

[See S.I. 1999/779 at page 1.6401 for details of treatment of persons and payments participating in New deal 25 plus].

Social Security Contributions and Benefits Act 1992

CHAPTER 4

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An Act to consolidate certain enactments relating to social security contributions and benefits with amendments to give effect to recommendations of the Law Commission and the Scottish Law Commission.

[13th February 1992]

PART I
CONTRIBUTIONS

Preliminary

1.—(1) The funds required—

- (a) for paying such benefits under this Act [¹or any other Act] as are payable out of the National Insurance Fund and not out of other public money; and
- (b) for the making of payments under section 162 of the Administration Act towards the cost of the National Health Service,

Outline of contributory system.

shall be provided by means of contributions payable to the [²Inland Revenue] by earners, employers and others, together with the additions under subsection (5) below [³and amounts payable under section 2 of the Social Security Act 1993].

(2) Contributions under this Part of this Act shall be of the following [...⁴] classes—

- (a) Class 1, earnings-related, payable under section 6 below, being—
 - (i) primary Class 1 contributions from employed earners; and
 - (ii) secondary Class 1 contributions from employers and other persons paying earnings;
- (b) Class 1A, payable under section 10 below [...⁵] by persons liable to pay secondary Class 1 contributions and certain other persons;
- [⁶bb) Class 1B payable under section 10A below by persons who are accountable to the Inland Revenue in respect of income tax on [⁷general earnings] in accordance with a PAYE settlement agreement;]
- (c) Class 2, flat-rate, payable weekly under section 11 below by self-employed earners;
- (d) Class 3, payable under section 13 [⁸or 13A] below by earners and others voluntarily with a view to providing entitlement to benefit, or making up entitlement;
- [⁴da) Class 3A, payable by eligible people voluntarily under section 14A with a view to obtaining units of additional pension;] and
- (e) Class 4, payable under section 15 below in respect of the profits or gains of a trade, profession or vocation, or under section 18 below in respect of equivalent earnings.

(3) The amounts and rates of contributions in this Part of this Act and the other figures in it which affect the liability of contributors shall—

- (a) be subject to regulations under sections 19(4) and 116 to 120 below; and
- (b) to the extent provided for by Part IX of the Administration Act be subject to alteration by orders made by the [⁹Treasury] from year to year under that Part,

and the provisions of this Part of this Act are subject to the provisions of [¹⁰Chapter II of Part III of the Pensions Act (reduction in state scheme contributions and benefits for members of certified schemes)].

¹ Words inserted in s. 1(1)(a) (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, Part. 1, para. 3.

² Words substituted in s. 1(1) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 5(2).

³ Words in s. 1(1) added (29.1.93) by Social Security Act 1993 (c. 3), s. 2(9).

⁴ Words in s. 1(2) omitted & s. 1(2)(da) inserted (12.10.15) by Pensions Act 2014 (c. 19), Sch. 15, para. 2(2).

⁵ Words omitted in s. 1(2)(b) (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 74(1).

⁶ S. 1(2)(bb) added (8.9.98 for regulation purposes. 6.4.99 for all other purposes) by Sch. 7, para. 56 of S.S. Act 1998 (c. 14).

⁷ Words substituted in s. 1(2)(bb) (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 170.

⁸ Words inserted in s. 1(2)(d) (6.4.09) by the Pensions Act 2008 c. 30, s. 135(3).

⁹ Words substituted in s. 1(3) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 1(2).

¹⁰ Words in s. 1(3) substituted (7.2.94) by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 32.

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Ss. 1-2

(4) Schedule 1 to this Act—

- (a) shall have effect with respect to the computation, collection and recovery of contributions of Classes 1, 1A, [¹1B] 2², 3 and 3A], and otherwise with respect to contributions of those classes; and
- (b) shall also, to the extent provided by regulations made under section 18 below, have effect with respect to the computation, collection and recovery of Class 4 contributions, and otherwise with respect to such contributions, [...³]

(5) For each financial year there shall, by way of addition to contributions, be paid out of money provided by Parliament, in such manner and at such times as the Treasury may determine, amounts the total of which for any such year is equal to the aggregate of all statutory sick pay [⁴, statutory maternity pay, [⁵statutory paternity pay,] statutory adoption pay] [⁶and statutory shared parental pay] recovered by employers and others in that year, as estimated by the Government Actuary or the Deputy Government Actuary.

(6) No person shall—

- (a) be liable to pay Class 1, Class 1A¹, Class 1B] or Class 2 contributions unless he fulfils prescribed conditions as to residence or presence in Great Britain;
- (b) be entitled to pay Class 3 contributions unless he fulfils such conditions; or
- (c) be entitled to pay Class 1, Class 1A¹, Class 1B] or Class 2 contributions other than those which he is liable to pay, except so far as he is permitted by regulations to pay them.

[⁷(7) Regulations under subsection (6) above shall be made by the Treasury.]

Categories of earners.

2.—(1) In this Part of this Act and Parts II to V below—

- (a) “employed earner” means a person who is gainfully employed in Great Britain either under a contract of service, or in an office (including elective office) with [⁸general earnings]; and
- (b) “self-employed earner” means a person who is gainfully employed in Great Britain otherwise than in employed earner’s employment (whether or not he is also employed in such employment).

(2) Regulations may provide—

- (a) for employment of any prescribed description to be disregarded in relation to liability for contributions otherwise arising from employment of that description;
- (b) for a person in employment of any prescribed description to be treated, for the purposes of this Act, as falling within one or other of the categories of earner defined in subsection (1) above, notwithstanding that he would not fall within that category apart from the regulations.

[⁹(2A) Regulations under subsection (2) above shall be made by the Treasury and, in the case of regulations under paragraph (b) of that subsection, with the concurrence of the Secretary of State.]

¹ Word inserted in s. 1(4)(a) & (6) (8.9.98 for regulation purposes. 6.4.99 for all other purposes) by Sch. 7, para. 56(2) & (3) of S.S. Act 1998 (c. 14).

² Words substituted in s. 1(4)(a) (12.10.15) by Pensions Act 2014 (c. 19), Sch. 15, para. 2(3).

³ Words omitted in s. 1(4)(b) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 5(3).

⁴ Words in s. 1(5) substituted (8.12.02) by the Employment Act 2002 (c. 22), s. 6(3).

⁵ Words in s. 1(5) substituted (5.4.15) by Children and Families Act 2014 (c. 6), s. 126, Sch. 7, para. 7(a) (with art. 16 of S.I. 2014/1640).

⁶ Words in s. 1(5) inserted (1.12.14) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 7(b).

⁷ S. 1(7) inserted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 1(3).

⁸ Words substituted in s. 2(1)(a) (6.4.03) by the Income Tax (Earnings & Pensions Act 2003 (c. 1), Sch. 6, para. 171.

⁹ S. 2(2A) substituted (11.11.99) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 11, para. 2.

(3) Where a person is to be treated by reference to any employment of his as an employed earner, then he is to be so treated for all purposes of this Act; and references throughout this Act to employed earner’s employment shall be construed accordingly.

(4) Subsections (1) to (3) above are subject to the provision made by section 95 below as to the employments which are to be treated, for the purposes of industrial injuries benefit, as employed earner’s employments.

(5) For the purposes of this Act, a person shall be treated as a self-employed earner as respects any week during any part of which he is such an earner (without prejudice to his being also treated as an employed earner as respects that week by reference to any other employment of his).

3.— (1) In this Part of this Act and Parts II to V below—

“Earnings” and “earner”.

- (a) “earnings” includes any remuneration or profit derived from an employment; and
- (b) “earner” shall be construed accordingly.

(2) For the purposes of this Part of this Act and of Parts II to V below other than those of Schedule 8—

- (a) the amount of a person’s earnings for any period; or
- (b) the amount of his earnings to be treated as comprised in any payment made to him or for his benefit,

shall be calculated or estimated in such manner and on such basis as may be prescribed [1]by regulations made by the Treasury with the concurrence of the Secretary of State]

[2(2A) Regulations made for the purposes of subsection (2) above may provide that, where a payment is made or a benefit provided to or for the benefit of two or more earners, a proportion (determined in such manner as may be prescribed) of the amount or value of the payment or benefit shall be attributed to each earner.]

(3) Regulations made for the purposes of subsection (2) above may prescribe that payments of a particular class or description made or falling to be made to or by a person shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of that person’s earnings.

[3(4) Subsection (5) below applies to regulations made for the purposes of subsection (2) above which make special provision with respect to the earnings periods of directors and former directors of companies.

(5) Regulations to which this subsection applies may make provision—

- (a) for enabling companies, and directors and former directors of companies, to pay on account of any earnings-related contributions that may become payable by them such amounts as would be payable by way of such contributions if the special provision had not been made; and
- (b) for requiring any payments made in accordance with the regulations to be treated, for prescribed purposes, as if they were the contributions on account of which they were made.]

4.—(1) For the purposes of section 3 above there shall be treated as remuneration derived from employed earner’s employment—

Payments treated as remuneration and earnings.

- (a) any sum paid to or for the benefit of a person in satisfaction (whether in whole or in part) of any entitlement of that person to—
 - (i) statutory sick pay; or

¹ Words inserted in s. 3(2) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 3.

² S. 3(2A) inserted (8.9.98) by s. 48 of S.S. Act 1998 (c. 14).

³ S. 3(4) & (5) inserted (8.9.98) by s. 49(1) of S.S. Act 1998 (c. 14).

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- (ii) statutory maternity pay;
- [¹(iii) [...²] statutory paternity pay];
- (iv) [...³]
- [¹(v) statutory adoption pay]; [³or
- (vi) statutory shared parental pay; and]
- (b) any sickness payment made—
 - (i) to or for the benefit of the employed earner; and
 - (ii) in accordance with arrangements under which the person who is the secondary contributor in relation to the employment concerned has made, or remains liable to make, payments towards the provision of that sickness payment.

(2) Where the funds for making sickness payments under arrangements of the kind mentioned in paragraph (b) of subsection (1) above are attributable in part to contributions to those funds made by the employed earner, regulations may make provision for disregarding, for the purposes of that subsection, the prescribed part of any sum paid as a result of the arrangements.

(3) For the purposes of subsections (1) and (2) above “sickness payment” means any payment made in respect of absence from work due to incapacity for work, [...⁴].

[⁵(4) For the purposes of section 3 above there shall be treated as remuneration derived from an employed earners employment—

- [⁶(a) the amount of any gain calculation under section 479 or 480 of ITEPA 2003 in respect of which an amount counts as employment income of the earner under section 476 or 477 of that Act (charge on exercise, assignment or release of share option);]
- (b) any sum paid (or treated as paid) to or for the benefit of the earner which is chargeable to tax by virtue of [⁵section 225 or 226 of ITEPA 2003] (taxation of consideration for certain restrictive undertakings).]

(5) For the purposes of section 3 above regulations may make provision for treating as remuneration derived from an employed earner’s employment any payment made by a body corporate to or for the benefit of any of its directors where that payment would, when made, not be earnings for the purposes of this Act.

[⁷(6) Regulations may make provision for the purposes of this Part—

- (a) for treating any amount on which an employed earner is chargeable to income tax under [⁶the employment income Parts of ITEPA 2003] as remuneration derived from the earner’s employment; and
- (b) for treating any amount which in accordance with regulations under paragraph (a) above constitutes remuneration as an amount of remuneration paid, at such time as may be determined in accordance with the regulations, to or for the benefit of the earner in respect of his employment.]

[⁸(7) Regulations under this section shall be made by the Treasury with the concurrence of the Secretary of State.]

¹ S. 4(1)(a)(iii) substituted & head (v) inserted (6.4.10) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 3.

² Words in s. 4(1)(a)(iii) repealed (5.4.15) by Children and Families Act 2014 (c. 6), s. 126, Sch. 7, para. 8(a).

³ S. 4(1)(a)(iv) and word repealed & s. 4(1)(a)(vi) with preceding word inserted (1.12.14) by the Children & Families Act 2014, (c. 6), Sch. 7, para’s. 8(b) & (c).

⁴ Words in s. 4(3) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18). Sch. 1, para. 1.

⁵ S. 4(4) substituted (8.9.98) by s. 50(1) of S.S. Act 1998 (c. 14).

⁶ In s. 4, para. (4)(a) & words in paras. (4)(b) & (6)(a) substituted (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 172.

⁷ S. 4(6) substituted (28.7.00) by Child Support, Pensions and Social Security 2000 (c. 19), s. 74(3).

⁸ S. 4(7) inserted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 1(3).

Class 1 contributions

[¹4A.—(1) Regulations may make provision for securing that where—

Earnings of workers supplied by service companies etc.

- (a) an individual (“the worker”) personally performs, or is under an obligation personally to perform, services^{[2} for another person] (“the client”),
- (b) the performance of those services by the worker is (within the meaning of the regulations) referable to arrangements involving a third person (and not referable to any contract between the client and the worker), and
- (c) the circumstances are such that, were the services to be performed by the worker under a contract between him and the client, he would be regarded for the purposes of the applicable provisions of this Act as employed in employed earner’s employment by the client,

relevant payments or benefits are, to the specified extent, to be treated for those purposes as earnings paid to the worker in respect of an employed earner’s employment of his.

(2) For the purposes of this section—

- (a) “the intermediary” means—
 - (i) where the third person mentioned in subsection (1)(b) above has such a contractual or other relationship with the worker as may be specified, that third person, or
 - (ii) where that third person does not have such a relationship with the worker, any other person who has both such a relationship with the worker and such a direct or indirect contractual or other relationship with the third person as may be specified; and
- (b) a person may be the intermediary despite being—
 - (i) a person with whom the worker holds any office or employment, or
 - (ii) a body corporate, unincorporated body or partnership of which the worker is a member;

and subsection (1) above applies whether or not the client is a person with whom the worker holds any office or employment.

[³(2A) Regulations may also make provision for securing that, where the services of an individual (“the worker”) are provided (directly or indirectly) by a managed service company (“the MSC”) relevant payments or benefits are, to the specified extent, to be treated for the purposes of the applicable provisions of this Act as earnings paid to the worker in respect of an employed earner’s employed of his.

(2B) In subsection (2A) “managed service company” has the same meaning as it has for the purposes of Chapter 9 of Part 2 of ITEPA 2003.]

(3) Regulations under this section may, in particular, make provision—

- (a) for the worker to be treated for the purposes of the applicable provisions of this Act, in relation to the specified amount of relevant payments or benefits (the worker’s “attributable earnings”), as employed in employed earner’s employment by the intermediary [⁴or the MSC (as the case requires)];
- (b) for the [⁴intermediary or the MSC (whether or not fulfilling] the conditions prescribed under section 1(6)(a) above for secondary contributors) to be treated for those purposes as the secondary contributor in respect of the worker’s attributable earnings;

¹ S. 4A inserted (22.12.99) by the Welfare Reform and Pensions Act 1999 (c. 30) s. 75.

² Words substituted in s. 4A(1)(a) (8.8.03) by reg. 3 of S.I. 2003/1874.

³ S. 4A(2A) & (2B) inserted (24.7.07) by S.I. 2007/2071, art. 2.

⁴ Words inserted & substituted in s. 4A(3) (24.7.07) by S.I. 2007/2071, art. 2.

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- (c) for determining—
 - (i) any deductions to be made, and
 - (ii) in other respects the manner and basis in and on which the amount of the worker's attributable earnings for any specified period is to be calculated or estimated,in connection with relevant payments or benefits;
- (d) for aggregating any such amount, for purposes relating to contributions, with other earnings of the worker during any such period;
- (e) for determining the date by which contributions payable in respect of the worker's attributable earnings are to be paid and accounted for;
- (f) for apportioning payments or benefits of any specified description, in such manner or on such basis as may be specified, for the purpose of determining the part of any such payment or benefit which is to be treated as a relevant payment or benefit for the purposes of the regulations;
- (g) for disregarding for the purposes of the applicable provisions of this Act, in relation to relevant payments or benefits, an employed earner's employment in which the worker is employed (whether by the intermediary [¹or the MSC] or otherwise) to perform the services in question;
- (h) for otherwise securing that a double liability to pay any amount by way of a contribution of any description does not arise in relation to a particular payment or benefit or (as the case may be) a particular part of a payment or benefit;
- (i) for securing that, to the specified extent, two or more persons, whether—
 - (i) connected persons (within the meaning of [²section 993 of the Income Tax Act 2007], or
 - (ii) persons of any other specified description,are treated as a single person for any purposes of the regulations;
- (j) (without prejudice to paragraph (i) above) for securing that a contract made with a person other than the client is to be treated for any such purposes as made with the client;
- (k) for excluding or modifying the application of the regulations in relation to such cases, or payments or benefits of such description, as may be specified.

(4) Regulations made in pursuance of subsection (3)(c) above may, in particular, make provision—

- (a) for the making of a deduction of a specified amount in respect of general expenses of the intermediary as well as deductions in respect of particular expenses incurred by him;
- (b) for securing reductions in the amount of the worker's attributable earnings on account of—
 - (i) any secondary Class 1 contributions already paid by the intermediary [¹or the MSC] in respect of actual earnings of the worker, and
 - (ii) any such contributions that will be payable by [¹that person] in respect of the worker's attributable earnings.

(5) Regulations under this section may make provision for securing that, in applying any provisions of the regulations, any term of a contract or other arrangement which appears to be of a description specified in the regulations is to be disregarded.

(6) In this section—

“the applicable provisions of this Act” means this Part of this Act and Parts II to V below;

¹ Words inserted & substituted in S. 4A(3) & (4) (24.7.07) by S.I. 2007/2071, art. 2.

² Words substituted in S. 4A(3)(i)(i) (6.4.07) by the Income Tax Act 2007 (c. 3), Sch. 1, para. 289.

[...¹]

“relevant payments or benefits” means payments or benefits of any specified description made or provided (whether to the intermediary [²or the MSC] or the worker or otherwise) in connection with the performance by the worker of the services in question;

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

(7) Any reference in this section to the performance by the worker of any services includes a reference to any such obligation of his to perform them as is mentioned in subsection (1)(a) above.

(8) Regulations under this section shall be made by the Treasury with the concurrence of the Secretary of State.

(9) If, on any modification of the statutory provisions relating to income tax, it appears to the Treasury to be expedient to modify any of the preceding provisions of this section for the purpose of assimilating the law relating to income tax and the law relating to contributions under this Part of this Act, the Treasury may with the concurrence of the Secretary of State by order make such modifications of the preceding provisions of this section as the Treasury think appropriate for that purpose.]

[³4B.—(1) This section applies where—

- (a) a provision of the Income Tax Acts which relates to income tax chargeable under the employment income Parts of ITEPA 2003 is passed or made so as to have retrospective effect (“the retrospective tax provision”), and
- (b) it appears to the Treasury to be appropriate to make regulations under a relevant power for the purpose of reflecting the whole or part of the provision made by the retrospective tax provision.

Earnings: power to make retrospective provision in consequence of retrospective tax legislation

(2) Those regulations may be made so as to have retrospective effect if it appears to the Treasury to be expedient, in consequence of the retrospective tax provision, for the regulations to have that effect.

(3) A “relevant power” means a power to make regulations under any of the following provisions—

- (a) section 3 (power to prescribe the manner and basis of the calculation or estimation of earnings);
- (b) section 4(6) (power to treat amounts chargeable to income tax under the employment income Parts of ITEPA 2003 as earnings);
- (c) section 4A (power to treat payments or benefits to workers supplied by service companies etc as earnings).

(4) It does not matter whether the retrospective tax provision in question was passed or made before the day on which the National Insurance Contributions Act 2006 was passed.

(5) But nothing in subsection (2) authorises regulations to be made which have effect in relation to any time before 2nd December 2004.

(6) Regulations under a relevant power made by virtue of subsection (2) may affect, for the purposes of any contributions legislation for the purposes of which the regulations are made, the earnings in respect of an employment paid to or for the benefit of an earner at a time before the regulations are made.

¹ Defn. of “business” omitted in S. 4A(b) (8.8.03) by reg. 4 of S.I. 2003/1874.

² Words inserted in S. 4A(6) (24.7.07) by S.I. 2007/2071, art. 2.

³ Ss. 4B & 4C inserted (30.3.06) by National Insurance Contributions Act 2006 (c. 10), s. 1(1).

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(7) In such a case, subsections (8) and (9) apply and in those subsections and this subsection—

“relevant contributions legislation” means any contributions legislation for the purposes of which the regulations have the effect mentioned in subsection (6);

“the relevant time” means the time before the regulations are made mentioned in that subsection;

“the revised earnings” means the earnings, in respect of the employment, paid to or for the benefit of the earner at the relevant time as determined after applying the regulations.

(8) References in any relevant contributions legislation, or any provision made under any such legislation, which relate to—

(a) the earnings, in respect of the employment, paid to or for the benefit of the earner at the relevant time, or

(b) the amount of such earnings so paid at that time,

are to be read, in so far as they so relate, as references which relate to the revised earnings or, as the case may be, the amount of those earnings.

(9) Any matter which, at the time when the regulations are made, has been determined for the purposes of any relevant contributions legislation, or any provision made under any such legislation, wholly or partly by reference to—

(a) the earnings, in respect of the employment, paid to or for the benefit of the earner at the relevant time, or

(b) the amount of such earnings so paid at that time,

is to be redetermined as it would have been determined at the time of the original determination if it had been determined wholly or partly, as the case may be, by reference to the revised earnings or the amount of those earnings.

(10) The matters referred to in subsection (9) may include—

(a) whether Class 1 contributions are payable in respect of earnings paid to or for the benefit of the earner in a tax week, and

(b) the amount of any such contribution.

(11) Subsections (7) to (10) are subject to any express provision to the contrary (including any such provision made by regulations under section 4C(1)).

(12) The power conferred by subsection (2) is without prejudice to any powers conferred by or by virtue of any other provision of this Act or of any other enactment (including any instrument made under an Act).

(13) For the purposes of this section “contributions legislation” means any Part of this Act or provision of such a Part.

Power to make provision in consequence of provision made by or by virtue of section 4B(2) etc

4C.—(1) The Treasury may by regulations made with the concurrence of the Secretary of State make such provision as appears to the Treasury to be expedient for any of the purposes mentioned in subsection (2) in consequence of any provision made by or by virtue of section 4B(2).

(2) Those purposes are—

(a) any purpose relating to any contributions;

(b) any purpose relating to any contributory benefit or contribution-based jobseeker’s allowance;

(c) any purpose relating to any statutory payment;

(d) [...¹]

(e) any purpose of Chapter 2 of Part 3 of that Act (reduction in state scheme contributions and benefits for members of certified schemes);

¹ S. 4C(2)(d) repealed (6.4.12) by Pensions Act 2007 (c. 22), Sch. 7, pt. 7.

(f) such other purposes as may be prescribed by regulations made by the Treasury with the concurrence of the Secretary of State.

(3) Regulations under subsection (1) may, in particular, make provision—

- (a) modifying any provision of any enactment (including this Act and any enactment passed or made on or after the commencement day);
- (b) for any provision of any such enactment to apply in such cases, and with such modifications (if any), as the regulations may prescribe.

(4) Regulations under subsection (1) may be made so as to have retrospective effect but must not have effect in relation to any time before 2nd December 2004.

(5) In particular, regulations under subsection (1) made by virtue of subsection (4) may affect any of the following matters—

- (a) liability to pay contributions, including liability to pay Class 1 contributions at a reduced rate by virtue of Chapter 2 of Part 3 of the Pensions Act;
- (b) the amount of any contribution, including the amount of any such reduced rate contribution and of any related rebate under section 41(1D) [...] of that Act;
- (c) entitlement to a contributory benefit or contribution-based jobseeker’s allowance;
- (d) the amount of any such benefit or allowance;
- (e) entitlement to a statutory payment;
- (f) the amount of any such payment;
- (g)–(j) [...].¹

(6) In such a case, where the matter has been determined before the time when the regulations are made, the regulations may provide for the matter to be redetermined accordingly.

(7) If (ignoring this subsection) the operative provisions would directly or indirectly have effect in any case so as—

- (a) to remove a person’s entitlement to a contributory benefit, contribution-based jobseeker’s allowance or statutory payment, or
- (b) to reduce the amount of any such benefit, allowance or payment to which a person has an entitlement,

those provisions are to be read with such modifications as are necessary to ensure that they do not have that effect.

(8) For the purposes of subsection (7)—

- (a) “the operative provisions” are section 4B(7) to (10) and any provision made by virtue of section 4B(2) or under subsection (1) of this section;
- (b) a person’s “entitlement” includes any future entitlement which the person may have.

(9) The powers conferred by this section are without prejudice to any powers conferred by or by virtue of any other provision of this Act or any other enactment.

(10) In particular, any modification of any provision of an instrument by regulations made under subsection (1) is without prejudice to any other power to amend or revoke the provisions of the instrument (including the modified provision).

(11) For the purposes of this section—

“the commencement day” means the day on which the National Insurance Contributions Act 2006 was passed;

¹ Words in s. 4C(5)(b) & subsec. (5)(g)-(j) repealed (6.4.12) by Pensions Act 2007 (c. 22), Sch. 7, pt. 7.

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“enactment” includes an instrument made under an Act;

“statutory payment” means–

- (a) statutory sick pay, statutory maternity pay, [¹statutory paternity pay], statutory adoption pay [²or statutory shared parental pay]; or
- (b) any other payment prescribed by regulations made by the Treasury with the concurrence of the Secretary of State.]

Earnings limits and thresholds for Class 1 contributions

[³5.—(1) For the purposes of this Act there shall for every tax year be–

- (a) the following for primary Class 1 contributions–
 - (i) a lower earnings limit,
 - (ii) a primary threshold, and
 - (iii) an upper earnings limit; and
- (b) a secondary threshold for secondary Class 1 contributions.

Those limits and thresholds shall be the amounts specified for that year by regulations [⁴...]

(2) [⁵...]

(3) [⁴...]

(4) Regulations may, in the case of each of the limits or thresholds mentioned in subsection (1) above, prescribe an equivalent of that limit or threshold in relation to earners paid otherwise than weekly (and references in this or any other Act to “the prescribed equivalent”, in the context of any of those limits or thresholds, are accordingly references to the equivalent prescribed under this subsection in relation to such earners).

(5) The power conferred by subsection (4) above to prescribe an equivalent of any of those limits or thresholds includes power to prescribe an amount which exceeds, by not more than £1.00, the amount which is the arithmetical equivalent of that limit or threshold.

(6) Regulations under this section shall be made by the Treasury.]

Liability for Class 1 contributions.

[³6.—(1) Where in any tax week earnings are paid to or for the benefit of an earner over the age of 16 in respect of any one employment of his which is employed earner’s employment–

- (a) a primary Class 1 contribution shall be payable in accordance with this section and section 8 below if the amount paid exceeds the current primary threshold (or the prescribed equivalent); and
- (b) a secondary Class 1 contribution shall be payable in accordance with this section and section 9 below if the amount paid exceeds the current secondary threshold (or the prescribed equivalent).

¹ Words in s. 4C(11) substituted (5.4.15) by Children and Families Act 2014 (c. 6), s. 126, Sch. 7, para. 9(a)

² Words in s. 4C(11) inserted (30.6.15) by Children and Families Act 2014 (c. 6), s. 126, Sch. 7, para. 9(b)

³ Ss. 5 & 6 substituted (22.12.99 for reg. making purposes, 6.4.00 for all other purposes) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 9, paras. 1-2.

⁴ Words in s. 5(1) & subsec. (3) omitted (21.9.08) by National Insurance Contribution Act 2008 (c. 16) s. 1(1)(a) & (b). See s. 1(3) for details of the designated tax year.

⁵ S. 5(2) omitted (26.9.07) by Pensions Act 2007 (c. 22), s. 7(3). See s. 7(4) for details of the designated tax year.

(2) No primary or secondary Class 1 contribution shall be payable in respect of earnings if a Class 1B contribution is payable in respect of them.

(3) Except as may be prescribed, no primary Class 1 contribution shall be payable in respect of earnings paid to or for the benefit of an employed earner after he attains pensionable age, but without prejudice to any liability to pay secondary Class 1 contributions in respect of any such earnings.

(4) The primary and secondary Class 1 contributions referred to in subsection (1) above are payable as follows—

- (a) the primary contribution shall be the liability of the earner; and
- (b) the secondary contribution shall be the liability of the secondary contributor;

but nothing in this subsection shall prejudice the provisions of [1paragraphs 3 to 3B of Schedule 1 to this Act.]

(5) Except as provided by this Act, the primary and secondary Class 1 contributions in respect of earnings paid to or for the benefit of an earner in respect of any one employment of his shall be payable without regard to any other such payment of earnings in respect of any other employment of his.

(6) Regulations may provide for reducing primary or secondary Class 1 contributions which are payable in respect of persons to whom Part XI of the Employment Rights Act 1996 (redundancy payments) does not apply by virtue of section 199(2) or 209 of that Act.

(7) Regulations under this section shall be made by the Treasury.]

[26A.—(1) This section applies where in any tax week earnings are paid to or for the benefit of an earner over the age of 16 in respect of any one employment of his which is employed earner’s employment and the amount paid—

Notional payment of primary Class 1 contribution where earnings not less than lower earnings limit.

- (a) is not less than the current lower earnings limit (or the prescribed equivalent), but
- (b) does not exceed the current primary threshold (or the prescribed equivalent).

(2) Subject to any prescribed exceptions or modifications—

- (a) the earner shall be treated as having actually paid a primary Class 1 contribution in respect of that week, and
- (b) those earnings shall be treated as earnings upon which such a contribution has been paid,

for any of the purposes mentioned in subsection (3) below.

(3) The purposes are—

- (a) the purposes of section 14(1)(a) below;
- (b) the purposes of the provisions mentioned in section 21(5A)(a) to (c) below;
- (c) any other purposes relating to contributory benefits;
- (d) any purposes relating to jobseeker’s allowance [3; and
- (e) any purposes relating to employment and support allowance.]

(4) Regulations may provide for any provision of this Act which, in whatever terms, refers—

- (a) to primary Class 1 contributions being payable by a person, or
- (b) otherwise to a person’s liability to pay such contributions,

to have effect for the purposes of this section with any prescribed modifications.

¹ Words substituted in s. 6(4) (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 77(3).

² S. 6A inserted (22.12.99) (for reg. making purposes, 6.4.00 for all other purposes) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 9, para. 3.

³ Word inserted in s. 6A(3)(d) & s. 6A(3) (27.10.08) by the Welfare Reform Act 2007 (c. 5), Sch. 3, para. 9(2).

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(5) Except as may be prescribed, nothing in this section applies in relation to earnings paid to or for the benefit of an employed earner after he attains pensionable age.

(6) Except as provided by this Act, this section applies in relation to earnings paid to or for the benefit of an earner in respect of any one employment of his irrespective of any other such payment of earnings in respect of any other employment of his.

(7) Regulations under this section shall be made by the Treasury.]

“Secondary contributor”.

7.—(1) For the purposes of this Act, the “secondary contributor” in relation to any payment of earnings to or for the benefit of an employed earner, is—

- (a) in the case of an earner employed under a contract of service, his employer;
- (b) in the case of an earner employed in an office with [¹general earnings], either—
 - (i) such person as may be prescribed in relation to that office; or
 - (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the [¹general earnings] of the office;

but this subsection is subject to subsection (2) below.

(2) In relation to employed earners who—

- (a) are paid earnings in a tax week by more than one person in respect of different employments; or
- (b) work under the general control or management of a person other than their immediate employer,

and in relation to any other case for which it appears to the [²Treasury] that such provision is needed, regulations may provide that the prescribed person is to be treated as the secondary contributor in respect of earnings paid to or for the benefit of an earner.

[²(3) Regulations under any provision of this section shall be made by the Treasury.]

Calculation of primary Class 1 contributions.

[³8—(1) Where a primary Class 1 contribution is payable as mentioned in section 6(1)(a) above, the amount of that contribution is the aggregate of—

- (a) the main primary percentage of so much of the earner’s earnings paid in the tax week, in respect of the employment in question, as—
 - (i) exceeds the current primary threshold (or the prescribed equivalent); but
 - (ii) does not exceed the current upper earnings limit (or the prescribed equivalent); and
- (b) the additional primary percentage of so much of those earnings as exceeds the current upper earnings limit (or the prescribed equivalent).

(2) For the purposes of this Act—

- (a) the main primary percentage is [⁴12] per cent; and
- (b) the additional primary percentage is [⁴2] per cent;

but the main primary percentage is subject to alteration under sections 143 and 145 of the Administration Act.

(3) Subsection (1) above is subject to—

- (a) regulations under section 6(6) above;
- (b) regulations under sections 116 to 120 below; and

¹ Words substituted in s. 7(1)(b) (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 173.

² Words in s. 7(2) substituted & s. 7(3) inserted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, paras. 6 to 8.

³ S. 8 substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), s. 1.

⁴ Figures in s. 8(2) substituted (6.4.11) by the National Insurance Contributions Act 2011 (c. 3) s. 1(1).

- (c) sections 41 and 42A of the Pensions Act (reduced rates of Class 1 contributions for earners in contracted-out employment).]

[¹9.—(1) Where a secondary Class 1 contribution is payable as mentioned in section 6(1)(b) above, the amount of that contribution shall be the secondary percentage of so much of the earnings paid in the tax week, in respect of the employment in question, as exceeds the current secondary threshold (or the prescribed equivalent).]

Calculation of secondary Class 1 contributions

[²(2) For the purposes of this Act the secondary percentage is [³13.8] per cent; but that percentage is subject to alteration under sections 143 and 145 of the Administration Act.

- (3) Subsection (1) above is subject to—
 - (a) regulations under section 6(6) above;
 - (b) regulations under sections 116 to 120 below; and
 - (c) sections 41 and 42A of the Pensions Act (reduced rates of Class 1 contributions for earners in contracted-out employment).]

Class 1A contributions

[⁴10.—(1) Where—

- [⁵(a) for any tax year an earner is chargeable to income tax under ITEPA 2003 on an amount of general earnings received by him from any employment (“the relevant employment”),]
- [⁵(b) the relevant employment is both—
 - (i) employed earner’s employment, and
 - (ii) an employment, other than an excluded employment, within the meaning of the benefits code (see Chapter 2 of Part 3 of ITEPA 2003),]
- (c) the whole or a part of the [⁵general earnings] falls, for the purposes of Class 1 contributions, to be left out of account in the computation of the earnings paid to or for the benefit of the earner,

Class 1A contributions: benefits in kind etc.

a Class 1A contribution shall be payable for that tax year, in accordance with this section, in respect of that earner and so much of the [⁵general earnings] as falls to be so left out of account.

(2) Subject to section 10ZA below, a Class 1A contribution for any tax year shall be payable by—

- (a) the person who is liable to pay the secondary Class 1 contribution relating to the last (or only) relevant payment of earnings in that tax year in relation to which there is a liability to pay such a Class 1 contribution; or
- (b) if paragraph (a) above does not apply, the person who, if the [⁵general earnings] in respect of which the Class 1A contribution is payable were earnings in respect of which Class 1 contributions would be payable, would be liable to pay the secondary Class 1 contribution.

(3) In subsection (2) above “relevant payment of earnings” means a payment which for the purposes of Class 1 contributions is a payment of earnings made to or for the benefit of the earner in respect of the relevant employment.

¹ S. 9 substituted (22.12.99 for reg. making purposes, 6.4.00 for all other purposes) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 9, para. 5.
² S. 9(2) & (3) substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), s. 2(1).
³ Figure in s. 9(2) substituted (6.4.11) by the National Insurance Contributions Act 2011 (c. 3) s. 1(2).
⁴ S. 10 substituted (28.7.00) by s. 74(2) of the Child Support, Pensions and Social Security Act 2000 (c. 19).
⁵ S. 10(1)(a) & (b) substituted & words in s. 10(1), (1)(c) & (2)(b) substituted (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 174(1)-(6).

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(4) The amount of the Class 1A contribution in respect of any [¹general earnings] shall be the Class 1A percentage of so much of [¹them] as falls to be left out of account as mentioned in subsection (1)(c) above.

(5) In subsection (4) above “the Class 1A percentage” means a percentage rate equal to the [²secondary percentage] for the tax year in question.

(6) No Class 1A contribution shall be payable for any tax year in respect of so much of any [¹general earnings as are taken] for the purposes of the making of Class 1B contributions for that year to be included in a PAYE settlement agreement.

[¹(7) In calculating for the purposes of this section the amount of general earnings received by an earner from an employment, a deduction under any of the excluded provisions is to be disregarded.

This subsection does not apply in relation to a deduction if subsection (7A) applies in relation to it.

(7A) Where—

- (a) a deduction in respect of a matter is allowed under an excluded provision, and
- (b) the amount deductible is at least equal to the whole of any corresponding amount which would (but for this section) fall by reference to that matter to be included in the general earnings mentioned in subsection (7),

the whole of any corresponding amount shall be treated as not included.

(7B) For the purposes of subsections (7) and (7A) “excluded provision” means—

- (a) any provision of Chapter 2 of Part 5 of ITEPA 2003 (deductions for employee’s expenses), other than section 352 (limited deduction for agency fees paid by entertainers), and
- (b) any provision of Chapter 5 of Part 5 of ITEPA 2003 (deductions for earnings representing benefits or reimbursed expenses).]

(8) The Treasury may by regulations—

- [¹(a) modify the effect of subsections (7) and (7A) above by amending subsection (7B) so as to include any enactment contained in the Income Tax Acts within the meaning of “excluded provision”, or]
- (b) make such amendments of [¹subsections (7) to (7B)] above as appear to them to be necessary or expedient in consequence of any alteration of the provisions of the Income Tax Acts relating to the charge to tax [¹on employment income].

(9) The Treasury may by regulations provide—

- (a) for Class 1A contributions not to be payable, in prescribed circumstances, by prescribed persons or in respect of prescribed persons or [¹general earnings];
- (b) for reducing Class 1A contributions in prescribed circumstances.

(10) [...¹]

[³10ZA.—(1) This section applies, where—

Liability of third party provider of benefits in kind.

¹ Words substituted in s. 10(4), (6), (8)(b) & 9(a), s. 10(7)-(7B) substitutes para. (7) & s. 10(10) omitted (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003, Sch. 6, para. 174(7)-(13).

² Words substituted in s. 10(5) (30.3.06) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 2.

³ S.10ZA and 10ZB inserted (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 75(1).

- (a) a Class 1A contribution is payable for any tax year in respect of the whole or any part of [¹general earnings] received by an earner;
- (b) [¹the general earnings, in so far as they are ones in respect of which] such a contribution is payable, [¹consist] in a benefit provided for the earner or a member of his family or household;
- (c) the person providing the benefit is a person other than the person (“the relevant employer”) by whom, but for this section, the Class 1A contribution would be payable in accordance with section 10(2) above; and
- (d) the provision of the benefit by that other person has not been arranged or facilitated by the relevant employer.

(2) For the purposes of this Act if—

- (a) the person providing the benefit pays an amount for the purpose of discharging any liability of the earner to income tax for any tax year, and
- (b) the income tax in question is tax chargeable in respect of the provision of the benefit or of the making of the payment itself,

the amount of the payment shall be treated as if it were [¹general earnings] consisting in the provision of a benefit to the earner in that tax year and falling, for the purposes of Class 1 contributions, to be left out of account in the computation of the earnings paid to or for the benefit of the earner.

(3) Subject to subsection (4) below, the liability to pay any Class 1A contribution in respect of—

- (a) the benefit provided to the earner, and
- (b) any further benefit treated as so provided in accordance with subsection (2) above,

shall fall on the person providing the benefit, instead of on the relevant employer.

(4) Subsection (3) above applies in the case of a Class 1A contribution for the tax year beginning with 6th April 2000 only if the person providing the benefit in question gives notice in writing to the Inland Revenue on or before 6th July 2001 that he is a person who provides benefits in respect of which a liability to Class 1A contributions is capable of falling by virtue of this section on a person other than the relevant employer.

(5) The Treasury may by regulations make provision specifying the circumstances in which a person is or is not to be treated for the purposes of this Act as having arranged or facilitated the provision of any benefit.

(6) In this section references to a member of a person’s family or household shall be construed in accordance with [¹section 721(5) of ITEPA 2003].

10ZB.—(1) In section 10ZA above references to the provision of a benefit include references to the provision of a non-cash voucher.

Non-cash vouchers provided by third parties.

(2) Where—

- (a) a non-cash voucher is received by any person from [¹employment which is an excluded employment for the purposes of the benefits code, and]
- (b) the case would be one in which the conditions in section 10ZA(1)(a) to (d) above would be satisfied in relation to the provision of that voucher [¹if that employment were not an excluded employment],

¹ Words in ss. 10ZA(1), (2) & (6) & 10ZB(2)(a) & (b) substituted (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, paras. 175 & 176(2).

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sections 10 and 10ZA above shall have effect in relation to the provision of that voucher, and to any such payment in respect of the provision of that voucher as is mentioned in section 10ZA(2) above, [as if that employment were not an excluded employment].

(3) In this section “non-cash voucher” has the same meaning as in [section 84 of ITEPA 2003].]

Class 1A contributions:
power to make
provision in
consequence of
retrospective tax
legislation

[²10ZC.—(1)The Treasury may by regulations make such provision as appears to the Treasury to be expedient for any purpose of the law relating to Class 1A contributions in consequence of any relevant retrospective tax provision—

- (a) which is passed or made at or before the time when the regulations are made, or
- (b) which may be passed or made after that time.

(2) “Relevant retrospective tax provision” means a provision of the Income Tax Acts which—

- (a) has retrospective effect, and
- (b) affects the amount of general earnings received by an earner from an employment on which he is chargeable to income tax under the employment income Parts of ITEPA 2003 for a tax year.

(3) It does not matter whether the relevant retrospective tax provision was passed or made before the commencement day.

(4) Regulations under this section may, in particular, make provision—

- (a) modifying any provision of any enactment (including this Act and any enactment passed or made on or after the commencement day);
- (b) for any provision of any such enactment to apply in such cases, and with such modifications (if any), as the regulations may prescribe.

(5) Regulations under this section may be made so as to have retrospective effect but must not have effect in relation to any time before 2nd December 2004.

(6) In particular, regulations under this section made by virtue of subsection (5)—

- (a) may affect matters determined before the time when the regulations are made, and
- (b) may provide for those matters to be redetermined accordingly.

(7) Regulations under this section—

- (a) may not impose any liability to pay a Class 1A contribution, and
- (b) may not increase the amount of any Class 1A contribution.

(8) The powers conferred by this section are without prejudice to—

- (a) any liability to pay a Class 1A contribution which arises by virtue of any relevant retrospective tax provision, and
- (b) any powers conferred by or by virtue of any other provision of this Act or any other enactment.

(9) In particular, any modification of any provision of an instrument by regulations under this section is without prejudice to any other power to amend or revoke the provisions of the instrument (including the modified provision).

(10) For the purposes of this section—

¹ Words substituted in s. 10ZB(2) & (3) (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 176(4)-(5).

² S. 10ZC inserted (30.3.06) by the National Insurance Contributions Act 2006 (c. 10), s. 3(1).

“the commencement day” means the day on which the National Insurance Contributions Act 2006 was passed;

“enactment” includes an instrument made under an Act.]

[¹Class 1B contributions

10A.—(1) Where for any tax year a person is accountable to the Inland Revenue in respect of income tax on [²general earnings] of his employees in accordance with a PAYE settlement agreement, a Class 1B contribution shall be payable by him for that tax year in accordance with this section. Class 1B contributions.

(2) The Class 1B contribution referred to in subsection (1) above is payable in respect of—

- (a) the amount of any of [²the general earnings included] in the PAYE settlement agreement which are chargeable emoluments; and
- (b) the total amount of income tax in respect of which the person is accountable for the tax year in accordance with the PAYE settlement agreement.

(3) The amount of the Class 1B contribution referred to in subsection (1) above shall be the Class 1B percentage of the aggregate of the amounts mentioned in paragraphs (a) and (b) of subsection (2) above.

(4) [²general earnings are chargeable emoluments] for the purposes of subsection (2) above if, apart from section [³6(2) or 10(6)] above, the person accountable in accordance with the PAYE settlement agreement would be liable or entitled to pay secondary Class 1 contributions or class 1A contributions in respect of them.

(5) Where—

- (a) the PAYE settlement agreement was entered into after the beginning of the tax year; and
- (b) Class 1 contributions were due in respect of any [²general earnings] before it was entered into,

those [²general earnings] shall not be taken to be included in the PAYE settlement agreement.

[⁴(6) In subsection (3) above “the Class 1B percentage” means a percentage rate equal to [⁵the secondary percentage] for the tax year in question.]

(7) [⁶The Treasury may by regulations] provide for persons to be excepted in prescribed circumstances from liability to pay Class 1B contributions.]

Class 2 contributions

11.—(1) Every self-employed earner who is over the age of 16 shall be liable to pay Class 2 contributions at the rate of [⁷£2.75] a week, subject to the provisions of this section and sections 12 and 19(4)(b) below. Liability for Class 2 contributions.

¹ S. 10A inserted (8.9.98 for regulation purposes, 6.4.99 for all other purposes) by s. 53 of S.S. Act 1998 (c. 14).

² Words substituted in s. 10A(1), (2), (4) & (5) (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 177.

³ Words substituted in s. 10A(4) & (6) (1.9.04) by the National Insurance Contributions & Statutory Payments Act 2004 (c. 3) Sch. 1, para. 1(2).

⁴ S. 10A(6) substituted (6.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30) s. 77.

⁵ Words in s. 10A substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19) Sch. 1, para. 3.

⁶ Words substituted in s. 10A (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 11.

⁷ Amount in s. 11(1) substituted (6.4.14) by art. 2(a) of S.I. 2014/475.

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(2) No Class 2 contributions shall be payable by an earner in respect of any period after he attains pensionable age.

(3) [¹The Treasury may by regulations] make provision so that an earner is liable for a weekly rate of Class 2 contributions higher than that specified in subsection (1) above where—

- (a) in respect of any employment of his, he is treated by regulations under section 2(2)(b) above as being a self-employed earner; and
- (b) in any period or periods he has earnings from that employment and—
 - (i) those earnings are such that (disregarding their amount) he would be liable for Class 1 contributions in respect of them if he were not so treated in respect of the employment, and
 - (ii) no Class 4 contribution is payable in respect of the earnings by virtue of regulations under section 18(1) below.

¹ Words substituted in S. 11(3) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 12.

(4) [¹The Treasury may by regulations] provide for an earner otherwise liable for Class 2 contributions in respect of employment as a self-employed earner to be excepted from the liability in respect of any period in which his earnings from such employment are, or are treated by regulations as being, less than [²£5,885] a tax year.

(5) Regulations made for the purposes of subsection (4) above shall not except a person from liability to pay contributions otherwise than on his own application, but may provide for so excepting a person with effect from any date not earlier than 13 weeks before the date on which his application was made.

12.—(1) This section applies to any Class 2 contributions paid in respect of a week falling within a tax year (“the contribution year”) earlier than the tax year in which it is paid (“the payment year”).

Late paid Class 2 contributions.

(2) Subject to subsections (3) to (5) below, the amount of a contribution to which this section applies shall be the amount which the earner would have had to pay if he had paid the contribution in the contribution year.

(3) Subject to subsections (4) to (6) below, in any case where—

- (a) the earner pays an ordinary contribution to which this section applies after the end of the tax year immediately following the contribution year; and
- (b) the weekly rate of ordinary contributions for the week in respect of which the contribution was payable in the contribution year differs from the weekly rate applicable at the time of payment in the payment year,

the amount of the contribution shall be computed by reference to the highest weekly rate of ordinary contributions in the period beginning with the week in respect of which the contribution is paid and ending with the day on which it is paid.

(4) The [¹Treasury] may by regulations direct that subsection (3) above shall have effect in relation to a higher-rate contribution to which this section applies subject to such modifications as may be prescribed.

(5) Subject to subsection (6) below, for the purposes of proceedings in any court relating to an earner’s failure to pay Class 2 contributions, the amount of each contribution which he is to be treated as having failed to pay is the amount which he would have paid in accordance with subsections (1) to (3) above or regulations under subsection (6) below if he had paid that contribution on the date on which the proceedings commenced.

(6) The [¹Treasury] may by regulations provide that the amount of any contribution which, apart from the regulations, would fall to be computed in accordance with subsection (3) or (5) above shall instead be computed by reference to a tax year not earlier than the contribution year but earlier—

- (a) in a case falling within subsection (3) above, than the payment year; and
- (b) in a case falling within subsection (5) above, than the tax year in which the proceedings commenced.

(7) For the purposes of this section—

- (a) proceedings in the High Court or a county court commence when an action commences; and

¹ Words substituted in s. 11(4), 12(4) & 12(6) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, paras. 12 & 13.

² Sum substituted in s. 11(4) (6.4.14) by art. 2(b) of S.I. 2014/475.

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[¹(aa) civil proceedings in a magistrates' court commence when a complaint is made;]

(b) proceedings under section 114 of the Administration Act (offences relating to contributions) commence when an information is laid.

(8) In this section—

“ordinary contribution” means a contribution under section 11(1) above; and

“higher-rate contribution” means a contribution under regulations made under section 11(3) above.

Class 3 contributions

Class 3 contributions.

13.—(1) [²The Treasury shall by regulations] provide for earners and others, if over the age of 16, to be entitled if they so wish, but subject to any prescribed conditions, to pay Class 3 contributions; and, subject to the following provisions of this section, the amount of a Class 3 contribution shall be [³£14.10].

(2) Payment of Class 3 [...⁴] contributions shall be allowed only with a view to enabling the contributor to satisfy contribution conditions of entitlement to benefit by acquiring the requisite earnings factor for the purposes described in section 22 below.

(3) [²The Secretary of State may by regulations] provide for Class 3 contributions, although paid in one tax year, to be appropriated in prescribed circumstances to the earnings factor of another tax year.

(4) The amount of a Class 3 contribution in respect of a tax year earlier than the tax year in which it is paid shall be the same as if it has been paid in the earlier year and in respect of that year, unless it falls to be calculated in accordance with subsection (6) below or regulations under subsection (7) below.

(5) In this section—

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

“the contribution year” means the earlier year mentioned in subsection (4) above.

(6) Subject to subsection (7) below, in any case where—

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

(b) the amount of a Class 3 contribution applicable had the contribution been paid in the contribution year differs from the amount of a Class 3 contribution applicable at the time of payment in the payment year,

the amount of the contribution shall be computed by reference to the highest of those two amounts and of any other amount of a Class 3 contribution in the intervening period.

(7) The [²Treasury] may by regulations provide that the amount of a contribution which apart from the regulations would fall to be computed in accordance with subsection (6) above shall instead be computed by reference to the amount of a Class 3 contribution for a tax year earlier than the payment year but not earlier than the contribution year.

Right to pay additional Class 3 contributions in certain cases

[⁵13A.—(1) An eligible person is entitled, if he so wishes, but subject to any conditions prescribed by regulations made by the Treasury and to the following provisions of this section, to pay Class 3 contributions in respect of a missing year.

¹ Sub-para. (7)(aa) inserted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 9, para. 3.

² Words substituted in s. 13(1) to (7) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 14.

³ Sum in s. 13(1) substituted (6.4.15) by art. 2 of S.I. 2015/588.

⁴ Words in s. 13(2) omitted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, Part 1, para. 4.

⁵ S. 13A inserted (6.4.09) by the Pensions Act 2008 c. 30, s. 135(2).

(2) A missing year is a tax year not earlier than 1975-76 in respect of which the person would under regulations under section 13 be entitled to pay Class 3 contributions but for a limit on the time within which contributions may be paid in respect of that year.

(3) A person is not entitled to pay contributions in respect of more than 6 tax years under this section.

(4) A person is not entitled to pay any contribution under this section after the end of 6 years beginning with the day on which he attains pensionable age.

(5) A person is an eligible person if the following conditions are satisfied.

(6) The first condition is that the person attained or will attain pensionable age in the period—

- (a) beginning with 6th April 2008, and
- (b) ending with 5th April 2015.

(7) The second condition is that there are at least 20 tax years each of which is a year to which subsection (8) or (10) applies.

(8) This subsection applies if—

- (a) the year is one in respect of which the person has paid or been credited with contributions that are of a relevant class for the purposes of paragraph 5 or 5A of Schedule 3 or been credited (in the case of 1987-88 or any subsequent year) with earnings, and
- (b) in the case of that year, the earnings factor derived as mentioned in subsection (9) is not less than the qualifying earnings factor for that year.

(9) For the purposes of subsection (8)(b) the earnings factor—

- (a) in the case of 1987-88 or any subsequent year, is that which is derived from—
 - (i) so much of the person's earnings as did not exceed the upper earnings limit and upon which such of the contributions mentioned in subsection (8)(a) as are primary Class 1 contributions were paid or treated as paid or earnings credited, and
 - (ii) any Class 2 or Class 3 contributions for the year, or
- (b) in the case of any earlier year, is that which is derived from the contributions mentioned in subsection (8)(a).

(10) This subsection applies (in the case of a person who attained or will attain pensionable age before 6th April 2010) if the year is one in which the person was precluded from regular employment by responsibilities at home within the meaning of regulations under paragraph 5(7) of Schedule 3.

(11) The third condition applies only if the person attained or will attain pensionable age before 6th April 2010.

(12) That condition is that—

- (a) the person has, in respect of any one tax year before that in which he attains pensionable age, actually paid contributions that are of a relevant class for the purposes of paragraph 5 of Schedule 3, and
- (b) in the case of that year, the earnings factor derived as mentioned in subsection (13) is not less than the qualifying earnings factor for that year.

(13) For the purposes of subsection (12)(b) the earnings factor—

- (a) in the case of 1987-88 or any subsequent year, is that which is derived from—
 - (i) so much of the person's earnings as did not exceed the upper earnings limit and upon which such of the contributions mentioned in subsection

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(12)(a) as are primary Class 1 contributions were paid or treated as paid, and

(ii) any Class 2 or Class 3 contributions for the year, or

(b) in the case of any earlier year, is that which is derived from the contributions mentioned in subsection (12)(a).]

Restriction on right to pay Class 3 contributions.

14.—(1) No person shall be entitled to pay a Class 3 contribution in respect of any tax year if his earnings factor, or the aggregate of his earnings factors, for that year derived—

(a) in the case of 1987-88 or any subsequent year, from earnings upon which Class 1 contributions have been paid or treated as paid or from Class 2 contributions actually paid; or

(b) in the case of any earlier year, from contributions actually paid, is equal to or exceeds the qualifying earnings factor for that year; and regulations may provide for precluding the payment of Class 3 contributions in other cases.

(2) Regulations may provide for the repayment of Class 3 contributions that have been paid in cases where their payment was precluded by, or by regulations made under, subsection (1) above.

(3) Contributions repayable by virtue of regulations under subsection (2) above shall, for the purpose of determining the contributor's entitlement to any benefit, be treated as not having been paid (but nothing in this subsection shall be taken to imply that any other repayable contributions are to be treated for the purposes of benefit as having been paid).

[¹(4) Where primary Class 1 contributions have been paid or treated as paid on any part of a person's earnings, subsection (1)(a) above shall have effect as if such contributions had been paid or treated as paid on so much of those earnings as did not exceed the upper earnings limit.]

[²(5) Regulations under subsection (1) or (2) above shall be made by the Treasury.]

[³Class 3A contributions

Class 3A contributions in return for units of additional pension

14A.—(1) An eligible person is entitled to pay a Class 3A contribution in return for a unit of additional pension.

S. 14A(2) is modified (12.10.15) by Pensions Act 2014 (c. 19), Sch. 15, para. 4.

(2) A person is eligible to pay a Class 3A contribution if the person—

(a) is entitled to a Category A, Category B or Category D retirement pension or graduated retirement benefit, or

(b) has deferred entitlement to a Category A or Category B retirement pension or graduated retirement benefit.

(3) The amount of a Class 3A contribution needed to obtain a unit of additional pension is to be determined in accordance with regulations made by the Treasury.

(4) before making those regulations the Treasury must consult the Government Actuary or the Deputy Government Actuary.

(5) A person—

(a) may pay Class 3A contributions on more than one occasion, but

(b) may not obtain more than the maximum number of units of additional pension.

¹ S. 14(4) inserted (6.4.99) by Sch. 7, s. 59 of S.S. Act 1998 (c. 14).

² S. 14(5) inserted (1.6.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 15.

³ S. 14A inserted (1.10.14 for regulation purpose and 12.10.15 for all other purposes) by the Pensions Act 2014 (c. 19), Sch. 15, para. 3 (with Sch. 15, para. 4) (with S.I. 2014/2377, art. 2(3)).

(6) The maximum number of units of additional pension that a person may obtain is to be specified by the Treasury in regulations.

(7) In this section “deferred”, in relation to graduated retirement benefit, has the meaning given by section 36(4A) of the National Insurance Act 1965.

(8) For the meaning of “deferred” in relation to a Category A or Category B retirement pension, see section 55(3) of this Act.

14B.—(1) The Treasury may by regulations provided for a Class 3A contribution to be repaid in specified circumstances.

Class 3A contributions:
repayment

(2) Regulations under subsection (1) may, in particular, make provision about applications for repayments and other procedural matters.

(3) A person is to be treated as never having had a unit of additional pension if the Class 3A contribution paid in respect of it is repaid.

(4) Regulations under subsection (1) may provide for benefits paid to a person because of the unit of additional pension to be recovered by deducting them from the repayment.

14C.—(1) The Treasury may by regulations change who is eligible to pay Class 3A contributions.

Class 3A contributions:
power to change
eligibility or remove the
option to pay

(2) The Treasury may by regulations remove the option for people to pay Class 3A contributions.

(3) Regulations under this section may, in particular, amend an Act.]

Class 4 contributions

15.—(1) Class 4 contributions shall be payable for any tax year in respect of all [profits] which—

Class 4 Contributions
recoverable under the
Income Tax Acts.

- (a) are immediately derived from the carrying on or exercise of one or more trades, professions or vocations, [...]¹
- (b) [are profits chargeable to income tax under Chapter 2 of Part 2 of the Income Tax (Trading and Other Income) Act 2005] for the year of assessment corresponding to that tax year [and
- (c) are not profits of a trade, profession or vocation carried on wholly outside the United Kingdom.]

(2) Class 4 contributions in respect of profits or gains shall be payable—

- (a) in the same manner as any income tax which is, or would be, chargeable in respect of those profits [...]¹ (whether or not income tax in fact falls to be paid), and
- (b) by the person on whom the income tax is (or would be) charged,

in accordance with assessments made from time to time under the Income Tax Acts.

¹ In s. 15 words substituted and omitted, para. (1)(c) inserted (6.4.05) by the Income Tax (Trading & Other Income) Act 2005 (c. 5), Sch. 1, para. 420.

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[¹(3) The amount of a Class 4 contribution under this section for any tax year is equal to the aggregate of—

- (a) the main Class 4 percentage of so much of the profits [...²] referred to in subsection (1) above (computed in accordance with Schedule 2 to this Act) as exceeds [³£8,060] but does not exceed [⁴£42,385]; and
- (b) the additional Class 4 percentage of so much of those profits [...²] as exceeds [⁴£42,385];

but the figures specified in this subsection are subject to alteration under section 141 of the Administration Act.

(3ZA) For the purposes of this Act—

- (a) the main Class 4 percentage is 8 per cent; and
- (b) the additional Class 4 percentage is 1 per cent;

but the main Class 4 percentage is subject to alteration under section 143 of the Administration Act.]

(4) [...⁵]

(5) For the purposes of this section the year of assessment which corresponds to a tax year is the year of assessment (within the meaning of the Tax Acts) which consists of the same period as that tax year.

Application of Income Tax Acts and destination of Class 4 contributions.

1970 c. 9.

16.—(1) All the provisions of the Income Tax Acts, including in particular—

(a) provisions as to assessment, collection, repayment and recovery, and

[⁶(b) the provisions of Part VA (payment of tax) and Part X (penalties) of the Taxes Management Act 1970,]

shall, with the necessary modifications, apply in relation to Class 4 contributions under this Act and the Northern Ireland Contributions and Benefits Act as if those contributions were income tax chargeable under [⁷Chapter 2 of Part 2 of the Income Tax (Trading and Other Income) Act 2005 in respect of the profits of a trade, profession or vocation which is not carried on wholly outside the United Kingdom].

(2) Subsection (1) above is subject to any provision made by or under—

- (a) sections 17(3) and (4) and 18 below;
- (b) sections 17(3) and (4) and 18 of the Northern Ireland Contributions and Benefits Act; and
- (c) Schedule 2 to this Act.

(3) Schedule 2 to this Act has effect for the application or modification, in relation to Class 4 contributions under this Act and the Northern Ireland Contributions and Benefits Act, of certain provisions of the Income Tax Acts, and the exclusion of other provisions, and generally with respect to the contributions.

(4) [...⁸]

¹ Subsections (3) & (3ZA) substituted for (3) in s. 15 (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), s. 3(1).

² In s. 15(3)(a) & (b) words omitted (6.4.05) by the Income Tax (Trading & Other Income) Act 2005 (c. 5), Sch. 1, para. 420.

³ Sum in s. 15(3) substituted (6.4.15) by art. 3 of S.I. 2015/588.

⁴ Sum in s. 15(3) substituted (6.4.15) by art. 3 of S.I. 2012/588.

⁵ S. 15(4) omitted (6.4.05) by the Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1, para. 420.

⁶ S. 16(1)(b) substituted (6.4.96) by para. 45 of Sch. 19 to Finance Act 1994 (c. 9).

⁷ Words substituted in s. 16(1) (6.4.05) by the Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1, para. 421.

⁸ S. 16(4) is omitted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 16.

(5) [¹...]

17.—(1) [²The Inland Revenue may by regulations] provide—

- (a) for excepting persons from liability to pay Class 4 contributions [³, or any prescribed part of such contributions,] in accordance with sections 15 and 16(1) to (3) above; or
- (b) for deferring any person’s liability,

Exceptions, deferment and incidental matters relating to Class 4 contributions.

[⁴...]

(2) Exception from liability, or deferment, under subsection (1) above may, in particular, be by reference—

- (a) to a person otherwise liable for contributions being under a prescribed age at the beginning of a tax year;
- (b) to a person having attained pensionable age;
- (c) to a person being in receipt of earnings in respect of which primary Class 1 contributions are, or may be, payable; or
- (d) to a person not satisfying prescribed conditions as to residence or presence in the United Kingdom.

(3) [²The Inland Revenue may by regulations] provide for any incidental matters arising out of the payment of any Class 4 contributions recovered by the Inland Revenue, including in particular the return, in whole or in part, of such contributions in cases where—

- (a) payment has been made in error; or
- (b) repayment ought for any other reason to be made.

(4) [²The Inland Revenue may by regulations] provide for any matters arising out of the deferment of liability [⁵to pay class 4 contributions, or any part of such contributions,] under subsection (1) above, including in particular provision for the amount of a person’s profits or gains (as computed in accordance with Schedule 2 to this Act) to be certified by the Inland Revenue to [⁶...] the person liable.

(5) [⁷...]

(6) [⁸...]

¹ Ss. 16(5) repealed (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 2.
² Words substituted in s. 17(1), (3) & (4) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 17.
³ Words in s. 17(1)(a) & (4) inserted & substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 4.
⁴ Words in s. 17(1)(b) deleted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 6(a).
⁵ Words in s. 17(4) inserted & substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 4.
⁶ Words in s. 17(4) deleted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 6(b).
⁷ S. 17(5) repealed (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 2.
⁸ S. 17(6) shall ceased to have effect (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 17(4).

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

S. 18

Class 4 contributions recoverable under regulations.

- 18.**—(1) [¹The Inland Revenue may by regulations make provision] so that where—
- (a) an earner, in respect of any one or more employments of his, is treated by regulations under section 2(2)(b) above as being self-employed; and
 - (b) in any tax year he has earnings from any such employment (one or more) which fall within paragraph (b)(i) of subsection (3) of section 11 above but is not liable for a higher weekly rate of Class 2 contributions by virtue of regulations under that subsection; and
 - (c) the total of those earnings exceeds [²£8,060],

he is to be liable, in respect of those earnings, to pay a Class 4 contribution [³...].

[⁴(1A) The amount of a Class 4 contribution payable by virtue of regulations under this section is equal to the aggregate of—

- (a) the main Class 4 percentage of so much of the total of the earnings referred to in subsection (1)(b) above as exceeds [²£8,060] but does not exceed [⁵£42,385]; and
- (b) the additional Class 4 percentage of so much of that total as exceeds [⁵£42,385];

but the figures specified in this subsection are subject to alteration under section 141 of the Administration Act.]

(2) [⁶In relation to Class 4 contributions payable by virtue of regulations under this section] [¹regulations made by the Inland Revenue may]

- (a) apply any of the provisions of Schedule 1 to this Act (except a provision conferring power to make regulations); and
- (b) make any such provision as may be made by regulations under that Schedule, except paragraph 6 [⁷or 7BZA].

¹ Words substituted in s. 18(1) & (2) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 18.

² Sum in s. 18(1) and (1A) substituted (6.4.15) by art. 4 of S.I. 2015/588.

³ Words in s. 18(1) repealed (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 2.

⁴ Subsection (1A) inserted in s. 18 (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), s. 3(3).

⁵ Sum in s. 18(1A) substituted (6.4.15) by art. 3(b) of S.I. 2015/588.

⁶ Words inserted in s. 18(2) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 7.

⁷ Words inserted s. 18(2)(b) (1.9.04) by National Insurance Contribution & Statutory Payments Act 2004 (c. 3), Sch. 1, para. 1(3).

General

General power to regulate liability for contributions.

- 19.—(1) Regulations may provide either generally or in relation to—
- (a) any prescribed category of earners; or
 - (b) earners in any prescribed category of employments,
- that their liability in a particular tax year in respect of contributions of prescribed classes [¹, or any prescribed part of such contributions,] is not to exceed such maximum amount or amounts as may be prescribed.
- (2) Regulations made for the purposes of subsection (1) above may provide—
- (a) for an earner whose liability is subject to a maximum prescribed under that subsection to be liable in the first instance for the full amount of any contributions due from him apart from the regulations, or to be relieved from liability for such contributions in prescribed circumstances and to the prescribed extent; and
 - (b) for contributions paid in excess of any such maximum to be repaid at such times, and in accordance with such conditions, as may be prescribed.
- (3) Regulations may provide, in relation to earners otherwise liable for contributions of any class [¹or any part of such contributions], for excepting them from the liability for such periods, and in such circumstances, as may be prescribed.
- (4) As respects any woman who was married or a widow on 6th April 1977 (the date of the coming into force of the repeal of the old provisions that primary Class 1 contributions might be paid at a reduced rate and Class 2 contributions need not be paid by a married woman or a widow) regulations shall provide—
- (a) for enabling her to elect that [¹so much of her liability in respect of primary Class 1 contributions as is attributable to section 8(1)(a) above] shall be a liability to contribute at such reduced rate as may be prescribed; and
 - (b) either for enabling her to elect that her liability in respect of Class 2 contributions shall be a liability to contribute at such reduced rate as may be prescribed or for enabling her to elect that she shall be under no liability to pay such contributions; and
 - (c) for enabling her to revoke any such election.
- (5) Regulations under subsection (4) above may—
- (a) provide for the making or revocation of any election under the regulations to be subject to prescribed exceptions and conditions;
 - (b) preclude a person who has made such an election from paying Class 3 contributions while the election has effect;
 - (c) provide for treating an election made or revoked for the purpose of any provision of the regulations as made or revoked also for the purpose of any other provision of the regulations;
 - (d) provide for treating an election made in accordance with regulations under section 130(2) of the 1975 Act as made for the purpose of regulations under subsection (4) above.

¹ Words inserted & substituted in s. 19(1), (3) & (4) (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 5.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

Ss. 19-20

[¹(5A) Regulations under any of subsections (1) to (5) above shall be made by the Treasury.]

(6) [¹The Secretary of State may by regulations] provide for earnings factors to be derived, for such purposes as may be prescribed, as follows, that is to say—

- (a) in the case of earnings factors for 1987-88 or any subsequent tax year—
 - (i) from earnings upon which primary Class 1 contributions are paid at a reduced rate by virtue of regulations under subsection (4) above; or
 - (ii) from Class 2 contributions paid at a reduced rate by virtue of such regulations; and
- (b) in the case of earnings factors for any earlier tax year, from contributions which are paid at a reduced rate by virtue of regulations under subsection (4) above;

and if provision is made for a person to have earnings factors so derived for the purpose of establishing entitlement to any benefit, the regulations may, in relation to that person, vary or add to the requirements for entitlement to that benefit.

Class 1, 1A or 1B contributions paid in error.

[²19A—(1) This section applies where—

- (a) payments by way of Class 1, Class 1A or Class 1B contributions are made in respect of earnings paid to or for the benefit of an earner (or in respect of a benefit made available to an earner) in 1998-99 or a subsequent tax year (“year 1”);
- (b) the payments are made in error, in that the employment from which the earnings are derived (or by reason of which the benefit is made available) is not employed earner’s employment; and
- (c) the person making the payments has not been notified of the error by the [³Inland Revenue] before the end of the tax year following year 1 (“year 2”).

(2) After the end of year 2 the earner shall, except in such circumstances as may be prescribed, be treated for all purposes relating to—

- (a) contributions and contributory benefits; and
- (b) statutory sick pay and statutory maternity pay,

as if the earnings were derived from (or the benefits were made available by reason of) employed earner’s employment.]

[¹(3) Regulations under subsection (2) above shall be made by the Treasury.]

Extended meaning of “benefit” etc. in Part 1

[⁴19B—(1) In this Part references to “benefit” or “contributory benefit” include benefit under Part 1 of the Pension Act 2014.]

PART II CONTRIBUTORY BENEFITS

Preliminary

Descriptions of contributory benefits

20.—(1) Contributory benefits under this Part of this Act are of the following descriptions, namely—

- [⁵(a) unemployment benefit (with increase for adult and, where the beneficiary is over pensionable age, child dependants);]

¹ Words inserted in ss. 19 & 19A (1.4.99) by Transfer of Functions Act 1999 (c. 11), Sch. 3, paras. 19(2) to (20).

² S. 19A inserted (6.4.99) by s. 54 of S.S. Act 1998 (c. 10).

³ Words substituted in s. 19A(1)(c) (1.4.99) by Transfer of Functions Act 1999 (c. 11), Sch. 9, para. 4.

⁴ S. 19B inserted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, Part 1, para. 5.

⁵ S. 20(1)(a) repealed (7.10.96) by Sch. 3 to Jobseekers Act 1995 (c. 18). It will however remain reproduced in this work for a temporary period.

- [¹(b) incapacity benefit, comprising–
 (i) short-term incapacity benefit, and
 (ii) long-term incapacity benefit;]

(There is no longer a paragraph (c) in s. 20(1).)

- (d) maternity allowance (with increase for adult dependants);

- (e) widow’s benefit, comprising–
 (i) [...²]
 (ii) widowed mother’s allowance [...³];
 (iii) widow’s pension;

- [²(ea) bereavement benefits, comprising–

- (i) bereavement payment;
 (ii) widowed parent’s allowance [...³];
 (iii) bereavement allowance;]

- (f) retirement pensions of the following categories–

- (i) Category A, payable to a person by virtue of his own contributions
 (with increase for adult [...³] dependants); and
 [⁴(ii) Category B, payable to a person by virtue of the contributions of a
 spouse [⁵or civil partner] [...³];]

- [⁶(fa) shared additional pensions;]

- (g) for existing beneficiaries only, child’s special allowance.

(2) In this Act–

“long-term benefit” means–

- [⁷(a) long-term incapacity benefit;]
 (b) a widowed mother’s allowance;

- [²(ba) a widowed parent’s allowance;

- (bb) a bereavement allowance;]
 (c) a widow’s pension; and
 (d) a Category A or Category B retirement pension; and

- [⁴(e) a shared additional pension;]

“short-term benefit” means–

- (a) [...⁸];
 [⁷(b) Short-term incapacity benefit; and]
 (c) maternity allowance.

(3) The provisions of this Part of this Act are subject to the provisions of [⁹Chapter II of Part III of the Pensions Act (reduction in state scheme contributions and benefits for members of certified schemes)].

¹ Para. (b) of s. 20(1) substituted (13.4.95) for paras. (b) and (c) by para. 2(2) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

² Sub-para. (i) of s. 20(1)(e) omitted and s. 20(1)(ea), 2(ba) and 2(bb) inserted (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

³ Words revoked (6.4.03) in s. 20(1) by Sch. 6 to the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details of savings & transitional provisions.

⁴ S. 20(1)(f)(ii) substituted (19.7.95) by Pensions Act 1995 (c. 26) Sch. 4, para. 21(1).

⁵ Words inserted in s. 20(1)(f)(ii) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 13.

⁶ Para. (fa) inserted (1.12.00) in s. 20(1) & para. (e) in s. 20(2) by the Welfare Reform & Pensions Act 1999 (c. 30), Sch. 12, para. 15(2), (3) & (16).

⁷ Para. (a) of defn. of “long-term benefit” and para. (b) of defn. of “short-term benefit” substituted (13.4.95) by para. 2(3) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

⁸ Para. (a) (unemployment benefit) of defn. of “short-term benefit” in s. 20(2) deleted (7.10.96) by Sch. 3 to Jobseekers Act 1995 (c. 18).

⁹ Words in s. 20(3) substituted (7.2.94) by Pension Schemes Act 1993 (c. 48) Sch. 8, para. 35.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

S. 21

Contribution conditions.

21.—(1) Entitlement to any of the benefits specified in section 20(1) above, [¹other than [²short-term incapacity benefit under subsection (1)(b) of section 30A below] long-term incapacity benefit under section [²subsection (5) of that section] [³maternity allowance under section 35 [⁴or 35B] below] or short-term or long-term incapacity benefit under section 40 or 41 below], [⁵or a shared additional pension under section 55A below] depends on contribution conditions being satisfied (either by the claimant or by some other person, according to the particular benefit).

(2) The class or classes of contribution which, for the purposes of subsection (1) above, are relevant in relation to each of those benefits are as follows—

Short-term benefit [...⁶] [⁷short-term incapacity benefit under section [⁸30A(1)(a)] below. Class 1 or 2 [...⁹]

Other benefits

[¹⁰ Bereavement payment]	Class 1,2 or 3
Widowed mother's allowance	Class 1,2 or 3
[¹⁰ Widowed parent's allowance	Class 1,2 or 3
Bereavement allowance	Class 1,2 or 3
[Widow's pension	Class 1,2 or 3
Category A retirement pension	Class 1,2 or 3
Category B retirement penon	Class 1,2 or 3
Child's special allowance	Class 1,2 or 3

(3) The relevant contributions conditions in relation to the benefits specified in subsection (2) above are those specified in Part I of Schedule 3 to this Act.

(4) Part II of Schedule 3 to this Act shall have effect as to the satisfaction of contribution conditions for benefit, [...⁹] in certain cases where a claim for a short-term benefit or a [¹⁰bereavement payment] is, or has on a previous occasion been, made in the first or second year after that in which the contributor concerned first became liable for primary Class 1 or Class 2 contributions.

(5) In subsection (4) above and Schedule 3 to this Act—

(a) “the contributor concerned” for the purposes of any contribution condition, means the person by whom the condition is to be satisfied.

¹ Words in s. 21(1) substituted (13.4.95) by para. 3(2) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

² Words in s. 21(1) inserted and substituted (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

³ Words inserted (12.1.00 for reg. making purposes, 2.4.00 for all other purposes) by the Welfare Reform and Pensions Act 1999 (c. 30) Sch. 8, para. 31(2).

⁴ Words inserted (1.4.14) in S. 21(1) by reg. 2(2) of S.I. 2014/606.

⁵ Words inserted in s. 21(1) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 15(2), (3) & (16).

⁶ Entry (unemployment benefit - Class 1) in table in s. 21(2) deleted (7.10.96) by Sch. 3 to Jobseekers Act 1995 (c. 18).

⁷ Words in table in s. 21(2) substituted (13.4.95) by para. 3. (3) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

⁸ Words in s. 21(2) substituted (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 88 of the Welfare Reform and Pensions Act 1999 (c. 30).

⁹ Entry for maternity allowance in table in s. 21(2) and words deleted in s. 21(4) (12.1.00 for reg. making purposes, 2.4.00 for all other purposes) by the Welfare Reform and Pensions Act 1999 (c. 30) Sch. 8, para. 31(3) & (4).

¹⁰ For the purposes of making regulations, words “Bereavement payment” substituted for “Widows payment” and entries for “Widowed parent's allowance” and “Bereavement allowance” added in s. 21(2) and (4), (24.4.00 for reg. making purposes, 8.4.01 for all other purposes) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

- (b) “a relevant class”, in relation to any benefit, means a class of contributions specified in relation to that benefit in subsection (2) above;
- (c) “the earnings factor”–
 - (i) where the year in question is 1987-88 or any subsequent tax year, means, in relation to a person, the aggregate of his earnings factors derived from [1so much of his earnings as did not exceed the upper earnings limit and] upon which primary Class 1 contributions have been paid or treated as paid and from his Class 2 and Class 3 contributions; and
 - (ii) where the year in question is any earlier tax year, means, in relation to a person’s contributions of any class or classes, the aggregate of his earnings factors derived from all those contributions;
- (d) except in the expression “benefit year”, “year” means a tax year.

[2(5A) Where primary Class 1 contributions have been paid or treated as paid on any part of a person’s earnings, the following provisions, namely–

- (a) subsection (5)(c) above;
- (b) sections 22(1)(a)[3, (2A)] and (3)(a), 23(3)(a), 24(2)(a), [344(6)(za) and (a)] [...4] below; and
- (c) paragraphs 2(4)(a) and (5)(a), 4(2)(a), 5(2)(b) and 4(a)[5, 5A(3)(a)] and 7(a) of Schedule 3 to this Act,

shall have effect as if such contributions had been paid or treated as paid on so much of the earning as did not exceed the upper earnings limit.”]

- (6) In this Part of this Act “benefit year”, means a period–
 - (a) beginning with the first Sunday in January in any calendar year, and
 - (b) ending with the Saturday immediately preceding the first Sunday in January in the following calendar year;

but for any prescribed purposes of this Part of this Act “benefit year” may by regulations be made to mean such other period (whether or not a period of 12 months) as may be specified in the regulations.

22.—(1) A person shall, for the purposes specified in subsection (2) below, be treated as having annual earnings factors derived– Earnings factors

- (a) in the case of 1987-88 or any subsequent tax year, from [6so much of his earnings as did not exceed the upper earnings limit and] upon which primary Class 1 contributions have been paid or treated as paid and from Class 2 and Class 3 contributions; and
- (b) in the case of any earlier tax year, from his contributions of any of Classes 1, 2 and 3;

but subject to the following provisions of this section and those of section 23 below.

- (2) The purposes referred to in subsection (1) above are those of–
 - (a) establishing, by reference to the satisfaction of contribution conditions, entitlement to [7a contribution-based jobseeker’s allowance[8, to a contributory employment and support allowance] or to] any benefit specified in section 20(1) above, other than maternity allowance; [...9]

¹ Words in s. 21(5)(c)(i) substituted (6.4.03) by National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 6.
² S. 21(5A) inserted (6.4.99) by s. 60 of Sch. 7 of S.S. Act 1998 (c. 14).
³ Words in s. 21(5A)(b) inserted and substituted (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes as in art 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all remaining purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(2).
⁴ Words in s. 21(5A)(b) repealed (6.4.03) by Tax Credits Act 2002, Sch. 6.
⁵ Words inserted in s. 21(5A)(c) (3.1.12) by Pensions Act 2008 (c. 30), Sch. 4, para. 2.
⁶ Words in s. 22(1)(a) substituted (6.4.03) by National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 7.
⁷ Words inserted (7.10.96) in s. 22(2)(a) by para. 22 of Sch. 2 to Jobseekers Act 1995 (c. 18).
⁸ Words inserted (27.10.08) in s. 22(2)(a) by Welfare Reform Act 2007 (c. 5), Sch. 3, s. 9(3)(b).
⁹ Words omitted in s. 22(2)(a) (6.4.16) by the Pensions Act 2014 Sch. 12, para. 6(2)(a).

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S. 22

- (b) calculating the additional pension in the rate of a long-term benefit^[1]; and
- (c) establishing entitlement to a state pension under Part 1 of the Pensions Act 2014 and, where relevant, calculating the rate of a state pension under that Part.]

[²(2A) For the purposes specified in subsection (2)(b) above, in the case of the first appointed year or any subsequent tax year a person's earnings factor shall be treated as derived only from [³so much of his earnings as did not exceed [⁴the applicable limit] and] on which primary Class 1 contributions have been paid or treated as paid.] [⁵This subsection does not affect the operation of sections 44A and 44B (deemed earnings factors).]]

[⁴(2B) "The applicable limit" means—

- (a) in relation to a tax year before [⁶2009-10], the upper earnings limit;
 - (b) in relation to [⁶2009-10] or any subsequent tax year, the upper accrual point.]
- (3) Separate earnings factors may be derived for 1987-88 and subsequent tax years—
- (a) from earnings [³not exceeding the upper earnings limit] upon which primary Class 1 contributions have been paid or treated as paid.
 - (b) from earnings which have been credited;
 - (c) from contributions of different classes paid or credited in the same tax year;
 - (d) by any combination of the methods mentioned in paragraphs (a) to (c) above,
- and may be derived for any earlier tax year from contributions of different classes paid or credited in the same tax year, and from contributions which have actually been paid, as opposed to those not paid but credited.

(4) Subject to regulations under section 19(4) to (6) above, no earnings factor shall be derived—

- (a) for 1987-88 or any subsequent tax year, from earnings [⁷in respect of which] upon which primary Class 1 contributions are paid at the reduced rate, or
- (b) for any earlier tax year, from primary Class 1 contributions paid at the reduced rate or from secondary Class 1 contributions.

(5) Regulations may provide for crediting—

- (a) for 1987-88 or any subsequent tax year, earnings or Class 2 or Class 3 contributions, or
- (b) for any earlier tax year, contributions of any class,

for the purpose of bringing a person's earnings factor for that tax year to a figure which will enable him to satisfy contribution conditions of entitlement to [⁸a contribution-based jobseeker's allowance^[9], to a contributory employment and support allowance] or to] any prescribed description of benefit (whether his own entitlement or another person's).

[¹(5ZA) Regulations may provide for crediting—

- (a) for 1987-88 or any subsequent tax year, earnings or Class 2 or Class 3 contributions, or
- (b) for any earlier tax year, contributions of any class,

¹ S. 22(2)(c) & (5ZA) & (5ZB) inserted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, Part, 1, para. 6(2) & (3).

² Subsection (2A) inserted in s. 22 (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes as in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all remaining purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 30(1).

³ Words in s. 22(2A) & (3)(a) inserted (6.4.03) by National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 7.

⁴ In s. 22 words in (2A) & (2B) inserted (27.9.07) by Pensions Act 2007 (c. 22), s. 12(1).

⁵ Words inserted in s. 22(2A) (27.9.07) by Pensions Act 2007 (c. 22), Sch. 1, para. 33.

⁶ Words substituted in s. 22(2B) (21.9.08) by National Insurance Contributions Act 2008 (c. 16), s. 3(2).

⁷ Words substituted in s. 22(4) (6.4.99) by Social Security Act 1998 (c. 14), Sch. 7, para. 61.

⁸ Words inserted (7.10.96) in s. 22(5) by para. 22 of Sch. 2 to Jobseekers Act 1995 (c. 18).

⁹ Words inserted s. 22(5) (27.10.08) by Welfare Reform Act 2007 (c. 5), Sch. 3, para. 9(3)(b).

for the purpose of bringing an earnings factor for that tax year to a figure which will make that year a “qualifying year”, “pre-commencement qualifying year” or “post-commencement qualifying year” of a person for the purpose of Part 1 of the Pensions Act 2014 (see sections 2(4) and 4(4) of that Act).

(5ZB) Regulations under subsection (5ZA) must provide for crediting a person with such contributions as may be specified in respect of periods on or after 6 April 1975 during which the person was—

- (a) a spouse or civil partner of a member of Her Majesty’s forces
- (b) accompanying the member or an assignment outside the United Kingdom, and
- (c) not of a description specified in the regulations.]

[¹(5A) Section 23A makes provision for the crediting of Class 3 contributions for the purpose of determining entitlement to the benefits to which that section applies.]

(6) Regulations may impose limits with respect to the earnings factors which a person may have or be treated as having in respect of any one tax year.

(7) The power to amend regulations made before 30th March 1977 (the passing of the Social Security (Miscellaneous Provisions) Act 1977) under subsection (5) above may be so exercised as to restrict the circumstances in which and the purposes for which a person is entitled to credits in respect of weeks before the coming into force of the amending regulations; but not so as to affect any benefit for a period before the coming into force of the amending regulations if it was claimed before 18th March 1977. 1977 c. 5.

[²(8) In this section, “contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).]

[³(9) References in this Act or any other Act to earnings factors derived from so much of a person’s earnings as do not exceed the upper accrual point or the upper earnings limit are to be read, in relation to earners paid otherwise than weekly, as references to earnings factors derived from so much of those earnings as do not exceed the prescribed equivalent.]

23.—(1) Earnings factors derived as mentioned in section [⁴22(1)] above, including earnings factors increased by any order under section 148 of the Administration Act— Provisions supplemental to sections 21 and 22.

- (a) shall be expressed, subject to subsection (2) below, as whole numbers of pounds; and
- (b) shall be made ascertainable from tables or rules to be drawn up by the Secretary of State and embodied in regulations.

(2) Subsection (1) above does not require earnings factors in respect of the tax year 1978-79 or any subsequent tax year which have been revalued for the purpose of calculating guaranteed minimum pensions under the Pensions Act [⁵or the Social Security Pensions Act 1975] to be expressed as whole numbers of pounds.

(3) The tables and rules referred to in subsection (1) above shall be drawn up so that, in general—

- (a) in respect of the tax year 1987-88 and any subsequent tax year, the amount of earnings [⁶not exceeding the upper earnings limit] upon which primary Class 1 contributions have been paid or treated as paid gives rise, subject to

¹ S. 22(5A) inserted (27.9.07) by Pensions Act 2007 (c. 22), Sch. 1, para. 9.
² S. 22(8) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), Sch. 3, para. 9(4).
³ S. 22(9) added (21.9.08) by the National Insurance Contributions Act 2008 (c. 16), Sch. 1, paras. 2 & 3.
⁴ Ref. in s. 23(1) substituted (19.7.95) by Pensions Act 1995 (c. 26), s. 134(1).
⁵ Words inserted (7.2.94) in s. 23(2) by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 36.
⁶ Words inserted in s. 23(3)(a) (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 8.

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[¹subsections (3A) and] (4) below, to an earnings factor for that year equal or approximating to the amount of those earnings; and

- (b) any number of Class 2 or Class 3 contributions in respect of a tax year gives rise to an earnings factor for that tax year equal or approximating to that year's lower earnings limit for Class 1 contributions multiplied by the number of contributions.

[¹(3A) For the purposes specified in section 22(2)(b) (additional pension), subsection (3)(a) has effect in relation to 2009-10 and subsequent tax years as if the reference to the upper earnings limit were to the upper accrual point.]

(4) The Secretary of State may by regulations make such modifications of subsection (3)(a) above as appear to him to be appropriate in consequence of section 8(2) above.

Contributions credits for relevant parents and carers

[²23A.—(1) This section applies to the following benefits—

- (a) a Category A retirement pension in a case where the contributor concerned attains pensionable age on or after 6th April 2010;
- (b) a Category B retirement pension payable by virtue of section 48A [³or 48AA] below in a case where the contributor concerned attains pensionable age on or after that date;
- (c) a Category B retirement pension payable by virtue of section 48B below in a case where the contributor concerned dies on or after that date without having attained pensionable age before that date;
- (d) a widowed parent's allowance payable in a case where the contributor concerned dies on or after that date;
- (e) a bereavement allowance payable in a case where the contributor concerned dies on or after that date.

(2) The contributor concerned in the case of a benefit to which this section applies shall be credited with a Class 3 contribution for each week falling after 6th April 2010 in respect of which the contributor was a relevant carer.

(3) A person is a relevant carer in respect of a week if the person—

- (a) is awarded child benefit for any part of that week in respect of a child under the age of 12,
- (b) is a foster parent for any part of that week, or
- (c) is engaged in caring, within the meaning given by regulations, in that week.

(4) Regulations may make provision for a person's entitlement to be credited with Class 3 contributions by virtue of falling within subsection (3)(b) or (c) above to be conditional on the person—

- (a) applying to be so credited in accordance with the prescribed requirements, and
- (b) complying with the prescribed requirements as to the provision of information to the Secretary of State [⁴or to the commissioners for Her Majesty's Revenue and Customs.]

(5) The contributor concerned in the case of a benefit to which this section applies shall be credited with 52 Class 3 contributions for each tax year ending before 6th April 2010 in which the contributor was precluded from regular employment by responsibilities at home within the meaning of regulations under paragraph 5(7) of Schedule 3.

¹ Words in s. 23(3)(a) substituted & subsec. (3A) inserted (21.9.08) by the National Insurance Contributions Act 2008 (c. 16), Sch. 1, paras. 2 & 3.

² S. 23A inserted (27.9.07) by the Pensions Act 2007, s. 3(1).

³ Words in s. 23A(1)(b) inserted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 58.

⁴ In s. 23A(4)(b) words inserted (6.4.10) by S.I. 2009/1377, reg. 5.

(6) But the maximum number of tax years for which a person can be credited with contributions under subsection (5) above is—

- (a) in the case of a benefit mentioned in subsection (1)(a) to (c) above, 22;
- (b) in the case of a benefit mentioned in subsection (1)(d) or (e) above, half the requisite number of years of the person’s working life.

(7) The table in paragraph 5(5) of Schedule 3 (requisite number of years of a working life of given duration) applies for the purposes of subsection (6)(b) above as it applies for the purposes of the second condition set out in paragraph 5(3) of that Schedule.

(8) For the purpose of determining entitlement to a benefit to which this section applies, a week that falls partly in one tax year and partly in another is to be treated as falling in the year in which it begins and not in the following year.

[¹(8A) Where this section, or regulations made under it, have the effect that the contributor concerned is credited, on or after 6 April 2016, with contributions for a tax year starting before that date, the contributions are to be treated for the purposes of calculating the rate under paragraph 3 of Schedule 1 to the Pensions Act 2014 as having been credited before April 2016.]

(9) In this section—

- “the contributor concerned” has the meaning given in section 21(5)(a) above;
- “foster parent” has the meaning given by regulations.]

24.—(1) Regulations may provide for requiring persons to maintain, in such form and manner as may be prescribed, records of such earnings paid by them as are relevant for the purpose of calculating earnings factors, and to retain such records for so long as may be prescribed.

Records of earnings and calculation of earnings factors in absence of records.

(2) Where the Secretary of State is satisfied that records of earnings relevant for the purpose of calculating a person’s earnings factors for the tax year 1987-88 or any subsequent tax year have not been maintained or retained or are otherwise unobtainable, then, for the purpose of determining those earnings factors, he may—

- (a) compute, in such manner as he thinks fit, an amount which shall be regarded as the amount of [²so much of that person’s earnings as did not exceed the upper earnings limit and] on which primary Class 1 contributions have been paid or treated as paid; or
- (b) take the amount of those earnings to be such sum as he may specify in the particular case.

Unemployment benefit

Unemployment benefit.

25.-30. [...³]

¹ S. 23A(8A) inserted (6.4.16) by S.I. 2016/224, art. 2(2).

² Words in s. 24(2)(a) substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 9.

³ Ss. 25-30 repealed (7.10.96) by Sch. 3 to Jobseekers Act 1995 (c. 18).

Incapacity benefit:
entitlement.

[¹*Incapacity benefit*

- 30A.**—(1) Subject to the following provisions of this section, a person who satisfies—
- [²(a) either of the conditions mentioned in subsection (2) below; or
 - (b) if he satisfies neither of those conditions, each of the conditions mentioned in subsection (2A) below,] is entitled to short-term incapacity benefit in respect of any day of incapacity for work [²(“the relevant day”)] which forms part of a period of incapacity for work.
- (2) The conditions [²mentioned in subsection (1)(a) above] are that—
- (a) he is under pensionable age on [²the relevant day] and satisfies the contribution conditions specified for short-term incapacity benefit in Schedule 3, Part I, paragraph 2; or
 - (b) on that day he is over pensionable age but not more than 5 years over that age, the period of incapacity for work began before he attained pensionable age, and—
 - (i) he would be entitled to a Category A retirement pension if his entitlement had not been deferred or if he had not made an election under section 54(1) below, or
 - (ii) he would be entitled to a Category B retirement pension by virtue of the contributions of his deceased spouse [³or deceased civil partner], but for any such deferment or election.

¹ Heading & s. 30A inserted (13.4.95) by s. 1(1) of S.S. (Incapacity for Work) Act 1994 (c. 18).

² Words substituted in s. 30A(1) and inserted in s. 30A(2) (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 64(1) & (2) of the Welfare Reform and Pensions Act 1999 (c. 30).

³ Words inserted in s. 30A (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 14.

[¹(2A) The conditions mentioned in subsection (1)(b) above are that—

- (a) he is aged 16 or over on the relevant day;
- (b) he is under the age of 20 or, in prescribed cases, 25 on a day which forms part of the period of incapacity for work;
- (c) he was incapable of work throughout a period of 196 consecutive days immediately preceding the relevant day, or an earlier day in the period of incapacity for work on which he was aged 16 or over;
- (d) on the relevant day he satisfies the prescribed conditions as to residence in Great Britain, or as to presence there; and
- (e) he is not, on that day, a person who is receiving full-time education.]

(3) A person is not entitled to short-term incapacity benefit [¹under subsection (1)(a) above] for the first 3 days of any period of incapacity for work.

(4) In any period of incapacity for work a person is not entitled to short-term incapacity benefit for more than 364 days.

(5) Where a person ceases by virtue of subsection (4) above to be entitled to short-term incapacity benefit, he is entitled to long-term incapacity benefit in respect of any subsequent day of incapacity for work in the same period of incapacity for work on which he is not over pensionable age.]

[¹(6) Regulations may provide that persons who have previously been entitled to incapacity benefit shall, in prescribed circumstances, be entitled to short-term incapacity benefit under subsection (1)(b) above notwithstanding that they do not satisfy the condition set out in paragraph (b) of subsection (2A) above.

(7) Regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full-time education for the purposes of paragraph (e) of that subsection.]

[²30B.—(1) The amount payable by way of incapacity benefit in respect of any day is 1/7th of the appropriate weekly rate.

Incapacity benefit: rate

(2) Subject to the following provisions of this section, the weekly rate of short-term incapacity benefit is the lower or higher rate specified in Schedule 4, Part I, paragraph 2.

The benefit is payable at the lower rate so specified for the first 196 days of entitlement in any period of incapacity for work and at the higher rate so specified thereafter.

(3) In the case of a person over pensionable age the weekly rate of short-term incapacity benefit is, subject to subsection (4) below, that at which the relevant retirement pension referred to in section 30A(2)(b) above would have been payable.

But in determining that rate any increase of the following descriptions shall be disregarded—

- (a) any increase [³for married people [⁴or civil partners]] under section 51A(2) below or (for deferred retirement) under Schedule 5 to this Act;

¹ Words inserted in s. 30A(3) & s. 30A(2A), (6) & (7) added (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 64(3)-(5) of the Welfare Reform and Pensions Act 1999 (c. 30).

² Sec. 30B inserted (18.11.94) for regulation making purposes, 13.4.95 for other purposes) by s. 2(1) of S.S. (Incapacity for Work) Act 1994 (c. 18)

³ Words in para. (a) of proviso to s. 30B(3) substituted (19.7.95) by Pensions Act 1995 (c. 26) Sch. 4, para. 21(3).

⁴ Words inserted in s. 30B (5.12.05) by the Civil Partnership Act 2004 (c. 33) Sch. 24, para. 15.

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(b) [...¹]

(c) any increase (for Category A or Category B pensioners) under section 150 of the Administration Act (annual up-rating) of the sums mentioned in subsection (1)(e) of that section.

(4) In the case of a person who has been entitled to short-term incapacity benefit for 196 days or more in any period of incapacity for work and—

(a) is terminally ill, or

(b) he is entitled to the highest rate of the care component of disability living allowance.

the weekly rate of short-term incapacity benefit payable, if greater than the rate otherwise payable to him under subsection (2) or (3) above, shall be equal to the rate at which long-term incapacity benefit under section 30A above would be payable to him if he were entitled to it.

For the purposes of this subsection a person is terminally ill if he suffers from a progressive disease and his death in consequence of that disease can reasonably be expected within 6 months.

(5) References to short-term incapacity benefit at the higher rate shall be construed as including short-term incapacity benefit payable to any person who has been entitled to that benefit for 196 days or more in a period of incapacity for work, notwithstanding that the rate of benefit is determined in accordance with subsection (3) or (4) above.

(6) Subject as follows, the weekly rate of long-term incapacity benefit under section 30A above is that specified in Schedule 4, Part I, paragraph 2A.

(7) Regulations may provide that if a person is, on the qualifying date in relation to a period of incapacity for work, under such age as may be prescribed, the rate of long-term incapacity benefit under section 30A above payable to him in respect of any day in that period shall be increased by such amount as may be prescribed.

For this purpose ‘the qualifying date’ means the first day of the period of incapacity for work or such earlier day as may be prescribed.]

[²(8) This section has effect subject to section 30DD (reduction for pension payments) and section 30E (reduction for councillor’s allowance) below.]

Incapacity benefit; days and periods of incapacity for work.

[³**30C.**—(1) For the purposes of any provisions of this Act relating to incapacity benefit, subject to the following provisions and save as otherwise expressly provided—

(a) a day of incapacity for work means a day on which a person is incapable of work;

(b) a period of incapacity for work means a period of 4 or more consecutive days, each of which is a day of incapacity for work; and

(c) any two such periods not separated by a period of more than 8 weeks shall be treated as one period of incapacity for work.

(2) Any day which falls within the maternity allowance period (as defined in section 35(2) below) shall be treated for the purposes of any provisions of this Act relating to incapacity benefit as a day of incapacity for work unless the woman is disqualified for receiving a maternity allowance for that day by virtue of regulations under section 35(3)(a) below.

¹ S. 30B(3)(b) omitted (6.4.10) by Sch. 1, Part. 4, para. 12 of the Pensions Act 2007 (c. 22).

² S. 30B(8) added (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

³ Ss. 30C-30E inserted (18.11.94 for reg. making purposes, 13.4.95 for all other purposes) by s. 3(1) of S.S. (Incapacity for Work) Act 1994 (c. 18).

(3) Regulations may make provisions (subject to the preceding provisions of this section) as to the days which are or are not to be treated as days of incapacity for work for the purposes of any provision of this Act relating to incapacity benefit.

(4) The Secretary of State may by regulations provide—

- (a) that paragraph (b) of subsection (1) above shall have effect as if the reference there to 4 consecutive days were to such lesser number of days, whether consecutive or not, within such period of consecutive days as may be prescribed; and
- (b) that paragraph (c) of that subsection shall have effect as if for the reference to 8 weeks there were substituted a reference to such larger number of weeks as may be prescribed.

[¹(5) Where a person claims the higher rate of short-term incapacity benefit, or long-term incapacity benefit, under section 30A above for a period commencing after he has ceased to be in qualifying remunerative work (within the meaning of Part 1 of the Tax Credits Act 2002) and—

- (a) the day following that on which he so ceased was a day of incapacity for work for him,
- (b) he has been entitled to the higher rate of short-term incapacity benefit, or to long-term incapacity benefit, under section 30A above within the period of two years ending with that day of incapacity for work, and
- (c) he satisfied the relevant tax credit conditions on the day before he so ceased,

every day during that period on which he satisfied those conditions is to be treated for the purposes of the claim as a day of incapacity for work for him.

(5A) A person satisfies the relevant tax credit conditions on a day if—

- (a) he is entitled for the day to the disability element of working tax credit (on a claim made by him or by him jointly with another) or would be so entitled but for the fact that the relevant income (within the meaning of Part 1 of the Tax Credits Act 2002) in his or their case is such that he is not so entitled, and
- (b) either working tax credit or any element of child tax credit other than the family element is paid in respect of the day on such a claim.]

(6) Where—

- (a) a person becomes engaged in training for work, and
- (b) he was entitled to the higher rate of short-term incapacity benefit, or to long-term incapacity benefit under section 30A above, for one or more of the 56 days immediately before he became so engaged, and
- (c) the first day after he ceases to be so engaged is for him a day of incapacity for work and falls not later than the end of the period of two years beginning with the last day for which he was entitled to such benefit,

any day since that day in which he was engaged in training for work shall be treated for the purposes of any claim for such benefit for a period commencing after he ceases to be so engaged as having been a day of incapacity for work.

In this subsection “training for work” means training for work in pursuance of arrangements made under section 2(1) of the Employment and Training Act 1973 or section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 or training of such other description as may be prescribed.

(7) For the purposes of this section “week” means any period of 7 days.

30D.—(1) The following provisions have effect in calculating for the purposes of—

- (a) section 30A(4) above (length of entitlement to short-term incapacity benefit),

Incapacity benefit:
construction of
references to days of
entitlement.

¹ S. 30(5) & (5A) substituted for (5) (6.4.03) by para. 25 of Sch. 3 to the Tax Credits Act 2002 (c. 21).

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- (b) section 30B(2) above (period after which short-term incapacity benefit is payable at higher rate),
- (c) section 30B(4) above (period after which incapacity benefit is payable at long-term rate in case of terminal illness), and
- (d) section 30B(5) above (construction of references to short-term incapacity benefit at the higher rate),

the number of days for which a person has been entitled to short-term incapacity benefit.

(2) There shall be included—

- (a) the first three days of the period of incapacity to work, and
- (b) in the case of a woman, any days for which she was entitled to maternity allowance

(3) There shall also be included such days as may be prescribed in respect of which a person was entitled to statutory sick pay, and on the first of which he satisfied the contribution conditions for short-term incapacity benefit.

(4) There shall be excluded any days in respect of which a person was disqualified for receiving incapacity benefit.

Incapacity benefit: reduction for pension payments [²and PPF periodic payments].

[¹**30DD**.—]²(1) Where—

- (a) a person is entitled to incapacity benefit in respect of any period of a week or part of a week,
- (b) there is—
 - (i) a pension payment;
 - (ii) a PPF period payment; or
 - (iii) any combination of the payments specified in sub-paragraphs (i) and (ii) above,payable to him in respect of that period (or a period which forms part of that period or includes that period or part of it), and
- (c) the amount of the payment or payments (or, as the case may be, the amount which in accordance with regulations is to be taken as payable to him by way of pension payments or PPF periodic payments in respect of that period) when taken together exceeds the threshold,

the amount of that benefit shall be reduced by an amount equal to 50 per cent. of that excess.]

(2) In subsection (1) above “the threshold” means—

- (a) if the period in question is a week, £85 or such greater amount as may be prescribed; or
- (b) if that period is not a week, such proportion of the amount mentioned in paragraph (a) as falls to be calculated in accordance with regulations on such basis as may be prescribed.

(3) Regulations may secure that a person of any prescribed description does not suffer any reduction under subsection (1) above in any amount of incapacity benefit to which he is entitled.

(4) Regulations may provide—

- (a) for sums of any specified description to be disregarded for the purposes of this section;
- (b) for sums of any specified description to be treated for those purposes as payable to persons as pension payments [¹and PPF periodic payments]

¹ S. 30DD inserted (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 63 of the Welfare Reform and Pensions Act 1999 (c. 30).

² 30DD (1) substituted & words inserted in heading to s. 30DD & 30DD(4)(b) (14.2.06) by Sch. to S.I. 2006/343.

(including, in particular, sums in relation to which there is a deferred right of receipt);

- (c) for the aggregation of sums of any specified description which are payable as pension payments [¹and PPF periodic payments] (or treated as being so payable) in respect of the same or different periods;
- (d) for such sums or aggregate sums to be apportioned between or otherwise allocated to periods in respect of which persons are entitled to incapacity benefit.

(5) In this section “pension payment” means—

- (a) a periodical payment made in relation to a person under a personal pension scheme or, in connection with the coming to an end of an employment of his, under an occupational pension scheme or a public service pension scheme;
- (b) a payment of any specified description, being a payment made under an insurance policy providing benefits in connection with physical or mental illness, disability, infirmity or defect; or
- (c) a payment of any other specified description;

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

(6) For the purposes of subsection (5) “occupational pension scheme”, “personal pension scheme” and “public service pension scheme” each have the meaning given by section 1 of the Pension Schemes Act 1993, except that “personal pension scheme” includes [²an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988, or a substituted contract within the meaning of section 622(3) of that Act, which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004.]

30E.—(1) Where the net amount of councillor’s allowance to which a person is entitled in respect of any week exceeds such amount as may be prescribed, an amount equal to the excess shall be deducted from the amount of any incapacity benefit to which he is entitled in respect of that week, and only the balance remaining (if any) shall be payable.

Incapacity benefit:
reduction for
councillor’s allowance.

(2) In this section “councillor’s allowance” means—

- (a) in England or Wales, an allowance under or by virtue of—
 - (i) section 173 or 177 of the Local Government Act 1972, or
 - (ii) a scheme made by virtue of section 18 of the Local Government and Housing Act 1989,
 other than such an allowance as is mentioned in section 173(4) of the Local Government Act 1972, or
- (b) in Scotland, an allowance under or by virtue of section 49 of the Local Government (Scotland) Act 1973 or a scheme made by virtue of section 18 of the Local Government and Housing Act 1989:

and where any such allowance is paid otherwise than weekly, an amount calculated or estimated in accordance with regulations shall be regarded as the weekly amount of the allowance.

(3) In subsection (1) above “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.]

¹ Words inserted in s. 30DD(4)(c) (14.2.06) by S.I. 2006/343, Sch.

² Words inserted in s. 30DD(6) (6.4.06) by art. 4 of S.I. 2006/745.

31.-34. [...¹]

Maternity

State maternity allowance [²for employed or self-employed earner].

35.—^[3](1) A woman shall be entitled to a maternity allowance [²under this section] at the appropriate weekly rate determined under section 35A below, if—

- (a) she has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement; and
- (b) she has been engaged in employment as an employed or self-employed earner for any part of the week in the case of a least 26 of the 66 weeks immediately preceding the expected week of confinement; and
- ^[4](c) her average weekly earnings (within the meaning of section 35A below) are not less than the maternity allowance threshold for the tax year in which the beginning of the period of 66 weeks mentioned in paragraph (b) above falls;] and
- (d) she is not entitled to statutory maternity pay for the same week in respect of the same pregnancy.]

(2) Subject to the following provisions of this section, a maternity allowance [²under this section] shall be payable for the period (“the maternity allowance period”) which, if she were entitled to statutory maternity pay, would be the maternity pay period under section 165 below.

(3) Regulations may provide—

- (a) for disqualifying a woman for receiving a maternity allowance if—
 - ^[5](i) during the maternity allowance [²under this section] period, except in prescribed cases, she does any work in employment as an employed or self-employed earner;
 - (ia) during the maternity allowance period she fails without good cause to observe any prescribed rules of behaviour; or]
 - (ii) at any time before she is confined she fails without good cause to attend for, or submit herself to, any medical examination required in accordance with the regulations;
 - (b) that this section and [⁶section 35A below] shall have effect subject to prescribed modifications in relation to cases in which a woman has been confined and—
 - (i) has not made a claim for a maternity allowance [²under this section] in expectation of that confinement (other than a claim which has been disallowed); or
 - (ii) has made a claim for a maternity allowance [²under this section] in expectation of that confinement (other than a claim which has been disallowed), but she was confined more than 11 weeks before the expected week of confinement.
 - ^[6](c) that subsection (2) above shall have effect subject to prescribed modifications in relation to cases in which a woman fails to satisfy the conditions referred to in subsection (1)(b) [⁷or (c) above] at the commencement of the 11th week before the expected week of confinement, but subsequently satisfies those conditions at any time before she is confined.]

¹ Ss. 31-34 repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 7 & Sch. 2.

² Words inserted (1.4.14) in s. 35 heading (1), (2), (3)(a), (3)(b)(i), (3)(b)(ii), (4) & (5) by reg. 2(2) & (3)(a)(b) of S.I. 2014/606.

³ S. 35(1) & (1A) substituted (12.1.00 for reg. making purposes and 2.4.00 for all other purposes) for para.(1) by the Welfare Reform and Pensions Act 1999 (c. 30) s. 53(1).

⁴ S. 35(1)(c) substituted (6.4.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 4(2).

⁵ S. 35(3)(a)(i) & (ia) inserted (27.6.06) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 6.

⁶ Subsection (3)(c) added to s. 35 by reg. 2(3) of S.I. 1994/1230 where expected week of confinement begins on or after 16.10.94.

⁷ Words in s. 35(3)(c) substituted (6.4.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 4(3).

[¹(3A) Regulations may provide for the duration of the maternity allowance period as it applies to a woman to be reduced, subject to prescribed restrictions and conditions.

(3B) Regulations under subsection (3A) are to secure that the reduced period ends at a time—

- (a) after a prescribed period beginning with the day on which the woman is confined, and
- (b) when at least a prescribed part of the maternity allowance period remains unexpired.

(3C) regulations under subsection (3A) may, in particular, prescribe restrictions and conditions relating to—

- (a) the end of the woman’s entitlement to maternity leave;
- (b) the doing of work by the woman;
- (c) the taking of prescribed steps by the woman or another person as regards leave under section 75E of the Employment Rights Act 1996 in respect of the child;
- (d) the taking of prescribed steps by a person other than the woman as regards statutory shared parental pay in respect of the child.

(3D) Regulations may provide for a reduction in the duration of the maternity allowance period as it applies to a woman to be revoked, or to be treated as revoked, subject to prescribed restrictions and conditions.]

[¹(3E) A woman who would, but for the reduction in duration of a maternity pay period by virtue of section 165(3A), be entitled to statutory maternity pay for a week is not entitled to a maternity allowance for that week.]

(4) A woman who has become entitled to a maternity allowance shall cease to be entitled to it if she dies before the beginning of the maternity allowance period; and if she dies after the beginning, but before the end, of that period, the allowance shall not be payable for any week subsequent to that in which she dies.

(5) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of a maternity allowance [²the amount payable by way of that allowance for any day shall be taken as one seventh of the weekly rate of the allowance.]

(6) In this section “confinement” means—

- (a) labour resulting in the issue of a living child, or
- (b) labour after [³24 weeks] of pregnancy resulting in the issue of a child whether alive or dead,

and “confined” shall be construed accordingly; and where a woman’s labour begun on one day results in the issue of a child on another day she shall be taken to be confined on the day of the issue of the child or, if labour results in the issue of twins or a greater number of children, she shall be taken to be confined on the day of the issue of the last of them.

[⁴(6A) In this section “the maternity allowance threshold”, in relation to a tax year, means (subject to subsection (6B) below) £30.

¹ Ss. 35(3A)-(3D) & (3E) inserted (30.6.14) by the Children & Families Act 2014 (c. 6), s. 120(2) & (3).

² Words in s. 35(5) substituted (1.10.06) by the Social Security Act 1998 (c. 14), s. 67.

³ Words “24 weeks” in s. 35(6)(b) substituted (1.10.92) for “28 weeks” by Still-Birth Definition) Act 1992 (c. 29), s. 2(1)(a).

⁴ Subsections (6A)-(6D) inserted in s. 35 (6.4.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 4(4).

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(6B) The Secretary of State may, in relation to any tax year after 2001-2002, by order increase the amount for the time being specified in subsection (6A) above to such amount as is specified in the order.

(6C) When deciding whether, and (if so) by how much, to increase the amount so specified the Secretary of State shall have regard to the movement, over such period as he thinks fit, in the general level of prices obtaining in Great Britain (estimated in such manner as he thinks fit).

(6D) The Secretary of State shall in each tax year carry out such a review of the amount for the time being specified in subsection (6A) above as he thinks fit.]

(7) The fact that the mother of a child is being paid maternity allowance [under this section] shall not be taken into consideration by any court in deciding whether to order payment of expenses incidental to the birth of the child.

Appropriate weekly rate of maternity allowance [under section 35].

[²35A.—[³(1) For the purposes of section 35(1) above the appropriate weekly rate is (subject to subsection (5A) below) whichever is the lower rate of—

- (a) a weekly rate equivalent to 90 per cent of the woman's average weekly earnings; and
- (b) the weekly rate for the time being prescribed under section 166(1)(b) below.]

(4) For the purposes of this section a woman's "average weekly earnings" shall be taken to be the average weekly amount (as determined in accordance with regulations) of specified payments which—

- (a) were made to her or for her benefit as an employed earner, or
- (b) are (in accordance with regulations) to be treated as made to her or for her benefit as a self-employed earner,

during the specified period.

(5) Regulations may, for the purposes of subsection (4) above, provide—

- (a) for the amount of any payments falling within paragraph (a) or (b) of that subsection to be calculated or estimated in such manner and on such basis as may be prescribed;
- (b) for a payment made outside the specified period to be treated as made during that period where it was referable to that period or any part of it;
- (c) for a woman engaged in employment as a self-employed earner to be treated as having received a payment in respect of a week—
 - (i) equal to the [⁴an amount 90 per cent of which is equal to the weekly rate prescribed under section 166(1)(b) below that is] in force on the last day of the week, if she paid a Class 2 contribution in respect of the week, or
 - (ii) equal to the maternity allowance threshold in force on that day, if she was excepted (under section 11(4) above) from liability for such a contribution in respect of the week;
- (d) for aggregating payments made or treated as made to or for the benefit of a woman where, either in the same week or in different weeks, she was engaged in two or more employments (whether, in each case, as an employed earner or a self-employed earner).

¹ Words inserted (1.4.14) in s. 35(7) & heading to s. 35A by reg. 2(3)(c) & (4) of S.I. 2014/606.

² S. 35A inserted (12.1.00 for reg. making purposes, 2.4.00 for all other purposes) by Welfare Reform and Pensions Act 1999 (c. 30), s. 53(3).

³ S. 35A(1)-(3) substituted with (1) (6.4.03) & words in s. 35A(5)(c)(i) substituted (24.11.02) by the Employment Act 2002 (c. 22), s. 48(1)(a) & (b). See Sch. 3 of S.I. 2002/2866 at page 1.5943 for details of the extent of the effect of these amendments.

⁴ Words in s. 35A(5)(c)(i) substituted (24.11.02) by the Employment Act 2002 (c. 22), s. 48(1)(a) & (b). See Sch. 3 of S.I. 2001/2866 at page 1.5943 for details of the extent of the effect of these amendments.

[¹(5A) Where subsection (5B) below applies the appropriate weekly rate is the weekly rate for the time being prescribed under section 166(1)(b) below.

(5B) This subsection applies where a woman is treated by virtue of regulations under sub-paragraph (i) of paragraph (c) of subsection (5) above as having received a payment in respect of each week in the specified period equal to the amount mentioned in that sub-paragraph.]

[²(6) In this section “the maternity allowance threshold” has the same meaning as in section 35 above and “specified” means prescribed by or determined in accordance with the regulations.]r

[³**35B.**—(1) A woman (W) shall be entitled to a maternity allowance under this section, at the weekly rate given by subsection (3) below, if—

State maternity allowance for participating wife or civil partner of self-employed earner

- (a) W has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement; and
- (b) for any part of the week in the case of at least 26 of the 66 weeks immediately preceding the expected week of confinement, W has worked with a person (S) who at the time of her doing so—
 - (i) was her spouse or civil partner, and
 - (ii) was engaged in employment as a self-employed earner; and
- (c) S is liable to pay a Class 2 contribution in respect of the 26 weeks referred to in paragraph (1)(b); and
- (d) W is not entitled to a maternity allowance under section 35 above, or statutory maternity pay, for the same week in respect of the same pregnancy.

(2) In this section—

- (a) a reference to W working with S is a reference to W participating in the activities engaged in by S as a self-employed earner, performing the same tasks or ancillary tasks, without being employed by S or being in partnership with S;
- (b) a reference to W ceasing to work with S is a reference to W ceasing to do so either permanently or until after her confinement.

(3) The rate of allowance under this section for any particular week is 90 per cent of the amount of the maternity allowance threshold for the tax year in which the week ends.

(4) Subject to subsection (10) and (11) below, a maternity allowance under this section shall be payable for the period of 14 weeks (“the 14-week period”) beginning as set out in subsection (5), (6), (7) or (8) below (whichever applies).

(5) If W ceases to work with S before the commencement of the 11th week before the expected week of confinement, the 14-week period begins with the commencement of the 11th week before the expected week of confinement.

(6) If W ceases to work with S on a day that falls within the period beginning with the commencement of the 11th week before the expected week of confinement and ending with the end of the fifth week before the expected week of confinement, the 14-week period begins immediately after that day.

¹ Subsections (5A) & (5B) inserted in s. 35A (6.403) by the Employment Act 2002 (c. 22), s. 48(1)(c).

² In s. 35A, subsections (6) to (8) substituted by (6) (6.4.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 5.

³ S. 35B inserted (1.4.14) by S.I. 2014/606 reg. 2(5).

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(7) If on a day that falls within the period beginning with the commencement of the fourth week before the expected week of confinement and ending with the date of confinement—

- (a) W ceases to work with S, or
- (b) she refrains from working with S wholly or partly because of her pregnancy or confinement.

the 14-week period begins immediately after the day on which she ceases or refrains.

(8) If none of subsections (5) to (7) above applies, the 14-week period begins immediately after the date of confinement.

(9) In relation to maternity allowance under this section, a reference in a provision contained in or made under any enactment to the maternity allowance period shall be read as a reference to the 14-week period.

(10) Subsections (4) to (7) of section 25 above have effect for the purposes of this section as they have effect for the purposes of that section (reading references to the maternity allowance period as references to the 14-week period).

(11) Regulations under section 35 above may make provision for the purposes of this section corresponding or similar to the provision that may be made by virtue of subsection (3)(a), (b) or (c) of that section.]

Benefits for widows and widowers

Bereavement payment.

[¹36.—(1) A person whose spouse [²or civil partner] dies on or after the appointed day shall be entitled to a bereavement payment if—

- (a) either that person was under pensionable age at the time when the spouse [⁵or civil partner] died or the spouse [²or civil partner] was then not entitled to a category A retirement pension under section 44 below; and
- (b) the spouse [²or civil partner] satisfied the contribution condition for a bereavement payment specified in Schedule 3, Part I, paragraph 4.

[²(2) A bereavement payment shall not be payable to a person if

¹ S. 36 substituted (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 54(1) of the Welfare Reform and Pensions Act 1999 (c. 30).

² Words inserted in s. 36(1) & s. 36(2) substituted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 16.

- (a) that person and a person of the opposite sex to whom that person was not married were living together as husband and wife at the time of the spouse's or civil partner's death, or
- (b) that person and a person of the same sex who was not his or her civil partner were living together as if they were civil partners at the time of the spouse's or civil partner's death.]

(3) In this section "the appointed day" means the day appointed for the coming into force of sections 54 to 56 of the Welfare Reform and Pensions Act 1999.]

[**36A.**—(1) Sections 37 to 39 and section 40 below apply only in cases where a woman's husband has died before the appointed day, and section 41 below applies only in cases where a man's wife has died before that day.

Cases in which sections 37 to 41 apply.

(2) Sections 39A to 39C below apply in cases where a person's spouse [²or civil partner] dies on or after the appointed day, but section 39A also applies (in accordance with subsection (1)(b) of that section) in cases where a man's wife has died before that day.

(3) In this section, and in sections 39A and 39B below, "the appointed day" means the day appointed for the coming into force of sections 54 to 56 of the Welfare Reform and Pensions Act 1999.]

37.—(1) A woman who has been widowed shall be entitled to a widowed mother's allowance at the rate determined in accordance with section 39 below if her late husband satisfied the contribution conditions for a widowed mother's allowance specified in Schedule 3, Part I, paragraph 5 and either—

Widowed mother's allowance.

- (a) the woman is entitled to child benefit in respect of a child [³or qualifying young person] falling within subsection (2) below; or
- (b) the woman is pregnant by her late husband; or
- (c) if the woman and her late husband were residing together immediately before the time of his death, the woman is pregnant as the result of being artificially inseminated before that time with the semen of some person other than her husband, or as the result of the placing in her before that time of an embryo, of an egg in the process of fertilisation, or of sperm and eggs.

(2) A child [³or qualifying young person] falls within this subsection if one of the conditions specified in section [⁴77(5)] below is for the time being satisfied with respect to the child [³or qualifying young person] and the child [³or qualifying young person] is either—

- (a) a son or daughter of the woman and her late husband; or
- (b) a child [³or qualifying young person] in respect of whom her late husband was immediately before his death entitled to child benefit; or
- (c) if the woman and her late husband were residing together immediately before his death, a child [³or qualifying young person] in respect of whom she was then entitled to child benefit.

(3) The widow shall not be entitled to the allowance for any period after she remarries [²or forms a civil partnership], but, subject to that, she shall continue to be entitled to it for any period throughout which she satisfies the requirements of subsection (1)(a),(b) or (c) above.

(4) A widowed mother's allowance shall not be payable—

¹ S. 36A inserted (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 55(1) of the Welfare Reform and Pensions Act 1999 (c. 30).

² Words inserted in ss. 36A(2) & 37(3) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, paras. 17 & 18.

³ Words inserted in s. 37(1)(a) & (2) (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 2.

⁴ Ref. substituted in s. 37(2) (6.4.03) by para. 26 of Sch. 3 to the Tax Credits Act 2002 (c. 21).

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- (a) for any period falling before the day on which the widow's entitlement is to be regarded as commencing for that purpose by virtue of section 5(1)(k) of the Administration Act; [...¹]
- (b) for any period during which she and a man to whom she is not married are living together as husband and wife [²or
- (c) for any period during which she and a woman who is not her civil partner are living together as if they were civil partners.]

Widow's pension.

38.—(1) A woman who has been widowed shall be entitled to a widow's pension at the rate determined in accordance with section 39 below if her late husband satisfied the contribution conditions for a widow's pension specified in Schedule 3, Part I, paragraph 5 and either—

- (a) she was, at the husband's death, over the age of 45 but under the age of 65; or
- (b) she ceased to be entitled to a widowed mother's allowance at a time when she was over the age of 45 but under the age of 65.

(2) The widow shall not be entitled to the pension for any period after she remarries [³or forms a civil partnership], but, subject to that, she shall continue to be entitled to it until she attains [⁴pensionable age].

(3) A widow's pension shall not be payable—

- (a) for any period falling before the day on which the widow's entitlement is to be regarded as commencing for that purpose by virtue of section 5(1)(k) of the Administration Act;
- (b) for any period for which she is entitled to a widowed mother's allowance; [...⁵]
- (c) for any period during which she and a man to whom she is not married are living together as husband and wife, [³or
- (d) for any period during which she and a woman who is not her civil partner are living together as if they were civil partners.]

(4) In the case of a widow whose late husband died before 11th April 1988 and who either—

- (a) was over the age of 40 but under the age of 55 at the time of her husband's death; or
- (b) is over the age of 40 but under the age of 55 at the time when she ceases to be entitled to a widowed mother's allowance,

subsection (1) above shall have effect as if for "45" there were substituted "40".

Rate of widowed mother's allowance and widow's pension.

39.—(1) The weekly rate of—

- (a) a widowed mother's allowance,
- (b) a widow's pension,

shall be determined in accordance with the provisions of [^{6,7}sections 44 to [⁸45B]] [...⁹] below as they apply in the case of a Category a retirement pension, but subject,

¹ Word repealed in s. 37(4)(a) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 30.

² S. 37(4)(c) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 18.

³ Words in s. 38(2) & s. 38(3)(d) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 19.

⁴ Words in s. 38(2) substituted (26.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 40.

⁵ Word repealed in s. 38(3)(b) 5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 30.

⁶ Words in s. 39(1) substituted (19.7.95) for "sections 44 and 45" by s. 127(2) of the Pensions Act 1995 (c. 26) where s. 127(3)-(5) *ibid.* (relevant person's pensionable age or death is after 5.4.99, etc.) applies.

⁷ "section 44 to" continues to be substituted in s. 39(1) (6.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 3, para. 27.

⁸ Words in s. 39(1) substituted (1.12.00) by the Welfare Reform & Pensions Act 1999 (c. 30), Sch. 12, para. 17.

⁹ Words deleted in s. 39(1) (27.9.07) by the Pensions Act 2007 (c. 22), Sch. 2, para. 3.

in particular, to the following provisions of this section and section [146] below.

(2) In the application of [^{2,3}sections 44 to [45B]] below by virtue of subsection (1) above—

- (a) where the woman’s husband was over pensionable age when he died, references in those sections to the pensioner shall be taken as references to the husband, and
- (b) where the husband was under pensionable age when he died, references in those sections to the pensioner and the tax year in which he attained pensionable age shall be taken as references to the husband and the tax year in which he died.

(3) [...⁵]

(4) Where a widow’s pension is payable to a woman who was under the age of 55 at the time when the applicable qualifying condition was fulfilled, the weekly rate of the pension shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied by the number of years by which her age at that time was less than 55 (any fraction of a year being counted as a year).

(5) For the purposes of subsection (4) above, the time when the applicable qualifying condition was fulfilled is the time when the woman’s late husband died or, as the case may be, the time when she ceased to be entitled to a widowed mother’s allowance.

(6) In the case of a widow whose later husband died before 11th April 1988 and who either—

- (a) was over the age of 40 but under the age of 55 at the time of her husband’s death; or
- (b) is over the age of 40 but under the age of 55 at the time when she ceases to be entitled to a widowed mother’s allowance,

subsection (4) above shall have effect as if for “55” there were substituted “50”, in both places where it occurs.

[⁶39A.—(1) This section applies where—

- (a) a person whose spouse [⁶or civil partner] dies on or after the appointed day is under pensionable age at the time of the spouse’s [⁷or civil partner’s] death, or
- (b) a man whose wife died before the appointed day—
 - (i) has not remarried before that day, and
 - (ii) is under pensionable age on that day.

Widowed parent’s allowance.

(2) The surviving spouse [⁷or civil partner] shall be entitled to a widowed parent’s allowance at the rate determined in accordance with section 39C below if the deceased spouse [⁷or civil partner] satisfied the contribution conditions for a widowed parent’s allowance specified in Schedule 3, Part I, paragraph 5 and—

¹ Words in s. 39(1) substituted (3.1.12) by Pensions Act 2008 (c. 30), Sch. 4, para. 3.
² Words in s. 39(2) substituted (19.7.95) for “sections 44 and 45” by s. 127(2) of Pensions Act 1995 (c. 26) where s. 127(3)-5 *ibid.* (relevant person’s pensionable age or death is after 5.4.99, etc.) applies.
³ “sections 44 to” continues to be substituted (6.4.03) by Tax Credits Act 2002 (c. 21), Sch. 3, para. 27.
⁴ Words in s. 39(2) and (3) substituted (19.7.95) for “sections 44 and 45” by s. 127(2) of Pensions Act 1995 (c. 26) where s. 127(3)-5 *ibid.* (relevant person’s pensionable age or death is after 5.4.99, etc.) applies.
⁵ S. 39(3) omitted (27.9.07) by Pensions Act 2007 (c. 22), Sch. 2, para. 3.
⁶ S. 39A, 39B and 39C inserted (24.4.2000 for reg. making purposes, 9.4.01 for all other purposes) by s. 55(2) of Welfare Reform and Pensions Act 1999 (c. 30).
⁷ Words inserted in s. 39A (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch. 24, para. 20.

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- (a) the surviving spouse [¹or civil partner] is entitled to child benefit in respect of a child [²or qualifying young person] falling within subsection (3) below; [³...]
- (b) the surviving spouse is a woman who either—
 - (i) is pregnant by her late husband, or
 - (ii) if she and he were residing together immediately before the time of his death, is pregnant in circumstances falling within section 37(1)(c) above [¹, or
- (c) the surviving civil partner is a woman who—
 - (i) was residing together with the deceased civil partner immediately before the time of the death, and
 - (ii) is pregnant as the result of being artificially inseminated before that time with the semen of some person, or as a result of the placing in her before that time of an embryo, of an egg in the process of fertilisation, or of sperm and eggs.]

(3) A child [²or qualifying young person] falls within this subsection if one of the conditions specified in sections [⁴77(5)] below is for the time being satisfied with respect to the child [²or qualifying young person] and the child [²or qualifying young person] is either—

- (a) a son or daughter of the surviving spouse [¹or civil partner] and the deceased spouse [¹or civil partner]; or
- (b) a child [²or qualifying young person] in respect of whom the deceased spouse [¹or civil partner] was immediately before his or her death entitled to child benefit; or
- (c) if the surviving spouse [¹or civil partner] and the deceased spouse [¹or civil partner] were residing together immediately before his or her death, a child [²or qualifying young person] in respect of whom the surviving spouse [¹or civil partner] was then entitled to child benefit.

(4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries [¹or forms a civil partnership], but, subject to that, the surviving spouse shall continue to be entitled to it for any period throughout which she or he—

- (a) satisfied the requirements for subsection (2)(a) or (b) above; and
- (b) is under pensionable age.

[¹(4A) The surviving civil partner shall not be entitled to the allowance for any period after she or he forms a subsequent civil partnership or marries, but, subject to that, the surviving civil partner shall continue to be entitled to it for any period throughout which she or he—

- (a) satisfies the requirements of subsection (2)(a) or (b) above; and
- (b) is under pensionable age.]

(5) A widowed parent's allowance shall not be payable—

- (a) for any period falling before the day on which the surviving spouse's [¹or civil partner's] entitlement is to be regarded as commencing by virtue of section 5(1)(k) of the Administration Act; [³...]
- (b) for any period during which the surviving spouse [¹or civil partner] and a person of the opposite sex to whom she or he is not married are living together as husband and wife [¹, or

¹ Words inserted s. 39A, paras. 39A(2)(a), 39A(2)(c), (4A), (5)(b) & (5)(c), inserted (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch 24, para. 20.

² Words inserted in s. 39A(2) & (3) (10.4.05) by Child Benefit Act 2005 (c. 6), Sch. 1, para. 3.

³ Word repealed in s. 39A(2) & (5) (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch. 24, para. 20.

⁴ Ref. in s. 39A(3) substituted (6.4.03) by Tax Credits Act 2002 (c. 21), Sch. 3, para. 28.

- (c) for any period during which the surviving spouse or civil partner and a person of the same sex who is not his or her civil partner are living together as if they were civil partners.]

39B.—(1) This section applies where a person whose spouse [¹or civil partner] dies on or after the appointed day is over the age of 45 but under pensionable age at the spouse's [¹or civil partner's] death.

Bereavement allowance where no dependent children.

(2) The surviving spouse [¹or civil partner] shall be entitled to a bereavement allowance at the rate determined in accordance with section 39C below if the deceased spouse [¹or civil partner] satisfied the contribution conditions for a bereavement allowance specified in Schedule 3, Part I, paragraph 5.

(3) A bereavement allowance shall be payable for not more than 52 weeks beginning with the date of the spouse's [¹or civil partner's] death or (if later) the day on which the surviving spouse's [¹or civil partner's] entitlement is to be regarded as commencing by virtue of section 5 (1)(k) of the Administration Act.

(4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries [¹or forms a civil partnership], but, subject to that, the surviving spouse shall continue to be entitled to it until—

- (a) she or he attains pensionable age, or
- (b) the period of 52 weeks mentioned in subsection (3) above expires,

whichever happens first.

[¹(4A)The surviving civil partner shall not be entitled to the allowance for any period after she or he forms a subsequent civil partnership or marries, but, subject to that, the surviving civil partner shall continue to be entitled to it until—

- (a) she or he attains pensionable age, or
- (b) the period of 52 weeks mentioned in subsection (3) above expires,

whichever happens first.]

(5) The allowance shall not be payable—

- (a) for any period which the surviving spouse [¹or civil partner] is entitled to a widowed parent's allowance; [²...]
- (b) for any period during which the surviving spouse [¹or civil partner] and a person of the opposite sex to whom she or he is not married are living together as husband and wife [¹;or
- (c) for any period during which the surviving spouse or civil partner and a person of the same sex who is not his or her civil partner are living together as if they were civil partners.]

See also S.I. 2001/1085 at page 3.8391 for modifications relating to inherited SERPS from 6.10.02.

39C.—(1) The weekly rate of a widowed parent's allowance shall be determined in accordance with the provisions of section 44 to [³45AA] [⁴and Schedule 4A] below as they apply in the case of a Category A retirement pension, but subject, in particular, to the following provisions of this section and section [³46] below.

Rate of widowed parent's allowance and bereavement allowance.

(2) The weekly rate of a bereavement allowance shall be determined in accordance with the provisions of section 44 below as they apply in the case of a Category A

¹ Words inserted ss. 39B & 39C & ss. 39A(5)(c), 39B(4A) & (5)(c) inserted (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch 24, paras. 21 & 22.

² Word repealed in s. 39B(5)(a) (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch. 30.

³ Words in s. 39C(1) substituted (3.1.12) by Pensions Act 2008 (c. 30), Sch. 4, para. 4(2)(a).

⁴ Words in s. 39C(1) inserted (8.1.01) for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all remaining purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(4).

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retirement pension so far as consisting only of the basic pension referred to in subsection (3)(a) of that section, but subject, in particular, to the following provisions of this section.

(3) In the application of sections 44 to [¹45AA] [²and Schedule 4A] or (as the case may be) section 44 below by virtue of subsection (1) or (2) above—

- (a) where the deceased spouse [³or civil partner] was over pensionable age at his or her death, references in those [⁴provisions] to the pensioner shall be taken as references to the deceased spouse [³or civil partner], and
- (b) where the deceased spouse [³or civil partner] was under pensionable age at his or her death, references in those [⁴provisions] to the pensioner and the tax year in which he attained pensionable age shall be taken as references to the deceased spouse [³or civil partner] and the tax year in which he or she died.

(4) Where a widowed parent's allowance is payable to a person whose spouse [³or civil partner] dies after [⁵5th October 2002], the additional pension falling to be calculated under sections 44 to [¹45AA] [²and Schedule 4A] below by virtue of subsection (1) above shall be one half of the amount which it would be apart from this subsection.

(5) Where a bereavement allowance is payable to a person who was under the age of 55 at the time of the spouse's [³or civil partner's] death, the weekly rate of the allowance shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied by the number of years by which that person's age at that time was less than 55 (any fraction of a year being counted as a year.)]

Long-term incapacity benefit for widows.

[⁶40.—(1) Subject to subsection (2) below, this section applies to a woman who—

- (a) on her late husband's death is not entitled to a widowed mother's allowance or subsequently ceases to be entitled to such an allowance.
- (b) is incapable of work at the time when he dies or when she subsequently ceases to be so entitled;
- (c) either—
 - (i) would have been entitled to a widow's pension if she had been over the age of 45 when her husband died or when she ceased to be entitled to a widowed mother's allowance; or
 - (ii) is entitled to such a pension with a reduction under section 39(4) above; and
- (d) is not entitled to incapacity benefit apart from this section.

(2) This section does not apply to a woman unless—

- (a) her husband died after 5th April 1979; or
- (b) she ceased to be entitled to a widowed mother's allowance after that date (whenever her husband died).

(3) A woman to whom this section applies is entitled to long-term incapacity benefit under this section for any day of incapacity for work which—

- (a) falls in a period of incapacity for work that began before the time when her late husband died or she subsequently ceased to be entitled to a widowed mother's allowance; and
- (b) is after that time and after the first 364 days of incapacity for work in that period.

¹ Words substituted in s. 39C(3) & (4) (3.1.12) by Pensions Act 2008 (c. 30), Sch. 4, para. 4(3)(a).

² Words in s. 39C(3) & (4) inserted (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all remaining purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(4).

³ Words inserted s. 39C(3)-(5) (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch. 24, para. 22.

⁴ Words substituted in s. 39C(3)(a) & (b) (27.9.07) by Pensions Act 2007, Sch. 2, para. 4.

⁵ Words substituted in s. 39C(4) (28.7.00) by s. 39 of Child Support, Pensions and Social Security Act 2000 (c. 19).

⁶ S. 40 substituted (13.4.95) by para. 8 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

(4) A woman to whom this section applies who is not entitled to long-term incapacity benefit under subsection (3) above, but who is terminally ill, is entitled to short-term incapacity benefit under this section for any day of incapacity for work which—

- (a) falls in a period of incapacity for work that began before the time when her late husband died or she subsequently ceased to be entitled to a widowed mother's allowance, and
- (b) is after that time and after the first 196 days of incapacity for work in that period.

For the purposes of this subsection a woman is terminally ill if she suffers from a progressive disease and her death in consequence of that disease can reasonably be expected within 6 months.

(5) The weekly rate of incapacity benefit payable under this section is—

- (a) if the woman is not entitled to a widow's pension, that which would apply if she were entitled to long-term incapacity benefit under section 30A above; and
- (b) if she is entitled to a widow's pension with a reduction under section 39(4) above, the difference between the weekly rate of that pension and the weekly rate referred to in paragraph (a) above.

(6) A woman is not entitled to incapacity benefit under this section if she is over pensionable age; but if she has attained pensionable age and the period of incapacity for work mentioned in subsection (3)(a) or (4)(a) above did not terminate before she attained that age—

- (a) she shall, if not otherwise entitled to a Category A retirement pension, be entitled to such a pension, and
- (b) the weekly rate of the Category A retirement pension to which she is entitled (whether by virtue of paragraph (a) above or otherwise) shall be determined in the prescribed manner.

(7) Where a woman entitled to short-term incapacity benefit under subsection (4) above attains pensionable age and defers her entitlement to a Category A pension or makes an election under section 54(1) below, the days of incapacity for work falling within the period of incapacity for work mentioned in that subsection shall, for the purpose of determining any subsequent entitlement to incapacity benefit under section 30A above or the rate of that benefit, be treated as if they had been days of entitlement to short-term incapacity benefit.

(8) References to short-term incapacity benefit at the higher rate shall be construed as including short-term incapacity benefit payable under subsection (4) above.]

[¹41.—(1) This section applies to a man whose wife has died on or after 6th April 1979 and who either—

Long-term incapacity benefit for widowers.

- (a) was incapable of work at the time when she died, or
- (b) becomes incapable of work within the prescribed period after that time, and is not entitled to incapacity benefit apart from this section.

(2) A man to whom this section applies is entitled to long-term incapacity benefit under this section for any day of incapacity for work which—

- (a) falls in a period of incapacity for work that began before the time when his wife died or within the prescribed period after that time, and
- (b) is after that time and after the first 364 days of incapacity for work in that period.

¹ S. 41 substituted (13.4.95) by para. 9 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

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(3) A man to whom this section applies who is not entitled to long-term incapacity benefit under subsection (2) above, but who is terminally ill, is entitled to short-term incapacity benefit under this section for any day of incapacity for work which—

- (a) falls in a period of incapacity for work that began before the time when his wife died or within the prescribed period after that time, and
- (b) is after that time and after the first 196 days of incapacity for work in that period.

For the purposes of this subsection a man is terminally ill if he suffers from a progressive disease and his death in consequence of that disease can reasonably be expected within 6 months.

(4) The weekly rate of incapacity benefit payable under this section is that which would apply if he were entitled to long-term incapacity benefit under section 30A above.

(5) A man is not entitled to incapacity benefit under this section if he is over pensionable age; but if he has attained pensionable age, and the period of incapacity for work mentioned in subsection (2)(a) or (3)(a) above did not terminate before he attained that age—

- (a) he shall, if not otherwise entitled to a Category A retirement pension and also not entitled to a Category B retirement pension by virtue of [the contributions of his wife], be entitled to a Category A retirement pension; and
- (b) the weekly rate of the Category A retirement pension to which he is entitled (whether by virtue of paragraph (a) above or otherwise) shall be determined in the prescribed manner.

(6) Where a man entitled to short-term incapacity benefit under subsection (3) above attains, pensionable age and defers his entitlement to a Category A pension or makes an election under section 54(1) below, the days of incapacity for work falling within the period of incapacity for work mentioned in that subsection shall, for the purpose of determining any subsequent entitlement to incapacity benefit under section 30A above or the rate of that benefit, be treated as if they had been days of entitlement to short-term incapacity benefit.

(7) References to short-term incapacity benefit at the higher rate shall be construed as including short-term incapacity benefit payable under subsection (3) above.]

Entitlement under s. 40 or 41 after period of employment or training for work.

[²42.—³(1) Where a person claims incapacity benefit under section 40 or 41 above for a period commencing after he has ceased to be in qualifying remunerative work (within the meaning of Part 1 of the Tax Credits Act 2002) and—

- (a) the day following that on which he so ceased was a day of incapacity for work for him,
- (b) he has been entitled to incapacity benefit under that section within the period of two years ending with that day of incapacity for work, and
- (c) he satisfied the relevant tax credit conditions on the day before he so ceased,

every day during that period on which he satisfied those conditions is to be treated for the purposes of the claim as a day of incapacity for work for him.

(1A) A person satisfies the relevant tax credit conditions on a day if—

- (a) he is entitled for the day to the disability element of working tax credit (on a claim made by him or by him jointly with another) or would be so entitled but for the fact that the relevant income (within the meaning of Part 1 of the

¹ Words in s. 41(5)(a) substituted (19.7.95) by Pensions Act 1995 (c. 26), Sch. 4, para. 21(4).

² S. 42 substituted (13.4.95) by para. 10 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

³ S. 42(1) & (1A) substituted for (1) (6.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 3, para. 30.

Tax Credits Act 2002) in his or their case is such that he is not so entitled, and

- (b) either working tax credit or any element of child tax credit other than the family element is paid in respect of the day on such a claim.]

(2) Where—

- (a) a person becomes engaged in training for work, and
- (b) he was entitled to incapacity benefit under section 40 or 41 above for one or more of the 56 days immediately before he became so engaged, and
- (c) the first day after he ceases to be so engaged is for him a day of incapacity of work and falls not later than the end of the period of two years beginning with the last day for which he was entitled to incapacity benefit under that section,

any day since that day in which he was engaged in training for work shall be treated for the purposes of any claim for incapacity benefit under that section for period commencing after he ceases to be so engaged as having been a day of incapacity for work.

In this subsection “training for work” means training for work in pursuance of arrangement made under section 2(1) of the Employment and Training Act 1973 or section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 or training of such other description as may be prescribed.

- (3) for the purposes of this section “week” means any period of 7 days.]

Retirement pensions (Categories A and B)

43.—(1) A person shall not be entitled for the same period to more than one retirement pension under this Part of this Act except as provided by subsection (2) below [and section 61ZC below (which deals with unusual cases involving units of additional pension)].

Persons entitled to more than one retirement pension.

(2) A person who, apart from subsection (1) above, would be entitled for the same period to both—

- (a) a Category A or a Category B retirement pension under this Part; and
- (b) a Category C or a Category D retirement pension under Part III below,

shall be entitled to both of those pensions for that period, subject to any adjustment of them in pursuance of regulations under section 73 of the Administration Act.

(3) A person who, apart from subsection (1) above, would be entitled—

- [²(a) to both a Category A retirement pension and one or more Category B retirement pensions under this Part for the same period,
- (aa) to more than one Category B retirement pension (but not a Category A retirement pension) under this Part for the same period, or]
- (b) to both a Category C and a Category D retirement pension under Part III below for the same period,

may from time to time give notice in writing to the Secretary of State specifying which of the pensions referred to in [²paragraph (a), (aa) or (b) (as the case may be)] he wishes to receive.

(4) If a person gives such a notice, the pension so specified shall be the one to which he is entitled in respect of any week commencing after the date of the notice.

(5) If no such notice is given, the person shall be entitled to whichever of the pensions is from time to time the most favourable to him (whether it is the pension which he claimed or not).

¹ Words in s. 43(1) inserted (12.10.15) by Pensions Act 2014, Sch. 15, para. 5.

² In s. 43(3), para. (a)-(aa) & words substituted (18.11.04) by Pensions Act 2004 (c. 35), s. 296.

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[¹(6) For the purposes of this section, a pension under section 55A below is not a retirement pension.]

Category A retirement pension.

44.—(1) A person shall be entitled to a Category A retirement pension if—

- [²(a) the person attained pensionable age before 6th April 2016];
- [³(b) he satisfies the relevant conditions or condition;]

and, subject to the provisions of this Act, he shall become so entitled on the day on which he attains pensionable age and his entitlement shall continue throughout his life.

[³(1A) In subsection (1)(b) above “the relevant conditions or condition” means—

- (a) in a case where the person attains pensionable age before 6th April 2010, the conditions specified in Schedule 3, Part I, paragraph 5;
- (b) in a case where the person attains pensionable age on or after that date, the condition specified in Schedule 3, Part I, paragraph 5A.]

(2) A Category A retirement pension shall not be payable in respect of any period falling before the day on which the pensioner’s entitlement is to be regarded as commencing for that purpose by virtue of section 5(1)(k) of the Administration Act.

(3) A Category A retirement pension shall consist of—

- (a) a basic pension payable at a weekly rate; and
- (b) an additional pension payable where there are one or more surpluses in the pensioner’s earnings factors for the relevant years [⁴or where the pensioner has one or more units of additional pension].

[⁴For units of additional pension, see section 14A.]

[⁵(4) The weekly rate of the basic pension shall be [⁶£119.30] except that, so far as the sum is relevant for the purpose of calculating the lower rate of short-term incapacity benefit under section 30B(3) above, it shall be [⁷£101.10].

In this subsection “the lower rate” means the rate payable for the first 196 days of entitlement in any period of incapacity for work.]

[⁸(5) For the purposes of this section and section 45 below

- (a) there is a surplus in the pensioner’s earnings factor for a relevant year if that factor exceeds the qualifying earnings factor for the final relevant year; and
- (b) the amount of the surplus is the amount of that excess;

and for the purposes of paragraph (a) above the pensioner’s earnings factor for any relevant year shall be taken to be that factor as increased by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.]

Uprating percentages applicable to shared additional pension are included in the table to volume 1 at pages 1.7601 et seq.

Application of s. 44(5) modified in certain circumstances. See S.I. 1996/2477 page 3.935.

¹ Subsection (6) inserted (1.12.00) in s. 43 by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 18.

² S. 44(1)(a) substituted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 55.

³ S. 44(1)(b) substituted & (1A) inserted (27.9.07) by Pensions Act 2007 (c. 22), Sch. 1, para. 1.

⁴ Words in s. 44(3), (3)(b) inserted (12.10.15) by Pensions Act 2014 (c. 19), Sch. 15, para. 6.

⁵ Subsection (4) substituted (8.9.98) by s. 68 of S.S. Act 1998 (c. 14).

⁶ Amount substituted in s. 44(4) (11.4.16) by reg. 4 of S.I. 2016/230.

⁷ Amounts substituted in s. 44(4) (6.4.15) by art. 4(3) of S.I. 2015/457.

⁸ S. 44(5) as continuing to apply, notwithstanding s. 128(1) of Pensions Act 1995 (c. 26), where s. 128(4)-(6) *ibid.* (relevant person’s pensionable age or death is after 5.4.00, etc.) does not apply.

[¹(5A) For the purposes of this section and section 45 [²and [³Schedules 4A and 4B] below—

- (a) there is a surplus in the pensioner's earnings factor for a relevant year if that factor exceeds the qualifying earnings factor for [²that year,
- (b) the amount of the surplus is the amount of that excess, and
- (c) for the purposes of section 45(1) and (2)(a) and (b) below, the adjusted amount of the surplus]

is the amount of that excess, as increased by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year].

[⁴(6) [⁵Subject to subsection (7A) below] any reference in this section or section 45 below to the pensioner's earnings factor for any relevant year is a reference—

- (a) where the relevant year is 1987-88 or any subsequent tax year, to the aggregate of—
 - (i) his earnings factors derived from earnings upon which primary Class 1 contributions were paid or treated as paid in respect of that year, and
 - (ii) his earnings factors derived from Class 2 and Class 3 contributions actually paid in respect of it; and
- (b) where the relevant year is an earlier tax year, to the aggregate of his earnings factors derived from contributions actually paid by him in respect of that year.]

[⁶(6) [⁵Subject to subsection (7A) below] any reference in this section or section 45 [²or [³Schedule 4A or 4B] below to the pensioner's earnings factor for any relevant year is a reference—

- [⁷(za) where the relevant year is the first appointed year or any subsequent year, to the aggregate of his earnings factors derived from [⁸so much of his earnings as did not exceed [⁹the applicable limit] and] upon which primary Class 1 contributions have been paid or treated as paid in respect of that year;]
- (a) where the relevant year is 1987-88 or any subsequent tax year [¹⁰before the first appointed year], to the aggregate of—
 - (i) his earnings factors derived from earnings upon which primary Class 1 contributions were paid or treated as paid in respect of that year, and
 - [¹¹(ii) his earnings factors derived from Class 2 and Class 3 contributions actually paid in respect of that year, or, if less, the qualifying earnings factor for that year; and

¹ S. 44(5A) takes effect (superseding s. 44(5) under s. 128(1) of the Pensions Act 1995 (c. 26) where s. 128(4)-(6) *ibid.* (relevant person's pensionable age or death is after 5.4.2000, etc.) applies.

² Words in s. 44(5A) & (6) inserted (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all remaining purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(5)-(7).

³ Words substituted in s. 44(5A) & (6) (27.9.07) by the Pensions Act 2007 (c. 22), Sch. 2, part 3, para. 5.

⁴ S. 44(6) as continuing to have effect (without being amended by s. 128(2) of the Pensions Act 1995 (c. 26)) where s. 128(4)-(6) *ibid.* (relevant person's pensionable age or death is after 5.4.2000, etc.) does not apply.

⁵ Words transitorily inserted into s. 44(6) by para. 2 of Sch. 4 to S.S. (C.P.) Act 1992 (c. 6), until a day is appointed under para. 1(3)(a) *ibid.*

⁶ S. 44(6) as taking effect where s. 128(4)-(6) (relevant person's pensionable age or death is after 5.4.2000, etc.) of the Pensions Act 1995 (c. 26) applies.

⁷ Para. (za) inserted in s. 44(6) (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all remaining purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 30(2)(a).

⁸ Words in s. 44(6)(za) substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 10.

⁹ Words inserted in 44(6)(za) (27.9.07) by the Pensions Act 2007 (c. 22), s. 12(2).

¹⁰ Words inserted in s. 44(6)(a) (8.1.01) for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all remaining purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 30(2).

¹¹ S. 44(6)(a)(ii) and (b) substituted (19.7.95) by s. 128(2) of the Pensions Act 1995 (c. 26) where s. 128(4)-(6) *ibid.* (relevant person's pensionable age or death is after 5.4.2000, etc.) applies.

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- (b) where the relevant year is an earlier tax year, to the aggregate of—
 - (i) his earnings factors derived from Class 1 contributions actually paid by him in respect of that year, and
 - (ii) his earnings factors derived from Class 2 and Class 3 contributions actually paid by him in respect of that year, or, if less, the qualifying earnings factor for that year.]]

(7) In this section—

- (a) “relevant year” means 1978-79 or any subsequent tax year in the period between—
 - (i) (inclusive) the tax year in which the pensioner attained the age of 16, and
 - (ii) (exclusive) the tax year in which he attained pensionable age;
- (b) “final relevant year” means the last tax year which is a relevant year in relation to the pensioner.
- [¹(c) “the applicable limit” means—
 - (i) in relation to a tax year before [²2009-10] the upper earnings limit;
 - (ii) in relation to [²2009-10] or any subsequent tax year, the upper accrual point.]

[³(7A) The Secretary of State may prescribe circumstances in which pensioners earnings factors for any relevant year may be calculated in such manner as may be prescribed.]

(8) For the purposes of this section any order under [⁴section 21 of the Social Security Pensions Act 1975] (which made provision corresponding to section 148 of the Administration Act) shall be treated as an order under section 148 (but without prejudice to sections 16 and 17 of the Interpretation Act 1978).

1978 c. 30.

Deemed earnings factors.

[⁵44A.—[⁶(A1) Subsections (1) to (4) below apply to the first appointed year or any subsequent tax year before 2010-11.]

(1) For the purposes of section 44(6)(za) above, if any of the conditions in subsection (2) below is satisfied for a relevant year [⁶to which this subsection applies], a pensioner is deemed to have an earnings factor for that year which—

- (a) is derived from [⁷so much of his earnings as did not exceed [²the applicable limit] and] on which primary Class 1 contributions were paid; and
- (b) is equal to the amount which, when added to any other earnings factors taken into account under that provision, produces an aggregate of earnings factors equal to the low earnings threshold.

(2) The conditions referred to in subsection (1) above are that—

- (a) the pensioner would, apart from this section, have an earnings factor for the year—
 - (i) equal to or greater than the qualifying earnings factor for the year; but
 - (ii) less than the low earnings threshold for the year;

¹ S. 44(7)(c) inserted (27.9.07) by the Pensions Act 2007 (c. 22), s. 12(2).

² Words substituted in s. 44(7)(c) & s. 44A(1)(a) (21.9.08) by the National Insurance Contributions Act 2008 (c. 16), s. 3(3) & Sch. 1, para. 4(2).

³ S. 44(7A) transitorily inserted (1.7.92) by para. 3 of Sch. 4 to S.S. (C.P.) Act 1992 (c. 6), until a day is appointed under para. 1(3)(a) *ibid*.

⁴ Words in s. 44(8) substituted (7.2.94) by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 38.

⁵ S. 44(a) and s. 44A inserted (8.1.01) for regulation and order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all remaining purposes) by the Child Support, Pension and Social Security Act 2000 (c. 19), s. 30(3).

⁶ S. 44A(A1) inserted & words inserted in s. 44A(1) (27.9.07) by the Pensions Act (c. 22), Sch. 1, para. 34.

⁷ Words in s. 44A(1)(a) substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 11.

- (b) [¹carer’s allowance]–
 - (i) was payable to the pensioner throughout the year; or
 - (ii) would have been so payable but for the fact that under regulations the amount payable to him was reduced to nil because of his receipt of other benefits;
- (c) for the purposes of paragraph 5(7)(b) of Schedule 3, the pensioner is taken to be precluded from regular employment by responsibilities at home throughout the year by virtue of–
 - (i) the fact that child benefit was payable to him in respect of a child under the age of six; or
 - (ii) his satisfying such other condition as may be prescribed;
- (d) the pensioner is a person satisfying the requirement in subsection (3) below to whom long-term incapacity benefit [²or qualifying employment and support allowance] was payable throughout the year, or would have been so payable but for the fact that–
 - (i) he did not satisfy the contribution conditions in paragraph 2 of Schedule 3 [²or, as the case may be, [³in paragraphs 1 and 2] of Schedule 1 to the Welfare Reform Act] [³2007]; or
 - (ii) under regulations the amount payable to him was reduced to nil because of his receipt of other benefits or of payments from an occupational pension scheme or personal pension scheme.

- (3) The requirement referred to in subsection (2)(d) above is that–
 - (a) for one or more relevant years the pensioner has paid, or (apart from this section) is treated as having paid, primary Class 1 contributions on earnings equal to or greater than the qualifying earnings factor; and
 - (b) the years for which he has such a factor constitute at least one tenth of his working life.

- (4) For the purposes of subsection (3)(b) above–
 - (a) a pensioner’s working life shall not include–
 - (i) any tax year before 1978-79; or
 - (ii) any year in which he is deemed under subsection (1) above to have an earnings factor by virtue of fulfilling the condition in subsection (2)(b) or (c) above; and
 - (b) the figure calculated by dividing his working life by ten shall be rounded to the nearest whole year (and any half year shall be rounded down).

[⁴(4A)The following do not apply to a pensioner attaining pensionable age on or after 6th April 2010–

- (a) the requirement referred to in subsection (2)(d) above, and
- (b) subsections (3) and (4) above.]

(5) The low earnings threshold for the first appointed year and subsequent tax years shall be £9,500 (but subject to section 148A of the Administration Act).

[⁵(5A)In subsection (1)(a) “the applicable limit” has the same meaning as in section 44.]

(6) In subsection (2)(d)(ii) above, “occupational pension scheme” and “personal pension scheme” have the meanings given by subsection (6) of section 30DD above for the purposes of subsection (5) of that section.]

¹ In s. 44A(2)(b) the words “invalid care allowance” substituted by “carer’s allowance” (1.9.02 for the purposes of exercising powers to make subordinate legislation, 1.4.03 for all other purposes) by para. 2(a) of the Schedule to S.I. 2002/1457.

² Words inserted and added in paras. 2(d), ss. (2)(d) and (i) (27.10.08) by reg. 47(2) of S.I. 2008/1554.

³ Words substituted & inserted in s. 44A(2)(d)(i) (28.6.10) by reg. 4(a)(i)-(ii) of S.I. 2010/840.

⁴ S. 44A(4A) inserted (27.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 34(4).

⁵ S. 44A (5A) inserted (21.9.08) by the National Insurance Act 2008 (c. 16), Sch. 1, para. 4(3).

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[¹(7) In subsection (2)(d) “qualifying employment and support allowance” means contributory employment and support allowance where–

- (a) that allowance was payable for a continuous period of 52 weeks;
- (b) that allowance included the support component under section 2(2) of the Welfare Reform Act [²2007]; or
- (c) in the case of–
 - (i) a man born between 6th April 1944 and 5th April 1947; or
 - (ii) a woman born between 6th April 1949 and 5th April 1951,that allowance was payable for a continuous period of 13 weeks immediately following a period throughout which statutory sick pay was payable.]

Deemed earnings factors: 2010-11 onwards.

[³**44B**—(1) This section applies to 2010-11 and subsequent tax years.

(2) For the purposes of section 44(6)(za) above, if any of Conditions A to C in subsections (3) to (5) below is satisfied for a relevant year to which this section applies, a pensioner is deemed to have an earnings factors for that year which–

- (a) is derived from so much of his earnings as did not exceed [⁴the upper accrual point] and on which primary Class 1 contributions were paid; and
- (b) is equal to the amount which, when added to any other earnings factors taken into account under that provision, produces an aggregate of earnings factors equal to the low earnings threshold.

(3) Condition A is that the pensions would, apart from this section, have an earnings factor for the year–

- (a) equal to or greater than the qualifying earnings factor (“the QEF”) for the year, but
- (b) less than the low earnings threshold for the year.

(4) Condition B is that the pensioner–

- (a) would, apart from this section and section 44C below, have an earnings factor for the year less than the QEF for the year, but
- (b) is entitled to an aggregate amount of earnings factor credits for that year under section 44C below equal to the difference between the QEF for the year and the earnings factor mentioned in paragraph (a) above.

(5) Condition C is that the pensioner is entitled to 52 earnings factor credits for that year under section 44C below.

See Sch. 2, para. 5 of S.I. 2010/1907 on page 13.9423 for details of modifications to s. 44B as from 1.10.10.

(6) This section has effect in relation to the flat rate introduction year and any subsequent tax year as if–

- (a) subsection (2)(b) referred to an aggregate of earnings factors greater than the QEF, but less than the low earnings threshold, for the year (rather than to one equal to that threshold); and
- (b) Condition A in subsection (3) (and the reference to it in subsection (2)) were omitted.

(7) In this section–

- (a) “the applicable limit” has the same meaning as in section 44 above;
- (b) “the low earnings threshold” means the low earnings threshold for the year concerned as specified in section 44A above; and
- (c) in subsections (3) and (4), any reference to the pensioner’s earnings factor for a relevant year is to be construed in accordance with section 44(6)(za) above.

¹ Sec. 44A(7) added (27.10.08) by reg. 47(3) of S.I. 2008/1554.

² Reference inserted in s. 44A(7)(b) (28.6.10) by reg. 4(b) of S.I. 2010/840.

³ Ss. 44B & 44C inserted (27.9.07) by the Pensions Act 2007 (c. 22), s. 9(1).

⁴ Words substituted in s. 44B(2)(a) (21.9.08) by the National Insurance Contributions Act 2008 (c. 16) Sch. 1, para. 5.

44C.—(1) This section applies, for the purposes of Conditions B and C in section 44B(4) and (5) above, to 2010-11 and subsequent tax years. Earnings factor credits.

(2) In respect of each week—

- (a) which falls in a relevant year to which this section applies, and
- (b) in respect of which a pensioner is eligible for earnings factor enhancement,

the pensioner is entitled to an earnings factor credit equal to 1/52 of the QEF for that year.

This is subject to subsection (5) below.

(3) A pensioner is eligible for earnings factor enhancement in respect of a week if one or more of the following apply—

- (a) he was a relevant carer in respect of that week for the purposes of section 23A above (see section 23A(3));
- (b) carer's allowance was payable to him for any part of that week, or would have been so payable but for the fact that under regulations the amount payable to him was reduced to nil because of his receipt of other benefits;
- (c) severe disablement allowance was payable to him for any part of that week;
- (d) long-term incapacity benefit was payable to him for any part of that week or would have been so payable but for the fact that—
 - (i) he did not satisfy the contribution conditions in paragraph 2 of Schedule 3, or
 - (ii) under regulations the amount payable to him was reduced to nil because of his receipt of other benefits or of payments from an occupational pension scheme or personal pension scheme;
- (e) he satisfies such other conditions as may be prescribed.

(4) In subsection (3)(d)(ii) above “occupational pension scheme” and “personal pension scheme” have the meanings given by subsection (6) of section 30DD above for the purposes of subsection (5) of that section.

(5) For the purposes of Condition B in section 44B(4) above a person is not entitled to an aggregate amount of earnings factor credits in respect of a year that is greater than the difference referred to in that Condition.

(6) For the purposes of this section a week that falls partly in one tax year and partly in another is to be treated as falling in the year in which it begins and not in the following year.

(7) In section 44B above and this section—

- (a) “the QEF” means the qualifying earnings factor, and
- (b) any reference to a person being entitled to an earnings factor credit of a particular amount (or to an aggregate amount of earnings factor credits) for a year is a reference to the person being treated as having for that year an earnings factor (within the meaning of section 44(6)(za) above) of the amount in question by virtue of subsection (2) above.]

45.—(1) The weekly rate of the additional pension in a Category A retirement pension in any case where the pensioner attained pensionable age in a tax year before 6th April 1999 shall be [the sum of the following—

- (a) in relation to any surpluses in the pensioner's earnings factors] [¹; and
- (b) if the pensioner has one or more units of additional pension, a specified amount for each of those units.]

The additional pension in a Category A retirement pension.

the weekly equivalent of 1 1/4 per cent. of the [²adjusted] amount of the surpluses mentioned in section 44(3)(b) above.

¹ S. 45(1)(a), (b) inserted (1.10.14 for regulation making and 12.10.15 for all other purposes) by the Pensions Act 2014 (c. 19), Sch. 15, para. 7 (with S.I. 2014/2377, art. 2(3)).

² Words in s. 45(1) inserted (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all other purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(8)(a).

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(2) The weekly rate of the additional pension in Category A retirement pension in any case where the pensioner attained pensionable age in a tax year after 5th April 1999 shall be [¹the sum of the following]–

- (a) in relation to any surpluses in the pensioner's earnings factors for the tax years in the period beginning with 1978-79 and ending with 1987-88, the weekly equivalent of 25/N per cent. of the [²adjusted] amount of those surpluses; and
- (b) in relation to any surpluses in the pensioner's earnings factors in a tax year after 1987-88 [¹but before the first appointed year], the weekly equivalent of the relevant percentage of the [²adjusted] amount of those surpluses.
- [¹(c) in relation to any tax years falling within subsection (3A) below, the weekly equivalent of the amount calculated in accordance with Schedule 4A to this Act]^[3]; and
- (d) in relation to the flat rate introduction year and subsequent tax years, the weekly equivalent of the amount calculated in accordance with Schedule 4B to this Act]^[4]; and
- (e) if the pensioner has one or more units of additional pension, a specified amount for each of those units.]

[⁴(2A) For the purposes of subsections (1)(b) and (2)(e) the “specified amount” is an amount to be specified by the Secretary of State in regulations.]

(3) In subsection (2)(b) above, “relevant percentage” means–

- (a) 20/N per cent., where the pensioner attained pensionable age in 2009-10 or any subsequent tax year;
- (b) $(20 + X/N)$ per cent., where the pensioner attained pensionable age in a tax year falling within the period commencing with 1999-2000 and ending with 2008-9.

[⁵(3A) The following tax years all fall within this subsection–

- (a) the first appointed year;
- (b) subsequent tax years [⁶before the flat rate introduction year.]]

(4) In this section–

- (a) $X = 0.5$ for each tax year by which the tax year in which the pensioner attained pensionable age precedes 2009-10; and
- (b) N = the number of tax years in the pensioner's working life which fall after 5th April 1978;

but paragraph (b) above is subject, in particular, to subsection (5) and, where applicable, section 46 below.

(5) Regulations may direct that in prescribed cases or classes of cases any tax year shall be disregarded for the purpose of calculating N under subsection (4)(b) above, if it is a tax year after 5th April 1978 in which the pensioner–

- (a) was credited with contributions or earnings under this Act by virtue of regulations under section 22(5) above, or
- (b) was precluded from regular employment by responsibilities at home, or
- (c) in prescribed circumstances, would have been treated as falling within paragraph (a) or (b) above,

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

¹ Words and para. (c) inserted (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all other purposes) in s. 45(2) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 31(1).

² Words in s. 45(2)(a) & (b) inserted (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all other purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(8)(a).

³ S. 45(2)(d) and preceding word inserted (27.9.07) by the Pensions Act 2007 (c. 22), S. 11(2).

⁴ S. 45(2)(e), (2A) & preceding words inserted (1.10.14 for regulation making purposes and 12.10.15 for all other purposes) by the Pensions Act 2014 (c. 19), Sch. 15, para. 7 (see S.I. 2014/2377, art. 2(3)).

⁵ S. 45(3A) inserted (8.1.01 for reg. & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all other purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 31(2).

⁶ Words inserted in s. 45(3A) (27.9.07) by the Pensions Act 2007 (c. 22), s. 11(3).

(6) For the purposes of subsections (1) and (2) above, the weekly equivalent of [any amount] shall be calculated by dividing that amount by 52 and rounding the result to the nearest whole penny, taking any 1/2p as nearest to the next whole penny.

(7) Where the amount falling to be rounded under subsection (6) above is a sum less than 1/2p, the amount calculated under that subsection shall be taken to be zero, notwithstanding any other provision of this Act or the Administration Act.

(8) The sums which are the weekly rate of the additional pension in a Category A retirement pension are subject to alteration by orders made by the Secretary of State under section 150 of the Administration Act.

Up-rating percentages applicable to additional pension under such Orders are included in the table in volume 1 at pages 1.7751-3.

[²45AA.—(1) For the purposes of calculating additional pension under sections 44 and 45 where, in the case of any relevant year, working families' tax credit is paid in respect of any employed earner, or disabled person's tax credit is paid to any employed earner, section 44(6)(a)(i) shall have effect as if—

Effect of working families' tax credit and disabled person's tax credit on earnings factor.

- (a) where that person had earnings of not less than the qualifying earnings factor for that year, being earnings upon which primary class 1 contributions were paid or treated as paid ("qualifying earnings") in respect of that year, the amount of those qualifying earnings were increased by the aggregate amount ("AG") of working families' tax credit, or, as the case may be, disabled person's tax credit paid in respect of that year, and
- (b) in any other case, that person had qualifying earnings in respect of that year and the amount of those qualifying earnings were equal to AG plus the qualifying earnings factor for that year.

(2) The reference in subsection (1) to the person in respect of whom working families' tax credit is paid—

- (a) where it is paid to one of a couple, is a reference to the prescribed member of the couple, and
- (b) in any other case, is a reference to the person to whom it is paid.

(3) A person's qualifying earnings in respect of any year cannot be treated by virtue of subsection (1) as exceeding the upper earnings limit for that year multiplied by 53.

(4) Subsection (1) does not apply to any woman who has made, or is treated as having made, an election under regulations under section 19(4), which has not been revoked, that her liability in respect of primary Class 1 contributions shall be at a reduced rate.

(5) In this section

- "couple" has the same meaning as in Part 7 (see section 137);
- "relevant year" has the same meaning as in section 44.]

45A. [...³]

[⁴45B.—(1) The weekly rate of the additional pension in a Category A retirement pension shall be reduced as follows in any case where—

Reduction of additional pension in Category A retirement pension: pension sharing.

- (a) the pensioner has become subject to a state scheme pension debit, and
- (b) the debit is to any extent referable to the additional pension.

¹ Words in 45(6) substituted (8.1.01 for regs. & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all other purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(8)(b).

² S. 45AA inserted (3.1.12) by Pensions Act 2008 (c. 30), Sch. 4, para. 5(1).

³ S. 45A repealed (6.4.03) by Tax Credits Act 2002, Sch. 6.

⁴ S. 45B inserted (1.12.00) by Welfare Reform & Pensions Act 1999 (c. 30), Sch. 6, para. 2.

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(2) If the pensioner became subject to the debit in or after the final relevant year, the weekly rate of the additional pension shall be reduced by the appropriate weekly amount.

(3) If the pensioner became subject to the debit before the final relevant year, the weekly rate of the additional pension shall be reduced by the appropriate weekly amount multiplied by the relevant revaluation percentage.

(4) The appropriate weekly amount for the purposes of subsections (2) and (3) above is the weekly rate, expressed in terms of the valuation day, at which the cash equivalent, on that day, of the pension mentioned in subsection (5) below is equal to so much of the debit as is referable to the additional pension.

(5) The pension referred to above is a notional pension for the pensioner by virtue of section 44(3)(b) above which becomes payable on the later of—

- (a) his attaining pensionable age, and
- (b) the valuation day.

(6) For the purposes of subsection (3) above, the relevant revaluation percentage is the percentage specified, in relation to earnings factors for the tax year in which the pensioner became subject to the debit, by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.

[¹(7) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.

(7A) The power conferred by subsection (7) above includes power to provide—

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.]

(8) In this section—

“final relevant year” means the tax year immediately preceding that in which the pensioner attains pensionable age;

“state scheme pension debit” means a debit under section 49(1)(a) of the Welfare Reform and Pensions Act 1999 (debit for the purposes of this Part of this Act);

“valuation day” means the day on which the pensioner became subject to the state scheme pension debit.]

Modifications of section 45 for calculating the additional pension in certain benefits.

46.—(1) [...²

(2) For the purpose of determining the additional pension falling to be calculated under section 45 above by virtue of section 39(1)[³or 39C(1)] above or section [⁴...][³, 48B(2) [...⁵]] below in a case where the deceased spouse died under pensionable age [⁶or by virtue of section 39C(1) above or section [⁴...][⁷48B(2)] below in a case where the deceased civil partner died under pensionable age], the following definition shall be substituted for the definition of “N” in section 45(4)(b) above—

¹ Ss. (7) & (7A) substituted (29.9.00) for (7) in s. 45B by Child Support, Pensions & Social Security Act 2000 (c. 19), s. 41(2).

² S. 46(1) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 12(a) & Sch. 2.

³ For the purposes of making regulations, ref. to “39C(1)” inserted in s. 46(2) (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 70 of Welfare Reform and Pensions Act 1999 (c. 30).

⁴ Words omitted in s. 46(2) (6.4.16) by Pensions Act 2014 (c. 19), Sch. 12, para. 59.

⁵ Words omitted in s. 46(2) (8.1.01 for regulation & order making purposes, 9.4.01 for all remaining purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 32(3).

⁶ Words inserted in s. 46 (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch. 24, para. 23.

⁷ Words in s. 46(2) substituted (3.1.12) by Pensions Act 2008 (c. 30), Sch. 4, para. 6(2).

[¹“N”=

- (a) the number of tax years which begin after 5th April 1978 and end before the date when the entitlement to the additional pension commences, or
- (b) the number of tax years in the period—
 - (i) beginning with the tax year in which the deceased spouse [²or civil partner] (“S”) attained the age of 16 or if later 1978-79, and
 - (ii) ending immediately before the tax year in which S would have attained pensionable age if S had not died earlier,
 whichever is the smaller number].

[³(3) For the purpose of determining the additional pension falling to be calculated under section 45 above by virtue of section 48BB below in a case where the deceased spouse [²or civil partner] died under pensionable age, the following definition shall be substituted for the definition of “N” in section 45(4)(b) above—

“ “N” =

- (a) the number of tax years which begin after 5th April 1978 and end before the date when the deceased spouse [²or civil partner] dies, or
- (b) the number of tax years in the period—
 - (i) beginning with the tax year in which the deceased spouse [²or civil partner] (“S”) attained the age of 16 or, if later, 1978-79, and
 - (ii) ending immediately before the tax year in which S would have attained pensionable age if S had not died earlier,
 whichever is the smaller number.”]

whichever is the smaller number.”]

[⁴(4) For the purpose of determining the additional pension falling to be calculated under section 45 above by virtue of section 39C(1) above in a case where the deceased spouse or civil partner died under pensionable age, section 45 has effect subject to the following additional modifications—

- (a) the omission of subsection (2)(d), and
- (b) the omission in subsection (3A)(b) of the words “before the flat rate introduction year”.]

47.—(1) Subject to section 61 below, the weekly rate of a Category A retirement pension shall be increased if the pensioner was entitled to an [⁵age addition to long-term incapacity benefit by virtue of regulations under section 30(7) above] in respect of—

Increase of Category A retirement pension for invalidity.

- (a) any day falling within the period of 8 weeks ending immediately before the day on which he attains pensionable age; or
- (b) the last day before the beginning of that period;

and the increase shall, subject to subsection (2) below, be of an amount equal to the appropriate weekly rate of the [⁵age addition to long-term incapacity benefit by virtue of regulations under section 30B(7) above] on that day.

(2) Where for any period the weekly rate of a Category A retirement pension includes an additional pension, for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under subsection (1) above and the pensioner shall be entitled to an increase under that subsection only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.

(3) In subsection (2) above the “relevant amount” means an amount equal to the additional pension, reduced by the amount of any reduction in the weekly rate of the

¹ Words in s. 46(2) substituted (19.7.95) by Pensions Act 1995 (c. 26), Sch. 4, para. 5.

² Words inserted in s. 46(2)(b)(i) & 46(3) (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch. 24, para. 23.

³ S. 46(3) inserted (8.1.01 for regulation & order making purposes, 9.4.01 for all remaining purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 32(1).

⁴ S. 46(4) inserted (27.9.07) by Pensions Act 2007 (c. 22), Sch. 2, para. 6.

⁵ Words in s. 47(1) substituted (13.4.95) by para. 13 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

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Category A retirement pension made by virtue of [¹section 46] of the Pensions Act.

Where there is entitlement to a guaranteed minimum pension, s. 47(3) is modified (7.2.94) by s. 46(4) of the Pension Schemes Act 1993 (c. 48).

[²(3A) In subsection (2) and (3) above references to additional pension do not include any amount of additional pension attributable to units of additional pension.

(3B) For units of additional pension, see section 14A.]

(4) In this section any reference to an additional pension is a reference to that pension after any increase under section 52(3) below but without any increase under paragraphs 1 and 2 of Schedule 5 to this Act.

(5) In ascertaining for the purposes of subsection (1) above the rate of a pensioner's [³age addition to long-term incapacity benefit by virtue of regulations under section 30B(7) above], regard shall be had to the rates in force from time to time.

(6) Regulations may provide that subsection (1) above shall have effect as if for the reference to 8 weeks there were substituted a reference to a larger number of weeks specified in the regulations.

Use of former spouse's contributions.

48.—(1) Where a person [⁴who attained pensionable age before 6 April 2016]—

(a) has been [⁵in a relevant relationship], and

(b) in respect of the tax year in which the [⁵relationship] terminated or any previous tax year, does not with his own contributions satisfy the contribution conditions for a Category A retirement pension,

then for the purpose of enabling him to satisfy those conditions (but only in respect of any claim for a Category A retirement pension), the contributions of his former spouse [⁴or civil partner] may to the prescribed extent be treated as if they were his own contributions.

(2) Subsection (1) above shall not apply in relation to any person who attained pensionable age before 6th April 1979 if the termination of his [⁵relevant relationship] also occurred before that date.

[⁴(2A) Regulations under subsection (1) may not provide for contributions of a person in respect of times on or after 6 April 2016 to be treated as contributions of another person.]

[⁵(3) Where a person has been in a relevant relationship more than once, this section applies only to the last relevant relationship and the references to his relevant relationship and his former spouse or civil partner shall be construed accordingly.

(4) In this section, “relevant relationship” means a marriage or civil partnership.]

For s. 48A see also S.I. 2001/1085 at page 3.8391 for modifications relating to inherited SERPS from 6.10.02.

Category B retirement pension for married person or civil partner.

[⁴**48A.—**(1) A married person is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if—

(a) the person attained pensionable age before 6 April 2016, and

(b) the spouse—

(i) has attained pensionable age, and

(ii) satisfies the relevant contribution condition.

¹ Words in s. 47(3) substituted (7.2.94) by Pensions Scheme Act 1993 (c. 48), Sch. 8, para. 39.

² Ss. 47(3A) & (3B) inserted (12.10.15) by art. 2 of S.I. 2014/3213.

³ Words in s. 47(5) substituted (13.4.95) by para. 13 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

⁴ Words in s. 48(1) & (2A) & ss. 48A & 48BAA inserted (6.4.16) by the Pensions Act 2014 (c. 19, Sch. 12, paras. 56 & 61.

⁵ In s. 48 words substituted & inserted; sub-para. (3) & (4) substituted for (3) (5.12.05) by Civil Partnership Act 2004, Sch 24, para. 24.

(2) But subsection (1) does not confer a right to a Category B retirement pension on—

- (a) a man whose spouse was born before 6 April 1950, or
- (b) a woman whose wife was born before 6 April 1950.

(3) A person who is a civil partner is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner (“the contributing civil partner”) if—

- (a) the person attained pensionable age before 6 April 2016, and
- (b) the contributing civil partner—
 - (i) was born on or after 6 April 1950,
 - (ii) has attained pensionable age, and
 - (iii) satisfies the condition in paragraph 5A of Schedule 3.

(4) A Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.

(5) A person ceases to be entitled to a Category B retirement pension under this section if—

- (a) the person’s spouse or civil partner dies (but see sections 48B and 51), or
- (b) the person otherwise ceases to be married or in the civil partnership (but see section 48AA).

(6) In subsection (1)(b)(ii) “the relevant contribution condition” means—

- (a) in a case where the spouse was born before 6 April 1945, the conditions in paragraph 5 of Schedule 3;
- (b) in any other case, the condition in paragraph 5A of Schedule 3.

(7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or contributing civil partner for the tax year beginning with 6 April 2016 or any later tax year.

(8) Section 51ZA contains special rules for cases involving changes in gender.

48BAA.—(1) A person who has been in a marriage that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former spouse if—

Category B retirement pension for divorcee or former civil partner

- (a) the person attained pensionable age—
 - (i) before 6 April 2016, and
 - (ii) before the marriage was dissolved, and
- (b) the former spouse—
 - (i) attained pensionable age before the marriage was dissolved, and
 - (ii) satisfied the relevant contribution condition.

(2) But subsection (1) does not confer a right to a Category B retirement pension on—

- (a) a man whose former spouse was born before 6 April 1950, or
- (b) a woman whose former wife was born before 6 April 1950.

(3) A person who has been in a civil partnership that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former civil partner if—

- (a) the person attained pensionable age—
 - (i) before 6 April 2016, and
 - (ii) before the civil partnership was dissolved, and

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- (b) the former civil partner—
 - (i) was born on or after 6 April 1950,
 - (ii) attained pensionable age before the civil partnership was dissolved, and
 - (iii) satisfied the condition in paragraph 5A of Schedule 3.

(4) During any period when the person's former spouse or civil partner is alive, a Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.

(5) During any period after the person's former spouse or civil partner is dead, a Category B retirement pension payable under this section is payable at the weekly rate of the basic pension specified in section 44(4).

(6) In subsection (1)(b)(ii) "the relevant contribution condition" means—

- (a) in a case where the former spouse was born before 6 April 1945, the conditions in paragraph 5 of Schedule 3;
- (b) in any other case, the condition in paragraph 5A of Schedule 3.

(7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the former spouse or civil partner for the tax year beginning with 6 April 2016 or any later tax year.

(8) A voidable marriage or civil partnership which has been annulled is to be treated for the purposes of this section as if it had been a valid marriage or civil partnership which was dissolved at the date of annulment.

(9) Section 51ZA contains special rules for cases involving changes in gender.]

For s. 48B see also S.I. 2001/1085 at page 3.8391 for modifications relating to inherited SERPS from 6.10.02.

48B.[†]—^{[1}(1) A person ("the pensioner" whose spouse died while they were married is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if—

- (a) the pensioner attained pensionable age—
 - (i) before 6 April 2016, and
 - (ii) before the spouse died, and
- (b) the spouse satisfied the relevant contribution condition.

(1ZA) But subsection (1) does not confer a right to a Category B retirement pension on—

- (a) a man who attained pensionable age before 6 April 2010, or
- (b) a woman who attained pensionable age before 6 April 2010 and whose spouse was a woman.

(1ZB) In subsection (1)(b) "the relevant contribution condition" means—

- (a) in a case where the spouse—
 - (i) died before 6 April 2010, or
 - (ii) died on or after that date having attained pensionable age before that date.

the conditions in paragraph 5 of Schedule 3, and

- (b) in any other case, the condition in paragraph 5A of Schedule 3.

(1A) A person ("the pensioner") whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner if—

- (a) the pensioner attained pensionable age—

[†] S. 48B(1) to (1A) substituted (6.4.16) by Pensions Act 2014 (c. 19), Sch. 12, para. 61(2).

- (i) on or after 6 April 2010 but before 6 April 2016, and
- (ii) before the civil partner died, and
- (b) the civil partner satisfied the relevant contribution condition.

(1B) In subsection (1A)(b) “the relevant contribution condition” means—

- (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
- (b) in any other case, the condition in paragraph 5A of Schedule 3.]

(2) A Category B retirement pension payable by virtue of subsection (1) [¹or (1A)] above shall be payable at a weekly rate corresponding to—

- (a) the weekly rate of the basic pension, plus
- (b) half of the weekly rate of the additional pension,

determined in accordance with the provisions of sections 44 to [²45B] above [³and [⁴Schedules 4A and 4B] below] as they apply in relation to a Category A retirement pension, but subject to section [⁵46] above and the modifications in subsection (3) below and section 48C(4) below.

(3) Where the spouse [¹or civil partner] died under pensionable age, references in the provisions of sections 44 to [²45B] above as applied by subsection (2) above to the tax year in which the pensioner attained pensionable age shall be taken as references to the tax year in which the spouse [¹or civil partner] died.

[⁶(3A) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the deceased for the tax year beginning with 6 April 2016 or any later tax year.]

[⁶(4) A woman (“the pensioner”) whose husband died before she attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of her husband if—

- (a) she attained pensionable age before 6 April 2016, and
- (b) the condition in subsection (5) is satisfied.

(4A) A man (“the pensioner”) whose wife died before he attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of his wife if—

- (a) he attained pensionable age on or after 6 April 2010 but before 6 April 2016, and
- (b) the condition in subsection (5) would have been satisfied on the assumption mentioned in subsection (7).]

(5) the condition is that the pensioner—

- (a) is entitled (or is treated by regulations as entitled) to a widow’s pension by virtue of section 38 above, and
- (b) became entitled to that pension in consequence of the spouse’s death.

(6) A Category B retirement pension payable by virtue of subsection (4) [⁷or (4A)] above shall be payable—

- (a) where the pensioner is a woman, at the same weekly rate as her widow’s pension, and

¹ Words in s. 48B(2) & (3) inserted (5.12.05) by Civil Partnership Act 2004, Sch. 24, paras. 25 & 26.

² Words in s. 48B(2) & (3) substituted (1.12.00) by Welfare Reform & Pensions Act 1999 (c. 30), Sch. 12, paras. 19 & 20.

³ Words in s. 48B(2) inserted (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all other purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(a).

⁴ Words substituted in S. 48B(2) (27.9.07) by Pensions Act 2007 (c. 22), Sch. 2, para. 8.

⁵ Words in s. 48B(2) substituted (3.1.12) by Pensions Act 2008 (c. 30), Sch. 4, para. 8(b).

⁶ S. 48B(3A) & (4A) inserted & (4) substituted (6.4.16) by Pensions Act 2014 (c. 19), Sch. 12, para. 61(3) & (4).

⁷ Words in s. 48B(6) substituted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 61(5).

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- (b) where the pensioner is a man, at the same weekly rate as that of the pension to which he would have been entitled by virtue of section 38 above on the assumption mentioned in subsection (7) below.

(7) The assumption referred to in subsections [14A] and (6) above is that a man is entitled to a pension by virtue of section 38 above on the same terms and conditions, and at the same rate, as a woman.

[2(8) Nothing in subsections (4) to (7) above applies in a case where the spouse dies on or after the appointed day (as defined by section 36A(3)).]

[1(9) Section 51ZA contains special rules for cases involving changes in gender.]

[3(10) Subsection (11) applies in the case of a pensioner entitled to a Category B retirement pension by virtue of subsection (1) or (1A) whose spouse or civil partner—

- (a) attained pensionable age on or after 6 April 2016, and
(b) died after attaining pensionable age.

(11) Where this subsection applies, the amount determined in accordance with subsection (2) as the weekly rate of the additional pension payable to the pensioner must be increased by such percentage as equal the overall percentage by which, had the pension been in payment as from the date when the spouse or civil partner reached pensionable age until the spouse's or civil partner's death that weekly rate would have increased during that period by virtue of orders under section 150 of the Administration Act (annual uprating of benefits).]

For s. 48B see also S.I. 2001/1085 at page 3.8391 for modifications relating to inherited SERPS from 6.10.02.

†S. 48BB is inserted subject to para. 3(3) of Sch. 4 to the Pensions Act 1995 (c. 26) (does not apply to men reaching pensionable age before 6.4.2010).

Category B retirement pension: entitlement by reference to benefits under section 39A or 39B.

[4**48BB**.—(1) Subsection (2) below applies where a person (“the pensioner”) [1who attained pensionable age before 6 April 2016]—

- (a) was, immediately before attaining that age, entitled to a widowed parent's allowance in consequence of the death of his or her spouse [4or civil partner]; and
(b) has not [5following that death married or formed a civil partnership].

(2) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse [4or civil partner], which shall be payable at the same weekly rate as the widowed parent's allowance.

(3) Subsections (4) to (10) below apply where a person (“the pensioner”) [1who attained pensionable age before 6 April 2016]—

- (a) was in consequence of the death of his or her spouse [4or civil partner] either—
(i) entitled to a bereavement allowance at any time prior to attaining that age, or
(ii) entitled to a widowed parent's allowance at any time when over the age of 45 (but not immediately before attaining pensionable age); and
(b) has not [4following that death married or formed a civil partnership].

(4) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse [4or civil partner].

¹ Words in s. 48B(7) & 48BB(1) & (3) substituted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 61(6).

² S. 48B(8) added (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 70 of Welfare Reform and Pensions Act 1999 (c. 30).

³ S. 48B(10)-(11) inserted (6.4.16) by S.I. 2016/244, art. 2(3).

⁴ S. 48BB inserted (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 56 of Welfare Reform and Pensions Act 1999 (c. 30).

⁵ Words inserted and substituted in s. 48BB (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch. 24, para. 27.

(5) A Category B retirement pension payable by virtue of subsection (4) above shall be payable at a weekly rate corresponding to the weekly rate of the additional pension determined in accordance with the provisions of sections 44 to [145AA and 45B] above [2 and [3 Schedules 4A and 4B] below] as they apply in relation to a Category A retirement pension, but [3 subject to section [146] above and to the following provisions of this section and the modification in section 48C(4) below.]

(6) Where the spouse [4 or civil partner] died under pensionable age, references in the provisions of sections 44 to [145AA and 45B] above [2 and Schedule 4A below], as applied by subsection (5) above, to the tax year in which the pensioner attained pensionable age shall be taken as references to the tax year in which the spouse [5 or civil partner] died.

(7) Where the spouse [4 or civil partner] dies after [5th October 2002], the pension payable by virtue of subsection [6(4A)] above shall (before making any reduction required by subsection (8) below) be one half of the amount which it would be apart from this subsection.

(8) Where the pensioner was under the age of 55 at the relevant time, the weekly rate of the pension shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied—

- (a) by the number of years by which the pensioner’s age at that time was less than 55 (any fraction of a year being counted as a year), or
- (b) by ten, if that number exceeds ten.

(9) In subsection (8) above “the relevant time” means—

- (a) where the pensioner became entitled to a widowed parent’s allowance in consequence of the death of the spouse [4 or civil partner], the time when the pensioner’s entitlement to that allowance ended; and
- (b) otherwise, the time of the spouse’s [4 or civil partner’s] death.

(10) The amount determined in accordance with subsections (5) to (9) above as the weekly rate of the pension payable to the pensioner by virtue of subsection (4) above shall be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date of the spouse’s [4 or civil partner’s] death until the date when the pensioner attained pensionable age, that weekly rate would have been increased during that period by virtue of any orders under section 150 of the Administration Act (annual up-rating of benefits).]

48C.—(1) Subject to the provisions of this Act, a person’s entitlement to a Category B retirement pension shall begin on the day on which the conditions of entitlement become satisfied and shall continue for life.

Category B retirement pension: general.

(2) In any case where—

- (a) a person would, apart from section 43(1) above, be entitled both to a Category A and a Category B retirement pension, and
- (b) section 47(1) above would apply for the increase of the Category A retirement pension,

section 47(1) above shall be taken as applying also for the increase of the Category B retirement pension, subject to reduction or extinguishment of the increase by the application of section 47(2) above or section 46(5) of the Pensions Act.

¹ Words substituted & inserted in s. 48BB (5) & (6) (3.1.12) by Pensions Act 2008 (c. 30), Sch. 4, para. 9(2) & (3).
² Words in s. 48BB(5) & (6) inserted (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all other purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(11).
³ Words substituted in s. 48BB(5) (27.9.07) by Pensions Act 2007, (c. 22), Sch. 1, para. 9.
⁴ Words inserted and substituted in s. 48BB inserted (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch. 24, para. 27.
⁵ Words substituted in s. 48BB(7) (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19).
⁶ Words in s. 48BB(7) substituted (6.4.16) by the Pensions Act 2014, Sch. 12, para. 63(3).

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(3) In the case of a pensioner whose spouse died on or before [1⁵th October 2002], [2^{section}] [3^{48B(2) or 48BB(5)}] above shall have effect with the omission of the words “half of”.

(4) In the application of the provisions of sections 44 to [4^{45B}] above [5^{and}] [6^{Schedules 4A and 4B}] below] by virtue of sections [...²] [3^{48B(2) or 48BB(5)}] above, references in those provisions to the pensioner shall be taken as references to the spouse [7^{or civil partner}].

Category B retirement pension for women.

49. replaced under 1995 c. 26, see Annex 1, page 2.3101

Rate of Category B retirement pension for women.

50. replaced under 1995 c. 26 see Annex 1, page 2.3101

For s. 51 see also S.I. 2001/1085 at page 3.8391 for modifications relating to inherited SERPS from 6.10.02.

Category B retirement pension for widows, widowers and surviving civil partners who attained pensionable age before 6 April 2010.

[2⁵¹].—(1) A person (“the pensioner”) whose spouse died while they were married is entitled to a Category B retirement pension if—

- (a) they were both over pensionable age at the time of the death,
- (b) the pensioner attained pensionable age before 6 April 2010, and
- (c) the spouse satisfied the relevant contribution condition.

(2) But subsection (1) does not confer a right to a Category B retirement pension on—

- (a) a woman whose husband has died; or
- (b) a man whose wife died before 6 April 1979.

(3) In subsection (1)(c) “the relevant contribution condition” means—

- (a) in a case where the spouse attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
- (b) in a case where the spouse attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.

(4) A person (“the pensioner”) whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension if—

- (a) they were both over pensionable age at the time of the death,
- (b) the pensioner attained pensionable age before 6 April 2010, and
- (c) the deceased civil partner satisfied the relevant contribution condition.

(5) In subsection (4)(c) “the relevant contribution condition” means—

- (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
- (b) in a case where the deceased civil partner attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.

¹ Words substituted in ss. 48C(3) (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19).

² Words in s. 48C(3) & (4) substituted & omitted. S. 51 substituted (6.4.16) by the Pensions Act 2014, Sch. 12, paras. 63 & 64.

³ Ref. to “48BB(5)” inserted in s. 48C (24.4.2000 for reg. making purposes, 9.4.01 for all other purposes) by s. 70 of Welfare Reform and Pensions Act 1999 (c. 30).

⁴ Words in s. 48C(4) substituted (1.12.00) by Welfare Reform & Pensions Act 1999 (c. 18), Sch. 12, para. 21.

⁵ Words in s. 48C(4) inserted (8.1.01 for regulation and order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, (6.4.02) for all other purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(12).

⁶ Words substituted in s. 48C(4) (27.9.07) by Pensions Act 2007 (c. 22), Sch. 2, para. 10.

⁷ Words in s. 48C(4) inserted by para. 1 of the Sch. to S.I. 2005/2053 as from 5.12.05.

(6) The weekly rate of a person's Category B retirement pension under this section is to be determined in accordance with sections 44 to 45AA and [¹Schedules 4A and 4B] as they apply in the case of a Category A retirement pension taking references in those sections to the pensioner as references to the spouse or deceased civil partner.

(7) But in the case of—

- (a) a man whose wife dies after 5 October 2002,
- (b) a surviving party to a marriage of a same sex couple, or
- (c) a surviving civil partner,

any amount of additional pension falling to be calculated under subsection (6) is to be halved.

(8) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or deceased civil partner for the tax year beginning with 6 April 2016 or any later tax year.

(9) Subject to the provisions of this Act, a person becomes entitled to a Category B retirement pension under this section on the day on which the conditions of entitlement become satisfied and the entitlement continues throughout the person's life.

(10) Section 51ZA contains special rules for cases involving changes in gender.]

[¹(11) Subsection (12) applies in the case of a pensioner whose spouse or civil partner—

- (a) attained pensionable age on or after 6 April 2016, and
- (b) died after attaining pensionable age.

(12) Where this subsection applies, the amount determined in accordance with this section as the weekly rate of the additional pension payable to the pensioner must be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date when the spouse or civil partner reached pensionable age until the spouse' or civil partner's death, that weekly rate would have increased during that period by virtue of orders under section 150 of the Administration Act (annual uprating of benefits.)

[²**51ZA.**—(1) Section 48A(2)(6) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—

- (a) her spouse is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage subsisted before the time when that certificate was issued.

Special provision for married person whose spouse changed gender.

(2) Section 48AA(2)(b) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—

- (a) her former spouse was, at the time the marriage was dissolved, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage subsisted before the time when that certificate was issued.

(3) Section 48B(1ZA)(b) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—

- (a) her dead spouse was, at the time of death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage subsisted before the time when that certificate was issued.

¹ Words in s. 51(6) substituted & s. 51(11) & (12) inserted (6.4.16) by S.I. 2016/224, art. 2(4)(a) & (b).

² S. 51ZA inserted (6.4.16) by Pensions Act 2014 (c. 19), s. 23, s. 56(4), Sch. 12, para. 65 (with Sch. 12, para. 87(1)(2)).

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and in such a case the reference in section 48B(1ZB)(a)(ii) to the spouse having attained pensionable age before 6 April 2010 is to be read as a reference to the spouse having been born before 6 April 1945.

(4) Section 51(1) does not confer a right to a Category B retirement pension on a woman if—

- (a) her dead spouse was, at the time of death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage subsisted before the time when that certificate was issued.]

Special provision for married people.

[**51A.**—(1) This section has effect where, apart from section 43(1) above, a married person [²or civil partner] would be entitled both—

- (a) to a Category A retirement pension, and
- (b) to a Category B retirement pension by virtue of the contributions of the other party to the marriage [²or civil partnership].

(2) If by reason of a deficiency of contributions the basic pension in the Category A retirement pension falls short of the weekly rate specified in Schedule 4, Part I, paragraph 5, that basic pension shall be increased by the lesser of—

- (a) the amount of the shortfall, or
- (b) the amount of the weekly rate of the Category B retirement pension.

(3) This section does not apply in any case where both parties to the marriage attained pensionable age before 6th April 1979].

Special provision for surviving spouses.

52.—(1) This section has effect where, apart from section 43(1) above, a person would be entitled both—

- (a) to a Category A retirement pension; and
- [³(b) to a Category B retirement pension by virtue of the contributions of a spouse [²or civil partner] who has died].

(2) If by reason of a deficiency of contributions the basic pension in the Category A retirement pension falls short of the full amount, that basic pension shall be increased by the lesser of—

- (a) the amount of the shortfall, or
- (b) the amount of the basic pension in the rate of the Category B retirement pension,

“full amount” meaning for this purpose the sum specified in section 44(4) above as the weekly rate of the basic pension in a Category A retirement pension.

(3) If the additional pension in the Category A retirement pension falls short of the [⁴maximum amount specified in regulations], that additional pension shall be increased by the lesser of—

- (a) the amount of the shortfall, or
- (b) the amount of the additional pension in the Category B retirement pension.

[⁵(3A) In subsection (3) the references to additional pension in a Category A or Category B retirement pension do not include any amount of additional pension attributable to units of additional pension.

(3B) If an amount of additional pension in the Category B retirement pension is attributable to units of additional pension, the additional pension in the Category A retirement pension is increased by that amount (in addition to any increase under subsection (3)).

¹ S. 51A inserted (19.7.95) by Pensions Act 1995 (c. 26), Sch. 4, para. 21(6).

² Words inserted & substituted in ss. 51A & 52 (5.12.06) by Civil Partnership Act 2006 (c. 33), Sch. 24, paras. 28, 29 & 30.

³ S. 52(1)(b) substituted (19.7.95) by Pensions Act 1995 (c. 26), Sch. 4, para. 21(7).

⁴ Words in s. 52(3) substituted (6.4.16) by Pensions Act 2014 (c. 19), Sch. 12, para. 66.

⁵ S. 52(3A) & (3B) inserted (12.10.15) by Pensions Act 2014 (c. 19), Sch. 15, para. 8.

(4) This section does not apply in any case where the death of the wife or husband, as the case may be, occurred before 6th April 1979 and the surviving spouse had attained pensionable age before that date.

53. repealed by 1995 c. 26 see Annex 1, page 2.3101

Special provision for married women.
Category A and Category B retirement pensions: supplemental provisions.

54.—(1) Regulations may provide that in the case of a person of any prescribed description who—

- (a) has become entitled to a Category A or Category B retirement pension [...¹]; and
- (b) elects in such manner and in accordance with such conditions as may be prescribed that the regulations shall apply in his case,

this Part of this Act shall have effect as if that person had not become entitled to such a retirement pension [²or to a shared additional pension].

(2) Regulations under subsection (1) above may make such modifications of the provisions of this Part of this Act, or of those of [³Chapter II of Part 1 of the Social Security Act 1998] as those provisions apply in a case where a person makes an election under the regulations, as may appear to the Secretary of State necessary or expedient.

(3) [...⁴]

(4) repealed by 1995 c. 26, see Annex 1, page 2.3101

[⁵55.—(1) Where a person’s entitlement to a Category A or Category B retirement pension is deferred, Schedule 5 to this Act has effect.

Pension increase or lump sum where entitlement to retirement pension deferred.

- (2) In that Schedule—
- paragraph A1 makes provision enabling an election to be made where the pensioner’s entitlement is deferred
 - paragraphs 1 to 3 make provision about increasing pension where the pensioner’s entitlement is deferred
 - paragraphs 3A and 3B make provision about lump sum payments where the pensioner’s entitlement is deferred
 - paragraph 3C makes provision enabling an election to be made where the pensioner’s deceased spouse [⁶or civil partner] has deferred entitlement
 - paragraphs 4 to 7 make provision about increasing pension where the pensioner’s deceased spouse [⁶or civil partner] has deferred entitlement
 - paragraphs 7A and 7B make provision about lump sum payments where the pensioner’s deceased spouse [⁶or civil partner] has deferred entitlement
 - paragraphs 7C to 9 make supplementary provision.

(3) For the purposes of this Act a person’s entitlement to a Category A or Category B retirement pension is deferred if and so long as that person—

- [⁷(a) does not become entitled to that pension by reason only of not satisfying the conditions of section 1 of the Administration Act (entitlement to benefit dependent on claim), or]
- (b) in consequence of an election under section 54(1), falls to be treated as not having become entitled to that pension,

¹ Words in s. 54(1)(a) deleted (6.4.05) by Pensions Act 1995 (c. 26), Sch. 4, para 6(1) and (5) and Sch. 7, Part II.
² Words in s. 54(1) inserted (1.12.00) by the Welfare Reform & Pensions Act 1999 (c. 30), Sch. 12, para. 22.
³ Words in s. 54(2) substituted (6.9.99) by S.S. Act 98 (c. 14), Sch. 7, para. 62.
⁴ S. 54(3) omitted (6.4.10) by the Pensions Act 2007 (c. 22), Sch. 1, para. 6.
⁵ S. 55 substituted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), s. 297(1).
⁶ In s. 55(2) words inserted by para. 3 of the Sch. to S.I. 2005/2053 as from 5.12.05.
⁷ S. 55(3)(a) substituted (6.4.10) by the Pensions Act 2007 (c. 22), Sch. 1, para. 7.

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and, in relation to any such pension, “period of deferment” shall be construed accordingly.]

[¹*Shared additional pension*

Shared additional pension.

55A.—(1) A person shall be entitled to a shared additional pension if he is—

- (a) over pensionable age, and
- (b) entitled to a state scheme pension credit.

(2) A person’s entitlement to a shared additional pension shall continue throughout his life.

(3) The weekly rate of a shared additional pension shall be the appropriate weekly amount, unless the pensioner’s entitlement to the state scheme pension credit arose before the final relevant year, in which case it shall be that amount multiplied by the relevant revaluation percentage.

(4) The appropriate weekly amount for the purposes of subsection (3) above is the weekly rate, expressed in terms of the valuation day, at which the cash equivalent, on that day, of the pensioner’s entitlement, or prospective entitlement, to the shared additional pension is equal to the state scheme pension credit.

(5) The relevant revaluation percentage for the purposes of that subsection is the percentage specified, in relation to earnings factors for the tax year in which the entitlement to the state scheme pension credit arose, by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.

[²(6) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.

(6A) The power conferred by subsection (6) above includes power to provide—

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.]

(7) In this section—

“final relevant year” means the tax year immediately preceding that in which the pensioner attains pensionable age;

“state scheme pension credit” means a credit under section 49(1)(b) of the Welfare Reform and Pensions Act 1999 (credit for the purposes of this Part of this Act);

“valuation day” means the day on which the pensioner becomes entitled to the state scheme pension credit.

Uprating percentages applicable to shared additional pension are included in the table to volume 1 at pages 1.7601 et seq.

¹ Ss. 55A-C inserted (1.12.00) by the Welfare Reform & Pensions Act 1999 (c. 30), Sch. 6, para. 3

² S. 55A(6) substituted & s. 55A(6A) inserted (29.9.00) by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 41(3) & (4).

55B.—(1) The weekly rate of a shared additional pension shall be reduced as follows in any case where—

Reduction of shared additional pension: pension sharing.

- (a) the pensioner has become subject to a state scheme pension debit, and
- (b) the debit is to any extent referable to the pension.

(2) If the pensioner became subject to the debit in or after the final relevant year, the weekly rate of the pension shall be reduced by the appropriate weekly amount.

(3) If the pensioner became subject to the debit before the final relevant year, the weekly rate of the additional pension shall be reduced by the appropriate weekly amount multiplied by the relevant revaluation percentage.

(4) The appropriate weekly amount for the purposes of subsections (2) and (3) above is the weekly rate, expressed in terms of the valuation day, at which the cash equivalent, on that day, of the pension mentioned in subsection (5) below is equal to so much of the debit as is referable to the shared additional pension.

(5) The pension referred to above is a notional pension for the pensioner by virtue of section 55A above which becomes payable on the later of—

- (a) his attaining pensionable age, and
- (b) the valuation day.

(6) For the purposes of subsection (3) above, the relevant revaluation percentage is the percentage specified, in relation to earnings factors for the tax year in which the pensioner became subject to the debit, by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.

[¹(7) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.

(7A) The power conferred by subsection (7) above includes power to provide—

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.]

(8) In this section—

“final relevant year” means the tax year immediately preceding that in which the pensioner attains pensionable age;
 “state scheme pension debit”, means a debit under section 49(1)(a) of the Welfare Reform and Pensions Act 1999 (debit for the purposes of this Part of this Act);
 “valuation day” means the day on which the pensioner became subject to the state scheme pension debit.

[²**55C**—(1) Where a person’s entitlement to a shared additional pension is deferred, Schedule 5A to this Act has effect.

Pension increase or lump sum where entitlement to shared additional pension is deferred.

(2) In that Schedule—

paragraph 1 makes provision enabling an election to be made where the person’s entitlement is deferred

¹ Subsection (7) of S. 55B substituted (29.9.00) by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 41(3) & (4).

² S. 55C substituted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), s. 297(2).

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paragraphs 2 and 3 make provision about increasing pension where the person's entitlement is deferred

paragraphs 4 and 5 make provision about lump sum payments where the person's entitlement is deferred.

(3) For the purposes of this Act, a person's entitlement to a shared additional pension is deferred—

- (a) where he would be entitled to a Category A or Category B retirement pension but for the fact that his entitlement is deferred, if and so long as his entitlement to such a pension is deferred, and
- (b) otherwise, if and so long as he does not become entitled to the shared additional pension by reason only of not satisfying the conditions of section 1 of the Administration Act (entitlement to benefit dependent on claim),

and, in relation to a shared additional pension, "period of deferment" shall be construed accordingly.]

Child's special allowance

56.—(1) Subject to the provisions of this Act [...¹], a woman whose marriage has been terminated by divorce shall be entitled to a child's special allowance at the weekly rate specified in Schedule 4, Part I, paragraph 6, if—

- (a) the husband of that marriage is dead and satisfied the contribution condition for a child's special allowance specified in Schedule 3, Part I, paragraph 6; and
- (b) she is entitled to child benefit in respect of a child and either—
 - (i) she was so entitled immediately before that husband's death; or
 - (ii) in such circumstances as may be prescribed, he was then so entitled; and
- (c) either—
 - (i) that husband had before his death been contributing at not less than the prescribed weekly rate to the cost of providing for that child; or
 - (ii) at the date of that husband's death she was entitled, under an order of a court, trust or agreement which she has taken reasonable steps to enforce, to receive (whether from that husband or from another person) payments in respect of that child at not less than that rate provided or procured by that husband.

(2) A child's special allowance shall not be payable to a woman—

- (a) for any period after her remarriage; or
- (b) for any period during which she and a man to whom she is not married are living together as husband and wife.

(3) Where, apart from this subsection, a person is entitled to receive, in respect of a particular child, payment of an amount by way of a child's special allowance, that amount shall not be payable unless one of the conditions specified in subsection (4) below is satisfied.

(4) Those conditions are—

- (a) that the beneficiary would be treated for the purposes of Part IX of this Act as having the child living with him; or
- (b) that the requisite contributions are being made to the cost of providing for the child.

(5) The condition specified in subsection (4)(b) above is to be treated as satisfied if, but only if—

¹ Words in s. 56(1) revoked (6.4.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details as to savings & transitional provisions.

- (a) such contributions are being made at a weekly rate not less than the amount referred to in subsection (3) above—
 - (i) by the beneficiary; or
 - (ii) where the beneficiary is one of two spouses residing together, by them together; and
- (b) except in prescribed cases, the contributions are over and above those required for the purpose of satisfying section 143(1)(b) below.

(6) A child's special allowance shall not be payable for any period after 5th April 1987 except to a woman who immediately before 6th April 1987—

- (a) satisfied the conditions set out in paragraphs (a) to (c) of subsection (1) above; and
- (b) was not barred from payment of the allowance for either of the reasons mentioned in subsection (2) above.

and who has so continued since 6th April 1987.

57-59. [...¹]

Complete or partial failure to satisfy contribution conditions

60.—(1) Subject to the provisions of this section, regulations may provide for persons to be entitled to any of the following benefits, namely—

Complete or partial failure to satisfy contributions conditions.

- (a) a widowed mother's allowance,
- [²(aa) a widowed parent's allowance,
- (ab) a bereavement allowance],
- (b) a widow's pension,
- (c) a Category A retirement pension,
- (d) a Category B retirement pension,

in cases where the first contribution condition specified in relation to that benefit in paragraph 5 of Schedule 3 to this Act is satisfied and the second contribution condition so specified is not.

- (2) Subject to subsection (8) below, in any case where—
 - (a) an employed earner who is married [³or a civil partner] dies as a result of—
 - (i) a personal injury of a kind mentioned in section 94(1) below, or
 - (ii) a disease or injury such as is mentioned in section 108(1) below, and
 - (b) the contribution conditions are not wholly satisfied in respect of [⁴the employed earner],

those conditions shall be taken to be satisfied for the purposes of [⁴the entitlement of the employed earner's [³widow, widower or surviving civil partner] to any of the benefits specified in subsection (3) below.

- (3) The benefits referred to in subsection (2) above are the following—
 - [⁵(a) a bereavement payment;]
 - (b) a widowed mother's allowance;
 - [⁵(ba) a widowed parent's allowance;

¹ Ss. 57-59 repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, paras. 14-16 & Sch. 2.
² For the purposes of making regulations, s. 60(1)(aa) and (ab) inserted (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).
³ Words inserted in s. 60(2) (5.12.05) by the Civil Partnership Act 2004 c. 33, Sch. 24, para. 31.
⁴ Words in s. 60(2) substituted (19.7.95) by Pensions Act 1995 (c. 26) Sch.4, para. 21(9)(a).
⁵ S. 60(3)(a) substituted, s. 60(3)(ba) and (bb) inserted, (24.4.00 for reg. making purposes, 9.4.01 for all other purposes), by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

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- (bb) a bereavement allowance;]
- (c) a widow's pension;
- [¹(d) a Category B retirement pension payable by virtue of section 48B [²or 48BB] above].

(4) Subject to [³subsection (7)] below, regulations under subsection (1) above shall provide for benefit payable by virtue of any such regulations to be payable at a rate, or to be of an amount, less than that which would be applicable under this Part of this Act had both of the relevant contribution conditions been fully satisfied.

(5) Subject to [³subsection (7)] below, the rate or amount prescribed by regulations under subsection (1) above may vary with the extent to which the relevant contribution conditions are satisfied (and may be nil).

(6) [...⁴]

(7) Regulations may provide that where—

- (a) a person is entitled by virtue of subsection (1) above to a Category A or Category B retirement pension consisting only of the additional pension with no basic pension, and
- (b) that retirement pension, and any graduated retirement benefit to which he may be entitled, together amount to less than the prescribed rate,

that person's entitlement as respects that retirement pension shall be satisfied either altogether or for a prescribed period by the making of a single payment of the prescribed amount.

(8) Subsection (2) above only has effect where the employed earner's death occurred on or after 11th April 1988.

[⁵(9) References in this section to a Category A or Category B retirement pension do not include one to which Schedule 3, Part I, paragraph 5A applies.]

Failure to satisfy contribution condition in paragraph 5A of Schedule 3

[⁵**60A.**—(1) Subsection (2) below applies if the contribution condition in Schedule 3, Part I, paragraph 5A is not satisfied in relation to a benefit to which that paragraph applies.

(2) A person who would have been entitled to the benefit had the condition been satisfied shall nevertheless be entitled to a prescribed proportion of that benefit in respect of each of the years of the contributor's working life that falls within subsection (3) below.

(3) A year of the contributor's working life falls within this subsection if it is a year in relation to which the requirements in paragraph 5A(2)(a) and (b) of Part I of Schedule 3 are satisfied.

(4) "The contributor" means the person by whom the condition is to be satisfied.

(5) In any case where—

- (a) an employed earner who is married or a civil partner dies on or after 6th April 2010 as a result of—
 - (i) a personal injury of a kind mentioned in section 94(1) below, or
 - (ii) a disease or injury such as is mentioned in section 108(1) below, and

¹ S. 60(3)(d) substituted (19.7.95) by Pensions Act 1995 (c. 26), Sch. 4, para. 21(9)(b).

² Ref. to "48BB" added to s. 60 (3)(d) (24.4.00 for reg. making purposes, 9.4.01 for all other purposes), by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

³ Words substituted in s. 60(4) & (5) (6.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 3, para. 33.

⁴ S. 60(6) revoked (6.4.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details as to savings & transitional provisions.

⁵ Ss. 60(9) & 60A inserted (27.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, paras. 4 & 5.

- (b) the contribution condition specified in Schedule 3, Part I, paragraph 5A is not satisfied in respect of the employed earner,

that condition shall be taken to be satisfied for the purposes of the entitlement of the employed earner's widow, widower or surviving civil partner to a Category B retirement pension payable by virtue of section 48B.

- (6) In subsections (1) to (3) any reference—
 - (a) to the contribution condition in Schedule 3, Part I, paragraph 5A, or
 - (b) to the requirements of paragraph 5A(2)(a) and (b),

includes a reference to that condition or those requirements as modified by virtue of paragraph 5A(4).]

61.—(1) A Category A or Category B retirement pension which is payable by virtue of section 60(1) above and a widowed mother's allowance [¹or widowed parent's allowance] which is so payable shall not be increased under section 47(1) above or under Part IV below [...²] if the pension or allowance contains no basic pension in consequence of a failure to satisfy a contribution condition.

Exclusion of increase of benefit for failure to satisfy contribution condition.

[³(2) Where a person is entitled to short-term incapacity benefit at a rate determined under section 30B(3) above and the retirement pension by reference to which the rate of the benefit is determined—

- (a) would have been payable only by virtue of section 60 above, and
- (b) would, in consequence of a failure to satisfy a contribution condition, have contained no basic pension,

the benefit shall not be increased under section 47(1) above or under Part IV below [...⁴].

[⁵**61ZA.—**(1) This section applies to a person who has one or more units of additional pension if the person—

Shortfall in contributions: people with units of additional pension

- (a) is not entitled to a Category A retirement pension, but
- (b) would be entitled to a Category A retirement pension if the relevant contribution conditions were satisfied.

(2) The relevant contribution conditions are to be taken to be satisfied for the purposes of the person's entitlement to a Category A retirement pension.

(3) But where a person is entitled to a Category A retirement pension because of this section, the only element of that pension to which the person is so entitled is the additional pension attributable to the units of additional pension.

(4) For units of additional pension, see section 14A.

61ZB.—(1) This section applies to a person whose spouse or civil partner died with one or more units of additional pension if the person—

Shortfall in contributions: people whose dead spouse had units of additional pension.

- (a) is not entitled to a Category B retirement pension as a result of the death, but

¹ Ref. to "widowed parent's allowance" inserted in s. 61(1) (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

² Words in s. 61(1) revoked (6.4.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details as to savings & transitional provisions.

³ S. 61(2) substituted (7.10.96) by para. 23 of Sch. 2 to Jobseekers Act 1995 (c. 18). (The effect of this amendment was that s. 61(2) ceased to apply to persons entitled to unemployment benefit at a rate determined under s. 25(5) above.)

⁴ Words in s. 61(2) revoked (6.4.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details as to savings & transitional provisions.

⁵ S. 61ZA-S.61ZC inserted (12.10.15) by Pensions Act 2014 (c. 19), Sch. 15, para. 9.

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- (b) would be entitled to a Category B retirement pension as a result of the death if the relevant contribution conditions were satisfied.

(2) The relevant contribution conditions are to be taken to be satisfied for the purposes of the person's entitlement to that Category B retirement pension.

(3) But where a person is entitled to a Category B retirement pension because of this section, the only element of that pension to which the person is so entitled is the additional pension attributable to the units of additional pension.

(4) For units of additional pension, see section 14A.

Entitlement to more than one person: sections 61ZA and 61ZB

61ZC.—(1) Section 43 does not prevent a person from being entitled for the same period to both—

- (a) a Category A retirement pension because of section 61ZA, and
- (b) one Category B retirement pension.

(2) Section 43 does not prevent a person from being entitled for the same period to both—

- (a) a Category A retirement pension, and
- (b) one Category B retirement pension because of section 61ZB (or, if there is more than one such Category B retirement pension, the most favourable of them).

(3) Accordingly—

- (a) in section 43(2)(a) the reference to “a Category A or a Category B retirement pension”, in a case in which subsection (1) or (2) of this section applies, includes “a Category A and a Category B retirement pension”,
- (b) in sections 43(3)(a) and (aa), 51A and 52 “Category A retirement pension” does not include a pension to which a person is entitled because of section 61ZA, and
- (c) in sections 43(3)(a) and 52 “Category B retirement pension” does not include a pension to which a person is entitled because of section 61ZB.]

Contributions paid in error.

[**61A.**—(1) This section applies in the case of any individual if—

- (a) the individual has paid amounts by way of primary Class 1 contributions which, because the individual was not an employed earner, were paid in error, and
- (b) prescribed conditions are satisfied.

(2) Regulations may, where—

- (a) this section applies in the case of any individual, and
- (b) the [²Inland Revenue are] of the opinion that it is appropriate for the regulations to apply to the individual,

provide for entitlement to, and the amount of, additional pension to be determined as if the individual had been an employed earner, and, accordingly, those contributions had been properly paid.

(3) The reference in subsection (2) above to additional pension is to additional pension for the individual or the individual's spouse [³or civil partner] falling to be calculated under section 45 above for the purposes of—

- (a) Category A retirement pension,

¹ S. 61A inserted (19.7.95) by Pensions Act 1995 (c. 26), s. 133.

² Words substituted in s. 61A(2)(b) (1.4.99) by Social Service Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 8.¹

³ Words inserted & substituted in s. 61A(3) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 32.

- (b) Category B retirement pension for [¹widows, widowers or surviving civil partners] [²(payable by virtue of section 48B or 48BB above)],
- (c) widowed mother's allowance and widow's pension, and
- [²(ca) widowed parent's allowance,]
- (d) incapacity benefit (except in transitional cases).

(4) Regulations may, where—

- (a) this section applies in the case of any individual, and
- (b) the [³Inland Revenue are] of the opinion that it is appropriate for regulations made by virtue of section 4(8) of the Social Security (Incapacity for Work) Act 1994 (provision during transition from invalidity benefit to incapacity benefit for incapacity benefit to include the additional pension element of invalidity pension) to have the following effect in the case of the individual,

provide for the regulations made by virtue of that section to have effect as if, in relation to the provisions in force before the commencement of that section with respect to that additional pension element, the individual had been an employed earner and, accordingly, the contributions had been properly paid.

(5) Where such provision made by regulations as is mentioned in subsection (2) or (4) above applies in respect of any individual, regulations under paragraph 8(1)(m) of Schedule 1 to this Act may not require the amounts paid by way of primary Class 1 contributions to be repaid.

(6) Regulations may provide, where—

- (a) such provision made by regulations as is mentioned in subsection (2) or (4) above applies in respect of any individual,
- (b) prescribed conditions are satisfied, and
- (c) any amount calculated by reference to the contributions in question has been paid in respect of that individual by way of minimum contributions under section 43 of the Pension Schemes Act 1993 (contributions to personal pension schemes),

for that individual to be treated for the purposes of that Act as if that individual had been an employed earner and, accordingly, the amount had been properly paid].

Graduated retirement benefit

62.—(1) So long as sections 36 and 37 of the National Insurance Act 1965 (graduated retirement benefit) continue in force by virtue of regulations made under Schedule 3 to the Social Security (Consequential Provisions) Act 1975 or under Schedule 3 to the Consequential Provisions Act, regulations may make provision—

Graduated retirement benefit.
1965 c. 51.
1975 c. 18.

- (a) for [⁴amending section 36(2) of the National Insurance Act 1965 (value of unit of graduated contributions) so that the value is the same for women as it is for men and for replacing section 36(4) of that Act] (increase of graduated retirement benefit in cases of deferred retirement) with provisions corresponding to those of [⁵paragraphs A1 to 3B and 7C] of Schedule 5 to this Act;

¹ Words inserted & substituted in s. 61A(3)(b) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 32.

² Words in s. 61A(3)(b) and s. 61A(3)(ca) inserted (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

³ Words substituted in s. 61A 4(b) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1 para. 8.

⁴ Words in s. 62(1)(a) substituted (19.7.95) by Pensions Act 1995 (c. 26), Sch. 4, para. 7(a).

⁵ In s. 62, words in subsection (1)(a) substituted & subsection (1)(c) inserted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 17.

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- [¹(aa) for amending section 36(7) of that Act (persons to be treated as receiving nominal retirement pension) so that where a person has claimed a Category A or Category B retirement pension but—
- (i) because of an election under section 54(1) above, or
 - (ii) because he has withdrawn his claim for the pension,
he is not entitled to such a pension, he is not to be treated for the purposes of the preceding provisions of that section as receiving such a pension at a nominal weekly rate;]
- [²(ab) for extending section 37 of that Act (increase of woman's retirement pension by reference to her late husband's graduated retirement benefit) to civil partners and their late civil partners and for that section (except subsection (5)) so to apply as it applies to women and their late husbands;]
- [³(ac) for extending section 37 of that Act (increase of woman's retirement pension by reference to her late husband's graduated retirement benefit) to civil partners and their late civil partners who attain pensionable age before 6th April 2010 and for that section (except subsection (5)) so to apply as it applies to men and their late wives;]
- (b) for extending section 37 of that Act (increase of woman's retirement pension by reference to her late husband's graduated retirement benefit) to men and their late wives [⁴and for that section (except subsection (5)) so to apply as it applies to women and their late husbands].
- [⁵(c) for amending that section in order to make provisions corresponding to those of paragraphs 3C, 4(1) and (1A) and 7A to 7C of Schedule 5 to this Act enabling a widowed person [⁶or surviving civil partner] to elect to receive a lump sum, rather than an increase in the weekly rate of retirement pension, in respect of the graduated retirement benefit of his or her deceased spouse [⁶or civil partner].]

(2) This section is without prejudice to any power to modify the said sections 36 and 37 conferred by Schedule 3 to the consequential Provisions Act.

¹ S. 62(1)(aa) inserted (19.7.95) by Pensions Act 1995 (c. 26), s. 131(1).

² S. 62(1)(ab) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 33.

³ Subsection (1)(ac) inserted in s. 62 by para. 1 of Sch. 1 to S.I. 2005/3029 as from 29.10.05.

⁴ Words added (19.7.95) to s. 62(1)(b) by Pensions Act 1995 (c. 26), Sch. 4, para. 7(b).

⁵ In s. 62, words in subsection (1)(c) inserted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 17.

⁶ In s. 62(1)(c) words inserted (for reg making purposes under this section only) by para. 4 of the Sch. to S.I. 2005/2053 as from 5.12.05.

PART III
NON-CONTRIBUTORY BENEFITS

- 63.** Non-contributory benefits under this Part of this Act are of the following descriptions, namely—
- Descriptions of non-contributory benefits.
- (a) attendance allowance;
 - [¹(b) severe disablement allowance (with age related addition and increase for adult and child dependants);]
 - (c) [²carer’s allowance] (with increase for adult [...³] dependants);
 - (d) disability living allowance;
 - (e) guardian’s allowance;
 - (f) retirement pensions of the following categories—
 - (i) Category C, [⁴payable in certain cases to a widow whose husband was over pensionable age on 5th July 1948 or to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death] (with increase for adult [...⁵] dependants), and
 - (ii) Category D, payable, in the case of persons over the age of 80;
 - (g) age addition payable, in the case of persons over the age of 80, by way of increase of a retirement pension of any category or of some other pension or allowance from the Secretary of State.

Attendance allowance

Entitlement.

64.—(1) A person shall be entitled to an attendance allowance if he [⁶has attained pensionable age], he is not entitled to [⁷an allowance within subsection (1A)] and he satisfies either—

- (a) the condition specified in subsection (2) below (“the day attendance condition”), or
- (b) the condition specified in subsection (3) below (“the night attendance condition”),

and prescribed conditions as to residence and presence in Great Britain.

[⁷(1A) The following allowances are within this subsection—

- (a) personal independence payment;
- (b) the care component of a disability living allowance]

(2) A person satisfies the day attendance condition if he is so severely disabled physically or mentally that, by day, he requires from another person either—

- (a) frequent attention throughout the day in connection with his bodily functions, or
- (b) continual supervision throughout the day in order to avoid substantial danger to himself or others.

(3) A person satisfies the night attendance condition if he is so severely disabled physically or mentally that, at night,—

- (a) he requires from another person prolonged or repeated attention in connection with his bodily functions, or

¹ For the purposes of making regs. s. 63(b) repealed (3.11.00) by s. 88 of the Welfare Reform and Pensions Act 1999 (c. 30). These changes are not effective for any other purpose until s. 88 is brought into force for all other purposes.

² In s. 63(c) words “invalid care allowance” substituted by “carer’s allowance” (1.9.02 for the purposes of exercising power to make subordinate legislation, 1.4.03 for all other purposes) by para. 2(b) of the Schedule to S.I. 2002/1457.

³ Words in s. 63(c) revoked (6.4.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). *See* S.I. 2003/938 at page 3.731 for details as to savings & transitional provisions.

⁴ Words in s. 63(f)(i) substituted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 79.

⁵ Words in s. 63(f)(i) revoked (6.4.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). *See* S.I. 2003/938 at page 3.731 for details as to savings & transitional provisions.

⁶ Words substituted in s. 64(1) (26.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 41.

⁷ Words in s. 64(1) substituted & subsec. (1A) inserted (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 5(2) & (3).

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See Sch. 3, para. 20 of the SS (C&P) Act 1992 c. 6 for details of modifications to s. 64(3).

- (b) in order to avoid substantial danger to himself or others he requires another person to be awake for a prolonged period or at frequent intervals for the purpose of watching over him.

Period and rate of allowance.

[¹(4) Circumstances may be prescribed in which a person is to be taken to satisfy or not satisfy such of the conditions mentioned in subsections (2) and (3) above as may be prescribed.]

65.—(1) Subject to the following provisions of this Act, the period for which a person is entitled to an attendance allowance shall be—

- (a) a period throughout which he has satisfied or is likely to satisfy the day or the night attendance condition or both; and
(b) a period preceded immediately, or within such period as may be prescribed, by one of not less than 6 months throughout which he satisfied, or is likely to satisfy, one or both of those conditions.

(2) For the purposes of subsection (1) above a person who suffers from renal failure and is undergoing such form of treatment as may be prescribed shall, in such circumstances as may be prescribed, be deemed to satisfy or to be likely to satisfy the day or the night attendance condition or both.

(3) the weekly rate of the attendance allowance payable to a person for any period shall be the higher rate specified in Schedule 4, Part III, paragraph 1, if both as regards that period and as regards the period of 6 months mentioned in subsection (1)(b) above he has satisfied or is likely to satisfy both the day and the night attendance conditions, and shall be the lower rate in any other case.

(4) A person shall not be entitled to an attendance allowance for any period preceding the date on which he makes or is treated as making a claim for it.

(5) Notwithstanding anything in subsection (4) above, provision may be made by regulations for a person to be entitled to an attendance allowance for a period preceding the date on which he makes or is treated as making a claim for it if such an allowance has previously been paid to or in respect of him.

(6) Except in so far as regulations otherwise provide and subject to section 66(1) below—

- (a) a claim for an attendance allowance may be made during the period of 6 months immediately preceding the period for which the person to whom the claim relates is entitled to the allowance; and
(b) an award may be made in pursuance of a claim so made, subject to the condition that, throughout that period of 6 months, that person satisfies—
(i) both the day and the night attendance conditions, or
(ii) if the award is at the lower rate, one of those conditions.

[²(7) A person to whom either Regulation (EC) No. 1408/71 or Regulation (EC) No. 883/2004 applies shall not be entitled to an attendance allowance for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of Chapter 1 of title III of the Regulation in question.]

Attendance allowance for the terminally ill.

66.—(1) If a terminally ill person makes a claim expressly on the ground that he is such a person, then—

- (a) he shall be taken—
(i) to satisfy, or to be likely to satisfy, both the day attendance condition and the night attendance condition [³for so much of the period for which he is terminally ill as does not fall before the date of the claim]; and
(ii) to have satisfied those conditions for the period of 6 months immediately preceding [³the date of the claim or, if later, the first date on which he is

¹ S. 64(4) inserted (12.1.00) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 66(1).

² S. 65(7) inserted (31.10.11) by reg. 5(2) of S.I. 2011/2426.

³ Words substituted in s. 66(1)(a)(i)-(ii) (12.1.00) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 66(2).

terminally ill] (so however that no allowance shall be payable by virtue of this sub-paragraph for any period preceding that date); and

- (b) the period for which he is entitled to attendance allowance shall be [¹so much of the period for which he is terminally ill as does not fall before the date of the claim].

(2) For the purposes of subsection (1) above—

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

67.—(1) Regulations may provide that, in such circumstances, and for such purposes as may be prescribed, a person who is, or is treated under the regulations as, undergoing treatment for renal failure in a hospital or other similar institution otherwise than as an in-patient shall be deemed not to satisfy or to be unlikely to satisfy the day attendance condition or the night attendance condition, or both of them.

Exclusions by regulation.

[²(2) Regulations may provide that an attendance allowance shall not be payable in respect of a person for a period when he is a resident of a care home in circumstances in which any of the costs of any qualifying services provided for him are borne out of public or local funds under a specified enactment.

(3) The reference in subsection (2) to a care home is to an establishment that provides accommodation together with nursing or personal care.

(4) The following are qualifying services for the purposes of subsection (2)—

- (a) accommodation,
- (b) board, and
- (c) personal care.

(5) The reference in subsection (2) to a specified enactment is to an enactment which is, or is of a description, specified for the purposes of that subsection by regulations.

(6) The power to specify an enactment for the purposes of subsection (2) includes power to specify it only in relation to its application for a particular purpose.

(7) In this section, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.]

68.- 69. [...³]

Invalid care allowance

Invalid care allowance

70.—(1) A person shall be entitled to [⁴a carer’s allowance] for any day on which he is engaged in caring for a severely disabled person if—

- (a) he is regularly and substantially engaged in caring for that person;

¹ Words substituted in s. 66(1)(b) (12.1.00) by the Welfare Reform and Pensions Act 1999 (c. 30) s. 66(2).

² S. 67(2)-(7) substituted for s. 67(2) (1.10.07 for reg. making purposes & 29.10.07 for all other purposes) by the Welfare Reform Act 2007 (c. 5), s. 60(1).

³ Ss. 68-69 repealed (6.4.01) by Sch. 13 to the Welfare Reform and Pensions Act 1999 (c. 30). Ss. 68-69 also ceased to have effect for reg. making purposes from 3.1.00 by virtue of s. 65 of the Welfare Reform and Pension Act 1999 (c. 30).

⁴ In s. 70(1) words “invalid care allowance” substituted for “carer’s allowance”, (1.9.02 for the purposes of makers subordinate legislation, 1.4.03 for any other purposes) by para. 2(c) of the Schedule to S.I. 2002/1457.

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- (b) he is not gainfully employed; and
- (c) the severely disabled person is either such relative of his as may be prescribed or a person of any such other description as may be prescribed.

[¹(1A) A person who was entitled to an allowance under this section immediately before the death of the severely disabled person referred to in subsection (1) shall continue to be entitled to it, even though he is no longer engaged in caring for a severely disabled person (and the requirements of subsection (1)(a) and (c) are not satisfied), until—

- (a) the end of the week in which he ceases to satisfy any other requirement as to entitlement to the allowance; or
- (b) the expiry of the period of eight weeks beginning with the Sunday following the death (or beginning with the date of death if the death occurred on Sunday),

whichever occurs first.]

(2) In this section, “severely disabled person” means a person in respect of whom there is payable either an attendance allowance or a disability living allowance by virtue of entitlement to the care component at the highest or middle rate [²or personal independence payment by virtue of entitlement to the daily living component at the standard or enhanced rate] [³or armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517)] such other payment out of public funds on account of his need for attendance as may be prescribed.

(3) A person shall not be entitled to an allowance under this section if he is under the age of 16 or receiving full-time education.

(4) A person shall not be entitled to an allowance under this section unless he satisfies prescribed conditions as to residence or presence in Great Britain.

[⁴(4A) A person to whom either Regulation (EC) No. 1408/71 or Regulation (EC) No. 883/2004 applies shall not be entitled to an allowance under this section for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of Chapter 1 of Title III of the Regulation in question.]

(5) [...⁵]

(6) [...⁵]

(7) No person shall be entitled for the same day to more than one allowance under this section; and where, apart from this subsection, two or more persons would be entitled for the same day to such an allowance in respect of the same severely disabled person, one of them only shall be entitled and that shall be such one of them—

- (a) as they may jointly elect in the prescribed manner, or
- (b) as may, in default of such an election, be determined by the Secretary of State in his discretion.

(8) Regulations may prescribe the circumstances in which a person is or is not to be treated for the purposes of this section as engaged, or regularly and substantially engaged, in caring for a severely disabled person, as gainfully employed or as receiving full-time education.

¹ Subsection (1A) inserted into s. 70 (1.9.02 for the purposes of exercising power to make subordinate legislation, 28.10.02 for all other purposes) by art. 3 of S.I. 2002/1457.

² Words regarding “personal independence payment” added (8.4.13) by s. 70(2), para. 5 of Sch to S.I. 2013/388.

³ Words regarding “armed forces independence payment” inserted (8.4.13) by S.I. 2013/796, art. 3(2).

⁴ S. 70(4A) inserted (31.10.11) by reg. 5(3) of S.I. 2011/2426.

⁵ Ss. 70(5) & (6) repealed (28.10.02) by S.I. 2002/1457. For transitional provision *see* S.I. 2002/1457.

(9) [¹A carer's allowance] shall be payable at the weekly rate specified in Schedule 4, Part III, paragraph 4.

(10) [...²]

71.—(1) Disability living allowance shall consist of a care component and a mobility component. Disability living allowance.

(2) A person's entitlement to a disability living allowance may be an entitlement to either component or to both of them.

(3) A person may be awarded either component for a fixed period or [³for an indefinite period], but if his award of a disability living allowance consists of both components, he may not be awarded the components for different fixed periods.

(4) The weekly rate of a person's disability living allowance for a week for which he has only been awarded one component is the appropriate weekly rate for that component as determined in accordance with this Act or regulations under it.

(5) The weekly rate of a person's disability living allowance for a week for which he has been awarded both components is the aggregate of the appropriate weekly rates for the two components as so determined.

(6) A person shall not be entitled to a disability living allowance unless he satisfies prescribed conditions as to residence and presence in Great Britain.

72.—(1) Subject to the provisions of this Act, a person shall be entitled to the care component of a disability living allowance for any period throughout which— The care component.

- (a) he is so severely disabled physically or mentally that—
 - (i) he requires in connection with his bodily functions attention from another person for a significant portion of the day (whether during a single period or a number of periods); or
 - (ii) he cannot prepare a cooked main meal for himself if he has the ingredients; or
- (b) he is so severely disabled physically or mentally that, by day, he requires from another person—
 - (i) frequent attention throughout the day in connection with his bodily functions; or
 - (ii) continual supervision throughout the day in order to avoid substantial danger to himself or others; or
- (c) he is so severely disabled physically or mentally that, at night,—
 - (i) he requires from another person prolonged or repeated attention in connection with his bodily functions; or
 - (ii) in order to avoid substantial danger to himself or others he requires another person to be awake for a prolonged period or at frequent intervals for the purpose of watching over him.

[⁴(1A) In its application to a person in relation to so much of a period as falls before the day on which he reaches the age of 16, subsection (1) has effect subject to the following modifications—

- (a) the condition mentioned in subsection (1)(a)(ii) shall not apply, and
- (b) none of the other conditions mentioned in subsection (1) shall be taken to be satisfied unless—

¹ In s. 70(9) words "An invalid care allowance" substituted by "A carer's allowance" (1.9.02 for the purposes of exercising power to make subordinate legislation, 1.4.03 for all other purposes) by para. 2(c) of the Schedule to S.I. 2002/1457.

² Subsec.(10) of s. 70 deleted (28.10.94) by reg. 2(3)(c) of S.I.1994/2556.

³ Words substituted (12.1.00) by the Welfare Reform and Pensions Act 1999 (c. 30) s. 67(1).

⁴ S. 72(1A) inserted (1.10.07) by the Welfare Reform Act 2007 (c. 5), s. 52(2).

- (i) he has requirements of a description mentioned in the condition substantially in excess of the normal requirements of persons of his age, or
- (ii) he has substantial requirements of such a description which younger persons in normal physical and mental health may also have but which persons of his age and in normal physical and mental health would not have.]

(2) Subject to the following provisions of this section, a person shall not be entitled to the care component of a disability living allowance unless—

- (a) throughout—
 - (i) the period of 3 months immediately preceding the date on which the award of that component would begin; or
 - (ii) such other period of 3 months as may be prescribed, he has satisfied or is likely to satisfy one or other of the conditions mentioned in subsection (1)(a) to (c) above; and
- (b) he is likely to continue to satisfy one or other of those conditions throughout—
 - (i) the period of 6 months beginning with that date; or
 - (ii) (if his death is expected within the period of 6 months beginning with that date) the period so beginning and ending with his death.

[¹(2A)The modifications mentioned in subsection (1A) shall have effect in relation to the application of subsection (1) for the purposes of subsection (2), but only—

- (a) in the case of a person who is under the age of 16 on the date on which the award of the care component would begin, and
- (b) in relation to so much of any period mentioned in subsection (2) as falls before the day on which he reaches the age of 16.]

(3) Three weekly rates of the care component shall be prescribed.

(4) The weekly rate of the care component payable to a person for each week in the period for which he is awarded that component shall be—

- (a) the highest rate, if he falls within subsection (2) above by virtue of having satisfied or being likely to satisfy both the conditions mentioned in subsection (1)(b) and (c) above throughout both the period mentioned in paragraph (a) of subsection (2) above and that mentioned in paragraph (b) of that subsection;
- (b) the middle rate, if he falls within that subsection by virtue of having satisfied or being likely to satisfy one or other of those conditions throughout both those periods; and
- (c) the lowest rate in any other case.

(5) For the purposes of this section, a person who is terminally ill, as defined in section 66(2) above, and makes a claim expressly on the ground that he is such a person, shall [²(notwithstanding subsection (1A)(b))]be taken—

- (a) to have satisfied the conditions mentioned in subsection (1)(b) and (c) above for the period of 3 months immediately preceding the date of the claim, or, if later, the first date on which he is terminally ill (so however that the care component shall not be payable by virtue of this paragraph for any period preceding that date); and
- (b) to satisfy or to be likely to satisfy those conditions [³for so much of the period for which he is terminally ill as does not fall before the date of the claim].

¹ S. 72(2A) inserted (1.10.07) by the Welfare Reform Act 2007 (c. 5), s. 52(3).

² In s. 72 words inserted in (5) (1.10.07) by the Welfare Reform Act 2007 (c. 5), s. 52.

³ Words substituted (12.1.00) by the Welfare Reform and Pensions Act 1999 (c. 30) s. 67(2).

(6) [¹...]

(7) Subject to [¹subsection (5)] above, circumstances may be prescribed in which a person is to be taken to satisfy or not to satisfy such of the conditions mentioned in subsection (1)(a) to (c) above as may be prescribed.

[¹(7A) Subsection (1A) has effect subject to regulations made under subsection (7) (except as otherwise prescribed).]

[²(7B) A person to whom either Regulation (EC) No. 1408/71 or Regulation (EC) No. 883/2004 applies shall not be entitled to the care component of a disability living allowance for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of Chapter 1 of Title III of the Regulation in question.]

[³(8) Regulations may provide that no amount in respect of a disability living allowance which is attributable to entitlement to the care component shall be payable in respect of a person for a period when he is a resident of a care home in circumstances in which any of the costs of any qualifying services provided for him are borne out of public or local funds under a specified enactment.

(9) The reference in subsection (8) to a care home is to an establishment that provides accommodation together with nursing or personal care.

- (10) The following are qualifying services for the purposes of subsection (8)–
- (a) accommodation,
 - (b) board, and
 - (c) personal care.

(11) The reference in subsection (8) to a specified enactment is to an enactment which is, or is of a description, specified for the purposes of that subsection by regulations.

(12) The power to specify an enactment for the purposes of subsection (8) includes power to specify it only in relation to its application for a particular purpose.

(13) In this section, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.]

73.—(1) Subject to the provisions of this Act, a person shall be entitled to the mobility component of a disability living allowance for any period in which he is over [⁴the relevant age] and throughout which–

The mobility component.

- (a) he is suffering from physical disablement such that he is either unable to walk or virtually unable to do so; or
- [⁵(ab) he falls within subsection (1AB) below; or
- (b) he does not fall within that subsection but does fall within subsection (2) below; or]
- (c) he falls within subsection (3) below; or
- (d) he is able to walk but is so severely disabled physically or mentally that, disregarding any ability he may have to use routes which are familiar to him on his own, he cannot take advantage of the faculty out of doors without guidance or supervision from another person most of the time.

[⁴(1A) In subsection (1) above “the relevant age” means–

¹ In s. 72 (6) ceases to have effect; words substituted in (7); (7A) inserted (1.10.07) by the Welfare Reform Act 2007 (c. 5), s. 52.

² S. 72(7B) inserted (31.10.11) by reg. 5(4) of S.I. 2011/2426.

³ S. 72(8)-(13) substituted for s. 72(8) (1.10.07) for reg. making purposes & 29.10.07 for all purposes) by the Welfare Reform Act 2007 (c. 5), s. 60(2).

⁴ Words substituted (9.4.00) in s. 73(1) and s. 73(1A) inserted by the Welfare Reform and Pensions Act 1999 (c. 30) s. 67(3). Subsection 1(A) does not affect awards made before 9.4.01.

⁵ S. 73(1)(b) substituted and s. 73(1)(ab) inserted (11.4.10) for the purpose only of conferring power to make regulations (15.10.10) for accessing claims & making decisions on eligibility only and (11.4.11) for all other purposes), by the Welfare Reform Act 2009 (c. 24), s. 14(2)-(3).

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- (a) in relation to the conditions mentioned in paragraph (a), [¹(ab),] (b) or (c) of that subsection, the age of 3;
- (b) in relation to the conditions mentioned in paragraph (d) of that subsection, the age of 5.]

[¹(1AB) A person falls within this subsection if–

- (a) he has such severe visual impairment as may be prescribed; and
- (b) he satisfies such other conditions as may be prescribed.]

(2) A person falls within this subsection if–

- (a) he is both blind and deaf; and
- (b) he satisfies such other conditions as may be prescribed.

(3) A person falls within this subsection if–

- (a) he is severely mentally impaired; and
- (b) he displays severe behavioural problems; and
- (c) he satisfies both the conditions mentioned in section 72(1)(b) and (c) above.

[²(4A) In its application to a person in relation to so much of a period as falls before the day on which he reaches the age of 16, subsection (1) has effect subject to the modification that the condition mentioned in paragraph (d) shall not be taken to be satisfied unless–

- (a) he requires substantially more guidance or supervision from another person than persons of his age in normal physical and mental health would require, or
- (b) persons of his age in normal physical and mental health would not require such guidance or supervision.]

(5) [...²] circumstances may be prescribed in which a person is to be taken to satisfy or not to satisfy a condition mentioned in subsection (1)(a) or (d) or subsection (2)(a) above.

[²(5A) Subsection (4A) has effect subject to regulations made under subsection (5) (except as otherwise prescribed).]

(6) Regulations shall specify the cases which fall within subsection (3)(a) and (b) above.

(7) A person who is to be taken for the purposes of section 72 above to satisfy or not to satisfy a condition mentioned in subsection (1)(b) or (c) of that section is to be taken to satisfy or not to satisfy it for the purposes of subsection (3)(c) above.

(8) A person shall not be entitled to the mobility component for a period unless during most of that period his condition will be such as permits him from time to time to benefit from enhanced facilities for locomotion.

(9) A person shall not be entitled to the mobility component of a disability living allowance unless–

- (a) throughout–
 - (i) the period of 3 months immediately preceding the date on which the award of that component would begin; or
 - (ii) such other period of 3 months as may be prescribed, he has satisfied or is likely to satisfy one or other of the conditions mentioned in subsection (1) [³(a) to (d)] above; and

¹ Words in s. 73(1A) and s. 73(1AB) inserted (11.4.10) for the purpose only of conferring power to make regulations (15.10.10) for accessing claims & making decisions on eligibility only and (11.4.11) for all other purposes, by the Welfare Reform Act 2009 (c. 24), s. 14(4).

² In s. 73 (4A) substituted for (4); words omitted in (5); (5A) inserted (1.10.07) by the Welfare Reform Act 2007 (c. 5), s. 53(2)-(4).

³ Words inserted in s. 73(9)(a)(ii) (1.10.07) by the Welfare Reform Act 2007 (c. 5), Sch. 7, para. 2(2).

- (b) he is likely to continue to satisfy one or other of those conditions throughout—
 - (i) the period of 6 months beginning with that date; or
 - (ii) (if his death is expected within the period of 6 months beginning with that date) the period so beginning and ending with his death.

[¹(9A)The modifications mentioned in subsection (4A) shall have effect in relation to the application of subsection (1) for the purposes of subsection (9), but only—

- (a) in the case of a person who is under the age of 16 on the date on which the award of the mobility component would begin, and
- (b) in relation to so much of any period mentioned in subsection (9) as falls before the day on which he reaches the age of 16].

(10) Two weekly rates of the mobility component shall be prescribed.

(11) The weekly rate of the mobility component payable to a person for each week in the period for which he is awarded that component shall be—

- (a) the higher rate, if he falls within subsection (9) above by virtue of having satisfied or being likely to satisfy one or other of the conditions mentioned in subsection (1)(a) [²(ab)], (b) and (c) above throughout both the period mentioned in paragraph (a) of subsection (9) above and that mentioned in paragraph (b) of that subsection; and
- (b) the lower rate in any other case.

(12) For the purposes of this section in its application to a person who is terminally ill, as defined in section 66(2) above, and who makes a claim expressly on the ground that he is such a person—

- (a) subsection (9)(a) above shall be omitted; and
- (b) subsection (11)(a) above shall have effect as if for the words from “both’ to “subsection:’ in the fourth place where it occurs, there were substituted the words “the period mentioned in subsection (9)(b) above”.

(13) Regulations may prescribe cases in which a person who has the use—

- (a) of an invalid carriage or other vehicle provided by the Secretary of State under section 5(2)(a) of the National Health Service Act 1977 and Schedule 2 to that Act or under section 46 of the National Health Service Scotland Act 1978 or provided under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972; or
- (b) of any prescribed description of appliance supplied under the enactments relating to the National Health Service being such an appliance as is primarily designed to afford a means of personal and independent locomotion out of doors,

1977 c. 49

1978 c. 29

S.I.1992/1265 (N.I.14).

is not to be paid any amount attributable to entitlement to the mobility component or is to be paid disability living allowance at a reduced rate in so far as it is attributable to that component.

(14) A payment to or in respect of any person which is attributable to his entitlement to the mobility component, and the right to receive such a payment, shall (except in prescribed circumstances and for prescribed purposes) be disregarded in applying any enactment or instrument under which regard is to be had to a person’s means.

¹ S. 73(9A) inserted (1.10.07) by the Welfare Reform Act 2007 (c. 5), s. 53.

² Words inserted in s. 73(11)(a) ((11.4.10) for the purpose only of conferring power to make regulations, (15.10.10) purposes only of accessing claims & making decisions on eligibility and (11.4.11) for all other purposes), by the Welfare Reform Act 2009 (c. 24), s. 14(5).

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Mobility component for certain persons eligible for invalid carriages.

74.—(1) Regulations may provide for the issue, variation and cancellation of certificates in respect of prescribed categories of persons to whom this section applies; and a person in respect of whom such a certificate is issued shall, during any period while the certificate is in force, be deemed for the purposes of section 73 above to satisfy the condition mentioned in subsection (1)(a) of that section and to fall within paragraphs (a) and (b) of subsection (9) by virtue of having satisfied or being likely to satisfy that condition throughout both the periods mentioned in those paragraphs.

(2) This section applies to any person whom the Secretary of State considers—

- (a) was on 1st January 1976 in possession of an invalid carriage or other vehicle provided in pursuance of section 33 of the Health Services and Public Health Act 1968 (which related to vehicles for persons suffering from physical defect or disability) or receiving payments in pursuance of subsection (3) of that section; or
- (b) had at that date, or at a later date specified by the Secretary of State, made an application which the Secretary of State approved for such a carriage or vehicle or for such payments; or
- (c) was, both at some time during a prescribed period before that date and at some time during a prescribed period after that date, in possession of such a carriage or vehicle or receiving such payments; or
- (d) would have been, by virtue of any of the preceding paragraphs, a person to whom this section applies but for some error or delay for which in the opinion of the Secretary of State the person was not responsible and which was brought to the attention of the Secretary of State within the period of one year beginning with 30th March 1977 (the date of the passing of the Social Security (Miscellaneous Provisions) Act 1977, section 13 of which made provision corresponding to the provision made by this section).

1968 c. 46.

1977 c. 5.

[¹Persons who have attained pensionable age.]

75.—(1) Except to the extent to which regulations provide otherwise, no person shall be entitled to either component of a disability living allowance for any period after he attains the [¹pensionable age] otherwise than by virtue of an award made before he attains that age.

¹ Words in s. 75(1) & the sidenote substituted (26.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 42(2) & (3).

(2) Regulations may provide in relation to persons who are entitled to a component of a disability living allowance by virtue of subsection (1) above that any provision of this Act which relates to disability living allowance, other than section 74 above, so far as it so relates, and any provision of the Administration Act which is relevant to disability living allowance—

- (a) shall have effect subject to modifications, additions or amendments; or
- (b) shall not have effect.

76.—(1) Subject to subsection (2) below, a person shall not be entitled to a disability living allowance for any period preceding the date on which a claim for it is made or treated as made by him or on his behalf.

Disability living allowance - supplementary.

(2) Notwithstanding anything in subsection (1) above, provision may be made by regulations for a person to be entitled to a component of a disability living allowance for a period preceding the date on which a claim for such an allowance is made or treated as made by him or on his behalf if he has previously been entitled to that component.

(3) For the purposes of sections 72(5) and 73(12) above where—

- (a) a person purports to make a claim for a disability living allowance on behalf of another; and
- (b) the claim is made expressly on the ground that the person on whose behalf it purports to be is terminally ill,

that person shall be regarded as making the claim notwithstanding that it is made without his knowledge or authority.

Guardian's allowance

77.—(1) A person shall be entitled to a guardian's allowance in respect of a child [or qualifying young person] if—

Guardian's allowance.

- (a) he is entitled to child benefit in respect of that child [or qualifying young person], and
- (b) the circumstances are any of those specified in subsection (2) below.

[...²]

(2) The circumstances referred to in subsection (1)(b) above are—

- (a) that both of the [parents of the child or qualifying young person] are dead; or
- (b) that one of the [parents of the child or qualifying young person] is dead and the person claiming a guardian's allowance shows that he was at the date of the death unaware of, and has failed after all reasonable efforts to discover, the whereabouts of the other parent; or
- (c) that one of the [parents of the child or qualifying young person] is dead and the other is in prison.

(3) There shall be no entitlement to a guardian's allowance in respect of a child [or qualifying young person] unless at least one of the [parents of the child or qualifying young person] satisfies, or immediately before his death satisfied, such conditions as may be prescribed as to nationality, residence, place of birth or other matters.

(4) Where, apart from this subsection, a person is entitled to receive, in respect of a particular child [or qualifying young person], payment of an amount by way of a guardian's allowance, that amount shall not be payable unless one of the conditions specified in subsection (5) below is satisfied.

¹ Words inserted & substituted in s. 77 (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 4.

² Words in s. 77(1) revoked (6.4.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details of savings & transitional provisions.

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- (5) Those conditions are—
- (a) that the beneficiary would be treated for the purposes of Part I of this Act as having the child [¹or qualifying young person] living with him; or
 - (b) that the requisite contributions are being made to the cost of providing for the child [¹or qualifying young person].
- (6) The condition specified in subsection (5)(b) above is to be treated as satisfied if, but only if—
- (a) such contributions are being made at weekly rate not less than the amount referred to in subsection (4) above—
 - (i) by the beneficiary; or
 - (ii) where the beneficiary is one of two spouses [²or civil partners] residing together, by them together; and
 - (b) except in prescribed cases, the contributions are over and above those required for the purpose of satisfying section 143(1)(b) below.
- (7) A guardian's allowance in respect of a child [¹ or qualifying young person] shall be payable at the weekly rate specified in Schedule 4, Part III, paragraph 5.
- (8) Regulations—
- (a) may modify subsection (2) or (3) above in relation to cases in which a child [¹ or qualifying young person] has been adopted or is illegitimate, or the marriage of [¹ the parents of a child or qualifying young person] has been terminated by divorce [²or the civil partnership of the child's parents has been dissolved];
 - (b) shall prescribe the circumstances in which a person is to be treated for the purposes of this section as being in prison (by reference to his undergoing a sentence of imprisonment for life or of a prescribed minimum duration, or to his being in legal custody in prescribed circumstances); and
 - (c) may, for cases where entitlement to a guardian's allowance is established by reference to a person being in prison, provide—
 - (i) for requiring him to pay to the National Insurance Fund sums paid by way of a guardian's allowance;
 - (ii) for suspending payment of an allowance where a conviction, sentence or order of a court is subject to appeal, and for matters arising from the decision of an appeal;
 - (iii) for reducing the rate of an allowance in cases where the person in prison contributes to the cost of providing for the child [¹ or qualifying young person].
- (9) Where a husband and wife are residing together and, apart from this subsection, they would each be entitled to a guardian's allowance in respect of the same child [¹ or qualifying young person], only the wife shall be entitled, but payment may be made either to her or to him unless she elects in the prescribed manner that payment is not to be made to him.
- (10) Subject to subsection (11) below, no person shall be entitled to a guardian's allowance in respect of a child [¹ or qualifying young person] of which he or she is the parent.
- (11) Where a person—
- (a) has adopted a child [¹ or qualifying young person]; and
 - (b) was entitled to guardian's allowance in respect of the child [¹ or qualifying young person] immediately before the adoption,
- subsection (10) above shall not terminate his entitlement.

¹ Words inserted & substituted in s. 77(7)-(11) (10.4.05) by the Child Benefit Act 2005, Sch. 1, para. 4.

² Words inserted in s. 77 (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 34.

*Benefits for the aged***78.—(1)-(2)** [...¹]

she shall be entitled to a Category C retirement pension at the appropriate weekly rate.

(3) A person who is over the age of 80 and satisfies such conditions as may be prescribed shall be entitled to a Category D retirement pension at the appropriate weekly rate if—

- (a) he is not entitled to a Category A, Category B or Category C retirement pension; or
- (b) he is entitled to such a pension, but it is payable at a weekly rate which, disregarding those elements specified in subsection (4) below, is less than the appropriate weekly rate.

(4) The elements referred to in subsection (3)(b) above are—

- (a) any additional pension;
- (b) any increase so far as attributable to—
 - (i) any additional pension, or
 - (ii) any increase in a guaranteed minimum pension;
- (c) any graduated retirement benefit;
- (d) [...²]

(5) [...¹]

(6) The appropriate weekly rate of a Category D retirement pension shall be that specified in Schedule 4, Part III, paragraph 7.

(7) Entitlement to a [...¹] Category D retirement pension shall continue throughout the pensioner's life.

(8) A [...¹] Category D retirement pension shall not be payable for any period falling before the day on which the pensioner's entitlement is to be regarded as commencing for that purpose by virtue of section 5(1)(k) of the Administration Act.

(9) Regulations may provide for the payment—

- (a) to a widow whose husband was over pensionable age on 5th July 1948; or

¹ S. 78(1), (2) & (5) omitted & words in (7) & (8) omitted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 80(1)-(3).

² S. 78(4)(d) omitted (6.4.10) by the Pensions Act 2007 (c. 22), Sch. 1, Part. 4, para. 13.

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- (b) to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death,

of a Category C retirement pension or of benefit corresponding to a widow's pension or a widowed mother's allowance; and any such retirement pension or any such benefit shall be at the prescribed rate.

Age addition.

79.—(1) A person who is over the age of 80 and entitled to a retirement pension of any category shall be entitled to an increase of the pension, to be known as "age addition".

(2) Where a person is in receipt of a pension or allowance payable by the Secretary of State by virtue of any prescribed enactment or instrument (whether passed or made before or after this Act) and—

- (a) he is over the age of 80; and
- (b) he fulfils such other conditions as may be prescribed,

he shall be entitled to an increase of that pension or allowance, also known as age addition.

(3) Age addition shall be payable for the life of the person entitled, at the weekly rate specified in Schedule 4, Part III, paragraph 8.

PART IV

INCREASES FOR DEPENDANTS

Child dependants

80.–81. [...¹]

Sections 80 & 81 are still in force in certain cases. See page 13.4038 of the Welfare Reform Act 2009 (c. 24), s. 37 for when to apply

80.—(1) Subject to section 61 above and to the following provisions of this Part of this Act, the weekly rate of any benefit to which this subsection applies shall, for any period for which the beneficiary is entitled to child benefit in respect of a child or children, be increased in respect of that child, or each respectively of those children, by the amount specified in relation to the benefit in question in Schedule 4, Part IV, column (2). Beneficiary's dependent children

- (2) Subsection (1) above applies to—
 - (a) unemployment benefit where the beneficiary is over pensionable age;
 - (b) sickness benefit where the beneficiary is over pensionable age;
 - (c) invalidity pension; and
 - (d) Category A, Category B or Category C retirement pension.
- (3) In any case where—
 - (a) a beneficiary is one of two persons who are—
 - (i) spouses residing together; or
 - (ii) an unmarried couple; and
 - (b) the other person had earnings in any week,

the beneficiary's right to payment of increases for the following week under subsection (1) above shall be determined in accordance with subsection (4) below.

- (4) No such increase shall be payable—
 - (a) in respect of the first child where the earnings were [£230.00] or more; and
 - (b) in respect of a further child for each complete [£30.00] by which the earnings exceeded [£230.00].

(5) Subject to section 81 below, the weekly rate of a widowed mother's allowance payable by virtue of subsection (1)(a) of section 37 above shall be increased for any period in respect of the child or, if more than one, each respectively of the children falling within subsection (2)(a), (b) or (c) of that section in respect of whom she is for the time being entitled to child benefit by the amount specified in relation to that allowance in Schedule 4, Part IV, column (2).

(6) Subject to section 81 below, the weekly rate of a child's special allowance shall, for any period for which the beneficiary is entitled to child benefit in respect of two or more children with respect to whom the conditions specified in section 56(1)(b) and (c) above are satisfied, be increased in respect of each respectively of those children other than the elder or eldest by the amount specified in relation to that allowance in Schedule 4, Part IV, column (2).

- (7) In this section—
 - “unmarried couple” means a man and a woman who are not married to each other but are living together as husband and wife; and
 - “week” means such period of 7 days as may be prescribed for the purposes of this section.

¹ Ss. 80 & 81 revoked (6.4.03) by Sch. 6 to Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details as to savings and transitional provisions.

² Amounts in para. 80(4) substituted and maintained [1st benefit week on or after 1.4.15] by art. 7 of S.I. 2015/???

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Ss. 81-82

Restrictions on increase -
child not living with
beneficiary etc

81.—(1) Where, apart from this subsection, a person is entitled to receive, in respect of a particular child, payment of an amount by way of an increase under section 80 above of any benefit, that amount shall not be payable unless one of the conditions specified in subsection (2) below is satisfied.

(2) Those conditions are—

- (a) that the beneficiary would be treated for the purposes of Part IX of this Act as having the child living with him; or
- (b) that the requisite contributions are being made to the cost of providing for the child.

(3) The condition specified in subsection (2)(b) above is to be treated as satisfied if, but only if—

- (a) such contributions are being made at a weekly rate not less than the amount referred to in subsection (1) above—
 - (i) by the beneficiary; or
 - (ii) where the beneficiary is one of two spouses residing together, by them together; and
- (b) except in prescribed cases, the contributions are over and above those required for the purpose of satisfying section 143(1)(b) below.

Adult dependants

82. [¹...]

See page 13.4038 of the Welfare Reform Act 2009 (c. 24), s. 15(2). s. 82 is still in force in certain situations to do with maternity allowance & carer's allowance.

Short-term benefit:
increase for adult
dependants.

[²82.—(1) Subject to section 61 above and section 87 below, the weekly rate of unemployment benefit [...³] shall be increased by the amount specified in relation to [³that benefit] in Schedule 4, Part IV, column (3), for any period during which—

- (a) the beneficiary is—
 - (i) residing with his wife, or
 - (ii) contributing to the maintenance of his wife at a weekly rate not less than that amount; and
- (b) his wife does not have weekly earnings which exceed that amount.]

[⁴(2) Subject, in particular, to subsection (5) and section 87 below, the weekly rate of a maternity allowance shall be increased by the amount specified in relation to that benefit in Schedule 4, Part IV, column (3) (“the amount of the relevant increase”) for any period to which this subsection applies by virtue of subsection (3) or (4) below.]

(3) Subsection (2) above applies by virtue of this subsection to any period during which—

- (a) the beneficiary's husband [⁵or civil partner] does not have weekly earnings which exceed the amount of the relevant increase, and
- (b) either she and her husband [⁵or civil partner] are residing together or she is contributing to [⁵her husband's or civil partner's] maintenance at a weekly rate not less than that amount.

(4) Subsection (2) above applies by virtue of this subsection to any period during which a person—

¹ S. 82 omitted (6.4.10) by Welfare Reform Act 2009, (c. 24), Sch. 7, part. 2.

² S. 82(1) repealed (7.10.96) by Sch. 3 to Jobseeker's Act 1995 (c. 18). It will however remain reproduced in this work for a temporary period.

³ Words deleted and words substituted (13.4.95) in s. 82(1) and (2) by para. 19 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

⁴ S. 82(2) substituted (7.10.96) by para. 24 of Sch. 2 to Jobseekers Act 1995 (c. 18). (The effect of this amendment is to exclude unemployment benefit from this subsection.

⁵ Words inserted & substituted in s. 82 (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch. 24, para. 35.

- (a) who is neither the spouse [¹or civil partner] of the beneficiary nor a child [²or qualifying young person], and
- (b) in respect of whom such further conditions as may be prescribed are fulfilled,

has the care of [²one or more children or qualifying young persons] in respect of whom the beneficiary is entitled to child benefit.

(5) A beneficiary shall not under subsection (2) above be entitled for the same period to an increase of benefit in respect of more than one person.

83.-85. [...³]

86. [...⁴]

[⁵**86A.**—(1) The weekly rates of short-term and long-term incapacity benefit shall, in such circumstances as may be prescribed, be increased for adult dependants by the appropriate amount specified in relation to benefit of that description in Schedule 4, Part IV, column (3).

Incapacity benefit: increase for adult dependants.

(2) Regulations may provide that where the person in respect of whom an increase of benefit is claimed has earnings in excess of such amount as may be prescribed there shall be no increase of benefit under this section.]

87.—(1) Where a person—

- [⁶(a) is entitled to short-term incapacity benefit under section 30A(2)(b) above; and]
- (b) would have been entitled only by virtue of section 60(1) above to the retirement pension by reference to which the rate of that benefit [...⁷] is determined,

Rate of increase where associated retirement pension is attributable to reduced contributions.

[⁸the amount of any increase of the benefit attributable to sections 82 to 86A above shall be determined in accordance with regulations under this section.]

(2) 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 [...⁷] is determined—

- (a) would have been payable only by virtue of section 60 above; and
- (b) would, in consequence of a failure to satisfy a contribution condition, have contained no basic pension.

88.-89[⁹...]

90. [¹⁰...]

¹ Words inserted & substituted in s. 82 (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 35.

² Words inserted & substituted in s. 82(4) (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1 para. 5.

³ Ss. 83-85 omitted (6.4.10) by s. 4 of the Pensions Act 2007 (c. 22).

⁴ S. 86 repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 23 & Sch. 2.

⁵ S. 86A inserted (18.11.94 for regulation-making purposes, 13.4.95 for other purposes) by s. 2(5) of S.S. (Incapacity for Work) Act 1994 (c. 18).

⁶ S. 87(1)(a) substituted (7.10.96) by para. 26 of Sch. 2 to Jobseekers Act 1995 (c. 18).

⁷ Words “or invalidity pension” in Ss. 87(1)(b) & 2 repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 24(3) and Sch. 2.

⁸ Words in s. 87(1) substituted (13.4.95) by para. 24(4) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

⁹ Ss. 88 & 89 repealed by (12.11.09) by the Welfare Reform Act 2009 (c. 24), Sch. 7, part 2 & s. 37(4).

¹⁰ S. 90 repealed (12.1.10) by the Welfare Reform Act 2009, (c. 24), Sch. 7, part. 2.

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Ss. 90-93

Beneficiaries under sections 68 and 70.

S. 90 is still in force in certain situations in regards to maternity allowance and carers allowance. See page 13.4038 of the Welfare Reform Act 2009 (c. 24), s. 15(2) for when to apply.

90. The weekly [¹rate]–

(a)

(b) of [²a carer's allowance],

shall, in such circumstances as may be prescribed, be increased for [...³] adult dependants by the appropriate amount specified [³in relation] to the allowance in Schedule 4, Part IV.

91.—92. [...⁴]

Dependency increases on termination of employment after period of entitlement to disability working allowance.

93. Where–

[⁵(a) a person becomes entitled–

(i) to the higher rate of short-term incapacity benefit, or to long-term incapacity benefit, by virtue of section 30C(5) or (6) or section 42 above,

[(ii) ...⁶]

(b) when he was 1st entitled to that [⁷benefit] [...⁶], it was increased in respect of a dependant by virtue of–

(i) regulation 8(6) of the Social Security Benefit (Dependency) Regulations 1977;

(ii) regulation 2 of the Social Security (Savings for Existing Beneficiaries) Regulations 1984;

(iii) regulation 3 of the Social Security Benefit (Dependency) Amendment Regulations 1984; or

(iv) regulation 4 of the Social Security Benefit (Dependency and Computation of Earnings) Amendment Regulations 1989,

S.I. 1977/343.

S.I. 1984/1696.

S.I. 1984/1698.

S.I. 1989/1690.

for the purpose of determining whether his [⁷benefit] [...⁶] should be increased by virtue of that regulation for any period beginning with the day on which he again becomes entitled to his [⁷benefit] [...⁶], the increase in respect of that dependant shall be treated as having been payable to him on each day between the last day on which his [⁷benefit] [...⁶] was previously payable and the day on which he again becomes entitled to it.

¹ Words in s. 90 substituted (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

² In s. 90(b) words “an invalid care allowance” substituted by “a carer's allowance” (1.9.02 for the purposes of exercising power to make subordinate legislation, 1.4.03 for all other purposes) by para. 2(d) of the Schedule to S.I. 2002/1457.

³ Words in s. 90 revoked (6.4.03) by Sch. 6 to the Tax Credits Act 2002 (c 21).

⁴ Ss. 91-92 repealed (12.1.10) by the Welfare Reform Act 2009, c. 24), Sch. 7, part. 2.

⁵ S. 93(a) substituted (13.4.95) by para. 28(a) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

⁶ Words in s. 93(a) & (b) repealed (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 88 of the Welfare Reform and Pensions Act 1999 (c. 30).

⁷ Words in s. 93 substituted (13.4.95) by para. 28(b) of Sch. 1 to S.S (Incapacity for Work) Act 1994 (c. 18).

PART V

BENEFIT FOR INDUSTRIAL INJURIES

General provisions

94.—(1) Industrial injuries benefit shall be payable where an employed earner suffers personal injury caused [...] by accident arising out of and in the course of his employment, being employed earner's employment. Right to industrial injuries benefit.

- (2) Industrial injuries benefit consists of the following benefits—
- (a) disablement benefit payable in accordance with sections 103 to 105 below, paragraphs 2 and 3 of Schedule 7 below and Parts II and III of that Schedule;
 - (b) reduced earnings allowance payable in accordance with Part IV;
 - (c) retirement allowance payable in accordance with Part V; and
 - (d) industrial death benefit, payable in accordance with Part VI.

(3) For the purposes of industrial injuries benefit an accident arising in the course of an employed earner's employment shall be taken, in the absence of evidence to the contrary, also to have arisen out of that employment.

(4) Regulations may make provision as to the day which, in the case of night workers and other special cases, is to be treated for the purposes of industrial injuries benefit as the day of the accident.

(5) Subject to sections 117, 119 and 120 below, industrial injuries benefit shall not be payable in respect of an accident happening while the earner is outside Great Britain.

(6) In the following provisions of this Part of this Act "work" in the contexts "incapable of work" and "incapacity for work" means work which the person in question can be reasonably expected to do.

95.—(1) In section 94 above, this section and sections 98 to 109 below "employed earner's employment" shall be taken to include any employment by virtue of which a person is, or is treated by regulations as being for the purposes of industrial injuries benefit, an employed earner. Relevant employments.

(2) Regulations may provide that any prescribed employment shall not be treated for the purposes of industrial injuries benefit as employed earner's employment notwithstanding that it would be so treated apart from the regulations.

(3) For the purposes of the provisions of this Act mentioned in subsection (1) above an employment shall be an employed earner's employment in relation to an accident if (and only if) it is, or is treated by regulations as being, such an employment when the accident occurs.

(4) Any reference in the industrial injuries and diseases provisions to an "employed earner" or "employed earner's employment" is to be construed, in relation to any time before 6th April 1975, as a reference respectively to an "insured person" or "insurable employment" within the meaning of the provisions relating to industrial injuries and diseases which were in force at that time.

- (5) In subsection (4) above "the industrial injuries and diseases provisions" means—
- (a) this section and sections 96 to 110 below;
 - (b) any other provisions of this Act so far as they relate to those sections; and

¹ Words repealed in s. 94(1) (5.12.12) by the Welfare Act 2012 (c. 5), s. 64(1)(a).

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Ss. 95-97

- (c) any provisions of the Administration Act,* [1 or Chapter II of Part I of the Social Security Act 1998 or Part II of the Social Security Contributions (Transfer of Functions, etc) Act 1999.]

*S. 95(5)(c) modified 1.4.99 by S.I. 1999/978 (see volume 1 page 1.6127).

[2 Employment training schemes etc

95A.—(1) In the industrial injuries and diseases provisions any reference to employed earner's employment shall be taken to include participation in an employment training scheme or employment training course of a prescribed description (and "employed earner" shall be construed accordingly).

(2) In those provisions, a reference to an employer, in relation to any such participation, shall be taken to be a prescribed person.

(3) In this section "industrial injuries and diseases provisions" has the same meaning as in section 95(4) above.]

Persons treated as employers for certain purposes.

96. In relation to—

- (a) a person who is an employed earner for the purposes of this Part of this Act otherwise than by virtue of a contract of service or apprenticeship; or
- (b) any other employed earner—
- (i) who is employed for the purpose of any game or recreation and is engaged or paid through a club; or
- (ii) in whose case it appears to the Secretary of State there is special difficulty in the application of all or any of the provisions of this Part of this Act relating to employers,

regulations may provide for a prescribed person to be treated in respect of industrial injuries benefit and its administration as the earner's employer.

Accidents in course of illegal implements.

97.—(1) Subsection (2) below has effect in any case where—

- (a) a claim is made for industrial injuries benefit in respect of an accident, or of a prescribed disease or injury; or
- (b) an application is made under [2 section 29 of the Social Security Act 1998] for a declaration that an accident was an industrial accident, or for a corresponding declaration as to a prescribed disease or injury.

(2) The Secretary of State may direct that the relevant employment shall, in relation to that accident, disease or injury, be treated as having been employed earner's employment notwithstanding that by reason of a contravention of, or non-compliance with, some provision contained in or having effect under an enactment passed for the protection of employed persons or any class of employed persons, either—

- (a) the contract purporting to govern the employment was void; or
- (b) the employed person was not lawfully employed in the relevant employment at the time when, or in the place where, the accident happened or the disease or injury was contracted or received.

(3) In subsection (2) above "relevant employment" means—

¹ Words substituted (5.7.99) by para. 4 of Sch. 7 to the Transfer of Functions Act 1999 (c. 2).

² S. 95A inserted (31.10.13) by s. 66 of Welfare Reform Act 2012 (c. 5).

³ Words substituted (5.7.99) by para. 64 of Sch. 7 to the S.S. Act 1998 (c. 14).

- (a) in relation to an accident, the employment out of and in the course of which the accident arises; and
- (b) in relation to a prescribed disease or injury, the employment to the nature of which the disease or injury is due.

98. An accident shall be taken to arise out of and in the course of an employed earner's employment, notwithstanding that he is at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment, or of any orders given by or on behalf of his employer, or that he is acting without instructions from his employer, if—

Earner acting in breach of regulations, etc.

- (a) the accident would have been taken so to have arisen had the act not been done in contravention of any such regulations or orders, or without such instructions, as the case may be; and
- (b) the act is done for the purposes of and in connection with the employer's trade or business.

99.—(1) An accident happening while an employed earner is, with the express or implied permission of his employer, travelling as a passenger by an vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be taken to arise out of an in the course of his employment if—

Earner travelling in employer's transport.

- (a) the accident would have been taken so to have arisen had he been under such an obligation; and
- (b) at the time of the accident, the vehicle—
 - (i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and
 - (ii) is not being operated in the ordinary course of a public transport service.

(2) In this section references to a vehicle include a ship, vessel, hovercraft or aircraft.

100. An accident happening to an employed earner in or about any premises at which he is for the time being employed for the purposes of his employer's trade or business shall be taken to arise out of an in the course of his employment if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who re, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

Accidents happening while meeting emergency.

101. An accident happening after 19th December 1961 shall be treated for the purposes of industrial injuries benefit, where it would not apart from this section be so treated, as arising out of an employed earner's employment if—

Accident caused by another's misconduct etc.

- (a) the accident arises in the course of the employment; and
- (b) the accident either is caused—
 - (i) by another person's misconduct, skylarking or negligence, or
 - (ii) by steps taken in consequence of any such misconduct, skylarking or negligence, or
 - (iii) by the behaviour or presence of an animal (including a bird, fish or insect),
 or is caused by or consist in the employed earner being struck by any object or by lightning; and
- (c) the employed earner did not directly or indirectly induce or contribute to the happening of the accident by his conduct outside the employment or by any act not incidental to the employment.

Ss. 102-103

102. [...¹]

Disablement pension

Disablement pension.

103.—(1) Subject to the provisions of this section, an employed earner shall be entitled to disablement pension if he suffers as the result of the relevant accident from loss of physical or mental faculty such that the assessed extent of the resulting disablement amounts to not less than 14 per cent. or, on a claim made before 1st October 1986, 20 per cent.

(2) In the determination of the extent of an employed earner's disablement for the purposes of this section there may be added to the percentage of the disablement resulting from the relevant accident the assessed percentage of any present disablement of his—

- (a) which resulted from any other accident [...²] arising out of and in the course of his employment, being employed earner's employment, and
- (b) in respect of which a disablement gratuity was not paid to him after a final assessment of his disablement,

(as well as any percentage which may be so added in accordance with regulations under subsection (2) of section 109 below made by virtue of subsection (4)(b) of that section).

(3) Subject to subsection (4) below, where the assessment of disablement is a percentage between 20 and 100 which is not a multiple of 10, it shall be treated—

- (a) if it is a multiple of 5, as being the next higher percentage which is a multiple of 10, and
- (b) if it is not a multiple of 5, as being the nearest percentage which is a multiple of 10,

and where the assessment of disablement on a claim made on or after 1st October 1986 is less than 20 per cent., but not less than 14 per cent., it shall be treated as 20 per cent.

¹ S. 102 repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 29 & Sch. 2.

² Words in s. 103(2)(a) repealed (5.12.12) by the Welfare Reform Act 2012 (c. 5), s. 64(1)(b).

(4) Where subsection (2) above applies, subsection (3) above shall have effect in relation to the aggregate percentage and not in relation to any percentage forming part of the aggregate.

(5) In this Part of this Act “assessed”, in relation to the extent of any disablement, means assessed in accordance with Schedule 6 to this Act; and for the purposes of that Schedule there shall be taken to be no relevant loss of faculty when the extent of the resulting disablement, if so assessed, would not amount to 1 per cent.

(6) A person shall not be entitled to a disablement pension until after the expiry of the period of 90 days (disregarding Sundays) beginning with the day of the relevant accident.

(7) Subject to subsection (8) below, where disablement pension is payable for a period, it shall be paid at the appropriate weekly rate specified in Schedule 4, Part V, paragraph 1.

(8) Where the period referred to in subsection (7) above is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before that date.

104.—(1) Where a disablement pension is payable in respect of an assessment of 100 per cent., then, if as the result of the relevant loss of faculty the beneficiary requires constant attendance, the weekly rate of the pension shall be increased by an amount, not exceeding the appropriate amount specified in Schedule 4, Part V, paragraph 2 determined in accordance with regulations by reference to the extent and nature of the attendance required by the beneficiary.

Increase where constant attendance needed.

(2) An increase of pension under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

(3) The Secretary of State may by regulations direct that any provision of sections 64 to 67 above shall have effect, with or without modifications, in relation to increases of pension under this section.

(4) In subsection (3) above, “modifications” includes additions and omissions.

105.—(1) Where a disablement pension is payable to a person—

- (a) who is or, but for having received medical or other treatment as an in-patient in a hospital or similar institution, would be entitled to an increase of the weekly rate of the pension under section 104 above, and the weekly rate of the increase exceeds the amount specified in Schedule 4, Part V, paragraph 2(a); and
- (b) his need for constant attendance of an extent and nature qualifying him for such an increase at a weekly rate in excess of that amount is likely to be permanent,

Increase for exceptionally severe disablement.

the weekly rate of the pension shall, in addition to any increase under section 104 above, be further increased by the amount specified in Schedule 4, Part V, paragraph 3.

(2) An increase under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

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Ss. 106–108

Other benefits and increases

Benefits and increases subject to qualifications as to time.

- 106.** Schedule 7 to this Act shall have effect in relation–
- (a) to unemployability supplement;
 - (b) to disablement gratuity;
 - (c) to increases of disablement pension during hospital treatment;
 - (d) to reduced earnings allowance;
 - (e) to retirement allowance; and
 - (f) to industrial death benefit,
- for all of which the qualifications include special qualifications as to time.

Successive accidents

Adjustments for successive accidents.

- 107.**—(1) Where a person suffers two or more successive accidents arising out of and in the course of his employed earner's employment–
- (a) he shall not for the same period be entitled (apart from any increase of benefit mentioned in subsection (2) below) to receive industrial injuries benefit by way of two or more disablement pensions at an aggregate weekly rate exceeding the appropriate amount specified in Schedule 4, Part V, paragraph 4; and
 - (b) regulations may provide for adjusting–
 - (i) disablement benefit, or the conditions for the receipt of that benefit, in any case where he has received or may be entitled to a disablement gratuity;
 - (ii) any increase of benefit mentioned in subsection (2) below, or the conditions for its receipt.
- (2) The increases of benefit referred to in subsection (1) above are those under the following provisions of this Act–
- section 104,
 - section 105,
 - paragraph 2,4 or 6 of Schedule 7.

Prescribed industrial diseases etc.

Benefit in respect of prescribed industrial diseases, etc.

- 108.**—(1) Industrial injuries benefits shall, in respect of a person who has been in employed earner's employment, be payable in accordance with this section and sections 109 and 110 below in respect of–
- (a) any prescribed disease, or
 - (b) any prescribed personal injury (other than an injury caused by accident arising out of and in the course of his employment),

which is a disease or injury due to the nature of that employment [...]¹.

- (2) A disease or injury may be prescribed in relation to any employed earners if the Secretary of State is satisfied that–
- (a) it ought to be treated, having regard to its causes and incidence and any other relevant considerations, as a risk of their occupations and not as a risk common to all persons; and
 - (b) it is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty

(3) Regulations prescribing any disease or injury for those purposes may provide that a person who developed the disease or injury on or at any time after a date

¹ Words in s. 108(1) repealed (5.12.12) by the Welfare Reform Act 2012 (c. 5), s. 64(1)(c).

specified in the regulations (being a date before the regulations came into force [...¹]) shall be treated, subject to any prescribed modifications of this section or section 109 or 110 below, as if the regulations had been in force when he developed the disease or injury.

- (4) Provision may be made by regulations for determining—
 - (a) the time at which a person is to be treated as having developed any prescribed disease or injury; and
 - (b) the circumstances in which such a disease or injury is, where the person in question has previously suffered from it, to be treated as having recrudesced or as having been contacted or received afresh.

(5) 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 sections or section 110 below in respect of that disease or injury.

(6) Nothing in this section or in section 109 or 110 below affects the right of any person to benefit in respect of a disease which is a personal injury by accident within the meaning of this Part of this Act, except that a person shall not be entitled to benefit in respect of a disease as being an injury by accident arising out of and in the course of any employment if at the time of the accident the disease is in relation to him a prescribed disease by virtue of the occupation in which he is engaged in that employment.

109.—(1) Subject to the power to make different provision by regulations, and to the following provisions of this section and section 110 below—

- (a) the benefit payable under section 1087 above in respect of a prescribed disease or injury, and
- (b) the conditions for receipt of benefit,

shall be the same as in the case of personal injury by accident arising out of and in the course of employment.

General provisions relating to benefit under section 108.

- (2) In relation to prescribed diseases and injuries, regulations may provide—
 - (a) for modifying any provisions contained in this Act [², the Administration Act or Chapter II of Part I of the Social Security Act 1998] which relate to disablement benefit or reduced earnings allowance or their administration; and
 - (b) for adapting references in this Act [², that Act and that Chapter] to accidents, and for the purposes of this subsection the provisions of [², that Act and that Chapter] which relate to the administration of disablement benefit or reduced earnings allowance shall be taken to include section 1 [²of that Act] and any provision which relates to the administration of both the benefit in question and other benefits.

(3) Without prejudice to the generality of subsection (2) above, regulations under that subsection may in particular include provision—

- (a) for presuming any prescribed disease or injury—
 - (i) to be due, unless the contrary is proved, to the nature of a person’s employment where he was employed in any prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury,
 - (ii) not to be due to the nature of a person’s employment unless he was employed in some prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury;

¹ Words in s. 108(3) repealed (5.12.12) by the Welfare Reform Act 2012 (c. 5), s. 64(1)(d).

² Words substituted and added in s. 109 (5.7.99) by para. 65 of the S.S. Act 1998 (c. 14).

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(b) for such matters as appear to the Secretary of State to be incidental to or consequential or provisions included in the regulations by virtue of subsection (2) and paragraph (a) above.

(4) Regulations under subsection (2) above may also provide—

(a) that, in the determination of the extent of an employed earner's disablement resulting from a prescribed disease or injury, the appropriate percentage may be added to the percentage of disablement; and

(b) that, in the determination of the extent of an employed earner's disablement for the purposes of section 103 above, the appropriate percentage may be added to the percentage of disablement resulting from the relevant accident.

(5) In subsection (4)(a) above "the appropriate percentage" means the assessed percentage of any present disablement of the earner which resulted—

(a) from any accident [...] arising out of and in the course of his employment, being employed earner's employment, or

(b) from any other prescribed disease or injury due to the nature of that employment [...]¹,

and in respect of which a disablement gratuity was not paid to him after a final assessment of his disablement.

(6) In subsection (4)(b) above "the appropriate percentage" means the assessed percentage of any present disablement of the earner—

(a) which resulted from any prescribed disease or injury due to the nature of his employment [...]¹, and

(b) in respect of which a disablement gratuity was not paid to him after a final assessment of his disablement.

(7) Where regulations under subsection (2) above—

(a) make provision such as is mentioned in subsection (4) above, and

(b) also make provision corresponding to that in section 103(3) above,

they may also make provisions to the effect that those corresponding provisions shall have effect in relation to the aggregate percentage and not in relation to any percentage forming part of the aggregate.

Respiratory diseases.

110.—(1) As respects pneumoconiosis, regulations may further provide that, where a person is found to be suffering from pneumoconiosis accompanied by tuberculosis, the effects of the tuberculosis shall be treated for the purposes of this section and sections 108 and 109 above as if they were effects of the pneumoconiosis.

(2) Subsection (1) above shall have effect as if after "tuberculosis" (in both places) there were inserted "emphysema or chronic bronchitis", but only in relation to a person the extent of whose disablement resulting from pneumoconiosis, or from pneumoconiosis accompanied by tuberculosis, would (if his physical condition were otherwise normal) be assessed at not less than 50 per cent.

(3) A person found to be suffering from pneumoconiosis shall be treated for the purposes of this Act as suffering from a loss of faculty such that the assessed extent of the resulting disablement amounts to not less than 1 per cent.

(4) In respect of byssinosis, a person shall not (unless regulations otherwise provide) be entitled to disablement benefit unless he is found to be suffering, as the result of byssinosis, from loss of faculty which is likely to be permanent.

¹ Words in s. 109(5)(a), (b) & (6)(a) repealed (5.12.12) by the Welfare Reform Act 2012 (c. 5), s. 64(1)(e) & (f).

Old cases

111. [...¹]

PART VI

MISCELLANEOUS PROVISIONS RELATING TO PARTS I TO V

Earnings

112.—(1) [²The Treasury may by regulations made with the concurrence of the Secretary of State] provide— Certain sums to be earnings.

- (a) that any employment protection entitlement shall be deemed for the purposes of Parts I to V of this Act to be earnings payable by and to such persons as are prescribed and to be so payable in respect of such periods as are prescribed; and
- (b) that those periods shall, so far as they are not periods of employment, be deemed for those purposes to be periods of employment.

(2) In subsection (1) above “employment protection entitlement” means—

- (a) any sum, or a prescribed part of any sum, mentioned in subsection (3) below; and
- (b) prescribed amounts which the regulations provide are to be treated as related to any of those sums.

[²(A) Regulations under subsection (2) above shall be made by the Treasury with the concurrence of the Secretary of State.]

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

- (a) a sum payable in respect of arrears of pay in pursuance of any order for reinstatement or re-engagement under [³the Employment Rights Act 1996]; 1996 c. 18.
- (b) a sum payable by way of pay in pursuance of any order under that Act [³or the Trade Union and Labour Relations (Consolidation) Act 1992] for the continuation of a contract of employment; 1992 c. 52.
- (c) a sum payable by way of remuneration in pursuance of a protective award under [³the Trade Union and Labour Relations (Consolidation) Act 1992]. 1992 c. 52.

Disqualification and suspension

113.—(1) Except where regulations otherwise provide a person shall be disqualified for receiving any benefit under Parts II to V of this Act, and an increase of such benefit shall not be payable in respect of any person as the beneficiary’s [⁴wife, husband or civil partner,] for any period during which the person— General provisions as to disqualification and suspension.

¹ S. 111 repealed (5.12.12) by the Welfare Reform Act 2012 (c. 5), s. 64(2).
² Words substituted & inserted in s. 112 (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2) Sch. 3, para. 21.
³ Words substituted (22.8.96) in s. 112(3) by para. 51(4)(a), (b) & (c) of Sch. 1 to Employment Rights Act 1996 (c. 18).
⁴ Words substituted in s. 113(1) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 38.

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- (a) is absent from Great Britain; or
- (b) is undergoing imprisonment or detention in legal custody.

(2) Regulations may provide for suspending payment of such benefit to a person during any period in which he is undergoing medical or other treatment as an in-patient in a hospital or similar institution.

(3) Regulations may provide for a person who would be entitled to any such benefit but for the operation of any provision of this Act [¹, the Administration Act or Chapter II of Part I of the Social Security Act 1998] to be treated as if entitled to it for the purposes of any rights or obligations (whether his own or another's) which depend on his entitlement, other than the right to payment of the benefit.

Persons maintaining dependants etc.

Persons maintaining dependants etc.

114.—(1) Regulations may provide for determining the circumstances in which a person is or is not to be taken, for the purposes of Parts II to V of this Act—

- (a) to be wholly or mainly, or to a substantial extent, maintaining, or to be contributing at any weekly rate to the maintenance of, another person; or
- (b) to be, or have been, contributing at any weekly rate to the cost of providing for a child [²or qualifying young person].

(2) Regulations under this section may provide, for the purposes of the provisions relating to any increase of benefit under Parts II to V of this Act in respect of a [³wife, civil partner] or other adult dependant, that where—

- (a) a person is partly maintained by each of two or more beneficiaries, each of whom would be entitled to such an increase in respect of that person if he were wholly or mainly maintaining that person, and
- (b) the contributions made by those two or more beneficiaries towards the maintenance of that person amount in the aggregate to sums which would, if they had been contributed by one of those beneficiaries, have been sufficient to satisfy the requirements of regulations under this section,

that person shall be taken to be wholly or mainly maintained by such of those beneficiaries as may be prescribed.

(3) Regulations may provide for any sum or sums paid by a person by way of contribution towards either or both of the following, that is to say—

- (a) the maintenance of his or her spouse [³or civil partner], and
- (b) the cost of providing for one or more children [²or qualifying young persons],

to be treated for the purposes of any of the provisions of this Act specified in subsection (4) below as such contributions, of such respective amounts equal in the aggregate to the said sum or sums, in respect of such persons, as may be determined in accordance with the regulations so as to secure as large a payment as possible by way of benefit in respect of the dependants.

(4) The provisions in question are section 56, [⁴82] [⁵...], 86 and paragraphs 5 and 6 of Schedule 7 to this Act.

¹ Words substituted (5.7.99) in s. 113(3) by para. 66 of Sch. 7 of the S.S. Act 1998 (c. 14).

² Words inserted in s. 114 (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 7.

³ Words substituted and inserted in s. 114 (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 39.

⁴ Ref. in s. 114(4) substituted (6.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 3, para. 34.

⁵ Words omitted in s. 114(4) (6.4.10) by the Pensions Act 2007 (c. 22), Sch. 1, Part 4, para. 16.

Special cases

115.—(1) Subject to the provisions of this section, Parts I to V and this Part of this Act apply to persons employed by or under the Crown in like manner as if they were employed by a private person.

Crown employment-
Parts I to VI.

(2) Subsection (1) above does not apply to persons serving as members of Her Majesty’s forces in their capacity as such.

(3) Employment as a member of Her Majesty’s forces and any other prescribed employment under the Crown are not, and are not to be treated as, employed earner’s employment for any of the purposes of Part V of this Act.

(4) The references to Parts I of this Act in this section and sections 116, 117, 119, 120 and 121 below do not include references to section 111 above.

116.—(1) Subject to section 115(2) and (3) above and to this section, a person who is serving as a member of Her Majesty’s forces shall, while he is so serving, be treated as an employed earner, in respect of his membership of those forces, for he purposes—

Her Majesty’s forces.

- (a) of Parts I to V and this Part of this Act; and
- (b) of any provision of the Administration Act in its application to him as an employed earner.

(2) [¹The Treasury may with the concurrence of the Secretary of State] make regulations modifying Parts I to V and this Part of this Act, [²and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999] and any [³provisions of Chapter II of Part I of the Social Security Act 1998 which correspond to] provisions of Part III of the 1975 Act, in such manner as [¹the Treasury think] proper, in their application to persons who are or have been members of Her Majesty’s forces; and regulations under this section may in particular provide [³, in the case of persons who are employed earners in respect of their membership of those forces, for reducing the rate of the contributions payable in respect of their employment and determining—

- (a) the amounts payable on account of those contributions by the Secretary of State and the time and manner of payment, and
- (b) the deduction (if any) to be made on account of those contributions from the pay of those persons;]

The words in s.116(2) superseded (7.10.96) by the substituted words above were in similar terms save that they also provided (by virtue of what was formerly s.116(2)(b) that:-

“... regulations under this section may in particular provide-
.....

- (b) for preventing a person who is discharged from Her Majesty’s forces at his own request from being thereby disqualified for receiving unemployment benefit on the ground that he has voluntarily left his employment without just cause.”

(3) For the purposes of Parts I to V and this Part of this Act, Her Majesty’s forces shall be taken to consist of such establishments and organisations as may be prescribed, [¹by regulations made by the Treasury with the concurrence of the Secretary of State] being establishments and organisations in which persons serve under the control of the Defence Council.

¹ Words substituted in s. 116 (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) Sch. 3, paras. 22 to 23.
² Words inserted in s.116(2) & (3) (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) Sch. 7, para. 5.
³ Words substituted (5.7.99) in s.116(2) by paras. 67 of Sch. 7 to the S.S. Act 1998 (c. 14).
⁴ Words in s.116(2) substituted (7.10.96) for former paras. (a) and (b) by para. 28 of Sch. 2 to Jobseekers Act 1995 (c. 18).

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Mariners, airmen, etc.

117.—(1) [1The Treasury may with the concurrence of the Secretary of State] make regulations modifying provisions of Parts I to V and this Part of this Act, [2and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999] and any [3provisions of Chapter II of Part I of the Social Security Act 1998 which correspond to] provisions of Part III of the 1975 Act, in such manner as [1the Treasury think] proper, in their application to persons who are or have been, or are to be, employed on board any ship, vessel, hovercraft or aircraft.

(2) Regulations under subsection (1) above may in particular provide—

- (a) for any such provision to apply to such persons, notwithstanding that it would not otherwise apply;
- (b) for excepting such persons from the application of any such provision where they neither are domiciled nor have a place of residence in any part of Great Britain;
- (c) for requiring the payment of secondary Class 1 contributions in respect of such persons, whether or not they are (within the meaning of Part I of this Act) employed earners;
- (d) for the taking of evidence, for the purposes of any claim to benefit, in a country or territory outside Great Britain, by a British consular official or such other person as may be prescribed.
- (e) for enabling persons who are or have been so employed to authorise the payment of the whole or any part of any benefit to which they are or may become entitled to such of their dependants as may be prescribed.

Married women and widows

118. [1The Treasury may with the concurrence of the Secretary of State] make regulations modifying any of the following provisions of this Act, namely—

- (a) Part I
- (b) Part II (except section 60); and
- (c) Parts III and IV,

in such manner as [1the Treasury think] proper, in their application to women who are or have been married.

Persons outside Great Britain.

119. [1The Treasury may with the concurrence of the Secretary of State] make regulations modifying Parts I to V of this Act, [4and Part II of the Social Security Contributions (Transfer of Functions etc.) Act 1999] and any [5provisions of Chapter II of Part I of the Social Security Act 1998 which correspond to] provisions of Part III of the 1975 Act, in such manner as [1the Treasury think] proper, in their application to persons who are or have been outside Great Britain at any prescribed time or in any prescribed circumstances.

Employment at sea (continental shelf operations.)

120.—(1) [1The Treasury may with the concurrence of the Secretary of State] make regulations modifying Parts I to V and this Part of this Act, [4and Part II of the Social Security Contributions (Transfer of Functions etc.) Act 1999] and any [5provisions of Chapter II of Part I of the Social Security Act 1998 which correspond to] provisions of Part III of the 1975 Act, in such manner as [1the Treasury think] proper, in their application to persons in any prescribed employment (whether under a contract of service or not) in connection with continental shelf operations.

¹ Words substituted in ss.117 to 120 (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c.2) Sch. 3, paras. 22 to 26.

² Words inserted in s.117(1) (1.4.99) by S.S. Contributions (Transfer of Functions Act, etc.) 1999 (c. 2) Sch. 7, paras. 5 & 6.

³ Words substituted (5.7.99) in s. 117(1) by para. 68 of Sch. 7 to the S.S. Act 1998 (c. 14).

⁴ Words inserted in ss. 119 & 120(1) (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) Sch.7, paras. 7 & 8.

⁵ Words substituted (5.7.99) in s.119 & 120(1) by paras. 69 & 70 of Sch. 7 to the S.S. Act 1998 (c. 14).

(2) “Continental shelf operations” means any activities which, if paragraphs (a) and (d) of subsection (6) of section 23 of the Oil and Gas (Enterprise) Act 1982 (application of civil law to certain offshore activities) were omitted, would nevertheless fall within subsection (2) of that section. 1982 c. 23.

(3) In particular (but without prejudice to the generality of subsection (1) above), the regulations may provide for any prescribed provision of Parts I to V and this Part of this Act to apply to any such persons notwithstanding that he does not fall within the description of an employed or self-employed earner, or does not fulfil the conditions prescribed under section 1(6) above as to residence or presence in Great Britain.

121.—(1) Regulations [1made by the Treasury with the concurrence of the Secretary of State] may provide— Treatment of certain marriages.

- (a) for a voidable marriage which has been annulled, whether before or after the date when the regulations come into force, to be treated for the purposes of the provisions to which this subsection applies as if it had been a valid marriage which was terminated by divorce at the date of annulment;
- [2(aa) for a voidable civil partnership which has been annulled, whether before or after the date when the regulations come into force, to be treated for the purposes of the provisions to which this subsection applies as if it had been a valid civil partnership which was dissolved at the date of annulment;]
- (b) as to the circumstances in which, for the purposes of the enactments to which this section [3applies, a marriage during the subsistence of which a party to it is at any time married to more than one person is to be treated as having, or as not having, the same consequences as any other marriage.]

(2) Subsection (1) above applies—

- (a) to any enactment contained in Parts I to V or this Part of this Act; and
- (b) to regulations under any such enactment.

S.121 extended by s. 167(6) of Pension Schemes Act 1993 (c. 48) to the provisions referred to in s. 164(1)(b) ibid.

Interpretation

122.—(1) In Parts I to V above and this Part of this Act, unless the context otherwise requires— Interpretation of Parts I to VI and supplementary provisions.

[4“additional Class 4 percentage” is to be construed in accordance with section 15(3ZA)(b) above;

“additional primary percentage” is to be construed in accordance with section 8(2)(b) above;]

[5“Bank of England base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or

- (b) where an order under section 19 of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section;]

“beneficiary”, in relation to any benefit, means the person entitled to that benefit;

¹ Words inserted in s. 121 (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 27.

² S. 121(1)(aa) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 40.

³ Words in s. 121(1)(b) substituted (8.1.96) by para. 4(2) of Sch. to Private International Law (Miscellaneous Provisions) Act 1995 (c. 42).

⁴ Defns. of “additional Class 4 percentage” & “additional primary percentage” inserted in s. 122(1) (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 12(2).

⁵ In s. 122(1), defn. of “Bank of England base rate” inserted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 18(a).

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“benefit” means—

- (a) benefit under Parts II to V of this Act other than Old Cases payments;
- (b) as respects any period before 1st July 1992 but not before 6th April 1975, benefit under Part II of the 1975 Act; or
- (c) as respects any period before 6th April 1975; benefit under—
 - (i) the National Insurance Act 1946 or 1965; or
 - (ii) the National Insurance (Industrial Injuries) Act 1946 or 1965;

1946 c. 67.
1965 c. 51.
1946 c. 62.
1965 c. 52.

[¹ (for the meaning of “benefits” in Part 1, see also section 19B).]

[² “the benefits code” has the meaning given by section 63(1) of ITEPA 2003;]

[³ “child” has the same meaning as in Part 9 of this Act;]

“claim” is to be construed in accordance with “claimant”;

“claimant”, in relation to benefit other than industrial injuries benefit, means a person who has claimed benefit;

“claimant”, in relation to industrial injuries benefit, means a person who has claimed industrial injuries benefit;

“contract of service” means any contract of service or apprenticeship whether written or oral and whether express or implied;

[⁴ “contribution-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;]

“current”, in relation to the lower and upper earnings limits [⁵ and primary and secondary thresholds] under section 5(1) above, means for the time being in force;

[⁶ “day of interruption of employment” has the meaning given by section 25A(1)(c) above;]

[⁷ “deferred” and “period of deferment”—

- (a) in relation to a Category A or Category B retirement pension, have the meanings given by section 55(3), and
- (b) in relation to a shared additional pension, have the meanings given by section 55C(3);]

“earner” and “earnings” are to be construed in accordance with sections 3, 4 and 112 above;

“employed earner” has the meaning assigned to it by section 2 above;

“employment” includes any trade, business, profession, office or vocation and “employed” has a corresponding meaning;

[² “the employment income Parts of ITEPA 2003” means Parts 2 to 7 of that Act;]

“entitled”, in relation to any benefit, is to be construed in accordance with—

- (a) the provisions specifically relating to that benefit;
- (b) in the case of a benefit specified in section 20(1) above, section 21 above; and
- (c) sections 1 to 3 [⁸ of the Administration Act and section 27 of the Social Security Act 1998];

¹ Words inserted in defn. of “benefit” (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 7.

² Defns. of “the benefits code” “the employment...”, inserted (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 178.

³ Defn. of “child” substituted (10.4.05) by the Child Benefit Act 2005, Sch. 1, para. 8.

⁴ Defn. of “contribution-based jobseeker’s allowance” inserted (7.10.96) by para. 29 of Sch. 2 to Jobseekers Act 1995 (c. 18).

⁵ Words inserted (6.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 77.

⁶ Defn. of “day of incapacity for work” deleted, and defn. of “day of interruption of employment” substituted, (13.4.95) by para. 30 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

⁷ Defn. of “deferred” and “period of deferment” substituted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 18(b).

⁸ Words substituted (5.7.99) in defn. of “entitled” by para. 71(a) of Sch. 7 to the S.S. Act 1998 (c. 14).

[¹“excluded employment” has the meaning given by section 63(4) of ITEPA 2003;]

[²“first appointed year” means such tax year, no earlier than 2002-03, as may be appointed by order, and “second appointed year” means such subsequent tax year as may be so appointed;]

[³“the flat rate introduction year” means such tax year as may be designated as such by order;]

[⁴“general earnings” has the meaning given by section 7 of ITEPA 2003 and accordingly sections 3 and 112 of this Act do not apply in relation to the word “earnings” when used in the expression “general earnings”;

“industrial injuries benefit” means benefit under Part V of this Act, other than under Schedule 8;

[...⁴]

“the Inland Revenue” means the Commissioners of Inland Revenue;

[⁵“ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003;]

“late husband”, in relation to a woman who has been more than once married, means her last husband;

“long-term benefit” has the meaning assigned to it by section 20(2) above;

“loss of physical faculty” includes disfigurement whether or not accompanied by any loss of physical faculty;

[⁶“lower earnings limit”, “upper earnings limit” [“primary threshold” and “secondary threshold”] are to be construed in accordance with subsection (1) of section 5 above, and references to the lower or upper earnings limit, or to [“the primary or secondary”] threshold, of a tax year are to whatever is (or was) for that year the limit or threshold in force under that subsection,]

[...⁷]

[⁸“main Class 4 percentage” is to be construed in accordance with section 15(3ZA) above;

“main primary percentage” is to be construed in accordance with section 8(2) above;]

“medical examination” includes bacteriological and radiographical tests and similar investigations, and “medically examined” has a corresponding meaning;

“medical treatment” means medical, surgical or rehabilitative treatment (including any course or diet or other regimen), and references to a person receiving or submitting himself to medical treatment are to be construed accordingly;

“the Northern Ireland Department” means the Department of Health and Social Services for Northern Ireland;

“Old Cases payments” means payments under Part I or II of Schedule 8 to this Act;

[⁹“PAYE settlement agreement” has the same meaning as in [“Chapter 5 of Part II of ITEPA 2003”];]

“payments by way of occupational or personal pension” means, in relation to a person, periodical payments which, in connection with the coming to an end of an employment of his, fall to be made to him—

- (a) out of money provided wholly or partly by the employer or under arrangements made by the employer; or
- (b) out of money provided under an enactment or instrument having the force of law in any part of the United Kingdom or elsewhere; or

¹ Defns. of “excluding employment”, “general earnings” & “ITEPA 2003” inserted (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 178.

² Defn. of “first appointed year” inserted (8.1.01 for reg. & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all other purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(14).

³ Defn. of “the flat rate introduction year” inserted (27.9.07) by the Pensions Act 2007 (c. 22), s. 11(4).

⁴ Defns. in s. 122(1) shall cease to have effect (6.4.99) by s. 71(b) Sch.7 of S.S. Act 1998 (c. 14).

⁵ Defns. substituted in s. 122(1) (6.4.99) by s. 71(c) Sch.7 of S.S. Act 1998 (c. 14).

⁶ Words inserted and substituted (6.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30) Sch. 12, para. 77.

⁷ Defns. in s. 122(1) shall cease to have effect (6.4.99) by s. 71(b) Sch.7 of S.S. Act 1998 (c. 14).

⁸ Defns. of “main Class 4 percentage” & “main primary percentage” inserted in s. 122(1) (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 12(3).

⁹ Defn. “PAYE” inserted (8.9.98 for reg. making purposes, 6.4.99 for all other purposes) by Sch. 7 para. 71(d) of S.S. Act 1998 (c. 14).

¹⁰ Words substituted in defn. of “PAYE...” (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 178(3).

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(c) under a personal pension scheme as defined in section 84(1) of the 1986 Act; or

[¹(d) under a pension scheme registered under section 153 of the Finance Act 2004; or]

(e) under a personal pension scheme approved under Chapter IV of that Part of that Act,

and such other payments as are prescribed;

[²“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995];

[³“PPF periodic payments” means—

(a) any periodic compensation payments made in relation to a person, payable under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004 or Article 146(2) of the Pensions (Northern Ireland) Order 2005 (the pension compensation provisions); or

(b) any periodic payments made in relation to a person, payable under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.);]

“pneumoconiosis” means fibrosis of the lungs due to silica dust, asbestos dust, or other dust, and includes the condition of the lungs known as dust-reticulation;

“prescribe” means prescribe by regulations;

[...⁴]

“qualifying earnings factor” means an earnings factor equal to the lower earnings limit for the tax year in question multiplied by 52;

[⁵“qualifying young person” has the same meaning as in Part 9 of this Act;]

[⁶“Regulation (EC) No. 1408/71” means Council Regulation (EC) No. 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community;

“Regulation (EC) No. 883/2004” means Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems;]

“relative” includes a person who is a relative by marriage [⁷or civil partnership];

“relevant accident” means the accident in respect of which industrial injuries benefit is claimed or payable;

“relevant injury” means the injury in respect of which industrial injuries benefit is claimed or payable;

“relevant loss of faculty” means—

(a) [...⁸]

(b) in relation to industrial injuries benefit, the loss of faculty resulting from the relevant injury;

[⁹“secondary percentage” is to be construed in accordance with section 9(2) above;]

“self-employed earner” has the meaning assigned to it by section 2 above;

“short-term benefit” has the meaning assigned to it by section 20(2) above;

“tax week” means one of the successive periods in a tax year beginning with the first day of that year and every seventh day thereafter, the last day of a tax year (or, in the case of a tax year ending in a leap year, the last two days) to be treated accordingly as a separate tax week;

“tax year” means the 12 months beginning with 6th April in any year, the expression

¹ Sub-para. (d) substituted in defn. of “payments by way of ...” (6.4.06) by S.I. 2006/745, art. 4(3)(d).

² Defn. “pensionable age” substituted (19.7.95) in s. 122(1) by Pensions Act 1995 (c. 26), Sch. 4, para. 13(a).

³ Defn. of “PPF periodic payments” inserted (14.2.06) by para. 1(3) of Sch. to S.I. 2006/343.

⁴ Defn. of “primary percentage” repealed (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 2.

⁵ Defn. of “qualifying young person” inserted (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 8.

⁶ Defn. of “Regulation (EC) No. 1408/71” & “Regulation (EC) No. 883/2004” inserted (30.10.11) by reg. 5(5) of S.I. 2011/2426.

⁷ Words inserted in defn. of “relative” (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 41(2).

⁸ Words in defn. of “relevant loss of faculty” repealed (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 88 of the Welfare Reform and Pensions Act 1999 (c. 30).

⁹ Defn. of “secondary percentage” inserted in s. 122(1) (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 12(4).

OJ No. L28 of
30.1.1997, p. 1.

OJ L166. 30.4.2004,
p. 1.

“1978–79” meaning the tax year beginning with 6th April 1978, and any correspondingly framed reference to a pair of successive years being construed as a reference to the tax year beginning with 6th April in the earlier of them;

“trade or business” includes, in relation to a public or local authority, the exercise and performance of the powers and duties of that authority;

“trade union” means an association of employed earners;

[¹unit of additional pension” means a unit of additional pension for which a person has paid a Class 3A contribution under section 14A;]

[²“the upper accrual point” is £770;]

“week” [...³] means a period of 7 days beginning with Sunday;

[⁴“working life” has the meaning given by paragraph 5(8) of Schedule 3 to this Act].

[⁵(1A) For the purposes of Parts 1 to 5 and this Part of this Act, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]

(2) Regulations [⁶made by the Treasury with the concurrence of the Secretary of State] may make provision modifying the meaning of “employment” for the purposes of any provision of Parts I to V and this Part of this Act.

(3) Provision may be made [⁶by the Treasury by regulations made with the concurrence of the Secretary of State] as to the circumstances in which a person is to be treated as residing or not residing with another person for any of the purposes of Parts I to V and this Part of this Act and as to the circumstances in which persons are to be treated for any of those purposes as residing or not residing together.

(4) A person who is residing with his spouse shall be treated for the purposes of Parts I to V and this Part of this act as entitled to any child benefit to which his spouse is entitled.

(5) Regulations may, for the purposes of any provision of those Parts under which the right to any benefit or increase of benefit depends on a person begin or having been entitled to child benefit, make provision whereby a person is to be treated as if he were or had been so entitled or as if he were not or had not been so entitled.

(6) For the purposes of Parts I to V and this Part of this Act a person is “permanently incapable of self-support” if (but only if) he is incapable of supporting himself by reason of physical or mental infirmity and is likely to remain so incapable for the remainder of his life.

[²(6A) The Treasury may by regulations prescribe an equivalent of the upper accrual point in relation to earners paid otherwise than weekly (and references in this or any other Act to “the prescribed equivalent”, in the context of the upper accrual point, are to the equivalent prescribed under this subsection in relation to such earners).

(6B) The power conferred by subsection (6A) includes power to prescribe an amount which exceeds by not more than £1 the amount which is the arithmetical equivalent of the upper accrual point.]

(7)-(8) [...²]

¹ Defn of “unit of additional pension” inserted (12.10.15) by Pensions Act 2014 (c. 19), Sch. 15, para. 10.

² Defn of “the upper accrual point” substituted & subsec (6A) and (6B) inserted and subsec (7) & (8) omitted (21.9.08) by the National Insurance Contributions Act 2008 (c. 16) s. 3(4)(a)-(c).

³ Word repealed in defn. of “week” (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

⁴ Defn. “working life” inserted (19.7.95) in s. 122(1) by Pensions Act 1995 (c. 26), s. 134(4).

⁵ S. 122(1A) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 41.

⁶ Words substituted in s. 122(2) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 28.

PART VII
INCOME-RELATED BENEFITS

General

Income-related benefits. **123.—137** [...¹]

S. 123-137 has been repealed by Sch. 14 of the Welfare Reform Act 2012 (c. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.

123.—(1) Prescribed schemes shall provide for the following benefits (in this Act referred to as “income-related benefits”)–

- (a) income support;
- (b) & (c) [...²]
- (d) housing benefit; and
- [³(e) council tax benefit.]

(2) The Secretary of State shall make copies of schemes prescribed under subsection (1)(a), (b) or (c) above available for public inspection at local offices of [“the Department for Work and Pensions”] at all reasonable hours without payment.

(3) Every authority granting housing benefit–

- (a) shall take such steps as appear to them appropriate for the purpose of securing that persons who may be entitled to housing benefit from the authority become aware that they may be entitled to it; and
- (b) shall make copies of the housing benefit scheme, with any modifications adopted by them under the Administration Act, available for public inspection at their principal office at all reasonable hours without payment.

[⁵(4) [“Each billing authority and in Scotland each local authority”]

- (a) shall take such steps as appears to it appropriate for the purpose of securing that any person who may be entitled to council tax benefit in respect of council tax payable to the authority becomes aware that he may be entitled to it; and
- (b) shall make copies of the council tax benefit scheme, with any modifications adopted by it under the Administration Act, available for public inspection at its principal office at all reasonable hours without payment.]

Income support

Income support.

124.—(1) A person in Great Britain is entitled to income support if–

[⁷(a) he is of or over the age of 16;]

[⁸(aa) he has not attained the qualifying age for state pension credit;]

(b) he has no income or his income does not exceed the applicable amount;

(c) he is not engaged in remunerative work and, if he is a member of a [⁹ couple], the other member is not so engaged; [...¹⁰]

¹ S. 123-137 repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

² S. 123(1)(b) & (c) repealed (8.4.03) by the Tax Credits Act 2002 (c. 21) Sch. 6.

³ S. 123(1)(e) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 1(1) for purposes of council tax benefit from 1.4.93.

⁴ Words in s. 123(2) substituted (27.6.02) by para. 7 of the Sch. S.I. 2002/1397.

⁵ S. 123(4) substituted for s. 123(4)-(6) (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 1(2), for purposes of council tax and council tax benefit from 1.4.93.

⁶ Words substituted in s. 123(4) (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 1.

⁷ S. 124(1)(a) substituted (7.10.96) by para. 30(2) of Sch. 2 to Jobseekers Act 1995 (c. 18).

⁸ Para. (aa) inserted in s. 124(1) (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 2.

⁹ Words substituted in s. 124(1)(c) (5.12.05) by the Civil Partnership Act 2004 c. 33, Sch. 24, para. 42.

¹⁰ Word deleted (7.10.96) from end of s. 124(1)(c) by para. 30(3) of Sch. 2, and by Sch. 3, to Jobseekers Act 1995 (c. 18).

- [¹(d) except in such circumstances as may be prescribed, he is not receiving relevant education;]
- [²(e) he falls within a prescribed category of person; and
- (f) he is not entitled to a jobseeker's allowance and, if he is a member of a [³couple], the other member of the couple is not [⁴, and the couple are not,] entitled to an income-based jobseeker's allowance] [⁵; and
- (g) if he is a member of a [³couple], the other member of the couple is not entitled to state pension credit] [⁶; and
- (h) he is not entitled to an employment and support allowance and, if he is a member of a couple, the other member of the couple is not entitled to an income-related employment and support allowance.]
- [⁷(1A) Regulations under paragraph (e) of subsection (1) must secure that a person who—
- (a) is not a member of a couple, and
- (b) is responsible for, and a member of the same household as, a child under the age of 7,
- falls within a category of person prescribed under that paragraph.
- (1B) Subsection (1A) does not apply if regulations under subsection (4)(c) of section 1A of the Jobseekers Act 1995 containing the provision mentioned in subsection (5) of that section are in force.]
- (2) [...⁸]
- (3) [...⁸]
- (4) Subject to subsection (5) below, where a person is entitled to income support, then—
- (a) if he has no income, the amount shall be the applicable amount; and
- (b) if he has income, the amount shall be the difference between his income and the applicable amount.
- (5) Where a person is entitled to income support for a period to which this subsection applies, the amount payable for that period shall be calculated in such manner as may be prescribed.
- (6) Subsection (5) above applies—
- (a) to a period of less than a week which is the whole period for which income support is payable; and
- (b) to any other period of less than a week for which it is payable.
- [⁶(7) In this section, "income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).]
125. [...⁹]

¹ S. 124(1)(d) substituted (7.10.96) by para. 30(4) of Sch. 2 to Jobseekers Act 1995 (c. 18).

² Paras. (e) and (f) added (12.12.95 for reg. making purposes, 7.10.96 for other purposes) to s. 124(1) by para. 30(5) of Sch. 2 to Jobseekers Act 1995 (c. 18).

³ Words substituted in s. 124(1) (5.12.05) by the Civil Partnership Act 2004 c. 33, Sch. 24, para. 42.

⁴ Words inserted (19.3.01) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 7 & Sch. 8, para. 28.

⁵ Para. (g) inserted in s. 124(1) (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 2.

⁶ S. 124(1)(h) & (7) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), Sch. 3, para. 9(9) & (10).

⁷ S. 124(1A) & (1B) inserted (28.5.12) by the Welfare Reform Act 2009 (c. 24), s. 3(1).

⁸ S. 124(2) and (3) repealed (7.10.96) by Sch. 3 to Jobseekers Act 1995 (c. 18).

⁹ S. 125 repealed (7.10.96) by Sch. 3 to Jobseekers Act 1995 (c. 18).

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126.—(1)

This section applies to a person, other than a child or a person of a prescribed description—

- (a) who [1]is prevented from being entitled to a jobseeker's allowance by section 14 of the jobseekers Act 1995 (trade disputes)]; or
- (b) who would be so [2]prevented] if otherwise entitled to that benefit, except during any period shown by the person to be a period of incapacity for work [...3] or to be within the maternity period.

(2) In subsection (1) above “the maternity period” means the period commencing the beginning of the 6th week before the expected week of confinement and ending at the end of the 7th week after the week in which confinement takes place.

(3) For the purpose of calculating income support—

- (a) so long as this section applies to a person who is not a member of a family, the applicable amount shall be disregarded;
- (b) so long as it applies to a person who is a member of a family but is not a member of a [4]couple], the portion of the applicable amount which is included in respect of him shall be disregarded;
- (c) so long as it applies to one of the members of a [4]couple]—
 - (i) if the applicable amount consists only of an amount in respect of them, it shall be reduced to one half; and
 - (ii) if it includes other amounts, the portion of it which is included in respect of them shall be reduced to one-half and any further portion of it which is included in respect of the member of the couple to whom this section applies shall be disregarded;
- (d) so long as it applies to both the members of a [4]couple]—
 - (i) if neither of them is responsible for a child or person of a prescribed description who is a member of the same household, the applicable amount shall be disregarded; and
 - (ii) in any other case, the portion of the applicable amount which is included in respect of them and any further portion of it which is included in respect of either of them shall be disregarded.

(4) Where a reduction under subsection (3)(c) above would not produce a sum which is a multiple of 5p, the reduction shall be to the nearest lower sum which is such a multiple.

(5) Where this section applies to a person for any period, then, except so far as regulations provide otherwise—

- (a) in calculating the entitlement to income support of that person or a member of his family the following shall be treated as his income and shall not be disregarded—
 - (i) any payment which he or a member of his family receives or is entitled to obtain by reason of the person to whom this section applies being without employment for that period; and
 - (ii) without prejudice to the generality of sub-paragraph (i) above, any amount which becomes or would on an application duly made become available to him in that period by way of repayment of income tax deducted from his [5]taxable earnings (as defined

¹ Words in s. 126(1)(a) substituted (7.10.96) for “is disqualified under section 27 above for receiving unemployment benefit” by para. 31(a) of Sch. 2 to Jobseekers Act 1995 (c. 18).

² Word in s. 126(1)(b) substituted (7.10.96) for “disqualified” by para. 31(b) of Sch. 2 to Jobseekers Act 1995 (c. 18).

³ Words “by reason of disease or bodily or mental disablement” in s. 126(1) repealed (13.4.95) by S.S. (incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 31 and Sch. 2.

⁴ Words substituted in s. 126 (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 43.

⁵ Words substituted in s. 126(5)(a)(ii) (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 179.

by section 10 of the Income Tax (Earnings and Pensions) Act 2003) under PAYE regulations] (PAYE); and

- (b) any payment by way of income support for that period or any part of it which apart from this paragraph would be made to him, or to a person whose applicable amount is aggregated with his—
 - (i) shall not be made if the weekly rate of payment is equal to or less than the relevant sum; or
 - (ii) if it is more than the relevant sum, shall be at a weekly rate equal to the difference.

(6) In respect of any period less than a week, subsection (5) above shall have effect subject to such modifications as may be prescribed.

(7) Subject to subsection (8) below, “the relevant sum” for the purposes of subsection (5) above shall be [¹£40.50].

(8) If an order under section 150 of the Administration Act (annual up-rating) has the effect of increasing payments of income support, from the time when the order comes into force there shall be substituted, in subsection (5)(b) above, for the references to the sum for the time being mentioned in it references to a sum arrived at by—

- (a) increasing that sum by the percentage by which 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
- (b) if the sum as so increased is not a multiple of 50p, disregarding the remainder if it is 25p and, if it is not, rounding it up or down to the nearest 50p,

S.I. 1987/1967.

and the order shall state the substituted sum.

127. If a person returns to work with the same employer after a period during which section 126 above applies to him, and whether or not his return is before the end of any stoppage of work in relation to which he is or would be [²prevented from being entitled to a jobseeker’s allowance]—

Effect of return to work.

- (a) that section shall cease to apply to him at the commencement of the day on which he returns to work; and
- (b) until the end of the period of 15 days beginning with that day, section 124(1) above shall have effect in relation to him as if the following paragraph were substituted for paragraph (c)—
 - “(c) in the case of a member of a [³couple], the other member is not engaged in remunerative work; and”
- (c) any sum paid by way of income support for that period of 15 days to him or, where he is a member of a [³couple], to the other member of that couple, shall be recoverable in accordance with the regulations from the person to whom it was paid or from any prescribed person or, where the person to whom it was paid is a member of a [³couple], from the other member of the couple.

128. [...⁴]

129. [...⁴]

¹ Amount in s. 126(7) substituted (6.4.15) by art. 16 of S.I. 2015/???. See art. 1(2)(f) of this S.I. for relevant effective dates.

² Words in s. 127 substituted (7.10.96) by para. 32 of Sch. 2 to Jobseekers Act 1995 (c. 18).

³ Words substituted in s. 127 (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch. 24, para. 44.

⁴ Ss. 128 & 129 repealed (8.4.03) by Tax Credits Act 2002 (c. 21), Sch. 6.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

Housing benefit

- 130.—(1) A person is entitled to housing benefit if— Housing benefit.
- (a) he is liable to make payments in respect of a dwelling in Great Britain which he occupies as his home;
 - (b) there is an appropriate maximum housing benefit in his case; and
 - (c) either—
 - (i) he has no income or his income does not exceed the applicable amount; or
 - (ii) his income exceeds that amount, but only by so much that there is an amount remaining if the deduction for which subsection (3)(b) below provides is made.

(2) In subsection (1) above “payments in respect of a dwelling” means such payments as may be prescribed, but the power to prescribe payments does not include power to prescribe—

- [¹(a) payments to a billing authority or to a local authority in Scotland in respect of council tax;]
- (b) mortgage payments, or, in relation to Scotland, payments under heritable securities.]

- (3) Where a person is entitled to housing benefit, then—
- (a) if he has no income or his income does not exceed the applicable amount the amount of the housing benefit shall be the amount which is the appropriate maximum housing benefit in his case; and
 - (b) if his income exceeds the applicable amount, the amount of the housing benefit shall be what remains after the deduction from the appropriate maximum housing benefit of prescribed percentages of the excess of his income over the applicable amount.

(4) [...³]

(5) Regulations under subsection (4) above may provide for benefit to be limited by reference to determinations made by rent officers in exercise of functions conferred under section 21 of the Housing Act 1988 or section 70 of the Housing (Scotland) Act 1988.

1988 c. 50.
1988 c. 43.

[⁴130A.—(1) For the purposes of section 130 above, the appropriate maximum housing benefit (in this section referred to as “the AMHB”) is determined in accordance with this section.

Appropriate maximum housing benefit.

(2) Regulations must prescribe the manner in which the AMHB is to be determined.

(3) [⁵The provision which may be made by the regulations includes provision] for the AMHB to be ascertained in the prescribed manner by reference to rent officer determinations.

(4) The regulations may require an authority administering housing benefit in any prescribed case—

- (a) to apply for a rent officer determination, and
- (b) to do so within such time as may be specified in the regulations.

[⁵(5) The regulations may, for the purpose of determining the AMHB, provide for the amount of the liability mentioned in section 130(1)(a) above to be taken to be an amount other than the actual amount of that liability (and, without prejudice to the generality of this subsection, may provide for it to be taken to be the amount of a rent officer determination).

¹ Paras. (a) and (b) substituted (6.3.92) for words in s.130(2) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 3 for purposes of council tax and council tax benefit from 1.4.93.

² S. 130(2)(a) substituted (3.7.07) by the Welfare Reform Act 2007, Sch. 5, para. 1.

³ S. 130(4) ceases to have effect (7.4.08) by the Welfare Reform Act 2007 (c. 5), s. 30(1).

⁴ S. 130A inserted (1.10.07 for reg. making purposes & 7.4.08 for all other purposes) by the Welfare Reform Act 2007 (c. 5), s. 30(2).

⁵ Words in s. 130A (3), and subsec. (5) & (6) substituted (1.1.13) by the Welfare Reform Act 2012 (c. 5), s. 69(2) & (3).

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

Ss. 130A-130B

Loss of housing benefit following eviction on certain grounds

(6) The regulations may, for that purpose, make provision for determining the amount of liability under section 130(1)(a) above which a person is treated as having by virtue of regulations under section 137(2)(j) below (and, without prejudice to the generality of this subsection, may provide for that amount to be the amount of a rent officer determination).]

(7) A rent officer determination is a determination made by a rent officer in the exercise of functions under section 122 of the Housing Act 1996.]

[¹130B.—(1) If the following conditions are satisfied, then housing benefit is payable in the case of a person (“the former occupier”) subject to subsection (4)–

- (a) a court makes a relevant order for possession of a dwelling occupied by him as his home;
- (b) in consequence of the order he ceases to occupy the dwelling;
- (c) either of the conditions in subsections (2) and (3) is satisfied; and
- (d) the conditions for entitlement to housing benefit are or become satisfied with respect to him.

(2) The condition in this subsection is that the former occupier fails, without good cause, to comply with a warning notice served on him by a relevant local authority in England and Wales after he has ceased to occupy the dwelling.

(3) The condition in this subsection is that–

- (a) the former occupier was, after he ceased to occupy the dwelling, required by a relevant local authority in Scotland to take specified action with the aim mentioned in subsection (10),
- (b) the former occupier was warned by the relevant local authority that if he failed to comply with the requirement the amount of housing benefit payable to him would be affected,
- (c) the former occupier fails, without good cause, to comply with the requirement, and
- (d) the relevant local authority recommends that housing benefit be payable to the former occupier subject to subsection (4).

(4) During the restriction period or such part of it as may be prescribed, one or both of the following applies–

- (a) the rate of the benefit is reduced in such a manner as may be prescribed;
- (b) the benefit is payable only if the circumstances are such as may be prescribed.

(5) The restriction period begins with the earliest date on which the conditions set out in subsections (1) to (3) are satisfied.

(6) That period stops running if the relevant local authority considers that the restriction set out in subsection (4) should no longer apply (whether because the former occupier is taking action to improve his behaviour or for any other reason), but starts running again if–

- (a) in England and Wales, the former occupier fails to comply with a further warning notice served on him;
- (b) in Scotland, the condition in subsection (7) is satisfied.

(7) The condition is that–

- (a) the former occupier fails to comply with a further requirement such as is mentioned in paragraph (a) of subsection (3), having been warned as mentioned in paragraph (b) of that subsection, and
- (b) the relevant local authority recommends that the restriction period starts running again.

(8) The restriction period shall not include any period which falls more than five years after the date on which the order for possession was made.

¹ Ss. 130B-130G inserted (14.6.07 for reg. making purposes, (1.11.07) for all other purposes by the Welfare Reform Act 2007 (c. 5), s. 31(1). Ceases to have effect after 31.12.2010.

(9) A former occupier may not be subject to more than one restriction period in respect of one order for possession.

(10) A relevant local authority is—

- (a) in England and Wales, a local authority within the meaning of section 1 of the Local Government Act 2000, or
- (b) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, which provides or may provide services to a former occupier with the aim of ending, or preventing repetition of, the conduct which may lead or has led to the making of a relevant order for possession.

(11) A warning notice is a notice in the prescribed form—

- (a) requiring the former occupier to take specified action with the aim mentioned in subsection (10),
- (b) specifying the time when, or within which, that action must be taken, and
- (c) warning the former occupier that if he fails to take the action the amount of housing benefit payable to him would be affected.

130C.—(1) In section 130B a relevant order for possession is, in England and Wales—

Relevant orders for possession

- (a) an order made under section 84 of the Housing Act 1985 (secure tenancies) on Ground 2 set out in Schedule 2 to that Act;
- (b) an order made under section 7 of the Housing Act 1988 (assured tenancies) on Ground 14 set out in Schedule 2 to that Act;
- (c) an order made under section 98 of the Rent Act 1977 (protected or statutory tenancies) in the circumstances specified in Case 2 in Schedule 15 to that Act.

(2) In that section a relevant order for possession is, in Scotland—

- (a) an order made under section 16(2) of the Housing (Scotland) Act 2001 (secure tenancies) on one of the grounds set out in paragraphs 2 and 7 in Part 1 of Schedule 2 to that Act;
- (b) an order made in accordance with section 18 of the Housing (Scotland) Act 1988 (assured tenancies) on Ground 15 in Part 2 of Schedule 5 to that Act;
- (c) an order made in accordance with section 11 of the Rent (Scotland) Act 1984 (protected or statutory tenancies) in the circumstances specified in Case 2 in Part 1 of Schedule 2 to that Act.

(3) For the purposes of subsections (1) and (2) it does not matter whether the order is made on the grounds or in the circumstances there mentioned alone or together with other grounds or circumstances.

(4) Subsections (5) and (6) apply if the court—

- (a) stays (in Scotland, sists) or suspends the execution of a relevant order for possession, or postpones the date of possession under it, and
- (b) imposes a condition (or conditions) on that stay, sist, suspension or postponement.

(5) If a condition relates to the behaviour of a person or persons occupying the dwelling, section 130B(4) applies only if the order takes effect as a result of a breach of that condition.

(6) Section 130B(4) does not apply if the condition (or, if there is more than one, each of them) relates only to matters other than the behaviour of a person or persons occupying the dwelling.

130D.— (1) Regulations may provide that, where housing benefit has been paid subject to the restriction set out in section 130B(4), in prescribed circumstances—

Loss of housing benefit: supplementary

- (a) the former occupier must be paid some or all of the amount of the benefit which, by virtue of that subsection, has not been payable to him, and
- (b) such other adjustments must be made as are prescribed.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

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(2) The Secretary of State may by order vary the definition of relevant order for possession by—

- (a) adding to or removing from it orders of a specified description;
- (b) specifying circumstances in which it includes orders of a specified description.

(3) Regulations may prescribe—

- (a) matters which are, or are not, to be taken into account in determining whether a person has, or does not have, good cause for failing to take action specified in a warning notice or failing to comply with a requirement such as is mentioned in section 130B(3)(a);
- (b) circumstances in which a person is, or is not, to be regarded as having, or not having, such good cause.

(4) Expressions used in this section and in section 130B have the meaning given in that section.

Couples

130E.—(1) This section applies where at any time the conditions for entitlement to housing benefit are satisfied with respect to a person who is a member of a couple.

(2) Where paragraphs (a) and (b) of section 130B(1) are satisfied in relation to both members of the couple (whether or not in respect of the same dwelling), then for the purposes of subsection (2) or (3) of that section, the failure by one member of the couple to comply with a warning notice or with a requirement such as is mentioned in section 130B(3)(a) must be treated also as a failure by his partner to comply with it.

(3) Where paragraph (a) of section 130B(1) is not satisfied in relation to one member of the couple, then subsection (4) of that section does not apply to his partner (even if paragraphs (a), (b) and (c) of section 130B(1) are satisfied in relation to the partner).

(4) References to a person's partner are to the other member of the couple concerned.

Information provision

130F.—(1) The Secretary of State may by regulations require—

- (a) a court which makes a relevant order for possession, or
- (b) any other person or description of person who the Secretary of State thinks is or may be aware of the making of such an order,

to notify him of the making of the order and to provide him with such details of matters in connection with the order as may be prescribed.

(2) The Secretary of State may provide—

- (a) information obtained under subsection (1), or
 - (b) information which is relevant to the exercise by him of any function relating to housing benefit,
- to a relevant local authority, or a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10), for use in the provision of such services.

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

- (a) a relevant local authority, or
- (b) a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10),

to supply relevant information held by the authority or other person to, or to a person providing services to, the Secretary of State for use for any purpose relating to the administration of housing benefit.

(4) The Secretary of State may by regulations require—

- (a) an authority administering housing benefit,
- (b) a person authorised to exercise any function of such an authority relating to such a benefit,
- (c) a relevant local authority, or
- (d) a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10),

to provide relevant information held by that authority or person to an authority or person mentioned in paragraph (a) or (b) for use for any purpose relating to the administration of housing benefit.

- (5) The Secretary of State may by regulations require—
- (a) an authority administering housing benefit,
 - (b) a person authorised to exercise any function of such an authority relating to such a benefit,
 - (c) a relevant local authority, or
 - (d) a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10),

to provide relevant information held by that authority or person to an authority or person mentioned in paragraph (c) or (d) for use in the provision of those services.

- (6) Relevant information is—
- (a) if the information is held by an authority administering housing benefit or a person authorised to exercise any function of such an authority, information which is relevant to the exercise of any function relating to housing benefit by the authority or person;
 - (b) if the information is held by a relevant local authority or a person authorised to exercise any function of such an authority, information which is relevant to the exercise of any function relating to the provision of services mentioned in section 130B(10).

(7) Information must be supplied under subsection (1), (3), (4) or (5) in such circumstances, in such manner and form, and in accordance with such requirements, as may be prescribed.

(8) “Relevant order for possession” and “relevant local authority” have the same meaning as in section 130B.

(9) Subsections (1) and (5) do not extend to Scotland.

130G.—(1) Regulations to which this section applies may be made so as to have effect for a prescribed period.

Pilot schemes relating to loss of housing benefit

(2) Any regulations which, by virtue of subsection (1), have effect for a limited period are referred to in this section as a “pilot scheme”.

(3) A pilot scheme may provide that it applies only in relation to—

- (a) one or more prescribed areas;
- (b) one or more prescribed classes of person;
- (c) persons selected by reference to prescribed criteria.

(4) A pilot scheme may make consequential or transitional provision.

(5) A pilot scheme (“the previous scheme”) may be replaced by a further pilot scheme making the same, or similar, provision (apart from the prescribed period) to that made by the previous scheme.

(6) A pilot scheme may be amended or revoked by regulations under this section.

(7) This section applies to—

- (a) regulations made under any of sections 130B to 130F above;
- (b) regulations made under any other enactment, so far as they relate to, or are made for purposes which relate to, loss or restriction of housing benefit in pursuance of section 130B above.

(8) This section does not extend to Scotland.]

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

Ss. 131

Council tax benefit.

[¹131.—(1)A person is entitled to council tax benefit in respect of a particular day falling after 31st March 1993 if the following are fulfilled, namely, the condition set out in subsection (3) below and either—

- (a) each of the two conditions set out in subsections (4) and (5) below; or
- (b) the condition set out in subsection (6) below.

(2) Council tax benefit—

- (a) shall not be allowed to a person in respect of any day falling before the day on which his entitlement is to be regarded as commencing for that purpose by virtue of paragraph (1) of section 6(1) of the Administration Act; but
- (b) may be allowed to him in respect of not more than 6 days immediately following the day on which his period of entitlement would otherwise come to an end, if his entitlement is to be regarded by virtue of that paragraph as not having ended for that purpose.

(3) The main condition for the purposes of subsection (1) above is that the person concerned—

- (a) is for the day liable to pay council tax in respect of a dwelling of which he is a resident; and
- (b) is not a prescribed person or a person of a prescribed class.

(4) The first condition for the purposes of subsection (1)(a) above is that there is an appropriate maximum council tax benefit in the case of the person concerned.

(5) The second condition for the purpose of subsection (1)(a) above is that—

- (a) the day falls within a week in respect of which the person concerned has no income;
- (b) the day falls within a week in respect of which his income does not exceed the applicable amount; or
- (c) neither paragraph (a) nor paragraph (b) above is fulfilled in his case but amount A exceeds amount B where—
 - (i) amount A is the appropriate maximum council tax benefit in his case; and
 - (ii) amount B is a prescribed percentage of the difference between his income in respect of the week in which the day falls and the applicable amount.

(6) The condition for the purposes of subsection (1)(b) above is that—

- (a) no other resident of the dwelling is liable to pay rent to the person concerned in respect of the dwelling; and
- (b) there is an alternative maximum council tax benefit in the case of that person which is derived from the income or aggregate incomes of one or more residents to whom this subsection applies.

(7) Subsection (6) above applies to any other resident of the dwelling who—

- (a) is not a person who, in accordance with Schedule 1 to the Local Government Finance Act 1992, falls to be disregarded for the purposes of discount; and
- (b) is not a prescribed person or a person of a prescribed class.

(8) subject to subsection (9) below, where a person is entitled to council tax benefit in respect of a day, the amount to which he is entitled shall be—

¹ S. 131 substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 4, for purposes of council tax and council tax benefit from 1.4.93.

- (a) if subsection (5)(a) or (b) above applies, the amount which is the appropriate maximum council tax benefit in his case;
 - (b) if subsection (5)(c) above Applies, the amount found by deducting amount B from amount A, where “amount A” and “amount B” have the meanings given by that subsection; and
 - (c) if subsection (6) above applies, the amount which is the alternative maximum council tax benefit in his case.
- (9) Where a person is entitled to council tax benefit in respect of a day, and both subsection (5) and subsection (6) above apply, the amount to which he is entitled shall be whichever is the greater of—
- (a) the amount given by paragraph (a) or, as the case may be, paragraph (b) of subsection (8) above; and
 - (b) the amount given by paragraph (c) of that subsection
- (10) Regulations shall prescribe the manner in which—
- (a) the appropriate maximum council tax benefit;
 - (b) the alternative maximum council tax benefit,
- are to be determined in any case.
- (11) In this section ‘dwelling’ and ‘resident’ have the same meanings as in Part I or II of the Local Government Finance Act 1992.]

132.—(1)As regards any case where a person is a member of a [‘couple] throughout a particular day, regulations may make such provision as the Secretary of State sees fit as to—

Couples.

- (a) the entitlement of the person to [‘council tax benefit] in respect of the day, and
 - (b) the amount to which he is entitled.
- (2) Nothing in subsections (3) to (8) below shall prejudice the generality of subsection (1) above.
- (3) The regulations may provide that prescribed provisions shall apply instead of prescribed provisions of this Part of this Act, or that prescribed provisions of this Part of this Act shall not apply or shall apply subject to prescribed amendments or adaptations.
- (4) The regulations may provide that, for the purpose of calculating in the case of the person concerned the matters mentioned in subsection (5) below, prescribed amounts relating to the person and his partner are to be aggregated and the aggregate is to be apportioned.
- (5) The matters are income, capital, the applicable amount, [‘the appropriate maximum council tax benefit and the alternative maximum council tax benefit].
- (6) The regulations may—
- (a) amend section 139(6) of the Administration Act so as to allow for disregarding the whole or part of any pension payable to the partner of the person concerned in determining the latter’s income;
 - (b) amend section 139(7) of that Act accordingly.
- (7) The regulations may contain different provision as to the following different cases—

¹ Words substituted in s. 132 (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 45.

² Words in s. 132(1)(a) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9 para. 5(1), for purposes of council tax and council tax benefit from 1.4.93.

³ Words in s. 132(5) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 5(2), for purposes of council tax and council tax benefit from 1.4.93.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

Ss. 132–135

(a) cases where the [1main] condition is fulfilled on the day concerned by the person concerned but not by his partner;

(b) cases where the [1main] condition is fulfilled on the day concerned by the person concerned and by his partner.

(8) The regulations may include such supplementary, incidental or consequential provisions as appear to the Secretary of State to be necessary or expedient.

(9) In this section–

(a) references to a person's partner are to the other member of the couple concerned, and

[2(b) references to the main condition are references to the condition mentioned in section 13(3) above.]

Polygamous marriages.

133.—(1) This section applies to any case where–

(a) throughout a particular day a person (the person in question) is a husband or wife by virtue of a marriage entered into under a law which permits polygamy; and

(b) either party to the marriage has for the time being any spouse additional to the other party.

(2) For the purposes of section 132 above neither party to the marriage shall be taken to be a member of a couple on the day.

(3) Regulations under this section may make such provision as the Secretary of State sees fit as to–

(a) the entitlement of the person in question to [3council tax benefit] in respect of the day, and

(b) the amount to which he is entitled.

(4) Without prejudice to the generality of subsection (3) above the regulations may include provision equivalent to that included under section 132 above subject to any modifications the Secretary of State sees fit.

General

Exclusions from benefit.

134.—(1) No person shall be entitled to an income-related benefit if his capital or a prescribed part of it exceeds the prescribed amount.

(2) Except in prescribed circumstances the entitlement of one member of a family to any one income-related benefit excludes entitlement to that benefit for any other member for the same period.

(3) repealed by 1992 c. 14, see Annex 1, page. 2.3101

(4) Where the amount of any income-related benefit would be less than a prescribed amount, it shall not be payable except in prescribed circumstances.

The applicable amount.

135.—(1) The applicable amount, in relation to any income-related benefit, shall be such amount or the aggregate of such amounts as may be prescribed in relation to that benefit.

(2) The power to prescribe applicable amounts conferred by subsection (1) above includes power to prescribe nil as an applicable amount.

¹ Word in s. 132(7) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 5(3), for purposes of council tax and council tax benefit from 1.4.93.

² Para. (b) of s. 132(9) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 5(4), for purposes of council tax and council tax benefit from 1.4.93.

³ Words in s. 133(3)(a) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 6, for purposes of council tax and council tax benefit from 1.4.93.

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

(4) In subsection (3) above—

“accommodation” includes any board or care;

“local authority”—

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

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

“qualifying person” means any person who falls within—

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

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

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

“relevant premises”—

(a) in relation to areas in England and Wales, has the meaning given by section 26A(2) of the National Assistance Act 1948; and 1948 c.29.

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

(5) [...?], the applicable amount for a severely disabled person shall include an amount in respect of his being a severely disabled person.

(6) Regulations may specify circumstances in which persons are to be treated as being or as not being severely disabled.

Income and capital

136.—(1) Where a person claiming an income-related benefit is a member of a family, the income and capital of any member of that family shall, except in prescribed circumstances, be treated as the income and capital of that person.

(2) Regulations may provide that capital not exceeding the amount prescribed under section 134(1) above but exceeding a prescribed lower amount shall be treated, to a prescribed extent, as if it were income of a prescribed amount.

(3) Income and capital shall be calculated or estimated in such manner as may be prescribed.

(4) A person's income in respect of a week shall be calculated in accordance with prescribed rules; and the rules may provide for the calculation to be made by reference to an average over a period (which need not include the week concerned).

(5) Circumstances may be prescribed in which—

(a) a person is treated as possessing capital or income which he does not possess;

(b) capital or income which a person does possess is to be disregarded;

(c) income is to be treated as capital;

(d) capital is to be treated as income.

¹ S. 135(3) and (4) as enacted but, in consequence of para. 4 of Sch. 4 to S.S. (C.P) Act 1992 (c. 6), not due to come into force until a day appointed under para. 1(3)(a) *ibid*.

² Words in s. 135(5) repealed (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

S. 136A

Effect of attaining
qualifying age for state
pension credit

[¹136A. —(1) Subsections (2) and (3) below apply in relation to housing benefit and council tax benefit in the case of any person who has attained the qualifying age for state pension credit.

(2) Regulations may make provision for section 134(1) or any provision of section 136 above not to have effect in relation to those benefits in the case of any such person.

(3) In relation to those benefits, regulations may make provision for the determination of the income and capital of any such person; and any such regulations may include provision applying (with such modifications as the Secretary of State thinks fit)–

- (a) section 5 of the State Pension Credit Act 2002 (provision for treating income of spouse as income of claimant, etc), and
- (b) section 15 of that Act (determination of income and capital for purposes of state pension credit).

(4) Regulations under subsection (3) above may also include provision–

- (a) authorising or requiring the use of any calculation or estimate of a person's income or capital made by the Secretary of State for the purposes of the State Pension Credit Act 2002; or
- (b) requiring that, if and so long as an assessed income period is in force under section 6 of that Act in respect of a person falling within subsection (1) above,–
 - (i) the assessed amount of any element of his retirement provision shall be treated as the amount of that element for the purposes of housing benefit or council tax benefit; and
 - (ii) his income shall be taken for those purposes not to include any element of retirement provision which it is taken not to include for the purposes of state pension credit by virtue of a determination under subsection (5) of section 7 of that Act.

(5) In subsection (4) above “assessed amount”, “element” and “retirement provision” have the same meaning as in the State Pension Credit Act 2002.

(6) The Secretary of State may by regulations make provision for the preceding provisions of this section to apply with modifications in cases to which section 12 of the State Pension Credit Act 2002 (polygamous marriages) applies.

(7) The provision that may be made by regulations under subsection (6) above includes any provision that may be made by regulations under section 133 above.]

¹ S. 136A inserted (27.1.03) for the purpose only of exercising power to make regulations by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 3.

137.—(1) In this Part of this Act, unless the context otherwise requires—

[¹“billing authority” has the same meaning as in Part I of the Local Government Finance Act 1992;]

“child” means a person under the age of 16;

[...²]

[³“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;]

“dwelling” means any residential accommodation, whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;

“family” means—

- (a) a [³couple];
- (b) a [³couple] and a member of the same household for whom one of them is or both are responsible and who is a child or a person of a prescribed description;
- (c) except in prescribed circumstances, a person who is not a member of a [³couple] and a member of the same household for whom that person is responsible and who is a child or a person of a prescribed description;

[⁴“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;]

“industrial injuries scheme” means a scheme made under Schedule 8 to this Act or section 159 of the 1975 Act or under the Old Cases Act;

[...⁵]

[⁶“local authority” in relation to Scotland means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;]

[...³]

[...²]

[⁷“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26);]

“prescribed” means specified in or determined in accordance with regulations;

[⁷“the qualifying age for state pension credit is (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002)—

- (a) in the case of a woman, pensionable age; or

Interpretation of Part VII and supplementary provisions.
1989 c. 24.

¹ Defn. of “billing authority” substituted (6.3.92) for defn. of “charging authority” in s. 137(1) by L.G.f. Act 1992 (c. 14), Sch. 9, para. 9(a) for purposes of council tax and council tax benefit from 1.4.93.

² Defns. of “contribution period”, “the 1987 Act” and “the 1988 Act” in s. 137(1) repealed except for purposes of community charge and community charge benefits for any day before 1.4.93 (L.G.f. Act 1992 (c. 14), Sch. 9, para. 9(b) and Sch. 14).

³ In s. 137(1) defns. of “couple” inserted, “married couple” omitted and words substituted in defn. of “family”; s. 137(1A) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 46.

⁴ Defn. of “income-based jobseeker’s allowance” inserted (7.10.96) into s.137(1) by para. 35(2) of Sch. 2 to Jobseekers Act 1995 (c. 18).

⁵ Defn. of “levying authority” in s. 137(1) repealed (1.4.96) by para. 174(5) of Sch. 13 to, and by Sch. 14 to, Local Government etc. (Scotland) Act 1994 (c. 39).

⁶ Defn., of “local authority” inserted (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 1.

⁷ Defns. of “pensionable age”, “the qualifying age for state pension credit” & “state pension credit” inserted (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 4.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

Ss. 137-138

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man; “state pension credit” means state pension credit under the State Pension Credit Act 2002;]

[...¹]

1989 c. 24.

“war pension scheme” means a scheme under which war pensions (as defined in section 25 of the Social Security Act 1989) are provided;

“week”, in relation to [²council tax benefit], means a period of 7 days beginning with a Monday.

[¹(1A) For the purposes of this Part, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]

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

- (a) as to circumstances in which a person is to be treated as being or not being in Great Britain;
- (b) continuing a person’s entitlement to benefit during periods of temporary absence from Great Britain;
- (c) as to what is or is not to be treated as remunerative work or as employment;
- [³(d) as to circumstances in which a person is or is not to be treated as engaged or normally engaged in remunerative work;]
- (e) as to what is or is not to be treated as relevant education;
- (f) as to circumstances in which a person is or is not to be treated as receiving relevant education;
- (g) specifying the descriptions of pension increases under war pension schemes or industrial injuries schemes that are analogous to the benefits mentioned in section 129(2)(b)(i) to (iii) above;
- (h) as to circumstances in which a person is or is not to be treated as occupying a dwelling as his home;
- (i) for treating any person who is liable to make payments in respect of a dwelling as if he were not so liable;
- (j) for treating any person who is not liable to make payments in respect of a dwelling as if he were so liable;
- (k) for treating as included in a dwelling any land used for the purposes of the dwelling;
- (l) as to circumstances in which persons are to be treated as being or not being members of the same household;
- (m) as to circumstances in which one person is to be treated as responsible or not responsible for another.

PART VIII

THE SOCIAL FUND

Payments out of the social fund.

138.—[⁴(1) There may be made out of the social fund, in accordance with this Part of this Act—

- (a) payments of prescribed amounts, whether in respect of prescribed items or otherwise, to meet, in prescribed circumstances, maternity expenses and

¹ In s. 137(1) defn. of “unmarried couple” omitted s. 137(1A) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 46.

² Words in defn. of “week” in s. 137(1) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 9(d), for purposes of council tax and council tax benefit from 1.4.93.

³ S. 137(2)(d) substituted (7.10.96) by para. 35(3) of Sch. 2 to Jobseekers Act 1995 (c. 18). (The effect of this amendment was to delete from s. 137(2)(d) the reference to circumstances for treating people as available for employment or as actively seeking employment.)

⁴ S. 138(1) substituted inserted (5.4.99) by S.S. Act ‘98 (c. 14), s. 70.

funeral expenses; [...]¹

S. 138(b), (3) & (5) has been repealed by Sch. 14, part 8 of the Welfare Reform Act 2012 (c. 5), but kept in force for transitional purposes. See art. 3 of S.I. 2012/3090 for details of when to apply.

(b) payments by way of community care grant, crisis loan or budgeting loan to meet other needs in accordance with directions given or guidance issued by the Secretary of State.

(2) Payments may also be made out of that fund, in accordance with this Part of this Act, of a prescribed amount or a number of prescribed amounts to prescribed descriptions of persons, in prescribed circumstances to meet expenses for heating which appear to the Secretary of State to have been or to be likely to be incurred in cold weather.

(3) The power to make a payment out of the social fund such as is mentioned in subsection (1)(b) above may be exercised by making a payment to a third party with a view to the third party providing, or arranging for the provision of, goods or services for the applicant.

(4) In this section “prescribed” means specified in or determined in accordance with regulations.

[²(5) In this Part—

“budgeting loan” means a loan awarded in circumstances specified in directions issued by the Secretary of State for the purpose of defraying an intermittent expense;

“community care grant” means a grant awarded in circumstances so specified for the purpose of meeting a need for community care;

“crisis loan” means a loan awarded in circumstances so specified for the purpose of meeting an immediate short term need;

and any reference in this subsection to meeting a need or defraying an expense includes a reference to helping to meet the need or to defray the expense.]

S. 139-140 has been repealed by Sch. 14, part 8 of the Welfare Reform Act 2012 (c. 5), but kept in force for transitional purposes. See art. 3 of S.I. 2012/3090 for details of when to apply.

139.—[³(1) Whether a payment mentioned in section 138(1)(b) above is to be awarded, and how much it is to be, shall be determined by an appropriate officer, that is to say, an officer of the Secretary of State who, acting under his authority, is exercising functions of the Secretary of State in relation to payments so mentioned.]

Awards by social fund officers.

(2) [³An appropriate officer] may determine that an award shall be payable in specified instalments at specified times.

(3) [...³]

(4) An award [³of a crisis loan or a budgeting loan] shall be repayable upon such terms and conditions as before the award is paid the Secretary of State notifies to the person by or on behalf of whom the application for it was made.

(5) Payment of an award shall be made to the applicant unless [³the appropriate officer] determines otherwise.

Principles of determination.

140.—(1) In determining whether to make an award [⁴of a community care grant or a crisis loan] to the applicant or the amount or value to be awarded [³an appropriate officer] shall have regard, subject to subsection (2) below, to all the circumstances of the case and, in particular—

¹ S. 138(b), (3), (5), 139 & 140 repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14, Pt.8.

² S. 138(5) inserted (5.4.99) by S.S. Act 1998 (c. 14), s. 70.

³ In s. 139(1) substituted; (3) ceases to have effect; words substituted & in s. 140 words substituted (29.11.99) by the Social Security Act 1998 (c. 14), Sch. 7, paras. 72.

⁴ In s. 140 words inserted in (1) (5.4.99) by the Social Security Act 1998 (c. 14), s. 71.

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- (a) the nature, extent and urgency of the need;
- (b) the existence of resources from which the need may be met;
- (c) the possibility that some other person or body may wholly or partly meet it;
- (d) where the payment is repayable, the likelihood of repayment and the time within which repayment is likely;
- (e) any relevant allocation under section 168(1) to (4) of the Administration Act.

[¹(1A) Subject to subsection (2) below, in determining whether to make an award of a budgeting loan to the applicant, or the amount or value to be awarded, an appropriate officer shall have regard to—

- (a) such of the applicant's personal circumstances as are of a description specified in directions issued by the Secretary of State; and
- (b) the criteria specified in paragraphs [²(b), (d) and (e)] of subsection (1) above;

[...²]

(2) [³An appropriate officer] shall determine any question in accordance with any general directions issued by the Secretary of State and in determining any question shall take account of any general guidance issued by him.

[²(3) Without prejudice to the generality of subsection (2), the Secretary of State may issue directions under that subsection for the purpose of securing that allocations under section 168 of the Administration Act are not exceeded.]

(4) Without prejudice to the generality of subsection (2) above, the power to issue general directions conferred on the Secretary of State by that subsection includes power to direct—

- (a) that in circumstances specified in the direction [³an appropriate officer] shall not determine an application and, without prejudice to the generality of this paragraph, that [²an appropriate officer] shall not determine an application which is made before the end of a specified period after the making of an application by the same person for a payment such as is mentioned in section 138(1)(b) above to meet the same need and without there having been any relevant change of circumstances since the previous application;

- [¹(aa) that in circumstances specified in the direction an application for an award of a community care grant may be treated as an application for an award of a crisis loan, and vice versa;]
- (b) that for a category of need specified in the direction [²an appropriate officer] shall not award less than an amount specified in the direction;
- (c) that for a category of need specified in the direction [²an appropriate officer] shall not award more than an amount so specified;
- (d) that payments to meet a category of need specified in the direction shall in all cases or in no case be made by instalments;
- (e) [...⁴]
- (f) that a payment such as is mentioned in section 138(1)(b) above shall only be awarded to a person if either—

¹ In s. 140 paras. (1A) & (4)(aa) inserted (5.4.99) by the Social Security Act 1998 (c. 14), s. 71.

² In s. 140 words substituted and repealed in (1A) & (3) substituted (3.7.05) by the Welfare Reform Act 2007, (c. 5), s. 54 & Sch. 7, para. 2.

³ In s. 140 words substituted (29.11.99) by the Social Security Act 1998 (c. 14), Sch. 7, paras. 73.

⁴ S. 140(4)(e) ceases to have effect (5.4.99) by s. 71 & 143(3) of the Social Security Act 1998 (c. 14).

- (i) he is in receipt of a benefit which is specified in the direction and the circumstances are such as are so specified; or
- (ii) in a case where the conditions specified in subparagraph (i) above are not satisfied, the circumstances are such as are specified in the direction,

and the power to issue general guidance conferred on him by that subsection includes power to give [1appropriate officers] guidance as to any matter to which directions under that subsection may relate.

(5) In determining a question [1an appropriate officer] shall take account (subject to any directions or guidance issued by the Secretary of State under this section) of any guidance issued by [1the appropriate officer nominated for his area under section 36 of the Social Security Act 1998].

[2PART 8A

HEALTH IN PREGNANCY GRANT

140A.—(1) A woman who satisfies prescribed conditions in relation to a pregnancy of hers is entitled to payment of a lump sum (to be known as “health in pregnancy grant”).

Entitlement

[3(2) A woman is not entitled to health in pregnancy grant unless she has reached the 25th week of her pregnancy before 1st January 2011.]

- (3) A woman is not entitled to health in pregnancy grant unless—
 - (a) she has received advice on matters relating to maternal health from a health professional;
 - (b) she is in Great Britain at the time she makes a claim for the grant in accordance with the Administration Act.

(4) Circumstances may be prescribed in which a woman is to be treated for the purposes of subsection (3)(b) as being, or as not being, in Great Britain.

- (5) In this section—
 - “health professional” has such meaning as may be prescribed,
 - “prescribed” means prescribed by regulations, and
 - “woman” means a female of any age.

(6) The power to make regulations under this section is exercisable by the Treasury.

140B.—(1) Health in pregnancy grant is to be of an amount prescribed by regulations made by the Treasury.

Amount

- (2) Different amounts may be prescribed in relation to different cases.]

¹ Words substituted in s. 140 (29.11.99) by the Social Security Act 1998 (c. 14), Sch. 7, para. 73.

² Ss. 140A & 140B inserted (1.1.09) by the Health and Social Care Act 2008 (c. 14), s. 131.

³ S. 140A(2) substituted (16.12.10) by the Savings Accounts and Health in Pregnancy Grant Act 2010 (c. 36) s. 3(1).

PART IX
CHILD BENEFIT

Child benefit.

141. A person who is responsible for one or more children [¹or qualifying young persons] in any week shall be entitled, subject to the provisions of this Part of the Act, to a benefit (to be known as “child benefit”) for that week in respect of the [¹child or qualifying young person, or each of the children or qualifying young persons] for whom he is responsible.

“Child” and “qualifying young person”.

[¹**142.**—(1) For the purposes of this Part of this Act a person is a child if he has not attained the age of 16.

(2) In this Part of this Act “qualifying young person” means a person, other than a child, who—

- (a) has not attained such age (greater than 16) as is prescribed by regulations made by the Treasury, and
- (b) satisfies conditions so prescribed.]

Meaning of “person responsible for child”.

143.—(1) For the purposes of this Part of this Act a person shall be treated as responsible for a child in any week if—

- (a) he has the child [¹or qualifying young person] living with him in that week; or
- (b) he is contributing to the cost of providing for the child [¹or qualifying young person] at a weekly rate which is not less than the weekly rate of child benefit payable in respect of the child [²or qualifying young person] for that week.

(2) Where a person has had a child [¹or qualifying young person] living with him at some time before a particular week he shall be treated for the purposes of this section as having the child [¹or qualifying young person] living with him in that week notwithstanding their absence from one another unless, in the 16 weeks preceding that week, they were absent from one another for more than 56 days not counting any day which is to be disregarded under subsection (3) below.

(3) Subject of subsection (4) below, a day of absence shall be disregarded for the purposes of subsection (2) above if it is due solely to the [²fact that the child or qualifying young person is]—

- (a) receiving [²education or training of a description prescribed by regulations made by the Treasury];
- (b) undergoing medical or other treatment as an in-patient in a hospital or similar institution; or
- (c) [...³], in such circumstances as may be prescribed, in residential accommodation pursuant to arrangements made under—

1948 c. 29.

1989 c. 41.

1968 c. 49.

[⁴(i) section 21 of the National Assistance Act 1948;

(ii) the Children Act 1989;]

[⁵(iii) the Social Work (Scotland) Act 1968;

(iv) the National Health Service (Scotland) Act 1978;

(v) the Education (Scotland) Act 1980;

¹ Words inserted & substituted in s. 141, s. 142 & 143 substituted (10.4.05) by the Child Benefit Act 2005 (c. 6), s. 1.

² Words inserted & substituted in s. 143 (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 9.

³ Word ‘being’ in s. 143(3)(c) repealed (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 2.

⁴ S. 143(3)(c)(i)-(iii) came into force on 1.4.93 under paras. 1 and 5 of Sch. 4 to S.S. (C.P.) Act 1992 (c. 6) by virtue of S.I. 1992/2975 (C. 91), Sch.

⁵ Sub-paras. (iii)-(vii) of s. 143(3)(c) substituted (9.10.00) for (iii) by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 72.

- (vi) the Mental Health (Scotland) Act 1984;
- [¹(vii) the Children (Scotland) Act 1995; or
- (viii) the Children's Hearings (Scotland) Act 2011.]

(4) The number of days that may be disregarded by virtue of subsection (3)(b) or (c) above in the case of any child [²or qualifying young person] shall not exceed such number as may be prescribed unless the person claiming to be responsible for the child [²or qualifying young person] regularly incurs expenditure in respect [²of him].

(5) Regulations may prescribe the circumstances in which a person is or is not to be treated—

- (a) as contributing to the cost of providing for a child [²or qualifying young person] as required by subsection (1)(b) above; or
- (b) as regularly incurring expenditure in respect of a child [²or qualifying young person] as required by subsection (4) above; or

and such regulations may in particular make provision whereby a contribution made or expenditure incurred by two or more persons is to be treated as made or incurred by one of them or whereby a contribution made or expenditure incurred by one of two spouses [³or civil partners] residing together is to be treated as made or incurred by the other.

144.—[...⁴]

Exclusions and priority.

(2) Schedule 9 to this Act shall have effect for excluding entitlement to child benefit [...⁴].

(3) Where, apart from this subsection, two or more persons would be entitled to child benefit in respect of the same child [⁴or qualifying young person] for the same week, one of them only shall be entitled, and the question which of them is entitled shall be determined in accordance with Schedule 10 to this Act.

145.—(1) Child benefit shall be payable at such weekly rate as may be prescribed.

Rate of Child Benefit.

(2) Different rates may be prescribed in relation to different cases, whether by reference to the age of the child [⁴or qualifying young person] in respect of whom the benefit is payable or otherwise.

¹ S. 143(3)(c)(vii) substituted & sub-para. (c)(viii) inserted (24.6.13) by S.I. 2013/1465, Sch. 1, para. 4(2).

² Words inserted & substituted in s. 143(4) & (5) (10.4.05) by the Child Benefit Act 2005, Sch. 1, para. 9.

³ Words inserted in s. 143(5) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 47.

⁴ S. 144(1) repealed, words inserted & repealed in s. 144(2), (3) & s. 145 (10.4.05) by the Child Benefit Act 2005, Sch. 1, paras. 10-11 & Sch. 2.

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(3) The power to prescribe different rates under subsection (2) above shall be exercised so as to bring different rates into force on such day as the Secretary of State may by order specify.

(4) No rate prescribed in place of a rate previously in force shall be lower than the rate that it replaces.

(5) [...¹]

(6) An order under subsection (3) above may be varied or evoked at any time before the date specified thereby.

(7) An order under that subsection shall be laid before Parliament after being made.

[²145A.—(1) If a child [³or qualifying young person] dies and a person is entitled to child benefit in respect of him for the week in which his death occurs, that person shall be entitled to child [³or qualifying young person] benefit in respect of the child for a prescribed period following that week.

Entitlement after death of child [¹or qualifying young person].

(2) If the person entitled to child benefit under subsection (1) dies before the end of that prescribed period and, at the time of his death, was—

- (a) a member of a married couple [⁴or civil partnership] and living with the person to whom he was married [⁴or who was his civil partner], or
- (b) a member of an unmarried couple [⁴or a cohabiting same-sex couple],

that other member of the [⁴couple or partnership] shall be entitled to child benefit for the period for which the dead person would have been entitled to child benefit under subsection (1) above but for his death.

(3) If a child dies before the end of the week in which he is born, subsections (1) and (2) apply in his case as if references to the person entitled to child benefit in respect of a child for the week in which his death occurs were to the person who would have been so entitled if the child had been alive at the beginning of that week (and if any conditions which were satisfied, and any facts which existed, at the time of his death were satisfied or existed then).

(4) Where a person is entitled to child benefit in respect of a child [³or qualifying young person] under this section, section 77 applies with the omission of subsections (4) to (6).

(5) In this section—

[⁴“civil partnership” means two people of the same sex who are civil partners of each other and are neither—

- (a) separated under a court order, nor
- (b) separated in circumstances in which the separation is likely to be permanent,

“cohabiting same-sex couple” means two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,]

“married couple” means a man and a woman who are married to each other and are neither—

¹ S. 145(5) revoked(1.4.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at 3.731 for details as to savings and transitional provisions.

² S. 145A inserted (26.2.03, 1.4.03 & 7.4.03) by s. 55 & 56(1) of the Tax Credits Act 2002 (c. 21).

³ Words inserted & repealed in s. 145A(4) (10.4.05) by the Child Benefit Act 2005, Sch. 1, paras. 10-12 & Sch. 2.

⁴ In s. 145A words inserted & substituted in (2) & defns. of “civil partnership” & “cohabiting same sex couple” inserted in (5)(5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 48.

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(a) separated under a court order, nor

(b) separated in circumstances in which the separation is likely to be permanent, and

“unmarried couple” means a man and a woman who are not a married couple but are living together as husband and wife.]

[¹(6) For the purposes of this section, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]

Presence in Great Britain

[²**146.**—(1) No child benefit shall be payable in respect of a child [³or qualifying young person] for a week unless he is in Great Britain in that week.

(2) No person shall be entitled to child benefit for a week unless he is in Great Britain in that week.

(3) Circumstances may be prescribed in which [³any] is to be treated for the purposes of [³subsection (1) or (2) above] as being, or as not being, in Great Britain.]

Persons subject to immigration control.

146A. [...⁴]

Interpretation of Part IX and supplementary provisions.

147.—(1) In this Part of this Act—

“prescribed” means prescribed by regulations;

[...⁵]

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit; and

“week” means a period of 7 days beginning with a Monday.

(2) Subject to any provision made by regulations, references in this Part of this Act to any condition being satisfied or any facts existing in a week shall be construed as references to the condition being satisfied or the facts existing at the beginning of that week.

(3) References in this Part of this Act to a parent, father or mother of a child [³or qualifying young person] shall be construed as including references to a step-parent, step-father or stepmother.

(4) Regulations may prescribe the circumstances in which persons are or are not to be treated for the purposes of this Part of this Act as residing together.

(5) Regulations may make provision as to the circumstances in which [⁵a marriage during the subsistence of which a party to it is at any time married to more than one person is to be treated for the purposes of this Part of this Act as having, or not having, the same consequences as any other marriage.]

(6) Nothing in this Part of this Act shall be construed as conferring a right to child benefit on any body corporate; but regulations may confer such a right on voluntary organisations and for that purpose may make such modifications as the Secretary of state thinks fit—

(a) of any provision of this Part of this Act; or

(b) of any provision of the Administration act relating to child benefit.

¹ In s. 145A & sub-para. (6) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 48.

² S. 146 substituted (26.2.03, 1.4.03 & 7.4.03) by s. 55 & 56(1) of the Tax Credits Act 2002 (c. 21).

³ Words inserted & substituted in s. 146(1) & (3) & 147(3) (10.4.05) by the Child Benefit Act 2005, Sch. 1, paras. 13 & 14.

⁴ S. 146A repealed (3.4.00) by Sch. 16 of the Immigration and Asylum Act 1999 (c. 33).

⁵ Defn. of “recognised educational establishment” repealed (10.4.05) by the Child Benefit Act 2005, Sch. 2.

⁶ Words in s. 147(5) substituted (8.1.96) by para. 4(3) of Sch. to Private International Law (Miscellaneous Provisions) Act 1995 (c. 42).

PART X

CHRISTMAS BONUS FOR PENSIONERS

148.—(1) Any person who in any year—

- (a) is present or ordinarily resident in the United Kingdom or any other member State at any time during the relevant week; and
- (b) is entitled to a payment of a qualifying benefit in respect of a period which includes a day in that week or is to be treated as entitled to a payment of a qualifying benefit in respect of such a period,

Entitlement of pensioners to Christmas bonus.

shall, subject to the following provisions of this Part of this Act and to section 1 of the Administration Act, be entitled to payment under this subsection in respect of that year.

(2) Subject to the following provisions of this Part of this Act, any person who is a member of a couple and is entitled to a payment under subsection (1) above in respect of a year shall also be entitled to payment under this subsection in respect of that year if—

- (a) both members have attained pensionable age not later than the end of the relevant week; and
- (b) the other member satisfies the condition mentioned in subsection (1)(a) above; and
- (c) either—
 - (i) he is entitled or treated as entitled, in respect of the other member, to an increase in the payment of the qualifying benefit; or
 - (ii) the only qualifying benefit to which he is entitled is [¹state pension credit].

[¹(2ZA) In a case where a person is entitled to a payment of armed forces independence payment, the reference in subsection (1) to section 1 of the Administration Act is to be read as a reference to article 43 of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(S.I. 2011/517).]

[²(2A) In case falling within paragraph (c)(ii) of subsection (2) above, paragraph (a) of that subsection has effect with the substitution of “qualifying age for state pension credit” for “pensionable age”.]

(3) A payment under subsection (1) or (2) above—

- (a) is to be made by the Secretary of state; and
- (b) is to be of £10 or such larger sum as the Secretary of State may by order specify.

(4) [...³]

(5) Only one sum shall be payable in respect of any person.

149.—(1) For the purposes of section 48 above the Channel Islands, the Isle of Man and Gibraltar shall be treated as though they were part of the United Kingdom.

Provisions Supplementary to Section 148

(2) A person shall be treated for the purposes of section 148(1)(b) above as entitled to a payment of a qualifying benefit if he would be so entitled—

- (a) in the case of a qualifying benefit [³other than state pension credit], but for the fact that he or, if he is a member of a couple, the other member is entitled to receive some other payment out of public funds;
- (b) in the case of [³state pension credit], but for the fact that his income or, if he is a member of a couple, the income of the other member was exceptionally

¹ S. 148(2ZA) inserted (8.4.13) by S.I. 2013/796, art. 3(3).

² Words in s. 148(2)(c)(ii) substituted & s. 148(2A) inserted (2.7.02) for the purposes of exercising the power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 5.

³ S. 148(4) omitted & words substituted in s. 149(2) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, paras. 5(4) & (6).

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of an amount which resulted in his having ceased to be entitled to [¹state pension credit].

(3) A person shall be treated for the purposes of section 148(2)(c)(i) above as entitled in respect of the other member of the couple to an increase in a payment of a qualifying benefit if he would be so entitled—

- (a) but for the fact that he or the other member is entitled to receive some other payment out of public funds;
- (b) but for the operation of any provision of [...²] paragraph 6(4) of Schedule 7 to this Act or any regulations made under paragraph 6(3) of that Schedule whereby entitlement to benefit is affected by the amount of a person's earnings in a given period.

(4) For the purposes of section 148 above a person shall be taken not to be entitled to a payment of a war disablement pension unless not later than the end of the relevant week he has attained [³pensionable age].

(5) A sum payable under section 148 above shall not be treated as benefit for the purposes of any enactment or instrument under which entitlement to the relevant qualifying benefit arises or is to be treated as arising.

(6) A payment and the right to receive a payment—

- (a) under section 148 above or any enactment corresponding to it in Northern Ireland; or
- (b) under regulations relating to widows which are made by the Secretary of state under any enactment relating to police and which contain a statement that the regulations provide for payments corresponding to payments under that section,

shall be disregarded for all purposes of income tax and for the purposes of any enactment or instrument under which regard is had to a person's means.

Interpretation of Part X.

150.—(1) In this Part of this Act “qualifying benefit” means—

- (a) a retirement pension;
- [⁴(b) long-term incapacity benefit;]
- [⁵(ba) a qualifying employment and support allowance;]
- [⁶(bb) personal independence payment;]
- [⁷(bc) armed forces independence payment;]
- (c) a widowed mother's allowance [⁸, widowed parent's allowance] or widow's pension;
- (d) [...⁹];
- (e) [¹⁰a carer's allowance];

¹ S. 148(4) omitted & words substituted in s. 149(2) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, paras. 5(4) & (6).

² Words omitted in s. 149(3)(b) (6.4.10) by the Pensions Act 2007 (c. 22), Sch. 1, Part 4, para. 17.

³ Words in s. 149(4) substituted (26.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 43.

⁴ S. 150(1)(b) substituted (13.4.95) by para. 33 of Sch. 1 to S.S. (Incapacity for work) Act 1994 (c. 18).

⁵ S. 150(1)(ba) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), Sch. 3, para. 9(11)(a).

⁶ S. 150(bb) inserted (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 6.

⁷ S. 150(1)(bc) inserted (8.4.13) by S.I. 2013/796, art. 3(4)(a).

⁸ Ref. to “widowed parents allowance” inserted in s. 150(1)(c) (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

⁹ S. 150(1)(d) repealed (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 88 of the Welfare Reform and Pensions Act 1999 (c. 30).

¹⁰ In s. 150(1)(e) words “an invalid care allowance” substituted for “a carer is allowance” (1.9.02 for the purposes of exercising power to make subordinate legislation, 1.4.03 for all other purposes) by para. 2(e) of the Schedule to S.I. 2002/1457.

- (f) industrial death benefit;
- (g) an attendance allowance;
- (h) an unemployability supplement or allowance;
- (i) a war disablement pension;
- (j) a war widow's pension;
- (k) [¹state pension credit];
- [²(l) a mobility supplement].

(2) In this Part of this Act—

[³“armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517);]

“attendance allowance” means—

- (a) an attendance allowance;
- (b) a disability living allowance;
- (c) an increase of disablement pension under section 104 or 105 above;
- (d) a payment under regulations made in exercise of the powers in section 159(3)(b) of the 1975 Act or paragraph 7(2) of Schedule 8 to this Act;
- (e) an increase of allowance under Article 8 of the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1983 (constant attendance allowance for certain persons to whom that Scheme applies) or under the corresponding provision of any Scheme which may replace that Scheme;
- (f) an allowance in respect of constant attendance on account of disablement for which a person is in receipt of war disablement pension, including an allowance in respect of exceptionally severe disablement;

S.I. 1983/136.

[⁴“mobility supplement” means a supplement awarded in respect of disablement which affects a person's ability to walk and for which the person is in receipt of war disablement pension;]

[⁵“pensionable age” has the meaning give by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995];

[¹“the qualifying age for state pension credit” is (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002)—

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;]

[⁶“qualifying employment and support allowance” means [⁷a contributory allowance] under Part 1 of the Welfare Reform Act 2007 the calculation of the amount of which includes an addition in respect of the support component or the work-related activity component.]

“retirement pension” includes graduated retirement benefit, [...⁸];

[¹“state pension credit” means state pension credit under the State Pension Credit Act 2002;]

“unemployability supplement or allowance” means—

- (a) an unemployability supplement payable under Part I of Schedule 7 to this Act; or
- (b) any corresponding allowance payable—
 - (i) by virtue of paragraph 6(4)(a) of Schedule 8 to this Act;

¹ S. 150(1)(k) substituted & defns. “the qualifying age for state pension credit” & “state pension credit” inserted (2.7.02) for the purposes of exercising the power to make regulations or orders by the State Pension Credit Act 2002, (c. 16), Sch. 2, para. 7.

² S. 150(1)(l) inserted (19.7.95) by Pensions Act 1995 (c. 26), s. 132(2).

³ Defn. of “armed forces independence payment” inserted (8.4.13) by S.I. 2013/796, art. 3(4)(b).

⁴ Defn. “mobility supplement” inserted (19.7.95) by Pensions Act 1995 (c. 26), S. 132(3)(a).

⁵ Defn. “pensionable age” substituted (19.7.95) by Pensions Act 1995 (c. 26), Sch. 4, para. 13(b).

⁶ Defn. of “qualifying employment and support allowance” inserted in s. 150(2) (27.10.08) by the Welfare Reform Act 2007 (c. 50) Sch. 3, para. 9(11)(a).

⁷ Words substituted in defn. of “qualifying employment and support allowance” (12.11.09) by the Welfare Reform Act 2009 (c. 24), s. 37(3).

⁸ Words in defn. of “retirement pension” deleted (19.7.95) by Pensions Act 1995 (c. 26), s. 132(3)(b).

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- (ii) by way of supplement to retired pay or pension exempt from income tax under [¹section 641 of the Income Tax (Earnings and Pensions Act 2003]
- 1939 c. 82. (iii) under the Personal Injuries (Emergency Provisions) Act 1939; [...²]
- 1947 c. 19. (iv) by way of supplement to retired pay or pension under the Polish Resettlement Act 1947;
- (v) [...³]

“war disablement pension” means—

- (a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under the Air Force (Constitution) Act 1917, the Personal Injuries (Emergency Provisions) Act 1939; the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, the Polish Resettlement Act 1947, or Part VII or section 151 of the Reserve Forces Act 1980;
- 1917 c. 1.
1939 c. 82.
1980 c. 9.
- (b) without prejudice to paragraph (a) of this definition, any retired pay or pension to which [⁴any of paragraphs (a) to (f) of section 641(1) of Income Tax (Earnings and Pensions) Act 2003] applies;

“war widow’s pension” means any widow’s [⁵or surviving civil partner’s] pension or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment mentioned in paragraph (a) of the preceding definition or a pension or allowance for a widow [⁵or surviving civil partner] granted under any scheme mentioned in [⁴section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003];

and each of the following expressions, namely “attendance allowance”, “unemployability supplement or allowance”, “war disablement pension” and “war widow’s pension”, includes any payment which the Secretary of state accepts as being analogous to it.

[⁵(3) In this Part of this Act, “couple” has the meaning given by section 137(1) above.]

(4) In this Part of this act “the relevant week”, in relation to any year, means the week beginning with the first Monday in December or such other week as may be specified in an order made by the Secretary of State.

PART XI

STATUTORY SICK PAY

Employer’s liability

Employer’s liability.

151.—(1) Where an employee has a day of incapacity for work in relation to his contract of service with an employer, that employer shall, if the conditions set out in sections 152 to 154 below are satisfied, be liable to make him, in accordance with the following provisions of this Part of this Act, a payment (to be known as “statutory sick pay”) in respect of that day.

(2) Any agreement shall be void to the extent that it purports—

- (a) to exclude, limit or otherwise modify any provision of this Part of this Act, or
- (b) to require an employee to contribute (whether directly or indirectly) towards any costs incurred by his employer under this Part of this Act.

¹ Words substituted and omitted in defn. of “unemployability ...” (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 180.

² Word “or” deleted (19.7.95) by Pensions Act 1995 (c. 26), s. 132(3)(c).

³ Words omitted in defn. of “unemployability ...” (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 180.

⁴ Words substituted in defns. of “war disablement pension” & “war widow’s pension” (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 180.

⁵ In s. 150 words inserted in defn. of “war widow’s pension” & sub-para. (3) substituted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 49.

(3) For the avoidance of doubt, any agreement between an employer and an employee authorising any deductions from statutory sick pay which the employer is liable to pay to the employee in respect of any period shall not be void by virtue of subsection (2)(a) above if the employer—

- (a) is authorised by that or another agreement to make the same deductions from any contractual remuneration which he is liable to pay in respect of the same period, or
- (b) would be so authorised if he were liable to pay contractual remuneration in respect of that period.

(4) For the purposes of this Part of this Act [‘a day of incapacity for work in relation to a contract of service means a day on which] the employee concerned is, or is deemed in accordance with regulations to be, incapable by reason of some specific disease or bodily or mental disablement of doing work which he can reasonably be expected to do under that contract.

(5) In any case where an employee has more than one contract of service with the same employer the provisions of this Part of this Act shall, except in such cases as may be prescribed and subject to the following provisions of this Part of this Act, have effect as if the employer were a different employer in relation to each contract of service.

(6) Circumstances may be prescribed in which, notwithstanding the provisions of subsections (1) to (5) above, the liability to make payments of statutory sick pay is to be a liability of the [‘Commissioners of Inland Revenue].

[‘(7) Regulations under subsection (6) above must be made with the concurrence of the Commissioners of Inland Revenue].

The qualifying conditions

152.—(1) The first condition is that the day in question forms part of a period of incapacity for work.

Period of incapacity for work.

(2) In this Part of this Act “period of incapacity for work” means any period of four or more consecutive days, each of which is a day of incapacity for work in relation to the contract of service in question.

(3) Any two periods of incapacity for work which are separated by a period of not more than 8 weeks shall be treated as a single period of incapacity for work.

(4) The Secretary of State may by regulations direct that a larger number of weeks specified in the regulations shall be substituted for the number of weeks for the time being specified in subsection (3) above.

(5) No day of the week shall be disregarded in calculating any period of consecutive days for the purposes of this section.

(6) A day may be a day of incapacity for work in relation to a contract of service, and so form part of a period of incapacity for work, notwithstanding that—

- (a) it falls before the making of the contract or after the contract expires or is brought to an end; or
- (b) it is not a day on which the employee concerned would be required by that contract to be available for work.

153.—(1) The second condition is that the day in question falls within a period which is, as between the employee and his employer, a period of entitlement.

Period of Entitlement.

¹ Words in s. 151(4) substituted (13.4.95) by para. 34 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

² Words inserted into s. 151(6) and s. 151(7) inserted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999, c. 2, Sch. 1, para. 9.

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(2) For the purposes of this Part of this Act a period of entitlement, as between an employee and his employer, is a period beginning with the commencement of a period of incapacity for work and ending with whichever of the following first occurs—

- (a) the termination of that period of incapacity for work;
- (b) the day on which the employee reaches, as against the employer concerned, his maximum entitlement to statutory sick pay (determined in accordance with section 155 below);
- (c) the day on which the employee's contract of service with the employer concerned expires or is brought to an end;
- (d) in the case of an employee who is, or has been, pregnant, the day immediately preceding the beginning of the disqualifying period.

(3) Schedule 11 to this Act has effect for the purpose of specifying circumstances in which a period of entitlement does not arise in relation to a particular period of incapacity for work.

(4) A period of entitlement as between an employee and an employer of his may also be, or form part of, a period of entitlement as between him and another employer of his.

(5) The Secretary of State may by regulations—

- (a) specify circumstances in which, for the purpose of determining whether an employee’s maximum entitlement to statutory sick pay has been reached in a period of entitlement as between him and an employer of his, days falling within a previous period of entitlement as between the employee and any person who is or has in the past been an employer of his are to be counted; and
- (b) direct that in prescribed circumstances an employer shall provide a person who is about to leave his employment, or who has been employed by him in the past, with a statement in the prescribed form containing such information as may be prescribed in relation to any entitlement of the employee to statutory sick pay.

(6) Regulations may provide, in relation to prescribed cases, for a period of entitlement to end otherwise than in accordance with subsection (2) above.

(7) In a case where the employee’s contract of service first takes effect on a day which falls within a period of incapacity for work, the period of entitlement begins with that day.

(8) In a case where the employee’s contract of service first takes effect between two periods of incapacity for work which by virtue of section 152(3) above are treated as one, the period of entitlement begins with the first day of the second of those periods.

(9) In any case where, otherwise than by virtue of section 6(1)(b) above, an employee’s earnings under a contract of service in respect of the day on which the contract takes effect do not attract a liability to pay secondary Class 1 contributions, subsections (7) and (8) above shall have effect as if for any reference to the contract first taking effect there were substituted a reference to the first day in respect of which the employee’s earnings attract such a liability.

(10) Regulations shall make provision as to an employer’s liability under this Part of this Act to pay statutory sick pay to an employee in any case where the employer’s contract of service with that employee has been brought to an end by the employer solely, or mainly, for the purpose of avoiding liability for statutory sick pay.

(11) Subsection (2)(d) above does not apply in relation to an employee who has been pregnant if her pregnancy terminated, before the beginning of the disqualifying period, otherwise than by confinement.

(12) In this section—

“confinement” is to be construed in accordance with section 171(1) below;
 “disqualifying period” means—

- (a) in relation to a woman entitled to statutory maternity pay, the maternity pay period; and
 - (b) in relation to a woman entitled to maternity allowance, the maternity allowance period;
- “maternity allowance period” has the meaning assigned to it by section 35(2) above, and
 “maternity pay period” has the meaning assigned to it by section 165(1) below.

154.—(1) The third condition is that the day in question is a qualifying day.

Qualifying days.

(2) The days which are for the purposes of this Part of this Act to be qualifying days as between an employee and an employer of his (that is to say, those days of the week on which he is required by his contract of service with that employer to

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be available for work or which are chosen to reflect the terms of that contract) shall be such day or days as may, subject to regulations, be agreed between the employee and his employer or, failing such agreement, determined in accordance with regulations.

(3) In any case where qualifying days are determined by agreement between an employee and his employer the shall, in each week (beginning with Sunday), be at least one qualifying day.

(4) A day which is a qualifying day as between an employee and an employer of his may also be a qualifying day as between him and another employer of his.

Limitations on entitlement, etc.

Limitations on entitlement.

155.—(1) Statutory sick pay shall not be payable for the first three qualifying days in any period of entitlement.

(2) An employee shall not be entitled, as against any one employer, to an aggregate amount of statutory sick pay in respect of any one period of entitlement which exceeds his maximum entitlement

(3) The maximum entitlement as against any one employer is reached on the day on which the amount to which the employee has become entitled by way of the statutory sick pay during the period of entitlement in question first reaches or passes the entitlement limit.

(4) The entitlement limit is an amount equal to 28 times [¹the weekly rate applicable in accordance with] section 157 below.

(5) Regulations may make provision for calculating the entitlement limit in any case where an employee's entitlement to statutory sick pay is calculated by reference to different weekly rates in the same period of entitlement.

Notification of incapacity for work.

156.—(1) Regulations shall prescribe the manner in which, and the time within which, notice of any day of incapacity for work is to be given by or on behalf of an employee to his employer.

(2) An employer who would, apart from this section, be liable to pay an amount of statutory sick pay to an employee in respect of a qualifying day (the "day in question") shall be entitled to withhold payment of that amount if—

(a) the day in question is one in respect of which he has not been duly notified in accordance with regulations under subsection (1) above; or

(b) he has not been so notified in respect of any of the first three qualifying days in a period of entitlement (a "waiting day") and the day in question is the first qualifying day in that period of entitlement in respect of which the employer is not entitled to withhold payment—

(i) by virtue of paragraph (a) above; or

(ii) in respect of an earlier waiting day by virtue of this paragraph.

(3) Where an employer withholds any amount of statutory sick pay under this section—

(a) the period of entitlement in question shall not be affected; and

(b) for the purposes of calculating his maximum entitlement in accordance with section 155 above the employee shall not be taken to have become entitled to the amount so withheld.

¹ Words in s. 155(4) substituted (6.4.95) by s. 8(4) of S.S. (Incapacity for Work) Act 1994 (c. 18).

Rates of payment, etc.

157.—(1) Statutory sick pay shall be payable by an employer at the weekly rate of [¹£88.45]. Rates of payment.

(2) The Secretary of State may by order—

- [²(a) amend subsection (1) above so as to substitute different provision as to the weekly rate or rates of statutory sick pay; and]
- (b) make such consequential amendments as appear to him to be required of any provision contained in this Part of this Act.

(3) The amount of statutory sick pay payable by any one employer in respect of any day shall be the weekly rate applicable on that day divided by the number of days which are, in the week (beginning with Sunday) in which that day falls, qualifying days as between that employer and the employee concerned.

158. [...³]

159. repealed by S.I. 1995/512, see Annex 1, page 2.3101.

Power to substitute provisions for s. 158(2).

[⁴**159A.**—(1) The Secretary of State may by order provide for the recovery by employers, in accordance with the order, of the amount (if any) by which their payments of, or liability incurred for, statutory sick pay in any period exceeds the specified percentage of the amount of their liability for contributions payments in respect of the corresponding period.

Power to provide for recovery by employers of sums paid by way of statutory sick pay.

(2) An order under subsection (1) above may include provision—

- (a) as to the periods by reference to which the calculation referred to above is to be made.
- (b) for amounts which would otherwise be recoverable but which do not exceed the specified minimum for recovery not to be recoverable,
- (c) for the rounding up or down of any fraction of a pound which would otherwise result from a calculation made in accordance with the order, and
- (d) for any deduction from contributions payments made in accordance with the order to be disregarded for such purposes as may be specified,

and may repeal sections 158 and 159 above and make any amendments of other enactments which are consequential on the repeal of those sections.

(3) In this section—

“contributions payments” means payments which a person is required by or under any enactment to make in discharge of any liability of his as an employer in respect of primary or secondary Class 1 contributions; and

¹ Amount in s. 157(1) substituted (6.4.15) by art. 3 of S.I. 2015/30.

² S. 157(2)(a) substituted (6.4.95) by s. 8(3) of S.S. (Incapacity for Work) Act 1994 (c. 18).

³ S. 158 repealed (6.4.95) by S.I. 1995/512, art. 5(a).

⁴ S. 159A inserted (10.2.94) by Statutory Sick Pay Act 1994 (c. 2), s. 3(1).

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“specified” means specified in or determined in accordance with an order under subsection(1)

(4) The Secretary of State may by regulations make such transitional and consequential provision, and such savings, as he considers necessary or expedient for or in connection with the coming into force of any order under subsection (1) above.]

Miscellaneous

160. Schedule 12 to this Act has effect with respect to the relationship between statutory sick pay and certain benefits and payments. Relationship with benefits and other payments, etc.

161.—(1) Subject to subsection (2) below, the provisions of this Part of this Act apply in relations to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown. Crown employment - Part XI.

(2) The provisions of this Part of this Act do not apply in relation to persons serving as members of Her Majesty’s forces, in their capacity as such.

(3) For the purposes of this section Her Majesty’s forces shall be taken to consist of such establishments and organisations as may be prescribed, [¹by regulations made by the Secretary of State with concurrence of the Treasury] being establishments and organisations in which persons serve under the control of the Defence Council.

162.—(1) The Secretary of State may [²with the concurrence of the Treasury] make regulations modifying this Part of this Act in such manner as he thinks proper in their application to any person who is, has been or is to be— Special classes of persons.

- (a) employed on board ship, vessel, hovercraft or aircraft;
- (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
- (c) in prescribed employment in connection with continental shelf operations, as defined in section 120(2) above.

- (2) Regulations under subsection (1) above may in particular provide—
- (a) for any provision of this Part of this Act to apply to any such person, notwithstanding that it would not otherwise apply;
 - (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
 - (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain;
 - (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined in accordance with the regulations.

163.—(1) In this Part of this Act— Interpretation of Part XI and supplementary provisions.

“contract of service” (except in paragraph (a) of the definition below of “employee”) includes any arrangement providing for the terms of appointment of an employee;

“employee” means a person who is—

- (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with [³general earnings (as defined by section 7 of the Income tax (Earnings and Pensions) Act 2003)];

¹ Words substituted in s. 161(3) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch.1, para. 10.

² Words substituted in s. 162(1) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch.1, para. 11.

³ Words substituted in defn. of “employee” (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003, Sch. 6, para. 181.

[...¹]

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

[²“employer”, in relation to an employee and a contract of service of his, means a person who—

- (a) under section 6 above is liable to pay secondary Class 1 contributions in relation to any earnings of the employee under the contract, or
- (b) would be liable to pay such contributions but for—
 - [³(i) the condition in] section 6(1)(b), or
 - (ii) the employee being under the age of 16;]

Defns. of “employee” & “employer”, as in force where the expected week of confinement begins before 14.1.07 is reproduced below:-

“employee” means a person who is—

- (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with emoluments chargeable to income tax under Schedule E; and
- (b) over the age of 16;

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

“employer”, in relation to an employee and a contract of service of his, means a person who under section 6 above is, or but for [²the condition in] subsection (1)(b) of that section would be, liable to pay secondary Class 1 contributions in relation to any earnings of the employee under the contract;

“period of entitlement” has the meaning given by section 153 above;

“period of incapacity for work” has the meaning given by section 152 above;

[...⁴]

“prescribed” means prescribed by regulations;

“qualifying day” has the meaning given by section 154 above;

“week” means any period of 7 days.

(2) For the purposes of this Part of this Act an employee’s normal weekly earnings shall, subject to subsection (4) below, be taken to be the average weekly earnings which in the relevant period have been paid to him or paid for his benefit under his contract of service with the employer in question.

(3) For the purposes of subsection (2) above, the expressions “earnings” and “relevant period” shall have the meaning given to them by regulations.

(4) In such cases as may be prescribed an employee’s normal weekly earnings shall be calculated in accordance with regulations.

¹ In s. 163(1), defn. of employee, para. (b) omitted (1.10.06) by S.I. 2006/1031, Sch. 8, para. 9, where the expected week of confinement begins on or after 14.1.07.

² Defn. of “employer” substituted (1.10.06) by S.I. 2006/1031, Sch. 8, para. 10, where the expected week of confinement begins on or after 14.1.07.

³ Words inserted into defn. of “employer” (6.4.99) by para. 74, Sch. 7 of S.S. Act 1998 (c. 14).

⁴ Defn. of “period of interruption of employment” deleted (7.10.96) from s.163(1) by Sch. 3 to Jobseekers Act 1995 (c. 18).

(5) Without prejudice to any other power to make regulations under this Part of this Act, regulations may specify cases in which, for the purposes of this Part of this Act or such of its provisions as may be prescribed—

- (a) two or more employers are to be treated as one;
- (b) two or more contracts of service in respect of which the same person is an employee are to be treated as one.

(6) 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—

1990 c. 19.
1978 c. 29.

- (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.

(7) Regulations may provide for periods of work which begin on one day and finish on the following day to be treated, for the purposes of this Part of this Act, as falling solely within one or other of those days.

PART XII

STATUTORY MATERNITY PAY

Statutory maternity pay - entitlement and liability to pay.

164.—(1) Where a woman who is or has been an employee satisfies the conditions set out in this section, she shall be entitled, in accordance with the following provisions of this Part of this Act, to payments to be known as “statutory maternity pay”.

(2) The conditions mentioned in subsection (1) above are—

- (a) that she has been in employed earner’s employment with an employer for a continuous period of at least 26 weeks ending with the week immediately preceding the 14th week before the expected week of confinement but has ceased to work for him, [...¹]
- (b) that her normal weekly earnings for the period of 8 weeks ending with the week immediately preceding the 14th week before the expected week of confinement are not less than the lower earnings limit in force under section 5(1)(a) above immediately before the commencement of the 14th week before the expected week of confinement; and
- (c) that she has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement.

(3) The liability to make payments of statutory maternity pay to a woman is a liability of any person of whom she has been an employee as mentioned in subsection (2)(a) above.

[²(4) A woman shall be entitled to payments of statutory maternity pay only if—

- (a) she gives the person who will be liable to pay it notice of the date from which she expects his liability to pay her statutory maternity pay to begin; and
- (b) the notice is given at least 28 days before the date or, if that is not reasonably practicable, as soon as is reasonably practicable.]

(5) The notice shall be in writing if the person who is liable to pay the woman statutory maternity pay so requests.

(6) Any agreement shall be void to the extent that it purports—

- (a) to exclude, limit or otherwise modify any provision of this Part of this Act; or
- (b) to require an employee or former employee to contribute (whether directly or indirectly) towards any costs incurred by her employer or former employer under this Part of this Act.

(7) For the avoidance of doubt, any agreement between an employer and an employee authorising any deductions from statutory maternity pay which the employer is liable to pay to the employee in respect of any period shall not be void by virtue of subsection (6)(a) above if the employer—

- (a) is authorised by that or another agreement to make the same deductions from any contractual remuneration which he is liable to pay in respect of the same period, or
- (b) would be so authorised if he were liable to pay contractual remuneration in respect of that period.

¹ Words “, wholly or partly because of pregnancy or confinement” in s. 164(2)(a) omitted (24.11.02) by the Employment Act 2002 (c. 22), s. 20(a), but only in relation to women whose expected week of confinement commences on or after 6.4.03.

² In s. 164, subsection (4) substituted (24.11.02) by s. 20(b) & (c) of the Employment Act 2002 (c. 22), but only in relation to women whose expected week of confinement commences on or after 6.4.03.

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(8) Regulations shall make provision as to a former employer's liability to pay statutory maternity pay to a woman in any case where the former employer's contract of service with her has been brought to an end by the former employer solely, or mainly, for the purpose of avoiding liability for statutory maternity pay.

(9) The Secretary of State may by regulations—

- (a) specify circumstances in which, notwithstanding subsections (1) to (8) above, there is to be no liability to pay statutory maternity pay in respect of a week;
- (b) specify circumstances in which, notwithstanding subsections (1) to (8) above, the liability to make payments of statutory maternity pay is to be a liability [1 of the Commissioners of the Inland Revenue]
- (c) specify in what circumstances employment is to be treated as continuous for the purposes of this Part of this Act;
- (d) provide that a woman is to be treated as being employed for a continuous period of at least 26 weeks where—
 - (i) she has been employed by the same employer for at least 26 weeks under two or more separate contracts of service; and
 - (ii) those contracts were not continuous;
- (e) provide that any of the provisions specified in subsection (10) below shall have effect subject to prescribed modifications [2 in such cases as may be prescribed];

[3(ea) provide that subsection (4) above shall not have effect, or shall have effect subject to prescribed modifications, in such cases as may be prescribed;]

- (f) provide for amounts earned by a woman under separate contracts of service with the same employer to be aggregated for the purposes of this Part of this Act; and
- (g) provide that—
 - (i) the amount of a woman's earnings for any period, or
 - (ii) the amount of her earnings to be treated as comprised in any payment made to her or for her benefit,

shall be calculated or estimated in such manner and on such basis as may be prescribed and that for that purpose payments of a particular class or description made or falling to be made to or by a woman shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of her earnings.

(10) The provisions mentioned in subsection (9)(e) above are—

- (a) subsection (2)(a) and (b) above; and
- (b) [4section 166(1) and (2)] [...5] below,

[6(11) Any regulations under subsection (a) above which are made by virtue of paragraph (b) of that subsection must be made with the concurrence of the Commissioners of Inland Revenue.]

¹ Words substituted in s. 164(9)(b) (1.4.99) by S.S. Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para 12(2).

² In s. 164, sub-para. (i) to (iii) of subsection (9)(e) substituted (24.11.02) by s. 20(b) & (c) of the Employment Act 2002 (c. 22), but only in relation to women whose expected week of confinement commences on or after 6.4.03.

³ Para. (ea) inserted in s. 164(9) (24.11.02) by the Employment Act 2002 (c. 22), s. 20(d), but only in relation to women whose expected date of confinement commences on or after 6.4.03.

⁴ Words in s. 164(10)(b) substituted (6.4.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 6.

⁵ Words in s. 164(10)(b) deleted by reg. 6(1) of S.I. 1994/1230 where expected week of confinement begins on or after 16.10.94.

⁶ S. 164(11) inserted (1.4.99) by S.S. Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 12(3).

165.—(1) Statutory maternity pay shall be payable, subject to the provisions of this Part of this Act, in respect of each week during a prescribed period (“the maternity pay period”) of a duration not exceeding [¹52 weeks].

The maternity pay period

[¹(2) Subject to subsections (3) and (7), the maternity pay period shall begin with the 11th week before the expected week of confinement.

(3) Cases may be prescribed in which the first day of the period is to be a prescribed day after the beginning of the 11th week before the expected week of confinement, but not later than the day immediately following the day on which she is confined.]

[²(3A) Regulations may provide for the duration of the maternity pay period as it applies to a woman to be reduced, subject to prescribed restrictions and conditions.

(3B) Regulations under subsection (3A) are to secure that the reduced period ends at a time—

- (a) after a prescribed period beginning with the day on which the woman is confined, and
- (b) when at least a prescribed part of the maternity pay period remains unexpired.

(3C) Regulations under subsection (3A) may, in particular, prescribe restrictions and conditions relating to—

- (a) the end of the woman’s entitlement to maternity leave;
- (b) the doing of work by the woman;
- (c) the taking of prescribed steps by the woman or another person as regards leave under section 75E of the Employment Rights Act 1996 in respect of the child;
- (d) the taking of prescribed steps by the woman or another person as regards statutory shared parental pay in respect of the child.

(3D) Regulations may provide for a reduction in the duration of the maternity pay period as it applies to a woman to be revoked, or to be treated as revoked, subject to prescribed restrictions and conditions.]

(4) [¹Except in such cases as may be prescribed,] statutory maternity pay shall not be payable to a woman by a person in respect of any week during any part of which she works under a contract of service with him.

(5) It is immaterial for the purposes of subsection (4) above whether the work referred to in that subsection is work under a contract of service which existed immediately before the maternity pay period or a contract of service which did not so exist.

(6) Except in such cases as may be prescribed, statutory maternity pay shall not be payable to a woman in respect of any week after she has been confined and during any part of which she works for any employer who is not liable to pay her statutory maternity pay.

(7) Regulations may provide that this section shall have effect subject to prescribed modifications in relation—

- (a) to cases in which a woman has been confined before the 11th week before the expected week of confinement; and

¹ Words in s 165(1) substituted & s. 165(2) & (3) substituted & words inserted in 165(4) (27.6.06) by the Work and Families Act 2006 (c. 18), s. 1.

² S. 165(3A)-(3D) inserted (30.6.14) by the Childrens and Families Act 2014 (c. 6), s. 120(4).

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- (b) to cases in which—
 - (i) a woman is confined [¹at any time after the end of the week immediately preceding the 11th week] before the expected week of confinement; and
 - (ii) the maternity pay period has not then commenced for her.

[²(8) In subsections (1), (4) and (6) “week” means a period of seven days beginning with the day of the week on which the maternity pay period begins.]

Rate of statutory
maternity pay

[³**166**—(1) Statutory maternity pay shall be payable to a woman—

- (a) at the earnings-related rate, in respect of the first 6 weeks in respect of which it is payable; and
- (b) at whichever is the lower of the earnings-related rate and such weekly rate as may be prescribed, in respect of the remaining portion of the maternity pay period.

[⁴(1A) In subsection (1) “week” means any period of seven days.]

(2) The earnings-related rate is a weekly rate equivalent to 90 per cent of a woman’s normal weekly earnings for the period of 8 weeks immediately preceding the 14th week before the expected week of confinement.

(3) The weekly rate prescribed under subsection (1)(b) above must not be less than the weekly rate of statutory sick pay for the time being specified in section 157(1) above or, if two or more such rates are for the time being so specified, the higher or highest of those rates.]

¹ Words in s. 165(7)(b)(i) substituted by reg. 3 of S.I. 1994/1230 where expected week of confinement begins on or after 16.10.94.

² S. 165(8) inserted (27.6.06) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 7(4).

³ S. 166 substituted (6.4.03) by the Employment Act 2002 (c. 22), s. 19. See Sch. 3 of S.I. 2002/2866 at page 1.5943 for details of the extent of the effect of this amendment.

⁴ S. 166(1A) inserted (1.10.06) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 8(2).

[¹(4) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of statutory maternity pay, the amount payable by way of statutory maternity pay for any day shall be taken as one seventh of the weekly rate.]

[²167—(1) Regulations shall make provision for the payment by employers of statutory maternity pay to be funded by the Commissioners of Inland Revenue to such extent as may be prescribed.

Funding of employers' liabilities in respect of statutory maternity pay

(2) Regulations under subsection (1) shall—

- (a) make provision for a person who has made a payment of statutory maternity pay to be entitled, except in prescribed circumstances, to recover an amount equal to the sum of—
 - (i) the aggregate of such of those payments as qualify for small employers' relief; and
 - (ii) an amount equal to 92 per cent of the aggregate of such of those payments as do not so qualify; and
- (b) include provision for a person who has made a payment of statutory maternity pay qualifying for small employers' relief to be entitled, except in prescribed circumstances, to recover an additional amount, determined in such manner as may be prescribed—
 - (i) by reference to secondary Class 1 contributions paid in respect of statutory maternity pay;
 - (ii) by reference to secondary Class 1 contributions paid in respect of statutory sick pay; or
 - (iii) by reference to the aggregate of secondary Class 1 contributions paid in respect of statutory maternity pay and secondary Class 1 contributions paid in respect of statutory sick pay.

(3) For the purposes of this section a payment of statutory maternity pay which a person is liable to make to a woman qualifies for small employers' relief if, in relation to that woman's maternity pay period, the person liable to make the payment is a small employer.

(4) For the purposes of this section "small employer", in relation to a woman's maternity pay period, shall have the meaning assigned to it by regulations, and, without prejudice to the generality of the foregoing, any such regulations—

- (a) may define that expression by reference to the amount of a person's contributions payments for any prescribed period; and
- (b) if they do so, may in that connection make provision for the amount of those payments for that prescribed period—
 - (i) to be determined without regard to any deductions that may be made from them under this section or under any other enactment or instrument; and
 - (ii) in prescribed circumstances, to be adjusted, estimated or otherwise attributed to him by reference to their amount in any other prescribed period.

(5) Regulations under subsection (1) may, in particular, make provision—

- (a) for funding in advance as well as in arrear;
- (b) for funding, or the recovery of amounts due under provision made by virtue of subsection (2)(b), by means of deductions from such amounts for which employers are accountable to the Commissioners of Inland Revenue as may be prescribed, or otherwise;

¹ S. 166(4) inserted (1.10.06) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 8(3).

² S. 167 substituted (6.4.03) by the Employment Act 2002 (c. 22), s. 21(1).

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- (c) for the recovery by the Commissioners of Inland Revenue of any sums overpaid to employers under the regulations.

(6) Where in accordance with any provision of regulations under subsection (1) an amount has been deducted from an employer's contributions payments, the amount so deducted shall (except in such cases as may be prescribed) be treated for the purposes of any provision made by or under any enactment in relation to primary or secondary Class 1 contributions—

- (a) as having been paid (on such date as may be determined in accordance with the regulations), and
(b) as having been received by the Commissioners of Inland Revenue, towards discharging the employer's liability in respect of such contributions.

(7) Regulations under this section must be made with the concurrence of the Commissioners of Inland Revenue.

(8) In this section "contributions payments", in relation to an employer, means any payments which the employer is required, by or under any enactment, to make in discharge of any liability in respect of primary or secondary Class 1 contributions.]

Relationship with benefits and other payments etc.

168. Schedule 13 to this Act has effect with respect to the relationship between statutory maternity pay and certain benefits and payments.

Crown employment - Part XII.

169. The provisions of this Part of this Act apply in relation to women employed by or under the Crown as they apply in relation to women employed otherwise than by or under the crown.

Special classes of persons.

170.—(1) The Secretary of State may [¹with the concurrence of the Treasury] make regulations modifying this Part of this Act in such manner as he thinks proper in their application to any person who is, has been or is to be—

- (a) employed on board any ship, vessel, hovercraft or aircraft;
(b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
(c) in prescribed employment in connection with continental shelf operations, as defined in section 120(2) above.

(2) Regulations under subsection (1) above may in particular provide—

- (a) for any provision of this Part of this Act to apply to any such person, notwithstanding that it would not otherwise apply;
(b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
(c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain;
(d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined in accordance with the regulations.

Interpretation of Part XII and supplementary provisions.

171.—(1) In this Part of this Act—
"confinement" means—

- (a) labour resulting in the issue of a living child, or
(b) labour after [²24 weeks] of pregnancy resulting in the issue of a child whether alive or dead,

¹ Words inserted in s. 170(1) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 14.

² Words "24 weeks" in defn. of "confinement" in s. 171(1) substituted (1.10.92) for "28 weeks" by Still-Birth (Definition) Act 1992 (c. 29), s. 2(1)(b).

and “confined” shall be construed accordingly; and where a woman’s labour begun on one day results in the issue of a child on another day she shall be taken to be confined on the day of the issue of the child or, if labour results in the issue of twins or a greater number of children, she shall be taken to be confined on the day of the issue of the last of them;

“dismissed” is to be construed in accordance with [1Part X of the Employment Rights Act 1996];

1996 c. 18.

“employee” means a woman who is—

(a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with [2general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)];

(b) [...3]

but subject to regulations [4made with the concurrence of [5Her Majesty’s Revenue and Customs]] which may provide for cases where any such woman is not to be treated as an employee for the purposes of this Part of this Act and for cases where a woman who would not otherwise be an employee for those purposes is to be treated as an employee for those purposes;

[3“employer”, in relation to a woman who is an employee, means a person who—

(a) under section 6 above is liable to pay secondary Class 1 contributions in relation to any of her earnings; or

(b) would be liable to pay such contributions but for—

(i) the condition in section 6(1)(b), or

(ii) the employee being under the age of 16;]

Defns. of “employee” & “employer”, as in force where the expected week of confinement begins before 14.1.07 is reproduced below:-

“employee” means a woman who is—

(a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with [2general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)];

(b) over the age of 16;

but subject to regulations [4made with the concurrence of [3Her Majesty’s Revenue and Customs]] which may provide for cases where any such woman is not to be treated as an employee for the purposes of this Part of this Act and for cases where a woman who would not otherwise be an employee for those purposes is to be treated as an employee for those purposes;

“employer”, in relation to a woman who is an employee, means a person who under section 6 above is, or but for [6the condition in] subsection (1)(b) of that section would be, liable to pay secondary Class 1 contributions in relation to any of her earnings;

“maternity pay period” has the meaning assigned to it by section 165(1) above;

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

“prescribed” means specified in or determined in accordance with regulations; [...7]

¹ Words substituted (22.8.96) in s. 171(1) by para. 51(5) of Sch. 1 to Employment Rights Act 1996 (c. 18).

² Words substituted in defn. of “employee” (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 182.

³ Para (b) in defn. of “employee” omitted & defn. of “employer” inserted (1.10.06) by S.I. 2006/1031, Sch. 8, para. 10.

⁴ Words inserted in s. 171(1) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 15(2).

⁵ Words inserted in defn. of “employee” by the Commissioners for Revenue and Customs Act 2005 (c. 11), Sch. 4, para. 43.

⁶ Words inserted in defn. of “employer” (6.4.99) by para. 74 of Sch. 7 to S.S. Act 1998 (c. 14).

⁷ Defn. of “week” repealed (1.10.06) by the Work and Families Act 2006 (c. 18), Sch. 2.

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[¹(1A) In this Part, except section 165(1), (4) and (6), section 166(1) and paragraph 3(2) of Schedule 13, “week” means a period of 7 days beginning with Sunday or such other period as may be prescribed in relation to any particular case or class of case.]

(2) Without prejudice to any other power to make regulations under this Part of this Act, regulations may specify cases in which, for the purposes of this Part of this Act or of such provisions of this Part of this Act as may be prescribed—

- (a) two or more employers are to be treated as one;
- (b) two or more contracts of service in respect of which the same woman is an employee are to be treated as one.

(3) 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—

1990 c.19.
1978 c.29.

- (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.

(4) For the purposes of this Part of this Act a woman’s normal weekly earnings shall, subject to subsection (6) below, be taken to be the average weekly earnings which in the relevant period have been paid to her or paid for her benefit under the contract of service with the employer in question.

(5) For the purposes of subsection (4) above “earnings” and “relevant period” shall have the meanings given to them by regulations.

(6) In such cases as may be prescribed a woman’s normal weekly earnings shall be calculated in accordance with regulations.

[²(7) Regulations under subsection (6) above must be made with the concurrence of the Commissioners of Inland Revenue].

¹ S. 171(1A) inserted (27.6.06) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 9(3).

² S. 171(7) inserted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch.1, para. 15(3).

[¹PART 12ZA

[²[...³] STATUTORY PATERNITY PAY]

[...³]

171ZA.— (1) Where a person satisfies the conditions in subsection (2) below, he shall be entitled in accordance with the following provisions of this Part to payments to be known as [³“statutory paternity pay”].] Entitlement: birth

(2) The conditions are—

- (a) that he satisfies prescribed conditions—
 - (i) as to relationship with a newborn child, and
 - (ii) as to relationship with the child’s mother;
- (b) that he has been in employed earner’s employment with an employer for a continuous period of at least 26 weeks ending with the relevant week;
- (c) that his normal weekly earnings for the period of 8 weeks ending with the relevant week are not less than the lower earnings limit in force under section 5(1)(a) above at the end of the relevant week; and
- (d) that he has been in employed earner’s employment with the employer by reference to whom the condition in paragraph (b) above is satisfied for a continuous period beginning with the end of the relevant week and ending with the day on which the child is born.

(3) The references in subsection (2) above to the relevant week are to the week immediately preceding the 14th week before the expected week of the child’s birth.

(4) A person’s entitlement to [²[...³] statutory paternity pay] under this section shall not be affected by the birth, or expected birth, of more than one child as a result of the same pregnancy.

[⁴(4A) A person who satisfies the conditions in section 171ZB(2)(a)-(d) in relation to a child is not entitled to statutory paternity pay under this section in respect of that child.]

(5) In this section, “newborn child” includes a child stillborn after twenty-four weeks of pregnancy.

171ZB.—(1) Where a person satisfies the conditions in subsection (2) below, he shall be entitled in accordance with the following provisions of this Part to payments to be known as [³“statutory paternity pay”].] Entitlement: adoption

See reg. 2 of S.I. 2003/499 at page 3.1801 for details of modifications of this reg. in certain situations.

(2) The conditions are—

- [⁴(a) that he satisfies prescribed conditions as to being a person—
 - (i) on whose application the court has made a parental order in respect of a child, or
 - (ii) who is an intended parent of a child;
- (ab) that he satisfies prescribed conditions as to relationship with the other person on whose application the parental order was made or who is an intended parent of the child;]

¹ Part 12ZA inserted (8.12.02) by the Employment Act 2002 (c. 22), s. 2. See Sch. 3 of S.I. 2002/2866 at page 1.5943 for details of the extent of the effect of Part 12ZA.

² Words substituted in heading to Part 12ZA, ss. 171ZA(1), (4) & 171ZB(1) & heading to s. 171ZA inserted (6.4.10) by the Work and Families Act 2006 (c. 18), Sch. 1, paras. 10-13.

³ Words repealed in headings to Part 12ZA, 171ZA cross heading, s. 171ZA(4) and words substituted in s. 171ZA(1) & s. 171ZB(1) (5.4.15) by Children and Families Act 2014 (c. 6), s. 126, Sch. 7, paras. 10-13(2).

⁴ S. 171ZA(4A) inserted & 171ZB(2)(a)(ab) substituted (19.11.14) by S.I. 2014/2866, reg. 3, Sch. 1.

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- (b) that he has been in employed earner's employment with an employer for a continuous period of at least 26 weeks ending with the relevant week;
- (c) that his normal weekly earnings for the period of 8 weeks ending with the relevant week are not less than the lower earnings limit in force under section 5(1)(a) at the end of the relevant week;
- (d) that he has been in employed earner's employment with the employer by reference to whom the condition in paragraph (b) above is satisfied for a continuous period beginning with the end of the relevant week and ending with the day on which the child is [¹born]; and
- (e) [...²], that he has elected to receive statutory paternity pay.

See reg. 2 of S.I. 2003/499 at page 3.1801 for details of modifications of this reg. in certain situations.

[²(3) The references in this section to the relevant week are to the week immediately preceding the 14th week before the expected week of the child's birth.]

[²(3B) In a case where a child is born earlier than the 14th week before the expected week of the child's birth—

- (a) subsection (2)(b) shall be treated as satisfied in relation to a person if, had the birth occurred after the end of the relevant week, the person would have been in employed earner's employment with an employer for a continuous period of at least 26 weeks ending with the relevant week;
- (b) subsection (2)(c) shall be treated as satisfied in relation to a person if the person's normal weekly earnings for the period of 8 weeks ending with the week immediately preceding the week in which the child is born are not less than the lower earnings limit in force under section 5(1)(a) immediately before the commencement of the week in which the child is born; and
- (c) subsection (2)(d) shall not apply,

(3C) In a case where a child is born before the end of the relevant week, subsection (2)(ba) shall be treated as satisfied in relation to a person if, had the birth occurred after the end of the relevant week, the person would have been entitled to be in the relevant employment at the end of the relevant week.

In this subsection "the relevant employment" means the employment by reference to which the person satisfies the condition in subsection (2)(b).]

(4) A person may not elect to receive [³[...⁴] statutory paternity pay] if he has elected in accordance with section 171ZL below to receive statutory adoption pay.

(5) Regulations may make provision about elections for the purposes of subsection (2)(e) above.

See reg. 2 of S.I. 2003/499 at page 3.1801 for details of modifications of this reg. in certain situations.

(6) A person's entitlement to [³[...⁴] statutory paternity pay] under this section shall not be affected by the [²birth, or expected birth, of more than one child as a result of the same pregnancy.]

See reg. 2 of S.I. 2003/499 at page 3.1801 for details of modifications of this reg. in certain situations.

[²(7) In this section—

"intended parent", in relation to a child, means a person who, on the day of the child's birth—

¹ Words in 171ZB(2)(d) substituted (19.11.14) by S.I. 2014/2866, reg. 3, Sch. 1.

² Words in s. 171ZB(2)(e) omitted, s. 171ZB(3) & (7) & words in 171ZB(6) substituted and 171ZB(3B) & (3C) inserted (19.11.14) by S.I. 2014/2866, reg. 3, Sch. 1.

³ Words substituted in ss. 171ZB(4) & (6) (6.4.10) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 13.

⁴ Words in s. 171ZB(4) & (6) repealed (5.4.15) by Children and Families Act 2014, s. 126, Sch. 7, paras. 13(3), (4).

- (a) applies, or intends to apply during the period of 6 months beginning with that day, with another person for a parental order in respect of the child, and
- (b) expects the court to make a parental order on that application in respect of the child; and

“parental order” means an order under section 54(1) of the Human Fertilisation and Embryology Act 2008.]

(8)–(9)[...¹]

171ZC.—(1) A person shall be entitled to payments of [²[...³] statutory paternity pay] in respect of any period [⁴only if he gives the person who will be liable to pay it notice of the week or weeks in respect of which he expects there to be liability to pay him statutory paternity pay].

Entitlement: general

[⁴(1A) Regulations may provide for the time by which notice under subsection (1) is to be given]

(2) The notice shall be in writing if the person who is liable to pay the [²[...³] statutory paternity pay] so requests.

(3) The Secretary of State may by regulations—

- (a) provide that subsection (2)(b), (c) or (d) of section 171ZA or 171ZB above shall have effect subject to prescribed modifications in such cases as may be prescribed;
- (b) provide that subsection (1) above shall not have effect, or shall have effect subject to prescribed modifications, in such cases as may be prescribed;
- (c) impose requirements about evidence of entitlement;
- (d) specify in what circumstances employment is to be treated as continuous for the purposes of section 171ZA or 171ZB above;
- (e) provide that a person is to be treated for the purposes of section 171ZA or 171ZB above as being employed for a continuous period of at least 26 weeks where—
 - (i) he has been employed by the same employer for at least 26 weeks under two or more separate contracts of service; and
 - (ii) those contracts were not continuous;
- (f) provide for amounts earned by a person under separate contracts of service with the same employer to be aggregated for the purposes of section 171ZA or 171ZB above;
- (g) provide that—
 - (i) the amount of a person’s earnings for any period, or
 - (ii) the amount of his earnings to be treated as comprised in any payment made to him or for his benefit,

shall be calculated or estimated for the purposes of section 171ZA or 171ZB above in such manner and on such basis as may be prescribed and that for that purpose payments of a particular class or description made or falling to be made to or by a person shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of his earnings.

¹ S. 171ZB(8) & (9) omitted (19.11.14) by S.I. 2014/2866, reg. 3, Sch. 1.

² Words substituted in ss. 171ZC(1) & (2) (6.4.10) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 14.

³ Words in s. 171ZC(1) & (2) repealed (5.4.15) by Children and Families Act 2014, s. 126, Sch. 7, paras. 14(2) & (3).

⁴ Words in s. 171ZC(1) substituted & s. 171ZC(1A) inserted (30.6.14) by Children and Families Act 2014 (c. 6), s. 123(2).

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Liability to make payments

171ZD.—(1) The liability to make payments of [...] statutory paternity pay under section 171ZA or 171ZB above is a liability of any person of whom the person entitled to the payments has been an employee as mentioned in subsection (2)(b) and (d) of that section.

(2) Regulations shall make provision as to a former employer's liability to pay [...] statutory paternity pay] to a person in any case where the former employee's contract of service with him has been brought to an end by the former employer solely, or mainly, for the purpose of avoiding [...] liability for [...] statutory paternity pay] [...].

(3) The Secretary of State may, with the concurrence of the Board, by regulations specify circumstances in which, notwithstanding this section, liability to make payments of statutory paternity pay is to be a liability of the Board.

Rate and period of pay

171ZE.—(1) [...] statutory paternity pay] shall be payable at such fixed or earnings-related weekly rate as may be prescribed by regulations, which may prescribe different kinds of rate for different cases.

(2) [...] statutory paternity pay] shall be payable in respect of—

- (a) a period of two consecutive weeks within the qualifying period beginning on such date within that period as the person entitled may choose in accordance with regulations, or
- (b) if regulations permit the person entitled to choose to receive [...] statutory paternity pay] in respect of—
 - (i) a period of a week, or
 - (ii) two non-consecutive periods of a week,

such week or weeks within the qualifying period as he may choose in accordance with regulations.

See reg. 2 of S.I. 2003/499 at page 3.1801 for details of modifications of this reg. in certain situations.

(3) For the purposes of subsection (2) above, the qualifying period shall be determined in accordance with regulations, which shall secure that it is a period of at least 56 days beginning—

- (a) in the case of a person to whom the conditions in section 171ZA(2) above apply, with the date of the child's birth, and
- (b) in the case of a person to whom the conditions in section 171ZB(2) above apply, with the date of the child's [birth]

[⁴(3A) Statutory paternity pay is not payable to a person in respect of a statutory pay week if—

- (a) statutory shared parental pay is payable to that person in respect of any part of that week or that person takes shared parental leave in any part of that week, or
- (b) statutory shared parental pay was payable to that person or that person has taken shared parental leave in respect of the child before that week.]

(4) [...] statutory paternity pay] shall not be payable to a person in respect of a statutory pay week if it is not his purpose at the beginning of the week—

¹ Words repealed in ss. 171ZD(1),(2), 171ZE(1), (2)(b) & (4) (5.4.15) by Children and Families Act 2014 (c. 6), s. 126, Sch. 7 paras. 15-16(4).

² Words substituted in ss. 171ZD(2) & 171ZE(1), (2) & (4) (6.4.10) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 15 & 16.

³ Words in s. 171ZE(3)(b) substituted (19.11.14) by S.I. 2014/2866, reg. 3, Sch. 1.

⁴ S. 171ZE(3A) inserted (30.6.14) by the Children and Families Act 2014 (c. 6), s. 120(5).

- (a) to care for the child by reference to whom he satisfies the condition in [1section 171ZA(2)(a)(i)] or 171ZB(2)(a) above, or
- (b) to support the person by reference to whom he satisfies the condition in [1section 171ZA(2)(a)(ii) or 171ZB(2)(ab)].

(5) A person shall not be liable to pay [2[...3] statutory paternity pay] to another in respect of a statutory pay week during any part of which the other works under a contract of service with him.

(6) It is immaterial for the purposes of subsection (5) above whether the work referred to in that subsection is work under a contract of service which existed immediately before the statutory pay week or a contract of service which did not so exist.

(7) Except in such cases as may be prescribed, [2[...3] statutory paternity pay] shall not be payable to a person in respect of a statutory pay week during any part of which he works for any employer who is not liable to pay him [...3] statutory paternity pay.

(8) The Secretary of State may by regulations specify circumstances in which there is to be no liability to pay [2[...3] statutory paternity pay] in respect of a statutory pay week.

(9) Where more than one child is born as a result of the same pregnancy, [1the references in subsection (3)(a) and (b) to the date of the child's birth shall be read as references] to the date of birth of the first child born as a result of the pregnancy.

See reg. 2 of S.I. 2003/499 at page 3.1801 for details of modifications of this reg. in certain situations.

(10) [...1]

[4(10A) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of [...3] statutory paternity pay, the amount payable by way of [...3] statutory paternity pay for any day shall be taken as one seventh of the weekly rate.]

(11) In this section—
 “statutory pay week”, in relation to a person entitled to [2[...3] statutory paternity pay], means a week chosen by him as a week in respect of which [2[...3] statutory paternity pay] shall be payable;
 “week” means any period of seven days.

(12) [...1]

[...3]

171ZEA.–171ZEE. [...3]

Entitlement to additional statutory paternity pay: birth

¹ Words substituted in s. 171ZE(4)(a)(b), (9) & s. 171ZE(10) & (12) omitted (19.11.14) by S.I. 2014/2866, reg. 3, Sch. 1.

² Words substituted in s. 171ZE(5), (7), (8) & (11) (6.4.10) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 15, 16 & ss. 16(2) & 17.

³ Words in ss. 171ZE(5), (7), (8), (10A), (11), cross heading to s. 171ZEA & ss. 171ZEA-171ZEE repealed (5.4.15) by Children and Families Act 2014 (c. 6), s. 125(2), s. 126, Sch. 7, paras. 16(5)-(9) & 17 (with art. 14 & 16 of S.I. 2014/1640)

⁴ S. 171ZE(10A) inserted (1.10.06) by the Sch. to the Work and Families Act 2006 (c. 18).

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S. 171ZF-171ZI

[...¹]

Restrictions on
contracting out

171ZF.—(1) Any agreement shall be void to the extent that it purports—

- (a) to exclude, limit or otherwise modify any provision of this Part of this Act, or
- (b) to require an employee or former employee to contribute (whether directly or indirectly) towards any costs incurred by his employer or former employer under this Part of this Act.

(2) For the avoidance of doubt, any agreement between an employer and an employee authorising any deductions from [¹statutory paternity pay] which the employer is liable to pay to the employee in respect of any period shall not be void by virtue of subsection (1)(a) above if the employer—

- (a) is authorised by that or another agreement to make the same deductions from any contractual remuneration which he is liable to pay in respect of the same period, or
- (b) would be so authorised if he were liable to pay contractual remuneration in respect of that period.

Relationship with
contractual
remuneration

171ZG.—(1) Subject to subsections (2) and (3) below, any entitlement to statutory paternity pay shall not affect any right of a person in relation to remuneration under any contract of service (“contractual remuneration”).

(2) Subject to subsection (3) below—

- (a) any contractual remuneration paid to a person by an employer of his in respect of any period shall go towards discharging any liability of that employer to pay statutory paternity pay to him in respect of that period; and
- (b) any statutory paternity pay paid by an employer to a person who is an employee of his in respect of any period shall go towards discharging any liability of that employer to pay contractual remuneration to him in respect of that period.

(3) Regulations may make provision as to payments which are, and those which are not, to be treated as contractual remuneration for the purposes of subsections (1) and (2) above.

[...¹]

Crown employment-Part
12ZA

171ZH. The provisions of this Part of this Act apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

Special classes of person

171ZI.—(1) The Secretary of State may with the concurrence of the Treasury make regulations modifying any provision of this Part of this Act in such manner as he thinks proper in its application to any person who is, has been or is to be—

- (a) employed on board any ship, vessel, hovercraft or aircraft;
- (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
- (c) in prescribed employment in connection with continental shelf operations, as defined in section 120(2) above.

(2) Regulations under subsection (1) above may, in particular, provide—

- (a) for any provision of this Part of this Act to apply to any such person, notwithstanding that it would not otherwise apply;

¹ S. 171F cross heading & s. 171ZG(4) repealed & words in s. 171ZF(2) substituted (5.4.15) by the Children and Families Act 2014 (c. 6), s. 126, Sch. 7, paras. 18-20.

- (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
- (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain;
- (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined in accordance with the regulations.

See reg. 2 of S.I. 2003/499 at page 3.1801 for details of modifications of this reg. in certain situations.

171ZJ.—(1) In this Part of this Act—

“the Board” means the Commissioners of Inland Revenue;

[¹“employer”, in relation to a person who is an employee, means a person who—

- (a) under section 6 above is, liable to pay secondary Class 1 contributions in relation to any of the earnings of the person who is an employee; or
- (b) would be liable to pay such contributions but for—
 - (i) the condition in section 6(1)(b), or
 - (ii) the employee being under the age of 16;]

Defn. of “employer” as in force for statutory paternity pay, (birth) where the expected week of birth begins before 14.1.07, (adoption) where children have been matched or placed before 1.10.06. See Sch. 8, para. 11(4) of S.I. 2006/1031.

“employer”, in relation to a person who is an employee, means a person who under section 6 above is, or but for the condition in subsection (1)(b) of that section would be, liable to pay secondary Class 1 contributions in relation to any of the earnings of the person who is an employee;

Part 12ZA:
supplementary

[²“local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);

“local authority foster parent” has the same meaning as in the Children Act 1989 (see section 22C(12) of that Act);]

“modifications” includes additions, omissions and amendments, and related expressions are to be read accordingly;

“prescribed” means prescribed by regulations.

(2) In this Part of this Act, “employee” means a person who is—

- (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with [³general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)]; and

[...¹]

S. 171ZJ(2) as in force for statutory paternity pay, (birth) where the expected week of birth begins before 14.1.07, (adoption) where children have been matched or placed before 1.10.06. See Sch. 8, para. 11(4) of S.I. 2006/1031.

(2) In this Part of this Act, “employee” means a person who is—

- (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with

¹ Defn. of “employer” in s. 171ZJ(1) substituted and words omitted in s. 171ZJ(2) by S.I. 2006/1031, Sch. 8, para. 11 for statutory paternity pay (birth) where the expected week of birth begins before 14.1.07; (adoption) where children have been matched or placed before 1.10.06. See Sch. 8, para. 11(3) *ibid*.

² Words in s. 171ZJ inserted (30.6.14) by the Children and Families Act 2014 (c. 6), s. 121(7)(a) & S.I. 2014/1640, art. 3.

³ Words substituted in s. 171ZJ(2)(a) (6.4.03) by the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6, para. 183.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

S. 171ZJ

[¹general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)]; and

(b) over the age of 16.

(3) Regulations may provide—

- (a) for cases where a person who falls within the definition in subsection (2) above is not to be treated as an employee for the purposes of this Part of this Act, and
- (b) for cases where a person who would not otherwise be an employee for the purposes of this Part of this Act is to be treated as an employee for those purposes.

(4) Without prejudice to any other power to make regulations under this Part of this Act, regulations may specify cases in which, for the purposes of this Part of this Act or of such provisions of this Part of this Act as may be prescribed—

- (a) two or more employers are to be treated as one;
- (b) two or more contracts of service in respect of which the same person is an employee are to be treated as one.

(5) In this Part, except [²sections 171ZE], “week” means a period of 7 days beginning with Sunday or such other period as may be prescribed in relation to any particular case or class of cases.

(6) For the purposes of this Part of this Act, a person’s normal weekly earnings shall, subject to subsection (8) below, be taken to be the average weekly earnings which in the relevant period have been paid to him or paid for his benefit under the contract of service with the employer in question.

(7) For the purposes of subsection (6) above, “earnings” and “relevant period” shall have the meanings given to them by regulations.

(8) In such cases as may be prescribed, a person’s normal weekly earnings shall be calculated in accordance with regulations.

(9) Where—

- (a) in consequence of the establishment of one or more National Health Service trusts under Part 1 of the National Health Service and Community Care Act 1990 (c. 19) or the National Health Service (Scotland) Act 1978 (c. 29), 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, or
- (b) an order under paragraph 23(1) of Schedule 5A to the National Health Service Act 1977 (c. 49) provides that a person’s contract of employment is so divided,

regulations may make provision enabling the person to elect for all of those contracts to be treated as one contract for the purposes of this Part of this Act or such provisions of this Part of this Act as may be prescribed.

(10) Regulations under subsection (9) above may prescribe—

- (a) the conditions that must be satisfied if a person is to be entitled to make such an election;
- (b) the manner in which, and the time within which, such an election is to be made;
- (c) the persons to whom, and the manner in which, notice of such an election is to be given;
- (d) the information which a person who makes such an election is to provide, and the persons to whom, and the time within which, he is to provide it;
- (e) the time for which such an election is to have effect;

¹ Words substituted in s. 171ZJ(2)(a) (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 183.

² Words substituted in s. 171ZJ(5) (5.4.15) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 21(2).

- (f) which one of the person's employers under two or more contracts is to be regarded for the purposes of [1statutory paternity pay] as his employer under the contract.

(11) The powers under subsections (9) and (10) are without prejudice to any other power to make regulations under this Part of this Act.

(12) Regulations under any of subsections (4) to (10) above must be made with the concurrence of the Board.

171ZK. —[2(1)] The Secretary of State may by regulations provide for this Part to have effect in relation to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom, with such modifications as the regulations may prescribe.]

Power to apply Part 12ZA [...2]

[2(2) The Secretary of State may by regulations provide for this Part to have effect in relation to cases which involve a person who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order, with such modifications as the regulations may prescribe.]

[3PART 12ZB

STATUTORY ADOPTION PAY

171ZL.—(1) Where a person who is, or has been, an employee satisfies the conditions in subsection (2) below, he shall be entitled in accordance with the following provisions of this Part to payments to be known as “statutory adoption pay”.

Entitlement

See reg. 2 of S.I. 2003/499 at page 3.1801 for details of modifications of this reg. in certain situations.

(2) The conditions are—

[4(a) that he is—

- (i) a person on whose application the court has made a parental order in respect of a child, or
- (ii) an intended parent of a child;]

- (b) that he has been in employed earner's employment with an employer for a continuous period of at least 26 weeks ending with the relevant week;
- (c) that he has ceased to work for the employer;
- (d) that his normal weekly earnings for the period of 8 weeks ending with the relevant week are not less than the lower earnings limit in force under section 5(1)(a) at the end of the relevant week; and
- (e) that he has elected to receive statutory adoption pay.

See reg. 2 of S.I. 2003/499 at page 3.1801 for details of modifications of this reg. in certain situations.

[4(3) The references in this section to the relevant week are to the week immediately preceding the 14th week before the expected week of the child's birth.]

See reg. 2 of S.I. 2003/499 at page 3.1801 for details of modifications of this reg. in certain situations.

¹ Words in s. 171ZJ(10)(f) substituted (5.4.15) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 20(3).

² S. 171ZK renumbered, s. 171ZK(2) inserted & words in heading omitted (30.6.14) by the Children and Families Act 2014 (c. 6), s. 122(5).

³ Part 12ZB inserted (8.12.02) by the Employment Act 2002 (c. 22), s. 4. See Sch. 3 of S.I. 2002/2866 at page 1.5943 for details of the extent of the effect of Part 12ZB.

⁴ S. 171ZL(2)(a), (3) substituted (19.11.14) by S.I. 2014/2866, reg. 4, Sch. 1.

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[¹(3A) In a case where a child is born earlier than the 14th week before the expected week of the child's birth–

- (a) subsection (2)(b) shall be treated as satisfied in relation to a person if, had the birth occurred after the end of the relevant week, the person would have been in employed earner's employment with an employer for a continuous period of at least 26 weeks ending with the relevant week and
- (b) subsection (2)(d) shall be treated as satisfied in relation to a person if the person's normal weekly earnings for the period of 8 weeks ending with the week immediately preceding the week in which the child is born are not less than the lower earnings limit in force under section 5(1)(a) immediately before the commencement of the week in which the child is born.

(3B) In a case where a child is born before the end of the relevant week, subsection (2)(ba) shall be treated as satisfied in relation to a person if, had the birth occurred after the end of the relevant week, the person would have been entitled to be in the relevant employment at the end of the relevant week.

In this subsection "the relevant employment" means the employment by reference to which the person satisfies the condition in subsection (2)(b).]

- (4) A person may not elect to receive statutory adoption pay if–
 - (a) he has elected in accordance with section 171ZB above to receive statutory paternity pay, or
 - [²(b) the other person on whose application the court has made a parental order in respect of the child or who is an intended parent of the child–
 - (i) is a person to whom the conditions in subsection (2) above apply, and
 - (ii) has elected to receive statutory adoption pay.]

(4A)–(4B) [...²]

(5) A person's entitlement to statutory adoption pay shall not be affected by the [³birth, or expected birth, of more than one child as a result of the same pregnancy].

- (6) A person shall be entitled to payments of statutory adoption pay only if–
 - (a) he gives the person who will be liable to pay it notice of the date from which he expects the liability to pay him statutory adoption pay to begin; and
 - (b) the notice is given at least 28 days before that date or, if that is not reasonably practicable, as soon as is reasonably practicable.

(7) The notice shall be in writing if the person who is liable to pay the statutory adoption pay so requests.

- (8) The Secretary of State may by regulations–
 - (a) provide that subsection (2)(b), (c) or (d) above shall have effect subject to prescribed modifications in such cases as may be prescribed;
 - (b) provide that subsection (6) above shall not have effect, or shall have effect subject to prescribed modifications, in such cases as may be prescribed;
 - (c) impose requirements about evidence of entitlement;
 - (d) specify in what circumstances employment is to be treated as continuous for the purposes of this section;
 - (e) provide that a person is to be treated for the purposes of this section as being employed for a continuous period of at least 26 weeks where–
 - (i) he has been employed by the same employer for at least 26 weeks under two or more separate contracts of service; and

¹ S. 171ZL(3A) & (3B) inserted (19.11.14) by S.I. 2014/2866, reg. 4, Sch. 2 (with reg. 1(4)).

² S. 171ZL(4)(b) substituted & (4A) & (4B) omitted (19.11.14) by S.I. 2014/2866, reg. 4, Sch. 2.

³ Words in s. 171ZL(5) substituted (19.11.14) by S.I. 2014/2866, reg. 4, Sch. 2.

- (ii) those contracts were not continuous;
- (f) provide for amounts earned by a person under separate contracts of service with the same employer to be aggregated for the purposes of this section;
- (g) provide that—
 - (i) the amount of a person’s earnings for any period, or
 - (ii) the amount of his earnings to be treated as comprised in any payment made to him or for his benefit,

shall be calculated or estimated for the purposes of this section in such manner and on such basis as may be prescribed and that for that purpose payments of a particular class or description made or falling to be made to or by a person shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of his earnings;

- (h) make provision about elections for statutory adoption pay.

[¹(8A) In this section—

“intended parent”, in relation to a child, means a person who, on the day of the child’s birth—

- (a) applies, or intends to apply during the period of 6 months beginning with that day, with another person for a parental order in respect of the child, and
- (b) expect the court to make a parental order on that application in respect of the child; and

“parental order” means an order under section 54(1) of the Human Fertilisation and Embryology Act 2008.]

[...¹]

[...¹]

171ZM.—(1) The liability to make payments of statutory adoption pay is a liability of any person of whom the person entitled to the payments has been an employee as mentioned in section 171ZL(2)(b) above.

Liability to make payments

(2) Regulations shall make provision as to a former employer’s liability to pay statutory adoption pay to a person in any case where the former employee’s contract of service with him has been brought to an end by the former employer solely, or mainly, for the purpose of avoiding liability for statutory adoption pay.

(3) The Secretary of State may, with the concurrence of the Board, by regulations specify circumstances in which, notwithstanding this section, liability to make payments of statutory adoption pay is to be a liability of the Board.

171ZN.—(1) [...²].

Rate and period of pay

(2) Statutory adoption pay shall be payable, subject to the provisions of this Part of this Act, in respect of each week during a prescribed period (“the adoption pay period”) of a duration not exceeding [³52 weeks].

[⁴(2A) Regulations may provide for the duration of the adoption pay period as it applies to a person (“A”) to be reduced, subject to prescribed restrictions and conditions.

(2B) Regulations under subsection (2A) are to secure that the reduced period ends at a time—

- (a) after a prescribed part of the adoption pay period has expired, and
- (b) when at least a prescribed part of the adoption pay period remains unexpired.

¹ S. 171ZL(8A) inserted & s. 171ZL(9)(10) omitted (19.11.14) by S.I. 2014/2866, reg. 4, Sch. 2.

² S. 171ZN(1) repealed (5.4.15) by the Children and Families Act 2014 (c. 6), s. 124(1)(a).

³ Words in s. 171ZN(2) substituted (27.6.06) by the Work and Families Act 2006 (c. 18), s. 2.

⁴ S. 171ZN(2A)-(2D) inserted (30.6.14) by the Children and Families Act 2014 (c. 6), s. 120(6).

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(2C) Regulations under subsection (2A) may, in particular, prescribe restrictions and conditions relating to—

- (a) the end of A's entitlement to adoption leave;
- (b) the doing of work by A;
- (c) the taking of prescribed steps by A or another person as regards leave under section 75G of the Employment Rights Act 1996 in respect of the child;
- (d) the taking of prescribed steps by A or another person as regards statutory shared parental pay in respect of the child.

(2D) Regulations may provide for a reduction in the duration of the adoption pay period as it applies to a person to be revoked, or to be treated as revoked, subject to prescribed restrictions and conditions.]

[¹(2E) Statutory adoption pay shall be payable to a person—

- (a) at the earnings-related rate, in respect of the first 6 weeks in respect of which it is payable; and
- (b) at whichever is the lower of the earnings-related rate and such weekly rate as may be prescribed, in respect of the remaining portion of the adoption pay period.

(2F) The earnings-related rate is a weekly rate equivalent to 90 per cent of a person's normal weekly earnings for the period of 8 weeks ending with the week [²immediately preceding the 14th week before the expected week of the child's birth].

(2G) The weekly rate prescribed under subsection (2E)(b) must not be less than the weekly rate of statutory sick pay for the time being specified in section 157(1) or, if two or more such rates are for the time being so specified, the higher or highest of those rates.]

(3) [³Except in such cases as may be prescribed,] a person shall not be liable to pay statutory adoption pay to another in respect of any week during any part of which the other works under a contract of service with him.

(4) It is immaterial for the purposes of subsection (3) above whether the work referred to in that subsection is work under a contract of service which existed immediately before the adoption pay period or a contract of service which did not so exist.

(5) Except in such cases as may be prescribed, statutory adoption pay shall not be payable to a person in respect of any week during any part of which he works for any employer who is not liable to pay him statutory adoption pay.

(6) The Secretary of State may by regulations specify circumstances in which there is to be no liability to pay statutory adoption pay in respect of a week.

[³(6A) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of statutory adoption pay, the amount payable by way of statutory adoption pay for any day shall be taken as one seventh of the weekly rate.]

(7) In [⁴subsection (2) and (2E)] above, "week" means any period of seven days.

(8) In subsections (3), (5) and (6) above, "week" means a period of seven days beginning with the day of the week on which the adoption pay period begins.

(9) [...²]

¹ S. 171ZN(2E)-(2G) inserted (5.4.15) by the Children and Families Act 2014 (c. 6), s. 124(1)(b) (with art. 13 of S.I. 2014/1640) (as amended by S.I. 2014/2866, reg. 4, Sch. 2).

² Words in s. 171ZN(2F) substituted & s. 171ZN(9) omitted (19.11.14) by S.I. 2014/2866, reg. 4, Sch. 2.

³ In s. 171ZN words inserted in para. (3) and para. (6A) inserted (27.6.06) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 21.

⁴ Words in s. 171ZN(7) substituted (5.4.15) by the Children and Families Act 2014 (c. 6), s. 124(1)(c) (with art. 13 of S.I. 2014/1640).

Ss. 171ZN-171ZR

171ZO.—(1) Any agreement shall be void to the extent that it purports—

Restrictions on
contracting out

- (a) to exclude, limit or otherwise modify any provision of this Part of this Act, or
- (b) to require an employee or former employee to contribute (whether directly or indirectly) towards any costs incurred by his employer or former employer under this Part of this Act.

(2) For the avoidance of doubt, any agreement between an employer and an employee authorising any deductions from statutory adoption pay which the employer is liable to pay to the employee in respect of any period shall not be void by virtue of subsection (1)(a) above if the employer—

- (a) is authorised by that or another agreement to make the same deductions from any contractual remuneration which he is liable to pay in respect of the same period, or
- (b) would be so authorised if he were liable to pay contractual remuneration in respect of that period.

171ZP.—(1) Except as may be prescribed, a day which falls within the adoption pay period shall not be treated as a day of incapacity for work for the purposes of determining, for this Act, whether it forms part of a period of incapacity for work for the purposes of incapacity benefit.

Relationship with
benefits and other
payments etc

(2) Regulations may provide that in prescribed circumstances a day which falls within the adoption pay period shall be treated as a day of incapacity for work for the purposes of determining entitlement to the higher rate of short-term incapacity benefit or to long-term incapacity benefit.

(3) Regulations may provide that an amount equal to a person's statutory adoption pay for a period shall be deducted from any such benefit in respect of the same period and a person shall be entitled to such benefit only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.

(4) Subject to subsections (5) and (6) below, any entitlement to statutory adoption pay shall not affect any right of a person in relation to remuneration under any contract of service ("contractual remuneration").

(5) Subject to subsection (6) below—

- (a) any contractual remuneration paid to a person by an employer of his in respect of a week in the adoption pay period shall go towards discharging any liability of that employer to pay statutory adoption pay to him in respect of that week; and
- (b) any statutory adoption pay paid by an employer to a person who is an employee of his in respect of a week in the adoption pay period shall go towards discharging any liability of that employer to pay contractual remuneration to him in respect of that week.

(6) Regulations may make provision as to payments which are, and those which are not, to be treated as contractual remuneration for the purposes of subsections (4) and (5) above.

(7) In subsection (5) above, "week" means a period of seven days beginning with the day of the week on which the adoption pay period begins.

171ZQ. The provisions of this Part of this Act apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

Crown employment-Part
12ZB

171ZR.—(1) The Secretary of State may with the concurrence of the Treasury make regulations modifying any provision of this Part of this Act in such manner as he thinks proper in its application to any person who is, has been or is to be—

Special classes of person

- (a) employed on board any ship, vessel, hovercraft or aircraft;

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- (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
- (c) in prescribed employment in connection with continental shelf operations, as defined in section 120(2) above.

(2) Regulations under subsection (1) above may, in particular, provide—

- (a) for any provision of this Part of this Act to apply to any such person, notwithstanding that it would not otherwise apply;
- (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
- (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain;
- (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined in accordance with the regulations.

See reg. 2 of S.I. 2003/499 at page 3.1801 for details of modifications of this reg. in certain situations.

Part 12ZB:
supplementary

171ZS.—(1) In this Part of this Act—

“adoption pay period” has the meaning given by section 171ZN(2) above;

“the Board” means the Commissioners of Inland Revenue;

[¹ “employer”, in relation to a person who is an employee, means a person who—

- (a) under section 6 above is liable to pay secondary Class 1 contributions in relation to any of the earnings of the person who is an employee; or
- (b) would be liable to pay such contributions but for—
 - (i) the condition in section 6(1)(b), or
 - (ii) the employee being under the age of 16;]

Defn. of “employer” as in force for statutory adoption pay where children are matched or placed before 1.10.06. See Sch. 8, para. 12(4) of S.I. 2006/1031

“employer”, in relation to a person who is an employee, means a person who under section 6 above is, or but for the condition in subsection (1)(b) of that section would be, liable to pay secondary Class 1 contributions in relation to any of the earnings of the person who is an employee;

[²“local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);

“local authority foster parent” has the same meaning as in the Children Act 1989 (see section 22C(12) of that Act)]

“modifications” includes additions, omissions and amendments, and related expressions are to be read accordingly;

“prescribed” means prescribed by regulations.

(2) In this Part of this Act, “employee” means a person who is—

- (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with [³general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)]; [...⁴]
- (b) [...⁴]

¹ Defn. of “employer” in 171ZS(1) substituted by S.I. 2006/1031, Sch. 8, para. 12. For statutory adoption pay where children are matched or placed on or after 1.10.06. See Sch. 8, para. 12(4) *ibid*.

² Words in s. 171ZS(1) inserted (30.6.14) by the Children and Families Act 2014, s. 121(7)(b).

³ Words substituted in s. 171ZS(2)(a) (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 184.

⁴ Word in s. 171ZS(2)(a) & para. (2)(b) omitted by S.I. 2006/1031, Sch. 8, para. 12. For statutory adoption pay where children are matched or placed on or after 1.10.06. See Sch. 8, para. 12(4) *ibid*.

S. 171ZS(2) as in force for statutory adoption pay where children are matched or placed before 1.10.06. See Sch. 8, para. 12(4) of S.I. 2006/1031

(2) In this Part of this Act, "employee" means a person who is—

- (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with [general earnings (as defined by section 7 of the Income tax (Earnings and Pensions) Act 2003)]; and
- (b) over the age of 16.

(3) Regulations may provide—

- (a) for cases where a person who falls within the definition in subsection (2) above is not to be treated as an employee for the purposes of this Part of this Act, and
- (b) for cases where a person who would not otherwise be an employee for the purposes of this Part of this Act is to be treated as an employee for those purposes.

(4) Without prejudice to any other power to make regulations under this Part of this Act, regulations may specify cases in which, for the purposes of this Part of this Act or of such provisions of this Part of this Act as may be prescribed—

- (a) two or more employers are to be treated as one;
- (b) two or more contracts of service in respect of which the same person is an employee are to be treated as one.

(5) In this Part, except sections 171ZN and 171ZP, "week" means a period of 7 days beginning with Sunday or such other period as may be prescribed in relation to any particular case or class of cases.

(6) For the purposes of this Part of this Act, a person's normal weekly earnings shall, subject to subsection (8) below, be taken to be the average weekly earnings which in the relevant period have been paid to him or paid for his benefit under the contract of service with the employer in question.

(7) For the purposes of subsection (6) above, "earnings" and "relevant period" shall have the meanings given to them by regulations.

(8) In such cases as may be prescribed, a person's normal weekly earnings shall be calculated in accordance with regulations.

(9) Where—

- (a) in consequence of the establishment of one or more National Health Service trusts under Part 1 of the National Health Service and Community Care Act 1990 (c. 19) or the National Health Service (Scotland) Act 1978 (c. 29), 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, or
- (b) an order under paragraph 23(1) of Schedule 5A to the National Health Service Act 1977 (c. 49) provides that a person's contract of employment is so divided,

regulations may make provision enabling the person to elect for all of those contracts to be treated as one contract for the purposes of this Part of this Act or such provisions of this Part of this Act as may be prescribed.

(10) Regulations under subsection (9) above may prescribe—

- (a) the conditions that must be satisfied if a person is to be entitled to make such an election;
- (b) the manner in which, and the time within which, such an election is to be made;
- (c) the persons to whom, and the manner in which, notice of such an election is to be given;
- (d) the information which a person who makes such an election is to provide, and the persons to whom, and the time within which, he is to provide it;

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- (e) the time for which such an election is to have effect;
- (f) which one of the person's employers under two or more contracts is to be regarded for the purposes of statutory adoption pay as his employer under the contract.

(11) The powers under subsections (9) and (10) are without prejudice to any other power to make regulations under this Part of this Act.

(12) Regulations under any of subsections (4) to (10) above must be made with the concurrence of the Board.

Power to apply Part
12ZB [...¹]

171ZT. —[¹(1)] The Secretary of State may by regulations provide for this Part to have effect in relation to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom, with such modifications as the regulations may prescribe.]

[¹(2) The Secretary of State may by regulations provide for this Part to have effect in relation to cases which involve a person who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order, with such modifications as the regulations may prescribe.

(3) Regulations under subsection (2) may modify section 171ZL(8)(c) so as to enable regulations to impose requirements to make statutory declarations as to—

- (a) eligibility to apply for a parental order;
- (b) intention to apply for such an order,]

[²PART 12ZC

STATUTORY SHARED PARENTAL PAY

Entitlement: birth

171ZU.—(1) Regulations may provide that, where all the conditions in subsection (2) are satisfied in relation to a person who is the mother of a child (“the claimant mother”), the claimant mother is to be entitled in accordance with the following provisions of this Part to payments to be known as “statutory shared parental pay”.

(2) The conditions are—

- (a) that the claimant mother and another person (“P”) satisfy prescribed conditions as to caring or intending to care for the child;
- (b) that P satisfies prescribed conditions—
 - (i) as to employment or self-employment,
 - (ii) as to having earnings of a prescribed amount for a prescribed period, and
 - (iii) as to relationship either with the child or with the claimant mother;
- (c) that the claimant mother has been in employed earner's employment with an employer for a continuous period of at least the prescribed length ending with a prescribed week;
- (d) that at the end of that prescribed week the claimant mother was entitled to be in that employment;
- (e) that the claimant mother's normal weekly earnings for a prescribed period ending with a prescribed week are not less than the lower earnings limit in force under section 5(1)(a) at the end of that week;
- (f) if regulations so provide, that the claimant mother continues in employed earner's employment (whether or not with the employer by reference to whom the condition in paragraph (c) is satisfied) until a prescribed time;

¹ S. 171ZT renumbered, s. 171ZT(2) inserted and words in heading omitted (30.6.14) by the Children and Families Act 2014 (c. 6), s. 122(6).

² Ss. 171ZU-171ZZ5 inserted (30.6.14) by the Children and Families Act 2014 (c. 6), s. 119.

- (g) that the claimant mother became entitled to statutory maternity pay by reference to the birth of the child;
- (h) that the claimant mother satisfies prescribed conditions as to the reduction of the duration of the maternity pay period;
- (i) that the claimant mother has given the person who will be liable to pay statutory shared parental pay to her notice of—
 - (i) the number of weeks in respect of which she would be entitled to claim statutory shared parental pay in respect of the child if the entitlement were fully exercised (disregarding for these purposes any intention of P to claim statutory shared parental pay in respect of the child),
 - (ii) the number of weeks in respect of which she intends to claim statutory shared parental pay, and
 - (iii) the number of weeks in respect of which P intends to claim statutory shared parental pay;
- (j) that the claimant mother has given the person who will be liable to pay statutory shared parental pay to her notice of the period or periods during which she intends to claim statutory shared parental pay in respect of the child;
- (k) that a notice under paragraph (i) or (j)—
 - (i) is given by such time as may be prescribed, and
 - (ii) satisfies prescribed conditions as to form and content;
- (l) that P consents to the extent of the claimant mother’s intended claim for statutory shared parental pay;
- (m) that it is the claimant mother’s intention to care for the child during each week in respect of which statutory shared parental pay is paid to her;
- (n) that the claimant mother is absent from work during each week in respect of which statutory shared parental pay is paid to her;
- (o) that, where she is an employee within the meaning of the Employment Rights Act 1996, the claimant mother’s absence from work during each such week is absence on shared parental leave.

(3) Regulations may provide that, where all the conditions in subsection (4) are satisfied in relation to a person (“the claimant”), the claimant is to be entitled in accordance with the following provisions of this Part to payments to be known as “statutory shared parental pay”.

- (4) The conditions are—
- (a) that the claimant and another person (“M”) who is the mother of a child satisfy prescribed conditions as to caring or intending to care for the child;
 - (b) that the claimant satisfies—
 - (i) prescribed conditions as to relationship with the child, or
 - (ii) prescribed conditions as to relationship with M;
 - (c) that M satisfies prescribed conditions—
 - (i) as to employment or self-employment, and
 - (ii) as to having earnings of a prescribed amount for a prescribed period;
 - (d) that the claimant has been in employed earner’s employment with an employer for a continuous period of at least the prescribed length ending with a prescribed week;
 - (e) that at the end of that prescribed week the claimant was entitled to be in that employment;
 - (f) that the claimant’s normal weekly earnings for a prescribed period ending with a prescribed week are not less than the lower earnings limit in force under section 5(1)(a) at the end of that week;

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- (g) if regulations so provide, that the claimant continues in employed earner's employment (whether or not with the employer by reference to whom the condition in paragraph (d) is satisfied) until a prescribed time;
 - (h) that M became entitled, by reference to the birth of the child, to—
 - (i) a maternity allowance, or
 - (ii) statutory maternity pay;
 - (i) that M satisfies prescribed conditions as to—
 - (i) the reduction of the duration of the maternity allowance period, or
 - (ii) the reduction of the duration of the maternity pay period, as the case may be;
 - (j) that the claimant has given the person who will be liable to pay statutory shared parental pay to the claimant notice of—
 - (i) the number of weeks in respect of which the claimant would be entitled to claim statutory shared parental pay in respect of the child if the entitlement were fully exercised (disregarding for these purposes any intention of M to claim statutory shared parental pay in respect of the child),
 - (ii) the number of weeks in respect of which the claimant intends to claim statutory shared parental pay, and
 - (iii) the number of weeks in respect of which M intends to claim statutory shared parental pay;
 - (k) that the claimant has given the person who will be liable to pay statutory shared parental pay to the claimant notice of the period or periods during which the claimant intends to claim statutory shared parental pay in respect of the child;
 - (l) that a notice under paragraph (j) or (k)—
 - (i) is given by such time as may be prescribed, and
 - (ii) satisfies prescribed conditions as to form and content;
 - (m) that M consents to the extent of the claimant's intended claim for statutory shared parental pay;
 - (n) that it is the claimant's intention to care for the child during each week in respect of which statutory shared parental pay is paid to the claimant;
 - (o) that the claimant is absent from work during each week in respect of which statutory shared parental pay is paid to the claimant;
 - (p) that, where the claimant is an employee within the meaning of the Employment Rights Act 1996, the claimant's absence from work during each such week is absence on shared parental leave.
- (5) Regulations may provide for—
- (a) the determination of the extent of a person's entitlement to statutory shared parental pay in respect of a child;
 - (b) when statutory shared parental pay is to be payable.
- (6) Provision under subsection (5)(a) is to secure that the number of weeks in respect of which a person is entitled to payments of statutory shared parental pay in respect of a child does not exceed the number of weeks of the maternity pay period reduced by—
- (a) where the mother of the child takes action that is treated by regulations as constituting for the purposes of this section her return to work without satisfying conditions prescribed under subsection (2)(h) or, as the case may be, subsection (4)(i)—
 - (i) the number of relevant weeks in respect of which maternity allowance or statutory maternity pay is payable to the mother, or
 - (ii) if that number of relevant weeks is less than a number prescribed by regulations, that prescribed number of weeks, or

- (b) except where paragraph (a) applies, the number of weeks to which the maternity allowance period is reduced by virtue of section 35(3A) or, as the case may be, the maternity pay period is reduced by virtue of section 165(3A).

(7) In subsection (6)(a) “relevant week” means—

- (a) where maternity allowance is payable to a mother, a week or part of a week falling before the time at which the mother takes action that is treated by regulations as constituting for the purposes of this section her return to work;
- (b) where statutory maternity pay is payable to a mother, a week falling before the week in which the mother takes action that is so treated.

For these purposes “week” has the meaning given by section 122(1), in relation to maternity allowance, or the meaning given by section 165(8), in relation to statutory maternity pay.

(8) In determining the number of weeks for the purposes of subsection (6)(b)—

- (a) “week” has the same meaning as in subsection (7), and
- (b) a part of a week is to be treated as a week.

(9) Provision under subsection (5)(a) is to secure that, where two persons are entitled to payments of statutory shared parental pay in respect of a child, the extent of one’s entitlement and the extent of the other’s entitlement do not, taken together, exceed what would be available to one person (see subsection (6)).

(10) Provision under subsection (5)(b) is to secure that no payment of statutory shared parental pay may be made to a person in respect of a child after the end of such period as may be prescribed.

(11) Provision under subsection (5)(b) is to secure that no payment of statutory shared parental pay in respect of a child may be made to a person who is the mother of the child before the end of the mother’s maternity pay period.

(12) Regulations may provide that, where the conditions in subsection (13) are satisfied in relation to a person who is entitled to statutory shared parental pay under subsection (1) or (3) (“V”), V may vary the period or periods during which V intends to claim statutory shared parental pay in respect of the child in question, subject to complying with provision under subsection (14) where that is relevant.

(13) The conditions are—

- (a) that V has given the person who will be liable to pay statutory shared parental pay to V notice of an intention to vary the period or periods during which V intends to claim statutory shared parental pay;
- (b) that a notice under paragraph (a)—
 - (i) is given by such time as may be prescribed, and
 - (ii) satisfies prescribed conditions as to form and content.

(14) Regulations may provide that, where the conditions in subsection (15) are satisfied in relation to a person who is entitled to statutory shared parental pay under subsection (1) or (3) (“V”), V may vary the number of weeks in respect of which V intends to claim statutory shared parental pay.

(15) The conditions are—

- (a) that V has given the person who will be liable to pay statutory shared parental pay to V notice of—
 - (i) the extent to which V has exercised an entitlement to statutory shared parental pay in respect of the child,
 - (ii) the extent to which V intends to claim statutory shared parental pay in respect of the child,

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- (iii) the extent to which another person has exercised an entitlement to statutory shared parental pay in respect of the child, and
- (iv) the extent to which another person intends to claim statutory shared parental pay in respect of the child;
- (b) that a notice under paragraph (a)–
 - (i) is given by such time as may be prescribed, and
 - (ii) satisfies prescribed conditions as to form and content;
- (c) that the person who is P or, as the case may be, M in relation to V consents to that variation.

(16) A person’s entitlement to statutory shared parental pay under this section is not affected by the birth of more than one child as a result of the same pregnancy.

Entitlement: adoption

171ZV.—(1) Regulations may provide that, where all the conditions in subsection (2) are satisfied in relation to a person [¹on whose application the court has made a parental order in respect of a child or who is an intended parent of a child] (“claimant A”), claimant A is to be entitled in accordance with the following provisions of this Part to payments to be known as “statutory shared parental pay”.

- (2) The conditions are–
 - (a) that claimant A and [¹the other person on whose application the court has made a parental order in respect of the child or who is an intended parent of the child] (“X”) satisfy prescribed conditions as to caring or intending to care for the child;
 - (b) that X satisfies prescribed conditions–
 - (i) as to employment or self-employment,
 - (ii) as to having earnings of a prescribed amount for a prescribed period, and
 - (iii) as to relationship either with the child or with claimant A;
 - (c) that claimant A has been in employed earner’s employment with an employer for a continuous period of at least the prescribed length ending with a prescribed week;
 - (d) that at the end of that prescribed week claimant A was entitled to be in that employment;
 - (e) that claimant A’s normal weekly earnings for a prescribed period ending with a prescribed week are not less than the lower earnings limit in force under section 5(1)(a) at the end of that week;
 - (f) if regulations so provide, that claimant A continues in employed earner’s employment (whether or not with the employer by reference to whom the condition in paragraph (c) is satisfied) until a prescribed time;
 - (g) that claimant A became entitled to statutory adoption pay by reference to [¹being a person on whose application the court has made a parental order in respect of the child or being an intended parent of the child];
 - (h) that claimant A satisfies prescribed conditions as to the reduction of the duration of the adoption pay period;
 - (i) that claimant A has given the person who will be liable to pay statutory shared parental pay to claimant A notice of–
 - (i) the number of weeks in respect of which claimant A would be entitled to claim statutory shared parental pay in respect of the child if the entitlement were fully exercised (disregarding for these purposes any intention of X to claim statutory shared parental pay in respect of the child),
 - (ii) the number of weeks in respect of which claimant A intends to claim statutory shared parental pay, and

¹ Words in s. 171ZV(1), 2(a) & (g) substituted (19.11.14) by S.I. 2014/2866, reg. 1(2), 5, Sch. 3.

- (iii) the number of weeks in respect of which X intends to claim statutory shared parental pay;
- (j) that claimant A has given the person who will be liable to pay statutory shared parental pay to claimant A notice of the period or periods during which claimant A intends to claim statutory shared parental pay in respect of the child;
- (k) that a notice under paragraph (i) or (j)–
 - (i) is given by such time as may be prescribed, and
 - (ii) satisfies prescribed conditions as to form and content;
- (l) that X consents to the extent of claimant A’s intended claim for statutory shared parental pay;
- (m) that it is claimant A’s intention to care for the child during each week in respect of which statutory shared parental pay is paid to claimant A;
- (n) that claimant A is absent from work during each week in respect of which statutory shared parental pay is paid to claimant A;
- (o) that, where claimant A is an employee within the meaning of the Employment Rights Act 1996, claimant A’s absence from work during each such week is absence on shared parental leave.

(3) Regulations may provide that, where all the conditions in subsection (4) are satisfied in relation to a person (“claimant B”), claimant B is to be entitled in accordance with the following provisions of this Part to payments to be known as “statutory shared parental pay”.

(4) The conditions are–

- (a) that claimant B and another person (“Y”) who is a person [¹on whose application the court has made a parental order in respect of a child or who is an intended parent of a child] satisfy prescribed conditions as to caring or intending to care for the child;
- (b) that claimant B satisfies–
 - (i) prescribed conditions as to relationship with the child, or
 - (ii) prescribed conditions as to relationship with Y;
- (c) that Y satisfies prescribed conditions–
 - (i) as to employment or self-employment, and
 - (ii) as to having earnings of a prescribed amount for a prescribed period;
- (d) that claimant B has been in employed earner’s employment with an employer for a continuous period of at least the prescribed length ending with a prescribed week;
- (e) that at the end of that prescribed week claimant B was entitled to be in that employment;
- (f) that claimant B’s normal weekly earnings for a prescribed period ending with a prescribed week are not less than the lower earnings limit in force under section 5(1)(a) at the end of that week;
- (g) if regulations so provide, that claimant B continues in employed earner’s employment (whether or not with the employer by reference to whom the condition in paragraph (d) is satisfied) until a prescribed time;
- (h) that Y became entitled to statutory adoption pay by reference to [¹being a person on whose application the court has made a parental order in respect of the child or being an intended parent of the child];
- (i) that Y satisfies prescribed conditions as to the reduction of the duration of the adoption pay period;
- (j) that claimant B has given the person who will be liable to pay statutory shared parental pay to claimant B notice of–

¹ Words in s. 171ZV(4)(a), (h) substituted (19.11.14) by S.I. 2014/2866, reg. 1(2), 5, Sch. 3.

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- (i) the number of weeks in respect of which claimant B would be entitled to claim statutory shared parental pay in respect of the child if the entitlement were fully exercised (disregarding for these purposes any intention of Y to claim statutory shared parental pay in respect of the child),
- (ii) the number of weeks in respect of which claimant B intends to claim statutory shared parental pay, and
- (iii) the number of weeks in respect of which Y intends to claim statutory shared parental pay;
- (k) that claimant B has given the person who will be liable to pay statutory shared parental pay to claimant B notice of the period or periods during which claimant B intends to claim statutory shared parental pay in respect of the child;
- (l) that a notice under paragraph (j) or (k)–
 - (i) is given by such time as may be prescribed, and
 - (ii) satisfies prescribed conditions as to form and content;
- (m) that Y consents to the extent of claimant B's intended claim for statutory shared parental pay;
- (n) that it is claimant B's intention to care for the child during each week in respect of which statutory shared parental pay is paid to claimant B;
- (o) that claimant B is absent from work during each week in respect of which statutory shared parental pay is paid to claimant B;
- (p) that, where claimant B is an employee within the meaning of the Employment Rights Act 1996, claimant B's absence from work during each such week is absence on shared parental leave.

(5) Regulations may provide for–

- (a) the determination of the extent of a person's entitlement to statutory shared parental pay in respect of a child;
- (b) when statutory shared parental pay is to be payable.

(6) Provision under subsection (5)(a) is to secure that the number of weeks in respect of which a person is entitled to payments of statutory shared parental pay in respect of a child does not exceed the number of weeks of the adoption pay period reduced by–

- (a) where the person who became entitled to receive statutory adoption pay takes action that is treated by regulations as constituting for the purposes of this section the person's return to work without satisfying conditions prescribed under subsection (2)(h) or, as the case may be, subsection (4)(i)–
 - (i) the number of relevant weeks in respect of which statutory adoption pay is payable to the person, or
 - (ii) if that number of relevant weeks is less than a number prescribed by regulations, that prescribed number of weeks, or
- (b) except where paragraph (a) applies, the number of weeks to which the adoption pay period has been reduced by virtue of section 171ZN(2A).

(7) In subsection (6)(a) “relevant week” means a week falling before the week in which a person takes action that is treated by regulations as constituting for the purposes of this section the person's return to work, and for these purposes “week” has the meaning given by section 171ZN(8).

(8) In determining the number of weeks for the purposes of subsection (6)(b)–

- (a) “week” has the same meaning as in subsection (7), and
- (b) a part of a week is to be treated as a week.

(9) Provision under subsection (5)(a) is to secure that, where two persons are entitled to payments of statutory shared parental pay in respect of a child, the extent of one's entitlement and the extent of the other's entitlement do not, taken together, exceed what would be available to one person (see subsection (6)).

(10) Provision under subsection (5)(b) is to secure that no payment of statutory shared parental pay may be made to a person in respect of a child after the end of such period as may be prescribed.

(11) Provision under subsection (5)(b) is to secure that no payment of statutory shared parental pay in respect of a child may be made to a person who became entitled to receive statutory adoption pay in respect of the child before the end of the person's adoption pay period.

(12) Regulations may provide that, where the conditions in subsection (13) are satisfied in relation to a person who is entitled to statutory shared parental pay under subsection (1) or (3) ("V"), V may vary the period or periods during which V intends to claim statutory shared parental pay in respect of the child in question, subject to complying with provision under subsection (14) where that is relevant.

(13) The conditions are–

- (a) that V has given the person who will be liable to pay statutory shared parental pay to V notice of an intention to vary the period or periods during which V intends to claim statutory shared parental pay;
- (b) that a notice under paragraph (a)–
 - (i) is given by such time as may be prescribed, and
 - (ii) satisfies prescribed conditions as to form and content.

(14) Regulations may provide that, where the conditions in subsection (15) are satisfied in relation to a person who is entitled to statutory shared parental pay under subsection (1) or (3) ("V"), V may vary the number of weeks in respect of which V intends to claim statutory shared parental pay.

(15) The conditions are–

- (a) that V has given the person who will be liable to pay statutory shared parental pay to V notice of–
 - (i) the extent to which V has exercised an entitlement to statutory shared parental pay in respect of the child,
 - (ii) the extent to which V intends to claim statutory shared parental pay in respect of the child,
 - (iii) the extent to which another person has exercised an entitlement to statutory shared parental pay in respect of the child, and
 - (iv) the extent to which another person intends to claim statutory shared parental pay in respect of the child;
- (b) that a notice under paragraph (a)–
 - (i) is given by such time as may be prescribed, and
 - (ii) satisfies prescribed conditions as to form and content;
- (c) that the person who is X or, as the case may be, Y in relation to V consents to that variation.

(16) A person's entitlement to statutory shared parental pay under this section is not affected by [¹the birth of more than one child as a result of the same pregnancy].

[¹(16A) In this section–

“intended parent”, in relation to a child, means a person who, on the day of the child's birth–

- (a) applies, or intends to apply during the period of 6 months beginning with that day, with another person for a parental order in respect of the child, and
- (b) expects the court to make a parental order on that application in respect of the child; and

¹ Words in s. 171ZV(16) substituted & s. 171ZV(16A) inserted (19.11.14) by S.I. 2014/2866, reg. 1(2), 5, Sch. 3.

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“parental order” means an order under section 54(1) of the Human Fertilisation and Embryology Act 2008.]

(17) [...¹]

(18) [...¹]

Entitlement: general

171ZW.—(1) Regulations may—

- (a) provide that the following do not have effect, or have effect subject to prescribed modifications, in such cases as may be prescribed—
 - (i) section 171ZU(2)(a) to (o),
 - (ii) section 171ZU(4)(a) to (p),
 - (iii) section 171ZU(13)(a) and (b),
 - (iv) section 171ZU(15)(a) to (c),
 - (v) section 171ZV(2)(a) to (o),
 - (vi) section 171ZV(4)(a) to (p),
 - (vii) section 171ZV(13)(a) and (b), and
 - (viii) section 171ZV(15)(a) to (c);
- (b) impose requirements about evidence of entitlement and procedures to be followed;
- (c) specify in what circumstances employment is to be treated as continuous for the purposes of section 171ZU or 171ZV;
- (d) provide that a person is to be treated for the purposes of section 171ZU or 171ZV as being employed for a continuous period of at least the prescribed period where—
 - (i) the person has been employed by the same employer for at least the prescribed period under two or more separate contracts of service, and
 - (ii) those contracts were not continuous;
- (e) provide for amounts earned by a person under separate contracts of service with the same employer to be aggregated for the purposes of section 171ZU or 171ZV;
- (f) provide that—
 - (i) the amount of a person’s earnings for any period, or
 - (ii) the amount of the person’s earnings to be treated as comprised in any payment made to the person or for the person’s benefit,

are to be calculated or estimated for the purposes of section 171ZU or 171ZV in such manner and on such basis as may be prescribed and that for that purpose payments of a particular class or description made or falling to be made to or by a person are, to such extent as may be prescribed, to be disregarded or, as the case may be, to be deducted from the amount of the person’s earnings.

(2) The persons upon whom requirements may be imposed by virtue of subsection (1)(b) include—

- (a) a person who, in connection with another person’s claim to be paid statutory shared parental pay, is required to satisfy conditions prescribed under section 171ZU(2)(b) or (4)(c) or 171ZV(2)(b) or (4)(c);
- (b) an employer or former employer of such a person.

(3) In subsection (1)(d) “the prescribed period” means the period of the length prescribed by regulations under section 171ZU(2)(c) or (4)(d) or 171ZV(2)(c) or (4)(d), as the case may be.

¹ S. 171ZV(17) & (18) omitted (19.11.14) by S.I. 2014/2866, reg. 1(2), 5, Sch. 3.

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171ZX.—(1) The liability to make payments of statutory shared parental pay under section 171ZU or 171ZV is a liability of any person of whom the person entitled to the payments has been an employee as mentioned in section 171ZU(2)(c) or (4)(d) or 171ZV(2)(c) or (4)(d), as the case may be.

Liability to make
payments

(2) Regulations must make provision as to a former employer's liability to pay statutory shared parental pay to a person in any case where the former employee's contract of service with the person has been brought to an end by the former employer solely, or mainly, for the purpose of avoiding liability for statutory shared parental pay.

(3) The Secretary of State may, with the concurrence of the Commissioners for Her Majesty's Revenue and Customs, by regulations specify circumstances in which, notwithstanding this section, liability to make payments of statutory shared parental pay is to be a liability of the Commissioners.

171ZY.—(1) Statutory shared parental pay is payable at such fixed or earnings-related weekly rate as may be prescribed by regulations, which may prescribe different kinds of rate for different cases.

Rate and period of pay.

(2) Subject to the following provisions of this section, statutory shared parental pay is payable to a person in respect of each week falling within a relevant period, up to the number of weeks determined in the case of that person in accordance with regulations under section 171ZU(5) or 171ZV(5).

(3) Except in such cases as may be prescribed, statutory shared parental pay is not payable to a person in respect of a week falling within a relevant period if it is not the person's intention at the beginning of the week to care for the child by reference to whom the person satisfies—

- (a) the condition in section 171ZU(2)(a) or (4)(a), or
- (b) the condition in section 171ZV(2)(a) or (4)(a).

(4) Except in such cases as may be prescribed, statutory shared parental pay is not payable to a person in respect of a week falling within a relevant period during any part of which week the person works for any employer.

(5) The Secretary of State may by regulations specify circumstances in which there is to be no liability to pay statutory shared parental pay in respect of a week falling within a relevant period.

(6) Where for any purpose of this Part or of regulations it is necessary to calculate the daily rate of statutory shared parental pay, the amount payable by way of statutory shared parental pay for any day shall be taken as one seventh of the weekly rate.

(7) For the purposes of this section a week falls within a relevant period if it falls within a period specified in a notice under—

- (a) section 171ZU(2)(j), (4)(k) or (13)(a), or
- (b) section 171ZV(2)(j), (4)(k) or (13)(a),

and is not afterwards excluded from such a period by a variation of the period or periods during which the person in question intends to claim statutory shared parental pay.

(8) In this section “week”, in relation to a relevant period, means a period of seven days beginning with the day of the week on which the relevant period starts.

171ZZ.—(1) An agreement is void to the extent that it purports—

- (a) to exclude, limit or otherwise modify any provision of this Part, or
- (b) to require a person to contribute (whether directly or indirectly) towards any costs incurred by that person's employer or former employer under this Part.

Restrictions on
contracting out

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(2) For the avoidance of doubt, an agreement between an employer and an employee, authorising deductions from statutory shared parental pay which the employer is liable to pay to the employee in respect of any period, is not void by virtue of subsection (1)(a) if the employer—

- (a) is authorised by that or another agreement to make the same deductions from any contractual remuneration which the employer is liable to pay in respect of the same period, or
- (b) would be so authorised if the employer were liable to pay contractual remuneration in respect of that period.

171ZZ1.—(1) Subject to subsections (2) and (3), any entitlement to statutory shared parental pay is not to affect any right of a person in relation to remuneration under any contract of service (“contractual remuneration”).

Relationship with
contractual
remuneration

(2) Subject to subsection (3)—

- (a) any contractual remuneration paid to a person by an employer of that person in respect of any period is to go towards discharging any liability of that employer to pay statutory shared parental pay to that person in respect of that period; and
- (b) any statutory shared parental pay paid by an employer to a person who is an employee of that employer in respect of any period is to go towards discharging any liability of that employer to pay contractual remuneration to that person in respect of that period.

(3) Regulations may make provision as to payments which are, and those which are not, to be treated as contractual remuneration for the purposes of subsections (1) and (2).

171ZZ2.—(1) The provisions of this Part apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

Crown employment

171ZZ3.—(1) The Secretary of State may with the concurrence of the Treasury make regulations modifying any provision of this Part in such manner as the Secretary of State thinks proper in its application to any person who is, has been or is to be—

Special classes of person

- (a) employed on board any ship, vessel, hovercraft or aircraft;
- (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
- (c) in prescribed employment in connection with continental shelf operations, as defined in section 120(2).

(2) Regulations under subsection (1) may, in particular, provide—

- (a) for any provision of this Part to apply to any such person, notwithstanding that it would not otherwise apply;
- (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
- (c) for excepting any such person from the application of any such provision where the person neither is domiciled nor has a place of residence in any part of Great Britain;
- (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined in accordance with the regulations.

171ZZ4.—(1) In this Part—

“adoption pay period” has the meaning given in section 171ZN(2);

“employer”, in relation to a person who is an employee, means a person who—

- (a) under section 6 is liable to pay secondary Class 1 contributions in relation to any of the earnings of the person who is an employee, or

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(b) would be liable to pay such contributions but for—

(i) the condition in section 6(1)(b), or

(ii) the employee being under the age of 16;

“local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);

“local authority foster parent” has the same meaning as in the Children Act 1989 (see section 22C(12) of that Act);

“maternity allowance period” has the meaning given in section 35(2);

“maternity pay period” has the meaning given in section 165(1);

“modifications” includes additions, omissions and amendments, and related expressions are to be read accordingly;

“prescribed” means prescribed by regulations.

(2) In this Part “employee” means a person who is gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003).

(3) Regulations may provide—

(a) for cases where a person who falls within the definition in subsection (2) is not to be treated as an employee for the purposes of this Part, and

(b) for cases where a person who would not otherwise be an employee for the purposes of this Part is to be treated as an employee for those purposes.

(4) Without prejudice to any other power to make regulations under this Part, regulations may specify cases in which, for the purposes of this Part or of such provisions of this Part as may be prescribed—

(a) two or more employers are to be treated as one;

(b) two or more contracts of service in respect of which the same person is an employee are to be treated as one.

(5) In this Part, except where otherwise provided, “week” means a period of seven days beginning with Sunday or such other period as may be prescribed in relation to any particular case or class of cases.

(6) For the purposes of this Part, a person’s normal weekly earnings are, subject to subsection (8), to be taken to be the average weekly earnings which in the relevant period have been paid to the person or paid for the person’s benefit under the contract of service with the employer in question.

(7) For the purposes of subsection (6) “earnings” and “relevant period” have the meanings given to them by regulations.

(8) In such cases as may be prescribed, a person’s normal weekly earnings are to be calculated in accordance with regulations.

(9) Where—

(a) in consequence of the establishment of one or more National Health Service trusts under the National Health Service Act 2006, the National Health Service (Wales) Act 2006 or the National Health Service (Scotland) Act 1978, a person’s contract of employment is treated by a scheme under any of those Acts as divided so as to constitute two or more contracts, or

(b) an order under paragraph 26(1) of Schedule 3 to the National Health Service Act 2006 provides that a person’s contract of employment is so divided, regulations may make provision enabling the person to elect for all of those contracts to be treated as one contract for the purposes of this Part or such provisions of this Part as may be prescribed.

- (10) Regulations under subsection (9) may prescribe—
- (a) the conditions that must be satisfied if a person is to be entitled to make such an election;
 - (b) the manner in which, and the time within which, such an election is to be made;
 - (c) the persons to whom, and the manner in which, notice of such an election is to be given;
 - (d) the information which a person who makes such an election is to provide, and the persons to whom, and the time within which, the person 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 two or more contracts is to be regarded for the purposes of statutory shared parental pay as the person’s employer under the contract.

(11) The powers under subsections (9) and (10) are without prejudice to any other power to make regulations under this Part.

(12) Regulations under any of subsections (4) to (10) must be made with the concurrence of the Commissioners for Her Majesty’s Revenue and Customs.

171ZZ5.—(1) The Secretary of State may by regulations provide for this Part to have effect in relation to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom, with such modifications as the regulations may prescribe.

Power to apply Part 12ZC

(2) The Secretary of State may by regulations provide for this Part to have effect in relation to cases which involve a person who has applied, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 and a child who is, or will be, the subject of the order, with such modifications as the regulations may prescribe.

(3) Where section 171ZW(1)(b) has effect in relation to such cases as are described in subsection (2), regulations under section 171ZW(1)(b) may impose requirements to make statutory declarations as to—

- (a) eligibility to apply for a parental order;
- (b) intention to apply for such an order.]

[¹PART XIIIA²

INCAPACITY FOR WORK

171A.—(1) For the purposes of this Act, save as otherwise expressly provided, whether a person is capable or incapable of work shall be determined in accordance with the provisions of this Part of this Act.

Test of incapacity for work.

(2) Regulations may make provision as to—

- (a) the information or evidence required for the purpose of determining whether a person is capable or incapable of work, and
- (b) the manner in which that information or evidence is to be provided,

and may provide that if a person without good cause fails to provide that information or evidence, or to do so in the manner required, he shall be treated as capable of work.

(3) Regulations may provide that in any case where a question arises as to whether a person is capable of work—

¹ Ss. 171A-171C inserted (18.11.94 for regulation-making purposes, 13.4.95 for other purposes) by s. 5 of S.S. (Incapacity for Work) Act 1994 (c. 18).

² Determination of capacity or incapacity for work under Part XIIIA extended (7.10.96) by para. 2 of Sch. 1 to Jobseekers Act 1995 (c. 18).

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- (a) he may be called to attend for such medical examination as may be required in accordance with regulations, and
 - (b) if he fails without good cause to attend for or submit himself to such examination, he shall be treated as capable of work.
- (4) Regulations may prescribed for the purposes of this section—
- (a) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any act or omission, or
 - (b) circumstances in which a person is or is not to be regarded as having or not having good cause for any act or omission.

The own occupation test.

171B.—(1) Where a person has been engaged in remunerative work for more than 8 weeks in the 21 weeks immediately preceding the day with respect to which it falls to be determined whether he is or was incapable of work, the test applicable is the own occupation test.

(2) The own occupation test is whether he is capable by reason of some specific disease or bodily or mental disablement of doing work which he could reasonably be expected to do in the course of the occupation in which he was so engaged.

(3) Where for any purpose of this Act* it is determined in relation to a person—

- (a) that the test applicable with respect to any day is the own occupation test, and
- (b) that he is on that test incapable of work,

that test remains applicable in his case until the end of the spell of incapacity beginning with that day or, as the case may be, in which that day falls, or until the 197th day of incapacity for work in that spell, whichever is the earlier.

For this purpose a “spell of incapacity” means a series of 4 or more consecutive days of incapacity for work; and any two such spells not separated by a period of more than 8 weeks shall be treated as one spell of incapacity.

(4) For the purposes of subsection (3) above a day of incapacity for work means a day—

- (a) with respect to which it has been determined for any purpose of this Act* that the person in question was incapable of work, or
- (b) in respect of which he was entitled to statutory sick pay, or
- (c) in the case of a woman, which falls within the maternity allowance period, or
- (d) which in accordance with regulations is to be treated for those purposes as a day of incapacity for work.

* *Applies also for any purpose of the Jobseekers Act 1995 (c.18), in relation to this section as applied for the purposes of that Act by para. 2(1) of Sch. 1 to that Act, by virtue of para. 2(3) ibid.*

(5) Any provision of this Act apart from subsection (4) above under or by virtue of which a day is or is not to be treated for any purpose as a day of incapacity for work shall be disregarded for the purposes of this section.

(6) Provision may be made by regulations defining for the purposes of this section what is meant by “remuneration work”.

The regulations may, in particular, provide—

- (a) for “remunerative work” to be defined by reference to the number of hours worked per week; and
- (b) for training of any prescribed description to be treated as if it were remunerative work.

(7) Provision may be made by regulations as to the application of this section in cases where a person engages in more than one occupation or in different kinds of work.

(8) The Secretary of State may by regulations provide that subsection (3) above shall have effect as if—

- (a) the reference there to 4 consecutive days were to such lesser number of days, whether consecutive or not, within such period of consecutive days as may be prescribed; and

- (b) for the reference to 8 weeks there were substituted a reference to such larger number of weeks as may be prescribed.

[¹171C.—(1) Where the own occupation test is not applicable, or has ceased to apply, in the case of a person, the question whether the person is capable or incapable of work shall be determined in accordance with a personal capability assessment.

Personal capability assessments.

(2) Provision shall be made by regulations—

- (a) defining a personal capability assessment by reference to the extent to which a person who has some specific disease or bodily or mental disablement is capable or incapable of performing such activities as may be prescribed;
- (b) as to the manner of assessing whether a person is, in accordance with a personal capability assessment, incapable of work.

(3) Regulations may provide that, in any prescribed circumstances, a person to whom subsection (1) above applies shall, if the prescribed conditions are met, be treated as incapable of work in accordance with a personal capability assessment until such time as—

- (a) such an assessment has been carried out in his case, or
- (b) he falls to be treated as capable of work in accordance with regulations under section 171A(2) or (3) above or section 171E below.

The prescribed conditions may include the condition that it has not previously been determined, within such period as may be prescribed, that the person in question is or is to be treated as capable of work.

(4) Except in prescribed circumstances, a personal capability assessment carried out in the case of a person before the time when subsection (1) above applies to him shall be as effective for the purposes of that subsection as one carried out thereafter.

(5) The Secretary of State may, in the case of a person who for any purpose of this Act has been determined to be incapable of work in accordance with a personal capability assessment (including one carried out by virtue of this subsection), require the question whether the person is capable or incapable of work to be determined afresh in accordance with a further personal capability assessment.]

[²171D.—(1) Regulations may provide that a person shall be treated as capable of work, or as incapable of work, in such cases or circumstances as may be prescribed.

Incapacity for work; persons to be treated as incapable or capable of work.

(2) Regulations may, in particular, provide that a person shall be treated as capable of work if he does work of a prescribed description, or more than the prescribed amount of work of a prescribed description.

Accordingly regulations may provide that a person shall not be treated as capable of work by reason only of his doing such work as may be prescribed, or no more than the prescribed amount of work of a prescribed description.

171E.—(1) Regulations may provide for disqualifying a person for receiving any benefit, allowance or other advantage under any provision for the purposes of which this Part of this Act applies, or, in such cases as may be prescribed, provide that a person shall be treated as capable of work, if—

Incapacity for work disqualification, & c.

- (a) he has become incapable of work through his own misconduct;
- (b) he fails without good cause to attend for or submit himself to such medical or other treatment as may be required in accordance with the regulations; or
- (c) he fails without good cause to observe any prescribed rules of behaviour.

(2) Regulations shall provide that any such disqualification shall be, or as the case may be that the person shall be treated as capable of work, for such period not exceeding 6 weeks as may be determined in accordance with [³Chapter II of Part 1 of the Social Security Act 1998].

¹ S. 171(C) substituted (3.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 61.

² Ss. 171D-171G inserted (18.11.94 for regulation-making purposes, 13.4.95 for other purposes) by s. 6(1) of S.S. (Incapacity for Work) Act 1994 (c. 18).

³ Words in s. 171E(2) substituted (6.9.99) by S.S. Act 98 (c. 14), Sch. 7, para. 76.

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Ss. 171E–173

Incapacity for work:
work as councillor to be
disregarded.

- (3) Regulations may prescribe for the purposes of this section—
- (a) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any act or omission, or
 - (b) circumstances in which a person is or is not to be regarded as having or not having good cause for any act or omission.

171F.—(1) In determining whether a person is capable or incapable of work, there shall be disregarded any work which that person has undertaken as a councillor.

- (2) For this purpose “councillor” means—
- (a) in relation to England and Wales, a member of a London borough council, a county [or county borough] council, a district council, a parish or community council, the Common Council of the City of London or the Council of the Isles of Scilly; and
 - (b) in relation to Scotland, a member of a regional, islands or district council.

(3) The reference in subsection (1) above to the work which a person undertakes as a councillor shall be taken to include any work which he undertakes as a member of any of the bodies referred to in section 177(1) of the Local Government Act 1972, or section 49(1) or (1A) of the Local Government (Scotland) Act 1973, of which he is a member by virtue of his being a councillor.

(4) In making any such determination as is mentioned in subsection (1) above a person shall be treated as having been incapable of work on any day which falls in the pre-commencement period and which—

- (a) would have been treated as a day on which he was so incapable, were there disregarded any work which he undertook (or was capable of undertaking) as a councillor; but
- (b) would not have been so treated apart from this subsection.

The “pre-commencement period” means the period beginning with 11th May 1987 and ending immediately before 9th October 1989 (the coming into force of paragraph 2 of Schedule 8 to the Social Security Act 1989 which made provision corresponding to the provision made by this section).

Incapacity for work:
supplementary
provisions.

171G.—(1) The provisions of this Part of this Act do not apply—

- (a) for the purposes of Part V of this Act (benefit for industrial injuries; see section 94(6) above);
- (b) for the purposes of Part XI of this Act (statutory sick pay; see section 151(4) above); or
- (c) for such other purposes as may be prescribed.

(2) In this Part of this Act—

“prescribed” means specified in or determined in accordance with regulations”
and
“week” means any period of 7 days.]

PART XIII GENERAL

Interpretation

Application of Act in
relation to territorial
waters.

172. 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.

Age.

173. 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.

¹ Words inserted in S. 171F(2)(a) (1.4.96) by para. 3 of the Sch. to S.I. 1996/525.

174. In this Act—

- “the 1975 Act” means the Social Security Act 1975;
- “the 1986 Act” means the Social Security Act 1986;
- “the Administration Act” means the Social Security Administration Act 1992;
- “the Consequential Provisions Act” means the Social Security (Consequential Provisions) Act 1992.
- “the Northern Ireland Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- “the Old Cases Act” means the Industrial Injuries and Diseases (Old Cases) Act 1975’ and
- “the Pensions Act” means the [¹Pension Schemes Act 1993].

References to Acts.

1975 c. 14.

1986 c. 50.

1992 c. 5

1992 c. 6.

1992 c. 7.

1975 c. 16.

1993 c. 48.

Subordinate legislation

175.—(1) Subject to section [²subsection (1A) below], regulations and orders under this Act shall be made by the Secretary of State.

Regulations orders and schemes

[²(1A) Subsection (1) above has effect subject to—

- (a) any provision [...³] providing for regulations or an order to be made by the Treasury or by the Commissioners of Inland Revenue,
- (b) [...³]

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

(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 [²person making the regulations or order] to be expedient for the purposes of the regulations or order.

S.175(2)–(4) above extended (18.11.94) by ss. 4(11), 7(4) and 12(3) of S.S. (Incapacity for Work) Act 1994 (c. 18).

(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), [⁴25B(2)(a)] and 145(3) above and paragraph 3(9) of Schedule 7 to this Act;

¹ Words in defn. of “the Pensions Act” in s. 174 substituted (7.2.94) by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 41.

² Words in s. 175(1) & (4) substituted & s. 175(1A) inserted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) Sch. 3, para. 29.

³ Words in s. 175(1A)(a) and para. (b) revoked (1.4.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.3731 for details as to savings & transitional provisions.

⁴ Ref. in 175(5)(a) substituted (13.4.95) by para. 36 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

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(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.

S. 175(6) has been repealed by Sch. 14, of the Welfare Reform Act 2012 (c. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.

[...]

(6) Any power conferred by this Act to make orders or regulations relating to housing benefit or [²council tax benefit] shall include power to make different provisions of 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 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.

Parliamentary control.

176.—(1) Subject to the provisions of this section, a statutory instrument containing (whether alone or with other provisions)–

[³(za) Regulations under section 5 specifying the lower earnings limit for the tax year following the designed tax year (see section 5(4) of the Pensions Act 2007) or any subsequent tax year;]

(a) regulations made by virtue of–

[⁴section 4B(2);

section 4C;]

[⁴section 10ZC;]

section 11(3);

[⁵section 14A;]

section 18;

section 19(4) to (6);

section 28(3);

[⁶section 30DD(5)(b) or (c)]

[⁵section 45(2A)]

¹ S. 175(6) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

² Words in s. 175(6) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 10, for purposes of council tax and council tax benefit from 1.4.93.

³ S. 176(1)(za) inserted (27.9.07) by the Pensions Act 2007 (c. 22), s. 7(5).

⁴ Words inserted in s. 176(1)(a) (30.3.06) by the National Insurance Contributions Act 2006 (c. 10), ss. 1(2)(a) & 3(2).

⁵ Ref. to Ss. 14A & 45(2A) inserted (13.10.14) by the Pensions Act 2014(c. 19), Sch. 15, para. 11.

⁶ Ref. inserted in s. 176(1)(a) (3.11.00) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

[...¹],
 section 104(3)
 section 117;
 section 118;
 section 145;
 [...²]
 [³section 171ZE(1);
 [...⁴]
 [...⁴]
 [...⁴]
 [⁵any of sections 171ZU to 171ZY;]

- [⁶(zb) regulations under section 5 specifying the upper earnings limit;]
- [⁷(aa) the first regulations made by virtue of section 23A(3)(c);]
- [⁸(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;
- [⁹(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–
 - [¹⁰section 25B(1);
 - section 28(2);
 - [¹¹section 35A(7);]
 - [...¹²]
 - [¹³section 122(8);]
 - section 148(3)(b);
 - section 157(2);
 - [...²]
 - [¹⁴section 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 [...²] which are to be made for the purpose of consolidating regulations to be revoked in the instrument;

¹ Sec. refs. in s. 176(1)(a) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 37 and Sch. 2.

² Refs. in s. 176(1)(a), (c) & (2) deleted (6.4.95) by art. 6(1)(a) of S.I. 1995/512.

³ Words inserted in s. 176(1)(a) (8.12.02) by the Employment Act 2002 (c. 22), Sch. 7, para. 7.

⁴ Words in s. 176(1)(a) repealed (5.4.15) by the Children and Families Act 2014 (c. 6), s. 124(2) & s. 126, Sch. 7, para. 22 (with art. 6 of S.I. 2014/1640).

⁵ Ref. to Ss. 171ZU to 171ZY inserted (30.6.14) in s. 176(1)(a) by the Children and Families Act 2014 (c. 6), s. 119.

⁶ S. 176(1)(zb) inserted (21.9.08) by the National Insurance contributions Act 2008 (c. 16), s. 1(2). See s. 1(3) for details of the designated tax year.

⁷ S. 176(1)(aa) inserted (27.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 10.

⁸ S. 176(1)(ab) inserted (1.1.13) by the Welfare Reform Act 2012 (c. 5), s. 69(4).

⁹ S. 176(1)(bb) inserted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 19.

¹⁰ Sec. ref. inserted (13.4.95) in s. 176(1)(c) by para. 37(b) of Sch.1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

¹¹ Words in s. 176(1)(c) inserted (12.1.00 for reg. making purposes, 2.4.00 for all other purposes) by the Welfare Reform and Pensions Act 1999 (c. 30) Sch. 8, para. 32.

¹² Refs. in s. 176(1)(c) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 37 and Sch. 2.

¹³ Ref. inserted in s. 176(1)(c) (27.9.07) by Pensions Act 2007 (c. 22), Sch. 1, para. 35.

¹⁴ Sec. ref. in s. 176(1)(c) inserted (10.2.94) by Statutory Sick Pay Act 1994 (c. 2), s. 3(2).

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- (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[...¹]), only replace provisions of previous regulations with new provisions to the same effect.

[²(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 92) 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, [³the 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,

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

[⁴(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 [⁵or designating the flat rate introduction year] (within the meanings given by section 122(1) above.)

Short title, commencement and extent

Short title,
commencement and
extent

177.—(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—

¹ Refs. in s. 176(2)(c) deleted (6.4.95) by art. 6(1)(a) of S.I. 1995/512.

² S. 176(2A)-(2C) inserted (30.3.06) by the National Insurance Contributions Act 2006 (c. 10), s. 1(2)(b).

³ Words inserted in s. 176(3)(a) (1.4.99) by the Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 30.

⁴ S. 176(4) inserted (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all other purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 35(15).

⁵ Words inserted in s. 176(4) (27.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 35.

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.

SCHEDULES

SCHEDULE 1

Section 1(4)

SUPPLEMENTARY PROVISIONS RELATING TO CONTRIBUTIONS OF CLASSES 1, 1A, [1 AND CLASS 1B,] 2 [2, 3 AND 3A]

Class 1 contributions where earner employed in more than one employment

1.—(1) For the purposes of determining whether Class 1 contributions are payable in respect of earnings paid to an earner in a given week and, if so, the amount of the contributions—

- (a) all earnings paid to him or for his benefit in that week in respect of one or more employed earners employments under the same employer shall, except as may be provided by regulations, be aggregated and treated as a single payment of earnings in respect of one such employment; and
- (b) earnings paid to him or for his benefit in that week by different persons in respect of different employed earner's employment shall in prescribed circumstances be aggregated and treated as a single payment of earnings in respect of one such employment;

and regulations may provide that the provisions of this sub-paragraph shall have effect in cases prescribed by the regulations as if for any reference to a week there were substituted a reference to a period prescribed by the regulations.

[3(2) Where earnings in respect of employments which include any contracted-out employment and any employment which is not a contracted-out employment are aggregated under sub-paragraph (1) above, then, except as may be provided by regulations—

- (a) if the aggregated earnings exceed the current [4primary threshold], the amount of the primary Class 1 contribution in respect of the aggregated earnings [5attributable to section 8(1)(a) above] shall be determined in accordance with sub-paragraph (3) below; and
- (b) if the aggregated earnings exceed the current [4secondary threshold], the amount of the secondary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (6) below.]

Please see paragraph 45(2) of Schedule 4 to the Pensions Act 2007 (c. 22) for prospective changes to this legislation.

[6(3) The amount of the primary Class 1 contribution [5attributable to section 8(1)(a) above] shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)—

- (a)-(b) [...7]
- (c) [...8], the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to COSRS service—

¹ Words inserted into heading of Sch. 1 (6.4.99) by Sch. 7, para. 77(1) of S.S Act 1998 (c. 14).

² Words in heading to Sch. 1 substituted (12.10.15) by Pensions Act 2014, Sch. 15, para. 12.

³ Para. 1(2) substituted (6.4.99) by Sch. 7, para. 77(2) of S.S. Act 1998 (c. 14).

⁴ Words substituted in para. 1(2)(a), (b) (6.4.00) by Welfare Reform and Pensions Act 1999 (c. 30) Sch. 12, para. 78(2) & (3).

⁵ Words inserted & substituted in Sch. 1, para. 1(2)(a), (3) (6.4.03) by National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 13(2).

⁶ Para. 1(3) inserted (7.4.97) by s. 148(2) of Pensions Act 1995 (c. 26).

⁷ Para. 1(3)(a) & (b) repealed (6.4.12) by Pensions Act 2007 (c. 22), Sch. 7, pt. 7.

⁸ Words omitted in para. 1(3)(c) of Sch. 1 by National Insurance Contribution Act 2008 (c. 16), Sch. 1, para. (2).

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- (i) to such part of the aggregated earnings attributable to COSRS service as [¹exceeds the current [²primary threshold] and] does not exceed [³the upper accrual point], or
 - (ii) if paragraph (a) or (b) applies, to such part of the earnings attributable to COSRS service as, when added to the APPS earnings or the part attributable to COMPS service (or both), [¹exceeds the current [²primary threshold] and] does not exceed [³the upper accrual point],
- [³(ca) [...³] the amount obtained by applying the main primary percentage referred to in paragraph (d) to such part of the aggregated earnings attributable to COSRS service as, [...³] exceeds the upper accrual point and does not exceed the current upper earnings limit.]
- (d) the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to such part of the aggregated earnings as, when added to the part or parts attributable to COMPS or COSRS service, [¹exceeds the current [²primary threshold] and] does not exceed the current upper earnings limit.]

(4) & (5) [...²]

[⁴(6) The amount of the secondary Class 1 contribution shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)–

(a)-(b) [...⁵]

- (c) if some of the aggregated earnings are attributable to COSRS service, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to COSRS service to [¹such part of the aggregated earnings attributable to such service as exceeds the [²secondary threshold]],
- (d) the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to [¹such part of the remainder of the aggregated earnings as exceeds the [²secondary threshold]].

(7) Where any single payment of earnings is made in respect of two or more employed earner's employment under different employers, liability for Class 1 contributions shall be determined by apportioning the payment to such one or more of the employers as may be prescribed, and treating a part apportioned to any employer as a separate payment of earnings by him.

(8) Where earnings are aggregated under sub-paragraph (1)(b) above, liability (if any) for the secondary contribution shall be apportioned, in such manner as may be prescribed, between the secondary contributors concerned.

[⁶(8A) Regulations under any provision of this paragraph shall be made by the Inland Revenue.]

[⁴(9) In this paragraph–

[...⁵]

¹ Words inserted in para. 1(3) & substituted in para. 1(6)(c)-(d) & sub-para. 1(3)(ca) inserted (6.4.99) by para. 77(4)(a)-(c) of Sch. 7 to S.S. Act 1998 (c. 14).

² Words in para. 1(3)(c)-(d) & (6)(a)-(d) substituted & para. 1(4) & (5) omitted (6.4.00) by Welfare Reform and Pensions Act 1999 (c. 30) Sch. 12, para. 78(2)-(4).

³ Words substituted in para. 1(3)(c) of Sch. 1, omitted in sub-para. (ca) (21.9.08) by National Insurance contribution Act 2008 (c. 16), Sch. 1 paras. (1)-(3).

⁴ Paras. 1(6) & (9) inserted (7.4.97) by ss. 148(3) & (4) of Pensions Act 1995 (c. 26).

⁵ Para. 1(6)(a) & (b) and defn. of "COMPS service" in para. 1(9) repealed (6.4.12) by Pensions Act 2007 (c. 12 & 22), Sch. 7, pt. 7.

⁶ Para. 1(8A) inserted (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, paras. 31 & 32.

“COSRS service” means service in employment which qualifies the earner for a pension provided by a salary-related contracted-out scheme.]

[¹(10) In relation to earners paid otherwise than weekly, any reference in this paragraph to—

- (a) the primary or secondary threshold, or
- (b) the upper earnings limit,

shall be construed as a reference to the equivalent of that threshold or limit prescribed under section 5(4) above.]

[²(11) In relation to such earners, any reference in this paragraph to the upper accrual point is to be read as a reference to the prescribed equivalent (see section 122(6A)).]

Earnings not paid at normal intervals

2. Regulations [³made by the Inland Revenue] may, for the purposes of Class 1 contributions, make provision as to the intervals at which payments of earnings are to be treated as made.

Method of paying Class 1 contributions

3.—(1) Where earnings are paid to an employed earner and in respect of that payment liability arises for primary and secondary Class 1 contributions, the secondary contributor shall (except in prescribed circumstances), as well as being liable for [⁴any secondary contribution of his own], be liable in the first instance to pay also the earner’s primary contribution [⁵or a prescribed part of the earner’s primary contribution], on behalf of and to the exclusion of the earner; and for the purposes of this Act and the Administration act contributions paid by the secondary contributor on behalf of the earner shall be taken to be contributions paid by the earner.

(2) [...⁶]

(3) A secondary contributor shall be entitled, subject to and in accordance with regulations, to recover from an earner the amount of any primary Class 1 contribution paid or to be paid by him on behalf of the earner; [⁷and, subject to [⁸sub-paragraphs (3A) to (5)] below but notwithstanding any other provision in any enactment;] regulations under this sub-paragraph shall provide for recovery to be made by deduction from the earner’s earnings, and for it not to be made in any other way.

[⁷(3A) Sub-paragraph (3B) applies where a person (“the employee”) who is employed by a particular employer (“the employer”) receives earnings in a form other than money (“non-monetary earnings”) from the employer in a tax year.

(3B) If and to the extent that regulations so provide, the employer may recover from the employee, in the prescribed manner, any primary Class 1 contributions paid or to be paid by him on the employee’s behalf in respect of those earnings.]

¹ Para. 1(10) inserted (6.4.00) by Welfare Reform and Pensions Act 1999 (c. 30) Sch. 12, para. 78(5).

² Para. 1(11) inserted (21.9.08) by National Insurance Contribution Act 2008 (c. 16) Sch. 1, para. 6(4).

³ Words substituted in para. 2 of Sch. 1 (1.4.99) by S.S. Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 32.

⁴ Words substituted in para. 3(1) (29.11.06) by Social Security Act 1998 (c. 14), Sch. 7, para. 77.

⁵ Words inserted in para. 3(1) (6.4.03) by National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 13(3).

⁶ Para. 3(2) omitted (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 77(1).

⁷ Words in para. 3(3) & para. 3(3A) & (3B) inserted substituted (8.9.98) by s. 55 of S.S. Act 1998 (c. 14).

⁸ Words substituted in para. 3(3) (1.9.04) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3) s. 1(2)-(5).

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[¹(4) Sub-paragraph (5) below applies in a case where—

- (a) a person (“the employee”) ceases in a particular tax year (“the cessation year”) to be employed by a particular employer (“the employer”); and
- (b) the employee receives from the employer in the cessation year, after the cessation of the employment, [²or in the next tax year non-monetary earnings.]

(5) If and to the extent that regulations so provide, the employer may recover from the employee in such manner as may be prescribed any primary Class 1 contributions paid or to be paid by him on the employee’s behalf in respect of—

- (a) the non-monetary earnings mentioned in sub-paragraph (4) above; [...²]
- (b) [...²]

[³(6) Regulations under any provision of this paragraph shall be made by the Inland Revenue.]

[⁴*Prohibition on recovery of employer’s contributions*

3A.—(1) Subject to sub-paragraph (2) below, a person who is or has been liable to pay any secondary Class 1 or any Class 1A or Class 1B contributions shall not—

- (a) make, from earnings paid by him, any deduction in respect of any such contributions for which he or any other person is or has been liable;
- (b) otherwise recover any such contributions (directly or indirectly) from any person who is or has been a relevant earner; or
- (c) enter into any agreement with any person for the making of any such deduction or otherwise for the purpose of so recovering any such contributions.

(2) Sub-paragraph (1) above does not apply to the extent that an agreement between—

- (a) a secondary contributor, and
- (b) any person (“the earner”) in relation to whom the secondary contributor is, was or will be such a contributor in respect of the contributions to which the agreement relates,

allows the secondary contributor to recover (whether by deduction or otherwise) the whole or any part of any secondary Class 1 contribution payable in respect of [⁵relevant employment income of that earner.]

[⁵(2A) But an agreement in respect of relevant employment income is to be disregarded for the purposes of sub-paragraph (2) to the extent that it relates to]⁶—

- (a) relevant employment income which is employment income of the earner by virtue of Chapter 3A of Part 7 of ITEPA 2003 (employment income: securities with artificially depressed market value)]⁷, or
- (b) any contribution, or any part of any contribution, liability to which arises as a result of regulations being given retrospective effect by virtue of section 4B(2) (earnings: power to make retrospective provision in consequence of retrospective tax legislation)].

¹ Para. 3(4) and (5) inserted (8.9.98) by s. 55 of S.S. Act 1998 (c. 14).

² Words substituted in para. 3(4)(b) & words in para. 3(5) & sub-para. (5)(b) omitted (1.9.04) by National Insurance Contributions & Statutory Payments Act 2004 (c. 3) s. 1(3)-(5).

³ Para. 3(6) added in Sch. 1 (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 33.

⁴ Paras. 3A and 3B inserted (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 77(2).

⁵ Words substituted in para. 3A(2) and para. 3A(2A) & (2B) inserted (1.9.04) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3) s. 3(2)(a) and (b). See s. 3(4) & (5) *ibid* for when to apply.

⁶ Sch. 1, para. 3A(2A) restructured (30.3.06 see s. 5(4) for details) by the National Insurance Contributions Act 2006 (c. 10), s. 5(2)(a)-(b).

⁷ Sch. 1, para. 3A(2A)(b) inserted (30.3.06 see s. 5(4) for details) by the National Insurance Contributions Act 2006 (c. 10), s. 5(2)(a)-(b).

(2B) For the purposes of sub-paragraphs (2) and (2A) “relevant employment income”, in relation to the earner, means—

- (a) an amount that counts as employment income of the earner under section 426 of ITEPA 2003 (restricted securities: charge on certain post-acquisition events),
- (b) an amount that counts as employment income of the earner under section 438 of that Act (convertible securities: charge on certain post-acquisition events), or
- (c) a gain that is treated as remuneration derived from the earner’s employment by virtue of section 4(4)(a) above.]

(3) Sub-paragraph (2) above does not authorise any recovery (whether by deduction or otherwise)—

- (a) in pursuance of any agreement entered into before 19th May 2000; or
- (b) in respect of any liability to a contribution arising before the day of the passing of the Child Support, Pensions and Social Security Act 2000.

(4) In this paragraph—
 “agreement” includes any arrangement or understanding (whether or not legally enforceable); and
 “relevant earner”, in relation to a person who is or has been liable to pay any contributions, means an earner in respect of whom he is or has been so liable.

Transfer of liability to be borne by earner

3B.—(1) This paragraph applies where—

- (a) an election is jointly made by—
 - (i) a secondary contributor, and
 - (ii) a person (“the earner”) in relation to whom the secondary contributor is or will be such a contributor in respect of contributions on [¹relevant employment income of the earner]
 for the whole or a part of any liability of the secondary contributor to contributions on any [¹such income] to be transferred to the earner; and

[¹(1A) In this paragraph “relevant employment income”, in relation to the earner, means—

- (a) an amount that counts as employment income of the earner under section 426 of ITEPA 2003 (restricted securities: charge on certain post-acquisition events),
- (b) an amount that counts as employment income of the earner under section 438 of that Act (convertible securities: charge on certain post-acquisition events), or
- (c) a gain that is treated as remuneration derived from the earner’s employment by virtue of section 4(4)(a) above,

and references to contributions on relevant employment income are references to any secondary Class 1 contributions payable in respect of that income.]

- (b) the election is one in respect of which the Inland Revenue have, before it was made, given by notice to the secondary contributor their approval to both—
 - (i) the form of the election; and
 - (ii) the arrangements made in relation to the proposed election for securing that the liability transferred by the election will be met.

(2) Any liability which—

- (a) arises while the election is in force, and
- (b) is a liability to pay the contributions on [²relevant employment income of the earner, or the part of it], to which the election relates,

¹ In para. 3B(1)(a)(ii) words substituted and para. 3B(1A) inserted (1.9.04) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3) s. 3(3)(a) & (b). See s. 3(4) & (5) *ibid* for when to apply.

² Words substituted in para. 3B(2)(b), (3) & (7)(b) (1.9.04) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3) s. 3(3)(c)-(e). See s. 3(4) & (5) *ibid* for when to apply.

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shall be treated for the purposes of this Act, the Administration Act and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 as a liability falling on the earner, instead of on the secondary contributor.

(3) Subject to [¹sub-paragraphs (7)(b) and (7B)] below, an election made for the purposes of sub-paragraph (1) above shall continue in force from the time when it is made until whichever of the following first occurs, namely—

- (a) it ceases to have effect in accordance with its terms;
- (b) it is revoked jointly by both parties to the election;
- (c) notice is given to the earner by the secondary contributor terminating the effect of the election.

(4) An approval given to the secondary contributor for the purposes of sub-paragraph (1)(b) above may be given either—

- (a) for an election to be made by the secondary contributor and a particular person; or
- (b) for all elections to be made, or to be made in particular circumstances, by the secondary contributor and particular persons or by the secondary contributor and persons of a particular description.

(5) The grounds on which the Inland Revenue shall be entitled to refuse an approval for the purposes of sub-paragraph (1)(b) above shall include each of the following—

- (a) that it appears to the Inland Revenue that adequate arrangements have not been made for securing that the liabilities transferred by the proposed election or elections will be met by the person or persons to whom they would be so transferred; and
- (b) that it appears to the Inland Revenue that they do not have sufficient information to determine whether or not grounds falling within paragraph (a) above exist.

(6) If, at any time after they have given an approval for the purposes of sub-paragraph (1)(b) above, it appears to the Inland Revenue—

- (a) that the arrangements that were made or are in force for securing that liabilities transferred by elections to which the approval relates are met are proving inadequate or unsatisfactory in any respect, or
- (b) that any election to which the approval relates has resulted, or is likely to result, in the avoidance or non-payment of the whole or any part of any secondary Class 1 contributions,

the Inland Revenue may withdraw the approval by notice to the secondary contributor.

(7) The withdrawal by the Inland Revenue of any approval given for the purposes of sub-paragraph (1)(b) above—

- (a) may be either general or confined to a particular election or to particular elections; and
- (b) shall have the effect that the election to which the withdrawal relates has no effect on contributions on [¹on relevant employment income if—
 - (i) that income is within sub-paragraph (1A)(a) or (b) and the securities, or interest in securities, to which it relates were or was acquired after the withdrawal date, or
 - (ii) that income is within sub-paragraph (1A)(c) and the right to acquire securities to which it relates was acquired after that date.]

¹ Words substituted in para. 3B(3) & (7)(b) (1.9.04) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3) s. 3(3)(d)-(e). See s. 3(4) & (5) *ibid* for when to apply.

[¹(7A) In sub-paragraph (7)(b) “the withdrawal date” means–

- (a) the date on which notice of the withdrawal of the approval is given, or
- (b) such later date as the Inland Revenue may specify in that notice.

(7B) An election is void for the purposes of sub-paragraph (1) to the extent that it relates to[²–

- (a) relevant employment income which is employment income of the earner by virtue of Chapter 3A of Part 7 of ITEPA 2003 (employment income: securities with artificially depressed market value), or
- (b) any liability, or any part of any liability, to a contribution arising as a result of regulations being given retrospective effect by virtue of section 4B(2) (earnings: power to make retrospective provision in consequence of retrospective tax legislation)].

(8) Where the Inland Revenue have refused or withdrawn their approval for the purposes of sub-paragraph (1)(b) above, the person who applied for it or, as the case may be, to whom it was given may appeal [...³] against the Inland Revenue’s decision.

(9) On an appeal under sub-paragraph (8) above [²this is notified to the tribunal, the tribunal may]–

- (a) dismiss the appeal;
- (b) remit the decision appealed against to the Inland Revenue with a direction to make such decision as the [²tribunal thinks] fit; or
- (c) in the case of a decision to withdraw an approval, quash that decision and direct that that decision is to be treated as never having been made.

[¹(10) Subject to sub-paragraph (12) below, an election under sub-paragraph (1) above shall not apply to any contributions in respect of income which, before the election was made, counted as employment income for a tax year by virtue of Part 7 of ITEPA 2003.]

(11) Regulations made by the Inland Revenue may make provision with respect to the making of elections for the purposes of this paragraph and the giving of approvals for the purposes of sub-paragraph (1)(b) above; and any such regulations may, in particular–

- (a) prescribe the matters that must be contained in such an election;
- (b) provide for the manner in which such an election is to be capable of being made and of being confined to particular liabilities or the part of particular liabilities; and
- (c) provide for the making of applications for such approvals and for the manner in which those applications are to be dealt with.

(12) Where–

- (a) an election is made under this paragraph before the end of the period of three months beginning with the date of the passing of the Child Support, Pensions and Social Security Act 2000, and
- (b) that election is expressed to relate to liabilities for contributions arising on or after 19th May 2000 and before the making of the election,

this paragraph shall have effect in relation to those liabilities as if sub-paragraph (2) above provided for them to be deemed to have fallen on the earner (instead of on the secondary contributor); and the secondary contributor shall accordingly be entitled to reimbursement from the earner for any payment made by that contributor in or towards the discharge of any of those liabilities.

¹ Para. 3B(7A) & (7B) inserted & words substituted in para. 3B(10) (1.9.04) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3) s. 3(3)(f) & (g). See s. 3(4) & (5) *ibid* for when to apply.

² Sch. 1, para. 3B(7B) restructured & sub-para. (7B)(b) inserted (30.3.06 see s. 5(4) for details) by the National Insurance Contributions Act 2006 (c. 10), s. 5(3)(a) & (b).

³ Words in para. 3B(8) omitted and substituted in sub-para. (9) (1.4.09) by S.I. 2009/56, art. 169(3)-(5).

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(13) [...¹]

[²(14) In this paragraph “tribunal” means the First-tier Tribunal or, where determined under Tribunal Procedure Rules, the Upper Tribunal.]

General provisions as to Class 1 contributions

4. Regulations [³made by the Inland Revenue] may, in relation to Class 1 contributions, make provision—

- (a) for calculating the amounts payable according to a scale prepared from time to time by the Secretary of State or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation;
- (b) for requiring that the liability in respect of a payment made in a tax week, in so far as the liability depends on any conditions as to a person’s age or retirement, shall be determined as at the beginning of the week or as at the end of it;
- (c) for securing that liability is not avoided or reduced by a person following in the payment of earnings any practice which is abnormal for the employment in respect of which the earnings are paid; and
- (d) without prejudice to sub-paragraph (c) above, for enabling the Inland Revenue, where they are satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of Class 1 contributions is avoided or reduced by means of irregular or unequal payments, to give directions for securing that such contributions are payable as if that practice were not followed.

Class 1A contributions

[⁴5. Regulations [³made by the Inland Revenue] may—

- (a) make provision for calculating the amount of Class 1A contributions so as to avoid fractional amounts;
- (b) modify section 10 above in relation to cases where [⁵something is provided or made available] by reason of two or more employed earner’s employments under different employers.

Class 1B contributions

5A. Regulations [³made by the Inland Revenue] may make provision for calculating the amount of Class 1B contributions so as to avoid fractional amounts.]

Power to combine collection of contributions with tax

6.—(1) Regulations made [³by] the Inland Revenue may—

- [⁴a) provide for Class 1, Class 1A, Class 1B or Class 2 contributions to be paid, accounted for and recovered in a similar manner to income tax in relation to which [⁶PAYE regulations] have effect;]
- (b) apply or extend with or without modification in relation to such contributions any of the provisions of the Income Tax Acts or of [⁶PAYE regulations];

¹ Para. 3B(13) omitted (1.9.04) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3) s. 3(3)(h). See s. 3(4) & (5) *ibid* for when to apply.

² Para. 3B(14) substituted (1.4.09) by S.I. 2009/56, Sch. 1, para. 169(5).

³ Words inserted in paras. 4 & 5 & substituted in para. 6 (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 35.

⁴ Paras. 5 & 6(1)(a) substituted & para. 5A inserted (8.9.98) by Sch. 7, para. 77 of S.S. Act 1998 (c. 14).

⁵ Words substituted in para. 5(b) (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 74(4).

⁶ Words substituted in para. 6(1) (6.4.03) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1), Sch. 6, para. 185.

- (c) make provision of the appropriation of the payments made by any person between his liabilities in respect of income tax and contributions.

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

- (a) provision for requiring the payment of interest on sums due in respect of Class 1 or [¹Class 1A or Class 1B] contributions which are not paid by the due date, for determining the date (being, in the case of Class 1 contributions, not less than 14 days after the end of the tax year in respect of which the sums are due) from which such interest is to be calculated and for enabling the repayment or remission of such interest;
- (b) provision of requiring the payment of interest on sums due in respect of Class 1 or [¹Class 1A or Class 1B] contributions which fall to be repaid and for determining the date [...] from which such interest is to be calculated;
- (c) provision for, or in connection with, the imposition and recovery of penalties in relation to any returns required to be made which relate to Class 1 or [¹Class 1A or Class 1B] contributions, but subject to sub-paragraph (7) and paragraph 7 below;

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

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

1989 c. 26.

[³(4) Where—

- (a) a decision relating to contributions falls to be made under or by virtue of section 8, 10 or 11 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999; and
- (b) the decision will affect a person’s liability for, or the amount of, any interest due in respect of those contributions,

regulations under sub-paragraph (1) above shall not require any such interest to be paid until the decision has been made.]

[⁴(4A) Regulations under [⁵sub-paragraph (1) above] shall not require the payment of interest on a sum due in respect of a Class 1B contribution if a relevant tax appeal has been brought but not finally determined; and “a relevant tax appeal” means an appeal against a determination as to the amount of income tax in respect of which the person liable to pay the Class 1B contribution is accountable in accordance with the relevant PAYE settlement agreement.]

(5) The Secretary of State may by regulations made with the concurrence of the Inland Revenue make such provision as the Secretary of State considers expedient in consequence of any provision made by or under [⁶section 4A, 159A] or 167 above.

¹ Words substituted in para. 6(2) (8.9.98) by Sch. 7, para. 77(9)(a) & (b) of S.S. Act 1998 (c. 14).

² Words in sub-para. (2)(b) shall cease to have effect (6.4.99) by Sch. 7, para. 77(9)(b) of S.S. Act 1998 (c. 47).

³ Para. 6(4) substituted (6.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 7, para. 9.

⁴ Para. 6(4A) inserted by Sch. 7, para. 77(11) (8.9.98) of S.S. Act 1998 (c. 47) for the purpose only of authorising the making of regulations or orders.

⁵ Words substituted in para. 6(4A) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 9, para. 5.

⁶ Words in para. 6(5) inserted (6.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30) Sch. 12, para. 78(6).

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(6) Provision made in regulations under this paragraph, by virtue of sub-paragraph (5) above, may in particular require the inclusion—

- (a) in returns, certificates and other documents; or
- (b) in any other form of record;

which the regulations require to be kept or produced or to which those regulations otherwise apply, of such particulars relating [¹to relevant payments or benefits within the meaning of section 4A above or (as the case may be)] to statutory sick pay, statutory maternity pay or deductions or payments made by virtue of section 167(1) above as may be prescribed by those regulations.

1970 c. 9.

(7) Section 98 of the Taxes Management Act 1970 shall apply in relation to regulations made by virtue of this paragraph as it applies in relation to [²PAYE regulations].

(8) [...³]

Special penalties in the case of certain returns

7.—(1) This paragraph applies where regulations under [⁴sub-paragraph (1) of paragraph 6] above make provision requiring any return which is to be made in accordance with a specified provision of regulations under [⁴that sub-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 [²PAYE regulations or regulations made under section] 566(1) (sub-contractors) of the Income and Corporation Taxes Act 1988 to which section 98A of the Taxes Management Act 1970 applies (the “tax return”); or
- (b) if the circumstances are such that the return mentioned in paragraph (a) above does not fall to be made, at a time defined by reference to the time for making that return, had it fallen to be made;

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

(2) Where this paragraph applies, regulations under [⁴paragraph 6(1)] 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 [⁵105] 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 [⁶has been required to pay] a penalty under paragraph (a) of subsection (2) of section 98A of that Act (first twelve months’ default) in consequence

¹ Words in para. 6(6) inserted (6.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30) Sch. 12, para. 78(6).

² Words substituted in para. 6(7) & 7(1)(a) (6.4.07) by the Income Tax (Earnings & Pensions) Act 2003 (c. 1) Sch. 6, para. 185.

³ Sub-para. (8) omitted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 35(3).

⁴ Words substituted in para. 7(1) & (2) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 18(1)(2) & (3).

⁵ Ref. substituted in para. 7(2)(b) (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 76(2).

⁶ Words substituted in para. 7(3) (6.4.99) by s. 56(1)(a) of S.S. Act 1998 (c. 14).

of a failure in respect of a tax return, he shall not also [¹be required to pay] 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 section 98A of that Act (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, [²for the purposes of making any payment into the National Insurance Fund be apportioned between income tax and contributions] in the ratio T:C, where—

This 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) [...³]

(8) [³sub-paragraph (6)] 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—

¹ Words substituted in para. 7(3) (6.4.99) by the S.S. Act 1998 (c. 14), s. 56(1)(b).

² Words substituted in para. 7(6) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 18(1)(2) & (3).

³ Sub-para. (7) is omitted and words substituted in sub-para. (8) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 36(3).

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- (a) any reference in subsection (1) to tax shall be taken to include a reference to [¹Class 1A and Class 1B] 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.

[²(12) A penalty under section 98A of that Act as it applies by virtue of this paragraph shall not be imposed where—

- (a) a decisions relating to contributions falls to be made under or by virtue of section 8, 10 or 11 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999, and has not yet been made; and
- (b) the decision will affect a person’s liability for the penalty, or the amount of it.]

(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.

[³7A.—(1) This paragraph applies where paragraph 7 above applies; and in this paragraph “contributions return” has the same meaning as in that paragraph.

(2) Without prejudice to paragraph 7(2) above or to the [⁴other] powers of the Inland Revenue to penalise omissions or errors in returns, regulations [⁵made by the Treasury] may provide for the [⁴Inland Revenue] to impose penalties in respect of a person who, in making a contributions return, fraudulently or negligently—

- (a) fails to provide any information or computation that he is required to provide; or
- (b) provides any such information or computation that is incorrect.

(3) Regulations under sub-paragraph (2) above shall—

- (a) prescribe the rates of penalty, or provide for how they are to be ascertained;
- (b) provide for the penalty to be imposed by the [⁴Inland Revenue] within six years after the date on which the penalty is incurred;
- (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
- (d) prescribe the means by which the penalty is to be enforced; and
- (e) provide for enabling the [⁴Inland Revenue, in their] discretion, to mitigate or to remit the penalty, or to stay or to compound any proceedings for it.]

¹ Words substituted in sub-para. (11)(a) (6.4.99) by Sch. 7, para. 77(12) of S.S. Act 1998 (c. 14).

² Sub-para. (12) substituted (6.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 7, para. 10.

³ Para. 7A inserted (4.3.99) by s. 56(2) of S.S. Act 1998 (c. 14).

⁴ Words inserted and substituted (1.4.99) in para. 7A(2) & (3)(b) & (e) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 9, para. 6.

⁵ Words substituted in para. 7A(2) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 37.

[¹Collection of contributions [²otherwise than through PAYE systems]

7B.—(1) [³The Treasury may by regulations] provide that, in such cases or circumstances as may be [⁴prescribed, Class 1, Class 1A, Class 1B or Class 2 contributions shall be paid to the Inland Revenue in a manner different from that in which income tax in relation to which [⁵PAYE regulation] apply is payable.]

(2) Regulations under this paragraph may, in particular—

- (a) provide for returns to be made to the [⁴Inland Revenue] by such date as may be prescribed;
- (b) prescribe the form in which returns are to be made, or provide for returns to be made in such form as the [⁴Inland Revenue] may approve;
- (c) prescribe the manner in which contributions are to be paid, or provide for contributions to be paid in such manner as the [⁴Inland Revenue] may approve;
- (d) prescribe the due date for the payment of contributions;
- [⁶(e) require interest to be paid on contributions that are not paid by the due date, and provide for determining the date from which such interest is to be calculated;]
- (f) provide for interest to be paid on contributions that fall to be repaid;
- (g) provide for determining the date from which interest to be charged or paid pursuant to regulations under paragraph (e) or (f) above is to be calculated;
- (h) provide for penalties to be imposed in respect of a person who—
 - (i) fails to submit, within the time allowed, a return required to be made in accordance with regulations under paragraph (a) above;
 - (ii) in making such a return, fraudulently or negligently fails to provide any information or computation that he is required to provide;
 - (iii) in making such a return, fraudulently or negligently provides any incorrect information or computation; or
 - (iv) fails to pay Class 2 contributions by the due date;
 - (i) provide for a penalty imposed pursuant to regulations under paragraph (h) above to carry interest from the date on which it becomes payable until payment.

(3) Where—

- (a) a decision relating to contributions falls to be made under section 8, 9, 10, 12, 14 or 15 of the Social Security Act 1998; and
- (b) the decision will affect a person's liability for, or the amount of, any interest due in respect of those contributions,

regulations under sub-paragraph (2)(e) above shall not require any such interest to be paid until the decision has been made.

(4) [...⁷]

(5) Regulations under sub-paragraph (2)(h) above shall—

¹ Para. 7B inserted (4.3.99) by s. 57 of S.S. Act 1998 (c. 14).
² Words substituted (1.4.99) in header to para. 7B by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 9, para. 7.
³ Words substituted in para. 7B(1) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 38.
⁴ Words substituted in para. 7B(1) & (2) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 9, para. 4 and 7(3).
⁵ Words substituted in para. 7B(1) (6.4.07) by the Income Tax (Earnings & Pensions Act 2003 (c. 1), Sch. 6, para. 185.
⁶ Para. 7B(2)(e) substituted (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 76(3).
⁷ Para. 7B(4) repealed (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 10.

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- (a) prescribe the rates of penalty, or provide for how they are to be ascertained;
- (b) [...¹], provide for the penalty to be imposed by the Secretary of State—
 - (i) within six years after the date on which the penalty is incurred; or
 - (ii) where the amount of the penalty is to be ascertained by reference to the amount of any contributions payable, at any later time within three years after the final determination of the amount of those contributions;
- (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
- (d) prescribe the means by which the penalty is to be enforced; and
- (e) provide for enabling the [¹Inland Revenue, in their] discretion, to mitigate or to remit the penalty, or to stay or to compound any proceedings for it.

[²(5A) Regulations under this paragraph may, in relation to any penalty imposed by such regulations, make provision applying (with or without modifications) any enactment applying for the purposes of income tax that is contained in Part X of the Taxes Management Act 1970 (penalties).]

(6) [...¹]

(7) Section 12 above shall not apply in relation to Class 2 contributions in respect of which the [³Inland Revenue charge] interest or [³impose] a penalty pursuant to regulations under paragraph (e) or (h) of sub-paragraph (2) above.

(8) Interest or penalties may be charged by virtue of regulations under this paragraph in respect of a period before the coming into force of section 57 of the Social Security Act 1998 but only to the extent that interest or penalties would have been chargeable if the contributions in question had been recoverable, in respect of that period, by virtue of regulations under paragraph 6 above.

(9) Any reference to contributions in sub-paragraph (1) above shall be construed as including a reference to any interest or penalty payable, in respect of contributions, by virtue of regulations under paragraph (e) or (h) of sub-paragraph (2) above.

(10) The rate of interest applicable for any purpose of this paragraph shall be the rate from time to time prescribed under section 178 of the Finance Act 1989 for the corresponding purpose of paragraph 6 above.]

[⁴7BZA.—(1) Regulations under sub-paragraph (1) may apply or extend with or without modification in (1). The Inland Revenue may by regulations provide for class 1, Class 1A, Class 1B or Class 2 contributions to which regulations under paragraph 7B apply to be recovered in a similar manner to income tax.

(2) Regulations under sub-paragraph (1) may apply or extend with or without modification in relation to such contributions any of the provisions of the Income Tax Acts or of PAYE regulations.

(3) Any reference to contributions in this paragraph shall be construed as including a reference to any interest or penalty payable, in respect of contributions, by virtue of regulations under paragraph (e) or (h) of paragraph 7B(2).]

¹ Words substituted and omitted in para. (5)(b) and (e) & sub-para. (6) repealed (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 9, para. 7 & Sch. 10.

² Para. 7B(5A) inserted (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 76(4).

³ Words substituted (1.4.99) in para. (7) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 9, para. 7.

⁴ Para. 7BZA inserted in Sch. 1 (1.9.04) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3) s. 5(4).

[¹7BA. The Inland Revenue may by regulations provide for amounts in respect of contributions or interest that fall to be paid or repaid in accordance with any regulations under this Schedule to be set off, or to be capable of being set off, in prescribed circumstances and to the prescribed extent, against any such liabilities under regulations under this Schedule of the person entitled to the payment or repayment as may be prescribed.]

General regulation - making powers

- 8.—(1) [²The appropriate authority may by regulations] provide—
- (a) for requiring persons to maintain, in such form and manner as may be prescribed, records—
 - (i) of the earnings paid by them to and in respect of earners, and
 - (ii) of the contributions paid or payable in respect of earnings so paid, for the purpose of enabling the incidence of liability for contributions of any class to be determined, and to retain the records for so long as may be prescribed;
 - (b) for requiring persons to maintain, in such form and manner as may be prescribed, records of such matters may be prescribed for the purpose of enabling the incidence of liability for Class 1A [³or Class 1B] contributions to be determined, and to retain the records for so long as may be prescribed;
 - (c) for treating primary Class 1 contributions, when payable on the primary contributor's behalf by the secondary contributor, but not paid, as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, the primary contributor and, in the case of contributions so treated, for treating them also as paid at a prescribed time or in respect of a prescribed period;
 - [¹(ca) for requiring a secondary contributor to notify a person to whom any of his liabilities are transferred by an election under paragraph 3B above of—
 - (i) any transferred liability that arises;
 - (ii) the amount of any transferred liability that arises; and
 - (iii) the contents of any notice of withdrawal by the Inland Revenue of any approval that relates to that election;]
 - (d) for treating, for the purpose of any entitlement to benefit, contributions paid at or after any prescribed time as paid at some other time (whether earlier or later) or, in the case of contributions paid after the due date for payment, or at such later date as may be prescribed, as not having been paid;
 - (e) for enabling contributions to be treated as paid in respect of a tax year earlier or later than that in respect of which they were actually paid;
 - (f) for treating (for the purposes of Class 2 contributions) a week which falls partly in one, and partly in another, tax year as falling wholly within one or the other of those tax years;
 - (g) for treating contributions of the wrong class, or at the wrong rate, or of the wrong amount, as paid on account of contributions properly payable (notwithstanding section 14 above, in the case of Class 3 contributions) or as paid (wholly or in part) in discharge of a liability for a [⁴state scheme premium][⁵*contributions equivalent premium*];

¹ Paras. 7BA & 8(1)(a) inserted (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 76(5) & 77(4).

² Words substituted in para. 8(1) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 39(2).

³ Words in sub-para. 8(1)(b) inserted (8.9.98 for regulation making purposes, 6.4.99 for all other purposes) by Sch. 7, para. 77(4) & (15) of S.S. Act 1998 (c. 14).

⁴ Words in para. 8(1)(g) as in force until amended by Pensions Act 1995 (c. 26).

⁵ Words in para. 8(1)(g) to be substituted (prosp.) by Sch. 5 para. 14 to Pensions Act 1995 (c. 26).

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- (h) for the repayment, in prescribed cases, of the whole or a prescribed part of any contributions paid by reference to earnings which have become repayable;
- (i) for the repayment, in prescribed cases, of a prescribed part of any Class 1A contribution as to which the [¹Inland Revenue] is satisfied in the light of information of a kind mentioned in section 10(6)(a), (b) or (c) above that has become available to [¹them], that too much has been paid;
- [²(ia) for the repayment, in prescribed cases, of the whole or a prescribed part [³of a class 1A or] of a Class 1B contribution;]
- (j) 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 consist 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 (4) of section 11 above as being, at a lower rate than the one specified in that subsection for that year;
- (k) for excepting a person from liability for contributions repaid by virtue of paragraph (j) above, to the extent that he would not have been so excepted by virtue of section 11(4) above;
- (l) without prejudice to paragraph (g) above, for enabling—
 - (i) the whole or part of any payment of secondary Class 1 contributions to be treated as a payment of Class 1A contributions [⁴or a Class 1B contribution];
 - (ii) the whole or part of any payment of Class 1A contributions to be treated as a payment of secondary Class 1 contributions [⁴, a Class 1B contribution] or Class 2 contributions;
 - [⁴(ia) the whole or part of any payment of a Class 1B contribution to be treated as a payment of secondary Class 1 contributions, Class 1A contributions or Class 2 contributions;]
 - (iii) the whole or part of any payment of Class 2 contributions to be treated as a payment of secondary Class 1 contributions [⁴, Class 1A contributions or a Class 1B contribution];
- (m) for the return of the whole or any prescribed part of any contributions paid either in error or in such circumstances that, under any provision of Part I of this Act or of regulations, they fall to be repaid;
- (n) for treating a person as being an employed earner, notwithstanding that his employment is outside Great Britain;
- (o) for treating a person's employment as continuing during periods of holiday, unemployment or incapacity for work and in such other circumstances as may be prescribed;
- (p) [...⁵]
- (q) for any other matters incidental to the payment, collection or return of contributions.

[⁶(1A) In sub-paragraph (1), "the appropriate authority" means the Treasury, except that, in relation to—

¹ Words substituted in para. 8(i) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 19(1).

² Para. 8(1)(ia) inserted (8.9.98 for regulation making purposes, 6.4.99 for all other purposes) by Sch. 7, para. 77(4) & (15) of S.S. Act 1998 (c. 14).

³ Words inserted in para. 8(1)(ia) (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 74(5).

⁴ Insertions to para. 8(1)(1) (8.9.98) by Sch. 7 para. 77(16) of S.S. Act 1998 (c. 14) for the purpose only of authorising the making of regulations or orders.

⁵ Subsection 8(1)(p) repealed (1.7.97) by Sch. 2 to Social Security Administration (Fraud) Act 1997 (c. 47).

⁶ Sub-para. (1A) inserted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 39(3).

- (a) provision made by virtue of paragraph (d) of that sub-paragraph, and
- (b) provision made by virtue of paragraph (q) of that sub-paragraph in relation to the matters referred to in paragraph (d), it means the Secretary of State [¹acting with the concurrence of the Inland Revenue].]

(2) - (3) [...²]

9. [³The Treasury may by regulations] provide that—

- (a) for the purpose of determining whether a contribution is payable in respect of any person, or
- (b) for determining the amount or rate of any contribution,

he is to be treated as having attained at the beginning of a week, or as not having attained until the end of a week, any age which he attains during the course of that week.

Deduction of contributions from pension, etc.

10.—(1) Where a person is in receipt of a pension or allowance payable by the Secretary of State by virtue of any prescribed enactment or instrument, the Secretary of State may with the consent of that person pay any contributions (other than Class 1 or Class 4 contributions) payable by him and deduct the amount so paid from the pension or allowance.

(2) Sub-paragraph (1) above shall have effect notwithstanding anything in any Act, Royal Warrant, Order in Council, order or scheme.

Sickness payments counting as remuneration

11.—(1) [³The Treasury may by regulations] make provision as to the manner in which, and the person through whom, any sickness payment which, by virtue of section 4(1) above, is to be treated as remuneration derived from employed earner's employment is to be made.

(2) In any case where regulations made under sub-paragraph (1) above have the effect of requiring a registered friendly society (within the meaning of the Friendly Societies Act 1974) to make amendments to its rules, the amendments may, notwithstanding any provision of those rules, be made in accordance with the procedure prescribed by regulations made by the Chief Registrar of Friendly Societies for the purposes of this paragraph.

1974 c. 46.

¹ Words inserted in para. 8(1A)(b)(11.11.99) by the Welfare Reform and Pensions Act 1999 (c. 30) Sch. 13.

² Sub-paras. (2) & (3) repealed (6.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 13.

³ Words substituted in para. 9 & 11(1) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) Sch. 3, paras. 40 & 41.

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SCHEDULE 2

LEVY OF CLASS 4 CONTRIBUTIONS WITH INCOME TAX

Interpretation

1. In this Schedule—

Section 16(3).
1988 c.1.

- (a) “the Act of 1988” means the Income and Corporation Taxes Act 1988;
- [¹(ab) “ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005;]
- [²(ac) “ITA 2007” means the Income Tax Act 2007;]
- (b) “the Act of 1990” means the Capital Allowances Act 1990;
- (c) “year” means year of assessment within the meaning of [³the Income Tax Acts (see section 989 of ITA 2007)].

*Method of computing profits or gains*2. Subject to the following paragraphs, Class 4 contributions shall be payable in respect of the full amount of all [¹profits—

- (a) which are the profits of any relevant trade, profession or vocation which is not carried on wholly outside the United Kingdom, and
- (b) which are chargeable to income tax under Chapter 2 of Part 2 of ITTOIA 2005.]

*Reliefs*3.—(1) For the purposes of computing the amount of profits [...¹] in respect of which Class 4 contributions are payable, relief shall be available under, and in the manner provided by, the following provisions of [²ITA 2007]—

- (a) [²sections 64 and 72] (set-off of trade losses against general income), but only where loss arises from activities the profits [²ITA 2007] of which would be brought into computation for the purposes of Class 4 contributions;
- (b) [...⁴]
- (c) [²section 83] (carry-forward of loss against subsequent profits); and
- (d) [²section 89] (carry-back of terminal losses).

(2) the following relief provisions [...²] shall not apply, that is to say—

- (a) Chapter I of Part VII [² of the Act of 1988 and Chapters 2 and 3 of Part 3 and sections 457, 458 and 459 of ITA 2007] (personal reliefs);
- (b) [²section 383 of ITA 2007] (relief for payment of interest);
- (c) [...²]
- (d) [²sections 88 and 94 of ITA 2007] (treatment of interest as a loss for purposes of carry-forward or carry-back);
- (e) [...⁵]-[...⁶]
- (f) sections 619 and 620 (premiums or other consideration under annuity contracts and trust schemes) [⁶and
- (g) section 639 (personal pension contributions).]

¹ Para. 1(ab) inserted, words substituted in para. 2 and omitted in para. 3(1) (6.4.05) by the Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1, para. 422.

² Para. 1(ac) inserted, words substituted and omitted in 3 and 3(2)(c) omitted (6.4.07) by the Income Tax Act 2007 (c. 3), Sch. 1, para. 290.

³ Words substituted in Sch. 2, para. 1(c) (25.3.10) by art. 2(2) of S.I. 2010/588.

⁴ Para. 3(1)(b) shall cease to have effect (8.9.98) by s. 59(3) of S.S. Act 1998 (c. 14).

⁵ Para. 3(2)(e) (relief for Class 4 contributions), repealed for 1996-97 and later years of assessment, by s. 147(2)(a) of, and Part V(15) of Sch. 41 to, Finance Act 1996 (c. 8),

⁶ Word “and” at end of para. 3(2)(e) deleted, and word and para. 3(2)(g) inserted, (1.7.92), and 23.7.87 in respect of the corresponding former provision re-enacted in para. 3(2) by Social Security (Contributions) Act 1994 (c. 1) s. 3.

(3) Where in the year 1989-90 or any previous year of assessment for which a person claims and is allowed relief by virtue of sub-paragraph (1) above—

- (a) there falls to be made in computing his total income for income tax purposes, or that of his spouse, a deduction in respect of any loss, and
- (b) the deduction or part of it falls to be so made from income other than profits or gains of a trade, profession or vocation,

the amount of the deductions made from the other income shall be treated as reducing the person's profits or gains (that is to say the profits or gains of any relevant trade, profession or vocation as computed for the purposes of the charge to Class 4 contributions) for subsequent years (being deducted as far as may be from those of the immediately following year, whether or not he claims or is entitled to claim relief under this paragraph for that year, and, so far as it cannot be so deducted, then from those of the next year, and so on).

(4) Where in the year 1990-1991 or any subsequent year of assessment for which a person claims and is allowed relief by virtue of sub-paragraph (1) above there falls to be made in computing his [net income] for income tax purposes a deduction in respect of any loss in any relevant trade, profession or vocation—

- (a) the amount of the deduction shall, as far as may be, treated for the purpose of the charge to Class 4 contributions as reducing the person's profits [...] for that year of any relevant trade, profession or vocation, and
- (b) any excess shall be treated for that purpose as reducing such profits [...] for subsequent years (being deducted as far as may be from those of the immediately following year, whether or not the person claims or is entitled to claim relief under this paragraph for that year, and, so far as it cannot be so deducted, then from those of the next year, and so on).

(5) Relief shall be allowed, in respect of—

- (a) [...¹]
- (b) payments under [section 383 of ITA 2007] (relief for payment of interest), being payments for which relief from income tax is or can be given,
- [³(c) payments from which a sum representing income tax must be deducted under—
 - (i) section 900(2) of ITA 2007 (commercial payments made by individuals),
 - (ii) section 903(5) of that Act (patent royalties), or
 - (iii) section 906(5) of that Act (certain royalties etc where usual place of abode of owner is abroad),
- (d) so much of any payment from which a sum representing income tax must be deducted under section 910(2) of ITA 2007 (proceeds of a sale of patent rights: payments to non-UK residents) as is equal to the amount referred to in that provision as “the chargeable amount”, or
- (e) a payment from which a sum representing income tax must be deducted as a result of a direction under section 944(2) of ITA 2007 (tax avoidance: certain payments to non-UK residents)]

[³so far as the payment is incurred] wholly or exclusively for the purposes of any relevant trade, profession or vocation, by way of deduction from or set-off against profits [...] chargeable to Class 4 contributions for the year in which the payments are made; and, in the case of any insufficiency of the profits [...] of that year, the payments shall be carried forward and deducted from or set off against the profits [...] of any subsequent year (being deducted or set off as far as may be from or against the profits [...] of the immediately following year, whether or not relief can be claimed under this paragraph for that year, and so far as it cannot be so deducted, from or against those of the next year, and so on).

¹ Words substituted in para. 3(4) & (5) and (5)(a) omitted (6.4.07) by the Income Tax Act 2007 (c. 3), Sch. 1, para. 290.

² Words omitted in para. 3(4) & (5) (6.4.07) by the Income Tax (Trading & Other Income) Act 2005 (c. 5), Sch. 1, para. 422.

³ Sch. 2, para. 3(5)(c)-(e) & words in para. 3(5) substituted (25.3.10) by art. 2(3)(a) & (b) of S.I. 2010/588.

Partnerships

4.—(1) Where a trade or profession is carried on by two or more persons jointly, the liability of any one of them in respect of Class 4 contributions shall arise in respect of his share of the profits [...] of that trade or profession (so far as immediately derived by him from carrying it on); and for this purpose his share shall be aggregated with his share of the profits [...] of any other trade, profession or vocation (so far as immediately derived by him from carrying it on or exercising it).

(2) Where sub-paragraph (1) above applies, the Class 4 contributions for which a person is liable in respect of the profits [...] of the trade or profession carried on jointly (aggregated, where appropriate, as mentioned in that sub-paragraph) [shall be charged to him separately]

Trustees, etc.

5. In any circumstances in which apart from this paragraph a person would—

- (a) under section 72 of the Taxes Management Act 1970 be assessable and chargeable to Class 4 contributions as trustee, guardian, tutor, curator, or committee of an incapacitated person in respect of the profits [...] of a trade, profession or vocation, or
- (b) by virtue of [section 8 of ITTOIA 2005] be assessed and charged to such contributions in respect of profits [...] received or receivable by him in the capacity of trustee,

such contributions shall not be payable either by him or by any other person.

Other provisions

[³6—(1)[⁴section 86 of the Taxes Management Act 1970 (interest on overdue tax)] shall apply in relation to any amount due in respect of Class 4 contributions [⁵as it applies] in relation to income tax; and section 824 of the Act of 1988 (repayment supplements) shall, with the necessary modifications, apply in relation to Class 4 contributions as it applies in relation to income tax.

(2) [...⁶]

7. Where an assessment has become final and conclusive for the purposes of income tax for any year, that assessment shall also be final and conclusive for the purposes of computing liability for Class 4 contributions; and no allowance or adjustment of liability, on the ground of diminution of income or loss, shall be taken into account in computing profits [...] chargeable to Class 4 contributions unless that allowance or adjustment has previously been made on an application under the special provisions of the income Tax Acts relating to it, or falls to be allowed under paragraph 3(5) of this Schedule.

8. The provisions of Part V of the Taxes Management Act 1970 (appeals, etc.) shall apply with the necessary modifications in relation to Class 4 contributions as they apply in relation to income tax, but nothing in the Income Tax Acts shall apply with respect to the determination of any question arising—

¹ Words omitted & substituted in paras. 4 & 5(b) (6.4.07) by the Income Tax (Trading & Other Income) Act 2005 (c. 5), Sch. 1, para. 422.

² Words omitted in paras. 5 & 7 (6.4.05) by the Income Tax (Trading & Other Income) Act 2005 (c. 5), Sch. 1, para. 422.

³ Para. 6(1) and (2) came into force on 19.4.93, the day appointed by S.I. 1993/1025 under para. 1(3)(a) of Sch. 4 to S.S. (C.P.) Act 1992 (c. 6) in respect of paras. 8 and 9 of that Schedule.

⁴ Words substituted in para. 6(1) (8.9.98) by s. 59(5)(a) of S.S. Act 1998 (c. 14).

⁵ Words substituted in para. 6(2) (8.9.98) by s. 59(5)(b) of S.S. Act 1998 (c. 14).

⁶ Para. 6(2) repealed (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 10, Part 1.

- (a) under subsection (1) of section 17 above or subsection (1) of section 17 of the Northern Ireland Contributions and Benefits Act as to whether by regulations under that subsection a person is excepted from liability for Class 4 contributions, or his liability is deferred; or
- (b) under regulations made by virtue of section 17(3) or (4) or 18 above or section 17(3) or (4) or 18 of the Northern Ireland Contributions and Benefits Act.

Husband and wife— 1989-90 and previous years of assessment

9.—(1) For the year 1989-90 and previous years of assessment Chapter II of Part VII of the Act of 1988 shall apply for the purposes of Class 4 contributions as it applies for those of income tax; and an application by a husband or wife for separate assessment under section 283 of that Act, and an election by them under section 287 of that Act (separate taxation of wife's earnings) shall operate as respects liability for such contributions as it does for income tax, the wife being liable for Class 4 contributions in respect of her own profits or gains.

(2) Such an application or election as is referred to in sub-paragraph (1) above shall not be made separately for the purposes of Class 4 contributions apart from those of income tax.

(3) Where section 279 of the Act of 1988 applies and there is no separate assessment under section 283 of that Act and no election under section 287 of that Act, the wife's profits and gains are to be computed, for the purposes of Class 4 contributions as if section 279 did not apply, but the contributions shall be assessed on, and recoverable from the husband,

(4) In this paragraph "year of assessment" has the meaning assigned to it by [¹section 989 of ITA 2007].

¹ Words substituted in para. 9(4) (6.4.07) by the Income Tax Act 2007 (c. 3), Sch. 1, para. 290.

SCHEDULE 3

CONTRIBUTION CONDITIONS FOR ENTITLEMENT TO BENEFIT

PART I

1. [...¹]

[²Short-term incapacity benefit]

2.—(1)The contribution conditions for [²short-term incapacity benefit] are the following.

(2) The first condition is that—

- [³(a) the claimant must have actually paid contributions of a relevant class in respect of one of the last three complete years before the beginning of the relevant benefit year, and those contributions must have been paid before the relevant time; and]
- (b) the earnings factor derived as mentioned in sub-paragraph (4) below must be not less than that year's lower earnings limit multiplied by 25.

(3) The second condition is that—

- (a) the claimant must in respect of the last two complete years before the beginning of the relevant benefit year have either paid or been credited with contributions of a relevant class or been credited (in the case of 1987-88 or any subsequent year) with earnings; and
- (b) the earnings factor derived as mentioned in sub-paragraph (5) below must be not less in each of those years than the year's lower earnings limit multiplied by 50.

(4) The earnings factor referred to in paragraph (b) of sub-paragraph (2) above is that which is derived—

- (a) if the year in question is 1987-88 or any subsequent year—
 - (i) from [⁴so much of the claimant's earnings as did not exceed the upper earnings limit and upon] which primary Class 1 contributions have been paid or treated as paid; or
 - (ii) from Class 2 contributions; and
- (b) if the year in question is an earlier year, from the contributions paid as mentioned in paragraph (a) of that sub-paragraph.

(5) The earnings factor referred to in paragraph (b) of sub-paragraph (3) above is that which is derived—

- (a) if the year in question is 1987-88 or any subsequent year—
 - (i) from [⁴so much of the claimant's earnings as did not exceed the upper earnings limit and upon] which primary Class 1 contributions have been paid or treated as paid or from earnings credited; or
 - (ii) from Class 2 contributions; and
- (b) if the year in question is an earlier year, from the contributions referred to in paragraph (a) of that sub-paragraph.

¹ Para. 1 repealed (7.10.96) by Sch. 3 to Jobseekers Act 1995 (c. 18).

² Heading to para. 2 and words in para. 2(1) substituted (13.4.95) by s. 1(2) of S.S. (Incapacity for Work) Act 1994 (c. 18).

³ Para. 2(2)(a) substituted (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 62(2) of the Welfare Reform and Pensions Act 1999 (c. 30).

⁴ Words in para. 2(4)(a)(i) & (5)(a)(i) substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 14(2).

(6) For the purposes of these conditions—

- (a) “the relevant time” is the day in respect of which benefit is claimed;
- (b) “the relevant benefit year” is the benefit year in which there falls the beginning of the [¹period of incapacity for work] which includes the relevant time.

[²(7) Where a person makes a claim for incapacity benefit and does not satisfy [³the first contribution condition (specified in sub-paragraph (2) above) or, as the case may be,] the second contribution condition (specified in sub-paragraph (3) above) and, in a later benefit year in which he would satisfy that condition had no such claim been made, he makes a further claim for incapacity benefit, the previous claim shall be disregarded.]

[³(8) Regulations may—

- (a) provide for the first contribution condition (specified in sub-paragraph (2) above) to be taken to be satisfied in the case of persons who have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time;
- (b) with a view to securing any relaxation of the requirements of that condition (as so specified) in relation to persons who have been so entitled, provide for that condition to apply in relation to them subject to prescribed modifications.

(9) In sub-paragraph (8)—

“benefit” includes (in addition to any benefit under Parts II to V of this Act)—

- (a) any benefit under Parts VII to XII of this Act, and
- (b) credits under regulations under section 22(5) above;

“modifications” includes additions, omissions and amendments]

3. [...⁴]

[⁵*Bereavement payment*]

4.—(1) The contribution condition for a [⁵bereavement payment] is that—

- (a) the contributor concerned must in respect of any one relevant year have actually paid contributions of a relevant class; and
- (b) the earnings factor derived as mentioned in sub-paragraph (2) below must be not less than that year’s lower earnings limit multiplied by 25.

(2) The earnings factor referred to in paragraph (b) of sub-paragraph (1) above is that which is derived—

- (a) if the year in question is 1987-88 or any subsequent year, from [⁶so much of the contributor’s earnings as did not exceed the upper earnings limit and] upon which primary Class 1 contributions have been paid or treated as paid and from Class 2 and Class 3 contributions, or
- (b) if the year in question is an earlier year, from the contributions referred to in paragraph (a) of that sub-paragraph.

¹ Words in para. 2(6)(b) substituted (13.4.95) by para. 38(2) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).
² Para. 2(7) added (13.4.95) by s. 3(2) of S.S. (Incapacity for Work) Act 1994 (c. 18).
³ Words inserted in para. 2(7) & paras. 2(8) & (9) added (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 62(3) & (4) of the Welfare Reform And Pensions Act 1999 (c. 30).
⁴ Para. 3 repealed (2.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 13.
⁵ Refs to “bereavement payment” substituted for refs. to “widows payment” in para. 4(1) and in the heading preceding para. 4 (24.4.00 for reg. making purposes, 9.4.01 for all other purposes), by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).
⁶ Words in para. 4(2)(a) substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19).

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(3) For the purposes of this condition a relevant year is any year ending before the date on which the contributor concerned attained pensionable age or died under that age.

Widowed mother's allowance [¹, *widowed parent's allowance, bereavement allowance,*] and *widow's pension; retirement pensions (Categories A and B)*

5.—^[2](1) This paragraph sets out the contribution conditions for—

- (a) a widowed mother's allowance, a widowed parent's allowance or a widow's pension;
- (b) a Category A retirement pension (other than or in relation to which paragraph 5A applies);
- (c) a Category B retirement pension in the cases provided for by any of sections 48A to 51ZA.]

(2) The first condition is that—

- (a) the contributor concerned must in respect of any one relevant year have actually paid contributions of a relevant class; and
- (b) the earnings factor derived—
 - (i) if that year is 1987-88 or any subsequent year, from [³so much of the contributor's earnings as did not exceed the upper earnings limit and] upon which such of those contributions as are primary Class 1 contributions were paid or treated as paid and any Class 2 or Class 3 contributions, or
 - (ii) if that year is an earlier year, from the contributions referred to in paragraph (a) above, must be not less than the qualifying earnings factor of that year.

(3) The second condition is that—

- (a) the contributor concerned must, in respect of each of not less than the requisite number of years of his working life, have paid or been credited with contributions of a relevant class [⁴or been credited (in the case of 1987-88 or any subsequent year) with earnings]; and
- (b) in the case of each of those years, the earnings factor derived as mentioned in sub-paragraph (4) below must be not less than the qualifying earnings factor for that year.

(4) For the purposes of paragraph (b) of sub-paragraph (3) above, the earnings factor—

- (a) in the case of 1987-88 or any subsequent year, is that which is derived from—
 - (i) [⁵so much of the contributor's earnings as did not exceed the upper earnings limit and] upon which such of the contributions mentioned in paragraph (a) of that sub-paragraph as are primary Class 1 contributions were paid or treated as paid or earnings credited; and
 - (ii) any Class 2 or Class 3 contributions for the year; or
- (b) in the case of any earlier year, is that which is derived from the contributions mentioned in paragraph (a) of that sub-paragraph.

¹ Words inserted in para. 5(1) and in the heading before para. 5 (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30). These additions are not effective for any other purpose until s. 70 is brought into force for all other purposes.

² Para. 5(1) of Sch. 3 substituted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 67(2).

³ Words in para. 5(2)(b)(i) substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19).

⁴ Words inserted (19.7.95) into para. 5(3)(a) of Sch. 3 by Pensions Act 1995 (c. 26), s. 129.

⁵ Words in para. 5(4)(a)(i) substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 14(5).

(5) For the purposes of the first condition, a relevant year is any year ending before that in which the contributor concerned attained pensionable age or died under that age; and the following table shows the requisite number of years for the purpose of the second condition, by reference to a working life of a given duration—

<i>Duration of working life</i>	<i>Requisite number of years</i>
10 years or less	The number of years of the working life, minus 1
20 years or less (but more than 10)	The number of years of the working life, minus 2
30 years or less (but more than 20)	The number of years of the working life, minus 3
40 years or less (but more than 30)	The number of years of the working life, minus 4
More than 40 years	The number of years of the working life, minus 5

(6) The first condition shall be taken to be satisfied if the contributor concerned was entitled to [¹long-term incapacity benefit] at any time during—

- (a) the year in which he attained pensionable age or died under that age, or
- (b) the year immediately preceding that year.

[²(6A) The first condition shall be taken to be satisfied if the contributor concerned was entitled to main phase employment and support allowance at any time during—

- (a) the year in which he attained pensionable age or died under that age, or
- (b) the year immediately preceding that year.

(6B) The reference in sub-paragraph (6A) to main phase employment and support allowance is to an employment and support allowance in the case of which the calculation of the amount payable in respect of the claimant includes an addition under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007 (addition where conditions of entitlement to support component or work-related activity component satisfied].

(7) The second condition shall be taken to be satisfied notwithstanding that paragraphs (a) and (b) of sub-paragraph (3) above are not complied with as respects each of the requisite number of years if—

- (a) those paragraphs are complied with as respects at least half that number of years [³(or at least 20 of them, if that is less than half)]; and
- (b) in each of the other years the contributor concerned was, within the meaning of regulations, precluded from regular employment by responsibilities at home.

[⁴But nothing in this sub-paragraph applies in relation to any benefit to which section 23A above applies.]

[⁵(7A) Regulations may provide that a person is not to be taken for the purposes of sub-paragraph (7)(b) above as precluded from regular employment by responsibilities at home unless he meets the prescribed requirements as to the provision of information to the Secretary of State.]

(8) For the purposes of [⁶Parts I to VI of this Act] a person’s working life is the period between—

- (a) (inclusive) the tax year in which he attained the age of 16; and

¹ Words in para. 5(6) substituted (13.4.95) by para. 38(3) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).
² Paras. (6A) & (6B) inserted (27.10.08) by Sch. 3, para. 9(13) to the Welfare Reform Act 2007 (c. 5).
³ Words in para. 5(7)(a) deleted by para. 4 of Sch. 4, and by Part II of Sch. 7, to Pensions Act 1995 (c. 26) for any person reaching pensionable age after 5.4.2010.
⁴ Words inserted in para. 5(7) (27.9.07) by the Pensions Act 2007 (c. 22), s. 3(2).
⁵ Para. (7A) inserted (8.1.01) by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 40.
⁶ Words in para. 5(8) substituted (19.7.95) by Pensions Act 1995 (c. 26), s. 134(5).

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- (b) (exclusive) the tax year in which he attained pensionable age or died under that age.

[¹5A.—(1) This paragraph applies to—

- (a) a Category A retirement pension in a case where the contributor concerned attains pensionable age on or after 6th April 2010;

[²(b) a Category B retirement pension in the cases provided for by any of sections 48A to 51ZA.]

(2) The contribution condition for a Category A or Category B retirement pension in relation to which this paragraph applies is that—

- (a) the contributor concerned must, in respect of each of not less than 30 years of his working life, have paid or been credited with contributions of a relevant class or been credited (in the case of 1987-88 or any subsequent year) with earnings; and
- (b) in the case of each of those years, the earnings factor derived as mentioned in sub-paragraph (3) below must be not less than the qualifying earnings factor for that year.

(3) For the purposes of paragraph (b) of sub-paragraph (2) above, the earnings factor—

- (a) in the case of 1987-88 or any subsequent year, is that which is derived from—
 - (i) so much of the contributor's earnings as did not exceed the upper earnings limit and upon which such of the contributions mentioned in paragraph (a) of that sub-paragraph as are primary Class 1 contributions were paid or treated as paid or earnings credited; and
 - (ii) any Class 2 or Class 3 contributions for the year; or
- (b) in the case of any earlier year, is that which is derived from the contributions mentioned in paragraph (a) of that sub-paragraph.

(4) Regulations may modify sub-paragraphs (2) and (3) above for the purposes of their application in a case where—

- (a) the contributor concerned has paid, or been credited with, contributions, or
- (b) contributions have been deemed to be, or treated as, paid by or credited to him,

under the National Insurance Act 1946 or the National Insurance Act 1965.]

Child's special allowance

6.—(1) The contribution condition for a child's special allowance is that—

- (a) the contributor concerned must in respect of any one relevant year have actually paid contributions of a relevant class; and
- (b) the earnings factor derived from those contributions must be not less than that year's lower earnings limit multiplied by 50.

(2) For the purposes of this condition, a relevant year is any year ending before the date on which the contributor concerned attained pensionable age or died under that age.

¹ Para. 5A inserted (27.9.07) by the Pensions Act 2007 (c. 22), s. 1.

² Para. 5A(1)(b) substituted for 5A(1)(b) & (c) (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 67(3).

PART II

SATISFACTION OF CONDITIONS IN EARLY YEARS OF CONTRIBUTION

7.—(1) Sub-paragraph (3) below shall apply where a claim is made for a [¹bereavement payment] and the last complete year before the beginning of the benefit year in which the relevant time falls was either—

- (a) the year in which the contributor concerned first became liable for primary Class 1 or Class 2 contributions; or
- (b) the year preceding that in which he first became so liable.

(2) the relevant time for the purposes of this paragraph is the date on which the contributor concerned attained pensionable age or died under that age.

(3) For the purposes of satisfaction by the contributor concerned of paragraph (b) of the contribution condition for a [¹bereavement payment], all earnings factors falling within sub-paragraph (4) below may be aggregated and that aggregate sum shall be treated as his earnings factor for the last complete year before the beginning of the benefit year in which the relevant time falls.

(4) The earnings factors referred to in sub-paragraph (3) above are—

- (a) the contributor's earnings factors for 1987-88 and each subsequent year derived from the aggregate of [²so much of his earnings as did not exceed the upper earnings limit and] upon which primary Class 1 contributions were paid or treated as paid and from Class 2 contributions actually paid by him before the relevant time; and
- (b) his earnings factors for each earlier year, derived from his contributions of a relevant class actually paid by him before the relevant time.

8. Where a person claims [³short-term incapacity benefit], he shall be taken to satisfy the first contribution condition for the benefit if on a previous claim for any short-term benefit he has satisfied the first contribution condition for that benefit, by virtue of paragraph 8 of Schedule 3 to the 1975 Act, with contributions of a class relevant to [³short-term incapacity benefit].

9. Where [¹a claim is made for a bereavement payment], the contributor concerned for the purposes of the claim shall be taken to satisfy the contribution condition for the payment if on a claim made in the past for any short-term benefit he has satisfied the first contribution condition for the benefit, by virtue of paragraph 8 of Schedule 3 to the 1975 Act, with contributions of a class relevant to [¹bereavement payment].

¹ Ref. to "bereavement payment" substituted for ref. to "widow's payment" in para. 7(1) and (3) & words in para. 9 substituted (24.4.00 for reg. making purposes. 9.4.01 for all other purposes) by s. 70 of Welfare Reform and Pensions Act 1999 (c. 30).

² Words in para. 7(4)(a) substituted (6.4.03) by National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 14(6).

³ Words in para. 8 substituted (13.4.95) by para. 38(4) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

SCHEDULE 4 TO THE CONTRIBUTIONS AND BENEFITS ACT AS AMENDED BY THIS ORDER

SCHEDULE 4
RATES OF BENEFITS, ETC.

PART I
CONTRIBUTORY PERIODICAL BENEFITS

<i>Description of benefit</i>	<i>Weekly rate</i>
1. [... ¹]	
[² 2. Short-term incapacity benefit.	(a) lower rate [³£79.45] (b) higher rate [³£94.05]
1970 c. 9. 2A. Long-term incapacity benefit. [³£105.35]]
3. [... ¹]	
4. [... ²]	
5. Category B retirement pension where [⁴ section 48A(4) or 48AA(4)] applies. [³£71.50]
6. Child's special allowance. [³£11.35]

[⁶PART II

BEREAVEMENT PAYMENT

BEREAVEMENT PAYMENT [³£2,000.00]]

PART III

NON-CONTRIBUTORY PERIODICAL BENEFITS

<i>Description of benefit</i>	<i>Weekly rate</i>
1. Attendance allowance.	(a) higher rate. [³£82.30] (b) lower rate [³£55.10] (the appropriate rate being determined in accordance with section 65(3)).
2. [⁷ Severe disablement allowance.	[³£74.65]
3. [⁷ Age related addition.	(a) higher rate [³£11.15] (b) middle rate [³£6.20] (c) lower rate [³£6.20] (the appropriate rate being determined in accordance with section 69(1)).]

1970 c. 9.

1970 c. 9.

¹ Para. 1 was repealed by s. 41(5) of, and Sch. 3 to, Jobseekers Act 1995 (c. 18). Para. 2 was substituted and para. 2A was inserted by s. 2(2) of Social Security (Incapacity for Work) Act 1994 (c. 18); para. 3 was repealed by s. 11(2) of, and Sch. 2 to, that Act.

² Entry relating to maternity allowance repealed (2.4.00) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 13 Part. V.

³ Amounts in Col. 2 of Parts I to III of Sch. 4 substituted, reduced & maintained (6.4.15) by art. 3(1) & Sch. 1 of S.I. 2015/588. See arts. 3 & 6 of this S.I. for relevant effective dates.

⁴ Words in Part 1, Sch. 4, para. 5 substituted (6.4.16), by the Pensions Act 2014 (c. 19), Sch. 12, para. 68.

⁵ Amount in Part 1 of Sch. 4, increased by art. 3(a) of S.I. 2016/230 as from 11.4.16.

⁶ Part II substituted (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 54(2) of Welfare Reform and Pensions Act 1999 (c. 30)

⁷ Paras. (2) & (3) in Part III, and associated amounts, inserted (1.4.02) by Sch. 1 of S.I. 2002/668.

Description of benefit	Weekly rate
4. [¹ Carer's allowance.]	[² £62.10]
5. Guardian's allowance.	[³ 16.35]
6. [... ⁴]	
7. Category D retirement pension.	[⁴ (a) lower rate [² £41.50] (b) higher rate [⁵ £71.50] (the appropriate rate being determined in accordance with section 78(5)). The higher rate for Category C retirement pensions under paragraph 6 above.]
8. Age addition (to a pension of any category, and otherwise under section 79).	[² £0.25].

PART IV

INCREASES FOR DEPENDANTS

<i>Benefit to which increase applies (1)</i>	<i>Increase for qualifying child (2)</i>	<i>Increase for adult dependant (3)</i>
	£	£
1. [... ⁶]		
[⁶ 1A. Short-term incapacity benefit—		
(a) where the beneficiary is under pensionable age	[² 11.35]	[² £47.65]
(b) where the beneficiary is over pensionable age	[² 11.35]	[² £58.90]
2. Long-term incapacity benefit	[² 11.35]	[² £61.20]]
3. [... ⁷]		
4. [... ⁸]	[² 11.35]	
4A [... ⁸]	[² 11.35]	
5. Category A or B retirement pension	[² 11.35]	[² £65.70]
6. Category C retirement pension	[² 11.35]	[² £39.30]
7. [... ⁸]		—
8. [⁹ Severe disablement allowance]	[² 11.35]	[² £36.75]
9. [... ⁷]	[² 11.35]	[² £36.55]

¹ In Part III para. 4 words “Invalid care allowance” substituted by “Carer’s allowance” (1.9.02 for the purposes of exercising power to make subordinate legislation, 1.4.03 for all other purposes) by paras. 2(f) & (g) of the Schedule to S.I. 2002/1457.

² Amounts in Col. 2 & 3 of Sch. 4 substituted & maintained (6.4.15) by art. 3(1) & Sch. 1 of S.I. 2015/588. See arts. 3 & 6 of this S.I. for the relevant effective dates.

³ Amount in Sch. 4, para. 5 of Part 3, substituted (1.4.14) by art. 2 of S.I. 2014/828.

⁴ Para. 6 of Part 3, Sch. 4 omitted & para. 7 col. 2 substituted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 81.

⁵ Amount in Part III of Sch. 4 increased by art. 3(b) of S.I. 2016/230 as from 11.4.16.

⁶ Para. 1 was repealed by s. 41(5) of, and Sch. 3 to, Jobseekers Act 1995 (c. 18). Para. 1A was inserted & para. 2 substituted, by s. 2(6) of Social Security (Incapacity for Work) Act 1994 (c. 18).

⁷ Paras. 3 & 9 of Part IV to Sch. 4 repealed (12.1.10) by Welfare Reform Act 2009 (c. 24), Sch. 7, Part. 2.

⁸ In Part IV, paras. 4, 4A and 7 revoked (6.4.03) Sch. 6 of Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details as to savings and transitional provisions.

⁹ Para. 8 in Part IV inserted (1.4.02) by Sch. 1 of S.I. 2002/668.

PART V
RATES OF INDUSTRIAL INJURIES BENEFIT

<i>Description of benefit, etc.</i>	<i>Rate</i>																																				
1. Disablement pension (weekly rates).	For the several degrees of disablement set out in column (1) of the following Table, the respective amounts [¹ in column (2) of that Table]:																																				
TABLE																																					
	<table border="1"> <thead> <tr> <th style="text-align: center;"><i>Degree of Disablement</i></th> <th colspan="2" style="text-align: center;"><i>Amount</i></th> </tr> <tr> <th style="text-align: center;">(1)</th> <th style="text-align: center;">(2)</th> <th style="text-align: center;">(3)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Per cent.</td> <td style="text-align: center;">£</td> <td style="text-align: center;">£</td> </tr> <tr> <td style="text-align: center;">100</td> <td style="text-align: center;">[²168.00]</td> <td style="text-align: center;">[...¹]</td> </tr> <tr> <td style="text-align: center;">90</td> <td style="text-align: center;">[²151.20]</td> <td style="text-align: center;">[...¹]</td> </tr> <tr> <td style="text-align: center;">80</td> <td style="text-align: center;">[²134.40]</td> <td style="text-align: center;">[...¹]</td> </tr> <tr> <td style="text-align: center;">70</td> <td style="text-align: center;">[²117.60]</td> <td style="text-align: center;">[...¹]</td> </tr> <tr> <td style="text-align: center;">60</td> <td style="text-align: center;">[²100.80]</td> <td style="text-align: center;">[...¹]</td> </tr> <tr> <td style="text-align: center;">50</td> <td style="text-align: center;">[²84.00]</td> <td style="text-align: center;">[...¹]</td> </tr> <tr> <td style="text-align: center;">40</td> <td style="text-align: center;">[²67.20]</td> <td style="text-align: center;">[...¹]</td> </tr> <tr> <td style="text-align: center;">30</td> <td style="text-align: center;">[²50.40]</td> <td style="text-align: center;">[...¹]</td> </tr> <tr> <td style="text-align: center;">20</td> <td style="text-align: center;">[²33.60]</td> <td style="text-align: center;">[...¹]</td> </tr> </tbody> </table>	<i>Degree of Disablement</i>	<i>Amount</i>		(1)	(2)	(3)	Per cent.	£	£	100	[² 168.00]	[... ¹]	90	[² 151.20]	[... ¹]	80	[² 134.40]	[... ¹]	70	[² 117.60]	[... ¹]	60	[² 100.80]	[... ¹]	50	[² 84.00]	[... ¹]	40	[² 67.20]	[... ¹]	30	[² 50.40]	[... ¹]	20	[² 33.60]	[... ¹]
<i>Degree of Disablement</i>	<i>Amount</i>																																				
(1)	(2)	(3)																																			
Per cent.	£	£																																			
100	[² 168.00]	[... ¹]																																			
90	[² 151.20]	[... ¹]																																			
80	[² 134.40]	[... ¹]																																			
70	[² 117.60]	[... ¹]																																			
60	[² 100.80]	[... ¹]																																			
50	[² 84.00]	[... ¹]																																			
40	[² 67.20]	[... ¹]																																			
30	[² 50.40]	[... ¹]																																			
20	[² 33.60]	[... ¹]																																			
2. Maximum increase of weekly rate of disablement pension where constant attendance needed.	(a) except in cases of exceptionally severe disablement. [² £67.20;] (b) in any case [² £134.40.]																																				
3. Increase of weekly rate of disablement pension (exceptionally severe disablement). [² £67.20;]																																				
4. Maximum of aggregate of weekly benefit payable for successive accidents.	(a) [...] [² £168.00;] (b) [...]																																				
5. Unemployability supplement under paragraph 2 of Schedule 7. [² £103.85.]																																				
6. Increase under paragraph 3 of Schedule 7 of weekly rate of unemployability supplement.	(a) if on the qualifying date the beneficiary was under the age of 35, or if that date fell before 5th July 1948 [² £21.50;] (b) if head (a) above does not apply and on the qualifying date the beneficiary was under the age of 40 and he had not attained pensionable age before 6th April 1979 [² £21.50;] (c) if heads (a) and (b) above do not apply and on the qualifying date the beneficiary was under the age of 45 [² £13.90;]																																				

¹ Words in entry 1 substituted and col. 3 of Table & words in para. (a) & para. (b) of entry 4 repealed (5.12.12) by the Welfare Reform Act 2012 (c. 5), s. 6, 5(2)(a) & (b) & (3).

² Amounts in col. 2 of Part V to Sch. 4 substituted (6.4.15) by art. 3(1) & Sch. 1 of S.I. 2015/588. See arts. 3 & 6 of this S.I. for the relevant effective dates.

	(d)	if heads (a), (b) and (c) above do not apply and on the qualifying date the beneficiary was under the age of 50 and had not attained pensionable age before 6th April 1979	[¹ £13.90;]
	(e)	in any other case	[¹ £6.95.]
7. Increase under paragraph 4 of Schedule 7 of weekly rate of disablement pension.			[¹ £11.35.]
8. Increase under paragraph 6 of Schedule 7 of weekly rate of disablement pension.			[¹ £62.10.]
9. Maximum disablement gratuity under paragraph 9 of Schedule 7.			[¹ £11,150.00.]
10. Widow's pension (weekly rates).	(a)	[² initial rate]	[¹ £57.65;]
	(b)	higher permanent rate	[³ £119.30;]
	(c)	lower permanent rate 30 per cent of the first sum specified in section 44(4) (Category A basic retirement pension) (the appropriate rate being determined in accordance with paragraph 16 of Schedule 7).	
11. Widowers pension (weekly rate).			[³ £119.30.]
12 Weekly rate of allowance in respect of children [⁴ and qualifying young persons] under paragraph 18 of Schedule 7.	In respect of each [³ child or qualifying young person]		[¹ £11.35.]

[⁵SCHEDULE 4A

[⁶ADDITIONAL PENSION: ACCRUAL RATES FOR PURPOSES OF SECTION 45(2)(C)]

PART I
THE AMOUNT

1.—(1) The amount referred to in section 45(2)(c) above is to be calculated as follows—

- (a) take for each tax year concerned the amount for the year which is found under the following provisions of this Schedule;
- (b) add the amounts together;
- (c) divide the sum of the amounts by the number of relevant years;

¹ Amounts substituted & maintained (6.4.15) in col. 2 of Sch. 4. by art. 3(1) & Sch. 1 of S.I. 2015/588. See arts. 3 & 6 of this S.I. for the relevant effective dates.
² Widow's pension is payable in relation only to deaths occurring before 11th April 1988 (para. 14(1) of Sch. 7 of Contributions and Benefits Act.) The initial rate relates only to the period of 26 weeks following the date of the deceased's death (para. 16(1) of that Sch.). The rate stated is therefore the rate applicable for the 26 weeks following the 10th April 1988.
³ Amounts in Part V of Sch. 4, para. 10(b)(c), increased by art. 3(c) of S.I. 2016/230 as from 6.4.16.
⁴ Words inserted & substituted in Sch. 4, para. 12 (10.4.05) by Child Benefit Act 2005, Sch. 1, para. 15.
⁵ Sch. 4A inserted (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all other purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), Sch. 4.
⁶ Heading substituted (27.9.07) by Pensions Act 2007 (c. 22), s. 10(6).

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- (d) the resulting amount is the amount referred to in section 45(2)(c) above, except that if the resulting amount is a negative one the amount so referred to is nil.

(2) For the purpose of applying sub-paragraph (1) above in the determination of the rate of any additional pension by virtue of section [...¹], 39C(1), [...²] or 48B(2) above, in a case where the deceased spouse died under pensionable age, [³or by virtue of section 39C(1), [...²] or 48B(2) above, in a case where the deceased civil partner died under pensionable age,] the divisor used for the purposes of sub-paragraph (1)(c) above shall be whichever is the smaller of the alternative numbers referred to below (instead of the number of relevant years).

(3) The first alternative number is the number of tax years which begin after 5th April 1978 and end before the date when the entitlement to the additional pension commences.

(4) The second alternative number is the number of tax years in the period—

- (a) beginning with the tax year in which the deceased spouse [³or civil partner] attained the age of 16 or, if later, 1978-79; and
(b) ending immediately before the tax year in which the deceased spouse [³or civil partner] would have attained pensionable age if he had not died earlier.

(5) For the purpose of applying sub-paragraph (1) above in the determination of the rate of any additional pension by virtue of section 48BB(5) above, in a case where the deceased spouse [³or civil partner] died under pensionable age, the divisor used for the purposes of sub-paragraph (1)(c) above shall be whichever is the smaller of the alternative numbers referred to below (instead of the number of relevant years).

(6) The first alternative number is the number of tax years which begin after 5th April 1978 and end before the date when the deceased spouse [³or civil partner] dies.

(7) The second alternative number is the number of tax years in the period—

- (a) beginning with the tax year in which the deceased spouse [³or civil partner] attained the age of 16 or, if later, 1978-79; and
(b) ending immediately before the tax year in which the deceased spouse [³or civil partner] would have attained pensionable age if he had not died earlier.

(8) In this paragraph “relevant year” has the same meaning as in section 44 above.

PART II

SURPLUS EARNINGS FACTOR

2.—(1) This Part of this Schedule applies if for the tax year concerned there is a surplus in the pensioner’s earnings factor.

(2) The amount for the year is to be found as follows—

- (a) calculate the part of the surplus for that year falling into each of the bands specified in the appropriate table below;
(b) multiply the amount of each such part in accordance with the last order under section 148 of the Administration Act to come into force before the end of the final relevant year;
(c) multiply each amount found under paragraph (b) above by the percentage specified in the appropriate table in relation to the appropriate band;
(d) add together the amounts calculated under paragraph (c) above.

(3) The appropriate table for persons attaining pensionable age after the end of the first appointed year but before 6th April 2009 is as follows—

¹ Words omitted in para. 1(2) (27.9.07) by Pensions Act 2007 (c. 22), Sch. 2, para. 11.

² Words in para. 1(2) of Sch. 4A omitted (6.4.16) by the Pensions Act 2014, Sch. 12, para. 69.

³ Words inserted in para. 1(2) (5.12.05) by Civil Partnership Act 2004 (c. 33), Sch. 24, para. 51.

TABLE

<i>Amount of surplus</i>	<i>Percentage</i>	
Band 1.	Not exceeding LET	40 + 2N
Band 2.	Exceeding LET but not exceeding 3LET - 2QEF	10 + N/2
Band 3.	Exceeding 3LET - 2QEF	20 + N

(4) The appropriate table for persons attaining pensionable age on or after 6th April 2009 [¹where the tax year concerned falls before 2010-11] is as follows—

TABLE 2

<i>Amount of surplus</i>	<i>Percentage</i>	
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET but not exceeding 3LET - 2QEF	10
Band 3.	Exceeding 3LET - 2QEF	20

[¹(4A) The appropriate table for persons attaining pensionable age on or after 6th April 2009 where the tax year concerned is 2010-11 or a subsequent tax year is as follows—

TABLE 2A

<i>Amount of surplus</i>	<i>Percentage</i>	
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET [... ²]	10]

(5) Regulations may provide, in relation to persons attaining pensionable age after such date as may be prescribed, that the amount found under this Part of this Schedule for the second appointed year or any subsequent tax year is to be calculated using only so much of the surplus in the pensioner's earnings factor for that year as falls into Band 1 in the table in sub-paragraph (4) above.

(6) For the purposes of the tables in this paragraph—

- (a) the value of N is 0.5 for each tax year by which the tax year in which the pensioner attained pensionable age precedes 2009-10;
- (b) "LET" means the low earnings threshold for that year as specified in section 44A above;
- (c) "QEF" means the qualifying earnings factor for the tax year concerned.

[...²]

(7) In the calculation of "2QEF" the amount produced by doubling QEF shall be rounded to the nearest whole £100 (taking any amount of £50 as nearest to the previous whole £100).

(8) In this paragraph "final relevant year" has the same meaning as in section 44 above.

¹ In part 2, words in sub-para. (4) & sub-paras. (4A) & (6) inserted (27.9.07) by the Pensions Act 2007 (c. 22), s. 10(2).

² Words in table 2A and sub-para. (6)(d) omitted (21.9.08) by the National Insurance Contributions Act 2007 (c. 16), Sch. 1.

PART III

CONTRACTED-OUT EMPLOYMENT ETC

Introduction

3.—(1) This Part of this Schedule applies if the following condition is satisfied in relation to each tax week in the tax year concerned.

(2) The condition is that any earnings paid to or for the benefit of the pensioner in the tax week in respect of employment were in respect of employment qualifying him for a pension provided by a salary related contracted-out scheme or by a money purchase contracted-out scheme or by an appropriate personal pension scheme.

(3) If the condition is satisfied in relation to one or more tax weeks in the tax year Part II of this Schedule does not apply in relation to the year.

The amount

4. The amount for the year is amount C where—
- (a) amount C is equal to amount A minus amount B, and
 - (b) amounts A and B are calculated as follows.

Amount A

5.—(1) Amount A is to be calculated as follows.

- (2) If there is an assumed surplus in the pensioner's earnings factor for the year—
- (a) calculate the part of the surplus for that year falling into each of the bands specified in the appropriate table below;
 - (b) multiply the amount of each such part in accordance with the last order under section 148 of the Administration Act to come into force before the end of the final relevant year;
 - (c) multiply each amount found under paragraph (b) above by the percentage specified in the appropriate table in relation to the appropriate band;
 - (d) add together the amounts calculated under paragraph (c) above.

(3) The appropriate table for persons attaining pensionable age after the end of the first appointed year but before 6th April 2009 is as follows—

TABLE 3

<i>Amount of surplus</i>	<i>Percentage</i>	
Band 1.	Not exceeding LET	40 + 2N
Band 2.	Exceeding LET but not exceeding 3LET - 2QEF	10 + N/2
Band 3.	Exceeding 3LET - 2QEF	20 + N

(4) The appropriate table for persons attaining pensionable age on or after 6th April 2009 [1 where the tax year concerned falls before 2010-11] is as follows—

¹ In para. 5(4) words inserted in (4) (27.9.07) by the Pensions Act 2007 (c. 22), s. 10(3).

TABLE 4

<i>Amount of surplus</i>	<i>Percentage</i>
Band 1.	Not exceeding LET 40
Band 2.	Exceeding LET but not exceeding 3LET - 2QEF 10
Band 3.	Exceeding 3LET - 2QEF 20

[¹(4A) The appropriate table for persons attaining pensionable age on or after 6th April 2009 where the tax year concerned is 2010-11 or a subsequent tax year is as follows—

TABLE 4A

<i>Amount of surplus</i>	<i>Percentage</i>
Band 1.	Not exceeding LET 40
Band 2.	Exceeding LET [... ²] 10]

Amount B (first case)

6.—(1) Amount B is to be calculated in accordance with this paragraph if the pensioner's employment was entirely employment qualifying him for a pension provided by a salary related contracted-out scheme or by a money purchase contracted-out scheme.

- (2) If there is an assumed surplus in the pensioner's earnings factor for the year—
 - (a) multiply the amount of the assumed surplus in accordance with the last order under section 148 of the Administration Act to come into force before the end of the final relevant year;
 - (b) multiply the amount found under paragraph (a) above by the percentage specified in sub-paragraph (3) below.
- (3) The percentage is—
 - (a) 20 + N if the person attained pensionable age after the end of the first appointed year but before 6th April 2009;
 - (b) 20 if the person attained pensionable age on or after 6th April 2009.

Amount B (second case)

7.—(1) Amount B is to be calculated in accordance with this paragraph if the pensioner's employment was entirely employment qualifying him for a pension provided by an appropriate personal pension scheme.

- (2) If there is an assumed surplus in the pensioner's earnings factor for the year—
 - (a) calculate the part of the surplus for that year falling into each of the bands specified in the appropriate table below;
 - (b) multiply the amount of each such part in accordance with the last order under section 148 of the Administration Act to come into force before the end of the final relevant year;
 - (c) multiply each amount found under paragraph (b) above by the percentage specified in the appropriate table in relation to the appropriate band;

¹ Para. 5(4A) inserted (27.9.07) by the Pensions Act 2007 (c. 22), s. 10(3).

² Words in table 4A omitted (21.9.08) by the National Insurance Contributions Act 2008 (c. 16), Sch. 2.

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(d) add together the amounts calculated under paragraph (c) above.

(3) The appropriate table for persons attaining pensionable age after the end of the first appointed year but before 6th April 2009 is as follows—

TABLE 5

<i>Amount of surplus</i>	<i>Percentage</i>	
Band 1.	Not exceeding LET	40 + 2N
Band 2.	Exceeding LET but not exceeding 3LET - 2QEF	10 + N/2
Band 3.	Exceeding 3LET - 2QEF	20 + N

(4) The appropriate table for persons attaining pensionable age on or after 6th April 2009 [¹where the tax year concerned falls before 2010-11] is as follows—

TABLE 6

<i>Amount of surplus</i>	<i>Percentage</i>	
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET but not exceeding 3LET - 2QEF	10
Band 3.	Exceeding 3LET - 2QEF	20

[¹(4A) The appropriate table for persons attaining pensionable age on or after 6th April 2009 where the tax year concerned is 2010-11 or a subsequent tax year is as follows—

TABLE 6A

<i>Amount of surplus</i>	<i>Percentage</i>	
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET [... ²]	10]

Interpretation

8.—(1) In this Part of this Schedule “salary related contracted-out scheme”, “money purchase contracted-out scheme” and “appropriate personal pension scheme” have the same meanings as in the Pension Schemes Act 1993.

(2) For the purposes of this Part of this Schedule the assumed surplus in the pensioner’s earnings factor for the year is the surplus there would be in that factor for the year if section 48A(1) of the Pension Schemes Act 1993 (no primary Class 1 contributions deemed to be paid) did not apply in relation to any tax week falling in the year.

(3) Section 44A above shall be ignored in applying section 44(6) above for the purpose of calculating amount B.

(4) For the purposes of this Part of this Schedule—

- (a) the value of N is 0.5 for each tax year by which the tax year in which the pensioner attained pensionable age precedes 2009-10;
- (b) “LET” means the low earnings threshold for that year as specified in section 44A above;

¹ Words inserted in para. 7(4), para. 7(4A) inserted (27.9.07) by the Pensions Act 2007 (c. 22), s. 10(4) & (5).

² Words in table 6A omitted (21.9.08) by the National Insurance Contributions Act 2008 (c. 16), Sch. 2.

- (c) “QEF” is the qualifying earnings factor for the tax year concerned.
[...¹]

(5) In the calculation of “2QEF” the amount produced by doubling QEF shall be rounded to the nearest whole £100 (taking any amount of £50 as nearest to the previous whole £100).

(6) In this Part of this Schedule “final relevant year” has the same meaning as in section 44 above.

PART IV
OTHER CASES

9. The Secretary of State may make regulations containing provisions for finding the amount for a tax year in—

- (a) cases where the circumstances relating to the pensioner change in the course of the year;
- (b) such other cases as the Secretary of State thinks fit.]

[²SCHEDULE 4B

Section 45

ADDITIONAL PENSION: ACCRUAL RATES FOR PURPOSES OF SECTION 45(2)(D)

PART 1

AMOUNT FOR PURPOSES OF SECTION 45(2)(D)

1.—(1) The amount referred to in section 45(2)(d) is to be calculated as follows—

- (a) calculate the appropriate amount for each of the relevant years within section 45(2)(d) to which Part 2 of this Schedule applies;
- (b) calculate the appropriate amount for each of the relevant years within section 45(2)(d) to which Part 3 of this Schedule applies; and
- (c) add those amounts together.

(2) But if the resulting amount is a negative one, the amount referred to in section 45(2)(d) is nil.

PART 2

NORMAL RULES: EMPLOYMENT NOT CONTRACTED-OUT

Application

2. This Part applies to a relevant year if [³—

- (a)] the contracted-out condition is not satisfied in respect of any tax week in the year [³and
- (b) there is a surplus in the pensioner’s earnings factor for the year].

Appropriate amount for year

3. The appropriate amount for the year for the purposes of paragraph 1 is either—

- (a) the flat rate amount for the year (if [³the pensioner’s earnings factor for the year] does not exceed the LET), or
- (b) the sum of the flat rate amount and the earnings-related amount for the year (if [³that earnings factor] exceeds the LET).

¹ Para. 8(4)(d) omitted (21.9.08) by National Insurance Contributions Act 2008 (c. 16), Sch. 2.

² Sch. 4B inserted (27.9.07) by Pensions Act 2007 (c. 22), Sch. 2, para. 1.

³ Para. 2 of Sch. 4B becomes sub-para. (a) & new sub-para. (b) inserted, and words substituted in paras. 3(a) & (b) (3.1.12) by Pensions Act 2008 (c. 30), Sch. 4, paras. 12(2) & (3).

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4.^[1]—(1) Where the final relevant year is 2015-16 or an earlier tax year,] the flat rate amount for the year is calculated by multiplying the FRAA in accordance with the last order under section 148AA of the Administration Act to come into force before the end of the final relevant year.

[¹(2) Otherwise, the flat rate amount is calculated by increasing the FRAA by the percentage by which earnings factors for 2015-16 are directed to be increased by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.]

5. The earnings-related amount for the year is calculated as follows—

- (a) take the part of the [²earnings factor] for the year which exceeds the LET [...³];
- (b) multiply that amount in accordance with the last order under section 148 of the Administration Act to come into force before the end of the final relevant year;
- (c) multiply the amount found under paragraph (b) by 10%;
- (d) divide the amount found under paragraph (c) by 44.

PART 3

CONTRACTED-OUT EMPLOYMENT

Application

6. This Part applies to a relevant year if [²—

- (a) the contracted-out condition is satisfied in respect of each tax week in the year^[2], and
- (b) there would be a surplus in the pensioner's earnings factor for the year if section 48A of the Pension Schemes Act 1993 did not apply in relation to any tax week falling in the year.]

Appropriate amount for year

7. The appropriate amount for the year for the purposes of paragraph 1 is calculated as follows—

- (a) calculate amounts A and B in accordance with paragraphs 8 to 10;
- (b) subtract amount B from amount A.

Amount A: assumed [²earnings factor] not exceeding LET

8.—(1) [⁴Where the final relevant year is 2015-16 or an earlier tax year,] amount A is calculated in accordance with this paragraph if [²the pensioner's assumed earnings factor for the year] does not exceed the LET.

(2) In such a case, amount A is the flat rate amount for the year.

(3) The flat rate amount for the year is calculated by multiplying the FRAA in accordance with the last order under section 148AA of the Administration Act to come into force before the end of the final relevant year.

[⁴(4) Otherwise, the flat rate amount is calculated by increasing the FRAA by the percentage by which earnings factors for 2015-16 are directed to be increased by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.]

¹ Para. 4 re-numbered 4(1), words inserted & para. 4(2) added to Sch. 4B (6.4.16) by S.I. 2016/224, art. 2(5).

² Words substituted & inserted in paras. 5(a), 6 & 8(1), of Sch. 4B (3.1.12) by the Pensions Act 2008 (c. 30), Sch. 4, para. 12(4)-(6).

³ Words in para. 5(a) omitted (21.9.08) by National Insurance Contributions Act 2008 (c. 16), Sch. 2.

⁴ Words in para. 8(1) inserted & sub-para. (4) added (6.4.16) by S.I. 2016/224, art. 2(6).

Amount A: assumed [¹earnings factor] exceeding LET

9.—(1) Amount A is calculated in accordance with this paragraph [¹the pensioner's assumed earnings factor for the year] exceeds the LET.

(2) In such a case, amount A is calculated as follows—

- (a) take the part of the [¹assumed earnings factor] for the year which exceeds the LET [...²];
- (b) multiply that amount in accordance with the last order under section 148 of the Administration Act to come into force before the end of the final relevant year;
- (c) multiply the amount found under paragraph (b) by 10%;
- (d) divide the amount found under paragraph (c) by 44;
- (e) add the amount found under paragraph (d) to the flat rate amount for the year.

(3) [³Where the final relevant year is 2015-16 or an earlier tax year,] the flat rate amount for the year is calculated by multiplying the FRAA in accordance with the last order under section 148AA of the Administration Act to come into force before the end of the final relevant year.

[³(4) Otherwise, the flat rate amount is calculated by increasing the FRAA by the percentage by which earnings factors for 2015-16 are directed to be increased by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.]

Amount B

10.—(1) Amount B is calculated as follows—

- (a) take the part of the [⁴pensioner's assumed earnings factor] for the year which exceeds the QEF [...⁵]
- (b) multiply that amount in accordance with the last order under section 148 of the Administration Act to come into force before the end of the final relevant year;
- (c) multiply the amount found under paragraph (b) by 20%;
- (d) divide the amount found under paragraph (c) by the number of relevant years in the pensioner's working life.

(2) Section 44B is to be ignored in applying section 44(6) for the purposes of this paragraph.

PART 4

OTHER CASES

11. The Secretary of State may make regulations containing provision for finding for a tax year the amount referred to in section 45(2)(d)—

- (a) in cases where the circumstances relating to the pensioner change in the course of the year, and
- (b) in such other cases as the Secretary of State thinks fit.

¹ Words substituted & inserted in paras. 9(1) & (2)(a) of Sch. 4B (3.1.12) by the Pensions Act 2008 (c. 30), Sch. 4, para. 12(7).
² Words in para. 9(2)(a) omitted (21.9.08) by National Insurance Contributions Act 2008 (c. 16), Sch. 2.
³ Words in para. 9(3) of Sch. 4B inserted & sub-para. (4) added (6.4.16) by S.I. 2016/224, art. 2(7).
⁴ Words substituted in para. 10(1)(a) by Pensions Acts 2008 (c. 30), Sch. 4, para. 12(8).
⁵ Words in para. 10(1)(a) omitted (21.9.08) by National Insurance Contributions Act 2008 (c. 16), Sch. 2.

12. In this Schedule—

[...¹]

“the contracted-out condition”, in relation to a tax week, means the condition that any earnings paid to or for the benefit of the pensioner in that week in respect of employment were in respect of employment qualifying him for a pension provided by a salary related contracted-out scheme (within the meaning of the Pension Schemes Act 1993);

“the FRAA” has the meaning given by paragraph 13;

“the LET”, in relation to a tax year, means the low earnings threshold for the year as specified in section 44A above;

“the QEF”, in relation to a tax year, means the qualifying earnings factor for the year;

[²“the pensioner’s assumed earnings factor”, in relation to a year, means the earnings factor that the pensioner would have for the year if section 48A(1) of the Pension Schemes Act 1993 did not apply in relation to any tax week falling in the year;]

“relevant year” and “final relevant year” have the same meanings as in section 44 above.

[...³]

13.—(1) “The FRAA” means the flat rate accrual amount.

(2) [⁴Where the final relevant year is 2015-16 or an earlier tax year,] that amount is [⁵£91.00] for the flat rate introduction year and subsequent tax years (but subject to section 148AA of the Administration Act).]

[⁴(3) Otherwise, that amount is £93.60 for the flat rate introduction year and subsequent tax years.]

¹ Defn. of “assumed surplus” in para. 12 of Sch. 4B repealed (6.4.09) by Pensions Act 2008 (c. 30), s. 148 & Sch. 11, part 2.

² Defn. of “pensioner’s assumed earnings factor” inserted in para. 12 (3.1.12) by Pensions Acts 2008 (c. 30), Sch. 4, para. 12(9).

³ Defn. of “the UAP” in para. 12 deleted (21.9.08) by National Insurance Contributions Act 2008 (c. 16), Sch. 2.

⁴ Words in para. 13(2) & para. 13(3) inserted (6.4.16) by S.I. 2016/224, art. 2(8).

⁵ Amount in para. 13(2) of Sch. 4B revalued from £72.80 to £91.00 by art. 2 of S.I. 2013/529 as from 6.4.13.

SCHEDULE 5

[¹PENSION INCREASE OR LUMP SUM WHERE ENTITLEMENT TO RETIREMENT PENSION IS DEFERRED]

[¹*Choice between increase of pension and lump sum where pensioner's entitlement is deferred*

A1.—(1) Where a person's entitlement to a Category A or Category B retirement pension is deferred and the period of deferment is at least 12 months, the person shall, on claiming his pension or within a prescribed period after claiming it, elect in the prescribed manner either—

- (a) that paragraph 1 (entitlement to increase of pension) is to apply in relation to the period of deferment, or
- (b) that paragraph 3A (entitlement to lump sum) is to apply in relation to the period of deferment.

(2) If no election under sub-paragraph (1) is made within the period prescribed under that sub-paragraph, the person is to be treated as having made an election under sub-paragraph (1)(b).

(3) Regulations—

- (a) may enable a person who has made an election under sub-paragraph (1) (including one that the person is treated by sub-paragraph (2) as having made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and
- (b) if they enable a person to make an election under sub-paragraph (1)(b) in respect of a period of deferment after receiving any increase of pension under paragraph 1 by reference to that period, may for the purpose of avoiding duplication of payment—
 - (i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or
 - (ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 3A.

(4) Where the Category A or Category B retirement pension includes any increase under [²paragraphs 5 to 6A], no election under sub-paragraph (1) applies to so much of the pension as consists of that increase (an entitlement to an increase of pension in respect of such an increase after a period of deferment being conferred either by paragraphs 1 and 2 or by paragraph 2A).]

Increase of pension where pensioner's entitlement is deferred

[¹1.—(1) This paragraph applies where a person's entitlement to a Category A or Category B retirement pension is deferred and one of the following conditions is met—

- (a) the period of deferment is less than 12 months, or
- (b) the person has made an election under paragraph A1(1)(a) in relation to the period of deferment.

(2) The rate of the person's Category A or Category B retirement pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under paragraph 2, but only if that amount is enough to increase the rate of the pension by at least 1 per cent.]

¹ In Sch. 5, title substituted, para. A1 inserted & para. 1 substituted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by Pensions Act 2004 (c. 35), Sch. 11, paras. 3-5.

² In para. A1(4) words substituted by para. 5(2) of Sch. to S.I. 2005/2053 as from 5.12.05.

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2.—(1) Subject to paragraph 3 below, a person is entitled to an increment under this paragraph for each complete incremental period in his [¹period of enhancement].

(2) In this Schedule—

“incremental period” means any period of six days which are treated by regulations as days of increment for the purposes of this Schedule in relation to the person and the pension in question: [²and

“the period of enhancement”, in relation to that person and that pension, means the period which—

(a) begins on the same day as the period of deferment in question; and

(b) ends on the same day as that period or, if earlier, on the day before the 5th anniversary of the beginning of that period.]

(3) Subject to paragraph 3 below, the amount of the increment for any such incremental period shall be [³1/7th per cent.] of the weekly rate of the Category A or Category B retirement pension to which that person would have been entitled for the period if his entitlement had not been deferred.

(4) Where an amount is required to be calculated in accordance with the provisions of sub-paragraph (3) above—

(a) the amount so calculated shall be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny above; and

(b) where the amount so calculated would, apart from this sub-paragraph, be a sum less than 1/2p, that amount shall be taken to be zero, notwithstanding any other provision of this Act, the Pensions Act or the Administration Act.

(5) For the purposes of sub-paragraph (3) above the weekly rate of pension for any period shall be taken—

(a) to include any increase under section 47(1) above and any increase under [⁴paragraph 4, 5, 5A, 6 or 6A] below, but

(b) not to include any increase under section [...⁵], [⁶83A or] 85 above or any graduated retirement benefit.

(6) The reference in sub-paragraph (5) above to any increase under subsection (1) of section 47 above shall be taken as a reference to any increase that would take place under that subsection if subsection (2) of that section and [⁷section 46(5)] of the Pensions Act were disregarded.

(7) Where one or more orders have come into force under section 150 [⁸or 150A] of the Administration Act during the [⁹period of deferment], the rate for any incremental period shall be determined as if the order or orders had come into force before the beginning of the [⁹period of deferment].

¹ Words “period of enhancement” to be replaced with “period of deferment”, for incremental periods from 6.4.05, by Pensions Act 1995 (c. 26), Sch. 4, para. 6(2)(b).

² Definition of “period of enhancement” and the word “and” preceding it are to be repealed, for incremental periods from 6.4.05, by Pensions Act 1995 (c. 26), Sch. 4, para. 6(2)(a), and Sch. 7, Part II.

³ Words “1/7th per cent.” in para. 2(3) to be replaced with “1/5th per cent.” for incremental periods from 6.4.05 by Pensions Act 1995 (c. 26), Sch. 4, para. 6(3).

⁴ In para. 2(5)(a) words substituted by para. 5(3) of the Sch. to S.I. 2005/2053 as from 5.12.05.

⁵ Word in para. 2(5)(b) revoked (6.4.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details as to savings and transitional provisions.

⁶ Words in para. 2(5)(b) substituted (18.11.05 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 6(1).

⁷ Words in para. 2(6) substituted (7.2.94) by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 42(a).

⁸ Words inserted in para. 2(7) (26.7.07 for specified purposes, 26.9.07 for all other purposes) by the Pensions Act 2007 (c. 22), Sch. 1, para. 19.

⁹ Words substituted in para. 2(7) of Sch. 5, for incremental periods from 6.4.05, by Pensions Act 1995 (c. 26), Sch. 4, para. 6(2)(b).

(8) Where a pension's rights premium is paid in respect of a person who is, or if his entitlement had not been deferred would be, entitled to a Category A or Category B retirement pension, then, in calculating any increment under this paragraph which falls to be paid to him in respect of such a pension after the date on which the premium is paid there shall be disregarded any guaranteed minimum pension to which the pensioner was entitled in connection with the employment to which the premium relates.

[¹2A.—(1) This paragraph applies where—

- (a) a person's entitlement to a Category A or Category B retirement pension is deferred,
- (b) the pension includes an increase under [²paragraphs 5 to 6A], and
- (c) the person has made (or is treated as having made) an election under paragraph A1(1)(b) in relation to the period of deferment.

(2) The rate of the person's Category A or Category B retirement pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under sub-paragraph (3).

(3) For each complete incremental period in the person's period of deferment, the amount of the increment shall be 1/5th per cent. of the weekly rate of the increase to which the person would have been entitled under [²paragraphs 5 to 6A] for the period if his entitlement to the Category A or Category B retirement pension had not been deferred.]

3.—(1) Regulations may provide that sub-paragraphs (1) to (3) of paragraph 2 above shall have effect with such additions, omissions and amendments as are prescribed in relation to a person during whose [³period of deferment] there has been a change, other than a change made by such an order as is mentioned in sub-paragraph (7) of that paragraph, in the rate of the Category A or Category B retirement pension to which he would have been entitled if his entitlement to the pension had commenced on attaining pensionable age.

(2) Any regulations under this paragraph may make such consequential additions, omissions and amendments in paragraph 8(3) below as the Secretary of State considers are appropriate in consequence of any changes made by virtue of this paragraph in paragraph 2 above.

For paras. 4 to 7, see also S.I. 2001/1085 at page 3.8391 for modifications relating to inherited SERPS from 6.10.02.

[⁴Lump sum where pensioner's entitlement is deferred

3A.—(1) This paragraph applies where—

- (a) a person's entitlement to a Category A or Category B retirement pension is deferred, and
- (b) the person has made (or is treated as having made) an election under paragraph A1(1)(b) in relation to the period of deferment.

(2) The person is entitled to an amount calculated in accordance with paragraph 3B (a "lump sum").

¹ Para. 2A inserted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 7.

² In para. 2A(1)(b) & (3) words substituted by para. 5(4) of the Sch. to S.I. 2005/2053 as from 5.12.05.

³ Words substituted in para. 3(1) of Sch. 5, for incremental periods from 6.4.05, by Pensions Act 1995 (c. 26), Sch. 4, para. 6(2)(b).

⁴ Paras. 3A, 3B & 3C inserted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, paras. 8 & 9.

Calculation of lump sum

3B.—(1) The lump sum is the accrued amount for the last accrual period beginning during the period of deferment.

(2) In this paragraph—

‘accrued amount’ means the amount calculated in accordance with sub-paragraph (3);

‘accrual period’ means any period of seven days beginning with a prescribed day of the week, where that day falls within the period of deferment.

(3) The accrued amount for an accrual period for a person is—

$$(A + P) \times 52 \sqrt[100]{1 + \frac{R}{100}}$$

where—

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period of deferment, zero);

P is the amount of the Category A or Category B retirement pension to which the person would have been entitled for the accrual period if his entitlement had not been deferred;

R is—

- (a) a percentage rate two per cent. higher than the Bank of England base rate, or
- (b) if regulations so provide, such higher rate as may be prescribed.

(4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—

- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
- (b) if regulations so provide, at such other time as may be prescribed.

(5) For the purposes of the calculation of the lump sum, the amount of Category A or Category B retirement pension to which the person would have been entitled for an accrual period—

- (a) includes any increase under section 47(1) and any increase under paragraph 4 of this Schedule, but
- (b) does not include—
 - (i) any increase under section 83A or 85 or [1paragraphs 5 to 6A] of this Schedule,
 - (ii) any graduated retirement benefit, or
 - (iii) in prescribed circumstances, such other amount of Category A or Category B retirement pension as may be prescribed.

(6) The reference in sub-paragraph (5)(a) to any increase under subsection (1) of section 47 shall be taken as a reference to any increase that would take place under that subsection if subsection (2) of that section and section 46(5) of the Pensions Act were disregarded.

Choice between increase of pension and lump sum where pensioner's deceased spouse [1or civil partner] has deferred entitlement

3C.—(1) Subject to paragraph 8, this paragraph applies where—

- (a) a [1widow, widower or surviving civil partner] (“W”) is entitled to a Category A or Category B retirement pension,
- (b) W was married to [1or was the civil partner of] the other party to the marriage [1civil partnership] (“S”) when S died,

¹ In paras. 3B(5)(b)(i) & 3C(1) words inserted (for reg. making purposes under this para. only) by para. 5(6) of the Sch. to S.I. 2005/2053 as from 5.12.05.

- (c) S's entitlement to a Category A or Category B retirement pension was deferred when S died, and
- (d) S's entitlement had been deferred throughout the period of 12 months ending with the day before S's death.

- (2) W shall within the prescribed period elect in the prescribed manner either—
- (a) that paragraph 4 (entitlement to increase of pension) is to apply in relation to S's period of deferment, or
 - (b) that paragraph 7A (entitlement to lump sum) is to apply in relation to S's period of deferment.

(3) If no election under sub-paragraph (2) is made within the period prescribed under that sub-paragraph, W is to be treated as having made an election under sub-paragraph (2)(b).

- (4) Regulations—
- (a) may enable a person who has made an election under sub-paragraph (2) (including one that the person is treated by sub-paragraph (3) as having made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and
 - (b) if they enable a person to make an election under sub-paragraph (2)(b) in respect of a period of deferment after receiving any increase of pension under paragraph 4 by reference to that period, may for the purpose of avoiding duplication of payment—
 - (i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or
 - (ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 7A.

(5) The making of an election under sub-paragraph (2)(b) does not affect the application of [paragraphs 5 to 6A] (which relate to an increase in pension where the pensioner's deceased spouse [or civil partner] had deferred an entitlement to a guaranteed minimum pension).]

Increase of pension where pensioner's deceased spouse [or civil partner] has deferred entitlement

4.—^[2](1) Subject to paragraph 8, this paragraph applies where a [widow, widower or surviving civil partner] (“W”) is entitled to a Category A or Category B retirement pension and was married to [or was the civil partner of] the other party to the marriage [or civil partnership] (“S”) when S died and one of the following conditions is met—

- (a) S was entitled to a Category A or Category B retirement pension with an increase under this Schedule,
- (b) W is a [widow, widower or surviving civil partner] to whom paragraph 3C applies and has made an election under paragraph 3C(2)(a), or
- (c) paragraph 3C would apply to W but for the fact that the condition in sub-paragraph (1)(d) of that paragraph is not met.

- (1A) Subject to sub-paragraph (3), the rate of W's pension shall be increased—
- (a) in a case falling within sub-paragraph (1)(a), by an amount equal to the increase to which S was entitled under this Schedule, apart from [paragraphs 5 to 6A [³(as those provisions have effect by virtue of section 2(7) of the Pensions Act 2011)]],

¹ In paras. 3C(5) & 4 words substituted & inserted by para. 5 of the Sch. to S.I. 2005/2053 as from 5.12.05.

² Para. 4(1) substituted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by Pensions Act 2004 (c. 35), Sch. 11, para. 10.

³ Words inserted in para. 4(1A)(a) (6.4.12) by Pensions Act 2011 (c. 19), Sch. 2, para. 3(7).

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- (b) in a case falling within sub-paragraph (1)(b), by an amount equal to the increase to which S would have been entitled under this Schedule, apart from [¹paragraphs 5 to 6A [²(as those provisions have effect by virtue of section 2(7) of the Pensions Act 2011)]], if the period of deferment had ended immediately before S's death and S had then made an election under paragraph A1(1)(a), or
- (c) in a case falling within sub-paragraph (1)(c), by an amount equal to the increase to which S would have been entitled under this Schedule, apart from [¹paragraphs 5 to 6A [²(as those provisions have effect by virtue of section 2(7) of the Pensions Act 2011)]], if the period of deferment had ended immediately before S's death.]

There is no longer a sub-para. (2) in this para.

(3) If a married person dies after [³5th October 2002] [¹or a civil partner dies on or after 5th December 2005], the rate of the retirement pension for that person's [¹widow, widower or surviving civil partner] shall be increased by an amount equivalent to the sum of—

- (a) the increase in the basic pension to which the deceased spouse [¹or civil partner] was entitled; and
- (b) one-half of the increase in the additional pension,

(4) In any case where—

- (a) there is a period between the death of the former spouse [¹or civil partner] and the date on which the surviving spouse [¹or civil partner] becomes entitled to a Category A or Category B retirement pension, and
- (b) one or more orders have come into force under section 150 of the Administration Act during that period,

the amount of the increase to which the surviving spouse [¹or civil partner] is entitled under this paragraph shall be determined as if the order or orders had come into force before the beginning of that period.

(5) This paragraph does not apply in any case where the deceased spouse died before 6th April 1979 and the widow or widower attained pensionable age before that date.

[⁴5—(1) Where—

- (a)* a [¹widow, widower or surviving civil partner] (call that person 'W') is entitled to a Category A or Category B retirement pension and was married to [¹or was the civil partner of] the other party to the marriage [¹or civil partnership] (call that person 'S') when S died, and
- (b) S either—
 - (i) was entitled to a guaranteed minimum pension with an increase under section 15(1) of the Pensions Act, or
 - (ii) would have been so entitled if S had retired on the date of S's death, the rate of W's pension shall be increased by the following amount.

**Where W is a man reaching pensionable age before 6.4.2010, head (a) of para. 5(1) is treated as also requiring him to have been over pensionable age when S died (see Pensions Act 1995 (c. 26), Sch. 4, para. 21(16)).*

(2) The amount is—

¹ In paras. 4(1A)(b), (c), (4), (5) & 5(1)(a) words substituted & inserted by paras. 5(7) & (8) of the Sch. to S.I. 2005/2053 as from 5.12.05.

² Words inserted in paras. 4(1A)(b) & (c) (6.4.12) by Pensions Act 2011 (c. 19), Sch. 2, para. 3(7).

³ Words substituted in para. 4(3) (28.7.00) by s. 39 of Child Support, Pensions and Social Security Act 2000 (c. 19).

⁴ Paras. 5, 5A and 6 substituted (19.7.95) for paras. 5 and 6 by Pensions Act 1995 (c. 26), Sch. 4, para. 21(15).

- (a) where W is a widow, an amount equal to the sum of the amount set out in paragraph 5A(2) or (3) below (as the case may be), [...]¹
- (b) where W is a widower, an amount equal to the sum of the amounts set out in paragraph 6(2), (3) or (4) below (as the case may be) [¹, and
- (c) where W is a surviving civil partner, an amount equal to the sum of the amounts set out in paragraph 6A(2) below].

5A.—(1) This paragraph applies where W (referred to in paragraph 5 above) is a widow.

(2) Where the husband dies before [²6th October 2002], the amounts referred to in paragraph 5(2)(a) above are the following—

- (a) an amount equal to one-half of the increase mentioned in paragraph 5(1)(b) above,
- (b) the appropriate amount, and
- (c) an amount equal to any increase to which the husband had been entitled under paragraph 5 above.

(3) Where the husband dies after [²5th October 2002], the amounts referred to in paragraph 5(2)(a) above are the following—

- (a) one-half of the appropriate amount [...]³, and
- (b) one-half of any increase to which the husband had been entitled under paragraph 5 above.

6.—(1) This paragraph applies where W (referred to in paragraph 5 above) is a widower or

(2) Where the wife dies before 6th April 1989, the amounts referred to in paragraph 5(2)(b) above are the following—

- (a) an amount equal to the increase mentioned in paragraph 5(1)(b) above,
- (b) the appropriate amount, and
- (c) an amount equal to any increase to which the wife had been entitled under paragraph 5 above.

(3) Where the wife dies after 5th April 1989 but before [²6th October 2002], the amounts referred to in paragraph 5(2) above are the following—

- (a) the increase mentioned in paragraph 5(1)(b) above, so far as attributable to employment before 6th April 1988,
- (b) one-half of that increase, so far as attributable to employment after 5th April 1988.
- (c) the appropriate amount reduced by the amount of any increases under Section 109 of the Pensions Act, and
- (d) any increase to which the wife had been entitled under paragraph 5 above.

(4) Where the wife dies after [²5th October 2002], the amounts referred to in paragraph 5(2)(b) above are the following—

- (a) one-half of the increase mentioned in paragraph 5(1)(b) above, so far as attributable to employment before 6th April 1988,

¹ In para. 5(2)(a) word omitted & para. (c) and preceding word inserted by para. 6(8)(b) of the Sch. to S.I. 2005/2053 as from 5.12.05.

² Words substituted in paras. 5A & 6 (28.7.00) by s. 39 of Child Support, Pensions and Social Security Act 2000 (c. 19).

³ Words in s. 5A(3)(a) repealed (26.9.07) by Pensions Act 2007 (c. 22), Schs. 1, paras. 20 & 7, part 3.

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- (b) one-half of the appropriate amount [...]¹, and
- (c) one-half of any increase to which the wife had been entitled under paragraph 5 above].

[²6A.—(1) This paragraph applies where W (referred to in paragraph 5 above) is a surviving civil partner.

(2) The amounts referred to in paragraph 5(2)(c) above are the following—

- (a) one-half of the increase mentioned in paragraph 5(1)(b) above, so far as attributable to employment before 6th April 1988,
- (b) one-half of the appropriate amount [...]¹, and
- (c) one-half of any increase to which the deceased civil partner had been entitled under paragraph 5 above.]

7.—(1) For the purpose of [²paragraphs 5 to 6A] above, the “appropriate amount” means the greater of—

- (a) the amount by which the deceased person’s Category A or Category B retirement pension had been increased [³by virtue of section 150(1)(e)] of the Administration Act; or
- (b) the amount by which his Category A or Category B retirement pension would have been so increased had he died immediately before his surviving spouse [²or civil partner] became entitled to a Category A or Category B retirement pension.

(2) Where an amount is required to be calculated in accordance with the provisions of [²paragraphs 5, 5A, 6 or 6A] or sub-paragraph (1) above—

- (a) the amount so calculated shall be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny above; and
- (b) where the amount so calculated would, apart from this sub-paragraph, be a sum less than 1/2p, that amount shall be taken to be zero, notwithstanding any other provision of this Act, the Pensions Act or the Administration Act.

Ss. 5, 5A, 6, 6A & 7 omitted by s. 2(5) of the Pensions Act 2011 (c. 30) but continues to apply in certain circumstances referred in s. 2(7) of 2011 (c. 30).

[⁴Entitlement to lump sum where pensioner’s deceased spouse [⁵or civil partner] has deferred entitlement

7A.—(1) This paragraph applies where a person to whom paragraph 3C applies (“W”) has made (or is treated as having made) an election under paragraph 3C(2)(b).

(2) W is entitled to an amount calculated in accordance with paragraph 7B (a “widowed person’s [⁵or surviving civil partner’s] lump sum”).

Calculation of widowed person’s [⁵or surviving civil partner’s] lump sum

7B.—(1) The widowed person’s [⁵or surviving civil partner’s] lump sum is the accrued amount for the last accrual period beginning during the period which—

¹ Words in paras. 6(4)(b) & 6A(2)(b) repealed (26.9.07) by Pensions Act 2007 (c. 22), Sch. 1, para. 20 & Sch. 7, part 3.

² Para. 6A inserted & words in para. 7, substituted & inserted by paras. 6(9)-(10) of the Sch. to S.I. 2005/2053 as from 5.12.05.

³ Words in para. 7(1)(a) substituted (13.4.95) by para. 40 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

⁴ Paras. 7A, 7B & 7C inserted (18.11.04 for reg. making purposes, 6.4.05 for any other purposes) by Pensions Act 2004 (c. 35), Sch. 11, paras. 11 & 12

⁵ Words in paras. 7A & 7B substituted & inserted by paras. 6(11)-(12) of the Sch. to S.I. 2005/2053 as from 5.12.05.

- (a) began at the beginning of S's period of deferment, and
- (b) ended on the day before S's death.

(2) In this paragraph—

- 'S' means the other party to the marriage [¹or civil partnership];
- 'accrued amount' means the amount calculated in accordance with sub-paragraph (3);
- 'accrual period' means any period of seven days beginning with a prescribed day of the week, where that day falls within S's period of deferment.

(3) The accrued amount for an accrual period for W is—

$$(A + P) \times 52 \sqrt[100]{1 + \frac{R}{100}}$$

where—

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period mentioned in sub-paragraph (1), zero);
P is—

- (a) the basic pension, and
- (b) half of the additional pension, to which S would have been entitled for the accrual period if his entitlement had not been deferred during the period mentioned in sub-paragraph (1);

R is—

- (a) a percentage rate two per cent. higher than the Bank of England base rate, or
- (b) if regulations so provide, such higher rate as may be prescribed.

(4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—

- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
- (b) if regulations so provide, at such other time as may be prescribed.

(5) For the purposes of the calculation of the widowed person's [¹or surviving civil partner's] lump sum, the amount of Category A or Category B retirement pension to which S would have been entitled for an accrual period—

- (a) includes any increase under section 47(1) and any increase under paragraph 4 of this Schedule, but
- (b) does not include—
 - (i) any increase under section 83A or 85 or [¹paragraphs 5 to 6A] of this Schedule,
 - (ii) any graduated retirement benefit, or
 - (iii) in prescribed circumstances, such other amount of Category A or Category B retirement pension as may be prescribed.

(6) The reference in sub-paragraph (5)(a) to any increase under subsection (1) of section 47 shall be taken as a reference to any increase that would take place under that subsection if subsection (2) of that section and section 46(5) of the Pensions Act were disregarded.

(7) In any case where—

- (a) there is a period between the death of S and the date on which W becomes entitled to a Category A or Category B retirement pension, and

¹ Words in para. 7B(2) & (5) substituted & inserted by para. 6(12)(b) & (c) of the Sch. to S.I. 2005/2053 as from 5.12.05.

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- (b) one or more orders have come into force under section 150 of the Administration Act during that period,

the amount of the lump sum shall be increased in accordance with that order or those orders.

Supplementary

7C(1) Any lump sum calculated under paragraph 3B or 7B must be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny above.

(2) In prescribing a percentage rate for the purposes of paragraphs 3B and 7B, the Secretary of State must have regard to—

- (a) the national economic situation, and
(b) any other matters which he considers relevant.]

[¹Married couples [²and civil partners]]

[³8—(1) For the purposes of paragraphs 1 to 3 above in their application to a Category B retirement pension to which a married woman is entitled by virtue of her husband's contributions, a married woman who would have become entitled to such a pension on an earlier day if her husband's entitlement to his Category A retirement pension had not been deferred shall be treated as having (in addition to any other period of enhancement) a period of enhancement which begins on that earlier day and ends on the same day as her husband's period of enhancement.

(2) the reference in sub-paragraph (1) above to the day on which the woman's husband's period of enhancement ends shall, where the marriage is terminated before that day, be construed as a reference to the day on which the marriage is terminated.]

(3) [...⁴]

[⁵(4) The conditions in paragraph 3C(1)(c) and 4(1)(a) are not satisfied by a Category B retirement pension to which S was or would have been entitled by virtue of W's contributions.]

(5) Where the Category A retirement pension to which S was or would have been entitled includes an increase under section 51A(2) attributable to W's contributions, the increase or lump sum to which W is entitled under paragraph 4(1A) or 7A(2) is to be calculated as if there had been no increase under that section.

(6) In sub-paragraphs (4) and (5), "W" and "S" have the same meaning as in paragraph 3C, 4 or 7A, as the case requires.]

Uprating

9. The sums which are the increases in the rates of retirement pension under this Schedule are subject to alteration by order made by the Secretary of State under section 150 of the Administration Act.

Uprating percentages applicable to increments under such Orders are included in the table in volume 1 at pages 1.7751-3.

¹ Heading to para. 8 substituted (18.11.04 for reg. making purposes, 6.4.05 for any other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 13.

² In para. 8 words inserted by para. 13 of the Sch. to S.I. 2005/2053 as from 5.12.05.

³ Para. 8(1) and (2) to be repealed for incremental periods from 6.4.05 by Pensions Act 1995 (c. 26), Sch. 4, para. 6(4), and Sch. 7, Part II.

⁴ Para. 8(3) of Sch. 5 omitted (6.4.10) by the Pensions Act 2007 (c. 22), Sch. 1, para. 8.

⁵ Para. 8(4) substituted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 14(b).

[¹SCHEDULE 5APENSION INCREASE OR LUMP SUM WHERE ENTITLEMENT TO SHARED
ADDITIONAL PENSION IS DEFERRED*Choice between pension increase and lump sum where entitlement to shared
additional pension is deferred*

1.—(1) Where a person's entitlement to a shared additional pension is deferred and the period of deferment is at least 12 months, the person shall, on claiming his pension or within a prescribed period after claiming it, elect in the prescribed manner either—

- (a) that paragraph 2 (entitlement to increase of pension) is to apply in relation to the period of deferment, or
- (b) that paragraph 4 (entitlement to lump sum) is to apply in relation to the period of deferment.

(2) If no election under sub-paragraph (1) is made within the period prescribed under that sub-paragraph, the person is to be treated as having made an election under sub-paragraph (1)(b).

(3) Regulations—

- (a) may enable a person who has made an election under sub-paragraph (1) (including one that the person is treated by sub-paragraph (2) as having made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and
- (b) if they enable a person to make an election under sub-paragraph (1)(b) in respect of a period of deferment after receiving any increase of pension under paragraph 2 by reference to that period, may for the purpose of avoiding duplication of payment—
 - (i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or
 - (ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 4.

Increase of pension where entitlement deferred

2.—(1) This paragraph applies where a person's entitlement to a shared additional pension is deferred and either—

- (a) the period of deferment is less than 12 months, or
- (b) the person has made an election under paragraph 1(1)(a) in relation to the period of deferment.

(2) The rate of the person's shared additional pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under paragraph 3, but only if that amount is enough to increase the rate of the pension by at least 1 per cent.

¹ Sch. 5A inserted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 15.

Calculation of increment

3.—(1) A person is entitled to an increment under this paragraph for each complete incremental period in his period of deferment.

(2) The amount of the increment for an incremental period shall be $\frac{1}{5}$ th per cent. of the weekly rate of the shared additional pension to which the person would have been entitled for the period if his entitlement had not been deferred.

(3) Amounts under sub-paragraph (2) shall be rounded to the nearest penny, taking any $\frac{1}{2}$ p as nearest to the next whole penny.

(4) Where an amount under sub-paragraph (2) would, apart from this sub-paragraph, be a sum less than $\frac{1}{2}$ p, the amount shall be taken to be zero, notwithstanding any other provision of this Act, the Pensions Act or the Administration Act.

(5) In this paragraph “incremental period” means any period of six days which are treated by regulations as days of increment for the purposes of this paragraph in relation to the person and pension in question.

(6) Where one or more orders have come into force under section 150 of the Administration Act during the period of deferment, the rate for any incremental period shall be determined as if the order or orders had come into force before the beginning of the period of deferment.

(7) The sums which are the increases in the rates of shared additional pension under this paragraph are subject to alteration by order made by the Secretary of State under section 150 of the Administration Act.

Lump sum where entitlement to shared additional pension is deferred

4.—(1) This paragraph applies where—

- (a) a person’s entitlement to a shared additional pension is deferred, and
- (b) the person has made (or is treated as having made) an election under paragraph 1(1)(b) in relation to the period of deferment.

(2) The person is entitled to an amount calculated in accordance with paragraph 5 (a “lump sum”).

Calculation of lump sum

5.—(1) The lump sum is the accrued amount for the last accrual period beginning during the period of deferment.

(2) In this paragraph—

- ‘accrued amount’ means the amount calculated in accordance with sub-paragraph (3);
- ‘accrual period’ means any period of seven days beginning with a prescribed day of the week, where that day falls within the period of deferment.

(3) The accrued amount for an accrual period for a person is—

$$(A + P) \times 52 \sqrt[100]{1 + \frac{R}{100}}$$

where—

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period of deferment, zero);

P is the amount of the shared additional pension to which the person would have been entitled for the accrual period if his entitlement had not been deferred;

R is—

- (a) a percentage rate two per cent. higher than the Bank of England base rate, or
- (b) if a higher rate is prescribed for the purposes of paragraphs 3B and 7B of Schedule 5, that higher rate.

(4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—

- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
- (b) if regulations so provide, at such other time as may be prescribed.

(5) For the purpose of the calculation of the lump sum, the amount of the shared additional pension to which the person would have been entitled for an accrual period does not include, in prescribed circumstances, such amount as may be prescribed.

(6) The lump sum must be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny.]

SCHEDULE 6

ASSESSMENT OF EXTENT OF DISABLEMENT

General provisions as to method of assessment

1. For the purposes of section [...] 103 above and Part II of Schedule 7 to this Act, the extent of disablement shall be assessed, by reference to the disabilities incurred by the claimant as a result of the relevant loss of faculty, in accordance with the following general principles—

- (a) except as provided in paragraphs (b) to (d) below, the disabilities to be taken into account shall be all disabilities so incurred (whether or not involving loss of earning power or additional expense) to which the claimant may be expected, having regard to his physical and mental condition at the date of the assessment, to be subject during the period taken into account by the assessment as compared with a person of the same age and sex whose physical and mental condition is normal;
- (b) [...] regulations may make provisions to the extent (if any) to which any disabilities are to be taken into account where they are disabilities which, though resulting from the relevant loss of faculty, also result, or without the relevant accident might have been expected to result, from a cause other than the relevant accident;
- (c) the assessment shall be made without reference to the particular circumstances of the claimant other than age, sex, and physical and mental condition;
- (d) the disabilities resulting from such loss of faculty as may be prescribed shall be taken as amounting to 100 per cent. disablement and other disabilities shall be assessed accordingly.

2. Provision may be made by regulations for further defining the principles on which the extent of disablement is to be assessed and such regulations may in particular direct that a prescribed loss of faculty shall be treated as resulting in a prescribed degree of disablement; and, in connection with any such direction, nothing in paragraph 1(c) above prevents the making of different provision, in the case of loss of faculty in or affecting hand or arm, for right-handed and for left-handed persons.

3. Regulations under paragraph 1(d) or 2 above may include provision—

- (a) for adjusting or reviewing an assessment made before the date of the coming into force of those regulations;
- (b) for any resulting alteration of that assessment to have effect as from that date;

so however that no assessment shall be reduced by virtue of this paragraph.

4-5. [...]

¹ Words in para. 1, and paras. 4 and 5, repealed (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 88 of the Welfare Reform and Pensions Act 1999 (c. 30).

Disablement benefit

6.—(1) Subject to sub-paragraphs (2) and (3) below, the period to be taken into account by an assessment for the purposes of section 103 above and Part II of Schedule 7 to this Act of the extent of a claimant's disablement shall be the period (beginning not earlier than the end of the period of 90 days referred to in section 103(6) above and in paragraph 9(3) of that Schedule and limited by reference either to the claimant's life or to a definite date) during which the claimant has suffered and may be expected to continue to suffer from the relevant loss of faculty.

(2) if on any assessment the condition of the claimant is not such, having regard to the possibility of changes in that condition (whether predictable or not), as to allow of a final assessment being made up to the end of the period provided by sub-paragraph (1) above, then, subject to sub-paragraph (3) below—

- (a) a provisional assessment shall be made, taking into account such shorter period only as seems reasonable having regard to his condition and that possibility; and
- (b) on the next assessment the period to be taken into account shall begin with the end of the period taken into account by the provisional assessment.

(3) where the assessed extent to a claimant's disablement amounts to less than 14 per cent., then, subject to sub-paragraphs (4) and (5) below, that assessment shall be a final assessment and the period to be taken into account by it shall not end before the earliest date on which it seems likely that the extent of the disablement will be less than 1 per cent.

(4) Sub-paragraph (3) above does not apply in any case where it seems likely that—

- (a) the assessed extent of the disablement will be aggregated with the assessed extent of any present disablement, and
- (b) that aggregate will amount to 14 per cent. or more.

(5) Where the extent of the claimant's disablement is assessed at different percentages for different parts of the period taken into account by the assessment, then—

- (a) sub-paragraph (3) above does not apply in relation to the assessment unless the percentage assessed for the latest part of that period is less than 14 per cent., and
- (b) in any such case that sub-paragraph shall apply only in relation to that part of that period (and subject to sub-paragraph (4) above).

7. An assessment for the purposes of section 103 above and Part II of Schedule 7 to this Act shall—

- (a) state the degree of disablement in the form of a percentage;
- (b) specify the period taken into account by the assessment; and
- (c) where that period is limited by reference to a definite date, specify whether the assessment is provisional or final;

but the percentage and the period shall not be specified more particularly than is necessary for the purpose of determining in accordance with section 103 above and Parts II and IV of Schedule 7 to this Act the claimant's rights as to disablement pension or gratuity and reduced earnings allowance (whether or not a claim has been made).

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Special provision as to entitlement to constant attendance allowance, etc.

- 8.—(1) For the purpose of determining whether a person is entitled—
- (a) to an increase of a disablement pension under section 104 above; or
 - (b) to a corresponding increase of any other benefit by virtue of paragraph 6(4)(b) or 7(2)(b) of Schedule 8 to this Act,

regulations may provide for the extent of the person's disablement resulting from the relevant injury or disease to be determined in such manner as may be provided for by the regulations by reference to all disabilities to which that person is subject which result either from the relevant injury or disease or from any other injury or disease in respect of which there fall to be made to the person payments of any of the descriptions listed in sub-paragraph (2) below.

- (2) Those payments are—
- (a) payments by way of disablement pension
 - (b) payments by way of benefit under paragraph 4 or 7(1) of Schedule 8 to this Act; or
 - (c) payments in such circumstances as may be prescribed by way of such other benefit as may be prescribed (being benefit in connection with any hostilities or with service as a member of Her Majesty's forces or of such other organisation as may be specified in the regulations).

SCHEDULE 7

INDUSTRIAL INJURIES BENEFITS

PART I

UNEMPLOYABILITY SUPPLEMENT

Availability

1. This Part of this Schedule applies only in relation to persons who were beneficiaries in receipt of unemployability supplement under section 58 of the 1975 Act immediately before 6th April 1987.

Rate and duration

2.—(1) The weekly rate of a disablement pension shall, if as the result of the relevant loss of faculty the beneficiary is incapable of work and likely to remain so permanently, be increased by the amount specified in Schedule 4, Part V, paragraph 5.

(2) An increase of pension under this paragraph is referred to in this Act as an “unemployability supplement”.

(3) For the purposes of this paragraph a person may be treated as being incapable of work and likely to remain so permanently, notwithstanding that the loss of faculty is not such as to prevent him being capable of work, if it is likely to prevent his earnings in a year exceeding a prescribed amount not less than £104.

(4) An unemployability supplement shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

Increase of unemployability supplement

3.—(1) Subject to the following provisions of this paragraph, if on the qualifying date the beneficiary was—

- (a) a man under the age of 60, or
- (b) a woman under the age of 55,

the weekly rate of unemployability supplement shall be increased by the appropriate amount specified in Schedule 4, Part V, paragraph 6.

(2) Where for any period the beneficiary is entitled to a Category A or Category B retirement pension [...] and the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) above, for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under this paragraph and the beneficiary shall be entitled to an increase only if there is a balance after that deduction and, if there is such a balance, only to an amount equal to it.

(3) In this paragraph “the relevant amount” means an amount equal to the additional pension reduced by the amount of any reduction in the weekly rate of the retirement [...] made by virtue of [section 46] of the Pensions Act.

Where there is entitlement to a guaranteed minimum pension, para. 3(3) is modified (7.2.94) by s. 46(6) of the Pension Schemes Act 1993 (c. 48).

[⁴(3A) In sub-paragraphs (2) and (3) above references to additional pension do not include any amount of additional pension attributable to units of additional pension.

(3B) for units of additional pension, see section 14A.]

(4) In this paragraph references to an additional pension are references to that pension after any increase under section 52(3) above but without any increase under paragraphs 1 and 2 of Schedule 5 to this Act.

(5) In this paragraph “the qualifying date” means, subject to sub-paragraphs (6) and (7) below, the beginning of the first week for which the beneficiary qualified for unemployability supplement.

(6) If the incapacity for work in respect of which unemployability supplement is payable forms part of a period of interruption of employment which has continued from a date earlier than the date fixed under sub-paragraph (5) above, the qualifying date means the first day in that period which is a day of incapacity for work, or such earlier day as may be prescribed.

¹ Words in para. 3(2) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 41(2)(a) and Sch. 2.

² Words “or invalidity pension” in para. 3(3) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18) Sch. 1, para. 41(2)(b) and Sch. 2.

³ Words in para. 3(3) substituted (7.2.94) by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 43(a).

⁴ Paras. (3A) & (3B) inserted (12.10.15) by art. 3 of S.I. 2014/3213.

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(7) Subject to sub-paragraph (6) above, if there have been two or more periods for which the beneficiary was entitled to unemployability supplement, the qualifying date shall be, in relation to unemployability supplement for a day in any one of those periods, the beginning of the first week of that period.

(8) For the purpose of sub-paragraph (7) above—

- (a) a break of more than 8 weeks in entitlement to unemployability supplement means that the periods before and after the break are two different periods; and
- (b) a break of 8 weeks or less is to be disregarded.

(9) The Secretary of State may by regulations provide that sub-paragraph (8) above shall have effect as if for the references to 8 weeks there were substituted references to a larger number of weeks specified in the regulations.

(10) In this paragraph “period of interruption of employment” has the same meaning as [1a jobseeking period and any period linked to such a period has for the purposes of the Jobseekers Act 1995.]

(11) The provisions of this paragraph are subject to [2section 46(6) and (7) (entitlement to guaranteed minimum pensions and increases of unemployability supplement)].

Increase for beneficiary’s dependent children [3and qualifying young persons]

4.—(1) Subject to the provisions of this paragraph and paragraph 5 below, the weekly rate of a disablement pension where the beneficiary is entitled to an unemployability supplement shall be increased for any period during which the beneficiary is entitled to child benefit in respect of [3one or more children or qualifying young persons].

(2) The amount of the increase shall be as specified in Schedule 4, Part V, paragraph 7.

(3) In any case where—

- [4(a) a beneficiary is one of two persons who are—
 - (i) spouses or civil partners residing together,
 - (ii) a man and woman who are not married to each other but are living together as if they were husband and wife, or

¹ Words in para. 3(10) substituted (7.10.96) for “it has for the purposes of unemployment benefit” by para. 36(2) of Sch. 2 to Jobseekers Act 1995 (c. 18).

² Words in para. 3(11) substituted (7.2.94) by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 43(b).

³ Words inserted & substituted in para. 4 (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 16.

⁴ Para. 4(3)(a) substituted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 52.

- (iii) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners, and]
- (b) the other person had earnings in any week,

the beneficiary's right to payment of increases for the following week under this paragraph shall be determined in accordance with sub-paragraph (4) below.

- (4) No such increase shall be payable—
- (a) in respect of the first child [¹or qualifying young persons] where the earnings were [²£215] or more; and
 - (b) in respect of a further child [¹or qualifying young persons] for each complete [²£28] by which the earnings exceeded [²£215].

(5) The Secretary of State may by order substitute larger amounts for the amounts for the time being specified in sub-paragraph (4) above.

(6) In this paragraph “week” means such period of 7 days as may be prescribed by regulations made for the purposes of this paragraph.

Additional provisions as to increase under paragraph 4

5.—(1) An increase under paragraph 4 above of any amount in respect of a particular child [¹or qualifying young persons] shall for any period be payable only if during that period one or other of the following conditions is satisfied with respect of the child [¹or qualifying young persons]—

- (a) the beneficiary would be treated for the purposes of Part IX of this Act as having the child [¹or qualifying young person] living with him; or
- (b) the requisite contributions are being made to the cost of providing for the child [¹or qualifying young person].

(2) The condition specified in paragraph (b) of sub-paragraph (1) above is to be treated as satisfied if, and only if—

- (a) such contributions are being made at a weekly rate not less than the amount referred to in that sub-paragraph—
 - (i) by the beneficiary; or
 - (ii) where the beneficiary is one of two spouses residing together, by them together; and
- (b) except in prescribed cases, the contributions are over and above those required for the purposes of satisfying section 143(1)(b) above.

Increases for adult dependants

6.—(1) The weekly rate of a disablement pension where the beneficiary is entitled to an unemployability supplement shall be increased under this paragraph for any period during which—

- (a) the beneficiary is—
 - (i) residing with his spouse, or
 - (ii) contributing to the maintenance of his spouse [³or civil partner] at the requisite rate; or
- (b) a person—
 - (i) who is neither the spouse [³or civil partner] of the beneficiary nor a child [¹or qualifying young person], and

¹ Words inserted & substituted in paras. 4, 5 & 6 (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 16.

² Amounts in Sch. 7, para. 4(4) substituted (11.4.12) by art. 2 of S.I. 2012/823.

³ Words inserted in para. 6(1) (5.12.05) by The Civil Partnership Act 2004 (c. 33), Sch. 24, para. 52.

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(ii) in relation to whom such further conditions as may be prescribed are fulfilled,

has the care of [one or more children or qualifying young persons] in respect of whom the beneficiary is entitled to child benefit.

(2) the amount of the increase under this paragraph shall be that specified in Schedule 4, Part V, paragraph 8 and the requisite rate for the purposes of sub-paragraph (1)(a) above is a weekly rate not less than that amount.

(3) Regulations may provide that, for any period during which—

(a) the beneficiary is contributing to the maintenance of his or her spouse [or civil partner] at the requisite rate, and

(b) the weekly earnings of the spouse [or civil partner] exceed such amount as may be prescribed,

there shall be no increase of benefit under this paragraph.

(4) Regulations may provide that, for any period during which the beneficiary is residing with his or her spouse [or civil partner] and the spouse [or civil partner] has earnings—

(a) the increase of benefit under this paragraph shall be subject to a reduction in respect of the spouse's [or civil partner's] earnings; or

(b) there shall be no increase of benefit under this paragraph.

(5) Regulations may, in a case within sub-paragraph (1)(b) above in which the person there referred to is residing with the beneficiary and fulfils such further conditions as may be prescribed, authorise an increase of benefit under this paragraph, but subject, taking account of the earnings of the person residing with the beneficiary, other than such of that person's earnings from employment by the beneficiary as may be prescribed, to provisions comparable to those that may be made by virtue of sub-paragraph (4) above.

(6) Regulations under this paragraph may, in connection with any reduction or extinguishment of an increase in benefit in respect of earnings, prescribe the method of calculating or estimating the earnings.

(7) A beneficiary shall not be entitled to an increase of benefit under this paragraph in respect of more than one person for the same period.

Earnings to include occupational and personal pensions for purposes of disablement pension

7.—(1) Except as may be prescribed, any reference to earnings in paragraph 4 or 6 above includes a reference to payments by way of occupational or personal pension.

Where increase of benefit has been payable continuously since Oct. 1989, the reference to personal pension in para. 7(1) above is subject to the saving in reg. 4(2) of S.I. 1989/1690.

(2) For the purposes of those paragraphs, the Secretary of State may by regulations provide, in relation to cases where payments by way of occupational or personal pension are made otherwise than weekly, that any necessary apportionment of the payments shall be made in such manner and on such basis as may be prescribed.

¹ Words inserted in paras. 6(1) (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 16.

² Words inserted in paras. 6(3) & (4) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 52.

Dependency increases; continuation of awards in cases of fluctuating earnings

8.—(1) Where a beneficiary—

- (a) has been awarded an increase of benefit under paragraph 4 or 6 above, but
- (b) ceases to be entitled to the increase by reason only that the weekly earnings of some other person (“the relevant earner”) exceed the amount of the increase or, as the case may be, some specified amount,

then, if and so long as the beneficiary would have continued to be entitled to the increase, disregarding any such excess of earnings, the award shall continue in force but the increase shall not be payable for any week if the earnings relevant to that week exceed the amount of the increase or, as the case may be, the specified amount.

(2) In this paragraph the earnings which are relevant to any week are those earnings of the relevant earner which, apart from this paragraph, would be taken into account in determining whether the beneficiary is entitled to the increase in question for that week.

PART II

DISABLEMENT GRATUITY

- 9.—(1) An employed earner shall be entitled to a disablement gratuity, if—
- (a) he made a claim for disablement benefit before 1st October 1986;
 - (b) he suffered as the result of the relevant accident from loss of physical or mental faculty such that the extent of the resulting disablement assessed in accordance with Schedule 6 to this Act amounts to not less than 1 per cent; and
 - (c) the extent of the disablement is assessed for the period taken into account as amounting to less than 20 per cent.
- (2) A disablement gratuity shall be—
- (a) of an amount fixed, in accordance with the length of the period and the degree of the disablement, by a prescribed scale, but not in any case exceeding the amount specified in Schedule 4, Part V, paragraph 9; and
 - (b) payable, if and in such cases as regulations so provide, by instalments.
- (3) A person shall not be entitled to disablement gratuity until after the expiry

of the period of 90 days (disregarding Sundays) beginning with the day of the relevant accident.

PART III

INCREASE OF DISABLEMENT PENSION DURING HOSPITAL TREATMENT

10.—(1) This Part of this Schedule has effect in relation to a period during which a person is receiving medical treatment as an in-patient in a hospital or similar institution and which—

- (a) commenced before 6th April 1987; or
- (b) commenced after that date but within a period of 28 days from the end of the period during which he last received an increase of benefit under section 62 of the 1975 Act or this paragraph in respect of such treatment for the relevant injury or loss of faculty.

(2) Where a person is awarded disablement benefit, but the extent of his disablement is assessed for the period taken into account by the assessment at less than 100 per cent., it shall be treated as assessed at 100 per cent. for any part of that period, whether before or after the making of the assessment or the award of benefit, during which he receives as an in-patient in a hospital or similar institution, medical treatment for the relevant injury or loss of faculty.

(3) Where the extent of the disablement is assessed for that period at less than 20 per cent., sub-paragraph (2) above shall not affect the assessment; but in the case of a disablement pension payable by virtue of this paragraph to a person awarded a disablement gratuity wholly or partly in respect of the same period, the weekly rate of the pension (after allowing for any increase under Part V of this Act) shall be reduced by the amount prescribed as being the weekly value of his gratuity.

PART IV

REDUCED EARNINGS ALLOWANCE

11.—(1) Subject to the provisions of this paragraph, an employed earner shall be entitled to reduced earnings allowance if—

- (a) he is entitled to a disablement pension or would be so entitled if that pension were payable where disablement is assessed at not less than 1 per cent.; and
- (b) as a result of the relevant loss of faculty, he is either—
 - (i) incapable, and likely to remain permanently incapable, of following his regular occupation; and
 - (ii) incapable of following employment of an equivalent standard which is suitable in his case, or is, and has at all times since the end of the period of 90 days referred to in section 103(6) above been, incapable of following that occupation or any such employment;

but a person shall not be entitled to reduced earnings allowance to the extent that the relevant loss of faculty results from an accident happening on or after 1st October 1990 (the day on which section 3 of the Social Security Act 1990 came into force) [¹and a person shall not be entitled to reduced earnings allowance—

1990 c. 27.

- (i) in relation to a disease prescribed on or after 10th October 1994 under section 108(2) above; or
- (ii) in relation to a disease prescribed before 10th October 1994 whose prescription is extended on or after that date under section 108(2) above but only in so far as the prescription has been so extended].

¹ Words added, for prescribed diseases purposes, to para. 11(1) by reg. 14A of S.I. 1985/967 as from 10.10.94.

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- (2) A person—
- (a) who immediately before that date is entitled to reduced earnings allowance in consequence of the relevant accident; but
 - (b) who subsequently ceases to be entitled to that allowance for one or more days,

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

- (3) For the purposes of sub-paragraph (2) above—
- (a) a person who, apart from section 103(6) above, would have been entitled to reduced earnings allowance immediately before 1st October 1990 shall be treated as entitled to that allowance on any day (including a Sunday) on which he would have been entitled to it apart from that provision;
 - (b) regulations may prescribe other circumstances in which a person is to be treated as entitled, or as having been entitled, to reduced earnings allowance on any prescribed day.

(4) The Secretary of State may by regulations provide that in prescribed circumstances employed earner's employment in which a claimant was engaged when the relevant accident took place but which was not his regular occupation is to be treated as if it had been his regular occupation.

- (5) In sub-paragraph (1) above—
- (a) references to a person's regular occupation are to be taken as not including any subsidiary occupation, except to the extent that they fall to be treated as including such an occupation by virtue of regulations under sub-paragraph (4) above; and
 - (b) employment of an equivalent standard is to be taken as not including employment other than employed earner's employment;

and in assessing the standard of remuneration in any employment, including a person's regular occupation, regard is to be had to his reasonable prospect of advancement.

(6) For the purpose of this Part of this Schedule a person's regular occupation is to be treated as extending to and including employment in the capacities to which the persons in that occupation (or a class or description of them to which he belonged at the time of the relevant accident) are in the normal course advanced, and to which, if he had continued to follow that occupation without having suffered the relevant loss of faculty, he would have had at least the normal prospects of advancement; and so long as he is, as a result of the relevant loss of faculty, deprived in whole or in part of those prospects, he is to be treated as incapable of following that occupation.

(7) Regulations may for the purposes of this Part of this Schedule provide that a person is not to be treated as capable of following an occupation or employment merely because of his working there at during a period of trial or for purposes of rehabilitation or training or in other prescribed circumstances.

- (8) Reduced earnings allowance shall be awarded—
- (a) for such period as may be determined at the time of the award; and
 - (b) if at the end of that period the beneficiary submits a fresh claim for the allowance, for such further period, commencing as mentioned in sub-paragraph (2) above, as may be determined.

(9) The award may not be for a period longer than the period to be taken into account under paragraph 4 or 6 of Schedule 6 to this Act.

- (10) Reduced earnings allowance shall be payable at a rate determined by

reference to the beneficiary's probable standard of remuneration during the period for which it is granted in any employed earner's employment's which are suitable in his case and which he is likely to be capable of following as compared with that in the relevant occupation, but in no case at a rate higher than 40 per cent. of the maximum rate of disablement pension or at a rate such that the aggregate of disablement pension (not including increases in disablement pension under any provision of this Act) and reduced earnings allowance awarded to the beneficiary exceeds 140 per cent. of the maximum rate of a disablement pension.

(11) Sub-paragraph (10) above shall have effect in the case of a person who retired from regular employment before 6th April 1987 with the substitution for "140 per cent." of "100 per cent."

- (12) In sub-paragraph (10) above "the relevant occupation" means—
- (a) in relation to a person who is entitled to reduced earnings allowance by virtue of regulations under sub-paragraph (4) above, the occupation in which he was engaged when the relevant accident took place; and
 - (b) in relation to any other person who is entitled to reduced earnings allowance, his regular occupation within the meaning of sub-paragraph (1) above.

[¹(12A) The reference in sub-paragraph (11) above to a person who has retired from regular employment includes a reference—

- (a) to a person who under subsection (3) of section 27 of the 1975 Act was treated for the purposes of that Act as having retired from regular employment; and
- (b) to a person who under subsection (5) of that section was deemed for those purposes to have retired from it.]

(13) On any award except the first the probable standard of his remuneration shall be determined in such manner as may be prescribed; and, without prejudice to the generality of this sub-paragraph, regulation may provide in prescribed circumstances for the probable standard of remuneration to be determined by reference—

- (a) to the standard determined at the time of the last previous award of reduced earnings allowance; and
- (b) to scales or indices of earnings in a particular industry or description of industries or any other data relating to such earnings.

(14) In this paragraph "maximum rate of a disablement pension" means the rate specified in the first entry in column (2) of Schedule 4, Part V, paragraph 1 and does not include increases in disablement pension under any provision of this Act.

Supplementary

12.—(1) A person who on 10th April 1988 or 9th April 1989 satisfies the conditions—

- (a) that he has attained pensionable age;
- (b) that he has retired from regular employment; and
- (c) that he is entitled to reduced earnings allowance,

shall be entitled to that allowance for life.

(2) In the case of any beneficiary who is entitled to reduced earnings allowance by virtue of sub-paragraph (1) above, the allowance shall be payable, subject to any enactment contained in Part V or VI of this act or in the Administration Act and to any regulations made under any such enactment, at the weekly rate at

¹ Para. 11(12A) transitorily inserted by para. 10 of Sch. 4 to S.S. (C.P.) Act 1992 (c. 6), until a day is appointed under para. 1(3)(a) *ibid*.

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which it was payable to the beneficiary on the relevant date or would have been payable to him on that date but for any such enactment or regulations.

(3) For the purpose of determining under sub-paragraph (2) above the weekly rate of reduced earnings allowance payable in the case of a qualifying beneficiary, it shall be assumed that the weekly rate at which the allowance was payable to him on the relevant date was—

- (a) £25.84, where that date is 10th April 1988, or
- (b) £26.96, where that date is 9th April 1989,

(4) In sub-paragraph (3) above “qualifying beneficiary” means a person entitled to reduced earnings allowance by virtue of sub-paragraph (1) above who—

- (a) did not attain pensionable age before 6th April 1987, or
 - (b) did not retire from regular employment before that date,
- and who, on the relevant date, was entitled to the allowance at a rate which was restricted under paragraph 11(1) above by reference to 40 per cent. of the maximum rate of disablement pension.

(5) For a beneficiary who is entitled to reduced earnings allowance by virtue of satisfying the conditions in sub-paragraph (1) above on 10th April 1988 the relevant date is that date.

(6) For a beneficiary who is entitled to it by virtue only of satisfying those conditions on 9th April 1989 the relevant date is that date.

[¹(7) The reference in sub-paragraph (1) above to a person who has retired from regular employment includes a reference—

- (a) to a person who under subsection (3) of section 27 of the 1975 Act was treated for the purposes of that Act as having retired from regular employment; and
- (b) to a person who under subsection (5) of that section was deemed for those purpose to have retired from it.]

PART V

RETIREMENT ALLOWANCE

13.—(1) Subject to the provisions of this Part of this Schedule, a person who—

- (a) has attained pensionable age; and
- (b) gives up regular employment on or after 10th April 1989; and
- (c) was entitled to reduced earnings allowance by virtue either of one award or of a number of awards) on the day immediately before he gave up such employment,

shall cease to be entitled to reduced earnings allowance as from the day on which he gives p regular employment.

(2) If the day before a person ceases under sub-paragraph (1) above to be entitled to reduced earnings allowance he is entitled to the allowance (by virtue either of one award or of a number of awards) at a weekly rate or aggregate weekly rate of not less than £2.00, he shall be entitled to a benefit, to be known as “retirement allowance.

(3) Retirement allowance shall be payable to him (subject to any enactment contained in Part V or VI of this Act or in the Administration Act and to any regulations made under any such enactment) for life.

¹ Para. 12(7) transitorily inserted by para. 11 of Sch. 4 to S.S. (C.P.) Act 1992 (c. 6) until a day is appointed under para. 1(3)(a) *ibid*.

(4) Subject to sub-paragraph (6) below, the weekly rate of a beneficiary's retirement allowance shall be—

- (a) 25 per cent. of the weekly rate at which he was last entitled to reduced earnings allowance; or
- (b) 10 per cent. of the maximum rate of a disablement pension,

whichever is the less.

(5) For the purpose of determining under sub-paragraph (4) above the weekly rate of retirement allowance in the case of a beneficiary who—

- (a) (retires or is deemed to have retired on 10th April 1989, and
- (b) on 9th April 1989 was entitled to reduced earnings allowance at a rate which was restricted under paragraph 11(10) above by reference to 40 per cent. of the maximum rate of disablement pension,

it shall be assumed that the weekly rate of reduced earnings allowance to which he was entitled on 9th April 1989 was £26.96.

(6) If the weekly rate of the beneficiary's retirement allowance—

- (a) would not be a whole number of pence; and
- (b) would exceed the whole number of pence next below it by 1/2p or more,

the beneficiary shall be entitled to retirement allowance at a rate equal to the next higher whole number of pence.

(7) The sums falling to be calculated under sub-paragraph (4) above are subject to alteration by orders made by the Secretary of State under section 150 of the Administration Act.

Uprating percentages applicable to retirement allowance under such orders are included in the table in volume 1 at pages 1.7751-3.

(8) Regulations may—

- (a) make provision with respect to the meaning of "regular employment" for the purposes of this paragraph; and
- (b) prescribe circumstances in which, and periods for which, a person is or is not to be regarded for those purposes as having given up such employment

(9) Regulations under sub-paragraph (8) above may, in particular—

- (a) provide for a person to be regarded—
 - (i) as having given up regular employment notwithstanding that he is or intends to be an earner; or
 - (ii) as not having given up regular employment notwithstanding that he has or may have one or more days of interruption of employment; and
- (b) prescribe circumstances in which a person is or is not to be regarded as having given up regular employment by reference to—
 - (i) the level or frequency of his earnings during a prescribed period; or
 - (ii) the number of hours for which he works during a prescribed period calculated in a prescribed manner.

[¹(10) "Day of interruption of employment" means a day which forms part of—

- (a) a jobseeking period (as defined by the Jobseekers Act 1995), or
- (b) a linked period (as defined by that Act).]

(11) In this paragraph "maximum rate of a disablement pension" means the rate specified in the first entry in column (2) of Schedule 4, Part V, paragraph 1 and does not include increases in disablement pension under any provision of this Act.

¹ Para. 13(10) substituted (7.10.96) by para. 36(3) of Sch. 2 to Jobseekers Act 1995 (c. 18).

INDUSTRIAL DEATH BENEFIT

Introductory

14.—(1) This Part of this Schedule only has effect in relation to deaths before 11th April 1988.

[¹(1A) No claim may be made for industrial death benefit after the coming into force of this sub-paragraph.]

(2) In this Part of this Schedule “the deceased” means the person in respect of whose death industrial death benefit is claimed or payable.

Widow’s benefit (entitlement)

15.—(1) The widow of the deceased shall be entitled to death benefit if at his death either—

- (a) she was residing with him; or
- (b) she was receiving or entitled to receive, or would but for the relevant accident have been receiving or entitled to receive, from him periodical payments for her maintenance of not less than the prescribed amount.

(2) In the case of a widow, death benefit shall be a pension commencing from the death of the deceased and payable, at the weekly rate for the time being applicable under paragraph 16 below for life or until she remarries [²or forms a civil partnership].

(3) A pension under this paragraph shall not be payable for any period during which the beneficiary is living as husband and wife with a man not her husband [²or is living together with a person of the same sex as if they were civil partners].

(4) In this paragraph—

- (a) references to a widow receiving or being entitled to receive payments from the deceased are only to be receiving or being entitled to receive (whether from him or from another) payments provided for or procured by the deceased; and
- (b) “entitled” means, in relation to any such payments, entitled under any order of a court, trust or agreement which the widow has taken reasonable steps to enforce.

Widow’s benefit (rate)

16.—(1) The weekly rate of a pension payable under paragraph 15 above shall, for the period of 26 weeks next following the deceased’s death, be the initial rate specified in Schedule 4, Part V, paragraph 10.

(2) The weekly rate of the pension shall, after the end of that period, be the higher permanent rate specified in that paragraph—

- (a) for any period for which the widow is entitled, or is treated by regulations as entitled, to an allowance for children [³or qualifying young persons] under paragraph 18 below; or
- (b) where the widow was over the age of 50 at the deceased’s death or was over the age of 40 at the end of the period for which she was entitled to such an allowance; or
- (c) where the widow at the deceased’s death was permanently incapable of self-support; or

¹ S. 14(1A) inserted (5.12.12) by the Welfare Reform Act 2012 (c. 5), s. 67.

² Words inserted in para. 15 (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 52.

³ Words inserted in para. 16(2)(a) (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 16(5).

(d) while the widow is pregnant by the deceased.

(3) After the end of the period of 26 weeks referred to in sub-paragraph (1) above, the weekly rate of the pension shall, in any case not within sub-paragraph (2) above, be the lower permanent rate specified in Schedule 4, Part V, paragraph 10.

Widower's benefit (entitlement and rate)

17.—(1) The widower of the deceased shall be entitled to death benefit if at her death he—

- (a) was being wholly or mainly maintained by her or would but for the relevant accident have been so maintained; and
- (b) was permanently incapable of self-support.

(2) In the case of a widower, death benefit shall be a pension at the weekly rate specified in Schedule 4, Part V, paragraph 11 commencing from the death of the deceased and payable for life.

[¹Deceased's] family

18.—(1) Subject to paragraph 19 below, where at his death the deceased was entitled to child benefit in respect of [¹one or more children or qualifying young persons], then, for any period for which—

- (a) the widow of the deceased is entitled—
 - (i) to death benefit (other than a gratuity) under paragraphs 15 and 16 above; and
 - (ii) to child benefit in respect of that child [¹or qualifying young person] or one or more of those children [¹or qualifying young persons]; or
- (b) such other person as may be prescribed is entitled to child benefit in respect of that child [¹or qualifying young person] or one or more of those children [¹or qualifying young persons],

the widow or, as the case may be, the person so prescribed shall be entitled in respect of that child [¹or qualifying young person], or in respect of each respectively of those children [¹or qualifying young persons], to death benefit by way of an allowance at the weekly rate specified in Schedule 4, Part V, paragraph 12.

(2) Paragraph 5 above applies in relation to an allowance under this paragraph as it applies in relation to an increase of benefit under paragraph 4 above.

Limits of entitlement to industrial death benefit in respect of children [¹or qualifying young persons]

19. Where two or more persons satisfy the conditions, in respect of the same death, for receipt of an allowance or allowances under paragraph 18 above for any period—

- (a) not more than one of those persons shall be entitled for that period to such an allowance in respect of the same child [²or qualifying young persons];
- (b) where the deceased leaves a widow or widower, then for any period for which she or he is entitled to death benefit as the deceased's widow or widower and satisfied the conditions for receipt of such an allowance in respect of a child [²or qualifying young person], she or he shall be entitled to the allowance in respect of that child [²or qualifying young person];
- (c) subject to sub-paragraph (b) above, regulations may make provision as to the priority in any prescribed circumstances of two or more persons satisfying the said conditions.

¹ Words inserted in para. 18 (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 16(5).

² Words inserted & substituted in para. 19 (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 16.

Sch. 7

Death of person with constant attendance allowance

20.—(1) If a person dies at a time when

- (a) he is entitled to an increase under section 104 above of a disablement pension and the amount of the increase is not less than the amount which at that time is specified in Schedule 4, Part V, paragraph 2(a); or
- (b) he would have been so entitled but for having received medical or other treatment as an in-patient in a hospital or similar institution,

he is to be regarded for the purposes of entitlement to industrial death benefit as having died as a result of the injury in respect of which the disablement pension was payable.

(2) The reference in sub-paragraph (1) above to an increase under section 104 above includes only a payment by way of increase of a disablement pension, and in particular does not include any payment for constant attendance under paragraph 7(2)(b) of Schedule 8 to this Act.

(3) Sub-paragraph (1) above does not affect death benefit where the death occurred before 26th July 1971.

Pulmonary disease

21.—(1) If a person dies as a result of any pulmonary disease and—

- (a) he was entitled, for a period which includes the date of his death, to disablement pension or gratuity in respect of pneumoconiosis or byssinosis or pneumoconiosis accompanied by tuberculosis; and
- (b) the extent of the disablement in respect of which the benefit was payable was assessed for such a period at not less than 50 per cent.,

then, subject to sub-paragraph (2) below, his death shall be treated, for the purposes of this Part of this Schedule, as having been caused by the disease in respect of which the benefit was payable.

(2) Unless regulation provide otherwise, the requirements of paragraph (b) of sub-paragraph (1) above shall be treated as unsatisfied in a case where, had the physical condition of the deceased at the time of the assessment been normal, apart from the diseases mentioned in paragraph (a) of that sub-paragraph, the extent of the disablement in question would have been assessed at less than 50 per cent.

(3) This paragraph does not affect death benefit where the death occurred before 30th March 1977.

[...¹]

SCHEDULE 9

Section 144(2).

EXCLUSIONS FROM ENTITLEMENT TO CHILD BENEFIT

Children [²and qualifying young persons] in detention, care, etc.

1. Except where regulations otherwise provide, no person shall be entitled to child benefit in respect of a child [²or qualifying young person] for any week if in that week the child [²or qualifying young person]—

- (a) is undergoing imprisonment or detention in legal custody;
- [³(b) is subject to a compulsory supervision order (within the meaning of section 83 of the Children’s Hearings (Scotland) Act 2011) and is residing in a residential establishment (within the meaning of section 202(1) of that Act);]
- (c) is in the care of a local authority in such circumstances as may be prescribed.

2. [...²]

Married children [²and qualifying young persons]

3. Except where regulations otherwise provide, no person shall be entitled to child benefit in respect of a child [²or qualifying young person] who is married [⁴or is a civil partner].

Persons exempt from tax

4. [...⁵]

5. [...⁶]

¹ Sch. 8 repealed (5.12.12) by the Welfare Reform Act 2012 (c. 5), s. 64(2).

² Words inserted in paras. 1 & 3 & para. 2 repealed (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 17 & Sch. 2.

³ Para. 1(b) of Sch. 9 substituted (24.6.13) by S.I. 2013/1465, Sch. 1, para. 4(3).

⁴ Words inserted in para. 3 (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 54.

⁵ Para. 4 revoked (7.4.03) by Sch. 6 of the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details as to savings and transitional provisions.

⁶ Para. 5 in Sch. 9 repealed (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 88 of the Welfare Reform And Pensions Act 1999 (c. 30).

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

SCHEDULE 10

Section 144(3).

PRIORITY BETWEEN PERSONS ENTITLED TO CHILD BENEFIT

Person with prior award

1.—(1) Subject to sub-paragraph (2) below, as between a person claiming child benefit in respect of a child [¹or qualifying young person] for any week and a person to whom child benefit in respect of that child [¹or qualifying young person] for that week has already been awarded when the claim is made, the latter shall be entitled.

(2) Sub-paragraphs (1) above shall not confer any priority where the week to which the claim relates is later than the third week following that in which the claim is made.

Person having child [¹or qualifying young person] living with him

2. Subject to paragraph 1 above, as between a person entitled for any week by virtue of paragraph (a) of subsection (1) of section 143 above and a person entitled by virtue of paragraph (b) of that subsection the former shall be entitled.

Husband and wife

3. Subject to paragraphs 1 and 2 above, as between a husband and wife residing together the wife shall be entitled.

Parents

4.—(1) Subject to paragraphs 1 to 3 above, as between a person who is and one who is not a parent of the child [¹or qualifying young person] the parent shall be entitled.

(2) Subject as aforesaid, as between two persons residing together who are parents of the child [¹or qualifying young person] but not husband and wife, the mother shall be entitled.

Other cases

5. As between persons not falling within paragraphs 1 to 4 above, such one of them shall be entitled as they may jointly elect or, in default of election, as the Secretary of State may in his discretion determine.

Supplementary

6.—(1) Any election under this Schedule shall be made in the prescribed manner.

(2) Regulations may provide for exceptions from and modifications of the provisions of paragraphs 1 to 5 above in relation to such cases as may be prescribed.

¹ Words inserted in paras. 1, 2 & 4 (10.4.05) by the Child Benefit Act 2005 (c. 6), Sch. 1, para. 18.

Sch. 11

Section 153(3).

SCHEDULE 11

CIRCUMSTANCES IN WHICH PERIODS OF ENTITLEMENT TO STATUTORY SICK PAY DO NOT ARISE

1. A period of entitlement does not arise in relation to a particular period of incapacity for work in any of the circumstances set out in paragraph 2 below or in such other circumstances as may be prescribed.

[¹1A. Regulations under paragraph 1 above must be made with the concurrence of the Treasury.]

2. The circumstances are that—

(a) [...²]

(b) [...³]

(c) at the relevant date the employee’s normal weekly earnings are less than the lower earnings limit then in force under section 5(1)(a) above;

[⁴(d) in the period of 57 days ending immediately before the relevant date the employee had at least one day on which—

(i) he was entitled to incapacity benefit (or would have been so entitled had he satisfied the contribution conditions mentioned in section 30A(2)(a) above), or

(ii) she was entitled to a maternity allowance,

(iii) [...⁵]

[⁶(dd) in the period of 85 days ending immediately before the relevant date the employee had at least one day on which he was entitled to an employment and support allowance (or would have been so entitled had he satisfied the requirements in section 1(2) of the Welfare Reform Act 2007);

(There is no longer a sub-paragraph (e).)

(f) the employee has done no work for his employer under his contract of service;

(g) on the relevant date there is, [...⁷] a stoppage of work due to a trade dispute at the employee’s place of employment;

(h) the employee is, or has been pregnant and the relevant date falls within the disqualifying period (within the meaning of section 153(12) above).

3. In this Schedule “relevant date” means the date on which a period of entitlement would begin in accordance with section 153 above if this Schedule did not prevent it arising.

4. [...³]

5. repealed by 1994 c.18, see Annex 1, page 2.3101.

[⁸5A.—(1) Paragraph 2(d)(i) above does not apply if, at the relevant date, the employee is over pensionable age and is not entitled to incapacity benefit.

(2) Paragraph 2(d)(i) above ceases to apply if, at any time after the relevant date, the employee is over pensionable age and is not entitled to incapacity benefit.

¹ Para. 1A inserted (1.4.99) by Transfer of Functions Act 1999 (c. 11) Sch 1, para. 20.

² Para. 2(a) omitted (1.10.06) by reg. 13(1) of S.I. 2006/1031.

³ In Sch. 11, para. 2(b) & 4 omitted (1.10.02) by Sch. 2, para. 1(a) & (b) of S.I. 2002/2034.

⁴ Para. 2(d) substituted (13.4.95) for para. 2(d) and (e) by para. 43(2) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

⁵ Para. 2(d)(iii) repealed (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 88 of the Welfare Reform and Pensions Act 1999 (c. 30).

⁶ Para. (dd) inserted (27.10.08) by reg. 44 of S.I. 2008/1554.

⁷ Words “within the meaning of section 27 above” in para. 2(g) repealed (7.10.96) by Sch. 3 to 8.

⁸ Para. 5A inserted (6.4.07) by reg. 2(2) of S.I. 2007/825.

(3) In this paragraph “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995.]

6. For the purposes of paragraph 2(f) above, if an employee enters into a contract of service which is to take effect not more than 8 weeks after the date on which a previous contract of service entered into by him with the same employer ceased to have effect, the two contracts shall be treated as one.

7. Paragraph 2(g) above does not apply in the case of an employee who proves that at no time on or before the relevant date did he have a direct interest in the trade dispute in question.

8. Paragraph 2(h) above does not apply in relation to an employee who has been pregnant if her pregnancy terminated, before the beginning of the disqualifying period, otherwise than by confinement (as defined for the purposes of statutory maternity pay in section 17(1) above).

SCHEDULE 12

RELATIONSHIP OF STATUTORY SICK PAY WITH BENEFITS AND OTHER PAYMENTS, ETC

The general principle

1. Any day which—
 - (a) is a day of incapacity for work in relation to any contract of service; and
 - (b) falls within a period of entitlement (whether or not it is also a qualifying day).

shall not be treated for the purpose of this Act as a day of incapacity for work for the purposes of determining whether a period is [...] [²a period of incapacity for work for the purpose of incapacity benefit].

Contractual remuneration

2.—(1) Subject to sub-paragraphs (2) and (3) below, any entitlement to statutory sick pay shall not affect any right of an employee in relation to remuneration under any contract of service (“contractual remuneration”).

- (2) Subject to sub-paragraph (3) below—
 - (a) any contractual remuneration paid to an employee by an employer of his in respect of a day of incapacity for work shall go towards discharging any liability of that employer to pay statutory sick pay to that employee in respect of that day; and
 - (b) any statutory sick pay paid by an employer to an employee of his in respect of a day of incapacity for work shall go towards discharging any liability of that employer to pay contractual remuneration to that employee in respect of that day.

(3) Regulations may make provision as to payments which are, and those which are not, to be treated as contractual remuneration for the purposes of sub-paragraph (1) or (2) above.

[³Incapacity benefit

3.—(1) This paragraph and paragraph 4 below have effect to exclude, where a period of entitlement as between an employee and an employer of his comes to an end, the provisions by virtue of which short-term incapacity benefit is not paid for the first three days.

(2) If the first day immediately following the day on which the period of entitlement came to an end—

- (a) is a day of incapacity for work in relation to that employee, and
- (b) is not a day in relation to which paragraph 1 above applies by reason of any entitlement as between the employee and another employer,

that day shall, except in prescribed cases, be or form part of a period of incapacity for work notwithstanding section 30C(1)(b) above (by virtue of which a period of incapacity for work must be at least 4 days long).

(3) Where each of the first two consecutive days, or the first three consecutive days, following the day on which the period of entitlement came to an end is a day to which paragraphs (a) and (b) of sub-paragraph (2) above apply, that sub-paragraph has effect in relation to the second day or, as the case may be, in relation to the second and third days, as it has effect in relation to the first.

¹ Words “a period of interruption of employment for the purposes of unemployment benefit or” repealed (7.10.96) from para. 1 by Sch. 3 to Jobseekers Act 1995 (c. 18).

² Words inserted (13.4.95) into para. 1 of Sch. 12 by para. 44(2) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18). (The words so inserted originally included, at the beginning, the words “for the purposes of unemployment benefit or”, but those words were later included among the words which were repealed as indicated in the preceding footnote.)

³ Paras. 3 and 4 substituted (13.4.95) by para. 44(3) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

4.—(1) Where a period of entitlement as between an employee and an employer of his comes to an end, section 30A(3) above (exclusion of benefit for first 3 days of period) does not apply in relation to any day which—

- (a) is or forms part of a period of incapacity for work (whether by virtue of paragraph 3 above or otherwise), and
- (b) falls within the period of 57 days immediately following the day on which the period of entitlement came to an end.

(2) Where sub-paragraph (1) above applies in relation to a day, section 30A(3) above does not apply in relation to any later day in the same period of incapacity for work.]

[¹Incapacity benefit for widows and widowers

5. Paragraphs 1 above does not apply for the purposes of determining whether the conditions specified in section 40(3) or (4) or section 41(2) or (3) above are satisfied.]

Unemployability supplement

6. Paragraph 1 above does not apply in relation to paragraph 3 of Schedule 7 to this act and accordingly the references in paragraph 3 of that Schedule to a period of interruption of employment shall be construed as if the provisions re-enacted in this Part of this Act had not been enacted.

¹ Para. 5 substituted (13.4.95) by para. 44(4) of Sch.1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

Sch. 13

Section 168.

SCHEDULE 13

RELATIONSHIP OF STATUTORY MATERNITY PAY WITH BENEFITS AND OTHER PAYMENTS ETC

The general principle

[¹1. Except as may be prescribed, a day which falls within the maternity pay period shall not be treated as a day of incapacity for work for the purposes of determining, for this Act, whether it forms part of a period of incapacity for work for the purposes of incapacity benefit.]

Para. 1 as in force prior to its replacement by para. 37 of Sch. 2 to the Jobseekers Act 1995 (c.18) is reproduced below:-

[11. Except as may be prescribed, a day which falls within the maternity pay period shall not be treated for the purposes of this act—

- (a) as a day of unemployment for the purpose of determining whether it forms part of a period of interruption of work, or
- (b) as a day of incapacity for work for the purpose of determining whether it forms part of a period of incapacity for work for the purposes of incapacity benefit.]

[²Incapacity benefit

2.—(1) Regulations may provide that in prescribed circumstances a day which falls within the maternity pay period shall be treated as a day of incapacity for work for the purpose of determining entitlement to the higher rate of short-term incapacity benefit or to long-term incapacity benefit.

(2) Regulations may provide that an amount equal to a woman's statutory maternity pay for a period shall be deducted from any such benefit in respect of the same period and a woman shall be entitled to such benefit only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.]

Contractual remuneration

3.—(1) Subject to sub-paragraphs (2) and (3) below, any entitlement to statutory maternity pay shall not affect any right of a woman in relation to remuneration under any contract of service (“contractual remuneration”).

(2) Subject to sub-paragraph (3) below—

- (a) any contractual remuneration paid to a woman by an employer of hers in respect of a week in the maternity pay period shall go towards discharging any liability of that employer to pay statutory maternity pay to her in respect of that week; and
- (b) any statutory maternity pay paid by an employer to a woman who is an employee of his in respect of a week in the maternity pay period shall go towards discharging any liability of that employer to pay contractual remuneration to her in respect of that week.

[³(2A) In sub-paragraph (2) “week” means a period of seven days beginning with the day of the week on which the maternity pay period begins.]

(3) Regulations may make provision as to payments which are, and those which are not, to be treated as contractual remuneration for the purposes of sub-paragraphs (1) and (2) above.

¹ Para. 1 substituted (7.10.96) by para. 37 of Sch. 2 to Jobseekers Act 1995 (c. 18).

² Para. 2 substituted (13.4.95) by para. 45(3) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

³ Para. 3(2A) inserted (1.10.06) by the Work and Families Act 2006 (c. 18), Sch. 1, para. 23.

Social Security Contributions and
Benefits Act 1992

LIST OF OMISSIONS

The following provisions have been omitted from the text for the reasons stated:-

- s. 5(2) omitted (26.9.07) by the Pensions Act 2007 (c. 22) s. 7(3).
- s. 6(2) the words “or 88” shall cease to have effect (8.9.98) by S.S.Act 1998 (c. 47) s. 59 (6)(a).
- s.21(2) and (4) entries relating to Maternity Allowance repealed (2.4.00) by Welfare Reform and Pensions Act 1999 (c. 30) Sch.13, Pt V.
- s. 48A(5) omitted (6.4.10) by the Pensions Act 2007 (c. 22), s. 2(5).
- ss. 49 and 50 replaced (19.7.95) by new ss. 48A-48C under para. 3(1) of Sch. 4 to Pensions Act 1995 (c. 26)
- s.53 repealed (19.7.95) by Pensions Act 1995 (c. 26), Sch. 4, para. 21(6), and Sch. 7, Pt. II
- s. 54(3) omitted (6.4.10) by the Pensions Act 2007 (c. 22), Sch. 1, para. 6.
- s. 54(4) repealed (19.7.95) by Pensions Act 1995 (c. 26), s.134(2) and Sch. 7, Pt. II
- ss.88 & 89 repealed (12.11.09) by the Wefare Reform Act 2009 (c. 24), s. 37(4), Sch. 7, part 2
- ss. 91 & 92 repealed (12.1.10) by the Wefare Reform Act 2009 (c. 24), Sch. 7, part 2
- s. 134(3) repealed, except for purposes of community charge benefit for any period before 1.4.93, by L.G.F. Act 1992 (c. 14), Sch. 9, para. 7, and Sch. 14
- s. 148(4) omitted (2.7.02) by the State Pension Credit Act 2002 (c. 16), s. 14 & Sch. 2.
- s. 159 repealed (6.4.95) by art. 5(a) of S.I. 1995/512 (the Statutory Sick Pay Percentage Threshold Order 1995). (S.158 was similarly repealed, but remains temporarily reproduced in the statutory text above).
- s. 166(5)-(8) repealed, where expected week of confinement begins on or after 16.10.94, by reg. 4(4) of S.I. 1994/1230
- Sch. 2, para. 3(1)(b) ... shall cease to have effect (8.9.98) by S.S. Act 1998 (c. 47) s. 59(3).
- Sch.3, Para. 3 repealed (2.4.00) by Welfare Reform and Pensions Act 1999 (c. 30) Sch. 13, Pt V.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

Annex 1

Sch.4, Pt I	entry relating to Maternity Allowance repealed (2.4.00) by Welfare Reform and Pensions Act 1999 (c. 30) Sch.13, Pt V
Paras. 3 & 9	repealed (12.1.10) by the Welfare Reform Act 2009 (c. 24), Sch. 7, part 2.
Sch. 5, para. 8(3) ...	omitted (6.4.10) by the Pensions Act 2007 (c. 22), Sch. 1, para. 8.
Sch. 11, para. 2(a) ...	omitted (1.10.06) by S.I. 2006/1031, reg. 13(1).
paras. 2(b) & 4	omitted (1.10.02) by S.I. 2002/2034, Sch. 2, para. 1.
para. 5 ...	repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 43(3) and Sch. 2 below.

Social Security Contributions and
Benefits Act 1992

Annex 2

This Act is a consolidating one, and **came into force on 1.7.92**, under s. 177(4).

The derivation of its provisions is explained in Annex 3 below.

The destination of the repealed provisions re-enacted herein is set out in Appendix D in the Contents Volume.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

TABLE OF DERIVATIONS

Note:

1. The following abbreviations are used in this Table:-

1975(1) =	Social Security Act 1975 (c. 14)
1975(2) =	Social Security Pensions Act 1975 (c. 60)
1975(3) =	Child Benefit Act 1975 (c. 61)
1975 (Old Cases) =	Industrial Injuries and Diseases (Old Cases) Act 1975 (c. 16)
1977 =	Social Security (Miscellaneous Provisions) Act 1977 (c. 5)
1978 =	Employment Protection (Consolidation) Act 1978 (c. 4)
1979 =	Social Security Act 1979 (c. 18)
1980(1) =	Social Security Act 1980 (c. 30)
1980(2) =	Social Security (No. 2) Act 1980 (c. 39)
1981(1) =	Social Security (Contributions) Act 1981 (c. 1)
1981(2) =	Social Security Act 1981 (c. 33)
1982(1) =	Social Security and Housing Benefits Act 1982 (c. 24)
1983 =	Health and Social Services and Social Security Adjudication's Act 1983 (c. 41)
1984 =	Health and Social Security Act 1984 (c. 48)
1985 =	Social Security Act 1985 (c. 53)
1986 =	Social Security Act 1986 (c. 50)
1987=	Social Fund (Maternity and Funeral Expenses) Act 1987 (c. 7)
1988(1) =	Social Security Act 1988 (c. 7)
1988(2) =	Local Government Finance Act 1988 (c. 41)
1989 =	Social Security Act 1989 (c. 24)
1990 =	Social Security Act 1990 (c. 27)
1991(1) =	Statutory Sick Pay Act 1991 (c. 3)
1991(2) =	Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21)

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

Annex 3

1991(3) = Social Security (Contributions) Act 1991 (c. 42)

R followed by a number = the Law Commission recommendation of that number

2. The Table does not contain any entries in respect of section 66(2) of the Social Security Pensions Act 1975 (c. 60) which provides that, with certain exceptions, that Act and the Social Security Act 1975 (c. 14) shall have effect as if the provisions of the Social Security pensions Act 1975 were contained in the Social Security Act 1975. The effect is that the general provisions of the Social Security Act 1975 apply to the provisions of the Social Security Pensions Act 1975.

3. Numerous sums specified in this Act are subject to frequent alteration by statutory instrument. There are three relevant statutory instruments in force—

- (a) The Social Security (Contributions) (Re-rating) (No.2) Order 1991 (S.I. 1991/2909, (“the Contributions Order”));
- (b) The Social Security Benefits (Up-rating)(No.2) Order 1991 (S.I. 1991/2910, (“the Benefits Order”);
- (c) The Statutory Sick Pay (Rate of Payment)(No. 2) Order 1991 (S.I. 1991/2911), (“the Sick Pay Order”);

The order in which the provisions amended by the Benefits Order are consolidated is not identical with the order in which they appear in the Social Security Act 1975.

4. The Table does not show the effect of transfer of functions orders.

<i>Provisions</i>	<i>Derivation</i>
1(1)	1975(1) s.1(1); 1990 s.16(1),(2)
(2)	1975 s.1(2); 1991(3) s.1(2)
(3)	1975(1) s.1(3); 1985 s.29(1), Sch. 5, para. 5
(4)	1975(1) s.1(4); 1991(3) s.2(1)(a)
(5)	1975(1) s.1(4A); 1990 s.16(2); 1991(1) s.1(4)
(6)	1975(1) s.1(6); 1991(3) s.1(3)
2	1975(1) s.2
3(1)	1975(1) s.3(1)
(2), (3)	1975(1) s.3(2), (3)
4(1)	1975(1) s.3(1A); 1982(2) ss.23, 37(1); 1986 s.49 Sch.4, para. 10
(2), (3)	1975(1) s.3(1B),(1C); 1982(2) s.37(1)
(4)	1975(1) s.3(1D); 1989 s.31(1), Sch.8, para. 1
(5)	1975(1) s.3(4); 1982(2) s.48(5), Sch.4 para. 8
5(1)	1975(1) s.4(1); 1975(2) ss.1(1), 65(1), Sch.4, para.36(a); 1985 s.7(1)
(2)	1975(2) s.1(2); 1986 s.74(6)

<i>Provisions</i>	<i>Derivation</i>
(3)	1975(2) s.1(3)
6(1)	1975(1)S.4(2); Education (School-Leaving Dates) Act 1976 (c.5) s.2(4)
(2)	1975(2) s.4(1); 1984 s.21, Sch. 7, para. 3(a)
(3)	1975(1) s.4(3); 1989 s.26, Sch. 7, para. 2(1)
(4)	1975(1) s.4(2)
(5)	1975(1) s.4(7); 1979 s.14(1); 1985 s. 8(1)
(6)	1986 s 74(5)
7	1975(1) s.4(4), (5)
8(1)—(3)	1975(1) s.4(6)(6A), (6B); 1989 s.1(1)
(4)	1986 s.74(5)
9(1)	1975(1) s.4(6C); 1985 s.7(2); 1989 s.26, Sch. 7, para. 2(2)
(2)	1975(1) s.4(6D); 1985 s.7(2)
(3)	1975(1) s.4(6E); 1985 s.7(2); Contributions order art.2(2)
(4)	1975(1) s.4(6C), (6E); 1985 s.7(2)
(5)	1986 s 74(5)
10	1975(1) s.4A; 1991 (3) s.1(5)
11(1)	1975(1) s.7(1); Education (School-Leaving Dates) Act 1976 (c.5) s.2(4); 1984 s.17(1); Contributions Order art. 3(a)
(2)	1975(2) s.4(2)
(3)	1975(1) s.7(4)
(4)	1975(1) s.7(5) Contributions Order art 3(b)
(5)	1975(1) s.7(6)
12(1),(2)	1975(1) s.7A(1),(2); 1984 s.17(2)
(3)	1975(1) s.7A(3); 1984 s.17(2); 1989 s.26, Sch. 7, para. 3(b), (c); The social Security (Contributions and Credits) Transitional and consequential Provisions) Regulations 1985 (S.I. 1985/1398) reg. 4(2)
(4)—(8)	1975(1) s.7A(4)—(8); 1984 s.17(2)
13(1)	1975(1) s.8(1); Education (School-Leaving dates) Act 1976 (c.5) s.2(4); 1984 s.18(1)(a) Contributions Order art.4
(2)	1975(1) s.8(2)

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Annex 3

<i>Provisions</i>	<i>Derivation</i>
(3)	1975(1) s.8(2)(a)
(4)	1975(1) s.8(2A); 1984 s.18(1)(b), (3)
(5)	1975(1) s.8(2B)1984 s.18(3)
(6)	1975(1) s.8(2C)1984 s.18(3); 1989 S.26 Sch. 7, para. 4; The Social Security (Contributions and Credits) (Transitional and Consequential Provisions) Regulations 1985 (S.I. 1985/1398) reg. 4(3)
(7)	1975(1) s.8(2D); 1984 s.18(3)
14(1)	1975(2) s.5(1); 1986 s.75, Sch. 8, para.6
(2), (3)	1975(2) s.5(2); 1977 s.1(5)
15(1), (2)	1975(1) s.9(1); 1989 s.26, Sch. 7, para. 5(a),(b)
(3)	1975(1) s.9(2), Social Security (Contributions, Re-rating) Order 1982 (S.I. 1982/1790) art.5(a) Contributions Order art.5
(4)	Income and Corporation Taxes Act 1988(c.1) s.844, Sch. 29, para. 14
(5)	1975(1) s.9(1); 1989 s.26, Sch. 7, para. 5(c)
16(1),(2)	1975(1) s.9(3)
(3)	1975(1) s.9(4)
(4)	1975(1) s.9(5); 1990 s.17(1)
(5)	1975(1) s.9(6); 1990 s.17(2)
17(1), (2)	1975(1) s.9(7), (8)
(3) – (6)	1975(1) s.9(9)
18(1)	1975(1) s.10(1); Social Security (Contributions, Re-rating) Order 1982 (S.I. 1982/1790) art. 5(a) Contributions Order art. 5
(2)	1975(1) s.10(2)
19(1)—(3)	1975(1) s.11
(4),(5)	1975(2) s.3(2), (3)
(6)	1975(2) s.3(4); 1986 s.75, Sch. 8, para. 5
20(1)	1975(1) s.12(1); 1975(2) s.65(1), Sch.4, para. 37; 1984 s.13, Sch. 5, para 2(a); 1986 s.86, Sch. 10, para. 63; 1989 s.26, Sch. 7, para. 6
(2) “long-term benefit”	1975(1) s.168(1), Sch. 20, “long-term benefit”, 1975(2), s.65(1), Sch. 4, para. 64
“Short-term benefit”	1975(1) s.12(2)

<i>Provision</i>	<i>Derivation</i>
(3)	Drafting
21(1), (2)	1975(1) s.13(1); 1986 s.86, Sch. 10, para. 64
(3)	1975(1) s.13(6)
(4)	1975(1) s.13(8); 1986 s.86, Sch. 10, para. 72(b)
(5)	1975(1) s.13(6); 1986 s.75, Sch. 8, para. 2(6)
(6)	1975(1) s.13(7)
22(1), (2)	1975(1) s.13(2); 1975(2) s.65(1), Sch. 4, para. 38(a); 1986 ss.18(1),75, 86, Sch. 8, para. 2(1), Sch. 10, para. 72
(3)	1975(1) s.13(5); 1986 s.75, Sch. 8, para. 2(4)(c); 1989 s.26, Sch. 7, para. 7
(4)	1975(1) s.13(3); 1975(2) s.65(1), Sch. 4, para. 38(b); 1986 s.75, Sch.8, para. 2(2)
(5)	1975(1) s.13(1); 1986 s.75, Sch. 8, para. 2(3)
(6)	1975(1) s.13(5AA); 1989 s.4(3)
(7)	1977 s.2
23(1)	1975(1) s.13(5); 1979 s.21(4), Sch. 3, para. 5; 1986 s. 75, Sch.8, para. 2(4)(a); 1988(1) s.9, Sch. 2, para.1(1)(a)
(2)	1975(1) s.13(5ZA); 1988(1) s.9, Sch. 2, para. 1(1)(b)
(3)	1975(1) s.13(5); 1989 s.4(2)
(4)	1975(1) s.13(5A); 1985 s.29(1), Sch. 5, para. 6(b); R1
24(1)	1975(1) s.13(5B); 1986 s.75, Sch. 8, para. 2(5)
(2)	1975(1) s.13(5C); 1989 s. 4(4)
25(1)	1975(1) s.14(1)
(2)	1975(1) s.14(2); 1989 s.7, Sch. 1, para. 4(1)
(3)	1975(1) s.14(3)
(4)	1975(1) s.14(4); 1975(2); s.18(2)
(5), (6)	1975(1) s.14(6); 1975(2) s.65(1), Sch. 4, para. 39(b), 1979 s.21(4), Sch. 3, para. 6; 1986 s.86, Sch. 10, para. 83
(7)	1975(1) s.14(8)
26(1)	1975(1) s.18(1)
(2) – (4)	1975(1) s.18(2) – (2B); 1989 s.11

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Annex 3

<i>Provisions</i>	<i>Derivation</i>
(5)	1975(1) s.18(3)
(6)	1975(1) s.18(4); 1986 s.43(1)
27(1), (2)	1975(1) s.19(1); (1A); 1986 s.44(1)
(3)	1975(1) s.19(2)
28(1)	1975(1) s.20(1); Employment Act 1988 (c. 19) s.27(2); 1989 s.12(1); Unemployment Benefit (Disqualification Period) Order 1988 (S.I. 1988/487) art. 2
(2)	1975(1) s.20(1A); 1986 s.43(3)(a)
(3)	1975(1) s.20(3)
(4)	1975(1) s.20(3A); 1985 s.10
(5)	1975(1) s.20(4); 1989 s.12(3)
(6)	Education (Scotland) Act 1962 (c. 47) s.145(16); Local government (Scotland) Act 1973 (c. 65) s.129, Sch. 11, para. 12; 1975(1) s.20(5); Employment Act 1988 (c. 19) s.27(3)
29	1975(1) s.20A; 1989 s.12(4)
30(1)	1980(2) s.5(1); 1988(1) s.7(a), 1989 s.9(1)
(2)	1980(2) s.5(1A); 1982 s.48(5), Sch. 4, para. 34(2)
(3)	1980(2) s.5(1A); 1982(2) s.48(5), Sch. 4, para. 34(3); 1989 s.9(1)
(4) “employer”	1980(2) s.5(3) “employer”
“employment”	“1980(2) s.5(3) “employment”
“modifications”	“1980(2) s.5(3) “modifications”
31(1)	1975(1) s.14(1)
(2)	1975(1) s.14(2); 1989 s.7, Sch. 1, para 4(1)
(3)	1975 s.14(2A); 1982 s.39(3)
(4)	1975(1) s.14(3)
(5)	1975(1) s.14(4); 1975(2) s.18(1); 1982(2) s.48(5), Sch. 4, para. 9
(6), (7)	1975(1) s.14(6); 1975(2) s.65(1), Sch. 4, para. 39(b); 1979 s.21(4), Sch. 3, para. 6; 1986 s.86, Sch. 10, para. 83
(8)	1975(1) s.14(8)
32(1), (2)	1975(1) s.20(2), (3)
(3)	1975(1) s.20(5)(d) “week”
33(1)	1975(1) s.15(1); 1989 s.7, Sch. 1, para. 5(1)

<i>Provisions</i>	<i>Derivation</i>
(2)	1975(1) s.152); 1989 s.7, Sch. 1, para. 5(2)
(3)	1975(1) s.15(3); 1975(2) ss.14, 65(1), Sch. 4, para. 40(b); 1990 s.4(1)
(4), (5)	1975(1) s.15(4); 1975(2) s. 65(1), Sch. 4, para. 40(c); 1979 ss.5, 21(4), Sch. 1, para. 1, Sch. 3, para. 7; 1986 s.86, Sch. 10, para. 83
(6)	1975(1) s.15(5)
(7),(8)	1975(1) s.15(5A), (5B); 1991(2) s.9(1)
(9)	1975(1) s.15(6); 1982(2) s.48(5), Sch. 4, para. 10
(10),(11)	1975(1) s.15A(1), (2); 1985 s.18(3)
34(1), (2)	1975(1) s.16(1); 1985 s.9(1)(a)
(3)	1975(1) s.16(2); 1979 s.5, Sch. 1, para. 10(a)
(4)	1975(1) s.116(2B)(a); 1985 s.9(1)(b); 1986 s.18(1)
(5)	1975(1) s.16(2C)(a); 1985 s.9(1)(b); 1986 s.18(1)
(6)	1975(1) s.16(2D)(a); 1985 s.9(1)(b); 1986 s.18(1)
(7)	1975(1) s.16(3); 1985 s.9(1)(c)
35(1) – (3)	1975(1) s.22(1)–(3); 1986 s.49(2), Sch. 4, para. 13
(4)	1975(1) s.22(4A); 1988(1) s.16, Sch. 4, para. 5(b)
(5)	1975(1) s.22(5); 1986 s.49(2), Sch. 4, para. 13
(6)	1975(1) s.22(6); 1986 ss.49(2), 50, Sch. 4, para. 13
(7)	1975(1) s.22(7); 1986 s.49(2), Sch. 4, para. 13
36(1), (2)	1975(1) s.24(1), (2); 1986 s.36(1)
(3)	1975(1) s.24(3); 1989 s.26, Sch. 7, para. 8
37(1)	1975(1) s.25(1); 1975(2) s. 65(1), Sch. 4, para. 41; 1975(3) s.21(1), Sch. 4, para. 9(a); Human Fertilisation and Embryology Act 1990 (c. 37) s.49, Sch. 4, para. 2
(2)	1975(1) s.25(2); 1975(3) s.21(1), Sch. 4, para. 9(b)
(3), (4)	1975(1) s.25(3), (4); 1989 s.31(1), Sch. 8, para. 4(1)

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Annex 3

<i>Provision</i>	<i>Derivation</i>
38(1)	1975(1) s.26(1); 1975(2) s. 65(1), Sch. 4, para. 42; 1986 s.36(3)(a)
(2), (3)	1975(1) s.26(3);(4); 1989 s.31(1), Sch. 8, para. 4(2)
(4)	1989 s.6(1)
39(1)	1975(2) s.13(1), (3)
(2)	1975(2) s.13(2)
(3)	1986 s.19(1)(c)
(4), (5)	1975(1) s.26(2); 1986 s.36(3)(b)
(6)	1989 s.6(1)
40(1)	1975(2) s.15(1); 1986 s.86, Sch. 10, para. 70(a)
(2)	1975(2) s.15(1A); 1989 s.26, Sch. 7, para. 20(1)
(3)	1975(2) s.15(2); 1986 s.86, Sch. 10, para. 70(b)
(4)	1975(2) s.15(3)
(5)	1975(2) s.15(4); 1986 s.86, Sch. 10, para. 70(c); 1990 s.4(2)
(6)	1977 s.17(6)
(7)	1975(2) s.15(5); 1977 s.4(4); 1989 s. 7, Sch. 1, para. 10(1)
(8)	1975(2) s.15(6)
(9)	1977 s.24(1) “modifications”
41(1)	1975(2) s.16(1); 1979 s.5, Sch. 1, para. 18
(2), (3)	1975(2) s.16(2), (3)
(4), (5)	1975(2) s.16(4); 1990 s.4(3)
(6)	1986 s.19(1)(d)
(7)	1975(2) s.16(5); 1977 s.4(4), 1989 s.7, Sch. 1, para. 10(2)
(8)	1975(2) s.16(6)
42	1975(2) s.16A; 1991(2) s.9(3)
43(1)	1975(1) s.27(6)
(2)	1977 s.4(1); 1979 s.5, Sch.1, para. 8
(3), (4)	1975(2) s.25(1)
(5)	1975(2) s.25(2)
44(1)	1975(1) s.28(1); 1975(2) s. 65(1), Sch. 4, para. 43; 1989 s.31(1), Sch. 8, para. 4(3)
(2)	1975(1) s.28(1A); 1989 s.31(1), Sch. 8, para. 4(4)

<i>Provision</i>	<i>Derivation</i>
(3), (4)	1975(2) s.6(1); 1986 s.18(1); Benefits Order art. 4(2)
(5)	1975(2) s.6(4); 1979 s.21(4), Sch. 3, para. 14
(6)	1975(2) s.6(5); 1986 s.75, Sch. 8, para. 7(1)(a);; 1989 s.26, Sch. 7, para. 19
(7)	1975(2) s.6(6)
(8)	Transitional
45(1)	1975(2) s.6(2); 1986 s.18(1), (2)
(2)(3)	1975(2) s.6(2A); 1986 s.18(3)
(4),(5)	1975(2) s.6(2B); 1986 s.18(3)
(6), (7)	1975(2) ss.6(3), 60a; 1979 s.18; 1986 s.18(4)
(8)	Drafting
46(1)	1986 s.18(6)
(2)	1986 s.18(5)
47(1)	1975(1) s. 285(7); 1980(2) s.3(3), 1985 s.9(2)(a),(b)
(2)	1975(1) s.28(7A)(a); 1985 s.9(2)(c); 1986 s.18(1)
(3)	1975(1) s.28(7B)(a); 1985 s.9(2)(c); 1986 s.18(1)
(4)	1975(1) s.28(7C)(a); 1985 s.9(2)(c); 1986 s.18(1)
(5)	1975(1) s.28(8)
(6)	1980(2) s.3(4)
48(1)	1975(2) s.20(1); 1979 s.5, Sch.1, para. 5
(2)	1979 s.5, Sch. 1, para. 20
(3)	1975(2) s.20(2)
49(1)	1975(1) s.29(1)
(2), (3)	1975(1) s.29(2), (3), 1989 s.7(3)(a)
(4)	1975(1) s.29(4)
(5)	1975(1) s.29(5)
(6)	1975(1) s.29(6)
(7), (8)	1975(1) s.29(9), (9A), 1989 s.31(1), Sch. 8, para. 4(5)
50(1)	1975(1) s.29(7), 1975(2) s.65(1), Sch. 4, para. 44
(2)	1975(1) s.29(8); 1985 s.9(3)
(3), (4)	1975(2) s.7
(5)	1986 s.19(1)(a)

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<i>Provision</i>	<i>Derivation</i>
51(1)	1975(2) s.8(1), 1979 s.5, Sch. 1, paras. 4, 14
(2)	1975(2) s.8(2)
(3)	1986 s.19(1)(b)
(4)	1975(2) s.8(3), 1989 s.7, Sch. 1, para. 9(2)
52(1)	1975(2) s.9(1)
(2), (3)	1975(2) s.9(2), (3); 1986 s.18(1)
(4)	1979 s.5, Sch. 1, para. 15
53(1)	1975(2) s.10(1)
(2)	1975(2) s.10(2); 1986 s.18(1)
(3)	1979 s.5, Sch. 1, para. 16
54(1), (2)	1975(1) s.30(3)
(3)	1975(1) s.30(4); 1975(2) s.65(1), Sch. 4, para. 45
(4)	1975(1) s.30(5); 1989 s.7, Sch. 1, para. 2(2)
55	1975(2) s.12; 1989 s.7(4)
56(1), (2)	1975(1) s.31; 1975(3) s.21(1), Sch. 4, para. 10; 1977 s.22(2)
(3), (4)	1975(1) s.43(1); 1975(3) s.21(1), Sch. 4, para. 15(a)
(5)	1975(1) s.43(2); 1975(3) s.21(1), Sch. 4, para. 15(b); 1977 s.22(3)
(6)	1986 s.40
57(1)	1975(1) s.17(1); 1980(2) s.3(1); 1989 s.10(2)
(2)	1975(1) s.22(4); 1986 s.49, Sch. 4, para. 13; 1988(1) s.16, Sch. 4, para. 5(a)
(3)	1975(1) s.17(2); 1989 s.10(3); R2
(4)	1975(1) s.17(2A); 1988(1) s.16, Sch. 4, para. 4
(5)	1975(1) s.17(2B); 1989 s.10(4)
(6), (7)	1975(1) s.17(2C), (2D); 1989 s.31(1) Sch. 8, para. 3
(8)	1975(1) s.17(3)
(9), (10)	1975(1) s.17(4), (5), 1980(2) s.3(4); 1981(2) s.5
58(10)	1989 s.31(1), Sch. 8, para. 2(1)
(2)	1989 s.31(1), Sch. 8, para. 2(2), (6) "incapacity benefit"; 1990 s.21(1) Sch. 6, para. 30(2)

<i>Provision</i>	<i>Derivation</i>
(3)	1989 s.31(1), Sch. 8 para. 2(3)
(4)	1989 s.31(1), Sch. 8, para. 2(6); Local Government and Housing Act 1989 (c. 42) s.194, Sch. 11, para. 113; 1190 s.21(1), Sch. 6, para. 30(4)
(5)	1989 s.31(1), Sch. 8, para. 2(7)
59(1), (2)	1975(1) s.20(2)(3)
(3)	1975(1) s.20(5)(d) “week”
60(1)	1975(1) s.33(1), (2)
(2), (3)	1986 s.39, Sch. 3, para. 10; 1988(1) s.2, Sch. 1, para 5(b)
(4) – (6)	1975(1) s.33(3); 1975(2) s.65(1), Sch. 4, para. 46; 1990 s.21(1), Sch. 6, para. 3(1)
(7)	1975(1) s.33(4); 1975(2) s.19(5); 1986 s.18(1)
(8)	1988(1) s.2, Sch. 1, para. 5(a)
61(1)	1977 s.8(1); 1986 s.18(1); 1990 s.21(1), Sch. 6, para. 3(3)
(2)	1977 s.8(2); 1986 s.18(1); 1990 s.21(1), Sch. 6, para. 3(4)
62(1)	1975(2) s.24(1)(b),(c)
(2)	1975(2) s.24(2)
63	1975(1) s.34; 1984 s.11, Sch. 4, para. 3; 1990 s.2(3); 1991(2) s.1(1)
64	1975(1) s.35(1); 1988(1) s.1(1); 1991(2) s.2(1)
65(1)	1975(1) s.35(2); 1979 s.2(2); 1989 s.31(1), Sch. 8, para. 5(2)
(2)	1975(1) s.35(2A); 1979 s.2(3)
(3)	1975(1) s.35(3); 1991(2) s.4, Sch. 2, para. 3(2)
(4)	1975(1) s.35(4); 1989 s.31(1), Sch. 8, para. 5(3), 1991(2) s.4, Sch. 2, para. 3(3)
(5)	1975(1) s.35(4A); 1980(1) s.2, Sch. 1, para. 8; 1989 s.31(1), Sch. 8, para. 5(4); 1991(2) s.4, Sch. 2, para. 3(3)
(6)	1975(1) s.35(4)(a); 1979 s.2(5); 1989 s.31(1), Sch. 8, para. 5(3); 1990 s.1(2)
66	1975(1) s.35(2B), (2C); 1990 s.1(1); 1991(2) s.4, Sch. 2, para. 3(1)
67(1)	1975(1) s.35(5A); 1979 s.2(6)

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Annex 3

<i>Provision</i>	<i>Derivation</i>
(2)	1975(1) s.35(6); National Health Service Act 1977 (c. 49) s.129, Sch. 15, para. 63; 1991(2) s.4, Sch. 2, para. 3(4)
68(1)–(4)	1975(1) s.36; 1984 s.11(1)
(5)	1975(1) s.36(4A); 1985 s.21, Sch. 4, para. 3
(6)(7)	1975(1) s.36(5), (6), 1984 s.11(1)
(8), (9)	1975(1) s.36(6A), (6B), 1989 s.31(1), Sch. 8, para. 6
(10)	1975(1) s.36(6C); 1991(2) s.9(2)(11)
(11)	1975(1) s.36(7); 1984 s.11(1); 1989 s.31(1), Sch. 8, para. 2(5); 1990 s.21(1), Sch. 6, para. 30(5)
(12)	1989 s.31(1), Sch. 8, para. 2(4)
(13)	1975(1) s.36(8); 1984 s.11(1); 1989 s.31(1), Sch. 8, para. 2(6) “councilor”, “pre-commencement period”, (7)
69	1975(1) s.36A; 1990 s.2(1)
70(1)	1975(1) s.37(1)
(2)	1975(1) s.37(2); 1991(2) s.4, Sch. 2, para. 4.
(3) – (5)	1975(1) s.37(3) – (5)
(6)	1975(1) s.37(6); 1989 s.26, Sch. 7, para. 10
(7) – (9)	1975(1) s.37(7) – (9)
(10)	1975(1) s.37(6)
71	1975(1) s.37ZA; 1991(2) s.1(2)
72	1975(1) s.37ZB; 1991(2) s.1(2)
73	1975(1) s.37ZC; 1991(2) s.1(2)
74(1)	1977 s.13(1); 1991(2) s.4, Sch. 2, para. 7 1977 s.13(3)
75	1975(1) s.37ZD, 1991(2) s.1(2)
76	1975(1) s.37ZE; 1991(2) s.1(2)
77(1)	1975(1) s.38(1); 1975(3) s.21(1), Sch. 4, para. 12(a)
(2), (3)	1975(1) s.38(2), (3)
(4), (5)	1975(1) s.43(1); 1975(3) s.21(1), Sch. 4, para. 15(a)
(6)	1975(1) s.43(2); 1975(3) s.21(1), Sch. 4, para. 15(b); 1977 s.22(3)
(7)	1975(1) s.38(1)

<i>Provision</i>	<i>Derivation</i>
(8)	1975(1) s.38(4)
(9)	1975(1) s.38(5); 1975(3) s.21(1), Sch. 4, para. 12(c)
(10)	1975(1) s.38(6); 1986 s.45(a)
(11)	1975(1) s.38(7); 1986 s.45(b)
78(1), (2)	1975(1) s.39(1)(a), (b)
(3),(4)	1975(1) s.39(1)(c); 1979 s.5, Sch. 1, para. 2; 1986 s.18(1)
(5)	1975(1) s.39(2)
(6)	1975(1) s.39(2A); 1985 s.12(1)(b)
(7), (8)	1975(1) s.39(3), (3A); 1989 s.31(1), Sch. 8, para. 4(6)
(9)	1975(1) s.39(4)
79	1975(1) s.40
80(1)	1975(1) s.41(1); 1975(3) s.21(1), Sch. 4, para.13
(2)	1975(1) s.41(2); 1984 s.13, Sch. 5, para.3(a)
(3)	1975(1) s.41(2A); 1984 s.13, Sch. 5, para. 3(c)
(4)	1975(1) s.41(2B); 1984 s.13, Sch. 5, para. 3(c); Benefits Order 1991 art. 11
(5),(6)	1975(1) s.41(2D); 1984 s.13, Sch. 5, para. 3(c)
(7)	1975(1) s.41(2D); 1984 s.13, Sch. 5, para. 3(c)
81(1), (2)	1975(1) s.43(1); 1975(3) s.21(1), Sch. 4, para. 15(a)
(3)	1975(1) s.43(2); 1975(3) s.21(1), Sch. 4, para. 15(b), 1977 s.22(3)
82(1)	1975(1) s.44(1); 1975(3) s.22(1), Sch. 4, para. 16(a); 1980(1) s.21, Sch. 1, para. 5(2); 1988(1) s.16, Sch. 4, para. 16(a)
(2)	1975(1) s.44(2); 1975(3) s.22(1), Sch. 4, para. 16(a); 1980(1) s.21, Sch. 1, para. 5(2)
(3)	1975(1) s.44(3)(a); 1988(1) s.16, Sch. 4, para. 16(b)
(4)	1975(1) s.s44(3)(c); 1975(3) s.22(1), Sch. 4, para. 16(b); 1980(1) s.2, Sch. 1, para. 4(a)
(5)	1975(1) s.44(4)
83(1)	1975(1) s.45(1)

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<i>Provision</i>	<i>Derivation</i>
(2)	1975(1) s.45(2); 1975(3) s.21(1), Sch. 4, para. 17; 1988(1) s.16, Sch. 4, para. 7(a)
(3)	1975(1) s.45(2A); 1985 s.13(1)
84(1)	1975(1) s.45A(1); 1984 s.12; 1985 s.13(2)(a)
(2)	1975(1) s.45A(2) 1985 s.13(2)(b); 1988(1) s.16, Sch. 4, para. 8(a)
(3)	1975(1) s.45A(3); 1985 s.13(2)(b)
85(1)	1975(1) s.46(1)
(2)	1975(1) s.46(2); 1975(3) s.21(1), Sch. 4, para. 18; 1980(1) s.2, Sch. 2, para.4(b)
(3)	1975(1) s.46(3)
(4)	1975(1) s.46(4); 1985 s.13(3)
86(1)	1975(1) s.47(1); 1975(3) s.21(1), Sch. 4, para. 19; 1980(1) s.2, Sch. 2, para. 5(2); 1989 s.31(1), Sch. 8, para. 7(1)
(2)	1975(1) s.47(1A); 1985 s.13(4)(b)
87(1)	1975(1) s.47A(a); 1980(1) s.2, Sch. 1, para. 5(1); 1990 s.21(1), Sch. 6, para. 3(2)
(2)	1975(1) s.47A(b); 1990 s.21(1), Sch. 6, para. 3(2)
88	1975(1) s.48(1)
89	1975(1) s.47B; 1984 s.14(a); 1989 s.9(3)
90	1975(1) s.49; 1984 s.11, Sch. 4, para. 3
91	1975(1) s.49A; 1986 s.44(2)
92	1975(1) s.84A; 1989 s.31, Sch. 8, para. 7(2)
93	1991(2) s.9(5)
94(1)	1975(1) s.50(1); 1986 s.39, Sch. 3, para. 2
(2)	1975(1) s.50(1A); 1988(1) s.16, Sch. 4, para. 11
(3)	1975(1) s.50(3)
(4)	1975(1) s.50(4); 1982(2) s.48(5), Sch. 4, para. 12(2)
(5)	1975(1) s.50(5)
(6)	1975(1) s.50(6); 1982(2) s.48(5), Sch. 4, para. 12(3)
95(1) – (3)	1975(1) s.51
(4), (5)	1977 s.17(3)

<i>Provision</i>	<i>Derivation</i>
96	1975(1) s.157
97	1975(1) s.156
98 – 101	1975(1) ss. 52 – 55
102(1), (2)	1975(1) s.50A(1), (2); 1982(2) s.39(4)
(3)	1975(1) s.50A(3); 1982(2) s.39(4); 1989 s.7, Sch. 1, para. 8(1)
103(1)	1975(1) S.57(1); 1986 s/39, Sch. 3, para. 3(1)
(2) – (4)	1975(1) s.57(1A) – (1C); 1986 s.39, Sch. 3, para. 3(2)
(5)	1975(1) s.57(3)
(6)	1975(1) s.57(4); 1982(2) s.39(2); 1989 s.26, Sch. 7, para. 12
(7), (8)	1975(1) s.57(6); 1986 s.39, Sch. 3, para. 3(4)
104(1), (2)	1975(1) s.61(1), (2)
(3), (4)	1975(1) s.61(3), (4); 1986 s.39, Sch. 3, para. 6
105	1975(1) s.63
106	Drafting
107(1)	1975(1) s.91(1); 1982(2) s.48(5), Sch. 4, para. 15
(2)	1975(1) s.91(2); R3
108(1) – (4)	1975(1) s.76(1) – (4)
(5)	1975(1) s.76(4A); 1990 s.21(1), Sch. 6, para. 4(1)
(6)	1975(1) s.76(5)
109(1)	1975(1) S.77(1)
(2)	1975(1) S.77(2); 1990 SS.3(7), 21(1), Sch. 6, para. 4(2)
(3)	1975(1) S.77(3)
(4) – (6)	1975(1) S.77(4); 1986 S.39, Sch. 3 para. 13
(7)	1975(1) s.77(5); 1986 s.39, Sch. 3 para. 13
110	1975(1) s.78
111	Drafting
112(1), (2)	1977 s.18(1)
(3)	1977 s.18(2); Employment Protection (Consolidation) Act 1978 (c. 44) s.159, Sch. 16, para. 29(d); 1986 s.86, Sch. 10, para. 74
113(1), (2)	1975(1) s.82(5), (6)

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<i>Provision</i>	<i>Derivation</i>
(3)	1975(1) s.83; 1985 s.29(1), Sch. 5, para. 8
114(1), (2)	1975(1) s.84(1), (2)
(3)	1975(1) s.84(4), 1985 s.13(6)
(4)	1975(1) s.84(5); 1985 s.13(8); 1986 s.39, Sch. 3, paras. 4, 16
115(1)	1975(1) s.127(1)
(2), (3)	1975(1) s.127(2),
(4)	Drafting
116	1975(1) s.128(1) – 3
117	1975(1) s.129
118	1975(1) s.130
119	1975(1) s.131
120(1)	1975(1) s.132(1)
(2)	1975(1) s.132(2); Oil and Gas (Enterprise) Act 1982 (c. 23) s.37, Sch. 3, para. 21
(3)	1975(1) s.132(3)
121	1975(1) s.162
122(1) “beneficiary”	1975(1) s.168(1), Sch. 20, “beneficiary”
“benefit”	1975(1) s.168(1), Sch. 20, “benefit”
“child”	1975(1) s.168(1), Sch. 20, “Child”; 1975(3) s.21(1), Sch. 4, para. 38
“claim”	1975(1) s.168(1), Sch. 20, “claim”
“claimant”	1975(1) s.168(1), Sch. 20, “claimant”
“contract of service”	1975(1) s.168(1), Sch. 20, “Contract of service”
“current”	1975(1) s.168(1), Sch. 20, “current”
“day of incapacity for work”, “day of interruption of employment”, “deferred”; “period of deferment”, “earnings”, “earner”; “employed earner	Drafting
“employment”; “employed”	1975(1) s.168(1), Sch. 20, “employment”, “employed”
“entitled”	1975(1) s.168(1), Sch. 20, “entitled”, 1985 s.29(1), Sch. 5, para. 14; 1990 s.5(2)
“industrial injuries benefit”	1975(1) s.168(1), Sch. 20, “industrial injuries benefit”
“initial primary percentage”	1975(1) s.168(1), Sch. 20, “initial primary percentage”, 1989 s.1(9)

<i>Provision</i>	<i>Derivation</i>
“the Inland Revenue”	1975(1) s.168(1), Sch. 20, “the Inland Revenue”
“late husband”	“1975(1) s.168(1), Sch. 20, “late husband”
“long-term benefit”	Drafting
“loss of physical faculty”	“1975(1) s.168(1), Sch. 20, “loss of physical faculty”; 1984 s.11, Sch. 4, para. 11(a)
“lower earnings limit”, “upper earnings limit”	“1975(1) s.168(1), Sch. 20, “lower earnings limit”, “upper earnings limit”
“main primary percentage”	“1975(1) s.168(1), Sch. 20, “main primary percentage”, 1989 s.1(9)
“medical examination”	“1975(1) s.168(1), Sch. 20, “medical examination”
“medical treatment”	“1975(1) s.168(1), Sch. 20, “medical treatment”
“the Northern Ireland Department	“1975(1) s.168(1), Sch. 20, “the Northern Ireland Department”
“Old Cases payments	Drafting
“payments by way of occupational or personal pension”	“1975(1) s.168(1), Sch. 20, “payments by way of occupational or personal pension”, 1980(2) s.5(3) “payments by way of occupational or personal pension”, 1984 s.21, Sch. 7, para. 2; 1989 s.9(2), (4)
“pensionable age”	“1975(1) s.168(1), Sch. 20, “pensionable age”
“pneumoconiosis”	“1975(1) s.168(1), Sch. 20, “pneumoconiosis”
“prescribe”	“1975(1) s.168(1), Sch. 20, “prescribe”
“primary percentage”	“1975(1) s.168(1), Sch. 20, “primary percentage”; 1989 s.1(9)
“qualifying earnings factor”	“1975(1) s.168(1), Sch. 20, “qualifying earnings factor”; am, 1975(2) s.65, Sch. 4, para. 64
“relative”	“1975(1) s.168(1), Sch. 20, “relative”
“relevant accident”	“1975(1) s.168(1), Sch. 20, “relevant accident”
“relevant injury”	1975(1) s.168(1), Sch. 20, “relevant injury”
“relevant loss of faculty”	“1975(1) s.168(1), Sch. 20, “relevant loss of faculty”; 1984 s.11, Sch. 4, para. 11(b)
“self-employed earner”, “short-term benefit”	Drafting
“tax week”	1975(1) s.168(1), Sch. 20, “tax week”

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<i>Provision</i>	<i>Derivation</i>
“tax year”	“1975(1) s.168(1), Sch. 20, “tax year” 1990 s.21(1), Sch. 6, para.11”
“trade or business”	“1975(1) s.168(1), Sch. 20, “trade or business”
“trade union”	1975(1) s.168(1), Sch. 10, “trade union”
“week	“1975(1) s.168(1), Sch. 20 “week”; 1991(2) s.9(4)
(2)	“1975(1) s.168(1), Sch. 20, “employment” 1989 s.12(5)
(3)	1977 s.22(1)
(4), (5)	“1975(1) s.168(1), Sch. 20, “entitled to child benefit”; 1975(3) s.21(1), Sch. 4, para. 38
(6)	“1975(1) s.168(1), Sch. 20, “permanently incapable of self support”; 1980(1) s.2, Sch. 1, para. 7
123(1)	1986 s.20(1); 1988(2) s.135, Sch. 10, para. 2(2); 1991 (2) s.6(2)
(2)	1986 s.20(2); 1991(2) s.6(3); S.I. 1988/1843 Sch. 3, para. 4(c)
(3)	1986 s.31(4)
(4) – (6)	1986 s.31G(4) – (6); 1988(2) s.135, Sch. 10, para. 6
124(1)	1986 s.20(3)l 1988(1) s.4(1); 1989 s.13(1)
(2)	1986 s.20(3)l 1988(1) s.4(1); 1989 S.13(1)
(3)	1986 S.20(4N); 1988(1) s.4(2)
(4)	1986 s.20(4)
(5), (6)	1986 s.21(1); 1988(1) s.16, Sch. 4, para. 23(1)
125(1) – (4)	1986 s.20(4A) (4D); 1988(1) s.4(2)
(5)	1986 s.20(4N); 1988(1) s.4(2)
126(1) – (4)	1986 s.23(1) – (4)
(5)	1986 s.23(5); Income and Corporation Taxes Act 1988 (c.1) s.844, Sch. 29, para. 32
(6)	1986 s.23(5A), 1988(1) s.16, Sch. 4, para. 24(1)
(7)	1986 s.23(6); 1990 s.21(1), Sch. 6, para. 17(2) Benefits Order art.16
(8)	1986 s.23(7); 1990 s.21(1), Sch. 6, para. 17(3)

<i>Provison</i>	<i>Derivation</i>
127	1986 s.23A; 1988(1) s.16, Sch. 4, para. 25; 1989 s.31(1) Sch. 8, para. 16
128(1)	1986 s.20(5);(5A) 1988(1) s.3(a); 1991(2) s.8(1)
(2)	1986 s.21(2); (3)
(3)	1986 s.20(6); 1989 s.31(1), Sch. 8, para. 15(1)
(4)	1986 s.20(10); 1991(2) s.8(2)
(5)	1986 s.21(6)(a)
(6)	1986 s.79(3)
129(1)	1986 s.20(6A), (6D), 1991(2) s.6(4)
(2), (3)	1986 s.20(6B); (6C); 1991(2) s.6(4)
(4)	1986 s.20(6E); 1991(2) s.6(4)
(5)	1986 s.21(3A), (3B); 1991(2) s.6(8)
(6)	1986 s.20(6F); 1991(2) s.6(4)
(7)	1986 s.27B(4); 1991(2) s.7(1)
(8)	1986 s.27B(4); 1991(2) s.6(9)
(9)	1986 s.79(3); 1991(2) s.7, Sch. 3, para. 7
130(1), (2)	1986 s.20(7) (8)
(3)	1986 s.21(4), (5)
(4), (5)	1986 s.21(6); housing (Scotland) act 1988 (C. 43) S.70(3), Housing Act 1988 (C. 50) S.121(4)
131(1)	1986 s. 20(8A); 1988(2) s.135, Sch. 10, para. 2(3)
(2)	1986 S.20(8AA); 1988(2) S.135, Sch. 8, para. 9(2)
(3) – (9)	1986 s.20(8B) – (8H); 1988(2) s.135, Sch. 10, para. 2(3)
(10), (11)	1986 s.21(5A), (5B); 1988(2) s.135, Sch. 10, para. 3(2)
(12)	1986 s.21(6)(c); 1988(2) s.135, Sch. 10, para. 3(3)
132	1986 s.22A; 1988(2) s.135, Sch. 10, para. 5
133(1)	1986 s.22B(1); 1988(2) s.135, Sch. 10, para. 5; 1989 s.31(1), Sch.8, para. 9(3)
(2) – (4)	1986 s.22B(2) – (4); 1988(2) s.135, Sch. 10, para. 5
134(1)	1986 s.22(6)
(2)	1986 s.20(9)
(3)	1986 s.20(9A); 1988(2) s.135, Sch. 10, para. 2(4)

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<i>Provision</i>	<i>Derivation</i>
(4)	1986 s. 21(7)
135(1), (2)	186 s,22(1), (2)
(3), (4)	1986 s.22(2A), (2B), 1990 s.9
(5)	1986 s.22(3); 1988(2) s.135, Sch. 10, para. 4(2)
(6)	1986 s.22(4)
136(1)	1986 s.22(5)
(2), (3)	1986 s.22(7), (8)
(4)	1986 s.22(8A); 1988(2) s.135, Sch. 10, para. 4(3)
(5)	1988 s.22(9)
137(1) “charging authority”	1986 s.20(11) “charging authority”; 1988(2) s.135, Sch. 10, para. 2(5)
“child”	1986 s.20(11) “child; 1989 s.5(1)
“contribution period”	1986 s.20(11) “contribution period”; 1988(2) s.135, Sch. 10, para. 2(5)
“dwelling”	1986 s.84(1) “dwelling”
“family”	1986 s.20(11) “family”
“industrial injuries scheme”	1986 s.20(11) “industrial injuries scheme” 1991(2) s.6(6)(a)
“levying authority”	1986 s.20(11) “levying authority”; 1988(2) s.135, Sch. 10, para. 2(5)
“married couple”	1986 s.20(11) “married couple”
“the 1987 Act”, “the 1988 Act”	Drafting
“prescribed”	1986 s.84(1) “prescribed”
“unmarried couple”	1986 s.20(11) “unmarried couple”
“war pension scheme”	1986 s.20(11) “war pension scheme”; 1991(2) s.6(6)(b)
“week”	1986 s.20(11) “week; 1988(2) s.135, Sch. 10, para. 2(5)
(2)	1986 s.20(12); 1989 s.13(2); 1991(2) s.6 (7)
138(1)	1986 s.32(2); 1987 s.1
(2)	1986 s.32(2A); 1988(1) s.11, Sch. 3, para. 2
(3)	1986 s.33(1A); 1988(1) s.11, Sch. 3, para. 10
(4)	1986 s.84(1) “prescribed”
139(1) –(3)	1986 s.33(2) – (4)
(4)	1986 s.33(4A); 1988(1) s.11, Sch. 3, para. 11

<i>Provision</i>	<i>Derivation</i>
(5)	1986s.33(11)
140(1)	1986 s.33(9); 1988(1) s.11, Sch. 3, para. 12
(2)	1986 s.33(10)
(3)	1986 s.33(10ZA); 1990 s.10(3)
(4)	1986 s.33(10A) 1988(1) s.11, Sch. 3, para. 13; 1990 s.10(4)
(5)	1986 s.32(11); 1988(1) s.11, Sch. 3, para. 7
141	1975(3) s.1(1)
142(1)	1975(3) s.2(1); 1986 s.70(1)(a); 1988(1) s.4(3)
(2), (3)	1975(3) s.2(1A), (1B); 1986 s.70(1)(b)
(4), (5)	1975(3) s.2(2), (3)
143(1), (2)	1975(3) s.3(1), (2)
(3)	1975(3) s.3(3); National Health Service and Community Care Act 1990 (c. 19) s.66(1), Sch. 9, para.15
(4), (5)	1975(3) s.3(4), (5)
144(1), (2)	1975(3) s.4(1); 1988(1), s.4(4)
(3)	1975(3) s.4(2)
145(1) – (4)	1975(3) s.5(1) – (4)
(5)	1975(3) s.22(1)(a)
(6)	1975(3) s.22(8)
(7)	1975(3) s.22(9)
146	1975(3) s.13
147(1) “prescribed”	1975(3) s.24(1) “prescribed”
“recognised educational establishment”	1975(3) s.24(1) “recognised educational establishment”
“voluntary organisation”	“1975(3) s.24(1) “voluntary organisation”
“week”	1975(3) s.24(1) “week”
(2)	1975(3) s.24(2)
(3)	1975(3) s.24(3)(b)
(4)	1975(3) s.24(4)
(5)	1975(3) s.9(2)
(6)	1975(3) s.24(5)
148	1986 s.66, Sch. 6, para. 2
149	1986 s.66, Sch. 6, para. 3
150(1)	1986 s.66, Sch. 6, para. 1(1)

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<i>Provision</i>	<i>Derivation</i>
(2) “attendance allowance”	1986 s.66, Sch. 6, para. 1(2) “attendance allowance”; 1991(2) s.4, Sch.2, para. 16
“pensionable age”	1986 s.66, Sch. 6, para. 1(2) “pensionable age”
“retirement pension”	“1986 s.66, Sch. 6, para.1(2) “retirement pension”
“unemployability supplement or allowance”	1986 s.66, Sch. 6, para. 1(2) “unemployability supplement or allowance”; Income and Corporation Taxes Act 1988 (c.1) s.844, Sch. 29, para. 32, Table
“war disablement pension”	1986 s.84(1) “war disablement pension”; Income and Corporation Taxes Act 1988 s.844, Sch.29, para. 32, Table
“war widow’s pension”	1986 s.84(1) “war widow’s pension”; Income and Corporation taxes Act 1988 s.844, Sch. 29, para.32, Table
(3)	1986 s.66, Sch. 6, para. 1(2) “married couple”; “unmarried couple”
(4)	1986 s.66, Sch. 6, para.1(3)
151(1), (2)	1982(2) s.1(1), (2)
(3)	1982(2) s.23A(1); 1984 s.21, Sch. 7, para. 8
(4), (5)	1982(2) s.1(3), (4)
(6)	1982(2) s.1(5); 1986 s.68
152(1), (2)	1982(2) s.2(1), (2)
(3)	1982(2) s.2(3); The Statutory Sick Pay (General) Regulations 1982 (S.I. 1982/894) reg. 2A; The Statutory Sick Pay (General) Amendment Regulations 1986 (S.I.1986/477) reg. 2
(4)	1982(2) s.2(3A); 1985 s.18(4)
(5), (6)	1982(2) s.2(4), (5)
153(1) – (4)	1982(2) s.3(1) – (4)
(5)	1982(2) s.3(4A); 1985 s.18(5)
(6), (7)	1982(2) s.3(5), (6)
(8), (9)	1982(2) s.3(6A), (6B), 1985 s.29(1), Sch. 4, para 4
(10), (11)	1982(2) s.3(7), (8)
(12)	1982(2) s.3(9), 1986 s.86, Sch. 10, para. 77
154(1)	1982(2) s.4(1)

<i>Provision</i>	<i>Derivation</i>
(2)	1982(2) s.4(2); 1984 s.21, Sch. 7, para. 7
(3), (4)	1982(2) s.4(3), (4)
155(1) – (3)	1982(2) s.5(1) – (3)
(4)	1982(2) s.5(4); 1985 s.18(1)
(5)	1982(2) s.5(5)
156	1982(2) s.6
157(1)	1982(2) s.7(1) sick Pay Order reg. 2
(2)	1982(2) s.7(1A); 1986 s.67(1); 1990 s.21(1), Sch. 6, para. 15(1)
(3)	1982(2) s.7(2)
158(1)	1982(2) s.9(1); 1991(1) s.1(1)
(2)	1982(2) s.9(1B); 1991(1) s.2(1)
(3)	1982(2) s.9(1D); 1991(1) s.2(1)
(4)	1982(2) s.9(2); 1991(1) s.2(2)
(5)	1982(2) s.9(3)(b), (c); 1991(1) s.1(3)
(6)	1982(2) s.9(6)
(7)	1991(1) s.2(5)
159	1982(2) s.9(1C); 1991(1) s.2(1)
160	Drafting
161(1), (2)	1982(2) s.27(1), (2)
(3)	1982(2) s.27(3); 1989 s.26, Sch. 7, para. 23
162	1982(2) s.22; Oil and gas (Enterprise) Act 1982 (c. 23) s.37, Sch. 3, para. 44; R4
163(1) “contract of service”	1982(2) s.26(1) “contract of service”
“employee”	1982(2) s.26(1) “employee”
“employer”	1982(2) s.26(1) “employer”; 1985 s.29(1), Sch. 4, para. 6
“period of entitlement”; “period of incapacity for work”; “period of interruption of employment”	Drafting
“prescribed”	1982(2) s.26(1) “prescribed”
“qualifying day”	Drafting
“week”	1982(2) s.26(1) “week”
(2)	1982(2) s.26(2); 1985 s.29(1), Sch. 4, para. 7
(3) – (5)	1982(2) s.26(3) – (5)
(6)	1982(2) s.26(5A); 1990 s.21(1), Sch. 6, para. 16

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<i>Provision</i>	<i>Derivation</i>
(7)	1982(2) s.26(6)
164(1) – (5)	186 s.46(1) – (5)
(6), (7)	1982(2) s.23A(1); 1984 s.21, Sch. 7, para. 8; 1986 s.46(6)
(8)	1986 s. 46(7)
(9)	1986 s.46(8); 1988(1) s.16, Sch. 4, para. 16(1)
(10)	1986 s. 46(9); 1988(1) s.16, Sch. 4, para. 16(2)
165(1) – (6)	1986 s. 47(1) – (6)
(7)	1986 s. 47(7); 1989 s.26, Sch. 7, para. 25
166(1)	1986 s.48(1)
(2)	1986 s.48(2); 1988(1), s.16, Sch. 4, para. 17
(3) – (8)	1986 s.48(3) – (8)
167(1)	1986 s.49, Sch. 4, para. 1
(2)	R5
(3)	1986 s.49, Sch. 4, para. 2
(4)	1989 s.49, Sch. 4, para. 5
168	Drafting
169	1986 s.79(4)
170	1986 s.80; R4
171(1) “confinement”	1986 s.50(1) “confinement”
“dismissed:	1986 s.50(1) “dismissed”
“employee”	1986 s.50(1) “employee”
“employer”	1986 s.50(1) “employer”
“maternity pay period”	Drafting
“modifications”	1986 s.84(1) “modifications”
“prescribed”	“1986 s.84(1) “prescribed”
“week”	1986 s.50(1) “week”
(2)	1986 s.50(2)
(3)	1986 s.50(2A); 1990 s.21(1), Sch. 6, para. 22
(4) – (6)	1986 s.50(3) – (5)
172	1982(2) ss.26(7), 44(1)(b), (c), (d), (2)(a), (b), 1986 s.84(4)
173	1975(1), s.168(1), Sch. 20 “age”; 1980(1) s.18; 1980(2) s.5(6); 1991(1) s.3(1)(b)
174	Drafting

<i>Provision</i>	<i>Derivation</i>
175(1)	1975(1) s.168(1), Sch. 20, “regulations”; 1975(3) s.22(1)(b); 1977 s.24(1) “regulations”; 1980(2) ss.3(4), 5(3) “regulations”; 1982(2) s.47 “regulations”; 1986 s.84(1) “regulations”; 1989 s.30(1) “regulations”
(2)	1975(1) s.166(1); 1975 (Old Cases) ss.4(8), 8(1); 1975(3) s.22(2); 1977 s.24(3); 1980(2) s.7(3); 1982(2) s.45(2); 1986 s.83(1); 1989 s.29(1); 1990 s.21(1), Sch. 6, paras.8(7), 12
(3)	1975(1) ss.162, 166(2); 1975(3) s.22(6); 1977 s.24(3); 1980(2) s.7(3); 1982(2) s.45(1); 1986 s.83(1); 1989 s.29(1)
(4)	1975(1) s.166(3); 1975(3) s.22(7); 1977 s.24(3); 1980(2) s.7(3); 1982(2) s.45(1); 1986 s.83(1); 1989 ss.29(1), 31(1), Sch. 8, para. 10(1); R6
(5)	1975(1) s.166(3A); 1975(3) s.22(7A); 1977 s.25(3); 1986 ss.62(1), (2), 83(1); 1989 s.29(1)
(6)	1986 s.83(2); 1988(2) s.135, Sch. 10, para. 11(2)
(7)	1975(1) s.166(5); 1977 s.24(3); 1982(2) s.45(1); 1986 s.83(6); 1989 s.29(6); R7
(8)	1975(1) s.166(6)
(9)	1975(1) s.166(7)
(10)	1975(1) s.168(4)
176(1)	1975(1) s.167(1); 1975(2) s.62(1); 1975(3) s.22(3); 1980(2) s.5(4); 1982(2) ss.7(1B), 9(1F); 1986 ss.43(3)(b), 62(3), 67(1), 83(3)(e); 86, Sch. 10, para. 65, 1989 s.9(1); 1990 s.21(1), Sch. 6, paras. 8(2), (3), (5), 15(2); 1991(1) s.2(1); R15
(2)	1975(1) s.167(2); 1975(3) s.22(4); 1990 s.21(2), Sch. 6, para. 8(1), (3)
(3)	1975(1), s.167(3); 1975 (Old Cases) ss.4(8), 8(1); 1975(3) s.22(5); 1977 s.24(5); 1980(2) s.7(4); 1982(2) s.45(2); 1986 s.83(4); 1989 s.29(3); 1990 s.21(1), Sch. 6, para.8(1), (3), (4), (6), (7), (9), (12)
177(1)	Short title
(2)	Commencement
(3), (4)	1975(1) ss.9(3), 169(2)

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<i>Provision</i>	<i>Derivation</i>
Sch. 1	
para. 1(1)	1975(1) s.1(4), Sch. 1, para.1(1); 1977 s.1(3)
(2)	1975(1) s.1(4), Sch. 1, para.1(1A); 1980(1) s.2, Sch. 1, para.16; 1985 s.29(1), Sch. 5, para. 13(a)
(3), (4)	1975(1) s.1(4), Sch. 1, para.1(1B), (1C); 1985 s.29(1), Sch. 5, para.13(b)
(5)	1986 s.74(5)
(6)	1975(1) s.1(4), Sch. 1, para.1(1D); 1985 s.29(1), Sch. 5, para. 13(b)
(7), (8)	1975(1) s.1(4), Sch. 1, para.1(2), (3)
para. 2	1975(1) s.1(4), Sch. 1, para.2
para. 3(1)	1975(1) s.1(4), Sch. 1, para.3(1)
(2)	1975(1) s.1(4), Sch. 1, para.3(2); Criminal Justice Act 1982 (c. 48) ss.38, 46, 54; Criminal Procedure (Scotland) Act 1975 (c. 21) ss. 289F, 289G
(3)	1975(1) s.1(4), Sch. 1, para.3(3)
para. 4	1975(1) s.1(4), Sch.1, para.4; 1977 s.1(4)
para. 5	1975(1) s.1(4), Sch. 1, para.4A; 1991(3) s.2(2)
para. 6(1)	1975(1) s.1(4), Sch. 1, para.5(1); 1991(3) s.2(3)(a)
(2)	1975(1) s.1(4), Sch. 1, para.5(1A); 1990 s.17(5); 1991(3) s.2(3)(b)
(3), (4)	1975(1) s.1(4) Sch. 1, para.5(1B), (1C); 1990 s.17(5)
(5)	1982(2) s.9(4); 1986 s.49, Sch. 4, para. 3
(6)	1982(2) s.9(5); 1985 s.19; 1986 s.49, Sch. 4, para. 4
(7)	1975(1) s.1(4), Sch. 1, para.5(2)
(8)	1975(1) s.1(4), Sch. 1, para.5(3); 1990 s.17(6)
para. 7(1) – (10)	1975(1) s.1(4), Sch. 1, para.5A(1) – (10); 1990 s.17(7), Sch. 5
(11)	1975(1) s.1(4), Sch. 1, para.5A(11); 1990 s.17(7), Sch. 5; 1991(3) s.2(4)
(12), (13)	1975(1) s.1(4), Sch. 1, para.5A(12), (13); 1990 s.17(7), Sch. 5

<i>Provision</i>	<i>Derivation</i>
para. 8(1)(a)	1975(1) s.1(4), Sch. 1, para.6(1)(a)
(b)	1975(1) s.1(4), Sch. 1 para. 6(1)(aa); 1991(3) s.2(5)(a)
(c) – (f)	1975(1) s.1(4), Sch. 1, para. 6(1)(b) – (e)
(g)	1975(1) s.1(4), Sch. 1, para.6(1)(f); 1975(2) s.65(1), Sch. 4, para. 61
(h)	1975(1) s.1(4), Sch. 1, para.6(1)(gg); 1989 s.2
(i)	1975(1) s.1(4), Sch. 1, para.6(1)(ggg); 1991(3) s.2(5)(c)
(j), (k)	1975(1) s.1(4), Sch. 1, para.6(1)(gh), (gj); 1990 s.21(1), Sch. 6, para. 9
(l)	1975(1) s.1(4), Sch. 1, para.6(1)(g); 1991(3) s.2(5)(b)
(m)	1975(1) s.1(4), Sch. 1, para.6(1)(h); 1986 s.86, Sch. 10, para. 10
(n) – (q)	1975(1) s.1(4), Sch. 1, para.6(1)(j) – (m)
(2), (3)	1975(1) s.1(4), Sch. 1, para.6(2), (3)
paras. 9,10	1975(1) s.1(4), Sch. 1, paras. 7,8
para. 11	1975(1) s.1(4), Sch. 1, para.9; 1982(2) s.37(2)
Sch. 2	
para. 1	Drafting
para. 2	1975(1) s.9(4), Sch. 2, para.2; Capital Allowances Act 1990 (c.1) s.164, Sch. 1, para 2
para. 3(1), (2)	1975(1) s.9(4), Sch. 2, para.2(1), (2); Income and Corporation Taxes Act 1988 s.844, Sch. 29, para.32, Table
(3)	1975(1) s.9(4), Sch. 2, para.3(3)
(4)	1975(1) s.9(4), Sch.2, para.3(3); Finance Act 1988 (c. 39) s.35, Sch. 3, para. 31
(5)	1975(1) s.9(4), Sch. 2, para.3(4); Income and Corporation Taxes Act 1988 s.844, Sch. 29, para.32, Table
paras. 4,5	1975(1) s.9(4), Sch. 2, paras. 5, 6; Income and Corporation Taxes Act 1988 s.844, Sch. 29, para.32, Table
para. 6(1)	1975(1) s.9(4), Sch. para.7(1); Income and Corporation Taxes Act 1988, s.844, Sch. 29, para.32, Table; 1990 s.17(8)
(2)	1975(1) s.9(4), Sch. 2, para.7(2); 1990 s.17(9)

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<i>Provision</i>	<i>Derivation</i>
paras. 7,8	1975(1) s.9(4), Sch. 2 paras.8,9
para. 9	1975(1) s.9(4), Sch. 2, para.4; Income and Corporation Taxes Act 1988 s.844, Sch. 29, para. 32, Table; Finance Act 1988 (c. 39) s.154, Sch. 14, Part VIII and Note 6
Sch. 3	
para. 1(1)	1975(1) s.13(6), Sch. 3, para.1(1)
(2)	1975(1) s.13(6), Sch. 3, para. 1(2); 1986 s.75, Sch. 8, para. 3(1);1988(1) s.6(2)(a)
(3)	1975(1) s.13(6), Sch. 3, para. 1(3); 1986 s.75, Sch. 8, para. 3(2),(3); 1988(1) s.6(2)(b)
(4)	1975(1) s.13(6), Sch. 3, para. 1(2)(b)(i); 1986 s.75, Sch. 8, para. 3(1)
(5)	1975(1) s.13(6), Sch. 3, para. 1(3)(b)(i); 1986 s.75, Sch. 8, para. 3(3)
(6)	1975(1) s.13(6), Sch. 1, para.1(4)
para. 2(1)	1975(1) s.13(6), Sch. 3, para. 1(1)
(2)	1975(1) s.13(6), Sch. 3, para. 1(2); 1986 s.75, Sch. 8, para. 3(1); 1988(1) s.6(2)(a)
(3)	1975(1) S.13(6), Sch. 3, para. 1(3); 1986 s.75, Sch. 8, para. 3(2), (3); 1988(1) s.6(2)(b)
(4)	1975(1) S.13(6), Sch. 3, para. 1(2)(b)(ii); 1986 s.75, Sch. 8, para. 3(1)
(5)	1975(1) s.13(6), Sch. 3, para. 2(3)(b)(ii); 1986 s.75, sch. 8, para. 3(3)
(6)	1975(1) s.13(6), Sch. 1, para. 1(4)
para. 3(1)	1975(1) s.13(6), Sch. 3, para. 3(1); 1986 s.49, Sch. 4, para. 14; 1990 s.21(1), Sch. 6 para. 10(1)
(2), (3)	1975(1) s.13(6) Sch. 3, para.3(2), (3); 1990 s.31(1), Sch. 6, para.10(2)
para. 4(1), (2)	1975(1) s.13(6), Sch. 3,para. 4(1); 1986 ss.75, 86, Sch. 8, para.3(4), Sch. 10, para. 66(a)
(3)	1975(1) s.13(6), Sch. 3, para. 4(2)
para. 5(1)	1975(1) s.13(6), Sch. 3, para. 5(1)
(2)	1975(1) s.13(6), Sch. 3, para. 5(2); 1975(2) s.19(2); 1986 s.75 Sch. 8, para. 3(5)
(3), (4)	1975(1) s.13(6), Sch. 3, para. 5(3); 1986 s.75, Sch. 8, para. 3(6)

<i>Provision</i>	<i>Derivation</i>
(5), (6)	1975(1) s.13(6), Sch. 3, para. 5(4), (5)
(7)	1975(1) s.13(6), Sch. 3, para. 5(6), 1979 s.5, Sch. 1, para. 3
(8)	1975(1) s.27(2)
para.6	1975(1) s.31(6), Sch. 3, para. 6
para.7(1)	1975(1) s.13(8), Sch. 3, para. 8(1); 1989 s.26, Sch. 7, para. 16
(2)	1975(1) s.13(8), Sch. 3, para. 8(2), 1986 s.86, Sch. 10, para. 66(b)
(3), (4)	1975(1) s.13(8), Sch. 3, para. 8(3); 1979 s.21(4), Sch. 3, para. 10; 1986 ss.75, 86, Sch. 8, para. 3(7), Sch.10, para. 66(b)
para.8	1975(1) s.13(8), Sch. 3, para. 10
para.9	1975(1) s.13(8), Sch. 3, para. 13; 1986 s.86, Sch. 10, para. 66(c)
Sch.4	
Part I	
para.1	1975(1) s.14, Sch. 4, Part I, para. 1(a); Benefits Order art. 3(2), (3), Sch. 1
para.2	1975(1) s.14, Sch. 4, Part I, para. 1(b); Benefits Order art, 3(2), (3), Sch. 1
para.3	1975(1) s.16, Sch. 4, Part I, para. 3; Benefits Order art, 3(2), (3), Sch. 1
para.4	1975(1) s.22, Sch. 4, Part I, para. 4; Benefits Order art.3(2), (3), Sch. 1
para.5	1975(1) s.29(7), Sch. 4, Part I, para. 9; 1975(2), s.65(1), Sch. 4, para. 62; Benefits Order art.3(2), (3), Sch. 1
para. 6	1975(1) s.31, Sch. 4, Part I, para. 10; Benefits Order art. 3(2), (3), Sch. 1
Part II	1975(1), s.24, Sch. 4, Part IA; 1986 s.36(2)
Part III	
para.1	1975(1) s.35, Sch. 4, Part III, para. 1; Benefits Order art. 3(2), (3), Sch. 1
para. 2	1975(1) s.36, Sch. 4, Part III, para. 2; 1984 s.11, Sch. 4, para. 3; Benefits Order art. 3(2), (3), Sch. 1
para. 3	1975(1) s.36A, Sch. 4, Part III, para. 2A; 1990 s.2(2); Benefits Order art. 3(2), (3), Sch. 1
para. 4	1975(1) s.37, Sch. 4, Part III, para. 3; Benefits Order rt. 3(2), (3), Sch. 1

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<i>Provision</i>	<i>Derivation</i>
para.5	1975(1) s.38, Sch. 4, Part III, para. 4; Benefits Order art. 3(2), (3), Sch. 1
para.6	1975(1) s.39, Sch. 4, Part III, para. 5; Benefits Order art. 3(2), (3), Sch. 1
para.7	1975(1) s.39, Sch. 4, Part III, para. 5A; 1985 s.12(2); Benefits Order art. 3(2), (3), Sch. 1
para.8	1975(1) s.40, Sch. 4, Part III, para. 6
Part IV	
col.(1)	1975(1) ss.41–19, Sch. 4, Part IV, col. (1); 1984 s.11, Sch. 4, para. 3; Benefits Order art. 3(2), (3), Sch. 1
col (2)	1975 ss.41–49, Sch. 4, Part IV, col.(2); Benefits Order art. 3(2), (3), Sch. 1
col.(3)	1975(1) ss.41–49, Sch. 4, Part IV, col.(3); Benefits Order art. 3(2), (3), Sch. 1
Part V	
para.1	1975(1) s.57(6), Sch. 4, Part V, para. 3; Benefits Order art. 3(2), (3), Sch. 1
para.2	1975(1) s.61, Sch. 4, Part V, para. 7; Benefits Order art. 3(2), (3), Sch. 1
para.3	1975(1) s.63, Sch. 4, Part V, para. 8; Benefits Order art. 3(2), (3), Sch. 1
para.4	1975(1) s.91, Sch. 4, Part V, para. 16; Benefits Order art. 3(2), (3), Sch. 1
para.5	1975(1) s.58, Sch. 4, Part V, para. 4; Benefits Order art. 3(2), (3), Sch. 1
para.6	1975(1) s.59, Sch. 4, Part V, para. 5; 1979 s.5, Sch. 1, para. 13; Benefits Order art. 3(2), (3), Sch. 1
para.7	1975(1) s.64, Sch. 4, Part V, para. 10; Benefits Order art. 3(2), (3), Sch. 1
para.8	1975(1) s.66(2), Sch. 4, Part V, para. 12; Benefits Order art. 3(2), (3), Sch. 1
para.9	1975(1) s.57(5), Sch. 4, Part V, para. 2; Benefits Order art 3(2), (3), Sch. 1
para.10	1975(1), s.68, Sch. 4, Part V, para. 13; 1975(2) s.65(1), Sch. 4, para. 63; Benefits Order art. 3(2), (3), Sch.1
para. 11	1975(1) s.69, Sch. 4, Part V, para. 14; Benefits Order art. 3(2), (3), Sch. 1
para. 12	1975(1) s.70, Sch. 4, Part V, para. 15; Benefits Order art. 3(2), (3), Sch. 1

<i>Provision</i>	<i>Derivation</i>
Sch. 5	
para. 1	1975(2) s.12, Sch. 1, para. 1; 1989 s.7, Sch. 1, para. 3(1)
para. 2(1)	1975(2) s.12, Sch. 1, para. 2(1); 1989 s.7, Sch. 1, para. 3(2)
(2)	1975(2) s.12, Sch. 1, para.2(2), 1989 s.7, Sch. 1, para. 3(3)
(3)	1975(2) s.12, Sch. 1, para.2(3); 1977 s.3(1)(b), 1989 s.7, Sch. 1, para. 3(4)
(4)	1975(2) s.60A; 1979 s.18
(5)	1975(2) s.12, Sch. 1, para.2(4); 1977 s.3(1)(c); 1980(1) s.3(11)
(6)	1975(2) s.12, Sch. 1, para.2(4A); 1985 s.9(5)
(7)	1975(2) s.12, Sch. 1, paras.2(5); 1986 s.86, Sch. 10, para. 95(a); 1989 s.7, Sch. 1, para. 3(5)
(8)	1975(2) s.12, Sch. 1, para.2(6); 1977 s.3(1)(d); 1989 s.7, Sch. 1, para. 3(6)
para. 3	1975(2) s.12, Sch. 1, para. 3; 1977 s.3(1)(e); 1989 s.7, Sch. 1, para. 3(7)
para. 4(1)	1975(2) s.12, Sch. 1, para. 4(1); 1979 s.21(4), Sch. 3, para. 23; 1986 s.19(2)(a); 1989 s.7, Sch. 2, para. 3(8)
(2)	1975(2) s.12, Sch. 1, para. 4(2); 1979 s.21(4), Sch. 3, para. 23; 1986 s.19(2)(a); 1989 s.7, Sch. 1, para. 3(8)
(3)	1975(2) s.12, Sch. 1, para.4(2A); 1986 s.19(2)(b)
(4)	1975(2) s.12, Sch. 1, para.4(3); 1979 s.5, Sch. 1, para. 6; 1986 s.86 Sch. 10, para. 95(a)
(5)	1975(2) s.12, Sch. 1, para. 4(4); 1979 s.5, Sch. 1, para. 22
para. 5(1), (2)	1975(2) s.12, Sch. 1, para.4A(1); 1979 s.5, Sch. 1, para. 7; 1986 s.19(3)
(3)	1975(2) s.12, Sch. 1, para.4A(1A); 1986 s.19(4)
para.6(1), (2)	1975(2) s.12, Sch. 1, para.4A(2); 1979 s.5, Sch. 1, para. 7; 1986 s.19(5)
(3)	1975(2) s.12, Sch. 1, para.4A(2A)(a); 1986 s.19(6)
(4)	1975(2) s.12, Sch. 1, para.4A(2A)(b); 1986 s.19(6)

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<i>Provision</i>	<i>Derivation</i>
para. 7(1)	1975(2) s.12, Sch. 1, para. 4A(3); 1979 s.5, Sch. 1, para. 7; 1986 s.86, Sch. 10, para. 95(b)
(2)	1975(2) s.60A; 1979 s.18
para. 8(1), (2)	1975(2) s.12, Sch.1, para.5(1), (2); 1989 Sch. 1, para. 3(9)
(3)	1975(2) s.12, Sch. 1, para.5(3), 1989 s.7, Sch. 1, para. 3(10)
(4)	1975(2) s.12, Sch. 1, para.5(4)
para. 9	Drafting
Sch. 6	
para. 1	1975(1) s.57(3), Sch. 8, para. 1; 1984 s.11, Sch 4, para. 10(a)
paras. 2,3	1975(1) s.57(3), Sch. 8, paras. 2,3
para. 4	1975(1) s.57(3), Sch. 8, para. 4A, 1984 s.11, Sch. 4, para. 10(b)
para. 5	1975(1) s.57(3), Sch. 8, para. 5A; 1984 s.11, Sch. 4, para. 10(c)
para. 6(1), (2)	1975(1) s.57(3), Sch. 8, para. 4(1); 1982(2) s.48(5), Sch. 4, para. 17
(3) – (5)	1975(1) s.57(3), Sch. 8, para. 4(2) – (4); 1989 s.21, Sch. 3, para.13(1)
para. 7	1975(1) s.57(3), Sch. 8, para. 5; 1989 s.21, Sch. 3, para. 13(2)
para. 8	1975(1) s.57(3), Sch. 8, para. 6
Sch. 7	
Part I	
para. 1	1986 s.39, Sch. 3, para. 4
para. 2	1975(1) s.58
para. 3(1)	1975(1) s.59(1); 1985 s.9(4)(a); 1986 s.39, Sch. 3, para. 4
(2)	1975(1) s.59(1A)(a); 1985 s.9(4)(b); 1986 s.18(1)
(3)	1975(1) s.59(1B)(a); 1985 s.9(4)(b); 1986 s.18(1)
(4)	1975(1) s.59(1C)(a); 1985 s.9(4)(b); 1986 s.18(1)
(5), (6)	1975(1) s.59(2), (3)
(7), (8)	1975(1) s.59(4); 1980(2) s.3(3)
(9)	1980(2) s.3(4)
(10)	1975(1) s.59(5)
(11)	Drafting

<i>Provision</i>	<i>Derivation</i>
para.4(1)	1975(1) s.64(1); 1975(3) s.21(1), Sch. 4, para. 21(a); 1986 s.39, Sch.3, para. 4
(2)	1975(1) s.64(2)
(3)	1975(1) s.64(1A); 1984 s.13, Sch.5, para. 4
(4)	1975(1) s.64(1B); 1984 s.13, Sch. 5, para. 4; Social Security (Industrial Injuries) (Dependence) (Permitted Earnings Limits) Order 1991 (S.I. 1991/546) art. 2
(5), (6)	1975(1) s.64(1C), (1D); 1984 s.13, Sch. 5, para. 4
para. 5(1)	1975(1) s.65(1); 1975(3) s.21(1) Sch. 4, para. 22(a); 1986 S.39, Sch.3, para. 4
(2)	1975(1) s.65(2); 1975(3) s.21(1), Sch. 4, para. 22(b); 1977 s.22(3)
para. 6(1)	1975(1) s.66(1); 1975(3) s.21(1), Sch 4, para. 23; 1980(1) s.5, Sch.1, paras. 4 and 6; 1986 s.39, Sch. 3, para. 4
(2)	1975(1) s.66(2)
(3) – (6)	1975(1) s.66(3) – (6); 1985 s.13(5)
(7)	1975(1) s.66(7)
para. 7	1975(1) s.66A; 1984 s.14(b); 1989 s.9(3)
para. 8	1975(1) s.84A; 1989 s.31, Sch. 8, para. 7(2)
Part II	
para. 9(1), (2)	1975(1) s.57(1), (5); 1986 s.39, Sch. 3, para. 3(3)
(3)	1975(1) s.57(4); 1982(2) s.39(2); 1989 s.26, Sch. 7, para. 12
Part III	
para. 10(1)	1986 s.39, Sch. 3, para. 7
(2), (3)	1975(1) s.62
Part IV	
para. 11(1)	1975(1) s.59A(1), (10B); 1986 s.39, Sch. 3, para. 5(1); 1989 s.26, Sch. 7, para. 13; 1990 s.3(1), (4)
(2), (3)	1975(1) s.59A(1A), (1B); 1990 s.3(2)
(4) – (7)	1975(1) s.59A(2) – (5); 1986 s.39, Sch. 3, para. 5(1)
(8)	1975(1) s.59A(6); 1986 s.39, Sch. 3, para. 5(1); 1990 s.3(3)

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<i>Provision</i>	<i>Derivation</i>
(9)	1975(1) s.59A(7); 1986 s.39, Sch. 3, para. 5(1)
(10)	1975(1) s.59A(8); 1986 s.39, Sch. 3, para. 5(1); 1988(1) s.16, Sch. 4, para. 12(a)
(11)	1988(1) s.2(3)
(12)	1975(1) s.59A(9); 1986 s.39, Sch. 3, para. 5(1)
(13)	1975(1) s.59A(10); 1986 s.39, Sch. 3, para. 5(1)
(14)	1975(1) s.59A(10A); 1988(1) s.16, Sch. 4, para. 12(b)
para. 12(1), (2)	1988(1) s.2(4), (5)
(3), (4)	1988(1) s.2(5A), (5B); 1989 s.17(5)
(5)	1988(1) s.2(6)
(6)	1988(1) s.2(7); 1989 s.17(6)
Part V	
para. 13(1)	1975(1) s.59B(1); 1988(1) s.2(1); 1989 s.7, Sch. 1, para. 8(2)
(2), (3)	1975(1) s.59B(2), (3); 1988(1) s.2(1)
(4)	1975(1) s.59B(5); 1988(1) s.2(1); 1989 s.7, Sch. 1, para. 8(5); Benefits Order art. 3(4) Sch. 1
(5)	1975(1) s.59B(5A); 1989 s.17(3)
(6)	1975(1) s.59B(6); 1988(1) s.2(1)
(7)	Drafting
(8), (9)	1975(1) s.59B(7), (8); 1989 s.7, Sch. 1, para. 8(6)
(10)	1975(1) s.59B(9); 1990 s.3(6)
(11)	1975(1) s.59A(10A); 1988(1) s.16, Sch. 4, para. 12(b)
Part VI	
para. 14(1)	1988(1) s.2, Sch. 1, paras. 2, 3
(2)	1975(1) s.168(1), Sch. 20 "deceased"
para. 15(1) – (3)	1975(1) s.67(1), (2); 1977 s.22(4); 1988(1) s.2, Sch. 1, para. 2
(4)	1975(1) s.67(3)
para. 16	1975(1) s.68; 1988(1) s.2, Sch. 1, para. 2
para. 17	1975(1) s.69; 1988(1) s.2, Sch. 1, para. 3
para. 18	1975(1) s.70; 1984 s.13, Sch. 5, para. 5; 1988(1) s.2, Sch. 1, para. 2
para. 19	1975(1) s.70, Sch. 9, para. 1; 1988(1) s.2, Sch. 1, para. 2

<i>Provision</i>	<i>Derivation</i>
para.20	1975(1) s.75; 1988(1) s.2, Sch. 1, paras. 2, 6(a)
para. 21	1977 s.9; 1988(1) s.2, Sch. 1, para. 6(b)
Sch. 8	
Part I	
para. 1	1975 (Old Cases) s.1
para. 2(1)	1975 (Old Cases) s.2(1); 1990 s.16(8)(a)
(2) – (5)	1975 (Old Cases) s.2(2) – (5)
(6), (7)	1975 (Old Cases) s.2(6); The Social Security Act 1986 (Commencement No. 5) Order 1987 (S.I. 1987/354) art. 3; Benefits Order art. 6
(8)	1975 (Old Cases) s.2(7)
para. 3	1975 (Old Cases) s.3
para. 4(1)	1975 (Old Cases) s.5(1); 1990 s.16(8)(a)
(2) – (4)	1975 (Old Cases) s.5(2) – (4)
para. 5(1)	1975 (Old Cases) s.6(1)
(2)	1975 (Old Cases) s.6(2); 1980(1) s.4(3)
(3), (4)	1975 (Old Cases) s.6(3), (4)
(5)	1977 s.10, Sch. 1, para. 6
para. 6(1)	1975 (Old Cases) s.7(1)
(2), (3)	1975 (Old Cases) s.7(2); The Social Security Act 1986 (Commencement No. 5) Order 1987 (S.I.1987/354) art. 3; Benefits Order art. 6
(4)	1975 (Old Cases) s.7(3); 1982(2) s.48(5), Sch. 4, para. 18(2); 1984 s.13, Sch. 5, para. 8(a); 1986, s.86(1), Sch. 10, para. 68(2)(a)
(5)	1975 (Old Cases) s.7(4); 1984 s.13, Sch. 5, para. 8(b); 1986 s.86, Sch. 10, para. 68(2)(b)
(6)	1975 (Old Cases) s.7(5)
Part II	
para. 7(1)	1975(1) s.159(1)
(2)	1975(1) s.159(3)
Part III	
para. 8(1) “corresponding” disablement pension rate”	Part 1975 (Old Cases) s.14(1) “corresponding disablement pension rate”
“the 1967 Act”	Drafting

<i>Provision</i>	<i>Derivation</i>
Supplement No. 44 [July 98] “injury pension”	<i>The Law Relating to Social Security</i> 1975(1) s.159(2) “injury pension”
“the original Industrial Injuries Act”	Drafting

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