

Social Security Act 1986

CHAPTER 50

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An Act to make provision in relation to personal pension schemes, to amend the law relating to social security, occupational pension schemes and the provision of refreshments for school pupils to abolish maternity pay under the Employment Protection (Consolidation) Act 1978 and provide for the winding-up of the Maternity Pay Fund, to empower the Secretary of State to pay the travelling expenses of certain persons, and for connected purposes
[25th July 1986]

Words of enactment omitted under Statute Law Revision Act 1948 (c.62), S.3.

PART I
PENSIONS

1-5. repealed by 1993 c.48, see Annex 1, page 1.1551

Occupational pension schemes

6. repealed by 1993 c.48, see Annex 1, page 1.1551

[S.7 was repealed (7.2.94) by Sch. 5 to the Pensions Schemes Act 1993 (c.48), but is reproduced below in view of the saving in para. 22 of Sch. 6 *ibid.*]

[7.—(1) Subject to subsection (3) below and except in such cases as may be prescribed, where an occupational pension scheme becomes a contracted-out scheme under Part III of the Social Security Pensions Act 1975 during the period beginning on 1st January 1986 and ending on 5th April 1993, having not previously been contracted-out during any part of that period, the [¹Commissioners of Inland Revenue] shall make in relation to any tax week falling within the period beginning on 6th April 1988 and ending on 5th April 1993 a payment under this section in respect of each earner who is in employment which—

Schemes becoming contracted-out between 1986 and 1993.

- (a) is contracted-out by reference to the scheme during that tax week; and
- (b) has not previously been contracted-out employment by reference to any other scheme during any part of the period beginning on 1st January 1986 and ending on 5th April, 1993.

(2) The [¹Commissioners of Inland Revenue] shall make a payment under this section to the trustees or managers of the scheme except that in such circumstances as may be prescribed [²the Commissioners] shall make such a payment to a prescribed person.

(3) A payment under this section shall not be made unless the prescribed person makes a claim for it in such manner and form, and at such time or within each period, as may be prescribed.

- (4) The amount of a payment under this section in respect of a tax week is—
- (a) 2 per cent, of so much of any earnings paid to or for the benefit of the earner in respect of the employment which is contracted-out by reference to the scheme in the tax week as exceeds the lower earnings limit for that week but does not exceed the upper earnings limit for it; or
 - (b) if 2 per cent, of any such earnings is less than £1.00, £1.00.

(5) The references to the upper and lower earnings limits in subsection (4) above are references, in the case of an earner who is paid otherwise than weekly, to their prescribed equivalents under [³sections 6(1) and 8(3) of the Social Security Contributions and Benefits Act 1992].

- (6) Regulations may make provision—
- (a) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, payments under this section are to be made in respect of them;

¹ Words in s.7(1) & (2) substituted (1.4.99) by Transfer of Functions Act 1999(c.11), Sch. 1, para. 1(a) & (b).
² Words in s. 7(2) substituted (1.4.99) by Transfer of Functions Act 1999 (c.11), Sch. 1, para. 1(b).
³ Words in s. 7(5) substituted (1.7.92) by Social Security (Consequential Provisions) Act 1992 (c.6), Sch. 2, para. 78.

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- (b) for the adjustment of amounts which would otherwise be the amounts of payments under this section so as to avoid the payment of fractional amounts;
- (c) for the intervals at which, for the purposes of payments under this section, payments of earnings are to be treated as made;
- (d) for this section to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period and as if in any case so prescribed for the references to £1.00 in subsection (4)(b) above there were substituted references to such other sum as may be prescribed; and
- (e) as to the manner in which, and time at which or period within which, payments under this section are to be made.

(7) Where in the case of a scheme a payment has been made under this section in relation to an earner—

- (a) if a premium is paid under section 42 of the Social Security Pensions Act 1975 in relation to him, the amount of the premium shall be increased by the amount of the payment; and
- (b) if a premium is paid under section 44 or 44A of that Act in relation to him, the amount of the premium shall be increased by the amount of the payment and by a further amount representing interest on the payment and calculated in accordance with regulations.

(8) If the [¹Commissioners of Inland Revenue make] a payment under this section which [¹they are] not required to make, [¹they may] recover the amount of the payment from the person to whom [¹they paid] it, or from any person in respect of whom [¹they paid] it.

(9) If [²Commissioners of Inland Revenue make] in respect of an earner a payment under this section which [²they are] required to make, but [²do] not make it to the trustees or managers to whom [²they are] required to make it, [²they may] recover the amount of the payment from the person to whom [²they paid] it or from the earner.]

8–19. *see Annex 1, page 1.1551*

PART II
INCOME-RELATED BENEFITS

20–29. *repealed by 1992 c.6, see Annex 1, page 1.1551*

Housing benefit finance.

30.—(1)–(9) *repealed by 1992 c.6, see Annex 1, page 1.1551*

¹ Words in s. 7(8) substituted (1.4.99) by Transfer of Functions Act 1999 (c.11), Sch. 1, para. 1(c).

² Words in s. 7(9) substituted (1.4.99) by Transfer of Functions Act 1999 (c.11), Sch. 1, para. 1(d).

- (10) If an order made by the Secretary of State so provides—
- (a) the [rate fund] contribution under subsection (6) above² made by a local authority for any year; and
 - (b) the rent allowances granted by a local authority during any year,

or such proportion of them as may be calculated in the manner specified by the order, shall not [be treated for the purposes of Part VI of the Local Government, Planning and Land Act 1980 (rate support grant) as relevant expenditure of the authority in relation to the year.]

(11) repealed by 1992 c.6, see Annex 1, page 1.1551

31–35. repealed by 1992 c.6, see Annex 1, page 1.1551

PART IV
BENEFITS UNDER SOCIAL SECURITY ACT 1975

36–38. see Annex 1, page 1.1551

39. Schedule 3 to this Act shall have effect in relation to Chapters IV and V of Part II of the Social Security Act 1975 and associated enactments.

Industrial injuries and diseases.

40–50. repealed by 1992 c.6 see Annex 1, page 1551

PART VI
COMMON PROVISIONS

Administration

51–53. see Annex 1, page 1.1551

54.—(1) Regulations under any of the benefit Acts may provide for contravention of, or failure to comply with, any provision contained in regulations made under that Act to be an offence under that Act and for the recovery, on summary conviction of any such offence, of penalties not exceeding—

Breach of regulations

- (a) for any one offence, level 3 on the standard scale; or
- (b) for an offence of continuing any such contravention or failure after conviction, £40 for each day on which it is so continued.

(2) repealed by 1992 c.6 Annex 1, page 1.551

¹ The words “rate fund” in s.30(10)(a) are repealed by Local Government and Housing Act 1989 (c.42), ss.81(4) and 88(3), for years beginning on or after 1.4.90.

² S.30(6) was repealed by S.S. (C.P.) Act 1992 (c.6), Sch. 1, and re-enacted (1.7.92), on consolidation, as s.135(8) of S.S. Admin Act 1992 (c.5).

³ Words substituted in s.30(10) by para. 11 of Sch. 4 to Local Government Finance Act 1987 (c.6).

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55. repealed by 1992 c.6, see Annex 1, page 1.1551

Legal proceedings.

56.—(1) Any person authorised by the Secretary of State in that behalf may conduct any proceedings under the benefit Acts before a magistrates' court although not a barrister or solicitor.

(2) Notwithstanding anything in any Act—

(a) proceedings for an offence under the benefit Acts...¹ may be begun at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge or within a period of twelve months from the commission of the offence, whichever period last expires;...¹

(b) repealed by 1992 c.6, see Annex 1, page 1.1551

(3) For the purposes of subsection (2) above—

(a) a certificate purporting to be signed by or on behalf of the Secretary of State as to the date on which such evidence as is mentioned in paragraph (a) of that subsection came to his knowledge shall be conclusive evidence of that date;...¹

(b) repealed by 1992 c.6, see Annex 1, page 1.1551

(4)–(4B) repealed by 1992 c.6, see Annex 1, page 1.1551

(5) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (1) to [2(4A)] above—

1995 c.46.

(a) proceedings for an offence under the benefit Acts may, notwithstanding anything in [3section 136 of the Criminal Procedure (Scotland) Act 1993], be commenced at any time within the period of three months from the date on which evidence sufficient in the opinion of the Lord Advocate to justify proceedings comes to his knowledge, or within the period of twelve months from the commission of the offence, whichever period last expires;

(b) for the purposes of this subsection—

(i) a certificate purporting to be signed by or on behalf of the Lord Advocate as to the date on which such evidence as is mentioned above came to his knowledge shall be conclusive evidence thereof;

(ii) subsection (3) of [3section 136 of the said Act of 1995] (date of commencement of proceedings) shall have effect as it has effect for the purposes of that section.

Offences by bodies corporate.

57.—(1) Where an offence under any of the benefit Acts which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.

¹ Words in, and at the end of, s.56(2)(a) and word at end of s.56(3)(a) repealed (1.7.92) by S.S. (C.P.) Act 1992 (c.6), Sch. 1.

² Reference substituted (29.7.88) by Local Government Finance Act 1988 (c.41), Sch/ 10 para. 9(5).

³ Words in s.56(5) substituted (1.4.96) by Criminal procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), para. 64.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

58–65. *repealed, see Annex 1, page 1.1551*

PART VII
MISCELLANEOUS, GENERAL AND SUPPLEMENTARY

Miscellaneous

66–69. *repealed by 1992 c.6, Annex 1, page 1.1551*

70.—(1) *repealed by 1992 c.6, see Annex 1, page 1.1551*

Child benefit in respect of children educated otherwise than at educational establishments.

(2) Regulations purporting to be made under section 24(1) of that Act¹ and made before the passing of this Act shall be treated as validly made.

71–76. *repealed, see Annex 1, page 1.1551*

S.77 (school meals) is not reproduced - outside scope of this work

78–80. *repealed by 1993 c.48, see Annex 1, page 1.1551*

Northern Ireland

81. *repealed by 1992 c.6, see Annex 1, page 1.1551*

82. The enactments relating to social security in Northern Ireland specified in Schedule 9 to this Act shall have effect subject to the amendments there specified.

Amendments of enactments relating to social security in Northern Ireland.

Supplementary

83.—(1) [²Section 61B(1) to (4) of the Social Security Pensions Act 1975] (extent of powers) shall apply to powers conferred by this act to make regulations or orders as they apply to any power to make regulations or orders conferred by that Act but as if for references to that Act there were substituted references to this Act.

Orders and regulations (general provisions).
1975 c.60

(2) and (3) *repealed, see Annex 1, page 1.1551*

[³(4) A statutory instrument—

- (a) which contains (whether alone or with other provisions) orders or regulations under this Act, other than orders under section 88 below, and

¹ Child Benefit Act 1975 (c.61).

² Words in s.83(1) substituted (1.7.92) by Social Security (Consequential Provisions) Act 1992 (c.6), Sch. 2, para. 84.

³ Subsection (4) substituted (13.7.90) by Social Security Act 1990 (c.27), Sch. 6, para. 8(9).

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- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

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

(5) An order under section...¹ 85 below shall not be made without the consent of the Treasury.

(6) A power conferred by this Act to make any regulations or order, where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.

General interpretaton.

84.—(1) In this Act, unless the context otherwise requires,—

...²;

“the benefit Acts” means—

- (a) the Social Security Act 1973;
- (b) [³the Social Security Acts 1975 to 1991];

1973 c.38.

(c)-(d) ...⁴

...²;

“Housing Revenue Account rebate”, in relation to a local authority in England and Wales, means a rent rebate for a tenant of a Housing Revenue Account dwelling of that auhtority;

...²;

“modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;

...²;

“prescribed” means specified in or determined in accordance with regulations;

...²;

“regulations” means regulations made by the Secretary of State under this Act;

...⁵

...²;

(2) and (3) repealed, see Annex 1, page 1.1551

(4) In this Act—

- (a) references to the United Kingdom include references to the territorial waters of the United Kingdom; and
- (b) references to Great Britain include references to the territorial waters of the united Kingdom adjacent to Great Britain.

¹ Words in s.83(5) repealed (1.7.92) by S.S. (C.P.) Act 1992 (c.6), Sch. 1.

² Defns. repealed by S.S. (C.P.) Act 1992 (c.6), Sch. 1 and by P.S. Act 1993 (c.48), Sch. 5 w.e.f. 1.7.92 and 7.2.94 respectively.

³ Words substituted (12.2.91) by Statutory Sick Pay Act 1991 (c.3), s.3(1)(e).

⁴ Paras. (c) and (d) of defn. of “benefit Acts” repealed (1.7.92) by S.S. (C.P.) Act 1992 (c.6), Sch. 1.

⁵ Definition repealed (11.4.88) by Social Security Act 1988 (c.7), Sch. 5.

85.—(1) There shall be paid out of money provided by Parliament— Financial provision.

- (a)–(c) repealed by 1992 c.6, see Annex 1, page 1551
- (d) any sums falling to be paid by the Secretary of State under or by virtue of this Act by way of travelling expenses;
- (e) any other expenses of the Secretary of State attributable to this Act;
- (f) repealed by 1992 c.6, see Annex 1, page 1.1551
- (g) any increase attributable to this Act in the sums payable out of money provided by Parliament under any other Act.

(2) Any increase attributable to this Act in the sums to be charged on and paid out of the Consolidated Fund under any other Act shall be charged on and paid out of that Fund.

(3) and (4) repealed, see Annex 1, page 1.1551

(5) Subject to subsections (6)...¹ below, so far as it related to payments out of money provided by Parliament, any sum recovered by the Secretary of State under or by virtue of this Act shall be paid into the Consolidated Fund.

(6) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that Fund.

(7)–(12) repealed, see Annex 1, page 1.1551

(13) In this section “Act” includes an Act of the Parliament of Northern Ireland.

86.—(1) The enactments mentioned in Schedule 10 to this Act shall have effect with the amendments there specified. Minor and consequential amendments and repeals.

(2) The enactments mentioned in Schedule 11 to this Act (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Schedule.

87.—(1) The following provisions of this Act extend to Northern Ireland— Extent.

- (a) repealed by 1993 c.48, see Annex 1, page 1.1551
- (b) section 61 above;
- (c) section 66 above, so far as relating to paragraph 3(6) of Schedule 6;
- (d) section 81 above;
- (e) sections 83 to 86 above;
- (f) this section;
- (g) sections 88 to 90 below.

(2) Section 82 above (with Schedule 9) extends to Northern Ireland only.

(3) Sections 25 and 30(6) and (10) above to not extend to Scotland.

(4) Where any enactment repealed or amended by this Act extends to any part of the United Kingdom, the repeal or amendment extends to that part.

(5) Except as provided by this section, this Act extends to England and Wales and Scotland, but not to Northern Ireland.

¹ Words in s.85(5) repealed (1.7.91) by S.S. (C.P.) Act 1992 (c.6), Sch. 1.

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Commencement.

88.—(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.

(List of commencement dates at Annex 2 to this Act.)

(2) In relation to section 52 above (including Schedule 5) and section 82 above (including Schedule 9) for the reference to the Secretary of State in subsection (1) above there shall be substituted a reference to the Lord Chancellor and the Secretary of State, acting jointly.

(3) Without prejudice to the generality of subsection (1) above, different days may be appointed under that subsection for the purposes of Part III of this Act in relation to different descriptions of persons, and those descriptions of persons may be determined by any criteria that appear to the Secretary of State to be appropriate.

(4) If an order under subsection (1) above brings paragraph 8 of Schedule 3 to this Act into force on the same day as section 36 above, the former shall be deemed to have come into force immediately before the latter.

(5) The following provisions of this Act—
section 30(4), (8), (9) and (10);
section 37;
section 38(4);
section 45;
section 61;
sections 63 and 64;
section 70;
section 71(4) and (5);
section 72;
section 74;
section 76;

section 81;
 section 83 to 85;
 section 86(1) so far as relating to paragraphs 2, 22, 23(3), 26(1) and (2), 27
 30(b), (c) and (d) (ii), 82, 86, 94(a), 98, 99, 106 and 107 of Schedule 10;
 section 86(2) so far as relating—

- (a) to section 37(3) of the Social Security Act 1975 and the reference to paragraph (b) of that subsection in section 22(2) of the Social Security (Miscellaneous Provisions) Act 1977; 1975 c.14.
1977 c.5.
- (b) to section 141(2) of the Social Security Act 1975;
- (c) to section 52D(2) and (3) of the Social Security Pensions Act 1975 and paragraph 12 of Schedule 1A to that Act; 1975 c.60
- (d) to section 10 of the Social Security Act 1980; and 1980 c.30
- (e) to section 29 of the Social Security and Housing Benefits Act 1982; 1982 c.24

section 87;
 this section; and
 sections 89 and 90;

shall come into force on the day this Act is passed.

89.—(1) Regulations may make such transitional and consequential provision (including provision modifying any enactment contained in this or any other Act) or saving as the Secretary of State considers necessary or expedient in preparation for or in connection with the coming into force of any provision of this Act or the 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. Transitional

[¹(1A) Without prejudice to any other powers conferred on him, the Secretary of State—

- (a) may, for the purpose of making provision with respect to persons falling within subsection (1B) below, modify or revoke any regulations made under this section if he considers it necessary or expedient to do so in consequence of, or otherwise in connection with, provisions of Acts, schemes, arrangements or other instruments coming into force after the passing of this Act; and
- (b) may, for the purpose of consolidation, revoke and re-enact, with any modifications which he considers necessary or desirable, any regulations under this section.

(1B) The persons referred to in subsection (1A)(a) above are any persons—

- (a) to whom regulations under subsection (1) above apply; or
- (b) to whom regulation made under Part II of this Act relating to income support applied at any time before the passing of the Social Security Act 1989.]

(2) The reference to regulations in subsection (1) above includes a reference—

- (a) to regulations made by the Lord Chancellor; and
- (b) to regulations made by the Lord Chancellor and the Secretary of State, acting jointly.

90.—(1) This Act may be cited as the Social Security Act 1986. Citation.

(2) This Act, except section 77 above, may be cited together with the Social Security Acts 1975 to 1985 as the Social Security Acts 1975 to 1986.

¹ Subsections 1A and 1B inserted (21.7.89) by Social Security Act 1989 (c.24), Sch. 8, para. 10(2).

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SCHEDULE 1–8

..... see Annex 1. page 1.1551

SCHEDULE 9

NORTHERN IRELAND

PART I

1. repealed by 1992 c.9, see Annex 1 page 1.1551

PART II

TRANSFER OF FUNCTIONS RELATING TO COMMISSIONERS

2.—(1) In this part—
“the Commissioners” means the Chief and other Social Security Commissioners for Northern Ireland;
“the Department”, except in the expression “the Department of Finance and Personnel”, means the Department of Health and Social Services for Northern Ireland

(2) The references in paragraphs 3(1)(b) and 4 to service by any person as a Commissioner include references to service treated as service as a Commissioner under paragraph 5(2) of Schedule 10 to the Social Security (Northern Ireland) Act 1975 (service under former enactments). 1975 c. 15.

3.—(1) The following functions of the Department are hereby transferred to the Lord Chancellor—

- (a) the functions of the Department under paragraphs 4, 6 and 7 of Schedule 10 to the Social Security (Northern Ireland) Act 1975 (payment of remuneration, expenses, and pensions of the Commissioners);
- (b) the functions of the Department under the provisions of the Judicial Pensions Act (Northern Ireland) 1951 (lump sums and widow’s and children’s pensions) and paragraph 3 of Schedule 3 to the Administration of Justice Act 1973 (increase of certain widow’s and children’s 1951 c. 20 (N.I.) 1973 c. 15.

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pensions) so far as those provisions apply to service by any person as a Commissioner;

(c) repealed by 1992 c. 9, see Annex 1, page 1.1551

(d) the making, under or for the purposes of the enactments mentioned in sub-paragraph (2) below, of regulations with respect to proceedings before the Commissioners, whether for the determination of any matter or for leave to appeal to or from the Commissioners.

(2) The enactments referred to in sub-paragraph (1)(d) above are—

(a)-(g) repealed by 1992 c. 9, see Annex 1, page 1.1551

S.I. 1982/1082 (N.I. 14).

(h) Article 6 of the Forfeiture (Northern Ireland) Order 1982;

(j) repealed by 1992 c. 9, see Annex 1, page 1.1551

4.—(1) The functions of the Department of Finance and Personnel, so far as they relate to the functions transferred by paragraph 3 above, are hereby transferred to the Treasury.

1951 c. 20 (N.I.).

(2) The functions of the Department of Finance and Personnel under the Judicial Pensions Act (Northern Ireland) Act 1951, so far as it applies to service by any person as a Commissioner, are hereby transferred to the Treasury.

5. The functions of the Secretary of State under paragraph 7(5) of Schedule 10 to the Social Security (Northern Ireland) Act 1975 (power of Secretary of State to require person retired on medical ground to resume duties of Commissioner) are hereby transferred to the Lord Chancellor.

6. repealed by 1998 c. 47, see Annex 1, page 1.1551.

7. Regulations made by the Lord Chancellor by virtue of this Part of this Schedule shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

1946 c. 36

8.—(1) Enactments and instruments passed or made before the coming into operation of this Part of this Schedule shall have effect, so far as may be necessary for the purpose or in consequence of the transfers effected by this Part as if—

(a) references to the Department or to the Secretary of State were references to the Lord Chancellor; and

(b) references to the Department of Finance and Personnel were references to the Treasury; and

(c) references to moneys appropriated by Measure of the Northern Ireland Assembly were references to money provided by Parliament and references to the Consolidated Fund of Northern Ireland were references to the Consolidated Fund of the United Kingdom.

(2) This Part of this Schedule shall not affect the validity of anything done (or having effect as done) by or in relation to the Department, the Department of Finance and Personnel or the Secretary of State before the coming into operation of this Part, and anything which at the time of the coming into operation of this Part is in process of being done by or in relation to either of those Departments of the Secretary of State may, if it relates to a function transferred by this Part, be continued by or in relation to the Lord Chancellor or the Treasury, as the case may require.

(3) Anything done (or having effect as done) by the Department, the Department of Finance and Personnel or the Secretary of State for the purpose of a function transferred by this Part of this Schedule, if in force at the coming into operation of this Part, shall have effect, as far as required for continuing its effect after the coming into operation of this Part, as if done by the Lord Chancellor or by the Treasury, as the case may require.

(4) The amendments specified in Part III of this Schedule are without prejudice to the generality of this paragraph.

PART III

9-13

SCHEDULE 10

Section 86.

MINOR AND CONSEQUENTIAL AMENDMENTS

.....

SCHEDULE 11

Section 86.

REPEALS

.....

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