

Social Security Contributions and Benefits Act 1992

CHAPTER 4

The material reproduced or annotated is limited to what is relevant to this volume, comprising ss. 123–140, 148–150, and 172–177.

The other provisions are covered in volume 2, in which the whole Act is reproduced or annotated.

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PART VII

INCOME-RELATED BENEFITS

General

Income-related benefits.

123.—(1) Prescribed schemes shall provide for the following benefits (in this Act referred to as “income-related benefits”)—

- (a) income support;
- (b) [...¹]
- (c) [...¹]
- (d) housing benefit; and
- [²(e) council tax benefit.]

(2) The Secretary of State shall make copies of schemes prescribed under subsection (1)(a), (b) or (c) above available for public inspection at local offices of the Department of Social Security at all reasonable hours without payment.

(3) Every authority granting housing benefit—

- (a) shall take such steps as appear to them appropriate for the purpose of securing that persons who may be entitled to housing benefit from the authority become aware that they may be entitled to it; and
- (b) shall make copies of the housing benefit scheme, with any modifications adopted by them under the Administration Act, available for public inspection at their principal office at all reasonable hours without payment.

[³(4) [⁴Each billing authority and in Scotland each local authority]

- (a) shall take such steps as appear to it appropriate for the purpose of securing that any person who may be entitled to council tax benefit in respect of council tax payable to the authority becomes aware that he may be entitled to it; and
- (b) shall make copies of the council tax benefit scheme, with any modifications adopted by it under the Administration Act, available for public inspection at its principal office at all reasonable hours without payment.]

Income support

124.—(1) A person in Great Britain is entitled to income support if—

Income support.

- [⁵(a) he is of or over the age of 16;]
- [⁶(aa) he has not attained the qualifying age for state pension credit;]
- (b) he has no income or his income does not exceed the applicable amount;
- (c) he is not engaged in remunerative work and, if he is a member of a married or unmarried couple, the other member is not so engaged; [...⁷]

¹ S. 123(1)(b) & (c) repealed (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

² S. 123(1)(e) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 1(1), for purposes of council tax benefit from 1.4.93.

³ S. 123(4) substituted for s. 123(4)–(6) (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 1(2), for purposes of council tax and council tax benefit from 1.4.93.

⁴ Words substituted in s. 123(4) (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 1.

⁵ S. 124(1)(a) substituted (7.10.96) by para. 30(2) of Sch. 2 to Jobseekers Act 1995 (c. 18).

⁶ Para. (aa) inserted in s. 124(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. 2(2).

⁷ Word deleted (7.10.96) from end of s. 124(1)(c) by para. 30(3) of Sch. 2, and by Sch. 3, to Jobseekers Act 1995 (c. 18).

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[¹(d) except in such circumstances as may be prescribed, he is not receiving relevant education;]

[²(e) he falls within a prescribed category of person; and

(f) he is not entitled to a jobseeker's allowance and, if he is a member of a married or unmarried couple, the other member of the couple is not entitled to an income-based jobseeker's allowance [³; and

(g) if he is a member of a married or unmarried couple, the other member of the couple is not entitled to state pension credit.]]

[⁴(h) he is not entitled to an employment and support allowance and, if he is a member of a couple, the other member of the couple is not entitled to an income-related employment and support allowance.]

(2) [...⁵]

(3) [...⁵]

(4) Subject to subsection (5) below, where a person is entitled to income support, then—

(a) if he has no income, the amount shall be the applicable amount; and

(b) if he has income, the amount shall be the difference between his income and the applicable amount.

(5) Where a person is entitled to income support for a period to which this subsection applies, the amount payable for that period shall be calculated in such manner as may be prescribed.

(6) Subsection (5) above applies—

(a) to a period of less than a week which is the whole period for which income support is payable; and

(b) to any other period of less than a week for which it is payable.

[⁴(7) In this section, “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).]

125. [...⁶]

Trade disputes.

126.—(1) This section applies to a person, other than a child or a person of a prescribed description—

(a) who [⁷is prevented from being entitled to a jobseeker's allowance by section 14 of the Jobseekers Act 1995 (trade disputes)]; or

(b) who would be so [⁸prevented] if otherwise entitled to that benefit,

except during any period shown by the person to be a period of incapacity for work [...⁹] or to be within the maternity period.

¹ S. 124(1)(d) substituted (7.10.96) by para. 30(4) of Sch. 2 to Jobseekers Act 1995 (c. 18).

² Paras. (e) and (f) added (12.12.95 for regulation-making purposes, prosp. for other purposes) to s. 124(1) by para. 30(5) of Sch. 2 to Jobseekers Act 1995 (c. 18).

³ Word and para. (g) inserted into s. 124(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. 2(3).

⁴ S. 124(1)(h) & 124(7) inserted (27.10.08) by the Welfare Reform Act 2007 Sch. 3, para. 9(9) & (10).

⁵ S. 124(2) and (3) repealed (7.10.96) by Sch. 3 to Jobseekers Act 1995 (c. 18).

⁶ S. 125 repealed (7.10.96) by Sch. 3 to Jobseekers Act 1995 (c. 18).

⁷ Words in s. 126(1)(a) substituted (7.10.96) for “disqualified under section 27 above for receiving unemployment benefit” by para. 31(a) of Sch. 2 to Jobseekers Act 1995 (c. 18).

⁸ Word in s. 126(1)(b) substituted (7.10.96) for “disqualified” by para. 31(b) of Sch. 2 to Jobseekers Act 1995 (c. 18).

⁹ Words in s. 126(1) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 31 and Sch. 2.

(2) In subsection (1) above “the maternity period” means the period commencing at the beginning of the 6th week before the expected week of confinement and ending at the end of the 7th week after the week in which confinement takes place.

(3) For the purpose of calculating income support—

- (a) so long as this section applies to a person who is not a member of a family, the applicable amount shall be disregarded;
- (b) so long as it applies to a person who is a member of a family but is not a member of a [¹couple], the portion of the applicable amount which is included in respect of him shall be disregarded;
- (c) so long as it applies to one of the members of a [¹couple]—
 - (i) if the applicable amount consists only of an amount in respect of them, it shall be reduced to one half; and
 - (ii) if it includes other amounts, the portion of it which is included in respect of them shall be reduced to one-half and any further portion of it which is included in respect of the member of the couple to whom this section applies shall be disregarded;
- (d) so long as it applies to both the members of a [¹couple]—
 - (i) if neither of them is responsible for a child or person of a prescribed description who is a member of the same household, the applicable amount shall be disregarded; and
 - (ii) in any other case, the portion of the applicable amount which is included in respect of them and any further portion of it which is included in respect of either of them shall be disregarded.

(4) Where a reduction under subsection (3)(c) above would not produce a sum which is a multiple of 5p, the reduction shall be to the nearest lower sum which is such a multiple.

(5) Where this section applies to a person for any period, then, except so far as regulations provide otherwise—

- (a) in calculating the entitlement to income support of that person or a member of his family the following shall be treated as his income and shall not be disregarded—
 - (i) any payment which he or a member of his family receives or is entitled to obtain by reason of the person to whom this section applies being without employment for that period; and
 - (ii) without prejudice to the generality of sub-paragraph (i) above, any amount which becomes or would on an application duly made become available to him in that period by way of repayment of income tax deducted from his [²taxable earnings (as defined by section 10 of the Income Tax (Earnings and Pensions) Act 2003) under PAYE regulations.]; and
- (b) any payment by way of income support for that period or any part of it which apart from this paragraph would be made to him, or to a person whose applicable amount is aggregated with his—
 - (i) shall not be made if the weekly rate of payment is equal to or less than the relevant sum; or
 - (ii) if it is more the relevant sum, shall be at a weekly rate equal to the difference.

¹ Words substituted in s. 126 (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 43.

² Words substituted in s. 126(5)(a)(ii) (6.4.03) by the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6, para. 179.

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(6) In respect of any period less than a week, subsection (5) above shall have effect subject to such modifications as may be prescribed.

(7) Subject to subsection (8) below, “the relevant sum” for the purposes of subsection (5) above shall be [¹£35.00].

(8) If an order under section 150 of the Administration Act (annual up-rating) has the effect of increasing payments of income support, from the time when the order comes into force there shall be substituted, in subsection (5)(b) above, for the references to the sum for the time being mentioned in it references to a sum arrived at by—

S.I. 1987/1967.

(a) increasing that sum by the percentage by which the personal allowance under paragraph 1(1) of Part I of Schedule 2 to the Income Support (General) Regulations 1987 for a single person aged not less than 25 has been increased by the order; and

(b) if the sum as so increased is not a multiple of 50p, disregarding the remainder if it is 25p and, if it is not, rounding it up or down to the nearest 50p,

and the order shall state the substituted sum¹.

Effect of return to work.

127. If a person returns to work with the same employer after a period during which section 126 above applies to him, and whether or not his return is before the end of any stoppage of work in relation to which he is or would be [²prevented from being entitled to a jobseeker’s allowance]—

(a) that section shall cease to apply to him at the commencement of the day on which he returns to work; and

(b) until the end of the period of 15 days beginning with that day, section 124(1) above shall have effect in relation to him as if the following paragraph were substituted or paragraph (c)—

“(c) in the case of a member of a [³couple], the other member is not engaged in remunerative work; and”; and

(c) any sum paid by way of income support for that period of 15 days to him or, where he is a member of a [³couple], to the other member of that couple, shall be recoverable in accordance with the regulations from the person to whom it was paid or from any prescribed person or, where the person to whom it was paid is a member of a [³couple], from the other member of the couple.

128.—[...⁴]

129.—[...⁴]

¹ Amount £35.00 substituted (12.4.10) for £32.00 in s. 126(7) by art. 18 of S.I. 2010/793.

² Words in s. 127 substituted (7.10.96) for “disqualified for receiving unemployment benefit” by para. 32 of Sch. 2 to Jobseekers Act 1995 (c. 18).

³ Words substituted in s. 127 (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 44.

⁴ Ss. 128 & 129 repealed (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

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Ss. 130-130A

Housing benefit

Housing benefit

130.—(1) A person is entitled to housing benefit if—

- (a) he is liable to make payments in respect of a dwelling in Great Britain which he occupies as his home;
- (b) there is an appropriate maximum housing benefit in his case; and
- (c) either—
 - (i) he has no income or his income does not exceed the applicable amount; or
 - (ii) his income exceeds that amount, but only by so much that there is an amount remaining if the deduction for which subsection (3)(b) below provides is made.

(2) In subsection (1) above “payments in respect of a dwelling” means such payments as may be prescribed, but the power to prescribe payments does not include power to prescribe

- [¹(a) payments to a billing authority or to a local authority in Scotland in respect of council tax;]
in respect of council tax; or
- (b) mortgage payments, or, in relation to Scotland, payments under heritable securities.]

(3) Where a person is entitled to housing benefit, then—

- (a) if he has no income or his income does not exceed the applicable amount, the amount of the housing benefit shall be the amount which is the appropriate maximum housing benefit in his case; and
- (b) if his income exceeds the applicable amount, the amount of the housing benefit shall be what remains after the deduction from the appropriate maximum housing benefit of prescribed percentages of the excess of his income over the applicable amount.

(4) Regulations shall prescribe the manner in which the appropriate maximum housing benefit is to be determined in any case.

1988 c. 50.
1988 c. 43.

(5) Regulations under subsection (4) above may provide for benefit to be limited by reference to determinations made by rent officers in exercise of functions conferred under section 121 of the Housing Act 1988 or section 70 of the Housing (Scotland) Act 1988.

Appropriate maximum
housing benefit

²130A.—(1) For the purposes of section 130 above, the appropriate maximum housing benefit (in this section referred to as “the AMHB”) is determined in accordance with this section.

(2) Regulations must prescribe the manner in which the AMHB is to be determined.

(3) The regulations may provide for the AMHB to be ascertained in the prescribed manner by reference to rent officer determinations.

(4) The regulations may require an authority administering housing benefit in any prescribed case—

- (a) to apply for a rent officer determination, and*
- (b) to do so within such time as may be specified in the regulations.*

¹ Paras. (a) and (b) substituted (6.3.92) for words in s. 130(2) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 3, for purposes of council tax and council tax benefit from 1.4.93.

² S. 130(2)(a) substituted (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 1.

³ S. 130A to be inserted (prosp.) by the Welfare Reform Act 2007 (c. 5), s. 30.

(5) *The regulations may make provision as to the circumstances in which, for the purpose of determining the AMHB, the amount of the liability mentioned in section 130(1)(a) above must be taken to be the amount of a rent officer determination instead of the actual amount of that liability.*

(6) *Regulations under subsection (5) may also make provision for the liability of a person who, by virtue of regulations under section 137(2)(j) below, is treated as having a liability mentioned in section 130(1)(a) above to be the amount of a rent officer determination.*

(7) *A rent officer determination is a determination made by a rent officer in the exercise of functions under section 122 of the Housing Act 1996.]*

[**130B.**—(1) If the following conditions are satisfied, then housing benefit is payable in the case of a person ("the former occupier") subject to subsection (4)—

Loss of housing benefit following eviction on certain grounds

- (a) a court makes a relevant order for possession of a dwelling occupied by him as his home;
- (b) in consequence of the order he ceases to occupy the dwelling;
- (c) either of the conditions in subsections (2) and (3) is satisfied; and
- (d) the conditions for entitlement to housing benefit are or become satisfied with respect to him.

(2) The condition in this subsection is that the former occupier fails, without good cause, to comply with a warning notice served on him by a relevant local authority in England and Wales after he has ceased to occupy the dwelling.

(3) The condition in this subsection is that—

- (a) the former occupier was, after he ceased to occupy the dwelling, required by a relevant local authority in Scotland to take specified action with the aim mentioned in subsection (10),
- (b) the former occupier was warned by the relevant local authority that if he failed to comply with the requirement the amount of housing benefit payable to him would be affected,
- (c) the former occupier fails, without good cause, to comply with the requirement, and
- (d) the relevant local authority recommends that housing benefit be payable to the former occupier subject to subsection (4).

(4) During the restriction period or such part of it as may be prescribed, one or both of the following applies—

- (a) the rate of the benefit is reduced in such a manner as may be prescribed;
- (b) the benefit is payable only if the circumstances are such as may be prescribed.

(5) The restriction period begins with the earliest date on which the conditions set out in subsections (1) to (3) are satisfied.

(6) That period stops running if the relevant local authority considers that the restriction set out in subsection (4) should no longer apply (whether because the former occupier is taking action to improve his behaviour or for any other reason), but starts running again if—

- (a) in England and Wales, the former occupier fails to comply with a further warning notice served on him;
- (b) in Scotland, the condition in subsection (7) is satisfied.

¹ Ss. 130B-130G inserted (14.6.07) for reg. making purposes 1.11.07 for all other purposes by the Welfare Reform Act 2007, s. 31 and cease to have effect after 31.12.2010.

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Ss. 130B-130C

- (7) The condition is that—
- (a) the former occupier fails to comply with a further requirement such as is mentioned in paragraph (a) of subsection (3), having been warned as mentioned in paragraph (b) of that subsection, and
 - (b) the relevant local authority recommends that the restriction period starts running again.

(8) The restriction period shall not include any period which falls more than five years after the date on which the order for possession was made.

(9) A former occupier may not be subject to more than one restriction period in respect of one order for possession.

- (10) A relevant local authority is—
- (a) in England and Wales, a local authority within the meaning of section 1 of the Local Government Act 2000, or
 - (b) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994,
- which provides or may provide services to a former occupier with the aim of ending, or preventing repetition of, the conduct which may lead or has led to the making of a relevant order for possession.

(11) A warning notice is a notice in the prescribed form—

- (a) requiring the former occupier to take specified action with the aim mentioned in subsection (10),
- (b) specifying the time when, or within which, that action must be taken, and
- (c) warning the former occupier that if he fails to take the action the amount of housing benefit payable to him would be affected.

Relevant orders for possession

130C.—(1) In section 130B a relevant order for possession is, in England and Wales—

- (a) an order made under section 84 of the Housing Act 1985 (secure tenancies) on Ground 2 set out in Schedule 2 to that Act;
- (b) an order made under section 7 of the Housing Act 1988 (assured tenancies) on Ground 14 set out in Schedule 2 to that Act;
- (c) an order made under section 98 of the Rent Act 1977 (protected or statutory tenancies) in the circumstances specified in Case 2 in Schedule 15 to that Act.

(2) In that section a relevant order for possession is, in Scotland—

- (a) an order made under section 16(2) of the Housing (Scotland) Act 2001 (secure tenancies) on one of the grounds set out in paragraphs 2 and 7 in Part 1 of Schedule 2 to that Act;
- (b) an order made in accordance with section 18 of the Housing (Scotland) Act 1988 (assured tenancies) on Ground 15 in Part 2 of Schedule 5 to that Act;
- (c) an order made in accordance with section 11 of the Rent (Scotland) Act 1984 (protected or statutory tenancies) in the circumstances specified in Case 2 in Part 1 of Schedule 2 to that Act.

(3) For the purposes of subsections (1) and (2) it does not matter whether the order is made on the grounds or in the circumstances there mentioned alone or together with other grounds or circumstances.

(4) Subsections (5) and (6) apply if the court—

- (a) stays (in Scotland, sists) or suspends the execution of a relevant order for possession, or postpones the date of possession under it, and
- (b) imposes a condition (or conditions) on that stay, sist, suspension or postponement.

(5) If a condition relates to the behaviour of a person or persons occupying the dwelling, section 130B(4) applies only if the order takes effect as a result of a breach of that condition.

(6) Section 130B(4) does not apply if the condition (or, if there is more than one, each of them) relates only to matters other than the behaviour of a person or persons occupying the dwelling.

130D.—(1) Regulations may provide that, where housing benefit has been paid subject to the restriction set out in section 130B(4), in prescribed circumstances—

Loss of housing benefit:
supplementary

- (a) the former occupier must be paid some or all of the amount of the benefit which, by virtue of that subsection, has not been payable to him, and
- (b) such other adjustments must be made as are prescribed.

(2) The Secretary of State may by order vary the definition of relevant order for possession by—

- (a) adding to or removing from it orders of a specified description;
- (b) specifying circumstances in which it includes orders of a specified description.

(3) Regulations may prescribe—

- (a) matters which are, or are not, to be taken into account in determining whether a person has, or does not have, good cause for failing to take action specified in a warning notice or failing to comply with a requirement such as is mentioned in section 130B(3)(a);
- (b) circumstances in which a person is, or is not, to be regarded as having, or not having, such good cause.

(4) Expressions used in this section and in section 130B have the meaning given in that section.

130E.—(1) This section applies where at any time the conditions for entitlement to housing benefit are satisfied with respect to a person who is a member of a couple.

Couples

(2) Where paragraphs (a) and (b) of section 130B(1) are satisfied in relation to both members of the couple (whether or not in respect of the same dwelling), then for the purposes of subsection (2) or (3) of that section, the failure by one member of the couple to comply with a warning notice or with a requirement such as is mentioned in section 130B(3)(a) must be treated also as a failure by his partner to comply with it.

(3) Where paragraph (a) of section 130B(1) is not satisfied in relation to one member of the couple, then subsection (4) of that section does not apply to his partner (even if paragraphs (a), (b) and (c) of section 130B(1) are satisfied in relation to the partner).

(4) References to a person's partner are to the other member of the couple concerned.

130F.—(1) The Secretary of State may by regulations require—

Information provision

- (a) a court which makes a relevant order for possession, or
 - (b) any other person or description of person who the Secretary of State thinks is or may be aware of the making of such an order,
- to notify him of the making of the order and to provide him with such details of matters in connection with the order as may be prescribed.

(2) The Secretary of State may provide—

- (a) information obtained under subsection (1), or
 - (b) information which is relevant to the exercise by him of any function relating to housing benefit,
- to a relevant local authority, or a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10), for use in the provision of such services.

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Ss. 130F-130G

- (3) The Secretary of State may by regulations require—
- (a) a relevant local authority, or
 - (b) a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10),
- to supply relevant information held by the authority or other person to, or to a person providing services to, the Secretary of State for use for any purpose relating to the administration of housing benefit.
- (4) The Secretary of State may by regulations require—
- (a) an authority administering housing benefit,
 - (b) a person authorised to exercise any function of such an authority relating to such a benefit,
 - (c) a relevant local authority, or
 - (d) a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10),
- to provide relevant information held by that authority or person to an authority or person mentioned in paragraph (a) or (b) for use for any purpose relating to the administration of housing benefit.
- (5) The Secretary of State may by regulations require—
- (a) an authority administering housing benefit,
 - (b) a person authorised to exercise any function of such an authority relating to such a benefit,
 - (c) a relevant local authority, or
 - (d) a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10),
- to provide relevant information held by that authority or person to an authority or person mentioned in paragraph (c) or (d) for use in the provision of those services.
- (6) Relevant information is—
- (a) if the information is held by an authority administering housing benefit or a person authorised to exercise any function of such an authority, information which is relevant to the exercise of any function relating to housing benefit by the authority or person;
 - (b) if the information is held by a relevant local authority or a person authorised to exercise any function of such an authority, information which is relevant to the exercise of any function relating to the provision of services mentioned in section 130B(10).
- (7) Information must be supplied under subsection (1), (3), (4) or (5) in such circumstances, in such manner and form, and in accordance with such requirements, as may be prescribed.
- (8) "Relevant order for possession" and "relevant local authority" have the same meaning as in section 130B.
- (9) Subsections (1) and (5) do not extend to Scotland.

Pilot schemes relating to loss of housing benefit

130G.—(1) Regulations to which this section applies may be made so as to have effect for a prescribed period.

(2) Any regulations which, by virtue of subsection (1), have effect for a limited period are referred to in this section as a "pilot scheme".

- (3) A pilot scheme may provide that it applies only in relation to—
- (a) one or more prescribed areas;
 - (b) one or more prescribed classes of person;

(c) persons selected by reference to prescribed criteria.

(4) A pilot scheme may make consequential or transitional provision.

(5) A pilot scheme ("the previous scheme") may be replaced by a further pilot scheme making the same, or similar, provision (apart from the prescribed period) to that made by the previous scheme.

(6) A pilot scheme may be amended or revoked by regulations under this section.

(7) This section applies to—

- (a) regulations made under any of sections 130B to 130F above;
- (b) regulations made under any other enactment, so far as they relate to, or are made for purposes which relate to, loss or restriction of housing benefit in pursuance of section 130B above.

(8) This section does not extend to Scotland.]

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[¹Council Tax benefit

131.—(1) A person is entitled to council tax benefit in respect of a particular day falling after 31st March 1993 if the following are fulfilled, namely, the condition set out in subsection (3) below and either—

- (a) each of the two conditions set out in subsection (4) and (5) below; or
- (b) the condition set out in subsection (6) below.

(2) Council tax benefit—

- (a) shall not be allowed to a person in respect of any day falling before the day on which his entitlement is to be regarded as commencing for that purpose by virtue of paragraph (1) of section 6(1) of the Administration Act; but
- (b) may be allowed to him in respect of not more than 6 days immediately following the day on which his period of entitlement would otherwise come to an end, if his entitlement is to be regarded by virtue of that paragraph as not having ended for that purpose.

(3) the main condition for the purposes of subsection (1) above is that the person concerned—

- (a) is for the day liable to pay council tax in respect of a dwelling of which he is resident; and
- (b) is not a prescribed person or a person of a prescribed class.

(4) The first condition for the purposes of subsection (1)(a) above is that there is an appropriate maximum council tax benefit in the case of the person concerned.

(5) The second condition for the purposes of subsection (1)(a) above is that—

- (a) the day falls within a week in respect of which the person concerned has no income;
- (b) the day falls within a week in respect of which his income does not exceed the applicable amount; or
- (c) neither paragraph (a) nor paragraph (b) above is fulfilled in his case but amount A exceeds amount B where—
 - (i) amount A is the appropriate maximum council tax benefit in his case; and
 - (ii) amount B is a prescribed percentage of the difference between his income in respect of the week in which the day falls and the applicable amount.

¹ S. 131 substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 4 for the purposes of council tax and council tax benefit from 1.4.93.

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- (6) The condition for the purposes of subsection (1)(b) above is that—
- (a) no other resident of the dwelling is liable to pay rent to the person concerned in respect of the dwelling; and
 - (b) there is an alternative maximum council tax benefit in the case of that person which is derived from the income or aggregate incomes of one or more residents to whom this subsection applies.
- (7) Subsection (6) above applies to any other resident of the dwelling who—
- (a) is not a person who, in accordance with Schedule 1 to the Local Government Finance Act 1992, falls to be disregarded for the purposes of discount; and
 - (b) is not a prescribed person or a person of a prescribed class.
- (8) Subject to subsection (9) below, where a person is entitled to council tax benefit in respect of a day, the amount to which he is entitled shall be—
- (a) if subsection (5)(a) or (b) above applies, the amount which is the appropriate maximum council tax benefit in his case;
 - (b) if subsection (5)(c) above applies, the amount found by deducting amount B from amount A, where “amount A” and “amount B” have the meanings given by that subsection; and
 - (c) if subsection (6) above applies, the amount which is the alternative maximum council tax benefit in his case.
- (9) Where a person is entitled to council tax benefit in respect of a day, and both subsection (5) and subsection (6) above apply, the amount to which he is entitled shall be whichever is the greater of—
- (a) the amount given by paragraph (a) or, as the case may be, paragraph (b) of subsection (6) above; and
 - (b) the amount given by paragraph (c) of that subsection.
- (10) Regulations shall prescribe the manner in which—
- (a) the appropriate maximum council tax benefit;
 - (b) the alternative maximum council tax benefit
- are determined in any case.
- (11) In this section ‘dwelling’ and ‘resident’ have the same meanings as in Part I or II of the Local Government Finance Act 1992.]

Couples.

- 132.**—(1) As regards any case where a person is a member of a [¹couple] throughout a particular day, regulations may make such provision as the Secretary of State sees fit as to—
- (a) the entitlement of the person to [²council tax benefit] in respect of the day, and
 - (b) the amount to which he is entitled.
- (2) Nothing in subsections (3) to (8) below shall prejudice the generality of subsection (1) above.
- (3) The regulations may provide that prescribed provisions shall apply instead of prescribed provisions of this Part of this Act, or that prescribed provisions of this Part of this Act shall not apply or shall apply subject to prescribed amendments or adaptations.

¹ Words substituted in s. 132(1) (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 45.

² Words in s. 132(1)(a) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 5(1), for purposes of council tax and council tax benefit from 1.4.93.

(4) The regulations may provide that, for the purposes of calculating in the case of the person concerned the matters mentioned in subsection (5) below, prescribed amounts relating to the person and his partner are to be aggregated and the aggregate is to be apportioned.

(5) The matters are income, capital, the applicable amount, [¹the appropriate maximum council tax benefit and the alternative maximum council tax benefit].

(6) The regulations may—

- (a) amend section 139(6) of the Administration Act so as to allow for disregarding the whole or part of any pension payable to the partner of the person concerned in determining the latter's income;
- (b) amend section 139(7) of that Act accordingly.

(7) The regulations may contain different provision as to the following different cases—

- (a) cases where the [²main] condition is fulfilled on the day concerned by the person concerned but not by his partner;
- (b) cases where the [²main] conditions is fulfilled on the day concerned by the person concerned and by his partner;

(8) The regulations may include such supplementary, incidental or consequential provisions as appear to the Secretary of State to be necessary or expedient.

(9) In this section—

- (a) references to a person's partner are to the other member of the couple concerned, and
- [³(b) references to the main condition are references to the condition mentioned in section 131(3) above.]

133.—(1) This section applies to any case where—

Polygamous marriages.

- (a) throughout a particular day a person (the person in question) is a husband or wife by virtue of a marriage entered into under a law which permits polygamy; and
- (b) either party to the marriage has for the time being any spouse additional to the other party.

(2) For the purposes of section 132 above neither party to the marriage shall be taken to be a member of a couple on the day.

¹ Words in s. 132(5) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 5(2), for purposes of council tax and council tax benefits from 1.4.93.

² Word in s. 132(7) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 5(3), for purposes of council tax and council tax benefit from 1.4.93.

³ Para. (b) of s. 132(9) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 5(4), for purposes of council tax and council tax benefit from 1.4.93.

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(3) Regulations under this section may make such provision as the Secretary of State sees fit as to—

- (a) the entitlement of the person in question to [1]council tax benefit] in respect of the day, and
- (b) the amount to which he is entitled.

(4) Without prejudice to the generality of subsection (3) above the regulations may include provision equivalent to that included under section 132 above subject to any modifications the Secretary of State sees fit.

General

Exclusions from benefit. **134.**—(1) No person shall be entitled to an income-related benefit if his capital or a prescribed part of it exceeds the prescribed amount.

(2) Except in prescribed circumstances the entitlement of one member of a family to any one income-related benefit excludes entitlement to that benefit for any other member for the same period.

(3) *Repealed by 1992 c. 14. see Annex 1, page 6.701*

(4) Where the amount of any income-related benefit would be less than a prescribed amount, it shall not be payable except in prescribed circumstances.

The applicable amount. **135.**—(1) The applicable amount, in relation to any income-related benefit, shall be such amount or the aggregate of such amounts as may be prescribed in relation to that benefit.

(2) The power to prescribe applicable amounts conferred by subsection (1) above includes power to prescribe nil as an applicable amount.

[2(3) In prescribing, for the purposes of income support, amounts under subsection (1) above in respect of accommodation in any area for qualifying persons in cases where prescribed conditions are fulfilled, the Secretary of State shall take into account information provided by local authorities or other prescribed bodies or persons with respect to the amounts which they have agreed to pay for the provision of accommodation in relevant premises in that area.

(4) *In subsection (3) above—
“accommodation” includes any board or care;
“local authority”—*

1948 c. 29. (a) *in relation to areas in England and Wales, has the same meaning as it has in Part III of the national Assistance Act 1948; and*

1968 c. 49. (b) *in relation to areas in Scotland, has the meaning given by section 1(2) of the Social Work (Scotland) Act 1968;*

“qualifying person” means any person who falls within—

1990 c. 19. (a) *subsection (1) of section 26A of the National Assistance Act 1948 (which is inserted by the National Health Service and Community Care Act 1990 and relates to persons ordinarily resident in residential care or nursing homes immediately before the commencement of that section); or*

¹ Words in s. 133(3)(a) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 6 for purposes of council tax and council tax benefits from 1.4.93.

² S. 153(3) and (4) as enacted but, in consequence of para. 4 of Sch. 4 to S.S.(C.P.) Act 1992 (c. 6), not due to come into force until a day appointed under para. 1(3)(a) *ibid.*

(b) subsection (1) of section 86A of the Social Work (Scotland) Act 1968 (the corresponding provision for Scotland).
 or who would fall within either of those subsections apart from any regulations under subsection (3) of the section in question.
 "relevant premises"—

1968 c. 49.

(a) in relation to areas in England and Wales, has the meaning given by section 26A(2) of the National Assistance Act 1948; and

1948 c. 29.

(b) in relation to areas in Scotland, has the meaning given by section 86A(2) of the Social Work (Scotland) Act 1968.]

(5) [...] the applicable amount for a severely disabled person shall include an amount in respect of his being a severely disabled person.

(6) Regulations may specify circumstances in which persons are to be treated as being or as not being severely disabled.

136.—(1) Where a person claiming an income-related benefit is a member of a family, the income and capital of any member of that family shall, except in prescribed circumstances, be treated as the income and capital of that person.

Income and capital.

(2) Regulations may provide that capital not exceeding the amount prescribed under section 134(1) above but exceeding a prescribed lower amount shall be treated, to a prescribed extent, as if it were income of a prescribed amount.

(3) Income and capital shall be calculated or estimated in such manner as may be prescribed.

(4) A person's income in respect of a week shall be calculated in accordance with prescribed rules; and the rules may provide for the calculation to be made by reference to an average over a period (which need not include the week concerned).

(5) Circumstances may be prescribed in which—

- (a) a person is treated as possessing capital or income which he does not possess;
- (b) capital or income which a person does possess is to be disregarded;
- (c) income is to be treated as capital;
- (d) capital is to be treated as income;

137.—(1) In this Part of this Act, unless the context otherwise requires—
 [“billing authority” has the same meaning as in Part I of the Local Government Finance Act 1992;]

Interpretation of Part VII and supplementary provisions.

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

[...³]

[⁴“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;

¹ Words repealed in s. 135(5) (8.4.03) by the Tax Credits Act 2002 (c. 21), Sch. 6.

² Defn. of “billing authority” substituted (6.3.92) for defn. of “charging authority” in s. 137(1) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 9(a), for purposes of council tax and council tax benefit from 1.4.93.

³ Defns. of “contribution period” in s. 137(1) repealed except for purposes of community charge and community charge benefits for any day before 1.4.93 (L.G.F. Act 1992 (c. 14), Sch. 9, para. 9(b) and Sch. 14).

⁴ In s. 137(1) defn. of “couple” inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 46.

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(c) two people of the same sex who are civil partners of each other and are members of the same household; or

(d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;]

“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;

“family” means—

(a) a [¹couple]

(b) a [¹couple] 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 [¹couple] 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;

[²“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;]

“industrial injuries scheme” means a scheme made under Schedule 8 to this Act or section 159 of the 1975 Act or under the Old Cases Act;

[...³]

[⁴“local authority” in relation to Scotland means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;]

[...¹]

[⁵“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26);

“the qualifying age for state pension credit” is (in accordance with section 1(2)(b) and (6) of the State Pension Credits Act 2002)—

(a) in the case of a woman, pensionable age; or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“state pension credit” means state pension credit under the State Pensions Credit Act 2002;]

[...⁶]

[...¹]

“war pension scheme” means a scheme under which war pensions (as defined in section 25 of the Social Security Act 1989) are provided;

“week”, in relation to [⁷council tax benefit], means a period of 7 days beginning with a Monday.

1989 c. 24.

[¹(1A) For the purposes of this Part, 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.]

¹ Words inserted in defn. of “family” & defns. of “married couple” & “unmarried couple” omitted & s. 137(1A) inserted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 36. substituted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 46.

² Defn. of “income-based jobseeker’s allowance” inserted (7.10.96) into s. 137(1) by para. 35(2) of Sch. 2 to Jobseekers Act 1995 (c. 18).

³ Defn. of “levying authority” in s. 137(1) repealed (1.4.96) by para. 175(5) of Sch. 13 to, and by Sch. 14 to, Local Government etc. (Scotland) Act 1994 (c. 39).

⁴ Defn. of “local authority” inserted (3.7.07) by the Welfare Reform Act 2007 (c. 5), Sch. 5, para. 1.

⁵ Defns “pensionable age”, “the qualifying age for state pension credit” and “state pension credit” inserted in s. 137(10) (2.7.02) for the purposes of exercising power to make regulations or orders by the State Pensions Credit Act 2002 (c. 16), Sch. 2, para. 4(2).

⁶ Defns. of “the 1987 Act” and “the 1988 Act” in s. 137(1) repealed except for purposes of community charge and community charge benefits for any day before 1.4.93 (L.G.F. Act 1992 (c. 14), Sch. 9, para. 9(b) and Sch. 14).

⁷ Words in defn. of “week” in s. 137(1) substituted (6.3.92) by L.G.F. Act 1992 (c. 14) Sch. 9, para. 9(d), for purposes of council tax and council tax benefit from 1.4.93.

- (2) Regulations may make provision for the purposes of this Part of this Act—
- (a) as to circumstances in which a person is to be treated as being or not being in Great Britain;
 - (b) continuing a person's entitlement to benefit during period of temporary absence from Great Britain;
 - (c) as to what is or is not to be treated as remunerative work or as employment;
 - [¹(d) as to circumstances in which a person is or is not to be treated as engaged or normally engaged in remunerative work;]
 - (e) as to what is or is not to be treated as relevant education;
 - (f) as to circumstances in which a person is or is not to be treated as receiving relevant education;
 - (g) specifying the descriptions of pension increases under war pension schemes or industrial injuries schemes that are analogous to the benefits mentioned in section 129(b)(i) to (iii) above;
 - (h) as to circumstances in which a person is or is not to be treated as occupying a dwelling as his home;
 - (i) for treating any person who is liable to make payments in respect of a dwelling as if he were not so liable;
 - (j) for treating any person who is not liable to make payments in respect of a dwelling as if he were so liable;
 - (k) for treating as included in a dwelling any land used for the purposes of the dwelling;
 - (l) as to circumstances in which persons are to be treated as being or not being members of the same household;
 - (m) as to circumstances in which one person is to be treated as responsible or not responsible for another.

PART VIII

THE SOCIAL FUND

138.—[²(1) There may be made out of the social fund, in accordance with this Part of this Act—

Payments out of the social fund.

- (a) payments of prescribed amounts, whether in respect of prescribed items or otherwise, to meet, in prescribed circumstances, maternity expenses and funeral expenses; and
- (b) payments by way of community care grant, crisis loan or budgeting loan to meet other needs in accordance with directions given or guidance issued by the Secretary of State.]

(2) Payments may also be made out of that fund, in accordance with this Part of this Act, of a prescribed amount or a number of prescribed amounts to prescribed descriptions of persons, in prescribed circumstances to meet expenses for heating which appear to the Secretary of State to have been or to be likely to be incurred in cold weather.

(3) The power to make a payment out of the social fund such as is mentioned in subsection (1)(b) above may be exercised by making a payment to a third party with a view to the third party providing, or arranging for the provision of, goods or services for the applicant.

¹ S. 137(2)(d) substituted (7.10.96) by para.35(3) of Sch.2 to Jobseekers Act 1995 (c. 18). (The effect of this amendment was to delete from s. 137(2)(d) the reference to circumstances for treating people as available for employment or as actively seeking employment.)

² S. 138(1) substituted (5.4.99) by the S.S. Act 1998 (c. 14), s. 70.

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(4) In this section “prescribed” means specified in or determined in accordance with regulations.

[¹(5) In this Part—

“budgeting loan” means a loan awarded in circumstances specified in directions issued by the Secretary of State for the purpose of defraying an intermittent expense;

“community care grant” means a grant awarded in circumstances so specified for the purpose of meeting a need for community care;

“crisis loan” means a loan awarded in circumstances so specified for the purpose of meeting an immediate short term need;

and any reference to this subsection to meeting a need or defraying an expense includes a reference to helping to meet the need or to defray the expense.]

Awards by social fund officers.

139.—[²(1) Whether a payment mentioned in section 138(1)(b) above is to be awarded, and how much it is to be, shall be determined by an appropriate officer, that is to say, an officer of the Secretary of State who, acting under his authority, is exercising functions of the Secretary of State in relation to payments so mentioned.]

(2) [²An appropriate officer] may determine that an award shall be payable in specified instalments at specified times.

(3) [...²]

(4) An award [²of a crisis loan or a budgeting loan] shall be repayable upon such terms and conditions as before the award is paid the Secretary of State notifies to the person by or on behalf of whom the application for it was made.

(5) Payment of an award shall be made to the applicant unless [²the appropriate officer] determines otherwise.

Principles of determination.

140.—(1) In determining whether to make an award [³of a community care grant or a crisis loan] to the applicant or the amount or value to be awarded [⁴an appropriate officer] shall have regard, subject to subsection (2) below, to all the circumstances of the case and, in particular—

(a) the nature, extent and urgency of the need;

(b) the existence of resources from which the need may be met;

(c) the possibility that some other person or body may wholly or partly meet it;

(d) where the payment is repayable, the likelihood of repayment and the time within which repayment is likely;

(e) any relevant allocation under section 168(1) to (4) of the Administration Act.

[³(1A) Subject to subsection (2) below, in determining whether to make an award of a budgeting loan to the applicant, or the amount or value to be awarded, an appropriate officer shall have regard to—

(a) such of the applicant’s personal circumstances as are of a description specified in directions issued by the Secretary of State; and

(b) the criteria specified in paragraphs [⁵(b), (d) and (e)] of subsection (1) above.

[...⁵]

(2) [⁴An appropriate officer] shall determine any question in accordance with any

¹ S. 138(5) inserted (5.4.99) by the S.S. Act 1998 (c. 14), s. 70.

² In s. 139; (1) substituted, (3) ceases to have effect & words substituted in (2), (4) & (5) (29.11.99) by the S.S. Act 1998 (c. 14), Sch. 7, paras. 72.

³ In s. 140 words inserted in (1) & (1A) inserted (5.4.99) by the SS Act 1998, s. 71.

⁴ Words substituted in s. 140(1) & (2) (29.11.99) by the S.S. Act 1998, Sch. 7, paras. 72 & 73.

⁵ In s. 140(1A) words substituted in (b) & words after (b) cease to have effect (3.7.05) by the Welfare Reform Act 2007 (c. 5), s. 54.

general directions issued by the Secretary of State and in determining any question shall take account of any general guidance issued by him.

[¹(3) Without prejudice to the generality of subsection (2), the Secretary of State may issue directions under that subsection for the purpose of securing that allocations under section 168 of the Administration Act are not exceeded.]

(4) Without prejudice to the generality of subsection (2) above, the power to issue general directions conferred on the Secretary of State by that subsection includes power to direct—

- (a) that in circumstances specified in the direction a social fund officer shall not determine an application and, without prejudice to the generality of this paragraph, that a social fund officer shall not determine an application which is made before the end of a specified period after the making of an application by the same person for a payment such as is mentioned in section 138(1)(b) above to meet the same need and without there having been any relevant change of circumstances since the previous application;
- [²(aa) that in circumstances specified in the direction an application for an award of a community care grant may be treated as an application for an award of a crisis loan, and vice versa;]
- (b) that for a category of need specified in the direction a social fund officer shall not award less than an amount specified in the direction;
- (c) that for a category of need specified in the direction of a social fund officer shall not award more than an amount so specified;
- (d) that payments to meet a category of need specified in the direction shall in all cases or in no case be made by instalments;
- (e) [...²]
- (f) that a payment such as is mentioned in section 138(1)(b) above shall only be awarded to a person if either—
 - (i) he is in receipt of a benefit which is specified in the direction and the circumstances are such as are so specified; or
 - (ii) in a case where the conditions specified in sub-paragraph (i) above are not satisfied, the circumstances are such as are specified in the direction,

and the power to issue general guidance conferred on him by that subsection includes power to give [³appropriate officers] guidance as to any matter to which directions under that subsection may relate.

(5) In determining a question [³an appropriate officer] officer shall take account (subject to any directions or guidance issued by the Secretary of State under this section) of any guidance issued by [³the appropriate officer nominated for his area under section 36 of the Social Security Act 1998].

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PART X

CHRISTMAS BONUS FOR PENSIONERS

148.—(1) Any person who in any year—

- (a) is present or ordinarily resident in the United Kingdom or any other member State at any time during the relevant week; and

Entitlement of pensioners to Christmas bonus.

¹ S. 140(3) substituted (3.7.07) by the Welfare Reform Act 2007 (c. 8), Sch. 7, para. 2.

³ In s. 140(4)(aa) inserted & (4)(e) ceases to have effect (5.4.99) by the SS Act 1998, s. 71.

⁴ Words substituted in s. 140(4) & (5) (29.11.99) by the S.S. Act 1998, Sch. 7, paras. 72 & 73.

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- (b) is entitled to a payment of a qualifying benefit in respect of a period which includes a day in that week or is to be treated as entitled to a payment of a qualifying benefit in respect of such a period,

shall, subject to the following provisions of this Part of this Act and to section 1 of the Administration Act, be entitled to payment under this subsection in respect of that year.

(2) Subject to the following provisions of this Part of this Act, any person who is a member of a couple and is entitled to a payment under subsection (1) above in respect of a year shall also be entitled to payment under this subsection in respect of that year if—

- (a) both members have attained pensionable age not later than the end of the relevant week; and
- (b) the other member satisfies the condition mentioned in subsection (1)(a) above; and
- (c) either—
- (i) he is entitled or treated as entitled, in respect of the other member, to an increase in the payment of the qualifying benefit; or
- (ii) the only qualifying benefit to which he is entitled is [state pension credit].

[¹(2A) In a case falling within paragraph (c)(ii) of subsection (2) above, paragraph (a) of that subsection has effect with the substitution of “qualifying age for state pension credits” for “pensionable age”.]

(3) A payment under subsection (1) or (2) above—

- (a) is to be made by the Secretary of State; and
- (b) is to be of £10 or such larger sum as the Secretary of State may by order specify.

(4) [...¹]

(5) Only one sum shall be payable in respect of any person.

Provisions
supplementary
to section 148.

149.—(1) For the purposes of section 148 above the Channel islands, the Isle of Man and Gibraltar shall be treated as though they were part of the United Kingdom.

(2) A person shall be treated for the purposes of section 148(1)(b) above as entitled to a payment of a qualifying benefit if he would be so entitled—

- (a) in the case of a qualifying benefit [²other than state pension credit], but for the fact that he or, if he is a member of a couple, the other member is entitled to receive some other payment out of public funds;
- (b) in the case of [²state pension credit], but for the fact that his income or, if he is member of a couple, the income of the other member was exceptionally of an amount which resulted in his having ceased to be entitled to [²state pension credit].

(3) A person shall be treated for the purposes of section 148(2)(c)(i) above as entitled in respect of the other member of the couple to an increase in a payment of a qualifying benefit if he would be so entitled—

¹ Words in subsection (2)(c)(ii) substituted, (2A) inserted and (4) omitted in s. 148 (2.7.02) for the purposes of exercising power to make regulations or order by the State Pension Credit Act 2002 (c. 16), Sch. 2, para. 5.

² Words in s. 149(2) substituted (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. 6.

- (a) but for the fact that he or the other member is entitled to receive some other payment out of public funds;
- (b) but for the operation of any provision of [1section [283(2) or (3)] above or] paragraph 6(4) of Schedule 7 to this Act or any regulations made under paragraph 6(3) of that Schedule whereby entitlement to benefit is affected by the amount of a person's earnings in a given period.

(4) For the purposes of section 148 above a person shall be taken not to be entitled to a payment of a war disablement pension unless not later than the end of the relevant week he has attained [3the age of [465]].

(5) A sum payable under section 148 above shall not be treated as benefit for the purposes of any enactment or instrument under which entitlement to the relevant qualifying benefit arises or is to be treated as arising.

- (6) A payment and the right to receive a payment—
 - (a) under section 148 above or any enactment corresponding to it in Northern Ireland; or
 - (b) under regulations relating to widows which are made by the Secretary of State under any enactment relating to police and which contain a statement that the regulations provide for payments corresponding to payments under this section,

shall be disregarded for all purposes of income tax and for the purposes of any enactment or instrument under which regard is had to a person's means.

150.—(1) In this Part of this Act “qualifying benefit” means—

Interpretation of Part X.

- (a) a retirement pension;
- [5(b) long-term incapacity benefit;]
- [6(ba) a qualifying employment and support allowance;]
- (c) a widowed mother's allowance [7, a widowed parent's allowance] or widow's pension;
- (d) [...8]
- (e) [9a carer's allowance]
- (f) industrial death benefit;
- (g) an attendance allowance;
- (h) an unemployability supplement or allowance;
- (i) a war disablement pension;
- (j) a war widow's pension;
- (k) [10state pension credit]
- [11(l) a mobility supplement].

¹ In s. 149(3)(b) words in brackets to be omitted (prosp. 6.4.2010) by the Pensions Act 2007 (c. 22), Sch. 1, para. 17.

² Ref. 83(2) or (3) to be replaced (6.4.2010) with 83A(2) or (3) by para. 18(g) of Sch. 4 to the Pensions Act 1995 (c. 26).

³ In s. 149(4) “pensionable age” to be substituted for “the age of 65” (prosp. 6.4.2024) by the Pensions Act 2007 (c. 22), Sch. 1, para. 43.

⁴ Figure substituted (19.7.95) for words in s. 149(4) by pensions Act 1995 (c. 26), Sch. 4, para. 8.

⁵ S. 150(1)(b) substituted (13.4.95) by para. 33 of Sch. 1 to S.I. (Incapacity for Work) Act 1994 (c. 18).

⁶ S. 150(1)(ba) inserted (27.10.08) by the Welfare Reform Act 2007 (c. 5) Sch. 3, para. 9(11)(a).

⁷ Words in s. 150(1)(c) inserted (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 70.

⁸ S. 150(1)(d) repealed (3.11.00 for reg. making purposes, 6.4.01 for all other purposes) by s. 88 the Welfare Reform and Pensions Act 1999 (c. 30).

⁹ Words in s. 150(1)(e) substituted (1.9.02 for the purposes of exercising powers to make subordinate legislation, 1.4.03 for all other purposes) by para. 2(e) of the Schedule to S.I. 2002/1457.

¹⁰ Words in s. 150(1)(k) substituted (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. 7(2).

¹¹ S. 150(1)(l) inserted (19.7.95) by Pensions Act 1995 (c. 26), s. 132(2).

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

S. 150

- (2) In this Part of this Act—
“attendance allowance” means—
- (a) an attendance allowance;
 - (b) a disability living allowance;
 - (c) an increase of disablement pension under section 104 or 105 above;
 - (d) a payment under regulations made in exercise of the powers in section 159(3)(b) of the 1975 Act or paragraph 7(2) of Schedule 8 to this Act;
 - (e) an increase of allowance under Article 8 of the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1983 (constant attendance allowance for certain persons to whom that Scheme applies) or under the corresponding provision of any Scheme which may replace that Scheme;
 - (f) an allowance in respect of constant attendance on account of disablement for which a person is in receipt of war disablement pension including an allowance in respect of exceptionally severe disablement;
- [¹“mobility supplement” means a supplement awarded in respect of disablement which affects a person’s ability to walk and for which the person is in receipt of war disablement pension;]
[²“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995];
[³“the qualifying age for state pension credit” is (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002)—
(a) in the case of a woman, pensionable age; or
(b) in the case of a man, the age which is pensionable age is in the case of a woman born the same day as the man;]
[⁴“qualifying employment and support allowance” means [⁵a contributory allowance] under Part 1 of the Welfare Reform Act 2007 the calculation of the amount of which includes an addition in respect of the support component or the work-related activity component;]
“retirement pension” includes graduated retirement benefit [...⁶];
[³ “state pension credit” means state pension credit under the State Pension Credit Act 2002;]
“unemployability supplement or allowance” means—
(a) an unemployability supplement payable under Part I of Schedule 7 to this Act; or
(b) any corresponding allowance payable—
(i) by virtue of paragraph 6(4)(a) of Schedule 8 to this Act;
(ii) by way of supplement to retired pay or pension exempt from income tax under [⁶section 641 of the Income Tax (Earnings and Pensions) Act 2003];
(iii) under the Personal Injuries (Emergency Provisions) Act 1939; [...⁸]
(iv) by way of supplement to retired pay or pension under the Polish Resettlement Act 1947; [...⁷]
“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

S.I. 1983/136.

1939 c. 82.

1947 c. 19.

1917 c. 51.

¹ Defn. “mobility supplement” inserted (19.7.95) in s. 150(2) by Pensions Act 1995 (c. 26), s. 132(3)(a).
² Defn. “pensionable age” substituted (19.7.95) in s. 150(2) by Pensions Act 1995 (c. 26), Sch. 4, para. 13(b).
³ Defns. of “the qualifying age for state pension credit” and “state pension credit” inserted in s. 150(2) (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. 7(3).
⁴ Defn. “qualifying employment and support allowance” inserted (27.10.08) in s. 150(2) by the Welfare Reform Act 2007 (c. 5) Sch. 3, para. 9(11)(b).
⁵ Words substituted in defn. of “qualifying employment and support allowance” (12.11.09) by the Welfare Reform Act 2009 (c. 24), s. 37(3).
⁶ Words in defn. of “retirement pension” in s. 150(2) deleted (19.7.95) by Pensions Act 1995 (c. 26), s. 132(3)(b).
⁷ Words substituted in sub-para. (b)(ii) and sub-para. (v) omitted (6.4.03) in defn. of “unemployability supplement by the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6, para. 180(2).
⁸ Word “or” deleted (19.7.95) by pensions Act 1995 (c. 26), s. 132(2)(c).

Polish Resettlement Act 1947, or Part VIII or section 151 of the Reserve Forces Act 1980; 1939 c. 83.

(b) without prejudice to paragraph (a) of this definition, 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; 1980 c. 9.

“war widow’s pension” means any widow’s [²or 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 preceding definition or a pension or allowance for a widow [²or surviving civil partner] granted under any scheme mentioned in [¹section 641(1)(e) of the Income Tax (Earnings and Pensions) act 2003];

and each of the following expressions, namely “attendance allowance”, “unemployability supplement or allowance”, “war disablement pension” and “war widow’s pension”, includes any payment which the Secretary of State accepts as being analogous to it.

[²(3) In this Part of the Act, “couple” has the meaning given by section 137(1) above.].

(4) In this Part of this Act “the relevant week”, in relation to any year, means the week beginning with the first Monday in December or such other week as may be specified in an order made by the Secretary of State.

Ss. 151–171 – see Volume 2.

PART XIII

GENERAL

Interpretation

172. In this Act–

- (a) any reference to Great Britain includes a reference to the territorial waters of the United Kingdom adjacent to Great Britain;
- (b) any reference to the United Kingdom includes a reference to the territorial waters of the United Kingdom.

Application of Act in relation to territorial waters.

173. For the purposes of this Act a person–

- (a) is over or under a particular age if he has or, as the case may be, has not attained that age; and
- (b) is between two particular ages if he has attained the first but not the second;

Age.

and in Scotland (as in England and Wales) the time at which a person attains a particular age expressed in years is the commencement of the relevant anniversary of the date of his birth.

174. In this Act–

- “the 1975 Act” means the Social Security Act 1975;
- “the 1986 Act” means the Social Security Act 1986;
- “the Administration Act” means the Social Security Administration Act 1992;
- “the Consequential Provisions Act” means the Social Security (Consequential Provisions) Act 1992;
- “the Northern Ireland Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- “the Old Cases Act” means the Industrial Injuries and Diseases (Old Cases) Act

References to Acts.

1975 c. 14.

1986 c. 50.

1992 c. 5.

1992 c. 6.

1992 c. 7.

¹ In s. 150 words substituted (6.4.03) in defns. of “war disablement pension” and “war widow’s pension” by the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6, para. 180(3) & (4).

² In s. 150 words inserted in defn. of “war widow’s pension” & sub-para. (3) substituted (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 24, para. 49.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

Ss. 174-175

1975 c. 16. 1975; and
1975 c. 60. “the Pensions Act” means the Social Security Pensions Act 1975.

Subordinate legislation

Regulations, orders and schemes. **175.**—(1) Subject to^[1]subsection (1A) below, regulations and orders under this Act shall be made by the Secretary of State;

^[1](1A) Subsection (1) above has effect subject to—

- (a) any provision [...]² providing for regulations or an order to be made by the Treasury or by the Commissioners of Inland Revenue,
- (b) [...]².

(2) Powers under this Act to make regulations, orders or schemes shall be exercisable by statutory instrument.

(3) Except in the case of an order under section 145(3) above and in so far as this Act otherwise provides, any power under this Act to make 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 provisions for all cases in relation to which the power is exercised, or different provision for different cases or different classes or 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

¹ Words substituted in s. 175(1) & subsection (1A) inserted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 3, para. 29.

² Words in s. 175(1A)(a) and para. (b) revoked (1.4.03) by Sch. 6 to the Tax Credits Act 2002 (c. 21). See S.I. 2003/938 at page 3.3731 for details as to savings & transitional provisions.

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 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.

(4) Without prejudice to any specific provision in this Act, any power conferred by this Act to make regulations or an order (other than the power conferred in section 145(3) above) includes power to make thereby such incidental, supplementary, consequential or transitional provision as appears to the [¹person making the regulations or order] to be expedient for the purposes of the regulations or order.

S. 175(2)–(4) above extended (18.11.94) by ss. 4(11), 7(4) and 12(3) of S.S. (Incapacity for Work) Act 1994 (c. 18).

(5) Without prejudice to any specific provisions in this Act, a power conferred by any provision of this Act except–

- (a) sections 30, 47(6), [²25B(2)(a)] and 145(3) above and paragraph 3(9) of Schedule 7 to this Act;
- (b) section 122(1) above in relation to the definition of “payments by way of occupational or personal pension”; and
- (c) Part XI,

to make regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.

(6) Any power conferred by this Act to make orders or regulations relating to housing benefit or [³council tax benefit] shall include power to make different provisions for different areas.

(7) Any power of the Secretary of State under any provision of this Act, except the provision mentioned in subsection (5)(a) and (b) above and Part IX, 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.

(8) Any power under any of section 116 to 120 above to modify provisions of this Act or the Administration Act extends also to modifying so much of any other provision of this Act or that Act as re-enacts provisions of the 1975 Act which replaced provisions of the National Insurance (Industrial Injuries) Acts 1965 to 1974.

(9) A power to make regulations under any of sections 116 to 120 above shall be exercisable in relation to any enactment passed after this Act which is 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 is without prejudice to the generality of any such direction.

(10) Any reference in this section or section 176 below to an order or regulations under this Act includes a reference to 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.

176.—(1) Subject to the provisions of this section, a statutory instrument containing (whether alone or with other provisions)–

Parliamentary control.

- (a) regulations made by virtue of–

¹ Words substituted (1.4.99) by Transfer of Functions Act 1999 (c. 11), Sch. 3, para. 29.

² Ref. in s. 175(5)(a) substituted (13.4.95) by para. 36 of Sch. 1 to S.S. (Incapacity for work) Act 1994 (c. 18).

³ Words in s. 175(6) substituted (6.3.92) by L.G.F. Act 1992 (c. 14), Sch. 9, para. 10, for purposes of council tax and council tax benefit from 1.4.93.

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)

S. 176

- section 11(3);
- section 18;
- section 19(4) to (6);
- section 28(3);
- [¹section 30DD(5)(b) or (c)]
- [...²]
- section 104(3)
- section 117;
- section 118;
- section 145;
- [...³]
- [⁴section 171ZE(1);
- section 171ZN(1).]
- (b) regulations prescribing payments for the purposes of the definition of “payments by way of occupational or personal pension” in section 122(1) above;
- (c) an order under—
 - [⁵section 25B(a)]
 - section 28(2);
 - [⁶section 35A(7);]
 - [...²]
 - section 148(3)(b);
 - section 157(2);
 - [...²]
 - [⁷section 159A(1)]

shall not be made unless a draft of the instrument has been laid before Parliament and has been approved by a resolution of each House.

(2) Subsection (1) above does not apply to a statutory instrument by reason only that it contains—

- (a) regulations under section 117 which the instrument states are made for the purpose of making provision consequential on the making of an order under section 141, 143, 145, 146 or 162 of the Administration Act;
 - (b) regulations under powers conferred by any provision mentioned in paragraph (a) of that subsection [...³] which are to be made for the purpose of consolidating regulations to be revoked in the instrument;
 - (c) regulations which, in so far as they are made under powers conferred by any provision mentioned in paragraph (a) of that subsection (other than section 145 [...³]), only replace provisions of previous regulations with new provisions to the same effect.
- (3) A statutory instrument—
- (a) which contains (whether alone or with other provisions) any order, regulations or scheme made under this Act by the Secretary of State, [⁸ the Treasury or the Commissioners of Inland Revenue] other than an order under section 145(3) above; and

¹ Ref. inserted in s. 176(1)(a) (3.11.00) by s. 70 of the Welfare Reform & Pensions Act 1999 (c. 30).

² Sec. refs. in s. 176(1)(a) and (c) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. , para. 37 and Sch. 2.

³ Words in section 176 deleted (6.4.95) by art. 6(1)(a) of S.I. 1995/512.

⁴ Words inserted in s. 176(1)(a) (8.12.02) by the Employment Act 2002 (c. 22), Sch. 7, para. 7.

⁵ Sec. refs. inserted (13.4.95) into s. 176(1)(c) by para. 37(b) of Sch. 1 to S.I. (Incapacity for Work) Act 1994 (c. 18).

⁶ Ref. inserted in s. 176(1)(c) (12.1.00 for reg. making purposes, 2.4.00 for all other purposes) by the Welfare Reform & Pensions Act 1999 (c. 30), Sch. 8, para. 32.

⁷ Words inserted (10.2.94) by Statutory Sick Pay Act 1994 (c. 2), s. 3(2).

⁸ Words inserted in s. 176(3)(a) (1.4.99) by the Transfer of Functions Act 1999 (c. 11), Sch. 3, para. 30.

(b) which is not subject to any requirement that a draft of the instrument shall 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.

[¹(4) Subsection (3) above does not apply to a statutory instrument by reason only that it contains an order appointing the first or second appointed year (within the meanings given by section 122(1) above).]

Short title, commencement and extent

177.—(1) This Act may be cited as the Social Security Contributions and Benefits Act 1992.

Short title,
commencement and
extent.

(2) This Act is to be read, where appropriate, with the Administration 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—
section 16 and Schedule 2;
section 116(2); and this section.

(6) Except as provided by this section, this Act does not extend to Northern Ireland.

Schedules – see Volume 2.

¹ Subsection (4) inserted in s. 176 (8.1.01 for reg. & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all other purposes) by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 35(15).

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (c. 4)