



Social Security and Housing Benefits Act 1982

1982 CHAPTER 24

PART I

STATUTORY SICK PAY

1 Employer's liability

- (1) Where an employee has a day of incapacity for work in relation to his contract of service with an employer, that employer shall, if the conditions set out in sections 2 to 4 of this Act are satisfied, be liable to make to him, in accordance with the following provisions of this Part, a payment (to be known as "statutory sick pay") in respect of that day.
- (2) Any agreement shall be void to the extent that it purports—
 - (a) to exclude, limit or otherwise modify any provision of this Part; or
 - (b) to require an employee to contribute (whether directly or indirectly) towards any costs incurred by his employer under this Part.
- (3) For the purposes of this Part a day shall not be treated as a day of incapacity for work in relation to any contract of service unless on that day the employee concerned is, or is deemed in accordance with regulations to be, incapable by reason of some specific disease or bodily or mental disablement of doing work which he can reasonably be expected to do under that contract.
- (4) In any case where an employee has more than one contract of service with the same employer the provisions of this Part shall, except in such cases as may be prescribed and subject to the following provisions of this Part, have effect as if the employer were a different employer in relation to each contract of service.

The qualifying conditions

2 Period of incapacity for work

- (1) The first condition is that the day in question forms part of a period of incapacity for work.
- (2) In this Part " period of incapacity for work " means any period of four or more consecutive days, each of which is a day of incapacity for work in relation to the contract of service in question.
- (3) Any two periods of incapacity for work which are separated by a period of not more than two weeks shall be treated as a single period of incapacity for work.
- (4) No day of the week shall be disregarded in calculating any period of consecutive days for the purposes of this section.
- (5) A day may be a day of incapacity for work in relation to a contract of service, and so form part of a period of incapacity for work, notwithstanding that—
 - (a) it falls before the making of the contract or after the contract expires or is brought to an end ; or
 - (b) it is not a day on which the employee concerned would be required by that contract to be available for work.

3 Period of entitlement

- (1) The second condition is that the day in question falls within a period which is, as between the employee and his employer, a period of entitlement.
- (2) For the purposes of this Part a period of entitlement as between an employee and his employer, is a period beginning with the commencement of a period of incapacity for work and ending with whichever of the following first occurs—
 - (a) the termination of that period of incapacity for work;
 - (b) the day on which the employee reaches, as against the employer concerned, his maximum entitlement to statutory sick pay (determined in accordance with section 5 of this Act);
 - (c) the day on which the employee's contract of service with the employer concerned expires or is brought to an end;
 - (d) in the case of an employee who is, or has been, pregnant, the day immediately preceding the beginning of the disqualifying period.
- (3) Schedule 1 to this Act has effect for the purpose of specifying circumstances in which a period of entitlement does not arise in relation to a particular period of incapacity for work.
- (4) A period of entitlement as between an employee and an employer of his may also be, or form part of, a period of entitlement as between him and another employer of his.
- (5) Regulations may provide, in relation to prescribed cases, for a period of entitlement to end otherwise than in accordance with subsection (2) above.
- (6) In a case where the employee's contract of service first takes effect on a day which falls within a period of incapacity for work, the period of entitlement begins with that day.

- (7) Regulations shall make provision as to an employer's liability under this Part to pay statutory sick pay to an employee in any case where the employer's contract of service with that employee has been brought to an end by the employer solely, or mainly, for the purpose of avoiding liability for statutory sick pay.
- (8) Subsection (2)(d) above does not apply in relation to an employee who has been pregnant if her pregnancy terminated, before the beginning of the disqualifying period, otherwise than by confinement.
- (9) In this section—
 - " confinement " has the same meaning as in section 23 of the principal Act;
 - " disqualifying period " means the period of eighteen weeks beginning with the eleventh week before the expected week of confinement; and
 - " expected week of confinement " has the same meaning as in section 22 of the principal Act.

4 Qualifying days

- (1) The third condition is that the day in question is a qualifying day.
- (2) The days which are, for the purposes of this Part, to be qualifying days as between an employee and an employer of his (that is to say those days of the week on which he is required by his contract of service with that employer to be available for work or which are chosen to reflect the terms of that contract) shall be such day, or days, as may be agreed between the employee and his employer or, failing such agreement, determined in accordance with regulations.
- (3) In any case where qualifying days are determined by agreement between an employee and his employer there shall, in each week (beginning with Sunday), be at least one qualifying day.
- (4) A day which is a qualifying day as between an employee and an employer of his may also be a qualifying day as between him and another employer of his.

Limitations on entitlement, etc.

5 Limitations on entitlement

- (1) Statutory sick pay shall not be payable for the first three qualifying days in any period of entitlement.
- (2) An employee shall not be entitled, as against any one employer, to an aggregate amount of statutory sick pay in respect of any one period of entitlement, or tax year, which exceeds his maximum entitlement.
- (3) The maximum entitlement as against any one employer is reached on the day on which the amount to which the employee has become entitled by way of statutory sick pay during the period of entitlement in question or, as the case may be, the aggregate amount to which he has become so entitled during the tax year in question first reaches or passes the entitlement limit.
- (4) The entitlement limit is an amount equal to eight times the appropriate weekly rate set out in section 7 of this Act.

- (5) Regulations may make provision for calculating the entitlement limit in any case where an employee's entitlement to statutory sick pay is calculated by reference to different weekly rates in the same tax year or period of entitlement.

6 Notification of incapacity for work

- (1) Regulations shall prescribe the manner in which, and the time within which, notice of any day of incapacity for work is to be given by or on behalf of an employee to his employer.
- (2) An employer who would, apart from this section, be liable to pay an amount of statutory sick pay to an employee in respect of a qualifying day (the " day in question ") shall be entitled to withhold payment of that amount if—
- (a) the day in question is one in respect of which he has not been duly notified in accordance with regulations under subsection (1) above ; or
 - (b) he has not been so notified in respect of any of the first three qualifying days in a period of entitlement (a " waiting day ") and the day in question is the first qualifying day in that period of entitlement in respect of which the employer is not entitled to withhold payment—
 - (i) by virtue of paragraph (a) above; or
 - (ii) in respect of an earlier waiting day by virtue of this paragraph.
- (3) Where an employer withholds any amount of statutory sick pay under this section—
- (a) the period of entitlement in question shall not be affected; and
 - (b) for the purposes of calculating his maximum entitlement in accordance with section 5 of this Act, the employee shall not be taken to have become entitled to the amount so withheld.

Rate of payment, etc.

7 Rate of payment

- (1) Statutory sick pay shall be payable by an employer at the weekly rate of—
- (a) £37, in a case where the employee's normal weekly earnings under his contract of service with that employer are not less than £60 ;
 - (b) £31, in a case where those earnings are less than £60 but not less than £45 ; or
 - (c) £25, in any other case.
- (2) The amount of statutory sick pay payable by any one employer in respect of any day shall be the weekly rate applicable on that day divided by the number of days which are, in the week (beginning with Sunday) in which that day falls, qualifying days as between that employer and the employee concerned.
- (3) The Secretary of State shall in the tax year 1982-1983, and in each subsequent tax year, review the sums specified in subsection (1)(a), (b) and (c) above for the purpose of determining whether they have retained their value in relation to the general level of prices obtaining in Great Britain.
- (4) For the purposes of any such review the Secretary of State shall estimate the general level of prices in such manner as he thinks fit.

- (5) Following any such review the Secretary of State may, in the tax year in which the review is carried out, prepare and lay before Parliament the draft of an order increasing one or more of the sums by such amount as he considers appropriate.
- (6) If a draft order laid before Parliament in pursuance of this section is approved by resolution of each House, the Secretary of State shall make an order in the form of the draft.
- (7) If on a review under this section the Secretary of State concludes that the general level of prices in Great Britain has risen during the period under review, but decides—
- (a) not to prepare and lay before Parliament the draft of an order increasing one or more of the sums ; or
 - (b) to prepare, and so lay, the draft of an order which provides for no increase in any one or more of the sums, or for an increase in any of them which differs from the appropriate amount;
- he shall, unless in his opinion the amount by which that general level has risen, or, as the case may be, the amount by which an increase differs from the appropriate amount, is inconsiderable, lay before Parliament a report explaining his reasons for so deciding.
- (8) If on a review under this section the Secretary of State concludes that the general level of prices in Great Britain has not risen during the period under review but decides to prepare and lay before Parliament the draft of an order increasing one or more of the sums, he shall lay before Parliament a report explaining his reasons for so deciding.
- (9) In subsection (7) above " appropriate amount " means the amount which would, in the opinion of the Secretary of State, reflect the amount by which the general level of prices in Great Britain has risen during the period under review.
- (10) A draft order prepared under subsection (5) above shall be framed so as to bring the increases in the sums to which it relates into force on the first day of the tax year beginning after the tax year in which the order is laid before Parliament in draft; and shall make such transitional provision as the Secretary of State considers expedient in respect of periods of entitlement running at that date.

8 Regulations as to method of payment, etc.

- (1) Regulations may prescribe the manner in which statutory sick pay may, and may not, be paid.
- (2) Regulations may prescribe, in relation to any case where—
- (a) a decision has been made by an insurance officer, local tribunal or Commissioner in proceedings under this Part that an employee is entitled to an amount of statutory sick pay ; and
 - (b) the time for bringing an appeal against the decision has expired and either—
 - (i) no such appeal has been brought; or
 - (ii) such an appeal has been brought and has been finally disposed of;the time within which that amount of statutory sick pay is to be paid.
- (3) Regulations may make provision—
- (a) enabling a person to be appointed to exercise, on behalf of an employee who may be or become unable for the time being to act, any right or power which the employee may be entitled to exercise under this Part;

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

- (b) authorising a person so appointed to receive and deal with, on behalf of the employee, any sum payable by way of statutory sick pay ;
 - (c) in connection with an employee's death—
 - (i) enabling proceedings on a question as to, or arising under this Part in connection with, entitlement to statutory sick pay to be begun or continued in his name;
 - (ii) authorising payment or distribution of statutory sick pay to or amongst persons claiming as his personal representatives, legatees, next of kin, or creditors (or, in any case where a deceased employed earner was illegitimate, to or amongst others); and
 - (iii) dispensing with strict proof of the title of persons so claiming ; and
 - (d) adjusting amounts payable by way of statutory sick pay so as to avoid fractional amounts or facilitate computation.
- (4) In subsection (3)(c)(ii) above " next of kin " means the persons who would take beneficially (or who, in Scotland, would be entitled to the moveable estate of the deceased) on an intestacy.

9 Recovery by employers of amounts paid by way of statutory sick pay

- (1) Regulations shall make provision—
- (a) entitling, except in prescribed circumstances, any employer who has made a payment of statutory sick pay to recover the amount so paid by making one or more deductions from his contributions payments ; and
 - (b) for the payment, in prescribed circumstances, by or on behalf of the Secretary of State of sums to employers who are unable so to recover the whole, or any part, of any payments of statutory sick pay which they have made.
- (2) In subsection (1)(a) above, "contributions payments", in relation to an employer, means any payments (other than payments arising under the National Insurance Surcharge Act 1976) which the employer is required, by or under any enactment, to make in discharge of any liability in respect of primary or secondary Class 1 contributions.
- (3) Regulations under this section may, in particular.—
- (a) require employers who have made payments of statutory sick pay to furnish to the Secretary of State such documents and information, at such times, as may be prescribed ; and
 - (b) provide for any deduction made in accordance with the regulations to be disregarded for prescribed purposes.
- (4) The power to make regulations conferred by paragraph 5 of Schedule 1 to the principal Act (power to combine collection of contributions with collection of income tax) shall include power to make such provision as the Secretary of State considers expedient in consequence of any provision made by or under this section.
- (5) Provision made in regulations under paragraph 5 of Schedule 1, by virtue of subsection (4) above, may in particular require the inclusion—
- (a) in returns, certificates and other documents ; or
 - (b) in any other form of record ;

which the regulations require to be kept or produced or to which those regulations otherwise apply, of such particulars relating to statutory sick pay as may be prescribed by those regulations.

- (6) Where, in accordance with any provision of regulations made under this section, an amount has been deducted from an employer's contributions payments, the amount so deducted shall (except in such cases as may be prescribed) be treated for the purposes of any provision made by or under any enactment in relation to primary or secondary Class 1 contributions as having been—
- (a) paid (on such date as may be determined in accordance with the regulations); and
 - (b) received by the Secretary of State ;
- towards discharging the liability mentioned in subsection (2) above.
- (7) Any sums paid under regulations made by virtue of subsection (1)(b) above shall be paid out of the National Insurance Fund.
- (8) Any employer who, in purporting to comply with any requirement imposed by regulations under this section—
- (a) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular ; or
 - (b) recklessly produces or furnishes any document or information which is false in a material particular ;
- shall be guilty of an offence.
- (9) A person guilty of an offence under subsection (8) above shall be liable, on summary conviction—
- (a) in the case of an offence under paragraph (a), to a fine not exceeding £1,000 or to imprisonment for a term of not more than three months or to both; or
 - (b) in the case of an offence under paragraph (b), to a fine not exceeding £500.
- (10) Subsections (8) and (9) above shall apply, in place of the provision made by section 98(2) of the Taxes Management Act 1970 (penalties for providing false information etc.) as applied by paragraph 5(2) of Schedule 1 to the principal Act, in relation to such requirements of the regulations made under paragraph 5 of Schedule 1 by virtue of subsection (4) above as may be specified in those regulations.

Relationship with benefits and other payments, etc.

10 Relationship with benefits and other payments, etc.

Schedule 2 to this Act has effect with respect to the relationship between statutory sick pay and certain benefits and payments and for the purpose of modifying other enactments.

*Determination of questions***11 Determination of questions by Secretary of State**

- (1) Any question arising under any provision of this Part, or of regulations under this Part, as to—
- (a) whether a person is, or was, an employee or employer of another;
 - (b) whether an employer is entitled to make any deduction from his contributions payments, in accordance with regulations under section 9 of this Act;
 - (c) whether a payment falls to be made to an employer in accordance with those regulations ;
 - (d) the amount that falls to be so deducted or paid ; or
 - (e) whether two or more employers or two or more contracts of service are, by virtue of regulations made under section 26(5) of this Act, to be treated as one;
- shall be determined by the Secretary of State on a reference to him under this section made in accordance with regulations.
- (2) Regulations under subsection (1) above may, in particular—
- (a) provide for questions to be referred to the Secretary of State under this section only by prescribed persons or classes of person ; and
 - (b) make provision as to the manner in which, and time within which, references are to be made.
- (3) The Secretary of State may, if he thinks fit, before determining any question under this section, appoint a person to hold an inquiry into, and to report on, the question or any matter arising in connection with it.
- (4) A question of law arising in connection with the determination by the Secretary of State of any question under this section may, if he thinks fit, be referred for decision to the appropriate court, that is to say the High Court or, in Scotland, the Court of Session.
- (5) Any person aggrieved by the decision of the Secretary of State on any such question of law which is not so referred may appeal from that decision to the appropriate court.
- (6) If the Secretary of State determines to refer any question of law to the appropriate court, he shall give notice in writing of his intention to do so to any person appearing to him to be concerned with that question.
- (7) On any such reference or appeal—
- (a) the Secretary of State shall be entitled to appear and be heard;
 - (b) the court may order him to pay the costs (in Scotland, the expenses) of any other person, whether or not the decision is in that other person's favour and whether or not the Secretary of State has appeared on the reference or appeal;
 - (c) the decision of the court shall be final.
- (8) Rules of court may include provision for regulating references and appeals under this section and for limiting the time within which such appeals may be brought.

12 Determination by insurance officer or local tribunal

- (1) Any question arising under any provision of this Part, or of regulations under this Part, as to, or in connection with, entitlement to statutory sick pay shall, unless it is for determination—

- (a) by the Secretary of State under section 11 of this Act; or
 - (b) by a local tribunal on a reference under subsection (2) or (4) below;be determined by an insurance officer on a reference to him under this subsection.
- (2) Regulations may prescribe cases in which any such question is to be determined by a local tribunal on a reference to the tribunal under this subsection.
- (3) An insurance officer to whom a question is referred under subsection (1) above shall, so far as is practicable, dispose of it within fourteen days of the making of the reference.
- (4) An insurance officer may, instead of determining a question referred to him under subsection (1) above, refer it to a local tribunal.
- (5) Any reference under this section shall be made in accordance with regulations.
- (6) Regulations under subsection (5) above may, in particular—
 - (a) provide for questions to be referred under this section only by the Secretary of State or prescribed persons or classes of person ; and
 - (b) make provision as to the manner in which, and time within which, references are to be made.
- (7) Where an insurance officer refers a question to a local tribunal under subsection (4) above, notice of the reference shall be given in writing by the Secretary of State to those appearing to him to be concerned with the question.
- (8) Where an insurance officer determines a question referred to him under subsection (1) above, notice—
 - (a) of the insurance officer's decision and of the reasons for it; and
 - (b) of the right of appeal given by section 13(1) of this Act;shall be given in writing by the Secretary of State to those appearing to him to be concerned with the question.

13 Appeals

- (1) Where an insurance officer has determined a question referred to him under section 12(1) of this Act any person aggrieved by his decision may appeal to a local tribunal; but where—
 - (a) there has arisen a question for determination by the Secretary of State under section 11 of this Act;
 - (b) that question has been determined ; and
 - (c) the insurance officer certifies that the decision on that question is the sole ground of his decision ;no appeal lies under this section without leave of the chairman of the local tribunal.
- (2) Where a local tribunal has taken any decision in respect of a question referred to it under section 12(2) or (4) of this Act or on an appeal brought under subsection (1) above, an insurance officer or any person aggrieved by the decision may, subject to section 15 of the Social Security Act 1980 (leave required for appeal from local tribunal to Commissioner), appeal to a Commissioner.
- (3) An appeal to a local tribunal under subsection (1) above shall be brought by giving notice of appeal at a local office before the expiry of the period of 28 days beginning

with the date on which notice of the insurance officer's decision was given to the appellant in accordance with section 12(8) of this Act or within such further time as the chairman of the local tribunal may for good cause allow.

- (4) An appeal to a Commissioner under subsection (2) above shall be brought by giving notice of appeal at a local office before the expiry of the period of three months beginning—
- (a) in a case where leave to appeal is required, with the date on which leave was given for the appeal; or
 - (b) in any other case, with the date on which notice of the tribunal's decision was given to the appellant;
- or within such further time as a Commissioner may for special reasons allow.
- (5) A notice of appeal under subsection (3) or (4) above shall be in writing and shall contain a statement of the grounds upon which the appeal is made; and regulations may provide for copies of the notice to be sent by the Secretary of State to prescribed persons.

14 Review of decisions

- (1) Regulations may make provision for requiring or enabling, in prescribed circumstances—
- (a) the Secretary of State to review any determination of his under this Part; and
 - (b) an insurance officer or (on a reference from an insurance officer) a local tribunal to review any other determination under this Part, whether made by an insurance officer or by a local tribunal or Commissioner ;
- and as to the consequences of any such review.
- (2) Regulations under this section may in particular provide for any decision on a review carried out in accordance with the regulations to be subject to appeal in such circumstances and in such manner as may be prescribed.

15 Determination: supplemental

- (1) If, in determining any question under this Part, it appears to an insurance officer that a question arises for determination by the Secretary of State under section 11 of this Act the insurance officer shall refer that question to the Secretary of State for determination.
- (2) An insurance officer may, in any case, postpone the reference, or determination, of any question until any other question has been determined (whether by him or by a local tribunal or Commissioner).
- (3) Subsections (1) and (2) above apply to a local tribunal and a Commissioner as they apply to an insurance officer except that a tribunal or Commissioner shall, instead of referring a question to the Secretary of State in accordance with subsection (1), direct it to be so referred by an insurance officer.
- (4) Where a question for determination under this Part (other than one for determination by the Secretary of State under section 11) first arises in the course of an appeal to a local tribunal or Commissioner, the tribunal or Commissioner may proceed to determine the question notwithstanding that it has not been considered by an insurance officer.

- (5) Regulations may make provision as to the procedure to be followed in connection with the determination of questions under this Part; and any such regulations may, in particular, make any provision of a kind mentioned in Schedule 3 to this Act.

16 Enforcement of decisions

- (1) This section applies to any case where—
- (a) a decision of an insurance officer, local tribunal or Commissioner in proceedings under this Part is that an employee is entitled to an amount of statutory sick pay; and
 - (b) the requirements of regulations made under section 8(2) of this Act (time within which statutory sick pay to be paid) have not been satisfied in respect of the whole or any part of that amount.
- (2) In a case to which this section applies—
- (a) any amount payable in pursuance of the decision shall, if the county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court;
 - (b) the decision (or a copy of the decision certified by the person who, or chairman of the tribunal which, made it) may 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.
- (3) Regulations may, in relation to cases to which this section applies, make provision for payments to be made by the Secretary of State to employees in prescribed circumstances in connection with court fees (including sheriff officers' and messengers-at-arms' fees for doing diligence) incurred, or likely to be incurred, by those employees in seeking to enforce decisions by virtue of subsection (2) above.
- (4) The regulations may, in particular, make provision for the recovery of payments made under the regulations from persons to whom such payments are made; and any sum so recoverable may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits ("benefits" having the meaning given by the regulations).
- (5) Any payment made by the Secretary of State under the regulations shall be paid out of the National Insurance Fund, and any sums recovered by him under the regulations shall be paid into that Fund.

17 Provision of information: general

- (1) Where the Secretary of State considers that it is reasonable for information held by him to be disclosed to an employer, for the purpose of enabling that employer to determine the duration of a period of entitlement in respect of an employee, or whether such a period exists, he may disclose the information to that employer.
- (2) Any employee who claims to be entitled to statutory sick pay from his employer shall, if so required by his employer, provide such information as may reasonably be required for the purpose of determining the duration of the period of entitlement in question or whether a period of entitlement exists as between them.
- (3) Where an employee asks an employer of his to provide him with a written statement, in respect of a period before the request is made, of one or more of the following—

- (a) the days within that period which the employer regards as days in respect of which he is liable to pay statutory sick pay to that employee ;
- (b) the reasons why the employer does not so regard the other days in that period ;
- (c) the employer's opinion as to the amount of statutory sick pay to which the employee is entitled in respect of each of those days ;

the employer shall, to the extent to which the request was reasonable, comply with it within a reasonable time.

- (4) Regulations may require employers to maintain such records in connection with statutory sick pay as may be prescribed and may provide for—
 - (a) any person claiming to be entitled to statutory sick pay; or
 - (b) any other person who is a party to proceedings arising under this Part;
 to furnish to the Secretary of State, within a prescribed period, any information required for the determination of any question arising in connection therewith.

18 Claims for sickness and other benefits: provision of information by employers

- (1) Regulations may make provision requiring an employer, in a case falling within subsection (3) below, to furnish information in connection with the making, by a person who is, or has been, an employee of that employer, of a claim for—
 - (a) sickness benefit;
 - (b) a maternity allowance ;
 - (c) an invalidity pension ;
 - (d) industrial injuries benefit; or
 - (e) a non-contributory invalidity pension.
- (2) Regulations under this section shall prescribe—
 - (a) the kind of information to be furnished in accordance with the regulations;
 - (b) the person to whom information of the prescribed kind is to be furnished ; and
 - (c) the manner in which, and period within which, it is to be furnished.
- (3) The cases are—
 - (a) where, by virtue of paragraph 2 of Schedule I to this Act or of regulations made under paragraph 1 of that Schedule, a period of entitlement does not arise in relation to a period of incapacity for work ;
 - (b) where a period of entitlement has come to an end but the period of incapacity for work which was running immediately before the period of entitlement came to an end continues ; and
 - (c) where a period of entitlement has not come to an end but, on the assumption that—
 - (i) the period of incapacity for work in question continues to run for a prescribed period; and
 - (ii) there is no material change in circumstances,
 the period of entitlement will have ended on or before the end of the prescribed period.

Inspections and offences

19 Inspections

- (1) Every appointment of an inspector under section 144 of the principal Act shall be an appointment for the purposes of this Part as well as for the purposes of the principal Act, the Family Income Supplements Act 1970, and the Supplementary Benefits Act 1976.
- (2) Accordingly, the principal Act shall have effect as if—
 - (a) in sections 144(2) to (5) and 145 references to that Act included references to this Part; and
 - (b) in section 145—
 - (i) in subsection (1)(b) the reference to benefit included a reference to statutory sick pay ;
 - (ii) in subsection (2) (b) the reference to any person who is or has been employing another included a reference to any person who is or has been an employer (within the meaning of this Part); and
 - (iii) in subsection (2)(e) the reference to any person who is or has been liable to pay contributions included a reference to any person who is or has been an employee (within the meaning of this Part).
- (3) The following provisions of sections 144 and 145 (which among other things relate to injuries and diseases and to contributions and premiums) shall not apply for the purposes of this Part—
 - (a) in section 144, subsection (2)(b)(ii) and (d) and so much of subsection (2)(c) as relates to contributions and premiums ;
 - (b) in section 145, subsection (1)(a).

20 Offences and penalties

Regulations may provide for contravention of, or failure to comply with, any provision contained in regulations made under section 8(2), 9(3)(a), 17(4) or 18 of this Act to be an offence under this Part and for the recovery, on summary conviction of any such offence, of penalties not exceeding—

- (a) for any one offence, £200 ; or
- (b) for an offence of continuing any such contravention or failure after conviction, £20 for each day on which it is so continued.

21 General provisions as to prosecutions

- (1) Proceedings in England and Wales for an offence under this Part shall not be instituted except—
 - (a) by or with the consent of the Secretary of State; or
 - (b) by an inspector or other officer authorised for that purpose by special or general directions of the Secretary of State.
- (2) An inspector or other officer so authorised may, although not of counsel or a solicitor, prosecute or conduct before a magistrates' court any proceedings for such an offence.
- (3) Notwithstanding any enactment prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Part may in

England and Wales be commenced at any time within whichever of the following periods expires the later—

- (a) 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;
 - (b) the period of 12 months after the commission of the offence.
- (4) In Scotland, proceedings for an offence under this Part may be commenced at any time within whichever of the following periods expires the later—
- (a) the period of three months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a report to the Lord Advocate with a view to consideration of the question of prosecution, comes to the knowledge of the Secretary of State;
 - (b) the period of 12 months after the commission of the offence.

Section 331(3) of the Criminal Procedure (Scotland) Act 1975 (time limits) shall apply for the purposes of this subsection as it applies for the purposes of that section.

- (5) For the purposes of subsections (3) and (4) above, a certificate purporting to be signed by or on behalf of the Secretary of State as to the date on which the evidence in question came to his knowledge is conclusive evidence of the date on which it did so.
- (6) In proceedings for an offence under this Part, the wife or husband of the accused—
- (a) is competent to give evidence, whether for or against the accused;
 - (b) is not compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him by the accused during the marriage.
- (7) Where an offence under this Part 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.

Where the affairs of a body corporate are managed by its members, this subsection 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.

- (8) For the purposes of section 1 of the Criminal Evidence Act 1965 (admissibility of statements contained in certain business records) as it applies in relation to proceedings for any offence under this Part "business" shall include the activities of the Secretary of State.

Miscellaneous

22 Modification of provisions of Part I

- (1) The Secretary of State may make regulations modifying provisions of this Part, in such manner as he thinks proper, in their application to any person who is, has been or is to be—
- (a) employed on board any ship, vessel, hovercraft or aircraft ;
 - (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or

- (c) in prescribed employment in connection with continental shelf operations.
- (2) Regulations under subsection (1) above may in particular provide—
 - (a) for any provision of this Part to apply to any such person, notwithstanding that it would not otherwise apply ;
 - (b) for any provision of this Part not to apply to any such person, notwithstanding that it would otherwise apply ;
 - (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain;
 - (d) for the taking of evidence, for the purposes of the determination of any question arising under this Part, in a country or territory outside Great Britain, by a British consular official or such other person as may be prescribed.
- (3) " Continental shelf operations " means the exploitation of resources mentioned in section 1(1) of the Continental Shelf Act 1964 or the exploration of the seabed and subsoil in any area designated under section 1(7) of that Act.

23 Statutory sick pay to count as remuneration for principal Act

For the purposes of section 3 of the principal Act (meaning of " earnings "), any sums paid to, or for the benefit of, a person in satisfaction (whether in whole or in part) of any entitlement of his to statutory sick pay shall be treated as remuneration derived from an employed earner's employment.

24 Payments of statutory sick pay wrongly made

- (1) Regulations may make provision for the payment to an employer, by the Secretary of State and in prescribed circumstances, of an amount calculated in accordance with the regulations in any case where—
 - (a) a payment purporting to be a payment of statutory sick pay (the " payment wrongly made ") has been made by that employer to a person (the " recipient "); and
 - (b) that employer was not liable to make that payment under this Part.
- (2) Regulations may make provision, in relation to such a case, for the recovery by the Secretary of State from the recipient, in prescribed circumstances, of an amount calculated in accordance with the regulations.
- (3) Regulations under this section may make such incidental and supplemental provision in relation to any payment made, or amount recovered, by the Secretary of State under the regulations as he considers expedient and may, in particular, provide—
 - (a) for any such payment to be treated as discharging, or in prescribed circumstances as partially discharging, any liability of the recipient to repay to the employer the payment wrongly made ;
 - (b) for any such payment to be treated, in prescribed circumstances, as a payment to the recipient of a prescribed benefit (" benefit " having the meaning given by the regulations).
- (4) In this section " employer " includes a person believing himself to be an employer of the recipient in question.

- (5) Any payment made by the Secretary of State in accordance with regulations under this section shall be paid out of the National Insurance Fund and any amount recovered by him in accordance with the regulations shall be paid by him into that Fund.

25 Disclosure of information by Inland Revenue

- (1) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to the Inland Revenue shall prevent information obtained in connection with the assessment or collection of income tax under Schedule E 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 this Part or of any corresponding enactment of Northern Ireland legislation.
- (2) Subsection (1) above extends only to disclosure by or under the authority of the 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 Inland Revenue; or
 - (b) for the purposes of any proceedings (civil or criminal) in connection with the operation of this Part or of any corresponding enactment of Northern Ireland legislation.

26 Interpretation of Part I and supplementary provisions

- (1) In this Part—

" Commissioner " means a Social Security Commissioner and includes a tribunal of Commissioners constituted under section 116 of the principal Act;

" contract of service " (except in paragraph (a) of the definition below of " employee ") includes any arrangement providing for the terms of appointment of an employee ;

" employed earner's employment " has the same meaning as in die principal Act;

" employee " means a person who is—

- (a) gainfully employed in Great Britain either under a contract of service or in an office (including elective office) with emoluments chargeable to income tax under Schedule E; and
- (b) over the age of 16 ;

but subject to regulations, which may provide for cases where any such person is not to be treated as an employee for the purposes of this Part and for cases where any person who would not otherwise be an employee for those purposes is to be treated as an employee for those purposes;

" employer ", in relation to an employee and a contract of service of his, means the secondary contributor (within the meaning of section 4 of the principal Act) in relation to any earnings paid, or to be paid, to or for the benefit of that employee under that contract;

" insurance officer " means an officer appointed under section 97(1) of the principal Act;

" local office " means any office appointed by the Secretary of State as a local office for the purposes of this Part;

" local tribunal " means a tribunal established under section 97(2) of the principal Act;

" maternity allowance " means an allowance payable under section 22 of the principal Act;

" pensionable age " means, in the case of a man, 65 or, in the case of a woman, 60; " period of entitlement " has the meaning given by section 3 of this Act;

" period of incapacity for work " has the meaning given by section 2 of this Act;

" period of interruption of employment " has the same meaning as it has in the principal Act by virtue of section 17(1)(d);

" prescribed " means prescribed by regulations ;

" primary Class 1 contributions " and " secondary Class 1 contributions " have the same meaning as in the principal Act;

" qualifying day " has the meaning given by section 4 of this Act;

" week " means any period of seven days.

- (2) For the purposes of this Part an employee's normal weekly earnings shall, subject to subsection (4) below, be taken to be his average weekly earnings in the relevant period under his contract of service with the employer in question.
- (3) For the purposes of subsection (2) above, the expressions " earnings " and " relevant period " shall have the meaning given to them by regulations.
- (4) In such cases as may be prescribed an employee's normal weekly earnings shall be calculated in accordance with regulations.
- (5) Without prejudice to any other power to make regulations under this Part, regulations may specify cases in which, for the purposes of this Part or of such provisions of this Part as may be prescribed—
 - (a) two or more employers are to be treated as one ;
 - (b) two or more contracts of service in respect of which the same person is an employee are to be treated as one.
- (6) Regulations may provide for periods of work which begin on one day and finish on the following day to be treated, for purposes of this Part, as falling solely within one or other of those days.
- (7) In this Part any reference to Great Britain includes a reference to the territorial waters of the United Kingdom adjacent to Great Britain.

27 Crown employment

- (1) Subject to subsection (2) below, the provisions of this Part apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.
- (2) The provisions of this Part do not apply in relation to persons serving as members of Her Majesty's forces, in their capacity as such.

PART II

HOUSING BENEFITS

28 The statutory schemes

- (1) The Secretary of State may by regulations make, with the consent of the Treasury—
- (a) a scheme (in this Part referred to as "the statutory rate rebate scheme ") for the grant, by rating authorities to persons who occupy as their homes dwellings in respect of which they are liable to make payments by way of rates (whether to those authorities or to other persons), of rebates from those payments (in this Part referred to as rate rebates);
 - (b) a scheme (in this Part referred to as "the statutory rent rebate scheme") for the grant, by housing authorities to persons who occupy as their homes dwellings in respect of which they are liable to make to those authorities payments otherwise than by way of rates, of rebates from those payments (in this Part referred to as rent rebates); and
 - (c) a scheme (in this Part referred to as " the statutory rent allowance scheme ") for the grant, by local authorities to persons who occupy as their homes dwellings in the areas of those authorities in respect of which they are liable to make payments not falling within paragraph (a) or (b) above, of allowances towards those payments (in this Part referred to as rent allowances),
- being (in each case) rebates or allowances determined in accordance with the provisions of the scheme by reference to the needs and resources of those persons.
- (2) Regulations under subsection (1) above may in particular provide—
- (a) for treating any person who, without being liable to do so, makes payments in respect of a dwelling as if he were so liable;
 - (b) for treating any person who occupies a dwelling other wise than as his home as if he occupied it as his home ;
 - (c) for treating any one or more of the joint occupiers of a dwelling as if he or they were the only occupiers ;
 - (d) for treating as included in a dwelling any land used for the purposes of the dwelling ;
 - (e) for enabling any rate rebate or rent allowance to be so applied as to discharge, in whole or in part, the liability to which it relates ;
 - (f) for enabling any rebate or allowance granted to a person not entitled to it to be recovered by the authority or the Secretary of State, and to be so recovered by deduction from a prescribed benefit; and
 - (g) for enabling any person to exercise a discretion in dealing with any matter;
- and may make such transitional provision as appears to the Secretary of State to be necessary or expedient.
- (3) References in this section to payments in respect of dwellings do not include mortgage payments or, in Scotland, payments under heritable securities but, subject to that, they include any payments in respect of dwellings including, in particular—
- (a) payments under tenancies of dwellings or licences or, in Scotland, rights or permissions to occupy dwellings; and
 - (b) payments for services performed or facilities provided for, or rights made available to, the occupiers of dwellings.

- (4) In this section—
- " dwelling " means any residential accommodation, whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;
 - " prescribed " means specified in or determined in accordance with regulations.
- (5) The provisions of this section and section 30 below have effect in substitution for the following enactments, namely—
- (a) Part II of and Schedules 3 and 4 to the Housing Finance Act 1972, sections 11 to 14 of the Local Government Act 1974 and section 20 of the Development of Rural Wales Act 1976 (which make provision, in relation to England and Wales, for rent rebates, rent allowances and rate rebates); and
 - (b) Part II of and Schedules 2 and 3 to the Housing (Financial Provisions) (Scotland) Act 1972 and sections 112 to 114 of the Local Government (Scotland) Act 1973 (which make corresponding provision in relation to Scotland);
- and those enactments are accordingly repealed.

29 Variation of needs allowances

- (1) In each review period the Secretary of State shall review, for the purpose of determining whether they have retained their value, both the main and housing elements of any needs allowances specified in regulations made under section 28(1) above.
- (2) Following the reviews for any review period the Secretary of State may prepare and lay before Parliament a draft of regulations under section 28(1) above increasing one or more needs allowances by such amount as he considers appropriate; and any draft regulations so prepared shall be framed so as to bring the increases in the needs allowances to which they relate into force before the end of the review period.
- (3) If draft regulations laid before Parliament in pursuance of this section are approved by a resolution of each House, the Secretary of State shall make regulations in the form of the draft.
- (4) If after completing the reviews for any review period the Secretary of State considers that the main or housing elements of any needs allowances will not have retained their value at the end of that period, but decides—
- (a) not to prepare and lay before Parliament a draft of regulations increasing one or more of those allowances ; or
 - (b) to prepare and so lay the draft of regulations which provide for no increase in any one or more of those allowances, or for an increase in any of them which is less than the appropriate amount,
- he shall, unless in his opinion the amount by which those elements will not have retained their value or, as the case may be, the amount by which the increase is less than the appropriate amount is inconsiderable, lay before Parliament a report explaining his reasons for so deciding.
- (5) In this section—
- " appropriate amount", in relation to a needs allowance, means the amount by which the allowance would, in the opinion of the Secretary of State, have

to be increased in order to restore the value at the end of the review period of such of its main and housing elements as, in his opinion, will not have retained their value at the end of that period ;

" housing element " and " main element " , in relation to a needs allowance, mean respectively—

- (a) the part of that allowance which, in the opinion of the Secretary of State, represents housing costs; and
- (b) the remaining part of that allowance ;

" needs allowance " means an amount to be allowed, in the determination of rebates or allowances, for the needs of an occupier and (where appropriate) the needs of any other person or persons whose needs fall to be aggregated with his;

" prices " does not include housing costs ;

" review period " means a period of twelve months ending with 30th November in the year 1983 or any subsequent year;

" value "—

- (a) in relation to the main element of a needs allowance, means value in relation to the general level of prices obtaining in Great Britain; and
- (b) in relation to the housing element of such an allowance, means value in relation to the general level of housing costs so obtaining.

- (6) For the purpose of carrying out the reviews for any review period the Secretary of State shall estimate the general level of prices obtaining in Great Britain and the general level of housing costs so obtaining in such manner as he thinks fit.

30 Local schemes

- (1) Subject to the following provisions of this section—

- (a) a rating authority may by resolution provide that, in its application to the authority, the statutory rate rebate scheme shall have effect with the modifications specified in the resolution;
- (b) a housing authority may by resolution provide that, in its application to the authority, the statutory rent rebate scheme shall have effect with the modifications specified in the resolution; and
- (c) a local authority may by resolution provide that, in its application to the authority, the statutory rent allowance scheme shall have effect with the modifications specified in the resolution ;

and in this Part " local rate rebate scheme " , " local rent rebate scheme " and " local rent allowance scheme " mean (in each case) the corresponding statutory scheme as so modified.

- (2) The power to modify a statutory scheme under this section shall be subject to any exceptions specified in the scheme ; but nothing in such a scheme shall preclude the making of modifications which secure that, in determining the resources of any person (whether the occupier or any other person whose resources fall to be aggregated with his), any war disablement pension or war widow's pension payable to that person shall be disregarded.

In this subsection " war disablement pension " and " war widow's pension " have the same meanings as in the Pensioners' Payments and Social Security Act 1979.

- (3) No modifications under this section shall be such that a person to whom the statutory scheme would otherwise apply receives a rebate or allowance less than that which he would have received under that scheme; and where a local authority make modifications of either statutory rent scheme, they shall also make such modifications (if any) of the other statutory rent scheme as appear to them to correspond to those modifications.
- (4) Modifications under this section shall be so framed as to secure that, in the estimate of the authority, the total of the rebates or allowances which will be granted by the authority under the local scheme in any year will not exceed the permitted total of rebates or allowances for that year.
- (5) Modifications under this section may be revoked or varied by a further resolution of the authority.
- (6) In relation to a local scheme, the permitted total of rebates or allowances for any year shall be an amount calculated, in the manner prescribed by regulations made by the Secretary of State with the consent of the Treasury, by reference to the rebates or allowances which, if—
 - (a) the local scheme had not been in force ; and
 - (b) the statutory scheme had had effect with such modifications (if any) as may be prescribed by the regulations,would have been granted by the authority under the statutory scheme during that year.

31 Publicity for schemes

- (1) Every authority granting rebates or allowances under a statutory or local scheme shall—
 - (a) take such steps as may appear to them appropriate for the purpose of securing that the provisions of the scheme come to the notice of any persons who may be entitled to a rebate or allowance under the scheme;
 - (b) make copies of the scheme available for public inspection at their principal office at all reasonable hours without payment; and
 - (c) in the case of a local scheme, furnish a copy to any person on payment of such reasonable sum as the authority may determine.
- (2) If it appears to the Secretary of State that the steps taken by such an authority are inadequate for the purpose mentioned in subsection (1)(a) above, he may give to the authority directions requiring them to take such steps for that purpose as are specified in the directions.

32 Subsidies to authorities

- (1) For the initial year and each subsequent year the Secretary of State shall pay out of money provided by Parliament—
 - (a) a subsidy to be known as " rate rebate subsidy " to each rating authority;
 - (b) a subsidy to be known as " rent rebate subsidy " to each housing authority; and
 - (c) a subsidy to be known as " rent allowance subsidy " to each local authority.
- (2) Subject to subsection (3) below, an authority's subsidy for any year shall be of an amount calculated, in the manner prescribed by an order made by the Secretary of State with the consent of the Treasury, by reference to—

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

- (a) in the case of an authority granting rebates or allowances under the statutory scheme during that year or any part of it, the rebates or allowances so granted or, if the order so provides, the rebates or allowances which, if the scheme had had effect with the modifications prescribed by the order, would have been granted by the authority under the scheme during that year or, as the case may be, that part of it;
 - (b) in the case of an authority granting rebates or allowances under a local scheme during that year or any part of it, the rebates or allowances which, if—
 - (i) the local scheme had not been in force; and
 - (ii) the statutory scheme had had effect with such modifications (if any) as may be prescribed by the order,
 would have been granted by the authority under the statutory scheme during that year or, as the case may be, that part of it; and
 - (c) in any case, such of the costs of administering rebates or allowances incurred by the authority during the year as may be determined in the manner prescribed by the order.
- (3) The amount of an authority's subsidy for any year shall not be less than the aggregate of—
- (a) in the case of an authority falling within paragraph (a) of subsection (2) above, 90 per cent, of the rebates or allowances mentioned in that paragraph;
 - (b) in the case of an authority falling within paragraph (b) of that subsection, 90 per cent, of the rebates or allowances mentioned in that paragraph; and
 - (c) in any case, the costs mentioned in paragraph (c) of that subsection.
- (4) Rent rebate subsidy shall be payable—
- (a) in the case of a local authority in England and Wales or the Greater London Council.—
 - (i) for the credit of their Housing Revenue Account to the extent that it is calculated by reference to Housing Revenue Account rebates and the costs of administering such rebates ; and
 - (ii) for the credit of their general rate fund to the extent that it is not so calculated:
 - (b) in the case of a local authority in Scotland, for the credit of their rent rebate account;
 - (c) in the case of a new town corporation in England and Wales or the Development Board for Rural Wales, for the credit of their housing account; and
 - (d) in the case of a new town corporation in Scotland or the Scottish Special Housing Association, for the credit of the account to which rent rebates granted by them are debited.
- (5) Rent allowance subsidy shall be payable—
- (a) in the case of a local authority in England and Wales, for the credit of their general rate fund ; and
 - (b) in the case of a local authority in Scotland, for the credit of their rent allowance account.
- (6) In this section " initial year " means the period of twelve months ending with 31st March 1983.

(7) The provisions of this section and sections 33 and 34 below have effect in substitution for the following enactments, namely—

(a) section 8(1) of the Local Government Act 1974, section 3 of the Housing Rents and Subsidies Act 1975, section 19 of the Development of Rural Wales Act 1976 and section 117 of the Housing Act 1980 (which make provision, in relation to England and Wales, for rate rebate grants and rent rebate and rent allowance subsidies) ; and

(b) sections 5, 6 and 11 of the Housing (Financial Provisions) (Scotland) Act 1972 and section 115 of the Local Government (Scotland) Act 1973 (which make corresponding provision for Scotland);

and those enactments are accordingly repealed.

33 Administration of subsidies

(1) Any subsidy under section 32 above shall be payable by the Secretary of State at such times and in such manner as the Treasury may direct, but subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

(2) Without prejudice to the generality of subsection (1) above, the making of any such payment shall be subject to the making of a claim for it in such form and containing such particulars as the Secretary of State may from time to time determine.

(3) The amount of any subsidy payable to an authority under section 32 above shall be calculated to the nearest pound, by disregarding an odd amount of 50 pence or less and by treating an odd amount exceeding 50 pence as a whole pound.

34 Rate fund contributions and rate support grant

(1) Every local authority and the Greater London Council shall make for each year a rate fund contribution to their Housing Revenue Account of an amount equal to the difference between so much of their rent rebate subsidy for the year as is credited to that Account and the total of the Housing Revenue Account rebates granted, and the costs of administering such rebates incurred, by the authority or Council during the year.

(2) If an order made by the Secretary of State with the consent of the Treasury so provides, the items mentioned in subsection (3) below, or such proportion thereof as may be calculated in the manner prescribed by the order, shall not count as relevant expenditure for the purposes of section 54 of the Local Government, Planning and Land Act 1980 (rate support grant).

(3) The items referred to in subsection (2) above are—

(a) the costs of administering rate rebates incurred by a rating authority during any year ;

(b) the rate fund contribution under subsection (1) above made by a local authority or the Greater London Council for any year;

(c) the costs of administering rent rebates (other than Housing Revenue Account rebates) incurred by a local - authority or the Greater London Council during any year;

(d) the rent allowances granted, and the costs of administering such allowances incurred, by a local authority during any year.

(4) In this section "rate fund contribution" means a contribution made by a local authority or the Greater London Council out of their general rate fund.

(5) This section extends to England and Wales only.

35 Interpretation of Part II

(1) In this Part, unless the context otherwise requires—

"housing authority" means a local authority, a new town corporation, the Greater London Council, the Scottish Special Housing Association or the Development Board for Rural Wales;

"Housing Revenue Account rebate", in relation to a local authority in England and Wales or the Greater London Council, means a rent rebate granted to a tenant of a Housing Revenue Account dwelling (within the meaning of the Housing Finance Act 1972) of that authority or Council and includes, unless the context otherwise requires.—

(a) a rent rebate which, on the assumptions stated in section 32(2) above, would have been granted to such a tenant; and

(b) a rent rebate which is to be so granted ;

"local authority" means—

(a) in relation to England and Wales, the council of a district or London borough, the Common Council of the City of London or the Council of the Isles of Scilly ; and

(b) in relation to Scotland, an islands or district council;

"local rate rebate scheme", "local rent rebate scheme" and "local rent allowance scheme" have the meanings given by section 30 above and "local scheme" and "local rent scheme" shall be construed accordingly ;

"new town corporation" means—

(a) in relation to England and Wales, a development corporation established under the New Towns Act 1981 or the Commission for the New Towns; and

(b) in relation to Scotland, a development corporation established under the New Towns (Scotland) Act 1968;

"rate rebate", "rent rebate" and "rent allowance" shall be construed in accordance with section 28 above ;

"rates" and "rating authority"—

(a) in relation to England and Wales, have the same meanings as in the General Rate Act 1967; and

(b) in relation to Scotland, have respectively the same meanings as "rate" has in section 379 of the Local Government (Scotland) Act 1947 and "rating authority" has in section 109 of the Local Government (Scotland) Act 1973;

"statutory rate rebate scheme", "statutory rent rebate scheme" and "statutory rent allowance scheme" have the meanings given by section 28 above and "statutory scheme" and "statutory rent scheme" shall be construed accordingly.

(2) References in this Part to the general rate fund of an authority shall be construed—

(a) in relation to the Greater London Council or the Council of the Isles of Scilly, as references to their general fund; and

- (b) in relation to the Common Council of the City of London, as references to their general rate.

36 Other supplementary provisions

- (1) Before making—
 - (a) regulations under section 28(1) above other than regulations of which the effect is to increase any amount specified in regulations previously made ;
 - (b) regulations under section 30(6) above ; or
 - (c) an order under section 32(2) above,the Secretary of State shall consult with organisations appearing to him to be representative of the authorities concerned.
- (2) Where, in consequence of the foregoing provisions of this Part, regulations under the Supplementary Benefits Act 1976 contain provisions excluding any items from those to which housing requirements for the purposes of Schedule 1 to that Act relate, the regulations may also contain such provision as the Secretary of State considers appropriate for dealing with transitional matters connected with or arising out of the coming into force of that provision.
- (3) Authorities shall supply the Secretary of State with such information in their possession as may be required to give effect to the said Act of 1976; and the Secretary of State shall supply authorities with such information concerning claims for and payments of supplementary benefits (within the meaning of that Act) as authorities may require to give effect to statutory and local schemes.
- (4) In order to assist authorities to give effect to statutory and local schemes, where a rent is registered under Part IV of the Rent Act 1977, there shall be noted on the register the amount (if any) of the registered rent which, in the opinion of the rent officer or rent assessment committee, is fairly attributable to the provision of services, but excepting any amount which in the opinion of the rent officer or, as the case may be, the rent assessment committee is negligible.

PART III

MISCELLANEOUS

37 Sick pay to count as remuneration for principal Act

- (1) In section 3 of the principal Act (meaning of " earnings ") there are inserted, after subsection (1), the following subsections—
 - “(1A) For the purposes of this section there shall be treated as remuneration derived from an employed earner's employment any sickness payment made—
 - (a) to or for the benefit of the employed earner ; and
 - (b) in accordance with arrangements under which the person who is the secondary contributor in relation to the employment concerned has made or remains liable to make payments towards the provision of that sickness payment.
 - (1B) Where the funds for making sickness payments under arrangements of the kind mentioned in subsection (1A)(b) above are attributable in part to

contributions to those funds made by the employed earner, regulations may make provision for disregarding, for the purposes of subsection (1A) above, the prescribed part of any sum paid as a result of the arrangements.

(1C) In this section—

'sickness payment' means any payment made in respect of absence from work due to incapacity for work (within the meaning of section 17 of this Act); and

'secondary contributor' has the meaning given by section 4 of this Act.”.

(2) In Schedule 1 to the principal Act (supplementary provisions relating to contributions) the following paragraph is inserted at the end—

“Sickness payments counting as remuneration

- 9 (1) Regulations may make provision as to the manner in which, and the person through whom, any sickness payment which, by virtue of section 3(1 A) of this Act, is to be treated as remuneration derived from employed earner's employment is to be made.
- (2) In any case where regulations made under sub-paragraph (1) above have the effect of requiring a registered friendly society (within the meaning of the Friendly Societies Act 1974) to make amendments to its rules, the amendments may, notwithstanding any provision of those rules, be made in accordance with the procedure prescribed by regulations made by the Chief Registrar of Friendly Societies for the purposes of this paragraph.
- (3) Regulations made under sub-paragraph (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

38 Supplementary allowance: conditions

(1) For section 5 of the Supplementary Benefits Act 1976 (right to supplementary allowance) there is substituted the following section—

“5 Supplementary allowance: conditions.

- (1) The right of any person to a supplementary allowance is subject—
- (a) except in prescribed cases, to the condition that he is available for employment; and
 - (b) in prescribed cases only, to the further condition that he is registered in the prescribed manner for employment.
- (2) Regulations may make provision as to—
- (a) what is and is not to be treated as employment for the purposes of this section ; and
 - (b) the circumstances in which a person is or is not to be treated for those purposes as available for employment.”.

(2) In section 10 of the Act of 1976 (modification of right to supplementary allowance in certain cases) for paragraph (a) of subsection (1) there is substituted—

“(a) in a case in which the condition mentioned in section 5(1)(a) of this Act applies, a person claims or is in receipt of supplementary allowance and is not receiving unemployment benefit under the Social Security Act 1975; and”.

39 Industrial injuries

(1) Injury benefit is hereby abolished; and accordingly sections 50(2)(a) and 56 of the principal Act (which make provision for injury benefit) are hereby repealed.

(2) In section 57 of the principal Act, for subsection (4) (period in respect of which disablement benefit is not payable) there is substituted the following subsection—

“(4) Disablement benefit shall not be available to a person until after the expiry of the period of ninety days (disregarding Sundays) beginning with the day of the relevant accident.”.

(3) In section 14 of the principal Act (sickness benefit) the following subsection is inserted after subsection (2)—

“(2A) Subsection (1) above is subject to the provision made by section 50A of this Act in relation to entitlement to sickness benefit in cases of industrial injury.”.

(4) After section 50 of the principal Act there is inserted the following section—

“50A Sickness benefit in respect of industrial injury.

(1) In any case where—

(a) an employed earner is incapable of work as a result of a personal injury of a kind mentioned in section 50(1) of this Act; and

(b) the contribution conditions are not satisfied in respect of him ;

those conditions shall be taken to be satisfied for the purposes of paragraph (a) or, as the case may be, (b) of section 14(2) of this Act as that paragraph applies in relation to sickness benefit.

(2) In the case of a person who—

(a) is entitled, by virtue of this section, to sickness benefit under subsection (2)(b) of section 14; and

(b) is not also entitled to sickness benefit under subsection (2)(c) of that section ;

the weekly rate at which sickness benefit is payable shall be determined in accordance with regulations.

(3) In subsection (1) above ' contribution conditions ' means—

(a) in the case of a person who is under pensionable age, the contribution conditions specified for sickness benefit in Schedule 3, Part I, paragraph 1; and

(b) in the case of a person who has attained pensionable age but has not retired from regular employment, the contribution conditions for a Category A retirement pension specified in Schedule 3, Part I, paragraph 5.”

- (5) Regulations may make such transitional or saving provision as the Secretary of State considers necessary or expedient in connection with the provisions of this section.

40 Refusal and cancellation of contracting-out certificates

In the Social Security Pensions Act 1975 the following section is inserted after section 51—

“51A Refusal and cancellation of contracting-out certificates.

- (1) This subsection applies in any case where—
- (a) a contracting-out certificate (the ' first certificate ') has been surrendered by an employer or cancelled by the Occupational Pensions Board; and
 - (b) at any time before the expiry of the period of twelve months beginning with the date of the surrender or cancellation, that or any connected employer, with a view to the issue of a further contracting-out certificate, makes an election in respect of any employment which was specified by virtue of section 31(1)(a) of this Act in the first certificate.
- (2) This subsection applies in any case where—
- (a) a contracting-out certificate (the ' first certificate ') has been surrendered by an employer or cancelled by the Board ;
 - (b) a further contracting-out certificate has been issued, after the surrender or cancellation of the first certificate but before the expiry of the period of twelve months beginning with the date of the surrender or cancellation, in respect of any employment which was specified by virtue of section 31(1)(a) of this Act in the first certificate; and
 - (c) the Board have formed the opinion that had they been aware of all the circumstances of the case at the time when the further contracting-out certificate was issued they would have been prevented by subsection (4) below from issuing it.
- (3) Subsections (1) and (2) above apply whether or not the occupational pension scheme by reference to which the employment concerned was contracted-out employment by virtue of the first certificate is the same as the scheme by reference to which the employment—
- (a) would be contracted-out employment if the further contracting-out certificate were issued; or
 - (b) is contracted-out employment by virtue of the further contracting-out certificate.
- (4) In a case to which subsection (1) above applies, the Board shall not give effect to the election referred to in that subsection by issuing a further contracting-out certificate unless they consider that, in all the circumstances of the case, it would be reasonable to do so.
- (5) In a case to which subsection (2) above applies, the Board may, before the expiry of the period of twelve months beginning with the date on which the further contracting-out certificate was issued, cancel the further contracting-out certificate.

- (6) Where a contracting-out certificate is cancelled under subsection (5) above the provisions of this Act and of any regulations and orders made under it shall have effect as if the certificate had never been issued.
- (7) This section does not apply in any case where the surrender or cancellation of the first certificate occurred before 22nd July 1981.
- (8) Where the further contracting-out certificate referred to in paragraph (b) of subsection (2) above was issued before the commencement of this section, then—
- (a) paragraph (c) of that subsection shall have effect as if this section had been in force at the time when the further contracting-out certificate was issued ; and
 - (b) subsection (5) above shall have effect as if the reference to the date of issue of that certificate were a reference to the commencement of this section.
- (9) Regulations may make such supplemental provision in relation to cases falling within subsection (1) or (2) above as the Secretary of State considers necessary or expedient.
- (10) Without prejudice to subsection (9) above, regulations may make provision, in relation to any case in which the Board have cancelled a contracting-out certificate under subsection (5) above, preventing the recovery by the employer concerned (whether by deduction from emoluments or otherwise) of such arrears which he is required to pay to the Secretary of State in respect of an earner's liability under section 4(3) of the principal Act as may be prescribed.
- (11) For the purposes of subsections (1) and (2) above an employment (the 'second employment') in respect of which—
- (a) an election of the kind referred to in subsection (1)(b) above has been made ; or
 - (b) a further contracting-out certificate of the kind referred to in subsection (2)(b) above has been issued;
- and an employment (the 'first employment') which was specified by virtue of section 31(1)(a) of this Act in the first certificate shall be treated as one employment if, in the opinion of the Board.—
- (i) they are substantially the same, however described; or
 - (ii) the first employment falls wholly or partly within the description of the second employment or the second employment falls wholly or partly within the description of the first employment.
- (12) Regulations shall prescribe the cases in which employers are to be treated as connected for the purposes of this section.
- (13) Where the Secretary of State proposes to make regulations under subsection (10) above, section 10(1) of the Social Security Act 1980 (duty of Secretary of State to refer proposed regulations to the Social Security Advisory Committee) shall apply in relation to those proposals.”.

41 Recovery of sums due to Secretary of State

- (1) In section 8 of the Family Income Supplements Act 1970 (prevention of double payments and recovery of overpayments) the following subsections are inserted after subsection (4)—

“(5) Any sum which is, by virtue of regulations under subsection (3) above or section 10(2)(ii) of this Act, recoverable by the Secretary of State in pursuance of a decision made by a supplement officer, the Appeal Tribunal or a Social Security Commissioner shall, if the person from whom that sum is recoverable resides in England and Wales and the county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court.

(6) Any such decision may, if the person from whom the sum in question is recoverable resides in Scotland, 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.”

- (2) In section 119 of the principal Act (effect of adjudication on payment and recovery) the following subsections are inserted after subsection (4)—

“(5) Any sum which is, by virtue of this section or regulations under subsection (3) above, required to be repaid to the Secretary of State in pursuance of a decision made by an insurance officer, local tribunal or Commissioner shall, if the person required to repay that sum resides in England and Wales and the county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court.

(6) Any such decision may, if the person required to repay the sum in question resides in Scotland, 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.”

- (3) In section 20 of the Supplementary Benefits Act 1976 (recovery in cases of misrepresentation or non-disclosure) the following subsections are inserted after subsection (5)—

“(6) Any sum which is, by virtue of this section or regulations under section 14(2) (dd) of this Act, recoverable by the Secretary of State in pursuance of a decision made by a benefit officer, the Appeal Tribunal or a Social Security Commissioner shall, if the person from whom that sum is recoverable resides in England and Wales and the county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court.

(7) Any such decision may, if the person from whom the sum in question is recoverable resides in Scotland, 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.”

42 Up-rating regulations

- (1) In paragraph 8 of Schedule 16 to the principal Act (exemption in respect of up-rating regulations from requirement to consult Industrial Injuries Advisory Council) for the

words from " section " to the end there are substituted the words " one or more of the following sections of this Act, that is to say sections 120, 122, 124 and 126A. ".

- (2) In paragraph 12(2) of schedule 3 to the Social Security Act 1980 (exemption in respect of up-rating regulations from requirement to consult Social Security Advisory Committee) for the words from " section 120" to " that Act" there are substituted the words " one or more of the following sections of the principal Act, that is to say sections 120, 122, 124 and 126A (up-rating regulations) ".
- (3) Neither section 139 nor section 141 of the principal Act (consultation with the Council and with the Committee) shall be taken to have applied in relation to any regulations contained in the Social Security Benefits Up-rating Regulations 1979 or the Social Security Benefits Up-rating Regulations 1980.

43 War pensions

- (1) In section 6 of the Pensions Appeal Tribunals Act 1943 (setting aside of Tribunal's decision and rehearing of appeal), after the words " Minister's decision " in subsection (2A) there are inserted the words " (the ' original decision') " and after subsection (2B) there are inserted the following subsections—
 - “(2C) Where a direction for a rehearing is given under subsection (2A) above, the Minister may, before the expiry of the period of two months beginning with the date of the direction, review the original decision.
 - (2D) If, on any such review, the Minister is of the opinion that there are grounds for revising the original decision he shall—
 - (a) notify the appellant of his opinion and of the revision which he proposes to make ; and
 - (b) if the appellant withdraws his appeal against the original decision, revise it accordingly.”.
- (2) In any case where, before the commencement of this section, an award has been made in respect of a claim for a war pension, the validity of that award shall not be called into question on the ground that it was made—
 - (a) in consequence of the review of a decision made in respect of the claim (whether or not following an appeal against that decision); and
 - (b) at a time when there was no provision in force authorising that review.
- (3) The Secretary of State may by order make provision for determining the date from which any award made before the commencement of this section in respect of a claim for a war pension is to be taken to have had effect in a case where—
 - (a) at the time when the award was made there was no provision in force for determining that date ; or
 - (b) the award was made following—
 - (i) an appeal to the High Court, Court of Session or Court of Appeal; or
 - (ii) the rehearing of any appeal;and the date from which payment under the award was first made was later than the date from which payment was, by virtue of any provision in force at the time when the award was made, required to be first made.
- (4) An order under subsection (3) above may provide that in any case where the date from which an award is, by virtue of the order, to be taken to have had effect is earlier than

the date from which payment under the award was first made, any arrears due to a person in respect of the award shall be limited to those payable in respect of a specified period of not more than six years.

- (5) In this section " war pension " means—
- (a) such pensions and other benefits as are referred to in section 12 of the Social Security (Miscellaneous Provisions) Act 1977 (exercise by Order in Council of existing powers relating to benefits for death or disablement through service in the armed forces);
 - (b) any pension or benefit awarded under the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 or the Polish Resettlement Act 1947 ; and
 - (c) such other pensions and benefits as may be specified in an order made by the Secretary of State for the purposes of this section.

44 Application of social security legislation in relation to territorial waters

- (1) The following enactments are referred to in this section as the " listed enactments "—
- (a) the Family Income Supplements Act 1970 ;
 - (b) the principal Act;
 - (c) the Industrial Injuries and Diseases (Old Cases) Act 1975;
 - (d) the Child Benefit Act 1975 ;
 - (e) the Supplementary Benefits Act 1976 ;
 - (f) the Pensioners' Payments and Social Security Act 1979.
- (2) The listed enactments shall have effect, and be deemed always to have had effect, as if—
- (a) any reference to Great Britain included a reference to the territorial waters of the United Kingdom adjacent to Great Britain;
 - (b) in any reference to the presence or residence of a person in the United Kingdom (however expressed) the reference to the United Kingdom included a reference to the territorial waters of the United Kingdom ; and
 - (c) in any reference to a person residing or being in Northern Ireland (however expressed) the reference to Northern Ireland included a reference to the territorial waters of the United Kingdom adjacent to Northern Ireland.
- (3) Where any of the listed enactments is derived from an earlier enactment (whether directly or indirectly) anything done under or by virtue of a provision of, or made under, that earlier enactment which contained a reference of a kind mentioned in paragraph (a), (b) or (c) of subsection (2) above shall have effect as if that reference had at the material time been the extended reference provided for by that paragraph.
- (4) The Secretary of State may by regulations make such provision in respect of any enactment (including a listed enactment) as he considers necessary or expedient in connection with the operation of that enactment in relation to the territorial waters of the United Kingdom.

45 Regulations

- (1) Subsections (2), (3) and (5) of section 166 of the principal Act (which among other things make provision about the extent of powers to make orders and regulations) shall apply to any power to make orders or regulations conferred by this Act as they apply

to any power to make orders or regulations conferred by that Act; and any power to make orders or regulations conferred by Part II of this Act shall include power to make different provision for different areas.

- (2) Any power of the Secretary of State to make orders or regulations under this Act shall be exercisable by statutory instrument which, except in the case of —
 - (a) an order under section 7 or 48(3) of this Act;
 - (b) the first regulations under section 28(1)(a), (b) or (c) or 30(6) of this Act; or
 - (c) regulations under section 28(1) made in pursuance of section 29 of this Act;shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The Secretary of State shall not make the first regulations under section 28(1) (a), (b) or (c) or 30(6) of this Act unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.

46 Expenses

- (1) There shall be paid out of money provided by Parliament—
 - (a) any administrative expenses of the Secretary of State incurred under this Act; and
 - (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.
- (2) The administrative expenses referred to in subsection (1) (d) above include those in connection with any inquiry undertaken on behalf of the Secretary of State with a view to obtaining statistics relating to the operation of Part I.
- (3) There shall be paid out of the National Insurance Fund into the Consolidated Fund, at such time and in such manner as the Treasury may direct, such sums as the Secretary of State may estimate (in accordance with any directions given by the Treasury) to be the amount of the administrative expenses incurred by the Secretary of State under Part I of this Act, excluding—
 - (a) any category of expenses which the Treasury may direct, or any enactment may require, to be excluded from the Secretary of State's estimate under this subsection ; and
 - (b) any expenses incurred under paragraphs 7 to 10 of Schedule 2 to this Act.

47 Interpretation

In this Act—

- " benefit ", except in Part II and section 43, has the same meaning as in the principal Act ;
- " principal Act" means the Social Security Act 1975 ;
- " regulations " means regulations made by the Secretary of State ;
- " tax year " means the period of twelve months beginning with 6th April in any year.

48 Short title etc.

- (1) This Act may be cited as the Social Security and Housing Benefits Act 1982, and Parts I and III of this Act and the Social Security Acts 1975 to 1981 may be cited together as the Social Security Acts 1975 to 1982.
- (2) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of Parts I and III of this Act
 - (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
 - (b) shall be subject to annulment in pursuance of a resolution of either House.
- (3) The following provisions come into force on the passing of this Act—
 - (a) sections 7, 26, 40, 42 and 44 to 47 ;
 - (b) paragraphs 1 to 4, 7, 11, 14(1) and (3), 16, 21, 23 to 25, 30 to 34, 37 and 38 of Schedule 4 ; and
 - (c) subsections (1) to (4) and (7) of this section and subsection (5) of this section so far as it relates to the provisions mentioned in paragraph (b) above;and the other provisions of this Act come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and different days may be appointed for different provisions, different purposes or different areas.
- (4) An order under subsection (3) above may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force.
- (5) The enactments mentioned in Part I of Schedule 4 to this Act shall have effect subject to the minor and consequential amendments specified in that Part; and the transitional provisions in Part II of that Schedule shall have effect.
- (6) The enactments mentioned in Schedule 5 to this Act (which include some that are spent) are hereby repealed to the extent specified in the third column of that Schedule.
- (7) This Act, except sections 42(2), 43 and 45 and this section and paragraphs 2 and 30, 32 and 33 of Schedule 4, does not extend to Northern Ireland.