



Social Security Pensions Act 1975

1975 CHAPTER 60

An Act to provide for relating the rates of social security retirement pensions and certain other benefits to the earnings on which contributions have been paid; to enable employed earners to be contracted-out of full social security contributions and benefits where the requisite benefits are provided by an occupational pension scheme; to make provision for securing that men and women are afforded equal access to occupational pension schemes; and to make other amendments in the law relating to social security (including an amendment of Part II of the Social Security Act 1975 introducing a new non-contributory benefit called " mobility allowance "); and to make other provision about occupational pensions. [7th August 1975]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

CONTRIBUTIONS

1 Earnings limits

- (1) For the purposes of the Social Security Act 1975 (in this Act referred to as " the principal Act ") and this Act—
 - (a) the lower earnings limit for Class 1 contributions (level of weekly earnings at which liability for such contributions arises); and
 - (b) the upper earnings limit for Class 1 contributions (maximum amount of weekly earnings in respect of which such contributions are payable), for any tax year shall be such amounts as may be specified for that year by regulations made in accordance with subsections (2) and (3) below.

- (2) The amount specified as the lower earnings limit for any tax year shall be an amount equal to or not more than 49p less than—
- (a) the sum which at the beginning of that year is specified in section 6(1)(a) below; or
 - (b) that sum as increased by any Act or order passed or made before the beginning of that year and taking effect before 6th May in that year.
- (3) The amount specified as the upper earnings limit for any tax year shall be an amount which either—
- (a) is equal to seven times the sum by reference to which the lower earnings limit for that year is specified in accordance with subsection (2) above ; or
 - (b) exceeds or falls short of seven times that sum by an amount not exceeding half that sum.

2 Rates of contributions in respect of employed earners

- (1) In section 4(6) of the principal Act (rates of Class 1 contributions)—
- (a) for the reference to 5.5 per cent, (primary contribution) there shall be substituted a reference to 6.5 per cent.; and
 - (b) for the reference to 8.5 per cent, (secondary contribution) there shall be substituted a reference to 10 per cent.
- (2) Subsection (1) above is without prejudice to the power conferred by section 122 of the principal Act to alter the percentage rates for primary and secondary Class 1 contributions ; and if that subsection comes into force without any order having been made under that section altering either or both of the rates specified in that subsection the Secretary of State shall lay before Parliament a report explaining why he considers those rates to be appropriate.

3 Married women and widows

- (1) The provisions of the principal Act whereby primary Class 1 contributions may be paid at a reduced rate and Class 2 contributions need not be paid by a married woman or widow shall cease to have effect.
- (2) As respects any woman who is married or a widow when subsection (1) above comes into force regulations shall provide—
- (a) for enabling her to elect that her liability in respect of primary Class 1 contributions shall be a liability to contribute at such reduced rate as may be prescribed; and
 - (b) either for enabling her to elect that her liability in respect of Class 2 contributions shall be a liability to contribute at such reduced rate as may be prescribed or for enabling her to elect that she shall be under no liability to pay such contributions ; and
 - (c) for enabling her to revoke any such election.
- (3) Regulations under subsection (2) above may—
- (a) provide for the making or revocation of any election under the regulations to be subject to prescribed exceptions and conditions;
 - (b) preclude a person who has made such an election from paying Class 3 contributions while the election has effect;

- (c) provide for treating an election made or revoked for the purpose of any provision of the regulations as made or revoked also for the purpose of any other provision of the regulations;
 - (d) provide for treating an election made in accordance with regulations under section 130(2) of the principal Act as made for the purpose of regulations under this section.
- (4) Regulations may provide for earnings factors to be derived, for such purposes as may be prescribed, from contributions which by virtue of regulations under subsection (2) above are paid at a reduced rate; and if provision is made for a person to have earnings factors so derived for the purpose of establishing entitlement to any benefit, the regulations may, in relation to that person, vary or add to the requirements for entitlement to that benefit.

4 Persons over pensionable age

- (1) No primary Class 1 contribution shall be payable in respect of earnings paid to or for the benefit of an employed earner in respect of any period after he attains pensionable age, but without prejudice to any liability to pay secondary Class 1 contributions in respect of any such earnings.
- (2) No Class 2 contributions shall be payable by an earner in respect of any period after he attains pensionable age.
- (3) In section 9(8)(b) of the principal Act (exception from liability to pay Class 4 contributions for persons who have attained pensionable age and retired from regular employment) the words " and retired from regular employment" shall be omitted.

5 Voluntary contributions

- (1) No person shall be entitled to pay a Class 3 contribution in respect of any tax year if his earnings factor, or the aggregate of his earnings factors, for that year derived from contributions actually paid is equal to or exceeds the qualifying earnings factor for that year; and regulations may provide for precluding the payment of Class 3 contributions in other cases.
- (2) Regulations may provide for the repayment of Class 3 contributions that have been paid in cases where their payment was precluded by, or by regulations made under, subsection (1) above; and contributions repayable by virtue of any such regulations shall, for the purpose of determining the contributor's entitlement to any benefit, be treated as not having been paid.
- (3) In subsection (1) above and in the subsequent provisions of this Act " qualifying earnings factor", in relation to any tax year, means an earnings factor equal to the lower earnings limit for that year multiplied by 52.

PART II**BENEFITS***Category A and B retirement pensions***6 Rate of Category A retirement pension**

- (1) The weekly rate of a Category A retirement pension shall consist of—
 - (a) a basic component of £11.60 ; and
 - (b) an additional component payable where there are one or more surpluses in the pensioner's earnings factors for the relevant years.
- (2) The additional component shall be the weekly equivalent of 1 ¼ per cent, of the amount of the surpluses mentioned in subsection (1)(b) above or, if there are more than 20 such surpluses, of those 20 which are the largest.
- (3) For the purposes of subsection (2) above the weekly equivalent of the amount there mentioned shall be calculated by dividing that amount by 52 and rounding the result to the nearest whole penny, taking ½ as nearest to the next whole penny above.
- (4) For the purposes of this section—
 - (a) there is a surplus in the pensioner's earnings factor for a relevant year if that factor exceeds the qualifying earnings factor for the final relevant year; and
 - (b) the amount of the surplus is the amount of that excess; and for the purposes of paragraph (a) above the pensioner's earnings factor for any relevant year shall be taken to be that factor as increased by any order or orders that have come into force under section 21 below before the end of the final relevant year.
- (5) References in this section to the pensioner's earnings factor for any relevant year are references to the aggregate of his earnings factors derived from contributions actually paid by him in respect of that year.
- (6) In this section " relevant year " means any tax year (not being earlier than the first tax year for which lower and upper earnings limits are specified under section 1 above) in the period between (inclusive) the tax year in which the pensioner attained the age of 16 and (exclusive) the tax year in which he attained pensionable age and " final relevant year " means the last tax year which is a relevant year in relation to the pensioner.

7 Rate of widow's Category B retirement pension

- (1) The weekly rate of a woman's Category B retirement pension payable—
 - (a) by virtue of subsection (2) or (3) of section 29 of the principal Act during any period after the death of the husband; or
 - (b) by virtue of subsection (4) of that section where the husband was over pensionable age when he died,
 shall be determined in the manner specified in section 6 above for a Category A retirement pension, taking references in that section to the pensioner as references to the husband.
- (2) The weekly rate of a woman's Category B retirement pension payable by virtue of subsection (4) of section 29 of the principal Act where the husband was under pensionable age when he died shall be determined in the manner specified in section 6

above for a Category A retirement pension, taking references in that section to the pensioner and the tax year in which he attained pensionable age as references to the husband and the tax year in which he died.

8 Category B retirement pension for widower

- (1) A man who has retired from regular employment shall be entitled to a Category B retirement pension if—
 - (a) he has had a wife and she has died, and he was married to her when she died ;
and
 - (b) they were both over pensionable age when she died;and
 - (c) she either was entitled to a Category A retirement pension or would have been so entitled if she had retired on the date of her death.
- (2) The weekly rate of a man's Category B retirement pension under this section shall be determined in the manner specified in section 6 above for a Category A retirement pension, taking references in that section to the pensioner as references to the wife.
- (3) Subject to the provisions of the principal Act, a man's Category B retirement pension under this section shall commence from the date on which he becomes entitled to it under subsection (1) above and shall be payable for his life.

9 Special provision for surviving spouses

- (1) This section has effect where but for section 27(6) of the principal Act (prevention of double entitlement) a person would be entitled both—
 - (a) to a Category A retirement pension; and
 - (b) to a Category B retirement pension under section 8 above or a Category B retirement pension under section 29 of the principal Act by virtue of the contributions of a husband who has died.
- (2) If by reason of a deficiency of contributions the basic component in the Category A retirement pension falls Short of the sum specified in section 6(1)(a) above, that component shall be increased by the amount of the shortfall or the amount of the basic component in the rate of the Category B retirement pension, whichever is the less.
- (3) If the additional component in the Category A retirement pension falls short of the prescribed maximum, that component shall be increased by the amount of the shortfall or the amount of the additional component in the rate of the Category B retirement pension, whichever is the less.

10 Special provision for married women

- (1) This section has effect where but for section 27(6) of the principal Act a married woman would be entitled both—
 - (a) to a Category A retirement pension ; and
 - (b) to a Category B retirement pension by virtue of the contributions of her husband.
- (2) If by reason of a deficiency of contributions the basic component in the Category A retirement pension falls short of the weekly rate specified in paragraph 9 of Part I of Schedule 4 to the principal Act (married woman's Category B retirement pension),'

that component shall be increased by the amount of the shortfall or the amount of the weekly rate of the Category B retirement pension, whichever is the less.

11 Application of earnings rule

In section 30(1) of the principal Act (which provides for a reduction in the weekly rate of a Category A or Category B retirement pension where the pensioner has earnings over a specified amount) the reference to the weekly rate of pension shall be construed as a reference to that rate exclusive of the additional component and of any graduated retirement benefit.

12 Deferred retirement

Schedule 1 to this Act shall have effect for increasing the rate of a Category A or Category B retirement pension in cases where a person defers his retirement after attaining pensionable age.

Widow's benefit

13 Rate of widowed mother's allowance and widow's pension

- (1) Where a woman becomes entitled to a widowed mother's allowance or a widow's pension in consequence of the death of her husband and he was over pensionable age when he died, the weekly rate of that allowance or pension shall, subject to subsection (3) below, be determined in the manner specified in section 6 above for a Category A retirement pension, taking references in that section to the pensioner as references to the husband.
- (2) Where a woman becomes entitled to a widowed mother's allowance or widow's pension in consequence of the death of her husband and he was under pensionable age when he died, the weekly rate of that allowance or pension shall, subject to subsection (3) below, be determined in the manner specified in section 6 above for a Category A retirement pension, taking references in that section to the pensioner and the tax year in which he attained pensionable age as references to the husband and to the tax year in which he died.
- (3) The foregoing provisions of this section shall, so far as they relate to a widow's pension, have effect subject to section 26(2) of the principal Act (reduction of widow's pension for woman under 50).

Invalidity benefit and disablement pension

14 Rate of invalidity pension for persons under pensionable age

Subject to subsection (4) of section 15 of the principal Act (persons over pensionable age), the weekly rate of an invalidity pension under that section shall for any period of interruption of employment be determined in the manner specified in section 6 above for a Category A retirement pension, taking the reference in that section to the tax year in which the pensioner attained pensionable age as a reference to the tax year which includes or included the first day of entitlement to the pension in that period.

15 Invalidity pension for widows

- (1) This section applies to a woman who—
 - (a) ceases to be entitled to a widow's allowance without becoming entitled to a widowed mother's allowance or ceases to be entitled to a widowed mother's allowance ; and
 - (b) when she so ceases is incapable of work ; and
 - (c) either—
 - (i) would have been entitled to a widow's pension if she had been over the age of 40 when her husband died or when she ceased to be entitled to a widowed mother's allowance; or
 - (ii) is entitled to such a pension with a reduction under section 26(2) of the principal Act.
- (2) Subject to subsection (5) below, a woman to whom this section applies shall be entitled to an invalidity pension under this section for any day of incapacity for work which—
 - (a) falls in a period of interruption of employment that began before the time when she ceased to be entitled as mentioned in Subsection (1)(a) above; and
 - (b) is after that time and after the first 168 days of incapacity for work in that period.
- (3) An invalidity pension under this section shall be payable at—
 - (a) the weekly rate that would apply if the pension were payable under section 15 of the principal Act; or
 - (b) the weekly rate specified in subsection (4) below, whichever is the higher.
- (4) The weekly rate mentioned in subsection (3)(b) above is—
 - (a) if the woman is not entitled to a widow's pension, a weekly rate equal to that of the widow's pension to which she would have been entitled if she had been over the age of 50 when her husband died; and
 - (b) if she is entitled to a widow's pension with a reduction under the said section 26(2), a weekly rate equal to the difference between the weekly rate of that pension and what it would have been without the reduction.
- (5) A woman shall not be entitled to an invalidity pension under this section if she is over pensionable age and has retired from regular employment; but if she retires from regular employment, having attained pensionable age, and the period of interruption of employment mentioned in subsection (2) (a) above did not terminate earlier than the day before she attained that age—
 - (a) she shall, if not otherwise entitled to a Category A retirement pension, be entitled to such a pension; and
 - (b) the weekly rate of the Category A retirement pension to which she is entitled (whether by virtue of paragraph (c) above or otherwise) shall be determined in the manner specified in subsection (3) above for an invalidity pension under this section.
- (6) No invalidity pension shall be payable under section 15 of the principal Act for any day of incapacity for which an invalidity pension is payable under this section.

16 Invalidity pension for widowers

- (1) This section applies to a man whose wife has died and who either—

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

- (a) was incapable of work at the time when she died; or
 - (b) becomes incapable of work within the prescribed period after that time.
- (2) Subject to subsection (5) below, a man to whom this section applies shall be entitled to an invalidity pension under this section for any day of incapacity for work which—
- (a) falls in a period of interruption of employment that began before the time when his wife died or within the prescribed period after that time ; and
 - (b) is after that time and after the first 168 days of incapacity for work in that period.
- (3) An invalidity pension under this section shall be payable at—
- (a) the weekly rate that would apply if the pension were payable under section 15 of the principal Act; or
 - (b) the weekly rate specified in subsection (4) below, whichever is the higher.
- (4) Where the man's wife was over pensionable age when she died the weekly rate mentioned in paragraph (b) of subsection (3) above is a rate determined in the manner specified in section 6 above for a Category A retirement pension, taking references in that section to the pensioner as references to the wife; and where the man's wife was under pensionable age when she died the weekly rate mentioned in that paragraph is a rate determined in the manner specified in section 6 above for a Category A retirement pension, taking references in that section to the pensioner and the tax year in which he attained pensionable age as references to the wife and the tax year in which she died.
- (5) A man. shall not be entitled to an invalidity pension under this section if he is over pensionable age and has retired from regular employment; but if he retires from regular employment, having attained pensionable age, and the period of interruption of employment mentioned in subsection (2)(a) above did not terminate earlier than the day before he attained that age—
- (a) he shall, if not otherwise entitled to a Category A retirement pension and also not entitled to a Category B retirement pension by virtue of section 8 above, be entitled to a Category A retirement pension; and
 - (b) the weekly rate of the Category A retirement pension to which he is entitled (whether by virtue of paragraph (a) above or otherwise) shall be determined in the manner specified in subsection (3) above for an invalidity pension under this section.
- (6) No invalidity pension shall be payable under section 15 of the principal Act for any day of incapacity for which an invalidity pension is payable under this section.

17 Invalidity allowance and disablement pension

In section 16(2) of the principal Act (rates of invalidity allowance) and paragraph 5 of Part V of Schedule 4 to that Act (rates of increase in unemployability supplement to disablement pension)—

- (a) in paragraph (a) (rate if beneficiary is under the age of 35) for " 35 " there shall be substituted
"40";
- (b) in paragraph (b) (rate if beneficiary is under the age of 45) for " 45 " there shall be substituted
"50".

Unemployment and sickness benefit

18 Rate of unemployment and sickness benefit for persons under pensionable age

- (1) The rate of unemployment or sickness benefit shall be the same for all persons entitled by virtue of subsection (2)(a) of section 14 of the principal Act (persons under pensionable age); and accordingly for subsections (4) and (5) of that section (which provide for a higher or lower rate of benefit for such persons according to whether or not they are married women) there shall be substituted—

“(4) In the case of a person entitled under subsection (2)(a) above, unemployment or sickness benefit shall be payable at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 1.”

- (2) In paragraph 1 of Part I of Schedule 4 to that Act for the entry in the second column there shall be substituted

“£9.80”.

Contribution conditions and earnings factors

19 Contribution conditions for retirement pensions, widowed mother's allowance and widow's pension

- (1) Paragraph 5 of Schedule 3 to the principal Act (contribution conditions for Category A and B retirement pensions, widowed mother's allowance and widow's pension) shall be amended in accordance with subsections (2) and (3) below.

- (2) In sub-paragraphs (2)(b) and (3)(b) (earnings factor for any year to be not less than that year's lower earnings limit multiplied by 50) for the words " not less than that year's lower earnings limit multiplied by 50 " there shall be substituted the words

“not less than the qualifying earnings factor for that year”.

- (3) After sub-paragraph (5) there shall be added—

“(6) In relation to Category A and Category B retirement pension, the second condition shall be deemed to be satisfied notwithstanding that paragraphs (a) and (b) of sub-paragraph (3) above are not complied with as respects each of the requisite number of years if—

- (a) those paragraphs are complied with as respects not less than 20 of that number of years ; and
- (b) in each of the other years the contributor concerned was, within the meaning of regulations, precluded from regular employment by responsibilities at home.

- (7) In relation to a widowed mother's allowance and widow's pension, the second condition shall be deemed to be satisfied notwithstanding that paragraphs (a) and (b) of sub-paragraph (3) above are not complied with as respects each of the requisite number of years if—

- (a) those paragraphs are complied with as respects at least half that number of years (or at least 20 of them, if that is less than half); and

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

- (b) in each of the other years the contributor concerned was, within the meaning of regulations, precluded from regular employment by responsibilities at home”.
- (4) Section 28(2) of the principal Act (woman married under the age of 55 entitled to Category A retirement pension only if she has the necessary earnings factors for at least half the years between marriage and pensionable age) shall cease to have effect.
- (5) In section 33 of the principal Act (partial satisfaction of contribution conditions) the following subsection shall be added—
 - “(4) Regulations may provide that where—
 - (a) a person is entitled by virtue of this section to a Category A or Category B retirement pension consisting only of the additional component with no basic component; and
 - (b) that pension, and any graduated retirement benefit to which he may be entitled, together amount to less than the prescribed rate,
 the person's entitlement as respects that Category A or Category B retirement pension shall be satisfied either altogether or for a prescribed period by the making of a single payment of the prescribed amount.”

20 Use of former spouse's contributions

- (1) Where a person—
 - (a) has been married ; and
 - (b) in respect of the tax year in which the marriage terminated or any previous tax year, does not with his own contributions satisfy the contribution conditions for a Category A retirement pension, then, for the purpose of enabling him to satisfy those conditions, the contributions of his former spouse may to the prescribed extent be treated as if they were his own contributions.
- (2) Where a person has been married more than once this section applies only to the last marriage and the reference to that person's former spouse shall be construed accordingly.
- (3) Section 28(3) of the principal Act and Schedule 7 to that Act (widow's right to Category A retirement pension on late husband's contributions) shall cease to have effect.

21 Revaluation of earnings factors

- (1) This section shall have effect for the purpose of securing that earnings factors relevant to the calculation of the additional component in the rate of any long-term benefit maintain their value in relation to the general level of earnings obtaining in Great Britain.
- (2) The Secretary of State shall in each tax year review the general level of earnings obtaining in Great Britain and any changes in that level which have taken place since the last review under this section; and for the purposes of any such review the Secretary of State shall estimate the general level of earnings in such manner as he thinks fit.
- (3) If on any such review the Secretary of State concludes that earnings factors for any previous tax year (not being earlier than the first tax year for which lower and upper earnings limits are specified under section 1 above) have not maintained their value

in relation to the general level of earnings he shall prepare and lay before each House of Parliament the draft of an order directing that those earnings factors shall, for the purpose of any such calculation as is mentioned in subsection (1) above, be increased by such percentage of their amount apart from the order as he thinks necessary to restore their value.

- (4) Subsection (3) above shall not require the Secretary of State to direct any increase where it appears to him that the increase would be inconsiderable.
- (5) If on any such review the Secretary of State determines that he is not required to prepare and lay the draft of an order as aforesaid he shall instead lay before each House of Parliament a report explaining his reasons for arriving at that determination.
- (6) If a draft order laid before Parliament in pursuance of this section is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.
- (7) The first review under this section shall be in the second tax year for which lower and upper earnings limits are specified under section 1 above ; and in relation to that review subsection (2) above shall have effect as if for the reference to the last review there were substituted a reference to the beginning of the first tax year for which those limits are so specified.

Supplementary

22 Mobility allowance

- (1) In Chapter II of Part II of the principal Act (non-contributory benefits) the following is inserted after section 37—

“Mobility allowance.

37A(1) Subject to the provisions of this section, a person who satisfies prescribed conditions as to residence or presence in Great Britain shall be entitled to a mobility allowance for any period throughout which he is suffering from physical disablement such that he is either unable to walk or virtually unable to do so.

- (2) Regulations may prescribe the circumstances in which a person is or is not to be treated for the purposes of this section as suffering from such physical disablement as is mentioned above ; but a person qualifies for the allowance only if—
 - (a) his inability or virtual inability to walk is likely to persist for at least 12 months from the time when a claim for the allowance is received by the Secretary of State ; and
 - (b) during most of that period his condition will be such as permits him from time to time to benefit from enhanced facilities for locomotion.
- (3) The weekly rate of a mobility allowance shall be that specified in Schedule 4 to this Act, Part III, paragraph 3A.
- (4) In the tax year 1976-77, and thereafter in each subsequent tax year, the Secretary of State shall consider whether the rate of mobility allowance should be increased having regard to the national economic situation as a whole, the general standard of living and such other matters as he thinks relevant.

- (5) No person shall be entitled to a mobility allowance—
- (a) in respect of a period in which he is under the age of 5 or over pensionable age;
 - (b) except in prescribed cases, for any week before that in which a claim for the allowance by or in respect of him is received by the Secretary of State.
- (6) Regulations may prescribe cases in which mobility allowance is not to be payable, or is to be payable at a reduced rate, while the person otherwise entitled has the use—
- (a) of an invalid carriage or other vehicle provided by the Secretary of State under section 33 of the Health Services and Public Health Act 1968 ; or
 - (b) of any prescribed description of appliance supplied under the enactments relating to the National Health Service being such an appliance as is primarily designed to afford a means of personal and independent locomotion out of doors.
- (7) Except so far as may be provided by regulations, the question of a person's entitlement to a mobility allowance shall be determined as at the date when a claim for the allowance is received by the Secretary of State.
- (8) A payment to or in respect of any person by way of a mobility allowance, and the right to receive such a payment, shall (except in prescribed circumstances and for prescribed purposes) be disregarded in applying any enactment or instrument under which regard is to be had to a person's means.”.
- (2) In Part III of Schedule 4 to the principal Act there is inserted:—
- “**3A** Mobility allowance $\text{£}5$ ”.
- (3) Regulations may make provision—
- (a) for permitting a claim for a mobility allowance to be made, or treated as if made, for a period beginning after the date on which the claim is made ;
 - (b) for permitting an award on any such claim to be made for a period beginning after the date on which the claim is made subject to the condition that the person in respect of whom the claim is made satisfies the prescribed requirements for entitlement when benefit becomes payable under the award ;
 - (c) for the review of any such award if those requirements are found not to have been satisfied.
- (4) Regulations may provide for disqualifying a person for receiving a mobility allowance for a period not exceeding six weeks on any disqualification if 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.
- (5) In the case of regulations under section 114(1) of the principal Act (determination of questions), so far as they relate to any question arising in connection with mobility allowance, subsection (3) of that section (determination of questions by Secretary of State's officer; reference of question to local tribunal, etc.) shall not apply.
- (6) Section 139 of the principal Act (consultation with National Insurance Advisory Committee) shall not apply to any regulations contained in an instrument which states

that they relate only to mobility allowance and are made consequentially on the introduction of the allowance.

23 Increase of long-term benefits

- (1) Subject to subsections (4) and (5) below, the provisions of sections 124 to 126 of the principal Act (power and duty to increase rates of benefit under that Act) shall apply also to—
 - (a) the sum specified in section 6(1)(a) above ;
 - (b) the sums which are the additional components in the rates of long-term benefits ;
 - (c) the sums which are the increases in the rates of retirement pensions under Schedule 1 to this Act so far as attributable to additional components in such pensions ; and
 - (d) the sums which are such increases so far as not so attributable.
- (2) Any increase under the said section 124 of the sums mentioned in subsection (1)(b) above shall take the form of a direction that those sums shall be increased by a specified percentage of their amount apart from the order and shall apply only in relation to additional components calculated under section 6 above by reference to final relevant years which are—
 - (a) earlier than the tax year preceding that in which the order comes into force; or
 - (b) if the order comes into force on or after 6th May in any tax year, earlier than that year.
- (3) Any increase under the said section 124 of the sums mentioned in subsection (1)(c) or (d) above shall take the form of a direction that those sums shall be increased by a specified percentage of their amount apart from the order and shall apply only in relation to sums calculated under Schedule 1 to this Act by reference to periods of deferment which have ended before the coming into force of the order.
- (4) For the purposes of any review under section 125 of the principal Act (review of benefits by reference to earnings or prices) the Secretary of State shall, as respects the sums mentioned in paragraphs (a) and (d) of subsection (1) above, have regard to earnings or prices according to which he considers more advantageous to beneficiaries and, as respects the sums mentioned in paragraphs (b) and (c) of that subsection, to prices.
- (5) The reference in section 126(5) of the principal Act to the date on which the provision fixing the current amount of a sum came into force shall be construed—
 - (a) in relation to any increase of the sums mentioned in paragraph (b) or (c) of subsection (1) above, as a reference to the date on which the last order made by virtue of that paragraph came into force or, if no such order has been made, to the beginning of the second tax year for which lower and upper earnings limits are specified under section 1 above;
 - (b) in relation to any increase in the sums mentioned in paragraph (d) of that subsection, as a reference to the date on which the provision fixing the current amount of the sum specified in section 6(1)(a) above came into force.

24 Power to modify provisions about graduated retirement benefit

- (1) So long as sections 36 and 37 of the National Insurance Act 1965 (graduated retirement benefit) continue in force by virtue of regulations made under Schedule 3 to the Social Security (Consequential Provisions) Act 1975, regulations may make provision—
- (a) for applying the provisions of sections 124 to 126 of the principal Act to the amount of graduated retirement benefit payable for each unit of graduated contributions and to increases of such benefit under any provisions made by virtue of paragraph (b) below;
 - (b) for replacing section 36(4) of the National Insurance Act 1965 (increase of graduated retirement benefit in cases of deferred retirement) with provisions corresponding to those of paragraphs 1 to 3 of Schedule 1 to this Act;
 - (c) for extending section 37 of that Act (increase of woman's retirement pension by reference to her late husband's graduated retirement benefit) to men and their late wives.
- (2) This section is without prejudice to any power to modify the said sections 36 and 37 conferred by Schedule 3 to the said Act of 1975.

25 Simultaneous entitlement to more than one pension

- (1) Where under Part II of the principal Act (whether Chapter I or Chapter II) a person would, but for section 27(6) of that Act, be entitled to more than one retirement pension,
- he may give notice in writing to the Secretary of State from time to time stating which of the pensions he wishes to receive; and that pension shall then be the one to which he is entitled in respect of any week commencing after the date of the notice.
- (2) If no such notice is given, the person shall be entitled (whichever pension he may have claimed) to whichever one is from time to time the most favourable to him.

PART III**CONTRACTING-OUT***Preliminary***26 Contracting-out of full contributions and benefits**

- (1) This Part of this Act shall have effect for the purpose of reducing—
- (a) the rates at which contributions are payable under Part I of the principal Act by or in respect of an earner in employed earner's employment; and
 - (b) the rate of any Category A or Category B retirement pension, widowed mother's allowance or widow's pension payable by virtue of contributions at such reduced rates,
- where an occupational pension scheme provides for the earner and his widow to be entitled to the requisite benefits and the earner's employment is contracted-out by reference to the scheme.
- (2) In this Part of this Act " the requisite benefits " means the pensions which are provided by an occupational pension scheme in accordance with the requirements of sections

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

33 and 36 below; and " guaranteed minimum pension " means any such pension to the extent to which its weekly rate is equal to the earner's or widow's guaranteed minimum as determined for the purposes of those sections respectively.

Contracted-out rates of contributions and benefits

27 Contracted-out rates of Class 1 contributions

- (1) Where the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, the amount of a Class 1 contribution shall be the aggregate of—
 - (a) the normal percentage of so much of the earnings paid in that week in respect of the employment as does not exceed the current lower earnings limit; and
 - (b) the contracted-out percentage of so much of those earnings as exceeds that limit but does not exceed the current upper earnings limit.
- (2) In subsection (1) above—

" the normal percentage " means the percentage that would apply for the calculation of the amount of the contribution if the employment were not contracted-out employment;

" the contracted-out percentage " means—

 - (a) in the case of a primary Class 1 contribution, a percentage less by 2.5 than the normal percentage ;
 - (b) in the case of a secondary Class 1 contribution, a percentage less by 4.5 than the normal percentage.
- (3) In the case of earners paid otherwise than weekly the references in subsection (1) above to the current lower or upper earnings limit shall be construed as references to the prescribed equivalents.
- (4) Where earnings are paid to or for the benefit of an earner in respect of an employment after he has ceased to be employed in it, that employment shall be treated for the purposes of subsection (1) above as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.
- (5) This section shall not affect the amount of any primary Class 1 contribution which is payable at a reduced rate by virtue of regulations under section 3 above.
- (6) For the purposes of section 1(5) of the principal Act (Treasury supplement to contributions calculated by reference to contributions paid in a tax year) contributions paid in accordance with this section in any tax year shall be treated as having amounted to such sum as would have been their amount if they had been paid at the rates applicable apart from this section; and that sum shall be estimated by the Secretary of State in accordance with any directions given by the Treasury.

28 Review and alteration of contracted-out rates of Class 1 contributions

- (1) The Secretary of State may from time to time, and shall when required by subsection (3) below, lay before each House of Parliament—
 - (a) a report by the Government Actuary on the contracted-out percentages for the time being applying under section 27 above and any changes in the factors

affecting the cost to occupational pension schemes of providing guaranteed minimum pensions ; and

- (b) a report by the Secretary of State stating whether he considers that, in view of the Government Actuary's report, there should be an alteration in either or both of those percentages and, if so, what alteration is in his opinion required.
- (2) The changes referred to in paragraph (a) of subsection (1) above are, in the case of the first report under that paragraph, changes since the passing of this Act and, in the case of a subsequent report, changes since the preparation of the last report.
 - (3) The Secretary of State shall lay such reports as aforesaid as soon as may be after the third anniversary of the coming into force of this section and thereafter at intervals of not more than five years.
 - (4) If in a report under subsection (1)(b) above the Secretary of State states that he considers that there should be an alteration in either or both of the contracted-out percentages, he shall prepare and lay before each House of Parliament with the report the draft of an order making that alteration; and if the draft is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.
 - (5) An order under subsection (4) above shall have effect from the beginning of such tax year as may be specified in the order, but not a tax year earlier than the second after that in which the order is made.
 - (6) No alteration of the contracted-out percentages shall introduce any distinction on grounds of age or sex.

29 Contracted-out rates of benefit

- (1) Where for any period a person is entitled both—
 - (a) to a Category A or Category B retirement pension, a widowed mother's allowance or a widow's pension ; and
 - (b) to one or more guaranteed minimum pensions, the weekly rate of the benefit mentioned in paragraph (a) above shall for that period be reduced by an amount equal to its additional component or, if less, an amount equal to the weekly rate or aggregate weekly rates of the pension or pensions mentioned in paragraph (b) above.
- (2) For the purposes of this section a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 39 below or if that pension had not been forfeited under any such provisions.
- (3) References in this section to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 35(6) below.

Arrangements for contracting-out

30 Contracted-out employment

- (1) Subject to the provisions of this Act, the employment of an earner in employed earner's employment is contracted-out employment in relation to him during any period in which he is under pensionable age and—

- (a) his service in the employment is for the time being service which qualifies him for the requisite benefits of an occupational pension scheme ; and
 - (b) the scheme is a contracted-out scheme in relation to that employment; and
 - (c) there is in force a certificate, issued by the Occupational Pensions Board and known as a " contracting-out certificate", that the employment is contracted-out employment by reference to the scheme.
- (2) Where it is a condition of a scheme that the earner shall complete a specified minimum period of service before qualifying for requisite benefits in excess of guaranteed minimum pensions, then in determining whether his service qualifies him as mentioned in subsection (1)(a) above at a time when he has not completed that period of service, the assumption is to be made that he will complete it; but in such a case for the employment to be contracted-out by reference to the scheme—
- (a) the minimum period must not be more than five years ;
 - (b) any service during that period must count towards guaranteed minimum pensions ; and
 - (c) any service in the period must, when the period is completed, count towards all the requisite benefits of the scheme.
- (3) Any contracting-out certificate for the time being in force in respect of an employed earner's employment shall be conclusive that the employment is contracted-out employment.
- (4) Regulations shall provide for the determination by the Board of any question whether an employment is to be treated as contracted-out employment or as to the persons in relation to whom, or the period for which, an employment is to be so treated.
- (5) In section 4 of the Contracts of Employment Act 1972 (which requires an employer to give his employees written statements of their terms of employment and requires any such statement to include a note specifying certain additional matters) after subsection (2)(c) there shall be inserted the words " and—
- (d) stating whether a contracting-out certificate is in force for the employment in respect of which the statement is given,";
- but nothing in this subsection shall be taken as authorising or requiring any tribunal acting under that Act to determine any question whether an employment is, has been or will be contracted-out employment.

31 Contracting-out certificates

- (1) Regulations shall provide for the issue by the Occupational Pensions Board to employers of contracting-out certificates specifying—
- (a) the employments which are to be treated, either generally or in relation to any specified description of earners, as contracted-out employments; and
 - (b) the occupational pension schemes by reference to which those employments are to be so treated.
- (2) Regulations shall also provide for the cancellation, variation or surrender of any contracting-out certificate, or the issue of an amended certificate, on any change of circumstances affecting the treatment of an employment as contracted-out employment.
- (3) Subject to the provisions of this Part of this Act, an employment otherwise satisfying the conditions for inclusion in a contracting-out certificate shall be so included if and

so long as the employer so elects and not otherwise; and subject to subsection (4) below an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.

- (4) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making any election under this section, discriminate between different earners on any grounds other than the nature of their employment; and if the Occupational Pensions Board consider that an employer is contravening this subsection in relation to any scheme they may refuse to give effect to any election made by him in relation to that scheme or cancel any contracting-out certificate held by him in respect of that scheme.
- (5) Regulations may make provision—
- (a) for regulating the manner in which an employer is to make an election with a view to the issue, variation or surrender of a contracting-out certificate;
 - (b) for requiring an employer to give a notice of his intentions in respect of making or abstaining from making any such election in relation to any existing or proposed scheme—
 - (i) to employees in any employment to which the scheme applies or to which it is proposed that it should apply;
 - (ii) to any independent trade union recognised to any extent for the purpose of collective bargaining in relation to those employees ;
 - (iii) to the trustees and managers of the scheme and such other persons as may be prescribed ;
 - (c) for requiring an employer, in connection with any such notice, to furnish such information as may be prescribed and to undertake such consultations as may be prescribed with any such trade union as is mentioned in paragraph (b)(ii) above;
 - (d) for empowering the Occupational Pensions Board to refuse to give effect to an election made by an employer unless they are satisfied that he has complied with the requirements of the regulations;
 - (e) for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in paragraph (b)(ii) above or whether the requirements of the regulations as to consultation have been complied with.
- (6) Regulations may enable the Occupational Pensions Board to cancel or vary a contracting-out certificate where they have reason to suppose that any employment to which it relates ought not to be treated as contracted-out employment in accordance with the certificate and the employer does not show that it ought to be so treated.
- (7) Except in prescribed circumstances, no contracting-out certificate and no cancellation, variation or surrender of such a certificate shall have effect from a date earlier than that on which the certificate is issued or the cancellation, variation or surrender is made.
- (8) In this section " independent trade union " has the same meaning as in the Trade Union and Labour Relations Act 1974 and " industrial tribunal " means a tribunal established under section 12 of the Industrial Training Act 1964.

32 Contracted-out schemes

- (1) An occupational pension scheme is a contracted-out scheme in relation to an earner's employment if it is for the time being specified in a contracting-out certificate as a scheme by reference to which that employment is contracted-out employment; and

references to the contracting-out of a scheme are references to its inclusion in a certificate as aforesaid.

- (2) Subject to the provisions of this section, an occupational pension scheme can be contracted-out in relation to an earner's employment only if—
 - (a) it complies in all respects with sections 33 to 41 below in respect of the requisite benefits for the earner and his widow and of the other matters there mentioned or, in, such cases or classes of case as may be prescribed, with those sections as modified by regulations ; and
 - (b) the rules of the scheme applying to the requisite benefits are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of contracted-out schemes and with such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Occupational Pensions Board as a condition of contracting-out, either generally or in relation to a particular scheme.
- (3) Where by any provision of this Part of this Act the contracting-out of a scheme in relation to an employment depends on the satisfaction of a particular condition, continued contracting-out of the scheme shall be dependent on continued satisfaction of the condition; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for the cancellation or variation of the contracting-out certificate.
- (4) A contracting-out certificate in respect of any employment may be withheld or cancelled by the Occupational Pensions Board notwithstanding that the relevant scheme is one that they would otherwise treat as proper to be contracted-out in relation to all earners in that employment if the Board consider that there are circumstances relating to the scheme or its management which make it inexpedient that the employment should be or, as the case may be, continue to be, contracted-out employment by reference to the scheme.
- (5) Where in relation to an earner's employment there are in force two or more occupational pension schemes none of which can by itself be a contracted-out scheme, the Board may if they think fit treat them for contracting-out purposes as a single scheme.
- (6) It is hereby declared that nothing in this Part of this Act precludes an occupational pension scheme from providing benefits that are more favourable than those required for contracting-out purposes.

Requirements for contracting-out

33 Requisite benefit for earner

- (1) Subject to the provisions of this Part of this Act, for an occupational pension scheme to be contracted-out in relation to an earner's employment it must provide for him to be entitled to a pension under the scheme if he attains pensionable age and contain—
 - (a) rules for determining the annual rate of the pension that comply with the requirements of section 34 below ; and
 - (b) a rule to the effect that if the earner has a guaranteed minimum under section 35 below the weekly rate of the pension will be not less than his guaranteed minimum under that section.

- (2) Subject to subsections (3) and (4) below, the scheme must provide for the pension to commence on the date on which the earner attains pensionable age and to continue for his life.
- (3) The scheme may provide for the commencement of the earner's guaranteed minimum pension to be postponed for any period for which he continues in employment after attaining pensionable age but so that his consent is required—
 - (a) for any postponement by virtue of employment to which the scheme does not relate; and
 - (b) for any postponement after the expiration of five years from the date on which he attains pensionable age.
- (4) The scheme may provide for any part of the pension in excess of the earner's guaranteed minimum to commence from a date not more than three months after that on which he attains pensionable age or to be postponed for any period for which he continues in employment (whether or not employment to which the scheme relates) after attaining that age.
- (5) Equivalent pension benefits for the purposes of the former legislation are not to be regarded as constituting any part of the earner's guaranteed minimum pension.
- (6) The benefits referred to in subsection (5) above are any to which the earner may be immediately or prospectively entitled in respect of a period of employment which—
 - (a) was for him non-participating employment under that legislation; and
 - (b) was not on its termination the subject of any payment in lieu of contributions;but subsection (5) excludes so much only of those benefits as (and no more than) had to be provided in order that the employment should for that period be treated as non-participating.
- (7) In this section " the former legislation " means Part III of the National Insurance Act 1965 and the previous corresponding enactments.

34 Annual rate of earner's pension

- (1) The requirements mentioned in section 33(1)(a) above are as follows.
- (2) Subject to the provisions of this section, the rules of the scheme must provide for the annual rate of the earner's pension to be not less than 1 ¼ cent, of either—
 - (a) his average annual salary in the whole period of his service in contracted-out employment by reference to the scheme; or
 - (b) his final salary,multiplied by the number of his years of such service or by such number of those years as will produce an annual rate equal to not less than half the salary on which it is calculated.
- (3) Where it is a condition of the scheme that the earner shall complete a specified minimum period of service before qualifying for requisite benefits in excess of guaranteed minimum pensions, the scheme's rules need not provide as in subsection (2) above for an earner whose service is terminated before completion of that minimum period.

- (4) The earner's pension need not be in accordance with subsection (2) above in case of his service in the relevant employment being terminated before he attains the scheme's normal pension age and when—
- (a) he has completed in that employment less than five years' qualifying service for the purposes of Schedule 16 to the Social Security Act 1973 (preservation); or
 - (b) he is under the age of 26 on termination of that employment.
- (5) Where the scheme provides for the annual rate of the pension to be calculated by reference to the earner's average annual salary—
- (a) the method of computing average annual salary must be approved by the Occupational Pensions Board ; and
 - (b) the scheme must provide that earnings for any period falling within any tax year shall, for the purposes of the calculation, be treated as increased by the same percentage as that prescribed for the increase of earnings factors for that year.
- (6) In subsection (5)(b) above, " prescribed " means prescribed by any order or orders coming into force under section 21 above before the earner attains whatever is the scheme's normal pension age or (if earlier) his service in the relevant employment is terminated.
- (7) Where the scheme provides for the annual rate of the pension to be calculated by reference to the earner's final salary—
- (a) the method of ascertaining final salary ; and
 - (b) the scheme's provisions for calculating the rate of pension by reference to it, must be approved by the Board.
- (8) In deciding whether or not to give their approval under subsection (7)(b) above the Board shall have regard to any aspects of the scheme which appear to them to be relevant, but in particular to the interval (if any) between the end of the period by reference to which final salary is to be determined and the scheme's normal pension age and to what provision (if any) is made for revaluing the salary during any such interval.
- (9) Subject to the foregoing provisions, the scheme may provide—
- (a) for excluding earnings of any kind from the salary by reference to which the annual rate of the earner's pension is to be calculated ; and
 - (b) for excluding any amount of earnings of the kind that are to constitute that salary except so much (if any) as would, if expressed as a weekly rate, exceed one and a half times the lower earnings limit but would not exceed the upper earnings limit;
- and if the salary is to include the amount of earnings up to one and a half times the lower earnings limit the scheme may provide for reducing the rate of pension to what it would have been if that amount had been excluded.
- (10) In subsection (9) above references to the lower and upper earnings limits, in relation to any earnings, are references to those limits as in force when the earnings are paid.
- (11) The scheme may, with the approval of the Occupational Pensions Board, provide for a lower percentage than that specified in subsection (2) above; but the Board shall not approve any such provision unless they are satisfied that it will not result in the benefits of the scheme, taken as a whole, being less favourable to the earner than would

otherwise have been the case; and in deciding whether or not to give their approval the Board shall have regard to—

- (a) whether any lump sum payments are provided in addition to the pension ;
- (b) the extent, if any, to which earnings of any kind or amount are excluded from the salary by reference to which the pension is to be calculated; and
- (c) any other features of the scheme that appear to the Board to be relevant.

35 Earner's guaranteed minimum

- (1) An earner has a guaranteed minimum in relation to the pension provided by a scheme in accordance with section 33 above if, in any tax week in a relevant year, earnings have been paid to or for the benefit of the earner in respect of contracted-out employment by reference to the scheme, being earnings in excess of the current lower earnings limit or the prescribed equivalent if he is paid otherwise than weekly.
- (2) Where an earner has a guaranteed minimum as aforesaid, that minimum shall, subject to subsection (6) below, be the weekly equivalent of an amount equal to the appropriate percentage of the total of his earnings factors for the relevant years so far as derived from contributions paid in respect of such earnings as are mentioned in subsection (1) above.
- (3) In subsection (2) above " the appropriate percentage" means—
 - (a) if the earner is not more than 20 years under pensionable age when this section comes into force, $1 \frac{1}{4}$ per cent.;
 - (b) in any other case

$$\frac{25}{N}$$

per cent, where N is the number of years in the earner's working life (assuming that he will attain pensionable age) which fall after the coming into force of this section;

and " derived " means derived in accordance with rules to be embodied in regulations.

- (4) For the purposes of subsection (2) above the weekly equivalent of the amount there mentioned shall be calculated by dividing that amount by 52 and rounding the result to the nearest whole penny, taking $\frac{1}{2}$ p as nearest to the next whole penny above.
- (5) For the purposes of subsection (2) above the earner's earnings factor for any relevant year (so far as derived as mentioned in that subsection) shall, subject to subsection (7) below, be taken to be that factor as increased by any order or orders that have come into force under section 21 above before the end of the final relevant year.
- (6) Where in accordance with section 33(3) above the commencement of an earner's guaranteed minimum pension is postponed for any period and there are at least eight complete weeks in that period, his guaranteed minimum in relation to the scheme shall, for each complete week in that period, be increased by $\frac{1}{8}$ th per cent.—
 - (a) of the amount of that minimum apart from this subsection ; or
 - (b) if for that week (or a period which includes that week) a pension is paid to him under the scheme at a weekly rate less than that minimum, of the difference between that pension and that minimum. In this subsection " week " means any period of seven consecutive days.

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

- (7) The scheme may provide that the earnings factors of an earner whose service in contracted-out employment by reference to the scheme is terminated before he attains the scheme's normal pension age shall be determined for the purposes of subsection (2) above without reference to any order that comes into force under section 21 above after the relevant year in which his service is terminated ; but in that event the scheme shall provide for the weekly equivalent mentioned in that subsection to be increased by at least—
- (a) 5 per cent, compound for each relevant year after that year; or
 - (b) the amount by which an earnings factor for that year equal to that weekly equivalent would be increased by any order or orders that come into force under the said section 21 before the end of the final relevant year,
- whichever makes the lesser increase (so however that this subsection is not to be taken as preventing the scheme from providing increases above those alternative minima).
- (8) Subsection (7) above applies only so as to permit the same such provision to be made for all members of the scheme.
- (9) In this section " relevant year " means any tax year in the earner's working life (not being earlier than the first tax year for which lower and upper earnings limits are specified under section 1 above) and " final relevant year " means the last tax year which is a relevant year in relation to the earner.

36 Requisite benefit for widow

- (1) Subject to the provisions of this Part of this Act, for an occupational pension scheme to be contracted-out in relation to an earner's employment it must provide, in the event of his dying (whether before or after attaining pensionable age) and leaving a widow, for her to be entitled to a pension under the scheme.
- (2) Subject to subsections (4) and (5) below, the scheme must contain rules whereby the annual rate of the pension will be not less than the requisite minimum under this section, which is $\frac{5}{8}$ ths per cent, of either—
- (a) the earner's average annual salary in the whole period of his service in contracted-out employment by reference to the scheme ; or
 - (b) his final salary (or last salary before death), multiplied by the number of his years of such service; and section 37 below applies as to the relationship which the widow's pension must bear to the earner's salary.
- (3) To comply with this section the scheme must also contain a rule to the effect that if the earner had a guaranteed minimum under section 35 above the weekly rate of the widow's pension will be not less than her guaranteed minimum, which shall be half that of the earner.
- (4) Where it is a condition of the scheme that the earner shall complete a specified minimum period of service before qualifying for requisite benefits in excess of guaranteed minimum pensions the scheme need not contain the rules specified in subsection (2) above for the case of the earner's service being terminated (by death or otherwise) before completion of that minimum period.
- (5) The widow's pension need not be in accordance with subsection (2) above in case of the earner dying after termination of his service in the relevant employment and either
-

- (a) his having completed in that employment less than five years' qualifying service for the purposes of Schedule 16 to the Social Security Act 1973 (preservation); or
 - (b) his being under the age of twenty-six on termination of that employment.
- (6) Subject to the following provisions of this section, the scheme must provide for the widow's pension to be payable for any period for which a Category B retirement pension, widowed mother's allowance or widow's pension is payable to her by virtue of the earner's contributions or for which a Category B retirement pension would be so payable but for section 27(6) of the principal Act.
- (7) The scheme may, with the approval of the Occupational Pensions Board, contain provisions not complying with this section in relation to any part of the pension in excess of the widow's guaranteed minimum where the marriage of the widow to the earner takes place after the termination of his service in contracted-out employment by reference to the scheme and not more than six months before his death.
- (8) The widow's guaranteed minimum pension must be payable to her; but the scheme may, with the approval of the Occupational Pensions Board, contain provisions whereby, at the discretion of the trustees or managers, any other part of the pension required by this section is not paid to her, but instead comparable benefits are provided for one or more dependants of the deceased earner.
- (9) The scheme may, with the approval of the Occupational Pensions Board, provide for reducing any part of the pension in excess of the widow's guaranteed minimum where the person to whom it is payable (whether the widow or by virtue of subsection (8) above another dependant of the deceased) was more than ten years younger than he was.

37 Earner's salary as factor of widow's pension

- (1) The following additional provisions apply as to a scheme's compliance with section 36 above.
- (2) If the scheme provides for the annual rate of the widow's pension to be calculated by reference to the earner's average annual salary—
- (a) the method of computing average annual salary must be approved by the Occupational Pensions Board ; and
 - (b) the scheme must provide that earnings for any period falling within any tax year shall, for the purposes of the calculation, be treated as increased by the same percentage as that prescribed for the increase of earnings factors for that year.
- (3) In subsection (2)(b) above, " prescribed " means prescribed by any order or orders coming into force under section 21 above before whichever is the earliest of the following events, namely—
- (a) termination of the earner's service in the relevant employment;
 - (b) his attaining the scheme's normal pension age ;
 - (c) his death.
- (4) Where the scheme provides for the annual rate of the widow's pension to be calculated by reference to the earner's final salary (or last salary before death)—
- (a) the method of ascertaining final or last salary ; and

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

- (b) the scheme's provisions for calculating the rate of pension by reference to it, must be approved by the Board.
- (5) In deciding whether or not to give their approval under subsection (4)(b) above the Board shall have regard to any aspects of the scheme which appear to them to be relevant, but in particular—
- (a) to the interval (if any) between the end of the period by reference to which final or last salary is to be determined and the scheme's normal pension age or, as the case may be, the date of the earner's death ; and
 - (b) to what provision (if any) is made for revaluing the salary during any such interval.
- (6) Subject to the foregoing provisions, the scheme may provide—
- (a) for excluding earnings of any kind from the salary by reference to which the annual rate of the widow's pension is to be calculated ; and
 - (b) for excluding any amount of earnings of the kind that are to constitute that salary except so much (if any) as would, if expressed as a weekly rate, exceed one and a half times the lower earnings limit but would not exceed the upper earnings limit; and if the salary is to include the amount of earnings up to one and a half times the lower earnings limit the scheme may provide for reducing the rate of pension to what it would have been if that amount had been excluded.
- (7) In subsection (6) above references to the lower and upper earnings limits, in relation to any earnings, are references to those limits as in force when the earnings are paid.

38 Transfer of accrued rights

- (1) Where an earner's service in contracted-out employment by reference to a scheme is terminated before he attains pensionable age the scheme may provide for his accrued rights to the requisite benefits under the scheme to be transferred to another scheme but, except where regulations otherwise provide, only with his consent and to another contracted-out scheme.
- (2) Where under the rules of a scheme transfer credits have been allowed in respect of an earner's accrued rights to guaranteed minimum pensions under another scheme, the reference in section 35(1) above to contracted-out employment by reference to the scheme shall include a reference to employment in any period of linked qualifying service which was contracted-out employment by reference to the other scheme.
- (3) In this Part of this Act—
- " accrued rights ", in relation to an earner, means the rights conferring prospective entitlement under the scheme in question to the pensions to be provided for him and his widow in accordance with sections 33 and 36 above, and references to an earner's accrued rights to guaranteed minimum pensions shall be construed accordingly;
 - " transfer credits " means rights allowed to an earner under the rules of an occupational pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme.
- (4) For the purposes of this Part of this Act any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—

- (a) under the rules of a scheme applying to him in the earlier period of service there was made a transfer of his accrued rights under that scheme to another scheme applying to him in the later period of service ; and
- (b) in consequence of that transfer, there are (or were) allowed to him transfer credits under the rules of that other scheme,

except that, for any service to be taken into account as linked qualifying service, it must be actual service and no regard shall be had to any scheme rule which provides for service to be treated for any purposes of benefit or otherwise as longer or shorter than it actually was.

39 Commutation, surrender and forfeiture

- (1) Where the annual rate of a pension required to be provided by a scheme in accordance with section 33 or 36 above would not exceed the prescribed amount and the circumstances are such as may be prescribed, the scheme may provide for the payment of a lump sum instead of that pension.
- (2) A scheme may, with the approval of the Occupational Pensions Board, provide for the payment to the earner of a lump sum instead of any part of the pension required to be provided for him under section 33 which exceeds the guaranteed minimum ; but—
 - (a) the manner in which the amount of the lump sum is arrived at under the scheme must be satisfactory to the Board; and
 - (b) the Board shall not give their approval under this subsection unless they are satisfied that it will not result in the benefits of the scheme, taken as a whole, being less favourable to the earner than would otherwise have been the case.
- (3) Without prejudice to subsection (1) above, a scheme may, in relation to a case where the earner dies before attaining pensionable age, provide for the payment of a lump sum instead of any part of the pension required to be provided for his widow in accordance with section 36 above which exceeds her guaranteed minimum, being a lump sum equal to not less than eleven times what would have been the annual rate of that part; and subsection (8) of that section shall have effect in relation to any such lump sum as it has effect in relation to any part of a pension in excess of the widow's guaranteed minimum.
- (4) Neither section 33 nor section 36 above shall preclude a scheme from providing—
 - (a) for any part of a pension in excess of the earner's or widow's guaranteed minimum, as the case may be, to be forfeited or surrendered or to be subject to any charge, lien or set-off; or
 - (b) for the earner's or widow's guaranteed minimum pension to be suspended or forfeited in such circumstances as may be prescribed.

40 Financing and assurance of benefits

- (1) For an occupational pension scheme to be contracted out the resources of the scheme must be derived in whole or in part from—
 - (a) payments made or to be made by one or more employers of earners to whom the scheme applies, being payments either—
 - (i) under an actual or contingent legal obligation ;
- or

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

- (ii) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money; or
 - (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.
- (2) For an occupational pension scheme, other (than a public service pension scheme, to be contracted-out the Occupational Pensions Board must be satisfied that the scheme complies with—
 - (a) regulations prescribing the means by which guaranteed minimum pensions under contracted-out schemes are to be secured (whether irrevocable trust, policy of insurance, annuity contract or other means); and
 - (b) the conditions which are required by the regulations to be satisfied in relation to any means adopted; and generally as to the arrangements in force or to be in force from time to time for securing those pensions.
- (3) For an occupational pension scheme to be contracted-out it must contain a rule whereby any liabilities of the scheme in respect of—
 - (a) guaranteed minimum pensions and accrued rights to guaranteed minimum pensions;
 - (b) any such benefits as are excluded by section 33(5) above from earners' guaranteed minimum pensions ;
 - (c) pensions and other benefits (whether or not within paragraph (a) or (b) above) in respect of which entitlement to payment has already arisen; and
 - (d) state scheme premiums, are accorded priority on a winding up over other liabilities under the scheme in respect of benefits attributable to any period of service after the rule has taken effect. This does not apply to public service pension schemes, nor to schemes falling within any category or description prescribed as being exempt from the requirements of this subsection.
- (4) For an occupational pension scheme to be contracted-out it must, if it provides for the payment out of any sum representing the surrender value of a policy of insurance taken out for the purposes of the scheme, so provide that there shall be no payment out in relation to guaranteed minimum pensions except in such circumstances as may be prescribed.

41 Sufficiency of resources

- (1) For an occupational pension scheme, other than a public service scheme, to be contracted-out the Occupational Pensions Board must be satisfied that the resources of the scheme are sufficient—
 - (a) for meeting from time to time all claims in respect of guaranteed minimum pensions so far as falling to be met out of those resources, having regard to the expected extent of the scheme's resources and its other liabilities at any time when claims may be expected to arise; and
 - (b) for paying state scheme premiums in respect of all persons at any time entitled to, or having accrued rights to, guaranteed minimum pensions under the scheme; and
 - (c) for meeting in full, in the event of an immediate winding up, the liabilities accorded priority in accordance with section 40(3) above and the expenses

of administration so far as those expenses are payable out of the resources of the scheme.

- (2) Where contracting-out or continued contracting-out depends on the Board being satisfied as mentioned in subsection (1) above, the scheme may be contracted-out or continue to be contracted-out, as the case may be, in relation to any employment subject to such conditions as the Board think fit to impose for securing—
 - (a) that the Board are kept informed as to any matters affecting the security of the minimum pensions guaranteed under the scheme;
 - (b) that the resources of the scheme are brought to and maintained at a level satisfactory to the Board ; and non-compliance with any condition imposed by the Board under this subsection shall be grounds on which the Board may cancel a contracting-out certificate issued in respect of any employment within the application of the scheme.
- (3) Conditions imposed by the Board for the purpose mentioned in subsection (2)(b) above may require steps to be taken, at the instance of the Board, to increase the scheme's resources at any time after contracting-out, including a time when the scheme has ceased to be contracted-out.
- (4) With a view to enforcing a condition imposed for that purpose, the Board may by order require an employer to make such payments as the Board think necessary to bring the resources of the scheme to a satisfactory level; and in the case of an employer failing to make any payment required by such an order—
 - (a) the Board may make a further order declaring the amount which the employer has failed to pay to be a debt due from him to the Board and may recover it from him accordingly; and
 - (b) any amount so recovered shall be paid over by the Board (on the employer's behalf) in accordance with the terms of the original order,
- (5) In considering a scheme by reference to the considerations of subsection (1) above, the Board shall have regard to any investments held for the purposes of the scheme; and the Board may by reference to those considerations make it a condition of contracting-out or continued contracting-out that—
 - (a) no part, or no more than a specified proportion, of the scheme's resources shall be invested in investments of a specified class or description ;
 - (b) there shall be realised, before the expiration of a specified period, the whole or a specified proportion of investments of a specified class or description forming part of the scheme's resources when the condition is imposed;

and non-compliance with any such condition shall be a ground on which the Board may withhold or cancel a contracting-out certificate in respect of any employment within the application of the scheme.

State scheme premiums

42 Premium on termination of contracted-out employment

- (1) This section has effect as to the cases in which an earner's employer may pay a state scheme premium where—
 - (a) the earner's service in contracted-out employment by reference to an occupational pension scheme is terminated before he attains the scheme's

normal pension age or (if earlier) the end of the tax year preceding that in which he attains pensionable age; and

- (b) he has served for less than five years in contracted-out employment by reference to the scheme ; and a premium under this section may be referred to as a " contributions equivalent premium " .

(2) If—

- (a) the earner's service is terminated in any way except by his death or by the scheme's ceasing to be contracted-out ; and
- (b) his period of service is not one in respect of which the scheme conforms to the appropriate extent with the preservation requirements of Part II of the Social Security Act 1973,

his employer may elect to pay a contributions equivalent premium with a view to extinguishing the earner's accrued rights to guaranteed minimum pensions under the scheme.

- (3) If the earner's service is terminated by his death and he dies leaving a widow, his employer may elect to pay a contributions equivalent premium with a view to extinguishing any such accrued rights in respect of the widow.

43 Premium under section 42: additional provisions

- (1) The amount of a contributions equivalent premium shall be the equivalent, as certified by the Secretary of State, of the amount by which the Class 1 contributions payable in respect of the earner's employment in contracted-out employment by reference to the scheme have fallen short of what would have been payable if the employment had not been contracted-out; and in certifying any amount under this section the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.
- (2) Where under the rules of the scheme transfer credits have been allowed in respect of the earner's accrued rights under another scheme, the references in section 42(1), and in subsection (1) above, to contracted-out employment by reference to the scheme shall include references to employment in any period of linked qualifying service which was contracted-out employment by reference to the other scheme.
- (3) For the purposes of section 42(2), a scheme conforms to the appropriate extent with the preservation requirements of Part II of the Social Security Act 1973 if—
 - (a) it entitles the earner to short service benefit within the meaning of those requirements ; or
 - (b) it makes any provision which under those requirements is permitted as an alternative to short service benefit (other than provision for return of contributions or for benefit in the form of a lump sum).
- (4) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making elections under section 42(2) or (3), discriminate between different earners on any grounds other than their respective lengths of relevant service; and if the Occupational Pensions Board consider that an employer is contravening this subsection, they may cancel any contracting-out certificate held by him in respect of the scheme in question.
- (5) In subsection (4) above " relevant service " means service in contracted-out employment by reference to the scheme, together with any service in contracted-

out employment which in relation to service in that employment is linked qualifying service.

- (6) An election by an employer under section 42(2) or (3) must be made within the prescribed period in the prescribed manner; and where an employer elects to pay a premium in respect of an earner, he shall pay it to the Secretary of State within the prescribed period.
- (7) Payment of a premium under section 42(2) shall operate to extinguish the earner's accrued rights to guaranteed minimum pensions under the scheme; and payment of a premium under section 42(3) shall operate to extinguish any right to guaranteed minimum pension in respect of the widow.
- (8) Subject to regulations made under paragraph 1 of Schedule 2 to this Act, an employment which is terminated by the death of the employer shall be treated for the purposes of section 42 as terminated immediately before the death.

44 Premium on termination of contracted-out scheme

- (1) In the case of an occupational pension scheme which is contracted-out, the Occupational Pensions Board may, for the event of its ceasing to be contracted-out, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer—
 - (a) of earners' accrued rights to guaranteed minimum pensions under the scheme ;
 - (b) of the liability for the payment of guaranteed minimum pensions thereunder in respect of persons who have then become entitled to receive them.
- (2) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise) then—
 - (a) in respect of each earner whose accrued rights to guaranteed minimum pensions under the scheme are not subject to approved arrangements ; and
 - (b) in respect of each person who has then become entitled to receive a guaranteed minimum pension under the scheme and whose guaranteed minimum pension rights are not so subject, a state scheme premium shall be payable by the prescribed person.
- (3) A premium under subsection (2)(a) above may be referred to as an " accrued rights premium " ; and a premium under subsection (2)(b) may be referred to as a " pensioner's rights premium " ; and in each case the premium shall be paid within the prescribed period to the Secretary of State.
- (4) For the purposes of subsection (2) above, an earner's accrued rights or, as the case may be, a person's guaranteed minimum pension rights are subject to approved arrangements if (either before or after the scheme ceased to be contracted-out) the Occupational Pensions Board have approved arrangements under subsection (1) above which operate as respects him and the rights in question, and have not since withdrawn their approval.
- (5) The amount—
 - (a) of an accrued rights premium shall be the cost (as certified by the Secretary of State) of providing guaranteed minimum pensions for the earner and his widow in accordance with his accrued rights under the scheme; and

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

- (b) of a pensioner's rights premium shall be the cost (as so certified) of providing or continuing to provide any guaranteed minimum pension thereunder, whether for the earner (or former earner) or for his widow.
- (6) The costs referred to in subsection (5)(a) and (b) above shall, unless the person liable for the premium otherwise elects in the prescribed manner, be calculated on the basis that (disregarding any orders made under section 21 of this Act) the relevant earnings factors have been increased by 12 per cent, per annum in each of the five complete tax years before that in which the scheme ceases to be contracted-out.
- (7) In calculating those costs, the Secretary of State shall apply whichever of the prescribed actuarial tables (as in force at the time when the scheme ceases to be contracted-out) is applicable in accordance with the regulations prescribing the tables.
- (8) In certifying any amount under subsection (5) above, the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.
- (9) Payment of an accrued rights premium shall extinguish the earner's accrued rights to guaranteed minimum pensions under the scheme and payment of a pensioner's rights premium shall extinguish any right to receive guaranteed minimum pensions thereunder, whether for the earner (or former earner) or for his widow.

45 Premium where guaranteed minimum pension excluded from full revaluation

- (1) Where an earner's service in contracted-out employment by reference to an occupational pension, scheme is terminated before he attains the scheme's normal pension age and the weekly rate of the guaranteed minimum pensions to which he has accrued rights under the scheme will fall to be determined in accordance with provisions included in the scheme by virtue of section 35(7) above, then, unless either
 - (a) a state scheme premium is payable in respect of him under section 42 or 44 above, or
 - (b) those provisions conform with such additional requirements as may be prescribed, the earner's employer shall in respect of the earner pay a state scheme premium (which may be referred to as a "limited revaluation premium").
- (2) Such a premium shall be paid to the Secretary of State within the prescribed period; and its amount shall be the difference, as certified by the Secretary of State, between the cost of providing the guaranteed minimum pensions in accordance with the provisions included in the scheme by virtue of the said section 35(7) and what would have been the cost of providing them if no such provision had been included.
- (3) Where a state scheme premium is payable in respect of an earner under this section, and the case is one in which his service in contracted-out employment is terminated in consequence of the relevant scheme ceasing to be contracted-out, the costs referred to in subsection (2) above shall, unless the employer otherwise elects in the prescribed manner, be calculated on the basis that (disregarding any orders made under section 21 of this Act) the relevant earnings factors have been increased by 12 per cent, per annum in each of the five complete tax years before that in which the scheme ceases to be contracted-out.
- (4) In calculating the costs referred to in subsection (2) above the Secretary of State shall apply whichever of the prescribed actuarial tables (as in force at the time when

the earner's service in contracted-out employment is terminated) is applicable in accordance with the regulations prescribing the tables ; and—

- (a) the tables shall be so framed as to embody the assumption that the increase of weekly equivalent required by section 35(7) is 5 per cent, compound for each relevant year after that in which the earner's service is terminated; and
 - (b) that assumption shall prevail over any different provision made by the scheme.
- (5) In certifying any amount under subsection (2) above the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.
- (6) References in this section to the termination of an earner's employment do not include references to its termination by his death; and, subject to regulations made under paragraph 1 of Schedule 2 to this Act, an employment which is terminated by the death of the employer shall be treated for the purposes of this section as terminated immediately before the death.

46 Provisions as to actuarial tables

- (1) Regulations prescribing actuarial tables for the purposes of sections 44(7) and 45(4) above—
- (a) shall be made only after consultation with the Government Actuary; and
 - (b) shall not be made unless a draft of them has been laid before Parliament and approved by a resolution of each House.
- (2) The prescribed actuarial tables shall comprise a standard table—
- (a) embodying whatever appears to the Secretary of State to be the best practicable estimate of the average cost, expressed in actuarial terms and relative to a given period, of making such provision for pensions as is mentioned in section 44(5)(a) or (b), or section 45(2), as the case may be ; but
 - (b) assuming an average yield on investments which is not less than the average increase in the general level of earnings obtaining in Great Britain,
- and also alternative tables to be applied, as directed by the regulations, according to whatever is from time to time the yield on such investments or classes of investments as the Secretary of State thinks fit to prescribe.
- (3) With any reports laid before Parliament under section 28 of this Act, the Secretary of State shall lay—
- (a) a report by the Government Actuary on any changes in the factors affecting the actuarial tables prescribed for the purposes of section 44(7) and 45(4); and
 - (b) a report by the Secretary of State stating whether he considers that, in view of the Government Actuary's report, there should be any alterations in the tables and if so, what alterations are in his opinion required.
- (4) The changes referred to in subsection (3)(a) above are, in the case of the first report under that paragraph, changes since the passing of this Act and, in the case of a subsequent report, changes since the preparation of the last report.
- (5) If in a report under subsection (3)(b) above the Secretary of State states that he considers that there should be alterations in the actuarial tables, he shall prepare and lay before each House of Parliament with the report the draft of regulations prescribing tables to be in force with those alterations from the beginning of such tax year as may be specified in the regulations not earlier than the second tax year after that in which the regulations are made.

- (6) If the draft regulations are approved by resolution of each House the Secretary of State shall make the regulations in the form of the draft.

47 Deduction of premium from refund of contributions

- (1) Where an earner's service in contracted-out employment is terminated and—
- (a) he (or by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him for the purposes of the relevant scheme towards the provision of benefits under the scheme; and
 - (b) a state scheme premium falls to be paid by any person in respect of him under this Part of this Act, then, subject to the provisions of this section, the person by whom the premium falls to be paid shall be entitled on paying it to recover the certified amount (and on paying any part of it to recover a proportionate part of the certified amount) from the person liable for the refund.
- (2) For the purposes of this section the certified amount in relation to a premium paid in respect of any person who is or was an earner or whose husband was an earner shall be such amount as may be certified by the Secretary of State as the amount by which the primary Class 1 contributions payable in respect of the earner's employment in—
- (a) contracted-out employment by reference to the relevant scheme; and
 - (b) employment in any period of linked qualifying service which was contracted-out employment by reference to another scheme,
- have fallen short of what would have been payable if the employment or employments had not been contracted-out; and in certifying any amount under this subsection the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.
- (3) The amount recoverable under this section shall not exceed the amount of the refund or so much of it as has not been made.
- (4) Where the period taken into account in arriving at the certified amount does not coincide with that in respect of which the refund is to be made, the sum recoverable under this section shall be determined by reference to so much of that amount and of the refund as are referable to the same period.
- (5) The amount which may be recovered under this section in respect of any premium shall be increased by such amount as may be prescribed where the refund—
- (a) is made in respect of more than one period of service, and one or more of those periods are periods of previous linked qualifying service ; and
 - (b) includes any amount paid under a contracted-out scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme.
- (6) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this section from another person liable for the refund.
- (7) The amount of the refund shall be reduced by any amount recovered or retained under this section; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this section to be exercised, and any provision so made shall have effect notwithstanding anything in any enactment relating to the making of the refund.
- (8) Where an earner's service in contracted-out employment is terminated and—

- (a) he (or by virtue of a connection with him any other person) is entitled to a refund of any payments made by or in respect of him under the relevant scheme in relation to any previous contracted-out employment of his, being payments towards the provision of benefits under that scheme ; and
- (b) a state scheme premium falls to be paid in respect of him and the period taken into account in arriving at the certified amount includes the period of the previous contracted-out employment,

then in respect of that premium the person liable for it shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out of a refund in respect of a later employment) as a person has under the foregoing provisions of this section where a state scheme premium and a refund fall to be made on the termination of service in the employment in respect of which the refund is made; and subsection (7) above shall apply accordingly.

- (9) Notwithstanding any contract to the contrary, a person shall not be entitled to recover any part of a state scheme premium from any earner in respect of whom it is payable or, except in accordance with this section, to recover or retain any part of such a premium out of any money payable to or for the benefit of the earner or any other person.
- (10) The foregoing provisions of this section shall apply in relation to such a refund as is referred to in subsection (1)(a) above which becomes payable after the termination of an earner's service in contracted-out employment as they apply to such a refund becoming payable on the termination of an earner's service in such employment; and where he (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, those provisions shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1)(a) above.
- (11) For the purposes of subsection (10) above, a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being or having been a member of an occupational pension scheme, being a payment which either—
 - (a) is made or to be made otherwise than out of the resources of the scheme ; or
 - (b) is made or to be made out of those resources but by way of distribution on a winding-up; or
 - (c) falls within such other description of payments as may be prescribed for the purposes of subsection (10) above.
- (12) In this section, " the relevant scheme " in relation to any employment means the contracted-out scheme by reference to which that employment is or was contracted-out employment in relation to the earner concerned.

Supplementary

48 Guaranteed minimum pensions to be inalienable

- (1) Where a person is entitled or prospectively entitled to a guaranteed minimum pension under an occupational pension scheme and the person's entitlement is in respect of his or another person's service in employment which was contracted-out by reference to that scheme—
 - (a) every assignment of or charge on that pension ; and
 - (b) every agreement to assign or charge that pension, shall be void.

- (2) Subsection (1) above has effect whether or not the assignment, charge or agreement was made at a time when the employment was contracted-out employment or the scheme was a contracted-out scheme in relation to the employment.
- (3) On the bankruptcy of a person who is entitled or prospectively entitled as mentioned in subsection (1) above, any guaranteed minimum pension the assignment of which is or would be made void by that subsection shall not pass to any trustee or other person acting on behalf of his creditors.
- (4) In the application of this section to Scotland-r
 - (a) references to assignment shall be construed as references to assignation and "assign" shall be construed accordingly; and
 - (b) the reference to a person's bankruptcy shall be construed 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.

49 Supervision of schemes which have ceased to be contracted-out

- (1) The provisions of this section shall apply in respect of any occupational pension scheme, other than a public service scheme, where—
 - (a) the scheme has ceased to be a contracted-out scheme otherwise than by being wound up; and
 - (b) premiums have not been paid under section 44 above in respect of each person entitled to receive, or having accrued rights to, guaranteed minimum pensions under the scheme;and those provisions shall continue to apply so long as there is any such person.
- (2) The Occupational Pensions Board shall be under a duty to satisfy themselves from time to time as to—
 - (a) the matters in respect of which they are required to be satisfied for contracting-out purposes under sections 40(2) and 41(1) above ; and
 - (b) the soundness and adequacy of any investments held for the purposes of the scheme (so far as relevant to the considerations of the said section 41(1));and where the scheme was contracted-out subject to such conditions as are referred to in section 41(2) and (5) above those conditions shall continue to be binding notwithstanding that there is no contracting-out certificate in force.
- (3) For the purposes of subsection (2)(a) above the Board may (either by way of enforcement of such conditions as are referred to in section 41(2) or otherwise) by order require employers to make such payments to increase the resources of the scheme or for any other purpose as the Board think expedient for securing the guaranteed minimum pensions under the scheme; and in the case of an employer failing to make any payment required by such an order—
 - (a) the Board may make a further order declaring the amount which the employer has failed to pay to be a debt due from him to the Board and may recover it from him accordingly ; and
 - (b) any amount so recovered shall be paid over by the Board (on the employer's behalf) in accordance with the terms of the original order.
- (4) In so far as the Board are not satisfied as mentioned in subsection (2)(b) above, they may by order modify the scheme's rules or by order direct the scheme's trustees or

managers to take such steps as the order may specify, in either case with a view to ensuring that the guaranteed minimum pensions under the scheme are adequately secured to its beneficiaries, both present and future.

- (5) If it appears to the Board that there has been, or is likely to be, a breach of any rule of the scheme relating to the matters dealt with in sections 33 to 41 above, the Board may take such steps as they think expedient with a view to remedying or preventing the breach; and for this purpose they may themselves take any proceedings for enforcement of the rules which would be open to a person as an actual or prospective beneficiary under the scheme, or as one of its trustees or managers, or as being otherwise concerned with the scheme or its benefits, and may assume the conduct of proceedings for enforcement brought by any such person.
- (6) Where the Board are satisfied that the guaranteed minimum pensions under the scheme are not, and cannot be, adequately secured to its beneficiaries, they may by order—
 - (a) require the scheme to be wound up in accordance with such directions in that behalf as may be contained in the order; or
 - (b) direct the trustees or managers to take such steps for the winding-up of the scheme as the order may specify; and, on a winding-up in pursuance of an order of theirs under this subsection, the same powers shall be exercisable by the Board in relation to the scheme's winding-up rules as are exercisable by them under subsection (5) above in relation to other rules.
- (7) In relation to a scheme of any prescribed category, the references in subsection (3) above to employers shall include such persons as may be prescribed as among those to whom an order of the Board under that subsection may be directed in the case of a scheme of that category after it has ceased to be contracted-out.

50 Alteration of rules of contracted-out schemes

- (1) Where in respect of any employment a contracting out certificate has been issued, no alteration of the rules of the relevant contracted-out scheme shall be made so as to affect any of the matters dealt with in this Part of this Act without the consent of the Occupational Pensions Board; and subject to subsection (2) below any such alteration made without that consent shall be void.
- (2) A consent given by the Board for the purposes of this section shall, if and to the extent that the Board so direct, operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.
- (3) This section shall continue in force in relation to a scheme after it has ceased to be contracted-out so long as any person is entitled to receive, or has accrued rights to, a guaranteed minimum pension under the scheme.

51 Information as to guaranteed minimum pensions

The Secretary of State may from time to time furnish the trustees or managers of an occupational pension scheme and such other persons as may be prescribed with information as to the amount of the guaranteed minimum pension to which it appears to him that any person is immediately or prospectively entitled under the scheme or as to any other matter required for calculating that amount.

52 Contracting-out regulations

Schedule 2 to this Act shall have effect for enabling regulations to be made in relation to the operation and administration of this Part of this Act.

PART IV

OCCUPATIONAL PENSIONS

Equal access to occupational pension schemes

53 Equal access requirements

- (1) The provisions of sections 54 to 56 below shall have effect with a view to securing that the rules of occupational pension schemes conform with the equal access requirements.
- (2) Subject to subsection (3) below, the equal access requirements in relation to a scheme are that membership of the scheme is open to both men and women on terms which are the same as to the age and length of service needed for becoming a member and as to whether membership is voluntary or obligatory.
- (3) Regulations may—
 - (a) provide for the equal access requirements to apply, whether to an occupational pension scheme, or to terms of employment relating to membership of it, or to both, with such modifications and exceptions as the Secretary of State considers necessary for particular cases or classes of case;
 - (b) modify those requirements in any manner which he thinks appropriate with a view to securing the orderly implementation of the provisions of sections 54 to 56 below and to obtaining general compliance with those provisions.
- (4) A rule does not contravene the equal access requirements only because it confers on the scheme's trustees or managers, or others, a discretion whose exercise may result in a person being more or less favourably treated than he otherwise would be, so long as the rule does not provide for the discretion to be exercised in any discriminatory manner as between men and women,
- (5) This section and sections 54 to 56 below shall have effect in relation to any occupational pension scheme which is in force on, or comes into force after, the day on which this section comes into operation, being a scheme whose resources are derived as mentioned in section 40(1) above.
- (6) Regulations may make provision—
 - (a) for the Equal Pay Act 1970 to have effect, in relation to terms of employment relating to membership of an occupational pension scheme, with such modifications as may be prescribed ;
 - (b) for imposing requirements on employers as to the payment of contributions and otherwise in case of their failing or having failed to comply with any such terms ;
 - (c) for the consequential modification of a scheme's rules where there has been an alteration under the Equal Pay Act 1970 of any such terms.

- (7) A reference in this section to terms of employment includes (where the context permits)—
- (a) any collective agreement or pay structure ;
 - (b) a wages regulation order within section 4 of the Equal Pay Act 1970 ; and
 - (c) an agricultural wages order within section 5 of that Act.

54 Duty to bring schemes into conformity with equal access requirements

- (1) Where the rules of an occupational pension scheme do not comply with the equal access requirements it shall be the responsibility of—
- (a) the trustees and managers of the scheme; or
 - (b) in the case of a public service pension scheme,' the Minister, government department or other person or body concerned with its administration,
- to take such steps as are open to them for bringing the rules of the scheme into conformity with those requirements.
- (2) The Occupational Pensions Board may at any time, and shall if requested by any such persons as are mentioned in subsection (1) above, advise whether the rules of a scheme do or do not in the Board's opinion conform with the equal access requirements and, where the Board advise that the rules do not conform, they shall indicate what steps they consider should be taken with a view to securing conformity.

55 Determination of questions whether scheme conforms with equal access requirements

- (1) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination as to whether or not the rules of the scheme conform with the equal access requirements.
- (2) The persons competent to make an application under this section in respect of a scheme are—
- (a) the trustees or managers of the scheme ;
 - (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
 - (c) any person who is an employer of persons in service in an employment to which the scheme applies ;
 - (d) any member or prospective member of the scheme ;
 - (e) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.
- (3) The Board may at any time of their own motion issue in respect of a scheme which has come to their notice any determination which they could issue in the case of that scheme on an application to them under subsection (1) above; and this subsection applies in particular to a scheme which the Board are considering with a view to contracting-out and one in respect of which an application has been made to them under section 64 of the Social Security Act 1973 for an order authorising the modification of the scheme or modifying it.

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

- (4) Any question arising in proceedings before any court or tribunal or before the Industrial Arbitration Board whether the rules of an occupational pension scheme conform with the equal access requirements shall be referred to the Occupational Pensions Board and determined by that Board.
- (5) At any time when the Occupational Pensions Board are concerned with a scheme for the purpose of issuing a determination under this section, they may include a determination (whether or not applied for) as to any of the particular matters specified in subsection (2) of section 53 above or in that subsection as modified by regulations under subsection (3) of that section.

56 Modification of schemes to secure conformity

- (1) If the Occupational Pensions Board determine under section 55 above that the rules of a scheme do not conform with the equal access requirements they shall, either at the time of issuing their determination or as soon thereafter as they think expedient—
 - (a) by order direct the trustees or managers of the scheme, or any such persons as are referred to in subsection (2)(b) of that section, to exercise such powers as they possess for modifying the scheme with a view to bringing it into conformity with those requirements (for which purpose the Board shall include in their order such directions as they think appropriate to indicate the modification appearing to them to be called for); or
 - (b) if there is no person with power to modify the scheme as required by the Board, by order authorise the trustees or managers, or other persons named in the order (who may in particular include such an employer as is specified in subsection (2)(c) of that section) to make that modification; or
 - (c) themselves by order modify the scheme with a view to achieving the purposes above-mentioned.
- (2) The Board may exercise their powers under subsection (1) above from time to time in relation to any scheme in respect of which they have issued a determination under section 55 above, and may exercise the powers together or separately.
- (3) Any modification of a scheme made in pursuance of an order of the Board under subsection (1)(b) or (c) above shall be as effective in law as if it had been made under powers conferred by or under the scheme; and such an order may be made and complied with in relation to a scheme—
 - (a) notwithstanding any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the modification being made ;
 - (b) without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure, or the obtaining of any consent, with a view to the making of the modification.
- (4) An order of the Board under subsection (1)(a) above may require persons to exercise a power retrospectively (whether or not the power could otherwise be so exercised), and an order under subsection (1)(b) or (c) may operate retrospectively; and in this subsection " retrospectively" means with effect from a date before that on which the power is exercised or, as the case may be, the order is made, not being in either case a date earlier than the coming into operation of this section.
- (5) In section 64(3) of the Social Security Act 1973 (which confers power to modify schemes for various purposes) after paragraph (d) there shall be inserted—

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

- “(dd) to comply with the equal access requirements specified in section 53 of the Pensions Act but without prejudice to anything in section 56 of that Act.”.

Other provisions

57 Disclosure of information by Occupational Pensions Board

The Occupational Pensions Board may inform any person claiming to be entitled to a pension under an occupational pension scheme of the name and address of any person appearing to the Board to be responsible for paying that pension notwithstanding that information with respect to that matter has come into the Board's possession by virtue of section 89 of the Social Security Act 1973 (disclosure to Board of information obtained by Commissioners of Inland Revenue).

58 Priority in bankruptcy etc.

Schedule 3 to this Act shall have effect for affording priority in cases of insolvency to liabilities in respect of contributions to occupational pension schemes and in respect of state scheme premiums.

59 Increase of official pensions

- (1) Where by virtue of section 23 above a direction is given that the sums mentioned in subsection (1)(b) of that section are to be increased by a specified percentage the Minister for the Civil Service shall by order provide that the annual rate of an official pension may, if a qualifying condition is satisfied or the pension is a widow's pension, be increased in respect of any period beginning on or after the date on which the direction takes effect—
- (a) if the pension began before the beginning of the base period for that direction, by the same percentage as that specified in the direction:
 - (b) if the pension began during the base period, by that percentage multiplied by

$$\frac{A}{B}$$

where A is the number of complete months in the period between the beginning of the pension and the end of the base period and B is the number of complete months in the base period.

- (2) Where an order is made under this section in consequence of any such direction as aforesaid the order shall, in addition to the provision required by subsection (1) above, authorise the payment of an increase in respect of any lump sum that becomes payable during the base period for that direction, being an increase equal to the percentage specified in the direction multiplied by

$$\frac{A}{B}$$

where—

- (a) A is the number of complete months in the period between the beginning date for the lump sum (or, if later, the date from which it was last authorised to be

increased by an order Under this section) and the date on which it becomes payable ; and

(b) B is the number of complete months in that base period.

(3) In the case of the first order made under this section in consequence of any such direction as aforesaid, subsection (1) above shall have effect as if the increase required to be authorised in the case of any pension (whether beginning before or during the base period) were an increase equal to the percentage specified in the direction multiplied by

$$\frac{A}{B}$$

where—

(a) A is the number of complete months in the« period between the beginning of the pension (or, if later, the date from which it was last authorised to be increased by an order under section 2 of the Pensions (Increase) Act 1971) and the end of the base period for that direction; and

(b) B is the number of complete months in that base period.

(4) In the case of the first order so made under this section, subsection (2) above shall have effect as if—

(a) for the reference to any lump sum that becomes pay able during the base period there were substituted a reference to any lump sum that becomes or has become payable before the end of the base period but after the date from which official pensions were last increased by an order under section 2 of the Pensions (Increase) Act 1971 ; and

(b) the reference in paragraph (a) of the subsection to the date from which the lump sum was last authorised to be increased were a reference to the date specified in paragraph (a) above.

(5) The increases in the rate of a pension that may be provided for by an order under this section are to be calculated by reference to the basic rate of the pension as authorised to be increased by section 1 of the said Act of 1971 or by any order under section 2 of that Act or this section; but where a person is entitled to a guaranteed minimum pension when an order under this section comes into force, the amount by reference to which any increase authorised by that or any subsequent order is to be calculated shall be reduced by an amount equal to the rate of the guaranteed minimum pension.

(6) Any order under this section shall be made by statutory instrument and shall be laid before Parliament after being made.

(7) In this section—

" base period", in relation to any such direction as is mentioned in subsection (1) above, means the period ending with the coming into force of that direction and beginning with the coming into force of the last previous such direction or, if there was none, with the first day of the second tax year for which lower and upper earnings limits are specified under section 1 above;

"beginning date", in relation to a lump sum, shall be construed in accordance with sections 8(2) and 9(2)(a) of the said Act of 1971;

" lump sum " includes an instalment of a lump sum; and this section and the said Act of 1971 shall have effect as if this section were contained in Part I of that Act.

PART V

GENERAL

60 Determination of questions

- (1) The questions to which section 93(1) of the principal Act applies (questions for determination by the Secretary of State) shall include—
- (a) any question as to which surpluses are to be taken into account under section 6(2) above ;
 - (b) any question as to the amount of a person's guaranteed minimum for the purposes of section 33 or 36 above;
 - (c) any question whether a state scheme premium is payable or has been paid in any case or as to the amount of any such premium.
- (2) Any question arising under this Act whether the employment of an earner in employed earner's employment at any time is or was contracted-out employment in relation to him shall be referred by the Secretary of State to the Occupational Pensions Board and determined by that Board.
- (3) Neither the said section 93(1) nor section 98(1) of the principal Act (questions for determination by insurance officers) shall apply to any such question as is mentioned in subsection (2) above.
- (4) Section 86(1) of the Social Security Act 1973 (references and appeals from Occupational Pensions Board) shall apply to—
- (a) any matter which under subsection (2) above falls to be determined by that Board ; and
 - (b) any matter arising under Part III or IV of this Act for determination by the Board.

61 Consultation about regulations

- (1) Section 139(1) of the principal Act (duty to consult National Insurance Advisory Committee about proposed regulations) shall not apply to—
- (a) regulations under section 1 above or contained in a statutory instrument which states that it contains only regulations to make provision consequential on regulations under that section;
 - (b) regulations prescribing the maximum mentioned in section 9(3) above;
 - (c) regulations contained in a statutory instrument which states that it contains only regulations to make provision consequential on the making of an order under section 21 above;
 - (d) regulations made for the purposes of Part III or IV of this Act;
 - (e) regulations made before the beginning of the first tax year for which lower and upper earnings limits are specified under section 1 above where the statutory instrument containing the regulations states that they only make provision consequential on the passing of this Act;
 - (f) regulations made before the end of the year mentioned in paragraph (e) above under section 3 above or 63 below.
- (2) Where the Secretary of State proposes to make any regulations for the purposes of Part III or IV of this Act (other than regulations prescribing actuarial tables or regulations

to be made before the expiration of six months after the passing of this Act) he shall refer the proposals, in the form of draft regulations or otherwise, to the Occupational Pensions Board.

- (3) The Board shall consider any proposals referred to them under subsection (2) above and make a report to the Secretary of State containing such recommendations as they think fit with regard to the subject-matter of the proposals; and if after receiving the Board's report the Secretary of State lays before Parliament regulations or draft regulations which comprise the whole or any part of the subject-matter of proposals referred to the Board he shall lay with the regulations or draft a copy of the report and a statement showing—
 - (a) the extent, if any, to which the Secretary of State has, in framing the regulations, given effect to the recommendations contained in the Board's report; and
 - (b) in so far as he has not given effect to any such recommendations, his reasons for not doing so.
- (4) In relation to regulations required or authorised to be made by the Secretary of State in conjunction with the Treasury, any reference in this section to the Secretary of State shall be construed as a reference to him and the Treasury acting jointly.
- (5) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of subsection (3) above shall be deemed to be satisfied as respects either House of Parliament if a copy of the report and the statement referred to in that subsection are laid before that House not later than the second day on which the House sits after the laying of the regulations.

62 Other provisions about regulations and orders

- (1) Section 167 of the principal Act shall have effect as if subsection (1) (regulations and orders subject to affirmative procedure) included regulations made wholly or partly by virtue of—
 - (a) paragraph 5(6) or (7) of Schedule 3 to that Act (contribution conditions for Category A and B retirement pensions, widowed mother's allowance and widow's pension); or
 - (b) section 3 or 9(3) above.
- (2) Subsection (3) of the said section 167 (regulations and orders subject to annulment) shall not apply to any order which under any provision of this Act is required to be approved in draft or to be laid before Parliament after being made.
- (3) Section 166(1) of the principal Act (power to make orders to be exercisable by statutory instrument) shall not apply to any power of the Occupational Pensions Board to make orders under this Act.
- (4) Where any provision of Part III or IV of this Act allows for specified matters to be dealt with by, or determined in accordance with, regulations made by the Secretary of State, any regulations made by virtue of that provision may provide for those matters to be dealt with by the Occupational Pensions Board in their discretion or to be determined in accordance with the exercise by the Board of a discretion vested in them by the regulations, and for the Board's discretion to be exercised either generally in regard to those matters or differently in regard to particular cases or classes of case.

63 Transitional provisions

- (1) Regulations may make provision for any transitional matter connected with the coming into force of this Act.
- (2) Without prejudice to the generality of subsection (1) above, regulations may in particular—
 - (a) make provision whereby a contribution paid or credited before (or in respect of a period before) commencement is treated, for the purposes of entitlement to or the calculation of any benefit, as having been paid or credited at a specified time or in respect of earnings of a specified amount;
 - (b) make provision whereby a person who has satisfied any contribution condition before commencement is treated as having satisfied any contribution condition having effect by virtue of this Act;
 - (c) modify any contribution condition in cases where the period in relation to which it is to be satisfied begins before and ends after commencement;
 - (d) modify any provision of this Act in relation to persons who have attained the age of 16 before commencement;
 - (e) make provision with respect to the operation of Schedule 1 to this Act in relation to persons who have attained pensionable age before commencement but have not then retired from regular employment;
 - (f) make provision for effecting orderly transition between Part III of the National Insurance Act 1965 and Part III of this Act, including provision modifying for that purpose any provision of those Parts ;
 - (g) make provision for enabling the Occupational Pensions Board to issue contracting-out certificates on the basis of such undertakings and information as may be prescribed;
 - (h) make provision for the preservation of rights under any provision repealed or modified by this Act or otherwise for securing continuity between any such provision and any provision of this Act.
- (3) In subsection (2) above " commencement" means the time of the coming into force of any provision of this Act specified in the regulations in question.

64 Expenses and receipts

- (1) There shall be paid out of moneys provided by Parliament—
 - (a) any expenses of the Secretary of State or any other government department under this Act;
 - (b) any increase attributable to this Act in the sums falling to be paid out of moneys so provided under any other Act.
- (2) Subsection (5) of section 135 of the principal Act (reimbursement of expenses out of the National Insurance Fund) shall have effect in relation to the expenses mentioned in paragraph (a) of subsection (1) above as it has effect in relation to the expenses mentioned in subsection (3)(a) of that section; and as respects any increase attributable to this Act in the expenses mentioned in the said subsection (3)(a), subsection (1)(b) above shall have effect subject to the said subsection (5).
- (3) Any state scheme premium received by the Secretary of State under this Act shall be paid by him into the National Insurance Fund.

65 Amendments of enactments; repeals

- (1) The enactments mentioned in Part I of Schedule 4 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of this Act and otherwise required in connection with those provisions.
- (2) The enactments mentioned in Part II of Schedule 4 to this Act shall have effect, and be deemed always to have had effect, with the amendments there specified, being amendments required for the correction in certain minor respects of the social security consolidation Acts passed in March 1975 ; and paragraph 1 of Schedule 5 to the Social Security Benefits Act 1975 (commencement orders) shall be deemed not to have been repealed.
- (3) The enactments mentioned in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) Without prejudice to any provision made by Schedule 4 to this Act, references in any enactment to benefit under the principal Act shall, except where the context otherwise requires, be construed as including references to benefit under Part II of this Act.
- (5) The Secretary of State may, with the consent of the Minister for the Civil Service, make payments to the chairman and members of the Reserve Pension Board in consequence of its abolition by this Act.

66 Interpretation

- (1) In this Act—

" accrued rights " has the meaning given in section 38 above;

" guaranteed minimum pension " has the meaning given in section 26 above;

" linked qualifying service " shall be construed in accordance with section 38(4) above ;

" long-term benefit " means a Category A or Category B retirement pension, a widowed mother's allowance, a widow's pension or an invalidity pension ;

" normal pension age ", in relation to a member of an occupational pension scheme, means the earliest age at which that member can become entitled to receive a pension under the scheme apart from any special provision as to early retirement on grounds of ill-health or otherwise;

" occupational pension scheme " means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category;

" the principal Act " means the Social Security Act 1975 ;

" public service pension scheme " means an occupational pension scheme established by or under an enactment or the Royal prerogative or a Royal charter, being a scheme—

- (a) all the particulars of which are set out in, or in a legislative instrument made under, an enactment, Royal warrant or charter; or
- (b) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government

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

department, and includes any occupational pension scheme prescribed by regulations made by the Secretary of State and the Minister for the Civil Service jointly as being a scheme which ought in their opinion to be treated as a public service pension scheme for the purposes of this Act;

"qualifying earnings factor" has the meaning given in section 5(3) above;
"requisite benefits" has the meaning given in section 26 above;

"resources", in relation to an occupational pension scheme, means the funds out of which the benefits provided by the scheme (whether requisite benefits or other benefits) are payable from time to time, including the proceeds of any policy of insurance taken out, or annuity contract entered into, for the purposes of the scheme;

"transfer credits" has the meaning given in section 38 above.

- (2) Except as respects commencement and extent, and subject to sections 61 and 62 above, this Act and the principal Act shall have effect as if the provisions of this Act other than section 59 were contained in that Act; and for that purpose—
- (a) Part I and sections 27 and 28 of this Act shall be treated as included in Part I of that Act (contributions); and
 - (b) Part II (except section 22) and section 29 of this Act shall be treated as included in Chapter I of Part II of that Act (contributory benefits).
- (3) References in Parts III and IV of this Act to employers are to be treated, in relation to persons within the application of an occupational pension scheme and qualifying or prospectively qualifying for its benefits, as including references to persons who in relation to them and their employment are treated by regulations as being employers for the purposes of those Parts of this Act; and, subject to any such regulations, references in those Parts to an employer shall, in relation to an earner employed in an office with emoluments, be construed as references to—
- (a) such person as may be prescribed in relation to that office; or
 - (b) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of that office.
- (4) Regulations may, for any purpose of Parts III and IV of this Act, prescribe the persons who are to be regarded as members or prospective members of an occupational pension scheme and as to the times at which and the circumstances in which a person is to be treated as becoming, or as ceasing to be, a member or prospective member.
- (5) Regulations may for any purpose of Parts III and IV of this Act prescribe persons who, in the case of any scheme of any prescribed category, are to be regarded as the trustees or managers of a scheme of that category.
- (6) Except where the context otherwise requires, references in this Act to any Part of it include references to any Schedule having effect by virtue of any provision in that Part.
- (7) Any reference in this Act to another enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any other enactment, including an enactment contained in this Act.

67 Commencement

- (1) This Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different provisions or for different purposes of the same provision.
- (2) Without prejudice to subsection (1) above there may by an order under this section be appointed different days for the coming into force of section 22 of this Act, and of other provisions of this Act relevant to the operation of that section, in relation to persons of different age groups.
- (3) An order under this section may make such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with provisions of this Act which are thereby brought (wholly or partly) into force, and may make such adaptations of those provisions or of any provisions of this Act then in force as appear to the Secretary of State to be necessary or expedient in consequence of the partly postponed or postponed operation of any provision of this Act.
- (4) The power to make an order under this section includes power to vary or revoke a previous order; and any statutory instrument containing such an order shall be laid before Parliament after being made.

68 Short title, citation and extent

- (1) This Act may be cited as the Social Security Pensions Act 1975.
- (2) The Social Security Act 1975 and this Act may be cited together as the Social Security Acts 1975.
- (3) The following provisions of this Act have the same extent as the Pensions (Increase) Act 1971—
 - (a) section 59 ;
 - (b) paragraph 18 of Schedule 4 ;
 - (c) Schedule 5, so far as it repeals provisions of that Act.
- (4) Section 57 of this Act extends to Northern Ireland; and this Act extends to Northern Ireland so far as it—
 - (a) amends sections 66, 67(4) and 89 of, and Schedule 17 to, the Social Security Act 1973 ;
 - (b) amends section 99(1) of that Act by inserting definitions of
“the Pensions Act” and “state scheme premium ” ;
 - (c) repeals Part III and section 89(3)(c) and (4) of that Act, and Schedules 18 to 20 to that Act;
 - (d) by section 65(2) and Part II of Schedule 4 amends the Social Security (Northern Ireland) Act 1975 and the Social Security (Consequential Provisions) Act 1975 and reinstates paragraph 1 of Schedule 5 to the Social Security Benefits Act 1975 ;
 - (e) repeals paragraphs 47 and (in part) 58 of Schedule 2 to the Social Security (Consequential Provisions) Act 1975;
 - (f) amends or repeals provisions of the Income and Corporation Taxes Act 1970 ;
 - (g) amends provisions of the Finance Act 1971 ;

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

(h) repeals provisions of the Public Records Act 1958, the Superannuation Act 1972, the Parliamentary and other Pensions Act 1972, the Pensions (Increase) Act 1974 and the House of Commons Disqualification Act 1975 ;
but subject to the foregoing provisions of this subsection and to subsection (3) above, this Act does not extend to Northern Ireland.

SCHEDULE 1

DEFERRED RETIREMENT

Increase of pension where pensioner defers retirement

- 1 Where a person defers his retirement from regular employment after attaining pensionable age, the rate of his Category A or Category B retirement pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under paragraph 2 below, but only if that amount is enough to increase the rate of the pension by at least 1 per cent.
- 2 (1) Subject to paragraph 3 below, a person is entitled to an increment under this paragraph for each complete incremental period in his period of deferment.
- (2) In this Schedule—
- (a) " incremental period " means any period of six consecutive days, excluding Sunday (Monday therefore being treated as the next consecutive day following Saturday); and
- (b) " period of deferment ", in relation to any person, means the period beginning with the day on which he attains pensionable age and ending with the day before that of his retirement.
- (3) Subject to paragraph 3 below, the amount of the increment for any such incremental period shall be 1/8th per cent, of the weekly rate of the Category A or Category B retirement pension to which that person would have been entitled for the period if he had retired on attaining pensionable age.
- (4) For the purposes of sub-paragraph (3) above the weekly rate of the pension for any period shall be taken to be the rate that would have applied on the last day of that period, including any increase under section 28(7) of the principal Act (invalidity) and any increase under paragraph 4 below but not any increase under section 41, 45 or 46 of the principal Act (child and adult dependants) or any graduated retirement benefit.
- (5) Where one or more orders have come into force under section 124 of the principal Act (increases in rates of benefit) during the period of deferment the rate for any incremental period shall be determined under sub-paragraph (4) above as if the order or orders had come into force before the beginning of the period of deferment.
- 3 Regulations may provide that a day shall be treated in relation to any person or his pension as not being a day of increment and—
- (a) if any incremental period in that person's period of deferment consists wholly of days that fall to be so treated in relation to him or his pension, he shall not be entitled to any increment for that incremental period under sub-paragraph (1) of paragraph 2 above ;
- (b) if any such incremental period contains one or more such days, the amount of the increment for the period under sub-paragraph (3) of that paragraph shall be proportionately reduced.

Increase of pension where pensioner's deceased spouse has deferred retirement

- 4 (1) Where a woman is entitled to a Category A or Category B retirement pension and—

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

- (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 or Category B retirement pension with an increase under this Schedule ; or
 - (ii) would have been so entitled if he had retired on the date of his death, the rate of her pension shall be increased by an amount equal to the increase to which he was or would have been entitled.
- (2) Where a man is entitled to a Category A or Category B retirement pension and—
- (a) he has had a wife and she has died, and he was married to her when she died ; and
 - (b) he was over pensionable age when she died ; and
 - (c) the wife either—
 - (i) was entitled to a Category A or Category B retirement pension with an increase under this Schedule ; or
 - (ii) would have been so entitled if she had retired on the date of her death,
 the rate of his pension shall be increased by an amount equal to the increase to which she was or would have been entitled.

Married women

- 5 (1) For the purposes of paragraphs 1 to 3 above in their application to a Category B retirement pension to which a married woman is entitled by virtue of her husband's contributions, a married woman who retires (or is deemed by virtue of section 27(5) of the principal Act to retire) before her husband shall be treated as deferring her retirement until he retires and her period of deferment shall accordingly be treated as ending with the day before that of his retirement.
- (2) References in sub-paragraph (1) above to the retirement of a woman's husband shall, where the marriage is terminated before he retires, be construed as references to the termination of the marriage.
- (3) In the case of—
- (a) a Category B retirement pension to which a married woman is entitled by virtue of her husband's contributions ; or
 - (b) a married woman's Category A retirement pension with an increase under section 10(2) of this Act attributable to her husband's contributions,
- the reference in paragraph 2(3) above to the pension to which a person would have been entitled if he had retired on attaining pensionable age shall be construed as a reference to the pension to which she would have been entitled if she and her husband had so retired.
- (4) Paragraph 4(2)(c) above shall not apply to a Category B retirement pension to which the wife was or would have been entitled by virtue of the man's contributions ; and where the Category A retirement pension to which the wife was or would have been entitled includes an increase under section 10(2) of this Act attributable to his contributions, the increase to which he is entitled under that paragraph shall be calculated as if there had been no increase under that section.

SCHEDULE 2

CONTRACTING-OUT REGULATIONS

General regulations

- 1 In relation to employments which are or at any time have been contracted-out employments, and to the operation of schemes by reference to which such employments are or have been contracted-out, provision may be made by regulations—
- (a) for treating an earner's employment, where it ends before a person succeeds to the business of the earner's employer, as having been employment under the employer's successor ;
 - (b) for disregarding changes in an earner's employment due to the death of an employer or other cause, or any cesser of contracted-out employment so due, or for treating employment under one employer as a continuation of that under another and treating any contracting-out certificate issued to, or election made by, the former employer as issued to or made by the latter ;
 - (c) for disregarding temporary interruptions in an earner's employment or contracted-out employment, and for treating the employment in either case as continuing during the interruption; and
 - (d) generally as to the circumstances in which an earner's employment is or is not to be treated as having begun, or as having come to an end ;
- and references in this paragraph to an earner's employment beginning or ending shall include references to his employment becoming or ceasing to be contracted-out employment.
- 2 Regulations may enable the Occupational Pensions Board to determine, in prescribed circumstances, that an earner, or any group of earners whose employment falls within a particular category or description of contracted-out employments, has been in such employment from a date earlier than would otherwise be the case, not being, in the case of an earner within the scope of the determination, a date earlier than that on which his relevant employment began or a contracting-out certificate was issued in respect of it, whichever is the later.
- 3 Provision may be made by regulations for requiring an employer to give notice to the Secretary of State when an earner's employment becomes or ceases to be contracted-out employment and when an earner's employment in contracted-out employment begins or ends.

Requisite benefits

- 4 (1) Regulations may, in relation to any method adopted in an occupational pension scheme for making ascertainable its requisite benefits, provide for adjusting figures so as to avoid fractional amounts and otherwise to facilitate computation.
- (2) Regulations may require employers of earners (whether or not for the time being in contracted-out employment) to notify earners and others, in the prescribed manner, of the method by which the requisite benefits of any occupational pension scheme fall to be calculated under the scheme and any regulations applicable thereto.

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

Modification of Part III in certain cases

- 5 (1) Regulations may modify the provisions of Part III of this Act in their application to cases in which a person is employed at the same time in two or more employments (whether or not under the same employer), being employments of which at least one is contracted-out employment but which are not all contracted-out employments, with a view to enabling the employments to be treated either separately or together for the purposes of that Part of this Act.
- (2) Regulations may modify the provisions of Part III of this Act in their application to cases in which—
- (a) any description of benefit under a scheme is subject to a limit (however imposed) operating so as to prevent service beyond a particular length from qualifying for further benefits;
 - (b) earners qualify for the benefits of a scheme by reference not only to service in contracted-out employment but also to service in the same or another employment (whether or not contracted-out employment) before the scheme was contracted-out in relation to them or their employment;
- and regulations under this paragraph may include provision for securing that in such cases an earner's employment does not cease to be contracted-out employment only because his service for the time being does not qualify him for the requisite benefits.

State scheme premiums

- 6 (1) Regulations may make provision for requiring persons to furnish the Secretary of State or the Occupational Pensions Board with such information as he or the Board may require for the purposes of sections 42 to 50 of this Act.
- (2) In relation to employed earners who, in any period of service in contracted-out employment—
- (a) have been paid earnings in any income tax week by more than one person in respect of different employments ; or
 - (b) have worked under the general control or management of a person other than their immediate employer, and in relation to any other case for which it appears to the Secretary of State that such provision is needed, regulations may provide that for the purposes of sections 42 to 45 of this Act the prescribed person shall be treated as the employer of any earners.
- (3) Regulations may, in relation to state scheme premiums, provide—
- (a) for dispensing with the payment of a premium where its amount would be inconsiderable ;
 - (b) for treating a premium payable in respect of any person as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, that person ;
 - (c) for treating a premium wrongly paid, or paid as to the wrong amount, as paid (wholly or in part) in discharge of a liability for another premium or for contributions under Part I of the principal Act;
 - (d) for the return of premiums paid in error or, in prescribed circumstances, of premiums as to which the Secretary of State is satisfied that they ought to be repaid ;
 - (e) for the Secretary of State, in prescribed circumstances where a premium has been paid in respect of a person, to direct the payment out of the National

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

Insurance Fund to that person or his estate of an amount equal to a prescribed part of the premium;

- (f) for any other matters incidental to the payment, collection or return of premiums.

Centralised schemes

- 7 (1) Regulations may modify sections 31 to 49 of this Act in their application to employments in the case of which earners under different employers qualify by virtue of their respective service in those employments for the benefits of the same occupational pension scheme.
- (2) Regulations under this paragraph may provide—
- (a) for the trustees or managers of the scheme instead of the employer to be subject to the liabilities imposed by sections 42 to 45 of this Act;
 - (b) for the adjustment (whether as a consequence of any provision made under paragraph (a) above or otherwise) of rights and liabilities as between employers, earners and the trustees or managers.

Special provisions for certain public service pension schemes

- 8 (1) In relation to employments of any class to which this paragraph applies, the Secretary of State may by regulations—
- (a) direct that elections with a view to the issue, variation or surrender of contracting-out certificates shall be made and revoked by him instead of by the employer ;
 - (b) make provision for other things which by or under Part III of this Act are required or authorised to be done by or to an employer to be done instead by or to the Secretary of State ;
 - (c) make provision for treating any employments of the class in question as employments under a single employer different from the employer in any other employment;
 - (d) make provision for the recovery by the Secretary of State of any state scheme premium from any person where it has been paid by the Secretary of State instead of by that person.
- (2) Before making any regulations under this paragraph the Secretary of State shall consult with such bodies concerned with employments of the class in question as appear to him fairly to represent the interests of the employers and earners in those employments.
- (3) Subject to sub-paragraphs (4) and (5) below, the employments in which an earner's service qualifies him for benefit under any of the following enactments shall constitute a class to which this paragraph applies—
- Section 26 of the Fire Service Act 1947 ;
 - The Police Pensions Act 1948 ;
 - Sections 7 to 10 of the Superannuation Act 1972.
- (4) Where service in any employment would qualify a person as aforesaid under any of the enactments specified in sub-paragraph (3) above but for rules having effect under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 (persons transferring to and from certain employments), the employment shall be treated as

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

falling within the class to which that enactment relates and as not falling within any other class to which this paragraph applies.

- (5) Where a local Act contains a provision for the payment of benefits in respect of service which but for the provision would qualify a person for such benefits under the enactments specified in sub-paragraph (3) above, that provision shall be deemed to be included among the enactments so specified.

Incidental matters

- 9 Regulations may make provision for any incidental matters connected with the provisions of Part III of this Act in relation to any employment which is, has been or may become contracted-out employment and for any incidental matters otherwise connected with the provisions of that Part or this Schedule.

SCHEDULE 3

PRIORITY IN BANKRUPTCY ETC

Earners' contributions to occupational pension scheme

- 1 Section 153 of the principal Act shall have effect as if the debts specified in subsection (2) of that section included any sum owed on account of an earner's contributions to an occupational pension scheme, being contributions deducted from earnings paid in the period of four months immediately preceding the date of the relevant event or otherwise due in respect of earnings paid or payable in that period.

Employer's contributions to occupational pension scheme

- 2 (1) The said section 153 shall have effect as if the debts specified in subsection (2) of that section also included any sum owed on account of an employer's contributions to a contracted-out scheme, being contributions payable—
- (a) in the period of twelve months immediately preceding the date of the relevant event; and
 - (b) in respect of earners in contracted-out employment by reference to the scheme towards the provision for those earners of guaranteed minimum pensions under the scheme.
- (2) In so far as contributions cannot from the terms of the scheme be identified as falling within sub-paragraph (1) above, the amount of the debt having priority by virtue of that sub-paragraph shall be deemed to be an amount equal to—
- (a) 7 per cent, of the total reckonable earnings paid or payable, in the period of twelve months referred to in that sub-paragraph, to or for the benefit of non-contributing earners ; or
 - (b) 4-5 per cent, of the total reckonable earnings paid or payable in that period to or for the benefit of contributing earners.
- (3) For the purposes of sub-paragraph (2) above—
- (a) the earnings to be taken into account as reckonable earnings are those paid or payable to or for the benefit of earners in contracted-out employment (by

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

reference to the scheme) in the whole or any part of the said period of twelve months ; and

- (b) earners are to be identified as contributing or non-contributing in relation to service of theirs in contracted-out employment by reference to the scheme according to whether or not in the period in question they were liable under the terms of the scheme to contribute in respect of that service towards the provision of pensions under the scheme.

- (4) In this paragraph " employer " shall be construed in accordance with regulations made under section 66(3) of this Act and " reckonable earnings ", in relation to any employment, means the earner's earnings from that employment so far as those earnings—

- (a) were comprised in any payment of earnings made to him or for his benefit at a time when the employment was contracted-out employment; and
- (b) exceeded the current lower earnings limit but not the current upper earnings limit.

State scheme premiums

- 3 (1) The said section 153 shall have effect as if the debts specified in subsection (2) of that section also included any sum owed on account of a state scheme premium payable at any time before, or in consequence of, the occurrence of the relevant event.
- (2) Where any such premium is payable in respect of a period of service of more than twelve months (taking into account any previous linked qualifying service), the amount to be paid in priority by virtue of this paragraph shall be limited to the amount of the premium that would have been payable if the service had been confined to the last twelve months taken into account in fixing the actual amount of the premium.
- (3) Where (a) by virtue of this paragraph the whole or part of a premium is required to be paid in priority to other debts of the debtor or his estate ; and
 - (b) the person liable for the payment would be entitled to recover the whole or part of any sum paid on account of it from another person either under section 47 of this Act or under any provision made by the relevant scheme for the purposes of that section or otherwise,that other person shall be liable for any part of the premium for the time being unpaid ; but so that no person shall be liable by virtue of this sub-paragraph for an amount in excess of the sum which might thereunder be recovered from him if the premium had been paid in full by the person liable for it, after deducting from that sum any amount which has been or may be recovered from him in respect of any part of that payment paid otherwise than under this sub-paragraph.
- (4) The payment under sub-paragraph (3) above of any amount in respect of a premium shall have the same effect on the rights and liabilities of the person making it (other than his liabilities under that sub-paragraph) as if it had been a payment of that amount on account of the sum recoverable from him in respect of a premium as mentioned in sub-paragraph (3)(b) above.

Interpretation

- 4 In this Schedule " the relevant event " has the meaning assigned to it by Schedule 18 to the principal Act in relation to section 153(2) of that Act; and references to a contracted-out scheme, contracted-out employment and a state scheme premium

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

include references to a contracted-out scheme, contracted-out employment and a state scheme premium within the meaning of any provisions in force in Northern Ireland and corresponding to the provisions of this Act.

SCHEDULE 4

AMENDMENTS OF ENACTMENTS

PART I

CONSEQUENTIAL AND OTHER AMENDMENTS

The Bankruptcy (Scotland) Act 1913

1 In section 118(1) of the Bankruptcy (Scotland) Act 1913 for paragraphs (f) and (g) there shall be substituted—

“(f) all the debts specified in section 153(2) of the Social Security Act 1975, Schedule 3 to the Social Security Pensions Act 1975 and any corresponding provisions in force in Northern Ireland”.

The Bankruptcy Act 1914

2 In the Bankruptcy Act 1914—

(a) in section 33(1) for paragraphs (f) and (g) there shall be substituted—

“(f) all debts specified in section 153(2) of the Social Security Act 1975, Schedule 3 to the Social Security Pensions Act 1975 and any corresponding provisions in force in Northern Ireland”;

(b) in Schedule 2 to that Act, in paragraph 9 for the words " contributions or premiums payable under Part III of the Social Security Act 1973 " mere shall be substituted the words

“state scheme premiums payable under Part III of the Social Security Pensions Act 1975 or any corresponding provisions in force in Northern Ireland”.

The Companies Act 1948

3 In section 319(1)(e) of the Companies Act 1948 for the words from " all the debts " onwards, there shall be substituted the words

“all the debts specified in section 153(2) of the Social Security Act 1975, Schedule 3 to the Social Security Pensions Act 1975 and any corresponding provisions in force in Northern Ireland”.

The Law Reform (Personal Injuries) Act 1948

4 In section 2(1) of the Law Reform (Personal Injuries) Act 1948 for the words "the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975 " there shall be substituted the words

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

“the Social Security Act 1975, the Social Security Pensions Act 1975 or any corresponding provisions in force in Northern Ireland.”

The Administration of Justice Act 1964

- 5 In section 17(2)(b) of the Administration of Justice Act 1964 for the words from " together " onwards there shall be substituted the words " together with—
- (i) secondary Class 1 contributions payable in respect of those officers under Part I of the Social Security Act 1975 ; and
 - (ii) state scheme premiums so payable under Part III of the Social Security Pensions Act 1975 ".

The Family Allowances Act 1965

- 6 In section 8(3) of the Family Allowances Act 1965 after the words "the Social Security Act 1975" there shall be inserted the words
- “, the Social Security Pensions Act 1975”.

The Supplementary Benefit Act 1966 (The Ministry of Social Security Act 1966)

- 7 In section 16(1)(a) of the Supplementary Benefit Act 1966 after the words " the Social Security Act 1975 " there shall be inserted the words
- “or Part II of the Social Security Pensions Act 1975”.
- 8 In section 26(4) of that Act after the words " Part II of the Social Security Act 1975 " there shall be inserted the words
- “or Part II of the Social Security Pensions Act 1975”.
- 9 In paragraph 24 of Schedule 2 to that Act—
- (a) after sub-paragraph (2)(d) there shall be inserted—
 - “(e) any guaranteed minimum pension within the meaning of the Social Security Pensions Act 1975”;
 - (b) in sub-paragraph (3) after the words "the Social Security Act 1975 " there shall be inserted the words
 - “or Part II of the Social Security Pensions Act 1975”;
 - (c) in sub-paragraphs (4) and (5) for the words "the rate specified in Part I of Schedule 4 to the Social Security Act 1975 for a widow's pension under that Act" there shall be substituted the words
 - “the sum specified in section 6(1)(a) of the Social Security Pensions Act 1975”.

The Agriculture Act 1967

- 10 In section 67(3)(e) of the Agriculture Act 1967 after the words "Part U of the Social Security Act 1975" there shall be inserted the words
- “or Part II of the Social Security Pensions Act 1975”.

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

The Rent Act 1968

11 In section 40(3)(a) of the Rent Act 1968 for the words " Part III of the Social Security Act 1973 " there shall be substituted the words

“Part III of the Social Security Pensions Act 1975.”

The Income and Corporation Taxes Act 1970

12 In section 8(2)(b) of the Income and Corporation Taxes Act 1970 after the words " those Acts" there shall be inserted the words

“or the Social Security Pensions Act 1975 or under any provisions in force in Northern Ireland and corresponding to the last-mentioned Act.”

The Administration of Justice Act 1970

13 In Schedule 4 to the Administration of Justice Act 1970 for paragraph 3 there shall be substituted—

“3 State scheme premiums under Part III of the Social Security Pensions Act 1975.”

The Family Income Supplements Act 1970

14 In section 8(4) of the Family Income Supplements Act 1970 for the words " the Social Security Act 1975 " there shall be substituted the words

“the Social Security Acts 1975”.

The Attachment of Earnings Act 1971

15 In section 24(2) of the Attachment of Earnings Act 1971 after paragraph (e) there shall be inserted—

“(f) guaranteed minimum pension within the meaning of the Social Security Pensions Act 1975.”

16 In Schedule 2 to that Act for paragraph 3 there shall be substituted—

“3 State scheme premiums under Part III of the Social Security Pensions Act 1975.”

17 In Schedule 4 to that Act for the words " The Social Security Act 1975 (c. 14)" there shall be substituted the words

“The Social Security Acts 1975 (cc. 14 and 60)”.

The Pensions (Increase) Act 1971

18 In section 5(3) of the Pensions (Increase) Act 1971 for the words " in relation to a particular review under section 2 above " there shall be substituted the words

“for any particular purpose”.

19 In section 15(4) of that Act for the words "section 1 or 2 above " there shall be substituted the words

“section 1 above or section 59 of the Social Security Pensions Act 1975”.

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

The Finance Act 1971

20 In paragraph 1(b) of Schedule 4 to the Finance Act 1971 for the words following "benefit under" there shall be substituted—

- “(i) the Social Security Act 1975,
- (ii) the Social Security Pensions Act 1975,
- (iii) the Social Security (Northern Ireland) Act 1975, or
- (iv) any provisions in force in Northern Ireland and corresponding to provisions of the Social Security Pensions Act 1975,

which is payable to the wife otherwise than by virtue (wholly or partly) of her own contributions.”

The Housing (Financial Provisions) (Scotland) Act 1972

21 In Schedule 2 to the Housing (Financial Provisions) (Scotland) Act 1972, in paragraph 9(2)(i) for the words "the rate specified in Schedule 4 to the Social Security Act 1975 for a widow's pension under that Act" there shall be substituted the words

“the sum specified in section 6(1)(a) of the Social Security Pensions Act 1975.”

The Housing Finance Act 1972

22 In Schedule 3 to the Housing Finance Act 1972, in paragraph 9(2)(j) for the words "the rate specified in Schedule 4 to the Social Security Act 1975 for a widow's pension under that Act" there shall be substituted the words

“the sum specified in section 6(1)(a) of the Social Security Pensions Act 1975.”

The Social Security Act 1973

23 In section 51(7)(a) of the Social Security Act 1973 for the word "recognised" there shall be substituted the words

“contracted-out”.

24 In section 63 of that Act—

- (a) in subsection (4) for the words "section 51(4)(a) of this Act" there shall be substituted the words

“section 40(1) of the Social Security Pensions Act 1975 (in this Act referred to as “the Pensions Act”) ” ;

- (b) in subsection (6) for the word "recognition" there shall be substituted the words

“contracting-out”.

25 In section 64 of that Act—

- (a) in subsections (3) (the concluding words), (4) and (8) after the words "this Act" there shall be inserted the words

“or the Pensions Act”;

- (b) in subsection (3)(a) for the words "recognised pensionable employment" there shall be substituted the words

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

- “contracted-out employment”.
- 26 In section 66 of that Act—
- (a) in subsection (1) after the words " this Act" there shall be inserted the words
“and the Pensions Act”;
 - (b) in subsection (7)(a) for the words " recognition certificates " there shall be substituted the words
“contracting-out certificates”;
 - (c) after subsection (9) there shall be inserted—
“(10) References in this section to the Pensions Act and contracting-out certificates shall respectively include references—
 - (a) to any provisions in force in Northern Ireland and corresponding to provisions of this Part of this Act or the Pensions Act; and
 - (b) to contracting-out certificates within the meaning of any such provisions.”
- 27 In section 67 of that Act—
- (a) in subsection (1)(a) for the words " recognition certificate " there shall be substituted the words
“contracting-out certificate”;
 - (b) in subsection (4) after the words " review under this section " there shall be inserted the words
“or under any corresponding provision in force in Northern Ireland”.
- 28 In section 69(2)(a) and (5) of that Act for the words " recognised " there shall be substituted the words
“contracted-out”.
- 29 In section 86 of that Act—
- (a) in subsection (1)(a) after the words " this Act" there shall be inserted the words
“or Part III or IV of the Pensions Act”;
 - (b) in subsection (1)(b) for the words from " under section 85(1) " onwards there shall be substituted the words
“under section 60(2) of the Pensions Act falls to be determined by that Board”;
 - (c) in subsection (1)(c) for the words "either Board" in both places there shall be substituted the words
“that Board”;
 - (d) in subsection (3) for the words " either Board " there shall be substituted the words
“the Occupational Pensions Board”.
- 30 In section 89(1) and (3)(b) of that Act for the words from " reserve scheme contributions " onwards there shall be substituted the words

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

“state scheme premiums”.

- 31 In section 99(1) of that Act the following definitions shall be inserted at the appropriate points—

“‘contracted-out employment’ and ‘contracting-out certificate’ shall be construed in accordance with section 30 of the Pensions Act and references to a contracted-out scheme and to contracting-out shall be construed in accordance with section 32 of that Act; “ ‘guaranteed minimum pension’ has the meaning given in section 26 of the Pensions Act; “ ‘the Pensions Act’ means the Social Security Pensions Act 1975; “ ‘requisite benefits’ has the meaning given in section 26 of the Pensions Act; “ ‘state scheme premium’ means a state scheme premium under Part III of the Pensions Act or under any corresponding provision in force in Northern Ireland ;”.

- 32 In Schedule 16 to that Act—

- (a) in paragraph 4(2) and (3) for the words “ minimum benefits for recognition purposes ”, “ minimum personal pension ” and “minimum benefits” there shall be substituted the words

“requisite benefits”;

- (b) in paragraph 7(1)(b) for the words “ recognised pensionable employment” there shall be substituted the words

“contracted-out employment”;

- (c) in paragraph 9(2)(a) for the word “recognised” there shall be substituted the words

“contracted-out”;

- (d) in paragraph 23 for the words “ recognised pensionable employment” there shall be substituted the words

“contracted-out employment”.

- 33 In Schedule 17 to that Act, in paragraph 14, after the word “Act” there shall be inserted the words

“or under any corresponding provision in force in Northern Ireland”.

The Employment and Training Act 1973

- 34 In section 12(2)(a) of the Employment and Training Act 1973 after the words “ the Social Security Act 1975 ” there shall be inserted the words

“, the Social Security Pensions Act 1975”.

The National Insurance Act 1974

- 35 In section 6(1) of the National Insurance Act 1974 there shall be added at the end the words

“or the Social Security Pensions Act 1975.”

The Social Security Act 1975

- 36 In section 4 of the Social Security Act 1975—

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

- (a) in subsection (1) for the words following paragraph (b) there shall be substituted the words
- “and those limits shall be such amounts as may be specified for that year under section 1 of the Social Security Pensions Act 1975 (in this Act referred to as “the Pensions Act”)” ;
- (b) in subsection (6) after the words “ subject to regulations under sections 128 to 132 below” there shall be inserted the words
- “and to section 27 of the Pensions Act”.
- 37 In section 12(1)(f) of that Act after the words “payable to a woman by virtue of her husband's contributions” there shall be inserted the words
- “or payable to a man by virtue of his late wife's contributions”.
- 38 In section 13 of that Act—
- (a) in subsection (2), after paragraph (b) there shall be inserted “ and
- (c) of calculating the additional component in the rate of a long-term benefit” ;
- (b) at the beginning of subsection (3) there shall be inserted
- “Subject to section 3 of the Pensions Act”.
- 39 In section 14 of that Act—
- (a) for subsection (2)(c) there shall be substituted—
- “(c) the person—
- (i) would on that day have been entitled to a Category B retirement pension by virtue of the contributions of his deceased spouse, but
- (ii) has made an election for the purposes of section 30(3) of this Act and has not revoked the election.”;
- (b) for subsection (6)(a) there shall be substituted—
- “(a) any increase under section 10(2) of or Schedule 1 to the Pensions Act;”.
- 40 In section 15 of that Act—
- (a) for subsection (2)(b) there shall be substituted—
- “(b) the person—
- (i) would on that day have been entitled to a Category B retirement pension by virtue of the contributions of his deceased spouse, but
- (ii) has made an election for the purposes of section 30(3) of this Act and has not revoked the election.”;
- (b) in subsection (3) for the words from “ at the weekly rate ” onwards there shall be substituted the words
- “at the rate specified in section 14 of the Pensions Act”;
- (c) for subsection (4)(a) there shall be substituted—
- “(a) any increase under section 10(2) of or Schedule 1 to the Pensions Act;”.

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

- 41 In section 25(1) of that Act for the words " at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 6 " there shall be substituted the words
"at the rate specified in section 13 of the Pensions Act".
- 42 In section 26(1) of that Act for the words " at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 7" there shall be substituted the words
"at the rate specified in section 13 of the Pensions Act".
- 43 In section 28(1) of that Act for the words "at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 8" there shall be substituted the words
"at the rate specified in section 6 of the Pensions Act".
- 44 In section 29(7) of that Act in paragraph (a)(i) the word " lower " shall be omitted and in paragraphs (a)(ii) and (b) for the words
"at the higher rate so specified"
"at the rate specified in section 7 of the Pensions Act".
- 45 In section 30(4)(b) of that Act there shall be inserted at the end the words
"or Category A with an increase by virtue of that husband's contributions under section 10(2) of the Pensions Act".
- 46 In section 33(3) of that Act after the words " Schedule 4 to this Act" there shall be inserted
"or Part II of the Pensions Act"
- 47 In section 34(1) of that Act, after paragraph (c), there shall be inserted—
"(cc) mobility allowance".
- 48 In section 42(3) of that Act after the words "Category A" there shall be inserted
", B".
- 49 In section 119(4) of that Act, after paragraph (c) there shall be inserted—
"(cc) modifying those subsections in relation to payments by way of a mobility allowance in respect of any person, where the benefit was not paid to him but to some other person on his behalf".
- 50 In section 120 of that Act—
(a) in subsection (1) for the words " in respect of contributions " there shall be substituted the words
"in respect of Class 2, 3 or 4 contributions";
(b) in subsection (2) for the words "contributions under this Act" there shall be substituted the words
"contributions of those Classes";
(c) subsection (5)(a) shall be omitted.
- 51 In section 125(1) of that Act, for paragraph (a) there shall be substituted—
"(a) Parts I, IV and V of Schedule 4 to this Act and paragraphs 1 to 3, 4 and 5 of Part III; and".
- 52 In section 135(2) of that Act, after paragraph (c) there shall be inserted—

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

- “(cc) a mobility allowance”.
- 53 In section 143(1) of that Act, after paragraph (b) there shall be inserted—
 “(bb) payments to or in respect of persons suffering from physical disability such that they are unable to walk or virtually unable to do so”.
- 54 In section 144(2)(c) of that Act after the words " contributions under this Act " there shall be inserted the words
 “or a state scheme premium under Part III of the Pensions Act”.
- 55 In section 145 of that Act—
 (a) in subsection (1)(a) after the words " this Act" there shall be inserted the words
 “or any state scheme premiums under Part III of the Pensions Act”;
 (b) in subsection (2)(e) after the word " contributions" there shall be inserted the words
 “or premiums”.
- 56 In section 146(1) of that Act after the words " Act to pay " there shall be inserted the words
 “or any state scheme premium which is payable by him under Part III of the Pensions Act”.
- 57 In section 148(1)(b) of that Act after " Revenue) " there shall be inserted the words
 “or of a state scheme premium”.
- 58 In section 150(1) of that Act after the word " contribution " (in both places) there shall be inserted the words
 “or premium”.
- 59 In section 151 of that Act—
 (a) in subsection (1) for the words " reserve scheme contributions or premiums under the 1973 Act" there shall be substituted the words
 “state scheme premiums under Part III of the Pensions Act”;
 (b) in subsection (3) for the words " reserve scheme contributions or premiums " there shall be substituted the words
 “state scheme premiums”.
- 60 In section 152 of that Act for subsection (8) there shall be substituted—
 “(8) Sums recovered by the Secretary of State under the provisions mentioned in subsection (4) above, so far as representing state scheme premiums, are to be treated for all purposes of the Pensions Act (including in particular sections 47 and 64(3)) as premiums paid to the Secretary of State under that Act in respect of the persons in respect of whom they were originally payable.”
- 61 In Schedule 1 to that Act, in paragraph 6(1)(f) for the words " section 8(3) of this Act" and " reserve scheme contributions or a reserve scheme premium " there shall be substituted respectively the words
 “section 5 of the Pensions Act”and " a state scheme premium ".

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

62 In Part I of Schedule 4 to that Act, for paragraph 9 there shall be substituted—

" 9. Category B retirement pension £6.90 "
where section 29(7)(a)(i) applies.

63 In Part V of Schedule 4 to that Act, in paragraph 13 for the words " the weekly rate for the time being of a widow's pension as specified in Part I of this Schedule, paragraph 7" there shall be substituted the words

“the sum specified in section 6(1)(a) of the Pensions Act”.

64 In Schedule 20 to that Act the following definitions shall be inserted at the appropriate points—

" ' Long-term benefit'	A Category A or Category B retirement pension, a widowed mother's allowance, a widow's pension or an invalidity pension."
" ' The Pensions Act'	The Social Security Pensions Act 1975."
" ' Qualifying earnings factor'	An earnings factor equal to the lower earnings limit for the tax year in question multiplied by 52."

and in the second column of that Schedule in the definition of " Week ", after " 45(3) " there shall be inserted

“of this Act and section 35(6) of the Pensions Act”.

The Social Security (Consequential Provisions) Act 1975

65 In Schedule 3 to the Social Security (Consequential Provisions) Act 1975, in paragraph 9(1)(b) for the words " those schemes and provisions " there shall be substituted the words

“that scheme”.

PART II

MINOR CORRECTIONS OF 1975 CONSOLIDATION ACTS

The Social Security Act 1975

66 In section 142(4)(b) of the Social Security Act 1975, for the words " Great Britain" and " Northern Ireland" there shall be substituted respectively the words

“Northern Ireland” and " Great Britain ".

67 In section 152(2) of that Act, for the words " Criminal Justice Act 1948 " there shall be substituted the words

“Powers of Criminal Courts Act 1973”.

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

The Social Security (Northern Ireland) Act 1975

68 In section 96(1) of the Social Security (Northern Ireland) Act 1975, for the words " 95(1)(a) or (b) " there shall be substituted the words

“95(1)(a) or (c)”.

69 In section 133(3)(b) of that Act, for the words "Northern Ireland" and " Great Britain" there shall be substituted respectively the words

“Great Britain”and " Northern Ireland ".

70 In section 138(5) of that Act, for the word " paragraph " there shall be substituted the word

“subsection”.

The Social Security (Consequential Provisions) Act 1975

71 In Schedule 3 to the Social Security (Consequential Provisions) Act 1975—

(a) for paragraph 12(4) there shall be substituted—

“(4) In paragraph 10 of this Schedule as it applies to Northern Ireland—

(a) the first reference in sub-paragraphs (a) and (b) to an Order in Council includes a reference to an order made by the Secretary of State ; and

(b) in sub-paragraph (b) the words " and any regulations having effect by virtue of section 22(2) of the Family Allowances Act" shall be omitted.”

(b) after paragraph 13(1) there shall be inserted—

“(1A) An order made by the Secretary of State, under an enactment repealed by this Act, for any purpose for which an Order in Council may be made under one of the consolidations shall not be invalidated by the repeal but shall have effect as if it were an Order in Council so made.”

(c) in paragraph 31, there shall be inserted at the end of the Table—

" The words from " by statutory instrument " onwards (in paragraph 30(2)).

The words " by statutory rule for the purposes of the Statutory Rules Act (Northern Ireland) 1958 ; and any statutory rule containing any such regulations shall be laid before the Northern Ireland Assembly after being made."

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

SCHEDULE 5

REPEALS

<i>Chapter</i>	<i>Short Title</i>	<i>Extent of Repeal</i>
6 & 7 Eliz. 2. c. 51.	The Public Records Act 1958.	In Schedule 1, in Part I, in the second column of the Table, the words " Reserve Pension Board ".
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 219(3), paragraph (a) the words " or any secondary reserve scheme contribution within the meaning of the said Act of 1973"; and the words " in either case ".
1971 c. 32.	The Attachment of Earnings Act 1971.	In Schedule 3, paragraph 3(b).
1971 c. 56.	The Pensions (Increase) Act 1971.	Section 2 but without prejudice to any existing order under that section. Section 9(3), (4) and (4A).
1972 c. 11.	The Superannuation Act 1972.	Section 25.
1972 c. 48.	The Parliamentary and other Pensions Act 1972.	Section 34(2).
1972 c 53.	The Contracts of Employment Act 1972.	In section 6, paragraph (d) together with the word " and " immediately preceding it.
1973 c. 38.	The Social Security Act 1973.	Section 1(7), (8) and (9).
Section 23(1).		
In section 51, subsections (1), (2) and (4), in subsection (5) the words " in subsection (4) (a) above and " and subsections (6), (8) and (9).		
In section 52, subsections (1) to (7), in subsection (8) the words " for the purposes of recognition, and " and " other " and subsection (9).		
Sections 53 to 57.		
Section 58(1)(c), (3), (4) and (5). In section 59, in subsection (1) the words in		

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

<i>Chapter</i>	<i>Short Title</i>	<i>Extent of Repeal</i>
brackets, and subsections (2) to (9). Sections 60 to 62. Part III. Section 85. In section 86, in subsections (1), (4), (5) and (8) the word " concerned ", in subsection (4), paragraph (b) together with the word " or" immediately preceding it and subsection (9). Section 88. In section 89, in subsection (3), paragraph (c); and subsection (4). Section 91. In section 92, subsections (1) and (2); in subsection (4) the words from " the recovery " onwards; and subsections (5) to (7). Section 93. In section 98, in subsection (1)(a) the words from " including" onwards, and subsection (2). In section 99, in subsection (1) all the definitions except those of " earnings ", " employment ", " Inland Revenue ", " linked qualifying service ", " the Northern Ireland Ministry ", " occupational pension scheme", " prescribed ", " public service pension scheme ", " resources " and " transfer credits", and subsections (6), (7), (10), (13) and (14). Schedule 15. Schedules 18. 19 and 20. Schedule 22.		

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

<i>Chapter</i>	<i>Short Title</i>	<i>Extent of Repeal</i>
In Schedule 23, paragraph 5, and from paragraph 7 to the end. Schedule 24. 1974 c. 9. 1974 c. 14. 1975 c. 14. Sections 5 and 6. Section 7(2) and (3). In section 8, in subsection (2), paragraph (b) together with the word " and " immediately preceding it, and subsection (3). In section 9(8)(b) the words following " pensionable age " In section 27(6), the words from " but where " onwards. Section 28(2) to (6) and (8) (a). In section 29, in subsection (7)(a)(i) the word "lower" and subsections (10) to (12). In section 42(4)(a) the words in brackets. Section 120(5)(a). Section 130(2) and (3). In section 133(6), in paragraph (a) the words " the Reserve Pension Fund or" and in paragraph (b) the words " out of the Reserve Pension Fund or".	The Pensions (Increase) Act 1974. The National Insurance Act 1974. The Social Security Act 1975.	In section 3, subsection (1) and in subsection (3)(a) the figure " 2(1) ". In Schedule 4, paragraphs 33 to 35. In section 4(6)(a) the words " or 2 per cent, according to whether the earner is liable to contribute at the standard rate or the reduced rate ".

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

<i>Chapter</i>	<i>Short Title</i>	<i>Extent of Repeal</i>
<p>In section 167(1)(a) the entry relating to section 5(3) and (4).</p> <p>In Schedule 4, in Part I, paragraphs 2, 6, 7 and 8.</p> <p>Schedule 7.</p> <p>In Schedule 20 the definitions of " Reserve Pension Fund", " Reserve scheme contributions " and " Reserve scheme premiums ".</p> <p>1975 c. 18.</p>	<p>The Social Security (Consequential Provisions) Act 1975.</p>	<p>In Schedule 2, paragraphs 1(b), 2(b), 1(a), 47, 51, 53 to 57, 58 (except so much as substitutes "Ministry" for " Minister " in section 89(1) of the 1973 Act), 59 and 62 to 65.</p>
<p>In Schedule 3, in paragraph 9(1)(a) the word " (respectively) " and paragraph (ii) together with the word " and " immediately preceding it.</p> <p>1975 c. 24.</p>	<p>The House of Commons Disqualification Act 1975.</p>	<p>In Part II of Schedule 1 the words " The Reserve Pension Board ".</p>