



# Social Security Act 1998

## 1998 CHAPTER 14

### PART III

#### BENEFITS

##### *Amendments etc. of Contributions and Benefits Act*

#### **67 Daily rate of maternity allowance**

In subsection (5) of section 35 of the Contributions and Benefits Act (maternity allowance), for paragraphs (a) and (b) there shall be substituted the words “the amount payable by way of that allowance for any day shall be taken as one seventh of the weekly rate of the allowance”.

#### **68 Rates of short-term incapacity benefit**

For subsection (4) of section 44 of the Contributions and Benefits Act (Category A retirement pension) there shall be substituted the following subsection—

“(4) The weekly rate of the basic pension shall be £64.70 except that, so far as the sum is relevant for the purpose of calculating the lower rate of short-term incapacity benefit under section 30B(3) above, it shall be £62.05.

In this subsection “the lower rate” means the rate payable for the first 196 days of entitlement in any period of incapacity for work.”

#### **69 Validation of certain housing benefit determinations**

(1) Subject to subsections (3) and (4) below, in so far as a housing benefit determination made before 18th August 1997 purported to determine that housing benefit was payable in respect of—

- (a) charges for medical care, nursing care or personal care; or
- (b) charges for general counselling or any other support services,

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*Status: This is the original version (as it was originally enacted).*

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it shall be deemed to have been validly made if, on the assumption mentioned in subsection (2) below, it would have been so made.

- (2) The assumption is that, at all material times, such charges as are mentioned in subsection (1) above were eligible to be met by housing benefit where the claimant's right to occupy the dwelling was conditional on his payment of the charges.
- (3) Where the effect of a review carried out on or after 18th August 1997 was to revise the amount of housing benefit payable in respect of any validated charges—
  - (a) the revision shall be deemed not to have been validly made in so far as it had the effect of increasing that amount; and
  - (b) housing benefit shall cease to be payable in respect of those charges as from the beginning of the period for which the first payment of the revised amount of benefit was made.
- (4) Housing benefit shall not be payable in respect of any validated charges for any period falling after—
  - (a) 5th April 1998 where the rent is payable at intervals of a whole number of weeks; and
  - (b) 31st March 1998 in any other case.
- (5) In this section—

“the dwelling”, in relation to a housing benefit determination, means the dwelling in respect of which the determination was made;

“housing benefit determination” means a determination under section 130 of the Contributions and Benefits Act or the corresponding provisions of the Social Security Act 1986, or a decision on a review of such a determination;

“medical care” includes treatment or counselling related to mental disorder, mental handicap, physical disablement or past or present alcohol or drug dependence;

“personal care” includes assistance at meal-times or with personal appearance or hygiene;

“validated charges” means charges in respect of which housing benefit is payable only by virtue of subsection (1) above.

## **70 Discretionary payments out of social fund**

- (1) For subsection (1) of section 138 of the Contributions and Benefits Act (payments out of social fund) there shall be substituted the following subsection—
  - “(1) There may be made out of the social fund, in accordance with this Part of this Act—
    - (a) payments of prescribed amounts, whether in respect of prescribed items or otherwise, to meet, in prescribed circumstances, maternity expenses and funeral expenses; and
    - (b) payments by way of community care grant, crisis loan or budgeting loan to meet other needs in accordance with directions given or guidance issued by the Secretary of State.”
- (2) After subsection (4) of that section there shall be inserted the following subsection—
  - “(5) In this Part—

“budgeting loan” means a loan awarded in circumstances specified in directions issued by the Secretary of State for the purpose of defraying an intermittent expense;

“community care grant” means a grant awarded in circumstances so specified for the purpose of meeting a need for community care;

“crisis loan” means a loan awarded in circumstances so specified for the purpose of meeting an immediate short term need;

and any reference in this subsection to meeting a need or defraying an expense includes a reference to helping to meet the need or to defray the expense.”

## **71 Budgeting loans: criteria for making awards**

(1) In subsection (1) of section 140 of the Contributions and Benefits Act (social fund: principles of determination), after the word “award” there shall be inserted the words “of a community care grant or a crisis loan”.

(2) After that subsection there shall be inserted the following subsection—

“(1A) Subject to subsection (2) below, in determining whether to make an award of a budgeting loan to the applicant, or the amount or value to be awarded, an appropriate officer shall have regard to—

(a) such of the applicant’s personal circumstances as are of a description specified in directions issued by the Secretary of State; and

(b) the criteria specified in paragraphs (b) to (e) of subsection (1) above; but where the criterion mentioned in paragraph (a) above would preclude the award of such a loan, the appropriate officer shall have regard instead to such other criterion as may be specified in directions so issued.”

(3) In subsection (4) of that section, paragraph (e) shall cease to have effect and after paragraph (a) there shall be inserted the following paragraph—

“(aa) that in circumstances specified in the direction an application for an award of a community care grant may be treated as an application for an award of a crisis loan, and vice versa;”.

## **72 Power to reduce child benefit for lone parents**

(1) Regulations may revoke any provision of regulations which prescribes a higher rate of child benefit in the case of a lone parent, notwithstanding anything in section 145(4) of the Contributions and Benefits Act (which precludes regulations from prescribing a rate lower than the rate it replaces).

(2) In this section “lone parent” means a parent who—

(a) has no spouse or is not living with his spouse; and

(b) is not living with any other person as his spouse.

## **73 Statutory sick pay not precluded by maternity allowance**

In paragraph 2(d) of Schedule 11 to the Contributions and Benefits Act (circumstances in which periods of entitlement to statutory sick pay do not arise), the words “(ii) she was entitled to a maternity allowance, or” shall cease to have effect.

*Amendments of Administration Act*

**74 Provision of information**

In subsection (1) of section 5 of the Administration Act (regulations about claims for and payments of benefit), there shall be inserted after paragraph (h) the following paragraph—

- “(hh) for requiring such person as may be prescribed in accordance with the regulations to furnish any information or evidence needed for a determination whether a decision on an award of benefit to which this section applies—
- (i) should be revised under section 9 of the Social Security Act 1998; or
  - (ii) should be superseded under section 10 of that Act;”.

**75 Overpayments out of social fund**

- (1) After section 71 of the Administration Act there shall be inserted the following section—

**“71ZA Overpayments out of social fund**

- (1) Subject to subsection (2) below, section 71 above shall apply in relation to social fund payments to which this section applies as it applies in relation to payments made in respect of benefits to which that section applies.
- (2) Section 71 above as it so applies shall have effect as if—
- (a) in paragraph (a) of subsection (5) and subsection (5A), for the words “reversed or varied on an appeal or has been revised under section 9 or superseded under section 10” there were substituted the words “revised on a review under section 38”;
  - (b) in paragraph (b) of subsection (5), for the words “on the appeal or under that section” there were substituted the words “on the review”; and
  - (c) subsections (7), (10A) and (10B) were omitted.
- (3) This section applies to social fund payments such as are mentioned in section 138(1)(b) of the Contributions and Benefits Act.”
- (2) This section applies where such a determination as is mentioned in section 71(1) of the Administration Act is made in relation to a social fund payment—
- (a) to which section 71ZA of that Act applies; and
  - (b) which is made on or after the day on which this section comes into force.

**76 Power to anticipate pensions up-rating order**

After section 155 of the Administration Act there shall be inserted the following section—

**“155A Power to anticipate pensions up-rating order**

- (1) This section applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—
  - (a) the amounts by which he proposes, by an order under section 150 above, to increase—
    - (i) the weekly sums that are payable by way of retirement pension;  
or
    - (ii) the amount of graduated retirement benefit payable for each unit of graduated contributions; and
  - (b) the date on which he proposes to bring the increases into force (“the commencing date”).
- (2) Where, before the commencing date and after the date on which the statement is made, an award is made of a retirement pension or a graduated retirement benefit, the award either may provide for the pension or benefit to be paid as from the commencing date at the increased rate or may be expressed in terms of the rate appropriate at the date of the award.”