



# Social Security Act 1973

## 1973 CHAPTER 38

An Act to establish a basic scheme of social security contributions and benefits replacing the National Insurance Acts, to assimilate to it the operation of the Industrial Injuries Acts and the Old Cases Acts; to make further provision with respect to occupational pension schemes (including schemes financed from public funds), to establish an Occupational Pensions Board with functions in respect of such schemes (including in particular functions with respect to the recognition of schemes, the preservation of benefits and the modification of schemes for the purpose of obtaining recognition and other purposes); to establish a contributory reserve pension scheme under a Reserve Pension Board providing pensions in respect of service in employment which is not recognised pensionable employment; and for purposes connected with those matters. [18th July, 1973.]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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## **PART I**

### **THE BASIC SCHEME**

#### **CHAPTER I:**

##### **CONTRIBUTIONS**

###### *Preliminary*

### **1 Outline of basic scheme contributory system.**

- (1) The funds required—
  - (a) for paying such benefits under Chapter II below as are payable out of the National Insurance Fund and not out of other public money;
  - (b) for the making of payments under Chapter III below towards the cost of the national health service and into the Redundancy Fund; and
  - (c) for paying benefit under the Industrial Injuries Acts and the Old Cases Acts, shall be provided by means of contributions payable to the Secretary of State by earners, employers and others, together with the Treasury supplements specified in subsection (5) below.
- (2) Contributions under this Part of this Act shall be of the following four classes—
  - Class 1, earnings-related, payable under section 2, being—
    - (a) primary Class 1 contributions from employed earners, and
    - (b) secondary Class 1 contributions from employers and other persons paying earnings;
  - Class 2, flat-rate, payable weekly under section 3 by self-employed earners;
  - Class 3, payable under section 4 by earners and others voluntarily with a view to providing entitlement to benefit, or making up entitlement; and
  - Class 4, payable under section 5 in respect of the profits or gains of a trade, profession or vocation, or in respect of equivalent earnings.
- (3) The amounts and rates of contributions in this Chapter and the other figures therein which affect the liability of contributors shall be subject to regulations under Chapter III and, to the extent provided for by sections 7 and 8 of this Act, to alteration by orders made by the Secretary of State from year to year under those sections.
- (4) Schedule 1 to this Act—
  - (a) shall have effect with respect to the computation, collection and recovery of contributions of Classes 1, 2 and 3, and otherwise with respect to contributions of those classes; and
  - (b) shall also, to the extent provided by regulations made under section 5(10) of this Act, have effect with respect to the computation, collection and recovery of Class 4 contributions, and otherwise with respect to such contributions, where under that subsection provision is made for contributions of that class to be recovered by the Secretary of State and not by the Inland Revenue under section 5(1) to (3).

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- (5) Subject to section 41(2) below (mariners, etc.), there shall by way of supplement to contributions be paid out of money provided by Parliament, in such manner and at such times as the Treasury may determine, amounts the total of which for any year is equal to 18 per cent, of so much of all contributions (of the four classes) paid in that year as remains after deducting the appropriate national health service allocation and the appropriate allocation to the Redundancy Fund.
- (6) In respect of any period beginning on or after the appointed day no contributions shall be payable—
- (a) under section 1 of the National Health Service Contributions Act 1965 ; or
  - (b) under section 2(1)(a) of the Industrial Injuries Act; or
  - (c) under section 27 of the Redundancy Payments Act 1965 ;
- nor shall there be payable the Treasury supplement under section 2(1)(b) of the Industrial Injuries Act.
- (7) In this Act "employed earner" means a person who is gainfully employed in Great Britain either under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E; and " self-employed earner " means a person who is gainfully employed in Great Britain otherwise than in employed earner's employment (whether or not he is also employed in such employment).
- (8) Regulations may provide—
- (a) for employment of any prescribed description to be disregarded in relation to liability for contributions otherwise arising from employment of that description;
  - (b) for a person in employment of any prescribed description to be treated, for the purposes of this Act, as falling within one or other of the categories of earner defined in subsection (7) above, notwithstanding that he would not fall within that category apart from the regulations.
- (9) For the purposes of this Act, a person shall be treated as a self-employed earner as respects any week during any part of which he is such an earner (without prejudice to Ms being also treated as an employed earner as respects that week by reference to any other employment of his).
- (10) No person shall—
- (a) be liable to pay Class 1 or Class 2 contributions unless he fulfils prescribed conditions as to residence or presence in Great Britain ;
  - (b) be entitled to pay Class 3 contributions unless he fulfils such conditions; or
  - (c) be entitled to pay Class 1 or Class 2 contributions other than those which he is liable to pay, except so far as he is permitted by regulations to pay them.

#### *The four classes of contributions*

## **2 Class 1 contributions.**

- (1) For the purposes of this Act, there shall for every year (which in this Part of this Act means an income tax year, except where it is otherwise stated, or the context is one relating to a person's age) be—

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- (a) a lower earnings limit for Class 1 contributions, being the level of weekly earnings at which employed earners become liable for such contributions in respect of the earnings from their employments ; and
  - (b) an upper earnings limit for Class 1 contributions, being the maximum amount of weekly earnings in respect of which such contributions are payable ;
- and the lower and upper earnings limits shall be respectively £8 and £48.
- (2) Where in any income tax week earnings are paid to or for the benefit of an earner in respect of any one employment of his, being employed earner's employment, and—
- (a) he is over school-leaving age ; and
  - (b) the amount paid is equal to or exceeds the current lower earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly),
- there shall be payable, in accordance with this section (and, except as provided by this Act, without regard to any other payment of earnings to or for the benefit of the earner in respect of any other employment), a primary and a secondary Class 1 contribution.
- (3) The primary contribution shall be payable by the earner and the secondary contribution shall be payable by the secondary Class 1 contributor.
- (4) Subject to subsection (5) below, the secondary contributor, in relation to any payment of earnings to or for the benefit of an employed earner, is—
- (a) in the case of an earner employed under a contract of service, his employer;
  - (b) in the case of an earner employed in an office with emoluments, either—
    - (i) such person as may be prescribed in relation to that office, or
    - (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office.
- (5) In relation to employed earners who—
- (a) are paid earnings in an income tax week by more than one person in respect of different employments; or
  - (b) work under the general control or management of a person other than their immediate employer,
- and in relation to any other case for which it appears to the Secretary of State that such provision is needed, regulations may provide that for the purposes of this section the prescribed person is to be treated as the secondary Class 1 contributor in respect of earnings paid to or for the benefit of an earner.
- (6) The amount of a Class 1 contribution shall be a percentage of so much of the earnings paid in the week, in respect of the employment in question, as does not exceed the current upper earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly); and (subject to regulations under Chapter III)—
- (a) the primary contribution shall be 5.25 per cent, or 0.6 per cent., according to whether the earner is liable to contribute at the standard rate or the reduced rate; and
  - (b) the secondary contribution shall be 7.5 per cent.
- (7) An employed earner liable for a primary Class 1 contribution shall be liable to contribute at the standard rate except where the earner—
- (a) is over pensionable age and has retired from regular employment; or

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- (b) although over pensionable age, has not retired from regular employment, and at the time when he attained pensionable age did not satisfy the contribution conditions for a Category A retirement pension; or
- (c) is a married woman or widow who has elected, in accordance with regulations under section 42(2) or (4) of this Act, to contribute at the reduced rate and has not revoked her election;

and in any of those cases the earner shall be liable to contribute at the reduced rate.

### **3 Class 2 contributions.**

- (1) Subject to the provisions of this section, every self-employed earner shall, if he is over school-leaving age, be liable to pay Class 2 contributions at the rate of £1.68 a week.
- (2) Class 2 contributions shall not be payable—
  - (a) by an earner who is over pensionable age and has retired from regular employment; or
  - (b) by an earner who, although over pensionable age, has not retired from regular employment and at the time when he attained pensionable age did not satisfy the contribution conditions for a Category A retirement pension; or
  - (c) by a married woman or widow who has elected, in accordance with regulations under section 42(2) or (4) of this Act, to be under no liability for Class 2 contributions and has not revoked her election.
- (3) The Secretary of State may by order direct that, in the year beginning with the appointed day or in any of the 4 subsequent years, the weekly rate of Class 2 contributions shall for women be a specified rate lower than the rate for other Class 2 contributors in respect of that year.
- (4) Regulations may make provision so that an earner is liable for a weekly rate of Class 2 contributions higher than that specified in subsection (1) above where—
  - (a) in respect of any employment of his, he is treated by regulations under section 1(8)(b) of this Act as being a self-employed earner ; and
  - (b) in any period or periods he has earnings from that employment and—
    - (i) those earnings are such that (disregarding their amount) he would be liable for Class 1 contributions in respect of them if he were not so treated in respect of the employment, and
    - (ii) no Class 4 contribution is payable in respect of the earnings by virtue of regulations under section 5(9) of this Act.
- (5) Regulations may provide for an earner otherwise liable for Class 2 contributions in respect of employment as a self-employed earner to be excepted from the liability in respect of any period in which his earnings from such employment are, or are treated by regulations as being, less than £468 a year.
- (6) Regulations made for the purposes of subsection (5) above shall not except a person from liability to pay contributions otherwise than on his own application, but may provide for so excepting a person with effect from any date not earlier than 13 weeks before the date on which his application was made.

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#### **4 Class 3 contributions.**

- (1) Regulations shall provide for earners and others, if over school-leaving age, to be entitled if they so wish, but subject to any prescribed conditions, to pay Class 3 contributions ; and the amount of a Class 3 contribution shall be £1.33.
- (2) Payment of Class 3 contributions shall be allowed only with a view to enabling the contributor to satisfy contribution conditions of entitlement to basic scheme benefit by acquiring the requisite earnings factor for the purposes described in section 9 of this Act; and regulations—
  - (a) may provide for Class 3 contributions, although paid in one year, to be appropriated in prescribed circumstances to the earnings factor of another year; and
  - (b) shall provide for the return of such contributions which have been paid, where they are insufficient to provide any entitlement or additional entitlement.
- (3) Where for any year a contributor's earnings factor derived from his Class 1 or Class 2 contributions (or both) already stands at a figure which is 50 times that year's lower earnings limit for Class 1 contributions, no Class 3 contributions shall be payable by him in respect of the year ; and if Class 3 contributions are paid in such number that the contributor's earnings factor will exceed that figure, so much of those contributions as brings the earnings factor above that figure—
  - (a) shall be repaid to him (subject to regulations excluding repayment where the amount in question is inconsiderable) ; and
  - (b) if repayable, shall then be treated as not having been paid for any purposes other than those of this section.

#### **5 Class 4 contributions.**

- (1) Class 4 contributions shall be payable in respect of all annual profits or gains immediately derived from the carrying on or exercise of one or more trades, professions or vocations, being profits or gains chargeable to income tax under Case I or Case II of Schedule D for any year of assessment beginning on or after the appointed day; and the contributions shall be payable—
  - (a) in the same manner as any income tax which is, or would be, chargeable in respect of those profits or gains (whether or not income tax in fact falls to be paid); and
  - (b) by the person on whom the income tax is (or would be) charged, in accordance with assessments made from time to time under the Income Tax Acts.
- (2) A Class 4 contribution for any year shall be an amount equal to 5 per cent, of so much of the profits or gains referred to in subsection (1) above (as computed in accordance with Schedule 2 to this Act) as exceeds £1,150 and does not exceed £2,500.
- (3) Except as provided by or under subsections (8) to (10) below, and except as provided by Schedule 2 to this Act, all the provisions of the Income Tax Acts as they have effect from time to time (including, but without prejudice to the generality of the foregoing, provisions as to assessment, collection, repayment and recovery, and the provisions of Part X of the Taxes Management Act 1970 (penalties)) shall with the necessary modifications apply in relation to Class 4 contributions as if those contributions were income tax chargeable under Case I or Case II of Schedule D; and Schedule 2 to this Act shall have effect (without prejudice to the foregoing provisions of this subsection) for the application or modification, in relation to the contributions, of

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certain provisions of those Acts, and the exclusion of other provisions, and generally with respect to the contributions.

- (4) The Inland Revenue shall, at such times and in such manner as the Treasury may direct, account to the Secretary of State for, and pay to him, the sums estimated by the Inland Revenue (in the manner so directed) to have been collected by them as Class 4 contributions.
- (5) So much of any money received by the Secretary of State under subsection (4) above as is estimated by him, in accordance with any directions of the Treasury, to represent Class 4 contributions collected from persons in Northern Ireland shall be paid over by him to the Northern Ireland Ministry and be treated as contributions collected by that Ministry for the purposes of the basic scheme as it operates in Northern Ireland.
- (6) The Secretary of State may by regulations made with the concurrence of the Inland Revenue provide—
  - (a) for excepting persons from liability to pay Class 4 contributions in accordance with subsections (1) to (3) above; or
  - (b) for deferring any person's liability,and may certify from time to time to the Inland Revenue the persons who are excepted from liability, or whose liability is to be deferred, and who accordingly are not required (except in accordance with the regulations) to be assessed for contributions.
- (7) Exception from liability, or deferment, under subsection (6) above may (without prejudice to the generality of that subsection) be by reference—
  - (a) to a person otherwise liable for contributions being under a prescribed age at the beginning of a year;
  - (b) to a person having attained pensionable age and retired from regular employment;
  - (c) to a person being in receipt of earnings in respect of which primary Class 1 contributions are, or may be, payable; or
  - (d) to a person not satisfying prescribed conditions as to residence or presence in the United Kingdom.
- (8) The Secretary of State may, by regulations made with the concurrence of the Inland Revenue—
  - (a) provide, in relation to Class 4 contributions recovered by the Inland Revenue, for any incidental matters arising out of the payment of such contributions, including in particular their return in whole or in part where payment has been made in error or repayment ought for any other reason to be made ;
  - (b) provide, in relation to cases where liability for such contributions is to be deferred in pursuance of regulations made under subsection (6) above, for any matters arising out of the deferment, including in particular provision for the amount of a person's profits or gains (as computed under Schedule 2 to this Act) to be certified by the Inland Revenue to the Secretary of State and the person liable;but so that no such certificate as is referred to in paragraph (b) above shall relate to a person's profits or gains so far as they exceed whatever is for the time being the higher of the two money sums specified in subsection (2) above.
- (9) Provision may be made by regulations so that where—
  - (a) an earner, in respect of any one or more employments of his, is treated by regulations under section 1(8)(b) of this Act as being self-employed ; and

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- (b) in any year he has earnings from any such employment (one or more) which fall within section 3(4)(b)(i), but is not liable for a higher weekly rate of Class 2 contributions by virtue of regulations under that subsection ; and
  - (c) the total of those earnings exceeds £1,150,
- he is to be liable, in respect of those earnings, to pay a Class 4 contribution of an amount equal to 5 per cent, of so much of the total as exceeds £1,150 and does not exceed £2,500.
- (10) It shall be for the Secretary of State, and not the Inland Revenue, to recover Class 4 contributions payable by virtue of regulations under subsection (9) above and generally to be responsible for the relevant administration; and regulations may in relation to contributions so payable—
- (a) apply any of the provisions of Schedule 1 to this Act (except a provision conferring power to make regulations) ; and
  - (b) make any such provision as may be made by regulations under that Schedule, except paragraph 5.

## **6 General power to regulate liability for contributions.**

- (1) Regulations may provide, either generally or in relation to any prescribed category of earners, or to earners in any prescribed category of employments, that their liability in a particular year in respect of contributions of prescribed classes is not to exceed such maximum amount or amounts as may be prescribed.
- (2) Regulations made for the purposes of subsection (1) above may provide—
  - (a) for an earner whose liability is subject to a maximum prescribed thereunder to be liable in the first instance for the full amount of any contributions due from him apart from the regulations, or to be relieved from liability for such contributions in prescribed circumstances and to the prescribed extent; and
  - (b) for contributions paid in excess of any such maximum to be repaid at such times, and in accordance with such conditions, as may be prescribed.
- (3) Regulations may provide, in relation to earners otherwise liable for contributions of any class, for excepting them from the liability for such periods, and in such circumstances, as may be prescribed.

*Alteration of rates, etc., by order*

## **7 Annual review of contributions.**

- (1) As soon as may be after he has made an order appointing a day for the coming into force of this section, the Secretary of State shall review the general level of earnings obtaining in Great Britain and the changes in that level which have taken place in and since the year 1971-72, with a view to determining whether, in respect of basic scheme contributions, an order should be made under this section to have effect in relation to the first year of operation of sections 2 to 5 of this Act.
- (2) In that year, and thereafter in each subsequent year, the Secretary of State shall carry out a further review of the general level of earnings, taking into account changes in that level which have taken place since his last review under this section, with a view to determining whether, in respect of basic scheme contributions, an order should be made under this section, to have effect in relation to the next following year.



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- (3) For the purposes of any review under this section, the Secretary of State—
  - (a) shall estimate the general level of earnings in such manner as he thinks fit; and
  - (b) shall take into account any other matters appearing to him to be relevant to his determination whether or not an order should be made under this section including, in the case of the second and any subsequent review, the current operation of this Part of this Act.
- (4) If the Secretary of State determines, as a result of a review under this section, that having regard to changes in the general level of earnings which have taken place, and to any other matters taken into account on the review, an order under this section should be made for the amendment of this Chapter, he shall prepare and lay before each House of Parliament a draft of such an order framed so as to give effect to his conclusions on the review.
- (5) An order under this section may amend this Chapter by altering any one or more of the following figures—
  - (a) the figures specified in section 2(1) as the lower and upper earnings limits for Class 1 contributions ;
  - (b) the figure specified in section 3(1) as the weekly rate of Class 2 contributions;
  - (c) the figure specified in section 3(5) as the amount of earnings below which regulations under that subsection may except an earner from liability for Class 2 contributions ;
  - (d) the figure specified in section 4(1) as the amount of a Class 3 contribution;
  - (e) the figures specified in section 5(2) as the lower and upper limits of profits or gains which are to be taken into account for the purposes of Class 4 contributions.
- (6) An order under this section, if it contains an amendment altering either of the figures specified in section 5(2), shall make the same alteration of the corresponding figure specified in section 5(9).
- (7) If the Secretary of State determines as a result of a review under this section that, having regard to his conclusions in respect of the general level of earnings and otherwise, no such amendments of this Chapter are called for as can be made for the purposes of subsection (5) above, and determines accordingly not to lay a draft of an order before Parliament, he shall instead prepare and lay before each House of Parliament a report explaining his reasons for that determination.
- (8) Where the Secretary of State lays before Parliament a draft of an order under this section, he shall lay with it a copy of a report by the Government Actuary on the effect which, in the Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund; and, where he determines not to lay a draft order, he shall with the report laid before Parliament under subsection (7) above lay a copy of a report by the Government Actuary on the consequences for the Fund which may, in the Actuary's opinion, follow from that determination.
- (9) Where the Secretary of State has laid before Parliament a draft of an order under this section, then if the draft is approved by a resolution of each House, the Secretary of State shall make an order in the form of the draft.
- (10) An order under this section shall be made so as to be in force from the beginning of the year following that in which it received Parliamentary approval, and to have effect for that year and any subsequent year (subject to the effect of any subsequent order under

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this section or under section 8 below); and for this purpose the order is to be taken as receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.

## **8 Additional power to alter figures in ss. 2 to 5.**

- (1) Without prejudice to section 7 of this Act, the Secretary of State may at any time, if he thinks it expedient to do so with a view to adjusting the level at which the National Insurance Fund stands for the time being and having regard to the sums which may be expected to be paid from the Fund in any future period, make an order amending this Chapter by altering any one or more of the following figures—
  - (a) the percentage rates for primary and secondary Class 1 contributions specified in section 2(6);
  - (b) the figure specified in section 3(1) as the weekly rate of Class 2 contributions;
  - (c) the figure specified in section 4(1) as the amount of a Class 3 contribution;
  - (d) the percentage rate for Class 4 contributions specified in section 5(2).
- (2) An order under subsection (1) above shall, if it contains an amendment altering the percentage rate for Class 4 contributions specified in section 5(2), make the same alteration of the percentage rate specified in section 5(9).
- (3) An order under subsection (1) above may—
  - (a) if it contains an amendment altering the figure specified in section 3(1) as the weekly rate of Class 2 contributions and the Secretary of State thinks it expedient in consequence of that amendment, amend section 3(5) by altering the figure there specified as the amount of earnings below which regulations under that subsection may except an earner from liability for Class 2 contributions;
  - (b) if the Secretary of State thinks it expedient in consequence—
    - (i) of any amendments of this Chapter made by the order, or
    - (ii) of any regulations under Chapter III which he has made or proposes to make with a view to adjusting the percentage rate of Class 1 contributions in the case of particular categories or descriptions of earners,
 amend section 45(3) of this Act by altering any one or more of the percentages there specified in relation to the appropriate national health service allocation and the appropriate allocation to the Redundancy Fund.
- (4) Without prejudice to the foregoing provisions, but subject to subsection (6) below, the Secretary of State may at any time, if he thinks it expedient to do so with a view to adjusting the level at which the Redundancy Fund stands for the time being and having regard to the sums which may be expected to be paid from that Fund in any future period, make an order amending section 2(6) of this Act by altering the percentage rate for secondary Class 1 contributions specified in that subsection.
- (5) Where the Secretary of State determines to make an order under subsection (4) above, the order shall also provide for the amendment of section 45(3) of this Act by increasing or reducing the percentage there specified in relation to the appropriate allocation to the Redundancy Fund by the same amount as that by which the order increases or reduces the percentage rate for secondary Class 1 contributions.
- (6) No order shall be made under this section so as to increase the percentage rate for primary or secondary Class 1 contributions, or for Class 4 contributions, to a

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percentage more than 0-25 per cent, higher than that which is specified in section 2(6) or, as the case may be, section 5(2) of this Act as originally passed.

- (7) No order shall be made under this section unless a draft of the order has been laid before, and approved by, a resolution of each House of Parliament.
- (8) Where the Secretary of State lays before Parliament a draft of an order under this section, he shall lay with it a copy of a report by the Government Actuary on the effect which, in the Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund:

Provided that no such report need be laid if the order is made by virtue only of subsections (4) and (5) above.

- (9) An order under this section shall be made so as to be in force from the beginning of the year following that in which it received Parliamentary approval, and to have effect for that year and any subsequent year (subject to the effect of any subsequent order under this section or under section 7 above); and for this purpose the order is to be taken as receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.

## CHAPTER II:

### BENEFITS

#### *Preliminary*

#### **9 Descriptions of benefits; the earnings factor; crediting of contributions.**

- (1) Basic scheme benefits shall be of the following descriptions, namely—
- (a) unemployment benefit (with earnings-related supplement, and increase for adult and child dependants);
  - (b) sickness benefit (with earnings-related supplement, and increase for adult and child dependants);
  - (c) invalidity benefit, comprising—
    - (i) invalidity pension (with increase for adult and child dependants),
    - (ii) invalidity allowance;
  - (d) attendance allowance (payable without regard to contributions) ;
  - (e) maternity benefit, comprising—
    - (i) maternity grant,
    - (ii) maternity allowance (with earnings-related supplement, and increase for adult and child dependants);
  - (f) widow's benefit, comprising—
    - (i) widow's allowance (with earnings-related addition, and increase for child dependants),
    - (ii) widowed mother's allowance (with increase for child dependants),
    - (iii) widow's pension;
  - (g) guardian's allowance (payable without regard to contributions) ;
  - (h) retirement pensions of the following categories—

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Category A, payable to a person by virtue of his own contributions (with increase for adult and child dependants),

Category B, payable to a woman by virtue of her husband's contributions (with increase for child dependants),

Category C, payable (without regard to contributions) to certain persons who were over pensionable age on 5th July 1948 and their wives and widows (with increase for adult and child dependants), and

Category D, payable (without regard to contributions) to persons over the age of 80 ;

- (i) age addition payable, in the case of persons over the age of 80, by way of increase of a retirement pension of any category or of another pension or allowance;
  - (j) child's special allowance ;
  - (k) death grant.
- (2) In this Part of this Act, "short-term benefit" means unemployment benefit, sickness benefit, maternity grant, maternity allowance and widow's allowance.
- (3) The amounts and rates of benefits given in this Chapter and the other figures therein which affect those amounts and rates or the entitlement of any beneficiary shall, to the extent provided for by section 39 of this Act (annual up-rating review), be subject to alteration by orders made by the Secretary of State from year to year under that section.
- (4) In the case of the following benefits only, entitlement shall depend on contribution conditions being satisfied (either by the claimant or by some other person, according to the particular benefit); and there are set out below, in relation to each such benefit, the class or classes of contribution which for this purpose are relevant thereto:—

*Short-term benefit*

Unemployment benefit

Class 1

Sickness benefit

Class 1 or 2

Maternity grant

Class 1, 2 or 3

Maternity allowance

Class 1 or 2

Widow's allowance

Class 1, 2 or 3

*Other benefits*

Widowed mother's allowance

} Class 1, 2 or 3

Widow's pension

Category A retirement pension

Category B retirement pension

Child's special allowance

Death grant

- (5) Subject to the following subsections, a person shall be treated as having annual earnings factors derived from his contributions in respect of each year, being contributions of any of the classes specified in subsection (4) above; and this shall be for the purposes—

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- (a) of establishing entitlement to any benefit specified in that subsection by reference to satisfaction of contribution conditions; and
  - (b) of arriving at the weekly rate—
    - (i) of earnings-related supplement of unemployment benefit, sickness benefit or a maternity allowance, or
    - (ii) of earning-related addition to a widow's allowance.
- (6) No earnings factor shall be derived from primary Class 1 contributions paid at the reduced rate, or from secondary Class 1 contributions; and for the purposes of earnings-related supplement of, or addition to, any benefit there shall be disregarded any Class 2 or Class 3 contributions, and any Class 1 contributions not actually paid.
- (7) Regulations may provide for crediting contributions of any class for the purpose of bringing a person's earnings factor for any year to a figure which will enable him to satisfy contribution conditions of entitlement to any prescribed description of benefit (whether his own entitlement or another person's), but not so as to entitle him or any other person to earnings-related supplement of, or addition to, any benefit.
- (8) Earnings factors derived from a person's contributions in respect of any year shall be expressed as whole numbers of pounds and be made ascertainable from tables to be drawn up by the Secretary of State and embodied in regulations; and tables of earnings factors shall be drawn up so that in general—
- (a) any amount of Class 1 contributions in respect of a year gives rise to an earnings factor for that year equal or approximating to the minimum actual earnings sufficient to yield contributions of that amount; and
  - (b) any number of Class 2 or Class 3 contributions in respect of a year gives rise to an earnings factor for that year equal or approximating to that year's lower earnings limit for Class 1 contributions multiplied by the number of contributions ;
- and separate earnings factors shall be derived from contributions of different classes paid or credited in the same year, and from contributions which have been actually paid, as opposed to those not paid but credited.
- (9) In relation to the benefits specified in subsection (4) above, the relevant contribution conditions are those specified in Part I of Schedule 3 to this Act; and in that Schedule and in subsection (11) below—
- (a) " the contributor concerned ", for the purpose of any contribution condition, means the person by whom the condition is to be satisfied ;
  - (b) "a relevant class", in relation to any benefit, means a class of contributions specified in relation to that benefit in subsection (4) above; and
  - (c) " the earnings factor ", in relation to a person's contributions of any class or classes, means the aggregate of his earnings factors derived from all those contributions.
- (10) In this Part of this Act, " benefit year " means a period beginning with the first Sunday in January in any calendar year and ending with the Saturday immediately preceding the first Sunday in January in the following calendar year:
- Provided that for any prescribed purposes of this Chapter " benefit year " may by regulations be made to mean such other period (whether or not a period of 12 months) as may be specified in the regulations.

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- (11) Part II of Schedule 3 to this Act shall have effect as to the satisfaction of contribution conditions for benefit in certain cases where a claim for short-term benefit is, or has on a previous occasion been, made in the first or second year after that in which the contributor concerned first became liable for primary Class 1 or Class 2 contributions.

*Unemployment benefit, sickness benefit and invalidity benefit*

## **10 Unemployment benefit and sickness benefit.**

- (1) Subject to the provisions of this section, a person who satisfies any of the three conditions of subsection (2) below shall be entitled—
- (a) to unemployment benefit in respect of any day of unemployment which forms part of a period of interruption of employment; and
  - (b) to sickness benefit in respect of any day of incapacity for work which forms part of such a period.
- (2) The conditions of this subsection are that—
- (a) the person is under pensionable age on the day in question and satisfies the contribution conditions specified for unemployment or, as the case may be, sickness benefit in Part I of Schedule 3 to this Act; or
  - (b) the person would on that day have been entitled to a Category A retirement pension if he had retired from regular employment on attaining pensionable age; or
  - (c) the person is a woman and—
    - (i) she would on that day have been entitled to a Category B retirement pension and the husband by virtue of whose contributions she would have been so entitled is dead, but
    - (ii) she has made an election for the purposes of section 26(2) of this Act (return to work after retirement) and has not revoked her election.
- (3) A person shall not be entitled either to unemployment benefit or to sickness benefit for the first 3 days of any period of interruption of employment.
- (4) In the case of a person entitled under subsection (2)(a) above, unemployment or sickness benefit shall be payable—
- (a) at the higher rate specified in relation thereto in Part I of Schedule 4 to this Act—
    - (i) in the case of a married woman, during any period falling within subsection (5) below, and
    - (ii) in the case of a person other than a married woman; and
  - (b) at the lower rate so specified in the case of a married woman during any period not falling within that subsection.
- (5) The periods during which unemployment or sickness benefit is payable to a married woman at the higher rate are—
- (a) any period during which she is entitled to an increase of benefit in respect of her husband under section 34(2) of this Act (dependant husband incapable of self-support) ; and
  - (b) any period during which she is residing with her husband and he is entitled to an invalidity pension, to a Category A, Category C or Category D retirement pension or to any unemployability supplement or allowance; and

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- (c) any period during which she is not residing with her husband nor is he contributing to her maintenance at a weekly rate not less than the difference between the higher rate and the lower rate of the benefit.
- (6) The reference in subsection (5)(b) above to unemployability supplement or allowance shall be construed in accordance with Schedule 5 to this Act.
- (7) In the case of a person entitled under subsection (2)(b) or (c) above (being over pensionable age), unemployment benefit or sickness benefit shall be payable at the weekly rate at which, apart from any increase to be disregarded for the purposes of this subsection, the retirement pension referred to in the applicable paragraph of subsection (2) would have been payable; and the increases to be so disregarded are—
  - (a) any increase (for days of increment between pensionable age and retirement) under section 24(4) or (5) or 25(10) of this Act;
  - (b) any increase (for dependants) under section 31 or 35; and
  - (c) where the claim is for unemployment benefit, any increase (for invalidity) under section 24(7);

and, in determining for the purposes of this subsection the rate at which a retirement pension would have been payable, section 26(1) of this Act (earnings rule) shall be taken not to apply.

- (8) Where a person is entitled to unemployment or sickness benefit, he shall also be entitled to earnings-related supplement of the benefit, at a weekly rate ascertained in accordance with Part I of Schedule 6 to this Act, for any day of unemployment or incapacity for work, being a day—
  - (a) on which he is under pensionable age ; and
  - (b) which forms part of a period of interruption of employment and is not earlier than the 13th day of that period;

but where he has been entitled to the supplement in respect of an aggregate of 156 days in the same period of interruption of employment (including for this purpose, in the case of a woman, any days in that period in respect of which she has been entitled to earnings-related supplement of a maternity allowance), he shall not be entitled thereto in respect of any further day in that period.

This subsection shall be subject to Part II of Schedule 6 to this Act.

- (9) The amount payable by way of benefit under this section for any day of unemployment or of incapacity for work shall be 1 /6th of the appropriate weekly rate.

## **11 Invalidity benefit.**

- (1) Subject to the following provisions of this section, where in respect of any period of interruption of employment a person has been entitled to sickness benefit for 168 days (including, in the case of a woman, any day for which she was entitled to a maternity allowance), then—
  - (a) he shall cease to be entitled to that benefit for any subsequent day of incapacity for work falling within that period; and
  - (b) he shall be entitled to an invalidity pension for any day of incapacity for work in that period for which, by virtue only of paragraph (a) above, he is not entitled to sickness benefit if on that day either—
    - (i) he is under pensionable age, or

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- (ii) being over that age and not having retired from regular employment, he satisfies either of the conditions of subsection (2) below;
- and any day in the first 3 days of a period of interruption of employment which was a day of incapacity for work shall be treated for the purposes of this subsection as a day on which he was so entitled.
- (2) The conditions of this subsection are that—
- (a) the person would on that day have been entitled to a Category A retirement pension if he had retired from regular employment on attaining pensionable age; or
  - (b) the person is a woman and—
    - (i) she would on that day have been entitled to a Category B retirement pension and the husband by virtue of whose contributions she would have been so entitled is dead, but
    - (ii) she has made an election for the purposes of section 26(2) of this Act (return to work after retirement) and has not revoked her election.
- (3) Subject to subsection (4) below, an invalidity pension shall be payable at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act.
- (4) In the case of a person entitled to an invalidity pension under subsection (2) (a) or (b) above (being over pensionable age), the pension shall be payable at the weekly rate at which, apart from any increase to be disregarded for the purposes of this subsection, the retirement pension referred to in the applicable paragraph of subsection (2) would have been payable; and the increases to be so disregarded are—
- (a) any increase (for days of increment between pensionable age and retirement) under section 24(4) or (5) or 25(10) of this Act; and
  - (b) any increase (for dependants) under section 31 or 35.
- (5) If a person is more than 5 years below pensionable age on the qualifying date in any period of interruption of employment then, in respect of every day of that period in respect of which he is entitled to an invalidity pension, he shall also be entitled to an invalidity allowance at the appropriate weekly rate specified in relation thereto in Part I of Schedule 4 to this Act; and "the qualifying date" means the first day in that period (whether before the coming into force of this section or later) which is a day of incapacity for work or such earlier day as may be prescribed.
- (6) An invalidity allowance shall be payable—
- (a) at the higher rate specified in relation thereto in Part I of Schedule 4 to this Act, if on the qualifying date the beneficiary was under the age of 35, or if that date fell before 5th July 1948 ;
  - (b) at the middle rate so specified if paragraph (a) above does not apply and on the qualifying date the beneficiary was under the age of 45 ;
  - (c) at the lower rate so specified if paragraphs (a) and (b) above do not apply, and on the qualifying date the beneficiary was a man under the age of 60 or a woman under the age of 55.
- (7) The amount payable by way of benefit under this section for any day of incapacity for work shall be 1 /6th of the appropriate weekly rate.



## **12 Determination of days for which benefit is payable.**

- (1) For the purposes of any provision of this Act relating to unemployment benefit, sickness benefit or invalidity benefit—
  - (a) subject to the provisions of this Act, 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 he is, or is deemed in accordance with regulations to be, available to be employed in employed earner's employment; or
    - (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 an employed earner and his employment as such has not been terminated, then in any week a day on which in the normal course that person would not work in that employment or in any other employed earner's employment shall not be treated as a day of unemployment unless each other day in that week (other than the day referred to in paragraph (e) below) 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 6 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 13 weeks (" week " for this purpose meaning any period of 7 days) 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) above) as to the days which are or are not to be treated for the purposes of unemployment benefit, sickness benefit, invalidity benefit and a maternity allowance as days of unemployment or of incapacity for work;
  - (b) prescribe respective circumstances in which, for the purposes of subsection (1) (b) above—
    - (i) employment which has not been terminated may be treated as if it had been terminated; or
    - (ii) a day which falls in a period when an employed earner's employment is suspended but does not fall to be so treated and which, apart from the regulations, would not fall to be treated as a day of interruption of employment may be treated as such a day.
- (3) The foregoing provisions of this section shall, for the purposes of earnings-related supplement under section 10(8) of this Act and, on and after such day as the Secretary of State may by order appoint, for all other purposes of this Chapter, have effect—
  - (a) with the substitution for paragraph (b) of subsection (1) of the following paragraph—
    - “(b) where a person is an employed earner and his employment as such has not been terminated but has been suspended by the employer, a day shall not be treated in relation to

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that person as a day of unemployment unless it is the 7th or a later day in a continuous period of days on which that suspension has lasted, there being disregarded for the purposes of determining the first 6 days of the period (but for no other purpose)—

- (i) Sunday or such other day in each week as may have been prescribed under paragraph (e) of this subsection,
  - (ii) any day of recognised or customary holiday in connection with the suspended employment,
  - (iii) such other day or days as may be prescribed ;”and
- (b) with the substitution for paragraph (b) of subsection (2) of the following paragraph—
- “(b) prescribe respective circumstances in which for the purposes of subsection (1)(b) above an employed earner's employment may be treated—
- (i) as having been or, as the case may be, as not having been terminated, or
  - (ii) as having been or, as the case may be, as not having been suspended.”.

### **13 Exhaustion of, and requalification for, unemployment benefit.**

- (1) A person who, in respect of any period of interruption of employment, has been entitled to unemployment benefit for 312 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.
- (2) Where a person has exhausted his right to unemployment benefit, he shall requalify for it when—
  - (a) he has again been in employment as an employed earner and has been so employed in 13 weeks since the last day for which he was entitled to that benefit; and
  - (b) in each of those weeks he has worked in such employment for 21 hours or more.
- (3) Where a person requalifies for unemployment benefit, subsection (1) above 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.

### **14 Disqualifications and special conditions.**

- (1) A person who has lost employment as an employed earner 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 continues, except in a case where, during the stoppage, he has become bona fide employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation; but this subsection shall not apply in the case of a person who proves—

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- (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 6 weeks as may be determined in accordance with Part IV of the former principal Act if—
- (a) he has lost his employment as an employed earner through his misconduct, or has voluntarily left such employment without just cause;
  - (b) after a situation in any suitable employment has been properly notified to him 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 official recommendations given to him 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 Secretary of State in his 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 or invalidity benefit for such period not exceeding 6 weeks as may be determined in accordance with Part IV of the former principal 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 prescribed category of persons, additional conditions with respect to the receipt of unemployment benefit, sickness benefit or invalidity benefit, and restrictions on the rate and duration thereof, if, having regard to special circumstances, it appears to the Secretary of State necessary to do so for the purpose of preventing inequalities, or injustice to the general body of employed earners, or of earners generally, as die 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

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- (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) " 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) " 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;
- (c) " properly notified ", in subsection (2)(b), means notified by an employment exchange, the Employment Service Agency, a local education authority or some other recognised agency, or by or on behalf of an employer;
- (d) " official recommendations ", in subsection (2)(d), means recommendations in writing made by an officer of an employment exchange, the Employment Service Agency or a local education authority ;
- (e) " employment exchange " has the same meaning as in the Employment and Training Act 1948; and
- (f) " week " means any period of 7 days.

#### *Attendance allowance*

### **15 Attendance allowance.**

- (1) A person shall be entitled to an attendance allowance if he satisfies prescribed conditions as to residence or presence in Great Britain and either—
- (a) he is so severely disabled physically or mentally that, by day, he requires from another person either—
- (i) frequent attention throughout the day in connection with his bodily functions, or
  - (ii) continual supervision throughout the day in order to avoid substantial danger to himself or others; or

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- (b) he is so severely disabled physically or mentally that, at night, he requires from another person either—
  - (i) prolonged or repeated attention during the night in connection with his bodily functions, or
  - (ii) continual supervision throughout the night in order to avoid substantial danger to himself or others.
- (2) Subject to the following provisions of this section, the period for which attendance allowance is payable to any person shall be that specified in a certificate issued in respect of him by the Attendance Allowance Board as being—
  - (a) a period throughout which he has satisfied or is likely to satisfy the condition mentioned in subsection (1)(a) above or that mentioned in (1)(b), or both ; and
  - (b) a period immediately preceded by one of not less than 6 months throughout which he satisfied or is likely to satisfy one or both of those conditions;and the weekly rate of the attendance allowance payable to a person for any period shall be the higher rate specified in relation thereto in Part I of Schedule 4 to this Act if the certificate states both as regards that period and as regards the preceding 6 months that he has satisfied or is likely to satisfy both those conditions, and shall be the lower rate so specified if the certificate does not so state.
- (3) An attendance allowance shall not be payable to a person for any period preceding the date on which he makes a claim for it; but, except in so far as regulations otherwise provide—
  - (a) a claim for an attendance allowance may be made during the period of 6 months mentioned in subsection (2) (b) above, and an award may be made in pursuance of the claim subject to the condition that throughout that period the person to whom the claim relates satisfies the conditions there mentioned or, if the award is at the lower rate, one of those conditions; and (W an award so made may be reviewed if at any time it is found that during the period of the award or the interval between the making of the award and the beginning of that period the conditions so mentioned were at some time not both satisfied or, in the case of an award at the lower rate, were at some time not either of them satisfied.
- (4) Regulations may provide that subsections (1) to (3) above, and any other provision of this Act so far as the provision relates to any of those subsections, shall have effect, in relation to any severely disabled person who is under the age of 16, subject to such modifications as may be prescribed; but nothing in this subsection authorises any increase in the rate of an attendance allowance.
- (5) Regulations may provide that an attendance allowance shall not be payable in respect of a person for any period when he is a person for whom accommodation is provided—
  - (a) in pursuance of Part III of the National Assistance Act 1948, section 12 of the Health Services and Public Health Act 1968 or Part IV of the Social Work (Scotland) Act 1968 ; or
  - (b) in circumstances in which the cost is, or may be, borne wholly or partly out of public or local funds, in pursuance of any other enactment relating to persons under disability or to young persons or to education or training.
- (6) The Attendance Allowance Board constituted under section 5 of the National Insurance Act 1970 shall continue in being by that name and have (in addition to the functions conferred on them by any provision of this Act other than this section)—

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- (a) the functions of advising the Secretary of State on such matters as he may refer to them relating to—
    - (i) the operation of the provisions of this Part of this Act in relation to attendance allowance (including questions as to the advisability of amending those provisions),
    - (ii) the exercise, in relation to attendance allowance, of his powers under those provisions ; and
  - (b) such other functions, if any, as the Secretary of State may determine.
- (7) Schedule 7 to this Act shall have effect with respect to the Attendance Allowance Board and their affairs ; and—
- (a) Part I of the Schedule relates to the Board's membership and the method by which their functions are to be performed;
  - (b) Part II relates to the Board's personnel, administration and expenses; and
  - (c) Part III relates to the Board's determination of questions arising in connection with claims and to reviews of determinations and appeals therefrom;
- but regulations may make further provision as to the constitution and procedure of the Board.

#### *Maternity benefit*

### **16 Maternity grant.**

- (1) A woman shall be entitled to a maternity grant of the amount specified in relation thereto in Part II of Schedule 4 to this Act if she has been confined and either—
- (a) she or her husband satisfies the contribution conditions for a maternity grant specified in Part I of Schedule 3 to this Act; or
  - (b) she satisfies either—
    - (i) the contribution conditions for a maternity allowance specified in that Part of Schedule 3, or
    - (ii) any contribution conditions which she is required to satisfy in order to become entitled to maternity allowance at a reduced rate by virtue of regulations under section 37 of this Act (partial satisfaction of contribution conditions).
- (2) In subsection (1)(a) above, the reference to a woman's husband includes a widow's late husband in a case where she has been confined of a posthumous son or daughter of his.
- (3) 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 was outside Great Britain.
- (4) 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.
- (5) 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 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.

- (6) Subject to subsection (4) above, a woman shall not be entitled to more than one maternity grant in respect of any one confinement.

## **17 Maternity allowance.**

- (1) A woman shall be entitled to a maternity allowance at the weekly rate specified in relation thereto in Part I of Schedule 4 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 that 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 for a maternity allowance specified in Part I of Schedule 3 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 18 weeks beginning with the 11th week before the expected week of confinement; and this shall be the maternity allowance period for the purposes of this section and the relevant contribution conditions.
- (3) A day for which a woman is entitled to a maternity allowance shall be deemed for the purposes of this Part of this Act to be for her a day of incapacity for work.
- (4) Where a woman is entitled to a maternity allowance, she shall also be entitled to earnings-related supplement of the allowance, at a weekly rate ascertained in accordance with Part I of Schedule 6 to this Act, in respect of every day of the maternity allowance period which forms part of a period of interruption of employment and is not earlier than the 13th day of the latter period; but where she has been entitled to the supplement in respect of an aggregate of 156 days in the same period of interruption of employment (including for this purpose any days in that period in respect of which she has been entitled to earnings-related supplement of unemployment or sickness benefit) she shall not be entitled thereto in respect of any further day in that period.

This subsection shall be subject to Part II of Schedule 6 to this Act.

- (5) A woman who has become entitled to a maternity allowance shall cease to be entitled to it if she dies before the beginning of the maternity allowance period; and if she 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.
- (6) Regulations may provide that a woman who has become entitled to a maternity allowance shall cease to be entitled to it if her pregnancy is terminated otherwise than by confinement.
- (7) 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 maternity allowance period until the end of such week (not being later than the 6th week after that in which the date of the confinement occurs) as may be prescribed.
- (8) Regulations may modify subsections (1)(a) and (b), (2) and (5) above in relation to cases where a woman has been confined and either—
- (a) she has not made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed); or

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- (b) she has made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed), but the date of the confinement was more than 11 weeks before the expected week of confinement.
- (9) Regulations may provide for disqualifying a woman for receiving a maternity allowance if—
- (a) during the maternity allowance period, she does any work in employment as an employed or self-employed earner, 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 submit herself to, any medical examination required in accordance with the regulations.
- (10) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of a maternity allowance—
- (a) Sunday or such other day in each week as may be prescribed shall be disregarded; and
  - (b) the amount payable by way of that allowance for any other day shall be taken as 1/6th of the weekly rate of the allowance.

## **18 Supplementary provisions as to maternity benefit.**

- (1) In this Part of this Act-
- (a) " confinement " means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead, and " confined " shall be construed accordingly ; and
  - (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 the 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*

## **19 Widow's allowance.**

- (1) A woman who has been widowed shall be entitled to a widow's allowance at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act if—
- (a) she was under pensionable age at the time when her late husband died, or he was then not entitled to a Category A retirement pension; and
  - (b) her late husband satisfied the contribution condition for a widow's allowance specified in Part I of Schedule 3 to this Act.



- (2) The period for which a widow's allowance is payable to a widow shall be the 26 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) A woman entitled to a widow's allowance shall be entitled to earnings-related addition to the allowance, at a weekly rate ascertained in accordance with Part I of Schedule 6 to this Act, in respect of each week of the period for which the allowance is payable.

This subsection shall be subject to Part II of Schedule 6 to this Act.

## **20 Widowed mother's allowance.**

- (1) A woman who has been widowed shall be entitled to a widowed mother's allowance at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act if her late husband satisfied the contribution conditions for a widowed mother's allowance specified in Part I of Schedule 3 to this Act and either—

(a) the woman has a family which satisfies the condition specified in subsection (2) below ; or

(b) subject to such exceptions and conditions as may be prescribed, she has residing with her a person who—

(i) is under the age of 19 and is or has been a child falling within any of the paragraphs of that subsection, or

(ii) is under that age and would have been such a child but for the fact that, at the time when the woman's late husband died, the person had attained school-leaving age or was not in Great Britain; or

(c) the widow is pregnant by her late husband.

- (2) The condition referred to in subsection (1)(a) above is that the woman's family includes a child with respect to whom one of the conditions specified in section 33(1) of this Act (conditions of payment of increase for child dependants) is for the time being satisfied and who either—

(a) at her late 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 her late husband a child of the woman's family.

- (3) The period for which a widowed mother's allowance is payable to a woman shall be any period during which she satisfies the requirements of subsection (1)(a), (b) or (c) above 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.

## **21 Widow's pension.**

- (1) A woman who has been widowed shall be entitled to a widow's pension at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act if her late husband

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satisfied the contribution conditions for a widow's pension specified in Part I of Schedule 3 to this Act and either—

- (a) she was, at the husband's death, over the age of 40 but under the age of 65 ; or
  - (b) she ceased to be entitled to a widowed mother's allowance at a time when she was over the age of 40 but under the age of 65.
- (2) The weekly rate of a widow's pension payable to a woman who was under the age of 50 at the time when her late husband died or, as the case may be, when she ceased to be entitled to a widowed mother's allowance shall be reduced by an amount equal to 7 per cent, of its amount apart from this subsection multiplied by the number of years by which her age at that time was less than 50 (any fraction of a year being counted as a year).
- (3) The period for which a widow's pension is payable to a woman shall be any period during which she is under the age of 65 and for which she is not entitled to a widow's allowance or a 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.

#### *Guardian's allowance*

## **22 Guardian's allowance.**

- (1) Subject to the provisions of this Act (and in particular to those of section 33 imposing limitations on payment of benefit in respect of children), a person shall be entitled to a guardian's allowance at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act in respect of a child of his family, where the circumstances are any of those specified in subsection (2) below.
- (2) The circumstances referred to in subsection (1) are—
- (a) that both of the child's parents are dead ; or
  - (b) that one of the child's parents is dead and the person claiming a guardian's 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; or
  - (c) that one of the child's parents is dead and the other is in prison.
- (3) There shall be no entitlement to a guardian's allowance in respect of a child unless at least one of the child's parents satisfies, or immediately before his death satisfied, such conditions as may be prescribed as to nationality, residence, place of birth or other matters.
- (4) Regulations—
- (a) may modify subsection (2) or (3) above in relation to cases in which a child has been adopted or is illegitimate, or the marriage of a child's parents has been terminated by divorce;
  - (b) shall prescribe the circumstances in which a person is to be treated for the purposes of this section as being in prison (by reference to his undergoing a sentence of imprisonment for life or of a prescribed minimum duration, or to his being in legal custody in prescribed circumstances); and
  - (c) may, for cases where entitlement to a guardian's allowance is established by reference to a person being in prison, provide—

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- (i) for requiring him to pay to the National Insurance Fund sums paid by way of a guardian's allowance;
  - (ii) for suspending payment of an allowance where a conviction, sentence or order of a court is subject to appeal, and for matters arising from the decision of an appeal;
  - (iii) for the cases in which a child is to be treated as a child of the claimant's family ; and
  - (iv) for reducing the rate of an allowance in cases where the person in prison contributes to the cost of providing for the child.
- (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 specify the persons who are 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.
- (6) No person shall be entitled to a guardian's allowance in respect of a child of which he or she is the parent.

#### *Retirement pensions and age addition*

### **23 Matters affecting entitlement to pension.**

- (1) In this Act " pensionable age " means—
- (a) in the case of a man, the age of 65 ; and
  - (b) in the case of a woman, the age of 60.
- (2) For the purposes of this Act a person's working life is the period between (inclusive) the year in which he attained the age of 16 and (exclusive) the year in which he attained pensionable age or died under that age.
- (3) For those purposes, a person may (subject to the following subsection) 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 an earner;
  - (b) notwithstanding that he is, or intends to be, an earner, if—
    - (i) he is or intends to be so only occasionally or to an inconsiderable extent, or otherwise in circumstances not inconsistent with retirement, or
    - (ii) his earnings can be expected not to exceed, or only occasionally to exceed, the amount any excess over which would, under section 26(1) below (earnings rule), involve a reduction of the weekly rate of his pension ;
- and a person so treated under this subsection shall not cease to be so treated except in pursuance of an election under section 26(2) of this Act (return to work after retirement).
- (4) Subject to the following subsection, a person shall not be treated as having retired from regular employment unless he has complied with the prescribed requirements as to the giving of notice of the date of his retirement; and where the date of retirement specified in the notice falls before the date when the notice is given, the person shall

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not be treated as having so retired earlier than on the date of commencement of the prescribed period before the giving of the notice.

- (5) 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 5 years from his attaining pensionable age; and references in this Part of this Act to the date of a person's retirement shall be construed in accordance with this section.
- (6) No person shall be entitled for the same period to more than one retirement pension; but where under the following sections in this Chapter a person would otherwise be entitled to more than one such pension, he shall be entitled (whichever pension he may apply for) to whichever one is from time to time the most favourable to him.

## **24 Category A retirement pension.**

- (1) a person shall be entitled to a Category A retirement pension at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act if—
  - (a) he is over pensionable age and has retired from regular employment; and
  - (b) he satisfies the contribution conditions for a Category A retirement pension specified in Part I of Schedule 3 to this Act;and the pension shall commence from the date of retirement and (subject to section 26(1) of this Act (earnings rule)) be payable for the pensioner's life.
- (2) A woman who on attaining pensionable age is married shall not be entitled to a Category A retirement pension unless either—
  - (a) her marriage (to the man to whom she is married on attaining that age) took place on or after the date on which she attained the age of 55 ; or
  - (b) the number of years of her working life (disregarding the year in which that marriage took place and any previous year) for which her earnings factor was sufficient for satisfaction by her of paragraph (b) of the second contribution condition for a Category A retirement pension specified in Part I of Schedule 3 to this Act was at least—
    - (i) one half of the number of complete years between (exclusive) the year in which that marriage took place and (exclusive) the year in which she attained pensionable age, or
    - (ii) if that number of years is an odd number, one half of the next lowest even number.
- (3) Where a woman is a widow at the time when she attains pensionable age and does not with her own contributions satisfy the second contribution condition for a Category A retirement pension specified in Part I of Schedule 3 to this Act, then the contributions of her husband (which, if she has been more than once married, means her last husband) may, to the extent provided by Schedule 8 to this Act, be treated as if they were contributions of her own.
- (4) The weekly rate of a Category A retirement pension shall be increased by 1/8th per cent, of its rate apart from this subsection for every 6 days (excluding Sundays) which—
  - (a) fall in the period beginning with the day on which the pensioner attained pensionable age and ending with the day before that of his retirement; and
  - (b) are treated by regulations as being, in relation to him and his pension, days of increment under this subsection,

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but only if the number of such days is at least 48; and a day may be so treated by reference to the pensioner or some other person having received, or not having received, benefit of any prescribed description (whether or not under this Act) in respect of that day or a period in which it falls or by reference to any other circumstances whatsoever.

- (5) In the case of a woman entitled to a Category A retirement pension, the rate of the pension (with or without any increase under subsection (4) above) shall, if—
- (a) she has had a husband and he has died, and she was married to him when he died; and
  - (b) the husband either—
    - (i) was entitled to a Category A retirement pension with increases under subsection (4) above, or
    - (ii) would have been so entitled if he had retired on the date of his death, be increased by 1/16th per cent, of the rate of the pension to which he was (or would have been) entitled for every 6 days which were (or would have been) in relation to him and that pension days of increment under subsection (4), but only if the number of such days is at least 48.
- (6) Where under subsection (4) or (5) above an increase is calculated as a percentage applied to a rate, there shall in arriving at that rate be disregarded any increase otherwise than under subsection (7) below.
- (7) The weekly rate of a Category A retirement pension shall be increased under this subsection if the pensioner was entitled to an invalidity allowance in respect of—
- (a) any day falling within the period of 13 weeks ending immediately before the day on which he attains pensionable age, or
  - (b) the last day before the beginning of that period ;
- and the increase shall be of an amount equal to the weekly rate of the invalidity allowance (whether the higher, the middle or the lower rate) to which he was entitled on that day.
- (8) In ascertaining—
- (a) for the purposes of subsection (5) above, the rate of the pension of a woman's former husband; and
  - (b) for the purposes of subsection (7) above, the rate of a pensioner's invalidity allowance,
- regard is to be had to the rates in force from time to time as increased by orders under section 39 of this Act (annual up-rating review) or by any Act passed after this Act.

## **25 Category B retirement pension (for a woman, based on her husband's contributions).**

- (1) A woman who is or has been married, and has attained pensionable age, shall be entitled to a Category B retirement pension by virtue of the contributions of her husband ; and the cases in which a woman is to be so entitled are those specified in subsections (2) to (5) below.
- (2) The first case of entitlement is where the woman is married to that husband at the time when she attains pensionable age and—
- (a) he also has attained pensionable age, and both of them have retired from regular employment; and

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- (b) he satisfies the relevant contribution conditions.
- (3) The second case of entitlement is where the woman marries after attaining pensionable age and—
  - (a) her husband has also attained pensionable age and both of them have retired from regular employment; and
  - (b) he satisfies the relevant contribution conditions.
- (4) The third case of entitlement is where the woman's husband is dead and his death was after she attained pensionable age, and—
  - (a) she was married to him when he died ; and
  - (b) before his death he satisfied the relevant contribution conditions.
- (5) The fourth case of entitlement is where the woman's husband is dead and his death was before she attained pensionable age, and—
  - (a) she has retired from regular employment; and
  - (b) she was a widow immediately before attaining pensionable age and is entitled (or is treated by regulations as entitled) to a widow's pension; and
  - (c) she became entitled to the pension in consequence of the husband's death.
- (6) The relevant contribution conditions for the purposes of the first, second and third cases of entitlement are those specified in paragraph 5 of Part I of Schedule 3 to this Act (Category B retirement pension or widow's pension, as the case may be).
- (7) A woman's Category B retirement pension—
  - (a) in the first and second cases of entitlement shall—
    - (i) during any period in which the husband is alive, be at the lower rate specified in relation thereto in Part I of Schedule 4 to this Act, and
    - (ii) during any period after he is dead, be at the higher rate so specified ; and
  - (b) in the third case of entitlement, shall be at the higher rate so specified ; and
  - (c) in the fourth case of entitlement, shall be at the same weekly rate as her widow's pension.
- (8) Where a woman would but for section 23(6) of this Act be entitled both to a Category A and also to a Category B retirement pension, and section 24(7) of this Act would apply for the increase of the former pension, it shall be taken as applying also for the increase of the latter.
- (9) Subject to the provisions of this Act, a woman's Category B retirement pension shall commence from the date on which she becomes entitled under whichever of subsections (2) to (5) above is applicable in her case, and shall be payable for her life.
- (10) Where a woman is entitled to a Category B retirement pension by virtue of the contributions of her husband, the weekly rate of the pension shall be increased—
  - (a) during any period in which he is alive (and she remains his wife) by 1/16th per cent, of his pension for every 6 days (excluding Sundays) which—
    - (i) fall in the period beginning with the day on which he attained pensionable age and ending with the day before that of his retirement and not in a period before she married him or attained pensionable age; and
    - (ii) in relation to him and his pension, were days of increment under section 24(4),

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- but only if the number of such days is at least 48 ; and
- (b) during any period after he is dead, if she was married to him when he died, by that amount plus an additional 1/16th per cent, of the husband's pension for every 6 days which were in relation to him and his pension days of increment under section 24(4), but only if the number of such days is at least 48.
- (11) References in subsection (10) above to the husband's pension are to that pension without any increase otherwise than under section 24(7) of this Act; and in ascertaining the rate of his pension for the purposes of subsection (10) regard is to be had to the rates in force from time to time as increased by orders under section 39 of this Act (annual up-rating review), or by any Act passed after this Act.
- (12) Where a woman has made an election in accordance with regulations under section 26(2) of this Act (return to work after retirement) and has not revoked her election, there shall be taken into account, as days of increment in relation to her for the purposes of any increase of her pension under subsection (10)(b) above, any days after the date of her election and after the date of the death of her husband by virtue of whose contributions she is entitled to the pension, being days which would, if she were entitled to a Category A retirement pension, be days of increment under section 24(4) of this Act in relation to her and that pension.

## **26 Supplementary provisions as to Category A and B retirement pensions.**

- (1) Where the earnings of a person entitled to a Category A or Category B retirement pension, being a person who is less than 5 years over pensionable age, have exceeded £9.50 for the week ending last before any week for which he is entitled to the pension, the weekly rate of pension for the last-mentioned week shall be reduced—
- (a) where the excess is less than £4, by 5 pence for each complete 10 pence of the excess ; and
- (b) where the excess is not less than £4, by 5 pence for each complete 10 pence of the excess up to £4 and by 5 pence for each complete 5 pence of any further excess:

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

In this subsection " week ", where used in the expression " week for which he is entitled to the pension " and in the proviso, means such period of 7 days as may be prescribed by regulations relating to the payment of pensions.

- (2) Regulations may provide that in the case of a person of any prescribed description who—
- (a) has retired from regular employment or has otherwise become entitled to a retirement pension (whether Category A or Category B) but is, in the case of a woman, under the age of 65 or, in the case of a man, under the age of 70 ; 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 Part of this Act shall have effect as if that person had not retired or become entitled to such a retirement pension ; and any such regulations may make such modifications of this Part, as it applies in a case where a person makes an election under the regulations, as may appear to the Secretary of State necessary or expedient.
- (3) Where a husband and wife have both become entitled to retirement pensions and—

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- (a) the husband's pension is Category A ; and
  - (b) the wife's pension is Category B by virtue of that husband's contributions, the husband shall not be entitled to make an election in accordance with regulations made under subsection (2) above without the consent of the wife, unless that consent is unreasonably withheld.
- (4) Where a person has given notice for the purposes of regulations under section 23(4) of this Act and the date of retirement specified in the notice falls after the date when the notice was given, a Category A or Category B retirement pension may be awarded as from the date of retirement so specified, but if so awarded shall be conditional on the person's having retired on or before that date.

## **27 Category C and D retirement pensions for old people, and related benefits.**

- (1) Subject to the provisions of this Act—
- (a) a person who was over pensionable age on 5th July 1948 and satisfies such conditions as may be prescribed shall be entitled to a Category C retirement pension at the appropriate weekly rate ;
  - (b) a woman whose husband is entitled to a Category C retirement pension -shall, if she is over pensionable age and has retired from regular employment and satisfies such other conditions as may be prescribed, be entitled to such a pension at the appropriate weekly rate; and
  - (c) a person who is over the age of 80 and satisfies such conditions as may be prescribed shall be entitled to a Category D retirement pension at the appropriate weekly rate if—
    - (i) he is not entitled to a Category A, Category B or Category C retirement pension ; or
    - (ii) he is entitled to such a pension but it is payable at a weekly rate which, disregarding any increase (for dependants) under section 31 or 35 of this Act, is less than the appropriate weekly rate.
- (2) The appropriate weekly rate of a Category C or Category D retirement pension—
- (a) shall be the lower rate specified in relation thereto in Part I of Schedule 4 to this Act where—
    - (i) the pensioner is a married woman, and
    - (ii) she has not, at any time since she became entitled to her pension, ceased to be a married woman; and
  - (b) shall be the higher rate so specified in any other case.
- (3) A Category C or Category D retirement pension shall be payable for the pensioner's life.
- (4) Regulations may provide for the payment—
- (a) to a widow whose husband was over pensionable age on 5th July 1948 ; or
  - (b) to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death,
- of a Category C retirement pension, or of benefit corresponding to a widow's pension or a widowed mother's allowance; and any such pension or benefit shall be at the prescribed rate.



## **28 Age addition.**

- (1) A person who is over the age of 80 and entitled to a retirement pension of any category shall be entitled to an increase of the pension, known as age addition.
- (2) Where a person is in receipt of a pension or allowance payable by the Secretary of State by virtue of any prescribed enactment or instrument (whether passed or made before or after this Act) and—
  - (a) he is over the age of 80 ; and
  - (b) he fulfils such other conditions as may be prescribed,he shall be entitled to an increase of that pension or allowance, also known as age addition.
- (3) Age addition shall be payable for the life of the person entitled, at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act.

### *Child's special allowance*

## **29 Child's special allowance.**

Subject to the provisions of this Act (and in particular to those of section 33 imposing limitations on payment of benefit in respect of children), a woman whose marriage has been terminated by divorce shall be entitled to a child's special allowance at the weekly rate specified in relation thereto in Part I of Schedule 4 to this Act if—

- (a) -the husband of that marriage is dead and satisfied the contribution condition for a child's special allowance specified in Part I of Schedule 3 to this Act; and
- (b) she has a family which includes a child and at that husband's death the child—
  - (i) was 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, or
  - (ii) would have been within sub-paragraph (i) above but for the fact that the child was not then in Great Britain; and
- (c) either—
  - (i) that husband had before his death been contributing at not less than the prescribed weekly rate to the cost of providing for that child, or
  - (ii) at the date of that husband's death she was entitled, under an order of a court, trust or agreement which she has taken reasonable steps to enforce, to receive (whether from that husband or from another person) payments in respect of that child at not less than the weekly rate provided or procured by that husband:

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

### *Death grant*

## **30 Death grant.**

- (1) Subject to the provisions of this Act, a death grant of the amount specified in relation thereto in Part II of Schedule 4 to this Act shall be payable in respect of the death of any person (in this section and in that Part of the Schedule referred to as " the deceased

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) where the case is one falling within any of the paragraphs of Schedule 9 to this Act; and in that Schedule and subsection (2) below references to a person being, or having been, a qualifying contributor are to his satisfying or having satisfied the contribution condition specified for death grant in Part I of Schedule 3 to this Act.

- (2) Regulations may provide that, in a case where the deceased—
- (a) was a child either at his death or at any time during the year in which he died or the preceding year; or
  - (b) was at his death over the age of 16 and under the age of 19 and was then incapacitated for regular employment (within the meaning given to that expression by paragraph 5 of Schedule 9 to this Act),
- but (in either case) a death grant is not payable by virtue of subsection (1) above, it shall nevertheless be payable if a person having such connection with the deceased as may be prescribed is or was at any time a qualifying contributor.
- (3) A death grant shall not be payable in respect of the death of a person who attained pensionable age before 5th July 1948 nor, except in prescribed cases, in respect of a death occurring outside Great Britain.

#### *Child dependants*

### **31 Increase of benefit for child dependants.**

- (1) Subject to section 26(1) of this Act and to the following provisions of this Chapter, the weekly rate of any benefit to which this subsection applies 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 (2), (3) or (4) of Part III of Schedule 4 to this Act.
- (2) Subsection (1) above applies to—
- (a) unemployment benefit;
  - (b) sickness benefit;
  - (c) invalidity pension;
  - (d) maternity allowance;
  - (e) widow's allowance ; and
  - (f) Category A, B or C retirement pension.
- (3) 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.
- (4) Subject to section 33 of this Act, the weekly rate of a widowed mother's allowance payable by virtue of section 20(1)(a) 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 section 20(2) for the time being included in her family by the appropriate amount specified in relation to that allowance in column (2), (3) or (4) of Part III of Schedule 4 to this Act.
- (5) Subject to section 33 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 2 or more children with respect to whom the conditions specified in section 29(b) and (c) of this Act are

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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 column (3) or (4) of Part III of that Schedule.

- (6) 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.

### **32 Additional provisions as to increase under s. 31.**

- (1) The provisions of this section shall have effect with respect to increases under section 31 of this Act of benefits other than a child's special allowance.
- (2) Subject to section 33 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 section 31 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 6 months before the day for which the increase provided for by that section is claimed and was wholly or mainly maintained by the beneficiary throughout the 6 months ending immediately before that day.
- (3) Subject to section 33, where a man is entitled to unemployment benefit, sickness benefit, an invalidity pension, or a Category A or C retirement pension, there shall be treated for the purposes of section 31 as included in the beneficiary's family any child to whom this subsection applies; and this subsection applies to—
- (a) a child who, on the day for which the increase provided by section 31 is claimed, could (though not otherwise included in the beneficiary's family) have been treated as so included by virtue of paragraph 3 of the Schedule to the Family Allowances Act; and
  - (b) a child who could have been so treated but for the fact that the beneficiary is contributing at the appropriate rate to the cost of providing for the child;
- and, for the purposes of paragraph (b) above, the appropriate rate is 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 the Family Allowances Act.

- (4) In the case of retirement pensions (except Category D)—
- (a) where a man and his wife are both entitled to a retirement pension (being a Category A or C pension in his case and a Category B or C pension in hers)—
    - (i) they shall not both be entitled for the same period to an increase under section 31(1) in respect of the same child, nor shall they both be entitled for the same period, in respect of different children, to such an increase at the rate applicable to an only, elder or eldest child, nor both to such an increase at the rate applicable to a second child;
    - (ii) where one of them is entitled to such an increase at either of the rates above mentioned in respect of a child not included or treated as included in the other's family, the rates of any such increases to which the other is entitled shall be the rates which would have been appropriate if that child had been the elder or eldest or, as the case may be, the second child of the other's family;
  - (b) for any reference in subsection (2) above to the day for which the increase provided for by section 31(1) is claimed there shall be substituted a reference to the date of retirement or, where the beneficiary is a woman who became

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entitled to the pension without having retired, the date when she so became entitled;

and where, but for paragraph (a) above, a man and his wife would both be entitled to an increase of a retirement pension under section 31(1), regulations may make provision as to their priority.

### **33 Limitations on payment of benefit in respect of child dependants.**

- (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 22, or a child's special allowance under section 29, or of an increase under any of the provisions of section 31 of any benefit, that amount shall not be payable unless one of the following conditions is satisfied—
  - (a) that the child in question is living with the beneficiary; or
  - (b) that the requisite contributions are being made to the cost of providing for the child.
- (2) In relation to the payment of such an amount as is specified in subsection (1) above, the condition specified in paragraph (b) of that subsection shall be treated as satisfied if, and only if—
  - (a) such contributions are being made at a weekly rate not less than that amount—
    - (i) by the beneficiary, or
    - (ii) where the beneficiary is one of two spouses living together, by them together ; and
  - (b) where an allowance under the Family Allowances Act is payable in respect of the child as a child of the beneficiary's family, the contributions are over and above those required for the purposes of satisfying section 3(2) of that Act or (as the case may be) the proviso to paragraph 1(1) of the Schedule to that Act.
- (3) For the purposes of subsection (1) above, 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 29(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 31(5) of this Act.
- (4) Where a person is entitled in respect of a child to a guardian's allowance under section 22 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.

#### *Adult dependants*

### **34 Increase of certain short-term benefits in respect of adult dependants.**

- (1) Subject to the provisions of this section, the weekly rate of unemployment benefit or sickness benefit shall be increased by the amount specified in relation to the benefit in question in column (5) of Part III of Schedule 4 to this Act for any period during which—
  - (a) the beneficiary is—

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- (i) residing with his wife; or
    - (ii) contributing to the maintenance of his wife at a weekly rate of not less than that amount; and
  - (b) his wife is not engaged in any one or more employments from which her weekly earnings exceed that amount.
- (2) Subject to the following subsections, the weekly rate—
  - (a) of unemployment benefit or sickness benefit in the case of a beneficiary not entitled to an increase in respect of his wife under subsection (1) above; and
  - (b) of a maternity allowance in any case,shall be increased by the amount specified in relation to the benefit in question in column (5) of Part III of Schedule 4 to this Act for any of the periods mentioned in subsection (3) below.
- (3) Those periods are—
  - (a) any period during which the beneficiary's husband is incapable of self-support and either they are residing together or she is contributing to his maintenance at a weekly rate of not less than the amount so specified;
  - (b) 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 ;
  - (c) 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 31 of this Act, being a person in relation to whom such further conditions as may be prescribed are fulfilled.
- (4) A beneficiary shall not under subsection (2) above be entitled for the same period to an increase of benefit in respect of more than one person.
- (5) Where a person is entitled to unemployment benefit or sickness benefit under section 10(2) (b) or (c) of this Act—
  - (a) he shall not be entitled to an increase under subsection (2) above in respect of any such period as is mentioned in paragraph (a) or (b) of subsection (3); and
  - (b) if he would have been entitled only by virtue of section 37 of this Act (partial satisfaction of contribution conditions) 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 that section in the case of such an increase of the weekly rate of that pension.
- (6) In this section, "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.

### **35 Increase of long-term benefit in respect of adult dependants.**

- (1) Subject to the provisions of this section, the weekly rate of a Category A or Category C retirement pension, or of an invalidity pension, when payable to a man, shall be increased by the amount respectively specified in relation to the relevant pension in column (5) of Part III of Schedule 4 to this Act—
  - (a) for any period during which the pensioner is residing with his wife ; or

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- (b) for any period during which the pensioner is contributing to the maintenance of his wife at a weekly rate of not less than that amount, and his wife is not engaged in any one or more employments from which her weekly earnings exceed that amount.
- (2) Where the pensioner is residing with his wife, and the earnings of his wife for the week ending last before any week for which he is entitled to benefit under this section exceeded £9.50, the weekly rate of benefit under this section shall for the last-mentioned week be reduced—
- (a) where the excess is less than £2, by 5 pence for each complete 10 pence of the excess, and
  - (b) where the excess is not less than £2, by 5 pence for each complete 10 pence of the excess up to £2 and by 5 pence for each complete 5 pence of any further excess.

In this subsection " week ", where used in the expression " week for which he is entitled to benefit ", means such period of 7 days as may be prescribed by regulations made for the purposes of this subsection.

- (3) Subject to the following provisions of this section, the weekly rate—
- (a) of a Category A retirement pension ; or
  - (b) of a Category C retirement pension by virtue of section 27(1) (a) of this Act; or
  - (c) of an invalidity pension,
- shall be increased by the amount specified in column (5) of Part III of Schedule 4 to this Act for any period during which some female person (not being a child) has the care of a child or children of the pensioner's family, or of a child or children treated as such for the purposes of section 31 of this Act.
- (4) Subsection (3) above shall not apply if the pensioner is a man whose wife is entitled to a Category B retirement pension, or to a Category C retirement pension by virtue of section 27(1)(b) of this Act.
- (5) Regulations may, in a case within subsection (3) above in which the female person there referred to is residing with the pensioner and fulfils such further conditions as may be prescribed, authorise an increase of benefit under this section, but subject to a reduction in respect of the female person's earnings, other than such of her earnings from employment by the pensioner as may be prescribed, comparable to the reduction under subsection (2) above.
- (6) Subject to subsection (7) below, the weekly rate of an invalidity pension shall be increased by the amount specified in column (5) of Part III of Schedule 4 to this Act—
- (a) for any period during which the pensioner's husband is incapable of self-support and either they are residing together or she is contributing to his maintenance at a weekly rate of not less than the amount so specified ; or
  - (b) for any period during which the pensioner 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.

In this subsection " relative " has the meaning given to it by section 34(6) above.

- (7) Where a person is entitled to an invalidity pension at a weekly rate determined under section 11(4) of this Act—
- (a) subsection (6) above shall not apply ; and

- (b) if the pensioner would have been entitled only by virtue of section 37 of this Act to the retirement pension by reference to which the weekly rate of the invalidity pension 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 that section in the case of such an increase of the weekly rate of that pension.
- (8) A pensioner shall not under this section be entitled for the same period to an increase of benefit in respect of more than one person.
- (9) So far as this section relates to the amount of the increase of a retirement pension, it shall have effect subject to section 26(1) of this Act; and any reduction to be made under that subsection shall be made, so far as necessary—
  - (a) first against the amount of the benefit set out in Part I of Schedule 4 to this Act plus any increase under section 24(4) or (5) or 25(10);
  - (b) secondly against the increase under this section (and before any reduction to be made under subsection (2) above); and
  - (c) lastly, against any increase under section 31 of this Act.

#### *Supplementary*

### **36 Review of provision for chronically sick and disabled persons.**

The Secretary of State shall review social security provision for chronically sick and disabled persons, and shall lay a report on his review before Parliament by 31st October 1974.

### **37 Partial satisfaction of contribution conditions.**

- (1) This section applies to—
  - (a) unemployment benefit;
  - (b) sickness benefit;
  - (c) maternity allowance;
  - (d) widowed mother's allowance ;
  - (e) widow's pension;
  - (f) Category A retirement pension ; and
  - (g) Category B retirement pension.
- (2) Subject to the provisions of this section, regulations may provide for persons to be entitled to a benefit to which this section applies, in cases where the first contribution condition specified in relation to that benefit in Part I of Schedule 3 to this Act is satisfied, and the second contribution condition so specified is not.
- (3) Regulations under this section shall provide for benefit payable by virtue of any such regulations to be payable at a rate, or to be of an amount, less than that specified in Schedule 4 to this Act, and the rate or amount prescribed by the regulations may vary with the extent to which the relevant contribution conditions are satisfied; but the amount of any increase of benefit in respect of a child shall be the same as if both of the relevant contribution conditions had been fully satisfied.

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### **38 Ancillary provisions about benefit.**

The provisions of Schedule 10 to this Act (being provisions which substantially replace certain provisions of Parts I and IV of the former principal Act and the enactments amending that Act relating to benefit under that Act and, in certain cases, also to benefit under the Industrial Injuries Acts and payments under the Family Allowances Act) shall have effect with respect to the manner of claiming benefit, payment of benefit, disqualifications, overlapping benefits, set-off of overpayments, alienation of benefit, administration of benefit and other matters ancillary to this Chapter and, to the extent provided by the Schedule, ancillary also to those Acts.

#### *Annual review of benefits*

### **39 Annual review of benefits for purpose of up-rating.**

- (1) As from the beginning of the first year after that in which this section first comes into force, and thereafter as from the beginning of each subsequent year, the Secretary of State shall review the rates of social security benefits then in force; and the review shall be completed in such period as will enable him (if he so determines) to prepare and lay before Parliament, not later than 30th June in the year in which the review is begun, an order under this section increasing rates of benefit.
- (2) In this section, " social security benefits "—
  - (a) in relation to a review carried out at any time before the other provisions of this Chapter come into force, means benefits under the former principal Act, the Industrial Injuries Act and the Old Cases Act; and
  - (b) otherwise, means benefits under this Part of this Act and the two last-mentioned Acts.
- (3) In the course of a review of social security benefits under this section, the Secretary of State shall consider—
  - (a) the extent to which current rates appear to him to have retained their value in relation to the general level of prices obtaining in Great Britain from time to time since the beginning of the year in which this section first came into force or, as the case may be, the end of the period to which he had regard for the purposes of the last previous review under this section ; and
  - (b) apart from the considerations of paragraph (a) above, whether any of the rates ought to be increased having regard to—
    - (i) the general level of prices and earnings obtaining in Great Britain at the time of the review,
    - (ii) the national economic situation as a whole and the general standard of living, and
    - (iii) such other matters as the Secretary of State thinks relevant to his review of benefits;

and for the above purposes the Secretary of State shall estimate general levels of prices and earnings in such manner as he considers appropriate having regard to the objects of the review.
- (4) If on his review the Secretary of State concludes that current rates have not retained their value as mentioned in subsection (3)(a) above, he shall prepare and lay before each House of Parliament, not later than the date referred to in subsection (1) above, the draft of an order for the purposes of subsection. (5) below, framed so as to increase



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- the rates there mentioned at least to such extent as appears to him necessary to restore their value in accordance with his conclusions on the review, and to such further extent (if any) as he thinks justified by reference to the considerations of subsection (3)(b).
- (5) Where the Secretary of State is required by subsection (4) above to lay before Parliament the draft of an order under this section, it shall be an order—
- (a) amending—
    - (i) Part I of Schedule 4 to this Act by increasing all the figures specified in the second column of that Part of the Schedule, and
    - (ii) Part III of that Schedule by increasing all the figures specified in columns (2), (3), (4) and (5) of that Part; and
  - (b) amending Schedule 3 to the Industrial Injuries Act by increasing all the following figures specified in that Schedule—
    - (i) the figures specified in the second column of paragraphs 1 (injury benefit) and 2 (maximum disablement gratuity),
    - (ii) the figures specified in columns (2) and (3) of the Table setting out the rates of disablement pension for the purposes of paragraph 3,
    - (iii) the figures specified in the second column of paragraphs 4 (unemployability supplement), 4A (increase of unemployability supplement in cases of early onset of incapacity for work), 7 (increase of benefit in respect of children, where no entitlement to unemployability supplement), 7A (the same, where there is entitlement to the supplement), 8 (increase of rate of injury benefit or disablement pension in respect of adult dependant), 9 (widow's pension), 11 (allowance in respect of children of deceased person's family) and 12 (maximum aggregate rate of benefit for successive accidents).
- (6) In an order made for the purposes of subsection (5) above, the increase—
- (a) of the figures for injury benefit under the Industrial Injuries Act (Schedule 3 to the Act, paragraph 1(a) and (b)) shall be at least as much as that of the figure for the higher rate of sickness benefit under this Chapter (Schedule 4, Part I, paragraph 1(a));
  - (b) of the figure for the initial rate of a widow's pension under that Act (Schedule 3 to the Act, paragraph 9(a)) shall be at least as much as that of the figure for a widow's allowance under this Chapter (Schedule 4, Part I, paragraph 6); and
  - (c) of the figure for the higher permanent rate of a widow's pension under that Act (Schedule 3 to the Act, paragraph 9(b)) shall be at least as much as that of the figure for a widow's pension under this Chapter (Schedule 4, Part I, paragraph 8).
- (7) Notwithstanding subsection (4) above, if it appears to the Secretary of State, in the case of any rate which is otherwise required to be increased by such an order, that by reference to the considerations of subsection (3)(a) above the increase would be only of an inconsiderable amount, the order need not increase that rate; and the order need not in the case of any rate increase it by reference to those considerations so as to result in the figure for the rate including a fraction of a penny.
- (8) An order under this section may, if the Secretary of State thinks it expedient in consequence of any provision made by the order for the purposes of subsection (5) above, and having regard to any other matters which he considers to be material to rates of social security benefits, include provision amending this Chapter, or the Industrial

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Injuries Act or the Old Cases Act, by altering any one or more of the figures specified in Schedule 11 to this Act (being rates of benefit or figures affecting the amount payable to a beneficiary); but no amendment shall be made under this subsection so as to reduce any rate, or the amount so payable.

- (9) In this section " rate " includes amount; and in subsections (5) to (8) above, and in Schedule 11 to this Act, " figure " means only a money sum.
- (10) If, following the completion of his review of social security benefits, the Secretary of State determines that he is not required by subsection (4) above to lay a draft of an order under this section, he shall (subject to subsection (11) below) lay before each House of Parliament a report containing an explanation of his reasons for arriving at that determination.
- (11) Where the Secretary of State so determines he may nevertheless lay before each House of Parliament a draft of an order under this section (but not later than the date referred to in subsection (1) above) if his conclusions on the review are such that, having regard to the considerations of subsection (3)(b) above, an order should in his opinion be made increasing rates of benefit; and if he lays a draft of an order in pursuance of this subsection, no report shall be required to be laid for the purposes of subsection (10) above.
- (12) Where the Secretary of State lays before Parliament a draft of an order under this section, he shall lay with it a copy of a report by the Government Actuary on the effect which, in the Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund; and where the Secretary of State determines that he is not required by subsection (4) above to lay a draft order, and also determines not to lay a draft order in pursuance of subsection (11), he shall lay before each House of Parliament, with his report under subsection (10), a copy of a report by the Government Actuary on the consequences for the Fund which may, in the Actuary's opinion, follow from those determinations.
- (13) Where the Secretary of State has laid before Parliament a draft of an order under this section, then if the draft is approved by a resolution of each House the Secretary of State shall make an order in the form of the draft.
- (14) An order under this section made in consequence of a review of social security benefits by the Secretary of State—
- (a) shall be made so as to come into force not earlier than 16th November following the date of Parliamentary approval (being the date on which the draft of the order is approved by the second House to approve it) or later than 30th November following that date;
  - (b) may provide for any amendment made by it of this Part of this Act, the Industrial Injuries Act or the Old Cases Act which results in any increase of benefit to apply to benefit payable at any time after the amendment comes into force regardless—
    - (i) of when any period began in which, or in respect of which, benefit is payable, and
    - (ii) of any extent to which entitlement to, or the rate of, any particular benefit depends or may depend on events occurring in the past;
  - (c) may provide for different amendments to operate from different dates;
  - (d) shall include provision for increasing any amount by which a retirement pension payable under the former principal Act has been increased, or fell to be increased, under section 31(1) or 34(1) of that Act, any such increase

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provided for by the order being as nearly as may be proportional to the increase of the rate of a Category A retirement pension which results from the order; and

- (e) may include such transitional and other supplementary and incidental provisions as the Secretary of State thinks necessary or expedient, including—
  - (i) adaptations of provisions of the order and of the Acts amended by it, and
  - (ii) the variation or revocation and replacement of the whole or any part of any previous order under this section,so far as appearing to him to be required in consequence of the order or the partial or postponed operation of any of its provisions.

### CHAPTER III:

#### SUPPLEMENTARY PROVISIONS

##### *Modifications for special categories of earners*

#### **40 Crown servants, armed forces, etc.**

- (1) This Act shall apply to persons employed by or under the Crown (subject to any special provision made by or under this section) in like manner as if such persons were employed earners in the employment of a private person.
- (2) Subject to the following provisions of this section, any person who is serving as a member of Her Majesty's forces shall, while he is so serving, be treated for the purposes of this Act as an employed earner in respect of his membership of those forces.
- (3) The Secretary of State may make regulations modifying this Part of this Act, in such manner as he thinks proper, in its application to persons who are or have been members of Her Majesty's forces; and regulations under this section may in particular provide—
  - (a) in the case of persons who are employed earners in respect of their membership of Her Majesty's forces, for reducing the rate of the contributions payable in respect of their employment and for determining—
    - (i) the amounts payable on account of those contributions by the Secretary of State and the time and manner of payment, and
    - (ii) the deductions (if any) to be made on account of those contributions from the pay of those persons;
  - (b) for preventing a person who is discharged from Her Majesty's forces at his own request from being thereby disqualified for receiving unemployment benefit on the ground that he has voluntarily left his employment without just cause.
- (4) For the purposes of this Act, Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed, being establishments and organisations in which persons serve under the control of the Defence Council.

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#### **41 Mariners and airmen.**

- (1) The Secretary of State may make regulations modifying this Part of this Act, in such manner as he thinks proper, in its application to persons who are or have been employed on board any ship, vessel, hovercraft or aircraft; and such regulations may in particular provide—
- (a) for this Part to apply to such persons notwithstanding that it would not otherwise apply;
  - (b) for excepting such persons from the application of this Part where they neither are domiciled nor have a place of residence in any part of Great Britain ;
  - (c) for requiring the payment of secondary Class 1 contributions in respect of such persons, whether or not they are (within the meaning of this Part) employed earners ;
  - (d) for the taking of evidence, for the purposes of any claim to benefit, in a country or territory outside Great Britain, by a British consular official or such other person as may be prescribed;
  - (e) for enabling persons who are or have been so employed to authorise the payment of the whole or any part of any benefit to which they are or may become entitled to such of their dependants as may be prescribed.
- (2) Any secondary Class 1 contribution payable by an employer—
- (a) in respect of payments to a person employed on board a ship, vessel or hovercraft, where that person is by virtue of this section excepted from liability to pay a primary Class 1 contribution in respect of the payments; or
  - (b) by virtue of this section in respect of a person so employed who is not an employed earner for the purposes of this Act,
- shall be excluded from the contributions which under section 1(5) of this Act are to be taken into account for the purpose of arriving at the amount of any Treasury supplement and shall be administered and applied in such manner and for such purposes as may be prescribed.
- (3) In this section, " hovercraft" has the same meaning as in the Hovercraft Act 1968.

#### **42 Married women and widows.**

- (1) The Secretary of State may make regulations modifying this Part of this Act, in such manner as he thinks proper, in its application to women who are or have been married.
- (2) Regulations under this section shall provide for enabling a married woman or widow to elect that in any year—
- (a) her liability in respect of primary Class 1 contributions shall be a liability to contribute at the reduced, instead of the standard, rate; or
  - (b) she shall be under no liability for Class 2 contributions,
- and to revoke any such election.
- (3) Regulations made for the purposes of subsection (2) above shall provide so that—
- (a) a woman's election for those purposes is not to be made or revoked otherwise than in respect of a complete year (whether the year in which the election is made, or any subsequent year); and
  - (b) an election made or revoked for either one of the purposes mentioned in subsection (2) is to be deemed to be made or revoked for the other purpose also; and

- (c) while an election has effect, the woman who made it is not entitled to pay any Class 3 contributions.
- (4) Regulations may, in relation to women who have been widowed, provide—
- (a) for excepting them generally from liability for contributions or for excepting them from liability for contributions of any prescribed class ;
  - (b) for enabling women who are excepted under paragraph (a) above from liability for contributions of any class to elect to be liable for contributions of that class or not to be so liable, and for enabling them to revoke any such election ; and
  - (c) for enabling women who are so excepted in respect of primary Class 1 contributions to elect to contribute at the standard, or at the reduced, rate ;
- but any provision made by regulations under this subsection shall be subject to whatever provision is made by regulations for the purposes of subsection (3) above.

#### **43 Persons outside Great Britain.**

- (1) The Secretary of State may make regulations modifying, in such manner as he thinks proper, the provisions of this Part of this Act in their application to persons who are or have been outside Great Britain at any prescribed time or in any prescribed circumstances.
- (2) The Secretary of State may by regulations make provision for modifying the provisions of this Part of this Act in their application to persons in any prescribed employment (whether under a contract of service or not) in connection with the exploitation of the resources mentioned in section 1(1) of the Continental Shelf Act 1964 or with the exploration of the sea bed and subsoil in any area designated under section 1(7) of that Act and in particular (but without prejudice to the generality of this subsection) for any prescribed provision of this Part of this Act to apply to such a person notwithstanding that he does not fall within the description of an employed or self-employed earner, or does not fulfil the conditions prescribed under section 1(10) of this Act as to residence or presence in Great Britain.

#### *Finance*

#### **44 The National Insurance Fund.**

- (1) The National Insurance Fund shall continue to be maintained under the control and management of the Secretary of State.
- (2) The Industrial Injuries Fund and the National Insurance (Reserve) Fund shall be wound up and on the appointed day all liabilities and assets which immediately before that day were liabilities or assets of either of those Funds shall be transferred to, and become liabilities and assets of, the National Insurance Fund.
- (3) Accounts of the National Insurance Fund shall be prepared in such form, and in such manner and at such times, as the Treasury may direct, and the Comptroller and Auditor-General shall examine and certify every such account and shall lay copies thereof, together with his report thereon, before Parliament.
- (4) Any money in the National Insurance Fund may from time to time be paid over to the National Debt Commissioners and be invested by them, in accordance with such directions as may be given by the Treasury, in any such manner as may be specified by

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an order of the Treasury for the time being in force under section 22(1) of the National Savings Bank Act 1971.

- (5) The National Debt Commissioners shall present to Parliament annually an account of the securities in which money in the National Insurance Fund is for the time being invested.
- (6) There shall be made out of the National Insurance Fund into the Consolidated Fund, or out of money provided by Parliament into the National Insurance Fund, such payments by way of adjustment as the Secretary of State determines in accordance with any directions of the Treasury to be appropriate in consequence of the operation of any enactment or regulations relating to the repayment or offsetting of benefit or other payments; and where in other circumstances payments fall to be made by way of adjustment—
  - (a) out of the National Insurance Fund either to the Secretary of State or another government department, or into the Reserve Pension Fund established under Part III of this Act, or into the Consolidated Fund; or
  - (b) into the National Insurance Fund out of the Reserve Pension Fund or out of money provided by Parliament,

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

#### **45 Destination of contributions and Treasury supplements.**

- (1) Contributions received by the Secretary of State under Chapter I (including those paid over to him by the Inland Revenue under section 5(4) of this Act and Schedule 1, paragraph 5(3)), shall be paid by him into the National Insurance Fund after deducting—
  - (a) from contributions of any class, the appropriate national health service allocation in the case of contributions of that class ; and
  - (b) from secondary Class 1 contributions, the appropriate allocation to the Redundancy Fund.
- (2) The Treasury supplements shall be paid, in accordance with any directions given by the Treasury, into the National Insurance Fund.
- (3) In subsection (1) above, " the appropriate national health service allocation " means—
  - (a) in the case of primary Class 1 contributions, 0.4 per cent, of the amount determined to be that of the earnings in respect of which those contributions were paid;
  - (b) in the case of secondary Class 1 contributions, 0.6 per cent, of the amount determined to be that of the earnings in respect of which those contributions were paid;
  - (c) in the case of Class 2 contributions, 8 per cent, of the amount determined to be the total of those contributions ;
  - (d) in the case of Class 3 contributions, 8 per cent, of the amount determined to be the total of those contributions ; and
  - (e) in the case of Class 4 contributions, 0-4 per cent, of the amount determined to be that of the earnings in respect of which those contributions were paid;

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and " the appropriate allocation to the Redundancy Fund ", in the case of secondary Class 1 contributions, means 0.2 per cent, of the amount determined to be that of the earnings in respect of which those contributions were paid; and in this subsection " determined" means determined by the Secretary of State in accordance with any directions given by the Treasury.

(4) So much of any contributions as is to be deducted under subsection (1) above before payment of the remainder into the National Insurance Fund shall be dealt with as follows—

(a) from the national health service allocation in respect of contributions of any class there shall be deducted such amount as the Secretary of State may estimate to be the portion of the total expenses incurred by him or any other government department in collecting contributions of that class which is fairly attributable to that allocation, and the remainder shall, in the hands of the Secretary of State, be taken as paid towards the cost—

(i) of the national health service in England ;

(ii) of that service in Wales, and

(iii) of that service in Scotland,

in such shares as the Treasury may determine ;

(b) from the appropriate allocation to the Redundancy Fund there shall be deducted such amount as the Secretary of State may estimate to be the portion of the total expenses incurred by him or any other government department in collecting secondary Class 1 contributions which is fairly attributable to that allocation, and the remainder shall be paid by the Secretary of State into that Fund; and

(c) any amounts deducted in accordance with paragraphs (a) and (b) above shall be paid by the Secretary of State into the Consolidated Fund ;

and any estimate by the Secretary of State for the purposes of those paragraphs shall be made in accordance with any directions given by the Treasury.

#### **46 General financial arrangements.**

(1) All benefit—

(a) under Chapter II, except a Category C or Category D retirement pension, age addition (other than age addition to a Category A or Category B retirement pension), an attendance allowance, or any benefit payable under section 27(4); and

(b) under the Industrial Injuries Acts and the Old Cases Acts,  
shall be paid out of the National Insurance Fund.

(2) Any administrative expenses of the Secretary of State or other government department in carrying this Act, the Industrial Injuries Acts or the Old Cases Acts into effect, and any of the benefits which by virtue of subsection (1)(a) above are not payable out of the National Insurance Fund, shall be paid out of money provided by Parliament, except in so far as they may be required by any enactment to be paid or borne in some other way.

(3) The administrative expenses referred to in subsection (2) above include those in connection with any enquiry undertaken on behalf of the Secretary of State with a view to obtaining statistics relating to the operation of this Act, the Industrial Injuries Acts or the Old Cases Acts.

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- (4) There shall be paid out of the National Insurance Fund into the Consolidated Fund, at such times and in such manner as the Treasury may direct, such sums as the Secretary of State may estimate in accordance with any directions given by the Treasury to be the amount of the administrative expenses incurred as mentioned in subsection (2) above, excluding—
- (a) expenses attributable to the carrying into effect of provisions of this Act relating to the benefits which by virtue of subsection (1)(a) above are not payable out of the National Insurance Fund ; and
  - (b) any other category of expenses which the Treasury may direct, or any enactment may require, to be excluded from the Secretary of State's estimate under this subsection.

#### **47 Reports by Government Actuary.**

- (1) As from the end of the period of 5 years from the appointed day, or such shorter period as the Treasury may direct, the Government Actuary shall review the operation during that period of this Part of this Act, the Industrial Injuries Acts, and the Old Cases Acts.
- (2) Thereafter as from the end of each period of 5 years, or such shorter period as the Treasury may direct in respect of any review, the Government Actuary shall review the operation (during the period since the end of the last period to be the subject of a review) of this Act and those Acts.
- (3) It shall be the object of a review by the Government Actuary under this section to determine the extent to which the level at which the National Insurance Fund stands from year to year may be expected in the longer term to bear a proper relation to demands in respect of payments of benefit; and for this purpose the Actuary shall take into account current rates of contributions, the yield to be expected from contributions in the longer term, and such other matters as he considers to be relevant as affecting the present and future level of the Fund.
- (4) After completing his review, the Government Actuary shall report to the Secretary of State his opinion on the question referred to in subsection (3) above; and the Secretary of State shall lay a copy of the report before Parliament.

#### *National Insurance Advisory Committee*

#### **48 The Committee and its functions.**

- (1) The National Insurance Advisory Committee constituted under section 88 of the former principal Act shall continue in being by that name, to give advice and assistance to the Secretary of State in connection with the discharge of his functions under this Part of this Act and to perform such other duties as may be assigned to them by or under this Part; and—
  - (a) the provisions of Part I of Schedule 12 to this Act (being provisions which replace with only minor and consequential amendments those of Schedule 8 to the former principal Act) shall have effect with respect to the constitution of the Committee and otherwise with respect to the Committee and its affairs;
  - (b) the Secretary of State—
    - (i) may from time to time refer to the Committee for consideration and advice such questions relating to the operation of this Part of this Act



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- as he thinks fit (including questions as to the advisability of amending it), and
- (ii) shall furnish to the Committee such information as they may reasonably require for the proper discharge of their functions under this Act.
- (2) Subject to the provisions of this section, where the Secretary of State proposes to make any regulations to which this subsection applies, he shall (unless it appears to him that by reason of the urgency of the matter it is inexpedient to do so) refer the proposals, in the form of draft regulations or otherwise, to the National Insurance Advisory Committee; and this subsection applies to all such regulations as are specified in Part II of Schedule 12 to this Act, with the exception of those specified in Part III of that Schedule.
- (3) The Committee shall consider any proposals referred to them under this section and make to the Secretary of State a report containing such recommendations with regard to the subject matter of the proposals as they think appropriate; and if after receiving the report of the Committee the Secretary of State lays before Parliament any regulations or draft regulations which comprise the whole or any part of the subject matter of the proposals referred to the Committee, he shall lay with the regulations or draft a copy of the Committee's report and a statement showing—
- (a) the extent (if any) to which the Secretary of State has, in framing the regulations, given effect to the Committee's recommendations; and
- (b) in so far as effect has not been given to them, his reasons why not.
- (4) In relation to any regulations required or authorised under this Act to be made by the Joint Authority (within the meaning of section 49 of this Act) or by the Secretary of State or Joint Authority in conjunction with the Treasury, any reference in the foregoing provisions of this section to the Secretary of State shall be construed as a reference to the authority or authorities making or proposing to make the regulations.

### *Northern Ireland*

#### **49 The basic scheme in Northern Ireland.**

- (1) This Part of this Act, except sections 7, 8, 36, 39, 40(2) to (4), 43(2), 47 and 48 and Schedules 11 and 12, extends to Northern Ireland, but with the adaptations set out in Schedule 13 to this Act; and other provisions of this Act applying for the interpretation of this Part also extend to Northern Ireland with those adaptations.
- (2) Whenever the Secretary of State makes an order under section 7, 8 or 39 of this Act, the Northern Ireland Ministry shall make a corresponding order for Northern Ireland, amending—
- (a) this Part of this Act as it has effect in Northern Ireland ;
- (b) the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 ; or
- (c) the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1966,
- in the same way, and to the same effect, and from as nearly as may be the same date or dates, as this Part of this Act, the Industrial Injuries Act or the Old Cases Act (as the case may be) is amended by the order of the Secretary of State.
- (3) The Secretary of State with the consent of the Treasury and the Northern Ireland Minister with the consent of the Ministry of Finance may make arrangements (" the

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joint arrangements ") for co-ordinating the operation of this Part of this Act in Great Britain and its operation in Northern Ireland with a view to securing that, to the extent allowed for in the arrangements, the basic scheme as it operates in both territories does so as a single system.

- (4) The Joint Authority constituted under section 104 of the former principal Act (arrangements with Northern Ireland for unified system), consisting of the Secretary of State and the Northern Ireland Minister, shall continue in being for the purposes also of this Part of this Act and is referred to in this Act as " the Joint Authority " ; and Schedule 14 to this Act (reproducing Schedule 10 to the former principal Act) shall have effect with respect to the Authority.
- (5) The responsibility of the Joint Authority shall include that of giving effect to the joint arrangements, with power—
  - (a) to make any necessary financial adjustments between the National Insurance Fund and the Northern Ireland National Insurance Fund; and
  - (b) to discharge such other functions as may be provided under the joint arrangements.
- (6) The Secretary of State in relation to Great Britain and the Northern Ireland Ministry in relation to Northern Ireland may make regulations for giving effect to the joint arrangements; and any such regulations may for any purpose of the basic scheme provide—
  - (a) for adapting legislation (including subordinate legislation) for the time being in force in Great Britain or, as the case may be, in Northern Ireland so as to secure its reciprocal operation between the two territories ;
  - (b) without prejudice to paragraph (a) above, for securing that acts, omissions and events having any effect for the purposes of this Part of this Act in relation to Great Britain or, as the case may be, Northern Ireland, have a corresponding effect in relation to Northern Ireland or, as the case may be, Great Britain ;
  - (c) for the Joint Authority to be substituted for the Secretary of State and the Northern Ireland Ministry in relation to any power under this Part of this Act to make regulations (other than regulations under this paragraph) or orders.
- (7) Regulations made by the Joint Authority may apply section 40(2) to (4) of this Act to Northern Ireland, with or without modifications, and provide for determining—
  - (a) the persons who, being employed earners in respect of their membership of Her Majesty's forces, are to be treated as belonging to Northern Ireland ; and
  - (b) the sums paid as contributions by and in respect of those persons.
- (8) Any sums determined by regulations under subsection (7)(b) above shall be treated as paid as basic scheme contributions under this Part of this Act as it applies to Northern Ireland, and not as it applies to Great Britain, for the purposes—
  - (a) of arriving at the amount of any Treasury supplement or Northern Ireland Exchequer supplement; and
  - (b) of making any adjustment between the National Insurance Fund and the Northern Ireland National Insurance Fund.

*Foreign systems of social security*

**50 Reciprocal agreements with other countries.**

- (1) For the purpose of giving effect to any agreement with the Government of any country outside the United Kingdom providing for reciprocity in matters relating to payments in respect of interruption of employment by unemployment, sickness or otherwise, or payments in respect of the need of handicapped persons for attendance, the confinement of women, widowhood, orphanhood, retirement, old age or death, Her Majesty may by Order in Council make provision for modifying this Part of this Act, Part IV of this Act so far as relating to this Part, and Part IV of the former principal Act, in their application to cases affected by the agreement.
- (2) The modifications of this Part of this Act which may be made by virtue of subsection (1) above shall include provision—
  - (a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made shall have a corresponding effect for the purposes of this Act (but not so as to confer a right to double benefit);
  - (b) for determining, in cases where rights accrue both under this Act and under the law of that country, which of those rights shall be available to the person concerned ;
  - (c) for making any necessary financial adjustments.

**PART II**

OCCUPATIONAL PENSION SCHEMES

*Recognition*

**51 Recognised pensionable employment.**

- (1) Subject to the provisions of this Act, the employment of an earner in employed earner's employment shall be recognised pensionable employment in relation to him during any period in which he is of requisite age and—
  - (a) his service in the employment is for the time being service which qualifies him (on the assumption that it continues for the appropriate period) for the minimum benefits of an occupational pension scheme ; and
  - (b) the scheme is a recognised scheme in relation to that employment; and
  - (c) there is in force a certificate, issued by the Occupational Pensions Board and known as a " recognition certificate ", that the employment is recognised pensionable employment by reference to the scheme.
- (2) For the purposes of this section, an earner is of requisite age at any time after the end of the income tax year in which he attained the age of 21 and before the beginning of the income tax year in which he will attain pensionable age.
- (3) In this Act—
  - (a) " occupational pension scheme " means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise,

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payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category; and

- (b) " public service pension scheme " means an occupational pension scheme established by or under an enactment or the Royal prerogative or a Royal charter, being a scheme—
- (i) all the particulars of which are set out in, or in a legislative instrument made under, an enactment, Royal warrant or charter, or
  - (ii) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department,

and includes any occupational pension scheme prescribed by regulations made by the Secretary of State and the Minister for the Civil Service jointly as being a scheme which ought in their opinion to be treated as a public service pension scheme for the purposes of this Part of this Act.

- (4) An occupational pension scheme can be a recognised scheme in relation to an earner's employment only if—
- (a) the resources of the scheme are derived (in whole or in part) either—
    - (i) from payments made or to be made (either under actual or contingent legal obligation or in the exercise of a power conferred, or duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money) by one or more employers of earners to whom the scheme applies, or
    - (ii) from such other payments by the earner or his employer, or both, as may be prescribed for different categories of schemes ; and
  - (b) it complies in all respects with sections 53 to 60 of this Act in respect of minimum personal and death benefits, and of the other matters mentioned in those sections, or, in such cases or classes of cases as may be prescribed, with those sections as modified by regulations; and
  - (c) it neither contains any provision (operating in relation to minimum benefits, their allowance or computation, or to any rights available in connection with minimum benefits) which by any of those sections is stated to be inadmissible in relation to the minimum benefits of a recognised scheme, nor is subject to the terms of any instrument or agreement containing or implying such a provision; and
  - (d) the rules of the scheme applying to minimum benefits are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of recognised schemes, and with such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Board as a condition of recognition, either generally or in relation to a particular scheme ; and
  - (e) either it is a public service pension scheme or the Board are satisfied that it complies with regulations prescribing—
    - (i) the means by which the minimum benefits of occupational pension schemes are to be secured (whether irrevocable trust, policy of insurance, annuity contract or other means), and
    - (ii) the conditions which are required by the regulations to be satisfied in relation to any means adopted.

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- (5) References in subsection (4)(a) above and in the following provisions of this Part of this Act to employers are to be treated, in relation to persons within the application of an occupational pension scheme and qualifying or prospectively qualifying for its benefits, as including references to persons who in relation to them and their employments are treated by regulations as being employers for the purposes of this Part of this Act.
- (6) It is hereby declared that nothing in this section is to be taken—
- (a) to preclude an occupational pension scheme from being so framed as to provide benefits on any ampler scale, or payable at any earlier time, or otherwise more favourable to beneficiaries, than is required for recognition "purposes ;
  - (b) to require a scheme, or any rule contained in a scheme, to comply for recognition purposes with any provision in sections 53 to 60 of this Act by adopting the particular words of that provision, subject to any requirements of regulations, or of the Board, under subsection (4)(d) above, so long as the Board are satisfied that the provision is complied with in spirit and intent.
- (7) The Secretary of State may make such regulations as he thinks appropriate for securing that earners, notwithstanding their terms of employment, are freed from any liability to be or become members of, or to contribute to, an occupational pension scheme—
- (a) which is not for the time being recognised in relation to any employment; and
  - (b) in whose case the Board are satisfied that the benefits of the scheme are not adequately secured, or that it is otherwise unsound in respect of its management or financing.
- (8) In this Act any reference to the minimum benefits of an occupational pension scheme includes both minimum personal pension and minimum death benefit (except where the context otherwise requires) and is to be taken as referring only to benefit provided by the scheme in respect of employed earner's employment in accordance with such minimum requirements as must be complied with for recognition purposes.
- (9) Where by any provision in this Part of this Act recognition of a scheme in relation to an employment depends on the satisfaction of a particular condition, continued recognition of the scheme shall be dependent on continued satisfaction of the condition ; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for cancellation of the recognition certificate.
- (10) Regulations may, for any purpose of this Part of this Act, prescribe the persons who are to be regarded as members or prospective members of an occupational pension scheme and as to the times at which, and the circumstances in which, a person is to be treated as becoming, or as ceasing to be, a member or prospective member.

## **52 Certification of employments.**

- (1) Regulations shall provide—
- (a) for the issue by the Occupational Pensions Board to employers of recognition certificates specifying the employments which are to be treated, either generally or in relation to any specified category or description of earners, as recognised pensionable employments; and
  - (b) for the cancellation, variation or surrender of any certificate, or the issue of an amended certificate on any change of circumstances affecting the treatment of an employment as recognised pensionable employment;

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- and (subject to the exclusion by section 51 of this Act of earners not of requisite age) any recognition certificate for the time being in force in respect of an employed earner's employment shall be conclusive that the employment is recognised pensionable employment.
- (2) Subject to the provisions of this Act, an employment otherwise satisfying the conditions for inclusion in a recognition certificate shall be so included if and so long as the employer so elects and not otherwise; and subject to any prescribed restrictions an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.
  - (3) Except in prescribed circumstances, no recognition certificate, and no cancellation, variation or surrender of such a certificate shall have effect from a date earlier than that on which the certificate is issued or the cancellation, variation or surrender is made.
  - (4) A recognition certificate in respect of any employment—
    - (a) subject to subsection (5) below, may be issued by the Board notwithstanding that in respect of some earners in that employment the relevant scheme satisfies some, but not all the requirements of sections 53 to 58 of this Act (but only if the Board think it expedient to issue the certificate in particular circumstances where the number of earners in respect of whom the scheme fails to satisfy any particular requirement appears to them to be insignificant in relation to the number of those in respect of whom all the requirements of those sections are satisfied); and
    - (b) may be withheld or cancelled by the Board (notwithstanding that the scheme is one which they would otherwise treat as proper to be recognised in relation to all earners in that employment) if there appear to the Board to be circumstances relating to the scheme or its management which make it inexpedient that the employment should be or, as the case may be, continue to be recognised pensionable employment by reference to the scheme.
  - (5) A recognition certificate may be issued by virtue of subsection (4)(a) above only if the Board are satisfied that, in the case of the earners in respect of whom the relevant scheme does not satisfy all the requirements of sections 53 to 58 of this Act and whose employments are to be included in the certificate, written consent to the exercise of the Board's powers under that paragraph has been given by or on behalf of those earners.
  - (6) Where in relation to an earner's employment there are in force two or more occupational pension schemes, no one of which can by itself be a recognised scheme, the Board may if they think fit (but subject to section 51 of this Act and the foregoing provisions of this section) treat them for recognition purposes as one single scheme.
  - (7) Regulations shall provide for the determination by the Board of any question whether an employment is to be treated as recognised pensionable employment, or as to the persons in relation to whom, or the period for which, an employment is to be so treated.
  - (8) Regulations may for the purposes of recognition, and for any other purposes of this Part of this Act, prescribe persons who, in the case of a scheme of any prescribed category, are to be regarded as the trustees or managers of a scheme of that category.
  - (9) The provisions of Schedule 15 to this Act shall have effect with respect to recognised pensionable employments, recognition certificates and recognised occupational pension schemes.

### **53 Minimum personal pension (entitlement).**

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment it must, in accordance with this section, provide him with minimum personal pension on termination of recognised pensionable employment otherwise than by his death.
- (2) Subject to the provisions of this Part of this Act, minimum personal pension must be provided for an earner in any case in which, on termination of a period of service in recognised pensionable employment—
  - (a) he qualifies for a pension immediately payable under the scheme; or
  - (b) he is then no longer of requisite age for the purposes of section 51 of this Act; or
  - (c) he has attained the age of 26 and has at least 5 years' qualifying service accrued since the appointed day; or
  - (d) the period of service terminated is one in respect of which the scheme either—
    - (i) conforms with the preservation requirements (section 63 of this Act and Schedule 16), so as to entitle the earner to short service benefit within the meaning of those requirements ; or
    - (ii) makes any provision which under those requirements is permitted as an alternative to short service benefit (other than, in such cases as may be prescribed, provision for return of contributions or benefit in the form of a lump sum).
- (3) In subsection (2)(c) above, " 5 years' qualifying service " means 5 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 5 years) in which the earner was at all times employed either—
  - (a) in pensionable service under the scheme within the meaning of the preservation requirements ; or
  - (b) in service in recognised pensionable employment, by reference to the scheme ; or
  - (c) in service under another scheme, being linked qualifying service within the meaning of section 58 of this Act,no regard being had to whether or not it was the same description of service in the whole of the 5 years, but excluding, in the case of service specified in paragraph (a) or (b), any period of service in the same employment which has been previously terminated.
- (4) Minimum personal pension must be in the form either—
  - (a) of a pension payable as from termination of the relevant employment or from when the earner attains pensionable age, whichever is the later; or
  - (b) of a deferred pension, coming into payment when he attains that age or (with his consent in writing) at some later time.
- (5) The pension must, in either of the cases referred to in subsection (4) above, be a pension payable out of the resources of the scheme or secured by such means as may be prescribed (whether policy of insurance, annuity contract or other means), the security satisfying such conditions as may be prescribed in relation to the means adopted.
- (6) The scheme must conform with any regulations prescribing the time from which minimum personal pension (immediate or deferred) is to become payable.

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- (7) Any provision which has for its effect that qualification for minimum personal pension is conditional upon retirement being postponed beyond a certain time shall be inadmissible in relation to the minimum benefits of a recognised scheme, if that time is more than 6 months after pensionable age.
- (8) The scheme must so provide that minimum personal pension, as and from the time when it comes into payment, is payable for life, subject only to such provision (if any) as may be made by the scheme for the pension to be terminated or suspended in such circumstances as may be prescribed.
- (9) Subject to the approval of the Occupational Pensions Board, the scheme may provide, in the case of an earner who is a woman, for minimum personal pension to be at a lower rate where provision is made for the payment of benefit to dependants on her death.

#### **54 Rate of minimum personal pension.**

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment, it must comply with the requirements of this section as respects the rate of minimum personal pension.
- (2) Subject to the following subsections, minimum personal pension must be at an annual rate equal to the following percentage of the earner's reckonable earnings from an employment to which the scheme applies—
 

(a) for a man—	
(i) if the pension is subject to increases complying with section 57 of this Act	1.00 per cent. 1.
(ii) if not	1.25 per cent.
(b) for a woman—	
(i) if the pension is so subject	0.70 per cent.
(ii) if not	0.90 per cent.
- (3) In this Part of this Act, references to an earner's reckonable earnings from any employment are to his earnings from that employment so far as comprised in any payment of earnings made to him or for his benefit (at a time when the employment was recognised pensionable employment) where the payment either—
  - (a) gave rise to liability under Part I of this Act for a primary Class 1 contribution ; or
  - (b) was made in such circumstances that regulations require it to be treated (for the purposes of this subsection only) as giving rise to such liability.
- (4) If regulations so permit, but subject to subsection (5) below and to any prescribed conditions, the rate of minimum personal pension may be calculated—
  - (a) by reference to contributions paid from time to time by the earner, or by the employer in respect of him, and the earner's age at the time when contributions were paid; or
  - (b) as a prescribed fraction or percentage of—
    - (i) the annual rate of the earner's reckonable earnings in any prescribed period of 12 months before termination of service, or



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- (ii) his average annual reckonable earnings in any prescribed period before termination of service,  
the fraction or percentage being determined by reference to the period (expressed as a number of years or of months, or a combination of years and months) of the earner's service in recognised pensionable employment and varying (to any extent required by the regulations) by reference to the duration of any period of such service.
- (5) Regulations shall enable the rate of minimum personal pension to be calculated in accordance with paragraph (a) of subsection (4) above only if the scheme so provides that—
  - (a) the contributions of the earner and those of the employer together, or those of the employer alone, amount to, or to the equivalent of, at least 5 per cent, of the earner's reckonable earnings ; and
  - (b) the contributions of the employer alone amount to, or to the equivalent of, at least 2-5 per cent, of those earnings.
- (6) Regulations—
  - (a) may enable the basis of calculating the rate of minimum personal pension to be varied (subject to any prescribed conditions) where the rules of the scheme require an earner who is a man and is married when he attains pensionable age to surrender part of his minimum personal pension in order to provide minimum death benefit for his widow or other dependants;
  - (b) so far as made for the purposes of subsection (4) above, may prescribe different bases of calculation according to whether minimum personal pension is or is not subject to increases complying with section 57 of this Act.
- (7) Where minimum personal pension is subject to increases complying with section 57 of this Act, but does not come into payment at its full rate until after pensionable age, the scheme must make such provision as is necessary to secure that its full rate when it comes into payment is not less than what would have been the increased rate if it had come into payment at its full rate at that age.
- (8) Without prejudice to subsection (7) above, the scheme must provide, in the case of minimum personal pension not coming into payment at its full rate until after pensionable age (where the earner remains in the relevant employment after attaining that age, or consents in writing to postponement), for the pension to be adjusted so as to take into account any period between pensionable age and the time when the pension comes into payment at its full rate ; and—
  - (a) this provision must be made in such a way as to satisfy the Occupational Pensions Board as to its adequacy; and
  - (b) recognition of the scheme may be made subject to prescribed conditions as to the adjustment of benefit in such cases.

## **55 Minimum death benefit (entitlement).**

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment, it must provide for minimum death benefit to be payable on his death in the cases specified in subsection (2) below, if at his death he leaves a widow.
- (2) The cases above referred to are the following—
  - (a) where the earner at the time of his death was in recognised pensionable employment by reference to the scheme;

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- (b) where the earner at his death had ceased to be in recognised pensionable employment by reference to the scheme and had become entitled thereunder to minimum personal pension (whether deferred or in payment) and either—
  - (i) he had not surrendered his entitlement in exchange for recognition credits allowed under another scheme, or by way of commutation, or
  - (ii) he had so surrendered it, but the surrender extended only to minimum personal pension and not to minimum death benefit.
- (3) Regulations may provide for the requirements of this section and section 56 of this Act to apply with prescribed modifications in relation to an earner whose marriage takes place after the termination of his service in recognised pensionable employment by reference to the scheme, and may restrict their application to cases where the marriage takes place not less than a prescribed period before the earner's death.
- (4) For the purposes of subsection (2)(a) above the length of the earner's period of service in recognised pensionable employment must be treated as immaterial.
- (5) In any of the cases specified in subsection (2) above the scheme may, with the approval of the Occupational Pensions Board, exclude minimum death benefit where the deceased earner had on the appointed day attained an age within 5 years of pensionable age or (if earlier) an age within 5 years of whatever age was for him normal pension age under the scheme.
- (6) Minimum death benefit must be payable to the widow, except that the scheme may, with the approval of the Board, confer on the trustees or managers discretion to direct that the benefit be paid instead to any dependant of the deceased earner, or be apportioned between the widow and one or more dependants, or between dependants other than the widow.
- (7) Minimum death benefit must—
  - (a) in a case where at his death the earner had attained pensionable age, be in the form of a pension; and
  - (b) in any other case, be in the form either of a pension or of a lump sum ;
 but subject to the foregoing paragraphs the scheme may deal differently, as respects the form of the benefit, with different cases and classes of cases.
- (8) The scheme must so provide that minimum death benefit must be payable as from the earner's death and, in the case of benefit in pension form, be payable for the pensioner's life, subject only—
  - (a) to regulations prescribing the provision which may or must be included in the scheme with respect to the time when the benefit (whether in pension form or otherwise) is to become payable ;
  - (b) to such provision (if any) as may be made by the scheme for the pension to be terminated or suspended in prescribed circumstances.

## **56 Rate or amount of minimum death benefit.**

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment it must comply with the requirements of this section as respects the rate or amount of minimum death benefit.
- (2) Subject to the provisions of this section, minimum death benefit, if in the form of a pension, must be at an annual rate not less than one half that of the deceased earner's own pension; and if in the form of a lump sum, it must be either—

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- (a) an amount not less than 14 times that rate if the pension was subject to increases complying with section 57 of this Act and 11 times that rate if it was not so subject; or
  - (b) an amount not less than 1.5 times—
    - (i) the annual rate of the deceased's reckonable earnings in any prescribed period of not more than 12 months before his death, or
    - (ii) his average annual reckonable earnings in any prescribed longer period before his death, (which period need not in either case be a period ending with the death).
- (3) Where the scheme provides for the earner's minimum personal pension to be subject to increases complying with section 57 of this Act, minimum death benefit in pension form must be also subject to increases complying with that section.
- (4) Where minimum personal pension is calculated on any basis prescribed under section 54(4) of this Act or varied under section 54(6)(a), the rate or amount of minimum death benefit must be not less than a rate or amount calculated on any basis prescribed for the purposes of this section.
- (5) In subsection (2) above, references to the deceased earner's own pension are—
  - (a) in a case where he died in service in recognised pensionable employment, to the minimum personal pension for which he would have qualified had he at his death attained pensionable age ; and
  - (b) in any other case, to the minimum personal pension (whether immediate or deferred) for which he qualified at any time before his death,allowing in the last-mentioned case for increases of pension (being increases complying with section 57 of this Act) which were or would have been payable between pensionable age and death.
- (6) Subsection (5) of section 53 of this Act shall apply in relation to minimum death benefit as it applies in relation to minimum personal pension.
- (7) To such extent, and in such cases, as may be authorised by regulations, a scheme may provide—
  - (a) for excluding minimum death benefit where the rate or amount of benefit would be less than a prescribed rate or amount;
  - (b) for less than the rate specified in subsection (2) above, or prescribed under subsection (4), to be payable where the deceased earner's widow or, in a case to which section 55(6) of this Act applies, any dependant of his, was more than a prescribed number of years younger than he was.

## **57 Increase of pension after it comes into payment.**

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment, in so far as recognition depends on provisions of the scheme relating to pension-increases complying with this section, the scheme must (subject to subsection (2) below) by its rules provide such increases of minimum pension (whether personal pension or death benefit in pension form) as to satisfy the Occupational Pensions Board—
  - (a) that the first increase after the pension comes into payment is payable after a period which is reasonable, and that the increase is of an adequate amount;

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- (b) that increases thereafter will be payable at not more than yearly intervals and will be calculated on a basis which either—
- (i) appears to the Board to correspond with that adopted in relation to official pensions under section 2 of the Pensions (Increase) Act 1971 (increase by reference to rise in cost of living), or
  - (ii) provides increases at a rate of not less than 3 per cent, a year compound;

and, where the scheme's rules provide for the increase of any year (computed on either of the alternative bases specified in paragraph (b) above) to be withheld if it is of less than a prescribed amount, the rules must provide for that year's increase to be carried forward and brought into computation in calculating the increases of subsequent years.

- (2) The scheme may be recognised in relation to the employment in question (if otherwise qualifying for recognition) in any case where the Board, having regard—
- (a) to the nature and scope of the provision made by the scheme's rules for increasing pensions after they come into payment;
  - (b) to the means adopted, or to be adopted, for financing the scheme; and
  - (c) to any increases which have been made of pensions already in payment under the scheme,

are satisfied that, taking one year with another, present and future pensioners under the scheme are likely to be protected to the same extent as they would have been if subsection (1)(b)(ii) above were complied with.

- (3) Subject to the foregoing provisions of this section, the scheme may in respect of pension-increases deal differently with different categories of pensioners.
- (4) The scheme may include provision enabling the basis of calculating pension-increases to be altered from time to time, whether in relation to all pensioners present and future, or to any particular category or categories of pensioners; but a scheme rule to this effect must provide for the alteration to be made only with the Board's approval.

## **58 Transfer of benefit between schemes: linked qualifying service.**

- (1) In this Act-
- (a) " transfer credits " means rights allowed to an earner under the rules of an occupational pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme ;
  - (b) " accrued rights ", in relation to a scheme, includes any transfer credits allowed under that scheme; and
  - (c) " recognition credits " means transfer credits allowed to an earner under the rules of a scheme in respect of—
    - (i) minimum benefits (whether minimum personal pension or minimum death benefit, or both) accrued under, and transferred from, another scheme by reference to which the earner has previously been in recognised pensionable employment, or benefits which include minimum benefits so accrued, or
    - (ii) transfer credits previously allowed under any scheme, so far as representing or replacing, or otherwise allowed in respect of, minimum benefits so accrued (or benefits including them),

and in this subsection " rights " includes rights to benefit and also options to have benefit paid in a particular form or at a particular time.

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- (2) For the purposes of this Act, any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—
- (a) under the rules of a scheme applying to him in the earlier period of service there was made a transfer of his accrued rights under that scheme to another scheme applying to him in the later period of service ; and
  - (b) in consequence of that transfer, there are (or were) allowed to him transfer credits under the rules of that other scheme,
- except that, for any service to be taken into account as linked qualifying service, it must be actual service, no regard being had to any scheme rule which provides for service to be treated, for any purposes of benefit or otherwise, as longer or shorter than it actually is.
- (3) Where in relation to any employment the rules of a scheme allow for the transfer of accrued rights to another scheme, then for the scheme to be recognised in relation to that employment it must so provide that any transfer of minimum benefits (or benefits including them) or recognition credits can be made only to a scheme which—
- (a) is recognised in relation to any employment; or
  - (b) falls within some category or description of schemes prescribed for the purpose of this subsection.
- (4) Where the rules of a scheme provide for the allowance of transfer credits, then for the scheme to be recognised in relation to any employment it must provide for them, if and so far as they consist of recognition credits, to be in such form, and subject to such conditions, as may be prescribed.
- (5) Any provision which has for its effect that a transfer of accrued rights can be made otherwise than with the earner's consent shall be inadmissible in relation to the minimum benefits of an occupational pension scheme, except in such cases as may be prescribed.

## **59 Financing and security of minimum benefits.**

- (1) For the purposes of this Part of this Act, the resources of an occupational pension scheme are the funds out of which the benefits provided by the scheme (whether minimum or other benefits) are payable from time to time, including the proceeds of any policy of insurance taken out, or annuity contract entered into, for the purposes of the scheme.
- (2) For a scheme (other than a public service pension scheme) to be recognised in relation to an earner's employment, the Occupational Pensions Board must be satisfied—
- (a) that the resources of the scheme are sufficient for all claims in respect of the minimum benefits of the scheme (so far as falling to be met out of those resources) to be met from time to time having regard to the anticipated extent of the scheme's resources, and to its other liabilities, at any time when claims may be expected to arise; and
  - (b) generally as to the arrangements in force or to be in force from time to time for securing the minimum benefits of the scheme.
- (3) If the scheme contains a rule as to the priority of claims on a winding up, and the rule is so framed as to accord priority, in the event of a winding up, to particular liabilities, and those liabilities consist of or include—

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- (a) pensions and other benefits in respect of which entitlement to payment has arisen ;
  - (b) prospective minimum benefits; and
  - (c) equivalent pension benefits under Part III of the former principal Act or the corresponding Northern Ireland legislation,
- (with or without priority as between particular liabilities), over all other liabilities under the scheme except any arising in respect of the expenses of administration (so far as those expenses are payable out of the resources of the scheme), then, subject to the following subsection, the Board must be satisfied that, in the event of an immediate winding up, those resources would be sufficient for the particular liabilities accorded priority, and also liabilities in respect of the expenses of administration (so far as so payable), to be met.
- (4) In applying subsection (3) above, the Board may disregard liabilities with priority, in so far as their priority ranks lower than that of the liabilities specified in paragraphs (a) to (c) of the subsection and lower also than liabilities in respect of the expenses of administration.
  - (5) References in subsections (2) and (3) above to the minimum benefits of the scheme are to be taken as including references to recognition credits.
  - (6) If the scheme contains no such rule as is referred to in subsection (3) above the Board must be satisfied that the resources of the scheme would be sufficient, in the event of an immediate winding-up, to meet in full all the liabilities falling to be discharged out of those resources.
  - (7) Where recognition or continued recognition depends on the Board being satisfied as mentioned in subsection (2), (3) or (6) above, the scheme may be recognised or continue to be recognised (as the case may be) in relation to any employment subject to such conditions as the Board think fit to impose for securing that the resources of the scheme are brought to, and maintained at, a level satisfactory to them (including conditions requiring steps to be taken, at the instance of the Board, to increase those resources at any time after recognition, including a time when the scheme has ceased to be recognised); and non-compliance with any condition imposed by the Board under this subsection shall be grounds on which the Board may cancel a recognition certificate issued in respect of any employment within the application of the scheme.
  - (8) In considering a scheme by reference to the considerations of subsections (2), (3) or (6) above, the Board shall have regard to any investments held for the purposes of the scheme; and the Board may by reference to those considerations make it a condition of recognition (or continued recognition) that—
    - (a) no part, or no more than a specified proportion, of the scheme's resources shall be invested in investments of a specified class or description;
    - (b) there shall be realised, before the expiration of a specific period, the whole or a specified proportion of investments of a specified class or description forming part of the scheme's resources when the condition is imposed;and in the event of any such condition not being complied with, this shall be a ground on which the Board may withhold recognition or cancel a recognition certificate issued in respect of any employment within the application of the scheme.
  - (9) Any provision which permits the payment out, otherwise than in prescribed circumstances, of any sum representing the surrender value of a policy of insurance

taken out for the purposes of the scheme shall be inadmissible in relation to the minimum benefits of a recognised scheme.

#### **60 Provisions barring commutation, surrender or forfeiture of minimum benefit.**

- (1) Except as provided by the following subsections, any provision having effect so as to enable the whole or part of any minimum benefit to be commuted or surrendered, or to be subject to any charge, hen or set-off, shall be inadmissible in relation to the minimum benefits of a recognised scheme.
- (2) Subsection (1) above shall not prevent a scheme qualifying for recognition with any of the following provisions—
  - (a) provisions enabling an earner (subject to section 58 of this Act) to surrender his accrued minimum benefits in exchange for recognition credits allowed under another scheme;
  - (b) provisions enabling minimum benefit in the form of a pension (whether personal benefit alone, or death benefit alone, or both benefits together) to be commuted, in prescribed circumstances, where the annual rate would not exceed a prescribed amount; or
  - (c) provisions approved by the Occupational Pensions Board and permitting an earner to commute his mini-mum personal pension in exceptional circumstances of serious ill-health;nor shall that subsection prevent a scheme qualifying for recognition with provisions whereby minimum personal pension is calculated on any basis prescribed under section 54(4) of this Act or varied under section 54(6)(a).
- (3) Any provision having effect so as to involve the forfeiture of any minimum benefit, otherwise than in such circumstances as may be prescribed, shall be inadmissible in relation to the minimum benefits of a recognised scheme.

#### **61 Minimum benefit to be inalienable.**

- (1) Where a person is entitled or prospectively entitled to minimum benefit under an occupational pension scheme, and the person's entitlement is in respect of his or another person's service in recognised pensionable employment by reference to that scheme, every assignment of, or charge on, that benefit, and every agreement to assign or charge the benefit (whether or not made at a time when the employment was recognised pensionable employment or the scheme a recognised scheme in relation to that employment) shall be void.
- (2) On the bankruptcy of a person who is entitled, or prospectively entitled, as mentioned in subsection (1) above, minimum benefit the assignment of which is or would be made void by that subsection shall not pass to any trustee or other person acting on behalf of his creditors.
- (3) The foregoing subsections apply to recognition credits as they apply to minimum benefits.
- (4) In the application of this section to Scotland—
  - (a) the reference to assignment of benefit shall be read as a reference to its assignation, " assign " being construed accordingly; and
  - (b) the reference to a person's bankruptcy shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor

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under section 14 of the Bankruptcy (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958,  
and in its application to Northern Ireland the reference to a person's bankruptcy shall be read as including the vesting of a person's estate and effects in the official assignee under section 349 of the Irish Bankrupt and Insolvent Act 1857.

## **62 Supervision of schemes after withdrawal of recognition.**

- (1) Where a recognition certificate in respect of any employment is cancelled or surrendered, the following provisions of this section shall apply in respect of any occupational pension scheme (not being a public service pension scheme) by reference to which that employment was recognised pensionable employment ; and those provisions shall continue so to apply for as long as any person qualifies (immediately or prospectively) for any of the minimum benefits of the scheme.
- (2) The Occupational Pensions Board shall be under a duty to satisfy themselves from time to time as to—
  - (a) the matters in respect of which they are required to be satisfied for recognition purposes under section 59 of this Act (that is to say, the matters dealt with in subsection (2) of that section and those dealt with in subsection (3) or (6), whichever is applicable); and
  - (b) the soundness and adequacy of any investments held for the purposes of the scheme (so far as relevant to the considerations of those subsections);
and where the scheme was recognised subject to such conditions as are referred to in section 59(7) or (8), those conditions shall continue to be binding notwithstanding that there is no recognition certificate in force.
- (3) For the purposes of subsection (2) (a) above the Board may (either by way of enforcement of such conditions as are referred to in section 59(7), or otherwise) by order require employers to make such payments to increase the resources of the scheme or for any other purpose as the Board think expedient for securing the minimum benefits of the scheme; and in the case of an employer failing to make any payment required by such an order—
  - (a) the Board may make a further order declaring the amount which the employer has failed to pay to be a debt due from him to the Board and may recover it from him accordingly; and
  - (b) any amount so recovered shall be paid over by the Board (on the employer's behalf) in accordance with the terms of the original order.
- (4) In so far as the Board are not satisfied as mentioned in subsection (2)(b) above, they may by order modify the scheme's rules or by order direct the scheme's trustees or managers to take such steps as the order may specify, in either case with a view to ensuring that the minimum benefits of the scheme are adequately secured to its beneficiaries, both present and future.
- (5) If it appears to the Board that there has been, or is likely to be, a breach of any rule of the scheme relating to the matters dealt with in sections 53 to 60 of this Act, the Board may take such steps as they think expedient with a view to remedying or preventing the breach; and for this purpose they may themselves take any proceedings for enforcement of the rules which would be open to a person as an actual or prospective beneficiary under the scheme, or as one of its trustees or managers, or as being otherwise concerned with the scheme or its benefits, and may assume the conduct of proceedings for enforcement brought by any such person.



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- (6) Where the Board are satisfied that the minimum benefits of the scheme are not, and cannot be, adequately secured to its beneficiaries, they may by order—
- (a) require the scheme to be wound up in accordance with such directions in that behalf as may be contained in the order; or
  - (b) direct the trustees or managers to take such steps for the winding-up of the scheme as the order may specify;
- and, on a winding-up in pursuance of an order of theirs under this subsection, the same powers shall be exercisable by the Board in relation to the scheme's winding-up rules as are exercisable by them under subsection (5) above in relation to other rules.
- (7) References in this section to the minimum benefits of a scheme—
- (a) include references to recognition credits ; but
  - (b) subject to paragraph (a) above, are only to benefits to which immediate or prospective entitlement arises by virtue of service in employment which has been recognised pensionable employment by reference to the scheme;
- and, in relation to a scheme of any prescribed category, the reference in subsection (3) above to employers shall include such persons as may be prescribed as among those to whom an order of the Board under that subsection may be directed in the case of a scheme of that category after it has ceased to be recognised.

*Preservation of benefit under occupational pension schemes*

**63 Requirements relating to preservation of benefits.**

- (1) The requirements of this Part of this Act relating to preservation of benefit under occupational pension schemes (" the preservation requirements ") are those set out in Part I of Schedule 16 to this Act; and Part II of that Schedule shall have effect for enabling the Secretary of State to make regulations modifying the preservation requirements and generally in relation to the preservation of benefit under occupational pension schemes.
- (2) This section shall have effect for securing that occupational pension schemes in force on the appointed day or coming into force thereafter conform with the preservation requirements in so far as conformity can be achieved by the use of powers conferred by this section (in addition to any powers otherwise exercisable) on those concerned with such schemes and on the Occupational Pensions Board.
- (3) It is hereby declared that nothing in the foregoing provisions of this section or in Schedule 16 to this Act is to be taken—
- (a) to apply with direct effect to any scheme (whether having effect before or after this section comes into force), or to the rights or liabilities of any person in, under or by virtue of a scheme ; or
  - (b) to preclude a scheme from being so framed as to provide benefits on any ampler scale, or (subject to any express provision made in the Schedule) payable at any earlier time or otherwise more favourable to beneficiaries, than is called for by the preservation requirements.
- (4) In the case of an occupational pension scheme whose resources are derived as mentioned in section 51(4)(a) of this Act, it shall be the responsibility—
- (a) of the trustees and managers of the scheme or, in the case of a public service pension scheme, of the Minister, government department or other person or

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body concerned with its administration, to take such steps as are open to them for bringing the scheme into conformity (if it does not otherwise conform) with the preservation requirements; and

- (b) of the Occupational Pensions Board to advise the trustees and managers, or, if it is a public service pension scheme, the Minister, department or others concerned with the scheme as to whether it does or does not (in the Board's opinion) conform with those requirements and, if the Board are of opinion that the scheme does not conform, to indicate the steps which they consider should be taken with a view to securing conformity;

and the following provisions of this section shall have effect in relation to schemes whose resources are so derived, but not in relation to public service pension schemes.

- (5) On an application made to them in respect of an occupational pension scheme by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination as to whether or not the scheme conforms with the preservation requirements; and the persons competent to make such an application in respect of a scheme are—
  - (a) the trustees or managers of the scheme;
  - (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
  - (c) any person who is an employer of persons in service in an employment to which the scheme applies;
  - (d) any member or prospective member of the scheme;
  - (e) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.
- (6) The Board may at any time of their own motion issue, in respect of a scheme which has come to their notice (including in particular a scheme which they are considering with a view to recognition, or one in respect of which an application has been made to them under section 64 of this Act for an order authorising the modification of the scheme, or modifying it), any determination which they could issue in the case of that scheme on an application to them under subsection (5) above.
- (7) If the Board determine, in the case of a scheme, that it does not conform with the preservation requirements they shall, either at the time of issuing their determination or as soon thereafter as they think expedient—
  - (a) by order direct the trustees or managers of the scheme, or any such persons as are referred to in subsection (5) (b) above, to exercise such powers as they possess for modifying the scheme with a view to bringing it into conformity with those requirements (for which purpose the Board shall include in their order such directions as they think appropriate to indicate the modification appearing to them to be called for); or
  - (b) if there is no person with power to modify the scheme as required by the Board, by order authorise the trustees or managers, or other persons named in the order (who may in particular include such an employer as is specified in subsection (5)(c) above) to make that modification; or
  - (c) themselves by order modify the scheme with a view to achieving the purposes above-mentioned.

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- (8) The Board may exercise their powers under subsection (7) above from time to time in relation to any scheme in respect of which they have issued a determination under this section, and may exercise the powers together or separately.
- (9) Any modification of a scheme made in pursuance of an order of the Board under subsection (7)(6) or (c) above shall be as effective in law as if it had been made under powers conferred by or under the scheme; and such an order may be made and complied with in relation to a scheme—
- (a) notwithstanding any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the modification being made;
  - (b) without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure, or the obtaining of any consent, with a view to the making of the modification.
- (10) An order of the Board under subsection (7) (a) above may require persons to exercise a power retrospectively (whether or not the power could otherwise be so exercised), and an order under subsection (7)(b) or (c) may operate retrospectively; and in this subsection " retrospectively " means with effect from a date before that on which the power is exercised or, as the case may be, the order is made, not being in either case a date earlier than the appointed day.
- (11) At any time when the Board are concerned with an occupational pension scheme for the purposes of issuing a determination under this section, they may include a determination (whether or not applied for) as to any of the particular matters specified in Part I of Schedule 16 to this Act (including that Part as modified by regulations under Part II of that Schedule).
- (12) For the purpose of arriving at a determination under this section in respect of a scheme the Board may, if they think it expedient having regard—
- (a) to the structure and character of the scheme ; and
  - (b) to any anomalous or impractical consequences that may be expected to follow from its modification to achieve conformity with any particular provision of Part I of Schedule 16 to this Act (including that Part as modified under Part II of that Schedule),
- disregard that provision in relation to the scheme, or direct that it be applied with such modification as may be specified in their determination.

#### *Modification and winding-up of schemes*

### **64 Modification and winding-up by order of Occupational Pensions Board.**

- (1) On an application made to them in respect of an occupational pension scheme by persons competent to make such an application in respect of it the Occupational Pensions Board may make an order—
- (a) authorising the modification of the scheme with a view to achieving any one or more of the purposes specified in subsection (3) below ;
  - (b) modifying the scheme with a view to achieving any one or more of those purposes; or
  - (c) directing or authorising the scheme to be wound up on grounds specified in subsection (4) below.

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- (2) Nothing in this section applies to public service pension schemes.
- (3) The purposes referred to in subsection (1)(a) and (b) above are those of enabling the scheme—
- (a) to be so treated that an employment to which it applies may be recognised pensionable employment by reference to it;
  - (b) to qualify for the approval of the Inland Revenue for the purposes of Chapter II of Part II of the Finance Act 1970 or to provide benefits enhanced up to the limits suitable in a scheme for which such approval is sought;
  - (c) to provide for the transfer of accrued rights to another scheme with a view to the acquisition, for those whose rights are transferred, of rights under the other scheme in connection with change of employment or otherwise, and for the allowance of transfer credits;
  - (d) to comply with the preservation requirements (without prejudice, however, to anything in section 63(5) to (12) of this Act);
  - (e) to provide for accrued entitlement to benefit (whether in payment or not), so far as payable out of the resources of the scheme, to be surrendered by beneficiaries (at their option and not otherwise, so long as the scheme remains in force and is not being, or to be, wound up) in exchange for other rights assured by means of one or more policies of insurance or annuity contracts, or by other means;
  - (f) to qualify under section 69 of this Act or to have included in, or removed from, it provisions designed to avoid the effect of the rules of law relating to perpetuities,
- or of enabling the trustees or managers of the scheme, or others concerned with, or having rights under, it to enter into alternative arrangements having regard to any provision of this Act, or of any other Act (passed or to be passed) amending or replacing any such provision, or making provision for similar purposes.
- (4) The grounds on which the Board may direct or authorise a scheme to be wound up, on an application made to them in that behalf under subsection (1) above, are that, having regard to any provision of this Act, or to any other Act (passed or to be passed) amending or replacing any such provision or making provision for similar purposes, the scheme ought to be replaced (in whole or in part) by a different scheme, or is no longer required.
- (5) In relation to an occupational pension scheme, the persons competent to make an application to the Board under this section are—
- (a) the trustees or managers of the scheme ;
  - (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
  - (c) any person who is an employer of persons in service in an employment to which the scheme applies; and
  - (d) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.
- (6) The Board shall not entertain an application for an order by them under this section unless they are satisfied that the purposes of the application (whether the modification or the winding-up of the scheme in question)—

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- (a) cannot be achieved otherwise than by means of such an order; or
- (b) can only be achieved in accordance with a procedure which is liable to be unduly complex or protracted, or involves the obtaining of consents which cannot be obtained, or can only be obtained with undue delay or difficulty;

but subject to this the Board may on such an application make (with the consent of the applicants) any one or more such orders as are specified in subsection (1) above and may exercise any of the powers of this section from time to time; and the extent of their powers under this section is not limited, in relation to any purposes for which they are exercisable, to the minimum necessary to achieve those purposes.

- (7) The Board shall not make an order under this section (whether related to the modification or to the winding-up of a scheme) unless they are satisfied that it is reasonable in all the circumstances to make it; and they shall not make any such order as would or might in their opinion result in any existing or prospective entitlement of a member of the scheme, in respect of a period of service before the coming into force of the order or of any modification which the order authorises, being diminished or curtailed without his consent, unless they are satisfied that it is in the interests of the generality of members that the order should be made.
- (8) In considering whether or not to make an order, the Board shall have regard to the structure and character of the scheme and the benefits provided by it, to the provisions of this Act and Chapter II of Part II of the Finance Act 1970, and generally to all the circumstances.
- (9) An order of the Board under this section—
  - (a) if it is an order authorising the modification of a scheme, shall be framed so as to confer the power of modification on such persons as the Board think proper (including persons who were not parties to any application made to the Board) and shall include directions indicating the modifications which they consider to be called for;
  - (b) if it is an order authorising a scheme to be wound up, shall include directions with respect to the manner and timing of the winding-up;

and any reference in this subsection to directions is to such directions as the Board think appropriate having regard to the purposes of the order.

- (10) Subsection (9) of section 63 of this Act shall apply with the necessary modifications in relation to an order of the Board under this section as it applies in relation to an order of theirs under subsection (7)(b) or (c) of that section, references in subsection (9) to modification being construed for this purpose as including references to winding-up; and—
  - (a) an order authorising modification may enable those exercising any power conferred by the order to exercise it retrospectively (whether or not the power could otherwise be so exercised); and
  - (b) an order modifying a scheme may modify it retrospectively ;and in this subsection " retrospectively " means with effect from a date before that on which the power is exercised or, as the case may be, the order is made, but only such date as may be proposed for the purposes of this subsection by the persons applying for the order.
- (11) In section 22 of the Finance Act 1971 (provisions for amendment of schemes with a view to obtaining Inland Revenue approval), subsections (4) to (10) (powers of Chief Registrar of Friendly Societies to amend schemes) shall cease to have effect.

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## **65 Modification, etc., of public service pension schemes.**

- (1) Subject to the provisions of this section, the appropriate authority shall, in relation to a public service pension scheme, have power to make such provision for the modification or winding-up of the scheme as could be made by an order of the Occupational Pensions Board under section 64(1)(6) or (c) of this Act in the case of a scheme other than a public service pension scheme ; and in this section " the appropriate authority ", in relation to a scheme, means such Minister of the Crown or government department as may be designated by the Minister for the Civil Service or, in Northern Ireland, the Ministry of Finance as having responsibility for the particular scheme.
- (2) The powers of the appropriate authority under this section shall be exercisable by means of an order—
- (a) directly modifying the scheme (without regard, in the case of a scheme contained in, or made under powers conferred by, an enactment, to the terms of the enactment or any of its restrictions);
  - (b) modifying an enactment under which the scheme was made or by virtue of which it has effect; or
  - (c) directing that the scheme be wound up and including directions with respect to the manner and timing of the winding-up;

and any such order shall contain such incidental, supplementary and transitional provisions as the appropriate authority considers to be required for the purposes of the order, including provisions adapting, amending or repealing any such enactment as is referred to in paragraph (a) or (b) above.

### *The Occupational Pensions Board*

## **66 Establishment of the Board; their functions and procedure.**

- (1) The Occupational Pensions Board shall be a body corporate by that name and have—
- (a) the functions conferred on them by this Act; and
  - (b) such advisory functions as may be conferred on them by the Secretary of State in respect of occupational pension schemes (including public service pension schemes).
- (2) The Board shall consist of a chairman, a deputy chairman and not less than 8 nor more than 12 other members, all appointed by the Secretary of State; and of the members other than the chairman and deputy chairman, one shall be appointed after consultation with organisations representative of employers, and one shall be appointed after consultation with organisations representative of employed earners (being in either case such organisations as the Secretary of State thinks it appropriate to consult).
- (3) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (bodies of which all members are disqualified) there shall be inserted at the appropriate place in alphabetical order—

“The Occupational Pensions Board”;

and the same words shall also be inserted at the appropriate place in alphabetical order in the Part substituted for Part II by Schedule 3 to that Act in relation to the Senate and House of Commons of Northern Ireland.

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- (4) The Board shall be included among the tribunals in relation to which the Council on Tribunals may under section 5 of the Tribunals and Inquiries Act 1971 make general recommendations as to appointments to membership ; and the functions of the Council shall include that of keeping under review, and from time to time reporting on—
  - (a) the constitution of the Board; and
  - (b) their working, so far as relating to matters dealt with by the Board by means of a formal hearing, or on review.
- (5) Schedule 17 to this Act shall have effect with respect to the Board and their affairs.
- (6) It shall be the duty of the Board, as soon as practicable after the end of each calendar year, to make to the Secretary of State a report on the exercise of their functions in that year; and the Secretary of State shall lay a copy of the report before each House of Parliament.
- (7) The Secretary of State may make regulations generally as to the procedure to be followed by the Board in the exercise of their functions and the manner in which their functions are to be exercised and may in particular make provision—
  - (a) as to the procedure to be adopted in connection with the issue, cancellation, variation or surrender of recognition certificates, and with applications, determinations and the making of orders ;
  - (b) as to the hearing of parties, the taking of evidence and the circumstances (if any) in which a document of any prescribed description is to be treated, for the purposes of any proceedings before the Board, as evidence, or conclusive evidence, of any prescribed matter;
  - (c) as to the time to be allowed for making any application or renewed application to the Board (whether for an order or determination of the Board, or for the review of a determination, or otherwise);
  - (d) as to the manner in which parties to any proceedings before the Board may, or are to, be represented for the purposes of the proceedings.
- (8) Regulations under subsection (7) above may provide for enabling the Board to summon persons to attend before them and give evidence (including evidence on oath) for any purposes of proceedings in connection with an occupational pension scheme, to produce any documents required by the Board for those purposes, or to furnish any information which the Board may require relating to any such scheme which is the subject matter of proceedings pending before them.
- (9) So far as regulations under subsection (7) above relate to procedure on any formal hearing by the Board, the power of the Secretary of State to make them shall be exercisable only after consultation with the Council on Tribunals.

## **67 Review of Board's determinations.**

- (1) Subject to the provisions of this section and section 86 of this Act (appeal on point of law), where the Occupational Pensions Board have—
  - (a) determined to issue, cancel or vary a recognition certificate ; or
  - (b) determined to make, or not to make, any order which they have power to make under this Part of this Act; or
  - (c) determined any other question which it is within their functions to determine, their determination shall be final.

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- (2) The Board may on the application of a person appearing to them to be interested—
  - (a) at any time review any such determination of theirs as is mentioned in subsection (1) above, or a determination given by them on a previous review, if they are satisfied that there has been a relevant change of circumstances since the determination was made, or that the determination was made in ignorance of a material fact or based on a mistake as to a material fact;
  - (b) at any time within a period of 6 months from the date of the determination, or within such longer period as they may allow in any particular case, review such a determination on any ground.
- (3) The Board's powers on a review under this section shall include power to vary or revoke any determination or order previously made, to substitute a different determination or order, and generally to deal with the matters arising on the review as if they had arisen on the original determination.
- (4) Subject to subsection (5) below, regulations made by the Secretary of State may make provision with respect to the procedure to be adopted on any application for a review under this section and generally with respect to such applications and reviews; but nothing in this subsection shall be taken to prevent such a review being entered upon by the Board without an application being made.
- (5) The power of the Secretary of State to make regulations under subsection (4) above shall be exercisable only after consultation with the Council on Tribunals.

## **68 Submission to the Board of proposals to make regulations.**

- (1) Where the Secretary of State proposes to make any regulations under this Part of this Act (other than regulations to be made before the expiration of 6 months after the passing of this Act) he shall refer the proposals, in the form of draft regulations or otherwise, to the Occupational Pensions Board.
- (2) The Board shall consider any proposals referred to them under this section and make a report to the Secretary of State containing such recommendations as they think fit with regard to the subject-matter of the proposals; and if after receiving the Board's report the Secretary of State lays before Parliament regulations or draft regulations which comprise the whole or any part of the subject-matter of proposals referred to the Board he shall lay with the regulations or draft a copy of the report and a statement showing—
  - (a) the extent (if any) to which the Secretary of State has, in framing the regulations, given effect to the recommendations contained in the Board's report; and
  - (b) in so far as effect has not been given to any such recommendations, his reasons why not.
- (3) In relation to any regulations required or authorised under this Act to be made by the Secretary of State in conjunction with the Treasury, any reference in the foregoing provisions of this section to the Secretary of State shall be construed as a reference to him and the Treasury acting jointly.



*Miscellaneous*

**69 Rule against perpetuities.**

- (1) At any time when an occupational pension scheme qualifies under this section it shall be exempt from the operation of any rules of law relating to perpetuities which would otherwise invalidate, or might be taken to invalidate, any of the trusts of the scheme or any disposition made under it or for its purposes (whether trusts created, or dispositions made, before or after the scheme first qualified under this section).
- (2) A public service pension scheme qualifies under this section at all times ; and otherwise a scheme qualifies at any time when—
  - (a) it is recognised under this Part of this Act in relation to any employment; or
  - (b) it satisfies the requirements of regulations under this subsection.
- (3) Regulations under subsection (2) above may require a scheme—
  - (a) to contain provisions in any prescribed form, or to any prescribed effect; or
  - (b) to have, or to be such that it may be expected to qualify for, tax-exemption or tax-approval;and the regulations may be so framed that, in prescribed circumstances, the requirements can be treated as satisfied if application has been duly made to the Inland Revenue with a view to obtaining tax-approval for the scheme.
- (4) In subsection (3) above, " tax-exemption " and " tax-approval " mean respectively exemption from tax and approval of the Inland Revenue in either case under any such provision of the Income Tax Acts as may be prescribed by regulations.
- (5) Regulations may include provision whereby a scheme which ceases to be recognised, or ceases to satisfy the requirements of regulations under subsection (2) above, may nevertheless be treated as continuing to qualify under this section for a further period of 2 years from the cesser, or for such longer period as the Occupational Pensions Board consider to be reasonable in the case of a particular scheme.
- (6) As respects the operation of the rules of law referred to in subsection (1) above—
  - (a) this section does not validate with retrospective effect any trusts created or dispositions made under or for the purpose of a scheme if (taking into account, where applicable, section 3(1) of the Perpetuities and Accumulations Act 1964 (" wait and see ") or the corresponding Northern Ireland enactment) those trusts or dispositions were already required to be treated as void under the rules before the scheme qualified under this section ; and
  - (b) if a scheme ceases to qualify, trusts so created and dispositions so made shall then again be subject to the rules as if the scheme had never qualified (but without prejudice to any rights which vested during the period of qualification).
- (7) There shall cease to have effect—
  - (a) the Superannuation and other Trust Funds (Validation) Act 1927 (power to register superannuation schemes, with consequent exemption from the rule against perpetuities), except section 9 and section 11 so far as it provides for citation and extends section 9 to Northern Ireland; and
  - (b) the corresponding Northern Ireland enactment, that is to say the Superannuation and other Trust Funds (Validation) Act (Northern Ireland) 1928 ;

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but regulations may provide, in relation to a scheme whose fund was registered under either Act immediately before its repeal took effect, for the scheme to retain the benefit of the Act, subject to prescribed conditions and either indefinitely or for a prescribed period.

- (8) The said Acts of 1927 and 1928 shall each, until its repeal by subsection (7) above, have effect with the following modifications—
- (a) no new application shall be made under section 3 of the Act for the registration of any fund (without prejudice to the effectiveness of any application previously made or pending); and
  - (b) the registration of a fund may be cancelled notwithstanding that the fund has not been wound up, if the trustees apply in writing to the registrar stating that they desire its cancellation.

#### **70 Legal restrictions of doubtful application.**

- (1) This section has effect for the removal of doubt as to the application, or possible application, of certain enactments in relation to occupational pension schemes.
- (2) Nothing in the Truck Acts 1831 to 1940. or the Truck Acts (Northern Ireland) 1831 to 1940, the Hosiery Manufacture (Wages) Act 1874 or the Stannaries Act 1887 has, or ever has had, effect so as to prevent the deduction from a person's earnings, on their payment to him, of his contributions to an occupational pension scheme, or of sums to be applied for the purpose of acquiring rights under such a scheme, whether for himself or for his widow or dependants.
- (3) An occupational pension scheme is not, nor ever has been, a shop club or thrift fund for the purposes of the Shop Clubs Act 1902.

#### **71 Friendly societies.**

- (1) The Secretary of State may, after consultation with the Chief Registrar of Friendly Societies or, in Northern Ireland, the Registrar of Friendly Societies for Northern Ireland, make such regulations as he thinks appropriate for enabling a registered society to conduct approved group insurance business with a view to the establishment of occupational pension schemes by reference to which the employment of members of the society can be recognised pensionable employment.
- (2) The power to make regulations under this section shall extend to enabling registered societies to conduct such business as is mentioned in subsection (1) above freed from any restrictions of the relevant legislation as to the amounts which a member, or a person claiming through a member, is entitled to receive from any one or more societies or branches.
- (3) Regulations under this section may include such adaptations and modifications of the relevant legislation, and such other supplementary and incidental provisions, as the Secretary of State considers to be necessary or expedient for achieving the purposes referred to in subsection (1) above.
- (4) In this section—
  - (a) as it applies to Great Britain—
    - (i) " the relevant legislation " means the Friendly Societies Acts 1896 to 1971 and Part II of Schedule 8 to the Finance Act 1966,

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- (ii) "registered society" has the same meaning as in the said Acts of 1896 to 1971, and
  - (iii) "approved group insurance business" has the same meaning as in section 10 of the Friendly Societies Act 1971;
- (b) as it applies to Northern Ireland—
- (i) "the relevant legislation" means the Friendly Societies Act (Northern Ireland) 1970,
  - (ii) "registered society" has the same meaning as in that Act, and
  - (iii) "approved group insurance business" has the same meaning as in paragraph 11(5) of Schedule 2 to that Act.

## **72 Fees for official services to schemes.**

Where at the request of the trustees or managers of an occupational pension scheme or of any employer of earners who are members of such a scheme, official services are provided in connection with the operation or administration of the scheme either by the Secretary of State or by the Occupational Pensions Board on his behalf, the Secretary of State may require the payment of fees for the provision of those services.

## **PART III**

### **THE RESERVE PENSION SCHEME**

#### *Establishment of the scheme under the Reserve Pension Board*

## **73 The Reserve Pension Board.**

- (1) There shall be a body corporate known as "the Reserve Pension Board", with responsibility for administering the reserve pension scheme established by this Part of this Act.
- (2) The Board shall have such other functions as are conferred on them by or under this Act, and in particular they shall be responsible for advising the Secretary of State from time to time on such matters relating to the reserve pension scheme as he may refer to them for their opinion.
- (3) The Board shall make such arrangements with the Secretary of State and the Northern Ireland Ministry as appear expedient for associating the administration of the reserve pension scheme with that of—
  - (a) the basic scheme as it operates in Great Britain and Northern Ireland respectively ; and
  - (b) the Industrial Injuries Acts and the corresponding Northern Ireland legislation, and for the exchange of information in that behalf.
- (4) The Board shall consist of a chairman, a deputy chairman and not less than 6 nor more than 12 other members all appointed by the Secretary of State; and of the members other than the chairman and deputy chairman one shall be appointed after consultation with organisations representative of employers, and one shall be appointed after consultation with organisations representative of employed earners (being in either case such organisations as the Secretary of State thinks it appropriate to consult).

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- (5) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (bodies of which all members are disqualified) there shall be inserted at the appropriate place in alphabetical order—  
     “The Reserve Pension Board”;  
 and the same words shall also be inserted at the appropriate place in alphabetical order in the Part substituted for Part II by Schedule 3 to that Act in relation to the Senate and House of Commons of Northern Ireland.
- (6) Part I of Schedule 18 to this Act shall have effect with respect to the Board and their affairs.

#### **74      The Reserve Pension Fund.**

- (1) There shall be established under the control and management of the Reserve Pension Board a fund to be known as " the Reserve Pension Fund " .
- (2) There shall be paid into the Reserve Pension Fund—
- (a) by the Secretary of State and the Northern Ireland Ministry respectively all contributions and premiums paid to them under this Part of this Act, after deduction of the relevant administrative expenses; and
  - (b) by the Board, all money received by them, whether in the nature of income or capital (including any money which they borrow).
- (3) The reference in subsection (2)(a) above to the relevant administrative expenses—
- (a) as regards the Secretary of State, is to such sums as he may estimate to be the expenses falling on him or any other government department in Great Britain, in collecting reserve scheme contributions and premiums and paying them into the Reserve Pension Fund ; and
  - (b) as regards the Northern Ireland Ministry, is to such sums as that Ministry may estimate to be the expenses so falling on it or any other department of the Government of Northern Ireland;
- and any estimate for the purposes of paragraph (a) or (b) above shall be arrived at in accordance with any directions of the Treasury or, in Northern Ireland, the Ministry of Finance.
- (4) There shall be paid out of the Reserve Pension Fund—
- (a) the reserve scheme pensions provided for by sections 80 and 81 of this Act;
  - (b) any expenditure of the Reserve Pension Board in the exercise of their functions (including expenditure on administration and the repayment of money borrowed by the Board and the payment of any interest on money so borrowed); and
  - (c) any sums which are payable by the Board to the Secretary of State or the Northern Ireland Ministry in respect of administrative services provided in pursuance of arrangements made for the purposes of section 73(3) of this Act.
- (5) There shall be paid out of the Reserve Pension Fund—
- (a) into the Consolidated Fund, sums representing expenses falling on any government department in Great Britain and attributable to this Part of this Act, being expenses in respect of the functions—
    - (i) under section 75(6) of this Act, of the Government Actuary, and

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(ii) under section 85 of this Act (as it applies to Great Britain) of the Secretary of State, insurance officers, local tribunals and National Insurance Commissioners;

(b) into the Exchequer of Northern Ireland, sums representing expenses falling on any department of the Government of Northern Ireland and so attributable, being expenses in respect of functions under section 85 of this Act (as it applies to Northern Ireland) of the Northern Ireland Ministry, insurance officers, local tribunals and National Insurance Commissioners;

and payments under this subsection shall be made at such times and in such manner, and the amount of any expenses referred to in paragraph (a) or paragraph (b) shall be estimated in such manner, as the Treasury or, in Northern Ireland, the Ministry of Finance may direct.

(6) The Secretary of State and the Northern Ireland Ministry respectively shall in respect of each financial year prepare accounts showing—

- (a) the sums received by them in that year and paid into the Reserve Pension Fund as contributions and premiums under this Part of this Act;
- (b) any sums paid by them in that year on behalf of the Reserve Pension Board as reserve scheme pensions (in pursuance of arrangements made for the purposes of section 73(3) of this Act);
- (c) the relevant administrative expenses for the purposes of subsection (2)(a) above ; and
- (d) any receipts by them under subsection (4)(c);

and these accounts shall be prepared in such form, and in such manner and at such times, as the Treasury or, in Northern Ireland, the Ministry of Finance, may direct; and the Comptroller and Auditor General shall examine the Secretary of State's accounts and lay copies thereof, together with his report thereon, before Parliament; and the Comptroller and Auditor General for Northern Ireland shall examine the accounts of the Northern Ireland Ministry and lay copies thereof, together with his report thereon, before the Parliament of Northern Ireland.

(7) Where payments fall to be made by way of adjustment—

- (a) out of the Reserve Pension Fund either to the Secretary of State or another government department in Great Britain, or into the National Insurance Fund or the Consolidated Fund; or
- (b) into the Reserve Pension Fund out of the National Insurance Fund or out of money provided by Parliament,

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

(8) Where payments fall to be made by way of adjustment—

- (a) out of the Reserve Pension Fund, to a department of the Government of Northern Ireland or into the Northern Ireland National Insurance Fund or the Exchequer of Northern Ireland; or
- (b) into the Reserve Pension Fund, out of the Northern Ireland National Insurance Fund or out of other public money belonging to Northern Ireland,

then in such cases or classes of case as may be specified by the Northern Ireland Ministry by order made with the consent of the Ministry of Finance the amount of the

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payments to be made shall be taken to be such, and payments on account thereof shall be made at such times and in such manner, as may be determined by that Ministry in accordance with any directions given by the Ministry of Finance.

- (9) Exemption from income tax shall, on a claim being made in that behalf, be allowed—
- (a) in respect of income derived from investments or deposits of the Reserve Pension Fund ;
  - (b) in respect of underwriting commissions if, or to such extent as the Inland Revenue are satisfied, the underwriting commissions are applied for the purposes of the reserve pension scheme and would (but for this paragraph) be chargeable to tax under Case VI of Schedule D;

and for the purposes of capital gains tax a gain shall not be a chargeable gain where it accrues to the Fund on any disposal of its investments.

- (10) Subject to subsection (6) above, Part II of Schedule 18 to this Act shall have effect with respect to the accounts of the Fund and their annual audit.

## **75 Management of the Fund and its investments.**

- (1) In exercising their functions under this Part of this Act, and in particular in their management and investment of the Reserve Pension Fund, the Board shall have paramount regard to the interests of existing and future pensioners with pensions paid or to be paid out of the Fund.
- (2) The Reserve Pension Fund may be invested by the Board in any manner they think expedient; but—
- (a) they shall so exercise their powers that any interest of the Fund in shares comprised in relevant share capital of a company to which this subsection applies is limited to less than 10 per cent, at any one time of the nominal value of that share capital;
  - (b) if at any time the Fund's interest in any such shares exceeds the limits imposed by paragraph (a) above, it shall be the Board's duty to effect such dispositions as are necessary for the purposes of compliance with that paragraph; and
  - (c) the duty imposed by paragraph (b) above shall be carried out by the Board without delay, except such delay (if any) as they think necessary to avoid any abnormal fluctuation of the market;

and a company to which this subsection applies is one in the case of which there has, as respects the whole or any proportion of its share capital, been granted a quotation on any recognised stock exchange.

- (3) The following shall have effect as to the interpretation of subsection (2) above—
- (a) subject to the following paragraphs, the subsection shall be construed as if contained in the Companies Act 1948 ;
  - (b) " company " includes a company within the meaning of the Companies Act (Northern Ireland) 1960;
  - (c) " recognised stock exchange " includes a stock exchange recognised for the purposes of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940 ;
  - (d) section 28 of the Companies Act 1967 (so far as applicable) shall be applied in construing the reference in paragraph (a) of the subsection to an interest of the Reserve Pension Fund in shares ; and

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- (e) " relevant share capital", in relation to a company, means issued share capital of a class carrying rights to vote in all circumstances at general meetings of the company.
- (4) The Board shall have power to borrow money (whether by way of overdraft or otherwise), against the security of any of their assets or otherwise, or against the security of any assets comprised in the Fund ; but this subsection shall not be taken to exempt the Board from the provisions of any order under section 1 of the Borrowing (Control and Guarantees) Act 1946 or section 2 of the Loans Guarantee and Borrowing Regulation Act (Northern Ireland) 1946, or from the provisions of the Exchange Control Act 1947.
- (5) The Secretary of State may, with the approval of the Treasury, lend to the Board any sums which the Board have power to borrow under subsection (4) above up to such amount as he may (with that approval) determine to be necessary to enable the Board to establish and bring into operation the reserve pension scheme; and any loan which the Secretary of State makes in pursuance of this subsection shall be repaid to him at such times by such methods, and interest on the loan shall be paid to him at such rates and at such times, as he may with the approval of the Treasury from time to time determine.
- (6) The Government Actuary shall—
  - (a) as from the end of the period of 3 years beginning with the appointed day or such shorter period beginning with that day as the Board may request; and
  - (b) thereafter as from the beginning of every third year after that in which he last began such a review, or of such earlier year as the Board may request,review the financial condition of the Fund as at the end of the year last ended before the beginning of the review and generally review the operation of this Part of this Act in past years and the way in which it may be expected to operate in the future; and after completing his review the Government Actuary shall report his conclusions thereon to the Board (without prejudice to any interim report which he thinks it expedient, or the Board request him, to make.

## **76 Annual report to Secretary of State.**

- (1) It shall be the duty of the Reserve Pension Board to make to the Secretary of State, as soon as practicable after the end of each financial year, a report on—
  - (a) the performance of their functions during that year; and
  - (b) the operation in that year of the reserve pension scheme.
- (2) The Board's report to the Secretary of State in respect of any year shall be accompanied by a copy of their statement of the accounts of the Reserve Pension Fund for that year, of the auditors' report on the accounts and of any report which has been made to the Board by the Government Actuary under section 75(6) of this Act and which the Board have not previously submitted to the Secretary of State.
- (3) The report shall include a statement as to the current investments of the Reserve Pension Fund as at the end of the year in question; and the statement, so far as relating to the Fund's current investments, shall—
  - (a) be in such form, and contain such particulars, as may be prescribed; and
  - (b) describe the Fund's investments in such manner, and in such categories or divisions and sub-divisions of categories, as regulations made for the purposes of this subsection may require;

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but the making of regulations for the purposes of this section shall not be taken as preventing the Board from including in their statement any such particulars as they think should be contained in it.

- (4) The Secretary of State shall lay before each House of Parliament a copy of the Board's annual report under this section, together with copies—
- (a) of the Board's statement of the accounts of the Reserve Pension Fund for the year in question ;
  - (b) of the auditors' report on the accounts ; and
  - (c) of any report which has been made to the Board by the Government Actuary under section 75(6) of this Act and has not previously been laid before Parliament.

*Contributions and premiums payable to the Fund*

**77 Reserve scheme contributions.**

- (1) Subject to the provisions of this Act, where in any income tax week earnings are paid to or for the benefit of an earner in respect of employed earner's employment and—
- (a) he is of the requisite age for the purposes of section 51 of this Act and that employment is not in relation to him recognised pensionable employment; and
  - (b) the amount paid is equal to or exceeds the current basic scheme lower earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly),

there shall be payable to the Secretary of State or, in Northern Ireland, to the Northern Ireland Ministry (and, except as provided by this Act, without regard to any other payment of earnings to or for the benefit of the earner in respect of any other employment) a primary and a secondary reserve scheme contribution.

- (2) The primary contribution shall be payable by the earner, and the secondary contribution shall be payable by the secondary reserve scheme contributor; and—
- (a) for the purposes of this section the secondary contributor, in relation to any payment of earnings to or for the benefit of an earner, is the same as is (or would be), for the purposes of Chapter I of Part I of this Act, the secondary Class 1 contributor in relation to that payment of earnings; and
  - (b) section 2(5) of this Act shall apply also in relation to the secondary reserve scheme contributor.
- (3) The amount of a reserve scheme contribution shall be a percentage of so much of the earnings paid in the week, in respect of the employment in question, as does not exceed the current basic scheme upper earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly); and—
- (a) the primary contribution shall be 1-5 per cent.; and
  - (b) the secondary contribution shall be 2-5 per cent.
- (4) Section 6(1) and (3) of, and Schedule 1 to, this Act shall apply as if primary and secondary reserve scheme contributions were respectively primary and secondary Class 1 contributions.

In those provisions as they apply by virtue of this subsection—

- (a) for " Great Britain " read " the United Kingdom " ; and



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- (b) in relation to contributions payable in Northern Ireland—
  - (i) for the Secretary of State substitute the Northern Ireland Ministry (except where he is first referred to in Schedule 1, paragraph 6(2), and in paragraph 8), and
  - (ii) for the Treasury substitute the Ministry of Finance.
- (5) Without prejudice to subsection (4) above, regulations may provide—
  - (a) for treating secondary reserve scheme contributions payable (in respect of any earnings paid to or for the benefit of an earner) but not paid, as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, the earner; and
  - (b) for treating reserve scheme contributions wrongly paid, or paid as to the wrong amount, as paid (wholly or in part) in discharge of a liability for other reserve scheme contributions or for basic scheme contributions, or for a reserve scheme premium.
- (6) No person shall—
  - (a) be liable to pay any reserve scheme contribution unless he fulfils such conditions as to residence or presence in the United Kingdom as may be prescribed;
  - (b) be entitled (except in such cases or classes of cases as may be prescribed) to pay any reserve scheme contribution other than one which he is liable to pay.
- (7) Regulations may provide for the adjustment of liability for reserve scheme contributions in cases where an earner, at the time of any payment of earnings to him or for his benefit which gives rise, or would apart from the regulations give rise, to liability for such contributions, is employed in two or more employed earner's employments (whether or not under the same employer), one or more of them being, and one or more of them not being, recognised pensionable employment in relation to the earner; and such regulations may provide for payments of earnings in respect of any or of all the employments concerned to be disregarded for the purposes of liability for primary reserve scheme contributions.
- (8) For the purpose of Chapter III of Part IX of the Income and Corporation Taxes Act 1970, the reserve pension scheme shall not be a sponsored superannuation scheme.

## **78 Reserve scheme premium on termination of recognised pensionable employment.**

- (1) Subject to the provisions of this section, where an earner's service in recognised pensionable employment ("the relevant employment") is terminated and either he is under the age of 26 or he has not at least 5 years' qualifying service (within the meaning of section 53(3) of this Act) accrued since the appointed day, there shall be payable to the Secretary of State, or in Northern Ireland to the Northern Ireland Ministry, a reserve scheme premium.
- (2) The person liable for the premium shall be—
  - (a) in a case where in the relevant employment the earner has been employed under a contract of service, his employer in that employment;
  - (b) in a case where the earner has been employed in an office with emoluments, either—
    - (i) such person as may be prescribed in relation to that office, or

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- (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office; and
  - (c) in any other case, such person as may be prescribed in relation to the relevant employment.
- (3) The amount of a reserve scheme premium shall—
- (a) if there was no previous linked qualifying service, be an amount equal to the aggregate of all primary and secondary reserve scheme contributions which would have been payable, in respect of the earner's period of service in the relevant employment, if it had not been recognised pensionable employment in relation to him ; and
  - (b) if there was a period of previous linked qualifying service, or there were two or more such periods, be that amount plus such amount (if any) as would have been payable by way of reserve scheme premium on the termination of any such period of service, if it had not been linked qualifying service (disregarding in either case any application of regulations made for the purposes of subsection (5) below).
- (4) In the following cases no reserve scheme premium shall be payable—
- (a) where at the time of termination the earner is no longer of requisite age for the purposes of section 51 of this Act;
  - (b) where the period of the earner's service in the relevant employment is terminated by his death ;
  - (c) where the period of that service is terminated otherwise than by the earner's death and—
    - (i) he becomes entitled under the relevant occupational pension scheme to such minimum personal pension as is mentioned in paragraph (a) or (b) of section 53(4) of this Act with full entitlement also in respect of any recognition credits allowed him under the rules of that scheme, or
    - (ii) that scheme includes such provision as is required for recognition purposes by section 58(3) of this Act and a transfer of the earner's accrued rights has been, or is to be, made in accordance with that provision with a view to the allowance of recognition credits under another scheme.
- (5) No premium shall be payable where its amount would be less than such amount as may be prescribed; and no person shall be entitled (except in such cases or classes of cases as may be prescribed) to pay any premium unless either he is liable under this section to pay it or he would be so liable but for the amount being less than that which is prescribed for the purposes of this subsection.
- (6) The supplementary provisions contained in Schedule 19 to this Act shall apply with respect to reserve scheme premiums and matters incidental and ancillary to this section.
- (7) The foregoing provisions of this section shall apply whether an earner's period of service in the relevant employment is terminated by reason of his ceasing to be employed in that employment or of the employment ceasing to be recognised pensionable employment; and—
- (a) subject to regulations made under paragraph 4 of Schedule 15 to this Act, where the period is terminated by the death of an employer, this section shall apply as if the period had been terminated immediately before the death ; and

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- (b) for the purposes of this section, if an employment becomes, or has ceased to be, recognised pensionable employment in the course of a person's service in it, his service before and after the time when the recognition certificate in respect of that employment takes effect or, as the case may be, ceased to be in force shall be treated as service in different employments.
- (8) Payment of a reserve scheme premium shall become due at such time as may be prescribed after the end of the period of service to which it relates.
- (9) In this section " the relevant occupational pension scheme", in relation to the relevant employment, means the occupational pension scheme by reference to which that employment is or has been recognised pensionable employment in relation to the earner concerned.
- (10) The Secretary of State may by regulations modify this section and section 79 below in their application to employments in the case of which earners under different employers qualify, by virtue of their respective service in those employments, for the benefits of the same occupational pension scheme; and regulations made for the purposes of this subsection may provide—
  - (a) for the trustees or managers of the scheme to be liable for a reserve scheme premium instead of those otherwise liable under subsection (2) above; and
  - (b) for the adjustment (whether as a consequence of provision made under paragraph (a) above, or otherwise) of rights and liabilities as between earners, employers and the trustees or managers.

## **79 Deduction of premium from refund of contributions.**

- (1) Where an earner's service in recognised pensionable employment is terminated and—
  - (a) he (or by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him for the purposes of the relevant scheme towards the provision of benefits under the scheme; and
  - (b) a reserve scheme premium falls to be paid in respect of him under this Part of this Act,then, subject to the provisions of this section, the person liable for the premium shall be entitled on paying it or any part of it to recover  $\frac{3}{8}$ ths of the payment or part from the person liable for the refund.
- (2) The amount recoverable under this section shall not exceed the amount of the refund or so much of it as has not been made.
- (3) Where the period taken into account in fixing the amount of the premium does not coincide with that in respect of which the refund is to be made, then (subject to subsection (4) below) the amount recoverable under this section shall be determined by reference to so much of the payment and of the refund as are referable to the same period.
- (4) The amount which may be recovered under this section in respect of any premium shall be increased by such amount as may be prescribed where the refund—
  - (a) is made in respect of more than one period of service, and one or more of those periods are periods of previous linked qualifying service; and
  - (b) includes any amount paid under a recognised scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme.

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- (5) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this section from another person liable for the refund.
- (6) The amount of the refund shall be reduced by any amount recovered or retained under this section; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this section to be exercised, and shall have effect notwithstanding anything in any enactment relating to the making of the refund.
- (7) Where an earner's service in recognised pensionable employment is terminated and—
- (a) he (or by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him under the relevant scheme in relation to any previous recognised pensionable employment of his, being payments towards the provision of benefits under that scheme ; and
  - (b) a reserve scheme premium falls to be paid in respect of him and the amount of the premium includes an amount for reserve scheme contributions which would have been payable in respect of him and his earnings arising from that previous employment;
- then in respect of that premium the person liable for it shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out of a refund in respect of a later employment) as a person has under the foregoing provisions of this section where a reserve scheme premium and a refund fall to be made on the termination of service in the employment in respect of which the refund is to be made; and subsection (6) above shall apply accordingly.
- (8) Notwithstanding any contract to the contrary, a person shall not be entitled to recover any part of a reserve scheme premium from the earner in respect of whose service it is payable or, except in accordance with this section, to recover or retain any part of such a premium out of any money payable to or for the benefit of the earner or any other person.
- (9) The foregoing provisions of this section shall apply in relation to such a refund as is referred to in subsection (1)(a) or (7)(a) above which becomes payable after the termination of an earner's service in recognised pensionable employment as they apply to such a refund becoming payable on the termination of an earner's service in such employment; and where he (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, those provisions shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1) (a) above.
- (10) For the purposes of subsection (9) above, a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being or having been a member of an occupational pension scheme, being a payment which either—
- (a) is made or to be made otherwise than out of the resources of the scheme ; or
  - (b) is made or to be made out of those resources but by way of distribution on a winding-up ; or
  - (c) falls within such other description of payments as may be prescribed for the purposes of subsection (9).

- (11) In this section, " the relevant scheme " in relation to any employment means the recognised scheme by reference to which that employment is or was recognised pensionable employment in relation to the earner concerned.

#### *Reserve scheme pensions*

### **80 Reserve scheme personal pension.**

- (1) Subject to the provisions of this Act, an earner in respect of whose earnings any reserve scheme contributions or premiums have at any time been paid, shall be entitled when he attains pensionable age to a reserve scheme personal pension.
- (2) The weekly rate of such a pension shall be ascertained, in accordance with Schedule 20 to this Act, by reference to the factors specified in paragraph 1 of that Schedule; but the rate shall be subject to increase, in accordance with section 82 of this Act, by reference to the normal and interim bonuses declared from time to time by the Reserve Pension Board.
- (3) Subject to and in accordance with regulations, a person with entitlement or prospective entitlement to a reserve scheme pension may, at any time before the pension comes into payment, elect for payment of the pension to be postponed for any period (whether determinate or not), but not beyond the age of 70 in the case of a man, or 65 in the case of a woman; and where a person so elects, the rate of pension shall be subject to adjustment in the prescribed manner, so as to take into account any period between pensionable age and the time when the pension comes into payment.

### **81 Reserve scheme widow's pension.**

- (1) Subject to the provisions of this Act, on the death of a man ("the deceased contributor") in respect of whose earnings there have at any time been paid reserve scheme contributions or reserve scheme premiums, there shall, if he was married at the time of his death, be payable to his widow a reserve scheme widow's pension.
- (2) The basic weekly rate of such a pension—
- (a) if the deceased contributor was at the date of his death under pensionable age, shall be one half the rate of the reserve scheme personal pension to which he would himself have been entitled on attaining that age; and
  - (b) in any other case, shall be one half the rate of the reserve scheme personal pension to which the deceased contributor was himself entitled immediately before his death;
- but the rate shall be subject to increase, in accordance with section 82 of this Act, by reference to the normal and interim bonuses declared from time to time by the Reserve Pension Board.
- (3) For the purpose of ascertaining, under subsection (2)(a) above, the rate of pension to which the deceased contributor would have been entitled—
- (a) there shall be taken into account under Schedule 20 to this Act all such contributions and premiums as became due from or in respect of him up to the date of his death and have been actually paid (whether before or after that date) or are treated as actually paid by regulations under section 77(5) or under Schedule 1 to this Act as applied by section 77(4);

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- (b) no assumption shall be made as to contributions or premiums which might have become payable in respect of him had he not died; and
  - (c) there shall be disregarded any normal or interim bonus declared by the Reserve Pension Board, under section 82 of this Act, with an effective date which is that of, or follows, the date of the contributor's death.
- (4) Regulations shall make provision modifying this section in relation to cases where the deceased contributor had made an election for the purposes of section 80(3) of this Act.

## **82 Declaration of bonuses by Reserve Pension Board.**

- (1) So soon as is practicable after they have received and considered a report of the Government Actuary made to them under section 75(6) of this Act, the Reserve Pension Board shall, if they think it right to do so having regard to the Actuary's report on the condition of the Reserve Pension Fund, declare a normal bonus, which shall (subject to subsection (8) below) be a uniform percentage increase, effective from such date as may be specified in the declaration as the effective date of the bonus, of the current rate of all reserve scheme pensions qualifying for normal bonus.
- (2) The pensions qualifying for normal bonus are those—
- (a) in respect of which entitlement has arisen at the effective date of the bonus; or
  - (b) in respect of which entitlement has not arisen at that date but whose rate, when entitlement arises, will be arrived at wholly or partly by reference to reserve scheme contributions and premiums paid before the end of the last year before the beginning of the Government Actuary's review.
- (3) For the purposes of subsection (1) above, the current rate of a pension qualifying for normal bonus is its rate computed—
- (a) in case (a) of subsection (2) above, as at the effective date of the bonus; and
  - (b) in case (b) of that subsection, as at the end of the last year before the beginning of the Government Actuary's review,
- with (in either case) any increase derived from a previous normal bonus, but disregarding any interim bonus.
- (4) Without prejudice to subsection (1) above, the Board may, without any report being made to them by the Government Actuary, declare an interim bonus, which shall (subject to subsection (8) below) be a uniform percentage increase, effective from such date as may be specified in the declaration as the effective date of the bonus, of the current rate of all reserve scheme pensions qualifying for interim bonus.
- (5) The pensions qualifying for interim bonus are those—
- (a) in respect of which entitlement has arisen at the effective date of the bonus; or
  - (b) in respect of which entitlement will arise in the period beginning with the effective date and ending with whatever may be the effective date of the next normal bonus.
- (6) For the purposes of subsection (4) above, the current rate of a pension qualifying for interim bonus is its rate computed—
- (a) in case (a) of subsection (5) above, as at the effective date of the interim bonus ; and
  - (b) in case (b) of that subsection, as at the time when entitlement arises,

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with (in either case) any increase derived from a previous normal bonus, but disregarding any interim bonus.

- (7) Where a normal bonus is declared, any resultant pension increase shall take effect in substitution for, and to the exclusion of, increases derived from any previous interim bonus.
- (8) When declaring a bonus, the Board may, in so far as they think it equitable to do so—
- (a) specify for particular categories of pensioners (present or future) a rate of increase greater or less than the uniform rate; and
  - (b) deal differently as between categories of pensions, or as between different parts of a pension of any category, either by specifying different increases, or by excluding any category or part from the application of any increase, by reference to when the contributions or premiums going to the rate of a pension were paid, or to the part of a pension which derives from any previous bonus.
- (9) Regulations may make such provision as the Secretary of State thinks expedient—
- (a) with respect to the amounts by which reserve scheme pensions are to be increased by reference to any bonus declared by the Board ;
  - (b) as to the application of any normal or interim bonus to pensions in respect of which elections have been made for the purposes of section 80(3) of this Act; and
  - (c) for enabling any relevant figures to be adjusted so as to admit of tabulation, and so as to avoid fractional amounts or otherwise facilitate computation.
- (10) The Board shall furnish to the Secretary of State particulars—
- (a) of any determination made by them for the purposes of subsection (1) above (whether a determination to declare a normal bonus, or not to declare one), these particulars being accompanied by a copy of the relevant report of the Government Actuary, in any case where the Secretary of State has not previously been furnished with a copy of that report; and
  - (b) of any determination by the Board under subsection (4) above to declare an interim bonus ;

and in either case the Secretary of State shall lay a copy of the particulars before each House of Parliament, together with (where relevant) a copy of the report of the Government Actuary.

### **83 Supplementary provisions as to reserve scheme pensions.**

- (1) A reserve scheme personal or widow's pension shall be payable for life, subject to regulations providing for it to be suspended or forfeited in prescribed circumstances, or making provision as to the time when it is to be treated as terminated when a pensioner dies:

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

- (2) Regulations may permit a pension to be commuted, when its weekly rate is less than such rate as may be prescribed, in exchange for payment of a lump sum provided from the Reserve Pension Fund; and a commutation effected in accordance with such regulations shall be treated as extinguishing any further entitlement to a reserve

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scheme pension in the case of the person effecting it, including any reserve scheme pension for his widow on his death.

- (3) Subject to subsection (2) above, every assignment of, or charge on, a reserve scheme pension, and every agreement to assign or charge such a pension, shall be void and, on the bankruptcy of any person actually or prospectively entitled to such a pension, his entitlement shall not pass to any trustee or other person acting on behalf of his creditors.

In the application of this subsection to Scotland—

- (a) the reference to the assignment of a pension shall be read as a reference to its assignation, "assign" being construed accordingly;
- (b) the reference to a person's bankruptcy shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 14 of the Bankruptcy (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958,

and in its application to Northern Ireland, the reference to a person's bankruptcy includes the vesting of a person's estate and effects in the official assignee under section 349 of the Irish Bankrupt and Insolvent Act 1857.

- (4) Paragraphs 2(6) and (7) and 8(1), (2)(a) and (3) of Schedule 10 to this Act as they apply to Great Britain shall, for the whole of the United Kingdom, have effect in relation to reserve scheme pensions as they have effect in relation to basic scheme benefits, but in paragraph 2(6) of the Schedule as applied by this subsection the Reserve Pension Board shall be substituted for the Secretary of State.

## PART IV

### MISCELLANEOUS AND GENERAL

#### *Adjudication*

#### **84 Questions arising under the basic scheme.**

- (1) Any of the following questions arising under Part I of this Act shall be determined by the Secretary of State in accordance with Part IV of the former principal Act—
- (a) any question whether a person is an earner and, if he is, as to the category of earners in which he is to be included;
  - (b) subject to subsection (2) below, any question—
    - (i) whether the contribution conditions for any benefit are satisfied, or
    - (ii) otherwise relating to a person's contributions or his earnings factor ;
  - (c) any question which of two or more persons satisfying the conditions for an increase of benefit, whether benefit of the same or a different description, shall be entitled to the increase where by virtue of some provision of Part I of this Act not more than one of those persons is so entitled ;
  - (d) any question as to the person to be treated as maintaining a child, or as to the family in which a child is to be treated as included, in a case where by virtue of the Schedule to the Family Allowances Act that question falls to be decided by the Secretary of State in his discretion;
  - (e) any question arising under paragraph 1(4) of Schedule 10 to this Act.



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- (2) Subsection (1)(b) above includes any question arising—
- (a) under section 5(6) of this Act as to whether by regulations under that subsection a person is excepted from liability for Class 4 contributions, or his liability is deferred; or
  - (b) under regulations made by virtue of section 5(8), (9) or (10);
- but not any other question relating to Class 4 contributions, nor any question to which subsection (5)(b) below applies.
- (3) A decision of the Secretary of State on any such question as is mentioned in paragraph (d) of subsection (1) above may be given so as to have effect with respect to a period before the date of the decision.
- (4) The Secretary of State may, if he thinks fit, before determining any question such as is mentioned in subsection (1)(a) to (c) above, appoint a person to hold an inquiry into the question, or any matters arising in connection therewith, and to report on the question, or on those matters, to the Secretary of State.
- (5) Any question arising under Part I of this Act—
- (a) as to the right to benefit (but not such a question as is referred to in paragraph 14 of Schedule 7); or
  - (b) whether a person would by reason of the provisions of, or of any regulations made under, section 14(2) or (3) of this Act have been disqualified for receiving unemployment benefit, sickness benefit or invalidity benefit if he had otherwise had a right thereto,
- shall be determined in accordance with the provisions of sections 68 to 72 of the former principal Act by an insurance officer, a local tribunal or a National Insurance Commissioner.
- (6) Part IV of the former principal Act (determination of claims and questions), so far as it remains in force, shall be amended as shown in Part I of Schedule 21 to this Act and, as so amended and with the repeals effected by this Act and any other Act of the same session in which this Act is passed, shall have effect as set out in Part II of that Schedule.

## **85 Questions arising under the reserve scheme.**

- (1) The following provisions of this subsection shall apply in the case of questions arising under Part III of this Act,; other than such a question as is referred to in subsection, (4) below or as may be prescribed by regulations under' subsection (5)—
- (a) any question so arising as to a person's liability for reserve scheme contributions or a reserve scheme premium shall be determined by the Secretary of State;
  - (b) any question so arising as to the reserve scheme contributions or premiums paid by or in respect of any person, so far as relating to his or another person's entitlement to a reserve scheme pension, shall be referred by the Reserve Pension Board to, and be determined by, the Secretary of State ;
  - (c) any question so arising as to a person's entitlement to a reserve scheme pension, or as to any other matter relating to such a pension (but not such a question as is referred to in paragraph (b) above), shall be determined by the Reserve Pension Board; and

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- (d) any question so arising as to whether a person's employment at any time is or was recognised pensionable employment in relation to him shall be referred by the Secretary of State to, and be determined by, the Occupational Pensions Board.
- (2) The Secretary of State may, if he thinks fit, before determining any such question as is referred to in subsection (1)(a) or (b) above, appoint a person to hold an inquiry into the question, or any matters arising in connection therewith, and report on the question, or on those matters, to the Secretary of State.
- (3) In subsections (1) and (2) above, as they apply to Northern Ireland and questions arising there, the Northern Ireland Ministry shall be substituted for the Secretary of State.
- (4) Where any question arises before the Reserve Pension Board under Part III of this Act—
- (a) as to a person's age ; or
  - (b) as to what was the date of a person's death; or
  - (c) as to whether a man was at the time of his death married to a particular woman ;  
or
  - (d) as to whether a woman previously married' has remarried and, if so, what was the date of her remarriage,
- that question shall be referred by the Board to an insurance officer for determination by him in accordance with Part IV of the former principal Act or the corresponding Northern Ireland legislation: and the said Part IV or that legislation, as the case may be, shall then apply as if it were such a question as is referred to in section 84(5) of this Act.
- (5) Regulations may prescribe questions arising before the Reserve Pension Board under Part III of this Act (not being such questions as are referred to in paragraphs (a) to (d) of subsection (4) above) which may or must in prescribed circumstances be referred by the Board to an insurance officer under Part IV of the former principal Act or the corresponding Northern Ireland legislation; and any question so prescribed shall in accordance with the regulations be so referred, and the said Part IV or that legislation, as the case may be, shall then apply as if it were such a question as is referred to in section 84(5) of this Act.
- (6) The Reserve Pension Board may, on new facts being brought to their notice, or if they are satisfied that their decision was given in ignorance of, or was based on a mistake as to, some material fact, review any decision given by them on any such question as is mentioned in subsection (1)(c) above:

Provided that such a decision shall not be reviewed while an appeal under section 86 of this Act is pending against the decision of the Board on a question of law arising in connection therewith, or before the time for so appealing has expired.

## **86 References and appeals from the two Boards.**

- (1) Any question of law arising in connection with—
- (a) any matter arising under Part II of this Act for determination by the Occupational Pensions Board ;
  - (b) any matter which under section 85(1) of this Act falls to be determined by that Board or the Reserve Pension Board;

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- (c) any matter arising on an application to either Board for a review of a determination by that Board, or on a review by either Board entered upon without an application,  
may, if the Board concerned think fit, be referred for decision to the court.
- (2) In this section " the court " means—
- (a) in England and Wales, the High Court;
  - (b) in Scotland, the Court of Session ; and
  - (c) in Northern Ireland, the Court of Appeal in Northern Ireland.
- (3) In the event of either Board determining in accordance with subsection (1) above to refer any question of law to the court, they shall give notice in writing of their intention to do so—
- (a) in a case where the question arises on an application made to the Board, to the applicant; and
  - (b) in any case to such persons as appear to them to be concerned with the question.
- (4) Any person aggrieved—
- (a) by a determination of the Occupational Pensions Board given on a review under section 67 of this Act, or by the refusal of that Board to review a determination; or
  - (b) by the determination by the Reserve Pension Board of any such question as is referred to in section 85 of this Act, or by the refusal of that Board to review a determination,
- where the determination in either case involves a question of law and that question is not referred by the Board concerned to the court under subsection (1) above, may on that question appeal from the determination to the court.
- (5) The Board concerned shall be entitled to appear and be heard on any reference or appeal under this section.
- (6) The provision made by rules of court or by rules made under section 7 of the Northern Ireland Act 1962 shall include provision for regulating references and appeals to the court under this section and for limiting the time in which such appeals may be brought.
- (7) So much of section 63(1) of the Supreme Court of Judicature (Consolidation) Act 1925 as requires an appeal from any person to the High Court to be heard and determined by a divisional court shall not apply to appeals under this section.
- (8) Notwithstanding anything in any enactment, the decision of the court on a reference or appeal under this section shall be final; and on any such reference or appeal the court may order the Board concerned to pay the costs or, in Scotland, the expenses of any other person, whether or not the decision is in that other person's favour and whether or not the Board appear on the reference or appeal.
- (9) In the foregoing provisions of this section, " the Board concerned" means the Occupational Pensions Board or the Reserve Pension Board, as the case may be.

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## **87 National Insurance Commissioners.**

- (1) For the purposes of section 84 of this Act, Part IV of the former principal Act and Part III of the Industrial Injuries Act, Her Majesty may from time to time appoint, from among persons who are barristers or advocates of not less than 10 years' standing, a Chief National Insurance Commissioner and such number of other National Insurance Commissioners as Her Majesty may think fit.
- (2) If it appears to the Chief National Insurance Commissioner (or, in the case of his inability to act, to such other of the National Insurance Commissioners as the Chief National Insurance Commissioner may have nominated to act for the purpose) that any appeal falling to be heard by one of those Commissioners involves a question of law of special difficulty, he may direct that the appeal shall be dealt with, not by that Commissioner alone, but by a tribunal consisting of any three of those Commissioners, and if the decision of any such tribunal is not unanimous, the decision of the majority shall be the decision of the tribunal.
- (3) Unless the context otherwise requires, any reference in this Act, the former principal Act or the Industrial Injuries Acts to, or falling to be construed as a reference to, a Commissioner appointed under this section shall include a reference to any tribunal constituted under subsection (2) above.

*Administration, enforcement, etc.*

## **88 Administrative provisions.**

- (1) For the purposes of this Act, the Secretary of State may appoint such inspectors as he may with the consent of the Minister for the Civil Service determine, and pay to them such salaries or remuneration as may be so determined; and the provisions of Part I of Schedule 22 to this Act (being provisions which substantially replace those of section 90(2) to (8) of the former principal Act and enactments amending that section) shall have effect in relation to the Secretary of State's inspectors, and their powers and duties.
- (2) The provisions of Part II of Schedule 22 to this Act (being provisions which substantially replace sections 91, 112 and 113 of the former principal Act and section 12 of the National Insurance Act 1971) shall have effect with respect to—
  - (a) the information to be provided under the enactments relating to registration for the purposes of proving age, marriage or death;
  - (b) the furnishing of addresses in connection with maintenance proceedings between husband and wife and other family litigation; and
  - (c) the treatment to be accorded under this Act to voidable and polygamous marriages,
 and, to the extent mentioned in that Part of Schedule 22, apply also for the purposes of the Industrial Injuries Act and the Family Allowances Act.
- (3) Part III of Schedule 22 to this Act shall have effect for the purpose of bringing section 64 of the Industrial Injuries Act (inspectors, etc.) into conformity with Part I of that Schedule in respect of penalties for obstruction and other matters.

## **89 Disclosure of information by Inland Revenue.**

- (1) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to Inland Revenue shall prevent information obtained in connection with the assessment or collection of income tax under Schedule E from being disclosed to the Secretary of State or the Northern Ireland Minister, or to an officer of either of them authorised to receive such information, in connection with the operation of any enactment relating to the calculation or collection of contributions under this Act, or the payment of benefit thereunder.
- (2) No such obligation as is referred to in subsection (1) above shall prevent information from being disclosed to any member of the Occupational Pensions Board, or an officer of the Board authorised to receive it, in connection with the exercise by the Board of any of their functions.
- (3) Subsections (1) and (2) above extend only to disclosure by or under the authority of the Inland Revenue ; and information which is the subject of disclosure to any person by virtue of either subsection shall not be further disclosed to any other person, except where the further disclosure is made—
  - (a) to a person to whom disclosure could by virtue of this section have been made by or under the authority of the Inland Revenue ; or
  - (b) for the purposes of any proceedings (civil or criminal) in connection with the operation of any enactment relating to the calculation or collection of contributions under this Act, or the payment of benefit thereunder ; or
  - (c) for any purposes of section 84 of this Act or Part IV of the former principal Act or the corresponding Northern Ireland legislation;or where the further disclosure is made to the trustees or managers of an occupational pension scheme and relates to a member of the scheme and is made with his consent.
- (4) In this section, references to contributions include references to reserve scheme premiums, and references to benefit include references to reserve scheme pensions.

## **90 Exemption from stamp duty.**

Stamp duty shall not be chargeable upon any document authorised by virtue of Part I of this Act or otherwise required in order to give effect to that Part or in connection with any description of business thereunder.

## **91 Information to be given to employees.**

- (1) Every statement given to an employee under section 4(1) of the Contracts of Employment Act 1972 (particulars as to terms of employment, etc.) after the appointed day shall contain a note stating—
  - (a) whether, for the employment in respect of which the statement is given, a recognition certificate is in force;
  - (b) if not—
    - (i) whether the employer has applied, or intends to apply, to the Occupational Pensions Board for such a certificate and, if so, when he did so or, as the case may be, intends to do so; and
    - (ii) that, during any period in which no such certificate is in force, reserve scheme contributions will be payable under section 77 of this Act in respect of the employee's earnings from the employment.

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- (2) The Contracts of Employment Act 1972 shall be construed and amended as follows—
- (a) any reference in section 4(5) of the Act (alternative method of conveying information to the employee) or in section 5(1) or (3) (changes in terms of employment, etc.) to that which is, or is to be, included, given or referred to in a statement under section 4(1) of the Act shall be construed as including a reference to a note under subsection (1) above ;
  - (b) any reference to that which is, or is to be, included, given or referred to in a statement under section 5(1) of the Act shall be construed in a corresponding way ;
  - (c) any reference in section 8(1) to (6) of the Act (employee's right of reference to industrial tribunal) shall be similarly construed, but subject to subsection (4) below ; and
  - (d) in section 6 of the Act (exclusion of section 4 requirements where information is given to employees in another way), after paragraph (c) there shall be added—
 

“and

    - (d) such a note as is mentioned in section 91(1) of the Social Security Act 1973 has been given to the employee, or he has reasonable opportunities of reading such a note in the course of his employment, or such a note is made reasonably accessible to him in some other way”.
- (3) Without prejudice to sections 4 to 6 of the Contracts of Employment Act 1972 or subsection (1) above, the Secretary of State may make such regulations as he thinks expedient for requiring employers to inform their employees, and keep them informed, in such manner and at such times as may be prescribed—
- (a) whether an employment is or is not, or will or will not be, or has ceased or may cease to be, recognised pensionable employment in relation to any category of earners;
  - (b) as to the employer's intentions in respect of applying to the Occupational Pensions Board for a recognition certificate for any employment, or for the cancellation or variation of such a certificate ;
  - (c) that, during any period in which a recognition certificate is not in force in respect of an employment, employees in that employment will be liable for reserve scheme contributions in respect of their earnings from it;
- and regulations made for the purposes of this section shall include provision requiring employers to afford to those of their employees who are concerned, or to organisations representing them, reasonable opportunities of making representations with respect to the matters which are to be included in a notice under the regulations.
- (4) Nothing in section 8 of the Contracts of Employment Act 1972 (reference to tribunal as to particulars of terms of employment) shall authorise or require a tribunal to determine any question whether an employment is or has at any time been, or will at any time be, recognised pensionable employment, or whether reserve scheme contributions are, were or will be payable in respect of earnings from any employment.
- (5) The Contracts of Employment Act 1972 and this section shall be construed as if this section were contained in that Act.

## 92 Offences, penalties and proceedings.

- (1) If any person fails to pay at or within the time prescribed for the purpose—
- (a) any basic scheme or reserve scheme contribution which he is liable under Part I or, as the case may be, Part III of this Act to pay (other than a Class 4 contribution recoverable by the Inland Revenue); or
  - (b) any reserve scheme premium which he is liable under Part III of this Act to pay,
- he shall be liable on summary conviction to a fine of not more than £50.
- (2) If any person—
- (a) buys, sells or offers for sale, takes or gives in exchange, or pawns or takes in pawn any contribution card or any used contribution stamp ; or
  - (b) affixes any used contribution stamp to any contribution card; or
  - (c) for the purpose of obtaining any benefit or other payment under this Act, whether for himself or some other person, or for any other purpose connected with this Act—
    - (i) knowingly makes any false statement or false representation; or
    - (ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,
- he shall be liable on summary conviction to a fine of not more than £400, or to imprisonment for a term not exceeding 3 months, or to both.
- (3) Regulations may provide for the recovery on summary conviction of penalties for offences under this Act of contravening or failure to comply with regulations; but penalties so provided shall not exceed—
- (a) for any one offence, £50 ; or
  - (b) for an offence of continuing any such contravention or failure after conviction, £10 for each day on which it is so continued.
- (4) The provisions of Schedule 23 to this Act (being provisions which substantially replace those of sections 94 and 95 of the former principal Act and section 10(1) to (4) and (6) of the National Insurance Act 1966) shall have effect with respect to prosecutions under this Act, the recovery of contributions following prosecution to conviction and otherwise with respect to proceedings under this Act, both civil and criminal; and so much of that Schedule as provides for the construction of references to a contribution card or a used contribution stamp shall apply also to any such reference in subsection (2) above.
- (5) Where in any proceedings—
- (a) for an offence under this Act; or
  - (b) involving any question as to the payment of contributions under Part I or Part III of this Act (other than a Class 4 contribution recoverable by the Inland Revenue) or of a reserve scheme premium under Part III; or
  - (c) for the recovery of any sums due to the Secretary of State, the National Insurance Fund or the Reserve Pension Fund,
- any such question arises as is mentioned in section 84(1)(a) to (c) or section 85(1)(a) or (b) of this Act, then, unless an appeal under section 65 of the former principal Act or section 86 of this Act is pending, or the time for appealing has not expired, or a question has been raised with a view to a review of the Secretary of State's decision,

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the decision of the Secretary of State shall be conclusive for the purposes of those proceedings.

- (6) If a decision of any such question is necessary for the determination of proceedings, and the decision of the Secretary of State has not been obtained or a question has been raised with a view to a review of the decision obtained, the question shall be referred to the Secretary of State for determination or review in accordance (subject to any necessary modifications) with Part IV of the former principal Act.
- (7) Where any appeal mentioned in subsection (5) above is pending, or the time for appealing has not expired, or where any question so mentioned has been referred to the Secretary of State, the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.
- (8) Subsection (2) above (without paragraphs (a) and (b)), and paragraphs 1 to 4 and 6 of Schedule 23, shall have effect for the purposes of the Industrial Injuries Act as if in those provisions references to this Act or to regulations or an inspector included respectively references to that Act and to regulations and an inspector under that Act; and subsection (3) above shall have effect for the purposes of that Act (subject to any express provisions of that Act) but shall not apply to a contravention of, or failure to comply with, regulations under that Act requiring a person to submit himself to medical treatment.

### **93 Priority of certain debts in bankruptcy, etc.**

- (1) Subject to and in accordance with Schedule 24 to this Act, the debts specified in subsection (2) of this section shall be included among those accorded priority under the relevant enactments specified in that Schedule (being enactments relating to personal insolvency, companies' winding-up and the remedies of debenture holders and chargees); and in subsection (2) below " the relevant event " has the meaning indicated by that Schedule.
- (2) The debts referred to in subsection (1) above are—
  - (a) any sum owed on account of Class 1 contributions (primary or secondary) or Class 2 contributions payable in either case in the period of 12 months immediately preceding the date of the relevant event;
  - (b) any sum owed on account of an earner's contributions to an occupational pension scheme, or of primary reserve scheme contributions, being in either case contributions deducted from earnings paid in the period of 4 months immediately preceding the date of the relevant event, or otherwise due in respect of earnings paid or payable in that period;
  - (c) subject to subsection (4) below, any sum owed on account of an employer's contributions to a recognised occupational pension scheme in respect of recognised pensionable employment, and payable in the period of 12 months immediately preceding the date of the relevant event (the reference to an employer being construed in accordance with regulations made under section 51(5) of this Act);
  - (d) any sum owed on account of secondary reserve scheme contributions payable in the period of 12 months immediately preceding the date of the relevant event; and
  - (e) subject to subsection (5) below, any sum owed on account of a reserve scheme premium payable at any time before, or in consequence of, the occurrence of the relevant event.



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- (3) Any priority accorded by the enactments relating to personal insolvency which are specified in Schedule 24 to this Act to debts consisting of income tax assessed and unpaid shall be accorded, to the same extent and subject to the same limitations, to debts consisting of Class 4 contributions assessed and unpaid, so far as owed to the Inland Revenue and not to the Secretary of State or the Northern Ireland Ministry.
- (4) Contributions falling within subsection (2)(c) above are those payable, in respect of earners in recognised pensionable employment by reference to the recognised scheme in question, towards the provision for those earners of the minimum benefits of the scheme; and insofar as contributions cannot from the terms of the scheme be identified as being so payable, the following shall apply—
- (a) the amount of the debt having priority by virtue of that paragraph shall be deemed to be an amount equal to—
    - (i) 4 per cent, of the total reckonable earnings paid, in the period of 12 months referred to in that paragraph, to or for the benefit of non-contributing earners; or
    - (ii) 2.5 per cent, of the total reckonable earnings paid in that period to or for the benefit of contributing earners;
  - (b) the earnings to be taken into account under paragraph (a) above as reckonable earnings are those paid to or for the benefit of earners in recognised pensionable employment (by reference to the scheme) in the whole or any part of that period ; and
  - (c) for the purposes of the above paragraphs—
    - (i) " reckonable earnings " has the same meaning as in section 54(3) of this Act, and " paid " includes payable; and
    - (ii) earners are to be identified as contributing, or non-contributing, in relation to any service of theirs in recognised pensionable employment by reference to the scheme, according to whether or not in the period in question they were liable under the terms of the scheme to contribute (in respect of that service) towards the provision of the minimum benefits of the scheme.
- (5) Where any such premium as is mentioned in subsection (2)(e) above is payable in respect of a period of service of more than 12 months (taking into account any previous linked qualifying service), the amount to be paid in priority under the enactments specified in Schedule 24 to this Act shall be limited to the amount of the premium which would have been payable if the service had been confined to the last 12 months taken into account in fixing the actual amount of the payment.
- (6) Where—
- (a) by virtue of subsection (1) above the whole or part of a reserve scheme premium is required to be paid in priority to other debts of the debtor or his estate; and
  - (b) the person liable for the payment would be entitled to recover the whole or part of any sum paid on account of it from another person either under section 79 of this Act or under any provision made by the relevant scheme for the purposes of that section,

then that other person shall be liable for any part of the premium for the time being unpaid ; but so that no person shall be liable by virtue of this subsection for an amount in excess of the sum which might thereunder be recovered from him if the premium had been paid in full by the person liable for it, after deducting from that sum any

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amount which has been or may be recovered from him in respect of any part of that payment paid otherwise than under this subsection.

- (7) The payment under subsection (6) above of any amount in respect of a reserve scheme premium shall have the same effect upon the rights and liabilities of the person making it (other than his liabilities under that subsection) as if it had been a payment of that amount on account of the sum recoverable from him in respect of the premium as mentioned in subsection (6) (b).

### *The Industrial Injuries Acts*

#### **94 Assimilation of Industrial Injuries Acts to basic scheme.**

- (1) Part I of the Industrial Injuries Act (insured persons and contributions), but not Part I of Schedule 1 to that Act (insurable employments), shall cease to have effect.
- (2) Throughout the Industrial Injuries Acts any reference to an insured person or to insured persons shall be replaced by a reference to an employed earner or employed earners as the case may be, and any reference to insurable employment or to insurable employments, or to insured person's employment, shall be replaced by a reference to employed earner's employment or employed earners' employments, as the case may be; and, subject to subsection (3) below, in those Acts—
- (a) subject to paragraph (b) below, "employed earner" shall have the meaning given by section 1(7) of this Act;
  - (b) "employed earner's employment" shall be taken to mean any employment by virtue of which a person is, or is treated by regulations under those Acts as being, an employed earner for the purposes of those Acts ; and
  - (c) "the Social Security Act" means this Act.
- (3) Every employment specified in Part I of Schedule 1 to the Industrial Injuries Act shall be employed earner's employment for the purposes of the Industrial Injuries Acts, and regulations under those Acts may provide for any employment prescribed by the regulations—
- (a) to be treated for those purposes as included in that Part of that Schedule during any period in which it is treated by regulations under this Act as being employed earner's employment for the purposes of this Act; or
  - (b) not to be treated for the purposes of the Industrial Injuries Acts as such employment, notwithstanding that it would be so treated apart from the regulations.
- (4) For the purposes of the Industrial Injuries Acts, an employment shall be an employed earner's employment in relation to an accident if (and only if) it is, or is treated by regulations under those Acts as being, such an employment when the accident occurs.
- (5) Subject to the provisions of Part IV of the Industrial Injuries Act (extension to diseases etc.) and this section, a person who is, or is treated for the purposes of those Acts as being, in employed earner's employment shall be entitled in accordance with Part IV of that Act to benefit in respect of any disease prescribed under that Part, and of any injury so prescribed (but not an injury caused by accident arising out of and in the course of his employment), being a disease or injury due to the nature of that employment and developed after 4th July 1948.

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- (6) The repeal by this Act of section 56(1) of the Industrial Injuries Act shall not take away any entitlement to benefit otherwise arising by virtue of that subsection.
- (7) Throughout the Industrial Injuries Acts and the Old Oases Acts and schemes made thereunder, any reference to the Industrial Injuries Fund shall be replaced by a reference to the National Insurance Fund.
- (8) Regulations made by the Secretary of State under the Industrial Injuries Acts may modify those Acts, in such manner as he thinks proper, in their application to persons who are or have been, or are to be, employed on board any ship, vessel, hovercraft (within the meaning of the Hovercraft Act 1968) or aircraft.
- (9) There shall be included among the regulations to which section 62(2) of the Industrial Injuries Act (regulations which, before being made, are to be referred to the Industrial Injuries Advisory Council) does not apply—
  - (a) regulations contained in a statutory instrument which states that it contains only regulations made for the purpose of making provision consequential upon the coming into force of an order under section 39 of this Act;
  - (b) regulations made before the expiration of 6 months beginning with the date of the passing of any Act passed after this Act and directed to be construed as one with the Industrial Injuries Act or this Act, where the regulations are contained in a statutory instrument which states that it contains only regulations made for the purpose of making provision consequential on the passing of that Act and the Act does not exclude this paragraph in respect of the regulations ;
  - (c) regulations in so far as they consist only of procedural rules within the meaning of section 10 of the Tribunals and Inquiries Act 1971 for a tribunal mentioned in that section;
  - (d) regulations contained in a statutory instrument which states that it contains only regulations which are substantially to the same effect as regulations already made or to be made under this Act or under Part IV of the former principal Act; and
  - (e) regulations made by virtue of paragraph 14(6) of Schedule 22 to this Act.
- (10) The repeal by this Act of sections 46 and 47 of the former principal Act (supplementary schemes) shall not affect their continued application, by virtue of section 82(2) of the Industrial Injuries Act, to a supplementary scheme submitted under section 82(1) of that Act.
- (11) The Industrial Injuries Act and this section shall be construed as if this section were contained in that Act.

*Northern Ireland*

**95 Further provisions as to Northern Ireland.**

- (1) Subject to the following provisions of this section, Parts II and III of this Act, and this Part, extend to Northern Ireland.
- (2) The following provisions of this Part of this Act, namely—
  - (a) sections 84(1) to (5), 88, 92, 94(1) to (8), (10) and (11) and 96;
  - (b) Schedule 22, paragraphs 1 to 7, and 13 to 15, and Schedules 23 and 26 ; and
  - (c) any provision applying for the interpretation of those sections and Schedules,

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extend to Northern Ireland with the adaptations set out in Part I of Schedule 25 to this Act.

- (3) The following provisions of this Part of this Act do not extend to Northern Ireland, namely—
- (a) sections 84(6), 87, 91, 94(9) and 98;
  - (b) Schedule 21 and paragraphs 8 to 12 of Schedule 22; and
  - (c) so much of section 100 and Schedules 27 and 28 as has effect for the amendment and repeal of enactments not extending to Northern Ireland.
- (4) The provisions of Parts II, III and IV of Schedule 25 to this Act (being provisions which correspond to, or replace, certain of those excluded by subsection (3) above or supplement those of section 97) extend to Northern Ireland only.
- (5) The power of the Parliament of Northern Ireland to make laws shall include power to enact legislation corresponding to any provision of this Act, except sections 40(2) to (4) and 43(2); and this Act shall, so far as it relates to matters in respect of which that Parliament has power to make laws, be deemed for the purposes of section 6 of the Government of Ireland Act 1920 to have been passed before the day referred to in that section as the appointed day.

#### *Subordinate legislation*

### **96 Orders and regulations (general provisions).**

- (1) Any power under this Act to make regulations or an order (except a power of the Northern Ireland Ministry, or a power of the Occupational Pensions Board to make orders under Part II) shall be exercisable by statutory instrument.
- (2) Except in so far as this Act otherwise provides, any power conferred thereby to make an Order in Council, regulations or an order may be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
  - (b) so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act,
    - (iii) any such provision either unconditionally or subject to any specified condition,

and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and any power to make Orders in Council, regulations or an order for the purposes of any one provision of this Act shall be without prejudice to any power to make regulations or an order for the purposes of any other provision.

- (3) Without prejudice to any specific provision in this Act, any power conferred by this Act to make an Order in Council, regulations or an order shall include power to make thereby such incidental or supplementary provision as appears to Her Majesty, or the

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authority making the regulations or order, as the case may be, to be expedient for the purposes of the Order in Council, regulations or order.

- (4) Any power conferred by this Act to make an Order in Council or an order shall include power to vary or revoke any such Order in Council or order by a subsequent Order in Council or, as the case may be, order.
- (5) Subsections (1) to (4) above shall apply in relation to powers under Part IV of the former principal Act, and to regulations made in the exercise of such a power, as they apply in relation to powers and regulations under this Act.
- (6) Any power conferred on the Secretary of State or the Joint Authority by any provision of this Act (other than paragraph 4 of Schedule 10) or of Part IV of the former principal Act to make any regulations or order, where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.
- (7) Any power under section 40 to 43, 49 and 50 of this Act to prescribe, or to make provision by Order in Council for, modifications of this Act shall be exercisable in relation to any enactment passed after this Act which is directed to be construed as one with this Act; but this subsection shall apply only so far as a contrary intention is not expressed in the Act so passed, and shall be without prejudice to the generality of any such direction.

## **97 Parliamentary control of orders and regulations.**

- (1) Subject to the provisions of this section, no regulations shall be made wholly or partly by virtue of any of the following provisions of this Act, namely section 3(4), 5(9), 14(4), 41 or 42, and no order shall be made wholly or partly by virtue of section 12(3), unless a draft of the regulations or order has been laid before Parliament and been approved by resolution of each House of Parliament.
- (2) Subsection (1) above shall not apply in the case of—
  - (a) regulations under section 41 of this Act, where the instrument containing the regulations states that the regulations are made for the purpose of making provision consequential upon the making of an order under section 7 or 8 of this Act;
  - (b) regulations to be made for the purpose only of consolidating regulations thereby revoked;
  - (c) regulations which, in so far as they are made under the powers conferred by the provisions mentioned in subsection (1) above, only replace provisions of previous regulations with new provisions to the same effect;
  - (d) regulations or orders made by the Northern Ireland Ministry.
- (3) All regulations made under this Act or Part IV of the former principal Act by the Secretary of State or the Joint Authority, other than regulations to which subsection (1) above applies, and all orders so made by the Secretary of State, except an order under section 7, 8, 12(3), 39 or 101, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of section 48(3) or 68(2) of this Act shall be deemed to be satisfied as respects either House of Parliament if a copy of the report and the

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statement referred to in the relevant subsection are laid before that House not later than the second day on which the House sits after the laying of the regulations.

### *General*

## **98 Financial provisions.**

- (1) Without prejudice to section 46(2) of this Act, there shall be paid out of money provided by Parliament—
- (a) any expenses falling on the Secretary of State or other government department under this Act, including those incurred by the Secretary of State in making any loan to the Reserve Pension Board ;
  - (b) any increase attributable to this Act in the expenses of any Minister of the Crown or government department falling to be paid out of money so provided under any other enactment.
- (2) There shall be paid into the Consolidated Fund—
- (a) any sums deducted by the Secretary of State under section 74(2)(a) of this Act or receivable by him under section 74(4)(c);
  - (b) any sums received by the Secretary of State by way of repayment of any loan made by him to the Reserve Pension Board or as interest on any such loan;
  - (c) any sums recovered by the Secretary of State in pursuance of regulations under paragraph 1(b) of Schedule 19 to this Act.

## **99 Interpretation.**

- (1) In this Act except where the context otherwise requires—
- " the basic scheme " means the scheme of social security contributions and benefits established by Part I of this Act, and " basic scheme contributions ", " basic scheme benefits " and similar expressions shall be construed accordingly,
  - " benefit year " has the meaning given by section 9(10) of this Act;
  - " confinement " has the meaning given by section 18(1);
  - " contract of service " means any contract of service or apprenticeship whether written or oral or whether expressed or implied;
  - " current ", in relation to the lower and upper earnings limits under section 2(1) of this Act, means for the time being in force;
  - " earnings " includes any remuneration or profit derived from an employment, and " earner " shall be construed accordingly;
  - " employed earner " and " self-employed earner " shall be construed in accordance with section 1(7) and regulations under Part I;
  - " employment " includes any trade, business, profession, office or vocation and " employed " shall be construed accordingly except in the expression " employed earner ";
  - " family allowance " means an allowance under the Family Allowances Act;
  - " the Family Allowances Act " means the Family Allowances Act 1965;
  - " financial year ", in sections 74(6) and 76(1) and in Schedule 18, Part II, means the period from the beginning of April in one year to the end of March in the next;

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- " the former principal Act " means the ational Insurance Act 1965;
- " incapable of work " means incapable of work by reason of some specific disease or bodily or mental disablement, or deemed in accordance with regulations to be so incapable;
- " income tax week " means one of the successive periods in an income tax year beginning with the first day of that year and every 7th day thereafter (the last day of an income tax year, or, in the case of an income tax year ending in a leap year, the last two days thereof being accordingly treated as a separate income tax week);
- " income tax year " means the 12 months beginning with 6th April in any year ;
- " the Industrial Injuries Act " means the National Insurance (Industrial Injuries) Act 1965, and "the Industrial Injuries Acts " means die National Insurance (Industrial Injuries) Acts 1965 to 1972 ;
- " the Inland Revenue " means the Commissioners of Inland Revenue;
- " the Joint Authority " means the Authority continued in being by section 49(4) of this Act;
- " linked qualifying service " shall be construed in accordance with section 58(2);
- " the Ministry of Finance " means the Ministry of Finance for Northern Ireland;
- " the Northern Ireland Minister " and " the Northern Ireland Ministry " mean respectively the Minister and the Ministry of Health and Social Services for Northern Ireland;
- " occupational pension scheme " has the meaning given by section 51(3)(a);
- " the Old Cases Act" means the Industrial Injuries and Diseases (Old Cases) Act 1967, and "the Old Cases Acts " means the Industrial Injuries and Diseases (Old Cases) Acts 1967 to 1972 ;
- " pensionable age " has the meaning given by section 23(1);
- " prescribed " means prescribed by regulations ;
- " public service pension scheme " has the meaning given by section 51 (3)(b);
- " recognised pensionable employment " and " recognition certificate " shall be construed in accordance with section 51(1);
- " recognition credits " has the meaning given by section 58(1)(c);
- " the reserve scheme " means the reserve pension scheme established by Part III of this Act, and references to " reserve scheme contributions", " reserve scheme premiums " and " reserve scheme pensions" shall be construed accordingly;
- " resources ", in relation to an occupational scheme, shall be construed in accordance with section 59(1) of this Act;
- " transfer credits " has the meaning given by section 58(1)(a);
- " week " means a period of 7 days beginning with midnight between Saturday and Sunday, except in sections 12(1)(d), 14, 26(1) and 35(2), where the expression is otherwise defined; and
- " year ", in Part I of this Act, means an income tax year, except where it is otherwise stated, or the context is one relating to a person's age.

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- (2) Except where the context otherwise requires, references in this Act to any Part of it include references to the Schedules of that Part.
- (3) Where any provision of this Act refers to regulations and the authority with power to make them is neither specified nor to be implied from the context, the reference is to regulations made by the Secretary of State except that, in and for any purpose of Part I as it applies to Northern Ireland, it is to regulations made by the Northern Ireland Ministry.
- (4) In any provision of this Act (except section 95(5)) containing a reference to " the appointed day " that expression shall be taken to have whatever meaning may be given by the order under section 101 of this Act which brings that provision into force.
- (5) Where a provision of this Act which extends to Northern Ireland contains a reference to a government department and does not expressly or by implication from the context refer only to a department of the Government of the United Kingdom, then in the application of that provision to Northern Ireland the reference is to be taken to be, or to include (as the context may require), a department of the Government of Northern Ireland.
- (6) Where under Part I of this Act a person is to be treated by reference to any employment of his as an employed earner, then he is to be so treated for all purposes of this Act, and references throughout this Act to employed earner's employment shall be construed accordingly.
- (7) References in this Act to " the lower earnings limit" and " the upper earnings limit", whether or not in a context contained in Part I, are to the lower and upper limits respectively referred to in section 2(1) of this Act; and references to the lower or upper earnings limit of an income tax year are to whatever is (or was) for that year the limit in force under section 2(1).
- (8) For the purpose of this Act—
  - (a) " child " means a person who would be treated as a child for the purposes of the Family Allowances Act;
  - (b) a person shall be deemed to have attained or not to have attained school-leaving age if he would be treated as being, as the case may be, over or under the upper limit of the compulsory school age for the purposes of that Act (disregarding any regulations made by virtue of section 2 of the Family Allowances and National Insurance Act 1967 (construction of references to school-leaving age));
  - (c) a person shall be deemed to have a family which includes a child or children if that person (not being a child) and a child or children (with or without a wife or husband of that person) would be treated for the purposes of that Act as constituting a family, and references to a child of a person's family shall be construed accordingly.
- (9) For the purposes of this Act, two persons shall not be deemed to have ceased to reside together by reason of any temporary absence of either or both of them, and in particular by reason of any such absence at school or while receiving medical treatment as an in-patient in a hospital or similar institution or by reason of any absence of either or both of them in such circumstances as may be prescribed.
- (10) For the purposes of this Act—



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- (a) a person shall be deemed to be over or under a particular age if he has or, as the case may be, has not attained that age; and
  - (b) a person shall be deemed to be between two particular ages if he has attained the first-mentioned age but has not attained the second-mentioned age.
- (11) For the purposes of this Act, a person shall be deemed to be incapable of self-support if, but only if, he is incapable of supporting himself by reason of physical or mental infirmity and is likely to remain so incapable for a prolonged period.
- (12) Any reference in Part I of this Act to a woman's late husband shall, in relation to a woman who has been more than once married, be taken as referring to her last husband.
- (13) Anything which under any provision of this Act is authorised or required to be done by the Government Actuary may be done instead by the Deputy Government Actuary, and references to the Government Actuary shall be construed accordingly.
- (14) For the purposes of this Act, the amount of a person's earnings for any period, or the amount of his earnings to be treated as comprised in any payment made to him or for his benefit, shall be calculated or estimated in such manner and on such basis as may be prescribed; and regulations made for these purposes may prescribe that payments of a particular class or description made or falling to be made to or by a person shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of that person's earnings.
- (15) Any reference in this Act to an enactment shall, except in so far as the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any enactment including an enactment contained in this Act; and "enactment", in this Act, includes an enactment of the Parliament of Northern Ireland and any reference in this Act to an enactment of that Parliament shall include a reference to an enactment re-enacting it with or without modification.
- (16) Any reference in this Act, in relation to any enactment of the Parliament of the United Kingdom, to the corresponding Northern Ireland legislation is a reference to, or to any provision of, an Act of the Parliament of Northern Ireland, or any order made under or having the same effect as such an Act, for the time being in force corresponding to that enactment.
- (17) Any reference in section 48, 68, 96, or 97 of this Act to an Order in Council, or an order or regulations, under this Act or any Part thereof shall include a reference to an Order in Council, an order or regulations, made under any provision of an enactment passed after this Act and directed to be construed as one with this Act or, as the case may be, that Part; but this subsection shall apply only so far as a contrary intention is not expressed in the enactment so passed, and shall be without prejudice to the generality of any such direction.
- (18) The Ministry of Social Security Act 1966 is cited in this Act as the Supplementary Benefit Act 1966 and may be so cited in any other Act or instrument.

## **100 Transitional provisions; minor and consequential amendments; repeals.**

- (1) The provisions of Schedule 26 to this Act shall have effect with respect to the transition from the operation of the National Insurance Acts 1965 to 1972 and the corresponding Northern Ireland legislation, and the other enactments repealed by this Act, to the operation of this Act.

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- (2) Subject to any provision made by or under subsection (1) above—
  - (a) the enactments and Orders specified in Schedule 27 to this Act shall (without prejudice to any other provision of this Act) have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act;
  - (b) the enactments and Orders specified in Schedule 28 to this Act (which include certain spent provisions and other provisions which are no longer required or will cease to be required on the coming into force of the amendments made by Schedule 27) are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Where this Act amends an enactment of the Parliament of Northern Ireland, or an Order made under, or having the same effect as, an enactment of that Parliament, the enactment or Order as amended shall be subject to the Interpretation Act (Northern Ireland) 1954 in the same way as an Act of that Parliament is so subject.
- (4) Section 38 of the Interpretation Act 1889 (effect of repeals) shall have the same operation in relation to any repeal by this Act of an enactment of the Parliament of Northern Ireland (or of any provision of an Order made under an enactment of that Parliament) as it has in relation to the repeal of an Act of the Parliament of the United Kingdom, references in that section of the Act of 1889 to Acts and enactments being construed accordingly.

#### **101 Citation and commencement.**

- (1) This Act may be cited as the Social Security Act 1973.
- (2) This Act shall come into force on such day as the Secretary of State may appoint by order; and—
  - (a) different days may be so appointed for, or for different purposes of, any one or more provisions of this Act (including, in the case of section 100 of this Act, the amendment or repeal of different enactments specified in Schedule 27 or 28 to this Act, or of different provisions of any enactment so specified); and
  - (b) an order under this subsection appointing a day for the coming into force of any provision (whether for all purposes or for particular purposes specified in the order) shall, if that provision contains a reference to "the appointed day", specify the day (being a day not earlier than the making of the order nor later than the coming into force of the provision) which is to be the appointed day for any purposes for which the provision is brought into force.
- (3) An order under subsection (2) above may make such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with provisions of this Act which are thereby brought (wholly or in part) into force, and may make such adaptations of those provisions or of any provisions of this Act then in force as appear to the Secretary of State to be necessary or expedient in consequence of the partly postponed or postponed operation of any provision of this Act (whether before, on or after the day appointed by the order).
- (4) Any statutory instrument containing an order made under this section shall be laid before Parliament after being made.

## SCHEDULES

### SCHEDULE 1

Section 1(4).

#### SUPPLEMENTARY PROVISIONS RELATING TO CONTRIBUTIONS OF CLASSES 1, 2 AND 3

##### *Class 1 contributions where earner employed in more than one employment*

- 1 (1) For the purposes of determining whether Class 1 contributions are payable in respect of earnings paid to an earner in a given week and, if so, the amount of the contributions—
- (a) except as may be provided by regulations, all earnings paid to him or for his benefit in that week in respect of one or more employed earner's employments under the same employer shall be aggregated and treated as a single payment of earnings in respect of one such employment; and
  - (b) earnings paid to him or for his benefit in that week by different persons in respect of different employed earner's employments shall in prescribed circumstances be aggregated and treated as a single payment of earnings in respect of one such employment.
- (2) Where any single payment of earnings is made in respect of two or more employed earner's employments under different employers, liability for Class 1 contributions shall be determined by apportioning the payment to such one or more of the employers as may be prescribed, and treating a part apportioned to any employer as a separate payment of earnings by him.
- (3) Where earnings are aggregated under sub-paragraph (1)(b) above, liability (if any) for the secondary contribution shall be apportioned, in such manner as may be prescribed, between the secondary Class 1 contributors concerned.

##### *Earnings not paid at normal intervals*

- 2 Regulations may, for the purposes of Class 1 contributions, make provision as to the intervals at which payments of earnings are to be treated as made.

##### *Method of paying Class 1 contributions*

- 3 (1) Where earnings are paid to an employed earner and in respect of that payment liability arises for primary and secondary Class 1 contributions, the secondary contributor shall (except in prescribed circumstances), as well as being liable for his own secondary contribution, be liable in the first instance to pay also the earner's primary contribution, on behalf of and to the exclusion of the earner ; and for the purposes of this Act contributions paid by the secondary contributor on behalf of the earner shall be deemed to be contributions paid by the earner.
- (2) Notwithstanding any contract to the contrary, no secondary Class 1 contributor shall be entitled to make, from earnings paid by him, any deduction in respect of his own or any other person's secondary Class 1 contributions, nor otherwise to recover such

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contributions from any earner to whom he pays earnings; and a secondary Class 1 contributor who deducts or attempts to deduct the whole or any part of such a contribution from earnings shall be liable on summary conviction to a fine of not more than £50.

- (3) A secondary Class 1 contributor shall be entitled, subject to and in accordance with regulations, to recover from an earner the amount of any primary Class 1 contribution paid or to be paid by him on behalf of the earner ; and notwithstanding anything in any enactment, regulations under this sub-paragraph shall provide for recovery to be made by deduction from the earner's earnings, and for it not to be made in any other way.

*General provisions as to Class 1 contributions*

- 4 Regulations may, in relation to Class 1 contributions, make provision—
- (a) for calculating the amounts payable according to a prescribed scale or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation ;
  - (b) for requiring that the liability in respect of a payment made in an income tax week, in so far as the liability depends on any conditions as to a person's age or retirement, shall be determined as at the beginning of the week or as at the end of it;
  - (c) for securing that liability is not avoided or reduced by a person following in the payment of earnings any practice which is abnormal for the employment in respect of which the earnings are paid ; and
  - (d) without prejudice to the foregoing sub-paragraph, for enabling the Secretary of State, where he is satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of Class 1 contributions is avoided or reduced by means of irregular or unequal payments, to give directions for securing that such contributions are payable as if that practice were not followed.

*Power to combine collection of contributions with tax*

- 5 (1) Regulations made with the concurrence of the Inland Revenue may—
- (a) provide for Class 1 or Class 2 contributions to be paid, accounted for and recovered in like manner as income tax deducted from the emoluments of an office or employment by virtue of regulations under section 204 of the Income and Corporation Taxes Act 1970;
  - (b) apply or extend with or without modification in relation to such contributions any of the provisions of the Income Tax Acts or of regulations under ifchat section ;
  - (c) make provision for the appropriation of the payments made by any person between his liabilities in respect of income tax and contributions.
- (2) Section 98 of the Taxes Management Act 1970 shall apply in relation to regulations made by virtue of this paragraph as it applies in relation to regulations made under the said section 204 ; and if a person fails to pay at or within the time prescribed for the purpose any sums which he is required by regulations made by virtue of this paragraph to pay, he shall be liable to be proceeded against and punished under section 92(1) of this Act without proof of his failure so to pay any particular contribution.

- (3) The Inland Revenue shall, at such times and in such manner as the Treasury may direct, account to the Secretary of State for, and pay to him, the sums estimated by the Inland Revenue, in such manner as may be so directed, to have been received by them as contributions in accordance with regulations made by virtue of this paragraph.

*General regulation-making powers*

- 6 (1) Regulations may provide—
- (a) for requiring persons to maintain, in such form and manner as may be prescribed, records—
    - (i) of the earnings paid by them to and in respect of earners, and
    - (ii) of the contributions paid or payable in respect of earnings so paid,
 for the purpose of enabling the incidence of liability for contributions of any class to be determined, and to retain the records for so long as may be prescribed ;
  - (b) for treating primary Class 1 contributions, when payable on the primary contributor's behalf by the secondary contributor, but not paid, as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, the primary contributor and, in the case of contributions so treated, for treating them also as paid at a prescribed time or in respect of a prescribed period ;
  - (c) for treating, for the purpose of any entitlement to benefit, contributions paid at or after any prescribed time as paid at some other time (whether earlier or later) or, in the case of contributions paid after the due date for payment, or at such later date as may be prescribed, as not having been paid;
  - (d) for enabling contributions to be treated as paid in respect of a year earlier or later than that in respect of which they were actually paid;
  - (e) for treating (for the purposes of Class 2 contributions) a week which falls partly in one, and partly in another, year as falling wholly within one or the other of those years ;
  - (f) for treating contributions of the wrong class, or at the wrong rate, or of the wrong amount, as paid on account of contributions properly payable (notwithstanding section 4(3) of this Act, in the case of Class 3 contributions) or as paid (wholly or in part) in discharge of a liability for reserve scheme contributions or a reserve scheme premium ;
  - (g) without prejudice to sub-paragraph (f) above, for enabling the whole or part of any payment of Class 2 contributions to be treated as a payment of secondary Class 1 contributions ;
  - (h) for the return of contributions paid either in error or in such circumstances that, under any provision of Part I of this Act or of regulations, they fall to be repaid ;
  - (j) for treating a person as being an employed earner, notwithstanding that his employment is outside Great Britain, where the employment is in continuation of employment in Great Britain;
  - (k) for treating a person's employment as continuing during periods of holiday, unemployment or incapacity for work and in such other circumstances as may be prescribed;
  - (l) for requiring persons to apply to the Secretary of State for the allocation of a national insurance number ;

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- (m) for any other matters incidental to the payment, collection or return of contributions.
- (2) Regulations made by the Secretary of State under sub-paragraph (1) above providing for the payment of Class 2 or Class 3 contributions, at the option of the persons liable to pay, either—
- (a) by means of adhesive stamps ; or
  - (b) by some alternative method, the use of which involves greater expense in administration to the government departments concerned than would be incurred if the contributions were paid by means of such stamps,
- may include provision for the payment to the Secretary of State by any person who adopts any alternative method, and for the recovery by the Secretary of State, of the prescribed fees in respect of any difference in the expense in administration.
- (3) Where under regulations made by virtue of sub-paragraph (1) above contributions are payable by means of adhesive stamps, the Secretary of State may, with the consent of the Treasury, arrange for the preparation and sale of those stamps and may by regulations provide for applying, with the necessary modifications as respects those stamps, all or any of the provisions of the Stamp Duties Management Act 1891, section 9 of the Stamp Act 1891 and section 63 of the Post Office Act 1953.
- 7 Regulations may provide that, for the purpose of determining whether a contribution is payable in respect of any person, or for determining the amount or rate of any contribution, he is to be treated as having attained at the beginning of a week, or as not having attained until the end of a week, any age which he attains during the course of that week.
- Power of Secretary of State to deduct contributions from pension, etc.*
- 8 (1) Where a person is in receipt of a pension or allowance payable by the Secretary of State by virtue of any prescribed enactment or instrument, the Secretary of State may with the consent of that person pay any contributions (other than Class 1 or Class 4 contributions) payable by him and deduct the amount so paid from the pension or allowance.
- (2) Sub-paragraph (1) above shall have effect notwithstanding anything in any Act, Royal Warrant, Order in Council, order or scheme.

## SCHEDULE 2

Section 5(3).

### LEVY OF CLASS 4 CONTRIBUTIONS BY INLAND REVENUE

#### *Interpretation*

- 1 In this Schedule—
- (a) " the Act of 1968 " means the Capital Allowances Act 1968 ;
  - (b) " the Act of 1970 " means the Income and Corporation Taxes Act 1970 ; and
  - (c) " year " means year of assessment within the meaning of the Act of 1970.

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*Method of computing profits or gains*

- 2 Subject to the following paragraphs, Class 4 contributions shall be payable in respect of the full amount of all profits or gains of any relevant trade, profession or vocation chargeable to income tax under Case I or II of Schedule D, subject to—
- (a) deductions for—
    - (i) allowances which under section 70(2) of the Act of 1968 fall to be made as a deduction in charging the profits or gains to income tax, and
    - (ii) any allowance the amount of which falls to be given by way of discharge or repayment of income tax under section 71 of that Act, where in either case the allowance arises from activities of any relevant trade, profession or vocation ; and
  - (b) additions for any such charges as under section 70(6) of that Act fall to be made for purposes of income tax on the profits or gains.

*Reliefs*

- 3 (1) For the purposes of computing the amount of profits or gains in respect of which Class 4 contributions are payable, relief shall be available under, and in the manner provided by, the following provisions of the Act of 1970, that is to say—
- (a) section 168 (set-off of trade losses against general income), but only where loss arises from activities the profits or gains of which would be brought into computation for the purposes of Class 4 contributions ;
  - (b) section 169 (extension of right of set-off to capital allowances);
  - (c) section 171 (carry-forward of loss against subsequent profits);
  - (d) section 174 (carry-back of terminal losses).
- (2) The following relief provisions shall not apply, that is to say—
- (a) Chapter II of Part I of the Act of 1970 (personal reliefs);
  - (b) sections 226 and 227 of that Act (premiums or other consideration under annuity contracts and trust schemes);
  - (c) section 75 of the Finance Act 1972 (relief for payment of interest);
  - (d) section 173 of the Act of 1970 (carry-forward as losses of amounts to be taxed under section 53); and
  - (e) section 175 of that Act (treatment of interest as a loss for purposes of carry-forward or carry-back).
- (3) Where in a year beginning on or after the appointed day for which a person claims and is allowed relief by virtue of sub-paragraph (1) above there falls to be made in computing his total income for income tax purposes, or that of a person's wife or, as the case may be, a person's husband, a deduction in respect of any loss, and the deduction or part of it falls to be so made from income other than profits or gains of a trade, profession or vocation, the amount of the deduction made from the other income shall be treated as reducing the person's profits or gains (that is to say the profits or gains of any relevant trade, profession or vocation as computed for the purpose of the charge to Class 4 contributions) for subsequent years (being deducted as far as may be from those of the immediately following year, whether or not he claims or is entitled to claim relief under this paragraph for that year, and, so far as it cannot be so deducted, then from those of the next year, and so on).
- (4) Relief shall be allowed, in respect of—

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- (a) payments under section 52 or 53 of the Act of 1970 (annuities and other annual payments, etc.); or
- (b) payments under section 75 of the Finance Act 1972 (relief for payment of interest), being payments for which relief from income tax is or can be given, so far as incurred wholly or exclusively for the purposes of any relevant trade, profession or vocation, by way of deduction from or set-off against profits or gains chargeable to Class 4 contributions for the year in which the payments are made ; and, in the case of any insufficiency of the profits or gains of that year, the payments shall be carried forward and deducted from, or set off against, the profits or gains of any subsequent year (being deducted or set off as far as may be from or against the profits or gains of the immediately following year, whether or not relief can be claimed under this paragraph for that year, and so far as it cannot be so deducted, from or against those of the next year, and so on).

*Husband and wife*

- 4 (1) Chapter IV of Part I of the Act of 1970 shall apply for the purposes of Class 4 contributions as it applies for those of income tax; and an application by a husband or wife for separate assessment under section 38 of that Act, and an election by them under section 23 of the Finance Act 1971 (separate taxation of wife's earnings) shall operate as respects liability for such contributions as it does for income tax, the wife being liable for Class 4 contributions in respect of her own profits or gains.
- (2) Such an application or election as is referred to in sub-paragraph (1) above shall not be made separately for the purposes of Class 4 contributions apart from those of income tax.
- (3) Where section 37 of the Act of 1970 applies and there is no separate assessment under section 38 of that Act and no election under section 23 of the Finance Act 1971, the wife's profits and gains are to be computed, for the purposes of Class 4 contributions, as if section 37 did not apply, but the contributions shall be assessed on, and recoverable from, the husband.

*Partnerships*

- 5 (1) Where a trade or profession is carried on by two or more persons jointly, the liability of any one of them in respect of Class 4 contributions shall arise in respect of his share of the profits or gains of that trade or profession (so far as immediately derived by him from carrying it on); and for this purpose his share shall be aggregated with his share of the profits or gains of any other trade, profession or vocation (so far as immediately derived by him from carrying it on or exercising it).
- (2) Where sub-paragraph (1) above applies, the Class 4 contributions for which a person is liable in respect of the profits or gains of the trade or profession carried on jointly (aggregated, where appropriate, as mentioned in that sub-paragraph) may either be charged on him separately or (to the extent only that the liability arises in respect of the profits or gains of that partnership) be the subject of a joint assessment to contributions made in the partnership name ; and Chapter VI of Part VI of the Act of 1970 shall apply accordingly, but substituting this paragraph for section 152.

*Trustees, etc.*

- 6 In any circumstances in which apart from this paragraph a person would—



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- (a) under section 72 of the Taxes Management Act 1970 be assessable and chargeable to Class 4 contributions as trustee, guardian, tutor, curator, or committee of an incapacitated person in respect of the profits or gains of a trade, profession or vocation ; or
- (b) by virtue of section 114 of the Act of 1970 be assessed and charged to such contributions in respect of profits or gains received or receivable by him in the capacity of trustee,

such contributions shall not be payable either by him or by any other person.

#### *Other provisions*

- 7 Section 88(1), (4) and (5)(a) and (b) of the Taxes Management Act 1970 (interest on tax recovered to make good loss due to taxpayer's fault) shall apply in relation to any amount due in respect of Class 4 contributions as it applies in relation to income tax ; but section 86 of that Act (interest on amounts overdue) shall not apply.
- 8 Where an assessment has become final and conclusive for the purposes of income tax for any year, that assessment shall also be final and conclusive for the purposes of computing liability for Class 4 contributions ; and no allowance or adjustment of liability, on the ground of diminution of income or loss, shall be taken into account in computing profits or gains chargeable to Class 4 contributions unless that allowance or adjustment has previously been made on an application under the special provisions of the Income Tax Acts relating thereto, or falls to be allowed under paragraph 3(4) of this Schedule.
- 9 The provisions of Part V of the Taxes Management Act 1970 (appeals etc.) shall apply with the necessary modifications in relation to Class 4 contributions as they apply in relation to income tax ; but nothing in the Income Tax Acts shall apply with respect to the determination of any question arising—
  - (a) under section 5(6) of this Act as to whether by regulations under that subsection a person is excepted from liability for Class 4 contributions, or his liability is deferred ; or
  - (b) under regulations made by virtue of section 5(8), (9) or (10) of this Act.

### SCHEDULE 3

Sections 9 to 37, passim.

#### CONTRIBUTION CONDITIONS FOR BASIC SCHEME BENEFIT

### PART I

#### THE CONDITIONS

##### *Unemployment and sickness benefit*

- 1 (1) The contribution conditions for unemployment benefit or sickness benefit are the following.
  - (2) The first condition is that—

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- (a) the claimant must in respect of any one year have actually paid contributions of a relevant class, and those contributions must have been paid before the relevant time ; and
  - (b) the earnings factor derived from those contributions must be not less than that year's lower earnings limit multiplied by 25.
- (3) The second condition is that—
- (a) the claimant must in respect of the relevant past year have either paid or been credited with contributions of a relevant class ; and
  - (b) the earnings factor derived from those contributions must be not less than that year's lower earnings limit multiplied by 50.
- (4) For the purposes of these conditions—
- (a) " the relevant time " is the day in respect of which benefit is claimed; and
  - (b) " the relevant past year" is the last complete year before the beginning of the relevant benefit year; and
  - (c) " the relevant benefit year " is the benefit year in which there falls the beginning of the period of interruption of employment which includes the relevant time.

#### *Maternity grant*

- 2 (1) The contribution conditions for a maternity grant are the following.
- (2) The first condition is that—
- (a) the contributor concerned must in respect of any one year have actually paid contributions of a relevant class, and those contributions must have been paid before the relevant time ; and
  - (b) the earnings factor derived from those contributions must be not less than that year's lower earnings limit multiplied by 25.
- (3) The second condition is that—
- (a) the contributor concerned must in respect of the relevant past year have either paid or been credited with contributions of a relevant class; and
  - (b) the earnings factor derived from those contributions must be not less than that year's lower earnings limit multiplied by 25.
- (4) For the purposes of these conditions—
- (a) " the relevant time " is—
    - (i) the date of the claimant's confinement where she herself is the contributor concerned, or that contributor is her husband and he is on that date alive and under pensionable age, and
    - (ii) in any other case, the date on which the contributor concerned attained pensionable age or died under that age; and
  - (b) "the relevant past year" is the last complete year before the beginning of the benefit year in which the relevant time falls.

#### *Maternity allowance*

- 3 (1) The contribution conditions for a maternity allowance are the following.
- (2) The first condition is that—

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- (a) the claimant must in respect of any one year have actually paid contributions of a relevant class, and those contributions must have been paid before the relevant time ; and
  - (b) the earnings factor derived from those contributions must be not less than that year's lower earnings limit multiplied by 25.
- (3) The second contribution condition is that—
- (a) the claimant must in respect of the relevant past year have either paid or been credited with contributions of a relevant class; and
  - (b) the earnings factor derived from those contributions must be not less than that year's lower earnings limit multiplied by 50.
- (4) For the purposes of these conditions—
- (a) "the relevant time" is the beginning of the maternity allowance period ; and
  - (b) " the relevant past year " is the last complete year before the beginning of the relevant benefit year; and
  - (c) "the relevant benefit year" is the benefit year in which there falls the beginning of the period of interruption of employment which includes the relevant time.

#### *Widow's allowance*

- 4 (1) The contribution condition for a widow's allowance is that—
- (a) the contributor concerned must in respect of any one relevant year have actually paid contributions of a relevant class ; and
  - (b) the earnings factor derived from those contributions must be not less than that year's lower earnings limit multiplied by 25.
- (2) For the purposes of this condition, a relevant year is any year ending before the date on which the contributor concerned attained pensionable age or died under that age.

#### *Widowed mother's allowance and widow's pension ; Category A and B retirement pensions*

- 5 (1) The contribution conditions for a widowed mother's allowance, a widow's pension or a Category A or Category B retirement pension are the following.
- (2) The first condition is that—
- (a) the contributor concerned must in respect of any one relevant year have actually paid contributions of a relevant class ; and
  - (b) the earnings factor derived from those contributions must be not less than that year's lower earnings limit multiplied by 50.
- (3) The second condition is that—
- (a) the contributor concerned must in respect of each of not less than the requisite number of years of his working life have paid or been credited with contributions of a relevant class ; and
  - (b) in the case of the contributions of each of those years, the earnings factor derived from them must be not less than that year's lower earnings limit multiplied by 50.
- (4) For the purposes of the first condition, a relevant year is any year ending before that in which the contributor concerned attained pensionable age or died under that age ;

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and the following table shows the requisite number of years for the purpose of the second condition, by reference to a working life of a given duration:—

<i>Duration of working life</i>	<i>Requisite number of years</i>
10 years or less	The number of years of the working life, minus 1.
20 years or less (but more than 10)	The number of years of the working life, minus 2.
30 years or less (but more than 20)	The number of years of the working life, minus 3.
40 years or less (but more than 30)	The number of years of the working life, minus 4.
More than 40 years	The number of years of the working life, minus 5.

- (5) The first condition shall be deemed to be satisfied if the contributor concerned was entitled to an invalidity pension at any time during—
- (a) the year in which he attained pensionable age or died under that age, or
  - (b) the year immediately preceding that year.

*Child's special allowance*

- 6 (1) The contribution condition for a child's special allowance is that—
- (a) the contributor concerned must in respect of any one relevant year have actually paid contributions of a relevant class ; and
  - (b) the earnings factor derived from those contributions must be not less than that year's lower earnings limit multiplied by 50.
- (2) For the purposes of this condition, a relevant year is any year ending before the date on which the contributor concerned attained pensionable age or died under that age.

*Death grant*

- 7 (1) The contribution condition for a death grant is that—
- (a) the contributor concerned must in respect of any one year ending before the relevant year have actually paid contributions of a relevant class ; and
  - (b) the earnings factor derived from those contributions must be not less than that year's lower earnings limit multiplied by
- (2) For the purposes of this condition, " the relevant year " is the year in which occurred the death giving rise to the claim for a death grant, except that if immediately before the date of the death the contributor concerned was himself dead or over pensionable age it is the year in which he attained that age or died under it.

## PART II

### SATISFACTION OF CONDITIONS IN EARLY YEARS OF CONTRIBUTION

- 8 (1) Sub-paragraph (3) below shall apply where a claim is made for any short-term benefit and the last complete year before the beginning of the benefit year in which the relevant time falls was either—
- (a) the year in which the contributor concerned first became liable for primary Class 1 or Class 2 contributions ; or
  - (b) the year preceding that in which he first became so liable.
- (2) The relevant time for the purposes of this paragraph—
- (a) in relation to any short-term benefit other than widow's allowance, is the same as it is for the purposes of the contribution conditions for the benefit; and
  - (b) in relation to widow's allowance, is the date on which the contributor concerned attained pensionable age or died under that age.
- (3) For the purposes of satisfaction by the contributor concerned of the first contribution condition for unemployment benefit, sickness benefit, a maternity grant or a maternity allowance, or of the contribution condition for a widow's allowance, all contributions of a relevant class actually paid by him in any period ending with the relevant time may be aggregated and treated as paid in the last complete year before the beginning of the benefit year in which the relevant time falls (earnings factors from the aggregated contributions being derived accordingly for that year).
- 9 Where a person claims unemployment benefit, he shall be deemed to satisfy the first contribution condition for the benefit if on a previous claim for any short-term benefit (other than a widow's allowance) he has satisfied the first contribution condition for that benefit, by virtue of paragraph 8 above, with contributions of a class relevant to unemployment benefit.
- 10 Where a person claims sickness benefit, he shall be deemed to satisfy the first contribution condition for the benefit if on a previous claim for any short-term benefit (other than a widow's allowance) he has satisfied the first contribution condition for that benefit, by virtue of paragraph 8 above, with contributions of a class relevant to sickness benefit.
- 11 Where a woman claims a maternity grant, the contributor concerned for the purposes of the claim shall be deemed to satisfy the first contribution condition for the grant if on a previous claim for any short-term benefit (other than a widow's allowance) that contributor has satisfied the first contribution condition for that benefit, by virtue of paragraph 8 above, with contributions of a class relevant to maternity grant.
- 12 Where a woman claims a maternity allowance, she shall be deemed to satisfy the first contribution condition for the allowance if on a previous claim by her for any short-term benefit (other than a widow's allowance) she has satisfied the first contribution condition for that benefit, by virtue of paragraph 8 above, with contributions of a class relevant to maternity allowance.
- 13 Where a woman claims a widow's allowance, the contributor concerned for the purposes of the claim shall be deemed to satisfy the contribution condition for the allowance if on a claim made in the past for any short-term benefit (other than a widow's allowance) he has satisfied the first contribution condition for the benefit,

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by virtue of paragraph 8 above, with contributions of a class relevant to widow's allowance.

## SCHEDULE 4

Sections 10 to 39, *passim*.

### RATES OF BASIC SCHEME BENEFITS, GRANTS AND INCREASES FOR DEPENDANTS

#### PART I

##### WEEKLY RATES OF PERIODICAL BENEFITS

Description of benefit	Weekly rate
1. Unemployment or sickness benefit	(a) higher rate £6.75 (b) lower rate £4.75 (the appropriate rate being determined in accordance with section 10(4) of this Act).
2. Invalidity pension	£6.75
3. Invalidity allowance	(a) higher rate £1.15 (b) middle rate £0.70 (c) lower rate £0.35 (the appropriate rate being determined in accordance with section 11(6) of this Act).
4. Attendance allowance	(a) higher rate £5.40 (b) lower rate £3.60 (the appropriate rate being determined in accordance with section 15(2) of this Act).
5. Maternity allowance	£6.75
6. Widow's allowance	£9.45
7. Widowed mother's allowance	£6.75
8. Widow's pension	£6.75
9. Guardian's allowance	£3.30
10. Category A retirement pension	£6.75 (plus age addition, where appropriate, of £0.25).
11. Category B retirement pension	(a) lower rate £4.15 (b) higher rate £6.75 (the appropriate rate being determined in accordance with section 25(7) of this Act; plus age addition in either case, where appropriate, of £0.25).

Description of benefit	Weekly rate
12. Category C or Category D retirement pension	(a) lower rate £2.50 (b) higher rate £4.05  (the appropriate rate being determined in accordance with section 27(2) of this Act; plus age addition in either case, where appropriate, of £0.25).
13. Child's special allowance	£3.30

**PART II**

## AMOUNTS OF GRANTS

Description of Grant	Amount
	£
1. Maternity grant	25.00
2. Death grant, where the deceased was at his death—	
(a) under the age of 3	9.00
(b) between the ages of 3 and 6	15.00
(c) between the ages of 6 and 18	22.50
(d) over the age of 18	
(i) if on 5th July 1948 that person had attained the age of 55 in the case of a man or 50 in the case of a woman	15.00
(ii) in any other case	30.00

**PART III**

## WEEKLY RATES OF INCREASES FOR DEPENDANTS

Benefit to which increase applies	Increase for only, elder or eldest qualifying child	Increase for second qualifying child	Increase for each additional qualifying child	Increase for adult dependant
(1)	(2)	(3)	(4)	(5)
1. Unemployment	£ 2.10	£ 1.20	£ 1.10	£ 4.15

Where any unemployment or sickness benefit is payable at a weekly rate determined under section 10(7) of this Act, column (5) of this Part of this Schedule shall have effect subject to section 34(5)(b) of this Act; and where an invalidity pension is payable at a weekly rate determined under section 11(4) of this Act, column (5) shall have effect subject to section 35(7)(b) of this Act.

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Benefit to which increase applies	Increase for only, elder or eldest qualifying child	Increase for second qualifying child	Increase for each additional qualifying child	Increase for adult dependant
(1)	(2)	(3)	(4)	(5)
or sickness benefit				
2. Invalidity pension	3.30	2.40	2.30	4.15
3. Maternity allowance	2.10	1.20	1.10	4.15
4. Widow's allowance	3.30	2.40	2.30	—
5. Widowed mother's allowance	3.30	2.40	2.30	—
6. Category A or B retirement pension	3.30	2.40	2.30	4.15
7. Category C retirement pension	3.30	2.40	2.30	2.50
8. Child's special allowance	—	2.40	2.30	—

Where any unemployment or sickness benefit is payable at a weekly rate determined under section 10(7) of this Act, column (5) of this Part of this Schedule shall have effect subject to section 34(5)(b) of this Act; and where an invalidity pension is payable at a weekly rate determined under section 11(4) of this Act, column (5) shall have effect subject to section 35(7)(b) of this Act.

## SCHEDULE 5

Section 10(6).

### MEANING OF "UNEMPLOYABILITY SUPPLEMENT OR ALLOWANCE"

"Unemployability supplement or allowance" in section 10(5)(b) of this Act means—

- (a) an unemployability supplement payable under section 13 of the Industrial Injuries Act, or
- (b) any corresponding allowance payable—
  - (i) by virtue of section 7(3)(a) of the Old Cases Act, or
  - (ii) by way of supplement to retired pay or pension exempt from income tax under section 365(1) of the Income and Corporation Taxes Act 1970, or
  - (iii) under the Personal Injuries (Emergency Provisions) Act 1939, or
  - (iv) by way of supplement to retired pay or pension under the Polish Resettlement Act 1947.



## SCHEDULE 6

Section 10(8), 17(4) and 19(3).

### EARNINGS-RELATED SUPPLEMENT AND ADDITION

#### PART I

##### COMPUTATION OF WEEKLY RATE

- 1 (1) The weekly rate of earnings-related supplement of unemployment benefit, sickness benefit or a maternity allowance shall be ascertained by reference to the claimant's reckonable weekly earnings for the relevant year; and the weekly rate of earnings-related addition to a widow's allowance shall be ascertained by reference to the reckonable weekly earnings for that year of the widow's late husband.
- (2) " The relevant year" means the year last ending before the beginning of the current benefit year ; and " the current benefit year " means—
- (a) in relation to supplement of unemployment benefit, sickness benefit or a maternity allowance, the benefit year in which there falls the first day of the period of interruption of employment which includes the day in respect of which the supplement is payable ; and
  - (b) in relation to addition to a widow's allowance, the benefit year which includes the date of the husband's death.
- 2 The claimant's or late husband's reckonable weekly earnings for the relevant year shall be his earnings factor for that year (derived from Class 1 contributions actually paid) divided by 50.
- 3 (1) The weekly rate of earnings-related supplement of unemployment benefit, sickness benefit or a maternity allowance shall be whichever is the less of the following amounts—
- (a) an amount equal to the aggregate of—
    - (i) 1 /3rd of so much of the reckonable weekly earnings as exceeds the relevant year's lower earnings limit and does not exceed £30, and
    - (ii) 15 per cent, of so much of those earnings as exceeds £30 and does not exceed that year's upper earnings limit; or
  - (b) the amount (if any) by which the weekly rate of the benefit in question (unemployment benefit, sickness benefit or maternity allowance, as the case may be), including any increase of that rate under section 31(1) or 34(1) or (2) of this Act, falls short of 85 per cent, of those earnings.
- (2) The weekly rate of earnings-related addition to a widow's allowance shall be the amount specified in sub-paragraph (1)(a) above.
- 4 The foregoing provisions of this Schedule shall be subject to any regulations under paragraph 7 below.

#### PART II

##### ADDITIONAL PROVISIONS

- 5 Where, in the case of a person entitled in respect of any day to earnings-related supplement of sickness benefit or a maternity allowance, payment by way of such benefit or of such an allowance does not, but a payment by way of injury benefit

- under section 11 of the Industrial Injuries Act does, fall to be made to that person in respect of that day, the earnings-related supplement may be paid with the injury benefit.
- 6 Where, in the case of a person entitled to any such earnings-related supplement in respect of any day, a payment by way of sickness benefit or a maternity allowance does not, but a payment by way of injury benefit under section 11 of the Industrial Injuries Act does, fall to be made to that person in respect of that day, paragraph 3(1)(b) above shall apply in his case with the substitution—
- (a) for the reference to sickness benefit or a maternity allowance of a reference to injury benefit under section 11 of the Industrial Injuries Act; and
  - (b) for the reference to section 31(1) or 34(1) or (2) of this Act of a reference to section 17(1) or 18(1) of that Act.
- 7 Regulations may provide that the relevant year for the purposes of Part I of this Schedule shall be such other year than that specified in paragraph 1(2) as may be prescribed by the regulations.

## SCHEDULE 7

Section 15(7).

THE ATTENDANCE ALLOWANCE BOARD; MISCELLANEOUS  
PROVISIONS AS TO ATTENDANCE ALLOWANCE**PART I**

## MEMBERSHIP OF BOARD AND METHOD OF DISCHARGING FUNCTIONS

- 1 (1) Subject to the following sub-paragraph, the Board shall consist of a chairman appointed by the Secretary of State and not less than 4 nor more than 9 other members so appointed; and all except 2 of the members appointed in pursuance of this sub-paragraph must be, and those 2 or either of them may be, medical practitioners.
- (2) The Secretary of State may appoint such persons as he considers are specially qualified for the purpose, whether medical practitioners or not, to be additional members of the Board; but such a member shall not be entitled to act as a member of the Board in relation to any functions conferred on the Board otherwise than under section 15(6)(a) or (b) of this Act.
- 2 The House of Commons Disqualification Act 1957 shall continue with the Attendance Allowance Board included in Part II of Schedule 1 to the Act (bodies of which all members are disqualified from membership of the House of Commons) at the place where it was inserted in the Schedule by Schedule 2 to the National Insurance Act 1970.
- 3 The Board may appoint persons as advisers to the Board on matters on which in the Board's opinion those persons are specially qualified.
- 4 The Board may refer any individual case for investigation and report to one or more persons specially qualified in the Board's opinion to investigate that case.
- 5 The Board may delegate any of their functions in respect of any individual case to one or more medical practitioners and any functions so delegated shall be exercised by the practitioners in accordance with any directions of the Board.

- 6 In the foregoing paragraphs " medical practitioner" means a registered medical practitioner, and in paragraph 5 includes a person outside the United Kingdom who is not a registered medical practitioner but has qualifications corresponding (in the opinion of the Secretary of State) to those of a registered medical practitioner.

## PART II

### PERSONNEL, ADMINISTRATION AND EXPENSES

- 7 (1) The chairman and other members of the Board shall hold office for such period of not more than 5 nor less than 3 years as the Secretary of State may determine ; but any member—
- (a) shall be eligible for re-appointment from time to time on or after the expiration of his term of office; and
  - (b) may by notice in writing to the Secretary of State resign office at any time, while remaining eligible for re-appointment.
- (2) In this paragraph, " year " means a period of 12 months.
- 8 The Secretary of State may remove a member of the Board on the ground of incapacity or misbehaviour.
- 9 Nothing in paragraphs 7 and 8 above applies to an additional member of the Board appointed in pursuance of paragraph 1(2); and each such member shall hold office for such period as the Secretary of State may determine, but the Secretary of State may at any time by notice in writing to the member terminate or alter that period and the member may at any time by notice in writing to the Secretary of State resign office.
- 10 The Secretary of State shall make arrangements for securing that such of his officers and servants as he considers to be required for the exercise of the Board's functions are available to act as officers and servants of the Board.
- 11 The expenses of the Board to such an amount as may be approved by the Minister for the Civil Service shall be paid by the Secretary of State.
- 12 There may be paid as part of the expenses of the Board—
- (a) to all or any of the members of the Board, such salaries or other remuneration and travelling and other allowances ;
  - (b) to persons attending their meetings at the request of the Board, such travelling and other allowances (including compensation for loss of remunerative time); and
  - (c) to persons appointed advisers to the Board or to whom individual cases are referred by the Board or the exercise of any of the Board's functions is delegated, such fees,
- as the Secretary of State may with the consent of the Minister for the Civil Service determine.
- 13 Subject to any directions given to them by the Secretary of State, the Board may—
- (a) act notwithstanding any vacancy among their members; and
  - (b) regulate their own procedure (including the quorum).

### PART III

#### CLAIMS, REVIEWS AND APPEALS

- 14 Subject to the following provisions of this Schedule, any question whether a person satisfies or has satisfied, or is likely to satisfy, for any period the conditions set out in paragraph (a) or (b) of section 15(1) of this Act shall be determined by the Board.
- 15 The Board may—
- (a) at any time review a determination of theirs under paragraph 14 above or under this sub-paragraph, if they are satisfied that there has been a relevant change of circumstances since the determination was made, or that the determination was made in ignorance of a material fact or was based on a mistake as to a material fact;
  - (b) within the prescribed period review such a determination on any ground;
  - (c) issue a certificate under section 15(2) of this Act, or revoke or alter a certificate so issued, if the Board consider it appropriate to do so in consequence of a review in pursuance of this paragraph.
- 16 Provision shall be made by regulations for enabling appeals to be brought to a National Insurance Commissioner, with the leave of such a Commissioner, against a determination by the Board of any question of law arising on a review under paragraph 15 above or arising in connection with a refusal by the Board to review a determination made by them under paragraph 14 or 15.
- 17 In paragraph 16 above, references to the Board include references to a delegate appointed in pursuance of paragraph 5 of this Schedule; and regulations made in pursuance of paragraph 16 may provide for the application of section 87(2) of this Act to an appeal brought in pursuance of the regulations.
- 18 Provision may be made by regulations with respect to applications for reviews of determinations under this Part of this Schedule and with respect to the disposal of such applications ; but nothing in this paragraph shall be so construed as to prevent such a review from being undertaken in a case where no application is made.

### SCHEDULE 8

Section 24(3).

#### METHOD OF TREATING DECEASED HUSBAND'S CONTRIBUTIONS AS THOSE OF HIS WIDOW, SO AS TO ENTITLE HER TO CATEGORY A RETIREMENT PENSION

- 1 There shall be taken into account towards the widow's entitlement any reckonable contribution years of the husband, that is to say years for which his own earnings factor was sufficient for satisfaction of paragraph (b) of the second contribution condition; and the widow shall be treated as satisfying that paragraph if the number of years arrived at either under paragraph 2 or under paragraph 3 below is equal to or exceeds that which is in her case the requisite number of years for the purposes of the condition.
- 2 The number of years arrived at under this paragraph is that which is obtained by—
- (a) taking the number of years between (inclusive) the year in which the woman attained the age of 16 and (exclusive) the year in which the husband died and—

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- (i) multiplying it by the number of the husband's reckonable contribution years, and
    - (ii) dividing it by the number of years of his working life ;
  - (b) if the resultant quotient is not a whole number, rounding it up to the nearest whole number; and
  - (c) adding to the number of years arrived at under subparagraphs (a) and (b) above any number of years after that in which the husband died, being years for which the widow's own earnings factor was sufficient for satisfaction by her of paragraph (b) of the second contribution condition.
- 3 The number of years arrived at under this paragraph is that which is obtained by—
  - (a) taking the number of years between (inclusive) the year in which the widow married the husband and (exclusive) the year in which the husband died ; and
    - (i) multiplying it by the number of the husband's reckonable contribution years, and
    - (ii) dividing it by the number of the years of his working life ;
  - (b) if the resultant quotient is not a whole number, rounding it up to the nearest whole number ; and
  - (c) adding to the number of years arrived at under paragraphs (a) and (b) above any number of years—
    - (i) before that in which she became married to the husband, and
    - (ii) after that in which he died,being years for which her own earnings factor was sufficient for satisfaction by her of paragraph (b) of the second contribution condition.
- 4 In this Schedule, " the second contribution condition " means the second condition for a Category A retirement pension specified in paragraph 5 of Schedule 3 to this Act.

## SCHEDULE 9

Section 30(1).

### CASES IN WHICH DEATH GRANT IS PAYABLE UNDER S. 30

#### *The cases*

- 1 The deceased was a qualifying contributor.
- 2 The deceased was at death the husband, wife, widower, widow or a child of the family of a qualifying contributor.
- 3 The deceased was a child whose circumstances were the following, that is to say either—
  - (a) he had been a child of the family of a person who predeceased him (and was so at the death of that person) and that person was a qualifying contributor immediately before his death ; or
  - (b) he was the posthumous son or daughter of a man who was a qualifying contributor.
- 4 The deceased was over the age of 19 at death and his circumstances were the following that is to say—

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- (a) he was at death, and had ever since attaining the age of 19 been, incapacitated for regular employment; and
- (b) he was at death residing (or would, if not living in an institution, have been residing) with a near relative being either—
  - (i) a qualifying contributor, or
  - (ii) the wife or widow of a qualifying contributor.

#### *Interpretation*

- 5 For the purposes of paragraph 4 above, the following definitions shall apply—
- (a) "incapacitated" means incapacitated by reason of illness or disability of mind or body ;
  - (b) "institution" means a school, hospital or establishment accepted by the Secretary of State as providing residential accommodation for disabled persons ; and
  - (c) "near relative" means a person—
    - (i) of whom the deceased was the son or daughter or remoter issue; or
    - (ii) who was the deceased's son or daughter or remoter issue; or
    - (iii) who was the deceased's—
      - step-father, step-mother or step-child, or
      - brother, sister, half-brother, or
      - half-sister, step-brother or step-sister ;
 (any such relationship as is specified in head (i), (ii) or (iii) being taken to include the same relationship by adoption, and to include also any such relationship as would have subsisted if some person born illegitimate had been born legitimate).

### SCHEDULE 10

Section 38.

#### ANCILLARY PROVISIONS AS TO BASIC SCHEME BENEFIT (AND ALSO OTHER BENEFITS)

#### *Claims*

- 1 (1) Subject to sub-paragraphs (2) and (3) below, and to section 23(6) of 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, except that in such cases as may be prescribed the following benefits may be paid without a claim—
- (a) a Category A or Category B retirement pension to a woman over the age of 65 on her ceasing to be entitled to widow's benefit;
  - (b) a Category C or Category D retirement pension ;
  - (c) age addition.
- (2) Regulations may make provision—
- (a) for permitting, in such circumstances as may be prescribed, a claim for sickness benefit or invalidity benefit or injury benefit under the Industrial Injuries Act to be made, or to be treated as if made, for a period falling partly after the date of the claim ;

- (b) for permitting an award on any such claim to be made for a period after the date of the claim of not more than 13 weeks (or such shorter period as the Secretary of State may in any case direct) subject to the condition that the claimant continues during that period to satisfy the requirements for the benefit in question ;
  - (c) for the review of any such award if those requirements are found not to have been satisfied at some time during the period of the award ;
  - (d) for the disallowance of a person's claim for unemployment benefit, sickness benefit or invalidity benefit on any grounds to be treated as a disallowance of any further claim by that person for that benefit until the grounds of the original disallowance have ceased to exist.
- (3) Regulations under this Act or the Industrial Injuries Acts may make provision as to the circumstances in which any benefit (under Part I of this Act or under those Acts) which is payable to one person may be paid to another on his behalf.
- (4) Any claim for benefit under this Act may be treated—
- (a) for the purposes of this paragraph as a claim, in the alternative, for such other benefit thereunder as may be prescribed ; or
  - (b) for the purposes of the Industrial Injuries Acts as a claim, in the alternative, for such benefit under those Acts 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 Acts, or the Supplementary Benefit Act 1966, or a payment under the Family Allowances Act, may be treated for the purposes of this paragraph as a claim, in the alternative, for such benefit under this Act as may be prescribed.
- (5) For the purposes 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.

*Disqualification for, or suspension of, benefit*

- 2 (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 sub-paragraph (1) above or which is payable otherwise than in respect of that period.
- (3) Regulations may provide for disqualifying a person for the receipt of any benefit if he fails to make his claim therefor within the prescribed time; but any such regulations shall provide for extending, subject to any prescribed conditions, the time within which the claim may be made in cases where good cause is shown for delay.
- (4) Notwithstanding any regulations made by virtue of sub-paragraph (3) above, no sum shall be paid to any person—
- (a) on account of a maternity grant in respect of a confinement occurring more than 12 months before the date on which the claim for the grant is made ;

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- (b) on account of a death grant in any case where the prescribed time for making a claim falls to be extended by virtue of that sub-paragraph by more than 12 months;
- (c) on account of any other benefit in respect of any period more than 12 months before the date on which the claim for the benefit is made.

(5) Regulations may provide for treating a person for the purposes of the following provisions of this Act—

- (a) section 10(8);
- (b) section 13 ; and
- (c) section 17(4),

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; but 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 cause a new period of interruption of employment to begin for the purposes of earnings-related supplement, or to avoid the necessity for requalifying for benefit.

(6) Subject to sub-paragraph (7) below, where it appears to the Secretary of State 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 the former principal Act,

he may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined ; but this sub-paragraph 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 14(2) (b) to (e) of this Act.

(7) Regulations may provide that sub-paragraph (b) above 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 otherwise not apply.

*Overlapping benefits, etc.*

3 (1) Regulations may provide—

- (a) for adjusting benefit payable to or in respect of any person, or the conditions for its receipt, 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 such medical or other treatment.



- (2) Where but for regulations made by virtue of sub-paragraph (1)(a) above two persons would both be entitled to an increase of benefit in respect of a third person, regulations may make provision as to their priority.

*Set-off of overpayments*

- 4 (1) Where a person has received on account of benefit or a family allowance sums to which, by virtue of any provision of, or regulation under, this Act, the former principal Act or the Industrial Injuries Act, or by virtue of section 11(6) of the Family Allowances Act, he was disentitled by reason of his being entitled by virtue of a subsequent award to other benefit or, as the case may be, to a guardian's allowance under section 22 of this Act, then, except in so far as regulations otherwise provide, the decision making that subsequent award shall direct that those sums shall be treated as having been paid on account of the benefit thereby awarded.
- (2) Where on review or appeal a decision awarding a person benefit is revised, or is reversed or varied, but he retains any sums paid in pursuance of the original decision which would not have been payable if the decision on the review or appeal had been given in the first instance, then, except in so far as regulations otherwise provide, any decision awarding him other benefit or a family allowance, being a benefit or allowance to which a right to any of those sums would by virtue of any such provision as aforesaid or of the said section 11(6) have disentitled him, shall direct that that sum, up to the amount of the other benefit or allowance to which he would by his right to that sum have been so disentitled, shall be treated as having been paid on account of the other benefit or allowance.
- (3) Where a sum paid on account of any benefit or of a family allowance is by virtue of sub-paragraph (1) or (2) above, or any other enactment, to be treated as having been paid on account of other benefit or such an allowance, it shall be so treated for all purposes, including the subsequent operation in relation to it of sub-paragraph (1) or (2) above or any other enactment relating to benefit or family allowance overpaid.
- (4) For the purposes of this paragraph—
- (a) a person shall be treated as retaining any sum which has been received by him and not repaid, except that he shall not be treated as retaining a sum if under any other enactment a direction has been given for it to be repaid ;
  - (b) in the case of sums paid by way of benefit under this Act in respect of a child of the family of a man and his wife living together or on account of a family allowance for such a family, the man shall be treated as having received any sum which, if properly paid, would have been receivable by him, and the wife any sum which, if properly paid, would have been receivable by her.
- 5 Regulations may provide for treating benefit paid to one person in respect of another as being a child of the family, or the wife or husband, or an adult dependant, of the payee as having been properly paid for any period for which it is not in fact payable in cases where in consequence of a subsequent decision either—
- (a) the other person is himself entitled to benefit for that period ; or
  - (b) a third person is entitled to benefit for that period in respect of the other person in priority to the payee,
- and for reducing or withholding accordingly any arrears payable for that period by virtue of the subsequent decision.

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- 6 In paragraphs 4 and 5 above, the expression " benefit" means benefit either under Part I of this Act or under the Industrial Injuries Acts; and in paragraph 4(1) or (2) above any reference to a decision awarding benefit or a family allowance includes a decision making any benefit or family allowance payable at a higher rate.

*Disqualifications etc. to be disregarded for certain purposes*

- 7 (1) Subject to the following sub-paragraph, regulations may provide for a person who would be entitled to any benefit but for the operation of paragraph 2 or 3 above, or of any other provision of this Act disqualifying him for receipt of that benefit, to be treated as if entitled thereto for the purpose of any rights or obligations under Chapter II of Part I 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.
- (2) Regulations under this paragraph shall not provide for a person disqualified for receiving unemployment benefit by reason only of a delay or failure to make a claim to be treated as having been entitled thereto for the purpose of ascertaining whether his right to that benefit has been exhausted.

*Administration of benefit*

- 8 (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.
- (2) Regulations made under this paragraph 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, sickness benefit, invalidity benefit and a maternity allowance) payments shall not be made in respect of periods of less than a week or at different rates for different parts of a week ;
  - (b) for extinguishing the right to payment of any sum by way of benefit if payment is not obtained within a prescribed period, not being less than 12 months, from the date on which the right is to be treated under the regulations as having arisen.
- (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 sub-paragraph (3)(b) above 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 reference in that sub-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 that sub-paragraph the expression " next of kin " shall be construed as referring—

- (a) in England and Wales, to persons who would take beneficially on an intestacy;
  - (b) in Scotland, to the persons entitled to the moveable estate of the deceased on intestacy.
- (5) Regulations may make provision for calculating the amounts payable by way of any benefit according to a prescribed scale, or otherwise adjusting them so as to avoid fractional amounts or facilitate computation.

*Benefit to be inalienable*

- 9 (1) 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 of a beneficiary, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.
- (2) In the application of this paragraph to Scotland—
- (a) the reference to assignment of benefit shall be read as a reference to its assignation, " assign " being construed accordingly ;
  - (b) the reference to a beneficiary's bankruptcy shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 14 of the Bankruptcy (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958.

*Provisions as to maintenance*

- 10 (1) Regulations may provide for determining the circumstances in which a person is, or is not, to be deemed for the purposes 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 sub-paragraph (1) above 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, if they had been contributed by one of those beneficiaries, be sufficient to satisfy the requirements of regulations made by virtue of sub-paragraph (1), that person shall be deemed for the purpose of those 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) the maintenance of his wife or the cost of providing for one or more children, to be treated for the purposes of section 29(c) (i), 32(3), 33(1)(b), 34(1)(a)(ii), or 35(1)(b) of this Act as such contributions, of such respective amounts equal in the aggregate to the sum or sums in question, in respect

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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.

## SCHEDULE 11

Section 39(8).

### BENEFITS WHICH MAY BE UP-RATED BY ORDER UNDER S. 39

#### *The basic scheme*

- 1 The figure for maternity grant specified in the second column of Part II of Schedule 4 to this Act.
- 2 The figure for death grant so specified.
- 3 The figure specified in heads (i) and (ii) of paragraph 3(1)(a) of Schedule 6 to this Act.
- 4 Any of the figures specified in section 26(1) or 35(2) of this Act

#### *The Industrial Injuries Act*

- 5 Any of the following figures specified in the second column of Schedule 3 to the Industrial Injuries Act—
  - (a) the figures specified in paragraph 5 (maximum increase under section 14 of the Act of the weekly rate of disablement pension in cases of special hardship);
  - (b) the figures specified in paragraph 6(a) and (b) (maximum increase under section 15 of the weekly rate of disablement pension where constant attendance is needed);
  - (c) the figure specified in paragraph 6A (increase of disablement pension under section 6(1) of the National Insurance Act 1966);
  - (d) the figure specified in paragraph 10 (widower's pension under section 20).
- 6 Any of the figures specified in section 18(3A) of the Industrial Injuries Act (weekly amount of wife's earnings involving reduction of increase of disablement pension).

#### *The Old Cases Act*

- 7 The figure specified in section 2(6)(c) of the Old Cases Act (limit of allowance in cases of lesser incapacity).
- 8 The figure specified in section 7(2)(b) of that Act (weekly rate of allowance under section 5(1)(a) of the Act in respect of disablement which is not total).

## SCHEDULE 12

Section 48(1), (2).

### THE NATIONAL INSURANCE ADVISORY COMMITTEE

#### PART I

##### CONSTITUTION ETC. OF COMMITTEE

- 1 The National Insurance Advisory Committee (in this Schedule referred to as "the Committee") shall consist of a chairman appointed by the Secretary of State and not less than 6 nor more than 10 other members so appointed.
- 2 (1) Subject to paragraph 4 below, the chairman and other members of the Committee shall hold office for such period of not more than 5 nor less than 3 years as the Secretary of State may determine ; but any member—
- (a) shall be eligible for reappointment from time to time on or after the expiration of his term of office ;
  - (b) may by notice in writing to the Secretary of State resign office at any time, while remaining eligible for reappointment.
- (2) In this paragraph, " year " means a period of 12 months.
- 3 Of the members of the Committee (other than the chairman) there shall be appointed—
- (a) one after consultation with organisations representative of employers;
  - (b) one after consultation with organisations representative of workers;
  - (c) one after consultation with friendly societies registered under the Friendly Societies Acts 1896 to 1971 or organisations representative of such societies ; and
  - (d) one after consultation with the Northern Ireland Minister ;
- and the Committee shall include at least one person with experience of work among, and of the needs of, the chronically sick and disabled and in selecting any such person regard shall be had to the desirability of having a Chronically sick or disabled person.
- 4 The Secretary of State may remove a member of the Committee on the ground of incapacity or misbehaviour.
- 5 The Secretary of State shall appoint a secretary to the Committee, and may appoint such other officers and such servants to the Committee, and there shall be paid to them such salaries and allowances, as the Secretary of State may with the consent of the Minister for the Civil Service determine.
- 6 The Committee may appoint persons as their advisers on matters on which in the Committee's opinion those persons are specially qualified.
- 7 The expenses of the Committee to such an amount as may be approved by the Minister for the Civil Service shall be paid by the Secretary of State.
- 8 There may be paid as part of the expenses of the Committee—
- (a) to all or any of the members of the Committee, such salaries or other remuneration and travelling and other allowances ;
  - (b) to persons attending their meetings at the request of the Committee, such travelling and other allowances (including compensation for loss of remunerative time); and

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- (c) to persons who are not members of the Committee but who at the invitation of the Committee act as advisers at meetings of the Committee held to consider matters on which those persons are specially qualified or otherwise, such fees,

as the Secretary of State may with the consent of the Minister for the Civil Service determine.

- 9 The Committee may act notwithstanding any vacancy among their members.
- 10 The Committee may make rules for regulating their procedure (including the quorum).

## PART II

### REGULATIONS REQUIRING PRIOR SUBMISSION TO THE COMMITTEE

- 11 Subject to Part III of this Schedule-
- (a) regulations under Part I of this Act;
  - (b) regulations under section 92(3) or 99(9) or (14) of this Act;
  - (c) regulations under paragraph 14(a) of Schedule 22 to this Act;
  - (d) regulations under Schedule 26 ; and
  - (e) regulations under Part IV of the former principal Act.

## PART III

### REGULATIONS NOT REQUIRING PRIOR SUBMISSION TO THE COMMITTEE

- 12 Regulations made by virtue of any of the following provisions of this Act, namely—
- (a) paragraph 4 of Schedule 10 ;
  - (b) paragraph 5 of that Schedule, if the regulations are made only in relation to benefit under the Industrial Injuries Acts.
- 13 Regulations made for the purpose only of consolidating other regulations revoked thereby.
- 14 Regulations made under Chapter II of Part I of this Act, or Part IV of the former principal Act, which contain only provisions—
- (a) with respect to the determination of such a question as is mentioned in section 84(1)(d) of this Act or section 76(3) of that Act or section 35(2) of the Industrial Injuries Act or section 5(2) of the Family Allowances Act; or
  - (b) having effect by virtue of section 8(1) to (3) of the Family Allowances Act.
- 15 Regulations contained in a statutory instrument which states that it contains only provisions in consequence of an order under section 7, 8 or 39 of this Act.
- 16 Regulations made before the day appointed for the coming into force of section 2 of this Act and regulations under Schedule 26 to this Act made before, or within a period of 12 months beginning with, that day.
- 17 Regulations contained in a statutory instrument which states that the regulations relate only to matters which, in accordance with this Act (or an enactment directed to be construed as one therewith), have been referred to the Attendance Allowance Board.

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- 18 Regulations in so far as they consist only of procedural rules for a tribunal in respect of which consultation with the Council on Tribunals is required by section 10(1) of the Tribunals and Inquiries Act 1971.
- 19 Regulations contained in a statutory instrument made within a period of 6 months from the date of the passing of any Act passed after this Act and directed to be construed as one with this Act, where the regulations state that they are made for the purpose only of making provision consequential on the passing of that Act and the Act does not exclude this paragraph in respect of the regulations.

### SCHEDULE 13

Section 49(1).

#### ADAPTATION OF PART I, AND OTHER PROVISIONS, FOR NORTHERN IRELAND

##### *Introductory*

- 1 In the provisions of this Act which are extended to Northern Ireland by section 49(1) (other than that section and this Schedule), there shall be made the adaptations provided for by this Schedule.

##### *General adaptation of references*

- 2 Subject to the following provisions of this Schedule for any such reference as is specified in column 1 of the Table set out below there shall be substituted the reference specified in column 2.

#### TABLE

<i>Reference</i>	<i>Substituted reference</i>
The Attendance Allowance Board (except in paragraph 2 of Schedule 7).	The Attendance Allowance Board for Northern Ireland.
The Consolidated Fund.	The Exchequer of Northern Ireland.
The Family Allowances Act.	The Family Allowances Act (Northern Ireland) 1966.
The former principal Act.	The National Insurance Act (Northern Ireland) 1966.
Great Britain (except in section 41(l) (d)).	Northern Ireland.
The Industrial Injuries Act.	The National Insurance (Industrial Injuries) Act (Northern Ireland) 1966.
The Industrial Injuries Acts.	The National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1972.
The Industrial Injuries Fund.	The Northern Ireland Industrial Injuries Fund.
The Minister for the Civil Service.	The Ministry of Finance.

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<i>Reference</i>	<i>Substituted reference</i>
Money provided by Parliament.	Money hereafter appropriated for that purpose.
National health service.	Health service.
The National Health Service Contributions Act 1965.	The Health Service Contributions Act (Northern Ireland) 1966.
The National Insurance Act 1970.	The National Insurance Act (Northern Ireland) 1970.
The National Insurance Fund.	The Northern Ireland National Insurance Fund.
The National Insurance (Reserve) Fund.	The Northern Ireland National Insurance (Reserve) Fund.
The Old Cases Acts.	The Workman's Compensation (Supplementation) Acts (Northern Ireland) 1966 to 1972.
The Redundancy Fund.	The Northern Ireland Redundancy Fund.
The Secretary of State (except in section 5(4) and (5) and section 99(3)).	The Northern Ireland Ministry.
The Supplementary Benefit Act 1966.	The Supplementary Benefits &c. Act (Northern Ireland) 1966.
The Treasury (except in section 5(4) and (5), in the second place where the reference occurs in section 44(4) and in the expression "The Treasury supplement").	The Ministry of Finance.
The Treasury supplement.	The Northern Ireland Exchequer supplement.
The Treasury supplements.	The Northern Ireland Exchequer supplements.

*Adaptations of particular provisions*

- 3 (1) In section 1(3) for " sections 7 and 8 " substitute " subsection (2) of section 49 ", and for " those sections " substitute " that subsection " .
- (2) In section 1(5) after " supplement to contributions " insert " (in this Act referred to as ' the Northern Ireland Exchequer Supplement ' ) " .
- (3) In section 1(6)—
- (a) in paragraph (c) for " section 27 of the Redundancy Payments Act 1965 " substitute " section 37 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 " ;
  - (b) for " Treasury supplement under " substitute " the sums mentioned in " .



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- 4 In section 9(3) omit " to the extent provided for by section 39 of this Act (annual up-rating review) ", and for " from year to year under that section " substitute " under section 49(2) of this Act ".
- 5 In section 14(6)—
- (a) in paragraph (c) omit " the Employment Service Agency, a local education authority ";
  - (b) in paragraph (d) omit " the Employment Service Agency or a local education authority ";
  - (c) in paragraph (e) for "the Employment and Training Act 1948" substitute " the employment and Training Act (Northern Ireland) 1950 ".
- 6 In section 15(5) for paragraph (a) substitute—
- “(a) in pursuance of Article 15 or 36 of the Health and Personal Social Services (Northern Ireland) Order 1972 ; or”.
- 7 In section 18(2) for paragraphs (a) and (b) substitute " by any court of summary jurisdiction in deciding whether or not it shall make an order under the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924 ".
- 8 In section 22(5) for " subsections (2) to (6) " substitute " subsections (2) to (4) ".
- 9 In section 24(8) for " section 39 of this Act (annual up-rating review) " substitute " section 49(2) of this Act ".
- 10 In section 33(2)(b) for " the proviso to paragraph 1(1)" substitute " paragraph 1(2) ".
- 11 In section 41(1)(d) for "outside Great Britain" substitute " other than Northern Ireland ".
- 12 (1) In section 44(3) after " the Comptroller and Auditor General" insert " for Northern Ireland " and for " Parliament " substitute " the Parliament of Northern Ireland ".
- (2) In section 44(4) for " the National Debt Commissioners and be invested by them, in accordance with such directions as may be given by the Treasury," substitute " the Ministry of Finance and by that Ministry invested ".
- (3) For section 44(5) substitute—
- “(5) The Ministry of Finance shall certify a statement of the securities in which money forming part of the Northern Ireland National Insurance Fund is for the time being invested and that statement so certified shall be included with the accounts of that Fund laid before the Parliament of Northern Ireland under subsection (3).”
- 13 In section 45—
- (a) in subsection (1) for " the Inland Revenue under section 5(4) of this Act and " substitute " the Secretary of State under section 5(5) of this Act and by the Inland Revenue under ";
  - (b) in subsection (4)(a) for the words following " cost" substitute " of the health service in Northern Ireland ".
- 14 In section 99—
- (a) in subsection (1) omit the definitions of " the Family Allowances Act " , " the former principal Act" , " the Industrial Injuries Act" , " the Industrial Injuries Acts" and " the Old Cases Acts " ;

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- (b) in subsection (8)(6) for " the Family Allowances and National Insurance Act 1967" substitute " the Family Allowances and National Insurance Act (Northern Ireland) 1968 ".
- 15 In Schedule 1 omit paragraph 8.
- 16 In Schedule 7—
- (a) in paragraph 1, for "4" substitute " 3 " and for "9" substitute " 7 ";
- (b) in paragraph 2, at the end insert—
- “(2) That Act shall continue with the Attendance Allowance Board for Northern Ireland included in the said Part II, as substituted by section 10 of and Schedule 3 to that Act, in relation to membership of the Senate and House of Commons of Northern Ireland, at the place where it was inserted in that Part by Schedule 2 to the National Insurance Act (Northern Ireland) 1970.”; and
- (c) in paragraph 16, for " section 87(2) of " substitute " paragraph 13(2) of Schedule 25 to ".
- 17 In Schedule 10—
- (a) in paragraph 4(1) and (2) for " 11(6)" substitute " 11(5) ";
- (b) in paragraph 8(4) for heads (a) and (b) substitute " to persons who would take beneficially on an intestacy under the provisions of Part II of the Administration of Estates Act (Northern Ireland) 1955 ";
- (c) in paragraph 9, for sub-paragraph (2) substitute the following sub-paragraph:—
- “(2) The reference in sub-paragraph (1) to the bankruptcy of a beneficiary shall include a reference to the vesting of his estate and effects in the official assignee under section 349 of the Irish Bankrupt and Insolvent Act 1857.”

## SCHEDULE 14

Section 49(4).

### CONSTITUTION, ETC., OF JOINT AUTHORITY FOR GREAT BRITAIN AND NORTHERN IRELAND

- 1 The Joint Authority shall be a body corporate by the name of the National Insurance Joint Authority, and shall have an official seal which shall be officially and judicially noticed, and the seal of the Authority may be authenticated by either member of, or the secretary to, the Authority, or by any person authorised by the Authority to act on behalf of the secretary.
- 2 Either member of the Joint Authority shall be entitled, subject to and in accordance with any rules laid down by the Authority, to appoint a deputy to act for him at meetings of the Authority at which he is unable to be present.
- 3 The Documentary Evidence Act 1868 shall apply to the Joint Authority as if the Authority were included in the first column of the Schedule to that Act, and as if either member or the secretary, or any person authorised to act on behalf of the secretary, of the Authority were mentioned in the second column of that Schedule, and as if the regulations referred to in that Act included any document issued by the Authority.

## SCHEDULE 15

Section 52(9).

GENERAL PROVISIONS AS TO RECOGNISED PENSIONABLE  
EMPLOYMENTS AND RECOGNISED SCHEMES*Definition*

- 1 In this Schedule, " the Board " means the Occupational Pensions Board.

*Special provision affecting certain public service pension schemes*

- 2 (1) In relation to employments of any class to which this paragraph applies, the Secretary of State may by regulations direct that elections with a view to the issue, variation, cancellation or surrender of recognition certificates shall be made and revoked by him instead of by the employer.
- (2) Any such regulations may also make provision for other things which by or under Part II of this Act are required or authorised to be done by or to an employer to be done instead by or to the Secretary of State and for treating any employments of the class in question as employments under a single employer different from the employer in any other employment.
- (3) Before making any regulations under this paragraph the Secretary of State shall consult with such bodies concerned with employments of the class in question as appear to him fairly to represent the interests of the employers and earners in those employments.
- (4) Subject to sub-paragraphs (5) and (6) below, the employments in which an earner's service qualifies him for benefit under any of the following enactments shall constitute a class to which this paragraph applies—  
section 26 of the Fire Services Act 1947 ;  
the Police Pensions Act 1948 ; and  
sections 7 to 10 of the Superannuation Act 1972.
- (5) Where service in any employment would qualify a person as aforesaid under any of the enactments specified in sub-paragraph (4) above but for rules having effect under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 (which relates to persons transferring to or from certain employments), the employment shall be treated as falling within the class to which that enactment relates, and as not falling within any other class to which this paragraph applies.
- (6) Where a local Act contains a provision for the payment of benefits in respect of service which, but for the provision, would qualify a person for such benefits under the enactments specified in sub-paragraph (4) above, that provision shall be deemed to be included among the enactments so specified.

*Centralised schemes*

- 3 Regulations may modify sections 52 to 62 of this Act in their application to employments in the case of which earners under different employers qualify, by virtue of their respective service in those employments, for the benefits of the same occupational pension scheme.

*General regulations*

- 4 In relation to employments which are or at any time have been recognised pensionable employments, and to the operation of schemes by reference to which such employments are or have been recognised, provision may be made by regulations—
- (a) for treating an earner's employment, where it ends before a person succeeds to his employer's business, as having been employment under the employer's successor ;
  - (b) for disregarding changes in an earner's employment due to the death of an employer or other cause, or any cesser of recognised pensionable employment so due, or for treating employment under one employer as a variation of that under another and treating any recognition certificate issued to, or election made by, the former employer as issued to or made by the latter;
  - (c) for disregarding temporary interruptions in an earner's employment or recognised pensionable employment, and for treating the employment in either case as continuing during the interruption; and
  - (d) generally as to the circumstances in which an earner's employment is or is not to be treated as having begun, or as having come to an end ;
- and references in this paragraph to an earner's employment beginning or ending shall include references to his employment becoming, or ceasing to be, recognised pensionable employment.
- 5 Regulations may enable the Board to determine, in prescribed circumstances, that an earner, or any group of earners falling within a particular category or description of recognised pensionable employments, has been in such employment from a date earlier than would otherwise be the case (not being, in the case of an earner within the scope of the determination, a date earlier than that on which his relevant employment began or a recognition certificate was issued in respect of it, whichever is the later).
- 6 Regulations may make provision for any incidental matters connected with the provisions of Part II of this Act in relation to any employment which is, has been, or may become recognised pensionable employment and in relation to the certification of such an employment under section 52 of this Act, or otherwise connected with the provisions of this Schedule; and without prejudice to the generality of the foregoing, regulations may relate—
- (a) to the determination by the Board of any such questions as are referred to in section 52(7) of this Act,
  - (b) to the information which may in connection with any matters referred to in sections 51 to 62 or in this Schedule be required to be given by any person.
- 7 Without prejudice to paragraph 6 above, regulations may enable the Board to cancel or vary a recognition certificate where they have reason to suppose that any employment to which it relates ought not to be treated as recognised pensionable employment in accordance with the certificate and the employer does not show that it ought to be so treated.
- 8 Regulations may—
- (a) regulate the manner in which employers are to make or revoke an election with a view to the issue, variation, cancellation or surrender of a recognition certificate, and require them to give notice for the purpose of informing earners and others of their intention to do so ;

- (b) require employers of earners (whether or not for the time being in recognised pensionable employment) to notify earners and others, in the prescribed manner, of the manner in which the minimum benefits of any occupational pension scheme fall to be calculated under the scheme and any regulations applicable thereto ;
- (c) empower the Board to defer the issue or variation of a recognition certificate so as to enable the relevant election to be further considered in the light of any representation made by persons to whom notice of the election is required by regulations to be given, or by organisations representing any such persons ;
- (d) contain provisions relating to employments which have ceased to be (as well as to those which are) recognised pensionable employments in relation to any person.

*Adjustment of computation*

- 9 Regulations may, in relation to any method adopted in an occupational pension scheme for making ascertainable its minimum benefits, provide for adjusting figures so as to avoid fractional amounts and otherwise to facilitate computation.

*Modification of recognition provisions in certain cases*

- 10 (1) Regulations may modify the provisions of sections 52 to 57 of this Act in their application to cases in which a person is employed at the same time in two or more employments (whether or not under the same employer), being employments of which at least one, but not both or all, is recognised pensionable employment, with a view to enabling the employments to be treated either separately or together for the purposes of Part II of this Act.
- (2) Regulations may modify the provisions of sections 53 to 58 of this Act in their application to cases in which—
- (a) any description of benefit under a scheme is subject to a limit (however imposed) operating so as to prevent service beyond a particular length from qualifying for further benefits ;
  - (b) earners qualify for the benefits of a scheme by reference not only to service in recognised pensionable employment but also to service in the same or another employment (whether or not recognised pensionable employment) before the scheme was recognised in relation to them or their employment;
- and regulations under this paragraph may include provision for securing that, in such cases, an earner's employment does not cease to be recognised pensionable employment only because his service for the time being does not qualify him for minimum benefits.

*Scheme rules not to be altered without Board's consent*

- 11 (1) Where in respect of any employment a recognition certificate has been issued, no alteration of the rules of the relevant recognised scheme shall be made so as to affect any of the matters dealt with in sections 51 to 62 of this Act without the Board's consent; and any such alteration made without that consent shall be void:

Provided that a consent given by the Board for the purpose of this paragraph shall, if and to the extent that the Board so direct, operate so as to validate with retrospective effect any operation of the rules which would otherwise be void under this paragraph.

- (2) This paragraph shall continue in force in relation to a scheme after it has ceased to be recognised so long as any person qualifies (immediately or prospectively) for any of the minimum benefits of the scheme within the meaning of section 62 of this Act.

*Introductory and transitional provisions*

- 12 Regulations may (without prejudice to any power exercisable by virtue of section 100(1) of this Act) make such provision as the Secretary of State thinks expedient for facilitating the bringing into force of so much of Part II of this Act as relates to recognised pensionable employment, including—
- (a) provisions for effecting orderly transition between Part III of the former principal Act and Part II of this Act, and other transitional provisions ; and
  - (b) provisions enabling the Board to issue recognition certificates on the basis of such undertakings and information as may be prescribed by the regulations.

SCHEDULE 16

Section 63(1).

REQUIREMENTS AS TO PRESERVATION OF BENEFIT UNDER OCCUPATIONAL PENSION SCHEMES

**PART I**

*Interpretation*

- 1 The following 4 paragraphs have effect for the interpretation of this Schedule.
- 2 " Scheme" means an occupational pension scheme; and in relation to a scheme—
- (a) " relevant employment" means any employment to which the scheme applies ;
  - (b) " long service benefit" means the benefits which will be payable under the scheme, in accordance with legal obligation, to or in respect of a member of the scheme on the assumption that he remains in relevant employment until he attains normal pension age ;
- and in paragraph (b) above " benefits " means retirement benefit for the member himself at normal pension age or benefit for his wife or widow, or dependants, or others, on his attaining that age or his death thereafter, or both such descriptions of benefit.
- 3 (1) " Pensionable service ", in relation to a scheme and a member of it, means service in relevant employment which qualifies the member (on the assumption that it continues for the appropriate period) for long service benefit under the scheme, including service before the appointed day.
- (2) There shall be taken into account as pensionable service only actual service; that is to say—

- (a) service notionally attributable for any purposes of the scheme is not to be regarded as pensionable service ; and
  - (b) no account is to be taken of scheme rules by which a period of service can be treated for any purpose as being longer or shorter than it actually is.
- 4 (1) In relation to a scheme and a member's pensionable service under it, " normal pension age " is to be construed as follows.
- (2) Where the scheme provides for the member only minimum benefits for recognition purposes, " normal pension age" means the earliest age at which the member is entitled to receive his minimum personal pension on retirement from relevant employment.
- (3) In any other case, " normal pension age " means the earliest age at which the member is entitled to receive benefits (other than minimum benefits) on his retirement from such employment.
- (4) For the purposes of this paragraph there is to be disregarded any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise.
- 5 (1) " Supplementary credits ", in relation to a scheme and a member's entitlement to its benefits, means any increase of benefit or additional benefit to which the member may become entitled—
- (a) in consequence of any provision made by or under the scheme after he becomes a member of it (to the extent that it applies to any previous pensionable service of his); or
  - (b) by reference to previous service of his (whether or not pensionable service); or
  - (c) in such other circumstances as may be prescribed,
- including under paragraph (b) above any transfer credits.
- (2) " Purchased credits " means supplementary credits for which, under the rules of the scheme, a member may or must make payment in whole or in part (whether by means of additional contributions, or of deduction from benefit, or otherwise, and whether separately for each credit or by one or more payments for one or more credits).
- (3) "Bonus credits" means supplementary credits other than purchased credits or transfer credits.

*Basic principle as to short service benefit*

- 6 (1) A scheme must provide so that where a member's service in relevant employment is terminated before normal pension age and—
- (a) he has attained the age of 26 ; and
  - (b) he has at least 5 years' qualifying service,
- he is entitled to benefit (calculated in accordance with the following provisions of this Schedule and there referred to as "short service benefit "), consisting of or comprising benefit of any description which would have been payable under the scheme as long service benefit, whether for himself or for others.
- (2) Subject to the following sub-paragraph, short service benefit must be made payable as from normal pension age or, if in the member's case that age is earlier than 60, then from the age of 60.

- (3) Short service benefit payable on or in respect of the member's death after normal pension age must be made payable as from his death or within such time thereafter as long service benefit payable on or in respect of his death would be payable.
- (4) In applying sub-paragraphs (2) and (3) above, no regard is to be had to the operation of any scheme rule, taking effect at any time after termination of the member's pensionable service, as to what is normal pension age under the scheme.
- (5) A scheme must not provide for payment of short service benefit in the form of a lump sum at any time before normal pension age, except in such circumstances as may be prescribed.

*Qualifying service*

- 7 (1) " 5 years' qualifying service " means 5 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 5 years) in which the member was at all times employed either—
  - (a) in pensionable service under the scheme ; or
  - (b) in service in recognised pensionable employment by reference to the scheme ; or
  - (c) in linked qualifying service under another scheme,
 no regard being had to whether or not it was the same description of service in the whole of the 5 years.
- (2) A period of service previously terminated is not to count towards the 5 years' qualifying service unless it counts towards qualification for long service benefit, and need then count only to the same extent and in the same way.

*No discrimination between short service and long service beneficiaries*

- 8 (1) A scheme must not contain any rule which results, or can result, in a member being treated less favourably for any purpose relating to short service benefit than he is, or is entitled to be, treated for the corresponding purpose relating to long service benefit.
- (2) The above does not apply to any rule in its application to members whose pensionable service terminated before the rule came into force, except a rule made after the termination of a member's pensionable service and resulting, or capable of resulting, for him in any treatment less favourable than that to which he would have been entitled but for the rule ; nor does it apply to a rule merely conferring a discretion on the scheme's trustees or managers, or others, so long as it is not a rule requiring the discretion to be exercised in any discriminatory manner against members in respect of their short service benefit.

*Form of short service benefit and its alternatives*

- 9 (1) Subject to the following sub-paragraph, a member's short service benefit must either be payable (as mentioned in paragraph 6(2) above) directly out of the resources of the scheme or be assured to him by such means as may be prescribed.
- (2) Subject to the following sub-paragraphs, a scheme may, instead of providing short service benefit, provide—



- (a) for the member's accrued rights to be transferred to another scheme (whether recognised or not) with a view to the acquisition for him of transfer credits under the other scheme; or
  - (b) for such alternatives to short service benefit as may be prescribed.
- (3) Either of the alternatives specified in sub-paragraph (2)(a) and (b) above may be by way of complete or partial substitute for short service benefit, but (except in such cases as may be prescribed) only with the member's consent.
- (4) An alternative prescribed under sub-paragraph (2)(b) above must not include any payment by way of return of contributions, except in respect of—
- (a) a period of service before the appointed day ; or
  - (b) a period of service of less than 5 years after that day if (and only if) there has been such a payment in respect of a period of service before that day.

#### *Computation of benefit*

- 10 (1) A scheme must provide for short service benefit to be computed on the same basis as long service benefit.
- (2) For this purpose, no account is to be taken of any rule making it (directly or indirectly) a condition of entitlement to benefit that pensionable service shall have been of any minimum duration.
- (3) This paragraph does not apply to so much of any benefit as—
- (a) accrues at a higher rate, or otherwise more favourably, in the case of members with a period of pensionable service of some specified minimum length, or of those remaining in pensionable service up to some specified minimum age; or
  - (b) is of an amount, or at a rate, unrelated to length of pensionable service or to the number or amount of contributions paid by or for the member ;
- nor does it apply to any category of schemes or members, or description of benefit, excluded from this paragraph by regulations.
- 11 So far as any short service benefit is not required to be computed in accordance with paragraph 10 above, it must be computed on the basis of uniform accrual, bearing the same proportion to long service benefit at the time when pensionable service is terminated as the period of that service bears to the period from the beginning of that service to the time when the member would attain normal pension age or such lower age as may be prescribed.
- 12 (1) Where long service benefit is related to a member's earnings at, or in a specified period before, the time when he attains normal pension age, short service benefit must be related, in a corresponding manner, to his earnings at, or in the same period before, the time when his pensionable service is terminated.
- (2) A scheme must comply with any regulations relating to the basis of computation of short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

*Credits*

- 13 (1) If a scheme provides for long service benefit to include supplementary credits, it must provide for such credits to be included in short service benefit, and provide for all credits to be so included, subject to the following sub-paragraphs.
- (2) Where purchased credits have not been paid for in full at or before termination of pensionable service—
- (a) if they were to be paid for by a fixed amount, the benefit must include so much of the whole of the credits as bears the same proportion to them as the amount which the member has paid bears to the full amount payable by him;
  - (b) if they were to be paid for otherwise than by a fixed amount, the benefit must include such part of the credits as bears the same proportion to the whole as the period between the time when the first payment became due and the termination of the member's pensionable service bears to the whole period over which payment was to be made.
- (3) If the benefit includes bonus credits, or credits for which payment is to be made by deduction from that or another benefit, the credits to be included in the benefit and (where applicable) the amount of the deduction must be computed on the basis of the following assumptions—
- (a) that the credits accrue in full only to a member remaining in pensionable service until normal pension age ;
  - (b) that entitlement to any credit, and also the amount of any relevant deduction, accrues at a uniform rate from the time when the credit was awarded up to the time of his attaining that age.
- (4) Where any such deduction from benefit as is referred to in sub-paragraph (3) above is a percentage of benefit, the percentage must be the same for short service as for long service benefit.
- (5) A scheme must comply with any regulations made with respect to the manner in which supplementary credits are to be included in short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

*Pension-increases*

- 14 (1) A scheme which by its rules provides for increases of long service benefit from time to time (whether by way of upwards re-valuation or otherwise) must provide for corresponding increases of short service benefit in the case of members whose pensionable service terminates at any time after the coming into force of any such rule.
- (2) Where provision to this effect is made in such a way as to involve the exercise of a discretion in relation to increase of long service benefit, a corresponding discretion must be conferred in relation to short service benefit.
- (3) If an increase of long service benefit is to take effect at a specified time after termination of service, the corresponding increase of short service benefit must take effect at the same time after the time when short service benefit becomes payable.
- (4) Where provision is made for increase of long service benefit otherwise than at a fixed rate, short service benefit may nevertheless be subject to increase at a fixed rate, so long as the rate is not less than 3 per cent, a year compound.

*Assignment, surrender and commutation of benefit*

- 15 (1) Except as provided by this paragraph, a scheme must contain rules preventing assignment of short service benefit, and must not enable such benefit to be surrendered or commuted.
- (2) Provisions enabling assignment are permissible (whether assignment before or after the benefit comes into payment) if it is assignment in favour of the member's widow or a dependant of his.
- (3) Provisions enabling surrender (at the option of the member) are permissible where it is—
- (a) to provide benefit for the member's widow or a dependant of his;
  - (b) to acquire for the member entitlement to transfer credits under another scheme ;
  - (c) to acquire for the member entitlement to further benefits under the same scheme, relating both to a period of pensionable service previously terminated and also to a subsequent period of service in relevant employment.
- (4) Provision may be made for a member's benefit to be commuted, but only—
- (a) in a case where he opts (at any time) to commute at or after normal pension age ; or
  - (b) in exceptional circumstances of serious ill-health ; or
  - (c) in such other circumstances as may be prescribed ;
- and where a scheme provides benefit for a member's widow or dependant, it may provide for commutation by the beneficiary in such circumstances as may be prescribed.
- (5) In respect of any of the benefits or rights alternative to short service benefit provided in accordance with paragraph 9(2) above, this paragraph shall apply with such modifications as may be prescribed.
- (6) In the application of this paragraph to Scotland, for reference to assignment there shall be substituted references to assignation.

*Forfeiture, etc.*

- 16 (1) Except so far as permitted by this paragraph, and subject to paragraph 17 below, a scheme must not contain any provision for forfeiture of short service benefit.
- (2) Provision may be made for forfeiture of the whole or part of any short service benefit by reference to an event occurring after the benefit becomes payable, but only an event by reference to which long service benefit would be forfeited; and such a provision must not be in terms which in the opinion of the Occupational Pensions Board appear to discriminate against members entitled to short service benefit.
- (3) Provision may be made for forfeiture by reference to—
- (a) the assignment or attempted assignment or, in Scotland, the assignation or attempted assignation of the benefit contrary to the provisions of the scheme;
  - (b) the member's bankruptcy or, in the case of benefit for a widow or dependant of the member, the beneficiary's bankruptcy ;

and in this case forfeiture may be by reference to an event occurring either before or after the benefit would otherwise be payable, so long as the like provision is made in relation to long service benefit.

- (4) Provision for forfeiture may be made—
- (a) in a public service pension scheme, by reference to the member being convicted of an offence—
    - (i) committed by him before the benefit becomes payable and in connection with relevant employment, and
    - (ii) certified by a Minister of the Crown either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service;
  - (b) in any case, by reference to the member having been convicted of any offence committed before the benefit becomes payable, being—
    - (i) an offence of treason, or
    - (ii) one or more offences under the Official Secrets Acts 1911 to 1939 for which the member has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.
- 17 (1) No rule must operate so as to deprive a person of short service benefit (whether a member himself, or his widow or a dependant) by reference to—
- (a) failure by him or any other person to make a claim for the benefit or for any payment due as benefit; or
  - (b) failure by him or any other person, at any time after termination of relevant employment, to give any notice, or comply with any formality, required by the scheme as a condition of entitlement.
- (2) Sub-paragraph (1)(a) above is not to prevent reliance on any enactment relating to the limitation of actions ; and in cases of failure to claim, the scheme may provide for the right to receive any payment to be forfeited in the event of its not being claimed within 6 years of the date on which it became due.
- 18 (1) A scheme must contain no rule enabling a member's employer to exercise any description of charge or lien on, or set-off against, short service benefit, to the extent that it includes transfer credits ; but a charge or lien on, or set-off against, a member's short service benefit is permissible (insofar as it does not include transfer credits) for the purpose of enabling the employer to obtain the discharge by the member of some monetary obligation due to the employer and arising out of a criminal, negligent or fraudulent act or omission by the member.
- (2) No rule is to permit the employer to recover from, or retain out of, the resources of the scheme any sum in respect of a monetary or other obligation due to him from any member, except an obligation arising as mentioned in sub-paragraph (1) ; and rules permitting such recovery or retainer must so provide that—
- (a) in respect of any such obligation, recovery or retainer is limited to the actuarial value of the member's actual or prospective benefits at that time, or the amount of the obligation, whichever is the less (subject to any different agreement in writing between the employer and the member) ; and
  - (b) the member is entitled to a certificate showing the amount retained or recovered and its effect on his benefits or prospective benefits ; and
  - (c) in the event of any dispute as to the amount to be retained or recovered, the employer is not entitled to enforce the charge, lien or set-off except after the

obligation has become enforceable under an order of a competent court or the award of an arbitrator or in Scotland an arbiter to be appointed (failing agreement between the parties) by the sheriff.

- 19 In respect of any of the benefits or rights alternative to short service benefit provided in accordance with paragraph 9(2) above, paragraphs 16 to 18 shall apply with such modifications as may be prescribed.

## PART II

### SUPPLEMENTARY REGULATIONS

- 20 Regulations may, in respect of any specified provision contained in Part I of this Schedule, provide that a scheme is not to be treated as conforming with the preservation requirements unless it contains express rules to the effect (but not necessarily in the words) of that provision.
- 21 Regulations may modify Part I of this Schedule in relation to schemes with any overseas element, that is to say, schemes established, or relating to employment, or with parties domiciled, resident or carrying on business, in any part of the world outside the United Kingdom, or otherwise not confined in their operation to the United Kingdom.
- 22 Regulations may make provision as to the circumstances in which, for the purposes of Part I of this Schedule—
- (a) a period of a person's service in two or more different employments is to be treated as a period of service in one or more of those employments ;
  - (b) a person's service in any employment is to be treated as terminated or not terminated.
- 23 Regulations may modify Part I of this Schedule in its application to cases where an earner is for the time being, or has been, employed in pensionable service under, or in recognised pensionable employment by reference to, different schemes applying to the same employment and these regulations may relate to service under or, as the case may be, by reference to different schemes at the same time, or at different times.
- 24 Regulations may make such provision modifying Part I of this Schedule as the Secretary of State thinks fit for securing that the preservation requirements include requirements for provision to be made in a scheme as to the preservation of a member's benefit in the event of the scheme being wound up.
- 25 Regulations may modify Part I of this Schedule in any manner which the Secretary of State thinks appropriate with a view to securing the orderly implementation of the provisions of section 63 of this Act and to obtaining general compliance with that section ; and regulations made under this paragraph may include incidental and supplementary provisions, including provisions appearing to the Secretary of State to be required in consequence of different provisions of Part I of this Schedule being brought into force at different times.
- 26 Without prejudice to any of the foregoing provisions, regulations may provide for the preservation requirements to apply with such modifications and exceptions as the Secretary of State considers to be necessary for particular cases or classes of cases.

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## SCHEDULE 17

Section 66(5).

### THE OCCUPATIONAL PENSIONS BOARD

#### *Preliminary*

1       The Occupational Pensions Board ("the Board") shall have perpetual succession and a common seal.

#### *Membership*

2       Subject to the following provisions of this Schedule, a person shall hold and vacate office as chairman, deputy chairman or other member of the Board in accordance with the terms of the instrument appointing him.

3       A person may at any time resign office as chairman, deputy chairman or other member of the Board by giving to the Secretary of State written notice of resignation signed by that person.

4       (1) If a member of the Board becomes or ceases to be chairman or deputy chairman, the Secretary of State may vary the terms of the instrument appointing him to be a member so as to alter the date on which he is to vacate office.

(2) If the chairman or deputy chairman ceases to be a member, he shall cease to be chairman or deputy chairman, as the case may be.

5       (1) If the Secretary of State is satisfied that a member of the Board—

(a) has been absent from meetings of the Board for a period longer than 3 consecutive months without the Board's permission ; or

(b) has become bankrupt or made an arrangement with his creditors, the Secretary of State may remove that member.

(2) In the application of sub-paragraph (1) above to Scotland, for the references to a member's having become bankrupt and to his having made an arrangement with his creditors there shall be substituted respectively references to sequestration of a member's estate having been awarded and to his having made a trust deed for behoof of his creditors or a composition contract.

(3) Without prejudice to the foregoing provisions, the Secretary of State may remove a member of the Board on the ground of incapacity or misbehaviour.

#### *Expenses; remuneration etc. of members*

6       The expenses of the Board, to such an amount as may be approved by the Minister for the Civil Service, shall be paid by the Secretary of State.

7       There may be paid as part of the expenses of the Board—

(a) to all or any of the members of the Board, such salaries or other remuneration and travelling and other allowances ;

(b) to persons attending their meetings at the request of the Board, such travelling and other allowances (including compensation for loss of remunerative time); and

(c) to persons from whom the Board may decide to seek advice,

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as being persons considered by the Board to be specially qualified to advise them on particular matters, such fees, as the Secretary of State may with the consent of the Minister for the Civil Service determine.

8 The Secretary of State may with the consent of the Minister for the Civil Service provide for the payment of pensions, allowances or gratuities to or in respect of such members of the Board as may be so determined.

9 Where a person ceases to be a member of the Board otherwise than on the expiration of his term of office and it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation, the Secretary of State may with the consent of the Minister for the Civil Service make to that person a payment of such amount as the Secretary of State may determine with the consent of that Minister.

#### *Proceedings*

10 (1) The quorum of the Board and the arrangements relating to their meetings shall be such as the Board may determine.

(2) Subject to regulations made by the Secretary of State under section 66(7) and section 67(4) of this Act, the procedure of the Board, in relation to the discharge of any of their functions, shall be such as the Board may determine.

11 The validity of any proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

12 (1) Where the Board give a decision on any matter dealt with by them by means of a formal hearing, or on review, it shall be their duty to furnish a statement, either written or oral, of the reasons for the decision if they are requested, on or before the giving or notification of the decision, to state their reasons.

(2) Any statement by the Board of their reasons for a decision, whether the statement is given by them in pursuance of this paragraph or otherwise, shall be taken to form part of the decision and accordingly to be incorporated in the record.

#### *Staff etc.*

13 (1) The Secretary of State may make available to the Board the services of such officers and servants of his department as he may consider appropriate for the proper discharge of the functions of the Board.

(2) The Board may authorise any member, or any officer or servant of the Secretary of State's department, to perform on the Board's behalf such of their functions (including the power to give an authorisation for the purposes of this paragraph) as may be specified in the authorisation.

#### *Fees*

14 Regulations made by the Secretary of State may authorise the Board to charge fees for their services in respect of the modification of an occupational pension scheme on an application made in that behalf under section 64 of this Act, including services in connection with the drawing up of any order of the Board made on application.

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*Instruments and contracts*

- 15 The fixing of the common seal of the Board shall be authenticated by the signature of the secretary of the Board or some other person authorised by them to act for that purpose.
- 16 A document purporting to be duly executed under the seal of the Board shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

SCHEDULE 18

Sections 73(6) and 74(10).

THE RESERVE PENSION BOARD AND RESERVE PENSION FUND

**PART I**

THE BOARD

*Preliminary*

- 1 The Reserve Pension Board (" the Board ") shall have perpetual succession and a common seal.

*Membership*

- 2 It shall be the duty of the Secretary of State—
- (a) to satisfy himself, before he appoints a person to be a member of the Board (whether as chairman, deputy chairman or otherwise), that that person will have no such financial or other interest as is likely to affect prejudicially the performance of his functions as a member ; and
  - (b) to satisfy himself from time to time with respect to each member that the member has no such interests ;
- and a person who is a member of the Board, or whom the Secretary of State proposes to appoint to be a member shall, whenever requested by the Secretary of State to do so, furnish him with such information as he may specify with a view to carrying out his duty under this paragraph.
- 3 Subject to the following provisions of this Schedule, a person shall hold and vacate office as chairman, deputy chairman or other member of the Board in accordance with the terms of the instrument appointing him.
- 4 A person may at any time resign office as chairman, deputy chairman or other member of the Board by giving to the Secretary of State written notice of resignation signed by that person.
- 5 (1) If a member of the Board becomes or ceases to be chairman or deputy chairman, the Secretary of State may vary the terms of the instrument appointing him to be a member so as to alter the date on which he is to vacate office.
- (2) If the chairman or deputy chairman ceases to be a member he shall cease to be chairman or deputy chairman, as the case may be.
- 6 (1) If the Secretary of State is satisfied that a member of the Board—



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- (a) has been absent from meetings of the Board for a period longer than 3 consecutive months without the Board's permission ; or
  - (b) has become bankrupt or made an arrangement with his creditors,
- the Secretary of State may remove that member.
- (2) In the application of sub-paragraph (1) above to Scotland, for the references to a member's having become bankrupt and to his having made an arrangement with his creditors there shall be substituted respectively references to sequestration of a member's estate having been awarded and to his having made a trust deed for behoof of his creditors or a composition contract.
- (3) Without prejudice to the foregoing provisions, the Secretary of State may remove a member of the Board on the ground of incapacity or misbehaviour.

#### *Remuneration, etc., of members*

- 7 The Board shall pay to each member such remuneration as the Secretary of State may determine with the consent of the Minister for the Civil Service.
- 8 The Board shall make such provision as may be determined by the Secretary of State with the consent of the Minister for the Civil Service for the payment of pensions, allowances or gratuities to or in respect of such members of the Board as may be so determined.
- 9 Where a person ceases to be a member of the Board otherwise than on the expiration of his term of office and it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation, the Secretary of State may with the consent of the Minister for the Civil Service direct the Board to make to that person a payment of such amount as the Secretary of State may determine with the consent of that Minister.

#### *Proceedings*

- 10 The quorum of the Board and the arrangements relating to their meetings shall be such as the Board may determine.
- 11 (1) A member of the Board who is in any way directly or indirectly interested in a contract proposed to be made by the Board, or in any other matter whatsoever which falls to be considered by the Board (and in particular, but without prejudice to the generality of the foregoing words, a matter relating directly or indirectly to the investments of the Reserve Pension Fund), shall disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the meeting; and the member shall not—
- (a) in the case of a contract, take part in any deliberation or decision of the Board with respect to the contract; and
  - (b) in the case of any other matter, take part in any deliberation or decision of the Board with respect to that matter if the Board decide that the interest in question might affect prejudicially the member's consideration of that matter.
- (2) A notice given by a member at a meeting of the Board to the effect—
- (a) that he is a member of a specified company or firm and is to be regarded as interested in any contract made, or business conducted, after the date of the notice with that company or firm (or, in the case of a firm, with any member of it); or

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(b) that he is a member of a specified company and is to be regarded as interested in any matter relating to the acquisition or disposal of any securities of that company,

shall for the purposes of sub-paragraph (1) above, be a sufficient disclosure of any interest of his in relation to a contract so made, or business so conducted, or to any such matter, as the case may be.

- (3) A member need not attend in person at a meeting of the Board in order to make a disclosure for the purposes of this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice in writing to be taken into consideration and read at such a meeting.
- (4) Nothing in this paragraph applies to any interest of a member of the Board arising from his being himself actually or prospectively entitled to a reserve scheme pension.
- 12 The validity of any proceedings of the Board shall not be affected by any vacancy among the members, or by any defect in the appointment of a member, or by any failure to comply with the requirements of paragraph 11 above.

#### *Staff*

- 13 (1) The Board shall appoint a secretary and such officers and servants as they may determine with the consent of the Secretary of State and the Minister for the Civil Service jointly as to the numbers appointed.
- (2) Provision shall be made by the Board, with the like consent, as to the remuneration of their secretary, and other officers and servants; and the Board shall also make such provision as may be determined by the Secretary of State with the consent of the Minister for the Civil Service for the payment of pensions, allowances or gratuities to or in respect of their secretary or other officers and servants as may be so determined.

#### *Performance of Board's functions*

- 14 The Board may authorise any member, or any officer or servant appointed by them under paragraph 13 above, to perform on behalf of the Board such of their functions (including functions conferred by this paragraph) as are specified in the authorisation.

#### *Instruments and contracts*

- 15 The fixing of the common seal of the Board shall be authenticated by the signature of two persons, one of whom shall be the secretary of the Board or a person appointed by them to act as his deputy for the purpose and the other shall be either a member of the Board or a person authorised by them to act.
- 16 A document purporting to be duly executed under the seal of the Board shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

## **PART II**

### ACCOUNTS AND AUDIT OF RESERVE PENSION FUND

- 17 (1) It shall be the duty of the Board—

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- (a) to keep proper accounts of the Reserve Pension Fund and proper records in relation to the accounts ; and
  - (b) to prepare in respect of each financial year, in such form as the Secretary of State with the approval of the Treasury may direct, a statement of those accounts showing the financial condition of the Fund as at the end of that year.
- (2) The accounts kept and the statement prepared in pursuance of sub-paragraph (1) above shall be audited by auditors appointed from time to time by the Secretary of State; and a person shall not be qualified to be so appointed unless he is a member of one or more of the following bodies—
  - The Institute of Chartered Accountants in England and Wales;
  - The Institute of Chartered Accountants of Scotland ;
  - The Association of Certified Accountants ;
  - The Institute of Chartered Accountants in Ireland ;
  - any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State;but a Scottish firm may be so appointed if each of the partners therein is qualified for appointment.
- 18 (1) It shall be the duty of the auditors in preparing their report on the accounts of the Fund to carry out such investigations as will enable them to form an opinion as to the following matters, namely—
  - (a) whether the Board have properly complied with their duties under paragraph 17 above, and have maintained a satisfactory system of control over their transactions and records ;
  - (b) whether the investments of the Fund indicate that the Board have complied with section 75(2) of this Act;and the auditors shall include in their report a statement of their conclusions as to the matters referred to in this paragraph.
- (2) The auditors—
  - (a) shall have a right of access at all times to the books, accounts and records of the Board, and to all other documents in the possession, or under the control, of the Board and relating to the Board's affairs; and
  - (b) shall be entitled to require from any member or officer of the Board such information and explanations as they think necessary for the performance of their duties under this paragraph and generally for the purpose of discharging their duties as auditors.
- (3) If the auditors fail to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their audit, they shall state that fact in their report.

## SCHEDULE 19

Section 78(6).

### SUPPLEMENTARY PROVISIONS AS TO RESERVE SCHEME PREMIUMS

- 1 Regulations may provide for adjusting the amounts which are to be paid by way of reserve scheme premium in any prescribed circumstances, so as to avoid fractional amounts and otherwise to facilitate computation.
- 2 The purposes for which regulations may be made under paragraph 4 of Schedule 15 to this Act shall include those of enabling it to be ascertained in particular circumstances whether an employer is liable for a reserve scheme premium and the amount of any premium.
- 3 In relation to employed earners who, in any period of service in recognised pensionable employment—
- (a) have been paid earnings in any income tax week by more than one person in respect of different employments; or
  - (b) have worked under the general control or management of a person other than their immediate employer,
- and in relation to any other case for which it appears to the Secretary of State that such provision is needed, regulations may provide that for the purposes of section 78 of this Act the prescribed person is to be treated as liable for any reserve scheme premium payable on the termination of that period of service.
- 4 Regulations may provide for requiring employers (except in such cases as may be prescribed) to give notice to the Secretary of State when a person's period of service in recognised pensionable employment begins or is terminated.
- 5 Regulations may provide for treating reserve scheme premiums payable in respect of an earner's period of service in any employment as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to, any negligence on the part of, the earner.
- 6 Regulations may, in relation to reserve scheme premiums, provide—
- (a) for treating a premium paid at or after any prescribed time as paid at some other time (whether earlier or later);
  - (b) for enabling a premium to be treated as paid in an income tax year earlier or later than that in which it was actually paid ;
  - (c) for treating a premium wrongly paid, or paid as to the wrong amount, as paid (wholly or in part) in discharge of a liability for another premium, or for basic scheme or reserve scheme contributions ;
  - (d) for the return of premiums paid in error or, in prescribed circumstances, of premiums as to which the Secretary of State is satisfied that they ought to be repaid ;
  - (e) for any other matters incidental to the payment, collection or return of premiums.
- 7 In relation to any employments of a class to which paragraph 2 of Schedule 15 to this Act applies, regulations may make provision—
- (a) for things which by or under Part III of this Act are required or authorised to be done by or to any person as a secondary reserve scheme contributor, or in respect of his liability for a reserve scheme premium, to be done instead by or to the Secretary of State ; and

- (b) for the recovery by the Secretary of State of a reserve scheme premium from any person in a case where it has been paid by the Secretary of State instead of by him.

## SCHEDULE 20

Section 80(2).

### COMPUTATION OF WEEKLY RATE OF RESERVE SCHEME PERSONAL PENSION

- 1 For the purposes of ascertaining the rate (without bonuses) of an earner's reserve scheme personal pension, the factors relevant under this Schedule are—
  - (a) the year in which any reserve scheme contributions or reserve scheme premiums were paid in respect of him and his earnings from any employment;
  - (b) his age at the end of that year ; and
  - (c) his reckonable contribution factor for that year ;and in this Schedule " year " means an income tax year.
- 2 (1) An earner's reckonable contribution factor for any year is the aggregate amount of—
  - (a) all reserve scheme contributions paid in that year in respect of the earner's earnings (disregarding earnings in respect of which there has been a repayment of contributions); and
  - (b) all reserve scheme premiums paid in that year by any person in respect of him.(2) Regulations may provide for adjusting reckonable contribution factors so as to make each factor a whole number of pounds.
- 3 For the purposes of paragraphs 1 and 2 above, any contributions or premium paid before or on the relevant pay-day, or within a prescribed period after that day, shall be deemed to have been paid in the year in which that day fell; and (except so far as may be otherwise prescribed) " the relevant pay-day " means—
  - (a) in relation to contributions, the date on which were paid the earnings in respect of which contributions became payable; and
  - (b) in relation to a premium, the date on which there was terminated the period of service in recognised pensionable employment, termination of which gave rise to the liability for the premium.
- 4 (1) The weekly rate of the pension (without bonuses) shall be arrived at as follows.
  - (2) Take all the years for which the earner acquired a reckonable contribution factor and in which he was aged not less than 22 nor more than 64.
  - (3) For this purpose, treat the earner as having been, in any year, of the age which he had attained on the last day of that year.
  - (4) In relation to a year in which the earner was of the age specified in the first column of the Table below, take for each £1 of his reckonable contribution factor for that year the number of pence specified for him in the second column of the Table.
  - (5) The weekly rate of the pension is the aggregate of the sums produced by the calculation under sub-paragraph (4) above.

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

TABLE

<i>Age at end of year of contribution</i>	<i>Amount of pension per week for every £1 of year's reckonable contribution factor</i>	
	<i>Men pence</i>	<i>Women pence</i>
22	.866	.581
23	.834	.560
24	.803	.540
25	.773	.520
26	.743	.501
27	.715	.482
28	.689	.464
29	.663	.447
30	.638	.431
31	.614	.415
32	.592	.400
33	.570	.385
34	.549	.370
35	.529	.356
36	.509	.343
37	.490	.331
38	.472	.319
39	.455	.307
40	.438	.295
41	.422	.284
42	.406	.274
43	.391	.264
44	.377	.254
45	.363	.244
46	.350	.235
47	.337	.226
48	.324	.217
49	.312	.208
50	.301	.200
51	.290	.192

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

<i>Age at end of year of contribution</i>	<i>Amount of pension per week for every £1 of year's reckonable contribution factor</i>	
	<i>Men pence</i>	<i>Women pence</i>
52	.280	.185
53	.270	.178
54	.260	.171
55	.250	.164
56	.240	.157
57	.230	.150
58	.221	.143
59	.212	.137
60	.203	
61	.194	
62	.186	
63	.177	
64	.168	

- 5 Regulations may provide for adjusting the weekly rate of pension arrived at under paragraph 4 above so that the rate is in all cases a whole number of pence, and for adjusting the rate in prescribed circumstances, by amounts up to 10 pence and no more, with a view to facilitating administration and payment.

## SCHEDULE 21

Section 84(6).

### PART IV OF NATIONAL INSURANCE ACT 1965

#### PART I

##### AMENDMENTS OF PART IV

- 1 (1) Throughout Part IV of the former principal Act (" the Act") for " the Minister " (except in the expression " the Minister of Labour " in section 68(1)) substitute " the Secretary of State " ; for " Treasury" substitute " Minister for the Civil Service " ; for " the Commissioner " (except in the phrase " the Commissioner may direct" in section 70(4)) substitute " a Commissioner " ; and for " the National Insurance Commissioner" substitute " a National Insurance Commissioner " .
- (2) For section 64 of the Act substitute the following—

**“64 Interpretation of this Part of this Act.**

In this Part of this Act—

- (a) " the Social Security Act " means the Social Security Act 1973 ;

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

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- (b) " benefit " (except where the context otherwise requires) means benefit under Part I of that Act or, as respects any period before the day appointed for the coming into force of section 2 of that Act, under this Act or the National Insurance Act 1946, and " beneficiary " shall be construed accordingly;
- (c) " claimant " means a person who has claimed benefit or whose right to be excepted from liability to pay, or to have his liability deferred for, or to be credited with, a contribution is in question;
- (d) " employed earner " shall be construed in accordance with section 1(7) of the Social Security Act and regulations under Part I of that Act;
- (e) " the Family Allowances Act " means the Family Allowances Act 1965 ;
- (f) " friendly society " means a society registered as a friendly society under the Friendly Societies Acts 1896 to 1971, being a society which as part of its ordinary business provides benefits during sickness or other infirmity, or in old age, or in widowhood, or for orphans, and not being a collecting society within the meaning of the Industrial Assurance Act 1923;
- (g) " the Industrial Injuries Act " means the National Insurance (Industrial Injuries) Act 1965 ;
- (h) " prescribed " means prescribed by regulations ; and
- (f) " regulations " means regulations made by the Secretary of State under this Act.”.

2 In section 65 of the Act—

- (a) in subsection (1), for " 64(1)(a) to (c) of this Act" substitute " 84(1)(a) to (c) or 85(1)(a) or (b) of the Social Security Act ";
- (b) in subsection (2), for the words from " send notice " to the end of the subsection substitute—

“give notice in writing of his intention to do so—

- (a) in a case where the question arises on an application made to the Secretary of State, to the applicant; and
- (b) in any case to such persons as appear to him to be concerned with the question,”.

3 In section 66 of the Act—

- (a) in subsection (1), for " 64(1)(a) to (c) of this Act " substitute " 84(1)(a) to (c) or 85(1)(a) or (b) of the Social Security Act ";
- (b) in subsection (2), for "64(1)(d) of this Act" substitute " 84(1)(d) of the Social Security Act ".

4 In section 68 of the Act—

- (a) in subsection (1), for "the Ministry of Labour appointed with the concurrence of the Minister of Labour " substitute " the Department of Employment appointed with the concurrence of the Secretary of State in charge of that Department ";
- (b) in subsection (2) for " 67(1) of this Act" substitute " 84(5) of the Social Security Act



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- 5 In section 69(1) of the Act for " 64(1) of this Act or section 6(2) of the Act of 1970  
" substitute " 84(1) of the Social Security Act or paragraph 14 of Schedule 7 to that  
Act " ; and in section 69(4) for " this Act" substitute " the Social Security Act "
- 6 In section 70(1)(c) of the Act for "employed persons" substitute " employed earners  
" , and for sub-paragraph (ii) substitute—  
“(ii) the question at issue in any way relates to a deceased person  
who was a member of the association at the time of his  
death.”.

- 7 After section 70 of the Act insert the following new section—

**“70A Determination of questions first arising on appeal to a local tribunal or  
Commissioner.**

Where any question under the Social Security Act (not being a question to  
which section 84(1) of that Act or paragraph 14 of Schedule 7 to that Act  
applies) first arises in the course of an appeal to a local tribunal constituted  
under section 77 of this Act or a Commissioner appointed under section 87  
of the Social Security Act, the tribunal or Commissioner may, if they or he  
thinks fit, proceed to determine that question notwithstanding that it has not  
been considered by an insurance officer.”.

- 8 In section 71(1) of the Act for the words from " section 64(1)" to the end of  
paragraph (a) substitute—  
“section 84(1) of the Social Security Act or paragraph 14 of Schedule 7 to  
that Act applies, he shall—  
(a) refer the latter question for determination in accordance (subject  
to any necessary modifications) with section 84 of that Act and  
sections 65 and 66 of this Act or, as the case may be, paragraph 14  
of Schedule 7 to that Act; and”.

- 9 In section 72 of the Act—  
(a) in subsection (1), for " sections 67 " substitute " section 84(5) of the Social  
Security Act and sections 68 " ;  
(b) for paragraph (c) of subsection (1) substitute—  
“(c) the decision was based on the decision of any question  
to which section 84(1) of the Social Security Act or  
paragraph 14 of Schedule 7 to that Act applies and the  
decision of that question is revised in accordance with  
the provisions of section 66 of this Act or reviewed in  
accordance with the provisions of paragraph 15 of that  
Schedule.”;  
(c) in subsections (3) and (4) for "the said sections 67 to 70" substitute "   
the sections of the Social Security Act and this Act referred to in the  
introductory words of subsection (1) of this section " .

- 10 In section 73 of the Act—  
(a) in subsection (1)—  
(i) for " sections 64 to 72 " substitute " section 84(1) to (5) of the Social  
Security Act and sections 65, 66 and 68 to 72 of this Act " ;  
(ii) after "any other provision of this Act" insert " or of the Social  
Security Act " ;

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- (iii) after "in connection with this Act" insert " or the Social Security Act ";
- (iv) for "64(1)(d) of this Act" substitute " 84(1)(d) of the Social Security Act ";
- (v) for "sections 64, 65(1) to (4), 66" substitute " section 84(1) to (5) of the Social Security Act and sections 65(1) to (4), 66 and 68 ";
- (b) in subsection (2) for the words " 64(1) or 74(1) of this Act" substitute " 84(1) of the Social Security Act ".

11 In section 75 of the Act—

- (a) in subsection (1), for " provisions of sections 64 to 72 of this Act" substitute " foregoing provisions of this Part of this Act and of section 84(1) to (5) of the Social Security Act ";
- (b) after subsection (1) insert—

“(1A) Subsection (1) of this section shall not make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision; and this subsection applies not only to subsection (1) but also to provisions of earlier Acts corresponding to that subsection, and applies as regards the effect to be given in any proceedings to any decision, whether the decision was given or the proceedings commenced before or after the passing of the Social Security Act.”;

- (c) in subsection (2)—
  - (i) for "sections 64" substitute " section 84(1) to (5) of the Social Security Act and sections 65, 66 and 68 ";
  - (ii) after paragraph (c) insert—

“(d) that in such cases as may be prescribed one or more medical practitioners shall sit with a local tribunal either as additional members or as assessors, and for the appointment by the Secretary of State of medical practitioners to act for this purpose either generally or for such cases or for such tribunals as the Secretary of State may determine ;

- (e) for extending and defining the functions of assessors for the purposes of this Act;
- (f) for empowering the Secretary of State, a local tribunal or an insurance officer to refer to a medical practitioner for examination and report any question arising for his or their decision ;
- (g) for the non-disclosure to a person of the particulars of any medical advice or medical evidence given or submitted for the purposes of the determination of, or of any question arising on, any claim if, in the opinion of the prescribed authority, being the person or tribunal, or the chairman of the tribunal, by whom that determination falls to be made, disclosure of those particulars to that person would be undesirable in the interests of that person;”;

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

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- (iii) for "sections 64 to 74" substitute " -section 84(1) to (5) of the Social Security Act and sections 65, 66 and 68 to 73 ".
- 12 In section 76 of the Act—
- (a) in subsection (1)—
- (i) for "benefit under this Act" substitute " benefit under Part I of the Social Security Act ";
- (ii) for " 64(1)(d) " substitute " 84(1)(d) ";
- (iii) for " sections 67 " substitute " section 84(5) of the Social Security Act and sections 68 ";
- (b) in subsection (2) for "purposes of this Act" substitute " purposes of the Social Security Act ".
- 13 In section 77 of the Act—
- (a) in subsection (1)
- (i) for " sections 67 " substitute " section 84(5) of the Social Security Act and sections 68 ";
- (ii) in paragraph (a) for "insured persons other than employed persons" substitute " earners other than employed earners ";
- (iii) in paragraph (b) for "employed persons" substitute " employed earners ";
- (b) in subsection (3) for " insured persons " substitute (in both places) " employed earners ";
- (c) in subsection (5)(a)(iii) for " 64(3)" substitute " 84(4) of the Social Security Act ".
- 14 In section 80(3) of the Act for " the foregoing provisions of this Part of this Act" substitute " this Act, the Social Security Act ".
- 15 In section 81 of the Act—
- (a) in subsection (1), for the words from " the National" to " Act of 1970)" substitute " the Secretary of State of any benefit ";
- (b) after subsection (1) insert—
- “(1A) Any sums repaid to the Secretary of State in pursuance of subsection (1) above shall—
- (a) be paid by him into the Consolidated Fund insofar as they represent benefit which under section 46(1 )(a) of the Social Security Act is not payable out of the National Insurance Fund ; and
- (b) otherwise, be paid by him into the last-mentioned Fund.”;
- (c) in subsection (3)(a) after " contributions" insert " under Part I of the Social Security Act or contributions or premiums under Part III of that Act ".

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

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## PART II

### PART IV OF 1965 ACT AS AMENDED

*“Determination of certain questions by the Secretary of State*

#### **64 Interpretation of this part of this Act.**

In this Part of this Act—

- (a) " the Social Security Act " means the Social Security Act 1973 ;
- (b) " benefit " (except where the context otherwise requires) means benefit under Part I of that Act or, as respects any period before the day appointed for the coming into force of section 2 of that Act, under this Act or the National Insurance Act 1946 and " beneficiary " shall be construed accordingly ;
- (c) " claimant " means a person who has claimed benefit or whose right to be excepted from liability to pay, or to have his liability deferred for, or to be credited with, a contribution is in question ;
- (d) " employed earner " shall be construed in accordance with section 1(7) of the Social Security Act and regulations under Part I of that Act;
- (e) " the Family Allowances Act " means the Family Allowances Act 1965 ;
- (f) " friendly society " means a society registered as a friendly society under the Friendly Societies Acts 1896 to 1971, being a society which as part of its ordinary business provides benefits during sickness or other infirmity, or in old age, or in widowhood, or for orphans, and not being a collecting society within the meaning of the Industrial Assurance Act 1923;
- (g) " the Industrial Injuries Act " means the National Insurance (Industrial Injuries) Act 1965 ;
- (h) " prescribed " means prescribed by regulations ; and
- (j) " regulations " means regulations made by the Secretary of State under this Act.

#### **65 Appeals from Secretary of State's decisions.**

- (1) Any question of law arising in connection with the determination by the Secretary of State of any question such as is mentioned in section 84(1)(a) to (c) or 85(1)(a) or (b) of the Social Security Act may, if the Secretary of State thinks fit, be referred for decision to the High Court.
- (2) In the event of the Secretary of State determining in accordance with subsection (1) of this section to refer any question of law to the High Court, he shall give notice in writing of his intention to do so—
  - (a) in a case where the question arises on an application made to the Secretary of State, to the applicant; and
  - (b) in any case to such persons as appear to him to be concerned with the question.
- (3) Any person aggrieved by the decision of the Secretary of State on any question of law such as is mentioned in subsection (1) of this section which is not referred in accordance with that subsection may appeal from that decision to the High Court.
- (4) The Secretary of State shall be entitled to appear and be heard on any such reference or appeal as aforesaid.

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- (5) The provision made by rules of court shall include provision for regulating references and appeals to the High Court under this section and for limiting the time within which such appeals may be brought.
- (6) So much of section 63(1) of the Supreme Court of Judicature (Consolidation) Act 1925 as requires an appeal from any person to the High Court to be heard and determined by a divisional court shall not apply to appeals under this section.
- (7) Notwithstanding anything in any Act, the decision of the High Court on a reference or appeal under this section shall be final, and on any such reference or appeal the court may order the Secretary of State to pay the costs of any other person, whether or not the decision is in that other person's favour and whether or not the Secretary of State appears on the reference or appeal.
- (8) In the application of this section to Scotland—
  - (a) for any reference to the High Court there shall be substituted a reference to the Court of Session ;
  - (b) subsection (6) shall be omitted ;
  - (c) for the reference in subsection (7) to costs there shall be substituted a reference to expenses.

#### **66 Review of Secretary of State's decisions.**

- (1) The Secretary of State may, on new facts being brought to his notice, or if he is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact,; review any decision given by him on any question such as is mentioned in section 84(1)(a) to (c) or 85(1)(a) or (b) of the Social Security Act:

Provided that any such decision shall not be reviewed while an appeal under section 65 of this Act is pending against the decision of the Secretary of State on a question of law arising in connection therewith, or before the time for so appealing has expired; and the said section 65 shall apply with any necessary modifications to any case in which a question has been raised with a view to the review under this subsection of any such decision as aforesaid.

- (2) The Secretary of State may at any time and from time to time reconsider the exercise of his discretion with respect to any question such as is mentioned in section 84(1)(d) of the Social Security Act and decide that question again with such other effect as may seem to him to be proper in the circumstances of the case.

*Determination of certain matters by insurance officers, local tribunals or Commissioner*

#### **68 Submission of claims and questions to insurance officers.**

- (1) Insurance officers for the purposes of this Act shall be appointed by the Secretary of State, subject to the consent of the Minister for the Civil Service as to the number, to act for such areas or otherwise as the Secretary of State directs; and may include officers of the Department of Employment appointed with the concurrence of the Secretary of State in charge of that Department.
- (2) Any claim for benefit and any question to which section 84(5) of the Social Security Act applies shall be submitted forthwith to an insurance officer, who shall take the claim or question into consideration and, so far as practicable, dispose of it in accordance with

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this section and any regulations under section 75(2) of this Act within fourteen days of its submission to him.

- (3) Subject to section 71 of this Act, the insurance officer may in the case of any claim or question so submitted to him—
  - (a) decide it in favour of the claimant; or
  - (b) decide it adversely to the claimant; or
  - (c) refer it to a local tribunal.
- (4) Where an insurance officer refers a case to a local tribunal in accordance with subsection (3)(c) of this section, notice in writing of the reference shall be given to the claimant.
- (5) Different aspects of the same claim or question may be submitted to different insurance officers under the foregoing provisions of this section, and for that purpose those provisions and the other provisions of this Part of this Act with respect to the determination of claims and questions shall have effect subject to any necessary modifications.

#### **69 Appeals from insurance officer to local tribunal.**

- (1) Where the insurance officer has decided any claim or question adversely to the claimant, the claimant may appeal to a local tribunal, and the claimant shall be notified in writing of the decision and the reasons therefor and of his right of appeal under this section:

Provided that where any question to which section 84(1) of the Social Security Act or paragraph 14 of Schedule 7 to that Act applies has arisen in connection with the decision of the insurance officer, and has been determined, and the insurance officer certifies that the decision on that question is the sole ground of his decision, no appeal shall lie without leave of the chairman of the local tribunal.

- (2) An appeal against a decision of an insurance officer shall be brought by giving notice of appeal at a local office within twenty-one days after the date of that decision or within such further time as the chairman of the local tribunal may for good cause allow.
- (3) A notice of appeal under this section shall be in writing and shall contain a statement of the grounds upon which the appeal is made.
- (4) In this and the next following section, the expression "local office " means any office appointed by the Secretary of State as a local office for the purposes of the Social Security Act.

#### **70 Appeals from local tribunal to National Insurance Commissioner.**

- (1) Subject to the provisions of this section, an appeal shall be to a National Insurance Commissioner from any decision of a local tribunal at the instance of—
  - (a) an insurance officer ;
  - (b) the claimant;
  - (c) an association of employed earners, or any other association which exists to promote the interests and welfare of its members, where in either case—
    - (i) the claimant at the time of the appeal is a member of the association and was so immediately before the question at issue arose ; or
    - (ii) the question at issue in any way relates to a deceased person who was a member of the association at the time of his death.

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- (2) An appeal to a Commissioner must be brought within three months from the date of the decision of the local tribunal, or such further period as a Commissioner may in any case for special reasons allow, and such an appeal shall be brought by giving notice in writing in a form approved by the Secretary of State stating the grounds of the appeal—
  - (a) in the case of an appeal by an insurance officer, to the claimant; and
  - (b) in the case of an appeal by the claimant or an association such as is mentioned in subsection (1)(c) of this section, at a local office.
- (4) If it appears to a Commissioner that any appeal under this section involves a question of fact of special difficulty, the Commissioner may direct that in dealing with the appeal or any part thereof he shall have the assistance of an assessor or assessors specially qualified and selected from a panel appointed for that purpose.
- (5) A Commissioner may, if he thinks fit, refer any question arising for his decision to a registered medical practitioner for examination and report.

#### **70A Determination of questions first arising on appeal to a local tribunal or Commissioner.**

Where any question under the Social Security Act (not being a question to which section 84(1) of that Act or paragraph 14 of Schedule 7 to that Act applies) first arises in the course of an appeal to a local tribunal constituted under section 77 of this Act or a Commissioner appointed under section 87 of the Social Security Act, the tribunal or Commissioner may, if they or he thinks fit, proceed to determine that question notwithstanding that it has not been considered by an insurance officer.

#### **71 Reference of special questions.**

- (1) If on consideration of any claim or question an insurance officer is of opinion that there arises any question to which section 84(1) of the Social Security Act or paragraph 14 of Schedule 7 to that Act applies, he shall—
  - (a) refer the latter question for determination in accordance (subject to any necessary modifications) with section 84 of that Act and sections 65 and 66 of this Act or, as the case may be, paragraph 14 of Schedule 7 to that Act; and
  - (b) deal with any other questions as if the questions so referred had not arisen:

Provided that the insurance officer may—

- (i) postpone the reference of or dealing with any question until other questions have been determined :
  - (ii) in cases where the determination of any question disposes of a claim or any part thereof, make an award, or decide that an award cannot be made, as to the claim or that part thereof without referring or dealing with, or before the determination of, any other question.
- (2) Subsection (1) of this section shall apply to a local tribunal and a Commissioner as it applies to an insurance officer, except that a local tribunal or a Commissioner, instead of themselves or himself referring a question in accordance with subsection ((1)(a)) of this section, shall direct it to be so referred by an insurance officer.

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

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## **72 Review of decisions of insurance officer, local tribunal or Commissioner.**

- (1) Any decision under section 84(5) of the Social Security Act and sections 68 to 70 of this Act of an insurance officer, a local tribunal or a National Insurance Commissioner may be reviewed at any time by an insurance officer or, on a reference from an insurance officer, by a local tribunal, if—
  - (a) he or they is or are satisfied, and, in the case of a decision of a Commissioner, satisfied by fresh evidence, that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
  - (b) there has been any relevant change of circumstances since the decision was given ; or
  - (c) the decision was based on the decision of any question to which section 84(1) of the Social Security Act or paragraph 14 of Schedule 7 to that Act applies and the decision of that question is revised in accordance with the provisions of section 66 of this Act or reviewed in accordance with the provisions of paragraph 15 of that Schedule.
- (2) A question may be raised with a view to such a review as aforesaid by means of an application in writing to an insurance officer, stating the grounds of the application.
- (3) On receipt of any such application, the insurance officer shall proceed to deal with or refer any question arising thereon in accordance with the provisions of the sections of the Social Security Act and this Act referred to in the introductory words of subsection (1) of this section.
- (4) Any decision given on a review under this section, and any refusal to review a decision under this section, shall be subject to appeal in like manner as an original decision, and the provisions of the sections of the Social Security Act and this Act referred to in the introductory words of subsection (1) of this section shall, subject to the necessary modifications, apply in relation to any decision given on such a review as they apply to the original decision of a question.

### *Regulations as to determination of questions*

## **73 Regulations for determination of questions.**

- (1) Notwithstanding the provisions of section 84(1) to (5) of the Social Security Act and sections 65, 66 and 68 to 72 of this Act but subject to any other provision of this Act or of the Social Security Act, in the case of any question arising under or in connection with this Act or the Social Security Act, including any claim for benefit, other than a question such as is mentioned in section 84(1)(d) of the Social Security Act, provision may be made by regulations for the determination of that question by the Secretary of State or by a person or tribunal appointed or constituted in accordance with the regulations; and any such regulations may vary or revoke the provisions of section 84(1) to (5) of the Social Security Act and sections 65(1) to (4), 66 and 68 to 72 and 77 of this Act so far as they relate to any question to which the regulations relate.
- (2) As respects any question as to the right to benefit other than such a question as is mentioned in section 84(1) of the Social Security Act and other than a question as to entitlement to a death grant, regulations under subsection (1) of this section shall not provide for the determination of that question by the Secretary of State but, subject to subsection (3) of this section, shall provide—



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- (a) for the submission of the question in the first instance to an officer appointed by the Secretary of State ;
  - (b) for authorising the said officer either himself to determine the question or to refer it to a local tribunal, and for enabling an appeal to be brought from the officer's decision to such a tribunal ;
  - (c) for enabling an appeal to be brought from such a tribunal to, or to a tribunal presided over by, a National Insurance Commissioner.
- (3) Regulations made by virtue of subsection (2) of this section may provide for the submission of different aspects of the same question to different officers; and for that purpose paragraphs (a) and (b) of that subsection shall have effect subject to the necessary modifications.
- (4) Regulations under subsection (1) of this section may provide for the reference to the High Court for decision of any question of law arising in connection with the determination of a question by the Secretary of State, and for appeals to the High Court from the decision of the Secretary of State on any such question of law ; and subsections (5) to (8) of section 65 of this Act shall apply to any reference or appeal under this subsection as they apply to any reference or appeal under subsections (1) to (3) of that section.
- (5) In the application of subsection (4) of this section to Scotland, for references to the High Court there shall be substituted references to the Court of Session.

*Supplementary provisions as to determination of claims and questions*

**75 Supplementary provisions.**

- (1) Subject to the foregoing provisions of this Part of this Act and of sections 84(1) to (5) of the Social Security Act, the decision of any claim or question in accordance with those provisions, and, subject to the provisions of any regulations under section 73 of this Act, the decision of any claim or question in accordance with the provisions of those regulations, shall be final.
- (1A) Subsection (1) of this section shall not make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision; and this subsection applies not only to subsection (1) but also to provisions of earlier Acts corresponding to that subsection, and applies as regards the effect to be given in any proceedings to any decision, whether the decision was given or the proceedings commenced before or after the passing of the Social Security Act.
- (2) Subject to the other provisions of this Part of this Act, regulations may, in relation to the determination of claims or questions in accordance with section 84(1) to (5) of the Social Security Act and sections 65, 66 and 68 to 72 or with regulations under section 73 of this Act, include provision—
- (a) as to the procedure which is to be followed, the form which is to be used for any document, the evidence which is to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence ;
  - (b) as to the time to be allowed for making any claim or appeal, for raising any question with a view to the review of any decision or for producing any evidence ;

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- (c) for summoning persons to attend and give evidence or produce documents and for authorising the administration of oaths to witnesses ;
- (d) that in such cases as may be prescribed one or more medical practitioners shall sit with a local tribunal either as additional members or as assessors, and for the appointment by the Secretary of State of medical practitioners to act for this purpose either generally or for such cases or for such tribunals as the Secretary of State may determine;
- (e) for extending and defining the functions of assessors for the purposes of this Act;
- (f) for empowering the Secretary of State, a local tribunal or an insurance officer to refer to a medical practitioner for examination and report any question arising for his or their decision ;
- (g) for the non-disclosure to a person of the particulars of any medical advice or medical evidence given or submitted for the purposes of the determination of, or of any question arising on, any claim if, in the opinion of the prescribed authority, being the person or tribunal, or the chairman of the tribunal, by whom that determination falls to be made, disclosure of those particulars to that person would be undesirable in the interests of that person ;

and except so far as it may be applied in relation to England and Wales by regulations made by virtue of this subsection the Arbitration Act 1950 shall not apply to any proceedings under section 84(1) to (5) of the Social Security Act and sections 65, 66 and 68 to 73 of this Act.

- (3) It is hereby declared that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not.

#### **76 Determination of certain questions as to child or family.**

- (1) Where any question such as is mentioned in subsection (3) of this section arises with respect to benefit under Part I of the Social Security Act (other than such a question as is mentioned in section 84(1)(d) thereof), that question shall be determined in accordance with the provisions of section 84(5) of the Social Security Act and sections 68 to 73 of this Act in like manner, subject to any prescribed modifications and adaptations, as a corresponding question arising in respect of an allowance under the Family Allowances Act falls to be determined by virtue of section 5(2) of that Act.
- (2) Any decision of any question such as is mentioned in subsection (3)(a) to (c) of this section given under this Part of this Act, whether given for the purposes of the Social Security Act, the Industrial Injuries Act or the Family Allowances Act, shall have effect also for the purposes of the others of those Acts.
- (3) The questions referred to in subsection (1) and (2) of this section are questions—
  - (a) whether any person is or was a child or is or was under school-leaving age ;
  - (b) whether any person has or had a family including a child or children, or is or was a child of some other person's family (but not whether a person is to be treated for the purpose of any provision as having a family including a child or children or as being a child of some other person's family);
  - (c) whether any person could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as, or but for certain facts would have been, or could have been treated as aforesaid as, a child of any other person's family ;

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- (d) whether, for the purposes of the payment to a beneficiary of any benefit in respect of a child, the child in question is living with the beneficiary.

*Provisions as to local tribunals. Commissioners, etc.*

## **77 Constitution of local tribunals.**

- (1) A local tribunal for the purposes of section 84(5) of the Social Security Act and sections 68 to 72 of this Act shall consist of—
- (a) one member drawn from a panel composed of persons representing employers and persons representing earners other than employed earners ;
  - (b) one member drawn from a panel of persons representing employed earners ;
  - (c) a person appointed by the Secretary of State to act as chairman.
- (2) The panels referred to in subsection (1) of this section shall be constituted by the Secretary of State for the whole of Great Britain, and each panel shall relate to such area as the Secretary of State thinks fit, and be composed of such persons as the Secretary of State sees fit to appoint.
- (3) Before appointing members to either of the panels, the Secretary of State may take into consideration any recommendations from any local committee representing employers or employed earners or both, or from organisations concerned with the interests of employers or employed earners, including friendly societies or organisations representative of friendly societies.
- (4) The members of the panels shall hold office for such period as the Secretary of State may direct:
- Provided that the Secretary of State may at any time terminate the appointment of any member of a panel.
- (5) So far as practicable, each member of a panel shall be summoned to serve in turn upon a local tribunal:
- Provided that—
- (a) no member of a panel shall sit upon a local tribunal during the consideration of a case—
    - (i) in which he appears as the representative of the claimant; or
    - (ii) by which he is or may be directly affected; or
    - (iii) in which he has taken any part as an official of an association, or as an employer, or as a witness, or as a person to whom any question arising thereon has been referred for examination and report in accordance with section 84(4) of the Social Security Act or with regulations under section 73(1) of this Act or otherwise ;
  - (b) where the benefit claimed is unemployment benefit, the member chosen from the first panel shall, if practicable, be a representative of employers ; and
  - (c) in any case in which the claimant is a woman, at least one of the members of the tribunal, if practicable, shall be a woman.
- (6) Any case may, with the consent of the claimant but not otherwise, be proceeded with in the absence of any member of the local tribunal other than the chairman, and in any such case the tribunal shall be deemed to be properly constituted and the chairman shall, if the number of the members of the tribunal is an even number, have a second or casting vote.

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- (7) A person appointed to act as chairman of a local tribunal shall hold and vacate office in accordance with the terms of his letter of appointment.
- (8) Where several persons are appointed to act as chairmen for a particular area they shall as far as practicable be invited to preside over a tribunal in turn:

Provided that this subsection shall not apply to a person expressly appointed to serve as a substitute when some other person may be unwilling or unable to act.

### **79 Pension benefits of Commissioners,**

- (1) Without prejudice to the pension benefits conferred by the Administration of Justice (Pensions) Act 1950, the Secretary of State may from time to time recommend to the Minister for the Civil Service that there shall be paid out of moneys provided by Parliament to a National Insurance Commissioner an annual sum by way of superannuation allowance calculated in accordance with Schedule 6 to this Act if either—
- (a) he is at the time of his retirement over the age of seventy-two or, where he retires after fifteen years' service, the age of sixty-five; or
  - (b) the Secretary of State is satisfied by means of a medical certificate that at the time of his retirement he is, by reason of infirmity of mind or body, incapable of discharging the duties of his office and that the incapacity is likely to be permanent.
- (2) For the purposes of the foregoing subsection and the said Schedule 6—
- (a) service as National Insurance Commissioner which is not remunerated by means of a salary shall be disregarded ;
  - (c) the Minister for the Civil Service may by regulations provide for counting as service as National Insurance Commissioner pensionable service in any other capacity under the Crown.
- (3) The decision of the Minister for the Civil Service shall be final on any question arising as to—
- (a) the amount of any superannuation allowance under this section ; or
  - (b) the reckoning of any service for the purpose of calculating such an allowance.
- (4) Where the rate of the superannuation allowance payable to any person under subsection (1) of this section as National Insurance Commissioner is or would be increased by virtue of regulations made under subsection (2)(c) of this section in respect of service in some other capacity, and a pension payable to him wholly in respect of service in that other capacity would have been paid and borne otherwise than out of moneys provided by Parliament, any pension benefits paid to or in respect of him as having been Commissioner shall, to such extent as the Minister for the Civil Service may determine, having regard to the relative length of service and rate of remuneration in each capacity, be paid and borne in like manner as that in which a pension payable to him wholly in respect of service in that other capacity would have been paid and borne.
- (5) In this section, the expression "pension" includes any superannuation or other retiring allowance or gratuity, and the expression " pensionable " shall be construed accordingly, and the expression "pension benefits" includes benefits payable on retirement or death by way of lump sum or gratuity, and benefits payable in respect of a person's service or employment to other persons by way of widow's or orphan's pension or otherwise.

## **80 Remuneration and expenses of Commissioners and other persons.**

- (1) The Secretary of State shall pay to a National Insurance Commissioner such salary or other remuneration as the Minister for the Civil Service may determine and such expenses incurred in connection with the work of a Commissioner or any tribunal presided over by a Commissioner as may be so determined.
- (2) The Secretary of State may pay—
  - (a) to any other person appointed under the foregoing provisions of this Part of this Act to determine questions or as a member of or assessor to any tribunal constituted under those provisions, such remuneration and such travelling and other allowances,
  - (b) to any person required to attend at any proceedings under this Part of this Act, such travelling and other allowances, and
  - (c) such other expenses in connection with the work of any person or tribunal appointed or constituted under any provision of this Part of this Act (other than a tribunal presided over by a Commissioner),as the Secretary of State with the consent of the Minister for the Civil Service may determine.
- (3) The Secretary of State may pay to any person required under this Act (whether for the purposes of this Act, the Social Security Act or otherwise) to attend for or to submit himself to medical or other examination or treatment such travelling and other allowances as the Secretary of State with the consent of the Minister for the Civil Service may determine.
- (4) In this section references to travelling and other allowances include references to compensation for loss of remunerative time:

Provided that such compensation shall not be paid to any person in respect of any time during which he is in receipt of remuneration under this section.

## **81 Recovery of benefit wrongly paid, interim payments of benefit, and arrears.**

- (1) Where benefit is or has been paid in pursuance of a decision which is reversed or varied on appeal, or is revised on a review, then, subject to subsection (2) of this section, the decision given on the appeal or review shall require repayment to the Secretary of State of any benefit which was paid in pursuance of the original decision to the extent to which it—
  - (a) would not have been payable if the decision on the appeal or review had been given in the first instance ; and
  - (b) is not directed to be treated as paid on account of the benefit awarded by the decision on appeal or review, or as having been properly paid.
- (1A) Any sums repaid to the Secretary of State in pursuance of subsection (1) above shall—
  - (a) be paid by him into the Consolidated Fund insofar as they represent benefit which under section 46(1)(a) of the Social Security Act is not payable out of the National Insurance Fund ; and
  - (b) otherwise, be paid by him into the last-mentioned Fund.
- (2) A decision given on appeal or review shall not require repayment of benefit paid in pursuance of the original decision in any case where it is shown to the satisfaction of the person or tribunal determining the appeal or review that in the obtaining and receipt

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of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.

- (3) Regulations may make provision as respects matters arising—
- (a) pending the determination under this Act (whether in the first instance or on an appeal or reference, and whether originally or on review) of any claim for benefit or of any question affecting any person's right to benefit or to the receipt thereof or any person's liability for contributions under Part I of the Social Security Act or contributions or premiums under Part III of that Act; or
  - (b) out of the revision on appeal or review of any decision under this Act on any such claim or question.
- (4) Without prejudice to the generality of subsection (3) of this section, regulations thereunder may include provision—
- (a) as to the date from which any decision on a review is to have effect or to be deemed to have had effect;
  - (b) for treating any benefit paid to any person under an award, or by virtue of any provision of the regulations, which it is subsequently decided was not payable, as properly paid or as paid on account of any other benefit which it is decided was payable to him, or for the repayment of any such benefit and the recovery thereof by deduction from other benefit or otherwise;
  - (c) modifying subsections (1) and (2) of this section in relation to sums paid by way of benefit in respect of a child of the family of a man and his wife living together where those sums would have been receivable, if properly paid, by either the man or the wife;
  - (d) making any such provision for the recovery of sums paid by way of benefit and required to be repaid by virtue of subsection (1) of this section as is authorised to be made in a case where repayment is required by the regulations.
- (6) Where, in the case of any person, any sum may by virtue of regulations under subsection (3) of this section be recovered by deduction from benefit it may instead be recovered from him in whole or in part by deduction from any payment under the Industrial Injuries Act.”

## SCHEDULE 22

Section 88.

### MISCELLANEOUS ADMINISTRATIVE PROVISIONS

#### PART I

##### INSPECTORS

- 1 An inspector appointed under section 88 of this Act shall, for the purposes of the execution of this Act, have the following powers—
- (a) to enter at all reasonable times any premises or place liable to inspection under this Part of this Schedule ;
  - (b) to make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Act or any enactment thereby repealed are being, or have been, complied with in any such premises or place ;

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- (c) to examine, either alone or in the presence of any other person, as he thinks fit, in relation to any matters under this Act or any enactment thereby repealed on which he may reasonably require information, every person whom he finds in any such premises or place, or whom he has reasonable cause to believe to be or to have been a person liable to pay contributions or a premium under this Act or any enactment thereby repealed, and to require every such person to be so examined ;
    - (d) to exercise such other powers as may be necessary for carrying this Act into effect.
- 2 (1) In accordance with this paragraph, persons shall furnish to an inspector all such information, and produce for his inspection all such documents, as he may reasonably require for the purpose of ascertaining—
  - (a) whether any contributions or premiums are or have been payable, or have been duly paid, by or in respect of any person ; or
  - (b) whether benefit is or was payable to or in respect of any person.
- (2) The following persons are under the duty imposed by sub-paragraph (1) above—
  - (a) the occupier of any premises or place liable to inspection under this Part of this Schedule ;
  - (b) any person who is or has been employing another ;
  - (c) any person carrying on an agency or other business for the introduction or supply to persons requiring them of persons available to do work or perform services ;
  - (d) the servants or agents of any such person as is specified in sub-paragraph (a), (b) or (c) above; and
  - (e) any person who is or has been liable to pay contributions or a premium under this Act.
- 3 In this Part of this Schedule references to contributions include reserve scheme, as well as basic scheme, contributions ; and " premium " means a reserve scheme premium.
- 4 (1) If any person—
  - (a) wilfully delays or obstructs an inspector in the exercise of any power under this Part of this Schedule; or
  - (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required so to do under this Part of this Schedule ;he shall be liable on summary conviction to a fine not exceeding £50.
- (2) Where a person is convicted of an offence under sub-paragraph (1)(b) above and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £10 for each day on which it is so continued.
- (3) No one shall be required under this Part of this Schedule to answer any questions or to give any evidence tending to incriminate himself or, in the case of a person who is married, his or her wife or husband.
- 5 Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises or place for the purposes of this Act shall, if so required, produce the said certificate.

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- 6 The premises and places liable to inspection under this Part of this Schedule are any premises or places where an inspector appointed under this Act has reasonable ground for supposing that—
- (a) any persons are employed ;
  - (b) there is being carried on any agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services;
- except that they do not include any private dwelling-house not used by or by permission of the occupier for the purposes of a trade or business.
- 7 Where any premises or place are or is liable to be inspected by an inspector or officer appointed or employed by, or are or is under the control of, some other government department, the Secretary of State may make arrangements with that department for any of the powers or duties of inspectors under this Part of this Schedule to be carried out by an inspector or officer employed by that department, and, where such an arrangement is made, such inspectors or officers shall have all the powers of an inspector under this Part of this Schedule.

## PART II

### PROVISIONS RELATING TO AGE, MARRIAGE, DEATH AND FURNISHING OF ADDRESSES

#### *Information as to age, marriage or death*

- 8 Regulations made by the Registrar General under section 20 of the Registration Service Act 1953 may provide for the furnishing by superintendent registrars, and registrars, subject to the payment of such fee as may be prescribed by the regulations, of such information for the purposes of this Act, including copies or extracts from the registers in their custody, as may be so prescribed.
- 9 Where the age, marriage or death of a person is required to be ascertained or proved for the purposes of this Act, any person shall—
- (a) on presenting to the custodian of the register under the enactments relating to the registration of births, marriages and deaths, wherein particulars of the birth, marriage or death, as the case may be, of the first-mentioned person are entered, a duly completed requisition in writing in that behalf; and
  - (b) on payment of a fee of 15 pence ;
- be entitled to obtain a copy, certified under the hand of the custodian, of the entry of those particulars.
- 10 Requisitions for the purposes of paragraph 9 above shall be in such form and contain such particulars as may from time to time be specified by the Registrar General, and suitable forms thereof shall, on request, be supplied without charge by every superintendent registrar and registrar.
- 11 In the application of this Part of this Schedule to England and Wales, the expression " Registrar General" means the Registrar General for England and Wales, and the expressions " superintendent registrar " and " registrar" mean a superintendent registrar or, as the case may be, registrar for the purposes of the enactments relating to the registration of births, deaths and marriages; and in the application of this Part of this Schedule to Scotland—



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- (a) the expression "Registrar General" means the Registrar General of Births, Deaths and Marriages for Scotland;
  - (b) for the reference in paragraph 8 to section 20 of the Registration Service Act 1953 there shall be substituted a reference to section 54 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 ;
  - (c) references to a superintendent registrar shall be omitted ;
  - (d) the expression " registrar " means a district registrar, senior registrar or assistant registrar for the purposes of the enactments relating to the registration of births, deaths and marriages in Scotland.
- 12 Paragraphs 9 to 11 above (except paragraph 11(b)) shall apply for the purposes of the Industrial Injuries Act as they apply for the purposes of this Act.

*Furnishing of addresses for maintenance proceedings, etc.*

- 13 (1) The Secretary of State may incur expenses for the purpose of furnishing the address at which a man or woman is recorded by him as residing, where the address is required for the purpose of taking or carrying on legal proceedings to obtain or enforce an order for the making by the man or woman of payments—
- (a) for the maintenance of the man's wife or former wife, or the woman's husband or former husband ; or
  - (b) for the maintenance or education of any person as being the son or daughter of the man or his wife or former wife, or of the woman or her husband or former husband.
- (2) In sub-paragraph (1)(b) above " son or daughter " includes a son or daughter by adoption and an illegitimate son or daughter.

*Treatment of certain marriages*

- 14 Regulations may provide—
- (a) for a voidable marriage which has been annulled, whether before or after the date when the regulations come into force, to be treated for the purposes of such provisions of, or of any regulations under, this Act, subject to such exceptions or conditions as may be prescribed, as if it had been a valid marriage which was terminated by divorce at the date of annulment;
  - (b) for the purposes of this Act, the Industrial Injuries Act or the Family Allowances Act, as to the circumstances in which a marriage celebrated under a law which permits polygamy is to be treated as having the same consequences as a marriage celebrated under a law which does not;
- and regulations made for the purposes of sub-paragraph (b) above may make different provision in relation to different purposes and circumstances.

### **PART III**

AMENDMENTS OF INDUSTRIAL INJURIES ACT, SECTION 64

- 15 In section 64 of the Industrial Injuries Act, in subsection (4), for the words after paragraph (b) substitute the following—

“he shall be liable on summary conviction to a fine of not more than £50.

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(5) Where a person is convicted of an offence under subsection (4)(b) of this section, and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £10 for each day on which it is so continued.

(5A) No one shall be required under this section to answer any questions or to give any evidence tending to incriminate himself or, in the case of a person who is married, his or her wife or husband.”

## SCHEDULE 23

Section 92(4).

### PROCEEDINGS

#### *General provisions as to prosecutions*

1 Proceedings in England or Wales for an offence under this Act shall not be instituted except by or with the consent of the Secretary of State or by an inspector or other officer authorised for that purpose by special or general directions of the Secretary of State.

2 Any inspector or other officer so authorised may, although not of counsel or a solicitor, prosecute or conduct before a magistrates' court any proceedings for such an offence.

3 (1) Notwithstanding any enactment prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Act may be commenced at any time within the period of 3 months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge, or within the period of 12 months after the commission of the offence, whichever period last expires.

(2) For the purposes of sub-paragraph (1) above, a certificate purporting to be signed by or on behalf of the Secretary of State as to the date on which the evidence referred to in that paragraph came to his knowledge shall be conclusive evidence of the date on which it did so.

(3) In relation to Scotland, for sub-paragraph (1) above there shall be substituted the following sub-paragraph—

“(1) Proceedings for an offence under this Act may be commenced at any time within the period of 3 months from the date on which evidence sufficient in the opinion of the Secretary of State to justify a report to the Lord Advocate with a view to consideration of the question of prosecution comes to the knowledge of the Secretary of State, or within the period of 12 months after the commission of the offence, whichever period last expires ; and section 23(2) of the Summary Jurisdiction (Scotland) Act 1954 (time limits) shall apply for the purposes of this sub-paragraph as it applies for the purposes of that section.”

4 In proceedings for an offence under this Act, the wife or husband of the accused shall be competent to give evidence, whether for or against the accused:

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Provided that the wife or husband shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him by the accused during the marriage.

#### *Evidence*

- 5 (1) As respects any period during which, under regulations made by virtue of paragraph 5(1) of Schedule 1 to this Act, basic scheme or reserve scheme contributions fall to be paid in like manner as income tax, a certificate of a collector of taxes that any amount by way of contributions which a person is liable to pay to that collector for any period has not been paid to him, or, to the best of his knowledge and belief, to any other person to whom it might lawfully be paid, shall, until the contrary is proved, be sufficient evidence in any proceedings before any court that the sum mentioned in the certificate is unpaid and due ; and any document purporting to be such a certificate as aforesaid shall be deemed to be such certificate until the contrary is proved.
- (2) A statutory declaration by an officer of the Secretary of State that the searches specified in the declaration for a particular contribution card or for a record of the payment of a particular contribution have been made and that the card in question or a record of the payment of the contribution in question has not been found shall be admissible in any proceedings for an offence as evidence of the facts stated in the declaration.
- (3) Nothing in sub-paragraph (2) above shall be deemed to make a statutory declaration admissible as evidence in proceedings for an offence except in a case where, and to the extent to which, oral evidence to the like effect would have been admissible in those proceedings.
- (4) Nothing in sub-paragraphs (2) and (3) above shall be deemed to make a statutory declaration admissible as evidence in proceedings for an offence—
- (a) unless a copy thereof has, not less than 7 days before the hearing or trial, been served on the person charged with the offence in any manner in which a summons or, in Scotland, a citation in a summary prosecution may be served ; or
  - (b) if that person, not later than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, gives notice to the prosecutor requiring the attendance at the trial of the person by whom the declaration was made.
- 6 Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.

Where the affairs of a body corporate are managed by its members, this paragraph shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

#### *Recovery of contributions etc. on prosecution*

- 7 Where a person has been convicted of the offence under section 92(1) of this Act of failing to pay a contribution or premium at or within the time prescribed for

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the purpose and the contribution or premium remains unpaid at the date of the conviction, he shall be liable to pay to the Secretary of State a sum equal to the amount which he failed to pay.

- 8 In any case where—
- (a) a person is convicted of an offence under section 92(2)(b) of this Act, or of an offence under section 13 of the Stamp Duties Management Act 1891 as applied by regulations made under paragraph 6(3) of Schedule 1 to this Act, or of an offence of contravening or failing to comply with regulations made under this Act; and
  - (b) the evidence on which he is convicted shows that he, for the purpose of paying any contribution which he was liable or entitled to pay, has affixed to any contribution card any used contribution stamp; and
  - (c) the contribution (not being a Class 3 contribution) in respect of which the stamp was affixed remains unpaid at the date of the conviction,
- he shall be liable to pay to the Secretary of State a sum equal to the amount of the contribution.
- 9 (1) Subject to and in accordance with the following sub-paragraphs, where a person is convicted of an offence mentioned in paragraph 7 or 8(a) above, evidence may be given of any previous failure by him to pay contributions or premiums under this Act within the time prescribed for the purpose; and in those sub-paragraphs " the conviction " and " the offence " mean respectively the conviction referred to in this sub-paragraph and the offence of which the person is convicted.
- (2) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.
- (3) If the offence is one of failure to pay a Class 1 contribution, a reserve scheme contribution or a reserve scheme premium, evidence may be given of failure on his part to pay (whether or not in respect of the same person) such contributions or premiums during the 2 years preceding the date of the offence.
- (4) If the offence is one of failure to pay Class 2 contributions or is one of those mentioned in paragraph 8(a), evidence may be given of his failure to pay such contributions during those 2 years.
- (5) On proof of any matter of which evidence may be given under sub-paragraph (3) or (4) above, the person convicted shall be liable to pay to the Secretary of State a sum equal to the total of all amounts (whether contributions, premiums or both) which he is so proved to have failed to pay and which remain unpaid at the date of the conviction.
- 10 (1) Where in England and Wales a person charged with such an offence as is mentioned in paragraph 7 or 8(a) above is convicted of that offence in his absence under section 1(2) of the Magistrates' Courts Act 1957, then if—
- (a) it is proved to the satisfaction of the court, on oath or in the prescribed manner, that notice under paragraph 9(2) above has been duly served specifying the other contributions or premiums in respect of which the prosecutor intends to give evidence ; and
  - (b) the clerk of the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires

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to admit failing to pay the other contributions or premiums so specified or any of them,

paragraph 9 above shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.

- (2) In sub-paragraph (1) above "prescribed " means prescribed by rules made under section 15 of the Justices of the Peace Act 1949.
- 11 (1) In England and Wales, where a person is convicted of any such offence as is mentioned in paragraph 7 or 8(a) above, and an order is made under Part I of the Criminal Justice Act 1948 placing the offender on probation or discharging him absolutely or conditionally, paragraphs 7 to 10 above shall apply as if it were a conviction for all purposes.
- (2) In Scotland, where a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence, and an order is made under Part I of the Criminal Justice (Scotland) Act 1949 discharging him absolutely or placing him on probation, paragraphs 7 to 9 above shall apply as if—
- (a) the conviction on indictment were a conviction for all purposes; or
  - (b) as the case may be, the making of the order by the court of summary jurisdiction were a conviction.
- 12 Where a body corporate fails to pay any sum which it is liable to pay under paragraphs 7 to 10 above, that sum (or such part of it as remains unpaid) shall be a debt due to the Secretary of State jointly and severally from any directors of the body corporate who knew, or could reasonably be expected to have known, of the failure to pay the contributions or premiums in question.
- 13 In England and Wales, any sum which a person is liable to pay under those paragraphs shall be recoverable from him as a penalty.
- 14 (1) The following sub-paragraphs apply with respect to sums recovered by the Secretary of State under paragraphs 7 to 13 above.
- (2) In so far as those sums represent basic scheme contributions of any class, they are to be treated for all purposes of Part I of this Act (including in particular the Treasury supplements and the application of section 44) as contributions of that class received by the Secretary of State under that Part.
- (3) In so far as those sums represent reserve scheme contributions or premiums, they are to be treated for all purposes of Part III of this Act (including in particular the application of sections 74 and 79) as contributions and premiums paid to the Secretary of State under that Part.
- (4) Without prejudice to sub-paragraphs (2) and (3) above, those sums, in so far as they represent—
- (a) primary Class 1 or Class 2 contributions ; or
  - (b) primary or secondary reserve scheme contributions ; or
  - (c) reserve scheme premiums,
- are to be treated as being contributions or (as the case may be) premiums paid in respect of the person in respect of whom they were originally payable ; and provisions of this Act relating to earnings factors and the entitlement of that person to reserve scheme pension and the rate of pension shall apply accordingly.

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### *Interpretation*

- 15 (1) In this Schedule " contribution card " means any card issued under regulations for the purpose of payment of contributions by affixing contribution stamps thereto.
- (2) In any proceedings under section 92(2) of this Act with respect to used stamps, a stamp shall be deemed to have been used if it has been affixed to a contribution card or cancelled or defaced in any way whatsoever and whether it has actually been used for the purpose of payment of a contribution or not.

## SCHEDULE 24

Section 93(1), (3), (5).

### PRIORITY OF DEBTS IN CASES OF PERSONAL AND COMPANY INSOLVENCY

- 1 (1) The relevant enactments relating to personal insolvency are the following—
- (a) section 33 of the Bankruptcy Act 1914 ;
  - (b) section 118 of the Bankruptcy (Scotland) Act 1913 ; and
  - (c) the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964.
- (2) For the operation of these enactments, "the relevant event" in section 93(2) is to be construed as follows—
- (a) in England and Wales, it means the receiving order or death ;
  - (b) in Scotland, it means the award of sequestration or death, or the concurrence of diligence for distribution of the estate of a party being notour bankrupt; and
  - (c) in Northern Ireland, it means the order of adjudication or the filing of the petition of arrangement, or the death.
- 2 (1) The relevant enactments relating to companies' winding-up are the following—
- (a) section 319 of the Companies Act 1948 ; and
  - (b) section 287 of the Companies Act (Northern Ireland) 1960 ;
- but no priority under these enactments is extended by section 93(1) where a company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company.
- (2) For the operation of these enactments, " the relevant event" in section 93(2) is to be construed as follows—
- (a) where the company is wound up compulsorily—
    - (i) if it had previously commenced to be wound up voluntarily, " the relevant event" means the passing of the winding-up resolution, and
    - (ii) otherwise, it means the appointment (or first appointment) of a provisional liquidator or, in the absence of such an appointment, the making of the winding-up order;
  - (b) in any other case, "the relevant event" means the passing of the winding-up resolution.
- 3 (1) The relevant enactments relating to the remedies of debenture holders and chargees are the following—
- (a) section 94 of the Companies Act 1948 ;
  - (b) section 19 of the Companies (Floating Charges and Receivers) (Scotland) Act 1972 ; and

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- (c) section 92 of the Companies Act (Northern Ireland) 1960.
- (2) For the operation of these enactments, " the relevant event" in section 93(2) is to be construed as follows—
- (a) where a receiver is appointed on behalf of debenture holders or by or on the application of the holders of a floating charge, it means that appointment; and
  - (b) where possession of any property is taken by or on behalf of debenture holders or the holders of a floating charge, it means that taking of possession.

## SCHEDULE 25

Section 95(2), (4).

### ADAPTATION OF CERTAIN PROVISIONS OF PART IV FOR NORTHERN IRELAND

#### PART I

#### ADAPTATION OF SECTIONS 84, 88, 92, 94, 96 AND 99, AND SCHEDULES 22, 23 AND 26

##### *Introductory*

- 1 In the provisions of this Act which are extended to Northern Ireland by section 95(2), there shall be made the adaptations provided for by this Part of this Schedule.

##### *General adaptation of references*

- 2 (1) Subject to the following provisions of this Part of this Schedule, for any reference such as is specified in column 1 of the Table set out in paragraph 2 of Schedule 13 there shall be substituted the reference specified in column 2 of that Table.
- (2) In the application of that Table for the purposes of this Part of this Schedule, in column 1 of the Table—
- (a) for the words in brackets following the reference to the Secretary of State there shall be substituted the words " except in section 96(6) and section 99(3) ",
  - (b) for the words in brackets following the reference to the Treasury, from " except" to " section 44(4) there shall be substituted the words " except in section 96(6) ".

##### *Adaptation of particular provisions*

- 3 In section 84(5) for " sections 68 to 72" substitute " sections 67 to 71 ".
- 4 In section 88—
- (a) in subsection (1) for " section 90(2) to (8)" substitute " section 86(2) to (8) ";
  - (b) in subsection (2)—
    - (i) omit " 91 " and paragraph (a),
    - (ii) for "sections 112 and 113" substitute " sections 104 and 105 " , and

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- (iii) for " section 12 of the National Insurance Act 1971 " substitute " Article 12 of the Social Services (Parity) Order (Northern Ireland) 1971 "; and
- (c) in subsection (3), for " section 64 " substitute " section 60 ".
- 5 In section 92—
- (a) in subsection (4)
- (i) for " sections 94 and 95 " substitute " sections 90 and 91 " , and
- (ii) for " the National Insurance Act 1966 " substitute " the National Insurance (No. 2) Act (Northern Ireland) 1966 "; and
- (b) in subsection (5) for " section 65 " substitute " section 64 ".
- 6 In section 94—
- (a) In subsection (6) for "section 56(1)" substitute " section 54(1) ";
- (b) in subsection (7) for " schemes " substitute " regulations ";
- (c) in subsection (10)—
- (i) for " sections 46 and 47" substitute " sections 45 and 46 ";
- (ii) for " section 82(2) " substitute " section 77(2) " , and
- (iii) for " section 82(1) " substitute " section 77(1) ".
- 7 Section 96(6) shall apply to regulations and orders which under this Act or Part IV of the National Insurance Act (Northern Ireland) 1966 can be made by the Northern Ireland Ministry as if the reference in that subsection to the Secretary of State or the Joint Authority were a reference to that Ministry and the references to the Treasury were references to the Ministry of Finance ; and in its application to regulations or orders made otherwise than by that Ministry that subsection shall have effect as if the words "(other than paragraph 4 of Schedule 10) or of Part IV of the former principal Act" were omitted.
- 8 In section 99 there shall be made the adaptations specified in paragraph 14 of Schedule 13.
- 9 In Part III of Schedule 22, for " section 64 " substitute " section 60 " and after " in subsection (4)" insert " in paragraph (b), for " fails " substitute " refuses or neglects " and ".
- 10 In Schedule 23—
- (a) in paragraph 1 omit " in England or Wales ";
- (b) in paragraph 3—
- (i) in sub-paragraph (2) for " or on behalf " substitute " the Northern Ireland Minister or a secretary or assistant secretary " , and for " his knowledge " substitute " the knowledge of the Northern Ireland Ministry " , and
- (ii) omit sub-paragraph (3);
- (c) in paragraph 5(4)(a) omit " or, in Scotland, a citation ";
- (d) in paragraph 9(2) omit " or, in Scotland, the complaint ";
- (e) omit paragraph 10 ;
- (f) for paragraph 11 substitute—
- “11 Where a person is convicted of any such offence as is mentioned in paragraph 7 or 8(a) above, and an order is made under Probation Act (Northern Ireland) 1950 placing the offender on probation or discharging him absolutely or



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- conditionally, paragraphs 7 to 9 above shall apply as if the conviction were a conviction for all purposes.”;
- (g) in paragraph 12 for "paragraphs 7 to 10" substitute " paragraphs 7 to 9 ";
  - (h) in paragraph 13 omit " In England and Wales ".
- 11 In Schedule 26—
- (a) in paragraph 2(2) for "the National Insurance Act 1946" substitute " the National Insurance Act (Northern Ireland) 1946 ";
  - (b) in paragraph 3(2)(a) for "section 27 of the Redundancy Payments Act 1965 " substitute " section 37 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 ";
  - (c) in paragraph 5 for " Schedule 11 " substitute " Schedule 9 ";
  - (d) in paragraph 6—
    - (i) in sub-paragraph (1) for the words from " the Secretary of State " to " respectively " substitute " the Northern Ireland Ministry considers appropriate for facilitating the introduction of the basic scheme established by Part I of this Act or the Secretary of State considers appropriate for facilitating the introduction of the reserve pension scheme established by Part III of this Act;
    - (ii) in sub-paragraph (2)(c) for " the Secretary of State " substitute " the Northern Ireland Ministry or as the case may be the Secretary of State ";
  - (e) in paragraph 7—
    - (i) in sub-paragraph (a) for " 105 " substitute " 99 ";
    - (ii) in sub-paragraph (b) for " 84 " substitute " 79 " and omit " and any regulations having effect by virtue of section 22(2) of the Family Allowances Act ".

## PART II

### PROVISIONS APPLYING TO NORTHERN IRELAND IN PLACE OF SECTIONS 84(6), 87 AND 91 OR SUPPLEMENTARY TO SECTION 97

#### *Amendments of Part IV of the National Insurance Act (Northern Ireland) 1966*

- 12 Part IV of the National Insurance Act (Northern Ireland) 1966 (determination of claims and questions), so far as it remains in force, shall be amended as shown in Part III of this Schedule and, as so amended and with the repeals effected by this Act, shall have effect as set out in Part IV of this Schedule.

#### *National Insurance Commissioners*

- 13 (1) For the purposes of section 84 of this Act, Part IV of the National Insurance Act (Northern Ireland) 1966 and Part III of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966, Her Majesty may from time to time appoint for Northern Ireland, from among persons who are barristers of not less than 10 years' standing, a Chief National Insurance Commissioner and such number of other National Insurance Commissioners as Her Majesty may think fit.
- (2) If it appears to the Chief National Insurance Commissioner (or, in the case of his inability to act, to such other of the National Insurance Commissioners as the Chief

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National Insurance Commissioner may have nominated to act for the purpose) that any appeal falling to be heard by one of those Commissioners involves a question of law of special difficulty, he may direct that the appeal shall be dealt with, not by that Commissioner alone, but by a tribunal consisting of any two or three of those Commissioners, and if the decision of any such tribunal is not unanimous, the decision of the majority, or, in the case of a tribunal consisting of two Commissioners, the decision of the presiding member, shall be the decision of the tribunal.

- (3) Unless the context otherwise requires, any reference in this Act to, or falling to be construed as a reference to, a National Insurance Commissioner shall, for Northern Ireland, be construed as a reference to a Commissioner appointed under this paragraph and any reference in this Act, the National Insurance Act (Northern Ireland) 1966 or the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 to, or falling to be construed as a reference to, a Commissioner appointed under this paragraph shall include a reference to any tribunal constituted under subparagraph (2) above.

*Information to be given to employees*

- 14 (1) Every statement given to an employee under section 4(1) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (particulars as to terms of employment, etc.) after the appointed day shall contain a note stating—
- (a) whether, for the employment in respect of which the statement is given, a recognition certificate is in force ;
  - (b) if not—
    - (i) whether the employer has applied, or intends to apply, to the Occupational Pensions Board for such a certificate and, if so, when he did so or, as the case may be, intends to do so ; and
    - (ii) that, during any period in which no such certificate is in force, reserve scheme contributions will be payable under section 77 of this Act in respect of the employee's earnings from the employment.
- (2) The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 shall be construed and amended as follows—
- (a) any reference in subsection (5) of section 4 of the Act (alternative method of conveying information to the employee) or in subsection (4) or (6) of that section (changes in terms of employment, etc.) to that which is, or is to be, included, given or referred to in a statement under subsection (1) of that section shall be construed as including a reference to a note under subparagraph (1) above;
  - (b) any reference to that which is, or is to be, included, given or referred to in a statement under section 4(4) of the Act shall be construed in a corresponding way ;
  - (c) any reference in section 5(1) to (6) of the Act (employee's right of reference to industrial tribunal) shall be similarly construed, but subject to subparagraph (4) below ; and
  - (d) in section 4(8) of the Act (exclusion of section 4 requirements where information is given to employees in another way) after paragraph (b) there shall be added—

“and

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- (c) such a note as is mentioned in paragraph 14(1) of Schedule 25 to the Social Security Act 1973 has been given to the employee, or he has reasonable opportunities of reading such a note in the course of his employment, or such a note is made reasonably accessible to him in some other way ;”.
- (3) Without prejudice to section 4 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 or sub-paragraph (1) above, the Secretary of State may make such regulations as he thinks expedient for requiring employers to inform their employees, and keep them informed, in such manner and at such times as may be prescribed—
- (a) whether an employment is or is not, or will or will not be, or has ceased or may cease to be, recognised pensionable employment in relation to any category of earners ;
  - (b) as to the employer's intentions in respect of applying to the Occupational Pensions Board for a recognition certificate for any employment, or for the cancellation or variation of such a certificate ;
  - (c) that, during any period in which a recognition certificate is not in force in respect of an employment, employees in that employment will be liable for reserve scheme contributions in respect of their earnings from it;
- and regulations made for the purposes of this paragraph shall include provision requiring employers to afford to those of their employees who are concerned, or to organisations representing them, reasonable opportunities of making representations with respect to the matters which are to be included in a notice under the regulations.
- (4) Nothing in section 5 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (reference to tribunal as to particulars of terms of employment) shall authorise or require a tribunal to determine any question whether an employment is or has at any time been, or will at any time be, recognised pensionable employment, or whether reserve scheme contributions are, were or will be payable in respect of earnings from any employment.
- (5) The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 and this paragraph shall be construed as if this paragraph were contained in that Act.

#### *Regulations and orders*

- 15 (1) Any regulations made by the Northern Ireland Ministry wholly or partly by virtue of any of the following provisions of this Act, namely section 3(4), 5(9), 14(4), 41 or 42, and any order made by the Northern Ireland Ministry wholly or partly by virtue of section 12(3) or made by virtue of section 49(2) shall be laid before the Parliament of Northern Ireland after being made and shall take effect on such date as may be specified in the regulations or the order but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations or a new order) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have, or the order has, been approved by a resolution of each House of that Parliament.
- (2) Sub-paragraph (1) above shall not apply—
- (a) to regulations under section 41 of this Act, where the instrument containing the regulations states that the regulations are made for the purpose of making

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- provisions consequential upon the coming into force of an order under section 49(2);
- (b) to regulations to be made for the purpose only of consolidating regulations thereby revoked;
  - (c) to regulations which, in so far as they are made under the powers conferred by the provisions mentioned in sub-paragraph (1) above, only replace provisions of previous regulations with new provisions to the same effect.
- (3) All regulations and orders made by the Northern Ireland Ministry under this Act, other than regulations or orders to which sub-paragraph (1) above applies, shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were statutory instruments within the meaning of that Act.
- (4) Any reference in sub-paragraph (3) above to this Act shall include a reference to any enactment passed after this Act which is directed to be construed as one therewith, except in so far as the contrary intention appears in that enactment, and without prejudice to the generality of that direction.
- 16 Section 41(3) of the Interpretation Act (Northern Ireland) 1954 (procedure for laying statutory instruments or statutory documents before the Parliament of Northern Ireland) shall apply in relation to any instrument or document which by virtue of any provision of this Act is required to be laid before that Parliament as if it were a statutory instrument or statutory document within the meaning of that Act.

### PART III

#### AMENDMENTS OF PART IV OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966

- 17 (1) Throughout Part IV of the National Insurance Act (Northern Ireland) 1966 ("the Act"), except in section 69(1) and where the words first occur in section 79(1), for "the Commissioner " substitute " a Commissioner ".
- (2) For section 63 of the Act substitute the following:—

#### “63 Interpretation of this Part.

In this Part—

- (a) " the Social Security Act " means the Social Security Act 1973 ;
- (b) " benefit " means benefit under Part I of that Act or, as respects any period before the day appointed for the coming into force of section 2 of that Act, under this Act or the National Insurance Act (Northern Ireland) 1946 and " beneficiary " shall be construed accordingly ;
- (c) " claimant " means a person who has claimed benefit or whose right to be excepted from liability to pay, or to have his liability deferred for, or to be credited with, a contribution is in question;
- (d) " employed earner " shall be construed in accordance with section 1(7) of the Social Security Act and regulations under Part I of that Act;
- (e) " the Family Allowances Act " means the Family Allowances Act (Northern Ireland) 1966;

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- (f) " the Industrial Injuries Act " means the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 ;
  - (g) " Ministry " and " Minister " mean respectively the Ministry of Health and Social Services and the Minister of Health and Social Services ;
  - (h) " National Insurance Commissione r" means a Commissioner appointed under paragraph 13 of Schedule 25 to the Social Security Act;
  - (j) " prescribed " means prescribed by regulations ; and
  - (k) " regulations " means regulations made by the Ministry under this Act.”.
- 18 In section 64(1), (2), (3) and (6) of the Act for "Supreme Court" substitute " Court of Appeal " .
- 19 In section 64 of the Act—
- (a) in subsection (1), for " 63(1)(a) to (c)" substitute " 84(1)(a) to (c) or 85(1) (a) or (b) of the Social Security Act ";
  - (b) in subsection (2), for the words from " send notice " to the end of the subsection substitute—
    - “give notice in writing of its intention to do so—
    - (a) in a case where the question arises on an application made to the Ministry, to the applicant; and
    - (b) in any case to such persons as appear to it to be concerned with the question.”.
- 20 In section 65 of the Act—
- (a) in subsection (1), for " 63(1)(a) to (c)" substitute " 84(1)(a) to (c) or 85(1) (a) or (b) of the Social Security Act ";
  - (b) in subsection (2), for " 63(1)(d) " substitute " 84(1)(d) of the Social Security Act " .
- 21 In section 67(2) of the Act for " 66(1) " substitute " 84(5) of the Social Security Act " .
- 22 In section 68(2) of the Act for " 63(1) or section 6(2) of the Act of 1970 " substitute " 84(1) of the Social Security Act or paragraph 13 of Schedule 7 to that Act " .
- 23 In section 69 of the Act—
- (a) in subsection (1) for " the Commissioner" substitute " a National Insurance Commissioner " ; and
  - (b) in paragraph (c) of that subsection for " employed persons " substitute " employed earners " , and for sub-paragraph (ii) substitute—
    - “(ii) the question at issue in any way relates to a deceased person who was a member of the association at the time of his death.”.
- 24 After section 69 of the Act insert the following new section—

**“69A Determination of questions first arising on appeal to a local tribunal or Commissioner.**

Where any question under the Social Security Act (not being a question to which section 84(1) of that Act or paragraph 14 of Schedule 7 to that Act applies) first arises in the course of an appeal to a local tribunal constituted under section 76 of this Act or a National Insurance Commissioner, the tribunal or Commissioner may, if they or he thinks fit, proceed to determine that question notwithstanding that it has not been considered by an insurance officer.”.

25 In section 70(1) of the Act for the words from " section 63(1) " to the end of paragraph (a) substitute—

“section 84(1) of the Social Security Act or paragraph 14 of Schedule 7 to that Act applies, he shall—

- (a) refer the latter question for determination in accordance (subject to any necessary modifications) with section 84 of that Act and sections 64 and 65 of this Act or, as the case may be, paragraph 14 of Schedule 7 to that Act; and”.

26 In section 71 of the Act—

- (a) in subsection (1), for " sections 66 " substitute " section 84(5) of the Social Security Act and sections 67 ";
- (b) for paragraph (c) of subsection (1) substitute—
  - “(c) the decision was based on the decision of any question to which section 84(1) of the Social Security Act or paragraph 14 of Schedule 7 to that Act applies and the decision of that question is revised in accordance with the provisions of section 65 of this Act or reviewed in accordance with the provisions of paragraph 15 of that Schedule.”;
- (c) in subsections (3) and (4) for " sections 66 to 69" substitute " the sections of the Social Security Act and this Act referred to in the introductory words of subsection (1) ".

27 In section 72 of the Act—

- (a) in subsection (1)—
  - (i) for " sections 63 to 71 " substitute " section 84(1) to (5) of the Social Security Act and sections 64, 65 and 67 to 71 ";
  - (ii) after " any other provision of this Act" insert " or the Social Security Act ";
  - (iii) after " in connection with this Act" insert " or the Social Security Act ";
  - (iv) for " 63(1)(d)" substitute " 84(1)(d) of the Social Security Act ";
  - (v) for " sections 63, 64(1) to (4), 65 " substitute " section 84(1) to (5) of the Social Security Act and sections 64(1) to (4), 65, 67 ";
- (b) in subsection (2) for " 63(1) or 73(1)" substitute " 84(1) of the Social Security Act ";
- (c) in subsection (4)—
  - (i) for " Supreme Court" (twice) substitute " Court of Appeal ";

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- (ii) for " subsections (5) and (6)" substitute " subsection (6) ";
  - (iii) for " they apply " substitute " it applies ".
- 28 In section 74 of the Act—
- (a) in subsection (1) for " provisions of sections 63 to 71 " substitute " foregoing provisions of this Part and of section 84(1) to (5) of the Social Security Act;
  - (b) after subsection (1) insert—
    - “(1A) Subsection (1) shall not make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision ; and this subsection applies not only to subsection (1) but also to provisions of earlier Acts corresponding to that subsection and applies as regards the effect to be given in any proceedings to any decision, whether the decision was given or the proceedings commenced before or after the passing of the Social Security Act.”;
  - (c) in subsection (2)—
    - (i) for " sections 63" substitute " section 84(1) to (5) of the Social Security Act and sections 64, 65 and 67 ";
    - (ii) after paragraph (c) insert—
      - “(d) that in such cases as may be prescribed one or more medical practitioners shall sit with a local tribunal either as additional members or as assessors and for the appointment by the Ministry of medical practitioners to act for this purpose either generally or for such cases or for such tribunals as the Ministry may determine ;
      - (e) for extending and defining the functions of assessors for the purposes of this Act;
      - (f) for empowering the Ministry, a local tribunal or an insurance officer to refer to a medical practitioner for examination and report any question arising for its, their or his decision ;
      - (g) for the non-disclosure to a person of the particulars of any medical advice or medical evidence given or submitted for the purposes of the determination of, or of any question arising on, any claim if, in the opinion of the prescribed authority, being the person or tribunal, or the chairman of the tribunal, by whom that determination falls to be made, disclosure of those particulars to that person would be undesirable in the interests of that person ;”;
    - (iii) for " sections 63 to 73 " substitute " section 84(1) to (5) of the Social Security Act and sections 64, 65 and 67 to 72 ".
- 29 In section 75 of the Act—
- (a) in subsection (1)—
    - (i) for " benefit under this Act" substitute " benefit under Part I of the Social Security Act ";
    - (ii) for " 63(1)(a) " substitute " 84(1)(a) of that Act ";

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- (iii) for " sections 66 " substitute " section 84(5) of the Social Security Act and sections 67 ";
- (b) in subsection (2) for " purposes of this Act" substitute " purposes of the Social Security Act ".
- 30 In section 76 of the Act—
- (a) in subsection (1)—
- (i) for " sections 66 " substitute " section 84(5) of the Social Security Act and sections 67 ";
- (ii) in paragraph (a) for "insured persons other than employed persons" substitute " earners other than employed earners ";
- (iii) in paragraph (b) for " employed persons " substitute " employed earners ";
- (b) in subsection (3) for " insured persons " substitute (in both places) " employed earners ";
- (c) in subsection (5)(a)(iii) for " 63(3)" substitute " 84(4) of the Social Security Act ".
- 31 In section 78 of the Act—
- (a) at the beginning there shall be inserted the following subsection—
- “(1) A National Insurance Commissioner shall retire when he attains the age of seventy-two years ; but where a Commissioner who is remunerated by means of a salary would, if he were so to retire, not have completed fifteen years' service, he may continue in office until the end of the completed year of service in which he completes fifteen years' service or attains the age of seventy-five years, whichever first occurs.
- For the purposes of this section and Part II of the Judicial Pensions Act (Northern Ireland) 1951, service before the coming into force of paragraph 13 of Schedule 25 to the Social Security Act by any person as a Commissioner, deputy Commissioner, umpire or deputy umpire for the purposes of this Act, the Industrial Injuries Act or the enactments re-enacted by this Act and that Act and remunerated by means of a salary shall be treated as service by that person as a Commissioner appointed under that paragraph and so remunerated.”;
- (b) in subsection (2)(a), for " section 9(3) of the National Insurance (No. 2) Act (Northern Ireland) 1966 " substitute " subsection (1) ";
- (c) in subsection (4), after "this Act" insert " the Industrial Injuries Act or the Social Security Act ".
- 32 In section 79 of the Act—
- (a) in subsection (1) for " the Commissioner", where those words first occur, substitute " a National Insurance Commissioner "; and
- (b) in subsection (3) for " the foregoing provisions of this Part" substitute " this Act, the Social Security Act ".
- 33 In section 80 of the Act—
- (a) in subsection (1)—
- (i) for " subsections (2) to (5)" substitute " subsection (2) ";



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- (ii) for the words from " the National" to " Act of 1970) " substitute " the Ministry of any benefit ";
- (b) after subsection (1) insert—
  - “(1A) Any sums repaid to the Ministry in pursuance of subsection (1) shall—
    - (a) be paid by it into the Exchequer insofar as they represent benefit which under section 46(1)(a) of the Social Security Act is not payable out of the Northern Ireland National Insurance Fund ; and
    - (b) otherwise be paid by it into that Fund”;
  - (c) in subsection (3)(a) after " contributions" insert " under Part I of the Social Security Act or contributions or premiums under Part III of that Act. " .

## PART IV

### PART IV OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966 AS AMENDED

#### *“Determination of certain questions by the Ministry*

#### **63 Interpretation of this Part.**

In this Part—

- (a) " the Social Security Act " means the Social Security Act 1973 ;
- (b) " benefit " means benefit under Part I of that Act or, as respects any period before the day appointed for the coming into force of section 2 of that Act, under this Act or the National Insurance Act (Northern Ireland) 1946 and " beneficiary " shall be construed accordingly ;
- (c) " claimant " means a person who has claimed benefit or whose right to be excepted from liability to pay, or to have his liability deferred for, or to be credited with, a contribution is in question;
- (d) " employed earner " shall be construed in accordance with section 1(7) of the Social Security Act and regulations under Part I of that Act;
- (e) " the Family Allowances Act " means the Family Allowances Act (Northern Ireland) 1966 ;
- (f) " the Industrial Injuries Act " means the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 ;
- (g) " Ministry " and " Minister " mean respectively the Ministry of Health and Social Services and the Minister of Health and Social Services ;
- (h) " National Insurance Commissioner " means a Commissioner appointed under paragraph 13 of Schedule 25 to the Social Security Act;
- (j) " prescribed " means prescribed by regulations ; and
- (k) " regulations " means regulations made by the Ministry under this Act.

#### **64 Appeals from Ministry's decisions.**

- (1) Any question of law arising in connection with the determination by the Ministry of any question such as is mentioned in section 84(1)(a) to (c) or 85(1)(a) or (b) of the

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Social Security Act may, if the Ministry thinks fit, be referred for decision to the Court of Appeal.

- (2) In the event of the Ministry determining in accordance with subsection (1) to refer any question of law to the Court of Appeal, it shall give notice in writing of its intention to do so—
  - (a) in a case where the question arises on an application made to the Ministry, to the applicant; and
  - (b) in any case to such persons as appear to it to be concerned with the question.
- (3) Any person aggrieved by the decision of the Ministry on any question of law such as is mentioned in subsection (1) which is not referred in accordance with that subsection may appeal from that decision to the Court of Appeal.
- (4) The Ministry shall be entitled to appear and be heard on any such reference or appeal as aforesaid.
- (6) Notwithstanding anything in any Act, the decision of the Court of Appeal on a reference or appeal under this section shall be final.

#### **65 Review of Ministry's decisions.**

- (1) The Ministry may, on new facts being brought to its notice, or if it is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact, review any decision given by it on any question such as is mentioned in section 84(1) (a) to (c) or 85(1)(a) or (b) of the Social Security Act but any such decision shall not be reviewed while an appeal under section 64 is pending against the decision of the Ministry on a question of law arising in connection therewith, or before the time for so appealing has expired; and section 64 shall apply with any necessary modifications to any case in which a question has been raised with a view to the review under this subsection of any such decision as aforesaid.
- (2) The Ministry may at any time and from time to time reconsider the exercise of its discretion with respect to any question such as is mentioned in section 84(1)(d) of the Social Security Act and decide that question again with such other effect as may seem to it to be proper in the circumstances of the case.

*Determination of certain matters by insurance officers, local tribunals or Commissioner*

#### **67 Submission of claims and questions to insurance officers.**

- (1) Insurance officers for the purposes of this Act shall be appointed by the Ministry, subject to the consent of the Ministry of Finance as to number, to act for such areas or otherwise as the Ministry directs.
- (2) Any claim for benefit and any question to which section 84(5) of the Social Security Act applies shall be submitted forthwith to an insurance officer, who shall take the claim or question into consideration and, so far as practicable, dispose of it in accordance with this section and any regulations under section 74(2) within fourteen days of its submission to him.
- (3) Subject to section 70, the insurance officer may in the case of any claim or question so submitted to him—
  - (a) decide it in favour of the claimant; or

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- (b) decide it adversely to the claimant; or
  - (c) refer it to a local tribunal.
- (4) Where an insurance officer refers a case to a local tribunal in accordance with subsection (3)(c), notice in writing of the reference shall be given to the claimant.
- (5) Different aspects of the same claim or question may be submitted to different insurance officers under the foregoing provisions of this section, and for that purpose those provisions and the other provisions of this Part with respect to the determination of claims and questions shall have effect subject to any necessary modifications.

### **68 Appeals from insurance officer to local tribunal.**

- (1) Where the insurance officer has decided any claim or question adversely to the claimant, the claimant may, subject to subsection (2), appeal to a local tribunal, and the claimant shall be notified in writing of the decision and the reasons therefor and of his right of appeal under this section.
- (2) Where any question to which section 84(1) of the Social Security Act or paragraph 13 of Schedule 7 to that Act applies has arisen in connection with the decision of the insurance officer, and has been determined, and the insurance officer certifies that the determination of that question is the sole ground of his decision, no appeal shall lie without leave of the chairman of the local tribunal.
- (3) An appeal against a decision of an insurance officer shall be brought by giving notice of appeal to the Ministry within twenty-one days after the date of that decision or within such further time as the chairman of the local tribunal may for good cause allow.
- (4) A notice of appeal under this section shall be in writing and shall contain a statement of the grounds upon which the appeal is made:

### **69 Appeals from local tribunal to Commissioner.**

- (1) Subject to the provisions of this section, an appeal shall lie to a National Insurance Commissioner from any decision of a local tribunal at the instance of—
- (a) an insurance officer ;
  - (b) the claimant;
  - (c) an association of employed earners, or any other association which exists to promote the interests and welfare of its members, where in either case—
    - (i) the claimant at the time of the appeal is a member of the association and was so immediately before the question at issue arose ; or
    - (ii) the question at issue in any way relates to a deceased person who was a member of the association at the time of his death.
- (2) An appeal to a Commissioner must be brought within three months from the date of the decision of the local tribunal, or such further period as a Commissioner may in any case for special reasons allow, and such an appeal shall be brought by giving notice in writing in a form approved by the Ministry stating the grounds of the appeal—
- (a) in the case of an appeal by an insurance officer, to the claimant; and
  - (b) in the case of an appeal by the claimant or an association such as is mentioned in subsection (1)(c), to an insurance officer.

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- (4) If it appears to a Commissioner that any appeal under this section involves a question of fact of special difficulty, he may direct that in dealing with the appeal or any part thereof he shall have the assistance of an assessor or assessors.
- (5) A Commissioner may, if he thinks fit, refer any question arising for his decision to a registered medical practitioner for examination and report.

#### **69A Determination of questions first arising on appeal to a local tribunal or Commissioner.**

Where any question under the Social Security Act (not being a question to which section 84(1) of that Act or paragraph 13 of Schedule 7 to that Act applies) first arises in the course of an appeal to a local tribunal constituted under section 76 of this Act or a National Insurance Commissioner, the tribunal or Commissioner may, if they or he thinks fit, proceed to determine that question notwithstanding that it has not been considered by an insurance officer.

#### **70 Reference of special questions.**

- (1) If on consideration of any claim or question an insurance officer is of opinion that there arises any question to which section 84(1) of the Social Security Act or paragraph 14 of Schedule 7 to that Act applies, he shall—
  - (a) refer the latter question for determination in accordance (subject to any necessary modifications) with section 84 of that Act and sections 64 and 65 of this Act or, as the case may be, paragraph 14 of Schedule 7 to that Act; and
  - (b) deal with any other questions as if the question so referred had not arisen;
 so however, that the insurance officer may—
  - (i) postpone the reference of or dealing with any question until other questions have been determined ;
  - (ii) in cases where the determination of any question disposes of a claim or any part thereof, make an award, or decide that an award cannot be made, as to the claim or that part thereof without referring or dealing with, or before the determination of, any other question.
- (2) Subsection (1) shall apply to a local tribunal and a Commissioner at it applies to an insurance officer, except that a local tribunal or a Commissioner, instead of themselves or himself referring a question in accordance with subsection (1)(a), shall direct it to be so referred by an insurance officer.

#### **71 Review of decisions of insurance officer, local tribunal or Commissioner.**

- (1) Any decision under section 84(5) of the Social Security Act and sections 67 to 69 of an insurance officer, a local tribunal or a Commissioner may be reviewed at any time by an insurance officer or, on a reference from an insurance officer, by a local tribunal, if—
  - (a) he or they is or are satisfied, and, in the case of a decision of a Commissioner, satisfied by fresh evidence, that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
  - (b) there has been any relevant change of circumstances since the decision was given ; or
  - (c) the decision was based on the decision of any question to which section 84(1) of the Social Security Act or paragraph 14 of Schedule 7 to that Act applies

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and the decision of that question is revised in accordance with the provisions of section 65 of this Act or reviewed in accordance with the provisions of paragraph 15 of that Schedule.

- (2) A question may be raised with a view to such a review as aforesaid by means of an application in writing to an insurance officer, stating the grounds of the application.
- (3) On receipt of any such application, the insurance officer shall proceed to deal with or refer any question arising thereon in accordance with the provisions of the sections of the Social Security Act and this Act referred to in the introductory words of subsection (1).
- (4) Any decision given on a review under this section, and any refusal to review a decision under this section, shall be subject to appeal in like manner as an original decision, and the provisions of the sections of the Social Security Act and this Act referred to in the introductory words of subsection (1) shall, subject to the necessary modifications, apply in relation to any decision given on such a review as they apply to the original decision of a question.

#### *Regulations as to determination of questions*

### **72 Regulations for determination of questions.**

- (1) Notwithstanding the provisions of section 84(1) to (5) of the Social Security Act and sections 64, 65 and 67 to 71 but subject to any other provision of this Act or the Social Security Act, in the case of any question arising under or in connection with this Act or the Social Security Act, including any claim for benefit, other than a question such as is mentioned in section 84(1)(d) of the Social Security Act, provision may be made by regulations for the determination of that question by the Ministry or by a person or tribunal appointed or constituted in accordance with the regulations ; and any such regulations may vary or revoke the provisions of section 84(1) to (5) of the Social Security Act and sections 64(1) to (4), 65, 67 to 71 and 76 so far as they relate to any question to which the regulations relate.
- (2) As respects any question as to the right to benefit other than such a question as is mentioned in section 84(1) of the Social Security Act and other than a question as to entitlement to a death grant, regulations under subsection (1) shall not provide for the determination of that question by the Ministry but, subject to subsection (3), shall provide—
  - (a) for the submission of the question in the first instance to an officer appointed by the Ministry ;
  - (b) for authorising the said officer either himself to determine the question or to refer it to a local tribunal, and for enabling an appeal to be brought from the officer's decision to such a tribunal;
  - (c) for enabling an appeal to be brought from such a tribunal to, or to a tribunal presided over by a Commissioner.
- (3) Regulations made by virtue of subsection (2) may provide for the submission of different aspects of the same questions to different officers ; and for that purpose paragraphs (a) and (b) of that subsection shall have effect subject to the necessary modifications.
- (4) Regulations under subsection (1) may provide for the reference to the Court of Appeal for decision of any question of law arising in connection with the determination of a

question by the Ministry, and for appeals to the Court of Appeal from the decision of the Ministry on any such question of law; and subsection (6) of section 64 shall apply to any reference or appeal under this subsection as it applies to any reference or appeal under subsections (1) to (3) of that section.

*Supplementary provisions as to determination of claims and questions*

**74 Supplementary provisions.**

- (1) Subject to the foregoing provisions of this Part and of section 84(1) to (5) of the Social Security Act, the decision of any claim or question in accordance with those provisions, and, subject to the provisions of any regulations under section 72, the decision of any claim or question in accordance with the provisions of those regulations, shall be final.
- (1A) Subsection (1) shall not make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision ; and this subsection applies not only to subsection (1) but also to provisions of earlier Acts corresponding to that subsection and applies as regards the effect to be given in any proceedings to any decision, whether the decision was given or the proceedings commenced before or after the passing of the Social Security Act.
- (2) Subject to the other provisions of this Part, regulations may, in relation to the determination of claims or questions in accordance with section 84(1) to (5) of the Social Security Act and sections 64, 65 and 67 to 71 or in accordance with regulations under section 72, include provision—
  - (a) as to the procedure which is to be followed, the form which is to be used for any document, the evidence which is to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence ;
  - (b) as to the time to be allowed for making any claim or appeal, for raising any question with a view to the review of any decision or for producing any evidence ;
  - (c) for empowering the prescribed person by summons to require such persons as he thinks necessary to attend and give evidence or produce documents and for authorising the administration of oaths to witnesses
  - (d) that in such cases as may be prescribed one or more medical practitioners shall sit with a local tribunal either as additional members or as assessors and for the appointment by the Ministry of medical practitioners to act for this purpose either generally or for such cases or for such tribunals as the Ministry may determine ;
  - (e) for extending and defining the functions of assessors for the purposes of this Act;
  - (f) for empowering the Ministry, a local tribunal or an insurance officer to refer to a medical practitioner for examination and report any question arising for its, their or his decision ;
  - (g) for the non-disclosure to a person of the particulars of any medical advice or medical evidence given or submitted for the purposes of the determination of, or of any question arising on, any claim if, in the opinion of the prescribed authority, being the person or tribunal, or the chairman of the tribunal, by whom that determination falls to be made, disclosure of those particulars to that person would be undesirable in the interests of that person;

and except in so far as they may be applied by regulations made by virtue of this subsection neither the Arbitration Act (Northern Ireland) 1937 nor section 23 of

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the Interpretation Act (Northern Ireland) 1954 shall apply to any proceedings under section 84(1) to (5) of the Social Security Act and sections 64, 65 and 67 to 72.

- (3) It is hereby declared that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not.

### **75 Determination of certain questions as to child or family.**

- (1) Where any question such as is mentioned in subsection (3) arises with respect to benefit under Part I of the Social Security Act (other than such a question as is mentioned in section 84(1)(d) of that Act), that question shall be determined in accordance with the provisions of section 84(5) of the Social Security Act and sections 67 to 72 in like manner, subject to any prescribed modifications and adaptations, as a corresponding question arising in respect of an allowance under the Family Allowances Act falls to be determined by virtue of section 5(2) of that Act.
- (2) Any decision of any question such as is mentioned in subsection (3)(a) to (c) given under this Part, whether given for the purposes of the Social Security Act, the Industrial Injuries Act or the Family Allowances Act shall have effect also for the purposes of the others of those Acts.
- (3) The questions referred to in subsections (1) and (2) are questions—
- (a) whether any person is or was a child or is or was under school leaving age ;
  - (b) whether any person has or had a family including a child or children, or is or was a child of some other person's family (but not whether a person is to be treated for the purpose of any provision as having a family including a child or children or as being a child of some other person's family);
  - (c) whether any person could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as, or but for certain facts would have been, or could have been treated as aforesaid as, a child of any other person's family ;
  - (d) whether, for the purposes of the payment to a beneficiary of any benefit in respect of a child, the child in question is living with the beneficiary.

*Provision as to local tribunals, Commissioner, etc.*

### **76 Constitution of local tribunals.**

- (1) A local tribunal for the purposes of section 84(5) of the Social Security Act and sections 67 to 71 shall consist of—
- (a) one member drawn from a panel composed of persons representing employers and persons representing earners other than employed earners;
  - (b) one member drawn from a panel of persons representing employed earners;
  - (c) a person appointed by the Minister to act as chairman.
- (2) The panels referred to in subsection (1) shall be constituted by the Ministry for the whole of Northern Ireland and each panel shall relate to such areas as the Ministry thinks fit, and be composed of such persons as the Ministry sees fit to appoint.
- (3) Before appointing members to either of the panels, the Ministry may take into consideration any recommendation from local committees representing employers or employed earners or both, or from organisations concerned with the interests of employers or employed earners.

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- (4) The members of the panels shall hold office for such period as the Ministry may direct but the Ministry may at any time terminate the appointment of any member of a panel.
- (5) So far as practicable, each member of a panel shall be summoned to serve in turn upon a local tribunal but—
  - (a) no member of a panel shall sit upon a local tribunal during the consideration of a case—
    - (i) in which he appears as the representative of the claimant; or
    - (ii) by which he is or may be directly affected; or
    - (iii) in which he has taken any part as an official of an association, or as an employer, or as a witness, or as a person to whom any question arising thereon has been referred for examination and report in accordance with section 84(4) of the Social Security Act or with regulations under section 72(1) or otherwise ;
  - (b) where the benefit claimed is unemployment benefit, the member chosen from the first panel shall, if practicable, be a representative of employers.
- (6) Any case may, with the consent of the claimant but not otherwise, be proceeded with in the absence of any member of the local tribunal other than the chairman, and in any such case the tribunal shall be deemed to be properly constituted and the chairman shall, if the number of the members of the tribunal is an even number, have a second or casting vote.
- (7) A person appointed to act as chairman of a local tribunal shall hold and vacate office in accordance with the terms of his letter of appointment.
- (8) Where several persons are appointed to act as chairmen for a particular area they shall as far as practicable be invited to preside over a tribunal in turn.

### **78 Retirement of, and superannuation allowances for, Commissioners.**

- (1) A National Insurance Commissioner shall retire when he attains the age of seventy-two years ; but where a Commissioner who is remunerated by means of a salary would, if he were so to retire, not having completed fifteen years' service, he may continue in office until the end of the completed year of service in which he completes fifteen years' service or attains the age of seventy-five years, whichever first occurs.

For the purposes of this section and Part II of the Judicial Pensions Act (Northern Ireland) 1951, service before the coming into force of paragraph 13 of Schedule 25 to the Social Security Act by any person as a Commissioner, deputy Commissioner, umpire or deputy umpire for the purposes of this Act, the Industrial Injuries Act or the enactments re-enacted by this Act and that Act and remunerated by means of a salary shall be treated as service by that person as a Commissioner appointed under that paragraph and so remunerated.

- (2) Without prejudice to the pension benefits conferred by the Judicial Pensions Act (Northern Ireland) 1951, the Ministry may from time to time recommend to the Ministry of Finance that there shall be paid out of moneys provided by Parliament to a Commissioner who at the date of his retirement is remunerated by means of a salary an annual sum by way of superannuation allowances calculated in accordance with Schedule 6—
  - (a) if he retires pursuant to subsection (1); or
  - (b) if he retires after fifteen years' service and at the time of retirement has attained the age of sixty-five; or



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- (c) if the Ministry is satisfied by means of a medical certificate that at the time of his retirement he is, by reason of infirmity of mind or body, incapable of discharging the duties of his office and that the incapacity is likely to be permanent.
- (3) For the purposes of this section and Schedule 6—
- (a) service as a Commissioner which is not remunerated by means of a salary shall be disregarded ;
  - (c) the Ministry of Finance may by regulations provide for counting as service as a Commissioner pensionable service in any other capacity under the Crown.
- (4) Subsection (2) shall have effect notwithstanding that a Commissioner may, during his period of service as such Commissioner undertake other duties of a judicial or advisory nature for the purposes of this Act, the Industrial Injuries Act or the Social Security Act and, for the purposes of that subsection and Schedule 6, the last annual salary of any such person shall include any salary payable in respect of those other duties.
- (5) Subject to subsection (6)—
- (a) a person about to be appointed as Commissioner and remunerated by means of a salary,
  - (b) a person who, being a Commissioner is about to be remunerated by means of a salary,
- shall, before being so appointed or, as the case may be, remunerated, furnish to the Ministry satisfactory evidence that his health is suitable for the discharge of the duties of such office.
- (6) A person of the kind referred to in subsection (5)(a) or (b) may elect that he shall not, before being appointed a Commissioner or, as the case may be, remunerated by means of a salary, furnish evidence as to his health, and where a Commissioner is so appointed or remunerated after having made such an election, then, subject to subsection (7), as respects him—
- (a) subsection (2) shall not have effect until he has completed five years' service ; and
  - (b) Part II of the Judicial Pensions Act (Northern Ireland) 1951 shall not have effect until he has completed ten years' service ;
- and where the Ministry is satisfied that his health has throughout his service been such that it has enabled him duly to discharge the duties of his office, the Ministry may, after the completion of the relevant period of service, direct that the said subsection or, as the case may be, the said Part, shall have effect as if he had not made that election.
- (7) A Commissioner who has made an election under subsection (6) may at any time during his tenure of office furnish to the Ministry satisfactory evidence as to his health, and the Ministry may thereupon direct that for the purposes of subsection (2) and of Part II of the Judicial Pensions Act (Northern Ireland) 1951 that Commissioner shall be treated as if he had not made that election.
- (8) A person to whom a superannuation allowance has been granted under this section before he has attained the age of seventy-two in consequence of an incapacity of the kind referred to in subsection (2)(c) shall, until he has attained that age, be liable to be required by the Governor to resume the duties of a Commissioner with the salary attached thereto, and if (being in a competent state of health) he declines when so required to resume those duties, or declines or neglects to execute those duties, he shall forfeit his right to the allowance so granted to him.

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- (9) Whenever a person has resumed his duties pursuant to subsection (8), the payment of the superannuation allowance granted to him shall be suspended during the period of his resumed service, but, subject to the provisions of that subsection, at the end of that period the superannuation allowance shall again be payable and be recalculated in accordance with the provisions of Schedule 6, and for that purpose the period of his resumed service shall be added to the period of his former service.
- (10) The decision of the Ministry of Finance shall be final on any question arising as to—
- (a) the application of any of the provisions of this section to any person; or
  - (b) the amount of any superannuation allowance under this section ; or
  - (c) the reckoning of any service for the purpose of calculating such a superannuation allowance.
- (11) Where the rate of the superannuation allowance payable to any person under subsection (2) as Commissioner is or would be increased by virtue of regulations made under subsection (3)(c) in respect of service in some other capacity, any pension benefits paid to or in respect of him as having been Commissioner shall, to such extent as the Ministry of Finance may determine, having regard to the relative length of service and rate of remuneration in each capacity, be paid and borne in the manner in which a pension payable to him wholly in respect of service in that other capacity would have been paid and borne.
- (12) In this section, the expression " pension " includes any superannuation or other retiring allowance or gratuity, and the expression " pensionable " shall be construed accordingly ; and the expression " pension benefits" includes benefits payable on retirement or death by way of lump sum or gratuity, and benefits payable in respect of a person's service or employment to other persons by way of widow's or children's pension or otherwise.

#### **79 Remuneration and expenses of Commissioner and other persons.**

- (1) The Ministry shall pay to a National Insurance Commissioner such salary or other remuneration as the Ministry of Finance may determine and such expenses incurred in connection with the work of a Commissioner, as may be so determined.
- (2) The Ministry may pay—
- (a) to any other person appointed under the foregoing provisions of this Part to determine questions or as a member of or assessor to any tribunal constituted under those provisions, such remuneration and such travelling and other allowances ;
  - (b) to any person required to attend at any proceedings under this Part, such travelling and other allowances ; and
  - (c) such other expenses in connection with the work of any person or tribunal appointed or constituted under any provision of this Part (other than a tribunal presided over by a Commissioner),
- as the Ministry with the consent of the Ministry of Finance may determine.
- (3) The Ministry may pay to any person required under this Act (whether for the purposes of this Act, the Social Security Act or otherwise) to attend for or to submit himself to medical or other examination or treatment such travelling and other allowances as the Ministry with the consent of the Ministry of Finance may determine.

- (4) In this section references to travelling and other allowances include references to compensation for loss of remunerative time but such compensation shall not be paid to any person in respect of any time during which he is in receipt of remuneration under this section.

### **80 Recovery of benefit wrongly paid, interim payments of benefit, and arrears.**

- (1) Where benefit is or has been paid in pursuance of a decision which is reversed or varied on appeal, or is revised on a review, then, subject to subsection (2), the decision given on the appeal or review shall require repayment to the Ministry of any benefit which was paid in pursuance of the original decision to the extent to which it—
- (a) would not have been payable if the decision on the appeal or review had been given in the first instance ; and
  - (b) is not directed to be treated as paid on account of the benefit awarded by the decision on appeal or review, or as having been properly paid.
- (1A) Any sums repaid to the Ministry in pursuance of subsection (1) shall—
- (a) be paid by it into the Exchequer insofar as they represent benefit which under section 46(1)(a) of the Social Security Act is not payable out of the Northern Ireland National Insurance Fund ; and
  - (b) otherwise be paid by it into that Fund.
- (2) A decision given on appeal or review shall not require repayment of benefit paid in pursuance of the original decision in any case where it is shown to the satisfaction of the person or tribunal determining the appeal or review that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.
- (3) Regulations may make provision as respect matters arising—
- (a) pending the determination under this Act (whether in the first instance or on an appeal or reference, and whether originally or on review) of any claim for benefit or of any question affecting any person's right to benefit or to the receipt thereof or any person's liability for contributions under Part I of the Social Security Act or contributions or premiums under Part III of that Act; or
  - (b) out of the revision on appeal or review of any decision under this Act on any such claim or question.
- (4) Without prejudice to the generality of subsection (3), regulations thereunder may include provision—
- (a) as to the date from which any decision on a review is to have effect or to be deemed to have had effect;
  - (b) for treating any benefit paid to any person under an award or by virtue of any provision of the regulations which it is subsequently decided was not payable, as properly paid or as paid on account of any other benefit which it is decided was payable to him, or for the repayment of any such benefit and the recovery thereof by deduction from other benefit or otherwise;
  - (c) modifying subsections (1) and (2) in relation to sums paid by way of benefit in respect of a child of the family of a man and his wife living together where those sums would have been receivable, if properly paid, by either the man or the wife ;

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- (d) making any such provision for the recovery of sums paid by way of benefit and required to be repaid by virtue of subsection (1) as is authorised to be made in a case where repayment is required by the regulations.
- (6) Where, in the case of any person, any sum may by virtue of regulations under subsection (3) be recovered by deduction from benefit it may instead be recovered from him in whole or in part by deduction from any payment under the Industrial Injuries Act.”

## SCHEDULE 26

Section 100(1).

## TRANSITIONAL PROVISIONS

*Supersession of National Insurance Acts, but with continuity*

- 1 Subject to the following provisions of this Schedule, on and after the appointed day no person shall be insured under the former principal Act or entitled to benefit under that Act.
- 2 (1) Regulations may provide that, in relation to—
- (a) persons who cease by virtue of paragraph 1 above to be insured under the former principal Act,
  - (b) persons to or in respect of whom benefit under that Act was, or but for a disqualification or forfeiture would have been, payable immediately before the appointed day ; and
  - (c) persons who had a prospective right to, or expectation of, any benefit under that Act immediately before the appointed day,
- the provisions of this Act (other than this Schedule) shall have effect subject to such modifications as may be prescribed with a view to securing continuity between this Act and the former principal Act.
- (2) Without prejudice to the generality of the powers conferred by sub-paragraph (1) above, regulations under that sub-paragraph may in particular provide for the taking into account, for such purposes and in such manner and subject to such conditions as may be prescribed, of contributions paid or credited or deemed to be, or treated as, paid or credited, under the former principal Act or the National Insurance Act 1946, or any enactment repealed by the last-mentioned Act.
- (3) Regulations may provide that this Act (except this sub-paragraph) shall have effect subject to prescribed modifications in relation to persons who attained the age of 19 before the day appointed for the coming into force of section 2 and who, immediately before that day, were not insured under the former principal Act.
- 3 (1) Regulations may make such provision as the Secretary of State thinks appropriate for enabling unpaid contributions under the former legislation to be recovered and disposed of under paragraphs 9 to 14 of Schedule 23 to this Act (applying those paragraphs by analogy and with the necessary modifications) in the case of a person being convicted of such an offence as is mentioned in paragraph 7 or 8(a) of that Schedule committed in the period of two years beginning with the day appointed for the coming into force of section 2 of this Act.
- (2) For this purpose—

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- (a) " the former legislation " means the former principal Act, section 1 of the National Health Service Contributions Act 1965, section 2(1)(a) of the Industrial Injuries Act and section 27 of the Redundancy Payments Act 1965 ; and
- (b) " contributions " includes payments in lieu of contributions for the purposes of Part III of the former principal Act.

*Continuance in force of existing provisions*

- 4 Notwithstanding any repeal effected by this Act, provision may be made by regulations for continuing in force, with or without prescribed modifications, such provisions of the former principal Act or any other enactment specified in the third column of Schedule 28 to this Act as the Secretary of State considers appropriate for the purpose of preserving rights to benefit under that Act or those enactments in those cases (if any) in which in his opinion adequate alternative rights to benefit under this Act are not conferred in pursuance of paragraph 2 above, or for temporarily retaining the effect of those provisions for transitional purposes.
- 5 In the foregoing provisions of this Schedule, any reference to benefit under the former principal Act includes a reference to such other benefit, pension or allowance as is mentioned in paragraph 17(2)(b) of Schedule 11 to that Act (which relates to pre-1948 beneficiaries).

*General*

- 6 (1) Without prejudice to the powers conferred by any other provision of this Act, regulations may make such provision as the Secretary of State considers appropriate for facilitating the introduction of the basic scheme and reserve pension scheme established by Parts I and III of this Act respectively and of the provisions of Part II of this Act relating to the recognition of employments, for modifying the system of insurance contained in the former principal Act (so far as it continues in force after the passing of this Act), so as to bring it into conformity with those schemes and provisions or for facilitating the winding up of that system of insurance or the disposal of matters connected with that system or with any enactment modified or repealed by this Act.
- (2) Regulations under this paragraph may—
- (a) include provisions modifying any enactment specified in the third column of Schedule 28 to this Act or any instrument in force by virtue of such an enactment, as respects any period during which the enactment continues in force after the passing of this Act;
  - (b) provide for the repeal or modification of any enactment by this Act to have effect subject to prescribed savings ;
  - (c) include provisions for making such modifications of any enactment as the Secretary of State considers appropriate having regard to any modifications which, by virtue of paragraph 4 above are made in provisions of the former principal Act continued in force by virtue of that paragraph.
- 7 Her Majesty may by Order in Council provide—
- (a) that any Order in Council under section 105 of the former principal Act (which relates to reciprocity agreements) shall, for the purposes of that section or of that section and section 50 of this Act, have effect with such modifications as may be specified in the Order under this paragraph and

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shall have effect as if any reference in those sections to an agreement included a reference to a proposed agreement;

- (b) that any Order in Council under section 84 of the Industrial Injuries Act and any regulations having effect by virtue of section 22(2) of the Family Allowances Act (which also relate to reciprocity agreements) shall have effect with such modifications as may be so specified.

- 8 Any instrument (except any regulations, Order in Council and any other order) and any appointment which is in force immediately before the appointed day and was made or has effect as if made under an enactment repealed by this Act shall, in so far as a corresponding instrument or appointment is capable of being made under any provision of this Act, be deemed to be so made except to the extent that regulations otherwise provide, and any reference in any document to an enactment repealed and re-enacted by this Act with or without modifications shall, in so far as the context permits, be construed as a reference to this Act or the corresponding enactment therein.

## SCHEDULE 27

Section 100(2)(a).

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART I

##### ENACTMENTS OF THE PARLIAMENT OF THE UNITED KINGDOM

##### *The Bankruptcy (Scotland) Act 1913 (c. 20)*

- 1 In section 118(1) of the Bankruptcy (Scotland) Act 1913—
- (a) in paragraph (a), after "income tax" insert " or Class 4 contributions under Part I of the Social Security Act 1973 ";
- (b) for paragraph (f) substitute—
- “(f) all the debts specified in section 93(2) of the Social Security Act 1973.”.

##### *The Bankruptcy Act 1914 (c. 59)*

- 2 In section 33(1) of the Bankruptcy Act 1914—
- (a) in paragraph (a), after " income tax" insert " or Class 4 contributions under Part I of the Social Security Act 1973 ";
- (b) for paragraph (f) substitute—
- “(f) all the debts specified in section 93(2) of the Social Security Act 1973”.

- 3 In Schedule 2, paragraph 9, for "payable under the National Insurance Act, 1911 " substitute " or premiums payable under Part I or Part III of the Social Security Act 1973 ".

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*The Unemployment Insurance Act 1935 (c. 8)*

- 4 In section 80(1) of the Unemployment Insurance Act 1935, for " the National Insurance Act, 1946" substitute " Part I of the Social Security Act 1973 ".

*The Road Haulage Wages Act 1938 (c. 44)*

- 5 In section 6(2) of the Road Haulage Wages Act 1938, for " the National Insurance (Industrial Injuries) Act, 1946" substitute " Part I of the Social Security Act 1973 ".

*The Fire Services Act 1947 (c. 41)*

- 6 In section 26(2) of the Fire Services Act 1947, in paragraph (f), for "National Insurance (Industrial Injuries) Act, 1946, or the National Insurance Act, 1946," substitute " enactments relating to national insurance and social security ".

*The National Assistance Act 1948 (c. 29)*

- 7 In section 50(4) of the National Assistance Act 1948, for the words from " of this section " onwards substitute " of this section, less any amount received by the authority by way of death grant in respect of that death under section 30 of the Social Security Act 1973. ".

- 8 In section 64(1), for the definition of " trade dispute" substitute—  
    " " trade dispute " has the meaning given, for the purpose of section 14 of the Social Security Act 1973, by subsection (6)(b) of that section ;".

*The Companies Act 1948 (c. 3.8)*

- 9 In section 319 of the Companies Act 1948—  
    (a) in subsection (1), for paragraph (e) substitute—  
        “(e) unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, all the debts specified in section 93(2) of the Social Security Act 1973”;
- (b) in subsection (8)(c), for the words from " National Insurance " onwards substitute " Social Security Act 1973 as earnings paid in that period ; and ".

*The Industrial Assurance and Friendly Societies Act 1948 (c. 39)*

- 10 In section 7 of the Industrial Assurance and Friendly Societies Act 1948—  
    (a) for " National Insurance Act, 1946 " substitute " enactments relating to national insurance and social security "; and  
    (b) for " the said Act of 1946 " substitute " those enactments ".

*The Law Reform (Personal Injuries) Act 1948 (c. 41)*

- 11 In section 2 of the Law Reform (Personal Injuries) Act 1948, substitute the following for subsection (6)—  
    “(6) In this section references to any benefit shall be construed as in the enactments relating to national insurance and social security (including enactments in force in Northern Ireland); and for the purposes of this section

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an industrial disablement gratuity is to be treated as benefit for the period taken into account by the assessment of the extent of the disablement in respect of which it is payable.”.

*The Children Act 1948 (c. 43)*

- 12 In section 18(2) of the Children Act 1948, for the words from " the said subsection (1)" onwards substitute " the said subsection (1), less any amount received by the authority by way of death grant in respect of that death under section 30 of the Social Security Act 1973. ".

*The Juries Act 1949 (c. 27)*

- 13 In section 1(1)(0) of the Juries Act 1949 (as substituted by section 27 of the Criminal Justice Act 1972), after " national insurance " insert " and social security ".

*The Justices of the Peace Act 1949 (c. 101)*

- 14 In section 8(1) of the Justices of the Peace Act 1949 (as amended by section 4 of the Justices of the Peace Act 1968 and set out in Schedule 4 to that Act), for " the National Insurance Acts 1965 to 1967 " substitute " the enactments relating to national insurance and social security ".

*The Fire Services Act 1951 (c. 27)*

- 15 In section 2 of the Fire Services Act 1951, for subsection (4) substitute—  
 “(4) Nothing in subsection (1) of this section shall affect the operation of the enactments relating to national insurance and social security, but the Firemen's Pension Scheme may provide for the reduction or withholding of awards under the Scheme where, in respect of the same matters, benefit is payable under those enactments and awards may be made under the Scheme.”.

*The Local Government Superannuation Act 1953 (c. 25)*

- 16 In section 25 of the Local Government Superannuation Act 1953, in paragraph (a) of the proviso to subsection (1), for "twenty-two of the National Insurance Act 1946 " substitute " 30 of the Social Security Act 1973 ".

*The Friendly Societies Act 1955 (4 Eliz. 2. c. 19)*

- 17 In section 9 of the Friendly Societies Act 1955—  
 (a) in subsection (1), for "Insurance Acts" substitute " enactments relating to national insurance and social security ";
- (b) for subsection (2) substitute—  
 “(2) Where the Secretary of State furnishes a registered friendly society or branch, in connection with a claim for benefit from the society or branch, with information relating to a claim or award under those enactments, the expenses incurred in connection therewith by the Secretary of State or any other government department shall be treated as expenses in carrying those enactments into effect.”.



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*The House of Commons Disqualification Act 1957 (c. 20)*

- 18 In Schedule 1 to the House of Commons Disqualification Act 1957, in Part III, for the entry beginning " Chairman or Reserve Chairman of a Local Tribunal constituted for the purposes of the National Insurance Act 1965 " substitute—

“Chairman of a Local Tribunal constituted under section 77 of the National Insurance Act 1965 or section 76 of the National Insurance Act (Northern Ireland) 1966.”;

and in the Part substituted for Part III of Schedule 1 to that Act in relation to the Senate and House of Commons of Northern Ireland, for the corresponding entry substitute—

“Chairman of a Local Tribunal constituted under section 76 of the National Insurance Act (Northern Ireland) 1966.”.

*The Public Records Act 1958 (c. 51)*

- 19 In Schedule 1 to the Public Records Act 1958—

- (a) in the second column of the Table, at the end of paragraph 3, after the entry relating to the Pneumoconiosis and Byssinosis Benefit Board, insert—

“Occupational Pensions Board. Reserve Pension Board.”.

- (b) the second column of that Table shall continue to have effect subject to the amendment made by paragraph 2 of Part I of Schedule 2 to the National Insurance (Old persons' and widows' pensions and attendance allowance) Act 1970, that is to say, after the entry relating to the Industrial Injuries Advisory Council, there shall continue to be inserted the following entry—

“Attendance Allowance Board.”.

*The Fatal Accidents Act 1959 (c. 65)*

- 20 In section 2(2) of the Fatal Accidents Act 1959, in the definition of " benefit", for the words from " National Insurance " to " Parliament of" substitute " enactments relating to national insurance and social security including enactments in force in ".

*The Wages Councils Act 1959 (c. 69)*

- 21 In section 14(1) of the Wages Councils Act 1959, in paragraph (a), for " National Insurance (Industrial Injuries) Act 1946, the National Insurance Act 1946 " substitute " enactments relating to national insurance and social security ".

*The Education Act 1962 (c. 12)*

- 22 In section 9 of the Education Act 1962, in the proviso to subsection (5), for " or national insurance (including industrial injuries insurance)" substitute " national insurance and social security ".

*The Administration of Justice Act 1964 (c. 42)*

- 23 In section 17(2)(b) of the Administration of Justice Act 1964, for " employer's contributions payable in respect of those officers under the National Insurance Acts

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1946 to 1963 " substitute " secondary Class 1 contributions, secondary reserve scheme contributions and reserve scheme premiums payable in respect of those officers under Part I or, as the case may be, Part III of the Social Security Act 1973 ".

*The Diplomatic Privileges Act 1964 (c. 81)*

- 24 In section 2(4) of the Diplomatic Privileges Act 1964, for the words from " which is insurable employment" to " any contribution " substitute " in respect of which contributions or premiums are payable under the enactments relating to national insurance and social security, including enactments in force in Northern Ireland, but not so as to render any person liable to any contribution or premium ".

*The National Insurance (Industrial Injuries) Act 1965 (c. 52)*

- 25 In section 5(4) of the Industrial Injuries Act, for " sections 75 and 76 of this Act" substitute " section 76 of this Act and section 94(8) of the Social Security Act ".
- 26 In section 8(2), after " vessel" insert " hovercraft (within the meaning of the Hovercraft Act 1968) ".
- 27 In section 11, after subsection (4) insert—
- “(5) Subsection (1)(a) to (e) of section 12 of the Social Security Act, and any regulations made under those paragraphs or under subsection (2) of that section, shall have effect for the purposes of injury benefit as they have effect for the purposes of unemployment benefit or sickness benefit under Part I of that Act.”.
- 28 In section 13A(5), for " Insurance Act" substitute " Social Security Act ".
- 29 In section 17(5), for "29 of the Insurance Act" substitute " 22 of the Social Security Act ".
- 30 In section 19(3), in paragraph (d), for " the upper limit of the compulsory school " substitute " school-leaving ".
- 31 Section 27(2) shall continue to have effect subject to the amendment made by section 2(1) of the National Insurance &c. Act 1969, that is to say, for paragraph (b) there shall continue to be substituted—
- “(b) for extinguishing the right to payment of any sum by way of benefit if payment is not obtained within a prescribed period, not being less than twelve months, from the date on which the right is to be treated under the regulations as having arisen.”.
- 32 For section 28(1) substitute—

“(1) 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 of a beneficiary, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.

(1A) In the application of subsection (1) of this section to Scotland—

- (a) the reference to assignment of benefit shall be read as a reference to its assignation, " assign " being construed accordingly ;
- (b) the reference to a beneficiary's bankruptcy shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 14 of the Bankruptcy

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- (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958.”.
- 33 In section 29(1), for " against which he is insured under this Act" substitute " arising out of and in the course of his employed earner's employment ".
- 34 In section 32(1), for " Part II of the Insurance Act" substitute " Chapter II of Part I of the Social Security Act ".
- 35 In section 34(3), for paragraph (b) substitute—  
“(b) the employed earners have died as a result of accidents arising out of and in the course of their employed earner's employment,”.
- 36 In section 35—  
(a) in subsection (2), for " 64(1)(d) of that Act" substitute " 84(1)(d) of the Social Security Act ";
- (b) in subsection (3), for the words from "subsection (1)(a) to (e)" onwards substitute " subsection (1)(a) of this section as it applies in relation to any question arising under the Social Security Act such as is mentioned in section 84(1)(a) of that Act ";
- (c) in subsection (4) for "the said section 64(1)(a) to (c) of that Act" substitute " section 84(1)(a) of the Social Security Act ".
- 37 In section 50—  
(a) in subsection (2)—  
(i) in paragraph (a), for " an insurance tribunal" substitute " and a competent tribunal ";
- (ii) in paragraph (b), for " insurance tribunal" substitute " competent tribunal ";
- (iii) in paragraphs (c) and (h), for " an insurance tribunal" substitute (in each case) " a competent tribunal ";
- (iv) in paragraph (g), for " an insurance tribunal" substitute " or a competent tribunal ";
- (b) in subsection (6), for " " insurance tribunal" " substitute " competent tribunal " ".
- 38 In section 54—  
(a) in subsections (2) and (8), for " the Insurance Act" substitute (in each case) " Part I of the Social Security Act ";
- (b) in subsection (4), for subsections (5) and (7)" substitute " subsection (5) ";
- (c) for subsection (10) substitute—  
“(10) This section is subject to paragraphs 4 to 6 of Schedule 10 to the Social Security Act”.
- 39 In section 62(2), for " 2 of Schedule 7 to the Insurance Act" substitute " 5 of Schedule 10 to the Social Security Act ".
- 40 In section 71(1), for "injuries and diseases against which persons are insured under this Act" substitute " arising out of and in the course of employment, or injuries and diseases which are due to the nature of employment ".
- 41 In section 73(1), for "against which he was insured under this Act" substitute " due to the nature of his employment ".
- 42 For section 74 substitute—

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**“74 Persons employed by or under the Crown.**

This Act shall apply to persons employed by or under the Crown in like manner as if such persons were employed earners in the employment of a private person :

Provided that employment in the naval, military or air force service of the Crown and any other prescribed employment under the Crown shall not be, or be treated as, employed earner's employment.”.

43 For section 78 substitute—

**“78 Persons under school-leaving age.**

A person who has not attained school-leaving age shall not be entitled to injury benefit except as may be provided by regulations.”.

44 In section 85(4)—

- (a) for " 75 of this Act" substitute " 94(8) of the Social Security Act ";
- (b) for " the said section 75" substitute " the said section 94(8) ".

45 In section 86—

- (a) in subsection (1), after the definition of " relevant loss of faculty " insert " ' the Social Security Act' means the Social Security Act 1973 ";
- (b) in subsection (2)—

(i) for paragraph (b) substitute—

“(b) a person shall be deemed to have attained or not to have attained school-leaving age if he would be treated as being, as the case may be, over or under the upper limit of the compulsory school age for the purposes of that Act (disregarding any regulations made by virtue of section 2 of the Family Allowances and National Insurance Act 1967); " (ii) in paragraph (c), after " of that Act" insert " (as amended by section 1(1)(b) of the Family Allowances and National Insurance Act 1968) ".”

46 In Schedule 3, paragraph 9(c), column 2, for " National Insurance Act 1965 as specified in Schedule 3 " substitute " Social Security Act as specified in Part I of Schedule 4 ".

*The Family Allowances Act 1965 (c. 53)*

47 In section 5 of the Family Allowances Act—

- (a) in subsection (1), for the words from " section 48(2)(c) " to " payment under this Act)" substitute " paragraph 1(4)(c) of Schedule 10 to the Social Security Act ";
- (b) in subsection (2)—
  - (i) for " under the Insurance Act" substitute " under Part I of the Social Security Act ",
  - (ii) for " under that Act" substitute " under that Part of that Act ", and

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(iii) for " of that Act" substitute " of the Insurance Act ".

48 In section 7, after subsection (3) insert—

“(4) The regulations to be so made may make provision for extinguishing the right to payment of any allowance if payment is not obtained within a prescribed period, not being less than twelve months, from the date on which the right is to be treated under the regulations as having arisen.”.

49 In section 8—

(a) in subsection (1)—

(i) for " paragraph 1 of Schedule 7 to the Insurance Act" substitute " paragraphs 4 to 6 of Schedule 10 to the Social Security Act ";

(ii) for " 81(1) to (5)" substitute " 81(1) to (4) ";

(iii) for " section 49(5) of the Insurance Act" substitute " paragraph 2(6) of Schedule 10 to the Social Security Act ";

(iv) in paragraphs (a) and (b), for " the Insurance Act " substitute (in each place) " Part I of the Social Security Act "; and

(b) in subsection (3), for " the Insurance Act" substitute " Part I of the Social Security Act ".

50 In section 11(6), for " 29 of the Insurance Act" substitute " 22 of the Social Security Act ".

51 For section 12 substitute—

**“12 Information as to, and proof of, age, marriage or death.**

Paragraphs 9 to 11 of Schedule 22 to the Social Security Act shall apply for the purposes of this Act as they apply for the purposes of that Act.”

52 In section 19(1), after the definition of " the Minister ", insert " the Social Security Act " means the Social Security Act 1973.”.

53 In section 22, for subsection (1) substitute—

“(1) For the purpose of giving effect to any agreement with the Government of any country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act, Her Majesty may by Order in Council make provision for modifying this Act in its application to cases affected by the agreement.

(1A) The modifications of this Act which may be made by virtue of subsection (1) above shall include provision—

(a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made shall have a corresponding effect for the purposes of this Act (but not so as to confer a right to double benefit);

(b) for determining, in cases where rights accrue both under this Act and under the law of that country, which of those rights shall be available to the person concerned ;

(c) for making any necessary financial adjustments.

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(1B) Powers corresponding to those conferred by section 96(2) to (4) and (7) of the Social Security Act in relation to Orders in Council under that Act shall be exercisable also in relation to Orders in Council under this section.”.

*The Redundancy Payments Act 1965 (c. 62)*

- 54 In section 17 of the Redundancy Payments Act 1965—
- (a) in subsection (3), after "week of employment" insert " before the day appointed for the coming into force of section 2 of the Social Security Act 1973 ";
  - (b) after subsection (4) insert—
    - “(4A) Subject to the following provisions of this section, in computing, in relation to an employee, the period specified in section 8(1) of this Act, or the period specified in paragraph 1 of Schedule 1 to this Act, a week of employment after the day appointed for the coming into force of section 2 of the Social Security Act 1973 shall not count if—
      - (a) the employee was employed outside Great Britain during the whole or part of that week ; and
      - (b) he was not during that week an employed earner for the purposes of that Act.”;
    - (c) in subsection (5), after " (3) " insert " or (4A) ";
    - (d) for subsection (6) substitute—
      - “(6) Any question arising under this section—
        - (a) whether an employer's contribution was paid, or was or would have been payable, as mentioned in subsection (3) or (4) of this section ; or
        - (b) whether a person was an employed earner for the purposes of the Social Security Act 1973,
 shall be determined by the Secretary of State; and any legislation (including regulations) as to the determination of questions which under that Act the Secretary of State is empowered to determine (including provisions as to the reference of questions for decision, or as to appeals, to the High Court or the Court of Session) shall apply to the determination of any question by the Secretary of State under this section”.
- 55 In section 26(3), for the words from " securities" onwards, substitute " such manner as may be specified by an order of the Treasury for the time being in force under section 22(1) of the National Savings Bank Act 1971. ".
- 56 In section 31(4), for the words from " the aggregate amount" to " contributions " substitute " equal to the appropriate allocation to the Redundancy Fund (under section 45 of the Social Security Act 1973) from all secondary Class 1 contributions paid by that employer under Part I of the Social Security Act 1973 ".
- 57 In section 36, for subsection (5) substitute—
- “(5) In this Part of this Act " employer " and " employee " have the same meanings as in Part I of this Act.”.
- 58 In section 43—

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- (a) in subsection (1)—
  - (i) for " the next following subsection " substitute " subsection (2) of this section ";
  - (ii) for the words from " employer's contributions" to " that employment" substitute " in respect of the whole or part of the period during which that person was in that employment, employer's contributions were paid in respect of him ";
- (b) after subsection (1) insert—
  - “(1A) The reference in subsection (1) of this section to employer's contributions is—
    - (a) as respects any period before the day appointed for the coming into force of section 2 of the Social Security Act 1973, to employer's contributions within the meaning of the National Insurance Act 1965 ; and
    - (b) as respects any period beginning on or after that day, to secondary Class 1 contributions paid in respect of the person in question by persons who were in relation to him secondary Class 1 contributors by virtue of section 2(4)(a) of the said Act of 1973.”;
  - (c) in subsection (2), for " the preceding subsection" substitute " subsection (1) of this section ";
  - (d) in subsection (4), for the words from " such contributions " to " were paid " substitute " the conditions of subsection (1) of this section relating to the payment of employer's contributions were satisfied ".

59 In section 49(1), for " redundancy fund contributions will be payable under Part II of this Act" substitute " secondary Class 1 contributions will be payable under Part I of the Social Security Act 1973 ".

*The National Insurance Act 1966 (c. 6)*

60 In section 6(1)(a) of the National Insurance Act 1966, for " the said section 15 " substitute " section 15 of that Act ".

61 In section 8—

- (a) in subsection (1)—
  - (i) in paragraph (a), for the words "68 to 76" onwards substitute " 68 to 73, 75 and 76 of the Insurance Act in like manner as a claim for benefit under Part I of the Social Security Act or, as the case may be, a question to which section 84(5) of the Social Security Act applies ";
  - (ii) in paragraph (b), for the words from "Insurance Act" (where first occurring) onwards, substitute " Social Security Act, of local tribunals constituted under section 77 of the Insurance Act or of a Commissioner appointed under section 87 of the Social Security Act ";
  - (iii) in paragraph (ii), for "Part IV of the Insurance Act" substitute " section 84(5) of the Social Security Act and Part IV of the Insurance Act ";
  - (iv) in paragraph (iii), for " a reference to the said Part IV " substitute " references to the said section 84(5) and to the said Part IV ";

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- (b) in subsection (2), for the words from the beginning to "section 9 of this Act" substitute " Where any question under the Industrial Injuries Act (not being a special question within the meaning of that Act) first arises in the course of an appeal to a local tribunal constituted under section 77 of the Insurance Act or a Commissioner appointed under section 87 of the Social Security Act " .
- 62 In section 14(3), after paragraph (b) insert the following new paragraph—  
 “(bb) the expression " the Social Security Act" means the Social Security Act 1973.”.
- 63 In Schedule 2—
- (a) in paragraphs 3(b), 5(a) and 6(a), for " 64(1) of the Insurance Act" substitute (in each case) " 84(1) of the Social Security Act ";
  - (b) in paragraph 4(b), for " employed persons" substitute " employed earners ";
  - (c) in paragraph 7, for " sections 67 to 70 " substitute " section 84(5) of the Social Security Act or sections 68 to 70 " .

*The Commonwealth Secretariat Act 1966 (c. 10)*

- 64 In paragraph 5(2) of the Schedule to the Commonwealth Secretariat Act 1966, for the words from " contributions are required to be paid " to " liable to any contribution " substitute " contributions or premiums are payable under the enactments relating to national insurance and social security, but the foregoing provision shall not be construed as rendering a person liable to any contribution or premium " .

*The Supplementary Benefit Act 1966 (c. 20) (The Ministry of Social Security Act 1966)*

- 65 In section 12(1) of the Supplementary Benefit Act 1966, for " the National Insurance Act 1965 " substitute " Part I of the Social Security Act 1973 " .
- 66 In section 16(1), for paragraph (a) substitute—  
 “(a) benefit (other than a maternity grant or a death grant) under Part I of the Social Security Act 1973 ;”.
- 67 Section 17(1) shall continue to have effect subject to the amendment made by section 2(2) of the National Insurance &c. Act 1969, that is to say, the following shall continue to be substituted for paragraph (e)—  
 “(e) for extinguishing the right to payment of any sum by way of benefit if payment is not obtained within a prescribed period, not being less than twelve months, from the date on which the right is to be treated under the regulations as having arisen.”.
- 68 In section 26(4), for " the National Insurance Acts 1965 and 1966 " substitute " Part I of the Social Security Act 1973 " .
- 69 In section 36(1), in the definitions of "place of employment " and " trade dispute ", for " 22 of the National Insurance Act 1965 " substitute (in each place) " 14 of the Social Security Act 1973 " .
- 70 In Schedule 2—
- (a) in paragraph 10A—
    - (i) in sub-paragraph (1)(a), for " 22(2) of the National Insurance Act 1965 " substitute " 14(2) of the Social Security Act 1973 ";



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- (ii) in sub-paragraph (3), for "the National Insurance Act 1965 " substitute " Part I of the Social Security Act 1973 ";
- (b) in paragraph 12A—
  - (i) in sub-paragraph (2)(a), for "the National Insurance Act 1965 " substitute " Part I of the Social Security Act 1973 ";
  - (ii) in sub-paragraph (2)(b), for the words from " subsection (2)" onwards, substitute " section 15(1) of the Social Security Act 1973 or, in relation to a disabled child, that subsection as modified by regulations made under subsection (4) of that section ";
  - (iii) in sub-paragraph (3), for " National Insurance Act 1965 " substitute " Social Security Act 1973 ";
- (c) in paragraph 20—
  - (i) in sub-paragraph (a), for " 39 of the National Insurance Act 1965 " substitute " 30 of the Social Security Act 1973 ";
  - (ii) in sub-paragraph (b), for " section 23 " substitute " section 16 ";
- (d) in paragraph 24—
  - (i) in sub-paragraph (1)(h), for " Schedule 3 to the National Insurance Act 1965" substitute " Part I of Schedule 4 to the Social Security Act 1973 ",
  - (ii) in sub-paragraph (2)(a), for "column 2 or 3 of Part II of Schedule 3 to the National Insurance Act 1965 " substitute " column 2 or 3 of Part III of Schedule 4 to the Social Security Act 1973 ",
  - (iii) in sub-paragraph (2)(b), for " under Part I or increase thereof under column 3 of Part II of Schedule 3 to the National Insurance Act 1965 " substitute " under Part I, or increase thereof under column 3 of Part III, of Schedule 4 to the Social Security Act 1973 ",
  - (iv) in sub-paragraph (3)(a), for " column 4 of Part II of Schedule 3 to the National Insurance Act 1965 " substitute " column 4 of Part III of Schedule 4 to the Social Security Act 1973 ";
- (e) in paragraph 25(1)(a) for " the National Insurance Acts 1965 and 1966" substitute " Part I of the Social Security Act 1973 ".

*The Agriculture Act 1967 (c. 22)*

- 71 In section 67(3) of the Agriculture Act 1967, in paragraph (e), for "the National Insurance Act 1965 " substitute " Part I of the Social Security Act 1973 ".

*The Superannuation (Miscellaneous Provisions) Act 1967 (c. 28)*

- 72 In section 13 of the Superannuation (Miscellaneous Provisions) Act 1967, for subsection (2) substitute—
- “(2) Regulations under subsection (1) of this section may provide for the reduction or withholding of awards under the regulations in cases where awards are provided for in respect of the same matters under any of the enactments relating to national insurance and social security.”.

*The Industrial Injuries and Diseases (Old Cases) Act 1967 (c. 34)*

- 73 In section 4(8) of the Old Cases Act, for paragraph (a) substitute—

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“(a) except when made for the purpose of replacing provisions of previous schemes with new provisions to the same effect, or of making provision consequential on the making of an order under section 39 of the Social Security Act 1973, shall not be made unless a draft of the scheme has been laid before Parliament and approved by resolution of each House ;”.

74 In section 8(3)(b), for the words from " one of the Commissioners " to " subsection (3) " substitute " a Commissioner appointed under section 87 of the Social Security Act 1973, or by a tribunal constituted under subsection (2) ".

75 For section 13 substitute—

**“13 Application of enactments.**

(1) Subject to section 8(2) of this Act, the following enactments namely—

- (a) section 81(6) of the Insurance Act;
- (b) sections 54(8) and 85 of the Industrial Injuries Act; and
- (c) section 8(3) of the Family Allowances Act 1965,

shall have effect as if any reference in those enactments to the Industrial Injuries Act included a reference to this Act.

(2) Paragraphs 9 to 11 (except 11(b)) of Schedule 22 to the Social Security Act 1973 shall apply for the purposes of this Act as they apply for the purposes of that Act.”.

*The Family Allowances and National Insurance Act 1967 (c. 90)*

76 For section 1(4) of the Family Allowances and National Insurance Act 1967 substitute—

“(4) The provisions set out in Part II of Schedule 2 to this Act shall be substituted for those of paragraph 1 of Schedule 5 to the National Insurance (Industrial Injuries) Act 1965.”.

*The Public Expenditure and Receipts Act 1968 (c. 14)*

77 In Schedule 3 to the Public Expenditure and Receipts Act 1968, at the end of paragraph 1(b) insert—

“The <a href="#">Social Security Act 1973 (c. 38)</a> Schedule 22, paragraph 9.	The Secretary of State.”
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*The Consular Relations Act 1968 (c. 18)*

78 In section 1(6) of the Consular Relations Act 1968, for the words from " which is insurable employment" to " liable to any contribution" substitute " in respect of which contributions or premiums are payable under the enactments relating to national insurance and social security, including enactments in force in Northern Ireland, but not so as to render any person liable to any contribution or premium ".

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*The Rent Act 1968 (c. 23)*

- 79 In section 40(3) of the Rent Act 1968, for "the National Insurance Act 1965 " substitute " Part I and Part III of the Social Security Act 1973 ".

*The International Organisations Act 1968 (c. 48)*

- 80 In paragraph 13 of Schedule 1 to the International Organisations Act 1968—
- (a) for the words from " for the purposes " to the end of subparagraph (a) substitute
- “for the purposes of the enactments relating to national insurance and social security, including enactments in force in Northern Ireland—
- (a) services rendered for the organisation by the representative or officer shall be deemed to be excepted from any class of employment in respect of which contributions or premiums under those enactments are payable, but”
- (b) in sub-paragraph (b), after " contribution" insert " or premium ".

*The Social Work (Scotland) Act 1968 (c. 49)*

- 81 In section 28(2) of the Social Work (Scotland) Act 1968, for " 39 of the National Insurance Act 1965 " substitute " 30 of the Social Security Act 1973 ".

*The Income and Corporation Taxes Act 1970 (c. 10)*

- 82 In section 8(2)(b) of the Income and Corporation Taxes Act 1970, for the words from " a retirement pension " to " 1966 " substitute " a Category A retirement pension payable to the wife under Part I of the Social Security Act 1973, no payment of benefit under that Part of that Act ".
- 83 In section 24(3)(a), for the words from " under the National Insurance Act" to " 1966 " substitute " under Part I of the Social Security Act 1973 ".
- 84 In section 219—
- (a) in subsection (1)(a), for the words from " the National Insurance Act 1965 " to " those Acts)" substitute " Part I of the Social Security Act 1973, except ";
- (b) in subsection (3)—
- (i) for " the National Insurance Act 1965 or the National Insurance Act (Northern Ireland) 1966 " substitute " the Social Security Act 1973 ";
- (ii) for the words from " employer's contribution " to " 1966" substitute " secondary Class 1 contribution or secondary reserve scheme contribution within the meaning of the said Act of 1973 ".

*The Administration of Justice Act 1970 (c. 31)*

- 85 In sections 11(b)(ii) and 12(2)(b) of the Administration of Justice Act 1970, after " contributions" (in each place) insert " premiums ".
- 86 In Schedule 4, for paragraph 3 substitute—

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“3 Class 1, 2 and 4 contributions under Part I of the Social Security Act 1973 and reserve scheme contributions and premiums under Part III of that Act.”.

*The Family Income Supplements Act 1970 (c. 55)*

87 In section 8(4) of the Family Income Supplements Act 1970, for " the National Insurance Acts 1965 to 1970 " substitute " Part I of the Social Security Act 1973 ".

*The Attachment of Earnings Act 1971 (c. 32)*

88 In section 3(6) of the Attachment of Earnings Act 1971, after " contributions " insert " premiums ".

89 In Schedule 2, for paragraph 3 substitute—

“3 Class 1, 2 and 4 contributions under Part I of the Social Security Act 1973 and reserve scheme contributions and premiums under Part III of that Act.”.

90 In Schedule 3, for paragraph 3(b) substitute—

“(b) primary Class 1 contributions under Part I of the Social Security Act 1973 and primary reserve scheme contributions under Part III of that Act;”.

91 In Schedule 4, for " the National Insurance Act 1965 " substitute " Part I of the Social Security Act 1973 ".

*The Tribunals and Inquiries Act 1971 (c. 62)*

92 In Part I of Schedule 1 to the Tribunals and Inquiries Act 1971, in paragraph 18(d), for " 9 of the [National Insurance Act 1966 \(c. 6\)](#)" substitute " 87 of the [Social Security Act 1973 \(c. 38\)](#) ".

*The Finance Act 1971 (c. 68)*

93 In the Finance Act 1971, Schedule 4, paragraph 1(b), for the words from " under the National Insurance Acts 1965" onwards substitute " under Part I of the Social Security Act 1973 which is payable to the wife otherwise than by virtue (wholly or partly) of her own contributions. ".

*The Social Security Act 1971 (c. 73)*

94 In the Social Security Act 1971, after section 4 insert the following new section—

**“4A Inspectors appointed under Social Security Act 1973.**

Every appointment of an inspector under section 88(1) of the Social Security Act 1973 shall be an appointment for the purposes of the Supplementary Benefit Act 1966 as well as for those of the said Act of 1973 ; and—

- (a) in Part I of Schedule 22 to the said Act of 1973 references to that Act (except the first reference) shall include the said Act of 1966 ; and
- (b) in paragraph 2(1)(b) of that Schedule the reference to benefit shall include benefit within the meaning of the said Act of 1966.”.

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- 95 At the end of section 6 add " and this section applies also, with the necessary modifications, to the provisions of the Social Security Act 1973 which correspond to those of the National Insurance Act 1965 mentioned above in this section. "

*The Housing (Financial Provisions) (Scotland) Act 1972 (c. 46)*

- 96 In Schedule 2 to the Housing (Financial Provisions) (Scotland) Act 1972, in paragraph 9(2)0)", for "Schedule 3 to the National Insurance Act 1965 " substitute " Part I of Schedule 4 to the Social Security Act 1973 ".

*The Housing Finance Act 1972 (c. 47)*

- 97 In Schedule 3 to the Housing Finance Act 1972, in paragraph 9(2)0)", for " Schedule 3 to the National Insurance Act 1965 " substitute " Part I of Schedule 4 to the Social Security Act 1973 ".

*The Administration of Justice Act 1973 (c. 15)*

- 98 In paragraph 8(1) of Schedule 1 to the Administration of Justice Act 1973, for " National Insurance Acts 1965 to 1967 " substitute " enactments relating to national insurance and social security ".

## PART II

### ENACTMENTS OF THE PARLIAMENT OF NORTHERN IRELAND, AND ORDERS IN COUNCIL APPLYING TO NORTHERN IRELAND

*The Agricultural Wages (Regulation) Act (Northern Ireland) 1939 (c. 25)*

- 99 In section 2A(2)(e) of the Agricultural Wages (Regulation) Act (Northern Ireland) 1939, for "the National Insurance Acts (Northern Ireland) 1966 " substitute " Part I of the Social Security Act 1973 ".

*The Wages Councils Act (Northern Ireland) 1945 (c. 21)*

- 100 In section 13(1)(a) of the Wages Councils Act (Northern Ireland) 1945, for the words from " National " to " subsequent enactment " substitute " enactments relating to national insurance and social security ".

*The Industrial Assurance and Friendly Societies Act (Northern Ireland) 1948 (c. 22)*

- 101 In section 7(1) of the Industrial Assurance and Friendly Societies Act (Northern Ireland) 1948, for " National Insurance Act (Northern Ireland) 1946 " substitute " enactments relating to national insurance and social security ", and for " the said Act of 1946 " substitute " those enactments ".

*The Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c. 23)*

- 102 In section 3 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948, substitute the following for subsection (6)

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“(6) In this section references to any benefit shall be construed as in the enactments relating to national insurance and social security (including enactments in force in Great Britain) ; and for the purposes of this section an industrial disablement gratuity is to be treated as benefit for the period taken into account by the assessment of the extent of the disablement in respect of which it is payable”.

*The Employment and Training Act (Northern Ireland) 1950 (c. 29)*

103 In section 3 of the Employment and Training Act (Northern Ireland) 1950, substitute the following for subsection (6)—

“(6) The Ministry may, with the consent of the Ministry of Finance, authorise the payment out of the Northern Ireland National Insurance Fund of contributions towards expenses incurred under this section in respect of persons entitled to unemployment benefit under Part I of the Social Security Act 1973 and persons who would be so entitled but for regulations made under that Act; but contributions under this section shall not in any year exceed one hundred thousands pounds or such greater amount as the Ministry may by order determine, and any such order shall be subject to negative resolution”.

104 In section 5—

- (a) in subsection (3) for the words from " being a person" to " 1946 " substitute " who satisfies the contribution conditions set out in paragraph 1 of Schedule 3 to the Social Security Act 1973 ";
- (b) in subsection (4) for the words from " or retirement pension " to " 1946" substitute " invalidity benefit or retirement pension under Part I of the Social Security Act 1973 ".

*The Judicial Pensions Act (Northern Ireland) 1951 (c. 20)*

105 In section 3 of the Judicial Pensions Act (Northern Ireland) 1951, for " Commissioner appointed or deemed to be appointed under section 9 of the National Insurance (No. 2) Act (Northern Ireland) 1966 and " substitute " National Insurance Commissioner ".

106 In section 16, for the words from " and for service " onwards substitute " and for service as a National Insurance Commissioner shall require the recommendation of the Ministry of Health and Social Services ".

107 In section 20, for the words from " referred to " to " before " substitute " referred to in this Act (other than a National Insurance Commissioner) shall before ".

108 In section 22(1), after the definition of " Minister" insert the following definition—  
 “" National Insurance Commissioner " means a National Insurance Commissioner appointed under paragraph 13 of Schedule 25 to the Social Security Act 1973 ;”.

*The Registration of Births, Deaths and Marriages  
 (Fees, etc.) Act (Northern Ireland) 1955 (c. 29)*

109 In Schedule 2 to the Registration of Births, Deaths and Marriages (Fees, etc.) Act (Northern Ireland) 1955, at the end insert the following entry—

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“The Social Security Act 1973 (1973 c. 38).”.

*The Fatal Accidents Act (Northern Ireland) 1959 (c. 18)*

- 111 In section 2(2) of the Fatal Accidents Act (Northern Ireland) 1959, in the definition of " benefit", for the words from " under " to " United Kingdom " substitute " under the enactments relating to national insurance and social security (including enactments in force in Great Britain) ".

*The Companies Act (Northern Ireland) 1960 (c. 22)*

- 112 In section 287(1) of the Companies Act (Northern Ireland) 1960, for paragraph (e) substitute—
- “(e) unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, all the debts specified in section 93(2) of the Social Security Act 1973.”.

*The Youth Employment Service Act (Northern Ireland) 1961 (c. 8)*

- 113 In section 6 of the Youth Employment Service Act (Northern Ireland) 1961—
- (a) in subsection (2), for the words from "being a person" to " 1960 " substitute " who satisfies the contribution conditions set out in paragraph 1 of Schedule 3 to the Social Security Act 1973 ";
- (b) in subsection (3), for " or sickness benefit under the National Insurance Acts (Northern Ireland) 1946 to 1960" substitute " , sickness benefit or invalidity benefit under the Social Security Act 1973 ".
- 114 In section 7(1), for the words from "under" where it first occurs to " 1967" in the second place where it occurs substitute " under the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1972, the Social Security Act 1973 ".

*The Companies (Amendment) Act (Northern Ireland) 1963 (c. 25)*

- 115 In section 3(6)(b) of the Companies (Amendment) Act (Northern Ireland) 1963, for the words from "National Insurance" onwards substitute " Social Security Act 1973 as earnings paid in that period ".

*The Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964 (c. 32)*

- 116 In section 1 of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964—
- (a) in subsection (1)—
- (i) in paragraph (a)(ii), after " income tax " insert " or Class 4 contributions under Part I of the Social Security Act 1973 ";
- (ii) for paragraph (e) substitute—
- “(e) all the debts specified in section 93(2) of the Social Security Act 1973”;
- (b) In subsection (10)(c), for the words from "National Insurance " onwards substitute " Social Security Act 1973 as earnings paid in that period ".

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*The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (c. 19)*

117 In section 27 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965—

- (a) in subsection (3), after "week of employment" insert " before the day appointed for the coming into force of section 2 of the Social Security Act 1973 ";
- (b) after subsection (4) insert—

“(4A) Subject to the following provisions of this section, in computing, in relation to an employee, the period specified in section 18(1), or the period specified in paragraph 1 of Schedule 3, a week of employment after the day appointed for the coming into force of section 2 of the Social Security Act 1973 shall not count if—

- (a) the employee was employed outside Northern Ireland during the whole or part of that week ; and
- (b) he was not during that week an employed earner for the purposes of that Act.”;
- (c) in subsection (5), after " (3) " insert " or (4A) ";
- (d) for subsection (6) substitute—

“(6) Any question arising under this section—

- (a) whether an employer's contribution was paid or was or would have been payable, as mentioned in subsection (3) or (4); or
- (b) whether a person was an employed earner for the purposes of the Social Security Act 1973,

shall be determined by the Ministry; and any legislation (including regulations) as to the determination of questions which under that Act the Ministry is empowered to determine (including provisions as to the reference of questions for decision, or as to appeals, to the Court of Appeal) shall apply to the determination of any question by the Ministry under this section.”

118 In section 36(3), for the words from "securities" onwards, substitute " such manner as may be specified by an order of the Treasury for the time being in force under section 22(1) of the National Savings Bank Act 1971 ".

119 In section 41(4), for the words from " the aggregate amount" to " contributions " substitute " equal to the appropriate allocation to the Northern Ireland Redundancy Fund (under section 45 of the Social Security Act 1973) from all secondary Class 1 contributions paid by that employer under Part I of the Social Security Act 1973 ".

120 In section 50—

- (a) in subsection (1), for the words from "employers' contributions " to " that employment" substitute " in respect of the whole or part of the period during which that person was in that employment, employers' contributions were paid in respect of him ";
- (b) after subsection (1) insert—

“(1A) The reference in subsection (1) to employers' contributions is—

- (a) as respects any period before the day appointed for the coming into force of section 2 of the Social Security Act



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- 1973, to employers' contributions within the meaning of the National Insurance Act (Northern Ireland) 1966, and
- (b) as respects any period beginning on or after that day, to secondary Class 1 contributions paid in respect of the person in question by persons who were in relation to him secondary Class 1 contributors by virtue of section 2(4)(a) of the said Act of 1973”;
- (c) in subsection (4), for the words from " such contributions " to " were paid" substitute " the conditions of subsection (1) relating to the payment of employers' contributions were satisfied ".
- 121 In section 55(1), for "redundancy fund contributions will be payable under Part III" substitute " secondary Class 1 contributions will be payable under Part I of the Social Security Act 1973 ".

*The Family Allowances Act (Northern Ireland) 1966 (c. 8)*

- 122 In section 5 of the Family Allowances Act (Northern Ireland) 1966—
- (a) in subsection (1), for the words from " section 47(2)(c)" to " payment under this Act" substitute " paragraph 1(4)(c) of Schedule 10 to the Social Security Act ";
- (b) in subsection (2)—
- (i) for " under the Insurance Act" substitute " under Part I of the Social Security Act ",
- (ii) for " under that Act" substitute " under that Part of that Act ", and
- (iii) for " of that Act" substitute " of the Insurance Act ".
- 123 In section 7, after subsection (3) insert—
- “(4) The regulations to be so made may make provision for extinguishing the right to payment of any allowance if payment is not obtained within a prescribed period, not being less than twelve months, from the date on which the right is to be treated under the regulations as having arisen.”.
- 124 In section 8—
- (a) in subsection (1)—
- (i) for " paragraph 1 of Schedule 7 to the Insurance Act" substitute " paragraphs 4 to 6 of Schedule 10 to the Social Security Act ",
- (ii) for " 80(1) to (5)" substitute " 80(1) to (4) ",
- (iii) for " section 48(5) of the Insurance Act" substitute " paragraph 2(6) of Schedule 10 to the Social Security Act ",
- (iv) in paragraphs (a) and (b) for " the Insurance Act" substitute (in each place) " Part I of the Social Security Act ";
- (b) in subsection (3), for " the Insurance Act" substitute " Part I of the Social Security Act ".
- 125 In section 11(5), for "28 of the Insurance Act" substitute " 22 of the Social Security Act ".
- 126 In section 15(2), for "the National Insurance Commissioner " substitute " National Insurance Commissioners ".
- 127 In section 18, at the end insert—
- “ the Social Security Act ' means the Social Security Act 1973”.

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- 128 For section 21 substitute—
- “21 (1) For the purpose of giving effect to any agreement with the Government of any country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act, the Governor may by Order in Council make provision for modifying this Act in its application to cases affected by the agreement.
- (2) The modifications of this Act which may be made by virtue of subsection (1) shall include provision—
- (a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made shall have a corresponding effect for the purposes of this Act (but not so as to confer a right to double benefit);
  - (b) for determining, in cases where rights accrue both under this Act and under the law of that country, which of those rights shall be available to the person concerned ;
  - (c) for making any necessary financial adjustments.
- (3) Powers corresponding to those conferred by section 96(3) and (7) of the Social Security Act in relation to Orders in Council under that Act shall be exercisable also in relation to Orders in Council under this section.”.

*The National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 (c. 9)*

- 129 In section 5(4) of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966, for " sections 71 and 75(2)" substitute " section 75(2) and of section 94(8) of the Social Security Act ".
- 130 In section 8(2), after " vessel" insert " hovercraft (within the meaning of the Hovercraft Act 1968) ".
- 131 In section 11, after subsection (4) insert—
- “(5) Subsection (1)(a) to (e) of section 12 of the Social Security Act, and any regulations made under those paragraphs or under subsection (2) of that section, shall have effect for the purposes of injury benefit as they have effect for the purposes of unemployment benefit or sickness benefit under Part I of that Act.”.
- 132 In section 13A(5), for " Insurance Act" substitute " Social Security Act ".
- 133 In section 17(5), for " 28 of the Insurance Act" substitute " 22 of the Social Security Act ".
- 134 In section 19(3), in paragraph (d) for "the upper limit of the compulsory school " substitute " school-leaving ".
- 135 Section 27(2) shall continue to have effect subject to the amendment made by section 2(1) of the National Insurance &c. Act (Northern Ireland) 1969, that is to say, for paragraph (b) there shall continue to be substituted—
- “(b) for extinguishing the right to payment of any sum by way of benefit if payment is not obtained within a prescribed period, not being less than twelve months, from the date on which the right is to be treated under the regulations as having arisen”.

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- 136 In section 28(1), after " beneficiary" insert " , or on his estate and effects vesting in the official assignee under section 349 of the Irish Bankrupt and Insolvent Act 1857, ".
- 137 In section 29(1), for " against which he is insured under this Act" substitute " arising out of and in the course of his employed earner's employment ".
- 138 In section 32(1), for " Part II of the Insurance Act " substitute " Chapter II of Part I of the Social Security Act ".
- 139 In section 34(3), for paragraph (b) substitute—  
“(b) the employed earners have died as a result of accidents arising out of and in the course of their employed earner's employment,”.
- 140 In section 35—  
(a) in subsection (2), for " 63(1)(d) of that Act" substitute " 84(1)(d) of the Social Security Act ";
- (b) in subsection (3)—  
(i) for the words from " subsection (1)(a) to (e)" onwards substitute " subsection (1)(a) as it applies in relation to any question arising under the Social Security Act such as is mentioned in section 84(1)(a) of that Act ";
- (ii) for " Supreme Court" substitute " Court of Appeal ";
- (c) in subsection (4) for " the said section 63(1)(a) to (c)" substitute " section 84(1)(a) of the Social Security Act ".
- 141 In section 49—  
(a) in subsection (2)—  
(i) in paragraph (a) for " an insurance tribunal" substitute " and a competent tribunal ";
- (ii) in paragraph (b) for " insurance tribunal" substitute " competent tribunal ";
- (iii) in paragraphs (c) and (h) for " an insurance tribunal" substitute (in each case) " a competent tribunal ";
- (iv) in paragraph (g) for " an insurance tribunal" substitute " or a competent tribunal ";
- (b) in subsection (6), for "' insurance tribunal'" substitute " ' competent tribunal' . "
- 142 In section 53—  
(a) in subsections (3) and (9), for " the Insurance Act" substitute (in each case) ' Part I of the Social Security Act, "
- (b) in subsection (5), for " subsections (6) and (8)" substitute " subsection (6), "
- (c) for subsection (11) substitute—  
“(11) This section is subject to paragraphs 4 to 6 of Schedule 10 to the Social Security Act”.
- 143 In section 67(1), for ' injuries and diseases against which persons are insured under this Act" substitute " arising out of and in the course of employment, or injuries and diseases which are due to the nature of employment ".
- 144 In section 69(1), for " against which he was insured under this Act" substitute " due to the nature of his employment ".

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145 For section 70 substitute—

**“70 Persons employed by or under the Crown.**

This Act shall apply to persons employed by or under the Crown in like manner as if such persons were employed earners in the employment of a private person:

Provided that employment in the naval, military or air force service of the Crown and any other prescribed employment under the Crown shall not be, or be treated as, employed earner's employment.”

146 For section 73 substitute—

**“73 Persons under school-leaving age.**

A person who has not attained school-leaving age shall not be entitled to injury benefit except as may be provided by regulations.”

147 In section 81—

(a) in subsection (1)—

(i) for the definition of " Commissioner " substitute—

“Commissioner ' means a National Insurance Commissioner appointed under paragraph 13 of Schedule 22 to the Social Security Act,”

(ii) after the definition of " relevant loss of faculty " insert " ' the Social Security Act' means the Social Security Act 1973, "

(b) for subsection (2)(b) substitute—

“(b) a person shall be deemed to have attained or not to have attained school-leaving age if he would be treated as being, as the case may be, over or under the upper limit of the compulsory school age for the purposes of that Act (disregarding any regulations made by virtue of section 2 of the Family Allowances and National Insurance Act (Northern Ireland) 1968)”.

148 In Schedule 3, paragraph 9(c), column 2, for " National Insurance Act (Northern Ireland) 1966 as specified in Schedule 3 " substitute " Social Security Act as specified in Part I of Schedule 4 ".

*The Workmen's Compensation (Supplementation) Act (Northern Ireland) 1966 (c. 14)*

149 For section 9 of the Workmen's Compensation (Supplementation) Act (Northern Ireland) 1966 substitute—

**“9 Application of enactments.**

The following enactments, namely—

(a) section 80(6) of the Insurance Act;

(b) sections 53(9) and 80 of the Industrial Injuries Act; and

(c) section 8(3) of the Family Allowances Act (Northern Ireland) 1966, shall have effect as if any reference in those enactments to the Industrial Injuries Act included a reference to this Act.”.

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150 In section 11(1), in the definition of "the Commissioner", for the words from "appointed or " onwards substitute " appointed under paragraphh 13 of Schedule 25 to the Social Security Act 1973 and includes a tribunal constituted under subparagraph (2) of that paragraph ".

*The National Insurance (No. 2) Act (Northern Ireland) 1966 (c. 16)*

151 In section 6(1)(a) of the National Insurance (No. 2) Act (Northern Ireland) 1966, for "the said section 15" substitute " section 15 of that Act ".

152 In section 8—

(a) in subsection (1)—

(i) in paragraph (a) for the words from " 67 to 75 " onwards substitute " 67 to 72, 74 and 75 of the Insurance Act in like manner as a claim for benefit under Part I of the Social Security Act or, as the case may be, a question to which section 84(5) of the Social Security Act applies ";

(ii) in paragraph (b) for the words from "Insurance Act" (where first occurring) onwards substitute " Social Security Act, of local tribunals constituted under section 76 of the Insurance Act or of a Commissioner appointed under paragraph 13 of Schedule 25 to the Social Security Act ";

(iii) in paragraph (ii) after " including references to" insert " section 84(5) of the Social Security Act and ";

(iv) in paragraph (iii) for " a reference to the said Part IV " substitute " references to the said section 84(5) and to the said Part IV ";

(b) in subsection (2), for the words from the beginning of the subsection to " section 9 of this Act" substitute " Where any question under the Industrial Injuries Act (not being a special question within the meaning of that Act) first arises in the course of an appeal to a local tribunal constituted under section 76 of the Insurance Act or a Commissioner appointed under paragraph 13 of Schedule 25 to the Social Security Act ".

153 In section 14(3), after paragraph (b), insert the following new paragraph—

“(bb) the expression " the Social Security Act" means the Social Security Act 1973 ;”.

154 In Schedule 2—

(a) in paragraphs 3(b), 5(a) and 6(a), for " section 63(1) of the Insurance Act" substitute (in each case) " section 84(1) of the Social Security Act ";

(b) in paragraph 4(b), for " employed persons" substitute " employed earners ";

(c) in paragraph 7, for " sections 66 to 69" substitute " section 84(5) of the Social Security Act or sections 67 to 69 ".

155 In Schedule 3, in paragraph 2(a), the amendment in section 3 of the Judicial Pensions Act (Northern Ireland) 1951 set out in paragraph 105 above.

*The Supplementary Benefits &c. Act (Northern Ireland) 1966 (c. 28)*

156 In section 12(1) of the Supplementary Benefits &c. Act (Northern Ireland) 1966, for " the National Insurance Act (Northern Ireland) 1966 " substitute " Part I of the Social Security Act 1973 ".

157 In section 17(1), for paragraph (a) substitute—

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- “(a) benefit (other than a maternity grant or a death grant) under Part I of the Social Security Act 1973;”.
- 158 Section 18(1) shall continue to have effect subject to the amendment made by section 2(2) of the National Insurance &c. Act (Northern Ireland) 1969, that is to say, the following shall continue to be substituted for paragraph (e)—
- “(e) for extinguishing the right to payment of any sum by way of benefit if payment is not obtained within a prescribed period, not being less than twelve months, from the date on which the right is to be treated under the regulations as having arisen.”.
- 159 In section 26(4), for "the National Insurance Acts (Northern Ireland) 1966 " substitute " Part I of the Social Security Act 1973 ".
- 160 In section 40(1), in the definitions of " place of employment" and " trade dispute " for " 21 of the National Insurance Act (Northern Ireland) 1966 " substitute (in each place) " 14 of the Social Security Act 1973 ".
- 161 In Schedule 2—
- (a) in paragraph 10A—
    - (i) in sub-paragraph (1)(a), for " 21(3) of the Insurance Act" substitute " 14(2) of the Social Security Act 1973 ";
    - (ii) in sub-paragraph (3), for " the National Insurance Act (Northern Ireland) 1966 " substitute " Part I of the Social Security Act 1973 ";
  - (b) in paragraph 12A—
    - (i) in sub-paragraph (2)(a), for " the National Insurance Act (Northern Ireland) 1966 " substitute " Part I of the Social Security Act 1973 ";
    - (ii) in sub-paragraph (2)(b), for the words from " section 4(2)" onwards substitute " subsection (1) of section 15 of the Social Security Act 1973 or, in relation to a disabled child, that subsection as modified by regulations made under subsection (4) of that section ";
    - (iii) in sub-paragraph (3), for "National Insurance Act (Northern Ireland) 1966 " substitute " Social Security Act 1973 ";
  - (c) in paragraph 20—
    - (i) in sub-paragraph (a), for " 38 of the National Insurance Act (Northern Ireland) 1966 " substitute " 30 of the Social Security Act 1973 ", and
    - (ii) in sub-paragraph (b), for " section 22 " substitute " section 16 ";
  - (d) in paragraph 24—
    - (i) in sub-paragraph (1)(h), for "Schedule 3 to the National Insurance Act (Northern Ireland) 1966 " substitute " Part I of Schedule 4 to the Social Security Act 1973 ",
    - (ii) in sub-paragraph (2)(a), for " column 2 or 3 of Part II of Schedule 3 to the National Insurance Act (Northern Ireland) 1966" substitute " column 2 or 3 of Part III of Schedule 4 to the Social Security Act 1973 ",
    - (iii) in sub-paragraph (2)(b), for " under Part I or increase thereof under column 3 of Part II of Schedule 3 to the National Insurance Act (Northern Ireland) 1966 " substitute " under Part I, or increase thereof under column 3 of Part III, of Schedule 4 to the Social Security Act 1973 ", and

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- (iv) in sub-paragraph (3)(a), for " column 4 of Part II of Schedule 3 to the National Insurance Act (Northern Ireland) 1966" substitute " column 4 of Part III of Schedule 4 to the Social Security Act 1973 ";
- (e) in paragraph 25(1)(a), for " the National Insurance Acts (Northern Ireland) 1966 " substitute " Part I of the Social Security Act 1973 ".

*The Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1967 (c. 15)*

- 162 In section 3 of the Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1967, the amendment made by paragraph 99 above to section 2A of the Agricultural Wages (Regulation) Act (Northern Ireland) 1939.

*The Births and Deaths Registration Act (Northern Ireland) 1967 (c. 25)*

- 163 In Schedule 2 to the Births and Deaths Registration Act (Northern Ireland) 1967, at the end, insert the following entry—  
“the Social Security Act 1973 (1973 c. 38).”.

*The Family Allowances and National Insurance Act (Northern Ireland) 1968 (c. 1)*

- 164 For section 1(4) of the Family Allowances and National Insurance Act (Northern Ireland) 1968 substitute—  
“(4) The provisions set out in Part II of Schedule 2 shall be substituted for those of paragraph 1 of Schedule 5 to the Industrial Injuries Act.”.

*The Youth Employment Service (Amendment) Act (Northern Ireland) 1968 (c. 13)*

- 165 In section 1 of the Youth Employment Service (Amendment) Act (Northern Ireland) 1968, the amendment made by paragraph 114 above in section 7 of the Youth Employment Service Act (Northern Ireland) 1961.

*The Children and Young Persons Act (Northern Ireland) 1968 (c. 34)*

- 166 In section 119(3) of the Children and Young Persons Act (Northern Ireland) 1968, for " 38 of the National Insurance Act (Northern Ireland) 1966 " substitute " 30 of the Social Security Act 1973 ".

*The Friendly Societies Act (Northern Ireland) 1970 (c. 31)*

- 167 In section 102 of the Friendly Societies Act (Northern Ireland) 1970—  
(a) in subsection (1), for " Insurance Acts " substitute " enactments relating to national insurance and social security ";  
(b) for subsection (2) substitute—  
“(2) Where the Ministry of Health and Social Services furnishes a registered friendly society or branch, in connection with a claim for benefit from the society or branch, with information relating to a claim or award under those enactments, the expenses incurred in connection therewith by that Ministry or any other government department shall be treated as expenses in carrying those enactments into effect.”.

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*The Welfare Services Act (Northern Ireland) 1971 (c. 2)*

- 168 In section 25(4) of the Welfare Services Act (Northern Ireland) 1971, for " 38 of the National Insurance Act (Northern Ireland) 1966 " substitute " 30 of the Social Security Act 1973 ".
- 169 In section 45, in the definition of "trade dispute" for " 21 of the National Insurance Act (Northern Ireland) 1966 " substitute " 14 of the Social Security Act 1973 ".

*The Family Income Supplements Act (Northern Ireland) 1971 (c. 8)*

- 170 In section 8(4) of the Family Income Supplements Act (Northern Ireland) 1971, for "the National Insurance Acts (Northern Ireland) 1966 to 1970" substitute " Part I of the Social Security Act 1973 ".

*The Social Services (Parity) Order (Northern Ireland) 1971 (S.R. & O. (N.I.) 1971 (No. 224)*

- 171 In Article 9 of the Social Services (Parity) Order (Northern Ireland) 1971, the amendment in section 13A of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 in paragraph 132 above.

*The Social Security Act (Northern Ireland) 1971 (c. 28)*

- 172 In section 1(2) of the Social Security Act (Northern Ireland) 1971, the amendments in paragraph 10A of Schedule 2 to the Supplementary Benefits &c. Act (Northern Ireland) 1966 in paragraph 161(a) above.
- 173 Insert the following new section after section 4—

**“4A Inspectors appointed under Social Security Act 1973.**

Every appointment of an inspector under section 88(1) of the Social Security Act 1973 shall be an appointment for the purposes of the Supplementary Benefits Act as well as for those of the said Act of 1973 ; and—

- (a) in Part I of Schedule 22 to the said Act of 1973 references to that Act (except the first reference) shall include the Supplementary Benefits Act; and
- (b) in paragraph 2(1)(b) of that Schedule the reference to benefit shall include benefit within the meaning of the Supplementary Benefits Act.”.

- 174 At the end of section 6 add " and this section applies also, with the necessary modifications, to the provisions of the Social Security Act 1973 which correspond to those of the Insurance Act mentioned above in this section ".

*The Education and Libraries (Northern Ireland) Order 1972 (S.I. 1972 No. 1263 (N.I. 12))*

- 175 In Article 36(5) of the Education and Libraries (Northern Ireland) Order 1972, for " or national insurance (including industrial injuries)" substitute " , national insurance or social security ".



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

*The Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972 No. 1265 (N.I. 14))*

- 176 In Article 39(2) of the Health and Personal Social Services (Northern Ireland) Order 1972, for " 38 of the National Insurance Act (Northern Ireland) 1966 " substitute " 30 of the Social Security Act 1973 ".

SCHEDULE 28

Section 100(2)(b).

REPEALS

PART I

ENACTMENTS OF THE PARLIAMENT OF THE UNITED KINGDOM

Chapter	Short Title	Extent of Repeal
17 & 18 Geo. 5. c. 41.	The Superannuation and other Trust Funds (Validation) Act 1927.	Sections 1 to 8. Section 10. Section 11(2) from " but save as aforesaid " onwards.
9 & 10 Geo. 6. c. 62.	The National Insurance (Industrial Injuries) Act 1946.	The whole Act, except section 89.
9 & 10 Geo. 6. c. 67.	The National Insurance Act 1946.	The whole Act, so far as unrepealed.
10 & 11 Geo. 6. c. 41.	The Fire Services Act 1947.	Section 27(5).
4 Eliz. 2. c. 19.	The Friendly Societies Act 1955.	Section 9(5).
5 & 6 Eliz. 2. c. 20.	The House of Commons Disqualification Act 1957.	In Schedule 1, Part I, the entry beginning "Adjudicator appointed for the purposes of Part III of the National Insurance Act 1965 ".
5 & 6 Eliz. 2. c. 26.	The National Insurance Act 1957.	The whole Act, so far as unrepealed.
8 & 9 Eliz. 2. c. 37.	The Payment of Wages Act 1960.	In the Schedule, in paragraph 12, sub-paragraph (a); and sub-paragraph (b) from " which does not " onwards.
8 & 9 Eliz. 2. c. 39.	The Dock Workers (Pensions) Act 1960.	The whole Act.
1965 c. 51.	The National Insurance Act 1965.	Sections 1 to 63. Section 67.

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Chapter	Short Title	Extent of Repeal
1965 c. 52.	The National Insurance (Industrial Injuries) Act 1965.	<p>In section 68(2), the words "under this Act".</p> <p>Section 74.</p> <p>In section 81, subsection (5); in subsection (6), the words "under this Act"; and subsection (8).</p> <p>Sections 82 to 117.</p> <p>In section 118, in subsection (2), the words from first " except " to first " Ireland "; and subsection (3).</p> <p>Schedules 1 to 5.</p> <p>Schedules 7 to 11.</p> <p>Sections 1 to 4.</p> <p>In section 18(3A), the proviso.</p> <p>Section 32(2) from the beginning to " 1961 ".</p> <p>In section 34(3)(a), the words " first-mentioned ".</p> <p>Section 35(1)(6) to (e).</p> <p>Section 54(7) and (9).</p> <p>Section 56(1).</p> <p>Sections 59 to 61.</p> <p>In section 64, in subsection (3), the words from " contributions " to " or whether"; and subsection (5).</p> <p>Sections 65, 67 and 69.</p> <p>In section 70(1), in paragraph (a), the word "or"; paragraphs (b) and (c); and the words " to (e) ".</p> <p>Section 75.</p> <p>Section 79(2) and (3).</p> <p>Section 82(2) from "as they apply " onwards.</p> <p>In section 83, in subsection (1), the words "of insurance"; in subsection (4)</p>

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Chapter	Short Title	Extent of Repeal
1965 c. 53.	The Family Allowances Act 1965.	<p>(a)(iii), the figures "3(4), 4(2)", "65" and " 69 "; and the words from " and the provisions " onwards.</p> <p>In section 86, in subsection (1), the definitions of " contribution ", " contribution week ", " the Insurance Act of 1946 " and " insured person "; and in subsection (4), paragraphs (c) and (a-).</p> <p>In section 87(3), paragraph (b) and the words " wherever those words occur ".</p> <p>Schedule 1, Parts II and III.</p> <p>Schedule 2.</p> <p>In section 16, subsection (1) (c); and in subsection (2) (a) the words " the National Insurance Commissioner and deputy ".</p>
1965 c. 54.	The National Health Service Contributions Act 1965.	Section 17(8).
1965 c. 62.	The Redundancy Payments Act 1965.	<p>The whole Act.</p> <p>In section 26(1), the words from " into which " to " Act, and ".</p> <p>Sections 27, 28 and 29.</p> <p>In section 31(1), the words " who are liable to pay redundancy fund contributions ".</p> <p>Section 36(1) to (4).</p> <p>In section 55, subsection (5) (b); and subsection (6) from " except" onwards.</p>
1966 c. 6.	The National Insurance Act 1966.	<p>Sections 1 to 4.</p> <p>Section 5(1) and (3).</p> <p>Section 8(3).</p> <p>Section 9.</p>

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Chapter	Short Title	Extent of Repeal
1967 c. 25.	The National Insurance (Industrial Injuries) (Amendment) Act 1967.	In section 10, subsections (1) to (4); in subsection (5), the words " section 75(2) of the Insurance Act or "; and subsection (6). Sections 11 and 12. Schedule 1. Section 2.
1967 c. 34.	The Industrial Injuries and Diseases (Old Cases) Act 1967.	In section 14(1), in the definition of "prescribed", the words " in relation to insured persons employed in insurable employment". Section 15(4).
1967 c. 73.	The National Insurance Act 1967.	Section 1 and 2. In section 4, in subsection (1), the words " section 46 of the Insurance Act or"; and in subsection (4), the words " under the Insurance Act or ". Sections 5 and 6. Schedule 4. In Schedule 7, paragraphs 1 to 6; and in paragraph 8, subparagraph (c) and the words " section 46(6) of the Insurance Act or ".
1967 c. 90.	The Family Allowances and National Insurance Act 1967.	Section 1(5). Section 2(3) from the beginning to " National Insurance Act 1965 and ", and from " but" onwards. Section 3(2). Schedule 1, Part II.
1968 c. 14.	The Public Expenditure and Receipts Act 1968.	Sections 1 and 2. Section 7(2) from " except in o far as " onwards. Schedule 2.

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Chapter	Short Title	Extent of Repeal
1968 c. 40.	The Family Allowances and National Insurance Act 1968.	In Schedule 3, in paragraph 1(b), the entry relating to the National Insurance Act 1965. Section 1(4).
1968 c. 64.	The Civil Evidence Act 1968.	In the Schedule, the entries relating to the National Insurance Act 1965 and the National Insurance (Industrial Injuries) Act 1965.
1969 c. 4.	The National Insurance &c. Act 1969.	The whole Act.
1969 c. 44.	The National Insurance Act 1969.	Sections 1 to 4. Section 8(2)(a), (d) and (e). Sections 9 and 10. Schedule 3.
1969 c. 48.	The Post Office Act 1969.	Section 121. In Schedule 9, paragraph 48.
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 212(1), the words from "section 46" to " 1966, under "  In Schedule 15, in paragraph 11, in Parts I and II of the Table, the entries for the National Insurance Act 1965 and the National Insurance Act (Northern Ireland) 1966.
1970 c. 16.	The National Health Service Contributions Act 1970.	The whole Act.
1970 c. 31.	The Administration of Justice Act 1970.	In Schedule 4, paragraph 4.
1970 c. 44.	The Chronically Sick and Disabled Persons Act 1970.	Section 11.
1970 c. 51.	The National Insurance (Old persons' and widows' pensions and attendance allowance) Act 1970.	The whole Act.
1971 c. 32.	The Attachment of Earnings Act 1971.	Schedule 2, paragraph 4.
1971 c. 50.	The National Insurance Act 1971.	Sections 1 to 7. Sections 12 and 13.

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Chapter	Short Title	Extent of Repeal
1971 c. 62.	The Tribunals and Inquiries Act 1971.	In section 14, the words " the National Insurance Acts 1965 to 1970 " In section 16, in subsection (2), the words " other than section 12 and in subsection (4), paragraph (a), and in paragraph (b), the words " other than paragraph (a) above " Schedule 3. In Schedule 5, paragraphs 2 to 5, 10(2), 12 and 13(1). In Schedule 1, paragraph 18(a).
1971 c. 68.	The Finance Act 1971.	In Schedule 3, the entry relating to the National Insurance Act 1965.
1971 c. 73.	The Social Security Act 1971.	Section 22(4) to (10). Section 7(1). Sections 8 and 9. Section 10(2).
1972 c. 4.	The National Insurance Regulations (Validation) Act 1972.	The whole Act.
1972 c. 11.	The Superannuation Act 1972.	In Schedule 6, paragraph 52.
1972 c. 36.	The National Insurance (Amendment) Act 1972.	The whole Act.
1972 c. 57.	The National Insurance Act 1972.	Sections 1 to 3. Section 4(5). In section 5, in subsection (1), the words from " in section 75(1)" to " corresponding provision "; and in subsection (5)(b), the words " the National Insurance Act 1965 or " Section 6(1) to (4). In section 7(1)(a), the words " section 104 of the National Insurance Act 1965 and "

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Chapter	Short Title	Extent of Repeal
1972 c. 80.	The Pensioners' Payments and National Insurance Contributions Act 1972.	Schedules 1 and 2. Schedule 4, Part II. Section 2. Section 3(3) from " and section 2 " onwards.
1973 c.	The Employment and Training Act 1973.	In Schedule 3, paragraph 6.
1961 No. 3.	The Clergy Pensions Measure 1961.	In sections 1(4) and 37(2) (in each place), the words " or the National Insurance Acts 1946 to 1960 ".

## PART II

### ENACTMENTS OF THE PARLIAMENT OF NORTHERN IRELAND, AND ORDERS IN COUNCIL APPLYING TO NORTHERN IRELAND

Chapter	Short Title	Extent of Repeal
18 & 19 Geo. 5. c. 6 (N.I.).	The Superannuation and other Trust Funds (Validation) Act (Northern Ireland) 1928.	The whole Act.
1946 c. 21 (N.I.).	The National Insurance (Industrial Injuries) Act (Northern Ireland) 1946.	Section 6.
1946 c. 23 (N.I.).	The National Insurance Act (Northern Ireland) 1946.	The whole Act, so far as unrepealed.
1955 c. 29 (N.I.).	The Registration of Births, Deaths and Marriages (Fees, etc.) Act (Northern Ireland) 1955.	In Schedule 2, the entry relating to the National Insurance Act (Northern Ireland) 1946.
1959 c. 21. (N.I.).	The National Insurance Act (Northern Ireland) 1959.	Section 3.
1960 c. 22 (N.I.).	The Companies Act (Northern Ireland) 1960.	In section 92(2), the words " , and the reference in section 287(1)(f) to the winding up order or resolution shall be construed as a reference to, ".
1964 c. 18 (N.I.).	The Industrial Training Act (Northern Ireland) 1964.	In section 287, subsections (1)(f) and (5A). Section 17.

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Chapter	Short Title	Extent of Repeal
1964 c. 32 (N.I.).	The Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964.	In section 1, subsections(1) (f) and (3).
1964 c. 37 (N.I.).	The National Insurance &c. Act (Northern Ireland) 1964.	Section 6(1). In Schedule 6, paragraph 6(1) and (2).
1965 c. 19 (N.I.).	The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965.	In section 36(1), the words "into which there shall be paid all sums received by the Ministry under this Part, and " ". Sections 37 to 39. In section 41(1), the words " who are liable to pay redundancy fund contributions " ". Section 46(1) to (3). In section 60(4), paragraph (b); and in section 60(5), the words from " except " onwards. In section 63(3), the words " subject to section 46(1) " ".
1966 c. 6 (N.I.).	The National Insurance Act (Northern Ireland) 1966.	Sections 1 to 62. Section 64(5). Section 66. In section 67(2), the words " under this Act " ". Section 73. In section 80, subsection (5); in subsection (6), the words " under this Act "; and subsection (7). Sections 81 to 107. Section 109. Section 110(2). Schedules 1 to 5. In Schedule 6, in the heading, the words " and Deputy Commissioners " ".



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Chapter	Short Title	Extent of Repeal
1966 c. 7 (N.I.).	The Health Service Contributions Act (Northern Ireland) 1966.	Schedules 7 to 9. The whole Act.
1966 c. 8 (N.I.).	The Family Allowances Act (Northern Ireland) 1966.	Section 15(1)(c). Section 16(9).
1966 c. 9 (N.I.).	The National Insurance (Industrial Injuries) Act (Northern Ireland) 1966.	<p>Sections 1 to 4.</p> <p>In section 18(3A), the words from " so however " onwards.</p> <p>In section 32(2), the words from the beginning to " 1962" where it first occurs.</p> <p>In section 34(3)(a), the words " first mentioned ".</p> <p>Section 35(1)(b) to (e).</p> <p>In section 53, subsections (8) and (10).</p> <p>Section 54(1).</p> <p>Sections 57 to 59.</p> <p>In section 60, in subsection (3), the words from " contributions " to " or whether "; and subsection (5).</p> <p>Sections 63 and 65.</p> <p>In section 66(1), in paragraph (a) the word " or "; paragraphs (b) and (c); and the words " to (e) ".</p> <p>Section 71.</p> <p>Section 74(2) and (3).</p> <p>In section 77(2), the words from " as they apply " onwards.</p> <p>In section 78, in subsection (1), the words "of insurance"; in subsection (3) (a)(iii), the words "3(4), 4(2)" and " 65 "; and the words from " and the provisions" onwards.</p> <p>In section 81, in subsection (1), the definitions</p>

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Chapter	Short Title	Extent of Repeal
1966 c. 16 (N.I.).	The National Insurance (No. 2) Act (Northern Ireland) 1966.	of " contribution ", " contribution week ", " the Insurance Act of 1946 " and " insured person "; and in subsection (4), paragraphs (c) and (d). In Schedule 1, Parts II and in Schedule 2. Sections 1 to 4. Section 5(1) and (3). Section 8(1)(v) and (3). Section 9(1) to (6). In section 10, subsections (1) to (4); and in subsection (5), the words " section 74(2) of the Insurance Act or ". Sections 11 and 12. Schedule 1. In Schedule 3, paragraphs 1, 2(b) and (c) and 3.
1967 c. 22 (N.I.).	The National Insurance Act (Northern Ireland) 1967.	Section 1. Section 2. In section 5, in subsection (1) the words " section 45 of the Insurance Act or "; and in subsection (4), the words "under the Insurance Act or ". Sections 6 and 7. Schedule 4. In Schedule 7, paragraphs 1 to 6; and, in paragraph 7, subparagraph (c) and the words " section 45(6) of the Insurance Act or ".
1967 c. 25 (N.I.).	The Births and Deaths Registration Act (Northern Ireland) 1967.	In Schedule 2, the entry relating to the National Insurance Act (Northern Ireland) 1966.
1968 c. 1. (N.I.).	The Family Allowances and National Insurance Act (Northern Ireland) 1968.	Section 1(5). In section 2(2), the words "Section 106(2)(a) of the

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Chapter	Short Title	Extent of Repeal
1968 c. 8 (N.I.).	The Public Expenditure and Receipts Act (Northern Ireland) 1968.	Insurance Act and " and the words from " but" onwards. Section 3(2). Schedule 1, Part II. Sections 1 and 2. Section 6(2)(a). Schedule 2.
1968 c. 16 (N.I.).	The Family Allowances and National Insurance (No. 2) Act (Northern Ireland) 1968.	Section 1(4).
1969 c. 3 (N.I.).	The National Insurance &c. Act (Northern Ireland) 1969.	The whole Act.
1969 c. 19 (N.I.).	The National Insurance &c. (No. 2) Act (Northern Ireland) 1969.	Sections 1 to 4. Section 8(2)(a), (b) and (c). Sections 9 and 10. Schedule 3.
1970 c. 12 (N.I.).	The Payment of Wages Act (Northern Ireland) 1970.	In the Schedule, in paragraph 12, sub-paragraph (a); and in sub-paragraph (b), the words from "which does not" onwards.
1970 c. 17 (N.I.).	The Health Service Contributions Act (Northern Ireland) 1970.	The whole Act.
1970 c. 28 (N.I.).	The National Insurance (Old Persons' and Widows' Pensions and Attendance Allowance) Act (Northern Ireland) 1970.	The whole Act.
1970 c. 31 (N.I.).	The Friendly Societies Act (Northern Ireland) 1970.	Section 102(3).
1971 c. 21 (N.I.).	The Social Services (Parity) Act (Northern Ireland) 1971.	In Schedule 1, the words "The National Insurance Acts 1965 to 1970". In Schedule 2, paragraph 2.
S.R. & O. (N.I.) 1971 No. 224.	The Social Services (Parity) Order (Northern Ireland) 1971.	Articles 1 to 7. In Article 8(3), the words repealed in section 18(3A) of the National Insurance (Industrial Injuries) Act

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Chapter	Short Title	Extent of Repeal
		(Northern Ireland) 1966 above. Articles 12 and 13. In Article 14, the words "the National Insurance Acts (Northern Ireland) 1966 to 1970". In Article 15, the definitions of "the Insurance Act" and "the Act of 1970". In Article 16, paragraph (1) (a); and in paragraph (2), the words "other than Article 12" and sub-paragraph (a). Schedule 3. In Schedule 5, paragraphs 2 to 5, 9(2), 11 and 12.
1971 c. 28 (N.I.).	The Social Security Act (Northern Ireland) 1971.	Section 7(1). Section 8.
1971 c. 36 (N.I.).	The Civil Evidence Act (Northern Ireland) 1971.	In the Schedule, the entries relating to the National Insurance Act (Northern Ireland) 1966 and the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966.
1972 c. 13 (N.I.).	The National Insurance Regulations (Validation) Act (Northern Ireland) 1972.	The whole Act.