



# Social Security and Housing Benefits Act 1982

## 1982 CHAPTER 24

### PART III

#### MISCELLANEOUS

#### **37 Sick pay to count as remuneration for principal Act**

- (1) In section 3 of the principal Act (meaning of " earnings ") there are inserted, after subsection (1), the following subsections—

“(1A) For the purposes of this section there shall be treated as remuneration derived from an employed earner's employment any sickness payment made—

- (a) to or for the benefit of the employed earner ; and
- (b) in accordance with arrangements under which the person who is the secondary contributor in relation to the employment concerned has made or remains liable to make payments towards the provision of that sickness payment.

(1B) Where the funds for making sickness payments under arrangements of the kind mentioned in subsection (1A)(b) above are attributable in part to contributions to those funds made by the employed earner, regulations may make provision for disregarding, for the purposes of subsection (1A) above, the prescribed part of any sum paid as a result of the arrangements.

(1C) In this section—

'sickness payment' means any payment made in respect of absence from work due to incapacity for work (within the meaning of section 17 of this Act); and  
'secondary contributor' has the meaning given by section 4 of this Act.”.

- (2) In Schedule 1 to the principal Act (supplementary provisions relating to contributions) the following paragraph is inserted at the end—

“Sickness payments counting as remuneration

- 9** — (1) Regulations may make provision as to the manner in which, and the person through whom, any sickness payment which, by virtue of section 3(1 A) of this Act, is to be treated as remuneration derived from employed earner's employment is to be made.
- (2) In any case where regulations made under sub-paragraph (1) above have the effect of requiring a registered friendly society (within the meaning of the Friendly Societies Act 1974) to make amendments to its rules, the amendments may, notwithstanding any provision of those rules, be made in accordance with the procedure prescribed by regulations made by the Chief Registrar of Friendly Societies for the purposes of this paragraph.
- (3) Regulations made under sub-paragraph (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

**38 Supplementary allowance: conditions**

- (1) For section 5 of the Supplementary Benefits Act 1976 (right to supplementary allowance) there is substituted the following section—

“Supplementary allowance: conditions.

- 5** (1) The right of any person to a supplementary allowance is subject—
- (a) except in prescribed cases, to the condition that he is available for employment; and
  - (b) in prescribed cases only, to the further condition that he is registered in the prescribed manner for employment. (2) 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.”.

(2) In section 10 of the Act of 1976 (modification of right to supplementary allowance in certain cases) for paragraph (a) of subsection (1) there is substituted—

“(a) in a case in which the condition mentioned in section 5(1)(a) of this Act applies, a person claims or is in receipt of supplementary allowance and is not receiving unemployment benefit under the Social Security Act 1975; and”.

**39 Industrial injuries**

- (1) Injury benefit is hereby abolished; and accordingly sections 50(2)(a) and 56 of the principal Act (which make provision for injury benefit) are hereby repealed.
- (2) In section 57 of the principal Act, for subsection (4) (period in respect of which disablement benefit is not payable) there is substituted the following subsection—
- “(4) Disablement benefit shall not be available to a person until after the expiry of the period of ninety days (disregarding Sundays) beginning with the day of the relevant accident.”.

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

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(3) In section 14 of the principal Act (sickness benefit) the following subsection is inserted after subsection (2)—

“(2A) Subsection (1) above is subject to the provision made by section 50A of this Act in relation to entitlement to sickness benefit in cases of industrial injury.”.

(4) After section 50 of the principal Act there is inserted the following section—

“Sickness benefit in respect of industrial injury.

**50A**(1) In any case where—

(a) an employed earner is incapable of work as a result of a personal injury of a kind mentioned in section 50(1) of this Act; and

(b) the contribution conditions are not satisfied in respect of him ;

those conditions shall be taken to be satisfied for the purposes of paragraph (a) or, as the case may be, (b) of section 14(2) of this Act as that paragraph applies in relation to sickness benefit.

(2) In the case of a person who—

(a) is entitled, by virtue of this section, to sickness benefit under subsection (2)(b) of section 14; and

(b) is not also entitled to sickness benefit under subsection (2)(c) of that section ;

the weekly rate at which sickness benefit is payable shall be determined in accordance with regulations.

(3) In subsection (1) above ' contribution conditions ' means—

(a) in the case of a person who is under pensionable age, the contribution conditions specified for sickness benefit in Schedule 3, Part I, paragraph 1; and

(b) in the case of a person who has attained pensionable age but has not retired from regular employment, the contribution conditions for a Category A retirement pension specified in Schedule 3, Part I, paragraph 5.”

(5) Regulations may make such transitional or saving provision as the Secretary of State considers necessary or expedient in connection with the provisions of this section.

#### **40 Refusal and cancellation of contracting-out certificates**

In the Social Security Pensions Act 1975 the following section is inserted after section 51—

““ Refusal and cancellation of contracting-out certificates.

**51A**(1) This subsection applies in any case where—

(a) a contracting-out certificate (the ' first certificate ') has been surrendered by an employer or cancelled by the Occupational Pensions Board; and

(b) at any time before the expiry of the period of twelve months beginning with the date of the surrender or cancellation, that or any connected employer, with a view to the issue of a further contracting-out certificate, makes an election in respect of any employment which was specified by virtue of section 31(1)(a) of this Act in the first certificate.

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

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- (2) This subsection applies in any case where—
- (a) a contracting-out certificate (the ' first certificate ') has been surrendered by an employer or cancelled by the Board ;
  - (b) a further contracting-out certificate has been issued, after the surrender or cancellation of the first certificate but before the expiry of the period of twelve months beginning with the date of the surrender or cancellation, in respect of any employment which was specified by virtue of section 31(1)(a) of this Act in the first certificate; and
  - (c) the Board have formed the opinion that had they been aware of all the circumstances of the case at the time when the further contracting-out certificate was issued they would have been prevented by subsection (4) below from issuing it.
- (3) Subsections (1) and (2) above apply whether or not the occupational pension scheme by reference to which the employment concerned was contracted-out employment by virtue of the first certificate is the same as the scheme by reference to which the employment—
- (a) would be contracted-out employment if the further contracting-out certificate were issued; or
  - (b) is contracted-out employment by virtue of the further contracting-out certificate.
- (4) In a case to which subsection (1) above applies, the Board shall not give effect to the election referred to in that subsection by issuing a further contracting-out certificate unless they consider that, in all the circumstances of the case, it would be reasonable to do so.
- (5) In a case to which subsection (2) above applies, the Board may, before the expiry of the period of twelve months beginning with the date on which the further contracting-out certificate was issued, cancel the further contracting-out certificate.
- (6) Where a contracting-out certificate is cancelled under subsection (5) above the provisions of this Act and of any regulations and orders made under it shall have effect as if the certificate had never been issued.
- (7) This section does not apply in any case where the surrender or cancellation of the first certificate occurred before 22nd July 1981.
- (8) Where the further contracting-out certificate referred to in paragraph (b) of subsection (2) above was issued before the commencement of this section, then—
- (a) paragraph (c) of that subsection shall have effect as if this section had been in force at the time when the further contracting-out certificate was issued ; and
  - (b) subsection (5) above shall have effect as if the reference to the date of issue of that certificate were a reference to the commencement of this section.
- (9) Regulations may make such supplemental provision in relation to cases falling within subsection (1) or (2) above as the Secretary of State considers necessary or expedient.

- (10) Without prejudice to subsection (9) above, regulations may make provision, in relation to any case in which the Board have cancelled a contracting-out certificate under subsection (5) above, preventing the recovery by the employer concerned (whether by deduction from emoluments or otherwise) of such arrears which he is required to pay to the Secretary of State in respect of an earner's liability under section 4(3) of the principal Act as may be prescribed.
- (11) For the purposes of subsections (1) and (2) above an employment (the 'second employment') in respect of which—
- (a) an election of the kind referred to in subsection (1)(b) above has been made ; or
  - (b) a further contracting-out certificate of the kind referred to in subsection (2)(b) above has been issued;  
and an employment (the 'first employment') which was specified by virtue of section 31(1)(a) of this Act in the first certificate shall be treated as one employment if, in the opinion of the Board.—
    - (i) they are substantially the same, however described; or
    - (ii) the first employment falls wholly or partly within the description of the second employment or the second employment falls wholly or partly within the description of the first employment.
- (12) Regulations shall prescribe the cases in which employers are to be treated as connected for the purposes of this section.
- (13) Where the Secretary of State proposes to make regulations under subsection (10) above, section 10(1) of the Social Security Act 1980 (duty of Secretary of State to refer proposed regulations to the Social Security Advisory Committee) shall apply in relation to those proposals.”.

#### **41 Recovery of sums due to Secretary of State**

- (1) In section 8 of the Family Income Supplements Act 1970 (prevention of double payments and recovery of overpayments) the following subsections are inserted after subsection (4)—
- “(5) Any sum which is, by virtue of regulations under subsection (3) above or section 10(2)(ii) of this Act, recoverable by the Secretary of State in pursuance of a decision made by a supplement officer, the Appeal Tribunal or a Social Security Commissioner shall, if the person from whom that sum is recoverable resides in England and Wales and the county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court.
  - (6) Any such decision may, if the person from whom the sum in question is recoverable resides in Scotland, be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.”
- (2) In section 119 of the principal Act (effect of adjudication on payment and recovery) the following subsections are inserted after subsection (4)—

- “(5) Any sum which is, by virtue of this section or regulations under subsection (3) above, required to be repaid to the Secretary of State in pursuance of a decision made by an insurance officer, local tribunal or Commissioner shall, if the person required to repay that sum resides in England and Wales and the county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court.
- (6) Any such decision may, if the person required to repay the sum in question resides in Scotland, be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.”.
- (3) In section 20 of the Supplementary Benefits Act 1976 (recovery in cases of misrepresentation or non-disclosure) the following subsections are inserted after subsection (5)—
- “(6) Any sum which is, by virtue of this section or regulations under section 14(2) (dd) of this Act, recoverable by the Secretary of State in pursuance of a decision made by a benefit officer, the Appeal Tribunal or a Social Security Commissioner shall, if the person from whom that sum is recoverable resides in England and Wales and the county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court.
- (7) Any such decision may, if the person from whom the sum in question is recoverable resides in Scotland, be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.”.

## 42 Up-rating regulations

- (1) In paragraph 8 of Schedule 16 to the principal Act (exemption in respect of up-rating regulations from requirement to consult Industrial Injuries Advisory Council) for the words from " section " to the end there are substituted the words
- “one or more of the following sections of this Act, that is to say sections 120, 122, 124 and 126A.”.
- (2) In paragraph 12(2) of schedule 3 to the Social Security Act 1980 (exemption in respect of up-rating regulations from requirement to consult Social Security Advisory Committee) for the words from " section 120" to " that Act" there are substituted the words
- “one or more of the following sections of the principal Act, that is to say sections 120, 122, 124 and 126A (up-rating regulations)”.
- (3) Neither section 139 nor section 141 of the principal Act (consultation with the Council and with the Committee) shall be taken to have applied in relation to any regulations contained in the Social Security Benefits Up-rating Regulations 1979 or the Social Security Benefits Up-rating Regulations 1980.

### 43 War pensions

- (1) In section 6 of the Pensions Appeal Tribunals Act 1943 (setting aside of Tribunal's decision and rehearing of appeal), after the words " Minister's decision " in subsection (2A) there are inserted the words
- “(the ' original decision' )” and after subsection (2B) there are inserted the following subsections—
- “(2C) Where a direction for a rehearing is given under subsection (2A) above, the Minister may, before the expiry of the period of two months beginning with the date of the direction, review the original decision.
- (2D) If, on any such review, the Minister is of the opinion that there are grounds for revising the original decision he shall—
- (a) notify the appellant of his opinion and of the revision which he proposes to make ; and
  - (b) if the appellant withdraws his appeal against the original decision, revise it accordingly.”.

(2) In any case where, before the commencement of this section, an award has been made in respect of a claim for a war pension, the validity of that award shall not be called into question on the ground that it was made—

    - (a) in consequence of the review of a decision made in respect of the claim (whether or not following an appeal against that decision); and
    - (b) at a time when there was no provision in force authorising that review.

(3) The Secretary of State may by order make provision for determining the date from which any award made before the commencement of this section in respect of a claim for a war pension is to be taken to have had effect in a case where—

    - (a) at the time when the award was made there was no provision in force for determining that date ; or
    - (b) the award was made following—
      - (i) an appeal to the High Court, Court of Session or Court of Appeal; or
      - (ii) the rehearing of any appeal;and the date from which payment under the award was first made was later than the date from which payment was, by virtue of any provision in force at the time when the award was made, required to be first made.

(4) An order under subsection (3) above may provide that in any case where the date from which an award is, by virtue of the order, to be taken to have had effect is earlier than the date from which payment under the award was first made, any arrears due to a person in respect of the award shall be limited to those payable in respect of a specified period of not more than six years.

(5) In this section " war pension " means—

    - (a) such pensions and other benefits as are referred to in section 12 of the Social Security (Miscellaneous Provisions) Act 1977 (exercise by Order in Council of existing powers relating to benefits for death or disablement through service in the armed forces);
    - (b) any pension or benefit awarded under the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 or the Polish Resettlement Act 1947 ; and

- (c) such other pensions and benefits as may be specified in an order made by the Secretary of State for the purposes of this section.

#### **44 Application of social security legislation in relation to territorial waters**

- (1) The following enactments are referred to in this section as the " listed enactments "—
  - (a) the Family Income Supplements Act 1970 ;
  - (b) the principal Act;
  - (c) the Industrial Injuries and Diseases (Old Cases) Act 1975;
  - (d) the Child Benefit Act 1975 ;
  - (e) the Supplementary Benefits Act 1976 ;
  - (f) the Pensioners' Payments and Social Security Act 1979.
- (2) The listed enactments shall have effect, and be deemed always to have had effect, as if—
  - (a) any reference to Great Britain included a reference to the territorial waters of the United Kingdom adjacent to Great Britain;
  - (b) in any reference to the presence or residence of a person in the United Kingdom (however expressed) the reference to the United Kingdom included a reference to the territorial waters of the United Kingdom ; and
  - (c) in any reference to a person residing or being in Northern Ireland (however expressed) the reference to Northern Ireland included a reference to the territorial waters of the United Kingdom adjacent to Northern Ireland.
- (3) Where any of the listed enactments is derived from an earlier enactment (whether directly or indirectly) anything done under or by virtue of a provision of, or made under, that earlier enactment which contained a reference of a kind mentioned in paragraph (a), (b) or (c) of subsection (2) above shall have effect as if that reference had at the material time been the extended reference provided for by that paragraph.
- (4) The Secretary of State may by regulations make such provision in respect of any enactment (including a listed enactment) as he considers necessary or expedient in connection with the operation of that enactment in relation to the territorial waters of the United Kingdom.

#### **45 Regulations**

- (1) Subsections (2), (3) and (5) of section 166 of the principal Act (which among other things make provision about the extent of powers to make orders and regulations) shall apply to any power to make orders or regulations conferred by this Act as they apply to any power to make orders or regulations conferred by that Act; and any power to make orders or regulations conferred by Part II of this Act shall include power to make different provision for different areas.
- (2) Any power of the Secretary of State to make orders or regulations under this Act shall be exercisable by statutory instrument which, except in the case of —
  - (a) an order under section 7 or 48(3) of this Act;
  - (b) the first regulations under section 28(1)(a), (b) or (c) or 30(6) of this Act; or
  - (c) regulations under section 28(1) made in pursuance of section 29 of this Act; shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) The Secretary of State shall not make the first regulations under section 28(1) (a), (b) or (c) or 30(6) of this Act unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.

#### **46 Expenses**

- (1) There shall be paid out of money provided by Parliament—
- (a) any administrative expenses of the Secretary of State incurred under this Act; and
  - (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.
- (2) The administrative expenses referred to in subsection (1) (d) above include those in connection with any inquiry undertaken on behalf of the Secretary of State with a view to obtaining statistics relating to the operation of Part I.
- (3) There shall be paid out of the National Insurance Fund into the Consolidated Fund, at such time and in such manner as the Treasury may direct, such sums as the Secretary of State may estimate (in accordance with any directions given by the Treasury) to be the amount of the administrative expenses incurred by the Secretary of State under Part I of this Act, excluding—
- (a) any category of expenses which the Treasury may direct, or any enactment may require, to be excluded from the Secretary of State's estimate under this subsection ; and
  - (b) any expenses incurred under paragraphs 7 to 10 of Schedule 2 to this Act.

#### **47 Interpretation**

In this Act—

" benefit", except in Part II and section 43, has the same meaning as in the principal Act; " principal Act" means the Social Security Act 1975 ; "regulations" means regulations made by the Secretary of State;

" tax year " means the period of twelve months beginning with 6th April in any year.

#### **48 Short title etc.**

- (1) This Act may be cited as the Social Security and Housing Benefits Act 1982, and Parts I and III of this Act and the Social Security Acts 1975 to 1981 may be cited together as the Social Security Acts 1975 to 1982.
- (2) An Order in Council under paragraph \1(b) of Schedule 1 to the Northern Ireland Act 1974 (Legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of Parts I and III of this Act
- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
  - (b) shall be subject to annulment in pursuance of a resolution of either House.
- (3) The following provisions come into force on the passing of this Act—
- (a) sections 7, 26, 40, 42 and 44 to 47 ;
  - (b) paragraphs 1 to 4, 7, 11, 14(1) and (3), 16, 21, 23 to 25, 30 to 34, 37 and 38 of Schedule 4 ; and

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

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- (c) subsections (1) to (4) and (7) of this section and subsection (5) of this section so far as it relates to the provisions mentioned in paragraph (b) above; and the other provisions of this Act come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and different days may be appointed for different provisions, different purposes or different areas.
- (4) An order under subsection (3) above may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force.
- (5) The enactments mentioned in Part I of Schedule 4 to this Act shall have effect subject to the minor and consequential amendments specified in that Part; and the transitional provisions in Part II of that Schedule shall have effect.
- (6) The enactments mentioned in Schedule 5 to this Act (which include some that are spent) are hereby repealed to the extent specified in the third column of that Schedule.
- (7) This Act, except sections 42(2), 43 and 45 and this section and paragraphs 2 and 30, 32 and 33 of Schedule 4, does not extend to Northern Ireland.