

SCHEDULES

SCHEDULE 2

CONSEQUENTIAL AMENDMENTS

Social Security Pensions Act 1975

- 19 The Social Security Pensions Act 1975 shall be amended as follows.
- 20 (1) In subsection (1)(a) of section 26 (contracting-out of full contributions and benefits) for the words “the principal Act” there shall be substituted the words “the Contributions and Benefits Act”.
- (2) The following subsection shall be inserted after that subsection—
- “(1A) This Part of this Act shall also have effect, where an occupational pension scheme so provides or falls to be treated as so providing, for the purpose of making provision in relation—
- (a) to invalidity allowance under section 34 of the Contributions and Benefits Act;
 - (b) to increases of Category A retirement pensions for invalidity under section 47 of that Act; and
 - (c) to increases of unemployability supplement under paragraph 3 of Schedule 7 to that Act.”.

21 In subsection (5) of section 27 (contracted-out rates of Class I contributions) for the words “section 3 above” there shall be substituted the words “section 19(4) of the Contributions and Benefits Act”.

22 In subsection (1) of section 28 (review and alteration of contracted-out rates of Class 1 contributions)—

 - (a) in paragraph (a), after the words “Government Actuary” there shall be inserted the words “or the Deputy Government Actuary”, and
 - (b) in paragraph (b), for the words “Government Actuary’s report,” there shall be substituted the words “report of the Government Actuary or Deputy Government Actuary,”.

23 (1) In subsection (1)(a) of section 29 (contracted-out rates of benefit) for the words “section 16 above” there shall be substituted the words “section 41 of the Contributions and Benefits Act”.

(2) In subsections (2) and (2A) of that section for “16(2B), 28(7A) and 59(1A) of the principal Act” there shall be substituted “29A, 29B and 29C below”.

(3) In subsection (3) after the word “section”, in the first place where it occurs, there shall be inserted the words “and in sections 29A, 29B and 29C below”.

24 The following sections shall be inserted after that section—

Status: This is the original version (as it was originally enacted).

“29A Contracting-out and invalidity allowance

- (1) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions; and
 - (b) he is also entitled to an invalidity pension under section 33 of the Contributions and Benefits Act; and
 - (c) the weekly rate of his invalidity pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,
- for that period section 34 of that Act shall have effect as if the following subsection were substituted for subsection (5)—
- “(5) In this section “the relevant amount” means an amount equal to the aggregate of—
- (a) an amount equal to the additional pension; and
 - (b) an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,
- reduced by the amount of any reduction in the weekly rate of the invalidity pension made by virtue of section 29 of the Pensions Act.”.
- (2) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions; and
 - (b) he is also entitled to an invalidity pension under section 33 of the Contributions and Benefits Act; and
 - (c) the weekly rate of his invalidity pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,
- for that period the relevant amount shall be deducted from the appropriate weekly rate of invalidity allowance and he shall be entitled to invalidity allowance only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.
- (3) In subsection (2) above “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions reduced by the amount of any reduction in the weekly rate of the invalidity pension made by virtue of section 29 above.
- (4) Where subsection (2) above applies, section 34(7) of the Contributions and Benefits Act shall have effect as if for the words “subsection (4) above” there were substituted the words “section 29A(2) of the Pensions Act”.

29B Contracting-out and increases of Category A retirement pension for invalidity

- (1) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions; and
 - (b) he is also entitled to a Category A retirement pension under section 44 of the Contributions and Benefits Act; and

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(c) the weekly rate of his pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,
for that period section 47 of that Act shall have effect as if the following subsection were substituted for subsection (3)—

“(3) In subsection (2) above “the relevant amount” means an amount equal to the aggregate of—

- (a) an amount equal to the additional pension; and
- (b) an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 29 of the Pensions Act.”.

(2) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions; and
- (b) he is also entitled to a Category A retirement pension under section 44 of the Contributions and Benefits Act; and
- (c) the weekly rate of his Category A retirement pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under section 47(1) of that Act and the pensioner shall be entitled to an increase under that subsection only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.

(3) In subsection (2) above “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 29 above.

29C Contracting-out and increases of unemployability supplement

(1) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions; and
- (b) he is also entitled-
 - (i) to an invalidity pension under section 33 of the Contributions and Benefits Act;
 - (ii) to a Category A retirement pension under section 44; or
 - (iii) to a Category B retirement pension under section 49; and
- (c) the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period paragraph 3 of Schedule 7 to that Act shall have effect as if the following sub-paragraph were substituted for sub-paragraph (3)—

“(3) In this paragraph “the relevant amount” means an amount equal to the aggregate of—

- (a) an amount equal to the additional pension; and

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- (b) an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,
reduced by the amount of any reduction in the weekly rate of the pension made by virtue of section 29 of the Pensions Act.”.
- (2) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions; and
- (b) he is also entitled to any of the pensions under the Contributions and Benefits Act mentioned in subsection (1)(b) above; and
- (c) the weekly rate of the pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,
- for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under that paragraph and the beneficiary shall be entitled to an increase only if there is a balance after that deduction and, if there is such a balance, only to an amount equal to it.
- (3) In subsection (2) above “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions.”.
- 25 In subsection (1B) of section 30 (contracted-out employment) for the words “section 4(2) and (6) of the principal Act” there shall be substituted the words “sections 6(1) and 8(3) of the Contributions and Benefits Act”.
- 26 In subsection (1A) of section 33 (requisite benefit for earner) for the words “section 3 of this Act” there shall be substituted the words “section 19(4) of the Contributions and Benefits Act”.
- 27 (1) In subsection (2ZA) of section 35 (earner’s guaranteed minimum) for the words “section 3 of this Act” there shall be substituted the words “section 19(4) of the Contributions and Benefits Act”.
- (2) In subsections (5) and (7) of that section for the words “section 21 above” there shall be substituted the words “section 148 of the Administration Act”.
- 28 In subsection (6) of section 36 (requisite benefit for widow) for the words “section 27(6) of the principal Act” there shall be substituted the words “section 43(1) of the Contributions and Benefits Act”.
- 29 In subsection (7) of section 37A (annual increases of guaranteed minimum pensions) for the words from “sections” to “above” there shall be substituted the words “sections 29(1), 29A(1) and (2), 29B(1) and (2) and 29C(1) and (2) above”.
- 30 In subsection (4A) of section 41C (supplementary provisions) and in subsection (3) (a) of section 45 (premium where guaranteed minimum pension excluded from full revaluation) for the words “section 21 above” there shall be substituted the words “section 148 of the Administration Act”.
- 31 In subsection (6)(a) of section 44 (premium on termination of contracted-out scheme) for the words “section 21 above” there shall be substituted the words “section 148 of the Administration Act”.
- 32 In subsection (10) of section 51A (refusal and cancellation of contracting-out certificates) for the words “section 4(3) of the principal Act” there shall be substituted the words “section 6(3) of the Contributions and Benefits Act”.

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

- 33 In subsection (1) of section 52D (guaranteed minimum pensions under contracted-out schemes - supplementary) for the words “sections 16(2B), 28(7A) and 59(1A) of the principal Act and section 29(1) above” there shall be substituted the words “sections 29(1), 29A, 29B and 29C above”.
- 34 In subsection (1) of section 59 (official pensions) for the words from “section 23” to “1986” there shall be substituted the words “section 151 of the Administration Act a direction is given that the sums mentioned in section 150(1)(c) of that Act”.
- 35 In section 60 (determination of questions)—
- (a) in subsection (1), for the words “section 93(1) of the principal Act” there shall be substituted the words “section 17(1) of the Administration Act”; and
 - (b) in subsection (3), for the words “section 93(1) nor section 98(1) of the principal Act” there shall be substituted the words “section 17(1) nor section 20(1) of the Administration Act”.
- 36 The following sections shall be inserted after section 60ZA—

“60ZB Offences relating to state scheme premiums

If a person fails to pay, at or within the time prescribed for the purpose, any state scheme premium which is payable by him, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

60ZC Questions arising in proceedings

- (1) Where in any proceedings—
- (a) for an offence under this Act; or
 - (b) involving any question as to payment of a state scheme premium,
- any such question arises as is mentioned in section 60(1) above, the decision of the Secretary of State shall be conclusive for the purposes of the proceedings.
- (2) If—
- (a) a decision of any such question is necessary for the determination of proceedings; and
 - (b) the decision of the Secretary of State has not been obtained or a question has been raised with a view to a review of the decision obtained,
- the question shall be referred to the Secretary of State for determination or review in accordance (subject to any necessary modifications) with sections 17 to 19 of the Administration Act.
- (3) Subsection (1) above does not apply if—
- (a) an appeal under section 18 of that Act is pending; or
 - (b) the time for appealing has not expired; or
 - (c) a question has been raised with a view to a review of the Secretary of State’s decision under section 19,
- and the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.

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

60ZD Recovery of unpaid state scheme premiums on prosecution

Where—

- (a) a person has been convicted of an offence under section 60ZB above of failing to pay a state scheme premium at or within the time prescribed for the purpose; and
 - (b) the premium remains unpaid at the date of the conviction,
- he shall be liable to pay to the Secretary of State a sum equal to the amount which he failed to pay.

60ZE Proof of previous offences

- (1) Subject to subsection (2) below, where a person is convicted of an offence mentioned in section 60ZD above, evidence may be given of any previous failure by him to pay state scheme premiums within the time prescribed for the purpose; and in that section “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.
- (2) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.

60ZF Unpaid premiums - supplementary

- (1) Where in England and Wales a person charged with an offence to which section 60ZD above applies is convicted of that offence in his absence under section 12(2) of the Magistrates' Courts Act 1980, then if—
 - (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules under section 144 of that Act, that notice under section 60ZE(2) above has been duly served specifying the other state scheme premiums in respect of which the prosecutor intends to give evidence; and
 - (b) the clerk of the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other premiums so specified or any of them,

section 60ZE above shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.
- (2) In England and Wales, where—
 - (a) a person is convicted of an offence to which section 60ZD above applies; and
 - (b) an order is made under Part I of the Powers of Criminal Courts Act 1973 placing the offender on probation or discharging him absolutely or conditionally,

sections 60ZD and 60ZE above and subsection (1) above shall apply as if it were a conviction for all purposes.

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- (3) In Scotland, where—
- (a) a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence; and
 - (b) an order is made under Part I of the Criminal Procedure (Scotland) Act 1975 discharging him absolutely or placing him on probation, sections 60ZD and 60ZE above shall apply as if—
 - (i) the conviction on indictment were a conviction for all purposes; or
 - (ii) (as the case may be) the making of the order by the court of summary jurisdiction were a conviction.
- (4) In England and Wales, any sum which a person is liable to pay under sections 60ZD and 60ZE above and subsection (1) above shall be recoverable from him as a penalty.
- (5) State scheme premiums recovered by the Secretary of State under those provisions are to be treated for all purposes as premiums paid to the Secretary of State in the respect of the person in respect of whom they were originally payable.”

37 The following sections shall be inserted after section 61—

“61A Consultation with Social Security Advisory Committee about certain regulations

- (1) Subject to section 173 of the Administration Act, where the Secretary of State proposes to make regulations under section 51A(10) above, he shall refer the proposals, in the form of draft regulations or otherwise, to the Social Security Advisory Committee (“the Committee”).
- (2) The Committee shall consider any proposals referred to it by the Secretary of State under subsection (1) above and shall make to the Secretary of State a report containing such recommendations with regard to the subject-matter of the proposals as the Committee thinks appropriate.
- (3) If after receiving a report of the Committee the Secretary of State lays before Parliament any regulations which comprise the whole or any part of the subject-matter of the proposals referred to the Committee, he shall lay with the regulations a copy of the Committee’s report and a statement showing—
 - (a) the extent (if any) to which he has, in framing the regulations, given effect to the Committee’s recommendations; and
 - (b) in so far as effect has not been given to them, his reasons why not.
- (4) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of subsection (3) above shall be satisfied as respects either House of Parliament if a copy of the report and statement there referred to are laid before that House not later than the second day on which the House sits after the laying of the regulations.

61B Orders and regulations (general provisions)

- (1) Powers under this Act to make regulations or orders, except any power of the Occupational Pensions Board to make orders, are exercisable by statutory instrument.

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

- (2) Except in so far as this Act otherwise provides, any power conferred thereby to make regulations or an order may be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
 - (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act,
 - (iii) any such provision either unconditionally or subject to any specified condition;
- and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and powers to make regulations or an order for the purposes of any one provision of this Act are without prejudice to powers to make regulations or an order for the purposes of any other provision.
- (3) Without prejudice to any specific provision in this Act, a power conferred by this Act to make regulations or an order includes power to make thereby such incidental, supplementary, consequential or transitional provision as appears to the authority making the regulations or order to be expedient for the purposes of the regulations or order.
- (4) Without prejudice to any specific provisions in this Act, a power conferred by this Act to make regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.
- (5) A power conferred on the Secretary of State to make any regulations or order, where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.”.

38 The following subsection shall be substituted for section 62(2)—

“(2) A statutory instrument—

- (a) which contains (whether alone or with other provisions) any order or regulations made under this Act by the Secretary of State, other than an order which, under any provision of this Act, is required to be laid before Parliament after being made; and
- (b) which is not subject to any requirement that a draft of the instrument shall be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

39 In section 64(2)—

- (a) for the words “Subsection (5) of section 135 of the principal Act” there shall be substituted the words “Section 165(5) of the Administration Act”; and

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

- (b) for the words “subsection (3)(a) of that section” there shall be substituted the words “section 163(2)(a) of that Act”.
- 40 (1) In section 66(1)—
- (a) the following definition shall be inserted before the definition of “average salary benefits”—
 - ““the Administration Act” means the Social Security Administration Act 1992;”;
 - and
 - (b) the following definition shall be inserted after that definition—
 - ““the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;”.
- (2) In section 66(2), for the words “section 29” there shall be substituted the words “sections 29 and 29C”.
- 41 In paragraph 8 of Schedule 1A (revaluation of pensions) for the words “section 23(2) above” there shall be substituted the words “section 151(1) of the Administration Act”.
- 42 In paragraph 6(3)(c) of Schedule 2 (contracting-out regulations) for the words “the principal Act” there shall be substituted the words “the Contributions and Benefits Act”.