

SCHEDULES

SCHEDULE 1

Section 6.

APPLICATION OF 1993 AND 1995 ACTS TO REGISTERED SCHEMES

- 1 (1) The provisions specified in sub-paragraph (2) shall apply as if any pension scheme established under a trust which—
- (a) is not an occupational pension scheme, but
 - (b) is or has been registered under section 2,
- were an occupational pension scheme.
- (2) The provisions are—
- (a) subsections (4) to (9) of section 175 of the 1993 Act (levies towards certain expenditure); and
 - (b) the following provisions of Part I of the 1995 Act—
 - (i) sections 3 to 11, 13 and 15 (supervision by the Authority) except sections 8(1) and (2), 11(3)(c) and 15(1);
 - (ii) sections 27 to 31 (trustees: general);
 - (iii) sections 32 to 36 and 39 (functions of trustees) except the reference to sections 16(3)(b) and 25(2) in section 32(4), the reference to section 56 in section 35(2) and section 35(5)(b);
 - (iv) section 41 (functions of trustees or managers);
 - (v) sections 47 and 48 (advisers);
 - (vi) section 49 (receipts, payment and records) except subsections (5) and (8) to (13);
 - (vii) section 50 (resolution of disputes);
 - (viii) section 68 (power of trustees to modify scheme by resolution) except subsection (3);
 - (ix) sections 81 to 86 (the compensation payments) except section 81(1)(b);
 - (x) sections 91, 92 and 94 (assignment and forfeiture etc.) except section 91(5)(d);
 - (xi) section 96(2)(c) (review of decisions of the Authority);
 - (xii) section 108 (other permitted disclosures);
 - (xiii) section 110 (provision of information to Compensation Board);
 - (xiv) section 117 (overriding requirements); and
 - (xv) sections 124 and 125 (interpretation).
- (3) Section 47(9) of the 1995 Act (as applied by sub-paragraph (1)) shall have effect as if the reference to any person who is or has been the employer were a reference to any person who, in pursuance of section 3(5), is or has been required—
- (a) to deduct an employee's contributions to the scheme from his remuneration;
- and

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- (b) to pay them to the trustees or managers of the scheme or to a prescribed person.
- (4) Section 68 of the 1995 Act (as so applied) shall have effect as if the purposes specified in subsection (2) included enabling the conditions set out in section 1 to be fulfilled in relation to the scheme.
- (5) Section 124(1) of the 1995 Act (as so applied) shall have effect as if the definition of “member” were omitted.
- 2 (1) Sections 98 to 100 of the 1995 Act (gathering information: the Authority) shall apply as if any pension scheme which—
 - (a) is not an occupational pension scheme, but
 - (b) is or has been registered under section 2,
 were an occupational pension scheme.
- (2) Section 99 of the 1995 Act (as applied by sub-paragraph (1)) shall have effect as if the regulatory provisions, for the purposes of subsection (1) of that section, were—
 - (a) provisions made by or under the provisions specified in paragraph 1(2), other than section 110 of the 1995 Act;
 - (b) sections 111, 115 and 116 of that Act;
 - (c) any provisions in force in Northern Ireland corresponding to the provisions mentioned in paragraphs (a) and (b); and
 - (d) sections 1 and 2(4) to (6).
- (3) Section 100 of the 1995 Act (as so applied) shall have effect as if the references in subsections (1)(c)(i) and (4)(b) to that Act included references to section 2(5).
- (4) Any reference in this paragraph or paragraph 3 which is or includes a reference to, or to any subsection of, section 1 or 2 includes a reference to any provision in force in Northern Ireland corresponding to that section or (as the case may be) that subsection; and the reference in sub-paragraph (1) to any pension scheme includes a personal pension scheme (as well as an occupational scheme) within the meaning of the Pension Schemes (Northern Ireland) Act 1993.
- 3 (1) Section 99 of the 1995 Act shall have effect in relation to any occupational pension scheme which is or has been registered under section 2 as if the regulatory provisions for the purposes of subsection (1) of section 99 included sections 1 and 2(4) to (6).
- (2) Section 100 of the 1995 Act shall have effect in relation to any occupational pension scheme which is or has been registered under section 2 as if the references in subsections (1)(c)(i) and (4)(b) to that Act included references to section 2(5).

SCHEDULE 2

Section 18.

PENSIONS: MISCELLANEOUS AMENDMENTS

Income payments orders against pension payments

- 1 In section 32(2) of the Bankruptcy (Scotland) Act 1985 (vesting of estate, and dealings of debtor, after sequestration), at the beginning insert “Notwithstanding anything in section 11 or 12 of the Welfare Reform and Pensions Act 1999,”.

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- 2 In section 310(7) of the Insolvency Act 1986 (bankrupt’s income against which income payments orders may be made includes certain payments under pension schemes), after “employment and” insert “(despite anything in section 11 or 12 of the Welfare Reform and Pensions Act 1999)”.

Extended meaning of “personal pension scheme”

- 3 (1) In the Pension Schemes Act 1993—
- (a) in section 1 (categories of pension schemes), in the definition of “personal pension scheme”, for “employed earners” substitute “earners (whether employed or self-employed)”; and
 - (b) in section 181(1) (general interpretation), for the definition of “employed earner” substitute—

““employed earner” and “self-employed earner” have the meanings given by section 2 of the Social Security Contributions and Benefits Act 1992;”.

- (2) In consequence of sub-paragraph (1), the following provisions of that Act shall cease to have effect, namely—
- (a) in subsection (2)(a)(ii) of section 73 (short service benefit), the words “or a self-employed pension arrangement” and “or arrangement”;
 - (b) in subsection (2)(a) of section 96 (exercise of option under section 95), sub-paragraph (iii) and the word “or” immediately preceding that sub-paragraph; and
 - (c) in subsection (1) of section 181 (general interpretation), the definition of “self-employed pension arrangement”.

Revaluation of earnings factors: meaning of “relevant year”

- 4 In section 16(5) of the Pension Schemes Act 1993 (revaluation of earnings factors for purposes of section 14: early leavers etc.), for the definition of “relevant year” substitute—

““relevant year” means any tax year in the earner’s working life.”.

Interim arrangements

- 5 (1) Section 28 of the Pension Schemes Act 1993 (ways of giving effect to protected rights) is amended as follows.

- (2) In subsection (1)—
- (a) omit paragraph (aa) (but not the final “and”); and
 - (b) in paragraph (b), for “permitted” substitute “provided for”.

- (3) For subsection (1A) substitute—

“(1A) Where the scheme is a personal pension scheme which provides for the member to elect to receive payments in accordance with this subsection, and the member so elects, effect shall be given to his protected rights during the interim period by the making of payments under an interim arrangement which—

- (a) complies with section 28A, and

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(b) satisfies such conditions as may be prescribed;
and in such a case subsections (2) to (4) accordingly apply as regards giving effect to his protected rights as from the end of that period.”

(4) In subsection (3) for “(1A)(a) or” substitute “(1A) or”.

Effect of certain orders on guaranteed minimum pensions

6 In section 47 of the Pension Schemes Act 1993 (entitlement to guaranteed minimum pension for the purposes of the relationship with social security benefits), after subsection (6) (which is inserted by section 32(4) of this Act) add—

“(7) For the purposes of section 46, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for any order under section 342A of the Insolvency Act 1986 (recovery of excessive pension contributions) or under section 36A of the Bankruptcy (Scotland) Act 1985.”

Mandatory payment of contributions equivalent premiums

7 (1) In section 55 of the Pension Schemes Act 1993 (contributions equivalent premiums)

- (a) in subsection (2), after “the prescribed person” insert “shall, if subsection (2B) applies, pay and otherwise”;
- (b) in subsection (2A), omit the words following paragraph (e); and
- (c) after that subsection insert—

“(2B) Except in prescribed circumstances, this subsection applies in any case where the earner has no accrued right to any benefit under the scheme.

(2C) Where a contributions equivalent premium is required to be paid in respect of an earner by virtue of subsection (2), the prescribed person must notify the Inland Revenue of that fact within the prescribed period and in the prescribed manner.”

(2) In section 51 of the Pension Schemes (Northern Ireland) Act 1993 (contributions equivalent premiums)—

- (a) in subsection (2), after “the prescribed person” insert “shall, if subsection (2B) applies, pay and otherwise”;
- (b) in subsection (2A), omit the words following paragraph (e); and
- (c) after that subsection insert—

“(2B) Except in prescribed circumstances, this subsection applies in any case where the earner has no accrued right to any benefit under the scheme.

(2C) Where a contributions equivalent premium is required to be paid in respect of an earner by virtue of subsection (2), the prescribed person must notify the Inland Revenue of that fact within the prescribed period and in the prescribed manner.”

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Payment by Secretary of State of unpaid pension contributions

8 (1) Paragraph 2 of Schedule 4 to the Pension Schemes Act 1993 (priority in bankruptcy for amounts paid by Secretary of State in respect of unpaid pension contributions) is amended as follows.

(2) For sub-paragraphs (1) to (3) substitute—

“(1) This Schedule applies to any sum owed on account of an employer’s contributions to a salary related contracted-out scheme which were payable in the period of 12 months immediately preceding the relevant date.

(1A) The amount of the debt having priority by virtue of sub-paragraph (1) shall be taken to be an amount equal to the appropriate amount.

(2) This Schedule applies to any sum owed on account of an employer’s minimum payments to a money purchase contracted-out scheme falling to be made in the period of 12 months immediately preceding the relevant date.

(3) In so far as payments cannot from the terms of the scheme be identified as falling within sub-paragraph (2), the amount of the debt having priority by virtue of that sub-paragraph shall be taken to be an amount equal to the appropriate amount.

(3A) In sub-paragraph (1A) or (3) “the appropriate amount” means the aggregate of—

(a) the percentage for non-contributing earners of the total reckonable earnings paid or payable, in the period of 12 months referred to in sub-paragraph (1) or (2) (as the case may be), to or for the benefit of non-contributing earners; and

(b) the percentage for contributing earners of the total reckonable earnings paid or payable, in that period, to or for the benefit of contributing earners.”

(3) In sub-paragraph (4), for “sub-paragraph (3)” substitute “sub-paragraph (3A)”.

Supervision by the Occupational Pensions Regulatory Authority

9 In section 3(2)(b) of the Pensions Act 1995 (power of Authority to remove pension scheme trustee to whom section 3 applies by virtue of any other provision of Part I of the Act), for “this Part” substitute “this or any other Act”.

10 In section 8(4) of the Pensions Act 1995 (provision which may be contained in orders made by the Authority appointing pension scheme trustees), omit the word “or” at the end of paragraph (a).

11 In section 10 of the Pensions Act 1995 (imposition of civil penalties by the Authority), after subsection (8) insert—

“(8A) Any penalty recoverable under this section—

(a) shall, if 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; and

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- (b) may be enforced as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.”

Occupational pension schemes: institutions who may hold money deposited by trustees etc.

- 12 (1) Section 49 of the Pensions Act 1995 (other responsibilities of trustees, employers, etc.) is amended as follows.
- (2) In each of subsections (1) and (5) (money to be kept by trustees or employers in accounts with institutions authorised under the Banking Act 1987), for “an institution authorised under the Banking Act 1987” substitute “a relevant institution”.
- (3) After subsection (1) insert—
- “(1A) In this section “relevant institution” means—
- (a) an institution authorised under the Banking Act 1987;
 - (b) an institution within any of paragraphs 1 to 6 of Schedule 2 to that Act (institutions not requiring authorisation); or
 - (c) a European authorised institution within the meaning of the Banking Coordination (Second Council Directive) Regulations 1992 which may lawfully accept deposits in the United Kingdom in accordance with those regulations.”

Annual increase in rate of pension

- 13 In section 54(3) of the Pensions Act 1995 (supplementary provisions about annual increases in pensions), in the definition of “appropriate percentage”, for the words from “the revaluation period” onwards substitute “the latest revaluation period specified in the order under paragraph 2 of Schedule 3 to the Pension Schemes Act 1993 (revaluation of accrued pension benefits) which is in force at the time of the increase (expressions used in this definition having the same meaning as in that paragraph).”.

Occupational pension schemes: certificates etc. relating to minimum funding requirement

- 14 (1) In section 58 of the Pensions Act 1995 (schedules of contributions), in subsection (6)
- (a) (certification by actuary of adequacy of rates of contributions to meet minimum funding requirement)—
 - (a) for the words from “on the date” to “is met,” substitute “it appears to him that the minimum funding requirement was met on the prescribed date,”; and
 - (b) omit the words “continue to”.
 - (2) In section 59 of that Act (determination of contributions: supplementary), in subsection (3) (duty of trustees etc. to prepare report of failure to meet minimum funding requirement), after “they must” insert “, within such further period as may be prescribed,”.

Excess assets of wound-up schemes

- 15 In section 77(5) of the Pensions Act 1995 (penalties for trustees who deal improperly with excess assets of wound-up occupational pension schemes), for “section 3 applies” substitute “sections 3 and 10 apply”.

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Pensions Compensation Board

- 16 (1) In section 79(1) of the Pensions Act 1995 (annual reports of Pensions Compensation Board)—
- (a) for “the first twelve months of their existence, and a report for each succeeding period of twelve months,” substitute “each financial year of the Board”; and
 - (b) at the end insert—
“Sub-paragraph (4) of paragraph 17 of Schedule 2 (meaning of “financial year”) applies for the purposes of this subsection as for those of that paragraph.”
- (2) The amendments made by sub-paragraph (1) have effect in relation to the financial year beginning on the first 6th April falling after that sub-paragraph comes into force and to each subsequent financial year; and the period which begins with the last 1st August before, and ends with the 5th April immediately preceding, that 6th April shall be taken to be the last period in respect of which the Board are required to prepare a report under section 79(1) as originally enacted.

Diligence against pensions: Scotland

- 17 In section 94(3) of the Pensions Act 1995 (application of sections 91 and 92 to Scotland), at the end insert—
- “(f) after subsection 91(4) there is inserted—
“(4A) Subject to section 73(3)(d) of the Debtors (Scotland) Act 1987, nothing in this section prevents any diligence mentioned in section 46 of that Act being done against a pension under an occupational pension scheme.””

Pensionable service

- 18 In section 124(3) of the Pensions Act 1995 (matters to be disregarded in determining “pensionable service”), at the end insert—
- “but, in its application for the purposes of section 51, paragraph (b) does not affect the operation of any rules of the scheme by virtue of which a period of service is to be rounded up or down by a period of less than a month.”

Occupational pension schemes: rights of employee who is director of corporate trustee

- 19 (1) The Employment Rights Act 1996 is amended as follows.
- (2) In section 46 (employee who is a trustee of a pension scheme not to be subject to detriment referable to his carrying out his functions as such a trustee), after subsection (2) insert—
- “(2A) This section applies to an employee who is a director of a company which is a trustee of a relevant occupational pension scheme as it applies to an employee who is a trustee of such a scheme (references to such a trustee being read for this purpose as references to such a director).”
- (3) In section 58 (right to time off for pension scheme trustees), after subsection (2) insert—

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“(2A) This section applies to an employee who is a director of a company which is a trustee of a relevant occupational pension scheme as it applies to an employee who is a trustee of such a scheme (references to such a trustee being read for this purpose as references to such a director).”

(4) In section 102 (unfair dismissal of pension scheme trustees), after subsection (1) insert—

“(1A) This section applies to an employee who is a director of a company which is a trustee of a relevant occupational pension scheme as it applies to an employee who is a trustee of such a scheme (references to such a trustee being read for this purpose as references to such a director).”

SCHEDULE 3

Section 19.

PENSION SHARING ORDERS: ENGLAND AND WALES

1 The Matrimonial Causes Act 1973 is amended as follows.

2 After section 21 there is inserted—

“21A Pension sharing orders

(1) For the purposes of this Act, a pension sharing order is an order which—

- (a) provides that one party's—
 - (i) shareable rights under a specified pension arrangement, or
 - (ii) shareable state scheme rights,
 be subject to pension sharing for the benefit of the other party, and
- (b) specifies the percentage value to be transferred.

(2) In subsection (1) above—

- (a) the reference to shareable rights under a pension arrangement is to rights in relation to which pension sharing is available under Chapter I of Part IV of the Welfare Reform and Pensions Act 1999, or under corresponding Northern Ireland legislation,
- (b) the reference to shareable state scheme rights is to rights in relation to which pension sharing is available under Chapter II of Part IV of the Welfare Reform and Pensions Act 1999, or under corresponding Northern Ireland legislation, and
- (c) “party” means a party to a marriage.”

3 In section 24 (property adjustment orders in connection with divorce proceedings, etc), in paragraphs (c) and (d) of subsection (1), there is inserted at the end “, other than one in the form of a pension arrangement (within the meaning of section 25D below)”.

4 After section 24A there is inserted—

“24B Pension sharing orders in connection with divorce proceedings etc

(1) On granting a decree of divorce or a decree of nullity of marriage or at any time thereafter (whether before or after the decree is made absolute), the

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court may, on an application made under this section, make one or more pension sharing orders in relation to the marriage.

- (2) A pension sharing order under this section is not to take effect unless the decree on or after which it is made has been made absolute.
- (3) A pension sharing order under this section may not be made in relation to a pension arrangement which—
 - (a) is the subject of a pension sharing order in relation to the marriage, or
 - (b) has been the subject of pension sharing between the parties to the marriage.
- (4) A pension sharing order under this section may not be made in relation to shareable state scheme rights if—
 - (a) such rights are the subject of a pension sharing order in relation to the marriage, or
 - (b) such rights have been the subject of pension sharing between the parties to the marriage.
- (5) A pension sharing order under this section may not be made in relation to the rights of a person under a pension arrangement if there is in force a requirement imposed by virtue of section 25B or 25C below which relates to benefits or future benefits to which he is entitled under the pension arrangement.

24C Pension sharing orders: duty to stay

- (1) No pension sharing order may be made so as to take effect before the end of such period after the making of the order as may be prescribed by regulations made by the Lord Chancellor.
- (2) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

24D Pension sharing orders: apportionment of charges

If a pension sharing order relates to rights under a pension arrangement, the court may include in the order provision about the apportionment between the parties of any charge under section 41 of the Welfare Reform and Pensions Act 1999 (charges in respect of pension sharing costs), or under corresponding Northern Ireland legislation.”

- 5 In section 25 (matters to which the court is to have regard in deciding how to exercise its powers with respect to financial relief)—
 - (a) in subsection (1), for “or 24A” there is substituted “, 24A or 24B”, and
 - (b) in subsection (2), for “or 24A” there is substituted “, 24A or 24B”.
- 6 In section 25A(1) (court’s duty to consider desirability of exercising power to achieve clean break), for “or 24A” there is substituted “, 24A or 24B”.
- 7 (1) Section 31 (variation, discharge etc. of certain orders for financial relief) is amended as follows.
 - (2) In subsection (2), at the end there is inserted—

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“(g) a pension sharing order under section 24B above which is made at a time before the decree has been made absolute.”

(3) After subsection (4) there is inserted—

“(4A) In relation to an order which falls within paragraph (g) of subsection (2) above (“the subsection (2) order”)—

(a) the powers conferred by this section may be exercised—

(i) only on an application made before the subsection (2) order has or, but for paragraph (b) below, would have taken effect; and

(ii) only if, at the time when the application is made, the decree has not been made absolute; and

(b) an application made in accordance with paragraph (a) above prevents the subsection (2) order from taking effect before the application has been dealt with.

(4B) No variation of a pension sharing order shall be made so as to take effect before the decree is made absolute.

(4C) The variation of a pension sharing order prevents the order taking effect before the end of such period after the making of the variation as may be prescribed by regulations made by the Lord Chancellor.”

(4) In subsection (5)—

(a) for “(7F)” there is substituted “(7G)”,

(b) for “or (e)” there is substituted “, (e) or (g)”, and

(c) after “property adjustment order” there is inserted “or pension sharing order”.

(5) In subsection (7B), after paragraph (b) there is inserted—

“(ba) one or more pension sharing orders;”.

(6) After subsection (7F) there is inserted—

“(7G) Subsections (3) to (5) of section 24B above apply in relation to a pension sharing order under subsection (7B) above as they apply in relation to a pension sharing order under that section.”

(7) After subsection (14) there is inserted—

“(15) The power to make regulations under subsection (4C) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

8 In section 33A (consent orders), in subsection (3), in the definition of “order for financial relief”, after “24A” there is inserted “, 24B”.

9 In section 37 (avoidance of transactions intended to prevent or reduce financial relief), in subsection (1), after “24,” there is inserted “24B,”.

10 After section 40 there is inserted—

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“40A Appeals relating to pension sharing orders which have taken effect

- (1) Subsections (2) and (3) below apply where an appeal against a pension sharing order is begun on or after the day on which the order takes effect.
- (2) If the pension sharing order relates to a person’s rights under a pension arrangement, the appeal court may not set aside or vary the order if the person responsible for the pension arrangement has acted to his detriment in reliance on the taking effect of the order.
- (3) If the pension sharing order relates to a person’s shareable state scheme rights, the appeal court may not set aside or vary the order if the Secretary of State has acted to his detriment in reliance on the taking effect of the order.
- (4) In determining for the purposes of subsection (2) or (3) above whether a person has acted to his detriment in reliance on the taking effect of the order, the appeal court may disregard any detriment which in its opinion is insignificant.
- (5) Where subsection (2) or (3) above applies, the appeal court may make such further orders (including one or more pension sharing orders) as it thinks fit for the purpose of putting the parties in the position it considers appropriate.
- (6) Section 24C above only applies to a pension sharing order under this section if the decision of the appeal court can itself be the subject of an appeal.
- (7) In subsection (2) above, the reference to the person responsible for the pension arrangement is to be read in accordance with section 25D(4) above.”

11 In section 52 (interpretation), in subsection (2), for “and” at the end of paragraph (a) there is substituted—

“(aa) references to pension sharing orders shall be construed in accordance with section 21A above; and”.

SCHEDULE 4

Section 21.

AMENDMENTS OF SECTIONS 25B TO 25D OF THE MATRIMONIAL CAUSES ACT 1973

- 1 (1) Section 25B of the Matrimonial Causes Act 1973 is amended as follows.
 - (2) In subsection (1), for “scheme”, wherever occurring, there is substituted “arrangement”.
 - (3) Subsection (2) ceases to have effect.
 - (4) In subsection (3), for “scheme” there is substituted “arrangement”.
 - (5) In subsection (4)—
 - (a) for “scheme”, wherever occurring, there is substituted “arrangement”, and
 - (b) for “trustees or managers of” there is substituted “person responsible for”.
 - (6) For subsection (5) there is substituted—

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“(5) The order must express the amount of any payment required to be made by virtue of subsection (4) above as a percentage of the payment which becomes due to the party with pension rights.”

(7) In subsection (6)—

- (a) for “trustees or managers”, in the first place, there is substituted “person responsible for the arrangement”, and
- (b) for “the trustees or managers”, in the second place, there is substituted “his”.

(8) In subsection (7)—

- (a) for the words from “may require any” to “those benefits” there is substituted “has a right of commutation under the arrangement, the order may require him to exercise it to any extent”,
- (b) for “the payment of any amount commuted” there is substituted “any payment due in consequence of commutation”, and
- (c) for “scheme” there is substituted “arrangement”.

(9) After that subsection there is inserted—

“(7A) The power conferred by subsection (7) above may not be exercised for the purpose of commuting a benefit payable to the party with pension rights to a benefit payable to the other party.

(7B) The power conferred by subsection (4) or (7) above may not be exercised in relation to a pension arrangement which—

- (a) is the subject of a pension sharing order in relation to the marriage, or
- (b) has been the subject of pension sharing between the parties to the marriage.

(7C) In subsection (1) above, references to benefits under a pension arrangement include any benefits by way of pension, whether under a pension arrangement or not.”

2 (1) Section 25C of that Act is amended as follows.

(2) In subsection (1), for “scheme” there is substituted “arrangement”.

(3) In subsection (2)—

- (a) in paragraph (a)—
 - (i) for the words from “trustees” to “have” there is substituted “person responsible for the pension arrangement in question has”, and
 - (ii) for “them” there is substituted “him”, and
- (b) in paragraph (c), for “trustees or managers of the pension scheme” there is substituted “person responsible for the pension arrangement”.

(4) In subsection (3)—

- (a) for “trustees or managers” there is substituted “person responsible for the arrangement”, and
- (b) for “the trustees, or managers,” there is substituted “his”.

(5) At the end there is inserted—

“(4) The powers conferred by this section may not be exercised in relation to a pension arrangement which—

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- (a) is the subject of a pension sharing order in relation to the marriage, or
 - (b) has been the subject of pension sharing between the parties to the marriage.”
- 3 (1) Section 25D of that Act is amended as follows.
- (2) For subsection (1) there is substituted—
 - “(1) Where—
 - (a) an order made under section 23 above by virtue of section 25B or 25C above imposes any requirement on the person responsible for a pension arrangement (“the first arrangement”) and the party with pension rights acquires rights under another pension arrangement (“the new arrangement”) which are derived (directly or indirectly) from the whole of his rights under the first arrangement, and
 - (b) the person responsible for the new arrangement has been given notice in accordance with regulations made by the Lord Chancellor, the order shall have effect as if it had been made instead in respect of the person responsible for the new arrangement.”
- (3) In subsection (2)—
 - (a) for “Regulations may” there is substituted “The Lord Chancellor may by regulations”,
 - (b) in paragraph (a), for “trustees or managers of a pension scheme” there is substituted “person responsible for a pension arrangement”,
 - (c) after that paragraph there is inserted—
 - “(ab) make, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of section 25B or 25C above in an order under section 23 above, provision about the rights or liabilities of the payer, the payee or the person to whom the payment was due,”
 - (d) after paragraph (b) there is inserted—
 - “(ba) make provision for the person responsible for a pension arrangement to be discharged in prescribed circumstances from a requirement imposed by virtue of section 25B or 25C above,”
 - (e) paragraphs (c) and (d) are omitted,
 - (f) for paragraph (e) there is substituted—
 - “(e) make provision about calculation and verification in relation to the valuation of—
 - (i) benefits under a pension arrangement, or
 - (ii) shareable state scheme rights,for the purposes of the court’s functions in connection with the exercise of any of its powers under this Part of this Act.”,
 - and
 - (g) the words after paragraph (e) are omitted.
- (4) After that subsection there is inserted—
 - “(2A) Regulations under subsection (2)(e) above may include—
 - (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person, and

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- (b) provision by reference to regulations under section 30 or 49(4) of the Welfare Reform and Pensions Act 1999.
- (2B) Regulations under subsection (2) above may make different provision for different cases.
- (2C) Power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (5) For subsections (3) and (4) there is substituted—
- “**(3)** In this section and sections 25B and 25C above—
- “occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993;
- “the party with pension rights” means the party to the marriage who has or is likely to have benefits under a pension arrangement and “the other party” means the other party to the marriage;
- “pension arrangement” means—
- (a) an occupational pension scheme,
- (b) a personal pension scheme,
- (c) a retirement annuity contract,
- (d) an annuity or insurance policy purchased, or transferred, for the purpose of giving effect to rights under an occupational pension scheme or a personal pension scheme, and
- (e) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a pension credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;
- “personal pension scheme” has the same meaning as in the Pension Schemes Act 1993;
- “prescribed” means prescribed by regulations;
- “retirement annuity contract” means a contract or scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988;
- “shareable state scheme rights” has the same meaning as in section 21A(1) above; and
- “trustees or managers”, in relation to an occupational pension scheme or a personal pension scheme, means—
- (a) in the case of a scheme established under a trust, the trustees of the scheme, and
- (b) in any other case, the managers of the scheme.
- (4)** In this section and sections 25B and 25C above, references to the person responsible for a pension arrangement are—
- (a) in the case of an occupational pension scheme or a personal pension scheme, to the trustees or managers of the scheme,
- (b) in the case of a retirement annuity contract or an annuity falling within paragraph (d) or (e) of the definition of “pension arrangement” above, the provider of the annuity, and

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- (c) in the case of an insurance policy falling within paragraph (d) of the definition of that expression, the insurer.”

SCHEDULE 5

Section 35.

PENSION CREDITS: MODE OF DISCHARGE

Funded pension schemes

- 1 (1) This paragraph applies to a pension credit which derives from—
- (a) a funded occupational pension scheme, or
 - (b) a personal pension scheme.
- (2) The trustees or managers of the scheme from which a pension credit to which this paragraph applies derives may discharge their liability in respect of the credit by conferring appropriate rights under that scheme on the person entitled to the credit—
- (a) with his consent, or
 - (b) in accordance with regulations made by the Secretary of State.
- (3) The trustees or managers of the scheme from which a pension credit to which this paragraph applies derives may discharge their liability in respect of the credit by paying the amount of the credit to the person responsible for a qualifying arrangement with a view to acquiring rights under that arrangement for the person entitled to the credit if—
- (a) the qualifying arrangement is not disqualified as a destination for the credit,
 - (b) the person responsible for that arrangement is able and willing to accept payment in respect of the credit, and
 - (c) payment is made with the consent of the person entitled to the credit, or in accordance with regulations made by the Secretary of State.
- (4) For the purposes of sub-paragraph (2), no account is to be taken of consent of the person entitled to the pension credit unless—
- (a) it is given after receipt of notice in writing of an offer to discharge liability in respect of the credit by making a payment under sub-paragraph (3), or
 - (b) it is not withdrawn within 7 days of receipt of such notice.

Unfunded public service pension schemes

- 2 (1) This paragraph applies to a pension credit which derives from an occupational pension scheme which is—
- (a) not funded, and
 - (b) a public service pension scheme.
- (2) The trustees or managers of the scheme from which a pension credit to which this paragraph applies derives may discharge their liability in respect of the credit by conferring appropriate rights under that scheme on the person entitled to the credit.
- (3) If such a scheme as is mentioned in sub-paragraph (1) is closed to new members, the appropriate authority in relation to that scheme may by regulations specify

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another public service pension scheme as an alternative to it for the purposes of this paragraph.

- (4) Where the trustees or managers of a scheme in relation to which an alternative is specified under sub-paragraph (3) are subject to liability in respect of a pension credit, they may—
- (a) discharge their liability in respect of the credit by securing that appropriate rights are conferred on the person entitled to the credit by the trustees or managers of the alternative scheme, and
 - (b) for the purpose of so discharging their liability, require the trustees or managers of the alternative scheme to take such steps as may be required.
- (5) In sub-paragraph (3), “the appropriate authority”, in relation to a public service pension scheme, means such Minister of the Crown or government department as may be designated by the Treasury as having responsibility for the scheme.

Other unfunded occupational pension schemes

- 3 (1) This paragraph applies to a pension credit which derives from an occupational pension scheme which is—
- (a) not funded, and
 - (b) not a public service pension scheme.
- (2) The trustees or managers of the scheme from which a pension credit to which this paragraph applies derives may discharge their liability in respect of the credit by conferring appropriate rights under that scheme on the person entitled to the credit.
- (3) The trustees or managers of the scheme from which a pension credit to which this paragraph applies derives may discharge their liability in respect of the credit by paying the amount of the credit to the person responsible for a qualifying arrangement with a view to acquiring rights under that arrangement for the person entitled to the credit if—
- (a) the qualifying arrangement is not disqualified as a destination for the credit,
 - (b) the person responsible for that arrangement is able and willing to accept payment in respect of the credit, and
 - (c) payment is made with the consent of the person entitled to the credit, or in accordance with regulations made by the Secretary of State.

Other pension arrangements

- 4 (1) This paragraph applies to a pension credit which derives from—
- (a) a retirement annuity contract,
 - (b) an annuity or insurance policy purchased or transferred for the purpose of giving effect to rights under an occupational pension scheme or a personal pension scheme, or
 - (c) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a pension credit.
- (2) The person responsible for the pension arrangement from which a pension credit to which this paragraph applies derives may discharge his liability in respect of the credit by paying the amount of the credit to the person responsible for a qualifying arrangement with a view to acquiring rights under that arrangement for the person entitled to the credit if—

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- (a) the qualifying arrangement is not disqualified as a destination for the credit,
 - (b) the person responsible for that arrangement is able and willing to accept payment in respect of the credit, and
 - (c) payment is made with the consent of the person entitled to the credit, or in accordance with regulations made by the Secretary of State.
- (3) The person responsible for the pension arrangement from which a pension credit to which this paragraph applies derives may discharge his liability in respect of the credit by entering into an annuity contract with the person entitled to the credit if the contract is not disqualified as a destination for the credit.
- (4) The person responsible for the pension arrangement from which a pension credit to which this paragraph applies derives may, in such circumstances as the Secretary of State may prescribe by regulations, discharge his liability in respect of the credit by assuming an obligation to provide an annuity for the person entitled to the credit.
- (5) In sub-paragraph (1)(c), “pension credit” includes a credit under Northern Ireland legislation corresponding to section 29(1)(b).

Appropriate rights

- 5 For the purposes of this Schedule, rights conferred on the person entitled to a pension credit are appropriate if—
- (a) they are conferred with effect from, and including, the day on which the order, or provision, under which the credit arises takes effect, and
 - (b) their value, when calculated in accordance with regulations made by the Secretary of State, equals the amount of the credit.

Qualifying arrangements

- 6 (1) The following are qualifying arrangements for the purposes of this Schedule—
- (a) an occupational pension scheme,
 - (b) a personal pension scheme,
 - (c) an appropriate annuity contract,
 - (d) an appropriate policy of insurance, and
 - (e) an overseas arrangement within the meaning of the Contracting-out (Transfer and Transfer Payment) Regulations 1996.
- (2) An annuity contract or policy of insurance is appropriate for the purposes of sub-paragraph (1) if, at the time it is entered into or taken out, the insurance company with which it is entered into or taken out—
- (a) is carrying on ordinary long-term insurance business in the United Kingdom or any other member State, and
 - (b) satisfies such requirements as the Secretary of State may prescribe by regulations.
- (3) In this paragraph, “ordinary long-term insurance business” has the same meaning as in the Insurance Companies Act 1982.

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Disqualification as destination for pension credit

- 7 (1) If a pension credit derives from a pension arrangement which is approved for the purposes of Part XIV of the Income and Corporation Taxes Act 1988, an arrangement is disqualified as a destination for the credit unless—
- (a) it is also approved for those purposes, or
 - (b) it satisfies such requirements as the Secretary of State may prescribe by regulations.
- (2) If the rights by reference to which the amount of a pension credit is determined are or include contracted-out rights or safeguarded rights, an arrangement is disqualified as a destination for the credit unless—
- (a) it is of a description prescribed by the Secretary of State by regulations, and
 - (b) it satisfies such requirements as he may so prescribe.
- (3) An occupational pension scheme is disqualified as a destination for a pension credit unless the rights to be acquired under the arrangement by the person entitled to the credit are rights whose value, when calculated in accordance with regulations made by the Secretary of State, equals the credit.
- (4) An annuity contract or insurance policy is disqualified as a destination for a pension credit in such circumstances as the Secretary of State may prescribe by regulations.
- (5) The requirements which may be prescribed under sub-paragraph (1)(b) include, in particular, requirements of the Inland Revenue.
- (6) In sub-paragraph (2)—
- “contracted-out rights” means such rights under, or derived from—
- (a) an occupational pension scheme contracted-out by virtue of section 9(2) or (3) of the Pension Schemes Act 1993, or
 - (b) a personal pension scheme which is an appropriate scheme for the purposes of that Act,
- as the Secretary of State may prescribe by regulations;
- “safeguarded rights” has the meaning given by section 68A of the Pension Schemes Act 1993.

Adjustments to amount of pension credit

- 8 (1) If—
- (a) a pension credit derives from an occupational pension scheme,
 - (b) the scheme is one to which section 56 of the Pensions Act 1995 (minimum funding requirement for funded salary related schemes) applies,
 - (c) the scheme is underfunded on the valuation day, and
 - (d) such circumstances as the Secretary of State may prescribe by regulations apply,
- paragraph 1(3) shall have effect in relation to the credit as if the reference to the amount of the credit were to such lesser amount as may be determined in accordance with regulations made by the Secretary of State.
- (2) Whether a scheme is underfunded for the purposes of sub-paragraph (1)(c) shall be determined in accordance with regulations made by the Secretary of State.

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(3) For the purposes of that provision, the valuation day is the day by reference to which the cash equivalent on which the amount of the pension credit depends falls to be calculated.

9 If—

- (a) a person’s shareable rights under a pension arrangement have become subject to a pension debit, and
- (b) the person responsible for the arrangement makes a payment which is referable to those rights without knowing of the pension debit,

this Schedule shall have effect as if the amount of the corresponding pension credit were such lesser amount as may be determined in accordance with regulations made by the Secretary of State.

10 The Secretary of State may by regulations make provision for paragraph 1(3), 3(3) or 4(2) to have effect, where payment is made after the end of the implementation period for the pension credit, as if the reference to the amount of the credit were to such larger amount as may be determined in accordance with the regulations.

General

11 Liability in respect of a pension credit shall be treated as discharged if the effect of paragraph 8(1) or 9 is to reduce it to zero.

12 Liability in respect of a pension credit may not be discharged otherwise than in accordance with this Schedule.

13 Regulations under paragraph 5(b) or 7(3) may provide for calculation of the value of rights in accordance with guidance from time to time prepared by a person specified in the regulations.

14 In this Schedule—

“funded”, in relation to an occupational pension scheme, means that the scheme meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;

“public service pension scheme” has the same meaning as in the Pension Schemes Act 1993.

SCHEDULE 6

Section 50.

EFFECT OF STATE SCHEME PENSION DEBITS AND CREDITS

1 The Contributions and Benefits Act is amended as follows.

2 After section 45A there is inserted—

“45B Reduction of additional pension in Category A retirement pension: pension sharing

(1) The weekly rate of the additional pension in a Category A retirement pension shall be reduced as follows in any case where—

- (a) the pensioner has become subject to a state scheme pension debit, and

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- (b) the debit is to any extent referable to the additional pension.
- (2) If the pensioner became subject to the debit in or after the final relevant year, the weekly rate of the additional pension shall be reduced by the appropriate weekly amount.
- (3) If the pensioner became subject to the debit before the final relevant year, the weekly rate of the additional pension shall be reduced by the appropriate weekly amount multiplied by the relevant revaluation percentage.
- (4) The appropriate weekly amount for the purposes of subsections (2) and (3) above is the weekly rate, expressed in terms of the valuation day, at which the cash equivalent, on that day, of the pension mentioned in subsection (5) below is equal to so much of the debit as is referable to the additional pension.
- (5) The pension referred to above is a notional pension for the pensioner by virtue of section 44(3)(b) above which becomes payable on the later of—
- (a) his attaining pensionable age, and
- (b) the valuation day.
- (6) For the purposes of subsection (3) above, the relevant revaluation percentage is the percentage specified, in relation to earnings factors for the tax year in which the pensioner became subject to the debit, by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.
- (7) Cash equivalents for the purposes of this section shall be calculated in accordance with regulations.
- (8) In this section—
- “final relevant year” means the tax year immediately preceding that in which the pensioner attains pensionable age;
- “state scheme pension debit” means a debit under section 49(1)(a) of the Welfare Reform and Pensions Act 1999 (debit for the purposes of this Part of this Act);
- “valuation day” means the day on which the pensioner became subject to the state scheme pension debit.”

3 After section 55 there is inserted—

“Shared additional pension

55A Shared additional pension

- (1) A person shall be entitled to a shared additional pension if he is—
- (a) over pensionable age, and
- (b) entitled to a state scheme pension credit.
- (2) A person’s entitlement to a shared additional pension shall continue throughout his life.
- (3) The weekly rate of a shared additional pension shall be the appropriate weekly amount, unless the pensioner’s entitlement to the state scheme

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pension credit arose before the final relevant year, in which case it shall be that amount multiplied by the relevant revaluation percentage.

- (4) The appropriate weekly amount for the purposes of subsection (3) above is the weekly rate, expressed in terms of the valuation day, at which the cash equivalent, on that day, of the pensioner's entitlement, or prospective entitlement, to the shared additional pension is equal to the state scheme pension credit.
- (5) The relevant revaluation percentage for the purposes of that subsection is the percentage specified, in relation to earnings factors for the tax year in which the entitlement to the state scheme pension credit arose, by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.
- (6) Cash equivalents for the purposes of this section shall be calculated in accordance with regulations.
- (7) In this section—
 - “final relevant year” means the tax year immediately preceding that in which the pensioner attains pensionable age;
 - “state scheme pension credit” means a credit under section 49(1)(b) of the Welfare Reform and Pensions Act 1999 (credit for the purposes of this Part of this Act);
 - “valuation day” means the day on which the pensioner becomes entitled to the state scheme pension credit.

55B Reduction of shared additional pension: pension sharing

- (1) The weekly rate of a shared additional pension shall be reduced as follows in any case where—
 - (a) the pensioner has become subject to a state scheme pension debit, and
 - (b) the debit is to any extent referable to the pension.
- (2) If the pensioner became subject to the debit in or after the final relevant year, the weekly rate of the pension shall be reduced by the appropriate weekly amount.
- (3) If the pensioner became subject to the debit before the final relevant year, the weekly rate of the additional pension shall be reduced by the appropriate weekly amount multiplied by the relevant revaluation percentage.
- (4) The appropriate weekly amount for the purposes of subsections (2) and (3) above is the weekly rate, expressed in terms of the valuation day, at which the cash equivalent, on that day, of the pension mentioned in subsection (5) below is equal to so much of the debit as is referable to the shared additional pension.
- (5) The pension referred to above is a notional pension for the pensioner by virtue of section 55A above which becomes payable on the later of—
 - (a) his attaining pensionable age, and
 - (b) the valuation day.

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- (6) For the purposes of subsection (3) above, the relevant revaluation percentage is the percentage specified, in relation to earnings factors for the tax year in which the pensioner became subject to the debit, by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.
- (7) Cash equivalents for the purposes of this section shall be calculated in accordance with regulations.
- (8) In this section—
- “final relevant year” means the tax year immediately preceding that in which the pensioner attains pensionable age;
- “state scheme pension debit”, means a debit under section 49(1) (a) of the Welfare Reform and Pensions Act 1999 (debit for the purposes of this Part of this Act);
- “valuation day” means the day on which the pensioner became subject to the state scheme pension debit.

55C Increase of shared additional pension where entitlement is deferred

- (1) For the purposes of this section, a person’s entitlement to a shared additional pension is deferred—
- (a) where he would be entitled to a Category A or Category B retirement pension but for the fact that his entitlement to such a pension is deferred, if and so long as his entitlement to such a pension is deferred, and
- (b) otherwise, if and so long as he does not become entitled to the shared additional pension by reason only of not satisfying the conditions of section 1 of the Administration Act (entitlement to benefit dependent on claim),
- and, in relation to a shared additional pension, “period of deferment” shall be construed accordingly.
- (2) Where a person’s entitlement to a shared additional pension is deferred, the rate of his shared additional pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under subsection (3) below, but only if that amount is enough to increase the rate of the pension by at least 1 per cent.
- (3) A person is entitled to an increment under this subsection for each complete incremental period in his period of enhancement.
- (4) The amount of the increment for an incremental period shall be 1/7th per cent. of the weekly rate of the shared additional pension to which the person would have been entitled for the period if his entitlement had not been deferred.
- (5) Amounts under subsection (4) above shall be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny.
- (6) Where an amount under subsection (4) above would, apart from this subsection, be a sum less than 1/2p, the amount shall be taken to be zero,

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notwithstanding any other provision of this Act, the Pensions Act 1995 or the Administration Act.

- (7) Where one or more orders have come into force under section 150 of the Administration Act during the period of enhancement, the rate for any incremental period shall be determined as if the order or orders had come into force before the beginning of the period of enhancement.
- (8) The sums which are the increases in the rates of shared additional pensions under this section are subject to alteration by order made by the Secretary of State under section 150 of the Administration Act.
- (9) In this section—
- “incremental period” means any period of six days which are treated by regulations as days of increment for the purposes of this section in relation to the person and pension in question; and
 - “period of enhancement”, in relation to that person and that pension, means the period which—
 - (a) begins on the same day as the period of deferment in question, and
 - (b) ends on the same day as that period or, if earlier, on the day before the 5th anniversary of the beginning of that period.”

SCHEDULE 7

Section 59.

JOINT CLAIMS FOR JOBSEEKER’S ALLOWANCE

Jobseekers Act 1995 (c. 18)

- 1 The Jobseekers Act 1995 has effect subject to the following amendments.
- 2 (1) Section 1 (entitlement to jobseeker’s allowance) is amended as follows.
- (2) In subsection (2) (conditions of entitlement), for paragraph (d) (claimant must satisfy conditions set out in section 2 or 3) substitute—
- “(d) satisfies the conditions set out in section 2;”.
- (3) After subsection (2) insert—
- “(2A) Subject to the provisions of this Act, a claimant who is not a member of a joint-claim couple is entitled to a jobseeker’s allowance if he satisfies—
 - (a) the conditions set out in paragraphs (a) to (c) and (e) to (i) of subsection (2); and
 - (b) the conditions set out in section 3.
 - “(2B) Subject to the provisions of this Act, a joint-claim couple are entitled to a jobseeker’s allowance if—
 - (a) a claim for the allowance is made jointly by the couple;
 - (b) each member of the couple satisfies the conditions set out in paragraphs (a) to (c) and (e) to (i) of subsection (2); and
 - (c) the conditions set out in section 3A are satisfied in relation to the couple.

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(2C) Regulations may prescribe circumstances in which subsection (2A) is to apply to a claimant who is a member of a joint-claim couple.

(2D) Regulations may, in respect of cases where a person would (but for the regulations) be a member of two or more joint-claim couples, make provision for only one of those couples to be a joint-claim couple; and the provision which may be so made includes provision for the couple which is to be the joint-claim couple to be nominated—

- (a) by the persons who are the members of the couples, or
- (b) in default of one of the couples being so nominated, by the Secretary of State.”

(4) In subsection (4)—

- (a) in the definition of “an income-based jobseeker’s allowance”, at the end insert “or a joint-claim jobseeker’s allowance;” and
- (b) after that definition insert—

““a joint-claim couple” means a married or unmarried couple who—

- (a) are not members of any family whose members include a person in respect of whom a member of the couple is entitled to child benefit, and
- (b) are of a prescribed description;

“a joint-claim jobseeker’s allowance” means a jobseeker’s allowance entitlement to which arises by virtue of subsection (2B).”

3 In section 2(1) (the contribution-based conditions), for “section 1(2)(d)(i)” substitute “section 1(2)(d)”.

4 (1) In subsection (1) of section 3 (the income-based conditions), for “section 1(2)(d)(ii)” substitute “section 1(2A)(b)”.

(2) After that section insert—

“3A The conditions for claims by joint-claim couples

(1) The conditions referred to in section 1(2B)(c) are—

- (a) that the income of the joint-claim couple does not exceed the applicable amount (determined in accordance with regulations under section 4) or the couple have no income;
- (b) that no member of a family of which the couple are members is entitled to income support;
- (c) that no member of any such family (other than the couple) is entitled to an income-based jobseeker’s allowance;
- (d) that at least one member of the couple has reached the age of 18; and
- (e) that if only one member of the couple has reached the age of 18, the other member of the couple is a person—
 - (i) in respect of whom a direction under section 16 is in force; or
 - (ii) who has, in prescribed circumstances to be taken into account for a prescribed period, reached the age of 16.

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- (2) Subsections (2) and (4) of section 3 shall apply in relation to a member of the couple to whom subsection (1)(e)(i) or (ii) above applies as they apply in relation to a claimant to whom subsection (1)(f)(ii) or (iii) of that section applies.
- (3) In subsection (1)(e)(ii) above “period” shall be construed in accordance with section 3(3).

3B Joint-claim couples: the nominated member

- (1) Where a joint-claim couple make a claim for a joint-claim jobseeker’s allowance, they may nominate one of them as the member of the couple to whom the allowance is to be payable.
- (2) In default of one of them being so nominated, the allowance shall be payable to whichever of them is nominated by the Secretary of State.
- (3) Subsections (1) and (2) have effect subject to section 4A(4) and (7).
- (4) In this Act references to the nominated member of a joint-claim couple are, except where section 20A(7) applies, to the member of the couple nominated under subsection (1) or (2) above; and where section 20A(7) applies, references to the nominated member of such a couple are to the member of the couple to whom section 20A(7) provides for the allowance to be payable.
- (5) Nothing in this section or section 20A(7) affects the operation of any statutory provision by virtue of which any amount of the allowance is required or authorised to be paid to someone other than the nominated member of the couple.”

- 5 (1) Section 4 (amount of jobseeker’s allowance) is amended as follows.
 - (2) In subsection (3) (amount payable in respect of an income-based jobseeker’s allowance), after “allowance” insert “(other than a joint-claim jobseeker’s allowance)”.
 - (3) After subsection (3) insert—
 - “(3A) In the case of a joint-claim jobseeker’s allowance, the amount payable in respect of a joint-claim couple shall be—
 - (a) if the couple have no income, the applicable amount;
 - (b) if the couple have an income, the amount by which the applicable amount exceeds the couple’s income.”
 - (4) After subsection (11) insert—
 - “(11A) In subsections (6) to (11) “claimant” does not include—
 - (a) a joint-claim couple, or
 - (b) a member of such a couple (other than a person to whom regulations under section 1(2C) apply);but section 4A, which contains corresponding provisions relating to joint-claim couples, applies instead.”
- 6 After section 4 insert—

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“4A Amount payable in respect of joint-claim couple

- (1) This section applies where—
- (a) a joint-claim couple are entitled to a joint-claim jobseeker's allowance, and
 - (b) one or each of the members of the couple is in addition entitled to a contribution-based jobseeker's allowance;
- and in such a case the provisions of this section have effect in relation to the couple in place of section 4(3A).
- (2) If a joint-claim couple falling within subsection (1) have no income, the amount payable in respect of the couple by way of a jobseeker's allowance shall be—
- (a) the applicable amount, if that is greater than the couple's personal rate; and
 - (b) the couple's personal rate, if it is not.
- (3) Where the amount payable in accordance with subsection (2) is the applicable amount, the amount payable in respect of the couple by way of a jobseeker's allowance shall be taken to consist of two elements—
- (a) one being an amount equal to the couple's personal rate; and
 - (b) the other being an amount equal to the excess of the applicable amount over the couple's personal rate.
- (4) Where the amount payable in accordance with subsection (2) is the couple's personal rate, then—
- (a) if each member of the couple is entitled to a contribution-based jobseeker's allowance, an amount equal to the member's own personal rate shall be payable in respect of the member by way of such an allowance;
 - (b) if only one of them is so entitled, an amount equal to that member's personal rate shall be payable in respect of the member by way of such an allowance;
- and in either case nothing shall be payable in respect of the couple by way of a joint-claim jobseeker's allowance.
- (5) If a joint-claim couple falling within subsection (1) have an income, the amount payable in respect of the couple by way of a jobseeker's allowance shall be—
- (a) the amount by which the applicable amount exceeds the couple's income, if the amount of that excess is greater than the couple's personal rate; and
 - (b) the couple's personal rate, if it is not.
- (6) Where the amount payable in accordance with subsection (5) is the amount by which the applicable amount exceeds the couple's income, the amount payable in respect of the couple by way of a jobseeker's allowance shall be taken to consist of two elements—
- (a) one being an amount equal to the couple's personal rate; and

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- (b) the other being an amount equal to the amount by which the difference between the applicable amount and the couple’s income exceeds the couple’s personal rate.
 - (7) Where the amount payable in accordance with subsection (5) is the couple’s personal rate, subsection (4) shall apply as it applies in a case where the amount payable in accordance with subsection (2) is that rate.
 - (8) The element of a jobseeker’s allowance mentioned in subsection (3)(a) and that mentioned in subsection (6)(a) shall be treated, for the purpose of identifying the source of the allowance, as attributable—
 - (a) in a case where only one member of the joint-claim couple is entitled to a contribution-based jobseeker’s allowance, to that member’s entitlement to such an allowance; and
 - (b) in a case where each member of the couple is entitled to a contribution-based jobseeker’s allowance, rateably according to their individual entitlements to such an allowance.
 - (9) The element of a jobseeker’s allowance mentioned in subsection (3)(b) and that mentioned in subsection (6)(b) shall be treated, for the purpose of identifying the source of the allowance, as attributable to the couple’s entitlement to a joint-claim jobseeker’s allowance.
 - (10) In this section “the couple’s personal rate”, in relation to a joint-claim couple, means—
 - (a) where only one member of the couple is entitled to a contribution-based jobseeker’s allowance, that member’s personal rate;
 - (b) where each member of the couple is entitled to such an allowance, the aggregate of their personal rates.”
- 7 (1) Section 8 (power to make regulations requiring attendance etc.) is amended as follows.
- (2) In subsection (1), after “claimant” insert “(other than a joint-claim couple claiming a joint-claim jobseeker’s allowance)”.
 - (3) After subsection (1) insert—
 - “(1A) Regulations may make provision—
 - (a) for requiring each member of a joint-claim couple claiming a joint-claim jobseeker’s allowance to attend at such place and such time as the Secretary of State may specify;
 - (b) for requiring a member of such a couple to provide information and such evidence as may be prescribed as to his circumstances, his availability for employment and the extent to which he is actively seeking employment;
 - (c) for requiring such a couple to jointly provide information and such evidence as may be prescribed as to the circumstances of each or either member of the couple, the availability for employment of each or either member of the couple and the extent to which each or either member of the couple is actively seeking employment;
 - (d) where any requirement to provide information or evidence is imposed on such a couple by virtue of paragraph (c), for the joint obligation of the couple to be capable of being discharged by the

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

provision of the information or evidence by one member of the couple.”

- (4) In subsection (2), after “Regulations under subsection (1)” insert “or (1A)”.
- (5) In subsection (2)(a) (cases where entitlement to allowance may cease on account of non-compliance), after “in the case of a claimant who” insert “, or (as the case may be) a joint-claim couple claiming a joint-claim jobseeker’s allowance a member of which,”.
- (6) In subsection (2)(b) (cases where entitlement to allowance may cease by reference to the time expired since the claimant’s last attendance)—
- (a) after “he” insert “or, as the case may be, a member of the joint-claim couple”; and
 - (b) after “subsection (1)(a)” insert “or (1A)(a)”.
- (7) For paragraph (c) of subsection (2) (provision for entitlement not to cease where good cause shown) substitute—
- “(c) provide for entitlement not to cease if the claimant or (as the case may be) either member of the joint-claim couple shows, within a prescribed period of the failure to comply on the part of the claimant or (as the case may be) a member of the couple, that the claimant or (as the case may be) the defaulting member of the couple had good cause for that failure; and”.
- 8 In section 9(12) (jobseeker’s agreement ends when allowance ends), at the end insert “or to a joint-claim couple of which he is a member.”
- 9 (1) Section 13 (income and capital for the purposes of an income-based allowance) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) Subsections (1) and (2) do not apply as regards a joint-claim jobseeker’s allowance; but a joint-claim couple shall not be entitled to a joint-claim jobseeker’s allowance if the couple’s capital, or a prescribed part of it, exceeds the prescribed amount.
 - (2B) Where a joint-claim couple claim a joint-claim jobseeker’s allowance—
 - (a) the couple’s income and capital includes the separate income and capital of each of them; and
 - (b) the income and capital of any other person who is a member of any family of which the couple are members shall, except in prescribed circumstances, be treated as income and capital of the couple.”
- (3) In subsection (3) (treating capital as income), after “subsection (1)” insert “or (2A)”.
- 10 After section 15 (effect on family of one member being involved in a trade dispute) insert—

“15A Trade disputes: joint-claim couples

- (1) Sections 14 and 15 shall, in relation to a joint-claim couple claiming a joint-claim jobseeker’s allowance, apply in accordance with this section.

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

- (2) Where each member of the couple is prevented by section 14 from being entitled to a jobseeker’s allowance, the couple are not entitled to a joint-claim jobseeker’s allowance.
 - (3) But where only one member of the couple is prevented by that section from being entitled to a jobseeker’s allowance, the couple are not for that reason alone prevented from being entitled to a joint-claim jobseeker’s allowance.
 - (4) Section 15(1) does not have effect in relation to the couple but, except in prescribed circumstances, section 15(2) applies for the purposes of calculating the couple’s entitlement to a joint-claim jobseeker’s allowance where—
 - (a) a member of the couple, or
 - (b) any other person who is a member of any family of which the couple are members,is, or would be, prevented by section 14 from being entitled to a jobseeker’s allowance.
 - (5) Where section 15(2) applies in relation to the couple by virtue of subsection (4) above, that provision and section 15(4) apply with the following modifications—
 - (a) references to the claimant are to be taken as references to the couple;
 - (b) references to “A” are to the person mentioned in subsection (4)(a) or (b) above;
 - (c) section 15(2)(b) has effect as if for “where the claimant and A are a married or unmarried couple,” there were substituted “where A is a member of the couple;” and
 - (d) section 15(2)(c)(ii) has effect as if for “of his family” there were substituted “of any family of which the couple are members”.
- 11 In section 17 (reduction of allowance payable to young persons), after subsection (1) insert—
- “(1A) Regulations may provide for the amount of a joint-claim jobseeker’s allowance payable in respect of any joint-claim couple where a member of the couple is a young person to whom this section applies to be reduced—
- (a) in such circumstances,
 - (b) by such a percentage, and
 - (c) for such a period,
- as may be prescribed.”
- 12 In section 19 (allowance not payable though conditions for entitlement are satisfied), after subsection (1) insert—
- “(1A) Subject to section 20A(9), this section does not apply as regards a joint-claim jobseeker’s allowance (but sections 20A and 20B make, in relation to such an allowance, provision corresponding to that made by this section and section 20).”
- 13 After section 20 insert—

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

“20A Denial or reduction of joint-claim jobseeker’s allowance

- (1) Where this section applies to a member of a joint-claim couple, that member of the couple shall be subject to sanctions for the purposes of this section.
- (2) This section applies to a member of a joint-claim couple if that member of the couple—
 - (a) has, without good cause, refused or failed to carry out any jobseeker’s direction which was reasonable, having regard to his circumstances;
 - (b) has, without good cause—
 - (i) neglected to avail himself of a reasonable opportunity of a place on a training scheme or employment programme;
 - (ii) after a place on such a scheme or programme has been notified to him by an employment officer as vacant or about to become vacant, refused or failed to apply for it or to accept it when offered to him;
 - (iii) given up a place on such a scheme or programme; or
 - (iv) failed to attend such a scheme or programme on which he has been given a place;
 - (c) has lost his place on such a scheme or programme through misconduct;
 - (d) has lost his employment as an employed earner through misconduct;
 - (e) has voluntarily left such employment without just cause;
 - (f) has, without good cause, after a situation in any employment has been notified to him by an employment officer as vacant or about to become vacant, refused or failed to apply for it or to accept it when offered to him; or
 - (g) has, without good cause, neglected to avail himself of a reasonable opportunity of employment.
- (3) Where this section applies to a member of a joint-claim couple by virtue of any of paragraphs (a) to (c) of subsection (2), the period for which he is to be subject to sanctions shall be such period (of at least one week but not more than 26 weeks) as may be prescribed.
- (4) Where this section applies to a member of a joint-claim couple by virtue only of any of paragraphs (d) to (g) of subsection (2), the period for which he is to be subject to sanctions shall be such period (of at least one week but not more than 26 weeks) as may be determined by the Secretary of State.
- (5) Even though the conditions for entitlement to a joint-claim jobseeker’s allowance are satisfied in relation to a joint-claim couple—
 - (a) the allowance shall not be payable for any period during which both members of the couple are subject to sanctions; and
 - (b) the amount of the allowance payable in respect of the couple for any period during which only one member of the couple is subject to sanctions shall be reduced to an amount calculated by the prescribed method (“the reduced amount”).

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

- (6) The method prescribed for calculating the reduced amount may, in particular, involve—
 - (a) deducting amounts from, or making percentage reductions of, the amount which would be the amount of the allowance if neither member of the couple were subject to sanctions;
 - (b) disregarding portions of the applicable amount;
 - (c) treating amounts as being income or capital of the couple.
- (7) During any period for which the amount of a joint-claim jobseeker's allowance payable in respect of a joint-claim couple is the reduced amount, the allowance shall be payable to the member of the couple who is not subject to sanctions.
- (8) Regulations may prescribe—
 - (a) circumstances which the Secretary of State is to take into account, and
 - (b) circumstances which he is not to take into account, in determining a period under subsection (4).
- (9) Subsections (7) to (10) of section 19 apply for the purposes of this section as for those of that section but as if references in subsection (10)(b) of that section to the claimant were to the member of the joint-claim couple to whom subsection (2)(a) above applies.
- (1) Section 20A shall not be taken to apply to a member of a joint-claim couple merely because he has refused to seek or accept employment in a situation which is vacant in consequence of a stoppage of work due to a trade dispute.
- (2) Section 20A does not apply to a member of a joint-claim couple by virtue of any of paragraphs (a) to (c) of subsection (2) of that section if—
 - (a) a direction is in force under section 16 with respect to that member of the couple; and
 - (b) he has acted in such a way as to risk—
 - (i) having that direction revoked under subsection (3)(b) of section 16; or
 - (ii) having the amount of the couple's entitlement to a joint-claim jobseeker's allowance reduced by virtue of section 17 because the condition in section 17(3)(b) or (c) is established.
- (3) Regulations shall make provision for the purpose of enabling any person of a prescribed description to accept any employed earner's employment without section 20A applying to him by virtue of paragraph (e) or (g) of subsection (2) of that section should he leave that employment voluntarily and without just cause at any time during a trial period.
- (4) In such circumstances as may be prescribed, a joint-claim jobseeker's allowance shall be payable in respect of a joint-claim couple even though section 20A(5)(a) prevents payment of such a jobseeker's allowance to the couple.

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

- (5) A jobseeker’s allowance shall be payable by virtue of subsection (4) only if the couple have complied with such requirements as to the provision of information as may be prescribed for the purposes of this subsection.
 - (6) Regulations under subsection (4) may, in particular, provide for a jobseeker’s allowance payable by virtue of that subsection to be—
 - (a) payable at a prescribed rate;
 - (b) payable for a prescribed period (which may differ from the period during which both members of the couple are subject to sanctions for the purposes of section 20A).
 - (7) In subsection (3), “trial period” has such meaning as may be prescribed.
 - (8) Regulations may make provision for determining, for the purposes of this section, the day on which a person’s employment is to be regarded as commencing.”
- 14 (1) Section 31 (termination of awards where another entitlement exists) is amended as follows.
- (2) In subsection (1) (termination of award of income support where there will be an entitlement to a jobseeker’s allowance), after “or where he is a member of a married or unmarried couple his partner” insert “or the couple”.
 - (3) In subsection (2) (termination of award of a jobseeker’s allowance where there will be an entitlement to income support), after “or where he is a member of a married or unmarried couple his partner,” insert “or where the award was made to a couple a member of the couple,”.
- 15 (1) Section 35 (interpretation) is amended as follows.
- (2) In the definition of “claimant”, at the end insert “except that in relation to a joint-claim couple claiming a joint-claim jobseeker’s allowance it means the couple, or each member of the couple, as the context requires;”.
 - (3) After the definition of “job-seeking period” insert—
 - ““joint-claim couple” and “joint-claim jobseeker’s allowance” have the meanings given by section 1(4);”.
 - (4) After the definition of “married couple” insert—
 - ““the nominated member”, in relation to a joint-claim couple, shall be construed in accordance with section 3B(4);”.
- 16 (1) Schedule 1 (jobseeker’s allowance: supplementary provisions) is amended as follows.
- (2) After paragraph 8 (entitlement without satisfying conditions) insert—
 - “8A (1) Regulations may prescribe circumstances in which a joint-claim couple may be entitled to a joint-claim jobseeker’s allowance without each member of the couple satisfying all the conditions referred to in section 1(2B)(b).
 - (2) Regulations may prescribe circumstances in which, and a period for which, a transitional case couple may be entitled to a joint-claim jobseeker’s allowance without having jointly made a claim for it.

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- (3) In sub-paragraph (2)—
- (a) “a transitional case couple” means a joint-claim couple a member of which is entitled to an income-based jobseeker’s allowance on the coming into force of Schedule 7 to the Welfare Reform and Pensions Act 1999; and
 - (b) “period” shall be construed in accordance with section 3(3).”
- (3) In paragraph 9(a) (rate of allowance payable under paragraph 8), after “paragraph 8” insert “or 8A”.
- (4) After paragraph 9 insert—

“Continuity of claims and awards: persons ceasing to be a joint-claim couple

- 9A (1) Regulations may make provision about the entitlement to a jobseeker’s allowance of persons (“ex-members”) who cease to be members of a joint-claim couple.
- (2) Regulations under this paragraph may, in particular, provide—
- (a) for treating each or either of the ex-members as having made any claim made by the couple or, alternatively, for any such claim to lapse;
 - (b) for any award made in respect of the couple to be replaced by an award (a “replacement award”) in respect of each or either of the ex-members of the couple or, alternatively, for any such award to lapse.

Continuity of claims and awards: persons again becoming a joint-claim couple

- 9B (1) Regulations may make provision about the entitlement to a jobseeker’s allowance of persons (“ex-members”) who, having ceased to be members of a joint-claim couple, again become the members of a joint-claim couple.
- (2) Regulations under this paragraph may, in particular, provide—
- (a) for any claim made by the ex-members when they were previously a joint-claim couple to be revived or otherwise given effect as a claim made by the couple;
 - (b) for any award made in respect of the ex-members when they were previously a joint-claim couple to be restored;
 - (c) for any such award, or any replacement award (within the meaning of paragraph 9A) made in respect of either of them, to be replaced by an award (a “new award”) in respect of the couple.

Continuity of claims and awards: couple becoming a joint-claim couple

- 9C (1) Regulations may make provision about the entitlement to a jobseeker’s allowance of persons who become members of a joint-claim couple as a result of the married or unmarried couple of which they are members becoming a joint-claim couple.
- (2) Regulations under this paragraph may, in particular, provide—

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

- (a) for any claim made by either member of the couple before the couple became a joint-claim couple to be given effect as a claim made by the couple;
- (b) for any award, or any replacement award (within the meaning of paragraph 9A), made in respect of either member of the couple before the couple became a joint-claim couple to be replaced by an award (a “new award”) in respect of the couple.

Paragraphs 9A to 9C: supplementary

- 9D (1) Regulations may provide, in relation to any replacement award (within the meaning of paragraph 9A) or new award (within the meaning of paragraph 9B or 9C)—
- (a) for the award to be of an amount determined in a prescribed manner;
 - (b) for entitlement to the award to be subject to compliance with prescribed requirements as to the provision of information and evidence.

- (2) In paragraphs 9A to 9C and this paragraph—

“award” means an award of a jobseeker’s allowance;
“claim” means a claim for a jobseeker’s allowance.”

- (5) For paragraph 10(1) (entitlement before claim determined) substitute—

“(1) In such circumstances as may be prescribed—

- (a) a claimant for a jobseeker’s allowance other than a joint-claim jobseeker’s allowance,
- (b) a joint-claim couple claiming a joint-claim jobseeker’s allowance, or
- (c) a member of such a couple,

may be treated as being entitled to an income-based jobseeker’s allowance before his or (as the case may be) the couple’s claim for the allowance has been determined.”

- (6) In paragraph 10(2) (allowance where payment suspended), for “to a claimant even though payment to him” substitute “to—

- (a) a claimant for a jobseeker’s allowance other than a joint-claim jobseeker’s allowance,
- (b) a joint-claim couple claiming a joint-claim jobseeker’s allowance, or
- (c) a member of such a couple,

even though payment to him or (as the case may be) the couple”.

- (7) In paragraph 10(3) (information to be supplied to obtain payments under sub-paragraph (1) or (2)), after “the claimant” insert “or (as the case may be) the couple or the member of the couple”.

Social Security Act 1998 (c. 14)

- 17 In section 39(1) of the Social Security Act 1998 (interpretation of Chapter II of Part I), after the definition of “appeal tribunal” insert—

““claimant”, in relation to a joint-claim couple claiming a joint-claim jobseeker’s allowance (within the meaning of the Jobseekers Act 1995), means the couple or either member of the couple;”.

SCHEDULE 8

Section 70.

WELFARE BENEFITS: MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

BEREAVEMENT BENEFITS

Income and Corporation Taxes Act 1988 (c. 1)

- 1 (1) Section 617 of the Income and Corporation Taxes Act 1988 (social security benefits and contributions) is amended as follows.
- (2) In subsection (1)(a)—
- (a) after “maternity allowance,” insert “bereavement payments;”; and
 - (b) omit “widow’s payments;”.
- (3) Omit subsection (6).

Social Security Contributions and Benefits Act 1992 (c. 4)

- 2 The Contributions and Benefits Act has effect subject to the following amendments.
- 3 (1) Section 20 (descriptions of contributory benefits) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (e), omit sub-paragraph (i); and
 - (b) after that paragraph insert—
 - “(ea) bereavement benefits, comprising—
 - (i) bereavement payment;
 - (ii) widowed parent’s allowance (with increase for child dependants);
 - (iii) bereavement allowance;”.
- (3) In subsection (2), in the definition of “long-term benefit”, after paragraph (b) insert—
“(ba) a widowed parent’s allowance;
(bb) a bereavement allowance;”.
- 4 (1) Section 21 (contribution conditions) is amended as follows.
- (2) In subsection (2)—
- (a) for “Widow’s payment” substitute “Bereavement payment”; and
 - (b) after the entry relating to widowed mother’s allowance insert—

“Widowed parent’s allowance

Class 1, 2 or 3

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

Bereavement allowance	Class 1, 2 or 3”
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- (3) In subsection (4), for “widow’s payment” substitute “bereavement payment”.
- 5 In section 46(2) (modifications of s. 45 for calculating additional pension in certain benefits)—
- (a) after “section 39(1)” insert “or 39C(1)”; and
- (b) for “or 48B(2)” substitute “, 48B(2) or 48BB(5)”.
- 6 In section 48B (Category B retirement pension for widows and widowers), at the end add—
- “(8) Nothing in subsections (4) to (7) above applies in a case where the spouse dies on or after the appointed day (as defined by section 36A(3)).”
- 7 In section 48C(4) (category B retirement pension: general), for “or 48B(2)” substitute “, 48B(2) or 48BB(5)”.
- 8 (1) Section 60 (complete or partial failure to satisfy contribution conditions) is amended as follows.
- (2) In subsection (1), after paragraph (a) insert—
- “(aa) a widowed parent’s allowance,
- (ab) a bereavement allowance”.
- (3) In subsection (3)—
- (a) for paragraph (a) substitute—
- “(a) a bereavement payment;”; and
- (b) after paragraph (b) insert—
- “(ba) a widowed parent’s allowance;
- (bb) a bereavement allowance;”; and
- (c) in paragraph (d), after “48B” insert “or 48BB”.
- 9 In section 61(1) (exclusion of increase of benefit for failure to satisfy contribution condition), after “widowed mother’s allowance” insert “or widowed parent’s allowance”.
- 10 In section 61A(3) (contributions paid in error)—
- (a) at the end of paragraph (b) insert “(payable by virtue of section 48B or 48BB above)”; and
- (b) after “widow’s pension,” insert—
- “(ca) widowed parent’s allowance,”.
- 11 In section 80(5) (beneficiary’s dependent children)—
- (a) for “payable by virtue of subsection (1)(a) of section 37” substitute “or a widowed parent’s allowance payable by virtue of section 37(1)(a) or (as the case may be) section 39A(2)(a)”; and
- (b) for “subsection (2)(a), (b) or (c) of that section” substitute “section 37(2) (a), (b) or (c) or (as the case may be) section 39A(3)(a), (b) or (c)”.
- 12 In section 150 (interpretation of provisions relating to Christmas bonus), in subsection (1)(c), after “allowance” insert “, widowed parent’s allowance”.
- 13 (1) Schedule 3 (contribution conditions for entitlement to benefit) is amended as follows.

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

- (2) In paragraph 4(1) (contribution condition for widow’s payment) and in the cross-heading preceding paragraph 4, for “widow’s payment” and “Widow’s payment” substitute “bereavement payment” and “Bereavement payment” respectively.
 - (3) In paragraph 5(1) (contribution conditions for widowed mother’s allowance, widow’s pension etc.), after “allowance,” insert “ a widowed parent’s allowance, a bereavement allowance,”; and in the cross-heading preceding paragraph 5, after “allowance” insert “, widowed parent’s allowance, bereavement allowance”.
 - (4) In paragraph 7(1) and (3) (satisfaction of conditions in early years of contribution), for “widow’s payment” substitute “bereavement payment”.
 - (5) In paragraph 9 (satisfaction of condition where condition for short-term benefit satisfied)—
 - (a) for “a woman claims a widow’s payment” substitute “a claim is made for a bereavement payment”; and
 - (b) for “widow’s payment” (in the second place where it occurs) substitute “bereavement payment”.
- 14 In Part IV of Schedule 4 (increases for dependants), after the entry relating to widowed mother’s allowance insert—

“4A. Widowed parent’s allowance	11.35	—.”
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Social Security Administration Act 1992 (c. 5)

- 15 The Administration Act is amended as follows.
- 16 In section 1(2)(a) (entitlement to benefit dependent on claim), for “widow’s payment, she” substitute “bereavement payment, the person”.
- 17 For section 3 (and the cross-heading preceding it) substitute—

“Bereavement benefits

3 Late claims for bereavement benefit where death is difficult to establish

- (1) This section applies where a person’s spouse has died or may be presumed to have died on or after the appointed day and the circumstances are such that—
 - (a) more than 12 months have elapsed since the date of death; and
 - (b) either—
 - (i) the spouse’s body has not been discovered or identified or, if it has been discovered and identified, the surviving spouse does not know that fact; or
 - (ii) less than 12 months have elapsed since the surviving spouse first knew of the discovery and identification of the body.
- (2) Where this section applies, notwithstanding that any time prescribed for making a claim for a bereavement benefit in respect of the death has elapsed, then—

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

- (a) in any case falling within paragraph (b)(i) of subsection (1) above where it has been decided under section 8 of the Social Security Act 1998 that the spouse 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 surviving spouse 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 decision was made or, as the case may be, the date on which the surviving spouse first knew of the discovery and identification.

- (3) If, in a case where a claim for a bereavement 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—
 - (a) a bereavement payment in respect of the spouse’s death more than 12 months before the date on which the claim is made or treated as made; or
 - (b) any other bereavement benefit in respect of his or her death for a period more than 12 months before that date,

then, notwithstanding anything in that section, the surviving spouse 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) In subsection (1) above “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.”

Pension Schemes Act 1993 (c. 48)

- 18 (1) Section 46 of the Pension Schemes Act 1993 (effect of entitlement to guaranteed minimum pensions on payment of social security benefit) is amended as follows.
- (2) In subsection (1), after “widowed mother’s allowance” insert “, a widowed parent’s allowance”.
- (3) In subsection (6)(b)(iii), for “or 48B” substitute “, 48B or 48BB”.

Pensions Act 1995 (c. 26)

- 19 (1) Section 128 of the Pensions Act 1995 (additional pension: calculation of surpluses) is amended as follows.
- (2) In subsection (4), after “subsections (5)” insert “, (5A)”.
- (3) After subsection (5) insert—
 - “(5A) This section has effect in the case of additional pension falling to be calculated under sections 44 and 45 of the Social Security Contributions and Benefits Act 1992 by virtue of section 39C(1) of that Act (widowed parent’s allowance), including Category B retirement pension payable under section 48BB(2), if the pensioner’s spouse—
 - (a) dies after 5th April 2000, and
 - (b) has not attained pensionable age on or before that date.”

- (4) In subsection (6), for “or 48B(2)” substitute “, 48B(2) or 48BB(5)”.

PART II

INCAPACITY

Social Security Contributions and Benefits Act 1992 (c. 4)

- 20 The Contributions and Benefits Act has effect subject to the following amendments.
- 21 In section 21 (contribution conditions)—
- (a) in subsection (1), after “other than” insert “short-term incapacity benefit under subsection (1)(b) of section 30A below,” and for “30A below” substitute “subsection (5) of that section”; and
 - (b) in subsection (2), for “30A” substitute “30A(1)(a)”.
- 22 In section 30B (incapacity benefit: rate), at the end add—
- “(8) This section has effect subject to sections 30DD (reduction for pension payments) and section 30E (reduction for councillor’s allowance) below.”
- 23 (1) Section 171A (test of incapacity for work) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) In subsection (2)(a) above the reference to such information or evidence as is there mentioned includes information or evidence capable of being used for assisting or encouraging the person in question to obtain work or enhance his prospects of obtaining it.”
- (3) In subsection (3) (requirement to have medical examination), for “a question arises as to” substitute “it falls to be determined”.
 - (4) After subsection (4) add—
- “(5) All information supplied in pursuance of this section shall be taken for all purposes to be information relating to social security.”
- 24 In section 171B(1) (the “own occupation test”), for “the test applicable is the own occupation test” substitute “the own occupation test is applicable in his case.”
- 25 In section 176 (parliamentary control), in subsection (1)(a) (regulations subject to affirmative resolution procedure), after “section 28(3);” insert—
- “section 30DD(5)(b) or (c);”.

PART III

ABOLITION OF SEVERE DISABLEMENT ALLOWANCE

Social Security Contributions and Benefits Act 1992 (c. 4)

- 26 In section 90 of the Contributions and Benefits Act (beneficiaries under sections 68 and 70)—

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

- (a) for the words from “rates” to “allowance, and” substitute “rate”; and
- (b) for “the allowance in question” substitute “the allowance”.

Criminal Justice Act 1991 (c. 53)

- 27 In section 24(4) of the Criminal Justice Act 1991 (recovery of fines etc. by deductions from income support), in the definition of “income support”, for “, retirement pension or severe disablement allowance” substitute “or retirement pension”.

PART IV

INCOME SUPPORT

Social Security Contributions and Benefits Act 1992 (c. 4)

- 28 In section 124(1)(f) of the Contributions and Benefits Act (entitlement to income support conditional on claimant and any partner not being entitled to an income-based jobseeker’s allowance), after “the other member of the couple is not” insert “, and the couple are not,”.

PART V

JOBSEEKER’S ALLOWANCE

Jobseekers Act 1995 (c. 18)

- 29 (1) The Jobseekers Act 1995 is amended as follows.
- (2) In section 4 (amount payable by way of a jobseeker’s allowance), in each of subsections (6) and (8) (amount payable where claimant satisfies the contribution-based, and the income-based, conditions)—
- (a) for “satisfies both the contribution-based conditions and the income-based conditions” substitute “is entitled to both a contribution-based jobseeker’s allowance and an income-based jobseeker’s allowance”; and
 - (b) after “the amount payable” insert “by way of a jobseeker’s allowance”.
- (3) In section 8 (attendance, information and evidence)—
- (a) in subsection (1)(a) (power of Secretary of State to specify place and time for claimant to attend), for “the Secretary of State” substitute “an employment officer”; and
 - (b) at the end add—
 - “(3) In subsection (1) “employment officer” means an officer of the Secretary of State or such other person as may be designated for the purposes of that subsection by an order made by the Secretary of State.”
- (4) In section 17(1) (reduction of allowance payable to young persons), for “payable to” substitute “payable in respect of”.

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

- (5) In section 20(4) (allowance payable to claimant even though section 19 prevents payment to him), for “payable to” there shall be substituted “payable in respect of”.
- (6) In section 36(1) (orders to be made by statutory instrument unless made under specified provision), after “section” insert “8(3),”.
- (7) In paragraph 10(2) of Schedule 1 (allowance payable to claimant even though payment to him has been suspended), for “payable to” there shall be substituted “payable in respect of”.

PART VI

MATERNITY ALLOWANCE

Social Security Contributions and Benefits Act 1992 (c. 4)

- 30 The Contributions and Benefits Act has effect subject to the following amendments.
- 31 (1) Section 21 (contribution conditions) is amended as follows.
- (2) In subsection (1), after “30A below” insert “, maternity allowance under section 35 below”.
 - (3) In subsection (2), omit the entry relating to maternity allowance.
 - (4) In subsection (4), omit “, other than maternity allowance,”.
- 32 In section 176(1)(c) (parliamentary control), after “section 28(2)” insert—
“section 35A(7);”.

PART VII

RETIREMENT PENSIONS

Social Security Contributions and Benefits Act 1992 (c. 4)

- 33 In section 48A of the Contributions and Benefits Act (category B retirement pension for married person), after subsection (4) insert—
- “(4A) Subsection (4) above shall have effect with the omission of the words from “plus” to the end if the pensioner is not the widow or widower of the person by virtue of whose contributions the pension is payable.”

PART VIII

ADMINISTRATION OF BENEFITS

- 34 (1) In each of the provisions of the Administration Act to which this paragraph applies—
- (a) any reference to a person authorised to exercise any function of a relevant authority relating to housing benefit or council tax benefit shall include a reference to a person providing services to a relevant authority which relate to such a benefit; and

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

- (b) any reference to the exercise of any function relating to such a benefit shall include a reference to the provision of any services so relating.
- (2) This paragraph applies to the following provisions of the Administration Act—
- (a) section 110A (appointment of inspectors by authorities administering housing benefit or council tax benefit);
 - (b) sections 122C, 122D and 122E (supply of information in connection with administration of housing benefit or council tax benefit);
 - (c) section 126A (power to require information from landlords etc. in connection with claims for housing benefit);
 - (d) section 182B (information about redirection of post); and
 - (e) Schedule 4 (persons covered by offence relating to unauthorised disclosures).
- (3) In this paragraph “relevant authority” means an authority administering housing benefit or council tax benefit.

SCHEDULE 9

Section 73.

NEW THRESHOLD FOR PRIMARY CLASS 1 CONTRIBUTIONS

PART I

NEW PRIMARY THRESHOLD

Earnings limits and thresholds for Class 1 contributions

1 For section 5 of the Contributions and Benefits Act substitute—

“5 Earnings limits and thresholds for Class 1 contributions

- (1) For the purposes of this Act there shall for every tax year be—
 - (a) the following for primary Class 1 contributions—
 - (i) a lower earnings limit,
 - (ii) a primary threshold, and
 - (iii) an upper earnings limit; and
 - (b) a secondary threshold for secondary Class 1 contributions.
 Those limits and thresholds shall be the amounts specified for that year by regulations which, in the case of those limits, shall be made in accordance with subsections (2) and (3) below.
- (2) The amount specified as the lower earnings limit for any tax year shall be an amount equal to or not more than 99p less than—
 - (a) the sum which at the beginning of that year is specified in section 44(4) below as the weekly rate of the basic pension in a Category A retirement pension; or
 - (b) that sum as increased by any Act or order passed or made before the beginning of that year and taking effect before 6th May in that year.

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

- (3) The amount specified as the upper earnings limit for any tax year shall be an amount which either—
 - (a) is equal to 7 times the sum which is the primary threshold for that year; or
 - (b) exceeds or falls short of 7 times that sum by an amount not exceeding half that sum.
- (4) Regulations may, in the case of each of the limits or thresholds mentioned in subsection (1) above, prescribe an equivalent of that limit or threshold in relation to earners paid otherwise than weekly (and references in this or any other Act to “the prescribed equivalent”, in the context of any of those limits or thresholds, are accordingly references to the equivalent prescribed under this subsection in relation to such earners).
- (5) The power conferred by subsection (4) above to prescribe an equivalent of any of those limits or thresholds includes power to prescribe an amount which exceeds, by not more than £1.00, the amount which is the arithmetical equivalent of that limit or threshold.
- (6) Regulations under this section shall be made by the Treasury.”

Liability for Class 1 contributions

2 For section 6 of the Contributions and Benefits Act substitute—

“6 Liability for Class 1 contributions

- (1) Where in any tax week earnings are paid to or for the benefit of an earner over the age of 16 in respect of any one employment of his which is employed earner’s employment—
 - (a) a primary Class 1 contribution shall be payable in accordance with this section and section 8 below if the amount paid exceeds the current primary threshold (or the prescribed equivalent); and
 - (b) a secondary Class 1 contribution shall be payable in accordance with this section and section 9 below if the amount paid exceeds the current secondary threshold (or the prescribed equivalent).
- (2) No primary or secondary Class 1 contribution shall be payable in respect of earnings if a Class 1B contribution is payable in respect of them.
- (3) Except as may be prescribed, no primary Class 1 contribution shall be payable in respect of earnings paid to or for the benefit of an employed earner after he attains pensionable age, but without prejudice to any liability to pay secondary Class 1 contributions in respect of any such earnings.
- (4) The primary and secondary Class 1 contributions referred to in subsection (1) above are payable as follows—
 - (a) the primary contribution shall be the liability of the earner; and
 - (b) the secondary contribution shall be the liability of the secondary contributor;but nothing in this subsection shall prejudice the provisions of paragraph 3 of Schedule 1 to this Act relating to the manner in which the earner’s liability falls to be discharged.

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

- (5) Except as provided by this Act, the primary and secondary Class 1 contributions in respect of earnings paid to or for the benefit of an earner in respect of any one employment of his shall be payable without regard to any other such payment of earnings in respect of any other employment of his.
- (6) Regulations may provide for reducing primary or secondary Class 1 contributions which are payable in respect of persons to whom Part XI of the Employment Rights Act 1996 (redundancy payments) does not apply by virtue of section 199(2) or 209 of that Act.
- (7) Regulations under this section shall be made by the Treasury.”

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

3 After section 6 of the Contributions and Benefits Act insert—

“6A Notional payment of primary Class 1 contribution where earnings not less than lower earnings limit

- (1) This section applies where in any tax week earnings are paid to or for the benefit of an earner over the age of 16 in respect of any one employment of his which is employed earner’s employment and the amount paid—
 - (a) is not less than the current lower earnings limit (or the prescribed equivalent), but
 - (b) does not exceed the current primary threshold (or the prescribed equivalent).
- (2) Subject to any prescribed exceptions or modifications—
 - (a) the earner shall be treated as having actually paid a primary Class 1 contribution in respect of that week, and
 - (b) those earnings shall be treated as earnings upon which such a contribution has been paid,
 for any of the purposes mentioned in subsection (3) below.
- (3) The purposes are—
 - (a) the purposes of section 14(1)(a) below;
 - (b) the purposes of the provisions mentioned in section 21(5A)(a) to (c) below;
 - (c) any other purposes relating to contributory benefits; and
 - (d) any purposes relating to jobseeker’s allowance.
- (4) Regulations may provide for any provision of this Act which, in whatever terms, refers—
 - (a) to primary Class 1 contributions being payable by a person, or
 - (b) otherwise to a person’s liability to pay such contributions,
 to have effect for the purposes of this section with any prescribed modifications.
- (5) Except as may be prescribed, nothing in this section applies in relation to earnings paid to or for the benefit of an employed earner after he attains pensionable age.

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

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

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

Calculation of primary Class 1 contributions

4 For section 8 of the Contributions and Benefits Act substitute—

“8 Calculation of primary Class 1 contributions

(1) Where a primary Class 1 contribution is payable as mentioned in section 6(1) (a) above, the amount of that contribution shall be the primary percentage of so much of the earner’s earnings paid in the tax week, in respect of the employment in question, as—

- (a) exceeds the current primary threshold (or the prescribed equivalent); and
- (b) does not exceed the current upper earnings limit (or the prescribed equivalent);

but this subsection is subject to regulations under section 6(6) above and sections 116 to 120 below and to section 41 of the Pensions Act (reduced rates of Class 1 contributions for earners in contracted-out employment).

(2) For the purposes of this Act the primary percentage shall be 10 per cent; but the percentage is subject to alteration under sections 143 and 145 of the Administration Act.”

Calculation of secondary Class 1 contributions

5 For section 9 of the Contributions and Benefits Act substitute—

“9 Calculation of secondary Class 1 contributions

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

(2) For the purposes of subsection (1) above, the secondary percentage shall be 12.2 per cent; but the percentage is subject to alteration under sections 143 and 145 of the Administration Act.

(3) Subsection (1) above is subject to regulations under section 6(6) above and sections 116 to 120 below and to section 41 of the Pensions Act.”

PART II

REDUCED CONTRIBUTIONS IN RESPECT OF MEMBERS OF CONTRACTED-OUT SCHEMES

Reduced rates for members of salary related contracted-out schemes

- 6 (1) Section 41 of the Pension Schemes Act 1993 is amended as follows.
- (2) In subsection (1), for “(1C)” substitute “(1E)”.
- (3) For subsections (1A) to (1C) substitute—
- “(1A) The amount of any primary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to 1.6 per cent of the relevant part of the earnings (“Amount R1”).
- (1B) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to 3 per cent of the relevant part of the earnings (“Amount R2”).
- (1C) The aggregate of Amounts R1 and R2 shall be set off—
- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (1A) and (1B); and
- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of any primary or secondary Class 1 contribution in respect of earnings—
- (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and
- (ii) in relation to which the secondary contributor is such a contributor;
- and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits Act 1992.
- (1D) If—
- (a) any balance remains, and
- (b) the secondary contributor makes an application for the purpose to the Inland Revenue,
- the Inland Revenue shall, in such manner and at such time (or within such period) as may be prescribed, pay to the secondary contributor an amount equal to the remaining balance.
- But regulations may make provision for the adjustment of an amount that would otherwise be payable under this subsection so as to avoid the payment of trivial or fractional amounts.
- (1E) If the Inland Revenue pay any amount under subsection (1D) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed.”

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

Reduced rates for members of money purchase contracted-out schemes

- 7 (1) Section 42A of the Pension Schemes Act 1993 is amended as follows.
- (2) In subsection (1), for “(3)” substitute “(2D) and (3)”.
- (3) For subsections (2) to (2B) substitute—
- “ (2) The amount of any primary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings (“Amount R1”).
- (2A) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings (“Amount R2”).
- (2B) The aggregate of Amounts R1 and R2 shall be set off—
- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (2) and (2A); and
- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of a primary or secondary Class 1 contribution in respect of earnings—
- (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and
- (ii) in relation to which the secondary contributor is such a contributor;
- and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits Act 1992.
- (2C) If—
- (a) any balance remains, and
- (b) the secondary contributor makes an application for the purpose to the Inland Revenue,
- the Inland Revenue shall, in such manner and at such time (or within such period) as may be prescribed, pay to the secondary contributor an amount equal to the remaining balance.
- But regulations may make provision for the adjustment of an amount that would otherwise be payable under this subsection so as to avoid the payment of trivial or fractional amounts.
- (2D) If the Inland Revenue pay any amount under subsection (2C) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed.”

Payments by Inland Revenue out of and into National Insurance Fund

- 8 (1) Section 177 of the Pension Schemes Act 1993 is amended as follows.
- (2) In subsection (2)(za), for “section 42A(3)” substitute “section 41(1D) or section 42A(2C) or (3)”.

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

- (3) In subsection (7)(a), for “42A(5) or” substitute “41(1E), 42A(2D) or (5) or”.

PART III

NATIONAL HEALTH SERVICE ALLOCATION

- 9 (1) Section 162 of the Administration Act is amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (a), for “the lower earnings limit” substitute “the primary threshold”; and
 - (b) in paragraph (b), before “earnings” insert “total”.
- (3) In subsection (6A)—
- (a) for “the lower or upper earnings limit” substitute “the primary threshold or the upper earnings limit”; and
 - (b) for “that limit prescribed under section 8(3)” substitute “that threshold or limit prescribed under section 5(4)”.

SCHEDULE 10

Section 74.

NEW THRESHOLD FOR PRIMARY CLASS 1 CONTRIBUTIONS: NORTHERN IRELAND

PART I

NEW PRIMARY THRESHOLD

Earnings limits and thresholds for Class 1 contributions

- 1 For section 5 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 substitute—

“5 Earnings limits and thresholds for Class 1 contributions

- (1) For the purposes of this Act there shall for every tax year be—
- (a) the following for primary Class 1 contributions—
 - (i) a lower earnings limit,
 - (ii) a primary threshold, and
 - (iii) an upper earnings limit; and
 - (b) a secondary threshold for secondary Class 1 contributions.
- Those limits and thresholds shall be the amounts specified for that year by regulations which, in the case of those limits, shall be made in accordance with subsections (2) and (3) below.
- (2) The amount specified as the lower earnings limit for any tax year shall be an amount equal to or not more than 99p less than—

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

- (a) the sum which at the beginning of that year is specified in section 44(4) below as the weekly rate of the basic pension in a Category A retirement pension; or
 - (b) that sum as increased by any Act, Measure or order passed or made before the beginning of that year and taking effect before 6th May in that year.
- (3) The amount specified as the upper earnings limit for any tax year shall be an amount which either—
- (a) is equal to 7 times the sum which is the primary threshold for that year; or
 - (b) exceeds or falls short of 7 times that sum by an amount not exceeding half that sum.
- (4) Regulations may, in the case of each of the limits or thresholds mentioned in subsection (1) above, prescribe an equivalent of that limit or threshold in relation to earners paid otherwise than weekly (and references in this Act or any other statutory provision to “the prescribed equivalent”, in the context of any of those limits or thresholds, are accordingly references to the equivalent prescribed under this subsection in relation to such earners).
- (5) The power conferred by subsection (4) above to prescribe an equivalent of any of those limits or thresholds includes power to prescribe an amount which exceeds, by not more than £1.00, the amount which is the arithmetical equivalent of that limit or threshold.
- (6) Regulations under this section shall be made by the Treasury.”

Liability for Class 1 contributions

2 For section 6 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 substitute—

“6 Liability for Class 1 contributions

- (1) Where in any tax week earnings are paid to or for the benefit of an earner over the age of 16 in respect of any one employment of his which is employed earner’s employment—
- (a) a primary Class 1 contribution shall be payable in accordance with this section and section 8 below if the amount paid exceeds the current primary threshold (or the prescribed equivalent); and
 - (b) a secondary Class 1 contribution shall be payable in accordance with this section and section 9 below if the amount paid exceeds the current secondary threshold (or the prescribed equivalent).
- (2) No primary or secondary Class 1 contribution shall be payable in respect of earnings if a Class 1B contribution is payable in respect of them.
- (3) Except as may be prescribed, no primary Class 1 contribution shall be payable in respect of earnings paid to or for the benefit of an employed earner after he attains pensionable age, but without prejudice to any liability to pay secondary Class 1 contributions in respect of any such earnings.

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

- (4) The primary and secondary Class 1 contributions referred to in subsection (1) above are payable as follows—
- (a) the primary contribution shall be the liability of the earner; and
 - (b) the secondary contribution shall be the liability of the secondary contributor;
- but nothing in this subsection shall prejudice the provisions of paragraph 3 of Schedule 1 to this Act relating to the manner in which the earner's liability falls to be discharged.
- (5) Except as provided by this Act, the primary and secondary Class 1 contributions in respect of earnings paid to or for the benefit of an earner in respect of any one employment of his shall be payable without regard to any other such payment of earnings in respect of any other employment of his.
- (6) Regulations may provide for reducing primary or secondary Class 1 contributions which are payable in respect of persons to whom Part XII of the Employment Rights (Northern Ireland) Order 1996 (redundancy payments) does not apply by virtue of Article 242(2) or 250 of that Order.
- (7) Regulations under this section shall be made by the Treasury.”

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

- 3 After section 6 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 insert—

“6A Notional payment of primary Class 1 contribution where earnings not less than lower earnings limit

- (1) This section applies where in any tax week earnings are paid to or for the benefit of an earner over the age of 16 in respect of any one employment of his which is employed earner's employment and the amount paid—
- (a) is not less than the current lower earnings limit (or the prescribed equivalent), but
 - (b) does not exceed the current primary threshold (or the prescribed equivalent).
- (2) Subject to any prescribed exceptions or modifications—
- (a) the earner shall be treated as having actually paid a primary Class 1 contribution in respect of that week, and
 - (b) those earnings shall be treated as earnings upon which such a contribution has been paid,
- for any of the purposes mentioned in subsection (3) below.
- (3) The purposes are—
- (a) the purposes of section 14(1)(a) below;
 - (b) the purposes of the provisions mentioned in section 21(5A)(a) to (c) below;
 - (c) any other purposes relating to contributory benefits; and
 - (d) any purposes relating to jobseeker's allowance.

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

- (4) Regulations may provide for any provision of this Act which, in whatever terms, refers—
 - (a) to primary Class 1 contributions being payable by a person, or
 - (b) otherwise to a person’s liability to pay such contributions,to have effect for the purposes of this section with any prescribed modifications.
- (5) Except as may be prescribed, nothing in this section applies in relation to earnings paid to or for the benefit of an employed earner after he attains pensionable age.
- (6) Except as provided by this Act, this section applies in relation to earnings paid to or for the benefit of an earner in respect of any one employment of his irrespective of any other such payment of earnings in respect of any other employment of his.
- (7) Regulations under this section shall be made by the Treasury.”

Calculation of primary Class 1 contributions

- 4 For section 8 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 substitute—

“8 Calculation of primary Class 1 contributions

- (1) Where a primary Class 1 contribution is payable as mentioned in section 6(1) (a) above, the amount of that contribution shall be the primary percentage of so much of the earner’s earnings paid in the tax week, in respect of the employment in question, as—
 - (a) exceeds the current primary threshold (or the prescribed equivalent); and
 - (b) does not exceed the current upper earnings limit (or the prescribed equivalent);but this subsection is subject to regulations under section 6(6) above and sections 116 to 119 below and to section 37 of the Pensions Act (reduced rates of Class 1 contributions for earners in contracted-out employment).
- (2) For the purposes of this Act the primary percentage shall be 10 per cent; but the percentage is subject to alteration under section 129 of the Administration Act.”

Calculation of secondary Class 1 contributions

- 5 For section 9 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 substitute—

“9 Calculation of secondary Class 1 contributions

- (1) Where a secondary Class 1 contribution is payable as mentioned in section 6(1)(b) above, the amount of that contribution shall be the secondary percentage of so much of the earnings paid in the tax week, in respect of the

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

employment in question, as exceeds the current secondary threshold (or the prescribed equivalent).

- (2) For the purposes of subsection (1) above, the secondary percentage shall be 12.2 per cent; but the percentage is subject to alteration under section 129 of the Administration Act.
- (3) Subsection (1) above is subject to regulations under section 6(6) above and sections 116 to 119 below and to section 37 of the Pensions Act.”

PART II

REDUCED CONTRIBUTIONS IN RESPECT OF MEMBERS OF CONTRACTED-OUT SCHEMES

Reduced rates for members of salary related contracted-out schemes

- 6 (1) Section 37 of the Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
 - (2) In subsection (1), for “(1C)” substitute “(1E)”.
 - (3) For subsections (1A) to (1C) substitute—
 - “(1A) The amount of any primary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to 1.6 per cent of the relevant part of the earnings (“Amount R1”).
 - (1B) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to 3 per cent of the relevant part of the earnings (“Amount R2”).
 - (1C) The aggregate of Amounts R1 and R2 shall be set off—
 - (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (1A) and (1B); and
 - (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of any primary or secondary Class 1 contribution in respect of earnings—
 - (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and
 - (ii) in relation to which the secondary contributor is such a contributor;

and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992.
 - (1D) If—
 - (a) any balance remains, and
 - (b) the secondary contributor makes an application for the purpose to the Inland Revenue,

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

the Inland Revenue shall, in such manner and at such time (or within such period) as may be prescribed by regulations made by the Secretary of State, pay to the secondary contributor an amount equal to the remaining balance.

But such regulations may make provision for the adjustment of an amount that would otherwise be payable under this subsection so as to avoid the payment of trivial or fractional amounts.

(1E) If the Inland Revenue pay any amount under subsection (1D) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed by such regulations.”

Reduced rates for members of money purchase contracted-out schemes

7 (1) Section 38A of the Pension Schemes (Northern Ireland) Act 1993 is amended as follows.

(2) In subsection (1), for “(3)” substitute “(2D) and (3)”.

(3) For subsections (2) to (2B) substitute—

“(2) The amount of any primary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings (“Amount R1”).

(2A) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings (“Amount R2”).

(2B) The aggregate of Amounts R1 and R2 shall be set off—

- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (2) and (2A); and
- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of a primary or secondary Class 1 contribution in respect of earnings—
 - (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and
 - (ii) in relation to which the secondary contributor is such a contributor;

and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(2C) If—

- (a) any balance remains, and
- (b) the secondary contributor makes an application for the purpose to the Inland Revenue,

the Inland Revenue shall, in such manner and at such time (or within such period) as may be prescribed by regulations made by the Secretary of State, pay to the secondary contributor an amount equal to the remaining balance.

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

But such regulations may make provision for the adjustment of an amount that would otherwise be payable under this subsection so as to avoid the payment of trivial or fractional amounts.

- (2D) If the Inland Revenue pay any amount under subsection (2C) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed by such regulations.”

Payments by Inland Revenue out of and into National Insurance Fund

- 8 (1) Section 172 of the Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- (2) In subsection (1)(za), for “section 38A(3)” substitute “section 37(1D) or section 38A(2C) or (3)”.
- (3) In subsection (7), for “section 38A(5) or” substitute “section 37(1E), 38A(2D) or (5) or”.

PART III

HEALTH SERVICE ALLOCATION

- 9 (1) Section 142 of the Social Security Administration (Northern Ireland) Act 1992 is amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (a), for “the lower earnings limit” substitute “the primary threshold”; and
 - (b) in paragraph (b), before “earnings” insert “total”.
- (3) In subsection (6A)—
- (a) for “the lower or upper earnings limit” substitute “the primary threshold or the upper earnings limit”; and
 - (b) for “that limit prescribed under section 8(3)” substitute “that threshold or limit prescribed under section 5(4)”.

SCHEDULE 11

Section 81.

CONTRIBUTIONS AND PENSIONS ADMINISTRATION

Social Security Contributions and Benefits Act 1992 (c. 4)

- 1 The Contributions and Benefits Act is amended as follows.
- 2 In section 2 (categories of earners), for subsection (2A) there is substituted—
- “(2A) Regulations under subsection (2) above shall be made by the Treasury and, in the case of regulations under paragraph (b) of that subsection, with the concurrence of the Secretary of State.”

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

- 3 In paragraph 8 of Schedule 1 (general regulation-making powers), at the end of sub-paragraph (1A) there is inserted “acting with the concurrence of the Inland Revenue”.

Social Security Administration Act 1992 (c. 5)

- 4 The Administration Act is amended as follows.
- 5 In section 116 (legal proceedings), in subsection (5A) for the words from the beginning to “that section” there is substituted “In relation to proceedings for an offence under section 114 above”.
- 6 In section 121A (recovery of contributions etc. in England and Wales), in subsection (8) for “Regulations may” there is substituted “The Inland Revenue may by regulations”.
- 7 In section 121E (supply of contributions etc. information held by Inland Revenue), in subsection (1) after “statutory maternity pay” there is inserted “or functions under Part III of the Pensions Act”.
- 8 In section 121F (supply to Inland Revenue for purposes of contributions etc. of information held by Secretary of State), at the end of subsection (2) there is inserted “or functions under Part III of the Pensions Act”.

Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

- 9 The Social Security Contributions and Benefits (Northern Ireland) Act 1992 is amended as follows.
- 10 In section 2 (categories of earners), for subsection (2A) there is substituted—
- “(2A) Regulations under subsection (2) above shall be made by the Treasury and, in the case of regulations under paragraph (b) of that subsection, with the concurrence of the Department.”
- 11 In section 172 (Assembly, etc. control of regulations and orders), in subsection (2) (c) for “, 153(2) or” there is substituted “or 153(2)”.
- 12 In paragraph 8 of Schedule 1 (general regulation-making powers), at the end of sub-paragraph (1A) there is inserted “acting with the concurrence of the Inland Revenue”.

Social Security Administration (Northern Ireland) Act 1992 (c. 8)

- 13 The Social Security Administration (Northern Ireland) Act 1992 is amended as follows.
- 14 In section 110 (legal proceedings), for subsection (5A) there is substituted—
- “(5A) In relation to proceedings for an offence under section 108 above—
- (a) the reference in subsection (2)(a) above to the Department, and
- (b) the reference in subsection (3)(a) above to the Head or a secretary, under secretary or assistant secretary of the Department,
- shall have effect as references to the Inland Revenue.”

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

- 15 In section 115D (supply of contributions, etc. information held by Inland Revenue), in subsection (1) after “statutory maternity pay” there is inserted “or functions under Part III of the Pensions Act”.
- 16 In section 115E (supply to Inland Revenue for purposes of contributions etc. of information held by Department or Secretary of State), at the end of subsection (2) there is inserted “or functions under Part III of the Pensions Act”.
- 17 (1) In section 116 (supply of information held by tax authorities for fraud prevention and verification), for subsection (1) there is substituted—
- “(1) This section applies—
- (a) to information which is held—
- (i) by the Inland Revenue, or
- (ii) by a person providing services to the Inland Revenue, in connection with the provision of those services,
- but is not information to which section 115D above applies, and
- (b) to information which is held—
- (i) by the Commissioners of Customs and Excise, or
- (ii) by a person providing services to the Commissioners of Customs and Excise, in connection with the provision of those services.”
- (2) This amendment shall be deemed to have come into force on 1st April 1999 in place of that made by paragraph 2(2) of Schedule 5 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.
- 18 (1) In section 145 (adjustments between the Northern Ireland National Insurance Fund and the Consolidated Fund of Northern Ireland)—
- (a) in subsection (1)(a), sub-paragraphs (i) and (ii) are omitted; and
- (b) in subsection (3)(a), for “subsection (1)(a) and (b)” there is substituted “subsection (1)(b)”.
- (2) These amendments shall be deemed to have come into force on 5th October 1999 in place of those made by paragraph 34 of Schedule 2 to the Tax Credits Act 1999.
- 19 (1) In section 165 (regulations and orders - general), in subsection (9)(c), for “142(7), 145(4)” there is substituted “145(4)(a)”.
- (2) This amendment shall be deemed to have come into force on 1st April 1999 in place of that made by paragraph 49(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.

Pension Schemes Act 1993 (c. 48)

- 20 The Pension Schemes Act 1993 is amended as follows.
- 21 In section 40 (scope of Chapter II of Part III), in paragraph (b) for “Secretary of State” there is substituted “Inland Revenue”.
- 22 In section 170 (decisions and appeals), as amended by section 16(2) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999, in subsection (5)—
- (a) for paragraphs (a) and (b) there is substituted—
- “(a) generally with respect to the making of relevant decisions;

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

- (b) with respect to the procedure to be adopted on any application made under section 9 or 10 of the 1998 Act by virtue of subsection (4); and
 - (c) generally with respect to such applications, revisions under section 9 and decisions under section 10;”, and
- (b) for “such a revision or decision” there is substituted “a revision under section 9 or decision under section 10”.
- 23 In section 185 (consultation about regulations), in subsection (8) for “section 170(8)” there is substituted “section 170(5)”.

Pension Schemes (Northern Ireland) Act 1993 (c. 49)

- 24 The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- 25 (1) In section 154 (disclosure of information between government departments, etc.), in subsection (5) after “Subsections (1) and (1A)” there is inserted “extend”.
- (2) This amendment shall be deemed to have come into force on 1st April 1999.
- 26 In section 165 (decisions and appeals), as amended by Article 15(2) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, in subsection (5)—
- (a) for paragraphs (a) and (b) there is substituted—
 - “(a) generally with respect to the making of relevant decisions;
 - (b) with respect to the procedure to be adopted on any application made under Article 10 or 11 of the 1998 Order by virtue of subsection (4); and
 - (c) generally with respect to such applications, revisions under Article 10 and decisions under Article 11;”, and
 - (b) for “such a revision or decision” there is substituted “a revision under Article 10 or decision under Article 11”.
- 27 (1) In section 177 (orders and regulations - general provisions), for subsection (7) there is substituted—
- “(7) Any power conferred on the Secretary of State to make regulations or orders (other than an order under section 162) is exercisable by statutory instrument, and subsections (2) to (4) and section 178(1) apply to regulations or orders made in exercise of any such power of the Secretary of State as they apply to regulations made by the Department.”
- (2) This amendment shall be deemed to have come into force on 1st April 1999 in place of those made by paragraph 75(3) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.
- 28 In section 180(2) (consultation about regulations)—
- (a) for “the appropriate government department” there is substituted “the Department or, as the case may be, the Secretary of State”, and
 - (b) after “it” there is inserted “or him”.

Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2)

- 29 The Social Security Contributions (Transfer of Functions, etc.) Act 1999 is amended as follows.

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

- 30 In section 3 (general functions of Inland Revenue), subsection (3)(c) (which excludes the application of section 27 of the Inland Revenue Regulation Act 1890 but has not come into force) is omitted.
- 31 In section 4 (recovery of contributions where income tax recovery provisions not applicable)—
- (a) in paragraph (a), after “1992” there is inserted “or paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992”,
 - (b) in paragraph (b), for “that Act” there is substituted “the Social Security Contributions and Benefits Act 1992 or section 18 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992”, and
 - (c) in paragraph (c), for “that Act” there is substituted “the Social Security Contributions and Benefits Act 1992 or paragraph 7A or 7B of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992”.
- 32 In Schedule 1 (transfer of Contributions Agency functions and associated functions), the following provisions are omitted, namely—
- (a) paragraph 4(6) (which was superseded by paragraph 4 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999), and
 - (b) paragraph 66(3) (which has not come into force).
- 33 In Schedule 2 (transfer of functions under subordinate legislation), the entry in the third column relating to the Pensions Act 1995 (Commencement No. 10) Order 1997 shall have effect, and be deemed always to have had effect, with the substitution for “Articles 4 and 13” of “In Article 4, paragraph (1), paragraph (2), except so far as relating to section 55(3) of the Pension Schemes Act 1993, to the making of regulations under section 64(1) of that Act and to section 64(3) and (5) to (9) of that Act, and paragraph (3) and Article 13”.

*Social Security Contributions (Transfer of Functions,
etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)*

- 34 In Schedule 2 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (transfer of functions under subordinate legislation), the entry in the third column relating to the Pensions (1995 Order) (Commencement No. 8) Order (Northern Ireland) 1997 shall have effect, and be deemed always to have had effect, with the substitution for “Articles 4 and 13” of “In Article 4, paragraph (1), paragraph (2), except so far as relating to section 51(3) of the Pension Schemes (Northern Ireland) Act 1993 and to the making of regulations under section 60(1) of that Act, and paragraph (3) and Article 13”.

Transfer of certain functions under subordinate legislation: Great Britain

- 35 There are hereby transferred to the Commissioners of Inland Revenue—
- (a) all functions of the Secretary of State under the Social Security (Contributions) Regulations 1979 which are not transferred to the Commissioners of Inland Revenue by virtue of section 1(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999, except his functions under regulation 44 of those regulations,

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

- (b) the functions of the Secretary of State under those provisions of the Occupational Pension Schemes (Contracting-out) Regulations 1984 (“the 1984 regulations”) which remain in force by virtue of regulation 77(a) of the Occupational Pension Schemes (Contracting-out) Regulations 1996 (“the 1996 regulations”), including his functions under the modifications of section 60(4) and (5) of the Pension Schemes Act 1993 made by regulation 23(10)(a)(iii) of the 1984 regulations, but excluding—
 - (i) his functions under paragraph (2) of regulation 20 of the 1984 regulations so far as relating to any extension of the period first referred to in that paragraph by more than six months, and
 - (ii) his functions under regulations 23(4) and 23A(4) of the 1984 regulations,
- (c) the functions of the Secretary of State under regulation 2 of the Occupational Pension Schemes (Contracted-out Protected Rights Premiums) Regulations 1987 (so far as remaining in force by virtue of regulation 77(b) of the 1996 regulations), and
- (d) the functions of the Secretary of State under the Personal Pension Schemes (Personal Pension Protected Rights Premiums) Regulations 1987 (“the 1987 regulations”) (so far as remaining in force by virtue of regulation 4(2) of the Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997), except—
 - (i) his functions under paragraph (3) of regulation 5 of the 1987 regulations so far as relating to any extension of the period first referred to in that paragraph by more than six months, and
 - (ii) his functions under regulation 6(4) of the 1987 regulations.

Transfer of certain functions under subordinate legislation: Northern Ireland

- 36 (1) There are hereby transferred to the Commissioners of Inland Revenue—
- (a) all functions of the Department under the Social Security (Contributions) Regulations (Northern Ireland) 1979 which are not transferred to the Commissioners of Inland Revenue by virtue of Article 3(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, except the functions of the Department under regulation 44 of those regulations,
 - (b) the functions of the Department under those provisions of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985 (“the 1985 regulations”) which remain in force by virtue of regulation 78(a) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 (“the 1996 regulations”), including its functions under the modifications of section 56(4) and (5) of the Pension Schemes (Northern Ireland) Act 1993 made by regulation 22(10)(a) of the 1985 regulations, but excluding—
 - (i) its functions under paragraph (2) of regulation 19 of the 1985 regulations so far as relating to any extension of the period first referred to in that paragraph by more than six months, and
 - (ii) its functions under regulations 22(4) and 22A(4) of the 1985 regulations,
 - (c) the functions of the Department under regulation 2 of the Occupational Pension Schemes (Contracted-out Protected Rights Premiums) Regulations

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

(Northern Ireland) 1987 (so far as remaining in force by virtue of regulation 78(b) of the 1996 regulations), and

- (d) the functions of the Department under the Personal Pension Schemes (Personal Pension Protected Rights Premiums) Regulations (Northern Ireland) 1987 (“the 1987 regulations”) (so far as remaining in force by virtue of regulation 4(2) of the Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 1997), except—

- (i) its functions under paragraph (3) of regulation 5 of the 1987 regulations so far as relating to any extension of the period first referred to in that paragraph by more than six months, and
(ii) its functions under regulation 6(4) of the 1987 regulations.

- (2) In sub-paragraph (1) “the Department” means the Department of Health and Social Services for Northern Ireland.

Savings

37 Paragraphs 1 and 2 of Schedule 8 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (general provisions relating to transfers of functions) shall have effect as if paragraphs 2, 3, 6, 21 and 35 of this Schedule were provisions of that Act specified in section 21(1) of that Act.

38 Paragraphs 1 and 2 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (general provisions relating to transfers of functions) shall have effect as if paragraphs 10, 12 and 36 of this Schedule were provisions of that Order specified in Article 20(1) of that Order.

SCHEDULE 12

Section 84.

CONSEQUENTIAL AMENDMENTS

PART I

AMENDMENTS CONSEQUENTIAL ON PARTS III AND IV

Supreme Court Act 1981 (c. 54)

1 In paragraph 3 of Schedule 1 to the Supreme Court Act 1981, after paragraph (f) there is inserted—

“(fa) all proceedings relating to a debit or credit under section 29(1) or 49(1) of the Welfare Reform and Pensions Act 1999;”.

Matrimonial and Family Proceedings Act 1984 (c. 42)

2 The Matrimonial and Family Proceedings Act 1984 is amended as follows.

3 In section 17, for subsection (1) there is substituted—

“(1) Subject to section 20 below, on an application by a party to a marriage for an order for financial relief under this section, the court may—

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

- (a) make any one or more of the orders which it could make under Part II of the 1973 Act if a decree of divorce, a decree of nullity of marriage or a decree of judicial separation in respect of the marriage had been granted in England and Wales, that is to say—
 - (i) any order mentioned in section 23(1) of the 1973 Act (financial provision orders); and
 - (ii) any order mentioned in section 24(1) of that Act (property adjustment orders); and
- (b) if the marriage has been dissolved or annulled, make one or more orders each of which would, within the meaning of that Part of that Act, be a pension sharing order in relation to the marriage.”

4 In section 21—

- (a) the word “made”, in both places, is omitted,
- (b) after paragraph (b) there is inserted—
 - “(ba) section 24B(3) to (5) (provisions about pension sharing orders in relation to divorce and nullity);
 - (bb) section 24C (duty to stay pension sharing orders);
 - (bc) section 24D (apportionment of pension sharing charges);”,
 - and
- (c) at the end there is inserted—
 - “(l) section 40A (appeals relating to pension sharing orders which have taken effect).”

Family Law (Scotland) Act 1985 (c. 37)

5 The Family Law (Scotland) Act 1985 has effect subject to the following amendments.

6 In section 8, after subsection (3) there is inserted—

- “(4) The court shall not, in the same proceedings, make both a pension sharing order and an order under section 12A(2) or (3) of this Act in relation to the same pension arrangement.
- (5) Where, as regards a pension arrangement, the parties to a marriage have in effect a qualifying agreement which contains a term relating to pension sharing, the court shall not—
 - (a) make an order under section 12A(2) or (3) of this Act; or
 - (b) make a pension sharing order,relating to the arrangement unless it also sets aside the agreement or term under section 16(1)(b) of this Act.
- (6) The court shall not make a pension sharing order in relation to the rights of a person under a pension arrangement if there is in force an order under section 12A(2) or (3) of this Act which relates to benefits or future benefits to which he is entitled under the pension arrangement.
- (7) In subsection (5) above—
 - (a) “term relating to pension sharing” shall be construed in accordance with section 16(2A) of this Act; and

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

- (b) “qualifying agreement” has the same meaning as in section 28(3) of the Welfare Reform and Pensions Act 1999.”

7 After section 8 there is inserted—

“8A Pension sharing orders: apportionment of charges

If a pension sharing order relates to rights under a pension arrangement, the court may include in the order provision about the apportionment between the parties of any charge under section 41 of the Welfare Reform and Pensions Act 1999 (charges in respect of pension sharing costs) or under corresponding Northern Ireland legislation.”

8 (1) Section 10 is amended as follows.

(2) In subsection (5)(b), for “scheme” there is substituted “arrangement”.

(3) For subsection (8) there is substituted—

“(8) The Secretary of State may by regulations make provision about calculation and verification in relation to the valuation for the purposes of this Act of benefits under a pension arrangement or relevant state scheme rights.”

(4) After that subsection there is inserted—

“(8A) Regulations under subsection (8) above may include—

- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person; and
- (b) provision by reference to regulations under section 30 or 49(4) of the Welfare Reform and Pensions Act 1999.”

(5) In subsection (9), after “subsection (8) above” there is inserted “may make different provision for different purposes and”.

(6) Subsections (10) and (11) cease to have effect.

9 (1) Section 12A is amended as follows.

(2) In subsection (1)(a), for “scheme” there is substituted “arrangement”.

(3) In subsection (2), for “trustees or managers of the pension scheme” there is substituted “person responsible for the pension arrangement”.

(4) In subsection (3), in paragraphs (a) and (c) for “trustees or managers of the pension scheme” there is substituted “person responsible for the pension arrangement” and in paragraph (a) for “have” there is substituted “has”.

(5) In subsection (4)—

- (a) for “trustees or managers” there is substituted “person responsible for the pension arrangement”, and
- (b) for “trustees' or managers' liability” there is substituted “liability of the person responsible for the pension arrangement”.

(6) In subsection (5), for “trustees or managers” there is substituted “person responsible for the pension arrangement”.

(7) In subsection (6)—

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

- (a) for “trustees or managers of”, wherever occurring, there is substituted “person responsible for”,
 - (b) for “scheme”, wherever occurring, there is substituted “arrangement”, and
 - (c) in paragraph (b), for “have” there is substituted “has”.
- (8) In subsection (7)—
- (a) for “trustees or managers” where first occurring there is substituted “person responsible for the pension arrangement”,
 - (b) for “trustees or managers of” there is substituted “person responsible for”, and
 - (c) for “scheme” there is substituted “arrangement”.
- (9) For subsection (10) there is substituted—
- “(10) The definition of “benefits under a pension scheme” in section 27 of this Act does not apply to this section.”
- 10 In section 13(2)(b), after “property” there is inserted “, or a pension sharing order,”.
- 11 (1) Section 16 is amended as follows.
- (2) In subsection (2), for paragraph (b) there is substituted—
- “(b) under subsection (1)(b) above, if the agreement does not contain a term relating to pension sharing, on granting decree of divorce or within such time as the court may specify on granting decree of divorce; or
 - (c) under subsection (1)(b) above, if the agreement contains a term relating to pension sharing—
 - (i) where the order sets aside the agreement or sets aside or varies the term relating to pension sharing, on granting decree of divorce; and
 - (ii) where the order sets aside or varies any other term of the agreement, on granting decree of divorce or within such time thereafter as the court may specify on granting decree of divorce.”
- (3) After that subsection there is inserted—
- “(2A) In subsection (2) above, a term relating to pension sharing is a term corresponding to provision which may be made in a pension sharing order and satisfying the requirements set out in section 28(1)(f) or 48(1)(f) of the Welfare Reform and Pensions Act 1999.”
- 12 In section 27(1), the following definitions are inserted at the appropriate places—
- ““benefits under a pension arrangement” includes any benefits by way of pension, including relevant state scheme rights, whether under a pension arrangement or not;”
- ““pension arrangement” means—
- (a) any occupational pension scheme within the meaning of the Pension Schemes Act 1993;
 - (b) a personal pension scheme within the meaning of that Act;
 - (c) a retirement annuity contract;

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

- (d) an annuity or insurance policy purchased or transferred for the purpose of giving effect to rights under an occupational pension scheme or a personal pension scheme;
- (e) an annuity purchased or entered into for the purpose of discharging liability in respect of a pension credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;”

““person responsible for a pension arrangement” means—

- (a) in the case of an occupational pension scheme or a personal pension scheme, the trustees or managers of the scheme;
- (b) in the case of a retirement annuity contract or an annuity falling within paragraph (d) or (e) of the definition of “pension arrangement” above, the provider of the annuity;
- (c) in the case of an insurance policy falling within paragraph (d) of the definition of that expression, the insurer;”

““relevant state scheme rights” means—

- (a) entitlement, or prospective entitlement, to a Category A retirement pension by virtue of section 44(3)(b) of the Social Security Contributions and Benefits Act 1992 or under corresponding Northern Ireland legislation; and
- (b) entitlement, or prospective entitlement, to a pension under section 55A of the Social Security Contributions and Benefits Act 1992 (shared additional pension) or under corresponding Northern Ireland legislation;”

““retirement annuity contract” means a contract or scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988;”

““trustees or managers” in relation to an occupational pension scheme or a personal pension scheme means—

- (a) in the case of a scheme established under a trust, the trustees of the scheme; and
- (b) in any other case, the managers of the scheme;”.

Income and Corporation Taxes Act 1988 (c. 1)

- 13 In section 659D(2) of the Income and Corporation Taxes Act 1988, for “24(1)” there is substituted “28(1)”.

Social Security Contributions and Benefits Act 1992 (c. 4)

- 14 The Contributions and Benefits Act has effect subject to the following amendments.

- 15 (1) Section 20 is amended as follows.

- (2) In subsection (1), after paragraph (f) there is inserted—

“(fa) shared additional pensions;”.

- (3) In subsection (2), in the definition of “long-term benefit”, after paragraph (d) there is inserted—

“(e) a shared additional pension;”.

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

- 16 In section 21(1), after “41 below” there is inserted “or a shared additional pension under section 55A below”.
- 17 In section 39(1), (2) and (3), for “45A” there is substituted “45B”.
- 18 In section 43, at the end there is inserted—
- “(6) For the purposes of this section, a pension under section 55A below is not a retirement pension.”
- 19 In section 48A(4), for “45A” there is substituted “45B”.
- 20 In section 48B(2) and (3), for “45A” there is substituted “45B”.
- 21 In section 48C(4), for “45A” there is substituted “45B”.
- 22 In section 54(1), at the end there is inserted “or to a shared additional pension”.

Social Security Administration Act 1992 (c. 5)

- 23 The Administration Act is amended as follows.
- 24 In section 150(1)—
- (a) after paragraph (c) there is inserted—
- “(ca) which are shared additional pensions;”, and
- (b) after paragraph (d) there is inserted—
- “(da) which are the increases in the rates of shared additional pensions under section 55C of that Act;”.
- 25 (1) Section 155A is amended as follows.
- (2) In subsection (1)(a)(i), after “retirement pension” there is inserted “or shared additional pension”.
- (3) In subsection (2), after “retirement pension” there is inserted “, a shared additional pension”.
- 26 In section 163(2)—
- (a) after paragraph (a) there is inserted—
- “(aa) any administrative expenses of the Secretary of State in supplying information about benefits under Part II of that Act in accordance with regulations under section 23 of the Welfare Reform and Pensions Act 1999;”, and
- (b) in paragraph (b), for “that Act” there is substituted “the Contributions and Benefits Act”.
- 27 In section 165(5)(b), after “section 163(2)(a)” there is inserted “or (aa)”.

Pension Schemes Act 1993 (c. 48)

- 28 The Pension Schemes Act 1993 has effect subject to the following amendments.
- 29 In section 50(1)—
- (a) in paragraph (a), at the end there is inserted—
- “(iii) of safeguarded rights under the scheme;”
- (b) in paragraph (b), after “protected” there is inserted “, or safeguarded;”.
- 30 (1) Section 52 is amended as follows.

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

- (2) In subsection (2A), at the end there is inserted—
- “(c) any persons who have safeguarded rights under the scheme or are entitled to any benefit giving effect to safeguarded rights under it.”
- (3) In subsection (3)(b), after “protected”, in both places, there is inserted “, or safeguarded,”.
- 31 (1) Section 83 is amended as follows.
- (2) In subsection (1), before “benefits”, in both places, there is inserted “relevant”.
- (3) After that subsection there is inserted—
- “(1A) The following are relevant benefits for the purposes of subsection (1)—
- (a) any benefits payable otherwise than by virtue of rights which are attributable (directly or indirectly) to a pension credit, and
- (b) in the case of a salary related occupational pension scheme, any benefits payable by virtue of such rights, to the extent that the rights involve the member being credited by the scheme with notional pensionable service.”
- (4) At the end there is inserted—
- “(4) For the purposes of this section, an occupational pension scheme is salary related if—
- (a) it is not a money purchase scheme, and
- (b) it does not fall within a prescribed class.”
- 32 In section 85, after “73(2)(b)” there is inserted “or 101D(2)(b)”.
- 33 In section 93, after subsection (1) there is inserted—
- “(1ZA) In subsection (1), references to accrued rights to benefit do not include rights which are attributable (directly or indirectly) to a pension credit.”
- 34 In section 93A, after subsection (1) there is inserted—
- “(1A) In subsection (1), the reference to benefits which have accrued does not include benefits which are attributable (directly or indirectly) to a pension credit.”
- 35 In section 94, after subsection (1A) there is inserted—
- “(1B) In subsection (1), references to benefits which have accrued do not include benefits which are attributable (directly or indirectly) to a pension credit.”
- 36 In section 96, there is inserted at the end—
- “(4) Where a member of an occupational pension scheme or a personal pension scheme—
- (a) is entitled to give a notice under section 101F(1) to the trustees or managers of the scheme, or
- (b) would be entitled to do so, but for section 101G(1),
- he may not, if the scheme so provides, make an application to them under section 95 unless he also gives them a notice under section 101F(1).”
- 37 (1) Section 98 is amended as follows.

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

- (2) In subsection (5)—
- (a) after “part of the” there is inserted “relevant”, and
 - (b) for “any of the benefits mentioned in that section” there is substituted “benefits”.
- (3) In subsection (8), after “this section” there is inserted—
- ““relevant benefits” means any benefits not attributable (directly or indirectly) to a pension credit; and”.
- 38 (1) Section 100 is amended as follows.
- (2) In subsection (1), for “subsection (2)” there is substituted “subsections (2) and (2A)”.
- (3) After subsection (2) there is inserted—
- “(2A) If the making of the application depended on the giving of a notice under section 101F(1), the application may only be withdrawn if the notice is also withdrawn.”
- 39 (1) Section 129 is amended as follows.
- (2) In subsection (1), after “Part IV,” there is inserted “Chapters I and II of Part IVA,”.
- (3) In subsection (2), for “does” there is substituted “and Chapter II of Part IVA do”.
- 40 (1) Section 178 is amended as follows.
- (2) In paragraph (a)—
- (a) the words “or of” are omitted, and
 - (b) at the end there is inserted “, section 25D of the Matrimonial Causes Act 1973, section 12A of the Family Law (Scotland) Act 1985 or Part III or IV of the Welfare Reform and Pensions Act 1999.”
- (3) In paragraph (b), after “Part IV,” there is inserted “Chapter I of Part IVA,”.
- 41 In section 181(1)—
- (a) after the definition of “occupational pension scheme” there is inserted—

““pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;”, and
 - (b) after the definition of “rights” there is inserted—

““safeguarded rights” has the meaning given in section 68A;”.
- 42 In section 183(3), for “and 97(1)” there is substituted “, 97(1) and 101F”.

Pensions Act 1995 (c. 26)

- 43 The Pensions Act 1995 has effect subject to the following amendments.
- 44 In section 3(2)(a)—
- (a) in sub-paragraph (ii), after “values),” there is inserted “Chapter II of Part IVA (pension credit benefit transfer values),”, and
 - (b) after that sub-paragraph there is inserted “or

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

(iii) the following provisions of the Welfare Reform and Pensions Act 1999: section 33 (time for discharge of pension credit liability) and section 45 (information).”

45 (1) Section 16 is amended as follows.

(2) In subsections (1)(a) and (6)(a), before “members” there is inserted “qualifying”.

(3) In subsection (8)—

(a) after “a”, in the second place, there is inserted “qualifying”, and

(b) for “a member of the scheme”, in the second place, there is substituted “such a member”.

46 In section 17(4)(a), before “members” there is inserted “qualifying”.

47 (1) Section 18 is amended as follows.

(2) In subsections (1)(a) and (6)(a), before “members” there is inserted “qualifying”.

(3) In subsection (7)—

(a) after “a”, in the second place, there is inserted “qualifying”, and

(b) for “a member of the scheme”, in the second place, there is substituted “such a member”.

48 In section 20(5), after “a”, in the second place, there is inserted “qualifying”.

49 In section 21(7)—

(a) after “section” there is inserted—

“(a) “qualifying member”, in relation to a trust scheme, means a person who is an active, deferred or pensioner member of the scheme, and

(b)”,

and

(b) before “members” there is inserted “qualifying”.

50 (1) Section 38 is amended as follows.

(2) In subsection (1), for the words from “that the scheme” to the end there is substituted—

“(a) that the scheme is not for the time being to be wound up but that no new members are to be admitted to it, or

(b) that the scheme is not for the time being to be wound up but that no new members, except pension credit members, are to be admitted to it.”

(3) In subsection (2), the words from “but” to the end are omitted.

(4) After that subsection there is inserted—

“(2A) Subsection (2) does not authorise the trustees to determine—

(a) where there are accrued rights or pension credit rights to any benefit, that the benefit is not to be increased, or

(b) where the power conferred by that subsection is exercisable by virtue of a determination under subsection (1)(b), that members of the scheme may not acquire pension credit rights under it.”

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

- 51 In section 51(6), after “a pension” there is inserted “which is attributable (directly or indirectly) to a pension credit or”.
- 52 In section 53, after subsection (3) there is inserted—
- “*(3A)* In subsections (1) and (2), the references to a person’s pension do not include any pension which is attributable (directly or indirectly) to a pension credit.”
- 53 (1) Section 67 is amended as follows.
- (2) In subsection (2), for “or accrued right,” there is substituted “accrued right or pension credit right”.
- (3) In subsection (4)(a), for “or accrued rights,” there is substituted “accrued rights or pension credit rights”.
- (4) For subsection (5) there is substituted—
- “*(5)* Subsection (2) does not apply to the exercise of a power—
- (a) for a purpose connected with debits under section 29(1)(a) of the Welfare Reform and Pensions Act 1999, or
- (b) in a prescribed manner.”
- 54 In section 68(2), for “and” at the end of paragraph (d) there is substituted—
- “*(da)* to enable the scheme to accommodate persons with pension credits or pension credit rights, and”.
- 55 In section 73, after subsection (3) there is inserted—
- “*(3A)* No pension or other benefit which is attributable (directly or indirectly) to a pension credit may be regarded for the purposes of subsection (3)(a) as derived from the payment of voluntary contributions.”
- 56 In section 74(3)(b), at the end there is inserted “or pension credit rights”.
- 57 (1) Section 91 is amended as follows.
- (2) In subsection (1), for the words from “, or has” to “occupational pension scheme” there is substituted “to a pension under an occupational pension scheme or has a right to a future pension under such a scheme”.
- (3) In subsection (2), for the words from “, or” to “scheme” there is substituted “to a pension under an occupational pension scheme, or right to a future pension under such a scheme,”.
- (4) In subsection (5)—
- (a) for the words from “, or has” to “scheme” there is substituted “to a pension under an occupational pension scheme, or has a right to a future pension under such a scheme”,
- (b) in paragraph (d), for “accrued right, to pension” there is substituted “right,”, and
- (c) in paragraph (e), for “accrued right, to pension” there is substituted “right”.
- 58 (1) Section 92 is amended as follows.
- (2) In subsection (1), for the words from “, or” to “scheme” there is substituted “to a pension under an occupational pension scheme or a right to a future pension under such a scheme”.

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

- (3) In subsection (4), for the words from “person entitled” to “accrued” there is substituted “pensioner, or prospective pensioner”.
- 59 (1) Section 93 is amended as follows.
- (2) In subsection (1), for the words from “, or” to “scheme” there is substituted “to a pension under an occupational pension scheme or right to a future pension under such a scheme”.
- (3) In subsection (2)—
- (a) for “accrued right to a pension” there is substituted “right”, and
- (b) for “accrued right to a pension under the scheme” there is substituted “right”.
- (4) In subsection (4), for “accrued right to a pension” there is substituted “right”.
- 60 In section 99(2)—
- (a) in paragraph (b), after “values),” there is inserted “Chapter II of Part IVA (pension credit benefit transfer values),” and
- (b) at the end of that paragraph there is inserted—
- “(ba) section 33 (time for discharge of pension credit liability) or 45 (information) of the Welfare Reform and Pensions Act 1999,”.
- 61 (1) Section 124 is amended as follows.
- (2) In subsection (1), in the definition of “member”, for “or pensioner” there is substituted “, pensioner or pension credit”.
- (3) In that subsection, after the definition of “payment schedule” there is inserted—
- ““pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999, or under corresponding Northern Ireland legislation,
- “pension credit member”, in relation to an occupational pension scheme, means a person who has rights under the scheme which are attributable (directly or indirectly) to a pension credit,
- “pension credit rights”, in relation to an occupational pension scheme, means rights to future benefits under the scheme which are attributable (directly or indirectly) to a pension credit.”.
- (4) After subsection (2) there is inserted—
- “(2A) In subsection (2)(a), the reference to rights which have accrued to or in respect of the member does not include any rights which are pension credit rights.”
- 62 (1) Section 166 is amended as follows.
- (2) In subsection (4), for “scheme” there is substituted “arrangement”.
- (3) In subsection (5)(d), for “scheme” there is substituted “arrangement”.
- 63 In section 167(4)—
- (a) for “scheme”, where first occurring, there is substituted “arrangement”, and

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

- (b) for the words from “(“pension scheme”” to the end of the subsection there is substituted “(“pension arrangement” having the meaning given in subsection (1) of section 27 of that Act, as it has effect for the purposes of subsection (5) of the said section 10).”

Family Law Act 1996 (c. 27)

64 The Family Law Act 1996 has effect subject to the following amendments.

65 (1) Schedule 2 is amended as follows.

- (2) In paragraph 2, for “section 21” there is substituted “sections 21 and 21A”.
- (3) In the section set out in that paragraph, for the sidenote there is substituted “Financial provision orders, property adjustment orders and pension sharing orders.”
- (4) In that section, in paragraphs (c) and (d) of subsection (2), there is inserted at the end “, other than one in the form of a pension arrangement (within the meaning of section 25D below)”.
- (5) In that section, after subsection (2) there is inserted—

“(3) For the purposes of this Act, a pension sharing order is an order which—

- (a) provides that one party's—
- (i) shareable rights under a specified pension arrangement, or
 - (ii) shareable state scheme rights,
- be subject to pension sharing for the benefit of the other party, and
- (b) specifies the percentage value to be transferred.”

(6) In that section, subsections (3), (4) and (5) become (4), (5) and (6).

(7) In that section, after subsection (6) (new numbering) there is inserted—

“(7) In subsection (3)—

- (a) the reference to shareable rights under a pension arrangement is to rights in relation to which pension sharing is available under Chapter I of Part IV of the Welfare Reform and Pensions Act 1999, or under corresponding Northern Ireland legislation, and
- (b) the reference to shareable state scheme rights is to rights in relation to which pension sharing is available under Chapter II of Part IV of the Welfare Reform and Pensions Act 1999, or under corresponding Northern Ireland legislation.”

(8) In that section, subsection (6) becomes subsection (8).

(9) After paragraph 6 there is inserted—

“Pension sharing orders: divorce and nullity

6A For section 24B substitute—

“24B Pension sharing orders: divorce

- (1) On an application made under this section, the court may at the appropriate time make one or more pension sharing orders.

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

- (2) The “appropriate time” is any time—
 - (a) after a statement of marital breakdown has been received by the court and before any application for a divorce order or for a separation order is made to the court by reference to that statement;
 - (b) when an application for a divorce order has been made under section 3 of the 1996 Act and has not been withdrawn;
 - (c) when an application for a divorce order has been made under section 4 of the 1996 Act and has not been withdrawn;
 - (d) after a divorce order has been made.
- (3) The court shall exercise its powers under this section, so far as is practicable, by making on one occasion all such provision as can be made by way of one or more pension sharing orders in relation to the marriage as it thinks fit.
- (4) This section is to be read subject to any restrictions imposed by this Act and to section 19 of the 1996 Act.

24BA Restrictions affecting section 24B

- (1) No pension sharing order may be made under section 24B above so as to take effect before the making of a divorce order in relation to the marriage.
- (2) The court may not make a pension sharing order under section 24B above at any time while the period for reflection and consideration is interrupted under section 7(8) of the 1996 Act.
- (3) No pension sharing order may be made under section 24B above by virtue of a statement of marital breakdown if, by virtue of section 5(3) or 7(9) of the 1996 Act (lapse of divorce process), it has ceased to be possible—
 - (a) for an application to be made by reference to that statement, or
 - (b) for an order to be made on such an application.
- (4) No pension sharing order may be made under section 24B above after a divorce order has been made, except—
 - (a) in response to an application made before the divorce order was made, or
 - (b) on a subsequent application made with the leave of the court.
- (5) A pension sharing order under section 24B above may not be made in relation to a pension arrangement which—
 - (a) is the subject of a pension sharing order in relation to the marriage, or
 - (b) has been the subject of pension sharing between the parties to the marriage.
- (6) A pension sharing order under section 24B above may not be made in relation to shareable state scheme rights if—

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

- (a) such rights are the subject of a pension sharing order in relation to the marriage, or
 - (b) such rights have been the subject of pension sharing between the parties to the marriage.
- (7) A pension sharing order under section 24B above may not be made in relation to the rights of a person under a pension arrangement if there is in force a requirement imposed by virtue of section 25B or 25C below which relates to benefits or future benefits to which he is entitled under the pension arrangement.
- (8) In this section, “period for reflection and consideration” means the period fixed by section 7 of the 1996 Act.

24BB Pension sharing orders: nullity of marriage

- (1) On or after granting a decree of nullity of marriage (whether before or after the decree is made absolute), the court may, on an application made under this section, make one or more pension sharing orders in relation to the marriage.
- (2) The court shall exercise its powers under this section, so far as is practicable, by making on one occasion all such provision as can be made by way of one or more pension sharing orders in relation to the marriage as it thinks fit.
- (3) Where a pension sharing order is made under this section on or after the granting of a decree of nullity of marriage, the order is not to take effect unless the decree has been made absolute.
- (4) This section is to be read subject to any restrictions imposed by this Act.

24BC Restrictions affecting section 24BB

- (1) A pension sharing order under section 24BB above may not be made in relation to a pension arrangement which—
 - (a) is the subject of a pension sharing order in relation to the marriage, or
 - (b) has been the subject of pension sharing between the parties to the marriage.
- (2) A pension sharing order under section 24BB above may not be made in relation to shareable state scheme rights if—
 - (a) such rights are the subject of a pension sharing order in relation to the marriage, or
 - (b) such rights have been the subject of pension sharing between the parties to the marriage.
- (3) A pension sharing order under section 24BB above may not be made in relation to the rights of a person under a pension arrangement if there is in force a requirement imposed by virtue of section 25B or 25C below which relates to benefits or future benefits to which he is entitled under the pension arrangement.””

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

- 66 (1) Schedule 8 is amended as follows.
- (2) In paragraph 9—
- (a) in sub-paragraph (2)—
- (i) for “or 24A” there is substituted “, 24A or 24B”, and
- (ii) for “to 24A” there is substituted “to 24BB”, and
- (b) in sub-paragraph (3), after paragraph (a) there is inserted—
- “(aa) for “or 24B” substitute “, 24B or 24BB”.”
- (3) In paragraph 10, in sub-paragraph (2), for “24A” there is substituted “24BB”.
- (4) For paragraph 11 there is substituted—
- “11 In each of sections 25B(3) and 25C(1) and (3), for “section 23” substitute “section 22A or 23”.
- 11A In section 25D—
- (a) in each of subsections (1)(a) and (2)(a) and (ab), for “section 23” substitute “section 22A or 23”, and
- (b) in subsection (3), in the definition of “shareable state scheme rights”, for “section 21A(1)” substitute “section 21(3)”.”
- (5) In paragraph 16, in sub-paragraph (2), at the end there is inserted—
- “(f) after paragraph (f) there is inserted—
- “(fa) a pension sharing order under section 24B which is made at a time when no divorce order has been made, and no separation order is in force, in relation to the marriage;”
- (g) in paragraph (g), for “24B” substitute “24BB”.”
- (6) In that paragraph, after sub-paragraph (3) there is inserted—
- “(3A) In subsection (4A), after “paragraph” insert “(de), (ea), (fa) or”.”
- (7) In that paragraph, in sub-paragraph (4), for the words from “subsection (4)” to the end of the first of the inserted subsections there is substituted “subsection (4A) insert —”, the second of the inserted subsections is renumbered “(4AA)” and after that subsection there is inserted—
- “(4AB) No variation of a pension sharing order under section 24B above shall be made so as to take effect before the making of a divorce order in relation to the marriage.”
- (8) In that paragraph, after sub-paragraph (4) there is inserted—
- “(4A) In subsection (4B), after “order” insert “under section 24BB above”.”
- (9) In that paragraph, after sub-paragraph (7) there is inserted—
- “(8) After subsection (7F) insert—
- “(7FA) Section 24B(3) above applies where the court makes a pension sharing order under subsection (7B) above as it applies where the court makes such an order under section 24B above.”

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

- (9) In subsection (7G)—
- (a) for “Subsections (3) to (5) of section 24B” substitute “Section 24BA(5) to (7)”, and
 - (b) for “that section” substitute “section 24B above”.
- (10) After that paragraph there is inserted—
- “16A After section 31A insert—

“31B Discharge of pension sharing orders on making of separation order

Where, after the making of a pension sharing order under section 24B above in relation to a marriage, a separation order is made in relation to the marriage, the pension sharing order is discharged.”

- (11) In paragraph 19, in sub-paragraph (3)—
- (a) after “24A” there is inserted “, 24B”, and
 - (b) after “property adjustment order,” there is inserted “any pension sharing order,”.
- (12) In paragraph 21—
- (a) after “24,” in the first place, there is inserted “24B,”, and
 - (b) for “24,” in the second place, there is substituted “24BB,”.
- (13) After paragraph 25 there is inserted—
- “25A In section 52(2)(aa), for “section 21A” substitute “section 21”.
- (14) In paragraph 32, in sub-paragraph (2), for the words from “the words” to the end there is substituted “paragraph (a) substitute—
- “(a) make one or more orders each of which would, within the meaning of Part II of the 1973 Act, be a financial provision order in favour of a party to the marriage or a child of the family or a property adjustment order in relation to the marriage;”
- (15) In that paragraph, in sub-paragraph (3), for “21(a)” there is substituted “21(1)(a)”.
- (16) In that paragraph, after sub-paragraph (3) there is inserted—
- “(3A) For section 21(1)(ba) substitute—
- “(ba) sections 24BA(5) to (7) (provisions about pension sharing orders in relation to divorce);
 - (baa) section 24BC(1) to (3) (provisions about pension sharing orders in relation to nullity);”.
- (3B) In section 21(3), for “section 23” substitute “section 22A or 23”.
- (17) At the end of Part I insert—

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

“The Welfare Reform and Pensions Act 1999

- 43A** In section 24 of the Welfare Reform and Pensions Act 1999 (charges by pension arrangements in relation to earmarking orders), for “section 23” substitute “section 22A or 23”.

PART II

OTHER CONSEQUENTIAL AMENDMENTS

Bankruptcy (Scotland) Act 1985 (c. 66)

- 67 The Bankruptcy (Scotland) Act 1985 has effect subject to the following amendments.
- 68 In section 35(1), in paragraph (a) for “under the said section 8(2) for the transfer of property by him” substitute “a court has, under the said section 8(2), made an order for the transfer of property by him or made a pension sharing order”.
- 69 After section 36C there is inserted—

“36D Recovery of excessive contributions in pension-sharing cases

- (1) For the purposes of section 34 of this Act, a pension-sharing transaction shall be taken—
- (a) to be a transaction, entered into by the transferor with the transferee, by which the appropriate amount is transferred by the transferor to the transferee; and
 - (b) to be capable of being an alienation challengeable under that section only so far as it is a transfer of so much of the appropriate amount as is recoverable.
- (2) For the purposes of section 35 of this Act, a pension-sharing transaction shall be taken—
- (a) to be a pension sharing order made by the court under section 8(2) of the Family Law (Scotland) Act 1985; and
 - (b) to be an order capable of being recalled under that section only so far as it is a payment or transfer of so much of the appropriate amount as is recoverable.
- (3) For the purposes of section 36 of this Act, a pension-sharing transaction shall be taken—
- (a) to be something (namely a transfer of the appropriate amount to the transferee) done by the transferor; and
 - (b) to be capable of being an unfair preference given to the transferee only so far as it is a transfer of so much of the appropriate amount as is recoverable.
- (4) Where—
- (a) an alienation is challenged under section 34;

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

- (b) an application is made under section 35 for the recall of an order made in divorce proceedings; or
 - (c) a transaction is challenged under section 36,if any question arises as to whether, or the extent to which, the appropriate amount in the case of a pension-sharing transaction is recoverable, the question shall be determined in accordance with subsections (5) to (9).
- (5) The court shall first determine the extent (if any) to which the transferor's rights under the shared arrangement at the time of the transaction appear to have been (whether directly or indirectly) the fruits of contributions ("personal contributions")—
 - (a) which the transferor has at any time made on his own behalf, or
 - (b) which have at any time been made on the transferor's behalf,to the shared arrangement or any other pension arrangement.
- (6) Where it appears that those rights were to any extent the fruits of personal contributions, the court shall then determine the extent (if any) to which those rights appear to have been the fruits of personal contributions whose making has unfairly prejudiced the transferor's creditors ("the unfair contributions").
- (7) If it appears to the court that the extent to which those rights were the fruits of the unfair contributions is such that the transfer of the appropriate amount could have been made out of rights under the shared arrangement which were not the fruits of the unfair contributions, then the appropriate amount is not recoverable.
- (8) If it appears to the court that the transfer could not have been wholly so made, then the appropriate amount is recoverable to the extent to which it appears to the court that the transfer could not have been so made.
- (9) In making the determination mentioned in subsection (6) the court shall consider in particular—
 - (a) whether any of the personal contributions were made for the purpose of putting assets beyond the reach of the transferor's creditors or any of them; and
 - (b) whether the total amount of any personal contributions represented, at the time the pension sharing arrangement was made, by rights under pension arrangements is an amount which is excessive in view of the transferor's circumstances when those contributions were made.
- (10) In this section and sections 36E and 36F—
 - "appropriate amount", in relation to a pension-sharing transaction, means the appropriate amount in relation to that transaction for the purposes of section 29(1) of the Welfare Reform and Pensions Act 1999 (creation of pension credits and debits);
 - "pension-sharing transaction" means an order or provision falling within section 28(1) of the Welfare Reform and Pensions Act 1999 (orders and agreements which activate pension-sharing);
 - "shared arrangement", in relation to a pension-sharing transaction, means the pension arrangement to which the transaction relates;

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

“transferee”, in relation to a pension-sharing transaction, means the person for whose benefit the transaction is made;

“transferor”, in relation to a pension-sharing transaction, means the person to whose rights the transaction relates.

36E Recovery orders

- (1) In this section and section 36F of this Act, “recovery order” means—
 - (a) a decree granted under section 34(4) of this Act;
 - (b) an order made under section 35(2) of this Act;
 - (c) a decree granted under section 36(5) of this Act,in any proceedings to which section 36D of this Act applies.
- (2) Without prejudice to the generality of section 34(4), 35(2) or 36(5) a recovery order may include provision—
 - (a) requiring the person responsible for a pension arrangement in which the transferee has acquired rights derived directly or indirectly from the pension-sharing transaction to pay an amount to the permanent trustee,
 - (b) adjusting the liabilities of the pension arrangement in respect of the transferee,
 - (c) adjusting any liabilities of the pension arrangement in respect of any other person that derive, directly or indirectly, from rights of the transferee under the arrangement,
 - (d) for the recovery by the person responsible for the pension arrangement (whether by deduction from any amount which that person is ordered to pay or otherwise) of costs incurred by that person in complying in the debtor’s case with any requirement under section 36F(1) or in giving effect to the order.
- (3) In subsection (2), references to adjusting the liabilities of a pension arrangement in respect of a person include (in particular) reducing the amount of any benefit or future benefit to which that person is entitled under the arrangement.
- (4) The maximum amount which the person responsible for an arrangement may be required to pay by a recovery order is the smallest of—
 - (a) so much of the appropriate amount as, in accordance with section 36D of this Act, is recoverable,
 - (b) so much (if any) of the amount of the unfair contributions (within the meaning given by section 36D(6)) as is not recoverable by way of an order under section 36A of this Act containing provision such as is mentioned in section 36B(1)(a), and
 - (c) the value of the debtor’s rights under the arrangement acquired by the transferee as a consequence of the transfer of the appropriate amount.
- (5) A recovery order which requires the person responsible for an arrangement to pay an amount (“the restoration amount”) to the permanent trustee must provide for the liabilities of the arrangement to be correspondingly reduced.

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

- (6) For the purposes of subsection (5), liabilities are correspondingly reduced if the difference between—
- (a) the amount of the liabilities immediately before the reduction, and
 - (b) the amount of the liabilities immediately after the reduction,
- is equal to the restoration amount.
- (7) A recovery order in respect of an arrangement—
- (a) shall be binding on the person responsible for the arrangement, and
 - (b) overrides provisions of the arrangement to the extent that they conflict with the provisions of the order.

36F Recovery orders: supplementary

- (1) The person responsible for a pension arrangement under which the transferee has, at any time, acquired rights by virtue of the transfer of the appropriate amount shall, on the permanent trustee making a written request, provide the trustee with such information about the arrangement and the rights under it of the transferor and transferee as the permanent trustee may reasonably require for, or in connection with, the making of an application for a recovery order.
- (2) Nothing in—
- (a) any provision of section 159 of the Pension Schemes Act 1993 or section 91 of the Pensions Act 1995 (which prevent assignation and the making of orders which restrain a person from receiving anything which he is prevented from assigning),
 - (b) any provision of any enactment (whether passed or made before or after the passing of the Welfare Reform and Pensions Act 1999) corresponding to any of the provisions mentioned in paragraph (a), or
 - (c) any provision of the arrangement in question corresponding to any of those provisions,
- applies to a court exercising its power to make a recovery order.
- (3) Regulations may, for the purposes of the recovery provisions, make provision about the calculation and verification of—
- (a) any such value as is mentioned in section 36E(4)(c);
 - (b) any such amounts as are mentioned in section 36E(6)(a) and (b).
- (4) The power conferred by subsection (3) includes power to provide for calculation or verification—
- (a) in such manner as may, in the particular case, be approved by a prescribed person; or
 - (b) in accordance with guidance—
 - (i) from time to time prepared by a prescribed person, and
 - (ii) approved by the Secretary of State.
- (5) References in the recovery provisions to the person responsible for a pension arrangement are to—
- (a) the trustees, managers or provider of the arrangement, or
 - (b) the person having functions in relation to the arrangement corresponding to those of a trustee, manager or provider.

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

- (6) In this section—
 “prescribed” means prescribed by regulations;
 “the recovery provisions” means this section and sections 34, 35, 36 and 36E of this Act;
 “regulations” means regulations made by the Secretary of State.
- (7) Regulations under the recovery provisions may—
 (a) make different provision for different cases;
 (b) contain such incidental, supplemental and transitional provisions as appear to the Secretary of State necessary or expedient.
- (8) Regulations under the recovery provisions shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

Insolvency Act 1986 (c. 45)

70 The Insolvency Act 1986 is amended as follows.

71 After section 342C there is inserted—

“342D Recovery of excessive contributions in pension-sharing cases

- (1) For the purposes of sections 339, 341 and 342, a pension-sharing transaction shall be taken—
 (a) to be a transaction, entered into by the transferor with the transferee, by which the appropriate amount is transferred by the transferor to the transferee; and
 (b) to be capable of being a transaction entered into at an undervalue only so far as it is a transfer of so much of the appropriate amount as is recoverable.
- (2) For the purposes of sections 340 to 342, a pension-sharing transaction shall be taken—
 (a) to be something (namely a transfer of the appropriate amount to the transferee) done by the transferor; and
 (b) to be capable of being a preference given to the transferee only so far as it is a transfer of so much of the appropriate amount as is recoverable.
- (3) If on an application under section 339 or 340 any question arises as to whether, or the extent to which, the appropriate amount in the case of a pension-sharing transaction is recoverable, the question shall be determined in accordance with subsections (4) to (8).
- (4) The court shall first determine the extent (if any) to which the transferor’s rights under the shared arrangement at the time of the transaction appear to have been (whether directly or indirectly) the fruits of contributions (“personal contributions”)—
 (a) which the transferor has at any time made on his own behalf, or
 (b) which have at any time been made on the transferor’s behalf,
 to the shared arrangement or any other pension arrangement.

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- (5) Where it appears that those rights were to any extent the fruits of personal contributions, the court shall then determine the extent (if any) to which those rights appear to have been the fruits of personal contributions whose making has unfairly prejudiced the transferor's creditors ("the unfair contributions").
- (6) If it appears to the court that the extent to which those rights were the fruits of the unfair contributions is such that the transfer of the appropriate amount could have been made out of rights under the shared arrangement which were not the fruits of the unfair contributions, then the appropriate amount is not recoverable.
- (7) If it appears to the court that the transfer could not have been wholly so made, then the appropriate amount is recoverable to the extent to which it appears to the court that the transfer could not have been so made.
- (8) In making the determination mentioned in subsection (5) the court shall consider in particular—
 - (a) whether any of the personal contributions were made for the purpose of putting assets beyond the reach of the transferor's creditors or any of them, and
 - (b) whether the total amount of any personal contributions represented, at the time the pension-sharing transaction was made, by rights under pension arrangements is an amount which is excessive in view of the transferor's circumstances when those contributions were made.
- (9) In this section and sections 342E and 342F—

“appropriate amount”, in relation to a pension-sharing transaction, means the appropriate amount in relation to that transaction for the purposes of section 29(1) of the Welfare Reform and Pensions Act 1999 (creation of pension credits and debits);

“pension-sharing transaction” means an order or provision falling within section 28(1) of the Welfare Reform and Pensions Act 1999 (orders and agreements which activate pension-sharing);

“shared arrangement”, in relation to a pension-sharing transaction, means the pension arrangement to which the transaction relates;

“transferee”, in relation to a pension-sharing transaction, means the person for whose benefit the transaction is made;

“transferor”, in relation to a pension-sharing transaction, means the person to whose rights the transaction relates.

342E Orders under section 339 or 340 in respect of pension-sharing transactions

- (1) This section and section 342F apply if the court is making an order under section 339 or 340 in a case where—
 - (a) the transaction or preference is, or is any part of, a pension-sharing transaction, and
 - (b) the transferee has rights under a pension arrangement (“the destination arrangement”, which may be the shared arrangement

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- or any other pension arrangement) that are derived, directly or indirectly, from the pension-sharing transaction.
- (2) Without prejudice to the generality of section 339(2) or 340(2), or of section 342, the order may include provision—
- (a) requiring the person responsible for the destination arrangement to pay an amount to the transferor’s trustee in bankruptcy,
 - (b) adjusting the liabilities of the destination arrangement in respect of the transferee,
 - (c) adjusting any liabilities of the destination arrangement in respect of any other person that derive, directly or indirectly, from rights of the transferee under the destination arrangement,
 - (d) for the recovery by the person responsible for the destination arrangement (whether by deduction from any amount which that person is ordered to pay or otherwise) of costs incurred by that person in complying in the transferor’s case with any requirement under section 342F(1) or in giving effect to the order,
 - (e) for the recovery, from the transferor’s trustee in bankruptcy, by the person responsible for a pension arrangement, of costs incurred by that person in complying in the transferor’s case with any requirement under section 342F(2) or (3).
- (3) In subsection (2), references to adjusting the liabilities of the destination arrangement in respect of a person include (in particular) reducing the amount of any benefit or future benefit to which that person is entitled under the arrangement.
- (4) The maximum amount which the person responsible for the destination arrangement may be required to pay by the order is the smallest of—
- (a) so much of the appropriate amount as, in accordance with section 342D, is recoverable,
 - (b) so much (if any) of the amount of the unfair contributions (within the meaning given by section 342D(5)) as is not recoverable by way of an order under section 342A containing provision such as is mentioned in section 342B(1)(a), and
 - (c) the value of the transferee’s rights under the destination arrangement so far as they are derived, directly or indirectly, from the pension-sharing transaction.
- (5) If the order requires the person responsible for the destination arrangement to pay an amount (“the restoration amount”) to the transferor’s trustee in bankruptcy it must provide for the liabilities of the arrangement to be correspondingly reduced.
- (6) For the purposes of subsection (5), liabilities are correspondingly reduced if the difference between—
- (a) the amount of the liabilities immediately before the reduction, and
 - (b) the amount of the liabilities immediately after the reduction,
- is equal to the restoration amount.
- (7) The order—
- (a) shall be binding on the person responsible for the destination arrangement, and

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- (b) overrides provisions of the destination arrangement to the extent that they conflict with the provisions of the order.

342F Orders under section 339 or 340 in pension-sharing cases: supplementary

- (1) On the transferor’s trustee in bankruptcy making a written request to the person responsible for the destination arrangement, that person shall provide the trustee with such information about—
 - (a) the arrangement,
 - (b) the transferee’s rights under it, and
 - (c) where the destination arrangement is the shared arrangement, the transferor’s rights under it,as the trustee may reasonably require for, or in connection with, the making of applications under sections 339 and 340.
- (2) Where the shared arrangement is not the destination arrangement, the person responsible for the shared arrangement shall, on the transferor’s trustee in bankruptcy making a written request to that person, provide the trustee with such information about—
 - (a) the arrangement, and
 - (b) the transferor’s rights under it,as the trustee may reasonably require for, or in connection with, the making of applications under sections 339 and 340.
- (3) On the transferor’s trustee in bankruptcy making a written request to the person responsible for any intermediate arrangement, that person shall provide the trustee with such information about—
 - (a) the arrangement, and
 - (b) the transferee’s rights under it,as the trustee may reasonably require for, or in connection with, the making of applications under sections 339 and 340.
- (4) In subsection (3) “intermediate arrangement” means a pension arrangement, other than the shared arrangement or the destination arrangement, in relation to which the following conditions are fulfilled—
 - (a) there was a time when the transferee had rights under the arrangement that were derived (directly or indirectly) from the pension-sharing transaction, and
 - (b) the transferee’s rights under the destination arrangement (so far as derived from the pension-sharing transaction) are to any extent derived (directly or indirectly) from the rights mentioned in paragraph (a).
- (5) Nothing in—
 - (a) any provision of section 159 of the Pension Schemes Act 1993 or section 91 of the Pensions Act 1995 (which prevent assignment and the making of orders which restrain a person from receiving anything which he is prevented from assigning),
 - (b) any provision of any enactment (whether passed or made before or after the passing of the Welfare Reform and Pensions Act 1999)

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- corresponding to any of the provisions mentioned in paragraph (a),
or
- (c) any provision of the destination arrangement corresponding to any of those provisions,
- applies to a court exercising its powers under section 339 or 340.
- (6) Regulations may, for the purposes of sections 339 to 342, sections 342D and 342E and this section, make provision about the calculation and verification of—
- (a) any such value as is mentioned in section 342E(4)(c);
- (b) any such amounts as are mentioned in section 342E(6)(a) and (b).
- (7) The power conferred by subsection (6) includes power to provide for calculation or verification—
- (a) in such manner as may, in the particular case, be approved by a prescribed person; or
- (b) in accordance with guidance—
- (i) from time to time prepared by a prescribed person, and
- (ii) approved by the Secretary of State.
- (8) In section 342E and this section, references to the person responsible for a pension arrangement are to—
- (a) the trustees, managers or provider of the arrangement, or
- (b) the person having functions in relation to the arrangement corresponding to those of a trustee, manager or provider.
- (9) In this section—
- “prescribed” means prescribed by regulations;
- “regulations” means regulations made by the Secretary of State.
- (10) Regulations under this section may—
- (a) make different provision for different cases;
- (b) contain such incidental, supplemental and transitional provisions as appear to the Secretary of State necessary or expedient.
- (11) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

72 In section 384(1) (meaning of “prescribed” in the second Group of Parts), after “Subject to the next subsection” insert “and sections 342C(7) and 342F(9) in Chapter V of Part IX”.

Income and Corporation Taxes Act 1988 (c. 1)

- 73 The Income and Corporation Taxes Act 1988 is amended as follows.
- 74 In section 172(3) (exceptions from tax), for “earnings threshold” substitute “secondary threshold”.
- 75 In section 617(2) (social security benefits and contributions), after paragraph (ae) insert—
- “(af) payments made under regulations under section 79 of the Welfare Reform and Pensions Act 1999 or under any corresponding enactment having effect with respect to Northern Ireland;”.

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

Social Security Contributions and Benefits Act 1992 (c. 4)

- 76 The Contributions and Benefits Act has effect subject to the following amendments.
- 77 (1) Section 122(1) (interpretation of Parts I to VI etc.) is amended as follows.
- (2) In the definition of “current”, after “limits” insert “and primary and secondary thresholds”.
- (3) In the definition beginning with “lower earnings limit”—
- (a) for “and “earnings threshold”” substitute ““primary threshold” and “secondary threshold””; and
- (b) for “the earnings” substitute “the primary or secondary”.
- 78 (1) Paragraph 1 of Schedule 1 (supplementary provisions relating to contributions) is amended in accordance with sub-paragraphs (2) to (5).
- (2) For “earnings threshold” (wherever occurring) substitute “secondary threshold”.
- (3) For “lower earnings limit” (wherever occurring) substitute “primary threshold”.
- (4) Omit sub-paragraphs (4) and (5).
- (5) After sub-paragraph (9) add—
- “(10) In relation to earners paid otherwise than weekly, any reference in this paragraph to—
- (a) the primary or the secondary threshold, or
- (b) the upper earnings limit,
- shall be construed as a reference to the equivalent of that threshold or limit prescribed under section 5(4) above.”
- (6) In paragraph 6 of that Schedule—
- (a) in sub-paragraph (5), for “section 159A” substitute “section 4A, 159A”; and
- (b) in sub-paragraph (6), after “relating” insert “to relevant payments or benefits within the meaning of section 4A above or (as the case may be)”.

Social Security Administration Act 1992 (c. 5)

- 79 The Administration Act has effect subject to the following amendments.
- 80 After section 140E insert—

“140EE Financing of other expenditure

- (1) The Secretary of State may make to a local authority such payments as he thinks fit in respect of expenses incurred by the authority in connection with the carrying out of any relevant function—
- (a) by the authority,
- (b) by any person providing services to the authority, or
- (c) by any person authorised by the authority to carry out that function.
- (2) In subsection (1) “relevant function” means any function conferred by virtue of section 2A, 2C or 7A above.
- (3) The following provisions, namely—

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- (a) in section 140B, subsections (1), (3), (4), (5)(b), (7)(b) and (8), and
(b) section 140C,
apply in relation to a payment under this section as in relation to a payment of subsidy.
- (4) The Secretary of State may (without prejudice to the generality of his powers in relation to the amount of subsidy) take into account the fact that an amount has been paid under this section in respect of costs falling within section 140B(4A)(a) above.”
- 81 In section 170(5) (enactments conferring functions in respect of which Social Security Advisory Committee is to advise)—
- (a) in the definition of “the relevant enactments”, after paragraph (ad) insert—
“*(ae)* sections 60, 72 and 79 of the Welfare Reform and Pensions Act 1999;”, and
- (b) in the definition of “the relevant Northern Ireland enactments”, after paragraph (ad) insert—
“*(ae)* any provisions in Northern Ireland which correspond to sections 60, 72 and 79 of the Welfare Reform and Pensions Act 1999;”.
- 82 In section 189 (regulations and orders—general), after subsection (7) insert—
“(7A) Without prejudice to the generality of any of the preceding provisions of this section, regulations under any of sections 2A to 2C and 7A above may provide for all or any of the provisions of the regulations to apply only in relation to any area or areas specified in the regulations.”
- 83 In section 190 (Parliamentary control of orders and regulations), in subsection (1) (instruments subject to the affirmative procedure), before the “or” at the end of paragraph (a) insert—
“(aa) the first regulations to be made under section 2A;”.

Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

- 84 The Social Security Contributions and Benefits (Northern Ireland) Act 1992 has effect subject to the following amendments.
- 85 (1) Section 121(1) (interpretation of Parts I to VI etc.) is amended as follows.
- (2) In the definition of “current”, after “limits” insert “and primary and secondary thresholds”.
- (3) In the definition beginning with “lower earnings limit”—
- (a) for “and “earnings threshold”” substitute ““primary threshold” and “secondary threshold””; and
- (b) for “the earnings” substitute “the primary or secondary”.
- 86 (1) Paragraph 1 of Schedule 1 (supplementary provisions relating to contributions) is amended in accordance with sub-paragraphs (2) to (5).
- (2) For “earnings threshold” (wherever occurring) substitute “secondary threshold”.
- (3) For “lower earnings limit” (wherever occurring) substitute “primary threshold”.
- (4) Omit sub-paragraphs (4) and (5).

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

(5) After sub-paragraph (9) add—

“(10) In relation to earners paid otherwise than weekly, any reference in this paragraph to—

- (a) the primary or the secondary threshold, or
- (b) the upper earnings limit,

shall be construed as a reference to the equivalent of that threshold or limit prescribed under section 5(4) above.”

(6) In paragraph 6 of that Schedule—

- (a) in sub-paragraph (5), for “section 155A” substitute “section 4A, 155A”; and
- (b) in sub-paragraph (6), after “relating” insert “to relevant payments or benefits within the meaning of section 4A above or (as the case may be)”.

Social Security Act 1998 (c. 14)

87 In Schedule 2 to the Social Security Act 1998 (decisions against which no appeal lies), after paragraph 5 insert—

“Work-focused interviews

5A A decision terminating or reducing the amount of a person’s benefit made in consequence of any decision made under regulations under section 2A of the Administration Act (work-focused interviews).”

SCHEDULE 13

Section 88.

REPEALS

PART I

PENSIONS: MISCELLANEOUS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1993 c. 48.	Pension Schemes Act 1993.	In section 28(1), paragraph (aa) (but not the final “and”). In section 55(2A), the words following paragraph (e). In section 73(2)(a)(ii), the words “or a self-employed pension arrangement” and “or arrangement”. In section 96(2)(a), sub-paragraph (iii) and the word “or” preceding it.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		Section 159(5).
		In section 181(1), the definition of “self-employed pension arrangement”.
1993 c. 49.	Pension Schemes (Northern Ireland) Act 1993.	In section 51(2A), the words following paragraph (e).
1995 c. 26.	Pensions Act 1995.	In section 8(4), the word “or” at the end of paragraph (a).
		In section 58(6)(a), the words “continue to”.
		In section 83(3)(a), “90 per cent. of”.
		Section 91(3).
		In section 92(2), paragraph (b) and the word “or” preceding it.
		In section 94(3), paragraphs (c) and (e) and the word “and” preceding paragraph (e).
		Section 95.
		In section 142, subsections (2) and (3), and in subsection (4), paragraph (b) and the word “and” preceding it.
		In Schedule 5, paragraph 80(f).
1998 c. 46.	Scotland Act 1998.	In section 126(1), in the definition of “occupational pension scheme”, “personal pension scheme” and “public service pension scheme”, the words “but as if the reference to employed earners in the definition of personal pension scheme were to any earners”.

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

PART II

PENSIONS ON DIVORCE ETC

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1973 c. 18.	Matrimonial Causes Act 1973.	Section 25B(2). In section 25D(2), paragraphs (c) and (d) and the words after paragraph (e).
1984 c. 42.	Matrimonial and Family Proceedings Act 1984.	In section 21, the word “made”, in both places.
1985 c. 37.	Family Law (Scotland) Act 1985.	Section 10(10) and (11). Section 12A(8)(b).
1996 c. 27.	Family Law Act 1996.	Section 9(8). Sections 16 and 17.

PART III

PENSION SHARING

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1971 c. 56.	Pensions (Increase) Act 1971.	In section 8(1)(a), the words from “(either” to “person)”.
1993 c. 48.	Pension Schemes Act 1993.	In section 178(a), the words “or of”.
1995 c. 26.	Pensions Act 1995.	In section 3(2)(a), the word “or” at the end of sub-paragraph (i). In section 38(2), the words from “but” to the end. In Schedule 3, paragraph 45(a).

PART IV

ABOLITION OF SEVERE DISABLEMENT ALLOWANCE

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1988 c. 1.	Income and Corporation Taxes Act 1988.	In section 617(1)(a), the words “severe disablement allowance,”.

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1992 c. 4.	Social Security Contributions and Benefits Act 1992.	<p>Section 63(b).</p> <p>Sections 68 and 69.</p> <p>In section 93(a), sub-paragraph (ii) and the word “or” preceding it.</p> <p>In section 93(b), the words “or allowance” each time they occur.</p> <p>In section 122(1), in the definition of “relevant loss of faculty”, paragraph (a).</p> <p>Section 129(2)(a)(ii) and (2B)(a)(iii).</p> <p>Section 150(1)(d).</p> <p>In Schedule 4, in Part III, paragraphs 2 and 3, and in Part IV, paragraph 8.</p> <p>In Schedule 6, in paragraph 1, the words “68 or”, and in sub-paragraph (b), the words from “except” to “68 above,” and paragraphs 4 and 5.</p> <p>In Schedule 9, paragraph 5.</p> <p>In Schedule 11, in paragraph 2, sub-paragraph (d)(iii) and the word “or” preceding it.</p>
1992 c. 5.	Social Security Administration Act 1992.	<p>In section 45(1), the words “and severe disablement allowance”.</p> <p>In section 45(1)(a), the words “in relation to industrial injuries benefit”.</p> <p>In section 45(1)(b), the words “in relation to both benefits”.</p> <p>In section 45(2), paragraph (d) and the word “or” preceding it.</p> <p>In section 46(1), the words “or severe disablement allowance”.</p> <p>In section 47(9), the words “or severe disablement</p>

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		allowance, as the case may be.”.
		In section 48(1)(c), the words “or, in a case relating to severe disablement allowance, at the prescribed time”.
		In section 130(1), paragraph (e) and the word “or” preceding it.
		In section 132(1), paragraph (d) and the word “or” preceding it.
1994 c. 18.	Social Security (Incapacity for Work) Act 1994.	Section 9(1) to (3). In Schedule 1, paragraph 18. In Schedule 2, in the third column, the entry relating to section 68 of the Social Security Contributions and Benefits Act 1992.
1998 c. 14.	Social Security Act 1998.	In section 77(8), subsection (c).
1999 c. 10.	Tax Credits Act 1999.	In Schedule 1, paragraph 2(d).

PART V

BENEFITS: MISCELLANEOUS

<i>Chapter or reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
1988 c. 1.	Income and Corporation Taxes Act 1988.	In section 617, in subsection (1)(a) the words “widow’s payments,”, and subsection (6).
1992 c. 4.	Social Security Contributions and Benefits Act 1992.	Section 20(1)(e)(i). In section 21, in subsection (2) the entry relating to maternity allowance, and in subsection (4) the words “, other than maternity allowance,”.

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

<i>Chapter or reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
		In Schedule 3, in Part I, paragraph 3.
		In Schedule 4, in Part I, the entry relating to maternity allowance.
1993 c. 48.	Pension Schemes Act 1993.	In Schedule 8, paragraph 24.
S.I. 1994/1230.	Maternity Allowance and Statutory Maternity Pay Regulations 1994.	Regulations 2(1), (2) and (4) and 6(2).
1995 c. 18.	Jobseekers Act 1995.	In section 1(4), the word “and” at the end of the definition of “a contribution-based jobseeker’s allowance”.
1998 c. 14.	Social Security Act 1998.	In Schedule 7, paragraph 78.

PART VI

NATIONAL INSURANCE CONTRIBUTIONS ETC

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1992 c. 4.	Social Security Contributions and Benefits Act 1992.	In section 8(1), in each of paragraphs (a) and (b), the words “(or the prescribed equivalent)”.
		In Schedule 1, paragraphs 1(4) and (5) and 8(2) and (3).
1992 c. 5.	Social Security Administration Act 1992.	Section 143A.
		In section 144, the words “or 143A” (in each place where they occur, including the sidenote).
		In section 190(1)(a), “143A,”.
		In Schedule 7, in each of paragraphs 3(a) and 12, “, 143A”.
1993 c. 48.	Pension Schemes Act 1993.	In section 181(1), the definition of “the prescribed equivalent”.
1996 c. 18.	Employment Rights Act 1996.	In Schedule 1, paragraph 51(2).

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1998 c. 14.	Social Security Act 1998.	In section 8(3), the words “, subject to section 21(4) below,”. Section 51. Section 65(1). In Schedule 7, paragraph 16(b) and the word “and” preceding it, and paragraphs 57, 91 and 110(1)(a).
1999 c. 2.	Social Security Contributions (Transfer of Functions, etc.) Act 1999.	Section 3(3)(c). Section 8(4). In section 20(1), paragraph (b) and the word “and” preceding it. Section 20(5). In Schedule 1, paragraphs 4(6), 19(3) and (4) and 66(3). In Schedule 3, paragraphs 2, 5, 6, 8, 9, 39(4) and 47. In Schedule 8, paragraphs 3 and 4.

PART VII

NATIONAL INSURANCE CONTRIBUTIONS ETC: NORTHERN IRELAND

<i>Chapter or reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
1992 c. 7.	Social Security Contributions and Benefits (Northern Ireland) Act 1992.	In section 8(1), in each of paragraphs (a) and (b), the words “(or the prescribed equivalent)”. In Schedule 1, paragraphs 1(4) and (5) and 8(2) and (3).
1992 c. 8.	Social Security Administration (Northern Ireland) Act 1992.	In section 129, “143A,”. Section 145(1)(a)(i) and (ii).
1993 c. 49.	Pension Schemes (Northern Ireland) Act 1993.	In section 176(1), the definition of “the prescribed equivalent”.

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

<i>Chapter or reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
S.I. 1996/1919 (N.I. 16).	Employment Rights (Northern Ireland) Order 1996.	In Schedule 1, the amendment of section 6(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.
S.I. 1998/1506 (N.I. 10).	Social Security (Northern Ireland) Order 1998.	In Article 9(3), the words “, subject to Article 21(4),”. Articles 48 and 61(1). In Schedule 6, paragraph 39.
1999 c. 2.	Social Security Contributions (Transfer of Functions etc.) Act 1999.	In section 20(2), paragraph (b) and the word “and” preceding it.
S.I. 1999/671.	Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.	In Schedule 1, paragraphs 22(3) and (4), 24(3), 33(5) and 75(3). In Schedule 3, paragraphs 3, 6, 7, 9, 10, 38(4) and (5) and 49(3). In Schedule 5, paragraph 2(2). In Schedule 7, paragraphs 3 and 4.
1999 c. 10.	Tax Credits Act 1999.	In Schedule 2, paragraph 34. In Schedule 6, the entry relating to the Social Security Administration (Northern Ireland) Act 1992.