



# Welfare Reform and Pensions Act 1999

## 1999 CHAPTER 30

### PART V

#### WELFARE

### CHAPTER I

#### SOCIAL SECURITY BENEFITS

##### *Additional pensions*

#### **52 Preservation of rights in respect of additional pensions**

- (1) The Secretary of State may by regulations make such provision as is authorised by one or more of subsections (2) to (4).
- (2) The regulations may provide for any prescribed provision of Part II of the Contributions and Benefits Act (contributory benefits) which relates to additional pension for widows or widowers to have effect, in relation to persons of any prescribed description, with such modifications as may be prescribed for securing—
  - (a) that any such additional pension, or
  - (b) in the case of any provision of Schedule 5 to that Act (increase of pension where entitlement is deferred), that any constituent element of an increase provided for by that Schedule,is increased by such percentage as may be prescribed (which may be 100 per cent.).
- (3) The regulations may amend (or further amend) any prescribed provision of Part II of the Contributions and Benefits Act falling within subsection (2) by substituting for any reference to the year 2000 (or any year previously substituted by virtue of this subsection) a reference to such later year as may be prescribed.
- (4) The regulations may make provision for and in connection with—

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- (a) the establishment, for a prescribed period, of a scheme for dealing with claims made by persons on the grounds that, in reliance on any incorrect or incomplete information provided by a government department with respect to the SERPS reduction (however that information came to their knowledge), they—
    - (i) failed to take any, or any particular, relevant steps which they would have taken, or
    - (ii) took any steps which they would not have taken,
 had they instead received correct and complete information with respect to that reduction; and
  - (b) securing that, where persons have made successful claims under the scheme, surviving spouses of those persons (or, as the case may be, those persons themselves) will not be affected by the SERPS reduction.
- (5) In subsection (4) “relevant steps”, in relation to a person, means steps towards safeguarding the financial position of that person’s spouse in the event of the spouse becoming that person’s surviving spouse or (as the case may be) towards safeguarding that person’s own financial position in the event of that person becoming a surviving spouse (whether or not, in either case, that person was at any material time already married); and “the SERPS reduction” means—
- (a) (in the context of subsection (4)(a)) the operation of any of—
    - (i) the provisions of section 19 of the Social Security Act 1986, or
    - (ii) the provisions of Part II of the Contributions and Benefits Act reproducing the effect of those provisions;
  - (b) (in the context of subsection (4)(b)) the operation of any of the provisions of the Contributions and Benefits Act mentioned in paragraph (a)(ii) above or of section 39C(4) or 48BB(7) of that Act.
- (6) Regulations under subsection (4) may, in particular, make provision—
- (a) with respect to the time within which, and the manner in which, claims under the scheme are to be made;
  - (b) for requiring claimants—
    - (i) to supply such information in connection with their claims as may be prescribed or reasonably requested by any person for the purpose of dealing with their claims,
    - (ii) to attend interviews at such time and place as may be reasonably specified by any person for that purpose;
  - (c) for a claim to be disallowed where the claimant fails to comply with a requirement imposed by virtue of paragraph (a) or (b) above and does not show within the prescribed period that he had good cause for that failure;
  - (d) prescribing—
    - (i) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any failure to comply with any such requirement, or
    - (ii) circumstances in which a person is or is not to be regarded as having or not having good cause for any such failure;
  - (e) prescribing the conditions which must be satisfied in relation to any claim in order for it to be a successful claim under the scheme;
  - (f) with respect to—

- (i) the manner in which decisions under the scheme are to be made (which may include authorising decisions of any prescribed description to be made by a computer), and
    - (ii) the time within which, and the manner in which, such decisions are to be notified to claimants;
  - (g) for provisions of Chapter II of Part I of the Social Security Act 1998 (social security decisions and appeals) to apply in relation to decisions under the scheme with such modifications as may be prescribed;
  - (h) for provisions of Part II of the Contributions and Benefits Act to apply in relation to—
    - (i) surviving spouses of persons who have made successful claims under the scheme, or
    - (ii) persons who have themselves made such claims,
 with such modifications as may be prescribed.
- (7) If no regulations under this section are in force on 6th April 2000, then until such time as any such regulations come into force—
- (a) any provisions of Part II of the Contributions and Benefits Act which (whether alone or together with other provisions) would otherwise result in a reduction of one-half in the amount payable by way of additional pension in cases where a person’s spouse dies after 5th April 2000 shall be taken—
    - (i) as not applying, or
    - (ii) as providing for the full amount to be payable by way of additional pension,
 as the case may require; and
  - (b) in Schedule 5 to that Act—
    - (i) any provision which is expressed to apply in relation to deaths occurring after that date shall not apply, and
    - (ii) any provision which (with or without any other limitation) is expressed to apply in relation to deaths occurring before 6th April 2000 shall be taken as applying also in relation to deaths occurring on or after that date.
- (8) No regulations shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (9) In this section “prescribed” means prescribed by regulations under subsection (2), (3) or (4), as the case may be.

### *State maternity allowance*

## **53 Extension of entitlement to state maternity allowance**

- (1) In section 35 of the Contributions and Benefits Act (state maternity allowance), for subsections (1) and (1A) there shall be substituted—
- “(1) A woman shall be entitled to a maternity allowance, at the appropriate weekly rate determined under section 35A below, if—
- (a) she has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement; and

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- (b) she has been engaged in employment as an employed or self-employed earner for any part of the week in the case of at least 26 of the 66 weeks immediately preceding the expected week of confinement; and
  - (c) (within the meaning of section 35A) her average weekly earnings are not less than the maternity allowance threshold; and
  - (d) she is not entitled to statutory maternity pay for the same week in respect of the same pregnancy.”
- (2) In subsection (3) of that section—
- (a) for “Schedule 3, Part I, paragraph 3” there shall be substituted “section 35A below”; and
  - (b) for “and (c) above” there shall be substituted “above or in section 35A(2) or (3) below”.
- (3) After that section there shall be inserted—

**“35A Appropriate weekly rate of maternity allowance**

- (1) For the purposes of section 35(1) above the appropriate weekly rate is that specified in whichever of subsection (2) or (3) below applies.
- (2) Where the woman’s average weekly earnings are not less than the lower earnings limit for the relevant tax year, the appropriate weekly rate is a weekly rate equal to the lower rate of statutory maternity pay for the time being prescribed under section 166(3) below.
- (3) Where the woman’s average weekly earnings—
  - (a) are less than the lower earnings limit for the relevant tax year, but
  - (b) are not less than the maternity allowance threshold for that tax year,
 the appropriate weekly rate is a weekly rate equivalent to 90 per cent. of her average weekly earnings or (if lower) the rate specified in subsection (2) above.
- (4) For the purposes of this section a woman’s “average weekly earnings” shall be taken to be the average weekly amount (as determined in accordance with regulations) of specified payments which—
  - (a) were made to her or for her benefit as an employed earner, or
  - (b) are (in accordance with regulations) to be treated as made to her or for her benefit as a self-employed earner,
 during the specified period.
- (5) Regulations may, for the purposes of subsection (4) above, provide—
  - (a) for the amount of any payments falling within paragraph (a) or (b) of that subsection to be calculated or estimated in such manner and on such basis as may be prescribed;
  - (b) for a payment made outside the specified period to be treated as made during that period where it was referable to that period or any part of it;
  - (c) for a woman engaged in employment as a self-employed earner to be treated as having received a payment in respect of a week—

- (i) equal to the lower earnings limit in force on the last day of the week, if she paid a Class 2 contribution in respect of the week, or
  - (ii) equal to the maternity allowance threshold in force on that day, if she was excepted (under section 11(4) above) from liability for such a contribution in respect of the week;
  - (d) for aggregating payments made or treated as made to or for the benefit of a woman where, either in the same week or in different weeks, she was engaged in two or more employments (whether, in each case, as an employed earner or a self-employed earner).
- (6) In this section—
- (a) “the maternity allowance threshold”, in relation to a tax year, means (subject to subsection (7) below) £30;
  - (b) “the relevant tax year” means the tax year in which the beginning of the period of 66 weeks mentioned in section 35(1)(b) above falls; and
  - (c) “specified” (except in subsections (7) and (8) below) means prescribed by or determined in accordance with regulations.
- (7) The Secretary of State may, in relation to any tax year after 1999-2000, by order increase the amount for the time being specified in subsection (6)(a) above to such amount as is specified in the order.
- (8) When deciding whether, and (if so) by how much, to increase the amount so specified the Secretary of State shall have regard to the movement, over such period as he thinks fit, in the general level of prices obtaining in Great Britain (estimated in such manner as he thinks fit); and the Secretary of State shall in each tax year carry out such a review of the amount so specified as he thinks fit.”
- (4) This section applies in relation to the payment of maternity allowance in cases where a woman’s expected week of confinement (within the meaning of section 35 of the Contributions and Benefits Act) begins on or after 20th August 2000.

*Benefits for widows and widowers*

## 54 Bereavement payments

- (1) For section 36 of the Contributions and Benefits Act there shall be substituted—

**“36 Bereavement payment**

- (1) A person whose spouse dies on or after the appointed day shall be entitled to a bereavement payment if—
- (a) either that person was under pensionable age at the time when the spouse died or the spouse was then not entitled to a Category A retirement pension under section 44 below; and
  - (b) the spouse satisfied the contribution condition for a bereavement payment specified in Schedule 3, Part I, paragraph 4.

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- (2) A bereavement payment shall not be payable to a person if that person and a person of the opposite sex to whom that person was not married were living together as husband and wife at the time of the spouse's death.
- (3) In this section "the appointed day" means the day appointed for the coming into force of sections 54 to 56 of the Welfare Reform and Pensions Act 1999."
- (2) In Schedule 4 to the Contributions and Benefits Act (rates of benefits etc.), for Part II there shall be substituted—

**“PART II**

BEREAVEMENT PAYMENT

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Bereavement payment.	£2,000.00.”
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**55 New allowances for bereaved spouses**

- (1) After section 36 of the Contributions and Benefits Act there shall be inserted—

**“36A Cases in which sections 37 to 41 apply**

- (1) Sections 37 to 39 and section 40 below apply only in cases where a woman's husband has died before the appointed day, and section 41 below applies only in cases where a man's wife has died before that day.
- (2) Sections 39A to 39C below apply in cases where a person's spouse dies on or after the appointed day, but section 39A also applies (in accordance with subsection (1)(b) of that section) in cases where a man's wife has died before that day.
- (3) In this section, and in sections 39A and 39B below, "the appointed day" means the day appointed for the coming into force of sections 54 to 56 of the Welfare Reform and Pensions Act 1999.”
- (2) After section 39 of the Contributions and Benefits Act there shall be inserted—

**“39A Widowed parent's allowance**

- (1) This section applies where—
- (a) a person whose spouse dies on or after the appointed day is under pensionable age at the time of the spouse's death, or
  - (b) a man whose wife died before the appointed day—
    - (i) has not remarried before that day, and
    - (ii) is under pensionable age on that day.
- (2) The surviving spouse shall be entitled to a widowed parent's allowance at the rate determined in accordance with section 39C below if the deceased spouse satisfied the contribution conditions for a widowed parent's allowance specified in Schedule 3, Part I, paragraph 5 and—

- (a) the surviving spouse is entitled to child benefit in respect of a child falling within subsection (3) below; or
  - (b) the surviving spouse is a woman who either—
    - (i) is pregnant by her late husband, or
    - (ii) if she and he were residing together immediately before the time of his death, is pregnant in circumstances falling within section 37(1)(c) above.
- (3) A child falls within this subsection if one of the conditions specified in section 81(2) below is for the time being satisfied with respect to the child and the child is either—
- (a) a son or daughter of the surviving spouse and the deceased spouse; or
  - (b) a child in respect of whom the deceased spouse was immediately before his or her death entitled to child benefit; or
  - (c) if the surviving spouse and the deceased spouse were residing together immediately before his or her death, a child in respect of whom the surviving spouse was then entitled to child benefit.
- (4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries, but, subject to that, the surviving spouse shall continue to be entitled to it for any period throughout which she or he—
- (a) satisfies the requirements of subsection (2)(a) or (b) above; and
  - (b) is under pensionable age.
- (5) A widowed parent's allowance shall not be payable—
- (a) for any period falling before the day on which the surviving spouse's entitlement is to be regarded as commencing by virtue of section 5(1)(k) of the Administration Act; or
  - (b) for any period during which the surviving spouse and a person of the opposite sex to whom she or he is not married are living together as husband and wife.

### **39B Bereavement allowance where no dependent children**

- (1) This section applies where a person whose spouse dies on or after the appointed day is over the age of 45 but under pensionable age at the spouse's death.
- (2) The surviving spouse shall be entitled to a bereavement allowance at the rate determined in accordance with section 39C below if the deceased spouse satisfied the contribution conditions for a bereavement allowance specified in Schedule 3, Part I, paragraph 5.
- (3) A bereavement allowance shall be payable for not more than 52 weeks beginning with the date of the spouse's death or (if later) the day on which the surviving spouse's entitlement is to be regarded as commencing by virtue of section 5(1)(k) of the Administration Act.
- (4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries, but, subject to that, the surviving spouse shall continue to be entitled to it until—
  - (a) she or he attains pensionable age, or

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(b) the period of 52 weeks mentioned in subsection (3) above expires, whichever happens first.

(5) The allowance shall not be payable—

- (a) for any period for which the surviving spouse is entitled to a widowed parent's allowance; or
- (b) for any period during which the surviving spouse and a person of the opposite sex to whom she or he is not married are living together as husband and wife.

### **39C Rate of widowed parent's allowance and bereavement allowance**

- (1) The weekly rate of a widowed parent's allowance shall be determined in accordance with the provisions of sections 44 to 45A below as they apply in the case of a Category A retirement pension, but subject, in particular, to the following provisions of this section and section 46(2) below.
- (2) The weekly rate of a bereavement allowance shall be determined in accordance with the provisions of section 44 below as they apply in the case of a Category A retirement pension so far as consisting only of the basic pension referred to in subsection (3)(a) of that section, but subject, in particular, to the following provisions of this section.
- (3) In the application of sections 44 to 45A or (as the case may be) section 44 below by virtue of subsection (1) or (2) above—
  - (a) where the deceased spouse was over pensionable age at his or her death, references in those sections to the pensioner shall be taken as references to the deceased spouse, and
  - (b) where the deceased spouse was under pensionable age at his or her death, references in those sections to the pensioner and the tax year in which he attained pensionable age shall be taken as references to the deceased spouse and the tax year in which he or she died.
- (4) Where a widowed parent's allowance is payable to a person whose spouse dies after 5th April 2000, the additional pension falling to be calculated under sections 44 to 45A below by virtue of subsection (1) above shall be one half of the amount which it would be apart from this subsection.
- (5) Where a bereavement allowance is payable to a person who was under the age of 55 at the time of the spouse's death, the weekly rate of the allowance shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied by the number of years by which that person's age at that time was less than 55 (any fraction of a year being counted as a year)."

## **56 Entitlement to Category B retirement pension by reference to new allowances**

After section 48B of the Contributions and Benefits Act there shall be inserted—

### **“48BB Category B retirement pension: entitlement by reference to benefits under section 39A or 39B**

- (1) Subsection (2) below applies where a person (“the pensioner”) who has attained pensionable age—

- (a) was, immediately before attaining that age, entitled to a widowed parent's allowance in consequence of the death of his or her spouse; and
  - (b) has not remarried.
- (2) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse, which shall be payable at the same weekly rate as the widowed parent's allowance.
- (3) Subsections (4) to (10) below apply where a person ("the pensioner") who has attained pensionable age—
  - (a) was in consequence of the death of his or her spouse either—
    - (i) entitled to a bereavement allowance at any time prior to attaining that age, or
    - (ii) entitled to a widowed parent's allowance at any time when over the age of 45 (but not immediately before attaining pensionable age); and
  - (b) has not remarried.
- (4) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse.
- (5) A Category B retirement pension payable by virtue of subsection (4) above shall be payable at a weekly rate corresponding to the weekly rate of the additional pension determined in accordance with the provisions of sections 44 to 45A above as they apply in relation to a Category A retirement pension, but subject, in particular, to the following provisions of this section and section 46(2) above.
- (6) Where the spouse died under pensionable age, references in the provisions of sections 44 to 45A above, as applied by subsection (5) above, to the tax year in which the pensioner attained pensionable age shall be taken as references to the tax year in which the spouse died.
- (7) Where the spouse dies after 5th April 2000, the pension payable by virtue of subsection (4) above shall (before making any reduction required by subsection (8) below) be one half of the amount which it would be apart from this subsection.
- (8) Where the pensioner was under the age of 55 at the relevant time, the weekly rate of the pension shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied—
  - (a) by the number of years by which the pensioner's age at that time was less than 55 (any fraction of a year being counted as a year), or
  - (b) by ten, if that number exceeds ten.
- (9) In subsection (8) above "the relevant time" means—
  - (a) where the pensioner became entitled to a widowed parent's allowance in consequence of the death of the spouse, the time when the pensioner's entitlement to that allowance ended; and
  - (b) otherwise, the time of the spouse's death.
- (10) The amount determined in accordance with subsections (5) to (9) above as the weekly rate of the pension payable to the pensioner by virtue of subsection (4) above shall be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date of the spouse's

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death until the date when the pensioner attained pensionable age, that weekly rate would have been increased during that period by virtue of any orders under section 150 of the Administration Act (annual up-rating of benefits).”

*Work-focused interviews*

**57 Claim or full entitlement to certain benefits conditional on work-focused interview**

After section 2 of the Administration Act there shall be inserted—

*“Work-focused interviews*

**2A Claim or full entitlement to certain benefits conditional on work-focused interview**

- (1) Regulations may make provision for or in connection with—
  - (a) imposing, as a condition falling to be satisfied by a person who—
    - (i) makes a claim for a benefit to which this section applies, and
    - (ii) is under the age of 60 at the time of making the claim,
 a requirement to take part in a work-focused interview;
  - (b) imposing, at a time when—
    - (i) a person is under that age and entitled to such a benefit, and
    - (ii) any prescribed circumstances exist,
 a requirement to take part in such an interview as a condition of that person continuing to be entitled to the full amount which is payable to him in respect of the benefit apart from the regulations.
- (2) The benefits to which this section applies are—
  - (a) income support;
  - (b) housing benefit;
  - (c) council tax benefit;
  - (d) widow’s and bereavement benefits falling within section 20(1)(e) and (ea) of the Contributions and Benefits Act (other than a bereavement payment);
  - (e) incapacity benefit;
  - (f) severe disablement allowance; and
  - (g) invalid care allowance.
- (3) Regulations under this section may, in particular, make provision—
  - (a) for securing, where a person would otherwise be required to take part in interviews relating to two or more benefits—
    - (i) that he is only required to take part in one interview, and
    - (ii) that any such interview is capable of counting for the purposes of all those benefits;
  - (b) for determining the persons by whom interviews are to be conducted;
  - (c) conferring power on such persons or the designated authority to determine when and where interviews are to take place (including

- power in prescribed circumstances to determine that they are to take place in the homes of those being interviewed);
- (d) prescribing the circumstances in which persons attending interviews are to be regarded as having or not having taken part in them;
  - (e) for securing that the appropriate consequences mentioned in subsection (4)(a) or (b) below ensue if a person who has been notified that he is required to take part in an interview—
    - (i) fails to take part in the interview, and
    - (ii) does not show, within the prescribed period, that he had good cause for that failure;
  - (f) prescribing—
    - (i) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any failure to comply with the regulations, or
    - (ii) circumstances in which a person is or is not to be regarded as having or not having good cause for any such failure.
- (4) For the purposes of subsection (3)(e) above the appropriate consequences of a failure falling within that provision are—
- (a) where the requirement to take part in an interview applied by virtue of subsection (1)(a) above, that as regards any relevant benefit either—
    - (i) the person in question is to be regarded as not having made a claim for the benefit, or
    - (ii) if (in the case of an interview postponed in accordance with subsection (7)) that person has already been awarded the benefit, his entitlement to the benefit is to terminate immediately;
  - (b) where the requirement to take part in an interview applied by virtue of subsection (1)(b) above, that the amount payable to the person in question in respect of any relevant benefit is to be reduced by the specified amount until the specified time.
- (5) Regulations under this section may, in relation to any such reduction, provide—
- (a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed;
  - (b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent;
  - (c) where the person in question is entitled to two or more relevant benefits, for determining the extent, and the order, in which those benefits are to be reduced in order to give effect to the reduction required in his case.
- (6) Regulations under this section may provide that any requirement to take part in an interview that would otherwise apply to a person by virtue of such regulations—
- (a) is, in any prescribed circumstances, either not to apply or not to apply until such time as is specified;
  - (b) is not to apply if the designated authority determines that an interview—
    - (i) would not be of assistance to that person, or
    - (ii) would not be appropriate in the circumstances;

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- (c) is not to apply until such time as the designated authority determines, if that authority determines that an interview—
- (i) would not be of assistance to that person, or
  - (ii) would not be appropriate in the circumstances,
- until that time;

and the regulations may make provision for treating a person in relation to whom any such requirement does not apply, or does not apply until a particular time, as having complied with that requirement to such extent and for such purposes as are specified.

(7) Where—

- (a) a person is required to take part in an interview by virtue of subsection (1)(a), and
- (b) the interview is postponed by or under regulations made in pursuance of subsection (6)(a) or (c),

the time to which it is so postponed may be a time falling after an award of the relevant benefit to that person.

(8) In this section—

“the designated authority” means such of the following as may be specified, namely—

- (a) the Secretary of State,
- (b) a person providing services to the Secretary of State,
- (c) a local authority,
- (d) a person providing services to, or authorised to exercise any function of, any such authority;

“interview” (in subsections (3) to (7)) means a work-focused interview;

“relevant benefit”, in relation to any person required to take part in a work-focused interview, means any benefit in relation to which that requirement applied by virtue of subsection (1)(a) or (b) above;

“specified” means prescribed by or determined in accordance with regulations;

“work-focused interview”, in relation to a person, means an interview conducted for such purposes connected with employment or training in the case of that person as may be specified;

and the purposes which may be so specified include purposes connected with a person’s existing or future employment or training prospects or needs, and (in particular) assisting or encouraging a person to enhance his employment prospects.

## **2B Supplementary provisions relating to work-focused interviews**

- (1) Chapter II of Part I of the Social Security Act 1998 (social security decisions and appeals) shall have effect in relation to relevant decisions subject to and in accordance with subsections (3) to (8) below (and in those subsections “the 1998 Act” means that Act).
- (2) For the purposes of this section a “relevant decision” is a decision made under regulations under section 2A above that a person—

- (a) has failed to comply with a requirement to take part in an interview which applied to him by virtue of the regulations, or
  - (b) has not shown, within the prescribed period mentioned in section 2A(3)(e)(ii) above, that he had good cause for such a failure.
- (3) Section 8(1)(c) of the 1998 Act (decisions falling to be made under or by virtue of certain enactments are to be made by the Secretary of State) shall have effect subject to any provisions of regulations under section 2A above by virtue of which relevant decisions fall to be made otherwise than by the Secretary of State.
- (4) For the purposes of each of sections 9 and 10 of the 1998 Act (revision and supersession of decisions of Secretary of State) any relevant decision made otherwise than by the Secretary of State shall be treated as if it were such a decision made by the Secretary of State (and accordingly may be revised by him under section 9 or superseded by a decision made by him under section 10).
- (5) Subject to any provisions of regulations under either section 9 or 10 of the 1998 Act, any relevant decision made, or (by virtue of subsection (4) above) treated as made, by the Secretary of State may be—
  - (a) revised under section 9 by a person or authority exercising functions under regulations under section 2A above other than the Secretary of State, or
  - (b) superseded under section 10 by a decision made by such a person or authority,as if that person or authority were the Secretary of State.
- (6) Regulations shall make provision for conferring (except in any prescribed circumstances) a right of appeal under section 12 of the 1998 Act (appeal to appeal tribunal) against—
  - (a) any relevant decision, and
  - (b) any decision under section 10 of that Act superseding any such decision,whether made by the Secretary of State or otherwise.
- (7) Subsections (4) to (6) above apply whether—
  - (a) the relevant decision, or
  - (b) (in the case of subsection (6)(b)) the decision under section 10 of the 1998 Act,is as originally made or has been revised (by the Secretary of State or otherwise) under section 9 of that Act; and regulations under subsection (6) above may make provision for treating, for the purposes of section 12 of that Act, any decision made or revised otherwise than by the Secretary of State as if it were a decision made or revised by him.
- (8) Section 12 of the 1998 Act shall not apply to any decision falling within subsection (6) above except in accordance with regulations under that subsection.
- (9) In the following provisions, namely—
  - (a) section 3(1) of the Social Security Act 1998 (use of information), and
  - (b) section 72(6) of the Welfare Reform and Pensions Act 1999 (supply of information),

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any reference to information relating to social security includes any information supplied by a person for the purposes of an interview which he is required to take part in by virtue of section 2A above.

- (10) In this section “interview” means a work-focused interview within the meaning of section 2A above.”

## **58 Optional work-focused interviews**

After section 2B of the Administration Act (inserted by section 57 above) there shall be inserted—

### **“2C Optional work-focused interviews**

- (1) Regulations may make provision for conferring on local authorities functions in connection with conducting work-focused interviews in cases where such interviews are requested or consented to by persons to whom this section applies.
- (2) This section applies to persons making claims for or entitled to—
  - (a) any of the benefits listed in section 2A(2) above, or
  - (b) any prescribed benefit;
 and it so applies regardless of whether such persons have, in accordance with regulations under section 2A above, already taken part in interviews conducted under such regulations.
- (3) The functions which may be conferred on a local authority by regulations under this section include functions relating to—
  - (a) the obtaining and receiving of information for the purposes of work-focused interviews conducted under the regulations;
  - (b) the recording and forwarding of information supplied at, or for the purposes of, such interviews;
  - (c) the taking of steps to identify potential employment or training opportunities for persons taking part in such interviews.
- (4) Regulations under this section may make different provision for different areas or different authorities.
- (5) In this section “work-focused interview”, in relation to a person to whom this section applies, means an interview conducted for such purposes connected with employment or training in the case of such a person as may be prescribed; and the purposes which may be so prescribed include—
  - (a) purposes connected with the existing or future employment or training prospects or needs of such a person, and
  - (b) (in particular) assisting or encouraging such a person to enhance his employment prospects.”

### *Jobseeker's allowance*

#### **59 Couples to make joint claim for allowance**

Schedule 7 (which makes provision in connection with requiring certain couples to make joint claims for an income-based jobseeker's allowance) shall have effect.

#### **60 Special schemes for claimants for jobseeker's allowance**

- (1) The Secretary of State may by regulations make provision for or in connection with the participation of claimants for a jobseeker's allowance in schemes of any prescribed description, being schemes established for designated areas in Great Britain (or for the whole of Great Britain) and designed to assist such persons to obtain sustainable employment.
- (2) Regulations under this section may, in particular, make provision—
  - (a) for the imposition during any prescribed period, as additional conditions for entitlement to a jobseeker's allowance applying in the case of persons participating in schemes, of requirements to take steps determined in accordance with the regulations with a view to improving those persons' prospects of securing employment;
  - (b) for the suspension, during any prescribed period, of any prescribed conditions that would otherwise apply to such persons.
- (3) Regulations under this section may make provision for any provisions of the Jobseekers Act 1995 to apply for the purposes of the regulations subject to prescribed modifications.
- (4) The provisions of that Act which may be so applied include in particular any provisions of—
  - (a) section 19 or 20A (circumstances in which jobseeker's allowance is not payable); or
  - (b) section 20 or 20B (exemptions from section 19 or 20A).
- (5) The Secretary of State may for the purposes of, or in connection with, any scheme—
  - (a) make such arrangements (whether or not with other persons) for the provision of any facilities,
  - (b) provide such support (by whatever means) for arrangements made by other persons for the provision of any facilities,
  - (c) make such payments—
    - (i) by way of fees, grants, loans or otherwise, to persons undertaking the provision of facilities under arrangements within paragraph (a) or (b),
    - (ii) by way of grants, loans or otherwise, to persons participating in the scheme, or
    - (iii) in respect of any incidental expenses,as he considers appropriate.
- (6) For the purposes of, or in connection with, a scheme established for (or for an area which includes) Wales or a part of Wales, the National Assembly for Wales may, if it considers that facilities whose provision any person (including the Secretary of State) is undertaking under arrangements within subsection (5)(a) or (b) are capable of being

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supportive of the training of persons for employment, make such payments to that person as the Assembly considers appropriate; and any such payments—

- (a) may be by way of fees, grants, loans or otherwise, and
- (b) may, unless the Assembly otherwise specifies, be used by the person to whom they are made for the provision of any of the facilities provided under the arrangements.

(7) In subsections (5) and (6) “facilities” includes services, and any reference to the provision of facilities includes the making of payments to persons participating in the scheme.

(8) The power of the Secretary of State to make an order under section 26 of the Employment Act 1988 (status of trainees etc.) shall include power to make, in relation to—

- (a) persons participating in any scheme, and
- (b) payments received by them by virtue of subsection (5) above,

provision corresponding to any provision which (by virtue of subsection (1) or (2) of that section) may be made in relation to persons using such facilities, and to such payments received by them, as are mentioned in subsection (1) of that section.

(9) In this section—

- “designated” means designated by the Secretary of State;
- “employment” has the meaning given by regulations under this section;
- “prescribed” means specified in or determined in accordance with regulations under this section;
- “scheme” means a scheme such as is mentioned in subsection (1).

### *Incapacity for work*

## 61 **Incapacity for work: personal capability assessments**

For section 171C of the Contribution and Benefits Act there shall be substituted—

### **“171C Personal capability assessments**

- (1) Where the own occupation test is not applicable, or has ceased to apply, in the case of a person, the question whether the person is capable or incapable of work shall be determined in accordance with a personal capability assessment.
- (2) Provision shall be made by regulations—
  - (a) defining a personal capability assessment by reference to the extent to which a person who has some specific disease or bodily or mental disablement is capable or incapable of performing such activities as may be prescribed;
  - (b) as to the manner of assessing whether a person is, in accordance with a personal capability assessment, incapable of work.
- (3) Regulations may provide that, in any prescribed circumstances, a person to whom subsection (1) above applies shall, if the prescribed conditions are met, be treated as incapable of work in accordance with a personal capability assessment until such time as—
  - (a) such an assessment has been carried out in his case, or

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(b) he falls to be treated as capable of work in accordance with regulations under section 171A(2) or (3) above or section 171E below.

The prescribed conditions may include the condition that it has not previously been determined, within such period as may be prescribed, that the person in question is or is to be treated as capable of work.

(4) Except in prescribed circumstances, a personal capability assessment carried out in the case of a person before the time when subsection (1) above applies to him shall be as effective for the purposes of that subsection as one carried out thereafter.

(5) The Secretary of State may, in the case of a person who for any purpose of this Act has been determined to be incapable of work in accordance with a personal capability assessment (including one carried out by virtue of this subsection), require the question whether the person is capable or incapable of work to be determined afresh in accordance with a further personal capability assessment.”

#### *Incapacity benefits*

### **62 Incapacity benefit: restriction to recent contributors**

(1) Paragraph 2 of Schedule 3 to the Contributions and Benefits Act (contribution conditions for short-term incapacity benefit) shall be amended as follows.

(2) In sub-paragraph (2) (the first condition), for paragraph (a) there shall be substituted—  
“(a) the claimant must have actually paid contributions of a relevant class in respect of one of the last three complete years before the beginning of the relevant benefit year, and those contributions must have been paid before the relevant time; and”.

(3) In sub-paragraph (7) (claim by person who does not satisfy second contribution condition to be disregarded in relation to subsequent claim), after “does not satisfy” there shall be inserted “the first contribution condition (specified in sub-paragraph (2) above) or, as the case may be,”.

(4) After sub-paragraph (7) there shall be added—

“(8) Regulations may—

- (a) provide for the first contribution condition (specified in sub-paragraph (2) above) to be taken to be satisfied in the case of persons who have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time;
- (b) with a view to securing any relaxation of the requirements of that condition (as so specified) in relation to persons who have been so entitled, provide for that condition to apply in relation to them subject to prescribed modifications.

(9) In sub-paragraph (8)—

“benefit” includes (in addition to any benefit under Parts II to V of this Act)—

- (a) any benefit under Parts VII to XII of this Act, and
- (b) credits under regulations under section 22(5) above;

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“modifications” includes additions, omissions and amendments.”

### 63 Incapacity benefit: reduction for pension payments

After section 30D of the Contributions and Benefits Act there shall be inserted—

#### “30DD Incapacity benefit: reduction for pension payments

- (1) Where—
- (a) a person is entitled to incapacity benefit in respect of any period of a week or part of a week,
  - (b) a pension payment is payable to him in respect of that period (or a period which forms part of that period or includes that period or part of it), and
  - (c) the amount of that payment (or, as the case may be, the amount which in accordance with regulations is to be taken as payable to him by way of pension payments in respect of that period) exceeds the threshold,
- the amount of that benefit shall be reduced by an amount equal to 50 per cent. of that excess.
- (2) In subsection (1) above “the threshold” means—
- (a) if the period in question is a week, £85 or such greater amount as may be prescribed; or
  - (b) if that period is not a week, such proportion of the amount mentioned in paragraph (a) as falls to be calculated in accordance with regulations on such basis as may be prescribed.
- (3) Regulations may secure that a person of any prescribed description does not suffer any reduction under subsection (1) above in any amount of incapacity benefit to which he is entitled.
- (4) Regulations may provide—
- (a) for sums of any specified description to be disregarded for the purposes of this section;
  - (b) for sums of any specified description to be treated for those purposes as payable to persons as pension payments (including, in particular, sums in relation to which there is a deferred right of receipt);
  - (c) for the aggregation of sums of any specified description which are payable as pension payments (or treated as being so payable) in respect of the same or different periods;
  - (d) for such sums or aggregate sums to be apportioned between or otherwise allocated to periods in respect of which persons are entitled to incapacity benefit.
- (5) In this section “pension payment” means—
- (a) a periodical payment made in relation to a person under a personal pension scheme or, in connection with the coming to an end of an employment of his, under an occupational pension scheme or a public service pension scheme;

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- (b) a payment of any specified description, being a payment made under an insurance policy providing benefits in connection with physical or mental illness, disability, infirmity or defect; or
  - (c) a payment of any other specified description;
- and “specified” means prescribed by or determined in accordance with regulations under this section.

(6) For the purposes of subsection (5) “occupational pension scheme”, “personal pension scheme” and “public service pension scheme” each have the meaning given by section 1 of the Pension Schemes Act 1993, except that “personal pension scheme” includes a contract or trust scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988 (retirement annuities).”

#### **64 Incapacity benefit: persons incapacitated in youth**

(1) In subsection (1) of section 30A of the Contributions and Benefits Act (incapacity benefit: entitlement)—

- (a) for “either of the following conditions” there shall be substituted—
  - “(a) either of the conditions mentioned in subsection (2) below; or
  - (b) if he satisfies neither of those conditions, each of the conditions mentioned in subsection (2A) below;”;
- (b) after “any day of incapacity for work” there shall be inserted “(“the relevant day”)”.

(2) In subsection (2) of that section—

- (a) after “conditions” there shall be inserted “mentioned in subsection (1)(a) above”; and
- (b) in paragraph (a), for “the day in question” there shall be substituted “the relevant day”.

(3) After that subsection there shall be inserted—

- “(2A) The conditions mentioned in subsection (1)(b) above are that—
- (a) he is aged 16 or over on the relevant day;
  - (b) he is under the age of 20 or, in prescribed cases, 25 on a day which forms part of the period of incapacity for work;
  - (c) he was incapable of work throughout a period of 196 consecutive days immediately preceding the relevant day, or an earlier day in the period of incapacity for work on which he was aged 16 or over;
  - (d) on the relevant day he satisfies the prescribed conditions as to residence in Great Britain, or as to presence there; and
  - (e) he is not, on that day, a person who is receiving full-time education.”

(4) In subsection (3) of that section, after “benefit” there shall be inserted “under subsection (1)(a) above”.

(5) After subsection (5) of that section there shall be inserted—

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

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

## **65 Abolition of severe disablement allowance**

Sections 68 and 69 of the Contributions and Benefits Act (severe disablement allowance) shall cease to have effect.

### *Disability benefits*

## **66 Attendance allowance**

- (1) After subsection (3) of section 64 of the Contributions and Benefits Act (entitlement to attendance allowance) there shall be added—

“(4) Circumstances may be prescribed in which a person is to be taken to satisfy or not to satisfy such of the conditions mentioned in subsections (2) and (3) above as may be prescribed.”

- (2) In subsection (1) of section 66 of that Act (attendance allowance for the terminally ill)—

- (a) in paragraph (a)(i), for the words from “for the remainder of his life” to “terminally ill” there shall be substituted “for so much of the period for which he is terminally ill as does not fall before the date of the claim”;
- (b) in paragraph (a)(ii), for “that date”, in the first place where those words occur, there shall be substituted “the date of the claim or, if later, the first date on which he is terminally ill”; and
- (c) in paragraph (b), for “the remainder of the person’s life, beginning with that date” there shall be substituted “so much of the period for which he is terminally ill as does not fall before the date of the claim”.

## **67 Disability living allowance**

- (1) In subsection (3) of section 71 of the Contributions and Benefits Act (disability living allowance), for “for life” there shall be substituted “for an indefinite period”.

- (2) In subsection (5)(b) of section 72 of that Act (the care component), for “for the remainder of his life beginning with that date” there shall be substituted “for so much of the period for which he is terminally ill as does not fall before the date of the claim”.

- (3) In subsection (1) of section 73 of that Act (the mobility component), for “the age of 5” there shall be substituted “the relevant age” and after that subsection there shall be inserted—

“(1A) In subsection (1) above “the relevant age” means—

- (a) in relation to the conditions mentioned in paragraph (a), (b) or (c) of that subsection, the age of 3;
- (b) in relation to the conditions mentioned in paragraph (d) of that subsection, the age of 5.”

- (4) Subsection (3) does not affect awards made before the day on which that subsection comes into force.

*Miscellaneous*

**68 Certain overpayments of benefit not to be recoverable**

- (1) An overpayment to which this section applies shall not be recoverable from the payee, whether by the Secretary of State or a local authority, under any provision made by or under Part III of the Administration Act (overpayments and adjustments of benefit).
- (2) This section applies to an overpayment if—
- (a) it is in respect of a qualifying benefit;
  - (b) it is referable to a decision given on a review that there has been an alteration in the relevant person’s condition, being a decision to which effect is required to be given as from a date earlier than that on which it was given;
  - (c) the decision was given before 1st June 1999; and
  - (d) the overpayment is not excluded by virtue of subsection (6).
- (3) In subsection (2)(b) the reference to a decision on a review that there has been an alteration in the relevant person’s condition is a reference to a decision so given that that person’s physical or mental condition either was at the time when the original decision was given, or has subsequently become, different from that on which that decision was based, with the result—
- (a) that he did not at that time, or (as the case may be) has subsequently ceased to, meet any of the conditions contained in the following provisions of the Contributions and Benefits Act, namely—
    - (i) section 64 (attendance allowance),
    - (ii) section 72(1) or (2) (care component of disability living allowance), and
    - (iii) section 73(1) or (2) (mobility component of that allowance); or
  - (b) that he was at that time, or (as the case may be) has subsequently become, capable of work in accordance with regulations made under section 171C(2) of that Act (the all work test).
- (4) For the purposes of this section “qualifying benefit” means—
- (a) attendance allowance;
  - (b) disability living allowance;
  - (c) any benefit awarded wholly or partly by reason of a person being (or being treated as being) in receipt of a component (at any rate) of disability living allowance or in receipt of attendance allowance;
  - (d) incapacity benefit;
  - (e) any benefit (other than incapacity benefit) awarded wholly or partly by reason of a person being (or being treated as being) incapable of work; or
  - (f) any benefit awarded wholly or partly by reason of a person being (or being treated as being) in receipt of any benefit falling within paragraph (c), (d) or (e).
- (5) For the purposes of this section—

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- (a) “review” means a review taking place by virtue of section 25(1)(a) or (b), 30(2)(a) or (b) or 35(1)(a) or (b) of the Administration Act;
  - (b) “the relevant person”, in relation to a review, means the person to whose entitlement to a qualifying benefit or to whose incapacity for work the review related; and
  - (c) “the original decision”, in relation to a review, means the decision as to any such entitlement or incapacity to which the review related.
- (6) An overpayment is excluded by virtue of this subsection if (before or after the passing of this Act)—
- (a) the payee has agreed to pay a penalty in respect of the overpayment under section 115A of the Administration Act,
  - (b) the payee has been convicted of any offence (under section 111A or 112(1) or (1A) of that Act or otherwise) in connection with the overpayment, or
  - (c) proceedings have been instituted against the payee for such an offence and the proceedings have not been determined or abandoned.
- (7) Nothing in this section applies to an overpayment to the extent that it was recovered from the payee (by any means) before 26th February 1999.
- (8) In this section—
- “benefit” includes any amount included in—
    - (a) the applicable amount in relation to an income-related benefit (as defined by section 135(1) of the Contributions and Benefits Act), or
    - (b) the applicable amount in relation to a jobseeker’s allowance (as defined by section 4(5) of the Jobseekers Act 1995);
  - “income-related benefit” has the meaning given by section 123(1) of the Contributions and Benefits Act;
  - “overpayment” means an amount of benefit paid in excess of entitlement;
  - “the payee”, in relation to an overpayment, means the person to whom that amount was paid.

## **69 Child benefit: claimant to state national insurance number**

In section 13 of the Administration Act (entitlement to child benefit dependent on claim), after subsection (1) there shall be inserted—

- “(1A) No person shall be entitled to child benefit unless subsection (1B) below is satisfied in relation to him.
- (1B) This subsection is satisfied in relation to a person if—
- (a) his claim for child benefit is accompanied by—
    - (i) a statement of his national insurance number and information or evidence establishing that that number has been allocated to him; or
    - (ii) information or evidence enabling the national insurance number that has been allocated to him to be ascertained; or
  - (b) he makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated.

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- (1C) Regulations may make provision disapplying subsection (1A) above in the case of—
- (a) prescribed descriptions of persons making claims, or
  - (b) prescribed descriptions of children in respect of whom child benefit is claimed,
- or in other prescribed circumstances.”

## **70 Welfare benefits: miscellaneous amendments**

Schedule 8 (which makes minor and consequential amendments of provisions relating to welfare benefits) shall have effect.

### *Supplementary*

## **71 Sharing of functions as regards claims and information**

After section 7 of the Administration Act there shall be inserted—

### *“Sharing of functions as regards certain claims and information*

#### **7A Sharing of functions as regards certain claims and information**

- (1) Regulations may, for the purpose of supplementing the persons or bodies to whom claims for relevant benefits may be made, make provision—
- (a) as regards housing benefit or council tax benefit, for claims for that benefit to be made to—
    - (i) a Minister of the Crown, or
    - (ii) a person providing services to a Minister of the Crown;
  - (b) as regards any other relevant benefit, for claims for that benefit to be made to—
    - (i) a local authority,
    - (ii) a person providing services to a local authority, or
    - (iii) a person authorised to exercise any function of a local authority relating to housing benefit or council tax benefit.
- (2) Regulations may make provision for or in connection with—
- (a) the forwarding by a relevant authority of—
    - (i) claims received by virtue of any provision authorised by subsection (1) above, and
    - (ii) information or evidence supplied in connection with making such claims (whether supplied by persons making the claims or by other persons);
  - (b) the receiving and forwarding by a relevant authority of information or evidence relating to social security matters supplied by, or the obtaining by a relevant authority of such information or evidence from—
    - (i) persons making, or who have made, claims for a relevant benefit, or
    - (ii) other persons in connection with such claims,

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- including information or evidence not relating to the claims or benefit in question;
- (c) the recording by a relevant authority of information or evidence relating to social security matters supplied to, or obtained by, the authority and the holding by the authority of such information or evidence (whether as supplied or obtained or as recorded);
  - (d) the giving of information or advice with respect to social security matters by a relevant authority to persons making, or who have made, claims for a relevant benefit.
- (3) In paragraphs (b) and (d) of subsection (2) above—
- (a) references to claims for a relevant benefit are to such claims whether made as mentioned in subsection (1)(a) or (b) above or not; and
  - (b) references to persons who have made such claims include persons to whom awards of benefit have been made on the claims.
- (4) Regulations under this section may make different provision for different areas.
- (5) Regulations under any other enactment may make such different provision for different areas as appears to the Secretary of State expedient in connection with any exercise by regulations under this section of the power conferred by subsection (4) above.
- (6) In this section—
- (a) “benefit” includes child support or a war pension (any reference to a claim being read, in relation to child support, as a reference to an application under the Child Support Act 1991 for a maintenance assessment);
  - (b) “local authority” means an authority administering housing benefit or council tax benefit;
  - (c) “relevant authority” means—
    - (i) a Minister of the Crown,
    - (ii) a person providing services to a Minister of the Crown,
    - (iii) a local authority,
    - (iv) a person providing services to a local authority, or
    - (v) a person authorised to exercise any function of a local authority relating to housing benefit or council tax benefit;
  - (d) “relevant benefit” means housing benefit, council tax benefit or any other benefit prescribed for the purposes of this section;
  - (e) “social security matters” means matters relating to social security, child support or war pensions;
- and in this subsection “war pension” means a war pension within the meaning of section 25 of the Social Security Act 1989 (establishment and functions of war pensions committees).”

## 72 Supply of information for certain purposes

- (1) The Secretary of State may by regulations make such provision for or in connection with any of the following matters, namely—
- (a) the use by a person within subsection (2) of social security information held by that person,

- (b) the supply (whether to a person within subsection (2) or otherwise) of social security information held by a person within that subsection,
- (c) the relevant purposes for which a person to whom such information is supplied under the regulations may use it, and
- (d) the circumstances and extent (if any) in and to which a person to whom such information is supplied under the regulations may supply it to any other person (whether within subsection (2) or not),

as the Secretary of State considers appropriate in connection with any provision to which subsection (3) applies or in connection with any scheme or arrangements to which subsection (4) applies.

- (2) The persons within this subsection are—
  - (a) a Minister of the Crown;
  - (b) a person providing services to, or designated for the purposes of this section by an order of, a Minister of the Crown;
  - (c) a local authority (within the meaning of the Administration Act); and
  - (d) a person providing services to, or authorised to exercise any function of, any such authority.
- (3) This subsection applies to any provision made by or under—
  - (a) any of the sections of the Administration Act inserted by section 57, 58 or 71 of this Act,
  - (b) section 60 of this Act, or
  - (c) the Jobseekers Act 1995.
- (4) This subsection applies to—
  - (a) any scheme designated by regulations under subsection (1), being a scheme operated by the Secretary of State (whether under arrangements with any other person or not) for any purposes connected with employment or training in the case of persons of a particular category or description;
  - (b) any arrangements of a description specified in such regulations, being arrangements made by the Secretary of State for any such purposes.
- (5) Regulations under subsection (1) may, in particular, authorise information supplied to a person under the regulations—
  - (a) to be used for the purpose of amending or supplementing other information held by that person; and
  - (b) if it is so used, to be supplied to any other person, and used for any purpose, to whom or for which that other information could be supplied or used.
- (6) In this section—
  - “relevant purposes” means purposes connected with—
    - (a) social security, child support or war pensions, or
    - (b) employment or training;
  - “social security information” means information relating to social security, child support or war pensions;

and in this subsection “war pensions” means war pensions within the meaning of section 25 of the Social Security Act 1989 (establishment and functions of war pensions committees).

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- (7) Any reference in this section to purposes connected with employment or training includes purposes connected with the existing or future employment or training prospects or needs of persons, and (in particular) assisting or encouraging persons to enhance their employment prospects.