



Social Security Benefits Act 1975

1975 CHAPTER 11

Basic scheme and industrial injury benefits

1 Rates of basic scheme benefits

- (1) In the Social Security Act 1973 for Part I of Schedule 4 (weekly rates of basic scheme benefits) there shall be substituted the provisions set out in Part I of Schedule 1 to this Act and for Part III of Schedule 4 (weekly rates of increases for dependants) there shall be substituted the provisions set out in Part II of Schedule 1 to this Act.
- (2) In consequence of the amendments made by subsection (1) above in Part III of Schedule 4 to the said Act of 1973, that Act shall be further amended as follows—
 - (a) in section 31, in subsections (1) and (4) for the words " column (2), (3) or (4) " there shall be substituted the words " column (2) or (3) " , and in subsection (5) for the words " column (3) or (4) " there shall be substituted the words " column (3) " ;
 - (b) in section 32(4)(a)(ii) for the words " either of the rates " there shall be substituted the words " the rate " ;
 - (c) in sections 34(1) and (2) and 35(1), (3) and (6) for the words " column (5) " there shall be substituted the words " column (4) " .
- (3) In the following provisions of the said Act of 1973, that is to say—
 - (a) section 26(1) (reduction of Category A or B retirement pension where beneficiary is under five years over pensionable age and his earnings for the preceding week exceeded £9.50); and
 - (b) section 35(2) of that Act (reduction of increase of Category A or C retirement pension or invalidity pension where beneficiary is residing with his wife and her earnings for the preceding week exceeded £9.50);for " £9.50 " there shall be substituted " £20 " and at the end there shall be inserted—

“With effect from such day as may be prescribed in the week containing 6th April in a year mentioned in the first column below, this subsection shall have effect with the substitution for " £20 " of the amount specified in relation to that year in the second column below—

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1976	£35
1977	£50.”

- (4) In paragraphs (a) and (b) of the said section 35(2) (reduction to be 5p for each 10p of so much of the excess earnings as is less than £2 and 5p for each 5p of any further excess) for " £2.00 " wherever it occurs there shall be substituted " £4.00 ".

2 Rates of benefit in respect of industrial injuries and diseases

- (1) In the National Insurance (Industrial Injuries) Act 1965 for the provisions of Schedule 3 (weekly rate or amount of benefit) there shall be substituted the provisions set out in Schedule 2 to this Act.
- (2) In section 18(3A) of the said Act of 1965 (reduction of increase of disablement pension where beneficiary is residing with his wife and her earnings for the preceding week exceeded £13) for " £13 " there shall be substituted " £20 " and at the end there shall be inserted—

“With effect from such day as may be prescribed in the week containing 6th April in a year mentioned in the first column below, this subsection shall have effect with the substitution for " £20 " of the amount specified in relation to that year in the second column below—

1976	£35
1977	£50.”

- (3) In section 19(3) of the said Act of 1965 (higher permanent rate of widow's pension), in paragraph (a) after the words " is entitled " there shall be inserted the words " (or is treated by regulations as entitled) " and paragraph (d) shall be omitted.
- (4) In section 21 of the said Act of 1965 (children of deceased's family), in subsection (1) for the words " paragraph 11(a) " there shall be substituted the words " paragraph 11 " and for subsection (2) there shall be substituted—

“(2) The higher rate specified in paragraph 11(a) of that Schedule shall apply where the person to whom the allowance is payable is the widow of the deceased or such other person as may be prescribed and the widow is entitled to death benefit (other than a gratuity) under section 19 of this Act; and the lower rate specified in paragraph 11(b) of that Schedule shall apply in any other case.”

- (5) In the following provisions of the Industrial Injuries and Diseases (Old Cases) Act 1967, that is to say—
- section 2(6)(c) (maximum weekly rate of a lesser in capacity allowance supplementing workmen's compensation) ; and
 - section 7(2)(b) (industrial diseases benefit schemes: weekly rate of allowance payable where disablement is not total),
- for " £6.05 " there shall be substituted " £7.00 ".

3 Power to increase rates of benefit

- (1) The Secretary of State may by order increase any of the sums specified in—

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- (a) Parts I and III of Schedule 4 to the Social Security Act 1973 (weekly rates of basic scheme benefits);
 - (b) Part II of that Schedule (amounts of basic scheme grants);
 - (c) Schedule 3 to the National Insurance (Industrial Injuries) Act 1965 and sections 2(6)(c) and 7(2)(b) of the Industrial Injuries and Diseases (Old Cases) Act 1967 (rates, maximum rates and amounts of benefit in respect of industrial injuries and diseases);
 - (d) sections 26(1) and 35(2) of the said Act of 1973, paragraph 3(1)(a)(i) and (ii) of Schedule 6 to that Act and section 18 (3A) of the said Act of 1965 (calculation of benefit in particular cases).
- (2) No order shall be made under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.
 - (3) The Secretary of State shall lay with any draft order under this section a copy of a report by the Government Actuary giving the latter's opinion on the likely effect on the National Insurance Fund of the making of the order.
 - (4) The provisions of this section and section 4 below replace section 39 of the said Act of 1973 (annual reviews) and references to that section in any enactment shall be construed as references to those provisions.

4 Duty to increase rates of certain benefits

- (1) The Secretary of State shall in the year 1975.76 and each subsequent year review the sums specified in the provisions mentioned in section 3(1)(a) and (c) above (except the sum specified for age addition) for the purpose of determining whether they have retained their value in relation to the general level of earnings or prices obtaining in Great Britain.
- (2) For the purposes of any such review the Secretary of State shall estimate the general level of earnings and prices in such manner as he thinks fit and shall have regard either to earnings or prices according to which he considers more advantageous to beneficiaries, except that he shall have regard only to prices as respects the sums specified in—
 - (a) paragraphs 1 and 5 of Part I, and paragraphs 1(a) and 3 of Part III, of Schedule 4 to the Social Security Act 1973 (unemployment and sickness benefit and maternity allowance); and
 - (b) paragraphs 1, 7, 8 and 11(b) of Schedule 3 to the National Insurance (Industrial Injuries) Act 1965 (injury benefit and lower rate allowance in respect of deceased's children).
- (3) If on any such review the Secretary of State concludes that any of the sums in question have not retained their value as aforesaid he shall prepare and lay before each House of Parliament the draft of an order under section 3 above increasing those sums at least to such extent as he thinks necessary to restore their value; and if on any such review the Secretary of State determines that he is not required to prepare and lay the draft of an order as aforesaid he shall instead lay before each House of Parliament a report explaining his reasons for arriving at that determination.
- (4) Subsection (3) above shall not require the Secretary of State to provide for an increase in any case in which it appears to him that the amount of the increase would be inconsiderable ; and the Secretary of State may, in providing for any increase in pursuance of that subsection, adjust the amount of the increase so as to secure that

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the sums specified for any particular benefits continue to differ from each other by the same amount or so as to round any sum up or down to such extent as he thinks appropriate having regard to the nature and the rate or amount of the benefit in question.

- (5) A draft order prepared under subsection (3) above shall be framed so as to bring the increase of any sum to which it relates into force not later than the expiration of the period of twelve months beginning with the date on which the provision fixing the current amount of that sum came into force; but if since that date there have been laid before Parliament under that subsection one or more reports, or one or more draft orders not increasing that sum, that period shall be extended by a further twelve months for each such report or draft order.
- (6) The Secretary of State shall lay with any report under subsection (3) above a copy of a report by the Government Actuary giving the latter's opinion on the likely effect on the National Insurance Fund of the Secretary of State's determination that no order is required.
- (7) If a draft order laid before Parliament in pursuance of this section is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.

5 Additional basic scheme benefits

- (1) There shall be included among the basic scheme benefits specified in section 9(1) of the Social Security Act 1973 the following additional benefits—
 - (a) non-contributory invalidity pension (payable without regard to contributions and with increase for adult and child dependants);
 - (b) invalid care allowance (payable without regard to contributions and with increase for adult and child dependants).
- (2) Those additional benefits shall be payable out of moneys provided by Parliament; and subsection (4) of section 46 of the said Act of 1973 (administrative expenses) shall have effect in relation to those benefits as it has effect in relation to the benefits which by virtue of subsection (1)(a) of that section are not payable out of the National Insurance Fund.

6 Non-contributory invalidity pension

- (1) Subject to the provisions of this section, a person shall be entitled to a non-contributory invalidity pension for any day on which he is incapable of work if he has been incapable of work for a period of not less than one hundred and ninety-six consecutive days ending immediately before that day.
- (2) A person shall not be entitled to any such pension if he is under the age of sixteen or receiving full-time education; and a woman shall not be entitled to any such pension if—
 - (a) she is married and either—
 - (i) she is residing with her husband ; or
 - (ii) he is contributing to her maintenance at a weekly rate not less than the weekly rate of such a pension; or
 - (b) she is cohabiting with a man as his wife,
 except where she is incapable of performing normal household duties.

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- (3) A person shall not be entitled to any such pension unless he satisfies prescribed conditions as to residence or presence in Great Britain.
- (4) A person who has attained pensionable age shall not be entitled to a pension under this section unless he was entitled (or is treated by regulations as having been entitled) to such a pension immediately before attaining that age; and regulations may make provision whereby a person who has attained retiring age and was entitled to such a pension immediately before attaining that age continues to be entitled to such a pension notwithstanding that he is not incapable of work or no longer satisfies the requirements of subsection (1) above as to the period for which a person must have been incapable of work.
- (5) Regulations may make provision whereby, in the case of a person who has previously been entitled to a pension under this section, the requirements of subsection (1) above as to the period for which a person must have been incapable of work may be satisfied by reference to a period not ending immediately before the day there mentioned or not consisting of consecutive days.
- (6) Regulations may prescribe the circumstances in which a person is or is not to be treated for the purposes of this section as incapable of work, as incapable of performing normal household duties or as receiving full-time education.
- (7) A pension under this section shall be payable at the weekly rate specified in relation thereto in Part I of Schedule 4 to the Social Security Act 1973; and that rate shall, in such circumstances as may be prescribed, be increased for child or adult dependants by the appropriate amount specified in relation thereto in Part III of that Schedule.
- (8) In this section "retiring age" means, in the case of a man, the age of seventy and, in the case of a woman, the age of sixty-five.
- (9) Section 14(3) of the Social Security Act 1973 and paragraph 1(2) of Schedule 10 to that Act (disqualification and claims for sickness and invalidity benefit) shall apply also in relation to a pension under this section; and in the following enactments, that is to say—
 - (a) section 2(1) of the Law Reform (Personal Injuries) Act 1948;
 - (b) section 3(1) of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948,(effect of benefits on damages for personal injuries) for the words "or sickness or invalidity benefit" there shall be substituted the words " , sickness or invalidity benefit or non-contributory invalidity pension " .

7 Invalid care allowance

- (1) Subject to the provisions of this section, a person shall be entitled to an invalid care allowance for any day on which he is engaged in caring for a severely disabled person if—
 - (a) he is regularly and substantially engaged in caring for that person; and
 - (b) he is not gainfully employed ; and
 - (c) the severely disabled person is either such relative of his as may be prescribed or a person of any such other description as may be prescribed.

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- (2) A person shall not be entitled to an allowance under this section if he is under the age of sixteen or receiving full-time education; and a woman shall not be entitled to any such allowance if—
- (a) she is married and either—
 - (i) she is residing with her husband ; or
 - (ii) he is contributing to her maintenance at a weekly rate not less than the weekly rate of such an allowance; or
 - (b) she is cohabiting with a man as his wife.
- (3) A person shall not be entitled to an allowance under this section unless he satisfies prescribed conditions as to residence or presence in Great Britain.
- (4) A person who has attained pensionable age shall not be entitled to an allowance under this section unless he was entitled (or is treated by regulations as having been entitled) to such an allowance immediately before attaining that age ; and regulations may make provision whereby a person who has attained retiring age and was entitled to such an allowance immediately before attaining that age continues to be entitled to such an allowance notwithstanding that he is not caring for a severely disabled person or no longer satisfies the requirements of subsection (1)(a) or (b) above.
- (5) No person shall be entitled for the same day to more than one allowance under this section; and where, apart from this subsection, two or more persons would be entitled for the same day to such an allowance in respect of the same severely disabled person, one of them only shall be entitled, being such one of them as they may jointly elect in the prescribed manner or as may, in default of such election, be determined by the Secretary of State in his discretion.
- (6) Regulations may prescribe the circumstances in which a person is or is not to be treated for the purposes of this section as engaged, or regularly and substantially engaged, in caring for a severely disabled person, as gainfully employed or as receiving full-time education.
- (7) An allowance under this section shall be payable at the weekly rate specified in relation thereto in Part I of Schedule 4 to the Social Security Act 1973 ; and that rate shall, in such circumstances as may be prescribed, be increased for child or adult dependants by the appropriate amount specified in relation thereto in Part III of that Schedule.
- (8) In this section—
- " severely disabled person " means a person in respect of whom there is payable either an attendance allowance or such other payment out of public funds on account of his need for attendance as may be prescribed;
 - " relative " 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 ;
 - " retiring age " has the same meaning as in section 6 above.
- (9) Any question' which under subsection (5) above falls to be determined by the Secretary of State in his discretion shall be included among the questions to which subsection (1) of section 84 of the said Act of 1973 applies; and in subsection (3) of that section, section 66(2) of the National Insurance Act 1965 and section 65(2) of the National Insurance Act (Northern Ireland) 1966 references to questions within section 84(1)(d) shall include references to any such question as aforesaid.

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8 Minor amendments

- (1) In section 9(8) of the Social Security Act 1973 (calculation of earnings factor) after the word " tables " where it first occurs there shall be inserted the words " or rules " and for the words " and tables of earnings factors " there shall be substituted the words " and such tables and rules ".
- (2) In section 14(6) of that Act (disqualification for unemployment benefit etc.)—
 - (a) in paragraph (c) the words " an employment exchange " shall be omitted;
 - (b) in paragraph (d) for the words from " an employment exchange" onwards there shall be substituted the words " the Employment Service Agency, a local education authority or the Secretary of State ";
 - (c) for paragraph (e) there shall be substituted " (e) ' local education authority', in relation to Scotland, means an education authority as defined in section 145(16) of the Education (Scotland) Act 1962 ".
- (3) In Part III of Schedule 7 to that Act (claims, reviews and appeals) in paragraph 15(a) after the word " sub-paragraph " there shall be inserted the words " or sub-paragraph (b) below ".
- (4) In Part III of Schedule 12 to that Act (regulations not requiring prior submission to the National Insurance Advisory Committee) after paragraph 12B there shall be inserted the following paragraph—

“12C Regulations made by virtue of section 26(1) or 35(2) of this Act for the purpose only of prescribing a day.”
- (5) In paragraph 5 of Schedule 13 to that Act (application of section 14(6) to Northern Ireland) for sub-paragraph (2) there shall be substituted—

“(2) In section 14(6), in paragraph (c) for the words ' the Employment Service Agency, a local education authority ' and in paragraph (d) for the words from ' the Employment Service Agency' onwards there shall be substituted the words ' the Department of Manpower Services for Northern Ireland'.”
- (6) In Article 36 of the Education and Libraries (Northern Ireland) Order 1972 after paragraph (5) there shall be inserted the following paragraph—

“(5A) In paragraph (5) ' enactment' includes an enactment of the Parliament of the United Kingdom”.
- (7) In Part II of Schedule 6 to the National Insurance Act 1969 (provisions applying where rates of benefit are altered)—
 - (a) in paragraph 2(1) for the words " the National Insurance Act 1965 " there shall be substituted the words " the Social Security Act 1973 ";
 - (b) in paragraph 2(2) there shall be added at the end the words " and references to an alteration by, or in consequence of the passing of, an Act include references to an alteration by, or in consequence of the making of, an order under section 3 of the Social Security Benefits Act 1975 ";
 - (c) in paragraph 5(1)—
 - (i) for the words " the provisions referred to in sub-paragraph (2) below " there shall be substituted the words " the Social Security Act 1973, the National Insurance (Industrial Injuries) Act 1965 or the Industrial Injuries and Diseases (Old Cases) Act 1967 or regulations made by virtue of any provision of those Acts ";

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- (ii) at the end there shall be added the words " but this sub-paragraph has effect subject to such exceptions or conditions (if any) as may be prescribed by regulations made by the Secretary of State ";
 - (d) paragraph 5(2) shall be omitted.
- (8) In Part II of Schedule 6 to the National Insurance &c. (No. 2) Act (Northern Ireland) 1969 (corresponding provisions for Northern Ireland)—
 - (a) in paragraph 2(1) for the words "the Insurance Act" there shall be substituted the words " the Social Security Act 1973 ";
 - (b) in paragraph 2(2) there shall be added at the end the words " and references to an Act include references to an Act of the Parliament of the United Kingdom and references to an alteration by, or in consequence of the passing of, an Act include references to an alteration by or in consequence of the making of an order under section 49(2) of the said Act of 1973 ";
 - (c) in paragraph 5(1)—
 - (i) for the words " the provisions referred to in sub-paragraph (2)" there shall be substituted the words " the Industrial Injuries Act or the Social Security Act 1973 or regulations made by virtue of any provision of those Acts ";
 - (ii) at the end there shall be added the words " but this sub-paragraph has effect subject to such exceptions or conditions (if any) as may be prescribed by regulations made by the Ministry ";
 - (d) paragraph 5(2) shall be omitted.
- (9) In section 4(4) of the National Insurance Act 1967 and section 5(4) of the National Insurance Act (Northern Ireland) 1967 (which define " benefit" for the purposes of provisions relating to overpayments under supplementary schemes), the repeal by the Social Security Act 1973 of the words " under the Insurance Act or " shall not have effect; and after those words there shall be inserted the words " under Part I of the Social Security Act 1973 or ".
- (10) In section 62(3) of the National Insurance (Industrial Injuries) Act 1965 (which makes provision as respects the submission of regulations to the Industrial Injuries Advisory Council) after paragraph (b) there shall be inserted the following paragraph—
 - “(c) regulations made by virtue of section 18 (3A) of this Act for the purpose only of prescribing a day.”.