



Social Security Act 1973

1973 CHAPTER 38

PART IV

MISCELLANEOUS AND GENERAL

Administration, enforcement, etc.

88 Administrative provisions.

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

89 Disclosure of information by Inland Revenue.

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

90 Exemption from stamp duty.

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

91 Information to be given to employees.

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

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

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

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

92 Offences, penalties and proceedings.

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

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

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

93 Priority of certain debts in bankruptcy, etc.

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

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

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

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

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