

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Social Security Act 1980, SCHEDULE 2. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

Sections 6, 8 and 21.

#### AMENDMENTS OF <sup>M1</sup>SUPPLEMENTARY BENEFITS ACT 1976

##### Marginal Citations

**M1** 1976 c. 71

### PART I

#### THE AMENDMENTS

<sup>F1</sup>1–20 .....

##### Textual Amendments

**F1** Sch. 2 Pt. I, paras. 1–20, 22–30 repealed by [Social Security Act 1986 \(c. 50\)](#), **Sch. 11**

<sup>F2</sup>21 .....

##### Textual Amendments

**F2** Ss. 2, 3(1)–(3)(11), 4(3)(5)(6), 5(1), 6(2)(4), 9(1)(2)(5)(7), 10(1)–(5), 11, 13(1)–(3)(5)(6), 14, 17, 18, 19(3), Sch. 1, Sch. 2 para. 21, Sch. 3, Sch. 4, paras. 10, 14 repealed on consolidation (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

<sup>F3</sup>22–30 .....

##### Textual Amendments

**F3** Sch. 2 Pt. I, paras. 1–20, 22–30 repealed by [Social Security Act 1986 \(c. 50\)](#), **Sch. 11**

- 31 In Schedule 5—
- (a) for the word “Commission” wherever it occurs except in paragraphs 1, 2(1) and 3, there shall be substituted the words “Secretary of State”;
  - <sup>F4</sup>(b) .....
  - (d) in paragraph 2(1) for the words from “Commission to” onwards there shall be substituted the words “Secretary of State to provide and maintain places, to be known as resettlement units, at which persons without a settled way of life are afforded temporary board and lodging with a view to influencing them to lead a more settled life.”;

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- (e) in paragraph 2(2) for the words “reception centres” there shall be substituted the words “resettlement units”;
- (f) in paragraph 2(4) for the word “them” there shall be substituted the word “him”;
- (g) paragraph 3 shall be omitted;
- <sup>F4</sup>(h) .....

**Textual Amendments**

**F4** Sch. 2 para. 31(b)(c)(h) repealed by Social Security Act 1990 (c. 27), Sch. 7

**Modifications etc. (not altering text)**

**C1** The text of Sch. 2 para. 31 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 32 (1) In Schedule 6 paragraphs 6 and 7 (which relate to transitional cases involving a pension under the Old Age Pensions Act 1936 or an assistance grant under the National Assistance Act 1948 or an appeal to a tribunal constituted under Schedule 3 to the Supplementary Benefit Act 1966) shall cease to have effect, but any supplementary benefit payable to a woman instead of to another person by virtue of sub-paragraph (4) of the said paragraph 6 shall continue to be so payable subject to any regulations relating to that sub-paragraph which are made in pursuance of section 8(1) of this Act.
- (2) In paragraph 8 of Schedule 6 (which among things provides for certain proceedings for the recovery of sums which could previously have been taken by the National Assistance Board to be taken by the Supplementary Benefits Commission in some cases and the Secretary of State in others) for paragraphs (a) and (b) of sub-paragraph (1) there shall be substituted the words “by the Secretary of State”, and sub-paragraph (3) shall be omitted.

**Modifications etc. (not altering text)**

**C2** The text of ss.3(4)(8)(9)(12), 4(1), 6(1)(3), 9(6), 16(3)–(6), 21(4), Sch. 2 para. 32, Sch. 2 Pt. II, Schs. 4, 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**PART II**

PROVISIONS OF THE ACT AS AMENDED

**Modifications etc. (not altering text)**

**C3** The text of ss.3(4)(8)(9)(12), 4(1), 6(1)(3), 9(6), 16(3)–(6), 21(4), Sch. 2 para. 32, Sch. 2 Pt. II, Schs. 4, 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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## “PART I

### SUPPLEMENTARY BENEFIT

#### *Right and amount of supplementary benefit*

#### **Right to supplementary benefit.**

- 1 (1) Subject to the provisions of this Act, every person in Great Britain of or over the age of 16 whose resources are insufficient to meet his requirements shall be entitled to benefit as follows—
  - (a) a supplementary pension if he is one of a married or unmarried couple of whom one is or both are over the age of 65 or if he is not one of such a couple and has attained pensionable age; and
  - (b) a supplementary allowance in any other case; and to such benefit by way of a single payment to meet an exceptional need as may be determined under section 3 of this Act.

paragraph (a) of this subsection shall have effect until the prescribed date as if the words from “is one” to “couple and” were omitted.
- (1A) Regulations may provide for a person’s entitlement under subsection (1) above to continue during prescribed periods of the person’s temporary absence from Great Britain.
- (2) Where, under the provisions of this Act, the requirements and resources of a person fall to be aggregated with, and treated as, those of another person, that other person only shall be entitled to supplementary benefit.
- (3) The requirements of any person to be taken into account for the purposes of this Act do not include any medical, surgical, optical, aural or dental requirements; and regulations may provide that the requirements which by virtue of this subsection are not included in a person’s requirements include or exclude prescribed requirements.

#### **Determination of right to and amount of supplementary benefit.**

- 2 (1) Subject to sections 15 and 15A of this Act (appeals), the question whether any person is entitled to supplementary benefit and the amount of any such benefit and any other question relating to supplementary benefit which arises under this Act shall be determined by a benefit officer except so far as this Act or regulations provide otherwise; and regulations may provide for different aspects of the same question to be dealt with by different benefit officers.
- (1A) Regulations may provide for prescribed questions to be determined otherwise than by benefit officers and, without prejudice to the generality of the preceding provisions of this subsection,—
  - (a) for prescribed questions to be referred to bodies or persons exercising functions under the Social Security Act 1975 and for the application of provisions of that Act, with or without modifications, to the questions and to decisions given in consequence of references in pursuance of the regulations;
  - (b) for such decisions, and any other prescribed decisions given in pursuance of that Act, to be effective or conclusive for prescribed purposes of this Act; and
  - (c) for dealing, by postponement or otherwise, with cases in which questions are referred by virtue of paragraph (a) of this subsection.

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- (2) Entitlement to, and the amount of, any supplementary benefit shall be determined in accordance with the provisions of this Part of this Act and Schedule 1 to this Act.

\* \* \* \* \*

**Supplementary benefit to meet exceptional need.**

- 3 (1) There shall be payable in prescribed cases, to a person who is entitled or would if he satisfied prescribed conditions be entitled to a supplementary pension or allowance, supplementary benefit by way of a single payment of a prescribed amount to meet an exceptional need.
- (2) In determining whether supplementary benefit shall be paid under this section, and the amount of any such benefit, regard shall be had, so far as regulations so provide, to any resources which would otherwise fall to be disregarded under regulations made in pursuance of paragraph 1(2)(b) of Schedule 1 to this Act.

**Provision for cases of urgent need.**

- 4 (1) In urgent cases supplementary benefit shall be payable in accordance with this Act as modified by virtue of this section; and regulations may—
- (a) prescribe the cases which are urgent cases for the purposes of this section;
  - (b) provide that in relation to such cases any of the provisions of sections 3, 5 to 8 and 10 of this Act and Schedule 1 to this Act shall have effect with prescribed modifications.
- (2) Any sums paid to a person by virtue of the preceding subsection, except a sum as to which it has been determined in accordance with regulations that it is not to be recovered in pursuance of this subsection, shall be recoverable from him by the Secretary of State by making deductions from prescribed benefits or in any other manner.

**Power to require registration for employment.**

- 5 Except in prescribed cases the right of any person to a supplementary allowance shall be subject to the condition that he is registered for employment in such manner as may be prescribed and is available for employment; and regulations may make provision as to—
- (a) what is and is not to be treated as employment for the purposes of this section; and
  - (b) the circumstances in which a person is or is not to be treated for those purposes as available for employment.

**Exclusion from supplementary benefit of certain employed persons and pupils.**

- 6 (1) A person who is engaged in remunerative full-time work shall not be entitled to supplementary benefit; and regulations may make provision as to the circumstances in which a person is or is not to be treated for the purposes of this subsection as so engaged.
- (2) A person who has not attained the age of 19 and is receiving relevant education shall not be entitled to supplementary benefit except in prescribed circumstances.
- (3) Regulations may make provision as to the circumstances in which a person is or is not to be treated for the purposes of the preceding subsection as receiving relevant education;

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and in this section “relevant education” means full-time education by attendance at an establishment recognised by the Secretary of State as being, or as comparable to, a college or school.

**Persons affected by trade disputes.**

- 8 (1) Subject to subsection (2) below, where a person—
- (a) is, by reason of a stoppage of work which is due to a trade dispute at his place of employment, without employment for any period during the stoppage; and
  - (b) has not during that stoppage become bona fide employed elsewhere in the occupation which he usually follows, or become regularly engaged in some other occupation,

his requirements for that period shall be disregarded for the purposes of supplementary benefit except so far as those requirements include requirements of another person which are to be treated as his by virtue of any other provision of this Act and are not to be disregarded by virtue of this subsection as it applies to the other person.

- (2) Subsection (1) above does not apply in the case of a person who proves that he is not participating in or directly interested in the trade dispute which caused the stoppage of work.

\* \* \* \* \*

**Recovery of supplementary benefit paid after return to full-time employment following trade dispute.**

- 9 (1) Where a person—
- (a) has, by reason of a stoppage of work which was due to a trade dispute at his place of employment, been without employment for any period during the stoppage; and
  - (b) is a person whose requirements for that period (except so far as those requirements included the requirements of any other person) fall to be disregarded for the purposes of supplementary benefit by virtue of section 9 of this Act (persons affected by trade disputes); and
  - (c) becomes engaged in remunerative full-time work again in consequence of the ending of the stoppage;

section 6(1) of this Act shall not apply in his case until the expiration of the period of fifteen days from the beginning of the engagement mentioned in paragraph (c) above; but subsection (2) below shall have effect in such a case.

- (2) Any sum paid to a person on an award of supplementary benefit made to him during the period of fifteen days specified in subsection (1) above by virtue of that subsection shall be recoverable from him or another person in accordance with regulations.
- (3) Regulations made by virtue of section 6(1) of this Act providing for a person not to be treated as engaged in remunerative full-time work shall not apply to a person to whom subsection (1) applies as regards the engagement mentioned in paragraph (c) of that subsection.

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**Modification of the right to supplementary allowance in certain cases.**

10 (1) Where—

- (a) a person is registered for employment in pursuance of section 5 of this Act and is not receiving unemployment benefit under the Social Security Act 1975; and
- (b) it appears to a benefit officer that the person refuses or neglects to maintain himself or any other person whom for the purposes of this Act he is liable to maintain,

the officer may give him in the prescribed manner a direction in writing requiring him to attend a course of instruction or training which is approved or provided by the Secretary of State and is specified in the direction.

- (2) A person to whom such a direction is given may, in accordance with rules made by the Secretary of State, appeal against the direction to the Appeal Tribunal; and on an appeal in pursuance of this subsection the tribunal shall either confirm or cancel the direction.
- (3) A direction under subsection (1) of this section shall not come into force—
  - (a) until the expiration of the period within which, without any extension of time, an appeal against it may be brought in pursuance of the preceding subsection; and
  - (b) if during that period such an appeal is brought, until the appeal is withdrawn or the direction is confirmed by the tribunal.
- (4) A person in respect of whom a direction under subsection (1) of this section is in force shall not be entitled to a supplementary allowance while he fails to comply with the direction.
- (5) Regulations may make provision with respect to the consequences of the cancellation of a direction which has come into force.

**Supplementary benefit in kind.**

11 (1) Regulations may make provision—

- (a) for the requirements of any person to be met in prescribed circumstances by the provision of goods or services instead of by making the whole or part of any payment to which he would otherwise be entitled under this Act;
- (b) for any provision of this Act or regulations under it to be disregarded in connection with the provision of goods or services by virtue of the preceding paragraph;
- (c) as to the manner of providing goods or services to be provided by virtue of that paragraph.

- (2) In relation to any goods or services provided in pursuance of this section, references in this Act to the amount of supplementary benefit shall be taken to refer to the value of the goods or services.

**Supplementary Provisions Prevention of duplication of payments.**

- 12 (1) Where a prescribed payment which apart from this subsection falls to be made from public funds in the United Kingdom or under the law of any other member State is not made on or before the date which is the prescribed date in relation to the payment, then—

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- (a) in the case of a payment from such public funds, the authority responsible for making it may abate it by the relevant amount; and
- (b) in the case of any other payment, the Secretary of State shall be entitled to receive the relevant amount out of the payment;

and in this subsection “the relevant amount”, in relation to a payment, means the amount which a benefit officer determines has been paid by way of supplementary benefit and would not have been paid if the payment had been made on the date aforesaid.

(1A) Where—

- (a) a payment by way of prescribed income is made after the date which is the prescribed date in relation to the payment; and
- (b) a benefit officer determines that an amount which has been paid by way of supplementary benefit would not have been paid if the said payment had been made on the date aforesaid,

the Secretary of State shall be entitled to recover that amount from the person to whom it was paid.

(2) Where for any period—

- (a) a person (in this subsection referred to as A) is entitled to any prescribed benefit in respect of another person (in this subsection referred to as B); and
- (b) B’s requirements have been taken into account in determining the amount of any supplementary benefit payable for that period to B or some other person (other than A); and
- (c) the amount of the supplementary benefit so payable has been determined on the basis that A has not made payments for the maintenance of B at a rate equal to or exceeding the amount of the prescribed benefit;

the amount of the prescribed benefit may, at the discretion of the authority administering it, be abated by the amount by which the amounts paid under this Act exceed what a benefit officer determines they would have been had A, at the time the amount of the supplementary benefit was determined, been making payments for the maintenance of B at a rate equal to the amount of the prescribed benefit.

(3) Where, in determining the amount of any supplementary benefit, the requirements of any person have been taken into account for the whole or part of a period in respect of which there might be afforded or granted to him—

- (a) a rate rebate under a scheme under section 11 or 12 of the <sup>M2</sup>Local Government Act 1974 or, in Scotland, the standard scheme prescribed under section 112 of the <sup>M3</sup>Local Government (Scotland) Act 1973 (including that scheme as varied under section 114 of that Act); or
- (b) a rebate or allowance under Part II of the <sup>M4</sup>Housing Finance Act 1972 or, in Scotland, Part II of the <sup>M5</sup>Housing (Financial Provisions) (Scotland) Act 1972;

and before the whole or part of the rebate or allowance has been afforded or granted, the authority administering the rebate or allowance, as the case may be, are notified by a benefit officer of the amount by which the amounts paid under this Act exceed what the officer has determined they would have been had the rebate or allowance been afforded or granted before the amount of the supplementary benefit was determined, the amount of the rebate or allowance to be afforded or granted shall be reduced by the amount so notified.

(4) Where a benefit officer makes—

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- (a) a determination in pursuance of the preceding provisions of this section in respect of an amount of supplementary benefit; or
- (b) a determination altering on review or refusing to review a determination in respect of such an amount which has been made for the purposes of this section by a benefit officer or on appeal,

the relevant person may appeal to the Appeal Tribunal against the determination; and subsection (3) of section 15 of this Act shall apply to an appeal under this subsection as it applies to an appeal under that section.

- (5) In the preceding subsection “the relevant person” means the person who is entitled, apart from subsection (1), (2) or (3) of this section, to the prescribed payment or the prescribed benefit or the rebate or allowance in question or, as the case may be, to whom the amount mentioned in subsection (1A) of this section was paid.

#### **Payment of supplementary benefits.**

- 13 Any sums payable under this Act by way of supplementary benefit shall be paid by the Secretary of State out of moneys provided by Parliament.

#### **Administration of supplementary benefits.**

- 14 (1) Regulations may make provision for carrying into effect this Part of this Act and Schedule 1 to this Act; and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.
- (2) Regulations may make provision—
  - (a) for requiring claims for supplementary benefit to be made in such manner and within such time as may be specified in the regulations;
  - (b) for enabling a person to be appointed to exercise, on behalf of a claimant who may be or become unable to act in relation to his claim, any power in relation to it which the claimant is entitled to exercise;
  - (c) for prescribing the evidence which is to be provided in support of claims for supplementary benefit;
  - (d) for requiring or enabling a benefit officer, in such circumstances as may be specified in the regulations, to review any determination with respect to supplementary benefit, whether the determination is made by a benefit officer or by the Appeal Tribunal or by a Commissioner or Tribunal of Commissioners by virtue of rules under section 15A of this Act;
  - (e) for extinguishing the right to payment of any sum by way of supplementary benefit if payment is not obtained within the prescribed period of not less than twelve months from the date on which the right is to be treated under regulations as having arisen;
  - (ee) for suspending the payment of supplementary benefit pending the determination of questions;
  - (f) as to the day on which entitlement to a supplementary pension or allowance is to begin or end or the amount of supplementary pension or allowance is to change;
  - (g) as to the time and manner of paying supplementary benefit and the information and evidence to be furnished in connection with payments of it;



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- (h) for withholding payments of a supplementary pension or allowance in prescribed circumstances and for subsequently making withheld payments in prescribed circumstances;
- (i) as to the circumstances and manner in which payments of supplementary benefit may be made to another person on behalf of the beneficiary for any purpose (which may be to discharge, in whole or in part, an obligation of the beneficiary or any other person);
- (j) for the payment or distribution of supplementary benefit to or among persons claiming to be entitled to it on the death of any person and for dispensing with strict proof of their title;
- (k) for the payment of travelling expenses in connection with claims for supplementary benefit.

\* \* \* \* \*

### **Appeals**

- 15 (1) A person claiming, or in receipt of, supplementary benefit may appeal to the Appeal Tribunal against any determination of a benefit officer (including a determination to refuse to review a determination) with respect to the claim or benefit, except that no appeal shall lie by virtue of this subsection in a case falling within section 10(2), 12(4) or 20(3) of this Act;

\* \* \* \* \*

- (3) On an appeal under this section the Appeal Tribunal may—  
(a) confirm the determination appealed against; or

\* \* \* \* \*

- (c) substitute for any determination appealed against any determination which a benefit officer could have made.

- (4) Subject to section 15A of this Act, any determination of an Appeal Tribunal shall be final; but nothing in this section shall make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision.

### **Appeals from Appeal Tribunal.**

- 15A(1) The Secretary of State may by rules make provision for any party to proceedings before an Appeal Tribunal (whether under this or any other Act) to appeal to a Commissioner against a decision of the tribunal.

- (2) Rules under this section may, in particular, make provision—

- (a) as to cases and circumstances in which, and the conditions subject to which, appeals may be made, including provision either generally or in relation to specified classes of case for appeals—
  - (i) to be confined to points of law;
  - (ii) to be made only with leave;
- (b) as to the manner in which, and the time within which, appeals are to be brought and (where appropriate) applications are to be made for leave to appeal;
- (c) as to the procedure to be followed on appeals;

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- (d) as to the payment by the Secretary of State to persons attending proceedings before a Commissioner of travelling and other allowances (including compensation for loss of remunerative time).
- (3) The power to make provision as to procedure under subsection (2)(c) above includes power to make provision as to the representation of one person in any proceedings by another person.
- (4) Rules under this section may provide for a Commissioner hearing an appeal—
  - (a) to give any decision which might have been given by the tribunal;
  - (b) to refer the case to another tribunal, with directions;
  - (c) to dispose of the appeal in such other manner as may be specified;
 and in any case where directions are given to a tribunal in accordance with rules under this section the tribunal shall proceed accordingly.
- (5) In this section “Commissioner” has the same meaning as in the <sup>M6</sup>Social Security Act 1975.

#### **Supplementary benefits to be inalienable.**

- 16 (1) Every assignment of, or charge on, any supplementary benefit, and every agreement to assign or charge any such benefit, shall be void; and on the bankruptcy... of a person entitled to any supplementary benefit, no rights in respect of the benefit shall pass to any trustee or other person acting on behalf of his creditors.
- (2) In the application of the preceding subsection to Scotland—
  - (a) the reference to assignment of supplementary benefit shall be read as a reference to its assignation, “assign” being construed accordingly; and
  - (b) the reference to the bankruptcy of a person entitled to supplementary benefit shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 14 of the Bankruptcy (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958.

## **PART II**

### LIABILITY TO MAINTAIN, RECOVERY OF EXPENDITURE AND OFFENCES

#### *Liability to maintain*

#### **Liability to maintain.**

- 17 (1) For the purposes of this Act—
  - (a) a man shall be liable to maintain his wife and his children; and
  - (b) a woman shall be liable to maintain her husband and her children; and
  - (c) a person shall be liable to maintain another person throughout any period in respect of which the first-mentioned person has, on or after the date of the passing of the Social Security Act 1980 and either alone or jointly with a further person, given an undertaking in writing in pursuance of immigration rules within the meaning of the Immigration Act 1971 to be responsible for the maintenance and accommodation of the other person.

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- (2) In subsection (1) above—
- (a) the reference to a man's children includes a reference to children of whom he has been adjudged to be the putative father or, in Scotland, to children his paternity of whom has been admitted or otherwise established; and
  - (b) the reference to a woman's children includes a reference to her illegitimate children.
- (3) A document bearing a certificate which—
- (a) is signed by a person authorised in that behalf by the Secretary of State; and
  - (b) states that the document apart from the certificate is, or is a copy of, such an undertaking as is mentioned in subsection (1)(c) of this section,
- shall be conclusive evidence for the purposes of this Act of the undertaking in question; and a certificate purporting to be signed as aforesaid shall be deemed to be so signed until the contrary is proved.

#### *Recovery of expenditure*

#### **Recovery of expenditure on supplementary benefits from persons liable for maintenance.**

- 18 (1) Where supplementary benefit is paid or claimed to meet requirements which are, or include, those of a person whom another person is, for the purposes of this Act, liable to maintain (in this section referred to respectively as "the dependant" and "the liable person") the Secretary of State may make a complaint against the liable person to a magistrates' court for an order under this section.
- (2) Except in a case falling within section 17(1)(c) of this Act, no complaint under subsection (1) above shall be made where the dependant is an illegitimate child and the liable person is his father.
- (3) On the hearing of a complaint under subsection (1) above the court shall have regard to all the circumstances and, in particular, to the resources of the liable person, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate, except that in a case falling within section 17(1)(c) of this Act that sum shall not include any amount which is not attributable to supplementary benefit (whether paid before or after the making of the order).
- (4) In determining whether to order any payments to be made in respect of supplementary benefit for any period before the complaint was made, or the amount of any such payments, the court shall disregard any amount by which the liable person's resources exceed the resources which were his during that period.
- (5) Any payments ordered to be made under this section shall be made—
- (a) to the Secretary of State in so far as they are attributable to any supplementary benefit (whether paid before or after the making of the order);
  - (b) to the person claiming supplementary benefit or (if different) the dependant; or
  - (c) to such other person as appears to the court expedient in the interests of the dependant.
- \* \* \* \* \*
- (7) An order under this section shall be enforceable as an affiliation order.

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- (8) In the application of this section to Scotland, subsections (2) and (7) shall be omitted, and for the references to a complaint and to a magistrates' court there shall be substituted respectively references to an application and to the sheriff.

#### **Affiliation orders.**

- 19 (1) The provisions of this section apply in any case in which supplementary benefit is paid to meet requirements which include those of an illegitimate child.
- (2) If no affiliation order is in force the Secretary of State may, within three years from the time when any payment by way of supplementary benefit was made, make application to a justice of the peace acting for the petty sessions area in which the mother of the child resides for a summons to be served under section 1 of the <sup>M7</sup>Affiliation Proceedings Act 1957.
- (3) In any proceedings on an application under subsection (2) above the court shall hear such evidence as the Secretary of State may produce, and shall in all other respects, subject to the provisions of subsection (4) below, proceed as on an application made by the mother under section 1 of the said Act of 1957.
- (4) An affiliation order—
- (a) made on an application made by the Secretary of State under subsection (2) above; or
  - (b) made on an application made by the Secretary of State on proceedings brought by the mother of the child under section 1 of the said Act of 1957,
- may be made so as to provide that the payments, or a part of the payments, to be made under the order shall, instead of being made to the mother or a person having custody of the child, be made to the Secretary of State or to such other person as the court may direct.
- (5) Any affiliation order, whether made before or after the commencement of this Act, may, on the application of the Secretary of State, be varied so as to provide for the making of payments, or part thereof, as mentioned in subsection (4) above; and an application by the Secretary of State under this subsection may be made—
- (a) notwithstanding that the mother has died and no person has been appointed to have the custody of the child; and
  - (b) where the child is not in the care of the mother and she is not contributing to his maintenance, without making her a party to the proceedings.
- (6) Any affiliation order which provides for the making of payments, or part thereof, as mentioned in subsection (4) above may, on the application of the mother of the child, be varied so as to provide that the payments shall be made to the mother or a person having custody of the child.

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- (8) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (2) to (6) above—
- (a) the Secretary of State shall have the like right as the mother to raise an action of affiliation and aliment concluding for payment of aliment for the child;
  - (b) where any action of affiliation and aliment in respect of the child, whether at the instance of the Secretary of State under the foregoing paragraph or at the instance of the mother, the sheriff grants or has granted decree against any

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person for payment of aliment for the child, the sheriff may at the time of granting the decree or at any subsequent time on the application of the Secretary of State, order that the sums due under the decree or any part thereof shall, instead of being paid to the mother of the child, be paid to the Secretary of State or to such other person as the sheriff may direct;

- (c) if such an order is made in favour of the Secretary of State, the Secretary of State, or, if it is made in favour of another person, that person, shall have the like right to enforce the decree (so far as relating to the said sums) by diligence, including the right to take proceedings under the <sup>M8</sup>Civil Imprisonment (Scotland) Act 1882, as if the decree were a decree in favour of the Secretary of State or other person.

### **Recovery in cases of misrepresentation or non-disclosure.**

- 20 (1) If, whether fraudulently or otherwise, any person misrepresents, or fails to disclose, any material fact, and in consequence of the misrepresentation or failure—
- (a) the Secretary of State incurs any expenditure under this Act; or
  - (b) any sum recoverable under this Act by or on behalf of the Secretary of State is not recovered,
- the Secretary of State shall be entitled to recover the amount thereof from that person.
- (2) If, whether in connection with any legal proceedings or otherwise, any question arises whether any amount paid by way of supplementary benefit is recoverable by the Secretary of State under this section, or as to the amount so recoverable, the question shall be determined by a benefit officer.
- (3) A person from whom, in pursuance of a determination of a benefit officer under the preceding subsection, an amount is recoverable under this section may appeal to the Appeal Tribunal against the determination; and subsection (3) of section 15 of this Act shall apply to an appeal under this subsection as it applies to an appeal under that section.
- (4) Where any amount paid by way of supplementary benefit is recoverable under this section, it may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.
- (5) Subsections (2) and (3) of this section shall apply to any question as to whether any amount or what amount is recoverable by the Secretary of State under section 45 of the <sup>M9</sup>National Assistance Act 1948 or section 26 of the <sup>M10</sup>Supplementary Benefit Act 1966 (which contain provisions corresponding to subsection (1) of this section) and subsection (4) of this section shall apply to an amount recoverable by the Secretary of State under either of those sections—
- (a) as if for any reference in those subsections to this section there were substituted references to the said section 45 or 26, as the case may be; and
  - (b) as respects a question relating to recovery under the said section 45 and an amount recoverable under that section, as if the words “paid by way of supplementary benefit” in subsections (2) and (4) of this section were omitted.

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## *Offences*

### **False statements.**

- 21 If any person, for the purpose of obtaining supplementary benefit or any other payment under this Act for himself or another person or for any other purpose connected with this Act—
- (a) makes any statement or representation which he knows to be false; or
  - (b) produces or furnishes, or causes to be produced or furnished, any document or information which he knows to be false in a material particular,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or to imprisonment for a term not exceeding three months or to both.

### **Impersonation of officers.**

- 22 If any person, with intent to deceive, falsely represents himself to be a person authorised by the Secretary of State for Social Services to act in any capacity (whether under this Act or otherwise) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

### **Illegal possession of documents.**

- 23 (1) If any person—
- (a) as a pledge or a security for a debt; or
  - (b) with a view to obtaining payment from the person entitled to it of a debt due either to himself or to any other person;
- receives, detains or has in his possession any document issued by or on behalf of the Secretary of State for Social Services in connection with any benefit, pension or allowance (whether payable under this Act or otherwise) he shall be guilty of an offence.
- (2) If any person has such a document in his possession without lawful authority or excuse (the proof whereof shall lie on him) he shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £400 or to both.

### **Failure to notify.**

- 24 (1) If any person fails to comply with a provision of regulations under section 9(2) of this Act requiring him to give notice of any matter to the Secretary of State, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

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### **Failure to maintain.**

- 25 (1) If any person persistently refuses or neglects to maintain himself or any person whom for the purposes of this Act he is liable to maintain and in consequence of his refusal or neglect supplementary benefit is awarded to meet requirements which are, or include, his or those of such a person he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £400 or to both.

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- (2) For the purposes of this section a person shall not be taken to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.

### *Legal proceedings*

#### **Legal proceedings.**

- 26 (1) Any person authorised by the Secretary of State in that behalf may conduct any proceedings under this Act before a magistrates' court although not a barrister or solicitor.
- (2) Without prejudice to any other method of recovery, any sum due under this Act to the Secretary of State, other than a sum due under an order enforceable as an affiliation order, shall be recoverable summarily as a civil debt.
- (3) Notwithstanding anything in any Act—
- (a) proceedings under this Act for the recovery of a sum recoverable summarily as a civil debt may be begun at any time within three years after the sum became due;
  - (b) proceedings for an offence under this Act may be begun at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge, or within the period of twelve months from the commission of the offence, whichever period last expires.
- (4) For the purposes of subsection (3) above, a certificate purporting to be signed by, or on behalf of, the Secretary of State as to the date on which such evidence as is mentioned in paragraph (b) of that subsection came to his knowledge shall be conclusive evidence of that date.
- (5) In any proceedings for an offence under this Act the wife or husband of the accused shall be competent to give evidence, whether for or against the accused, but shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him by the accused during the marriage.
- (6) In the application of this section to Scotland, the following provisions shall effect in substitution for subsections (1) to (4) above—
- (a) proceedings for an offence under this Act may, notwithstanding anything in section 331 of the <sup>M11</sup>Criminal Procedure (Scotland) Act 1975, be commenced at any time within the period of three months from the date on which evidence sufficient in the opinion of the appropriate authority to justify proceedings comes to his knowledge, or within the period of twelve months from the commission of the offence, whichever period last expires;
  - (b) for the purposes of this subsection—
    - (i) “the appropriate authority” means the Secretary of State or, in the case of proceedings which are not preceded by a report of the facts made by the Secretary of State to the Lord Advocate, means the Lord Advocate;
    - (ii) a certificate of the appropriate authority as to the date on which such evidence as is mentioned above comes to his knowledge shall be conclusive evidence; and

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- (iii) subsection (3) of section 331 of the said Act of 1975 (date of commencement of proceedings) shall have effect as it has effect for the purposes of that section.

### PART III

#### ADMINISTRATION, GENERAL AND SUPPLEMENTAL

##### *Administration*

#### **Duties of Secretary of State.**

- 27 (1) It shall be the duty of the Secretary of State to make arrangements with a view to ensuring that benefit officers and other officers of his concerned with the administration of this Act exercise their functions in such manner as shall best promote the welfare of persons affected by the exercise of those functions.
- (2) It shall be the duty of the Secretary of State to appoint persons to perform the functions conferred by virtue of this Act on benefit officers.

#### **The Appeal Tribunal.**

- 28 The Appeal Tribunal for the purposes of this Act shall be such of the tribunals constituted in accordance with Schedule 4 to this Act as, under that Schedule, has jurisdiction in the case in question.

#### **Re-establishment courses and resettlement units.**

- 30 (1) The provisions of Schedule 5 to this Act shall have effect with respect to re-establishment courses and resettlement units.
- (2) If the Secretary of State so directs, payment at such rates as he may determine shall be made by persons for whom temporary board and lodging are provided in connection with courses provided or units maintained under that Schedule.

\* \* \* \* \*

#### **Modification of Act for special cases.**

- 32A Regulations may provide for any provision of this Act except this section to have effect with prescribed modifications—
- (a) in cases involving a marriage celebrated under a law which permits polygamy or a marriage during the subsistence of which a party to it is at any time married to more than one person;
  - (b) in cases where the Secretary of State considers that without the modifications the provision in question would give rise to an anomaly or an injustice or would produce impractical consequences.

#### **Rules and regulations.**

- 33 (1) Powers conferred by this Act to make rules or regulations are exercisable by statutory instrument.



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- (1A) Rules under this Act may make different provision for different classes of case and otherwise for different circumstances.
- (2) Subsections (2) and (3) of section 166 of the <sup>M12</sup>Social Security Act 1975 (which among other things make provision about the extent of powers to make regulations) shall apply to powers to make regulations conferred by this Act as they apply to powers to make regulations conferred by that Act but as if for references to that Act there were substituted references to this Act.
- (3) Regulations of the following kinds, namely—
- (a) regulations of which the effect is to increase an amount which is specified in regulations made in pursuance of section 3 of this Act or which, by virtue of regulations made in pursuance of paragraph (b) of section 4(1) of this Act, is specified in a provision mentioned in that paragraph;
  - (b) regulations made in pursuance of section 32A(b) of this Act except regulations made for the purpose only of consolidating regulations which they revoke;
  - (c) regulations made in pursuance of paragraph 1 or 2 of Schedule 1 to this Act except regulations made for the purpose only of consolidating regulations which they revoke,
- shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House and, in the case of regulations falling within paragraph (a) or (c) of this subsection, shall not be made without the consent of the Treasury.
- (4) A statutory instrument containing regulations of which a draft is not required by the preceding subsection to be approved as there mentioned or containing rules made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Without prejudice to the generality of any power conferred by this Act to make regulations, regulations may provide for a person to exercise a discretion in dealing with any matter.

### **Interpretation.**

34 (1) In this Act—

“the Appeal Tribunal” means the tribunal which has jurisdiction in accordance with section 28 of this Act;

“benefit officer” means a person appointed in pursuance of section 27(2) of this Act;

\* \* \* \* \*

“child” means a person under the age of 16;

\* \* \* \* \*

“enactment” includes an enactment of the Parliament of Northern Ireland and a provision of a Measure of the Northern Ireland Assembly;

“married couple” means a man and a woman who are married to each other and are members of the same household;

“modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;

“pensionable age” means, in the case of a man, the age of 65, and, in the case of a woman, the age of 60;

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“place of employment” has the same meaning as in section 19 of the <sup>M13</sup>Social Security Act 1975;

“prescribed” means specified in or determined in accordance with regulations;

“regulations” means regulations made by the Secretary of State under this Act;

\* \* \* \* \*

“supplementary benefit” means any benefit under this Act;

“trade dispute” has the same meaning as in section 19 of the Social Security Act 1975;

“unmarried couple” means a man and a woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit.

- (2) Except where the context otherwise requires, any reference in this Act to any enactment is a reference to that enactment as amended or extended by or under any other enactment, including this Act.
- (3) Regulations may make provision as to the circumstances in which a person is to be treated for the purposes of any specified provision of this Act—
- (a) as being or not being a member of the same household as another person;
  - (b) as responsible for another person.

## SCHEDULE 1

Sections 2, 3, 4, 14 and 33.

### PROVISIONS FOR DETERMINING RIGHT TO BENEFIT AND AMOUNT OF BENEFIT

#### *General*

- 1 (1) The amount of any supplementary benefit to which a person is entitled shall, subject to the following provisions of this Schedule, be the amount by which his resources fall short of his requirements.
- (2) For the purpose of ascertaining that amount—
- (a) a person’s requirements shall be determined in accordance with paragraph 2 of this Schedule; and
  - (b) a person’s resources shall be calculated in the prescribed manner;
- and, without prejudice to the generality of paragraph (b) of this sub-paragraph, regulations in pursuance of that paragraph may provide for a person to be treated as possessing resources which he does not possess and for disregarding resources which a person does possess.
- (3) Regulations may provide that a person whose resources as ascertained in pursuance of paragraph (b) of the preceding sub-paragraph or a prescribed part of them exceed or exceeds a prescribed amount shall not be entitled to a supplementary pension or allowance.

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### Requirements

- 2 (1) For the purposes of this Schedule requirements shall be of three categories, namely, normal requirements, additional requirements and housing requirements; and the items to which each category relates and, subject to sub-paragraph (3) of this paragraph, the weekly amounts for those categories shall be such as may be prescribed.
- (2) A person's requirements shall consist of normal requirements together with requirements, if any, of such of the other categories as are applicable in his case.
- (3) In the case of a person specified in the first column of the following table his normal requirements shall be taken to be the weekly amount specified in relation to him in the second column of that table; and in that table—
- “householder” means a person who is not one of a married or unmarried couple but who satisfies prescribed conditions with respect to living accommodation; and
- “relevant person” means a person whose requirements include those of another person by virtue of sub-paragraph (1) of paragraph 3 of this Schedule.

TABLE

<i>Person</i>	<i>Weekly amount</i>
1. A relevant person who— (a) is such a person as is mentioned in section 1(1)(a) of this Act; or (b) is not such a person as is so mentioned but satisfies prescribed conditions.	The aggregate of the sums for the time being specified in section 6(1)(a) of the Social Security Pensions Act 1975 and column (3) of paragraph 6 of Part IV of Schedule 4 to the Social Security Act 1975 (which specify the amounts of the basic component of a Category A retirement pension and the increase of the pension for an adult dependant).
2. A relevant person not falling within paragraph 1 of this table.	The aggregate of the sums for the time being specified in paragraph 1 of Part I of the said Schedule 4 and column (3) of paragraph 1(a) of the said Part IV (which specify the amounts of unemployment or sickness benefit and the increase of it for an adult dependant of a beneficiary under pensionable age).
3. A householder who— (a) has attained pensionable age; or (b) has not attained pensionable age but satisfies prescribed conditions.	The sum for the time being specified in the said section 6(1)(a).
4. A householder not falling within paragraph 3 of this table.	The sum for the time being specified in paragraph 1 of the said Part I.

- (4) Regulations may provide that the preceding sub-paragraph shall have effect with prescribed modifications,
- (5) Notwithstanding anything in the preceding provisions of this paragraph, regulations may provide for a person to be treated as having no normal requirements in prescribed cases.

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*Aggregation of requirements and resources*

- 3 (1) Where two persons are a married or unmarried couple, their requirements and resources shall be aggregated and treated—
- (a) until the prescribed date, as those of the man; and
  - (b) on and after that date, as those of such one of them as satisfies prescribed conditions or, where both of them satisfy or neither of them satisfies those conditions, as those of such one of them as they may jointly nominate in accordance with regulations or, in default of such a nomination, as the Secretary of State may determine.
- (2) Where a person is responsible for, and is a member of the same household as, another person and they are not a married or unmarried couple, then—
- (a) if the other person is a child or is excluded from entitlement to supplementary benefit by section 6(2) of this Act; or
  - (b) if the circumstances are such as are prescribed,
- their requirements and resources shall be aggregated and treated as those of the first-mentioned person.
- (3) Regulations may provide that, in a case falling within the preceding sub-paragraph, sub-paragraph (1) of this paragraph shall apply in relation to the other person with prescribed modifications.

*Exclusion of small payments*

- 4 Where the amount of any supplementary benefit would be less than a prescribed amount, the benefit shall not be payable except in prescribed circumstances.

SCHEDULE 5

Section 30.

RE-ESTABLISHMENT COURSES AND RESETTLEMENT UNITS

*Re-establishment courses*

- 1 (1) The Secretary of State may provide courses, to be known as re-establishment courses, at which persons who are in need of re-establishment through lack of instruction or training may be afforded the occupation, instruction or training required to fit them for entry into, or return to, regular employment.
- (2) Persons mentioned in sub-paragraph (1) above may attend re-establishment courses either in consequence of a direction under section 10(1) of this Act or otherwise, and the Secretary of State may provide temporary board and lodging for persons attending re-establishment courses.

*Resettlement units*

- 2 (1) It shall be the duty of the Secretary of State to provide and maintain places, to be known as resettlement units, at which persons without a settled way of life are afforded temporary board and lodging with a view to influencing them to lead a more settled life.
- (2) The Secretary of State may require the councils of counties, other than metropolitan counties, and of metropolitan districts, regions, island areas and London boroughs and

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the Common Council of the City of London to exercise, on behalf of the Secretary of State and in accordance with any directions given by the Secretary of State, the functions of providing and maintaining resettlement units.

- (3) A council may recover from the Secretary of State any expenditure incurred by them under this paragraph with the approval of the Secretary of State, given either as respects that expenditure or generally as respects expenditure up to a specified amount.
- (4) Before giving directions under sub-paragraph (2) above the Secretary of State shall consult with such local authorities, or associations of local authorities, as appear to him to be concerned.

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*Contributions for courses and places provided by voluntary organisations*

- 4 The Secretary of State may make contributions to the funds of any voluntary organisation providing courses or places for purposes similar to the purposes for which re-establishment courses or resettlement units are provided by the Secretary of State.”

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Social Security Act 1980, SCHEDULE 2.