



Social Security Act 1973

1973 CHAPTER 38

PART I

THE BASIC SCHEME

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),

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- (iii) widow's pension;
 - (g) guardian's allowance (payable without regard to contributions) ;
 - (h) retirement pensions of the following categories—
 - 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

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- (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—
- (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:

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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.

- (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—

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- (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
 - (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—

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- (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
 - (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.

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- (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—

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- (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 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

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- 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—
- (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

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- (b) employment in his usual occupation in the district where he was last ordinarily employed at a rate of remuneration lower, or on conditions less favourable, than those which he might reasonably have expected to obtain having regard to those which he habitually obtained in his usual occupation in that district, or would have obtained had he continued to be so employed; or
- (c) employment in his usual occupation in any other district at a rate of remuneration lower, or on conditions less favourable, than those generally observed in that district (by agreement between associations of employers and of employees or, failing any such agreement, than those generally recognised in that district by good employers;

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

(6) In this section—

- (a) " 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—

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- (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
 - (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.

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- (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)—
- (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

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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.

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- (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
 - (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—

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- (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.

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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 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

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- 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—
- (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).

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- (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 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—

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- (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,

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.

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- (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
 - (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—

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- (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),
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,

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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—
 - (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,

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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.

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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") 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

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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 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

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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 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.

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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—
 - (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.

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- (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
 - (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—

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- (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.

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- (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.

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—

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- (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 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

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- (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 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—

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- (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 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.