

SCHEDULES

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS

PART I

AMENDMENTS OF THE CONTRIBUTIONS AND BENEFITS ACT

1. In section 4 of the Contributions and Benefits Act (payments treated as remuneration and earnings), in subsection (3) (meaning of “sickness payment”) omit the words “, within the meaning of section 57 below”.

2.—(1) Section 20 of the Contributions and Benefits Act (descriptions of contributory benefits) is amended as follows.

(2) In subsection (1) (list of benefits), for paragraphs (b) and (c) substitute—

- “(b) incapacity benefit, comprising—
- (i) short-term incapacity benefit; and
 - (ii) long-term incapacity benefit;”.

(3) In subsection (2)—

(a) in the definition of “long-term benefit” for paragraph (a) substitute—

“(a) long-term incapacity benefit;”;

(b) in the definition of “short-term benefit” for paragraph (b) substitute—

“(b) short-term incapacity benefit; and”.

3.—(1) Section 21 of the Contributions and Benefits Act (contribution conditions) is amended as follows.

(2) In subsection (1) (benefits which are subject to contribution conditions being satisfied) for “other than invalidity benefit” substitute “other than long-term incapacity benefit under section 30A below or short-term or long-term incapacity benefit under section 40 or 41 below”.

(3) In subsection (2), in the first part of the table (classes of contributions relevant in relation to benefits), for “Sickness benefit” substitute “Short-term incapacity benefit under section 30A below”.

4. In section 25(6) of the Contributions and Benefits Act (unemployment benefit: increases to be disregarded in determining rate of relevant retirement pension)—

(a) in paragraph (a) for “invalidity” substitute “incapacity”; and

(b) in paragraph (d) after “under section 150 of the Great Britain Administration Act” insert “of the sums mentioned in subsection (1)(e) of that section”.

5. After section 25 of the Contributions and Benefits Act (unemployment benefit) insert—

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“Determination of days for which unemployment benefit is payable.

25A.—(1) For the purposes of any provisions of this for Act relating to unemployment benefit—

- (a) subject to the provisions of this Act, a day shall not be treated in relation to any person as a day of unemployment unless on that day—
 - (i) he is capable of work; and
 - (ii) he is, or is deemed in accordance with regulations to be, available to be employed in employed earner’s employment; and that day falls in a week in which he is, or is deemed in accordance with regulations to be, actively seeking such employment;
- (b) where a person is an employed earner and his employment as such has not been terminated, then in any week a day on which in the normal course that person would not work in that employment or in any other employed earner’s employment shall not be treated as a day of unemployment unless each other day in that week (other than the day referred to in paragraph (e) below) on which in the normal course he would so work is a day of interruption of employment;
- (c) “day of interruption of employment” means a day which is a day of unemployment or of incapacity for work;
- (d) the following periods, namely—
 - (i) any 2 days of unemployment, whether consecutive or not, within a period of 6 consecutive days;
 - (ii) any 4 or more consecutive days of incapacity for work,shall be treated as a period of interruption of employment, and any 2 such periods not separated by a period of more than 8 weeks (“week” for this purpose meaning any period of 7 days) shall be treated as one period of interruption of employment;
- (e) Sunday or such other day in each week as may be prescribed shall not be treated as a day of unemployment and shall be disregarded in computing any period of consecutive days.

(2) For the purposes of any provision of this Act relating to unemployment benefit, references to a day or period of incapacity for work have the same meaning as they have for the purposes of incapacity benefit.

(3) Regulations may—

- (a) make provision (subject to subsections (1) and (2) above) as to the days which are or are not to be treated for the purposes of unemployment benefit as days of unemployment;
- (b) make provision with respect to—
 - (i) steps which a person is required to take in any week if he is to be regarded as actively seeking employed earner’s employment in that week;
 - (ii) the meaning of “week” in subsection (1)(a) above or in any other provision relating to a person’s actively seeking employed earner’s employment;
- (c) prescribe respective circumstances in which, for the purposes of subsection (1) (b) above—
 - (i) employment which has not been terminated may be treated as if it had been terminated; or
 - (ii) a day which falls in a period when an employed earner’s employment is suspended but does not fall to be so treated and which, apart from

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the regulations, would not fall to be treated as a day of interruption of employment may be treated as such a day.

(4) Where it has been determined that a person is to be deemed in accordance with regulations to be available for employment in employed earner's employment in respect of any day, the question of his actual availability for such employment in respect of that day may be subsequently determined on a review of the determination as to his deemed availability.

(5) Where it has been determined that a person is to be deemed in accordance with regulations to be actively seeking employed earner's employment in any week, the question of his actually doing so in that week may be subsequently determined on a review of the determination as to his deemed doing so.

(6) If regulations under paragraph (a) of subsection (3) above provide that for the purposes of unemployment benefit days falling in a post-employment period are not to be treated in relation to a person as days of unemployment, then, for the purpose of determining that period, the regulations may, in particular, make provision—

- (a) for calculating or estimating the amount or value of any payment made, or goods or services provided, to or for that person by his employer;
- (b) for calculating or estimating that person's level of earnings in the employment in question during any period or for treating him as having such a level of earnings as may be prescribed; and
- (c) for calculating or estimating the amount or value of any other sum which falls to be taken into account under the regulations.

In this subsection "post-employment period" means a period following the termination of a person's employment and falling to be determined in accordance with the regulations by reference to the amount or value of payments made, or goods or services provided, to or for the person by his employer at the time of, or within a prescribed period before or after, the termination of the employment.

Power to amend provisions as to days of entitlement.

25B.—(1) Subsections (1) and (3) of section 25A above shall, on and after such day as the Department may by order appoint, have effect—

- (a) with the substitution for subsection (1)(b) of the following paragraph—

“(b) where a person is an employed earner and his employment as such has not been terminated but has been suspended by the employer, a day shall not be treated in relation to that person as a day of unemployment unless it is the 7th or a later day in a continuous period of days on which that suspension has lasted, there being disregarded for the purposes of determining the first 6 days of the period (but for no other purpose)—

- (i) Sunday or such other day in each week as may have been prescribed under paragraph (e) of this subsection;
- (ii) any day of recognised or customary holiday in connection with the suspended employment;
- (iii) such other day or days as may be prescribed;”;

- (b) with the substitution for subsection (3)(c) of the following paragraph—

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- “(c) prescribe respective circumstances in which for the purposes of subsection (1)(b) above an employed earner’s employment may be treated—
- (i) as having been or, as the case may be, as not having been terminated; or
 - (ii) as having been or, as the case may be, as not having been suspended.”.

(2) Regulations may provide—

- (a) that paragraph (d) of section 25A(1) above shall have effect as if for the reference to 8 weeks there were substituted a reference to a larger number of weeks specified in the regulations; and
- (b) that sub-paragraph (ii) of that paragraph shall have effect as if the reference there to 4 consecutive days were to such lesser number of days, whether consecutive or not, within such period of consecutive days, as may be specified in the regulations.

(3) Regulations under subsection (2)(b) above may be made to have effect from such date, not earlier than 14th September 1980, as may be specified in the regulations.”.

6. In section 30 of the Contributions and Benefits Act (abatement of unemployment benefit on account of payments of occupational or personal pension), in subsection (3)(e) for “section 26(1) above and section 57(1) below” substitute “sections 25A(1) and 26(1) above”.

7. Omit sections 31 to 34 of the Contributions and Benefits Act (sickness benefit and invalidity benefit).

8. For section 40 of the Contributions and Benefits Act (invalidity pension for widows) substitute —

“Long-term incapacity benefit for widows.

40.—(1) Subject to subsection (2) below, this section applies to a woman who—

- (a) on her late husband’s death is not entitled to a widowed mother’s allowance or subsequently ceases to be entitled to such an allowance;
- (b) is incapable of work at the time when he dies or when she subsequently ceases to be so entitled;
- (c) either—
 - (i) would have been entitled to a widow’s pension if she had been over the age of 45 when her husband died or when she ceased to be entitled to a widowed mother’s allowance; or
 - (ii) is entitled to such a pension with a reduction under section 39(4) above; and
- (d) is not entitled to incapacity benefit apart from this section.

(2) This section does not apply to a woman unless—

- (a) her husband died after 5th April 1979; or
- (b) she ceased to be entitled to a widowed mother’s allowance after that date (whenever her husband died).

(3) A woman to whom this section applies is entitled to long-term incapacity benefit under this section for any day of incapacity for work which—

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- (a) falls in a period of incapacity for work that began before the time when her late husband died or she subsequently ceased to be entitled to a widowed mother's allowance; and
- (b) is after that time and after the first 364 days of incapacity for work in that period.

(4) A woman to whom this section applies who is not entitled to long-term incapacity benefit under subsection (3) above, but who is terminally ill, is entitled to short-term incapacity benefit under this section for any day of incapacity for work which—

- (a) falls in a period of incapacity for work that began before the time when her late husband died or she subsequently ceased to be entitled to a widowed mother's allowance; and
- (b) is after that time and after the first 196 days of incapacity for work in that period.

For the purposes of this subsection a woman is terminally ill if she suffers from a progressive disease and her death in consequence of that disease can reasonably be expected within 6 months.

(5) The weekly rate of incapacity benefit payable under this section is—

- (a) if the woman is not entitled to a widow's pension, that which would apply if she were entitled to long-term incapacity benefit under section 30A above; and
- (b) if she is entitled to a widow's pension with a reduction under section 39(4) above, the difference between the weekly rate of that pension and the weekly rate referred to in paragraph (a) above.

(6) A woman is not entitled to incapacity benefit under this section if she is over pensionable age; but if she has attained pensionable age and the period of incapacity for work mentioned in subsection (3)(a) or (4)(a) above did not terminate before she attained that age—

- (a) she shall, if not otherwise entitled to a Category A retirement pension, be entitled to such a pension; and
- (b) the weekly rate of the Category A retirement pension to which she is entitled (whether by virtue of paragraph (a) above or otherwise) shall be determined in the prescribed manner.

(7) Where a woman entitled to short-term incapacity benefit under subsection (4) above attains pensionable age and defers her entitlement to a Category A retirement pension or makes an election under section 54(1) below, the days of incapacity for work falling within the period of incapacity for work mentioned in that subsection shall, for the purpose of determining any subsequent entitlement to incapacity benefit under section 30A above or the rate of that benefit, be treated as if they had been days of entitlement to short-term incapacity benefit.

(8) References to short-term incapacity benefit at the higher rate shall be construed as including short-term incapacity benefit payable under subsection (4) above.”.

9. For section 41 of the Contributions and Benefits Act (invalidity pension for widowers) substitute—

“Long-term incapacity benefit for widowers.

41.—(1) This section applies to a man whose wife has died on or after 6th April 1979 and who either—

- (a) was incapable of work at the time when she died; or
- (b) becomes incapable of work within the prescribed period after that time;

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and is not entitled to incapacity benefit apart from this section.

(2) A man to whom this section applies is entitled to long-term incapacity benefit under this section for any day of incapacity for work which—

- (a) falls in a period of incapacity for work that began before the time when his wife died or within the prescribed period after that time; and
- (b) is after that time and after the first 364 days of incapacity for work in that period.

(3) A man to whom this section applies who is not entitled to long-term incapacity benefit under subsection (2) above, but who is terminally ill, is entitled to short-term incapacity benefit under this section for any day of incapacity for work which—

- (a) falls in a period of incapacity for work that began before the time when his late wife died or within the prescribed period after that time; and
- (b) is after that time and after the first 196 days of incapacity for work in that period.

For the purposes of this subsection a man is terminally ill if he suffers from a progressive disease and his death in consequence of that disease can reasonably be expected within 6 months.

(4) The weekly rate of incapacity benefit payable under this section is that which would apply if he were entitled to long-term incapacity benefit under section 30A above.

(5) A man is not entitled to incapacity benefit under this section if he is over pensionable age; but if he has attained pensionable age, and the period of incapacity for work mentioned in subsection (2)(a) or (3)(a) above did not terminate before he attained that age—

- (a) he shall, if not otherwise entitled to a Category A retirement pension and also not entitled to a Category B retirement pension by virtue of section 51 below, be entitled to a Category A retirement pension; and
- (b) the weekly rate of the Category A retirement pension to which he is entitled (whether by virtue of paragraph (a) above or otherwise) shall be determined in the prescribed manner.

(6) Where a man entitled to short-term incapacity benefit under subsection (3) above attains pensionable age and defers his entitlement to a Category A retirement pension or makes an election under section 54(1) below, the days of incapacity for work falling within the period of incapacity for work mentioned in that subsection shall, for the purpose of determining any subsequent entitlement to incapacity benefit under section 30A above or the rate of that benefit, be treated as if they had been days of entitlement to short-term incapacity benefit.

(7) References to short-term incapacity benefit at the higher rate shall be construed as including short-term incapacity benefit payable under subsection (3) above.”.

10. For section 42 of the Contributions and Benefits Act (entitlement to invalidity pension on termination of employment after period of entitlement to disability working allowance) substitute—

“Entitlement under s. 40 or 41 after period of employment or training for work.

42.—(1) Where—

- (a) a person who is engaged and normally engaged in remunerative work ceases to be so engaged; and
- (b) he is entitled to a disability working allowance for the week in which there falls the last day on which he is so engaged; and
- (c) he qualified for a disability working allowance for that week by virtue of incapacity benefit under section 40 or 41 above having been payable to him; and

- (d) the first day after he ceases to be engaged as mentioned in paragraph (a) above is for him a day of incapacity for work and falls not later than the end of the period of two years beginning with the last day for which he was entitled to incapacity benefit under that section,

any day since that day which fell within a week for which he was entitled to a disability working allowance shall be treated for the purposes of any claim for incapacity benefit under that section for a period commencing after he ceases to be engaged as mentioned in paragraph (a) above as having been a day of incapacity for work.

(2) Where—

- (a) a person becomes engaged in training for work; and
- (b) he was entitled to incapacity benefit under section 40 or 41 above for one or more of the 56 days immediately before he became so engaged; and
- (c) the first day after he ceases to be so engaged is for him a day of incapacity for work and falls not later than the end of the period of two years beginning with the last day for which he was entitled to incapacity benefit under that section,

any day since that day in which he was engaged in training for work shall be treated for the purposes of any claim for incapacity benefit under that section for a period commencing after he ceases to be so engaged as having been a day of incapacity for work.

In this subsection “training for work” means training for work in pursuance of arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or training of such other description as may be prescribed.

(3) For the purposes of this section “week” means any period of 7 days.”

11. In section 44(4) of the Contributions and Benefits Act (Category A retirement pension: basic rate), for “the rate of sickness benefit under section 31(6) above” substitute the “rate of short-term incapacity benefit under section 30B(3) above”.

12. In section 46 of the Contributions and Benefits Act (modifications of section 45 for calculating additional pension in certain benefits), omit—

- (a) subsection (1); and
- (b) in subsection (2), the words “or 41(4)”.

13. In section 47 of the Contributions and Benefits Act (increase of Category A retirement pension for invalidity), in subsection (1) (twice) and in subsection (5) for “invalidity allowance” substitute “age addition to long-term incapacity benefit by virtue of regulations under section 30B(7) above”.

14. Omit section 57 of the Contributions and Benefits Act (determination of days for which benefit is payable).

15. Omit section 58 of the Contributions and Benefits Act (incapacity for work: work as councillor to be disregarded).

16. Omit section 59 of the Contributions and Benefits Act (invalidity benefit: disqualifications, etc.).

17.—(1) Section 61 of the Contributions and Benefits Act (exclusion of increase of benefit in case of failure to satisfy contribution condition) is amended as follows.

(2) In subsection (2) for paragraph (b) substitute—

“(b) to short-term incapacity benefit at a rate determined under section 30B(3) above;”.

(3) In that subsection omit—

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- (a) paragraph (c) and the word “or” preceding it; and
- (b) the words “or invalidity pension” (twice).

18.—(1) Section 68 of the Contributions and Benefits Act (severe disablement allowance) is amended as follows.

(2) In subsection (8) (daily rate of allowance to be 1/6th of appropriate weekly rate) for “one sixth of the weekly rate referred to in subsection (7) above” substitute “1/7th of the weekly rate”.

(3) In subsection (11) (regulation-making powers), for paragraph (c) substitute—

- “(ca) may prescribe the circumstances in which a person is or is not to be treated as incapable of work;
- (cb) may prescribe the circumstances in which a person is or is not to be treated as receiving full-time education;”.

(4) In subsection (11), for paragraph (d) (reduction in respect of councillor’s allowance) substitute —

“and

(d) may make in relation to severe disablement allowance any such provision as is made in relation to incapacity benefit by section 30E above.”.

(5) In subsection (11), omit paragraph (e) and the word “and” preceding it.

(6) Omit subsection (12).

(7) For subsection (13) substitute—

“(13) In this section “retiring age” means 70 in the case of a man and 65 in the case of a woman.”.

19. In section 82 of the Contributions and Benefits Act (short-term benefit: increase for adult dependants)—

- (a) in subsection (1) omit “or sickness benefit” and for “the benefit in question” substitute “that benefit”; and
- (b) in subsection (2)(a) omit “or sickness benefit”.

20. In section 83(1) of the Contributions and Benefits Act (pension increase for dependent wife: pensions to which section applies), omit paragraph (b).

21. In section 84 of the Contributions and Benefits Act (pension increase for dependent husband), for subsection (1)(a) substitute—

- “(a) which began immediately upon the termination of a period for which the pensioner was entitled—
 - (i) to an increase in unemployment benefit by virtue of section 82(3) above; or
 - (ii) to an increase in incapacity benefit by virtue of any provision of regulations under section 86A below prescribed for the purposes of this sub-paragraph; and”.

22. In section 85(1) of the Contributions and Benefits Act (pension increase for non-spouse having care of dependent child: pensions to which section applies), omit paragraph (c).

23. Omit section 86 of the Contributions and Benefits Act (increase of wife’s invalidity pension for dependent husband).

24.—(1) Section 87 of the Contributions and Benefits Act (rate of increase where associated retirement pension is attributable to reduced contributions) is amended as follows.

(2) In subsection (1)(a) (benefits in relation to which the section applies)—

(a) for sub-paragraph (ii) substitute—

“(ii) to short-term incapacity benefit under section 30A(2)(b) above;”;

(b) omit sub-paragraph (iii).

(3) For the words in subsection (1) following paragraph (b) substitute—

“the amount of any increase of the benefit attributable to sections 82 to 86A above shall be determined in accordance with regulations under this section.”.

(4) In subsections (1)(b) and (2) omit “or invalidity pension”.

25. For section 88 of the Contributions and Benefits Act (pension increases to be in respect of only one adult dependant) substitute—

“Increases to be in respect of only one adult dependant.

88. A person shall not under or by virtue of sections 83 to 86A above be entitled for the same period to an increase of benefit in respect of more than one person.”.

26. In section 89 of the Contributions and Benefits Act (references to earnings to include occupational and personal pensions) for “sections 82 to 86 above” substitute “sections 82 to 86A above, and in regulations under section 86A above,”.

27. In section 91(1) of the Contributions and Benefits Act (effect of trade dispute on entitlement to increases: increases to which section applies), in paragraph (a) for “under sections 82 to 88 above” substitute “under or by virtue of sections 82 to 88 above”.

28. In section 93 of the Contributions and Benefits Act (dependency increases on termination of employment after period of entitlement to disability working allowance)—

(a) for paragraph (a) substitute—

“(a) a person becomes entitled—

(i) to the higher rate of short-term incapacity benefit, or to long-term incapacity benefit, by virtue of section 30C(5) or (6) or section 42 above;
or

(ii) to severe disablement allowance by virtue of section 68(10) or (10A) above; and”;

(b) in paragraph (b) and the closing words for “pension or” (four times) substitute “benefit or”.

29. Omit section 102 of the Contributions and Benefits Act (sickness benefit in respect of industrial injury).

30. In section 121(1) of the Contributions and Benefits Act (interpretation of Parts I to VI), for the definition of “day of incapacity for work” and “day of interruption of employment” substitute—

““day of interruption of employment” has the meaning assigned by section 25A(1)(c) above;”.

31. In section 125(1) of the Contributions and Benefits Act (income support: trade disputes), in the closing words, omit “by reason of disease or bodily or mental disablement”.

32. In section 128 of the Contributions and Benefits Act (disability working allowance), for subsection (2)(a)(i) substitute—

“(i) the higher rate of short-term incapacity benefit or long-term incapacity benefit;”.

33. In section 146(1) of the Contributions and Benefits Act (qualifying benefits for purposes of Christmas bonus for pensioners), for paragraph (b) substitute—

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“(b) long-term incapacity benefit;”.

34. In section 147(4) of the Contributions and Benefits Act (employer’s liability to pay statutory sick pay: days to be treated as days of incapacity for work), for the words from “a day shall not be treated as a day” to “unless on that day” substitute “a day of incapacity for work in relation to a contract of service means a day on which”.

35. In section 159(1) of the Contributions and Benefits Act (interpretation of Part XI), in the definition of “period of interruption of employment”—

- (a) omit “, sickness benefit and invalidity benefit”;
- (b) for “57(1)(d)” substitute “25A(1)(d)”.

36. In section 171 of the Contributions and Benefits Act (regulations and orders), in subsection (5) (powers excepted from general provision as to exercise of discretion), insert “25B(2)(a),” at the appropriate place and omit “, 57(9)(a)”.

37. In section 172(2) of the Contributions and Benefits Act (Assembly control: rules subject to confirmatory procedure)—

- (a) in paragraph (a) (regulations), omit “32(2), 59(2),”;
- (b) in paragraph (c) (orders), at the appropriate place insert “25B(1),” and omit “57(8),”.

38.—(1) Schedule 3 to the Contributions and Benefits Act (contribution conditions for entitlement to benefit) is amended as follows.

(2) In paragraph 2(6)(b) (meaning of “relevant benefit year” for purposes of contribution conditions for short-term incapacity benefit), for “period of interruption of employment” substitute “period of incapacity for work”.

(3) In paragraph 5(6) (widowed mother’s allowance, widow’s pension and Category A and B retirement pensions) for “an invalidity pension” substitute “long-term incapacity benefit”.

(4) In paragraph 8 (persons deemed to satisfy contribution conditions by virtue of entitlement to another short-term benefit) for “sickness benefit” (twice) substitute “short-term incapacity benefit”.

39. In Schedule 4 to the Contributions and Benefits Act (rates of benefit, etc.)—

- (a) in Part I (contributory periodical benefits), omit paragraph 3; and
- (b) in Part IV (increases for dependants), in paragraph 1 omit “or sickness” and sub-paragraphs (c) and (d).

40. In Schedule 5 to the Contributions and Benefits Act (increase of pension where entitlement is deferred), in paragraph 7(1)(a) for “under” (twice) substitute “by virtue of”.

41.—(1) Schedule 7 to the Contributions and Benefits Act (industrial injuries benefits) is amended as follows.

(2) In paragraph 3 (restriction on increase of unemployability supplement)—

- (a) in sub-paragraph (2) omit “or an invalidity pension”; and
- (b) in sub-paragraph (3) omit “or invalidity pension”.

(3) In paragraph 13(10) (retirement allowance: meaning of “day of interruption of employment”) omit “, sickness benefit or invalidity benefit”.

42.—(1) Schedule 11 to the Contributions and Benefits Act (circumstances in which entitlement to statutory sick pay does not arise) is amended as follows.

(2) In paragraph 2, for sub-paragraphs (d) and (e) substitute—

“(d) in the period of 57 days ending immediately before the relevant date the employee had at least one day on which—

- (i) he was entitled to incapacity benefit (or would have been so entitled had he satisfied the contribution conditions mentioned in section 30A(2)(a) above); or
- (ii) she was entitled to a maternity allowance; or
- (iii) he was entitled to a severe disablement allowance;”.

(3) Omit paragraph 5.

43.—(1) Schedule 12 to the Contributions and Benefits Act (relationship of statutory sick pay with benefits and other payments, etc.) is amended as follows.

(2) In paragraph 1 (day of entitlement to statutory sick pay not to count as day of incapacity for work for certain purposes), after “period of interruption of employment” insert “for the purposes of unemployment benefit or a period of incapacity for work for the purposes of incapacity benefit”.

(3) For paragraphs 3 and 4 (sickness benefit) substitute—

“Incapacity benefit

3.—(1) This paragraph and paragraph 4 below have effect to exclude, where a period of entitlement as between an employee and an employer of his comes to an end, the provisions by virtue of which short-term incapacity benefit is not paid for the first three days.

(2) If the first day immediately following the day on which the period of entitlement came to an end—

- (a) is a day of incapacity for work in relation to that employee; and
- (b) is not a day in relation to which paragraph 1 above applies by reason of any entitlement as between the employee and another employer,

that day shall, except in prescribed cases, be or form part of a period of incapacity for work notwithstanding section 30C(1)(b) above (by virtue of which a period of incapacity for work must be at least 4 days long).

(3) Where each of the first two consecutive days, or the first three consecutive days, following the day on which the period of entitlement came to an end is a day to which paragraphs (a) and (b) of sub-paragraph (2) above apply, that sub-paragraph has effect in relation to the second day or, as the case may be, in relation to the second and third days, as it has effect in relation to the first.

4.—(1) Where a period of entitlement as between an employee and an employer of his comes to an end, section 30A(3) above (exclusion of benefit for first 3 days of period) does not apply in relation to any day which—

- (a) is or forms part of a period of incapacity for work (whether by virtue of paragraph 3 above or otherwise); and
- (b) falls within the period of 57 days immediately following the day on which the period of entitlement came to an end.

(2) Where sub-paragraph (1) above applies in relation to a day, section 30A(3) above does not apply in relation to any later day in the same period of incapacity for work.”.

(4) For paragraph 5 substitute—

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“Incapacity benefit for widows and widowers

5. Paragraph 1 above does not apply for the purpose of determining whether the conditions specified in section 40(3) or (4) or section 41(2) or (3) above are satisfied.”.

44.—(1) Schedule 13 to the Contributions and Benefits Act (relationship between statutory maternity pay and other benefits) is amended as follows.

(2) For paragraph 1 substitute—

“1. Except as may be prescribed, a day which falls within the maternity pay period shall not be treated for the purposes of this Act—

(a) as a day of unemployment for the purpose of determining whether it forms part of a period of interruption of work; or

(b) as a day of incapacity for work for the purpose of determining whether it forms part of a period of incapacity for work for the purposes of incapacity benefit.”.

(3) For paragraph 2 substitute—

“Incapacity benefit

2.—(1) Regulations may provide that in prescribed circumstances a day which falls within the maternity pay period shall be treated as a day of incapacity for work for the purpose of determining entitlement to the higher rate of short-term incapacity benefit or to long-term incapacity benefit.

(2) Regulations may provide that an amount equal to a woman’s statutory maternity pay for a period shall be deducted from any such benefit in respect of the same period and a woman shall be entitled to such benefit only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.”.