



# Social Security (Miscellaneous Provisions) Act 1977

## 1977 CHAPTER 5

### *Other miscellaneous provisions*

#### **18 Certain sums to be earnings for social security purposes**

(1) Regulations may provide that—

- (a) any sum or a prescribed part of any sum mentioned in the following subsection and prescribed amounts which the regulations provide are to be treated as related to any of those sums shall be deemed for the purposes of the principal Act and the Supplementary Benefits Act 1976 to be earnings payable by and to such persons as are prescribed and to be so payable in respect of such periods as are prescribed; and
- (b) those periods shall, so far as they are not periods of employment, be deemed for those purposes to be periods of employment; and
- (c) any provision of the Employment Protection Act 1975 relating to maternity pay or the Maternity Pay Fund shall have effect with such modifications as the Secretary of State considers appropriate in consequence of any provision made in pursuance of the preceding paragraphs.

(2) The sums referred to in paragraph (a) of the preceding subsection are—

- (a) a sum payable by way of maternity pay or payable by the Secretary of State in pursuance of section 43 of the Employment Protection Act 1975 in respect of maternity pay;
- (b) a sum which is payable by the Secretary of State by virtue of section 64(3)(a) of that Act in respect of arrears of pay and which by virtue of section 45(1) of that Act is to go towards discharging a liability to pay maternity pay;
- (c) a sum payable in respect of arrears of pay in pursuance of an order for reinstatement or re-engagement under that Act;
- (d) a sum payable by way of pay in pursuance of an order under that Act for the continuation of a contract of employment;

- (e) a sum payable by way of remuneration in pursuance of a protective award under that Act.

## **19 Inspectors for the purposes of Family Income Supplements Act 1970 and Supplementary Benefits Act 1976**

- (1) Every appointment of an inspector under section 144 of the principal Act shall be an appointment for the purposes of the Family Income Supplements Act 1970 and the Supplementary Benefits Act 1976 (hereafter in this section referred to as " the relevant Acts") as well as for the purposes of the principal Act.
- (2) Accordingly the principal Act shall have effect as if—
  - (a) in sections 144(2) to (4) and 145 of that Act references to that Act included references to the relevant Acts; and
  - (b) in section 145(1)(b) of that Act the reference to benefit included a reference to family income supplement and to supplementary benefit within the meaning of the said Act of 1976;

but the following provisions of the said sections 144 and 145 (which among other things relate to injuries and diseases and to contributions and premiums) shall not apply for the purposes of the relevant Acts, namely, in section 144, subsection (2)(b) and (d), so much of subsection (2)(c) as relates to contributions and premiums and, in section 145, subsections (1)(a) and (2)(e).

## **20 Modifications of principal Act etc in connection with reciprocal agreements**

- (1) In subsection (1) of section 143 of the principal Act (which provides that, for the purpose of giving effect to an agreement with a government outside the United Kingdom providing for reciprocity, Her Majesty may by Order in Council make provision for modifying or adapting that Act and the Pensions Act in their application to cases affected by the agreement) before the words " Her Majesty " there shall be inserted the words " or for the purpose of giving effect to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Great Britain relating to social security, the government of the United Kingdom has made to the other government in question, " and after the words "affected by the agreement" there shall be inserted the words " or proposed alterations ".
- (2) In subsection (1) of section 15 of the Child Benefit Act 1975 (which contains provisions corresponding to the said section 143(1)) there shall be made the same amendments as are made by the preceding subsection in the said section 143(1) except that for the words " social security " in the preceding subsection there shall be substituted the words " child benefit ".
- (3) In subsection (1) of section 134 of the Social Security (Northern Ireland) Act 1975 (which provides that, for the purpose of giving effect to an agreement with a government outside the United Kingdom providing for reciprocity, Her Majesty may by Order in Council make provision for modifying or adapting that Act in its application to cases affected by the agreement) for the words " Her Majesty may by Order in Council" there shall be substituted the words " or for the purpose of giving effect to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Northern Ireland relating to social security, the government of the United Kingdom has made to the other

government in question, the Secretary of State may by order " and after the words " affected by the agreement" there shall be inserted the words " or proposed alterations ".

- (4) The preceding subsection shall not affect any Order in Council or other order which was made or had effect as if made under the said section 134 and is in force immediately before that subsection comes into force; but any such instrument may be varied or revoked by an order made by the Secretary of State by virtue of that subsection.

## **21 Calculation of guaranteed minimum pensions preserved under approved arrangements**

- (1) Where an occupational pension scheme ceases to be contracted-out and guaranteed minimum pension rights or accrued rights to guaranteed minimum pensions under the scheme are subject to approved arrangements (as defined in section 44 of the Pensions Act for the purposes of subsection (2) of that section) for their preservation, then, except in such circumstances as may be prescribed, section 35(5) of that Act shall have effect, unless the prescribed person otherwise elects in the prescribed manner, as if the following words were added at the end thereof: " except such an order made in any of the tax years comprised in the period of five years ending with the tax year in which the scheme ceases to be contracted-out; and as increased by 12 per cent. for each of those five tax years except any in which an order under section 21 of this Act was made which did not relate to the factor and any in which such an order was not made and would not have related to the factor if it had been made ".
- (2) Regulations may provide that subsection (1) above shall have effect with prescribed modifications in relation to a scheme which, immediately before it ceased to be contracted-out, contained provisions authorised by section 35(7) of the Pensions Act.
- (3) In this section expressions used in Part III of the Pensions Act have the same meanings as in that Part.

## **22 Other miscellaneous amendments**

- (1) Provision may be made by regulations as to the circumstances in which a person is to be treated as residing or not residing with another person for any of the purposes of the principal Act or any other Act relating to social security which was passed after that Act and before this Act (except the Supplementary Benefits Act 1976) and as to the circumstances in which persons are to be treated for any of those purposes as residing or not residing together ; and accordingly the words " " Residing with " ; " residing together " " in the first column of Schedule 20 to the principal Act and the words in the second column of that Schedule which relate to those words shall be omitted.
- (2) In the following provisions of the principal Act, namely sections 24(2), 25(3), 26(3), 31, 36(2)(b) and 37(3)(b) (which refer to a woman who is cohabiting with a man as his wife) for the words " she is cohabiting with a man as his wife " there shall be substituted the words " she and a man to whom she is not married are living together as husband and wife ".
- (3) At the beginning of paragraph (b) of section 43(2) and paragraph (b) of section 65(2) of the principal Act (which as amended by the Child Benefit Act 1975 require the contributions mentioned in those paragraphs to be over and above those required for the purposes of section 3(1)(b) of the latter Act) there shall be inserted the words " except in prescribed cases, ".

- (4) In the following provisions of the principal Act, namely sections 67(2), 71(3)(b), 72(4)(a) and 73(3) (which refer to a woman who is cohabiting with a man not her husband) for the word "cohabiting" there shall be substituted the words "living as husband and wife", and in the provisions of subsection (3) of section 71 of the principal Act which follow paragraph (b) of that subsection for the word "cohabiting" in both places there shall be substituted the words aforesaid.
- (5) In section 93(1) of the principal Act (which specifies the questions to be determined by the Secretary of State) after paragraph (d) there shall be inserted the following paragraph—
- “(e) a question as to whether a person was, within the meaning of regulations, precluded from regular employment by responsibilities at home.”
- (6) Section 164 of the principal Act (which among other things relates to disclosure of information by the Inland Revenue in connection with the payment of benefit under that Act) shall have effect as if in subsection (1)—
- (a) the reference to benefit under that Act included a reference to payments in pursuance of sections 2 and 5(1) of the Employment and Training Act 1973 which are analogous to the earnings-related supplement mentioned in section 14(7) of the principal Act; and
- (b) the references to the Secretary of State included, in relation to such payments, references to the Manpower Services Commission, the Employment Service Agency and the Training Services Agency.
- (7) In sections 35(7) and 45(1) of the Pensions Act (which relate to a person whose service in contracted-out employment ceases before he attains the relevant scheme's normal pension age), for the words "the scheme's normal pension age" there shall be substituted the words "pensionable age".
- (8) In section 40(3) of the Pensions Act, after the words "the rule has taken effect" there shall be inserted the words "except that the rule may also accord priority, on a winding up occurring after an earner has attained normal pension age, to liabilities of the scheme in respect of pensions and other benefits to which he will be entitled on ceasing to be in employment or to which the earner's widow or widower or any dependant of the earner's will be entitled on the earner's death."
- (9) If a certificate issued by the Secretary of State is in force stating that in his opinion the payment of a guaranteed minimum pension to which at any time a person is entitled or has accrued rights under an occupational pension scheme in consequence of an employment is secured by means of a policy of insurance which satisfies prescribed conditions or an annuity contract which satisfies prescribed conditions, then—
- (a) for the scheme to be contracted-out in relation to the employment the Occupational Pensions Board need not be satisfied, in pursuance of section 41(1)(b) and (c) of the Pensions Act, that the resources of the scheme are sufficient for paying a state scheme premium relating to the pension and for meeting the liabilities accorded priority as mentioned in section 40(3) of that Act in respect of the premium; and
- (b) subject to the following subsection, if the scheme ceases to be contracted-out in relation to the employment no state scheme premium shall be payable in pursuance of section 44(2) of the Pensions Act by reference to the employment.

- (10) If the Secretary of State considers that a certificate in force in pursuance of the preceding subsection in connection with an employment was issued in consequence of a mistake he may, in such manner as he thinks fit, cancel the certificate so far as it relates to the employment; and if he does so after the time when, but for paragraph (b) of the preceding subsection, any state scheme premium would have become payable by a person in pursuance of subsection (2) of section 44 of the Pensions Act by reference to the employment, the same state scheme premiums shall become payable by that person in pursuance of that section by reference to the employment as if the certificate had not been issued and shall be paid within the prescribed period to the Secretary of State.
- (11) Section 52 of the Pensions Act and paragraphs 5 to 7 and 9 of Schedule 2 to that Act (which among other things provide for the modification of provisions of Part III of that Act in special cases) shall have effect as if any reference to that Part and to specified sections of that Part included a reference to subsections (9) and (10) of this section; and expressions used in either of those subsections and that Part have the same meanings in those subsections as in that Part.
- (12) In sections 44(6) and 45(3) of the Pensions Act (which provide that the cost which an accrued rights premium or a pensioner's rights premium is to defray and the costs the difference between which a limited revaluation premium is to defray shall, unless the person liable for the premium elects otherwise, be calculated on the bases there mentioned) for the words from " unless " onwards there shall be substituted the words " be calculated on the basis that any relevant earnings factor has been increased by any order relating to it which has been made under section 21 of this Act including such an order made, whether before or after the scheme in question ceases to be contracted-out, in the tax year in which the scheme so ceases (hereafter in this subsection referred to as " the final year") except that, unless the person liable for the premium in question elects in the prescribed manner that the following provisions of this subsection shall not apply in relation to the premium, any relevant earnings factor derived from contributions in respect of a tax year earlier than the final year shall be treated—
- (a) as having been increased by 12 per cent. for each of the five tax years ending with the final year, excluding any of those years in which an order under the said section 21 was made which did not relate to the factor and any of those years in which such an order was not made and would not have related to the factor if it had been made ; and
  - (b) as unaffected by such an order relating to the factor which was made in any of the said five years " .
- (13) Regulations may provide that the said section 44(6) as amended by the preceding subsection shall have effect with prescribed modifications in relation to a scheme which has ceased to be contracted-out and, immediately before it so ceased, contained provisions authorised by section 35(7) of the Pensions Act (which, as amended by subsection (7) of this section, relates to a person whose service in a contracted-out employment ceases before he attains pensionable age).
- (14) In section 47 of the Pensions Act, in subsections (1)(b) and (8)(b), for the words " state scheme premium " there shall be substituted the words " contributions equivalent premium " .
- (15) In subsection (3) of section 7 of the Tribunals and Inquiries Act 1971 (which specifies the tribunals mentioned in certain paragraphs of Schedule 1 to that Act of which the

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

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chairmen are to be selected from a panel of persons appointed by the Lord Chancellor but does not include among those paragraphs paragraph 30A(a) or (c) which relate to certain local and medical tribunals constituted in pursuance of the principal Act), after the word "28(a)" where it first occurs there shall be inserted the words " 30A(a) or (c) ".

- (16) In section 8(2) of the Family Income Supplements Act 1970 for the words " Ministry of Social Security Act 1966 " there shall be substituted the words " Supplementary Benefits Act 1976 " and in section 11 of the said Act of 1970 (which provides for a fine not exceeding £100) for " £100 " there shall be substituted " £400 ".
- (17) The Social Security Benefit (Computation of Earnings) Regulations 1974 (which were made in exercise of powers which included the powers conferred by section 99(14) of the Social Security Act 1973) shall have effect as if made in exercise of the powers conferred by section 3(2) of the principal Act (which corresponds to the said section 99(14)).