



Social Security Act 1986

1986 CHAPTER 50

PART I

PENSIONS

Personal pension schemes

1 Minimum contributions to personal pension schemes

- (1) Subject to the following provisions of this Part of this Act, the Secretary of State shall pay, except in such circumstances as may be prescribed, minimum contributions in respect of an employed earner for any period during which the earner—
 - (a) is over the age of 16 but has not attained pensionable age;
 - (b) is not a married woman or widow who has made an election which is still operative that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate; and
 - (c) is a member of an appropriate personal pension scheme which is for the time being the earner's chosen scheme.
- (2) Regulations may make provision as to the manner in which, and time at which or period within which, minimum contributions are to be paid.
- (3) Subject to subsection (4) below, the Secretary of State shall pay minimum contributions in respect of an earner to the trustees or managers of the earner's chosen scheme.
- (4) In such circumstances as may be prescribed the Secretary of State shall pay minimum contributions to a prescribed person.
- (5) Where any of the conditions mentioned in subsections above ceases to be satisfied in the case of an earner in respect of whom the Secretary of State is required to pay minimum contributions, the duty of the Secretary of State to pay them shall cease as from a date determined in accordance with regulations.

Status: This is the original version (as it was originally enacted).

- (6) If the Secretary of State pays an amount by way of minimum contributions which he is not required to pay, he may recover it from the person to whom he paid it or from any person in respect of whom he paid it.
- (7) If he pays in respect of an earner an amount by way of minimum contributions which he is required to pay, but does not pay it to the trustees or managers of the earner's chosen scheme, he may recover it from the person to whom he paid it or from the earner.
- (8) A personal pension scheme is an appropriate scheme if there is in force a certificate (in this Act referred to as an "appropriate scheme certificate") issued by the Occupational Pensions Board in accordance with section 2 below that it is such a scheme.
- (9) Where an earner and the trustees or managers of an appropriate personal pension scheme have jointly given notice to the Secretary of State, in such manner and form and with such supporting evidence as may be prescribed—
 - (a) that the earner is, or intends to become, a member of the scheme and wishes minimum contributions in respect of him to be paid to the scheme;
 - (b) that the trustees or managers have agreed to accept him as a member of the scheme and to receive minimum contributions in respect of him,that scheme is the earner's chosen scheme as from a date determined in accordance with regulations and specified in the notice, unless at that date some other appropriate scheme is the earner's chosen scheme.
- (10) Either an earner or the trustees or managers of a scheme may cancel a notice under subsection (9) above by giving notice to that effect to the Secretary of State at such time and in such manner and form as may be prescribed.
- (11) Where a notice under subsection (10) above is given, the scheme ceases to be the earner's chosen scheme as from a date determined in accordance with regulations and specified in the notice.

2 Appropriate schemes

- (1) Regulations shall provide—
 - (a) for the issue of appropriate scheme certificates by the Occupational Pensions Board;
 - (b) for the cancellation, variation or surrender of any such certificate, or the issue of an amended certificate, on any relevant change of circumstances; and
 - (c) that any question whether a personal pension scheme is or at any time was an appropriate scheme shall be determined by the Board.
- (2) A scheme can be an appropriate scheme only if the requirements imposed by or by virtue of Schedule 1 to this Act are satisfied in its case.
- (3) An appropriate scheme certificate may be withheld or cancelled by the Board if they consider that there are circumstances which make it inexpedient that it should be or continue to be an appropriate scheme, notwithstanding that they would otherwise issue such a certificate or not cancel such a certificate.
- (4) Where by or by virtue of any provision of Schedule 1 to this Act a scheme's being an appropriate scheme depends on the satisfaction of a particular condition, the scheme's continuing to be an appropriate scheme shall be dependent on continued satisfaction of the condition; and if the condition ceases to be satisfied that shall be a ground

(without prejudice to any other) for the cancellation or variation of an appropriate scheme certificate.

- (5) Except in prescribed circumstances, no appropriate scheme certificate and no cancellation, variation or surrender of such a certificate shall have effect from a date earlier than that on which the certificate is issued or the cancellation, variation or surrender is made.
- (6) An appropriate scheme certificate for the time being in force in relation to a scheme shall be conclusive that the scheme is an appropriate scheme.
- (7) Every assignment of or charge on and every agreement to assign or charge protected rights or payments giving effect to protected rights shall be void.
- (8) On the bankruptcy of a person who is entitled to protected rights or a payment giving effect to protected rights, any protected rights or payment the assignment of which is or would be made void by subsection (7) above shall not pass to any trustee or person acting on behalf of his creditors.
- (9) In the application of this section to Scotland—
 - (a) references to assignment shall be construed as references to assignation and "assign" shall be construed accordingly; and
 - (b) the reference to a person's bankruptcy shall be construed as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 41 of the Solicitors (Scotland) Act 1980.

3 Amount of minimum contributions

- (1) Subject to subsection (2) below, in relation to any tax week falling within a period for which the Secretary of State is required to pay minimum contributions in respect of an earner, the amount of those contributions shall be the aggregate of—
 - (a) the rebate percentage of so much of any earnings paid to or for the benefit of the earner with respect to any employment which is not contracted-out employment in relation to him as exceeds the lower earnings limit but does not exceed the upper earnings limit; and
 - (b) where the tax week ends before 6th April 1993, 2 per cent, of any such earnings or, if 2 per cent of any such earnings is less than £1.00 and the prescribed person applies within such time, in such form and manner and with such supporting evidence as may be prescribed, £1.00.
- (2) In relation to earnings paid with respect to any such employment as may be prescribed, subsection (1) above shall have effect as if the words "the aggregate of" and paragraph (b) and the word "and" immediately preceding it were omitted.
- (3) In subsection (1) above—
 - "employment" means employed earner's employment; and
 - "rebate percentage" means the percentage arrived at by adding—
 - (a) the percentage by which for the time being under section 27(2) of the Social Security Pensions Act 1975 the contracted-out percentage of primary Class 1 contributions is less than the normal percentage; and
 - (b) the percentage by which for the time being under that subsection the contracted-out percentage of secondary Class 1 contributions is less than the normal percentage.

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

- (4) The references to the upper and lower earnings limits in subsection (1)(a) above are references, in the case of an earner who is paid otherwise than weekly, to their prescribed equivalents under section 4(2) and (6) of the Social Security Act 1975.
- (5) Regulations may provide—
- (a) that earnings shall be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, minimum contributions are payable in respect of them ;
 - (b) for the adjustment of the amount which would otherwise be payable by way of minimum contributions so as to avoid the payment of trivial or fractional amounts;
 - (c) for the intervals at which, for the purposes of minimum contributions, payments of earnings are to be treated as made;
 - (d) for this section to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period and as if in any case so prescribed for the references to £1.00 in subsection (1)(b) above there were substituted references to such other sum as may be prescribed.

4 Effect of payment of minimum contributions on rate of certain benefits

- (1) Where for any period minimum contributions have been paid in respect of an earner, sections 16(2B), 28(7A) and 59 (1A) of the Social Security Act 1975 and section 29 of the Social Security Pensions Act 1975 shall have effect—
- (a) in relation to him, as from the date on which he reaches pensionable age, as if he were entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;
 - (b) in prescribed circumstances, in relation to any widow or widower of the earner—
 - (i) if the earner died after reaching pensionable age, as if the widow or widower were entitled to a guaranteed minimum pension at a rate equal to one-half of the rate prescribed under paragraph (a) above; and
 - (ii) if the earner died before reaching pensionable age, as if the widow or widower were entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period.
- (2) The power to prescribe a rate conferred by subsection (1) (a) above includes power to prescribe a nil rate.

5 Personal pension protected rights premium

- (1) In the case of a personal pension scheme which is or has been an appropriate scheme the Occupational Pensions Board may, for the event of, or in connection with, its ceasing to be an appropriate scheme, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer of protected rights under the scheme.
- (2) If the scheme ceases to be an appropriate scheme (whether by being wound up or otherwise) and the Board either—
- (a) have withdrawn their approval of previously approved arrangements relating to it; or
 - (b) have declined to approve arrangements relating to it,

the Board may issue a certificate to that effect.

- (3) A certificate issued under subsection (2)(a) or (b) above shall be cancelled by the Board if they subsequently approve the arrangements.
- (4) If the scheme ceases to be an appropriate scheme (whether by being wound up or otherwise), a state scheme premium shall be payable, except in prescribed circumstances—
 - (a) in respect of each earner whose protected rights under the scheme are not subject to approved arrangements; and
 - (b) in respect of each person who has become entitled to receive a pension under the scheme giving effect to protected rights which are not subject to approved arrangements.
- (5) A premium under subsection (4) above may be referred to as a " personal pension protected rights premium ".
- (6) If at any time regulations are in force by virtue of which section 52C of or paragraph 16 of Schedule 1A to the Social Security Pensions Act 1975 has effect in relation to personal pension schemes, subsection (4)(a) above shall have effect as if after the word " arrangements " there were inserted the words " and have not been disposed of so as to discharge the trustees or managers of the scheme under section 52C of or paragraph 16 of Schedule 1A to the Social Security Pensions Act 1975 ".
- (7) A personal pension protected rights premium shall be paid by the prescribed person, within the prescribed period, to the Secretary of State.
- (8) The amount of a personal pension protected rights premium payable in respect of any person shall be the cash equivalent of the protected rights in question, calculated and verified in the prescribed manner.
- (9) Where a personal pension protected rights premium is paid in respect of a person—
 - (a) the rights whose cash equivalent is included in the premium shall be extinguished; and
 - (b) section 4 above and section 29(2) and (2A) of the Social Security Pensions Act 1975 shall have effect in relation to that person and a widow or widower of that person as if any guaranteed minimum pension to which that person or any such widow or widower is treated as entitled under those provisions and which derives from the minimum contributions, minimum payments (within the meaning of the Social Security Pensions Act 1975) or transfer payment or payments from which those rights derive were reduced by the appropriate percentage.
- (10) In subsection (9) above " the appropriate percentage " means, subject to the following provisions of this section,
$$\frac{X}{Y} \times 100$$
, where—
 - (a) X = the amount of the premium together with, if the person in respect of whom it falls to be paid gives notice to the prescribed person within the prescribed period—
 - (i) the cash equivalent, calculated and verified in the prescribed manner and paid to the Secretary of State within the prescribed period, of any

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

- other rights which he has under the scheme and specifies in the notice;
and
- (ii) the amount of any voluntary contribution paid to the Secretary of State within the prescribed period by, or in respect of, the person concerned ; and
- (b) Y = the cost of providing any guaranteed minimum pension such as is mentioned in subsection (9) above.
- (11) If the appropriate percentage, as calculated under subsection (10) above, would fall between two whole numbers, it is to be taken to be the lower number.
- (12) If it would be over 100, it is to be taken to be 100.
- (13) The remainder after the reduction for which subsection (9) above provides—
- (a) if it would contain a fraction of 1p, is to be treated as the nearest lower whole number of pence ; and
- (b) if it would be less than a prescribed amount, is to be treated as nil.
- (14) The power to make regulations conferred by subsections (8) and (10) above includes power to provide that cash equivalents are to be calculated and verified in such manner as may be approved in particular cases—
- (a) by prescribed persons;
- (b) by persons with prescribed professional qualifications or experience; or
- (c) by persons approved by the Secretary of State,
- and power to provide that they shall be calculated and verified in accordance with guidance prepared by a prescribed body.
- (15) The cost of providing the appropriate percentage of the guaranteed minimum pension shall be certified by the Secretary of State, and in calculating and certifying it the Secretary of State—
- (a) shall apply whichever of the prescribed actuarial tables (as in force at the time when the scheme ceases to be appropriate) is applicable in accordance with the regulations prescribing the tables; and
- (b) may make such adjustments as he thinks necessary for avoiding fractional amounts.

Occupational pension schemes

6 Money purchase contracted-out schemes

Schedule 2 to this Act has effect to make amendments of the Social Security Pensions Act 1975 in relation to the contracting-out of schemes which provide money purchase benefits.

7 Schemes becoming contracted-out between 1986 and 1993

- (1) Subject to subsection (3) below and except in such cases as may be prescribed, where an occupational pension scheme becomes a contracted-out scheme under Part III of the Social Security Pensions Act 1975 during the period beginning on 1st January 1986 and ending on 5th April 1993, having not previously been contracted-out during any part of that period, the Secretary of State shall make in relation to any tax week

- falling within the period beginning on 6th April 1988 and ending on 5th April 1993 a payment under this section in respect of each earner who is in employment which—
- (a) is contracted-out by reference to the scheme during that tax week; and
 - (b) has not previously been contracted-out employment by reference to any other scheme during any part of the period beginning on 1st January 1986 and ending on 5th April 1993.
- (2) The Secretary of State shall make a payment under this section to the trustees or managers of the scheme except that in such circumstances as may be prescribed he shall make such a payment to a prescribed person.
- (3) A payment under this section shall not be made unless the prescribed person makes a claim for it in such manner and form, and at such time or within such period, as may be prescribed.
- (4) The amount of a payment under this section in respect of a tax week is—
- (a) 2 per cent, of so much of any earnings paid to or for the benefit of the earner in respect of the employment which is contracted-out by reference to the scheme in the tax week as exceeds the lower earnings limit for that week but does not exceed the upper earnings limit for it; or
 - (b) if 2 per cent, of any such earnings is less than £1.00, £1.00.
- (5) The references to the upper and lower earnings limits in subsection (4) above are references, in the case of an earner who is paid otherwise than weekly, to their prescribed equivalents under section 4(2) and (6) of the Social Security Act 1975.
- (6) Regulations may make provision—
- (a) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, payments under this section are to be made in respect of them;
 - (b) for the adjustment of amounts which would otherwise be the amounts of payments under this section so as to avoid the payment of fractional amounts;
 - (c) for the intervals at which, for the purposes of payments under this section, payments of earnings are to be treated as made;
 - (d) for this section to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period and as if in any case so prescribed for the references to £1.00 in subsection (4)(b) above there were substituted references to such other sum as may be prescribed ; and
 - (e) as to the manner in which, and time at which or period within which, payments under this section are to be made.
- (7) Where in the case of a scheme a payment has been made under this section in relation to an earner—
- (a) if a premium is paid under section 42 of the Social Security Pensions Act 1975 in relation to him, the amount of the premium shall be increased by the amount of the payment; and
 - (b) if a premium is paid under section 44 or 44A of that Act in relation to him, the amount of the premium shall be increased by the amount of the payment and by a further amount representing interest on the payment and calculated in accordance with regulations.

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

- (8) If the Secretary of State makes a payment under this section which he is not required to make, he may recover the amount of the payment from the person to whom he paid it, or from any person in respect of whom he paid it.
- (9) If he makes in respect of an earner a payment under this section which he is required to make, but does not make it to the trustees or managers to whom he is required to make it, he may recover the amount of the payment from the person to whom he paid it or from the earner.

8 Abolition of requirement relating to requisite benefits

The requirement of the Social Security Pensions Act 1975 that for an occupational pension scheme to be contracted-out in relation to an earner's employment it must provide requisite benefits shall cease except so far as it relates to guaranteed minimum pensions and except to that extent shall be treated for the purposes of section 50 of that Act (requirement of consent of Occupational Pensions Board to alterations of rules of schemes) as if it had never existed.

9 Guaranteed minimum pensions

- (1) The following subsection shall be substituted for subsection (3) of section 35 of the Social Security Pensions Act 1975 (earner's guaranteed minimum)—

“(3) In subsection (2) above—

“ the appropriate percentage ” means—

- (a) in respect of the earner's earnings factors for any tax year not later than the tax year 1987-88—

- (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, $1\frac{1}{4}$ per cent.;
- (ii) in any other case

$\frac{25}{N}$

per cent.;

- (b) in respect of the earner's earnings factors for the tax year 1988-89 and for subsequent tax years—

- (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1 per cent.;
- (ii) in any other case

$\frac{20}{N}$

per cent;

where N is the number of years in the earner's working life (assuming he will attain pensionable age) which fall after 5th April 1978 ; and—

“ derived ” means derived in accordance with the rules to be embodied in regulations.”.

- (2) The following subsections shall be inserted after subsection (6) of that section—

“(6A) Where an earner's guaranteed minimum pension is increased under subsection (6) above, the increase of that part of it which is attributable

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

to earnings factors for the tax year 1987-88 and earlier tax years shall be calculated separately from the increase of the rest.

(6B) Where one or more orders have come into force under section 37A below during the period for which the commencement of a guaranteed minimum pension is postponed, the amount of the pension for any week in that period shall be determined as if the order or orders had come into force before the beginning of the period.”

(3) In section 36 of that Act (widows)—

(a) the following subsections shall be substituted for subsection (1)—

“(1) Subject to the provisions of this Part of this Act, for an occupational pension scheme to be contracted-out in relation to an earner's employment it must provide, in the event of the earner dying (whether before or after attaining pensionable age) and leaving a widow or widower, for the widow or widower to be entitled to a guaranteed minimum pension under the scheme.

(1A) A scheme need not provide for widowers of earners who die before 6th April 1989 to be entitled to guaranteed minimum pensions.”;

(b) the following subsection shall be substituted for subsection (3)—

“(3) To comply with this section the scheme must also contain a rule to the effect that—

(a) if the earner is a man who had a guaranteed minimum under section 35 above, the weekly rate of the widow's pension will be not less than her guaranteed minimum, which shall be half that of the earner;

(b) if the earner is a woman who had such a guaranteed minimum, the weekly rate of the widower's pension will be not less than his guaranteed minimum, which shall be one-half of that part of the earner's guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.”; and

(c) the following subsections shall be inserted after subsection (7)—

“(7A) The scheme must provide for the widower's pension to be payable in prescribed circumstances and for the prescribed period.

(7B) The trustees or managers of the scheme shall supply to the Secretary of State any such information as he may require relating to the payment of pensions under the scheme to widowers.”.

(4) The following provisions of that Act shall be construed as if the references to " widow " included references to " widower"—

(a) section 26(2);

(b) section 32(2)(a);

(c) section 36(8) ;

(d) section 38(3);

(e) section 39(4)(b);

(f) section 41B(1)(c), (2)(a) and (b) and (3);

(g) section 44(9);

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

- (h) section 52D,
and with consequential modifications.
- (5) The reference in section 29(1) of that Act to a person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower of an earner in any case where he is entitled to a widower's invalidity pension, but that reference shall be so construed where he is entitled to any other benefit only if—
- (a) at the time of the earner's death she and her husband had both attained pensionable age; or
 - (b) he is also entitled to a Category A retirement pension by virtue of section 16(5) of that Act.
- (6) The following provisions of that Act shall be construed as if the references to a person entitled to receive a guaranteed minimum pension included references to a person so entitled by virtue of being the widower of an earner only in such cases as may be prescribed—
- (a) section 44(1)(b) and (2)(b); and
 - (b) section 49(1); and
 - (c) section 50(3);
- and the references to " widow " in section 44(5) of that Act shall be construed as including references to " widower", and the reference in section 49(6) of that Act to guaranteed minimum pensions as including a reference to the guaranteed minimum pension of such a person, only in those cases.
- (7) The following section shall be inserted after section 37 of that Act—

“37A Annual increases of guaranteed minimum pensions.

- (1) The Secretary of State shall in the tax year 1989-90 review the general level of prices obtaining in Great Britain for a period of twelve months commencing in the previous tax year.
- (2) The Secretary of State shall in each subsequent tax year review the general level of prices obtaining in Great Britain for the period of twelve months commencing at the end of the period last reviewed under this section.
- (3) Where it appears to the Secretary of State that the general level of prices is greater at the end of the period under review than it was at the beginning of that period, he shall lay before Parliament the draft of an order specifying a percentage by which there is to be an increase of the rate of that part of guaranteed minimum pensions which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years for—
 - (a) earners who have attained pensionable age; and
 - (b) widows and widowers.
- (4) The percentage shall be—
 - (a) the percentage by which the general level of prices is greater at the end of the period under review than it was at the beginning of that period; or
 - (b) 3 per cent.,
whichever is less.

- (5) If a draft order laid before Parliament in pursuance of this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.
- (6) An order under this section shall be so framed as to bring the alterations to which it relates into force on the first day of the tax year next following the making of the order.
- (7) Where the benefits mentioned in sections 16(2B), 28(7A) and 59(1A) of the Social Security Act 1975 and section 29(1) above are not increased on the day on which an order under this section takes effect, the order shall be treated for the purposes of those subsections as not taking effect until the day on which the benefits mentioned in them are next increased.
- (8) Except as permitted by subsection (13), (14) or (15) below, the trustees or managers of a scheme may not make an increase in a person's pension which is required by virtue of this section out of money which would otherwise fall to be used for the payment of benefits under the scheme to or in respect of that person unless—
 - (a) the payment is to an earner in respect of the tax year in which he attains pensionable age and the increase is the one required to be made in the following year; or
 - (b) the payment is to a person as the widow or widower of an earner who died before attaining pensionable age in respect of the tax year in which the person became a widow or widower and the increase is the one required to be made in the next following tax year.
- (9) Subsection (8) above overrides any provision of a scheme to the extent that it conflicts with it.
- (10) The Occupational Pensions Board may at any time, and shall if requested by the trustees and managers of a scheme, advise on any question whether or not subsection (8) above overrides any provision of the scheme.
- (11) On an application made to them in respect of a scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Board shall issue a determination on any such question as is mentioned in subsection (10) above.
- (12) The persons competent to make an application under subsection (11) above in respect of a scheme are—
 - (a) the trustees or managers of the scheme;
 - (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
 - (c) any person who was an employer of persons in service in an employment to which the scheme applies;
 - (d) any member or prospective member of the scheme; and
 - (e) such other persons as may be prescribed, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.
- (13) Where in the tax year 1989-90 the trustees or managers of an occupational pension scheme make an increase in the rate of pensions currently payable

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

to the members of the scheme who have attained pensionable age or to the widows or widowers of members, they may deduct the amount of the increase from any increase which, but for this subsection, they would be required to make under this section in the tax year 1990-91.

- (14) Where the trustees or managers of such a scheme make an increase otherwise than in pursuance of this section in a tax year subsequent to 1989-90, they may deduct the amount of the increase from any increase which, but for this subsection, they would be required to make under this section in the next following tax year.
- (15) Where in any tax year subsequent to 1989-90 the trustees or managers of a scheme make an increase which is partly made otherwise than in pursuance of this section, they may deduct the part of the increase made otherwise than in pursuance of this section from any increase which, but for this subsection, they would be required to make under this section in the next following year.
- (16) Where by virtue of subsection (13), (14) or (15) above guaranteed minimum pensions are not required to be increased in pursuance of this section, their amount shall be calculated for any purpose as if they had been so increased.
- (17) Where by virtue of any of those subsections guaranteed minimum pensions are required to be increased in pursuance of this section by an amount less than they otherwise would be, their amount shall be calculated for any purpose as if they had been increased by that full amount”.
- (8) In section 59 of that Act (increase of official pensions) the following subsection shall be inserted after subsection (5)—
- “(5A) Nothing in section 37A(13), (14) or (15) above authorises any deduction from an increase in the rate of an official pension under this section.”.
- (9) In section 59A of that Act (modification of effect of section 59(5)) the following subsection shall be inserted after subsection (2)—
- “(2A) Where in any tax year—
- (a) an increase is calculated in accordance with a direction under this section; and
- (b) the amount by reference to which the increase is calculated, or any part of it, is increased in that tax year under section 37A above,
- the increase calculated in accordance with the direction shall be reduced by the amount of the increase under section 37A above.”.

10 Short-service benefit: qualifying service

In paragraphs 6(1)(b) and 7 of Schedule 16 to the Social Security Act 1973 (preservation of benefits under occupational pension scheme) for " 5 " wherever occurring there shall be substituted " 2 ".

11 Auditors

The following shall be inserted after section 56N of the Social Security Pensions Act 1975—

“Auditors

56P Regulations as to auditors.

The Secretary of State may by regulations make provision as to—

- (a) the appointment, resignation and removal of auditors of occupational pension schemes;
- (b) the duty of employers and auditors of employers to disclose information to the trustees or managers of occupational pension schemes and the auditors of such schemes;
- (c) the duty of trustees or managers of an occupational pension scheme to disclose information and to make available documents to the auditors of the scheme.”.

Provisions applying to personal and occupational pension schemes

12 Voluntary contributions

- (1) Except in such cases as may be prescribed, and except so far as is necessary to ensure that a personal or occupational pension scheme has, or may be expected to qualify for, tax-exemption or tax-approval, the rules of the scheme—
 - (a) must not prohibit, or allow any person to prohibit, the payment by a member of voluntary contributions;
 - (b) must not impose, or allow any person to impose, any upper or lower limit on the payment by a member of voluntary contributions;
 - (c) must secure that any voluntary contributions paid by a member are to be used by the trustees or managers of the scheme to provide additional benefits for or in respect of him ; and
 - (d) must secure that the value of the additional benefits is reasonable, having regard—
 - (i) to the amount of the voluntary contributions; and
 - (ii) to the value of the other benefits under the scheme;and the requirements specified in this subsection may be referred to as " the voluntary contributions requirements ".
- (2) Where the rules of a personal or occupational pension scheme do not comply with the voluntary contributions requirements it shall be the responsibility of—
 - (a) the trustees and managers of the scheme; or
 - (b) in the case of a public service pension scheme, the Minister, government department or other person or body concerned with its administration,to take such steps as are open to them for bringing the rules of the scheme into conformity with those requirements.
- (3) The Occupational Pensions Board may at any time, and shall if requested by any such persons as are mentioned in subsection (2) above, advise whether the rules of a scheme do or do not in the Board's opinion conform with the voluntary contributions requirements and, where the Board advise that the rules do not conform, they shall indicate what steps they consider should be taken with a view to securing conformity.

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

- (4) On application made to them in respect of a personal or occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination as to whether or not the rules of the scheme conform with the voluntary contributions requirements.
- (5) The persons competent to make an application under this section in respect of a scheme are—
- (a) the trustees or managers of the scheme ;
 - (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
 - (c) in the case of an occupational pension scheme, any person who is an employer of persons in service in an employment to which the scheme applies;
 - (d) any member or prospective member of the scheme ;
 - (e) such other persons as may be prescribed, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.
- (6) The Board may at any time of their own motion issue in respect of a scheme which has come to their notice any determination which they could issue in the case of that scheme on an application made to them under subsection (4) above.
- (7) If the Occupational Pensions Board determine under subsection (4) or (6) above that the rules of a scheme do not conform with the voluntary contributions requirements they shall, either at the time of issuing their determination or as soon thereafter as they think expedient—
- (a) by order direct the trustees or managers of the scheme, or any such persons as are referred to in subsection (5)(b) above, to exercise such powers as they possess for modifying the scheme with a view to bringing it into conformity with those requirements (for which purpose the Board shall include in their order such directions as they think appropriate to indicate the modification appearing to them to be called for); or
 - (b) if there is no person with power to modify the scheme as required by the Board, by order authorise the trustees or managers, or other persons named in the order (who in relation to an occupational pension scheme may in particular include such an employer as is specified in subsection (5)(c) above), to make that modification; or
 - (c) themselves by order modify the scheme with a view to achieving the purpose above-mentioned.
- (8) The Board may exercise their powers under subsection (7) above from time to time in relation to any scheme in respect of which they have issued a determination under subsection (4) or (6) above, and may exercise the powers together or separately.
- (9) Any modification of a scheme made in pursuance of an order of the Board under subsection (7)(b) or (c) above shall be as effective in law as if it had been made under powers conferred by or under the scheme ; and such an order may be made and complied with in relation to a scheme—
- (a) notwithstanding any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the modification being made;

- (b) without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure, or of the obtaining of any consent, with a view to the making of the modification.
- (10) An order of the Board under subsection (7)(a) above may require persons to exercise a power retrospectively (whether or not the power could otherwise be so exercised), and an order under subsection (7)(b) or (c) above may operate retrospectively ; and in this subsection " retrospectively " means with effect from the date before that on which the power is exercised or, as the case may be, the order is made, not being in either case a date earlier than the coming into operation of this section.
- (11) In section 64(3) of the Social Security Act 1973 (modification and winding up by order of Occupational Pensions Board) the following paragraph shall be inserted after paragraph (f)—
 - “(g) to comply with the voluntary contributions requirements specified in subsection (1) of section 12 of the Social Security Act 1986, but without prejudice to anything in subsections (2) to (10) of that section.”.

13 Regulations as to form and content of advertisements

Regulations may be made relating to the form and content of advertisements and such other material as may be prescribed issued by or on behalf of the trustees or managers of a personal or occupational pension scheme for the purposes of the scheme.

14 Information

Regulations may require the furnishing by prescribed persons to the Secretary of State or the Occupational Pensions Board of such information as he or they require for the purposes of the preceding provisions of this Part of this Act.

15 Terms of contracts of service or schemes restricting choice to be void

- (1) Subject to such exceptions as may be prescribed—
 - (a) any term of a contract of a service (whenever made) or any rule of a personal or occupational pension scheme to the effect that an employed earner must be a member of a personal or occupational pension scheme, of a particular personal or occupational pension scheme or of one or other of a number of particular personal or occupational pension schemes shall be void ; and
 - (b) any such term or rule to the effect that contributions shall be paid by or in respect of an employed earner to a particular personal or occupational pension scheme of which the earner is not a member, or to one or other of a number of personal or occupational pension schemes of none of which he is a member, shall be unenforceable for so long as he is not a member of the scheme or any of the schemes.
- (2) Subsection (1) above shall not be construed so as to have the effect that an employer is required, when he would not otherwise be—
 - (a) to make contributions to a personal or occupational pension scheme; or
 - (b) to increase an employed earner's pay in lieu of making contributions to a personal or occupational pension scheme.

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

16 Actuarial tables

- (1) Regulations prescribing actuarial tables for the purposes of any of the provisions to which this section applies—
 - (a) shall be made only after consultation with the Government Actuary; and
 - (b) shall not be made unless a draft of them has been laid before Parliament and approved by a resolution of each House.
- (2) This section applies—
 - (a) to sections 44, 44ZA, 44A and 45 of the Social Security Pensions Act 1975 ; and
 - (b) to section 5 above.
- (3) The tables—
 - (a) shall embody whatever appears to the Secretary of State to be the best practical estimate of the average cost, expressed in actuarial terms and relative to a given period, of making such provision as is mentioned in section 44(5)(a) or (b), 44ZA(9)(b), 44A(3) or 45(2) of the Social Security Pensions Act 1975 or in section 5(10)(b) above, as the case may be; and
 - (b) shall assume for any period an average yield on investments which is not less than the average increase during that period in the general level of earnings obtaining in Great Britain,

but the regulations may provide for them to be adjusted according to whatever is from time to time the actual yield on prescribed investments or the average yield, as shown in prescribed published indices, on prescribed classes of investments.
- (4) The Secretary of State may from time to time, and shall when required by subsection (6) below, lay before each House of Parliament—
 - (a) a report by the Government Actuary on any changes in the factors affecting any of the actuarial tables prescribed for the purposes of any of the provisions to which this section applies (including changes affecting adjustments under the regulations); and
 - (b) a report by the Secretary of State stating whether he considers that the regulations ought to be altered in view of the Government Actuary's report and, if so, what alterations he proposes.
- (5) The changes referred to in subsection (4) (a) above are, in the case of the first report under that paragraph, changes since the last report under section 46(3)(a) of the Social Security Pensions Act 1975 and, in the case of a subsequent report under this section, changes since the preparation of the last such report.
- (6) The Secretary of State shall lay the first report under this section not later than 6th April 1987 and subsequent reports at intervals of not more than five years.
- (7) If in a report under this section the Secretary of State proposes alterations in the regulations, he shall prepare and lay before each House of Parliament with the report draft regulations giving effect to the regulations and to be in force—
 - (a) from the beginning of such tax year as may be specified in the regulations not earlier than the second tax year after that in which the regulations are made ; or
 - (b) where it appears to him to be expedient for reasons of urgency, an earlier date not earlier than the date on which the regulations are made.
- (8) If the draft regulations are approved by resolution of each House, the Secretary of State shall make the regulations in the form of the draft.

17 General power to modify statutory provisions

- (1) Regulations may provide that any provision which is contained in the Social Security Act 1973 or the Social Security Acts 1975 to 1986, other than a provision contained in this Part of this Act, and which relates to occupational pension schemes—
 - (a) shall have effect in relation to personal pension schemes subject to prescribed modifications;
 - (b) shall have effect subject to such other modifications as the Secretary of State may consider necessary or expedient in consequence of this Part of this Act.
- (2) Regulations may provide that any provision contained in an Act to which this subsection applies shall have effect subject to such modifications as the Secretary of State may consider necessary or expedient in consequence of this Part of this Act or in consequence of any corresponding enactment extending to Northern Ireland.
- (3) The Acts to which subsection (2) above applies are—
 - (a) the Fire Services Act 1947;
 - (b) the Sheriffs' Pensions (Scotland) Act 1961;
 - (c) the Superannuation Act 1972;
 - (d) the Parliamentary and other Pensions Act 1972;
 - (e) the Police Pensions Act 1976 ;
 - (f) the Parliamentary Pensions Act 1978 ;
 - (g) the Judicial Pensions Act 1981.

State earnings-related pension scheme

18 Additional pensions

- (1) In any enactment or instrument made under an enactment—
 - (a) a reference to a basic pension shall be substituted for any reference to the basic component of a long-term benefit; and
 - (b) a reference to an additional pension shall be substituted for any reference to an additional component of such a benefit.
- (2) In subsection (2) of section 6 of the Social Security Pensions Act 1975 (rate of Category A retirement pension) the words " for a pensioner who attained pensionable age in a tax year before 6th April 1999 " shall be inserted before the word " shall " .
- (3) The following subsections shall be inserted after that subsection—
 - “(2A) The additional pension for a pensioner who attained pensionable age in a tax year after 5th April 1999 shall be—
 - (a) in relation to any surpluses in the pensioner's earnings factors for the tax years in the period beginning with the tax year 1978-79 and ending with the tax year 1987-88, the weekly equivalent of
$$\frac{25}{N}$$
per cent, of the amount of those surpluses; and
 - (b) in relation to any surpluses in the pensioner's earnings factors in a tax year after the tax year 1987-88, the weekly equivalent of the relevant

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

percentage of the amount of those surpluses; and in this paragraph "relevant percentage" means—

- (i) where the pensioner attained pensionable age in the tax year 2009-10 or any subsequent year,

$$\frac{20}{N}$$

;

- (ii) where the pensioner attained pensionable age in a tax year falling within the period commencing with the tax year 1999-2000 and ending with the tax year 2008-2009,

$$\frac{20+X}{N}$$

(2B) In this section—

X=0.5 for each tax year by which the tax year in which the pensioner attained pensionable age precedes the tax year 2009-2010 ;
and

N=the number of tax years in the pensioner's working life which fall after 5th April 1978 ;

and regulations may direct that in prescribed cases or classes of cases any tax year shall be disregarded for the purpose of calculating N, if it is a tax year after 5th April 1978 in which the pensioner—

- (a) was credited with contributions or earnings under the principal Act by virtue of regulations under section 13(4) of that Act (credits to enable a person to satisfy contribution conditions); or
- (b) was precluded from regular employment by responsibilities at home; or
- (c) in prescribed circumstances, would have been treated as falling within paragraph (a) or (b) above,

but not so as to reduce the number of years below 20.”.

- (4) In subsection (3) of that section, after " (2)" there shall be inserted " or (2A) ".
- (5) For the purpose of determining the additional pension falling to be calculated under section 6 of the Social Security Pensions Act 1975 by virtue of section 7, 13 or 16(4) of that Act in a case where the deceased spouse died under pensionable age, the following definition shall be substituted for the definition of " N " in section 6(2B)—
- “N = the number of tax years which begin after 5th April 1978 and end before the date when entitlement to the additional pension commences, except that where—
- (a) in a case in which the deceased spouse was a man, that number would be greater than 49 ; or
 - (b) in a case in which the deceased spouse was a woman, that number would be greater than 44,
- N = 49 or 44, as the case may be ;”.
- (6) For the purpose of determining the additional pension falling to be calculated under section 6 of that Act by virtue of section 14 of that Act (invalidity pension for persons

under pensionable age), the following definition shall be substituted for the definition of "N" in section 6(2B)—

“N = the number of tax years which begin after 5th April 1978 and end before the first day of entitlement to the additional pension in the period of interruption of employment in which that day falls, except that where—

- (a) in a case in which the person entitled to the pension is a man, that number would be greater than 49; or
- (b) in a case in which the person so entitled is a woman, that number would be greater than 44,

N = 49 or 44, as the case may be;”.

19 Additional pensions-supplementary

(1) The additional pension falling to be calculated under section 6 of the Social Security Pensions Act 1975 by virtue of any of the following provisions—

- (a) section 7 (rate of widow's Category B retirement pension) ;
- (b) section 8 (Category B retirement pension for widower);
- (c) section 13 (rate of widowed mother's allowance and widow's pension); and
- (d) section 16(4) (invalidity pension for widowers),

shall be one-half of the amount so calculated if the deceased spouse died after 5th April 2000.

(2) In paragraph 4 of Schedule 1 to that Act—

- (a) the words " Subject to sub-paragraph (2A) below, where " shall be substituted for the word " Where ", in sub-paragraphs (1) and (2); and
- (b) the following sub-paragraph shall be inserted after sub-paragraph (2)—

“(2A) If a married person dies after 5th April 2000, the rate of the retirement pension for that person's widow or widower shall be increased by an amount equivalent to the sum of—

- (a) the increase in the basic pension to which the deceased spouse was entitled ; and
- (b) one-half of the increase in the additional pension.”.

(3) In sub-paragraph (1) of paragraph 4A of that Schedule after the word "increased" there shall be inserted the words " , subject to sub-paragraph (1A) below, ".

(4) The following sub-paragraph shall be inserted after that sub-paragraph—

“(1A) Where the husband dies after 5th April 2000, sub-paragraph (1) above shall have effect in relation to his widow as if for the words from " the following amounts " onwards there were substituted the words " the following amounts—

- (i) one-half of the appropriate amount after it has been reduced by the amount of any increases under section 37A of this Act; and
- (ii) one-half of any increase to which he had been entitled under this paragraph.”.

(5) In sub-paragraph (2), after the word "increased" there shall be inserted the words " , subject to sub-paragraph (2A) below, ".

(6) The following sub-paragraph shall be inserted after that sub-paragraph—

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

“(2A) Where the wife dies after 5th April 1989, sub-paragraph (2) above shall have effect as if for the words from " an amount", in the first place where those words occur, to the end there were substituted—

- (a) if she dies before 6th April 2000, the words “an amount equal to the sum of—
 - (i) that increase, so far as attributable to employment before 6th April 1988 ;
 - (ii) one-half of that increase, so far as attributable to employment after 5th April 1988 ;
 - (iii) the appropriate amount reduced by the amount of any increases under section 37A of this Act; and
 - (iv) any increase to which she had been entitled under this paragraph.”; and
- (b) if she dies after 5th April 2000, the words “an amount equal to the sum of—
 - (i) one-half of that increase so far as attributable to employment before 6th April 1988;
 - (ii) one-half of the appropriate amount after it has been reduced by the amount of any increases under section 37A of this Act; and
 - (iii) one-half of any increase to which she had been entitled under this paragraph.”.”.

PART II

INCOME-RELATED BENEFITS

General

20 Income-related benefits

- (1) Prescribed schemes shall provide for the following benefits (in this Act referred to as " income-related benefits ")—
 - (a) income support;
 - (b) family credit; and
 - (c) housing benefit.
- (2) The Secretary of State shall make copies of schemes prescribed under subsection (1) (a) or (b) above available for public inspection at local offices of the Department of Health and Social Security at all reasonable hours without payment.
- (3) A person in Great Britain is entitled to income support if—
 - (a) he is of or over the age of 16 ;
 - (b) he has no income or his income does not exceed the applicable amount;
 - (c) he is not engaged in remunerative work and, if he is a member of a married or unmarried couple, the other member is not so engaged; and

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

- (d) except in such circumstances as may be prescribed—
 - (i) he is available for employment;
 - (ii) he is not receiving relevant education.
- (4) Circumstances may be prescribed in which a person must not only satisfy the condition specified in subsection (3)(d)(i) above but also be registered in the prescribed manner for employment.
- (5) Subject to regulations under section 51(1)(a) below, a person in Great Britain is entitled to family credit if, when the claim for it is made or is treated as made—
 - (a) his income—
 - (i) does not exceed the applicable amount; or
 - (ii) exceeds it, but only by such an amount that there is an amount remaining if the deduction for which section 21(3) below provides is made;
 - (b) he or, if he is a member of a married or unmarried couple, he or the other member of the couple, is engaged and normally engaged in remunerative work; and
 - (c) he or, if he is a member of a married or unmarried couple, he or the other member, is responsible for a member of the same household who is a child or a person of a prescribed description.
- (6) Family credit shall be payable for a period of 26 weeks or such other period as may be prescribed, beginning with the week in which a claim for it is made or is treated as made and, subject to regulations, an award of family credit and the rate at which it is payable shall not be affected by any change of circumstances during that period.
- (7) A person is entitled to housing benefit if—
 - (a) he is liable to make payments in respect of a dwelling in Great Britain which he occupies as his home ;
 - (b) there is an appropriate maximum housing benefit in his case; and
 - (c) either—
 - (i) he has no income or his income does not exceed the applicable amount; or
 - (ii) his income exceeds that amount, but only by so much that there is an amount remaining if the deduction for which section 21(5) below provides is made.
- (8) In subsection (7) above " payments in respect of a dwelling " means such payments as may be prescribed, but the power to prescribe payments does not include power to prescribe mortgage payments or, in relation to Scotland, payments under heritable securities.
- (9) Except in prescribed circumstances the entitlement of one member of a family to any one income-related benefit excludes entitlement to that benefit for any other member for the same period.
- (10) Regulations may provide that an award of family credit shall terminate—
 - (a) if a person who was a member of the family at the date of the claim becomes a member of another family and some member of that family is entitled to family credit; or
 - (b) if income support becomes payable in respect of a person who was a member of the family at the date of the claim for family credit.

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

(11) In this Part of this Act—

" child " means a person under the age of 16 ;

" family " means—

- (a) a married or unmarried couple;
- (b) a married or unmarried couple and a member of the same household for whom one of them is or both are responsible and who is a child or a person of a prescribed description;
- (c) except in prescribed circumstances, a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child or a person of a prescribed description;

" married couple " means a man and woman who are married to each other and are members of the same household;

" unmarried couple " means a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances.

(12) Regulations may make provision for the purposes of this Part of this Act—

- (a) as to circumstances in which a person is to be treated as being or not being in Great Britain;
- (b) continuing a person's entitlement to benefit during periods of temporary absence from Great Britain;
- (c) as to what is or is not to be treated as remunerative work or as employment;
- (d) as to circumstances in which a person is or is not to be treated as engaged or normally engaged in remunerative work or available for employment;
- (e) as to what is or is not to be treated as relevant education;
- (f) as to circumstances in which a person is or is not to be treated as receiving relevant education ;
- (g) as to circumstances in which a person is or is not to be treated as occupying a dwelling as his home;
- (h) for treating any person who is liable to make payments in respect of a dwelling as if he were not so liable;
- (i) for treating any person who is not liable to make payments in respect of a dwelling as if he were so liable;
- (j) for treating as included in a dwelling any land used for the purposes of the dwelling ;
- (k) as to circumstances in which persons are to be treated as being or not being members of the same household;
- (l) as to circumstances in which one person is to be treated as responsible or not responsible for another.

21 Amount etc.

(1) Where a person is entitled to income support—

- (a) if he has no income, the amount shall be the applicable amount; and
- (b) if he has income, the amount shall be the difference between his income and the applicable amount.

- (2) Where a person is entitled to family credit by virtue of section 20(5)(a)(i) above, the amount shall be the amount which is the appropriate maximum family credit in his case.
- (3) Where a person is entitled to family credit by virtue of section 20(5)(a)(ii) above, the amount shall be what remains after the deduction from the appropriate maximum family credit of a prescribed percentage of the excess of his income over the applicable amount
- (4) Where a person is entitled to housing benefit by virtue of section 20(7)(c)(i) above, the amount shall be the amount which is the appropriate maximum housing benefit in his case.
- (5) Where a person is entitled to housing benefit by virtue of section 20(7)(c)(ii) above, the amount shall be what remains after the deduction from the appropriate maximum housing benefit of prescribed percentages of the excess of his income over the applicable amount.
- (6) Regulations shall prescribe the manner in which—
 - (a) the appropriate maximum family credit;
 - (b) the appropriate maximum housing benefit,are to be determined in any case.
- (7) Where the amount of any income-related benefit would be less than a prescribed amount, it shall not be payable except in prescribed circumstances.

22 Calculation

- (1) The applicable amount shall be such amount or the aggregate of such amounts as may be prescribed.
- (2) The power to prescribe applicable amounts conferred by subsection (1) above includes power to prescribe nil as an applicable amount.
- (3) In relation to income support and housing benefit the applicable amount for a severely disabled person shall include an amount in respect of his being a severely disabled person.
- (4) Regulations may specify circumstances in which persons are to be treated as being or as not being severely disabled.
- (5) Where a person claiming an income-related benefit is a member of a family, the income and capital of any member of that family shall, except in prescribed circumstances, be treated as the income and capital of that person.
- (6) No person shall be entitled to an income-related benefit if his capital or a prescribed part of it exceeds the prescribed amount.
- (7) Regulations may provide that capital not exceeding the amount prescribed under subsection (6) above but exceeding a prescribed lower amount shall be treated, to a prescribed extent, as if it were income of a prescribed amount.
- (8) Income and capital shall be calculated or estimated in such manner as may be prescribed.
- (9) Circumstances may be prescribed in which—

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

- (a) a person is treated as possessing capital or income which he does not possess ;
- (b) capital or income which a person does possess is to be disregarded;
- (c) income is to be treated as capital;
- (d) capital is to be treated as income.

Income support

23 Trade disputes

- (1) This section applies to a person, other than a child or a person of a prescribed description—
 - (a) who is disqualified under section 19 of the Social Security Act 1975 for receiving unemployment benefit; or
 - (b) who would be so disqualified if otherwise entitled to that benefit,
 except during any period shown by the person to be a period of incapacity for work by reason of disease or bodily or mental disablement or to be within the maternity period.
- (2) In subsection (1) above " the maternity period " means the period commencing at the beginning of the sixth week before the expected week of confinement and ending at the end of the seventh week after the week in which confinement takes place.
- (3) For the purpose of calculating income support—
 - (a) so long as this section applies to a person who is not a member of a family, the applicable amount shall be disregarded;
 - (b) so long as it applies to a person who is a member of a family but is not a member of a married or unmarried couple, the portion of the applicable amount which is included in respect of him shall be disregarded ;
 - (c) so long as it applies to one of the members of a married or unmarried couple—
 - (i) if the applicable amount consists only of an amount in respect of them, it shall be reduced to one-half ; and
 - (ii) if it includes other amounts, the portion of it which is included in respect of them shall be reduced to one-half and any further portion of it which is included in respect of the member of the couple to whom this section applies shall be disregarded ;
 - (d) so long as it applies to both the members of a married or unmarried couple—
 - (i) if neither of them is responsible for a child or person of a prescribed description who is a member of the same household, the applicable amount shall be disregarded; and
 - (ii) in any other case, the portion of the applicable amount which is included in respect of them and any further portion of it which is included in respect of either of them shall be disregarded.
- (4) Where a reduction under subsection (3)(c) above would not produce a sum which is a multiple of 5p, the reduction shall be to the nearest lower sum which is such a multiple.
- (5) Where this section applies to a person for any period, then, except so far as regulations provide otherwise—
 - (a) in calculating the entitlement to income support of that person or a member of his family the following shall be treated as his income and shall not be disregarded—

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

- (i) any payment which he or a member of his family receives or is entitled to obtain by reason of the person to whom this section applies being without employment for that period; and
 - (ii) without prejudice to the generality of paragraph (i) above, any amount which becomes or would on an application duly made become available to him in that period by way of repayment of income tax deducted from his emoluments in pursuance of section 204 of the Income and Corporation Taxes Act 1970; and
 - (b) any payment by way of income support for that period or any part of it which apart from this paragraph would be made to him, or to a person whose applicable amount is aggregated with his—
 - (i) shall not be made if the weekly rate of payment is equal to or less than the relevant sum; or
 - (ii) if it is more than the relevant sum, shall be at a weekly rate equal to the difference.
- (6) In subsection (5) above " the relevant sum " means the amount which immediately before this section comes into force is specified in section 6(1)(b) of the Social Security (No. 2) Act 1980 increased by the percentage by which any order under section 63 below which brings alterations in the rates of benefits into force on the day on which this section comes into force increases the sums specified in subsection (3) of that section.
- (7) If an order under section 63 below has the effect of increasing payments of income support, from the time when the order comes into force there shall be substituted, in subsection (5)(b) above, for the references to the sum for the time being mentioned in it references to a sum arrived at by—
 - (a) increasing that sum by the percentage by which applicable amounts have been increased by the order; and
 - (b) if the sum as so increased is not a multiple of 50 pence, disregarding the remainder if it is 25 pence and, if it is not, rounding it up or down to the nearest 50 pence, and the order shall state the substituted sum.
- (8) If a person returns to work with the same employer after a period during which this section applies to him, then, until the end of the period of 15 days beginning with the day on which he returns to work with that employer, section 20(3) above shall have effect in relation to him as if the following paragraph were substituted for paragraph (c)
—
 - “(c) he is a member of a married or unmarried couple and the other member is not engaged in remunerative work; and”but any sum paid by way of income support for that period shall be recoverable in the prescribed manner from him or from any prescribed person.

24 Recovery of expenditure on benefit from person liable for maintenance

- (1) Subject to the following provisions of this section, if income support is claimed by or in respect of a person whom another person is liable to maintain or paid to or in respect of such a person, the Secretary of State may make a complaint against the liable person to a magistrates' court for an order under this section.
- (2) Except in a case falling within subsection (3) below, this section does not apply where the person who is liable to be maintained is an illegitimate child of the liable person.

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

- (3) A case falls within this subsection if—
 - (a) the liable person is someone other than the child's father ; or
 - (b) the liable person is liable because he is a person such as is mentioned in section 26(3)(c) below.
- (4) On the hearing of a complaint under this section the court shall have regard to all the circumstances and, in particular, to the income of the liable person, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate, except that in a case falling within section 26(3)(c) below that sum shall not include any amount which is not attributable to income support (whether paid before or after the making of the order).
- (5) In determining whether to order any payments to be made in respect of income support for any period before the complaint was made, or the amount of any such payments, the court shall disregard any amount by which the liable person's income exceeds the income which was his during that period.
- (6) Any payments ordered to be made under this section shall be made—
 - (a) to the Secretary of State in so far as they are attributable to any income support (whether paid before or after the making of the order);
 - (b) to the person claiming income support or (if different) the dependant; or
 - (c) to such other person as appears to the court expedient in the interests of the dependant.
- (7) An order under this section shall be enforceable as an affiliation order.
- (8) In the application of this section to Scotland, subsections (2), (3) and (7) shall be omitted and for the references to a complaint and to a magistrates' court there shall be substituted respectively references to an application and to the sheriff.
- (9) On an application under subsection (1) above a court in Scotland may make a finding as to the parentage of a child for the purpose of establishing whether a person is, for the purposes of this section and section 26 below, liable to maintain him.

25 Affiliation orders

- (1) If—
 - (a) income support is claimed by or in respect of an illegitimate child or paid in respect of such a child; and
 - (b) no affiliation order is in force ; and
 - (c) the case does not fall within section 24(3) above,the Secretary of State may, within three years from the time of the claim or payment, make application to a justice of the peace appointed for the commission area (within the meaning of the Justices of the Peace Act 1979) in which the mother of the child resides for a summons to be served under section 1 of the Affiliation Proceedings Act 1957.
- (2) In any proceedings on an application under subsection (1) above the court shall hear such evidence as the Secretary of State may produce, and shall in all respects, subject to the provisions of subsection (3) below, proceed as on an application made by the mother under section 1 of the Affiliation Proceedings Act 1957.
- (3) An affiliation order—

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

- (a) made on an application by the Secretary of State under subsection (1) above; or
- (b) made on an application made by the Secretary of State in proceedings brought by the mother of the child under section 1 of the Affiliation Proceedings Act 1957,

may be made so as to provide that the payments or a part of the payments to be made under the order shall, instead of being made to a person entitled under section 5 of that Act, be made to the Secretary of State or to such other person as the court may direct.

- (4) Any affiliation order, whether made before or after the commencement of this section, may, on the application of the Secretary of State, be varied so as to provide for the making of payments, or part of them, as mentioned in subsection (3) above; and an application by the Secretary of State under this subsection may be made—
 - (a) notwithstanding that the mother has died and no person has been appointed to have the custody of the child; and
 - (b) where the child is not in the care of the mother and she is not contributing to his maintenance, without making her a party to the proceedings.
- (5) An affiliation order which provides for the making of payments, or part of them, as mentioned in subsection (3) above, may, on the application of the mother of the child, be varied so as to provide that the payments shall be made to a person entitled under section 5 of the Affiliation Proceedings Act 1957.

26 Failure to maintain-general

- (1) If—
 - (a) any person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain; and
 - (b) in consequence of his refusal or neglect income support is paid to or in respect of him or such a person,he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine of an amount not exceeding level 4 on the standard scale or to both.
- (2) For the purposes of subsection (1) above a person shall not be taken to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.
- (3) For the purposes of this section and sections 24 and 25 above—
 - (a) a man shall be liable to maintain his wife and his children;
 - (b) a woman shall be liable to maintain her husband and her children; and
 - (c) a person shall be liable to maintain another person throughout any period in respect of which the first-mentioned person has, on or after 23rd May 1980 (the date of the passing of the Social Security Act 1980) and either alone or jointly with a further person, given an undertaking in writing in pursuance of immigration rules within the meaning of the Immigration Act 1971 to be responsible for the maintenance and accommodation of the other person.
- (4) In subsection (3) above—
 - (a) the reference to a man's children includes a reference to children of whom he has been adjudged to be the father; and

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

- (b) the reference to a woman's children includes a reference to her illegitimate children.
- (5) Subsection (4) above does not apply to Scotland, and in the application of subsection (3) above to Scotland any reference to children shall be construed as a reference to children whether or not their parents have ever been married to one another.
- (6) A document bearing a certificate which—
- (a) is signed by a person authorised in that behalf by the Secretary of State; and
 - (b) states that the document apart from the certificate is, or is a copy of, such an undertaking as is mentioned in subsection (3)(c) above,
- shall be conclusive of the undertaking in question for the purpose of this section and section 24 above; and a certificate purporting to be so signed shall be deemed to be so signed until the contrary is proved.

27 Prevention of duplication of payments

- (1) Where—
- (a) a payment by way of prescribed income is made after the date which is the prescribed date in relation to the payment; and
 - (b) it is determined that an amount which has been paid by way of income support would not have been paid if the payment had been made on the prescribed date,
- the Secretary of State shall be entitled to recover that amount from the person to whom it was paid.
- (2) Where—
- (a) a prescribed payment which apart from this subsection falls to be made from public funds in the United Kingdom or under the law of any other member State is not made on or before the date which is the prescribed date in relation to the payment; and
 - (b) it is determined that an amount ("the relevant amount") has been paid by way of income support that would not have been paid if the payment mentioned in paragraph (a) above had been made on the prescribed date,
- then—
- (i) in the case of a payment from public funds in the United Kingdom, the authority responsible for making it may abate it by the relevant amount; and
 - (ii) in the case of any other payment, the Secretary of State shall be entitled to receive the relevant amount out of the payment.
- (3) Where—
- (a) a person (in this subsection referred to as A) is entitled to any prescribed benefit for any period in respect of another person (in this subsection referred to as B); and
 - (b) either—
 - (i) B has received income support for that period ; or
 - (ii) B was, during that period, a member of the same family as some person other than A who received income support for that period; and

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

- (c) the amount of the income support has been determined on the basis that A has not made payments for the maintenance of B at a rate equal to or exceeding the amount of the prescribed benefit,
the amount of the prescribed benefit may, at the discretion of the authority administering it, be abated by the amount by which the amounts paid by way of income support exceed what it is determined that they would have been had A, at the time the amount of the income support was determined, been making payments for the maintenance of B at a rate equal to the amount of the prescribed benefit.
- (4) Where an amount could have been recovered by abatement by virtue of subsection (2) or (3) above but has not been so recovered, the Secretary of State may recover it otherwise than by way of abatement—
 - (a) in the case of an amount which could have been recovered by virtue of subsection (2) above, from the person to whom it was paid; and
 - (b) in the case of an amount which could have been recovered by virtue of subsection (3) above, from the person to whom the prescribed benefit in question was paid.
- (5) Where a payment is made in a currency other than sterling, its value in sterling shall be determined for the purposes of this section in accordance with regulations.

Housing benefit

28 Arrangements for housing benefit

- (1) Housing benefit provided by virtue of a scheme under section 20(1) above (in this Act referred to as "the housing benefit scheme")—
 - (a) is to be in the form of a rate rebate funded and administered by the appropriate rating authority, if it is in respect of payments by way of rates;
 - (b) is to be in the form of a rent rebate funded and administered by the appropriate housing authority, if it is in respect of payments, other than payments by way of rates, to be made to a housing authority; and
 - (c) is in any other case to be in the form of a rent allowance funded and administered by the appropriate local authority.
- (2) Regulations may provide that in prescribed cases a payment made by a person entitled to a rent allowance shall be treated for the purposes of subsection (1)(a) above as being, to such extent as may be prescribed, a payment by way of rates.
- (3) For the purposes of this section in its application to any dwelling—
 - (a) the appropriate rating authority is the rating authority for the area in which it is situated;
 - (b) the appropriate housing authority is the housing authority to whom the occupier of the dwelling is liable to make payments; and
 - (c) the appropriate local authority is the local authority for the area in which the dwelling is situated.
- (4) Authorities may agree that one shall carry out responsibilities relating to housing benefit on another's behalf.
- (5) Circumstances may be prescribed in which a rate rebate may be treated as if it fell to be paid as a rent allowance.

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

- (6) An authority may modify any part of the housing benefit scheme administered by the authority—
- (a) so as to provide for disregarding, in determining a person's income (whether he is the occupier of a dwelling or any other person whose income falls to be aggregated with that of the occupier of a dwelling), the whole or part of any war disablement pension or war widow's pension payable to that person ;
 - (b) to such extent in other respects as may be prescribed,
- and any such modifications may be adopted by resolution of an authority.
- (7) Modifications other than such modifications as are mentioned in subsection (6)(a) above shall be so framed as to secure that, in the estimate of the authority adopting them, the total of the rebates or allowances which will be granted by the authority in any year will not exceed the permitted total of rebates or allowances for that year.
- (8) An authority who have adopted modifications may by resolution revoke or vary them.
- (9) If the housing benefit scheme includes power for an authority to exercise a discretion in awarding housing benefit, the authority shall not exercise that discretion so that the total of the rebates or allowances granted by them in any year exceeds the permitted total of rebates or allowances for that year.
- (10) In relation to any authority the permitted total of rebates or allowances for any year shall be calculated, in the manner specified by an order made by the Secretary of State, by reference to the total housing benefit granted by that authority during the year, less such deductions as are specified in the order.

29 Adjudication and overpayments

- (1) Regulations shall require authorities to notify a person who has claimed housing benefit of their determination of that claim.
- (2) Any such notification shall be given in such form as may be prescribed.
- (3) Regulations shall make provision for reviews of determinations relating to housing benefit.
- (4) Except where regulations otherwise provide, any amount of housing benefit paid in excess of entitlement may be recovered in such manner as may be prescribed either by the Secretary of State or by the authority which paid the benefit.
- (5) Regulations may require such an authority to recover such an amount in such circumstances as may be prescribed.
- (6) An amount recoverable under this section is in all cases recoverable from the person to whom it was paid; but, in such circumstances as may be prescribed, it may also be recovered from such other person as may be prescribed.
- (7) Any amount recoverable under this section may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

30 Housing benefit finance

- (1) For each year the Secretary of State shall pay—
 - (a) a subsidy to be known as " rate rebate subsidy " to each rating authority;

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

- (b) a subsidy to be known as "rent rebate subsidy" to each housing authority; and
 - (c) a subsidy to be known as "rent allowance subsidy" to each local authority.
- (2) The subsidy under subsection (1) above which is to be paid to an authority—
 - (a) shall be calculated, in the manner specified by an order made by the Secretary of State, by reference to the total housing benefit granted by that authority during the year with any additions specified in the order but subject to any deductions so specified; and
 - (b) shall be subject to deduction of any amount which the Secretary of State considers it unreasonable to meet out of money provided by way of subsidy under subsection (1) above.
- (3) For each year the Secretary of State may pay to an authority as part of the subsidy under subsection (1) above an additional sum calculated, in the manner specified by an order made by the Secretary of State, in respect of the costs of administering housing benefit.
- (4) The Secretary of State may pay to an authority, for the financial year 1987-88, a subsidy, calculated in the manner specified by an order made by the Secretary of State, in connection with the costs incurred by the authority in implementing the housing benefit scheme.
- (5) Rent rebate subsidy shall be payable—
 - (a) in the case of a local authority in England and Wales—
 - (i) for the credit of their Housing Revenue Account to the extent that it is calculated by reference to Housing Revenue Account rebates and any costs of administering such rebates; and
 - (ii) for the credit of their general rate fund to the extent that it is not so calculated;
 - (b) in the case of a local authority in Scotland, for the credit of their rent rebate account;
 - (c) in the case of a new town corporation in England and Wales or the Development Board for Rural Wales, for the credit of their housing account; and
 - (d) in the case of a new town corporation in Scotland or the Scottish Special Housing Association, for the credit of the account to which rent rebates granted by them are debited.
- (6) Every local authority shall make for each year a rate fund contribution to their Housing Revenue Account of an amount equal to the difference between—
 - (a) so much of their rent rebate subsidy for the year as is credited to that Account; and
 - (b) the total of—
 - (i) the Housing Revenue Account rebates granted by them during the year; and
 - (ii) the cost of administering such rebates.
- (7) Rent allowance subsidy shall be payable—
 - (a) in the case of a local authority in England and Wales, for the credit of their general rate fund; and
 - (b) in the case of a local authority in Scotland, for the credit of their rent allowance account.

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

- (8) Subsidy under this section shall be payable by the Secretary of State at such time and in such manner as the Treasury may direct, but subject—
- (a) to the making of a claim for it in such form and containing such particulars as the Secretary of State may from time to time determine; and
 - (b) to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.
- (9) The amount of any subsidy payable to an authority shall be calculated to the nearest pound, by disregarding an odd amount of 50 pence or less and by treating an odd amount exceeding 50 pence as a whole pound.
- (10) If an order made by the Secretary of State so provides—
- (a) the rate fund contribution under subsection (6) above made by a local authority for any year; and
 - (b) the rent allowances granted by a local authority during any year,
- or such proportion of them as may be calculated in the manner specified by the order, shall not count as relevant expenditure for the purposes of section 54 of the Local Government, Planning and Land Act 1980 (rate support grant).

31 Information

- (1) The Secretary of State may supply to authorities such information of a prescribed description obtained by reason of the exercise of any of his functions under the benefit Acts as they may require in connection with any of their functions relating to housing benefit.
- (2) Authorities shall supply to the Secretary of State such information of a prescribed description obtained by reason of the exercise of their functions relating to housing benefit as he may require in connection with any of his functions under the benefit Acts.
- (3) It shall also be the duty of an authority to supply the Secretary of State, in the prescribed manner and within the prescribed time—
 - (a) with such information as he may require concerning their performance of any of their functions relating to housing benefit; and
 - (b) with such information as he may require to enable him—
 - (i) to prepare estimates of likely future amounts of housing benefit expenditure ; and
 - (ii) to decide questions relating to the development of housing benefit policy.
- (4) Every authority granting housing benefit—
 - (a) shall take such steps as appear to them appropriate for the purpose of securing that persons who may be entitled to housing benefit from the authority become aware that they may be entitled to' it; and
 - (b) shall make copies of the housing benefit scheme, with any modifications adopted by them under section 28 above, available for public inspection at their principal office at all reasonable hours without payment.
- (5) In order to assist authorities to give effect to the housing benefit scheme, where a rent is registered under Part IV of the Rent Act 1977. there shall be noted on the register the amount (if any) of the registered rent which, in the opinion of the rent officer or

rent assessment committee, is fairly attributable to the provision of services, except any amount which is negligible in the opinion of the officer or, as the case may be, the committee.

PART III

THE SOCIAL FUND

32 The social fund and social fund officers

- (1) There shall be established a fund, to be known as the social fund.
- (2) Payments may be made out of that fund, in accordance with this Part of this Act—
 - (a) to meet, in prescribed circumstances, maternity expenses and funeral expenses ; and
 - (b) to meet other needs in accordance with directions given or guidance issued by the Secretary of State.
- (3) Payments under this section shall be known as " social fund payments ".
- (4) Social fund payments to meet funeral expenses may in all cases be recovered, as if they were funeral expenses, out of the estate of the deceased, and (subject to section 53 below) by no other means.
- (5) The social fund shall be maintained under the control and management of the Secretary of State and payments out of it shall be made by him.
- (6) The Secretary of State shall make payments into the social fund of such amounts, at such times and in such manner as he may with the approval of the Treasury determine.
- (7) Accounts of the social fund shall be prepared in such form, and in such manner and at such times, as the Treasury may direct, and the Comptroller and Auditor General shall examine and certify every such account and shall lay copies of it, together with his report, before Parliament.
- (8) The Secretary of State shall appoint officers, to be known as " social fund officers ", for the purpose of performing functions in relation to social fund payments such as are mentioned in subsection (2)(b) above; and the Secretary of State may allocate an amount, or allocate different amounts for different purposes, for such payments by a particular social fund officer or group of officers in a financial year.
- (9) A social fund officer may be appointed to perform all the functions of social fund officers or such functions of such officers as may be specified in his instrument of appointment.

33 Awards by social fund officers

- (1) A social fund payment such as is mentioned in section 32(2)(b) above may be awarded to a person only if an application for such a payment has been made by him or on his behalf.
- (2) The questions whether such a payment is to be awarded and how much it is to be shall be determined by a social fund officer.

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

- (3) A social fund officer may determine that an award shall be payable in specified instalments at specified times.
- (4) A social fund officer may determine that an award is to be repayable.
- (5) An award which is repayable shall be recoverable by the Secretary of State.
- (6) Without prejudice to any other method of recovery, the Secretary of State may recover an award by deduction from prescribed benefits.
- (7) The Secretary of State may recover an award—
 - (a) from the person to or for the benefit of whom it was made;
 - (b) where that person is a member of a married or unmarried couple, from the other member of the couple;
 - (c) from a person who is liable to maintain the person by or on behalf of whom the application for the award was made or any person in relation to whose needs the award was made.
- (8) Subsections (3) to (6) of section 26 above have effect for the purposes of subsection (7) (c) above as they have effect for the purposes of sections 24 to 26 above.
- (9) In determining whether to make an award to the applicant or the amount or value to be awarded an officer shall have regard, subject to subsection (10) below, to all the circumstances of the case and, in particular—
 - (a) the nature, extent and urgency of the need;
 - (b) the existence of resources from which the need may be met;
 - (c) the possibility that some other person or body may wholly or partly meet it;
 - (d) where the payment is repayable, the likelihood of repayment and the time within which repayment is likely;
 - (e) any relevant allocation under section 32(8) above.
- (10) An officer shall determine any question under this section in accordance with any general directions issued by the Secretary of State and in determining any such question shall take account of any general guidance issued by him.
- (11) Payment of an award shall be made to the applicant unless the social fund officer determines otherwise.
- (12) In this section " married couple" and " unmarried couple " are to be construed in accordance with Part II of this Act and regulations made under it.

34 Reviews

- (1) A social fund officer—
 - (a) shall review a determination made under this Part of this Act by himself or some other social fund officer, if an application for a review is made to him within such time and in such form and manner as may be prescribed by or on behalf of the person who applied for the social fund payment to which the determination relates; and
 - (b) may review such a determination in such other circumstances as he thinks fit; and may exercise on a review any power exercisable by an officer under section 33 above.

- (2) The power to review a determination conferred on a social fund officer by subsection (1) above includes power to review a determination made by a social fund officer on a previous review.
- (3) On an application made by or on behalf of the person to whom a determination relates within such time and in such form and manner as may be prescribed a determination of a social fund officer which has been reviewed shall be further reviewed by a social fund inspector appointed by the social fund Commissioner under section 35 below.
- (4) On a review a social fund inspector shall have the following powers—
 - (a) power to confirm the determination made by the social fund officer;
 - (b) power to make any determination which a social fund officer could have made;
 - (c) power to refer the matter to a social fund officer for determination.
- (5) A social fund inspector may review a determination under subsection (3) above made by himself or some other social fund inspector.
- (6) In determining a question on a review a social fund officer or social fund inspector shall have regard, subject to subsection (7) below, to all the circumstances of the case and, in particular, to the matters specified in section 33(9)(a) to (e) above.
- (7) An officer or inspector shall determine any question on a review in accordance with any general directions issued by the Secretary of State under section 33(10) above and any general directions issued by him with regard to reviews and in determining any such question shall take account of any general guidance issued by him under that subsection or with regard to reviews.
- (8) Directions under this section may specify—
 - (a) the circumstances in which a determination is to be reviewed; and
 - (b) the manner in which a review is to be conducted.

35 The social fund Commissioner

- (1) There shall be an officer to be known as the social fund Commissioner (in this section referred to as " the Commissioner ").
- (2) The Commissioner shall be appointed by the Secretary of State.
- (3) The Commissioner—
 - (a) shall appoint such social fund inspectors;
 - (b) may appoint such officers and staff for himself and for social fund inspectors, as he thinks fit, but with the consent of the Secretary of State and the Treasury as to numbers.
- (4) Appointments under subsection (3) above shall be made from persons made available to the Commissioner by the Secretary of State.
- (5) It shall be the duty of the Commissioner—
 - (a) to monitor the quality of decisions of social fund inspectors and give them such advice and assistance as he thinks fit to improve the standard of their decisions ;
 - (b) to arrange such training of social fund inspectors as he considers appropriate; and

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

- (c) to carry out such other functions in connection with the work of social fund inspectors as the Secretary of State may direct.
- (6) The Commissioner shall report annually in writing to the Secretary of State on the standards of reviews by social fund inspectors and the Secretary of State shall publish his report.

PART IV

BENEFITS UNDER SOCIAL SECURITY ACT 1975

36 **Widowhood**

- (1) The following section shall be substituted for section 24 of the Social Security Act 1975—

“24 Widow's payment.

- (1) Subject to subsection (2) below, a woman who has been widowed shall be entitled to a widow's payment of the amount specified in relation thereto in Schedule 4, Part IA, if—
 - (a) she was under pensionable age at the time when her late husband died, or he was then not entitled to a Category A retirement pension (section 28); and
 - (b) her late husband satisfied the contribution condition for a widow's payment specified in Schedule 3, Part I, paragraph 4.
- (2) The payment shall not be payable to a widow if she and a man to whom she is not married are living together as husband and wife at the time of her husband's death.”.

- (2) The following shall be inserted after Part I of Schedule 4 to that Act—

“PART IA

WIDOW'S PAYMENT

Widow's payment (section 24). | £1,000.00.”.

- (3) In section 26—
 - (a) in subsection (1), for "40", where occurring in paragraphs (a) and (b), there shall be substituted " 45 "; and
 - (b) in subsection (2), for " 50 ", in both places where it occurs, there shall be substituted " 55 ".

37 **Invalid care allowance for women**

- (1) Section 37(3) of the Social Security Act 1975 shall have effect, and shall be treated as having had effect from 22nd December 1984, as if the words from " and a woman " to the end were omitted.

(2) The Social Security Benefit (Dependency) Regulations 1977 shall have effect, and shall be treated as having had effect from 22nd December 1984, as if the following sub-paragraphs were substituted for sub-paragraphs (a) and (b) of paragraph 7 of Schedule 2 (increases of invalid care allowance)—

- “(a) a spouse who is not engaged in any one or more employments from which the spouse's weekly earnings exceed that amount; or
- (b) some person (not being a child) who—
- (i) has the care of a child or children in respect of whom the beneficiary is entitled to child benefit, being a child or children in respect of whom the beneficiary is entitled to an increase of an invalid care allowance or would be so entitled but for the provisions of any regulations for the time being in force under the Act relating to overlapping benefits;
 - (ii) is not undergoing imprisonment or detention in legal custody;
 - (iii) is not engaged in any one or more employments (other than employment by the beneficiary in caring for a child or children in respect of whom the beneficiary is entitled to child benefit) from which the person's weekly earnings exceed that amount;
 - (iv) is not absent from Great Britain, except for any period during which the person is residing with the beneficiary outside Great Britain and for which the beneficiary is entitled to an invalid care allowance.”.

38 Abolition of maternity grant

- (1) The provisions to which this subsection applies shall cease to have effect.
- (2) The provisions to which subsection (1) above applies are—
- (a) in the Social Security Act 1975—
 - (i) section 21; and
 - (ii) Schedule 4, Part II, paragraph 1; and
 - (b) section 5 of the Social Security Act 1980.
- (3) If a woman is confined after the commencement of subsection (1) above, she shall nevertheless be entitled to maternity grant if—
- (a) her expected date of confinement was before the commencement of that subsection; and
 - (b) she has claimed the grant before the date of her confinement.
- (4) No regulations made under section 21(5) of the Social Security Act 1975 shall apply to a woman whose expected date of confinement is after the commencement of subsection (1) above.

39 Industrial injuries and diseases

Schedule 3 to this Act shall have effect in relation to Chapters IV and V of Part II of the Social Security Act 1975 and associated enactments.

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

40 Abolition of child's special allowance except for existing beneficiaries

A child's special allowance under section 31 of the Social Security Act 1975 shall not be payable for any period after this section comes into force except to a beneficiary who—

- (a) immediately before the date on which this section comes into force satisfied the conditions for entitlement set out in paragraphs (a) to (c) of that section and was not barred from payment of the allowance by the proviso to it; and
- (b) has so continued since that date.

41 Abolition of death grant

Death grant shall not be payable in respect of a death which occurs after the commencement of this section.

42 Abolition of reduced rate of short-term benefits

Paragraphs (a) to (c) of section 33(1) of the Social Security Act 1975 (reduced rate of short-term benefits payable on partial satisfaction of contribution conditions) shall cease to have effect.

43 Unemployment benefit-disqualification

- (1) The following subsection shall be substituted for section 18(4) of the Social Security Act 1975—

“(4) Regulations may provide for a person who would be entitled to unemployment benefit but for the operation of any provision of this Act or of regulations disentitling him to it or disqualifying him for it to be treated as if entitled to it for the purposes of this section.”.

- (2) " 13 " shall be substituted for " 6 "—

- (a) in section 20(1) of that Act; and
- (b) in regulation 8(4)(b) of the Supplementary Benefit (Requirements) Regulations 1983.

- (3) In the Social Security Act 1975—

- (a) the following subsection shall be inserted after section 20(1)—

“(1A) The Secretary of State may by order substitute a longer or shorter period for the period for the time being mentioned in subsection (1) above.”; and

- (b) in section 167(1)(b) (affirmative procedure for certain orders) the words " section 20(1A)" shall be inserted before the word " or ", in the second place where it occurs.

44 Unemployment benefit-trade disputes

- (1) The following subsections shall be substituted for subsection (1) of section 19 of the Social Security Act 1975 (disqualification for unemployment benefit)—

“(1) Subject to the following provisions of this section—

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

- (a) an employed earner who has lost employment as an employed earner by reason of a stoppage of work due to a trade dispute at his place of employment is disqualified for receiving unemployment benefit for any day during the stoppage unless he proves that he is not directly interested in the dispute; and
 - (b) an employed earner who has withdrawn his labour in furtherance of a trade dispute but does not fall within paragraph (a) above is disqualified for receiving unemployment benefit for any day on which his labour remains withdrawn.
- (1A) A person disqualified under subsection (1)(a) above for receiving unemployment benefit shall cease to be so disqualified if he proves that during the stoppage—
- (a) he has become bona fide employed elsewhere; or
 - (b) his employment has been terminated by reason of redundancy within the meaning of section 81(2) of the Employment Protection (Consolidation) Act 1978; or
 - (c) he has bona fide resumed employment with his employer but has subsequently left for a reason other than the trade dispute.”.
- (2) The following shall be inserted after section 49 of that Act—

“Trade disputes

49A Effect of trade disputes on entitlement to increases.

A beneficiary shall not be entitled—

- (a) to an increase in any benefit under sections 44 to 48 above; or
- (b) to an increase in benefit for an adult dependant by virtue of regulations under section 49 above,

if the person in respect of whom he would be entitled to the increase—

- (i) is disqualified under section 19 above for receiving unemployment benefit; or
- (ii) would be so disqualified if he were otherwise entitled to that benefit”.

45 Guardian's allowance-adoption

In section 38 of the Social Security Act 1975 (guardian's allowance)—

- (a) in subsection (6), for the word " No " there shall be substituted the words " Subject to subsection (7) below, no " ; and
- (b) the following subsection shall be inserted after subsection (6)—

“(7) Where a person—

- (a) has adopted a child; and
 - (b) was entitled to guardian's allowance in respect of the child immediately before the adoption,
- subsecton (6) above shall not terminate his entitlement”.

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

PART V

MATERNITY PAY ETC

46 Statutory maternity pay-entitlement and liability to pay

- (1) Subject to the following provisions of this Act, where a woman who is or has been an employee satisfies the conditions set out in this section, she shall be entitled to payments to be known as " statutory maternity pay ".
- (2) The conditions mentioned in subsection (1) above are—
 - (a) that she has been in employed earner's employment with an employer for a continuous period of at least 26 weeks ending with the week immediately preceding the 14th week before the expected week of confinement but has ceased to work for him, wholly or partly because of pregnancy or confinement;
 - (b) that her normal weekly earnings for the period of 8 weeks ending with the week immediately preceding the 14th week before the expected week of confinement are not less than the lower earnings limit in force under section 4(1)(a) of the Social Security Act 1975 immediately before the commencement of the 14th week before the expected week of confinement; and
 - (c) that she has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement.
- (3) The liability to make payments of statutory maternity pay to a woman is a liability of any person of whom she has been an employee as mentioned in subsection (2)(a) above.
- (4) Except in such cases as may be prescribed, a woman shall be entitled to payments of statutory maternity pay only if—
 - (a) she gives the person who will be liable to pay it notice that she is going to be absent from work with him, wholly or partly because of pregnancy or confinement; and
 - (b) the notice is given at least 21 days before her absence from work is due to begin or, if that is not reasonably practicable, as soon as is reasonably practicable.
- (5) The notice shall be in writing if the person who is liable to pay the woman statutory maternity pay so requests.
- (6) Any agreement shall be void to the extent that it purports—
 - (a) to exclude, limit or otherwise modify any provision of this Part of this Act; or
 - (b) to require an employee or former employee to contribute (whether directly or indirectly) towards any costs incurred by her employer or former employer under this Part of this Act;

but section 23A of the Social Security and Housing Benefits Act 1982 shall have effect in relation to paragraph (a) above as it has effect in relation to section 1(2)(a) of that Act but as if the reference to statutory sick pay were a reference to statutory maternity pay.

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

- (7) Regulations shall make provision as to a former employer's liability to pay statutory maternity pay to a woman in any case where the former employer's contract of service with her has been brought to an end by the former employer solely, or mainly, for the purpose of avoiding liability for statutory maternity pay.
- (8) The Secretary of State may by regulations—
- (a) specify circumstances in which, notwithstanding the foregoing provisions of this section, there is to be no liability to pay statutory maternity pay in respect of a week;
 - (b) specify circumstances in which, notwithstanding the foregoing provisions of this section, the liability to make payments of statutory maternity pay is to be a liability of his;
 - (c) specify in what circumstances employment is to be treated as continuous for the purposes of this Part of this Act;
 - (d) provide that a woman is to be treated as being employed for a continuous period of at least 26 weeks where—
 - (i) she has been employed by the same employer for at least 26 weeks under 2 or more separate contracts of service; and
 - (ii) those contracts were not continuous;
 - (e) provide that subsection (2)(a) or (b) above or both shall have effect subject to prescribed modifications—
 - (i) where a woman has been dismissed from her employment;
 - (ii) where a woman is confined before the beginning of the 14th week before the expected week of confinement; and
 - (iii) in such other cases as may be prescribed;
 - (f) provide for amounts earned by a woman under separate contracts of service with the same employer to be aggregated for the purposes of this Part of this Act; and
 - (g) provide that the amount of a woman's earnings for any period, or the amount of her earnings to be treated as comprised in any payment made to her or for her benefit, shall be calculated or estimated in such manner and on such basis as may be prescribed and that for that purpose payments of a particular class or description made or falling to be made to or by a woman shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of her earnings.

47 The maternity pay period

- (1) Subject to the provisions of this Part of this Act, statutory maternity pay shall be payable in respect of each week during a prescribed period ("the maternity pay period") of a duration not exceeding 18 weeks.
- (2) Subject to subsections (3) and (7) below, the first week of the maternity pay period shall be the 11th week before the expected week of confinement.
- (3) Cases may be prescribed in which the first week of the period is to be a prescribed week later than the 11th week before the expected week of confinement, but not later than the 6th week before the expected week of confinement.
- (4) Statutory maternity pay shall not be payable to a woman by a person in respect of any week during any part of which she works under a contract of service with him.

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

- (5) It is immaterial for the purposes of subsection (4) above whether the work referred to in that paragraph is work under a contract of service which existed immediately before the maternity pay period or a contract of service which did not so exist.
- (6) Except in such cases as may be prescribed, statutory maternity pay shall not be payable to a woman in respect of any week after she has been confined and during any part of which she works for any employer who is not liable to pay her statutory maternity pay.
- (7) Regulations may provide that this section shall have effect subject to prescribed modifications in relation—
 - (a) to cases in which a woman has been confined before the 11th week before the expected week of confinement ; and
 - (b) to cases in which—
 - (i) a woman is confined between the 11th and 6th weeks before the expected week of confinement; and
 - (ii) the maternity pay period has not then commenced for her.

48 Rates of payment

- (1) There shall be two rates of statutory maternity pay, in this Act referred to as " the higher rate " and " the lower rate " .
- (2) The higher rate is a weekly rate equivalent to nine-tenths of a woman's normal weekly earnings for the period of 8 weeks immediately preceding the 14th week before the expected week of confinement.
- (3) The lower rate is such weekly rate as may be prescribed.
- (4) Subject to the following provisions of this section, statutory maternity pay shall be payable at the higher rate to a woman who for a continuous period, of at least 2 years ending with the week immediately preceding the 14th week before the expected week of confinement has been an employee in employed earner's employment of any person liable to pay it to her, and shall be so paid by any such person in respect of the first 6 weeks in respect of which it is payable.
- (5) Statutory maternity pay shall not be payable at the higher rate to a woman whose relations with the person liable to pay it are or were governed by a contract of service which normally involves or involved employment for less than 16 hours weekly unless during a continuous period of at least 5 years ending with the week immediately preceding the 14th week before the expected week of confinement her contract of service normally involved employment for 8 hours or more weekly.
- (6) The Secretary of State may by regulations make provision as to when a contract of service is to be treated for the purposes of subsection (5) above as normally involving or having involved employment—
 - (a) for less than 16 hours weekly; or
 - (b) for 8 hours or more weekly,or as not normally involving or having involved such employment.
- (7) Statutory maternity pay shall be payable to a woman at the lower rate if she is entitled to statutory maternity pay but is not entitled to payment at the higher rate.

- (8) If a woman is entitled to statutory maternity pay at the higher rate, she shall be entitled to it at the lower rate in respect of the portion of the maternity pay period after the end of the 6 week period mentioned in subsection (4) above.

49 Further provisions relating to statutory maternity pay etc.

- (1) Part I of Schedule 4 to this Act shall have effect for supplementing this Part of this Act.
- (2) The Social Security Act 1975 shall have effect subject to the amendments set out in Part II of that Schedule.
- (3) Part III of that Schedule shall have effect in relation to maternity pay under the Employment Protection (Consolidation) Act 1978 and to the Maternity Pay Fund.

50 Interpretation of Part V

- (1) In this Part of this Act (including Schedule 4 to this Act)—

"confinement" means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead, and "confined" shall be construed accordingly; and where a woman's labour begun on one day results in the issue of a child on another day she shall be taken to be confined on the day of the issue of the child or, if labour results in the issue of twins or a greater number of children, she shall be taken to be confined on the day of the issue of the last of them ;

"dismissed" is to be construed in accordance with section 55(2) to (7) of the Employment Protection (Consolidation) Act 1978 ;

"employee" means a woman who is—

- (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with emoluments chargeable to income tax under Schedule E ; and

- (b) over the age of 16 ;

but subject to regulations which may provide for cases where any such woman is not to be treated as an employee for the purposes of this Part of this Act and for cases where a woman who would not otherwise be an employee for those purposes is to be treated as an employee for those purposes;

"employer", in relation to a woman who is an employee and a contract of service of hers, means a person who under section 4 of the Social Security Act 1975 is, or but for subsection (2)(b) of that section would be, liable to pay secondary Class 1 contributions in relation to any of her earnings (within the meaning of that Act) under the contract;

"maternity pay period" has the meaning assigned to it by section 47(1) above;

"week" means a period of 7 days beginning with midnight between Saturday and Sunday or such other period as may be prescribed in relation to any particular case or class of cases.

- (2) Without prejudice to any other power to make regulations under this Part of this Act, regulations may specify cases in which, for the purposes of this Part of this Act or of such provisions of this Part of this Act as may be prescribed—
- (a) two or more employers are to be treated as one;

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

- (b) two or more contracts of service in respect of which the same woman is an employee are to be treated as one.
- (3) For the purposes of this Part of this Act a woman's normal weekly earnings shall, subject to subsection (5) below, be taken to be the average weekly earnings which in the relevant period have been paid to her or paid for her benefit under the contract of service with the employer in question.
- (4) For the purposes of subsection (3) above " earnings " and " relevant period " shall have the meanings given to them by regulations.
- (5) In such cases as may be prescribed a woman's normal weekly earnings shall be calculated in accordance with regulations.

PART VI

COMMON PROVISIONS

Administration

51 Regulations about claims for and payments of benefit

- (1) Regulations may provide—
 - (a) for requiring a claim for a benefit to which this section applies to be made by such person, in such manner and within such time as may be prescribed ;
 - (b) for treating such a claim made in such circumstances as may be prescribed as having been made at such date earlier or later than that at which it is made as may be prescribed;
 - (c) for permitting such a claim to be made, or treated as if made, for a period wholly or partly after the date on which it is made;
 - (d) for permitting an award on such a claim to be made for such a period subject to the condition that the claimant satisfies the requirements for entitlement when benefit becomes payable under the award;
 - (e) for a review of any such award if those requirements are found not to have been satisfied;
 - (f) for the disallowance on any ground of a person's claim for a benefit to which this section applies to be treated as a disallowance of any further claim by that person for that benefit until the grounds of the original disallowance have ceased to exist;
 - (g) for enabling one person to act for another in relation to a claim for a benefit to which this section applies and for enabling such a claim to be made and proceeded with in the name of a person who has died ;
 - (h) for requiring any information or evidence needed for the determination of such a claim or of any question arising in connection with such a claim to be furnished by such person as may be prescribed in accordance with the regulations;
 - (j) for a claim for any one benefit to which this section applies to be treated, either in the alternative or in addition, as a claim for any other such benefit that may be prescribed;

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

- (k) for the person to whom, time when and manner in which a benefit to which this section applies is to be paid and for the information and evidence to be furnished in connection with the payment of such a benefit;
 - (l) for notice to be given of any change of circumstances affecting the continuance of entitlement to such a benefit or payment of such a benefit;
 - (m) for the day on which entitlement to such a benefit is to begin or end;
 - (n) for calculating the amounts of such a benefit according to a prescribed scale or otherwise adjusting them so as to avoid fractional amounts or facilitate computation ;
 - (o) for extinguishing the right to payment of such a benefit if payment is not obtained within such period, not being less than 12 months, as may be prescribed from the date on which the right is treated under the regulations as having arisen;
 - (p) for suspending payment, in whole or in part, where it appears to the Secretary of State that a question arises whether—
 - (i) the conditions for entitlement are or were fulfilled ;
 - (ii) an award ought to be revised;
 - (iii) an appeal ought to be brought against an award;
 - (q) for withholding payments of a benefit to which this section applies in prescribed circumstances and for subsequently making withheld payments in prescribed circumstances;
 - (r) for the circumstances and manner in which payments of such a benefit may be made to another person on behalf of the beneficiary for any purpose, which may be to discharge, in whole or in part, an obligation of the beneficiary or any other person ;
 - (s) for the payment or distribution of such a benefit to or among persons claiming to be entitled on the death of any person and for dispensing with strict proof of their title;
 - (t) for the making of a payment on account of such a benefit—
 - (i) where no claim has been made and it is impracticable for one to be made immediately;
 - (ii) where a claim has been made and it is impracticable for the claim or an appeal, reference, review or application relating to it to be immediately determined;
 - (iii) where an award has been made but it is impracticable to pay the whole immediately;
 - (u) for treating any payment on account made by virtue of paragraph (t) above as made on account of any benefit to which this section applies that is subsequently awarded or paid.
- (2) This section applies to the following benefits—
- (a) benefits under the Social Security Act 1975 ;
 - (b) child benefit;
 - (c) income support;
 - (d) family credit;
 - (e) housing benefit;
 - (f) a payment under paragraph 2 of Schedule 6 to this Act (Christmas bonus);
- and any social fund payments such as are mentioned in section 32(2)(a) above.

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

- (3) Subsection (1)(p) above shall have effect in relation to housing benefit as if the reference to the Secretary of State were a reference to the authority paying the benefit.
- (4) Subsection (1)(g), (k), (n), (r) and (s) above shall have effect as if statutory sick pay and statutory maternity pay were benefits to which this section applies.

52 Adjudication

- (1) Part I of Schedule 5 to this Act (which makes amendments of enactments relating to social security adjudications) shall have effect.
- (2) The questions to which section 93(1) of the Social Security Act 1975 (questions for determination by the Secretary of State) applies shall include any question specified in Part II of that Schedule.
- (3) Subject to subsections (7) and (8) below, the following provisions of the Social Security Act 1975 shall have effect for the purposes of the benefits to which this subsection applies as they have effect for the purposes of benefit under that Act—
 - (a) sections 97 to 104 and 116 (adjudication officers, tribunals and Commissioners);
 - (b) section 114 (regulations as to determination of questions) ;
 - (c) section 115(1) and (2) and (4) to (7) and Schedule 13 (procedure);
 - (d) section 117(1) and (2) (finality of decision);
 - (e) section 119 (regulations in connection with adjudications) ; and
 - (f) section 160 (age, marriage and death).
- (4) Procedure regulations made under section 115 of the Social Security Act 1975 by virtue of subsection (3) above may make different provision in relation to each of the benefits to which subsection (3) above applies.
- (5) Section 148(1) of the Social Security Act 1975 (determinations of Secretary of State to be final) shall have effect in relation to offences under Part I of the Social Security and Housing Benefits Act 1982 and offences under this Act as it has effect in relation to offences under the Social Security Act 1975.
- (6) Subsection (3) above applies to the following benefits—
 - (a) child benefit;
 - (b) statutory sick pay ;
 - (c) statutory maternity pay ;
 - (d) income support;
 - (e) family credit;
 and any social fund payments such as are mentioned in section 32(2)(a) above.
- (7) In their application to statutory sick pay and statutory maternity pay the provisions of the Social Security Act 1975 mentioned in subsection (3) above shall have effect as if—
 - (a) the following subsection were substituted for section 98(1)—
 - “(1) Any question as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay may be submitted to an adjudication officer—
 - (a) by the Secretary of State ; or

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

- (b) subject to and in accordance with regulations, by the employee concerned,
- for determination in accordance with sections 99 to 104 below.”:
- (b) in section 99(3), for the words " notice in writing of the reference shall be given to the claimant" there were substituted the words " the employee and employer concerned shall each be given notice in writing of the reference. " ;
- (c) in section 100—
- (i) in subsection (1), for the words " claimant may " there were substituted the words " employee and employer concerned shall each have a right to " ;
- (ii) in subsection (2), for the words " claimant shall" there were substituted the words " employee and employer concerned shall each " ; and
- (iii) subsection (7) were omitted ; and
- (d) the following subsection were substituted for section 101(2) to (4)—
- “(2) The persons at whose instance an appeal lies under this section are—
- (a) an adjudication officer;
- (b) the employee concerned ;
- (c) the employer concerned ;
- (d) a trade union, or any other association which exists to promote the interests and welfare of its members, where—
- (i) the employee is a member at the time of the appeal and was so immediately before the question at issue arose; or
- (ii) the question at issue is a question as to or in connection with entitlement of a deceased person who was at death a member;
- (e) an association of employers of which the employer is a member at the time of the appeal and was so immediately before the question at issue arose.”.
- (8) In its application to family credit section 104(1)(b) of the Social Security Act 1975 shall have effect subject to section 20(6) above.

53 Overpayments

- (1) Where it is determined that, whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact and in consequence of the misrepresentation or failure—
- (a) a payment has been made in respect of a benefit to which this section applies; or
- (b) any sum recoverable by or on behalf of the Secretary of State in connection with any such payment has not been recovered,
- the Secretary of State shall be entitled to recover the amount of any payment which he would not have made or any sum which he would have received but for the misrepresentation or failure to disclose.
- (2) An amount recoverable under subsection (1) above is in all cases recoverable from the person who misrepresented the fact or failed to disclose it.

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

- (3) In relation to cases where payments of a benefit to which this section applies have been credited to a bank account or other account under arrangements made with the agreement of the beneficiary or a person acting for him, circumstances may be prescribed in which the Secretary of State is to be entitled to recover any amount paid in excess of entitlement; but any such regulations shall not apply in relation to any payment unless before he agreed to the arrangements such notice of the effect of the regulations as may be prescribed was given in such manner as may be prescribed to the beneficiary or to a person acting for him.
- (4) Except where regulations otherwise provide, an amount shall not be recoverable under subsection (1) above or regulations under subsection (3) above unless the determination in pursuance of which it was paid has been reversed or varied on an appeal or revised on a review.
- (5) Regulations may provide—
- (a) that amounts recoverable under subsection (1) above or regulations under subsection (3) above shall be calculated or estimated in such manner and on such basis as may be prescribed ;
 - (b) for treating any amount paid to any person under an award which it is subsequently determined was not payable—
 - (i) as properly paid ; or
 - (ii) as paid on account of a payment which it is determined should be or should have been made,and for reducing or withholding any arrears payable by virtue of the subsequent determination ;
 - (c) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
 - (i) the other person is himself entitled to a payment for that period; or
 - (ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person,and for reducing or withholding any arrears payable for that period by virtue of the subsequent determination.
- (6) Circumstances may be prescribed in which a payment on account made by virtue of section 51(1)(t) above may be recovered to the extent that it exceeds entitlement.
- (7) Where any amount paid is recoverable under—
- (a) section 27 above ;
 - (b) subsection (1) above; or
 - (c) regulations under subsection (3) or (6) above,
- it may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.
- (8) Where any amount paid in respect of a married or unmarried couple is recoverable as mentioned in subsection (7) above, it may, without prejudice to any other method of recovery, be recovered, in such circumstances as may be prescribed, by deduction from prescribed benefits payable to either of them.
- (9) Any amount recoverable under the provisions mentioned in subsection (7) above—

- (a) if the person from whom it is recoverable resides in England and Wales and the county court so orders, shall be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court; and
 - (b) if he resides in Scotland, shall be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (10) This section applies to the following benefits—
- (a) benefits under the Social Security Act 1975 ;
 - (b) child benefit;
 - (c) income support;
 - (d) family credit;
- and any social fund payments such as are mentioned in section 32(2)(a) above.
- (11) A scheme under section 2 or section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975 may make provision in relation to allowances under that Act corresponding to the provision made by this section in relation to the benefits to which it applies.

54 Breach of regulations

- (1) Regulations under any of the benefit Acts may provide for contravention of, or failure to comply with, any provision contained in regulations made under that Act to be an offence under that Act and for the recovery, on summary conviction of any such offence, of penalties not exceeding—
- (a) for any one offence, level 3 on the standard scale ; or
 - (b) for an offence of continuing any such contravention or failure after conviction, £40 for each day on which it is so continued.
- (2) Subsection (1) above shall have effect in relation to the Industrial Injuries and Diseases (Old Cases) Act 1975 as if the references in that subsection to regulations were to schemes.

55 False representations for obtaining benefit etc.

- (1) If a person for the purpose of obtaining any benefit or other payment under any of the benefit Acts, whether for himself or some other person, or for any other purpose connected with any of those Acts—
- (a) makes a statement or representation which he knows to be false; or
 - (b) produces or furnishes, or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,
- he shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding three months, or to both.

56 Legal proceedings

- (1) Any person authorised by the Secretary of State in that behalf may conduct any proceedings under the benefit Acts before a magistrates' court although not a barrister or solicitor.
- (2) Notwithstanding anything in any Act—
 - (a) proceedings for an offence under the benefit Acts other than an offence relating to housing benefit may be begun at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge or within a period of twelve months from the commission of the offence, whichever period last expires ; and
 - (b) proceedings for an offence under the benefit Acts relating to housing benefit may be begun at any time within the period of three months from the date on which evidence, sufficient in the opinion of the appropriate authority to justify a prosecution for the offence, comes to the authority's knowledge or within a period of twelve months from the commission of the offence, whichever period last expires.
- (3) For the purposes of subsection (2) above—
 - (a) a certificate purporting to be signed by or on behalf of the Secretary of State as to the date on which such evidence as is mentioned in paragraph (a) of that subsection came to his knowledge shall be conclusive evidence of that date ; and
 - (b) a certificate of the appropriate authority as to the date on which such evidence as is mentioned in paragraph (b) of that subsection came to the authority's knowledge shall be conclusive evidence of that date.
- (4) In subsections (2) and (3) above " the appropriate authority " means, in relation to an offence concerning any dwelling—
 - (a) if the offence relates to rate rebate, the authority who are the appropriate rating authority by virtue of section 28(3) above;
 - (b) if it relates to a rent rebate, the authority who are the appropriate housing authority by virtue of that subsection ; and
 - (c) if it relates to rent allowance, the authority who are the appropriate local authority by virtue of that subsection.
- (5) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (1) to (4) above—
 - (a) proceedings for an offence under the benefit Acts may, notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975, be commenced at any time within the period of three months from the date on which evidence sufficient in the opinion of the Lord Advocate to justify proceedings comes to his knowledge, or within the period of twelve months from the commission of the offence, whichever period last expires;
 - (b) for the purposes of this subsection—
 - (i) a certificate purporting to be signed by or on behalf of the Lord Advocate as to the date on which such evidence as is mentioned above came to his knowledge shall be conclusive evidence thereof;
 - (ii) subsection (3) of section 331 of the said Act of 1975 (date of commencement of proceedings) shall have effect as it has effect for the purposes of that section.

57 Offences by bodies corporate

- (1) Where an offence under any of the benefit Acts which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

58 Inspection

- (1) For the purposes of the benefit Acts, the Secretary of State may appoint such inspectors, and pay to them such salaries or remuneration, as he may determine with the consent of the Treasury.
- (2) An inspector appointed under this section shall, for the purposes of the execution of the benefit Acts, have the following powers—
 - (a) to enter at all reasonable times any premises liable to inspection under this section ;
 - (b) to make such examination and enquiry as may be necessary—
 - (i) for ascertaining whether the provisions of any of those Acts are being, or have been, complied with in any such premises ; or
 - (ii) for investigating the circumstances in which any injury or disease which has given or may give rise to a claim for industrial injuries benefit was or may have been received or contracted ;
 - (c) to examine, either alone or in the presence of any other person, as he thinks fit, in relation to any matters under any of those Acts on which he may reasonably require information, every person whom he finds in any such premises or whom he has reasonable cause to believe to be or to have been a person liable to pay—
 - (i) contributions under the Social Security Act 1975;
 - (ii) a state scheme premium,and to require every such person to be so examined;
 - (d) to exercise such other powers as may be necessary for carrying any of the benefit Acts into effect.
- (3) The premises liable to inspection under this section are any where an inspector has reasonable grounds for supposing that—
 - (a) any persons are employed ;
 - (b) there is being carried on any agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services; or
 - (c) a personal or occupational pension scheme is being administered,but do not include any private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.

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

- (4) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises for the purpose of any of the benefit Acts shall, if so required, produce the certificate.
- (5) Where any premises are liable to be inspected by an inspector or officer appointed or employed by, or are under the control of, some other government department, the Secretary of State may make arrangements with that department for any of the powers or duties of inspectors to be carried out by an inspector or officer employed by that department.
- (6) In accordance with this section, persons shall furnish to an inspector all such information, and produce for his inspection all such documents, as he may reasonably require for the purpose of ascertaining—
- (a) whether—
 - (i) any contribution under the Social Security Act 1975;
 - (ii) any state scheme premium,
 is or has been payable, or has been duly paid, by or in respect of any person ; or
 - (b) whether benefit under any of the benefit Acts is or was payable to or in respect of any person.
- (7) The following persons are under the duty imposed by subsection (6) above—
- (a) the occupier of any premises liable to inspection under this section;
 - (b) any person who is or has been an employer or an employee within the meaning of any of the benefit Acts ;
 - (c) any person carrying on an agency or other business for the introduction or supply to persons requiring them of persons available to do work or perform services;
 - (d) any person who is or has at any time been a trustee or manager of a personal or occupational pension scheme;
 - (e) any person who is or has been liable to pay such contributions or premiums;
 - (f) the servants or agents of any such person as is specified in any of the preceding paragraphs;
- but no-one shall be required under this section to answer any questions or to give any evidence tending to incriminate himself, or, in a case of a person who is married, his or her spouse.
- (8) If a person—
- (a) wilfully delays or obstructs an inspector in the exercise of any power under this Act; or
 - (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this Act,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) Where a person is convicted of an offence under subsection (8)(b) above and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which it is so continued.

59 Disclosure of information

- (1) No obligation as to secrecy imposed by statute or otherwise on a person employed in relation to the Inland Revenue shall prevent information obtained in connection with the assessment or collection of income tax from being disclosed to the Secretary of State, or the Department of Health and Social Services for Northern Ireland, or to an officer of either of them authorised to receive such information in connection with the operation of any of the benefit Acts or of any corresponding enactment of Northern Ireland legislation.
- (2) In relation to persons who are carrying on or have carried on a trade, profession or vocation income from which is chargeable to tax under Case I or II of Schedule D, disclosure under subsection (1) above relating to that trade, profession or vocation shall be limited to information about the commencement or cessation of the trade, profession or vocation, but sufficient information may also be given to identify the persons concerned.
- (3) Subsection (1) above extends only to disclosure by or under the authority of the Commissioners of Inland Revenue; and information which is the subject of disclosure to any person by virtue of that subsection shall not be further disclosed to any other person, except where the further disclosure is made—
 - (a) to a person to whom disclosure could by virtue of this section have been made by or under the authority of the Commissioners of Inland Revenue ;
 - (b) for the purposes of any proceedings (civil or criminal) in connection with the operation of any of the benefit Acts or of any corresponding Northern Ireland legislation ; or
 - (c) for any purposes of Part III of the Social Security Act 1975 including that Part as extended by section 52(3) above, and any corresponding provisions of Northern Ireland legislation.

60 Regulations as to notification of deaths

- (1) Regulations may provide that it shall be the duty of any of the following persons—
 - (a) the Registrar General for England and Wales ;
 - (b) the Registrar General of Births, Deaths and Marriages for Scotland;
 - (c) each registrar of births and deaths,to furnish the Secretary of State, for the purpose of his functions under the benefit Acts and the functions of the Department of Health and Social Services in Northern Ireland under any corresponding Northern Ireland legislation, with the prescribed particulars of such deaths as may be prescribed.
- (2) The regulations may make provision as to the manner in which and times at which the particulars are to be furnished.

Subordinate legislation

61 Consultations on subordinate legislation

- (1) Nothing in any enactment shall require any proposals in respect of regulations to be referred to the Committee, the Council or the Board if—
 - (a) it appears to the Secretary of State that by reason of the urgency of the matter it is inexpedient so to refer them; or

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

- (b) the relevant advisory body have agreed that they shall not be referred.
- (2) Where by virtue only of subsection (1)(a) above the Secretary of State makes regulations without proposals in respect of them having been referred, then, unless the relevant advisory body agree that this subsection shall not apply, he shall refer the regulations to that body as soon as practicable after making them.
- (3) Where the Secretary of State—
- (a) has referred proposals to the Committee or the Board, he may make the proposed regulations before the Committee or Board have made their report;
 - (b) has referred proposals to the Council, he may make the proposed regulations before the Council have given their advice,
- only if after the reference it appears to him that by reason of the urgency of the matter it is expedient to do so.
- (4) Where by virtue of this section regulations are made before a report of the Committee or Board has been made, the Committee or Board shall consider them and make a report to the Secretary of State containing such recommendations with regard to the regulations as the Committee or Board think appropriate ; and a copy of any report made to the Secretary of State on the regulations shall be laid by him before each House of Parliament together, if the report contains recommendations, with a statement of the extent (if any) to which the Secretary of State proposes to give effect to the recommendations and, in so far as he does not propose to give effect to them, his reasons why not.
- (5) Nothing in any enactment shall require the reference to the Committee, the Council or the Board of regulations made by virtue of an enactment contained in this Act or in an Act passed before this Act, if they are—
- (a) contained in a statutory instrument made before the end of a period of 12 months from the commencement of the enactment under which it is made; or
 - (b) contained in a statutory instrument which—
 - (i) states that it contains only provisions consequential on a specified enactment or such provisions and regulations made under that enactment; and
 - (ii) is made before the end of a period of 12 months from the commencement of that enactment.
- (6) Nothing in any enactment shall require the reference to the Committee, the Council or the Board of regulations made by virtue of an enactment contained in an Act passed after this Act, if they are—
- (a) contained in a statutory instrument made before the end of the period of 6 months from the commencement of the enactment under which it is made ; or
 - (b) contained in a statutory instrument which—
 - (i) states that it contains only provisions consequential on a specified enactment or such provisions and regulations made under that enactment; and
 - (ii) is made before the end of the period of 6 months from the commencement of that enactment,
- unless the Act containing the enactment by virtue of which the regulations are made excludes this subsection in respect of the regulations.
- (7) Subject to subsection (8) below, before making—

- (a) regulations relating to housing benefit (other than regulations of which the effect is to increase any amount specified in regulations previously made);
 - (b) an order under section 28(10) or 30 above,
- the Secretary of State shall consult with organisations appearing to him to be representative of the authorities concerned.
- (8) Nothing in subsection (7) above shall require the Secretary of State to undertake consultations if—
- (a) it appears to him that by reason of the urgency of the matter it is inexpedient to do so ; or
 - (b) the organisations have agreed that consultations should not be undertaken.
- (9) Where the Secretary of State has undertaken such consultations, he may make any regulations or order to which the consultations relate without completing the consultations if it appears to him that by reason of the urgency of the matter it is expedient to do so.
- (10) In this section—
- " the Board " means the Occupational Pensions Board ;
 - "the Committee" means the Social Security Advisory Committee;
 - " the Council" means the Industrial Injuries Advisory Council.

62 Subordinate legislation-miscellaneous

- (1) The following subsection shall be inserted after subsection (3) of section 166 of the Social Security Act 1975 (general provisions about orders and regulations)—
- “(3A) Without prejudice to any specific provisions in this Act, a power conferred by this Act to make an Order in Council, regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.”.
- (2) The following subsection shall be inserted after subsection (7) of section 22 of the Child Benefit Act 1975 (regulations and orders)—
- “(7A) Without prejudice to any specific provisions in this Act, a power conferred by this Act to make an Order in Council or regulations includes a power to provide for a person to exercise a discretion in dealing with any matter.”.
- (3) In subsection (1) of section 167 of the Social Security Act 1975 (Parliamentary control of orders and regulations)—
- (a) for the words from the beginning to " namely " there shall be substituted the words
 - “ Subject to the provisions of this section, a statutory instrument containing (whether alone or with other provisions)—
 - (a) regulations made by virtue of”;
 - (b) in paragraph (b), for the words " no order shall be made wholly or partly by virtue of " there shall be substituted the words " an order under " ;
 - (c) in paragraph (c), for the words " no order shall be made" there shall be substituted the words " an order " ; and
 - (d) for the words " unless a draft of the regulations or order " there shall be substituted the words " shall not be made unless a draft of the instrument ".

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

General provisions as to operation of social security

63 Annual up-rating of benefits

- (1) The Secretary of State shall in each tax year review the sums—
- (a) specified—
 - (i) in Schedule 4 to the Social Security Act 1975 ;
 - (ii) in section 30(1) of that Act;
 - (iii) in sections 2(6)(c) and 7(2)(b) of the Industrial Injuries and Diseases (Old Cases) Act 1975 ;
 - (iv) in section 6(1)(a) of the Social Security Pensions Act 1975;
 - (b) which are the additional pensions in long-term benefits ;
 - (c) which are the increases in the rates of retirement pensions under Schedule 1 to the Social Security Pensions Act 1975;
 - (d) which are—
 - (i) payable by virtue of section 35(6) of that Act to a person who is also entitled to a Category A or Category B retirement pension (including sums payable by virtue of section 36(3)); or
 - (ii) payable to such a person as part of his Category A or Category B retirement pension by virtue of an order made under this section by virtue of this paragraph or made under section 126A of the Social Security Act 1975;
 - (e) specified in section 41 (2B) of the Social Security Act 1975;
 - (f) specified by virtue of section 5(1) of the Child Benefit Act 1975;
 - (g) specified in section 7(1) of the Social Security and Housing Benefits Act 1982;
 - (h) specified in regulations under section 48(3) above;
 - (i) prescribed for the purposes of section 21(6)(a) above or specified in regulations under section 22(1) above,
- in order to determine whether they have retained their value in relation to the general level of prices obtaining in Great Britain estimated in such manner as the Secretary of State thinks fit.
- (2) Where it appears to the Secretary of State that the general level of prices is greater at the end of the period under review than it was at the beginning of that period, he shall lay before Parliament the draft of an up-rating order—
- (a) which increases each of the sums to which subsection (3) below applies by a percentage not less than the percentage by which the general level of prices is greater at the end of the period than it was at the beginning; and
 - (b) if he considers it appropriate, having regard to the national economic situation and any other matters which he considers relevant, which also increases by such percentage or percentages as he thinks fit any of the sums mentioned in subsection (1) above but to which subsection (3) below does not apply ; and
 - (c) stating the amount of any sums which are mentioned in subsection (1) above but which the order does not increase.
- (3) This subsection applies to sums—
- (a) specified in Part I, paragraph 1, 2, 3, 4 or 5 of Part III, Part IV or Part V of Schedule 4 to the Social Security Act 1975;
 - (b) mentioned in subsection (1)(a)(iii) or (iv), (b), (c) or (d) above.

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

- (4) Subsection (2) above shall not require the Secretary of State to provide for an increase in any case in which it appears to him that the amount of the increase would be inconsiderable.
- (5) The Secretary of State may, in providing for an increase in pursuance of subsection (2) above, adjust the amount of the increase so as to round any sum up or down to such extent as he thinks appropriate.
- (6) Where subsection (2) above requires the Secretary of State to lay before Parliament the draft of an order increasing any sum that could be reduced under section 17(1) of the Child Benefit Act 1975, the order may make such alteration to that sum as reflects the combined effect of that increase and of any reduction that could be made under that subsection.
- (7) An increase in a sum such as is specified in subsection (1)(d)(ii) above shall form part of the Category A or Category B retirement pension of the person to whom it is paid and an increase in a sum specified such as is specified in subsection (1)(d)(i) above shall be added to and form part of that pension but shall not form part of the sum increased.
- (8) Where any increment under section 35(6) of the Social Security Pensions Act 1975—
 - (a) is increased in any tax year by an order under section 37A of that Act; and
 - (b) in that tax year also falls to be increased by an order under this section,the increase under this section shall be the amount that would have been specified in the order, but for this subsection, less the amount of the increase under section 37A.
- (9) Where sums are payable to a person by virtue of section 35(6) of the Social Security Pensions Act 1975 (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.
- (10) If the Secretary of State considers it appropriate to do so, he may include in the draft of an up-rating order, in addition to any other provisions, provisions increasing any of the sums for the time being specified in regulations under Part II of this Act.
- (11) The Secretary of State shall lay with any draft order under this section a copy of a report by the Government Actuary giving the latter's opinion on the likely effect on the National Insurance Fund of such parts of the order as relate to sums payable out of that Fund.
- (12) If a draft order laid before Parliament in pursuance of this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.
- (13) An order under this section—
 - (a) shall be framed so as to bring the alterations to which it relates into force—
 - (i) in the week beginning with the first Monday in the tax year ; or
 - (ii) on such earlier date in April as may be specified in the order;
 - (b) shall make such transitional provision as the Secretary of State considers expedient in respect of periods of entitlement—
 - (i) to statutory sick pay;

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

(ii) to family credit,
 running at the date when the alterations come into force.

64 Effect of alteration of rates of benefit

- (1) This section applies where the rate of any relevant benefit is altered—
- (a) by an Act subsequent to this Act;
 - (b) by an order under section 63 above ; or
 - (c) in consequence of any such Act or order altering any maximum rate of benefit ;
- and in this section " the commencing date " means the date fixed for payment of benefit at an altered rate to commence.
- (2) Subject to such exceptions or conditions as may be prescribed where—
- (a) the weekly rate of a relevant benefit is altered to a fixed amount higher or lower than the previous amount; and
 - (b) before the commencing date an award of that benefit has been made (whether before or after the passing of the relevant Act or the making of the relevant order),
- except as respects any period falling before the commencing date, the benefit shall become payable at the altered rate without any claim being made for it in the case of an increase in the rate of benefit or any review of the award in the case of a decrease, and the award shall have effect accordingly.
- (3) Where—
- (a) the weekly rate of a relevant benefit is altered; and
 - (b) before the commencing date (but after that date is fixed) an award is made of the benefit,
- the award either may provide for the benefit to be paid as from the commencing date at the altered rate or may be expressed in terms of the rate appropriate at the date of the award.
- (4) Where in consequence of the passing of an Act, or the making of an order, altering the rate of disablement pension under section 57 of the Social Security Act 1975, regulations are made varying the scale of disablement gratuities under subsection (5) of that section, the regulations may provide that the scale as varied shall apply only in cases where the period taken into account by the assessment of the extent of the disablement in respect of which the gratuity is awarded begins or began after such day as may be prescribed.
- (5) Subject to such exceptions or conditions as may be prescribed, where—
- (a) for any purpose of any Act or regulations the weekly rate at which a person contributes to the cost of providing for a child, or to the maintenance of an adult dependant, is to be calculated for a period beginning on or after the commencing date for an increase in the weekly rate of benefit; but
 - (b) account is to be taken of amounts referable to the period before the commencing date,
- those amounts shall be treated as increased in proportion to the increase in the weekly rate of benefit.
- (6) In this section " relevant benefit " means benefit under the Social Security Act 1975 or the Industrial Injuries and Diseases (Old Cases) Act 1975.

65 Reciprocal arrangements

- (1) At the end of subsection (4)(b) of section 142 of the Social Security Act 1975 (co-ordination with Northern Ireland) there shall be added " (but not so as to confer any double benefit) and for determining, in cases where rights accrue both in relation to Great Britain and in relation to Northern Ireland, which of those rights shall be available to the person concerned ".
- (2) In subsection (1) of section 143 of that Act (reciprocity with other countries)—
 - (a) for the words from " reciprocity " to the end of paragraph (c) there shall be substituted the words " reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act " ; and
 - (b) the words " relating to social security " shall be omitted.
- (3) The words "relating to child benefit" shall be omitted from subsection (1) of section 15 of the Child Benefit Act 1975 (reciprocal agreements with countries outside the United Kingdom).
- (4) Sections 14 and 15 of the Child Benefit Act 1975 (reciprocal arrangements with Northern Ireland and reciprocal agreements with countries outside the United Kingdom) shall have effect in relation to income support, family credit and housing benefit as they have effect in relation to child benefit, references in them to Part I of that Act being construed as including references to this Act.

PART VII

MISCELLANEOUS, GENERAL AND SUPPLEMENTARY

Miscellaneous

66 Pensioners' Christmas bonus

Schedule 6 to this Act (which makes provision relating to payments for pensioners) shall have effect.

67 Rates of payments of statutory sick pay and provisions as to recovery

- (1) The following subsections shall be inserted after subsection (1) of section 7 of the Social Security and Housing Benefits Act 1982 (rate of payment of statutory sick pay)
—
 - “(1A) The Secretary of State may by regulations—
 - (a) substitute alternative provisions for subsection (1)(a) to (c) above ; and
 - (b) make such consequential amendments of any provision contained in this Act as appear to him to be required.
 - (1B) A statutory instrument containing (whether alone or with other provisions) regulations under subsection (1A) above shall not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.”.

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

(2) The following paragraph shall be substituted for subsection (1A)(a) of section 9 of that Act (recovery by employers of amounts paid by way of statutory sick pay)—

“(a) giving any employer who has made a payment of statutory sick pay a right, except in prescribed circumstances, to an amount, determined in such manner as may be prescribed—

(i) by reference to secondary Class 1 contributions paid in respect of statutory sick pay; or

(ii) by reference to the aggregate of secondary Class 1 contributions so paid and secondary Class 1 contributions paid in respect of statutory maternity pay;”.

68 Liability of Secretary of State to pay statutory sick pay in prescribed circumstances

The following subsections shall be added at the end of section 1 of the Social Security and Housing Benefits Act 1982—

“(5) Circumstances may be prescribed in which, notwithstanding the foregoing provisions of this section, the liability to make payments of statutory sick pay is to be a liability of the Secretary of State.

(6) Any sums paid under regulations made by virtue of subsection (5) above shall be paid out of the National Insurance Fund.”.

69 Repeal of section 92 of Social Security Act 1975

Section 92 of the Social Security Act 1975 (which relates to arrangements to forgo benefit in return for unabated sick pay) shall cease to have effect.

70 Child benefit in respect of children educated otherwise than at educational establishments

(1) In section 2 of the Child Benefit Act 1975 (meaning of " child ")—

(a) in paragraph (b) of subsection (1), for the words " by attendance at a recognised educational establishment" there shall be substituted the words " either by attendance at a recognised educational establishment or, if the education is recognised by the Secretary of State, elsewhere " ; and

(b) the following subsections shall be inserted after that subsection—

“(1A) The Secretary of State may recognise education provided otherwise than at a recognised educational establishment for a person who, in the opinion of the Secretary of State, could reasonably be expected to attend such an establishment only if the Secretary of State is satisfied that education was being so provided for that person immediately before he attained the age of sixteen.

(1B) Regulations may prescribe the circumstances in which education is or is not to be treated for the purposes of this Act as full-time.”.

(2) Regulations purporting to be made under section 24(1) of that Act and made before the passing of this Act shall be treated as validly made.

71 Entitlement to mobility allowance-general

- (1) In paragraph (a) of section 37A(2) of the Social Security Act 1975 (duration of inability or virtual inability to walk for the purposes of entitlement to mobility allowance) for the words " time when a claim for the allowance is received by the Secretary of State " there shall be substituted the words " relevant date ".
- (2) The following subsections shall be inserted after that subsection—
 - “(2A) Subject to subsection (2B) below, in subsection (2)(a) above " the relevant date " means the date on which the claimant's inability or virtual inability to walk commenced or the date on which his claim was received or treated as received by the Secretary of State, whichever is the later.
 - (2B) Where—
 - (a) a claimant is awarded an allowance for a period; and
 - (b) he subsequently claims an allowance for a further period,the relevant date is the first date not earlier than the end of the period for which the allowance was awarded on which the claimant was unable or virtually unable to walk.
 - (2C) Regulations may make provision—
 - (a) for permitting an award on a claim for a mobility allowance to be made either as from the date on which the claim is received or treated as received by the Secretary of State or for a period beginning after that date subject to the condition that the person in respect of whom the claim is made satisfies the prescribed requirements for entitlement when benefit becomes payable under the award;
 - (b) for the review of any such award if those requirements are found not to have been satisfied.”.
- (3) Section 37A(7) (under which, except so far as may be provided by regulations, the question of a person's entitlement to a mobility allowance falls to be determined as at the time when a claim for the allowance is received by the Secretary of State) shall cease to have effect.
- (4) Where—
 - (a) it has been determined that a person was entitled to mobility allowance; and
 - (b) the claim should have been determined as at the date when it was received by the Secretary of State, but was determined as at a later date, the fact that the claim was determined as at that date shall not invalidate the determination.
- (5) Where the Secretary of State has made a payment to a person who has claimed mobility allowance on the ground that, if the person's claim had been received by the Secretary of State at a date later than that on which it was in fact received, the person would have been entitled to mobility allowance—
 - (a) the payment shall be treated as a payment of mobility allowance; and
 - (b) the person shall be treated as having been entitled to mobility allowance for the period in respect of which the payment was made.

72 Entitlement of certain women to mobility allowance

In relation to women born after 6th June 1918 but before 21st December 1919 sections 22 and 65(1) of the Social Security Pensions Act 1975, paragraphs 47, 49 and 51 to

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

53 of Schedule 4 to that Act and section 3(3) of the Social Security Act 1979 shall be deemed to have come into force—

- (a) for the purposes of the making of claims for, and the determination of claims and questions relating to, mobility allowance, on 29th March 1979 ; and
- (b) for all other purposes, on 6th June 1979.

73 Application of provisions of Act to supplementary benefit etc.

Schedule 7 to this Act shall have effect for the purpose of making provision in relation to the benefits there mentioned.

74 National Insurance contributions

(1) The subsection set out in subsection (2) below shall be inserted in the Social Security Act 1975—

- (a) in section 4 (Class 1 contributions) after subsection (6H), as subsection (6HH) ; and
- (b) in section 123A (further power to alter certain contributions) after subsection (6), as subsection (6A).

(2) The subsection is—

“Where the Secretary of State lays before Parliament a draft of an order under this section he shall lay with it a copy of a report by the Government Actuary on the effect which, in the Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund.”.

(3) In section 134 of that Act (appropriate employment protection allocation) the following subsections shall be inserted after subsection (5)—

“(5A) Without prejudice to section 122(3) and (4) above, the Secretary of State may, with the consent of the Treasury, by order amend this section, in relation to any tax year beginning after the tax year 1986-87—

- (a) by substituting a different percentage for the percentage for the time being specified in paragraph (i) or (ii) of subsection (4) above or for each of the percentages specified in those paragraphs ;
- (b) by directing that there shall be no appropriate employment protection allocation; or
- (c) by directing that there shall be an appropriate employment protection allocation only in the case of primary Class 1 contributions or only in the case of secondary Class 1 contributions.

(5B) At any time when an order under subsection (5A) above containing a direction under paragraph (b) of that subsection is in force, the Secretary of State may, with the consent of the Treasury, by order direct that there shall be an appropriate employment protection allocation of such percentage in the case of primary Class 1 contributions or secondary Class 1 contributions, or both, as may be specified in the order.

(5C) At any time when an order under subsection (5A) above containing a direction under paragraph (c) of that subsection is in force, the Secretary of State may, with the consent of the Treasury, by order direct that there shall be an appropriate employment protection allocation of such percentage as may be

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

specified in the order in the case of the description of contributions in whose case there is, by virtue of the direction, no such allocation.

- (5D) Any percentage specified as an allocation by an order under subsection (5B) or (5C) above shall be deemed to be inserted at the appropriate place in subsection (4) above and an order under subsection (5A)(a) above may accordingly be made in respect of it.”.
- (4) In section 167(1)(b) of that Act (orders subject to affirmative procedure) after " 134 (4A) " there shall be inserted " (5A), (5B) or (5C) ".
- (5) The powers to prescribe equivalents of a limit or bracket under section 4 of and paragraph 1(1C) of Schedule 1 to that Act include power to prescribe an amount not more than £1.00 more than the amount which is the arithmetical equivalent of the limit or bracket
- (6) In section 1(2) of the Social Security Pensions Act 1975 (lower earnings limit) for " 49p" there shall be substituted " 99p ".

75 Earnings factors

The Social Security Acts 1975 and the Social Security (Miscellaneous Provisions) Act 1977 shall be amended in accordance with Schedule 8 to this Act in relation to earnings factors for the tax year in which this section comes into force and subsequent tax years.

76 Amendments relating to forfeiture of benefits

- (1) The Forfeiture Act 1982 shall be amended as follows.
- (2) The following subsections shall be inserted after subsection (1) of section 4 (Social Security Commissioner to determine whether forfeiture rule applies to social security benefits)—
- “(1A) Where a Commissioner determines that the forfeiture rule has precluded a person (in this section referred to as " the offender ") who has unlawfully killed another from receiving the whole or part of any such benefit or advantage, the Commissioner may make a decision under this subsection modifying the effect of that rule and may do so whether the unlawful killing occurred before or after the coming into force of this subsection.
- (1B) The Commissioner shall not make a decision under subsection (1A) above modifying the effect of the forfeiture rule in any case unless he is satisfied that, having regard to the conduct of the offender and of the deceased and to such other circumstances as appear to the Commissioner to be material, the justice of the case requires the effect of the rule to be so modified in that case.
- (1C) Subject to subsection (1D) below, a decision under subsection (1A) above may modify the effect of the forfeiture rule in either or both of the following ways—
- (a) so that it applies only in respect of a specified proportion of the benefit or advantage;
- (b) so that it applies in respect of the benefit or advantage only for a specified period of time.

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

- (1D) Such a decision may not modify the effect of the forfeiture rule so as to allow any person to receive the whole or any part of a benefit or advantage in respect of any period before the commencement of this subsection.
- (1E) If the Commissioner thinks it expedient to do so, he may direct that his decision shall apply to any future claim for a benefit or advantage under a relevant enactment, on which a question such as is mentioned in subsection (1) above arises by reason of the same unlawful killing.
- (1F) It is immaterial for the purposes of subsection (1E) above whether the claim is in respect of the same or a different benefit or advantage.
- (1G) For the purpose of obtaining a decision whether the forfeiture rule should be modified the Secretary of State may refer to a Commissioner for review any determination of a question such as is mentioned in subsection (1) above that was made before the commencement of subsections (1A) to (1F) above (whether by a Commissioner or not) and shall do so if the offender requests him to refer such a determination.
- (1H) Subsections (1A) to (1F) above shall have effect on a reference under subsection (1G) above as if in subsection (1A) the words " it has been determined " were substituted for the words " a Commissioner determines".".
- (3) In subsection (2) of that section, after the words " that subsection " there shall be inserted the words " or any decision under subsection (1A) above".
- (4) In section 5 (exclusion of murderers) after the word " Act ", in the second place where it occurs, there shall be inserted the words " or in any decision made under section 4(1A) of this Act ".

77 Refreshments for school pupils

- (1) The words " and may do so either on the premises or at any place other than the school premises where education is being provided " shall be inserted—
 - (a) after "refreshment" in subsection (1)(a) of section 22 of the Education Act 1980; and
 - (b) after "management" in subsection (1)(a) of section 53 of the Education (Scotland) Act 1980.
- (2) The following subsections shall be substituted for subsections (2) and (3) of each of those sections—
 - “(2) Subject to subsection (3) below, an authority must charge for anything provided by them under subsection (1)(a) above and must charge every pupil the same price for the same quantity of the same item.
 - (3) In relation to a pupil whose parents are in receipt of income support or who is himself in receipt of it an authority shall so exercise the power conferred by subsection (1)(a) above as to ensure that such provision is made for him in the middle of the day as appears to the authority to be requisite and shall make that provision for him free of charge.”.

78 Travelling expenses

The Secretary of State may pay such travelling expenses as, with the consent of the Treasury, he may determine—

- (a) to persons required by him to attend an interview in connection with the operation of any of the benefit Acts;
- (b) to persons attending local offices in connection with the operation—
 - (i) of any of those Acts; or
 - (ii) of any prescribed enactment.

General

79 Crown employment

- (1) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of sections 1 to 17 above.
- (2) A person who is serving as a member of Her Majesty's forces shall, while he is so serving, be treated for the purposes of sections 1 to 16 above as an employed earner in respect of his membership of those forces.
- (3) The provisions of this Act relating to family credit apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.
- (4) Subject to subsection (5) below, the provisions of Part V of this Act apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.
- (5) The provisions of that Part of this Act do not apply in relation to persons serving as members of Her Majesty's forces, in their capacity as such.
- (6) For the purposes of this section Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed, being establishments and organisations in which persons serve under the control of the Defence Council.

80 Application of Parts I and V to special cases

- (1) Regulations may modify Parts I and V of this Act, in such manner as the Secretary of State thinks proper, in their application to any person who is, or has been, or is to be—
 - (a) employed on board ship, vessel, hovercraft or air craft ;
 - (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
 - (c) in prescribed employment in connection with continental shelf operations.
- (2) Regulations under subsection (1) above may in particular provide—
 - (a) for any provision of either of those Parts of this Act to apply to any such person, notwithstanding that it would not otherwise apply;
 - (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
 - (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain :

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

- (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined.
- (3) In this section "continental shelf operations" means any activities which, if paragraphs (a) and (d) of subsection (6) of section 23 of the Oil and Gas (Enterprise) Act 1982 (application of civil law to certain off-shore activities) were omitted, would nevertheless fall within subsection (2) of that section.

Northern Ireland

81 Orders in Council making corresponding provision 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 states that it is made only for purposes corresponding to those of 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 in pursuance of a resolution of either House.

82 Amendments of enactments relating to social security in Northern Ireland

The enactments relating to social security in Northern Ireland specified in Schedule 9 to this Act shall have effect subject to the amendments there specified.

Supplementary

83 Orders and regulations (general provisions)

- (1) Section 166(1) to (3A) of the Social Security Act 1975 (extent of powers) shall apply to powers conferred by this Act to make regulations or orders as they apply to any power to make regulations or orders conferred by that Act but as if for references to that Act there were substituted references to this Act.
- (2) Any power conferred by this Act to make orders or regulations relating to housing benefit shall include power to make different provision for different areas.
- (3) A statutory instrument containing (whether alone or with other provisions)—
 - (a) regulations under section 5(15)(a) above ;
 - (b) regulations under Part II of this Act which are made before the coming into operation of that Part;
 - (c) orders under section 30(2) or (3) above which are made before the coming into operation of those subsections ;
 - (d) an order under section 63 above;
 - (e) an order under paragraph 2(3)(b) of Schedule 6 to this Act,
 shall not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.

- (4) All regulations and orders made under this Act, other than those to which subsection (3) above applies and orders under section 88 below, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) An order under section 30 or 63 above or section 85 below shall not be made without the consent of the Treasury.
- (6) A power conferred by this Act to make any regulations or order, where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.

84 General interpretation

- (1) In this Act, unless the context otherwise requires,—
 - "applicable amount" shall be construed in accordance with Part II of this Act;
 - " average salary benefits " means benefits the rate or amount of which is calculated by reference to the average salary of a member of a pension scheme over the period of service on which the benefits are based ;
 - " the benefit Acts " means—
 - (a) the Social Security Act 1973 ;
 - (b) the Social Security Acts 1975 to 1986 ;
 - (c) the Industrial Injuries and Diseases (Old Cases) Act 1975;
 - (d) the Child Benefit Act 1975 ;
 - " contract of service " has the same meaning as in the Social Security Act 1975;
 - " dwelling " means any residential accommodation, whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;
 - " employed earner " has the same meaning as in the Social Security Act 1975;
 - " employee " means a person gainfully employed in Great Britain either under a contract of service or in an office (including an elective office) with emoluments chargeable to income tax under Schedule E;
 - " employer " means—
 - (a) in the case of an employed earner employed under a contract of service, his employer;
 - (b) in the case of an employed earner employed in an office with emoluments—
 - (i) such person as may be prescribed in relation to that office; or
 - (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office;
 - " housing authority " means a local authority, a new town corporation, the Scottish Special Housing Association or the Development Board for Rural Wales;
 - " housing benefit scheme " shall be construed in accordance with Part II of this Act;

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

" Housing Revenue Account dwelling ", in relation to a local authority, means a dwelling which is within the authority's Housing Revenue Account (within the meaning of Part XIII of the Housing Act 1985) and is not—

- (a) a dwelling for the time being let on a long tenancy at a low rent within the meaning of the Leasehold Reform Act 1967 ; or
- (b) a dwelling no longer owned by the authority;

" Housing Revenue Account rebate ", in relation to a local authority in England and Wales, means a rent rebate for a tenant of a Housing Revenue Account dwelling of that authority;

" income-related benefit" shall be construed in accordance with Part II of this Act;

" insurance company " has the meaning assigned to it by section 96(1) of the Insurance Companies Act 1982;

" local authority " means—

- (a) in relation to England and Wales, the council of a district or London borough, the Common Council of the City of London or the Council of the Isles of Scilly ; and
- (b) in relation to Scotland, an islands or district council;

" long-term benefit" has the meaning assigned to it by Schedule 20 to the Social Security Act 1975 ;

" minimum contributions " shall be construed in accordance with Part I of this Act;

" modifications " includes additions, omissions and amendments, and related expressions shall be construed accordingly ;

" money purchase benefits ", in relation to a member of a personal or occupational pension scheme or the widow or widower of a member of such a scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other person in respect of the member and which are not average salary benefits ;

" new town corporation " means—

- (a) in relation to England and Wales, a development corporation established under the New Towns Act 1981 or the Commission for the New Towns; and
- (b) in relation to Scotland, a development corporation established under the New Towns (Scotland) Act 1968;

" occupational pension scheme " has the same meaning as in section 66(1) of the Social Security Pensions Act 1975;

" personal pension scheme " means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect so as to provide benefits, in the form of pensions or otherwise, payable on death or retirement to or in respect of employed earners who have made arrangements with the trustees or managers of the scheme for them to become members of the scheme ;

" prescribed " means specified in or determined in accordance with regulations;

" primary Class 1 contributions " and " secondary Class 1 contributions" have the same meanings as in the Social Security Act 1975 ;

" protected rights " shall be construed in accordance with Schedule 1 to this Act;

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

" qualifying benefit " has the meaning assigned to it by Schedule 6 to this Act;

" rate rebate ", " rent rebate " and " rent allowance " shall be construed in accordance with section 28 above ;

" rates " and " rating authority "—

(a) in relation to England and Wales, have the same meaning as in the General Rate Act 1967 ; and

(b) in relation to Scotland, have respectively the same meanings as " rate " has in section 379 of the Local Government (Scotland) Act 1947 and " rating authority " has in section 109 of the Local Government (Scotland) Act 1973 ;

" regulations " means regulations made by the Secretary of State under this Act;

" social fund payment " means a payment under Part III of this Act;

" tax-exemption " and " tax-approval " mean respectively exemption from tax and approval of the Inland Revenue in either case under any such provision of the Income Tax Acts as may be prescribed ;

" tax year " means the 12 months beginning with 6th April in any year;

" trade dispute " has the same meaning as in the Social Security Act 1975 ;

" war disablement pension " means—

(a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under the Air Force (Constitution) Act 1917, the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, the Polish Resettlement Act 1947, or Part VII or section 151 of the Reserve Forces Act 1980;

(b) without prejudice to paragraph (a) of this definition, any retired pay or pension to which subsection (1) of section 365 of the Income and Corporation Taxes Act 1970 applies ;

" war widow's pension " means any widow's pension or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment mentioned in paragraph (a) of the preceding definition or a pension or allowance for a widow granted under any scheme mentioned in subsection (2)(e) of the said section 365.

(2) Expressions used in Part I of this Act and in the Social Security Pensions Act 1975 have the same meanings in that Part as they have in that Act.

(3) References in this Act to the general rate fund of an authority shall be construed—

(a) in relation to the Council of the Isles of Scilly, as references to their general fund ; and

(b) in relation to the Common Council of the City of London, as references to their general rate.

(4) In this Act—

(a) references to the United Kingdom include references to the territorial waters of the United Kingdom ; and

(b) references to Great Britain include references to the territorial waters of the United Kingdom adjacent to Great Britain.

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

85 Financial provision

- (1) There shall be paid out of money provided by Parliament—
 - (a) any sums payable by way of the following—
 - (i) income support;
 - (ii) family credit;
 - (iii) rate rebate subsidy;
 - (iv) rent rebate subsidy ;
 - (v) rent allowance subsidy;
 - (b) payments by the Secretary of State into the social fund;
 - (c) any sum payable to a person under Schedule 6 to this Act if the relevant qualifying benefit to which he is entitled or treated as entitled is a benefit payable out of such money;
 - (d) any sums falling to be paid by the Secretary of State under or by virtue of this Act by way of travelling expenses;
 - (e) any other expenses of the Secretary of State attributable to this Act;
 - (f) any expenses of the Lord Chancellor attributable to this Act; and
 - (g) any increase attributable to this Act in the sums payable out of money provided by Parliament under any other Act.
- (2) Any increase attributable to this Act in the sums to be charged on and paid out of the Consolidated Fund under any other Act shall be charged on and paid out of that Fund.
- (3) There shall be paid out of the National Insurance Fund—
 - (a) minimum contributions paid by the Secretary of State under Part I of this Act;
 - (b) payments by him under section 7 above ;
 - (c) sums falling to be paid by or on behalf of the Secretary of State under regulations made by virtue of section 46(8)(b) above or paragraph 1(b) or (e) of Schedule 4 to this Act; and
 - (d) any sums paid to a person under Schedule 6 to this Act if the relevant qualifying benefit to which the person is entitled or treated as entitled is a benefit payable out of that fund.
- (4) There shall be paid out of the National Insurance Fund into the Consolidated Fund, at such times and in such manner as the Treasury may direct, such sums as the Secretary of State may estimate (in accordance with any directions given by the Treasury)—
 - (a) to be the amount of the administrative expenses incurred by the Secretary of State under Part V of this Act, excluding any category of expenses which the Treasury may direct, or any enactment may require, to be excluded from the Secretary of State's estimate under this subsection; and
 - (b) to be the amount of the administrative expenses incurred by a government department under Schedule 6 to this Act.
- (5) Subject to subsections (6) and (7) below, so far as it relates to payments out of money provided by Parliament, any sum recovered by the Secretary of State under or by virtue of this Act shall be paid into the Consolidated Fund.
- (6) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that Fund.
- (7) So far as any such sum relates to a payment out of the social fund, it shall be paid into that fund.

- (8) There shall also be paid into the National Insurance Fund sums recovered under section 1(6) or (7) or 7(8) or (9) above any personal pension protected rights premium and sums recovered by the Secretary of State by virtue of a scheme under section 2 or section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975 making provision corresponding to that made by or by virtue of this Act.
- (9) There shall be made out of the National Insurance Fund into the Consolidated Fund or out of money provided by Parliament into the National Insurance Fund such payments by way of adjustment as the Secretary of State determines (in accordance with any direction of the Treasury) to be appropriate in consequence of the operation of any enactment or regulations relating to family credit, statutory sick pay or statutory maternity pay.
- (10) Where such adjustments fall to be made, the amount of the payments to be made shall be taken to be such, in such cases or classes of case as may be specified by the Secretary of State by order, and payments on account thereof shall be made at such times and in such manner, as may be determined by the Secretary of State in accordance with any direction given by the Treasury.
- (11) There shall be made—
- (a) out of the social fund into the Consolidated Fund or the National Insurance Fund;
 - (b) into the social fund out of money provided by Parliament or the National Insurance Fund,
- such payments by way of adjustment as the Secretary of State determines (in accordance with any directions of the Treasury) to be appropriate in consequence of any enactment or regulations relating to the repayment or offsetting of a benefit under any of the benefit Acts or other payments under any of those Acts.
- (12) Where in any other circumstances payments fall to be made by way of adjustment—
- (a) out of the social fund into the Consolidated Fund or the National Insurance Fund ; or
 - (b) into the social fund out of money provided by Parliament or the National Insurance Fund,
- then, in such cases or classes of case as may be specified by the Secretary of State by order, the amount of the payments to be made shall be taken to be such, and payments on account of it shall be made at such times and in such manner, as may be determined by the Secretary of State in accordance with any direction given by the Treasury.
- (13) In this section " Act " includes an Act of the Parliament of Northern Ireland.

86 Minor and consequential amendments and repeals

- (1) The enactments mentioned in Schedule 10 to this Act shall have effect with the amendments there specified.
- (2) The enactments mentioned in Schedule 11 to this Act (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Schedule.

87 Extent

- (1) The following provisions of this Act extend to Northern Ireland—

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

- (a) section 17(2) above, so far as relating to Acts which extend to Northern Ireland ;
 - (b) section 61 above ;
 - (c) section 66 above, so far as relating to paragraph 3(6) of Schedule 6;
 - (d) section 81 above;
 - (e) sections 83 to 86 above ;
 - (f) this section;
 - (g) sections 88 to 90 below.
- (2) Section 82 above (with Schedule 9) extends to Northern Ireland only.
- (3) Sections 25 and 30(6) and (10) above do not extend to Scotland.
- (4) Where any enactment repealed or amended by this Act extends to any part of the United Kingdom, the repeal or amendment extends to that part.
- (5) Except as provided by this section, this Act extends to England and Wales and Scotland, but not to Northern Ireland.

88 Commencement

- (1) Subject to the following provisions of this section, the provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be appointed in pursuance of this section for different provisions or different purposes of the same provision.
- (2) In relation to section 52 above (including Schedule 5) and section 82 above (including Schedule 9) for the reference to the Secretary of State in subsection (1) above there shall be substituted a reference to the Lord Chancellor and the Secretary of State, acting jointly.
- (3) Without prejudice to the generality of subsection (1) above, different days may be appointed under that subsection for the purposes of Part III of this Act in relation to different descriptions of persons, and those descriptions of persons may be determined by any criteria that appear to the Secretary of State to be appropriate.
- (4) If an order under subsection (1) above brings paragraph 8 of Schedule 3 to this Act into force on the same day as section 36 above, the former shall be deemed to have come into force immediately before the latter.
- (5) The following provisions of this Act—
- section 30(4), (8), (9) and (10);
 - section 37;
 - section 38(4);
 - section 45 ;
 - section 61;
 - sections 63 and 64 ;
 - section 70;
 - section 71(4) and (5);
 - section 72;
 - section 74;
 - section 76;

section 81 ;
section 83 to 85 ;
section 86(1) so far as relating to paragraphs 2, 22, 23(3), 26(1) and (2), 27, 30(b), (c) and (d)(ii). 82, 86, 94(a), 98, 99, 106 and 107 of Schedule 10 ;
section 86(2) so far as relating—
 (a) to section 37(3) of the Social Security Act 1975 and the reference to paragraph (b) of that subsection in section 22(2) of the Social Security (Miscellaneous Provisions) Act 1977;
 (b) to section 141(2) of the Social Security Act 1975;
 (c) to section 52D(2) and (3) of the Social Security Pensions Act 1975 and paragraph 12 of Schedule IA to that Act;
 (d) to section 10 of the Social Security Act 1980; and
 (e) to section 29 of the Social Security and Housing Benefits Act 1982;
section 87;
this section; and
sections 89 and 90:

shall come into force on the day this Act is passed.

89 Transitional

- (1) Regulations may make such transitional and consequential provision (including provision modifying any enactment contained in this or any other Act) or saving as the Secretary of State considers necessary or expedient in preparation for or in connection with the coming into force of any provision of this Act or the operation of any enactment which is repealed or amended by a provision of this Act during any period when the repeal or amendment is not wholly in force.
- (2) The reference to regulations in subsection (1) above includes a reference—
 - (a) to regulations made by the Lord Chancellor; and
 - (b) to regulations made by the Lord Chancellor and the Secretary of State, acting jointly.

90 Citation

- (1) This Act may be cited as the Social Security Act 1986.
- (2) This Act, except section 77 above, may be cited together with the Social Security Acts 1975 to 1985 as the Social Security Acts 1975 to 1986.