



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 10

SOCIAL SECURITY INCOME

CHAPTER 1

INTRODUCTION

655 Structure of Part 10

(1) The structure of this Part is as follows—

Chapter 2—

- (a) imposes the charge to tax on social security income, and
- (b) provides for deductions to be made from the amount of income chargeable;

Chapter 3 sets out the UK social security benefits which are charged to tax under this Part and identifies—

- (a) the amount of income chargeable to tax for a tax year, and
- (b) the person liable to pay any tax charged;

Chapters 4 and 5 deal with exemptions from the charge to tax on UK social security benefits (whether under this Part or any other provision);

Chapters 6 and 7 make provision about foreign benefits.

(2) For other provisions about the taxation of social security benefits, see—

section 151 of FA 1996 (power for the Treasury to make orders about the taxation of benefits payable under Government pilot schemes);

section 84 of FA 2000 (exemption of payments under New Deal 50plus);

Status: This is the original version (as it was originally enacted).

section 85 of FA 2000 (exemption of payments under Employment Zones programme).

- (3) For the charge to tax on social security pensions, see Part 9 (pension income).

CHAPTER 2

TAX ON SOCIAL SECURITY INCOME

656 Nature of charge to tax on social security income

- (1) The charge to tax on social security income is a charge to tax on that income excluding any exempt income.
- (2) “Exempt income” is social security income on which no liability to income tax arises as a result of any provision of Chapter 4, 5 or 7 of this Part.

This definition applies for the purposes of this Part.

657 Meaning of “social security income”, “taxable benefits” etc.

- (1) This section defines—
- “social security income” for the purposes of the Tax Acts, and
“taxable benefits”, “Table A” and “Table B” for the purposes of this Part.
- (2) “Social security income” means—
- (a) the United Kingdom social security benefits listed in Table A,
 - (b) the United Kingdom social security benefits listed in Table B,
 - (c) the foreign benefits to which section 678 applies, and
 - (d) the foreign benefits to which section 681(2) applies.
- (3) “Taxable benefits” means—
- (a) the United Kingdom social security benefits listed in Table A, and
 - (b) the foreign benefits to which section 678 applies.
- (4) Subsections (2) and (3) are subject to section 660(2).
- (5) “Table A” means Table A in section 660.
- (6) “Table B” means Table B in section 677.

658 Amount charged to tax

- (1) The amount of social security income which is charged to tax under this Part for a particular tax year is as follows.
- (2) In relation to a taxable benefit, the amount charged to tax is the net taxable social security income for the tax year.
- (3) The net taxable social security income for a taxable benefit for a tax year is given by the formula—

$$\text{TSSI} - \text{PGID}$$

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

where—

TSSI means the amount of taxable social security income for that benefit for that year (see subsections (4) to (7)), and

PGD means the amount of the deduction (if any) allowed from the benefit under Part 12 (payroll giving).

- (4) In relation to bereavement allowance, carer's allowance, incapacity benefit and income support (which are listed in Table A), the amount of taxable social security income is determined in accordance with section 661.
- (5) In relation to any other benefit listed in Table A, the amount of taxable social security income is the amount of the benefit that falls to be charged to tax.
- (6) In relation to foreign benefits to which section 678 applies, the amount of taxable social security income is determined in accordance with section 679.
- (7) In determining for the purposes of this Act the amount of taxable social security income, any exempt income is to be excluded.

659 Person liable for tax

The person liable for any tax charged under this Part is identified in—

- (a) section 662 (UK benefits), or
- (b) section 680 (foreign benefits).

CHAPTER 3

TAXABLE UK SOCIAL SECURITY BENEFITS

660 Taxable benefits: UK benefits – Table A

- (1) This is Table A—

TABLE A

TAXABLE UK BENEFITS

<i>Social security benefit</i>		<i>Payable under</i>
Bereavement allowance	SSCBA 1992	Section 39B
	SSCB(NI)A 1992	Section 39B
Carer's allowance	SSCBA 1992	Section 70
	SSCB(NI)A 1992	Section 70
Incapacity benefit	SSCBA 1992	Section 30A(1) or (5), 40 or 41
	SSCB(NI)A 1992	Section 30A(1) or (5), 40 or 41
Income support	SSCBA 1992	Section 124

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

<i>Social security benefit</i>	<i>Payable under</i>	
	SSCB(NI)A 1992	Section 123
Jobseeker's allowance	JSA 1995	Section 1
	JS(NI)O 1995	Article 3
Statutory adoption pay	SSCBA 1992	Section 171ZL
	Any provision made for Northern Ireland which corresponds to section 171ZL of SSCBA 1992	
Statutory maternity pay	SSCBA 1992	Section 164
	SSCB(NI)A 1992	Section 160
Statutory paternity pay	SSCBA 1992	Section 171ZA or 171ZB
	Any provision made for Northern Ireland which corresponds to section 171ZA or section 171ZB of SSCBA 1992	
Statutory sick pay	SSCBA 1992	Section 151
	SSCB(NI)A 1992	Section 147.

- (2) A benefit listed below is not “social security income” or a “taxable benefit” if it is charged to tax under another Part of this Act—
- statutory adoption pay;
 - statutory maternity pay;
 - statutory paternity pay;
 - statutory sick pay.

661 Taxable social security income

- (1) This section applies in relation to each of the following taxable benefits listed in Table A—
- bereavement allowance,
 - carer's allowance,
 - incapacity benefit, and
 - income support.
- (2) The amount of taxable social security income for a taxable benefit for a tax year is the full amount of the benefit accruing in the tax year irrespective of when any amount is actually paid.

662 Person liable for tax

The person liable for any tax charged under this Part on a taxable benefit listed in Table A is the person receiving or entitled to the benefit.

CHAPTER 4

TAXABLE UK SOCIAL SECURITY BENEFITS: EXEMPTIONS

Incapacity benefit

663 Long-term incapacity benefit: previous entitlement to invalidity benefit

- (1) No liability to income tax arises on long-term incapacity benefit if—
- (a) a person is entitled to the benefit for a day of incapacity for work which falls in a period of incapacity for work which is treated for the purposes of that benefit as having begun before 13th April 1995, and
 - (b) the part of that period which is treated as having fallen before that date includes a day for which that person was entitled to invalidity benefit.
- (2) In this section—
- “invalidity benefit” means invalidity benefit under—
 - (a) Part 2 of SSCBA 1992, or
 - (b) Part 2 of SSCB(NI)A 1992;
 - “long-term incapacity benefit” means incapacity benefit payable under—
 - (a) section 30A(5), 40 or 41 of SSCBA 1992, or
 - (b) section 30A(5), 40 or 41 of SSCB(NI)A 1992.

664 Short-term incapacity benefit not payable at the higher rate

- (1) No liability to income tax arises on short-term incapacity benefit unless it is payable at the higher rate.
- (2) In this section—
- (a) “short-term incapacity benefit” means incapacity benefit payable under—
 - (i) section 30A(1) of SSCBA 1992, or
 - (ii) section 30A(1) of SSCB(NI)A 1992;
 - (b) the reference to short-term incapacity benefit payable at the higher rate is to be construed in accordance with—
 - (i) section 30B of SSCBA 1992, or
 - (ii) section 30B of SSCB(NI)A 1992.

Income support

665 Exempt unless payable to member of couple involved in trade dispute

- (1) No liability to income tax arises on income support unless—
- (a) the income support is payable to one member of a married or unmarried couple (“the claimant”), and
 - (b) section 126 of SSCBA 1992 or section 125 of SSCB(NI)A 1992 (trade disputes) applies to the claimant but not to the other member of the couple.
- (2) In this section “married couple” and “unmarried couple” have the same meaning as in section 137(1) of SSCBA 1992 or section 133(1) of SSCB(NI)A 1992.

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

666 Child maintenance bonus

No liability to income tax arises on a part of income support which is attributable to a child maintenance bonus (within the meaning of section 10 of CSA 1995 or Article 4 of CS(NI)O 1995).

667 Amounts in excess of taxable maximum

- (1) If the amount of income support paid to a person (“the claimant”) for a week or a part of a week exceeds the claimant’s taxable maximum for that period, no liability to income tax arises on the excess.
- (2) The claimant’s taxable maximum for a period is determined under section 668.

668 Taxable maximum

- (1) A claimant’s taxable maximum for a week is determined under this subsection if the applicable amount for the purpose of calculating the income support consists only of an amount in respect of the relevant couple.

The taxable maximum is equal to one half of the applicable amount.

- (2) A claimant’s taxable maximum for a week is determined under this subsection if the applicable amount includes amounts that are not in respect of the relevant couple.

The taxable maximum is equal to one half of the amount which is included in the applicable amount in respect of the relevant couple.

- (3) A claimant’s taxable maximum for a part of a week is determined as follows—

Step 1

Assume that the income support is paid to the claimant for the whole of, rather than part of, the week.

Step 2

Determine under subsection (1) or (2) what the claimant’s taxable maximum for that week would be on that assumption.

Step 3

Determine the claimant’s taxable maximum for the part of the week using this formula—

$$\frac{N}{7} \times \text{TMW}$$

where—

N is the number of days in the part of the week for which the claimant is actually paid the income support, and

TMW is the taxable maximum for the whole week determined under step 2.

669 Interpretation

- (1) In section 668, except in relation to Northern Ireland—
 “applicable amount” means the amount prescribed in relation to income support in regulations made under section 135 of SSCBA 1992;

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

“married couple” and “unmarried couple” have the same meaning as in section 137(1) of SSCBA 1992.

(2) In section 668, in relation to Northern Ireland—

“applicable amount” means the amount prescribed in relation to income support in regulations made under section 131 of SSCB(NI)A 1992;

“married couple” and “unmarried couple” have the same meaning as in section 133(1) of SSCB(NI)A 1992.

(3) In section 668 “relevant couple”, in relation to a claimant, means the married or unmarried couple of which the claimant is a member.

Jobseeker’s allowance

670 Child maintenance bonus

No liability to income tax arises on a part of a jobseeker’s allowance which is attributable to a child maintenance bonus (within the meaning of section 10 of CSA 1995 or Article 4 of CS(NI)O 1995).

671 Amounts in excess of taxable maximum

(1) If the amount of jobseeker’s allowance paid to a person (“the claimant”) for a week or a part of a week exceeds the claimant’s taxable maximum for that period, no liability to income tax arises on the excess.

(2) The claimant’s taxable maximum for a period is determined under sections 672 to 674.

672 Taxable maximum: general

(1) A claimant’s taxable maximum for a week is determined—

(a) under section 673, if the claimant is paid an income-based jobseeker’s allowance for that week, or

(b) under section 674, if the claimant is paid a contribution-based jobseeker’s allowance for that week.

(2) A claimant’s taxable maximum for a part of a week is determined as follows—

Step 1

Assume that the jobseeker’s allowance is paid to the claimant for the whole of, rather than part of, the week.

Step 2

Determine under section 673 or 674 what the claimant’s taxable maximum for that week would be on that assumption.

Step 3

Determine the claimant’s taxable maximum for the part of the week using this formula—

$$\frac{N}{7} \times \text{TMW}$$

where—

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

N is the number of days in the part of the week for which the claimant is actually paid the jobseeker's allowance, and

TMW is the taxable maximum for the whole week determined under step 2.

673 Taxable maximum: income-based jobseeker's allowance

- (1) A claimant's taxable maximum for a week is determined under this section if—
 - (a) the claimant is paid an income-based jobseeker's allowance for that week, or
 - (b) the claimant is assumed under section 672(2) to be paid an income-based jobseeker's allowance for that week.
- (2) If the claimant is not a member of a married or unmarried couple, the claimant's taxable maximum for the week is equal to the age-related amount which would be applicable to the claimant if a contribution-based jobseeker's allowance were payable to the claimant for that week.
- (3) If the claimant is a member of a married or unmarried couple, the claimant's taxable maximum for the week is equal to the portion of the applicable amount which is included in the jobseeker's allowance in respect of the couple for that week.
- (4) But if—
 - (a) the claimant is a member of a married or unmarried couple, and
 - (b) the other member of that couple is prevented by section 14 of JSA 1995 or Article 16 of JS(NI)O 1995 (trade disputes) from being entitled to a jobseeker's allowance,
 the claimant's taxable maximum for that week is equal to half the portion of the applicable amount which is included in the jobseeker's allowance in respect of the couple for that week.

674 Taxable maximum: contribution-based jobseeker's allowance

- (1) A claimant's taxable maximum for a week is determined under this section if—
 - (a) the claimant is paid a contribution-based jobseeker's allowance for that week, or
 - (b) the claimant is assumed under section 672(2) to be paid a contribution-based jobseeker's allowance for that week.
- (2) If the claimant is not a member of a married or unmarried couple, the claimant's taxable maximum for the week is equal to the age-related amount which is applicable to the claimant for that week.
- (3) If the claimant is a member of a married or unmarried couple, the claimant's taxable maximum for the week is equal to the portion of the applicable amount which would be included in the jobseeker's allowance in respect of the couple if an income-based jobseeker's allowance were payable to the claimant for that week.

675 Interpretation

- (1) In sections 671 to 674, except in relation to Northern Ireland—

“age-related amount” and “applicable amount” mean the amounts determined as such in accordance with regulations made under section 4 of JSA 1995;

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

“contribution-based jobseeker’s allowance” and “income-based jobseeker’s allowance” have the same meaning as in section 1(4) of JSA 1995;
“married couple” and “unmarried couple” have the same meaning as in section 35(1) of JSA 1995.

(2) In sections 671 to 674, in relation to Northern Ireland—

“age-related amount” and “applicable amount” mean the amounts determined as such in accordance with regulations made under Article 6 of JS(NI)O 1995;

“contribution-based jobseeker’s allowance” and “income-based jobseeker’s allowance” have the same meaning as in Article 3(4) of JS(NI)O 1995;

“married couple” and “unmarried couple” have the same meaning as in Article 2(2) of JS(NI)O 1995.

Increases in respect of children

676 Increases in respect of children

No liability to income tax arises on a part of a taxable benefit listed in Table A which is attributable to an increase in respect of a child.

CHAPTER 5

UK SOCIAL SECURITY BENEFITS WHOLLY EXEMPT FROM INCOME TAX

677 UK social security benefits wholly exempt from tax: Table B

(1) No liability to income tax arises on the United Kingdom social security benefits listed in Table B.

TABLE B—PART 1

BENEFITS PAYABLE UNDER PRIMARY LEGISLATION

<i>Social security benefit</i>	<i>Payable under</i>	
Attendance allowance	SSCBA 1992	Section 64
	SSCB(NI)A 1992	Section 64
Back to work bonus	JSA 1995	Section 26
	JS(NI)O 1995	Article 28
Bereavement payment	SSCBA 1992	Section 36
	SSCB(NI)A 1992	Section 36
Child benefit	SSCBA 1992	Section 141
	SSCB(NI)A 1992	Section 137
Child’s special allowance	SSCBA 1992	Section 56

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

<i>Social security benefit</i>	<i>Payable under</i>	
	SSCB(NI)A 1992	Section 56
Child tax credit	TCA 2002	Part 1
Council tax benefit	SSCBA 1992	Section 131
Disability living allowance	SSCBA 1992	Section 71
	SSCB(NI)A 1992	Section 71
Guardian's allowance	SSCBA 1992	Section 77
	SSCB(NI)A 1992	Section 77
Housing benefit	SSCBA 1992	Section 130
	SSCB(NI)A 1992	Section 129
Industrial injuries benefit (apart from industrial death benefit)	SSCBA 1992	Section 94
	SSCB(NI)A 1992	Section 94
Pensioner's Christmas bonus	SSCBA 1992	Section 148
	SSCB(NI)A 1992	Section 144
Payments out of the social fund	SSCBA 1992	Section 138
	SSCB(NI)A 1992	Section 134
Severe disablement allowance	SSCBA 1992	Section 68
	SSCB(NI)A 1992	Section 68
State maternity allowance	SSCBA 1992	Section 35
	SSCB(NI)A 1992	Section 35
State pension credit	SPCA 2002	Section 1
	SPCA(NI) 2002	Section 1
Working tax credit	TCA 2002	Part 1

TABLE B — PART 2

BENEFITS PAYABLE UNDER REGULATIONS

<i>Social security benefit</i>	<i>Payable under regulations made under</i>	
Compensation payments where child support reduced because of a change in legislation	CSA 1995	Section 24
	CS(NI)O 1995	Article 17
Payments to reduce under-occupation by housing benefit claimants	WRPA 1999	Section 79
	WRP(NI)O 1999	Article 70

- (2) Industrial death benefit is charged to tax under Part 9 (see section 577).
- (3) In this section “industrial death benefit” means any benefit payable under—

- (a) section 94 of, and Part 6 of Schedule 7 to, SSCBA 1992, or
- (b) section 94 of, and Part 6 of Schedule 7 to, SSCB(NI)A 1992.

CHAPTER 6

TAXABLE FOREIGN BENEFITS

678 Taxable benefits: foreign benefits

- (1) This section applies to any benefit which is payable under the law of a country or territory outside the United Kingdom if—
 - (a) it is substantially similar in character to a benefit listed in Table A, and
 - (b) it is payable to a person resident in the United Kingdom.
- (2) But this section does not apply to a benefit which is charged to tax under Part 9 (pension income).

679 Taxable social security income

- (1) If section 678 applies, the taxable social security income for a taxable benefit for a tax year is the amount on which tax would be chargeable if the benefit were chargeable to tax under Case V of Schedule D (see in particular the provisions of ICTA listed in subsection (2)).
- (2) Those provisions of ICTA are—
 - (a) sections 65 and 68 (calculation of the amount of the income on which tax is to be charged in the tax year);
 - (b) section 584 (relief for unremittable overseas income);
 - (c) section 585 (relief on delayed remittances).

680 Person liable for tax

The person liable for any tax charged under this Part on a benefit to which section 678 applies is the person receiving or entitled to the benefit.

CHAPTER 7

TAXABLE AND OTHER FOREIGN BENEFITS: EXEMPTIONS

681 Taxable and other foreign benefits: exemptions

- (1) No liability to income tax arises on a taxable foreign benefit if, or to the extent that, the corresponding UK benefit is exempt income.
- (2) No liability to income tax arises on a benefit which is payable under the law of a country or territory outside the United Kingdom if it is substantially similar in character to a United Kingdom social security benefit listed in Table B.
- (3) In this section—
 - “taxable foreign benefit” means a benefit to which section 678 applies;

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

“corresponding UK benefit”, in relation to a taxable foreign benefit, means the taxable benefit listed in Table A to which the foreign benefit is substantially similar in character (see section 678).