



# Social Security Act 1986

## 1986 CHAPTER 50

### PART VI

#### COMMON PROVISIONS

##### *Administration*

#### **51 Regulations about claims for and payments of benefit**

(1) Regulations may provide—

- (a) for requiring a claim for a benefit to which this section applies to be made by such person, in such manner and within such time as may be prescribed ;
- (b) for treating such a claim made in such circumstances as may be prescribed as having been made at such date earlier or later than that at which it is made as may be prescribed;
- (c) for permitting such a claim to be made, or treated as if made, for a period wholly or partly after the date on which it is made;
- (d) for permitting an award on such a claim to be made for such a period subject to the condition that the claimant satisfies the requirements for entitlement when benefit becomes payable under the award;
- (e) for a review of any such award if those requirements are found not to have been satisfied;
- (f) for the disallowance on any ground of a person's claim for a benefit to which this section applies to be treated as a disallowance of any further claim by that person for that benefit until the grounds of the original disallowance have ceased to exist;
- (g) for enabling one person to act for another in relation to a claim for a benefit to which this section applies and for enabling such a claim to be made and proceeded with in the name of a person who has died ;
- (h) for requiring any information or evidence needed for the determination of such a claim or of any question arising in connection with such a claim to

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- be furnished by such person as may be prescribed in accordance with the regulations;
- (j) for a claim for any one benefit to which this section applies to be treated, either in the alternative or in addition, as a claim for any other such benefit that may be prescribed;
  - (k) for the person to whom, time when and manner in which a benefit to which this section applies is to be paid and for the information and evidence to be furnished in connection with the payment of such a benefit;
  - (l) for notice to be given of any change of circumstances affecting the continuance of entitlement to such a benefit or payment of such a benefit;
  - (m) for the day on which entitlement to such a benefit is to begin or end;
  - (n) for calculating the amounts of such a benefit according to a prescribed scale or otherwise adjusting them so as to avoid fractional amounts or facilitate computation ;
  - (o) for extinguishing the right to payment of such a benefit if payment is not obtained within such period, not being less than 12 months, as may be prescribed from the date on which the right is treated under the regulations as having arisen;
  - (p) for suspending payment, in whole or in part, where it appears to the Secretary of State that a question arises whether—
    - (i) the conditions for entitlement are or were fulfilled ;
    - (ii) an award ought to be revised;
    - (iii) an appeal ought to be brought against an award;
  - (q) for withholding payments of a benefit to which this section applies in prescribed circumstances and for subsequently making withheld payments in prescribed circumstances;
  - (r) for the circumstances and manner in which payments of such a 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 ;
  - (s) for the payment or distribution of such a benefit to or among persons claiming to be entitled on the death of any person and for dispensing with strict proof of their title;
  - (t) for the making of a payment on account of such a benefit—
    - (i) where no claim has been made and it is impracticable for one to be made immediately;
    - (ii) where a claim has been made and it is impracticable for the claim or an appeal, reference, review or application relating to it to be immediately determined;
    - (iii) where an award has been made but it is impracticable to pay the whole immediately;
  - (u) for treating any payment on account made by virtue of paragraph (t) above as made on account of any benefit to which this section applies that is subsequently awarded or paid.
- (2) This section applies to the following benefits—
- (a) benefits under the Social Security Act 1975 ;
  - (b) child benefit;
  - (c) income support;

- (d) family credit;
  - (e) housing benefit;
  - (f) a payment under paragraph 2 of Schedule 6 to this Act (Christmas bonus);
- and any social fund payments such as are mentioned in section 32(2)(a) above.
- (3) Subsection (1)(p) above shall have effect in relation to housing benefit as if the reference to the Secretary of State were a reference to the authority paying the benefit.
  - (4) Subsection (1)(g), (k), (n), (r) and (s) above shall have effect as if statutory sick pay and statutory maternity pay were benefits to which this section applies.

## **52 Adjudication**

- (1) Part I of Schedule 5 to this Act (which makes amendments of enactments relating to social security adjudications) shall have effect.
- (2) The questions to which section 93(1) of the Social Security Act 1975 (questions for determination by the Secretary of State) applies shall include any question specified in Part II of that Schedule.
- (3) Subject to subsections (7) and (8) below, the following provisions of the Social Security Act 1975 shall have effect for the purposes of the benefits to which this subsection applies as they have effect for the purposes of benefit under that Act—
  - (a) sections 97 to 104 and 116 (adjudication officers, tribunals and Commissioners);
  - (b) section 114 (regulations as to determination of questions) ;
  - (c) section 115(1) and (2) and (4) to (7) and Schedule 13 (procedure);
  - (d) section 117(1) and (2) (finality of decision);
  - (e) section 119 (regulations in connection with adjudications) ; and
  - (f) section 160 (age, marriage and death).
- (4) Procedure regulations made under section 115 of the Social Security Act 1975 by virtue of subsection (3) above may make different provision in relation to each of the benefits to which subsection (3) above applies.
- (5) Section 148(1) of the Social Security Act 1975 (determinations of Secretary of State to be final) shall have effect in relation to offences under Part I of the Social Security and Housing Benefits Act 1982 and offences under this Act as it has effect in relation to offences under the Social Security Act 1975.
- (6) Subsection (3) above applies to the following benefits—
  - (a) child benefit;
  - (b) statutory sick pay ;
  - (c) statutory maternity pay ;
  - (d) income support;
  - (e) family credit;and any social fund payments such as are mentioned in section 32(2)(a) above.
- (7) In their application to statutory sick pay and statutory maternity pay the provisions of the Social Security Act 1975 mentioned in subsection (3) above shall have effect as if—
  - (a) the following subsection were substituted for section 98(1)—

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- “(1) Any question as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay may be submitted to an adjudication officer—
- (a) by the Secretary of State ; or
  - (b) subject to and in accordance with regulations, by the employee concerned,
- for determination in accordance with sections 99 to 104 below.”:
- (b) in section 99(3), for the words " notice in writing of the reference shall be given to the claimant" there were substituted the words " the employee and employer concerned shall each be given notice in writing of the reference. " ;
  - (c) in section 100—
    - (i) in subsection (1), for the words " claimant may " there were substituted the words " employee and employer concerned shall each have a right to " ;
    - (ii) in subsection (2), for the words " claimant shall" there were substituted the words " employee and employer concerned shall each " ; and
    - (iii) subsection (7) were omitted ; and
  - (d) the following subsection were substituted for section 101(2) to (4)—
 

“(2) The persons at whose instance an appeal lies under this section are—

    - (a) an adjudication officer;
    - (b) the employee concerned ;
    - (c) the employer concerned ;
    - (d) a trade union, or any other association which exists to promote the interests and welfare of its members, where—
      - (i) the employee is a member at the time of the appeal and was so immediately before the question at issue arose; or
      - (ii) the question at issue is a question as to or in connection with entitlement of a deceased person who was at death a member;
    - (e) an association of employers of which the employer is a member at the time of the appeal and was so immediately before the question at issue arose.”.
- (8) In its application to family credit section 104(1)(b) of the Social Security Act 1975 shall have effect subject to section 20(6) above.

### **53 Overpayments**

- (1) Where it is determined that, whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact and in consequence of the misrepresentation or failure—
  - (a) a payment has been made in respect of a benefit to which this section applies; or
  - (b) any sum recoverable by or on behalf of the Secretary of State in connection with any such payment has not been recovered,

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the Secretary of State shall be entitled to recover the amount of any payment which he would not have made or any sum which he would have received but for the misrepresentation or failure to disclose.

- (2) An amount recoverable under subsection (1) above is in all cases recoverable from the person who misrepresented the fact or failed to disclose it.
- (3) In relation to cases where payments of a benefit to which this section applies have been credited to a bank account or other account under arrangements made with the agreement of the beneficiary or a person acting for him, circumstances may be prescribed in which the Secretary of State is to be entitled to recover any amount paid in excess of entitlement; but any such regulations shall not apply in relation to any payment unless before he agreed to the arrangements such notice of the effect of the regulations as may be prescribed was given in such manner as may be prescribed to the beneficiary or to a person acting for him.
- (4) Except where regulations otherwise provide, an amount shall not be recoverable under subsection (1) above or regulations under subsection (3) above unless the determination in pursuance of which it was paid has been reversed or varied on an appeal or revised on a review.
- (5) Regulations may provide—
  - (a) that amounts recoverable under subsection (1) above or regulations under subsection (3) above shall be calculated or estimated in such manner and on such basis as may be prescribed ;
  - (b) for treating any amount paid to any person under an award which it is subsequently determined was not payable—
    - (i) as properly paid ; or
    - (ii) as paid on account of a payment which it is determined should be or should have been made,and for reducing or withholding any arrears payable by virtue of the subsequent determination ;
  - (c) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
    - (i) the other person is himself entitled to a payment for that period; or
    - (ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person,and for reducing or withholding any arrears payable for that period by virtue of the subsequent determination.
- (6) Circumstances may be prescribed in which a payment on account made by virtue of section 51(1)(t) above may be recovered to the extent that it exceeds entitlement.
- (7) Where any amount paid is recoverable under—
  - (a) section 27 above ;
  - (b) subsection (1) above; or
  - (c) regulations under subsection (3) or (6) above,it may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

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- (8) Where any amount paid in respect of a married or unmarried couple is recoverable as mentioned in subsection (7) above, it may, without prejudice to any other method of recovery, be recovered, in such circumstances as may be prescribed, by deduction from prescribed benefits payable to either of them.
- (9) Any amount recoverable under the provisions mentioned in subsection (7) above—
- (a) if the person from whom it is recoverable resides in England and Wales and the county court so orders, shall be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court; and
  - (b) if he resides in Scotland, shall 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.
- (10) This section applies to the following benefits—
- (a) benefits under the Social Security Act 1975 ;
  - (b) child benefit;
  - (c) income support;
  - (d) family credit;
- and any social fund payments such as are mentioned in section 32(2)(a) above.
- (11) A scheme under section 2 or section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975 may make provision in relation to allowances under that Act corresponding to the provision made by this section in relation to the benefits to which it applies.

#### **54 Breach of regulations**

- (1) Regulations under any of the benefit Acts may provide for contravention of, or failure to comply with, any provision contained in regulations made under that Act to be an offence under that Act and for the recovery, on summary conviction of any such offence, of penalties not exceeding—
- (a) for any one offence, level 3 on the standard scale ; or
  - (b) for an offence of continuing any such contravention or failure after conviction, £40 for each day on which it is so continued.
- (2) Subsection (1) above shall have effect in relation to the Industrial Injuries and Diseases (Old Cases) Act 1975 as if the references in that subsection to regulations were to schemes.

#### **55 False representations for obtaining benefit etc.**

- (1) If a person for the purpose of obtaining any benefit or other payment under any of the benefit Acts, whether for himself or some other person, or for any other purpose connected with any of those Acts—
- (a) makes a statement or representation which he knows to be false; or
  - (b) produces or furnishes, or knowingly causes or knowingly allows 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.

- (2) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding three months, or to both.

## **56 Legal proceedings**

- (1) Any person authorised by the Secretary of State in that behalf may conduct any proceedings under the benefit Acts before a magistrates' court although not a barrister or solicitor.
- (2) Notwithstanding anything in any Act—
- (a) proceedings for an offence under the benefit Acts other than an offence relating to housing benefit 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 a period of twelve months from the commission of the offence, whichever period last expires ; and
  - (b) proceedings for an offence under the benefit Acts relating to housing benefit may be begun 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 a prosecution for the offence, comes to the authority's knowledge or within a period of twelve months from the commission of the offence, whichever period last expires.
- (3) For the purposes of subsection (2) above—
- (a) 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 (a) of that subsection came to his knowledge shall be conclusive evidence of that date ; and
  - (b) a certificate of the appropriate authority as to the date on which such evidence as is mentioned in paragraph (b) of that subsection came to the authority's knowledge shall be conclusive evidence of that date.
- (4) In subsections (2) and (3) above " the appropriate authority " means, in relation to an offence concerning any dwelling—
- (a) if the offence relates to rate rebate, the authority who are the appropriate rating authority by virtue of section 28(3) above;
  - (b) if it relates to a rent rebate, the authority who are the appropriate housing authority by virtue of that subsection ; and
  - (c) if it relates to rent allowance, the authority who are the appropriate local authority by virtue of that subsection.
- (5) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (1) to (4) above—
- (a) proceedings for an offence under the benefit Acts may, notwithstanding anything in section 331 of the 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 Lord Advocate 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—

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- (i) a certificate purporting to be signed by or on behalf of the Lord Advocate as to the date on which such evidence as is mentioned above came to his knowledge shall be conclusive evidence thereof;
- (ii) 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.

## **57 Offences by bodies corporate**

- (1) Where an offence under any of the benefit Acts which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

## **58 Inspection**

- (1) For the purposes of the benefit Acts, the Secretary of State may appoint such inspectors, and pay to them such salaries or remuneration, as he may determine with the consent of the Treasury.
- (2) An inspector appointed under this section shall, for the purposes of the execution of the benefit Acts, have the following powers—
  - (a) to enter at all reasonable times any premises liable to inspection under this section ;
  - (b) to make such examination and enquiry as may be necessary—
    - (i) for ascertaining whether the provisions of any of those Acts are being, or have been, complied with in any such premises ; or
    - (ii) for investigating the circumstances in which any injury or disease which has given or may give rise to a claim for industrial injuries benefit was or may have been received or contracted ;
  - (c) to examine, either alone or in the presence of any other person, as he thinks fit, in relation to any matters under any of those Acts on which he may reasonably require information, every person whom he finds in any such premises or whom he has reasonable cause to believe to be or to have been a person liable to pay—
    - (i) contributions under the Social Security Act 1975;
    - (ii) a state scheme premium,and to require every such person to be so examined;
  - (d) to exercise such other powers as may be necessary for carrying any of the benefit Acts into effect.
- (3) The premises liable to inspection under this section are any where an inspector has reasonable grounds for supposing that—
  - (a) any persons are employed ;



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- (b) there is being carried on any agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services; or
  - (c) a personal or occupational pension scheme is being administered,but do not include any private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.
- (4) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises for the purpose of any of the benefit Acts shall, if so required, produce the certificate.
- (5) Where any premises are liable to be inspected by an inspector or officer appointed or employed by, or are under the control of, some other government department, the Secretary of State may make arrangements with that department for any of the powers or duties of inspectors to be carried out by an inspector or officer employed by that department.
- (6) In accordance with this section, persons shall furnish to an inspector all such information, and produce for his inspection all such documents, as he may reasonably require for the purpose of ascertaining—
  - (a) whether—
    - (i) any contribution under the Social Security Act 1975;
    - (ii) any state scheme premium,is or has been payable, or has been duly paid, by or in respect of any person ; or
  - (b) whether benefit under any of the benefit Acts is or was payable to or in respect of any person.
- (7) The following persons are under the duty imposed by subsection (6) above—
  - (a) the occupier of any premises liable to inspection under this section;
  - (b) any person who is or has been an employer or an employee within the meaning of any of the benefit Acts ;
  - (c) any person carrying on an agency or other business for the introduction or supply to persons requiring them of persons available to do work or perform services;
  - (d) any person who is or has at any time been a trustee or manager of a personal or occupational pension scheme;
  - (e) any person who is or has been liable to pay such contributions or premiums;
  - (f) the servants or agents of any such person as is specified in any of the preceding paragraphs;but no-one shall be required under this section to answer any questions or to give any evidence tending to incriminate himself, or, in a case of a person who is married, his or her spouse.
- (8) If a person—
  - (a) wilfully delays or obstructs an inspector in the exercise of any power under this Act; or
  - (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this Act,he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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- (9) Where a person is convicted of an offence under subsection (8)(b) above and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which it is so continued.

## **59 Disclosure of information**

- (1) No obligation as to secrecy imposed by statute or otherwise on a person employed in relation to the Inland Revenue shall prevent information obtained in connection with the assessment or collection of income tax from being disclosed to the Secretary of State, or the Department of Health and Social Services for Northern Ireland, or to an officer of either of them authorised to receive such information in connection with the operation of any of the benefit Acts or of any corresponding enactment of Northern Ireland legislation.
- (2) In relation to persons who are carrying on or have carried on a trade, profession or vocation income from which is chargeable to tax under Case I or II of Schedule D, disclosure under subsection (1) above relating to that trade, profession or vocation shall be limited to information about the commencement or cessation of the trade, profession or vocation, but sufficient information may also be given to identify the persons concerned.
- (3) Subsection (1) above extends only to disclosure by or under the authority of the Commissioners of Inland Revenue; and information which is the subject of disclosure to any person by virtue of that subsection shall not be further disclosed to any other person, except where the further disclosure is made—
- (a) to a person to whom disclosure could by virtue of this section have been made by or under the authority of the Commissioners of Inland Revenue ;
  - (b) for the purposes of any proceedings (civil or criminal) in connection with the operation of any of the benefit Acts or of any corresponding Northern Ireland legislation ; or
  - (c) for any purposes of Part III of the Social Security Act 1975 including that Part as extended by section 52(3) above, and any corresponding provisions of Northern Ireland legislation.

## **60 Regulations as to notification of deaths**

- (1) Regulations may provide that it shall be the duty of any of the following persons—
- (a) the Registrar General for England and Wales ;
  - (b) the Registrar General of Births, Deaths and Marriages for Scotland;
  - (c) each registrar of births and deaths,
- to furnish the Secretary of State, for the purpose of his functions under the benefit Acts and the functions of the Department of Health and Social Services in Northern Ireland under any corresponding Northern Ireland legislation, with the prescribed particulars of such deaths as may be prescribed.
- (2) The regulations may make provision as to the manner in which and times at which the particulars are to be furnished.

### *Subordinate legislation*

#### **61 Consultations on subordinate legislation**

- (1) Nothing in any enactment shall require any proposals in respect of regulations to be referred to the Committee, the Council or the Board if—
  - (a) it appears to the Secretary of State that by reason of the urgency of the matter it is inexpedient so to refer them; or
  - (b) the relevant advisory body have agreed that they shall not be referred.
- (2) Where by virtue only of subsection (1)(a) above the Secretary of State makes regulations without proposals in respect of them having been referred, then, unless the relevant advisory body agree that this subsection shall not apply, he shall refer the regulations to that body as soon as practicable after making them.
- (3) Where the Secretary of State—
  - (a) has referred proposals to the Committee or the Board, he may make the proposed regulations before the Committee or Board have made their report;
  - (b) has referred proposals to the Council, he may make the proposed regulations before the Council have given their advice,only if after the reference it appears to him that by reason of the urgency of the matter it is expedient to do so.
- (4) Where by virtue of this section regulations are made before a report of the Committee or Board has been made, the Committee or Board shall consider them and make a report to the Secretary of State containing such recommendations with regard to the regulations as the Committee or Board think appropriate ; and a copy of any report made to the Secretary of State on the regulations shall be laid by him before each House of Parliament together, if the report contains recommendations, with a statement of the extent (if any) to which the Secretary of State proposes to give effect to the recommendations and, in so far as he does not propose to give effect to them, his reasons why not.
- (5) Nothing in any enactment shall require the reference to the Committee, the Council or the Board of regulations made by virtue of an enactment contained in this Act or in an Act passed before this Act, if they are—
  - (a) contained in a statutory instrument made before the end of a period of 12 months from the commencement of the enactment under which it is made; or
  - (b) contained in a statutory instrument which—
    - (i) states that it contains only provisions consequential on a specified enactment or such provisions and regulations made under that enactment; and
    - (ii) is made before the end of a period of 12 months from the commencement of that enactment.
- (6) Nothing in any enactment shall require the reference to the Committee, the Council or the Board of regulations made by virtue of an enactment contained in an Act passed after this Act, if they are—
  - (a) contained in a statutory instrument made before the end of the period of 6 months from the commencement of the enactment under which it is made ; or
  - (b) contained in a statutory instrument which—

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- (i) states that it contains only provisions consequential on a specified enactment or such provisions and regulations made under that enactment; and
  - (ii) is made before the end of the period of 6 months from the commencement of that enactment,
- unless the Act containing the enactment by virtue of which the regulations are made excludes this subsection in respect of the regulations.
- (7) Subject to subsection (8) below, before making—
- (a) regulations relating to housing benefit (other than regulations of which the effect is to increase any amount specified in regulations previously made);
  - (b) an order under section 28(10) or 30 above,
- the Secretary of State shall consult with organisations appearing to him to be representative of the authorities concerned.
- (8) Nothing in subsection (7) above shall require the Secretary of State to undertake consultations if—
- (a) it appears to him that by reason of the urgency of the matter it is inexpedient to do so ; or
  - (b) the organisations have agreed that consultations should not be undertaken.
- (9) Where the Secretary of State has undertaken such consultations, he may make any regulations or order to which the consultations relate without completing the consultations if it appears to him that by reason of the urgency of the matter it is expedient to do so.
- (10) In this section—
- " the Board " means the Occupational Pensions Board ;
  - "the Committee" means the Social Security Advisory Committee;
  - " the Council" means the Industrial Injuries Advisory Council.

## **62 Subordinate legislation-miscellaneous**

- (1) The following subsection shall be inserted after subsection (3) of section 166 of the Social Security Act 1975 (general provisions about orders and regulations)—
- “(3A) Without prejudice to any specific provisions in this Act, a power conferred by this Act to make an Order in Council, regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.”.
- (2) The following subsection shall be inserted after subsection (7) of section 22 of the Child Benefit Act 1975 (regulations and orders)—
- “(7A) Without prejudice to any specific provisions in this Act, a power conferred by this Act to make an Order in Council or regulations includes a power to provide for a person to exercise a discretion in dealing with any matter.”.
- (3) In subsection (1) of section 167 of the Social Security Act 1975 (Parliamentary control of orders and regulations)—
- (a) for the words from the beginning to " namely " there shall be substituted the words

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“ Subject to the provisions of this section, a statutory instrument containing (whether alone or with other provisions)—

- (a) regulations made by virtue of”;
- (b) in paragraph (b), for the words " no order shall be made wholly or partly by virtue of " there shall be substituted the words " an order under " ;
- (c) in paragraph (c), for the words " no order shall be made" there shall be substituted the words " an order " ; and
- (d) for the words " unless a draft of the regulations or order " there shall be substituted the words " shall not be made unless a draft of the instrument " .

*General provisions as to operation of social security*

### **63 Annual up-rating of benefits**

- (1) The Secretary of State shall in each tax year review the sums—
- (a) specified—
    - (i) in Schedule 4 to the Social Security Act 1975 ;
    - (ii) in section 30(1) of that Act;
    - (iii) in sections 2(6)(c) and 7(2)(b) of the Industrial Injuries and Diseases (Old Cases) Act 1975 ;
    - (iv) in section 6(1)(a) of the Social Security Pensions Act 1975;
  - (b) which are the additional pensions in long-term benefits ;
  - (c) which are the increases in the rates of retirement pensions under Schedule 1 to the Social Security Pensions Act 1975;
  - (d) which are—
    - (i) payable by virtue of section 35(6) of that Act to a person who is also entitled to a Category A or Category B retirement pension (including sums payable by virtue of section 36(3)); or
    - (ii) payable to such a person as part of his Category A or Category B retirement pension by virtue of an order made under this section by virtue of this paragraph or made under section 126A of the Social Security Act 1975;
  - (e) specified in section 41 (2B) of the Social Security Act 1975;
  - (f) specified by virtue of section 5(1) of the Child Benefit Act 1975;
  - (g) specified in section 7(1) of the Social Security and Housing Benefits Act 1982;
  - (h) specified in regulations under section 48(3) above;
  - (i) prescribed for the purposes of section 21(6)(a) above or specified in regulations under section 22(1) above,
- in order to determine whether they have retained their value in relation to the general level of prices obtaining in Great Britain estimated in such manner as the Secretary of State thinks fit.
- (2) Where it appears to the Secretary of State that the general level of prices is greater at the end of the period under review than it was at the beginning of that period, he shall lay before Parliament the draft of an up-rating order—
- (a) which increases each of the sums to which subsection (3) below applies by a percentage not less than the percentage by which the general level of prices is greater at the end of the period than it was at the beginning; and

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- (b) if he considers it appropriate, having regard to the national economic situation and any other matters which he considers relevant, which also increases by such percentage or percentages as he thinks fit any of the sums mentioned in subsection (1) above but to which subsection (3) below does not apply ; and
  - (c) stating the amount of any sums which are mentioned in subsection (1) above but which the order does not increase.
- (3) This subsection applies to sums—
  - (a) specified in Part I, paragraph 1, 2, 3, 4 or 5 of Part III, Part IV or Part V of Schedule 4 to the Social Security Act 1975;
  - (b) mentioned in subsection (1)(a)(iii) or (iv), (b), (c) or (d) above.
- (4) Subsection (2) above shall not require the Secretary of State to provide for an increase in any case in which it appears to him that the amount of the increase would be inconsiderable.
- (5) The Secretary of State may, in providing for an increase in pursuance of subsection (2) above, adjust the amount of the increase so as to round any sum up or down to such extent as he thinks appropriate.
- (6) Where subsection (2) above requires the Secretary of State to lay before Parliament the draft of an order increasing any sum that could be reduced under section 17(1) of the Child Benefit Act 1975, the order may make such alteration to that sum as reflects the combined effect of that increase and of any reduction that could be made under that subsection.
- (7) An increase in a sum such as is specified in subsection (1)(d)(ii) above shall form part of the Category A or Category B retirement pension of the person to whom it is paid and an increase in a sum specified such as is specified in subsection (1)(d)(i) above shall be added to and form part of that pension but shall not form part of the sum increased.
- (8) Where any increment under section 35(6) of the Social Security Pensions Act 1975—
  - (a) is increased in any tax year by an order under section 37A of that Act; and
  - (b) in that tax year also falls to be increased by an order under this section,the increase under this section shall be the amount that would have been specified in the order, but for this subsection, less the amount of the increase under section 37A.
- (9) Where sums are payable to a person by virtue of section 35(6) of the Social Security Pensions Act 1975 (including such sums payable by virtue of section 36(3) of that Act) during a period ending with the date on which he became entitled to a Category A or Category B retirement pension, then, for the purpose of determining the amount of his Category A or Category B retirement pension, orders made under this section during that period shall be deemed to have come into force (consecutively in the order in which they were made) on the date on which he became entitled to that pension.
- (10) If the Secretary of State considers it appropriate to do so, he may include in the draft of an up-rating order, in addition to any other provisions, provisions increasing any of the sums for the time being specified in regulations under Part II of this Act.
- (11) The Secretary of State shall lay with any draft order under this section a copy of a report by the Government Actuary giving the latter's opinion on the likely effect on the National Insurance Fund of such parts of the order as relate to sums payable out of that Fund.

- (12) If a draft order laid before Parliament in pursuance of this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.
- (13) An order under this section—
- (a) shall be framed so as to bring the alterations to which it relates into force—
    - (i) in the week beginning with the first Monday in the tax year ; or
    - (ii) on such earlier date in April as may be specified in the order;
  - (b) shall make such transitional provision as the Secretary of State considers expedient in respect of periods of entitlement—
    - (i) to statutory sick pay;
    - (ii) to family credit,running at the date when the alterations come into force.

#### **64 Effect of alteration of rates of benefit**

- (1) This section applies where the rate of any relevant benefit is altered—
- (a) by an Act subsequent to this Act;
  - (b) by an order under section 63 above ; or
  - (c) in consequence of any such Act or order altering any maximum rate of benefit ;
- and in this section " the commencing date " means the date fixed for payment of benefit at an altered rate to commence.
- (2) Subject to such exceptions or conditions as may be prescribed where—
- (a) the weekly rate of a relevant benefit is altered to a fixed amount higher or lower than the previous amount; and
  - (b) before the commencing date an award of that benefit has been made (whether before or after the passing of the relevant Act or the making of the relevant order),
- except as respects any period falling before the commencing date, the benefit shall become payable at the altered rate without any claim being made for it in the case of an increase in the rate of benefit or any review of the award in the case of a decrease, and the award shall have effect accordingly.
- (3) Where—
- (a) the weekly rate of a relevant benefit is altered; and
  - (b) before the commencing date (but after that date is fixed) an award is made of the benefit,
- the award either may provide for the benefit to be paid as from the commencing date at the altered rate or may be expressed in terms of the rate appropriate at the date of the award.
- (4) Where in consequence of the passing of an Act, or the making of an order, altering the rate of disablement pension under section 57 of the Social Security Act 1975, regulations are made varying the scale of disablement gratuities under subsection (5) of that section, the regulations may provide that the scale as varied shall apply only in cases where the period taken into account by the assessment of the extent of the disablement in respect of which the gratuity is awarded begins or began after such day as may be prescribed.

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- (5) Subject to such exceptions or conditions as may be prescribed, where—
- (a) for any purpose of any Act or regulations the weekly rate at which a person contributes to the cost of providing for a child, or to the maintenance of an adult dependant, is to be calculated for a period beginning on or after the commencing date for an increase in the weekly rate of benefit; but
  - (b) account is to be taken of amounts referable to the period before the commencing date,
- those amounts shall be treated as increased in proportion to the increase in the weekly rate of benefit.
- (6) In this section "relevant benefit" means benefit under the Social Security Act 1975 or the Industrial Injuries and Diseases (Old Cases) Act 1975.

## **65 Reciprocal arrangements**

- (1) At the end of subsection (4)(b) of section 142 of the Social Security Act 1975 (co-ordination with Northern Ireland) there shall be added " (but not so as to confer any double benefit) and for determining, in cases where rights accrue both in relation to Great Britain and in relation to Northern Ireland, which of those rights shall be available to the person concerned ".
- (2) In subsection (1) of section 143 of that Act (reciprocity with other countries)—
- (a) for the words from " reciprocity " to the end of paragraph (c) there shall be substituted the words " reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act " ; and
  - (b) the words " relating to social security " shall be omitted.
- (3) The words "relating to child benefit" shall be omitted from subsection (1) of section 15 of the Child Benefit Act 1975 (reciprocal agreements with countries outside the United Kingdom).
- (4) Sections 14 and 15 of the Child Benefit Act 1975 (reciprocal arrangements with Northern Ireland and reciprocal agreements with countries outside the United Kingdom) shall have effect in relation to income support, family credit and housing benefit as they have effect in relation to child benefit, references in them to Part I of that Act being construed as including references to this Act.