



Social Security Act 1980

1980 CHAPTER 30

Amendments of certain enactments relating to social security

1 Amendments relating to up-rating

- (1) For the purposes of any review under section 125 of the Social Security Act 1975 (under which the Secretary of State is required in each tax year to review the sums mentioned in subsection (1) of that section and in section 23(1) of the Social Security Pensions Act 1975 for the purpose of determining whether they have retained their value in relation to the general level of earnings or prices obtaining in Great Britain) the Secretary of State shall have regard only to prices except that as respects the sum specified in section 30(1) (excluding paragraphs (a) and (b)) of the Social Security Act 1975 he shall have regard only to earnings; and accordingly in subsection (1) of the said section 125 for the words " earnings or prices obtaining in Great Britain " there shall be substituted the words " prices obtaining in Great Britain except that as respects the sum specified in section 30(1) (excluding paragraphs (a) and (b)) of this Act he shall instead have regard to the general level of earnings obtaining in Great Britain ".
- (2) In relation to a draft of an up-rating order which, in consequence of a review under the said section 125 made before the passing of this Act, falls to be prepared after the passing of this Act in pursuance of subsection (3) of that section (which provides for increasing reviewed sums which have not retained their value as mentioned in subsection (1) of that section), the restoration of value mentioned in the said subsection (3) shall be deemed to be a restoration of value by reference to prices except as respects the sum specified as aforesaid.
- (3) In section 126(5) of the Social Security Act 1975 (under which a draft order under section 125(3) of that Act to increase a sum must provide for the increase to come into force in certain cases not later than at the end of the period of 12 months beginning with the date on which the provision fixing the current amount of the sum came into force) for the words from " of 12 months " to " came into force " there shall be substituted the words " beginning with the date on which the provision fixing the current amount of that sum came into force and ending with the last day of the month in which the first anniversary of that date falls ".

2 Other amendments of Social Security Act 1975

The Social Security Act 1975 (hereafter in this Act referred to as " the principal Act ") shall have effect with the amendments specified in Schedule 1 to this Act, and references in that Schedule to sections and Schedules are to sections of and Schedules to that Act.

3 Amendments of Social Security Pensions Act 1975

- (1) In section 62(1) of the Social Security Pensions Act 1975 (which provides among other things that regulations under section 9(3) of that Act prescribing a maximum for the additional component of a Category A retirement pension are subject to the affirmative resolution procedure) the words " or 9(3)" shall be omitted; and accordingly a statutory instrument containing regulations under the said section 9(3) is subject to annulment in pursuance of a resolution of either House of Parliament by virtue of section 66(2) of that Act (hereafter in this Act referred to as " the Pensions Act ") and section 167(3) of the principal Act.
- (2) At the end of section 11 of the Pensions Act (which excludes certain sums from the rate of a pension mentioned in section 30(1) of the principal Act) there shall be inserted the words " ; but the preceding provisions of this section shall be disregarded for the purposes of section 27(3)(b)(ii) of that Act (which provides for a person to be treated as retired by reference to the said section 30(1)) " .
- (3) In subsection (3) of section 21 of the Pensions Act (which provides that if on a review under that section of the general level of earnings the Secretary of State concludes that certain earnings factors have not retained their value during the review period he shall prepare and lay before Parliament the draft of an order increasing the factors so as to make up the fall in their value together with falls made up by earlier orders) for the words from " prepare " to " draft of " there shall be substituted the word " make " ; and accordingly—
 - (a) the same amendment shall be made in subsection (5) of that section (which provides that where the Secretary of State determines that he is not required to prepare and lay such a draft he shall report to Parliament his reasons for the determination); and
 - (b) a statutory instrument containing an order under the said subsection (3) is subject to annulment as mentioned in subsection (1) of this section.
- (4) In section 21(1) of the Social Security (Miscellaneous Provisions) Act 1977 (which provides that, unless the prescribed person otherwise elects, section 35(5) of the Pensions Act shall have effect, in a case where pension rights are preserved under approved arrangements, without taking into account any orders under section 21 of the Pensions Act which were made in the five years ending with the year in which the scheme ceases to be contracted-out and as if relevant earnings factors were increased by 12 per cent, for each of the years there mentioned), for the words from " have effect" onwards there shall be substituted the words " in a case where one or more of the five tax years ending with the tax year in which the scheme ceases to be contracted-out is a relevant year in relation to the earner, have effect, unless the prescribed person otherwise elects in the prescribed manner, subject to the following provisions, that is to say—
 - (a) any order made under section 21 above in any of those five tax years increasing an earnings factor shall be disregarded (but without prejudice

- to any increase made by the last order made under that section before the beginning of those five tax years); and
- (b) any relevant earnings factor derived from contributions in respect of any year (hereafter in this subsection referred to as 'the relevant contributions year') shall be treated as increased by 12 per cent, compound for each of those five tax years, other than any of those years which—
- (i) constitutes or begins before the relevant contributions year, or
 - (ii) begins after the final relevant year in relation to the earner."
- (5) In section 38(1) of the Pensions Act (which among other things provides that where a person leaves employment which is contracted-out by reference to a scheme, the scheme may provide for his rights to benefits under the scheme to be transferred to another scheme but, except in prescribed cases, only with his consent and to another contracted-out scheme) for the words "to another contracted-out scheme" there shall be substituted the words "if the other scheme is a contracted-out scheme in relation to an employment of his at the time of the transfer".
- (6) In section 41 of the Pensions Act, after subsection (1) (which provides that for an occupational pension scheme, other than a public service scheme, to be contracted-out the Occupational Pensions Board must be satisfied that the scheme's resources are sufficient for meeting claims in respect of guaranteed minimum pensions as mentioned in paragraph (a), for paying state scheme premiums as mentioned in paragraph (b) and for meeting on winding up the liabilities and expenses mentioned in paragraph (c) of that subsection) there shall be inserted the following subsection—
- “(1A) Regulations may—
- (a) provide for subsection (1) above to have effect, in cases specified in the regulations, with the omission of paragraphs (b) and (c) of that subsection or either of those paragraphs or with the substitution for those paragraphs or either of them of provisions so specified ; and
 - (b) make such amendments to section 22(9)(a) of the Social Security (Miscellaneous Provisions) Act 1977 (which refers to paragraphs (b) and (c) of subsection (1) above) as the Secretary of State considers appropriate in consequence of regulations made by virtue of paragraph (a) of this subsection.”
- (7) It is hereby declared—
- (a) that an approval of arrangements relating to a scheme may be withdrawn in pursuance of section 44(4) of the Pensions Act at any time notwithstanding that the scheme has been wound up ; and
 - (b) that on the withdrawal of such an approval after the winding up of the scheme a premium becomes payable in pursuance of section 44(2) of that Act;
- and in subsection (10) of section 22 of the Social Security (Miscellaneous Provisions) Act 1977 (which provides for the cancellation of a certificate issued under subsection (9) of that section if the Secretary of State considers that it was issued in consequence of a mistake and provides for the payment of a premium in pursuance of the said section 44(2) on the cancellation of such a certificate) after the word "considers" there shall be inserted the word "(a)" and after the word "mistake" there shall be inserted the words “; or
- (b) that the person upon whom an obligation to pay benefits in respect of an employment is imposed by the policy of insurance or annuity contract to which such a certificate relates is likely to fail to discharge the obligation.”.

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- (8) For subsection (6) of section 44 of the Pensions Act (which provides that the costs which an accrued rights premium or a pensioner's rights premium is to defray shall, unless the person liable for the premium elects otherwise, be calculated on the basis there mentioned) there shall be substituted the following subsection—

“(6) In determining the amount of any state scheme premium payable under this section where one or more of the five tax years ending with the tax year in which the scheme ceases to be contracted-out is a relevant year in relation to the earner, the costs referred to in subsection (5) (a) and (b) above shall, unless the person liable for the premium elects in the prescribed manner that this subsection shall not apply, be calculated as follows—

- (a) any order made under section 21 above in any of those five tax years increasing a relevant earnings factor shall be disregarded (but without prejudice to any increase made by the last order made under that section before the beginning of those five tax years); and
- (b) any relevant earnings factor derived from contributions in respect of any year (hereafter in this subsection referred to as " the relevant contributions year ") shall be treated as increased by 12 per cent, compound for each of those five tax years, other than any of those years which—

- (i) constitutes or begins before the relevant contributions year, or

- (ii) begins after the final relevant year in relation to the earner ;

and in this subsection " relevant year " and " final relevant year " have the same meanings as in section 35 above and references to the earner shall be construed as references to the earner in respect of whom or, as the case may be, in respect of whose widow the premium in question has become payable.”

- (9) In subsection (3) of section 45 of the Pensions Act (which provides that 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 basis there mentioned) for the words from " be calculated " onwards there shall be substituted the words " unless the person liable for the premium elects in the prescribed manner that this subsection shall not apply, be calculated as follows—

- (a) any order made under section 21 above increasing an earnings factor and made in any of the five tax years ending with the tax year in which the scheme ceases to be contracted-out shall be disregarded (but without prejudice to any increase made by the last order made under that section before the beginning of those five tax years); and
- (b) any relevant earnings factor derived from contributions in respect of any year (hereafter in this subsection referred to as ' the relevant contributions year') shall be treated as increased by 12 per cent, compound for each of those five tax years, other than any of those years which constitutes or begins before the relevant contributions year."

- (10) Without prejudice to their powers apart from this subsection, the Occupational Pensions Board may withhold or cancel by virtue of this subsection a contracting-out certificate in respect of a scheme if they consider that the rules of the scheme are such that persons over particular ages may be prevented from participating in the scheme; and without prejudice to the effect apart from this subsection of subsections (1) and (2) of section 50 of the Pensions Act (which among other things provide that certain alterations of the rules of certain schemes are not to be made without the consent of the Board), those subsections shall apply to an alteration of the rules of a

scheme mentioned in subsection (1) of that section which would make the rules such as aforesaid as those subsections apply to an alteration mentioned in that subsection.

(11) In Schedule 1 to the Pensions Act (into which a paragraph 4A providing for further increases of a retirement pension was inserted by the Social Security Act 1979), after the words " increase under paragraph 4 " in paragraph 2(4) there shall be inserted the words " or 4A ".

(12) In paragraph 6 of Schedule 2 to the Pensions Act—

(a) after paragraph (b) of sub-paragraph (3) (under which regulations may provide for treating a premium as actually paid in certain circumstances) there shall be inserted the following paragraph—

“(bb) for treating part of a premium payable in prescribed circumstances in respect of a person as actually paid and for modifying Part III of this Act in relation to a case in which such a part is so treated;”

(b) at the end of sub-paragraph (3) there shall be inserted the words " and the Secretary of State may accept payments in connection with a case in which a premium or part of it is treated as actually paid and shall pay into the National Insurance Fund any sums received by him by way of such payments. "; and

(c) after sub-paragraph (3) there shall be inserted the following sub-paragraph—

“(4) Without prejudice to sub-paragraph (3) above, regulations may provide—

(a) that for the purpose of extinguishing accrued rights to guaranteed minimum pensions and rights to receive such pensions a state scheme premium is to be treated as actually paid on a date determined under the regulations;

(b) for disregarding the effect of regulations made by virtue of paragraph (a) of this subparagraph in a case where the premium in question is not paid on or before the date when it becomes payable or such later date as may be determined under the regulations; and

(c) for obtaining repayment of benefits paid by virtue of regulations so made in a case where the effect of the regulations is to be disregarded, and, where the repayment is obtained from assets of the relevant scheme, for reducing the sums payable under the scheme to the beneficiary by the amount of the repayment.”

4 Miscellaneous amendments

(1) In the definitions of " public service pension scheme " in section 51(3) of the Social Security Act 1973 and section 66(1) of the Pensions Act (which provide among other things that the definition includes any scheme prescribed by such regulations as are there mentioned) after the word " includes " there shall be inserted the words " any occupational pension scheme established, with the concurrence of the Minister for the Civil Service, by or with the approval of another Minister of the Crown and ".

(2) Subsection (3) of section 97 of the Social Security Act 1973 (which provides for orders made by the Secretary of State under that Act to be subject to annulment in pursuance of a resolution of either House of Parliament) shall have effect in relation to orders under section 65 of that Act (under which a public service pension scheme may be

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modified or wound up by an order made by an authority designated by the Minister for the Civil Service) as if the reference in that subsection to the Secretary of State were a reference to an appropriate authority within the meaning of the said section 65.

- (3) In section 6(2) of the Industrial Injuries and Diseases (Old Cases) Act 1975 (which provides that a scheme under section 5 of that Act shall not provide for benefit for or in respect of a person disabled or dying from byssinosis unless he was employed for five years in an occupation prescribed in relation to that disease and shall not provide for benefit for a person so disabled unless the disablement is likely to be permanent) the words from " shall " where it first occurs to " disease, and " shall be omitted and for the words " so disabled " there shall be substituted the words " disabled as a result of the disease of byssinosis ".
- (4) Regulations under subsection (1) of section 81 of the principal Act or subsection (5) of section 6 of the Child Benefit Act 1975 (which among other things enable regulations to be made about the manner of paying benefit) may provide that, in relation to payments of benefit under the principal Act, or as the case may be of child benefit, which in pursuance of regulations under the said subsection (1) or (5) have been credited to a bank account or other account under arrangements made with the agreement of the beneficiary, section 119 of the principal Act (which among other things provides for the repayment of overpayments of benefit under that Act and is applied to child benefit by section 8(1) of the other Act) shall have effect with such modifications as are prescribed by the regulations; but any modifications so prescribed shall not apply in relation to any payment of benefit unless notice of the effect of the modifications was given to the beneficiary in accordance with the regulations before he agreed to the arrangements.
- In this subsection " modifications" includes additions, omissions and amendments.
- (5) In section 2(3) of the Child Benefit Act 1975 (which among other things enables regulations to provide that a person who ceases in any week to be a child for the purposes of Part I of that Act shall be treated as continuing to be such a child for a prescribed period ending not more than 13 weeks after the end of that week) the words from " ending " to " that week " shall be omitted.
- (6) It is hereby declared that in paragraph (a) of section 18(1) of the Social Security (Miscellaneous Provisions) Act 1977 (which among other things enables regulations to provide that certain sums shall be deemed for the purposes of the principal Act to be such earnings as are mentioned in that paragraph) the reference to the purposes of the principal Act includes the purposes of the Pensions Act.

5 Maternity grant

- (1) Where—
- (a) the date of a woman's confinement is the same as or later than the appointed date ; or
 - (b) a woman claims a maternity grant by virtue of regulations under section 21(5) of the principal Act in a case where the week which is treated in pursuance of the regulations as that in which she is expected to be confined includes or begins after the appointed date,

the following provisions of the principal Act shall have effect in relation to the confinement or claim with the following amendments, namely—

- (i) in section 12, in subsection (1)(d) (under which maternity benefit comprising maternity grant and maternity allowance is a contributory benefit under

- Chapter I of Part II of that Act) for the words from the beginning to " allowance " there shall be substituted the words " maternity allowance " and in subsection (2) (which specifies the benefits which are short-term benefits for the purposes of that Part) the words " maternity grant" shall be omitted;
- (ii) in section 13(1) (which relates to contribution conditions) the words " Maternity grant. . . Class 1, 2 or 3 " shall be omitted;
- (iii) in section 21 (under subsections (1) and (2) of which certain contribution conditions are to be satisfied in order to confer entitlement to a maternity grant) for the words from " and either " onwards in subsection (1) there shall be substituted the words " and satisfies prescribed conditions as to residence and presence in Great Britain " and subsection (2) and in subsection (5) the words from " and may modify the contribution conditions " onwards shall be omitted ;
- (iv) at the end of section 135(2) (which specifies the benefits which are to be paid out of money provided by Parliament instead of from the National Insurance Fund) there shall be inserted the words " (g) a maternity grant ";
- (v) in Schedule 3, paragraphs 2 and 11 (which relate to contribution conditions for a maternity grant) and in paragraph 8(3) the words " a maternity grant" shall be omitted;
- (vi) in the definition of " short-term benefit" in Schedule 20 the words " maternity grant" shall be omitted.
- (2) In the preceding subsection " the appointed date " means such date as the Secretary of State may appoint for the purposes of that subsection by order made by statutory instrument; and subsection (1) of section 23 of the principal Act (which among other things defines the expression " confinement" for the purposes of the Chapter which contains that section) shall have effect as if paragraphs (a) and (b) of the preceding subsection were provisions of that Chapter.
- (3) References in any enactment to maternity benefit under the principal Act shall continue to be references to maternity grant and maternity allowance under that Act.
- (4) Nothing in subsection (1) of this section affects the operation of paragraphs 9, 10, 12 and 13 of Schedule 3 to the principal Act (which relate to entitlement to certain benefits by reference to other benefits which include a maternity grant) so far as they relate to a maternity grant to which that subsection does not apply.