



# Social Security Administration Act 1992

## 1992 CHAPTER 5

### PART I

#### CLAIMS FOR AND PAYMENTS AND GENERAL ADMINISTRATION OF BENEFIT

##### *Necessity of Claim*

#### **1 Entitlement to benefit dependent on claim**

- (1) Except in such cases as may be prescribed, and subject to the following provisions of this section and to section 3 below, no person shall be entitled to any benefit unless, in addition to any other conditions relating to that benefit being satisfied—
  - (a) he makes a claim for it in the manner, and within the time, prescribed in relation to that benefit by regulations under this Part of this Act; or
  - (b) he is treated by virtue of such regulations as making a claim for it.
- (2) Where under subsection (1) above a person is required to make a claim or to be treated as making a claim for a benefit in order to be entitled to it—
  - (a) if the benefit is a widow's payment, she shall not be entitled to it in respect of a death occurring more than 12 months before the date on which the claim is made or treated as made; and
  - (b) if the benefit is any other benefit except disablement benefit or reduced earnings allowance, the person shall not be entitled to it in respect of any period more than 12 months before that date,except as provided by section 3 below.
- (3) Where a person purports to make a claim on behalf of another—
  - (a) for an attendance allowance by virtue of section 66(1) of the Contributions and Benefits Act; or
  - (b) for a disability living allowance by virtue of section 72(5) or 73(12) of that Act,

that other shall be regarded for the purposes of this section as making the claim, notwithstanding that it is made without his knowledge or authority.

---

*Status: This is the original version (as it was originally enacted).*

---

- (4) In this section and section 2 below “benefit” means—
  - (a) benefit as defined in section 122 of the Contributions and Benefits Act; and
  - (b) any income-related benefit.
- (5) This section (which corresponds to section 165A of the 1975 Act, as it had effect immediately before this Act came into force) applies to claims made on or after 1st October 1990 or treated by virtue of regulations under that section or this section as having been made on or after that date.
- (6) Schedule 1 to this Act shall have effect in relation to other claims.

## **2 Retrospective effect of provisions making entitlement to benefit dependent on claim**

- (1) This section applies where a claim for benefit is made or treated as made at any time on or after 2nd September 1985 (the date on which section 165A of the 1975 Act (general provision as to necessity of claim for entitlement to benefit), as originally enacted, came into force) in respect of a period the whole or any part of which falls on or after that date.
- (2) Where this section applies, any question arising as to—
  - (a) whether the claimant is or was at any time (whether before, on or after 2nd September 1985) entitled to the benefit in question, or to any other benefit on which his entitlement to that benefit depends; or
  - (b) in a case where the claimant’s entitlement to the benefit depends on the entitlement of another person to a benefit, whether that other person is or was so entitled,

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

- (3) In this section “the relevant claim enactment” means section 1 above as it has effect in relation to the claim referred to in subsection (1) above.
- (4) In any case where—
  - (a) a claim for benefit was made or treated as made (whether before, on or after 2nd September 1985, and whether by the same claimant as the claim referred to in subsection (1) above or not), and benefit was awarded on that claim, in respect of a period falling wholly or partly before that date; but
  - (b) that award would not have been made had the current requirements applied in relation to claims for benefit, whenever made, in respect of periods before that date; and
  - (c) entitlement to the benefit claimed as mentioned in subsection (1) above depends on whether the claimant or some other person was previously entitled or treated as entitled to that or some other benefit,

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

---

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

---

- (5) In subsection (4) above “the current requirements” means—
- (a) the relevant claim enactment, and any regulations made or treated as made under that enactment, or referred to in it, as in force at the time of the claim referred to in subsection (1) above, with any necessary modifications; and
  - (b) subsection (1) (with the omission of the words following “at any time”) and subsections (2) and (3) above.

### *Widowhood benefits*

## **3 Late claims for widowhood benefit where death is difficult to establish**

- (1) This section applies where a woman’s husband has died or may be presumed to have died and the circumstances are such that—
- (a) more than 12 months have elapsed since the date of death (whether he died, or is presumed to have died, before or after the coming into force of this section);
  - (b) either—
    - (i) the husband’s body has not been discovered or identified or, if it has been discovered and identified, the woman does not know that fact; or
    - (ii) less than 12 months have elapsed since she first knew of the discovery and identification of the body; and
  - (c) no claim for any of the widowhood benefits, that is to say—
    - (i) widow’s benefit,
    - (ii) an invalidity pension under section 15 of the Pensions Act, or
    - (iii) a Category A retirement pension by virtue of subsection (5) of that section,was made or treated as made in respect of the death by the woman before 13th July 1990 (the coming into force of section 6 of the Social Security Act 1990, which inserted in the 1975 Act section 165C, the provision of that Act corresponding to this section).
- (2) Where this section applies, notwithstanding that any time prescribed for making a claim for a widowhood benefit in respect of the death has elapsed, then—
- (a) in any case falling within paragraph (b)(i) of subsection (1) above where it has been determined—
    - (i) under subsection (1)(b) of section 20 below on a claim made by the woman; or
    - (ii) under subsection (4) of that section on the submission of a question by her,that the husband has died or is presumed to have died; or
  - (b) in any case falling within paragraph (b)(ii) of subsection (1) above where the identification was made not more than 12 months before the woman first knew of the discovery and identification of the body,
- such a claim may be made or treated as made at any time before the expiration of the period of 12 months beginning with the date on which that determination was made or, as the case may be, the date on which she first knew of the discovery and identification.
- (3) If, in a case where a claim for a widowhood benefit is made or treated as made by virtue of this section, the claimant would, apart from subsection (2) of section 1 above, be entitled to—

---

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

---

- (a) a widow's payment in respect of the husband's death more than 12 months before the date on which the claim is made or treated as made; or
- (b) any other widowhood benefit in respect of his death for a period more than 12 months before that date,

then, notwithstanding anything in that section, she shall be entitled to that payment or, as the case may be, to that other benefit (together with any increase under section 80(5) of the Contributions and Benefits Act).

#### **4 Treatment of payments of benefit to certain widows**

In any case where—

- (a) a claim for a widow's pension or a widowed mother's allowance is made, or treated as made, before 13th July 1990 (the date of the passing of the Social Security Act 1990); and
- (b) the Secretary of State has made a payment to or for the claimant on the ground that if the claim had been received immediately after the passing of that Act she would have been entitled to that pension or allowance, or entitled to it at a higher rate, for the period in respect of which the payment is made,

the payment so made shall be treated as a payment of that pension or allowance; and, if and to the extent that an award of the pension or allowance, or an award at a higher rate, is made for the period in respect of which the payment was made, the payment shall be treated as made in accordance with that award.

#### *Claims and payments regulations*

#### **5 Regulations about claims for and payments of benefit**

(1) Regulations may provide—

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

---

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

---

- be furnished by such person as may be prescribed in accordance with the regulations;
- (i) for the person to whom, time when and manner in which a benefit to which this section applies is to be paid and for the information and evidence to be furnished in connection with the payment of such a benefit;
  - (j) for notice to be given of any change of circumstances affecting the continuance of entitlement to such a benefit or payment of such a benefit;
  - (k) for the day on which entitlement to such a benefit is to begin or end;
  - (l) for calculating the amounts of such a benefit according to a prescribed scale or otherwise adjusting them so as to avoid fractional amounts or facilitate computation;
  - (m) for extinguishing the right to payment of such a benefit if payment is not obtained within such period, not being less than 12 months, as may be prescribed from the date on which the right is treated under the regulations as having arisen;
  - (n) for suspending payment, in whole or in part, where it appears to the Secretary of State that a question arises whether—
    - (i) the conditions for entitlement are or were fulfilled;
    - (ii) an award ought to be revised;
    - (iii) an appeal ought to be brought against an award;
  - (o) for withholding payments of a benefit to which this section applies in prescribed circumstances and for subsequently making withheld payments in prescribed circumstances;
  - (p) for the circumstances and manner in which payments of such a benefit may be made to another person on behalf of the beneficiary for any purpose, which may be to discharge, in whole or in part, an obligation of the beneficiary or any other person;
  - (q) for the payment or distribution of such a benefit to or among persons claiming to be entitled on the death of any person and for dispensing with strict proof of their title;
  - (r) for the making of a payment on account of such a benefit—
    - (i) where no claim has been made and it is impracticable for one to be made immediately;
    - (ii) where a claim has been made and it is impracticable for the claim or an appeal, reference, review or application relating to it to be immediately determined;
    - (iii) where an award has been made but it is impracticable to pay the whole immediately.
- (2) This section applies to the following benefits—
- (a) benefits as defined in section 122 of the Contributions and Benefits Act;
  - (b) income support;
  - (c) family credit;
  - (d) disability working allowance;
  - (e) housing benefit;
  - (f) any social fund payments such as are mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act;
  - (g) child benefit; and
  - (h) Christmas bonus.

---

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

---

- (3) The reference in subsection (1)(h) above to information or evidence needed for the determination of a claim includes a reference to information or evidence required by a rent officer under section 121 of the Housing Act 1988.
- (4) Subsection (1)(n) above shall have effect in relation to housing benefit as if the reference to the Secretary of State were a reference to the authority paying the benefit.
- (5) Subsection (1)(g), (i), (l), (p) and (q) above shall have effect as if statutory sick pay and statutory maternity pay were benefits to which this section applies.

*Community charge benefits etc.*

## **6 Regulations about community charge benefits administration**

- (1) Regulations may provide as follows as regards any community charge benefit—
  - (a) for requiring a claim for a benefit to be made by such person, in such manner and within such time as may be prescribed;
  - (b) for treating a claim made in such circumstances as may be prescribed as having been made at such date earlier or later than that at which it is made as may be prescribed;
  - (c) for permitting a claim to be made, or treated as if made, for a period wholly or partly after the date on which it is made;
  - (d) for permitting an award on a claim to be made for such a period subject to the condition that the claimant satisfies the requirements for entitlement when benefit becomes payable, or any right to a reduction or a consequential reduction becomes available, under the award;
  - (e) for a review of any award if those requirements are found not to have been satisfied;
  - (f) for the disallowance on any ground of a person's claim for a benefit to be treated as a disallowance of any further claim by that person for that benefit until the grounds of the original disallowance have ceased to exist;
  - (g) for enabling one person to act for another in relation to a claim for a benefit and for enabling such a claim to be made and proceeded with in the name of a person who has died;
  - (h) for requiring any information or evidence needed for the determination of a claim or of any question arising in connection with a claim to be furnished by such person as may be prescribed in accordance with the regulations;
  - (i) for the time when and manner in which any benefit (or part) which takes the form of a payment is to be paid, and for the information and evidence to be furnished in connection with the payment;
  - (j) for the time when the right to make a reduction or consequential reduction may be exercised;
  - (k) for notice to be given of any change of circumstances affecting the continuance of entitlement to a benefit;
  - (l) for the day on which entitlement to a benefit is to begin or end;
  - (m) for calculating the amount of a benefit according to a prescribed scale or otherwise adjusting it so as to avoid fractional amounts or facilitate computation;
  - (n) for suspending (in whole or in part) any payment or right to make a reduction or consequential reduction, where it appears to the authority which allowed

---

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

---

- a benefit that a question arises whether the conditions for entitlement to the benefit are or were fulfilled or whether the award ought to be revised or whether an appeal ought to be brought against the award;
- (o) for withholding in prescribed circumstances any payment or right to make a reduction or consequential reduction, and for subsequently making in prescribed circumstances any withheld payment or restoring in prescribed circumstances any right to make a reduction or consequential reduction;
  - (p) in the case of any benefit (or part) which takes the form of a payment, for payment or distribution to or among persons claiming to be entitled on the death of any person, and for dispensing with strict proof of their title;
  - (q) in the case of any benefit (or part) which takes the form of a payment, for the circumstances and manner in which payment may be made to one person on behalf of another for any purpose, which may be to discharge, in whole or in part, an obligation of the person entitled to the benefit or any other person;
  - (r) for making a payment on account of a benefit, or conferring a right to make a reduction or consequential reduction on account, where no claim has been made and it is impracticable for one to be made immediately;
  - (s) for making a payment on account of a benefit, or conferring a right to make a reduction or consequential reduction on account, where a claim has been made but it is impracticable for the claim or an appeal, reference, review or application relating to it to be determined immediately;
  - (t) for making a payment on account of a benefit, or conferring a right to make a reduction or consequential reduction on account, where an award has been made but it is impracticable to institute the benefit immediately;
  - (u) generally as to administration.
- (2) Regulations under this section may include provision in relation to community charge benefits that prescribed provisions shall apply instead of prescribed provisions of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 or the Local Government Finance Act 1988, or that prescribed provisions of either of those Acts shall not apply or shall apply subject to prescribed amendments or adaptations.
- (3) References in subsection (2) above to either of the Acts there mentioned include references to regulations made under the Act concerned.

## **7 Relationship between community charge benefits and other benefits**

- (1) Regulations may provide for a claim for one relevant benefit to be treated, either in the alternative or in addition, as a claim for any other relevant benefit that may be prescribed.
- (2) Regulations may provide for treating a payment made or right conferred by virtue of regulations—
- (a) under section 5(1)(r) above; or
  - (b) under section 6(1)(r) to (t) above,
- as made or conferred on account of any relevant benefit that is subsequently awarded or paid.
- (3) For the purposes of subsections (1) and (2) above relevant benefits are—
- (a) any benefit to which section 5 above applies; and
  - (b) any community charge benefit.

### *Industrial injuries benefit*

#### **8 Notification of accidents, etc**

Regulations may provide—

- (a) for requiring the prescribed notice of an accident in respect of which industrial injuries benefit may be payable to be given within the prescribed time by the employed earner to the earner's employer or other prescribed person;
- (b) for requiring employers—
  - (i) to make reports, to such person and in such form and within such time as may be prescribed, of accidents in respect of which industrial injuries benefit may be payable;
  - (ii) to furnish to the prescribed person any information required for the determination of claims, or of questions arising in connection with claims or awards;
  - (iii) to take such other steps as may be prescribed to facilitate the giving notice of accidents, the making of claims and the determination of claims and of questions so arising.

#### **9 Medical examination and treatment of claimants**

- (1) Regulations may provide for requiring claimants for disablement benefit—
  - (a) to submit themselves from time to time to medical examination for the purpose of determining the effect of the relevant accident, or the treatment appropriate to the relevant injury or loss of faculty;
  - (b) to submit themselves from time to time to appropriate medical treatment for the injury or loss of faculty.
- (2) Regulations under subsection (1) above requiring persons to submit themselves to medical examination or treatment may—
  - (a) require those persons to attend at such places and at such times as may be required; and
  - (b) with the consent of the Treasury provide for the payment by the Secretary of State to those persons of travelling and other allowances (including compensation for loss of remunerative time).

#### **10 Obligations of claimants**

- (1) Subject to subsection (3) below, regulations may provide for disqualifying a claimant for the receipt of industrial injuries benefit—
  - (a) for failure without good cause to comply with any requirement of regulations to which this subsection applies (including in the case of a claim for industrial death benefit, a failure on the part of some other person to give the prescribed notice of the relevant accident);
  - (b) for wilful obstruction of, or other misconduct in connection with, any examination or treatment to which he is required under regulations to which this subsection applies to submit himself, or in proceedings under this Act for the determination of his right to benefit or to its receipt,or for suspending proceedings on the claim or payment of benefit as the case may be, in the case of any such failure, obstruction or misconduct.



---

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

---

- (2) The regulations to which subsection (1) above applies are—
- (a) any regulations made by virtue of section 5(1)(h), (i) or (l) above, so far as relating to industrial injuries benefit; and
  - (b) regulations made by virtue of section 8 or 9 above.
- (3) Regulations under subsection (1) above providing for disqualification for the receipt of benefit for any of the following matters, that is to say—
- (a) for failure to comply with the requirements of regulations under section 9(1) or (2) above;
  - (b) for obstruction of, or misconduct in connection with, medical examination or treatment,
- shall not be made so as to disentitle a claimant to benefit for a period exceeding 6 weeks on any disqualification.

#### *Disability working allowance*

### **11 Initial claims and repeat claims**

- (1) In this section—
- “initial claim” means a claim for a disability working allowance made by a person—
    - (a) to whom it has not previously been payable; or
    - (b) to whom it has not been payable during the period of 2 years immediately preceding the date on which the claim is made or is treated as made; and
  - “repeat claim” means any other claim for a disability working allowance.
- (2) On an initial claim a declaration by the claimant that he has a physical or mental disability which puts him at a disadvantage in getting a job is conclusive, except in such circumstances as may be prescribed, that for the purposes of section 129(1)(b) of the Contributions and Benefits Act he has such a disability (in accordance with regulations under section 129(3) of that Act).
- (3) If—
- (a) a repeat claim is made or treated as made not later than the end of the period of 8 weeks commencing with the last day of the claimant’s previous award; and
  - (b) on the claim which resulted in that award he qualified under section 129(2) of the Contributions and Benefits Act by virtue—
    - (i) of paragraph (a) of that subsection; or
    - (ii) of there being payable to him a benefit under an enactment having effect in Northern Ireland and corresponding to a benefit mentioned in that paragraph,
- he shall be treated on the repeat claim as if he still so qualified.

---

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

---

*The social fund*

**12 Necessity of application for certain payments**

- (1) A social fund payment such as is mentioned in section 138(1)(b) of the Contributions and Benefits Act may be awarded to a person only if an application for such a payment has been made by him or on his behalf in such form and manner as may be prescribed.
- (2) The Secretary of State may by regulations—
  - (a) make provision with respect to the time at which an application for such a social fund payment is to be treated as made;
  - (b) prescribe conditions that must be satisfied before any determination in connection with such an application may be made or any award of such a payment may be paid;
  - (c) prescribe circumstances in which such an award becomes extinguished.

*Child benefit*

**13 Necessity of application for child benefit**

- (1) Subject to the provisions of this Act, no person shall be entitled to child benefit unless he claims it in the manner, and within the time, prescribed in relation to child benefit by regulations under section 5 above.
- (2) Except where regulations otherwise provide, no person shall be entitled to child benefit for any week on a claim made by him after that week if child benefit in respect of the same child has already been paid for that week to another person, whether or not that other person was entitled to it.

*Statutory sick pay*

**14 Duties of employees etc. in relation to statutory sick pay**

- (1) Any employee who claims to be entitled to statutory sick pay from his employer shall, if so required by his employer, provide such information as may reasonably be required for the purpose of determining the duration of the period of entitlement in question or whether a period of entitlement exists as between them.
- (2) The Secretary of State may by regulations direct—
  - (a) that medical information required under subsection (1) above shall, in such cases as may be prescribed, be provided in a prescribed form;
  - (b) that an employee shall not be required under subsection (1) above to provide medical information in respect of such days as may be prescribed in a period of incapacity for work.
- (3) Where an employee asks an employer of his to provide him with a written statement, in respect of a period before the request is made, of one or more of the following—
  - (a) the days within that period which the employer regards as days in respect of which he is liable to pay statutory sick pay to that employee;
  - (b) the reasons why the employer does not so regard the other days in that period;

---

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

---

(c) the employer's opinion as to the amount of statutory sick pay to which the employee is entitled in respect of each of those days,  
the employer shall, to the extent to which the request was reasonable, comply with it within a reasonable time.

#### *Statutory maternity pay*

### **15 Duties of women etc. in relation to statutory maternity pay**

- (1) A woman shall provide the person who is liable to pay her statutory maternity pay—
- (a) with evidence as to her pregnancy and the expected date of confinement in such form and at such time as may be prescribed; and
  - (b) where she commences work after her confinement but within the maternity pay period, with such additional information as may be prescribed.
- (2) Where a woman asks an employer or former employer of hers to provide her with a written statement, in respect of a period before the request is made, of one or more of the following—
- (a) the weeks within that period which he regards as weeks in respect of which he is liable to pay statutory maternity pay to the woman;
  - (b) the reasons why he does not so regard the other weeks in that period; and
  - (c) his opinion as to the amount of statutory maternity pay to which the woman is entitled in respect of each of the weeks in respect of which he regards himself as liable to make a payment,
- the employer or former employer shall, to the extent to which the request was reasonable, comply with it within a reasonable time.

#### *Emergency payments*

### **16 Emergency payments by local authorities and other bodies**

- (1) The Secretary of State may make arrangements—
- (a) with a local authority to which this section applies; or
  - (b) with any other body,
- for the making on his behalf by members of the staff of any such authority or body of payments on account of benefits to which section 5 above applies in circumstances corresponding to those in which the Secretary of State himself has the power to make such payments under subsection (1)(r) of that section; and a local authority to which this section applies shall have power to enter into any such arrangements.
- (2) A payment under any such arrangements shall be treated for the purposes of any Act of Parliament or instrument made under an Act of Parliament as if it had been made by the Secretary of State.
- (3) The Secretary of State shall repay a local authority or other body such amount as he determines to be the reasonable administrative expenses incurred by the authority or body in making payments in accordance with arrangements under this section.
- (4) The local authorities to which this section applies are—
- (a) a local authority as defined by section 270(1) of the Local Government Act 1972, other than a parish or community council;

- (b) the Common Council of the City of London; and
- (c) a local authority as defined in section 235(1) of the Local Government (Scotland) Act 1973.

## PART II

### ADJUDICATION

#### *Adjudication by the Secretary of State*

#### 17 Questions for the Secretary of State

- (1) Subject to this Part of this Act, any of the following questions shall be determined by the Secretary of State—
- (a) a question whether a person is an earner and, if he is, as to the category of earners in which he is to be included;
  - (b) subject to subsection (2) below, a question whether the contribution conditions for any benefit are satisfied, or otherwise relating to a person's contributions or his earnings factor;
  - (c) a question whether a Class 1A contribution is payable or otherwise relating to a Class 1A contribution;
  - (d) a question whether a person is or was employed in employed earner's employment for the purposes of Part V of the Contributions and Benefits Act;
  - (e) a question as to whether a person was, within the meaning of regulations, precluded from regular employment by responsibilities at home;
  - (f) any question as to which surpluses are to be taken into account under section 45(1) of the Contributions and Benefits Act;
  - (g) any question arising under any provision of Part XI of the Contributions and Benefits Act or this Act, or under any provision of regulations under that Part, as to—
    - (i) whether a person is, or was, an employee or employer of another;
    - (ii) whether an employer is entitled to make any deduction from his contributions payments in accordance with regulations under section 158 of the Contributions and Benefits Act;
    - (iii) whether a payment falls to be made to an employer in accordance with the regulations;
    - (iv) the amount that falls to be so deducted or paid;
    - (v) the amount of an employer's contributions payments for any period for the purposes of regulations under section 158(3) of the Contributions and Benefits Act; or
    - (vi) whether two or more employers or two or more contracts of service are, by virtue of regulations made under section 163(5) of that Act, to be treated as one; and
  - (h) any question arising under any provision of Part XII of that Act or this Act, or under any provision of regulations under that Part, as to—
    - (i) whether a person is, or was, an employee or employer of another;

---

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

---

- (ii) whether an employer is entitled to make any deduction from his contributions payments in accordance with regulations under section 167 of the Contributions and Benefits Act;
  - (iii) whether a payment falls to be made to an employer in accordance with the regulations;
  - (iv) the amount that falls to be so deducted or paid; or
  - (v) whether two or more employers or two or more contracts of service are, by virtue of regulations made under section 171(2) of that Act, to be treated as one,
- and any question arising under regulations made by virtue of paragraph (c), (d) or (f) of section 164(9) of that Act.
- (2) Subsection (1)(b) above includes any question arising—
    - (a) under section 17(1) of the 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 of that Act; but not any other question relating to Class 4 contributions, nor any question within section 20(1)(c) below.
  - (3) Regulations may make provision restricting the persons who may apply to the Secretary of State for the determination of any such question as is mentioned in subsection (1) above.
  - (4) The Secretary of State may, if he thinks fit, before determining any such question as is mentioned in subsection (1) above, appoint a person to hold an inquiry into the question, or any matters arising in connection with it, and to report on the question, or on those matters, to the Secretary of State.

## **18 Appeal on question of law**

- (1) A question of law arising in connection with the determination by the Secretary of State of any such question as is mentioned in section 17(1) above may, if the Secretary of State thinks fit, be referred for decision to the High Court or, in Scotland, to the Court of Session.
- (2) If the Secretary of State determines in accordance with subsection (1) above to refer any question of law to the court, he shall give notice in writing of his intention to do so—
  - (a) in a case where the question arises on an application made to the Secretary of State, to the applicant; and
  - (b) in any case to such persons as appear to him to be concerned with the question.
- (3) Any person aggrieved by the decision of the Secretary of State on any question of law within subsection (1) above which is not referred in accordance with that subsection may appeal from that decision to the court.
- (4) The Secretary of State shall be entitled to appear and be heard on any such reference or appeal.
- (5) Rules of court shall include provision for regulating references and appeals under this section and for limiting the time within which such appeals may be brought.

- (6) Notwithstanding anything in any Act, the decision of the court on a reference or appeal under this section shall be final.
- (7) On any such reference or appeal the court may order the Secretary of State to pay the costs (in Scotland, the expenses) of any other person, whether or not the decision is in that other person's favour and whether or not the Secretary of State appears on the reference or appeal.

## **19 Review of decisions**

- (1) Subject to subsection (2) below, the Secretary of State may review any decision given by him on any such question as is mentioned in section 17(1) above if—
  - (a) new facts have been brought to his notice; or
  - (b) he is satisfied that the decision—
    - (i) was given in ignorance of some material fact;
    - (ii) was based on a mistake as to some material fact; or
    - (iii) was erroneous in point of law.
- (2) A decision shall not be reviewed while an appeal under section 18 above is pending against the decision of the Secretary of State on a question of law arising in connection with it, or before the time for so appealing has expired.
- (3) On a review any question of law may be referred under subsection (1) of section 18 above or, where it is not so referred, may be the subject of an appeal under subsection (3) of that section, and the other provisions of that section shall apply accordingly.

### *Adjudication by adjudication officers*

## **20 Claims and questions to be submitted to adjudication officer**

- (1) Subject to section 54 below, there shall be submitted forthwith to an adjudication officer for determination in accordance with this Part of this Act—
  - (a) any claim for a benefit to which this section applies;
  - (b) subject to subsection (2) below, any question arising in connection with a claim for, or award of, such a benefit; and
  - (c) any question whether, if he had otherwise had a right to it, a person would be disqualified—
    - (i) by reason of section 28(1) of the Contributions and Benefits Act, for receiving unemployment benefit;
    - (ii) by reason of any regulations under section 32(1) of that Act, for receiving sickness benefit; or
    - (iii) by reason of any regulations under section 59(1) of that Act, for receiving invalidity benefit.
- (2) Subsection (1) above does not apply to any question which falls to be determined otherwise than by an adjudication officer.
- (3) Any question as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay may be submitted to an adjudication officer—
  - (a) by the Secretary of State; or

- (b) subject to and in accordance with regulations, by the employee concerned, for determination in accordance with this Part of this Act.
- (4) If—
  - (a) a person submits a question relating to the age, marriage or death of any person; and
  - (b) it appears to the adjudication officer that the question may arise if the person who has submitted it to him submits a claim to a benefit to which this section applies,the adjudication officer may determine the question.
- (5) Different aspects of the same claim or question may be submitted to different adjudication officers; and for that purpose this section and the other provisions of this Part of this Act with respect to the determination of claims and questions shall apply with any necessary modifications.
- (6) This section applies to the following benefits—
  - (a) benefits as defined in section 122 of the Contributions and Benefits Act;
  - (b) income support;
  - (c) family credit;
  - (d) disability working allowance;
  - (e) any social fund payment such as is mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act;
  - (f) child benefit;
  - (g) statutory sick pay; and
  - (h) statutory maternity pay.

## **21 Decision of adjudication officer**

- (1) An adjudication officer to whom a claim or question is submitted under section 20 above (other than a claim which under section 30(12) or (13) or 35(7) below falls to be treated as an application for a review) shall take it into consideration and, so far as practicable, dispose of it, in accordance with this section, and with procedure regulations under section 59 below, within 14 days of its submission to him.
- (2) Subject to subsection (3) and section 37 below, the adjudication officer may decide a claim or question himself or refer it to a social security appeal tribunal.
- (3) The adjudication officer must decide a claim for or question relating to an attendance allowance, a disability living allowance or a disability working allowance himself.
- (4) Where an adjudication officer refers a question as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay to a social security appeal tribunal, the employee and employer concerned shall each be given notice in writing of the reference.
- (5) In any other case notice in writing of the reference shall be given to the claimant.
- (6) Where—
  - (a) a case has been referred to a social security appeal tribunal (“the tribunal”); and
  - (b) the claimant makes a further claim which raises the same or similar questions; and

---

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

---

(c) that further claim is referred to the tribunal by the adjudication officer, then the tribunal may proceed to determine the further claim whether or not notice has been given under subsection (4) or (5) above.

*Appeals from adjudication officers - general*

**22 Appeal to social security appeal tribunal**

- (1) Subject to subsection (3) below, where the adjudication officer has decided a claim or question other than a claim or question relating to an attendance allowance, a disability living allowance or a disability working allowance—
  - (a) if it relates to statutory sick pay or statutory maternity pay, the employee and employer concerned shall each have a right to appeal to a social security appeal tribunal; and
  - (b) in any other case the claimant shall have a right to do so.
- (2) A person with a right of appeal under this section shall be given such notice of a decision falling within subsection (1) above and of that right as may be prescribed.
- (3) No appeal lies under this section where—
  - (a) in connection with the decision of the adjudication officer there has arisen any question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer; and
  - (b) the question has been determined; and
  - (c) the adjudication officer certifies that the decision on that question is the sole ground of his decision.
- (4) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.
- (5) Where an adjudication officer has determined that any amount, other than an amount—
  - (a) of an attendance allowance;
  - (b) of a disability living allowance;
  - (c) of a disability working allowance;
  - (d) of statutory sick pay; or
  - (e) of statutory maternity pay,
 is recoverable under or by virtue of section 71 or 74 below, any person from whom he has determined that it is recoverable shall have the same right of appeal to a social security appeal tribunal as a claimant.
- (6) In any case where—
  - (a) an adjudication officer has decided any claim or question under Part V of the Contributions and Benefits Act; and
  - (b) the right to benefit under that Part of that Act of any person other than the claimant is or may be, under Part VI of Schedule 7 to that Act, affected by that decision,
 that other person shall have the like right of appeal to a social security appeal tribunal as the claimant.
- (7) Subsection (2) above shall apply to a person with a right of appeal under subsection (5) or (6) above as it applies to a claimant.



## **23 Appeal from social security appeal tribunal to Commissioner**

- (1) Subject to the provisions of this section, an appeal lies to a Commissioner from any decision of a social security appeal tribunal under section 22 above on the ground that the decision of the tribunal was erroneous in point of law.
- (2) In the case of statutory sick pay or statutory maternity pay an appeal lies under this section at the instance of any of the following—
  - (a) an adjudication officer;
  - (b) the employee concerned;
  - (c) the employer concerned;
  - (d) a trade union, where—
    - (i) the employee is a member of the union at the time of the appeal and was so immediately before the question at issue arose; or
    - (ii) the question at issue is a question as to or in connection with entitlement of a deceased person who was at the time of his death a member of the union;
  - (e) an association of employers of which the employer is a member at the time of the appeal and was so immediately before the question at issue arose.
- (3) In any other case an appeal lies under this section at the instance of any of the following—
  - (a) an adjudication officer;
  - (b) the claimant;
  - (c) in any of the cases mentioned in subsection (5) below, a trade union; and
  - (d) a person from whom it is determined that any amount is recoverable under section 71(1) or 74 below.
- (4) In a case relating to industrial injuries benefit an appeal lies under this section at the instance of a person whose right to benefit is, or may be, under Part VI of Schedule 7 to the Contributions and Benefits Act, affected by the decision appealed against, as well as at the instance of any person or body such as is mentioned in subsection (3) above.
- (5) The following are the cases in which an appeal lies at the instance of a trade union—
  - (a) where the claimant is a member of the union at the time of the appeal and was so immediately before the question at issue arose;
  - (b) where that question in any way relates to a deceased person who was a member of the union at the time of his death;
  - (c) where the case relates to industrial injuries benefit and the claimant or, in relation to industrial death benefit, the deceased, was a member of the union at the time of the relevant accident.
- (6) Subsections (2), (3) and (5) above, as they apply to a trade union, apply also to any other association which exists to promote the interests and welfare of its members.
- (7) Where the Commissioner holds that the decision was erroneous in point of law, he shall set it aside and—
  - (a) he shall have power—
    - (i) to give the decision which he considers the tribunal should have given, if he can do so without making fresh or further findings of fact; or
    - (ii) if he considers it expedient, to make such findings and to give such decision as he considers appropriate in the light of them; and

---

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

---

- (b) in any other case he shall refer the case to a tribunal with directions for its determination.
- (8) Subject to any direction of the Commissioner, the tribunal on a reference under subsection (7)(b) above shall consist of persons who were not members of the tribunal which gave the erroneous decision.
- (9) No appeal lies under this section without the leave—
  - (a) of the person who was the chairman of the tribunal when the decision was given or, in a prescribed case, the leave of some other chairman; or
  - (b) subject to and in accordance with regulations, of a Commissioner.
- (10) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.

## **24 Appeal from Commissioners on point of law**

- (1) Subject to subsections (2) and (3) below, an appeal on a question of law shall lie to the appropriate court from any decision of a Commissioner.
- (2) No appeal under this section shall lie from a decision except—
  - (a) with the leave of the Commissioner who gave the decision or, in a prescribed case, with the leave of a Commissioner selected in accordance with regulations; or
  - (b) if he refuses leave, with the leave of the appropriate court.
- (3) An application for leave under this section in respect of a Commissioner's decision may only be made by—
  - (a) a person who, before the proceedings before the Commissioner were begun, was entitled to appeal to the Commissioner from the decision to which the Commissioner's decision relates;
  - (b) any other person who was a party to the proceedings in which the first decision mentioned in paragraph (a) above was given;
  - (c) the Secretary of State, in a case where he is not entitled to apply for leave by virtue of paragraph (a) or (b) above;
  - (d) any other person who is authorised by regulations to apply for leave;

and regulations may make provision with respect to the manner in which and the time within which applications must be made to a Commissioner for leave under this section and with respect to the procedure for dealing with such applications.

- (4) On an application to a Commissioner for leave under this section it shall be the duty of the Commissioner to specify as the appropriate court—
  - (a) the Court of Appeal if it appears to him that the relevant place is in England or Wales;
  - (b) the Court of Session if it appears to him that the relevant place is in Scotland; and
  - (c) the Court of Appeal in Northern Ireland if it appears to him that the relevant place is in Northern Ireland,

except that if it appears to him, having regard to the circumstances of the case and in particular to the convenience of the persons who may be parties to the proposed appeal, that he should specify a different court mentioned in paragraphs (a) to (c) above as the appropriate court, it shall be his duty to specify that court as the appropriate court.

- (5) In this section—
- “the appropriate court”, except in subsection (4) above, means the court specified in pursuance of that subsection;
  - “the relevant place”, in relation to an application for leave to appeal from a decision of a Commissioner, means the premises where the authority whose decision was the subject of the Commissioner’s decision usually exercises its functions.
- (6) The powers to make regulations conferred by this section shall be exercisable by the Lord Chancellor.

### *Reviews - general*

## **25 Review of decisions**

- (1) Subject to the following provisions of this section, any decision under this Act of an adjudication officer, a social security appeal tribunal or a Commissioner (other than a decision relating to an attendance allowance, a disability living allowance or a disability working allowance) may be reviewed at any time by an adjudication officer or, on a reference by an adjudication officer, by a social security appeal tribunal, if—
- (a) the officer or tribunal is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
  - (b) there has been any relevant change of circumstances since the decision was given; or
  - (c) it is anticipated that a relevant change of circumstances will so occur; or
  - (d) the decision was based on a decision of a question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer, and the decision of that question is revised; or
  - (e) the decision falls to be reviewed under section 57(4) or (5) of the Contributions and Benefits Act.
- (2) Any decision of an adjudication officer (other than a decision relating to an attendance allowance, a disability living allowance or a disability working allowance) may be reviewed, upon the ground that it was erroneous in point of law, by an adjudication officer or, on a reference from an adjudication officer, by a social security appeal tribunal.
- (3) Regulations may provide that a decision may not be reviewed on the ground mentioned in subsection (1)(a) above unless the officer or tribunal is satisfied as mentioned in that paragraph by fresh evidence.
- (4) In their application to family credit, subsection (1)(b) and (c) above shall have effect subject to section 128(3) of the Contributions and Benefits Act (change of circumstances not to affect award or rate during specified period).
- (5) Where a decision is reviewed on the ground mentioned in subsection (1)(c) above, the decision given on the review—
- (a) shall take effect on the day prescribed for that purpose by reference to the date on which the relevant change of circumstances is expected to occur; and
  - (b) shall be reviewed again if the relevant change of circumstances either does not occur or occurs otherwise than on that date.

**26 Procedure for reviews**

- (1) A question may be raised with a view to a review under section 25 above by means of an application in writing to an adjudication officer, stating the grounds of the application.
- (2) On receipt of any such application, the adjudication officer shall proceed to deal with or refer any question arising on it in accordance with sections 21 to 23 above.
- (3) Regulations may provide for enabling, or requiring, in prescribed circumstances, a review under section 25 above notwithstanding that no application for a review has been made under subsection (1) above.

**27 Reviews under s. 25 - supplementary**

- (1) Regulations—
  - (a) may prescribe what are, or are not, relevant changes of circumstances for the purposes of section 25 above; and
  - (b) may make provision restricting the payment of any benefit, or any increase of benefit, to which a person would, but for this subsection, be entitled by reason of a review in respect of any period before or after the review (whether that period falls wholly or partly before or after the making of the regulations).
- (2) Regulations under subsection (1)(b) above shall not restrict the payment to or for a woman of so much of—
  - (a) any widow's benefit, any invalidity pension under section 40 of the Contributions and Benefits Act or any Category A or Category B retirement pension; or
  - (b) any increase of such a benefit or pension,as falls to be paid by reason of a review which takes place by virtue of section 25(1) (a) or (1)(b) above in consequence of a claim for a widowhood benefit, within the meaning of section 3 above, which is made or treated as made by virtue of that section.

**28 Appeals following reviews or refusals to review**

A decision given on a review under section 25 above, and a refusal to review a decision under that section, shall be subject to appeal in like manner as an original decision, and sections 21 to 23 above shall, with the necessary modifications, apply in relation to a decision given on such a review as they apply to the original decision of a question.

**29 Review after claimant appeals**

Where a claimant has appealed against a decision of an adjudication officer and the decision is reviewed by an adjudication officer under section 25 above—

- (a) if the adjudication officer considers that the decision which he has made on the review is the same as the decision that would have been made on the appeal had every ground of the claimant's appeal succeeded, the appeal shall lapse; but
- (b) in any other case, the review shall be of no effect and the appeal shall proceed accordingly.

*Attendance allowance, disability living allowance and disability working allowance*

**30 Reviews of decisions of adjudication officers**

- (1) On an application under this section made within the prescribed period, a decision of an adjudication officer under section 21 above which relates to an attendance allowance, a disability living allowance or a disability working allowance may be reviewed on any ground subject, in the case of disability working allowance, to section 129(6) of the Contributions and Benefits Act.
- (2) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 21 above which relates to an attendance allowance or a disability living allowance may be reviewed if—
  - (a) the adjudication officer is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
  - (b) there has been any relevant change of circumstances since the decision was given; or
  - (c) it is anticipated that a relevant change of circumstances will so occur; or
  - (d) the decision was erroneous in point of law; or
  - (e) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,

but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.

- (3) Regulations may prescribe what are, or are not, relevant changes of circumstances for the purposes of subsection (2)(b) and (c) above.
- (4) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 21 above that a person is or was at any time terminally ill for the purposes of section 66(1), 72(5) or 73(12) of the Contributions and Benefits Act may be reviewed if there has been a change of medical opinion with respect to his condition or his reasonable expectation of life.
- (5) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 21 above which relates to a disability working allowance may be reviewed if—
  - (a) the adjudication officer is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
  - (b) subject to section 129(6) of the Contributions and Benefits Act, there has been any prescribed change of circumstances since the decision was given; or
  - (c) the decision was erroneous in point of law; or
  - (d) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,

but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.

---

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

---

- (6) The claimant shall be given such notification as may be prescribed of a decision which may be reviewed under this section and of his right to a review under subsection (1) above.
- (7) A question may be raised with a view to a review under this section by means of an application made in writing to an adjudication officer stating the grounds of the application and supplying such information and evidence as may be prescribed.
- (8) Regulations—
  - (a) may provide for enabling or requiring, in prescribed circumstances, a review under this section notwithstanding that no application under subsection (7) above has been made; and
  - (b) if they do so provide, shall specify under which provision of this section a review carried out by virtue of any such regulations falls.
- (9) Reviews under this section shall be carried out by adjudication officers.
- (10) Different aspects of any question which arises on such a review may be dealt with by different adjudication officers; and for this purpose this section and the other provisions of this Part of this Act which relate to reviews under this section shall apply with any necessary modifications.
- (11) If a review is under subsection (1) above, the officer who took the decision under review shall not deal with any question which arises on the review.
- (12) Except in prescribed circumstances, where a claim for a disability living allowance in respect of a person already awarded such an allowance by an adjudication officer is made or treated as made during the period for which he has been awarded the allowance, it shall be treated as an application for a review under this section.
- (13) Where—
  - (a) a claim for an attendance allowance, a disability living allowance or a disability working allowance in respect of a person has been refused; and
  - (b) a further claim for the same allowance is made in respect of him within the period prescribed under subsection (1) above,the further claim shall be treated as an application for a review under that subsection.

### **31 Further reviews**

- (1) Subsections (2), (4) and (5) of section 30 above shall apply to a decision on a review under subsection (1) of that section as they apply to a decision of an adjudication officer under section 21 above but as if the words “made after the end of the prescribed period” were omitted from each subsection.
- (2) Subsections (1), (2), (4) and (5) of section 30 above shall apply—
  - (a) to a decision on a review under subsection (2), (4) or (5) of that section; and
  - (b) to a refusal to review a decision under subsection (2), (4) or (5) of that section, as they apply to a decision of an adjudication officer under section 21 above.
- (3) The claimant shall be given such notification as may be prescribed—
  - (a) of a decision on a review under section 30 above;
  - (b) if the review was under section 30(1), of his right of appeal under section 33 below; and

- (c) if it was under section 30(2), (4) or (5), of his right to a further review under section 30(1).

### **32 Reviews of decisions as to attendance allowance, disability living allowance or disability working allowance - supplementary**

- (1) An award of an attendance allowance, a disability living allowance or a disability working allowance on a review under section 30 above replaces any award which was the subject of the review.
- (2) Where a person who has been awarded a disability living allowance consisting of one component applies or is treated as applying for a review under section 30 above and alleges that he is also entitled to the other component, the adjudication officer need not consider the question of his entitlement to the component which he has already been awarded or the rate of that component.
- (3) Where a person who has been awarded a disability living allowance consisting of both components applies or is treated as applying for a review under section 30 above and alleges that he is entitled to one component at a rate higher than that at which it has been awarded, the adjudication officer need not consider the question of his entitlement to the other component or the rate of that component.
- (4) Where a person has been awarded a component for life, on a review under section 30 above the adjudication officer shall not consider the question of his entitlement to that component or the rate of that component or the period for which it has been awarded unless—
  - (a) the person awarded the component expressly applies for the consideration of that question; or
  - (b) information is available to the adjudication officer which gives him reasonable grounds for believing that entitlement to the component, or entitlement to it at the rate awarded or for that period, ought not to continue.
- (5) No decision which relates to an attendance allowance or a disability living allowance shall be reviewed under section 30 above on the ground that the person is or was at any time terminally ill, within the meaning of section 66(2) of the Contributions and Benefits Act, unless an application for review is made expressly on that ground either—
  - (a) by the person himself; or
  - (b) by any other person purporting to act on his behalf, whether or not that other person is acting with his knowledge or authority;and a decision may be so reviewed on such an application, notwithstanding that no claim under section 66(1) or 72(5) or 73(12) of that Act has been made.
- (6) Where a decision is reviewed under section 30 above on the ground that it is anticipated that a change of circumstances will occur, the decision given on review—
  - (a) shall take effect on the day prescribed for that purpose by reference to the date on which the change of circumstances is expected to occur; and
  - (b) shall be reviewed again if the change of circumstances either does not occur or occurs otherwise than on that date.
- (7) Where a claimant has appealed against a decision of an adjudication officer under section 33 below and the decision is reviewed again under section 30(2), (4) or (5) above by an adjudication officer, then—

---

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

---

- (a) if the adjudication officer considers that the decision which he has made on the review is the same as the decision that would have been made on the appeal had every ground of the appeal succeeded, then the appeal shall lapse; but
  - (b) in any other case, the review shall be of no effect and the appeal shall proceed accordingly.
- (8) Regulations may make provision restricting the payment of any benefit, or any increase of benefit, to which a person would, but for this subsection, be entitled by reason of a review in respect of any period before or after the review (whether that period falls wholly or partly before or after the making of the regulations).
- (9) Where an adjudication officer has determined that any amount paid by way of an attendance allowance, a disability living allowance or a disability working allowance is recoverable under or by virtue of section 71 below, any person from whom he has determined that it is recoverable shall have the same right of review under section 30 above as a claimant.
- (10) This Act and the Contributions and Benefits Act shall have effect in relation to a review by virtue of subsection (9) above as if any reference to the claimant were a reference to the person from whom the adjudication officer has determined that the amount in question is recoverable.

### **33 Appeals following reviews**

- (1) Where an adjudication officer has given a decision on a review under section 30(1) above, the claimant or such other person as may be prescribed may appeal—
- (a) in prescribed cases, to a disability appeal tribunal; and
  - (b) in any other case, to a social security appeal tribunal.
- (2) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.
- (3) An award on an appeal under this section replaces any award which was the subject of the appeal.
- (4) Where a person who has been awarded a disability living allowance consisting of one component alleges on an appeal that he is also entitled to the other component, the tribunal need not consider the question of his entitlement to the component which he has already been awarded or the rate of that component.
- (5) Where a person who has been awarded a disability living allowance consisting of both components alleges on an appeal that he is entitled to one component at a rate higher than that at which it has been awarded, the tribunal need not consider the question of his entitlement to the other component or the rate of that component.
- (6) The tribunal shall not consider—
- (a) a person's entitlement to a component which has been awarded for life; or
  - (b) the rate of a component so awarded; or
  - (c) the period for which a component has been so awarded,
- unless—
- (i) the appeal expressly raises that question; or
  - (ii) information is available to the tribunal which gives it reasonable grounds for believing that entitlement to the component, or



entitlement to it at the rate awarded or for that period, ought not to continue.

### **34 Appeal from social security appeal tribunals or disability appeal tribunals to Commissioners and appeals from Commissioners**

- (1) Subject to the provisions of this section, an appeal lies to a Commissioner from any decision of a social security appeal tribunal or disability appeal tribunal under section 33 above on the ground that the decision of the tribunal was erroneous in point of law.
- (2) An appeal lies under this section at the instance of any of the following—
  - (a) an adjudication officer;
  - (b) the claimant;
  - (c) a trade union—
    - (i) where the claimant is a member of the union at the time of the appeal and was so immediately before the question at issue arose;
    - (ii) where that question in any way relates to a deceased person who was a member of the union at the time of his death; and
  - (d) a person from whom it is determined that any amount is recoverable under section 71(1) below.
- (3) Subsection (2) above, as it applies to a trade union, applies also to any other association which exists to promote the interests and welfare of its members.
- (4) Subsections (7) to (10) of section 23 above have effect for the purposes of this section as they have effect for the purposes of that section.
- (5) Section 24 above applies to a decision of a Commissioner under this section as it applies to a decision of a Commissioner under section 23 above.

### **35 Reviews of decisions on appeal**

- (1) Any decision under this Act of a social security appeal tribunal, a disability appeal tribunal or a Commissioner which relates to an attendance allowance or a disability living allowance may be reviewed at any time by an adjudication officer if—
  - (a) he is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
  - (b) there has been any relevant change of circumstances since the decision was given; or
  - (c) it is anticipated that a relevant change of circumstances will so occur; or
  - (d) the decision was that a person is or was at any time terminally ill for the purposes of section 66(1), 72(5) or 73(12) of the Contributions and Benefits Act and there has been a change of medical opinion with respect to his condition or his reasonable expectation of life; or
  - (e) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,

but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.

---

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

---

- (2) Regulations may prescribe what are, or are not, relevant changes of circumstances for the purposes of subsection (1)(b) and (c) above.
- (3) Any decision under this Act of a social security appeal tribunal, a disability appeal tribunal or a Commissioner which relates to a disability working allowance may be reviewed at any time by an adjudication officer if—
- (a) he is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
  - (b) subject to section 129(7) of the Contributions and Benefits Act, there has been any prescribed change of circumstances since the decision was given; or
  - (c) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,
- but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.
- (4) A question may be raised with a view to a review under this section by means of an application made in writing to an adjudication officer, stating the grounds of the application and supplying such information and evidence as may be prescribed.
- (5) Regulations may provide for enabling or requiring, in prescribed circumstances, a review under this section notwithstanding that no application for a review has been made under subsection (4) above.
- (6) Reviews under this section shall be carried out by adjudication officers.
- (7) Except in prescribed circumstances, where a claim for a disability living allowance in respect of a person already awarded such an allowance on an appeal is made or treated as made during the period for which he has been awarded the allowance, it shall be treated as an application for a review under this section.
- (8) Subsections (1), (2), (4) and (5) of section 30 above shall apply—
- (a) to a decision on a review under this section; and
  - (b) to a refusal to review a decision such as is mentioned in subsection (1) above, as they apply to a decision of an adjudication officer under section 21 above.
- (9) The person whose claim was the subject of the appeal the decision on which has been reviewed under this section shall be given such notification as may be prescribed—
- (a) of the decision on the review; and
  - (b) of his right to a further review under section 30(1) above.
- (10) Regulations may make provision restricting the payment of any benefit, or any increase of benefit, to what a person would, but for this subsection, be entitled by reason of a review in respect of any period before or after the review (whether that period falls wholly or partly before or after the making of the regulations).
- (11) Where a decision is reviewed on the ground mentioned in subsection (1)(c) above, the decision given on the review—
- (a) shall take effect on the day prescribed for that purpose by reference to the date on which the relevant change of circumstances is expected to occur; and
  - (b) shall be reviewed again if the relevant change of circumstances either does not occur or occurs otherwise than on that date.

- (12) Section 30(10) above and section 32(1) to (5) above shall apply in relation to a review under this section as they apply to a review under section 30 above.

*Questions first arising on appeal*

**36 Questions first arising on appeal**

- (1) Where a question which but for this section would fall to be determined by an adjudication officer first arises in the course of an appeal to a social security appeal tribunal, a disability appeal tribunal or a Commissioner, the tribunal, subject to subsection (2) below, or the Commissioner may, if they or he think fit, proceed to determine the question notwithstanding that it has not been considered by an adjudication officer.
- (2) A social security appeal tribunal may not determine a question by virtue of subsection (1) above if an appeal in relation to such a question would have lain to a disability appeal tribunal.

*Reference of special questions*

**37 Reference of special questions**

- (1) Subject to subsection (2) below—
- (a) if on consideration of any claim or question an adjudication officer is of opinion that there arises any question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer, he shall refer the question for such determination; and
  - (b) if on consideration of any claim or question a social security appeal tribunal or Commissioner is of opinion that any such question arises, the tribunal or Commissioner shall direct it to be referred by an adjudication officer for such determination.
- (2) The person or tribunal making or directing the reference shall then deal with any other question as if the referred question had not arisen.
- (3) The adjudication officer, tribunal or Commissioner may—
- (a) postpone the reference of, or dealing with, any question until other questions have been determined;
  - (b) in cases where the determination of any question disposes of a claim or any part of it, make an award or decide that an award cannot be made, as to the claim or that part of it, without referring or dealing with, or before the determination of, any other question.

*Adjudication officers and the Chief Adjudication Officer*

**38 Adjudication officers**

- (1) Adjudication officers shall be appointed by the Secretary of State, subject to the consent of the Treasury as to number, and may include—

---

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

---

- (a) officers of the Department of Employment appointed with the concurrence of the Secretary of State in charge of that Department; or
  - (b) officers of the Northern Ireland Department appointed with the concurrence of that Department.
- (2) An adjudication officer may be appointed to perform all the functions of adjudication officers under any enactment or such functions of such officers as may be specified in his instrument of appointment.

### **39 The Chief Adjudication Officer**

- (1) The Secretary of State shall appoint a Chief Adjudication Officer.
- (2) It shall be the duty of the Chief Adjudication Officer to advise adjudication officers on the performance of their functions under this or any other Act.
- (3) The Chief Adjudication Officer shall keep under review the operation of the system of adjudication by adjudication officers and matters connected with the operation of that system.
- (4) The Chief Adjudication Officer shall report annually in writing to the Secretary of State on the standards of adjudication and the Secretary of State shall publish his report.

#### *Social security appeal tribunals*

### **40 Panels for appointment to social security appeal tribunals**

- (1) The President shall constitute for the whole of Great Britain, to act for such areas as he thinks fit and be composed of such persons as he thinks fit to appoint, panels of persons to act as members of social security appeal tribunals.
- (2) The panel for an area shall be composed of persons appearing to the President to have knowledge or experience of conditions in the area and to be representative of persons living or working in the area.
- (3) Before appointing members of a panel, the President shall take into consideration any recommendations from such organisations or persons as he considers appropriate.
- (4) The members of the panels shall hold office for such period as the President may direct, but the President may at any time terminate the appointment of any member of a panel.

### **41 Constitution of social security appeal tribunals**

- (1) A social security appeal tribunal shall consist of a chairman and two other persons.
- (2) The members other than the chairman shall be drawn from the appropriate panel constituted under section 40 above.
- (3) The President shall nominate the chairman.
- (4) The President may nominate as chairman—
  - (a) himself;
  - (b) one of the full-time chairmen appointed under section 51(1) below; or

- (c) a person drawn from the panel appointed by the Lord Chancellor or, as the case may be, the Lord President of the Court of Session under section 7 of the Tribunals and Inquiries Act 1971.
- (5) No person shall be appointed chairman of a tribunal under subsection (4)(c) above unless he has a 5 year general qualification or he is an advocate or solicitor in Scotland of at least 5 years' standing.
- (6) If practicable, at least one of the members of the appeal tribunal hearing a case shall be of the same sex as the claimant.
- (7) Schedule 2 to this Act shall have effect for supplementing this section.

#### *Disability appeal tribunals*

### **42 Panels for appointment to disability appeal tribunals**

- (1) The President shall constitute for the whole of Great Britain, to act for such areas as he thinks fit and be composed of such persons as he thinks fit to appoint, panels of persons to act as members of disability appeal tribunals.
- (2) There shall be two panels for each area.
- (3) One panel shall be composed of medical practitioners.
- (4) The other shall be composed of persons who are experienced in dealing with the needs of disabled persons—
  - (a) in a professional or voluntary capacity; or
  - (b) because they are themselves disabled,but may not include medical practitioners.
- (5) In considering the appointment of members of the panels the President shall have regard to the desirability of appointing disabled persons.
- (6) Before appointing members of a panel, the President shall take into consideration any recommendations from such organisations or persons as he considers appropriate.
- (7) The members of the panels shall hold office for such periods as the President may direct, but the President may at any time terminate the appointment of any member of a panel.

### **43 Constitution of disability appeal tribunals**

- (1) A disability appeal tribunal shall consist of a chairman and two other persons.
- (2) Of the members of a tribunal other than the chairman, one shall be drawn from the panel mentioned in subsection (3) of section 42 above.
- (3) The other shall be drawn from the panel mentioned in subsection (4) of that section.
- (4) The President shall nominate the chairman.
- (5) The President may nominate as chairman—
  - (a) himself;
  - (b) one of the full-time chairmen appointed under section 51(1) below; or

---

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

---

- (c) a person drawn from the panel appointed by the Lord Chancellor or, as the case may be, the Lord President of the Court of Session under section 7 of the Tribunals and Inquiries Act 1971.
- (6) No person shall be appointed chairman of a tribunal under subsection (5)(c) above unless he has a 5 year general qualification or he is an advocate or solicitor in Scotland of at least 5 years' standing.
- (7) In summoning members of a panel to serve on a tribunal, the clerk to the tribunal shall have regard to the desirability of at least one of the members of the tribunal being a disabled person.
- (8) If practicable, at least one of the members of the tribunal shall be of the same sex as the claimant.
- (9) Schedule 2 to this Act shall have effect for supplementing this section.

*Adjudication in relation to industrial injuries and disablement benefit*

**44 Declaration that accident is an industrial accident**

- (1) Where, in connection with any claim for industrial injuries benefit, it is determined that the relevant accident was or was not an industrial accident, an express declaration of that fact shall be made and recorded and (subject to subsection (3) below) a claimant shall be entitled to have the question whether the relevant accident was an industrial accident determined notwithstanding that his claim is disallowed on other grounds.
- (2) Subject to subsection (3) below and to section 60 below, any person suffering personal injury by accident shall be entitled, if he claims the accident was an industrial accident, to have that question determined, and a declaration made and recorded accordingly, notwithstanding that no claim for benefit has been made in connection with which the question arises; and this Part of this Act applies for that purpose as if the question had arisen in connection with a claim for benefit.
- (3) The adjudication officer, social security appeal tribunal or Commissioner (as the case may be) may refuse to determine the question whether an accident was an industrial accident if satisfied that it is unlikely to be necessary to determine the question for the purposes of any claim for benefit; but any such refusal of an adjudication officer or social security appeal tribunal shall be subject to appeal to a social security appeal tribunal or Commissioner, as the case may be.
- (4) Subject to the provisions of this Part of this Act as to appeal and review, any declaration under this section that an accident was or was not an industrial accident shall be conclusive for the purposes of any claim for industrial injuries benefit in respect of that accident.
- (5) Where subsection (4) above applies—
  - (a) in relation to a death occurring before 11th April 1988; or
  - (b) for the purposes of section 60(2) of the Contributions and Benefits Act,it shall have effect as if at the end there were added the words “whether or not the claimant is the person at whose instance the declaration was made”.

- (6) For the purposes of this section (but subject to section 60(3) below), an accident whereby a person suffers personal injury shall be deemed, in relation to him, to be an industrial accident if—
- (a) it arises out of and in the course of his employment;
  - (b) that employment is employed earner’s employment for the purposes of Part V of the Contributions and Benefits Act;
  - (c) payment of benefit is not under section 94(5) of that Act precluded because the accident happened while he was outside Great Britain.
- (7) A decision under this section shall be final except that sections 25 to 29 above apply to a decision under this section that an accident was or was not an industrial accident as they apply to a decision under sections 21 to 23 above if, but only if, the adjudication officer or social security appeal tribunal, as the case may be, is satisfied that the decision under this section was given in consequence of any wilful non-disclosure or misrepresentation of a material fact.

#### **45 Disablement questions**

- (1) In relation to industrial injuries benefit and severe disablement allowance, the “disablement questions” are the questions—
- (a) in relation to industrial injuries benefit, whether the relevant accident has resulted in a loss of faculty;
  - (b) in relation to both benefits, at what degree the extent of disablement resulting from a loss of faculty is to be assessed, and what period is to be taken into account by the assessment;
- but questions relating to the aggregation of percentages of disablement resulting from different accidents are not disablement questions (and accordingly fall to be determined by an adjudication officer).
- (2) Subject to and in accordance with regulations, the disablement questions shall be referred to and determined—
- (a) by an adjudicating medical practitioner; or
  - (b) by two or more adjudicating medical practitioners; or
  - (c) by a medical appeal tribunal; or
  - (d) in such cases relating to severe disablement allowance as may be prescribed, by an adjudication officer.
- (3) Where—
- (a) the case of a claimant for disablement benefit has been referred by the adjudication officer to one or more adjudicating medical practitioners for determination of the disablement questions; and
  - (b) on that or any subsequent reference, the extent of the disablement is provisionally assessed,
- the case shall again be referred under this section, to one or more adjudicating medical practitioners as regulations may provide for the purposes of such subsequent references, not later than the end of the period taken into account by the provisional assessment.
- (4) Where, in the case of a claimant for disablement benefit, the extent of any disablement of his resulting from an aggregable accident (that is to say, an accident other than the one which is the basis of the claim in question) has been assessed in accordance with

---

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

---

paragraph 6(3) of Schedule 6 to the Contributions and Benefits Act at less than 14 per cent., then—

- (a) the adjudication officer may refer the disablement questions relating to the aggregable accident to one or more adjudicating medical practitioners for fresh determination; and
  - (b) on any such reference—
    - (i) those questions shall be determined as at the first day of the common period; and
    - (ii) the period to be taken into account shall be the period beginning with that day.
- (5) In subsection (4) above “the first day of the common period” means whichever is the later of—
- (a) the first day of the period taken into account by the assessment of the extent of the claimant’s disablement resulting from the accident which is the basis of the claim in question;
  - (b) the first day of the period taken into account by the assessment of the extent of his disablement resulting from the aggregable accident.
- (6) In the following provisions of this Act “adjudicating medical practitioner” means, in relation to any case, one such practitioner, unless regulations applicable to cases of that description provide for references to more than one.

#### **46 Medical appeals and references**

- (1) This section has effect where the case of a claimant for disablement benefit or severe disablement allowance has been referred by the adjudication officer to an adjudicating medical practitioner for determination of the disablement questions.
- (2) Subject to subsection (3) below, if the claimant is dissatisfied with the decision of the adjudicating medical practitioner, he may appeal in the prescribed manner and within the prescribed time, and the case shall be referred to a medical appeal tribunal.
- (3) If—
  - (a) the Secretary of State notifies the adjudication officer within the prescribed time that he is of the opinion that any decision of the adjudicating medical practitioner ought to be considered by a medical appeal tribunal; or
  - (b) the adjudication officer is of the opinion that any such decision ought to be so considered,
 the adjudication officer shall refer the case to a medical appeal tribunal for their consideration, and the tribunal may confirm, reverse or vary the decision in whole or in part as on an appeal.

#### **47 Review of medical decisions**

- (1) Any decision under this Act of an adjudicating medical practitioner or a medical appeal tribunal may be reviewed at any time by an adjudicating medical practitioner if satisfied that the decision was given in ignorance of a material fact or was based on a mistake as to a material fact.
- (2) Any decision under this Act of an adjudicating medical practitioner may be reviewed at any time by such a practitioner if he is satisfied that the decision was erroneous in point of law.



- (3) Regulations may provide that a decision may not be reviewed under subsection (1) above unless the adjudicating medical practitioner is satisfied as mentioned in that subsection by fresh evidence.
- (4) Any assessment of the extent of the disablement resulting from the relevant loss of faculty may also be reviewed by an adjudicating medical practitioner if he is satisfied that since the making of the assessment there has been an unforeseen aggravation of the results of the relevant injury.
- (5) Where in connection with a claim for disablement benefit made after 25th August 1953 it is decided that the relevant accident has not resulted in a loss of faculty, the decision—
  - (a) may be reviewed under subsection (4) above as if it were an assessment of the extent of disablement resulting from a relevant loss of faculty; but
  - (b) subject to any further decision on appeal or review, shall be treated as deciding the question whether the relevant accident had so resulted both for the time about which the decision was given and for any subsequent time.
- (6) For the purposes of subsection (5) above, a final assessment of the extent of the disablement resulting from a loss of faculty made for a period limited by reference to a definite date shall be treated as deciding that at that date the relevant accident had not resulted in a loss of faculty.
- (7) An assessment made, confirmed or varied by a medical appeal tribunal shall not be reviewed under subsection (4) above without the leave of a medical appeal tribunal, and (notwithstanding the provisions of Part V of the Contributions and Benefits Act) on a review under that subsection the period to be taken into account by any revised assessment shall only include a period before the date of the application for the review if and in so far as regulations so provide.
- (8) Subject to the foregoing provisions of this section, an adjudicating medical practitioner may deal with a case on a review in any manner in which he could deal with it on an original reference to him, and in particular may in any case relating to disablement benefit make a provisional assessment notwithstanding that the assessment under review was final.
- (9) Section 46 above applies to an application for a review under this section and to a decision of an adjudicating medical practitioner in connection with such an application as it applies to an original claim for disablement benefit or severe disablement allowance, as the case may be, and to a decision of an adjudicating medical practitioner in connection with such a claim.
- (10) In subsection (6) above the reference to a final assessment does not include an assessment made for the purpose of section 12(1)(a) or (b) of the National Insurance (Industrial Injuries) Act 1946 as originally enacted and having the effect that benefit is not payable.

#### **48 Appeal etc. on question of law to Commissioner**

- (1) Subject to this section, an appeal lies to a Commissioner from any decision of a medical appeal tribunal (if given after 27th September 1959) on the ground that the decision is erroneous in point of law, at the instance of—
  - (a) an adjudication officer;
  - (b) the claimant;

---

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

---

- (c) a trade union of which the claimant was a member at the time of the relevant accident or, in a case relating to severe disablement allowance, at the prescribed time; or
  - (d) the Secretary of State.
- (2) Subsection (1) above, as it applies to a trade union, applies also to any other association which exists to promote the interests and welfare of its members.
- (3) No appeal lies under subsection (1) above without the leave—
- (a) of the person who was the chairman of the medical appeal tribunal when the decision was given or, in a prescribed case, the leave of some other chairman of a medical appeal tribunal; or
  - (b) subject to and in accordance with regulations, of a Commissioner, and regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.
- (4) On any such appeal, the question of law arising for the decision of the Commissioner and the facts on which it arises shall be submitted for his consideration in the prescribed manner.
- (5) Where the Commissioner holds that the decision was erroneous in point of law, he shall set it aside and refer the case to a medical appeal tribunal with directions for its determination.
- (6) Subject to any direction of the Commissioner, the tribunal on a reference under subsection (5) above shall consist of persons who were not members of the tribunal which gave the erroneous decision.

*Adjudicating medical practitioners and medical appeal tribunals*

**49 Adjudicating medical practitioners**

- (1) Adjudicating medical practitioners shall be appointed by the Secretary of State.
- (2) Subject to subsection (1) above, their appointment shall be determined by regulations.

**50 Constitution of medical appeal tribunals**

- (1) A medical appeal tribunal shall consist of a chairman and two other persons.
- (2) The members other than the chairman shall be medical practitioners appointed by the President after consultation with such academic medical bodies as appear to him to be appropriate.
- (3) The President shall nominate the chairman.
- (4) The President may nominate as chairman—
  - (a) himself;
  - (b) one of the full-time chairmen appointed under section 51(1) below; or
  - (c) a person drawn from the panel appointed by the Lord Chancellor or, as the case may be, the Lord President of the Court of Session under section 7 of the Tribunals and Inquiries Act 1971.

- (5) No person shall be appointed chairman of a tribunal under subsection (4)(c) above unless he has a 5 year general qualification, or he is an advocate or solicitor in Scotland of at least 5 years' standing.
- (6) Subject to subsections (1) to (5) above, the constitution of medical appeal tribunals shall be determined by regulations.
- (7) Schedule 2 to this Act shall have effect for supplementing this section.

*The President and full-time chairmen of tribunals*

**51 The President of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals and regional chairmen and other full-time chairmen**

- (1) The Lord Chancellor may, after consultation with the Lord Advocate, appoint—
  - (a) a President of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals; and
  - (b) regional and other full-time chairmen of such tribunals.
- (2) A person is qualified to be appointed President if he has a 10 year general qualification or he is an advocate or solicitor in Scotland of at least 10 years' standing.
- (3) A person is qualified to be appointed a full-time chairman if he has a 5 year general qualification or he is an advocate or solicitor in Scotland of at least 5 years' standing.
- (4) Schedule 2 to this Act shall have effect for supplementing this section.

*Social Security Commissioners*

**52 Appointment of Commissioners**

- (1) Her Majesty may from time to time appoint, from among persons who have a 10 year general qualification or advocates or solicitors in Scotland of at least 10 years' standing—
  - (a) a Chief Social Security Commissioner; and
  - (b) such number of other Social Security Commissioners as Her Majesty thinks fit.
- (2) If the Lord Chancellor considers that, in order to facilitate the disposal of the business of Social Security Commissioners, he should make an appointment in pursuance of this subsection, he may appoint—
  - (a) a person who has a 10 year general qualification; or
  - (b) an advocate or solicitor in Scotland of at least 10 years' standing; or
  - (c) a member of the bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing,to be a Social Security Commissioner (but to be known as a deputy Commissioner) for such period or on such occasions as the Lord Chancellor thinks fit.
- (3) When the Lord Chancellor proposes to exercise the power conferred on him by subsection (2) above, it shall be his duty to consult the Lord Advocate with respect to the proposal.

- (4) Schedule 2 to this Act shall have effect for supplementing this section.

*References by authorities*

**53 Power of adjudicating authorities to refer matters to experts**

- (1) An authority to which this section applies may refer any question of special difficulty arising for decision by the authority to one or more experts for examination and report.
- (2) The authorities to which this section applies are—
- (a) an adjudication officer;
  - (b) an adjudicating medical practitioner, or two or more such practitioners acting together;
  - (c) a specially qualified adjudicating medical practitioner appointed by virtue of section 62 below, or two or more such practitioners acting together;
  - (d) a social security appeal tribunal;
  - (e) a disability appeal tribunal;
  - (f) a medical appeal tribunal;
  - (g) a Commissioner;
  - (h) the Secretary of State.
- (3) Regulations may prescribe cases in which a Commissioner shall not exercise the power conferred by subsection (1) above.
- (4) In this section “expert” means a person appearing to the authority to have knowledge or experience which would be relevant in determining the question of special difficulty.

**54 Claims relating to attendance allowance, disability living allowance and disability working allowance**

- (1) Before a claim for an attendance allowance, a disability living allowance or a disability working allowance or any question relating to such an allowance is submitted to an adjudication officer under section 20 above the Secretary of State may refer the person in respect of whom the claim is made or the question is raised to a medical practitioner for such examination and report as appears to him to be necessary—
- (a) for the purpose of providing the adjudication officer with information for use in determining the claim or question; or
  - (b) for the purpose of general monitoring of claims for attendance allowances, disability living allowances and disability working allowances.
- (2) An adjudication officer may refer—
- (a) a person in respect of whom such a claim is made or such a question is raised;
  - (b) a person who has applied or is treated as having applied for a review under section 30 or 35 above,
- to a medical practitioner for such examination and report as appears to the adjudication officer to be needed to enable him to reach a decision on the claim or question or the matter under review.
- (3) The Secretary of State may direct adjudication officers to refer for advice to a medical practitioner who is an officer of the Secretary of State any case falling within a specified class of cases relating to attendance allowance or disability living allowance,

and an adjudication officer may refer for advice any case relating to attendance allowance or disability living allowance to such a medical practitioner without such a direction.

- (4) An adjudication officer may refer for advice any case relating to disability working allowance to such a medical practitioner.
- (5) A medical practitioner who is an officer of the Secretary of State and to whom a case or question relating to an attendance allowance or a disability living allowance is referred under section 53 above or subsection (3) above may refer the case or question to the Disability Living Allowance Advisory Board for advice.
- (6) Such a medical practitioner may obtain information about such a case or question from another medical practitioner.
- (7) A medical practitioner who is an officer of the Secretary of State and to whom a question relating to disability working allowance is referred under section 53 above may obtain information about it from another medical practitioner.
- (8) Where—
  - (a) the Secretary of State has exercised the power conferred on him by subsection (1) above or an adjudication officer has exercised the power conferred on him by subsection (2) above; and
  - (b) the medical practitioner requests the person referred to him to attend for or submit himself to medical examination; but
  - (c) he fails without good cause to do so,the adjudication officer shall decide the claim or question or matter under review against him.

## **55 Medical examination etc. in relation to appeals to disability appeal tribunals**

- (1) Where an appeal has been brought under section 33(1)(a) above, a person who may be nominated as chairman of a disability appeal tribunal may, if prescribed conditions are satisfied, refer the claimant to a medical practitioner for such examination and report as appears to him to be necessary for the purpose of providing a disability appeal tribunal with information for use in determining the appeal.
- (2) At a hearing before a disability appeal tribunal, except in prescribed circumstances, the tribunal—
  - (a) may not carry out a physical examination of the claimant; and
  - (b) may not require the claimant to undergo any physical test for the purpose of determining whether he satisfies the condition mentioned in section 73(1)(a) of the Contributions and Benefits Act.

### *Determination of questions of special difficulty*

## **56 Assessors**

- (1) Where it appears to an authority to which this section applies that a matter before the authority involves a question of fact of special difficulty, then, unless regulations otherwise provide, the authority may direct that in dealing with that matter they shall have the assistance of one or more assessors.

- (2) The authorities to which this section applies are—
- (a) two or more adjudicating medical practitioners acting together;
  - (b) two or more specially qualified adjudicating medical practitioners, appointed by virtue of section 62 below, acting together;
  - (c) a social security appeal tribunal;
  - (d) a disability appeal tribunal;
  - (e) a medical appeal tribunal;
  - (f) a Commissioner;
  - (g) the Secretary of State.

### **57 Tribunal of three Commissioners**

- (1) If it appears to the Chief Social Security Commissioner (or, in the case of his inability to act, to such other of the Commissioners as he may have nominated to act for the purpose) that an appeal falling to be heard by one of the Commissioners involves a question of law of special difficulty, he may direct that the appeal be dealt with, not by that Commissioner alone, but by a Tribunal consisting of any 3 of the Commissioners.
- (2) If the decision of the Tribunal is not unanimous, the decision of the majority shall be the decision of the Tribunal.

### *Regulations*

### **58 Regulations as to determination of questions and matters arising out of, or pending, reviews and appeals**

- (1) Subject to the provisions of this Act, provision may be made by regulations for the determination—
  - (a) by the Secretary of State; or
  - (b) by a person or tribunal appointed or constituted in accordance with the regulations,
 of any question arising under or in connection with the Contributions and Benefits Act or the former legislation, including a claim for benefit.
- (2) In this section “the former legislation” means the National Insurance Acts 1965 to 1974 and the National Insurance (Industrial Injuries) Acts 1965 to 1974 and the 1975 Act and Part II of the 1986 Act.
- (3) Regulations under subsection (1) above may modify, add to or exclude any provisions of this Part of this Act, so far as relating to any questions to which the regulations relate.
- (4) It is hereby declared for the avoidance of doubt that the power to make regulations under subsection (1) above includes power to make regulations for the determination of any question arising as to the total or partial recoupment of unemployment benefit in pursuance of regulations under section 132 of the Employment Protection (Consolidation) Act 1978 (including any decision as to the amount of benefit).
- (5) Regulations under subsection (1) above may provide for the review by the Secretary of State of decisions on questions determined by him.
- (6) The Lord Chancellor may by regulations provide—

- (a) for officers authorised—
    - (i) by the Lord Chancellor; or
    - (ii) in Scotland, by the Secretary of State,to determine any question which is determinable by a Commissioner and which does not involve the determination of any appeal, application for leave to appeal or reference;
  - (b) for the procedure to be followed by any such officer in determining any such question;
  - (c) for the manner in which determinations of such questions by such officers may be called in question.
- (7) A determination which would have the effect of preventing an appeal, application for leave to appeal or reference being determined by a Commissioner is not a determination of the appeal, application or reference for the purposes of subsection (6) above.
- (8) Regulations under subsection (1) above may provide—
- (a) for the reference to the High Court or, in Scotland, the Court of Session for decision of any question of law arising in connection with the determination of a question by the Secretary of State; and
  - (b) for appeals to the High Court or Court of Session from the decision of the Secretary of State on any such question of law;
- and subsections (5) to (7) of section 18 above shall apply to a reference or appeal under this subsection as they apply to a reference or appeal under subsections (1) to (3) of that section.

## **59 Procedure**

- (1) Regulations (in this section referred to as “procedure regulations”) may make any such provision as is specified in Schedule 3 to this Act.
- (2) Procedure regulations may deal differently with claims and questions relating to—
  - (a) benefit under Parts II to IV of the Contributions and Benefits Act;
  - (b) industrial injuries benefit;
  - (c) each of the other benefits to which section 20 above applies.
- (3) At any inquiry held by virtue of procedure regulations the witnesses shall, if the person holding the inquiry thinks fit, be examined on oath; and the person holding the inquiry shall have power to administer oaths for that purpose.
- (4) In proceedings for the determination of a question mentioned in section 17(1)(c) above (including proceedings on an inquiry)—
  - (a) in England and Wales, there shall be available to a witness (other than the person who is liable, or alleged to be liable, to pay the Class 1A contribution in question) any privilege against self-incrimination or incrimination of a spouse which is available to a witness in legal proceedings; and
  - (b) in Scotland, section 3 of the Evidence (Scotland) Act 1853 (competence and compellability of witnesses) shall apply as it applies to civil proceedings.
- (5) Procedure regulations prescribing the procedure to be followed in cases before a Commissioner shall provide that any hearing shall be in public except in so far as the Commissioner for special reasons otherwise directs.

- (6) It is hereby declared—
- (a) that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not; and
  - (b) that the power to provide for the manner in which questions arising for determination by the Secretary of State are to be raised includes power to make provision with respect to the formulation of any such questions, whether arising on a reference under section 117 below or otherwise.
- (7) Except so far as it may be applied in relation to England and Wales by procedure regulations, the Arbitration Act 1950 shall not apply to any proceedings under this Part of this Act.

## **60 Finality of decisions**

- (1) Subject to the provisions of this Part of this Act, the decision of any claim or question in accordance with the foregoing provisions of this Part of this Act shall be final; and subject to the provisions of any regulations under section 58 above, the decision of any claim or question in accordance with those regulations shall be final.
- (2) Subsection (1) above shall not make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision.
- (3) A decision (given under subsection (2) of section 44 above or otherwise) that an accident was an industrial accident is to be taken as determining only that paragraphs (a), (b) and (c) of subsection (5) of that section are satisfied in relation to the accident, and neither any such decision nor the reference to an adjudicating medical practitioner or a medical appeal tribunal under section 45 above of the disablement questions in connection with any claim to or award of disablement benefit is to be taken as importing a decision as to the origin of any injury or disability suffered by the claimant, whether or not there is an event identifiable as an accident apart from any injury that may have been received; but—
- (a) a decision that on a particular occasion when there was no such event a person had an industrial accident by reason of an injury shall be treated as a decision that, if the injury was suffered by accident on that occasion, the accident was an industrial accident; and
  - (b) a decision that an accident was an industrial accident may be given, and a declaration to that effect be made and recorded in accordance with section 44 above, without its having been found that personal injury resulted from the accident (saving always the discretion under subsection (3) of that section to refuse to determine the question if it is unlikely to be necessary for the purposes of a claim for benefit).
- (4) Notwithstanding anything in subsection (2) or (3) above (but subject to the provisions of this Part of this Act as to appeal and review), where for purposes of disablement pension or disablement gratuity in respect of an accident it has been found by an adjudicating medical practitioner or a medical appeal tribunal, on the determination or last determination of the disablement questions, that an injury resulted in whole or in part from the accident, then for purposes of industrial death benefit in respect of that accident the finding shall be conclusive that the injury did so result.



- (5) Subsections (2) to (4) above shall apply as regards the effect to be given in any proceedings to any decision, or to a reference under section 45 above, whether the decision was given or reference made or the proceedings were commenced before or after the passing of the National Insurance Act 1972 (section 5 of which originally contained the provisions contained in this section), except that it shall not affect the determination of any appeal under section 48 above from a decision of a medical appeal tribunal given before the passing of that Act, nor affect any proceedings consequent on such an appeal from a decision so given; and accordingly—
- (a) any decision given before the passing of that Act that a claimant was not entitled to industrial death benefit may be reviewed in accordance with this Part of this Act to give effect to subsection (4) above; and
  - (b) the references in subsections (2) and (3) above to provisions of this Act, and the reference in this subsection to section 45 above shall (so far as necessary) include the corresponding provisions of previous Acts.

## **61 Regulations about supplementary matters relating to determinations**

- (1) Regulations may make provision as respects matters arising—
- (a) pending the determination under this Act (whether in the first instance or on an appeal or reference, and whether originally or on review)—
    - (i) of any claim for benefit to which this section applies; or
    - (ii) of any question affecting any person's right to such benefit or its receipt; or
    - (iii) of any person's liability for contributions under Part I of the Contributions and Benefits Act; or
  - (b) out of the revision on appeal or review of any decision under this Act on any such claim or question.
- (2) Without prejudice to the generality of subsection (1) above, regulations under that subsection may include provision as to the date from which any decision on a review is to have effect or to be deemed to have had effect.
- (3) Regulations under subsection (1) above as it applies to child benefit may include provision as to the date from which child benefit is to be payable to a person in respect of a child in a case where, before the benefit was awarded to that person, child benefit in respect of the child was awarded to another person.
- (4) This section applies—
- (a) to benefit as defined in section 122 of the Contributions and Benefits Act;
  - (b) to child benefit;
  - (c) to statutory sick pay;
  - (d) to statutory maternity pay;
  - (e) to income support;
  - (f) to family credit;
  - (g) to disability working allowance; and
  - (h) to any social fund payments such as are mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act.

*Industrial diseases***62 Adjudication as to industrial diseases**

- (1) Regulations shall provide for applying, in relation—
- (a) to claims for benefit under sections 108 to 110 of the Contributions and Benefits Act; and
  - (b) to questions arising in connection with such claims or with awards of such benefit,
- the provisions of this Part of this Act subject to any prescribed additions or modifications.
- (2) Regulations for those purposes may in particular provide—
- (a) for the appointment of specially qualified adjudicating medical practitioners and the appointment of medical officers for the purposes of the regulations (which shall be taken to include, in the case of specially qualified adjudicating medical practitioners, the purposes for which adjudicating medical practitioners are appointed and medical appeal tribunals are established); and
  - (b) for the payment by the prescribed persons of fees of the prescribed amount in connection with any medical examination by specially qualified adjudicating medical practitioners or any such officer and their return in any prescribed cases, and (so far as not required to be returned) their payment into the National Insurance Fund and recovery as sums due to that Fund.

*Housing benefit and community charge benefits***63 Adjudication**

- (1) Regulations shall provide that, where a person has claimed—
- (a) housing benefit; or
  - (b) a community charge benefit as regards a personal or collective community charge of a charging authority; or
  - (c) a community charge benefit as regards a personal or collective community charge payable to a levying authority,
- the authority shall notify the person of its determination of the claim.
- (2) Any such notification shall be given in such form as may be prescribed.
- (3) Regulations shall make provision for reviews of determinations relating to housing benefit or community charge benefits.

*Social fund officers and inspectors and the social fund Commissioner***64 Social fund officers**

- (1) The Secretary of State shall appoint officers, to be known as “social fund officers”, for the purpose of performing functions in relation to payments out of the social fund such as are mentioned in section 138(1)(b) of the Contributions and Benefits Act.

- (2) A social fund officer may be appointed to perform all the functions of social fund officers or such functions of such officers as may be specified in his instrument of appointment.
- (3) The Secretary of State may nominate for an area a social fund officer who shall issue general guidance to the other social fund officers in the area about such matters relating to the social fund as the Secretary of State may specify.

## **65 The social fund Commissioner and inspectors**

- (1) There shall continue to be an officer, to be known as “the social fund Commissioner” (in this section referred to as “the Commissioner”).
- (2) The Commissioner shall be appointed by the Secretary of State.
- (3) The Commissioner—
  - (a) shall appoint such social fund inspectors; and
  - (b) may appoint such officers and staff for himself and for social fund inspectors, as he thinks fit, but with the consent of the Secretary of State and the Treasury as to numbers.
- (4) Appointments under subsection (3) above shall be made from persons made available to the Commissioner by the Secretary of State.
- (5) It shall be the duty of the Commissioner—
  - (a) to monitor the quality of decisions of social fund inspectors and give them such advice and assistance as he thinks fit to improve the standard of their decisions;
  - (b) to arrange such training of social fund inspectors as he considers appropriate; and
  - (c) to carry out such other functions in connection with the work of social fund inspectors as the Secretary of State may direct.
- (6) The Commissioner shall report annually in writing to the Secretary of State on the standards of reviews by social fund inspectors and the Secretary of State shall publish his report.

## **66 Reviews**

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

---

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

---

- (3) On an application made by or on behalf of the person to whom a determination relates within such time and in such form and manner as may be prescribed a determination of a social fund officer which has been reviewed shall be further reviewed by a social fund inspector.
- (4) On a review a social fund inspector shall have the following powers—
  - (a) power to confirm the determination made by the social fund officer;
  - (b) power to make any determination which a social fund officer could have made;
  - (c) power to refer the matter to a social fund officer for determination.
- (5) A social fund inspector may review a determination under subsection (3) above made by himself or some other social fund inspector.
- (6) In determining a question on a review a social fund officer or social fund inspector shall have regard, subject to subsection (7) below, to all the circumstances of the case and, in particular, to the matters specified in section 140(1)(a) to (e) of the Contributions and Benefits Act.
- (7) An officer or inspector shall determine any question on a review in accordance with any general directions issued by the Secretary of State under section 140(2) of the Contributions and Benefits Act and any general directions issued by him with regard to reviews and in determining any such question shall take account of any general guidance issued by him under that subsection or with regard to reviews.
- (8) Directions under this section may specify—
  - (a) the circumstances in which a determination is to be reviewed; and
  - (b) the manner in which a review is to be conducted.
- (9) In reviewing a question under this section a social fund officer shall take account (subject to any directions or guidance issued by the Secretary of State under this section) of any guidance issued by the social fund officer nominated for his area under section 64(3) above.
- (10) A social fund inspector reviewing a determination shall be under the same duties in relation to such guidance as the social fund officer or inspector who made the determination.

*Christmas bonus*

**67 Determination of questions**

- (1) A determination by the competent authority that a person is entitled or not entitled to payment of a qualifying benefit in respect of a period which includes a day in the relevant week shall be conclusive for the purposes of section 148 of the Contributions and Benefits Act; and in this subsection “competent authority” means, in relation to a payment of any description of a qualifying benefit, an authority that ordinarily determines whether a person is entitled to such a payment.
- (2) Any question arising under that section other than one determined or falling to be determined under subsection (1) above shall be determined by the Secretary of State whose decision shall except as provided by subsection (3) below be final.

- (3) The Secretary of State may reverse a decision under subsection (2) above on new facts being brought to his notice or if he is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact.
- (4) Expressions used in this section to which a meaning is assigned by section 150 of the Contributions and Benefits Act have that meaning in this section.

*Restrictions on entitlement to benefit following erroneous decision*

**68 Restrictions on entitlement to benefit in certain cases of error**

- (1) This section applies where—
  - (a) on the determination, whenever made, of a Commissioner or the court (the “relevant determination”), a decision made by an adjudicating authority is or was found to have been erroneous in point of law; and
  - (b) after both—
    - (i) 13th July 1990 (the date of the coming into force of section 165D of the 1975 Act, the provision of that Act corresponding to this section); and
    - (ii) the date of the relevant determination,a claim which falls, or which would apart from this section fall, to be decided in accordance with the relevant determination is made or treated under section 7(1) above as made by any person for any benefit.
- (2) Where this section applies, any question which arises on, or on the review of a decision which is referable to, the claim mentioned in subsection (1)(b) above and which relates to the entitlement of the claimant or any other person to any benefit—
  - (a) in respect of a period before the relevant date; or
  - (b) in the case of a widow’s payment, in respect of a death occurring before that date,shall be determined as if the decision referred to in subsection (1)(a) above had been found by the Commissioner or court in question not to have been erroneous in point of law.
- (3) In determining whether a person is entitled to benefit in a case where—
  - (a) his entitlement depends on his having been entitled to the same or some other benefit before attaining a particular age; and
  - (b) he attained that age—
    - (i) before both the date of the relevant determination and the date of the claim referred in subsection (1)(b) above, but
    - (ii) not before the earliest day in respect of which benefit could, apart from this section, have been awarded on that claim,subsection (2) above shall be disregarded for the purpose only of determining the question whether he was entitled as mentioned in paragraph (a) above.
- (4) In this section—

“adjudicating authority” means—

  - (a) an adjudication officer or, where the original decision was given on a reference under section 21(2) or 25(1) above, a social security appeal tribunal, a disability appeal tribunal or a medical appeal tribunal;

---

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

---

- (b) any of the following former bodies or officers, that is to say, the National Assistance Board, the Supplementary Benefits Commission, the Attendance Allowance Board, a benefit officer, an insurance officer or a supplement officer; or
  - (c) any of the officers who, or tribunals or other bodies which, in Northern Ireland correspond to those mentioned in paragraph (a) or (b) above;
    - “benefit” means—
      - (a) benefit as defined in section 122 of the Contributions and Benefits Act; and
      - (b) any income-related benefit;
    - “the court” means the High Court, the Court of Appeal, the Court of Session, the High Court or Court of Appeal in Northern Ireland, the House of Lords or the Court of Justice of the European Community;
    - “the relevant date” means whichever is the latest of—
      - (a) the date of the relevant determination;
      - (b) the date which falls 12 months before the date on which the claim referred to in subsection (1)(b) above is made or treated under section 7(1) above as made; and
      - (c) the earliest date in respect of which the claimant would, apart from this section, be entitled on that claim to the benefit in question.
- (5) For the purposes of this section—
- (a) any reference in this section to entitlement to benefit includes a reference to entitlement—
    - (i) to any increase in the rate of a benefit; or
    - (ii) to a benefit, or increase of benefit, at a particular rate; and
  - (b) any reference to a decision which is “referable to” a claim is a reference to—
    - (i) a decision on the claim,
    - (ii) a decision on a review of the decision on the claim, or
    - (iii) a decision on a subsequent review of the decision on the review,
 and so on.
- (6) The date of the relevant determination shall, in prescribed cases, be determined for the purposes of this section in accordance with any regulations made for that purpose.

## **69 Determination of questions on review following erroneous decisions**

- (1) Subsection (2) below applies in any case where—
- (a) on the determination, whenever made, of a Commissioner or the court (the “relevant determination”), a decision made by an adjudicating authority is or was found to have been erroneous in point of law; and
  - (b) in consequence of that determination, any other decision—
    - (i) which was made before the date of that determination; and
    - (ii) which is referable to a claim made or treated as made by any person for any benefit,
 falls (or would, apart from subsection (2) below, fall) to be revised on a review carried out under section 25(2) above on or after 13th July 1990 (the date of the passing of the Social Security Act 1990, which added to the 1975 Act sections 104(7) to (10), corresponding to this section) or on a review under

---

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

---

section 30 above on the ground that the decision under review was erroneous in point of law.

(2) Where this subsection applies, any question arising on the review referred to in subsection (1)(b) above, or on any subsequent review of a decision which is referable to the same claim, as to any person's entitlement to, or right to payment of, any benefit—

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

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

(3) In determining whether a person is entitled to benefit in a case where his entitlement depends on his having been entitled to the same or some other benefit before attaining a particular age, subsection (2) above shall be disregarded for the purpose only of determining the question whether he was so entitled before attaining that age.

(4) For the purposes of this section—

- (a) "adjudicating authority" and "the court" have the same meaning as they have in section 68 above;
- (b) any reference to—
  - (i) a person's entitlement to benefit; or
  - (ii) a decision which is referable to a claim,

shall be construed in accordance with subsection (5) of that section; and

- (c) the date of the relevant determination shall, in prescribed cases, be determined in accordance with any regulations made under subsection (6) of that section.

#### *Correction of errors*

### **70 Regulations as to correction of errors and setting aside of decisions**

(1) Regulations may make provision with respect to—

- (a) the correction of accidental errors in any decision or record of a decision given with respect to a claim or question arising under or in connection with any relevant enactment by a body or person authorised to decide the claim or question; and
- (b) the setting aside of any such decision in a case where it appears just to set the decision aside on the ground that—
  - (i) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by, a party to the proceedings or a party's representative or was not received at an appropriate time by the body or person who gave the decision; or
  - (ii) a party to the proceedings or a party's representative was not present at a hearing related to the proceedings.

(2) Nothing in subsection (1) above shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from regulations made by virtue of that subsection.

---

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

---

- (3) In this section “relevant enactment” means any enactment contained in—
- (a) the National Insurance Acts 1965 to 1974;
  - (b) the National Insurance (Industrial Injuries) Acts 1965 to 1974;
  - (c) the Industrial Injuries and Diseases (Old Cases) Acts 1967 to 1974;
  - (d) the Social Security Act 1973;
  - (e) the Social Security Acts 1975 to 1991;
  - (f) the Old Cases Act;
  - (g) the Child Benefit Act 1975;
  - (h) the Family Income Supplements Act 1970;
  - (i) the Supplementary Benefits Act 1976; or
  - (j) the Contributions and Benefits Act.

### PART III

#### OVERPAYMENTS AND ADJUSTMENTS OF BENEFIT

##### *Misrepresentation etc.*

#### 71 Overpayments - general

- (1) Where it is determined that, whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact and in consequence of the misrepresentation or failure—
  - (a) a payment has been made in respect of a benefit to which this section applies; or
  - (b) any sum recoverable by or on behalf of the Secretary of State in connection with any such payment has not been recovered,

the Secretary of State shall be entitled to recover the amount of any payment which he would not have made or any sum which he would have received but for the misrepresentation or failure to disclose.
- (2) Where any such determination as is referred to in subsection (1) above is made on an appeal or review, there shall also be determined in the course of the appeal or review the question whether any, and if so what, amount is recoverable under that subsection by the Secretary of State.
- (3) An amount recoverable under subsection (1) above is in all cases recoverable from the person who misrepresented the fact or failed to disclose it.
- (4) In relation to cases where payments of benefit to which this section applies have been credited to a bank account or other account under arrangements made with the agreement of the beneficiary or a person acting for him, circumstances may be prescribed in which the Secretary of State is to be entitled to recover any amount paid in excess of entitlement; but any such regulations shall not apply in relation to any payment unless before he agreed to the arrangements such notice of the effect of the regulations as may be prescribed was given in such manner as may be prescribed to the beneficiary or to a person acting for him.
- (5) Except where regulations otherwise provide, an amount shall not be recoverable under subsection (1) above or regulations under subsection (4) above unless—



---

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

---

- (a) the determination in pursuance of which it was paid has been reversed or varied on an appeal or revised on a review; and
  - (b) it has been determined on the appeal or review that the amount is so recoverable.
- (6) Regulations may provide—
- (a) that amounts recoverable under subsection (1) above or regulations under subsection (4) above shall be calculated or estimated in such manner and on such basis as may be prescribed;
  - (b) for treating any amount paid to any person under an award which it is subsequently determined was not payable—
    - (i) as properly paid; or
    - (ii) as paid on account of a payment which it is determined should be or should have been made,and for reducing or withholding any arrears payable by virtue of the subsequent determination;
  - (c) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
    - (i) the other person is himself entitled to a payment for that period; or
    - (ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person,and for reducing or withholding any arrears payable for that period by virtue of the subsequent determination.
- (7) Circumstances may be prescribed in which a payment on account by virtue of section 5(1)(r) above may be recovered to the extent that it exceeds entitlement.
- (8) Where any amount paid is recoverable under—
- (a) subsection (1) above;
  - (b) regulations under subsection (4) or (7) above; or
  - (c) section 74 below,
- it may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.
- (9) Where any amount paid in respect of a married or unmarried couple is recoverable as mentioned in subsection (8) above, it may, without prejudice to any other method of recovery, be recovered, in such circumstances as may be prescribed, by deduction from prescribed benefits payable to either of them.
- (10) Any amount recoverable under the provisions mentioned in subsection (8) above—
- (a) if the person from whom it is recoverable resides in England and Wales and the county court so orders, shall be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court; and
  - (b) if he resides in Scotland, shall be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (11) This section applies to the following benefits—
- (a) benefits as defined in section 122 of the Contributions and Benefits Act;
  - (b) subject to section 72 below, income support;

---

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

---

- (c) family credit;
- (d) disability working allowance;
- (e) any social fund payments such as are mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act; and
- (f) child benefit.

## **72 Special provision as to recovery of income support**

- (1) Where—
- (a) a direction under section 125(1) of the Contributions and Benefits Act is revoked; and
  - (b) it is determined by an adjudication officer that, whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact and in consequence of the misrepresentation or failure a payment of income support has been made during the relevant period to the person to whom the direction related,
- an adjudication officer may determine that the Secretary of State shall be entitled to recover the amount of the payment.
- (2) In subsection (1) above “the relevant period” means—
- (a) if the revocation is under subsection (3) of section 125 of the Contributions and Benefits Act, the period beginning with the date of the change of circumstances and ending with the date of the revocation; and
  - (b) if the revocation is under subsection (4) of that section, the period during which the direction was in force.
- (3) Where a direction under section 125(1) of the Contributions and Benefits Act is revoked, the Secretary of State may certify whether there has been misrepresentation of a material fact or failure to disclose a material fact.
- (4) If he certifies that there has been such misrepresentation or failure to disclose, he may also certify—
- (a) who made the misrepresentation or failed to make the disclosure; and
  - (b) whether or not a payment of income support has been made in consequence of the misrepresentation or failure.
- (5) If he certifies that a payment has been made, he may certify the period during which income support would not have been paid but for the misrepresentation or failure to disclose.
- (6) A certificate under this section shall be conclusive for the purposes of this section as to any matter certified.
- (7) Section 71(3) and (6) to (11) above apply to income support recoverable under subsection (1) above as they apply to income support recoverable under section 71(1) above.
- (8) The other provisions of section 71 above do not apply to income support recoverable under subsection (1) above.

### *Adjustments of benefits*

#### **73 Overlapping benefits - general**

- (1) Regulations may provide for adjusting benefit as defined in section 122 of the Contributions and Benefits Act which is payable to or in respect of any person, or the conditions for its receipt, where—
  - (a) there is payable in his case any such pension or allowance as is described in subsection (2) below; or
  - (b) the person is, or is treated under the regulations as, undergoing medical or other treatment as an in-patient in a hospital or similar institution.
- (2) Subsection (1)(a) above applies to any pension, allowance or benefit payable out of public funds (including any other benefit as so defined, whether it is of the same or a different description) which is payable to or in respect of—
  - (a) the person referred to in subsection (1);
  - (b) that person's wife or husband;
  - (c) any child or adult dependant of that person; or
  - (d) the wife or husband of any adult dependant of that person.
- (3) Where but for regulations made by virtue of subsection (1)(a) above two persons would both be entitled to an increase of benefit in respect of a third person, regulations may make provision as to their priority.
- (4) Regulations may provide for adjusting benefit as defined in section 122 of the Contributions and Benefits Act payable to or in respect of any person where there is payable in his case any such benefit as is described in subsection (5) below.
- (5) Subsection (4) above applies to any benefit payable under the legislation of any member State other than the United Kingdom which is payable to or in respect of—
  - (a) the person referred to in that subsection;
  - (b) that person's wife or husband;
  - (c) any child or adult dependant of that person; or
  - (d) the wife or husband of any adult dependant of that person.

#### **74 Income support and other payments**

- (1) Where—
  - (a) a payment by way of prescribed income is made after the date which is the prescribed date in relation to the payment; and
  - (b) it is determined that an amount which has been paid by way of income support would not have been paid if the payment had been made on the prescribed date,the Secretary of State shall be entitled to recover that amount from the person to whom it was paid.
- (2) Where—
  - (a) a prescribed payment which apart from this subsection falls to be made from public funds in the United Kingdom or under the law of any other member State is not made on or before the date which is the prescribed date in relation to the payment; and

---

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

---

- (b) it is determined that an amount (“the relevant amount”) has been paid by way of income support that would not have been paid if the payment mentioned in paragraph (a) above had been made on the prescribed date,
- then—
- (i) in the case of a payment from public funds in the United Kingdom, the authority responsible for making it may abate it by the relevant amount; and
- (ii) in the case of any other payment, the Secretary of State shall be entitled to receive the relevant amount out of the payment.
- (3) Where—
- (a) a person (in this subsection referred to as A) is entitled to any prescribed benefit for any period in respect of another person (in this subsection referred to as B); and
- (b) either—
- (i) B has received income support for that period; or
- (ii) B was, during that period, a member of the same family as some person other than A who received income support for that period; and
- (c) the amount of the income support has been determined on the basis that A has not made payments for the maintenance of B at a rate equal to or exceeding the amount of the prescribed benefit,
- the amount of the prescribed benefit may, at the discretion of the authority administering it, be abated by the amount by which the amounts paid by way of income support exceed what it is determined that they would have been had A, at the time the amount of the income support was determined, been making payments for the maintenance of B at a rate equal to the amount of the prescribed benefit.
- (4) Where an amount could have been recovered by abatement by virtue of subsection (2) or (3) above but has not been so recovered, the Secretary of State may recover it otherwise than by way of abatement—
- (a) in the case of an amount which could have been recovered by virtue of subsection (2) above, from the person to whom it was paid; and
- (b) in the case of an amount which could have been recovered by virtue of subsection (3) above, from the person to whom the prescribed benefit in question was paid.
- (5) Where a payment is made in a currency other than sterling, its value in sterling shall be determined for the purposes of this section in accordance with regulations.

### *Housing benefit*

## **75 Overpayments of housing benefit**

- (1) Except where regulations otherwise provide, any amount of housing benefit paid in excess of entitlement may be recovered in such manner as may be prescribed either by the Secretary of State or by the authority which paid the benefit.
- (2) Regulations may require such an authority to recover such an amount in such circumstances as may be prescribed.
- (3) An amount recoverable under this section is in all cases recoverable from the person to whom it was paid; but, in such circumstances as may be prescribed, it may also be recovered from such other person as may be prescribed.

- (4) Any amount recoverable under this section may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

### *Community charge benefits*

## **76 Excess benefits**

- (1) Regulations may make provision as to any case where a charging authority or a levying authority has allowed a community charge benefit to a person and the amount allowed exceeds the amount to which he is entitled in respect of the benefit.
- (2) As regards any case where the benefit is in respect of a personal community charge the regulations may provide that—
- (a) a sum equal to the excess shall be due from the person concerned to the authority (whatever the form the benefit takes);
  - (b) any liability under any provision included under paragraph (a) above shall be met by such method mentioned in subsection (3) below as is prescribed as regards the case concerned, or by such combination of two or all three of the methods as is prescribed as regards the case concerned.
- (3) The methods are—
- (a) payment by the person concerned;
  - (b) addition to any amount payable in respect of the charge concerned;
  - (c) deduction from prescribed benefits.
- (4) As regards any case where the benefit is in respect of a contribution period the regulations may provide that—
- (a) a sum equal to the excess shall be due from the person concerned to the authority (whatever the form the benefit takes);
  - (b) any liability under any provision included under paragraph (a) above shall be met by such method mentioned in subsection (5) below as is prescribed as regards the case concerned, or by such combination of the methods as is prescribed as regards the case concerned;
  - (c) there is to be no adjustment as between the person concerned and the charge payer, or as between the charge payer and the authority concerned.
- (5) The methods are—
- (a) payment by the person concerned;
  - (b) deduction from prescribed benefits.
- (6) In a case where the regulations provide that a sum or part of a sum is to be paid, and the sum or part is not paid on or before such day as may be prescribed, the regulations may provide that the sum or part shall be recoverable in a court of competent jurisdiction.
- (7) For the purposes of subsection (4) above the charge payer is—
- (a) in relation to England and Wales, the person who is liable to pay an amount in respect of the collective community charge concerned under section 15 of the Local Government Finance Act 1988;
  - (b) in relation to Scotland, the person who is liable to pay the collective community charge under section 11(5) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987.

---

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

---

- (8) The regulations may provide that they are not to apply as regards any case falling within a prescribed category.

## 77 Shortfall in benefits

- (1) Regulations may make provision as to any case where a charging authority or a levying authority has allowed a community charge benefit to a person and the amount allowed is less than the amount to which he is entitled in respect of the benefit.
- (2) In particular, as regards any prescribed case where the benefit is in respect of a contribution period the regulations may provide that—
- (a) a sum equal to the difference shall be due from the authority to the person concerned;
  - (b) any liability under any provision included under paragraph (a) above shall be met by payment and not by such reductions as are mentioned in section 138(4) below (whatever the form the benefit actually allowed takes);
  - (c) there is to be no adjustment as between the person concerned and the charge payer, or as between the charge payer and the authority concerned.
- (3) For the purposes of subsection (2) above the charge payer is—
- (a) in relation to England and Wales, the person who is liable to pay an amount in respect of the collective community charge concerned under section 15 of the Local Government Finance Act 1988;
  - (b) in relation to Scotland, the person who is liable to pay the collective community charge under section 11(5) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987.

### *Social fund awards*

## 78 Recovery of social fund awards

- (1) A social fund award which is repayable shall be recoverable by the Secretary of State.
- (2) Without prejudice to any other method of recovery, the Secretary of State may recover an award by deduction from prescribed benefits.
- (3) The Secretary of State may recover an award—
- (a) from the person to or for the benefit of whom it was made;
  - (b) where that person is a member of a married or unmarried couple, from the other member of the couple;
  - (c) from a person who is liable to maintain the person by or on behalf of whom the application for the award was made or any person in relation to whose needs the award was made.
- (4) Payments to meet funeral expenses may in all cases be recovered, as if they were funeral expenses, out of the estate of the deceased, and (subject to section 71 above) by no other means.
- (5) In this section—
- “married couple” means a man and woman who are married to each other and are members of the same household;

---

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

---

“unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife otherwise than in circumstances prescribed under section 132 of the Contributions and Benefits Act.

- (6) For the purposes of this section—
- (a) a man shall be liable to maintain his wife and any children of whom he is the father;
  - (b) a woman shall be liable to maintain her husband and any children of whom she is the mother;
  - (c) a person shall be liable to maintain another person throughout any period in respect of which the first-mentioned person has, on or after 23rd May 1980 (the date of the passing of the Social Security Act 1980) and either alone or jointly with a further person, given an undertaking in writing in pursuance of immigration rules within the meaning of the Immigration Act 1971 to be responsible for the maintenance and accommodation of the other person; and
  - (d) “child” includes a person who has attained the age of 16 but not the age of 19 and in respect of whom either parent, or some person acting in the place of either parent, is receiving income support.
- (7) Any reference in subsection (6) above to children of whom the man or the woman is the father or the mother shall be construed in accordance with section 1 of the Family Law Reform Act 1987.
- (8) Subsection (7) above does not apply in Scotland, and in the application of subsection (6) above to Scotland any reference to children of whom the man or the woman is the father or the mother shall be construed as a reference to any such children whether or not their parents have ever been married to one another.
- (9) A document bearing a certificate which—
- (a) is signed by a person authorised in that behalf by the Secretary of State; and
  - (b) states that the document apart from the certificate is, or is a copy of, such an undertaking as is mentioned in subsection (6)(c) above,
- shall be conclusive of the undertaking in question for the purposes of this section; and a certificate purporting to be so signed shall be deemed to be so signed until the contrary is proved.

#### *Northern Ireland payments*

### **79 Recovery of Northern Ireland payments**

Without prejudice to any other method of recovery—

- (a) amounts recoverable under any enactment or instrument having effect in Northern Ireland and corresponding to an enactment or instrument mentioned in section 71(8) above shall be recoverable by deduction from benefits prescribed under that subsection;
- (b) amounts recoverable under any enactment having effect in Northern Ireland and corresponding to section 75 above shall be recoverable by deduction from benefits prescribed under subsection (4) of that section; and
- (c) awards recoverable under Part III of the Northern Ireland Administration Act shall be recoverable by deduction from benefits prescribed under subsection (2) of section 78 above and subsection (3) of that section shall have

---

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

---

effect in relation to such awards as it has effect in relation to awards out of the social fund under this Act.

*Adjustment of child benefit*

**80 Child benefit - overlap with benefits under legislation of other member States**

Regulations may provide for adjusting child benefit payable in respect of any child in respect of whom any benefit is payable under the legislation of any member State other than the United Kingdom.

**PART IV**

RECOVERY FROM COMPENSATION PAYMENTS

**81 Interpretation of Part IV**

(1) In this Part of this Act—

“benefit” means any benefit under the Contributions and Benefits Act except child benefit and, subject to regulations under subsection (2) below, the “relevant benefits” are such of those benefits as may be prescribed for the purposes of this Part of this Act;

“certificate of deduction” means a certificate given by the compensator specifying the amount which he has deducted and paid to the Secretary of State in pursuance of section 82(1) below;

“certificate of total benefit” means a certificate given by the Secretary of State in accordance with this Part of this Act;

“compensation payment” means any payment falling to be made (whether voluntarily, or in pursuance of a court order or an agreement, or otherwise)—

(a) to or in respect of the victim in consequence of the accident, injury or disease in question, and

(b) either—

(c) by or on behalf of a person who is, or is alleged to be, liable to any extent in respect of that accident, injury or disease; or

(ii) in pursuance of a compensation scheme for motor accidents,

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

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

“compensator”, “victim” and “intended recipient” shall be construed in accordance with section 82(1) below;

“payment” means payment in money or money’s worth, and cognate expressions shall be construed accordingly;

“relevant deduction” means the deduction required to be made from the compensation payment in question by virtue of this Part of this Act;

“relevant payment” means the payment required to be made to the Secretary of State by virtue of this Part of this Act;



---

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

---

“relevant period” means—

- (a) in the case of a disease, the period of 5 years beginning with the date on which the victim first claims a relevant benefit in consequence of the disease; or
- (b) in any other case, the period of 5 years immediately following the day on which the accident or injury in question occurred;

but where before the end of that period the compensator makes a compensation payment in final discharge of any claim made by or in respect of the victim and arising out of the accident, injury or disease, the relevant period shall end on the date on which that payment is made; and

“total benefit” means the gross amount referred to in section 82(1)(a) below.

- (2) If statutory sick pay is prescribed as a relevant benefit, the amount of that benefit for the purposes of this Part of this Act shall be a reduced amount determined in accordance with regulations by reference to the percentage from time to time specified in section 158(1)(a) of the Contributions and Benefits Act (percentage of statutory sick pay recoverable by employers by deduction from contributions).
- (3) For the purposes of this Part of this Act the following are the “exempt payments”—
  - (a) any small payment, as defined in section 85 below;
  - (b) any payment made to or for the victim under section 35 of the Powers of Criminal Courts Act 1973 or section 58 of the Criminal Justice (Scotland) Act 1980;
  - (c) any payment to the extent that it is made—
    - (i) in consequence of an action under the Fatal Accidents Act 1976; or
    - (ii) in circumstances where, had an action been brought, it would have been brought under that Act;
  - (d) any payment to the extent that it is made in respect of a liability arising by virtue of section 1 of the Damages (Scotland) Act 1976;
  - (e) without prejudice to section 6(4) of the Vaccine Damage Payments Act 1979 (which provides for the deduction of any such payment in the assessment of any award of damages), any payment made under that Act to or in respect of the victim;
  - (f) any award of compensation made to or in respect of the victim by the Criminal Injuries Compensation Board under section 111 of the Criminal Justice Act 1988;
  - (g) any payment made in the exercise of a discretion out of property held subject to a trust in a case where no more than 50 per cent. by value of the capital contributed to the trust was directly or indirectly provided by persons who are, or are alleged to be, liable in respect of—
    - (i) the accident, injury or disease suffered by the victim in question; or
    - (ii) the same or any connected accident, injury or disease suffered by another;
  - (h) any payment made out of property held for the purposes of any prescribed trust (whether the payment also falls within paragraph (g) above or not);
  - (i) any payment made to the victim by an insurance company within the meaning of the Insurance Companies Act 1982 under the terms of any contract of insurance entered into between the victim and the company before—

---

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

---

- (i) the date on which the victim first claims a relevant benefit in consequence of the disease in question; or
  - (ii) the occurrence of the accident or injury in question;
  - (j) any redundancy payment falling to be taken into account in the assessment of damages in respect of an accident, injury or disease.
- (4) Regulations may provide that any prescribed payment shall be an exempt payment for the purposes of this Part of this Act.
- (5) Except as provided by any other enactment, in the assessment of damages in respect of an accident, injury or disease the amount of any relevant benefits paid or likely to be paid shall be disregarded.
- (6) If, after making the relevant deduction from the compensation payment, there would be no balance remaining for payment to the intended recipient, any reference in this Part to the making of the compensation payment shall be construed in accordance with regulations.
- (7) This Part of this Act shall apply in relation to any compensation payment made on or after 3rd September 1990 (the date of the coming into force of section 22 of the Social Security Act 1989 which, with Schedule 4 to that Act, made provision corresponding to that made by this Part) to the extent that it is made in respect of—
- (a) an accident or injury occurring on or after 1st January 1989; or
  - (b) a disease, if the victim's first claim for a relevant benefit in consequence of the disease is made on or after that date.

*Recovery from damages etc. of sums equivalent to benefit*

## **82 Recovery of sums equivalent to benefit from compensation payments in respect of accidents, injuries and diseases**

- (1) A person (“the compensator”) making a compensation payment, whether on behalf of himself or another, in consequence of an accident, injury or disease suffered by any other person (“the victim”) shall not do so until the Secretary of State has furnished him with a certificate of total benefit and shall then—
- (a) deduct from the payment an amount, determined in accordance with the certificate of total benefit, equal to the gross amount of any relevant benefits paid or likely to be paid to or for the victim during the relevant period in respect of that accident, injury or disease;
  - (b) pay to the Secretary of State an amount equal to that which is required to be so deducted; and
  - (c) furnish the person to whom the compensation payment is or, apart from this section, would have been made (“the intended recipient”) with a certificate of deduction.
- (2) Any right of the intended recipient to receive the compensation payment in question shall be regarded as satisfied to the extent of the amount certified in the certificate of deduction.

*Payments, deductions and certificates*

**83 Time for making payment to Secretary of State**

The compensator's liability to make the relevant payment arises immediately before the making of the compensation payment, and he shall make the relevant payment before the end of the period of 14 days following the day on which the liability arises.

**84 The certificate of total benefit**

- (1) It shall be for the compensator to apply to the Secretary of State for the certificate of total benefit and he may, subject to subsection (5) below, from time to time apply for fresh certificates.
- (2) The certificate of total benefit shall specify—
  - (a) the amount which has been, or is likely to be, paid on or before a specified date by way of any relevant benefit which is capable of forming part of the total benefit;
  - (b) where applicable—
    - (i) the rate of any relevant benefit which is, has been, or is likely to be paid after the date so specified and which would be capable of forming part of the total benefit; and
    - (ii) the intervals at which any such benefit is paid and the period for which it is likely to be paid;
  - (c) the amounts (if any) which, by virtue of this Part of this Act, are to be treated as increasing the total benefit; and
  - (d) the aggregate amount of any relevant payments made on or before a specified date (reduced by so much of that amount as has been paid by the Secretary of State to the intended recipient before that date in consequence of this Part of this Act).
- (3) On issuing a certificate of total benefit, the Secretary of State shall be taken to have certified the total benefit as at every date for which it is possible to calculate an amount that would, on the basis of the information so provided, be the total benefit as at that date, on the assumption that payments of benefit are made on the days on which they first become payable.
- (4) The Secretary of State may estimate, in such manner as he thinks fit, any of the amounts, rates or periods specified in the certificate of total benefit.
- (5) A certificate of total benefit shall remain in force until such date as may be specified in the certificate for that purpose and no application for a fresh certificate shall be made before that date.
- (6) Where a certificate ceases to be in force, the Secretary of State may issue a fresh certificate, whether or not an application has been made to him for such a certificate.
- (7) The compensator shall not make the compensation payment at any time when there is no certificate of total benefit in force in respect of the victim, unless his liability to make the relevant deduction and the relevant payment has ceased to be enforceable by virtue of section 96 below.

---

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

---

## **85 Exemption from deduction in cases involving small payments**

- (1) Regulations may make provision exempting persons from liability to make the relevant deduction or the relevant payment in prescribed cases where the amount of the compensation payment in question, or the aggregate amount of two or more connected compensation payments, does not exceed the prescribed sum.
- (2) Regulations may make provision for cases where an amount has been deducted and paid to the Secretary of State which, by virtue of regulations under subsection (1) above, ought not to have been so deducted and paid, and any such regulations may, in particular, provide for him to pay that amount to the intended recipient or the compensator or to pay a prescribed part of it to each of them.
- (3) The reference in section 81(3)(a) above to a “small payment” is a reference to a payment from which by virtue of this section no relevant deduction falls to be made.
- (4) For the purposes of this section—
  - (a) two or more compensation payments are “connected” if each is made to or in respect of the same victim and in respect of the same accident, injury or disease; and
  - (b) any reference to a compensation payment is a reference to a payment which would be such a payment apart from section 81(3)(a) above.

## **86 Multiple compensation payments**

- (1) This section applies where—
  - (a) a compensation payment (an “earlier payment”) has been made to or in respect of the victim; and
  - (b) subsequently another such payment (a “later payment”) falls to be made to or in respect of the same victim in respect of the same accident, injury or disease (whether by the same or another compensator).
- (2) In determining the amount of the relevant deduction and payment required to be made in connection with the later payment, the amount referred to in section 82(1)(a) above shall be reduced by the amount of any relevant payment made in connection with the earlier payment, or, if more than one, the aggregate of those relevant payments.
- (3) In relation to the later payment, the compensator shall take the amount of the reduction required by subsection (2) above to be such as may be specified under section 84(2)(d) above in the certificate of total benefit issued to him in connection with that later payment.
- (4) In any case where—
  - (a) the relevant payment made in connection with an earlier payment is not reflected in the certificate of total benefit in force in relation to a later payment, and
  - (b) in consequence, the aggregate of the relevant payments made in relation to the later payment and every earlier payment exceeds what it would have been had that relevant payment been so reflected,the Secretary of State shall pay the intended recipient an amount equal to the excess.
- (5) In determining any rights and liabilities in respect of contribution or indemnity, relevant payments shall be treated as damages paid to or for the intended recipient in respect of the accident, injury or disease in question.

## **87 Collaboration between compensators**

- (1) This section applies where compensation payments in respect of the same accident, injury or disease fall (or apart from this Part would fall) to be made to or in respect of the same victim by two or more compensators.
- (2) Where this section applies, any two or more of those compensators may give the Secretary of State notice that they are collaborators in respect of compensation payments in respect of that victim and that accident, injury or disease.
- (3) Where such a notice is given and any of the collaborators makes a relevant payment in connection with such a compensation payment, each of the other collaborators shall be treated as if the aggregate amount of relevant payments specified in his certificate of total benefit, as in force at the time of that relevant payment, or in a fresh certificate which does not purport to reflect the payment, were increased by the amount of that payment.

## **88 Structured settlements**

- (1) This section applies where—
  - (a) in final settlement of a person's claim, an agreement is entered into—
    - (i) for the making of periodical payments (whether of an income or capital nature) to or in respect of the victim; or
    - (ii) for the making of such payments and one or more lump sum payments; and
  - (b) apart from this section, those payments would fall to be regarded for the purposes of this Part of this Act as compensation payments.
- (2) Where this section applies, this Part of this Act (other than this section) shall have effect on the following assumptions, that is to say—
  - (a) the relevant period in the case of the compensator in question shall be taken to end (if it has not previously done so) on the day of settlement;
  - (b) the compensator in question shall be taken—
    - (i) to have been liable to make on that day a single compensation payment of the amount referred to in section 82(1)(a) above (reduced or increased in accordance with such of the provisions of this Part as would have applied in the case of a payment on that day); and
    - (ii) to have made from that single payment a relevant deduction of an amount equal to it; and
  - (c) the payments under the agreement referred to in subsection (1) above shall be taken to be exempt payments.
- (3) The intended recipient shall not by virtue of anything in this section become entitled to be paid any sum, whether by the compensator or the Secretary of State, and if on a review or appeal under section 97 or 99 below it appears that the amount paid by a compensator in pursuance of this section was either greater or less than it ought to have been, then—
  - (a) any excess shall be repaid to the compensator instead of to the intended recipient; but
  - (b) any deficiency shall be paid to the Secretary of State by the intended recipient.
- (4) Where any further compensation payment falls to be made to or in respect of the victim otherwise than under the agreement in question, subsection (2)(a) above shall

---

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

---

be disregarded for the purpose of determining the end of the relevant period in relation to that further payment.

- (5) In any case where—
- (a) the person making the periodical payments (“the secondary party”) does so in pursuance of arrangements entered into with another (as in a case where an insurance company purchases an annuity for the victim from another such company), and
  - (b) apart from those arrangements, that other (“the primary party”) would have been regarded as the compensator,
- then for the purposes of this Part, the primary party shall be regarded as the compensator and the secondary party shall not be so regarded.
- (6) In determining for the purposes of this section whether any periodical payments would fall to be regarded as compensation payments, section 81(3)(a) above shall be disregarded.
- (7) In this section “the day of settlement” means—
- (a) if the agreement referred to in subsection (1) above is approved by a court, the day on which that approval is given; and
  - (b) in any other case, the day on which the agreement is entered into.

## **89      Insolvency**

- (1) Where the intended recipient is subject to a bankruptcy order, nothing in the Insolvency Act 1986 shall affect the operation of this Part of this Act.
- (2) Where the estate of the intended recipient is sequestrated, the relevant deduction from the compensation payment shall not form part of the whole estate of the debtor, within the meaning of section 31(8) of the Bankruptcy (Scotland) Act 1985.

## **90      Protection of legal aid charges**

- (1) In any case where—
  - (a) the compensation payment is subject to any charge under the Legal Aid Act 1974 or the Legal Aid Act 1988, and
  - (b) after the making of the relevant deduction, the balance of the compensation payment is insufficient to satisfy that charge,

the Secretary of State shall make such a payment as will secure that the deficiency is made good to the extent of the relevant payment.
- (2) Where the Secretary of State makes a payment under this section, then for the purposes of section 84 above, the amount of the payment shall be treated as increasing the total benefit.
- (3) In the application of this section to Scotland, references in subsection (1) above to a charge under the Acts specified shall be construed as references to any provisions of the Legal Aid (Scotland) Act 1986 for the repayment to the Scottish Legal Aid Fund of sums paid by it on behalf of the intended recipient in respect of the proceedings in which the compensation payment is made.

## 91 Overpaid benefits

In any case where—

- (a) during the relevant period, there has, in respect of the accident, injury or disease, been paid to or for the victim any relevant benefit to which he was not entitled (“the overpaid benefit”), and
- (b) the amount of the relevant payment is such that, after taking account of the rest of the total benefit, there remains an amount which represents the whole or any part of the overpaid benefit,

then, notwithstanding anything in section 71 above or any regulations under that section or section 53 of the 1986 Act, the receipt by the Secretary of State of the relevant payment shall be treated as the recovery of the whole or, as the case may be, that part of the overpaid benefit.

## 92 Death

In the case of any compensation payment the whole or part of which is made—

- (a) in consequence of an action under the Fatal Accidents Act 1976, or
- (b) in circumstances where, had an action been brought, it would have been brought under that Act, or
- (c) in respect of a liability arising by virtue of section 1 of the Damages (Scotland) Act 1976,

regulations may make provision for estimating or calculating the portion of the payment which is to be regarded as so made for the purposes of section 81(3)(c) or (d) above.

## 93 Payments into court

- (1) Nothing in this Part of this Act requires a court to make any relevant deduction or payment in connection with money in court.
- (2) Where a party to an action makes a payment into court which, had it been paid directly to the other party, would have constituted a compensation payment, the making of that payment shall be regarded for the purposes of this Part of this Act as the making of a compensation payment, but the compensator—
  - (a) may either—
    - (i) withhold from the payment into court an amount equal to the relevant deduction; or
    - (ii) make such a payment into court before the certificate of total benefit has been issued to him; and
  - (b) shall not become liable to make the relevant payment, or to furnish a certificate of deduction, until he has been notified that the whole or any part of the payment into court has been paid out of court to or for the other party.
- (3) Where a person making a payment into court withholds an amount in accordance with subsection (2)(a)(i) above—
  - (a) he shall, at the time when he makes that payment, furnish the court with a certificate of the amount so withheld; and
  - (b) the amount paid into court shall be regarded as increased by the amount so certified,

---

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

---

but no person shall be entitled by virtue of this subsection to the payment out of court of any amount which has not in fact been paid into court.

- (4) Where a payment into court is made as mentioned in subsection (2)(a)(ii) above, the compensator—
  - (a) shall apply for the certificate of total benefit no later than the day on which the payment into court is made; and
  - (b) shall become liable to make the relevant payment as mentioned in subsection (2)(b) above, notwithstanding that the relevant deduction has not been made.
- (5) Where any such payment into court as is mentioned in subsection (2) above is accepted by the other party to the action within the initial period, then, as respects the compensator in question, the relevant period shall be taken to have ended on the day on which the payment into court (or, if there were two or more such payments, the last of them) was made; but where the payment into court is not so accepted, then—
  - (a) the relevant period as respects that compensator shall end on the day on which he is notified that the payment has been paid out of court to or for that other party; and
  - (b) in determining the amount of the relevant payment, that compensator shall be treated as if his payment into court had been made on that day.
- (6) In subsection (5) above “the initial period” means the period of 21 days following the making of the payment into court (or, if there were two or more such payments, the last of them), but rules of court may make provision varying the length of that period.
- (7) Where a payment into court is paid out wholly to or for the party who made the payment (otherwise than to or for the other party to the action) the making of the payment into court shall cease to be regarded as the making of a compensation payment.
- (8) Rules of court may make provision regulating or prescribing the practice and procedure to be followed in relation to such payments into court as are mentioned in subsection (2) above.
- (9) This section does not extend to Scotland.

*Administration and adjudication*

**94 Provision of information**

- (1) Any person who is, or is alleged to be, liable in respect of an accident, injury or disease, or any person acting on his behalf, shall furnish the Secretary of State with the prescribed information relating to any person seeking compensation, or in respect of whom compensation is sought, in respect of that accident, injury or disease.
- (2) Any person who claims a relevant benefit or who has been in receipt of such a benefit or, if he has died, the personal representatives of such a person, shall furnish the Secretary of State with the prescribed information relating to any accident, injury or disease suffered by that person.
- (3) A person who makes any payment (whether a compensation payment or not) on behalf of himself or another—



(a) in consequence of any accident, injury or disease suffered, or any damage to property sustained, by any other person, or

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

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

(4) Any person—

- (a) who is the employer of a person who suffers or has suffered an accident, injury or disease, or
- (b) who has been the employer of such a person at any time during the relevant period,

shall furnish the Secretary of State with the prescribed information relating to the payment of statutory sick pay in respect of that person.

(5) In subsection (4) above “employer” has the same meaning as it has in Part XI of the Contributions and Benefits Act.

(6) Any person furnishing information under this section shall do so in the prescribed manner, at the prescribed place and within the prescribed time.

## **95 Applications for certificates of total benefit**

(1) If at any time before he makes the compensation payment in question the compensator requests the Secretary of State to furnish him with a certificate of total benefit relating to the victim in question—

- (a) the Secretary of State shall comply with that request before the end of the period of 4 weeks, or such other number of weeks as may be prescribed, following the day on which the request is, or is deemed in accordance with regulations to be, received, and
- (b) any certificate so furnished shall, in particular, specify for the purposes of section 84(2)(a) above a date not earlier than the date of the request.

(2) Where the Secretary of State furnishes any person with a certificate of total benefit, he shall also provide the information contained in that certificate to the person who appears to him to be the victim in relation to the compensation payment in question.

(3) The victim may apply to the Secretary of State for particulars of the manner in which any amount, rate or period specified in a certificate of total benefit has been determined.

## **96 Liability of compensator unenforceable if certificate not issued within time limit**

(1) The liability of the compensator to make the relevant deduction and payment relating to the first compensation payment after the default date shall not be enforceable if—

- (a) he has made a request under section 95(1) above which—
- (i) accurately states the prescribed particulars relating to the victim and the accident, injury or disease in question; and
- (ii) specifies the name and address of the person to whom the certificate is to be sent;

---

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

---

- (b) he has in his possession a written acknowledgment, sent to him in accordance with regulations, of the receipt of the request; and
  - (c) the Secretary of State does not, within the time limit referred to in section 95(1) above, send the certificate to the person specified in the request as the person to whom the certificate is to be sent, at the address so specified;
- and accordingly, where those liabilities cease to be enforceable, nothing in this Part of this Act shall prevent the compensator from making that compensation payment.
- (2) In any case where—
    - (a) the liability to make the relevant deduction and payment becomes unenforceable by virtue of this section, but
    - (b) the compensator nevertheless makes that deduction and payment, he shall be treated for all purposes as if the liability had remained enforceable.
  - (3) Where the compensator, in reliance on this section, does not make the relevant deduction and payment, then—
    - (a) he shall within 14 days of the default date give the Secretary of State notice of that fact together with such other particulars as may be prescribed; and
    - (b) in determining the amount of the relevant deduction and payment to be made in connection with any subsequent compensation payment made by the same or any other compensator, the amount which, apart from this section, would have fallen to be deducted and paid by him shall continue to form part of the total benefit and shall not be treated as if it had been paid.
  - (4) If, in the opinion of the Secretary of State, circumstances have arisen which adversely affect normal methods of communication—
    - (a) he may by order provide that no liability shall become unenforceable by virtue of this section during a specified period not exceeding three months; and
    - (b) he may continue any such order in force for further periods not exceeding three months at a time.
  - (5) In this section “the default date” means the date on which the time limit mentioned in subsection (1)(c) above expires.

## **97 Review of certificates of total benefit**

- (1) The Secretary of State may review any certificate of total benefit if he is satisfied that it was issued in ignorance of, or was based on a mistake as to, some material fact or that a mistake (whether in computation or otherwise) has occurred in its preparation.
- (2) On any such review the Secretary of State may either—
  - (a) confirm the certificate, or
  - (b) issue a fresh certificate containing such variations as he considers appropriate, but he shall not so vary the certificate as to increase the total benefit.
- (3) In any case where—
  - (a) one or more relevant payments have been made, and
  - (b) in consequence of a review under this section, it appears that the aggregate amount so paid exceeds the amount that ought to have been paid,the Secretary of State shall pay the intended recipient an amount equal to the excess.

## 98 Appeals

- (1) An appeal shall lie in accordance with this section against any certificate of total benefit at the instance of the compensator, the victim or the intended recipient, on the ground—
  - (a) that any amount, rate or period specified in the certificate is incorrect, or
  - (b) that benefit paid or payable otherwise than in consequence of the accident, injury or disease in question has been brought into account.
- (2) No appeal shall be brought under this section until—
  - (a) the claim giving rise to the compensation payment has been finally disposed of; and
  - (b) the relevant payment, or where more than one such payment may fall to be made, the final relevant payment, has been made.
- (3) Notwithstanding subsection (2) above, where—
  - (a) an award of damages (“provisional damages”) has been made under or by virtue of—
    - (i) section 32A(2)(a) of the Supreme Court Act 1981;
    - (ii) section 12(2)(a) of the Administration of Justice Act 1982; or
    - (iii) section 51(2)(a) of the County Courts Act 1984; and
  - (b) the relevant payment or, where more than one such payment falls to be made, the final relevant payment in relation to the provisional damages so awarded has been made,

an appeal may be brought under this section against any certificate of total benefit by reference to which the amount of that relevant payment, or any of those relevant payments, was made.
- (4) Regulations may make provision—
  - (a) as to the manner in which, and the time within which, appeals under this section are to be brought, and
  - (b) for the purpose of enabling any such appeal to be treated as an application for review under section 97 above,

and regulations under paragraph (b) above may, in particular, provide that the circumstances in which such a review may be carried out shall not be restricted to those specified in section 97 above.
- (5) If any of the medical questions arises for determination on an appeal under this section, the Secretary of State shall refer that question to a medical appeal tribunal, whose determination shall be binding, for the purposes of the appeal, on any social security appeal tribunal to whom a question is referred under subsection (7) below.
- (6) A medical appeal tribunal, in determining any of the medical questions, shall take into account any decision of any court relating to the same, or any similar, issue arising in connection with the accident, injury or disease in question.
- (7) If any question concerning any amount, rate or period specified in the certificate of total benefit arises for determination on an appeal under this section, the Secretary of State shall refer that question to a social security appeal tribunal, but where any medical questions arising on the appeal have been referred to a medical appeal tribunal—

---

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

---

- (a) he shall not refer any question to the social security appeal tribunal until he has received the determination of the medical appeal tribunal on the questions referred to them; and
  - (b) he shall notify the social security appeal tribunal of the determinations of the medical appeal tribunal.
- (8) On a reference under subsection (7) above a social security appeal tribunal may either—
- (a) confirm the amounts, rates and periods specified in the certificate of total benefit; or
  - (b) specify any increases, reductions or other variations which are to be made on the issue of the fresh certificate under subsection (9) below.
- (9) When the Secretary of State has received the determinations of the tribunals on the questions referred to them under subsections (5) and (7) above, he shall in accordance with those determinations either—
- (a) confirm the certificate against which the appeal was brought, or
  - (b) issue a fresh certificate.
- (10) Regulations may make provision with respect to the procedure for the reference under this section of questions to medical appeal tribunals or social security appeal tribunals.
- (11) An appeal shall lie to a Commissioner at the instance of the Secretary of State, the compensator, the victim or the intended recipient from a decision of a medical appeal tribunal or a social security appeal tribunal under this section on the ground that the decision was erroneous in point of law; and for the purposes of appeals under this subsection—
- (a) section 23(7) to (10) above shall apply in relation to an appeal from the decision of a social security appeal tribunal; and
  - (b) section 48(3) above shall apply in relation to an appeal from the decision of a medical appeal tribunal.
- (12) In this section “the medical questions” means—
- (a) any question whether, as the result of a particular occurrence, the victim suffered an injury, sickness or disease;
  - (b) any question as to the period for which the victim suffered any injury, sickness or disease.

## **99 Recovery in consequence of an appeal**

- (1) Where it appears, in consequence of an appeal under section 98 above, that the aggregate amount of the relevant payment or payments actually made exceeds the amount that ought to have been paid, the Secretary of State shall pay the intended recipient an amount equal to that excess.
- (2) Where it appears, in consequence of such an appeal, that the aggregate amount of the relevant payment or payments actually made is less than the amount that ought to have been paid, the intended recipient shall pay the Secretary of State an amount equal to the deficiency.
- (3) Without prejudice to any other method of enforcement, an amount payable under subsection (2) above may be recovered by deduction from any benefits which are prescribed benefits for the purposes of section 71 above.

## **100 Recovery of relevant payment in cases of default**

- (1) This section applies in any case where the compensator has made a compensation payment but—
  - (a) has not requested a certificate of total benefit in respect of the victim, or
  - (b) if he has done so, has not made the relevant payment within the time limit imposed by section 83 above.
- (2) Where this section applies, the Secretary of State may—
  - (a) if no certificate of total benefit has been issued to the compensator, issue to him such a certificate and a demand for the relevant payment to be made forthwith, or
  - (b) if a certificate of total benefit has been issued to the compensator, issue to him a copy of that certificate and such a demand,and the amount so certified shall, to the extent that it does not exceed the amount of the compensation payment, be recoverable by the Secretary of State from the compensator.
- (3) Any amount recoverable under this section shall—
  - (a) if the compensator resides or carries on business in England and Wales and a county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court; or
  - (b) if the compensator resides or carries on business in Scotland, be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (4) A document bearing a certificate which—
  - (a) is signed by a person authorised in that behalf by the Secretary of State, and
  - (b) states that the document, apart from the certificate, is a record of the amount recoverable under this section,shall be conclusive evidence that that amount is so recoverable; and a certificate purporting to be signed as aforesaid shall be deemed to be so signed unless the contrary is proved.
- (5) Where this section applies in relation to two or more connected compensators, the Secretary of State may proceed against them as if they were jointly and severally liable for an amount equal to the difference between—
  - (a) the total benefit determined in accordance with the latest connected certificate of total benefit issued to any of them, and
  - (b) the aggregate amount of any connected relevant payments previously made.
- (6) Nothing in subsection (5) above authorises the recovery from any person of an amount in excess of the compensation payment by virtue of which this section applies to him (or, if there are two or more such payments which are connected, the aggregate amount of those payments).
- (7) In subsections (5) and (6) above, “connected” means relating to the same victim and the same accident, injury or disease.

---

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

---

### *Miscellaneous*

#### **101 Persons in Northern Ireland**

- (1) Where, immediately before making a compensation payment to or in respect of a victim, the compensator—
- (a) is not resident and does not have a place of business in Great Britain, but
  - (b) is resident or has a place of business in Northern Ireland,
- this Part of this Act (other than this subsection and subsection (2) below) shall apply in relation to him as if at that time he were resident or had a place of business in the relevant part of Great Britain.
- (2) Where, immediately before making a Northern Ireland compensation payment to or in respect of a Northern Ireland victim, a Northern Ireland compensator—
- (a) is not resident and does not have a place of business in Northern Ireland, but
  - (b) is resident or has a place of business in any part of Great Britain,
- the Northern Ireland provisions (other than subsection (1) above and this subsection) shall apply in relation to him as if at that time he were resident or had a place of business in Northern Ireland.
- (3) Where an address in Northern Ireland is the first address notified in writing to the compensator by or on behalf of the victim as his residence (or, if the victim has died, by or on behalf of the intended recipient as the victim's last residence) then—
- (a) the compensator shall apply, as a Northern Ireland compensator, for a Northern Ireland certificate in accordance with the Northern Ireland provisions (and shall not make any separate application for a certificate of total benefit under this Part);
  - (b) any Northern Ireland certificate which is issued to the compensator in relation to the victim and the accident, injury or disease in question—
    - (i) shall contain a statement that it is to be treated as including a certificate of total benefit so issued by the Secretary of State and that any relevant payment required to be made to him by reference thereto is to be paid to the Northern Ireland Department as his agent; and
    - (ii) shall be taken to include such a certificate of total benefit; and
  - (c) any payment made by the compensator to the Northern Ireland Department in pursuance of such a Northern Ireland certificate shall be applied—
    - (i) first towards discharging his liability under the Northern Ireland provisions; and
    - (ii) then, as respects any remaining balance, towards discharging his liability under this Part,

in respect of the relevant victim and that accident, injury or disease.
- (4) Where an address in any part of Great Britain is the first address notified in writing to a Northern Ireland compensator by or on behalf of a Northern Ireland victim as his residence (or, if the Northern Ireland victim has died, by or on behalf of the Northern Ireland intended recipient as the Northern Ireland victim's last residence) then—
- (a) the Northern Ireland compensator shall apply, as a compensator, for a certificate of total benefit in accordance with this Part of this Act (and shall not make any separate application for a Northern Ireland certificate under the Northern Ireland provisions);

---

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

---

- (b) any certificate of total benefit which is issued to the Northern Ireland compensator in relation to the Northern Ireland victim and the accident, injury or disease in question—
    - (i) shall contain a statement that it is to be treated as including a Northern Ireland certificate so issued by the Northern Ireland Department and that any Northern Ireland relevant payment required to be made to that Department by reference thereto is to be paid to the Secretary of State as its agent; and
    - (ii) shall be taken to include such a Northern Ireland certificate; and
  - (c) any payment made by the Northern Ireland compensator to the Secretary of State in pursuance of such a certificate shall be applied—
    - (i) first towards discharging his liability under this Part of this Act; and
    - (ii) then, as respects any remaining balance, towards discharging his liability under the Northern Ireland provisions,in respect of the relevant victim and that accident, injury or disease.
- (5) For the purposes of subsection (1) above, “the relevant part of Great Britain”, in relation to a compensator, means—
- (a) if the compensator has been notified in writing—
    - (i) by or on behalf of the victim, or
    - (ii) if the victim has died, by or on behalf of the intended recipient,that the victim is or was at any time resident at an address in any part of Great Britain, that part of Great Britain (or, if more than one such notification has been given, the part in which he was so notified that the victim was most recently so resident); or
  - (b) in any other case, such part of Great Britain as the Secretary of State may determine in accordance with regulations.
- (6) In this section—
- “Northern Ireland certificate” means a certificate of total benefit, within the meaning of the Northern Ireland provisions;
- “Northern Ireland compensation payment” means a compensation payment, within the meaning of the Northern Ireland provisions, and includes a payment which would be such a payment if the person making it were resident or had a place of business in Northern Ireland;
- “Northern Ireland compensator” means a compensator, within the meaning of the Northern Ireland provisions, and includes a person who would be such a compensator if he were resident or had a place of business in Northern Ireland;
- “the Northern Ireland intended recipient” means the intended recipient, within the meaning of the Northern Ireland provisions, in relation to a Northern Ireland compensation payment;
- “the Northern Ireland provisions” means—
- (a) any legislation corresponding to this Part (other than this section) and having effect in Northern Ireland; and
  - (b) this section;
- “Northern Ireland relevant payment” means a relevant payment within the meaning of the Northern Ireland provisions;
- “Northern Ireland victim” means a person who is the victim, within the meaning of the Northern Ireland provisions, in relation to a Northern Ireland compensation payment;

---

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

---

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

### **102 Foreign compensators: duties of intended recipient**

- (1) Where, immediately before the making of the compensation payment, the compensator is not resident and does not have a place of business in any part of the United Kingdom, any deduction, payment or other thing which would, apart from this section, fall to be made or done under this Part of this Act by the compensator shall instead be made or done by the intended recipient and references to the compensator shall be construed accordingly.
- (2) The Secretary of State may by regulations make such provision as he considers expedient for the purpose of modifying this Part of this Act in its application in such a case.

### **103 Interest on damages: reductions in respect of relevant payments**

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

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

### **104 The Crown**

This Part of this Act applies in relation to the making of a compensation payment by the Crown as it applies in relation to the making of a compensation payment by any other compensator.

## **PART V**

### INCOME SUPPORT AND THE DUTY TO MAINTAIN

### **105 Failure to maintain - general**

- (1) If—
  - (a) any person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain; and
  - (b) in consequence of his refusal or neglect income support is paid to or in respect of him or such a person,

he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of an amount not exceeding level 4 on the standard scale or to both.



- (2) For the purposes of subsection (1) above a person shall not be taken to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.
- (3) Subsections (6) to (9) of section 78 above shall have effect for the purposes of this Part of this Act as they have effect for the purposes of that section.

#### **106 Recovery of expenditure on benefit from person liable for maintenance**

- (1) Subject to the following provisions of this section, if income support is claimed by or in respect of a person whom another person is liable to maintain or paid to or in respect of such a person, the Secretary of State may make a complaint against the liable person to a magistrates' court for an order under this section.
- (2) On the hearing of a complaint under this section the court shall have regard to all the circumstances and, in particular, to the income of the liable person, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate, except that in a case falling within section 78(6)(c) above that sum shall not include any amount which is not attributable to income support (whether paid before or after the making of the order).
- (3) In determining whether to order any payments to be made in respect of income support for any period before the complaint was made, or the amount of any such payments, the court shall disregard any amount by which the liable person's income exceeds the income which was his during that period.
- (4) Any payments ordered to be made under this section shall be made—
  - (a) to the Secretary of State in so far as they are attributable to any income support (whether paid before or after the making of the order);
  - (b) to the person claiming income support or (if different) the dependant; or
  - (c) to such other person as appears to the court expedient in the interests of the dependant.
- (5) An order under this section shall be enforceable as a magistrates' court maintenance order within the meaning of section 150(1) of the Magistrates' Courts Act 1980.
- (6) In the application of this section to Scotland, subsection (5) above shall be omitted and for the references to a complaint and to a magistrates' court there shall be substituted respectively references to an application and to the sheriff.
- (7) On an application under subsection (1) above a court in Scotland may make a finding as to the parentage of a child for the purpose of establishing whether a person is, for the purposes of section 105 above and this section, liable to maintain him.

#### **107 Recovery of expenditure on income support: additional amounts and transfer of orders**

- (1) In any case where—
  - (a) the claim for income support referred to in section 106(1) above is or was made by the parent of one or more children in respect of both himself and those children; and
  - (b) the other parent is liable to maintain those children but, by virtue of not being the claimant's husband or wife, is not liable to maintain the claimant,

---

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

---

the sum which the court may order that other parent to pay under subsection (2) of that section may include an amount, determined in accordance with regulations, in respect of any income support paid to or for the claimant by virtue of such provisions as may be prescribed.

- (2) Where the sum which a court orders a person to pay under section 106 above includes by virtue of subsection (1) above an amount (in this section referred to as a “personal allowance element”) in respect of income support by virtue of paragraph 1(2) of Schedule 2 to the Income Support (General) Regulations 1987 (personal allowance for lone parent) the order shall separately identify the amount of the personal allowance element.
- (3) In any case where—
- (a) there is in force an order under subsection (2) of section 106 above made against a person (“the liable parent”) who is the parent of one or more children, in respect of the other parent or the children; and
  - (b) payments under the order fall to be made to the Secretary of State by virtue of subsection (4)(a) of that section; and
  - (c) that other parent (“the dependent parent”) ceases to claim income support,
- the Secretary of State may, by giving notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer to the dependent parent the right to receive the payments under the order, exclusive of any personal allowance element, and to exercise the relevant rights in relation to the order, except so far as relating to that element.
- (4) Notice under subsection (3) above shall not be given (and if purportedly given, shall be of no effect) at a time when there is in force a maintenance order made against the liable parent—
- (a) in favour of the dependent parent or one or more of the children; or
  - (b) in favour of some other person for the benefit of the dependent parent or one or more of the children;
- and if such a maintenance order is made at any time after notice under that subsection has been given, the order under section 106(2) above shall cease to have effect.
- (5) In any case where—
- (a) notice is given to a magistrates' court under subsection (3) above,
  - (b) payments under the order are required to be made by any method of payment falling within section 59(6) of the Magistrates' Courts Act 1980 (standing order, etc.), and
  - (c) the clerk to the justices for the petty sessions area for which the court is acting decides that payment by that method is no longer possible,
- the clerk shall amend the order to provide that payments under the order shall be made by the liable parent to the clerk.
- (6) Except as provided by subsections (8) and (12) below, where the Secretary of State gives notice under subsection (3) above, he shall cease to be entitled—
- (a) to receive any payment under the order in respect of any personal allowance element; or
  - (b) to exercise the relevant rights, so far as relating to any such element,
- notwithstanding that the dependent parent does not become entitled to receive any payment in respect of that element or to exercise the relevant rights so far as so relating.

---

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

---

- (7) If, in a case where the Secretary of State gives notice under subsection (3) above, a payment under the order is or has been made to him wholly or partly in respect of the whole or any part of the period beginning with the day on which the transfer takes effect and ending with the day on which the notice under subsection (3) above is given to the liable parent, the Secretary of State shall—
- (a) repay to or for the liable parent so much of the payment as is referable to any personal allowance element in respect of that period or, as the case may be, the part of it in question; and
  - (b) pay to or for the dependent parent so much of any remaining balance of the payment as is referable to that period or part;
- and a payment under paragraph (b) above shall be taken to discharge, to that extent, the liability of the liable parent to the dependent parent under the order in respect of that period or part.
- (8) If, in a case where the Secretary of State has given notice under subsection (3) above, the dependent parent makes a further claim for income support, then—
- (a) the Secretary of State may, by giving a further notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer back from the dependent parent to himself the right to receive the payments and to exercise the relevant rights; and
  - (b) that transfer shall revive the Secretary of State's right to receive payment under the order in respect of any personal allowance element and to exercise the relevant rights so far as relating to any such element.
- (9) Subject to subsections (10) and (11) below, in any case where—
- (a) notice is given to a magistrates' court under subsection (8) above, and
  - (b) the method of payment under the order which subsists immediately before the day on which the transfer under subsection (8) above takes effect differs from the method of payment which subsisted immediately before the day on which the transfer under subsection (3) above (or, if there has been more than one such transfer, the last such transfer) took effect,
- the clerk to the justices for the petty sessions area for which the court is acting shall amend the order by reinstating the method of payment under the order which subsisted immediately before the day on which the transfer under subsection (3) above (or, as the case may be, the last such transfer) took effect.
- (10) The clerk shall not amend the order under subsection (9) above if the Secretary of State gives notice in writing to the clerk, on or before the day on which the notice under subsection (8) above is given, that the method of payment under the order which subsists immediately before the day on which the transfer under subsection (8) above takes effect is to continue.
- (11) In any case where—
- (a) notice is given to a magistrates' court under subsection (8) above,
  - (b) the method of payment under the order which subsisted immediately before the day on which the transfer under subsection (3) above (or, if there has been more than one such transfer, the last such transfer) took effect was any method of payment falling within section 59(6) of the Magistrates' Courts Act 1980 (standing order, etc.), and
  - (c) the clerk decides that payment by that method is no longer possible,

---

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

---

the clerk shall amend the order to provide that payments under the order shall be made by the liable parent to the clerk.

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

(a) to receive a payment which fell due to him at a time before the transfer took effect; or

(b) to exercise the relevant rights in relation to any such payment;

and, where notice is given under subsection (3), subsection (6) above does not deprive the Secretary of State of his right to receive such a payment in respect of any personal allowance element or to exercise the relevant rights in relation to such a payment.

(13) For the purposes of this section—

(a) a transfer under subsection (3) above takes effect on the day on which the dependent parent ceases to be in receipt of income support in consequence of the cessation referred to in paragraph (c) of that subsection, and

(b) a transfer under subsection (8) above takes effect on—

(i) the first day in respect of which the dependent parent receives income support after the transfer under subsection (3) above took effect, or

(ii) such later day as may be specified for the purpose in the notice under subsection (8),

irrespective of the day on which notice under the subsection in question is given.

(14) Any notice required to be given to the liable parent under subsection (3) or (8) above shall be taken to have been given if it has been sent to his last known address.

(15) In this section—

“child” means a person under the age of 16, notwithstanding section 78(6)

(d) above;

“court” shall be construed in accordance with section 106 above;

“maintenance order”—

(a) in England and Wales, means—

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

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

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

“the relevant rights”, in relation to an order under section 106(2) above, means the right to bring any proceedings, take any steps or do any other thing under or in relation to the order which the Secretary of State could have brought, taken or done apart from any transfer under this section.

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

(1) This section applies where—

---

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

---

- (a) a person (“the claimant”) who is the parent of one or more children is in receipt of income support either in respect of those children or in respect of both himself and those children; and
- (b) there is in force a maintenance order made against the other parent (“the liable person”)—
  - (i) in favour of the claimant or one or more of the children, or
  - (ii) in favour of some other person for the benefit of the claimant or one or more of the children;

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

- (2) If, in a case where this section applies, the liable person fails to comply with any of the terms of the maintenance order—
  - (a) the Secretary of State may bring any proceedings or take any other steps to enforce the order that could have been brought or taken by or on behalf of the primary recipient; and
  - (b) any court before which proceedings are brought by the Secretary of State by virtue of paragraph (a) above shall have the same powers in connection with those proceedings as it would have had if they had been brought by the primary recipient.
- (3) The Secretary of State’s powers under this section are exercisable at his discretion and whether or not the primary recipient or any other person consents to their exercise; but any sums recovered by virtue of this section shall be payable to or for the primary recipient, as if the proceedings or steps in question had been brought or taken by him or on his behalf.
- (4) The powers conferred on the Secretary of State by subsection (2)(a) above include power—
  - (a) to apply for the registration of the maintenance order under—
    - (i) section 17 of the Maintenance Orders Act 1950;
    - (ii) section 2 of the Maintenance Orders Act 1958; or
    - (iii) the Civil Jurisdiction and Judgments Act 1982; and
  - (b) to make an application under section 2 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (application for enforcement in reciprocating country).
- (5) Where this section applies, the prescribed person shall in prescribed circumstances give the Secretary of State notice of any application—
  - (a) to alter, vary, suspend, discharge, revoke, revive or enforce the maintenance order in question; or
  - (b) to remit arrears under that maintenance order;and the Secretary of State shall be entitled to appear and be heard on the application.
- (6) Where, by virtue of this section, the Secretary of State commences any proceedings to enforce a maintenance order, he shall, in relation to those proceedings, be treated for the purposes of any enactment or instrument relating to maintenance orders as if he were a person entitled to payment under the maintenance order in question (but shall not thereby become entitled to any such payment).
- (7) Where, in any proceedings under this section in England and Wales, the court makes an order for the whole or any part of the arrears due under the maintenance order in

---

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

---

question to be paid as a lump sum, the Secretary of State shall inform the Legal Aid Board of the amount of that lump sum if he knows—

- (a) that the primary recipient either—
    - (i) received legal aid under the Legal Aid Act 1974 in connection with the proceedings in which the maintenance order was made, or
    - (ii) was an assisted party, within the meaning of the Legal Aid Act 1988, in those proceedings; and
  - (b) that a sum remains unpaid on account of the contribution required of the primary recipient—
    - (i) under section 9 of the Legal Aid Act 1974 in respect of those proceedings, or
    - (ii) under section 16 of the Legal Aid Act 1988 in respect of the costs of his being represented under Part IV of that Act in those proceedings, as the case may be.
- (8) In this section “maintenance order” has the same meaning as it has in section 107 above but does not include any such order for the payment of a lump sum.

#### **109 Diversion of arrested earnings to Secretary of State - Scotland**

- (1) Where in Scotland a creditor who is enforcing a maintenance order or alimentary bond or agreement by a current maintenance arrestment or a conjoined arrestment order is in receipt of income support, the creditor may in writing authorise the Secretary of State to receive any sums payable under the arrestment or order until the creditor ceases to be in receipt of income support or in writing withdraws the authorisation, whichever occurs first.
- (2) On intimation by the Secretary of State—
- (a) to the employer operating the current maintenance arrestment; or
  - (b) to the sheriff clerk operating the conjoined arrestment order;
- of an authorisation under subsection (1) above, the employer or sheriff clerk shall, until notified by the Secretary of State that the authorisation has ceased to have effect, pay to the Secretary of State any sums which would otherwise be payable under the arrestment or order to the creditor.

### **PART VI**

#### **ENFORCEMENT**

##### *Inspection and offences*

#### **110 Appointment and powers of inspectors**

- (1) For the purposes of the Acts to which this section applies the Secretary of State may appoint such inspectors, and pay to them such salaries or remuneration, as he may determine with the consent of the Treasury.
- (2) An inspector appointed under this section shall, for the purposes of the execution of those Acts have the following powers—

---

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

---

- (a) to enter at all reasonable times any premises liable to inspection under this section;
  - (b) to make such examination and inquiry as may be necessary—
    - (i) for ascertaining whether the provisions of the Acts are being, or have been, complied with in any such premises; or
    - (ii) for investigating the circumstances in which any accident, injury or disease which has given or may give rise to a claim for industrial injuries benefit, or for any benefit which is a relevant benefit, occurred or may have occurred, or was or may have been received or contracted;
  - (c) to examine, either alone or in the presence of any other person, as he thinks fit, in relation to any matters under the Acts on which he may reasonably require information, every person whom he finds in any such premises or whom he has reasonable cause to believe to be or to have been a person liable to pay—
    - (i) contributions under Part I of the Contributions and Benefits Act; or
    - (ii) a state scheme premium; or
    - (iii) a compensation payment or a relevant payment,and to require every such person to be so examined;
  - (d) to exercise such other powers as may be necessary for carrying the Acts into effect.
- (3) The premises liable to inspection under this section are any where an inspector has reasonable grounds for supposing that—
- (a) any persons are employed; or
  - (b) there is being carried on any agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services; or
  - (c) a personal or occupational pension scheme is being administered; or
  - (d) any person—
    - (i) who is the compensator in relation to any such accident, injury or disease as is referred to in subsection (2)(b)(ii) above; or
    - (ii) on whose behalf any such compensator has or may have made, or may make, a compensation payment,carries on business or is to be found,
- but do not include any private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.
- (4) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises for the purpose of the Acts shall, if so required, produce the certificate.
- (5) Where any premises are liable to be inspected by an inspector or officer appointed or employed by, or are under the control of, some other government department, the Secretary of State may make arrangements with that department for any of the powers or duties of inspectors under this section to be carried out by an inspector or officer employed by that department.
- (6) In accordance with this section, persons shall furnish to an inspector all such information, and produce for his inspection all such documents, as he may reasonably require for the purpose of ascertaining—
- (a) whether—

---

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

---

- (i) any contribution under Part I of the Contributions and Benefits Act; or
    - (ii) any state scheme premium; or
    - (iii) any compensation payment or relevant payment,

is or has been payable, or has been duly paid, by or in respect of any person; or
  - (b) whether benefit is or was payable to or in respect of any person.
- (7) The following persons are under the duty imposed by subsection (6) above—
- (a) the occupier of any premises liable to inspection under this section;
  - (b) any person who is or has been an employer or an employee within the meaning of any provision of the Contributions and Benefits Act;
  - (c) any person carrying on an agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services;
  - (d) any person who is or has at any time been a trustee or manager of a personal or occupational pension scheme;
  - (e) any person who is or has been liable—
    - (i) to pay contributions or state scheme premiums; or
    - (ii) to make any compensation payment or relevant payment;
  - (f) the servants or agents of any such person as is specified in any of the preceding paragraphs,
- but no one shall be required under this section to answer any questions or to give evidence tending to incriminate himself or, in the case of a person who is married, his or her spouse.
- (8) This section applies to the following Acts—
- (a) the Social Security Act 1973;
  - (b) the Contributions and Benefits Act;
  - (c) this Act;
  - (d) the Pensions Act; and
  - (e) Part I of the 1986 Act.
- (9) In this section “relevant benefit” and “relevant payment” mean a relevant benefit and relevant payment within the meaning of Part IV of this Act.

## **111 Delay, obstruction etc. of inspector**

- (1) If a person—
- (a) intentionally delays or obstructs an inspector in the exercise of any power under this Act; or
  - (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this Act,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Where a person is convicted of an offence under subsection (1)(b) above and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which it is continued.



## **112 False representations for obtaining benefit etc**

- (1) If a person for the purpose of obtaining any benefit or other payment under the legislation to which section 110 above applies whether for himself or some other person, or for any other purpose connected with that legislation—
  - (a) makes a statement or representation which he knows to be false; or
  - (b) produces or furnishes, or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,he shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 3 months, or to both.

## **113 Breach of regulations**

Regulations and schemes under any of the Acts to which section 110 above applies may provide for contravention of, or failure to comply with, any provision contained in regulations made under that Act to be an offence under that Act and for the recovery, on summary conviction of any such offence, of penalties not exceeding—

- (a) for any one offence, level 3 on the standard scale; or
- (b) for an offence of continuing any such contravention or failure after conviction, £40 for each day on which it is so continued.

## **114 Offences relating to contributions**

- (1) If a person fails to pay, at or within the time prescribed for the purpose, any contribution which he is liable under Part I of the Contributions and Benefits Act to pay, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) If a person fails to pay at or within the time prescribed for the purpose any sums which he is required by regulations made by virtue of paragraph 6 of Schedule 1 to the Contributions and Benefits Act to pay, he shall be liable to be proceeded against and punished under subsection (1) above without proof of his failure so to pay any particular contribution.
- (3) Subsection (1) above does not apply to Class 4 contributions recoverable by the Inland Revenue.
- (4) If a person—
  - (a) buys, sells or offers for sale, takes or gives in exchange, or pawns or takes in pawn a contribution card or a used contribution stamp; or
  - (b) affixes a used contribution stamp to a contribution card,he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 3 months, or to both.
- (5) In any proceedings under subsection (4) above with respect to used stamps a stamp shall be deemed to have been used if it has been affixed to a contribution card or cancelled or defaced in any way whatsoever and whether or not it has actually been used for the payment of a contribution.

- (6) In this Act “contribution card” means any card issued under regulations for the purpose of payment of contributions by affixing stamps to it.

### **115 Offences by bodies corporate**

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

### *Legal proceedings*

### **116 Legal proceedings**

- (1) Any person authorised by the Secretary of State in that behalf may conduct any proceedings under this Act before a magistrates' court although not a barrister or solicitor.
- (2) Notwithstanding anything in any Act—
- (a) proceedings for an offence under this Act other than an offence relating to housing benefit or community charge benefits may be begun at any time within the period of 3 months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge or within a period of 12 months from the commission of the offence, whichever period last expires; and
  - (b) proceedings for an offence under this Act relating to housing benefit or community charge benefits may be begun at any time within the period of 3 months from the date on which evidence, sufficient in the opinion of the appropriate authority to justify a prosecution for the offence, comes to the authority's knowledge or within a period of 12 months from the commission of the offence, whichever period last expires.
- (3) For the purposes of subsection (2) above—
- (a) a certificate purporting to be signed by or on behalf of the Secretary of State as to the date on which such evidence as is mentioned in paragraph (a) of that subsection came to his knowledge shall be conclusive evidence of that date; and
  - (b) a certificate of the appropriate authority as to the date on which such evidence as is mentioned in paragraph (b) of that subsection came to the authority's knowledge shall be conclusive evidence of that date.
- (4) In subsections (2) and (3) above “the appropriate authority” means, in relation to an offence which relates to housing benefit and concerns any dwelling—
- (a) if the offence relates to rate rebate, the authority who are the appropriate rating authority by virtue of section 134 below; and

- (b) if it relates to a rent rebate, the authority who are the appropriate housing authority by virtue of that subsection; and
  - (c) if it relates to rent allowance, the authority who are the appropriate local authority by virtue of that subsection.
- (5) In subsections (2) and (3) above “the appropriate authority” means, in relation to an offence relating to community charge benefits, such authority as is prescribed in relation to the offence.
- (6) Any proceedings in respect of any act or omission of an adjudication officer which, apart from this subsection, would fall to be brought against a person appointed by virtue of section 38(1)(b) above who is resident in Northern Ireland, other than proceedings for an offence, may instead be brought against the Chief Adjudication Officer; and, for the purposes of any proceedings so brought, the acts or omissions of the adjudication officer shall be treated as the acts or omissions of the Chief Adjudication Officer.
- (7) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (1) to (5) above—
- (a) proceedings for an offence under this Act may, notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975, be commenced at any time within the period of 3 months from the date on which evidence, sufficient in the opinion of the Lord Advocate to justify proceedings, comes to his knowledge, or within the period of 12 months from the commission of the offence, whichever period last expires;
  - (b) for the purposes of this subsection—
    - (i) a certificate purporting to be signed by or on behalf of the Lord Advocate as to the date on which such evidence as is mentioned above came to his knowledge shall be conclusive evidence of that date; and
    - (ii) subsection (3) of section 331 of the said Act of 1975 (date of commencement of proceedings) shall have effect as it has effect for the purposes of that section.

## **117 Questions arising in proceedings**

- (1) Where in any proceedings—
- (a) for an offence under this Act; or
  - (b) involving any question as to the payment of contributions (other than a Class 4 contribution recoverable by the Inland Revenue); or
  - (c) for the recovery of any sums due to the Secretary of State or the National Insurance Fund,
- any such question arises as is mentioned in section 17(1) above, the decision of the Secretary of State shall be conclusive for the purposes of the proceedings.
- (2) If—
- (a) a decision of any such question is necessary for the determination of proceedings; and
  - (b) the decision of the Secretary of State has not been obtained or a question has been raised with a view to a review of the decision obtained,
- the question shall be referred to the Secretary of State for determination or review in accordance (subject to any necessary modifications) with Part II of this Act.

- (3) Subsection (1) above does not apply if—
- (a) an appeal under section 18 above is pending; or
  - (b) the time for appealing has not expired; or
  - (c) a question has been raised with a view to a review of the Secretary of State's decision under section 19 above,
- and the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.

*Unpaid contributions etc.*

**118 Evidence of non-payment**

- (1) Subsection (2) below applies with respect to any period during which, under regulations made by virtue of paragraph 5(1) of Schedule 1 to the Contributions and Benefits Act (deduction with P.A.Y.E.), contributions fall to be paid in like manner as income tax.
- (2) A certificate of a collector of taxes that any amount by way of contributions which a person is liable to pay to that collector for any period has not been paid—
- (a) to him; or
  - (b) to the best of his knowledge and belief, to any other person to whom it might lawfully be paid,
- shall until the contrary is proved be sufficient evidence in any proceedings before any court that the sum mentioned in the certificate is unpaid and due.
- (3) A document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.
- (4) A statutory declaration by an officer of the Secretary of State that the searches specified in the declaration for a particular contribution card or for a record of the payment of a particular contribution have been made, and that the card in question or a record of the payment of the contribution in question has not been found, is admissible in any proceedings for an offence as evidence of the facts stated in the declaration.
- (5) Nothing in subsection (4) above makes a statutory declaration admissible as evidence in proceedings for an offence except in a case where, and to the extent to which, oral evidence to the like effect would have been admissible in those proceedings.
- (6) Nothing in subsections (4) and (5) above makes a statutory declaration admissible as evidence in proceedings for an offence—
- (a) unless a copy of it has, not less than 7 days before the hearing or trial, been served on the person charged with the offence in any manner in which a summons or, in Scotland, a citation in a summary prosecution may be served; or
  - (b) if that person, not later than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, gives notice to the prosecutor requiring the attendance at the trial of the person by whom the declaration was made.

## **119 Recovery of unpaid contributions on prosecution**

- (1) Where—
- (a) a person has been convicted of an offence under section 114(1) above of failing to pay a contribution at or within the time prescribed for the purpose; and
  - (b) the contribution remains unpaid at the date of the conviction,
- he shall be liable to pay to the Secretary of State a sum equal to the amount which he failed to pay.
- (2) Where—
- (a) a person is convicted of an offence—
    - (i) under section 114(3)(b) above; or
    - (ii) under section 13 of the Stamp Duties Management Act 1891 as applied by regulations made under paragraph 7(3) of Schedule 1 to the Contributions and Benefits Act; or
    - (iii) of contravening or failing to comply with regulations; and
  - (b) the evidence on which he is convicted shows that he, for the purposes of paying any contribution which he was liable or entitled to pay, has affixed to any contribution card any used contribution stamp; and
  - (c) the contribution (not being a Class 3 contribution) in respect of which the stamp was affixed remains unpaid at the date of the conviction,
- he shall be liable to pay to the Secretary of State a sum equal to the amount of the contribution.

## **120 Proof of previous offences**

- (1) Subject to and in accordance with subsections (2) to (5) below, where a person is convicted of an offence mentioned in section 119(1) or (2)(a) above, evidence may be given of any previous failure by him to pay contributions within the time prescribed for the purpose; and in those subsections “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.
- (2) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.
- (3) If the offence is one of failure to pay a Class 1 contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person) such contributions or any Class 1A contributions or state scheme premiums on the date of the offence, or during the 2 years preceding that date.
- (4) If the offence is one of failure to pay Class 1A contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person or the same car) such contributions, or any Class 1 contributions or state scheme premiums, on the date of the offence, or during the 2 years preceding that date.
- (5) If the offence—
- (a) is one of failure to pay Class 2 contributions; or
  - (b) is one of those mentioned in section 119(2)(a) above,
- evidence may be given of his failure to pay such contributions during those 2 years.

- (6) On proof of any matter of which evidence may be given under subsection (3), (4), or (5) above, the person convicted shall be liable to pay to the Secretary of State a sum equal to the total of all amounts which he is so proved to have failed to pay and which remain unpaid at the date of the conviction.

## **121 Unpaid contributions - supplementary**

- (1) Where in England and Wales a person charged with an offence mentioned in section 119(1) or (2)(a) above is convicted of that offence in his absence under section 12(2) of the Magistrates' Courts Act 1980, then if—
- (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules under section 144 of that Act, that notice under section 120(2) above has been duly served specifying the other contributions in respect of which the prosecutor intends to give evidence; and
  - (b) the clerk of the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other contributions so specified or any of them,
- section 120 above shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.
- (2) In England and Wales, where a person is convicted of an offence mentioned in section 119(1) or (2)(a) above and an order is made under Part I of the Powers of Criminal Courts Act 1973 placing the offender on probation or discharging him absolutely or conditionally, sections 119 and 120 above, and subsection (1) above, shall apply as if it were a conviction for all purposes.
- (3) In Scotland, where a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence, and an order is made under Part I of the Criminal Procedure (Scotland) Act 1975 discharging him absolutely or placing him on probation, sections 119 and 120 above shall apply as if—
- (a) the conviction on indictment were a conviction for all purposes; or
  - (b) (as the case may be) the making of the order by the court of summary jurisdiction were a conviction.
- (4) In England and Wales, any sum which a person is liable to pay under section 119 or 120 above or under subsection (1) above shall be recoverable from him as a penalty.
- (5) Sums recovered by the Secretary of State under the provisions mentioned in subsection (4) above, so far as representing contributions of any class, are to be treated for all purposes of the Contributions and Benefits Act and this Act (including in particular the application of section 162 below) as contributions of that class received by the Secretary of State.
- (6) Without prejudice to subsection (5) above, in so far as such sums represent primary Class 1 or Class 2 contributions, they are to be treated as contributions paid in respect of the person in respect of whom they were originally payable; and enactments relating to earnings factors shall apply accordingly.

## PART VII

### PROVISION OF INFORMATION

#### *Inland Revenue*

#### **122 Disclosure of information by Inland Revenue**

- (1) No obligation as to secrecy imposed by statute or otherwise on a person employed in relation to the Inland Revenue shall prevent information obtained or held in connection with the assessment or collection of income tax from being disclosed—
  - (a) to the Secretary of State;
  - (b) to the Northern Ireland Department; or
  - (c) to an officer of either of them authorised to receive such information in connection with the operation of the Contributions and Benefits Act or this Act or any enactment of Northern Ireland legislation corresponding to either of them.
- (2) In relation to persons who are carrying on or have carried on a trade, profession or vocation income from which is chargeable to tax under Case I or II of Schedule D, disclosure under subsection (1) above relating to that trade, profession or vocation shall be limited to information about the commencement or cessation of, and employed earners engaged in, the trade, profession or vocation, but sufficient information may also be given to identify the persons concerned.
- (3) Subsection (1) above extends only to disclosure by or under the authority of the Commissioners of Inland Revenue; and information which is subject to disclosure to any person by virtue of that subsection shall not be further disclosed to any person except where the further disclosure is made—
  - (a) to a person to whom disclosure could by virtue of that subsection have been made by or under the authority of the Commissioners of Inland Revenue; or
  - (b) for the purposes of proceedings (civil or criminal) in connection with the operation of the Contributions and Benefits Act or this Act or of any enactment of Northern Ireland legislation corresponding to either of them; or
  - (c) for any purposes of sections 17 to 62 above and any corresponding provisions of Northern Ireland legislation.

*Persons employed or formerly employed in social security administration or adjudication*

#### **123 Unauthorised disclosure of information relating to particular persons**

- (1) A person who is or has been employed in social security administration or adjudication is guilty of an offence if he discloses without lawful authority any information which he acquired in the course of his employment and which relates to a particular person.
- (2) A person who is or has been employed in the audit of expenditure or the investigation of complaints is guilty of an offence if he discloses without lawful authority any information—
  - (a) which he acquired in the course of his employment;
  - (b) which is, or is derived from, information acquired or held by or for the purposes of any of the government departments or other bodies or persons

---

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

---

- referred to in Part I of Schedule 4 to this Act or Part I of Schedule 3 to the Northern Ireland Administration Act; and
- (c) which relates to a particular person.
- (3) It is not an offence under this section—
- (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it; or
- (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (4) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—
- (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or
- (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (5) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (6) For the purposes of this section, the persons who are “employed in social security administration or adjudication” are—
- (a) any person specified in Part I of Schedule 4 to this Act or in any corresponding enactment having effect in Northern Ireland;
- (b) any other person who carries out the administrative work of any of the government departments or other bodies or persons referred to in that Part of that Schedule or that corresponding enactment; and
- (c) any person who provides, or is employed in the provision of, services to any of those departments, persons or bodies;
- and “employment”, in relation to any such person, shall be construed accordingly.
- (7) For the purposes of subsections (2) and (6) above, any reference in Part I of Schedule 4 to this Act or any corresponding enactment having effect in Northern Ireland to a government department shall be construed in accordance with Part II of that Schedule or any corresponding enactment having effect in Northern Ireland, and for this purpose “government department” shall be taken to include—
- (a) the Commissioners of Inland Revenue; and
- (b) the Scottish Courts Administration.
- (8) For the purposes of this section, the persons who are “employed in the audit of expenditure or the investigation of complaints” are—
- (a) the Comptroller and Auditor General;
- (b) the Comptroller and Auditor General for Northern Ireland;
- (c) the Parliamentary Commissioner for Administration;
- (d) the Northern Ireland Parliamentary Commissioner for Administration;
- (e) the Health Service Commissioner for England;
- (f) the Health Service Commissioner for Wales;



---

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

---

- (g) the Health Service Commissioner for Scotland;
- (h) the Northern Ireland Commissioner for Complaints;
- (i) any member of the staff of the National Audit Office or the Northern Ireland Audit Office;
- (j) any other person who carries out the administrative work of either of those Offices, or who provides, or is employed in the provision of, services to either of them; and
- (k) any officer of any of the Commissioners referred to in paragraphs (c) to (h) above;

and “employment”, in relation to any such person, shall be construed accordingly.

(9) For the purposes of this section a disclosure is to be regarded as made with lawful authority if, and only if, it is made—

- (a) in accordance with his official duty—
  - (i) by a civil servant; or
  - (ii) by a person employed in the audit of expenditure or the investigation of complaints, who does not fall within subsection (8)(j) above;
- (b) by any other person either—
  - (i) for the purposes of the function in the exercise of which he holds the information and without contravening any restriction duly imposed by the person responsible; or
  - (ii) to, or in accordance with an authorisation duly given by, the person responsible;
- (c) in accordance with any enactment or order of a court;
- (d) for the purpose of instituting, or otherwise for the purposes of, any proceedings before a court or before any tribunal or other body or person referred to in Part I of Schedule 4 to this Act or Part I of Schedule 3 to the Northern Ireland Administration Act; or
- (e) with the consent of the appropriate person;

and in this subsection “the person responsible” means the Secretary of State, the Lord Chancellor or any person authorised by the Secretary of State or the Lord Chancellor for the purposes of this subsection and includes a reference to “the person responsible” within the meaning of any corresponding enactment having effect in Northern Ireland.

(10) For the purposes of subsection (9)(e) above, “the appropriate person” means the person to whom the information in question relates, except that if the affairs of that person are being dealt with—

- (a) under a power of attorney;
- (b) by a receiver appointed under section 99 of the Mental Health Act 1983 or a controller appointed under Article 101 of the Mental Health (Northern Ireland) Order 1986;
- (c) by a Scottish mental health custodian, that is to say—
  - (i) a curator bonis, tutor or judicial factor, or
  - (ii) the managers of a hospital acting on behalf of that person under section 94 of the Mental Health (Scotland) Act 1984; or
- (d) by a mental health appointee, that is to say—
  - (i) a person directed or authorised as mentioned in sub-paragraph (a) of rule 41(1) of the Court of Protection Rules 1984 or sub-paragraph (a)

---

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

---

of rule 38(1) of Order 109 of the Rules of the Supreme Court (Northern Ireland) 1980; or

- (ii) a receiver ad interim appointed under sub-paragraph (b) of the said rule 41(1) or a controller ad interim appointed under sub-paragraph (b) of the said rule 38(1),

the appropriate person is the attorney, receiver, controller, custodian or appointee, as the case may be, or, in a case falling within paragraph (a) above, the person to whom the information relates.

### *The Registration Service*

#### **124 Provisions relating to age, death and marriage**

- (1) Regulations made by the Registrar General under section 20 of the Registration Service Act 1953 or section 54 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 may provide for the furnishing by superintendent registrars and registrars, subject to the payment of such fee as may be prescribed by the regulations, of such information for the purposes—
- (a) of the provisions of the Contributions and Benefits Act to which this section applies; and
  - (b) of the provisions of this Act so far as they have effect in relation to matters arising under those provisions,
- including copies or extracts from the registers in their custody, as may be so prescribed.
- (2) This section applies to the following provisions of the Contributions and Benefits Act—
- (a) Parts I to VI except section 108;
  - (b) Part VII, so far as it relates to income support and family credit;
  - (c) Part VIII, so far as it relates to any social fund payment such as is mentioned in section 138(1)(a) or (2);
  - (d) Part IX;
  - (e) Part XI; and
  - (f) Part XII.
- (3) Where the age, marriage or death of a person is required to be ascertained or proved for the purposes mentioned in subsection (1) above, any person—
- (a) on presenting to the custodian of the register under the enactments relating to the registration of births, marriages and deaths in which particulars of the birth, marriage or death (as the case may be) of the first-mentioned person are entered, a duly completed requisition in writing in that behalf; and
  - (b) on payment of a fee of £1.50 in England and Wales and £4.00 in Scotland,
- shall be entitled to obtain a copy, certified under the hand of the custodian, of the entry of those particulars.
- (4) Requisitions for the purposes of subsection (3) above shall be in such form and contain such particulars as may from time to time be specified by the Registrar General, and suitable forms of requisition shall, on request, be supplied without charge by superintendent registrars and registrars.
- (5) In this section—
- (a) as it applies to England and Wales—

“Registrar General” means the Registrar General for England and Wales; and “superintendent registrar” and “registrar” mean a superintendent registrar or, as the case may be, registrar for the purposes of the enactments relating to the registration of births, deaths and marriages; and

(b) as it applies to Scotland—

“Registrar General” means the Registrar General of Births, Deaths and Marriages for Scotland; “registrar” means a district registrar, senior registrar or assistant registrar for the purposes of the enactments relating to the registration of births, deaths and marriages.

## **125 Regulations as to notification of deaths**

(1) Regulations may provide that it shall be the duty of any of the following persons—

- (a) the Registrar General for England and Wales;
- (b) the Registrar General of Births, Deaths and Marriages for Scotland;
- (c) each registrar of births and deaths,

to furnish the Secretary of State, for the purpose of his functions under the Contributions and Benefits Act and this Act and the functions of the Northern Ireland Department under any Northern Ireland legislation corresponding to either of them, with the prescribed particulars of such deaths as may be prescribed.

(2) The regulations may make provision as to the manner in which and times at which the particulars are to be furnished.

*Personal representatives - income support and supplementary benefit*

## **126 Personal representatives to give information about the estate of a deceased person who was in receipt of income support or supplementary benefit**

(1) The personal representatives of a person who was in receipt of income support or supplementary benefit at any time before his death shall provide the Secretary of State with such information as he may require relating to the assets and liabilities of that person’s estate.

(2) If the personal representatives fail to supply any information within 28 days of being required to do so under subsection (1) above, then—

- (a) the appropriate court may, on the application of the Secretary of State, make an order directing them to supply that information within such time as may be specified in the order, and
- (b) any such order may provide that all costs (or, in Scotland, expenses) of and incidental to the application shall be borne personally by any of the personal representatives.

(3) In this section “the appropriate court” means—

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

and any application to the sheriff under this section shall be made by summary application.

---

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

---

### *Housing benefit*

#### **127 Information for purposes of housing benefit**

- (1) The Secretary of State may supply to authorities such information of a prescribed description obtained by reason of the exercise of any of his functions under the Contributions and Benefits Act or this Act as they may require in connection with any of their functions relating to housing benefit.
- (2) Authorities shall supply to the Secretary of State such information of a prescribed description obtained by reason of the exercise of their functions relating to housing benefit as he may require in connection with any of his functions under the Contributions and Benefits Act or this Act.
- (3) It shall also be the duty of an authority to supply the Secretary of State, in the prescribed manner and within the prescribed time—
  - (a) with such information as he may require concerning their performance of any of their functions relating to housing benefit; and
  - (b) with such information as he may require to enable him—
    - (i) to prepare estimates of likely future amounts of housing benefit expenditure; and
    - (ii) to decide questions relating to the development of housing benefit policy.

### *Community charge benefits*

#### **128 Information for purposes of community charge benefits**

- (1) The Secretary of State may supply to charging authorities and levying authorities such information of a prescribed description obtained by reason of the exercise of any of his functions under the Contributions and Benefits Act or this Act as they may require in connection with any of their functions relating to community charge benefits.
- (2) Charging authorities and levying authorities shall supply to the Secretary of State such information of a prescribed description obtained by reason of the exercise of their functions relating to community charge benefits as he may require in connection with any of his functions under those Acts.
- (3) It shall also be the duty of each charging authority and of each levying authority to supply the Secretary of State, in the prescribed manner and within the prescribed time—
  - (a) with such information as he may require concerning its performance of any of its functions relating to community charge benefits;
  - (b) with such information as he may require to enable him to prepare estimates of likely future amounts of community charge benefit subsidy; and
  - (c) with such information as he may require to enable him to decide questions relating to the development of policy as regards community charge benefits.

*Statutory sick pay and other benefits*

**129 Disclosure by Secretary of State for purpose of determination of period of entitlement to statutory sick pay**

Where the Secretary of State considers that it is reasonable for information held by him to be disclosed to an employer, for the purpose of enabling that employer to determine the duration of a period of entitlement under Part XI of the Contributions and Benefits Act in respect of an employee, or whether such a period exists, he may disclose the information to that employer.

**130 Duties of employers - statutory sick pay and claims for other benefits**

- (1) Regulations may make provision requiring an employer, in a case falling within subsection (3) below to furnish information in connection with the making, by a person who is, or has been, an employee of that employer, of a claim for—
  - (a) sickness benefit;
  - (b) a maternity allowance;
  - (c) an invalidity pension under section 33, 40 or 41 of the Contributions and Benefits Act;
  - (d) industrial injuries benefit; or
  - (e) a severe disablement allowance.
- (2) Regulations under this section shall prescribe—
  - (a) the kind of information to be furnished in accordance with the regulations;
  - (b) the person to whom information of the prescribed kind is to be furnished; and
  - (c) the manner in which, and period within which, it is to be furnished.
- (3) The cases are—
  - (a) where, by virtue of paragraph 2 of Schedule 11 to the Contributions and Benefits Act or of regulations made under paragraph 1 of that Schedule, a period of entitlement does not arise in relation to a period of incapacity for work;
  - (b) where a period of entitlement has come to an end but the period of incapacity for work which was running immediately before the period of entitlement came to an end continues; and
  - (c) where a period of entitlement has not come to an end but, on the assumption that—
    - (i) the period of incapacity for work in question continues to run for a prescribed period; and
    - (ii) there is no material change in circumstances,the period of entitlement will have ended on or before the end of the prescribed period.
- (4) Regulations—
  - (a) may require employers to maintain such records in connection with statutory sick pay as may be prescribed;
  - (b) may provide for—
    - (i) any person claiming to be entitled to statutory sick pay; or

---

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

---

- (ii) any other person who is a party to proceedings arising under Part XI of the Contributions and Benefits Act, to furnish to the Secretary of State, within a prescribed period, any information required for the determination of any question arising in connection therewith; and
- (c) may require employers who have made payments of statutory sick pay to furnish to the Secretary of State such documents and information, at such times, as may be prescribed.

*Statutory maternity pay and other benefits*

**131 Disclosure by Secretary of State for purpose of determination of period of entitlement to statutory maternity pay**

Where the Secretary of State considers that it is reasonable for information held by him to be disclosed to a person liable to make payments of statutory maternity pay for the purpose of enabling that person to determine—

- (a) whether a maternity pay period exists in relation to a woman who is or has been an employee of his; and
  - (b) if it does, the date of its commencement and the weeks in it in respect of which he may be liable to pay statutory maternity pay,
- he may disclose the information to that person.

**132 Duties of employers - statutory maternity pay and claims for other benefits**

- (1) Regulations may make provision requiring an employer in prescribed circumstances to furnish information in connection with the making of a claim by a woman who is or has been his employee for—
  - (a) a maternity allowance;
  - (b) sickness benefit;
  - (c) an invalidity pension under section 33, 40 or 41 of the Contributions and Benefits Act; or
  - (d) a severe disablement allowance.
- (2) Regulations under this section shall prescribe—
  - (a) the kind of information to be furnished in accordance with the regulations;
  - (b) the person to whom information of the prescribed kind is to be furnished; and
  - (c) the manner in which, and period within which, it is to be furnished.
- (3) Regulations—
  - (a) may require employers to maintain such records in connection with statutory maternity pay as may be prescribed;
  - (b) may provide for—
    - (i) any woman claiming to be entitled to statutory maternity pay; or
    - (ii) any other person who is a party to proceedings arising under Part XII of the Contributions and Benefits Act, to furnish to the Secretary of State, within a prescribed period, any information required for the determination of any question arising in connection therewith; and

---

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

---

- (c) may require persons who have made payments of statutory maternity pay to furnish to the Secretary of State such documents and information, at such time, as may be prescribed.

#### *Maintenance proceedings*

### **133 Furnishing of addresses for maintenance proceedings, etc**

The Secretary of State may incur expenses for the purpose of furnishing the address at which a man or woman is recorded by him as residing, where the address is required for the purpose of taking or carrying on legal proceedings to obtain or enforce an order for the making by the man or woman of payments—

- (a) for the maintenance of the man's wife or former wife, or the woman's husband or former husband; or
- (b) for the maintenance or education of any person as being the son or daughter of the man or his wife or former wife, or of the woman or her husband or former husband.

## **PART VIII**

### **ARRANGEMENTS FOR HOUSING BENEFIT AND COMMUNITY CHARGE BENEFITS AND RELATED SUBSIDIES**

#### *Housing benefit*

### **134 Arrangements for housing benefit**

- (1) Housing benefit provided by virtue of a scheme under section 123 of the Contributions and Benefits Act (in this Act referred to as “the housing benefit scheme”)—
  - (a) is to be in the form of a rate rebate funded and administered by the appropriate rating authority, if it is in respect of payments by way of rates;
  - (b) is to be in the form of a rent rebate or, in prescribed cases, of a rent allowance, funded and administered by the appropriate housing authority, if it is in respect of payments, other than payments by way of rates, to be made to a housing authority; and
  - (c) is in any other case to be in the form of a rent allowance funded and administered by the appropriate local authority.
- (2) The rebates and allowances referred to in subsection (1) above may take any of the following forms, that is to say—
  - (a) a payment or payments by the authority to the person entitled to the benefit;
  - (b) a reduction in the amount of any payments which that person is liable to make to the authority by way of rent or rates; or
  - (c) such a payment or payments and such a reduction;and in any enactment or instrument (whenever passed or made) “pay”, in relation to housing benefit, includes discharge in any of those forms.

- (3) Regulations may provide that in prescribed cases a payment made by a person entitled to a rent allowance shall be treated for the purposes of subsection (1)(a) above as being, to such extent as may be prescribed, a payment by way of rates.
- (4) For the purposes of this section in its application to any dwelling—
  - (a) the appropriate rating authority is the rating authority for the area in which it is situated;
  - (b) the appropriate housing authority is the housing authority to whom the occupier of the dwelling is liable to make payments; and
  - (c) the appropriate local authority is the local authority for the area in which the dwelling is situated.
- (5) Authorities may agree that one shall carry out responsibilities relating to housing benefit on another's behalf.
- (6) Circumstances may be prescribed in which a rate rebate may be treated as if it fell to be paid as a rent allowance.
- (7) The cases that may be prescribed under subsection (1)(b) above do not include any case where the payment in respect of which the housing benefit is granted is a payment in respect of a dwelling which, within the meaning of Part VI of the Local Government and Housing Act 1989, is a house or other property of an authority within the authority's Housing Revenue Account.
- (8) An authority may modify any part of the housing benefit scheme administered by the authority—
  - (a) so as to provide for disregarding, in determining a person's income (whether he is the occupier of a dwelling or any other person whose income falls to be aggregated with that of the occupier of a dwelling), the whole or part of any war disablement pension or war widow's pension payable to that person;
  - (b) to such extent in other respects as may be prescribed,and any such modification may be adopted by resolution of an authority.
- (9) Modifications other than such modifications as are mentioned in subsection (8)(a) above shall be so framed as to secure that, in the estimate of the authority adopting them, the total of the rebates or allowances which will be granted by the authority in any year will not exceed the permitted total of rebates or allowances for that year.
- (10) An authority who have adopted modifications may by resolution revoke or vary them.
- (11) If the housing benefit scheme includes power for an authority to exercise a discretion in awarding housing benefit, the authority shall not exercise that discretion so that the total of the rebates or allowances granted by them in any year exceeds the permitted total of rebates or allowances for that year.
- (12) In relation to any authority the permitted total of rebates or allowances for any year shall be calculated, in the manner specified by an order made by the Secretary of State, by reference to the total housing benefit granted by that authority during the year, less such deductions as are specified in the order.
- (13) In this section "modifications" includes additions, omissions and amendments, and related expressions shall be construed accordingly.



### 135 Housing benefit finance

- (1) For each year the Secretary of State shall pay—
  - (a) a subsidy to be known as “rate rebate subsidy” to each rating authority ;
  - (b) a subsidy to be known as “rent rebate subsidy” to each housing authority; and
  - (c) a subsidy to be known as “rent allowance subsidy” to each local authority.
- (2) The subsidy under subsection (1) above which is to be paid to an authority—
  - (a) shall be calculated, in the manner specified by an order made by the Secretary of State, by reference—
    - (i) in the case of an authority in England and Wales, to the relevant benefit; and
    - (ii) in the case of an authority in Scotland, to the total housing benefit, and by reference also, in the case of an authority in England and Wales or Scotland, to any rebate or allowance within the meaning of the Social Security and Housing Benefits Act 1982 granted by that authority during the year with any additions specified in the order but subject to any deductions so specified; and
  - (b) shall be subject to deduction of any amount which the Secretary of State considers it unreasonable to meet out of money provided by way of subsidy under subsection (1) above.
- (3) In subsection (2) above “relevant benefit”, in relation to an authority, means total housing benefit excluding any Housing Revenue Account rebates granted by them.
- (4) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection (2)(a) or (b) above may not be determined by reference to—
  - (a) an authority’s expenditure in respect of any housing benefit, or in respect of any rebate or allowance within the meaning of the Social Security and Housing Benefits Act 1982, granted during any previous year; or
  - (b) any subsidy under this section or that Act paid to an authority in respect of any previous year.
- (5) For each year the Secretary of State may pay to an authority as part of the subsidy under subsection (1) above an additional sum calculated, in the manner specified by an order made by the Secretary of State, in respect of the costs of administering housing benefit.
- (6) Rent rebate subsidy shall be payable—
  - (a) in the case of a local authority in England and Wales, subject to subsection (7) below, for the credit of a revenue account of theirs which is not a Housing Revenue Account or a Housing Repairs Account;
  - (b) in the case of a local authority in Scotland, for the credit of their rent rebate account;
  - (c) in the case of a new town corporation in England and Wales or the Development Board for Rural Wales, for the credit of their housing account; and
  - (d) in the case of a new town corporation in Scotland or Scottish Homes, for the credit of the account to which rent rebates granted by them, or it, are debited.
- (7) Rent rebate subsidy for a year beginning before 1st April 1990 shall be payable in the case of a local authority in England and Wales—

---

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

---

- (a) for the credit of their Housing Revenue Account to the extent that it is calculated by reference to Housing Revenue Account rebates and any costs of administering such rebates; and
  - (b) for the credit of their general rate fund to the extent that it is not so calculated.
- (8) Every local housing authority in England and Wales shall for each year carry to the credit of their Housing Revenue Account from some other revenue account of theirs which is not a Housing Repairs Account an amount equal to the aggregate of—
- (a) so much of each Housing Revenue Account rebate granted by them during the year as was granted in the exercise of a discretion conferred by the housing benefit scheme or in pursuance of such modifications of that scheme as are mentioned in paragraph (b) of section 134(8) above; and
  - (b) unless the authority otherwise determine, so much of each such rebate as was granted in pursuance of such modifications of that scheme as are mentioned in paragraph (a) of that subsection.
- (9) Every local authority in Scotland shall make for each year a rate fund contribution to their Housing Revenue Account of an amount equal to the difference between—
- (a) so much of their rent rebate subsidy for the year as is credited to that Account; and
  - (b) the total of—
    - (i) the Housing Revenue Account rebates granted by them during the year; and
    - (ii) the cost of administering such rebates.
- (10) Rent allowance subsidy shall be payable—
- (a) in the case of a local authority in England and Wales and subsidy payable for a year beginning before 1st April 1990, for the credit of their general rate fund; and
  - (b) in the case of a local authority in Scotland, for the credit of their rent allowance account.
- (11) Subsidy under this section shall be payable by the Secretary of State at such time and in such manner as the Treasury may direct.
- (12) The amount of any subsidy payable to an authority shall be calculated to the nearest pound, by disregarding an odd amount of 50 pence or less and by treating an odd amount exceeding 50 pence as a whole pound.
- (13) In subsection (7) above “general rate fund” means—
- (a) in relation to the Council of the Isles of Scilly, their general fund; and
  - (b) in relation to the Common Council of the City of London, their general rate.
- (14) In this section “modifications” includes additions, omissions and amendments and related expressions shall be construed accordingly.

### **136 Rent allowance subsidy and determinations of rent officers**

- (1) In relation to rent allowance subsidy, the Secretary of State—
- (a) may provide for any calculation under paragraph (a) of section 135(2) above to be made,
  - (b) may specify any such additions and deductions as are referred to in that paragraph; and

---

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

---

- (c) may exercise his discretion as to what is unreasonable for the purposes of paragraph (b) of that subsection,  
by reference to determinations made by rent officers in exercise of functions conferred on them under section 121 of the Housing Act 1988 or section 70 of the Housing (Scotland) Act 1988 (“the Housing Act functions”).
- (2) The Secretary of State may by regulations require a local authority in any prescribed case to apply to a rent officer for a determination to be made in pursuance of the Housing Act functions and any such authority shall comply with prescribed requirements as to the time for making such an application.
- (3) Where a local authority would have been required to apply to a rent officer for a determination under the Housing Act functions in a pre-commencement case, had the first regulations under section 30(2B) of the 1986 Act (which corresponded to subsection (2) above) come into force on 1st April 1989, regulations may make provision—
- (a) requiring the authority in prescribed circumstances to apply within a prescribed period to the rent officer for that determination to be made; and
- (b) requiring the rent officer in prescribed circumstances to make that determination on prescribed assumptions.
- (4) In subsection (3) above “pre-commencement case” means any case which arose before the date on which the first regulations under section 30(2B) of the 1986 Act in fact came into force.

### 137 Claims etc

- (1) Subsidy under section 135 above shall not be payable to an authority until either—
- (a) they have made a claim for it in such form as the Secretary of State may determine; or
- (b) if they have not made such a claim, the amount of subsidy payable to them (apart from subsection (6) below) has been estimated under subsection (3) below.
- (2) The Secretary of State may withhold from an authority so much of any subsidy under section 135 above as he thinks fit until either—
- (a) the authority has supplied him with prescribed particulars relating to their claim for subsidy and complied with prescribed conditions as to records, certificates, audit or otherwise; or
- (b) he is satisfied that there is a good reason for the authority’s failure to supply those particulars or comply with those conditions.
- (3) If an authority has not—
- (a) made a claim for subsidy;
- (b) supplied the prescribed particulars referred to in paragraph (a) of subsection (2) above; or
- (c) complied with the prescribed conditions referred to in that paragraph,
- within the prescribed period, then the Secretary of State may estimate the amount of subsidy payable to them (apart from subsection (6) below) and employ for that purpose such criteria as he considers relevant.

---

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

---

- (4) If the Secretary of State considers it reasonable to do so in any particular case, he may give the authority in question written notice extending any of the periods prescribed under subsection (3) above for the purposes of paragraph (a), (b) or (c) of that subsection, as the case may be.
- (5) If an authority fails to make a claim for subsidy within such period as the Secretary of State considers reasonable, he may withhold from them such part of the subsidy as he thinks fit for so long as he thinks fit.
- (6) Where the amount of subsidy paid to an authority for any year is found to be incorrect, the amount payable to them for any subsequent year may be adjusted for the purpose of rectifying that mistake in whole or in part.

### *Community charge benefits*

#### **138 Nature of benefits**

- (1) In relation to England and Wales, regulations shall provide that where a person is entitled to a community charge benefit in respect of a charging authority's personal community charge the benefit shall take such of the following forms as is prescribed in the case of the person—
  - (a) a payment or payments by the authority to the person;
  - (b) a reduction in the amount the person is or becomes liable to pay to the authority in respect of the charge as it has effect for the relevant or any subsequent chargeable financial year;
  - (c) both such payment or payments and such reduction.
- (2) In relation to Scotland, regulations shall provide that where a person is entitled to a community charge benefit in respect of a personal community charge determined by a regional, islands or district council the benefit shall take such of the following forms as is prescribed in the case of the person—
  - (a) a payment or payments to the person by the levying authority to which the charge is payable;
  - (b) a reduction in the amount the person is or becomes liable to pay in respect of the charge as it has effect for the relevant or any subsequent chargeable financial year;
  - (c) both such payment or payments and such reduction.
- (3) Regulations shall provide that where a person is entitled to a community charge benefit in respect of a contribution period the benefit shall take such of the following forms as is prescribed in the case of the person—
  - (a) a payment or payments by the relevant authority to the person;
  - (b) the reductions mentioned in subsection (4) below;
  - (c) both such payment or payments and such reductions.
- (4) The reductions are—
  - (a) a reduction in the amount the person is liable to pay to the charge payer in respect of the contribution period, and
  - (b) a consequential reduction in the amount the charge payer is liable to pay in respect of the charge concerned as it has effect for the relevant chargeable financial year.

---

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

---

- (5) For the purposes of subsections (1) and (2) above the relevant chargeable financial year is the chargeable financial year in which the relevant day falls; and the relevant day is the day in respect of which the person concerned is entitled to the benefit.
- (6) For the purposes of subsection (3) above the relevant authority is—
  - (a) in relation to England and Wales, the authority to which an amount is payable in respect of the collective community charge concerned under section 15 of the Local Government Finance Act 1988 (“the 1988 Act”);
  - (b) in relation to Scotland, the levying authority to which the collective community charge is payable.
- (7) For the purposes of subsection (4) above the charge payer is—
  - (a) in relation to England and Wales, the person who is liable to pay an amount in respect of the collective community charge concerned under section 15 of the 1988 Act;
  - (b) in relation to Scotland, the person who is liable to pay the collective community charge under section 11(5) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (“the 1987 Act”).
- (8) For the purposes of subsection (4) above the relevant chargeable financial year is the chargeable financial year in which the contribution period falls.
- (9) Regulations under subsection (1), or (2) or (3) above may include such supplementary, incidental or consequential provisions as appear to the Secretary of State to be necessary or expedient; and any such provisions may include provisions amending or adapting provisions of the 1987 Act or the 1988 Act.

### **139 Arrangements for community charge benefits**

- (1) Any community charge benefit provided for by virtue of a scheme under section 123 of the Contributions and Benefits Act (in this Act referred to as a community charge benefit scheme) is to be administered by the appropriate authority.
- (2) For the purposes of this section in its application to England and Wales, the appropriate authority in relation to a particular benefit is the charging authority as regards whose personal or collective community charge a person is entitled to the benefit.
- (3) For the purposes of this section in its application to Scotland, the appropriate authority in relation to a particular benefit is the levying authority—
  - (a) to which the personal community charge is payable by a person entitled to the benefit; or
  - (b) in whose area is situated the premises in respect of residence in which for a contribution period a collective community charge contribution is payable.
- (4) Charging authorities may agree that one shall carry out responsibilities relating to community charge benefits on another’s behalf.
- (5) Levying authorities may agree that one shall carry out responsibilities relating to community charge benefits on another’s behalf.
- (6) A charging authority or levying authority may modify any part of the community charge benefit scheme administered by the authority—

---

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

---

- (a) so as to provide for disregarding, in determining a person's income, the whole or part of any war disablement pension or war widow's pension payable to that person or to his partner or to a person to whom he is polygamously married;
  - (b) to such extent in other respects as may be prescribed,
- and any such modifications may be adopted by resolution of an authority.
- (7) Modifications other than such modifications as are mentioned in subsection (6)(a) above shall be so framed as to secure that, in the estimate of the authority adopting them, the total of the benefits which will be allowed by the authority for any year will not exceed the permitted total of benefits for that year.
  - (8) An authority which has adopted modifications may by resolution revoke or vary them.
  - (9) If the community charge benefit scheme includes power for an authority to exercise a discretion in allowing community charge benefits, the authority shall not exercise that discretion so that the total of the benefits allowed by it for any year exceeds the permitted total of benefits for that year.
  - (10) In relation to any authority the permitted total of benefits for any year shall be such amount as is calculated in accordance with rules contained in an order made by the Secretary of State.
  - (11) In this section—
    - “modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;
    - “partner”, in relation to a person, means the other member of the couple concerned;
    - “war disablement pension” means—
      - (a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under the Air Force (Constitution) Act 1917, the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, the Polish Resettlement Act 1947 or Part VII or section 151 of the Reserve Forces Act 1980;
      - (b) without prejudice to paragraph (a) of this definition, any retired pay or pension to which subsection (1) of section 315 of the Income and Corporation Taxes Act 1988 applies; and
    - “war widow's pension” means any widow's pension or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment mentioned in paragraph (a) of the preceding definition or a pension or allowance for a widow granted under any scheme mentioned in section 315(2)(e) of the Income and Corporation Taxes Act 1988.

#### **140 Community charge benefit finance**

- (1) For each year the Secretary of State shall pay a subsidy (to be known as community charge benefit subsidy) to each charging authority and to each levying authority.
- (2) The amount of community charge benefit subsidy to be paid to a charging authority or a levying authority for a year shall be calculated in such manner as may be specified by an order made by the Secretary of State.

---

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

---

- (3) Any calculation under subsection (2) above shall be made by reference to the total amount of the community charge benefits allowed by the authority during the year with any additions specified in the order but subject to any deduction so specified.
- (4) The Secretary of State may deduct, from the amount which would (apart from this subsection) be payable to a charging or levying authority by way of community charge benefit subsidy for a year, such amount as he considers it unreasonable to pay by way of such subsidy.
- (5) The Secretary of State may pay to an authority, as part of the amount of community charge benefit subsidy payable to the authority for a year, an additional sum in respect of the costs of administering community charge benefits; and any such additional sum shall be calculated in a manner specified by an order made by the Secretary of State.
- (6) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection (3) or (4) above may not be determined by reference to—
  - (a) an authority's expenditure in respect of community charge benefits allowed during any previous year; or
  - (b) any subsidy paid under this section to an authority in respect of any previous year.
- (7) Subsidy under this section shall be payable by the Secretary of State at such time and in such manner as the Treasury may direct; and section 137 above shall apply in relation to a charging authority or a levying authority and subsidy under this section as they apply in relation to a rating authority, a housing authority or local authority and subsidy under that section.
- (8) The amount of any subsidy payable to an authority shall be calculated to the nearest pound, by disregarding an odd amount of 50 pence or less and by treating an odd amount exceeding 50 pence as a whole pound.

## PART IX

### ALTERATION OF CONTRIBUTIONS ETC.

#### 141 Annual review of contributions

- (1) In each tax year the Secretary of State shall carry out a review of the general level of earnings in Great Britain taking into account changes in that level which have taken place since his last review under this section, with a view to determining whether, in respect of Class 2, 3 or 4 contributions, an order should be made under this section, to have effect in relation to the next following tax year.
- (2) For the purposes of any review under this section, the Secretary of State—
  - (a) shall estimate the general level of earnings in such manner as he thinks fit; and
  - (b) shall take into account any other matters appearing to him to be relevant to his determination whether or not an order should be made under this section, including the current operation of the Contributions and Benefits Act.
- (3) If the Secretary of State determines, as a result of a review under this section, that having regard to changes in the general level of earnings which have taken place, and to any other matters taken into account on the review, an order under this section should be made for the amendment of Part I of the Contributions and Benefits Act, he

---

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

---

shall prepare and lay before each House of Parliament a draft of such an order framed so as to give effect to his conclusions on the review.

- (4) An order under this section may amend Part I of the Contributions and Benefits Act by altering any one or more of the following figures—
  - (a) the figure specified in section 11(1) as the weekly rate of Class 2 contributions;
  - (b) the figure specified in section 11(4) as the amount of earnings below which regulations under that subsection may except an earner from liability for Class 2 contributions;
  - (c) the figure specified in section 13(1) as the amount of a Class 3 contribution;
  - (d) the figures specified in section 15(3) as the lower and upper limits of profits or gains which are to be taken into account for the purposes of Class 4 contributions.
- (5) If an order under this section contains an amendment altering either of the figures specified in section 15(3) of the Contributions and Benefits Act, it shall make the same alteration of the corresponding figure specified in section 18(1) of that Act.
- (6) If the Secretary of State determines as a result of a review under this section that, having regard to his conclusions in respect of the general level of earnings and otherwise, no such amendments of Part I of the Contributions and Benefits Act are called for as can be made for the purposes of subsection (4) above, and determines accordingly not to lay a draft of an order before Parliament, he shall instead prepare and lay before each House of Parliament a report explaining his reasons for that determination.
- (7) In subsection (1) above in its application to the tax year 1992-93 the reference to the last review under this section shall be construed as a reference to the last review under section 120 of the 1975 Act.

#### **142 Orders under s. 141 - supplementary**

- (1) Where the Secretary of State lays before Parliament a draft of an order under section 141 above, he shall lay with it a copy of a report by the Government Actuary or the Deputy Government Actuary on the effect which, in that Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund; and, where he determines not to lay a draft order, he shall with the report laid before Parliament under section 141(6) above lay a copy of a report by the Government Actuary or the Deputy Government Actuary on the consequences for the Fund which may, in that Actuary's opinion, follow from that determination.
- (2) Where the Secretary of State lays before Parliament a draft of an order under section 141 above, then if the draft is approved by a resolution of each House, the Secretary of State shall make an order in the form of the draft.
- (3) An order under section 141 above shall be made so as to be in force from the beginning of the tax year following that in which it receives Parliamentary approval, and to have effect for that year and any subsequent tax year (subject to the effect of any subsequent order under this Part of this Act); and for this purpose the order is to be taken as receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.



### **143 Power to alter contributions with a view to adjusting level of National Insurance Fund**

- (1) Without prejudice to section 141 above, the Secretary of State may at any time, if he thinks it expedient to do so with a view to adjusting the level at which the National Insurance Fund stands for the time being and having regard to the sums which may be expected to be paid from the Fund in any future period, make an order amending Part I of the Contributions and Benefits Act by altering any one or more of the following figures—
  - (a) the percentage rate specified—
    - (i) as the initial primary percentage in section 8(2)(a);
    - (ii) as the main primary percentage in section 8(2)(b);
  - (b) the percentage rate for secondary Class 1 contributions specified as the appropriate rate for Bracket 4 in section 9(3);
  - (c) the figure specified in section 11(1) as the weekly rate of Class 2 contributions;
  - (d) the figure specified in section 13(1) as the amount of a Class 3 contribution;
  - (e) the percentage rate for Class 4 contributions specified in section 15(3).
- (2) If an order under subsection (1) above contains an amendment altering the percentage rate for Class 4 contributions specified in section 15(3) of the Contributions and Benefits Act, it shall make the same alteration of the percentage rate specified in section 18(1) of that Act.
- (3) An order under subsection (1) above may if it contains an amendment altering the figure specified in section 11(1) of the Contributions and Benefits Act as the weekly rate of Class 2 contributions and the Secretary of State thinks it expedient in consequence of that amendment, amend section 11(4) of that Act by altering the figure there specified as the amount of earnings below which regulations under that subsection may except an earner from liability for Class 2 contributions.
- (4) No order shall be made under this section so as—
  - (a) to increase for any tax year—
    - (i) the percentage rate of the initial or main primary percentage; or
    - (ii) the percentage rate for secondary Class 1 contributions,to a percentage rate more than 0.25 per cent. higher than the percentage rate applicable at the end of the preceding tax year for the primary percentage or secondary Class 1 contribution in question; or
  - (b) to increase the percentage rate for Class 4 contributions to more than 8.25 per cent.

### **144 Orders under s. 143 - supplementary**

- (1) Where (in accordance with section 190 below) the Secretary of State lays before Parliament a draft of an order under section 143 above, he shall lay with it a copy of a report by the Government Actuary or the Deputy Government Actuary on the effect which, in that Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund.
- (2) An order under section 143 above shall be made so as to be in force from the beginning of the tax year following that in which it received Parliamentary approval, and to have effect for that year and any subsequent tax year (subject to the effect of any subsequent order under this Part of this Act); and for this purpose the order is to be taken as

---

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

---

receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.

#### **145 Power to alter primary and secondary contributions**

- (1) For the purpose of adjusting amounts payable by way of primary Class 1 contributions, the Secretary of State may at any time make an order altering—
  - (a) the percentage rate specified as the initial primary percentage in section 8(2)(a) of the Contributions and Benefits Act;
  - (b) the percentage rate specified as the main primary percentage in section 8(2)(b) of that Act.
- (2) For the purpose of adjusting amounts payable by way of secondary Class 1 contributions, the Secretary of State may at any time make an order amending section 9(3) of that Act by altering any one or more of the following figures—
  - (a) the upper weekly earnings figure specified in respect of Bracket 1;
  - (b) the weekly earnings figures specified in respect of Brackets 2 to 4; and
  - (c) the percentage rates specified as the appropriate rates for Brackets 1 to 3.
- (3) No order shall be made under this section so as—
  - (a) to alter the percentage rate of the initial or main primary percentage to a percentage rate more than 0.25 per cent. higher than applicable at the end of the preceding tax year for the primary percentage in question; or
  - (b) to alter any of the percentage rates specified as the appropriate rates for Brackets 1 to 3 in section 9(3) of the Contributions and Benefits Act to a rate higher than the percentage rate which at the time the order comes into force is specified as the appropriate rate for Bracket 4.
- (4) Without prejudice to section 141 or 143 above, the Secretary of State may make such order—
  - (a) amending section 11(1) of the Contributions and Benefits Act by altering the figure specified in that subsection as the weekly rate of Class 2 contributions;
  - (b) amending section 13(1) of that Act by altering the figure specified in that subsection as the amount of a Class 3 contribution,
 as he thinks fit in consequence of the coming into force of an order made or proposed to be made under subsection (1) above.

#### **146 Power to alter number of secondary earnings brackets**

The Secretary of State may by order alter the number of secondary earnings brackets below the highest bracket specified in section 9(3) of the Contributions and Benefits Act.

#### **147 Orders under ss. 145 and 146 - supplementary**

- (1) An order under section 145 or 146 above may make such amendments of any enactment as appear to the Secretary of State to be necessary or expedient in consequence of any alteration made by it.
- (2) Where (in accordance with section 190 below) the Secretary of State lays before Parliament a draft of an order under section 145 or 146 above, he shall lay with it a copy of a report by the Government Actuary or the Deputy Government Actuary

---

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

---

on the effect which, in that Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund.

- (3) An order under section 145 or 146 above shall be made so as to come into force—
  - (a) on a date in the tax year in which it receives Parliamentary approval; or
  - (b) on a date in the next tax year.
- (4) Such an order shall have effect for the remainder of the tax year in which it comes into force and for any subsequent tax year (subject to the effect of any subsequent order under this Part of this Act).
- (5) Such an order shall be taken as receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.

#### **148 Revaluation of earnings factors**

- (1) This section shall have effect for the purpose of securing that earnings factors which are relevant—
  - (a) to the calculation—
    - (i) of the additional pension in the rate of any long-term benefit; or
    - (ii) of any guaranteed minimum pension; or
  - (b) to any other calculation required under Part III of the Pensions Act (including that Part as modified by or under any other enactment),maintain their value in relation to the general level of earnings obtaining in Great Britain.
- (2) The Secretary of State shall in each tax year review the general level of earnings obtaining in Great Britain and any changes in that level which have taken place since the end of the period taken into account for the last review under this section; and for the purposes of any such review the Secretary of State shall estimate the general level of earnings in such manner as he thinks fit.
- (3) If on any such review the Secretary of State concludes, having regard to earlier orders under this section, that earnings factors for any previous tax year (not being earlier than 1978-79) have not, during the period taken into account for that review, maintained their value in relation to the general level of earnings, he shall make an order under this section.
- (4) An order under this section shall be an order directing that, for the purposes of any such calculation as is mentioned in subsection (1) above, the earnings factors referred to in subsection (3) above shall be increased by such percentage of their amount, apart from earlier orders under this section, as the Secretary of State thinks necessary to make up that fall in their value, during the period taken into account for the review together with other falls in their value which had been made up by such earlier orders.
- (5) Subsections (3) and (4) above do not require the Secretary of State to direct any increase where it appears to him that the increase would be inconsiderable.
- (6) If on any such review the Secretary of State determines that he is not required to make an order under this section, he shall instead lay before each House of Parliament a report explaining his reasons for arriving at that determination.
- (7) For the purposes of this section—

---

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

---

- (a) any review under section 21 of the Pensions Act (which made provision corresponding to this section) shall be treated as a review under this section; and
- (b) any order under that section shall be treated as an order under this section, (but without prejudice to sections 16 and 17 of the Interpretation Act 1978).

#### **149 Statutory sick pay - power to alter limit for small employers' relief**

If and so long as regulations under section 158(3) of the Contributions and Benefits Act prescribe an amount which an employer's contributions payments must not exceed if he is to be a small employer for the purposes of that section, the Secretary of State shall in each tax year consider whether that amount should be increased, having regard to any increase in the aggregate amount of all primary and secondary Class 1 contributions payable in Great Britain and such other matters as he considers appropriate.

### **PART X**

#### REVIEW AND ALTERATION OF BENEFITS

#### **150 Annual up-rating of benefits**

- (1) The Secretary of State shall in each tax year review the sums—
- (a) specified in the following provisions of the Contributions and Benefits Act—
    - (i) Schedule 4;
    - (ii) section 44(4); and
    - (iii) paragraphs 2(6)(c) and 6(2)(b) of Schedule 8;
  - (b) specified in regulations under section 72(3) or 73(10) of that Act;
  - (c) which are the additional pensions in long-term benefits;
  - (d) which are the increases in the rates of retirement pensions under Schedule 5 to the Contributions and Benefits Act;
  - (e) which are—
    - (i) payable by virtue of section 35(6) of the Pensions Act to a person who is also entitled to a Category A or Category B retirement pension (including sums payable by virtue of section 36(3)); or
    - (ii) payable to such a person as part of his Category A or Category B retirement pension by virtue of an order made under this section by virtue of this paragraph or made under section 126A of the 1975 Act or section 63(1)(d) of the 1986 Act;
  - (f) specified in section 80(4) of the Contributions and Benefits Act;
  - (g) falling to be calculated under paragraph 13(4) of Schedule 7 to that Act;
  - (h) prescribed for the purposes of section 128(5) or 129(8) of that Act or specified in regulations under section 135(1);
  - (i) specified by virtue of section 145(1) of that Act;
  - (j) specified in section 157(1) of that Act or in regulations under section 166(3);

in order to determine whether they have retained their value in relation to the general level of prices obtaining in Great Britain estimated in such manner as the Secretary of State thinks fit.

---

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

---

- (2) Where it appears to the Secretary of State that the general level of prices is greater at the end of the period under review than it was at the beginning of that period, he shall lay before Parliament the draft of an up-rating order—
  - (a) which increases each of the sums to which subsection (3) below applies by a percentage not less than the percentage by which the general level of prices is greater at the end of the period than it was at the beginning; and
  - (b) if he considers it appropriate, having regard to the national economic situation and any other matters which he considers relevant, which also increases by such a percentage or percentages as he thinks fit any of the sums mentioned in subsection (1) above but to which subsection (3) below does not apply; and
  - (c) stating the amount of any sums which are mentioned in subsection (1) above but which the order does not increase.
- (3) This subsection applies to sums—
  - (a) specified in Part I, paragraph 1, 2, 4, 5 or 6 of Part III, Part IV or Part V of Schedule 4 to the Contributions and Benefits Act;
  - (b) mentioned in subsection (1)(a)(ii) or (iii), (b), (c), (d), (e) or (g) above.
- (4) Subsection (2) above shall not require the Secretary of State to provide for an increase in any case in which it appears to him that the amount of the increase would be inconsiderable.
- (5) The Secretary of State may, in providing for an increase in pursuance of subsection (2) above, adjust the amount of the increase so as to round any sum up or down to such extent as he thinks appropriate.
- (6) Where subsection (2) above requires the Secretary of State to lay before Parliament the draft of an order increasing any sum that could be reduced under section 154(1) below, the order may make such alteration to that sum as reflects the combined effect of that increase and of any reduction that could be made under that subsection.
- (7) If the Secretary of State considers it appropriate to do so, he may include in the draft of an up-rating order, in addition to any other provisions, provisions increasing any of the sums for the time being specified in regulations under Part VII of the Contributions and Benefits Act or which are additions to income support under regulations made under section 89 of the 1986 Act.
- (8) The Secretary of State shall lay with any draft order under this section a copy of a report by the Government Actuary or the Deputy Government Actuary giving that Actuary's opinion on the likely effect on the National Insurance Fund of such parts of the order as relate to sums payable out of that Fund.
- (9) If a draft order laid before Parliament in pursuance of this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.
- (10) An order under this section—
  - (a) shall be framed so as to bring the alterations to which it relates into force—
    - (i) in the week beginning with the first Monday in the tax year; or
    - (ii) on such earlier date in April as may be specified in the order;
  - (b) may make such transitional provision as the Secretary of State considers expedient in respect of periods of entitlement—
    - (i) to family credit;

---

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

---

- (ii) to disability working allowance; or
  - (iii) to statutory sick pay,
- running at the date when the alterations come into force.
- (11) 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 for applying the provisions of this section to the amount of graduated retirement benefit payable for each unit of graduated contributions and to increases of such benefit under any provisions made by virtue of section 24(1)(b) of the Pensions Act or section 62(1)(a) of the Contributions and Benefits Act.

### **151 Up-rating - supplementary**

- (1) Any increase under section 150 above of the sums mentioned in subsection (1)(c) of that section shall take the form of a direction that those sums shall be increased by a specified percentage of their amount apart from the order and shall apply only in relation to additional pensions calculated under section 45 of the Contributions and Benefits Act by reference to final relevant years which are—
- (a) earlier than the tax year preceding that in which the order comes into force; or
  - (b) if the order comes into force on or after 6th May in any tax year, earlier than that year.
- (2) Any increase under section 150 above of the sums mentioned in subsection (1)(d) or (e) of that section shall take the form of a direction that those sums shall be increased by a specified percentage of their amount apart from the order and shall apply only in relation to sums calculated under Schedule 5 to the Contributions and Benefits Act by reference to periods of deferment which have ended before the coming into force of the order.
- (3) An increase in a sum such as is specified in section 150(1)(e)(ii) above shall form part of the Category A or Category B retirement pension of the person to whom it is paid and an increase in a sum such as is specified in section 150(1)(e)(i) above shall be added to and form part of that pension but shall not form part of the sum increased.
- (4) Where any increment under section 35(6) of the Pensions Act—
- (a) is increased in any tax year by an order under section 37A of that Act; and
  - (b) in that tax year also falls to be increased by an order under section 150 above,
- the increase under that section shall be the amount that would have been specified in the order, but for this subsection, less the amount of the increase under section 37A.
- (5) Where sums are payable to a person by virtue of section 35(6) of the Pensions Act (including such sums payable by virtue of section 36(3) of that Act) during a period ending with the date on which he became entitled to a Category A or Category B retirement pension, then, for the purpose of determining the amount of his Category A or Category B retirement pension, orders made under section 150 above during that period shall be deemed to have come into force (consecutively in the order in which they were made) on the date on which he became entitled to that pension.
- (6) Any increase under section 150 above of any of the sums which are additions to income support mentioned in section 150(7) above shall take the form of a direction that any

such sum shall be increased by a specified percentage of its amount apart from the order.

### **152 Rectification of mistakes in orders under section 150**

- (1) If the Secretary of State is satisfied that a mistake (whether in computation or otherwise) has occurred in the preparation of the previous order under section 150 above, he may by order vary the amount of any one or more of the sums specified in an enactment mentioned in subsection (1)(a) of that section by increasing or reducing it to the level at which it would have stood had the mistake not occurred.
- (2) Where the amount of any such sum is varied under this section, then, for the purposes of the next review and order under that section, the amount of the sum shall be taken to be, and throughout the period under review to have been, its amount as so varied.

### **153 Annual review of child benefit**

The Secretary of State shall review the level of child benefit in April of each year, taking account of increases in the Retail Price Index and other relevant external factors.

### **154 Social security benefits in respect of children**

- (1) Regulations may, with effect from any day on or after that on which there is an increase in the rate or any of the rates of child benefit, reduce any sum specified in any of the provisions mentioned in subsection (2) below to such extent as the Secretary of State thinks appropriate having regard to that increase.
- (2) The provisions referred to in subsection (1) above are the following provisions of Schedule 4 to the Contributions and Benefits Act—
  - (a) paragraph 6 of Part I (child’s special allowance);
  - (b) paragraph 5 of Part III (guardian’s allowance);
  - (c) column (2) of Part IV (increase for child dependants);
  - (d) paragraph 7 of Part V (increase of weekly rate of disablement pension in respect of child dependants);
  - (e) paragraph 12 of Part V (allowance in respect of deceased’s children).

## **PART XI**

### **COMPUTATION OF BENEFITS**

### **155 Effect of alteration of rates of benefit under Parts II to V of Contributions and Benefits Act**

- (1) This section has effect where the rate of any benefit to which this section applies is altered—
  - (a) by an Act subsequent to this Act;
  - (b) by an order under section 150 or 152 above; or
  - (c) in consequence of any such Act or order altering any maximum rate of benefit;and in this section “the commencing date” means the date fixed for payment of benefit at an altered rate to commence.

---

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

---

- (2) This section applies to benefit under Part II, III, IV or V of the Contributions and Benefits Act.
- (3) Subject to such exceptions or conditions as may be prescribed, where—
- (a) the weekly rate of a benefit to which this section applies is altered to a fixed amount higher or lower than the previous amount; and
  - (b) before the commencing date an award of that benefit has been made (whether before or after the passing of the relevant Act or the making of the relevant order),
- except as respects any period falling before the commencing date, the benefit shall become payable at the altered rate without any claim being made for it in the case of an increase in the rate of benefit or any review of the award in the case of a decrease, and the award shall have effect accordingly.
- (4) Where—
- (a) the weekly rate of a benefit to which this section applies is altered; and
  - (b) before the commencing date (but after that date is fixed) an award is made of the benefit,
- the award either may provide for the benefit to be paid as from the commencing date at the altered rate or may be expressed in terms of the rate appropriate at the date of the award.
- (5) Where in consequence of the passing of an Act, or the making of an order, altering the rate of disablement pension, regulations are made varying the scale of disablement gratuities, the regulations may provide that the scale as varied shall apply only in cases where the period taken into account by the assessment of the extent of the disablement in respect of which the gratuity is awarded begins or began after such day as may be prescribed.
- (6) Subject to such exceptions or conditions as may be prescribed, where—
- (a) for any purpose of any Act or regulations the weekly rate at which a person contributes to the cost of providing for a child, or to the maintenance of an adult dependant, is to be calculated for a period beginning on or after the commencing date for an increase in the weekly rate of benefit; but
  - (b) account is to be taken of amounts referable to the period before the commencing date,
- those amounts shall be treated as increased in proportion to the increase in the weekly rate of benefit.
- (7) 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 for applying the provisions of this section to the amount of graduated retirement benefit payable for each unit of graduated contributions and to increases of such benefit under any provisions made by virtue of section 24(1)(b) of the Pensions Act or section 62(1)(a) of the Contributions and Benefits Act.



**156 Computation of Category A retirement pension with increase under s.52(3) of Contributions and Benefits Act**

Where a person is entitled to a Category A retirement pension with an increase under section 52(3) of the Contributions and Benefits Act in the additional pension and the circumstances are such that—

- (a) the deceased spouse to whose contributions that increase is referable died during that part of the tax year which precedes the date on which the order under section 150 above comes into force (“the initial up-rating order”); and
- (b) the deceased spouse’s final relevant year for the purposes of section 44 of the Contributions and Benefits Act is the tax year immediately preceding that in which the death occurred,

then, in determining the amount of the additional pension which falls to be increased by the initial up-rating order, so much of that pension as is attributable to the increase under section 52(3) of the Contributions and Benefits Act shall be disregarded.

**157 Effect of alteration of rates of child benefit**

(1) Subsections (3) and (4) of section 155 above shall have effect where there is an increase in the rate or any of the rates of child benefit as they have effect in relation to the rate of benefit to which that section applies.

(2) Where in connection with child benefit—

- (a) any question arises in respect of a period after the date fixed for the commencement of payment of child benefit at an increased rate—
  - (i) as to the weekly rate at which a person is contributing to the cost of providing for a child; or
  - (ii) as to the expenditure that a person is incurring in respect of a child; and
- (b) in determining that question account falls to be taken of contributions made or expenditure incurred for a period before that date,

the contributions made or expenditure incurred before that date shall be treated as increased in proportion to the increase in the rate of benefit.

**158 Treatment of excess benefit as paid on account of child benefit**

(1) In any case where—

- (a) any benefit as defined in section 122 of the Contributions and Benefits Act or any increase of such benefit (“the relevant benefit or increase”) has been paid to a person for a period in respect of a child; and
- (b) subsequently child benefit for that period in respect of the child becomes payable at a rate which is such that, had the relevant benefit or increase been awarded after the child benefit became payable, the rate of the relevant benefit or increase would have been reduced,

then, except in so far as regulations otherwise provide, the excess shall be treated as paid on account of child benefit for that period in respect of the child.

(2) In subsection (1) above “the excess” means so much of the relevant benefit or increase as is equal to the difference between—

- (a) the amount of it which was paid for the period referred to in that subsection; and

---

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

---

- (b) the amount of it which would have been paid for that period if it had been paid at the reduced rate referred to in paragraph (b) of that subsection.

### **159 Effect of alteration in the component rates of income support**

- (1) Subject to such exceptions and conditions as may be prescribed, where—
  - (a) an award of income support is in force in favour of any person (“the recipient”); and
  - (b) there is an alteration in any of the relevant amounts, that is to say—
    - (i) any of the component rates of income support;
    - (ii) any of the other sums specified in regulations under Part VII of the Contributions and Benefits Act; or
    - (iii) the recipient’s benefit income; and
  - (c) the alteration affects the computation of the amount of income support to which the recipient is entitled,

then subsection (2) or (3) below (as the case may be) shall have effect.

- (2) Where, in consequence of the alteration in question, the recipient becomes entitled to an increased or reduced amount of income support (“the new amount”), then, as from the commencing date, the amount of income support payable to or for the recipient under the award shall be the new amount, without any further decision of an adjudication officer, and the award shall have effect accordingly.
- (3) Where, notwithstanding the alteration in question, the recipient continues on and after the commencing date to be entitled to the same amount of income support as before, the award shall continue in force accordingly.
- (4) In any case where—
  - (a) there is an alteration in any of the relevant amounts; and
  - (b) before the commencing date (but after that date is fixed) an award of income support is made in favour of a person,

the award either may provide for income support to be paid as from the commencing date, in which case the amount shall be determined by reference to the relevant amounts which will be in force on that date, or may provide for an amount determined by reference to the amounts in force at the date of the award.

- (5) In this section—
  - “alteration” means—
    - (a) in relation to—
    - (b) the component rates of income support; or
    - (ii) any other sums specified in regulations under Part VII of the Contributions and Benefits Act,

their alteration by or under any enactment whether or not contained in that Part; and

- (b) in relation to a person’s benefit income, the alteration of any of the sums referred to in section 150 above—
  - (i) by any enactment; or
  - (ii) by an order under section 150 or 152 above,

to the extent that any such alteration affects the amount of his benefit income;

“benefit income”, in relation to any person, means so much of his income as consists of—

---

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

---

- (a) benefit under the Contributions and Benefits Act, other than income support; or
  - (b) a war disablement pension or war widow's pension;
- “the commencing date” in relation to an alteration, means the date on which the alteration comes into force in the case of the person in question;
- “component rate”, in relation to income support, means the amount of—
- (a) the sum referred to in section 126(5)(b)(i) and (ii) of the Contributions and Benefits Act; or
  - (b) any of the sums specified in regulations under section 135(1) of that Act; and
- “relevant amounts” has the meaning given by subsection (1)(b) above.

## **160 Implementation of increases in income support due to attainment of particular ages**

- (1) This section applies where—
  - (a) an award of income support is in force in favour of a person (“the recipient”); and
  - (b) there is a component which becomes applicable, or applicable at a particular rate, in his case if he or some other person attains a particular age.
- (2) If, in a case where this section applies, the recipient or other person attains the particular age referred to in paragraph (b) of subsection (1) above and, in consequence,
  - (a) the component in question becomes applicable, or applicable at a particular rate, in the recipient's case (whether or not some other component ceases, for the same reason, to be applicable, or applicable at a particular rate, in his case); and
  - (b) after taking account of any such cessation, the recipient becomes entitled to an increased amount of income support,then, except as provided by subsection (3) below, as from the day on which he becomes so entitled, the amount of income support payable to or for him under the award shall be that increased amount, without any further decision of an adjudication officer, and the award shall have effect accordingly.
- (3) Subsection (2) above does not apply in any case where, in consequence of the recipient or other person attaining the age in question, some question arises in relation to the recipient's entitlement to any benefit under the Contributions and Benefits Act, other than—
  - (a) the question whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in his case; and
  - (b) the question whether, in consequence, the amount of his income support falls to be varied.
- (4) In this section “component”, in relation to a person and his income support, means any of the sums specified in regulations under section 135(1) of the Contributions and Benefits Act.

## PART XII

### FINANCE

#### 161 National Insurance Fund

- (1) The National Insurance Fund shall continue to be maintained under the control and management of the Secretary of State.
- (2) Accounts of the National Insurance Fund shall be prepared in such form, and in such manner and at such times, as the Treasury may direct, and the Comptroller and Auditor-General shall examine and certify every such account and shall lay copies of it, together with his report on it, before Parliament.
- (3) Any money in the National Insurance Fund may from time to time be paid over to the National Debt Commissioners and be invested by them, in accordance with such directions as may be given by the Treasury, in any such manner for the time being specified in Part II of Schedule 1 to the Trustee Investments Act 1961 as the Treasury may specify by an order of which a draft has been laid before Parliament.
- (4) The National Debt Commissioners shall present to Parliament annually an account of the securities in which money in the National Insurance Fund is for the time being invested.

#### 162 Destination of contributions

- (1) Contributions received by the Secretary of State under Part I of the Contributions and Benefits Act shall be paid by him into the National Insurance Fund after deducting from contributions of any class, the appropriate national health service allocation in the case of contributions of that class.
- (2) The contributions referred to in subsection (1) above include those paid over to the Secretary of State by the Inland Revenue under section 16(4) of the Contributions and Benefits Act and paragraph 6(8) of Schedule 1 to that Act, but subsection (1) above is subject to section 16(5) of that Act as respects contributions from Northern Ireland.
- (3) The additions paid under section 1(5) of the Contributions and Benefits Act shall be paid, in accordance with any directions given by the Treasury, into the National Insurance Fund.
- (4) The sums paid to the Secretary of State by the Inland Revenue under section 16(4)(b) of the Contributions and Benefits Act and paragraphs 6(8)(b) and 7(7) of Schedule 1 to that Act in respect of interest and penalties recovered by them in connection with contributions of any class shall, subject to section 16(5) of that Act, be paid, in accordance with any directions given by the Treasury, into the National Insurance Fund.
- (5) In subsection (1) above “the appropriate national health service allocation” means—
  - (a) in the case of primary Class 1 contributions, 1.05 per cent. of the amount estimated to be that of the earnings in respect of which those contributions were paid at the main primary percentage rate;
  - (b) in the case of secondary Class 1 contributions, 0.9 per cent. of the amount estimated to be that of the earnings in respect of which those contributions were paid;

- (c) in the case of Class 1A contributions, 0.9 per cent. of the amount estimated to be the aggregate of the cash equivalents of the benefits of the cars and car fuel used in calculating those contributions;
  - (d) in the case of Class 2 contributions, 15.5 per cent. of the amount estimated to be the total of those contributions;
  - (e) in the case of Class 3 contributions, 15.5 per cent. of the amount estimated to be the total of those contributions; and
  - (f) in the case of Class 4 contributions, 1.15 per cent. of the amount estimated to be that of the earnings in respect of which those contributions were paid.
- (6) In subsection (5) above “estimated” means estimated by the Secretary of State in any manner which after consulting the Government Actuary or the Deputy Government Actuary he considers to be appropriate and which the Treasury has approved.
- (7) The Secretary of State may, with the consent of the Treasury, by order amend any of paragraphs (a) to (f) of subsection (5) above in relation to any tax year, by substituting for the percentage for the time being specified in that paragraph a different percentage.
- (8) No order under subsection (7) above shall substitute a figure which represents an increase or decrease in the appropriate national health service allocation of more than—
- (a) 0.1 per cent. of the relevant earnings, in the case of paragraph (a) or (b);
  - (b) 0.1 per cent. of the relevant aggregate, in the case of paragraph (c);
  - (c) 4 per cent. of the relevant contributions, in the case of paragraph (d) or (e); or
  - (d) 0.2 per cent. of the relevant earnings, in the case of paragraph (f).
- (9) From the national health service allocation in respect of contributions of any class there shall be deducted such amount as the Secretary of State may estimate to be the portion of the total expenses incurred by him or any other government department in collecting contributions of that class which is fairly attributable to that allocation, and the remainder shall, in the hands of the Secretary of State, be taken as paid towards the cost—
- (a) of the national health service in England;
  - (b) of that service in Wales; and
  - (c) of that service in Scotland,
- in such shares as the Treasury may determine.
- (10) The Secretary of State shall pay any amounts deducted in accordance with subsection (9) above into the Consolidated Fund.
- (11) Any estimate by the Secretary of State for the purposes of subsection (9) above shall be made in accordance with any directions given by the Treasury.
- (12) The Secretary of State may make regulations modifying this section, in such manner as he thinks appropriate, in relation to the contributions of persons referred to in the following sections of the Contributions and Benefits Act—
- (a) section 116(2) (H.M. forces);
  - (b) section 117(1) (mariners, airmen, etc.);
  - (c) section 120(1) (continental shelf workers),
- and in relation to any contributions which are reduced under section 6(5) of that Act.

**163 General financial arrangements**

- (1) There shall be paid out of the National Insurance Fund—
- (a) benefit under Part II of the Contributions and Benefits Act;
  - (b) guardian’s allowance;
  - (c) Christmas bonus if the relevant qualifying benefit is payable out of that Fund;
  - (d) any sum falling to be paid by or on behalf of the Secretary of State under regulations relating to statutory sick pay or maternity pay; and
  - (e) any expenses of the Secretary of State in making payments under section 85, 97 or 99 above to the extent that he estimates that those payments relate to sums paid into the National Insurance Fund.
- (2) There shall be paid out of money provided by Parliament—
- (a) any administrative expenses of the Secretary of State or other government department in carrying into effect the Contributions and Benefits Act or this Act;
  - (b) benefit under Part III of that Act, other than guardian’s allowance;
  - (c) benefit under Part V of that Act;
  - (d) any sums payable by way of the following—
    - (i) income support;
    - (ii) family credit;
    - (iii) disability working allowance;
    - (iv) rate rebate subsidy;
    - (v) rent rebate subsidy;
    - (vi) rent allowance subsidy;
    - (vii) community charge benefit subsidy;
  - (e) payments by the Secretary of State into the social fund under section 167(3) below;
  - (f) child benefit;
  - (g) Christmas bonus if the relevant qualifying benefit is payable out of such money;
  - (h) any sums falling to be paid by the Secretary of State under or by virtue of this Act by way of travelling expenses;
  - (i) any expenses of the Secretary of State in making payments under section 85, 97 or 99 above to the extent that he estimates that those payments relate to sums paid into the Consolidated Fund;
- except in so far as they may be required by any enactment to be paid or borne in some other way.
- (3) The administrative expenses referred to in subsection (2)(a) above include those in connection with any inquiry undertaken on behalf of the Secretary of State with a view to obtaining statistics relating to the operation of Parts I to VI and XI of the Contributions and Benefits Act.
- (4) Any sums required by a secondary contributor for the purpose of paying any secondary Class 1 contributions which are payable by him in respect of an earner in consequence of the earner’s employment in an office of which the emoluments are payable out of the Consolidated Fund shall be paid out of that Fund.
- (5) Any expenditure in respect of the payment of interest or repayment supplements under or by virtue of paragraph 6 of Schedule 1 to the Contributions and Benefits Act or

paragraph 6 of Schedule 2 to that Act shall be defrayed out of the National Insurance Fund in accordance with any directions given by the Treasury.

#### **164 Destination of repayments etc**

- (1) Subject to the following provisions of this section, so far as it relates to payments out of money provided by Parliament, any sum recovered by the Secretary of State under or by virtue of this Act shall be paid into the Consolidated Fund.
- (2) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that Fund.
- (3) So far as any such sum relates to a payment out of the social fund, it shall be paid into that fund.
- (4) Sums repaid by virtue of paragraph 1(4)(e) of Schedule 9 to this Act as it has effect for the purposes of schemes under paragraph 2 or 4 of Schedule 8 to the Contributions and Benefits Act shall be paid into the Consolidated Fund.
- (5) There shall be paid into the National Insurance Fund—
  - (a) fees so payable under regulations made by virtue of section 62(2)(b) above; and
  - (b) sums recovered by the Secretary of State by virtue of a scheme under paragraph 2 or 4 of Schedule 8 to the Contributions and Benefits Act making provision by virtue of paragraph 4 of Schedule 9 to this Act.
- (6) Any sums paid to the Secretary of State in pursuance of section 82 above shall be paid—
  - (a) into the Consolidated Fund, to the extent that the Secretary of State estimates that those sums relate to payments out of money provided by Parliament; and
  - (b) into the National Insurance Fund, to the extent that he estimates that they relate to payments out of that Fund.

#### **165 Adjustments between National Insurance Fund and Consolidated Fund**

- (1) There shall be made out of the National Insurance Fund into the Consolidated Fund, or out of money provided by Parliament into the National Insurance Fund, such payments by way of adjustment as the Secretary of State determines (in accordance with any directions of the Treasury) to be appropriate in consequence of the operation of any enactment or regulations relating to—
  - (a) family credit;
  - (b) disability working allowance;
  - (c) statutory sick pay;
  - (d) statutory maternity pay; or
  - (e) the repayment or offsetting of benefit as defined in section 122 of the Contributions and Benefits Act or other payments.
- (2) Where any such payments as are specified in subsection (3) below fall to be made by way of adjustment, then, subject to subsection (4) below,—
  - (a) the amount of the payments to be made shall be taken to be such, and
  - (b) payments on account of them shall be made at such times and in such manner,

---

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

---

as may be determined by the Secretary of State in accordance with any directions given by the Treasury.

- (3) The payments mentioned in subsection (2) above are the following, that is to say—
- (a) any payments falling to be made by way of adjustment by virtue of subsection (1)(a) to (d) above;
  - (b) any payments falling to be made by way of adjustment in consequence of the operation of any enactment or regulations relating to child benefit—
    - (i) out of the National Insurance Fund into the Consolidated Fund, or
    - (ii) into the National Insurance Fund out of money provided by Parliament; and
  - (c) any payments falling to be made by way of adjustment in circumstances other than those mentioned in subsection (1) or paragraph (b) above—
    - (i) out of the National Insurance Fund either to the Secretary of State or another government department or into the Consolidated Fund; or
    - (ii) into the National Insurance Fund out of money provided by Parliament.
- (4) In relation to payments falling within paragraph (a) or (c) of subsection (3) above, subsection (2) above only applies in such cases or classes of case as may be specified by the Secretary of State by order.
- (5) There shall be paid out of the National Insurance Fund into the Consolidated Fund, at such times and in such manner as the Treasury may direct, such sums as the Secretary of State may estimate (in accordance with any directions given by the Treasury) to be the amount of the administrative expenses incurred as mentioned in section 163(2) (a) above, excluding—
- (a) expenses attributable to the carrying into effect of provisions of the Contributions and Benefits Act or this Act relating to the benefits which by virtue of section 163(2) above are payable out of money provided by Parliament; and
  - (b) any other category of expenses which the Treasury may direct, or any enactment may require, to be excluded from the Secretary of State's estimate under this subsection;

but none of the administrative expenses of the Christmas bonus shall be excluded from that estimate by virtue of paragraph (a) or (b) above.

## **166 Financial review and report**

- (1) As from the end of the period of 5 years beginning with 6th April 1990, or such shorter period as the Secretary of State may direct, the Government Actuary or the Deputy Government Actuary shall review the operation during that period of the 1975 Act and of Parts I to VI of the Contributions and Benefits Act (except Part I of Schedule 8) and this Act so far as it relates to those Parts.
- (2) As from the end of each review period, the Government Actuary or Deputy Government Actuary shall review the operation during that period of Parts I to VI of the Contributions and Benefits Act (except Part I of Schedule 8) and this Act, so far as it relates to those Parts.
- (3) For the purposes of subsection (2) above, a review period is—
  - (a) the period of five tax years, or



---

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

---

- (b) such shorter period as the Secretary of State may direct in respect of any review,  
from the end of the last period to be subject to a review under this section.
- (4) It shall be the object of a review under this section to determine the extent to which the level at which the National Insurance Fund stands from year to year may be expected in the longer term to bear a proper relation to demands in respect of payments of benefit; and for this purpose the Actuary shall take into account—
  - (a) current rates of contributions;
  - (b) the yield to be expected from contributions in the longer term; and
  - (c) such other matters as he considers to be relevant as affecting the present and future level of the Fund.
- (5) After completing his review, the Government Actuary or Deputy Government Actuary shall report to the Secretary of State his opinion on the question referred to in subsection (4) above; and the Secretary of State shall lay a copy of the report before Parliament.

#### **167 The social fund**

- (1) The fund known as the social fund shall continue in being by that name.
- (2) The social fund shall continue to be maintained under the control and management of the Secretary of State and payments out of it shall be made by him.
- (3) The Secretary of State shall make payments into the social fund of such amounts, at such times and in such manner as he may with the approval of the Treasury determine.
- (4) Accounts of the social fund shall be prepared in such form, and in such manner and at such times, as the Treasury may direct, and the Comptroller and Auditor General shall examine and certify every such account and shall lay copies of it, together with his report, before Parliament.
- (5) The Secretary of State shall prepare an annual report on the social fund.
- (6) A copy of every such report shall be laid before each House of Parliament.

#### **168 Allocations from social fund**

- (1) The Secretary of State shall allocate amounts for payments from the social fund such as are mentioned in section 138(1)(b) of the Contributions and Benefits Act in a financial year.
- (2) The Secretary of State may specify the amounts either as sums of money or by reference to money falling into the social fund on the repayment or partial repayment of loans, or partly in the former and partly in the latter manner.
- (3) Allocations—
  - (a) may be for payments by a particular social fund officer or group of social fund officers;
  - (b) may be of different amounts for different purposes;
  - (c) may be made at such time or times as the Secretary of State considers appropriate; and

---

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

---

- (d) may be in addition to any other allocation to the same officer or group of officers or for the same purpose.
- (4) The Secretary of State may at any time re-allocate amounts previously allocated, and subsections (2) and (3) above shall have effect in relation to a re-allocation as they have effect in relation to an allocation.
- (5) The Secretary of State may give general directions to social fund officers or groups of social fund officers, or to any class of social fund officers, with respect to the control and management by social fund officers or groups of social fund officers of the amounts allocated to them under this section.

### **169 Adjustments between social fund and other sources of finance**

- (1) There shall be made—
  - (a) out of the social fund into the Consolidated Fund or the National Insurance Fund;
  - (b) into the social fund out of money provided by Parliament or the National Insurance Fund,

such payments by way of adjustment as the Secretary of State determines (in accordance with any directions of the Treasury) to be appropriate in consequence of any enactment or regulations relating to the repayment or offsetting of a benefit or other payment under the Contributions and Benefits Act.

- (2) Where in any other circumstances payments fall to be made by way of adjustment—
  - (a) out of the social fund into the Consolidated Fund or the National Insurance Fund; or
  - (b) into the social fund out of money provided by Parliament or the National Insurance Fund,

then, in such cases or classes of case as may be specified by the Secretary of State by order, the amount of the payments to be made shall be taken to be such, and payments on account of it shall be made at such times and in such manner, as may be determined by the Secretary of State in accordance with any direction given by the Treasury.

## **PART XIII**

### ADVISORY BODIES AND CONSULTATION

#### *The Social Security Advisory Committee and the Industrial Injuries Advisory Council*

### **170 The Social Security Advisory Committee**

- (1) The Social Security Advisory Committee (in this Act referred to as “the Committee”) constituted under section 9 of the Social Security Act 1980 shall continue in being by that name—
  - (a) to give (whether in pursuance of a reference under this Act or otherwise) advice and assistance to the Secretary of State in connection with the discharge of his functions under the relevant enactments;
  - (b) to give (whether in pursuance of a reference under this Act or otherwise) advice and assistance to the Northern Ireland Department in connection with

---

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

---

- the discharge of its functions under the relevant Northern Ireland enactments;  
and
- (c) to perform such other duties as may be assigned to the Committee under any enactment.
- (2) Schedule 5 to this Act shall have effect with respect to the constitution of the Committee and the other matters there mentioned.
- (3) The Secretary of State may from time to time refer to the Committee for consideration and advice such questions relating to the operation of any of the relevant enactments as he thinks fit (including questions as to the advisability of amending any of them).
- (4) The Secretary of State shall furnish the Committee with such information as the Committee may reasonably require for the proper discharge of its functions.
- (5) In this Act—
- “the relevant enactments” means—
- (a) the provisions of the Contributions and Benefits Act and this Act, except as they apply to industrial injuries benefit and Old Cases payments; and
- (b) the provisions of Part II of Schedule 3 to the Consequential Provisions Act, except as they apply to industrial injuries benefit; and
- “the relevant Northern Ireland enactments” means—
- (a) the provisions of the Northern Ireland Contributions and Benefits Act and the Northern Ireland Administration Act, except as they apply to Northern Ireland industrial injuries benefit and payments under Part I of Schedule 8 to the Northern Ireland Contributions and Benefits Act; and
- (b) the provisions of Part II of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992, except as they apply to Northern Ireland industrial injuries benefit; and
- (c) Article 52A(10), Part VA, Articles 69J and 70ZA of the Social Security Pensions (Northern Ireland) Order 1975;
- and in this definition—
- (i) “Northern Ireland Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (ii) “Northern Ireland industrial injuries benefit” means benefit under Part V of the Northern Ireland Contributions and Benefits Act other than under Schedule 8 to that Act.

## **171 The Industrial Injuries Advisory Council**

- (1) The Industrial Injuries Advisory Council (in this Act referred to as “the Council”) constituted under section 62 of the National Insurance (Industrial Injuries) Act 1965 shall continue in being by that name.
- (2) Schedule 6 to this Act shall have effect with respect to the constitution of the Council and the other matters there mentioned.
- (3) The Secretary of State may from time to time refer to the Council for consideration and advice such questions as he thinks fit relating to industrial injuries benefit or its administration.

---

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

---

- (4) The Council may also give advice to the Secretary of State on any other matter relating to such benefit or its administration.

## **172 Functions of Committee and Council in relation to regulations**

- (1) Subject—
- (a) to subsection (3) below; and
  - (b) to section 173 below,
- where the Secretary of State proposes to make regulations under any of the relevant enactments, he shall refer the proposals, in the form of draft regulations or otherwise, to the Committee.
- (2) Subject—
- (a) to subsection (4) below; and
  - (b) to section 173 below,
- where the Secretary of State proposes to make regulations relating only to industrial injuries benefit or its administration, he shall refer the proposals, in the form of draft regulations or otherwise, to the Council for consideration and advice.
- (3) Subsection (1) above does not apply to the regulations specified in Part I of Schedule 7 to this Act.
- (4) Subsection (2) above does not apply to the regulations specified in Part II of that Schedule.
- (5) In relation to regulations required or authorised to be made by the Secretary of State in conjunction with the Treasury, the reference in subsection (1) above to the Secretary of State shall be construed as a reference to the Secretary of State and the Treasury.

## **173 Cases in which consultation is not required**

- (1) Nothing in any enactment shall require any proposals in respect of regulations to be referred to the Committee or the Council if—
- (a) it appears to the Secretary of State that by reason of the urgency of the matter it is inexpedient so to refer them; or
  - (b) the relevant advisory body have agreed that they shall not be referred.
- (2) Where by virtue only of subsection (1)(a) above the Secretary of State makes regulations without proposals in respect of them having been referred, then, unless the relevant advisory body agrees that this subsection shall not apply, he shall refer the regulations to that body as soon as practicable after making them.
- (3) Where the Secretary of State has referred proposals to the Committee or the Council, he may make the proposed regulations before the Committee have made their report or, as the case may be the Council have given their advice, only if after the reference it appears to him that by reason of the urgency of the matter it is expedient to do so.
- (4) Where by virtue of this section regulations are made before a report of the Committee has been made, the Committee shall consider them and make a report to the Secretary of State containing such recommendations with regard to the regulations as the Committee thinks appropriate; and a copy of any report made to the Secretary of State on the regulations shall be laid by him before each House of Parliament together, if the report contains recommendations, with a statement—

---

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

---

- (a) of the extent (if any) to which the Secretary of State proposes to give effect to the recommendations; and
  - (b) in so far as he does not propose to give effect to them, of his reasons why not.
- (5) Except to the extent that this subsection is excluded by an enactment passed after 25th July 1986, nothing in any enactment shall require the reference to the Committee or the Council of any regulations contained in either—
- (a) a statutory instrument made before the end of the period of 6 months beginning with the coming into force of the enactment under which those regulations are made; or
  - (b) a statutory instrument—
    - (i) which states that it contains only regulations made by virtue of, or consequential upon, a specified enactment; and
    - (ii) which is made before the end of the period of 6 months beginning with the coming into force of that specified enactment.
- (6) In relation to regulations required or authorised to be made by the Secretary of State in conjunction with the Treasury, any reference in this section to the Secretary of State shall be construed as a reference to the Secretary of State and the Treasury.
- (7) In this section “regulations” means regulations under any enactment, whenever passed.

#### **174 Committee’s report on regulations and Secretary of State’s duties**

- (1) The Committee shall consider any proposals referred to it by the Secretary of State under section 172 above and shall make to the Secretary of State a report containing such recommendations with regard to the subject-matter of the proposals as the Committee thinks appropriate.
- (2) If after receiving a report of the Committee the Secretary of State lays before Parliament any regulations or draft regulations which comprise the whole or any part of the subject-matter of the proposals referred to the Committee, he shall lay with the regulations or draft regulations a copy of the Committee’s report and a statement showing—
- (a) the extent (if any) to which he has, in framing the regulations, given effect to the Committee’s recommendations; and
  - (b) in so far as effect has not been given to them, his reasons why not.
- (3) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of subsection (2) above shall be satisfied as respects either House of Parliament if a copy of the report and statement there referred to are laid before that House not later than the second day on which the House sits after the laying of the regulations.
- (4) In relation to regulations required or authorised to be made by the Secretary of State in conjunction with the Treasury any reference in this section to the Secretary of State shall be construed as a reference to the Secretary of State and the Treasury.

---

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

---

*The Disability Living Allowance Advisory Board*

**175 Disability Living Allowance Advisory Board**

- (1) The Disability Living Allowance Advisory Board (in this section referred to as “the Board”) constituted under section 3(1) of the Disability Living Allowance and Disability Working Allowance Act 1991 shall continue in being by that name.
- (2) Regulations shall confer on the Board such functions relating to disability living allowance or attendance allowance as the Secretary of State thinks fit and shall make provision for—
  - (a) the Board’s constitution;
  - (b) the qualifications of its members;
  - (c) the method of their appointment;
  - (d) the term of office and other terms of appointment of its members;
  - (e) their removal.
- (3) Regulations may also make provision—
  - (a) enabling the Board to appoint persons as advisers to it on matters on which in its opinion they are specially qualified;
  - (b) for the appointment of officers and servants of the Board;
  - (c) enabling the Board to act notwithstanding any vacancy among its members;
  - (d) enabling the Board to make rules for regulating its procedure (including its quorum).
- (4) The expenses of the Board to such an amount as may be approved by the Treasury shall be paid by the Secretary of State out of money provided by Parliament.
- (5) There may be paid as part of the expenses of the Board—
  - (a) to all or any of the members of the Board, such salaries or other remuneration and travelling and other allowances;
  - (b) to advisers to the Board, such fees; and
  - (c) to such other persons as may be specified in regulations such travelling and other allowances (including compensation for loss of remunerative time),
 as the Secretary of State may with the consent of the Treasury determine.
- (6) The Secretary of State may furnish the Board with such information as he considers that it may need to enable it to discharge its functions.

*Housing benefit and community charge benefits.*

**176 Consultation with representative organisations**

- (1) Subject to subsection (2) below, before making—
  - (a) regulations relating to housing benefit or community charge benefits (other than regulations of which the effect is to increase any amount specified in regulations previously made);
  - (b) an order under section 134(12), 135, 139 or 140 above,
 the Secretary of State shall consult with organisations appearing to him to be representative of the authorities concerned.

---

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

---

- (2) Nothing in subsection (1) above shall require the Secretary of State to undertake consultations if—
  - (a) it appears to him that by reason of the urgency of the matter it is inexpedient to do so; or
  - (b) the organisations have agreed that consultations should not be undertaken.
- (3) Where the Secretary of State has undertaken such consultations, he may make any regulations or order to which the consultations relate without completing the consultations if it appears to him that by reason of the urgency of the matter it is expedient to do so.

## PART XIV

### SOCIAL SECURITY SYSTEMS OUTSIDE GREAT BRITAIN

#### *Co-ordination*

#### **177 Co-ordination with Northern Ireland**

- (1) The Secretary of State may with the consent of the Treasury make arrangements with the Northern Ireland Department (“the joint arrangements”) for co-ordinating the operation of the legislation to which this section applies with a view to securing that, to the extent allowed for in the arrangements, it provides a single system of social security for the United Kingdom.
- (2) The Joint Authority consisting of the Secretary of State and the Head of the Northern Ireland Department shall continue in being by that name for the purposes of the enactments mentioned in subsection (5) below; and Schedule 8 to this Act has effect with respect to the Joint Authority.
- (3) The responsibility of the Joint Authority shall include that of giving effect to the joint arrangements, with power—
  - (a) to make any necessary financial adjustments between the National Insurance Fund and the Northern Ireland National Insurance Fund; and
  - (b) to discharge such other functions as may be provided under the joint arrangements.
- (4) The Secretary of State may make regulations for giving effect to the joint arrangements; and any such regulations may for the purposes of the arrangements provide—
  - (a) for adapting legislation (including subordinate legislation) for the time being in force in Great Britain so as to secure its reciprocal operation with Northern Ireland;
  - (b) without prejudice to paragraph (a) above, for securing that acts, omissions and events having any effect for the purposes of the enactments in force in Northern Ireland have a corresponding effect in relation to Great Britain (but not so as to confer any double benefit); and
  - (c) for determining, in cases where rights accrue both in relation to Great Britain and in relation to Northern Ireland, which of those rights shall be available to the person concerned.

---

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

---

- (5) This section applies—
- (a) to the Contributions and Benefits Act and this Act; and
  - (b) to the Northern Ireland Contributions and Benefits Act and the Northern Ireland Administration Act,
- except in relation to the following benefits—
- (i) income support;
    - (ii) family credit;
    - (iii) disability working allowance;
    - (iv) housing benefit;
  - (v) child benefit;
    - (vi) Christmas bonus;
    - (vii) statutory sick pay; and
    - (viii) statutory maternity pay.

#### *Reciprocity*

### **178 Reciprocal arrangements with Northern Ireland - income-related benefits and child benefit**

- (1) The Secretary of State may with the consent of the Treasury make reciprocal arrangements with the authority administering any scheme in force in Northern Ireland and appearing to him to correspond substantially with a scheme contained in the Contributions and Benefits Act and this Act concerning any of the benefits to which this section applies for co-ordinating the operation of those schemes, and such arrangements may include provision for making any necessary financial adjustments.
- (2) This section applies to the following benefits—
- (a) income support;
  - (b) family credit;
  - (c) disability working allowance;
  - (d) housing benefit; or
  - (e) child benefit.
- (3) Regulations may make provision for giving effect to any such arrangements; and such regulations may in particular provide—
- (a) for modifying any provision of this Act or the Contributions and Benefits Act concerning any of the benefits to which this section applies or any regulations made under such a provision;
  - (b) without prejudice to paragraph (a) above, for securing that acts, omissions and events having any effect for the purposes of the scheme in force in Northern Ireland shall have a corresponding effect for the purposes of this Act and the Contributions and Benefits Act (but not so as to confer any double benefit);
  - (c) for determining, in cases where rights accrue both under that scheme and under this Act and the Contributions and Benefits Act, which of those rights shall be available to the person concerned.

### **179 Reciprocal agreements with countries outside the United Kingdom**

- (1) For the purpose of giving effect—



---

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

---

- (a) to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of legislation to which this section applies, or
- (b) to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Great Britain, the government of the United Kingdom has made to the other government in question,

Her Majesty may by Order in Council make provision for modifying or adapting such legislation in its application to cases affected by the agreement or proposed alterations.

- (2) An Order made by virtue of subsection (1) above may, instead of or in addition to making specific modifications or adaptations, provide generally that legislation to which this section applies shall be modified to such extent as may be required to give effect to the provisions contained in the agreement or, as the case may be, alterations in question.
- (3) The modifications which may be made by virtue of subsection (1) above include provisions—
  - (a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made have a corresponding effect for the purposes of this Act and the Contributions and Benefits Act (but not so as to confer a right to double benefit);
  - (b) for determining, in cases where rights accrue both under such legislation and under the law of that country, which of those rights is to be available to the person concerned;
  - (c) for making any necessary financial adjustments.
- (4) This section applies—
  - (a) to the Contributions and Benefits Act; and
  - (b) to this Act,except in relation to the following benefits—
  - (i) community charge benefits;
    - (ii) payments out of the social fund;
    - (iii) Christmas bonus;
    - (iv) statutory sick pay; and
  - (v) statutory maternity pay.
- (5) The power conferred by subsection (1) above shall also be exercisable in relation to regulations made under the Contributions and Benefits Act or this Act and concerning—
  - (a) income support;
  - (b) family credit;
  - (c) disability working allowance;
  - (d) housing benefit; or
  - (e) child benefit.

**PART XV**

## MISCELLANEOUS

*Travelling expenses***180 Payment of travelling expenses by Secretary of State**

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

- (a) to persons required by him to attend any interview in connection with the operation of the Contributions and Benefits Act or this Act;
- (b) to persons attending local offices in connection with the operation—
  - (i) of the Contributions and Benefits Act or this Act; or
  - (ii) of any prescribed enactment.

*Offences***181 Impersonation of officers**

If any person, with intent to deceive, falsely represents himself to be a person authorised by the Secretary of State for Social Security to act in any capacity (whether under this Act or otherwise) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**182 Illegal possession of documents.**

- (1) If any person—
  - (a) as a pledge or a security for a debt; or
  - (b) with a view to obtaining payment from the person entitled to it of a debt due either to himself or to any other person,receives, detains or has in his possession any document issued by or on behalf of the Secretary of State for Social Security in connection with any benefit, pension or allowance (whether payable under the Contributions and Benefits Act or otherwise) he shall be guilty of an offence.
- (2) If any such person has such a document in his possession without lawful authority or excuse (the proof whereof shall lie on him) he shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 4 on the standard scale or to both.

*Industrial injuries and diseases***183 Research on industrial injuries, etc**

- (1) The Secretary of State may promote research into the causes and incidence of accidents arising out of and in the course of employment, or injuries and diseases which—
  - (a) are due to the nature of employment; or

- (b) it is contemplated might be prescribed for the purposes of sections 108 to 110 of the Contributions and Benefits Act,  
either by himself employing persons to conduct such research or by contributing to the expenses of, or otherwise assisting, other persons engaged in such research.
- (2) The Secretary of State may pay to persons so employed by him such salaries or remuneration, and such travelling and other allowances, as he may determine with the consent of the Treasury.

## **184 Control of pneumoconiosis**

As respects pneumoconiosis, regulations may provide—

- (a) for requiring persons to be medically examined before, or within a prescribed period after, becoming employed in any occupation in relation to which pneumoconiosis is prescribed, and to be medically examined periodically while so employed, and to furnish information required for the purposes of any such examination;
- (b) for suspending from employment in any such occupation, and in such other occupations as may be prescribed, persons found on such an examination—
  - (i) to be suffering from pneumoconiosis or tuberculosis, or
  - (ii) to be unsuitable for such employment, having regard to the risk of pneumoconiosis and such other matters affecting their susceptibility to pneumoconiosis as may be prescribed;
- (c) for the disqualification for the receipt of benefit as defined in section 122 of the Contributions and Benefits Act in respect of pneumoconiosis of any person who fails without good cause to submit himself to any such examination or to furnish information required by the regulations or who engages in any employment from which he has been suspended as mentioned in paragraph (b) above;
- (d) for requiring employers—
  - (i) to provide facilities for such examinations,
  - (ii) not to employ in any occupation a person who has been suspended as mentioned in paragraph (b) above from employment in that occupation or who has failed without good cause to submit himself to such an examination,
  - (iii) to give to such officer as may be prescribed the prescribed notice of the commencement of any prescribed industry or process;
- (e) for the recovery on summary conviction of monetary penalties in respect of any contravention of or failure to comply with any such requirement as is mentioned in paragraph (d) above, so, however, that such penalties shall not exceed £5.00 for every day on which the contravention or failure occurs or continues;
- (f) for such matters as appear to the Secretary of State to be incidental to or consequential on provisions included in the regulations by virtue of paragraphs (a) to (d) above or section 110(1) of the Contributions and Benefits Act.

---

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

---

*Workmen's compensation etc.*

**185 Administration of workmen's compensation etc**

- (1) Schedule 9 to this Act shall have effect in relation to schemes under paragraphs 2 and 4 of Schedule 8 to the Contributions and Benefits Act.
- (2) Regulations may provide for applying in relation to payments under Part II of that Schedule the provisions of this Act relating to the making of claims and the determination of claims and questions in so far as those provisions apply in relation to—
  - (a) an unemployability supplement;
  - (b) an increase of a disablement pension in respect of a child or adult dependant;  
or
  - (c) an increase of a disablement pension in respect of the need for constant attendance or exceptionally severe disablement,(as the case may be) subject to any additions or modifications.

*Supplementary benefit etc.*

**186 Application of provisions of Act to supplementary benefit etc**

Schedule 10 to this Act shall have effect for the purpose of making provision in relation to the benefits there mentioned.

*Miscellaneous*

**187 Certain benefit to be inalienable**

- (1) Subject to the provisions of this Act, every assignment of or charge on—
  - (a) benefit as defined in section 122 of the Contributions and Benefits Act;
  - (b) any income-related benefit; or
  - (c) child benefit,and every agreement to assign or charge such benefit shall be void; and, on the bankruptcy of a beneficiary, such benefit shall not pass to any trustee or other person acting on behalf of his creditors.
- (2) In the application of subsection (1) above to Scotland—
  - (a) the reference to assignment of benefit shall be read as a reference to assignation, “assign” being construed accordingly;
  - (b) the reference to a beneficiary's bankruptcy shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 41 of the Solicitors (Scotland) Act 1980.
- (3) In calculating for the purposes of section 5 of the Debtors Act 1869 or section 4 of the Civil Imprisonment (Scotland) Act 1882 the means of any beneficiary, no account shall be taken of any increase of disablement benefit in respect of a child or of industrial death benefit.

## **188 Exemption from stamp duty**

- (1) Stamp duty shall not be chargeable on any document to which this subsection applies.
- (2) Subsection (1) above applies to any document authorised by virtue—
  - (a) of Parts I to VI of the Contributions and Benefits Act; or
  - (b) of any provision of this Act so far as it operates in relation to matters to which those Parts relate,or otherwise required in order to give effect to those Parts or to any such provision so far as it so operates or in connection with any description of business thereunder.
- (3) Stamp duty shall not be chargeable—
  - (a) upon such documents used in connection with business under paragraphs 2 and 3 of Schedule 8 to the Contributions and Benefits Act and paragraph 1 of Schedule 9 to this Act as may be specified in a scheme made under paragraph 2 of Schedule 8 to the Contributions and Benefits Act; or
  - (b) upon such documents used in connection with business under paragraphs 4 to 6 of that Schedule and paragraph 2 of Schedule 9 to this Act as may be specified in a scheme made under paragraph 4 of Schedule 8 to the Contributions and Benefits Act.

## **PART XVI**

### **GENERAL**

#### *Subordinate legislation*

## **189 Regulations and orders - general**

- (1) Subject to subsection (2) below and to any other express provision of this Act, regulations and orders under this Act shall be made by the Secretary of State.
- (2) Regulations with respect to proceedings before the Commissioners (whether for the determination of any matter or for leave to appeal to or from the Commissioners) shall be made by the Lord Chancellor.
- (3) Powers under this Act to make regulations or orders are exercisable by statutory instrument.
- (4) Except in the case of regulations under section 24 or 175 above and in so far as this Act otherwise provides, any power conferred by this Act to make an Order in Council, 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;

---

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

---

(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 an Order in Council, 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.

- (5) Without prejudice to any specific provision in this Act, a power conferred by this Act to make an Order in Council, regulations or an order (other than the power conferred by section 24 above) includes power to make thereby such incidental, supplementary, consequential or transitional provision as appears to Her Majesty, or the authority making the regulations or order, as the case may be, to be expedient for the purposes of the Order in Council, regulations or order.
- (6) Without prejudice to any specific provisions in this Act, a power conferred by any provision of this Act, except sections 14, 24, 130 and 175, to make an Order in Council, regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.
- (7) Any power conferred by this Act to make orders or regulations relating to housing benefit or community charge benefits shall include power to make different provision for different areas.
- (8) An order under section 135, 140, 150, 152, 165(4) or 169 above and regulations prescribing relevant benefits for the purposes of Part IV of this Act or under section 85 above shall not be made without the consent of the Treasury.
- (9) Any power of the Secretary of State under any provision of this Act, except under sections 80, 154, 175 and 178, 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.
- (10) Where the Lord Chancellor proposes to make regulations under this Act, other than under section 24 above, it shall be his duty to consult the Lord Advocate with respect to the proposal.
- (11) A power under any of sections 177 to 179 above to make provision by regulations or Order in Council for modifications or adaptations of the Contributions and Benefits Act or this Act shall be exercisable in relation to any enactment passed after this Act which is directed to be construed as one with them, except in so far as any such enactment relates to a benefit in relation to which the power is not exercisable; 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.
- (12) Any reference in this section or section 190 below to an Order in Council, or an order or regulations, under this Act includes a reference to an Order in Council, 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.

## **190 Parliamentary control of orders and regulations**

- (1) Subject to the provisions of this section, a statutory instrument containing (whether alone or with other provisions)—
- (a) an order under section 141, 143, 145, 146, 150, 152 or 162(7) above; or
  - (b) regulations under section 102(2) or 154 above,
- shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House of Parliament.
- (2) Subsection (1) above does not apply to a statutory instrument by reason only that it contains regulations under section 154 above which are to be made for the purpose of consolidating regulations to be revoked in the instrument.
- (3) A statutory instrument—
- (a) which contains (whether alone or with other provisions) orders or regulations made under this Act by the Secretary of State; and
  - (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument—
- (a) which contains (whether alone or with other provisions) regulations made under this Act by the Lord Chancellor; and
  - (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### *Supplementary*

## **191 Interpretation - general**

In this Act, unless the context otherwise requires—

- “the 1975 Act” means the Social Security Act 1975;
- “the 1986 Act” means the Social Security Act 1986;
- “benefit” means benefit under the Contributions and Benefits Act;
- “chargeable financial year” and “charging authority” have the same meanings as in the Local Government Finance Act 1988;
- “Christmas bonus” means a payment under Part X of the Contributions and Benefits Act;
- “claim” is to be construed in accordance with “claimant”;
- “claimant” (in relation to contributions under Part I and to benefit under Parts II to IV of the Contributions and Benefits Act) means—
  - (a) a person whose right to be excepted from liability to pay, or to have his liability deferred for, or to be credited with, a contribution, is in question;
  - (b) and includes, in relation to an award or decision a beneficiary under the award or affected by the decision;
- “claimant” (in relation to industrial injuries benefit) means a person who has claimed such a benefit and includes—

---

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

---

- (a) an applicant for a declaration under section 44 above that an accident was or was not an industrial accident; and
- (b) in relation to an award or decision, a beneficiary under the award or affected by the decision;

“Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner and includes a tribunal of 3 Commissioners constituted under section 57 above;

“compensation payment” and “compensator” have the meanings assigned to them respectively by sections 81 and 82 above;

“the Consequential Provisions Act” means the Social Security (Consequential Provisions) Act 1992;

“contribution card” has the meaning assigned to it by section 114(6) above;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;

“disablement benefit” is to be construed in accordance with section 94(2)(a) of the Contributions and Benefits Act;

“the disablement questions” is to be construed in accordance with section 45 above;

“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;

“5 year general qualification” is to be construed in accordance with section 71 of the Courts and Legal Services Act 1990;

“housing authority” means a local authority, a new town corporation, Scottish Homes or the Development Board for Rural Wales;

“housing benefit scheme” is to be construed in accordance with section 134(1) above;

“income-related benefit” means—

- (a) income support;
- (b) family credit;
- (c) disability working allowance;
- (d) housing benefit; and
- (e) community charge benefits;

“industrial injuries benefit” means benefit under Part V of the Contributions and Benefits Act, other than under Schedule 8;

“invalidity benefit” has the meaning assigned to it by section 20(1)(c) of that Act;

“levying authority” has the same meaning as in the Abolition of Domestic Rates Etc. (Scotland) Act 1987;

“local authority” means—

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

“medical examination” includes bacteriological and radiographical tests and similar investigations, and “medically examined” has a corresponding meaning;

“medical practitioner” means—



---

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

---

- (a) a registered medical practitioner; or
- (b) a person outside the United Kingdom who is not a registered medical practitioner, but has qualifications corresponding (in the Secretary of State's opinion) to those of a registered medical practitioner;

“medical treatment” means medical, surgical or rehabilitative treatment (including any course of diet or other regimen), and references to a person receiving or submitting himself to medical treatment are to be construed accordingly;

“new town corporation” means—

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

“the Northern Ireland Department” means the Department of Health and Social Services for Northern Ireland;

“the Northern Ireland Administration Act” means the Social Security (Northern Ireland) Administration Act 1992;

“occupational pension scheme” has the same meaning as in section 66(1) of the Pensions Act;

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

“Old Cases payments” means payments under Part I of Schedule 8 to the Contributions and Benefits Act;

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

“personal pension scheme” has the meaning assigned to it by section 84(1) of the 1986 Act;

“prescribe” means prescribe by regulations;

“President” means the President of social security appeal tribunals, disability appeal tribunals and medical appeal tribunals;

“rate rebate”, “rent rebate” and “rent allowance” shall be construed in accordance with section 134 above;

“rates”, in relation to England and Wales, has the same meaning as in the General Rate Act 1967 and, in relation to Scotland, the meaning given to “rate” by section 26(2)(a) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987;

“rating authority”, in relation to England and Wales, has the same meaning as in the the General Rate Act 1967 and, in relation to Scotland, the meaning given by section 109 of the Local Government (Scotland) Act 1973;

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

“10 year general qualification” is to be construed in accordance with section 71 of the Courts and Legal Services Act 1990; and

“widow's benefit” has the meaning assigned to it by section 20(1)(e) of the Contributions and Benefits Act.

## **192 Short title, commencement and extent**

- (1) This Act may be cited as the Social Security Administration Act 1992.

---

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

---

- (2) This Act is to be read, where appropriate, with the Contributions and Benefits Act and the Consequential Provisions Act.
- (3) The enactments consolidated by this Act are repealed, in consequence of the consolidation, by the Consequential Provisions Act.
- (4) Except as provided in Schedule 4 to the Consequential Provisions Act, this Act shall come into force on 1st July 1992.
- (5) The following provisions extend to Northern Ireland—
  - section 24;
  - section 101;
  - section 170 (with Schedule 5);
  - section 177 (with Schedule 8); and
  - this section.
- (6) Except as provided by this section, this Act does not extend to Northern Ireland.