



# National Insurance Act 1965

## 1965 CHAPTER 51

### PART II

#### BENEFIT

##### *Preliminary*

#### **17 Descriptions of benefit**

Benefit shall be of the following descriptions, namely—

- (a) unemployment benefit;
- (b) sickness benefit;
- (c) maternity benefit, which shall include—
  - (i) maternity grant;
  - (ii) maternity allowance;
- (d) widow's benefit, which shall include:—
  - (i) widow's allowance;
  - (ii) widowed mother's allowance ;
  - (iii) widow's pension;
- (e) guardian's allowance;
- (f) retirement pension;
- (g) graduated retirement benefit;
- (h) child's special allowance ;
- (i) death grant.

#### **18 Appropriate classes and yearly average of contributions**

(1) Subject to subsection (4) of this section—

- (a) references in this Act to contributions of the appropriate class in relation to benefit of a particular description shall be construed—

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- (i) in relation to unemployment benefit, as references to contributions as an employed person;
  - (ii) in relation to sickness benefit and maternity allowance, as references to contributions as an employed or self-employed person ;
  - (iii) in relation to any other description of benefit, as references to contributions as an insured person of any class;
- (b) for the purposes of any reference in this Act to contributions of the appropriate class or their equivalent, there shall be treated as equivalent to a contribution of the appropriate class such number of contributions not of that class as may be prescribed.
- (2) Subject to the provisions of this Act, and in particular to section 9(b), paragraph 18(2) of Schedule 11 and subsections (3) and (4) of this section, any reference in this Act to the yearly average of the contributions paid by or credited to any person shall be construed as referring to contributions as an insured person only, and to that average (calculated in the prescribed manner) over the period—
- (a) beginning with the beginning of the contribution year in which he attained school leaving age; and
  - (b) ending with the end of the last complete contribution year before the date as at which the average is to be ascertained.
- (3) For the purpose of calculating the yearly average of the contributions paid by or credited to a person who entered into insurance over the age of sixteen having attained that age after 5th July 1948, he shall not be deemed to have attained school leaving age before the date on which he attained the age of sixteen.
- (4) For the purposes of any such reference as is mentioned in subsection (1) or (2) of this section, there shall be left out of account any graduated contribution.

*Unemployment benefit and sickness benefit*

**19 Unemployment or sickness benefit**

- (1) Subject to the provisions of this Act, a person who satisfies the requirements of subsection (2) or (3) of this section shall be entitled—
- (a) to unemployment benefit in respect of any day of unemployment which forms part of a period of interruption of employment;
  - (b) to sickness benefit in respect of any day of incapacity for work which forms part of such a period,
- at the weekly rate provided for by the said subsection (2) or, as the case may be, the said subsection (3).
- (2) If the person claiming unemployment benefit or sickness benefit for any day—
- (a) is under pensionable age on that day ; and
  - (b) satisfies the contribution conditions set out in paragraph 1 of Schedule 2 to this Act,
- the benefit shall be payable at the appropriate weekly rate specified in relation thereto in column 2 of Schedule 3 to this Act.
- (3) If the person claiming unemployment benefit or sickness benefit for any day—
- (a) is over pensionable age but has not retired from regular employment; and

- (b) would on that day be entitled to a retirement pension if he had retired from regular employment on attaining pensionable age and made the necessary claim,  
the benefit shall be payable at the weekly rate at which, apart from any increase by virtue of any provision of this Act, the retirement pension would have been payable.
- (4) In determining for the purposes of subsection (3) of this section the rate at which a retirement pension would have been payable, section 30(7) of this Act shall be deemed not to apply.
- (5) In relation to a claimant or beneficiary who is a woman and is or has been married, the reference in subsection (3)(b) of this section to a retirement pension shall be construed as referring only to a retirement pension payable under section 30 of this Act by virtue of her own insurance.
- (6) A person shall not be entitled either to unemployment benefit or to sickness benefit for the first three days of any period of interruption of employment unless, within the period of thirteen weeks beginning with the first of those days, he has a further nine days of interruption of employment forming part of the same period of interruption of employment.
- (7) A woman who has been confined and is entitled to a maternity grant in respect of that confinement (or would be so entitled if she made the necessary claim) shall not be entitled to unemployment benefit or sickness benefit in respect of any day falling within the period of four weeks beginning with the date of the confinement; and this subsection shall apply in relation to a woman whose pregnancy is terminated otherwise than by confinement after she has become entitled to a maternity grant an expectation of her confinement as if she had been confined and the date of the confinement were the date on which her pregnancy is so terminated.
- (8) The amount payable by way of benefit under this section for any day of unemployment or of incapacity for work shall be one-sixth of the appropriate weekly rate.

## **20 Determination of days for which unemployment or sickness benefit is payable**

- (1) For the purposes of any provision of this Act relating to unemployment benefit or sickness benefit—
- (a) a day shall not be treated in relation to any person—
- (i) as a day of unemployment unless on that day he is capable of work and is, or is deemed in accordance with regulations to be, available for employment in an employed contributor's employment;
- (ii) as a day of incapacity for work unless on that day he is, or is deemed in accordance with regulations to be, incapable of work by reason of some specific disease or bodily or mental disablement;
- (b) where a person is employed in any employed contributor's employment which has not been terminated, then, in any period of seven days commencing with the midnight between Saturday and Sunday, a day on which in the normal course that person would not work in that or any other employed contributor's employment shall not be treated as a day of unemployment unless each other day in that period (other than the day referred to in paragraph (e) of this subsection) on which in the normal course he would so work is a day of interruption of employment;

- (c) the expression " day of interruption of employment" means a day which is a day of unemployment or of incapacity for work;
- (d) any two days of interruption of employment, whether consecutive or not, within a period of six consecutive days shall be treated as a period of interruption of employment, and any two such periods not separated by a period of more than thirteen weeks shall be treated as one period of interruption of employment;
- (e) Sunday or such other day in each week as may be prescribed shall not be treated as a day of unemployment or of incapacity for work and shall be disregarded in computing any period of consecutive days.

(2) Regulations may—

- (a) make provision (subject to subsection (1) of this section) as to the days which are or are not to be treated for the purposes of unemployment benefit and sickness benefit as days of unemployment or of incapacity for work;
- (b) prescribe respective circumstances in which, for the purposes of subsection (1) (b) of this section—
  - (i) an employed contributor's employment which has not been terminated may be treated as if it had been terminated; or
  - (ii) a day which falls during a period when a person's employment in an employed contributor's employment is suspended but does not fall to be treated as aforesaid and which, apart from the provisions of the regulations, would not fall to be treated as a day of interruption of employment may be treated as such a day.

## 21 Exhaustion of and requalification for benefit

- (1) A person who, in respect of any period of interruption of employment, has been entitled to unemployment benefit for one hundred and eighty days shall not thereafter be entitled to that benefit for any day of unemployment (whether in the same or a subsequent period of interruption of employment) unless before that day he has requalified for benefit:

Provided that, in the case of a person who before exhausting his right to unemployment benefit under this subsection has qualified in accordance with regulations for additional days of unemployment benefit (depending on the contributions of the appropriate class paid by him and the unemployment benefit to which he has been entitled), this subsection shall apply with the substitution for the reference to one hundred and eighty days of a reference to such greater number of days as may be allowed by the regulations.

(2) A person who—

- (a) in respect of the period between his entry into insurance and any day of incapacity for work has paid less than one hundred and fifty-six contributions of the appropriate class; and
- (b) before that day has been entitled, in respect of any period of interruption of employment (whether including that day or not), to sickness benefit for three hundred and twelve days,

shall not be entitled to sickness benefit for that day unless since the last of the said three hundred and twelve days and before that day he has requalified for benefit.

- (3) Where a person has exhausted his right to either of the said benefits—

- (a) he shall requalify therefor when he has paid thirteen contributions of the appropriate class in respect of contribution weeks begun or ended since the last day for which he was entitled to that benefit;
  - (b) on his requalifying therefor, subsection (1) or (2), as the case may be, of this section shall again apply to him, but, in a case where the period of interruption of employment in which he exhausted his right to that benefit continues after his requalification, as if the part before and the part after his requalification were distinct periods of interruption of employment.
- (4) Regulations may provide for treating a person for the purposes of this section as having been entitled to benefit for any day if he would have been so entitled but for any delay or failure to make or prosecute a claim or give a notice :
- Provided that a person shall not be so treated where he shows that he did not intend, by failing to acquire or establish a right to benefit for that day, to avoid the necessity of requalifying for benefit under this section.

## **22 Disqualifications and special conditions**

- (1) A person who has lost employment in an employed contributor's employment by reason of a stoppage of work which was due to a trade dispute at his place of employment shall be disqualified for receiving unemployment benefit so long as the stoppage of work continues, except in a case where, during the stoppage of work, he has become bona fide employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation:
- Provided that this subsection shall not apply in the case of a person who proves—
- (a) that he is not participating in or financing or directly interested in the trade dispute which caused the stoppage of work; and
  - (b) that he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at his place of employment any of whom are participating in or financing or directly interested in the dispute.
- (2) A person shall be disqualified for receiving unemployment benefit for such period not exceeding six weeks as may be determined in accordance with Part IV of this Act if—
- (a) he has lost his employment in an employed contributor's employment through his misconduct, or has voluntarily left such employment without just cause;
  - (b) after a situation in any suitable employment has been notified to him by an employment exchange or other recognised agency, or by or on behalf of an employer, as vacant or about to become vacant, he has without good cause refused or failed to apply for that situation or refused to accept that situation when offered to him ;
  - (c) he has neglected to avail himself of a reasonable opportunity of suitable employment;
  - (d) he has without good cause refused or failed to carry out any written recommendations given to him by an officer of an employment exchange with a view to assisting him to find suitable employment, being recommendations which were reasonable having regard to his circumstances and to the means of obtaining that employment usually adopted in the district in which he resides; or
  - (e) he has without good cause refused or failed to avail himself of a reasonable opportunity of receiving training approved by the Minister of Labour in his

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case for the purpose of becoming or keeping fit for entry into or return to regular employment.

- (3) Regulations may provide for disqualifying a person for receiving sickness benefit for such period not exceeding six weeks as may be determined in accordance with Part IV of this Act if—
- (a) he has become incapable of work through his own misconduct; or
  - (b) he fails without good cause to attend for or to submit himself to such medical or other examination or treatment as may be required in accordance with the regulations, or to observe any prescribed rules of behaviour.
- (4) Regulations may also provide for imposing in the case of any class of persons additional conditions with respect to the receipt of unemployment benefit or sickness benefit and restrictions on the rate and duration thereof, if, having regard to special circumstances, it appears to the Minister necessary so to do for the purpose of preventing inequalities, or injustice to the general body of employed persons or of employed and self-employed persons, as the case may be.
- (5) For the purposes of this section, employment shall not be deemed to be employment suitable in the case of any person if it is either—
- (a) employment in a situation vacant in consequence of a stoppage of work due to a trade dispute; or
  - (b) employment in his usual occupation in the district where he was last ordinarily employed at a rate of remuneration lower, or on conditions less favourable, than those which he might reasonably have expected to obtain having regard to those which he habitually obtained in his usual occupation in that district, or would have obtained had he continued to be so employed ; or
  - (c) employment in his usual occupation in any other district at a rate of remuneration lower, or on conditions less favourable, than those generally observed in that district by agreement between associations of employers and of employees, or, failing any such agreement, than those generally recognised in that district by good employers;

but, after the lapse of such an interval from the date on which he becomes unemployed as in the circumstances of the case is reasonable, employment shall not be deemed to be unsuitable by reason only that it is employment of a kind other than employment in his usual occupation if it is employment at a rate of remuneration not lower, and on conditions not less favourable, than those generally observed by agreement between associations of employers and of employees or, failing any such agreement, than those generally recognised by good employers.

- (6) In this section—
- (a) the expression " place of employment" in relation to any person, means the factory, workshop, farm or other premises or place at which he was employed, so, however, that, where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments shall for the purposes of this paragraph be deemed to be a separate factory or workshop or farm or separate premises or a separate place, as the case may be ;
  - (b) the expression " trade dispute" means any dispute between employers and employees or between employees and employees which is connected with the employment or non-employment or the terms of employment or the conditions

of employment of any persons, whether employees in the employment of the employer with whom the dispute arises or not.

### *Maternity benefit*

## **23 Maternity grant**

- (1) Subject to the provisions of this Act, a woman shall be entitled to a maternity grant of the amount specified in relation thereto in Schedule 4 to this Act if she has been confined and either—
  - (a) she or her husband satisfies the contribution conditions set out in paragraph 2(1) of Schedule 2 to this Act; or
  - (b) she satisfies either—
    - (i) the contribution conditions for a maternity allowance; or
    - (ii) any contribution conditions which she is required to satisfy in order to become entitled to a maternity allowance at a reduced rate by virtue of regulations under section 45 of this Act.
- (2) Except where regulations otherwise provide, a woman shall not be entitled to a maternity grant in respect of a confinement if on the date of the confinement she is outside Great Britain.
- (3) Regulations may provide that a woman confined of twins or a greater number of children shall, if the other conditions for the payment of a maternity grant are satisfied in respect of the confinement, be entitled to a maternity grant for each of them.
- (4) Regulations may provide that the provisions of this section shall apply to a woman, in a case where her claim indicates that she so desires, with the substitution for the condition that she has been confined of the condition that she is pregnant and has reached a stage in her pregnancy which is not more than the prescribed number of contribution weeks before that in which it is to be expected that she will be confined, and may modify the contribution conditions for a maternity grant in their application to such a case.
- (5) Subject to the provisions of subsection (3) of this section, a woman shall not be entitled to more than one maternity grant in respect of any one confinement.
- (6) For the purposes of this section the expression " husband " includes a widow's late husband where the benefit is claimed in respect of a posthumous son or daughter of his.

## **24 Maternity allowance**

- (1) Subject to the provisions of this Act, a woman shall be entitled to a maternity allowance at the weekly rate specified in relation thereto in column 2 of Schedule 3 to this Act if—
  - (a) she is pregnant and has reached a stage in her pregnancy which is not more than the prescribed number of weeks before the week in which it is to be expected that she will be confined (in this section referred to as the " expected week of confinement"); and
  - (b) she satisfies the contribution conditions set out in paragraph 3(1) of Schedule 2 to this Act.

- (2) Subject to the following provisions of this section, the period for which a maternity allowance is payable shall be the period of eighteen weeks beginning with the eleventh week before the expected week of confinement.
- (3) A woman who has become entitled to a maternity allowance shall cease to be entitled thereto if she dies before the beginning of the period mentioned in subsection (2) of this section; and if such a woman dies after the beginning but before the end of that period the allowance shall not be payable for any week subsequent to that in which she dies.
- (4) Regulations may provide that a woman who has become entitled to a maternity allowance shall cease to be entitled thereto if her pregnancy is terminated otherwise than by confinement.
- (5) Regulations may make provision, as respects cases where the date of the confinement occurs after the end of the expected week of confinement, for extending the period referred to in subsection (2) of this section until the end of such week (not being later than the sixth week after that in which the date of the confinement occurs) as may be prescribed by the regulations.
- (6) Regulations may modify subsections (1)(a) and (b), (2) and (3) of this section in relation to cases where a woman has been confined and either—
- (a) she has not made a claim for a maternity allowance in respect of expectation of that confinement (other than any claim which has been disallowed); or
  - (b) she has made a claim for a maternity allowance in respect of expectation of that confinement (other than a claim which has been disallowed) but the date of the confinement was more than eleven weeks before the expected week of confinement,
- and may modify the contribution conditions set out in paragraph 3(1) of Schedule 2 to this Act in their application to such cases by substituting references to the week comprising the date of the confinement for references to the expected week of confinement.
- (7) Regulations may provide for disqualifying a woman for receiving a maternity allowance if—
- (a) during the period for which the allowance is payable she does any work as an employed or self-employed person or fails without good cause to observe any prescribed rules of behaviour ; or
  - (b) at any time before her confinement occurs she fails without good cause to attend for or to submit herself to any medical examination required in accordance with the regulations.
- (8) In this section the expression " week " means a contribution week.

## **25 Supplementary provisions as to maternity benefit, etc.**

- (1) In this Part of this Act—
- (a) the expression " confinement " means labour resulting in the issue of a living child, or labour after twenty-eight weeks of pregnancy resulting in the issue of a child whether alive or dead, and the expression " confined " shall be construed accordingly ;
  - (b) references to the date of the confinement shall be taken as referring, where labour begun on one day results in the issue of a child on another day, to the



date of the issue of the child or, if the woman is confined of twins or a greater number of children, to the date of issue of the last of them.

- (2) The fact that the mother of an illegitimate child is entitled to maternity benefit shall not be taken into consideration—
- (a) by any justices in England and Wales in deciding whether or not they shall make an order under the Affiliation Proceedings Act 1957 for the payment of the expenses incidental to the birth of the child; or
  - (b) by any court in Scotland in awarding inlying expenses in connection with the birth of the child.

### *Widow's benefit*

## **26 Widow's allowance**

- (1) Subject to the provisions of this Act, a widow shall be entitled to widow's allowance at the weekly rate specified in relation thereto in column 2 of Schedule 3 to this Act if—
- (a) the husband satisfied the contribution conditions set out in paragraph 4(1) of Schedule 2 to this Act; and
  - (b) at the husband's death either he was not entitled to a retirement pension or she was under pensionable age.
- (2) The period for which widow's allowance is payable to a widow shall be the thirteen weeks next following the husband's death:
- Provided that the allowance shall not be payable for any period after the widow's death or remarriage or for any period during which she is cohabiting with a man as his wife.
- (3) In this section the expression " the husband ", in relation to a woman who has been married more than once, refers only to her last husband.

## **27 Widowed mother's allowance**

- (1) Subject to the provisions of this Act, a widow shall be entitled to a widowed mother's allowance at the weekly rate specified in relation thereto in column 2 of Schedule 3 to this Act if the husband satisfied the contribution conditions set out in paragraph 4(1) of Schedule 2 to this Act and either—
- (a) the widow has a family which satisfies the condition specified in subsection (2) of this section; or
  - (b) subject to such exceptions and conditions as may be prescribed, the widow has residing with her a person who is under the age of nineteen years and is, has been, or would, but for the fact that at the husband's death that person had attained the upper limit of the compulsory school age or was not in Great Britain, be or have been, a child falling within paragraph (a), (b) or (c) of the said subsection (2); or
  - (c) the widow is pregnant by the husband.
- (2) The condition referred to in subsection (1)(a) of this section is that the widow's family includes a child with respect to whom one of the conditions specified in section 42(1) of this Act is for the time being satisfied and who either—
- (a) at the husband's death was, or could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as, a child of his family; or

- (b) is a son or daughter of theirs ; or
  - (c) subject to such exceptions and conditions as may be prescribed, having at the death of a previous husband of the widow by a marriage which ended with that husband's death been a child of that husband's family, was at the death of the last husband a child of the widow's family.
- (3) The period for which a widowed mother's allowance is payable to a widow shall be any period during which she satisfies the requirements of subsection (1)(a), (b) or (c) of this section and for which she is not entitled to a widow's allowance:

Provided that the allowance shall not be payable for any period after the widow's remarriage or for any period during which she is cohabiting with a man as his wife.

- (4) In this section, the expression " the husband ", in relation to a woman who has been married more than once, refers only to her last husband.

## 28 Widow's pension

- (1) Subject to the provisions of this Act and in particular to paragraphs 2, 3 and 4 of Schedule 11 thereto, a widow shall be entitled to a widow's pension at the weekly rate specified in relation thereto in column 2 of Schedule 3 to this Act if the husband satisfied the contribution conditions set out in paragraph 4(1) of Schedule 2 to this Act and there are also satisfied either—
- (a) the conditions specified in subsection (2) of this section; or
  - (b) the conditions specified in subsection (3) thereof.
- (2) The conditions referred to in subsection (1)(a) of this section are that at the husband's death—
- (a) he and the widow had been married for not less than three years; and
  - (b) she was over the age of fifty but under the age of sixty-five.
- (3) The conditions referred to in subsection (1)(b) of this section are that the widow ceases, or has since 20th December 1964 ceased, to be entitled to a widowed mother's allowance at a time when—
- (a) she is or was over the age of fifty but under the age of sixty-five; and
  - (b) three years have or had elapsed since the date of the marriage in respect of which the allowance is or was payable.
- (4) The period for which widow's pension is payable to a widow shall be any period during which she is under the age of sixty-five and for which she is not entitled to a widow's allowance or widowed mother's allowance:

Provided that the pension shall not be payable for any period after the widow's remarriage or for any period during which she is cohabiting with a man as his wife.

- (5) Where a widow has been married more than once—
- (a) references in this section to the husband shall refer only to her last husband ; and
  - (b) regulations may relax, for the purpose of her right to a widow's pension in respect of her last marriage, the condition contained in subsection (2)(a) or (3)(b) of this section.

### *Guardian's allowance*

## **29 Guardian's allowance**

- (1) Subject to the provisions of this Act, and in particular to section 42(1) thereof, a person shall be entitled to a guardian's allowance at the weekly rate specified in relation thereto in column 2 of Schedule 3 to this Act in respect of any child who is for the time being a child of his family if—
  - (a) the parents of the child are dead ; and
  - (b) one at least of the parents was an insured person.
- (2) Regulations may modify paragraphs (a) and (b) of the foregoing subsection in relation to cases where—
  - (a) a child has been adopted, or is illegitimate; or
  - (b) the marriage of a child's parents was terminated by divorce; or
  - (c) one of the child's parents is dead and the person claiming the allowance shows that he was at the date of the death unaware of, and has failed after all reasonable efforts to discover, the whereabouts of the other parent.
- (3) Regulations may provide for the payment of guardian's allowance under this section in respect of a child as if both parents of the child were dead in cases where one parent is dead and the surviving parent is serving (or is to be treated in accordance with the regulations as serving) a sentence of imprisonment of not less than the prescribed length or of imprisonment for life, or is (or is to be so treated as being) in legal custody in any other prescribed circumstances; and any such regulations may include provision—
  - (a) for suspending payment of an allowance awarded by virtue of this subsection where the conviction, sentence or order in consequence of which it was awarded is subject to appeal, and for any matters arising from the decision of any such appeal; and
  - (b) for requiring sums paid by virtue of this subsection by way of guardian's allowance in respect of a child for a period during which one of the child's parents is alive to be repaid by that parent to the National Insurance Fund.
- (4) Where subsection (1)(a) and (b) of this section have been modified by virtue of subsection (2) of this section so as to make guardian's allowance payable in respect of a child not on the death of the child's parents but on the death of two persons who are not the child's parents or of whom one is not the child's parent, subsection (3) of this section shall apply as if those persons were the child's parents.
- (5) In the case of a child who is a child of the family of a man and his wife, the wife only shall be entitled to a guardian's allowance, but subsections (2) to (6) of section 4 of the Family Allowances Act (which relate to the persons to receive an allowance under that Act payable in respect of such a child) shall apply in relation to a guardian's allowance as they apply in relation to an allowance under that Act.

*Retirement pensions***30 Retirement pension by virtue of own insurance**

- (1) Subject to the provisions of this Act, a person shall be entitled to a retirement pension at the appropriate weekly rate specified in relation thereto in column 2 of Schedule 3 to this Act if—
  - (a) he is over pensionable age and has retired from regular employment; and
  - (b) he satisfies the contribution conditions set out in paragraph 4(1) of Schedule 2 to this Act.
- (2) For the purposes of this Act, a person may, subject to subsection (3) of this section, be treated as having retired from regular employment at any time after he has attained pensionable age—
  - (a) whether or not he has previously been engaged in a gainful occupation;
  - (b) notwithstanding that he is engaged or intends to engage in a gainful occupation, if he is engaged or intends to engage therein only occasionally or to an inconsiderable extent or otherwise in circumstances not inconsistent with retirement, or if his earnings can be expected not to exceed, or only occasionally to exceed, the amount any excess over which would, under subsection (7) of this section, involve a reduction of the weekly rate of any retirement pension awarded to him.
- (3) For the purposes of this Act, but subject to subsection (4) of this section, a person shall not be treated as having retired from regular employment unless he has complied with the prescribed requirements as to notice of the date of his retirement and—
  - (a) where the date of retirement specified in the notice falls before the date when the notice is given, that person shall not be treated as having so retired earlier than on the date of commencement of the prescribed period before the giving of the notice;
  - (b) where the date of retirement specified in the notice falls after the date when the notice is given, an award of a retirement pension as from the date of retirement so specified may be made before that date but shall be conditional on that person's having retired on or before that date.
- (4) For the purposes of this Act a person who has not previously retired from regular employment shall be deemed so to retire on the expiration of five years from his attaining pensionable age.
- (5) References in this Act to the date of a person's retirement shall be construed in accordance with subsections (2) to (4) of this section.
- (6) Subject to the provisions of this Act, a retirement pension shall commence from the date of retirement and shall be payable for life.
- (7) Subject to any regulations under section 44(a) of this Act, where the earnings of a beneficiary who is less than five years over pensionable age have exceeded five pounds for the calendar week ending last before any week for which he is entitled to a retirement pension, the weekly rate of his pension shall for the last-mentioned week be reduced by sixpence for each complete shilling of the excess and a further sixpence for each complete shilling by which the earnings exceed six pounds:

Provided that this subsection shall not affect the rate of the pension for the first week after the date of the beneficiary's retirement.

### **31 Increase of pension under s. 30 for contributions after pensionable age**

- (1) Subject to section 30(7) of this Act, paragraphs 7 and 9 of Schedule 11 thereto and any regulations under subsection (2) of this section, the weekly rate of a retirement pension under the said section 30 shall be increased by one shilling for every twelve contributions (not being graduated contributions) as an employed or self-employed person paid by the beneficiary in respect of the period after his attaining pensionable age.
- (2) Regulations may provide that, in such cases and subject to such exceptions as may be prescribed, a contribution paid by a woman over pensionable age in respect of any contribution week for the whole of which—
  - (a) she is entitled to widow's benefit or to a retirement pension by virtue of her husband's insurance ; or
  - (b) her husband is entitled in respect of her to an increase of the weekly rate of any benefit,shall be disregarded for the purposes of subsection (1) of this section.

### **32 Retirement pension by virtue of husband's insurance**

- (1) Subject to the provisions of this Act, and in particular to paragraph 5 of Schedule 11 thereto, a woman over pensionable age shall be entitled to a retirement pension by virtue of her husband's insurance at the appropriate weekly rate specified in relation thereto in column 2 of Schedule 3 to this Act if there are satisfied—
  - (a) one of the conditions specified in subsection (2) of this section; and
  - (b) the conditions specified in subsection (3) thereof.
- (2) The conditions referred to in subsection (1)(a) of this section are—
  - (a) that the woman is married to the husband at the time when she attains pensionable age ; or
  - (b) that she has married the husband after attaining that age.
- (3) The conditions referred to in subsection (1)(b) of this section are—
  - (a) that either—
    - (i) the husband is over pensionable age and both he and the woman have retired from regular employment; or
    - (ii) the husband is dead ; and
  - (b) that the husband satisfies the contribution conditions set out in paragraph 4(1) of Schedule 2 to this Act; and
  - (c) in a case where the woman has married the husband after attaining pensionable age, such further conditions as may be prescribed.
- (4) Subject to the provisions of this Act, a retirement pension payable to a woman by virtue of subsection (1) of this section shall commence from the date on which the provisions of that subsection are satisfied in relation to the pension and shall be payable for life.
- (5) Section 30(7) of this Act shall apply to a retirement pension payable to a woman by virtue of her husband's insurance as it applies to a pension payable by virtue of a person's own insurance.

### **33 Special provisions as to retirement pensions for women**

- (1) A woman shall not be entitled for the same period to more than one retirement pension, but if she would be so entitled but for this subsection may, on such occasion and in such manner as may be prescribed, choose which she shall be entitled to.
- (2) Where on attaining pensionable age a woman is married, she shall not be entitled under section 30 of this Act to a retirement pension by virtue of her own insurance unless either—
  - (a) the number of contributions paid by or credited to her in respect of the period between the date of the marriage and her attaining pensionable age is not less than one half of the number of complete contribution weeks in that period ; or
  - (b) the said period is less than three years.
- (3) Subject to paragraph 6 of Schedule 11 to this Act, where immediately before attaining pensionable age a woman is a widow, she may elect that, in calculating for the purpose of her right under the said section 30 to a retirement pension by virtue of her own insurance the yearly average of the contributions paid by or credited to her, there shall be treated as so paid or credited either—
  - (a) for each contribution year falling wholly or partly before the death of her husband (being, if she has been married more than once, her last husband); or
  - (b) for each contribution year falling wholly or partly during the period of their marriage,  
a number of contributions equal to the yearly average (ascertained as at the date of his attaining pensionable age or dying under that age) of the contributions paid by or credited to him, instead of the number of contributions actually paid by or credited to her for that year.
- (4) Any reference in this section to contributions shall be construed as a reference to contributions other than graduated contributions.

### **34 Increase in woman's retirement pension in certain cases**

- (1) Subject to section 30(7) of this Act and to paragraph 8 of Schedule 11 thereto, in respect of any contributions as an employed or self-employed person paid by a man for any period after his attaining pensionable age—
  - (a) the weekly rate of any retirement pension under section 32 of this Act payable to his wife or widow by virtue of his insurance shall be increased by sixpence for every twelve contributions other than those paid for a period before she attains pensionable age ; and
  - (b) the weekly rate of any retirement pension payable to his widow under the said section 32 by virtue of his insurance or under section 30 of this Act by virtue of her own insurance shall be increased by sixpence for every twelve contributions (in addition to the increase, if any, under paragraph (a) of this subsection).
- (2) Subject to the said paragraph 8, where by virtue of such an election as is provided for by section 35 of this Act a woman pays or has paid contributions as an employed or self-employed person for a period after her attaining pensionable age, then in relation to a retirement pension under the said section 32 payable to her by virtue of her husband's insurance the contributions so paid by her for any period after his death shall be taken into account under subsection (1) of this section as if they were contributions paid by the husband as mentioned in that subsection.

- (3) In relation to a woman married after attaining pensionable age, the foregoing provisions of this section shall have effect subject to any prescribed modifications.
- (4) Any reference in this section to contributions shall be construed as a reference to contributions other than graduated contributions.

### **35 Re-entry into regular employment after retirement**

- (1) Regulations may provide that, in the case of a person of such description as may be prescribed who—
  - (a) has retired from regular employment or has otherwise become entitled to a retirement pension but is, in the case of a woman, under the age of sixty-five or, in the case of a man, under the age of seventy; and
  - (b) elects, in such manner and in accordance with such conditions as may be prescribed, that the regulations shall apply in his case,

this Act shall have effect as if that person had not retired or become entitled as aforesaid:

Provided that, where a husband and wife have both become entitled to retirement pensions by virtue of the husband's insurance, the husband shall not be entitled to elect as aforesaid without the consent of the wife, unless that consent is unreasonably withheld.

- (2) Any such regulations may make such modifications of this Act in its application in a case where a person elects as aforesaid as may appear to the Minister necessary or expedient, and may in particular provide for determining how contributions (other than graduated contributions) paid by that person, whether before or after that person's first retirement or, as the case may be, first becoming entitled to a retirement pension, are to be dealt with for the purposes of section 31(1) of, or paragraph 7 or 8(2) of Schedule 11 to, this Act.

#### *Graduated retirement benefit*

### **36 Graduated retirement benefit**

- (1) Subject to the provisions of this Act, graduated retirement benefit shall be payable to any person who is over pensionable age and has retired from regular employment, and shall be an increase in the weekly rate of his retirement pension equal to sixpence for each unit, ascertained in accordance with subsections (2) and (3) of this section, of the graduated contributions properly paid by him as an insured person.
- (2) For the purpose of graduated retirement benefit the units of graduated contributions shall be as follows:—
  - (a) in the case of contributions calculated at the rate of four and a quarter per cent. specified in section 4(1)(c) of this Act, the units shall be seven pounds ten shillings for men and nine pounds for women; and
  - (b) in the case of contributions calculated at any rate having effect under section 5(1)(b) of this Act, the units shall be of such amounts as may be specified for men and women respectively by order of the Minister, being amounts which maintain the same proportions as under paragraph (a) of this subsection between the percentage used in calculating the contributions and

the amount of the unit, except for adjusting the amount of a unit to the nearest shilling above, or to the nearest shilling below, the proportionate amount.

- (3) Where a person's graduated contributions calculated at any of the said rates do not make an exact number of units—
  - (a) the incomplete fraction of a unit and any similar fraction resulting from his contributions calculated at any of the other rates shall be added together to produce (so far as they go) a further unit or units;
  - (b) subject to the foregoing paragraph, any incomplete fraction of a unit (including a fraction resulting from the addition under that paragraph) shall, if it is one half or more, be treated as a complete unit.
- (4) Where a person does not retire from regular employment on attaining pensionable age, then for the purpose of calculating the graduated retirement benefit payable to him from the date of his retirement there shall be added to the amount of the graduated contributions properly paid by him one half of the aggregate graduated retirement benefit which would have been payable to him for the period before that date if he had retired from regular employment on attaining pensionable age and had received that benefit for the whole of the period without any interruption or abatement; and the number of units paid by him shall be determined as if the addition made in respect of benefit for any week had been a contribution paid at the rate appropriate to a payment of remuneration made in that week.
- (5) For the purposes of subsection (4) of this section, the Minister may by regulations provide for treating all or any of the graduated contributions paid by a person in the income tax year in which he attained pensionable age as having been paid before, or as having been paid after, the day on which he attained that age, whether or not the contribution in question was so paid.
- (6) Subject to any regulations under section 44(b) of this Act, the foregoing provisions of this section shall have effect subject to section 30(7) of this Act.
- (7) A person who has attained pensionable age and retired from regular employment, but is not entitled to a retirement pension, shall be treated for the purposes of the foregoing provisions of this section as receiving a retirement pension at a nominal weekly rate :  
Provided that—
  - (a) this subsection shall not confer any right to graduated retirement benefit on a person who would be entitled to a retirement pension but for some provision of this Act or of regulations disqualifying him for receipt of it; and
  - (b) regulations may provide that any right by virtue of this subsection to benefit at less than a specified weekly rate shall be satisfied either altogether or for a specified period by the making of a single payment of the prescribed amount.

### **37 Special provisions as to graduated retirement benefit for widows**

- (1) Subject to the provisions of this section, where a man, having paid graduated contributions as an insured person, dies leaving a widow, and she either has attained pensionable age at the time of his death or remains his widow when she attains that age, then section 36 of this Act shall apply as if the increase in the weekly rate of her retirement pension provided for by subsection (1) thereof were the amount there specified by reference to her graduated contributions plus sixpence for every shilling or part of a shilling of the weekly rate of his graduated retirement benefit.



- (2) For the purposes of subsection (1) of this section, the weekly rate of the husband's graduated retirement benefit shall (whether or not he was receiving or entitled to receive any such benefit) be taken to have been the weekly rate appropriate to the amount of graduated contributions paid by him together with any addition under section 36(4) of this Act; and where at his death he had attained pensionable age but had not retired from regular employment, that addition shall be computed as if he had retired from regular employment immediately before his death.
- (3) A woman's right to graduated retirement benefit by virtue of this section shall be brought into account under section 36(4) of this Act in determining the graduated retirement benefit payable to her under the said section 36:

Provided that, if the husband died after she attained pensionable age, she shall for the purposes of this subsection be treated as not having attained pensionable age until the date of his death.

- (4) A woman's right to graduated retirement benefit by virtue of this section in respect of a husband she marries after she attains pensionable age shall be subject to such additional conditions as may be prescribed; and except as may be provided by regulations a woman more than once married shall not be entitled for the same period to any graduated retirement benefit by virtue of this section in respect of more than one of the husbands.
- (5) Regulations may provide that where a woman is entitled to graduated retirement benefit and to a widowed mother's allowance the graduated retirement benefit shall be an increase in the weekly rate of that allowance; and where that benefit is such an increase, section 36(6) and (7) of this Act shall not apply.

#### *Child's special allowance*

### **38 Child's special allowance**

Subject to the provisions of this Act, and in particular to section 42 thereof, a woman whose marriage has been terminated by divorce shall be entitled to child's special allowance at the weekly rate specified in relation thereto in column 2 of Schedule 3 to this Act if—

- (a) the husband of that marriage is dead and satisfied the contribution conditions set out in paragraph 4(1) of Schedule 2 to this Act; and
- (b) she has a family which includes a child who at that husband's death was, or but for the fact that the child was not then in Great Britain would have been, either a child of her family or, where the child is issue of theirs within the meaning of the Family Allowances Act, a child of that husband's family; and
- (c) that husband had before his death been contributing at not less than the prescribed weekly rate to the cost of providing for that child:

Provided that the allowance shall not be payable for any period after her remarriage or for any period during which she is cohabiting with a man as his wife.

### *Death grant*

#### **39 Death grant**

- (1) Subject to the provisions of this Act, and in particular to paragraph 10 of Schedule 11 thereto, a death grant of the amount specified in relation thereto in Schedule 4 to this Act shall be payable in respect of the death of any person (hereafter in this section referred to as "the deceased") if the deceased either himself satisfied the contribution conditions set out in paragraph 5(1) of Schedule 2 to this Act, or was at death the husband, wife, widower, widow, or a child of the family, of a person satisfying those conditions, or a child who—
  - (a) had immediately before the death of some other person satisfying those conditions, been a child of the family of that other person ; or
  - (b) was a posthumous son or daughter of a man satisfying those conditions.
- (2) With respect to cases where the deceased was at death a child but the requirements of the foregoing subsection are not satisfied, regulations may provide for death grant to be payable if the contribution conditions aforesaid were satisfied by such other person as may be prescribed.
- (3) Where at his death the deceased was not a child but was under the age of nineteen years and would, if he had been under the age of sixteen years, have been a child by virtue of section 2(1)(c) of the Family Allowances Act (which relates to persons incapacitated by reason of illness or disability of mind or body), then, for the purposes of the foregoing provisions of this section, the deceased shall be treated as if he had been a child at his death.
- (4) Except where regulations otherwise provide, a death grant shall not be payable in respect of a death occurring outside Great Britain.

### *Benefit in respect of children*

#### **40 Increase of benefit for children**

- (1) Subject to subsections (5) and (6) of this section and to sections 41(4) and 42 of this Act, the weekly rate of unemployment benefit, sickness benefit, a maternity allowance, a retirement pension or a widow's allowance shall, for any period for which the beneficiary has a family which includes a child or children, be increased in respect of that child or each respectively of those children by the appropriate amount specified in relation to the benefit in question in column 3, 4 or 5 of Schedule 3 to this Act.
- (2) In the application of subsection (1) of this section to a maternity allowance, references therein to a child or children shall include references to any child or children born to the beneficiary on the occasion of the confinement by reason of whose actual or expected occurrence she became entitled to the allowance.
- (3) Subject to section 42 of this Act, the weekly rate of a widowed mother's allowance payable by virtue of subsection (1)(a) of section 27 of this Act shall be increased for any period in respect of the child or, if more than one, each respectively of the children falling within paragraph (a), (b) or (c) of subsection (2) of the said section 27 for the time being included in her family by the appropriate amount specified in relation to that allowance in the said column 3, 4 or 5.

- (4) Subject to section 42 of this Act, the weekly rate of a child's special allowance shall, for any period for which the beneficiary has a family which includes two or more children with respect to whom the conditions specified in section 38(b) and (c) of this Act are satisfied, be increased in respect of each respectively of those children other than the elder or eldest by the appropriate amount specified in relation to that allowance in the said column 4 or 5.
- (5) Where the beneficiary by whom an increase of benefit under this section is claimed is a married woman residing with her husband, it shall be an additional condition with respect to receipt of that increase that her husband is incapable of self-support.
- (6) Regulations may provide that subsection (1) of this section shall cease to apply to a maternity allowance or shall apply to such an allowance only in prescribed cases.

#### **41 Additional provisions with respect to increase of benefit for children**

- (1) The provisions of this section shall have effect with respect to increases under section 40 of this Act of benefits other than a child's special allowance.
- (2) Subject to section 42 of this Act, a child of the family of any woman for the time being residing with the beneficiary shall be treated for the purposes of the said section 40 as a child of the beneficiary's family if the child—
  - (a) is an illegitimate son or daughter of theirs; or
  - (b) was born not less than six months before the day for which the increase provided for by that section is claimed and wholly or mainly maintained by the beneficiary throughout the six months ending immediately before that day.
- (3) Subject to the said section 42, where a man is entitled to unemployment benefit, sickness benefit or a retirement pension, there shall be treated for the purposes of the said section 40 as included in the beneficiary's family any child who, on the day for which the increase provided for by that section, is claimed, though not so included, could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as so included, or could have been treated under that paragraph as so included but for the fact that the beneficiary is contributing to the cost of providing for the child at a weekly rate which, though not less than the prescribed rate, is less than the minimum rate for the time being required for the purposes of section 3(2) of that Act.
- (4) In the case of a retirement pension—
  - (a) section 40(1) of this Act, so far as it relates to the amount of the increase, shall have effect subject to section 30(7) of this Act;
  - (b) where a man and his wife are both entitled to a pension by virtue of his insurance—
    - (i) they shall not both be entitled for the same period to an increase under the said section 40(1) in respect of the same child;
    - (ii) if they would both (but for this paragraph) be entitled for the same period to such an increase at the rate applicable to an only, elder or eldest child in respect of different children, one of them shall be entitled to an increase at that rate and the other (subject to subparagraph (i) of this paragraph) to an increase at the rate applicable to a child other than an only, elder or eldest child;
  - (c) for any reference in subsection (2) of this section to the day for which the increase provided for by the said section 40 is claimed there shall be

substituted a reference to the date of retirement or, where the beneficiary is a woman who became entitled to the pension without having retired, the date when she so became entitled;

and where, but for paragraph (b) of this subsection, a man and his wife would both be entitled to an increase of a retirement pension under the said section 40(1), regulations may make provision as to their priority.

#### **42 Limitations on payment of benefit in respect of children**

- (1) Where, apart from this subsection, a person is entitled to receive, in respect of a particular child who is, or who falls to be treated for the purposes of the relevant provision as, a child of that person's family, payment of an amount by way of a guardian's allowance under section 29 or a child's special allowance under section 38 of this Act or of an increase under any of the provisions of section 40 of this Act of any benefit, that amount shall not be payable unless one of the following conditions is satisfied, that is to say—
  - (a) that the child in question is living with the beneficiary ; or
  - (b) that contributions to the cost of providing for the child in question are being made at a weekly rate not less than that of the amount in question by the beneficiary, or, where the beneficiary is one of spouses living together, by those spouses taken together, being, if an allowance under the Family Allowances Act is payable in respect of the child as a child of the beneficiary's family, contributions over and above those required for the purposes of section 3(2) of that Act or, as the case may be, for the purposes of the proviso to paragraph 1(1) of the Schedule to that Act.
- (2) For the purposes of the foregoing subsection, a child's special allowance shall be treated as a payment in respect of an only, or the elder or eldest, child with respect to whom the conditions specified in section 38(b) and (c) of this Act are satisfied, without prejudice, however, to any payment by way of an increase of the allowance in respect of any other such child under section 40(4) of this Act.
- (3) Where a person is entitled in respect of a child to a guardian's allowance under section 29 of this Act, the amount, if any, payable to that or any other person by way of any other benefit under this Act in respect of children of any family shall be such, and such only, as would be payable if the first-mentioned child were not included or treated as included in any family.

#### *Benefit in respect of adult dependants*

#### **43 Increase of benefit for adult dependants**

- (1) Subject to the provisions of this section, the weekly rate of unemployment benefit, sickness benefit or a retirement pension shall be increased by the amount respectively specified in relation to the benefit in question in column 6 of Schedule 3 to this Act for any period during which—
  - (a) the beneficiary is—
    - (i) residing with his wife ; or
    - (ii) contributing to the maintenance of his wife at a weekly rate of not less than the said amount; and

- (b) his wife is not engaged in any gainful occupation or occupations from which her weekly earnings exceed that amount.
- (2) Subject to subsection (3) of this section, the weekly rate of unemployment benefit or sickness benefit shall, except in the case of a beneficiary entitled to an increase thereof in respect of his wife under subsection (1) of this section, be increased by the amount specified as aforesaid—
  - (a) for any period during which the beneficiary is wholly or mainly maintaining her husband and he is incapable of self-support; or
  - (b) for any period during which the beneficiary has residing with him and is wholly or mainly maintaining such other relative as may be prescribed, being a relative in relation to whom such further conditions as may be prescribed are fulfilled ; or
  - (c) for any period during which some female person (not being a child) has the care of a child or children of the beneficiary's family, or of a child or children treated as such for the purposes of section 40 of this Act, being a person in relation to whom such further conditions as may be prescribed are fulfilled:

Provided that a beneficiary shall not be entitled for the same period to an increase of benefit under this subsection in respect of more than one person.
- (3) Where a person is entitled to unemployment benefit or sickness benefit by virtue of section 19(3) of this Act—
  - (a) paragraphs (a) and (b) of subsection (2) of this section shall not apply ; and
  - (b) if the beneficiary would have been entitled only by virtue of section 45 of this Act to the retirement pension by reference to which the weekly rate of the unemployment benefit or sickness benefit is determined, the amount of any increase under this section of that weekly rate shall be that which would have been applicable by virtue of the said section 45 in the case of such an increase of the weekly rate of that pension.
- (4) The weekly rate of a retirement pension shall be increased by the amount specified as aforesaid for any period with respect to which the requirements of subsection (2)(c) of this section are satisfied in respect of the beneficiary:

Provided that this subsection shall not apply if the beneficiary—

  - (a) is a man entitled to an increase in respect of his wife under subsection (1) of this section ; or
  - (b) is a man whose wife is entitled to a retirement pension by virtue of his insurance ; or
  - (c) is a woman entitled to the pension by virtue of her husband's insurance.
- (5) In the case of a retirement pension, this section, so far as it relates to the amount of the increase, shall have effect subject to section 30(7) of this Act.
- (6) Subject to subsection (7) of this section, the weekly rate of a maternity allowance shall be increased by the amount specified as aforesaid for any period such as is mentioned in subsection (2)(a), (b) or (c) of this section, but a woman shall not be entitled for the same period to an increase of benefit by virtue of this subsection in respect of more than one person.
- (7) The weekly rate of a maternity allowance shall not be increased under subsection (6) of this section in respect of any person for any such period as is mentioned in subsection (2) (b) or (c) of this section unless the beneficiary would, if she were entitled to sickness benefit for that period, be entitled for that period to an increase of

sickness benefit in respect of that person if she had made the necessary claim ; and for the purpose of the application of the provisions of this subsection, any such period shall be deemed not to include any day which under section 20(1)(e) of this Act is to be disregarded in computing a period of consecutive days for the purposes of any provision of this Act relating to unemployment benefit or sickness benefit.

- (8) Regulations may provide that the weekly rate of a maternity allowance shall no longer be increased under subsection (6) of this section, or shall be so increased only in prescribed cases, and may vary or revoke the provisions of subsection (7) of this section.
- (9) In this section, the expression " relative" does not include any person who is a child, but includes a person who is a relative by marriage or adoption and a person who would be a relative if some person born illegitimate had been born legitimate.

*Additional rights to benefit*

**44 Power to alter earnings rules**

Regulations may—

- (a) alter—
- (i) the amount of earnings which under section 30(7) of this Act is to be taken into consideration in calculating the weekly rate of the pension of any classes of beneficiary;
  - (ii) the sum by which under the said section 30(7) the weekly rate of the pension is to be reduced for each shilling of the excess ;
- (b) notwithstanding anything in section 36(6) of this Act, provide that the said section 30(7) shall not reduce the amounts payable as graduated retirement benefit, but that those amounts shall be payable as if that benefit were a separate benefit not subject to the said section 30(7).

**45 Partial satisfaction of contribution conditions**

- (1) Subject to the provisions of this section, regulations may provide for entitling to unemployment benefit, sickness benefit, a maternity allowance, widow's benefit, a retirement pension or a death grant persons who would be entitled thereto but for the fact—
- (a) in the case of benefit of any description other than maternity allowance, that the relevant contribution conditions are not satisfied as respects the number of contributions paid or credited in a contribution year or the yearly average of contributions paid or credited ;
  - (b) in the case of maternity allowance, that the relevant contribution conditions, though satisfied as respects the twenty-six contributions required to have been actually paid, are not satisfied as respects the fifty contributions required to have been paid by or credited to the claimant.
- (2) The reference in subsection (1)(b) of this section to the relevant contribution conditions includes a reference to those conditions as modified by regulations in their application to cases falling within section 24(6) of this Act.
- (3) Regulations under this section shall provide that benefit payable by virtue of any such regulations shall be payable at a rate, or shall be of an amount, less than that specified

in Schedule 3 or 4 to this Act, and the rate or amount prescribed by the regulations may vary with the extent to which the contribution conditions are satisfied:

Provided that the amount of—

- (a) any increase of benefit in respect of a child ; and
- (b) any increase of a retirement pension in respect of contributions paid after attaining pensionable age,

shall be the same as if the relevant contribution conditions had been fully satisfied.

- (4) Regulations under this section shall apply to child's special allowance in like manner as they apply to widow's benefit, except that the weekly rate of such an allowance payable by virtue of those regulations shall be the same as if the relevant contribution conditions had been fully satisfied.

#### **46 Supplementary schemes**

- (1) Any body of persons claiming to represent, or to be entitled to be treated as representing, insured persons of any class and (if or in so far as the class is a class of employed persons) their employers may submit to the Minister a scheme (hereafter in this Act referred to as a " supplementary scheme ") for supplementing the rights conferred on those insured persons by this Act, whether by providing for additional payments in cases for which benefit is provided by this Act, or by providing for payments in other cases, or otherwise.

- (2) The Minister may by order approve, whether with or without amendment, any supplementary scheme if he is satisfied that it is expedient that the scheme should come into operation:

Provided that the Minister before approving a supplementary scheme shall take steps to ascertain so far as practicable the views of any insured persons or employers affected thereby who in his opinion are not represented by the body submitting the scheme.

- (3) Subject to the provisions of this section, a supplementary scheme may—
  - (a) apply for the purposes of the scheme (including in particular the purpose of determining any question as to the application of the scheme to any person or class of persons) any of the provisions of this Act or of regulations, with or without modifications ;
  - (b) make such provision for the constitution of a body to be charged with the administration of the scheme and with respect to the supervision of the administration of the scheme and accounts as the Minister considers to be necessary for the purpose of giving effect to the scheme (including provision for the making of returns to the Minister as to matters affecting the operation of the scheme);
  - (c) provide for the participation of the Minister in the administration of the scheme to such an extent and for such purposes as may be therein specified;
  - (d) provide for the defraying, out of any funds which may be available for the purposes of the scheme, of such fees and other charges as may be determined by the Minister, with the concurrence of the Treasury, in respect of the participation of the Minister in the administration of the scheme as aforesaid ;
  - (e) contain such other provisions as the Minister considers to be necessary for the purpose of giving effect to the scheme.
- (4) A supplementary scheme may empower the body charged with the administration of the scheme to make, if the Minister so directs, such temporary modifications in any

of the rates of contribution or the rates or periods of benefit under the scheme as are, in the opinion of the Minister, sufficient to secure the solvency of the fund constituted under the scheme.

- (5) No part of the funds required for providing benefits under a supplementary scheme or otherwise in connection therewith shall be derived from moneys provided by Parliament:

Provided that nothing in this subsection shall prevent the making, in respect of persons whose remuneration is or may be defrayed out of moneys provided by Parliament, of a scheme whereunder contributions are payable by employers.

- (6) The provisions of this Act other than this section and section 47 thereof, and the provisions of any regulations, shall not, except in so far as they are applied by a supplementary scheme, apply to or have effect in relation to or for the purposes of the scheme.
- (7) Subject to the said section 47, a supplementary scheme when approved by the Minister shall continue in force until determined in accordance with the provisions thereof.

#### **47 Amendment or consolidation of supplementary schemes**

- (1) The Minister may by order—
- (a) vary or amend the provisions of a supplementary scheme in any manner and at any time if so requested by—
    - (i) the body by whom it was submitted, or any other body of persons which in his opinion is concerned as representing insured persons or employers ; or
    - (ii) the body charged with the administration of the scheme; and
  - (b) where it appears to him that, having regard to any periodic audit and valuation, the fund constituted under the scheme—
    - (i) is or is likely to become, and is likely to continue to be, insufficient to discharge its liabilities ; or
    - (ii) is and is likely to continue to be more than reasonably sufficient to discharge its liabilities,after consultation with the last-mentioned body make such modifications in any of the rates of contribution or the rates or periods of benefit under the scheme as appear to him to be required in order to make the fund, as the case may be, sufficient or no more than reasonably sufficient to discharge its liabilities.
- (2) An order under subsection (1) of this section with respect to any supplementary scheme may replace all or any of the provisions of the scheme (whether or not previously amended, varied or modified under that subsection) with new provisions consolidating those provisions as they are to have effect with the amendments, variations or modifications to be made by the order.
- (3) The Minister after consulting the body charged with the administration of a supplementary scheme may make an order under this subsection for the purpose of consolidating the provisions of the scheme as for the time being amended, varied or modified.



- (4) Any order made by virtue of subsection (2) or (3) of this section may revoke previous orders under this section relating to the scheme so far as they are superseded by the consolidation or have otherwise become obsolete or unnecessary.

*Miscellaneous provisions as to benefit*

**48 Claims and notices**

- (1) Subject to subsection (2) of this section and to paragraph 5(2) of Schedule 11 to this Act, it shall be a condition of any person's right to any benefit that he makes a claim therefor in the prescribed manner.
- (2) Any claim for any benefit under this Act may be treated—
- (a) for the purposes of this section as a claim, in the alternative, for such other benefit thereunder as may be prescribed; or
  - (b) for the purposes of the Industrial Injuries Act as a claim, in the alternative, for such benefit under that Act as may be prescribed; or
  - (c) for the purposes of the Family Allowances Act (in any prescribed cases) as a claim, in the alternative, for a payment under that Act;
- and any claim for benefit under the Industrial Injuries Act or a payment under the Family Allowances Act may be treated for the purposes of this section as a claim, in the alternative, for such benefit under this Act as may be prescribed.
- (3) For the purposes of this Part of this Act any claim or notice made or sent by post shall be deemed to have been made or given on the day on which it was posted.

**49 Disqualification for or suspension of benefit**

- (1) Except where regulations otherwise provide, a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person—
- (a) is absent from Great Britain; or
  - (b) is undergoing, imprisonment or detention in legal custody.
- (2) Regulations may provide for the suspension of payment to or in respect of any person during any such period as aforesaid of benefit which is excepted from the operation of subsection (1) of this section or which is payable otherwise than in respect of that period.
- (3) Regulations may provide for disqualifying a person—
- (a) subject to paragraph 5(2) of Schedule 11 to this Act, for the receipt of any benefit if he fails to make his claim therefor within the prescribed time; and
  - (b) for the receipt of sickness benefit if he fails, on becoming or again becoming incapable of work, to give the prescribed notice of that fact within the prescribed time:
- Provided that any such regulations shall provide for extending, subject to any prescribed conditions, the time within which the claim may be made or notice may be given in cases where good cause is shown for delay.
- (4) Notwithstanding any regulations made by virtue of the proviso to subsection (3) of this section, no sum shall be paid to any person—

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- (a) on account of maternity grant in respect of a confinement occurring more than six months before the date on which the claim for the grant is made ;
- (b) on account of death grant in any case where the prescribed time for making a claim falls to be extended by virtue of the said proviso by more than six months ;
- (c) subject to paragraph 5(2) of Schedule 11 to this Act, on account of any other benefit in respect of any period more than six months before the date on which the claim for the benefit is made;

but regulations made by virtue of subsection (3)(a) of this section may vary or revoke the provisions of this subsection with respect to any benefit.

- (5) Subject to subsection (6) of this section, where it appears to the Minister that a question has arisen whether—
  - (a) the conditions for the receipt of benefit payable under an award are or were fulfilled ; or
  - (b) an award of benefit ought to be revised in accordance with Part IV of this Act, he may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined:

Provided that this subsection shall not apply in any case where the question has arisen as to whether the claimant has ceased to be entitled to receive unemployment benefit by reason of any of the provisions of section 22(2)(b) to (e) of this Act.

- (6) Regulations may provide that subsection (5) of this section shall cease to apply to any case, or to cases of any specified description, to which it would otherwise apply, or shall apply to cases of any specified description to which it would not otherwise apply.

## **50 Overlapping benefits, etc.**

- (1) Without prejudice to paragraph 11 of Schedule 11 to this Act, regulations may provide—
  - (a) for adjusting benefit payable to or in respect of any person, or the conditions for the receipt thereof, where—
    - (i) any pension or allowance payable out of public funds (excluding an allowance under the Family Allowances Act, but including any other benefit under this Act whether of the same or a different description) is payable to or in respect of that person or that person's wife or husband ; or
    - (ii) that person is undergoing medical or other treatment as an in-patient in a hospital or similar institution;
  - (b) for suspending payment of benefit to a person during any period during which he is undergoing medical or other treatment as aforesaid.
- (2) Where but for regulations made by virtue of subsection (1)(a) of this section two persons would both be entitled to an increase of benefit in respect of a third person, regulations may make provision as to their priority.

## **51 Disqualifications, etc., to be disregarded for certain purposes**

Regulations may provide that a person who would be entitled to any benefit but for the operation of section 49 or 50 of, or paragraph 11 of Schedule 11 to, this Act or of any provision of this Act disqualifying him for receipt of that benefit shall be treated

as if entitled thereto for the purpose of any rights or obligations under this Part of this Act (whether of himself or any other person) which depend on his being so entitled, other than the right to payment of that benefit:

Provided that regulations under this section shall not provide that a person disqualified for receiving unemployment benefit or sickness benefit by reason only of a delay or failure to make a claim or give a notice shall be treated as having been entitled thereto for the purpose of ascertaining whether his right to that benefit has been exhausted.

## **52 Administration of benefit**

- (1) Provision may be made by regulations as to the time and manner of payment of benefit, and as to the information and evidence to be furnished by beneficiaries when applying for payment, and regulations made jointly by the Minister and the Postmaster General may provide for payment through the Post Office.
- (2) Regulations made under this section as to the time of payment of benefit may provide—
  - (a) notwithstanding anything in this Act, for adjusting the commencement and termination of benefit, or of changes in the rate of benefit, so that, except in the case of unemployment benefit and sickness benefit, payments shall not be made in respect of periods less than a week or at different rates for different parts of a week;
  - (b) for extinguishing the right to any sum payable by way of benefit where payment thereof is not obtained within six months or such shorter period as may be prescribed from the time at which that sum is receivable in accordance with the regulations.
- (3) Regulations may also provide—
  - (a) for enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who is a child or who may be or become unable for the time being to act, any right or power which the claimant or beneficiary may be entitled to exercise under this Act, and for authorising a person so appointed to receive and deal with any sum payable by way of benefit on behalf of the claimant or beneficiary ;
  - (b) in connection with the death of any person, for enabling a claim for benefit to be made or proceeded with in his name, for authorising payment or distribution of benefit to or amongst persons claiming as his personal representatives, legatees, next of kin or creditors (or, in cases of illegitimacy of deceased persons, to or amongst others) and for dispensing with strict proof of the title of persons so claiming.
- (4) Regulations under paragraph (b) of subsection (3) of this section may make provision with respect to claims for, and the payment of, death grant as if it were a benefit due to the deceased at his death and as if the references in that paragraph to creditors included a reference to any person who gives an undertaking in writing to pay the whole or part of the deceased's funeral expenses; and for the purposes of the said paragraph (b) the expression " next of kin" shall be construed as referring—
  - (a) in England and Wales, to persons who would take beneficially on an intestacy under the provisions of Part IV of the Administration of Estates Act 1925 ;
  - (b) in Scotland, to the persons entitled to the moveable estate of the deceased on intestacy.

**53 Benefit to be inalienable**

Subject to the provisions of this Act, every assignment of, or charge on, benefit, and every agreement to assign or charge benefit, shall be void, and, on the bankruptcy, or, in Scotland, on the sequestration of the estate, of a beneficiary, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.

*Supplementary***54 Proceedings by employees for benefit lost by employer's default**

- (1) Where an employer has failed or neglected—
  - (a) to pay contributions which under this Act he is liable to pay on behalf of any employed person in his employment; or
  - (b) to comply, in relation to any such person, with the requirements of any regulations relating to the payment and collection of contributions,and by reason thereof that person has lost, in whole or in part, any unemployment benefit, sickness benefit, or maternity benefit to which he or she would have been entitled, that person shall be entitled to recover summarily from the employer as a civil debt a sum equal to the amount of the benefit so lost.
- (2) Where the employed person is a man, his wife or widow shall have the same right to recover under the foregoing subsection in respect of maternity benefit lost by her as if the employer's failure or neglect had been in respect of her.
- (3) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provision of this Act in respect of the same failure or neglect.
- (4) Proceedings under this section may, notwithstanding any enactment to the contrary, be brought at any time within one year after the date on which the employed person or his wife or widow, but for the failure or neglect of the employer, would have been entitled to receive the benefit lost.
- (5) In the application of subsection (1) of this section to Scotland, the word " summarily " shall be omitted.

**55 Provisions as to maintenance**

- (1) Regulations may provide for determining the circumstances in which a person is or is not to be deemed for the purposes of this Part of this Act to be wholly or mainly maintaining, or to be contributing at any weekly rate to the maintenance of, another person or to be or have been contributing at any weekly rate to the cost of providing for a child.
- (2) Regulations under the foregoing subsection may provide, for the purpose of the provisions relating to an increase of benefit in respect of a wife or other adult dependant, that where—
  - (a) a person is partly maintained by each of two or more beneficiaries, each of whom would be entitled to such an increase in respect of that person if he were wholly or mainly maintaining that person ; and
  - (b) the contributions made by those two or more beneficiaries towards the maintenance of the person amount in the aggregate to sums which would,

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if they had been contributed by one of those beneficiaries, be sufficient to satisfy the requirements of regulations made by virtue of subsection (1) of this section,

that person shall be deemed for the purpose of the said provisions to be wholly or mainly maintained by such of those beneficiaries as may be prescribed.

- (3) Regulations may provide for any sum or sums paid by a person by way of contribution towards either or both of the following, that is to say, the maintenance of his wife and the cost of providing for one or more children, to be treated for the purposes of section 38(c), 41(3), 42(1)(b) or 43(1)(a)(ii) of this Act as such contributions, of such respective amounts equal in the aggregate to the said sum or sums, in respect of such persons, as may be determined in accordance with the regulations so as to secure as large a payment as possible by way of benefit in respect of dependants.