



Social Security Act 1990

CHAPTER 27

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CHAPTER 27

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Social Security Act 1990

1990 CHAPTER 27

An Act to amend the law relating to social security and to occupational and personal pension schemes; to establish and confer functions on a Pensions Ombudsman and a Registrar of Occupational and Personal Pension Schemes; to make provision for the payment of grants for the improvement of energy efficiency in certain dwellings; and for purposes connected therewith. [13th July 1990]

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

Benefits

1.—(1) In section 35 of the principal Act (attendance allowance) after subsection (2A) there shall be inserted—

Attendance allowance for the terminally ill.

“(2B) If a terminally ill person makes a claim expressly on the ground that he is such a person, then—

(a) he shall be taken for the purposes of subsection (2) above—

(i) to satisfy, or to be likely to satisfy, both of those conditions for the remainder of his life, beginning with the date of the claim or, if later, the date determined under section 105 or 106 below as the first date on which he is terminally ill; and

(ii) to have satisfied those conditions for the period of six months immediately preceding that date (so however that no allowance shall be payable by virtue of this subparagraph for any period preceding that date); and

(b) the period specified in a certificate issued by virtue of paragraph (a) above shall be the remainder of the person's life, beginning with that date.

(2C) For the purposes of subsection (2B) above—

- (a) a person is “terminally ill” at any time if at that time he suffers from a progressive disease and his death in consequence of that disease can reasonably be expected within 6 months; and
- (b) where a person purports to make a claim for an attendance allowance by virtue of that subsection on behalf of another, that other shall be regarded as making the claim, notwithstanding that it is made without his knowledge or authority.”

(2) In subsection (4) of that section, after the words “otherwise provide” there shall be inserted the words “and subject to subsection (2B) above”.

(3) In section 105(3) of that Act (questions to be determined by the Attendance Allowance Board) after the words “whether a person” there shall be inserted “(a)” and for the words “section 35(1) of this Act” there shall be substituted the words—

“subsection (1) of section 35 above;

- (b) suffers, or has at any time suffered, from renal failure, for the purposes of subsection (2A) of that section; or
- (c) is or has at any time been terminally ill, within the meaning of subsection (2B) of that section.”

(4) In section 106 of that Act (review of, and appeal from, Board’s decisions) at the beginning of subsection (1) there shall be inserted the words “Subject to the following provisions of this section” and after paragraph (a) of that subsection there shall be inserted—

“(aa) at any time review a determination of theirs under section 105(3) above or this subsection of any question whether a person is or was at any time terminally ill, within the meaning of section 35(2B) above, if there has been a change in medical opinion with respect to his condition or his reasonable expectation of life;”.

(5) After that subsection there shall be inserted—

“(1A) No determination under section 105(3) or subsection (1) above shall be reviewed on the ground that the person in question is or was at any time terminally ill, within the meaning of section 35(2B) above, unless an application for review is made expressly on that ground either—

- (a) by the person himself; or
- (b) by any other person purporting to act on his behalf, whether or not that other person is acting with his knowledge or authority;

and a determination may be so reviewed on such an application, notwithstanding that no claim under section 35(2B) above has been made.”

(6) In section 165A of that Act (making of claim a condition of entitlement) there shall be added at the end—

“(3) Where a person purports to make a claim for an attendance allowance by virtue of section 35(2B) above on behalf of another, that other shall be regarded for the purposes of this section as making the claim, notwithstanding that it is made without his knowledge or authority.”

(7) It shall be the duty of the Secretary of State to publish a draft of the first form to be used by terminally ill persons for claiming an attendance allowance, to invite comments on the draft from interested persons and organisations and to consider any such comments received within one month of that invitation before ordering the printing of the form.

2.—(1) After section 36 of the principal Act (severe disablement allowance) there shall be inserted the following section—

“Severe
disablement
allowance: age
related addition.

36A.—(1) If a person was under the age of 60 on the day on which he qualified for severe disablement allowance, the weekly rate of his severe disablement allowance shall be increased by an age related addition at whichever of the weekly rates specified in the second column of paragraph 2A of Part III of Schedule 4 to this Act is applicable in his case, that is to say—

Severe
disablement
allowance: age
related addition.

- (a) the higher rate, if he was under the age of 40 on the day on which he qualified for severe disablement allowance;
- (b) the middle rate, if he was between the ages of 40 and 50 on that day; or
- (c) the lower rate, if he was between the ages of 50 and 60 on that day.

(2) Subject to subsection (4) below, for the purposes of this section the day on which a person qualified for severe disablement allowance is his first day of incapacity for work in the period of not less than 196 consecutive days mentioned in section 36(2)(b) or (3)(b) above, as the case may be, which preceded the first day in his current period of entitlement.

(3) For the purposes of this section, a person’s “current period of entitlement” is a current period—

- (a) which consists of one or more consecutive days on which he is or has been entitled to a severe disablement allowance; and
- (b) which begins immediately after the last period of one or more consecutive days for which he was not entitled to such an allowance.

(4) Regulations—

- (a) may prescribe cases where a person is to be treated for the purposes of this section as having qualified for severe disablement allowance on a prescribed day earlier than the day ascertained in accordance with subsection (2) above;
- (b) may provide for days which are not days of incapacity for work in relation to a person to be treated as days of incapacity for work for the

purpose of determining under this section the day on which he qualified for severe disablement allowance; and

- (c) may make provision for disregarding prescribed days in computing any period of consecutive days for the purposes of subsection (3) above."

(2) In Part III of Schedule 4 to that Act, after paragraph 2 (weekly rate of severe disablement allowance) there shall be inserted the following—

| | | |
|---|---|-------|
| "2A. Age related addition (section 36A). | (a) Higher rate | 10.00 |
| | (b) Middle rate | 6.20 |
| | (c) Lower rate | 3.10 |
| | (the appropriate rate being determined in accordance with section 36A(1))". | |

(3) In consequence of subsections (1) and (2) above, in section 34(1)(b) of that Act (which specifies severe disablement allowance as one of the non-contributory benefits under Chapter II of Part II of that Act) after the word "(with" there shall be inserted the words "age related addition and".

Reduced earnings allowance and retirement allowance.

3.—(1) In subsection (1) of section 59A of the principal Act (conditions of entitlement to reduced earnings allowance) after paragraph (b) there shall be added the words—

"but a person shall not be entitled to reduced earnings allowance to the extent that the relevant loss of faculty results from an accident happening on or after the appointed day."

(2) After that subsection there shall be inserted—

"(1A) A person—

- (a) who immediately before the appointed day is entitled to reduced earnings allowance in consequence of the relevant accident, but
- (b) who subsequently ceases to be entitled to that allowance for one or more days,

shall not again be entitled to reduced earnings allowance in consequence of that accident; but this subsection does not prevent the making at any time of a claim for, or an award of, reduced earnings allowance in consequence of that accident for a period which commences not later than the day after that on which the claimant was last entitled to that allowance in consequence of that accident.

(1B) For the purposes of subsection (1A) above—

- (a) a person who, apart from section 57(4) above, would have been entitled to reduced earnings allowance immediately before the appointed day shall be treated as entitled to that allowance on any day (including a Sunday) on which he would have been entitled to it apart from that provision;
- (b) regulations may prescribe other circumstances in which a person is to be treated as entitled, or as having been entitled, to reduced earnings allowance on any prescribed day."

(3) In paragraph (b) of subsection (6) of that section (further awards) after the words “for such further period” there shall be inserted the words “, commencing as mentioned in subsection (1A) above,”.

(4) After subsection (10A) of that section there shall be inserted—

“(10B) In this section “the appointed day” means the day on which section 3 of the Social Security Act 1990 comes into force.”

(5) In section 59B of that Act (retirement allowance) the following provisions shall cease to have effect—

- (a) in subsection (1) (circumstances in which a beneficiary ceases to be entitled to reduced earnings allowance and in which he may become entitled to it again) the words from “and may become” onwards;
- (b) in subsection (3) (retirement allowance payable for life, unless beneficiary returns to regular employment etc) the words “Unless he returns to regular employment”; and
- (c) subsection (4) (entitlement to retirement allowance to cease on return to regular employment etc).

(6) That section shall have effect, and be taken at all times on and after 1st January 1990 to have had effect, with the addition of the following subsection after subsection (8)—

“(9) “Day of interruption of employment” has the same meaning for the purposes of this section as it has for the purposes of provisions of this Act relating to unemployment benefit, sickness benefit or invalidity benefit.”

(7) In section 77(2)(a) of that Act (regulations modifying provisions relating to certain benefits in their application to prescribed diseases and injuries) after the words “disablement benefit” there shall be inserted the words “or reduced earnings allowance”.

(8) The following provisions shall cease to have effect—

- (a) in section 2 of the Social Security Act 1988, the subsection (8) originally enacted (restriction on entitlement to reduced earnings allowance); and
- (b) in Schedule 1 to the 1989 Act, paragraph 8(7) (which substitutes for that subsection a subsection (8) and a subsection (8A)).

4.—(1) In section 14 of the Pensions Act (which provides for the rate of an invalidity pension under section 15 of the principal Act to be calculated in accordance with section 6 of the Pensions Act, in similar manner to a Category A retirement pension, but with modifications) for the words from “taking the reference” onwards there shall be substituted the words “but with the substitution for subsection (6) of that section of the following—

Computation of additional pension for purposes of invalidity pension etc.

“(6) In the application of this section for the purpose of determining the weekly rate of a person’s invalidity pension for any period of interruption of employment—

- (a) “relevant year” means any tax year, being neither earlier than the tax year 1978-79 nor later than the tax year 1990-91, in the period which—

(i) begins with the tax year in which the invalidity pensioner attained the age of 16; and

(ii) ends with the tax year immediately preceding the tax year which includes or included the first day of entitlement to the pension in respect of that period of interruption of employment; and

(b) "final relevant year" means the last tax year which is a relevant year in relation to the invalidity pensioner." "

(2) In section 15 of the Pensions Act, in subsection (4) (determination of weekly rate of widow's invalidity pension by reference to notional rates of widow's pension) after paragraph (b) there shall be added the words—

"but, in calculating the weekly rate of a widow's pension for the purposes of paragraph (a) above, or the weekly rate of a widow's pension without reduction, for the purposes of paragraph (b) above, any additional pension by virtue of section 6 above as it applies for the purposes of section 13 above shall be determined without reference to any surpluses in her late husband's earnings factors for tax years after 1990-91."

(3) In section 16 of that Act (invalidity pension for widowers) for subsection (4) there shall be substituted—

"(4) The weekly rate mentioned in paragraph (b) of subsection (3) above is a rate determined in the manner specified in section 6 above for a Category A retirement pension, but with the modifications that—

(a) where the man's wife was over pensionable age when she died, references in that section to the pensioner shall be taken as references to the wife;

(b) where the man's wife was under pensionable age when she died, references in that section to the pensioner and the tax year in which he attained pensionable age shall be taken as references to the wife and the tax year in which she died; and

(c) any additional pension shall be determined without reference to any surpluses in her earnings factors for tax years after 1990-91."

Retrospective effect of section 165A of the principal Act.

5.—(1) The following section shall be inserted after section 165A of the principal Act—

"Retrospective effect of section 165A.

165B.—(1) This section applies where a claim for benefit is made or treated as made at any time on or after 2nd September 1985 (the date on which section 165A above, as originally enacted, came into force) in respect of a period the whole or any part of which falls on or after that date.

(2) Where this section applies, any question arising as to—

(a) whether the claimant is or was at any time (whether before, on or after 2nd September 1985) entitled to the benefit in question, or to any other benefit on which his entitlement to that benefit depends, or

- (b) in a case where the claimant's entitlement to the benefit depends on the entitlement of another person to a benefit, whether that other person is or was so entitled,

shall be determined as if section 165A above, as in force at the time of the claim referred to in subsection (1) above, and any regulations made under or referred to in that section as so in force, had also been in force, with any necessary modifications, at all times relevant for the purpose of determining the entitlement of the claimant, and, where applicable, of the other person, to the benefit or benefits in question (including the entitlement of any person to any benefit on which that entitlement depends, and so on).

- (3) In any case where—

- (a) a claim for benefit was made or treated as made (whether before, on or after 2nd September 1985, and whether by the same claimant as the claim referred to in subsection (1) above or not), and benefit was awarded on that claim, in respect of a period falling wholly or partly before that date, but
- (b) that award would not have been made had the current requirements applied in relation to claims for benefit, whenever made, in respect of periods before that date, and
- (c) entitlement to the benefit claimed as mentioned in subsection (1) above depends on whether the claimant or some other person was previously entitled or treated as entitled to that or some other benefit,

then, in determining whether the conditions of entitlement to the benefit so claimed are satisfied, the person to whom benefit was awarded as mentioned in paragraphs (a) and (b) above shall be taken to have been entitled to the benefit so awarded, notwithstanding anything in subsection (2) above.

- (4) In subsection (3) above “the current requirements” means—

- (a) the provisions of section 165A above, as in force at the time of the claim referred to in subsection (1) above, and any regulations made under or referred to in that section as so in force, with any necessary modifications; and
- (b) subsection (1) (with the omission of the words following “at any time”) and subsection (2) above.

- (5) Any reference in any enactment to section 165A of this Act (but not a reference to any specific provision of that section) shall be taken to include a reference to this section.

(6) This section shall be taken to have come into force on 2nd September 1985.”

(2) In Schedule 20 to the principal Act (glossary of expressions), the entry relating to “entitled” and cognate expressions—

- (a) shall be taken at all times on or after 2nd September 1985 but before the passing of this Act to have had effect with the substitution, in the second column, of the words “sections 165A and 165B” for the words “section 165A”; and
- (b) shall have effect as from the passing of this Act with the substitution for those words of the words “sections 165A to 165D”.

1985 c. 53.

(3) Section 32(4) of the Social Security Act 1985 (which made similar provision to that made by subsection (3) of the section inserted by subsection (1) above) shall be deemed never to have been enacted.

(4) In paragraph 48 of Schedule 10 to the 1986 Act (which applies sections 87 and 165A(1) of the principal Act to income-related benefits) in paragraph (b), for the words “section 165A(1)” there shall be substituted the words “sections 165A(1) and 165B”.

(5) Paragraph 48 of Schedule 10 to the 1986 Act shall have effect, and be taken always to have had effect, as if it had originally been enacted with the amendment made by subsection (4) above.

Late claims for widowhood benefits where death is difficult to establish.

6.—(1) In section 165A of the principal Act (no entitlement to benefit without claim)—

- (a) in subsection (1), after the words “Except in such cases as may be prescribed” there shall be inserted the words “and subject to section 165C below”; and
- (b) in subsection (2), after paragraph (b) there shall be inserted the words—
“except as provided by section 165C below.”

(2) After the section 165B of that Act inserted by section 5 above there shall be inserted—

“Late claims for widowhood benefits where death is difficult to establish.

165C.—(1) This section applies where a woman’s husband has died, or may be presumed to have died, and the circumstances are such that—

- (a) more than twelve months have elapsed since the date of death (whether he died, or is presumed to have died, before or after the coming into force of this section);
- (b) either—
 - (i) the husband’s body has not been discovered or identified or, if it has been discovered and identified, the woman does not know that fact, or
 - (ii) less than twelve months have elapsed since she first knew of the discovery and identification of the body; and
- (c) no claim for any of the widowhood benefits, that is to say—

- (i) widow's benefit,
 - (ii) an invalidity pension under section 15 of the Pensions Act, or
 - (iii) a Category A retirement pension by virtue of subsection (5) of that section,
- was made or treated as made in respect of the death by the woman before the coming into force of this section.

(2) Where this section applies, notwithstanding that any time prescribed for making a claim for a widowhood benefit in respect of the death has elapsed, then—

- (a) in any case falling within paragraph (b)(i) of subsection (1) above where it has been determined—
 - (i) under subsection (1)(b) of section 98 above on a claim made by the woman, or
 - (ii) under subsection (2A) of that section on the submission of a question by her,that the husband has died or is presumed to have died, or
- (b) in any case falling within paragraph (b)(ii) of subsection (1) above where the identification was made not more than twelve months before the woman first knew of the discovery and identification of the body,

such a claim may be made or treated as made at any time before the expiration of the period of twelve months beginning with the date on which that determination was made or, as the case may be, the date on which she first knew of the discovery and identification.

(3) If, in a case where a claim for a widowhood benefit is made or treated as made by virtue of this section, the claimant would, apart from subsection (2) of section 165A above, be entitled to—

- (a) a widow's payment in respect of the husband's death more than twelve months before the date on which the claim is made or treated as made, or
- (b) any other widowhood benefit in respect of his death for a period more than twelve months before that date,

then, notwithstanding anything in that section, she shall be entitled to that payment or, as the case may be, to that other benefit (together with any increase under section 41(4) above).”

(3) In section 104 of that Act, after subsection (5) (regulations restricting the arrears of benefit payable in consequence of a review etc) there shall be inserted—

“(6) Regulations under subsection (5)(b) above shall not restrict the payment to or for a woman of so much of—

(a) any widow’s benefit, any invalidity pension under section 15 of the Pensions Act or any Category A or Category B retirement pension, or

(b) any increase of such a benefit or pension,

as falls to be paid by reason of a review which takes place by virtue of subsection (1)(a) or (b) above in consequence of a claim for a widowhood benefit, within the meaning of section 165C below, which is made or treated as made by virtue of that section.”

S.I. 1987/1692.

(4) The Social Security (Widow’s Benefit) Transitional Regulations 1987 shall have effect with the insertion in regulation 2, at the end of paragraph (b), of the words—

“; and

(c) any reference in section 165C of the 1975 Act to widow’s payment included a reference to widow’s allowance, together with any increase under section 41(2)(e) of that Act.”

(5) The amendment by subsection (4) above of a provision contained in regulations shall not be taken to have prejudiced any power to make further regulations revoking or amending that provision.

Recovery from damages etc of sums equivalent to benefit: further provision.

7. The enactments specified in Schedule 1 to this Act shall have effect with the amendments specified in that Schedule.

Liability to maintain dependants.

8.—(1) After section 24 of the 1986 Act (recovery of expenditure on benefit from person liable for maintenance) there shall be inserted—

“Recovery of expenditure on income support: additional amounts and transfer of orders.

24A.—(1) In any case where—

(a) the claim for income support referred to in subsection (1) of section 24 above is or was made by the parent of one or more children in respect of both himself and those children, and

(b) the other parent is liable to maintain those children but, by virtue of not being the claimant’s husband or wife, is not liable to maintain the claimant,

the sum which the court may order that other parent to pay under subsection (4) of that section may include an amount, determined in accordance with regulations, in respect of any income support paid to or for the claimant by virtue of such provisions as may be prescribed.

(2) Where the sum which a court orders a person to pay under section 24(4) above includes by virtue of subsection (1) above an amount (in this section referred to as a “personal allowance element”) in respect of income support by virtue of paragraph 1(2) of Schedule 2 to the Income Support (General) Regulations 1987 (personal allowance for lone parent) the order shall separately identify the amount of the personal allowance element.

S.I. 1987/1967.

(3) In any case where—

- (a) there is in force an order under subsection (4) of section 24 above made against a person (“the liable parent”) who is the parent of one or more children, in respect of the other parent or the children, and
- (b) payments under the order fall to be made to the Secretary of State by virtue of subsection (6)(a) of that section, and
- (c) that other parent (“the dependent parent”) ceases to claim income support,

the Secretary of State may, by giving notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer to the dependent parent the right to receive the payments under the order, exclusive of any personal allowance element, and to exercise the relevant rights in relation to the order, except so far as relating to that element.

(4) Notice under subsection (3) above shall not be given (and if purportedly given, shall be of no effect) at a time when there is in force a maintenance order made against the liable parent—

- (a) in favour of the dependent parent or one or more of the children; or
- (b) in favour of some other person for the benefit of the dependent parent or one or more of the children;

and if such a maintenance order is made at any time after notice under that subsection has been given, the order under section 24(4) above shall cease to have effect.

(5) Except as provided by subsections (7) and (8) below, where the Secretary of State gives notice under subsection (3) above, he shall cease to be entitled—

- (a) to receive any payment under the order in respect of any personal allowance element, or
- (b) to exercise the relevant rights, so far as relating to any such element,

notwithstanding that the dependent parent does not become entitled to receive any payment in respect of that element or to exercise the relevant rights so far as so relating.

(6) If, in a case where the Secretary of State gives notice under subsection (3) above, a payment under the order is or has been made to him wholly or partly in respect of the whole or any part of the period beginning with the day on which the transfer takes effect and ending with the day on which the notice under subsection (3) above is given to the liable parent, the Secretary of State shall—

- (a) repay to or for the liable parent so much of the payment as is referable to any personal allowance element in respect of that period or, as the case may be, the part of it in question; and
- (b) pay to or for the dependent parent so much of any remaining balance of the payment as is referable to that period or part;

and a payment under paragraph (b) above shall be taken to discharge, to that extent, the liability of the liable parent to the dependent parent under the order in respect of that period or part.

(7) If, in a case where the Secretary of State has given notice under subsection (3) above, the dependent parent makes a further claim for income support, then—

- (a) the Secretary of State may, by giving a further notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer back from the dependent parent to himself the right to receive the payments and to exercise the relevant rights; and
- (b) that transfer shall revive the Secretary of State's right to receive payment under the order in respect of any personal allowance element and to exercise the relevant rights so far as relating to any such element.

(8) A transfer under subsection (3) or (7) above does not transfer or otherwise affect the right of any person—

- (a) to receive a payment which fell due to him at a time before the transfer took effect; or
- (b) to exercise the relevant rights in relation to any such payment;

and, where notice is given under subsection (3), subsection (5) above does not deprive the Secretary of State of his right to receive such a payment in respect of any personal allowance element or to exercise the relevant rights in relation to such a payment.

(9) For the purposes of this section—

- (a) a transfer under subsection (3) above takes effect on the day on which the dependent parent ceases to be in receipt of income support in consequence of the cessation referred to in paragraph (c) of that subsection, and
- (b) a transfer under subsection (7) above takes effect on—
 - (i) the first day in respect of which the dependent parent receives income support after the transfer under subsection (3) above took effect, or

(ii) such later day as may be specified for the purpose in the notice under subsection (7), irrespective of the day on which notice under the subsection in question is given.

(10) Any notice required to be given to the liable parent under subsection (3) or (7) above shall be taken to have been given if it has been sent to his last known address.

(11) In this section—

“child” means a person under the age of 16, notwithstanding section 26(3)(d) below;

“court” shall be construed in accordance with section 24 above;

“maintenance order”—

(a) in England and Wales, means—

(i) any order for the making of periodical payments or for the payment of a lump sum which is, or has at any time been, a maintenance order within the meaning of the Attachment of Earnings Act 1971; 1971 c. 32.

(ii) any order under Part III of the Matrimonial and Family Proceedings Act 1984 (overseas divorce) for the making of periodical payments or for the payment of a lump sum; 1984 c. 42.

(b) in Scotland, has the meaning given by section 106 of the Debtors (Scotland) Act 1987, but disregarding paragraph (h) (alimentary bond or agreement); 1987 c. 18.

“the relevant rights”, in relation to an order under section 24(4) above, means the right to bring any proceedings, take any steps or do any other thing under or in relation to the order which the Secretary of State could have brought, taken or done apart from any transfer under this section.

Reduction of expenditure on income support: certain maintenance orders to be enforceable by the Secretary of State.

24B.—(1) This section applies where—

(a) a person (“the claimant”) who is the parent of one or more children is in receipt of income support either in respect of those children or in respect of both himself and those children; and

(b) there is in force a maintenance order made against the other parent (“the liable person”)—

(i) in favour of the claimant or one or more of the children; or

(ii) in favour of some other person for the benefit of the claimant or one or more of the children;

and in this section “the primary recipient” means the person in whose favour that maintenance order was made.

(2) If, in a case where this section applies, the liable person fails to comply with any of the terms of the maintenance order—

- (a) the Secretary of State may bring any proceedings or take any other steps to enforce the order that could have been brought or taken by or on behalf of the primary recipient; and
- (b) any court before which proceedings are brought by the Secretary of State by virtue of paragraph (a) above shall have the same powers in connection with those proceedings as it would have had if they had been brought by the primary recipient.

(3) The Secretary of State's powers under this section are exercisable at his discretion and whether or not the primary recipient or any other person consents to their exercise; but any sums recovered by virtue of this section shall be payable to or for the primary recipient, as if the proceedings or steps in question had been brought or taken by him or on his behalf.

(4) The powers conferred on the Secretary of State by subsection (2)(a) above include power—

- (a) to apply for the registration of the maintenance order under—
 - 1950 c. 37. (i) section 17 of the Maintenance Orders Act 1950;
 - 1958 c. 39. (ii) section 2 of the Maintenance Orders Act 1958; or
 - 1982 c. 27. (iii) the Civil Jurisdiction and Judgments Act 1982; and
- (b) to make an application under section 2 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (application for enforcement in reciprocating country).

1972 c. 18.

(5) Where this section applies, the prescribed person shall in prescribed circumstances give the Secretary of State notice of any application—

- (a) to alter, vary, suspend, discharge, revoke, revive, or enforce the maintenance order in question; or
- (b) to remit arrears under that maintenance order;

and the Secretary of State shall be entitled to appear and be heard on the application.

(6) Where, by virtue of this section, the Secretary of State commences any proceedings to enforce a maintenance order, he shall, in relation to those proceedings, be treated for the purposes of any enactment or instrument relating to maintenance orders as if he were a person entitled to payment under the maintenance order in question (but shall not thereby become entitled to any such payment).

(7) Where, in any proceedings under this section in England and Wales, the court makes an order for the whole or any part of the arrears due under the maintenance order in question to be paid as a lump sum, the Secretary of State shall inform the Legal Aid Board of the amount of that lump sum if he knows—

(a) that the primary recipient either—

(i) received legal aid under the Legal Aid Act 1974 in connection with the proceedings in which the maintenance order was made, or

(ii) was an assisted party, within the meaning of the Legal Aid Act 1988, in those proceedings; and

(b) that a sum remains unpaid on account of the contribution required of the primary recipient—

(i) under section 9 of the Legal Aid Act 1974 in respect of those proceedings, or

(ii) under section 16 of the Legal Aid Act 1988 in respect of the costs of his being represented under Part IV of that Act in those proceedings,

as the case may be.

(8) In this section “maintenance order” has the same meaning as it has in section 24A above, but does not include any such order for the payment of a lump sum.”

(2) Until such time as there comes into force an amendment of Schedule 1 to the Attachment of Earnings Act 1971 (maintenance orders to which the Act applies) which has the effect of including among the orders specified in that Schedule any order for periodical or other payments made or having effect as if made under Schedule 1 to the Children Act 1989, the definition of “maintenance order” in subsection (11) of the section 24A of the 1986 Act inserted by subsection (1) above shall have effect as if, in paragraph (a), after sub-paragraph (ii) there were inserted—

“(iii) any order under paragraph 1(2)(a), (b) or (c) of Schedule 1 to the Children Act 1989 (financial provision for children against their parents);”.

(3) In section 26 of the 1986 Act, in subsection (3) (definitions for purposes of sections 24, 25 and 26) after the words “section 24” there shall be inserted “24A, 24B”.

9.—In section 22 of the 1986 Act (calculation of income-related benefits) after subsection (2) there shall be inserted—

“(2A) In prescribing, for the purposes of income support, amounts under subsection (1) above in respect of accommodation in any area for qualifying persons in cases where prescribed conditions are fulfilled, the Secretary of State shall take into account information provided by local authorities or other prescribed bodies or persons with respect to the amounts which they have agreed to pay for the provision of accommodation in relevant premises in that area.

Income support in respect of accommodation charges for certain persons in residential care and nursing homes.

(2B) In subsection (2A) above—

“accommodation” includes any board or care;

“local authority”—

1948 c. 29. (a) in relation to areas in England and Wales, has the same meaning as it has in Part III of the National Assistance Act 1948; and

1968 c. 49. (b) in relation to areas in Scotland, has the meaning given by section 1(2) of the Social Work (Scotland) Act 1968;

“qualifying person” means any person who falls within—

1990 c. 19. (a) subsection (1) of section 26A of the National Assistance Act 1948 (which is inserted by the National Health Service and Community Care Act 1990 and relates to persons ordinarily resident in residential care or nursing homes immediately before the commencement of that section); or

(b) subsection (1) of section 86A of the Social Work (Scotland) Act 1968 (the corresponding provision for Scotland),

or who would fall within either of those subsections apart from any regulations under subsection (3) of the section in question;

“relevant premises”—

(a) in relation to areas in England and Wales, has the meaning given by section 26A(2) of the National Assistance Act 1948; and

(b) in relation to areas in Scotland, has the meaning given by section 86A(2) of the Social Work (Scotland) Act 1968.

Amendments relating to the social fund.

10.—(1) In section 32 of the 1986 Act, after subsection (8D) there shall be inserted—

“(8E) The Secretary of State may give general directions to social fund officers or groups of social fund officers, or to any class of social fund officers, with respect to the control and management by social fund officers or groups of social fund officers of the amounts allocated to them under subsections (8A) to (8D) above.”

(2) In subsection (10) of that section (power to nominate a social fund officer to issue guidance to other officers in his area on specified matters) for the words “to issue” there shall be substituted the words “who shall issue”.

(3) In section 33 of that Act, after subsection (10) (questions to be determined in accordance with general directions) there shall be inserted—

“(10ZA) Without prejudice to the generality of subsection (10) above, the Secretary of State may issue directions under that subsection for the purpose of securing that a social fund officer or group of social fund officers shall not in any specified period make awards of any specified description which in the aggregate exceed

the amount, or a specified portion of the amount, allocated to that officer or group of officers under section 32(8A) to (8D) above for payments under awards of that description in that period.”

(4) In subsection (10A) of that section (which specifies certain matters with respect to which directions may be given) after paragraph (e) there shall be inserted—

“(f) that a social fund payment such as is mentioned in section 32(2)(b) above shall only be awarded to a person if either—

(i) he is in receipt of a benefit under the benefit Acts which is specified in the direction and the circumstances are such as are so specified; or

(ii) in a case where the conditions specified in subparagraph (i) above are not satisfied, the circumstances are such as are specified in the direction;”.

(5) At the end of that section there shall be added—

“(13) The Secretary of State may by regulations—

(a) make provision with respect to the time at which an application for a social fund payment such as is mentioned in section 32(2)(b) above is to be treated as made;

(b) prescribe conditions that must be satisfied before any determination in connection with such an application may be made or any award of such a payment may be paid;

(c) prescribe circumstances in which such an award becomes extinguished.”

Occupational and personal pensions etc.

11.—(1) The following section shall be inserted after section 58 of the Pensions Act—

“Annual increase in rate of pension, other than guaranteed minimum pension or money purchase benefit.

58A.—(1) This section applies in relation to any occupational pension scheme—

(a) which is neither a public service pension scheme nor a money purchase scheme; and

(b) whose rules do not require the annual rate of every pension which commences or has commenced under the scheme to be increased each year by at least an amount equal to the appropriate percentage of that rate.

(2) On and after the appointed day, Schedule 3A to this Act shall have effect for the purpose of requiring the provision by schemes to which this section applies of annual increases in the annual rates of pensions under those schemes.

(3) In this section—

“annual rate”, in relation to a pension, means the annual rate of the pension, as previously increased under the rules of the scheme or under Schedule 3A to this Act;

Annual increase of certain occupational pensions.

“the appointed day” means the day on which this section and Schedule 3A to this Act come into force;

“the appropriate percentage”, in relation to an increase in the annual rate of a pension, means the percentage specified in the last revaluation order made before the increase is to take effect as the revaluation percentage for the last revaluation period of twelve months;

“money purchase scheme” means a pension scheme under which all the benefits that may be provided are money purchase benefits;

“pension” does not include—

(a) a guaranteed minimum pension or any increase in such a pension under section 37A above; or

(b) any money purchase benefit;

“revaluation order”, “revaluation percentage” and “revaluation period” shall be construed in accordance with section 52A above.”

(2) After Schedule 3 to the Pensions Act there shall be inserted the Schedule set out in Schedule 2 to this Act.

(3) In the case of an occupational pension scheme—

(a) such as is mentioned in subsection (1) of section 58A of the Pensions Act, and

(b) which is constituted by trust deed,

no payment shall be made out of the resources of the scheme to or for a person who is or has been the employer of persons in the description or category of employment to which the scheme relates until such time as provision has been made by the scheme for every pension which commences or has commenced under it to be increased as mentioned in paragraph (b) of that subsection.

(4) Nothing in subsection (3) above applies in relation to payments made to or for a person by virtue of his or any other person’s membership of the scheme in question.

(5) Expressions used in this section and the Pensions Act have the same meaning in this section as they have in that Act.

(6) The provisions of subsection (3) above override any provision of a scheme to the extent that it conflicts with them.

The Pensions
Ombudsman.

12.—(1) The Pensions Act shall have effect with the amendments made by Schedule 3 to this Act, which are made for the purpose of establishing, conferring functions on, and making general provision in connection with, a commissioner to be known as the Pensions Ombudsman.

1971 c. 62.

(2) In the Tribunals and Inquiries Act 1971—

(a) in paragraph 23 of Schedule 1 (certain tribunals concerned with pensions to be under the general supervision of the Council) there shall be added at the end of the second column—

“(e) the Pensions Ombudsman established under Part IVA of the Social Security Pensions Act 1975 (c. 60) in respect of his functions under or by virtue of section 59C(2) of that Act.”; and

- (b) in section 8(2) (which specifies the paragraph numbers of the tribunals which are excepted from the requirement of concurrence to the removal of members) after “22” there shall be inserted “23(e)”.

13.—(1) At the beginning of Part V of the Pensions Act there shall be inserted the following section—

Registration of occupational and personal pension schemes.

“Registration of occupational and personal pension schemes.

59K.—(1) The Secretary of State may by regulations make provision—

- (a) for the compilation and maintenance of a register of occupational and personal pension schemes (“the register”);
- (b) for the appointment of a Registrar of Occupational and Personal Pension Schemes (“the registrar”); and
- (c) for conferring on the registrar such functions relating to the compilation and maintenance of the register as may be specified in the regulations.

(2) The regulations—

- (a) may make provision with respect to any of the following matters, that is to say—
 - (i) the remuneration and expenses, and any pensions, allowances or gratuities, or compensation for loss of office, payable to or in respect of the registrar;
 - (ii) the staff and other facilities that are to be available to the registrar;
 - (iii) the other terms and conditions upon which the registrar is to hold office; and
 - (iv) the removal of the registrar from office; and
- (b) may confer upon the registrar power to appoint an agent to perform any of his functions on his behalf.

(3) The register—

- (a) may consist of one or more parts, as may be prescribed;
- (b) shall be organised in such manner, and contain such information relating to occupational and personal pension schemes, as may be prescribed; and

(c) subject to the regulations, may be kept in such manner and form as the registrar may think fit.

(4) The regulations may make provision—

(a) for the register, or for extracts from the register, or for copies of the register or of extracts from the register, to be open to inspection by, and

(b) for copies of the register, or of extracts from it, to be supplied to,

such persons, in such manner, at such times, upon payment of such fees, and subject to such other terms and conditions, as may be prescribed.

(5) The regulations may require—

(a) any person who is or has been—

(i) a trustee or manager of an occupational or personal pension scheme or an administrator of a public service pension scheme, or

(ii) the employer in relation to employment of any description or category to which an occupational pension scheme relates, and

(b) such other persons as may be prescribed,

to provide the registrar with such information for the purposes of the register in such form and within such time as may be prescribed.

(6) The Secretary of State, the Inland Revenue and the Occupational Pensions Board may provide the registrar with such information as he may request for the purposes of the register; and no obligation as to secrecy or confidentiality imposed by statute or otherwise on—

(a) persons employed in the Department of Social Security,

(b) persons employed in relation to the Inland Revenue, or

(c) the staff of the Occupational Pensions Board,

shall prevent them from disclosing to the registrar such information as is necessary for the purposes of the register.

(7) The Secretary of State may direct the registrar to submit to him, in such form and at such intervals as may be specified in the direction, such statistical and other reports as the Secretary of State may require; and the Secretary of State may determine at his discretion whether or not to publish a report submitted to him under this subsection.

(8) In this section “employer”, in relation to a pension scheme, includes a person who is or has been treated under section 66(3) below as an employer in relation to the scheme for the purposes of Part III or IV of this Act.

(9) Subsections (2) to (5) above are without prejudice to the generality of subsection (1) above and nothing in subsection (5) or (6) above shall be taken to imply that the Occupational Pensions Board may not be appointed as the registrar.”

(2) The following provisions of the Pensions Act (which make provision with respect to the registration of occupational pension schemes and which are set out in Schedule 2 to the Social Security Act 1985 and have not all been brought into force) shall cease to have effect—

- (a) sections 56B to 56D;
- (b) section 56E(1)(c);
- (c) sections 56F to 56K;
- (d) section 56L(1)(b), (5)(b) and (9); and
- (e) sections 56M and 56N.

14.—(1) The enactments mentioned in Schedule 4 to this Act (which relate to occupational and personal pensions) shall have effect with the amendments there specified.

Miscellaneous amendments relating to pensions.

(2) Regulations may modify the provisions inserted into the Pensions Act by paragraph 2 of that Schedule in any manner which the Secretary of State thinks appropriate with a view to securing the orderly implementation of those provisions and to obtaining general compliance with them.

Energy efficiency in certain dwellings etc.

15.—(1) The Secretary of State may make or arrange for the making of grants—

Grants for the improvement of energy efficiency in certain dwellings etc.

- (a) towards the cost of carrying out work—
 - (i) for the purpose of improving the thermal insulation of dwellings, or
 - (ii) otherwise for the purpose of reducing or preventing the wastage of energy in connection with space or water heating in dwellings; and
- (b) where any such work is, or is to be, carried out, towards the cost of providing persons with advice relating to thermal insulation or to the economic and efficient use of domestic appliances or of facilities for lighting, or for space or water heating, in dwellings;

but no grants shall be made under this section except in accordance with regulations made by the Secretary of State.

(2) The regulations may make provision with respect to—

- (a) the descriptions of dwelling and work in respect of which a grant under subsection (1)(a) above may be made;
- (b) the nature and extent of the advice with respect to the provision of which grants under subsection (1)(b) above may be made;
- (c) the descriptions of person from whom an application for a grant under subsection (1)(a) or (b) above may be entertained;
- (d) the persons to whom such an application is to be made;

- (e) the payment of such grants to persons other than the applicant;
- (f) the conditions on which such a grant may be made.

(3) The regulations—

- (a) may specify or make provision for determining the amount or maximum amount of any grant under this section; and
- (b) may include provision requiring work to comply with standards of materials and workmanship (whether prescribed standards, or standards otherwise laid down from time to time by a prescribed person) if it is to be eligible for a grant under subsection (1)(a) above.

(4) Subsections (1) to (3) above shall apply in relation to any building in multiple occupation as they apply in relation to a dwelling; and for this purpose “building in multiple occupation” means a building which is occupied by persons who do not form a single household, exclusive of any part of the building which is occupied as a separate dwelling by persons who form a single household.

(5) The Secretary of State may delegate any of his functions in relation to grants under this section to such persons or bodies of persons as he may determine, and may pay to any person or body of persons to whom functions are so delegated, or upon whom functions are otherwise conferred under or by virtue of this section, such fees as may be agreed.

(6) Without prejudice to the generality of the powers conferred by this section, the regulations may make provision for any of the following matters, that is to say—

- (a) for appointing for any particular area a person or body of persons (an “administering agency”) to perform in that area such functions as the Secretary of State may confer upon that person or body for the purposes of, or otherwise in connection with, this section (whether those functions are prescribed, or specified otherwise than in regulations);
- (b) for the administering agency for any area to select, in accordance with criteria (whether prescribed criteria, or criteria otherwise laid down from time to time by a prescribed person), and register as the network installer for any particular locality within their area, a person or body of persons capable of carrying out, or arranging for the carrying out of, work in respect of which grants under subsection (1)(a) above may be made, to perform in that locality such functions as the Secretary of State or that agency may confer upon that person or body for the purposes of, or otherwise in connection with, this section (whether those functions are prescribed, or specified otherwise than in regulations);
- (c) for the allocation by the Secretary of State to an administering agency of the sums which are to be available to that agency in any period for the purpose of making grants under this section in that period, and for the re-allocation of any sums so allocated;
- (d) for the allocation by an administering agency to a network installer of an amount which represents the total amount of grant under this section which the agency determines is, or is to be, available for any period in respect of work carried out, and

advice given, by that installer and any sub-contractors of his in that period, and for the re-allocation of any amount so allocated.

(7) The provision that may be made in regulations by virtue of subsection (6) above includes provision—

- (a) for the making of appointments, or the conferring of functions, under that subsection to be effected in whole or in part by or under a contract made between prescribed persons and for requiring any such contract to contain prescribed terms and conditions or terms and conditions with respect to prescribed matters;
- (b) for terminating any appointment as an administering agency or any registration as a network installer;
- (c) for conferring upon network installers the exclusive right to apply for grants by virtue of subsection (4) above;
- (d) for conferring upon administering agencies functions relating to the general oversight of network installers and the verification of claims made, and information supplied, by them.

(8) The power to make regulations under this section shall be exercisable by statutory instrument made with the consent of the Treasury; and any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

(9) Regulations under this section—

- (a) may make different provision with respect to any labour involved, materials used or other items comprised in the carrying out of work; and
- (b) may make different provision for different cases and different areas.

(10) In this section—

“functions” means powers and duties and includes the exercise of a discretion with respect to any matter;

“prescribed” means specified in, or determined in accordance with, regulations under this section.

(11) Sections 252 and 253 of the Housing (Scotland) Act 1987 (grants for thermal insulation) shall cease to have effect. 1987 c. 26.

Financial provisions

16.—(1) In section 1 of the principal Act (outline of the contributory system) at the end of paragraph (a) of subsection (1) there shall be added the word “and” and paragraph (c) of that subsection (benefit under the Old Cases Act to be provided by means of contributions etc) shall cease to have effect.

Removal of certain liabilities from the National Insurance Fund.

(2) At the end of that subsection there shall be added the words “together with the additions under subsection (4A) below” and after subsection (4) there shall be inserted—

“(4A) For the financial year beginning with 1st April 1990 and for each subsequent financial year, there shall, by way of addition to contributions, be paid out of money provided by Parliament, in such manner and at such times as the Treasury may determine, amounts the total of which for any such year is equal to the aggregate of all statutory sick pay and statutory maternity pay paid by employers and others in that year, as estimated by the Government Actuary.”

(3) In section 134 of that Act (destination of contributions etc) after subsection (2) there shall be inserted—

“(2A) The additions paid under section 1(4A) above shall be paid, in accordance with any directions given by the Treasury, into the National Insurance Fund.”

(4) In section 135 of that Act, at the end of subsection (2) (which specifies the benefits which are to be paid out of money provided by Parliament instead of out of the National Insurance Fund) there shall be added—

“(h) industrial injuries benefit.”

(5) In subsection (5) of that section (Consolidated Fund to be reimbursed out of National Insurance Fund in respect of certain administrative expenses, but excluding those specified in the paragraphs of that subsection) after paragraph (a) there shall be inserted—

“(aa) expenses attributable to the carrying into effect of the Old Cases Act; and”.

(6) In section 137(1) and (2) of that Act (Government Actuary's periodical reviews of the working of the principal Act and the Old Cases Act with a view to ascertaining likely demands on the National Insurance Fund) the words “and the Old Cases Act” shall cease to have effect.

(7) In section 159 of that Act, in subsection (4) (certain payments in respect of pre-1948 cases to be made out of the National Insurance Fund) for the words “the National Insurance Fund” there shall be substituted the words “money provided by Parliament”.

(8) In the Old Cases Act—

(a) in sections 2(1) and 5(1) (schemes under those provisions to be financed out of the National Insurance Fund) for the words “the National Insurance Fund” there shall be substituted the words “money provided by Parliament”;

(b) in section 4(4)(e) (provision for the repayment to the National Insurance Fund of payments subsequently found not to have been due) for the words “the National Insurance Fund” there shall be substituted the words “the Secretary of State”; and

(c) section 13 (reciprocal arrangements with Northern Ireland in relation to payments out of the respective National Insurance Funds) shall cease to have effect.

(9) Section 46(3) of the 1982 Act and section 85(4)(a) of the 1986 Act (which provide for the payment of sums out of the National Insurance Fund into the Consolidated Fund in respect of estimated administrative expenses relating to statutory sick pay and statutory maternity pay) shall cease to have effect.

(10) Subsections (1) and (4) to (8) above shall be taken to have come into force on 1st April 1990.

17.—(1) In section 9 of the principal Act, in subsection (5) (Inland Revenue to pay to the Secretary of State the Class 4 contributions collected by them) after the words “pay to him” there shall be inserted “(a)” and at the end of that subsection there shall be added the words “and

Interest and penalties in respect of certain contributions.

(b) so much of any interest recovered by the Inland Revenue by virtue of paragraph 7 of Schedule 2 to this Act as remains after the deduction by them of any administrative costs attributable to its recovery.”

(2) In subsection (6) of that section (estimated Class 4 contributions collected from persons in Northern Ireland to be paid over to the Northern Ireland Department) after the word “collected” there shall be inserted the words “,or interest in respect of such contributions recovered,”.

(3) In section 134 of that Act (destination of contributions etc) after the subsection (2A) inserted by section 16 above there shall be inserted—

“(2B) The sums paid to the Secretary of State by the Inland Revenue under section 9(5)(b) of this Act and paragraphs 5(3)(b) and 5A(7) of Schedule 1 to this Act in respect of interest and penalties recovered by them in connection with contributions of any class shall, subject to section 9(6) of this Act, be paid, in accordance with any directions given by the Treasury, into the National Insurance Fund.”

(4) In section 135 of that Act (general financial arrangements) after subsection (6) there shall be added—

“(7) Any expenditure in respect of the payment of interest or repayment supplements under or by virtue of paragraph 5 of Schedule 1 to this Act or paragraph 7 of Schedule 2 to this Act shall be defrayed out of the National Insurance Fund in accordance with any directions given by the Treasury.”

(5) In paragraph 5 of Schedule 1 to that Act (power to combine collection of contributions with collection of tax) after sub-paragraph (1) there shall be inserted—

“(1A) Without prejudice to the generality of sub-paragraph (1) above, the provision that may be made by virtue of paragraph (a) of that sub-paragraph includes, in relation to Class 1 contributions—

- (a) provision for requiring the payment of interest on sums due in respect of Class 1 contributions which are not paid by the due date, for determining the date (being not less than 14 days after the end of the tax year in respect of which the sums are due) from which such interest is to be calculated and for enabling the repayment or remission of such interest;
- (b) provision for requiring the payment of interest on sums due in respect of Class 1 contributions which fall to be repaid and for determining the date (being not less than one year after the end of the tax year in respect of which the sums are due) from which such interest is to be calculated;

- (c) provision for, or in connection with, the imposition and recovery of penalties in relation to any returns required to be made which relate to Class 1 contributions, but subject to sub-paragraph (2) and paragraph 5A below;

and any reference to contributions or income tax in paragraph (b) or (c) of sub-paragraph (1) above shall be construed as including a reference to any interest or penalty in respect of contributions or income tax, as the case may be.

1989 c. 26.

(1B) The rate of interest applicable for any purpose of this paragraph shall be the rate from time to time prescribed for that purpose under section 178 of the Finance Act 1989.

(1C) Regulations under this paragraph may require the payment of interest on sums due in respect of contributions, notwithstanding that a question arising in relation to the contributions has not been determined under section 93 of this Act by the Secretary of State, except that where—

- (a) any such question arises which affects a person's liability for, or the amount of, any such interest, and
- (b) either—
- (i) that person requires the question to be determined under section 93, or
 - (ii) a question of law arising in connection with the determination of the question is, or is to be, referred to a court under section 94 of this Act,

the regulations shall not require the payment of any such interest until the question has been determined under section 93 by the Secretary of State or the reference has been finally disposed of under section 94, as the case may be; but, subject to that, this paragraph is without prejudice to sections 93, 94 and 96 of this Act."

(6) In sub-paragraph (3) of that paragraph (payment of receipts to Secretary of State) after the words "pay to him" there shall be inserted "(a)" and at the end of that sub-paragraph there shall be added the words "and

- (b) so much of any interest recovered by the Inland Revenue by virtue of this paragraph as remains after the deduction by them of any administrative costs attributable to its recovery."

(7) After that paragraph there shall be inserted the provisions set out in Schedule 5 to this Act, which relate to the imposition and recovery of certain penalties.

1970 c. 9.

(8) In paragraph 7 of Schedule 2 to the principal Act (which provides for the charging of interest under section 88 of the Taxes Management Act 1970 in respect of Class 4 contributions, but precludes the charging of interest under section 86 of that Act in respect of overdue contributions) and in paragraph 7 of Schedule 2 to the Social Security (Northern Ireland) Act 1975 (which reproduces those provisions)—

1975 c. 15.

- (a) for the words "Section 88(1)" there shall be substituted the words "(1) Sections 86 and 88(1)";
- (b) after the word "(interest" there shall be inserted the words "on amounts overdue, and";

(c) for the words “it applies” there shall be substituted the words “they apply”; and

(d) for the words from “but section 86” to “shall not apply” there shall be substituted the words “and section 824 of the Income and Corporation Taxes Act 1988 (repayment supplements) shall, with the necessary modifications, apply in relation to Class 4 contributions as it applies in relation to income tax.”

(9) In each of those Acts, at the end of paragraph 7 of Schedule 2 there shall be added—

“(2) The Inland Revenue shall have the same powers under section 1 of the Taxes Management Act 1970 (general functions of care and management) in relation to the remission of interest payable under section 86 or 88 of that Act by virtue of this paragraph as they have in relation to the remission of interest payable under either of those sections on tax.” 1970 c. 9.

(10) In section 178 of the Finance Act 1989 (rates of interest) in subsection (2), after paragraph (g) there shall be inserted— 1989 c. 26.

“(gg) paragraph 5 of Schedule 1 to the Social Security Act 1975,”.

18.—(1) There shall be paid out of money provided by Parliament— *General financial provisions.*

(a) any expenses incurred under this Act by a Minister of the Crown; and

(b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

(2) 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) to be the amount of the administrative expenses incurred by him under sections 4, 6 and 17, Schedules 1 and 5 and paragraphs 1 to 3, 5, 9, 26 and 27 of Schedule 6 excluding any category of expenses or payments which the Treasury may direct, or any enactment may require, to be excluded from the Secretary of State’s estimates under this subsection.

(3) There shall be paid into the Consolidated Fund any increase by virtue of this Act in the sums so payable by virtue of any other Act.

General and supplementary provisions

19.—(1) Subject to the following provisions of this section, subsections (1) to (3A) of section 166 of the principal Act shall apply in relation to any power conferred by any provision of this Act, other than section 15, to make regulations or an order as they apply in relation to any power conferred by that Act to make regulations or an order, but as if for references to that Act there were substituted references to this Act. *Regulations and orders.*

(2) A statutory instrument—

(a) which contains (whether alone or with other provisions) any regulations or orders under this Act, other than regulations under section 15 above or orders under section 23 below, and

- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) A power conferred by this Act to make any regulations or an 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.

Interpretation.

1973 c. 38.

20. In this Act, unless the context otherwise requires—

“the 1973 Act” means the Social Security Act 1973;

1982 c. 24.

“the 1982 Act” means the Social Security and Housing Benefits Act 1982;

1986 c. 50.

“the 1986 Act” means the Social Security Act 1986;

1989 c. 24.

“the 1989 Act” means the Social Security Act 1989;

1975 c. 16.

“the Old Cases Act” means the Industrial Injuries and Diseases (Old Cases) Act 1975;

1975 c. 60.

“the Pensions Act” means the Social Security Pensions Act 1975;

“prescribe”, except in section 15, means prescribe by regulations;

1975 c. 14.

“the principal Act” means the Social Security Act 1975;

“regulations” means regulations made by the Secretary of State.

Minor and consequential amendments and repeals.

21.—(1) The enactments mentioned in Schedule 6 to this Act shall have effect with the amendments there specified (being minor amendments and amendments consequential on provisions of this Act).

(2) The enactments mentioned in Schedule 7 to this Act (which include some that are spent or of no further practical utility) are repealed to the extent specified in the third column of that Schedule.

(3) The Secretary of State may by regulations make—

- (a) such transitional provision,
- (b) such consequential provision, or
- (c) such savings,

as he 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 repealed or amended by a provision of this Act during any period when the repeal or amendment is not wholly in force.

Provision for Northern Ireland.
1974 c. 28.

22.—(1) 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 of Parliament.

(2) Subject to any Order made after the passing of this Act by virtue of subsection (1)(a) of section 3 of the Northern Ireland Constitution Act 1973, the matters specified in subsection (3) below shall not be transferred matters for the purposes of that Act but shall for the purposes of subsection (2) of that section be treated as specified in Schedule 3 to that Act. 1973 c. 36.

(3) The matters referred to in subsection (2) above are the matters dealt with—

- (a) by the section 59B inserted into the Pensions Act by Schedule 3 to this Act, other than subsections (4) and (5)(b) of that section; and
- (b) by subsections (1), (2), other than paragraph (a)(ii), (3), (4) and (9) of the section 59K inserted into that Act by section 13(1) of this Act.

23.—(1) This Act may be cited as the Social Security Act 1990; and this Act, other than section 15, and the Social Security Acts 1975 to 1989 may be cited together as the Social Security Acts 1975 to 1990. Short title, commencement and extent.

(2) Apart from the provisions specified in subsection (3) below, this Act shall not come into force until such day as the Secretary of State may by order appoint; and different days may be so appointed for different provisions or different purposes of the same provision.

(3) The provisions referred to in subsection (2) above are the following—

- (a) sections 3(6), 5, 6, 7, 10, 15, other than subsection (11), 16(1), (4) to (8) and (10), 18, 19, 20, 21(3), 22 and this section;
- (b) Schedule 1;
- (c) paragraphs 6, 8, 9 and 15 of Schedule 4 (and section 14 so far as relating to those provisions);
- (d) paragraphs 2 to 9, 12 to 15, 17, 18, 19, 21, 26, 27 and 30 of Schedule 6 (and section 21 so far as relating to those provisions);
- (e) the amendments in that Schedule to the extent that they are consequential on any provision specified in paragraphs (a) to (d) above (and section 21 so far as relating to any such amendments); and
- (f) the repeals in Schedule 7 to the extent that they are consequential on any provision specified in paragraphs (a) to (e) above (and section 21 so far as relating to those repeals).

(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) The following provisions of this Act extend to Northern Ireland, namely—

- (a) section 13(1), so far as it amends the Pensions Act by the insertion of section 59K(1), (2), other than paragraph (a)(ii), (3), (4) and (9);
- (b) section 22 above and this section;
- (c) paragraph 5(1) and (3) of Schedule 1;

(d) Schedule 3, so far as it amends the Pensions Act by the insertion of section 59B, other than subsections (4) and (5)(b), and section 12(1) so far as relating to that amendment;
and paragraph 5(4) of Schedule 1 extends to Northern Ireland only.

(6) Except as provided by this section, this Act does not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 7.

AMENDMENTS RELATING TO THE RECOVERY FROM DAMAGES ETC OF SUMS
EQUIVALENT TO BENEFIT*Payments under compensation schemes for motor accidents*

1.—(1) In the definition of “compensation payment” in section 22(3) of the 1989 Act—

- (a) at the beginning of paragraph (b) there shall be inserted the words “either (i)” and at the end of that paragraph there shall be inserted the words “or
(ii) in pursuance of a compensation scheme for motor accidents,”; and

(b) for the words following that paragraph there shall be substituted the words—

“but does not include benefit or an exempt payment or so much of any payment as is referable to costs incurred by any person;”.

(2) After that definition there shall be inserted—

““compensation scheme for motor accidents” means any scheme or arrangement under which funds are available for the payment of compensation in respect of motor accidents caused, or alleged to have been caused, by uninsured or unidentified persons;”.

(3) In consequence of the amendment made by sub-paragraph (1)(b) above, in the definition of “relevant period” in the said section 22(3), the words from “whether or not” onwards shall be omitted.

(4) In paragraph 13 of Schedule 4 to that Act, after sub-paragraph (2) there shall be inserted—

“(2A) A person who makes any payment (whether a compensation payment or not) on behalf of himself or another—

- (a) in consequence of any accident, injury or disease suffered, or any damage to property sustained, by any other person, or
(b) which is referable to any costs, or, in Scotland, expenses, incurred by any such other person by reason of such an accident, injury, disease or damage,

shall, if the Secretary of State so requests him in writing, furnish the Secretary of State with such particulars relating to the size and composition of the payment as may be specified in the request.”

Payments into court

2.—(1) In paragraph 12 of Schedule 4 to that Act, in sub-paragraph (2)(b) (payments into court: compensator not liable to make relevant payment etc until he is notified that the money has been paid out to the other party) after the words “notified that” there shall be inserted the words “the whole or any part of”.

(2) In sub-paragraph (5) of that paragraph (special provision where payment into court is paid out to or for the other party within 21 days) for the words “paid out of court to or for” there shall be substituted the words “accepted by” and for the words “was made” there shall be substituted the words “(or, if there were two or more such payments, the last of them) was made; but where the payment into court is not so accepted, then—

- (a) the relevant period as respects that compensator shall end on the day on which he is notified that the payment has been paid out of court to or for that other party; and

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(b) in determining the amount of the relevant payment, that compensator shall be treated as if his payment into court had been made on that day.”

(3) In sub-paragraph (6) of that paragraph (the initial period) after the words “payment into court” there shall be inserted the words “(or, if there were two or more such payments, the last of them)”.

(4) After that sub-paragraph there shall be inserted—

“(6A) Where a payment into court is paid out wholly to or for the party who made the payment (otherwise than to or for the other party to the action) the making of the payment into court shall cease to be regarded as the making of a compensation payment.”

Appeals: special time limit for provisional damages

3. In paragraph 17 of that Schedule, in sub-paragraph (3) (which provides a special time limit for appeals in cases where provisional damages are awarded) for paragraph (a) there shall be substituted—

“(a) an award of damages (“provisional damages”) has been made under or by virtue of—

- (i) section 32A(2)(a) of the Supreme Court Act 1981,
- (ii) section 12(2)(a) of the Administration of Justice Act 1982, or
- (iii) section 51(2)(a) of the County Courts Act 1984, and”.

Appeal to Commissioner by Secretary of State on point of law

4. In sub-paragraph (11) of that paragraph (appeal on point of law from decision of social security appeal tribunal or medical appeal tribunal) after the words “at the instance of” there shall be inserted the words “the Secretary of State,”.

Interaction with the Northern Ireland scheme

5.—(1) At the beginning of Part IV of that Schedule (which, among other things, relates to cases where the compensator is not resident in Great Britain) there shall be inserted the following—

“Persons in Northern Ireland

20A.—(1) Where, immediately before making a compensation payment to or in respect of a victim, the compensator—

- (a) is not resident and does not have a place of business in Great Britain, but
- (b) is resident or has a place of business in Northern Ireland,

the Great Britain provisions shall apply as if at that time he were resident or had a place of business in the relevant part of Great Britain.

(2) Where, immediately before making a Northern Ireland compensation payment to or in respect of a Northern Ireland victim, the Northern Ireland compensator—

- (a) is not resident and does not have a place of business in Northern Ireland, but
- (b) is resident or has a place of business in any part of Great Britain,

the Northern Ireland provisions shall apply as if at that time he were resident or had a place of business in Northern Ireland.

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(3) Where an address in Northern Ireland is the first address notified in writing to the compensator by or on behalf of the victim as his residence (or, if the victim has died, by or on behalf of the intended recipient as the victim's last residence) then—

- (a) the compensator shall apply, as a Northern Ireland compensator, for a Northern Ireland certificate in accordance with the Northern Ireland provisions (and shall not make any separate application for a certificate of total benefit);
- (b) any Northern Ireland certificate which is issued to the compensator in relation to the victim and the accident, injury or disease in question—
 - (i) shall contain a statement that it is to be treated as including a certificate of total benefit so issued by the Secretary of State and that any relevant payment required to be made to him by reference thereto is to be paid to the Northern Ireland Department as his agent; and
 - (ii) shall be taken to include such a certificate of total benefit; and
- (c) any payment made by the compensator to the Northern Ireland Department in pursuance of such a Northern Ireland certificate shall be applied—
 - (i) first towards discharging his liability under the Northern Ireland provisions, and
 - (ii) then, as respects any remaining balance, towards discharging his liability under the Great Britain provisions, in respect of the relevant victim and that accident, injury or disease.

(4) Where an address in any part of Great Britain is the first address notified in writing to the Northern Ireland compensator by or on behalf of the Northern Ireland victim as his residence (or, if the Northern Ireland victim has died, by or on behalf of the Northern Ireland intended recipient as the Northern Ireland victim's last residence) then—

- (a) the Northern Ireland compensator shall apply, as a compensator, for a certificate of total benefit in accordance with the Great Britain provisions (and shall not make any separate application for a Northern Ireland certificate);
- (b) any certificate of total benefit which is issued to the Northern Ireland compensator in relation to the Northern Ireland victim and the accident, injury or disease in question—
 - (i) shall contain a statement that it is to be treated as including a Northern Ireland certificate so issued by the Northern Ireland Department and that any Northern Ireland relevant payment required to be made to that Department by reference thereto is to be paid to the Secretary of State as its agent; and
 - (ii) shall be taken to include such a Northern Ireland certificate; and
- (c) any payment made by the Northern Ireland compensator to the Secretary of State in pursuance of such a certificate shall be applied—
 - (i) first towards discharging his liability under the Great Britain provisions, and
 - (ii) then, as respects any remaining balance, towards discharging his liability under the Northern Ireland provisions, in respect of the relevant victim and that accident, injury or disease.

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(5) For the purposes of sub-paragraph (1) above, “the relevant part of Great Britain”, in relation to a compensator, means—

(a) if the compensator has been notified in writing—

(i) by or on behalf of the victim, or

(ii) where the victim has died, by or on behalf of the intended recipient,

that the victim is or was at any time resident at an address in any part of Great Britain, that part of Great Britain (or, if more than one such notification has been given, the part in which he was so notified that the victim was most recently so resident); or

(b) in any other case, such part of Great Britain as the Secretary of State may determine in accordance with regulations.

(6) In this paragraph—

“the Great Britain provisions” means the recoupment provisions, other than this paragraph;

“Northern Ireland certificate” means a certificate of total benefit, within the meaning of the Northern Ireland provisions;

“Northern Ireland compensation payment” means a compensation payment, within the meaning of the Northern Ireland provisions;

“Northern Ireland compensator” means a compensator, within the meaning of the Northern Ireland provisions;

“the Northern Ireland Department” has the same meaning as it has in the principal Act;

“the Northern Ireland intended recipient” means the intended recipient, within the meaning of the Northern Ireland provisions, in relation to a Northern Ireland compensation payment;

“the Northern Ireland provisions” means any legislation corresponding to the recoupment provisions (other than this paragraph) and having effect in Northern Ireland;

“Northern Ireland relevant payment” means a relevant payment, within the meaning of the Northern Ireland provisions;

“Northern Ireland victim” means a person who is the victim, within the meaning of the Northern Ireland provisions, in relation to a Northern Ireland compensation payment;

“the relevant victim” means the person who is the victim or the Northern Ireland victim (or both), as the case may be.

(7) This paragraph extends to Northern Ireland.”

(2) In paragraph 21 of that Schedule (which makes provision for cases where the compensator is not resident and does not have a place of business in Great Britain) for the words “Great Britain” there shall be substituted the words “any part of the United Kingdom”.

(3) In section 33(6) of that Act (provisions extending to Northern Ireland) after the words “and this section” there shall be inserted the words “and paragraph 20A of Schedule 4”.

(4) In consequence of sub-paragraph (1) above—

S.I. 1986/1888
(N.I. 18).

(a) in Article 59(10) of the Social Security (Northern Ireland) Order 1986 (definition of “the recoupment provisions”) after the words “Order 1989” there shall be inserted the words “and paragraph 20A of Schedule 4 to the Social Security Act 1989”; and

- (b) in the definition of “the recoupment provisions” in paragraph 1(1) of Schedule 4 to the Social Security (Northern Ireland) Order 1989, after the word “Schedule” there shall be inserted the words “and paragraph 20A of Schedule 4 to the Social Security Act 1989”.

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S.I. 1989/1342
(N.I. 13).

Interest on damages: reductions in respect of relevant payments

6. After paragraph 23 of that Schedule there shall be added—

“Interest on damages: reductions in respect of relevant payments

24. In assessing the amount of interest payable in respect of an award of damages, the amount of the award shall be treated as reduced by a sum equal to the amount of the relevant payment (if any) required to be made in connection with the payment of the damages and—

- (a) in England and Wales, if both special and general damages are awarded, any such reductions shall be treated as made first against the special damages and then, as respects any remaining balance, against the general damages; and
- (b) in Scotland, if damages are awarded both for patrimonial loss and for solatium, any such reductions shall be treated as made first against the damages for patrimonial loss and then, as respects any remaining balance, against the damages for solatium.”

Law Reform (Personal Injuries) Act 1948 (c. 41)

7. In section 2(1) of the Law Reform (Personal Injuries) Act 1948 (half of certain benefits to be brought into account in assessing damages) for the word “him” there shall be substituted the words “the injured person”.

SCHEDULE 2

Section 11(2)

SCHEDULE TO BE INSERTED AS SCHEDULE 3A TO THE PENSIONS ACT

“SCHEDULE 3A

Section 58A.

ANNUAL INCREASE IN RATE OF CERTAIN OCCUPATIONAL PENSIONS

Interpretation

1. In this Schedule—

- “annual rate”, in relation to a pension or the later or earlier service component of a pension, means the annual rate of the pension or component, as previously increased under the rules of the scheme or this Schedule;
- “the appointed day” means the day on which this Schedule and section 58A of this Act come into force;
- “the appropriate percentage”, in relation to an increase in the annual rate of a pension or a component of a pension, means the percentage specified in the last revaluation order made before the increase is to take effect as the revaluation percentage for the last revaluation period of twelve months;
- “earlier service component” means so much (if any) of the annual rate of the pension as is attributable to pensionable service before the appointed day;
- “later service component” means so much (if any) of the annual rate of the pension as is attributable to pensionable service on or after the appointed day;
- “pension”, in relation to a scheme, means any pension which commences or has commenced under the scheme but does not include—

SCH 2

(a) a guaranteed minimum pension or any increase in such a pension under section 37A above; or

(b) any money purchase benefit;

“pensionable service” has the meaning given by paragraph 3 of Schedule 16 to the 1973 Act;

“qualifying scheme” means a scheme to which section 58A of this Act applies;

“revaluation order”, “revaluation percentage” and “revaluation period” shall be construed in accordance with section 52A above.

Annual increase of later service component

2.—(1) If, apart from this Schedule, the annual rate of a pension under a qualifying scheme would not be increased as mentioned in section 58A(1)(b) of this Act, the annual rate of its later service component shall be increased annually by at least an amount equal to the appropriate percentage of the annual rate of that component as applicable immediately before the increase takes effect.

(2) The first increase by virtue of this paragraph in the rate of a pension shall take effect not later than the first anniversary of the commencement of the pension and subsequent increases shall take effect at intervals of not more than twelve months thereafter.

(3) This paragraph is subject to paragraphs 4 to 7 below.

Annual increase of earlier service component where scheme is in surplus

3.—(1) If on any valuation day the value of a qualifying scheme’s assets, as determined in accordance with regulations, exceeds the value of its liabilities, as so determined, the amount of the excess (the “valuation surplus”) shall be applied in accordance with the following provisions of this paragraph in providing for annual increases, up to the aggregate referred to in sub-paragraph (6) below, in the annual rate of the earlier service component of each pension under the scheme that would not, apart from this Schedule, be increased as mentioned in section 58A(1)(b) of this Act.

(2) The amount of each annual increase to be provided in pursuance of this paragraph in consequence of a valuation surplus shall be an amount equal to the appropriate percentage of the annual rate of the earlier service component of the pension in question as applicable immediately before that annual increase takes effect.

(3) Except in a case where regulations otherwise provide, the days which are “valuation days” for the purposes of this paragraph are—

(a) the appointed day; and

(b) each subsequent day as at which the assets and liabilities of the scheme in question are actuarially valued for any purpose.

(4) Where, in consequence of a valuation surplus, this paragraph requires provision to be made for annual increases in the annual rate of the earlier service component of a pension, the first of those increases shall take effect not later than the first anniversary of the later of—

(a) the valuation day as at which the valuation was made which disclosed the valuation surplus; or

(b) the commencement of the pension;

and subsequent increases shall take effect at intervals of not more than twelve months thereafter.

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(5) In any case where—

- (a) a valuation of the assets and liabilities of a qualifying scheme discloses a valuation surplus, but
- (b) the amount of the surplus is insufficient to provide in full for the annual increases otherwise required by this paragraph in pensions under the scheme,

the valuation surplus shall be applied in providing for the increases so required, but only at the percentage rate that would apply year by year in relation to those increases if, for the maximum percentage of 5 per cent. specified in section 52A(9)(a) above, there were substituted such lower percentage as represents the greatest maximum percentage, as determined in accordance with regulations, by reference to which the valuation surplus is sufficient to provide for annual increases in the earlier service component of the pensions in question.

(6) If a valuation surplus is disclosed on a valuation at any time when either—

- (a) provision has already been made by the scheme for the annual rate of the earlier service component of every such pension as is mentioned in sub-paragraph (1) above to be increased annually in the aggregate by at least the appropriate percentage of that rate, or
- (b) the application of part only of the valuation surplus would be sufficient to secure that result,

this paragraph does not require that valuation surplus or, as the case may be, the remaining part of it, to be applied in the provision of increases under this paragraph.

(7) The powers conferred by sub-paragraphs (1) and (5) above to make regulations include, respectively, power to provide that the valuation of the scheme's assets or liabilities is to be calculated and verified, or the percentage in question is to be determined,—

- (a) in such manner as may, in the particular case, be approved—
 - (i) by a prescribed person;
 - (ii) by a person with prescribed professional qualifications or experience; or
 - (iii) by a person approved by the Secretary of State;
- (b) in accordance with guidance prepared by a prescribed body;
- (c) in accordance with prescribed principles and requirements; or
- (d) in accordance with principles determined by the person who performs the duties of calculation and verification.

(8) This paragraph is subject to paragraphs 4 to 7 below.

Proportional increases where first period is less than 12 months

4.—(1) Where a pension commenced to be paid less than twelve months before the date on which its first increase under paragraph 2 above is to take effect, the amount of that first increase shall be determined by the application of the formula—

$$\frac{M \times I}{12}$$

where—

M is the number of complete months in the period beginning with the commencement of the pension and ending immediately before that date; and

SCH 2

I is the amount of the increase that would have been required by that paragraph, apart from this sub-paragraph.

(2) This paragraph shall apply in relation to the first increase of a pension by virtue of paragraph 3 above in consequence of each successive valuation surplus as it applies in relation to the first increase of a pension under paragraph 2 above.

Restriction on increases where member is under 55

5.—(1) No increase under paragraph 2 or 3 above is required to be paid to or for a member of a scheme whose pension has commenced but who has not attained the age of 55 at the time when the increase takes effect, unless—

- (a) he is permanently incapacitated by mental or physical infirmity from engaging in regular full-time employment, or
- (b) he has retired on account of mental or physical infirmity from the office or employment in respect of which, or on retirement from which, the pension is payable,

in which case the pension shall be payable at the annual rate at which it would have been payable apart from this sub-paragraph.

(2) The rules of a scheme may provide that if, in a case where a pension has been paid to or for a member under the age of 55 at an increased rate in consequence of paragraph (a) or (b) of sub-paragraph (1) above, the member—

- (a) ceases to suffer from the infirmity in question before he attains the age of 55, but
- (b) continues to be entitled to the pension,

any increases subsequently taking effect under paragraph 2 or 3 above in the annual rate of the pension shall not be paid or shall not be paid in full.

(3) In any case where—

- (a) by virtue only of sub-paragraph (1) or (2) above, increases are not paid to or for a member or are not paid in full, but
- (b) the member attains the age of 55 or, in a case falling within sub-paragraph (2) above, again satisfies the conditions set out in paragraph (a) or (b) of sub-paragraph (1) above,

his pension shall thereupon become payable at the annual rate at which it would have been payable apart from sub-paragraph (1) or (2) above.

Application of Schedule to pensions not attributable to pensionable service

6. Regulations may provide that this Schedule (other than this paragraph) shall apply in relation to any pension under a qualifying scheme as if so much of the annual rate of the pension as would not otherwise be attributable to pensionable service were attributable in accordance with the regulations—

- (a) to pensionable service before the appointed day;
- (b) to pensionable service on or after that day; or
- (c) partly to pensionable service before, and partly to pensionable service on or after, that day;

and any reference to the earlier or later service component of the pension shall be construed accordingly.

Regulations

7.—(1) The Secretary of State may by regulations direct that section 58A of this Act and this Schedule shall have effect, in such cases as he may specify in the regulations, subject to such modifications as he may specify.

(2) In sub-paragraph (1) above “modification”, without prejudice to the generality of that sub-paragraph, includes addition, omission and amendment.

SCH 2

Overriding effect of the increase provisions

8. The provisions of section 58A of this Act, this Schedule and any regulations made under it override any provision of a qualifying scheme, other than a protected provision (within the meaning of paragraph 7 of Schedule 1A to this Act), to the extent that it conflicts with them.”

SCHEDULE 3

Section 12(1).

THE PENSIONS OMBUDSMAN

After Part IV of the Pensions Act there shall be inserted the following—

“PART IVA

THE PENSIONS OMBUDSMAN

The Pensions
Ombudsman.

59B.—(1) For the purpose of conducting investigations in accordance with this Part of this Act or any corresponding legislation having effect in Northern Ireland there shall be a commissioner, to be known as the Pensions Ombudsman.

(2) The Pensions Ombudsman shall be appointed by the Secretary of State and shall hold office upon such terms and conditions as the Secretary of State may think fit.

(3) The Pensions Ombudsman may at any time—

- (a) be removed from office by notice in writing given to him by the Secretary of State; or
- (b) resign his office by giving such notice to the Secretary of State.

(4) The Secretary of State may make available such staff and other facilities as he thinks fit for the Pensions Ombudsman and any function of the Pensions Ombudsman, other than the determination of complaints made and disputes referred under this Part of this Act, may be performed by any member of that staff who is authorised for that purpose by the Pensions Ombudsman.

(5) The Secretary of State may—

- (a) pay to or in respect of the Pensions Ombudsman such amounts by way of remuneration, compensation for loss of office, pension, allowances and gratuities, or by way of provision for any such benefits, as the Secretary of State may determine with the approval of the Treasury; and
- (b) reimburse him in respect of any expenses incurred by him in the performance of his functions.

(6) The Pensions Ombudsman shall prepare a report on the discharge of his functions for the period ending with 31st March following the coming into force of this section, and for each subsequent financial year, and shall submit it to the Secretary of State as soon as practicable thereafter.

(7) The Secretary of State shall arrange for the publication of each report submitted to him under subsection (6) above.

Functions of the
Pensions
Ombudsman.

59C.—(1) The Pensions Ombudsman may investigate and determine any complaint made to him in writing by or on behalf

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of an authorised complainant who alleges that he has sustained injustice in consequence of maladministration in connection with any act or omission of the trustees or managers of an occupational or personal pension scheme.

(2) The Pensions Ombudsman may also investigate and determine any dispute of fact or law which arises in relation to such a scheme between—

- (a) the trustees or managers of the scheme, and
- (b) an authorised complainant in relation to the scheme,

and which is referred to him in writing by or on behalf of the authorised complainant.

(3) The Secretary of State may by regulations provide that, subject to any modifications or exceptions specified in the regulations, this Part of this Act shall apply in relation to—

- (a) the employer in relation to any description or category of employment to which an occupational pension scheme relates or has related, or
- (b) any prescribed person or body of persons concerned with the financing or administration of, or the provision of benefits under, any occupational or personal pension scheme,

as it applies in relation to the trustees or managers of such a scheme.

(4) The Pensions Ombudsman may investigate a complaint or dispute notwithstanding that it arose, or relates to a matter which arose, before the coming into force of this Part of this Act.

(5) The Pensions Ombudsman shall not investigate or determine a complaint or dispute—

- (a) if, before the making of the complaint or the reference of the dispute, proceedings have been commenced in any court in respect of the matters which would be the subject of the investigation;
- (b) if the scheme is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection; or
- (c) if and to the extent that the complaint or dispute, or any matter arising in connection with the complaint or dispute, is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection.

(6) The persons who, for the purposes of this Part of this Act, are “authorised complainants” in relation to a scheme are—

- (a) a member of the scheme,
- (b) the widow or widower, or any surviving dependant, of a deceased member of the scheme;
- (c) where the complaint or dispute relates to the question—
 - (i) whether a person who claims to be such a person as is mentioned in paragraph (a) or (b) above is such a person, or

(ii) whether a person who claims to be entitled to become a member of the scheme is so entitled, the person so claiming.

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(7) In this Part of this Act—

“employer”, in relation to a pension scheme, includes a person—

- (a) who is or has been an employer in relation to the scheme, or
- (b) who is or has been treated under section 66(3) below as an employer in relation to the scheme for the purposes of Part III or IV of this Act, or under Article 2(4) of the Social Security Pensions (Northern Ireland) Order 1975 as an employer in relation to the scheme for the purposes of Part IV or V of that Order;

S.I. 1975/1503
(N.I. 15).

“member”, in relation to a pension scheme, includes a person—

- (a) who is or has been in pensionable service under the scheme, as defined in paragraph 3 of Schedule 16 to the 1973 Act or paragraph 3 of Schedule 3 to the Social Security Pensions (Northern Ireland) Order 1975, or
- (b) who is or has been treated under section 66(4) below as a member in relation to the scheme for the purposes of Part III or IV of this Act, or under Article 2(5) of the Social Security Pensions (Northern Ireland) Order 1975 as a member in relation to the scheme for the purposes of Part IV or V of that Order;

“Northern Ireland public service pension scheme” means a public service pension scheme, within the meaning of Article 2(2) of that Order;

“trustees or managers”, in relation to a pension scheme which is a public service pension scheme or a Northern Ireland public service pension scheme, includes the scheme’s administrators.

Death, insolvency or disability of authorised complainant.

59D.—(1) Where an authorised complainant dies or is a minor or is otherwise unable to act for himself, then, unless subsection (3) below applies—

- (a) any complaint or dispute (whenever arising) which the authorised complainant might otherwise have made or referred under this Part of this Act may be made or referred by the appropriate person, and
- (b) anything in the process of being done by or in relation to the authorised complainant under or by virtue of this Part of this Act may be continued by or in relation to the appropriate person,

and any reference in this Part of this Act, except this section, to an authorised complainant shall be construed as including a reference to the appropriate person.

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(2) For the purposes of subsection (1) above “the appropriate person” means—

- (a) where the authorised complainant has died, his personal representatives; or
- (b) in any other case, a member of the authorised complainant’s family, or some body or individual suitable to represent him.

(3) Where a person is acting as an insolvency practitioner in relation to an authorised complainant, investigations under this Part of this Act shall be regarded for the purposes of the Insolvency Act 1986 and the Bankruptcy (Scotland) Act 1985 as legal proceedings.

1986 c. 45.
1985 c. 66.

(4) In this section “acting as an insolvency practitioner” shall be construed in accordance with section 388 of the Insolvency Act 1986, but disregarding subsection (5) of that section (exclusion of official receiver).

Staying court proceedings where a complaint is made or a dispute is referred.

59E.—(1) This section applies where—

- (a) a complaint has been made or a dispute referred to the Pensions Ombudsman; and
- (b) any party to the investigation subsequently commences any legal proceedings in any court against any other party to the investigation in respect of any of the matters which are the subject of the complaint or dispute.

(2) In England and Wales, where this section applies any party to the legal proceedings may at any time after acknowledgment of service, and before delivering any pleadings or taking any other step in the proceedings, apply to that court to stay the proceedings.

(3) In Scotland, where this section applies any party to the legal proceedings may—

- (a) if the proceedings are in the Court of Session, at any time—
 - (i) after appearance has been entered but before defences have been lodged or any other step in the proceedings has been taken; or
 - (ii) (in procedure by petition) after intimation and service but before answers have been lodged or any other step in the proceedings has been taken; and
- (b) if the proceedings are in the sheriff court, at any time—
 - (i) after notice has been given of intention to defend but before defences have been lodged or any other step in the proceedings has been taken; or
 - (ii) (in summary cause procedure) after appearance has been made, or notice of intention to appear has been lodged, but before any defence has been stated or any other step in the proceedings has been taken,

apply to the court for a sist of process.

(4) On an application under subsection (2) or (3) above the court may make an order staying or, in Scotland, sisting the proceedings if it is satisfied—

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- (a) that there is no sufficient reason why the matter should not be investigated by the Pensions Ombudsman; and
- (b) that the applicant was at the time when the legal proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the investigation.

(5) For the purposes of this section the parties to an investigation are—

- (a) the authorised complainant in question;
- (b) the trustees or managers of the scheme in question;
- (c) any person against whom allegations are made in the complaint or reference; and
- (d) any person claiming under a person falling within paragraphs (a) to (c) above.

Procedure on an investigation.

59F.—(1) Where the Pensions Ombudsman proposes to conduct an investigation into a complaint made or dispute referred under this Part of this Act, he shall afford to the trustees and managers of the scheme concerned, and any other person against whom allegations are made in the complaint or reference, an opportunity to comment on any allegations contained in the complaint or reference.

(2) The Secretary of State may by statutory instrument make rules with respect to the procedure which is to be adopted in connection with the making of complaints, the reference of disputes, and the investigation of complaints made and disputes referred, under this Part of this Act.

(3) The rules may include provision—

- (a) requiring any oral hearing held in connection with an investigation under this Part of this Act to take place in public, except in such cases as may be specified in the rules; and
- (b) as to the persons entitled to appear and be heard on behalf of parties to an investigation, as defined in section 59E(5) above.

(4) Subject to any provision made by the rules, the procedure for conducting an investigation under this Part of this Act shall be such as the Pensions Ombudsman considers appropriate in the circumstances of the case; and he may, in particular, obtain information from such persons and in such manner, and make such inquiries, as he thinks fit.

Investigations:
further
provisions.

59G.—(1) For the purposes of an investigation under this Part of this Act or under any corresponding legislation having effect in Northern Ireland, the Pensions Ombudsman may require any trustee or manager of the scheme concerned, or any other person who, in his opinion, is able to furnish information or produce documents relevant to the investigation, to furnish any such information or produce any such documents.

(2) For the purposes of any such investigation, the Pensions Ombudsman shall have the same powers as the court in respect of the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad) and in respect of the production of documents.

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(3) No person shall be compelled for the purposes of any such investigation to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the court.

(4) If any person without lawful excuse obstructs the Pensions Ombudsman in the performance of his functions or is guilty of any act or omission in relation to an investigation under this Part which, if that investigation were a proceeding in the court, would constitute contempt of court, the Pensions Ombudsman may certify the offence to the court.

(5) Where an offence is certified under subsection (4) above, the court may inquire into the matter and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, deal with him in any manner in which the court could deal with him if he had committed the like offence in relation to the court.

(6) To assist him in an investigation, the Pensions Ombudsman may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may determine with the approval of the Treasury.

(7) The Pensions Ombudsman may refer any question of law arising for determination in connection with a complaint or dispute to the High Court or, in Scotland, the Court of Session.

(8) In this section "the court" means—

- (a) in England and Wales, a county court;
- (b) in Scotland, the sheriff.

(9) Subsections (4) and (5) above shall be construed, in their application to Scotland, as if contempt of court were in Scots law categorised as an offence.

Determinations of
the Pensions
Ombudsman.

59H.—(1) Where the Pensions Ombudsman has conducted an investigation under this Part of this Act, he shall send a written statement of his determination of the complaint or dispute in question—

- (a) to the authorised complainant in question; and
- (b) to the trustees or managers of the scheme in question;

and any such statement shall contain the reasons for his determination.

(2) Where the Pensions Ombudsman makes a determination under this Part of this Act or under any corresponding legislation having effect in Northern Ireland, he may direct the trustees or managers of the scheme concerned to take, or refrain from taking, such steps as he may specify in the statement referred to in subsection (1) above or otherwise in writing.

(3) Subject to subsection (4) below, the determination by the Pensions Ombudsman of a complaint or dispute, and any direction given by him under subsection (2) above, shall be final and binding on—

- (a) the authorised complainant in question;
- (b) the trustees or managers of the scheme concerned; and
- (c) any person claiming under them respectively.

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(4) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a determination or direction of the Pensions Ombudsman at the instance of any person falling within paragraphs (a) to (c) of subsection (3) above.

(5) Any determination or direction of the Pensions Ombudsman shall be enforceable—

- (a) in England and Wales, in a county court as if it were a judgment or order of that court, and
- (b) in Scotland, by the sheriff, as if it were a judgment or order of the sheriff and whether or not the sheriff could himself have granted such judgment or order.

(6) If the Pensions Ombudsman considers it appropriate to do so in any particular case, he may publish in such form and manner as he thinks fit a report of any investigation under this Part of this Act and of the result of that investigation.

(7) For the purposes of the law of defamation, the publication of any matter by the Pensions Ombudsman—

- (a) in submitting or publishing a report under section 59B(6) or subsection (6) above, or
- (b) in sending to any person a statement under subsection (1) above or a direction under subsection (2) above,

shall be absolutely privileged.

Power to make special county court rules.

59J.—(1) The Secretary of State may by statutory instrument make rules—

- (a) regulating the practice, and the forms of proceedings, which are to be followed in county courts in any proceedings under or by virtue of this Part of this Act; and
- (b) prescribing the scales of costs to be paid in connection with any such proceedings.

(2) Without prejudice to the generality of subsection (1) above, rules under this section may to any extent, and with or without modifications, apply any county court rules to proceedings under or by virtue of this Part of this Act.”

SCHEDULE 4

Section 14.

OCCUPATIONAL AND PERSONAL PENSION SCHEMES

PART I

PROTECTING PENSIONS

Occupational pensions: independent trustee where employer insolvent etc

1. The following sections shall be inserted after the section 57B of the Pensions Act inserted by paragraph 11 below—

“Requirement for independent trustee where employer becomes insolvent etc.

57C.—(1) This section applies in relation to an occupational pension scheme which is constituted by trust deed—

- (a) if a person (“the practitioner”) commences to act as an insolvency practitioner in relation to a company which, or an individual who, is the employer of persons in the description or category of employment to which the scheme relates; or
- (b) if the official receiver becomes—

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(i) the liquidator or provisional liquidator of a company which is the employer of any such persons, or

(ii) the receiver and the manager, or the trustee, of the estate of a bankrupt who is the employer of any such persons.

(2) If and so long as this section applies to a scheme, it shall be the duty of the practitioner or official receiver—

(a) to satisfy himself that at all times at least one of the trustees of the scheme is an independent person; and

(b) if at any time he is not so satisfied, to appoint under this paragraph, or to secure the appointment of, an independent person as a trustee of the scheme;

but this subsection is subject to subsection (5) below.

(3) For the purposes of subsection (2) above a person is “independent” only if—

(a) he has no interest in the assets of the employer or of the scheme, otherwise than as trustee of the scheme;

(b) he is neither connected with, nor an associate of—

(i) the employer;

(ii) any person for the time being acting as an insolvency practitioner in relation to the employer; or

(iii) the official receiver, acting in any of the capacities mentioned in subsection (1)(b) above in relation to the employer; and

(c) he satisfies such other requirements as may be prescribed;

and any reference in this section or section 57D below to an “independent trustee” shall be construed accordingly.

1986 c. 45.

(4) Sections 249 and 435 of the Insolvency Act 1986 (connected and associated persons) shall apply for the purposes of paragraph (b) of subsection (3) above as they apply for the purposes of that Act; and section 74 of the Bankruptcy (Scotland) Act 1985 (associated persons) shall apply for the purposes of that paragraph as that section applies for the purposes of the said Act of 1985.

1985 c. 66.

(5) Where, apart from this subsection, the duties imposed by subsection (2) above in relation to a scheme would fall to be discharged at the same time by two or more persons acting in different capacities, those duties shall be discharged—

(a) if the employer is a company, by the person or persons acting as the company’s liquidator, provisional liquidator or administrator; or

(b) if the employer is an individual, by the person or persons acting as his trustee in bankruptcy or interim receiver of his property or as permanent or interim trustee in the sequestration of his estate.

(6) If the practitioner or official receiver neglects or refuses to discharge any duty imposed upon him by subsection (2) above in relation to a scheme, any member of the scheme may apply to the appropriate court for an order requiring him to discharge his duties under that subsection.

(7) Where this section applies in relation to a scheme, it shall cease to do so— SCH. 4

- (a) if some person other than the employer mentioned in subsection (1) above becomes the employer of persons in the description or category of employment to which the scheme relates; or
- (b) if at any time neither the practitioner nor the official receiver is acting in relation to the employer;

but nothing in this subsection affects the application of this section in relation to the scheme on any subsequent occasion when the conditions specified in subsection (1)(a) or (b) above are satisfied in relation to the scheme.

(8) In this section—

“acting as an insolvency practitioner” and “official receiver” shall be construed in accordance with sections 388 and 399 of the Insolvency Act 1986; 1986 c. 45.

“the appropriate court”, in relation to an application for an order under subsection (6) above, means—

- (a) if the employer in question is a company—
 - (i) where a winding up order has been made or a provisional liquidator appointed, the court which made the order or appointed the liquidator;
 - (ii) in any other case, any court having jurisdiction to wind up the company; and

(b) in any other case—

- (i) in England and Wales, the court as defined in section 385 of the Insolvency Act 1986; or

- (ii) in Scotland, where sequestration has been awarded or, by virtue of the proviso to section 13(1) of the Bankruptcy (Scotland) Act 1985 (petition presented by creditor or trustee acting under trust deed) an interim trustee appointed, the court which made the award or appointment and, if no such award or appointment has been made, any court having jurisdiction under section 9 of that Act; 1985 c. 66.

“bankrupt” has the meaning given by section 381 of the Insolvency Act 1986;

“company” means a company within the meaning given by section 735(1) of the Companies Act 1985 or a company which may be wound up under Part V of the Insolvency Act 1986 (unregistered companies); 1985 c. 6.

“interim trustee” and “permanent trustee” have the same meaning as they have in the Bankruptcy (Scotland) Act 1985.

(9) References in this section to an individual include, except where the context otherwise requires, references to a partnership and to any debtor within the meaning of the Bankruptcy (Scotland) Act 1985.

Independent trustees: further provisions.

57D.—(1) If and so long as section 57C above applies in

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relation to a scheme, no independent trustee of the scheme shall be removed from being a trustee by virtue only of any provision of the scheme.

(2) If a trustee appointed under subsection (2)(b) of that section ceases to be an independent trustee, then—

- (a) he shall forthwith give written notice of that fact to the practitioner or official receiver by whom the duties under that provision fall to be discharged; and
- (b) he shall cease to be a trustee of the scheme, unless the circumstances are such that upon his cessation there would be no other trustee of the scheme, in which case he shall not cease by virtue of this subsection to be a trustee until such time as another trustee is appointed.

(3) A trustee appointed under subsection (2)(b) of that section shall be entitled to be paid out of the scheme's resources his reasonable fees for acting in that capacity and any expenses reasonably incurred by him in doing so, and to be so paid in priority to all other claims falling to be met out of the scheme's resources.

(4) If, immediately before the appointment of an independent trustee under subsection (2)(b) of that section, there is no trustee of the scheme other than the employer, the employer shall cease to be a trustee upon the appointment of the independent trustee.

(5) If and so long as section 57C above applies in relation to a scheme—

- (a) any power vested in the trustees or managers of the scheme and exercisable at their discretion shall be exercisable only by the independent trustee; and
- (b) any power—
 - (i) which the scheme confers on the employer (otherwise than as trustee or manager of the scheme), and
 - (ii) which is exercisable by him at his discretion but only as trustee of the power,
 shall be exercisable only by the independent trustee;

but if, in either case, there is more than one independent trustee, the power shall also be exercisable with the consent of at least half of those trustees by any person who could exercise it apart from this subsection.

(6) Notwithstanding anything in section 155 of the Insolvency Act 1986 (court orders for inspection etc), if and so long as section 57C above applies in relation to a scheme, it shall be the duty of the practitioner or official receiver to provide the trustees of the scheme, as soon as practicable after the receipt of a request, with any information which the trustees may reasonably require for the purposes of the scheme.

(7) Any expenses incurred by the practitioner or official receiver in complying with a request under subsection (6) above shall be recoverable by him as part of the expenses incurred by him in the discharge of his duties; and he shall not be required under that subsection to take any action which involves expenses that cannot be so recovered, unless the trustees of the scheme undertake to meet them.

(8) The provisions of section 57C above and this section, and of any regulations made under that section or this section, override any provision of a scheme to the extent that it conflicts with them. SCH. 4

(9) The Secretary of State may make regulations modifying section 57C above and this section in their application—

- (a) to any occupational pension scheme which applies to earners in employments under different employers;
- (b) to any occupational pension scheme of which there are no members who are in pensionable service under the scheme, as defined in paragraph 3 of Schedule 16 to the 1973 Act; or
- (c) to any case where a partnership is the employer, or one of the employers, in relation to an occupational pension scheme.

(10) Section 57C above and this section (other than this subsection) shall not apply in relation to an occupational pension scheme of a prescribed description.”

Employer to make good deficiencies on winding up

2. The following section shall be inserted into the Pensions Act after the section 58A inserted by section 11 of this Act—

“Deficiencies in the assets of a scheme on winding up.

58B.—(1) If, in the case of an occupational pension scheme which is not a money purchase scheme, the value at the applicable time of the scheme’s liabilities, as determined in accordance with regulations, exceeds the value of its assets, as so determined, then—

- (a) an amount equal to the excess shall be treated as a debt due from the employer to the trustees of the scheme; and
- (b) if that debt has not been discharged before the default time then, for the purposes of the law relating to winding up, bankruptcy or sequestration as it applies in relation to the employer, it shall be taken to arise at the default time.

(2) In this section—

“the applicable time” means the earlier of—

- (a) any time when the scheme is being wound up which falls before the default time; or
- (b) the default time;

“the default time” means—

(a) in England and Wales—

- (i) where the employer is a company, immediately before the company goes into liquidation, within the meaning of section 247(2) of the Insolvency Act 1986; or
- (ii) where the employer is an individual, immediately before the commencement of his bankruptcy, within the meaning of section 278 of that Act; or

(b) in Scotland—

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1985 c. 66.

- (i) where the employer is a company, immediately before the commencement of the company's being wound up, within the meaning of section 129 of that Act; or
- (ii) where the employer is a debtor, within the meaning of the Bankruptcy (Scotland) Act 1985, immediately before the date of sequestration as defined in section 12(4) of that Act;

"the employer" means the employer of persons in the description or category of employment to which the scheme relates;

"money purchase scheme" has the same meaning as it has in section 58A above.

(3) The power to make regulations conferred by subsection (1) above includes power to provide—

- (a) that, in calculating the value of the scheme's liabilities, any provision of the scheme which limits the amount of its liabilities by reference to the amount of its assets is to be disregarded;
- (b) that the value of the scheme's liabilities or assets is to be calculated and verified in such manner as may, in the particular case, be approved—
 - (i) by a prescribed person,
 - (ii) by a person with prescribed professional qualifications or experience, or
 - (iii) by a person approved by the Secretary of State,
 or that their value is to be calculated and verified in accordance with guidance prepared by a prescribed body.

(4) This section is without prejudice to any other right or remedy which the trustees may have in respect of the deficiency.

1986 c. 45.

(5) A debt due by virtue only of this section shall be regarded neither as a preferential debt for the purposes of the Insolvency Act 1986 nor as a preferred debt for the purposes of the Bankruptcy (Scotland) Act 1985.

(6) The Secretary of State may make regulations modifying this section in its application—

- (a) to any occupational pension scheme which applies to earners in employments under different employers;
- (b) to any case where a partnership is the employer, or one of the employers, in relation to an occupational pension scheme;
- (c) to any occupational pension scheme of which there are no members who are in pensionable service under the scheme, as defined in paragraph 3 of Schedule 16 to the 1973 Act; or
- (d) to any case where the assets and liabilities of the scheme are transferred to another occupational pension scheme.

(7) The provisions of this section and of any regulations made under it override any provision of a scheme to the extent that it conflicts with this section or those regulations."

Investment of scheme's resources

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3. After section 57 of the Pensions Act there shall be inserted the following section—

“Restrictions on investment of scheme's resources in employer-related assets.

57A.—(1) An occupational pension scheme shall comply with such restrictions as may be prescribed with respect to the proportion of its resources that may at any time be invested in, or in any description of, employer-related investments.

(2) In this section—

“employer-related investments” means—

(a) shares or other securities issued by the employer or by any person who is connected with, or an associate of, the employer;

(b) land which is occupied or used by, or subject to a lease in favour of, the employer or any such person;

(c) property (other than land) which is used for the purposes of any business carried on by the employer or any such person;

(d) loans to the employer or any such person;

“the employer” means the employer of persons in the description or category of employment to which the scheme in question relates;

“securities” means any asset, right or interest falling within paragraph 1, 2, 4 or 5 of Schedule 1 to the Financial Services Act 1986. 1986 c. 60.

(3) If and to the extent that any sums due and payable by a person to the trustees or managers of a scheme remain unpaid, those sums shall be regarded for the purposes of this section as loans made to that person by the trustees or managers, and resources of the scheme shall be regarded as invested accordingly.

(4) Sections 249 and 435 of the Insolvency Act 1986 (connected and associated persons) shall apply for the purposes of this section as they apply for the purposes of that Act; and section 74 of the Bankruptcy (Scotland) Act 1985 shall apply for the purposes of this section as that section applies for the purposes of the said Act of 1985.” 1986 c. 45. 1985 c. 66.

Revaluation of preserved pensions

4.—(1) For the definition of “qualifying pensionable service” in paragraph 2(3) of Schedule 1A to the Pensions Act (which precludes revaluation of accrued rights referable to service before 1st January 1985) there shall be substituted—

““qualifying pensionable service” means—

(a) where the termination of pensionable service occurs after the coming into force of this paragraph of this definition, the whole of the member's pensionable service, as defined in this sub-paragraph; and

(b) in any other case, so much of any such service as falls on or after 1st January 1985.”

SCH. 4 (2) In paragraph 3 of that Schedule (average salary benefits) in sub-paragraph (5) (definition of "salaries") for the words from "means" to "terminated" there shall be substituted the words "means, subject to sub-paragraph (5A) below, the member's salaries for the period between the date when his pensionable service commenced and the date when it terminated".

(3) After that sub-paragraph there shall be inserted—

"(5A) Where the member's pensionable service terminated before the coming into force of this sub-paragraph, sub-paragraph (5) above shall have effect with the substitution for the words from "means" to "terminated" of the words "means the member's salaries for the period between 1st January 1985 and the date when his pensionable service terminated".

PART II

MISCELLANEOUS AMENDMENTS

Preservation of rights for persons opting out of schemes

5.—(1) In Schedule 16 to the 1973 Act, in sub-paragraph (1) of paragraph 6 (short service benefit where member's service in relevant employment terminates before normal pension age etc) for the words "service in relevant employment" there shall be substituted the words "pensionable service".

(2) At the end of that paragraph there shall be added—

"(6) In any case where—

(a) the pensionable service of a member of a scheme terminated during the period beginning with 6th April 1988 and ending immediately before the coming into force of this sub-paragraph, otherwise than on the termination of his service in relevant employment, and

(b) during that period no payments in discharge of his rights under the scheme were made in consequence of that termination,

sub-paragraph (1) above shall be taken at all times on and after 6th April 1988 (the date on which section 15 of the Social Security Act 1986 came into force) to have had effect in relation to that member and his rights under the scheme with the amendment made by paragraph 5(1) of Schedule 4 to the Social Security Act 1990 (which substituted the words "pensionable service" for the words "service in relevant employment")."

(3) In paragraph 15(4) of that Schedule (commutation of widow's, widower's or dependant's benefit by the beneficiary) for the words "by the beneficiary" there shall be substituted the words "of that benefit".

(4) In consequence of the amendment made by sub-paragraph (1) above—

(a) in paragraph 2(b) of that Schedule (definition of "long service benefit") after the words "remains in relevant employment" there shall be inserted the words ", and continues to render service which qualifies him for benefits,";

(b) in paragraph 17(1)(b) of that Schedule, for the words "relevant employment" there shall be substituted the words "pensionable service";

(c) in Schedule 1A to the Pensions Act (revaluation of pensions and transfer values)—

(i) in paragraphs 1(1)(b), 2(2)(d) and 11(1)(b), sub-paragraph (ii) and the word "or" immediately preceding it shall cease to have effect;

(ii) in paragraphs 1(4) and 11(2), the words ““relevant employment”” shall be omitted; and

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(iii) paragraph 12(1)(b) and the word “or” immediately preceding it shall cease to have effect.

Contracting-out conditions: age at which pension or annuity is to commence under a money purchase scheme

6.—(1) In section 32 of the Pensions Act, in subsection (2B) (modifications of Schedule 1 to the 1986 Act in its application for the purpose of determining whether a money purchase scheme can be contracted-out) after paragraph (d)(ii) there shall be inserted—

“(iii) for the references in sub-paragraphs (3)(a) and (7)(a)(i) to the date on which the member attains pensionable age there shall be substituted a reference to a date not earlier than that on which he attains the age of 60 nor later than that on which he attains the age of 65; and”.

(2) The amendment made by sub-paragraph (1) above shall be taken to have come into force on 17th May 1990.

Contracting-out conditions: guaranteed minimum for married women and widows paying reduced rate contributions

7.—(1) In section 33 of the Pensions Act, in subsection (1A) (special conditions in the case of married women and widows paying reduced rate contributions) in paragraph (a) after the words “if she attains pensionable age” there shall be inserted the words “and does not have a guaranteed minimum under section 35 below”.

(2) In section 35 of that Act, after subsection (2) (calculation of guaranteed minimum by reference to earnings factors derived from earnings on which primary Class 1 contributions have been paid) there shall be added—

“(2ZA) In determining the guaranteed minimum in a case where—

(a) earnings such as are mentioned in subsection (1) above have been paid to a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of section 3 of this Act, and

(b) the tax week in which those earnings are paid falls in the tax year 1991-92 or any subsequent tax year,

the married woman or widow shall be treated for the purposes of this section as having such earnings factors derived from those earnings as she would have had if primary Class 1 contributions had been payable, and paid, upon them otherwise than at a reduced rate.”

(3) If, immediately before the coming into force of this paragraph, there is in force in relation to an occupational pension scheme a contracting-out certificate under Part III of the Pensions Act then, to the extent that the rules of the scheme are inconsistent with any provision made by sub-paragraph (1) or (2) above, they shall be overridden by that provision.

Protection of earner's and widow's pensions

8.—(1) Sections 41A and 41B of the Pensions Act (protection of earner's and widow's pension) shall have effect, and be taken at all times on and after 21st July 1989 to have had effect, with the amendments made by sub-paragraphs (2) to (7) below, which are in substitution for the amendments made by paragraphs 6 and 7 of Schedule 6 to the 1989 Act; and those paragraphs shall be taken never to have come into force.

- SCH. 4 (2) In section 41A of the Pensions Act, in subsection (1C) (which defines the "relevant aggregate") after paragraph (c) there shall be added the words "and
- (d) where the scheme provides that part of the earner's pension shall accrue after the termination of employment date by reason of employment after that date, the later earnings addition."
- (3) After subsection (2) of that section there shall be inserted—
- "(2A) In this section "the later earnings addition" means the amount (if any) by which $(R2 - G2)$ exceeds $(R1 - G1)$, where—
- R1 is the relevant sum;
- G1 is the earner's guaranteed minimum on the day after his termination of employment date;
- R2 is the amount that would have been the relevant sum, had the weekly rate of the benefit which determines that sum been calculated by reference to the earner's later earnings level; and
- G2 is that amount which bears to R2 the proportion which G1 bears to R1.
- (2B) For the purposes of subsection (2A) above, the earner's "later earnings level" is the level of earnings by reference to which the weekly rate of the benefit which determines the relevant sum would have been calculated, had the termination of employment date fallen on the earlier of—
- (a) the commencement of payment date, or
- (b) the date on which the earner ceased to be in pensionable service under the scheme."
- (4) In subsection (11) of that section (definitions) for the words "short service benefit" is" there shall be substituted the words "pensionable service" and "short service benefit" are".
- (5) In section 41B of the Pensions Act, in subsection (1A) (which defines the "relevant aggregate") after paragraph (c) there shall be added the words "and
- (d) where the scheme provides that part of the widow's pension shall accrue after the termination of employment date by reason of the earner's employment after that date, the later earnings addition."
- (6) After subsection (3) of that section there shall be inserted—
- "(3A) In this section "the later earnings addition" means the amount (if any) by which $(R2 - G2)$ exceeds $(R1 - G1)$, where—
- R1 is the relevant sum;
- G1 is one half of the earner's guaranteed minimum on the day after his termination of employment date;
- R2 is the amount that would have been the relevant sum, had the weekly rate of the pension which determines that sum been calculated by reference to the earner's later earnings level; and
- G2 is that amount which bears to R2 the proportion which G1 bears to R1.
- (3B) For the purposes of subsection (3A) above, the earner's "later earnings level" is the level of earnings by reference to which the weekly rate of the pension which determines the relevant sum would have been calculated, had the earner's termination of employment date fallen on the earlier of—
- (a) the earner's commencement of payment date, or
- (b) the date on which the earner ceased to be in pensionable service under the scheme."

(7) After subsection (5) of that section, there shall be added—

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“(6) In this section “pensionable service” shall be construed in accordance with Schedule 16 to the Social Security Act 1973.”

(8) In section 41A of that Act, in subsection (1), for the words “relevant date” there shall be substituted the words “commencement of payment date” and subsections (1A) and (1B) shall cease to have effect.

(9) In consequence of this paragraph, regulation 2(1) and (2) of the Occupational Pension Schemes (Transitional Provisions and Savings) Regulations 1989 shall be deemed never to have been made. S.I. 1989/1239.

(10) If, before 21st July 1989, an earner ceased to be in contracted-out employment by reference to an occupational pension scheme other than a money purchase contracted-out scheme, sections 41A and 41B of the Pensions Act shall apply in relation to the earner and the earner’s widow or widower as if neither this paragraph nor paragraphs 6 and 7 of Schedule 6 to the 1989 Act had been enacted.

(11) Expressions used in sub-paragraph (10) above and the Pensions Act have the same meaning in that sub-paragraph as they have in that Act.

Provisions for the suspension or forfeiture of pensions

9.—(1) In section 41C(3) of the Pensions Act—

- (a) in paragraph (a), sub-paragraph (ii) shall be omitted and for the word “or” immediately preceding it there shall be substituted the word “and”; and
- (b) in paragraph (d) (provisions about commutation of pensions to be included among the provisions which are not overridden by sections 41A and 41B of that Act) for the word “commutation” there shall be substituted the words “the commutation, suspension or forfeiture”.

(2) After that paragraph there shall be inserted—

“and

- (e) any provision of a scheme whereby, as respects so much of a widow’s or widower’s pension as exceeds the guaranteed minimum pension—
 - (i) no pension, or a pension at a reduced rate, is payable if the earner and the widow or widower married not more than six months before the earner’s death;
 - (ii) the whole or any part of the pension is not paid to the widow or widower, but instead comparable benefits are provided for one or more dependants of the deceased earner; or
 - (iii) no pension, or a pension at a reduced rate, is payable to the widow or widower (or, where a provision such as is mentioned in sub-paragraph (ii) above operates, to another dependant of the deceased earner) who was more than ten years younger than the deceased earner.”

(3) In paragraph 7(4) of Schedule 1A to the Pensions Act, in paragraph (a) (adaptations of section 41C(3) in its application for certain purposes to schemes which are not contracted-out) after sub-paragraph (iii) there shall be added—

“(iv) from paragraph (e), the words from “as respects” to “guaranteed minimum pension””;

and paragraph (b) (which made, in relation to schemes which are not contracted-out, similar provision to that made by sub-paragraph (2) above as modified by this sub-paragraph) shall be omitted.

- SCH. 4 (4) The amendments made by sub-paragraph (1) above shall be deemed to have come into force on 1st November 1986 (the date on which certain amendments relating to commutation, suspension and forfeiture took, or are deemed to have taken, effect).

The insurance companies which may take transfer values

10. In section 52C of the Pensions Act (extinguishment of scheme's liability for pensions appropriately secured by insurance policies or annuity contracts) in subsection (4) (meaning of "appropriately secured") for paragraph (a) there shall be substituted—

"(a) the insurance company with which it is or was taken out or entered into—

(i) is, or was at the relevant time, carrying on ordinary long-term insurance business in the United Kingdom or any other member State; and

(ii) satisfies, or satisfied at the relevant time, prescribed requirements; and".

Grants by the Occupational Pensions Board to advisory bodies

11. The following section shall be inserted after the section 57A of the Pensions Act inserted by paragraph 3 above—

"Grants by the Board to advisory bodies etc. 57B.—(1) The Occupational Pensions Board may make grants on such terms and conditions as they think fit to any person or body of persons providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.

(2) The Secretary of State may pay to the Occupational Pensions Board such sums as he may think fit towards any expenditure of theirs in making grants under this section."

Levy towards meeting cost of the Pensions Ombudsman, the Registry and certain grants made by the Board

12. After section 60 of the Pensions Act there shall be inserted the following section—

"Levies towards meeting certain expenditure under this Act. 60ZA.—(1) For the purpose of meeting some or all of the expenditure under section 57B, Part IVA, and section 59K of this Act, regulations may make provision for imposing a levy in respect of such occupational or personal pension schemes as may be prescribed.

(2) Any levy imposed under this section shall be payable to the Secretary of State by or on behalf of—

(a) the administrators of such public service pension schemes as may be prescribed,

(b) the trustees or managers of such other occupational or personal pension schemes as may be prescribed, or

(c) such other persons as may be prescribed,

at such rates and at such times as may be prescribed.

(3) The amount payable by any person on account of the levy shall be a debt due from him to the Secretary of State and shall be recoverable accordingly.

(4) Regulations under this section may include provision relating to the collection and recovery of amounts payable by way of levy under this section, but this subsection is without prejudice to the generality of subsection (1) above.”

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Extension of certain pension scheme provisions to Northern Ireland.

13. In section 68(4) of the Pensions Act (provisions which extend to Northern Ireland) for the words “Section 57 of this Act extends” there shall be substituted the words “The following provisions of this Act, namely, sections 57, 59B, other than subsections (4) and (5)(b), and 59K(1), (2), other than paragraph (a)(ii), (3), (4) and (9) extend”.

Revaluation: extension of certain provisions to widowers

14. In section 9(4) of the 1986 Act, in paragraph (i) (which was inserted by paragraph 16(b) of Schedule 6 to the 1989 Act and which specifies certain provisions in Schedule 1A to the Pensions Act which are to be construed as if “widow” included “widower”) after the word “paragraphs” there shall be inserted “2(2)(e).”

Overriding effect of certain 1989 Act amendments

15.—(1) In paragraph 19 of Schedule 6 to the 1989 Act (which made minor amendments to the requirements specified in Schedule 1 to the 1986 Act which appropriate schemes must satisfy) after sub-paragraph (2) there shall be added—

“(3) If immediately before the passing of the Social Security Act 1990 there is in force in relation to an occupational or personal pension scheme either—

(a) a contracting-out certificate under Part III of the Pensions Act which states that the scheme is contracted-out by virtue of section 32(2A) of that Act, or

(b) an appropriate scheme certificate under Part I of the 1986 Act, then, to the extent that the rules of the scheme are inconsistent with any provision made by sub-paragraph (1) or (2) above, they shall be overridden by that provision.”

(2) In paragraph 20 of Schedule 6 to the 1989 Act (amendments relating to the manner of giving effect to protected rights) after sub-paragraph (3) there shall be added—

“(4) If immediately before the passing of the Social Security Act 1990 there is in force in relation to an occupational or personal pension scheme either—

(a) a contracting-out certificate under Part III of the Pensions Act which states that the scheme is contracted-out by virtue of section 32(2A) of that Act, or

(b) an appropriate scheme certificate under Part I of the 1986 Act, then, to the extent that the rules of the scheme are inconsistent with any provision made by sub-paragraphs (1) to (3) above, they shall be overridden by that provision.”

SCHEDULE 5

Section 17(7).

SPECIAL PENALTIES IN THE CASE OF CERTAIN RETURNS

The provisions referred to in section 17(7) of this Act are as follows—

“Special penalties in the case of certain returns

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5A.—(1) This paragraph applies where regulations under paragraph 5 above make provision requiring any return which is to be made in accordance with a specified provision of regulations under that paragraph (the “contributions return”) to be made—

1988 c. 1.
1970 c. 9.

- (a) at the same time as any specified return required to be made in accordance with a provision of regulations made by the Inland Revenue under section 203(2) (PAYE) or 566(1) (sub-contractors) of the Income and Corporation Taxes Act 1988 to which section 98A of the Taxes Management Act 1970 applies (the “tax return”); or
- (b) if the circumstances are such that the return mentioned in paragraph (a) above does not fall to be made, at a time defined by reference to the time for making that return, had it fallen to be made;

and, in a case falling within paragraph (b) above, any reference in the following provisions of this paragraph to the tax return shall be construed as a reference to the return there mentioned.

(2) Where this paragraph applies, regulations under paragraph 5 above may provide that section 98A of the Taxes Management Act 1970 (penalties for late, fraudulent or negligent returns) shall apply in relation to any specified provision of regulations in accordance with which the contributions return is required to be made; and where they so provide then, subject to the following provisions of this paragraph—

- (a) that section shall apply in relation to the contributions return as it applies in relation to the tax return; and
- (b) sections 100 to 100D and 102 to 104 of that Act shall apply in relation to a penalty under section 98A of that Act to which a person is liable by virtue of this sub-paragraph as they apply in relation to any other penalty under that section.

(3) Where a person is liable to a penalty under paragraph (a) of subsection (2) of section 98A of that Act (first twelve months’ default) in consequence of a failure in respect of a tax return, he shall not also be liable to a penalty under that paragraph in respect of any failure in respect of the associated contributions return.

(4) In any case where—

- (a) a person is liable to a penalty under subsection (2)(b) or (4) of that section (tax-related penalties) in respect of both a tax return and its associated contributions return, and
- (b) an officer of the Inland Revenue authorised for the purposes of section 100 of that Act has determined that a penalty is to be imposed under that provision in respect of both returns,

the penalty so imposed shall be a single penalty of an amount not exceeding the limit determined under sub-paragraph (5) below.

(5) The limit mentioned in sub-paragraph (4) above is an amount equal to the sum of—

- (a) the maximum penalty that would have been applicable under subsection (2)(b) or (4) of that section (as the case may be) for a penalty in relation to the tax return only; and
- (b) the maximum penalty that would have been so applicable in relation to the associated contributions return only.

(6) So much of any single penalty imposed by virtue of sub-paragraph (4) above as is recovered by the Inland Revenue shall, after the deduction of any administrative costs of the Inland Revenue attributable to its recovery, be apportioned between the Inland Revenue and the Secretary of State in the ratio T:C, where—

T is the maximum penalty that could have been imposed under the provision in question in relation to the tax return only; and

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C is the maximum penalty that could have been so imposed in relation to the associated contributions return only.

(7) The Inland Revenue shall, at such times and in such manner as the Treasury may direct, account to the Secretary of State for, and pay to him—

- (a) the amounts apportioned to him under sub-paragraph (6) above in respect of such penalties as are there mentioned; and
- (b) so much of any penalty otherwise imposed by virtue of this paragraph and recovered by the Inland Revenue as remains after the deduction by them of any administrative costs attributable to its recovery.

(8) Sub-paragraphs (6) and (7) above shall have effect notwithstanding any provision which treats a penalty under section 98A of that Act as if it were tax charged in an assessment and due and payable.

(9) In the application of section 98A of that Act by virtue of this paragraph, any reference to a year of assessment shall be construed, in relation to a contributions return, as a reference to the tax year corresponding to that year of assessment.

(10) In the application of section 100D of that Act (court proceedings for penalties in cases of fraud) by virtue of this paragraph—

- (a) subsection (2) shall have effect with the omission of the words “or Northern Ireland” and paragraph (c); and
- (b) subsection (3) shall have effect with the omission of the words from “and any such proceedings instituted in Northern Ireland” onwards.

(11) In the application of section 103 of that Act (time limit for recovery) by virtue of this paragraph—

- (a) any reference in subsection (1) to tax shall be taken to include a reference to Class 1 contributions;
- (b) any penalty by virtue of sub-paragraph (4) above shall be regarded as a penalty in respect of the tax return in question; and
- (c) where, by virtue of subsection (2) (death), subsection (1)(b) does not apply in relation to a penalty under section 98A(2)(b) or (4) of that Act in respect of a tax return, it shall also not apply in relation to a penalty so imposed in respect of the associated contributions return.

(12) A penalty under section 98A of that Act as it applies by virtue of this paragraph may be imposed notwithstanding that a question arising in relation to contributions has not been determined under section 93 of this Act by the Secretary of State, except that where—

- (a) any such question arises which affects a person's liability for, or the amount of, the penalty, and
- (b) either—
 - (i) that person requires the question to be determined under section 93, or

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(ii) a question of law arising in connection with the determination of the question is, or is to be, referred to a court under section 94 of this Act,

the penalty shall not be imposed until the question has been determined under section 93 by the Secretary of State or the reference has been finally disposed of under section 94, as the case may be; but, subject to that, this paragraph is without prejudice to sections 93, 94 and 96 of this Act.

(13) For the purposes of this paragraph—

(a) “contributions return” and “tax return” shall be construed in accordance with sub-paragraph (1) above; and

(b) a contributions return and a tax return are “associated” if the contributions return is required to be made—

(i) at the same time as the tax return, or

(ii) where sub-paragraph (1)(b) above applies, at a time defined by reference to the time for making the tax return.”

Section 21(1).

SCHEDULE 6

MINOR AND CONSEQUENTIAL AMENDMENTS

Orders increasing contributions

1.—(1) In subsection (6K) of section 4 of the principal Act (certain orders relating to contributions to be subject to the effect of subsequent orders under that section) after the word “under” there shall be inserted the words “Part IV of this Act or”.

(2) The words “section 4 above or this Part of this Act” shall be substituted—

(a) in section 121(3) of the principal Act, for the words “that section or section 122 below”;

(b) in section 123(3) of that Act, for the words “that section or under section 120 above”; and

(c) in section 123A(8) of that Act, for the words “this section”.

Contributions of registered dock workers

1978 c. 44.
1989 c. 13.
2.—(1) In section 4(7) of the principal Act (reduced contributions for certain persons) the reference to section 145 of the Employment Protection (Consolidation) Act 1978 (which related to registered dock workers and which was repealed by the Dock Work Act 1989 as from 3rd July 1989) shall be omitted.

(2) Notwithstanding the repeal of section 145 of the said Act of 1978 or of the reference to it in section 4(7) of the principal Act, regulation 133 of the Contributions Regulations (reduced rate of contributions for registered dock workers) shall continue to have effect, and be taken to have continued to have had effect at all times on and after 3rd July 1989, in relation to earnings paid or treated as paid before 6th April 1988 as it had effect by virtue of regulation 4 of the 1988 Regulations (which continues in force accordingly).

(3) Nothing in this paragraph shall be taken to have prejudiced any power to amend or revoke the regulations to which it refers.

(4) In this paragraph—

S.I. 1979/591. “the Contributions Regulations” means the Social Security (Contributions) Regulations 1979; and

S.I. 1988/299. “the 1988 Regulations” means the Social Security (Contributions) Amendment Regulations 1988.

Restriction on dependency increases

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3.—(1) In section 33 of the principal Act, in subsection (3) (which requires benefit payable by virtue of that section where the contribution conditions are only partially satisfied to be paid at a reduced rate) after the words “conditions are satisfied” there shall be inserted the words “(and may be nil)”.

(2) In section 47A of that Act (rate of adult dependency increases to be determined in accordance with regulations in certain cases where the associated retirement pension is attributable to reduced contributions) after the words “pension is determined” there shall be inserted “(a)” and at the end of that section there shall be added the words “and

(b) the regulations shall not provide for any such increase in a case where the retirement pension by reference to which the rate of the said benefit or invalidity pension is determined—

(i) would have been payable only by virtue of section 33 above; and

(ii) would, in consequence of a failure to satisfy a contribution condition, have contained no basic pension.”

(3) In section 8 of the Social Security (Miscellaneous Provisions) Act 1977, in subsection (1) (which precludes any increase on account of a child in the amount of certain pensions payable by virtue of section 33(2) of the principal Act where a contribution condition is not satisfied) after the words “on account of a child” there shall be inserted the words “or an adult, or under section 28(7) of the principal Act (invalidity),”.

(4) In subsection (2) of that section (which contains a similar restriction in relation to unemployment or sickness benefit where entitlement to a retirement pension would have arisen only by virtue of section 33) after the words “on account of a child” there shall be added the words “or an adult or under section 28(7) of the principal Act (invalidity).”

Regulations relating to industrial injuries and diseases

4.—(1) In section 76 of the principal Act, after subsection (4) (power to make regulations for determining, among other things, the time at which a person is to be treated as having developed a prescribed injury or disease) there shall be inserted—

“(4A) Notwithstanding any other provision of this Act, the power conferred by subsection (4)(a) above includes power to provide that the time at which a person shall be treated as having developed a prescribed disease or injury shall be the date on which he first makes a claim which results in the payment of benefit by virtue of this Chapter in respect of that disease or injury.”

(2) In section 77 of that Act, at the end of subsection (2) (power to modify provisions relating to disablement benefit and its administration) there shall be added the words—

“and for the purposes of this subsection the provisions of this Act which relate to the administration of disablement benefit or reduced earnings allowance shall be taken to include section 165A and any provision which relates to the administration of both the benefit in question and other benefits.”

(3) Regulations 6(2)(c), 25 and 36 of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 (onset of occupational deafness and time for claiming in respect of occupational deafness or occupational asthma), and any former regulations which they directly or indirectly re-enact with or without amendment, shall be taken to be, and always to have been, validly made. S.I. 1985/967.

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Certain officers in Northern Ireland to be eligible for appointment as adjudication officers for Great Britain

5.—(1) In section 97 of the principal Act, in subsection (1) (appointment of adjudication officers) after the words “and may include” there shall be inserted “(a)” and at the end of that subsection there shall be added the words “or

(b) officers of the Northern Ireland Department appointed with the concurrence of that Department.”

(2) In section 56 of the 1986 Act (legal proceedings) after subsection (4A) there shall be inserted—

“(4B) Any proceedings in respect of any act or omission of an adjudication officer which, apart from this subsection, would fall to be brought against a person appointed by virtue of section 97(1)(b) of the Social Security Act 1975 who is resident in Northern Ireland, other than proceedings for an offence, may instead be brought against the Chief Adjudication Officer; and, for the purposes of any proceedings so brought, the acts or omissions of the adjudication officer shall be treated as the acts or omissions of the Chief Adjudication Officer.”

Adjudication

6.—(1) In section 100 of the principal Act (appeal to social security appeal tribunal) there shall be added at the end—

“(8) In any case where—

(a) an adjudication officer has decided any claim or question under Chapter IV or V of Part II of this Act, and

(b) the right to benefit under those Chapters of any person other than the claimant is or may be, under Schedule 9 to this Act, affected by that decision,

that other person shall have the like right of appeal to a social security appeal tribunal as the claimant.

(9) Subsection (2) above shall apply to a person with a right of appeal under subsection (7) or (8) above as it applies to a claimant.”

(2) In section 101 of that Act, in subsection (2) (persons at whose instance an appeal lies from a social security appeal tribunal to a Commissioner on a point of law) the following paragraph shall be inserted after paragraph (b)—

“(bb) in a case relating to industrial injuries benefit, a person whose right to benefit is or may be, under Schedule 9 to this Act, affected by the decision appealed against;”.

(3) In subsection (3) of that section, in paragraph (c) (appeal at the instance of a trade union where the claimant was a member of the union) after the words “the claimant” there shall be inserted the words “or, in relation to industrial death benefit, the deceased”.

(4) The amendments made by this paragraph shall be deemed to have come into force on the day on which paragraph 2 of Schedule 1 to the Social Security Act 1988 came into force.

1988 c. 7.

Restrictions on entitlement to benefit in certain cases of error

7.—(1) In section 104 of the principal Act (reviews), after the subsection (6) inserted by section 6(3) of this Act, there shall be inserted—

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“(7) Subsection (8) below applies in any case where—

- (a) on the determination, whenever made, of a Commissioner or the court (the “relevant determination”), a decision made by an adjudicating authority is or was found to have been erroneous in point of law, and
- (b) in consequence of that determination, any other decision—
 - (i) which was made before the date of that determination, and
 - (ii) which is referable to a claim made or treated as made by any person for any benefit,
 falls (or would, apart from subsection (8) below, fall) to be revised on a review carried out under subsection (1A) above after the coming into force of this subsection.

(8) Where this subsection applies, any question arising on the review referred to in subsection (7)(b) above, or on any subsequent review of a decision which is referable to the same claim, as to any person’s entitlement to, or right to payment of, any benefit—

- (a) in respect of any period before the date of the relevant determination, or
- (b) in the case of widow’s payment, in respect of a death occurring before that date,

shall be determined as if the decision referred to in subsection (7)(a) above had been found by the Commissioner or court in question not to have been erroneous in point of law.

(9) In determining whether a person is entitled to benefit in a case where his entitlement depends on his having been entitled to the same or some other benefit before attaining a particular age, subsection (8) above shall be disregarded for the purpose only of determining the question whether he was so entitled before attaining that age.

(10) For the purposes of subsections (7) to (9) above—

- (a) “adjudicating authority” and “the court” have the same meaning as they have in section 165D below;
- (b) any reference to—
 - (i) a person’s entitlement to benefit, or
 - (ii) a decision which is referable to a claim,
 shall be construed in accordance with subsection (5) of that section; and
- (c) the date of the relevant determination shall, in prescribed cases, be determined in accordance with any regulations made under subsection (6) of that section.”

(2) After the section 165C of that Act inserted by section 6(2) of this Act there shall be inserted the following section—

“Restrictions on entitlement to benefit in certain cases of error.

165D.—(1) This section applies where—

- (a) on the determination, whenever made, of a Commissioner or the court (the “relevant determination”), a decision made by an adjudicating authority is or was found to have been erroneous in point of law; and
- (b) after both the coming into force of this section and the date of the relevant determination, a claim which falls, or which would apart from this section fall, to be decided in accordance with the relevant

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determination is made or treated under section 51B(1) of the Social Security Act 1986 as made by any person for any benefit.

(2) Where this section applies, any question which arises on, or on the review of a decision which is referable to, the claim mentioned in subsection (1)(b) above and which relates to the entitlement of the claimant or any other person to any benefit—

- (a) in respect of a period before the relevant date, or
- (b) in the case of a widow's payment, in respect of a death occurring before that date,

shall be determined as if the decision referred to in subsection (1)(a) above had been found by the Commissioner or court in question not to have been erroneous in point of law.

(3) In determining whether a person is entitled to benefit in a case where—

- (a) his entitlement depends on his having been entitled to the same or some other benefit before attaining a particular age, and
- (b) he attained that age—
 - (i) before both the date of the relevant determination and the date of the claim referred to in subsection (1)(b) above, but
 - (ii) not before the earliest day in respect of which benefit could, apart from this section, have been awarded on that claim,

subsection (2) above shall be disregarded for the purpose only of determining the question whether he was entitled as mentioned in paragraph (a) above.

(4) In this section—

“adjudicating authority” means—

- (a) an adjudication officer, the Attendance Allowance Board, a social security appeal tribunal or a medical appeal tribunal;
- (b) any of the following former bodies or officers, that is to say, the National Assistance Board, the Supplementary Benefits Commission, a benefit officer, an insurance officer or a supplement officer; or
- (c) any of the officers who, or tribunals or other bodies which, in Northern Ireland correspond to those mentioned in paragraph (a) or (b) above;

“the court” means the High Court, the Court of Appeal, the Court of Session, the High Court or Court of Appeal in Northern Ireland, the House of Lords or the Court of Justice of the European Community;

“the relevant date” means whichever is the latest of—

- (a) the date on which the relevant determination was made;
- (b) the date which falls twelve months before the date on which the claim referred to in subsection (1)(b) above is made or treated under section 51B(1) of the Social Security Act 1986 as made; and

(c) the earliest date in respect of which the claimant would, apart from this section, be entitled on that claim to the benefit in question.

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(5) For the purposes of this section—

(a) any reference in this section to entitlement to benefit includes a reference to entitlement—

(i) to any increase in the rate of a benefit; or

(ii) to a benefit, or increase of benefit, at a particular rate; and

(b) any reference to a decision which is “referable to” a claim is a reference to—

(i) a decision on the claim,

(ii) a decision on a review of the decision on the claim, or

(iii) a decision on a subsequent review of the decision on the review,

and so on.

(6) The date of the relevant determination shall, in prescribed cases, be determined for the purposes of this section in accordance with any regulations made for that purpose.”

(3) In paragraph 48 of Schedule 10 to the 1986 Act (which applies sections 87 and 165A(1) of the principal Act to income-related benefits) at the end of paragraph (b) there shall be inserted the words “and

(c) section 165D (restrictions on entitlement in certain cases of error)”.

Parliamentary control of regulations and orders

8.—(1) In section 167 of the principal Act (Parliamentary control of orders and regulations) for subsections (2) to (4) there shall be substituted—

“(2) Subsection (1) above does not apply to a statutory instrument by reason only that it contains—

(a) regulations under section 129 which the instrument states are made for the purpose of making provision consequential on the making of an order under section 4, 120, 122, 123A or 134;

(b) regulations under powers conferred by any provision mentioned in paragraph (a) of that subsection which are to be made for the purpose of consolidating regulations to be revoked in the instrument;

(c) regulations which, in so far as they are made under powers so conferred, only replace provisions of previous regulations with new provisions to the same effect.

(3) A statutory instrument—

(a) which contains (whether alone or with other provisions) orders or regulations made under this Act by the Secretary of State, other than orders under section 30(6), 120 or 122, and

(b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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(4) A statutory instrument—

- (a) which contains (whether alone or with other provisions) regulations made under this Act by the Lord Chancellor, and
- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(2) In section 62 of the Pensions Act, for subsections (1) and (2) there shall be substituted—

“(1) Section 167 of the principal Act shall have effect as if, in subsection (1) (statutory instruments requiring affirmative parliamentary procedure), there were included in paragraph (a) a reference to regulations made by virtue of section 3 above.

(2) Subsection (3) of the said section 167 (statutory instruments subject to annulment) shall have effect as if in paragraph (a), after the words “other than” there were inserted the words “an order which, under any provision of the Pensions Act, is required to be laid before Parliament after being made or”.

1975 c. 61.

(3) In section 22 of the Child Benefit Act 1975, for subsections (3) to (5) there shall be substituted—

“(3) Subject to subsection (4) below, a statutory instrument containing (whether alone or with other provisions) any regulations under section 5 or 17(1) above shall not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(4) Subsection (3) above does not apply to a statutory instrument by reason only that it contains regulations under powers conferred by any provision mentioned in that subsection which are to be made for the purpose of consolidating regulations to be revoked in the instrument.

(5) A statutory instrument—

- (a) which contains (whether alone or with other provisions) any regulations under this Act, and
- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

1977 c. 5.

(4) In section 24(5) of the Social Security (Miscellaneous Provisions) Act 1977 for the words “containing regulations” there shall be substituted—

- “(a) which contains (whether alone or with other provisions) any regulations, and
- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,”.

1980 c. 39.

(5) In section 5(4) of the Social Security (No.2) Act 1980—

- (a) at the beginning there shall be inserted the words “A statutory instrument containing (whether alone or with other provisions)”;
- (b) for the words “a draft of the regulations” there shall be substituted the words “a draft of the instrument”.

(6) In section 7 of that Act, for subsection (4) there shall be substituted—

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“(4) A statutory instrument—

- (a) which contains (whether alone or with other provisions) any regulations under this Act, and
- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(7) In section 45 of the 1982 Act, for subsection (2) there shall be substituted—

“(2) Any power of the Secretary of State to make orders or regulations under this Act shall be exercisable by statutory instrument; and any statutory instrument—

- (a) which contains (whether alone or with other provisions) any such orders or regulations, other than an order under section 48(3) of this Act, and
- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(8) Section 27(3) and (4) of the Social Security Act 1985 (which relate to parliamentary control of statutory instruments and which are spent) shall cease to have effect. 1985 c. 53.

(9) In section 83 of the 1986 Act, for subsection (4) there shall be substituted—

“(4) A statutory instrument—

- (a) which contains (whether alone or with other provisions) orders or regulations under this Act, other than orders under section 88 below, and
- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(10) After section 15 of the Social Security Act 1988 there shall be inserted the following section— 1988 c. 7.

“Regulations and orders etc.

15A.—(1) Section 166(1) to (3A) of the Social Security Act 1975 (regulations and orders: general provisions) shall apply in relation to any power conferred by any provision of this Act to make orders or regulations under this Act as they apply in relation to any power conferred by that Act to make orders or regulations, but as if for references to that Act there were substituted references to this Act.

(2) A statutory instrument—

- (a) which contains (whether alone or with other provisions) any orders or regulations under this Act, other than orders under section 18 below, and
- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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(3) In this Act—

“prescribe” means prescribe by regulations; and

“regulations” means regulations made under this Act by the Secretary of State.”

(11) In consequence of sub-paragraph (10) above, the following provisions of that Act shall cease to have effect—

(a) section 13(7) and (8);

(b) in section 18(3) and (4) the words “made by statutory instrument”;

(c) section 18(7) and (8).

(12) In section 29 of the 1989 Act, for subsection (3) there shall be substituted—

“(3) A statutory instrument—

(a) which contains (whether alone or with other provisions) any regulations or orders under this Act, other than orders under section 33 below, and

(b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.”;

and, in consequence, subsection (4) shall cease to have effect.

Return of Class 2 contributions paid by low-earners

9. In Schedule 1 to the principal Act (contributions: supplementary provisions) in paragraph 6(1) (matters for which regulations may provide) after the paragraph (gg) inserted by section 2 of the 1989 Act there shall be inserted—

“(gh) for the repayment, on the making of an application in the prescribed manner and within the prescribed time, of Class 2 contributions paid by a person in respect of a period which consists of, or falls within, a tax year for which his earnings from employment as a self-employed earner were, or were such as to be treated by regulations under subsection (5) of section 7 of this Act as being, at a lower rate than the one specified in that subsection for that year;

(gj) for excepting a person from liability for contributions repaid by virtue of paragraph (gh) above, to the extent that he would not have been so excepted by virtue of section 7(5) of this Act;”.

Maternity allowance: contribution conditions for women paid otherwise than weekly

10.—(1) In Schedule 3 to the principal Act, at the beginning of paragraph 3 (contribution conditions for maternity allowance) there shall be inserted the words—

“(1) Subject to sub-paragraph (2) below,”.

(2) At the end of that paragraph there shall be added—

“(2) In the case of a claimant who is or has been paid otherwise than weekly, any week—

(a) in respect of which she did not pay contributions of a relevant Class, but

- (b) for which her earnings were such that, had she been paid weekly, she would have been required to pay primary Class 1 contributions in respect of that week, and
- (c) for which no such election as is mentioned in section 3(2)(a) of the Pensions Act (contributions at a reduced rate) was in force in her case,

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shall be treated for the purposes of sub-paragraph (1) above as a week in respect of which she actually paid such contributions otherwise than at a reduced rate.

(3) For the purposes of sub-paragraph (2) above, the amount of the claimant's earnings for any week shall be determined in accordance with regulations."

Tax years

11. In Schedule 20 to the principal Act (glossary of expressions) in the entry relating to "tax year", the following paragraph shall be added at the end of the second column—

"The expression "1978-79" means the tax year beginning with 6th April 1978, and any correspondingly framed reference to a pair of successive years shall be construed as a reference to the tax year beginning with 6th April in the earlier of them."

Old Cases Act schemes: changes in parliamentary control

12. In section 4 of the Old Cases Act, for subsection (8) (schemes to be made by statutory instrument subject to affirmative procedure, unless made for the purpose only of replacing provisions of previous schemes with provisions to the same effect or of making provision consequential on certain orders or regulations, and if made for that purpose only, to be subject to negative procedure) there shall be substituted—

"(8) The power to make a scheme shall be exercisable by statutory instrument, and an instrument—

- (a) which contains such a scheme (whether alone or with other provisions), and
- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament."

Re-establishment courses and resettlement units

13.—(1) In Schedule 5 to the Supplementary Benefits Act 1976, paragraph 1 (power to provide re-establishment courses and facilities for persons attending them) shall cease to have effect. 1976 c. 71.

(2) For paragraph 4 of that Schedule (power of Secretary of State to make contributions to voluntary organisations which provide re-establishment courses or resettlement units) there shall be substituted—

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“Grants for voluntary organisations providing places

4.—(1) The Secretary of State may, upon such terms and subject to such conditions as he may determine, give assistance by way of grant to any local authority or voluntary organisation which provides places for purposes similar to the purposes for which resettlement units are provided by the Secretary of State.

(2) In this paragraph “local authority” means the council of a county, a district, a region, an islands area or a London borough, or the Common Council of the City of London.”

*Mobility allowance for certain persons eligible for invalid carriages:
pre-consolidation amendment.*

1977 c. 5.
1977 c. 49.
1978 c. 29.

14. The amendments of paragraph (a) of section 13(3) of the Social Security (Miscellaneous Provisions) Act 1977 by the National Health Service Act 1977 and the National Health Service (Scotland) Act 1978 shall be deemed never to have been made and that paragraph shall accordingly have effect and be deemed at all times to have had effect as originally enacted.

Statutory sick pay: alterations to the rates of payment

15.—(1) In subsection (1A) of section 7 of the 1982 Act (rates of statutory sick pay: power by regulations to substitute alternative provisions for subsection (1)(a) to (c) and to make consequential amendments)—

- (a) for the word “regulations” there shall be substituted the word “order”;
and
- (b) in paragraph (a), for the words “subsection (1)(a) to (c) above” there shall be substituted the words “the paragraphs of subsection (1) above”.

(2) In subsection (1B) of that section (regulations under subsection (1A) to be subject to affirmative parliamentary procedure) for the word “regulations” there shall be substituted the words “an order”.

Statutory sick pay for NHS staff with divided contracts

16. In section 26 of the 1982 Act (interpretation) after subsection (5) (which confers power to treat two or more contracts of employment as one) there shall be inserted—

1990 c. 19.

“(5A) Where, in consequence of the establishment of one or more National Health Service trusts under Part I of the National Health Service and Community Care Act 1990 or the National Health Service (Scotland) Act 1978, a person’s contract of employment is treated by a scheme under that Part or Act as divided so as to constitute two or more contracts, regulations may make provision enabling him to elect for all of those contracts to be treated as one contract for the purposes of this Part of this Act or of such provisions of this Part of this Act as may be prescribed; and any such regulations may prescribe—

- (a) the conditions that must be satisfied if a person is to be entitled to make such an election;
- (b) the manner in which, and the time within which, such an election is to be made;
- (c) the persons to whom, and the manner in which, notice of such an election is to be given;
- (d) the information which a person who makes such an election is to provide, and the persons to whom, and the time within which, he is to provide it;
- (e) the time for which such an election is to have effect;

- (f) which one of the person's employers under the two or more contracts is to be regarded for the purposes of statutory sick pay as his employer under the one contract; SCH. 6

and the powers conferred by this subsection are without prejudice to any other power to make regulations under this Part of this Act."

Income support and trade disputes etc: "the relevant sum"

17.—(1) Section 23 of the 1986 Act (income support and trade disputes etc) shall be amended in accordance with sub-paragraphs (2) and (3) below.

(2) For subsection (6) (meaning of "relevant sum") there shall be substituted—

"(6) Subject to subsection (7) below, "the relevant sum" for the purposes of subsection (5) above shall be £19.50."

(3) For paragraph (a) of subsection (7) (annual increase of the relevant sum by reference to the percentage increase in applicable amounts under the up-rating order) there shall be substituted—

"(a) increasing that sum by the percentage by which the personal allowance under paragraph 1(1) of Part I of Schedule 2 to the Income Support (General) Regulations 1987 for a single person aged not less than 25 has been increased by the order; and". S.I. 1987/1967.

Certain housing benefit to be paid as rent allowance instead of rent rebate

18. In section 28 of the 1986 Act, in subsection (1)(b) (housing benefit in respect of certain payments to housing authorities to take the form of a rent rebate) after the words "rent rebate" there shall be inserted the words "or, in prescribed cases, of a rent allowance," and after subsection (5) of that section there shall be inserted—

"(5A) The cases that may be prescribed under subsection (1)(b) above do not include any case where the payment in respect of which the housing benefit is granted is a payment in respect of a dwelling which, within the meaning of Part VI of the Local Government and Housing Act 1989, is a house or other property of an authority within the authority's Housing Revenue Account." 1989 c. 42.

Housing benefit finance

19.—(1) In section 30 of the 1986 Act (housing benefit finance), after subsection (2) there shall be inserted—

"(2ZA) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection (2)(a) or (b) above may not be determined by reference to—

- (a) an authority's expenditure in respect of any housing benefit, or in respect of any rebate or allowance within the meaning of the Social Security and Housing Benefits Act 1982, granted during any previous year; or 1982 c. 24.
- (b) any subsidy under this section or that Act paid to an authority in respect of any previous year."

(2) In subsection (2A) of that section (things which the Secretary of State may do by reference to determinations of rent officers)—

(a) after the words "the Secretary of State—" there shall be inserted—

"(za) may provide for any calculation under paragraph (a) of subsection (2) above to be made,"; and

(b) in paragraph (a), for the words "paragraph (a) of subsection (2) above" there shall be substituted the words "that paragraph".

SCH. 6 *Community charge benefit in the form of reduction of charge in subsequent year*

20. In section 31A(1)(b) and (2)(b) of the 1986 Act (which provides that community charge benefit may take the form of a reduction in the amount of the charge which a person is liable to pay in respect of the relevant chargeable financial year)—

- (a) for the words “is liable” there shall be substituted the words “is or becomes liable”; and
- (b) after the word “relevant” there shall be inserted the words “,or any subsequent,”.

Community charge benefit finance

21.—(1) In section 31F of the 1986 Act, for subsection (3) (amount by reference to which community charge benefit subsidy is to be calculated) there shall be substituted—

“(3) Any calculation under subsection (2) above shall be made by reference to the total amount of the community charge benefits allowed by the authority during the year with any additions specified in the order but subject to any deductions so specified.”

(2) After subsection (5) of that section there shall be inserted—

“(5A) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection (3) or (4) above may not be determined by reference to—

- (a) an authority’s expenditure in respect of community charge benefits allowed during any previous year, or
- (b) any subsidy paid under this section to an authority in respect of any previous year.”

(3) For subsection (6) of that section (conditions for payment of community charge benefit subsidy) there shall be substituted the following—

“(6) Subsidy under this section shall be payable by the Secretary of State at such time and in such manner as the Treasury may direct; and subsections (8A) to (8F) of section 30 above shall apply in relation to a charging authority or a levying authority and subsidy under this section as they apply in relation to a rating authority, a housing authority or a local authority and subsidy under that section.”

Statutory maternity pay for NHS staff with divided contracts

22. In section 50 of the 1986 Act (interpretation) after subsection (2) (which confers power to treat two or more contracts of employment as one) there shall be inserted—

“(2A) Where, in consequence of the establishment of one or more National Health Service trusts under Part I of the National Health Service and Community Care Act 1990 or the National Health Service (Scotland) Act 1978, a woman’s contract of employment is treated by a scheme under that Part or Act as divided so as to constitute two or more contracts, regulations may make provision enabling her to elect for all of those contracts to be treated as one contract for the purposes of this Part of this Act or of such provisions of this Part of this Act as may be prescribed; and any such regulations may prescribe—

- (a) the conditions that must be satisfied if a woman is to be entitled to make such an election;
- (b) the manner in which, and the time within which, such an election is to be made;

- (c) the persons to whom, and the manner in which, notice of such an election is to be given;
- (d) the information which a woman who makes such an election is to provide, and the persons to whom, and the time within which, she is to provide it;
- (e) the time for which such an election is to have effect;
- (f) which one of the woman's employers under the two or more contracts is to be regarded for the purposes of statutory maternity pay as her employer under the one contract;

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and the powers conferred by this subsection are without prejudice to any other power to make regulations under this Part of this Act."

Functions of the Deputy Government Actuary

23. In section 63(11) of the 1986 Act (report of Government Actuary on likely effect of annual up-rating order on National Insurance Fund) for the words "giving the latter's opinion" there shall be substituted the words "or the Deputy Government Actuary, giving that Actuary's opinion".

Income support: implementation of increases due to attainment of particular ages

24. After section 64A of the 1986 Act (effect of alteration in component rates of income support) there shall be inserted the following section—

"Implementation of increases in income support due to attainment of particular ages.

64B.—(1) This section applies where—

- (a) an award of income support is in force in favour of a person ("the recipient"); and
- (b) there is a component which becomes applicable, or applicable at a particular rate, in his case if he or some other person attains a particular age.

(2) If, in a case where this section applies, the recipient or other person attains the particular age referred to in paragraph (b) of subsection (1) above and in consequence—

- (a) the component in question becomes applicable, or applicable at a particular rate, in the recipient's case (whether or not some other component ceases, for the same reason, to be applicable, or applicable at a particular rate, in his case), and
- (b) after taking account of any such cessation, the recipient becomes entitled to an increased amount of income support,

then, except as provided by subsection (3) below, as from the day on which he becomes so entitled, the amount of income support payable to or for him under the award shall be that increased amount, without any further decision of an adjudication officer, and the award shall have effect accordingly.

(3) Subsection (2) above does not apply in any case where, in consequence of the recipient or other person attaining the age in question, some question arises in relation to the recipient's entitlement to any benefit under the benefit Acts, other than—

- (a) the question whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in his case; and
- (b) the question whether, in consequence, the amount of his income support falls to be varied.

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(4) In this section “component”, in relation to a person and his income support, means any of the sums specified in regulations under section 22(1) above.”

Statutory maternity pay for servicewomen

25. Section 79(5) of the 1986 Act (which precludes the payment of statutory maternity pay to women members of HM forces) shall cease to have effect.

Christmas bonus for pensioners

26.—(1) In Schedule 6 to the 1986 Act, in paragraph 3 (Christmas bonus for pensioners: circumstances in which a person is to be treated as entitled to a qualifying benefit in a relevant week) the following provisions shall cease to have effect—

- (a) sub-paragraph (2)(a)(ii) and (iii) (persons otherwise not entitled to a qualifying benefit in consequence of the former limit on pensioners’ earnings or the requirement to claim the qualifying benefit); and
- (b) sub-paragraph (3)(d) (couples: members otherwise not entitled to an increase in respect of the other member in consequence of the requirement to claim the benefit).

(2) This paragraph shall be deemed to have come into force on 1st October 1989.

Benefits for women widowed before 11th April 1988

S.I. 1987/1854.

27.—(1) The Social Security (Widow’s Benefit and Retirement Pensions) Amendment Regulations 1987 shall have effect, and be taken always to have had effect, with the substitution for regulations 3 and 4 (transitional provisions about widowed mother’s allowance where the husband died before 11th April 1988, which were retrospectively amended by section 6(2) of the 1989 Act, and savings) of the following—

“3. Regulation 16(1) of the principal Regulations shall apply to a widow whose late husband died before 11th April 1988 as if regulation 2(6) above had not been made.”

(2) In any case where—

- (a) a claim for a widow’s pension or a widowed mother’s allowance is made, or treated as made, before the passing of this Act, and
- (b) the Secretary of State has made a payment to or for the claimant on the ground that if the claim had been received immediately after its passing she would have been entitled to that pension or allowance, or entitled to it at a higher rate, for the period in respect of which the payment is made,

the payment so made shall be treated as a payment of that pension or allowance; and, if and to the extent that an award of the pension or allowance, or an award at a higher rate, is made for the period in respect of which the payment was made, the payment shall be treated as made in accordance with that award.

(3) Where, in consequence of regulation 2(6) of the Social Security (Widow’s Benefit and Retirement Pensions) Amendment Regulations 1987 (deemed entitlement to child allowance for purposes of widowed mother’s allowance etc), an adjudicating authority has decided before the passing of this Act that a widow whose husband died before 11th April 1988 either—

- (a) is not entitled to a benefit under section 25 or 26 of the principal Act, or
- (b) is entitled to such a benefit at a particular rate,

an adjudication officer may review that decision, notwithstanding anything in section 104 of the principal Act.

(4) In any case where—

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- (a) it is determined on such a review that the widow in question was entitled to a benefit under section 25 or 26 of the principal Act, or was entitled to such a benefit at a higher rate, and
- (b) the application for the review was made before the end of the period of twelve months beginning with the passing of this Act,

the decision on the review may take effect on 11th April 1988 or any later date, notwithstanding any provision of any Act or instrument restricting the payment of any benefit or increase of benefit to which a person would otherwise be entitled by reason of a review in respect of any period before the review.

(5) Subsection (4) of section 104 of the principal Act (appeals from reviews) shall apply in relation to a review under this paragraph as it applies in relation to a review under that section.

(6) In this paragraph “adjudicating authority” means—

- (a) an adjudication officer;
- (b) a social security appeal tribunal;
- (c) a Commissioner, as defined in Schedule 20 to the principal Act.

(7) The amendment by sub-paragraph (1) above of provisions contained in regulations shall not be taken to have prejudiced any power to make further regulations revoking or amending those provisions.

(8) Nothing in this paragraph shall be taken to prejudice section 16 or 17 of the Interpretation Act 1978 (effect of repeals, substitutions etc).

1978 c. 30.

Unauthorised disclosure of information relating to particular persons

28.—(1) In section 19 of the 1989 Act, in subsection (7) (construction of references to government departments) after the word “include” there shall be inserted “(a)” and at the end there shall be added the words “and

(b) the Scottish Courts Administration.”

(2) In subsection (9)(d) of that section (lawful authority: court proceedings) after the words “this Act” there shall be inserted the words “or in any corresponding enactment having effect in Northern Ireland”.

(3) In subsection (10) of that section—

- (a) in paragraph (b) (mental health receivers) for the words “or any corresponding enactment having effect in Northern Ireland” there shall be substituted the words “or a controller appointed under Article 101 of the Mental Health (Northern Ireland) Order 1986”;
- (b) in paragraph (d)(i), for the words “or any similar appointee in Northern Ireland” there shall be substituted the words “or sub-paragraph (a) of rule 38(1) of Order 109 of the Rules of the Supreme Court (Northern Ireland) 1980”;
- (c) in paragraph (d)(ii), for the words from “that rule” onwards there shall be substituted the words “the said rule 41(1) or a controller ad interim appointed under sub-paragraph (b) of the said rule 38(1)”;
- (d) in the words following paragraph (d), after the word “receiver,” there shall be inserted the word “controller,”.

(4) In Schedule 2 to that Act (persons employed in social security adjudication or administration) for the entry in Part I relating to the Inland Revenue there shall be substituted—

“Other public departments and offices

A member or officer of the Commissioners of Inland Revenue.

A civil servant in the Scottish Courts Administration.”

SCH. 6 (5) In that Part, after the entry "An insurance officer" there shall be inserted—
"A supplement officer."

(6) In Part II of that Schedule (construction of references to government departments etc) paragraph 1(2) (definitions) shall be omitted and for paragraph 3 (which relates to the Lord Chancellor's Department) there shall be substituted—

"3. Any reference in Part I of this Schedule to the Lord Chancellor's Department or the Scottish Courts Administration is a reference to that Department or Administration only to the extent that the functions carried out by persons in its employ are, or are connected with—

- (a) functions of the Chief, or any other, Social Security Commissioner; or
- (b) functions of the Council on Tribunals or the Scottish Committee of that Council which relate to social security or to occupational or personal pension schemes or to war pensions."

(7) In paragraph 4 of that Part (the Inland Revenue) in paragraph (b), the words "as defined in paragraph 1(2) above" shall be omitted and after that paragraph there shall be inserted—

"5. In this Part of this Schedule—

"occupational pension scheme" has the meaning given by section 66(1) of the Pensions Act;

"personal pension scheme" has the meaning given by section 84(1) of the 1986 Act;

"war pension" has the meaning given by section 25(4) of this Act."

Employment related schemes for pensions or other benefits: equal treatment for men and women

29. In Schedule 5 to that Act, in paragraph 5 (unfair maternity provisions) in sub-paragraph (2)(a), after the word "women" there shall be inserted the word "members".

Incapacity for work: councillor's allowances and expenses

30.—(1) In Schedule 8 to that Act, paragraph 2 (which makes provision with respect to local authority councillors and incapacity for work) shall be amended in accordance with sub-paragraphs (2) to (4) below.

S.I. 1983/1598.

(2) In sub-paragraph (2) (certain benefits to be reduced by the excess of the councillor's allowance over the earnings limit specified in regulation 3(3) of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983, which was £35 at the passing of this Act) for the words "the amount of councillor's allowance" there shall be substituted the words "the net amount of councillor's allowance".

(3) In the definition of "councillor's allowance" in sub-paragraph (6), the following shall be omitted—

1989 c. 42.

- (a) in the paragraph (a) substituted by paragraph 113 of Schedule 11 to the Local Government and Housing Act 1989, the words "or in section 18(2) of that Act of 1989"; and
- (b) in the paragraph (b) so substituted, the words "other than such an allowance as is mentioned in section 18(2) of that Act of 1989".

(4) In that sub-paragraph, after the definition of “incapacity benefit” there shall be inserted—

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““net amount”, in relation to any councillor’s allowance to which a person is entitled, means the aggregate amount of the councillor’s allowance or allowances to which he is entitled for the week in question, reduced by the amount of any expenses incurred by him in that week in connection with his membership of the council or councils in question;”.

(5) In section 36(7) of the principal Act (regulations relating to severe disablement allowance), in paragraph (cc) (which was inserted by paragraph 2(5) of Schedule 8 to the 1989 Act and authorises the reduction of benefit by the excess of the amount of councillor’s allowance over a prescribed sum) for the words “the amount of councillor’s allowance” there shall be substituted the words “the net amount of councillor’s allowance”.

Joint citations

31. In the following enactments, for the words “the Social Security Acts 1975 to 1989” in each place where they occur there shall be substituted the words “the Social Security Acts 1975 to 1990”—

- (a) section 6(1) of the National Insurance Act 1974; 1974 c. 14.
- (b) sections 9(7) and 18(1) of the Social Security Act 1980; 1980 c. 30.
- (c) section 4(5) of the Forfeiture Act 1982; 1982 c. 34.
- (d) section 5(1)(a) of the Social Security Act 1985; 1985 c. 53.
- (e) paragraph (b) of the definition of “the benefit Acts” in section 84(1) of the 1986 Act.

SCHEDULE 7

Section 21(2).

REPEALS

| Chapter | Short title | Extent of repeal |
|-------------|---------------------------|---|
| 1975 c. 14. | Social Security Act 1975. | Section 1(1)(c) and the word “and” immediately preceding it. In section 4(7), the words “145”. In section 59B— (a) in subsection (1), the words from “and may become” onwards; (b) in subsection (3), the words “Unless he returns to regular employment”; (c) subsection (4); (d) in subsection (7)(b), the words “or returned to”; and (e) in subsection (8), the words “or as not having returned to”, “as having returned to, or” and “or returned to”. In section 135(5), the word “and” at the end of paragraph (a). |

| SCH. 7 | Chapter | Short title | Extent of repeal |
|--------|--------------------------|--|--|
| | 1975 c. 14. <i>cont.</i> | Social Security Act 1975 <i>cont.</i> | In section 137(1) and (2), the words "and the Old Cases Act". In section 152(6), the words "the Treasury supplements and". |
| | 1975 c. 16. | Industrial Injuries and Diseases (Old Cases) Act 1975. | Section 13. |
| | 1975 c. 60. | Social Security Pensions Act 1975. | In section 32(2B)(d)(i), the word "and". In section 33(2), the words "and (4)". Section 41A(1A) and (1B). Section 41C(3)(a)(ii). Sections 56B to 56D. Section 56E(1)(c). Sections 56F to 56K. In section 56L— (a) in subsection (1), in paragraph (a), the words "or (c)" and paragraph (b); (b) in subsection (5), paragraph (b) and, in paragraph (c) the words "or the registrar"; and (c) subsection (9). Sections 56M and 56N. In Schedule 1A— (a) in paragraphs 1(1)(b), 2(2)(d) and 11(1)(b), subparagraph (ii) and the word "or" immediately preceding it; (b) in paragraphs 1(4) and 11(2), the words "'relevant employment'"; (c) in paragraph 7(4), in paragraph (a), the word "and" immediately preceding sub-paragraph (iii), and paragraph (b); and (d) paragraph 12(1)(b) and the word "or" immediately preceding it. |
| | 1976 c. 71. | Supplementary Benefits Act 1976. | In Schedule 5, paragraph 1. |
| | 1977 c. 5. | Social Security (Miscellaneous Provisions) Act 1977. | Section 1(7)(b). |
| | 1977 c. 49. | National Health Service Act 1977. | In Schedule 15, paragraph 71. |
| | 1978 c. 29. | National Health Service (Scotland) Act 1978. | In Schedule 16, paragraph 44. |

| Chapter | Short title | Extent of repeal |
|-------------|--|---|
| 1979 c. 18. | Social Security Act 1979. | Section 4(2)(b). |
| 1980 c. 30. | Social Security Act 1980. | In Schedule 1, paragraph 15. In Schedule 2, in Part I, paragraph 31(b), (c) and (h). |
| 1982 c. 24. | Social Security and Housing Benefits Act 1982. | Section 46(3). |
| 1985 c. 53. | Social Security Act 1985. | Section 27(3) and (4). Section 31(1). Section 32(4). In Schedule 5, paragraphs 12, 22 and 35. |
| 1986 c. 50. | Social Security Act 1986. | In section 33(10A), the word "and" immediately preceding paragraph (e). In section 79, in subsection (4), the words "Subject to subsection (5) below" and subsection (5). Section 85(4)(a). In Schedule 6— (a) in paragraph 3, subparagraphs (2)(a)(ii) and (iii); and (b) in sub-paragraph (3), paragraph (d) and the word "or" immediately preceding it. In Schedule 10, paragraphs 68(1), 78 and 89. |
| 1987 c. 26. | Housing (Scotland) Act 1987. | Sections 252 and 253. |
| 1988 c. 7. | Social Security Act 1988. | Section 2(8) and (8A). Section 13(7) and (8). In section 18, in subsections (3) and (4), the words "made by statutory instrument" and subsections (7) and (8). |
| 1989 c. 24. | Social Security Act 1989. | Section 6(2). In section 22(3), in the definition of "relevant period", the words from "whether or not" onwards. Section 29(4). In Schedule 1, paragraph 8(3), (4) and (7). In Schedule 2, in Part II, paragraph 1(2) and in paragraph 4(b) the words "as defined in paragraph 1(2) above". In Schedule 3, paragraph 16. In Schedule 6, paragraphs 6, 7 and 8(1)(a). |

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| Chapter | Short title | Extent of repeal |
|--------------------------|--|--|
| 1989 c. 24. <i>cont.</i> | Social Security Act 1989 <i>cont.</i> | <p>In Schedule 8, in paragraph 2(6), in the definition of "councillor's allowance", in the paragraph (a) substituted by paragraph 113 of Schedule 11 to the Local Government and Housing Act 1989 the words "or in section 18(2) of that Act of 1989" and, in the paragraph (b) so substituted, the words "other than such an allowance as is mentioned in section 18(2) of that Act of 1989" and paragraph 8(2).</p> <p>In Schedule 9, the entry relating to section 41C(3)(a)(ii) of the Pensions Act.</p> |

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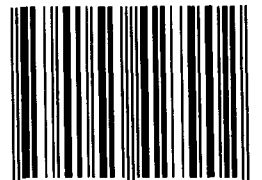
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