



# Social Security Act 1985

## 1985 CHAPTER 53

An Act to amend the law relating to occupational pensions, social security and statutory sick pay; to empower the Secretary of State to amend section 1 of the Vaccine Damage Payments Act 1979 and extend the Pneumoconiosis etc. (Workers' Compensation) Act 1979; to make provision for pensions and gratuities for members of the Horserace Totalisator Board, the Horserace Betting Levy Board and the Gaming Board for Great Britain; and for connected purposes. [22nd July 1985]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### OCCUPATIONAL PENSIONS

#### **1 Short service benefit for members of schemes whose employment is terminated before age of 26**

Paragraph 6(1)(a) of Schedule 16 to the Social Security Act 1973 (the effect of which is that an occupational pension scheme need not provide benefit for a member whose service in relevant employment is terminated before he has attained the age of 26) shall cease to have effect.

#### **2 Transfer and revaluation**

The Social Security Pensions Act 1975 shall be amended in accordance with Schedule 1 to this Act—

- (a) to introduce a premium payable in certain cases where an earner ceases to be in employment to which an occupational pension scheme applies and there is a transfer of his accrued rights ;

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- (b) to provide for the extinguishment of the liability of schemes to provide benefits which are secured by policies of insurance or annuity contracts ;
- (c) to make further provision as to the revaluation of benefits under schemes; and
- (d) to ensure that schemes provide transfer values for their members.

### **3 Information about schemes**

The Social Security Pensions Act 1975 shall be amended in accordance with Schedule 2 to this Act in relation to information about occupational pension schemes.

### **4 Earnings factors and guaranteed minimum pensions**

The Social Security Pensions Act 1975 and the Social Security (Miscellaneous Provisions) Act 1977 shall be amended in accordance with Schedule 3 to this Act in relation to earnings factors and guaranteed minimum pensions.

### **5 Managers of schemes**

- (1) The Secretary of State may by regulations provide who is to be treated as a manager of an occupational pension scheme for any of the purposes—
  - (a) of the Social Security Acts 1975 to 1985 ; or
  - (b) of the Social Security Act 1973.
- (2) Section 166 of the Social Security Act 1975 shall apply to the power to make regulations under subsection (1) above as it applies to powers to make regulations under that Act.
- (3) Regulations made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section " occupational pension scheme " has the meaning assigned to it by section 66 of the Social Security Pensions Act 1975.

### **6 Miscellaneous amendments relating to protection of pensions**

- (1) In subsection (1) of section 41A of the Social Security Pensions Act 1975 (protection of earners' pensions), the following words shall be substituted for the words from " than " to the end—
  - “(i) in a case where by virtue of paragraph 9(2)(b) of Schedule 16 to the Social Security Act 1973 a pension is provided by way of complete substitute for short service benefit, than the weekly rate of that pension; and
  - (ii) in any other case, than the relevant aggregate.”.
- (2) The following subsection shall be inserted after subsection (IB) of that section—
  - “(1C) In subsection (1) above " the relevant aggregate" means the aggregate of the following—
    - (a) the relevant sum ;
    - (b) the excess mentioned in subsection (1)(c) above; and
    - (c) any amount which is an appropriate addition at the time in question.”.

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- (3) In subsection (1) of section 41B of that Act (protection of widows' pensions), the following words shall be substituted for the words from " than " to the end—
- “(i) in a case where by virtue of paragraph 9(2)(b) of Schedule 16 to the Social Security Act 1973 a pension is provided by way of complete substitute for a widow's pension, than the weekly rate of the pension so provided ; and
- (ii) in any other case, than the relevant aggregate.”.
- (4) The following subsection shall be inserted after that subsection—
- “(1A) In subsection (1) above " the relevant aggregate " means the aggregate of the following—
- (a) the relevant sum ;
- (b) the excess mentioned in subsection (1)(c) above; and
- (c) any amount which is an appropriate addition at the time in question.”.
- (5) In subsection (3) of that section, for the words " assumption specified in subsection (4) below " there shall be substituted the words " prescribed assumptions".
- (6) Regulations under that subsection may be framed so as to have effect as from 1st January 1985.

## PART II

### SOCIAL SECURITY

#### 7 Calculation of contributions

- (1) In subsection (1)(b) of section 4 of the Social Security Act 1975 (incidence of Class 1 contributions), the words " primary Class 1 " shall be substituted for the word " such".
- (2) The following subsections shall be substituted for subsection (6) of that section—
- “(6) Subject to regulations under sections 128 to 132 below and to section 27 of the Pensions Act, the amount of a primary Class 1 contribution shall be the appropriate primary percentage of so much of the earnings paid in the week, in respect of the employment in question, as does not exceed the current upper earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly).
- (6A) The appropriate primary percentage is a percentage of the rate specified in subsection (6B) below as the appropriate rate for the primary earnings bracket (or the prescribed equivalent in the case of earners paid otherwise than weekly) into which the earner's earnings fall.
- (6B) Subject to any order under this section or section 122 or 123A below, the primary earnings brackets and their appropriate percentage rates shall be—

	<i>Weekly earnings</i>	<i>Percentage rate</i>
Bracket 1:	current lower earnings limit to £54-99	5 per cent.

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	<i>Weekly earnings</i>	<i>Percentage rate</i>
Bracket 2:	£55-00 to £89-99	7 per cent.
Bracket 3:	£90-00 or more	9 per cent.

(6C) Subject to regulations under subsection (7) or sections 128 to 132 below and to section 27 of the Pensions Act, the amount of a secondary Class 1 contribution shall be the appropriate secondary percentage of the earnings paid in the week in respect of the employment in question.

(6D) The appropriate secondary percentage is a percentage of the rate specified in subsection (6E) below as the appropriate rate for the secondary earnings bracket (or the prescribed equivalent in the case of earners paid otherwise than weekly) into which the earner's earnings fall.

(6E) Subject to any order under this section or section 122 or 123 A below, the secondary earnings brackets and their appropriate percentage rates shall be—

	<i>Weekly earnings</i>	<i>Percentage rate</i>
Bracket 1:	current lower earnings limit to £54-99	5 per cent.
Bracket 2:	£55-00 to £89-99	7 per cent.
Bracket 3:	£90-00 to £129-99	9 per cent.
Bracket 4:	£130-00 or more	10-45 per cent.

(6F) The Secretary of State may by order alter the number of primary or secondary earnings brackets below the highest bracket.

(6G) An order under this section may make such amendments of any enactment as appear to the Secretary of State to be necessary or expedient in consequence of any such alteration made by it.

(6H) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

(6J) An order under this section shall be made so as to come into force—

- (a) on a date in the tax year in which it received Parliamentary approval; or
- (b) on a date in the next tax year.

(6K) Such an order shall have effect for the remainder of the tax year in which it comes into force and for any subsequent tax year (subject to the effect of any subsequent order under this section); and for this purpose the order is to be taken as receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.”.

(3) In section 7(1) of that Act (weekly rate of Class 2 contributions), "£3-50 " shall be substituted for " £4-75".

(4) In section 8(1) of that Act (amount of a Class 3 contribution), " £3-40 " shall be substituted for " £4-65".

(5) The following section shall be inserted after section 123 of that Act—

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**“123A Further power to alter certain contributions.**

- (1) For the purposes of adjusting amounts payable by way of primary Class 1 contributions, the Secretary of State may at any time make an order amending section 4(6B) of this Act by altering any one or more of the following figures—
  - (a) the upper weekly earnings figure specified in respect of Bracket 1;
  - (b) the weekly earnings figures specified in respect of Brackets 2 and 3 ;  
and
  - (c) the percentage rates specified as the appropriate rates for Brackets 1 and 2.
- (2) For the purposes of adjusting amounts payable by way of secondary Class 1 contributions, the Secretary of State may at any time make an order amending section 4(6E) of this Act by altering any one or more of the following figures—
  - (a) the upper weekly earnings figure specified in respect of Bracket 1;
  - (b) the weekly earnings figures specified in respect of Brackets 2 to 4 ;  
and
  - (c) the percentage rates specified as the appropriate rates for Brackets 1 to 3.
- (3) No order shall be made under this section so as—
  - (a) to alter either of the percentage rates specified as the appropriate rates for Brackets 1 and 2 in section 4(6B) above to a rate higher than the percentage rate which at the time the order comes into force is specified as the appropriate rate for Bracket 3 in that subsection ; or
  - (b) to alter any of the percentage rates specified as the appropriate rates for Brackets 1 to 3 in section 4(6E) above to a rate higher than the percentage rate which at the time the order comes into force is specified as the appropriate rate for Bracket 4.
- (4) Without prejudice to section 120 or 122 of this Act, the Secretary of State may make such order—
  - (a) amending section 7(1) of this Act by altering the figure specified in that subsection as the weekly rate of Class 2 contributions ;
  - (b) amending section 8(1) of this Act by altering the figure specified in that subsection as the amount of a Class 3 contribution,as he thinks fit in consequence of the coming into force of an order made or proposed to be made under subsection (1) above.
- (5) An order under this section may make such amendments of any enactment as appear to the Secretary of State to be necessary or expedient in consequence of any alteration made by it such as mentioned in subsection (1), (2) or (4) above.
- (6) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (7) An order under this section shall be made so as to come into force—
  - (a) on a date in the tax year in which it received Parliamentary approval;  
or

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(b) on a date in the next tax year.

(8) Such an order shall have effect for the remainder of the tax year in which it comes into force and for any subsequent tax year (subject to the effect of any subsequent order under this section); and for this purpose the order is to be taken as receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.”

## 8 Dock workers

- (1) in section 4(7) of the Social Security Act 1975 (power to make regulations providing for reducing secondary Class 1 contributions in respect of persons to whom section 81 (redundancy payments) of the Employment Protection (Consolidation) Act 1978 does not apply) after the word " reducing " there shall be inserted the words " primary or".
- (2) In regulation 133 of the Social Security (Contributions) Regulations 1979 (reduction of primary Class 1 contributions of dock workers) for " 0.35 " there shall be substituted " 0.25".
- (3) Subsection (2) above shall be deemed to have come into force on 6th April 1984.

## 9 Abatement of invalidity allowance etc., where beneficiary entitled to additional component in pension or to guaranteed minimum pension

- (1) In section 16 of the Social Security Act 1975 (invalidity allowance)—
  - (a) in subsection (1), the words ", subject to the following provisions of this section " shall be inserted after the word " then " ;
  - (b) the following subsections shall be inserted after subsection (2A)—
 

“(2B) Where for any period—

    - (a) the weekly rate of the invalidity pension to which the beneficiary is entitled includes an additional component such as is mentioned in section 6(1)(b) of the Pensions Act; or
    - (b) the beneficiary is entitled to one or more guaranteed minimum pensions,

for that period the relevant amount shall be deducted from the appropriate weekly rate of invalidity allowance and he shall be entitled to invalidity allowance only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.
- (2C) In this section " the relevant amount " means—
  - (a) in a case where paragraph (a) of subsection (2B) above applies but paragraph (b) does not apply, an amount equal to the additional component;
  - (b) in a case where paragraph (b) applies but paragraph (a) does not apply, an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions; and
  - (c) in a case where both paragraphs apply, an amount equal to the aggregate of the amounts referred to in paragraphs (a) and (b) above,

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reduced by the amount of any reduction in the weekly rate of the invalidity pension made by virtue of section 29 of the Pensions Act.

(2D) In this section—

- (a) references to an additional component are references to that component after any increase under section 9(3) of the Pensions Act but without any increase under Schedule 1, paragraphs 1 and 2, to that Act; and
- (b) references to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 35(6) of that Act.”; and
- (c) at the end of subsection (3), there shall be added the words " or, where subsection (2B) above applies, of the weekly rate payable under that subsection".

(2) In section 28 of that Act (Category A retirement pension)—

- (a) the words " Subject to the following provisions of this section," shall be inserted at the beginning of subsection (7);
- (b) in that subsection, for the words from " equal" to the end there shall be substituted the words " equal to the appropriate weekly rate of the invalidity allowance on that day."; and
- (c) the following subsections shall be inserted after that subsection—

“(7A) Where for any period—

- (a) the weekly rate of a Category A retirement pension includes an additional component such as is mentioned in section 6(1)(b) of the Pensions Act; or
- (b) the pensioner is entitled to one or more guaranteed minimum pensions,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under subsection (7) above and the pensioner shall be entitled to an increase only if there is a balance after that deduction and, if there is such a balance, of an amount equal to it.

(7B) In this section "the relevant amount" means—

- (a) in a case where paragraph (a) of subsection (7A) above applies but paragraph (b) does not apply, an amount equal to the additional component;
- (b) in a case where paragraph (b) applies but paragraph (a) does not apply, an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions; and
- (c) in a case where both paragraphs apply, an amount equal to the aggregate of the amounts referred to in paragraphs (a) and (b) above,

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

(7C) In this section—

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- (a) references to an additional component are references to that component after any increase under section 9(3) of the Pensions Act but without any increase under Schedule 1, paragraphs 1 and 2, to that Act; and
  - (b) references to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 35(6) of that Act.”.
- (3) In section 29 of that Act (Category B retirement pension), at the end of subsection (8) there shall be added the words “, subject to reduction or extinguishment of the increase by the application of section 28(7A) above.”.
- (4) In section 59 of that Act (increase of unemployability supplement)—
- (a) the words “ Subject to the following provisions of this section,” shall be inserted at the beginning of subsection (1); and
  - (b) the following subsections shall be inserted after that subsection—
- “(1A) Where for any period—
- (a) the beneficiary is entitled to a Category A or Category B retirement pension or an invalidity pension and the weekly rate of the pension includes an additional component such as is mentioned in section 6(1)(b) of the Pensions Act; or
  - (b) the beneficiary is entitled to one or more guaranteed minimum pensions,
- for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under this section and the beneficiary shall be entitled to an increase only if there is a balance after that deduction and, if there is such a balance, only of an amount equal to it.
- (1B) In this section “the relevant amount” means—
- (a) in a case where paragraph (a) of subsection (1A) above applies but paragraph (b) does not apply, an amount equal to the additional component reduced by the amount of any reduction in the weekly rate of the pension made by virtue of section 29 of the Pensions Act;
  - (b) in a case where paragraph (b) applies but paragraph (a) does not apply, an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions; and
  - (c) in a case where both paragraphs apply, an amount equal to the aggregate of the amount first referred to in paragraph (a) above and the amount referred to in paragraph (b) above.
- (1C) In this section—
- (a) references to an additional component are references to that component after any increase under section 9(3) of the Pensions Act but without any increase under Schedule 1, paragraphs 1 and 2, to that Act; and
  - (b) references to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 35(6) of that Act.”.



(5) In Schedule 1 to the Social Security Pensions Act 1975 (deferred retirement), in paragraph 2, the following sub-paragraph shall be inserted after sub-paragraph (4)—

“(4A) In sub-paragraph (4) above the reference to any increase under subsection (7) of section 28 of the principal Act shall be taken as a reference to any increase that would take place under that subsection if subsection (7A) were disregarded.”.

(6) Where a person—

- (a) is entitled immediately before the commencement of a provision contained in this section ("the amending provision") to a benefit specified in subsection (8) below (" the relevant benefit"); and
- (b) continues to be entitled to the relevant benefit after the commencement of the amending provision,

until the relevant date the amending provision shall not operate in relation to him, so long as he continues to be entitled to the relevant benefit, in such a way as to reduce the total weekly rate of any benefits specified in subsection (8) below to which he is for the time being entitled to a rate lower than the total weekly rate of such benefits immediately before the commencement of the amending provision.

(7) Where—

- (a) the conditions mentioned in subsection (6) (a) and (b) above are satisfied in relation to a person ; and
- (b) he ceases to be entitled to the relevant benefit after the commencement of the amending provision ; and
- (c) he subsequently becomes entitled to it again ; and
- (d) the interval between the date of his ceasing to be entitled to it and the date of his becoming entitled to it again is eight weeks or less ; and
- (e) the date of his becoming entitled to it again is earlier than the date in 1985 on which an order under sections 124 and 126A of the Social Security Act 1975 comes into force,

until the relevant date the amending provision shall not operate in relation to him, during any periods for which he is entitled to the relevant benefit, in such a way as to reduce the total weekly rate of benefits specified in subsection (8) below to which he is for the time being entitled to a rate lower than the total weekly rate of such benefits immediately before the commencement of the amending provision.

(8) The benefits mentioned in subsections (6) and (7) above are—

- (a) invalidity benefit;
- (b) Category A and Category B retirement pension; and
- (c) unemployability supplement,

including any increase in respect of a dependant.

(9) In this section " the relevant date " means, in relation to any person, the first date on which there comes into force an order under sections 124 and 126A of the Social Security Act 1975 whose effect, taken with the effect of the amending provision, is more beneficial to him than the effect of subsections (6) and (7) above.

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## 10 Voluntary redundancy-entitlement to unemployment benefit

In section 20 of the Social Security Act 1975 (disqualifications for receipt of benefit), the following subsection shall be inserted after subsection (3)—

“(3A) For the purposes of this section, a person who has been dismissed by his employer by reason of redundancy within the meaning of section 81(2) of the Employment Protection (Consolidation) Act 1978 after volunteering or agreeing so to be dismissed shall not be deemed to have left his employment voluntarily.”.

## 11 Entitlement of married women to Category A retirement pensions

- (1) Paragraph 11 of Schedule 1 to the Social Security Act 1979 (by virtue of which the additional conditions for the entitlement of a married woman to a Category A retirement pension imposed by section 28(2) of the Social Security Act 1975 continue to apply in relation to any woman who attained pensionable age before 6th April 1979, notwithstanding the repeal of that subsection) is hereby repealed.
- (2) Subsection (1) above shall be deemed to have come into force on 22nd December 1984.

## 12 Abolition of lower rate for Category D retirement pension

- (1) In section 39 of the Social Security Act 1975 (retirement benefits for the aged)—
  - (a) the words " or Category D " shall be omitted from subsection (2); and
  - (b) the following subsection shall be inserted after that subsection—
 

“(2A) The appropriate weekly rate of a Category D retirement pension shall be as provided in relation thereto in Schedule 4. Part III, paragraph 5A.”.
- (2) The following paragraph shall be inserted after paragraph 5 of Part III of Schedule 4 to that Act—

“5A.	Category D retirement pension (section 39).	The higher rate for Category C retirement pensions under paragraph 5 above.”.
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## 13 Pension increases in respect of adult dependants-equal treatment for males and females etc.

- (1) The following subsection shall be inserted after subsection (2) of section 45 of the Social Security Act 1975 (increase of Category A or C retirement pension or invalidity pension in respect of wife)—
 

“(2A) Regulations may provide that, for any period during which the pensioner is residing with his wife and his wife is engaged in any one or more employments from which she has earnings—

  - (a) the increase of benefit under this section shall be subject to a reduction in respect of the wife's earnings ; or
  - (b) there shall be no increase of benefit under this section.”.

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- (2) In section 45A of that Act (pension increase (husband))—
- (a) in subsection (1)(b), for the words " conditions specified in " there shall be substituted the words " requirements of either paragraph (a) or (b) of"; and
  - (b) the following subsections shall be substituted for sub section (2)—
    - “(2) The requirements referred to in subsection (1)(b) above are—
      - (a) that the pensioner is residing with her husband ;
      - (b) that the pensioner is contributing to the maintenance of her husband at a weekly rate not less than the specified amount, and her husband is not engaged in any one or more employments from which his weekly earnings exceed that amount.
    - (3) Regulations may provide that, for any period during which the pensioner is residing with her husband and her husband is engaged in any one or more employments from which he has earnings—
      - (a) the increase of benefit under this section shall be subject to a reduction in respect of the husband's earnings; or
      - (b) there shall be no increase of benefit under this section.”.
- (3) The following subsection shall be substituted for subsection (4) of section 46 of that Act (increase of Category A or C retirement pension or invalidity pension in respect of female with care of children)—
- “(4) Regulations may, in a case within subsection (2) above in which the person there referred to is residing with the pensioner and fulfils such further conditions as may be prescribed, authorise an increase of benefit under this section, but subject, taking account of the earnings of the person residing with the pensioner, other than such of that person's earnings from employment by the pensioner as may be prescribed, to provisions comparable to those that may be, made by virtue of section 45(2A) above.”.
- (4) In section 47 of that Act (invalidity pension (dependent relative))—
- (a) in subsection (1), for the words " his weekly earnings exceed the amount so specified " there shall be substituted the words " he has earnings"; and
  - (b) the following subsection shall be inserted after that subsection—
    - “(1A) Regulations may provide that—
      - (a) the increase of benefit under this section shall be subject to a reduction in respect of the husband's earnings ; or
      - (b) there shall be no increase of benefit under this section.”.
- (5) The following subsections shall be substituted for subsections (3) to (6) of section 66 of that Act (increase of disablement pension in respect of adult dependant)—
- “(3) Regulations may provide that, for any period during which the beneficiary is contributing to the maintenance of his or her spouse at the requisite rate and the weekly earnings of the spouse from any one or more employments exceed such amount as may be prescribed, there shall be no increase of benefit under this section.

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- (4) Regulations may provide that, for any period during which the beneficiary is residing with his or her spouse and the spouse is engaged in any one or more employments from which he or she has earnings—
  - (a) the increase of benefit under this section shall be subject to a reduction in respect of the spouse's earnings; or
  - (b) there shall be no increase of benefit under this section.
- (5) Regulations may, in a case within subsection (1)(d) above in which the person there referred to is residing with the beneficiary and fulfils such further conditions as may be prescribed, authorise an increase of benefit under this section, but subject, taking account of the earnings of the person residing with the beneficiary, other than such of that person's earnings from employment by the beneficiary as may be prescribed, to provisions comparable to those that may be made by virtue of subsection (4) above.
- (6) Regulations under this section may, in connection with any reduction or extinguishment of an increase in benefit in respect of earnings, prescribe the method of calculating or estimating the earnings.”.
- (6) In section 84 of that Act (regulations for purposes of sections 45, 66 and other provisions of that Act) in subsection (4)(a), the words " his or her spouse " shall be substituted for the words " his wife".
- (7) The amendment made by subsection (6) above shall be deemed to have come into force on 13th July 1983.
- (8) The following subsection shall be substituted for section 84(5) of that Act—
  - “(5) The provisions of this Act mentioned in subsection (4) above are sections 31, 42 to 45A, 47, 65 and 66.”.

#### **14 Special hardship allowance**

In section 60 of the Social Security Act 1975 (increase of disablement benefit for special hardship)—

- (a) the following subsection shall be inserted after subsection (1)—
  - “(1A) The Secretary of State may by regulations provide that in prescribed circumstances employed earner's employment in which a claimant was engaged when the relevant accident took place but which was not his regular occupation is to be treated as if it had been his regular occupation.”;
- (b) in subsection (2)(a), for the words " of his " there shall be substituted the words " , except to the extent that it falls to be treated as including such an occupation by virtue of regulations under subsection (1A) above,";
- (c) in subsection (6)—
  - (i) after the word " above", in the first place where it occurs, there shall be inserted the words " and to subsection (6A) below,"; and
  - (ii) for the words " his regular occupation within the meaning of subsection (1) above " there shall be substituted the words " the relevant occupation"; and
- (d) the following subsections shall be inserted after that subsection—

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“(6A) A person who is entitled to an increase of pension under this section by virtue of regulations under subsection (1A) above shall not be paid such an increase for any period during which he would not normally be engaged in full-time employed earner's employment.

(6B) In subsection (6) above " the relevant occupation " means—

- (a) in relation to a person who is entitled, to an increase of pension under this section by virtue of regulations under subsection (1 A) above, the occupation in which he was engaged when the relevant accident took place; and
- (b) in relation to any other person who is entitled to an increase of pension under this section, his regular occupation within the meaning of subsection (1) above.”.

## **15 Invalidity pension**

On a review under section 125 of the Social Security Act 1975 (duty to increase rate of benefits) made in June 1985 subsection (3) of that section shall have effect as if at the end of it there were added the words " and also adding—

- (a) to the rate of invalidity pension payable under any provision of this Act or the Pensions Act;
- (b) to any increase in the rate of invalidity pension which is payable in respect of an adult dependant;
- (c) to the amount of unemployability supplement; and
- (d) to the rate of a disablement pension where the beneficiary is entitled to an increase under section 66(1) above,

an additional sum equal to the difference between—

- (i) the sum that would have resulted from the review; and
- (ii) the sum that would have resulted but for section 1 of the Social Security (No. 2) Act 1980 ”.

## **16 Up-rating benefits**

(1) The words " in the month of June " shall be omitted from subsection (1) of sections 125 and 126A of the Social Security Act 1975 (annual reviews of benefits for purposes of up-rating).

(2) The following subsection shall be substituted for subsection (4A) of section 125—

“(4A) A review under this section or section 126A below shall cover a period of not more than twelve months beginning immediately after the end of the period covered by the last review under the relevant section.”.

## **17 Entitlement to benefit dependent on claim**

The following section shall be inserted immediately before section 166 of the Social Security Act 1975—

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**“165A General provision as to necessity of claim for entitlement to benefit.**

- (1) Except in such cases as may be prescribed, no person shall be entitled to any benefit unless, in addition to any other conditions relating to that benefit being satisfied—
  - (a) he makes a claim for it—
    - (i) in the prescribed manner; and
    - (ii) subject to subsection (2) below, within the prescribed time; or
  - (b) by virtue of a provision of Chapter VI of Part II of this Act or of regulations made under such a provision he is treated as making a claim for it.
- (2) Regulations shall provide for extending, subject to any prescribed conditions, the time within which a claim may be made in cases where it is not made within the prescribed time but good cause is shown for the delay.
- (3) Notwithstanding any regulations made under this section, no person shall be entitled—
  - (a) to a maternity grant in respect of a confinement occurring more than 12 months before the date on which the claim is made;
  - (b) to a death grant in respect of a death occurring more than 12 months before the date on which the claim is made ;
  - (c) to any other benefit (except disablement benefit or industrial death benefit) in respect of any period more than 12 months before the date on which the claim is made.”.

**PART III**

STATUTORY SICK PAY

**18 Period of entitlement**

- (1) In subsection (4) of section 5 of the Social Security and Housing Benefits Act 1982 (under which the entitlement limit for statutory sick pay is eight times the appropriate weekly rate) for " eight " there shall be substituted " 28".
- (2) There shall be omitted—
  - (a) from subsection (2) of that section, the words " or tax year,";
  - (b) from subsection (3), the words from " or ", in the first place where it occurs, to " question ", in the second place where it occurs ;
  - (c) from subsection (5), the words " tax year or " ; and
  - (d) paragraph 2(h) of Schedule 1 to the Social Security and Housing Benefits Act 1982.
- (3) The following section shall be inserted after section 15 of the Social Security Act 1975—

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**“15A Statutory sick pay and entitlement to invalidity pension.**

- (1) The Secretary of State may by regulations provide that for the purpose of entitlement to invalidity pension such days as may be prescribed in respect of which a person is or has been entitled to statutory sick pay shall be days in respect of which he is deemed to be or to have been entitled to sickness benefit.
- (2) A person under pensionable age who is deemed in accordance with regulations under subsection (1) above to have been entitled to sickness benefit for the whole or any part of a period of 168 days such as is mentioned in section 15(1) above shall not be entitled to invalidity pension unless he would have satisfied the contribution conditions for sickness benefit had he claimed that benefit on the first of those days.”.
- (4) The following subsection shall be inserted after subsection (3) of section 2 of the Social Security and Housing Benefits Act 1982 (periods of incapacity for work)—
  - “(3A) The Secretary of State may by regulations direct that a larger number of weeks specified in the regulations shall be substituted for the number for the time being specified in subsection (3) above.”.
- (5) The following subsection shall be inserted after subsection (4) of section 3 of that Act (period of entitlement)—
  - “(4A) The Secretary of State may by regulations—
    - (a) specify circumstances in which, for the purpose of determining whether an employee's maximum entitlement to statutory sick pay has been reached in a period of entitlement as between him and an employer of his, days falling within a previous period of entitlement as between the employee and any person who is or has in the past been an employer of his are to be counted ; and
    - (b) direct that in prescribed circumstances an employer shall provide a person who is about to leave his employment, or who has been employed by him in the past, with a statement in the prescribed form containing such information as may be prescribed in relation to any entitlement of the employee to statutory sick pay.”.
- (6) In Schedule 2 to that Act (relationship of statutory sick pay with benefits and other payments etc.)—
  - (a) in paragraph 1, the words " , except as provided by paragraph 1A below, of " shall be inserted before the words " the Social Security Pensions Act 1975"; and
  - (b) the following paragraph shall be inserted after that paragraph—
    - “1A Paragraph 1 above shall not apply for the purpose of determining whether the conditions specified in sections 15(2) and 16(2) respectively of the Social Security Pensions Act 1975 (invalidity pension for widows and for widowers) are satisfied.”.

**19 Right of employers to amounts in respect of contributions**

- (1) In section 9 of the Social Security and Housing Benefits Act 1982 (recovery by employers of amounts paid by way of statutory sick pay)—

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(a) the following subsection shall be inserted after subsection (1)—

“(1A) Regulations shall also make provision—

- (a) giving any employer who has made a payment of statutory sick pay a right, except in prescribed circumstances, to an amount determined by reference to secondary Class 1 contributions in such manner as may be prescribed;
  - (b) for the recovery by an employer, in prescribed circumstances, of the whole or any part of any such amount from contributions payments;
  - (c) for the payment to an employer by the Secretary of State or by the Commissioners of Inland Revenue on behalf of the Secretary of State, in prescribed circumstances, of the whole or any part of any such amount.”;
- (b) in subsection (2), " and subsection (1A)" shall be inserted after " (1)(a)";
- (c) in subsection (5), after the words " statutory sick pay " there shall be inserted the words " or deductions or payments made by virtue of subsection (1A) above"; and
- (d) in subsection (7), " or subsection (1A)(c)" shall be inserted after " (1)(b)".
- (2) Regulations made under any enactment before the expiry of the period of six months beginning with the day on which this Act is passed and contained in a statutory instrument which states that it contains only provisions consequential on subsection (1) above may be framed so as to have effect as from a date earlier than the making of the regulations.

## **20 Medical evidence**

In section 17 of the Social Security and Housing Benefits Act 1982 (provision of information: general), the following subsection shall be inserted after subsection (2)—

“(2A) The Secretary of State may by regulations direct-

- (a) that medical information required under subsection (2) above shall, in such cases as may be prescribed, be provided in a prescribed form ;
- (b) that an employee shall not be required under subsection (2) above to provide medical information in respect of such days as may be prescribed in a period of incapacity for work.”.

## **21 Miscellaneous amendments relating to statutory sick pay**

The enactments specified in Schedule 4 shall have effect subject to the amendments there specified.



## PART IV

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Miscellaneous*

#### **22 Housing benefits-subsidy**

- (1) In section 32 of the Social Security and Housing Benefits Act 1982 (subsidy)—
- (a) the following paragraphs shall be substituted for paragraphs (a) and (b) of subsection (2)—
    - “(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, subject to any prescribed deductions;
    - (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 the local scheme had not been in force, would have been granted by the authority under the statutory scheme during that year or that part of it, subject to any prescribed deductions ; and”;
  - (b) at the end of that subsection there shall be added (but not as part of paragraph (c)) the words " but shall be subject, in so far as it falls to be calculated in accordance with paragraph (a) or (b) above, to deduction of any amount which the Secretary of State considers it unreasonable to meet out of money provided by way of subsidy under subsection (1) above."; and
  - (c) at the end of subsection (3) there shall be added (but not as part of paragraph (c)) the words " after any deduction has been made by virtue of subsection (2) above or an order under that subsection."
- (2) The amendments made by subsection (1)(b) and (c) above shall be deemed to have come into force on 1st April 1985.

#### **23 Vaccine damage payments**

- In section 1 of the Vaccine Damage Payments Act 1979—
- (a) in subsection (1), for "£10,000" there shall be substituted " the relevant statutory sum";
  - (b) the following subsection shall be inserted after that subsection—
    - “(1A) In subsection (1) above " statutory sum " means £10,000 or such other sum as is specified by the Secretary of State for the purposes of this Act by order made by statutory instrument with the consent of the Treasury; and the relevant statutory sum for the purposes of that subsection is the statutory sum at the time when a claim for payment is first made.”; and
  - (c) the following subsection shall be inserted after subsection (4)—
    - “(4A) No order shall be made by virtue of subsection (1A) above unless a draft of the order has been laid before Parliament and been approved by a resolution of each House.”.

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## 24 Power to extend Pneumoconiosis etc. (Workers' Compensation) Act 1979

In the Pneumoconiosis etc. (Workers' Compensation) Act 1979—

- (a) in section 1—
  - (i) at the end of subsection (3) there shall be added the words " and any other disease which is specified by the Secretary of State for the purposes of this Act by order made by statutory instrument."; and
  - (ii) the following subsection shall be added after subsection (4)—
    - “(5) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.”; and
- (b) in section 4(4)—
  - (i) the words " other than a disease specified in an order under section 1 above," shall be inserted after " applies, " in paragraphs (a) and (b); and
  - (ii) the following paragraphs shall be added after paragraph (b)—
    - “(c) in the case of a person disabled by a disease specified in an order under section 1 above, means the date on which disablement benefit first became payable to him in respect of the disease or the date of the coming into force of the order, whichever is the later;
    - (d) in the case of the dependant of a person who, immediately before he died, was disabled by a disease specified in an order under section 1 above, means the date of the deceased's death or the date of the coming into force of the order, whichever is the later.”.

## 25 Pensions and gratuities for members of certain Boards

- (1) The following subsection shall be inserted after subsection (3) of section 12 of the Betting, Gaming and Lotteries Act 1963 (Horserace Totalisator Board)—
  - “(3A) The Board may pay such pension or gratuity to or in respect of any member of the Board as the Board may, with the approval of the Secretary of State, determine.”.
- (2) The following subsection shall be inserted after subsection (6) of section 24 of that Act (Horserace Betting Levy Board)—
  - “(6A) The Levy Board may pay such pension or gratuity as the Board may, with the approval of the Secretary of State, determine, to or in respect of the chairman and any other members appointed by the Secretary of State.”.
- (3) The following paragraph shall be inserted after paragraph 5 of Schedule 1 to the Gaming Act 1968 (provisions as to Gaming Board for Great Britain)—
  - “5A The Secretary of State may pay such pension or gratuity to or in respect of any member of the Board as the Secretary of State may, with the consent of the Treasury, determine.”.

### *Supplementary*

## **26 Regulations about occupational pensions**

- (1) Section 61(2) of the Social Security Pensions Act 1975 (reference of regulations to Occupational Pensions Board) shall not apply to regulations—
- (a) made under section 44A or 52C of or Schedule 1A to the Social Security Pensions Act 1975 before the expiry of the period of six months beginning with the commencement of section 2 above ;
  - (b) made under any enactment before the expiry of the period of six months beginning with the commencement of section 2 above and contained in a statutory instrument which states that it contains only provisions consequential on that section or such provisions and regulations made under section 44A or 52C of or Schedule 1A to the Social Security Pensions Act 1975 ;
  - (c) made under any of sections 56A to 56E, 56H and 56J of the Social Security Pensions Act 1975 before the expiry of the period of six months beginning with the commencement of section 3 above ;
  - (d) made under any enactment before the expiry of the period of six months beginning with the commencement of section 3 above and contained in a statutory instrument which states that it contains only provisions consequential on that section or such provisions and regulations made under any of sections 56A to 56E, 56H and 56J of the Social Security Pensions Act 1975;
  - (e) made under section 35(8) of the Social Security Pensions Act 1975 before the expiry of the period of six months beginning with the commencement of section 4 above;
  - (f) made under any enactment before the expiry of the period of six months beginning with the commencement of section 4 above and contained in a statutory instrument which states that it contains only provisions consequential on that section or such provisions and regulations made under section 35(8) of the Social Security Pensions Act 1975;
  - (g) made under section 41B(3) of the Social Security Pensions Act 1975 before the expiry of the period of six months beginning with the commencement of section 6(5) above; or
  - (h) made under any enactment before the expiry of the period of six months beginning with the commencement of section 6(5) above and contained in a statutory instrument which states that it contains only provisions consequential on that subsection or such provisions and regulations made under section 41B(3) of the Social Security Pensions Act 1975.
- (2) The references in subsection (1) above to the commencement of section 3 above are references, in relation to any regulations, to the commencement of that section so far as it relates to the provision under which the regulations are made.
- (3) The references in subsection (1) above to the commencement of section 4 above are references to the commencement of that section so far as it relates to Part II of Schedule 3 to this Act.

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## 27 Other regulations

- (1) Section 141(2) of the Social Security Act 1975 (reference of regulations to Industrial Injuries Advisory Council) and section 10(1) of the Social Security Act 1980 (reference of regulations to Social Security Advisory Committee) shall not apply—
  - (a) to regulations made under any of sections 45 (2A), 45A(3), 46(4), 47(1A), 49 and 66(3) and (4) of the Social Security Act 1975 before the expiry of the period of six months beginning with the commencement of section 13 above;
  - (b) subject to subsection (5) below, to regulations made under section 84(4) of that Act, before the expiry of the period of six months beginning with the passing of this Act; or
  - (c) to regulations made under section 32 below before the expiry of the period of six months beginning with the commencement of any relevant provision of this Act.
- (2) The reference in subsection (1)(a) above to the commencement of section 13 above is a reference, in relation to any regulations, to the commencement of that section so far as it relates to the provision under which the regulations are made.
- (3) Section 167(3) of the Social Security Act 1975 (negative procedure for regulations) shall not apply to the first regulations under any of the provisions of that Act mentioned in subsection (1)(a) above.
- (4) The Secretary of State shall not make any such regulations unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Subsection (1)(b) above does not apply to regulations made under section 84(4) of the Social Security Act 1975 which could have been made if that subsection had not been amended by section 13 above.
- (6) The reference in subsection (1)(c) above to a relevant provision of this Act is a reference to a provision of this Act which the statutory instrument containing the regulations states is a provision—
  - (a) in connection with the coming into force of which the Secretary of State considers it necessary or expedient to make the regulations ; or
  - (b) which repeals or amends an enactment in connection with the operation of which the Secretary of State considers it necessary or expedient to make the regulations.
- (7) Section 141(2) of the Social Security Act 1975 shall not apply to regulations—
  - (a) made under section 60(1 A) of the Social Security Act 1975 before the expiry of the period of six months beginning with the commencement of section 14 above ; or
  - (b) made under any enactment before the expiry of the period of six months beginning with the commencement of section 14 above and contained in a statutory instrument which states that it contains only provisions consequential on that section or such provisions and regulations made under section 60(1 A) of the Social Security Act 1975.
- (8) Section 10(1) of the Social Security Act 1980 shall not apply to regulations—
  - (a) made under section 4 (6A) or (6D) or 13 (5A) of the Social Security Act 1975 or section 6(5A) of the Social Security Pensions Act 1975 before the expiry

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- of the period of six months beginning with the commencement of section 7 above ;
- (b) made under any enactment before the expiry of the period of six months beginning with the commencement of section 7 above and contained in a statutory instrument which states that it contains only provisions consequential on that section or such provisions and regulations made under section 4(6A) or (6D) or 13(5A) of the Social Security Act 1975 or section 6(5A) of the Social Security Pensions Act 1975 ;
  - (c) made under section 15A of the Social Security Act 1975 or section 2 (3A) or 3 (4A) of the Social Security and Housing Benefits Act 1982 before the expiry of the period of six months beginning with the commencement of section 18 above ;
  - (d) made under any enactment before the expiry of the period of six months beginning with the commencement of section 18 above and contained in a statutory instrument which states that it contains only provisions consequential on that section or such provisions and regulations made under any provision inserted by it in the Social Security Act 1975 or the Social Security and Housing Benefits Act 1982 ;
  - (e) made under section 9(1 A) of the Social Security and Housing Benefits Act 1982 before the expiry of the period of six months beginning with the commencement of section 19 above ;
  - (f) made under any enactment before the expiry of the period of six months beginning with the commencement of section 19 above and contained in a statutory instrument which states that it contains only provisions consequential on subsection (1) of that section or such provisions and regulations made under section 9(1 A) of the Social Security and Housing Benefits Act 1982 ;
  - (g) made under section 22(8) of the Social Security Act 1975 before the expiry of the period of six months beginning with the commencement of paragraph 2 of Schedule 4 to this Act;
  - (h) made under any enactment before the expiry of the period of six months beginning with the commencement of paragraph 2 of Schedule 4 to this Act and contained in a statutory instrument which states that it contains only provisions consequential on the exercise of the power conferred by virtue of that paragraph or such provisions and regulations made under section 22(8) of the Social Security Act 1975 ;
  - (j) made under section 165A(1) of the Social Security Act 1975 before the expiry of the period of six months beginning with the commencement of section 17 above ;
  - (k) made under any enactment before the expiry of the period of six months beginning with the commencement of section 17 above and contained in a statutory instrument which states that it contains only provisions consequential on that section or such provisions and regulations made under section 165A(1) of the Social Security Act 1975;
  - (l) made under section 17(2A) of the Social Security and Housing Benefits Act 1982 before the expiry of the period of six months beginning with the commencement of section 20 above ;
  - (m) made under any enactment before the expiry of the period of six months beginning with the commencement of section 20 above and contained in a statutory instrument which states that it contains only provisions consequential on the exercise of the power conferred by virtue of that section

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or such provisions and regulations made under section 17 (2A) of the Social Security and Housing Benefits Act 1982.

## **28 Financial provision**

- (1) Any expenses of a Minister of the Crown incurred in consequence of the provisions of this Act, including any increase attributable to those provisions in sums payable under any other Act, shall be defrayed out of money provided by Parliament.
- (2) All fees paid to the registrar of occupational pension schemes shall be paid into the Consolidated Fund.

## **29 Minor and consequential amendments and repeals**

- (1) The enactments mentioned in Schedule 5 to this Act shall have effect with the amendments there specified.
- (2) The enactments mentioned in Schedule 6 to this Act are repealed to the extent specified in the third column of that Schedule.

## **30 Northern Ireland**

An Order in Council under paragraph 1(1) (5) of Schedule I 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 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.

## **31 Extent**

- (1) Section 3 above extends to Northern Ireland so far as it relates to sections 56B and 56N of the Social Security Pensions Act 1975.
- (2) Section 29 above extends to Northern Ireland so far as it relates—
  - (a) to paragraphs 1, 2, 35, 37 and 39 of Schedule 5 to this Act; and
  - (b) to the repeal in Schedule 6 to this Act of paragraph 6 of Schedule 7 to the Health and Social Security Act 1984.
- (3) Section 30 above, this section, and sections 32 and 33 below extend to Northern Ireland.
- (4) Section 23 above extends to Northern Ireland and the Isle of Man.
- (5) Except as provided by subsections (1) to (4) above, this Act extends to England and Wales and Scotland only.

## **32 Commencement**

- (1) Subject to the following provisions of this section, the provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be appointed in pursuance of this section for different provisions or different purposes of the same provision.

- (2) The following provisions of this Act—  
section 4, so far as it relates to Part I of Schedule 3 ;  
section 6(5) and (6);  
section 8;  
sections 10 and 11;  
section 13(6) and (7);  
section 15;  
section 19;  
section 22(1)(b) and (c) and (2);  
sections 23 to 28 ;  
section 29(1) so far as it relates to paragraphs 22, 34, 36 and 37 of Schedule 5 ;  
section 29(2), so far as it relates to the repeals in—  
section 41D of the Social Security Pensions Act 1975;  
section 22(7) of the Social Security (Miscellaneous Provisions) Act 1977;  
the Social Security Act 1981; and  
the Health and Social Security Act 1984;  
sections 30 and 31;  
this section; and  
section 33,  
shall come into force on the day this Act is passed.
- (3) The following provisions of this Act—  
section 17;  
section 29(1), so far as it relates to paragraphs 7, 8 and 14 of Schedule 5;  
section 29(2), so far as it relates to the repeals in sections 79, 82 and 90 of the Social Security Act 1975,  
shall come into force at the end of the period of 6 weeks beginning with the day on which this Act is passed.
- (4) If a person—  
(a) was entitled to benefit (as defined in Schedule 20 to the Social Security Act 1975) in respect of a period before the date on which the provisions mentioned in subsection (3) above come into force or was treated as having been so entitled; and  
(b) would not have been so entitled or, as the case may be, treated as so entitled, if those provisions had then been in force; and  
(c) claims benefit in respect of a period beginning on or after the date on which those provisions come into force,  
and the question of his entitlement to the benefit which he claims depends on whether he was previously entitled or treated as entitled to that or some other benefit, the provisions mentioned in subsection (3) above shall be disregarded for the purpose of determining whether he is entitled to the benefit which he claims.
- (5) Sections 18 and 20 above shall come into force on 6th April 1986.
- (6) The Secretary of State may by regulations made by statutory instrument make such transitional and consequential provision (including provision modifying any enactment contained in this or any other Act) or saving as he considers necessary or expedient in connection with the coming into force of any provision of this Act or the

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operation of any enactment which is repealed or amended by a provision of this Act during any period when the repeal or amendment is not wholly in force.

- (7) Regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Subsections (2) and (3) of section 166 of the Social Security Act 1975 (which among other things make provision about the extent of powers to make regulations) shall apply to the power to make regulations conferred by this section as they apply to any power to make regulations conferred by that Act.

### **33 Citation**

- (1) This Act may be cited as the Social Security Act 1985.
- (2) This Act may be cited together with—
  - (a) the Social Security Acts 1975 to 1984 ; and
  - (b) section 25 of the Health and Social Services and Social Security Adjudications Act 1983 and Schedule 8 to that Act,as the Social Security Acts 1975 to 1985.



## SCHEDULES

### SCHEDULE 1

Section 2.

#### TRANSFER AND REVALUATION

#### PART I

##### NEW SECTIONS

- 1 The following section shall be inserted after section 44 of the Social Security Pensions Act 1975—

**“44A Transfer premiums.**

- (1) The Secretary of State may by regulations provide that, in such cases and subject to such conditions as may be prescribed, if—
- (a) an earner in employment to which an occupational pension scheme applies has ceased, whether before or after the commencement of this section, to be in that employment before attaining normal pension age ; and
  - (b) there has been a transfer from that scheme to another scheme of his accrued rights to requisite benefits other than his accrued rights to his and his widow's guaranteed minimum pensions ; and
  - (c) the scheme to which his accrued rights are transferred is not a contracted-out scheme ; and
  - (d) no accrued rights premium is payable in respect of the earner ; and
  - (e) the circumstances in which by virtue of section 42(1)(a) and (b) above a contributions equivalent premium is payable do not exist,
- a state scheme premium may be paid to the Secretary of State by the prescribed person within a prescribed time after the prescribed event.
- (2) A premium under subsection (1) above may be referred to as a " transfer premium " .
- (3) The amount of a transfer premium shall be determined in the manner in which the amount of an accrued rights premium falls to be determined under section 44 above, except that—
- (a) subsection (6) shall be disregarded ; and
  - (b) the Secretary of State shall apply the actuarial table prescribed for the purpose of calculating the amount of an accrued rights premium in such manner as may be prescribed.
- (4) Payment of a transfer premium shall extinguish the earner's accrued rights to guaranteed minimum pensions under the scheme from which his other accrued rights to requisite benefits have been transferred.”.

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2 The following shall be inserted at the beginning of Part IV of that Act—

*“The revaluation percentage*

**52A Duty of Secretary of State to specify revaluation percentage.**

- (1) The Secretary of State shall in each revaluation year by order specify a revaluation percentage for each revaluation period.
- (2) In this section—
  - " revaluation period", in relation to each order under this section, means a period—
    - (a) which commences—
      - (i) on the date of the commencement of this section; or
      - (ii) on an anniversary of the date of the commencement of this section falling before the making of the order ; and
    - (b) which ends on the day before the first anniversary of the date of the commencement of this section to fall after the making of the order; and
  - " revaluation year " means a year beginning on the date of the commencement of this section or on an anniversary of that date.
- (3) Subject to subsection (8) below, the revaluation percentage which the Secretary of State is to specify in relation to each revaluation period is the percentage which appears to him, in the light of the information available to him, to be the percentage increase in prices in Great Britain during the period which is the reference period in relation to that revaluation period.
- (4) The reference period in the case of the revaluation period to which the first order under this section relates is any period of 12 months—
  - (a) which ends not earlier than 6 months before the date on which the order is made ; and
  - (b) for which it appears to the Secretary of State that information is available to him sufficient to enable him to determine the percentage increase in prices in Great Britain satisfactorily.
- (5) The reference period in the case of any revaluation period to which a subsequent order relates is to be determined in accordance with subsection (6) or (7) below.
- (6) In the case of the revaluation period with the earliest commencement date the reference period is the period which—
  - (a) begins at the commencement of the reference period mentioned in subsection (4) above ; and
  - (b) ends on the latest anniversary of the end of that period to fall before the making of the order.
- (7) In the case of each of the other revaluation periods the reference period is the period which—
  - (a) begins on the last anniversary of the commencement of the reference period mentioned in subsection (4) above to fall before the commencement of the revaluation period; and

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- (b) ends on the last anniversary of the end of that reference period to fall before the making of the order.
- (8) If it appears to the Secretary of State that the percentage increase in prices in Great Britain during a reference period is greater than it would have been if they had increased at a rate of 5 per cent, compound per annum, the Secretary of State shall specify as the revaluation percentage in relation to the revaluation period for which that reference period is the reference period a percentage equal to the percentage that would have been the percentage increase during that reference period if they had increased at a rate of 5 per cent, compound per annum.

### **52B Revaluation and transfer values.**

Schedule 1A to this Act shall have effect in relation to the revaluation of pensions and to transfer values.

*Extinguishment of liability of scheme for pensions  
secured by insurance policies or annuity contracts*

### **52C Cases where a scheme's liability is discharged.**

- (1) The taking out or the transfer of the benefit of a policy of insurance or a number of such policies, or the entry into or the transfer of the benefit of an annuity contract or a number of such contracts, if it takes place after the commencement of this section, only discharges trustees or managers of an occupational pension scheme from their liability, or any part of their liability, to provide—
- (a) the requisite benefits ; or
  - (b) short service benefit or any alternative to short service benefit,
- for or in respect of any person in a case where and to the extent that subsection (2) below has effect.
- (2) Where at the time an earner's pensionable service terminates or at any later time— (a) the whole or any part—
- (i) of the requisite benefits; or
  - (ii) of the short service benefit or of any alternative to short service benefit, provided for or in respect of him by an occupational pension scheme is appropriately secured ; and
- (b) the requirements set out in any one of paragraphs (a), (b) and (c) of subsection (5) below are satisfied,
- the trustees or managers of the scheme shall be discharged from their liability so far as what they were liable to provide is so secured.
- (3) Where before the commencement of this section—
- (a) an earner's pensionable service terminated; and
  - (b) at the time his pensionable service terminated or at a later time the whole or any part—
- (i) of the requisite benefits ; or

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- (ii) of the short service benefit or of any alternative to short service benefit, provided for or in respect of him by an occupational pension scheme was appropriately secured, the trustees or managers of the scheme shall be deemed to have been discharged from their liability, so far as what they were liable to provide was so secured, at the time when it was first so secured.
- (4) In this section " appropriately secured" means secured by an appropriate policy of insurance or an appropriate annuity contract, or by more than one such policy or contract; and a policy of insurance or annuity contract is appropriate for the purposes of this section if—
- (a) the insurance company with which it is, or was, taken out or entered into is, or was, at the relevant time, authorised under section 3 or 4 of the Insurance Companies Act 1982 or any similar previous enactment to carry on ordinary long-term insurance business ; and
  - (b) it may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed ; and
  - (c) it contains, or is endorsed with, terms whose effect is that the amount secured by it may not be commuted except on conditions which satisfy such requirements as may be prescribed ; and
  - (d) it satisfies such other requirements as may be prescribed.
- (5) The requirements referred to in subsection (2)(b) above are—
- (a) that the arrangement for securing the amount by means of the policy or contract was made—
    - (i) at the written request of the earner or his widow; or
    - (ii) with his or her consent given in writing in a prescribed form ;
  - (b) that—
    - (i) the case is one such as is mentioned in paragraph 13(5) of Schedule 1A to this Act; and
    - (ii) the policy or contract only secures guaranteed minimum pensions;
  - (c) that—
    - (i) the case is not one such as is mentioned in paragraph 13(5) of Schedule 1A to this Act; and
    - (ii) such conditions as may be prescribed are satisfied.
- (6) In subsection (4)(a) above, " the relevant time" means the time when the policy of insurance was taken out or the annuity contract was entered into or, as the case may be, when the benefit of the policy or contract was transferred.
- (7) In this section—
- " insurance company " and " ordinary long-term insurance business " have the meanings assigned to them by the Insurance Companies Act 1982 ; and
- " pensionable service " and " short service benefit " are to be construed in accordance with Schedule 16 to the Social Security Act 1973.

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

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## **52D Guaranteed minimum pensions under contracted-out schemes-supplementary.**

- (1) Where—
  - (a) guaranteed minimum pensions provided for a member or his widow under a contracted-out scheme have been wholly or partly secured as mentioned in section 52C above by a policy or a number of policies of insurance taken out with one or more companies or by an annuity contract or a number of annuity contracts entered into with one or more companies, or by both a policy or a number of policies and an annuity contract or a number of annuity contracts; and
  - (b) subsection (2) or (3) below applies ; and
  - (c) any such company is unable to meet the liabilities under policies issued or securities given by it; and
  - (d) the combined proceeds of any policy or policies taken out as mentioned in section 52C above and of any annuity contract or annuity contracts entered into as there mentioned and of any cash sums paid or alternative arrangements made under the Policyholders Protection Act 1975 are inadequate to provide the whole of the amount secured, the member and his widow shall be treated for the purposes of section 29(1) above as entitled to any part of his or her guaranteed minimum pension which is provided by the proceeds mentioned in paragraph (d) above.
- (2) This subsection applies where section 52C(3) above has effect.
- (3) This subsection applies where—
  - (a) section 52C(3) above does not have effect and none of the requirements specified in section 52C(5)(o) to (c) above is satisfied ; and
  - (b) the scheme has been wound up.
- (4) Where a scheme has ceased by virtue of section 52C above to be liable to provide guaranteed minimum pensions for a member and his widow, the duties imposed on the Occupational Pensions Board by sections 40(2), 41 and 49 above shall cease to subsist in relation to those pensions.
- (5) Any question whether a cash sum paid or an alternative arrangement made under the Policyholders Protection Act 1975 provides the whole or any part of the guaranteed minimum pension to which an earner or his widow was entitled under a contracted-out scheme is to be determined for the purposes of this Act by the Secretary of State.
- (6) The Secretary of State may make any determination required by subsection (5) above on such basis as he considers appropriate.”.

## **PART II**

### **NEW SCHEDULE**

3 The following Schedule shall be inserted after Schedule 1 to that Act—

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“SCHEDULE  
1A

REVALUATION OF PENSIONS AND TRANSFER VALUES

**PART I**

REVALUATION OF PENSIONS

- 1 (1) This Part of this Schedule applies to any member of an occupational pension scheme whose pensionable service terminates after the commencement of this Schedule if—
- (a) it terminates before normal pension age ; and
  - (b) on the date when it terminates—
    - (i) he has accrued rights to benefit under the scheme; or
    - (ii) he would have accrued rights to benefit under it if his relevant employment had also terminated on that date.
- (2) In this Part of this Schedule " the revaluation condition " means—
- (a) in relation to benefit payable to the member, that, subject to sub-paragraph (3) below, there are 365 days or more in the period of which the first day is the day after the date when his pensionable service terminates and the last is the day on which he attains normal pension age;
  - (b) in relation to benefit payable to any other person in respect of the member, that, subject to sub-paragraph (3) below, there are 365 days or more in the period mentioned in paragraph (a) above and the member dies after attaining normal pension age.
- (3) For the purpose of calculating the number of days in the period mentioned in sub-paragraph (2) above, any day which is 29th February shall be disregarded.
- (4) For the purposes of this Part of this Schedule "normal pension age", "relevant employment" and, subject to paragraph 2(3) below, " pensionable service " are to be construed in accordance with Schedule 16 to the Social Security Act 1973.
- 2 (1) Subject to the following provisions of this Schedule, if the revaluation condition is satisfied—
- (a) any pension or other retirement benefit payable under the scheme to the member; and
  - (b) any pension or other benefit payable under it to any other person in respect of him,
- is to be revalued by adding the appropriate amount to the amount that would be payable but for this Schedule or regulations made under it.
- (2) For the purposes of this Schedule "the appropriate amount" is
- $$\frac{A B}{C} (D-E)$$
- , where—

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- (a) A=the revaluation percentage specified in the last period of one year beginning on the date of the commencement of this Part of this Schedule or on an anniversary of that date and ending before the date on which the member attains normal pension age as the revaluation percentage for the period which is of the same length as the number of complete years in the period mentioned in paragraph 1(2)(a) above ;
  - (b) B=the length of the member's qualifying pensionable service;
  - (c) C=the length of his pensionable service ;
  - (d) D=the amount of the pension or other benefit—
    - (i) which on the date when his pensionable service terminates has accrued to him or to any other person in respect of him ; or
    - (ii) which would have so accrued on that date if his relevant employment had also terminated on that date ;
  - (e) E=any part of the amount mentioned in paragraph (d) above which consists of the member's or his widow's guaranteed minimum.
- (3) In sub-paragraph (2)(b) and (c) above—  
" pensionable service" includes any notional pensionable service which is credited to the member by the scheme ; and  
" qualifying pensionable service" means any part of the member's pensionable service which falls on or after 1st January 1985.
- (4) For the purposes of sub-paragraph (2)(b) and (c) above, any notional pensionable service which is credited to a member by a scheme shall be taken to have ended immediately before the member's actual pensionable service began.
- (5) Any rule of a scheme the effect of which is that benefit falls to be revalued by reference to any period is to be disregarded in making any calculation required by this paragraph.
- 3 (1) This paragraph applies to any benefit the rate or amount of which is calculated by reference to the member's average salary over the period of service on which that benefit is based.
- (2) A benefit to which this paragraph applies is referred to in this Schedule as an " average salary benefit ".
- (3) Subject to the following provisions of this Schedule, if the revaluation condition is satisfied, any average salary benefit payable to the member or to any other person in respect of him is to be revalued—
  - (a) by revaluing his salaries during the period mentioned in paragraph 1(2)(a) above in any way in which they would have been revalued during it if he had remained in the same pensionable service ; or
  - (b) by the method specified in paragraph 2 above.

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- (4) The method by which a benefit is to be revalued under this paragraph is whichever of the methods mentioned in subparagraph (3) above appears to the trustees or managers of the scheme to be appropriate.
- (5) In this paragraph "salaries " means the member's salaries for the period between 1st January 1985 and the date when his pensionable service terminated, or such part of them as was relevant under the scheme to the calculation of the retirement benefits payable under the scheme to him or to any other person in respect of him ; and those salaries are to be taken for the purposes of this paragraph to include—
- (a) any amount which is attributed to them, otherwise than by virtue of this paragraph, as the result of a revaluation for which the rules of the scheme provide ; and
  - (b) any amount which is for any reason credited to the member by way of salary notionally earned.
- (6) For the purposes of the application of this paragraph to a case where a member is credited with an amount by reference to salary notionally earned over a period of time of a particular length that period shall be taken to have ended immediately before the member's actual pensionable service began.
- 4 (1) This paragraph applies to any benefit the rate or amount of which is calculated by reference solely to the member's length of service.
- (2) A benefit to which this paragraph applies is referred to in this Schedule as a " flat rate benefit ".
- (3) Subject to the following provisions of this Schedule, if the revaluation condition is satisfied, any flat rate benefit payable to the member or to any other person in respect of him is to be revalued—
- (a) by revaluing the benefits which have accrued to him during the period mentioned in paragraph 1(2)(a) above in any way in which they would have been revalued during it if he had remained in the same pensionable service; or
  - (b) by the method specified in paragraph 2 above.
- (4) The method by which a benefit is to be revalued under this paragraph is whichever of the methods mentioned in subparagraph (3) above appears to the trustees or managers of the scheme to be appropriate.
- 5 (1) This paragraph applies to any benefit the rate or amount of which is calculated by reference to a payment or payments made by the member, or by any other person in respect of him.
- (2) A benefit to which this paragraph applies is referred to in this Schedule as a " money purchase benefit ".
- (3) In the case of such a benefit, if the revaluation condition is satisfied, the investment yield and any bonuses arising from payments made by or on behalf of a member shall be applied, subject to sub-paragraph (4) below, towards providing any pension or other retirement benefit which is payable under the scheme to him or to any other person in respect of him in the manner in which they would have been applied if his pensionable service had not terminated.



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- (4) The Secretary of State may by regulations authorise trustees and managers of schemes to deduct from any pension or other retirement benefit provided under sub-paragraph (3) above an appropriate amount in respect of the administrative expenses incurred by them in carrying this paragraph into effect.
- 6 Nothing in paragraph 2, 3, 4 or 5 above is to be construed as requiring the revaluation of any pension or other benefit provided by virtue of paragraph 9(2)(b) of Schedule 16 to the Social Security Act 1973 by way of complete substitute for another pension or benefit.
- 7 (1) Subject to sub-paragraph (2) below, this Part of this Schedule overrides any provision of a scheme to the extent that it conflicts with this Part of this Schedule.
- (2) This Part of this Schedule does not override a protected provision of a scheme.
- (3) Subject to sub-paragraph (4) below, in sub-paragraph (2) above "protected provision" has the same meaning as it has in subsection (2) of section 41C above by virtue of subsection (3) of that section.
- (4) In its application to schemes which are not contracted-out section 41C(3) above shall have effect for the purpose of this paragraph as if—
- (a) there were omitted—
- (i) from paragraph (a), sub-paragraph (ii) and the word " or " immediately preceding it;
- (ii) from paragraph (b), the word " and " ; and
- (iii) from paragraph (c), the words from " authorised " to the end ; and
- (b) there were added at the end of paragraph (c) the words "and
- (d) any provision of a scheme whereby—
- (i) no pension, or a pension at a reduced rate, is payable to a widow whom the earner married not more than six months before his death ;
- (ii) the whole or any part of a pension is not paid to a widow, but instead comparable benefits are provided for one or more dependants of the deceased earner; or
- (iii) no pension, or a pension at a reduced rate, is payable to a widow (or, where a provision such as is mentioned in sub-paragraph (ii) above operates, to another dependant of the deceased) who was more than ten years younger than he was " .”.
- 8 If under a scheme—
- (a) the amount of the pension or other benefit for a member or for any other person in respect of him falls to be increased during the period mentioned in paragraph 1(2)(a) above— v

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- (i) by the percentages specified during that period under section 23(2) above ; or
  - (ii) under any arrangement which, in the opinion of the Occupational Pensions Board, maintains the value of the pension or other benefit by reference to the rise in the general level of prices in Great Britain during that period; and
  - (b) the increase falls to be determined by reference to an amount from which the guaranteed minimum for a member or his widow has not been deducted,
- the fact that the scheme provides as mentioned in sub-paragraph (a) above does not in itself result in conflict with paragraph 2, 3 or 4 above.
- 9 In making any calculation for the purposes of this Part of this Schedule any commutation, forfeiture or surrender of the whole or part of a pension shall be disregarded.
- 10 The same money may not be treated as providing both the benefit required by section 41A or 41B above and the increase in benefit required by this Part of this Schedule.

## PART II

### TRANSFER VALUES

- 11 (1) This Part of this Schedule applies to any member of an occupational pension scheme whose pensionable service terminates after the commencement of this Part of this Schedule if—
- (a) it terminates at least one year before normal pension age; and
  - (b) on the date when it terminates—
    - (i) he has accrued rights to benefit under the scheme ; or
    - (ii) he would have accrued rights to benefit under it if his relevant employment had also terminated on that date.
- (2) For the purposes of this Part of this Schedule " relevant employment", "pensionable service" and "normal pension age " are to be construed in accordance with Schedule 16 to the Social Security Act 1973.
- (3) Any reference to a member in the following provisions of this Part of this Schedule is a reference to a member of an occupational pension scheme to whom this Part of this Schedule applies.
- 12 (1) Subject to the following provisions of this Schedule, a member acquires a right, when his pensionable service terminates, to the cash equivalent at the relevant date of any benefits—
- (a) which have accrued to or in respect of him under the applicable rules ; or
  - (b) which would have so accrued to or in respect of him if his relevant employment had terminated on the date when his pensionable service terminates.
- (2) In this paragraph " the applicable rules " means
- (a) the rules of the scheme, except so far as—

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- (i) section 41A or 41B above ; or
      - (ii) Part I of this Schedule, overrides them ; and
    - (b) any provision which the rules of the scheme do not contain but which a scheme must contain if it is to conform with the preservation requirements ; and
    - (c) any provision—
      - (i) of section 41A or 41B above ; or
      - (ii) of Part I of this Schedule,which overrides any of the rules of the scheme ;
      - " the relevant date " means the date when the member's pensionable service terminates or the date of the relevant application, whichever is the later ; and
      - " the relevant application " means any application which the member has made under paragraph 16 below and which he has not withdrawn.
  - (3) Subject to sub-paragraph (4) below, in sub-paragraph (2) above "the preservation requirements " means the requirements set out in Part I of Schedule 16 to the Social Security Act 1973 as the requirements of Part II of that Act relating to preservation of benefit under occupational pension schemes.
  - (4) Where—
    - (a) a scheme provides benefits for members with less than 5 years' qualifying service, as defined in paragraph 7 of Schedule 16 to the Social Security Act 1973 ; and
    - (b) on the date when the pensionable service of a member of that scheme terminates he has sufficient service to qualify for benefits under the scheme,paragraph 6(1)(b) of that Schedule is to be treated as if a reference to the service which the member has on the date when his pensionable service terminates were substituted for the reference to 5 years' qualifying service.
- 13
- (1) A member who acquires a right to a cash equivalent under this Part of this Schedule may only take it by exercising the option conferred by sub-paragraph (2) below.
  - (2) Subject to sub-paragraphs (3) and (4) below, the option conferred by this sub-paragraph on any such member is that of requiring the trustees or managers of the scheme of which he is a member to use the cash equivalent to which he has acquired a right in whichever of the ways specified in paragraphs (a), (b) and (c) below he chooses—
    - (a) for acquiring transfer credits allowed under the rules of another scheme whose trustees or managers are able and willing to accept him and which satisfies prescribed requirements ;
    - (b) for purchasing from one or more insurance companies such as are mentioned in section 52C(4)(a) above, chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy prescribed requirements ;

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- (c) subject to sub-paragraph (3) below, for subscribing to such other type or types of pension arrangements as may be prescribed.
  - (3) Except in such circumstances as may be prescribed subparagraph (2) above is to be construed as if paragraph (c) were omitted.
  - (4) A member may exercise the option conferred by sub-paragraph (2) above in different ways in relation to different portions of his cash equivalent, but a member who exercises that option must do so in relation to the whole of his cash equivalent or, where sub-paragraph (5) below applies, in relation to the whole of the sum mentioned in sub-paragraph (6) below.
  - (5) Where—
    - (a) the trustees or managers of an occupational pension scheme which is not a contracted-out scheme are able or willing to have transferred to it only the liability for a member's accrued rights other than his accrued rights to guaranteed minimum pensions ; and
    - (b) the member has not required them to use the portion of his cash equivalent that represents guaranteed minimum pensions in either of the ways specified in subparagraph (2)(b) and (c) above,

paragraph 12 above, this paragraph and paragraph 14 below are to be construed as conferring on the member an option only in respect of the sum mentioned in sub-paragraph (6) below.
  - (6) The sum referred to in sub-paragraph (5) above is the sum equal to the balance of the cash equivalent to which the member would be entitled if sub-paragraph (5) above did not apply, after deduction of an amount sufficient for the trustees or managers of the scheme from which he is being transferred to meet their liability in respect of his and his widow's guaranteed minimum pensions.
- 14
- (1) The cash equivalents mentioned in paragraph 12(1) above are to be calculated and verified in the prescribed manner.
  - (2) The power to make regulations conferred by sub-paragraph (1) above includes power to provide that cash equivalents are to be calculated and verified in such manner as may be approved in particular cases—
    - (a) by prescribed persons ; or
    - (b) by persons with prescribed professional qualifications or experience ; or
    - (c) by persons approved by the Secretary of State.
  - (3) Regulations may provide—
    - (a) that in calculating cash equivalents account shall be taken—
      - (i) of any surrender, commutation or forfeiture of the whole or part of a member's pension which occurs before the trustees or managers of the scheme of which he is a member do what is needed to comply with what he requires under paragraph 16 below ;

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- (ii) in a case where paragraph 13(5) above applies, of the need to deduct an appropriate amount to provide guaranteed minimum pensions ; and
    - (b) that in circumstances specified in the regulations a cash equivalent shall be increased or reduced to an amount greater or less than the amount for which paragraph 12(1) above provides.
  - (4) Without prejudice to the generality of sub-paragraph (3) above—
    - (a) the circumstances that may be specified by virtue of paragraph (b) of that sub-paragraph include—
      - (i) the length of time which elapses between the termination of a member's pensionable service and his exercise of the option conferred by this Part of this Schedule or regulations under it;
      - (ii) failure by the trustees or managers of a scheme to do what is needed to carry out what a member of the scheme requires within six months of the date on which they receive an application from him under paragraph 16 below ; and
      - (iii) the state of the funding of a scheme ; and
    - (b) regulations under that sub-paragraph may specify as the amount by which a cash equivalent is to be reduced such an amount that a member has no right to receive anything.
- 15 (1) A member may only exercise the option conferred by paragraph 13 above on or before the last option date.
- (2) In this paragraph " the last option date " means the date which falls—
  - (a) one year before the date on which he attains normal pension age; or
  - (b) six months after the date when his pensionable service terminates,whichever is the later.
- (3) A member loses the right to any cash equivalent under this Part of this Schedule—
  - (a) if his pension or benefit in lieu of a pension or any part of it becomes payable before he attains normal pension age;
  - (b) if he fails to exercise the option conferred by paragraph 13 above on or before the last option date; or
  - (c) if the scheme is wound up.
- 16 (1) A member may only exercise the option conferred by paragraph 13 above by making an application in writing to the trustees or managers of the scheme.
- (2) In any case where—
  - (a) a member has exercised that option ; and
  - (b) the trustees or managers of the scheme have done what is needed to carry out what the member requires,the trustees or managers shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in any such

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case as is mentioned in paragraph 13(5) above, to the extent that an obligation to provide such guaranteed minimum pensions continues to subsist.

(3) If the trustees or managers of a scheme receive an application under this paragraph, it shall be their duty, subject to the following provisions of this paragraph, to do what is needed to carry out what the member requires—

- (a) within twelve months of the date on which they receive the application; or
- (b) by the date on which the member attains normal pension age, whichever is the earlier.

(4) If

- (a) disciplinary proceedings or proceedings before a court have been commenced against a member at any time before the expiry of the period of twelve months beginning with the date when his pensionable service terminates; and
- (b) it appears to the trustees or managers of the scheme of which he is a member that the proceedings may lead to the whole or part of the pension or benefit in lieu of a pension payable to the member or his widow being forfeited,

it shall be the trustees' or managers' duty, subject to the following provisions of this paragraph, to do what is needed to carry out what the member requires before—

- (i) the date before which they would be obliged to do it under subparagraph (3) above ; or
- (ii) the end of the period of three months after the conclusion of the disciplinary or court proceedings (including any proceedings on appeal),

whichever is the later.

(5) The Occupational Pensions Board may grant an extension of the period within which the trustees or managers of a scheme are obliged to do what is needed to carry out what a member of the scheme requires—

- (a) in any case where in the opinion of the Board—
  - (i) the scheme is being wound up or is about to be wound up;
  - (ii) the scheme is ceasing to be a contracted-out scheme ;
  - (iii) the interests of the members of the scheme generally will be prejudiced if the trustees or managers of the scheme do what is needed to carry out what is required within that period ; or
  - (iv) the member has not taken all such steps as the trustees or managers can reasonably expect him to take in order to satisfy them of any matter which falls to be established before they can properly carry out what he requires ;
- (b) in any case where the provisions of section 49 above apply ; and
- (c) in any case where a request for an extension has been made on a ground specified in paragraph (a) or (b) above, and the Board's

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consideration of the request cannot be completed before the end of that period.

- (6) A request under sub-paragraph (5) above may only be made by the trustees or managers.
- (7) The Board shall have power, if they are satisfied that there has been a relevant change of circumstances since they granted an extension, or that they granted an extension in ignorance of a material fact or on the basis of a mistake as to a material fact—
- (a) to direct that the extension shall end on a date earlier than that on which it would otherwise have ended ; or
  - (b) to revoke the grant of the extension.
- (8) An application to the trustees or managers of a scheme under this paragraph is to be taken to have been made if it is delivered to them personally, or sent by post in a registered letter or by the recorded delivery service.
- 17 (1) Subject to sub-paragraph (2) below, a member of a scheme may withdraw an application under paragraph 16 above by giving the trustees or managers of the scheme notice in writing that he no longer wishes them to do what is needed to carry out what he previously required.
- (2) Such a notice shall be of no effect if it is given to the trustees or managers at a time when, in order to comply with what the member previously required, they have already entered into an agreement with a third party to use the whole or part of the member's cash equivalent in a way specified in paragraph 13(2)(a), (b) or (c) above.
- (3) A member who withdraws an application may make another.
- (4) A notice to the trustees or managers of a scheme under this paragraph is to be taken to have been given if it is delivered to them personally, or sent by post in a registered letter or by recorded delivery service.
- 18 (1) Subject to sub-paragraph (2) below, this Part of this Schedule overrides any provision of a scheme to the extent that it conflicts with this Part of this Schedule.
- (2) This Part of this Schedule does not override any provision of a scheme to the extent that it deals with priorities on a winding-up.

### PART III

#### SUPPLEMENTARY

- 19 In making any calculation for the purposes of this Schedule—
- (a) any charge or lien on the whole or part of a pension; and
  - (b) any set-off against the whole or part of a pension,
- shall be disregarded.
- 20 (1) The Secretary of State may by regulations direct that this Schedule shall have effect, in such cases as he may specify in the regulations, subject to such modifications as he may there specify.

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- (2) In sub-paragraph (1) above " modification " includes, without prejudice to the generality of that sub-paragraph, addition, omission and amendment.
- 21 The Occupational Pensions Board may at any time, and shall if requested by the trustees or managers of an occupational pension scheme, advise on any question whether—
- (a) any provision of this Schedule (including, without prejudice to section 20(2) of the Interpretation Act 1978, any such provision as modified by regulations under paragraph 20 above) does or does not override any provision of the scheme;
  - (b) any benefit is an average salary benefit, a flat rate benefit or a money purchase benefit.
- 22 (1) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination on any such question as is mentioned in paragraph 21 above.
- (2) The persons competent to make an application under this paragraph in respect of a scheme are
- (a) the persons mentioned in section 41E(2)(a) to (d) above; and
  - (b) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this paragraph in respect of a scheme of that category.
- 23 It is hereby declared that nothing in the foregoing provisions of this Schedule is to be taken to preclude a scheme from being framed or managed more favourably to beneficiaries than is called for by those provisions.”.

## SCHEDULE 2

Section 3.

### INFORMATION ABOUT AND REGISTRATION OF OCCUPATIONAL PENSION SCHEMES

The following shall be inserted after section 56 of the Social Security Pensions Act 1975—

*“Information about and registration of occupational pension schemes*

#### **56A Power to make regulations requiring disclosure of information about schemes to members etc.**

- (1) The Secretary of State may by regulations specify requirements to be complied with in the case of an occupational pension scheme with respect to keeping the persons mentioned in subsection (2) below informed of—
- (a) its constitution;
  - (b) its administration and finances ;
  - (c) the rights and obligations that arise or may arise under it; and



- (d) any other matters that appear to the Secretary of State to be relevant to occupational pension schemes in general or to occupational pension schemes of a description to which that scheme belongs.
- (2) The persons referred to in subsection (1) above are—
    - (a) members and prospective members of the scheme;
    - (b) spouses of members and prospective members;
    - (c) persons within the application of the scheme and qualifying or prospectively qualifying for its benefits;
    - (d) independent trade unions recognised to any extent for the purposes of collective bargaining in relation to members and prospective members of the scheme.
  - (3) Without prejudice to the generality of section 166(2) of the principal Act, the regulations may distinguish between—
    - (a) cases in which information is to be given as of course; and
    - (b) cases in which information need only be given on request or in other prescribed circumstances.
  - (4) The regulations shall make provision for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in subsection (2)(d) above.
  - (5) Regulations under this section override any provision of an occupational pension scheme to the extent that that provision conflicts with them.
  - (6) The Occupational Pensions Board may at any time, and shall if requested by the trustees or managers of an occupational pension scheme, advise on any question whether any provision of regulations under this section does or does not override any provision of the scheme.
  - (7) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination on any such question as is mentioned in subsection (6) above.
  - (8) The persons competent to make an application under subsection (7) above in respect of a scheme are—
    - (a) the persons mentioned in section 41E(2)(a) to (d) above; and
    - (b) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of subsection (7) above in respect of a scheme of that category.
  - (9) In this section " independent trade union " has the meaning assigned to it by section 153 of the Employment Protection (Consolidation) Act 1978.

### **56B The registrar of occupational pension schemes.**

- (1) The Secretary of State may appoint a registrar of occupational pension schemes.
- (2) The registrar may be a body corporate.
- (3) The Secretary of State may set up such offices and appoint such staff as he thinks necessary for the registrar.

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- (4) The registrar may appoint an agent to perform functions on his behalf, other than excluded functions, and in this section "registration agent" means an agent appointed under this subsection.
- (5) In subsection (4) above "excluded functions" means—
- (a) functions under any of the following provisions of this Act—
    - (i) section 56D(5) to (7);
    - (ii) section 56G(2) and (3);
    - (iii) sections 56J to 56L;
    - (iv) section 56N;
  - (b) functions under any Northern Ireland enactment corresponding to a provision mentioned in paragraph (a) above.
- (6) An appointment under subsection (4) above shall be on such terms as the Secretary of State, with the concurrence of the Treasury, may approve.
- (7) The Secretary of State may, if he thinks fit—
- (a) remove the registrar from office; and
  - (b) where part of the dwelling-house is used as a shop or office, or for business, trade or professional purposes, of a reasonable amount in respect of any goodwill of the business, trade or profession, being goodwill transferred to the incoming tenant in connection with his becoming a statutory tenant of the dwelling-house or accruing to him in consequence thereof.
- (8) The amount—
- (a) of any salaries for the registrar and his staff; and
  - (b) of any sums to be paid in respect of expenses incurred by the registrar in performing his functions,
- shall be fixed by the Secretary of State with the concurrence of the Treasury.
- (9) The expenses referred to in subsection (8) above include payments falling to be made to a registration agent.
- (10) The Secretary of State may by regulations—
- (a) give the registrar additional functions; and
  - (b) provide for the manner in which the registrar is to perform any of his functions.
- (11) In relation to functions of the registrar that are being performed by a registration agent, references to the registrar in this Part of this Act or in any corresponding Northern Ireland enactment are references to the registration agent.
- (12) If the registrar or a registration agent is a body corporate, this Part of this Act and any corresponding Northern Ireland enactment shall have effect in relation to that body subject to any necessary modifications.

### **56G Documents to be lodged with registrar.**

- (1) Except in such cases or classes of cases as may be prescribed, and subject to the following provisions of this Part of this Act, it shall be the duty of the trustees of a scheme or, if there are no trustees, the duty of the managers, to lodge with the registrar—
- (a) a copy—

- (i) of the trust deed constituting the scheme, if it is constituted by such a deed ; and
  - (ii) of any document constituting the scheme, if it is not constituted by a trust deed;
- and, if the rules of the scheme are not set out in any trust deed or other document which falls to be lodged under sub-paragraph (i) or (ii) above, a copy of the rules ;
- (b) a copy of any document referred to in a document a copy of which falls to be lodged under paragraph (a) above;
  - (c) a copy of any document which amends or supplements or wholly or partly supersedes a document a copy of which falls to be lodged under paragraph (a) above or this paragraph ;
  - (d) a copy of any document referred to in a document a copy of which falls to be lodged under paragraph (c) above ; and
  - (e) a copy of an annual report on the scheme.
- (2) The duty imposed by subsection (1)(a) above is to be performed not later than—
- (a) the end of the period of six months beginning with the commencement date ; or
  - (b) the end of the period of six months beginning with the operative date of the scheme,
- whichever is the later.
- (3) The duties imposed by subsection (1)(b) and (d) above are duties in relation to any document only if the registrar gives notice to the trustees or managers that he requires a copy.
- (4) Subject to subsection (5) below, if the registrar gives a notice under subsection (3) above to the trustees or managers, they shall perform the duty imposed on them by subsection (1)(b) or (d) above not later than the end of the period of one month from the date of the notice.
- (5) Trustees or managers need not perform the duty imposed on them by subsection (1)(b) or (d) above in relation to a document if the registrar gives them notice that he no longer requires them to do so.
- (6) The duty imposed by subsection (1)(c) above is to be performed not later than—
- (a) the end of the period mentioned in paragraph (a) of subsection (2) above ;
  - (b) the end of the period mentioned in paragraph (b) of that subsection ; or
  - (c) the end of the period of three months from the document's execution,
- whichever is the latest.
- (7) It shall be the duty of the trustees or managers of a scheme to supply the registrar, within such time and in such manner as may be prescribed, with such information as may be prescribed concerning the scheme.
- (8) Without prejudice to the generality of section 56B(10) above, regulations under that subsection may specify—
- (a) a time after the lapse of which the registrar may destroy—
    - (i) a document lodged with him under this section;
    - (ii) a record of information supplied to him under it; and
  - (b) the circumstances in which and conditions subject to which any such destruction may take place.

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- (9) In this section and section 56D below "the commencement date " means the date of the commencement of section 3 of the Social Security Act 1985 in relation to this section and section 56D below.

**56D Provisions relating to the annual report.**

- (1) An annual report of which a copy is to be lodged under section 56C(1)(e) above shall contain such information as may be prescribed relating to the latest scheme year.
- (2) There is no duty to lodge a copy of an annual report relating to a scheme year beginning before the commencement date.
- (3) Subject to subsection (4) below, the duty imposed by section 56C(1)(e) above is to be performed not later than the end of such period after the end of each scheme year as may be prescribed.
- (4) The trustees or managers of the scheme may lodge their first annual report later than the end of the period prescribed under subsection (3) above if that period ends before the end of the period of two years from the commencement date, but in that case must lodge it before the end of that period of two years.
- (5) In this section "scheme year" means, in relation to any scheme, whichever of the following periods the trustees or managers of the scheme select—
  - (a) a year specified for the purposes of the scheme—
    - (i) in any document comprising the scheme or which is included among the documents comprising it; or
    - (ii) in the rules of the scheme ;
  - (b) a calendar year ;
  - (c) the twelve months ending with 31st March ;
  - (d) the twelve months ending with 5th April; or
  - (e) any other period which the registrar may in his discretion accept.
- (6) The trustees or managers of a scheme may only exercise the power conferred on them by subsection (5) above once, unless the registrar permits them to select a period different from the period which for the time being is the scheme year.
- (7) The registrar shall not grant such permission unless he is satisfied that to do so will not prejudice the interests of members of the scheme.

**56E Additional documents for members etc. and registrar.**

- (1) Without prejudice to the generality of the power conferred on him by subsection (1) of section 56A above, the Secretary of State may by regulations require the trustees of an occupational pension scheme or, if there are no trustees, the managers—
  - (a) to obtain at such times as may be prescribed documents to which this subsection applies ;
  - (b) to make copies of them available to the persons specified in subsection (2) of that section ; and
  - (c) to lodge copies with the registrar not later than the end of such period as may be prescribed.
- (2) In relation to any scheme the documents to which subsection (1) above applies are—
  - (a) its audited accounts ;

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- (b) an auditor's statement about contributions under it;
  - (c) an actuarial valuation of its assets in relation to its liabilities; and
  - (d) an actuary's statement concerning such aspects of any such valuation as may be prescribed.
- (3) The Secretary of State may by regulations—
- (a) prescribe the persons who may act as auditors or actuaries for the purposes of this section; or
  - (b) provide that the persons who may so act shall be—
    - (i) persons with prescribed professional qualifications or experience ; or
    - (ii) persons approved by the Secretary of State.
- (4) The Secretary of State may by regulations make provision as to the form and content of any such document as is mentioned in subsection (2) above.
- (5) Regulations under this section override any provision of an occupational pension scheme to the extent that that provision conflicts with them.
- (6) The Occupational Pensions Board may at any time, and shall if requested by the trustees or managers of an occupational pension scheme, advise on any question whether any provision of regulations under this section does or does not override any provision of the scheme.
- (7) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination on any such question as is mentioned in subsection (6) above.
- (8) The persons competent to make an application under subsection (7) above in respect of a scheme are—
- (a) the persons mentioned in section 41E(2)(a) to (d) above ; and
  - (b) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make the application for the purposes of subsection (7) above in respect of a scheme of that category.

#### **56F Power of registrar to accept information on microfilm etc.**

- (1) The registrar may, if he thinks fit, accept in lieu of a document falling to be lodged with him any other material which contains the information which the document required to be lodged would contain and is of a kind approved by him.
- (2) The delivery to the registrar of material accepted by him under subsection (1) above shall be a sufficient compliance with the provision requiring the document to be lodged.

#### **56G Inspection and production of documents kept by registrar.**

- (1) Subject to the following provisions of this section, so long as—
  - (a) any document lodged with the registrar under this Part of this Act; or
  - (b) the registered record of any information supplied to him under section 56C(7) above, is in the custody of the registrar, any person—
    - (i) may inspect it; and
    - (ii) may require a copy of or extract from it.

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- (2) The registrar may refuse—
- (a) to permit a person to inspect a document or record ; or
  - (b) to supply a person with a copy or extract,
- if it appears to the registrar that to permit the inspection or supply the copy or extract—
- (i) would be prejudicial to the financial interest of the scheme; or
  - (ii) would encroach on the privacy of an individual.
- (3) The registrar need not consider whether to exercise in relation to a document or record any of the powers conferred on him by subsection (2) above unless some person who appears to him to have an interest in the matter has asked him to exercise the power in relation to that document or record or in relation to documents or records forming a class which appears to the registrar to comprise that document or record.
- (4) Material accepted by the registrar under section 56F above is to be treated as a document for the purposes of this section.
- (5) If the registrar considers it appropriate in a particular case, he may treat subsection (1) (i) above as giving a right to inspect a copy of a document or record, instead of the document or record itself, or to have the contents of a document or record made available for inspection in visible and legible form by projecting them on a screen or by any other means whether electrical or mechanical.

#### **56H Fees.**

The Secretary of State may by regulations specify—

- (a) fees which, in performing a duty imposed—
  - (i) by or by virtue of section 56C above ; or
  - (ii) by virtue of section 56E(1)(c) above, the trustees or managers of an occupational pension scheme are to pay to the registrar out of the resources available for the purposes of the scheme;
- (b) fees which are to be paid to the registrar by a person exercising a right conferred by section 56G above.

#### **56J Power of registrar to direct removal of documents to Public Record Office etc.**

- (1) Subject to subsections (2) and (3) below, where a scheme has been wound up, the registrar may, at any time after the expiration of 30 years from the date of the winding up, direct that any documents or other material in his custody relating to that scheme may be removed to the Public Record Office, and documents or other material in respect of which any such direction is given shall be disposed of in accordance with the provisions of the Public Records Act 1958.
- (2) In its application to a document or other material which appears to the registrar to relate mainly or exclusively to Scotland, subsection (1) above shall have effect as if the reference to removal to the Public Record Office were a reference to transmission to the Keeper of the Records of Scotland, and the Public Records (Scotland) Act 1937 shall then apply to such documents or material as if they were records transmitted to the Keeper under section 5 of that Act, and as if the registrar were the person who transmitted them under that section.
- (3) In its application to a document or other material which appears to the registrar to relate mainly or exclusively to Northern Ireland, subsection (1) above shall have effect as if

the reference to the Public Record Office were a reference to the Public Record Office of Northern Ireland.

- (4) The Secretary of State may by regulations substitute such period as he may specify in the regulations for the period specified in subsection (1) above.

### **56K Penalty for default.**

- (1) Subject to the following provisions of this section, if any of the requirements—
- (a) of section 56C above or regulations under that section ; or
  - (b) of regulations under section 56E(1)(c) above,
- is not complied with in relation to a scheme, every person who immediately before the end of the period for compliance was a person whose duty it was to comply with it shall be guilty of an offence and liable on summary conviction—
- (i) to a fine of an amount not exceeding level 5 on the standard scale ; and
  - (ii) to a fine of an amount not exceeding level 3 on that scale for each day during which the default continues after the conviction.
- (2) Where a person is charged with an offence under subsection (1) above in respect of any requirement, subject to subsection (3) below, it shall be a defence for him to prove—
- (a) that the commission of the offence was due to a mistake or to reliance on information supplied to him or to the act or default of another person, an accident or some other cause beyond his control; and
  - (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.
- (3) If in any such case the defence provided by subsection (2) above involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (4) In England and Wales proceedings in respect of an offence under this section shall not be instituted except by or with the written consent—
- (a) of the Secretary of State ; or
  - (b) of the registrar ; or
  - (c) of a person authorised to institute such proceedings by the Secretary of State or the registrar.
- (5) In this section " the standard scale" means the standard scale as defined in section 75 of the Criminal Justice Act 1982.
- (6) Trustees or managers may be convicted under this section whether or not an application has been made under section 56L below.

### **56L Further default powers.**

- (1) If the trustees or managers of a scheme, having made default in complying with—
- (a) regulations under section 56A or 56E(1)(b) or (c) above; or
  - (b) section 56C above or regulations under that section,

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fail to make good the default within 14 days after the service of a notice on them requiring them to do so, an order may be made under this subsection.

- (2) The Secretary of State may by regulations specify forms for notices under subsection (1) above.
- (3) An order under subsection (1) above is an order directing the trustees or managers to make good the default within such time as may be specified in the order.
- (4) The power to make such an order shall be exercisable by the appropriate court on the application of a person to whom this subsection applies.
- (5) Subsection (4) above applies—
  - (a) to the Secretary of State ;
  - (b) to the registrar;
  - (c) to any person authorised by the Secretary of State or the registrar to make an application under this section ; and
  - (d) in the case of a default in complying with regulations under section 56A or 56E(1)(6) above, to any aggrieved person.
- (6) In this section " the appropriate court" means—
  - (a) in England and Wales, a county court; and
  - (b) in Scotland, the sheriff.
- (7) An application to the sheriff shall be made by summary application.
- (8) An order under this section may provide that all costs (or in Scotland, expenses) of and incidental to the application shall be borne personally by any of the trustees or managers of the scheme.
- (9) An order may be made under this section whether or not proceedings have been instituted under section 56K above.

#### **56M Disclosure of information by Inland Revenue and Occupational Pensions Board.**

- (1) No obligation as to secrecy imposed by statute or otherwise—
  - (a) on persons employed in relation to Inland Revenue ; or
  - (b) on the staff of the Occupational Pensions Board, shall prevent them from making known to the registrar—
    - (i) the fact that a particular occupational pension scheme exists or has existed ;
    - (ii) whether such a scheme has been wound up, and, if such a scheme has been wound up, when the winding-up took place ;
    - (iii) sufficient information to enable the registrar to get in touch with persons who are or have been trustees or managers of any such scheme or employers of members of any such scheme.
- (2) If persons such as are mentioned in subsection (1) above disclose the fact that a particular scheme exists or has existed, no such obligation as is mentioned in that subsection shall prevent them from also disclosing to the registrar sufficient details to enable him to identify the scheme.



### 56N Registrar's reports.

- (1) The Secretary of State may direct the registrar to submit to him, in such form and at such intervals as may be specified in the direction, such statistical and other reports as the Secretary of State may require.
- (2) Without prejudice to the generality of subsection (1) above, a direction under that subsection may require the registrar to submit a report—
  - (a) based on information contained in documents copies of which are lodged with him or on information otherwise supplied to him under this Part of this Act or any corresponding Northern Ireland enactment; or
  - (b) concerning the general administration of the register of occupational pension schemes or any of his other functions.
- (3) The Secretary of State may determine at his discretion whether or not to publish a report submitted to him under this section.”.

## SCHEDULE 3

Section 4.

### EARNINGS FACTORS AND GUARANTEED MINIMUM PENSIONS

#### PART I

#### EARNINGS FACTORS

#### *Social Security Pensions Act 1975 (c.60)*

- 1 In subsection (1) of section 21 of the Social Security Pensions Act 1975 (revaluation of earnings factors) for the words from " relevant " to " benefit" there shall be substituted the words " which are relevant—
  - (a) to the calculation—
    - (i) of the additional component in the rate of any long-term benefit; or
    - (ii) of any guaranteed minimum pension ; or
  - (b) to any other calculation required under Part III of this Act (including that Part as modified by or under any other enactment),".
- 2 (1) In subsection (7) of section 35 of that Act (earner's guaranteed minimum) for the words from "he" to "terminated", in the second place where it occurs, there shall be substituted the words " the final relevant year shall be determined for the purposes of subsection (2) above by reference to the last order under section 21 above to come into force before the end of the tax year in which the service in question is terminated and without reference to the last such order to come into force before the end of the final relevant year "
  - (2) Any document the contents of which are in terms corresponding to those of section 35(7) of the Social Security Pensions Act 1975, as that subsection stood immediately before the passing of this Act, shall be construed as if its contents were and always had been in terms corresponding to those of that subsection as amended by sub-paragraph (1) above.

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3 The following subsections shall be inserted after subsection (4) of section 41C of the Social Security Pensions Act 1975 (provisions supplementary to sections 41A and 41B)—

“(4A) In calculating an earner's guaranteed minimum for the purposes of sections 41A and 41B above his earnings factor shall be taken to be that factor as increased, except as provided by subsection (4B) below, by the last order under section 21 above to come into force before the end of the tax year in which the termination of employment date falls.

(4B) If an earner's termination of employment date falls in the tax year in which he attains pensionable age, subsection (4A) above shall have effect in relation to him as if for the words from " tax year" onwards there were substituted the words " final relevant year

(4C) In subsection (4B) above "final relevant year" has the same meaning as in section 35 above.”.

4 The following paragraph shall be substituted for subsection (6)(a) of section 44 of the Social Security Pensions Act 1975 (state scheme premiums)—

“(a) any relevant earnings factor shall be taken to be that factor as increased by the last order under section 21 above to come into force before those five tax years; and”.

5 The following paragraph shall be substituted for subsection (3)(a) of section 45 of that Act (limited revaluation premiums)—

“(a) any earnings factor shall be taken to be that factor as increased by the last order under section 21 above to come into force before the five tax years ending with the tax year in which the scheme ceases to be contracted-out; and”.

*Social Security (Miscellaneous Provisions) Act 1977 (c.5)*

6 The following paragraph shall be substituted for subsection (1)(a) of section 21 of the Social Security (Miscellaneous Provisions) Act 1977 (calculation of guaranteed minimum pensions preserved under approved arrangements)—

“(a) any earnings factor shall be taken to be that factor as increased by the last order under section 21 of the Pensions Act to come into force before those five tax years ; and”.

7 (1) The provisions of this Part of this Schedule other than paragraph 3 above shall be deemed to have come into force on 6th April 1979.

(2) Paragraph 3 above shall be deemed to have come into force on 1st January 1985.

## PART II

### GUARANTEED MINIMUM PENSIONS

*Social Security Pensions Act 1975 (c.60)*

8 In section 35 of the Social Security Pensions Act 1975 (earner's guaranteed minimum)—

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- (a) in subsection (8) (by virtue of which a scheme which provides for revaluation under subsection (7) must make the same provision for all its members), after the word "applies" there shall be inserted the words " , except in such cases or classes of case as may be prescribed,"; and
- (b) the following subsection shall be inserted after that subsection—

“(8A) An occupational pension scheme which—

- (a) at any time before the coming into operation of the first regulations made under subsection (8) above did not satisfy that subsection ; but
- (b) would have satisfied it if those regulations had then been in operation ;

shall, for the purpose of determining whether the scheme satisfied that subsection, be treated as if those regulations had been in operation at that time.”.

#### SCHEDULE 4

Section 21.

#### MISCELLANEOUS AMENDMENTS RELATING TO STATUTORY SICK PAY

##### *Attachment of Earnings Act 1971 (c.32)*

- 1 In section 24(1) of the Attachment of Earnings Act 1971 (meaning of "earnings "), the following paragraph shall be inserted after paragraph (b)—
- “(c) by way of statutory sick pay.”.

##### *Social Security Act 1975 (c.14)*

- 2 In subsection (8) of section 22 of the Social Security Act 1975 (maternity allowances), after the word "above" there shall be inserted the words " and Schedule 3, Part I, paragraph 3".
- 3 In section 36 of that Act (severe disablement allowance), the following subsection shall be inserted after subsection (4)—

“(4A) A person shall not be entitled to a severe disablement allowance for any day which as between him and his employer falls within a period of entitlement for the purposes of statutory sick pay.”.

##### *Social Security and Housing Benefits Act 1982 (c.24)*

- 4 The following subsections shall be inserted after subsection (6) of section 3 of the Social Security and Housing Benefits Act 1982 (periods of entitlement)—
- “(6A) In a case where the employee's contract of service first takes effect between two periods of incapacity for work which by virtue of section 2(3) of this Act are treated as one, the period of entitlement begins with the first day of the second of those periods.
- (6B) In any case where, otherwise than by virtue of section 4(2)(6) of the principal Act (exclusion of liability where earnings are below the lower earnings limit), an employee's earnings under a contract of service in respect of the day

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- on which the contract takes effect do not attract a liability to pay secondary Class 1 contributions, subsections (6) and (6A) above shall have effect as if for any reference to the contract first taking effect there were substituted a reference to the first day in respect of which the employee's earnings attract such a liability.”.
- 5       The following provisions of that Act (which relate to certain payments wrongly made)—
- (a) section 24 ; and
- (b) paragraphs 7 to 11 of Schedule 2,
- shall cease to have effect.
- 6       (1) In subsection (1) of section 26 of that Act (interpretation) the following definition shall be substituted for the definition of " employer " —
- “" employer", in relation to an employee and a contract of service of his, means a person who under section 4 of the principal Act (liability to pay Class 1 contributions) is, or but for subsection (2)(b) of that section (exclusion of liability where earnings are below lower earnings limit) would be, liable to pay secondary Class 1 contributions in relation to any earnings (within the meaning of that Act) of the employee under the contract;”.
- (2) Sub-paragraph (1) above shall not have effect in relation to periods of entitlement (within the meaning of section 3 of that Act) beginning before the commencement of this paragraph.
- 7       In section 26(2) of that Act for the words " his average weekly earnings in the relevant period " there shall be substituted the words " the average weekly earnings which in the relevant period have been paid to him or paid for his benefit".

## SCHEDULE 5

Section 29(1).

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Social Security Act 1973 (c.38)*

- 1       In subsection (1)(b) of section 66 of the Social Security Act 1973 (Occupational Pensions Board), after the word " advisory" there shall be inserted the words " or other".
- 2       In section 89 of that Act (disclosure of information by Inland Revenue)—
- (a) the following subsection shall be inserted after subsection
- “(2A) No such obligation as is referred to in subsection (1) above shall prevent information from being disclosed to any person whose duty it is to give advice to the Occupational Pensions Board, in so far as the information—
- (a) is required by him solely to enable him to perform that duty adequately ; and
- (b) is information which the Occupational Pension Board have power under any enactment or regulations under any enactment to require any person to provide.”; and

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- (b) in subsection (3), for the words " Subsections (1) and (2)" there shall be substituted the words " Subsections (1), (2) and (2A)".
- 3 The following sub-paragraph shall be inserted after sub-paragraph (2) of paragraph 9 of Schedule 16 to that Act (form of short service benefit and its alternatives)—
- “(2A) The option conferred by sub-paragraph (2)(a) above is additional to any obligation imposed by Part II of Schedule 1A to the Social Security Pensions Act 1975.”.
- 4 In paragraph 15 of that Schedule (assignment, surrender and commutation of short service benefit), the following sub-paragraph shall be inserted after sub-paragraph (1)—
- “(1A) In sub-paragraph (1) above, the references to assignment, surrender and commutation of short service benefit do not include references to any assignment, surrender or commutation of a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 52C(4)(b) or (c) of the Social Security Pensions Act 1975 (cases where an occupational pension scheme's liability to provide benefit is discharged).”.

*Social Security Act 1975 (c.14)*

- 5 In subsection (3)(b) of section 1 of the Social Security Act 1975 (outline of contributory system), for 120 and 122 there shall be substituted " 4, 120, 122 and 123A".
- 6 In section 13 of that Act—
- (a) in paragraph (a) of subsection (5) (earnings factors), after the word " rise " there shall be inserted the words , subject to subsection (5A) below," ; and
- (b) the following subsection shall be inserted after that subsection—
- “(5A) The Secretary of State may by regulations make such modifications of subsection (5)(a) above as appear to him to be appropriate in consequence of section 4(6B) above.”.
- 7 The following subsection shall be added at the end of section 18 of that Act (duration of unemployment benefit)—
- “(4) Regulations may provide for treating a person for the purposes of this section as having been entitled to unemployment benefit for any day if he would have been entitled to it but for—
- (a) failure to make a claim ; or
- (b) failure to make a claim within the prescribed time ;
- but a person is not to be so treated where he shows that he did not intend, by so failing, to avoid the necessity of requalifying for benefit.”.
- 8 The following section shall be substituted for section 83 of that Act—

**“83 Disqualifications disregarded for certain purposes.**

Regulations may provide for a person who would be entitled to any benefit but for the operation of any provision of this Act disentitling him to that benefit to be treated as if entitled to it for the purposes of any rights or

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obligations (whether his own or another's) under this Act which depend on his entitlement, other than the right to payment of the benefit.”.

- 9 In section 122 of that Act (additional power to alter contributions)—
- (a) in subsection (1), the following paragraphs shall be substituted for paragraph (a)—
    - “(a) the percentage rate for primary Class 1 contributions specified as the appropriate rate for Bracket 3 in section 4(6B);
    - (aa) the percentage rate for secondary Class 1 contributions specified as the appropriate rate for Bracket 4 in section 4(6E);”and
  - (b) in subsection (4), for the words from " 4(6)" to the end there shall be substituted the words “4 of this Act by altering—
    - (a) the percentage rate for primary Class 1 contributions specified as the appropriate rate for Bracket 3 in subsection (6B);
    - (b) the percentage rate for secondary Class 1 contributions specified as the appropriate rate for Bracket 4 in subsection (6E).”.
- 10 The following paragraph shall be substituted for subsection (1)(d) of section 124 of that Act (power to increase rates of benefit)—
- “(d) section 30(1) above”.
- 11 In section 134(4) of that Act (national health service and employment protection allocations)—
- (a) for " determined ", in each of the paragraphs defining " the appropriate national health service allocation" and "the appropriate employment protection allocation" there shall be substituted " estimated"; and
  - (b) for the words from "and in this subsection" to the end there shall be substituted the words " and in this subsection 'estimated' means estimated by the Secretary of State in any manner which after consulting the Government Actuary he considers to be appropriate and which the Treasury has approved".
- 12 In section 167 of that Act (parliamentary control of orders and regulations)—
- (a) in subsection (2), for " 120 or 122 " there shall be substituted " 4, 120, 122 or 123A"; and
  - (b) in subsection (3)—
    - (i) after " section " there shall be inserted " 4,"; and
    - (ii) after " 122 " there shall be inserted " , 123A".
- 13 In paragraph 1 of Schedule 1 to that Act (Class 1 contributions where earner employed in more than one employment)—
- (a) in sub-paragraph (1A), the following words shall be substituted for the words from " the amount " to the end—
    - “(a) the amount of the primary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (1B) below ; and
    - (b) the amount of the secondary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (1D) below.”; and

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(b) the following sub-paragraphs shall be inserted after that sub-paragraph—

“(1B) The amount of the primary Class 1 contribution shall be the aggregate of the amounts obtained—

(a) by applying the rates of primary Class 1 contributions that would apply if the aggregated earnings were all attributable to contracted-out employments—

(i) to the part of the aggregated earnings attributable to any such employments, or

(ii) if that part exceeds the current upper earnings limit, to so much of that part as does not exceed that limit; and

(b) if that part is less than that limit, by applying the rate of primary Class 1 contributions that would apply if the "aggregated earnings were all attributable to employments which are not contracted-out to so much of the remainder of the aggregated earnings as, when added to that part, does not exceed that limit.

(1C) In relation to earners paid otherwise than weekly, any reference in sub-paragraph (1A) or (1B) above to the lower or upper earnings limit shall be construed as a reference to the prescribed equivalent of that limit.

(1D) The amount of the secondary Class 1 contribution shall be the aggregate of the amounts obtained—

(a) by applying the rates of secondary Class 1 contributions that would apply if the aggregated earnings were all attributable to contracted-out employments to the part of the aggregated earnings attributable to any such employments ; and

(b) by applying the rate of secondary Class 1 contributions that would apply if the aggregated earnings were all attributable to employments which are not contracted-out to the remainder of the aggregated earnings.”.

14 In Schedule 20 to that Act (glossary of expressions) the following definition shall be inserted after the definition of " Employment " —

“" Entitled " and cognate expressions

In relation to any benefit, see—

(a) the provisions specifically relating to that benefit;

(b) in the case of a benefit specified in section 12(1), section 13; and

(c) section 165A.”.

*Social Security Pensions Act 1975 (c.60)*

15 In section 1(1)(b) of the Social Security Pensions Act 1975 (earnings limits), the words " primary Class 1 " shall be substituted for the word " such".

16 In section 6 of that Act (rate of Category A retirement pension)—

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- (a) in subsection (5), for the word " References ", in the first place where it occurs, there shall be substituted the words " Subject to subsection (5A) below, references"; and
  - (b) the following subsection shall be inserted after that subsection—
    - “(5A) The Secretary of State may prescribe circumstances in which pensioners' earnings factors for any relevant year may be calculated in such manner as may be prescribed.”.
- 17 In section 27 of that Act (contracted-out rates of Class 1 contributions), at the end of subsection (1) there shall be added the words “and
- (c) in the case of a secondary Class 1 contribution, the normal percentage of so much of those earnings as exceeds the current upper earnings limit.”.
- 18 In section 28 of that Act (orders altering the contracted-out percentages specified in section 27), after subsection (6) there shall be inserted the following subsection—
- “(7) A draft of an order making alterations in either or both of the contracted-out percentages may contain consequential provisions altering any percentage for the time being specified in paragraph 2(2) of Schedule 3 to this Act as that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.”.
- 19 The following subsection shall be substituted for subsection (5) of section 36 of that Act—
- “(5) The widow's pension need not be in accordance with subsection (2) above in case of the earner dying after termination of his service in the relevant employment having completed in that employment less than five years' qualifying service for the purposes of Schedule 16 to the Social Security Act 1973 (preservation).”.
- 20 The words ", except in the case mentioned in section 52D(4) below," shall be inserted after the word " satisfied " —
- (a) where it first occurs in subsection (2) of section 40 of the Social Security Pensions Act 1975 (financing and assurance of benefits); and
  - (b) in subsection (1) of section 41 of that Act (sufficiency of resources of occupational pension schemes).
- 21 The following subsection shall be substituted for subsection (1A) of section 41 of that Act—
- “(1A) Regulations may provide for subsection (1) above to have effect, in prescribed cases, with the omission of paragraphs (b) and (c) or either of them or with the substitution for both or either of them of provisions specified in the regulations.”.
- 22 (1) In section 41A of that Act (protection of earners' pensions)—
- (a) in subsection (1), for " commencement of payment", in the third place where those words occur, there shall be substituted " relevant"; and
  - (b) the following subsections shall be inserted after that subsection—
    - “(1A) In subsection (1) above "the relevant date" means, subject to subsection (1B) below, the commencement of payment date.



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- (1B) In the application of subsection (1) above to a case where a scheme makes such provision as to any part of a pension as is mentioned in section 33(4) above, the reference to the relevant date is to be construed, in relation to the part of the pension as to which such provision is made, as a reference to the date on which by virtue of it that part of the pension commences to be paid.”.
- (2) Sub-paragraph (1) above shall be deemed to have come into force on 1st January 1985.
- 23 The following further amendments of that section shall also be made—
- (a) in subsection (2), " (1C)" shall be substituted for " (1)"; and
  - (b) in subsection (6), " subsections (1)(c) and (1C)(b)" shall be substituted for " subsection (1)(c) and (ii)".
- 24 In section 41B of that Act (protection of widows' pensions)—
- (a) in subsection (2), " (1A) " shall be substituted for " (1)"; and
  - (b) in subsection (5), " subsections (1)(c) and (1A)(b)" shall be substituted for " subsection (1)(c) and (ii)".
- 25 (1) The words " the prescribed person " shall be substituted—
- (a) in section 42 of the Social Security Pensions Act 1975 (premium on termination of contracted-out employment)—
    - (i) in subsection (1), for the words " an earner's employer "; and
    - (ii) in subsections (2) and (3), for the words " his employer ";
  - (b) in section 43 of that Act (additional provisions relating to premiums), for the words " an employer "—
    - (i) in both places where they occur in subsection (4); and
    - (ii) in both places where they occur in subsection (6); and
  - (c) in section 45 of that Act (premium where guaranteed minimum pension excluded from full revaluation), for the words "the earner's employer " in subsection (1).
- (2) In section 43(4) of that Act, the words " the earners' employer " shall be substituted for the word " him".
- 26 The following subsection shall be inserted after section 43(1) of that Act (calculation of contributions equivalent premium)—
- “(1A) Where an earner's earnings paid in any period—
- (a) exceeded the lower earnings limit; but
  - (b) were not such that primary Class 1 contributions within Bracket 3 fell to be paid in respect of them,
- it shall be assumed for the purposes of subsection (1) above that his earnings paid in that period were such that, taking the rate specified in Bracket 3 as the appropriate rate, the same amount of primary Class 1 contributions fell to be paid in respect of them as in fact fell to be paid in respect of them.”.
- 27 In subsection (2) of section 44 of that Act (premium on termination of contracted-out scheme)—
- (a) in paragraph (a), after the word " arrangements" there shall be inserted the words " and have not been disposed of so as to discharge the trustees or

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- managers of the scheme under paragraph 16 of Schedule 1A to this Act";  
and
- (b) in paragraph (b), for the words " so subject" there shall be substituted the words " subject to approved arrangements."
- 28 In section 46 of that Act (provisions as to actuarial tables) the words " sections 44(7), 44A(3) and 45(4) " shall be substituted—
- (a) in subsection (1), for the words " sections 44(7) and 45(4)" ; and
- (b) in subsection (3), for the words " section 44(7) and 45(4) ".
- 29 The following subsection shall be inserted after section 47(2) of that Act (calculation of certified amount)—
- “(2A) Where an earner's earnings paid in any period—
- (a) exceeded the lower earnings limit; but
- (b) were not such that primary Class 1 contributions within Bracket 3 fell to be paid in respect of them,
- it shall be assumed for the purposes of subsection (2) above that his earnings paid in that period were such that, taking the rate specified in Bracket 3 as the appropriate rate, the same amount of primary Class 1 contributions fell to be paid in respect of them as in fact fell to be paid in respect of them.”.
- 30 The following subsection shall be inserted after section 47(9) of that Act (prohibition of recovery or retention of state scheme premium)—
- “(9A) Nothing in subsection (9) above affects—
- (a) the right of the trustees or managers of a scheme, in a case where an accrued rights premium or a pensioner's rights premium has been paid, to reduce the pension of the person in respect of whom the premium has been paid by the amount of his guaranteed minimum pension ;
- (b) the right of trustees or managers, in a case where a limited revaluation premium has been paid, to recoup it—
- (i) out of the resources of the scheme, in so far as they derive from contributions ; or
- (ii) in prescribed cases, out of payments made to them in respect of an earner's transfer to their scheme from some other scheme;
- (c) the right of trustees or managers, in a case where a state scheme premium has been paid, to make the deduction for which paragraph 13(6) of Schedule 1A to this Act provides when they calculate the cash equivalent to which the earner in respect of whom the premium has been paid has a right under Part II of that Schedule.”.
- 31 In section 48 of that Act (guaranteed minimum pensions to be inalienable) the following subsection shall be inserted after subsection (1)—
- “(1A) In subsection (1) above, the references to assignments of and agreements to assign a guaranteed minimum pension do not include references to any assignment of or agreement to assign a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 52C(4)(b) below.”.

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32 The following subsection shall be substituted for subsection (2) of section 55 of that Act (determination of questions whether scheme conforms with equal access requirements)—

“(2) The persons competent to make an application under this section in respect of a scheme are—

- (a) the persons mentioned in section 41E(2)(a) to (d) above ; and
- (b) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.”.

33 The words " under section 38 of this Act" shall be omitted from subsection (5)(b) of section 59 of that Act (increase of official pensions).

34 In subsection (1) of section 60 of that Act (determination of questions), the following paragraph shall be added after paragraph (c)—

“(d) any question whether a cash sum paid or an alternative arrangement made under the Policyholders Protection Act 1975 provides the whole or any part of the guaranteed minimum pension to which an earner or his widow was entitled under a contracted-out scheme.”.

35 In subsection (4) of section 68 of that Act (provisions extending to Northern Ireland) for the words "Section 57 of this Act extends " there shall be substituted the words " Sections 56B, 56N and 57 of this Act extend".

36 In Schedule 3 to that Act (priority in bankruptcy of debts relating to contributions, etc.), in paragraph 2 (calculation of amount of employer's debt)—

- (a) in sub-paragraph (2), after the word " deemed " there shall be inserted the words " , in a case where the relevant event took place before the day of the passing of the Social Security Act 1985,"; and
- (b) there shall be added at the end of that sub-paragraph (but not as part of paragraph (b)) the words "and shall be deemed, in a case where the relevant event took place on or after the day of the passing of the Social Security Act 1985, to be an amount equal to—
  - (i) 6-25 per cent, of the total reckonable earnings mentioned in paragraph (a) above ; and
  - (ii) 41 per cent, of the total reckonable earnings mentioned in paragraph (b) above."

#### *Social Security Act 1980 (c.30)*

37 In section 9(7) of the Social Security Act 1980, for the words " the Social Security Acts 1975 to 1984 ", in both places where they occur, there shall be substituted the words " the Social Security Acts 1975 to 1985".

#### *Social Security and Housing Benefits Act 1982 (c.24)*

38 In section 20 of the Social Security and Housing Benefits Act 1982 (offences and penalties) "3(4A)(b)" shall be inserted after " section".

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*Health and Social Security Act 1984 (c.48)*

- 39 In section 26(5) of the Health and Social Security Act 1984, for the words from " and" in the first place where it occurs to " extend " there shall be substituted the word " extends".

*Social Security (Contributions) Regulations 1979 (S.I. 1979/591)*

- 40 In regulation 98(c) of the Social Security (Contributions) Regulations 1979 (amount of Class 2 contribution of share fishermen) " £6.30 " shall be substituted for " £7.55".

SCHEDULE 6

Section 29(2).

REPEALS

Chapter	Short Title	Extent of Repeal
1973 c. 38.	Social Security Act 1973.	In Schedule 16, paragraph 6(1)(a).
1975 c. 14.	Social Security Act 1975.	Section 28(2) so far as unrepealed. In section 39(2), the words " or Category D ". Section 45(3) and (4). Section 79(1), (2) and (4). Section 82(1) and (2). In section 90(3), the reference to subsection (1) of section 79. In section 125(1), the words " in the month of June ". In section 126A(1), the words " in the month of June ". In Schedule 4, in Part III, in paragraph 5, the words " or Category D ".
1975 c. 60.	Social Security Pensions Act 1975.	In section 26(2), the words "this Part of". In section 34(4), paragraph (b) and the word " or " immediately preceding it. Section 41A(4)(i). Section 41B(4).

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Chapter	Short Title	Extent of Repeal
1977 c. 5.	Social Security (Miscellaneous Provisions) Act 1977.	<p>In section 41D, the words " or not".</p> <p>In section 59(5)(6), the words "under section 38 of this Act".</p> <p>In section 66, in subsection (1), the definition of "accrued rights ", and subsection (5).</p> <p>In Schedule 4, paragraph 36(6).</p> <p>In section 5(1), the words from " and accordingly " onwards,</p> <p>In section 22, in subsection (7), the words " 35(7) and " and subsections (9) to (11).</p>
1979 c. 18.	Social Security Act 1979.	In Schedule 1, paragraph 11.
1980 c. 30.	Social Security Act 1980.	In section 3, subsection (6) and in subsection (7), the words from " and in " to the end.
1981 c. 33.	Social Security Act 1981.	In Schedule 2, paragraph 3.
1982 c. 2.	Social Security (Contributions) Act 1982.	Section 1(5). In Schedule 1, paragraph 1(3).
1982 c. 24.	Social Security and Housing Benefits Act 1982.	<p>In section 5, in subsection (2), the words " or tax year ", in subsection (3), the words from " or ", in the first place where it occurs, to " question ", in the second place where it occurs and in subsection (5), the words " tax year or ".</p> <p>Section 24.</p> <p>In Schedule 1, paragraph 2(h).</p> <p>In Schedule 2, paragraphs 5 and 7 to 11.</p>
1984 c. 48.	Health and Social Security Act 1984.	In Schedule 7, paragraph 6.