

# Social Security Administration Act 1992

## CHAPTER 5

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An Act to consolidate certain enactments relating to the administration of social security and related matters with amendments to give effect to recommendations of the Law Commission and the Scottish Law Commission.  
[13th February 1992]

PART I

CLAIMS FOR AND PAYMENTS AND GENERAL ADMINISTRATION OF BENEFIT

*Necessity of Claim*

1.—(1) Except in such cases as may be prescribed, and subject to the following provisions of this section and to section 3 below, no person shall be entitled to any benefit unless, in addition to any other conditions relating to that benefit being satisfied—

Entitlement to benefit dependent on claim.

- (a) he makes a claim for it in the manner, and within the time, prescribed in relation to that benefit by regulations under this Part of this Act; or
- (b) he is treated by virtue of such regulations as making a claim for it.

[<sup>1</sup>(1A) No person whose entitlement to any benefit depends on his making a claim shall be entitled to the benefit unless subsection (1B) below is satisfied in relation both to the person making the claim and to any other person in respect of whom he is claiming benefit.

(1B) This subsection is satisfied in relation to a person if—

- (a) the claim is accompanied by—
  - (i) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
  - (ii) information or evidence enabling the national insurance number that has been allocated to the person to be ascertained; or
- (b) the person makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated.

(1C) Regulations may make provision disapplying subsection (1A) above in the case of—

- (a) prescribed benefits;
- (b) prescribed descriptions of persons making claims; or

<sup>1</sup> Sub-paras. (1A)-(1C) inserted (7.11.97 for the purposes of authorising the making of regs. For all other purposes is 1.12.97) by s. 19 to Social Security Administration (Fraud) Act 1997 (c. 47).

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(c) prescribed descriptions of persons in respect of whom benefit is claimed, or in other prescribed circumstances.]

(2) Where under subsection (1) above a person is required to make a claim or to be treated as making a claim for a benefit in order to be entitled to it—

- (a) if the benefit is a [<sup>1</sup>bereavement payment, the person] shall not be entitled to it in respect of a death occurring more than 12 months before the date on which the claim is made or treated as made; and
- (b) if the benefit is any other benefit except disablement benefit or reduced earnings allowance, the person shall not be entitled to it in respect of any period more than 12 months before that date,

except as provided by section 3 below.

(3) Where a person purports to make a claim on behalf of another—

[<sup>2</sup>(za) for personal independence payment by virtue of section 82 of the Welfare Reform Act 2012; or]

- (a) for an attendance allowance by virtue of section 66(1) of the Contributions and Benefits Act; [...<sup>2</sup>]

that other shall be regarded for the purposes of this section as making the claim, notwithstanding that it is made without his knowledge or authority.

(4) In this section and section 2 below “benefit” means—

[<sup>3</sup>(za) universal credit;]

- (a) benefit as defined in section 122 of the Contributions and Benefits Act;

[<sup>4</sup>(zb) state pension or a lump sum under Part 1 of the Pensions Act 2014;]

[<sup>5</sup>(aa) a jobseeker’s allowance;] and

[<sup>6</sup>(ab) state pension credit;]

[<sup>7</sup>(ac) an employment and support allowance;]

[<sup>2</sup>(ad) personal independence payment;]

- (b) any income-related benefit.

(5) This section (which corresponds to section 165A of the 1975 Act, as it had effect immediately before this Act came into force) applies to claims made on or after 1st October 1990 or treated by virtue of regulations under that section or this section as having been made on or after that date.

(6) Schedule 1 to this Act shall have effect in relation to other claims.

Retrospective effect of provisions making entitlement to benefit dependent on claim.

**2.—**(1) This section applies where a claim for benefit is made or treated as made at any time on or after 2nd September 1985 (the date on which section 165A of the 1975 Act (general provision as to necessity of claim for entitlement to benefit), as originally enacted, came into force) in respect of a period the whole or any part of which falls on or after that date.

(2) Where this section applies, any question arising as to—

- (a) whether the claimant is or was at any time (whether before, on or after 2nd September 1985) entitled to the benefit in question, or to any other benefit on which his entitlement to that benefit depends; or
- (b) in a case where the claimant’s entitlement to the benefit depends on the entitlement of another person to a benefit, whether that other person is or was so entitled,

<sup>1</sup> Words substituted (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) in s. 1(2)(a) by s. 70 of and Sch. 8 to the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>2</sup> S. 1(3)(za), para. (4)(ad) inserted and para. (3)(b) repealed (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 8(2) & (3).

<sup>3</sup> S. 1(4)(za) inserted (25.2.13 for reg. making purposes) by the Welfare Reform Act 2012 (c. 5), Sch. 2, para. 4.

<sup>4</sup> S. 1(4)(zb) inserted (6.4.16) by Sch. 12 of the Pensions Act 2014 (c. 19).

<sup>5</sup> Para. (aa) inserted (22.4.96) into defn. of “benefit” in s. 1(4) by para. 38 of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>6</sup> Subsection (4)(ab) inserted in s. 1 (2.7.02) for the purposes of exercising power to make regulations or orders and (7.4.03) for all other purposes by the State Pension Credit Act 2002 (c. 16), Sch. 1, para. 2.

<sup>7</sup> Subsection (4)(ac) inserted in s. 1 (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(2) of Sch. 3.

shall be determined as if the relevant claim enactment and any regulations made under or referred to in that enactment had also been in force, with any necessary modifications, at all times relevant for the purpose of determining the entitlement of the claimant, and, where applicable, of the other person, to the benefit or benefits in question (including the entitlement of any person to any benefit on which that entitlement depends, and so on).

(3) In this section “the relevant claim enactment” means section 1 above as it has effect in relation to the claim referred to in subsection (1) above.

(4) In any case where—

- (a) a claim for benefit was made or treated as made (whether before, on or after 2nd September 1985, and whether by the same claimant as the claim referred to in subsection (1) above or not), and benefit was awarded on that claim, in respect of a period falling wholly or partly before that date; but
- (b) that award would not have been made had the current requirements applied in relation to claims for benefit, whenever made, in respect of periods before that date; and
- (c) entitlement to the benefit claimed as mentioned in subsection (1) above depends on whether the claimant or some other person was previously entitled or treated as entitled to that or some other benefit,

then, in determining whether the conditions of entitlement to the benefit so claimed, are satisfied, the person to whom benefit was awarded as mentioned in paragraphs (a) and (b) above shall be taken to have been entitled to the benefit so awarded, notwithstanding anything in subsection (2) above.

(5) In subsection (4) above “the current requirements” means—

- (a) the relevant claim enactment, and any regulations made or treated as made under that enactment, or referred to in it, as in force at the time of the claim referred to in subsection (1) above, with any necessary modifications; and
- (b) subsection (1) (with the omission of the words following “at any time”) and subsections (2) and (3) above.

*[<sup>1</sup>Work-focused interviews [<sup>2</sup>and work-related activity]*

**2A.—(1)** Regulations may make provision for or in connection with—

- (a) imposing, as a condition falling to be satisfied by a person who—
  - (i) makes a claim for a benefit to which this section applies, and
  - <sup>3</sup>(ii) has not attained pensionable age at the time of making the claim (but see subsection (1A)),]

Claim or full entitlement to certain benefits conditional on work-focused interview.

a requirement to take part in a [<sup>3</sup>one or more work-focused interviews];

- (b) imposing, at a time when—
  - (i) a person [<sup>3</sup>has not attained pensionable age and is] entitled to such a benefit, and
  - (ii) any prescribed circumstances exist,

a requirement to take part in [<sup>3</sup>one or more work-focused interviews] as a condition of that person continuing to be entitled to the full amount which is payable to him in respect of the benefit apart from the regulations.

<sup>3</sup>(1A) For the purposes of subsection (1) a man born before [<sup>4</sup>6 December 1953] is treated as attaining pensionable age when a woman born on the same day as the man would attain pensionable age.]

(2) The benefits to which this section applies are—

- (a) income support;

<sup>1</sup> Ss. 2A-2C inserted (11.11.99) by Welfare Reform and Pensions Act 1999 (c. 30) Ss. 57 & 58.

<sup>2</sup> Words inserted in heading to 2A (12.11.09) by the Welfare Reform Act 2009 (c. 24), s. 2(3).

<sup>3</sup> S. 2A(1)(a)(ii) & words in s. 2A(1)(a)-(b) substituted & s. 2A(1A) inserted (10.2.10) by the Welfare Reform Act 2009 (c. 24), s. 35(2)(a)-(c) & (4).

<sup>4</sup> Words in s. 2A(1A) substituted (3.1.12) by the Pensions Act 2011. Sch. 1, para. 3.

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- (b) housing benefit;
- (c) council tax benefit;
- (d) widow's and bereavement benefits falling within section 20(1)(e) and (ea) of the Contributions and Benefits Act (other than a bereavement payment);
- (e) incapacity benefit;
- (f) severe disablement allowance; and
- (g) [<sup>1</sup>carer's allowance].

*[<sup>2</sup>(2A) No requirement may be imposed by virtue of this section on a person who—*

- (a) is not a member of a couple, and*
- (b) is responsible for, and a member of the same household as, a child under the age of one.*

*(2B) For the purposes of subsection (2A)(b) regulations may make provision—*

- (a) as to circumstances in which one person is to be treated as responsible or not responsible for another;*
- (b) as to circumstances in which persons are to be treated as being or not being members of the same household.]*

(3) Regulations under this section may, in particular, make provision—

- (a) for securing, where a person would otherwise be required to take part in interviews relating to two or more benefits—
  - (i) that he is only required to take part in one interview, and
  - (ii) that any such interview is capable of counting for the purposes of all those benefits;
- (b) for determining the persons by whom interviews are to be conducted;
- (c) conferring power on such persons or the designated authority to determine when and where interviews are to take place (including power in prescribed circumstances to determine that they are to take place in the homes of those being interviewed);
- (d) prescribing the circumstances in which persons attending interviews are to be regarded as having or not having taken part in them;
- (e) for securing that the appropriate consequences mentioned in subsection (4)(a) or (b) below ensue if a person who has been notified that he is required to take part in an interview—
  - (i) fails to take part in the interview, and
  - (ii) does not show, within the prescribed period, that he had good cause for that failure;
- (f) prescribing—
  - (i) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any failure to comply with the regulations, or
  - (ii) circumstances in which a person is or is not to be regarded as having or not having good cause for any such failure.

(4) For the purposes of subsection (3)(e) above the appropriate consequences of a failure falling within that provision are—

- (a) where the requirement to take part in an interview applied by virtue of subsection (1)(a) above, that as regards any relevant benefit either—
  - (i) the person in question is to be regarded as not having made a claim for the benefit, or
  - (ii) if (in the case of an interview postponed in accordance with subsection (7)) that person has already been awarded the benefit, his entitlement to the benefit is to terminate immediately;
- (b) where the requirement to take part in an interview applied by virtue of subsection (1)(b) above, that the amount payable to the person in question in respect of any relevant benefit is to be reduced by the specified amount until the specified time.

<sup>1</sup> Words substituted in s. 2A(2)(g) (1.9.02 for the purposes of exercising powers to make subordinate legislation, 1.4.03 for all other purposes) by S.I. 2002/1457, Sch. para. 3(a).

<sup>2</sup> S. 2A(2A)-(2B) inserted (31.10.11) by S. 3(2)(a) of the Welfare Reform Act 2009 (c. 24).

- (5) Regulations under this section may, in relation to any such reduction, provide—
- (a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed;
  - (b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent;
  - (c) where the person in question is entitled to two or more relevant benefits, for determining the extent, and the order, in which those benefits are to be reduced in order to give effect to the reduction required in his case.

(6) Regulations under this section may provide that any requirement to take part in an interview that would otherwise apply to a person by virtue of such regulations—

- (a) is, in any prescribed circumstances, either not to apply or not to apply until such time as is specified;
- (b) is not to apply if the designated authority determines that an interview—
  - (i) would not be of assistance to that person, or
  - (ii) would not be appropriate in the circumstances;
- (c) is not to apply until such time as the designated authority determines, if that authority determines that an interview—
  - (i) would not be of assistance to that person, or
  - (ii) would not be appropriate in the circumstances, until that time;

and the regulations may make provision for treating a person in relation to whom any such requirement does not apply, or does not apply until a particular time, as having complied with that requirement to such extent and for such purposes as are specified.

(7) Where—

- (a) a person is required to take part in an interview by virtue of subsection (1)(a), and
- (b) the interview is postponed by or under regulations made in pursuance of subsection (6)(a) or (c),

the time to which it is so postponed may be a time falling after an award of the relevant benefit to that person.

[<sup>1</sup>(7A) Information supplied in pursuance of regulations under this section shall be taken for all purposes to be information relating to social security.]

(8) In this section—

“the designated authority” means such of the following as may be specified, namely—

- (a) the Secretary of State,
- (b) a person providing services to the Secretary of State,
- (c) a local authority,
- (d) a person providing services to, or authorised to exercise any function of, any such authority;

“interview” (in subsections (3) to (7)) means a work-focused interview;

“relevant benefit”, in relation to any person required to take part in a work-focused interview, means any benefit in relation to which that requirement applied by virtue of subsection (1)(a) or (b) above;

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

“work-focused interview”, in relation to a person, means an interview conducted for such purposes connected with employment or training in the case of that person as may be specified;

and the purposes which may be so specified include purposes connected with a person’s existing or future employment or training prospects or needs, and (in particular) assisting or encouraging a person to enhance his employment prospects.

<sup>1</sup> S. 2A(7A) inserted (12.1.10) by the Welfare Reform Act 2009 (c. 24), s. 34(1).

<sup>2</sup> S. 2AA inserted (5.7.03) by the Employment Act 2002 (c. 22), s. 49.

## SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)

### S. 2AA

Full entitlement to certain benefits conditional on work-focused interview for partner.

[<sup>1</sup>2AA.—(1) Regulations may make provision for or in connection with imposing, at a time when—

(a) a person (“the claimant”) who—

[<sup>2</sup>(i) has not attained pensionable age (but see subsection (1A)), and

(ii) has a partner who has also not attained pensionable age,]

is entitled to a benefit to which this section applies at a higher rate referable to his partner, and

(b) prescribed circumstances exist,

a requirement for the partner to take part in [<sup>2</sup>one or more work-focused interviews] as a condition of the benefit continuing to be payable to the claimant at that rate.

[<sup>2</sup>(1A)For the purposes of subsection (1) a man born before [<sup>3</sup>6 December 1953] is treated as attaining pensionable age when a woman born on the same day as the man would attain pensionable age.]

(2) The benefits to which this section applies are—

(a) income support;

(b) an income-based jobseeker’s allowance other than a joint-claim jobseeker’s allowance;

(c) incapacity benefit;

(d) severe disablement allowance; and

[<sup>4</sup>(e) carer’s allowance] [<sup>5</sup>; and

(f) an employment and support allowance.]

(3) For the purposes of this section a benefit is payable to a person at a higher rate referable to his partner if the amount that is payable in his case—

(a) is more than it would be if the person concerned was not a member of a couple; or

(b) includes an increase of benefit for his partner as an adult dependant of his.

(4) Regulations under this section may, in particular, make provision—

(a) for securing, where the partner of the claimant would otherwise be required to take part in work-focused interviews relating to two or more benefits—

(i) that the partner is required instead to take part in only one such interview; and

(ii) that the interview is capable of counting for the purposes of all those benefits;

(b) in a case where the claimant has more than one partner, for determining which of those partners is required to take part in the work-focused interview or requiring each of them to take part in such an interview;

(c) for determining the persons by whom work-focused interviews are to be conducted;

(d) conferring power on such persons or the designated authority to determine when and where work-focused interviews are to take place (including power in prescribed circumstances to determine that they are to take place in the homes of those being interviewed);

(e) prescribing the circumstances in which partners attending work-focused interviews are to be regarded as having or not having taken part in them;

(f) for securing that if—

(i) a partner who has been notified of a requirement to take part in a work-focused interview fails to take part in it, and

(ii) it is not shown (by him or by the claimant), within the prescribed period, that he had good cause for that failure,

the amount payable to the claimant in respect of the benefit in relation to which the requirement applied is to be reduced by the specified amount until the specified time;

<sup>1</sup> S. 2AA inserted (5.7.03) by the Employment Act 2002 (c. 22), s. 49.

<sup>2</sup> Words in ss. 2AA(1) & 2AA(1)(a)(i) & (ii) substituted & s. 2AA(1A) inserted (10.2.10) by the Welfare Reform Act 2009 (c. 24), s. 35(3) & (4).

<sup>3</sup> Words in s. 2AA(1A) substituted (3.1.12) by the Pensions Act 2011, Sch. 1, para. 4.

<sup>4</sup> S. 2AA(2)(e) substituted (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 7, para. 3(2).

<sup>5</sup> Subsection (2)(f) inserted (27.10.03) by the Welfare Reform Act 2007 (c. 5), para. 10(3) of Sch. 3.

- (g) prescribing—
- (i) matters which are or are not to be taken into account in determining whether a partner does or does not have good cause for any failure to comply with the regulations; or
  - (ii) circumstances in which a partner is or is not to be regarded as having or not having good cause for any such failure.

(5) Regulations under this section may, in relation to a reduction under subsection (4)(f), provide—

- (a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed;
- (b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent;
- (c) where the claimant is entitled to two or more benefits in relation to each of which a requirement to take part in a work-focused interview applied, for determining the extent to, and the order in, which those benefits are to be reduced in order to give effect to the reduction required in his case.

(6) Regulations under this section may provide that any requirement to take part in a work-focused interview that would otherwise apply to a partner by virtue of the regulations—

- (a) is, in any prescribed circumstances, either not to apply or not to apply until the specified time;
- (b) is not to apply if the designated authority determines that such an interview would not be of assistance to him or appropriate in the circumstances;
- (c) is not to apply until such time as the designated authority determines (if that authority determines that such an interview would not be of assistance to him or appropriate in the circumstances until that time);

and the regulations may make provision for treating a partner to whom any such requirement does not apply, or does not apply until a particular time, as having complied with that requirement to such extent and for such purposes as are specified.

[<sup>1</sup>(6A) Information supplied in pursuance of regulations under this section shall be taken for all purposes to be information relating to social security.]

(7) In this section—

[<sup>2</sup>“couple” has the meaning given by section 137(1) of the Contributions and Benefits Act;]

“designated authority” means such of the following as may be specified, namely—

- (a) the Secretary of State,
- (b) a person providing services to the Secretary of State,
- (c) a local authority, and
- (d) a person providing services to, or authorised to exercise any function of, a local authority;

“partner” means a person who is a member of the same couple as the claimant;

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

and

“work-focused interview” has the same meaning as in section 2A above.]

**2B.**—(1) Chapter II of Part I of the Social Security Act 1998 (social security decisions and appeals) shall have effect in relation to relevant decisions [<sup>3</sup>made under regulations under section 2A or 2AA] subject to and in accordance with subsections (3) to (8) below (and in those subsections “the 1998 Act” means that Act).

Supplementary provisions relating to work-focused interviews.

<sup>1</sup> S. 2AA(6A) inserted (12.1.10) by the Welfare Reform Act 2009 (c. 24), s. 34(2).

<sup>2</sup> Defn. of “couple” substituted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 55.

<sup>3</sup> Words inserted in s. 2B(1) (5.7.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 9(2).

## SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)

### S. 2B

(2) For the purposes of this section a “relevant decision” [<sup>1</sup>, in relation to regulations under section 2A above, is a decision] that a person—

- (a) has failed to comply with a requirement to take part in an interview which applied to him by virtue of the regulations, or
- (b) has not shown, within the prescribed period mentioned in section 2A(3)(e)(ii) above, that he had good cause for such a failure.

[<sup>2</sup>(2A) For the purposes of this section a “relevant decision”, in relation to regulations under section 2AA above, is a decision that—

- (a) the partner of a person entitled to a benefit has failed to comply with a requirement to take part in an interview which applied to the partner by virtue of the regulations, or
- (b) it has not been shown, within the prescribed period mentioned in section 2AA(4)(f)(ii) above, that the partner had good cause for such a failure.]

(3) Section 8(1)(c) of the 1998 Act (decisions falling to be made under or by virtue of certain enactments are to be made by the Secretary of State) shall have effect subject to any provisions of regulations under section 2A [<sup>3</sup>or 2AA] above by virtue of which relevant decisions fall to be made otherwise than by the Secretary of State.

(4) For the purposes of each of sections 9 and 10 of the 1998 Act (revision and supersession of decisions of Secretary of State) any relevant decision made otherwise than by the Secretary of State shall be treated as if it were such a decision made by the Secretary of State (and accordingly may be revised by him under section 9 or superseded by a decision made by him under section 10).

(5) Subject to any provisions of regulations under either section 9 or 10 of the 1998 Act, any relevant decision made, or (by virtue of subsection (4) above) treated as made, by the Secretary of State may be—

- (a) revised under section 9 by a person or authority exercising functions under regulations under section 2A [<sup>3</sup>or 2AA] above other than the Secretary of State, or
- (b) superseded under section 10 by a decision made by such a person or authority,

as if that person or authority were the Secretary of State.

(6) Regulations shall make provision for conferring (except in any prescribed circumstances) a right of appeal under section 12 of the 1998 Act (appeal to [<sup>4</sup>First-tier Tribunal]) against—

- (a) any relevant decision, and
- (b) any decision under section 10 of that Act superseding any such decision, whether made by the Secretary of State or otherwise.

(7) Subsections (4) to (6) above apply whether—

- (a) the relevant decision, or
- (b) (in the case of subsection (6)(b)) the decision under section 10 of the 1998 Act,

is as originally made or has been revised (by the Secretary of State or otherwise) under section 9 of that Act; and regulations under subsection (6) above may make provision for treating, for the purposes of section 12 of that Act, any decision made or revised otherwise than by the Secretary of State as if it were a decision made or revised by him.

<sup>1</sup> Words substituted in s. 2B(2) (5.7.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 9(3).

<sup>2</sup> Subsection (2A) inserted in s. 2B (5.7.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 9(4).

<sup>3</sup> Words inserted in subsections (3), (5)(a) of s. 2B (5.7.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 9(5) & 10(b).

<sup>4</sup> Words substituted in s. 2B(6) (3.11.08) by S.I. 2008/2833, art. 102.



(8) Section 12 of the 1998 Act shall not apply to any decision falling within subsection (6) above except in accordance with regulations under that subsection.

(9) In [...<sup>1</sup>]

- (b) section 72(6) of the Welfare Reform and Pensions Act 1999 (supply of information),

any reference to information relating to social security includes any information supplied by a person for the purposes of an interview which he is required to take part in by virtue of section 2A [<sup>2</sup>or 2AA] above.

(10) In this section “interview” means a work-focused interview within the meaning of section 2A above.

**2C.**—(1) Regulations may make provision for conferring on local authorities functions in connection with conducting work-focused interviews in cases where such interviews are requested or consented to by persons to whom this section applies.

Optional work-focused interviews.

(2) This section applies to [<sup>3</sup>—

- (a) persons making claims for or entitled to any of the benefits listed in section 2A(2) above or any prescribed benefit; and
- (b) partners of persons entitled to any of the benefits listed in section 2AA(2) above or any prescribed benefit;]

and it so applies regardless of whether such persons have, in accordance with regulations under section 2A [<sup>2</sup>or 2AA] above, already taken part in interviews conducted under such regulations.

(3) The functions which may be conferred on a local authority by regulations under this section include functions relating to—

- (a) the obtaining and receiving of information for the purposes of work-focused interviews conducted under the regulations;
- (b) the recording and forwarding of information supplied at, or for the purposes of, such interviews;
- (c) the taking of steps to identify potential employment or training opportunities for persons taking part in such interviews.

(4) Regulations under this section may make different provision for different areas or different authorities.

(5) In this section “work-focused interview”, in relation to a person to whom this section applies, means an interview conducted for such purposes connected with employment or training in the case of such a person as may be prescribed; and the purposes which may be so prescribed include—

- (a) purposes connected with the existing or future employment or training prospects or needs of such a person, and
- (b) (in particular) assisting or encouraging such a person to enhance his employment prospects.]

[**2D.**—(1) Regulations may make provision for or in connection with imposing on a person who—

Work-related activity

- (a) is entitled to income support, and
- (b) is not a lone parent of a child under the age of 3,

a requirement to undertake work-related activity in accordance with regulations as a condition of continuing to be entitled to the full amount of income support payable apart from the regulations.

<sup>1</sup> In s. 2B(9) words & subsection (a) repealed (24.11.02) by the Employment Act 2002 (c. 22), Sch. 8.

<sup>2</sup> Words inserted in subsections (9) & 2C(2) of s. 2B (5.7.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 9(5) & 10(b).

<sup>3</sup> Subsection (2)(a) & (b) of s. 2C substituted (5.7.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 10(a).

<sup>4</sup> Ss. 2D-2H inserted (12.11.09) by the Welfare Reform Act 2009 (c. 24), s. 2(2).

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**S. 2D**

(2) Regulations may make provision for or in connection with imposing on a person (“P”) who—

- (a) is under pensionable age, and
- (b) is a member of a couple the other member of which (“C”) is entitled to a benefit to which subsection (3) applies at a higher rate referable to P,

a requirement to undertake work-related activity in accordance with regulations as a condition of the benefit continuing to be payable to C at that rate.

(3) The benefits to which this subsection applies are—

- (a) income support;
- (b) an income-based jobseeker’s allowance other than a joint-claim jobseeker’s allowance; and
- (c) an income-related employment and support allowance.

(4) Regulations under this section may, in particular, make provision—

- (a) prescribing circumstances in which a person is to be subject to any requirement imposed by the regulations (a “relevant requirement”);
- (b) for notifying a person of a relevant requirement;
- (c) prescribing the time or times at which a person who is subject to a relevant requirement is required to undertake work-related activity and the amount of work-related activity the person is required at any time to undertake;
- (d) prescribing circumstances in which a person who is subject to a relevant requirement is, or is not, to be regarded as undertaking work-related activity;
- (e) in a case where C is a member of more than one couple, for determining which of the members of the couples is to be subject to a relevant requirement or requiring each of them to be subject to a relevant requirement;
- (f) for securing that the appropriate consequence follows if—
  - (i) a person who is subject to a relevant requirement has failed to comply with the requirement, and
  - (ii) it is not shown, within a prescribed period, that the person had good cause for that failure;
- (g) prescribing the evidence which a person who is subject to a relevant requirement needs to provide in order to show compliance with the requirement;
- (h) prescribing matters which are, or are not, to be taken into account in determining whether a person had good cause for any failure to comply with a relevant requirement;
- (i) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any such failure.

(5) For the purposes of subsection (4)(f) the appropriate consequence is that the amount of the benefit payable is to be reduced by the prescribed amount until the prescribed time.

(6) Regulations under subsection (5) may, in relation to any such reduction, provide—

- (a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed;
- (b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent.

(7) Regulations under this section may include provision that in such circumstances as the regulations may provide a person’s obligation under the regulations to undertake work-related activity at a particular time is not to apply, or is to be treated as not having applied.

(8) Regulations under this section must include provision for securing that lone parents are entitled (subject to meeting any prescribed conditions) to restrict the times at which they are required to undertake work-related activity.

(9) For the purposes of this section and sections 2E and 2F—

- (a) “couple” has the meaning given by section 137(1) of the Contributions and Benefits Act;
- (b) “lone parent” means a person who—
  - (i) is not a member of a couple, and
  - (ii) is responsible for, and a member of the same household as, a child;
- (c) “prescribed” means specified in, or determined in accordance with, regulations;
- (d) “work-related activity”, in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so;
- (e) any reference to a person attaining pensionable age is, in the case of a man born before [16 December 1953], a reference to the time when a woman born on the same day as the man would attain pensionable age;
- (f) any reference to a benefit payable to C at a higher rate referable to P is a reference to any case where the amount payable is more than it would be if C and P were not members of the same couple.

(10) For the purposes of this section regulations may make provision—

- (a) as to circumstances in which one person is to be treated as responsible or not responsible for another;
- (b) as to circumstances in which persons are to be treated as being or not being members of the same household.

(11) Information supplied in pursuance of regulations under this section is to be taken for all purposes to be information relating to social security.

**2E.—**(1) The Secretary of State must in prescribed circumstances provide a document (referred to in this section as an “action plan”) prepared for such purposes as may be prescribed to a person who is subject to a requirement imposed under section 2A or 2AA in relation to any of the following benefits.

Action plans in connection with work-focused interviews

(2) The benefits are—

- (a) income support;
- (b) an income-based jobseeker’s allowance other than a joint-claim jobseeker’s allowance; and
- (c) an income-related employment and support allowance.

(3) Regulations may make provision about—

- (a) the form of action plans;
- (b) the content of action plans;
- (c) the review and updating of action plans.

(4) Regulations under this section may, in particular, make provision for action plans which are provided to a person who is subject under section 2D to a requirement to undertake work-related activity to contain particulars of activity which, if undertaken, would enable the requirement to be met.

(5) Regulations may make provision for reconsideration of an action plan at the request of the person to whom it is provided and may, in particular, make provision about—

- (a) the circumstances in which reconsideration may be requested;
- (b) the period within which any reconsideration must take place;

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<sup>1</sup>Words substituted in s. 2D(9)(e) (3.1.12) by the Pensions Act 2011, Sch. 1, para. 5.

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- (c) the matters to which regard must be had when deciding on reconsideration whether the plan should be changed;
- (d) notification of the decision on reconsideration;
- (e) the giving of directions for the purpose of giving effect to the decision on reconsideration.

(6) In preparing any action plan, the Secretary of State must have regard (so far as practicable) to its impact on the well-being of any person under the age of 16 who may be affected by it.

Directions about work-related activity

**2F.**—(1) In prescribed circumstances, the Secretary of State may by direction given to a person subject to a requirement imposed under section 2D provide that the activity specified in the direction is—

- (a) to be the only activity which, in the person’s case, is to be regarded as being work-related activity; or
- (b) to be regarded, in the person’s case, as not being work-related activity.

(2) But a direction under subsection (1) may not specify medical or surgical treatment as the only activity which, in any person’s case, is to be regarded as being work-related activity.

(3) A direction under subsection (1) given to any person—

- (a) must be reasonable, having regard to the person’s circumstances;
- (b) must be given to the person by being included in an action plan provided to the person under section 2E; and
- (c) may be varied or revoked by a subsequent direction under subsection (1).

(4) Where a direction under subsection (1) varies or revokes a previous direction, it may provide for the variation or revocation to have effect from a time before the giving of the direction.

Contracting-out

**2G.**—(1) The following functions of the Secretary of State may be exercised by, or by employees of, such person (if any) as the Secretary of State may authorise for the purpose, namely—

- (a) conducting interviews under section 2A or 2AA;
- (b) providing documents under section 2E;
- (c) giving, varying or revoking directions under section 2F.

(2) Regulations may provide for any of the following functions of the Secretary of State to be exercisable by, or by employees of, such person (if any) as the Secretary of State may authorise for the purpose—

- (a) any function under regulations under any of sections 2A to 2F, except the making of an excluded decision (see subsection (3));
- (b) the function under section 9(1) of the 1998 Act (revision of decisions) so far as relating to decisions (other than excluded decisions) that relate to any matter arising under regulations under any of sections 2A to 2F;
- (c) the function under section 10(1) of the 1998 Act (superseding of decisions) so far as relating to decisions (other than excluded decisions) of the Secretary of State that relate to any matter arising under regulations under any of sections 2A to 2F;
- (d) any function under Chapter 2 of Part 1 of the 1998 Act (social security decisions), except section 25(2) and (3) (decisions involving issues arising on appeal in other cases), which relates to the exercise of any of the functions within paragraphs (a) to (c).

(3) Each of the following is an “excluded decision” for the purposes of subsection (2)—

- (a) a decision about whether a person has failed to comply with a requirement imposed by regulations under section 2A, 2AA or 2D;
- (b) a decision about whether a person had good cause for failure to comply with such a requirement;
- (c) a decision about the reduction of a benefit in consequence of a failure to comply with such a requirement.

(4) Regulations under subsection (2) may provide that a function to which that subsection applies may be exercised—

- (a) either wholly or to such extent as the regulations may provide,
- (b) either generally or in such cases as the regulations may provide, and
- (c) either unconditionally or subject to the fulfilment of such conditions as the regulations may provide.

(5) An authorisation given by virtue of any provision made by or under this section may authorise the exercise of the function concerned—

- (a) either wholly or to such extent as may be specified in the authorisation,
- (b) either generally or in such cases as may be so specified, and
- (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified;

but, in the case of an authorisation given by virtue of regulations under subsection (2), this subsection is subject to the regulations.

(6) An authorisation given by virtue of any provision made by or under this section—

- (a) may specify its duration,
- (b) may be revoked at any time by the Secretary of State, and
- (c) does not prevent the Secretary of State or any other person from exercising the function to which the authorisation relates.

(7) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Secretary of State.

(8) But subsection (7) does not apply—

- (a) for the purposes of so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function, or
- (b) for the purposes of any criminal proceedings brought in respect of anything done by the authorised person (or an employee of that person).

(9) Any decision which an authorised person makes in exercise of the function concerned has effect as a decision of the Secretary of State under section 8 of the 1998 Act.

(10) Where—

- (a) the authorisation of an authorised person is revoked at any time, and
- (b) at the time of the revocation so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function is subsisting,

the authorised person is entitled to treat the contract as repudiated by the Secretary of State (and not as frustrated by reason of the revocation).

(11) In this section—

- (a) “the 1998 Act” means the Social Security Act 1998;
- (b) “authorised person” means a person authorised to exercise any function by virtue of any provision made by or under this section;

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- (c) references to functions of the Secretary of State under any enactment (including one comprised in regulations) include functions which the Secretary of State has by virtue of the application of section 8(1)(c) of the 1998 Act in relation to the enactment.

Good cause for failure to comply with regulations

**2H.**—(1) This section applies to any regulations made under section 2A, 2AA or 2D that prescribe matters to be taken into account in determining whether a person has good cause for any failure to comply with the regulations.

(2) The provision made by the regulations prescribing those matters must include provision relating to—

- (a) the person's physical or mental health or condition;
- (b) the availability of childcare.]

*[<sup>1</sup>Bereavement benefits*

Late claims for bereavement benefit where death is difficult to establish.

**3.**—(1) This section applies where a person's spouse [<sup>2</sup>or civil partner] has died or may be presumed to have died on or after the appointed day and the circumstances are such that—

- (a) more than 12 months have elapsed since the date of death; and
- (b) either
  - (i) the spouse's [<sup>2</sup>or civil partner's] body has not been discovered or identified or, if it has been discovered and identified, the surviving spouse [<sup>2</sup>or civil partner] does not know that fact; or
  - (ii) less than 12 months have elapsed since the surviving spouse [<sup>2</sup>or civil partner] first knew of the discovery and identification of the body.

(2) Where this section applies, notwithstanding that any time prescribed for making a claim for a bereavement benefit in respect of the death has elapsed, then—

- (a) in any case falling within paragraph (b) (i) of subsection (1) above where it has been decided under section 8 of the Social Security Act 1998 that the spouse [<sup>2</sup>or civil partner] has died or is presumed to have died; or
- (b) in any case falling within paragraph (b) (ii) of subsection (1) above where the identification was made not more than 12 months before the surviving spouse [<sup>2</sup>or civil partner] first knew of the discovery and identification of the body,

such a claim may be made or treated as made at any time before the expiration of the period of 12 months beginning with the date on which that decision was made or, as the case may be, the date on which the surviving spouse [<sup>2</sup>or civil partner] first knew of the discovery and identification.

(3) If, in a case where a claim for a bereavement benefit is made or treated as made by virtue of this section, the claimant would apart from subsection (2) of section 1 above, be entitled to—

- (a) a bereavement payment in respect of the spouse's [<sup>2</sup>or civil partner's] death more than 12 months before the date on which the claim is made or treated as made; or
- (b) any other bereavement benefit in respect of his or her death for a period more than 12 months before that date,

then, notwithstanding anything in that section, the surviving spouse [<sup>2</sup>or civil partner] shall be entitled to that payment or, as the case may be, to that other benefit [...<sup>3</sup>].

<sup>1</sup> S. 3 substituted (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by s. 70 of and Part I of Sch. 8 to the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>2</sup> Words inserted in s. 3 (5.12.05) by the Civil Partnership Act 2004, Sch. 24, para. 56.

<sup>3</sup> Words in s. 3(3) revoked (6.4.03) by Sch. 6 of the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details of savings and transitional provisions.

(4) In subsection (1) above “the appointed day” means the day appointed for the coming into force of sections 54 to 56 of the Welfare Reform and Pensions Act 1999.]

4. In any case where—

- (a) a claim for a widow’s pension or a widowed mother’s allowance is made, or treated as made, before 13th July 1990 (the date of the passing of the Social Security Act 1990); and
- (b) the Secretary of State has made a payment to or for the claimant on the ground that if the claim had been received immediately after the passing of that Act she would have been entitled to that pension or allowance, or entitled to it at a higher rate, for the period in respect of which the payment is made,

Treatment of payments of benefit to certain widows.

1990 c. 27.

the payment so made shall be treated as a payment of that pension or allowance; and, if and to the extent that an award of the pension or allowance, or an award at a higher rate, is made for the period in respect of which the payment was made, the payment shall be treated as made in accordance with that award.

*Claims and payments regulations*

5.—(1) Regulations may provide—

- (a) for requiring a claim for a benefit to which this section applies to be made by such person, in such manner and within such time as may be prescribed;
- (b) for treating such a claim made in such circumstances as may be prescribed as having been made at such date earlier or later than that at which it is made as may be prescribed;
- (c) for permitting such a claim to be made, or treated as if made, for a period wholly or partly after the date on which it is made;
- (d) for permitting an award on such a claim to be made for such a period subject to<sup>[1]</sup>—
  - (i) the condition that the requirements for entitlement are satisfied at a prescribed time after the making of the award, or
  - (ii) other prescribed conditions;
- <sup>[2]</sup>(e) for any such award to be revised under section 9 of the Social Security Act 1998, or superseded under section 10 of that Act, if any of [<sup>1</sup>the conditions referred to in paragraph (d)] are found not to have been satisfied;
- (f) for the disallowance on any ground of a person’s claim for a benefit to which this section applies to be treated as a disallowance of any further claim by that person for that benefit until the grounds of the original disallowance have ceased to exist;
- (g) for enabling one person to act for another in relation to a claim for a benefit to which this section applies [<sup>1</sup>(including in particular, in the case of a benefit to be claimed by persons jointly, enabling one person to claim for such persons jointly)]and for enabling such a claim to be made and proceeded with in the name of a person who has died;
- (h)-(hh) [<sup>3</sup>]
- (i) for the person to whom, time when and manner in which a benefit to which this section applies is to be paid and for the information and evidence to be furnished in connection with the payment of such a benefit;
- (j) for notice to be given of any change of circumstances affecting the continuance of entitlement to such a benefit or payment of such a benefit [<sup>3</sup>or of any other change of circumstance of a prescribed description];
- (k) for the day on which entitlement to such a benefit is to begin or end;
- (l) for calculating the amounts of such a benefit according to a prescribed scale or otherwise adjusting them so as to avoid fractional amounts or facilitate computation;

Regulations about claims for and payments of benefit.

<sup>1</sup> Words substituted in s. 5(1)(d) & (e) and inserted in para. (1)(g) (25.2.13) by the Welfare Reform Act 2012 (c. 5), s. 98(2)-(4).

<sup>2</sup> Para. (e) substituted by S.S. Act 1998 (c. 14), Sch. 7, para. 79.

<sup>3</sup> S. 5(1)(h) & (hh) repealed and words inserted in s. 5(1)(j) (25.2.13) by the Welfare Reform Act 2012 (c. 5), s. 99(2) & (5).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**S. 5**

- (m) for extinguishing the right to payment of such a benefit if payment is not obtained within such period, not being less than 12 months, as may be prescribed from the date on which the right is treated under the regulations as having arisen;
- (n) [...<sup>1</sup>]
- (o) [...<sup>1</sup>]
- (p) for the circumstances and manner in which payments of such a benefit may be made to another person on behalf of the beneficiary for any purpose, which may be to discharge, in whole or in part, an obligation of the beneficiary or any other person;
- (q) for the payment or distribution of such a benefit to or among persons claiming to be entitled on the death of any person and for dispensing with strict proof of their title;
- [<sup>2</sup>(r) for the making of a payment on account of such a benefit–
  - (i) in cases where it is impracticable for a claim to be made or determined immediately, or for an award to be determined or paid in full immediately;
  - (ii) in cases of need, or;
  - (iii) in cases where the Secretary of State considers in accordance with prescribed criteria that the payment can reasonably be expected to be recovered].

[<sup>3</sup>(1A) Regulations may make provision for requiring a person of a prescribed description to supply any information or evidence which is, or could be, relevant to–

- (a) a claim or award relating to a benefit to which this section applies, or
- (b) potential claims or awards relating to such a benefit.]

(2) This section applies to the following benefits–

[<sup>2</sup>(za) universal credit;]

(a) benefits as defined in section 122 of the Contributions and Benefits Act;

[<sup>4</sup>(zb) state pension or a lump sum under Part 1 of the Pensions Act 2014;]

[<sup>5</sup>(aa) a jobseeker's allowance;]

[<sup>6</sup>(ab) state pension credit]

[<sup>7</sup>(ac) an employment and support allowance,]

[<sup>2</sup>(ad) personal independence payment;]

(b) income support;

(c) [...<sup>8</sup>]

(d) [...<sup>8</sup>]

(e) housing benefit;

(f) any social fund payments such as are mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act;

[<sup>9</sup>(fa) health in pregnancy grant;]

(g) child benefit; and

(h) Christmas bonus.

<sup>1</sup> Paras. (n) & (o) cease to have effect (2.7.01) by the Social Security Act 1998 (c. 14), Sch. 7, para. 79.

<sup>2</sup> S. 5(1)(r) & (2)(za) & (ad) inserted (25.2.13 for reg. making purposes) by the Welfare Reform Act 2012 (c. 5), s. 101(1) & Sch. 2, para. 5(a) & Sch. 9, para. 9.

<sup>3</sup> Subsec (1A) added (25.2.13) by the Welfare Reform Act 2012 (c. 5), s. 99(3).

<sup>4</sup> S. 5(2)(zb) inserted (6.4.16) by Sch. 12 of the Pensions Act 2014 (c. 19).

<sup>5</sup> S. 5(2)(aa) inserted (22.4.96) by para. 39 of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>6</sup> Subsection (2)(ab) inserted in s. 5 (2.7.02) for the purposes of exercising power to make regulations or orders and (7.4.03) for all other purposes by the State Pension Credits Act 2002 (c. 16), Sch. 1, para. 3.

<sup>7</sup> Subsection 5(2)(ac) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(4) of Sch. 3.

<sup>8</sup> S. 5(2)(c) & (d) repealed (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

<sup>9</sup> S. 5(2)(fa) inserted (1.1.09) by the Health & Social Care Act 2008 (c. 14), s. 132(1).



[<sup>1</sup>(2A)The regulations may also require such persons as are prescribed to provide a rent office with information or evidence of such description as is prescribed.]

(2B) For the purposes of subsection (2A), the Secretary of State may prescribe any description of information or evidence which he thinks is necessary or expedient to enable rent offices to carry out their functions under section 122 of the Housing Act 1996.

(2C) Information or evidence required to be provided by virtue of subsection (2A) may relate to an individual claim or award or to any description of claims or awards.]

(3) [...<sup>2</sup>]

(3A) [...<sup>3</sup>]

[<sup>3</sup>(3B)The power in subsection (1)(i) above to make provision for the person to whom a benefit is to be paid includes, in the case of a benefit awarded to persons jointly, power to make provision for the Secretary of State to determine to which of them all or any part of a payment should be made, and in particular for the Secretary of State—

- (a) to determine that payment should be made to whichever of those persons they themselves nominate, or
- (b) to determine that payment should be made to one of them irrespective of any nomination by them.]

(4) [...<sup>4</sup>]

(5) Subsection (1)(g), (i), (1)(p) and (q) above shall have effect as if statutory sick pay [<sup>5</sup>, statutory maternity pay, [<sup>6</sup>statutory paternity pay], statutory adoption pay] [<sup>7</sup>and statutory shared parental pay] were benefits to which this section applies.

[<sup>8</sup>(6) As it has effect in relation to [<sup>9</sup>universal credit or] housing benefit subsection (1)(p) above authorises provision requiring the making of payments of benefit to another person, on behalf of the beneficiary, in such circumstances as may be prescribed.]

*Community charge benefits etc.†*

†Unreliable heading.

6. [...<sup>10</sup>]

*S. 6 has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

6.—(1) Regulations may provide as follows as regards [<sup>11</sup>council tax benefit]—

- (a) for requiring a claim for a benefit to be made by such person, in such manner and within such time as may be prescribed;

Regulations about community charge benefits administration.†

<sup>1</sup> S. 5(2A)-(2C) inserted (1.10.07 for reg. making purposes and 7.4.08 for all other purposes) by the Welfare Reform Act 2007, s. 35(2).

<sup>2</sup> S. 5(3) ceases to have effect (7.4.08) by the Welfare Reform Act 2007 (c. 5), s. 35(3).

<sup>3</sup> S. 5(3A) repealed & (3B) inserted (25.2.13) by the Welfare Reform Act 2012 (c. 5), s. 99(4) & 100.

<sup>4</sup> S. 4 shall cease to have effect (2.7.01) by S.S. Act 1998 (c. 14), Sch 7, para. 79(b).

<sup>5</sup> Words in s. 5(5) substituted (8.12.02) by the Employment Act 2002 (c. 22), Sch. 7, para. 11.

<sup>6</sup> Words in s. 5(5) substituted (5.4.15) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 24 (with art. 16 of S.I. 2014/1640).

<sup>7</sup> Words in s. 5(5) inserted (30.6.14) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 24(b).

<sup>8</sup> S. 5(6) inserted (with unlimited retrospective) by s. 120 of Housing Act 1996 (c. 52).

<sup>9</sup> Words in s. 5(6) inserted (25.2.13 for reg. making purposes) by the Welfare Reform Act 2012 (c. 5).

<sup>10</sup> S. 6 repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>11</sup> Words in s. 6(1) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 12(1)(a), for purposes of council tax and council tax benefit from 1.4.93.

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- (b) for treating a claim made in such circumstances as may be prescribed as having been made at such date earlier or later than that at which it is made as may be prescribed;
- (c) for permitting a claim to be made, or treated as if made, for a period wholly or partly after the date on which it is made;
- (d) for permitting an award on a claim to be made for such a period subject to the condition that the claimant satisfies the requirements for entitlement when benefit becomes payable, or any right to a reduction [...<sup>1</sup>] becomes available, under the award;
- (e) for a review of any award if those requirements are found not to have been satisfied;
- (f) for the disallowance on any ground of a person's claim for a benefit to be treated as a disallowance of any further claim by that person for that benefit until the grounds of the original disallowance have ceased to exist;
- (g) for enabling one person to act for another in relation to a claim for a benefit and for enabling such a claim to be made and proceeded with in the name of a person who has died;
- (h) for requiring any information or evidence needed for the determination of a claim or of any question arising in connection with a claim to be furnished by such person as may be prescribed in accordance with the regulations;
- [<sup>2</sup>(hh) for requiring such person as may be prescribed in accordance with the regulations to furnish any information or evidence needed for a determination whether a decision on an award of a benefit—
  - (i) should be revised under paragraph 3 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000; or
  - (ii) should be superseded under paragraph 4 of that Schedule;]
  - (i) for the time when the manner in which any benefit (or part) which takes the form of a payment is to be paid, and for the information and evidence to be furnished in connection with the payment;
  - (j) for the time when the right to make a reduction [...<sup>3</sup>] may be exercised;
  - (k) for notice to be given of any change of circumstances affecting the continuance of entitlement to a benefit.
  - (l) for the day on which entitlement to a benefit is to begin or end;
  - (m) for calculating the amount of a benefit according to a prescribed scale or otherwise adjusting it so as to avoid fractional amounts or facilitate computation;
  - (n) [...<sup>4</sup>]
  - (o) [...<sup>4</sup>];
  - (p) in the case of any benefit (or part) which takes form of a payment, for payment or distribution to or among persons claiming to be entitled on the death of any person, and for dispensing with strict proof of their title;
  - (q) in the case of any benefit (or part) which takes the form of a payment, for the circumstances and manner in which payment may be made to one person on behalf of another for any purpose, which may be to discharge, in whole or in part, an obligation of the person entitled to the benefit or any other person;

<sup>1</sup> Words in s. 6(1) repealed by L.G.F. Act 1992 (c. 14), Sch. 9, para. 12(1)(b), and Sch. 14, for purposes of council tax and council tax benefit from 1.4.93.

<sup>2</sup> Para. (hh) inserted (1.11.00) in s. 6(1) by the Child Support, Pensions and Social Security Act 2000 (c. 19), Sch. 7, para. 21(2).

<sup>3</sup> Words in s. 6(1) repealed by L.G.F. Act 1992 (c. 14), Sch. 9, para. 12(1)(b), and Sch. 14, for purposes of council tax and council tax benefit from 1.4.93.

<sup>4</sup> Paras. (n) & (o) shall cease to have effect (2.7.01) by S.S. Act 1998 (c. 14), Sch. 7, para. 50.

- (r) for making a payment on account of a benefit, or conferring a right to make a reduction [...] on account, where no claim has been made and it is impractical for one to be made immediately;
- (s) for making a payment on account of a benefit, or conferring a right to make a reduction [...] on account, where a claim has been made but it is impracticable for the claim or an appeal, reference, review or application relating to it to be determined immediately;
- (t) for making a payment on account of a benefit, or conferring a right to make a reduction [...] on account, where an award has been made but it is impracticable to institute the benefit immediately;
- (u) generally as to administration.

(2) Regulations under this section may include [2]provision in relation to council tax benefits that prescribed provisions shall apply instead of prescribed provisions of Part I or II of the Local Government Finance Act 1992, or that prescribed provisions of either of those Parts shall not apply] or shall apply subject to prescribed amendments or adaptations.

1992 c. 14.

[3(3) References in subsection (2) above to either of the Acts there mentioned include references to regulations made under the Part concerned.]

†Unreliable marginal note.

7.—(1) Regulations may provide for a claim for one relevant benefit to be treated, either in the alternative or in addition, as a claim for any other relevant benefit that may be prescribed.

Relationship between benefits.†  
Relationship between community charge benefits and other benefits.†

(2) [...<sup>4</sup>]

*S. 7(2), (3)(b) and words in heading has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

(2) Regulations may provide for treating a payment made or right conferred by virtue of regulations—

- (a) under section 5(1)(r) above; or
- (b) under section 6(1)(r) to (t) above,

as made or conferred on account of any relevant benefit that is subsequently awarded or paid.

(3) For the purposes of [5]subsection (1)] above relevant benefits are—

- (a) any benefit to which section 5 above applies; [...<sup>4</sup>]  
and
- (b) [6]council tax benefit].

†Unreliable marginal note.

[7]Sharing of functions as regards certain claims and information

7A.—(1) Regulations may, for the purpose of supplementing the persons or bodies to whom claims for relevant benefits may be made, make provision—

Sharing of functions as regards certain claims and information.

<sup>1</sup> Words in s. 6(1) repealed by L.G.F. Act 1992 (c. 14), Sch. 9, para. 12(1)(b), and Sch. 14, for purposes of council tax and council tax benefit from 1.4.93.

<sup>2</sup> Words substituted (6.3.92) in s. 6(2) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 12(2), for purposes of council tax and council tax benefit from 1.4.93.

<sup>3</sup> S. 6(3) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 12(3), for purposes of council tax and council tax benefit from 1.4.93.

<sup>4</sup> S. 7(2), (3)(a) and heading repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14, Pt. 11.

<sup>5</sup> Words in s. 7(3) substituted (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 3, para. 5.

<sup>6</sup> Words in s. 7(3)(b) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 13, for purposes of council tax and council tax benefit from 1.4.93.

<sup>7</sup> S. 7A inserted (11.11.99) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 71.

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- (a) as regards housing benefit or council tax benefit, for claims for that benefit to be made to—
    - (i) a Minister of the Crown, or
    - (ii) a person providing services to a Minister of the Crown;
  - (b) as regards any other relevant benefit, for claims for that benefit to be made to—
    - (i) a local authority,
    - (ii) a person providing services to a local authority, or
    - (iii) a person authorised to exercise any function of a local authority relating to housing benefit or council tax benefit.
  - [<sup>1</sup>(c) as regards any relevant benefit, for claims for that benefit to be made to—
    - (i) a county council in England,
    - (ii) a person providing services to a county council in England, or
    - (iii) a person authorised to exercise any function a county council in England has under this section.]
- (2) Regulations may make provision for or in connection with—
- (a) the forwarding by a relevant authority of—
    - (i) claims received by virtue of any provision authorised by subsection (1) above, and
    - (ii) information or evidence supplied in connection with making such claims (whether supplied by persons making the claims or by other persons);
  - (b) the receiving and forwarding by a relevant authority of information or evidence relating to social security [<sup>2</sup>or work] matters supplied by, or the obtaining by a relevant authority of such information or evidence from—
    - (i) persons making, or who have made, claims for a relevant benefit, or
    - (ii) other persons in connection with such claims,including information or evidence not relating to the claims or benefit in question;
  - (c) the recording by a relevant authority of information or evidence relating to social security [<sup>3</sup>or work] matters supplied to, or obtained by, the authority and the holding by the authority of such information or evidence (whether as supplied or obtained or as recorded);
  - (d) the giving of information or advice with respect to social security [<sup>3</sup>or work] matters by a relevant authority to persons making, or who have made, claims for a relevant benefit.
  - [<sup>4</sup>(e) the verification by a relevant authority of information or evidence supplied to or obtained by the authority in connection with a claim for or an award of a relevant benefit.]
- (3) In paragraphs (b) [<sup>4</sup>,(d) and (e)] of subsection (2) above—
- (a) references to claims for a relevant benefit are to such claims whether made as mentioned in subsection [<sup>4</sup>(1)(a), (b) or (c)] above or not; and
  - (b) references to persons who have made such claims include persons to whom awards of benefit have been made on the claims.
- (4) Regulations under this section may make different provision for different areas.

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<sup>1</sup> S. 7A(1)(c) inserted (3.7.07) by the Welfare Reform Act 2007 (c. 5), s. 41(2).

<sup>2</sup> Words inserted in s. 7A(2)(b) (24.11.02) by the Employment Act 2002 (c. 22), Sch. 7, para. 12(a).

<sup>3</sup> Words inserted in s. 7A(2)(c) & (d) by the Employment Act 2002 (c. 22), Sch. 7, para. 12(a) & (b).

<sup>4</sup> In s. 7A, para. 2(e) inserted, words substituted in (3) & (3)(a) by the Welfare Reform Act 2007 (c. 5), s. 41.

(5) Regulations under any other enactment may make such different provision for different areas as appears to the Secretary of State expedient in connection with any exercise by regulations under this section of the power conferred by subsection (4) above.

(6) In this section—

(a) “benefit” includes child support or a war pension (any reference to a claim being read, in relation to child support, as a reference to an application under the Child Support Act 1991 for a maintenance assessment);

(b) “local authority” means an authority administering housing benefit or council tax benefit;

[<sup>1</sup>(c) “relevant authority” means—

(i) a Minister of the Crown;

(ii) a local authority;

(iii) a county council in England;

(iv) a person providing services to a person mentioned in sub-paragraphs (i) to (iii);

(v) a person authorised to exercise any function of a local authority relating to housing benefit or council tax benefit;

(vi) a person authorised to exercise any function a county council in England has under this section;]

(d) “relevant benefit” means housing benefit, council tax benefit or any other benefit prescribed for the purposes of this section;

[<sup>2</sup>(e) “social security or work matters” means matters relating to—

(i) social security, child support or war pensions, or

(ii) employment or training;]

and in this subsection “war pension” means a war pension within the meaning of section 25 of the Social Security Act 1989 (establishment and functions of war pensions committees).]

[<sup>3</sup>7B.—(1) A relevant authority may use for a relevant purpose any social security information which it holds.

Use of social security information.

(2) Regulations may make provision as to the procedure to be followed by a relevant authority for the purposes of any function it has relating to the administration of a specified benefit if the authority holds social security information which—

(a) is relevant for the purposes of anything which may or must be done by the authority in connection with a claim for or an award of the benefit, and

(b) was used by another relevant authority in connection with a claim for or an award of a different specified benefit or was verified by that other authority in accordance with regulations under section 7A(2)(e) above.

(3) A relevant purpose is anything which is done in relation to a claim which is made or which could be made for a specified benefit if it is done for the purpose of—

(a) identifying persons who may be entitled to such a benefit;

(b) encouraging or assisting a person to make such a claim;

(c) advising a person in relation to such a claim.

(4) Social security information means—

(a) information relating to social security, child support or war pensions;

(b) evidence obtained in connection with a claim for or an award of a specified benefit.

<sup>1</sup> S. 7A(6)(c) substituted (3.7.07) by the Welfare Reform Act 2007 (c. 5), s. 41.

<sup>2</sup> Para. (e) substituted in subsection (6) (24.11.02) by the Employment Act 2002 (c. 22), Sch. 7, para. 12(a) & (b).

<sup>3</sup> S. 7B inserted (1.10.07) by the Welfare Reform Act 2007 (c. 5), s. 41(1).

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(5) A specified benefit is a benefit which is specified in regulations for the purposes of this section.

(6) Expressions used in this section and in section 7A have the same meaning in this section as in that section.

(7) This section does not affect any power which exists apart from this section to use for one purpose social security information obtained in connection with another purpose

*Industrial injuries benefit*

Notification of accidents, etc.

**8.** Regulations may provide—

- (a) for requiring the prescribed notice of an accident in respect of which industrial injuries benefit may be payable to be given within the prescribed time by the employed earner to the earner's employer or other prescribed persons;
- (b) for requiring employers—
  - (i) to make reports, to such person and on such form and within such time as may be prescribed, of accidents in respect of which industrial injuries benefit may be payable;
  - (ii) to furnish to the prescribed person any information required for the determination of claims, or of questions arising in connection with claims or awards;
  - (iii) to take such other steps as may be prescribed to facilitate the giving notice of accidents, the making of claims and the determination of claims and of questions so arising.

Medical examination and treatment of claimants.

**9.—(1)** Regulations may provide for requiring claimants for disablement benefit—

- (a) to submit themselves from time to time to medical examination for the purpose of determining the effect of the relevant accident, or the treatment appropriate to the relevant injury or loss of faculty;
- (b) to submit themselves from time to time to appropriate medical treatment for the injury or loss of faculty.

(2) Regulations under subsection (1) above requiring persons to submit themselves to a medical examination or treatment may—

- (a) require those persons to attend at such places and at such times as may be required; and
- (b) with the consent of the Treasury provide for the payment by the Secretary of State to those persons of travelling and other allowances (including compensation for loss of remunerative time).

Obligations of claimants.

**10.—(1)** Subject to subsection (3) below, regulations may provide for disqualifying a claimant for the receipt of industrial injuries benefit—

- (a) for failure without good cause to comply with any requirement of regulations to which this subsection applies (including in the case of a claim for industrial death benefit, a failure on the part of some other person to give the prescribed notice of the relevant accident);
- (b) for wilful obstruction of, or other misconduct in connection with, any examination or treatment to which he is required under regulations to which this subsection applies to submit himself, or in proceedings under this Act for the determination of his right to benefit or to its receipt,

or for suspending proceedings on the claim or payment of benefit as the case may be, in the case of any such failure, obstruction or misconduct.

(2) The regulations to which subsection (1) above applies are—

- (a) any regulations made by virtue of section 5(1)(h), (i) or (1) above, so far as relating to industrial injuries benefit; and

(b) regulations made by virtue of section 8 or 9 above.

(3) Regulations under subsection (1) above providing for disqualification for the receipt of benefit for any of the following matters, that is to say—

- (a) for failure to comply with the requirements of regulations under section 9(1) or (2) above;
- (b) for obstruction of, or misconduct in connection with, medical examination or treatment,

shall not be made so as to disentitle a claimant to a benefit for a period exceeding 6 weeks on any disqualification.

11. [...<sup>1</sup>]

12. [...<sup>2</sup>]

*[<sup>2</sup>Section 12 repealed (1.4.13) by reg. 2(1)(d)(ii) of S.I. 2012/3090 (c. 123) but is reproduced here due to savings provision reg. 3(1) & (2)(b) of that S.I. See page. 14.3148 of the Law Relating to Social Security.*

*The social fund*

12.—(1) A social fund payment such as is mentioned in section 138(1)(b) of the Contributions and Benefits Act may be awarded to a person only if an application for such a payment has been made by him or on his behalf in such form and manner as may be prescribed.

Necessity of application for certain payments.

(2) The Secretary of State may by regulations—

- (a) make provision with respect to the time at which an application for such a social fund payment is to be treated as made;
- (b) prescribe conditions that must be satisfied before any determination in connection with such an application may be made or any award of such a payment may be paid;
- (c) prescribe circumstances in which such an award becomes extinguished.]

*[<sup>3</sup>Health in pregnancy grant*

12A.—(1) No person is entitled to health in pregnancy grant unless she claims it in the manner, and within the time, prescribed in relation to health in pregnancy grant by regulations under section 5.

Necessity of application for health in pregnancy grant.

(2) No person is entitled to health in pregnancy grant unless subsection (3) or (4) is satisfied in relation to her.

(3) This subsection is satisfied in relation to a person if her claim for health in pregnancy grant is accompanied by—

- (a) a statement of her national insurance number and information or evidence establishing that that number has been allocated to her; or
- (b) information or evidence enabling the national insurance number that has been allocated to her to be ascertained.

(4) This subsection is satisfied in relation to a person if she makes an application for a national insurance number to be allocated to her which is accompanied by information or evidence enabling a national insurance number to be allocated to her.

(5) The Commissioners for Her Majesty’s Revenue and Customs may by regulations make provision disapplying subsection (2) in the case of prescribed descriptions of persons making a claim.]

<sup>1</sup> S. 11 repealed (8.4.03) by the Tax Credits Act 2002, Sch. 6.

<sup>2</sup> S. 12 repealed (1.4.13) by reg. 2(1)(d)(ii) of S.I. 2012/3090 (c. 123).

<sup>3</sup> S. 12A inserted (1.1.09) the Health & Social Care Act 2008 (c. 14), s. 132(3).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 13-14**

*Child benefit*

Necessity of application for child benefit.

**13.—(1)** Subject to the provisions of this Act, no person shall be entitled to child benefit unless he claims it in the manner, and within the time, prescribed in relation to child benefit by regulations under section 5 above.

[<sup>1</sup>(1A) No person shall be entitled to child benefit unless subsection (1B) below is satisfied in relation to him.

(1B) This subsection is satisfied in relation to a person if—

- (a) his claim for child benefit is accompanied by—
  - (i) a statement of his national insurance number and information or evidence establishing that that number has been allocated to him; or
  - (ii) information or evidence enabling the national insurance number that has been allocated to him to be ascertained; or
- (b) he makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated.

(1C) Regulations may make provision disapplying subsection (1A) above in the case of—

- (a) prescribed descriptions of persons making claims; or
- (b) prescribed descriptions of children [<sup>2</sup>or qualifying young persons] in respect of whom child benefit is claimed,

or in other prescribed circumstances.]

(2) Except where regulations otherwise provide, no person shall be entitled to child benefit for any week on a claim made by him after that week if child benefit in respect of the same child [<sup>2</sup>or qualifying young person] has already been paid for that week to another person, whether or not that other person was entitled to it.

*Statutory Sick pay*

Duties of employees etc. in relation to statutory sick pay.

**14.—(1)** Any employee who claims to be entitled to statutory sick pay from his employer shall, if so required by his employer, provide such information as may reasonably be required for the purpose of determining the duration of the period of entitlement in question or whether a period of entitlement exists as between them.

(2) The Secretary of State may by regulations [<sup>3</sup>made with the concurrence of the Inland Revenue] direct—

- (a) that medical information required under subsection (1) 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 (1) above to provide medical information in respect of such days as may be prescribed in a period of incapacity for work.

(3) Where an employee asks an employer of his to provide him with a written statement, in respect of a period before the request is made, of one or more of the following—

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

<sup>1</sup> Ss. 13(1A) to (1C) inserted (17.4.00 for reg. making purposes, 15.5.00 for all other purposes) by s. 69 of Welfare Reform and Pensions Act 1999 (c. 30).

<sup>2</sup> Words inserted in s. 13(1C) & (2) (10.4.05) by the Child Benefit Act 2005, Sch. 1, para 20.

<sup>3</sup> Words inserted into s. 14(2) (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 42.



- (c) the employer's opinion as to the amount of statutory sick pay to which the employee is entitled in respect of each of those days,

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

*Statutory maternity pay*

**15.—(1)** A woman shall provide the person who is liable to pay her statutory maternity pay—

Duties of women etc. in relation to statutory maternity pay.

- (a) with evidence as to her pregnancy and the expected date of confinement in such form and at such time as may be prescribed; and
- (b) where she commences work after her confinement but within the maternity pay period, with such additional information as may be prescribed.

[<sup>1</sup>(1A) Any regulations for the purposes of subsection (1) above must be made with the concurrence of the Inland Revenue]

(2) Where a woman asks an employer or former employer of hers to provide her with a written statement, in respect of a period before the request is made, of one or more of the following—

- (a) the weeks within that period which he regards as weeks in respect of which he is liable to pay statutory maternity pay to the women;
- (b) the reasons why he does not so regard the other weeks in that period; and
- (c) his opinion as to the amount of statutory maternity pay to which the woman is entitled in respect of each of the weeks in respect of which he regards himself as liable to make a payment,

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

*Payments in respect of mortgage interest etc.*

Payment out of benefit of sums in respect of mortgage interest etc.

[<sup>2</sup>**15A.—(1)** This section applies in relation to cases where—

- (a) mortgage interest is payable to a qualifying lender by a person (“the borrower”) who is entitled, or whose partner, former partner or qualifying associate is entitled, to [<sup>3</sup>universal credit,] income support[<sup>4</sup>, an income-based jobseeker’s allowance or an income-related employment and support allowance]; and
- (b) a sum in respect of that mortgage interest is or was brought into account in determining [<sup>3</sup>the maximum amount for the purposes of universal credit or]the applicable amount for the purposes of income support [<sup>4</sup>, an income-based jobseeker’s allowance or an income-related employment and support allowance] in the case of the borrower or the partner, former partner or qualifying associate;

and any reference in this section to “the relevant beneficiary” is a reference to the person whose [<sup>3</sup>maximum amount for the purposes of universal credit or] applicable amount for the purposes of income support[<sup>4</sup>, an income-based jobseeker’s allowance or an income-related employment and support allowance] is or was determined as mentioned in paragraph (b) above.

<sup>1</sup> S. 15(1A) inserted (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 43.

<sup>2</sup> S.15A inserted w.e.f. 1.7.92, by Sch. to S.S. (Mortgage Interest Payments) Act 1992 (c. 33).

<sup>3</sup> Words inserted in s. 15A(a) & (b) (25.2.13 for reg. making purposes) by the Welfare Reform Act 2012 (c. 5), Sch. 2, para. 6(2)(a)-(c).

<sup>4</sup> Words in s. 15A(1) substituted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(5) of Sch. 3.

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**S. 15A**

[<sup>1</sup>(1A) This section also applies in relation to cases where–

- (a) mortgage interest is payable to a qualifying lender by a person (also referred to as “the borrower”) who is, or whose partner, or former partner or qualifying associate is, entitled to state pension credit; and
- (b) a sum in respect of that mortgage interest is or was brought into account in determining the appropriate minimum guarantee for the purposes of state pension credit in the case of the borrower or the partner, former partner or qualifying associate;

and any reference in this section to “the relevant beneficiary” includes a reference to the person whose appropriate minimum guarantee for the purposes of state pension credit is or was determined as mentioned in paragraph (b) above.]

(2) Without prejudice to paragraphs (i) and (p) of section 5(1) above, regulations may, in relation to cases where this section applies, make provision–

- (a) requiring that, in prescribed circumstances, a prescribed part of any relevant benefits [<sup>1</sup>(other than state pension credit)] to which the relevant beneficiary is entitled shall be paid by the Secretary of State directly to the qualifying lender and applied by that lender towards the discharge of the liability in respect of the mortgage interest;
- [<sup>1</sup>(aa) authorising or requiring that, in prescribed circumstances, a prescribed part of any state pension credit to which the relevant beneficiary is entitled may (or, as the case may be, shall) be paid by the Secretary of State directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of the mortgage interest;]
- (b) for the expenses of the Secretary of State in administering the making of payments under the regulations to be defrayed, in whole or in part, at the expense of qualifying lenders, whether by requiring them to pay prescribed fees or by deducting and retaining a prescribed part of the payments that would otherwise be made to them under the regulations or by such other method as may be prescribed;
- (c) for requiring a qualifying lender, in a case where by virtue of paragraph (b) above the amount of the payment made to him under the regulations is less than it would otherwise have been, to credit against the liability in respect of the mortgage interest (in addition to the payment actually made) an amount equal to the difference between–
  - (i) the payment that would have been so made, apart from paragraph (b) above; and
  - (ii) the payment actually made;and, in any such case, for treating the amount so credited as properly paid on account of benefit due to the relevant beneficiary;
- (d) for enabling a body which, or person who, would otherwise be a qualifying lender to elect not to be regarded as such for the purposes of this section, other than this paragraph;
- (e) for the recovery from any body or person–
  - (i) of any sums paid to that body or person by way of payment under the regulations that ought not to have been so paid; or
  - (ii) of any fees or other sums due from that body or person by virtue of paragraph (b) above;
- (f) for cases where the same person is the borrower in relation to mortgage interest payable in respect of two or more different loans; and
- (g) for any person of a prescribed class or description who would otherwise be regarded for the purposes of this section as the borrower in relation to any mortgage interest not to be so regarded, except for the purposes of this paragraph;

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<sup>1</sup> Subsection (1A) inserted in s. 15A and words inserted in s. 15A(2)(a) & (aa) inserted (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 9(2)-(4).

but the Secretary of State shall not make any regulations under paragraph (b) above unless he has consulted with such organisations representing qualifying lenders likely to be affected by the regulations as he considers appropriate.

(3) The bodies and persons who are “qualifying lenders” for the purposes of this section are—

- [<sup>1</sup>(a) a deposit taker,
- (b) [...<sup>1</sup>]
- (c) an insurer],
- (d) any county council, district council [...<sup>2</sup>] or London Borough Council,
- (e) the Common Council of the City of London,
- [<sup>3</sup>(ee) any council constituted under section 2 of the Local Government etc. (Scotland) Act 1994],
- (f) the Council of the Isles of Scilly,
- (g) any new town corporation,

1994 c. 39.

and such bodies or persons not falling within the above paragraphs as may be prescribed.

(4) In this section—

[<sup>4</sup>“appropriate minimum guarantee” has the meaning given by section 2(3) of the State Pension Credit Act 2002;]

[<sup>5</sup>“deposit taker” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;

“insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect and carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5[<sup>6</sup>(d)] of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect and carry out contracts of insurance;]

“mortgage interest” means interest on a loan which is secured by a mortgage of or charge over land, or (in Scotland) by a heritable security, and which has been taken out to defray money applied for any of the following purposes, that is to say—

- (a) acquiring any residential land which was intended, at the time of the acquisition, for occupation by the borrower as his home;
  - (b) carrying out repairs or improvements to any residential land which was intended, at the time of taking out the loan, for occupation by the borrower as his home
  - (c) paying off another loan; or
  - (d) any prescribed purpose not falling within paragraphs (a) to (c) above;
- but interest shall be regarded as mortgage interest by virtue of paragraph (c) above only to the extent that interest on that other loan would have been regarded

<sup>1</sup> Ss. 15A(3)(a) & (c) substituted & (b) repealed (1.12.01) by art. 330 of S.I. 2001/3649.

<sup>2</sup> Words in s. 15A(3)(d) deleted (1.4.96) by para. 175(2)(a) of Sch. 13 to, and by Sch. 14 to, Local Government etc. (Scotland) Act 1994 (c. 39).

<sup>3</sup> S. 15A(3)(ee) inserted (1.4.96) by para. 175(2)(b) of Sch. 13 to Local Government etc. (Scotland) Act 1994 (c. 39).

<sup>4</sup> Defn. of “appropriate minimum guarantee” inserted (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 9(5)(a) and (b).

<sup>5</sup> Defn. of “deposit taker” & “insurer” inserted by art. 330 of S.I. 2001/3649.

<sup>6</sup> Ref. substituted in defn. of “insurer” (3.7.02) by art. 17 of S.I. 2002/1555.

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**S. 15A**

as mortgage interest for the purposes of this section had the loan not been paid off;

“partner” means—

(a) any person [<sup>1</sup>who is married to, or a civil partner of, the borrower] and who is a member of the same household as the borrower; or

(b) any person [<sup>1</sup>who is neither married to, nor a civil partner of, the borrower but who lives together with the borrower as husband and wife or as if they were civil partners], otherwise than in prescribed circumstances;

and “former partner” means a person who has at some time been, but no longer is, the borrowers’s partner;

“qualifying associate”, in relation to the borrower, means a person who, for the purposes of income support<sup>[2]</sup>, an income-based jobseeker’s allowance<sup>[3]</sup>, state pension credit or an income-related employment and support allowance<sup>[4]</sup> [or universal credit] falls to be treated by regulations under Part VII of the Contributions and Benefits Act <sup>[5]</sup>or (as the case may be) under the Jobseekers Act 1995<sup>[3]</sup>, State Pension Credit Act 2002 or Part 1 of the Welfare Reform Act 2007<sup>[4]</sup> [or Part 1 of the Welfare Reform Act 2012] as responsible for so much of the expenditure which relates to housing costs (within the meaning of those regulations) as consists of any of the mortgage interest payable by the borrower, and who falls to be so treated because—

(a) the borrower is not meeting those costs, so that the person has to meet them if he is to continue to live in the dwelling occupied as his home; and

(b) the person is one whom it is reasonable, in the circumstances, to treat as liable to meet those costs;

“relevant benefits” means such of the following benefits as may be prescribed, namely—

[<sup>4</sup>(za) universal credit;]

(a) benefits, as defined in section 122 of the Contributions and Benefits Act;

[<sup>6</sup>(aa) a jobseeker’s allowance;]

(b) income support;

[<sup>7</sup>(c) state pension credit;]

[<sup>3</sup>(d) an employment and support allowance;]

“residential land” means any land which consists of or includes a dwelling.

[<sup>8</sup>(4A) The definitions of “deposit taker” and “insurer” in subsection (4) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.

<sup>1</sup> Words inserted in defn. of “partner” (5.12.05) by the Civil Partnership Act 2004, Sch. 24, para. 57.

<sup>2</sup> Words substituted and inserted in defn. of “qualifying associate” (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 9(5)(a) and (b).

<sup>3</sup> Words substituted in defn. of “qualifying associate” & para. (d) inserted in defn. of “relevant benefits” (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(5) of Sch. 3.

<sup>4</sup> Words inserted in defn. of “qualifying associate” and para. (za) added to defn. of “relevant benefits” (25.2.13 for reg. making purposes) by the Welfare Reform Act 2012 (c. 5), Sch. 2, para. 6(3)(a) & (b).

<sup>5</sup> Words inserted (22.4.96) in defn. of “qualifying associate” in s. 15A(4) by para. 40(3) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>6</sup> Para. (aa) inserted (22.4.96) in defn. of “relevant benefits” in s. 15A(4) by para. 40(4) of Sch. 2 to Jobseeker’s Act 1995 (c. 18).

<sup>7</sup> Para. (c) inserted in s. 15A(4) (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 9(5)(c).

<sup>8</sup> S. 15A(4A) inserted (1.12.01) by reg. 330 of S.I. 2001/3649.

[<sup>1</sup>(4B) For the purposes of this section, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]

- (5) For the purposes of this section, regulations may make provision—
- (a) as to circumstances in which residential land is or is not to be treated as intended for occupation by the borrower as his home; or
  - (b) as to circumstances in which persons are to be treated as being or not being members of the same household.

*[<sup>2</sup>Expenses of paying sums in respect of vehicle hire etc.*

Expenses in respect of vehicle hire etc.

**15B.**—(1) This section applies where—

- (a) a relevant benefit component is payable in respect of a person (“the beneficiary”);
- (b) an agreement has been entered into by or on behalf of the beneficiary with a relevant provider for the lease or hire purchase of a motor vehicle, and
- (c) by virtue of regulations under section 5(1), the Secretary of State pays all or part of the relevant benefit component to the relevant provider for the purpose of discharging, in whole or in part, an obligation of the beneficiary under the agreement.

(2) Regulations may make provision—

- (a) for the expenses of the Secretary of State in administering the making of payments to relevant providers to be defrayed, in whole or in part, at the expense of relevant providers, whether by requiring them to pay prescribed fees or by deducting and retaining a prescribed part of the payments that would otherwise be made to them or by such other method as may be prescribed.
- (b) for the recovery from a relevant provider of any fees or other sums due from that provider under paragraph (a).

(3) In this section—

“relevant benefit component” means—

- (a) the mobility component of disability living allowance, if it is payable at the higher rate (see section 73(11)(a) of the Contributions and Benefits Act), or
- (b) the mobility component of personal independence payment, if it is payable at the enhanced rate (see section 79(2) of the Welfare Reform Act 2012);

“relevant provider” means a person whose business consists of or includes the supply by way of lease or hire purchase of motor vehicles to persons in respect of whom a relevant benefit component is payable.]

*Emergency payments*

Emergency payments by local authorities and other bodies.

**16.**—(1) The Secretary of State may make arrangements—

- (a) with a local authority to which this section applies; or
- (b) with any other body,

for the making on his behalf by members of the staff of any such authority or body of payments on account of benefits to which section 5 above applies in circumstances corresponding to those in which the Secretary of State himself has the power to make such payments under subsection (1)(r) of that section; and a local authority to which this section applies shall have power to enter into any such arrangements.

<sup>1</sup> 15A(4B) inserted (5.12.05) by the Civil Partnership Act 2004, Sch. 24, para. 57.

<sup>2</sup> S. 15B inserted (30.5.16) by the Welfare Reform and Work Act 2016, (c. 7), art. 22.

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 16-71**

(2) A payment under any such arrangements shall be treated for the purposes of any Act of Parliament or instrument made under an Act of Parliament as if it had been made by the Secretary of State.

(3) The Secretary of State shall repay a local authority or other body such amount as he determines to be the reasonable administrative expenses incurred by the authority or body in making payments in accordance with arrangements under this section.

(4) The local authorities to which this section applies are—

1972 c. 70.

(a) a local authority as defined by section 270(1) of the Local Government Act 1972, other than a parish or community council;

(b) the Common Council of the City of London; and

1973 c. 65.

(c) a local authority as defined in section 235(1) of the Local Government (Scotland) Act 1973.

**PART II**

**17. - 70.** [...<sup>1</sup>]

**PART III**

Overpayments - general.

**OVERPAYMENTS AND ADJUSTMENTS OF BENEFIT**

*Misrepresentation etc.*

**71.—(1)** Where it is determined that, whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact and in consequence of the misrepresentation or failure—

(a) a payment has been made in respect of a benefit to which this section applies; or

(b) any sum recoverable by or on behalf of the Secretary of State in connection with any such payment has not been recovered,

the Secretary of State shall be entitled to recover the amount of any payment which he would not have made or any sum which he would have received but for the misrepresentation or failure to disclose.

[<sup>2</sup>(2) Where any such determination as is referred to in subsection (1) above is made, the person making the determination shall [<sup>3</sup>in the case of the Secretary of State or [<sup>4</sup>the First- tier Tribunal], and may in the case of [<sup>4</sup>the Upper Tribunal] or a court]—

(a) determine whether any, and if so what, amount is recoverable under that subsection by the Secretary of State, and

(b) specify the period during which that amount was paid to the person concerned.]

*S.71(2) as in force before being replaced in consequence of s.1(2) of the Social Security (Overpayments) Act 1996 (c. 51) is reproduced as follows:-*

(2) Where any such determination as is referred to in subsection (1) above is made on an appeal or review, there shall also be determined in the course of the appeal or review the question whether any, and if so what, amount is recoverable under that subsection by the Secretary of State.

<sup>1</sup> Part II, ss 17-70 repealed (29.11.99) by the Social Security Act 1998, Sch. 8.

<sup>2</sup> S. 71(2) substituted (for determinations under s.71(1) made after 24.7.96) by s. 1(2) of Social Security (Overpayments) Act 1996 (c. 51).

<sup>3</sup> Words in s. 71(2) substituted (5.7.99) by S.S. Act 1998 (c. 14), Sch 7, para. 81.

<sup>4</sup> Words substituted in s. 71(2) (3.11.08) by S.I. 2008/2833, art. 103.

(3) An amount recoverable under subsection (1) above is in all cases recoverable from the person who misrepresented the fact or failed to disclose it.

(4) In relation to cases where payments of benefit to which this section applies have been credited to a bank account or other account under arrangements made with the agreement of the beneficiary or a person acting for him, circumstances may be prescribed in which the Secretary of State is to be entitled to recover any amount paid in excess of entitlement; but any such regulations shall not apply in relation to any payment unless before he agreed to the arrangements such notice of the effect of the regulations as may be prescribed was given in such manner as may be prescribed to the beneficiary or to a person acting for him.

(5) [...<sup>1</sup>]

[<sup>2</sup>(5A) Except where regulations otherwise provide, an amount shall not be recoverable [<sup>3</sup>under subsection (1) or under regulations under subsection (4)] unless the determination in pursuance of which it was paid has been reversed or varied on an appeal or [<sup>4</sup>has been revised under section 9 or superseded under section 10 of the Social Security Act 1998].]

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<sup>1</sup> 71(5) repealed (3.7.07) by the Welfare Reform Act 2007, Sch. 8.

<sup>2</sup> S. 71(5A) inserted (for determinations under s. 71(1) made after 24.7.96) by s. 1(4) of Social Security (Overpayments) Act 1996 (c. 51).

<sup>3</sup> Words substituted in s. 71(5A) (3.7.07) by the Welfare Reform Act 2007, (c. 5), s. 44.

<sup>4</sup> Words in s. 71(5A) substituted (5.7.99) by S.S Act 1998 (c. 14), Sch. 7, para. 81.

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(6) Regulations may provide—

- (a) that amounts recoverable under subsection (1) above or regulations under subsection (4) above shall be calculated or estimated in such manner and on such basis as may be prescribed;
- (b) for treating any amount paid to any person under an award which it is subsequently determined was not payable—
  - (i) as properly paid; or
  - (ii) as paid on account of a payment which it is determined should be or should have been made,
 and for reducing or withholding any arrears payable by virtue of the subsequent determination;
- (c) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
  - (i) the other person is himself entitled to a payment for that period; or
  - (ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person,
 and for reducing or withholding any arrears payable for that period by virtue of the subsequent determination.

(7) [...<sup>1</sup>]

(8) Where any amount paid [...<sup>2</sup>] is recoverable under—

- (a) subsection (1) above;
- (b) regulations under subsection (4) [...<sup>1</sup>] above; or
- (c) section 74 below,

it may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

(9) Where any amount paid in respect of a [<sup>3</sup>couple] is recoverable as mentioned in subsection (8) above, it may, without prejudice to any other method of recovery, be recovered, in such circumstances as may be prescribed, by deduction from prescribed benefits payable to either of them.

[<sup>4</sup>(9A) Regulations may provide for amounts recoverable under the provisions mentioned in subsection (8) above to be recovered by deductions from earnings.

(9B) In subsection (9A) above “earnings” has such meaning as may be prescribed.

(9C) Regulations under subsection (9A) above may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State.
- (b) requiring the employer, on being served with a notice by the Secretary of State, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Secretary of State;
- (e) as to a level of earnings below which earnings must not be reduced.
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary’s earnings in respect of the employer’s administrative costs;
- (g) requiring the employer to keep records of deductions;
- (h) requiring the employer to notify the Secretary of State if the beneficiary is not, or ceases to be, employed by the employer;

<sup>1</sup> S. 71(7) & words in subsec. (8)(b) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14, Pt. 11.

<sup>2</sup> Words in s. 71(8) repealed (8.5.12) by the Welfare Reform Act 2009 (c. 24), s. 107.

<sup>3</sup> Words substituted in s. 71(9) (5.12.05) by the Civil Partnership Act 2004, Sch. 24, para. 58.

<sup>4</sup> Ss. 71(9A), (9B) and (9C) inserted (1.7.12) by the Welfare Reform Act 2012 (c. 5), s. 106.

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- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
  - (i) any other such requirement;
  - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary's earnings;
  - (iii) any diligence against earnings.]

(10) Any amount recoverable under the provisions mentioned in subsection (8) above—

- (a) if the person from whom it is recoverable resides in England and Wales and the county court so orders, shall be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court; and
- (b) if he resides in Scotland, shall be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(10A) [...<sup>1</sup>]

*S. 71 (10A) & (10B) has been repealed by Part 11 of Sch. 14 to the Welfare Reform Act 2012 (c. 5), but kept in force for transitional purposes. See art. 5 of S.I. 2013/358 for details of when to apply.*

[<sup>2</sup>(10A) Where—

- (a) a jobseeker's allowance is payable to a person from whom any amount is recoverable as mentioned in subsection (8) above; and
- (b) that person is subject to a bankruptcy order,

a sum deducted from that benefit under that subsection shall not be treated as income of his for the purposes of the Insolvency Act 1986.

1986 c. 45.

(10B) Where—

- (a) a jobseeker's allowance is payable to a person from whom any amount is recoverable as mentioned in subsection (8) above; and
- (b) the estate of that person is sequestrated,

a sum deducted from that benefit under that subsection shall not be treated as income of his for the purposes of the Bankruptcy (Scotland) Act 1985.]

1985 c. 66.

(11) This section applies to the following benefits—

[<sup>3</sup>(za) state pension or a lump sum under Part 1 of the Pensions Act 2014;]

- (a) benefits as defined in section 122 of the Contributions and Benefits Act;

[...<sup>1</sup>]

[<sup>4</sup>(aa) subject to section 71A below, a jobseeker's allowance;]

[<sup>5</sup>(ab) state pension credit]

[...<sup>1</sup>]

[<sup>6</sup>(ac) an employment and support allowance;]

[<sup>7</sup>(ad) personal independence payment;]

<sup>1</sup> Ss. 71(10A), (10B) & (11)(aa), (11)(ac) repealed (29.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14, pt. 11.

<sup>2</sup> Ss. 71(10A) & (10B) inserted (7.10.96) by s. 32(1) of Jobseekers Act 1995, (c. 18).

<sup>3</sup> S. 71(11)(za) inserted (6.4.16) by Sch. 12 of the Pensions Act 2014 (c. 19).

<sup>4</sup> S. 71(11)(aa) inserted (7.10.96) by para. 48 of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>5</sup> Para. (ab) inserted in s. 71A(11) (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 10.

<sup>6</sup> S. 71(11)(ac) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(6) of Sch. 3.

<sup>7</sup> S. 71(11)(ad) inserted (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 10.

- (b) [...<sup>1</sup>], income support;
- (c) [...<sup>2</sup>]
- (d) [...<sup>2</sup>]
- (e) any social fund payments such as are mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act; and
- [<sup>3</sup>(ea) health in pregnancy grant; and]
- (f) child benefit.

[<sup>4</sup>(12) In this section, “couple” has the meaning given by section 137(1) of the Contributions and Benefits Act.]

[<sup>5</sup>71ZA.—(1) Subject to subsection (2) below, section 71 above shall apply in relation to social fund payments to which this section applies as it applies in relation to payments made in respect of benefits to which that section applies. Overpayments out of social fund.]

- (2) Section 71 above as it so applies shall have effect as if—
  - (a) in [...<sup>6</sup>] subsection (5A), for the words “reversed or varied on an appeal or has been revised under section 9 or superseded under section 10” there were substituted the words “revised on a review under section 38”;
  - (b) [...<sup>6</sup>]
  - (c) subsections (7), (10A) and (10B) were omitted.

[<sup>7</sup>(2A) Subsection (9A) of section 71 above as it so applies shall have effect as if the reference to amounts recoverable under the provisions mentioned in subsection (8) of that section were to amounts recoverable under subsection (1) and (4) of that section by virtue of subsection (1) above.]

(3) This section applies to social fund payments such as are mentioned in section 138(1)(b) of the Contributions and Benefits Act.]

*[<sup>8</sup>Recovery of benefit payments*

**71ZB.**—(1) The Secretary of State may recover any amount of the following paid in excess of entitlement— Recovery of overpayments of certain benefits

- (a) universal credit,
- (b) jobseeker’s allowance,
- (c) employment and support allowance.

- (2) An amount recoverable under this section is recoverable from—
  - (a) the person to whom it was paid, or
  - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.

(3) An amount paid in pursuance of a determination is not recoverable under this section unless the determination has been—

- (a) reversed or varied on an appeal, or
- (b) revised or superseded under section 9 or section 10 of the Social Security Act 1998,

except where regulations otherwise provide.

<sup>1</sup> Words deleted (7.10.96) from s. 71(11)(b) by Sch. 3 to Jobseekers Act 1995 (c. 18).

<sup>2</sup> S. 71(11)(c) & (d) repealed (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

<sup>3</sup> S. 71(11)(ea) inserted (1.1.09) by the Health and Social Care Act 2008 (c. 14), s. 132(4).

<sup>4</sup> S. 71(12) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 58.

<sup>5</sup> S. 71ZA inserted (5.10.98) by the Social Security Act 1998 (c. 14), s. 75.

<sup>6</sup> In s. 71ZA words in sub-para. (2)(a) & sub-para. 2(b) repealed (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 8.

<sup>7</sup> S. 71ZA(2A) inserted (1.7.12) by the Welfare Reform Act 2012 (c. 5), s. 106(2).

<sup>8</sup> S. 71ZB-71ZC inserted (29.4.13) by the Welfare Reform Act 2012 (c. 5), s. 105(1).

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(4) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.

(5) Where an amount of universal credit is paid for the sole reason that a payment by way of prescribed income is made after the date which is the prescribed date for payment of that income, that amount is for the purposes of this section paid in excess of entitlement.

(6) In the case of a benefit referred to in subsection (1) which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.

(7) An amount recoverable under this section may (without prejudice to any other means of recovery) be recovered—

- (a) by deduction from benefit (section 71ZC);
- (b) by deduction from earnings (section 71ZD);
- (c) through the courts etc (section 71ZE);
- (d) by adjustment of benefit (section 71ZF).

**Deduction from benefit**

**71ZC.**—(1) An amount recoverable from a person under section 71ZB may be recovered by deducting the amount from payments of prescribed benefit.

(2) Where an amount recoverable from a person under section 71ZB was paid to the person on behalf of another, subsection (1) authorises its recovery from the person by deduction—

- (a) from prescribed benefits to which the person is entitled,
- (b) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by the person on whose behalf the recoverable amount was paid, or
- (c) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by any other person.

(3) Where an amount is recovered as mentioned in paragraph (b) of subsection (2), the obligation specified in that paragraph shall in prescribed circumstances be taken to be discharged by the amount of the deduction.

(4) Where an amount is recovered as mentioned in paragraph (c) of subsection (2), the obligation specified in that paragraph shall in all cases be taken to be so discharged]

**Court action etc**

[**71ZE.**—(1) Where an amount is recoverable under section 71ZB from a person residing in England and Wales, the amount is, if a county court so orders, recoverable—

- (a) under section 85 of the County Courts Act 1984, or
- (b) otherwise as if it were payable under an order of the court.

(2) Where an amount is recoverable under section 71ZB from a person residing in Scotland, the amount recoverable may be enforced as if it were payable under an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(3) Any costs of the Secretary of State in recovering an amount of benefit under this section may be recovered by him as if they were amounts recoverable under section 71ZB.

(4) In any period after the coming into force of this section and before the coming into force of section 62 of the Tribunals, Courts and Enforcement Act 2007, subsection (1)(a) has effect as if it read “by execution issued from the county court”.]

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<sup>1</sup> S. 71ZE inserted (14.10.12) by the Welfare Reform Act 2012 (c. 5), s. 105(1).

[<sup>1</sup>71ZF. Regulations may for the purpose of the recovery of amounts recoverable under section 71ZB make provision— Adjustment of benefit

- (a) for treating any amount paid to a person under an award which it is subsequently determined was not payable—
  - (i) as properly paid, or
  - (ii) as paid on account of a payment which it is determined should be or should have been made,

and for reducing or withholding arrears payable by virtue of the subsequent determination;

- (b) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
  - (i) the other person is entitled to a payment for that period, or
  - (ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person,

and by reducing or withholding any arrears payable for that period by virtue of the subsequent determination.

**71ZG.**—(1) The Secretary of State may recover any amount paid under section 5(1)(r) (payments on account). Recovery of payments on account

- (2) An amount recoverable under this section is recoverable from—
  - (a) the person to whom it was paid, or
  - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.

(3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.

(4) In the case of a payment on account of a benefit which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.

(5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable under this section as to amounts recoverable under section 71ZB.

- 71ZH.**—(1) The Secretary of State may recover any amount paid by way of— Recovery of hardship payments etc
- (a) a payment under section 28 of the Welfare Reform Act 2012 (universal credit hardship payments) which is recoverable under that section,
  - (b) [...<sup>2</sup>]

*S. 71ZH(b) is maintained in force in certain situations, See art. 7(e) of S.I. 2013/983 at page 14.3231*

- (b) payment under section 19C of the Jobseekers Act 1995 (jobseeker's allowance hardship payments) which is recoverable under that section,
- (c) a payment of a jobseeker's allowance under paragraph 8 or 8A of Schedule 1 to that Act (exemptions), where the allowance is payable at a prescribed rate under paragraph 9 of that Schedule and is recoverable under that paragraph,
- (d) a payment of a jobseeker's allowance under paragraph 10 of that Schedule (claims yet to be determined etc) which is recoverable under that paragraph, or
- (e) a payment which is recoverable under section 6B(5A)(d) or (7)(d), 7(2A)(d) or (4)(d), 8(3)(aa), (4)(d) or 9(2A)(d) or (4)(d) of the Social Security Fraud Act 2001.

<sup>1</sup> S. 71ZF-71ZH inserted (29.4.13) by the Welfare Reform Act 2012 (c. 5), s. 105(1).

<sup>2</sup> S. 71ZH(b) repealed (29.4.13) (for universal credit claims) by art. 7(e) of S.I. 2013/983. (Ibid).

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- (2) An amount recoverable under this section is recoverable from—
- (a) the person to whom it was paid, or
  - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.

(3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.

(4) Where universal credit or a jobseeker's allowance is claimed by persons jointly, an amount paid to one claimant may for the purposes of this section be regarded as paid to the other.

(5) Sections 71ZC to 71ZF apply in relation to amounts recoverable under this section as to amounts recoverable under section 71ZB.]

*[<sup>1</sup>Jobseeker's allowance*

Recovery of jobseeker's allowance: severe hardship cases.

**71A.—**(1) Where—

- (a) a severe hardship direction is revoked; and
- (b) it is determined by [<sup>2</sup>the Secretary of State] that—
  - (i) whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact; and
  - (ii) in consequence of the failure or misrepresentation, payment of a jobseeker's allowance has been made during the relevant period to the person to whom the direction related,

[<sup>2</sup>the Secretary of State] may determine that [<sup>2</sup>he] is entitled to recover the amount of the payment.

(2) In this section—

“severe hardship direction” means a direction given under section 16 of the Jobseekers Act 1995; and

“the relevant period” means—

- (a) if the revocation is under section 16(3)(a) of that Act, the period beginning with the date of the change of circumstances and ending with the date of the revocation; and
- (b) if the revocation is under section 16(3)(b) or (c) of that Act, the period during which the direction was in force.

(3) Where a severe hardship direction is revoked, the Secretary of State may certify whether there has been misrepresentation of a material fact or failure to disclose a material fact.

(4) If the Secretary of State certifies that there has been such misrepresentation or failure to disclose, he may certify—

- (a) who made the misrepresentation or failed to make the disclosure; and
- (b) whether or not a payment of jobseeker's allowance has been made in consequence of the misrepresentation or failure.

(5) If the Secretary of State certifies that a payment has been made, he may certify the period during which a jobseeker's allowance would not have been paid but for the misrepresentation or failure to disclose.

(6) A certificate under this section shall be conclusive as to any matter certified.

(7) Subsections (3) and (6) to (10) of section 71 above apply to a jobseeker's allowance recoverable under subsection (1) above as they apply to a jobseeker's allowance recoverable under section 71(1) above.

(8) The other provisions of section 71 above do not apply to a jobseeker's allowance recoverable under subsection (1) above.]

<sup>1</sup> S. 71A inserted (7.10.96) by s. 18 of Jobseekers Act 1995 (c. 18).

<sup>2</sup> Words substituted in s. 71A(1) (18.10.99) by S.S. Act 1998 (c. 75), Sch. 7, para. 82.

72. [...<sup>1</sup>]*Adjustments of benefits*

**73.—**(1) Regulations may provide for adjusting [<sup>2</sup>state pension under Part 1 of the Pensions Act 2014 or] benefit as defined in section 122 of the Contributions and Benefits Act<sup>3</sup>, or a contribution-based jobseeker's allowance,] [<sup>4</sup>or a contributory employment and support allowance] which is payable to or in respect of any person, or the conditions for [<sup>5</sup>receipt of that benefit], where—

Overlapping benefits - general.

- (a) there is payable in his case any such pension or allowance as is described in subsection (2) below; or
- (b) the person is, or is treated under the regulations as, undergoing medical or other treatment as an in-patient in a hospital or similar institution.

(2) Subsection (1)(a) above applies to any pension, allowance or benefit payable out of public funds (including any other benefit as so defined, whether it is of the same or a different description) which is payable to or in respect of—

- (a) the person referred to in subsection (1);
- (b) that person's [<sup>6</sup>wife, husband or civil partner];
- (c) any [...<sup>7</sup>] dependant of that person; or
- (d) the [<sup>6</sup>wife, husband or civil partner] of any adult dependant of that person.

(3) Where but for regulations made by virtue of subsection (1)(a) above two persons would both be entitled to an increase of benefit in respect of a third person, regulations may make provision as to their priority.

[<sup>8</sup>(4) Regulations may provide for adjusting—

[<sup>2</sup>(za) state pension under Part 1 of the Pensions Act 2014;]

- (a) benefit as defined in section 122 of the Contributions and Benefits Act; or
- (b) a contribution-based jobseeker's allowance,
- [<sup>4</sup>(c) a contributory employment and support allowance,]

payable to or in respect of any person where there is payable in his case any such benefit as is described in subsection (5) below.]

(5) Subsection (4) above applies to any benefit payable under the legislation of any member State other than the United Kingdom which is payable to or in respect of—

- (a) the person referred to in that subsection;
- (b) that person's [<sup>6</sup>wife, husband or civil partner];
- (c) any [...<sup>7</sup>] dependant of that person; or
- (d) the [<sup>5</sup>wife, husband or civil partner] of any adult dependant of that person.

[<sup>9</sup>(6) Personal independence payment is to be treated for the purposes of this section as if it were benefit as defined in section 122 of the Contributions and Benefits Act.]

**74.—**(1) Where—

Income support and other payments.

<sup>1</sup> S. 72 revoked (7.10.96) by the Jobseekers Act 1995 (c. 18), Sch. 3.

<sup>2</sup> Words in S. 73(1) & (4) inserted (6.4.16) by Sch. 12 of the Pensions Act 2014 (c. 19).

<sup>3</sup> Words inserted (11.6.96) in s. 73(1) by para. 49(2)(a) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>4</sup> Words in s. 73(1) & (4)(c) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5) para. 10(7) of Sch. 3.

<sup>5</sup> Words substituted in s. 73(1) (11.6.96) for "its receipt" by para. 49(2)(b) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>6</sup> Words inserted in s. 73 (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 59.

<sup>7</sup> Words repealed in s. 73(2)(c) & (5)(c) (10.4.05) by the Child Benefit Act 2005, Sch. 1, para. 21.

<sup>8</sup> S. 73(4) substituted (11.6.96) (effectively inserting s. 73(4)(b)) by para. 49(3) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>9</sup> S. 73(6) inserted (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 11.

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- (a) a payment by way of prescribed income is made after the date which is the prescribed date in relation to the payment; and
- (b) it is determined that an amount which has been paid by way of income support<sup>[1]</sup>, an income-based jobseeker's allowance<sup>[2]</sup>, state pension credit or an income-related employment and support allowance,] would not have been paid if the payment had been made on the prescribed date,

the Secretary of State shall be entitled to recover that amount from the person to whom it was paid.

(2) Where—

- (a) a prescribed payment which apart from this subsection falls to be made from public funds in the United Kingdom or under the law of any other member State is not made on or before the date which is the prescribed date in relation to the payment; and
- (b) it is determined that an amount (“the relevant amount”) has been paid by way of [<sup>3</sup>universal credit] income support<sup>[1]</sup>, an income-based jobseeker's allowance<sup>[2]</sup>, state pension credit or an income-related employment and support allowance,] that would not have been paid if the payment mentioned in paragraph (a) above had been made on the prescribed date,

then—

- (i) in the case of a payment from public funds in the United Kingdom, the authority responsible for making it may abate it by the relevant amount; and
- (ii) in the case of any other payment, the Secretary of State shall be entitled to receive the relevant amount out of the payment.

(3) Where—

- (a) a person (in this subsection referred to as A) is entitled to any prescribed benefit for any period in respect of another person (in this subsection referred to as B); and
- (b) either—
  - (i) B has received income support<sup>[4]</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance] for that period; or
  - (ii) B was, during that period, a member of the same family as some person other than A who received income support<sup>[2]</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance] for that period; and
- (c) the amount of the income support<sup>[4]</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance] has been determined on the basis that A has not made payments for the maintenance of B at a rate equal to or exceeding the amount of the prescribed benefit,

the amount of the prescribed benefit may, at the discretion of the authority administering it, be abated by the amount by which the amounts paid by way of income support<sup>[4]</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance] exceed what it is determined that they would have been had A, at the time the amount of income support<sup>[4]</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance] was determined, been making payments for the maintenance of B at a rate equal to the amount of the prescribed benefit.

(4) Where an amount could have been recovered by abatement by virtue of subsection (2) or (3) above but has not been so recovered, the Secretary of State may recover it otherwise than by way of abatement—

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<sup>1</sup> Words substituted in s. 74(1)(b) & (2)(b) (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 11.

<sup>2</sup> Words in s. 74(1)(b), (2)(b) & (3)(b)(ii) substituted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(8), Sch. 3.

<sup>3</sup> Words inserted in s. 74(2)(b) by the Welfare Reform Act 2012 (c. 5), Sch. 2, para. 7.

<sup>4</sup> Words substituted (27.10.08) in s. 74(3) by S.I. 2008/2428, reg. 23.



- (a) in the case of an amount which could have been recovered by virtue of subsection (2) above, from the person to whom it was paid; and
- (b) in the case of an amount which could have been recovered by virtue of subsection (3) above, from the person to whom the prescribed benefit in question was paid.

(5) Where a payment is made in a currency other than sterling, its value in sterling shall be determined for the purposes of this section in accordance with regulations.

[<sup>1</sup>74A.—(1) This section applies where—

- (a) a person (“the claimant”) is entitled to a benefit to which this section applies;
- (b) the Secretary of State is collecting periodical payments of child or spouse maintenance made in respect of the claimant or a member of the claimant’s family; and

Payment of benefit where maintenance payments collected by Secretary of State.

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<sup>1</sup> S. 74A inserted (1.10.95) by s. 25 of Child Support Act 1995 (c. 34). See S.I. 1996/940 (vol. 6) for exercise of reg. making powers in s. 74A(5) and (6).

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- (c) the inclusion of any such periodical payment in the claimant's relevant income would, apart from this section, have the effect of reducing the amount of the benefit to which the claimant is entitled.

(2) The Secretary of State may, to such extent as he considers appropriate, treat any such periodical payments as not being relevant income for the purposes of calculating the amount of benefit to which the claimant is entitled.

(3) The Secretary of State may, to the extent that any periodical payment collected by him is treated as not being relevant income for those purposes retain the whole or any part of that payment.

(4) Any sum retained by the Secretary of State under subsection (3) shall be paid by him into the Consolidated Fund.

(5) In this section—

“child” means a person under the age of 16;

“child maintenance”, “spouse maintenance” and “relevant income” have such meaning as may be prescribed;

[<sup>1</sup>“couple has the meaning given by section 137(1) of the Contributions and Benefits Act;]

“family” means—

(a) a [<sup>1</sup>couple];

(b) a [<sup>1</sup>couple] and a member of the same household for whom one of them is, or both are, responsible and who is a child or a person of a prescribed description;

(c) except in prescribed circumstances, a person who is not a member of a [<sup>1</sup>couple] and a member of the same household for whom that person is responsible and who is a child or a person of a prescribed description;

[...<sup>1</sup>]

(6) For the purposes of this section, the Secretary of State may by regulations make provision as to the circumstances in which—

(a) persons are to be treated as being or not being members of the same household;

(b) one person is to be treated as responsible or not responsible for another.

(7) The benefits to which this section applies are [<sup>2</sup>universal credit,] income support, an income-based jobseeker's allowance [<sup>3</sup>, an income-related employment and support allowance] and such other benefits (if any) as may be prescribed.]

*Housing benefit*

**75.—(1)** Except where regulations otherwise provide, any amount of housing benefit [<sup>4</sup>determined in accordance with regulations to have been] paid in excess of

Overpayments of housing benefit.

<sup>1</sup> Defn. of “couple” inserted, words substituted in defn. of “family” & defns. of “married couple” & “unmarried couple” omitted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 60.

<sup>2</sup> Words inserted in s. 74A(7) (29.4.13) by the Welfare Reform Act 2012 (c. 5), para. 8 of Sch. 2.

<sup>3</sup> Words inserted in s. 74A(7) (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(9) of Sch. 3.

<sup>4</sup> Words substituted in s. 75(1) (1.7.97) by Sch. 1, para 3 to Social Security Administration (Fraud) Act 1997 (c. 47).

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entitlement may be recovered [...<sup>1</sup>] either by the Secretary of State or by the authority which paid the benefit.

(2) Regulations may require such an authority to recover such an amount in such circumstances as may be prescribed.

[<sup>2</sup>(3) An amount recoverable under this section shall be recoverable—

- (a) except in such circumstances as may be prescribed, from the person to whom it was paid; and
- (b) where regulations so provide, from such other person (as well as, or instead of, the person to whom it was paid) as may be prescribed.]

(4) Any amount recoverable under this section may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

[<sup>3</sup>(5) Where an amount paid to a person on behalf of another person is recoverable under this section, subsections (3) and (4) above authorise its recovery from the person to whom it was paid by deduction—

- (a) from prescribed benefits to which he is entitled;
- (b) from prescribed benefits paid to him to discharge (in whole or in part) an obligation owed to him by the person on whose behalf the recoverable amount was paid; or
- (c) from prescribed benefits paid to him to discharge (in whole or in part) an obligation owed to him by any other person.

(6) Where an amount is recovered as mentioned in paragraph (b) of subsection (5) above, the obligation specified in that paragraph shall in prescribed circumstances be taken to be discharged by the amount of the deduction; and where an amount is recovered as mentioned in paragraph (c) of that subsection, the obligation specified in that paragraph shall in all cases be taken to be so discharged.

(7) Where any amount recovered under this section is to be recovered otherwise than by deduction from prescribed benefits—

- (a) if the person from whom it is recoverable resides in England and Wales and the county court so orders, it is recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court; and
- (b) if he resides in Scotland, it may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.]

[<sup>4</sup>(8) Regulations may provide for amounts recoverable under this section to be recovered by deductions from earnings.

(9) In subsection (8) above “earnings” has such meaning as may be prescribed.

(10) Regulations under subsection (8) above may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State or the authority which paid the benefit;

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<sup>1</sup> Words repealed (1.7.97) in s. 75(1) by Sch. 2 to Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>2</sup> Subsection (3) inserted in s. 75 (1.11.00 for reg. making purposes, 1.10.01 for all other purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 71.

<sup>3</sup> Sub-para. (5) added (8.10.97 for the purposes of authorising the regs. for all other purposes 3.11.97) to s. 75 by s. 16 of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>4</sup> S. 75(8) inserted (1.7.12) by the Welfare Reform Act 2012 (c. 5), s. 106(3).

- (b) requiring the employer, on being served with a notice by the Secretary of State or the authority which paid the benefit, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State or that authority;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Secretary of State or the authority which paid the benefit;
- (e) as to a level of earnings below which earnings must not be reduced.
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
- (g) requiring the employer to keep records of deductions;
- (h) requiring the employer to notify the Secretary of State or the authority which paid the benefit if the beneficiary is not, or ceases to be, employed by the employer;
- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
  - (i) any other such requirement;
  - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary's earnings;
  - (iii) any diligence against earnings.]

*Community charge benefits*<sup>†</sup>

<sup>†</sup>*Unreliable heading*

**76.—**(1) Regulations may make provision as to any case where a [<sup>1</sup>billing authority] or a [<sup>2</sup>local authority in Scotland] has allowed [<sup>1</sup>council tax benefit] to a person and the amount allowed exceeds the amount to which he is entitled in respect of the benefit. Excess benefits.

- (2) ...<sup>3</sup> the regulations may provide that—
  - (a) a sum equal to the excess shall be due from the person concerned to the authority (whatever the form the benefit takes);
  - (b) any liability under any provision included under paragraph (a) above shall be met by such method mentioned in subsection (3) below as is prescribed as regards the case concerned, or by such combination of two or all three of the methods as is prescribed as regards the case concerned.
- (3) The methods are—
  - (a) payment by the person concerned;
  - (b) addition to any amount payable in respect of [<sup>4</sup>council tax];
  - (c) deduction from prescribed benefits.

<sup>1</sup> Words in s. 76(1) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 15(1), for purposes of council tax and council tax benefit from 1.4.93.

<sup>2</sup> Words substituted (1.4.96) in s. 76(1) by para. 175(3) of Sch. 13 to Local Government etc. (Scotland) Act 1994 (c. 39).

<sup>3</sup> Words in s. 76(2) repealed by L.G.F. Act 1992 (c. 14), Sch. 9, para 15(2) and Sch. 14, for purposes of council tax and council tax benefit from 1.4.93.

<sup>4</sup> Words in s. 76(3)(b) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para 15(3), for purposes of council tax and council tax benefit from 1.4.93.

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 76-78**

(4)–(5) [...<sup>1</sup>].

(6) In a case where the regulations provide that a sum or part of a sum is to be paid, and the sum or part is not paid on or before such day as may be prescribed, the regulations may provide that the sum or part shall be recoverable in a court of competent jurisdiction.

(7) [...<sup>1</sup>].

(8) The regulations may provide that they are not to apply as regards any case falling within a prescribed category.

Shortfall in benefits.

**77.**—(1) Regulations may make provision as to any case where a [<sup>2</sup>billing authority] or a [<sup>3</sup>local authority in Scotland] has allowed [<sup>6</sup>council tax benefit] to a person and the amount allowed is less than the amount to which he is entitled in respect of the benefit.

(2)–(3) [...<sup>4</sup>].

*Social fund awards*

Recovery of social fund awards.

**78.**—(1) A social fund award which is repayable shall be recoverable by the Secretary of State.

(2) Without prejudice to any other method of recovery, the Secretary of State may recover an award by deduction from prescribed benefits.

(3) The Secretary of State may recover an award—

- (a) from the person to or for the benefit of whom it was made;
- (b) where that person is a member of a [<sup>5</sup>couple], from the other member of the couple;
- (c) from a person who is liable to maintain the person by or on behalf of whom the application for the award was made or any person in relation to whose needs the award was made.

[<sup>6</sup>(3A) Where—

- (a) a jobseeker's allowance is payable to a person from whom an award is recoverable under subsection (3) above; and
- (b) that person is subject to a bankruptcy order,

1986 c. 45

a sum deducted from that benefit under subsection (2) above shall not be treated as income of his for the purposes of the Insolvency Act 1986.

(3B) Where—

- (a) a jobseeker's allowance is payable to a person from whom an award is recoverable under subsection (3) above; and
- (b) the estate of that person is sequestrated,

a sum deducted from that benefit under subsection (2) above shall not be treated as income of his for the purposes of the Bankruptcy (Scotland) Act 1985.]

<sup>1</sup> Subsections (4), (5) and (7) of s. 76 repealed by L.G.F. Act 1992 (c. 14), Sch. 9, para. 15(4) and Sch. 14, for purposes of council tax and council tax benefit from 1.4.93.

<sup>2</sup> Words in s. 77(1) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 16(1), for purposes of council tax and council tax benefit from 1.4.93.

<sup>3</sup> Words substituted (1.4.96) in s. 77(1) by para. 175(3) of Sch. 13 to Local Government etc. (Scotland) Act 1994 (c. 39).

<sup>4</sup> Subsections (2) and (3) of s. 77 repealed by L.G.F. Act 1992 (c. 14), Sch. 9, para. 16(2) and Sch. 14, for purposes of council tax and council tax benefit from 1.4.93.

<sup>5</sup> In s. 78 words substituted in (3)(b) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 61.

<sup>6</sup> S. 78(3A) & (3B) inserted (7.10.96) by s. 32(2) of Jobseekers Act 1995, (c. 18).

[<sup>1</sup>(3C) Regulations may provide for amounts recoverable under subsection (1) above from a person specified in subsection (3) above to be recovered by deductions from earnings.

(3D) In subsection (3C) above “earnings” has such meaning as may be prescribed.

(3E) Regulations under subsection (3C) above may include provision referred to in section 71(9C) above.”]

(4) Payments to meet funeral expenses may in all cases be recovered, as if they were funeral expenses, out of the estate of the deceased, and (subject to section 71 above) by no other means.

[<sup>2</sup>(5) In this section “couple” has the meaning given by section 137(1) of the Contributions and Benefits Act.]

(6) For the purposes of this section—

- (a) a man shall be liable to maintain his wife [<sup>2</sup>or civil partner] and any children of whom he is the father;
- (b) a woman shall be liable to maintain her husband [<sup>2</sup>or civil partner] and any children of whom she is the mother;
- (c) a person shall be liable to maintain another person throughout any period in respect of which the first-mentioned person has, on or after 23rd May 1980 (the date of the passing of the Social Security Act 1980) and either alone or jointly with a further person, given an undertaking in writing in pursuance of immigration rules within the meaning of the Immigration Act 1971 to be responsible for the maintenance and accommodation of the other person; and 1980 c. 30.  
1971 c. 77.
- (d) “child” includes a person who has attained the age of 16 but not the age of 19 and in respect of whom either parent, or some person acting in the place of either parent, is receiving [<sup>3</sup>universal credit] income support [<sup>4</sup>or an income-based jobseeker’s allowance].

(7) Any reference in subsection (6) above to children of whom the man or the woman is the father or the mother shall be construed in accordance with section 1 of the Family Law Reform Act 1987. 1987 c. 42.

(8) Subsection (7) above does not apply in Scotland, and in the application of subsection (6) above to Scotland any reference to children of whom the man or the woman is the father or the mother shall be construed as a reference to any such children whether or not their parents have ever been married to one another.

(9) A document bearing a certificate which—

- (a) is signed by a person authorised in that behalf by the Secretary of State; and
- (b) states that the document apart from the certificate is, or is a copy of such an undertaking as is mentioned in subsection (6)(c) above,

shall be conclusive of the undertaking in question for the purposes of this section; and a certificate purporting to be so signed shall be deemed to be so signed until the contrary is proved.

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<sup>1</sup> S. 78(3C), (3D) & (3E) inserted (1.7.12) by the Welfare Reform Act 2012 (c. 5), s. 106(4).  
<sup>2</sup> S. 78(5) substituted & words inserted in (6)(a) & (6)(b) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 61.  
<sup>3</sup> Words inserted in s. 78(6)(d) (29.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 2, para. 9.  
<sup>4</sup> Words inserted (11.6.96) in s. 78(6)(d) by para. 51 of Sch. 2 to Jobseekers Act 1995 (c. 18).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 79-104**

*Northern Ireland payments*

Recovery of Northern  
Ireland payments.

**79.** Without prejudice to any other method of recovery—

- (a) amounts recoverable under any enactment or instrument having effect in Northern Ireland and corresponding to an enactment or instrument mentioned in section 71(8) above shall be recoverable by deduction from benefits prescribed under that subsection;
- (b) amounts recoverable under any enactment having effect in Northern Ireland and corresponding to section 75 above shall be recoverable by deduction from benefits prescribed under subsection (4) of that section; and
- (c) awards recoverable under Part III of the Northern Ireland Administration Act shall be recoverable by deduction from benefits prescribed under subsection (2) of section 78 above and subsection (3) of that section shall have effect in relation to such awards as it has effect in relation to awards out of the social fund under this Act.

*Adjustment of child benefit*

Child benefit - overlap  
with benefits under  
legislation of other  
member States.

**80.** Regulations may provide for adjusting child benefit payable in respect of any child [<sup>1</sup>or qualifying young person] in respect of whom any benefit is payable under the legislation of any member State other than the United Kingdom.

**81.-104.** [...<sup>2</sup>]

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<sup>1</sup> Words inserted in s. 80 (10.4.05) by the Child Benefit Act 2005, Sch. 1, para. 22.

<sup>2</sup> Part IV (Ss. 81-104) revoked (6.10.97) by Sch. 4 to SS. (Recovery of Benefits) Act 1997 (c. 27).



**PART V**  
INCOME SUPPORT AND THE DUTY TO MAINTAIN

**105.—(1) If—**

- (a) any person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain; and
- (b) in consequence of his refusal or neglect [<sup>1</sup>universal credit,] income support [<sup>2</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance] is paid to or in respect of him or such a person,

Failure to maintain -  
general.

he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine of an amount not exceeding level 4 on the standard scale or to both.

(2) For the purposes of subsection (1) above a person shall not be taken to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.

(3) [<sup>3</sup>Subject to subsection (4) below,] subsections (6) to (9) of section 78 above shall have effect for the purposes of this Part of this Act as they have effect for the purposes of that section.

[<sup>4</sup>(4) For the purposes of this section, in its application to an income based jobseeker's allowance [<sup>1</sup>or an income-related employment and support allowance], a person is liable to maintain another if that other person is his or her spouse [<sup>5</sup> or civil partner].]

**106.—(1)** Subject to the following provisions of this section, if income support [<sup>1</sup>or universal credit] is claimed by or in respect of a person whom another person is liable to maintain or paid to or in respect of such a person, the Secretary of State may make a complaint against the liable person to a magistrates' court for an order under this section.

Recovery of expenditure  
on benefit from person  
liable for maintenance.

<sup>1</sup> Words inserted in s. 105(1)(a) & 106(1) (29.4.13) by para. 10 & 11 of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>2</sup> Words in s. 105(1)(b) & (4) substituted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(10) of Sch. 3.

<sup>3</sup> Words inserted (11.6.96) in s. 105(3) by para. 53(3) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>4</sup> S.105(4) inserted (11.6.96) by para. 53(4) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>5</sup> Words inserted in s. 105(4) (5.12.06) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 62.

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 106-107**

(2) On the hearing of a complaint under this section the court shall have regard to all the circumstances and, in particular, to the income of the liable person, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate, except that in a case falling within section 78(6)(c) above that sum shall not include any amount which is not attributable to income support [<sup>1</sup>or universal credit] (whether paid before or after the making of the order).

(3) In determining whether to order any payments to be made in respect of income support [<sup>1</sup>or universal credit] for any period before the complaint was made, or the amount of any such payments, the court shall disregard any amount by which the liable person's income exceeds the income which was his during that period.

(4) Any payments ordered to be made under this section shall be made—

- (a) to the Secretary of State in so far as they are attributable to any income support [<sup>1</sup>or universal credit] (whether paid before or after the making of the order);
- (b) to the person claiming income support [<sup>1</sup>or universal credit] or (if different) the dependant; or
- (c) to such other person as appears to the court expedient in the interests of the dependant.

(5) An order under this section shall be enforceable as a magistrates' court maintenance order within the meaning of section 150(1) of the Magistrates' Courts Act 1980.

1980 c. 43.

(6) In the application of this section to Scotland, subsection (5) above shall be omitted and for the references to a complaint and to a magistrates' court there shall be substituted respectively references to an application and to the sheriff.

(7) On an application under subsection (1) above a court in Scotland may make finding as to the parentage of a child for the purpose of establishing whether a person is, for the purposes of section 105 above and this section, liable to maintain him.

Recovery of expenditure on income support: additional amounts and transfer of orders.

**107.—**(1) In any case where—

- (a) the claim for income support referred to in section 106(1) above is or was made by the parent of one or more children in respect of both himself and those children; and
- (b) the other parent is liable to maintain those children but, by virtue of not being the claimant's husband or wife [<sup>1</sup>or civil partner], is not liable to maintain the claimant,

the sum which the court may order that other parent to pay under subsection (2) of that section may include an amount, determined in accordance with regulations, in respect of any income support paid to or for the claimant by virtue of such provisions as may be prescribed.

(2) Where the sum which a court orders a person to pay under section 106 above includes by virtue of subsection (1) above an amount (in this section referred to as a "personal allowance element") in respect of income support by virtue of paragraph 1(2) of Schedule 2 to the Income Support (General) Regulations 1987 (personal allowance for lone parent) the order shall separately identify the amount of the personal allowance element.

S.I. 1987/1967.

(3) In any case where—

- (a) there is in force an order under subsection (2) of section 106 above made against a person ("the liable parent") who is the parent of one or more children, in respect of the other parent or the children; and

<sup>1</sup> Words inserted in Ss. 106(2)-(4) (29.4.13) by para. 11 of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>2</sup> Words inserted in s. 107(1)(b) (5.12.06) by the Civil Partnership Act 2006 (c. 33), Sch. 24, para. 63.

(b) payments under the order fall to be made to the Secretary of State by virtue of subsection (4)(a) of that section; and

(c) that other parent (“the dependent parent”) ceases to claim income support, the Secretary of State may, by giving notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer to the dependent parent the right to receive the payments under the order, exclusive of any personal allowance element, and to exercise the relevant rights in relation to the order, except so far as relating to that element.

(4) Notice under subsection (3) above shall not be given (and if purportedly given, shall be of no effect) at a time when there is in force a maintenance order made against the liable parent—

(a) in favour of the dependent parent or one or more of the children; or

(b) in favour of some other person for the benefit of the dependent parent or one or more of the children;

and if such a maintenance order is made at any time after notice under that subsection has been given, the order under section 106(2) above shall cease to have effect.

[<sup>1</sup>(5) *In any case where—*

1980 c. 43.

(a) *notice is given to a magistrates’ court under subsection (3) above,*

(b) *payments under the order are required to be made by any method of payment falling within section 59(6) of the Magistrates’ Courts Act 1980 (standing order, etc.), and*

(c) *the clerk to the justices for the petty sessions area for which the court is acting decides that payment by that method is no longer possible,*

*the clerk shall amend the order to provide that payments under the order shall be made by the liable parent to the clerk.]*

(6) Except as provided by subsections (8) and (12) below, where the Secretary of State gives notice under subsection (3) above, he shall cease to be entitled—

(a) to receive any payment under the order in respect of any personal allowance element; or

(b) to exercise the relevant rights, so far as relating to any such element,

notwithstanding that the dependent parent does not become entitled to receive any payment in respect of that element or to exercise the relevant rights so far as so relating.

(7) If, in a case where the Secretary of State gives notice under subsection (3) above, a payment under the order is or has been made to him wholly or partly in respect of the whole or any part of the period beginning with the day on which the transfer takes effect and ending with the day on which the notice under subsection (3) above is given to the liable parent, the Secretary of State shall—

(a) repay to or for the liable parent so much of the payment as is referable to any personal allowance element in respect of that period or, as the case may be, the part of it in question; and

(b) pay to or for the dependent parent so much of any remaining balance of the payment as is referable to that period or part;

and a payment under paragraph (b) above shall be taken to discharge, to that extent, the liability of the liable parent to the dependent parent under the order in respect of that period or part.

(8) If, in a case where the Secretary of State has given notice under subsection (3) above, the dependent parent makes a further claim for income support, then—

(a) the Secretary of State may, by giving a further notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer back from the dependent parent to himself the right to receive the payments and to exercise the relevant rights; and

<sup>1</sup> S. 107(5) as enacted but, in consequence of para. 14 of Sch. 4 to S.S. (C.P) Act 1992 (c. 6), not due to come into force until a day is appointed under para. 1(3) *ibid*.

(b) that transfer shall revive the Secretary of State's right to receive payment under the order in respect of any personal allowance element and to exercise the relevant rights so far as relating to any such element.

<sup>(1)</sup>(9) *Subject to subsections (10) and (11) below, in any case where—*

- (a) notice is given to a magistrates' court under subsection (8) above, and*
- (b) the method of payment under the order which subsists immediately before the day on which the transfer under subsection (8) above takes effect differs from the method of payment which subsisted immediately before the day on which the transfer under subsection (3) above (or, if there has been more than one such transfer, the last such transfer) took effect,*

*the clerk to the justices for the petty sessions area for which the court is acting shall amend the order by reinstating the method of payment under the order which subsisted immediately before the day on which the transfer under subsection (3) above (or, as the case may be, the last such transfer) took effect.*

*(10) The clerk shall not amend the order under subsection (9) above if the Secretary of State gives notice in writing to the clerk, on or before the day on which the notice under subsection (8) above is given, that the method of payment under the order which subsists immediately before the day on which the transfer under subsection (8) above takes effect is to continue.*

*(11) In any case where—*

- (a) notice is given to a magistrates' court under subsection (8) above,*
- (b) the method of payment under the order which subsisted immediately before the day on which the transfer under subsection (3) above (or, if there has been more than one such transfer, the last such transfer) took effect was any method of payment falling within section 59(6) of the Magistrates' Courts Act 1980 (standing order, etc.), and*
- (c) the clerk decides that payment by that method is not longer possible,*

*the clerk shall amend the order to provide that payments under the order shall be made by the liable parent to the clerk.)*

(12) A transfer under subsection (3) or (8) above does not transfer or otherwise affect the right of any person—

- (a) to receive a payment which fell due to him at a time before the transfer took effect; or
- (b) to exercise the relevant rights in relation to any such payment;

and, where notice is given under subsection (3), subsection (6) above does not deprive the Secretary of State of his right to receive such a payment in respect of any personal allowance element or to exercise the relevant rights in relation to such a payment.

(13) For the purposes of this section—

- (a) a transfer under subsection (3) above takes effect on the day on which the dependent parent ceases to be in receipt of income support in consequence of the cessation referred to in paragraph (c) of that subsection, and
- (b) a transfer under subsection (8) above takes effect on—
  - (i) the first day in respect of which the dependent parent receives income support after the transfer under subsection (3) above took effect, or
  - (ii) such later day as may be specified for the purposes in the notice under subsection (8),

irrespective of the day on which notice under the subsection in question is given.

(14) Any notice required to be given to the liable parent under subsection (3) or (8) above shall be taken to have been given if it has been sent to his last known address.

(15) In this section—

- “child” means a person under the age of 16, notwithstanding section 78(6)(d) above;

“court” shall be construed in accordance with section 106 above;  
 “maintenance order”–

- (a) in England and Wales, means–
  - (i) any order for the making of periodical payments or for the payment of a lump sum which is, or has at any time been a maintenance order within the meaning of the Attachment Earnings Act 1971; 1971 c. 32.
  - (ii) any order under Part III of the Matrimonial and Family Proceedings Act 1984 (overseas divorce) for the making of periodical payments or for the payment of a lump sum; 1984 c. 42.
  - [<sup>1</sup>(iii) any order under Schedule 7 to the Civil Partnership Act 2004 for the making of periodical payments or for the payment of a lump sum;]
- (b) in Scotland, has the meaning assigned by section 106 of the Debtors (Scotland) Act 1987, but disregarding paragraph (h) (alimentary bond of agreement); 1987 c. 18.

“the relevant rights”, in relation to an order under section 106(2) above, means the right to bring any proceedings, take any steps or do any other thing under or in relation to the order which the Secretary of State could have brought, taken or done apart from any transfer under this section.

**108.**—(1) This section applies where–

- (a) a person (“the claimant”) who is the parent of one or more children is in receipt of income support [<sup>2</sup>or universal credit] either in respect of those children or in respect of both himself and those children; and
- (b) there is in force a maintenance order made against the other parent (“the liable person”)–
  - (i) in favour of the claimant or one or more of the children, or
  - (ii) in favour of some other person for the benefit of the claimant or one or more of the children;

Reduction of expenditure on income support: certain maintenance orders to be enforceable by the Secretary of State.

and in this section “the primary recipient” means the person in whose favour that maintenance order was made.

(2) If, in a case where this section applies, the liable person fails to comply with any of the terms of the maintenance order–

- (a) the Secretary of State may bring any proceedings or take any other steps to enforce the order that could have been brought or taken by or on behalf of the primary recipient; and
- (b) any court before which proceedings are brought by the Secretary of State by virtue of paragraph (a) above shall have the same powers in connection with those proceedings as it would have had if they had been brought by the primary recipient.

(3) The Secretary of State’s powers under this section are exercisable at his discretion and whether or not the primary recipient or any other person consents to their exercise; but any sums recovered by virtue of this section shall be payable to or for the primary recipient, as if the proceedings or steps in question had been brought or taken by him or on his behalf.

(4) The powers conferred on the Secretary of State by subsection (2)(a) above include power–

- (a) to apply for the registration of the maintenance order under–
  - (i) section 17 of the Maintenance Orders Act 1950; 1950 c. 37.
  - (ii) section 2 of the Maintenance Orders Act 1958; or 1958 c. 39.
  - (iii) the Civil Jurisdiction and Judgments Act 1982; and 1982 c. 27.

<sup>1</sup> Sub para. (a)(iii) inserted in defn. of “maintenance order” (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 63.

<sup>2</sup> Words inserted in s. 108(1)(a) (29.4.13) by para. 12 of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 108-109**

1972 c. 18.

- [<sup>1</sup>(aa) to apply for recognition and enforcement of the maintenance order under the Maintenance Regulation, to the extent permitted by Article 64 of that Regulation;] [...<sup>2</sup>]
- [<sup>2</sup>(ab) to apply for recognition and enforcement of the maintenance order under the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007, to the extent permitted by Article 36 of that convention; and]
- (b) to make an application under section 2 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (application for enforcement in reciprocating country).

(5) Where this section applies, the prescribed person shall in prescribed circumstances give the Secretary of State notice of any application—

- (a) to alter, vary, suspend, discharge, revoke, revive or enforce the maintenance order in question; or
- (b) to remit arrears under that maintenance order;

and the Secretary of State shall be entitled to appear and be heard on the application.

(6) Where, by virtue of this section, the Secretary of State commences any proceedings to enforce a maintenance order, he shall, in relation to those proceedings, be treated for the purposes of any enactment or instrument relating to maintenance orders as if he were a person entitled to payment under the maintenance order in question (but shall not thereby become entitled to any such payment).

(7) Where, in any proceedings under this section in England and Wales, the court makes an order for the whole or any part of the arrears due under the maintenance order in question to be paid as a lump sum, the Secretary of State shall inform the Legal Aid Board of the amount of that lump sum if he knows—

1974 c. 4.

1988 c. 34.

- (a) that the primary recipient either—
  - (i) received legal aid under the Legal Aid Act 1974 in connection with the proceedings in which the maintenance order was made, or
  - (ii) was an assisted party, within the meaning of the Legal Aid Act 1988, in those proceedings; and
- (b) that a sum remains unpaid on account of the contribution required of the primary recipient—
  - (i) under section 9 of the Legal Aid Act 1974 in respect of those proceedings, or
  - (ii) under section 16 of the Legal Aid Act 1988 in respect of the costs of his being represented under Part IV of that Act in those proceedings, as the case may be.

(8) In this section “maintenance order” has the same meaning as it has in section 107 above but does not include any such order for the payment of a lump sum.

[<sup>1</sup>(9) In this section “the maintenance Regulation” means Council Regulation (EC) No. 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.]

Diversion of arrested earnings to Secretary of State- Scotland.

**109.**—(1) Where in Scotland a creditor who is enforcing a maintenance order or alimentary bond or agreement by a current maintenance arrestment or a conjoined arrestment order is in receipt of [<sup>3</sup>universal credit,] income support [<sup>4</sup>or an income-related employment and support allowance], the creditor may in writing authorise the Secretary of State to receive any sums payable under the arrestment or order until the creditor ceases to be in receipt of [<sup>3</sup>universal credit,] income support [<sup>4</sup>or an income-

<sup>1</sup> Sub-section 4(aa) and para. (9) inserted (18.6.11) by the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), regulation 14.

<sup>2</sup> Word “and” repealed from s. 108(4)(aa) and s. 108(4)(ab) inserted (1.4.13) by reg. 6 of S.I. 2012/2814.

<sup>3</sup> Words inserted in s. 109(1) (29.4.13) by para. 13 of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>4</sup> Words inserted in s. 109(1) (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(11) of Sch. 3.

related employment and support allowance] or in writing withdraws the authorisation, whichever occurs first.

(2) On intimation by the Secretary of State—

(a) to the employer operating the current maintenance arrestment; or

(b) to the sheriff clerk operating the conjoined arrestment order;

of an authorisation under subsection (1) above, the employer or sheriff clerk shall, until notified by the Secretary of State that the authorisation has ceased to have effect, pay to the Secretary of State any sums which would otherwise be payable under the arrestment or order to the creditor.

## PART VI

### ENFORCEMENT

#### *Inspection and offences*

[<sup>1</sup>109A.—(1) An individual who for the time being has the Secretary of State's authorisation for the purposes of this Part shall be entitled, for any one or more of the purposes mentioned in subsection (2) below, to exercise any of the powers which are conferred on an authorised officer by sections 109B and 109C below.

Authorisations for investigators.

(2) Those purposes are—

(a) ascertaining in relation to any case whether a benefit is or was payable in that case in accordance with any provision of the relevant social security legislation;

(b) investigating the circumstances in which any accident, injury or disease which has given rise, or may give rise, to a claim for—

(i) industrial injuries benefit, or

(ii) any benefit under any provision of the relevant social security legislation, occurred or may have occurred, or was or may have been received or contracted;

(c) ascertaining whether provisions of the relevant social security legislation are being, have been or are likely to be contravened (whether by particular persons or more generally);

(d) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of benefit offences.

(3) An individual has the Secretary of State's authorisation for the purposes of this Part if, and only if, the Secretary of State has granted him an authorisation for those purposes and he is—

(a) an official of a Government department;

(b) an individual employed by an authority administering housing benefit or council tax benefit;

(c) an individual employed by an authority or joint committee that carries out functions relating to housing benefit or council tax benefit on behalf of the authority administering that benefit; or

(d) an individual employed by a person authorised by or on behalf of any such authority or joint committee as is mentioned in paragraph (b) or (c) above to carry out functions relating to housing benefit or council tax benefit for that authority or committee.

(4) An authorisation granted for the purposes of this Part to an individual of any of the descriptions mentioned in subsection (3) above—

(a) must be contained in a certificate provided to that individual as evidence of his entitlement to exercise powers conferred by this Part;

(b) may contain provision as to the period for which the authorisation is to have effect; and

(c) may restrict the powers exercisable by virtue of the authorisation so as to

<sup>1</sup> Ss. 109A, 109B & 109C substituted (2.4.01) for s. 110, by s. 67 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

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### Ss.109A-109B

prohibit their exercise except for particular purposes, in particular circumstances or in relation to particular benefits or particular provisions of the relevant social security legislation.

(5) An authorisation granted under this section may be withdrawn at any time by the Secretary of State.

(6) Where the Secretary of State grants an authorisation for the purposes of this Part to an individual employed by a local authority, or to an individual employed by a person who carries out functions relating to housing benefit or council tax benefit on behalf of a local authority—

- (a) the Secretary of State and the local authority shall enter into such arrangements (if any) as they consider appropriate with respect to the carrying out of functions conferred on that individual by or in connection with the authorisation granted to him; and
- (b) the Secretary of State may make to the local authority such payments (if any) as he thinks fit in respect of the carrying out by that individual of any such functions.

(7) The matters on which a person may be authorised to consider and report to the Secretary of State under section 139A below shall be taken to include the carrying out by any such individual as is mentioned in subsection (3)(b) to (d) above of any functions conferred on that individual by virtue of any grant by the Secretary of State of an authorisation for the purposes of this Part.

(8) The powers conferred by sections 109B and 109C below shall be exercisable in relation to persons holding office under the Crown and persons in the service of the Crown, and in relation to premises owned or occupied by the Crown, as they are exercisable in relation to other persons and premises.

[<sup>1</sup>(9) This section and sections 109B to 109C below apply as if—

- (a) the Tax Credits Act 2002 were relevant social security legislation, and
- (b) accordingly, child tax credit and working tax credit were relevant social security benefits for the purposes of the definition of “benefit offence.”]

Power to require information.

**109B.**—(1) An authorised officer who has reasonable grounds for suspecting that a person—

- (a) is a person falling within subsection (2) [<sup>2</sup>or (2A)] below, and
- (b) has or may have possession of or access to any information about any matter that is relevant for any one or more of the purposes mentioned in section 109A(2) above,

may, by written notice, require that person to provide all such information described in the notice as is information of which he has possession, or to which he has access, and which it is reasonable for the authorised officer to require for a purpose so mentioned.

(2) The persons who fall within this subsection are—

- (a) any person who is or has been an employer or employee within the meaning of any provision made by or under the Contributions and Benefits Act;
- (b) any person who is or has been a self-employed earner within the meaning of any such provision;
- (c) any person who by virtue of any provision made by or under that Act falls, or has fallen, to be treated for the purposes of any such provision as a person within paragraph (a) or (b) above;
- (d) any person who is carrying on, or has carried on, any business involving the supply of goods for sale to the ultimate consumers by individuals not carrying on retail businesses from retail premises;
- (e) any person who is carrying on, or has carried on, any business involving the supply of goods or services by the use of work done or services performed by persons other than employees of his;

<sup>1</sup> S. 109A(9) inserted (6.6.12) by the Welfare Reform Act 2012 (c. 5), S. 122(2).

<sup>2</sup> Words in s. 109B(1) inserted (30.4.02) by the Social Security Fraud Act 2001, (c. 11), s. 1(2).



- (f) any person who is carrying on, or has carried on, an agency or other business for the introduction or supply, to persons requiring them, of persons available to do work or to perform services;
- (g) any local authority acting in their capacity as an authority responsible for the granting of any licence;
- (h) any person who is or has been a trustee or manager of a personal or occupational pension scheme;
- (i) any person who is or has been liable to make a compensation payment or a payment to the Secretary of State under section 6 of the Social Security (Recovery of Benefits) Act 1997 (payments in respect of recoverable benefits); and
- (j) the servants and agents of any such person as is specified in any of paragraphs (a) to (i) above.

[<sup>1</sup>(2A) The persons who fall within this subsection are—

(a) any bank;

[<sup>2</sup>(aa) the director of the National Savings;]

(b) any person carrying on a business the whole or a significant part of which consists in the provision of credit (whether secured or unsecured) to members of the public;

[<sup>3</sup>(c) any insurer;]

(d) any credit reference agency (within the meaning given by section 145(8) of the Consumer Credit Act 1974 (c. 39));

(e) any body the principal activity of which is to facilitate the exchange of information for the purpose of preventing or detecting fraud;

(f) any person carrying on a business the whole or a significant part of which consists in the provision to members of the public of a service for transferring money from place to place;

(g) any water undertaker or sewerage undertaker, any water and sewerage authority constituted under section 62 of the Local Government etc. (Scotland) Act 1994 (c. 39) or any authority which is a collecting authority for the purposes of section 79 of that Act;

[<sup>3</sup>(h) any person who

(i) who is the holder of a licence under section 7 of the Gas Act 1986 (c. 44) to convey gas through pipes. or

(ii) is the holder of a licence under section 7A(1) of that Act to supply gas through pipes;]

[<sup>3</sup>(i) any person who (within the meaning of the Electricity Act 1989 (c. 29)) supplies electricity;]

(j) any person who provides a telecommunications service;

(k) any person conducting any educational establishment or institution;

(l) any body the principal activity of which is to provide services in connection with admissions to educational establishments or institutions;

(m) the Student Loans Company;

(n) any servant or agent of any person mentioned in any of the preceding paragraphs.

(2B) Subject to the following provisions of this section, the powers conferred by this section on an authorised officer to require information from any person by virtue of his falling within subsection (2A) above shall be exercisable for the purpose only of obtaining information relating to a particular person identified (by name or description) by the officer.

<sup>1</sup> Ss. (2A)-(2F) inserted (30.4.02) in s. 109B by the Social Security Fraud Act 2001, (c. 11),s. 1(2).

<sup>2</sup> Para. (aa) inserted in s. 109B(2A) (1.4.02) by S.I. 2002/817, art. 2(a).

<sup>3</sup> Paras. (c), (h) & (i) of s. 109B(2A) substituted (1.4.02) by S.I. 2002/817, art. 2(b)-(d).

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(2C) An authorised officer shall not, in exercise of those powers, require any information from any person by virtue of his falling within subsection (2A) above unless it appears to that officer that there are reasonable grounds for believing that the identified person to whom it relates is—

- (a) a person who has committed, is committing or intends to commit a benefit offence; or
- (b) a person who (within the meaning of Part 7 of the Contributions and Benefits Act) is a member of the family of a person falling within paragraph (a) above.

(2D) Nothing in subsection (2B) or (2C) above shall prevent an authorised officer who is an official of a Government department and whose authorisation states that his authorisation applies for the purposes of this subsection from exercising the powers conferred by this section for obtaining from—

- (a) a water undertaker or any water and sewerage authority constituted under section 62 of the Local Government etc. (Scotland) Act 1994,
- (b) any person who (within the meaning the Gas Act 1986) supplies gas conveyed through pipes,
- (c) any person who (within the meaning of the Electricity Act 1989) supplies electricity conveyed by distribution systems, or
- (d) any servant or agent of a person mentioned in any of the preceding paragraphs,

any information which relates exclusively to whether and in what quantities water, gas or electricity are being or have been supplied to residential premises specified or described in the notice by which the information is required.

(2E) The powers conferred by this section shall not be exercisable for obtaining from any person providing a telecommunications service any information other than information which (within the meaning of section 21 of the Regulation of Investigatory Powers Act 2000 (c. 23)) is communications data but not traffic data.

(2F) Nothing in subsection (2B) or (2C) above shall prevent an authorised officer from exercising the powers conferred by this section for requiring information, from a person who provides a telecommunications service, about the identity and postal address of a person identified by the authorised officer solely by reference to a telephone number or electronic address used in connection with the provision of such a service.]

(3) The obligation of a person to provide information in accordance with a notice under this section shall be discharged only by the provision of that information, at such reasonable time and in such form as may be specified in the notice, to the authorised officer who—

- (a) is identified by or in accordance with the terms of the notice; or
- (b) has been identified, since the giving of the notice, by a further written notice given by the authorised officer who imposed the original requirement or another authorised officer.

(4) The power of an authorised officer under this section to require the provision of information shall include a power to require the production and delivery up and (if necessary) creation of, or of copies of or extracts from, any such documents containing the information as may be specified or described in the notice imposing the requirement.

[<sup>1</sup>(5) No one shall be required under this section to provide—

- (a) any information that tends to incriminate either himself or, in the case of a person who is [<sup>2</sup>married or is a civil partner, his spouse or civil partner]; or
- (b) any information in respect of which a claim to legal professional privilege or, in Scotland, confidentiality as between client and professional legal adviser, would be successful in any proceedings;

<sup>1</sup> Subsection 109B(5) substituted (30.4.02) by the Social Security Fraud Act 2001 (c. 11), s. 1(3).

<sup>2</sup> Words substituted in s. 109B(5)(a) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 64.

and for the purposes of this subsection it is immaterial whether the information is in documentary form or not.]

[<sup>1</sup>(6) Provision may be made by order—

- (a) adding any person to the list of persons falling within subsection (2A) above;
- (b) removing any person from the list of persons falling within that subsection;
- (c) modifying that subsection for the purpose of taking account of any change to the name of any person for the time being falling within that subsection.

(7) In this section—

[<sup>2</sup>“bank” means—

- (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 (c. 8) to accept deposits;
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits or other repayable funds from the public; or
- (c) a person who does not require permission under that Act to accept deposits, in the course of his business in the United Kingdom;]

“credit” includes a cash loan or any form of financial accommodation, including the cashing of a cheque;

[<sup>3</sup>“insurer” means—

- (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance;]

“residential premises”, in relation to a supply of water, gas or electricity, means any premises which—

- (a) at the time of the supply were premises occupied wholly or partly for residential purposes, or
- (b) are premises to which that supply was provided as if they were so occupied; and

“telecommunications service” has the same meaning as in the Regulation of Investigatory Powers Act 2000 (c. 23).]

[<sup>3</sup>7A) The definitions of “bank” and “insurer” in subsection (7) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]

[<sup>4</sup>109BA(1) Subject to subsection (2) below, where it appears to the Secretary of State—

- (a) that a person falling within section 109B(2A) keeps any electronic records,
- (b) that the records contain or are likely, from time to time, to contain information about any matter that is relevant for any one or more of the purposes mentioned in section 109A(2) above, and
- (c) that facilities exist under which electronic access to those records is being provided, or is capable of being provided, by that person to other persons,

Power of Secretary of State to require electronic access to information

the Secretary of State may require that person to enter into arrangements under which authorised officers are allowed such access to those records.

<sup>1</sup> Subsection (6) & (7) inserted (26.2.02) by the Social Security Fraud Act 2001 (c. 11), s. 1(4).

<sup>2</sup> Defn. “bank” substituted (1.4.02) by S.I. 2002/817, art. 3(a)(i).

<sup>3</sup> Defn. of “insurer” & ss. (7A) inserted (1.4.02) in s. 109B by S.I. 2002/817, art. 3(a)(ii) & (b).

<sup>4</sup> S. 109BA inserted (30.4.02) by the SS Fraud Act 2001, (c. 11), s. 2.

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- (2) An authorised officer—
- (a) shall be entitled to obtain information in accordance with arrangements entered into under subsection (1) above only if his authorisation states that his authorisation applies for the purposes of that subsection; and
  - (b) shall not seek to obtain any information in accordance with any such arrangements other than information which relates to a particular person and could be the subject of a requirement under section 109B above.
- (3) The matters that may be included in the arrangements that a person is required to enter into under subsection (1) above may include—
- (a) requirements as to the electronic access to records that is to be made available to authorised officers;
  - (b) requirements as to the keeping of records of the use that is made of the arrangements;
  - (c) requirements restricting the disclosure of information about the use that is made of the arrangements; and
  - (d) such other incidental requirements as the Secretary of State considers appropriate in connection with allowing access to records to authorised officers.
- (4) An authorised officer who is allowed access in accordance with any arrangements entered into under subsection (1) above shall be entitled to make copies of, and to take extracts from, any records containing information which he is entitled to require under section 109B.]

**Powers of entry.**

- 109C.**—(1) An authorised officer shall be entitled, at any reasonable time and either alone or accompanied by such other persons as he thinks fit, to enter any premises which—
- (a) are liable to inspection under this section; and
  - (b) are premises to which it is reasonable for him to require entry in order to exercise the powers conferred by this section.
- (2) An authorised officer who has entered any premises liable to inspection under this section may—
- (a) make such an examination of those premises, and
  - (b) conduct any such inquiry there,
- as appears to him appropriate for any one or more of the purposes mentioned in section 109A(2) above.
- (3) An authorised officer who has entered any premises liable to inspection under this section may—
- (a) question any person whom he finds there;
  - (b) require any person whom he finds there to do any one or more of the following—
    - (i) to provide him with such information,
    - (ii) to produce and deliver up and (if necessary) create such documents or such copies of, or extracts from, documents,as he may reasonably require for any one or more of the purposes mentioned in section 109A(2) above; and
  - (c) take possession of and either remove or make his own copies of any such documents as appear to him to contain information that is relevant for any of those purposes.
- (4) The premises liable to inspection under this section are any premises (including premises consisting in the whole or a part of a dwelling house) which an authorised officer has reasonable grounds for suspecting are—

- (a) premises which are a person's place of employment;
- (b) premises from which a trade or business is being carried on or where documents relating to a trade or business are kept by the person carrying it on or by another person on his behalf;
- (c) premises from which a personal or occupational pension scheme is being administered or where documents relating to the administration of such a scheme are kept by the person administering the scheme or by another person on his behalf;
- (d) premises where a person who is the compensator in relation to any such accident, injury or disease as is referred to in section 109A(2)(b) above is to be found;
- (e) premises where a person on whose behalf any such compensator has made, may have made or may make a compensation payment is to be found.

(5) An authorised officer applying for admission to any premises in accordance with this section shall, if required to do so, produce the certificate containing his authorisation for the purposes of this Part.

(6) Subsection (5) of section 109B applies for the purposes of this section as it applies for the purposes of that section.]

[<sup>1</sup>110ZA—[<sup>2</sup>(1) Schedule 36 to the Finance Act 2008 (information and inspection powers) applies for the purpose of checking a person's position as regards relevant contributions as it applies for the purpose of checking a person's tax position, subject to the modifications in subsection (2).

Class 1, 1A, 1B or 2 contributions: powers to call for documents etc

(2) That Schedule applies as if—

- (a) references to any provision of the Taxes Acts were to any provision of this Act or the Contributions and Benefits Act [<sup>3</sup>or the National Insurance Contributions Act 2014] relating to relevant contributions,
- (b) references to prejudice to the assessment or collection of tax were to prejudice to the assessment of liability for, and payment of, relevant contributions,
- (c) the reference to information relating to the conduct of a pending appeal relating to tax were a reference to information relating to the conduct of a pending appeal relating to relevant contributions, and
- (d) paragraphs 21, 35(4)(b), 36 and 37(2) of that Schedule (restrictions on giving taxpayer notice where taxpayer has made tax return) were omitted.]

(3) In this section “relevant contributions” means Class 1, Class 1A, Class 1B or Class 2 contributions.]

**110A.** [...<sup>4</sup>]

*S. 110A has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

[<sup>5</sup>110A.—(1) An individual who for the time being has the authorisation for the purposes of this Part of an authority administering housing benefit or council tax benefit (“a local authority authorisation”) shall be entitled, for [<sup>6</sup>a relevant purpose] to exercise any of the powers which, subject to subsection (8) below, are conferred on an authorised officer by sections 109B and 109C above.

Authorisations by local authorities.

[<sup>6</sup>(1A) Each of the following is a relevant purpose—

- (a) a purpose mentioned in subsection (2) below;

<sup>1</sup> S. 110ZA substituted (6.5.05) by the National Insurance and Statutory Payments Act 2004 (c. 3), s. 7.

<sup>2</sup> S. 110ZA(1) & (2) substituted (1.4.09) by the Finance Act 2008 (c. 9), s. 113, Sch. 36, para. 84 (with S.I. 2009/404 (c. 25), art. 9).

<sup>3</sup> Words in s. 110ZA(2)(a) inserted (6.4.14) by the National Insurance Contributions Act 2014 (c. 7), art. 7(5).

<sup>4</sup> S. 110A repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>5</sup> Ss. 110A substituted (2.4.01) for s. 110A and 110B, by s. 67 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

<sup>6</sup> In S. 110A words substituted in (1) & (1A) to (1C) inserted (19.2.08 for reg. making purposes and 7.4.08 for all purposes) by the Welfare Reform Act 2007 (c. 5), s. 46(2)-(4).

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(b) a purpose mentioned in section 109A(2)(a), (c) or (d).

(1B) If the Secretary of State prescribes conditions for the purposes of this section, an authority must not proceed under this section for a purpose mentioned in section 109A(2)(a), (c) or (d) unless any such condition is satisfied.

(1C) An authorisation made for a purpose mentioned in section 109A(2)(a), (c) or (d)–

- (a) is subject to such restrictions as may be prescribed;
- (b) is not valid in such circumstances as may be prescribed.]

(2) [The purposes in this subsection] are–

- (a) ascertaining in relation to any case whether housing benefit or council tax benefit is or was payable in that case;
- (b) ascertaining whether provisions of the relevant social security legislation that relate to housing benefit or council tax benefit are being, have been or are likely to be contravened (whether by particular persons or more generally);
- (c) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of benefit offences relating to housing benefit or council tax benefit.

(3) An individual has the authorisation for the purposes of this Part of an authority administering housing benefit or council tax benefit if, and only if, that authority have granted him an authorisation for those purposes and he is–

- (a) an individual employed by that authority;
- (b) an individual employed by another authority or joint committee that carries out functions relating to housing benefit or council tax benefit on behalf of that authority;
- (c) an individual employed by a person authorised by or on behalf of–
  - (i) the authority in question,
  - (ii) any such authority or joint committee as is mentioned in paragraph (b) above,

to carry out functions relating to housing benefit or council tax benefit for that authority or committee;

- (d) an official of a Government department.

(4) Subsection (4) of section 109A above shall apply in relation to a local authority authorisation as it applies in relation to an authorisation under that section.

(5) A local authority authorisation may be withdrawn at any time by the authority that granted it or by the Secretary of State.

(6) The certificate or other instrument containing the grant or withdrawal by any local authority of any local authority authorisation must be issued under the hand of either–

- (a) the officer designated under section 4 of the Local Government and Housing Act 1989 as the head of the authority's paid service; or
- (b) the officer who is the authority's chief finance officer (within the meaning of section 5 of that Act).

(7) It shall be the duty of any authority with power to grant local authority authorisations to comply with any directions of the Secretary of State as to–

- (a) whether or not such authorisations are to be granted by that authority;
- (b) the period for which authorisations granted by that authority are to have effect;
- (c) the number of persons who may be granted authorisations by that authority at any one time; and
- (d) the restrictions to be contained by virtue of subsection (4) above in the authorisations granted by that authority for those purposes.

<sup>1</sup> In S. 110A words substituted in (2) (19.02.08 for reg. making purposes and 7.4.08 for all purposes) by the Welfare Reform Act 2007 (c. 5), s. 46(2).

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(8) The powers conferred by sections 109B and 109C above shall have effect in the case of an individual who is an authorised officer by virtue of this section as if those sections had effect—

- (a) with the substitution for every reference to the purposes mentioned in section 109A(2) above of a reference to the purposes mentioned in subsection (2) above; and
- (b) with the substitution for every reference to the relevant social security legislation of a reference to so much of it as relates to housing benefit or council tax benefit.<sup>[1]</sup> and
- (c) with the omission of section 109B(2D).]

<sup>[2]</sup>but paragraphs (a) and (b) above do not apply in any case where the relevant purpose is as mentioned in subsection (1A)(b) above.]

(9) Nothing in this section conferring any power on an authorised officer in relation to housing benefit or council tax benefit shall require that power to be exercised only in relation to cases in which the authority administering the benefit is the authority by whom that officer's authorisation was granted.]

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<sup>1</sup> Words & s. 110A(8)(c) inserted (30.4.02) by the Social Security Fraud Act 2001 (c. 11), s. 1(5).

<sup>2</sup> Words inserted in s. 110A(8) (19.2.08 for reg. making purposes & 7.4.08 for all other purposes) by the Welfare Reform Act 2007 (c. 5), s. 46(5).

## SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)

### S. 110B

Power of local authority to require electronic access to information

[<sup>1</sup>**110B**—(1) Subject to subsection (2) below, where it appears to an authority administering housing benefit or council tax benefit—

- (a) that a person falling within section 109B(2A) keeps any electronic records,
- (b) that the records contain or are likely, from time to time, to contain information about any matter that is relevant for any one or more of the purposes mentioned in section 110A(2) above, and
- (c) that facilities exist under which electronic access to those records is being provided, or is capable of being provided, by that person to other persons,

that authority may require that person to enter into arrangements under which authorised officers are allowed such access to those records.

(2) An authorised officer—

- (a) shall be entitled to obtain information in accordance with arrangements entered into under subsection (1) above only if his authorisation states that his authorisation applies for the purposes of that subsection; and
- (b) shall not seek to obtain any information in accordance with any such arrangements other than information which—
  - (i) relates to a particular person; and
  - (ii) could be the subject of any such requirement under section 109B above as may be imposed in exercise of the powers conferred by section 110A(8) above.

(3) The matters that may be included in the arrangements that a person is required to enter into under subsection (1) above may include—

- (a) requirements as to the electronic access to records that is to be made available to authorised officers;
- (b) requirements as to the keeping of records of the use that is made of the arrangements;
- (c) requirements restricting the disclosure of information about the use that is made of the arrangements; and
- (d) such other incidental requirements as the authority in question considers appropriate in connection with allowing access to records to authorised officers.

(4) An authorised officer who is allowed access in accordance with any arrangements entered into under subsection (1) above shall be entitled to make copies of, and to take extracts from, any records containing information which he is entitled to make the subject of a requirement such as is mentioned in subsection (2)(b) above.

(5) An authority administering housing benefit or council tax benefit shall not—

- (a) require any person to enter into arrangements for allowing authorised officers to have electronic access to any records; or
- (b) otherwise than in pursuance of a requirement under this section, enter into any arrangements with a person specified in section 109B(2A) above for allowing anyone acting on behalf of the authority for purposes connected with any benefit to have electronic access to any private information contained in any records,

except with the consent of the Secretary of State and subject to any conditions imposed by the Secretary of State by the provisions of the consent.

(6) A consent for the purposes of subsection (5) may be given in relation to a particular case, or in relation to any case that falls within a particular description of cases.

(7) In this section “private information”, in relation to an authority administering housing benefit or council tax benefit, means any information held by a person who is not entitled to disclose it to that authority except in compliance with a requirement imposed by the authority in exercise of their statutory powers.]

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<sup>1</sup> Para. 110B inserted (30.4.02) by the Social Security Fraud Act 2001 (c. 11), s. 2(2).



Delay, obstruction etc. of inspector.

111.—(1) If a person—

- (a) intentionally delays or obstructs an [<sup>1</sup>authorised officer] in the exercise of any power under this Act [<sup>2</sup>other than an Inland Revenue Power];
- [<sup>3</sup>(ab) refuses or neglects to comply with any requirement under section 109BA [...<sup>4</sup>] or with the requirements of any arrangements entered into in accordance with subsection (1) of that section, or]

*S. 111(1)(ab) & (3) has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

[<sup>3</sup>(ab) refuses or neglects to comply with any requirement under section 109BA or 110AA or with the requirements of any arrangements entered into in accordance with subsection (1) of that section, or]

- (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this Act, [<sup>2</sup>otherwise than in the exercise of an Inland Revenue Power]

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where a person is convicted of an offence under [<sup>3</sup>subsection (1)(ab) or (b)] above and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which it is continued.

[<sup>2</sup>(3) In subsection (1) “Inland Revenue power” means any power conferred on an officer of the Inland Revenue [<sup>5</sup>virtue of] by section 110ZA above or by virtue of [<sup>6</sup>an authorisation granted under section 109A [...<sup>4</sup>]].

[<sup>2</sup>(3) In subsection (1) “Inland Revenue power” means any power conferred on an officer of the Inland Revenue [<sup>4</sup>virtue of] by section 110ZA above or by virtue of [<sup>5</sup>an authorisation granted under section 109A or 110A].

(4) [...<sup>5</sup>]

[<sup>7</sup>111A.—(1) If a person dishonestly—

- (a) makes a false statement or representation; [<sup>6</sup>or]
- (b) produces or furnishes, or causes or allows to be produced or furnished, any document or information which is false in a material particular;

[...<sup>8</sup>]

Dishonest representation for obtaining benefit etc.

with the view to obtaining any benefit or other payment or advantage under the [<sup>6</sup>relevant] social security legislation (whether for himself or for some other person), he shall be guilty of an offence.

[<sup>8</sup>(1A) A person shall be guilty of an offence if—

- (a) there has been a change of circumstances affecting any entitlement of his to any benefit or other payment or advantage under any provision of the relevant social security legislation;

<sup>1</sup> Words in s. 111(1)(a) substituted (30.4.02) by the Social Security Fraud Act 2001 (c. 11), s. 1(6).

<sup>2</sup> Words inserted in S. 111(1) and s. 111(3) and (4) inserted (1.4.99) by Transfer of Functions Act 1999 (c. 11), Sch. 5, para. 4.

<sup>3</sup> Sub-para (1)(ab) inserted in s. 111 & words substituted in s. 111(2) (30.4.02) by the Social Security Fraud Act 2001 (c. 11), s. 2(3).

<sup>4</sup> Words in s. 111(1)(ab) & (3) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>5</sup> Words inserted in s. 111(3) & s. 111(4) repealed (6.4.05) by the National Insurance and Statutory Payments Act 2004 (c. 3), Schs. 1 & 2.

<sup>6</sup> Words substituted in s. 111 and inserted in s. 111A(1) (2.4.01), by s. 67 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

<sup>7</sup> S. 111A inserted (1.7.97) by s. 13 of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>8</sup> Words in s. 111A(1)(a) inserted, paras. (c) & (d) omitted and subsections (1A)-(1G) inserted (26.9.01 for reg. making purposes, 18.10.01 for all other purposes) by SS Fraud Act 2001 (c. 11), s. 16.

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**S. 111A**

- (b) the change is not a change that is excluded by regulations from the changes that are required to be notified;
  - (c) he knows that the change affects an entitlement of his to such a benefit or other payment or advantage; and
  - (d) he dishonestly fails to give a prompt notification of that change in the prescribed manner to the prescribed person.
- (1B) A person shall be guilty of an offence if—
- (a) there has been a change of circumstances affecting any entitlement of another person to any benefit or other payment or advantage under any provision of the relevant social security legislation;
  - (b) the change is not a change that is excluded by regulations from the changes that are required to be notified;
  - (c) he knows that the change affects an entitlement of that other person to such a benefit or other payment or advantage; and
  - (d) he dishonestly causes or allows that other person to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.
- (1C) This subsection applies where—
- (a) there has been a change of circumstances affecting any entitlement of a person ('the claimant') to any benefit or other payment or advantage under any provision of the relevant social security legislation;
  - (b) the benefit, payment or advantage is one in respect of which there is another person ('the recipient') who for the time being has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and
  - (c) the change is not a change that is excluded by regulations from the changes that are required to be notified.
- (1D) In a case where subsection (1C) above applies, the recipient is guilty of an offence if—
- (a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;
  - (b) the entitlement is one in respect of which he has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and
  - (c) he dishonestly fails to give a prompt notification of that change in the prescribed manner to the prescribed person.
- (1E) In a case where that subsection applies, a person other than the recipient is guilty of an offence if—
- (a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;
  - (b) the entitlement is one in respect of which the recipient has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and
  - (c) he dishonestly causes or allows the recipient to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.
- (1F) In any case where subsection (1C) above applies but the right of the recipient is confined to a right, by reason of his being a person to whom the claimant is required to make payments in respect of a dwelling, to receive payments of housing benefit—
- (a) a person shall not be guilty of an offence under subsection (1D) or (1E) above unless the change is one relating to one or both of the following—
    - (i) the claimant's occupation of that dwelling;
    - (ii) the claimant's liability to make payments in respect of that dwelling;
- but

- (b) subsections (1D)(a) and (1E)(a) above shall each have effect as if after “knows” there were inserted “or could reasonably be expected to know”.

(1G) For the purposes of subsections (1A) to (1E) above a notification of a change is prompt if, and only if, it is given as soon as reasonably practicable after the change occurs.]

[...<sup>1</sup>]

- (3) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years, or to a fine, or to both.

(4) In the application of this section to Scotland in [<sup>2</sup>subsections (1) to (1E)] for “dishonestly” substitute “knowingly”.]

**112.**—(1) If a person for the purpose of obtaining any benefit or other payment under the [<sup>3</sup>relevant] [<sup>4</sup>social security legislation] whether for himself or some other person, or for any other purpose connected with that legislation—

False representations for obtaining benefit etc.

- (a) makes a statement or representation which he knows to be false; or
- (b) produces or furnishes or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be guilty of an offence.

[<sup>5</sup>(1A) A person shall be guilty of an offence if—

- (a) there has been a change of circumstances affecting any entitlement of his to any benefit or other payment or advantage under any provision of the relevant social security legislation;
- (b) the change is not a change that is excluded by regulations from the changes that are required to be notified;
- (c) he knows that the change affects an entitlement of his to such a benefit or other payment or advantage; and
- (d) he fails to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1B) A person is guilty of an offence under this section if—

- (a) there has been a change of circumstances affecting any entitlement of another person to any benefit or other payment or advantage under any provision of the relevant social security legislation;
- (b) the change is not a change that is excluded by regulations from the changes that are required to be notified;
- (c) he knows that the change affects an entitlement of that other person to such a benefit or other payment or advantage; and
- (d) he causes or allows that other person to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.

<sup>1</sup> S. 111A(2) repealed (2.4.01) by s. 85 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

<sup>2</sup> Words substituted in s. 111A(4) (26.9.01 for reg. making purposes, 18.10.01 for all other purposes) by SS Fraud Act 2001 (c. 11), s. 16(1)(c).

<sup>3</sup> Words inserted in s. 112(1) (2.4.01) by the Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 6, para. 6.

<sup>4</sup> Words substituted in s 112(1) by Sch. 1, para. 4(2), to the Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>5</sup> Subsection (1A) substituted (26.9.01 for reg. making purposes, 18.10.01 for all other purposes) by SS Fraud Act 2001 (c. 11), s. 16(3).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 112-113**

(1C) In a case where subsection (1C) of section 111A above applies, the recipient is guilty of an offence if—

- (a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;
- (b) the entitlement is one in respect of which he has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and
- (c) he fails to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1D) In a case where that subsection applies, a person other than the recipient is guilty of an offence if—

- (a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;
- (b) the entitlement is one in respect of which the recipient has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and
- (c) he causes or allows the recipient to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1E) Subsection (1F) of section 111A above applies in relation to subsections (1C) and (1D) above as it applies in relation to subsections (1D) and (1E) of that section.

(1F) For the purposes of subsections (1A) to (1D) above a notification of a change is prompt if, and only if, it is given as soon as reasonably practicable after the change occurs.]

(2) A person guilty of an offence under [1this section] shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 3 months, or to both.

[...2]

Breach of regulations.

[3113.—(1) Regulations and schemes under any of the [4legislation to which this section applies] may provide that any person who contravenes, or fails to comply with, any provision contained in regulations made under [4that legislation]—

- (a) in the case of a provision relating to contributions, shall be liable to a penalty;
- (b) in any other case, shall be guilty of an offence under [4any enactment contained in the legislation in question].

[5(1A) The legislation to which this section applies is—

- (a) the relevant social security legislation; and
- (b) the enactments specified in section 121DA(1) so far as relating to contributions, [...6].]

(2) Any regulations or scheme making such provision as is mentioned in subsection (1)(a) above shall—

- (a) prescribe the amount or rate of penalty, or provide for how it is to be ascertained;

<sup>1</sup> Words substituted in s. 112(2) by Sch. 1, para. 4(3), to the Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>2</sup> S. 112(3) repealed (2.4.01) by s. 85 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

<sup>3</sup> S. 113 substituted (4.3.99) by s. 60 of S.S. Act 1998 (c. 10).

<sup>4</sup> Words in s. 113(1) substituted and subsection (1A) inserted (1.11.00) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 67.

<sup>5</sup> Words substituted in s. 113 (6.4.99) by Transfer of Functions Act 1999 (c. 11), Sch. 5, para. 5.

<sup>6</sup> Words omitted in s. 113(1A) (6.4.05) by the National Insurance and Statutory Payments Act 2004 (c. 3), s. 9.

- (b) provide for the penalty to be imposed by the [<sup>1</sup>Inland Revenue]—
  - (i) within six years after the date on which the penalty is incurred; or
  - (ii) where the amount of the penalty is to be ascertained by reference to the amount of any contributions payable, at any later time within three years after the final determination of the amount of those contributions;
- (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
- (d) prescribe the means by which the penalty is to be enforced; and
- (e) provide for enabling the [<sup>1</sup>Inland Revenue], in [<sup>1</sup>their] discretion, to mitigate or to remit any such penalty, or to stay or to compound any proceedings for a penalty.

(3) A person guilty of such an offence as is mentioned in subsection (1)(b) above shall be liable on summary conviction—

- (a) to a fine not exceeding level 3 on the standard scale;
- (b) in the case of an offence of continuing a contravention or failure after conviction, to a fine not exceeding £40 for each day on which it is so continued.

(4) Any provision contained in regulations which authorises statutory sick pay or statutory maternity pay to be set off against secondary Class 1 contributions is not a provision relating to contributions for the purposes of this section.]

Statutory sick pay and statutory maternity pay: breach of regulations

[<sup>2</sup>113A—(1) Where a person fails to produce any document or record, or provide any information, in accordance with—

- (a) regulations under section 5(1)(i) and (5), so far as relating to statutory sick pay or statutory maternity pay,
- (b) regulations under section 130 or 132, or
- (c) regulations under section 153(5)(b) of the Contributions and Benefits Act,

that person is liable to the penalties mentioned in subsection (2).

(2) The penalties are—

- (a) a penalty not exceeding £300, and
- (b) if the failure continues after a penalty is imposed under paragraph (a), a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under that paragraph was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).

(3) Where a person fails to maintain a record in accordance with regulations under section 130 or 132, he is liable to a penalty not exceeding £3,000.

(4) No penalty may be imposed under subsection (1) at any time after the failure concerned has been remedied.

(5) But subsection (4) does not apply to the imposition of a penalty under subsection (2)(a) in respect of a failure to produce any document or record in accordance with regulations under section 130(5) or 132(4).

(6) Where, in the case of any employee, an employer refuses or repeatedly fails to make payments of statutory sick pay or statutory maternity pay in accordance with any regulations under section 5, the employer is liable to a penalty not exceeding £3,000.

(7) Section 118(2) of the Taxes Management Act 1970 (extra time for compliance etc) applies for the purposes of subsections (1), (3) and (6) as it applies for the purposes of that Act.

<sup>1</sup> Words substituted in s. 113 (6.4.99) by S.S. Contributions (Transfer of Functions, etc) Act 1999 (c. 2), Sch. 5, para. 5.

<sup>2</sup> Ss. 113A & 113B inserted (6.4.05) by the National Insurance and Statutory Payments Act 2004 (c. 3), s. 9.

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 113A-114**

(8) Schedule 1 to the Employment Act 2002 (penalties relating to statutory paternity pay and statutory adoption pay: procedures and appeals) applies in relation to penalties imposed under this section (with the modifications set out in subsection (9)).

(9) That Schedule applies as if—

- (a) references to a penalty under section 11 or 12 of that Act were to a penalty under this section,
- (b) in paragraph 1(2), the reference to section 11(2)(a) of that Act were to subsection (2)(a) of this section, and
- (c) the provisions of the Taxes Management Act 1970 having effect in relation to an appeal mentioned in paragraph 3(2) of that Schedule did not include section 50(9) of that Act.

Statutory sick pay and statutory maternity pay: fraud and negligence

**113B**—(1) Where a person fraudulently or negligently—

- (a) makes any incorrect statement or declaration in connection with establishing entitlement to statutory sick pay or statutory maternity pay, or
- (b) produces any incorrect document or record or provides any incorrect information of a kind mentioned in—
  - (i) regulations under section 5(1)(i) and (5), so far as relating to statutory sick pay or statutory maternity pay,
  - (ii) regulations under section 130 or 132, or
  - (iii) regulations under section 153(5)(b) of the Contributions and Benefits Act,

he is liable to a penalty not exceeding £3,000.

(2) Where an employer fraudulently or negligently makes an incorrect payment of statutory sick pay or statutory maternity pay, he is liable to a penalty not exceeding £3,000.

(3) Where an employer fraudulently or negligently receives an overpayment in pursuance of regulations under section 167 of the Contributions and Benefits Act (statutory maternity pay: advance payments to employers), he is liable to a penalty not exceeding £3,000.

(4) Schedule 1 to the Employment Act 2002 (penalties relating to statutory paternity pay and statutory adoption pay: procedures and appeals) applies in relation to penalties imposed under this section (with the modifications set out in subsection (5)).

(5) That Schedule applies as if—

- (a) references to a penalty under section 11 or 12 of that Act were to a penalty under this section, and
- (b) the provisions of the Taxes Management Act 1970 having effect in relation to an appeal mentioned in paragraph 3(2) of that Schedule did not include section 50(9) of that Act.]

Health in Pregnancy Grant: Civil penalty for fraud, etc.

[**113C**. Schedule 3A (health in pregnancy grant civil penalty for fraud, etc.) has effect.]

Offences relating to contributions

[**114**.—(1) Any person who is knowingly concerned in the fraudulent evasion of any contributions which he or any other person is liable to pay shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or to a fine or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.]

<sup>1</sup> S. 113C inserted (1.1.09) by the Health and Social Care Act 2008. (c. 14), s. 133(1).

<sup>2</sup> S. 114 substituted (6.4.99) by s. 61 of S.S. Act 1998 (c. 14).

**Ss. 115-115A**

**115.**—(1) Where an offence under this Act<sup>[1]</sup>, or under the Jobseekers Act 1995,] 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.

Offences by bodies corporate.

(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.

*Words in s. 115A(1), (1A) & (2) have been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

**[<sup>2</sup>115A.**—(1) This section applies where an overpayment is recoverable from a person by, or due from a person to, the Secretary of State [...<sup>3</sup>] under or by virtue of section [<sup>4</sup>71ZB] [...<sup>3</sup>] above and it appears to the Secretary of State [...<sup>3</sup>] that—

Penalty as alternative to prosecution: colluding employers etc.

<sup>[2115A.—(1) This section applies where an overpayment is recoverable from a person by, or due from a person to, the Secretary of State or an authority under or by virtue of section 71, 71A, 75 or 76 above and it appears to the Secretary of State or authority that—</sup>

- (a) the making of the overpayment was attributable to an act or omission on the part of that person; and
- (b) there are grounds for instituting against him proceedings for an offence (under this Act or any other enactment) relating to the overpayment.

<sup>[5(1A) This section also applies where—</sup>

- (a) it appears to the Secretary of State [...<sup>3</sup>] that there are grounds for instituting proceedings against a person for an offence (under this act or any other enactment) relating to an act or omission on the part of that person in relation to any benefit, and
- (b) if an overpayment attributable to the act or omission had been made, the overpayment would have been recoverable from the person by, or due from the person to, the Secretary of State [...<sup>3</sup>] under or by virtue of section 71, 71ZB, [...<sup>3</sup>] above.]

(2) The Secretary of State [...<sup>3</sup>] may give the person a written notice—

- (a) stating that he may be invited to agree to pay a penalty and that, if he does so in the manner specified by the Secretary of State [...<sup>3</sup>], no [<sup>5</sup>proceedings referred to in subsection (1) or (1A) above] will be instituted against him; and
- (b) containing such information relating to the operation of this section as may be prescribed.

<sup>[5(1A) This section also applies where—</sup>

- (a) it appears to the Secretary of State or an authority that there are grounds for instituting proceedings against a person for an offence (under this act or any other enactment) relating to an act or omission on the part of that person in relation to any benefit, and
- (b) if an overpayment attributable to the act or omission had been made, the overpayment would have been recoverable from the person by, or due from the person to, the Secretary of State or an authority under or by virtue of section 71, 71ZB, 71A or 76 above.]

<sup>1</sup> Words inserted (11.6.96) in s. 115(1) by para. 55 of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>2</sup> S. 115A inserted (18.12.97) by s. 15 of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>3</sup> Words in s. 115A(1), (1A) & (2) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>4</sup> Words inserted in s. 115A(1) (29.4.13) by the Welfare Reform Act 2012 (c. 5), s. 105(3).

<sup>5</sup> S. 115A(1A) inserted & words in ss. (2)(a) substituted (8.5.12) by the Welfare Reform Act 2012 (c. 5), s. 113 & s. 114(1) & S. 115(2).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**S. 115A**

(2) The Secretary of State or authority may give the person a written notice—

- (a) stating that he may be invited to agree to pay a penalty and that, if he does so in the manner specified by the Secretary of State or authority, [1no proceedings referred to in subsection (1) or (1A) above] will be instituted against him; and
- (b) containing such information relating to the operation of this section as may be prescribed.

[1(3) The amount of the penalty in a case falling within subsection (1) is 50% of the amount of the overpayment (rounded down to the nearest whole penny), subject to—

- (a) a minimum amount of £350, and
- (b) a maximum amount of [2£5000].

(3A) The amount of the penalty in a case falling within subsection (1A) is £350.

(3B) The Secretary of State may by order amend—

- (a) the percentage for the time being specified in subsection (3);
- (b) any figure for the time being specified in subsection (3)(a) or (b) or (3A).]

(4) If the person agrees in the specified manner to pay the penalty—

- (a) the amount of the penalty shall be recoverable by the same methods as those by which the overpayment is [1or would have been] recoverable; and
- (b) no proceedings will be instituted against him for an offence (under this Act or any other enactment) relating to the overpayment [3or to the act or omission referred to in subsection (1A)(a)].

*Words in s. 115A(5) have been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

(5) The person may withdraw his agreement to pay the penalty by notifying the Secretary of State [...4] in the manner specified by the Secretary of State [...4], at any time during the period of [114] days beginning with the day on which he agrees to pay it; and if he does so—

- (a) so much of the penalty as has already been recovered shall be repaid; and
- (b) subsection (4)(b) above shall not apply.

(5) The person may withdraw his agreement to pay the penalty by notifying the Secretary of State or authority in the manner specified by the Secretary of State or authority, at any time during the period of [114] days beginning with the day on which he agrees to pay it; and if he does so—

- (a) so much of the penalty as has already been recovered shall be repaid; and
- (b) subsection (4)(b) above shall not apply.

(6) [3In a case referred to in subsection (1A)(a)] where, after the person has agreed to pay the penalty, it is decided on a review or appeal or in accordance with regulations that the overpayment is not recoverable or due so much of the penalty as has already been recovered shall be repaid.

(7) [3In a case referred to in subsection (1A)(a)] where, after the person has agreed to pay the penalty, the amount of the overpayment is revised on a review or appeal or in accordance with regulations—

- (a) so much of the penalty as has already been recovered shall be repaid; and
- (b) subsection (4)(b) above shall no longer apply by reason of the agreement; but if a new agreement is made under this section in relation to the revised overpayment,

<sup>1</sup> S. 115A(3) & words in s. (2)(a), (4) & (5) substituted & inserted (8.5.12) by the Welfare Reform Act 2012 (c. 5), s. 113 & s. 114(1) & S. 115(2).

<sup>2</sup> Words in s. 115A(3) substituted (1.4.15) by the Social Security (Penalty as Alternative to Prosecution (Maximum Amount) Order 2015, art. 2.

<sup>3</sup> Words in s. 115A(4)(b), (6) & (7) substituted & inserted (8.5.12) by the Welfare Reform Act 2012 (c. 5), S. 113 & S. 114(1) & S. 115(2).

<sup>4</sup> Words in s. 115A(5) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.



the amount already recovered by way of penalty, to the extent that it does not exceed the amount of the new penalty, may be treated as recovered under the new agreement instead of being repaid.

(7A) [...<sup>1</sup>]

*Words in ss. (7A) & (7B) have been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

[<sup>2</sup>(7A) Subject to subsection (7B) below, the Secretary of State and an authority which administers housing benefit or council tax benefit may agree that, to the extent determined by the agreement, one may carry out on the other's behalf, or may join in the carrying out of, any of the other's functions under this section.

(7B) Subsection (7A) above shall not authorise any delegation of—

- (a) the function of the person by whom any overpayment is [<sup>3</sup>or would have been] recoverable, or to whom it is [<sup>3</sup>or would have been] due, of determining whether or not a notice should be given under subsection (2) above in respect of that overpayment; or
- (b) the Secretary of State's power to make regulations for the purposes of paragraph (b) of that subsection.]

(8) In this section “overpayment” means—

- (a) a payment which should not have been made;
- (b) a sum which the Secretary of State should have received;
- (c) an amount of benefit paid in excess of entitlement; or
- (d) an amount equal to an excess of benefit allowed;

and the reference in subsection (1)(a) [<sup>4</sup>or (1A)(b)] above to the making of the overpayment is to the making of the payment, the failure to receive the sum, the payment of benefit in excess of entitlement or the allowing of an excess of benefit.

[<sup>2</sup>**115B**—(1) This section applies where it appears to the Secretary of State [...<sup>5</sup>]

Penalty as alternative to prosecution: colluding employers etc.

*Words in S. 115B(1) have been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

[<sup>2</sup>115B—(1) This section applies where it appears to the Secretary of State or an authority that administers housing benefit or council tax benefit—

- (a) that there are grounds for instituting proceedings against any person (‘the responsible person’) for an offence (whether or not under this Act) in respect of any conduct; and
- (b) that the conduct in respect of which there are grounds for instituting the proceedings is conduct falling within subsection (2) below.

(2) Conduct in respect of which there appear to be grounds for instituting proceedings falls within this subsection if—

- (a) those proceedings would be for an offence under this Act in connection with an inquiry relating to the employment of relevant employees or of any one or more particular relevant employees; or

<sup>1</sup> Words in s. 115A(7A) & (7B) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>2</sup> Sub-paras. (7A), (7B) inserted in s. 115A & s. 115B inserted (30.4.02) by the Social Security Fraud Act 2001 (c. 11), s. 14 & 15.

<sup>3</sup> Words inserted (8.5.12) in s. 115A(7B) by the Welfare Reform Act 2012 (c. 5), S. 113(7).

<sup>4</sup> Words in s. 115A(8) inserted (8.5.12) by the Welfare Reform Act 2012 (c. 5), s. 115(2).

<sup>5</sup> Words in s. 115B(1) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

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- (b) it is conduct which was such as to facilitate the commission of a benefit offence by a relevant employee (whether or not such an offence was in fact committed).

*Words in s. 115B(3), (4), (4A) & (6) have been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

- (3) The Secretary of State [...] may give to the responsible person a written notice—
  - (a) specifying or describing the conduct in question;
  - (b) stating that he may be invited to agree to pay a penalty in respect of that conduct;
  - (c) stating that, if he does so in the manner specified by the Secretary of State [...]<sup>1</sup>, no criminal proceedings will be instituted against him in respect of that conduct; and
  - (d) containing such information relating to the operation of this section as may be prescribed.

[<sup>2</sup>(4) If the recipient of a notice under subsection (3) above agrees, in the specified manner, to pay the penalty—

- (a) the amount of the penalty shall be recoverable from the recipient by the Secretary of State [...]<sup>1</sup>; and
- (b) no criminal proceedings shall be instituted against the recipient in respect of the conduct to which the notice relates.

(4A) Sections 71ZC, 71ZD and 71ZE above apply in relation to amounts recoverable under subsection (4)(a) above as to amounts recoverable by the Secretary of State under section 71ZB above [...]<sup>1</sup>.]

(3) The Secretary of State or authority may give to the responsible person a written notice—

- (a) specifying or describing the conduct in question;
- (b) stating that he may be invited to agree to pay a penalty in respect of that conduct;
- (c) stating that, if he does so in the manner specified by the Secretary of State or authority, no criminal proceedings will be instituted against him in respect of that conduct; and
- (d) containing such information relating to the operation of this section as may be prescribed.

[<sup>1</sup>(4) If the recipient of a notice under subsection (3) above agrees, in the specified manner, to pay the penalty—

- (a) the amount of the penalty shall be recoverable from the recipient by the Secretary of State or authority; and
- (b) no criminal proceedings shall be instituted against the recipient in respect of the conduct to which the notice relates.

(4A) Sections 71ZC, 71ZD and 71ZE above apply in relation to amounts recoverable under subsection (4)(a) above as to amounts recoverable by the Secretary of State under section 71ZB above (and, where the notice is given by an authority administering housing benefit or council tax benefit, those sections so apply as if references to the Secretary of State were to that authority).]

(5) The amount of the penalty shall be—

- (a) in a case in which the conduct in question falls within paragraph (a) of subsection (2) above but not within paragraph (b) of that subsection, £1,000;
- (b) in a case in which that conduct falls within paragraph (b) of that subsection and the number of relevant employees by reference to whom it falls within that subsection is five or more, £5,000; and
- (c) in any other case, the amount obtained by multiplying £1,000 by the number of relevant employees by reference to whom that conduct falls within that subsection.

<sup>1</sup> Words in s. 115B(3), (4) & (4A) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>2</sup> S. 115B(4) substituted (1.10.12) by the Welfare Reform Act 2012 (c. 5), s. 105(4).

(6) The responsible person may withdraw his agreement to pay a penalty under this section by notifying the Secretary of State [...<sup>1</sup>], in the manner specified by the Secretary of State [...<sup>1</sup>], at any time during the period of [2<sup>14</sup>] days beginning with the day on which he agrees to pay it.

*Words in s. 115B(6) have been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

(6) The responsible person may withdraw his agreement to pay a penalty under this section by notifying the Secretary of State or authority, in the manner specified by the Secretary of State or authority, at any time during the period of [1<sup>14</sup>] days beginning with the day on which he agrees to pay it.

(7) Where the responsible person withdraws his agreement in accordance with subsection (6) above—

- (a) so much of the penalty as has already been recovered shall be repaid; and
- (b) subsection (4)(b) above shall not apply.

(8) For the purposes of this section an individual is a relevant employee in relation to any conduct of the responsible person if—

- (a) that conduct was at or in relation to a time when that individual was an employee of the responsible person;
- (b) that conduct was at or in relation to a time when that individual was an employee of a body corporate of which the responsible person is or has been a director; or
- (c) the responsible person, in engaging in that conduct, was acting or purporting to act on behalf of, in the interests of or otherwise by reason of his connection with, any person by whom that individual is or has been employed.

(9) In this section—

“conduct” includes acts, omissions and statements;

“director”—

- (a) in relation to a company (within the meaning of the Companies Act 1985 (c. 6)), includes a shadow director;
- (b) in relation to any such company that is a subsidiary of another, includes any director or shadow director of the other company; and
- (c) in relation to a body corporate whose affairs are managed by its members, means a member of that body corporate;

“employee” means any person who—

- (a) is employed under a contract of service or apprenticeship, or in an office (including an elective office), or
- (b) carries out any work under any contract under which he has undertaken to provide his work,

and “employment” shall be construed accordingly;

“relevant benefit” means benefit prescribed for the purposes of section 71(8) above;

“shadow director” means a shadow director as defined in section 741(2) of the Companies Act 1985;

“subsidiary” means a subsidiary as defined in section 736 of the Companies Act 1985.”]

*[<sup>3</sup>Civil penalties*

**115C.**—(1) This section applies where—

Incorrect statements etc

- (a) a person negligently makes an incorrect statement or representation, or negligently gives incorrect information or evidence—
  - (i) in or in connection with a claim for a relevant social security benefit, or

<sup>1</sup> Words in s. 115B(6) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>2</sup> Words substituted (8.5.12) in s. 115B(6) by the Welfare Reform Act 2012 (c. 5), s. 115(3).

<sup>3</sup> Ss. 115C & 115D inserted (10.5.12) by the Welfare Reform Act 2012 (c. 5), S. 116(1).

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- (ii) in connection with an award of a relevant social security benefit,
- (b) the person fails to take reasonable steps to correct the error,
- (c) the error results in the making of an overpayment, and
- (d) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.

- (2) A penalty of a prescribed amount may be imposed by the appropriate authority—
  - (a) in any case, on the person,
  - (b) in a case where the person (“A”) is making, or has made, a claim for the benefit for a period jointly with another (“B”), on B instead of A.
  - (c) The error results in the making of an overpayment, and
  - (d) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.

(3) Subsection (2)(b) does not apply if B was not, and could not reasonably be expected to have been, aware that A had negligently made the incorrect statement or representation or given the incorrect information or evidence.

(4) A penalty imposed under subsection (2) is recoverable by the appropriate authority from the person on whom it is imposed.

(5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable by the appropriate authority under subsection (4) as to amounts recoverable by the Secretary of State under section 71ZB (and, where the appropriate authority is not the Secretary of State, those sections so apply as if references to the Secretary of State were to that authority).

- (6) In this section and section 115D—

“appropriate authority” means—

- (a) the Secretary of State, or
- (b) an authority which administers housing benefit or council tax benefit;

“overpayment” has the meaning given in section 115A(8), and the reference to the making of an overpayment is to be construed in accordance with that provision;

“relevant social security benefit” has the meaning given in section 121DA(7).

Failure to disclose information

**115D.**—(1) A penalty of a prescribed amount may be imposed on a person by the appropriate authority where—

- (a) the person, without reasonable excuse, fails to provide information or evidence in accordance with requirements imposed on the person by the appropriate authority in connection with a claim for, or an award of, a relevant social security benefit,
- (b) the failure results in the making of an overpayment, and
- (c) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.

(2) A penalty of a prescribed amount may be imposed on a person by the appropriate authority where—

- (a) the person, without reasonable excuse, fails to notify the appropriate authority of a relevant change of circumstances in accordance with requirements imposed on the person under relevant social security legislation,
- (b) the failure results in the making of an overpayment, and

(3) Where a person is making, or has made, a claim for a benefit for a period jointly with another, and both of them fail as mentioned in subsection (1) or (2), only one penalty may be imposed in respect of the same overpayment.

(4) A penalty imposed under subsection (1) or (2) is recoverable by the appropriate authority from the person on whom it is imposed.

(5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable by the appropriate authority under subsection (4) as to amounts recoverable by the Secretary of State under section 71ZB (and, where the appropriate authority is not the Secretary of State, those sections so apply as if references to the Secretary of State were to that authority).

(6) In this section “relevant change of circumstances, in relation to a person, means a change of circumstances which affects any entitlement of the person to any benefit or other payment or advantage under any provision of the relevant social security legislation.]

#### *Legal proceedings*

**116.**—(1) Any person authorised by the Secretary of State in that behalf may conduct any proceedings [under any provision of this Act other than section 114 or under any provision of] the Jobseekers Act 1995 before a magistrates’ court although not a barrister or solicitor. Legal proceedings.

*Words in s. 116(2)(a), (b), (3)(b), (4) & (5) have been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

(2) Notwithstanding anything in any Act—

(a) proceedings for an offence under this Act [<sup>2</sup>[...<sup>3</sup>]] [<sup>4</sup>, or for an offence under the Jobseekers Act 1995,] may be begun at any time within the period of 3 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 12 months from the commission of the offence, whichever period last expires; [...<sup>3</sup>]

(2) Notwithstanding anything in any Act—

(a) proceedings for an offence under this Act [<sup>2</sup>(other than proceedings to which paragraph (b) applies)] [<sup>4</sup>, or for an offence under the Jobseekers Act 1995,] may be begun at any time within the period of 3 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 12 months from the commission of the offence, whichever period last expires; and

(b) proceedings [<sup>5</sup>brought by the appropriate authority] for an offence under this Act relating to housing benefit or [<sup>2</sup>council tax benefit] may be begun at any time within the period of 3 months from the date on which evidence, sufficient in the opinion of the appropriate authority to justify a prosecution for the offence, comes to the authority’s knowledge or within a period of 12 months from the commission of the offence, whichever period last expires.

[<sup>6</sup>(2A) Subsection (2) above shall not be taken to impose any restriction on the time when proceedings may be begun for an offence under section 111A above.]

<sup>1</sup> Words substituted in s. 116(1) (1.4.99) by S.S. Contributions (Transfer of Functions, etc) Act 1999 (c. 2), Sch. 1, para. 21(2).

<sup>2</sup> Words substituted & inserted (8.5.12) in s. 116(2)(a) & (b) by the Welfare Reform Act 2012 (c. 5), S. 111.

<sup>3</sup> Words in s. 116(2)(a), (b) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>4</sup> Words inserted (11.6.96) in s. 116(2)(a) by para. 56(3) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>5</sup> Words in s. 116(2) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 17(1), for purposes of council tax and council tax benefit from 1.4.93.

<sup>6</sup> Sub-para. (2A) inserted (1.7.97) by Sch. 1, para. 5, to Social Security Administration (Fraud) Act 1997 (c. 47).

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(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; [...]<sup>1</sup>.

*Words in s. 115B(3), (4), (4A) & (6) have been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

(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; and
- (b) a certificate of the appropriate authority as to the date on which such evidence as is mentioned in paragraph (b) of that subsection came to the authority's knowledge shall be conclusive evidence of that date.

(4) In subsections (2) and (3) above “the appropriate authority” means, in relation to an offence which relates to housing benefit and concerns any dwelling

- (a) [...]<sup>6</sup>
- (b) if it relates to a rent rebate, the authority who are the appropriate housing authority by virtue of [section 134 below;] and
- (c) if it relates to rent allowance, the authority who are the appropriate local authority by virtue of [that section].

(5) In subsection (2) and (3) above “the appropriate authority” means, in relation to an offence relating to [council tax benefit], such authority as is prescribed in relation to the offence.

[<sup>4</sup>(5A) [<sup>5</sup>In relation to proceedings for an offence under section 114 above] the references in subsections (2)(a) and (3)(a) to the Secretary of State shall have effect as references to the Inland Revenue.]

(6) [...]<sup>9</sup>

(7) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (1) [<sup>7</sup>to 5A] above—

- (a) proceedings for an offence under this Act [<sup>8</sup>or the Jobseekers Act 1995] may, notwithstanding anything in [<sup>9</sup>section 136 of the Criminal Procedure (Scotland) Act 1995], be commenced at any time within the period of 3 months from the date of which evidence, sufficient in the opinion of the Lord Advocate to justify proceedings, comes to his knowledge, or within the period of 12 months from the commission of the offence, whichever period last expires;

<sup>1</sup> Words in s. 116(2)(a)(b), (3)(b), (4) & (5) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>2</sup> S. 116(4) amended (1.4.97) by Sch. 13, para. 3(3)(a), (b) & (c), to Housing Act 1996 (c. 52).

<sup>3</sup> Words in s. 116(5) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 17(2), for purposes of council tax and council tax benefit from 1.4.93.

<sup>4</sup> S. 116(5A) inserted (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 21(3).

<sup>5</sup> Words substituted (11.11.99) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 11, para. 5.

<sup>6</sup> S. 116(6) repealed (29.11.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 83 and Sch. 8.

<sup>7</sup> Words amended in s. 116(7) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 21(4).

<sup>8</sup> Words inserted (11.6.96) in s. 116(7)(a) by para. 56(4) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>9</sup> Words in s. 116(7) substituted (1.4.96) by Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), Sch. 4, para. 82.

- [<sup>1</sup>(aa) this subsection shall not be taken to impose any restriction on the time when proceedings may be commenced for an offence under section 111A above;]
- (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 of that date; and
  - (ii) subsection (3) of [<sup>2</sup>section 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.

*\*Reference to this Act in s. 116 extended by s. 167(2) of Pension Schemes Act 1993 (c. 48) to the provisions referred to in s. 164(1)(b) ibid.*

**116A.** [...<sup>3</sup>]

*S. 116A has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details fo when to apply.*

[<sup>4</sup>116A.—(1) This section applies if an authority administering housing benefit or council tax benefit has power to bring proceedings for a benefit offence relating to that benefit.

Local authority powers to prosecute [<sup>5</sup>other] benefit fraud.

(2) The authority may bring proceedings for a benefit offence relating to any other relevant social security benefit [<sup>5</sup>only if]—

- (a) the proceedings relate to any benefit or circumstances or any description of benefit or circumstances which the Secretary of State prescribes for the purposes of this paragraph, or
- (b) the Secretary of State has directed that the authority [<sup>6</sup>may] bring the proceedings,

and a direction under paragraph (b) may relate to a particular authority or description of authority or to particular proceedings or any description of proceedings.

(3) If the Secretary of State prescribes conditions for the purposes of this section, an authority must not bring proceedings under this section unless any such condition is satisfied.

(4) The Secretary of State may continue proceedings which have been brought by an authority under this section as if the proceedings had been brought in his name or he may discontinue the proceedings if—

- (a) he makes provision under subsection (2)(a), such that the authority would no longer be entitled to bring the proceedings under this section,
- (b) he [<sup>6</sup>withdraws] a direction under subsection (2)(b) in relation to the proceedings, or
- (c) a condition prescribed under subsection (3) ceases to be satisfied in relation to the proceedings.

(5) In the exercise of its power under subsection (2), a local authority must have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions under section 10 of the Prosecution of Offences Act 1985—

<sup>1</sup> Sub-para. 116(7)(aa) inserted (30.4.02) by the Social Security Fraud Act 2001, s. 17.

<sup>2</sup> Words in s. 116(7) substituted (1.4.96) by Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), Sch. 4, para. 82.

<sup>3</sup> S. 116A repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>4</sup> S. 116A inserted (19.2.08 for reg. making purposes & 7.4.08 for all other purposes) by the Welfare Reform Act 2007 (c. 5), s. 47.

<sup>5</sup> Words inserted in heading & substituted in S. 116A(2) (10.5.12) by the Welfare Reform Act 2012, (c. 5), S. 116(1).

<sup>6</sup> Words substituted in S. 116A(4)(b) (10.5.12) by the Welfare Reform Act 2012, (c. 5), S. 116(6).

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- (a) in determining whether the proceedings should be instituted;
- (b) in determining what charges should be preferred;
- (c) in considering what representations to make to a magistrates' court about mode of trial;
- (d) in determining whether to discontinue proceedings.

(6) An authority must not bring proceedings for a benefit offence which does not relate to housing benefit or council tax benefit otherwise than in accordance with this section.

(7) In subsection (2), "relevant social security benefit" has the same meaning as in section 121DA below.

(8) This section does not apply to Scotland.]

Issues arising in proceedings.

[<sup>1</sup>117.—(1) This section applies to proceedings before a court—

- (a) for an offence under this Act or the Jobseekers Act 1995; or
- (b) involving any question as to the payment of contributions (other than a Class 4 contribution recoverable by the Inland Revenue); or
- (c) for the recovery of any sums due to the Secretary of State or the National Insurance Fund,

(2) A decision of the Secretary of State which—

- (a) falls within Part II of Schedule 3 to the Social Security Act 1998 ("the 1998 Act"; and
- (b) relates to or affects an issue arising in the proceedings,

shall be conclusive for the purposes of the proceedings.

(3) If—

- (a) any such decision is necessary for the determination of the proceedings; and
- (b) the decision of the Secretary of State has not been obtained or an application with respect to the decision has been made under section 9 or 10 of the 1998 Act,

the decision shall be referred to the Secretary of State to be made in accordance (subject to any necessary modifications) with Chapter II of Part I of that Act.

(4) Subsection (2) above does not apply where, in relation to the decision—

- (a) an appeal has been brought but not determined;
- (b) an application for leave to appeal has been made but not determined;
- (c) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired; or
- (d) an application has been made under section 9 or 10 of the 1998 Act.

(5) In a case falling within subsection (4) above the court shall adjourn the proceedings until such time as the final decision is known; and that decision shall be conclusive for the purposes of the proceedings.]

Issues arising in proceedings: contributions, etc.

[<sup>2</sup>117A.—(1) This section applies to proceedings before a court—

- (a) for an offence under this Act or the Jobseekers Act 1995; or
- (b) involving any question as to the payment of contributions (other than a Class 4 contribution recoverable in accordance with section 15 of the Contributions and Benefits Act); or
- (c) for the recovery of any sums due to the Inland Revenue or the National Insurance Fund.

(2) A decision of an officer of the Inland Revenue which—

- (a) falls within section 8(1) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999; and

<sup>1</sup> S. 117 substituted (5.7.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 84.

<sup>2</sup> S. 117A inserted (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 7, para. 13.



(b) relates to or affects an issue arising in the proceedings, shall be conclusive for the purposes of the proceedings.

(3) If—

- (a) any such decision is necessary for the determination of the proceedings, and
- (b) the decision of an officer of the Inland Revenue has not been obtained under section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999,

the decision shall be referred to such an officer to be made in accordance (subject to any necessary modifications) with Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(4) Subsection (2) above does not apply where, in relation to the decision—

- (a) an appeal has been brought but not determined;
- (b) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired; or
- (c) an application for variation of the decision has been made under regulations made under section 10 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(5) In a case falling within subsection (4) above the court shall adjourn the proceedings until such time as the final decision is known; and that decision shall be conclusive for the purposes of the proceedings.]

*Unpaid contributions etc.*

**118.**—<sup>[1]</sup>(1) A certificate of an authorised officer that any amount by way of contributions, or by way of interest or penalty in respect of contributions, which a person is liable to pay to the <sup>[2]</sup>Inland Revenue] for any period has not been paid—

Recovery of unpaid contributions on prosecution.

- (a) to the officer; or
- (b) to the best of his knowledge and belief, to any other person to whom it might lawfully be paid,

shall until the contrary is proved be sufficient evidence in any proceedings before any court that the sum mentioned in the certificate is unpaid and due.

(1A) [...<sup>3</sup>]

(2) [...<sup>3</sup>]

(3) A document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

(4) A statutory declaration by an officer of the <sup>[4]</sup>Inland Revenue] that the searches specified in the declaration [...<sup>5</sup>] for a record of the payment of a particular contribution have been made, and that [...<sup>5</sup>] a record of the payment of the contribution in question has not been found, is admissible in any proceedings for an offence as evidence of the facts stated in the declaration.

(5) Nothing in subsection (4) above makes a statutory declaration admissible as evidence in proceedings for an offence except in a case where, and to the extent to which, oral evidence to the like effect would have been admissible in those proceedings.

<sup>1</sup> S. 118(1) & (1A) substituted for (1) (6.4.99) by the S.S. Act 1998 (c. 14), s. 62(1).

<sup>2</sup> Words substituted in s. 118(1) (6.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 5, para. 7(2).

<sup>3</sup> S. 118(1A) & (2) cease to have effect (6.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 5, para. 7(3).

<sup>4</sup> Words substituted in s. 118(4) (6.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 5, para. 7(5).

<sup>5</sup> Words in s. 118(4) shall cease to have effect (6.4.99) by s. 62(3) of S.S. Act 1998 (c. 14).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**S. 118-120**

(6) Nothing in subsections (4) and (5) above makes a statutory declaration admissible as evidence in proceedings for an offence—

- (a) unless a copy of it has, not less than 7 days before the hearing or trial, been served on the person charged with the offence in any manner in which a summons or, in Scotland, a citation in a summary prosecution may be served; or
- (b) if that person, not later than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, gives notice to the prosecutor requiring the attendance at the trial of the person by whom the declaration was made.

(7) In this section “authorised officer” means any officer of the Inland Revenue authorised by them for the purposes of this section.

Evidence of non-payment.

**119.—(1) Where**

- (a) a person has been convicted of any offence under section 114(1) above of failing to pay a contribution at or within the time prescribed for the purpose; and
  - (b) the contribution remains unpaid at the date of the conviction,
- he shall be liable to pay to the<sup>[1]</sup>Inland Revenue] a sum equal to the amount which he failed to pay.

(2) [...<sup>2</sup>]

Proof of previous offences.

**120.—(1)** Subject to and in accordance with subsections (2) to (5) below, where a person is convicted of an offence mentioned in section 119(1) [...<sup>3</sup>], evidence may be given of any previous failure by him to pay contributions within the time prescribed for the purpose; and in those subsections “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.

(2) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.

(3) If the offence is one of failure to pay a Class 1 contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person) such contributions or any Class 1A [<sup>4</sup>or Class 1B] contributions or [<sup>5</sup>contributions equivalent premiums] on the date of the offence, or during the [<sup>6</sup>years] preceding that date.

(4) If the offence is one of failure to pay Class 1A contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person or the same [<sup>6</sup>amount]) such contributions, or any Class 1 [<sup>4</sup>or Class 1B] contributions or [<sup>2</sup>contributions equivalent premiums], on the date of the offence, or during the [<sup>6</sup>years] preceding that date.

[<sup>4</sup>(4A) If the offence is one of failure to pay a Class 1B contribution, evidence may be given of failure on his part to pay such contributions, or any Class 1 or Class 1A contributions or contributions equivalent premiums, on the date of the offence, or during the 6 years preceding that date.]

(5) If the offence—

- (a) is one of failure to pay Class 2 contributions; [...<sup>4</sup>]
- evidence may be given of his failure to pay such contributions during those [<sup>4</sup>6 years.]

(6) On proof of any matter of which evidence may be given under subsection (3), (4), [<sup>4</sup>(4A)] or (5) above, the person convicted shall be liable to pay to the [<sup>1</sup>Inland

<sup>1</sup> Words substituted in s. 119(1) & 120(6) (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, paras. 22 & 23.

<sup>2</sup> Ss. 119(2) shall cease to have effect (6.4.99) by Sch. 7, para. 85 of S.S. Act 1998 (c. 14).

<sup>3</sup> Words in s. 120 shall cease to have effect (6.4.99) by Sch. 7, para. 86(1) of S.S. Act 1998 (c. 14).

<sup>4</sup> In s. 120 words inserted & substituted in (3), (4), (5) & (6); (4A) inserted; words cease to have effect in (5) (6.4.99) by the S.S. Act 1998 (c. 14), Sch. 7, para. 86.

<sup>5</sup> Words in s. 120(3) & (4) substituted (6.4.97) by Sch. 5, para. 15(3) to Pensions Act 1995 (c. 26).

<sup>6</sup> Words substituted in s. 120(4) (28.7.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 74(6).

Revenue] a sum equal to the total of all amounts which he is so proved to have failed to pay and which remain unpaid at the date of the conviction.

**121.**—(1) Where in England and Wales a person charged with an offence mentioned in section 119(1) [...] above is convicted of that offence in his absence under section 12(2) of the Magistrates' Courts Act 1980, then if—

Unpaid contributions -  
supplementary.  
1980 c. 43.

- (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules under section 144 of that Act, that notice under section 120(2) above has been duly served specifying the other contributions in respect of which the prosecutor intends to give evidence; and
- (b) the clerk of the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other contributions so specified or any of them,

section 120 above shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.

(2) In England and Wales, where a person is convicted of an offence mentioned in section 119(1) [...] above and an order is made under Part I of the Powers of Criminal Courts Act 1973 placing the offender on probation or discharging him absolutely or conditionally, sections 119 and 120 above, and subsection (1) above, shall apply as if it were a conviction for all purposes.

1973 c. 62.

(3) In Scotland, where a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence, and an order is made under Part I of the Criminal Procedure (Scotland) Act 1975 discharging him absolutely or placing him on probation, sections 119 and 120 above shall apply as if—

1975 c. 21.

- (a) the conviction on indictment were a conviction for all purposes; or
- (b) (as the case may be) the making of the order by the court of summary jurisdiction were a conviction.

(4) In England and Wales, any sum which a person is liable to pay under section 119 or 120 above or under subsection (1) above shall be recoverable from him as a penalty.

(5) Sums recovered by the [²Inland Revenue] under the provisions mentioned in subsection (4) above, so far as representing contributions of any class, are to be treated for all purposes of the Contributions and Benefits Act and this Act (including in particular the application of section 162 below) as contributions of that class received by the [²Inland Revenue].

(6) Without prejudice to subsection (5) above, in so far as such sums represent primary Class 1 or Class 2 contributions, they are to be treated as contributions paid in respect of the person in respect of whom they were originally payable; and enactments relating to earnings factors shall apply accordingly.

**121A.** [...]³

**121B.** [...]⁴

<sup>1</sup> Words in s. 121(1) & (2) shall cease to have effect (6.4.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 87.

<sup>2</sup> Words substituted in s. 121(5) (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 24.

<sup>3</sup> S. 121A omitted (6.4.14) by the Finance Act 2008 (c. 9), s. 129, Sch. 43, para. 2.

<sup>4</sup> S. 121B omitted (23.11.09) by the Finance Act 2008 (c. 9), s. 129, Sch. 43, para. 14 (with art. 4(1)(b) of S.I. 2009/3024).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

[<sup>1</sup>121C.—(1) This section applies to contributions which a body corporate is liable to pay, where—

Liability of directors etc. for company's contributions.

- (a) the body corporate has failed to pay the contributions at or within the time prescribed for the purpose; and
- (b) the failure appears to the [<sup>2</sup>Inland Revenue] to be attributable to fraud or neglect on the part of one or more individuals who, at the time of the fraud or neglect, were officers of the body corporate (“culpable officers”).

(2) The [<sup>2</sup>Inland Revenue] may issue and serve on any culpable officer a notice (a “personal liability notice”)—

- (a) specifying the amount of the contributions to which this section applies (“the specified amount”);
- (b) requiring the officer to pay to the [<sup>2</sup>Inland Revenue]—
  - (i) a specified sum in respect of that amount; and
  - (ii) specified interest on that sum; and
- (c) where that sum is given by paragraph (b) of subsection (3) below, specifying the proportion applied by the [<sup>2</sup>Inland Revenue] for the purposes of that paragraph.

(3) The sum specified in the personal liability notice under subsection (2)(b)(i) above shall be—

- (a) in a case where there is, in the opinion of the [<sup>2</sup>Inland Revenue], no other culpable officer, the whole of the specified amount; and
- (b) in any other case, such proportion of the specified amount as, in the opinion of the [<sup>2</sup>Inland Revenue], the officer’s culpability for the failure to pay that amount bears to that of all the culpable officers taken together.

(4) In assessing an officer’s culpability for the purposes of subsection (3)(b) above, the [<sup>2</sup>Inland Revenue] may have regard both to the gravity of the officer’s fraud or neglect and to the consequences of it.

(5) The interest specified in the personal liability notice under subsection (2)(b)(ii) above shall be at the prescribed rate and shall run from the date on which the notice is issued.

(6) An officer who is served with a personal liability notice shall be liable to pay to the [<sup>2</sup>Inland Revenue] the sum and the interest specified in the notice under subsection (2)(b) above.

(7) Where, after the issue of one or more personal liability notices, the amount of contributions to which this section applies is reduced by a payment made by the body corporate—

- (a) the amount that each officer who has been served with such a notice is liable to pay under this section shall be reduced accordingly;
- (b) the [<sup>2</sup>Inland Revenue] shall serve on each such officer a notice to that effect; and
- (c) where the reduced liability of any such officer is less than the amount that he has already paid under this section, the difference shall be repaid to him together with interest on it at the prescribed rate.

(8) Any amount paid under a personal liability notice shall be deducted from the liability of the body corporate in respect of the specified amount.

<sup>1</sup> S. 121C & 121D inserted (6.4.99) by s. 64 of S.S. Act 1998 (c. 14).

<sup>2</sup> Words substituted in 121C (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 5, para. 10.

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 121C-121D**

[<sup>1</sup>(8A)The amount which an officer is liable to pay under this section is to be recovered in the same manner as a Class 1 contribution to which regulations under paragraph 6 of Schedule 1 to the Contributions and Benefits Act apply and for this purpose references in those regulations to Class 1 contributions are to be construed accordingly.]

(9) In this section—

“contributions” includes any interest or penalty in respect of contributions;

“officer”, in relation to a body corporate, means—

(a) any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act as such; and

(b) in a case where the affairs of the body corporate are managed by its members, any member of the body corporate exercising functions of management with respect to it or purporting to do so;

“the prescribed rate” means the rate from time to time prescribed by regulations under section 178 of the Finance Act 1989 for the purposes of the corresponding provision of Schedule 1 to the Contributions and Benefits Act, that is to say—

(a) in relation to subsection (5) above, paragraph 6(2)(a);

(b) in relation to subsection (7) above, paragraph 6(2)(b).

Appeals in relation to personal liability notices.

**121D.**—(1) No appeal shall lie in relation to a personal liability notice except as provided by this section.

(2) An individual who is served with a personal liability notice may appeal [...]<sup>2</sup> against the [<sup>3</sup>Inland Revenue]’s decision as to the issue and content of the notice on the ground that—

(a) the whole or part of the amount specified under subsection (2)(a) of section 121C above (or the amount so specified as reduced under subsection (7) of that section) does not represent contributions to which that section applies;

(b) the failure to pay that amount was not attributable to any fraud or neglect on the part of the individual in question;

(c) the individual was not an officer of the body corporate at the time of the alleged fraud or neglect; or

(d) the opinion formed by the [<sup>3</sup>Inland Revenue] under subsection (3)(a) or (b) of that section was unreasonable.

(3) The [<sup>3</sup>Inland Revenue] shall give a copy of any notice of an appeal under this section, within 28 days of the giving of the notice, to each other individual who has been served with a personal liability notice.

(4) On an appeal under this section, the burden of proof as to any matter raised by a ground of appeal shall be on the [<sup>3</sup>Inland Revenue].

(5) Where an appeal under this section—

(a) is brought on the basis of evidence not considered by the [<sup>3</sup>Inland Revenue], or on the ground mentioned in subsection (2)(d) above; and

(b) is not allowed on some other basis or ground,

[<sup>2</sup>and is notified to the tribunal, the tribunal shall] [<sup>3</sup>either dismiss the appeal or remit the case to the Inland Revenue, with any recommendations the [<sup>2</sup>tribunal sees] fit to make, for the Inland Revenue to consider whether to vary their] decision as to the issue and content of the personal liability notice.

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<sup>1</sup> Sub-section (8A) inserted in s. 121C (1.9.04) by National Insurance Contribution & Statutory Payments Act 2004 (c. 3), s. 5(3).

<sup>2</sup> Words omitted and substituted in s. 121D(2) & (5) (1.4.09) by S.I. 2009/56, Sch. 1, para. 171(2) & (3).

<sup>3</sup> Words substituted, inserted & omitted in s. 121D (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 5, para. 11(2)-(4).

(6) In this section—

[...<sup>1</sup>]

“officer”, in relation to a body corporate, has the same meaning as in section 121C above;

“personal liability notice” has the meaning given by subsection (2) of that section;

[...<sup>1</sup>]

[<sup>2</sup>“tribunal” means the First-tier Tribunal or, where determined under Tribunal Procedure Rules, the Upper Tribunal;]

“vary” means vary under regulations made under section 10 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.]

[<sup>3</sup>121DA.—(1) In this Part “the relevant social security legislation” means the provisions of any of the following, except so far as relating to contributions, [...<sup>4</sup>] statutory sick pay or statutory maternity pay, that is to say—

Interpretation of Part VI.

- (a) the Contributions and Benefits Act;
- (b) this Act;
- (c) the Pensions Act, except Part III;
- (d) section 4 of the Social Security (Incapacity for Work) Act 1994;
- (e) the Jobseekers Act 1995;
- (f) the Social Security (Recovery of Benefits) Act 1997;
- (g) Parts I and IV of the Social Security Act 1998;
- (h) Part V of the Welfare Reform and Pensions Act 1999;
- [<sup>5</sup>(hh) the State Pension Credit Act 2002;]
- [<sup>6</sup>(hi) Part 1 of the Welfare Reform Act 2007;]
- [<sup>7</sup>(hj) Part 1 of the Welfare Reform Act 2012;]
- [<sup>8</sup>(hk) Part 4 of that Act;]
- [<sup>9</sup>(hl) Part 1 of the Pensions Act 2014;]
- (i) the Social Security Pensions Act 1975;
- (j) the Social Security Act 1973;
- (k) any subordinate legislation made, or having effect as if made, under any enactment specified in paragraphs (a) to (j) above.

(2) In this Part “authorised officer” means a person acting in accordance with any authorisation for the purposes of this Part which is for the time being in force in relation to him.

(3) For the purposes of this Part—

- (a) references to a document include references to anything in which information is recorded in electronic or any other form;
- (b) the requirement that a notice given by an authorised officer be in writing shall be taken to be satisfied in any case where the contents of the notice—
  - (i) are transmitted to the recipient of the notice by electronic means; and
  - (ii) are received by him in a form that is legible and capable of being recorded for future reference.

(4) In this Part “premises” includes—

<sup>1</sup> Words omitted in s. 121D(6) (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 5, para. 11(5).

<sup>2</sup> Words substituted in s. 121D(6) (1.4.09) by S.I. 2009/56, Sch. 1, para. 171(3) & (4).

<sup>3</sup> S. 121DA inserted (2.4.01) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 67.

<sup>4</sup> Words repealed in s. 121DA(1) (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

<sup>5</sup> Para. (hh) inserted in s. 121DA(1) (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 12.

<sup>6</sup> S. 121DA(1)(hi) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(12) of Sch. 3.

<sup>7</sup> Sub-para. (hj) inserted in s. 121DA (29.4.13) by the Welfare Reform Act 2012 (c. 5).

<sup>8</sup> S. 121DA(hk) inserted (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 12.

<sup>9</sup> S. 121DA(hl) inserted (6.4.16) by Sch. 12 of the Pensions Act 2014 (c. 19).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 121DA-121E**

- (a) moveable structures and vehicles, vessels, aircraft and hovercraft;
- (b) installations that are offshore installations for the purposes of the Mineral Workings (Offshore Installations) Act 1971; and
- (c) places of all other descriptions whether or not occupied as land or otherwise;

and references in this Part to the occupier of any premises shall be construed, in relation to premises that are not occupied as land, as references to any person for the time being present at the place in question.

(5) In this Part—

“benefit” includes any allowance, payment, credit or loan;

[<sup>1</sup>“benefit offence” means—

- (a) any criminal offence in connection with a claim for a relevant social security benefit;
- (b) any criminal offence in connection with the receipt or payment of any amount by way of such a benefit;
- (c) any criminal offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
- (d) any attempt or conspiracy to commit a benefit offence;]

“compensation payment” has the same meaning as in the Social Security (Recovery of Benefits) Act 1997.

*S. 121DA(6) has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

(6) [...<sup>2</sup>]

(6) In this Part—

- (a) any reference to a person authorised to carry out any function relating to housing benefit or council tax benefit shall include a reference to a person providing services relating to the benefit directly or indirectly to an authority administering it; and
- (b) any reference to the carrying out of a function relating to such a benefit shall include a reference to the provision of any services relating to it.

(7) In this section [<sup>3</sup>“relevant social security benefit” means a benefit under any provision of the relevant social security legislation; and] “subordinate legislation” has the same meaning as in the Interpretation Act 1978.]

## PART VII INFORMATION

*[<sup>4</sup>Information relating to, or required for purposes of, contributions, statutory sick pay or statutory maternity pay]*

Supply of contributions etc. information held by Inland Revenue.

**121E.**—(1) This section applies to information which is held for the purposes of functions relating to contributions, [<sup>5</sup>health in pregnancy grant,] statutory sick pay or statutory maternity pay [<sup>6</sup>or functions under Part III of the Pensions Act]—

- (a) by the Inland Revenue, or
- (b) by a person providing services to them, in connection with the provision of those services.

<sup>1</sup> Words in s. 121DA(5) substituted (30.4.02) by the Social Security Fraud Act 2001, s. 1(7).

<sup>2</sup> S. 121DA(6) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>3</sup> Words in s. 121DA(7) inserted (30.4.02) by the Social Security Fraud Act 2001 (c. 11), s. 1(8).

<sup>4</sup> S. 121E & 121F inserted (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 6, para. (1).

<sup>5</sup> Words in s. 121E(1) inserted (1.1.09) by the Health and Social Care Act 2008 (c. 14), s. 132(6).

<sup>6</sup> Words inserted (11.11.99) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 11, para. 7.



(2) Information to which this section applies may, and [...] must if an authorised officer so requires, be supplied—

- (a) to the Secretary of State or the Northern Ireland Department, or
- (b) to a person providing services to the Secretary of State or the Northern Ireland Department,

for use for the purposes of functions relating to [...<sup>2</sup>], child support or war pensions [...<sup>2</sup>].

(2A) [...<sup>2</sup>]

(3) In [this section]“authorised officer” means an officer of the Secretary of State or the Northern Ireland Department authorised for the purposes of this section by the Secretary of State or the Northern Ireland Department.

**121F.**—(1) This section applies to information which is held for the purposes of functions relating to [...<sup>2</sup>], child support or war pensions [...<sup>2</sup>]

- (a) by the Secretary of State or the Northern Ireland Department, or
- (b) by a person providing services to the Secretary of State or the Northern Ireland Department, in connection with the provision of those services.

Supply to Inland Revenue for purposes of contributions etc. of information held by Secretary of State.

(2) Information to which this section applies may, and [...<sup>2</sup>] must if an officer of the Inland Revenue authorised by the Inland Revenue for the purposes of this section so requires, be supplied—

- (a) to the Inland Revenue, or
- (b) to a person providing services to the Inland Revenue,

for use for the purposes of functions relating to contributions, [health in pregnancy grant,] [...<sup>2</sup>] statutory sick pay or statutory maternity pay [or functions under Part III of the Pensions Act.]

(2A) [...<sup>2</sup>]

*Information held by tax authorities*

**122.**—[...<sup>4</sup>]

**122ZA.**—[...<sup>4</sup>]

**122A.**—[...<sup>5</sup>]

Supply of information held by tax authorities for fraud prevention and verification.

Supply of information by Inland Revenue for purposes of contributions Disclosure of contributions etc. information by [Her Majesty’s Revenue and Customs]

[<sup>6</sup>122AA.—(1) No obligation as to secrecy imposed by statute or otherwise on [<sup>7</sup>Revenue and Customs officials (within the meaning of section 18 of the Commissioners for Revenue and Customs Act 2005 (confidentiality))] shall prevent information held for the purposes of the functions of [<sup>7</sup>Her Majesty’s Revenue and Customs] in relation to contributions, statutory sick pay<sup>8</sup>, statutory maternity pay, [<sup>9</sup>statutory paternity pay,] statutory adoption pay] [<sup>10</sup>or statutory shared parental pay] from being disclosed—

<sup>1</sup> Words in S. 121E(2) repealed (8.5.12) by the Welfare Reform Act 2012 (c. 5), Sch. 14, part 13.  
<sup>2</sup> Words in Ss. 121E & 121F repealed (8.5.12) by the Welfare Reform Act 2012 (c. 5), Sch. 14, part. 13.  
<sup>3</sup> Words in s. 121F(2) inserted (1.1.09) by the Health and Social Care Act 2008 (c. 14), s. 132(7).  
<sup>4</sup> Words in Ss. 122 and 122ZA repealed (8.5.12) by the Welfare Reform Act 2012 (c. 5), Sch. 14.  
<sup>5</sup> S. 122A shall cease to have effect (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 6, paras. 3 & 4.  
<sup>6</sup> S. 122AA inserted by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 6, para. 3.  
<sup>7</sup> Words substituted in s. 122AA (18.4.05) by the Commissioners for Revenue and Customs Act 2005 (c. 11), Sch. 4, para. 45.  
<sup>8</sup> Words in s. 122AA(1) substituted (8.12.02) by the Employment Act 2002 (c. 22), Sch. 7, para. 13.  
<sup>9</sup> Words in s. 122AA(1) substituted (5.4.15) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 25(a) (with art. 16 of S.I. 2014/1640).  
<sup>10</sup> Words in s. 122AA(1) inserted (1.12.14) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 25(b).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**S. 122AA-122B**

- (a) to any of the authorities to which this paragraph applies, or any person authorised to exercise any function of that authority, for the purposes of the functions of that authority, or
  - (b) in a case where the disclosure is necessary for the purpose of giving effect to any agreement to which an order under section 179(1) below relates.
- (2) The authorities to which subsection (1)(a) above applies are—
- (a) the Health and Safety Executive,
  - (b) the Government Actuary's Department,
  - (c) the Office for National Statistics, and
  - (d) the [<sup>1</sup>Pensions Regulator.]

*[<sup>2</sup>Other government information*

Supply of other government information for fraud prevention and verification.

**122B.**—(1) This section applies to information which is held by, or by a person providing services to, a Minister of the Crown or a government department (including a Northern Ireland Department) and which relates to—

- (a) passports, immigration and emigration, nationality or prisoners; or
- (b) any other matter which is prescribed.

(2) Information to which this section applies may be supplied to, or to a person providing services to, the Secretary of State or the Northern Ireland Department—

- (a) for use in the prevention, detection, investigation or prosecution of offences relating to social security [<sup>3</sup>or tax credits]; or
- (b) for use in checking the accuracy of information relating to benefits, [...<sup>4</sup>] or national insurance numbers or to any other matter relating to social security and (where appropriate) amending or supplementing such information.

(3) Information supplied under subsection (2) above shall not be supplied by the recipient to any other person or body unless—

- (a) it could be supplied to that person or body under that subsection
- (b) it is supplied for the purposes of any civil or criminal proceedings relating to the Contributions and Benefits Act 1995, the Jobseekers Act 1995 [<sup>5</sup>, the Tax Credits Act 2002] [<sup>5</sup>, Part 1 of the Welfare Reform Act 2007] [<sup>6</sup>, Part 1 of the Welfare Reform Act 2012] [<sup>7</sup>, Part 4 of that Act] [<sup>8</sup>, Part 1 of the Pensions Act 2014] or this Act or to any provision of Northern Ireland legislation corresponding to any of them; [...<sup>3</sup>]
- (c) it is supplied under section 122C below [<sup>3</sup>or
- (d) it is supplied under section 127 of the Welfare Reform Act 2012].

1995 c. 18.

(4) But where information supplied under subsection (2) above has been used (in accordance with paragraph (b) of that subsection) in amending or supplementing other information, it is lawful for it to be—

- (a) supplied to any person or body to whom that other information could be supplied; or
- (b) used for any purpose for which that other information could be used.

(5) This section does not limit the circumstances in which information may be supplied apart from this section.]

<sup>1</sup> In s. 122AA(2)(d) words substituted (6.4.05) by the Pensions Act 2004 (c. 35), Sch. 12, para. 7.

<sup>2</sup> S. 122B inserted (1.7.97) by s. 2 of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>3</sup> Words in S. 122B(2)(a), (3)(b)(c) & (d) inserted & repealed (6.6.12) by the Welfare Reform Act 2012, (c. 5), S. 123.

<sup>4</sup> Words omitted in s. 122B(2)(b) (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 6, para. 5.

<sup>5</sup> Words inserted in s. 122B(3)(b) (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 14 of Sch. 3.

<sup>6</sup> Words inserted in s. 122B(3)(b) (29.4.13) by para. 15 of Sch. 2 to the Welfare Reform Act 2012, (c. 5).

<sup>7</sup> Words inserted in s. 122B(3)(b) (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 13.

<sup>8</sup> Words in S. 122B(3)(b) inserted (6.4.16) by Sch. 12 of the Pensions Act 2014 (c. 19).

122C. [...<sup>1</sup>]

*S. 122C-122E has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

*[<sup>2</sup>Authorities administering housing benefit or council tax benefit*

122C.\*—(1) This section applies to information relating to social security [<sup>3</sup>, child support or war pensions, or employment or training,] which is held—

Supply of information to authorities administering benefit.

- (a) by the Secretary of State or the Northern Ireland Department; or a
- (b) by a person providing services to the Secretary of State or the Northern Ireland Department in connection with the provision of those services.

(2) Information to which this section applies may be supplied to—

- (a) an authority administering housing benefit or council tax benefit; or
- (b) a person authorised to exercise any function of such an authority relating to such a benefit,

for use in the administration of such a benefit [<sup>4</sup>or for the purposes of anything the authority is permitted to do in relation to any other benefit by virtue of section 110A or 116A above].

(3) But where information to which this section applies has been supplied to the Secretary of State, the Northern Ireland Department or the person providing services under section 122 or 122B above, it may only be supplied under subsection (2) above—

- (a) for use in prevention, detection, investigation or prosecution of [<sup>4</sup>benefit offences (within the meaning of Part 6 above)]; or
- (b) for the use of checking the accuracy of information relating to housing benefit or to council tax benefit and (where appropriate) amending or supplementing such information.

(4) The Secretary of State or the Northern Ireland Department—

- (a) may impose conditions on the use of information supplied under subsection (2) above; and
- (b) may charge a reasonable fee in respect of the cost of supplying information under that subsection.

(5) Where information is supplied to an authority or other person under subsection (2) above, the authority or other person shall have regard to it in the exercise of any function relating to housing benefit or council tax benefit.

(6) Information supplied under subsection (2) above shall not be supplied by the recipient to any other person or body unless—

- (a) it is supplied—
  - (i) by an authority to a person authorised to exercise any function of the authority relating to housing benefit or council tax benefit; or
  - (ii) by a person authorised to exercise any function of an authority relating to such a benefit to the authority;
- (b) it is supplied for the purposes of any civil or criminal proceedings relating to the Contributions and Benefits Act, the Jobseekers Act 1995 [<sup>5</sup>, Part 1 of the Welfare

<sup>1</sup> S. 122C-122E repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 4.

<sup>2</sup> Ss. 122C-122E inserted (1.7.97) by s. 3 of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>3</sup> Words in s. 122C(1) added (9.9.02) by the Employment Act 2002 (c. 22), Sch. 6, para. 2.

<sup>4</sup> Words inserted in s. 122C(2)(a) & (3)(a) (2.7.09) by s. 48(1)(b) of the Welfare Reform Act 2007 (c. 5).

<sup>5</sup> Words in s. 122C(6)(b) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(15) of Sch. 3.

## SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)

### Ss. 122C-122D

Supply of information to authorities administering benefit.

Reform Act 2007] [<sup>1</sup>, Part 4 of the Welfare Reform Act 2012] or this Act or to any provision of Northern Ireland legislation corresponding to any of them; or

(c) it is supplied under section 122D or 122E below.

(7) This section does not limit the circumstances in which information may be supplied apart from this section (in particular by reason of section 122(4) or 122B(4) above).

[<sup>2</sup>(8) In this section and section 122D below "war pension" has the same meaning as in section 25 of the Social Security Act 1989.]

*\*See paragraph 34 of Schedule 8 to the Welfare Reform and Pensions Act 1999 in Volume 2 of this publication for details of modifications of this section.*

122D.\*—(1) The Secretary of State or the Northern Ireland Department may require—

- (a) an authority administering housing benefit or council tax benefit; or
- (b) a person authorised to exercise any function of such an authority relating to such a benefit,

to supply [<sup>3</sup>relevant benefit information] held by the authority or other person to, or to a person providing services to, the Secretary of State or the Northern Ireland Department for use for any purpose relating to social security [<sup>4</sup>, child support or war pensions,] [<sup>5</sup>employment or training, private pensions policy or retirement planning].

(2) The Secretary of State or the Northern Ireland Department may require—

- (a) an authority administering housing benefit or council tax benefit; or
- (b) a person authorised to exercise any function of such an authority relating to such a benefit,

to supply benefit policy information held by the authority or other person to, or to a person providing services to, the Secretary of State or the Northern Ireland Department.

[<sup>5</sup>(2A) Information supplied under subsection (2) [<sup>3</sup>, in addition to any other purpose for which the information may be used,] may be used for any purpose relating to private pensions policy or retirement planning].

(3) Information shall be supplied under subsection (1) or (2) above in such a manner and form, and in accordance with such requirements, as may be [<sup>6</sup>specified in directions given by the Secretary of State or, as the case may be, the Northern Ireland Department].

[<sup>3</sup>(4) In subsection (1) "relevant benefit information"; in relation to an authority or other person, means any information which is relevant to the exercise of any function relating to a relevant social security benefit by the authority or other person.]

(5) In subsection (2) above "benefit policy information" means any information which may be relevant to the Secretary of State or the Northern Ireland Department—

- (a) in preparing estimates of likely future expenditure on [<sup>3</sup>any relevant social security benefit]; or
- (b) in developing policy relating to [<sup>6</sup>any relevant social security benefit].

<sup>1</sup> Words inserted in s. 122(6)(b) (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 14.

<sup>2</sup> S.s. 122C(8) inserted (9.9.02) by the Employment Act 2002 (c. 22), Sch. 6, para. 2.

<sup>3</sup> Words in s. 122D(1), (5)(a)-(b) & s. 122D(4) substituted and words inserted in s. 122D(2A) (2.7.09) by s. 48(2)(a)-(d) of the Welfare Reform Act 2007 (c. 5).

<sup>4</sup> Words inserted in s. 122D(1) (9.9.02) by the Employment Act 2002 (c. 22), Sch. 6, para. 3.

<sup>5</sup> In s. 122D, words substituted in subsection (1) and subsections (2A) inserted (18.11.04) by the Pensions Act 2004 (c. 35), Sch. 10, para. 3.

<sup>6</sup> Words in s. 122D(3) substituted (30.4.02) by the Social Security Fraud Act 2001 (c. 11), s. 6.

[<sup>1</sup>(6) In this section—  
 “private pensions policy” means policy relating to occupational pension schemes or personal pension scheme (within the meaning given by section 1 of the Pension Schemes Act 1993);  
<sup>2</sup>“relevant social security benefit” has the same meaning as in section 121DA above;]  
 “retirement planning” means promoting financial planning for retirement].

*\*See paragraph 34 of Schedule 8 of the Welfare Reform and Pensions Act 1999 in Volume 2 of this publication for details of modifications of this section.*

122E\*.—(1) This section applies to [<sup>2</sup>relevant benefit information] which is held by—

Supply of information between authorities administering benefit.

- (a) an authority administering housing benefit or council tax benefit; or
- (b) a person authorised to exercise any function of such an authority relating to such a benefit.

(2) Information to which this section applies may be supplied to another such authority or person—

- (a) for use in the prevention, detection, investigation or prosecution of [<sup>2</sup>benefit offences (within the meaning of Part 6 above)]; or
- (b) for use in checking the accuracy of information relating to housing benefit or to council tax benefit and (where appropriate) amending or supplementing such information.

(3) The Secretary of State or the Northern Ireland Department may require information to which this section applies and which is of a prescribed description to be supplied in prescribed circumstances to another such authority or person for use in the administration of housing benefit or council tax benefit.

(4) Information shall be supplied under subsection (3) above in such manner and form, and in accordance with such requirements, as may be [<sup>3</sup>specified in directions given by the Secretary of State or, as the case may be, the Northern Ireland Department].

(5) Where information supplied under subsection (2) or (3) above has been used in amending or supplementing other information, it is lawful for it to be—

- (a) supplied to any person or body to whom that other information could be supplied; or
- (b) used for any purpose for which that other information could be used.

[<sup>2</sup>(6) In this section “relevant benefit information”, in relation to an authority or other person, means any information which is relevant to the exercise of any function relating to a relevant social security benefit (within the meaning of section 121DA above) by the authority or other person.]

(7) This section does not limit the circumstances in which information may be supplied apart from this section.]

*\*See paragraph 34 of Schedule 8 to the Welfare Reform and Pensions Act 1999 in Volume 2 of this publication for details of modifications of this section.*

[<sup>4</sup>122F—(1) The Secretary of State may require a rent officer to supply [<sup>5</sup>benefit information] held by the rent officer to, or to a person providing services to, the Secretary of State for use for purposes relating to any of the following—

Supply by rent officers of [<sup>3</sup>benefit information].

<sup>1</sup> In s. 122D, subsection (6) inserted (18.11.04) by the Pensions Act 2004 (c. 35), Sch. 10. para. 3.

<sup>2</sup> Defn. of “relevant social security benefit” inserted in s. 122D(6) (2.7.09) by s. 48(2)(e) of the Welfare Reform Act 2007 (c. 5). In s. 122E, words in subsections (1) & (2)(a) and subsection (6) substituted (2.7.09) by s. 48(3)(a)-(c) of the Welfare Reform Act 2007 (c. 5).

<sup>3</sup> Words in s. 122E(4) substituted (30.4.02) by the Social Security Fraud Act 2001 (c. 11), s. 6.

<sup>4</sup> S. 122F inserted (27.3.09) by the Welfare Reform Act 2007 (c. 5), s. 36.

<sup>5</sup> Words in heading to s. 122F & s. 122F(1) substituted (29.4.13) by para. 16(2) of the Welfare Reform Act 2012 (c. 5).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 122F-123**

- (a) social security;
- (b) child support;
- (c) war pensions;
- (d) employment or training;
- (e) private pensions policy or retirement planning.

(2) Information must be supplied under subsection (1) in such manner and form, and in accordance with such requirements, as may be specified in directions given by the Secretary of State.

(3) A person who receives information by virtue of subsection (1) must not disclose the information to any person unless the disclosure is made—

- (a) for a purpose mentioned in that subsection (including disclosure to another rent officer in connection with any function he has under section 122 of the Housing Act 1996 relating to [<sup>1</sup>universal credit] housing benefit),
- (b) in accordance with any other enactment, or
- (c) in accordance with the order of a court.

(4) [<sup>1</sup>Benefit information] is any information which relates to the exercise by the rent officer of any function he has under section 122 of the Housing Act 1996 relating to [<sup>1</sup>universal credit] housing benefit.]

*Persons employed or formerly employed in social security administration or adjudication*

Unauthorised disclosure of information relating to particular persons.

**123.**—(1) A person who is or has been employed in social security administration or adjudication is guilty of an offence if he discloses without lawful authority any information which he acquired in the course of his employment and which relates to a particular person.

(2) A person who is or has been employed in the audit of expenditure or the investigation of complaints is guilty of an offence if he discloses without lawful authority any information—

- (a) which he acquired in the course of his employment;
- (b) which is, or is derived from, information acquired or held by or for the purposes of any of the government departments or other bodies or persons referred to in Part I of Schedule 4 to this Act or Part I of [<sup>2</sup> Schedule 4] to the Northern Ireland Administration Act; and
- (c) which relates to a particular person.

(3) It is not an offence under this section—

- (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it; or
- (b) to disclose information which has previously been disclosed to the public with lawful authority.

(4) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—

- (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or
- (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.

(5) A person guilty of an offence under this section shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both; or

<sup>1</sup> Words in s. 122F(3)(a) & (4) inserted & substituted (29.4.13) by para. 16(4) & (5) of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>2</sup> Words substituted (1.7.97) by Sch. 1, para. 6, to Social Security Administration (Fraud) Act 1997 (c. 47).

- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

(6) For the purposes of this section the persons who are “employed in social security administration or adjudication” are—

- (a) any person specified in Part I of Schedule 4 to this Act or in any corresponding enactment having effect in Northern Ireland;
- (b) any other person who carries out the administrative work of any of the government departments or other bodies or persons referred to in that Part of that Schedule or that corresponding enactment; and
- (c) any person who provides, or is employed in the provision of, services to any of those departments, persons or bodies;

and “employment”, in relation to any such person, shall be construed accordingly.

[<sup>1</sup>(6A) Subsection (6) above shall have effect as if any [<sup>2</sup>health care professional] who, for the purposes of [<sup>3</sup>section 19 of the Social Security Act 1998], is provided by any person in pursuance of a contract entered into with the Secretary of State were specified in Part I of Schedule 4 to this Act.]

(7) For the purposes of subsections (2) and (6) above, any reference in Part I of Schedule 4 to this Act or any corresponding enactment having effect in Northern Ireland to a government department shall be construed in accordance with Part II of that Schedule or any corresponding enactment having effect in Northern Ireland, and for this purpose “government department” shall be taken to include—

- (a) [...<sup>4</sup>]
- (b) the Scottish Courts Administration.

(8) For the purposes of this section, the persons who are “employed in the audit of expenditure or the investigation of complaints” are—

- (a) the Comptroller and Auditor General;
- (b) the Comptroller and Auditor General for Northern Ireland;
- (c) the Parliamentary Commissioner for Administration;
- (d) the Northern Ireland Parliamentary Commissioner for Administration;
- (e) the Health Service Commissioner for England;
- (f) the Health Service Commissioner for Wales;
- (g) the Health Service Commissioner for Scotland;
- (h) the Northern Ireland Commissioner for Complaints;

[<sup>5</sup>(ha) a member of the Local Commission for England;

(hb) a member of the Local Commission for Wales;

(hc) the Commissioner for Local Administration in Scotland;]

- (i) any member of the staff of the National Audit Office or the Northern Ireland Audit Office;
- (j) any other person who carries out the administrative work of either of those Offices, or who provides, or is employed in the provision of, services to either of them; [...<sup>6</sup>]

[<sup>7</sup>(ja) a member of the Audit Commission for Local Authorities and the National Health Service in England and Wales and any auditor appointed by that Commission;

(jb) a member of the Accounts Commission for Scotland and any auditor within the meaning of Part VII of the Local Government (Scotland) Act 1973;

(jc) a Northern Ireland local government auditor; and]

<sup>1</sup> Subsection (6A) inserted (3.1.95) into s. 123 by Deregulation and Contracting Out Act 1994 (c. 40), Sch. 16, para. 21.

<sup>2</sup> Words substituted in s. 123(6A) (3.7.07) by the Welfare Reform Act 2007, Sch. 7, para. 3(3).

<sup>3</sup> Words in s. 123(6A) substituted (5.7.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 88.

<sup>4</sup> Ss. 123(7)(a) repealed (1.4.99) by Transfer of Functions Act 1999 (c. 11), Sch. 10.

<sup>5</sup> Sub-paras. (ha)-(hc) inserted (1.7.97) by s. 4(2) of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>6</sup> Word “and” repealed (1.7.97) by Sch. 2 to Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>7</sup> Sub-paras. (ja)-(jc) inserted (1.7.97) by s. 4(2) of Social Security Administration (Fraud) Act 1997 (c. 47).

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- (k) any officer of any of the Commissioners [<sup>1</sup>or Commissions referred to in paragraphs (c) to (hc), (ja) and (jb) above and any person assisting an auditor referred to in paragraph (ja), (jb) or (jc) above];

and “employment”, in relation to any such person, shall be construed accordingly.

(9) For the purposes of this section a disclosure is to be regarded as made with lawful authority, if, and only if, it is made—

- (a) in accordance with his official duty—
- (i) by a civil servant; or
  - (ii) by a person employed in the audit of expenditure or the investigating-action of complaints, who does not fall within subsection (8)(j) above;
- (b) by any other person either—
- (i) for the purposes of the function in the exercise of which he holds the information and without contravening any restriction duly imposed by the person responsible; or
  - (ii) to, or in accordance with an authorisation duly given by, the person responsible;
- (c) in accordance with any enactment or order or a court;
- (d) for the purpose of instituting, or otherwise for the purposes of, any proceedings before a court or before any tribunal or other body or person referred to in Part I of Schedule 4 to this Act or Part I of [<sup>2</sup>Schedule 4] to the Northern Ireland Administration Act; or
- (e) with the consent of the appropriate person;

and in this subsection “the person responsible” means the Secretary of State, the Lord Chancellor or any person authorised by the Secretary of State or the Lord Chancellor for the purposes of this subsection and includes a reference to “the person responsible” within the meaning of any corresponding enactment having effect in Northern Ireland.

(10) For the purposes of subsection (9)(e) above, “the appropriate person” means the person to whom the information in question relates, except that if the affairs of that person are being dealt with—

- (a) under a power of attorney;
- (b) by [...<sup>3</sup>] a controller appointed under Article 101 of the Mental Health (Northern Ireland) Order 1986;
- (c) by a Scottish mental health custodian, that is to say [<sup>4</sup>a guardian or other person entitled to act on behalf of the person under the Adults with Incapacity (Scotland) Act 2000 (asp. 4)]
- (d) by a mental health appointee, that is to say—
- (i) a person directed or authorised as mentioned in [...<sup>3</sup>] sub-paragraph (a) of rule 38(1) of Order 109 of the Rules of the Supreme Court (Northern Ireland) 1980; or
  - (ii) [...<sup>3</sup>] a controller ad interim appointed under sub-paragraph (b) of the said rule 38(1),

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the appropriate person is the attorney, [...<sup>3</sup>] controller, custodian or appointee, as the case may be, or, in a case falling within paragraph (a) above, the person to whom the information relates.

[<sup>5</sup>(11) where the person to whom the information relates lacks capacity (within the meaning of the Mental Capacity Act 2005) to consent to its disclosure, the appropriate person is—

<sup>1</sup> Words substituted (1.7.97) by s. 4(2) of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>2</sup> Words substituted (1.7.97) by Sch. 1, para. 4(6), Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>3</sup> Words omitted in s. 123(10)(b) & (d) (1.10.07) by the Mental Capacity Act 2005 (c. 9), Sch. 6, para. 37.

<sup>4</sup> Words substituted in s. 123(10)(c) (2.4.01 (Scotland)), (30.6.05 (England & Wales)) by the Adults with Incapacity (Scotland) Act 2000 (asp. 4) & S.I. 2005/1790 respectively.

<sup>5</sup> Para. (11) inserted (1.10.07) by the Mental Capacity Act 2005 (c. 9), Sch. 6, para. 37.



- (a) a donee of the enduring power of attorney or lasting power of attorney (within the meaning of that Act), or
- (b) a deputy appointed for him, or any other person authorised, by the Court of Protection,

with power in that respect.]

*The Registration Service*

**124.**—(1) Regulations made by the Registrar General under section 20 of the Registration Service Act 1953 or section 54 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 may provide for the furnishing by superintendent registrars and registrars, subject to the payment of such fee as may be prescribed by the regulations, of such information\* for the purposes—

Provisions relating to age, death and marriage.

- (a) of the provisions of the Contributions and Benefits Act to which this section applies;
  - [<sup>1</sup>(aa) of the provisions of Parts I and II of the Jobseekers Act 1995;]
  - [<sup>2</sup>(ab) of the provisions of the State Pension Credit Act 2002;]
  - [<sup>3</sup>(ac) of the provisions of Part 1 of the Welfare Reform Act 2007;] [...<sup>4</sup>]
  - [<sup>4</sup>(ad) of the provisions of Part 1 of the Welfare Reform Act 2012;]
  - [<sup>5</sup>(ae) of the provisions of Part 4 of that Act;]
  - [<sup>6</sup>(af) of the provisions of Part 1 of the Pensions Act 2014; and]
- (b) of the provisions of this Act so far as they have effect in relation to matters arising under those provisions,

including copies of extracts from the registers in their custody, as may be so prescribed.

\*Extended by s. 167(5) of Pension Schemes Act 1993 (c. 48) to information for the purposes of the provisions referred to in s. 164(1)(b) *ibid*.

(2) This section applies to the following provisions of the Contributions and Benefits Act—

- (a) Parts I to VI except section 108;
- (b) Part VII, so far as it relates to income support [...<sup>7</sup>]
- (c) Part VIII, so far as it relates to any social fund payment such as is mentioned in section 138(1)(a) or (2);
- (d) Part IX;
- (e) Part XI; and
- (f) Part XII.

(3) Where the age, marriage or death of a person is required to be ascertained or proved for the purposes mentioned in subsection (1) above, any person—

- (a) on presenting to the custodian of the register under the enactments relating to the registration of births, marriages and deaths in which particulars of the birth, marriage or death (as the case may be) of the first-mentioned person are entered, a duly completed requisition in writing in that behalf; and
- (b) on payment of a fee of [<sup>8</sup>£2.50] in England and Wales and [<sup>9</sup>£7.00] in Scotland,

shall be entitled to obtain a copy, certified under the hand of the custodian, of the entry of those particulars.

<sup>1</sup> S. 124(1)(aa) inserted (11.6.96) by para. 59 of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>2</sup> Para. (ab) inserted in s. 124(1) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 13.

<sup>3</sup> Para. (ac) inserted in s. 124(1) (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(16) of Sch. 3.

<sup>4</sup> Word repealed in s. 124(1)(ac) & sub-para. (ad) inserted (29.4.13) by para. 17(a) & (b) of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>5</sup> S. 124(1)(ae) inserted (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 15.

<sup>6</sup> S. 124(1)(af) inserted (6.4.16) by Sch. 12 of the Pensions Act 2014 (c. 19).

<sup>7</sup> Words repealed in s. 124(2)(b) (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

<sup>8</sup> Amount £2.50 substituted (1.4.97) for £2.00 by Sch. to S.I. 1996/3152.

<sup>9</sup> Amount £7.00 substituted (1.4.94) for £5.50 by Sch. to S.I. 1993/3151 (s. 300).

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**Ss. 124-125**

(4) Requisitions for the purposes of subsection (3) above shall be in such form and contain such particulars as may from time to time be specified by the Registrar General, and suitable forms of requisition shall, on request, be supplied without charge by superintendent registrars and registrars.

(5) In the section—

(a) as it applies to England and Wales—

“Registrar General” means the Registrar General for England and Wales; and  
“superintendent registrar” and “registrar” mean a superintendent registrar or, as the case may be, registrar for the purposes of the enactments relating to the registration of births, deaths and marriages; and

(b) as it applies to Scotland—

“Registrar General” means the Registrar General of Births, Deaths and Marriages for Scotland;

“registrar” means a district registrar, senior registrar or assistant registrar for the purposes of the enactments relating to the registration of births, deaths and marriages.

Provisions relating to civil partnership: England and Wales.

[**124A**—(1) Regulations made by the Registrar General under section 36 of the Civil Partnership Act 2004 may provide for the furnishing by registration authorities, subject to the payment of the prescribed fee, of such information for the purposes mentioned in section 124(1) above as may be so prescribed.

(2) Where the civil partnership of a person is required to be ascertained or proved for those purposes, any person—

(a) on presenting to the registration authority for the area in which the civil partnership was formed a request in the prescribed manner in that behalf, and

(b) on payment of the prescribed fee,

shall be entitled to obtain a certified copy of such entries in the register as are prescribed by regulations made under section 36 of the 2004 Act.

(3) “The prescribed fee” means any fee prescribed under section 34(1) of the 2004 Act.

(4) “The prescribed manner” means—

(a) in accordance with any regulations made under section 36 of the 2004 Act, and

(b) in such form as is approved by the Registrar General for England and Wales, and forms for making a request under subsection (2) shall, on request, be supplied without charge by registration authorities.

**124B**—(1) Where the civil partnership of a person is required to be ascertained or proved for the purposes mentioned in section 124(1) above, any person, on presenting to a district registrar a request in the approved manner in that behalf, shall be entitled to obtain a copy, certified by the registrar, of the entry in the civil partnership register of the particulars of the civil partnership.

(2) “The approved manner” means in such form and containing such particulars as may be approved by the Registrar General for Scotland.

(3) Forms for making a request under subsection (1) shall, on request, be supplied without charge by district registrars.

(4) “Civil partnership register” has the same meaning as in Part 3 of the Civil Partnership Act 2004.]

Regulations as to notification of deaths.

**\*125.**—(1) Regulations [made with the concurrence of the Inland Revenue] may provide that it shall be the duty of any of the following persons—

(a) the Registrar General for England and Wales;

(b) the Registrar General of Births, Deaths and Marriages for Scotland;

(c) each registrar of births and deaths,

<sup>1</sup> S. 124A & 124B inserted (5.12.05) by S.I. 2005/3129, Sch. 1 para. 4.

<sup>2</sup> Words inserted in s. 125(1) (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 25(a) & (b).

to furnish the Secretary of State, [<sup>1</sup>or the Inland Revenue, for the purposes of their respective functions] under the Contributions and Benefits Act<sup>[2]</sup>, the Jobseekers Act 1995, [<sup>3</sup> the Social Security (Recovery of Benefits) Act 1997] [<sup>4</sup> the Social Security Act 1998]<sup>[5]</sup>, the State Pension Credit Act 2002<sup>[6]</sup>, Part 1 of the Welfare Reform Act 2007<sup>[7]</sup>, Part 1 of the Welfare Reform Act 2012;<sup>[8]</sup> Part 4 of that Act<sup>[9]</sup>, Part 1 of the Pensions Act 2014] and this Act and the functions of the Northern Ireland Department under any Northern Ireland legislation corresponding to [<sup>10</sup>any of those Acts], with the prescribed particulars of such deaths as may be prescribed.

(2) The regulations may make provision as to the manner in which the times at which the particulars are to be furnished.

*\*The reference to this Act in s. 125 (1) extended by s. 167(2) of Pension Schemes Act 1993 (c. 48) to the provisions referred to in s. 164(1)(b) ibid.*

*Personal representatives - income support and supplementary benefit*

**126.**—(1) The personal representatives of a person who was in receipt of [<sup>7</sup>universal credit] income support<sup>[11]</sup>, an income-based jobseeker's allowance<sup>[5]</sup>, state pension credit<sup>[6]</sup>, an income-related employment and support allowance] or supplementary benefit at any time before his death shall provide the Secretary of State with such information as he may require relating to the assets and liabilities of that person's estate.

Personal representatives to give information about the estate of a deceased person who was in receipt of income support or supplementary benefit.

(2) If the personal representatives fail to supply any information within 28 days of being required to do so under subsection (1) above, then—

- (a) the appropriate court may, on the application of the Secretary of State, make an order directing them to supply that information within such time as may be specified in the order, and
- (b) any such order may provide that all costs (or, in Scotland, expenses) of and incidental to the application shall be borne personally by any of the personal representatives.

(3) In this section “the appropriate court” means—

- (a) in England and Wales, a county court;
- (b) in Scotland, the sheriff;

and any application to the sheriff under this section shall be made by summary application.

*[<sup>12</sup>Landlords and agents*

**126A.\***—(1) Regulations shall provide that where a claim for housing benefit in respect of a dwelling is made to an authority and the circumstances are such as are prescribed—

Power to require information from landlords and agents.

- (a) the authority; or

<sup>1</sup> Words inserted in s. 125(1) (1.4.99) by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2), Sch. 1, para. 25(b).

<sup>2</sup> Words inserted (11.6.96) in s. 125(1) by para. 60(a) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>3</sup> Words inserted (6.10.97) in s. 125(1) by Sch. 3, para. 5 to Social Security Administration (Fraud) 1997 (c. 27)

<sup>4</sup> Words inserted (5.7.99) in s. 125(1) by Sch. 7, para. 89 of S.S. Act 1998 (c. 14).

<sup>5</sup> Words inserted in s. 125(1) & s. 126(1) (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, paras. 14 & 15.

<sup>6</sup> Words inserted in s. 125(1) & 126(1) (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(17) & (18) of Sch. 3.

<sup>7</sup> Words inserted in s. 125(1) & 126(1) (29.4.13) by paras. 18 & 19 of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>8</sup> Words in s. 125(1) inserted (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 16.

<sup>9</sup> Words inserted in S. 125(1) (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 16.

<sup>10</sup> Words substituted (11.6.96) for either of them in s. 125(1) by para. 60(b) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>11</sup> Words inserted (11.6.96) in s. 126(1) by para. 60(a) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>12</sup> S. 126A inserted (8.10.97) by s. 11 of Social Security Administration (Fraud) Act 1997 (c. 47).

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- (b) a person authorised to exercise any function of authority relating to housing benefit,

may require any appropriate person to supply information of a prescribed description to the authority or other person.

(2) Subject to subsection (4) below, for the purposes of subsection (1) above a person is an appropriate person in relation to a dwelling if he is—

- (a) a person to whom anyone is, or claims to be, liable to make relevant payments;  
(b) a person to whom, or at whose direction, a person within paragraph (a) above has agreed to make payments in consequence of being entitled to receive relevant payments; or  
(c) a person acting on behalf of a person within paragraph (a) or (b) above in connection with any aspect of the management of the dwelling.

(3) In subsection (2) above “relevant payments” in relation to a dwelling, means payments in respect of the dwelling which are of a described description in relation to which housing benefit may be paid.

(4) Regulations may provide that any prescribed person, or any person of a prescribed description, is not an appropriate person for the purposes of subsection (1) above.

(5) The descriptions of information which may be prescribed for the purposes of subsection (1) above include, in particular, any description of information relating to, or to any interest in or other connection with, dwellings and other property situated anywhere in the United Kingdom.

(6) Information shall be supplied under subsection (1) above in such a manner and form, and at such time and in accordance with such other requirements as may be prescribed.

(7) Information supplied to an authority or other person under subsection (1) above may be used by the authority or other person only in the exercise of any function relating to housing benefit or council tax benefit.

(8) The provisions of sections 122D and 122E above apply in relation to any information supplied under subsection (1) above which is not [<sup>1</sup>relevant benefit information] (within the meaning of those provisions) as if it were.]

*\*See paragraph 34 of Schedule 8 to the Welfare Reform and Pensions Act 1999 in Volume 2 of this publication for details of modifications of this section.*

**127.-128. [...<sup>2</sup>]**

*Statutory sick pay and other benefits*

Disclosure by Secretary of State for purpose of determination of period of entitlement to statutory sick pay.

**129.** Where the Secretary of State considers that it is reasonable for information held by him to be disclosed to an employer, for the purpose of enabling that employer to determine the duration of a period of entitlement under Part XI of the Contributions and Benefits Act in respect of an employee, or whether such a period exists, he may disclose the information to that employer.

Duties of employers - statutory sick pay and claims for other benefits.

**130.—(1)** Regulations may make provision requiring an employer, in a case falling within subsection (3) below to furnish information in connection with the making, by a person who is, or has been, an employee of that employer, of a claim for—

- [<sup>3</sup>(za) universal credit,]  
(a) [<sup>4</sup>short term incapacity benefit];

<sup>1</sup> Words substituted in s. 126A(8) (2.7.09) by s. 48(4) of the Welfare Reform Act 2007 (c. 5).

<sup>2</sup> Ss. 127-128A repealed (1.7.97) by Sch. 2 to Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>3</sup> Sub-para. 130(1)(za) inserted (29.4.13) by para. 20 of Sch. 2 of the Welfare Reform Act 2012 (c. 5).

<sup>4</sup> Para. (a) of s. 130(1) substituted (13.4.95) by para. 49 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

- (b) a maternity allowance;
- (c) [<sup>1</sup>long-term incapacity benefit];
- (d) industrial injuries benefit;
- (e) [...<sup>2</sup>]
- [<sup>3</sup>(f) an employment and support allowance]

(2) Regulations under this section shall prescribe—

- (a) the kind of information to be furnished in accordance with the regulations;
- (b) the person to whom information of the prescribed kind is to be furnished; and
- (c) the manner in which, and period within which, it is to be furnished.

(3) The cases are—

- (a) where, by virtue of paragraph 2 of Schedule 11 to the Contributions and Benefits Act or of regulations made under paragraph 1 of that Schedule, a period of entitlement does not arise in relation to a period of incapacity for work;
- (b) where a period of entitlement has come to an end but the period of incapacity for work which was running immediately before the period of entitlement came to an end continues; and
- (c) where a period of entitlement has not come to an end but, on the assumption that—
  - (i) the period of incapacity for work in question continues to run for a prescribed period; and
  - (ii) there is no material change in circumstances, the period of entitlement will have ended on or before the end of the prescribed period.

(4) Regulations—[<sup>4</sup>made with the concurrence of the Inland Revenue]

- (a) may require employers to maintain such records in connection with statutory sick pay as may be prescribed;
- (b) may provide for—
  - (i) any person claiming to be entitled to statutory sick pay; or
  - (ii) any other person who is a party to proceedings arising under Part XI of the Contributions and Benefits Act,
 to furnish to the Secretary of State, [<sup>5</sup>or the Inland Revenue (as the regulations may require)] within a prescribed period, any information required for the determination of any question arising in connection therewith; and
- (c) may require employers who have made payments of statutory sick pay to furnish to the Secretary of State [<sup>5</sup>or the Inland Revenue (as the regulations may require)] such documents and information, at such times, as may be prescribed.

[<sup>6</sup>(5) Regulations made with concurrence of the Inland Revenue may require employers to produce wages sheets and other documents and records to officers of the Inland Revenue, within a prescribed period, for the purpose of enabling them to satisfy themselves that statutory sick pay has been paid, and is being paid, in accordance with regulations under section 5 above, to employees or former employees who are entitled to it.]

<sup>1</sup> Paras. (a) and (c) of s. 130(1) substituted (13.4.95) by para. 49 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

<sup>2</sup> Words in s. 130(1)(e) repealed (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 88 of the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>3</sup> S. 130(1)(f) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(19) of Sch. 3.

<sup>4</sup> Words in s. 130(4) substituted (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 26(a) & (b).

<sup>5</sup> Words in s. 130(4)(b) & (c) substituted (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1 para. 26(a) & (b).

<sup>6</sup> Subsection 5 added in s. 130 (1.1.05) by Sch. 9(2) of the National Insurance Contributions and Statutory Payments Act 2004 (c. 3).

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**Ss. 131-132**

*Statutory maternity pay and other benefits*

Disclosure by Secretary of State for purpose of determination of period of entitlement to statutory maternity pay.

**131.** Where the Secretary of State considers that it is reasonable for information held by him to be disclosed to a person liable to make payments of statutory maternity pay for the purpose of enabling that person to determine—

- (a) whether a maternity pay period exists in relation to a woman who is or has been an employee of his; and
- (b) if it does, the date of its commencement and the weeks in it in respect of which he may be liable to pay statutory maternity pay,

he may disclose the information to that person.

Duties of employers - statutory maternity pay and claims for other benefits.

**132.—(1)** Regulations may make provision requiring an employer in prescribed circumstances to furnish information in connection with the making of a claim by a woman who is or has been his employee for—

[<sup>1</sup>(za) universal credit]

- (a) a maternity allowance;

[<sup>2</sup>(aa) an employment and support allowance;]

- (b) [<sup>3</sup>short-term incapacity benefit];

- (c) an [<sup>3</sup>long-term incapacity benefit under section 30A], 40 or 41 of the Contributions and benefits Act;

- (d) [...<sup>4</sup>]

(2) Regulations under this section shall prescribe—

- (a) the kind of information to be furnished in accordance with the regulations;
- (b) the person to whom information of the prescribed kind is to be furnished; and
- (c) the manner in which, and period within which, it is to be furnished.

(3) Regulations—[<sup>5</sup>made with the concurrence of the Inland Revenue]

- (a) may require employers to maintain such records in connection with statutory maternity pay as may be prescribed;
- (b) may provide for—
  - (i) any woman claiming to be entitled to statutory maternity pay; or
  - (ii) any other person who is a party to proceedings arising under Part XII of the Contributions and Benefits Act,

to furnish to the Secretary of State [<sup>5</sup>or the Inland Revenue (as the regulations may require)], within a prescribed period, any information required for the determination of any question arising in connection therewith; and

- (c) may require persons who have made payments of statutory maternity pay to furnish to the Secretary of State [<sup>5</sup>or the Inland Revenue (as the regulations may require)] such documents and information, at such time, as may be prescribed.

[<sup>6</sup>(4) Regulations made with the concurrence of the Inland Revenue may require employers to produce wages sheets and other documents and records to officers of the Inland Revenue, within a prescribed period, for the purpose of enabling them to satisfy themselves that statutory maternity pay has been paid, and is being paid, in accordance

<sup>1</sup> Sub-para. 132(1)(za) inserted (29.4.13) by para. 21 of Sch. 2 to the Welfare Reform Act 2012, (c. 5).

<sup>2</sup> S. 132(1)(aa) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(20) of Sch. 3.

<sup>3</sup> Words in paras. (b) and (c) of s. 132(1) substituted (13.4.95) by para. 50 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

<sup>4</sup> Words in s. 132(1)(d) repealed (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 88 of the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>5</sup> Words inserted into s. 132(3)(b) & (c) (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 27.

<sup>6</sup> Subsection (4) added to s. 132 (1.1.05) by Sch. 9(3) of the National Insurance Contributions and Statutory Payments Act 2004 (c. 3).

with regulations under section 5 above to employees or former employees who are entitled to it.]

*[<sup>1</sup>Contributions avoidance arrangements*

**132A.**—(1) The Treasury may by regulations make provision requiring, or relating to, the disclosure of information in relation to any notifiable contribution arrangements or notifiable contribution proposal.

Disclosure of contributions avoidance arrangements.

(2) The only provision which may be made under subsection (1) is provision applying (with or without modification), or corresponding to, any of the following provisions—

- (a) any provision of, or made under, Part 7 of the Finance Act 2004 (disclosure of tax avoidance schemes) so far as that provision relates to income tax;
- (b) section 98C of the Taxes Management Act 1970 (penalties for failure to comply with Part 7 of the Finance Act 2004) and any other provision of the Taxes Management Act 1970 so far as it relates to a penalty under that section;
- (c) any provision made under section 132 of the Finance Act 1999 or section 135 of the Finance Act 2002 (electronic communications);
- (d) any provision of any other enactment or instrument (including any enactment or instrument passed or made on or after the day on which the National Insurance Contributions Act 2006 was passed) which requires, or relates to, the disclosure of information in relation to tax avoidance arrangements which relate in whole or in part to income tax.

(3) For the purposes of subsection (1)—

“notifiable contribution arrangements” means any arrangements which—

- (a) enable, or might be expected to enable, any person to obtain an advantage in relation to a contribution, and
- (b) are such that the main benefit, or one of the main benefits, that might be expected to arise from the arrangements is the obtaining of that advantage;

“notifiable contribution proposal” means a proposal for arrangements which, if entered into, would be notifiable contribution arrangements (whether the proposal relates to a particular person or to any person who may seek to take advantage of it).

(4) Where, at any time after the passing of the National Insurance Contributions Act 2006, a relevant tax provision is passed or made which changes the notifiable tax matters, the Treasury may, by regulations, amend the definitions in subsection (3) so as to make an analogous change to the matters in respect of which information may be required to be disclosed by virtue of this section.

(5) In subsection (4)—

“the notifiable tax matters” means the arrangements, proposals or other matters in respect of which information is or may be required to be disclosed under a relevant tax provision;

“relevant tax provision” means a provision mentioned in subsection (2).

(6) No provision made by regulations under this section may require any person to disclose to the Commissioners for Her Majesty’s Revenue and Customs, or any other person, any information with respect to which a claim to legal professional privilege, or, in Scotland, to confidentiality of communications, could be maintained in legal proceedings.

(7) In this section—

“advantage”, in relation to any contribution, means—

- (a) the avoidance or reduction of a liability for that contribution, or
- (b) the deferral of the payment of that contribution;

<sup>1</sup> S. 132A inserted (30.3.06) by the National Insurance Contributions Act 2006 (c. 10), s. 7(2).

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“arrangements” includes any scheme, transaction or series of transactions;

“contribution” means a contribution under—

(a) Part 1 of the Social Security Contributions and Benefits Act 1992, or

(b) Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“tax avoidance arrangements” includes arrangements which enable, or might be expected to enable, a person to obtain an advantage in relation to any tax (within the meaning of Part 7 of the Finance Act 2004).]

*Maintenance proceedings*

Furnishing of addresses for maintenance proceedings, etc.

**133.** The Secretary of State may incur expenses for the purpose of furnishing the address at which a [<sup>1</sup>person] is recorded by him as residing, where the address is required for the purpose of taking or carrying on legal proceedings to obtain or enforce an order for the making by the man or woman of payments—

(a) for the maintenance of the [<sup>1</sup>person’s spouse, former spouse, civil partner or former civil partner]; or

(b) [<sup>1</sup>(b) for the maintenance or education of any child of the person, or of any child of the person’s spouse, former spouse, civil partner or former civil partner.]

*[<sup>2</sup>Universal Credit information*

Supply of universal credit information

**133A.—**(1) This section applies to information that is held by—

(a) the Secretary of State; or

(b) a person providing services to the Secretary of State, in connection with the provision of those services,  
that relates to an award of universal credit.

(2) Information to which this section applies may be supplied to—

(a) a local housing authority;

(b) a licensing authority; or

(c) a person authorised to exercise any function of a local housing authority or a licensing authority,

for use in connection with obtaining a rent repayment order in respect of an award of universal credit or recovering an amount payable under such an order.

(3) For the purposes of this section—

“licensing authority” means a person designated by order under section 3 of the Housing (Wales) Act 2014;

“local housing authority” has the meaning given by section 261 of the Housing Act 2004; and

“rent repayment order” means a rent repayment order as referred to in section 73 or 96 of the Housing Act 2004 or section 32 of the Housing (Wales) Act 2014.]

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<sup>1</sup> In s. 133, words and para. (b) substituted by para. 6 of the Schedule to S.I. 2005/2053 as from 5.12.05.

<sup>2</sup> S. 133A inserted (26.11.14) by S.I. 2014/2888, regs. 1 & 9(1)(b), (See reg. 1(2) for revised effective dates in some circumstances).



## PART VIII

ARRANGEMENTS FOR HOUSING BENEFIT AND COMMUNITY CHARGE BENEFITS<sup>†</sup>  
AND RELATED SUBSIDIES

<sup>†</sup>*Unreliable words in heading.*

*Housing benefit*

**134.**—<sup>[1(1)</sup> Housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992 (in this Part referred to as “the housing benefit scheme”) shall be funded and administered by the appropriate housing authority or local authority.

Arrangements for housing benefit.

(1A) Housing Benefit in respect of payments which the occupier of a dwelling is liable to make to a housing authority shall take the form of a rent rebate or, in prescribed cases, a rent allowance funded and administered by that authority.

The cases that may be so prescribed do not include any where the payment is in respect of property within the authority’s Housing Revenue Account.

(1B) In any other case housing benefit shall take the form of a rent allowance funded and administered by the local authority for the area in which the dwelling is situated or by such other local authority as is specified by an order made by the Secretary of State.]

(2) The rebates and allowances referred to in subsection (1) above may take any of the following forms, that is to say—

- (a) a payment or payments by the authority to the person entitled to the benefit;
- (b) a reduction in the amount of any payments which that person is liable to make to the authority by way of rent [...<sup>2</sup>]; or
- (c) such a payment or payments and such a reduction;

and in any enactment or instrument (whenever passed or made) “pay”, in relation to housing benefit, includes discharge in any of those forms.

(3) [...<sup>3</sup>]

(4) [...<sup>3</sup>]

[<sup>3</sup>(5) Authorities may—

- (a) agree that one shall discharge functions relating to housing benefit on another’s behalf; or
- (b) discharge any such functions jointly or arrange for their discharge by a joint committee.

(5A) Nothing in this section shall be read as excluding the general provisions of the Local Government Act 1972 or the Local Government (Scotland) Act 1973 from applying in relation to the housing benefit functions of a local authority].

(6) [...<sup>3</sup>]

(7) [...<sup>3</sup>]

<sup>1</sup> S. 134 amended (1.4.97) by Sch. 12, para. 1(2), to Housing Act 1996 (c. 52).

<sup>2</sup> Words “or rates” deleted in s. 134(2)(b) (1.4.97) by Sch. 12, para. 1(3) to Housing Act 1996 (c. 52).

<sup>3</sup> Sub-paras. (3), (4), (6) & (7) deleted and (5) substituted by Sch. 12, paras. 1(4)-(5) to Housing Act 1996 (c. 52).

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(8) An authority may modify any part of the housing benefit scheme administered by the authority—

(a) so as to provide for disregarding, in determining a person's income (whether he is the occupier of a dwelling or any other person whose income falls to be aggregated with that of the occupier of a dwelling), the whole or part of any [<sup>1</sup>prescribed] war disablement pension or [<sup>1</sup>prescribed] war widow's [...<sup>1</sup>] pension payable to that person;

(b) to such extent in other respects as may be prescribed,

and any such modifications may be adopted by resolution of an authority.

(9) Modifications other than such modification as are mentioned in subsection (8)(a) above shall be so framed as to secure that, in the estimate of the authority adopting them, the total of [<sup>2</sup>the housing benefit which will be paid by the authority in any year will not exceed the permitted total or any subsidiary limit specified by order of the Secretary of State.]

(10) An authority who have adopted modifications by resolution revoke or vary them.

(11) If the housing benefit scheme includes power for an authority to exercise a discretion in awarding housing benefit, the authority shall not exercise that discretion so that the total of [<sup>3</sup>the housing benefit paid by them during the year exceeds the permitted total or any subsidiary limit specified by order of the Secretary of State.].

*The permitted total is prescribed in the relevant Order located under "PERMITTED TOTALS" in Part I of volume 8 of this work.*

[<sup>3</sup>(12) The Secretary of State—

(a) shall by order specify the permitted total of housing benefit payable by any authority in any year; and

(b) may by order specify one or more subsidiary limits on the amount of housing benefit payable by any authority in any year in respect of any matter or matters specified in the order.

The power to specify the permitted total or a subsidiary limit may be exercised by fixing an amount or by providing rules for its calculation.]

(13) In this section "modifications" includes additions, omissions and amendments, and related expressions shall be construed accordingly.

[<sup>4</sup>(14) In this section "war widow's pension" includes any corresponding pension payable to a widower or surviving civil partner.]

Housing benefit finance. *Ss. 135-137 below remain reproduced for savings provisions.*

[<sup>5</sup>135.—(1) For each year the Secretary of State shall pay—

(a) a subsidy to be known as "rate rebate subsidy" to each rating authority;

(b) a subsidy to be known as "rent rebate subsidy" to each housing authority; and

(c) a subsidy to be known as "rent allowance subsidy" to each local authority.

(2) The subsidy under subsection (1) above which is to be paid to an authority—

(a) shall be calculated, in the manner specified by an order made by the Secretary of State, by reference—

<sup>1</sup> In s. 134 words inserted & omitted (8)(a) (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 3.

<sup>2</sup> Words in sub-para. (9) & (11) amended (1.4.97) by Sch. 12, para. 1(6) & (7) to Housing Act 1996 (c. 52).

<sup>3</sup> Sub-para. 12 substituted (1.4.97) by Sch. 12 para. 1(8) to Housing Act 1996 (c. 52).

<sup>4</sup> S. 134 (14) inserted (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 3.

<sup>5</sup> Ss. 135-137 repealed (24.9.96) by Sch. 19, Part VI to Housing Act 1996 (c. 52).

- (i) in the case of an authority in England and Wales, to the relevant benefit; and
  - (ii) in the case of an authority in Scotland, to the total housing benefit,  
and by reference also, in the case of an authority in England and Wales or Scotland, to any rebate or allowance within the meaning of the Social Security and Housing Benefits Act 1982 granted by that authority during the year with any additions specified in the order but subject to any deductions so specified; and
- 1982 c. 24.
- (b) shall be subject 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.
- (3) In subsection (2) above "relevant benefit", in relation to an authority, means total housing benefit excluding any Housing Revenue Account rebates granted by them.
- (4) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection (2)(a) or (b) above may not be determined by reference to—
- (a) an authority's expenditure in respect of any housing benefit, or in respect of any rebate or allowance within the meaning of the Social Security and Housing Benefits Act 1982, granted during any previous year; or
  - (b) any subsidy under this section or that Act paid to an authority in respect of any previous year.
- (5) For each year the Secretary of State may pay to an authority as part of the subsidy under subsection (1) above an additional sum calculated, in the manner specified by an order made by the Secretary of State, in respect of the costs of administering housing benefit.
- (6) Rent rebate subsidy shall be payable—
- (a) in the case of a local authority in England and Wales, subject to subsection (7) below, for the credit of a revenue account of theirs which is not a Housing Revenue Account or a Housing Repairs Account;
  - (b) in the case of a local authority in Scotland, for the credit of their rent rebate account;
  - (c) in the case of a new town corporation in England and Wales or the Development Board for rural Wales, for the credit of their housing account; and
  - (d) in the case of a new town corporation in Scotland or Scottish Homes, for the credit of the account to which rent rebates granted by them, or it, are debited.
- (7) Rent rebate subsidy for a year beginning before 1st April 1990 shall be payable in the case of a local authority in England and Wales—
- (a) for the credit of their Housing Revenue Account to the extent that it is calculated by reference to Housing Revenue Account rebates and any costs administering such rebates; and
  - (b) for the credit of their general rate fund to the extent that it is not so calculated.
- (8) Every local housing authority in England and Wales shall for each year carry to the credit of their Housing Revenue Account from some other revenue account of theirs which is not a Housing Repairs Account an amount equal to the aggregate of—
- (a) so much of each Housing Revenue Account rebate granted by them during the year as was granted in the exercise of a discretion conferred by the housing benefit scheme or in pursuance of such modifications of that scheme as are mentioned in paragraph (b) of section 134(8) above; and
  - (b) unless the authority otherwise determine, so much of each such rebate as was granted in pursuance of such modifications of that scheme as are mentioned in paragraph (a) of that subsection.

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**Ss. 135-137**

(9) Every local authority in Scotland shall make for each year a rate fund contribution to their Housing Revenue Account of an amount equal to the difference between—

- (a) so much of their rent rebate subsidy for the year as is credited to that Account; and
- (b) the total of—
  - (i) the Housing Revenue Account rebates granted by them during the year; and
  - (ii) the cost of administering such rebates.

(10) Rent allowance subsidy shall be payable—

- (a) in the case of a local authority in England and Wales and subsidy payable for a year beginning before 1st April 1990, for the credit of their general rate fund; and
- (b) in the case of a local authority in Scotland, for the credit of their rent allowance account.

(11) Subsidy under this section shall be payable by the Secretary of State at such time and in such manner as the Treasury may direct.

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

(13) In subsection (7) above “general rate fund” means—

- (a) in relation to the Council of the Isles of Scilly, their general fund; and
- (b) in relation to the Common Council of the City of London, their general rate.

(14) In this section “modifications” includes additions, omissions and amendments and related expressions shall be construed accordingly.

Rent allowance subsidy and determination of rent officers.

136.—(1) In relation to rent allowance subsidy, the Secretary of State—

- (a) may provide for any calculation under paragraph (a) of section 135(2) above to be made,
- (b) may specify any such additions and deductions as are referred to in that paragraph; and
- (c) may exercise his discretion as to what is unreasonable for the purposes of paragraph (b) of that subsection,

1988 c. 50.  
1988 c. 43.

by reference to determinations made by rent officers in exercise of functions conferred to them under section 121 of the Housing Act 1988 or section 70 of the Housing (Scotland) Act 1988 (“the Housing Act functions”).

(2) The Secretary of State may by regulations require a local authority in any prescribed case to apply to a rent officer for a determination to be made in pursuance of the Housing Act functions and any such authority shall comply with prescribed requirements as to the time for making such an application.

(3) Where a local authority would have been required to apply to a rent officer for a determination under the Housing Act functions in a pre-commencement case, had the first regulations under section 30(2B) of the 1986 Act (which corresponded to subsection (2) above) come into force on 1st April 1989, regulations may make provision—

- (a) requiring the authority in prescribed circumstances to apply within a prescribed period to the rent officer for that determination to be made; and
- (b) requiring the rent officer in prescribed circumstances to make that determination on prescribed assumptions.

(4) In subsection (3) above “pre-commencement case” means any case which arose before the date on which the first regulations under section 30(2B) of the 1986 Act in fact came into force.

Claims.

137.—(1) Subsidy under section 135 above shall not be payable to an authority until either—

- (a) they have made a claim for it in such form as the Secretary of State may determine; or

- (b) if they have not made such a claim, the amount of subsidy payable to them (apart from subsection (6) below) has been estimated under subsection (3) below.

(2) The Secretary of State may withhold from an authority so much of any subsidy under section 135 above as he thinks fit until either—

- (a) the authority has supplied him with prescribed particulars relating to their claim for subsidy and complied with prescribed conditions as to records, certificates, audit or otherwise; or
- (b) he is satisfied that there is a good reason for the authority's failure to supply those particulars or comply with those conditions.

(3) If an authority has not—

- (a) made a claim for subsidy;
- (b) supplied the prescribed particulars referred to in paragraph (a) of subsection (2) above; or
- (c) complied with the prescribed conditions referred to in that paragraph,

within the prescribed period, then the Secretary of State may estimate the amount of subsidy payable to them (apart from subsection (6) below) and employ for that purpose such criteria as he considers relevant.

(4) If the Secretary of State considers it reasonable to do so in any particular case, he may give the authority in question written notice extending any of the periods prescribed under subsection (3) above for the purposes of paragraph (a), (b) or (c) of that subsection, as the case may be.

(5) If an authority fails to make a claim for subsidy within such period as the Secretary of State considers reasonable, he may withhold from them such part of the subsidy as he thinks fit for so long as he thinks fit.

(6) Where the amount of subsidy paid to an authority for any year is found to be incorrect, the amount payable to them for any subsequent year may be adjusted for the purpose of rectifying that mistake in whole or part.]

SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)

S. 138

138. [...<sup>1</sup>]

*S. 138-140G has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

*Community charge benefits†*

*†Unreliable heading.*

Nature of benefits.

138.—<sup>[2]</sup>(1) Regulations shall provide that where a person is entitled to council tax benefit in respect of council tax payable to a billing authority or <sup>[3]</sup>local authority in Scotland] the benefit shall take such of the following forms as is prescribed in the case of the person—

- (a) a payment or payments by the authority to the person;
- (b) a reduction in the amount the person is or becomes liable to pay to the authority in respect of the tax for the relevant or any subsequent financial year;
- (c) both such payment or payments and such reduction.]

<sup>[4]</sup>References in any enactment or instrument (whenever passed or made) to payment, in relation to council tax benefit, include any of those ways of giving the benefit.]

(2) [...<sup>2</sup>]

(3)–(4) [...<sup>5</sup>]

(5) For the purposes of <sup>[6]</sup>subsection (1)] above the relevant <sup>[5]</sup>financial year] is the <sup>[6]</sup>financial year] in which the relevant day falls; and the relevant day is the day in respect of which the person concerned is entitled to the benefit.

(6)–(8) [...<sup>7</sup>]

(9) Regulations under subsection (1), [...<sup>8</sup>] above may include such supplementary, incidental or consequential provisions as appear to the Secretary of State to be necessary or expedient; and any such provisions may include provisions amending or adapting provision of <sup>[9]</sup>Part I or II of the Local Government Finance Act 1992].

<sup>1</sup> S. 138-140G repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>2</sup> Subsection (1) substituted (6.3.92) for subsections (1) and (2) of s. 138 L.G.F. Act 1992 (c. 14), Sch. 9, para. 19(1), for purposes of council tax and council tax benefit from 1.4.93.

<sup>3</sup> Words substituted (1.4.96) in s. 138(1) by para. 175(3) of Sch. 13 to Local Government etc. (Scotland) Act 1994 (c. 39).

<sup>4</sup> Sub-para. added (1.4.97) by Sch. 12, para. 2 to Housing Act 1996 (c. 52).

<sup>5</sup> Subsections (3) and (4) of s. 138 repealed by L.G.F. Act 1992 (c. 14), Sch. 9, para. 19(2) and Sch. 14, for purposes of council tax and council tax benefit from 1.4.93.

<sup>6</sup> Words in s. 138(5) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 19(3), for purposes of council tax and council tax benefit from 1.4.93.

<sup>7</sup> Subsections (6)–(8) of s. 138 repealed by L.G.F. Act 1992 (c. 14), Sch. 9, para. 19(4) and Sch. 14, for the purposes of council tax and council tax benefit from 1.4.93.

<sup>8</sup> Words in s. 138(9) repealed by L.G.F. Act 1992 (c. 14), Sch. 9, para. 19(5) and Sch. 14, for purposes of council tax and council tax benefit from 1.4.93.

<sup>9</sup> Words in s. 138(9) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 19(5), for purposes of council tax and council tax benefit from 1.4.93.

139.—(1) [<sup>1</sup>Council tax benefit] provided for by virtue of a scheme under section 123 of the Contributions and Benefits Act (in this Act referred to as a [<sup>2</sup>council tax benefit scheme]) is to be administered by the appropriate authority.

Arrangements for community charge benefits.†

[<sup>2</sup>(2) For the purposes of this section the appropriate authority is the billing authority or levying authority which levied the council tax as regards which a person is entitled to the benefit.]

(3) [...<sup>2</sup>]

[<sup>3</sup>(4) Nothing in this section shall be read as excluding the general provisions of the Local Government Act 1972 or the Local Government (Scotland) Act 1973 from applying in relation to the council tax benefit functions of a local authority.]

(5) [...<sup>3</sup>]

(6) A [<sup>4</sup>billing authority] or levying authority may modify any part of the [<sup>4</sup>council tax benefit scheme] administered by the authority—

(a) so as to provide for disregarding, in determining a person's income, the whole or part of any [<sup>5</sup>prescribed] war disablement pension or [<sup>5</sup>prescribed] war widow's pension payable to that person or to his partner or to a person to whom he is polygamously married;

(b) to such extent in other respects as may be prescribed, and any such modifications may be adopted by resolution of an authority.

(7) Modifications other than such modifications as are mentioned in subsection (6)(a) above shall be so framed as to secure that, in the estimate of the authority adopting them, the total of [<sup>6</sup> the amount of benefit which will be paid by them in any year will not exceed the permitted total or any subsidiary limit specified by order of the Secretary of State.]

(8) An authority which has adopted modifications may by resolution revoke or vary them.

†*Unreliable marginal note.*

(9) If the [<sup>7</sup>council tax benefit scheme] includes power for an authority to exercise a discretion in allowing [<sup>7</sup>council tax benefit], the authority shall not exercise that discretion so that the total of [<sup>8</sup> the amount of benefit paid by them in any year exceeds the permitted total or any subsidiary limit specified by order of the Secretary of State.]

[<sup>9</sup>(10)The Secretary of State—

(a) shall by order specify the permitted total of council tax benefit payable by any authority in any year; and

(b) may by order specify one or more subsidiary limits on the amount of council tax benefit payable by any authority in any year in respect of any matter or matters specified in the order.

The power to specify the permitted total or a subsidiary limit may be exercised by fixing an amount or by providing rules for its calculation.]

<sup>1</sup> Words in s. 139(1) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 20(1), for purposes of council tax and council tax benefit from 1.4.93.

<sup>2</sup> Subsection (2) substituted (6.3.92) for subsections (2) and (3) of s. 139 by L.G.F. Act 1992 (c. 14), Sch. 9, para. 20(2), for purposes of council tax and council tax benefit from 1.4.93.

<sup>3</sup> Sub section (4) substituted and (5) omitted (1.4.97) by Sch. 12, para. 3(2) to Housing Act 1996 (c. 52).

<sup>4</sup> Words in s. 139(6) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 20(5), for purposes of council tax and council tax benefit from 1.4.93.

<sup>5</sup> Words inserted in s. 139(6)(a) (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 4.

<sup>6</sup> Words substituted (1.4.97) by Sch. 12, para. 3(3) to Housing Act 1996 (c. 52).

<sup>7</sup> Words in s. 139(9) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 20(7), for purposes of council tax and council tax benefit from 1.4.93.

<sup>8</sup> Words substituted (1.4.97) by Sch. 12, para. 3(4) to Housing Act 1996 (c. 52).

<sup>9</sup> Subsection (10) substituted (1.4.97) by Sch. 12, para. 3(5) to Housing Act 1996 (c. 52).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 139-139B**

1917 c.51.  
1939 c.82.  
1939 c.83.  
1947 c.19.  
1980 c. 9.

- (11) In this section—  
“modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;  
“partner”, in relation to a person, means the other member of the couple concerned;  
“war disablement pension” means—  
(a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under the Air Force (Constitution) Act 1917, the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, the Polish Resettlement Act 1947 or Part VII or section 151 of the Reserve Forces Act 1980;  
(b) without prejudice to paragraph (a) of this definition, any retired pay or pension to which [<sup>1</sup>any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003] applies; and  
[<sup>2</sup>“war widow’s pension” includes any corresponding pension payable to a widower or surviving civil partner.]

*[<sup>3</sup>Reports*

Persons to report on administration.

139A.—<sup>4</sup>(1) The Secretary of State may authorise persons to consider and report to him on the administration by authorities of housing benefit and council tax benefit.

(2) The Secretary of State may ask persons authorised under subsection (1) to consider in particular—

- (a) authorities’ performance in the prevention and detection of fraud relating to housing benefit and council tax benefit;  
(b) authorities compliance with the requirements of Part I of the Local Government Act 1999 (best value).

(2A) A person may be authorised under subsection (1)—

- (a) on such terms and for such period as the Secretary of State thinks fit;  
(b) to act generally or in relation to a specified authority or authorities;  
(c) to report on administration generally or on specified matters.]

(3) In sections 139B and 139C below—

“benefit” means housing benefit or council tax benefit; and  
“authority” means an authority which is administering either of those benefits.

Powers of investigation.

139B.—(1) A person authorised under section 139A(1) above—

- (a) has a right of access at all reasonable times to any document relating to the administration of benefit;  
(b) is entitled to require from any person holding or accountable for any such information and explanation as he thinks necessary; and  
(c) is entitled, if he thinks it necessary, to require any such person to produce any such document or to attend before him in person to give such information or explanation.

(2) A person authorised under section 139A(1) above is entitled to require any officer or member of an authority or any person involved in the administration of benefit for an authority—

- (a) to give such information and explanation relating to the administration of benefit as he thinks necessary; and

<sup>1</sup> In s. 139(11)(b) words substituted (6.4.03) by the Income Tax (Earnings and Pensions) Act 2003 (c. 1) Sch. 6, para. 187(2).

<sup>2</sup> Defn. of “war widow’s pension” substituted (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 4.

<sup>3</sup> Ss. 139A-139C inserted (1.7.97) by s. 5 of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>4</sup> S. 139A (1) & (2) substituted (27.7.99) for 139A(1) - (2A) by the Local Government Act 1999 (c. 27), s. 14(1).



(b) if he thinks it necessary, to require any such person to attend before him in person to give the information or explanation.

(3) A person who without reasonable excuse fails to comply with a requirement under subsection (1) or (2) above is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) A person authorised under section 139A(1) above may—

(a) require any document or information which is to be given to him under subsection (1) or (2) above to be given in any form reasonably specified by him; and

(b) take copies of any document produced to him.

(5) In this section “document” means anything in which information of any description is recorded.

139C.—(1) A report about an authority by a person authorised under section 139A(1) above may include recommendations about improvements which could be made by that authority in its administration of benefit and , [in particular—

Reports.

(a) in the prevention and detention of fraud relating to benefit, or

(b) for the purposes of complying with requirements of Part I of the Local Government Act 1999 (best value).]

(2) When the Secretary of State receives a report about an authority from a person authorised under section 139A(1) above, he shall send a copy to the authority.]

*[Directions by Secretary of State*

139D.—(1) This section applies where—

Directions.

(a) a copy of a report has been sent to an authority under section 139C(2) above;

(b) a copy of a report has been sent to an authority under [3section10(1) of the Audit Commission Act 1998] and to the Secretary of State under [3section 39 of that Act];

[4(c) a copy of a report under section 102(1)(b) or (c) of the Local Government (Scotland) Act 1973 which to any extent relates to the administration of benefit has been sent to a local authority and the Secretary of State under section 102(2) of that Act;

[4(ca) a copy of a report which has been sent to a local authority under section 13A(3) of the Local Government Act 1999 and to the Secretary of State under section 13A(4A) of that Act;]

(d) a copy of a report has been sent to an authority under [3section 38(7) of the Audit Commission Act 1998] or section 105A(7) of the Local Government (Scotland) Act 1973.

(2) The Secretary of State may [4require] the authority to consider the report and to submit proposals for—

(a) improving its performance in relation to the prevention and detection of fraud relating to benefit or otherwise in relation to the administration of benefit; and

(b) remedying any failings identified by the report.

<sup>1</sup> Words in s. 139C(1) substituted (27.7.99) by the Local Government Act 1999 (c. 2), S. 14(2).

<sup>2</sup> S. 139D inserted (1.7.97) by s. 8 of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>3</sup> Words in s. 139D substituted by the Audit Commission Act 1998, Sch. 3, para. 23.

<sup>4</sup> In s. 139D (1)(c) substituted, (1)(ca) inserted, & word substituted in (2) (1.4.08) by the Welfare Reform Act 2007 (c. 5), s. 39(2) - (4).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**S. 139D**

[<sup>1</sup>(2A) A requirement under subsection (2) above may specify—  
(a) any information or description of information to be provided;

(b) the form and manner in which the information is to be provided.

(2B) The authority must respond to a requirement under subsection (2) above before the end of such period (not less than one month after the day on which the requirement is made) as the Secretary of State specifies in the requirement.

(2C) The Secretary of State may extend the period specified under subsection (2B) above.]

[<sup>1</sup>(3) After considering—

(a) the report,

(b) any proposals made by the authority in response to it, and

(c) any other information he thinks is relevant, the Secretary of State may give directions to the authority under subsection (3A) or (3B) or both.

(3A) Directions under this subsection are directions as to—

(a) standards which the authority is to attain in the prevention and detection of fraud relating to benefit or otherwise in the administration of benefit;

(b) the time within which the standards are to be attained.

(3B) Directions under this subsection are directions to take such action as the Secretary of State thinks necessary or expedient for the purpose of improving the authority's exercise of its functions—

(a) in relation to the prevention and detection of fraud relating to benefit;

(b) otherwise in relation to the administration of benefit.

(3C) A direction under subsection (3B) may specify the time within which anything is to be done.]

(4) When giving directions to an authority under [<sup>1</sup>subsection 3A] above, the Secretary of State may make recommendations to the authority setting out any course of action which he thinks it might take to attain the standards which it is directed to attain.

[<sup>1</sup>(4A) If the Secretary of State proposes to give a direction under this section he must give the authority to which the direction is to be addressed an opportunity to make representations about the proposed direction.

(4B) The Secretary of State may specify a period within which representations mentioned in subsection (4A) above must be made.

(4C) The Secretary of State may extend a period specified under subsection (4B) above.

(4D) Subsections (4A) to (4C) do not apply if the Secretary of State thinks that it is necessary for a direction to be given as a matter of urgency.

(4E) If the Secretary of State acts under subsection (4D) he must give in writing to the authority to which the direction is addressed his reasons for doing so.]

(5) In this section "benefit" means housing benefit or council tax benefit.]

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<sup>1</sup> In s. 139D (2A), (2B) & (2C) inserted, para. (3) - (3C) substituted for (3); words substituted in (4); (4A) - (4E) inserted (1.4.08) by the Welfare Reform Act 2007 (c. 5), s. 39(5) - (8)

## SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)

### Ss. 139DA-139F

[<sup>1</sup>139DA.—(1) The Secretary of State may at any time in accordance with this section vary or revoke a direction under section 139D above.

Directions: variation and revocation

(2) A direction may be varied or revoked only if the Secretary of State thinks it is necessary to do so—

- (a) in consequence of representations made by the authority to which the direction is addressed,
- (b) to rectify an omission or error, or
- (c) in consequence of a material change in circumstances.

(3) The Secretary of State must not vary a direction unless he first—

- (a) sends a copy of the proposed variation to the authority concerned,
- (b) gives the authority his reasons for making the variation, and
- (c) gives the authority an opportunity to make representations about the proposed variation.

(4) The Secretary of State may specify a period of not less than one month within which representations mentioned in subsection (3)(c) above must be made.

(5) The Secretary of State may extend a period specified under subsection (4) above.]

[<sup>2</sup>139E.—(1) Where directions have been given to an authority under [<sup>3</sup>section 139D(3A) or (3B)] above, the Secretary of State may require the authority to supply him any information which he considers may assist him in deciding—

Information about attainment of standards.

- (a) whether the authority has attained the standards which it has been directed to attain; or

[<sup>3</sup>(aa) whether the authority has taken the action which it has been directed to take;]

- (b) whether the authority is likely to attain those standards [<sup>3</sup>or take that action] within the time specified in the directions.

(2) Information shall be supplied under subsection (1) above in such a manner and form as the Secretary of State may require.

139F.—(1) Where directions have been given to an authority under [<sup>4</sup>section 139D(3A) or (3B)] above and the Secretary of State—

Enforcement notices.

- (a) is not satisfied that the authority has attained the standards which it has been directed to attain; or

[<sup>4</sup>(aa) is not satisfied that the authority has taken the action which it has been directed to take;]

- (b) is not satisfied that the authority is likely to attain those standards [<sup>4</sup>or take that action] within the time specified in the directions,

he may serve on the authority a written notice under this section.

(2) The notice shall—

- (a) identify the directions and state why the Secretary of State is not satisfied as mentioned in paragraph (a) [<sup>4</sup>, (aa)] or (b) of subsection (1) above; and
- (b) require the authority to submit a written response to the Secretary of State within a time specified in the notice.

(3) If any person (other than the authority) carrying out work relating to the administration of benefit may be affected by any determination which may be under section 139G below, the authority shall—

- (a) consult that person before submitting its response; and

<sup>1</sup> Ss. 139(DA) inserted (1.4.08) by Welfare Reform Act 2007 (c. 5), s. 39( 9).

<sup>2</sup> Ss. 139E-139H inserted (1.7.97) by s. 9 of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>3</sup> In s. 139E words substituted in (1), para. (1)(aa) inserted and words inserted in (1)(b) (1.4.08) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 5.

<sup>4</sup> In s. 139F words substituted in (1), para. (1)(aa) inserted and words inserted in (1)(b) & 2(a) (1.4.08) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 6.

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(b) include in its response any relevant observations made by that person.

(4) [If the notice identifies directions under section 139D(3A)], the authority's response shall either—

(a) state that the authority has attained the standards, or is likely to attain them within the time specified in the directions, and justify that statement; or

(b) state that the authority has not attained the standards, or is not likely to attain them within that time, and (if the authority wishes) give reasons why a determination under section 139G below should not be made or should not include any particular provision.

[<sup>1</sup>(4A) If the notice identifies directions under section 139D(3B), the authority's response shall either—

(a) state that the authority has taken the action, or is likely to take it within the time specified in the directions, and justify that statement; or

(b) state that the authority has not taken the action, or is not likely to take it within that time, and (if the authority wishes) give reasons why a determination under section 139G below should not be made or should not include any particular provision.]

(5) The notice may relate to any one or more matters covered by the directions.

(6) The serving notice under this section relating to any directions or matter does not prevent the serving of further notices under section relating to the same directions or matter.

(7) In this section "benefit" means housing benefit or council tax benefit.

Enforcement determinations.

139G.—(1) Where, after the time specified in the notice under section 139F above has expired, the Secretary of State—

(a) is not satisfied that the authority has "attained the standards [<sup>2</sup>or taken the action] in question; or

(b) is not satisfied that the authority is likely to attain those standards [<sup>2</sup>or taken the action] within the time specified in the directions,

he may make a determination under this section.

(2) The determination may be made whether or not that authority has responded to the notice under section 139F above.

(3) The determination shall be designed to secure the attainment of the standards [<sup>2</sup>or the taking of the action] in question and—

(a) shall include provision such as is specified in subsection (4) below; and

(b) may also include provision such as is specified in subsection (5) below.

(4) The provision referred to in paragraph (a) of subsection (3) above is provision that the authority must comply with specified requirements as to inviting, preparing, considering and accepting bids carried out any work which—

(a) falls to be carried out in pursuance of the authority's functions relating to the administration of benefit; and

(b) is of a description specified in the determination.

<sup>1</sup> In s. 139F words inserted in (4) & (4A) inserted (1.4.08) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 6.

<sup>2</sup> Words inserted in s. 139G(1)(a), (1)(b), & (3) (1.4.08) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 7.

(5) The provision referred to in paragraph (b) of that subsection is provision of any one or more of the following kinds relating to the work, or any specified category of the work, to which the determination relates—

- (a) provision that it may not be carried out by the authority;
- (b) provision that it may be carried out by any person (other than the authority) who has been carrying it out; and
- (c) provision that any contract made by the authority with any person for carrying it out shall include terms requiring a level of performance which will secure, or contribute to securing, the attainment of the standards [or the taking of the action] in question.

(6) In this section “benefit” means housing benefit or council tax benefit.

139H.—(1) The provisions included in a determination under section 139G above shall take effect from a date specified in the determination; and different dates may be specified in relation to different provisions.

Enforcement determinations: supplementary.

(2) The making of a determination under section 139G above in relation to any direction does not prevent the making of further determinations under that section in relation to the same directions.

(3) The provision included in a determination by virtue of section 139G(3) above may include—

- (a) requirements that the Secretary of State be satisfied as to any specified matter; and
- (b) requirements that the Secretary of State authorise or consent to any specified matter.

(4) The provision so included may also include provision as to the time at which any contract for the carrying out of work to which the determinations relates (and which is not previously discharged) is to be taken to be frustrated by the determination.

(5) A determination under section 139G above shall have effect in spite of any enactment under or by virtue of which an authority is required or authorised to carry out any work to which the determination relates.

(6) A determination under section 139G above may make provision having effect, in relation to the work to which it relates, instead of any requirement which (apart from the determination) would have effect in relation to that work under or by virtue of the Local Government Act 1988.]

[<sup>2</sup>140.—(1) For each year the Secretary of State shall pay a subsidy (to be known as community charge benefit subsidy) to each charging authority and to each levying authority.

(2) The amount of community charge benefit subsidy to be paid to a charging authority or a levying authority for a year shall be calculated in such manner as may be specified by an order made by the Secretary of State.

(3) Any calculation under subsection (2) above shall be made by reference to the total amount of the community charge benefits allowed by the authority during the year with any additions specified in the order but subject to any deduction so specified.

(4) The Secretary of State may deduct, from the amount which would (apart from this subsection) be payable to a charging or levying authority by way of community charge benefit subsidy for a year, such amount as he considers it unreasonable to pay by way of such subsidy.

(5) The Secretary of State may pay to an authority, as part of the amount of community charge benefit subsidy payable to the authority for a year, and additional sum in respect of the costs of administering community charge benefits; and any such additional sum shall be calculated in a manner specified by an order made by the Secretary of State.

<sup>1</sup> Words inserted in s. 139G(5)(c) (1.4.08) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 7.

<sup>2</sup> S. 140 as in effect for purposes of community charge and community charge benefits for any day before 1.4.93. (L.G.F. Act 1992 (c. 14), s. 118), and for purposes of community charge benefit subsidy for any year ending before 1.4.93 (S.I. 1993/232, art. 2).

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(6) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection (3) or (4) above may not be determined by reference to—

- (a) an authority's expenditure in respect of community charge benefits allowed during any previous year; or
- (b) any subsidy paid under this section to an authority in respect of any previous year.

(7) Subsidy under this section shall be payable by the Secretary of State at such time and in such manner as the Treasury may direct; and section 137 above shall apply in relation to a charging authority or a levying authority and subsidy under this section as they apply in relation to a rating authority, a housing authority or local authority and subsidy under that section.

(8) The amount of any subsidy payable to an authority shall be calculated to the nearest pound by disregarding an odd amount of 50 pence or less and by treating an odd amount exceeding 50 pence as a whole pound.]

*Community charge benefit finance †*

Community charge benefit finance.†

[<sup>1</sup>140.—(1) For each year the Secretary of State shall pay a subsidy (to be known as [<sup>2</sup>council tax benefit subsidy]) to each [<sup>2</sup>billing authority] and to each [<sup>3</sup>local authority in Scotland].

(2) The amount of [<sup>2</sup>council tax benefit subsidy to be paid to a billing authority] or a [<sup>3</sup>local authority in Scotland] for a year shall be calculated in such manner as may be specified by an order made by the Secretary of State.

(3) Any calculation under subsection (2) above shall be made by reference to the total amount of the [<sup>2</sup>council tax benefit] allowed by the authority during the year with any additions specified in the order but subject to any deduction so specified.

(4) The Secretary of State may deduct, from the amount which would (apart from this subsection) be payable [<sup>2</sup>to a [<sup>4</sup>billing of levying authority] [<sup>5</sup>billing or [<sup>6</sup>local authority in Scotland]]

by way of council tax benefit subsidy] for a year, such amount as he considers it unreasonable to pay by way of such subsidy.

(5) The Secretary of State may pay to an authority, as part of the amount of [<sup>7</sup>council tax benefit subsidy] payable to the authority for a year, an additional sum in respect of the costs of administering [<sup>7</sup>council tax benefit]; and any such additional sum shall be calculated in a manner specified by an order made by the Secretary of State.

(6) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection (3) or (4) above may not be determined by reference to—

- (a) an authority's expenditure in respect of [<sup>1</sup>council tax benefit] allowed during any previous year; or
- (b) any subsidy paid under this section to an authority in respect of any previous year.

<sup>1</sup> S. 140 as in effect for purposes of council tax and council tax benefit from 1.4.93.

<sup>2</sup> Words in s. 140 substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 21, for purposes of council tax and council tax benefit from 1.4.93. These substitutions do not take effect for purposes of community charge benefit subsidy for any year ending before 1.4.93 by virtue of S.I. 1993/232, art. 2; but see also art. 3 *ibid.* (transitional provision) in relation to s. 140(6) and (7).

<sup>3</sup> Words substituted (1.4.96) in s. 140 by para. 175(3) of Sch. 13 to Local Government etc. (Scotland) Act 1994 (c. 39).

<sup>4</sup> Words as continuing to apply in England and Wales.

<sup>5</sup> Words applying in Scotland.

<sup>6</sup> Words substituted (1.4.96) in Scotland for "levying authority" in s. 140(4) by para. 175(3) of Sch. 13 to Local Government etc. (Scotland) Act 1994 (c. 39).

<sup>7</sup> Words in s. 140 substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 21, for purposes of council tax and council tax benefit from 1.4.93. These substitutions do not take effect for purposes of community charge benefit subsidy for any year ending before 1.4.93 by virtue of S.I. 1993/232, art. 2; but see also art. 3 *ibid.* (transitional provision) in relation to s. 140(6) and (7).

(7) Subsidy under this section shall be payable by the Secretary of State at such time and in such manner as the Treasury may direct; and section 137 above shall apply in relation to a [1]billing authority] or a [2]local authority in Scotland] and subsidy under this section as they apply in relation to a rating authority, a housing authority or local authority and subsidy under that section.

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

†Unreliable marginal note.

[3]Subsidy]

140A.—(1) For each year the Secretary of State shall pay a subsidy to each authority administering housing benefit or council tax benefit. Subsidy.

(2) He shall pay—

- (a) rent rebate subsidy to each housing authority;
- (b) rent allowance subsidy to each local authority; and
- (c) council tax benefit subsidy to each authority [4]and to each local authority in Scotland].

(3) In the following provisions of this Part “subsidy” without more, refers to subsidy of any of those descriptions.

140B.—(1) The amount of subsidy to be paid to an authority shall be [5 determined in accordance with an] order made by the Secretary of State. Calculation of amount of subsidy.

(2) Subject as follows, the amount of subsidy shall be calculated by reference to the amount of relevant benefit paid by the authority during the year [...6].

In the case of a housing authority in England and Wales, any Housing Revenue Account rebates paid by them shall be excluded from [5 the amount of relevant benefit].

(3) The order may provide that the amount of subsidy in respect of any matter shall be a fixed sum or shall be nil.

[7(4) The Secretary of State may—

- (a) pay as part of subsidy an additional amount specified by, or calculated in a manner specified by, the order; or
- (b) deduct from the amount which would otherwise be payable by way of subsidy an amount specified by, or calculated in a manner specified by, the order.

(4A) The additional amounts which may be paid by virtue of subsection (4)(a) above include amounts in respect of—

- (a) the costs of administering the relevant benefit; or
- (b) success in preventing or detecting fraud relating to the relevant benefit or action to be taken with a view to preventing or detecting such fraud.

(5) The Secretary of State may—

- (a) where an application is made by an authority on his invitation, pay to the authority as part of the subsidy such additional amount as he considers appropriate in respect of—

<sup>1</sup> Words in s. 140 substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 21, for purposes of council tax and council tax benefit from 1.4.93. These substitutions do not take effect for purposes of community charge benefit subsidy for any year ending before 1.4.93 by virtue of S.I. 1993/232, art. 2; but see also art. 3 *ibid.* (transitional provision) in relation to s. 140(6) and (7).

<sup>2</sup> Words substituted (1.4.96) in s. 140 by para. 175(3) of Sch. 13 to Local Government etc. (Scotland) Act 1994 (c. 39).

<sup>3</sup> Ss. 140A-140G inserted (1.4.97) by Sch. 12, para. 4 to Housing Act 1996 (c. 52).

<sup>4</sup> Words substituted in s. 140A(2)(c) (3.5.07, to have effect from 1.4.77) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 8.

<sup>5</sup> Words substituted (1.7.97) in s. 140B by Sch. 1, para. 7 to Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>6</sup> Words repealed (1.7.97) in s. 140B(2) by Sch. 2 to Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>7</sup> Subsection (4) & (5) substituted (1.7.97) by s. 10 of Social Security Administration (Fraud) Act 1997 (c. 47).

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- (i) success in preventing or detecting fraud relating to the relevant benefit; or
  - (ii) action to be taken with view to preventing or detecting such fraud; or
- (b) deduct from the subsidy which would otherwise be payable to an authority such amount as he considers it unreasonable to pay by way of subsidy.

(5A) The amounts which may be deducted by virtue of subsection (4)(b) or (5)(b) above include amounts in respect of—

- (a) a failure to comply with directions under [‘section 139D(3A) or (3B)] above; and
- (b) other failures in preventing or detecting fraud relating to the relevant benefit.]

(6) In this section “relevant benefit” means housing benefit or council tax benefit, as the case may be.

(7) Nothing in this section shall be taken to imply that any such addition or deduction as is mentioned in subsection [‘(4) or (5)] above may not be determined by reference to—

- (a) the amount of relevant benefit paid by the authority during a previous year, or
- (b) the amount of subsidy paid to the authority in respect of a previous year, under this section.

(8) The amount of subsidy payable to an authority shall be calculated to the nearest pound, disregarding an odd amount of 50 pence or less and treating an odd amount exceeding 50 pence as a whole pound.

Payment of subsidy.

140C.—(1) Subsidy shall be paid by the Secretary of State in such instalments, at such times, in such manner and subject to such conditions as to claims, records, certificates, audit or otherwise as may be provided by order of the Secretary of State.

(2) The order may provide that if an authority has not, within such period as may be specified in the order, complied with the conditions so specified as to claims, records, certificate, audit or otherwise, the Secretary of State may estimate the amount of subsidy payable to the authority and employ for that purpose such criteria as he considers relevant.

(3) Where subsidy has been paid to an authority and it appears to the Secretary Of State—

- (a) that subsidy has been overpaid; or
- (b) that there has been a breach of any condition specified in an order under this section,

he may recover from the authority the whole or such part of the payment as he may determine.

Without prejudice to other methods of recovery, a sum recoverable under this subsection may be recovered by withholding or reducing subsidy.

(4) An order made by the Secretary of State under this section may be made before, during or after the end of the year or years to which it relates.

Rent rebate subsidy:  
accounting provisions.

140D.—(1) Rent rebate subsidy is payable—

- (a) in the case of a local authority in England and Wales, for the credit of a revenue account of theirs other than their Housing Revenue Account or Housing Repairs Account;
- (b) in the case of a local authority in Scotland, for the credit of their rent rebate account;
- (c) in the case of a development corporation in England and Wales or the Development Board for Rural Wales, for the credit of their housing account; and

<sup>1</sup> Words substituted in s. 140B(5A) (1.4.08) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 9.

<sup>2</sup> Words substituted (1.7.97) in s. 140B by Sch. 1, para. 7 to Social Security Administration (Fraud) Act 1997 (c. 47).



- (d) in the case of a new town corporation in Scotland or Scottish Homes, for the credit of the account to which rent rebates granted by them, or it, are debited.
- (2) Every local housing authority in England and Wales shall for each year carry to the credit of their Housing Revenue Account from some other revenue account of theirs which is not a Housing Repairs Account an amount equal to the aggregate of–
  - (a) so much of each Housing Revenue Account rebate paid by them during the year as was paid–
    - (i) in the exercise of a discretion conferred by the housing benefit scheme; or
    - (ii) in pursuance of any modification of that scheme under section 134(8)(b) above; and
  - (b) unless the authority otherwise determine, so much of each such rebate as was paid in pursuance of such modifications of that scheme as are mentioned in section 134(8)(a) above.

*Supplementary provisions*

140E.—(1) Where two or more authorities make arrangements for the discharge of any of their functions relating to housing benefit or council tax benefit–

Financing of joint arrangements.

- (a) by one authority on behalf of itself and one more other authorities; or
- (b) by a joint committee,

the Secretary of state may make such payments as he thinks fit to the authority or committee in respect of their expenses in carrying out those functions.

(2) The provisions of section 140B and 140C (subsidy; calculation and supplementary provisions) apply in relation to a payment under this section as in relation to a payment of subsidy.

(3) The Secretary of State may (without prejudice to the generality of his powers in relation to the amount of subsidy) take into account the fact that an amount has been paid under this section in respect of expenses which would otherwise have been met in whole or in part by the participating authorities.

[<sup>1</sup>140EE.—(1) The Secretary of State may make to a local authority such payments as he thinks fit in respect of expenses incurred by the authority in connection with the carrying out of any relevant function–

Financing of other expenditure.

- (a) by the authority,
- (b) by any person providing services to the authority, or
- (c) by any person authorised by the authority to carry out that function.

(2) In subsection (1) “relevant function” means any function conferred by virtue of section 2A, 2C or 7A above.

(3) The following provisions, namely–

- (a) in section 140B, subsections (1), (3), (4), (5)(b), (7)(b) and (8), and
- (b) section 140C,

apply in relation to a payment under this section as in relation to a payment of subsidy.

(4) The Secretary of State may (without prejudice to the generality of his powers in relation to the amount of subsidy) take into account the fact that an amount has been paid under this section in respect of costs falling within section 140B(4A)(a) above.]

<sup>1</sup> S.140EE inserted (11.11.99) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch.12, para.80.

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No requirement for annual orders.

140F.—(1) Any power under this Part to make provision by order for or in relation to a year does not require the making of a new order each year.

(2) Any order made under the power may be revoked or varied at any time, whether before, during or after the year to which it relates.

Interpretation: Part VIII.

140G.—(1) In this Part, unless the context otherwise requires—  
“Housing Repairs Account” means an account kept under section 747 of the Local Government and Housing Act 1989;  
“Housing Revenue Account” means the account kept under section 74 of the Local Government and Housing Act 1989, and—

(a) references to property within that account have the same meaning as in Part VI of that Act, and

(b) “Housing Revenue Account rebate” means a rebate debited to that account in accordance with that Part; “rent rebate subsidy” and “rent allowance subsidy” shall be construed in accordance with section 134 above; “year” means a financial year within the meaning of the Local Government Finance Act 1992.]”

## PART IX

### ALTERATION OF CONTRIBUTIONS ETC

Annual reviews of contributions.

**141.**—(1) In each tax year the [<sup>1</sup>Treasury] shall carry out a review of the general level of earnings in Great Britain taking into account changes in that level which have taken place since [<sup>1</sup>their] last review under this section, with a view to determining whether, in respect of Class 2, 3 or 4 contributions, an order should be made under this section, to have effect in relation to the next following tax year.

(2) For the purposes of any review under this section, the [<sup>1</sup>Treasury]—

(a) shall estimate the general level of earnings in such manner as [<sup>1</sup>they think fit]; and

(b) shall take into account about other matters appearing to [<sup>1</sup>them] to be relevant to [<sup>1</sup>their] determination whether or not an order should be made under this section, including the current operation of the Contributions and Benefits Act.

(3) If the [<sup>1</sup>Treasury determine] determines, as a result of a review under this section, that having regard to changes in the general level of earnings which have taken place, and to any other matters taken into account on the review, an order under this section should be made for the amendment of Part I of the Contributions and Benefits Act, he shall prepare and lay before each House of Parliament a draft of such an order framed so as to give effect to his conclusions on the review.

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<sup>1</sup> Words substituted in s. 141(1), (2) & (3) (1.4.99) by Transfer of Functions Act 1999 (c. 11), Sch. 3, para. 44(2)-(4).

(4) An order under this section may amend Part I of the Contributions and Benefits Act by altering any one or more of the following figures—

- (a) the figure specified in section 11(1) as the weekly rate of Class 2 contributions;
- (b) the figure specified in section 11(4) as the amount of earnings below which regulations under that subsection may except an earner from liability for Class 2 contributions;
- (c) the figure specified in section 13(1) as the amount of a Class 3 contribution;
- (d) the figures specified in [sup>1]subsection (3) of section 15 as the upper limit of profits or gains to be taken into account for the purposes of Class 4 contributions under that section and as the lower limit of profits or gains to be taken into account for those purposes under paragraph (a) of that subsection.]

(5) If an order under this section contains an amendment altering either of the figures [referred to in subsection (4)(d) above], it shall make the same alteration of the corresponding figure specified in section [sup>1]18 of the Contributions and Benefits Act].

(6) If the [sup>2]Treasury determine] as a result of a review under this section that, having regard to [sup>2]their] conclusions in respect of the general level of earnings and otherwise, no such amendments of Part I of the Contributions and Benefits Act are called for as can be made for the purposes of subsection (4) above, and [sup>2]determine] accordingly not to lay a draft of an order before Parliament, [sup>2]they] shall instead prepare and lay before each House of Parliament a report explaining [sup>2]their] reasons for that determination.

(7) In subsection (1) above in its application to the tax year 1992-93 the reference to the last review under this section shall be construed as a reference to the last review under section 120 of the 1975 Act.

**142.**—(1) Where the [sup>2]Treasury lay] before Parliament a draft of an order under section 141 above, [sup>2]they shall] lay with it a copy of a report by the Government Actuary or the Deputy Government Actuary on the effect which, in that Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund; and, where [sup>2]the Treasury determine] not to lay a draft order, [sup>2]they shall] with the report laid before Parliament under section 141(6) above lay a copy of a report by the Government Actuary or the Deputy Government Actuary on the consequences for the Fund which may, in that Actuary's opinion, follow from that determination.

Orders under s. 141-supplementary.

(2) Where the [sup>2]Treasury] [sup>2]lay] before Parliament a draft of an order under section 141 above, then if the draft is approved by a resolution of each House, the Secretary of State shall make an order in the form of the draft,

(3) An order under section 141 above shall be made so as to be in force from the beginning of the tax year following that in which it receives Parliamentary approval, and to have effect for that year and any subsequent tax year (subject to the effect of any subsequent order under this Part of this Act); 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.

**143.**—(1) Without prejudice to section 141 above, the [sup>2]Treasury] may at any time, if [sup>2]they think] it expedient to do so with a view to adjusting the level at which the National Insurance Fund stands for the time being and having regard to the sums which may be expected to be paid from the Fund in any future period, make an order amending Part I of the Contributions and Benefits Act by altering any one or more of the following figures—

Power to alter contributions with a view to adjusting level of National Insurance Fund.

<sup>1</sup> Words substituted in s. 141(4) & (5) (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 16.

<sup>2</sup> Words substituted in ss. 141 to 143 (1.4.99) by Transfer of Functions Act 1999 (c. 11), Sch. 3, paras. 44(5), 45 & 46.

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- [<sup>1</sup>(a) the percentage rate specified as the [<sup>2</sup>main primary percentage in section 8(2)(a)];
- (b) the percentage rate specified as the secondary percentage in section 9(2),]
- (c) the figure specified in section 11(1) as the weekly rate of Class 2 contributions;
- (d) the figure specified in section 13(1) as the amount of a Class 3 contribution;
- (e) the percentage rate [<sup>3</sup>specified as the main Class 4 percentage in section 15(3ZA)(a)].

(2) [...<sup>4</sup>]

(3) An order under subsection (1) above may if it contains an amendment altering the figure specified in section 11(1) of the Contributions and Benefits Act as the weekly rate of Class 2 contributions and the [<sup>5</sup>Treasury think] it expedient in consequence of that amendment, amend section 11(4) of that Act by altering the figure there specified as the amount of earnings below which regulations under that subsection may except an earner from liability for Class 2 contributions.

(4) No order shall be made under this section so as–

- [<sup>6</sup>(a) to increase for any tax year the [<sup>3</sup>main] primary percentage, or the secondary percentage, to a percentage rate more than 0.25 per cent higher than that applicable at the end of the preceding tax year,]
- (b) to increase the [<sup>4</sup>main Class 4 percentage] to more than [<sup>7</sup>9.25] percent.

**143A.** [...<sup>8</sup>]

Orders under c. 143 supplementary.

**144.**—(1) Where (in accordance with section 190 below) the [<sup>5</sup>Treasury lay] before Parliament a draft of an order under section 143 [...<sup>8</sup>] above, [<sup>5</sup>they] shall lay with it a copy of a report by the Government Actuary or the Deputy Government Actuary on the effect which, in that Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund.

(2) An order under section 143 [...<sup>8</sup>] above shall be made so as to be in force from the beginning of the tax year following that in which it received Parliamentary approval, and to have effect for that year and any subsequent tax year (subject to the effect of any subsequent order under this Part of this Act); 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.

<sup>1</sup> Paras.143(1)(a) & (b) substituted (6.4.99) by Sch. 7, s. 90(1) of S.S. Act 1998 (c. 14).

<sup>2</sup> Words substituted in s. 143(1)(a) (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 17.

<sup>3</sup> Words in s. 143(1)(e) & (4)(b) substituted & in (4)(a) inserted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 17.

<sup>4</sup> S. 143(2) repealed (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 2.

<sup>5</sup> Words substituted in ss. 143-144 (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, paras. 46(3), 47 & 48.

<sup>6</sup> Para. 143(a) substituted (6.4.99) by s. 90(2) of Sch. 7, S.S. Act 1999 (c. 8).

<sup>7</sup> Amount substituted (6.4.11) in s. 143(4)(b) by the National Insurance Contributions Act 2011 (c. 3), s. 2(2).

<sup>8</sup> S.143A repealed and references to that section omitted (6.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 13.

**Ss. 145-148**

**145.**—<sup>[1]</sup>(1) For the purpose of adjusting amounts payable by way of primary Class 1 contributions, the <sup>[2]</sup>Treasury may at any time make an order altering the percentage rate specified as the <sup>[3]</sup>main primary percentage in section 8(2)(a) of the Contributions and Benefits Act.

Power to alter primary and secondary contributions.

(2) For the purpose of adjusting amounts payable by way of secondary Class 1 contributions, the <sup>[2]</sup>Treasury may at any time make an order altering the percentage rate specified as the secondary percentage in section 9(2) of the Contributions and Benefits Act.

(3) No order shall be made under this section so as to increase for any tax year the <sup>[3]</sup>main primary percentage, or the secondary percentage, to a percentage rate more than 0.25 per cent higher than that applicable at the end of the preceding tax year.]

(4) Without prejudice to section 141 or 143 above, the <sup>[2]</sup>Treasury may make such order—

- (a) amending section 11(1) of the Contributions and Benefits Act by altering the figure specified in that subsection as the weekly rate of Class 2 contributions;
- (b) amending section 13(1) of that Act by altering the figure specified in that subsection as the amount of a Class 3 contribution,

as <sup>[2]</sup> the Treasury think fit in consequence of the coming into force of an order made or proposed to be made under subsection (1) above.

[...<sup>4</sup>]

**147.**—(1) An order under section 145 [...<sup>5</sup>] above may make such amendments of any enactment as appear to the <sup>[2]</sup>Treasury to be necessary or expedient in consequence of any alteration made by it.

Orders under s. 145 and 146 supplementary.

(2) Where (in accordance with section 190 below) the <sup>[2]</sup>Treasury <sup>[2]</sup>lay before Parliament a draft of an order under section 145 [...<sup>5</sup>] above, <sup>[2]</sup>they shall lay with it a copy of a report by the Government Actuary or the Deputy Government Actuary on the effect which, in that Actuary's opinion, the making of such an order may be expected to have on the National Insurance Fund.

(3) An order under section 145 [...<sup>5</sup>] above shall be made so as to come into force—

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

(4) 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 Part of this Act).

(5) Such an order shall be taken as receiving Parliamentary approval on the date on which the draft of it is approved by the second House to approve it.

**\*148.**—(1) This section shall have effect for the purpose of securing that earnings factors which are relevant—

Revaluation of earnings factors.

- (a) to the calculation—
  - (i) of the additional pension 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 the Pensions Act (including that Part as modified by or under any other enactment),

<sup>1</sup> Ss. 145(1) to (3) substituted (6.4.99) by Sch. 7, para. 92 of S.S. Act 1998 (c. 8).

<sup>2</sup> Words substituted in ss. 145 & 147 (1.4.99) by Transfer of Functions Act 1999 (c. 2), Sch. 3, paras. 49 & 50.

<sup>3</sup> Words substituted & inserted in s. 145(1) & (3) (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 18.

<sup>4</sup> S. 146 shall cease to have effect (6.4.99) by Sch. 7, para. 93 of S.S. Act 1998 (c. 8).

<sup>5</sup> Words "or 146" in s. 147(3) shall cease to have effect (6.4.99) by Sch. 7, para. 94 of S.S. Act 1998 (c. 8).

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maintain their value in relation to the general level of earnings obtaining in Great Britain.

(2) The Secretary of State shall in each tax year review the general level of earnings obtaining in Great Britain and any changes in that level which have taken [1]place—

- (a) since the end of the period taken into account for the last review under this section, or
- (b) since such other date (whether earlier or later) as he may determine;

and for the purposes of any such review the Secretary of State shall estimate the general level of earnings in such manner as he thinks fit.]

(3) If on any such review the Secretary of State concludes, having regard to earlier orders under this section, that earnings factors for any previous tax year (not being earlier than 1978-79) have not, during the period taken into account for that review, maintained their value in relation to the general level of earnings, he shall make an order under this section.

(4) An order under this section shall be an order directing that, for the purposes of any such calculation as is mentioned in subsection (1) above, the earnings factor referred to in subsection (3) above shall be increased by such percentage of their amount, apart from earlier orders under this section, as the Secretary of State thinks necessary to make up that fall in their value, during the period taken into account for the review together with other falls in their value which had been made up by such earlier orders.

(5) Subsections (3) and (4) above do not require the Secretary of State to direct any increase where it appears to him that the increase would be inconsiderable.

(6) If on any such review the Secretary of State determines that he is not required to make an order under this section, he shall instead lay before each House of Parliament a report explaining his reasons for arriving at that determination.

(7) For the purposes of this section—

- (a) any review under [2]section 21 of the Social Security Pensions Act 1975] (which made provision corresponding to this section) shall be treated as a review under this section; and
- (b) any order under that section shall be treated as an order under this section, (but without prejudice to sections 16 and 17 of the Interpretation Act 1978).

*\*Under s. 128(3) of the Pensions Act 1995 (c. 26), s. 148 has effect for surpluses under s. 44(5A) of the S.S. Conts. and Bens. Act 1992 (c. 4), where s. 128(4)–(6) of the Pensions Act 1995 (relevant person's pensionable age or death is after 5.4.2000, etc.) applies.*

Revaluation of low earnings threshold.

[3]148A. —(1) The Secretary of State shall in the tax year preceding the first appointed year and in each subsequent tax year [4]up to and including the tax year 2014-15] review the general level of earnings obtaining in Great Britain and any changes in that level which have taken place during the review period.

(2) In this section, “the review period” means—

- (a) in the case of the first review under this section, the period beginning with 1st October 1998 and ending on 30th September in the tax year preceding the first appointed year; and
- (b) in the case of each subsequent review under this section, the period since—
  - (i) the end of the last period taken into account in a review under this section; or

<sup>1</sup> Words in s. 148(2) substituted (1.12.00) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 37.

<sup>2</sup> Words in s. 148(7) substituted (7.2.94) by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 27.

<sup>3</sup> S. 148A inserted (8.1.01 for regulation and order making purposes, 25.1.01 for certain purposes in art. 2(c)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all remaining purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 33(1).

<sup>4</sup> Words in s. 148A(1) inserted by reg. 3(2) of S.I. 2016/224 as from 6.4.16.

- (ii) such other date (whether earlier or later) as the Secretary of State may determine.

(3) If on such a review it appears to the Secretary of State that the general level of earnings has increased during the review period, he shall make an order under this section.

(4) An order under this section shall be an order directing that, for the purposes of the Contributions and Benefits Act—

- (a) there shall be a new low earnings threshold for the tax years after the tax year in which the review takes place; and
- (b) the amount of that threshold shall be the amount specified in subsection (5) below—
  - (i) increased by the percentage by which the general level of earnings increased during the review period; and
  - (ii) rounded to the nearest £100 (taking any amount of £50 as nearest to the next whole £100).

(5) The amount referred to in subsection (4)(b) above is—

- (a) in the case of the first review under this section, £9,500; and
- (b) in the case of each subsequent review, the low earnings threshold for the year in which the review takes place.

(6) This section does not require the Secretary of State to direct any increase where it appears to him that the increase would be inconsiderable.

(7) If on any review under subsection (1) above the Secretary of State determines that he is not required to make an order under this section, he shall instead lay before each House of Parliament a report explaining his reasons for arriving at that determination.

(8) For the purposes of any review under subsection (1) above the Secretary of State shall estimate the general level of earnings in such manner as he thinks fit.

[<sup>1</sup>148AA.—(1) The Secretary of State must in the tax year preceding the flat rate introduction year and in each subsequent tax year [<sup>2</sup>up to and including the tax year 2014-15] review the general level of earnings obtaining in Great Britain and any changes in that level which have taken place during the review period.

Revaluation of flat rate  
accrual amount

(2) In this section “the review period” means—

- (a) in the case of the first review under this section, the period beginning with 1st October 2004 and ending with 30th September in the tax year preceding the flat rate introduction year; and
- (b) in the case of each subsequent review under this section, the period since—
  - (i) the end of the last period taken into account in a review under this section, or
  - (ii) such other date (whether earlier or later) as the Secretary of State may determine.

(3) If on such a review it appears to the Secretary of State that the general level of earnings has increased during the review period, he must make an order under this section.

(4) An order under this section is an order directing that for the purposes of Schedule 4B to the Contributions and Benefits Act—

- (a) there is to be a new FRAA for the tax years after the tax year in which the review takes place, and

<sup>1</sup> S. 148AA inserted (27.9.07) by the Pensions Act 2007 (c. 22), Sch. 2, para. 2.

<sup>2</sup> Words in s. 148AA(1) inserted by reg. 3(3) of S.I. 2016/224 as from 6.4.16.

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(b) the amount of that FRAA is to be the amount specified in subsection (5) below, increased by not less than the percentage by which the general level of earnings increased during the review period.

(5) The amount referred to in subsection (4)(b) is—

(a) in the case of the first review under this section, £72.80, and

(b) in the case of each subsequent review, the FRAA for the year in which the review takes place.

(6) The Secretary of State may, for the purposes of any provision of subsections (4) and (5), adjust any amount by rounding it up or down to such extent as he thinks appropriate.

(7) This section does not require the Secretary of State to direct any increase where it appears to him that the increase would be inconsiderable.

(8) If on any review under this section the Secretary of State determines that he is not required to make an order under this section, he must instead lay before each House of Parliament a report explaining his reasons for arriving at that determination.

(9) For the purposes of any review under this section the Secretary of State may estimate the general level of earnings in such manner as he thinks fit.

(10) In this section—

“the flat rate introduction year” has the meaning given by section 122 of the Contributions and Benefits Act (interpretation of Parts 1 to 6 etc.);

“the FRAA” means the flat rate accrual amount (see paragraph 13 of Schedule 4B to the Contributions and Benefits Act (additional pension: simplified accrual rates for purposes of section 45(2)(d))).]

[**148AB.** . . . . .]

**[<sup>2</sup>148AC. Revaluation for transitional pensions under Pensions Act 2014**

(1) The Secretary of State must, in each tax year, review the general level of prices in Great Britain and any changes which have taken place during the review period.

(2) In this section, “the review period” means the period since the beginning of 6 April 2016.

(3) If on a review it appears to the Secretary of State that the general level of prices has increased during the review period, the Secretary of State must make an order specifying the percentage of the increase.

(4) The percentage specified in the order is the “revaluing percentage” for the purposes of paragraph 6(5) of Schedule 1 to the Pensions Act 2014.

(5) Subsection (3) does not require the Secretary of State to make an order if it appears to the Secretary of State that the effect of the order on amounts calculated in accordance with paragraph 6 of Schedule 1 to the Pensions Act 2014 would be inconsiderable.

(6) If on a review the Secretary of State determines that no order under this section is required, the Secretary of State must lay before Parliament a report explaining the reasons for arriving at that determination.

(7) For the purposes of any review under this section the Secretary of State may estimate the general level of prices in such manner as the Secretary of State thinks fit].

Statutory sick pay - power to later limit for small employers' relief.

**149.** . . . . . *deleted by S.I. 1995/512, see Annex 1 page 1.2301*

<sup>1</sup> S. 148AB repealed (1.10.14) by the Pensions Act 2014, (c. 19), Sch. 12, para. 96(c).

<sup>2</sup> S. 148AC inserted (6.4.16) by the Pensions Act 2014, (c. 19), Sch. 12, para. 17.



## PART X REVIEW AND ALTERATION OF BENEFITS

*See s. 6(7)-(10) of the Pensions Act 2007 (c. 22) for details of the "designated tax year" in s. 150.*

- 150.**—(1) The Secretary of State shall in each tax year review the sums—
- Annual up-rating of benefits.
- (a) specified in the following provisions of the Contributions and Benefits Act—
    - (i) Schedule 4;
    - (ii) section 44(4) and
      - [<sup>1</sup>(i) Schedule 4 (excluding the provisions of Parts 1, 3 and 5 of the Schedule that specify amounts mentioned in section 150A(1) below); and;
      - (ii) section 44(4) so far as relating to the lower rate of short-term incapacity benefit;] and
      - (iii) paragraphs 2(6)(c) and 6(2)(b) of Schedule 8;
    - [<sup>2</sup>(aa) specified in regulations under section 30B(7) of that Act;]
    - [<sup>1</sup>(ab) specified in regulations under section 39(2A) or section 39C(1A) of that Act;]
    - (b) specified in regulations under section 72(3) or 73(10) of that Act;
    - (c) which are the additional pensions in long-term benefits;
    - [<sup>3</sup>(ca) which are shared additional pensions;]
    - (d) which are the increases in the rates of retirement pensions under Schedule 5 to the Contributions and Benefits Act;
    - [<sup>4</sup>(dza) which are lump sums to which surviving spouses [<sup>5</sup>or civil partners] will become entitled under paragraph 7A of that Schedule on becoming entitled to a category A or Category B retirement pension;]
    - [<sup>6</sup>(da) which are the increases in the rates of shared additional pensions under [<sup>4</sup>paragraph 2 of Schedule 5A to] that Act;]
    - (e) which are—
      - (i) payable by virtue of [<sup>7</sup>section 15(1)] of the Pensions Act to a [<sup>8</sup>relevant person] (including sums payable by virtue of [<sup>7</sup>section 17(2)]); or
      - (ii) payable to such a person as part of his Category A or Category B retirement pension by virtue of an order made under this section by virtue of this paragraph or made under section 126A of the 1975 Act or section 63(1)(d) of the 1986 Act;
    - (f) [...<sup>9</sup>]
    - (g) falling to be calculated under paragraph 13(4) of Schedule 7 to that Act;
    - (h) prescribed for the purposes of section 128(5) or 129(8) of that Act or specified in regulations under section 135(1) [<sup>10</sup>of that Act];

<sup>1</sup> S. 150(1)(a)(i) & (ii) substituted & (ab) inserted (26.7.07) by the Pensions Act 2007 (c. 22), s. 6(2)(a)-(b).

<sup>2</sup> S. 150(1)(aa) inserted (18.11.94) by s. 2(3) of Social Security (Incapacity for Work) Act 1994 (c. 18).

<sup>3</sup> Para. (ca) inserted (1.12.00) in s. 150(1) by the Welfare Reform & Pensions Act 1999 (c. 30), Sch. 12, para. 24.

<sup>4</sup> In s. 150, para. (dza) inserted in subsection (1) and words in para. (da) substituted (18.11.04 for reg. making purposes, 6.4.05 all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 21(a) & (b).

<sup>5</sup> In subsection (1)(dza) words inserted by part 2, para. 8 of the Sch. to S.I. 2005/2053 as from 5.12.05.

<sup>6</sup> Para. (da) inserted (1.12.00) in s. 150(1) by the Welfare Reform and Pensions Act 1999 (c. 30) Sch. 12, para. 24(b).

<sup>7</sup> Words in s. 150(1)(e)(i) substituted (7.2.94) by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 28(a).

<sup>8</sup> Words in s. (1)(e)(i) substituted (6.4.12) by the Pensions Act 2011 (c. 19) S. 2(1)(a).

<sup>9</sup> Para. (f) of S. 150(1) revoked (6.4.03) by Sch. 6 of the Tax Credits Act 2002 (c. 21). *See* S.I. 2003/938 at page 3.731 for details of savings of transitional provisions.

<sup>10</sup> Words inserted in s. 150(1)(h) (6.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 3, para. 35.

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- (i) specified by virtue of section 145(1) of that Act;
- (j) specified in section 157(1) of that Act or in regulations under [<sup>1</sup>section 166(1)(b), 171ZE(1), [<sup>2</sup>171ZN(2E)(b) or 171ZY(1)]];]
- [<sup>3</sup>(k) specified in regulations under sections 4(2) or (5) of the Jobseekers Act 1995;]
- [<sup>4</sup>(l) specified in regulations under sections 2 or 3 of the State Pension Credit Act 2002 [<sup>5</sup>(other than those prescribing the amounts mentioned in section 150A(1) below)];]
- [<sup>6</sup>(m) specified in regulations under section 2(1)(a) or (4)(c) or 4(2)(a) or (6)(c) of the Welfare Reform Act 2007;]
- [<sup>7</sup>(n) specified in regulations under sections 9 to 12 of the Welfare Reform Act 2012;]
- [<sup>8</sup>(o) specified in regulations under section 78(3) or 79(3) of that Act;]
- [<sup>9</sup>(p) which are the increases in the rates of state pensions under section 17 of the Pensions Act 2014;]

in order to determine whether they have retained their value in relation to the general level of prices obtaining in Great Britain estimated in such manner as the Secretary of State thinks fit.

[<sup>10</sup>(1A) In subsection (1)(e)(i) “relevant person” means a person—

- (a) who became entitled to a Category A or Category B retirement pension before the day on which section 2(1) of the Pensions Act 2011 comes into force, and
- (b) to whom sums become payable by virtue of section 15(1) of the Pension Schemes Act 1993 (including sums payable by virtue of section 17(2)) before that day.

(1B) In subsection (1A)—

- (a) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;
- (b) a reference to sums becoming payable before a day includes a reference to sums becoming payable on or after that day in respect of a period before that day.]

(2) Where it appears to the Secretary of State that the general level of prices is greater at the end of the period under review than it was at the beginning of that period, he shall lay before Parliament the draft of an up-rating order—

- (a) which increases each of the sums to which subsection (3) below applies by a percentage not less than the percentage by which the general level of prices is greater at the end of the period than it was at the beginning; and
- (b) if he considers it appropriate, having regard to the national economic situation and any other matters which he considers relevant, which also increases by such a percentage or percentages as he thinks fit any of the sums mentioned in subsection (1) above but to which subsection (3) below does not apply; and

<sup>1</sup> Words in s. 150(1)(j) substituted (6.4.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 14.

<sup>2</sup> Reference inserted in s. 150(1)(j) (5.4.15) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 26 (with art. 16 of S.I. 2014/1640).

<sup>3</sup> S. 150(1)(k) inserted (11.6.96) by para. 64(2) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>4</sup> Para. (l) inserted in s. 150(1) (2.7.02) for the purposes of exercising power to make regs. or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 16(2).

<sup>5</sup> Words inserted in s. 150(1)(l) (26.7.07) by the Pensions Act 2007 (c. 22), s. 6(2)(c).

<sup>6</sup> S. 150(1)(m) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(21) of Sch. 3.

<sup>7</sup> Sub-para. s. 150(1)(n) inserted (29.4.13) by para. 22 of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>8</sup> S. 150(1)(o) inserted (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 17(a).

<sup>9</sup> S. 150(1)(p) inserted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 18.

<sup>10</sup> Words in Ss. (1A) & (1B) inserted (6.4.12) by the Pensions Act 2011 (c. 19), S. 2(1)(b).

- (c) stating the amount of any sums which are mentioned in subsection (1) above but which the order does not increase.

*\*See section 23(a) of the Welfare Reform Act 2009 (c. 24) at page 2.7682 for details of modifications in regards to “(annual up-rating of benefits) in the tax year ending with 5.4.10” in certain situations.*

- (3) This subsection applies to sums—

- (a) specified in Part I, [1]paragraphs [2]1 to 5] of Part III], Part IV or Part V of Schedule 4 to the Contributions and Benefits Act [2]excluding the provisions of Parts 1 and 5 of the Schedule that specify amounts mentioned in section 150A(1) below];
- (b) mentioned in subsection (1)(a)(ii) or (iii), [1]aa,] [3]ab,] (b), (c), (d), [4]dza] (e)[5, (g) or (o)] above.

(4) Subsection (2) above shall not require the Secretary of State to provide for an increase in any case in which it appears to him that the amount of the increase would be inconsiderable.

(5) The Secretary of State may, in providing for an increase in pursuance of subsection (2)\* above, adjust the amount of the increase so as to round any sum up or down to such extent as he thinks appropriate.

*\*See reg. 2(3) of S.I. 2008/3270 at page 13.5601 for details of modifications of this reg. in certain situations.*

(6) Where subsection (2)\* above requires\* the Secretary of State to lay before Parliament the draft of an order increasing any sum that could be reduced under section 154(1) below, the order may make such alteration to that sum as reflects the combined effect of that increase and of any reduction that could be made under that subsection.

*\*See section 23(b)-(c) of the Welfare Reform Act 2009 (c. 24), for details of modifications in certain situations.*

(7) If the Secretary of State considers it appropriate to do so, he may include in the draft of an up-rating order, in addition to any other provisions, provisions increasing any of the sums for the time being specified in regulations under Part VII of the Contributions and Benefits Act [6]or under the Jobseekers Act 1995][7, the State Pension Credit Act 2002 or Part 1 of the Welfare Reform Act 2007] [8]or Part 1 of the Welfare Reform Act 2012] or which are additions to income support under regulations made under section 89 of the 1986 Act. [9]The reference to regulations under the State Pension Credit Act 2002 does not include those prescribing the amounts mentioned in section 150A(1)(d) below.]

(7A) [...<sup>10</sup>]

(8) The Secretary of State shall lay with any draft order under this section a copy of a report by the Government Actuary or the Deputy Government Actuary giving that Actuary’s opinion on the likely effect on the National Insurance Fund of such parts of the order as relate to sums payable out of that Fund.

<sup>1</sup> Words in s. 150(3)(a) substituted & ref. inserted in s. 150(3)(b) (18.11.94) by ss. 9(4) & 2(3) of Social Security (Incapacity for Work) Act 1994 (c. 18).

<sup>2</sup> Words in s. 150(3)(a) substituted & inserted (26.7.07) by the Pensions Act 2007 (c. 22), s. 6(3)(a).

<sup>3</sup> Words inserted in s. 150(3)(b)(7) (26.7.07) by the Pensions Act 2007 (c. 22), s. 6(3)(b) & (4).

<sup>4</sup> In s. 150(3)(b), words inserted (18.11.04 for reg. making purposes, 6.4.05 all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 21(c).

<sup>5</sup> Words in s. 150(3)(b) substituted (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 17(b).

<sup>6</sup> Words inserted (11.6.96) in s. 150(7) by para. 64(3) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>7</sup> In s. 150(7) substituted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(21) of Sch. 3.

<sup>8</sup> Words inserted in s. 150(7) (29.4.13) by para. 22(b) of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>9</sup> Words inserted in s. 150(7) (26.7.07) by the Pensions Act 2007 (c. 22), s. 6(3)(b) & (4).

<sup>10</sup> S. 150(7A) omitted (16.3.16) by the Welfare Reform and Work Act 2016 (c. 7), art. 9(7).

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(9) If a draft order laid before Parliament in pursuance of this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.

(10) [<sup>1</sup>Subject to subsection (10ZA),] an order under this section—

- (a) shall be framed so as to bring the alterations to which it relates into force—
  - (i) in the week beginning with the first Monday in the tax year [<sup>2</sup>following that in which the order is made]; or
  - (ii) on such earlier date in April as may be specified in the order;
- (b) may make such transitional provision as the Secretary of State considers expedient in respect of periods of entitlement—
  - (i) to [<sup>3</sup>working families' tax credit];
  - (ii) to [<sup>3</sup>disabled person's tax credit]; or
  - (iii) to statutory sick pay, running at the date when the alterations come into force.

[<sup>1</sup>(10ZA) An order under this section shall be framed so that—

- (a) any alteration to any of the sums referred to in subsection (1)(n) or otherwise specified in regulations under Part 1 of the Welfare Reform Act 2012 (universal credit) comes into force in relation to a person on the relevant day; and
- (b) any other alteration to which the order relates comes into force, for the purposes of determining the amount of universal credit to which a person is entitled, on the relevant day.

(10ZB) in subsection (10ZA) “relevant day”, in relation to a person, means the first day of the first universal credit assessment period in respect of the person which begins on or after—

- (a) the Monday of the week specified in subsection (10)(a)(i); or
- (b) any earlier date specified under subsection (10)(a)(ii).]

[<sup>4</sup>(10A) Where a member of [<sup>5</sup>a scheme which was at a time before the abolition date, as defined by section 181(1) of the Pensions Act,] an appropriate personal pension scheme or a money purchase contracted-out scheme continues in employment after attaining pensionable age and the commencement of his pension under the scheme is postponed, the preceding provisions of this section shall have effect as if—

- (a) the guaranteed minimum pension to which he is treated as entitled by virtue of section 48(2)(a) of the Pensions Act were subject to increases in accordance with the provisions of section 15(1) of that Act; and
- (b) the amounts of any notional increases referred to in paragraph (a) above were subject to annual up-rating in the same way as if they were sums to which subsection (1)(e)(i) above applied.]

[<sup>6</sup>(10B) Subsection (10A) does not have effect unless—

- (a) the member became entitled to a Category A or Category B retirement pension before the day on which section 2(2) of the Pensions Act 2011 comes into force; and
- (b) the member's postponed pension under the scheme became payable before that day.

(10C) In subsection (10B)—

- (a) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;

<sup>1</sup> Words in s. 150(10) & s. 150(10ZA) inserted (26.11.14) by S.I. 2014/2888, regs. 1, 7(a). (See reg. 1(2) for revised effective date in some circumstances).

<sup>2</sup> Words inserted in s. 150(10)(a)(i) (26.7.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 21.

<sup>3</sup> Words in s. 150(10)(b) substituted (5.10.99) by para. 3(e) of Sch. 1 to the Tax Credits Act 1999 (c. 10).

<sup>4</sup> S. 150(10A) inserted (7.2.94) by Pension Schemes Act 1993 (c. 48), Sch. 8, para 28(b).

<sup>5</sup> Words inserted in s. 150(10A) (6.4.12) by S.I. 2011/1724, reg. 2(2).

<sup>6</sup> Ss. (10B) & (10C) inserted (6.4.12) by the Pensions Act 2011 (c. 19), s. 2(2).

- (b) a reference to a pension becoming payable before a day includes a reference to a pension becoming payable on or after that day in respect of a period before that day.]

(11) So long as sections 36 and 37 of the National Insurance Act 1965 (graduated retirement benefit) continue in force by virtue of regulations made under Schedule 3 to the Social Security (Consequential Provisions) Act 1975 or under Schedule 3 to the Consequential Provisions Act, regulations may make provision for applying the provisions of this section—

- [<sup>1</sup>(a) to the amount of graduated retirement benefit payable for each unit of graduated contributions;
- (b) to increase of such benefit under any provisions made by virtue of section 24(1)(b) of the Social Security Pensions Act 1975 or section 62(1)(a) of the Contributions and Benefits Act; and
- (c) to any addition under section 37(1) of the National Insurance Act 1965 (addition to weekly rate of retirement pension for widows and widowers) to the amount of such benefit.]

[<sup>2</sup>(12) So long as sections 36 and 37 of the National Insurance Act 1965 continue in force as mentioned in subsection (11), this section applies as if subsections (1) and (3) included the sums mentioned in subsection (13).

(13) Those sums are lump sums to which surviving spouses or civil partners will become entitled, by virtue of regulations made under section 62(1)(c) of the Contributions and Benefits Act, on becoming entitled to—

- (a) a Category A or Category B retirement pension; or
- (b) graduated retirement benefit.]

*See s. 5(3)-(7) of the Pensions Act 2007 (c. 22) for details of the “designated tax year” in s. 150A.*

[<sup>3</sup>150A.—(1) The Secretary of State shall in each tax year review the following amounts in order to determine whether they have retained their value in relation to the general level of earnings obtaining in Great Britain—

Annual up-rating of basic pension etc. and standard minimum guarantee.

- [<sup>4</sup>(za) the amount specified in regulations under section 3(1) of the Pensions Act 2014 (full rate of state pension);]
- (a) the amount of the basic pension;
- (b) the specified amounts in the case of Category B, C or D retirement pensions;
- (c) the specified amounts in the case of industrial death benefit; and
- (d) the amounts of the standard minimum guarantee for the time being prescribed under section 2(4) and (5)(a) and (b) of the State Pension Credit Act 2002.

(2) Where it appears to the Secretary of State that the general level of earnings is greater at the end of the period under review than it was at the beginning of that period, he shall lay before Parliament the draft of an order which increases each of the amounts referred to in subsection (1) above by a percentage not less than the percentage by which the general level of earnings is greater at the end of the period than it was at the beginning.

(3) Subsection (2) above does not require the Secretary of State to provide for an increase in any case if it appears to him that the amount of the increase would be inconsiderable.

(4) The Secretary of State may, in providing for an increase in pursuance of subsection (2) above, adjust the amount of the increase so as to round the sum in question up or down to such extent as he thinks appropriate.

<sup>1</sup> Paras. (a)–(c) substituted (19.7.95) for words in s. 150(11) by s. 131(2) of Pensions Act 1995 (c. 26).

<sup>2</sup> S. 150(12) & (13) inserted (26.10.06) by S.I. 2006/2839, art. 2.

<sup>3</sup> S. 150A inserted (26.7.07) by the Pensions Act 2007 (c. 22), s. 5(1).

<sup>4</sup> S. 150A(1)(za) inserted (6.4.16) by Sch. 12 of the Pensions Act 2014 (c. 19).

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(5) The Secretary of State shall lay with a draft order under this section a copy of a report by the Government Actuary or the Deputy Government Actuary giving that Actuary's opinion on the likely effect on the National Insurance Fund of any parts of the order relating to sums payable out of that Fund.

(6) If a draft order laid before Parliament under this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.

(7) [<sup>1</sup>Subject to subsection (7A),] an order under this section shall be framed so as to bring the increase in question into force in the week beginning with the first Monday in the tax year following that in which the order is made.

[<sup>1</sup>(7A) An order under this section shall be framed so that any alteration to which the order relates comes into force, for the purposes of determining the amount of universal credit to which a person is entitled, on the relevant day.

(7B) In subsection (7A) "relevant day", in relation to a person, means the first day of the first universal credit assessment period in respect of the person which begins on or after the Monday of the week specified in subsection (7),]

(8) For the purposes of any review under subsection (1) above the Secretary of State shall estimate the general level of earnings in such manner as he thinks fit.

(9) If a draft order under this section is combined with a draft up-rating order under section 150 above, the report required by virtue of subsection (5) above may be combined with that required by virtue of section 150(8) above.

(10) In this section—

"the amount of the basic pension" means the first amount specified in section 44(4) of the Contributions and Benefits Act (weekly rate of Category A retirement pension);

"the specified amounts in the case of Category B, C or D retirement pensions" means—

(a) the amount specified in paragraph 5 of Part 1 of Schedule 4 to the Contributions and Benefits Act, and

(b) the amounts specified in paragraphs 6 and 7 of Part 3 of that Schedule;

"the specified amounts in the case of industrial death benefit" means—

(a) the amounts specified in paragraph 10 of Part 5 of that Schedule (apart from the amount of the initial rate), and

(b) the amount specified in paragraph 11 of that Part of that Schedule.]

Up-rating -  
Supplementary.

**151.**—(1) Any increase under section 150 above of the sums mentioned in subsection (1)(c) of that section shall take the form of a direction that those sums shall be increased by a specified percentage of their amount apart from the order and shall apply [<sup>2</sup>subject to section 156 and] only in relation to additional pensions calculated under section 45 of the Contributions and Benefits Act by reference to final relevant years which are—

(a) earlier than the tax year preceding that in which the order comes into force; or

(b) if the order comes into force on or after 6th May in any tax year, earlier than that year.

<sup>1</sup> Words in s. 150A(7) & ss. 150A(7A) & (7B) inserted (26.11.14) by S.I. 2014/2888, reg. 1, 7(b). (See reg. 1(2) for revised effective date in some circumstances).

<sup>2</sup> Words inserted (19.7.95) into s. 151(1) by s. 130(2) of Pension Act 1995 (c. 26).

(2) Any increase under section 150 above of the sums mentioned in [<sup>1</sup>subsection (1)(d), [<sup>2</sup>(dza), (e) or (p)] of that section shall take the form of a direction that those sums shall be increased by a specified percentage of their amount apart from the order and<sup>2</sup>–

- (a) [<sup>1</sup>, in the case of the sums mentioned in subsection (1)(d) or (e) of that section,] shall apply only in relation to sums calculated under Schedule 5 to the Contributions and Benefits Act by reference to periods of deferment which have ended before the coming into force of the order<sup>2</sup>, and
- (b) in the case of the sums mentioned in subsection (1)(p) of that section, shall apply only in relation to sums calculated under section 17 of the Pensions Act 2014 by reference to periods which have ended before the coming into force of that order.]

(3) An increase in a sum such as is specified in section 150(1)(e)(ii) above shall form part of the Category A or Category B retirement pension of the person to whom it is paid and an increase in a sum such as is specified in section 150(1)(e)(i) above shall be added to and form part of that pension but shall not form part of the sum increased.

(4) Where an increment under [<sup>3</sup>section 15(1)] of the Pensions Act–

- (a) is increased in any tax year by an order under [<sup>3</sup>section 109] of that Act; and
- (b) in that year also falls to be increased by an order under section 150 above,

the increase under that section shall be the amount that would have been specified in the order, but for this subsection, less the amount of the increase under [<sup>3</sup>section 109].

(5) [...<sup>4</sup>]

*The repeal made by subsection (3) does not affect the application of section 151(5) of that Act in relation to a person who became entitled to a Category A or Category B retirement pension before the day on which subsection (3) comes into force.*

(6) Any increase under section 150 above of any of the sums which are additions to income support mentioned in section 150(7) above shall take the form of a direction that any such sum shall be increased by a specified percentage of its amount apart from the order.

[<sup>5</sup>151A.—(1) The Secretary of State must, in each tax year, review the general level of prices in Great Britain and any changes which have taken place.

Up-rating of transitional state pensions under Pensions Act 2014

(2) If on a review it appears to the Secretary of State that the general level of prices has increased during the review period, the Secretary of State must make an order specifying a percentage by which the amounts mentioned in the following provision of the Pensions Act 2014 are to be increased–

- (a) section 9;
- (b) paragraph 4(3) of Schedule 2;
- (c) paragraph 5(3) and 6 of Schedule 4;
- (d) paragraph 5(3) and 6 of Schedule 9

(3) The percentage specified in the order must not be less than the percentage by which the general level of prices has increased during the review period.

<sup>1</sup> In s. 151(2), words substituted and inserted (18.11.04 for reg. making purposes, 6.4.05 for all other purposes) by the Pensions Act 2004 (c. 35), Sch. 11, para. 22.

<sup>2</sup> Words in S. 151(2) substituted and inserted (6.4.16) by Sch. 12 of the Pensions Act 2014 (c. 19).

<sup>3</sup> Words in s. 151(4) substituted (7.2.94) by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 29(a).

<sup>4</sup> S. 151(5) repealed (6.4.12) by the Pensions Act 2011 (c. 19), s. 2(3).

<sup>5</sup> S. 151A inserted (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 21.

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(4) This section does not require the Secretary of State to make an order if it appears to the Secretary of State that the effect of the order on the amounts referred to in subsection (2) would be inconsiderable.

(5) [<sup>1</sup>Subject to subsection (5A),] an order under this section must be framed so as to bring the increase in question into force in the week beginning with the first Monday in the tax year following that in which the order is made.

[<sup>1</sup>(5A) An order under this section must be framed so that any alteration to which the order relates comes into force, for the purposes of determining the amount of universal credit to which a person is entitled, on the relevant day.

(5B) In subsection (5A) “relevant day”, in relation to a person, means the first day of the first universal credit assessment period in respect of the person which begins on or after the Monday of the week specified in subsection (5).]

(6) The Secretary of State must lay with a draft order under this section a copy of a report by the Government Actuary or the Deputy Government Actuary giving that Actuary’s opinion on the likely effect on the National Insurance Fund.

(7) If a draft order under this section is combined with a draft up-rating order under section 150 or 150A, the report required by virtue of subsection (6) may be combined with that required by virtue of section 150(8) or 150A(5).

(8) For the purposes of any review under this section the Secretary of State may estimate the general level of prices in such manner as the Secretary of State thinks fit.]

Rectification of mistakes in orders under section 150 [<sup>1</sup>or 150A].

**152.**—(1) If the Secretary of State is satisfied that a mistake (whether in computation or otherwise) has occurred in the preparation of the previous order under section 150 above, he may by order vary the amount of any one or more of the sums specified in an enactment mentioned in subsection (1)(a) of that section by increasing or reducing it to the level at which it would have stood had the mistake not occurred.

[<sup>2</sup>(1A) If the Secretary of State is satisfied that such a mistake has occurred in the preparation of the previous order under section 150A above, he may by order vary the amount of any one or more of the amounts referred to in subsection (1) of that section by increasing or reducing it to the level at which it would have stood had the mistake not occurred.]

(2) Where the amount of any such sum is varied under this section, then, for the purposes of the next review and order under that section, the amount of the sum shall be taken to be, and throughout the period under review to have been, its amount as so varied.

Annual review of child benefit.

[<sup>3</sup>**153.** The Secretary of State shall review the level of child benefit in April of each year, taking account of increases in the Retail Price Index and other relevant external factors.]

Social security benefit in respect of children.

**154.**—(1) Regulations may, with effect from any day on or after that on which there is an increase in the rate or any of the rates of child benefit, reduce any sum specified in any of the provisions mentioned in subsection (2) below to such extent as the Secretary of State thinks appropriate having regard to that increase.

<sup>1</sup> Words in Ss. 151A(5), (5A) & (5B) inserted (6.4.16) by reg. 10(2)-(3) of S.I. 2015/1754.

<sup>2</sup> S. 152(1A) & words in the sidenote inserted (26.7.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 22(a) & (b).

<sup>3</sup> S. 153 as enacted but, in consequence of para. 16 of Sch. 4 to S.S. (C.P.) Act 1992 (c. 6), not due to come into force until a day is appointed under para. 1(3)(a) *ibid*.



(2) The provisions referred to in subsection (1) above are the following provisions of Schedule 4 to the Contributions and Benefits Act—

- (a) paragraph 6 of Part I (child's special allowance);
- (b) [...]<sup>1</sup>
- (c) [...]<sup>1</sup>

*Para. (c) reproduced below for the purposes of the savings provisions in art. 5 of S.I. 2003/938.*

- (c) column (2) of Part IV (increase for child dependants);
- (d) paragraph 7 of Part V (increase of weekly rate of disablement pension in respect of child dependants);
- (e) paragraph 12 of Part V (allowance in respect of deceased's children).

## PART XI COMPUTATION OF BENEFITS

**155.**—(1) This section has effect where the rate of any benefit to which this section applies is altered—

- (a) by an Act subsequent to this Act;
- (b) by an order under section 150<sup>2</sup>, 150A] or 152 above; or
- (c) in consequence of any such Act or order altering any maximum rate of benefit;

Effect of alteration of rates of benefit under Part II and V of Contributions and Benefits Act.

and in this section “the commencing date” means the date fixed for payment of benefit at an altered rate to commence.

(2) This section applies to benefit under Part II, III, IV or V of the Contributions and Benefits Act.

(3) Subject to such exceptions or conditions as may be prescribed, where—

- (a) the weekly rate of a benefit to which this section applies is altered to a fixed amount higher or lower than the previous amount; and
- (b) before the commencing date an award of that benefit has been made (whether before or after the passing of the relevant Act or the making of the relevant order),

<sup>1</sup> S. 154(2)(b) & (c) revoked (1.4.03) by Sch. 6 of the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details of savings and transitional provisions.

<sup>2</sup> Words inserted in s. 155(1)(b) (26.7.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 23.

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except as respects any period falling before the commencing date, the benefit shall become payable at the altered rate without any claim being made for it in the case of an increase in the rate of benefit or any review of the award in the case of a decrease, and the award shall have effect accordingly.

*S. 155(3) modified by reg. 2 of S.I. 2015/496, and by corresponding provisions in earlier uprating regulations.*

(4) Where—

- (a) the weekly rate of a benefit to which this section applies is altered; and
- (b) before the commencing date (but after that date is fixed) an award is made of the benefit,

the award either may provide for the benefit to be paid as from the commencing date at the altered rate or may be expressed in terms of the rate appropriate at the date of the award.

(5) Where in consequence of the passing of an Act, or the making of an order, altering the rate of disablement pension, regulations are made varying the scale of disablement gratuities, the regulations may provide that the scale as varied shall apply only in cases where the period taken into account by the assessment of the extent of the disablement in respect of which the gratuity is awarded begins or began after such day as may be prescribed.

(6) Subject to such exceptions or conditions as may be prescribed, where—

- (a) for any purpose of any Act or regulations the weekly rate at which a person contributes to the cost of providing for a child [<sup>1</sup>or qualifying young person], or to the maintenance of an adult dependant, is to be calculated for a period beginning on or after the commencing date for an increase in the weekly rate of benefit; but
- (b) account is to be taken of amounts referable to the period before the commencing date,

those amounts shall be treated as increased in proportion to the increase in the weekly rate of benefit.

(7) So long as sections 36 and 37 of the National Insurance Act 1965 (graduated retirement benefit) continue in force by virtue of regulations made under Schedule 3 to the Social Security (Consequential Provisions) Act 1975 or under Schedule 3 to the Consequential Provisions Act, regulations may make provision for applying the provisions of this section—

- [<sup>2</sup>(a) to the amount of graduated retirement benefit payable for each unit of graduated contributions,
- (b) to increases of such benefit under any provisions made by virtue of section 24(1)(b) of the Social Security Pensions Act 1975 or section 62(1)(a) of the Contributions and Benefits Act, and
- (c) to any addition under section 37(1) of the National Insurance Act 1965 (addition to weekly rate of retirement pension for [<sup>3</sup>widows, widowers and surviving civil partners] to the amount of such benefit)].

[<sup>4</sup>155A.—(1) This section applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—

Power to anticipate pensions up-rating order.

<sup>1</sup> Words inserted in s. 155(6) (10.4.05) by the Child Benefit Act 2005, Sch. 1, para. 23.

<sup>2</sup> Paras. (a)-(c) substituted (19.7.95) for words in s. 155(7) by s. 131(3) of Pensions Act 1995 (c. 26).

<sup>3</sup> Words in s. 155(7)(c) substituted (5.12.05) by S.I. 2005/2053, Sch. para. 9.

<sup>4</sup> S. 155A inserted into S.S. Admin. Act 1992 (16.11.98) by s. 76 of the S.S. Act 98 (c. 14).

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- (a) the amounts by which he proposes, by an order under section [<sup>1</sup>[<sup>2</sup>150, 150A or 151A] above (as the case may be)], to increase—
  - (i) the weekly sums that are payable by way of [<sup>2</sup>state pension under the Pensions Act 2014,] retirement pension [<sup>3</sup>or shared additional pension]; or
  - (ii) the amount of graduated retirement benefit payable for each unit of graduated contributions; and
- (b) the date on which he proposes to bring the increases into force (“the commencing date”).

(2) Where, before the commencing date and after the date on which the statement is made, an award is made of [<sup>2</sup>a state pension,] a retirement pension[<sup>3</sup>, a shared additional pension] or a graduated retirement benefit, the award either may provide for the pension or benefit to be paid as from the commencing date at the increased rate or may be expressed in terms of the rate appropriate at the date of the award.]

Up-rating under section 150 above of pensions increased under section 52(3) of the Contributions and Benefits Act.

[<sup>4</sup>**156.**—(1) This section applies in any case where a person is entitled to a Category A retirement pension with an increase, under section 52(3) of the Contributions and Benefits Act, in the additional pension on account of the contributions of a spouse [<sup>5</sup>or civil partner] who had died.

- (2) Where in the case of any up-rating order under section 150 above—
  - (a) the spouse’s [<sup>5</sup>or civil partner’s] final relevant year is the tax year preceding the tax year in which the up-rating order comes into force, but
  - (b) the person’s final relevant year was an earlier tax year,

then the up-rating order shall not have effect in relation to that part of the additional pension which is attributable to the spouse’s contributions.

- (3) Where in the case of any up-rating order under section 150 above—
  - (a) the person’s final relevant year is the tax year preceding the tax year in which the up-rating order comes into force, but
  - (b) the spouse’s [<sup>5</sup>or civil partner’s] final relevant year was an earlier tax year,

then the up-rating order shall not have effect in relation to that part of the additional pension which is attributable to the person’s contributions.]

Effect of alteration of rates of child benefit.

**157.**—(1) Subsections (3) and (4) of section 155 above shall have effect where there is an increase in the rate or any of the rates of child benefit as they have effect in relation to the rate of benefit to which that section applies.

- (2) Where in connection with child benefit—
  - (a) any question arises in respect of a period after the date fixed for the commencement of payment of child benefit at an increased rate—
    - (i) as to the weekly rate at which a person is contributing to the cost of providing for a child [<sup>6</sup>or qualifying young person]; or
    - (ii) as to the expenditure that a person is incurring in respect of a child [<sup>6</sup>or qualifying young person]; and
  - (b) in determining that question account falls to be taken of contributions made or expenditure incurred for a period before that date,

<sup>1</sup> Words substituted in s. 155A(1)(a) (26.7.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 24.

<sup>2</sup> Words in s. 155A substituted and inserted (6.4.16) by the Pensions Act 2014, Sch. 12, para. 22(1) to (3).

<sup>3</sup> Words in s. 155A(1)(a)(i) & (2) inserted (1.12.00) by the Welfare Reform & Pensions Act 1999 (c. 30), Sch. 12, para. 25.

<sup>4</sup> S. 156 substituted (19.7.95) by s. 130(1) of Pensions Act 1995 (c. 26).

<sup>5</sup> Words inserted in s. 156 (5.12.06) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 66.

<sup>6</sup> Words inserted in s. 157(2) (10.4.06) by the Child Benefit Act 2005, Sch. 1, paras. 24 & 25.

the contributions made or expenditure incurred before that date shall be treated as increased in proportion to the increase in the rate of benefit.

**158.**—(1) In any case where—

- (a) any benefit as defined in section 122 of the Contributions and Benefits Act or any increase of such benefit (“the relevant benefit or increase”) has been paid to a person for a period in respect of a child [<sup>1</sup> or qualifying young person]; and
- (b) subsequently child benefit for that period in respect of the child [<sup>1</sup> or qualifying young person] becomes payable at a rate which is such that, had the relevant benefit or increase been awarded after the child benefit became payable, the rate of the relevant benefit or increase would have been reduced,

Treatment of excess benefit as paid on account of child benefit.

then, except in so far as regulations otherwise provide, the excess shall be treated as paid on account of child benefit for that period in respect of the child.

(2) In subsection (1) above “the excess” means so much of the relevant benefit or increase as is equal to the difference between—

- (a) the amount of it which was paid for the period referred to in that subsection; and
- (b) the amount of it which would have been paid for that period if it had been paid at the reduced rate referred to in paragraph (b) of that subsection.

**159.**—(1) Subject to such exceptions and conditions as may be prescribed, where—

- (a) an award of income support is in force in favour of any person (“the recipient”); and
- (b) there is an alteration in any of the relevant amounts, that is to say—
  - (i) any of the component rates of income support;
  - (ii) any of the other sums specified in regulations under Part VII of the Contributions and Benefits Act; or
  - (iii) the recipient’s benefit income; and
- (c) the alteration affects the computation of the amount of income support to which the recipient is entitled,

Effect of alteration in the component rates of income support.

then subsection (2) or (3) below (as the case may be) shall have effect.

(2) Where, in consequence of the alteration in question, the recipient becomes entitled to an increased or reduced amount of income support (“the new amount”), then, as from the commencing date, the amount of income support payable to or for the recipient under the award shall be the new amount, without any further decision of [<sup>2</sup>the Secretary of State], and the award shall have effect accordingly.

(3) Where, notwithstanding the alteration in question, the recipient continues on and after the commencing date to be entitled to the same amount of income support as before, the award shall continue in force accordingly.

(4) In any case where—

- (a) there is an alteration in any of the relevant amount; and
- (b) before the commencing date (but after that date is fixed) an award of income support is made in favour of a person,

the award either may provide for income support to be paid as from the commencing date, in which case the amount shall be determined by reference to the relevant amounts which will be in force on that date, or may provide for an amount determined by reference to the amounts in force at the date of the award.

<sup>1</sup> Words inserted in s. 158(1) (10.4.06) by the Child Benefit Act 2005, Sch. 1, paras. 24 & 25.

<sup>2</sup> Words in s. 159(2) substituted (29.11.99) by S.S. Act 1998, Sch. 7, para. 95.

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(5) In this section—

“alteration” means—

(a) in relation to—

(i) the component rates of income support; or

(ii) any other sums specified in regulations under Part VII of the Contributions and Benefits Act,

their alteration by or under any enactment whether or not contained in that Part; and

(b) in relation to a person’s benefit income, the alteration of any of the sums referred to in section 150 [<sup>1</sup>or 150A] above—

(i) by any enactment; or

(ii) by an order under section 150 [<sup>1</sup>, 150A] or 152 above,

to the extent that any such alteration affects the amount of his benefit income;

“benefit income”, in relation to any person, means so much of his income as consists of—

(a) benefit under the Contributions and Benefits Act, other than income support;

[<sup>2</sup>(aa) personal independence payment;]; or

(b) a war disablement pension or war widow’s pension;

“the commencing date” in relation to an alteration, means the date on which the alteration comes into force in the case of the person in question;

“component rate”, in relation to income support, means the amount of—

(a) the sum referred to in section 126(5)(b)(i) and (ii) of the Contributions and Benefits Act; or

(b) any of the sums specified in regulations under section 135(1) of that Act; and

“relevant amounts” has the meaning given by subsection (1)(b) above.

Effect of alteration of rates of a jobseeker’s allowance.

[<sup>3</sup>**159A.**—(1) This section applies where—

(a) an award of a jobseeker’s allowance is in force in favour of any person (“the recipient”); and

(b) an alteration—

(i) in any component of the allowance, or

(ii) in the recipient’s benefit income,

affects the amount of the jobseeker’s allowance to which he is entitled.

(2) Subsection (3) applies where, as a result of the alteration, the amount of the jobseeker’s allowance to which the recipient is entitled is increased or reduced.

(3) As from the commencing date, the amount of the jobseeker’s allowance payable to or for the recipient under the award shall be the increased or reduced amount, without any further decision of [<sup>4</sup>the Secretary of State]; and the award shall have effect accordingly.

(4) In any case where—

(a) there is an alteration of a kind mentioned in subsection (1)(b); and

(b) before the commencing date (but after that date is fixed) an award of a jobseeker’s allowance is made in favour of a person.

<sup>1</sup> Ref. inserted in s. 159(5)(b)(i) & (ii) (26.7.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 25.

<sup>2</sup> In s. 159(5), sub-para. (aa) inserted in defn. of “benefit income” (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 18.

<sup>3</sup> S. 159A inserted (7.10.96) by s. 24 of Jobseekers Act 1995 (c. 18).

<sup>4</sup> Words substituted in s. 159A(3) (18.10.99.) by S.S. Act 1998 (c. 75) Sch. 7, para. 96.

the award may provide for the jobseeker's allowance to be paid as from the commencing date, in which case the amount of the jobseeker's allowance shall be determined by reference to the components applicable on that date, or may provide for an amount determined by reference to the components applicable at the date of the award.

(5) In this section—

“alteration” means—

- (a) in relation to any component of a jobseeker's allowance, its alteration by or under any enactment; and
- (b) in relation to a person's benefit income, the alteration of any of the sums referred to in section 150 [<sup>1</sup>or 150A] above by any enactment or by an order under section 150 [<sup>1</sup>or 150A] above, to the extent that any such alteration affects the amount of the recipient's benefit income;

“benefit income”, in relation to a recipient, means so much of his income as consists of—

- (a) benefit under the Contributions and Benefits Act;
- [<sup>2</sup>(ab) personal independence payment;] or
- (b) a war disablement pension or war widow's pension;

“the commencing date” in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;

“component”, in relation to a jobseeker's allowance, means any of the sums specified in regulations under the Jobseekers Act 1995 which are relevant in calculating the amount payable by way of a jobseeker's allowance.]

[<sup>3</sup>159B.—(1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) below shall have effect where—

- (a) an award of state pension credit is in force in favour of any person (“the recipient”); and
- (b) an alteration—
  - (i) in any component of state pension credit,
  - (ii) in the recipient's benefit income,
  - (iii) in any component of a contribution-based jobseeker's allowance,
  - [<sup>4</sup>(iiia) in any component of a contributory employment and support allowance,] or
  - (iv) in the recipient's war disablement pension or war widow's or widower's pension,

affects the computation of the amount of state pension credit to which he is entitled.

(2) Where, as a result of the alteration, the amount of state pension credit to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of state pension credit payable in the case of the recipient under the award shall be the increased or reduced amount, without any further decision of the Secretary of State; and the award shall have effect accordingly.

(3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount of state pension credit as before, the award shall continue in force accordingly.

(4) Subsection (5) below applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—

- (a) in relation to any of the items referred to in subsection (1)(b)(i) to (iv) above, the amount of the alteration which he proposes to make by an order under section 150 [<sup>1</sup>, 150A] or 152 above or by or under any other enactment; and

Effect of alterations affecting state pension credit.

<sup>1</sup> Ref. inserted in ss. 159A(5)(b) & 159B(4)(a) (26.7.07) by the Pensions Act 2007 (c. 22), Sch. 1, paras. 26 & 27(a).

<sup>2</sup> In s. 159A(5), sub-para. (ab) inserted in defn. of “benefit income” (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 19.

<sup>3</sup> S. 159B inserted (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 17.

<sup>4</sup> Subsection (1)(b) (iiia) inserted in s. 159B (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(22).

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**S. 159B**

- (b) the date on which he proposes to bring the alteration into force (“the proposed commencing date”).

(5) If, in a case where this subsection applies, an award of state pension credit is made in favour of a person before the proposed commencing date and after the date on which the statement is made, the award—

- (a) may provide for state pension credit to be paid as from the proposed commencing date at a rate determined by reference to the amounts of the items specified in subsection (1)(b)(i) to (iv) above which will be in force on that date; or
- (b) may be expressed in terms of the amounts of those items in force at the date of the award.

(6) In this section—

“alteration” means—

- (a) in relation to any component of state pension credit, its alteration by or under any enactment;
- (b) in relation to a person’s benefit income, the alteration of any of the sums referred to in section 150 [<sup>1</sup>or 150A] above by any enactment or by an order under section 150 [<sup>1</sup>, 150A] or 152 above to the extent that any such alteration affects the amount of his benefit income;
- (c) in relation to any component of a contribution-based jobseeker’s allowance, its alteration by or under any enactment; and
- (d) in relation to a person’s war disablement pension or war widow’s or widower’s pension, its alteration by or under any enactment;

“benefit income”, in relation to a person, means so much of his income as consists of benefit under the Contributions and Benefits Act [<sup>2</sup>or personal independence payment];

“the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;

“component”—

- (a) in relation to contribution-based jobseeker’s allowance, means any of the sums specified in regulations under the Jobseekers Act 1995 (c. 18) which are relevant in calculating the amount payable by way of a jobseeker’s allowance;
- (b) in relation to state pension credit, means any of the sums specified in regulations under section 2, 3 or 12 of the State Pension Credit Act 2002;
- [<sup>3</sup>(c) in relation to a contributory employment and support allowance, means any of the sums specified in regulations under Part 1 of the Welfare Reform Act 2007 which are relevant in calculating the amount payable by way of a contributory employment and support allowance;]

“war disablement pension” means—

- (a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under—
- (i) the Air Force (Constitution) Act 1917 (c. 51);
- (ii) the Personal Injuries (Emergency Provisions) Act 1939 (c. 82);
- (iii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 (c. 83);
- (iv) the Polish Resettlement Act 1947 (c. 19); or
- (v) Part 7 or section 151 of the Reserve Forces Act 1980 (c. 9); or

<sup>1</sup> In s. 159B(6), words inserted in para. (b) of the defn. of “alteration” (26.7.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 27(b).

<sup>2</sup> In s. 159B(6), words inserted in defn. of “benefit income” (8.4.13) by the Welfare Reform Act 2013 (c. 5), Sch. 9, para. 20.

<sup>3</sup> S. 159B(6)(c) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(22) of Sch. 3.



- (b) without prejudice to paragraph (a), any retired pay or pension to which [1any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003] applies;

“war widow’s or widower’s pension” means—

- (a) [2any widow’s, widower’s or surviving civil partner’s] pension or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment mentioned in paragraph (a) of the definition of “war disablement pension”; or
- (b) a pension or allowance for a [2widow’s, widower’s or surviving civil partner’s] granted under any scheme mentioned in [3section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003]

[4159C.—(1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) shall have effect where—

Effect of alteration of rates of an employment and support allowance.

- (a) an award of an employment and support allowance is in force in favour of any person (“the recipient”), and
- (b) an alteration—
- (i) in any component of the allowance,
  - (ii) in the recipient’s benefit income, or
  - (iii) in the recipient’s war disablement or war widow’s or widower’s pension,

affects the computation of the amount of the employment and support allowance to which he is entitled.

(2) Where, as a result of the alteration, the amount of the employment and support allowance to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of the employment and support allowance payable in the case of the recipient under the award shall be the increased or reduced amount, without any further decision of the Secretary of State; and the award shall have effect accordingly.

(3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount by way of an employment and support allowance as before, the award shall continue in force accordingly.

(4) Subsection (5) applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—

- (a) in relation to any of the items referred to in subsection (1)(b)(i) to (iii), the amount of the alteration which he proposes to make by an order under section 150 [5, 150A] or 152 or by or under any other enactment, and
- (b) the date on which he proposes to bring the alteration into force (“the proposed commencing date”).

(5) If, in a case where this subsection applies, an award of an employment and support allowance is made in favour of a person before the proposed commencing date and after the date on which the statement is made, the award—

- (a) may provide for the employment and support allowance to be paid as from the proposed commencing date at a rate determined by reference to the amounts of the items referred to in subsection (1)(b)(i) to (iii) which will be in force on that date, or

<sup>1</sup> In s. 159B(6) words substituted (6.4.03) in defn. of “war disablement pension” by the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6, para. 188(1) & (2).

<sup>2</sup> In defn. of “war widow’s or widower’s pension” in s. 159B(6) words substituted by para. 10 of the Sch. to S.I. 2005/2053 as from 5.12.05.

<sup>3</sup> In s. 159B(6) words substituted (6.4.03) in defn. of “war widow’s or ……” by the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6, para. 188(1) & (2).

<sup>4</sup> S. 159C inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(23) of Sch. 3.

<sup>5</sup> Ref. inserted in s. 159C(4)(a) (26.7.07) by the Pensions Act 2007 (c. 22) Sch. 1, para. 28(a).

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(b) may be expressed in terms of the amounts of those items in force at the date of the award.

(6) In this section—  
“alteration” means—

- (a) in relation to any component of an employment and support allowance, its alteration by or under any enactment;
  - (b) in relation to a person’s benefit income, the alteration of any of the sums referred to in section 150 [<sup>1</sup>or 150A] by any enactment or by an order under section 150 [<sup>1</sup>, 150A] or 152 to the extent that any such alteration affects the amount of his benefit income;
  - (c) in relation to a person’s war disablement pension or war widow’s or widower’s pension, its alteration by or under any enactment;
- “benefit income”, in relation to a person, means so much of his income as consists of benefit under the Contributions and Benefits Act [<sup>2</sup>or personal independence payment];
- “the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;
- “component”, in relation to an employment and support allowance, means any of the sums specified in regulations under Part 1 of the Welfare Reform Act 2007 which are relevant in calculating the amount payable by way of an employment and support allowance;
- “war disablement pension” and “war widow’s or widower’s pension” have the same meaning as in section 159B.]

Effect of alterations affecting universal credit

**[<sup>3</sup>159D.—**(1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) shall have effect where—

- (a) an award of universal credit is in force in favour of any person (“the recipient”), and
- (b) an alteration—
  - (i) in any element of universal credit,
  - (ii) in the recipient’s benefit income,
  - (iii) in any amount to be deducted in respect of earned income under section 8(3)(a) of the Welfare Reform Act 2012,
  - (iv) in any component of a contribution-based jobseeker’s allowance,
  - (v) in any component of a contributory employment and support allowance, or
  - (vi) in such other matters as may be prescribed,

affects the computation of the amount of universal credit to which he is entitled.

(2) Where, as a result of the alteration, the amount of universal credit to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of universal credit payable in the case of the recipient under the award shall be the increased or reduced amount, without any further decision of the Secretary of State; and the award shall have effect accordingly.

(3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount by way of universal credit as before, the award shall continue in force accordingly.

(4) Subsection (5) applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—

<sup>1</sup> In s. 159C(6), words inserted in para. (b) of the defn. of “alteration” (26.7.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 28(b).

<sup>2</sup> Words added to defn. of “benefit income” in s. 159C(6) (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 21.

<sup>3</sup> S. 159D inserted (25.2.13 for reg. making purposes) by the Welfare Reform Act 2012 (c. 5), Sch. 2, para. 23.

- (a) in relation to any of the items referred to in subsection (1)(b)(i) to (vi), the amount of the alteration which he proposes to make by an order under section 150, 150A or 152 or by or under any other enactment, and
- (b) the date on which he proposes to bring the alteration in force (“the proposed commencing date”).

(5) If, in a case where this subsection applies, an award of universal credit is made in favour of a person before the proposed commencing date and after the date on which the statement is made, the award—

- (a) may provide for the universal credit to be paid as from the proposed commencing date at a rate determined by reference to the amounts of the items referred to in subsection (1)(b)(i) to (vi) which will be in force on that date, or
- (b) may be expressed in terms of the amounts of those items in force at the date of the award.

(6) In this section—

“alteration”—

- (a) in relation to any element of universal credit, means its alteration by or under any enactment;
- (b) in relation to a person’s benefit income, means the alteration of any of the sums referred to in section 150 or 150A by any enactment or by an order under section 150, 150A or 152 to the extent that any such alteration affects the amount of his benefit income;
- (c) in relation to any component of a contribution-based jobseeker’s allowance or a contributory employment and support allowance, means its alteration by or under any enactment;
- (d) in relation to any other matter, has such meaning as may be prescribed;

“benefit income”, in relation to a person, means so much of his income as consists of benefit under the Contributions and Benefits Act or personal independence payment;

“the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;

“component”—

- (a) in relation to contribution-based jobseeker’s allowance, means any of the sums specified in regulations under the Jobseekers Act 1995 which are relevant in calculating the amount payable by way of a jobseeker’s allowance;
- (b) in relation to a contributory employment and support allowance, means any of the sums specified in regulations under Part 1 of the Welfare Reform Act 2007 which are relevant in calculating the amount payable by way of such an allowance;

“element”, in relation to universal credit, means any of the amounts specified in regulations under sections 9 to 12 of the Welfare Reform Act 2012 which are included in the calculation of an award of universal credit.]

[<sup>1</sup>159E.—(1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) shall have effect where—

Effect of alteration of rates of personal independence payment

- (a) an award of personal independence payment is in force in favour of any person (“the recipient”); and
- (b) an alteration in the rate of any component of personal independence payment affects the amount of personal independence payment to which he is entitled.

(2) Where, as a result of the alteration, the amount of personal independence payment to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of personal independence payment in the case of the recipient under

<sup>1</sup> S. 159E inserted (8.4.13) by S.I. 2013/388, Sch. para. 6.

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the award shall be the increased or reduced amount, without any further decision of the Secretary of State; and the award shall have effect accordingly.

(3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount by way of personal independence payment as before, the award shall continue in force accordingly.

(4) Subsection (5) applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—

- (a) the amount of the alteration in the rate of any component of personal independence payment which he proposes to make by an order under section 150 or 152 or by or under any other enactment, and
- (b) the date on which he proposes to bring the alteration in force (“the proposed commencing date”).

(5) If, in a case where this subsection applies, an award of personal independence payment is made in favour of a person before the proposed commencing date and after the date on which the statement is made, the award—

- (a) may provide for personal independence payment to be paid as from the proposed commencing date by reference to the rates of the component of personal independence payment which will be in force on that date, or
- (b) may be expressed in terms of the rates of those components in force at the date of the award.

(6) In this section—

“alteration” means alteration by or under any enactment;

“the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;

“component”, in relation to personal independence payment, means the daily living component or mobility component (see sections 78 and 79 of the Welfare Reform Act 2012).]

Implementation of increase in income support due to attainment of particular ages.

**160.—(1)** This section applies where—

- (a) an award of income support is in force in favour of a person (“the recipient”); and
- (b) there is a component which becomes applicable, or applicable at a particular rate, in his case if he or some other person attains a particular age.

(2) If, in a case where this section applies, the recipient or other person attains the particular age referred to in paragraph (b) of subsection (1) above and, in consequence,—

- (a) the component in question becomes applicable, or applicable at a particular rate, in the recipient’s case (whether or not some other component ceases, for the same reason, to be applicable, or applicable at a particular rate, in his case); and
- (b) after taking account of any such cessation, the recipient becomes entitled to an increased amount of income support,

then, except as provided by subsection (3) below, as from the day on which he becomes so entitled, the amount of income support payable to or for him under the award shall be that increased amount, without any further decision of [<sup>1</sup>the Secretary of State], and the award shall have effect accordingly.

(3) Subsection (2) above does not apply in any case where, in consequence of the recipient or other person attaining the age in question, some question arises in relation to the recipient’s entitlement to [<sup>2</sup>personal independence payment or to] any benefit under the Contributions and Benefits Act, other than—

<sup>1</sup> Words in s. 160(2) substituted (29.11.99) by S.S. Act 1998, Sch. 7, para. 97.

<sup>2</sup> Words added in s. 160(3) (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 22.

- (a) the question whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in his case; and
- (b) the question whether, in consequence, the amount of his income support falls to be varied.

(4) In this section “component”, in relation to a person and his income support, means any of the sums specified in regulations under section 135(1) of the Contributions and Benefits Act.

[<sup>1</sup>160A.—(1) This section applies where—

- (a) an award of an income-based jobseeker’s allowance is in force in favour of a person (“the recipient”); and
- (b) a component has become applicable, or applicable at a particular rate, because he or some other person has reached a particular age (“the qualifying age”).

Implementation of increases in income-based jobseeker’s allowance due to attainment of particular ages.

(2) If, as a result of the recipient or other person reaching the qualifying age, the recipient becomes entitled to an income-based jobseeker’s allowance of an increased amount, the amount payable to or for him under the award shall, as from the day on which he becomes so entitled, be that increased amount, without any further decision of [<sup>2</sup>the Secretary of State]; and the award shall have effect accordingly.

(3) Subsection (2) above does not apply where, in consequence of the recipient or other person reaching the qualifying age, a question arises in relation to the recipient’s entitlement to—

- (a) a benefit under the Contributions and Benefits Act<sup>[3]</sup>;
- (aa) personal independence payment]; or
- (b) a jobseeker’s allowance.

(4) Subsection (3)(b) above does not apply to the question—

- (a) whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in the recipient’s case; and
- (b) whether, in consequence, the amount of his income-based jobseeker’s allowance falls to be varied.

(5) In this section “component”, in relation to a recipient and his jobseeker’s allowance, means any of the amounts determined in accordance with regulations made under section 4(5) of the Jobseekers Act 1995.]

[<sup>4</sup>160B.—(1) This section applies where—

- (a) an award of an employment and support allowance is in force in favour of a person (“the recipient”), and
- (b) a component has become applicable, or applicable at a particular rate, because he or some other person has reached a particular age (“the qualifying age”).

Implementation of increases in employment and support allowance due to attainment of particular ages.

(2) If, as a result of the recipient or other person reaching the qualifying age, the recipient becomes entitled to an employment and support allowance of an increased amount, the amount payable to or for him under the award shall, as from the day on which he becomes so entitled, be that increased amount, without any further decision of the Secretary of State; and the award shall have effect accordingly.

(3) Subsection (2) does not apply where, in consequence of the recipient or other person reaching the qualifying age, a question arises in relation to the recipient’s entitlement to<sup>[3]</sup>—

- (a) a benefit under the Contributions and Benefits Act; or
- (b) personal independence payment.]

<sup>1</sup> S. 160A inserted (7.10.96) by s. 25 of Jobseekers Act 1995 (c. 18).

<sup>2</sup> Words substituted in s. 160A(2) by S.S. Act 1998 (c. 14), Sch. 7, para. 98.

<sup>3</sup> S. 160A(3)(aa) inserted and words substituted in s. 160B(3) (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, paras. 23 & 24

<sup>4</sup> S. 160B inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(24) of Sch. 3.

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(4) Subsection (2) does not apply where, in consequence of the recipient or other person reaching the qualifying age, a question arises in relation to the recipient's entitlement to an employment and support allowance, other than—

- (a) the question whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in the recipient's case, and
- (b) the question whether, in consequence, the amount of his employment and support allowance falls to be varied.

(5) In this section, "component", in relation to a recipient and his employment and support allowance, means any of the amounts determined in accordance with regulations made under section 2(1)(a) or 4(2)(a) of the Welfare Reform Act 2007.]

**PART XII**  
**FINANCE**

National Insurance Fund.

**161.**—[<sup>1</sup>The National Insurance Fund shall be maintained under the control and management of the Commissioners for Her Majesty's Revenue and Customs.]

(2) Accounts of the National Insurance Fund shall be prepared [<sup>2</sup>by the Inland Revenue] in such form, and in such manner and at such times, as the Treasury may direct, and the Comptroller and Auditor-General shall examine and certify every such account and shall lay copies of it, together with his report on it, before Parliament.

1961 c. 62.

(3) Any money in the National Insurance Fund may from time to time be paid over to the National Debt Commissioners and be invested by them, [...<sup>2</sup>], in any such manner for the time being specified in Part II of Schedule 1 to the Trustee Investments Act 1961 as the Treasury may specify by an order of which a draft has been laid before Parliament.

(4) The National Debt Commissioners shall present to Parliament annually an account of the securities in which money in the National Insurance Fund is for the time being invested.

Destination of contributions.

**162.**—(1) Contributions received by the [<sup>2</sup>Inland Revenue] [...<sup>3</sup>] shall be paid by [<sup>2</sup>them] into the National Insurance Fund after deducting [...<sup>4</sup>], the appropriate national health service allocation [...<sup>4</sup>].

(2) [...<sup>4</sup>].

[<sup>5</sup>(2A)[<sup>6</sup>The reference to contributions in subsection (1) above includes] payments on account of contributions made in accordance with regulations under section 3(5) of the Contributions and Benefits Act (Payments on account of directors's contributions.)]

(3) The additions paid under section 1(5) of the Contributions and Benefits Act shall be paid, in accordance with any directions given by the Treasury, into the National Insurance Fund.

[<sup>7</sup>(4) There shall be paid into the National Insurance Fund—

<sup>1</sup> S. 161(1) substituted (18.4.05) by Commissioners for Revenue and Customs Act 2005 (c. 11), Sch. 4.

<sup>2</sup> Words substituted in s. 161 (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, paras. 51 & 52(2) to (5).

<sup>3</sup> Words repealed (1.7.97) in s. 162(1) by Sch. 2 to Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>4</sup> Words in s. 162(1) & subsection (2) repealed (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 2.

<sup>5</sup> Subsection 162(2A) (8.9.98) inserted by Sch. 7 99(1) of S.S. Act 1998 (c. 14).

<sup>6</sup> Words in s. 162(2A) substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 19.

<sup>7</sup> S. 162(4) replaced & words substituted in s. 162(4A) (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 28(2) & (3).

- (a) so much of any interest recovered by the Inland Revenue by virtue of paragraph 6 of Schedule 1 to the Contributions and Benefits Act<sup>[1]</sup>, or from persons in Great Britain by virtue of paragraph 6 of Schedule 2 to that Act,] as remains after the deduction by them of any administrative costs attributable to its recovery,
- (b) the amounts apportioned to the <sup>[2]</sup>Contributions] under sub-paragraph (6) of Paragraph 7 of Schedule 1 to the Contributions and Benefits Act in respect of the penalties mentioned in that sub-paragraph, and
- (c) so much of any penalty otherwise imposed by virtue of that paragraph and recovered by the Inland Revenue as remains after the deduction by them of any administrative costs attributable to its recovery.]

(4ZA)[...<sup>3]</sup>.

[<sup>4</sup>(4ZB) [<sup>1</sup>Subsection (4)(b) and (c)] above shall have effect notwithstanding any provision which treats a penalty under section 98 or 98A of the Taxes Management Act 1970 as if it were tax charged in an assessment and due and payable.]

[<sup>5</sup>(4A)The sums recovered by the [<sup>4</sup>Inland Revenue] under regulations made under paragraph 7A, [<sup>1</sup>7B or 7BZA] of Schedule 1 to the Contributions and Benefits Act in respect of interest or penalties shall be paid into the National Insurance Fund.]

(5) In subsection (1) above “the appropriate national health service allocation” means [<sup>6</sup>[<sup>7</sup>50] per cent of the product of the additional rate together with]–

- (a) in the case of primary Class 1 contributions, [<sup>6</sup>2.05] per cent. of the amount estimated to be that of [<sup>8</sup>so much of the earnings in respect of which those contributions were paid as exceeded [<sup>9</sup>the primary threshold] but did not exceed the upper earnings limit;]
- (b) in the case of secondary Class 1 contributions, [<sup>6</sup>1.9] per cent. of the amount estimated to be that of the [<sup>9</sup>total] earnings in respect of which [<sup>3</sup>primary Class 1 contributions] were paid;
- (c) in the case of Class 1A contributions, [<sup>6</sup>1.9] per cent. of the amount estimated to be the aggregate of the [<sup>10</sup>general earnings] used in calculating those contributions;
- [<sup>5</sup>(ca) in the case of Class 1B contributions, [<sup>4</sup>1.9] per cent of the amount estimated to be the aggregate of the [<sup>10</sup>general earnings] and the amounts of income tax in respect of which those contributions were paid;]
- (d) in the case of Class 2 contributions, 15.5 per cent. of the amount estimated to be the total of those contributions;
- (e) in the case of Class 3 contributions, 15.5 per cent. of the amount estimated to be the total of those contributions;
- [<sup>11</sup>(ea) in the case of Class 3A contributions, 15.5 per cent of the amount estimated to be the total of those contributions;] and
- (f) in the case of Class 4 contributions, [<sup>6</sup>2.15 per cent of the amount estimated

<sup>1</sup> Words in s. 162(4)(a) substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 19.

<sup>2</sup> Words omitted in s. 162 (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, paras. 51 & 52(2) to (5).

<sup>3</sup> In s. 162, (1.9.04) subsec. (4ZA) omitted & words substituted in subsecs. (4ZB) & (4A) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3), s. 11 & Sch. 1, para. 3(3).

<sup>4</sup> In s. 162, (1.4.99) subsec. (4ZB) inserted & words substituted in subsec. (4A) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999, Sch. 5, paras. 12 & 28(3).

<sup>5</sup> In s. 162, (6.4.99) subsec. (4A) & (5)(ca) inserted & words substituted in subsec. (5)(b) by the S.S. Act 1998 (c. 14), Sch. 7, para. 99(2) & (3).

<sup>6</sup> In s. 162, (6.4.03) words in subsec. (5) inserted & words substituted in subsecs. (5)(a)-(ca) & (f) by the National Insurance Contributions Act 2002 (c. 19), s. 4(1)-(3).

<sup>7</sup> Amount substituted (6.4.11) in s. 162(5) by the National Insurance Contributions Act 2011 (c. 3), s. 3.

<sup>8</sup> Words in s. 162(5)(a) substituted (1.7.92 and 5.10.89 in respect of the corresponding former provisions re-enacted in s. 162(5)) by Social Security (Contributions) Act 1994 (c. 1), s. 2(1).

<sup>9</sup> Words substituted in s. 162(5)(a) & inserted in s. 162(5)(b) (22.12.99 for reg. making purposes, 6.4.00 for all other purposes) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 9, para. 9(2).

<sup>10</sup> Words substituted in s. 162(5)(c) & (ca) (6.4.03) by the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6, para. 189(2) & (3).

<sup>11</sup> S. 162(5)(ea) inserted (12.10.15) by Pensions Act 2014 (c. 19), Sch. 15, para. 13(2).

to be that of so much of the profits or gains, or earnings, in respect of which those contributions were paid as exceeded the lower limit specified in paragraph (a) of subsection (3) of section 15, and in paragraph (a) of subsection (1A) of section 18, of the Contributions and Benefits Act but did not exceed the upper limit specified in those subsections.]

[<sup>1</sup>(5A) In subsection (5) above “the product of the additional rate” means the amount estimated to be the aggregate of—

- (a) so much of the total of primary Class 1 contributions as is attributable to section 8(1)(b) of the Contributions and Benefits Act (additional primary percentage);
- (b) so much of the total of Class 4 contributions under section 15 of that Act as is attributable to subsection (3)(b) of that section (additional Class 4 percentage); and
- (c) so much of the total of Class 4 contributions payable by virtue of section 18 of that Act as is attributable to subsection (1A)(B) of that section (additional Class 4 percentage).]

(6) In [<sup>2</sup>subsections (5) & (5A)] above “estimated” means estimated by the [<sup>3</sup>Inland Revenue] in any manner which after consulting the Government Actuary or the Deputy Government Actuary [<sup>4</sup>the Inland Revenue consider] considers to be appropriate and which the Treasury has approved.

[<sup>5</sup>(6A) In the case of earners paid other than weekly, the reference in paragraph (a) of subsection (5) above to [<sup>6</sup>the primary threshold or the upper earnings limit] shall be taken as a reference to the equivalent of [<sup>6</sup>that threshold or limit prescribed under section 5(4)] of the Contributions and Benefits Act.]

(7) [<sup>7</sup>The Treasury may], by order amend any of paragraphs (a) to (f) of subsection (5) above in relation to any tax year, by substituting for the percentage for the time being specified in that paragraph a different percentage.

(8) No order under section (7) above shall substitute a figure which represents an increase or decrease in the appropriate national health service allocation of more than—

- (a) 0.1 per cent. of the relevant earnings, in the case of paragraph (a) or (b);
- (b) 0.1 per cent. of the relevant aggregate, in the case of paragraph (c)[<sup>8</sup>or (ca)];
- (c) 4 per cent. of the relevant contributions, in the case of paragraph (d) [<sup>9</sup>, (e) or (ea)]; or
- (d) 0.2 per cent. of the relevant earnings, in the case of paragraph (f).

(9) From the national health service allocation in respect of contributions of any class there shall be deducted such amount as the [<sup>7</sup>Inland Revenue] estimate to be the portion of the total expenses incurred by [<sup>7</sup>them] or any other government department in collecting contributions of that class which is fairly attributable to that allocation, and [<sup>7</sup>the remainder shall be paid the Inland Revenue to the Secretary of State towards] the cost—

- (a) of the national health service in England;
- (b) of that service in Wales; and
- (c) of that service in Scotland,

in such shares as the Treasury may determine.

<sup>1</sup> S. 162, subsec. (5A) inserted by the National Insurance Contributions Act 2002 (c. 19), s. 4(1)-(3).

<sup>2</sup> Words in s. 162(2A), (4)(a) & (6) substituted (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 19.

<sup>3</sup> Words substituted in s. 162(6) (6.4.03) by the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6, para. 189(2) & (3).

<sup>4</sup> Words substituted in s. 162 (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 52(6).

<sup>5</sup> S. 162(6A) inserted (1.7.92, and 5.10.89 in respect of the corresponding former provision re-enacted in s. 162(5)) by Social Security (Contributions) Act 1994 (c. 1), s. 2(2).

<sup>6</sup> Words substituted (22.12.99 for reg. making purposes, 6.4.00 for all other purposes) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 9, para. 9(3).

<sup>7</sup> Words substituted & omitted in s. 162 (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 52(7) to (11).

<sup>8</sup> Words inserted in s. 162(8)(b) (8.9.98) by Sch. 7, para. 99(4), of S.S. Act 1998 (c. 47) for the purpose only of authorising the making of regulations or orders.

<sup>9</sup> Words in s. 162(8)(c) substituted (12.10.15) by Pensions Act 2014 (c. 19), Sch. 15, para. 13(3).



(10) The Secretary of State shall pay any amounts deducted in accordance with subsection (9) above into the Consolidated Fund.

(11) [...<sup>1</sup>]

(12) The [<sup>1</sup>Inland Revenue] may make regulations modifying this section, in such manner as [<sup>1</sup>they think] appropriate, in relation to the contributions of persons referred to in the following sections of the Contributions and Benefits Act—

- (a) section 116(2) (H.M. forces);
- (b) section 117(1) (mariners, airmen, etc.);
- (c) section 120(1) (continental shelf workers),

and in relation to any contributions which are reduced under section 6(5) of that Act.

**163.**—(1) There shall be paid out of the National Insurance Fund—

General financial arrangements.

- (a) benefit under Part II of the Contributions and Benefits Act;
- [<sup>2</sup>(za) state pension and lump sums under Part 1 of the Pensions Act 2014;]
- (b) guardian's allowance;
- (c) Christmas bonus if the relevant qualifying benefit is payable out of that Fund;
- [<sup>3</sup>(d) any sum which, under regulations relating to statutory sick pay, statutory maternity pay, statutory adoption pay, [<sup>4</sup>statutory paternity pay] [<sup>5</sup>or statutory shared paternal pay], falls to be paid by or on behalf of the Inland Revenue or to be set off against sums payable to the Inland Revenue otherwise than on account of contributions;]
- (e) [...<sup>6</sup>]

(2) There shall be paid out of money provided by Parliament—

- (a) any administrative expenses of the Secretary of State or other government department in carrying into effect the Contributions and Benefits Act [<sup>2</sup>, Part 1 of the Pensions Act 2014] or this Act;
- [<sup>7</sup>(aa) any administrative expenses of the Secretary of State in supplying information about benefits under Part II of that Act in accordance with regulations under section 23 of the Welfare Reform and Pensions Act 1999;]
- (b) benefit under Part III of [<sup>7</sup>the Contributions and Benefits Act], other than guardian's allowance;
- (c) benefit under Part V of that Act;
- (d) any sums payable by way of the following—
  - (i) income support;
  - (ii) [...<sup>8</sup>]
  - (iii) [...<sup>8</sup>]
  - (iv) rate rebate subsidy;
  - (v) rent rebate subsidy;
  - (vi) rent allowance subsidy;

<sup>1</sup> Words substituted & omitted in s. 162 (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 52(7) to (11).

<sup>2</sup> Para. (za) and words in s. (2)(a) inserted in S. 163 (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 23(1) to (3).

<sup>3</sup> Para. (d) substituted in s. 163(1) (8.12.02) by the Employment Act 2002 (c. 22), s. 6(1).

<sup>4</sup> Words in s. 163(1)(d) substituted (5.4.15) by the Children and Families Act 2014, (c. 6), Sch. 7, para. 27 (with art. 16 of S.I. 2014/1640).

<sup>5</sup> Words in s. 163(1)(d) inserted (1.12.14) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 27(b).

<sup>6</sup> S. 163(1)(e) repealed (6.10.97) by Sch. 3, para. 6, of Social Security (Recovery of Benefits) Act 1997 (c. 27).

<sup>7</sup> Para. (aa) inserted & words in para. (b) substituted (1.12.00) in s. 163(2) by the Welfare Reform & Pensions Act 1999 (c. 30), Sch. 12, para. 26.

<sup>8</sup> S. 163(2)(d)(ii) & (iii) repealed (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

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- (vii) [<sup>1</sup>community charge benefit subsidy] [<sup>2</sup>council tax benefit subsidy];
- (e) payments by the Secretary of State into the social fund under section 167(3) below;
- (f) child benefit;
- (g) Christmas bonus if the relevant qualifying benefit is payable out of such money;
- (h) any sums falling to be paid by the Secretary of State [<sup>3</sup>or the Inland Revenue] under or by virtue of this Act by way of travelling expenses;
- (i) [...<sup>4</sup>]

except in so far as they may be required by any enactment to be paid or borne in some other way.

(3) The administrative expenses referred to in subsection (2)(a) above include those in connection with any inquiry [<sup>5</sup>undertaken—

- (a) on behalf of the Inland Revenue with a view to obtaining statistics relating to the operation of Part I of the Contributions and Benefits Act, and
- (b) on behalf of the Secretary of State with a view to obtaining statistics relating to the operation of Parts II to VI and XI of that Act [<sup>6</sup>or Part 1 of the Pensions Act 2014].]

(4) Any sums required by a secondary contributor for the purpose of paying any secondary Class 1A [<sup>7</sup>or 1B] contributions which are payable by him in respect of an earner in consequence of the earner's employment in an office of which the emoluments are payable out of the Consolidated Fund shall be paid out of that Fund.

(5) Any expenditure in respect of the payment of interest or repayment supplements under or by virtue of paragraph 6 [<sup>8</sup>or 7B] of Schedule 1 to the Contributions and Benefits Act or paragraph 6 of Schedule 2 to that Act shall be defrayed out of the National Insurance Fund in accordance with any directions given by the Treasury.

Destination of repayments etc.

**164.**—(1) Subject to [<sup>9</sup>section 38 of the Jobseekers Act 1995 [<sup>10</sup>, section 27 of the Welfare Reform Act 2007] and to] the following provisions of this section, so far as it relates 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.

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

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

(4) Sums repaid by virtue of paragraph 1(4)(e) of Schedule 9 to this Act as it has effect for the purposes of schemes under paragraph 2 or 4 of Schedule 8 to the Contributions and Benefits Act shall be paid into the Consolidated Fund.

<sup>1</sup> Words in s. 163(2)(d)(vii) as in effect for purposes of community charge and community charge benefits for any day before 1.4.93 (L.G.F. Act 1992 (c. 14), s. 118), and for the purposes of community charge benefit subsidy for any year ending before 1.4.93 (S.I. 1993/232, art. 2).

<sup>2</sup> Words in s. 163(2)(d)(vii) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 22, for purposes of council tax and council tax benefit from 1.4.93.

<sup>3</sup> Words inserted in s. 163(2)(h) (1.4.99) by the S.S. Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 29(b).

<sup>4</sup> S. 163(2)(i) repealed (6.10.97) by Sch. 3, para 6, of Social Security (Recovery of Benefits) Act 1997 (c. 27).

<sup>5</sup> Words substituted in s. 163(3) (1.4.99) by the S.S. Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 53.

<sup>6</sup> Words inserted in S. 163(3)(b) (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 23(4).

<sup>7</sup> Words added to para. 163(4) (6.4.99) by Sch. 7, para. 100(1), of S.S. Act 1998 (c. 14).

<sup>8</sup> Words inserted (6.4.99) by s. 100(2) of S.S. Act 1998 (c. 14).

<sup>9</sup> Words inserted (7.10.96) in s. 164(1) by para. 65 of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>10</sup> Words inserted in s. 164(1) (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(25) of Sch. 3.

(5) There shall be paid into the National Insurance Fund—

- (a) [...<sup>1</sup>]
- (b) sums recovered by the Secretary of State by virtue of a scheme under paragraph 2 or 4 of Schedule 8 to the Contributions and Benefits Act making provision by virtue of paragraph 4 of Schedule 9 to this Act.

(6) Any sums [<sup>2</sup>recovered by the Secretary of State under section 15A above] [...<sup>3</sup>] shall be paid—

- (a) into the Consolidated Fund, to the extent that the Secretary of State estimates that those sums relate to payments out of money provided by Parliament; and
- (b) into the National Insurance Fund, to the extent that he estimates that they relate to payments out of that Fund.

[<sup>4</sup>(7) Any sums repaid to the Secretary of State in pursuance of section 119(1) of the 1975 Act (which related to the effect of adjudication and was repealed subject to a saving in relation to certain reviews and appeals) shall—

- (a) be paid by him into the Consolidated Fund in so far as they represent benefit which under section 163 above is payable out of money provided by Parliament and not out of the National Insurance Fund; and
- (b) otherwise, be paid by him into that Fund.]

[<sup>5</sup>(7) Any sums received by the Secretary of State under regulations made by virtue of section 15A(2)(b) above shall be paid into the Consolidated Fund.]

[<sup>6</sup>(8) All penalties recovered by the Secretary of State under section 115A [<sup>7</sup>or 115B] above shall be paid into the Consolidated Fund.]

**165.**—[<sup>8</sup>(1) There shall be made out of the National Insurance Fund into the Consolidated Fund, or [<sup>9</sup>by the Secretary of State out of money provided by Parliament to the Inland Revenue for payment into the National Insurance Fund]

Adjustments between National Insurance Fund and Consolidated Fund.

- (a) such payments by way of adjustment as the Secretary of State determines (in accordance with any directions of the Treasury) to be appropriate in consequence of the operation of any enactment or regulations relating to—
  - (i) [...<sup>10</sup>];
  - (ii) [...<sup>10</sup>];
  - (iii) the repayment or offsetting of benefit as defined in section 122 of the Contributions and Benefits Act[<sup>11</sup>, universal credit][<sup>12</sup>, personal independence payment] or other payments; and
- (b) such payments by way of adjustment as in Inland Revenue determine to be appropriate in consequence of the operation of any enactment or regulations relating to—

<sup>1</sup> S. 164(5)(a) ceased to have effect (5.7.99) by Sch. 7, para. 101, of S.S. Act 1998 (c. 14).  
<sup>2</sup> Words substituted, w.e.f. 1.7.92, in s. 164(6) by para. 2(1) of Sch. to S.S. (Mortgage Interest Payments) Act 1992 (c. 33).  
<sup>3</sup> Words deleted (6.10.97) from s. 164(6) by Sch. 3, para. 7, of Social Security (Recovery of Benefits) Act 1997 (c. 27).  
<sup>4</sup> First subsection (7) transitorily inserted into s. 164 by para. 19 of Sch. 4 to S.S. (C.P.) Act 1992 (c. 6), until a day is appointed under para. 1(3)(a) *ibid*.  
<sup>5</sup> Second subsection (7) inserted (1.7.92) into s. 164 by para. 2(2) of Sch. to S.S. (Mortgage Interest Payments) Act 1992 (c. 33).  
<sup>6</sup> Sub-para (8) inserted (1.7.97) by Sch. 1, para 8, to Social Security Administration (Fraud) Act 1997 (c. 47).  
<sup>7</sup> Words inserted in s. 164(8) (30.4.02) by the Social Security Fraud Act 2001 (c. 11), s. 15(2).  
<sup>8</sup> S. 165(1) substituted (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 30(2) to (5).  
<sup>9</sup> Words substituted in s. 165(1) (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 54(2).  
<sup>10</sup> S. 165(1)(a)(i) and (ii) repealed (5.10.99) by Sch. 6 to the Tax Credits Act 1999 (c. 10).  
<sup>11</sup> Words inserted in s. 165(1)(a)(iii) (29.4.13) by para. 25(2) of Sch. 2 to the Welfare Reform Act 2012 (c. 5).  
<sup>12</sup> Words inserted in s. 165(1)(a)(iii) (8.4.13) by the Welfare Reform Act 2012, Sch. 9, para. 25.

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- (i) statutory sick pay; [...<sup>1</sup>]
- (ii) statutory maternity pay;
- [<sup>2</sup>(iii) [...<sup>3</sup>] statutory paternity pay;
- (iv) [...<sup>3</sup>]
- (v) statutory adoption pay]]<sup>4</sup>; and
- (vi) statutory shared parental pay.]

(2) Where any such payments as are specified in subsection (3) below fall to be made by way of adjustment, then, subject to subsection (4) below,—

- (a) the amount of the payments to be made shall be taken to be such, and
- (b) payments on account of them shall be made at such times and in such manner, as may be determined [<sup>5</sup>by the appropriate authority].

[<sup>6</sup>(2A) In subsection (2) above “the appropriate authority” means—

- (a) the Secretary of State, in relation to payments falling to be made by him, or
- (b) in Inland Revenue, in relation to payments falling to be made by them;

and any determination by the Secretary of State under that subsection must be made in accordance with any directions given by the Treasury.]

(3) The payments mentioned in subsection (2) above are the following, that is to say—

- (a) any payments falling to be made by way of adjustment by virtue of [<sup>7</sup>subsection (1)(a) and (b)] above;
- (b) any payments falling to be made by way of adjustment in consequence of the operation of any enactment or regulations relating to child benefit—
  - (i) out of the National Insurance Fund into the Consolidated Fund, or
  - (ii) into the National Insurance Fund out of money provided by Parliament; and
- (c) any payments falling to be made by way of adjustment in circumstances other than those mentioned in subsection (1) or paragraph (b) above—
  - (i) out of the National Insurance Fund either to the Secretary of State or another government department or into the Consolidated Fund; or
  - (ii) into the National Insurance Fund out of money provided by Parliament.

(4) In relation to payments falling within paragraph (a) or (c) of subsection (3) above, subsection (2) above only applies in such cases or classes of case as may be [<sup>8</sup>specified—

- (a) in relation to payments falling to be made by the Secretary of State, by the Secretary of State by order made with the concurrence of the Inland Revenue, or
- (b) in relation to payments falling to be made by the Inland Revenue, by the Inland Revenue by order.]

[<sup>7</sup>(5) There shall be paid out of the National Insurance Fund into the Consolidated Fund, at such times and in such manner as the Treasury may direct—

<sup>1</sup> Word “and” omitted in s. 165(1)(b)(i) (8.12.02) by the Employment Act 2002 (c. 22), s. 6(2)(a).

<sup>2</sup> S. 165(1)(b)(iii) substituted (6.4.10) by the Work & Families Act 2006 (c. 18), Sch. 1, para. 28(2).

<sup>3</sup> Words in s. 165(1)(b)(iii) & s. 165(1)(b)(iv) repealed (5.4.15) by the Children and Families Act 2014 (c. 6), s. 126, Sch. 7, para. 28(2)(a)(b), (with art. 16 of S.I. 2014/2866).

<sup>4</sup> S. 165(1)(b)(vi) and preceding word inserted (1.12.14) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 28(2)(c).

<sup>5</sup> Words in s. 165(2) substituted (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 30(3).

<sup>6</sup> S. 165(2A) inserted and words substituted (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 30(2) to (5).

<sup>7</sup> Words substituted in ss. 164(3)(a) & s. 165(5) substituted (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, paras. 30(5) & (6).

<sup>8</sup> Words substituted in s. 165(4) (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 54(3).

- (a) such sums as the Inland Revenue may estimate to be the amount of the administrative expenses incurred by them as mentioned in section 163(2)(a) above<sup>[1]</sup>, or in carrying into effect any other legislation relating to [<sup>2</sup>statutory paternity pay,] statutory adoption pay,] [<sup>3</sup>or statutory shared parental pay] [<sup>4</sup>or the National Insurance Contributions Act 2014], excluding any expenses which the Treasury may direct, or any enactment may require, to be excluded from the Inland Revenue's estimate under this subsection, and
- (b) such sums as the Secretary of State may estimate (in accordance with any directions given by the Treasury) to be the amount of the administrative expenses incurred as mentioned in section 163(2)(a) [<sup>5</sup>or (aa)] above by any government department other than the Inland Revenue, excluding the expenses specified in subsection (6) below.

[<sup>6</sup>(5A) There shall be excluded from the estimate under subsection (5)(a) above any expenses attributable to the carrying into effect of provisions of this Act so far as relating to state pension credit.]

(6) The expenses excluded from the estimate under subsection (5)(b) above are—

- (a) expenses attributable to the carrying effect of provisions of the Contributions and Benefits Act or this Act relating to the benefits which by virtue of section 163(2) above<sup>[7]</sup>, section 20 of the State Pension Credit Act 2002 [<sup>8</sup>section 27 of the Welfare Reform Act 2007 or section 148 of the Welfare Reform Act 2012] are payable out of the money provided by Parliament; and
- (b) any other category of expenses which the Treasury may direct, or any enactment may require, to be excluded from the Secretary of State's estimate under subsection (5)(b) above;

but none of the administrative expenses of the Christmas bonus shall be excluded from that estimate by virtue of paragraph (a) or (b) above.]

**166.**—(1) As from the end of the period of 5 years beginning with 6th April 1990, or such shorter period as the Secretary of State may direct, the Government Actuary or the Deputy Government Actuary shall review the operation during that period of—

Financial review and report.

- [<sup>9</sup>(a) the 1975 Act;
- (b) Parts I to VI of the Contributions and Benefits Act (except Part I of Schedule 8);
- (c) the provisions of the Jobseekers Act 1995 relating to a contribution-based jobseeker's allowance; and
- (d) this Act<sup>[10]</sup>, Chapter II of Part I of the Social Security Act 1998 and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999] [<sup>11</sup>so far as they relate] to the provisions specified in paragraphs (b) and (c) above.]

<sup>1</sup> Words inserted in s. 165(5)(a) (8.12.02) by the Employment Act 2002 (c. 22), s. 6(2)(b).

<sup>2</sup> Words in s. 165(5)(a) substituted (5.4.15) by the Children and Families Act 2014 (c. 6), s. 126, Sch. 7, para. 28(3)(a) (with art. 16 of S.I. 2014/1640).

<sup>3</sup> Words in s. 165(5)(a) inserted (1.12.14) by the Children and Families Act 2014 (c. 6), Sch. 7, para. 28(3)(b).

<sup>4</sup> Words in s. 165(5)(a) inserted (13.3.14) by the National Insurance Contributions Act 2014 (c. 7), art. 19(1).

<sup>5</sup> Words in s. 165(5)(b) inserted (1.12.00) by the Welfare Reform & Pensions Act 1999 (c. 30), Sch. 12, para. 27.

<sup>6</sup> Subsection (5A) inserted in s. 165 inserted (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 18.

<sup>7</sup> Words substituted in s. 165(6)(a) (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(26) of Sch. 3.

<sup>8</sup> Words substituted in s. 165(6)(a) (29.4.13) by para. 25(3) of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>9</sup> Paras. 1(a)-(d) substituted (11.6.96) for words in s. 166 (effectively bringing contribution-based jobseeker's allowance within the review) by para. 66(2) of Sch. 2 to Jobseeker's Act 1995 (c. 18).

<sup>10</sup> Words substituted in s. 166(1)(d) (5.7.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 7, para. 14.

<sup>11</sup> Words inserted in s. 166(1)(d) (29.11.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 102.

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 166-168**

(2) As from the end of each review period, the Government Actuary or Deputy Government Actuary shall review the operation during that period of—

- [<sup>1</sup>(a) Parts I to VI of the Contributions and Benefits Act (except Part I of Schedule 8);
- (b) the provisions of the Jobseekers Act 1995 relating to a contribution-based jobseeker's allowance; and
- [<sup>2</sup>(ba) the provisions of Part 1 of the Welfare Reform Act 2007 relating to contributory employment and support allowance;]
- (c) this Act [<sup>3</sup>, Chapter II of Part I of the Social Security Act 1998 and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999] [<sup>4</sup>so far as they relate] to the provisions specified in paragraphs (a) [<sup>2</sup>to (ba)] above.]

(3) For the purposes of subsection (2) above, a review period is—

- (a) the period of five tax years, or
- (b) such shorter period as the [<sup>5</sup>Treasury] may direct in respect of any review from the end of the last period to be subject to a review under this section.

(4) It shall be the object of a review under this section to determine the extent to which level at which the National Insurance Fund stands from year to year may be expected in the longer term to bear a proper relation to demands in respect of payments of benefit; and for this purpose the Actuary shall take into account—

- (a) current rates of contributions;
- (b) the yield to be expected from contributions in the longer term; and
- (c) such other matters as he considers to be relevant as affecting the present and future level of the Fund.

(5) After completing his review, the Government Actuary or Deputy Government Actuary shall report to the Secretary of State [<sup>6</sup>and the Treasury] his opinion on the question referred to in subsection (4) above; and the [<sup>6</sup>Treasury] shall lay a copy of the report before Parliament.

The social fund.

**167.**—(1) The fund known as the social fund shall continue in being by that name.

(2) The social fund shall continue to be maintained under the control and management of the Secretary of State and payments out of it shall be made by him.

(3) The Secretary of State shall make payments into the social fund of such amounts, at such times and in such manner as he may with the approval of the Treasury determine.

(4) Accounts of the social fund shall be prepared in such form, and in such manner and at such times, as the Treasury may direct, and the Comptroller and Auditor General shall examine and certify every such account and shall lay copies of it, together with his report, before Parliament.

(5) The Secretary of State shall prepare an annual report on the social fund.

(6) A copy of every such report shall be laid before each House of Parliament.

Allocations from social fund.

**168.** [...<sup>7</sup>]

<sup>1</sup> Para. (2)(a)-(c) substituted (11.6.96) for words in s. 166 (effectively bringing contribution-based jobseeker's allowance within the review) by para. 66(3) of Sch. 2 to Jobseeker's Act 1995 (c. 18).

<sup>2</sup> S. 166(2)(ba) & words in sub-para. (c) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(27) of Sch. 3.

<sup>3</sup> Words substituted in s. 166(2)(c) (5.7.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 7, para. 4.

<sup>4</sup> Words inserted in s. 166(2)(c) (29.11.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 102.

<sup>5</sup> Words substituted in s. 166(3) (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 55.

<sup>6</sup> Words substituted in s. 166(5) (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 55.

<sup>7</sup> S. 168 repealed (1.4.13) by reg. 2(1)(d)(ii) of S.I. 2012/3090 (c. 123).

*Section 168 repealed (1.4.13) by reg. 2(1)(d)(ii) of S.I. 2012/3090 (c. 123) but is reproduced here due to savings provision reg. 3(1) & (2)(b) of that S.I. See page 14.3148 of the Law Relating to Social Security.*

168.—(1) The Secretary of State shall allocate amounts for payments from the social fund such as are mentioned in section 138(1)(b) of the Contributions and Benefits Act [<sup>1</sup>(in this section referred to as “section 138(1)(b) payments”)] in a financial year.

(2) The Secretary of State may specify the amounts either as sums of money or by reference to money falling into the social fund on the repayment or partial repayment of loans, or partly in the former and partly in the latter manner.

(3) Allocations—

[<sup>2</sup>(a) may be for all section 138(1)(b) payments or for any description of such payments;]

(b) may be of different amounts for [<sup>1</sup>payments of different descriptions];

(c) may be made at such time or times as the Secretary of State considers appropriate; and

(d) may be in addition to any other allocation [...]<sup>1</sup>.

[<sup>2</sup>(3A) Without prejudice to the generality of subsection (3)(a), descriptions of section 138(1)(b) payments may, in particular, be framed by reference to—

(a) the purposes for which payments are made;

(b) the persons by whom payments are made (including where such persons are located);

(c) the persons to whom payments are made (including where such persons are located).]

(4) The Secretary of State may at any time re-allocate amounts previously allocated, and subsections (2) and (3) above shall have effect in relation to a re-allocation as they have effect in relation to an allocation.

(5) The Secretary of State may give general directions to [<sup>2</sup>appropriate officers] or groups of [<sup>2</sup>appropriate officers], or to any class of [<sup>2</sup>appropriate officers], with respect to the control and management by [<sup>2</sup>appropriate officers] or groups of [<sup>2</sup>appropriate officers] of [<sup>3</sup>any amounts allocated to them] under this section.

[<sup>4</sup>(6) In this section “appropriate officer” means an officer of the Secretary of State who, acting under his authority, is exercising functions of the Secretary of State in relation to [<sup>5</sup>section 138(1)(b) payments].]

169.—(1) There shall be made—

(a) out of the social fund into the Consolidated Fund or the National Insurance fund;

(b) into the social fund out of money provided by Parliament or the National Insurance Fund,

Adjustments between social fund and other sources of finance.

such payments by way of adjustments as the Secretary of State determines (in accordance with any directions of the Treasury) to be appropriate in consequence of any enactment or regulations relating to the repayment or offsetting of a benefit or other payment under the Contributions and Benefits Act [<sup>6</sup>or section 20 of the State Pension Credit Act 2002].

<sup>1</sup> In s. 168 words inserted in (1), (3)(a) substituted, words substituted in (3)(b), words omitted in (3)(d) and (3A) inserted (3.7.05) by the Welfare Reform Act 2007 (c. 5), s. 55.

<sup>2</sup> Words substituted in s. 168(5) (29.11.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 103(1) & (2).

<sup>3</sup> Words substituted in s. 168(5) (3.7.05) by the Welfare Reform Act 2007 (c. 5), Sch. 7, para. 3.

<sup>4</sup> Subsection (6) inserted in s. 168 (29.11.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 103(2).

<sup>5</sup> Words substituted in s. 168(6) (3.7.05) by Welfare Reform Act 2007 (c. 5), para. 3, Sch. 7.

<sup>6</sup> Words inserted in s. 169(1) (2.7.02) for the purposes exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 19.

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(2) Where in any other circumstances payments fall to be made by way of adjustment—

- (a) out of the social fund into the Consolidated Fund or the National Insurance Fund; or
- (b) into the social fund out of money provided by Parliament or the National Insurance Fund,

then, in such cases or classes of case as may be specified by the Secretary of State by order, the amount of the payments to be made shall be taken to be such, and payments on account of it shall be made at such times and in such manner, as may be determined by the Secretary of State in accordance with any direction given by the Treasury.

**PART XIII**

**ADVISORY BODIES AND CONSULTATION**

*The Social Security Advisory Committee and the Industrial Injuries Advisory Council*

The Social Advisory Committee.  
1980 c. 30.

**170.**—(1) The Social Security Advisory Committee (in this Act referred to as “the Committee”) constituted under section 9 of the Social Security Act 1980 shall continue in being by that name—

- (a) to give (whether in pursuance of a reference under this Act or otherwise) advice and assistance to the Secretary of State in connection with the discharge of his functions under the relevant enactments;
- (b) to give (whether in pursuance of a reference under this Act or otherwise) advice and assistance to the Northern Ireland Department in connection with the discharge of its functions under the relevant Northern Ireland enactments; and
- (c) to perform such other duties as may be assigned to the Committee under any enactment.

(2) Schedule 5 to this Act shall have effect with respect to the constitution of the Committee and the other matters there mentioned.

(3) The Secretary of State may from time to time refer to the Committee for consideration and advice such questions relating to the operation of any of the relevant enactments as he thinks fit (including questions as to the advisability of amending any of them).

(4) The Secretary of State shall furnish the Committee with such information as the Committee may reasonably require for the proper discharge of its functions.

(5) In this Act—

“the relevant enactments” means—

- (a) the provisions of the Contributions and Benefits Act<sup>[1]</sup>, this Act and the Social Security (Incapacity for Work) Act 1994, except as they apply to industrial injuries benefit and Old Cases payments;
- <sup>[2]</sup>(aa) the provision of the Jobseekers Act 1995;] and
- <sup>[3]</sup>(ab) section 10 of the Child Support Act 1995;]
- <sup>[4]</sup>(ac) the provisions of the Social Security (Recovery of Benefits) Act 1997; and]

<sup>1</sup> Words in para. (a) of defn. of “the relevant enactments” in s. 170(5) substituted (13.4.95) by para. 51 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

<sup>2</sup> Para. (aa) inserted (22.4.96) in defn. in s. 170(5) by para. 67 of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>3</sup> Para. (ab) inserted (6.10.97) in s. 170(5) by Sch. 3, para. 20 of the Child Support Act 1995 (c. 34).

<sup>4</sup> Para. (ac) inserted (6.10.97) in s. 170(5) by Sch. 3, para. 8 of the Social Security (Recovery of Benefits) Act 1997.



- [<sup>1</sup>(ad) the provisions of Chapter II of Part I of the Social Security Act 1998 and section 72 of that Act;]
- [<sup>2</sup>(ae) sections [...<sup>3</sup>], 72 and 79 of the Welfare Reform and Pensions Act 1999;]
- [<sup>4</sup>(af) section 42, [...<sup>3</sup>] and [<sup>5</sup>sections 69 and 70 of the Child Support, Pensions and Social Security Act 2000;]]
- [<sup>6</sup>(ag) [<sup>7</sup>sections 6A to 11] of the Social Security Fraud Act 2001;]
- [<sup>8</sup>(ah) the provisions of the State Pension Credit Act 2002;]
- [<sup>9</sup>(ai) section 7 of the Age-Related Payments Act 2004;]
- [<sup>10</sup>(aia) the provisions of Part 1 of the Welfare Reform Act 2007;]
- [<sup>11</sup>(aj) sections 32 and 33 of the Welfare Reform Act 2007;]
- [<sup>5</sup>(ak) the provisions of Part 1 of the Welfare Reform Act 2012;]
- [<sup>5</sup>(al) Part 4 of that Act;]
- [<sup>12</sup>(am) the provisions of Part 1 of the Pensions Act 2014;]
- (b) the provisions of Part II of Schedule 3 to the Consequential Provisions Act, except as they apply to industrial injuries benefit; and
- “the relevant Northern Ireland enactments” means–
- (a) the provisions of the Northern Ireland Contributions and Benefits Act and the Northern Ireland Administration Act, except as they apply to Northern Ireland industrial injuries benefit and payments under Part I of Schedule 8 to the Northern Ireland Contributions and Benefits Act; and
- [<sup>13</sup>(aa) any provisions in Northern Ireland which correspond to provisions of the Jobseekers Act 1995; and]

<sup>1</sup> Para. (ad) inserted in defn. of “the relevant enactments (4.3.99) by the Social Security Act 1998 (c. 14), Sch. 7, para. 104.

<sup>2</sup> Para. (ae) inserted in defn. of “the relevant enactments” by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 81.

<sup>3</sup> In s. 170(5), words repealed in paras. (ae) & (af) in the defn. of “the relevant enactments” (on or after 22.3.10) by the Welfare Reform Act 2009 (c. 24), Sch. 7, part 3. (See art. 2(3)-(4) of S.I. 2010/293 for when to apply in certain situations.)

<sup>4</sup> Para. (af) inserted (1.11.00 for certain purposes described in S.I. 2000/2950, art. 2(b), page 1.5893, 1.12.00 for the purpose of referral to s. 42) in defns. of “the relevant enactments” by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 73.

<sup>5</sup> Words in para. (af) substituted and para. (ak) & (al) inserted (25.2.13) by the Welfare Reform Act 2012 (c. 5), Sch. 2, para. 26(2) & Sch. 9, para. 26(a).

<sup>6</sup> Para. (ag) inserted (1.4.02) in defns. in s. 170(5) by s. 12(3) of the Social Security Fraud Act 2001 (c. 11).

<sup>7</sup> In s. 170(5), words substituted in the defn. of “the relevant enactments” para. (ag) ((12.01.10) for the purposes only of conferring power to make regulations & (1.4.10) for all other purposes), by the Welfare Reform Act 2009 (c. 24), s. 24(2)(b) & Sch. 4, para. 9.

<sup>8</sup> Para. (ah) inserted in defn. of “the relevant enactments” for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 20.

<sup>9</sup> Para. (ai) inserted in defn. of “the relevant enactments” (8.7.04) by the Age-Related Payments Act 2004 (c. 10), s. 7(5).

<sup>10</sup> Para. (aia) inserted in s. 170(5) (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(28) of Sch. 3.

<sup>11</sup> Para. (aj) inserted in the defn. of “the relevant enactments” (1.4.08 for reg. making purposes & 6.10.08 for all other purposes) by the Welfare Reform Act 2007 (c. 5), s. 33(7).

<sup>12</sup> Para. (am) inserted (6.4.16) in s. 170(5) by the Pensions Act 2014 (c. 19), Sch. 12, para. 24(a).

<sup>13</sup> Para. (aa) inserted (22.4.96) in defn. in s. 170(5) by para. 67 of Sch. 2 to Jobseekers Act 1995 (c. 18).

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- [<sup>1</sup>(ab) any enactment corresponding to section 10 of the Child Support Act 1995 having effect with respect to Northern Ireland; and]
- [<sup>2</sup>(ac) any provisions in Northern Ireland which correspond to provisions of the Social Security (Recovery of Benefits) Act 1997; and]
- [<sup>3</sup>(ad) any provision in Northern Ireland which correspond to provisions of Chapter II of Part I of the Social Security Act 1998 and section 72 of that Act;]
- [<sup>4</sup>(ae) any provisions in Northern Ireland which correspond to sections [...<sup>5</sup>], 72 and 79 of the Welfare Reform and Pensions Act 1999;]
- [<sup>6</sup>(af) any provisions in Northern Ireland which correspond to section 42, any of [<sup>7</sup>sections 69 and 70 of the Child Support, Pensions and Social Security Act 2000;] and]
- [<sup>8</sup>(ag) any provisions in Northern Ireland which correspond to [<sup>9</sup>sections 6A to 11] of the Social Security Fraud Act 2001; and]
- [<sup>10</sup>(ah) any provisions in Northern Ireland which correspond to provisions of the State Pension Credit Act 2002; and]
- [<sup>11</sup>(ai) Article 9 of the Age-Related Payments (Northern Ireland) Order 2004.]
- [<sup>12</sup>(aia) any provisions in Northern Ireland which correspond to provisions of Part 1 of the Welfare Reform Act 2007;]
- [<sup>13</sup>(aj) any provisions in Northern Ireland which correspond to sections 32 and 33 of the Welfare Reform Act 2007;]
- [<sup>7</sup>(ak) any provisions in Northern Ireland which correspond to the provisions of Part 1 of the Welfare Reform Act 2012;]
- [<sup>7</sup>(al) any provisions in Northern Ireland which correspond to Part 4 of that Act;]
- [<sup>14</sup>(am) the provisions in Northern Ireland which correspond to the provision of Part 1 of the Pensions Act 2014;]

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<sup>1</sup> Para. (ab) inserted (6.10.97) in s. 170(5) by Sch. 3, para. 20 of the Child Support Act 1995 (c. 34).

<sup>2</sup> Para. (ac) inserted (6.10.97) in s. 170(5) by Sch. 3, para. 8 of the Social Security (Recovery of Benefits) Act 1997 (c. 27).

<sup>3</sup> Para (ad) inserted in defn. of “the relevant Northern Ireland enactments” (4.3.99), by the Social Security Act 1998 (c. 14), Sch. 7 para. 104.

<sup>4</sup> Para. (ae) inserted in defn. of “the relevant Northern Ireland enactments” by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 81.

<sup>5</sup> In s. 170(5), words repealed in paras. (ae) in the defn. of “the relevant Northern Ireland enactments” (on or after 22.3.10) by the Welfare Reform Act 2009 (c. 24), Sch. 7, part 3. (See art. 2(3)-(4) of S.I. 2010/293 for when to apply in certain situations.)

<sup>6</sup> Para. (af) inserted (1.11.00 for certain purposes described in S.I. 2000/2950, art. 2(b), page 1.5893, 1.12.00 for the purpose of referral to s. 42) in defn. of “the relevant Northern Ireland enactments” by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 73.

<sup>7</sup> Words in para. (af) substituted & paras. (ak) & (al) inserted (25.2.13) by the Welfare Reform Act 2012 (c. 5), Sch. 2, para. 26(3) & Sch. 9, para. 26(b).

<sup>8</sup> Para. (ag) inserted (1.4.02) in defns. in s. 170(5) by s. 12(3) of the Social Security Fraud Act 2001 (c. 11).

<sup>9</sup> In s. 170(5), words substituted in the defn. of “the relevant Northern Ireland enactments” para. (ag) ((12.01.10) for the purposes only of conferring power to make regulations & (1.4.10) for all other purposes), by the Welfare Reform Act 2009 (c. 24), s. 24(2)(b) & Sch. 4, para. 9.

<sup>10</sup> Para. (ah) inserted in defn. of “the relevant Northern Ireland enactments” for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 20.

<sup>11</sup> Para. (ai) inserted in the defn. of “the relevant Northern Ireland enactments” (3.8.04) by S.I. 2004/1987 (N.I. 11), art. 9(b)

<sup>12</sup> Para. (aia) inserted (27.10.08) in defns. in s. 170 by the Welfare Reform Act 2007 (c. 5), para. 10(28) of Sch. 3.

<sup>13</sup> Para. (aj) inserted in defn. of “the relevant Northern Ireland enactments” (1.4.08 for reg. making purposes & 6.10.08 for all other purposes) by the Welfare Reform Act 2007 (c. 5), s. 33(7).

<sup>14</sup> Para. (am) inserted (6.4.16) in S. 170(5) by the Pensions Act 2014 (c. 19), Sch. 12, para. 24(b).

- (b) the provisions of Part II of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992, except as they apply to Northern Ireland industrial injuries benefit; and 1992 c. 9.
- [<sup>1</sup>(c) section 32(6) of the Pension Schemes (Northern Ireland) Act 1993;] and in this definition— 1993 c. 49.
  - (i) “Northern Ireland Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
  - (ii) “Northern Ireland industrial injuries benefit” means benefit under Part V of the Northern Ireland Contributions and Benefits Act other than under Schedule 8 to that Act.

**171.**—(1) The Industrial Injuries Advisory Council (in this Act referred to as “the Council”) constituted under section 62 of the National Insurance (Industrial Injuries) Act 1965 shall continue in being by that name. The Industrial Injuries Advisory Council.  
1965 c. 52.

(2) Schedule 6 to this Act shall have effect with respect to the constitution of the Council and the other matters there mentioned.

(3) The Secretary of State may from time to time refer to the Council for consideration and advice such questions as he thinks fit relating to industrial injuries benefit or its administration.

(4) The Council may also give advice to the Secretary of State on any other matter relating to such benefit or its administration.

**172.**—(1) Subject—

- (a) to subsection (3) below; and
- (b) to section 173 below,

Functions of Committee and Council in relation to regulations.

where the Secretary of State proposes to make regulations under any of the relevant enactments he shall refer the proposals, in the form of draft regulations or otherwise to the Committee.

(2) Subject—

- (a) to subsection (4) below; and
- (b) to section 173 below,

where the Secretary of State proposes to make regulations relating only to industrial injuries benefit or its administration, he shall refer the proposals, in the form of draft regulations or otherwise, to the Council for consideration and advice.

(3) Subsection (1) above does not apply to the regulations specified in Part I of Schedule 7 to this Act.

(4) Subsection (2) above does not apply to the regulations specified in Part II of that Schedule.

(5) In relation to regulations required or authorised to be made by the Secretary of State in conjunction with the Treasury, the reference in subsection (1) above to the Secretary of State shall be construed as a reference to the Secretary of State and the Treasury.

**173.**—(1) Nothing in any enactment shall require any proposals in respect of regulations to be referred to the Committee or the Council if—

- (a) it appears to the Secretary of State that by reason of the urgency of the matter it is inexpedient so to refer them; or
- (b) the relevant advisory body have agreed that they shall not be referred.

Cases in which consultation is not required.

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<sup>1</sup> Para. (c) of the defn. of “the relevant Northern Ireland enactments” in s. 170(5) substituted (7.2.94) by Pension Schemes (Northern Ireland) Act 1993 (c. 49), Sch. 7, para. 26.

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(2) Where by virtue only of subsection (1)(a) above the Secretary of State makes regulations without proposals in respect of them having been referred, then, unless the relevant advisory body agrees that this subsection shall not apply, he shall refer the regulations to that body as soon as practicable after making them.

(3) Where the Secretary of State has referred proposals to the Committee or the Council, he may make the proposed regulations before the Committee have made their report or, as the case may be the Council have given their advice, only if after the reference it appears to him that by reason of the urgency of the matter it is expedient to do so.

(4) Where by virtue of this section regulations are made before a report of the Committee has been made, the Committee shall consider them and make a report to the Secretary of State containing such recommendations with regard to the regulations as the Committee thinks appropriate; and a copy of any report made to the Secretary of State on the regulations shall be laid by him before each House of Parliament together, if the report contains recommendations, with a statement—

- (a) of the extent (if any) to which the Secretary of State proposes to give effect to the recommendations; and
- (b) in so far as he does not propose to give effect to them, of his reasons why not.

(5) Except to the extent that this subsection is excluded by an enactment passed after 25th July 1986, nothing in any enactment shall require the reference to the Committee or the Council of any regulations contained in either—

- (a) a statutory instrument made before the end of the period of 6 months beginning with the coming into force of the enactment under which those regulations are made; or
- (b) a statutory instrument—
  - (i) which states that it contains only regulations made by virtue of, or consequential upon, a specified enactment; and
  - (ii) which is made before the end of the period of 6 months beginning with the coming into force of that specified enactment.

(6) In relation to regulations required or authorised to be made by the Secretary of State in conjunction with the Treasury, any reference made in this section to the Secretary of State shall be construed as a reference to the Secretary of State and the Treasury.

(7) In this section “regulations” means regulations under any enactment, whenever passed.

**174.**—(1) The Committee shall consider any proposals referred to it by the Secretary of State under section 172 above and shall make to the Secretary of State a report containing such recommendations with regard to the subject-matter of the proposals as the Committee thinks appropriate.

Committee’s report on regulations and Secretary of State’s duties.

(2) If after receiving a report of the Committee the Secretary of State lays before Parliament any regulations or draft regulations which comprise the whole or any part of the subject-matter of the proposals referred to the Committee, he shall lay with the regulations or draft regulations a copy of the Committee’s report and a statement showing—

- (a) the extent (if any) to which he has, in framing the regulations, given effect to the Committee’s recommendations; and
- (b) in so far as effect has not been given to them, his reasons why not.

(3) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of subsection (2) above shall be satisfied as respects either House of Parliament if a copy of the report and statement there referred to are laid before that House not later than the second day on which the House sits after the laying of the regulations.

(4) In relation to regulations required or authorised to be made by the Secretary of State in conjunction with the Treasury any reference in this section to the Secretary of State shall be construed as a reference to the Secretary of State and the Treasury.

*The Disability Living Allowance Advisory Board*

**175.**—(1) The Disability Living Allowance Advisory Board (in this section referred to as “the Board”) constituted under section 3(1) of the Disability Living Allowance and Disability Working Allowance Act 1991 shall continue in being by that name.

Disability Living Allowance Advisory Board.  
1991 c. 21.

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 175-176**

(2) Regulations shall confer on the Board such functions relating to disability living allowance or attendance allowance as the Secretary of State thinks fit and shall make provision for—

- (a) the Board's constitution;
- (b) the qualifications of its members;
- (c) the method of their appointment;
- (d) the term of office and other terms of appointment of its members;
- (e) their removal.

(3) Regulations may also make provision—

- (a) enabling the Board to appoint persons as advisers to it on matter on which in its opinion they are specially qualified;
- (b) for the appointment of officers and servants of the Board;
- (c) enabling the Board to act notwithstanding any vacancy among its members;
- (d) enabling the Board to make rules for regulating its procedure (including its quorum).

(4) The expenses of the Board to such an amount as may be approved by the Treasury shall be paid by the Secretary of State out of money provided by Parliament.

(5) There may be paid as part of the expenses of the Board—

- (a) to all or any of the members of the Board, such salaries or other remuneration and travelling and other allowances;
- (b) to advisors to the Board, such fees; and
- (c) to such other persons as may be specified in regulations such travelling and other allowances (including compensation for loss of remunerative time),

as the Secretary of State may with the consent of the Treasury determine.

(6) The Secretary of State may furnish the Board with such information as he considers that it may need to enable it to discharge its functions.

*Housing benefit and community charge benefits†*

Consultation with representative organisations.

**176.**—(1) Subject to subsection (2) below, before making—

- (a) [...<sup>1</sup>]

*S. 176(a) & (b) has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

- (a) regulations relating to housing benefit or [²council tax benefit] (other than regulations of which the effect is to increase any amount specified in regulations previously made);

[³(aa) regulations under section 69 of the Child Support, Pensions and Social Security Act 2000;]

- (b) [...<sup>1</sup>]

(b) an order under [⁴any provision of Part VIII above]

the Secretary of State shall consult with organisations appearing to him to be representative of the authorities concerned.

(2) Nothing in subsection (1) above shall require the Secretary of State to undertake consultations if—

- (a) it appears to him that by reason of the urgency of the matter it is inexpedient to do so; or

<sup>1</sup> S. 176(a) & (b) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>2</sup> Words in s. 176(1)(a) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 23, for purposes of council tax and council tax benefit from 1.4.93.

<sup>3</sup> Para. (aa) inserted (1.11.00) in s. 176(1) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 69.

<sup>4</sup> Words substituted (1.4.97) by Sch. 13, para (4) to Housing Benefit Act 1996 (c. 52).

(b) the organisations have agreed that consultations should not be undertaken.

(3) Where the Secretary of State has undertaken such consultations, he may make any regulations or order to which the consultations relate without completing the consultations if it appears to him that by reason of the urgency of the matter it is expedient to do so.

†*Unreliable heading.*

## PART XIV

### SOCIAL SECURITY SYSTEMS OUTSIDE GREAT BRITAIN

**177-178** [...<sup>1</sup>]

#### *Reciprocity*

**179.**—(1) For the purpose of giving effect—

- (a) to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of legislation to which this section applies, or

Reciprocal agreements with countries outside the United Kingdom.

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<sup>1</sup> Ss. 177 of 178 repealed by the Northern Ireland Act 1998 (c. 47), s. 87(8)(a).

- (b) to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Great Britain, the government of the United Kingdom has made to the other government in question,

Her Majesty may by Order in Council make provision for modifying or adapting such legislation in its application to cases affected by the agreement or proposed alterations.

(2) An Order made by virtue of subsection (1) above may, instead of or in addition to making specific modifications or adaptations, provide generally that legislation to which this section applies shall be modified to such extent as may be required to give effect to the provisions contained in the agreement or, as the case may be, alterations in question.

(3) The modifications which may be made by virtue of subsection (1) above include provisions—

- (a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made have a corresponding effect for the purposes of this Act<sup>[1]</sup>, the Jobseekers Act 1995<sup>[2]</sup> [Chapter II of Part I of the Social Security Act 1998]<sup>[3]</sup>, Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999<sup>[4]</sup>, Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999<sup>[5]</sup>, Part 1 of the Welfare Reform Act 2007<sup>[6]</sup>, Part 1 of the Welfare Reform Act 2012<sup>[7]</sup>, Part 4 of that Act<sup>[8]</sup>, Part 1 of the Pensions Act 2014<sup>[9]</sup>, Part 5 of that Act<sup>[9]</sup> and the Contributions and Benefits Act (but not so as to confer a right to double benefit);
- (b) for determining, in cases where rights accrue both under such legislation and under the law of that country, which of those rights is to be available to the person concerned;
- (c) for making any necessary financial adjustments.

(4) This section applies—

- (a) to the Contributions and Benefits Act;  
<sup>[10]</sup>(aa) to the Jobseekers Act 1995;] and  
<sup>[11]</sup>(ab) to Chapter II of Part I of the Social Security Act 1998;]  
<sup>[12]</sup>(ac) to Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999; and]  
<sup>[13]</sup>(ad) to Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; and]

<sup>1</sup> Words inserted (22.4.96) in s. 179(3)(a) by para. 70(2) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>2</sup> Words inserted (5.7.99) into 179 by Sch. 7, para. 106 of S.S. Act 1998 (c. 14).

<sup>3</sup> Words inserted in 179(3)(a) (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 7, para. 15(2).

<sup>4</sup> Words inserted in S. 179(3)(a) (24.3.99) by S.I. 1999/671, Sch. 6, para. 2.

<sup>5</sup> Words in s. 179(3)(a) substituted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(29) of Sch. 3.

<sup>6</sup> Words inserted in s. 179(3)(a) (29.4.13) by para. 27(2) of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>7</sup> Words inserted in s. 179(3)(a) (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 27(2).

<sup>8</sup> Words in s. 179(3)(a) inserted (7.7.15) by Pensions Act 2014, (c. 19), Sch. 12, para. 25.

<sup>9</sup> Words in s. 179(3)(a) inserted (8.2.17) by Pensions Act 2014, (c. 19), Sch. 16, para. 33(2).

<sup>10</sup> Para. (aa) inserted (22.4.96) in s. 179(4) by para. 70(3) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>11</sup> Para. (ab) inserted (5.7.99) by Sch. 7, para. 107(2), to S.S. Act 1998 (c. 14).

<sup>12</sup> Ss. 179(ac) inserted (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 7, para. 16.

<sup>13</sup> S. 179(4)(ad) inserted (24.3.99) by S.I. 1999/671, Sch. 6, para. 2.



- [<sup>1</sup>(ae) to the State Pension Credit Act 2002; [<sup>2</sup>and
- (af) to Part 1 of the Welfare Reform Act 2007;] and]
- [<sup>3</sup>(ag) to Part 1 of the Welfare Reform Act 2012; and]
- [<sup>4</sup>(ah) to Part 4 of that Act;]
- [<sup>5</sup>(ai) to Part 1 of the Pensions Act 2014;]
- [<sup>6</sup>(aj) to Part 5 of the Pensions Act 2014]
- (b) to this Act,

except in relation to the following benefits—

- (i) community charge benefits;
- (ii) payments out of the social fund;
- (iii) Christmas bonus;
- (iv) statutory sick pay; and
- (v) statutory maternity pay.

(5) The power conferred by subsection (1) above shall also be exercisable in relation to regulations made under the Contributions and Benefits Act [<sup>7</sup>this Act or Part 1 of the Welfare Reform Act 2007] [<sup>5</sup>or Part 1 of the Pensions Act 2014;] [<sup>6</sup>or section 30 of that Act] and concerning—

- [<sup>3</sup>(za) universal credit]
- (a) income support;
- [<sup>8</sup>(aa) jobseeker’s allowance;]
- [<sup>1</sup>(ab) state pension credit;]
- [<sup>2</sup>(ac) employment and support allowance;]
- [<sup>5</sup>(ad) state pension under Part 1 of the Pensions Act 2014;]
- [<sup>6</sup>(ae) bereavement support payment;]
- (b) [...<sup>9</sup>]
- (c) [...<sup>9</sup>]
- (d) housing benefit; or
- (e) child benefit.

[<sup>10</sup>**179A**—(1) This section applies where it appears to the Secretary of State—

Exchange of information  
with overseas authorities

- (a) that there are arrangements in force for the exchange of relevant information between him and any authorities in a country outside the United Kingdom (‘the overseas country’); and
- (b) that the arrangements and the law in force in the overseas country are such as to ensure that there are adequate safeguards in place against any improper use of information disclosed by the Secretary of State under this section

(2) For the purpose of facilitating the carrying out by authorities in the overseas country of any function relating to anything corresponding to, or in the nature of, a social security benefit, the Secretary of State may make any such disclosure of relevant

<sup>1</sup> Words inserted in subsection (3)(a), para. (ae) inserted in subsection (4) and (ab) in subsection (5) of s. 179 for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 21.

<sup>2</sup> Subsections (4)(af) and (5)(ac) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(29) of Sch. 3.

<sup>3</sup> S. 179(4)(ag) & (5)(za) inserted (29.4.13) by para. 27(3) & (4) of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>4</sup> S. 179(4)(ah) inserted (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 27(3).

<sup>5</sup> S. 179(4)(ai), (5)(ad) & words in s. 179(5) inserted (7.7.15) by Pensions Act 2014 (c. 19), Sch. 12, para. 25.

<sup>6</sup> S. 179(4)(aj) & words in s. 179(5) inserted (8.2.17) by Pensions Act 2014, (c. 19), Sch. 16, para. 33(3), (4).

<sup>7</sup> Words inserted in s. 179(5) (31.10.11) by S.I. 2011/2425 reg. 3.

<sup>8</sup> Para. (aa) inserted (22.4.96) in s. 179(5) by para. 70(4) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>9</sup> S. 179(5)(b) & (c) repealed (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

<sup>10</sup> S. 179A inserted (14.2.03) by the SS Fraud Act 2001 (c. 11), s. 5.

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information to authorities in the overseas country as he considers necessary to give effect to the arrangements.

(3) It shall be the duty of the Secretary of State to take all such steps as may be reasonable for securing that relevant information disclosed to him in accordance with the arrangements is not used for any purpose for which its use is not expressly or impliedly authorised by or under the arrangements.

(4) This section does not apply where provision is in force under section 179 above for giving effect to the arrangements in question.

(5) The purposes for which information may be required to be disclosed to the Secretary of State under section 122D above or section 116D of the Northern Ireland Administration Act (information required from authorities administering housing benefit or council tax benefit) shall be deemed to include the further disclosure of that information in accordance with this section.

(6) In this section “relevant information” means any information held by the Secretary of State or any authorities in a country outside the United Kingdom for the purposes of any functions relating to, or to anything corresponding to or in the nature of, a social security benefit.]

## PART XV

### MISCELLANEOUS

#### *Travelling expenses*

Payment of travelling expenses by the Secretary of State.

**180.** The Secretary of State may pay such travelling expenses as, with the consent of the Treasury, he may determine—

- (a) to persons required by him to attend any interview in connection with the operation of the Contributions and Benefits Act [<sup>1</sup>the Jobseekers Act 1995] [<sup>2</sup>the Social Security (Recovery of Benefits) Act 1997 (c. 27)], [<sup>3</sup>Chapter II of Part I of the Social Security Act 1998,] [<sup>4</sup>, the State Pension Credit Act 2002] [<sup>5</sup>, Part 1 of the Welfare Reform Act 2007] [<sup>6</sup>, Part 1 of the Welfare Reform Act 2012] [<sup>7</sup>, Part 4 of that Act] or this Act;
- (b) to persons attending local offices in connection with the operation—
  - (i) of the Contributions and Benefits Act [<sup>1</sup>the Jobseekers Act 1995][<sup>2</sup>the Social Security (Recovery of Benefits) Act 1997 (c. 27)], [<sup>3</sup>Chapter II of Part I of the Social Security Act 1998,] [<sup>4</sup>, the State Pension Credit Act 2002] [<sup>5</sup>, Part 1 of the Welfare Reform Act 2007] [<sup>6</sup>, Part 1 of the Welfare Reform Act 2012] [<sup>7</sup>, Part 4 of that Act] or this Act; or
  - (ii) of any prescribed enactment.

*\*References to this Act in s. 180 extended by s. 167(2) of Pension Schemes Act 1993 (c. 48) to the provisions referred to in s. 164(1)(b) *ibid*.*

Payments of travelling expenses by the Commissioners of Inland Revenue.

**[<sup>8</sup>180A.** The Inland Revenue may pay such travelling expenses as they may determine—

<sup>1</sup> Words inserted (11.6.96) in s. 180 by para. 71 of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>2</sup> Words inserted in s. 180 (5.7.99) by Sch. 7, para. 108, of S.S. Act 1998 (c. 14).

<sup>3</sup> Words inserted (6.10.97) in s. 180 by Sch. 3, para. 9, to Social Security (Recovery of Benefits) Act 1997 (c. 27).

<sup>4</sup> Words inserted in s. 180(a) and (b) (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 22.

<sup>5</sup> Words inserted in s. 180(a) & (b) (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(30) of Sch. 3.

<sup>6</sup> Words inserted in s. 180(a) & (b) (29.4.13) by para. 28 of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>7</sup> Words inserted in s. 180(a) & (b)(i) (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 28.

<sup>8</sup> S. 180A inserted (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 7, para. 16.

- (a) to persons required by them to attend any interview in connection with the operation of the Contributions and Benefits Act, this Act, or Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999;
- (b) to persons attending local offices in connection with the operation of the Contributions and Benefits Act, this Act, or Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.]

*Offences*

**181.** If any person, with intent to deceive, falsely represents himself to be a person authorised by [the Secretary for Work and Pensions] to act in any capacity (whether under this Act or otherwise) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Impersonation of officers.

**182.—(1)** If any person—

- (a) as a pledge or a security for a debt; or
- (b) with a view to obtaining payment from the person entitled to it of a debt due either to himself or to any other person,

Illegal possession of documents.

receives, detains or has in his possession any document issued by or on behalf of [the Secretary of State for Work and Pensions] in connection with any benefit, pension or allowance (whether payable under the Contributions and Benefits Act or otherwise) he shall be guilty of an offence.

(2) If any such person has such a document in his possession without lawful authority or excuse (the proof whereof shall lie on him) he shall be guilty of an offence.

(3) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 4 on the standard scale or to both.

*[<sup>2</sup> Redirection of post*

**182A.—(1)** A social security authority may require—

- (a) the Post Office; or
- (b) any other person who conveys postal packets,

Return of social security post.

to return to the sender social security post sent by or on behalf of the authority which would otherwise be redirected.

(2) A social security authority shall make payments of such amount as the Secretary of State considers reasonable in respect of the return of social security post in compliance with a requirement imposed by the authority under subsection (1) above.

(3) In subsections (1) and (2) above “social security authority” means—

- (a) the Secretary of State;
- (b) the Northern Ireland Department; or
- (c) [<sup>3</sup>...]

*S. 182A(3)(c) has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

- (c) any local or other authority administering housing benefit or council tax benefit (including the Northern Ireland Housing Executive).

<sup>1</sup> Words in s. 181 & 182 substituted (27.6.02) by para. 8(2) & (3) of S.I. 2002/1397.

<sup>2</sup> S. 182A inserted (25.8.97) (partially) & (16.11.98) (fully) by s. 20(1) of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>3</sup> S. 182A(3)(c) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

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- (4) In subsections (1) and (2) above “social security post” means postal packets—
- (a) the contents of which relate to any benefit, contributions or national insurance number or to any other matter relating to social security ; and
  - (b) which are marked, in a manner approved by the Post Office or other person conveying them, with the name and address of the sender and with an indication that they are to be returned rather than redirected.
- (5) In this section—
- (a) “redirected”, in relation to any postal packet, means delivered to an address other than that indicated by the sender on the packet; and
  - (b) “postal packet” has the same meaning as in the Postal Office Act 1953.
- (6) Any requirement imposed under subsection (1) above has effect subject to any order under—
- (a) section 371 of the Insolvency Act 1986 or Article 342 of the Insolvency (Northern Ireland) Order 1989 (redirection of bankrupt’s letters to trustee in bankruptcy);
  - (b) paragraph 10 of Schedule 1 of the Solicitors Act 1974 or paragraph 15 of Schedule 1 to the Solicitors (Northern Ireland) Order 1976 (redirection of letters following intervention by Law Society); or
  - (c) paragraph 10 of Schedule 5 to the Administration of Justice Act 1985 (redirection of letters following intervention by Council for Licensed Conveyancers).]

Requirement to supply information about redirection of post.

[**182B.\***—(1) The Secretary of State or the Northern Ireland Department may require the Post Office or any other person who conveys postal packets to supply information relating to arrangements for the redirection of postal packets to, or to a person supplying services to, the Secretary of State or the Department—

- (a) for the use in the prevention, detection, investigation or prosecution of offences relating to social security; or
- (b) for use in checking the accuracy of information relating to benefits, contributions or national insurance numbers or to any other matter relating to social security and (where appropriate) amending or supplementing such information.

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<sup>1</sup> S.182B inserted (1.7.97) by s.21(1) of Social Security Administration (Fraud) Act 1997 (c. 47).

(2) [...<sup>1</sup>]

*S. 182B(2) has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

(2) A local or other authority administering housing benefit or council tax benefit (including Northern Ireland Housing Executive) may require the Post Office or any other person who conveys postal packets to supply information relating to arrangements for the redirection of postal packets to the authority or a person authorised to exercise any function of the authority relating to housing benefit or council tax benefit—

- (a) for use in the prevention, detection, investigation or prosecution of offences relating to such a benefit; or
- (b) for use in checking the accuracy of information relating to such a benefit and (where appropriate) amending or supplementing such information.

(3) Information shall be supplied under subsection (1) or (2) above in such manner and form, and in accordance with such requirements, as may be prescribed.

(4) Payments of such amount as the Secretary of State considers reasonable shall be made by a person or authority imposing a requirement under subsection (1) or (2) above in respect of the supply of information in compliance with the requirement.

(5) Information supplied under subsection (1) or (2) above shall not be supplied by the recipient to any other person or body unless—

- (a) it could be supplied to that person or body under either of those subsections; or
- (b) it is supplied for the purposes of any civil or criminal proceedings relating to the Contributions and Benefits Act, the Jobseekers Act 1995 [<sup>2</sup>, Part 1 of the Welfare Reform Act 2012] or this Act or [<sup>3</sup>, Part 4 of that Act] to any provision of Northern Ireland legislation corresponding to any of them.

(6) But where information supplied under subsection (1) or (2) above has been used (in accordance with paragraph (b) of the subsection concerned) in amending or supplementing other information, it is lawful for it to be—

- (a) supplied to any person or body to whom that other information could be supplied; or
- (b) used for any purpose for which that other information could be used.

(7) In subsections (1) or (2) above “arrangements for the redirection of postal packets” means arrangements made with the Post Office or other person conveying postal packets for the delivery of postal packets to addresses other than those indicated by senders on the packets.

(8) In this section “postal packets” has the same meaning as in the Post Office Act 1953.]

*\*See paragraph 34 of Schedule 8 to the Welfare Reform and Pensions Act 1999 in Volume 2 of this publication for details of modifications of this section.*

*[<sup>4</sup>National insurance numbers*

[<sup>4</sup>182C.—(1) Regulations may make provision requiring a person to apply for a national insurance number to be allocated to him.

Requirement to apply for national insurance number.

[<sup>5</sup>(1A) Regulations under subsection (1) above may require the application to be made to the Secretary of State or to the Inland Revenue.]

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<sup>1</sup> S. 182B(2) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.  
<sup>2</sup> Words inserted in s. 182B(5)(b) by (29.4.13) by para. 29 of Sch. 2 to the Welfare Reform Act 2012 (c. 5).  
<sup>3</sup> Words inserted in s. 182B(5)(b) (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 29.  
<sup>4</sup> S.182C inserted (1.7.97) by Sch. 1, para. 9 to Social Security Administration (Fraud) Act 1997 (c. 47).  
<sup>5</sup> S. 182C(1A) inserted (1.4.99) by Transfer of Functions Act 1999 (c. 11).

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(2) An application required by regulations under subsection (1) above shall be accompanied by information or evidence enabling such a number to be allocated.]

*Industrial injuries and diseases*

Research on industrial injuries, etc.

**183.**—(1) The Secretary of State may promote research into the causes and incidence of accidents arising out of and in the course of employment, or injuries and diseases which—

- (a) are due to the nature of employment; or
- (b) it is contemplated might be prescribed for the purposes of section 108 to 110 of the Contributions and Benefits Act,

either by himself employing persons to conduct such research or by contributing to the expenses of, or otherwise assisting, other persons engaged in such research.

(2) The Secretary of State may pay to persons so employed by him such salaries or remuneration, and such travelling and other allowances, as he may determine with the consent of the Treasury.

Control of pneumoconiosis.

**184.** As respects pneumoconiosis, regulations may provide—

- (a) for requiring persons to be medically examined before, or within a prescribed period after, becoming employed in any occupation in relation to which pneumoconiosis is prescribed, and to be medically examined periodically while so employed, and to furnish information required for the purposes of any such examination;
- (b) for suspending from employment in any such occupation, and in such other occupations as may be prescribed, persons found on such an examination—
  - (i) to be suffering from pneumoconiosis or tuberculosis, or
  - (ii) to be unsuitable for such employment, having regard to the risk of pneumoconiosis and such other matters affecting their susceptibility to pneumoconiosis as may be prescribed;
- (c) for the disqualification for the receipt of [<sup>1</sup>personal independence payment or benefit as defined in section 122 of the Contributions and Benefits Act,] in respect of pneumoconiosis of any person who fails without good cause to submit himself to any such examination or to furnish information required by the regulations or who engages in any employment from which he has been suspended as mentioned in paragraph (b) above;
- (d) for requiring employers—
  - (i) to provide facilities for such examinations,
  - (ii) not to employ in any occupation a person who has been suspended as mentioned in paragraph (b) above from employment in that occupation or who has failed without good cause to submit himself to such an examination,
  - (iii) to give to such officer as may be prescribed the prescribed notice of the commencement of any prescribed industry or process;
- (e) for the recovery on summary conviction of monetary penalties in respect of any contravention of or failure to comply with any such requirement as is mentioned in paragraph (d) above, so, however, that such penalties shall not exceed £5.00 for every day on which the contravention or failure occurs or continues;
- (f) for such matters as appear to the Secretary of State to be incidental to or consequential on provisions included in the regulations by virtue of paragraphs (a) to (d) above or section 110(1) of the Contribution and Benefits Act.

*Workmen's compensation etc.*

Administration of workmen's compensation etc.

**185.**—(1) Schedule 9 to this Act shall have effect in relation to schemes under paragraphs 2 and 4 of Schedule 8 to the Contributions and Benefits Act.

<sup>1</sup> Words in s. 184(c) substituted (8.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 30.

(2) Regulations may provide for applying in relation to payments under Part II of that Schedule the provisions of this Act relating to the making of claims and the determination of claims and questions in so far as those provisions apply in relation to—

- (a) an unemployment supplement;
- (b) an increase of a disablement pension in respect of a child or adult dependant; or
- (c) an increase of a disablement pension in respect of the need for constant attendance or exceptionally severe disablement,

(as the case may be) subject to any additions or modifications

*Supplementary benefit etc.*

**186.** Schedule 10 to this Act shall have effect for the purpose of making provision in relation to the benefits there mentioned.

Application of provisions of Act to supplementary benefit etc.

*Miscellaneous*

**187.—**(1) Subject to the provision of this Act, every assignment of or charge on—

Certain benefit to be inalienable.

- [<sup>1</sup>(za) universal credit]
- [<sup>2</sup>(zb) state pension under Part 1 of the Pensions Act 2014;]
- (a) benefit as defined in section 122 of the Contributions and Benefits Act;
- [<sup>3</sup>(aa) a jobseeker’s allowance;]
- [<sup>4</sup>(ab) state pension credit;]
- [<sup>5</sup>(ac) an employment and support allowance;]
- [<sup>6</sup>(ad) personal independence payment;]
- (b) any income-related benefit; or
- (c) child benefit,

and every agreement to assign or charge such benefit shall be void; and, on the bankruptcy of a beneficiary, such benefit shall not pass to any trustee or other person acting on behalf of his creditors.

(2) In the application of subsection (1) above to Scotland—

- (a) the reference to assignment of benefit shall be read as a reference to assignation, “assign” being construed accordingly;
- (b) the reference to a beneficiary’s bankruptcy shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 41 of the Solicitors (Scotland) Act 1980.

1980 c. 46

(3) In calculating for the purposes of section 5 of the Debtors Act 1869 or section 4 of the Civil Imprisonment (Scotland) Act 1882 the means of any beneficiary, no account shall be taken of any increase of disablement benefit in respect of a child or of industrial death benefit.

1869 c. 62.  
1882 c. 42.

**188.—**(1) Stamp duty shall not be chargeable on any document to which this subsection applies.

Exemption from stamp duty.

(2) Subsection (1) above applies to any document authorised by virtue—

- (a) of Parts I to VI of the Contributions and Benefits Act; or
- (b) of any provision of this Act so far as it operates in relation to matters to which those Parts relate,

<sup>1</sup> Sub-para. s. 187(1)(za) inserted (29.4.13) by para. 30 of Sch. 2 to the Welfare Reform Act 2012 (c. 5).

<sup>2</sup> Para. (zb) inserted (6.4.16) into S. 187 by the Pensions Act 2014 (c. 19), Sch. 12, para. 26.

<sup>3</sup> S. 187(1)(aa) inserted (11.6.96) by para. 72 of Sch. 2 to Jobseekers Act 1995 (c.18).

<sup>4</sup> Para. (ab) inserted in s. 187(1) (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 23.

<sup>5</sup> Para. (ac) inserted in s. 187(1) (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(31) of Sch. 3.

<sup>6</sup> S. 187(1)(ad) inserted (8.4.13) by the Welfare Reform Act 2012 (c. 5), para. 31.

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or otherwise required in order to give effect to those Parts or to any such provision so far as it so operates or in connection with any description of business thereunder.

- (3) Stamp duty shall not be chargeable—
- (a) upon such documents used in connection with business under paragraphs 2 and 3 of Schedule 8 to the Contributions and Benefits Act and paragraph 1 of Schedule 9 to this Act as may be specified in a scheme made under paragraph 2 of Schedule 8 to the Contributions and Benefits Act; or
  - (b) upon such documents used in connection with business under paragraphs 4 to 6 of that Schedule and paragraph 2 of Schedule 9 to this Act as may be specified in a scheme made under paragraph 4 of Schedule 8 to the Contributions and Benefits Act.

## PART XVI

### GENERAL

#### *Subordinate legislation*

Regulations and orders -  
general.

**189.**—(1) Subject to [...] [<sup>2</sup>any Provision providing for an order or regulations to be made by the Treasury or the Inland Revenue and to] any [...] [<sup>3</sup>] express provision of this Act, regulations and orders under this Act shall be made by the Secretary of State.

(2) [...]<sup>1</sup>

(3) Powers under this Act to make regulations or orders are exercisable by statutory instrument.

(4) Except in the case of regulations under section [...] [<sup>1</sup>] 175 above and in so far as this Act otherwise provides, any power conferred by this Act to make an Order in Council, regulations or an order may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases in relation to which it is exercised—
  - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
  - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act;
  - (iii) any such provision either unconditionally or subject to any specified condition;

and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and powers to make an Order in Council, regulations or an order for the purposes of any one provision of this Act are without prejudice to powers to make regulations or an order for the purposes of any other provision.

(5) Without prejudice to any specific provision in this Act, a power conferred by this Act to make an Order in Council, regulations or an order [...] [<sup>1</sup>] includes power to make thereby such incidental, supplementary, consequential or transitional provision as appears to Her Majesty, or the authority making the regulations or order, as the case may be, to be expedient for the purposes of the Order in Council, regulations or order.

[<sup>4</sup>(5A)The provision referred to in subsection (5) includes, in a case where regulations under this Act require or authorise the use of electronic communications, provision referred to in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000.

<sup>1</sup> Words in subsections (1), (2), (4) and (5) of section 189 removed by S.S. Act 1998 (c. 14), Sch. 7, para. 109 as from 6.9.99.

<sup>2</sup> Words inserted in s. 189(1) (1.4.99) by the S.S. Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 57(2).

<sup>3</sup> Word in S. 189 (1) revoked (26.2.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.731 for details of savings and transitional provisions.

<sup>4</sup> S. 189(5A) & (5B) inserted (25.2.13) by the Welfare Reform Act 2012 (c. 5), s. 104(1).



(5B) For the purposes of subsection (5A), references in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000 to an order under section 8 of that Act are to be read as references to regulations under this Act; and references to anything authorised by such an order are to be read as references to anything required or authorised by such regulations.]

(6) Without prejudice to any specific provisions in this Act, a power conferred by any provision of this Act, except section 14, [...<sup>1</sup>], 130 and 175, to make an Order in Council, regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.

(7)-(7A) [...<sup>2</sup>]

*S. 189(7) & (7A) & words in subsec. (8) have been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

(7) Any power conferred by this Act to make orders or regulations relating to housing benefit or [<sup>3</sup>council tax benefit] shall include power to make different provision for different areas [<sup>4</sup>or different authorities].

[<sup>5</sup>(7A) Without prejudice to the generality of any of the preceding provisions of this section, regulations under any of sections 2A to [<sup>6</sup>2F] and 7A above may provide for all or any of the provisions of the regulations to apply in relation to any area or areas specified in the regulations].

(8) An order under section [...<sup>2</sup>], 150, [<sup>7</sup>150A,] 152, [<sup>8</sup>165(4)(a)] or 169 above [...<sup>9</sup>] shall not be made [<sup>10</sup>by the Secretary of State] without the consent of the Treasury.

(8) An order under section [<sup>11</sup>140B, 140C] 150, [<sup>7</sup>150A,] 152, [<sup>8</sup>165(4)(a)] or 169 above [...<sup>9</sup>] shall not be made [<sup>10</sup>by the Secretary of State] without the consent of the Treasury.

(9) Any power of the Secretary of State under any provision of this Act, except under sections 80, 154, [<sup>12</sup>and 175], 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.

(10) [...<sup>13</sup>].

(11) A power under [<sup>12</sup>section 179] above to make provision by regulations or Order in Council for modifications or adaptations of the Contributions and Benefits Act or this Act shall be exercisable in relation to any enactment passed after this Act which is directed to be construed as one with them, except in so far as any such

<sup>1</sup> Words removed in s. 189(6) by Social Security Act 1998 (c. 14), Sch. 7, para. 109 as from 6.9.99.

<sup>2</sup> S. 189(7) & (7A) & words in subsec. (8) repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>3</sup> Words in s. 189(7) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 24, for purposes of council tax and council tax benefit from 1.4.93.

<sup>4</sup> Words added to s. 189(7) (1.7.97) by Sch. 1, para. 10 to Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>5</sup> Para. (7A) inserted (11.11.99) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 83.

<sup>6</sup> Word substituted in s. 189(7A) (12.11.09) by the Welfare Reform Act 2009 (c. 24), s. 2(4).

<sup>7</sup> Ref. inserted in ss. 189(8) (26.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, paras. 29 & 30.

<sup>8</sup> Words inserted into s. 189(8) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 11), Sch. 3, para. 57(3)

<sup>9</sup> Words omitted (6.10.97) from s. 189(8) by Sch. 3, para. 10 of Social Security (Recovery of Benefits) Act 1997 (c. 27).

<sup>10</sup> Words inserted in S.189(8) (26.2.03, 1.4.03 and 7.4.03) by Sch. 4, para. 3 of the Tax Credits Act 2002 (c. 21).

<sup>11</sup> Words substituted in s. 189(8) (1.4.97) by Sch. 13, para. 3(5) to Housing Act 1996 (c. 52).

<sup>12</sup> Words substituted in s. 189(9) & (11) (2.12.99) by the Northern Ireland Act 1998 (c. 47), Sch. 13, para. 11.

<sup>13</sup> Words removed from s. 189(10) by S.S. Act 1998 (c. 14), Sch. 7, para. 109, as from 6.9.99.

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enactment relates to a benefit in relation to which the power is not exercisable; but this subsection applies only so far as a contrary intention is not expressed in the enactment so passed, and is without prejudice to the generality of any such direction.

(12) Any reference in this section or section 190 below to an Order in Council, or an order or regulations, under this Act includes a reference to an Order in Council, an order or regulations made under any provision of an enactment passed after this Act and directed to be construed as one with this Act; but this subsection applies only so far as a contrary intention is not expressed in the enactment so passed, and without prejudice to the generality of any such direction.

Parliamentary control of orders and regulations.

**190.**—(1) Subject to the provision of this section, a statutory instrument containing (whether alone or with other provisions)–

[<sup>1</sup>(zza) an order under section 115A(3B);]

[<sup>2</sup>(zzb) regulations under section 115C(2) or 115D(1) or (2);]

[<sup>3</sup>(za) regulations under section 132A(4);]

(a) an order under section 141, 143 [...<sup>4</sup>], 145, [...<sup>5</sup>], 150, [<sup>6</sup>150A,] [<sup>7</sup>151A,] 152, or 162(7) above;

[<sup>8</sup>(aza) any order containing provision adding any person to the list of persons falling within section 109B(2A) above;]

[<sup>9</sup>(aa) the first regulations to be made under section 2A;] or

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<sup>1</sup> S. 190(1)(zza) inserted (8.5.12) by the Welfare Reform Act 2012 (c. 5), s. 114(2).

<sup>2</sup> S. 190(1)(zzb) inserted (10.5.12) by the Welfare Reform Act 2012, (c. 5), s. 116(2)

<sup>3</sup> S. 190(1)(za) inserted (30.3.06) by the National Insurance Contributions Act 2006 (c. 10), s. 7(3).

<sup>4</sup> Words omitted in s. 190(1)(a) (6.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 13.

<sup>5</sup> Words deleted (in s. 190(1)(a) 6.4.99) from s. 190(1)(a) by para. 110 of S.S. Act 1998 (c. 14).

<sup>6</sup> Ref. inserted in ss. 190(1)(a) (26.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, paras. 29 & 30.

<sup>7</sup> Word inserted in S. 190(1)(a) (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 27.

<sup>8</sup> S. 190(1)(aza) inserted (26.2.02) by the Social Security Fraud Act 2001 (c. 11), s. 1(9).

<sup>9</sup> S. 190(1)(aa) inserted (11.11.99) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 83.



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[<sup>1</sup>(ab) the first regulations to be made under section 2AA;]  
(b) regulations under section [...]<sup>2</sup>[<sup>3</sup>122B(1)(b) or] 154 above,  
shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House of Parliament.

(2) Subsection (1) above does not apply to a statutory instrument by reason only that it contains regulations under section 154 above which are to be made for the purpose of consolidating regulations to be revoked in the instrument.

(3) A statutory instrument—  
(a) which contains (whether alone or with other provisions) orders or regulations made under this Act by the Secretary of State<sup>4</sup>, the Treasury or the Inland Revenue]; and  
(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.

(4) [...]<sup>5</sup>

### Supplementary

Interpretation - general.  
1975 c. 14.  
1986 c. 50.

**191.** In this Act, unless the context otherwise requires—

“the 1975 Act” means the Social Security Act 1975;

“the 1986 Act” means the Social Security Act 1986;

“benefit” means benefit under the Contributions and Benefits Act [<sup>6</sup>and includes [<sup>7</sup>universal credit,] [<sup>8</sup>state pension under Part 1 of the Pensions Act 2014,] a jobseeker’s allowance<sup>7</sup>, state pension credit, an employment and support allowance and personal independence payment];

[<sup>9</sup>“universal credit assessment period” means an assessment period for the purposes of Part 1 of the Welfare Reform Act 2012;]

[...]<sup>10</sup>

*Defn. of “billing authority” in s. 191 has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

1992 c. 14.

[<sup>11</sup>“billing authority” has the same meaning as in Part I of the Local Government Finance Act 1992;]

“Christmas bonus” means a payment under Part X of the Contributions and Benefits Act;

“claim” is to be construed in accordance with “claimant”;

“claimant” (in relation to contributions under Part I and to benefit under Parts II to IV of the Contributions and Benefits Act) means—

(a) a person whose right to be excepted from liability to pay, or to have his liability deferred for, or to be credited with, a contribution, is in question;

<sup>1</sup> S. 190(1)(ab) inserted in s. 190(1) (5.7.03) by the Employment Act 2002 (c. 22), Sch. 7, para. 15.

<sup>2</sup> Words omitted (6.10.97) from s. 190(1)(b) by Sch. 3, para. 11 of Social Security (Recovery of Benefits) Act 1997 (c. 27).

<sup>3</sup> Words added to s. 190(1)(b) (1.7.97) by Sch. 1, para. 11 to Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>4</sup> Words inserted in s. 190(3)(a) (1.4.99) by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 3, para. 58.

<sup>5</sup> S. 190(4) repealed (29.11.99) by S.S. Act 1998 (c. 14), Sch. 8.

<sup>6</sup> Words inserted (22.4.96) in defn. of “benefit” by para. 73(2) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>7</sup> Words inserted & substituted in defn. of “benefit” (25.2.13) for reg. making purposes) by the Welfare Reform Act 2012 (c. 5), Sch. 2, para. 31 & Sch. 9, para. 32.

<sup>8</sup> Word inserted in defn. of “benefit” in s. 191 (6.4.16) by the Pensions Act 2014 (c. 19), Sch. 12, para. 28.

<sup>9</sup> Defn. of “universal credit assessment period” inserted (26.11.14) by S.I. 2014/2888, reg. 1, 7(c). (See reg. 1(2) for revised effective date in some circumstances).

<sup>10</sup> Defn. of “billing authority” in s. 191 repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>11</sup> Defn. of “billing authority” substituted (6.3.92) for defns. of “chargeable financial year” and “charging authority” in s. 191 by L.G.F. Act 1992 (c. 14), Sch. 9, para. 25(a), for purposes of council tax and council tax benefit from 1.4.93.

(b) a person who has claimed benefit;  
and includes, in relation to an award or decision a beneficiary under the award or affected by the decision;  
“claimant” (in relation to industrial injuries benefit) means a person who has claimed such a benefit and includes—

- (a) an applicant for a declaration under [1section 29 of the Social Security Act 1998] that an accident was or was not an industrial accident; and
- (b) in relation to an award or decision, a beneficiary under the award or affected by the decision;

[...2]

[...3]

“the Consequential Provisions Act” means the Social Security (Consequential Provisions) Act 1992;

1992 c. 6.

[4“contribution” means a contribution under Part I of the Contributions and Benefit Act;]

[5“contribution-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;]

“contributions card” has the meaning assigned to it by section 114(6) above;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;

1992 c. 4.

[6“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);]

[...7]

*Defn. of “council tax benefit scheme” in s. 191 has been repealed by Sch. 14 of the Welfare Reform Act 2012 (c. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013.358 for details of when to apply.*

[8“council tax benefit scheme” shall be construed in accordance with section 139(1) above;

“disablement benefit” is to be construed in accordance with section 94(2)(a) of the Contributions and Benefits Act;

[...9]

“dwelling” means any residential accommodation, whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;

[10“financial year” has the same meaning as in the Local Government Finance Act 1992;]

[...9]

“housing authority” means a local authority, [11or a new town corporation] or the Development Board for Rural Wales;

<sup>1</sup> Words substituted (5.7.99) in defn. of “claimant” by Sch. 7, para. 111(b) of S.S. Act 1998 (c. 14).

<sup>2</sup> Defn. of “Commissioner” deleted (29.11.99) from s. 191 by S.S. Act 1998 (c. 14), Sch. 7, para. 111(a).

<sup>3</sup> Defn. of “contribution payment” and “compensator” deleted (6.10.97) from s. 191 by Sch. 3, para. 12 of Social Security (Recovery of Benefit) Act 1997 (c. 27).

<sup>4</sup> Defn. of “contribution” inserted (1.7.97) by Sch. 1, para. 12(1) of Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>5</sup> Defn. of “contribution-based jobseeker’s allowance” inserted (22.4.96) into s. 191 by para. 73(3) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>6</sup> Defns. of “contributory ESA” inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(32) of Sch. 3.

<sup>7</sup> Defn. of “council tax benefit” in s. 191 repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 14.

<sup>8</sup> Defn. of “council tax benefit scheme” inserted (1.4.97) by Sch. 13, para. 3(6) to Housing Act 1996 (c. 52).

<sup>9</sup> Defns. of “the disablement questions” & “5 year general qualification” omitted (29.11.99) from s. 191 by S.S. Act 1998 (c. 14), Sch. 7, para. 111(a).

<sup>10</sup> Defn. of “financial year” inserted (6.3.92) in s. 191 by L.G.F. Act 1992 (c. 14), Sch. 9, para. 25(b), for purposes of council tax and council tax benefit from 1.4.93.

<sup>11</sup> Words in defn. of “housing authority” substituted (1.4.02) by the Housing (Scotland) (Act) 2001, Sch. 10, para. 17.

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“housing benefit scheme” is to be construed in accordance with section 134(1) above;

[<sup>1</sup>“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;]

“income-related benefit” means—

- (a) income support;
- (b) [...<sup>2</sup>]
- (c) [...<sup>2</sup>]
- (d) housing benefit; and
- [<sup>3</sup>(e) council tax benefit];

[<sup>4</sup>“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);]

“industrial injuries benefit” means benefit under Part V of the Contributions and Benefits Act, other than under Schedule 8;

[<sup>5</sup>“Inland Revenue” means the Commissioners of Inland Revenue]

[...<sup>6</sup>]

[...<sup>7</sup>]

“local authority” means—

- (a) in relation to England [...<sup>8</sup>], the council of a district or London borough, the Common Council of the City of London or the Council of the Isles of Scilly;
- [<sup>8</sup>(aa) in relation to Wales, the council of a county or county borough;]
- and
- (b) in relation to Scotland [<sup>9</sup>a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“medical examination” includes bacteriological and radiographical tests and similar investigations, and “medically examined” has a corresponding meaning;

“medical practitioner” means—

- (a) a registered medical practitioner; or
- (b) a person outside the United Kingdom who is not a registered medical practitioner, but has qualifications corresponding (in the Secretary of State’s opinion) to those of a registered medical practitioner;

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<sup>1</sup> Defn. of “income-based jobseeker’s allowance” inserted (22.4.96) in s. 191 by para. 73(4) of Sch. 2 to Jobseekers Act 1995 (c. 18).

<sup>2</sup> Words repealed in defn. of “income-related benefit” (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

<sup>3</sup> Para. (e) of defn. of “income-related benefits” substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 25(c), for purposes of council tax and council tax benefit from 1.4.93.

<sup>4</sup> Defns. of “income-related ESA” inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5), para. 10(32) of Sch. 3.

<sup>5</sup> Defn. of “Inland Revenue” inserted (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 32.

<sup>6</sup> Defn. of “invalidity benefit” repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 52, and Sch. 2.

<sup>7</sup> Defn. of “levying authority” in s. 191 repealed (1.4.96) by para. 175(5)(a) of Sch. 13 to, and by Sch. 14 to, Local Government etc. (Scotland) Act 1994 (c. 39).

<sup>8</sup> Words repealed (1.4.96) in para. (a) of, and para. (aa) inserted (1.4.96) into defn. of “local authority” in s. 191 by para. 94 of Sch. 16 to Local Government (Wales) Act 1994 (c. 19).

<sup>9</sup> Words substituted (1.4.96) in para. (b) of defn. of “local authority” in s. 191 by para. 175(5)(b) of Sch. 13 to Local Government etc. (Scotland) Act 1994 (c. 39).

“medical treatment” means medical, surgical or rehabilitative treatment (including any course of diet or other regimen), and references to a person receiving or submitting himself to medical treatment are to be construed accordingly;

[<sup>1</sup>“money purchase contracted-out scheme” is to be construed in accordance with section 181A of the Pensions Act;]

“new town corporation” means—

(a) in relation to England and Wales, a development corporation established under the New Towns Act 1981 or the Commission for the New Towns; and 1981 c. 64.

(b) in relation to Scotland, a development corporation established under the New Towns (Scotland) Act 1968; 1968 c. 16.

[<sup>2</sup>“the Northern Ireland Department” means the Department for Social Development but—

(a) in section 122 and sections 122B to 122E also includes the Department of Finance and Personnel; and

(b) in sections 121E, 121F, 122, 122ZA, 122C and 122D also includes the Department for Employment and Learning;]

“the Northern Ireland Administration Act” means the Social Security (Northern Ireland) Administration Act 1992; 1992 c. 8.

“occupational pension scheme” has the same meaning as in [<sup>3</sup>section 1] of the Pensions Act;

“the Old Cases Act” means the Industrial Injuries and Diseases (Old Cases) Act 1975; 1975 c. 16.

“Old Cases payments” means payments under Part I of Schedule 8 to the Contributions and Benefits Act;

[<sup>4</sup>“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995];

“the Pensions Act” means the [<sup>5</sup>Pension Schemes Act 1993]; 1993 c. 48.

“personal pension scheme” has the meaning assigned to it by [<sup>6</sup>section 1 of the Pensions Act and “appropriate”, in relation to such a scheme, shall be construed in accordance with [<sup>7</sup>section 181A(6)] of that Act]

“prescribe” means prescribe by regulations [<sup>8</sup>and prescribed must be construed accordingly];

[...<sup>9</sup>]

“rate rebate”, [...<sup>10</sup>] and “rent allowance” shall be construed in accordance with section 134 above;

[...<sup>10</sup>]

[...<sup>10</sup>]

<sup>1</sup> Defn. “money purchase contracted-out scheme” substituted (6.4.12) by S.I. 2011/1724, reg. 2(3)(a).

<sup>2</sup> Defn. of “the Northern Ireland Department” in s. 191 substituted (9.9.02) by the Employment Act 2002 (c. 22), Sch. 7, para. 16.

<sup>3</sup> Words substituted (7.2.94) in defn. of “occupational pension scheme” in s. 191 by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 31(b).

<sup>4</sup> Defn. of “pensionable age” in s. 191 substituted (19.7.95) by para. 14 of Sch. 4 to Pensions Act 1995 (c. 26).

<sup>5</sup> Words substituted (7.2.94) in defn. of “the Pensions Act” in s. 191 by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 31(c).

<sup>6</sup> Words substituted and added (7.2.94) in s. 191, defn. of “personal pension scheme” by Pension Schemes Act 1993 (c. 48), Sch. 8, para. 31(d).

<sup>7</sup> Words substituted in defn. of “personal pension scheme” (6.4.12) by S.I. 2011/1724 reg. 2(3)(b).

<sup>8</sup> Words inserted in defn. of “prescribe” in s. 191 (3.7.07) by the Welfare Reform Act 2007, Sch. 5, para. 10.

<sup>9</sup> Defn. of “President” omitted (29.11.99) from s. 191 by S.S. Act 1998 (c. 14), Sch. 7, para. 111(a).

<sup>10</sup> In s. 191, words “rent rebate” & defns. “rates” and “rating authority” omitted (1.4.97) by Sch. 13, paras. 3(6)(b) & (c) to Housing Act 1996 (c. 52).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Ss. 191-192**

[<sup>1</sup>“state pension credit” means state pension credit under the State Pension Credit Act 2002;]

“tax year” means the 12 months beginning with 6th April in any year;

[...<sup>2</sup>]

“widows benefit” has the meaning assigned to it by section 20(1)(e) of the Contributions and Benefits Act.

Short title,  
commencement and  
extent.

**192.**—(1) This Act may be cited as the Social Security Administration Act 1992.

(2) This Act is to be read, where appropriate, with the Contributions and Benefits Act and the Consequential Provisions Act.

(3) The enactments consolidated by this Act are repealed, in consequence of the consolidation, by the Consequential Provisions Act.

(4) Except as provided in Schedule 4 to the Consequential Provisions Act, this Act shall come into force on 1st July 1992.

(5) The following provisions extend to Northern Ireland—

[...<sup>3</sup>];

[...<sup>4</sup>]

[<sup>5</sup>section 132A (and sections 189 and 190, but only for the purposes of regulations under section 132A);]

section 170 (with Schedule 5);

[<sup>6</sup>section 171 (with Schedule 6);]

section 177 (with Schedule 8); and

this section.

(6) Except as provided by this section, this Act does not extend to Northern Ireland.

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<sup>1</sup> Defn. of “state pension credit” inserted (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 24(3).

<sup>2</sup> Defn. of “10 year general qualification” omitted (29.11.99) from s. 191 by S.S. Act 1998 (c. 14), Sch. 7, para. 111(a).

<sup>3</sup> Words “section 24;” deleted from s. 192(5) (29.11.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 112.

<sup>4</sup> Words “section 101” deleted (6.10.97) from s. 192(5) by Sch. 3, para. 13 of Social Security (Recovery of Benefits) Act 1997 (c. 27).

<sup>5</sup> Words inserted (30.3.06) by the National Insurance Contributions Act 2006 (c. 10), s. 7(4).

<sup>6</sup> Words inserted in s. 192(5) by the Northern Ireland Act 1998 (c. 47), s. 89(9).



## SCHEDULES

## SCHEDULE 1

Section 1(6).

## CLAIMS FOR BENEFIT MADE OF TREATED AS MADE BEFORE 1ST OCTOBER 1990

*Claims made or treated as made on or after 2nd September 1985  
and before 1st October 1986*

1. Section 1 above shall have effect in relation to a claim made or treated as made on or after 2nd September 1985 and before 1st October 1986 as if the following subsections were substituted for subsections (1) to (3)–

“(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 or Part II of the 1975 Act or of regulations made under such a provision he would have been 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 to any 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.”.

*Claims made or treated as made on or after 1st October 1986  
and before 6th April 1987*

2. Section 1 above shall have effect in relation to a claim made or treated as made on or after 1st October 1986 and before 6th April 1987 as if the subsections set out in paragraph 1 above were substituted for subsections (1) to (3) but with the insertion in subsection (3) of the words “,reduced earnings allowance” after the words “disablement benefit”.

*Claims made or treated as made on or after 6th April 1987  
and before 21st July 1989*

3. Section 1 above shall have effect in relation to a claim made or treated as made on or after 6th April 1987 and before 21st July 1989, as if–

- (a) the following subsection were substituted for subsection (1)–
 

“(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 in the prescribed manner and within the prescribed time; or
  - (b) by virtue of regulations made under section 51 of the 1986 Act he would have been treated as making a claim for it.”,
  - (b) there were omitted–
    - (i) from subsection (2), the words “except as provided by section 3 below”; and
    - (ii) subsection (3).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

**Sch. 1**

*Claims made or treated as made on or after 21st July 1989  
and before 13th July 1990*

4. Section 1 above shall have effect in relation to a claim made or treated as made on or after 21st July 1989 and before 13th July 1990 as if there were omitted—

- (a) from subsection (1), the words “and subject to the following provisions of this section and to section 3 below”;
- (b) from subsection (2), the words “except as provided by section 3 below”; and
- (c) subsection (3).

*Claims made or treated as made on or after 13th July 1990  
and before 1st October 1990*

5. Section 1 above shall have effect in relation to a claim made or treated as made on or after 13th July 1990 and before 1st October 1990 as if there were omitted—

- (a) from subsection (1), the words “the following provisions of this section and to”; and
- (b) subsection (3).

## SCHEDULE 2

### COMMISSIONERS, TRIBUNALS ETC – SUPPLEMENTARY PROVISIONS

#### *Tenure of offices*

1.—(1) Subject to the following provisions of this paragraph, the President and the regional and other full-time chairmen of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals shall hold and vacate office in accordance with the terms of their appointment.

(2) Commissioners, the President and the full-time chairmen shall vacate their offices [on the day on which they attain the age of 70, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).]

(3) ...<sup>2</sup>,

(4) A Commissioner, the President and a full-time chairman may be removed from office by the Lord Chancellor on the ground of incapacity or misbehaviour.

(5) Where the Lord Chancellor proposes to exercise a power conferred on him by sub-paragraph ...<sup>3</sup> (4) above, it shall be his duty to consult the Lord Advocate with respect to the proposal.

(6) Nothing in sub-paragraph (2)...<sup>3</sup> above or in section 13 or 32 of the Judicial Pensions Act 1981 (which relate to pensions for Commissioners) shall apply to a person by virtue of his appointment in pursuance of section 52(2) above.

1981 c.20.

(7) Nothing in sub-paragraph ...<sup>3</sup>(4) above applies to a Commissioner appointed before 23rd May 1980.

#### *Remuneration etc. for President and Chairmen*

2.<sup>4</sup>—(1) The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of the President and full-time chairmen as, with the consent of the Treasury, he may determine.

[<sup>4</sup>(2) Sub-paragraph (1) above, so far as relating to pensions, allowances and gratuities, shall not have effect in relation to persons to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.]

#### *Officers and staff*

3. [...<sup>5</sup>]

#### *Clerks to social security appeal tribunals and disability appeal tribunals*

4.—(1) The President shall assign clerks to service the social security appeal tribunal for each area and the disability appeal tribunal for each area.

(2) The duty of summoning members of a panel to serve on such a tribunal shall be performed by the clerk to the tribunal.

<sup>1</sup> Words substituted (31.3.95) in para. 1(2) by para. 21(2) of Sch. 6 to the Judicial Pensions and Retirement Act 1993 (c. 8).

<sup>2</sup> Para 1(3) repealed (31.3.95) by para. 21(3) of Sch. 6, and by Sch. 9, to the Judicial Pensions and Retirement Act 1993 (c. 8).

<sup>3</sup> Words deleted (31.3.95) in para. 1(5), (6) and (7) by para. 21(4), (5) and (6) respectively of Sch. 6 to, and by Sch. 9 to, the Judicial Pensions and Retirement Act 1993 (c. 8).

<sup>4</sup> Former para. 2 re-designated as para. 2(1), and para. 2(2) added (31.3.95), by para. 23 of Sch. 8 to the Judicial Pensions and Retirement Act 1993 (c. 8).

<sup>5</sup> Para. 3 repealed (1.6.99) by the S.S. Act 1999 (c. 43), Sch. 8.

Sch. 2

*Miscellaneous administrative duties of President*

5. It shall be the duty of the President—
- (a) to arrange—
    - (i) such meetings of chairmen and members of social security appeal tribunals, chairmen and members of disability appeal tribunals and chairmen and members of medical appeal tribunals;
    - (ii) such training for such chairmen and members, as he considers appropriate; and
  - (b) to secure that such works of reference relating to social security law as he considers appropriate are available for the use of chairmen and members of social security appeal tribunals, disability appeal tribunals and medical appeal tribunals.

*Remuneration etc.*

6. The Lord Chancellor shall pay to a Commissioner such salary or other remuneration, and such expenses incurred in connection with the work of a Commissioner or any tribunal presided over by a Commissioner, as may be determined by the Treasury.

- 7.—(1) The Secretary of State may pay—
- (a) to any person specified in sub-paragraph (2) below, such remuneration and such travelling and other allowances;
  - (b) to any person specified in sub-paragraph (3) below, such travelling and other allowances; and
  - (c) subject to sub-paragraph (4) below, such other expenses in connection with the work of any person, tribunal or inquiry appointed or constituted under any provision of this Act,

as the Secretary of State with the consent of the Treasury may determine.

(2) The persons mentioned in sub-paragraph (1)(a) above are—

- (a) any person (other than a Commissioner) appointed under this Act to determine questions or as a member of, or assessor to, a social security appeal tribunal, a disability appeal tribunal or a medical appeal tribunal; and
- [<sup>1</sup>(aa) a person appointed as medical assessor to a social security appeal tribunal under regulations under section 61A(4) above; and]
- (b) a medical officer appointed under regulations under section 62 above.

(3) The persons mentioned in sub-paragraph (1)(b) above are—

- (a) any person required to attend at any proceedings or inquiry under this Act; and
- (b) any person required under this Act (whether for the purposes of this Act or otherwise) to attend for or to submit themselves to medical or other examination or treatment.

(4) Expenses are not payable under sub-paragraph (1)(c) above in connection with the work—

- (a) of a tribunal presided over by a Commissioner; or
- (b) of a social fund officer, a social fund inspector or a social fund Commissioner.

(5) In this paragraph references to travelling and other allowances include references to compensation for loss of remunerative time but such compensation shall not be paid to any person in respect of any time during which he is in receipt of remuneration under this paragraph.

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<sup>1</sup> Para. 7(2)(aa) inserted (13.4.95) by para. 53 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

*Certificates of decisions*

8.A document bearing a certificate which—

- (a) is signed by a person authorised in that behalf by the Secretary of State; and
- (b) states that the document, apart from the certificate, is a record of a decision—
  - (i) of a Commissioner;
  - (ii) of a social security appeal tribunal;
  - (iii) of a disability appeal tribunal; or
  - (iv) of an adjudication officer,

shall be conclusive evidence of the decision; and a certificate purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

## SCHEDULE 3

Section 59.

## REGULATIONS AS TO PROCEDURE

*Interpretation*

1. In this Schedule “competent tribunal” means—

- (a) a Commissioner;
- (b) a social security appeal tribunal;
- (c) a disability appeal tribunal;
- (d) a medical appeal tribunal;
- (e) an adjudicating medical practitioner.

*Provisions which may be made*

2. Provision prescribing the procedure to be followed in connection with the consideration and determination of claims and questions by the Secretary of State, an adjudication officer and a competent tribunal, or in connection with the withdrawal of a claim.

3. Provision as to the striking out of proceedings for want of prosecution.

4. Provision as to the form which is to be used for any document, the evidence which is to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence.

5. Provision as to the time to be allowed—

- (a) for producing any evidence; or
- (b) for making an appeal.

6. Provision as to the manner in which, and the time within which, a question may be raised with a view to its decision by the Secretary of State under Part II of this Act or with a view to the review of a decision under that Part.

7. Provision for summoning persons to attend and give evidence or produce documents and for authorising the administration of oaths to witnesses.

8. Provision for authorising a competent tribunal consisting of two or more members to proceed with any case, with the consent of the claimant, in the absence of any member.

9. Provision for giving the chairman or acting chairman of a competent tribunal consisting of two or more members a second or casting vote where the number of members present is an even number.

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10. Provision for empowering the chairman of a social security appeal tribunal, a disability appeal tribunal or a medical appeal tribunal to give directions for the disposal of any purported appeal which he is satisfied that the tribunal does not have jurisdiction to entertain.

11. Provision for the non-disclosure to a person of the particulars of any medical advice or medical evidence given or submitted for the purposes of a determination.

12. Provision for requiring or authorising the Secretary of State to hold, or to appoint a person to hold, an inquiry in connection with the consideration of any question by the Secretary of State.

[<sup>1</sup>SCHEDULE 3A

HEALTH IN PREGNANCY GRANT: CIVIL PENALTY FOR FRAUD, ETC.

*Penalty*

- 1.—(1) This paragraph applies where a person fraudulently or negligently—
- (a) makes an incorrect statement or declaration in or in connection with a claim for health in pregnancy grant, or
  - (b) gives incorrect information or evidence in response to a requirement imposed on the person by virtue of section 5.
- (2) The Commissioners for Her Majesty's Revenue and Customs may make a determination imposing a penalty on the person.
- (3) The amount of a penalty imposed under this paragraph—
- (a) is to be determined by the Commissioners, but
  - (b) may not exceed the amount of the grant.
- (4) A penalty imposed under this paragraph becomes payable at the end of the period of 30 days beginning with the date on which the notice is given.
- (5) The Commissioners must give notice of a determination imposing a penalty under this paragraph to the person on whom it is imposed.
- (6) The notice must—
- (a) state the date on which the notice is given,
  - (b) state the date on or before which payment is due in accordance with sub-paragraph (4), and
  - (c) give details of the right to appeal under paragraph 2.

*Appeal*

- 2.—(1) A person on whom a penalty is imposed under paragraph 1 may appeal to [<sup>2</sup>the First-tier Tribunal] against the determination imposing it.
- (2) On an appeal under sub-paragraph (1), [<sup>2</sup>the First-tier Tribunal] may—
- (a) set the determination aside,
  - (b) confirm the determination,
  - (c) reduce the amount of the penalty, or
  - (d) increase the amount of it (but not so as to exceed the amount of the grant).

<sup>1</sup> Sch. 3A inserted (1.1.09) by the Health and Social Care Act 2008 (c. 14), s. 133(2).

<sup>2</sup> Words substituted in paras. 2(1)-(2) by S.I. 2009/56, art. 172(2).

[<sup>1</sup>(3) An appeal lies to the Upper Tribunal otherwise than on a point of law from a decision of the First-tier Tribunal under sub-paragraph (2) (unless the decision is set aside under section 9 of the Tribunals, Courts and Enforcement Act 2007).

(3A) For an appeal on a point of law, see section 11 of that Act.

(3B) An appeal may be brought under sub-paragraph (3) only if, on an application made by the person concerned, the First-tier Tribunal or the Upper Tribunal has given its permission for the appeal to be brought.]

(4) On an appeal under sub-paragraph (3), [the Upper Tribunal] has a similar jurisdiction to that conferred on [the First-tier Tribunal] by sub-paragraph (2).

(5) [...<sup>1</sup>]

(6) The Commissioners for Her Majesty's Revenue and Customs may by regulations apply provision contained in [the Social Security Act 1998] in relation to an appeal under this paragraph (with such modifications as are prescribed).

*Mitigation*

3. The Commissioners for Her Majesty's Revenue and Customs may mitigate or entirely remit a penalty under this Schedule.

*Time limit*

4.—(1) The Commissioners for Her Majesty's Revenue and Customs may make a determination imposing a penalty under paragraph 1 at any time before the end of the period of two years beginning with the relevant day.

(2) In sub-paragraph (1), the "relevant day" is the day on which the statement or declaration, or information or evidence, referred to in paragraph 1(1) is made or given.

*Recovery*

5. A penalty payable under this Schedule is to be treated for the purposes of Part 6 of the Taxes Management Act 1970 (collection and recovery) as if it were tax charged in an assessment and due and payable.]

**\*SCHEDULE 4**

Section 123

**PERSONS EMPLOYED IN SOCIAL SECURITY ADMINISTRATION  
OR ADJUDICATION**

**PART I**

**THE SPECIFIED PERSONS**

*Government departments*

A civil servant in—

- [<sup>2</sup>(a) the Department for Work and Pensions;]
- (c) the [<sup>3</sup>Ministry of Justice].

<sup>1</sup> Words substituted in paras. 2(3)-(6) and sub-para. (5) omitted (1.4.09) by S.I. 2009/56, art. 172(3)-(6).

<sup>2</sup> Para. (a) substituted for (a) & (b) (27.6.02) by para. 8(4)(a) of the Sch. to S.I. 2002/1397.

<sup>3</sup> Words in para. (c) substituted (3.11.08) by S.I. 2008/2833, art. 104(2).

## SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)

### Sch. 4

#### *Other public departments and offices*

[...<sup>1</sup>]

A civil servant in the Scottish Courts Administration.

[...<sup>2</sup>]

*Entry relating to Local authorities in Sch. 4 has been repealed by Sch. 14 of the Welfare Reform Act 2012 (C. 5), but kept in force for transitional purposes. See art. 9 of S.I. 2013/358 for details of when to apply.*

#### *[<sup>3</sup>Local authorities etc.*

A member, officer or employee of an authority administering housing benefit or council tax benefit.

A person authorised to exercise any function of such an authority relating to such a benefit or any employee of such a person.

A person authorised under section 139A(1) of this Act to consider and report to the Secretary of State on the administration of housing benefit or council tax benefit.]

[<sup>4</sup>A member, officer or employee of a county council in England who exercises—

- (a) any function conferred on the county council by regulations made under section 7A of this Act;
- (b) any function in connection with a relevant purpose within the meaning of section 7B(3) of this Act.

A person authorised to exercise any such function of such a county council or an employee of such a person.]

#### *Adjudication bodies*

[...<sup>5</sup>]

#### *Adjudicating bodies*

The clerk to, or other officer or member of the staff of, any of the following bodies—

(a) [...<sup>6</sup>]

[...<sup>7</sup>]

(e) a Pensions Appeal Tribunal constituted under the Pensions Appeal Tribunals Act 1943.

#### *The Disability Living Allowance Advisory Board*

A member of the Disability Living Allowance Advisory Board.

An officer or servant of that Board.

<sup>1</sup> Words deleted in Sch. 4, Part I (1.4.99) by S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 6, para. 6(9).

<sup>2</sup> Entry relating to Local authorities in Sch. 4 repealed (1.4.13) by the Welfare Reform Act 2012 (c. 5), Sch. 4.

<sup>3</sup> Provisions in Sch. 4, Part 1 relating to Local Authorities etc. added (1.7.97) by s. 4(1) to Social Security Administration (Fraud) Act 1997 (c. 47).

<sup>4</sup> Entry referring to Local Authorities etc. inserted (3.7.07) by the Welfare Reform Act 2007, s. 41.

<sup>5</sup> Entries referring to Adjudication bodies deleted (29.11.99) by para. 113(a) of Sch. 7 to S.S. Act 1998 (c. 14).

<sup>6</sup> Para. (a) in entry for Adjudicating bodies omitted by S.I. 2008/2833, art. 104(3).

<sup>7</sup> Words deleted (29.11.99) in entry for Adjudicating bodies by para. 113(b) of Sch. 7 to S.S. Act 1998 (c. 14).



[<sup>1</sup>The Occupational Pensions Board]

*The Social Fund*

[...<sup>2</sup>]  
[...<sup>3</sup>]  
[...<sup>2</sup>]  
[...<sup>2</sup>]

*Former officers*

An officer or other member of the staff of—

- (a) the former Supplementary Benefits Commission;
- (b) the former National Assistance board;
- (c) the former Attendance Allowance Board.

A benefit officer.

An insurance officer.

A supplement officer.

[<sup>4</sup>A Chief Adjudication Officer.

An adjudication officer.

A social fund officer.

[<sup>2</sup>The social fund Commissioner.

A social fund inspector.

A member of any staff employed in connection with the social fund.]

A clerk to, or other officer or member of the staff of, the former social security appeal tribunal, the former disability appeal tribunal or the former medical appeal tribunal.]

[<sup>5</sup>The clerk to, or other officer or member of the staff of, an appeal tribunal. The clerk to, or other officer or member of the staff of, a Pensions Appeal Tribunal for England and Wales.]

## PART II

### CONSTRUCTION OF REFERENCES TO GOVERNMENT DEPARTMENTS ETC.

[<sup>6</sup>1. The reference in Part I of this Schedule to the Department for Work and Pensions is a reference to that Department only to the extent that the functions carried out in it relate to social security, [<sup>7</sup>to the investigation or prosecution of offences relating to tax credits] to child support or to occupational or personal pension schemes.

**1A.** The reference in Part 1 of this Schedule to the Department for Work and Pensions includes a reference to—

- (a) the former Department of Social Security,
- (b) the former Department for Education and Employment, to the extent that the functions carried out in it related to a jobseeker's allowance or to unemployment benefit or income support or to the former supplementary benefit,
- (c) the former Department of Health and Social Security, to the extent that the functions carried out in it related to social security or to occupational or personal pension schemes or to war pensions,
- (d) the former Ministry of Pensions and National Insurance,
- (e) the former Ministry of Social Security and
- (f) any other former government department, to the extent that the functions carried out in related to social security or to occupational or personal pensions or to war pensions,

<sup>1</sup> Entries referring to Occupational Pensions Board deleted (6.4.97) by para. 15(4) of Sch. 5, and by Sch. 7, Part III to Pensions Act 1995 (c. 26).

<sup>2</sup> Words under the heading "The Social Fund" repealed & words inserted in entry for former officers (1.8.13) by para. 4 of Sch. 8 and part 8 of Sch. 14 to the Welfare Reform Act 2012 (c. 5).

<sup>3</sup> Words deleted (29.11.99) by para. 113(c) of Sch. 7 to S.S. Act 1998 (c. 14).

<sup>4</sup> Words inserted (29.11.99) by para. 113(d) of Sch. 7 to S.S. Act 1998 (c. 14).

<sup>5</sup> Words inserted in entry for former officers (3.11.08) by S.I. 2008/2833 art. 104(4).

<sup>6</sup> Paras. 1 & 1A substituted for 1 & 2 (27.6.02) by para. 8(4)(b) of S.I. 2002/1397.

<sup>7</sup> Words in Sch. 4, para. 1 of Part 2 inserted (6.6.12) by the Welfare Reform Act 2012 (c. 5), s. 125.

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and paragraph 1 above does not apply for the purposes of this paragraph.]

3. Any reference in Part I of this Schedule to the [<sup>1</sup>Ministry of Justice] or the Scottish Courts Administration is a reference to [<sup>1</sup>that Ministry] or Administration only to the extent that the functions carried out by persons in its employ are, or are connected with—

- (a) functions of [<sup>1</sup>the First-tier Tribunal or Upper Tribunal which relate to social security or to occupational or personal pension schemes or to war pensions or functions of] the Chief, or any other, Social Security Commissioner; or
- (b) functions of the [<sup>2</sup>Administrative Justice and Tribunals Council or the Welsh or] Scottish committee of that Council which relate to social security or to occupational or personal pension schemes or to war pensions. [<sup>1</sup>The reference in paragraph (b) to the Administrative Justice and Tribunals Council and the Scottish Committee of that Council includes a reference to the former Council of Tribunals and the Scottish Committee of that former Council.]

[<sup>1</sup>**3ZA.** Any reference in Part 1 of this Schedule to the Ministry of Justice includes a reference to—

- (a) the former Lord Chancellor's Department, and
- (b) the former Department of Constitutional Affairs,

to the extent that the functions carried out by persons in its employ were, or were connected with, functions of the Chief, or any other, Social Security Commissioner (and paragraph 3 above does not apply for the purposes of this paragraph).]

4. [...<sup>3</sup>]

1989 c. 24.

5. In this Part of this Schedule “war pension” has the meaning given by section 25(4) of the Social Security Act 1989.

*\*See paragraph 34 of Schedule 8 to the Welfare Reform and Pensions Act 1999 in Volume 2 of this publication for details of modifications of this section.*

## SCHEDULE 5

Section 170

### SOCIAL SECURITY ADVISORY COMMITTEE

1. The Committee shall consist of a chairman appointed by the Secretary of State and not less than 10 nor more than 13 other members so appointed.

2.—(1) Each member of the Committee shall be appointed to hold office for such a period of not more than 5 years, nor less than 3 years, as the Secretary of State shall determine.

(2) The Secretary of State may, at any time before the expiration of the term of office of any member, extend or further extend that member's term of office; but no one extension shall be for a period of more than 5 years from the date when the term of office would otherwise expire.

(3) Any member—

- (a) shall be eligible for reappointment from time to time on or after the expiration of his term of office;

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<sup>1</sup> Words substituted & inserted and para. 3ZA added (3.11.08) by S.I. 2008/2833, art. 104(5) & (6).

<sup>2</sup> Words substituted in para. 3(b) (1.6.08) by the Tribunals Courts and Enforcement Act 2007 (c. 15), Sch. 8, para. 18.

<sup>3</sup> Sch. 4, Part II 4, shall cease to have effect (1.4.99) by the S.S. Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

- (b) may by notice in writing to the Secretary of State resign office at any time, while remaining eligible for reappointment.

3.—(1) Of the members of the Committee (other than the chairman) there shall be appointed—

- (a) one after consultation with organisations representative of employers;
- (b) one after consultation with organisations representative of workers; and
- (c) one after consultation with the head of the Northern Ireland Department;

and the Committee shall include at least one person with experience of work among, and of the needs of, the chronically sick and disabled.

(2) In selecting a person with such experience regard shall be had to the desirability of having a chronically sick or disabled person.

(4) The Secretary of State may remove a member of the Committee on the ground of incapacity or misbehaviour.

5. The Secretary of State shall appoint a secretary to the Committee and may appoint such other officers and such servants to the Committee, and there shall be paid to them by the Secretary of State such salaries and allowances, as the Secretary of State may with the consent of the Treasury determine.

6. The expenses of the Committee to such an amount as may be approved by the Treasury shall be paid by the Secretary of State.

7. There may be paid as part of the expenses of the Committee—

- (a) to all or any of the members of the Committee, such salaries or other remuneration and travelling and other allowances; and
- (b) to persons attending its meetings at the request of the Committee, such travelling and other allowances (including compensation for loss of remunerative time),

as the Secretary of State may with the consent of the Treasury determine.

8.—(1) The Secretary of State may pay or make provision for paying, to or in respect of any member of the Committee, such sums by way of pensions, superannuation allowances and gratuities as the Secretary of State may determine with the consent of the Treasury.

(2) Where a person ceases to be a member of the Committee otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for the person to receive compensation the Secretary of State may make to him a payment of such amount as the Secretary of State may determine with the consent of the Treasury.

9. The Committee may act notwithstanding any vacancy among the members.

10. The Committee may make rules for regulating its procedure (including the quorum of the Committee).

**SOCIAL SECURITY ADMINISTRATION ACT 1992 (c. 5)**

SCHEDULE 6

Section 171.

INDUSTRIAL INJURIES ADVISORY COUNCIL

1.—(1) The Council shall consist of a chairman appointed by the Secretary of State and such number of other members so appointed as the Secretary of State may determine.

(2) The members other than the chairman shall include an equal number of persons appointed by the Secretary of State, after consultation with such organisations as he thinks fit, to represent employers and employed earners respectively.

2.—(1) The Secretary of State may pay—

- (a) to the chairman and other members of the Council, such salaries or other remuneration;
- (b) to persons who are not members of the Council but who at the Council's invitation are joined with its members as advisers at a Council meeting or a meeting of any committee of the Council held to consider questions on which they are specially qualified, such fees; and
- (c) to the chairman and other members of the Council and to persons attending meetings at the Council's request or attending meetings of any committee of the Council at the Council's or committee's request, such expenses and travelling and other allowances,

as the Secretary of State may with the consent of the Treasury determine.

(2) Any payment under paragraph (a) of sub-paragraph (1) above may be made either in lieu of or in addition to any payment to the recipient under paragraph (c) of that sub-paragraph.

(3) Any payment under sub-paragraph (1)(b) above may be made either in lieu of or in addition to any expenses or travelling or other allowances payable to the recipient apart from that sub-paragraph.

## SCHEDULE 7

### REGULATIONS NOT REQUIRING PRIOR SUBMISSION

#### PART I

#### SOCIAL SECURITY ADVISORY COMMITTEE

##### *[<sup>1</sup>Personal independence payment*

A1. Regulations under section 78(3) or 79(3) of the Welfare Reform Act 2012.]

##### *Disability living allowance*

1. Regulations under section 72(3) or 73(10) of the Contributions and Benefits Act.

##### *Industrial Injuries*

2. Regulations relating only to industrial injuries benefit.

##### *Up-rating etc.*

3. Regulations contained in a statutory instrument which states that it contains only provisions in consequence of an order under one or more of the following provisions—

- (a) [<sup>2</sup>section 141, 143, [...<sup>3</sup>] or 145 above]
- (b) section 150 [<sup>4</sup>or 150A] above.

##### *Earnings limits*

[<sup>5</sup>4. Regulations contained in a statutory instrument which states that it contains only regulations to make provision consequential on regulations under section 5 of the Contributions and Benefits Act.]

##### *Married women and widows - reduced rate contributions*

5. [...<sup>5</sup>]

##### *Child benefit*

6. Regulations prescribing the rate or any of the rates of child benefit in Great Britain.

7. Regulations varying social security benefits following an increase of the rate or any of the rates of child benefit in Great Britain.

##### *Statutory maternity pay and statutory sick pay*

8. Regulations under section [...<sup>6</sup>] 167 of the Contributions and Benefits Act.

##### *Procedural rules for tribunals*

9. Regulations in so far as they consist only of procedural rules for a tribunal in respect of which consultation with the [<sup>7</sup>Administrative Justice and Tribunals Council is required by paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007.]

<sup>1</sup> Para. A1. inserted in Sch. 7 (25.2.13) by the Welfare Reform Act 2012 (c. 5), Sch. 9, para. 33.

<sup>2</sup> Words substituted in Sch. 7, part 1, para. 3(a) (8.9.98) by Sch. 7, para. 114(1) of S.S. Act 1998 (c. 47).

<sup>3</sup> Words omitted in para. 3(a) (6.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30) Sch. 13.

<sup>4</sup> Ref. inserted in para. 3(b) (26.7.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 31.

<sup>5</sup> Para. 4 substituted and para. 5 omitted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2) Sch. 3, para. 59(2) & (3).

<sup>6</sup> Words in para. 8 deleted (6.4.95) by art. 6(2)(c) of S.I. 1995/512.

<sup>7</sup> Words substituted in para. 9 (1.11.07) by the Tribunals, Courts and Enforcement Act 2007 (c. 15), Sch. 8, para. 19.

*Consolidation*

10. Regulations made for the purpose only of consolidating other regulations revoked by them.

## PART II

## INDUSTRIAL INJURIES ADVISORY COUNCIL

11. Regulations under section 121(1)(b) of the Contributions and Benefits Act.

12. Regulations contained in a statutory instrument which states that it contains only provision in consequence of an order under [<sup>1</sup>section 141, 143, [...<sup>2</sup>] [<sup>3</sup>, 150 or 150A] above.]

13. Regulations contained in a statutory instrument made within a period of 6 months from the date of any Act passed after this Act and directed to be construed as one with this Act, where the statutory instrument states that it contains only regulations to make provision consequential on the passing of the Act, and the Act does not exclude this paragraph in respect of the regulations.

14. Regulations in so far as they consist only of procedural rules for a tribunal in respect of which consultation with the [<sup>4</sup>Administrative Justice and Tribunals Council is required by paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007.]

2007 c. 15.

15. Regulations contained in a statutory instrument which states that it contains only regulations making with respect to industrial injuries or its administration the same or substantially the same provision as has been, or is to be, made with respect to other benefit as defined in section 122(1) of the Contributions and Benefits Act or its administration.

16. Regulations contained in a statutory instrument which states that the only provision with respect to industrial injuries benefit or its administration that is made by the regulations is the same or substantially the same as provision made by the instrument with respect to other benefit as defined in section 122(1) of the Contributions and Benefits Act or its administration.

17. Regulations made for the purpose only of consolidating other regulations revoked by them.

<sup>1</sup> Words substituted in Sch. 7, para. 12 (8.9.98) by Sch. 7, para. 114(2) of S.S. Act 1998 (c. 47) for the purpose only of authorising the making of regulations or orders.

<sup>2</sup> Words omitted (6.4.00) by the Welfare Reform and Pensions Act 1999 (c. 30) Sch. 13.

<sup>3</sup> Words substituted in Sch. 7, Part II, para. 12 (26.7.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 32.

<sup>4</sup> Words substituted in para. 14 (1.11.07) by the Tribunals, Courts and Enforcement Act 2007 (c. 15), Sch. 8, para. 19.

SCHEDULE 8

[...<sup>1</sup>]

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<sup>1</sup> Sch. 8 repealed by the Northern Ireland Act 1998 (c. 47), Sch. 15.



## SCHEDULE 9

## OLD CASES PAYMENTS ADMINISTRATION

*Provisions ancillary to paragraph 2 of Schedule 8 to the Contributions and Benefits Act*

1.—(1) The provisions of this paragraph shall have effect with respect of schemes under paragraph 2 of Schedule 8 to the Contributions and Benefits Act, and any such scheme is hereinafter in this paragraph referred to as “a scheme”.

(2) A scheme may make such incidental, supplementary, consequential or transitional provision as appears to the Secretary of State to be necessary or expedient for the purposes of that paragraph.

(3) A scheme shall in particular make provision with respect to the making of claims for allowances, with respect to the determination of questions arising on or in connection with any such claim or the payment of allowances, and with respect to any other matters necessary for the proper administration of any scheme; and, subject to any provisions of a scheme for reviewing decisions, the decision in accordance with a scheme of any question arising under a scheme shall be final for the purposes of paragraph 2 of Schedule 8 to the Contributions and Benefits Act.

(4) Without prejudice to the generality of sub-paragraph (2) above, a scheme may make provision—

- (a) for the Secretary of State to be charged with the general administration of any scheme and (subject to any provisions of a scheme) with the determination of questions arising under any scheme, and for enabling the decision of the Secretary of State on any such question to be proved in legal proceedings by means of a certificate or otherwise;
- (b) for enabling any class or description of such questions to be determined as if they had arisen under Parts II to VI of the Contributions and Benefits Act;
- (c) for applying, with or without modifications, section 187(1) and (2) above, or for making provision corresponding to them;
- (d) for requiring persons claiming or receiving allowances to furnish information and evidence and to undergo medical or other examination, for summoning persons to attend and give evidence or produce documents at any hearing for the purpose of determining questions arising under a scheme, and for authorising the administration of oaths to witnesses at any such hearing;
- (e) for requiring the repayment to the Secretary of State in whole or in part of payments under paragraph 2 of Schedule 8 to the Contributions and Benefits Act subsequently found not to have been due, for the deduction of any sums so required to be repaid from payments under that paragraph or by way of industrial injuries benefit, and for the deduction from payments under that paragraph of any sums which may by virtue of any provision of this Act be recovered by deduction from any payment by way of such benefit.

(5) The Secretary of State may make such payments in connection with the administration of any scheme (including payments on account of travelling expenses or loss of remunerative time or both to persons required to undergo medical or other examination or to attend any hearing for the purpose of determining questions arising under any such scheme), as he may with the consent of the Treasury determine.

Sch. 9

(6) Notwithstanding anything in this Act [1<sup>1</sup> Chapter II of Part I of the Social Security Act 1998] or the Contributions and Benefits Act, a scheme shall not require a person to submit himself to medical treatment.

(7) A scheme varying an earlier scheme may do so in such a way as to make allowances payable, or payable at an increased rate, under the earlier scheme in respect of periods before the making of the later scheme.

*Provisions ancillary to paragraph 4 of Schedule 8*

2.—(1) Subject to sub-paragraph (2) below, sub-paragraphs (2) to (6) of paragraph 1 above shall have effect for the purposes of paragraph 4 of Schedule 8 to the Contributions and Benefits Act as if in those sub-paragraphs—

- (a) any reference to a scheme were a reference to a scheme under paragraph 4;
- (b) any reference to paragraph 2 of Schedule 8 to the Contributions and Benefits Act were a reference to paragraph 4;
- (c) any reference to allowances (other than the reference in sub-paragraph (4)) included a reference to any other payment under paragraph 4.

(2) Nothing in this Schedule or in Schedule 8 to that Act shall authorise the recovery of sums by deduction from payments under paragraph 4 of that Schedule in respect of the death of any person, or the abatement of such payments.

(3) Without prejudice to the powers conferred by paragraph 1 above as applied by this paragraph, a scheme under paragraph 4 may in particular make provision for the determination by a medical board of questions of such classes as may be prescribed by the scheme.

(4) Without prejudice to the provision made by sub-paragraphs (1) and (3) above with respect to the determination of questions, such a scheme may, where it appears to the Secretary of State expedient so as to avoid the introduction or working of the scheme being impeded, provide that, in any circumstances prescribed by the scheme, a person shown to be disabled by a disease shall be presumed for the purposes of the scheme to have been disabled by that disease for such period previously, and the disablement to have been during that period or any part of it of such a nature and degree, as may be so prescribed.

*Adjustment of benefit in certain cases*

3.—(1) A scheme under paragraph 2 or 4 of Schedule 8 to the Contributions and Benefits Act may include provisions for adjusting the rate of, or extinguishing any right to, an allowance under the paragraph in question or under the other of those paragraphs in a case where the same person is, or would otherwise be, entitled separately in respect of two or more injuries or diseases to an allowance under the paragraph in question or, as the case may be, to both such an allowance and an allowance under the other of those paragraphs.

(2) Where immediately before 22nd June 1967 (the commencement of the Industrial Injuries and Diseases (Old Cases) Act 1967) a person was receiving payments by virtue of section 3(2) of the Workmen's Compensation and Benefit (Amendment) Act 1965 of a greater amount or aggregate amount than, but for the provisions of this sub-paragraph, he would have been entitled to receive on or after 6th April 1975 (the commencement of the Old Cases Act) by way of allowances under section 2 or 5 of that Act, he shall continue to be entitled to that greater amount or aggregate amount for any period commencing on or after that date for which he would have so continued if neither Act had been passed.

1967 c. 34.  
1965 c. 79.

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<sup>1</sup> Words inserted in para. 1(6) (5.7.99) by Sch. 7, para. 115 to S.S. Act 1998 (c.14).

*Overpayments*

4. A scheme under paragraph 2 or 4 of Schedule 8 to the Contributions and Benefits Act may make provision in relation to allowances under that Schedule corresponding to the provision made by section 71 above in relation to the benefits to which it applies.

SCHEDULE 10  
SUPPLEMENTARY BENEFIT ETC.

*Interpretation*

1. In this Schedule—  
1946 c. 67 “the former National Insurance Acts” means the National Insurance Act 1946  
1965 c. 51 and the National Insurance Act 1965; and  
1946 c. 62 “the former Industrial Injuries Acts” means the National Insurance (Industrial  
1965 c. 51. Injuries) Act 1946 and the National Insurance (Industrial Injuries) Act 1965.  
Claims and payments

2.—(1) Section 5 above shall have effect in relation to the benefits specified in sub-paragraph (2) below as it has effect in relation to the benefits to which it applies by virtue of subsection (2).

(2) The benefits mentioned in sub-paragraph (1) above are benefits under—

- (a) the former National Insurance Acts;
- (b) the former Industrial Injuries Acts;

1948 c. 29.  
1966 c. 20.  
1976 c. 71  
1970 c. 55.

1982 c. 24.

1976 c. 71.  
1970 c. 55.

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<sup>1</sup> Words substituted in para. 3 (5.12.05) by S.I. 2005/3129, Sch. 1, para. 4.

<sup>2</sup> Words substituted in para. 3(1) and (2) (29.11.99) by para. 116 of Sch. 7 to S.S. Act 1998 (c. 14).

<sup>3</sup> Words substituted in para. 5 (2.4.01) by s. 67 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

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1948 c. 29.

1966 c. 20.

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