

18 Class 3 contributions

- (1) In section 8 of the Social Security Act 1975 (Class 3 contributions)—
- (a) in subsection (1), after the word " and ", in the second place where it occurs, there shall be inserted the words " , subject to the following provisions of this section, ";
 - (b) the following subsection shall be inserted after subsection (2)—

“(2A) The amount of a Class 3 contribution in respect of a tax year earlier than the tax year in which it is paid shall be the same as if it had been paid in the earlier year and in respect of that year.”
- (2) Subsection (1) above shall be deemed to have come into force on 6th April 1975.
- (3) At the end of the subsection inserted by subsection (1)(b) above there shall be added—
- “, unless it falls to be calculated in accordance with subsection (2C) below or regulations under subsection (2D) below.
- (2B) In this section—

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" the payment year " means the tax year in which a contribution is paid ; and

" the contribution year " means the earlier year mentioned in subsection (2A) above.

(2C) Subject to the following provisions of this section, in any case where—

(a) a Class 3 contribution is paid after the end of the next tax year but one following the contribution year; and

(b) the amount of a Class 3 contribution in respect of the contribution year differs from the amount in respect of the payment year,

the amount of the contribution shall be computed by reference to the amount of a Class 3 contribution for the payment year.

(2D) The Secretary of State may by regulations provide that the amount of a contribution which apart from the regulations would fall to be computed in accordance with subsection (2C) above shall instead be computed by reference to the amount of a Class 3 contribution for a tax year earlier than the payment year but not earlier than the contribution year.”.

19 Accrued rights and entitlement to benefits under occupational pension schemes

(1) The following subsections shall be substituted for section 38(1) and (2) of the Social Security Pensions Act 1975—

“(1) Regulations may prescribe circumstances in which and conditions subject to which—

(a) an earner's accrued rights to the requisite benefits under a contracted-out scheme ; or

(b) the liability for the payment of such benefits to or in respect of any person who has become entitled to them,

may be transferred to another occupational pension scheme.

(1A) Any such regulations may be made so as to apply to earners who are not in employment at the time of the transfer.

(1B) Regulations under subsection (1) above may provide that any provision of this Part of this Act shall have effect, where there has been a transfer to which they apply, subject to such modifications as may be specified in the regulations.

(1C) Regulations under subsection (1) above shall have effect in relation to transfers whenever made unless they provide that they are only to have effect in relation to transfers which take place after they come into force.

(1D) The power conferred by subsection (1) above is without prejudice to the generality of section 166(2) of the principal Act.”.

(2) In section 44 of that Act (premium on termination of contracted-out scheme)—

(a) the following subsections shall be inserted after subsection (1)—

“(1A) Regulations may provide that any provision of this Part of this Act shall have effect where the Occupational Pensions Board have approved arrangements under subsection (1) above subject to such modifications as may be specified in the regulations.

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(1B) Any such regulations shall have effect in relation to arrangements whenever approved, unless they provide that they are only to have effect in relation to arrangements approved after they come into force.”; and

(b) the following subsection shall be inserted after subsection (9)—

“(10) Any reference to earners in this section includes, in relation to any particular time, not only a reference to earners who are in employment at that time but also a reference to earners who are not in employment at that time but who have been in employment before it or will be in employment after it.”.

20 Protection of pensions

The Social Security Pensions Act 1975 shall be amended in accordance with Schedule 6 to this Act for the purpose of protecting pensions under occupational pension schemes which are or have been contracted-out.

21 Miscellaneous social security amendments

The enactments specified in Schedule 7 to this Act shall have effect subject to the amendments there specified.

22 Regulations

(1) Section 10(1) of the Social Security Act 1980 (reference of regulations etc. to Social Security Advisory Committee) shall not apply to regulations—

- (a) made under section 36 of the Social Security Act 1975 before the expiry of the period of six months beginning with the commencement of section 11 above ;
- (b) made under any enactment before the expiry of the period of six months beginning with the commencement of section 11 above and contained in a statutory instrument which states that it contains only provisions consequential on that section or such provisions and regulations made under section 36 of the Social Security Act 1975 ;
- (c) made under any enactment before the expiry of the period of six months beginning with the commencement of Schedule 4 to this Act and contained in a statutory instrument which states that it contains only provisions consequential on that Schedule ;
- (d) made under section 47B or 66A of the Social Security Act 1975 before the expiry of the period of six months beginning with the commencement of section 14 above ;
- (e) made under any enactment before the expiry of the period of six months beginning with the commencement of section 14 above and contained in a statutory instrument which states that it contains only provisions consequential on that section or such provisions and regulations made under section 47B or 66A of the Social Security Act 1975 ;
- (f) made under section 7A of the Social Security Act 1975 before the expiry of the period of six months beginning with the commencement of section 17 above ;
- (g) made under section 129(1) of the Social Security Act 1975 before the expiry of that period and contained in a statutory instrument which states that it contains only provisions modifying section 7A of that Act;

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- (h) made under section 8 (2D) of the Social Security Act 1975 before the expiry of the period of six months beginning with the commencement of section 18(3) above;
 - (j) made under section 28 below or under that section as extended by paragraph 17 of Schedule 4 to this Act;
 - (k) made under any enactment before the expiry of the period of six months beginning with the commencement of Schedule 5 to this Act and contained in a statutory instrument which states that it contains only provisions consequential on that Schedule ;
 - (l) made under section 4(1) of the Social Security Pensions Act 1975 before the expiry of the period of six months beginning with the commencement of paragraph 3 of Schedule 7 to this Act;
 - (m) made under any enactment before the expiry of that period and contained in a statutory instrument which states that it contains only provisions consequential on such regulations as are mentioned in paragraph (l) above;
 - (n) made under any enactment before the expiry of that period and contained in a statutory instrument which states that it contains only provisions consequential on paragraph 3(b) of Schedule 7 to this Act;
 - (o) made under section 4 of the Social Security and Housing Benefits Act 1982 by virtue of the power contained in the words inserted in that section by paragraph 7 of Schedule 7 to this Act and before the expiry of the period of six months beginning with the commencement of that paragraph.
- (2) If an order under section 27 below appoints different days for different purposes of the same provision of this Act, references to commencement in subsection (1) above or subsection (4) below are to be construed, in relation to that provision, as references to the day on which it first comes into force for any purpose.
- (3) Section 141(2) of the Social Security Act 1975 (references of regulations to Industrial Injuries Advisory Council) shall not apply to regulations within subsection (1)(k) above.
- (4) Section 61(2) of the Social Security Pensions Act 1975 (reference of regulations to Occupational Pensions Board) shall not apply to regulations—
- (a) made under section 38 or 44(1 A) or (1B) of the Social Security Pensions Act 1975 before the expiry of the period of six months beginning with the commencement of section 19 above ;
 - (b) made under any enactment before the expiry of the period of six months beginning with the commencement of section 19 above and contained in a statutory instrument which states that it contains only provisions consequential on that section or such provisions and regulations made under section 38 or 44(1A) or (1B) of the Social Security Pensions Act 1975 ;
 - (c) made under section 41C or 41E of that Act before the expiry of the period of six months beginning with the commencement of Schedule 6 to this Act; or
 - (d) made under any enactment before the expiry of the period of six months beginning with the commencement of that Schedule and contained in a statutory instrument which states that it contains only provisions consequential on that Schedule or such provisions and regulations made under section 41C or 41E of the Social Security Pensions Act 1975.