



# Social Security Act 1973

## 1973 CHAPTER 38

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *Adjudication*

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

- (1) Any of the following questions arising under Part I of this Act shall be determined by the Secretary of State in accordance with Part IV of the former principal Act—
- (a) any question whether a person is an earner and, if he is, as to the category of earners in which he is to be included;
  - (b) subject to subsection (2) below, any question—
    - (i) whether the contribution conditions for any benefit are satisfied, or
    - (ii) otherwise relating to a person's contributions or his earnings factor ;
  - (c) any question which of two or more persons satisfying the conditions for an increase of benefit, whether benefit of the same or a different description, shall be entitled to the increase where by virtue of some provision of Part I of this Act not more than one of those persons is so entitled ;
  - (d) any question as to the person to be treated as maintaining a child, or as to the family in which a child is to be treated as included, in a case where by virtue of the Schedule to the Family Allowances Act that question falls to be decided by the Secretary of State in his discretion;
  - (e) any question arising under paragraph 1(4) of Schedule 10 to this Act.
- (2) Subsection (1)(b) above includes any question arising—
- (a) under section 5(6) of this Act as to whether by regulations under that subsection a person is excepted from liability for Class 4 contributions, or his liability is deferred; or
  - (b) under regulations made by virtue of section 5(8), (9) or (10);

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but not any other question relating to Class 4 contributions, nor any question to which subsection (5)(b) below applies.

- (3) A decision of the Secretary of State on any such question as is mentioned in paragraph (d) of subsection (1) above may be given so as to have effect with respect to a period before the date of the decision.
- (4) The Secretary of State may, if he thinks fit, before determining any question such as is mentioned in subsection (1)(a) to (c) above, appoint a person to hold an inquiry into the question, or any matters arising in connection therewith, and to report on the question, or on those matters, to the Secretary of State.
- (5) Any question arising under Part I of this Act—
  - (a) as to the right to benefit (but not such a question as is referred to in paragraph 14 of Schedule 7); or
  - (b) whether a person would by reason of the provisions of, or of any regulations made under, section 14(2) or (3) of this Act have been disqualified for receiving unemployment benefit, sickness benefit or invalidity benefit if he had otherwise had a right thereto,
 shall be determined in accordance with the provisions of sections 68 to 72 of the former principal Act by an insurance officer, a local tribunal or a National Insurance Commissioner.
- (6) Part IV of the former principal Act (determination of claims and questions), so far as it remains in force, shall be amended as shown in Part I of Schedule 21 to this Act and, as so amended and with the repeals effected by this Act and any other Act of the same session in which this Act is passed, shall have effect as set out in Part II of that Schedule.

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

- (1) The following provisions of this subsection shall apply in the case of questions arising under Part III of this Act,; other than such a question as is referred to in subsection, (4) below or as may be prescribed by regulations under' subsection (5)—
  - (a) any question so arising as to a person's liability for reserve scheme contributions or a reserve scheme premium shall be determined by the Secretary of State;
  - (b) any question so arising as to the reserve scheme contributions or premiums paid by or in respect of any person, so far as relating to his or another person's entitlement to a reserve scheme pension, shall be referred by the Reserve Pension Board to, and be determined by, the Secretary of State ;
  - (c) any question so arising as to a person's entitlement to a reserve scheme pension, or as to any other matter relating to such a pension (but not such a question as is referred to in paragraph (b) above), shall be determined by the Reserve Pension Board; and
  - (d) any question so arising as to whether a person's employment at any time is or was recognised pensionable employment in relation to him shall be referred by the Secretary of State to, and be determined by, the Occupational Pensions Board.
- (2) The Secretary of State may, if he thinks fit, before determining any such question as is referred to in subsection (1)(a) or (b) above, appoint a person to hold an inquiry

into the question, or any matters arising in connection therewith, and report on the question, or on those matters, to the Secretary of State.

- (3) In subsections (1) and (2) above, as they apply to Northern Ireland and questions arising there, the Northern Ireland Ministry shall be substituted for the Secretary of State.
- (4) Where any question arises before the Reserve Pension Board under Part III of this Act—
- (a) as to a person's age ; or
  - (b) as to what was the date of a person's death; or
  - (c) as to whether a man was at the time of his death married to a particular woman ;  
or
  - (d) as to whether a woman previously married' has remarried and, if so, what was the date of her remarriage,

that question shall be referred by the Board to an insurance officer for determination by him in accordance with Part IV of the former principal Act or the corresponding Northern Ireland legislation: and the said Part IV or that legislation, as the case may be, shall then apply as if it were such a question as is referred to in section 84(5) of this Act.

- (5) Regulations may prescribe questions arising before the Reserve Pension Board under Part III of this Act (not being such questions as are referred to in paragraphs (a) to (d) of subsection (4) above) which may or must in prescribed circumstances be referred by the Board to an insurance officer under Part IV of the former principal Act or the corresponding Northern Ireland legislation; and any question so prescribed shall in accordance with the regulations be so referred, and the said Part IV or that legislation, as the case may be, shall then apply as if it were such a question as is referred to in section 84(5) of this Act.
- (6) The Reserve Pension Board may, on new facts being brought to their notice, or if they are satisfied that their decision was given in ignorance of, or was based on a mistake as to, some material fact, review any decision given by them on any such question as is mentioned in subsection (1)(c) above:

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

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

- (1) Any question of law arising in connection with—
- (a) any matter arising under Part II of this Act for determination by the Occupational Pensions Board ;
  - (b) any matter which under section 85(1) of this Act falls to be determined by that Board or the Reserve Pension Board;
  - (c) any matter arising on an application to either Board for a review of a determination by that Board, or on a review by either Board entered upon without an application,
- may, if the Board concerned think fit, be referred for decision to the court.
- (2) In this section " the court " means—
- (a) in England and Wales, the High Court;

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- (b) in Scotland, the Court of Session ; and
  - (c) in Northern Ireland, the Court of Appeal in Northern Ireland.
- (3) In the event of either Board determining in accordance with subsection (1) above to refer any question of law to the court, they shall give notice in writing of their intention to do so—
- (a) in a case where the question arises on an application made to the Board, to the applicant; and
  - (b) in any case to such persons as appear to them to be concerned with the question.
- (4) Any person aggrieved—
- (a) by a determination of the Occupational Pensions Board given on a review under section 67 of this Act, or by the refusal of that Board to review a determination; or
  - (b) by the determination by the Reserve Pension Board of any such question as is referred to in section 85 of this Act, or by the refusal of that Board to review a determination,
- where the determination in either case involves a question of law and that question is not referred by the Board concerned to the court under subsection (1) above, may on that question appeal from the determination to the court.
- (5) The Board concerned shall be entitled to appear and be heard on any reference or appeal under this section.
- (6) The provision made by rules of court or by rules made under section 7 of the Northern Ireland Act 1962 shall include provision for regulating references and appeals to the court under this section and for limiting the time in which such appeals may be brought.
- (7) So much of section 63(1) of the Supreme Court of Judicature (Consolidation) Act 1925 as requires an appeal from any person to the High Court to be heard and determined by a divisional court shall not apply to appeals under this section.
- (8) Notwithstanding anything in any enactment, the decision of the court on a reference or appeal under this section shall be final; and on any such reference or appeal the court may order the Board concerned to pay the costs or, in Scotland, the expenses of any other person, whether or not the decision is in that other person's favour and whether or not the Board appear on the reference or appeal.
- (9) In the foregoing provisions of this section, " the Board concerned" means the Occupational Pensions Board or the Reserve Pension Board, as the case may be.

## **87 National Insurance Commissioners.**

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

any appeal falling to be heard by one of those Commissioners involves a question of law of special difficulty, he may direct that the appeal shall be dealt with, not by that Commissioner alone, but by a tribunal consisting of any three of those Commissioners, and if the decision of any such tribunal is not unanimous, the decision of the majority shall be the decision of the tribunal.

- (3) Unless the context otherwise requires, any reference in this Act, the former principal Act or the Industrial Injuries Acts to, or falling to be construed as a reference to, a Commissioner appointed under this section shall include a reference to any tribunal constituted under subsection (2) above.

*Administration, enforcement, etc.*

## **88 Administrative provisions.**

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

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

- (1) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to Inland Revenue shall prevent information obtained in connection with the assessment or collection of income tax under Schedule E from being disclosed to the Secretary of State or the Northern Ireland Minister, or to an officer of either of them authorised to receive such information, in connection with the operation of any enactment relating to the calculation or collection of contributions under this Act, or the payment of benefit thereunder.
- (2) No such obligation as is referred to in subsection (1) above shall prevent information from being disclosed to any member of the Occupational Pensions Board, or an officer of the Board authorised to receive it, in connection with the exercise by the Board of any of their functions.

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- (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.
- (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

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- (d) in section 6 of the Act (exclusion of section 4 requirements where information is given to employees in another way), after paragraph (c) there shall be added—

“and

- (d) such a note as is mentioned in section 91(1) of the Social Security Act 1973 has been given to the employee, or he has reasonable opportunities of reading such a note in the course of his employment, or such a note is made reasonably accessible to him in some other way”.

- (3) Without prejudice to sections 4 to 6 of the Contracts of Employment Act 1972 or subsection (1) above, the Secretary of State may make such regulations as he thinks expedient for requiring employers to inform their employees, and keep them informed, in such manner and at such times as may be prescribed—

- (a) whether an employment is or is not, or will or will not be, or has ceased or may cease to be, recognised pensionable employment in relation to any category of earners;
- (b) as to the employer's intentions in respect of applying to the Occupational Pensions Board for a recognition certificate for any employment, or for the cancellation or variation of such a certificate ;
- (c) that, during any period in which a recognition certificate is not in force in respect of an employment, employees in that employment will be liable for reserve scheme contributions in respect of their earnings from it;

and regulations made for the purposes of this section shall include provision requiring employers to afford to those of their employees who are concerned, or to organisations representing them, reasonable opportunities of making representations with respect to the matters which are to be included in a notice under the regulations.

- (4) Nothing in section 8 of the Contracts of Employment Act 1972 (reference to tribunal as to particulars of terms of employment) shall authorise or require a tribunal to determine any question whether an employment is or has at any time been, or will at any time be, recognised pensionable employment, or whether reserve scheme contributions are, were or will be payable in respect of earnings from any employment.
- (5) The Contracts of Employment Act 1972 and this section shall be construed as if this section were contained in that Act.

## **92 Offences, penalties and proceedings.**

- (1) If any person fails to pay at or within the time prescribed for the purpose—
- (a) any basic scheme or reserve scheme contribution which he is liable under Part I or, as the case may be, Part III of this Act to pay (other than a Class 4 contribution recoverable by the Inland Revenue); or
- (b) any reserve scheme premium which he is liable under Part III of this Act to pay,
- he shall be liable on summary conviction to a fine of not more than £50.
- (2) If any person—
- (a) buys, sells or offers for sale, takes or gives in exchange, or pawns or takes in pawn any contribution card or any used contribution stamp ; or
- (b) affixes any used contribution stamp to any contribution card; or

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- (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.
- (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—

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

*The Industrial Injuries Acts*

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

- (1) Part I of the Industrial Injuries Act (insured persons and contributions), but not Part I of Schedule 1 to that Act (insurable employments), shall cease to have effect.
- (2) Throughout the Industrial Injuries Acts any reference to an insured person or to insured persons shall be replaced by a reference to an employed earner or employed earners as the case may be, and any reference to insurable employment or to insurable employments, or to insured person's employment, shall be replaced by a reference to employed earner's employment or employed earners' employments, as the case may be; and, subject to subsection (3) below, in those Acts—
  - (a) subject to paragraph (b) below, "employed earner" shall have the meaning given by section 1(7) of this Act;
  - (b) "employed earner's employment" shall be taken to mean any employment by virtue of which a person is, or is treated by regulations under those Acts as being, an employed earner for the purposes of those Acts ; and
  - (c) "the Social Security Act" means this Act.
- (3) Every employment specified in Part I of Schedule 1 to the Industrial Injuries Act shall be employed earner's employment for the purposes of the Industrial Injuries Acts, and regulations under those Acts may provide for any employment prescribed by the regulations—
  - (a) to be treated for those purposes as included in that Part of that Schedule during any period in which it is treated by regulations under this Act as being employed earner's employment for the purposes of this Act; or
  - (b) not to be treated for the purposes of the Industrial Injuries Acts as such employment, notwithstanding that it would be so treated apart from the regulations.
- (4) For the purposes of the Industrial Injuries Acts, an employment shall be an employed earner's employment in relation to an accident if (and only (f) it is, or is treated by regulations under those Acts as being, such an employment when the accident occurs.
- (5) Subject to the provisions of Part IV of the Industrial Injuries Act (extension to diseases etc.) and this section, a person who is, or is treated for the purposes of those Acts as being, in employed earner's employment shall be entitled in accordance with Part IV of that Act to benefit in respect of any disease prescribed under that Part, and of any injury so prescribed (but not an injury caused by accident arising out of and in the course of his employment), being a disease or injury due to the nature of that employment and developed after 4th July 1948.
- (6) The repeal by this Act of section 56(1) of the Industrial Injuries Act shall not take away any entitlement to benefit otherwise arising by virtue of that subsection.
- (7) Throughout the Industrial Injuries Acts and the Old Oases Acts and schemes made thereunder, any reference to the Industrial Injuries Fund shall be replaced by a reference to the National Insurance Fund.
- (8) Regulations made by the Secretary of State under the Industrial Injuries Acts may modify those Acts, in such manner as he thinks proper, in their application to persons who are or have been, or are to be, employed on board any ship, vessel, hovercraft (within the meaning of the Hovercraft Act 1968) or aircraft.

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- (9) There shall be included among the regulations to which section 62(2) of the Industrial Injuries Act (regulations which, before being made, are to be referred to the Industrial Injuries Advisory Council) does not apply—
- (a) regulations contained in a statutory instrument which states that it contains only regulations made for the purpose of making provision consequential upon the coming into force of an order under section 39 of this Act;
  - (b) regulations made before the expiration of 6 months beginning with the date of the passing of any Act passed after this Act and directed to be construed as one with the Industrial Injuries Act or this Act, where the regulations are contained in a statutory instrument which states that it contains only regulations made for the purpose of making provision consequential on the passing of that Act and the Act does not exclude this paragraph in respect of the regulations ;
  - (c) regulations in so far as they consist only of procedural rules within the meaning of section 10 of the Tribunals and Inquiries Act 1971 for a tribunal mentioned in that section;
  - (d) regulations contained in a statutory instrument which states that it contains only regulations which are substantially to the same effect as regulations already made or to be made under this Act or under Part IV of the former principal Act; and
  - (e) regulations made by virtue of paragraph 14(6) of Schedule 22 to this Act.
- (10) The repeal by this Act of sections 46 and 47 of the former principal Act (supplementary schemes) shall not affect their continued application, by virtue of section 82(2) of the Industrial Injuries Act, to a supplementary scheme submitted under section 82(1) of that Act.
- (11) The Industrial Injuries Act and this section shall be construed as if this section were contained in that Act.

*Northern Ireland*

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

- (1) Subject to the following provisions of this section, Parts II and III of this Act, and this Part, extend to Northern Ireland.
- (2) The following provisions of this Part of this Act, namely—
  - (a) sections 84(1) to (5), 88, 92, 94(1) to (8), (10) and (11) and 96;
  - (b) Schedule 22, paragraphs 1 to 7, and 13 to 15, and Schedules 23 and 26 ; and
  - (c) any provision applying for the interpretation of those sections and Schedules, extend to Northern Ireland with the adaptations set out in Part I of Schedule 25 to this Act.
- (3) The following provisions of this Part of this Act do not extend to Northern Ireland, namely—
  - (a) sections 84(6), 87, 91, 94(9) and 98;
  - (b) Schedule 21 and paragraphs 8 to 12 of Schedule 22; and
  - (c) so much of section 100 and Schedules 27 and 28 as has effect for the amendment and repeal of enactments not extending to Northern Ireland.

- (4) The provisions of Parts II, III and IV of Schedule 25 to this Act (being provisions which correspond to, or replace, certain of those excluded by subsection (3) above or supplement those of section 97) extend to Northern Ireland only.
- (5) The power of the Parliament of Northern Ireland to make laws shall include power to enact legislation corresponding to any provision of this Act, except sections 40(2) to (4) and 43(2); and this Act shall, so far as it relates to matters in respect of which that Parliament has power to make laws, be deemed for the purposes of section 6 of the Government of Ireland Act 1920 to have been passed before the day referred to in that section as the appointed day.

### *Subordinate legislation*

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

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

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

- (3) Without prejudice to any specific provision in this Act, any power conferred by this Act to make an Order in Council, regulations or an order shall include power to make thereby such incidental or supplementary provision as appears to Her Majesty, or the authority making the regulations or order, as the case may be, to be expedient for the purposes of the Order in Council, regulations or order.
- (4) Any power conferred by this Act to make an Order in Council or an order shall include power to vary or revoke any such Order in Council or order by a subsequent Order in Council or, as the case may be, order.
- (5) Subsections (1) to (4) above shall apply in relation to powers under Part IV of the former principal Act, and to regulations made in the exercise of such a power, as they apply in relation to powers and regulations under this Act.

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

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

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

### *General*

## **98 Financial provisions.**

- (1) Without prejudice to section 46(2) of this Act, there shall be paid out of money provided by Parliament—

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- (a) any expenses falling on the Secretary of State or other government department under this Act, including those incurred by the Secretary of State in making any loan to the Reserve Pension Board ;
  - (b) any increase attributable to this Act in the expenses of any Minister of the Crown or government department falling to be paid out of money so provided under any other enactment.
- (2) There shall be paid into the Consolidated Fund—
- (a) any sums deducted by the Secretary of State under section 74(2)(a) of this Act or receivable by him under section 74(4)(c);
  - (b) any sums received by the Secretary of State by way of repayment of any loan made by him to the Reserve Pension Board or as interest on any such loan;
  - (c) any sums recovered by the Secretary of State in pursuance of regulations under paragraph 1(b) of Schedule 19 to this Act.

## **99 Interpretation.**

- (1) In this Act except where the context otherwise requires—

" the basic scheme " means the scheme of social security contributions and benefits established by Part I of this Act, and " basic scheme contributions ", " basic scheme benefits " and similar expressions shall be construed accordingly,

" benefit year " has the meaning given by section 9(10) of this Act;

" confinement " has the meaning given by section 18(1);

" contract of service " means any contract of service or apprenticeship whether written or oral or whether expressed or implied;

" current ", in relation to the lower and upper earnings limits under section 2(1) of this Act, means for the time being in force;

" earnings " includes any remuneration or profit derived from an employment, and " earner " shall be construed accordingly;

" employed earner " and " self-employed earner " shall be construed in accordance with section 1(7) and regulations under Part I;

" employment " includes any trade, business, profession, office or vocation and " employed " shall be construed accordingly except in the expression " employed earner ";

" family allowance " means an allowance under the Family Allowances Act;

" the Family Allowances Act " means the Family Allowances Act 1965;

" financial year ", in sections 74(6) and 76(1) and in Schedule 18, Part II, means the period from the beginning of April in one year to the end of March in the next;

" the former principal Act " means the ational Insurance Act 1965;

" incapable of work " means incapable of work by reason of some specific disease or bodily or mental disablement, or deemed in accordance with regulations to be so incapable;

" income tax week " means one of the successive periods in an income tax year beginning with the first day of that year and every 7th day thereafter (the last day of an income tax year, or, in the case of an income tax year ending in a leap year, the last two days thereof being accordingly treated as a separate income tax week);

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" income tax year " means the 12 months beginning with 6th April in any year ;

" the Industrial Injuries Act " means the National Insurance (Industrial Injuries) Act 1965, and "the Industrial Injuries Acts " means die National Insurance (Industrial Injuries) Acts 1965 to 1972 ;

" the Inland Revenue " means the Commissioners of Inland Revenue;

" the Joint Authority " means the Authority continued in being by section 49(4) of this Act;

" linked qualifying service " shall be construed in accordance with section 58(2);

" the Ministry of Finance " means the Ministry of Finance for Northern Ireland;

" the Northern Ireland Minister " and " the Northern Ireland Ministry " mean respectively the Minister and the Ministry of Health and Social Services for Northern Ireland;

" occupational pension scheme " has the meaning given by section 51(3) (a);

" the Old Cases Act" means the Industrial Injuries and Diseases (Old Cases) Act 1967, and "the Old Cases Acts " means the Industrial Injuries and Diseases (Old Cases) Acts 1967 to 1972 ;

" pensionable age " has the meaning given by section 23(1);

" prescribed " means prescribed by regulations ;

" public service pension scheme " has the meaning given by section 51 (3) (b);

" recognised pensionable employment " and " recognition certificate " shall be construed in accordance with section 51(1);

" recognition credits " has the meaning given by section 58(1)(c);

" the reserve scheme " means the reserve pension scheme established by Part III of this Act, and references to " reserve scheme contributions", " reserve scheme premiums " and " reserve scheme pensions" shall be construed accordingly;

" resources ", in relation to an occupational scheme, shall be construed in accordance with section 59(1) of this Act;

" transfer credits " has the meaning given by section 58(1)(a);

" week " means a period of 7 days beginning with midnight between Saturday and Sunday, except in sections 12(1)(d), 14, 26(1) and 35(2), where the expression is otherwise defined; and

" year ", in Part I of this Act, means an income tax year, except where it is otherwise stated, or the context is one relating to a person's age.

- (2) Except where the context otherwise requires, references in this Act to any Part of it include references to the Schedules of that Part.
- (3) Where any provision of this Act refers to regulations and the authority with power to make them is neither specified nor to be implied from the context, the reference is to regulations made by the Secretary of State except that, in and for any purpose of Part I as it applies to Northern Ireland, it is to regulations made by the Northern Ireland Ministry.



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- (4) In any provision of this Act (except section 95(5)) containing a reference to " the appointed day " that expression shall be taken to have whatever meaning may be given by the order under section 101 of this Act which brings that provision into force.
- (5) Where a provision of this Act which extends to Northern Ireland contains a reference to a government department and does not expressly or by implication from the context refer only to a department of the Government of the United Kingdom, then in the application of that provision to Northern Ireland the reference is to be taken to be, or to include (as the context may require), a department of the Government of Northern Ireland.
- (6) Where under Part I of this Act a person is to be treated by reference to any employment of his as an employed earner, then he is to be so treated for all purposes of this Act, and references throughout this Act to employed earner's employment shall be construed accordingly.
- (7) References in this Act to " the lower earnings limit" and " the upper earnings limit", whether or not in a context contained in Part I, are to the lower and upper limits respectively referred to in section 2(1) of this Act; and references to the lower or upper earnings limit of an income tax year are to whatever is (or was) for that year the limit in force under section 2(1).
- (8) For the purpose of this Act—
  - (a) " child " means a person who would be treated as a child for the purposes of the Family Allowances Act;
  - (b) a person shall be deemed to have attained or not to have attained school-leaving age if he would be treated as being, as the case may be, over or under the upper limit of the compulsory school age for the purposes of that Act (disregarding any regulations made by virtue of section 2 of the Family Allowances and National Insurance Act 1967 (construction of references to school-leaving age));
  - (c) a person shall be deemed to have a family which includes a child or children if that person (not being a child) and a child or children (with or without a wife or husband of that person) would be treated for the purposes of that Act as constituting a family, and references to a child of a person's family shall be construed accordingly.
- (9) For the purposes of this Act, two persons shall not be deemed to have ceased to reside together by reason of any temporary absence of either or both of them, and in particular by reason of any such absence at school or while receiving medical treatment as an in-patient in a hospital or similar institution or by reason of any absence of either or both of them in such circumstances as may be prescribed.
- (10) For the purposes of this Act—
  - (a) a person shall be deemed to be over or under a particular age if he has or, as the case may be, has not attained that age; and
  - (b) a person shall be deemed to be between two particular ages if he has attained the first-mentioned age but has not attained the second-mentioned age.
- (11) For the purposes of this Act, a person shall be deemed to be incapable of self-support if, but only if, he is incapable of supporting himself by reason of physical or mental infirmity and is likely to remain so incapable for a prolonged period.

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

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

- (1) The provisions of Schedule 26 to this Act shall have effect with respect to the transition from the operation of the National Insurance Acts 1965 to 1972 and the corresponding Northern Ireland legislation, and the other enactments repealed by this Act, to the operation of this Act.
- (2) Subject to any provision made by or under subsection (1) above—
  - (a) the enactments and Orders specified in Schedule 27 to this Act shall (without prejudice to any other provision of this Act) have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act;
  - (b) the enactments and Orders specified in Schedule 28 to this Act (which include certain spent provisions and other provisions which are no longer required or will cease to be required on the coming into force of the amendments made by

Schedule 27) are hereby repealed to the extent specified in the third column of that Schedule.

- (3) Where this Act amends an enactment of the Parliament of Northern Ireland, or an Order made under, or having the same effect as, an enactment of that Parliament, the enactment or Order as amended shall be subject to the Interpretation Act (Northern Ireland) 1954 in the same way as an Act of that Parliament is so subject.
- (4) Section 38 of the Interpretation Act 1889 (effect of repeals) shall have the same operation in relation to any repeal by this Act of an enactment of the Parliament of Northern Ireland (or of any provision of an Order made under an enactment of that Parliament) as it has in relation to the repeal of an Act of the Parliament of the United Kingdom, references in that section of the Act of 1889 to Acts and enactments being construed accordingly.

## **101 Citation and commencement.**

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