

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
 - (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.
- (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.

Status: This is the original version (as it was originally enacted).

- (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.
- (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—
- (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”.

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—

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- (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—

- (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;

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“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.
 - (5) In any case where—

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- (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—

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

where—

Status: This is the original version (as it was originally enacted).

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

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;

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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.

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

59B The Pensions Ombudsman

- (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—

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- (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.

59C Functions of the Pensions Ombudsman

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

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- (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.
- (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;
- “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.

59D Death, insolvency or disability of authorised complainant

- (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.
- (2) For the purposes of subsection (1) above “the appropriate person” means—
- (a) where the authorised complainant has died, his personal representatives; or

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- (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.
- (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).

59E Staying court proceedings where a complaint is made or a dispute is referred

- (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—
 - (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;

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- (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.

59F Procedure on an investigation

- (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.

59G Investigations: further provisions

- (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.
- (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.

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

- (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.

59H Determinations of the Pensions Ombudsman

- (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.
- (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.

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

- (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.

59J Power to make special county court rules

- (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—

“57C Requirement for independent trustee where employer becomes insolvent etc

- (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—

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

- (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.
- (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.
- (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—

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

- (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;

“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;

“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);

“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.

57D Independent trustees: further provisions

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

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

- (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.

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

- (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—

“58B Deficiencies in the assets of a scheme on winding up

- (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—
 - (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

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

- (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.
- (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

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

“57A Restrictions on investment of scheme’s resources in employer-related assets

- (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.
- (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.”

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.”
- (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

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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;

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

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

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.
- (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;

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

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—

“(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.

(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—

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

- (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.

(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—

“57B Grants by the Board to advisory bodies etc

(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.

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

- (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—

“60ZA Levies towards meeting certain expenditure under this Act

- (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.”

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)”.

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

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

- 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—
- (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.

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

- (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
 - 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.

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

- (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
 - (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.”

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

SCHEDULE 6

Section 21(1).

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

- 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 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—

“24A Recovery of expenditure on income support: additional amounts and transfer of orders

- (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 the Dock Work Act 1989 as from 3rd July 1989) shall be omitted.”

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

- (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—
“the Contributions Regulations” means the Social Security (Contributions) Regulations 1979; and
“the 1988 Regulations” means the Social Security (Contributions) Amendment Regulations 1988.

Restriction on dependency increases

- 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).”

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

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.

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—

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- (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.

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—
- “(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,

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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—

“165D Restrictions on entitlement to benefit in certain cases of error

- (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 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

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- (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.
- (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.”

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- (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.

(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

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the Pensions Act, is required to be laid before Parliament after being made or””.

(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.”

(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.”.

(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—

“(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—

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“(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.

(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—

“15A Regulations and orders etc

(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.

(3) In this Act—

“prescribe” means prescribe by regulations; and

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“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

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- (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,

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.

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

- (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—

“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.*

- 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—
- “(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—

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- (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;

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”.

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.”

Housing benefit finance

- 19 (1) In section 30 of the 1986 Act (housing benefit finance), after subsection (2) there shall be inserted—

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“(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
- (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”.

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

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(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;

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—

“64B Implementation of increases in income support due to attainment of particular ages

- (1) This section applies where—

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- (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.
- (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.

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Benefits for women widowed before 11th April 1988

- 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—

- (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;

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(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).

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.”

- (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—

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- (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.

(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—

(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—

““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;”.

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- (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;
 - (b) sections 9(7) and 18(1) of the Social Security Act 1980;
 - (c) section 4(5) of the Forfeiture Act 1982;
 - (d) section 5(1)(a) of the Social Security Act 1985;
 - (e) paragraph (b) of the definition of “the benefit Acts” in section 84(1) of the 1986 Act.

SCHEDULE 7

Section 21(2).

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
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— <ul style="list-style-type: none">(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”.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		In section 135(5), the word “and” at the end of paragraph (a).
		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), sub-paragraph (ii) and the word “or” immediately preceding it;
		(b) in paragraphs 1(4) and 11(2), the words “relevant employ-ment”.
		(c) in paragraph 7(4), in paragraph (a), the word

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		“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.
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, sub-paragraphs (2)(a)(ii) and (iii); and (b) in sub-paragraph (3), paragraph (d) and the

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		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). 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).

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		In Schedule 9, the entry relating to section 41C(3)(a)(ii) of the Pensions Act.
