

## SCHEDULES

### SCHEDULE 5

Section 29(1).

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Social Security Act 1973 (c.38)*

- 1 In subsection (1)(b) of section 66 of the Social Security Act 1973 (Occupational Pensions Board), after the word " advisory" there shall be inserted the words " or other".
- 2 In section 89 of that Act (disclosure of information by Inland Revenue)—
  - (a) the following subsection shall be inserted after subsection  
“(2A) No such obligation as is referred to in subsection (1) above shall prevent information from being disclosed to any person whose duty it is to give advice to the Occupational Pensions Board, in so far as the information—
    - (a) is required by him solely to enable him to perform that duty adequately ; and
    - (b) is information which the Occupational Pension Board have power under any enactment or regulations under any enactment to require any person to provide.”; and
  - (b) in subsection (3), for the words " Subsections (1) and (2)" there shall be substituted the words " Subsections (1), (2) and (2A)".
- 3 The following sub-paragraph shall be inserted after sub-paragraph (2) of paragraph 9 of Schedule 16 to that Act (form of short service benefit and its alternatives)—

“(2A) The option conferred by sub-paragraph (2)(a) above is additional to any obligation imposed by Part II of Schedule 1A to the Social Security Pensions Act 1975.”.
- 4 In paragraph 15 of that Schedule (assignment, surrender and commutation of short service benefit), the following sub-paragraph shall be inserted after sub-paragraph (1)—

“(1A) In sub-paragraph (1) above, the references to assignment, surrender and commutation of short service benefit do not include references to any assignment, surrender or commutation of a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 52C(4)(b) or (c) of the Social Security Pensions Act 1975 (cases where an occupational pension scheme's liability to provide benefit is discharged).”.

---

*Status: This is the original version (as it was originally enacted).*

---

*Social Security Act 1975 (c.14)*

5 In subsection (3)(b) of section 1 of the Social Security Act 1975 (outline of contributory system), for 120 and 122 there shall be substituted " 4, 120, 122 and 123A".

6 In section 13 of that Act—

- (a) in paragraph (a) of subsection (5) (earnings factors), after the word " rise " there shall be inserted the words , subject to subsection (5A) below," ; and
- (b) the following subsection shall be inserted after that subsection—

“(5A) The Secretary of State may by regulations make such modifications of subsection (5)(a) above as appear to him to be appropriate in consequence of section 4(6B) above.”.

7 The following subsection shall be added at the end of section 18 of that Act (duration of unemployment benefit)—

“(4) Regulations may provide for treating a person for the purposes of this section as having been entitled to unemployment benefit for any day if he would have been entitled to it but for—

- (a) failure to make a claim ; or
- (b) failure to make a claim within the prescribed time ;

but a person is not to be so treated where he shows that he did not intend, by so failing, to avoid the necessity of requalifying for benefit.”.

8 The following section shall be substituted for section 83 of that Act—

**“83 Disqualifications disregarded for certain purposes.**

Regulations may provide for a person who would be entitled to any benefit but for the operation of any provision of this Act disentitling him to that benefit to be treated as if entitled to it for the purposes of any rights or obligations (whether his own or another's) under this Act which depend on his entitlement, other than the right to payment of the benefit.”.

9 In section 122 of that Act (additional power to alter contributions)—

- (a) in subsection (1), the following paragraphs shall be substituted for paragraph (a)—

“(a) the percentage rate for primary Class 1 contributions specified as the appropriate rate for Bracket 3 in section 4(6B);

(aa) the percentage rate for secondary Class 1 contributions specified as the appropriate rate for Bracket 4 in section 4(6E);”and

- (b) in subsection (4), for the words from " 4(6)" to the end there shall be substituted the words “4 of this Act by altering—

(a) the percentage rate for primary Class 1 contributions specified as the appropriate rate for Bracket 3 in subsection (6B);

(b) the percentage rate for secondary Class 1 contributions specified as the appropriate rate for Bracket 4 in subsection (6E).”.

---

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

---

- 10 The following paragraph shall be substituted for subsection (1)(d) of section 124 of that Act (power to increase rates of benefit)—  
“(d) section 30(1) above”.
- 11 In section 134(4) of that Act (national health service and employment protection allocations)—  
(a) for " determined ", in each of the paragraphs defining " the appropriate national health service allocation" and "the appropriate employment protection allocation" there shall be substituted " estimated"; and  
(b) for the words from "and in this subsection" to the end there shall be substituted the words " and in this subsection 'estimated' means estimated by the Secretary of State in any manner which after consulting the Government Actuary he considers to be appropriate and which the Treasury has approved".
- 12 In section 167 of that Act (parliamentary control of orders and regulations)—  
(a) in subsection (2), for " 120 or 122 " there shall be substituted " 4, 120, 122 or 123A"; and  
(b) in subsection (3)—  
(i) after " section " there shall be inserted " 4,"; and  
(ii) after " 122 " there shall be inserted " , 123A".
- 13 In paragraph 1 of Schedule 1 to that Act (Class 1 contributions where earner employed in more than one employment)—  
(a) in sub-paragraph (1A), the following words shall be substituted for the words from " the amount " to the end—  
“(a) the amount of the primary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (1B) below ; and  
(b) the amount of the secondary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (1D) below.”; and  
(b) the following sub-paragraphs shall be inserted after that sub-paragraph—  
“(1B) The amount of the primary Class 1 contribution shall be the aggregate of the amounts obtained—  
(a) by applying the rates of primary Class 1 contributions that would apply if the aggregated earnings were all attributable to contracted-out employments—  
(i) to the part of the aggregated earnings attributable to any such employments, or  
(ii) if that part exceeds the current upper earnings limit, to so much of that part as does not exceed that limit; and  
(b) if that part is less than that limit, by applying the rate of primary Class 1 contributions that would apply if the "aggregated earnings were all attributable to employments which are not contracted-out to so much of the remainder of the aggregated earnings as, when added to that part, does not exceed that limit.

---

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

---

- (1C) In relation to earners paid otherwise than weekly, any reference in sub-paragraph (1A) or (1B) above to the lower or upper earnings limit shall be construed as a reference to the prescribed equivalent of that limit.
- (1D) The amount of the secondary Class 1 contribution shall be the aggregate of the amounts obtained—
- (a) by applying the rates of secondary Class 1 contributions that would apply if the aggregated earnings were all attributable to contracted-out employments to the part of the aggregated earnings attributable to any such employments ; and
  - (b) by applying the rate of secondary Class 1 contributions that would apply if the aggregated earnings were all attributable to employments which are not contracted-out to the remainder of the aggregated earnings.”.
- 14 In Schedule 20 to that Act (glossary of expressions) the following definition shall be inserted after the definition of " Employment " —

“" Entitled " and cognate expressions	In relation to any benefit, see— (a) the provisions specifically relating to that benefit; (b) in the case of a benefit specified in section 12(1), section 13; and (c) section 165A.”.
---------------------------------------	--

*Social Security Pensions Act 1975 (c.60)*

- 15 In section 1(1)(b) of the Social Security Pensions Act 1975 (earnings limits), the words " primary Class 1 " shall be substituted for the word " such".
- 16 In section 6 of that Act (rate of Category A retirement pension)—
- (a) in subsection (5), for the word " References ", in the first place where it occurs, there shall be substituted the words " Subject to subsection (5A) below, references"; and
  - (b) the following subsection shall be inserted after that subsection—
 

“(5A) The Secretary of State may prescribe circumstances in which pensioners' earnings factors for any relevant year may be calculated in such manner as may be prescribed.”.
- 17 In section 27 of that Act (contracted-out rates of Class 1 contributions), at the end of subsection (1) there shall be added the words “and
- (c) in the case of a secondary Class 1 contribution, the normal percentage of so much of those earnings as exceeds the current upper earnings limit.”.
- 18 In section 28 of that Act (orders altering the contracted-out percentages specified in section 27), after subsection (6) there shall be inserted the following subsection—
- “(7) A draft of an order making alterations in either or both of the contracted-out percentages may contain consequential provisions altering any percentage for the time being specified in paragraph 2(2) of Schedule 3 to this Act as

---

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

---

- that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.”.
- 19 The following subsection shall be substituted for subsection (5) of section 36 of that Act—
- “(5) The widow's pension need not be in accordance with subsection (2) above in case of the earner dying after termination of his service in the relevant employment having completed in that employment less than five years' qualifying service for the purposes of Schedule 16 to the Social Security Act 1973 (preservation).”.
- 20 The words “, except in the case mentioned in section 52D(4) below,” shall be inserted after the word “ satisfied ” —
- (a) where it first occurs in subsection (2) of section 40 of the Social Security Pensions Act 1975 (financing and assurance of benefits); and
- (b) in subsection (1) of section 41 of that Act (sufficiency of resources of occupational pension schemes).
- 21 The following subsection shall be substituted for subsection (1A) of section 41 of that Act—
- “(1A) Regulations may provide for subsection (1) above to have effect, in prescribed cases, with the omission of paragraphs (b) and (c) or either of them or with the substitution for both or either of them of provisions specified in the regulations.”.
- 22 (1) In section 41A of that Act (protection of earners' pensions)—
- (a) in subsection (1), for “ commencement of payment”, in the third place where those words occur, there shall be substituted “ relevant”; and
- (b) the following subsections shall be inserted after that subsection—
- “(1A) In subsection (1) above “the relevant date” means, subject to subsection (1B) below, the commencement of payment date.
- (1B) In the application of subsection (1) above to a case where a scheme makes such provision as to any part of a pension as is mentioned in section 33(4) above, the reference to the relevant date is to be construed, in relation to the part of the pension as to which such provision is made, as a reference to the date on which by virtue of it that part of the pension commences to be paid.”.
- (2) Sub-paragraph (1) above shall be deemed to have come into force on 1st January 1985.
- 23 The following further amendments of that section shall also be made—
- (a) in subsection (2), “ (1C)” shall be substituted for “ (1)”; and
- (b) in subsection (6), “ subsections (1)(c) and (1C)(b)” shall be substituted for “ subsection (1)(c) and (ii)”.
- 24 In section 41B of that Act (protection of widows' pensions)—
- (a) in subsection (2), “ (1A) ” shall be substituted for “ (1)”; and
- (b) in subsection (5), “ subsections (1)(c) and (1A)(b)” shall be substituted for “ subsection (1)(c) and (ii)”.
- 25 (1) The words “ the prescribed person ” shall be substituted—

---

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

---

- (a) in section 42 of the Social Security Pensions Act 1975 (premium on termination of contracted-out employment)—
    - (i) in subsection (1), for the words " an earner's employer "; and
    - (ii) in subsections (2) and (3), for the words " his employer ";
  - (b) in section 43 of that Act (additional provisions relating to premiums), for the words " an employer "—
    - (i) in both places where they occur in subsection (4); and
    - (ii) in both places where they occur in subsection (6); and
  - (c) in section 45 of that Act (premium where guaranteed minimum pension excluded from full revaluation), for the words "the earner's employer " in subsection (1).
- (2) In section 43(4) of that Act, the words " the earners' employer " shall be substituted for the word " him".
- 26 The following subsection shall be inserted after section 43(1) of that Act (calculation of contributions equivalent premium)—
- “(1A) Where an earner's earnings paid in any period—
- (a) exceeded the lower earnings limit; but
  - (b) were not such that primary Class 1 contributions within Bracket 3 fell to be paid in respect of them,
- it shall be assumed for the purposes of subsection (1) above that his earnings paid in that period were such that, taking the rate specified in Bracket 3 as the appropriate rate, the same amount of primary Class 1 contributions fell to be paid in respect of them as in fact fell to be paid in respect of them.”.
- 27 In subsection (2) of section 44 of that Act (premium on termination of contracted-out scheme)—
- (a) in paragraph (a), after the word " arrangements" there shall be inserted the words " and have not been disposed of so as to discharge the trustees or managers of the scheme under paragraph 16 of Schedule 1A to this Act"; and
  - (b) in paragraph (b), for the words " so subject" there shall be substituted the words " subject to approved arrangements."
- 28 In section 46 of that Act (provisions as to actuarial tables) the words " sections 44(7), 44A(3) and 45(4) " shall be substituted—
- (a) in subsection (1), for the words " sections 44(7) and 45(4)" ; and
  - (b) in subsection (3), for the words " section 44(7) and 45(4) ".
- 29 The following subsection shall be inserted after section 47(2) of that Act (calculation of certified amount)—
- “(2A) Where an earner's earnings paid in any period—
- (a) exceeded the lower earnings limit; but
  - (b) were not such that primary Class 1 contributions within Bracket 3 fell to be paid in respect of them,
- it shall be assumed for the purposes of subsection (2) above that his earnings paid in that period were such that, taking the rate specified in Bracket 3 as the appropriate rate, the same amount of primary Class 1 contributions fell to be paid in respect of them as in fact fell to be paid in respect of them.”.

---

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

---

30 The following subsection shall be inserted after section 47(9) of that Act (prohibition of recovery or retention of state scheme premium)—

“(9A) Nothing in subsection (9) above affects—

- (a) the right of the trustees or managers of a scheme, in a case where an accrued rights premium or a pensioner's rights premium has been paid, to reduce the pension of the person in respect of whom the premium has been paid by the amount of his guaranteed minimum pension ;
- (b) the right of trustees or managers, in a case where a limited revaluation premium has been paid, to recoup it—
  - (i) out of the resources of the scheme, in so far as they derive from contributions ; or
  - (ii) in prescribed cases, out of payments made to them in respect of an earner's transfer to their scheme from some other scheme;
- (c) the right of trustees or managers, in a case where a state scheme premium has been paid, to make the deduction for which paragraph 13(6) of Schedule 1A to this Act provides when they calculate the cash equivalent to which the earner in respect of whom the premium has been paid has a right under Part II of that Schedule.”.

31 In section 48 of that Act (guaranteed minimum pensions to be inalienable) the following subsection shall be inserted after subsection (1)—

“(1A) In subsection (1) above, the references to assignments of and agreements to assign a guaranteed minimum pension do not include references to any assignment of or agreement to assign a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 52C(4)(b) below.”.

32 The following subsection shall be substituted for subsection (2) of section 55 of that Act (determination of questions whether scheme conforms with equal access requirements)—

“(2) The persons competent to make an application under this section in respect of a scheme are—

- (a) the persons mentioned in section 41E(2)(a) to (d) above ; and
- (b) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.”.

33 The words " under section 38 of this Act" shall be omitted from subsection (5)(b) of section 59 of that Act (increase of official pensions).

34 In subsection (1) of section 60 of that Act (determination of questions), the following paragraph shall be added after paragraph (c)—

“(d) any question whether a cash sum paid or an alternative arrangement made under the Policyholders Protection Act 1975 provides the whole or any part of the guaranteed minimum pension to which an earner or his widow was entitled under a contracted-out scheme.”.

---

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

---

- 35 In subsection (4) of section 68 of that Act (provisions extending to Northern Ireland) for the words "Section 57 of this Act extends " there shall be substituted the words " Sections 56B, 56N and 57 of this Act extend".
- 36 In Schedule 3 to that Act (priority in bankruptcy of debts relating to contributions, etc.), in paragraph 2 (calculation of amount of employer's debt)—
- (a) in sub-paragraph (2), after the word " deemed " there shall be inserted the words " , in a case where the relevant event took place before the day of the passing of the Social Security Act 1985,"; and
  - (b) there shall be added at the end of that sub-paragraph (but not as part of paragraph (b)) the words "and shall be deemed, in a case where the relevant event took place on or after the day of the passing of the Social Security Act 1985, to be an amount equal to—
    - (i) 6-25 per cent, of the total reckonable earnings mentioned in paragraph (a) above ; and
    - (ii) 41 per cent, of the total reckonable earnings mentioned in paragraph (b) above."

*Social Security Act 1980 (c.30)*

- 37 In section 9(7) of the Social Security Act 1980, for the words " the Social Security Acts 1975 to 1984 ", in both places where they occur, there shall be substituted the words " the Social Security Acts 1975 to 1985".

*Social Security and Housing Benefits Act 1982 (c.24)*

- 38 In section 20 of the Social Security and Housing Benefits Act 1982 (offences and penalties) "3(4A)(b)" shall be inserted after " section".

*Health and Social Security Act 1984 (c.48)*

- 39 In section 26(5) of the Health and Social Security Act 1984, for the words from " and" in the first place where it occurs to " extend " there shall be substituted the word " extends".

*Social Security (Contributions) Regulations 1979 (S.I. 1979/591)*

- 40 In regulation 98(c) of the Social Security (Contributions) Regulations 1979 (amount of Class 2 contribution of share fishermen) " £6.30 " shall be substituted for " £7.55".