



# Social Security Contributions and Benefits Act 1992

## 1992 CHAPTER 4

### PART XIII

#### GENERAL

#### *Interpretation*

#### **172 Application of Act in relation to territorial waters.**

In this Act—

- (a) any reference to Great Britain includes a reference to the territorial waters of the United Kingdom adjacent to Great Britain;
- (b) any reference to the United Kingdom includes a reference to the territorial waters of the United Kingdom.

#### **Modifications etc. (not altering text)**

- C1** S. 172 applied (2.7.2002 for specified purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act 2002 \(c. 16\)](#), [ss. 17\(3\)\(a\), 22\(3\)](#); S.I. 2003/1766, art. 2(a)

#### **173 Age.**

For the purposes of this Act a person—

- (a) is over or under a particular age if he has or, as the case may be, has not attained that age; and
- (b) is between two particular ages if he has attained the first but not the second; and in Scotland (as in England and Wales) the time at which a person attains a particular age expressed in years is the commencement of the relevant anniversary of the date of his birth.

*Status: Point in time view as at 01/04/2020.*

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**Modifications etc. (not altering text)**

**C2** S. 173 applied (2.7.2002 for specified purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act 2002 \(c. 16\)](#), **ss. 17(3)(b)**, 22(3); S.I. 2003/1766, art. 2(a)

**174 References to Acts.**

In this Act—

“the 1975 Act” means the <sup>M1</sup>Social Security Act 1975;

“the 1986 Act” means the <sup>M2</sup>Social Security Act 1986;

“the Administration Act” means the <sup>M3</sup>Social Security Administration Act 1992;

“the Consequential Provisions Act” means the <sup>M4</sup>Social Security (Consequential Provisions) Act 1992;

“the Northern Ireland Contributions and Benefits Act” <sup>M5</sup>means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the Old Cases Act” means the <sup>M6</sup>Industrial Injuries and Diseases (Old Cases) Act 1975; and

“the Pensions Act” means the [<sup>F1</sup>Pension Schemes Act 1993].

**Textual Amendments**

**F1** Words in s. 174 substituted (7.2.1994) by [Pension Schemes Act 1993 \(c. 48\)](#), s. 193(2), **Sch. 8 para. 41** (with s. 189, Schs. 6, 9); S.I. 1994/86

**Marginal Citations**

- M1** 1975 c.14.
- M2** 1986 c.50.
- M3** 1992 c.5.
- M4** 1992 c.6.
- M5** 1992 c.7.
- M6** 1975 c.16.

*Subordinate legislation*

**175 Regulations, orders and schemes.**

(1) Subject to [<sup>F2</sup>subsection (1A) below], regulations and orders under this Act shall be made by the Secretary of State.

[<sup>F3</sup>(1A) Subsection (1) above has effect subject to—

(a) any provision <sup>F4</sup>... providing for regulations or an order to be made by the Treasury or by the Commissioners of Inland Revenue, <sup>F5</sup>...

<sup>F5</sup>(b) ..... ]

(2) Powers under this Act to make regulations, orders or schemes shall be exercisable by statutory instrument.

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- (3) Except in the case of an order under section 145(3) above and in so far as this Act otherwise provides, any power under this Act to make regulations or an order may be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
  - (b) so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act,
    - (iii) any such provision either unconditionally or subject to any specified condition;

and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and powers to make regulations or an order for the purposes of any one provision of this Act are without prejudice to powers to make regulations or an order for the purposes of any other provision.

- (4) Without prejudice to any specific provision in this Act, any power conferred by this Act to make regulations or an order (other than the power conferred in section 145(3) above) includes power to make thereby such incidental, supplementary, consequential or transitional provision as appears to the [<sup>F6</sup>person making the regulations or order] to be expedient for the purposes of the regulations or order.
- (5) Without prejudice to any specific provisions in this Act, a power conferred by any provision of this Act except—
- (a) sections 30, 47(6), [<sup>F7</sup>25B(2)(a)] and 145(3) above and paragraph 3(9) of Schedule 7 to this Act;
  - (b) section 122(1) above in relation to the definition of “payments by way of occupational or personal pension”; and
  - (c) Part XI,
- to make regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.

[<sup>F8</sup>(5A) But regulations under—

- (a) section 151(4) in relation to severe acute respiratory syndrome coronavirus 2, or
- (b) section 159B,

may provide for a person to exercise a discretion in dealing with any matter under those regulations.]

- (6) [<sup>F9</sup>Any power conferred by this Act to make orders or regulations relating to housing benefit or [<sup>F10</sup>council tax benefit] shall include power to make different provisions for different areas.]
- (7) Any power of the Secretary of State under any provision of this Act, except the provisions mentioned in subsection (5)(a) and (b) above and Part IX, to make any regulations or order, where the power is not expressed to be exercisable with

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the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.

- (8) Any power under any of sections 116 to 120 above to modify provisions of this Act or the Administration Act extends also to modifying so much of any other provision of this Act or that Act as re-enacts provisions of the 1975 Act which replaced provisions of the National Insurance (Industrial Injuries) Acts 1965 to 1974.
- (9) A power to make regulations under any of sections 116 to 120 above shall be exercisable in relation to any enactment passed after this Act which is directed to be construed as one with this Act; but this subsection applies only so far as a contrary intention is not expressed in the enactment so passed, and is without prejudice to the generality of any such direction.
- (10) Any reference in this section or section 176 below to an order or regulations under this Act includes a reference to an order or regulations made under any provision of an enactment passed after this Act and directed to be construed as one with this Act; but this subsection applies only so far as a contrary intention is not expressed in the enactment so passed, and without prejudice to the generality of any such direction.

#### Textual Amendments

- F2** Words in s. 175(1) substituted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 3 para. 29\(2\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F3** S. 175(1A) inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 3 para. 29\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F4** Words in s. 175(1A)(a) repealed (1.4.2003) by [Tax Credits Act 2002 \(c. 21\), s. 61, Sch. 6](#); S.I. 2003/392, art. 2
- F5** S. 175(1A)(b) and preceding word repealed (1.4.2003) by [Tax Credits Act 2002 \(c. 21\), s. 61, Sch. 6](#); S.I. 2003/392, art. 2
- F6** Words in s. 175(4) substituted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 3 para. 29\(4\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F7** Word in s. 175(5) substituted (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\), s. 16\(3\), Sch. 1 para. 36](#); S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F8** S. 175(5A) inserted (temp.) (25.3.2020) by virtue of [Coronavirus Act 2020 \(c. 7\), ss. 41\(2\), 87\(1\)](#) (with ss. 88-90) (which affecting provision expires (25.3.2022) by virtue of [Coronavirus Act 2020 \(c. 7\), s. 89](#))
- F9** S. 175(6) repealed (1.4.2013 in so far as relates to council tax benefit) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F10** Words in s. 175(6) substituted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\), s. 103, Sch. 9 para. 10](#) (with s. 118(1)(2)(4))

#### Modifications etc. (not altering text)

- C3** S. 175(3)-(5) applied (with modifications) (6.4.2014) by [National Insurance Contributions Act 2014 \(c. 7\), ss. 5\(2\)\(3\), 8](#)
- C4** S. 175(3)-(5) applied (12.2.2015) by [National Insurance Contributions Act 2015 \(c. 5\), s. 3\(4\)](#)
- C5** S. 175(3)-(5) applied by [National Insurance Contributions Act 2014 \(c. 7\), s. 10A\(8\)](#) (as inserted (15.9.2016 with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(17\)](#))
- C6** S. 175(3)-(5) applied (temp.) (25.3.2020) by [Coronavirus Act 2020 \(c. 7\), ss. 40\(3\), 87\(1\)](#) (with ss. 88-90) (which affecting provision expires (25.3.2022) by virtue of [Coronavirus Act 2020 \(c. 7\), s. 89](#))

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## 176 Parliamentary control.

- (1) Subject to the provisions of this section, a statutory instrument containing (whether alone or with other provisions)—
- [<sup>F11</sup>(za) regulations under section 5 specifying the lower earnings limit for the tax year following the designated tax year (see section 5(4) of the Pensions Act 2007) or any subsequent tax year;]
  - [<sup>F12</sup>(zb) regulations under section 5 specifying the upper earnings limit;]
    - (a) regulations made by virtue of—
      - [<sup>F13</sup>section 4B(2);
      - section 4C;]
      - [<sup>F14</sup>section 9A(7);]
      - [<sup>F15</sup>section 9B(4), (8) or (10);]
      - [<sup>F16</sup>section 10ZC;]
      - [<sup>F17</sup>section 11(8) or (9)]
      - [<sup>F18</sup>section 14A;]
      - section 18;
      - [<sup>F19</sup>section 18A;]
      - section 19(4) to (6);
      - section 28(3);
      - [<sup>F20</sup>section 30DD(5)(b) or (c);]
      - <sup>F21</sup>
      - ...
      - [<sup>F18</sup>section 45(2A);]
      - <sup>F21</sup>
      - ...
      - section 104(3);
      - section 117;
      - section 118;
      - <sup>F22</sup>
      - ...
      - section 145;
      - <sup>F23</sup>
      - ...
      - [<sup>F24</sup>section 171ZE(1);]
      - <sup>F25</sup>
      - ...
      - <sup>F26</sup>
      - ...
      - [<sup>F27</sup>any of sections 171ZU to 171ZY;]
      - [<sup>F28</sup>any of sections 171ZZ6 to 171ZZ9;]
    - [<sup>F29</sup>(aa) the first regulations made by virtue of section 23A(3)(c);]
    - [<sup>F30</sup>(ab) the first regulations made by virtue of section 130A(5) or (6);]
      - (b) regulations prescribing payments for the purposes of the definition of “payments by way of occupational or personal pension” in section 122(1) above;
    - [<sup>F31</sup>(bb) regulations prescribing a percentage rate for the purposes of—
      - (i) paragraph 3B(3) or 7B(3) of Schedule 5, or
      - (ii) paragraph 5(3) of Schedule 5A;]
    - (c) an order under—
      - [<sup>F32</sup>section 25B(1)]
      - section 28(2);
      - [<sup>F33</sup>section 35A(7);]

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F34  
...  
F35  
...  
F36  
...  
section 148(3)(b);  
section 157(2);  
F37  
...  
[<sup>F38</sup>section 159A(1)],

shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House.

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

- (a) regulations under section 117 which the instrument states are made for the purpose of making provision consequential on the making of an order under section 141, 143, 145, 146 or 162 of the Administration Act;
- (b) regulations under powers conferred by any provision mentioned in paragraph (a) of that subsection <sup>F39</sup>... 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 conferred by any provision mentioned in paragraph (a) of that subsection (other than section 145 <sup>F40</sup>...), only replace provisions of previous regulations with new provisions to the same effect.

[<sup>F41</sup>(2A) In the case of a statutory instrument containing (whether alone or with other provisions) regulations made by virtue of section 4B(2) to which subsection (1) above applies, the draft of the instrument must be laid before Parliament before the end of the period of 12 months beginning with the appropriate date.

(2B) For the purposes of subsection (2A), the “appropriate date” means—

- (a) where the corresponding retrospective tax provision was passed or made before the day on which the National Insurance Contributions Act 2006 was passed, the date upon which that Act was passed, and
- (b) in any other case, the date upon which the corresponding retrospective tax provision was passed or made.

(2C) For the purposes of subsection (2B), “the corresponding retrospective tax provision” in relation to the regulations means—

- (a) the retrospective tax provision mentioned in subsection (1) of section 4B in relation to which the regulations are to be made by virtue of subsection (2) of that section, or
- (b) where there is more than one such tax provision, whichever of those provisions was the first to be passed or made.]

(3) A statutory instrument—

- (a) which contains (whether alone or with other provisions) any order, regulations or scheme made under this Act by the Secretary of State, [<sup>F42</sup>the Treasury or the Commissioners of Inland Revenue,] other than an order under section 145(3) above; and
- (b) which is not subject to any requirement that a draft of the instrument shall be laid before and approved by a resolution of each House of Parliament,

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

[<sup>F43</sup>(4) Subsection (3) above does not apply to a statutory instrument by reason only that it contains an order appointing the first or second appointed year [<sup>F44</sup>or designating the flat rate introduction year] (within the meanings given by section 122(1) above).]

#### Textual Amendments

- F11** S. 176(1)(za) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), **ss. 7(5)**, 30(3)
- F12** S. 176(1)(zb) inserted (with effect in relation to regulations specifying the upper earnings limit for 2009-10 or any subsequent tax year) by [National Insurance Contributions Act 2008 \(c. 16\)](#), **ss. 1(2)**, 6(1) (with s. 1(3))
- F13** Words in s. 176(1)(a) inserted (30.3.2006) by [National Insurance Contributions Act 2006 \(c. 10\)](#), **ss. 1(2)(a)**, 9
- F14** Words in s. 176(1)(a) inserted (13.5.2014) by [National Insurance Contributions Act 2014 \(c. 7\)](#), **s. 9(5)(11)(b)**
- F15** Words in s. 176(1)(a) inserted (12.4.2015) by [National Insurance Contributions Act 2015 \(c. 5\)](#), **s. 1(5)(11)**
- F16** Words in s. 176(1)(a) inserted (30.3.2006) by [National Insurance Contributions Act 2006 \(c. 10\)](#), **ss. 3(2)**, 9
- F17** Words in s. 176(1)(a) substituted (with effect for the tax year 2015-16 and subsequent tax years) by [National Insurance Contributions Act 2015 \(c. 5\)](#), **Sch. 1 paras. 8**, 35
- F18** Words in s. 176(1)(a) inserted (13.10.2014) by [Pensions Act 2014 \(c. 19\)](#), s. 56(1), **Sch. 15 para. 11**; S.I. 2014/2727, art. 2
- F19** Words in s. 176(1)(a) inserted (13.5.2014) by [National Insurance Contributions Act 2014 \(c. 7\)](#), **s. 13(3)(7)**
- F20** Words in s. 176(1)(a) inserted (3.11.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), **Sch. 8 para. 25**; S.I. 2000/2958, art. 2(6)(a)
- F21** Words in s. 176(1)(a) repealed (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), Sch. 1 para. 37(a), **Sch. 2**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F22** Words in s. 176(1)(a) inserted (with effect until 31.12.2010) by virtue of [Welfare Reform Act 2007 \(c. 5\)](#), **ss. 31(2)(a)**, 70(2) (with s. 31(3)); S.I. 2007/1721, art. 2(1)
- F23** Words in s. 176(1)(a) omitted (6.4.1995) by virtue of [The Statutory Sick Pay Percentage Threshold Order 1995 \(S.I. 1995/512\)](#), arts. 1(1), **6(1)(a)(i)**
- F24** Words in s. 176(1)(a) inserted (8.12.2002) by [Employment Act 2002 \(c. 22\)](#), s. 55(2), **Sch. 7 para. 7**; S.I. 2002/2866, art. 2(2), Sch. 1 Pt. 2
- F25** Words in s. 176(1)(a) repealed (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 7 para. 22**; S.I. 2014/1640, art. 7(g) (with art. 16)
- F26** Words in s. 176(1)(a) repealed (5.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 124(2)**, 139(6); S.I. 2014/1640, art. 6(a) (with art. 13)
- F27** Words in s. 176(1)(a) inserted (30.6.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 119(2)**, 139(6); S.I. 2014/1640, art. 3(1)(c)
- F28** Words in s. 176(1)(a) inserted (18.1.2020) by [Parental Bereavement \(Leave and Pay\) Act 2018 \(c. 24\)](#), s. 2(2), **Sch. para. 6**; S.I. 2020/45, reg. 2
- F29** S. 176(1)(aa) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), **Sch. 1 para. 10**
- F30** S. 176(1)(ab) inserted (27.11.2012 for specified purposes, 1.1.2013 in so far as not already in force) by [Welfare Reform Act 2012 \(c. 5\)](#), **ss. 69(4)**, 150(3); S.I. 2012/2946, art. 2(1)(a)(b)
- F31** S. 176(1)(bb) inserted (18.11.2004 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), s. 322(3)(a), **Sch. 11 para. 19**
- F32** Words in s. 176(1)(c) inserted (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), **Sch. 1 para. 37(b)**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4

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- F33** Words in s. 176(1)(c) inserted (12.1.2000 for specified purposes, 2.4.2000 for all other purposes) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), **Sch. 8 para. 32**; S.I. 1999/3309, art. 2(1)(b)
- F34** Words in s. 176(1)(c) repealed (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), [Sch. 1 para. 37\(b\)](#), **Sch. 2**; S.I. 1994/2926, art. 2(4), [Sch. Pt. 4](#)
- F35** Words in s. 176(1)(c) repealed (21.9.2008) by [National Insurance Contributions Act 2008 \(c. 16\)](#), s. 6(1), **Sch. 2**
- F36** Words in s. 176(1)(c) inserted (with effect until 31.12.2010) by virtue of [Welfare Reform Act 2007 \(c. 5\)](#), **ss. 31(2)(b), 70(2)** (with s. 31(3)); S.I. 2007/1721, art. 2(1)
- F37** Words in s. 176(1)(c) omitted (6.4.1995) by virtue of [The Statutory Sick Pay Percentage Threshold Order 1995 \(S.I. 1995/512\)](#), arts. 1(1), **6(1)(a)(ii)**
- F38** Words in s. 176(1)(c) inserted (10.2.1994) by [Statutory Sick Pay Act 1994 \(c. 2\)](#), **ss. 3(2), 5(2)** (with s. 2(4))
- F39** Words in s. 176(2)(b) omitted (6.4.1995) by virtue of [The Statutory Sick Pay Percentage Threshold Order 1995 \(S.I. 1995/512\)](#), arts. 1(1), **6(1)(a)(iii)**
- F40** Words in s. 176(2)(c) omitted (6.4.1995) by virtue of [The Statutory Sick Pay Percentage Threshold Order 1995 \(S.I. 1995/512\)](#), arts. 1(1), **6(1)(a)(iv)**
- F41** S. 176(2A)-(2C) inserted (30.3.2006) by [National Insurance Contributions Act 2006 \(c. 10\)](#), **ss. 1(2)(b), 9**
- F42** Words in s. 176(3)(a) inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), **Sch. 3 para. 30**; S.I. 1999/527, art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F43** S. 176(4) inserted (8.1.2001 for specified purposes, 25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 35(15), 86(1)(b)(2)**; S.I. 2000/2950, art. 6; S.I. 2001/153, art. 2(a)
- F44** Words in s. 176(4) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), **Sch. 1 para. 35(b)**

**Modifications etc. (not altering text)**

- C7** S. 176(3) modified (5.10.1999) by [Tax Credits Act 1999 \(c. 10\)](#), s. 20(2), **Sch. 2 para. 20(b)**

*Short title, commencement and extent*

**177 Short title, commencement and extent.**

- (1) This Act may be cited as the Social Security Contributions and Benefits Act 1992.
- (2) This Act is to be read, where appropriate, with the Administration Act and the Consequential Provisions Act.
- (3) The enactments consolidated by this Act are repealed, in consequence of the consolidation, by the Consequential Provisions Act.
- (4) Except as provided in Schedule 4 to the Consequential Provisions Act, this Act shall come into force on 1st July 1992.
- (5) The following provisions extend to Northern Ireland—
  - section 16 and Schedule 2;
  - section 116(2); and
  - this section.
- (6) Except as provided by this section, this Act does not extend to Northern Ireland.



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