



# Social Security Act 1975

## 1975 CHAPTER 14

### PART II

#### BENEFIT AND ITS ADMINISTRATION

### CHAPTER I

#### CONTRIBUTORY BENEFITS

##### *Preliminary*

## **12 Descriptions of contributory benefits**

- (1) Contributory benefits under this Chapter are of the following descriptions, namely—
- (a) unemployment benefit (with earnings-related supplement, and increase for adult and child dependants);
  - (b) sickness benefit (with earnings-related supplement, and increase for adult and child dependants);
  - (c) invalidity benefit, comprising—
    - (i) invalidity pension (with increase for adult and child dependants),
    - (ii) invalidity allowance;
  - (d) maternity benefit, comprising—
    - (i) maternity grant,
    - (ii) maternity allowance (with earnings-related supplement, and increase for adult and child dependants);
  - (e) widow's benefit, comprising—
    - (i) widow's allowance (with earnings-related addition, and increase for child dependants).
    - (ii) widowed mother's allowance (with increase for child dependants),
    - (iii) widow's pension;

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- (f) retirement pensions of the following categories—
    - Category A, payable to a person by virtue of his own contributions (with increase for adult and child dependants), and
    - Category B, payable to a woman by virtue of her husband's contributions (with increase for child dependants);
  - (g) child's special allowance;
  - (h) death grant.
- (2) In this Part of this Act, "short-term benefit" means unemployment benefit, sickness benefit, maternity grant, maternity allowance and widow's allowance.
- (3) The amounts and rates of benefits given in this Chapter and the other figures in this Part which affect those amounts and rates or the entitlement of any beneficiary shall, to the extent provided for by sections 124 to 126 below be subject to alteration by up-rating orders made by the Secretary of State from year to year.

### **13 Contribution conditions and the earnings factor**

- (1) In the case of the benefits specified in section 12(1) above (except invalidity benefit), entitlement depends on contribution conditions being satisfied (either by the claimant or by some other person, according to the particular benefit); and there are set out below, in relation to each such benefit, the class or classes of contribution which for this purpose are relevant thereto:—

#### *Short-term benefit*

Unemployment benefit	Class 1
Sickness benefit	Class 1 or 2
Maternity grant	Class 1, 2 or 3
Maternity allowance	Class 1 or 2
Widow's allowance	Class 1, 2 or 3

#### *Other benefits*

Widowed mother's allowance	} Class 1, 2 or 3 Widow's pension Category A retirement pension Category B retirement pension Child's special allowance Death grant
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- (2) Subject to the following subsections, a person shall be treated as having annual earnings factors derived from his contributions in respect of each tax year, being contributions of any of the classes specified in subsection (1) above; and this shall be for the purposes—
- (a) of establishing entitlement to any benefit specified in that subsection by reference to satisfaction of contribution conditions; and
  - (b) of arriving at the weekly rate—

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

Provided that for any prescribed purposes of this Chapter " benefit year " may by regulations be made to mean such other period (whether or not a period of 12 months) as may be specified in the regulations.
- (8) Part II of Schedule 3 to this Act shall have effect as to the satisfaction of contribution conditions for benefit in certain cases where a claim for short-term benefit is, or has on a previous occasion been, made in the first or second tax year after that in which the contributor concerned first became liable for primary Class 1 or Class 2 contributions.

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*Benefits for unemployment, sickness and invalidity*

## **14 Unemployment benefit and sickness benefit**

- (1) Subject to the provisions of this section, a person who satisfies any of the three conditions of subsection (2) below shall be entitled—
  - (a) to unemployment benefit in respect of any day of unemployment which forms part of a period of interruption of employment; and
  - (b) to sickness benefit in respect of any day of incapacity for work which forms part of such a period.
- (2) The conditions of this subsection are that—
  - (a) the person is under pensionable age on the day in question and satisfies the contribution conditions specified for unemployment or, as the case may be, sickness benefit in Schedule 3, Part I, paragraph 1; or
  - (b) the person would on that day have been entitled to a Category A retirement pension (section 28) if he had retired from regular employment on attaining pensionable age; or
  - (c) the person is a woman and—
    - (i) she would on that day have been entitled to a Category B retirement pension (section 29) and the husband by virtue of whose contributions she would have been so entitled is dead, but
    - (ii) she has made an election for the purposes of section 30(3) of this Act (return to work after retirement) and has not revoked her election.
- (3) A person shall not be entitled either to unemployment benefit or to sickness benefit for the first 3 days of any period of interruption of employment.
- (4) In the case of a person entitled under subsection (2)(a) above, unemployment or sickness benefit shall be payable—
  - (a) at the higher rate specified in relation thereto in Schedule 4, Part I, paragraph 1—
    - (i) in the case of a married woman, during any period falling within subsection (5) below, and
    - (ii) in the case of a person other than a married woman ; and
  - (b) at the lower rate so specified in the case of a married woman during any period not falling within that subsection.
- (5) The periods during which unemployment or sickness benefit is payable to a married woman at the higher rate are—
  - (a) any period during which she is entitled to an increase of benefit in respect of her husband under section 44(2) of this Act (dependent husband incapable of self-support) ; and
  - (b) any period during which she is residing with her husband and he is entitled to—
    - (i) an invalidity pension (section 15), or
    - (ii) a Category A retirement pension (section 28), or
    - (iii) a Category C or Category D retirement pension (Chapter II, section 39), or
    - (iv) any unemployability supplement or allowance (which expression is defined in Schedule 5); and

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- (c) any period during which she is not residing with her husband nor is he contributing to her maintenance at a weekly rate not less than the difference between the higher rate and the lower rate of the benefit.
- (6) In the case of a person entitled under subsection (2) (b) or (c) above (being over pensionable age), unemployment benefit or sickness benefit shall be payable at the weekly rate at which, apart from any increase to be disregarded for the purposes of this subsection, the retirement pension referred to in the applicable paragraph of subsection (2) would have been payable; and the increases to be so disregarded are—
  - (a) any increase (for days of increment between pensionable age and retirement) under section 28(4) or (5) or 29(10) of this Act;
  - (b) any increase (for dependants) under section 41, 45 or 46; and
  - (c) where the claim is for unemployment benefit, any increase (for invalidity) under section 28(7);

and, in determining for the purposes of this subsection the rate at which a retirement pension would have been payable, section 30(1) of this Act (earnings rule) shall be taken not to apply.

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

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

This subsection is subject to Schedule 6, Part II.

- (8) The amount payable by way of benefit under this section for any day of unemployment or of incapacity for work shall be  $\frac{1}{6}$ th of the appropriate weekly rate.

## 15 Invalidity pension

- (1) Subject to the following provisions of this section, where in respect of any period of interruption of employment a person has been entitled to sickness benefit for 168 days (including, in the case of a woman, any day for which she was entitled to a maternity allowance), then—
  - (a) he shall cease to be entitled to that benefit for any subsequent day of incapacity for work falling within that period; and
  - (b) he shall be entitled to an invalidity pension for any day of incapacity for work in that period for which, by virtue only of paragraph (a) above, he is not entitled to sickness benefit if on that day either—
    - (i) he is under pensionable age, or
    - (ii) being over that age and not having retired from regular employment, he satisfies either of the conditions of subsection (2) below;

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and any day in the first 3 days of a period of interruption of employment which was a day of incapacity for work shall be treated for the purposes of this subsection as a day on which he was so entitled.

- (2) The conditions of this subsection are that—
  - (a) the person would on that day have been entitled to a Category A retirement pension (section 28) if he had retired from regular employment on attaining pensionable age; or
  - (b) the person is a woman and—
    - (i) she would on that day have been entitled to a Category B retirement pension (section 29) and the husband by virtue of whose contributions she would have been so entitled is dead, but
    - (ii) she has made an election for the purposes of section 30(3) of this Act (return to work after retirement) and has not revoked her election.
- (3) Subject to subsection (4) below, an invalidity pension shall be payable at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 2.
- (4) In the case of a person entitled to an invalidity pension under subsection (2) (a) or (b) above (being over pensionable age), the pension shall be payable at the weekly rate at which, apart from any increase to be disregarded for the purposes of this subsection, the retirement pension referred to in the applicable paragraph of subsection (2) would have been payable ; and the increases to be so disregarded are—
  - (a) any increase (for days of increment between pensionable age and retirement) under section 28(4) or (5) or 29(10) of this Act; and
  - (b) any increase (for dependants) under section 41, 45 or 46.
- (5) The amount payable by way of an invalidity pension shall for any day of incapacity for work be 1/6th of the appropriate weekly rate.

## 16 Invalidity allowance

- (1) If a person is more than 5 years below pensionable age on the qualifying date in any period of interruption of employment then, in respect of every day of that period in respect of which he is entitled to an invalidity pension, he shall also be entitled to an invalidity allowance at the appropriate weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 3 ; and " the qualifying date " means the first day in that period (whether before the coming into force of this section or later) which is a day of incapacity for work or such earlier day as may be prescribed.
- (2) An invalidity allowance shall be payable—
  - (a) at the higher rate specified in relation thereto in Schedule 4, Part I, if on the qualifying date the beneficiary was under the age of 35, or if that date fell before 5th July 1948 ;
  - (b) at the middle rate so specified if paragraph (a) above does not apply and on the qualifying date the beneficiary was under the age of 45 ;
  - (c) at the lower rate so specified if paragraphs (a) and (b) above do not apply, and on the qualifying date the beneficiary was a man under the age of 60 or a woman under the age of 55.
- (3) The amount payable by way of invalidity allowance shall for any day of incapacity for work be 1/6th of the appropriate weekly rate.

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## **17 Determination of days for which benefit is payable**

(1) For the purposes of any provisions of this Act relating to unemployment benefit, sickness benefit or invalidity benefit—

(a) subject to the provisions of this Act, a day shall not be treated in relation to any person—

(i) as a day of unemployment unless on that day he is capable of work and he is, or is deemed in accordance with regulations to be, available to be employed in employed earner's employment; or

(ii) as a day of incapacity for work unless on that day he is, or is deemed in accordance with regulations to be, incapable of work by reason of some specific disease or bodily or mental disablement,

("work ", in this paragraph, meaning work which the person can reasonably be expected to do);

(b) where a person is an employed earner and his employment as such has not been terminated, then in any week a day on which in the normal course that person would not work in that employment or in any other employed earner's employment shall not be treated as a day of unemployment unless each other day in that week (other than the day referred to in paragraph (e) below) on which in the normal course he would so work is a day of interruption of employment;

(c) the expression " day of interruption of employment" means a day which is a day of unemployment or of incapacity for work;

(d) any two days of interruption of employment, whether consecutive or not, within a period of 6 consecutive days shall be treated as a period of interruption of employment and any two such periods not separated by a period of more than 13 weeks (" week " for this purpose meaning any period of 7 days) shall be treated as one period of interruption of employment;

(e) Sunday or such other day in each week as may be prescribed shall not be treated as a day of unemployment or of incapacity for work and shall be disregarded in computing any period of consecutive days.

(2) Regulations may—

(a) make provision (subject to subsection (1) above) as to the days which are or are not to be treated for the purposes of unemployment benefit, sickness benefit, invalidity benefit and a maternity allowance as days of, unemployment or of incapacity for work;

(b) prescribe respective circumstances in which, for the purposes of subsection (1) (b) above—

(i) employment which has not been terminated may be treated as if it had been terminated; or

(ii) a day which falls in a period when an employed earner's employment is suspended but does not fall to be so treated and which, apart from the regulations, would not fall to be treated as a day of interruption of employment may be treated as such a day.

(3) Subsections (1) and (2) above shall, for the purposes of earnings-related supplement under section 14(7) of this Act and, on and after such day as the Secretary of State may by order appoint, for all other purposes of this Part of this Act, have effect—

(a) with the substitution for paragraph (b) of subsection (1) of the following paragraph—

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- “(b) where a person is an employed earner and his employment as such has not been terminated but has been suspended by the employer, a day shall not be treated in relation to that person as a day of unemployment unless it is the 7th or a later day in a continuous period of days on which that suspension has lasted, there being disregarded for the purposes of determining the first 6 days of the period (but for no other purpose)—
  - (i) Sunday or such other day in each week as may have been prescribed under paragraph (e) of this subsection,
  - (ii) any day of recognised or customary holiday in connection with the suspended employment,
  - (iii) such other day or days as may be prescribed ;”and
- (b) with the substitution for paragraph (b) of subsection (2) of the following paragraph—
  - “(b) prescribe respective circumstances in which for the purposes of subsection (1)(b) above an employed earner's employment may be treated—
    - (i) as having been or, as the case may be, as not having been terminated, or
    - (ii) as having been or, as the case may be, as not having been suspended.”.

## **18 Duration of unemployment benefit**

- (1) A person who, in respect of any period of interruption of employment, has been entitled to unemployment benefit for 312 days shall not thereafter be entitled to that benefit for any day of unemployment (whether in the same or a subsequent period of interruption of employment) unless before that day he has requalified for benefit.
- (2) A person who has exhausted his right to unemployment benefit requalifies for it when—
  - (a) he has again been in employment as an employed earner and has been so employed in 13 weeks since the last day for which he was entitled to that benefit; and
  - (b) in each of those weeks he has worked in such employment for 21 hours or more.
- (3) Where a person requalifies for unemployment benefit, subsection (1) above shall again apply to him but, in a case where the period of interruption of employment in which he exhausted his right to that benefit continues after his requalification, as if the part before and the part after his requalification were distinct periods of interruption of employment.

## **19 Loss of employment due to stoppage of work**

- (1) A person who has lost employment as an employed earner by reason of a stoppage of work which was due to a trade dispute at his place of employment shall be disqualified for receiving unemployment benefit so long as the stoppage continues, except in a case where, during the stoppage, he has become bona fide employed elsewhere in the



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occupation which he usually follows or has become regularly engaged in some other occupation; but this subsection does not apply in the case of a person who proves—

- (a) that he is not participating in or financing or directly interested in the trade dispute which caused the stoppage of work; and
- (b) that he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at his place of employment any of whom are participating in or financing or directly interested in the dispute.

(2) In this Act—

- (a) " place of employment " in relation to any person, means the factory, workshop, farm or other premises or place at which he was employed, so however that, where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments shall for the purposes of this paragraph be deemed to be a separate factory or workshop or farm or separate premises or a separate place, as the case may be ;
- (b) " trade dispute " means any dispute between employers and employees, or between employees and employees, which is connected with the employment or non-employment or the terms of employment or the conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises, or not.

## **20 Other disqualifications, etc.**

(1) A person shall be disqualified for receiving unemployment benefit for such period not exceeding 6 weeks as may be determined in accordance with sections 97 to 104 of this Act (adjudication by insurance officers and other statutory authorities) if—

- (a) he has lost his employment as an employed earner through his misconduct, or has voluntarily left such employment without just cause;
- (b) after a situation in any suitable employment has been properly notified to him as vacant or about to become vacant, he has without good cause refused or failed to apply for that situation or refused to accept that situation when offered to him ;
- (c) he has neglected to avail himself of a reasonable opportunity of suitable employment;
- (d) he has without good cause refused or failed to carry out any official recommendations given to him with a view to assisting him to find suitable employment, being recommendations which were reasonable having regard to his circumstances and to the means of obtaining that employment usually adopted in the district in which he resides ; or
- (e) he has without good cause refused or failed to avail himself of a reasonable opportunity of receiving training approved by the Secretary of State in his case for the purpose of becoming or keeping fit for entry into, or return to, regular employment.

(2) Regulations may provide for disqualifying a person for receiving sickness benefit or invalidity benefit for such period not exceeding 6 weeks as may be determined in accordance with sections 97 to 104 if—

- (a) he has become incapable of work through his own misconduct; or

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- (b) he fails without good cause to attend for, or to submit himself to, such medical or other examination or treatment as may be required in accordance with the regulations, or to observe any prescribed rules of behaviour.
- (3) Regulations may also provide for imposing, in the case of any prescribed category of persons, additional conditions with respect to the receipt of unemployment benefit, sickness benefit or invalidity benefit, and restrictions on the rate and duration thereof, if, having regard to special circumstances, it appears to the Secretary of State necessary to do so for the purpose of preventing inequalities, or injustice to the general body of employed earners, or of earners generally, as the case may be.
- (4) For the purposes of this section, employment shall not be deemed to be employment suitable in the case of any person if it is either—
  - (a) employment in a situation vacant in consequence of a stoppage of work due to a trade dispute ; or
  - (b) employment in his usual occupation in the district where he was last ordinarily employed at a rate of remuneration lower, or on conditions less favourable, than those which he might reasonably have expected to obtain having regard to those which he habitually obtained in his usual occupation in that district, or would have obtained had he continued to be so employed; or
  - (c) employment in his usual occupation in any other district at a rate of remuneration lower, or on conditions less favourable, than those generally observed in that district by agreement between associations of employers and of employees or, failing any such agreement, than those generally recognised in that district by good employers;

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

- (5) For the purposes of this section the following definitions apply—
  - (a) " properly notified ", in subsection (1)(b), means notified by the Employment Service Agency, a local education authority or some other recognised agency, or by or on behalf of an employer ;
  - (b) " official recommendations ", in subsection (1)(d), means recommendations in writing made by an officer of the Employment Service Agency, a local education authority or the Secretary of State ;
  - (c) " local education authority", in relation to Scotland, means an education authority as defined in section 145(16) of the Education (Scotland) Act 1962; and
  - (d) " week " means any period of 7 days.

### *Maternity*

## **21      Maternity grant**

- (1) A woman shall be entitled to a maternity grant of the amount specified in relation thereto in Schedule 4, Part II, paragraph 1, if she has been confined and either—

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- (a) she or her husband satisfies the contribution conditions for a maternity grant specified in Schedule 3, Part I, paragraph 2; or
  - (b) she satisfies either—
    - (i) the contribution conditions for a maternity allowance specified in Schedule 3, Part I, paragraph 3, or
    - (ii) any contribution conditions which she is required to satisfy in order to become entitled to maternity allowance at a reduced rate by virtue of regulations under section 33 of this Act (partial satisfaction of contribution conditions).
- (2) In subsection (1)(a) above, the reference to a woman's husband includes a widow's late husband in a case where she has been confined of a posthumous son or daughter of his.
- (3) Except where regulations otherwise provide, a woman shall not be entitled to a maternity grant in respect of a confinement if on the date of the confinement she was outside Great Britain.
- (4) Regulations may provide that a woman confined of twins or a greater number of children shall, if the other conditions for the payment of a maternity grant are satisfied in respect of the confinement, be entitled to a maternity grant for each of them.
- (5) Regulations may provide that the provisions of this section shall apply to a woman, in a case where her claim indicates that she so desires, with the substitution for the condition that she has been confined of the condition that she is pregnant and has reached a stage in her pregnancy which is not more than the prescribed number of weeks before that in which it is to be expected that she will be confined, and may modify the contribution conditions for a maternity grant in their application to such a case.
- (6) Subject to subsection (4) above, a woman shall not be entitled to more than one maternity grant in respect of any one confinement.

## **22 Maternity allowance**

- (1) A woman shall be entitled to a maternity allowance at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 4, if—
- (a) she is pregnant and has reached a stage in her pregnancy which is not more than the prescribed number of weeks before that in which it is to be expected that she will be confined (in this section referred to as "the expected week of confinement"); and
  - (b) she satisfies the contribution conditions for a maternity allowance specified in Schedule 3, Part I, paragraph 3.
- (2) Subject to the following provisions of this section, the period for which a maternity allowance is payable shall be the period of 18 weeks beginning with the 11th week before the expected week of confinement; and this shall be the maternity allowance period for the purposes of this section and the relevant contribution conditions.
- (3) A day for which a woman is entitled to a maternity allowance shall be deemed for the purposes of this Part of this Act to be for her a day of incapacity for work.
- (4) Where a woman is entitled to a maternity allowance, she shall also be entitled to earnings-related supplement of the allowance, at a weekly rate ascertained in accordance with Schedule 6, Part I, in respect of every day of the maternity allowance

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period which forms part of a period of interruption of employment and is not earlier than the 13th day of the latter period; but where she has been entitled to the supplement in respect of an aggregate of 156 days in the same period of interruption of employment (including for this purpose any days in that period in respect of which she has been entitled to earnings-related supplement of unemployment or sickness benefit) she shall not be entitled thereto in respect of any further day in that period.

This subsection is subject to Schedule 6, Part II.

- (5) A woman who has become entitled to a maternity allowance shall cease to be entitled to it if she dies before the beginning of the maternity allowance period; and if she dies after the beginning, but before the end, of that period the allowance shall not be payable for any week subsequent to that in which she dies.
- (6) Regulations may provide that a woman who has become entitled to a maternity allowance shall cease to be entitled to it if her pregnancy is terminated otherwise than by confinement.
- (7) Regulations may make provision, as respects cases where the date of the confinement occurs after the end of the expected week of confinement, for extending the maternity allowance period until the end of such week (not being later than the 6th week after that in which the date of the confinement occurs) as may be prescribed.
- (8) Regulations may modify subsections (1)(a) and (b), (2) and (5) above in relation to cases where a woman has been confined and either—
  - (a) she has not made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed); or
  - (b) she has made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed), but the date of the confinement was more than 11 weeks before the expected week of confinement.
- (9) Regulations may provide for disqualifying a woman for receiving a maternity allowance if—
  - (a) during the maternity allowance period, she does any work in employment as an employed or self-employed earner, or fails without good cause to observe any prescribed rules of behaviour; or
  - (b) at any time before her confinement occurs she fails without good cause to attend for, or submit herself to, any medical examination required in accordance with the regulations.
- (10) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of a maternity allowance—
  - (a) Sunday or such other day in each week as may be prescribed shall be disregarded; and
  - (b) the amount payable by way of that allowance for any other day shall be taken as 1/6th of the weekly rate of the allowance.

## 23 **Supplementary provisions as to maternity benefit**

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

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- (b) references to the date of the confinement shall be taken as referring, where labour begun on one day results in the issue of a child on another day, to the date of the issue of the child, or if the woman is confined of twins or a greater number of children, to the date of the issue of the last of them.
- (2) The fact that the mother of an illegitimate child is entitled to maternity benefit shall not be taken into consideration—
  - (a) by any justices in England and Wales in deciding whether or not they shall make an order under the Affiliation Proceedings Act 1957 for the payment of the expenses incidental to the birth of the child; or
  - (b) by any court in Scotland in awarding inlying expenses in connection with the birth of the child.

### *Widowhood*

## **24 Widow's allowance**

- (1) A woman who has been widowed shall be entitled to a widow's allowance at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 5, if—
  - (a) she was under pensionable age at the time when her late husband died, or he was then not entitled to a Category A retirement pension (section 28) and
  - (b) her late husband satisfied the contribution condition for a widow's allowance specified in Schedule 3, Part I, paragraph 4.
- (2) The period for which a widow's allowance is payable to a widow shall be the 26 weeks next following the husband's death:

Provided that the allowance shall not be payable for any period after the widow's death or remarriage or for any period during which she is cohabiting with a man as his wife.
- (3) A woman entitled to a widow's allowance shall be entitled to earnings-related addition to the allowance, at a weekly rate ascertained in accordance with Schedule 6, Part I, in respect of each week of the period for which the allowance is payable. This subsection is subject to Schedule 6, Part II.

## **25 Widowed mother's allowance**

- (1) A woman who has been widowed shall be entitled to a widowed mother's allowance at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 6, if her late husband satisfied the contribution conditions for a widowed mother's allowance specified in Schedule 3, Part I, paragraph 5, and either—
  - (a) she has a family which satisfies the condition specified in subsection (2) below ; or
  - (b) subject to such exceptions and conditions as may be prescribed, she has residing with her a person who—
    - (i) is under the age of 19 and is or has been a child falling within any of the paragraphs of that subsection, or
    - (ii) is under that age and would have been such a child but for the fact that, at the time when the woman's late husband died, the person had attained school-leaving age or was not in Great Britain, or
  - (c) she is pregnant by her late husband.

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- (2) The condition referred to in subsection (1)(a) above is that the woman's family includes a child with respect to whom one of the conditions specified in section 43(1) of this Act (conditions of payment of increase for child dependants) is for the time being satisfied and who either—
- (a) at her late husband's death was, or could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as, a child of his family; or
  - (b) is a son or daughter of theirs ; or
  - (c) subject to such exceptions and conditions as may be prescribed, having at the death of a previous husband of the widow by a marriage which ended with that husband's death been a child of that husband's family, was at the death of her late husband a child of the woman's family.
- (3) The period for which a widowed mother's allowance is payable to a woman shall be any period during which she satisfies the requirements of subsection (1)(a), (b) or (c) above and for which she is not entitled to a widow's allowance:

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

## **26 Widow's pension**

- (1) A woman who has been widowed shall be entitled to a widow's pension at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 7, if her late husband satisfied the contribution conditions for a widow's pension specified in Schedule 3, Part I, paragraph 5. and either—
- (a) she was, at the husband's death, over the age of 40 but under the age of 65 ; or
  - (b) she ceased to be entitled to a widowed mother's allowance at a time when she was over the age of 40 but under the age of 65.
- (2) The weekly rate of a widow's pension payable to a woman who was under the age of 50 at the time when her late husband died or, as the case may be, when she ceased to be entitled to a widowed mother's allowance shall be reduced by an amount equal to 7 per cent. of its amount apart from this subsection multiplied by the number of years by which her age at that time was less than 50 (any fraction of a year being counted as a year).
- (3) The period for which a widow's pension is payable to a woman shall be any period during which she is under the age of 65 and for which she is not entitled to a widow's allowance or a widowed mother's allowance:

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

### *Retirement pensions (Categories A and B)*

## **27 Matters affecting entitlement to pension**

- (1) In this Act " pensionable age " means—
- (a) in the case of a man, the age of 65 ; and
  - (b) in the case of a woman, the age of 60.

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- (2) For the purposes of this Act a person's working life is the period between (inclusive) the tax year in which he attained the age of 16 and (exclusive) the tax year in which he attained pensionable age or died under that age.
- (3) For those purposes, a person may (subject to the following subsection) be treated as having retired from regular employment at any time after he has attained pensionable age—
  - (a) whether or not he has previously been an earner;
  - (b) notwithstanding that he is, or intends to be, an earner, if—
    - (i) he is or intends to be so only occasionally or to an inconsiderable extent, or otherwise in circumstances not inconsistent with retirement, or
    - (ii) his earnings can be expected not to exceed, or only occasionally to exceed, the amount any excess over which would, under section 30(1) below (earnings rule), involve a reduction of the weekly rate of his pension;and a person so treated under this subsection shall not cease to be so treated except in pursuance of an election under section 30(3) below (return to work after retirement).
- (4) Subject to the following subsection, a person shall not be treated as having retired from regular employment unless he has complied with the prescribed requirements as to the giving of notice of the date of his retirement; and where the date of retirement specified in the notice falls before the date when the notice is given, the person shall not be treated as having so retired earlier than on the date of commencement of the prescribed period before the giving of the notice.
- (5) For the purposes of this Act a person who has not previously retired from regular employment shall be deemed so to retire on the expiration of 5 years from his attaining pensionable age; and references in this Part of this Act to title date of a person's retirement shall be construed in accordance with this section.
- (6) No person shall be entitled for the same period to more than one retirement pension; but where under the following sections in this Part (whether Chapter I or Chapter II) a person would otherwise be entitled to more than one such pension, he shall be entitled (whichever pension he may apply for) to whichever one is from time to time the most favourable to him.

## **28 Category A retirement pension**

- (1) A person shall be entitled to a Category A retirement pension at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 8, if—
  - (a) he is over pensionable age and has retired from regular employment; and
  - (b) he satisfies the contribution conditions for a Category A retirement pension specified in Schedule 3, Part I, paragraph 5;and the pension shall commence from the date of retirement and (subject to section 30(1) of this Act (earnings rule)) be payable for the pensioner's life.
- (2) A woman who on attaining pensionable age is married shall not be entitled to a Category A retirement pension unless either—
  - (a) her marriage (to the man to whom she is married on attaining that age) took place on or after the date on which she attained the age of 55 ; or

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- (b) the number of years of her working life (disregarding the year in which that marriage took place and any previous year) for which her earnings factor was sufficient for satisfaction by her of paragraph (b) of the second contribution condition for a Category A retirement pension specified in Schedule 3, Part I paragraph 5, was at least—

- (i) one half of the number of complete years between (exclusive) the year in which that marriage took place and (exclusive) the year in which she attained pensionable age, or
  - (ii) if that number of years is an odd number, one half of the next lowest even number.

In this subsection " year " means tax year.

- (3) Where a woman is a widow at the time when she attains pensionable age and does not with her own contributions satisfy the second contribution condition for a Category A retirement pension specified in Schedule 3, Part I, paragraph 5, then the contributions of her late husband may, to the extent provided by Schedule 7 to this Act, be treated as if they were contributions of her own.
- (4) The weekly rate of a Category A retirement pension shall be increased by 1/8th per cent. of its rate apart from this subsection for every 6 days (excluding Sundays) which—
  - (a) fall in the period beginning with the day on which the pensioner attained pensionable age and ending with the day before that of his retirement; and
  - (b) are treated by regulations as being, in relation to him and his pension, days of increment under this subsection,
 but only if the number of such days is at least 48; and a day may be so treated by reference to the pensioner or some other person having received, or not having received, benefit of any prescribed description (whether or not under this Act) in respect of that day or a period in which it falls or by reference to any other circumstances whatsoever.
- (5) In the case of a woman entitled to a Category A retirement pension, the rate of the pension (with or without any increase under subsection (4) above) shall, if—
  - (a) she has had a husband and he has died, and she was married to him when he died; and
  - (b) the husband either—
    - (i) was entitled to a Category A retirement pension with increases under subsection (4) above, or
    - (ii) would have been so entitled if he had retired on the date of his death, be increased by 1 / 16th per cent. of the rate of the pension to which he was (or would have been) entitled for every 6 days which were (or would have been) in relation to him and that pension days of increment under subsection (4), but only if the number of such days is at least 48.
- (6) Where under subsection (4) or (5) above an increase is calculated as a percentage applied to a rate, there shall in arriving at that rate be disregarded any increase otherwise than under subsection (7) below.
- (7) The weekly rate of a Category A retirement pension shall be increased under this subsection if the pensioner was entitled to an invalidity allowance in respect of—
  - (a) any day falling within the period of 13 weeks ending immediately before the day on which he attains pensionable age, or



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(b) the last day before the beginning of that period;  
and the increase shall be of an amount equal to the weekly rate of the invalidity allowance (whether the higher, the middle or the lower rate) to which he was entitled on that day.

(8) In ascertaining—

(a) for the purposes of subsection (5) above, the rate of the pension of a woman's former husband ; and

(b) for the purposes of subsection (7) above, the rate of a pensioner's invalidity allowance,

regard is to be had to the rates in force from time to time as increased by up-rating orders, or by any Act passed after the 1973 Act.

## **29 Category B retirement pension**

(1) A woman who is or has been married, and has attained pensionable age, shall be entitled to a Category B retirement pension by virtue of the contributions of her husband ; and the cases in which a woman is so entitled are those specified in subsections (2) to (5) below.

(2) The first case of entitlement is where the woman is married to that husband at the time when she attains pensionable age and—

(a) he also has attained pensionable age, and both of them have retired from regular employment; and

(b) he satisfies the relevant contribution conditions.

(3) The second case of entitlement is where the woman marries after attaining pensionable age and—

(a) her husband has also attained pensionable age and both of them have retired from regular employment; and

(b) he satisfies the relevant contribution conditions.

(4) The third case of entitlement is where the woman's husband is dead and his death was after she attained pensionable age, and—

(a) she was married to him when he died; and

(b) before his death he satisfied the relevant contribution conditions.

(5) The fourth case of entitlement is where the woman's husband is dead and his death was before she attained pensionable age, and—

(a) she has retired from regular employment; and

(b) she was a widow immediately before attaining pensionable age and is entitled (or is treated by regulations as entitled) to a widow's pension; and

(c) she became entitled to the pension in consequence of the husband's death.

(6) The relevant contribution conditions for the purposes of the first, second and third cases of entitlement are those specified in Schedule 3, Part I, paragraph 5 (Category B retirement pension or widow's pension, as the case may be).

(7) A woman's Category B retirement pension—

(a) in the first and second cases of entitlement shall—

(i) during any period in which the husband is alive, be at the lower rate specified in relation thereto in Schedule 4, Part I, paragraph 9, and

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- (ii) during any period after he is dead, be at the higher rate so specified ;  
and
  - (b) in the third case of entitlement, shall be at the higher rate so specified ; and
  - (c) in the fourth case of entitlement, shall be at the same weekly rate as her widow's pension.
- (8) Where a woman would but for section 27(6) of this Act be entitled both to a Category A and also to a Category B retirement pension, and section 28(7) above would apply for the increase of the former pension, it shall be taken as applying also for the increase of the latter.
- (9) Subject to the provisions of this Act, a woman's Category B retirement pension shall commence from the date on which she becomes entitled under whichever of subsections (2) to (5) above is applicable in her case, and shall be payable for her life.
- (10) Where a woman is entitled to a Category B retirement pension by virtue of the contributions of her husband, the weekly rate of the pension shall be increased—
- (a) during any period in which he is alive (and she remains his wife) by 1/16th per cent. of his pension for every 6 days (excluding Sundays) which—
    - (i) fall in the period beginning with the day on which he attained pensionable age and ending with the day before that of his retirement and not in a period before she married him or attained pensionable age; and
    - (ii) in relation to him and his pension, were days of increment under section 28(4),  
but only if the number of such days is at least 48 ; and
  - (b) during any period after he is dead if she was married to him when he died by that amount plus an additional 1/16th per cent. of the husband's pension for every 6 days which were in relation to him and his pension days of increment under section 28(4), but only if the number of such days is at least 48.
- (11) References in subsection (10) above to the husband's pension are to that pension without any increase otherwise than under section 28(7) above; and in ascertaining the rate of his pension for the purposes of subsection (10) regard is to be had to the rates in force from time to time as increased by up-rating orders, or by any Act passed after the 1973 Act.
- (12) Where a woman has made an election in accordance with regulations under section 30(3) of this Act (return to work after retirement) and has not revoked her election, there shall be taken into account, as days of increment in relation to her for the purposes of any increase of her pension under subsection (10)(b) above, any days after the date of her election and after the date of the death of her husband by virtue of whose contributions she is entitled to the pension, being days which would, if she were entitled to a Category A retirement pension, be days of increment under section 28(4) above in relation to her and that pension.

### **30 Category A and B pensions (supplementary)**

- (1) Where the earnings of a person entitled to a Category A or Category B retirement pension, being a person who is less than 5 years over pensionable age, have exceeded £20 for the week ending last before any week for which he is entitled to the pension, the weekly rate of pension for the last-mentioned week shall be reduced—

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- (a) where the excess is less than £4, by 5 pence for each complete 10 pence of the excess; and
- (b) where the excess is not less than £4, by 5 pence for each complete 10 pence of the excess up to £4 and by 5 pence for each complete 5 pence of any further excess:

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

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

- (2) With effect from such day as may be prescribed in the week containing 6th April in a year mentioned in the first column below, subsection (1) above 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) Regulations may provide that in the case of a person of any prescribed description who—

- (a) has retired from regular employment or has otherwise become entitled to a retirement pension (whether Category A or Category B) but is, in the case of a woman, under the age of 65 or, in the case of a man, under the age of 70; and
- (b) elects in such manner and in accordance with such conditions as may be prescribed that the regulations shall apply in his case,

this Part of this Act shall have effect as if that person had not retired or become entitled to such a retirement pension ; and any such regulations may make such modifications of the provisions of this Part, or of those of Part III below as those provisions apply in a case where a person makes an election under the regulations, as may appear to the Secretary of State necessary or expedient.

- (4) Where a husband and wife have both become entitled to retirement pensions and—

- (a) the husband's pension is Category A; and
  - (b) the wife's pension is Category B by virtue of that husband's contributions,
- the husband shall not be entitled to make an election hi accordance with regulations made under subsection (3) above without the consent of the wife, unless that consent is unreasonably withheld.

- (5) Where a person has given notice for the purposes of regulations under section 27(4) above and the date of retirement specified in the notice falls after the date when the notice was given, a Category A or Category B retirement pension may be awarded as from the date of retirement so specified, but if so awarded shall be conditional on the person's having retired on or before that date.

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### *Other benefits*

## **31 Child's special allowance**

Subject to the provisions of this Act (and in particular to those of section 43 imposing limitations on payment of benefit in respect of children), a woman whose marriage has been terminated by divorce shall be entitled to a child's special allowance at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 10, if—

- (a) the husband of that marriage is dead and satisfied the contribution condition for a child's special allowance specified in Schedule 3, Part I, paragraph 6; and
- (b) she has a family which includes a child and at that husband's death the child—
  - (i) was either a child of her family or, where the child is issue of theirs within the meaning of the Family Allowances Act, a child of that husband's family, or
  - (ii) would have been within sub-paragraph (i) above but for the fact that the child was not then in Great Britain; and
- (c) either—
  - (i) that husband had before his death been contributing at not less than the prescribed weekly rate to the cost of providing for that child, or
  - (ii) at the date of that husband's death she was entitled, under an order of a court, trust or agreement which she has taken reasonable steps to enforce, to receive (whether from that husband or from another person) payments in respect of that child at not less than that rate provided or procured by that husband:

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

## **32 Death grant**

- (1) Subject to the provisions of this Act, a death grant of the amount specified in relation thereto in Schedule 4, Part II, paragraph 2, shall be payable in respect of the death of any person ("the deceased") where the case is one falling within any of the paragraphs of subsection (2) below; and in that subsection and subsection (4) below references to a person being, or having been, a qualifying contributor are to his satisfying or having satisfied the contribution condition specified for death grant in Schedule 3, Part I, paragraph 7.
- (2) The following are the cases in which a death grant is payable—
  - (a) the deceased was a qualifying contributor ;
  - (b) the deceased was at death the husband, wife, widower, widow or a child of the family of a qualifying contributor;
  - (c) the deceased was a child and either—
    - (i) he had been a child of the family of a person who pre-deceased him (and was so at the death of that person) and that person was a qualifying contributor immediately before his death, or
    - (ii) he was the posthumous son or daughter of a man who was a qualifying contributor;
  - (d) the deceased was over the age of 19 at death and—
    - (i) he was at death, and had ever since attaining the age of 19 been, incapacitated for regular employment, and

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- (ii) he was at death residing (or would, if not living in an institution, have been residing) with a near relative being either a qualifying contributor or the wife or widow of a qualifying contributor.
- (3) For the purposes of subsection (2) above, the following definitions apply—
  - (a) "incapacitated" means incapacitated by reason of illness or disability of mind or body ;
  - (b) "institution" means a school, hospital or establishment accepted by the Secretary of State as providing residential accommodation for disabled persons ; and
  - (c) "near relative" means a person—
    - (i) of whom the deceased was the son or daughter or remoter issue ; or
    - (ii) who was the deceased's son or daughter or remoter issue; or
    - (iii) who was the deceased's step-father, stepmother or step-child, or brother, sister, half-brother, or half-sister, step-brother or step-sister, (any such relationship as is specified in sub-paragraph (i), (ii) or (iii) being taken to include the same relationship by adoption, and to include also any such relationship as would have subsisted if some person born illegitimate had been born legitimate).
- (4) Regulations may provide that, in a case where the deceased—
  - (a) was a child either at his death or at any time during the tax year in which he died or the preceding tax year; or
  - (b) was at his death over the age of 16 and under the age of 19 and was then incapacitated for regular employment (within the meaning given to that expression by subsection (3)(a) above),but (in either case) a death grant is not payable by virtue of subsection (1), it shall nevertheless be payable if a person having such connection with the deceased as may be prescribed is or was at any time a qualifying contributor.
- (5) A death grant shall not be payable in respect of the death of a person who attained pensionable age before 5th July 1948 nor, except in prescribed cases, in respect of a death occurring outside Great Britain.

### *Supplementary*

## **33 Partial satisfaction of contribution conditions**

- (1) This section applies to—
  - (a) unemployment benefit;
  - (b) sickness benefit;
  - (c) maternity allowance;
  - (d) widowed mother's allowance;
  - (e) widow's pension;
  - (f) Category A retirement pension ; and
  - (g) Category B retirement pension.
- (2) Subject to the provisions of this section, regulations may provide for persons to be entitled to a benefit to which this section applies, in cases where the first contribution

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condition specified in relation to that benefit in Schedule 3, Part I, is satisfied, and the second contribution condition so specified is not.

- (3) Regulations under this section shall provide for benefit payable by virtue of any such regulations to be payable at a rate, or to be of an amount, less than that specified in Schedule 4 to this Act, and the rate or amount prescribed by the regulations may vary with the extent to which the relevant contribution conditions are satisfied; but the amount of any increase of benefit in respect of a child shall be the same as if both of the relevant contribution conditions had been fully satisfied.

## CHAPTER II

### NON-CONTRIBUTORY BENEFITS

#### 34 Descriptions of non-contributory benefits

- (1) Non-contributory benefits under this Chapter are of the following descriptions, namely—
- (a) attendance allowance;
  - (b) non-contributory invalidity pension (with increase for adult and child dependants);
  - (c) invalid care allowance (with increase for adult and child dependants);
  - (d) guardian's allowance;
  - (e) retirement pensions of the following categories—
    - Category C, payable to certain persons who were over pensionable age on 5th July 1948 and their wives and widows (with increase for adult and child dependants), and
    - Category D, payable to persons over the age of 80;
  - (f) age addition payable, in the case of persons over the age of 80, by way of increase of a retirement pension of any category or of some other pension or allowance from the Secretary of State.
- (2) The rates of benefits given in this Chapter and the other figures in this Part which affect those rates or the entitlement of any beneficiary shall, to the extent provided for by sections 124 to 126 below be subject to alteration by up-rating orders made by the Secretary of State from year to year.

#### 35 Attendance allowance

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

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

## **36 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 so

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incapable for a period of not less than 196 consecutive days ending immediately before that day.

- (2) A person shall not be entitled to such a pension if he is under the age of 16 or receiving full-time education; and a woman shall not be so entitled 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.
- (3) A person shall not be entitled to such a pension unless he satisfies prescribed conditions as to residence or presence in Great Britain.
- (4) Subject to subsection (5) below, a person who has attained pensionable age shall not be entitled to a pension under this section unless he was so entitled (or is treated by regulations as having been so entitled) immediately before attaining that age.
- (5) Regulations may make provision whereby a person who has attained retiring age (meaning 70 in the case of a man and 65 in the case of a woman) and was entitled to a pension under this section immediately before attaining that age continues to be so entitled 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.
- (6) 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.
- (7) 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.
- (8) A pension under this section shall be payable at the weekly rate specified in relation thereto in Schedule 4, Part III, paragraph 2.
- (9) Regulations may provide for disqualifying a person for receiving non-contributory invalidity pension for such period not exceeding 6 weeks as may be determined in accordance with sections 97 to 104 of this Act if—
  - (a) he has become incapable of work through his own misconduct; or
  - (b) he fails without good cause to attend for, or to submit himself to, such medical or other examination or treatment as may be required in accordance with the regulations, or to observe any prescribed rules of behaviour.

### **37 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



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- (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.
- (2) 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.
- (3) A person shall not be entitled to an allowance under this section if he is under the age of 16 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.
- (4) 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.
- (5) Subject to subsection (6) below, a person who has attained pensionable age shall not be entitled to an allowance under this section unless he was so entitled (or is treated by regulations as having been so entitled) immediately before attaining that age.
- (6) Regulations may make provision whereby a person who has attained retiring age (meaning 70 in the case of a man and 65 in the case of a woman), and was entitled to an allowance under this section immediately before attaining that age, continues so be so entitled notwithstanding that he is not caring for a severely disabled person or no longer satisfies the requirements of subsection (1)(a) or (b) above.
- (7) 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.
- (8) 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.
- (9) An invalid care allowance shall be payable at the weekly rate specified in relation thereto in Schedule 4, Part III, paragraph 3.

## **38 Guardian's allowance**

- (1) Subject to the provisions of this Act (and in particular to those of section 43 imposing limitations on payment of benefit in respect of children), a person shall be entitled to a guardian's allowance at the weekly rate specified in relation thereto in Schedule 4, Part III, paragraph 4, in respect of a child of his family, where the circumstances are any of those specified in subsection (2) below.
- (2) The circumstances referred to in subsection (1) are—
  - (a) that both of the child's parents are dead; or

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- (b) that one of the child's parents is dead and the person claiming a guardian's allowance shows that he was at the date of the death unaware of, and has failed after all reasonable efforts to discover, the whereabouts of the other parent; or
  - (c) that one of the child's parents is dead and the other is in prison.
- (3) There shall be no entitlement to a guardian's allowance in respect of a child unless at least one of the child's parents satisfies, or immediately before his death satisfied, such conditions as may be prescribed as to nationality, residence, place of birth or other matters.
- (4) Regulations—
  - (a) may modify subsection (2) or (3) above in relation to cases in which a child has been adopted or is illegitimate, or the marriage of a child's parents has been terminated by divorce;
  - (b) shall prescribe the circumstances in which a person is to be treated for the purposes of this section as being in prison (by reference to his undergoing a sentence of imprisonment for life or of a prescribed minimum duration, or to his being in legal custody in prescribed circumstances); and
  - (c) may, for cases where entitlement to a guardian's allowance is established by reference to a person being in prison, provide—
    - (i) for requiring him to pay to the National Insurance Fund sums paid by way of a guardian's allowance;
    - (ii) for suspending payment of an allowance where a conviction, sentence or order of a court is subject to appeal, and for matters arising from the decision of an appeal;
    - (iii) for the cases in which a child is to be treated as a child of the claimant's family; and
    - (iv) for reducing the rate of an allowance in cases where the person in prison contributes to the cost of providing for the child.
- (5) In the case of a child who is a child of the family of a man and his wife, the wife only shall be entitled to a guardian's allowance; but subsections (2) to (6) of section 4 of the Family Allowances Act (which specify the persons who are to receive an allowance under that Act payable in respect of such a child) shall apply in relation to a guardian's allowance as they apply in relation to an allowance under that Act.
- (6) No person shall be entitled to a guardian's allowance in respect of a child of which he or she is the parent.

## 39 Retirement benefits for the aged

- (1) Subject to the provisions of this Act—
  - (a) a person who was over pensionable age on 5th July 1948 and satisfies such conditions as may be prescribed shall be entitled to a Category C retirement pension at the appropriate weekly rate;
  - (b) a woman whose husband is entitled to a Category C retirement pension shall, if she is over pensionable age and has retired from regular employment and satisfies such other conditions as may be prescribed, be entitled to such a pension at the appropriate weekly rate; and
  - (c) a person who is over the age of 80 and satisfies such conditions as may be prescribed shall be entitled to a Category D retirement pension at the appropriate weekly rate if—

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- (i) he is not entitled to a Category A, Category B or Category C retirement pension; or
  - (ii) he is entitled to such a pension but it is payable at a weekly rate which, disregarding any increase (for dependants) under section 41, 45 or 46, is less than the appropriate weekly rate.
- (2) The appropriate weekly rate of a Category C or Category D retirement pension—
  - (a) shall be the lower rate specified in relation thereto in Schedule 4, Part III, paragraph 5, where—
    - (i) the pensioner is a married woman, and
    - (ii) she has not, at any time since she became entitled to her pension, ceased to be a married woman; and
  - (b) shall be the higher rate so specified in any other case.
- (3) A Category C or Category D retirement pension shall be payable for the pensioner's life.
- (4) Regulations may provide for the payment—
  - (a) to a widow whose husband was over pensionable age on 5th July 1948 ; or
  - (b) to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death,of a Category C retirement pension, or of benefit corresponding to a widow's pension or a widowed mother's allowance; and any such pension or benefit shall be at the prescribed rate.

#### **40 Age addition**

- (1) A person who is over the age of 80 and entitled to a retirement pension of any category shall be entitled to an increase of the pension, known as age addition.
- (2) Where a person is in receipt of a pension or allowance payable by the Secretary of State by virtue of any prescribed enactment or instrument (whether passed or made before or after this Act) and—
  - (a) he is over the age of 80; and
  - (b) he fulfils such other conditions as may be prescribed,he shall be entitled to an increase of that pension or allowance, also known as age addition.
- (3) Age addition shall be payable for the life of the person entitled, at the weekly rate specified in relation thereto in Schedule 4, Part III, paragraph 6.

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## CHAPTER III

### INCREASES FOR DEPENDANTS

#### *Child dependants*

#### **41 Beneficiary's dependent children**

- (1) Subject to section 30(1) of this Act and to the following provisions of this Part, the weekly rate of any benefit to which this subsection applies shall, for any period for which the beneficiary has a family which includes a child or children, be increased in respect of that child, or each respectively of those children, by the appropriate amount specified in relation to the benefit in question in Schedule 4, Part IV, column (2) or (3).
- (2) Subsection (1) above applies to—
  - (a) unemployment benefit;
  - (b) sickness benefit;
  - (c) invalidity pension;
  - (d) maternity allowance;
  - (e) widow's allowance; and
  - (f) Category A, B or C retirement pension.
- (3) In the application of subsection (1) of this section to a maternity allowance, references to a child or children shall include references to any child or children born to the beneficiary on the occasion of the confinement by reason of whose actual or expected occurrence she became entitled to the allowance.
- (4) Subject to section 43 below, the weekly rate of a widowed mother's allowance payable by virtue of section 25(1)(a) shall be increased for any period in respect of the child or, if more than one, each respectively of the children falling within paragraph (a), (b) or (c) of section 25(2) for the time being included in her family by the appropriate amount specified in relation to that allowance in Schedule 4, Part IV, column (2) or (3).
- (5) Subject to section 43, the weekly rate of a child's special allowance shall, for any period for which the beneficiary has a family which includes 2 or more children with respect to whom the conditions specified in section 31(6) and (c) are satisfied, be increased in respect of each respectively of those children other than the elder or eldest by the appropriate amount specified in relation to that allowance in Schedule 4, Part IV, column (3).
- (6) Where the beneficiary by whom an increase of benefit under this section is claimed is a married woman residing with her husband, it shall be an additional condition with respect to receipt of that increase that her husband is incapable of self-support.

#### **42 Additional provisions as to increase under s.41**

- (1) This section has effect with respect to increases under section 41 of this Act of benefits other than a child's special allowance.
- (2) Subject to section 43, a child of the family of a woman for the time being residing with the beneficiary is to be treated for the purposes of section 41 as a child of the beneficiary's family if the child—
  - (a) is an illegitimate son or daughter of theirs; or

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- (b) was born not less than 6 months before the day for which the increase provided for by that section is claimed and was wholly or mainly maintained by the beneficiary throughout the 6 months ending immediately before that day.
  - (3) Subject to section 43, where a man is entitled to unemployment benefit, sickness benefit, an invalidity pension, or a Category A or C retirement pension, there is to be treated for the purposes of section 41 as included in the beneficiary's family—
    - (a) a child who, on the day for which the increase provided by section 41 is claimed, could (though not otherwise included in the beneficiary's family) have been treated as so included by virtue of paragraph 3 of the Schedule to the Family Allowances Act; and
    - (b) a child who could have been so treated but for the fact that the beneficiary is contributing at the appropriate rate to the cost of providing for the child;
- and "the appropriate rate" is a weekly rate which, though not less than the prescribed rate, is less than the minimum rate for the time being required for the purposes of section 3(2) of the Family Allowances Act.
- (4) In the case of retirement pensions (except Category D)—
    - (a) where a man and his wife are both entitled to a retirement pension (being a Category A or C pension in his case and a Category B or C pension in hers)—
      - (i) they shall not both be entitled for the same period to an increase under section 41(1) in respect of the same child, nor shall they both be entitled for the same period, in respect of different children, to such an increase at the rate applicable to an only, elder or eldest child ;
      - (ii) where one of them is entitled to such an increase at the rate above mentioned in respect of a child not included or treated as included in the other's family, the rates of any such increases to which the other is entitled shall be the rates which would have been appropriate if that child had been the elder or eldest child of the other's family;
    - (b) for any reference in subsection (2) above to the day for which the increase provided for by section 41 is claimed there shall be substituted a reference to the date of retirement or, where the beneficiary is a woman who became entitled to the pension without having retired, the date when she so became entitled;

and where, but for paragraph (a) above, a man and his wife would both be entitled to an increase of a retirement pension under section 41(1), regulations may make provision as to their priority.

#### **43 Limits of increase for dependent children**

- (1) Where, apart from this subsection, a person is entitled to receive, in respect of a particular child who is, or who falls to be treated for the purposes of the relevant provision as, a child of that person's family, payment of an amount by way of a child's special allowance under section 31, or a guardian's allowance under section 38, or of any increase under section 41 of any benefit, that amount shall not be payable unless one of the following conditions is satisfied—
  - (a) that the child in question is living with the beneficiary; or
  - (b) that the requisite contributions are being made to the cost of providing for the child.
- (2) The condition specified in subsection (1)(b) above is to be treated as satisfied if, but only if—

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- (a) such contributions are being made at a weekly rate not less than the amount referred to in subsection (1)—
    - (i) by the beneficiary, or
    - (ii) where the beneficiary is one of two spouses living together, by them together; and
  - (b) where an allowance under the Family Allowances Act is payable in respect of the child as a child of the beneficiary's family, the contributions are over and above those required for the purposes of satisfying section 3(2) of that Act or (as the case may be) the Schedule to that Act, paragraph 1(1), proviso.
- (3) For the purposes of subsection (1) above, a child's special allowance is to be treated as a payment in respect of an only, or the elder or eldest, child with respect to whom the conditions specified in section 31(6) and (c) of this Act are satisfied, without prejudice, however, to any payment by way of an increase of the allowance in respect of any other such child under section 41(5).
- (4) Where a person is entitled in respect of a child to a guardian's allowance under section 38, the amount (if any) payable to that or any other person by way of any other benefit under Chapters I to III of this Part of this Act in respect of children of any family shall be such, and such only, as would be payable if the first-mentioned child were not included or treated as included in any family.

#### *Adult dependants*

#### **44 Short term benefit: increase for adult dependants**

- (1) Subject to the provisions of this section, the weekly rate of unemployment benefit or sickness benefit shall be increased by the amount specified in relation to the benefit in question in Schedule 4, Part IV, column (4), for any period during which—
- (a) the beneficiary is—
    - (i) residing with his wife, or
    - (ii) contributing to the maintenance of his wife at a weekly rate not less than that amount; and
  - (b) his wife is not engaged in any one or more employments from which her weekly earnings exceed that amount.
- (2) Subject to the following subsections, the weekly rate—
- (a) of unemployment benefit or sickness benefit in the case of a beneficiary not entitled to an increase under subsection (1) above ; and
  - (b) of a maternity allowance in any case,
- shall be increased by the amount specified in relation to the benefit in question in Schedule 4, Part IV, column (4) for any of the periods mentioned in subsection (3) below.
- (3) Those periods are—
- (a) any period during which the beneficiary's husband is incapable of self-support and either they are residing together or she is contributing to his maintenance at a weekly rate not less than the amount so specified;
  - (b) any period during which the beneficiary has residing with him, and is wholly or mainly maintaining, such other relative as may be prescribed, being a

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- relative in relation to whom such further conditions as may be prescribed are fulfilled ;
- (c) any period during which some female person (not a child) has the care of a child or children of the beneficiary's family, or of a child or children treated as such for the purposes of section 41, being a person in relation to whom such further conditions as may be prescribed are fulfilled.
- (4) A beneficiary shall not under subsection (2) above be entitled for the same period to an increase of benefit in respect of more than one person.
- (5) Where a person is entitled to unemployment benefit or sickness benefit under section 14(2)(b) or (c)—
- (a) he shall not be entitled to an increase under subsection (2) above in respect of any such period as is mentioned in paragraph' (a) or (b) of subsection (3) above; and
- (b) if he would have been entitled only by virtue of section 33 to the retirement pension by reference to which the weekly rate of the unemployment benefit or sickness benefit is determined, the amount of any increase under this section of that weekly rate shall be that which would have been applicable by virtue of that section in the case of such an increase of the weekly rate of that pension.
- (6) In this section, " relative " does not include any person who is a child.

#### **45 Pension increase (wife)**

- (1) This section applies to—
- (a) a Category A or Category C retirement pension;
- (b) an invalidity pension.
- (2) Subject to the following provisions, the weekly rate of a pension to which this section applies, when payable to a man, shall be increased by the amount respectively specified in relation to the relevant pension in Schedule 4, Part IV, column (4)—
- (a) for any period during which the pensioner is residing with his wife; or
- (b) for any period during which the pensioner is contributing to the maintenance of his wife at a weekly rate not less than that amount, and his wife is not engaged in any one or more employments from which her weekly earnings exceed that amount.
- (3) Where the pensioner is residing with his wife, and the earnings of his wife for the week ending last before any week for which he is entitled to benefit under this section exceeded £20, the weekly rate of benefit under this section shall for the last-mentioned week be reduced—
- (a) where the excess is less than £4, by 5 pence for each complete 10 pence of the excess; and
- (b) where the excess is not less than £4, by 5 pence for each complete 10 pence of the excess up to £4 and by 5 pence for each complete 5 pence of any further excess.

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

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- (4) With effect from such day as may be prescribed in the week containing 6th April in a year mentioned in the first column below, subsection (3) above 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.

#### **46 Pension increase (female with care of children)**

- (1) This section applies to—
- (a) a Category A retirement pension;
  - (b) a Category C retirement pension by virtue of section 39(1)(a);
  - (c) an invalidity pension.
- (2) Subject to the following provisions, the weekly rate of a pension to which this section applies shall be increased by the amount specified in Schedule 4, Part IV, column (4), for any period during which some female person (not a child) has the care of a child or children of the pensioner's family, or of a child or children treated as such for the purposes of section 41.
- (3) Subsection (2) above shall not apply if the pensioner is a man whose wife is entitled to a Category B retirement pension, or to a Category C retirement pension by virtue of section 39(1)(6), or in such other cases as may be prescribed.
- (4) Regulations may, in a case within subsection (2) above in which the female person there referred to is residing with the pensioner and fulfils such further conditions as may be prescribed, authorise an increase of benefit under this section, but subject to a reduction in respect of the female person's earnings, other than such of her earnings from employment by the pensioner as may be prescribed, comparable to the reduction under section 45(3) above.

#### **47 Invalidity pension (dependant relative)**

- (1) Subject to subsection (2) below, the weekly rate of an: invalidity pension shall be increased by the amount specified in Schedule 4, Part IV, column (4)—
- (a) for any period during which the pensioner's husband is incapable of self-support and either they are residing together or she is contributing to his maintenance at a weekly rate not less than the amount so specified; or
  - (b) for any period during which the pensioner has residing with him and is wholly or mainly maintaining such other relative as may be prescribed, being a relative in relation to whom such further conditions as may be prescribed are fulfilled.

In this subsection " relative " does not include any person who is a child.

- (2) Where a person is entitled to an invalidity pension at a weekly rate determined under section 15(4) of this Act—
- (a) subsection (1) above does not apply ; and
  - (b) if the pensioner would have been entitled only by virtue of section 33 to the retirement pension by reference to which the weekly rate of the invalidity



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pension is determined, the amount of an increase under this section of that weekly rate shall be that which would have been applicable by virtue of that section in the case of such an increase of the weekly rate of that pension.

#### **48 Pension increases supplementary provisions**

- (1) A pensioner shall not under sections 45 to 47 above be entitled for the same period to an increase of benefit in respect of more than one person.
- (2) Sections 45 and 46 above, as they relate to the amount of the increase of a retirement pension, have effect subject to section 30(1) of this Act (earnings rule); and any reduction to be made under that subsection shall be made, so far as necessary—
  - (a) first, against the amount of the benefit set out in Schedule 4, Part I, plus any increase under section 28(4) or (5) or 29(10);
  - (b) secondly, against the increase under section 45 or 46 and before any reduction to be made under section 45(3); and
  - (c) lastly, against any increase under section 41.

#### *Increase of certain non-contributory benefits*

#### **49 Beneficiaries under ss.36 and 37**

The weekly rates—

- (a) of a non-contributory invalidity pension ; and
- (b) of an invalid care allowance;

shall, in such circumstances as may be prescribed, be increased for child or adult dependants by the appropriate amount specified in relation thereto in Schedule 4, Part IV.

### **CHAPTER IV**

#### **BENEFIT FOR INDUSTRIAL INJURIES**

#### *General provisions as to benefit*

#### **50 Descriptions of industrial injuries benefits**

- (1) Subject to the provisions of this Act, where an employed earner suffers personal injury caused after 4th July 1948 by accident arising out of and in the course of his employment, being employed earner's employment, there shall be payable to or in respect of him the industrial injuries benefits specified below in this section.
- (2) The benefits are—
  - (a) injury benefit, payable to the earner in accordance with section 56 below if during the period specified in subsection (4) of that section he is, as the result of the injury, incapable of work ;
  - (b) disablement benefit (by way of gratuity or pension), payable to the earner in accordance with sections 57 to 63 below if he suffers, as the result of the injury, from loss of physical or mental faculty ;

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- (c) industrial death benefit, payable in accordance with sections 67 to 75 below to the person specified in those sections, if the earner dies as a result of the injury.
- (3) For the purposes of this Chapter, an accident arising in the course of an employed earner's employment shall be deemed, in the absence of evidence to the contrary, also to have arisen out of that employment.
- (4) Regulations may provide for treating an employed earner for the purposes of this Chapter as incapable of work as the result of an accident or injury when he would not be so treated apart from the regulations, and may also make provision—
  - (a) as to the days which, in the case of an employed earner who at any time is or is to be treated as incapable of work as the result of an accident or injury, are or are not to be treated for the purposes of industrial injuries benefit as days of incapacity for work; and
  - (b) as to the day which, in the case of night workers and other special cases, is to be treated for the purpose of such benefit as the day of the accident.
- (5) Subject to sections 129, 131 and 132 of this Act (mariners, airmen, continental shelf workers and others), industrial injuries benefit shall not be payable in respect of an accident happening while the earner is outside Great Britain.

## **51 Relevant employments**

- (1) In this Chapter and Chapter V below "employed earner's employment" shall be taken to include any employment by virtue of which a person is, or is treated by regulations as being for the purposes of industrial injuries benefit, an employed earner.
- (2) Regulations may provide for any prescribed employment not to be treated for the purposes of industrial injuries benefit as employed earner's employment notwithstanding that it would be so treated apart from the regulations.
- (3) For the purposes of this Chapter an employment shall be an employed earner's employment in relation to an accident if (and only if) it is, or is treated by regulations as being, such an employment when the accident occurs.

## **52 Earner acting in breach of regulations, etc.**

An accident shall be deemed to arise out of and in the course of an employed earner's employment, notwithstanding that he is at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment, or of any orders given by or on behalf of his employer, or that he is acting without instructions from his employer, if—

- (a) the accident would have been deemed so to have arisen had the act not been done in contravention of any such regulations or orders, or without such instructions, as the case may be; and
- (b) the act is done for the purposes of and in connection with the employer's trade or business.

## **53 Earner travelling in employer's transport**

- (1) An accident happening while an employed earner is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to

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'travel by that vehicle, be deemed to arise out of and in the course of his employment if—

- (a) the accident would have been deemed so to have arisen had he been under such an obligation ; and
- (b) at the time of the accident, the vehicle—
  - (i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer; and
  - (ii) is not being operated in the ordinary course of a public transport service.

(2) In this section references to a vehicle include a ship, vessel, hovercraft or aircraft.

#### **54 Accidents happening while meeting emergency**

An accident happening to an employed earner in or about any premises at which he is for the time being employed for the purposes of his employer's trade or business shall be deemed to arise out of and in the course of his employment if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

#### **55 Accident caused by another's misconduct, etc.**

- (1) An accident shall be treated for the purposes of this Chapter, where it would not apart from this section be so treated, as arising out of an employed earner's employment if—
- (a) the accident arises in the course of the employment; and
  - (b) the accident either is caused by another person's misconduct, skylarking or negligence, or by steps taken in consequence of any such misconduct, skylarking or negligence, or by the behaviour or presence of an animal (including a bird, fish or insect), or is caused by or consists in the employed earner being struck by any object or by lightning ; and
  - (c) the employed earner did not directly or indirectly induce or contribute to the happening of the accident by his conduct outside the employment or by any act not incidental to the employment.
- (2) This section applies only to accidents happening after 19th December 1961.

### *Injury benefit*

#### **56 Injury benefit**

- (1) Subject to the provisions of this section, an employed earner shall be entitled to injury benefit in respect of any day during the injury benefit period on which, as the result of the relevant injury, he is incapable of work.
- (2) In this Chapter " work ", in the contexts " incapable of work " and " incapacity for work ", means work which the person in question can reasonably be expected to do.
- (3) Injury benefit shall be an allowance payable at the appropriate weekly rate specified in Schedule 4, Part V, paragraph 1; and the amount payable for any day of incapacity shall be 1 /6th of the weekly rate.

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- (4) " The injury benefit period " means, in relation to an accident, the period of 156 days (disregarding Sundays) beginning with the day of the accident, or the part of that period for which, under section 57(4) below, disablement benefit in respect of the accident is not available to the earner.
- (5) There is no entitlement to injury benefit in respect of any day during the injury benefit period—
  - (a) unless that day forms part of a period of interruption of employment; or
  - (b) where that day is one of the first 3 days of a period of interruption of employment.
- (6) Section 17(1) of this Act (days for which benefit is payable), and any regulations made under section 17(1) or (2), have effect for the purposes of injury benefit as for those of unemployment benefit or sickness benefit.
- (7) A person who has not attained school-leaving age shall not be entitled to injury benefit, except as may be provided by regulations.

### *Disablement benefit*

## **57      Disablement gratuity and pension**

- (1) Subject to the provisions of this section, an employed earner shall be entitled to disablement benefit if he suffers as the result of the relevant accident from loss of physical or mental faculty such that the assessed extent of the resulting disablement amounts to not less than 1 per cent.
- (2) In this Act, references to loss of physical faculty include disfigurement, whether or not accompanied, by any actual loss of faculty.
- (3) " Assessed " means assessed in accordance with Schedule 8 to this Act; and for the purposes of that Schedule there shall be deemed not to be any relevant loss of faculty when the extent of the resulting disablement, if so assessed, would not amount to 1 per cent.
- (4) Disablement benefit shall not be available to a person until after the third day of the period of 156 days (disregarding Sundays) beginning with the day of the relevant accident nor until after the last day (if any) of that period on which he is incapable of work as the result of the relevant accident:

Provided that, where he makes a claim for disablement benefit in respect of the accident before the end of that period and does not withdraw it before it is finally determined, then if on any day of that period not earlier than the making of the claim he is not so incapable of work, the fact that he is or may be so incapable on a subsequent day of the period shall be disregarded for the purposes of this subsection.

- (5) Where the extent of the disablement is assessed for the period taken into account as amounting to less than 20 per cent., disablement benefit shall be a disablement gratuity—
  - (a) of an amount fixed, in accordance with the length of the period and the degree of the disablement, by a prescribed scale, but not in any case exceeding the amount specified in Schedule 4, Part V, paragraph 2; and
  - (b) payable, if and in such cases as regulations so provide, by instalments.

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- (6) Where the extent of the disablement is assessed for the period taken into account as amounting to 20 per cent. or more, disablement benefit shall be a disablement pension for that period payable at the appropriate weekly rate specified in Schedule 4, Part V, paragraph 3:

Provided that where that period is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before that date.

## **58 Unemployability supplement**

- (1) The weekly rate of a disablement pension shall, if as the result of the relevant loss of faculty the beneficiary is incapable of work and likely to remain so permanently, be increased by the appropriate amount specified in Schedule 4, Part V, paragraph 4.
- (2) An increase of pension under this section is referred to in this Act as an "unemployability supplement".
- (3) For the purposes of this section, a person may be treated as being incapable of work and likely to remain so permanently, notwithstanding that the loss of faculty is not such as to prevent him being capable of work, if it is likely to prevent his earnings in a year exceeding a prescribed amount not less than £104.
- (4) An unemployability supplement shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

## **59 Increase of unemployability supplement**

- (1) If on the qualifying date the beneficiary was—
- (a) a man under the age of 60, or
  - (b) a woman under the age of 55,
- the weekly rate of unemployability supplement shall be increased by the appropriate amount specified in Schedule 4, Part V, paragraph 5.
- (2) In this section "the qualifying date" means, subject to subsections (3) and (4) below, the beginning of the first week for which the beneficiary qualified for unemployability supplement.
- (3) If the incapacity for work in respect of which unemployability supplement is payable forms part of a period of interruption of employment which has continued from a date earlier than the date fixed under subsection (2) above, the qualifying date means the first day in that period which is a day of incapacity for work, or such earlier day as may be prescribed.
- (4) Subject to subsection (3) above, if there have been two or more periods for which the beneficiary was entitled to unemployability supplement, the qualifying date shall be, in relation to unemployability supplement for a day in any one of those periods, the beginning of the first week of that period.
- For the purposes of this subsection a break of more than 13 weeks in entitlement to unemployability supplement means that the periods before and after the break are different periods, and a break of 13 weeks or less is to be disregarded.
- (5) In this section "period of interruption of employment" has the same meaning as it has for the purposes of unemployment benefit.

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## **60 Increase of disablement pension for special hardship**

- (1) The weekly rate of a disablement pension shall, subject to the following provisions of this section, be increased by an amount not exceeding the appropriate amount specified in Schedule 4, Part V, paragraph 6, if as the result of the relevant loss of faculty the beneficiary—
  - (a) is incapable, and likely to remain permanently incapable, of following his regular occupation ; and
  - (b) is incapable of following employment of an equivalent standard which is suitable in his case,or if as the result of the relevant loss of faculty the beneficiary is, and has at all times since the end of the injury benefit period been, incapable of following that occupation or any such employment.
- (2) In subsection (1) above—
  - (a) the reference to a person's regular occupation is to be taken as not including any subsidiary occupation of his;
  - (b) the reference to employment of an equivalent standard is to be taken as not including employment other than employed earner's employment;and in assessing the standard of remuneration in any employment, including a person's regular occupation, regard is to be had to his reasonable prospects of advancement.
- (3) For the purposes of this section, a person's regular occupation is to be treated as extending to and including employment in the capacities to which the persons in that occupation (or a class or description of them to which he belonged at the time of the relevant accident) are in the normal course advanced, and to which, if he had continued to follow that occupation without having suffered the relevant loss of faculty, he would have had at least the normal prospects of advancement; and so long as he is, as a result of the relevant loss of faculty, deprived in whole or in part of those prospects, he is to be treated as incapable of following that occupation.
- (4) Regulations may for the purposes of this section provide that a person is not to be treated as capable of following an occupation or employment merely because of his working thereat during a period of trial or for purposes of rehabilitation or training or in other prescribed circumstances.
- (5) An unemployability supplement and an increase of pension under this section shall not be payable for the same period.
- (6) Subject to subsection (5) above, an increase of pension under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time, and the amount of the increase shall be determined by reference to the beneficiary's probable standard of remuneration during the period for which it is granted in the employed earner's employments, if any, which are suitable in his case and which he is likely to be capable of following as compared with that in his regular occupation within the meaning of subsection (1) above.
- (7) Regulations may make as respects a disablement gratuity provision corresponding to that made by this section as respects a disablement pension, and may include provision for payment of a pension in lieu of a gratuity.

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## **61 Increase where constant attendance needed**

- (1) Where a disablement pension is payable in respect of an assessment of 100 per cent., then, if as the result of the relevant loss of faculty the beneficiary requires constant attendance, the weekly rate of the pension shall be increased by an amount, not exceeding the appropriate amount specified in Schedule 4, Part V, paragraph 7, determined in accordance with regulations by reference to the extent and nature of the attendance required by the beneficiary.
- (2) An increase of pension under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

## **62 Increase during hospital treatment**

- (1) Where a person is awarded disablement benefit but the extent of his disablement is assessed for the period taken into account by the assessment at less than 100 per cent., it shall be treated as assessed at 100 per cent. for any part of that period, whether before or after the making of the assessment or the award of benefit, during which he receives, as an in-patient in a hospital or similar institution, medical treatment for the relevant injury or loss of faculty.
- (2) Where the extent of the disablement is assessed for that period at less than 20 per cent., subsection (1) above shall not affect the operation of section 57(5) of this Act; but, in the case of a disablement pension payable by virtue of this section to a person awarded a disablement gratuity wholly or partly in respect of the same period, the weekly rate of the pension (after allowing for any increase under this Chapter) shall be reduced by the amount prescribed as being the weekly value of his gratuity.

## **63 Increase for exceptionally severe disablement**

- (1) Where a disablement pension is payable to a person under section 57(6) above, and—
  - (a) the person is or, but for having received medical or other treatment as an in-patient in a hospital or similar institution, would be entitled to an increase of the weekly rate of the pension under section 61, and the weekly rate of the increase exceeds the amount specified in Schedule 4, Part V, paragraph 7(a); and
  - (b) his need for constant attendance of an extent and nature qualifying him for such an increase at a weekly rate in excess of that amount is likely to be permanent,the weekly rate of the pension shall, in addition to any increase under section 61, be further increased by the amount specified in Schedule 4, Part V, paragraph 8.
- (2) An increase under this section shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

### *Increases for dependants*

## **64 Beneficiary's dependent children**

- (1) Subject to the provisions of this section and section 62 below, the weekly rate—
  - (a) of injury benefit; or

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- (b) of a disablement pension where the beneficiary is entitled to an unemployability supplement,

shall be increased for any period during which the beneficiary has a family which includes a child or children.
- (2) The amount or amounts of the increase shall be—
  - (a) in the case of injury benefit, as specified in Schedule 4, Part V, paragraph 9 ; and
  - (b) in the case of a disablement pension, as specified in Schedule 4, Part V, paragraph 10.
- (3) A child of the family of a woman for the time being residing with the beneficiary is to be treated for the purposes of this section as a child of the beneficiary's family if the child either—
  - (a) is an illegitimate son or daughter of theirs ; or
  - (b) was born not less than 6 months before the day for which the increase under this section is claimed and was wholly or mainly maintained by the beneficiary throughout the 6 months ending immediately before that day.
- (4) Subject to section 65 below, where a man is entitled to injury benefit or a disablement pension, there is to be treated as included in the beneficiary's family for the purposes of this section—
  - (a) a child who, on the day for which the increase provided by subsection (1) above is claimed, could (though not otherwise included in the beneficiary's family) have been treated as so included by virtue of paragraph 3 of the Schedule to the Family Allowances Act; and
  - (b) a child who could have been so treated but for the fact that the beneficiary is contributing at the appropriate rate to the cost of providing for the child;

and " the appropriate rate" means a weekly rate which, though not less than the prescribed rate, is less than the minimum rate for the time being required for the purposes of section 3(2) of that Act.

## **65 Additional provisions as to increase under s.64**

- (1) An increase under section 64 above of any amount in respect of a particular child shall for any period be payable only if during that period one or other of the following conditions is satisfied with respect to the child—
  - (a) the child is living with the beneficiary; or
  - (b) the requisite contributions are being made to the cost of providing for the child.
- (2) The condition specified in subsection (2)(b) above is to be treated as satisfied if, and only if—
  - (a) such contributions are being made at a weekly rate not less than the amount referred to in subsection (1)—
    - (i) by the beneficiary, or
    - (ii) where the beneficiary is one of two spouses living together, by them together; and
  - (b) where an allowance under the Family Allowances Act is payable in respect of the child as a child of the beneficiary's family, the contributions are over and above those required for the purposes of satisfying section 3(2) of that Act or (as the case may be) the Schedule to that Act, paragraph 1(1), proviso.



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- (3) Where a person is entitled in respect of a child to a guardian's allowance (section 38), the amount (if any) payable to that or any other person by way of an increase under section 64 of any benefit shall be such, and such only, as would be payable if that child were not included or treated as included in any family.
- (4) A married woman shall not be entitled to an increase under section 64 of the weekly rate of injury benefit or a disablement pension for any period during which she is residing with her husband and he is not incapable of self-support.

## **66 Adult dependants**

- (1) The weekly rate of injury benefit, and of a disablement pension where the beneficiary is entitled to an unemployability supplement, shall be increased under this section for any period during which—
  - (a) the beneficiary is—
    - (i) residing with his wife, or
    - (ii) contributing to the maintenance of his wife at the requisite rate ; or
  - (b) the beneficiary's husband is incapable of self-support, and either they are residing together or she is contributing to his maintenance at the requisite rate ; or
  - (c) the beneficiary has residing with him and is wholly or mainly maintaining any such other relative as may be prescribed, being a relative in relation to whom such further conditions as may be prescribed are fulfilled; or
  - (d) some female person (not a child) has the care of a child or children of the beneficiary's family, or of a child or children treated as such for the purposes of section 64 above, being a person in relation to whom such further conditions as may be prescribed are fulfilled.
- (2) The amount of the increase under this section shall be—
  - (a) in the case of injury benefit, that specified in Schedule 4, Part V, paragraph 11;
  - (b) in the case of a disablement pension, that specified in Schedule 4, Part V, paragraph 12 ;and the requisite rate for the purposes of subsection (1)(a) and (b) above is a weekly rate not less than that amount.
- (3) Regulations may provide that a beneficiary is not to be entitled to an increase of benefit under this section in respect of a wife or husband where the earnings of the wife or husband (calculated or estimated in the prescribed manner and on the prescribed basis) exceed the prescribed amount.
- (4) Where the beneficiary is entitled to an unemployability supplement and is residing with his wife, and the earnings of his wife for the calendar week ending last before any week for which he is entitled to benefit under this section exceeded £20, the weekly rate of benefit under this section shall for the last-mentioned week be reduced—
  - (a) where the excess is less than £4, by 5 pence for each complete 10 pence of the excess ; and
  - (b) where the excess is not less than £4, by 5 pence for each complete 10 pence of the excess up to £4 and by 5 pence for each complete 5 pence of any further excess.
- (5) With effect from such day as may be prescribed in the week containing 6th April in a year mentioned in the first column below, subsection (4) above shall have effect with

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the substitution for " £20 " of the amount specified in relation to that year in the second column below—

1976	£35
1977	£50

- (6) Regulations under subsection (3) above—
- (a) shall not restrict the amount of benefit in a case within subsection (4);
  - (b) may, in a case within subsection (1)(d) in which the female person is residing with a beneficiary entitled to unemployability supplement, and fulfils such further conditions as may be prescribed, authorise an increase of benefit under this section, but subject to a reduction in respect of the female person's earnings, other than such of her earnings from employment by the beneficiary as may be prescribed, comparable to the reduction in subsection (4);
  - (c) may, in connection with any reduction of benefit in respect of earnings, prescribe the method of calculating or estimating the earnings.
- (7) A beneficiary shall not be entitled to an increase of benefit under this section in respect of more than one person for the same period.
- (8) In this section " relative " does not include any person who is a child.

#### *Industrial death benefit*

### **67 Widow's benefit (entitlement)**

- (1) The widow of the deceased shall be entitled to death benefit if at his death either—
- (a) she was residing with him, or
  - (b) she was receiving or entitled to receive, or would but for the relevant accident have been receiving or entitled to receive, from him periodical payments for her maintenance of not less than the prescribed amount.
- (2) In the case of a widow, death benefit shall be—
- (a) a pension commencing from the death of the deceased and payable, at the weekly rate for the time being applicable under section 68 below, for life or until she remarries; and
  - (b) a gratuity, payable on the termination of the pension in consequence of her remarriage, of an amount equal to 52 times the weekly rate of the pension to which she was then entitled:

Provided that a pension under this section shall not be payable for any period during which the beneficiary is cohabiting with a man not her husband.

- (3) In this section—
- (a) references to a widow receiving or being entitled to receive payments from the deceased are only to her receiving or being entitled to receive (whether from him or from another) payments provided or procured by the deceased ; and
  - (b) "entitled" means, in relation to any such payments, entitled under any order of a court, trust or agreement which the widow has taken reasonable steps to enforce.

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## **68 Widow's benefit (rate)**

- (1) The weekly rate of a pension payable under section 67 above shall, for the period of 26 weeks next following the deceased's death, be the initial rate specified in Schedule 4, Part V, paragraph 13(a).
- (2) The weekly rate of the pension shall, after the end of that period, be the higher permanent rate specified in Schedule 4, Part V, paragraph 13(6)—
  - (a) for any period for which the widow is entitled, or is treated by regulations as entitled, to an allowance under section 70 below in respect of a child of the deceased's family; or
  - (b) where the widow was over the age of 50 at the deceased's death or was over the age of 40 at the end of the period for which she was entitled to such an allowance; or
  - (c) where the widow at the deceased's death was permanently incapable of self-support; or
  - (d) while the widow is pregnant by the deceased.
- (3) After the end of the period of 26 weeks referred to in subsection (1) above, the weekly rate of the pension shall, in any case not within subsection (2), be the lower permanent rate specified in Schedule 4, Part V, paragraph 13(c).

## **69 Widower's benefit (entitlement and rate)**

- (1) The widower of the deceased shall be entitled to death benefit if at her death he—
  - (a) was being wholly or mainly maintained by her or would but for the relevant accident have been so maintained ; and
  - (b) was permanently incapable of self-support.
- (2) In the case of a widower, death benefit shall be a pension at the weekly rate specified in Schedule 4, Part V, paragraph 14, commencing from the death of the deceased and payable for life.

## **70 Children of deceased's family**

- (1) Subject to the provisions of this section and Schedule 9 (limits on benefit payable on death), where at his death the deceased had a family which included a child or children, then, for any period during which a person has a family which includes that child or one or more of those children, the person shall be entitled in respect of that child, or in respect of each respectively of those children, to death benefit by way of an allowance at the appropriate weekly rate specified in Schedule 4, Part V, paragraph 15.
- (2) The higher rate specified in Schedule 4, Part V, paragraph 15(a) 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 sections 67 and 68 of this Act; and the lower rate specified in Schedule 4, Part V, paragraph 15(b), shall apply in any other case.
- (3) Subject to subsection (4) below, where the deceased was a man, any of the following are to be treated under this section as having been children of his family at his death—
  - (a) a legitimate son or daughter of his who—
    - (i) at his death was a child of his wife's, but not of his, family; or
    - (ii) is born to him posthumously ;

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- (b) an illegitimate son or daughter of him and any woman residing with him at his death, being a son or daughter who then was a child of her family and was being, or would but for the relevant accident have been, wholly or mainly maintained by him;
  - (c) a child who at the deceased's death was a child of some other person's family but could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as a child of the deceased's family;
  - (d) subject to such exceptions and conditions as may be prescribed, a child who, having at the death of a previous husband of the wife by a marriage which ended with that husband's death been a child of that husband's family, was at the deceased's death a child of the wife's family.
- (4) Subsections (1) to (3) of section 65 of this Act apply in relation to an allowance under subsection (1) above as they apply in relation to an increase of benefit under section 64.

## 71 Parents

- (1) A parent of the deceased shall be entitled to death benefit if at the deceased's death he or she was being to a substantial extent maintained by the deceased, or would but for the relevant accident have been so maintained.
- (2) In the case of a parent who, at the deceased's death, was being wholly or mainly maintained by the deceased, or would but for the relevant accident have been so maintained, death benefit shall be a pension commencing from the death of the deceased and, subject to subsection (3) below, payable for life,
- (3) A pension payable under subsection (2) above to the deceased's mother—
  - (a) shall terminate on her remarriage or marriage; and
  - (b) shall not be payable for any period during which she is cohabiting with a man not her husband,
 unless the man whom she marries or, as the case may be, with whom she is cohabiting is a man with whom she was cohabiting immediately before the deceased's death.
- (4) In the case of a parent entitled to death benefit under subsection (1) above but not to a pension under subsection (2), death benefit shall be a gratuity payable, if and in such cases as regulations so provide, by instalments.
- (5) Subject to section 74 of this Act—
  - (a) the weekly rate of a pension payable to a parent under subsection (2) above shall be 75 pence for any period during which the parents are living together and are both entitled to such a pension (whether in respect of the same or another death), and £1 for any other period;
  - (b) the amount of a gratuity payable to a parent under subsection (4) shall be £52, subject to the provisions of Schedule 9 limiting the benefit payable in respect of any death.
- (6) In this section, "parent" includes a step-parent and a parent by adoption and, in a case where the deceased was illegitimate, his mother; and "mother" shall be construed accordingly.

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## 72 Relatives

- (1) Subject to Schedule 9, any such relative of the deceased as may be prescribed shall be entitled to death benefit if at the deceased's death—
  - (a) the relative was being wholly or mainly maintained by the deceased or would but for the relevant accident have been so maintained ; or
  - (b) the relative was being to a substantial extent maintained by the deceased, or would but for the relevant accident have been so maintained, and—
    - (i) in the case of a man, was permanently incapable of self-support;
    - (ii) in the case of a woman, was herself permanently incapable of self-support or was living with her husband who was permanently so incapable.
- (2) Subject to Schedule 9 and section 74(1)(a), in the case of a relative entitled to death benefit under subsection (1) above, the benefit shall be a pension at the weekly rate of £1 if—
  - (a) the relative fulfils the conditions specified in subsection (1)(a) above; and
  - (b) the relative or, in the case of a married woman living with her husband, she or her husband was at the deceased's death permanently incapable of self-support.
- (3) The pension shall commence from the deceased's death and, subject to subsection (4) below, be payable for such period as may be determined at the time it is granted, but may, if the beneficiary or her husband (as the case may be) continues to be permanently incapable of self-support or, in the husband's case, has died during the continuance of that incapacity, be renewed from time to time.
- (4) The pension shall cease on the death of the beneficiary within the period for which it was granted and, in the case of a woman—
  - (a) shall not be payable for any period during which the beneficiary is cohabiting with a man not her husband; and
  - (b) shall cease on her marriage or remarriage within the period for which it was granted or, where it was granted by virtue of her husband's incapacity, on the termination of their marriage otherwise than by his death or on their ceasing to live together within that period, and shall not thereafter be renewed.
- (5) Subject to Schedule 9 and section 74(1)(b), in the case of a relative entitled to death benefit under subsection (1) above but not to a pension under subsection (2), the benefit shall be—
  - (a) if the relative fulfils the condition specified in subsection (1)(b) but not the condition specified in subsection (1)(a), a gratuity of £52 payable, if and in such cases as regulations so provide, by instalments; and
  - (b) if the relative fulfils the condition specified in subsection (1)(a), an allowance at the weekly rate of £1.80, commencing from the deceased's death and payable for 13 weeks from that death or, if the beneficiary dies within those 13 weeks, until the beneficiary's death.
- (6) In this section " relative " does not include a husband or wife, or a parent within the meaning of section 71 above.
- (7) Notwithstanding subsections (1) to (6) above, a relative who was a child at the deceased's death shall not be entitled to benefit thereunder—
  - (a) until he ceases to be a child ; or

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(b) unless he was at the deceased's death, and is on ceasing to be a child, permanently incapable of self-support;  
 and a pension payable to such a relative under this section shall commence only from the date on which he ceases to be a child.

- (8) Where the deceased was a man, this section applies to a posthumous son or daughter of his (whether legitimate or illegitimate) subject to such modifications as may be prescribed.

### **73 Woman having care of deceased's children**

- (1) Subject to Schedule 9, where at the date of the relevant accident and throughout the period between that date and his death—

- (a) the deceased had a family which included a child or children; and
- (b) a female person (not a child) was residing with the deceased and had the care of the child or one or more of the children,

she shall be entitled to death benefit if she was being wholly or mainly maintained by the deceased at that date and was, or would but for the accident have been, so maintained throughout that period.

- (2) Where the deceased was a man, any illegitimate son or daughter of him and the female person above referred to shall be treated under this section as having been a child of the deceased's family during any part of that period (between the date of the relevant accident and the deceased's death) during which he or she—

- (a) was a child of the female person's family ; and
- (b) was, or would but for the relevant accident have been, wholly or mainly maintained by the deceased.

- (3) Subject to section 85 below (overlapping benefits), benefit under this section shall be an allowance at the weekly rate of £1 commencing from the death of the deceased and payable for any period during which the beneficiary has the care of the child or one or more of the children:

Provided that the allowance—

- (a) shall cease to be payable upon the marriage or remarriage of the beneficiary ; and
- (b) shall not be payable for any period during which the beneficiary is cohabiting with a man not her husband.

### **74 Beneficiary previously maintained by deceased**

- (1) In the case of industrial death benefit, where the deceased at his death was, or would but for the relevant accident have been, making contributions to the beneficiary's maintenance—

- (a) the weekly rate of any pension payable to the beneficiary—
  - (i) as a parent (within the meaning of section 71 above), or
  - (ii) as a relative prescribed for the purposes of section 72,
 shall not exceed the weekly rate of the contributions which the deceased was (or would but for the relevant accident have been) making ; and

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(b) the amount of any gratuity payable to the beneficiary as such a parent or relative shall not exceed such multiple of the weekly rate of those contributions as may be determined by or in accordance with regulations ;  
but this does not apply where the deceased at his death was (or would but for the relevant accident have been) wholly maintaining the beneficiary.

(2) In the case of a relative who—

- (a) was at the deceased's death a child, or
- (b) is a posthumous son or daughter of the deceased,

references in subsection (1) above to the weekly rate of the deceased's contributions are to that of the contributions which he might have been expected to make to the relative's maintenance when he ceased to be a child.

## **75 Death of person with constant attendance allowance**

(1) If a person dies at a time when—

- (a) he is entitled to an increase under section 61 above of a disablement pension and the amount of the increase is not less than the amount which at that time is specified in Schedule 4, Part V, paragraph 7(a); or
- (b) he would have been so entitled but for having received medical or other treatment as an in-patient in a hospital or similar institution,

he is to be regarded for the purposes of entitlement to industrial death benefit as having died as a result of the injury in respect of which the disablement pension was payable.

(2) The reference in subsection (1) above to an increase under section 61 includes only a payment by way of increase of a disablement pension, and in particular does not include any payment for constant attendance under section 159(3)(W below (payments for pre-1948 cases).

(3) Subsection (1) above does not affect death benefit where the death occurred before 26th July 1971.

## **CHAPTER V**

### **INDUSTRIAL DISEASES, AND INJURIES NOT WITHIN CHAPTER IV**

## **76 Benefit in respect of industrial disease, etc.**

(1) Subject to and in accordance with this section and sections 77 and 78 below, there shall be payable, in respect of a person who has been in employed earner's employment for the purposes of Chapter IV above, such benefits as are there provided in respect of any prescribed disease or personal injury (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.

(2) A disease or injury may be prescribed in relation to any employed earners if the Secretary of State is satisfied that—

- (a) it ought to be treated, having regard to its causes and incidence and any other relevant considerations, as a risk of their occupations and not as a risk common to all persons; and

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- (b) it is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty.
- (3) Regulations prescribing any disease or injury for those purposes may provide that a person who developed the disease or injury on or at any time after a date specified in the regulations (being a date before the regulations came into force but not before 5th July 1948) shall be treated, subject to any prescribed modifications of this Chapter, as if the regulations had been in force when he developed the disease or injury.
- (4) Provision may be made by regulations for determining—
  - (a) the time at which a person is to be treated as having developed any prescribed disease or injury; and
  - (b) the circumstances in which such a disease or injury is, where the person in question has previously suffered from it, to be treated as having recrudesced or as having been contracted or received afresh.
- (5) Nothing in this Chapter affects the right of any person to benefit in respect of a disease which is a personal injury by accident within the meaning of Chapter IV, except that a person shall not be entitled to benefit in respect of a disease as being an injury by accident arising out of and in the course of any employment if at the time of the accident the disease is in relation to him a prescribed disease by virtue of the occupation in which he is engaged in that employment.

## 77      **General provisions as to benefit under s.76**

- (1) Subject to the power to make different provision by regulations, and to the following provisions of this Chapter, the benefit payable under section 76 above in respect of a prescribed disease or injury, and the conditions for receipt of benefit, shall be the same as in the case of personal injury by accident arising out of and in the course of employment.
- (2) In relation to prescribed diseases and injuries, regulations may provide—
  - (a) for modifying provisions of this Act relating to injury benefit and disablement benefit, and the administration of such benefit; and
  - (b) for adapting references in this Act to accidents.
- (3) Without prejudice to the generality of subsection (2) above, regulations thereunder may in particular include provision—
  - (a) for presuming any prescribed disease or injury—
    - (i) to be due, unless the contrary is proved, to the nature of a person's employment where he was employed in any prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury,
    - (ii) not to be due to the nature of a person's employment unless he was employed in some prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury;
  - (b) for such matters as appear to the Secretary of State to be incidental to or consequential on provisions included in the regulations by virtue of subsection (2) and paragraph (a) above.



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## **78 Respiratory diseases**

- (1) As respects pneumoconiosis, regulations may further provide that, where a person is found to be suffering from pneumoconiosis accompanied by tuberculosis, the effects of the tuberculosis shall be treated for the purposes of this Chapter as if they were effects of the pneumoconiosis.
- (2) Subsection (1) above shall have effect as if after "tuberculosis " (in both places) there were inserted " emphysema or chronic bronchitis " , but only in relation to a person the extent of whose disablement resulting from pneumoconiosis, or from pneumoconiosis accompanied by tuberculosis, would (if his physical condition were otherwise normal) be assessed at not less than 50 per cent.
- (3) A person found to be suffering from pneumoconiosis shall be treated for the purposes of this Act as suffering from a loss of faculty such that the assessed extent of the resulting disablement amounts to not less than 1 per cent.
- (4) In respect of byssinosis, a person shall not (unless regulations otherwise provide)—
  - (a) be entitled to injury benefit; or
  - (b) be entitled to disablement benefit unless he is found to be suffering, as the result of byssinosis, from loss of faculty which is likely to be permanent.

## **CHAPTER VI**

### **ADMINISTRATION OF BENEFIT**

#### *Provisions relating to benefit under Chapters I to V*

## **79 Claims and awards**

- (1) Subject to the following provisions of this Chapter, and, in the case of retirement pensions, to section 27(6), it shall be a condition of a person's right to any benefit that he makes a claim for it in the prescribed manner and within the prescribed time.
- (2) In such cases as may be prescribed, the following benefits may be paid without a claim—
  - (a) a Category A or Category B retirement pension to a woman over the age of 65 on her ceasing to be entitled to widow's benefit;
  - (b) a Category C or Category D retirement pension ;
  - (c) age addition.
- (3) Regulations may make provision—
  - (a) for permitting, in prescribed circumstances, a claim for unemployment benefit, sickness benefit, invalidity benefit, non-contributory invalidity pension or injury benefit to be made, or to be treated as if made, for a period falling partly after the date of the claim ;
  - (b) for permitting an award on any such claim to be made for a period after the date of the claim of not more than 13 weeks (or such shorter period as the Secretary of State may in any case direct) subject to the condition that the claimant continues during that period to satisfy the requirements for the benefit in question;

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- (c) for the review of any such award if those requirements are found not to have been satisfied at some time during the period of the award ;
  - (d) for the disallowance of a person's claim for unemployment benefit, sickness benefit, invalidity benefit or non-contributory invalidity pension on any grounds to be treated as a disallowance of any further claim by that person for that benefit until the grounds of the original disallowance have ceased to exist.
- (4) Regulations may provide for treating a person for the purposes of the following provisions of this Act—
- (a) section 14(7) (earnings-related supplement of unemployment or sickness benefit);
  - (b) section 18 (duration of unemployment benefit); and
  - (c) section 22(4) (earnings-related supplement of a maternity allowance),
- as having been entitled to benefit for any day if he would have been so entitled but for any delay or failure to make or prosecute a claim ; but a person is not to be so treated where he shows that he did not intend, by failing to acquire or establish a right to benefit for that day, to cause a new period of interruption of employment to begin for the purposes of earnings-related supplement, or to avoid the necessity of re-qualifying for benefit.
- (5) Regulations may provide for requiring claimants to furnish to the prescribed person any information required for the determination of the claim or of any question arising in connection with it.
- (6) For the purposes of this Act any claim or notice made or sent by post shall be deemed to have been made or given on the day on which it was posted.

## 80 Claims in the alternative

- (1) A claim for any one benefit under Chapters I to III of this Part may be treated as a claim in the alternative—
- (a) for such other benefit under those Chapters as may be prescribed; or
  - (b) for such benefit under Chapter IV or V as may be prescribed,
- or may be treated for the purposes of the Family Allowances Act as a claim for a payment under that Act.
- (2) A claim—
- (a) for industrial injuries benefit; or
  - (b) for benefit under the Supplementary Benefit Act 1966 ; or
  - (c) for a payment under the Family Allowances Act,
- may be treated as a claim in the alternative for such benefit under Chapters I to III as may be prescribed.

## 81 Payment

- (1) Provision may be made by regulations as to the time and manner of payment of benefit and as to the information and evidence to be furnished by beneficiaries when applying for payment.
- (2) Regulations under subsection (1) above as to the time of payment of benefit may provide—

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- (a) for adjusting the commencement and termination of benefit, or of changes in the rate of benefit, so that (except in the case of the benefits listed in subsection (3) below) payments are not to be made in respect of periods of less than a week or at different rates for different parts of a week;
  - (b) for extinguishing the right to payment of any sum by way of benefit if payment is not obtained within a prescribed period, not being less than 12 months, from the date on which the right is to be treated under the regulations as having arisen.
- (3) The benefits excepted from subsection (2) (a) above are—
  - unemployment benefit,
  - sickness benefit,
  - invalidity benefit,
  - a maternity allowance, and
  - injury benefit.
- (4) Regulations may provide—
  - (a) for requiring beneficiaries—
    - (i) to furnish to the prescribed person any information required for the determination of a question arising in connection with the award,
    - (ii) to give notice to the prescribed person of any change of circumstances affecting the continuance of the right to benefit or its receipt;
  - (b) for enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who is a child or who may be or become unable for the time being to act, any right or power which the claimant or beneficiary may be entitled to exercise under this Act;
  - (c) for authorising a person so appointed to receive and deal with any sum payable by way of benefit, on behalf of the claimant or beneficiary;
  - (d) as to the circumstances in which any benefit which is payable to one person may be paid to another on his behalf; and
  - (e) in connection with a person's death—
    - (i) for enabling a claim for benefit to be made or proceeded with in his name,
    - (ii) for authorising payment or distribution of benefit to or amongst persons claiming as his personal representatives, legatees, next of kin or creditors (or, in cases of illegitimacy of deceased persons, to or amongst others), and
    - (iii) for dispensing with strict proof of the title of persons so claiming.
- (5) In subsection (4)(e) above " next of kin " means—
  - (a) in England and Wales, the persons who would take beneficially on an intestacy;
  - (b) in Scotland, the persons entitled to the moveable estate of the deceased on intestacy ;

and regulations under that paragraph may make provision with respect to claims for, and the payment of, a death grant as if it were a benefit due to the deceased at his death and as if the reference to creditors included a person who undertakes in writing to pay the whole or part of the deceased's funeral expenses.

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- (6) Regulations may make provision for calculating the amounts payable by way of any benefit according to a prescribed scale, or otherwise adjusting them so as to avoid fractional amounts or facilitate computation.

## **82 Disqualification and suspension**

- (1) Regulations may provide for disqualifying a person for the receipt of any benefit if he fails to make his claim for it within the prescribed time; but any such regulations shall provide for extending, subject to any prescribed conditions, the time within which the claim may be made in cases where good cause is shown for the delay.
- (2) Notwithstanding any regulations made by virtue of subsection (1) above, no sum shall be paid to any person—
- (a) on account of a maternity grant in respect of a confinement occurring more than 12 months before the date on which the claim for the grant is made ;
  - (b) on account of a death grant in any case where the prescribed time for making a claim falls to be extended by virtue of subsection (1) above by more than 12 months;
  - (c) on account of any other benefit (except a death grant, or disablement benefit or industrial death benefit) in respect of any period more than 12 months before the date on which the claim is made.
- (3) Subject to subsection (4) below, where it appears to the Secretary of State that a question has arisen whether—
- (a) the conditions for the receipt of benefit payable under an award are or were fulfilled ; or
  - (b) an award ought to be revised in accordance with Part III of this Act (determination of claims and questions),
- he may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined; but this does not apply in any case where the question has arisen as to whether the claimant has ceased to be entitled to receive unemployment benefit by reason of any of the provisions of section 20(1)(b) to (e).
- (4) Regulations may provide for subsection (3) above—
- (a) to cease to apply to any case, or to cases of any specified description, to which it would otherwise apply; or
  - (b) to apply to cases of any specified description to which it would otherwise not apply.
- (5) Except where regulations otherwise provide, a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband, for any period during which the person—
- (a) is absent from Great Britain ; or
  - (b) is undergoing imprisonment or detention in legal custody.
- (6) Regulations may provide—
- (a) for the suspension of payment to or in respect of any person, during any such period, of benefit which is excepted from the operation of subsection (5) above or is payable otherwise than in respect of that period;
  - (b) for suspending payment of benefit to a person during any period in which he is undergoing medical or other treatment as an in-patient in a hospital or similar institution.

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### **83 Disqualifications disregarded for certain purposes**

- (1) Subject to subsection (2) below, regulations may provide for a person who would be entitled to any benefit but for the operation of any provision of this Act disentitling him to receipt of that benefit to be treated as if entitled thereto for the purposes of any rights or obligations (whether his own or another's) under this Act which depend on his entitlement, other than the right to payment of the benefit.
- (2) Regulations under this section shall not provide for a person disqualified for receiving unemployment benefit by reason only of a delay or failure to make a claim to be treated as having been entitled thereto for the purpose of ascertaining whether his right to the benefit has been exhausted.

### **84 Persons maintaining dependants, etc.**

- (1) Regulations may provide for determining the circumstances in which a person is or is not to be deemed, for the purposes of this Part of this Act—
  - (a) to be wholly or mainly, or to a substantial extent, maintaining, or to be contributing at any weekly rate to the maintenance of, another person; or
  - (b) to be, or have been, contributing at any weekly rate to the cost of providing for a child.
- (2) Regulations under this section may provide, for the purposes of the provisions relating to an increase of benefit in respect of a wife or other adult dependant, that where—
  - (a) a person is partly maintained by each of two or more beneficiaries, each of whom would be entitled to such an increase in respect of that person if he were wholly or mainly maintaining that person ; and
  - (b) the contributions made by those two or more beneficiaries towards the maintenance of that person amount in the aggregate to sums which would, if they had been contributed by one of those beneficiaries, have been sufficient to satisfy the requirements of regulations under this section,that person shall be deemed to be wholly or mainly maintained by such of those beneficiaries as may be prescribed.
- (3) Regulations under this section may further provide, for the purposes of sections 71 and 72 of this Act, that where—
  - (a) a person was partly maintained by each of two or more employed earners of whom he was a parent within the meaning of section 71 or a relative prescribed for the purposes of section 72, as the case may be; and
  - (b) the employed earners have died as a result of accidents arising out of and in the course of their employed earner's employment,the parent or relative is to be treated as having received, from such of those employed earners as may be prescribed, contributions to his maintenance equal to the aggregate amount which they were together contributing before the accidents happened, and as having received nothing from the others.
- (4) Regulations may provide for any sum or sums paid by a person by way of contribution towards either or both of the following, that is to say—
  - (a) the maintenance of his wife; and
  - (b) the cost of providing for one or more children,to be treated for the purposes of any of the provisions of this Act specified in subsection (5) below as such contributions, of such respective amounts equal in the

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aggregate to the said sum or sums, in respect of such persons, as may be determined in accordance with the regulations so as to secure as large a payment as possible by way of benefit in respect of dependants.

- (5) The provisions in question are—
- (a) section 31 (child's special allowance);
  - (b) sections 42, 43 and 65 (dependent children); and
  - (c) sections 44, 45 and 66 (maintained wife).

## 85 Overlapping benefits

- (1) Regulations may provide for adjusting benefit payable to or in respect of any person, or the conditions for its receipt, where—
- (a) there is payable in his case any such pension or allowance as is described in subsection (2) below; or
  - (b) the person is, or is treated under the regulations as, undergoing medical or other treatment as an in-patient in a hospital or similar institution.
- (2) Subsection (1)(a) above applies to any pension or allowance payable out of public funds (excluding an allowance under the Family Allowances Act, but including any other benefit under this Act, whether of the same or a different description) which is payable to or in respect of—
- (a) the person referred to in subsection (1);
  - (b) that person's wife or husband;
  - (c) any child or adult dependant of that person ; or
  - (d) the wife or husband of any adult dependant of that person.
- (3) Where but for regulations made by virtue of subsection (1)(a) above two persons would both be entitled to an increase of benefit in respect of a third person, regulations may make provision as to their priority.

## 86 Set-off of overpayments

- (1) Where a person has received on account of benefit or a family allowance sums to which, by virtue of any provision of, or regulation under, this Act, or by virtue of section 11(6) of the Family Allowances Act, he was disentitled by reason of his being entitled by virtue of a subsequent award to other benefit, or as the case may be, to a guardian's allowance under section 38 of this Act, then (except in so far as regulations otherwise provide) the decision making that subsequent award shall direct that those sums shall be treated as having been paid on account of the benefit thereby awarded.
- (2) Where on review or appeal a decision awarding a person benefit is revised, or is reversed or varied, but he retains any sums paid in pursuance of the original decision which would not have been payable if the decision on the review or appeal had been given in the first instance, then, except in so far as regulations otherwise provide, any decision awarding him other benefit or a family allowance, being a benefit or allowance to which a right to any of those sums would by virtue of any such provision as aforesaid or of the said section 11(6) have disentitled him, shall direct that that sum, up to the amount of the other benefit or allowance to which he would by his right to that sum have been so disentitled, shall be treated as having been paid on account of the other benefit or allowance.

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- (3) Where a sum paid on account of any benefit, or of a family allowance, is by virtue of subsection (1) or (2) above, or any other enactment, to be treated as having been paid on account of other benefit or such an allowance, it shall be so treated for all purposes, including the subsequent operation in relation to it of subsection (1) or (2) or any other enactment relating to benefit or family allowance overpaid.
- (4) For the purposes of subsections (1) to (3) above—
- (a) a person is to be treated as retaining any sum which has been received by him and not repaid, except that he is not to be treated as retaining a sum if under any other enactment a direction has been given for it to be repaid;
  - (b) in the case of sums paid by way of benefit in respect of a child of the family of a man and his wife living together or on account of a family allowance for such a family, the man is to be treated as having received any sum which, if properly paid, would have been receivable by him, and the wife any sum which, if properly paid, would have been receivable by her.
- (5) Regulations may provide for treating benefit paid to one person in respect of another as being a child of the family, or the wife or husband, or an adult dependant, of the payee as having been properly paid for any period for which it is not in fact payable in cases where in consequence of a subsequent decision either—
- (a) the other person is himself entitled to benefit for that period", or
  - (b) a third person is entitled to benefit for that period in respect of the other person in priority to the payee,
- and for reducing or withholding accordingly any arrears payable for that period by virtue of the subsequent decision.
- (6) In subsections (1) and (2) above any reference to a decision awarding benefit or a family allowance includes a decision making any benefit or family allowance payable at a higher rate.

## **87 Benefit to be inalienable**

- (1) Subject to the provisions of this Act, every assignment of, or charge on, benefit and every agreement to assign or charge benefit shall be void; and, on the bankruptcy of a beneficiary, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.
- (2) In the application of this section to Scotland—
- (a) the reference to assignment of benefit shall be read as a reference to its assignation, "assign" being construed accordingly;
  - (b) the reference to a beneficiary's bankruptcy shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 14 of the Bankruptcy (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958.
- (3) In calculating for the purposes of section 5 of the Debtors Act 1869 or section 4 of the Civil Imprisonment (Scotland) Act 1882 the means of any beneficiary, no account shall be taken of any increase of injury benefit or disablement benefit in respect of a child, or of industrial death benefit.

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*Provisions relating to industrial injuries benefit only*

**88 Notification of accidents, etc.**

Regulations may provide—

- (a) for requiring the prescribed notice of an accident in respect of which industrial injuries benefit may be payable to be given within the prescribed time by the employed earner or, where within that time he dies as a result of the accident, by such other person as may be prescribed, to the earner's employer or other prescribed person;
- (b) for requiring employers—
  - (i) to make reports, to such person and in such form and within such time as may be prescribed, of accidents in respect of which industrial injuries benefit may be payable,
  - (ii) to furnish to the prescribed person any information required for the determination of claims, or of questions arising in connection with claims or awards,
  - (iii) to take such other steps as may be prescribed to facilitate the giving notice of accidents, the making of claims and the determination of claims and of questions so arising.

**89 Medical examination and treatment**

- (1) Regulations may provide for requiring claimants for injury benefit or disablement benefit—
  - (a) to submit themselves from time to time to medical examination for the purpose of determining the effect of the relevant accident, or the treatment appropriate to the relevant injury or loss of faculty;
  - (b) to submit themselves from time to time to appropriate medical treatment for the injury or loss of faculty.
- (2) Regulations under subsection (1) above requiring persons to submit themselves to medical examination or treatment may—
  - (a) require those persons to attend at such places and at such times as may be required ; and
  - (b) with the consent of the Minister for the Civil Service, provide for the payment by the Secretary of State to those persons of travelling and other allowances (including compensation for loss of remunerative time).

**90 Obligations of claimants**

- (1) Without prejudice to section 89(1) above, it shall be the duty of any person claiming or entitled to injury benefit in respect of any injury not to behave in any manner calculated to retard his recovery.
- (2) Subject to subsection (4) below, regulations may provide for disqualifying a claimant for the receipt of injury benefit for failure without good cause to comply with the requirements of subsection (1) above in respect of the relevant injury, and may further provide for disqualifying a claimant for the receipt of benefit—
  - (a) for failure without good cause to comply with any requirement of regulations relevant under this subsection (including, in the case of a claim for industrial



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death benefit, a failure on the part of some other person to give the prescribed notice of the relevant accident);

- (b) for wilful obstruction of, or other misconduct in connection with, any examination or treatment to which he is required under relevant regulations to submit himself, or in proceedings under this Act for the determination of his right to benefit or to its receipt,

or for suspending proceedings on the claim or payment of benefit, as the case may be, in the case of any such failure, obstruction or misconduct.

- (3) The regulations relevant under subsection (2) above are those made by virtue of the following provisions of this Chapter, namely—

- section 79(1), (5);
- section 81(4) (a) ;
- section 88(a) ; and
- section 89(1) and (2).

- (4) Regulations under subsection (2) above providing for disqualification for the receipt of benefit for any of the following matters, that is to say—

- (a) for failure to comply with the requirements of subsection (1) above, or those of regulations under section 89(1) or (2);
- (b) for obstruction of, or misconduct in connection with, medical examination or treatment,

shall not be made so as to disentitle a claimant to benefit for a period exceeding 6 weeks on any disqualification.

## **91 Adjustments for successive accidents**

- (1) Where a person suffers two or more successive accidents arising out of and in the course of his employed earner's employment—

- (a) he shall not for the same period be entitled (apart from any increase of benefit mentioned in subsection (2) below) to receive industrial injuries benefit, either by way of injury benefit and a disablement pension or pensions, or by way of two or more disablement pensions, at an aggregate weekly rate exceeding the appropriate amount specified in Schedule 4, Part V, paragraph 16; and
- (b) regulations may provide for adjusting—
  - (i) injury benefit or disablement benefit, or the conditions for the receipt of either, in any case where he has received or may be entitled to a disablement gratuity.
  - (ii) any increase of benefit mentioned in subsection (2) below, or the conditions for its receipt.

- (2) The increases of benefit referred to above are those under—

- section 58 (unemployability supplement),
- section 61 (constant attendance),
- section 63 (exceptionally severe disablement),
- section 64 (dependent children), or
- section 66 (adult dependants);

and for the purposes of subsection (1)(a) they include also, in the case of a beneficiary under the age of 18, any increase in the rate of a disablement pension under section 60 (special hardship).

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*Supplementary*

**92 Benefit forgone for unabated sick pay**

- (1) This section applies to any arrangement—
  - (a) which relates to pay during absence from work which can be abated on account of benefit unless the benefit is not claimed or paid ; and
  - (b) which is for the time being approved by the Secretary of State.
- (2) In this section "benefit" means any of the following, namely—
  - sickness benefit,
  - invalidity benefit,
  - maternity allowance,
  - injury benefit, and
  - earnings-related supplement under section 14(7) or 22(4).
- (3) A person who, in pursuance of any such arrangement, has not claimed benefit but would have been entitled to the benefit if he had claimed it shall, unless or except so far as regulations provide otherwise, be deemed to be entitled to the benefit for all the purposes of this Act (except so as to confer a right to payment of the benefit).
- (4) If the Secretary of State so directs, any approval given by him under the former principal Act, or the former Industrial Injuries Act, or under any instrument having effect under either of those Acts, is to be treated as if it were approval given under subsection (1) above.