

# Social Security (Insurance) Act

This version is out of date

## Principal Act

<b>Act. No. 1955-14</b>	<i>Commencement</i>	15.7.1955
	<i>Assent</i>	14.7.1955

Amending enactments	Relevant current provisions	Commencement date
Act. 1959-07	s. 33	
1961-06	s. 21(1)	
1965-09	s. 17(1)	
1966-10	ss. 3(A), 10(2), 19(1), 21(1), 51(1), Schs.2-3	
1966-26	–	
1968-08	s. 19(1), Sch.	
Regs.of 28.5.1970	s. 2(1)	
Act. 1970-11	s. 3(4)	
LN. 1971/021	Sch.1	
Act. 1973-16	ss. 4(5), 10A, 40(4), 43(1)-(2)	
1974-30	ss. 3(1), 4(1)-(2), 10(3), 10A(1), 40(7), 51(1)	
1974-39	s. 10A(1)-(2)	
1974-04	s. 3B	
1975-08	s. 3A	
1975-28	ss. 2(2), 3(1), 51(1), Schs.2-3	
1976-31	Sch. 4	
1976-35	ss. 3(2), 10A(1), Sch.2	
1977-20	ss.10(1), 13(1), 14(1), (4) 14A, 19(1), (3), 20, 21(1), 29(1), 48, 52, Schs.2-3	
LN. 1977/141	s. 20, Sch.2	
1978/105	s. 20, Sch.2	
1979/096	s. 20, Sch.2	
1980/113	Sch.2	
Act. 1980-11	s. 2(1) 4(5), 7(2), 16A, 17(1), 22(3), 40(4), 43(1)-(2), 52(3)	
LN. 1981/106	s. 20, Sch.2	
1982/090	s. 20, Sch.2	
1983/101	s. 20, Schs.1-2	
1984/090	s. 20(a), Sch.2	25.12.1984
“	Sch.1	7.1.1985
Act. 1985-15	ss.41(2)(b), 41(2A)	28.6.1985
LN. 1985/134	s. 20(a), Sch.2	24.12.1985
“	Sch.1	6.1.1986
Act. 1986-05	s. 29(1)	27.3.1986
LN. 1986/129	s. 20(a), Sch.2	23.12.1986
“	Sch.1	5.1.1987
1987/165	s. 20(a), Sch.2	29.12.1987

	“	Sch.1	4.1.1988
Act. 1988-10		s. 29(2)	23.6.1988
1988-23		ss. 2(1), 29(1), 52(1)-(3)	24.11.1988
LN. 1988/150		Sch.1	2.1.1989
1990/187		Sch.1	27.12.1990
Act. 1993-20		s. 53	1.4.1993
LN. 1993/191		ss. 2, 6, 10, 10A, 13-14, 14A, 15-16, 16A, 17, 19-25, 28-29, 52. Schs.1-3.	1.1.1994
1993/190		Sch.1	3.1.1994
1997/166		Sch.1.	30.12.1997
Act. 1999-27*		ss. 2(1), 3(3), 7(4), 8(2), 9(1), 10(1)(a), 11, 11A, 12, 18(5), 21, 27(1)-(2), 30, 33(2)-(3), (6), 40(1), 41(1), 47(2), 48, 49(1).	5.7.1999
2000-15		s. 10(1A)-(1B), Sch.2	10.2.2000
2001-04		ss. 2, 8, 4(5), 7(2), 40(4)(b), 43	14.3.2001
2001-05		s. 29(2)	14.3.2001
LN. 2004/139		Sch.2	1.7.2004
2004/128		Sch.1	3.1.2005
Act. 2005-03		s. 11A(2)	1.7.2005
2007-20		s. 4(6)-(7), Schs.1-2	1.7.2006
LN. 2007/050		Sch. 1	1.4.2007
Act. 2007-17		ss. 29(2)-(4), 53, Sch.4	14.6.2007
LN. 2008/045		Sch.1	1.7.2008
2009/041* <sup>i</sup>		Sch.1	1.7.2009
Act. 2009-47		s. 52(3)-(4)	3.12.2009
LN. 2010/114		Sch.1	1.7.2010
Act. 2012-11 <sup>♦</sup>		s. 12	11.10.2012
LN. 2013/131		Sch.2	23.6.2013
Act. 2013-27		ss. 4(2)(a)-(b), 43(5), 45(2), (4)-(5), 52(1)-(2), Sch.1	28.11.2013
2014-10		ss. 2(3)(a), (4)(c), 11(1)(b), 18(1)(b), 23(1), 27(2), (4), 28(2), 38(2)(d), 41(1), (2), (a), (4), 44(5), 49(1), Sch.3	28.3.2014
2015-11 <sup>lii</sup>		ss. 2(4)(d), 11(1), 27(2), 41(2), Sch.3	30.6.2014
LN. 2014/139		ss. 2(1), 11B, Sch.1	24.7.2014
Act. 2017-13		ss. 5(1), (4), 6A	1.7.2015
LN. 2015/146		Sch.2	1.8.2015
2017/057		Sch.1	1.4.2017

\* Saving provision inserted at the end of this Act

<sup>♦</sup> Date of commencement amended by Act 2009-47

<sup>♦</sup> Transitional provisions inserted at the end of this Act

<sup>i</sup> Transitional provisions inserted at the end of this Act

2017/254	Sch.1	1.4.2017
2018/151	Sch.1	1.7.2018
2020/535	s. 49(1), (3)	24.12.2020
Act. 2021-09	s. 2(4)(cc)	9.2.2021
LN. 2021/304	Sch.1	1.7.2021
2022/231	Sch.1	4.8.2022
“	Sch.1	1.7.2023
Act. 2023-04	s. 2(4)(c)	18.4.2024

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AN ACT TO ESTABLISH A SYSTEM OF SOCIAL INSURANCE PROVIDING PECUNIARY BENEFITS BY WAY OF OLD AGE PENSIONS, MATERNITY BENEFITS, WIDOW'S BENEFIT, WIDOWER'S PENSION, GUARDIAN'S ALLOWANCE AND DEATH GRANT AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

## Short title.

1. This Act may be cited as the Social Security (Insurance) Act.

## Interpretation.

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

“an actuary” means a Fellow of the Institute of Actuaries or the Faculty of Actuaries of Great Britain;

“additional voluntary contribution” means a weekly voluntary contribution by a self-employed woman at a rate specified in Schedule 1 for the purpose of claiming maternity allowance under section 11B(1);

“beneficiary”, in relation to any benefit, means a person entitled to that benefit;

“benefit” means benefit under this Act;

“Board” means the Social Insurance Appeals Board established under section 33;

“contract of service” means any contract of service or apprenticeship, whether written or oral, and whether express or implied;

“contribution week” means a period of seven days commencing from midnight between Sunday and Monday and “contribution year” means, in relation to any person, such period of fifty-two or fifty-three contribution weeks as may be prescribed;

“Director” means such public officer as the Minister may designate to administer the provisions of this Act;

“earnings” include any remuneration or profit derived from a gainful occupation;

“employer's contribution” means a contribution payable by a person otherwise than as an insured person;

- “employed person” means a person occupied in employment being employment under a contract of service or in employment by or under the Government and includes apprentices and learners under agreement whether written or oral and whether express or implied;
- “employed contributor’s employment” means any employment by virtue whereof an insured person is an employed person;
- “entry into insurance” means, in relation to any person, the date on which he becomes an insured person;
- “Fund” means the Short Term Benefits Fund established under section 29;
- “Her Majesty’s dominions” includes British protectorates and protected states;
- “incapable of work” means incapable of work by reason of some specific disease or bodily or mental disablement or deemed, in accordance with regulations, to be so incapable;
- “insured person” means a person insured under this Act;
- “Minister” means the Minister with responsibility for social affairs;
- “pensionable age” means the age of sixty-five, in the case of a man, and sixty, in the case of a woman;
- “prescribed” means prescribed by the Minister by regulations;
- “Regulations” means regulations made by the Minister under this Act;
- “relevant contribution conditions”, in relation to benefit of any description, means the contribution conditions for benefit of that description;
- “self-employed person” mean—
- (a) a person occupied in gainful employment in Gibraltar who is not an employed person; or
  - (b) a person exercising functions in Gibraltar as an ordained minister of religion or as a member of a religious order, who is not an employed person;
- (2) For the purposes of this Act the expression “child” means a person under the age of—
- (a) fifteen years; or



- (b) nineteen years and over the age of fifteen years who is receiving full time instruction at any university, college, school, or other educational establishment.
- (3) For the purposes of this Act each of the following shall be treated as constituting a family, that is to say-
  - (a) a man and his wife or civil partners living together and any child or children living together with them who is or are either issue of theirs, his or hers, or maintained by them;
  - (b) a man not having a wife or not living together with his wife and any child or children living together with him who is or are either issue of his, or maintained by him;
  - (c) a woman not having a husband or not living together with her husband, and any child or children living together with her who is or are either issue of hers, or maintained by her.

Where a child could otherwise be treated as included at the same time in one family as being issue of his or her parents or either of them, and in another family as being maintained by any other person, the child shall be treated as included in that family only in which he or she can be treated as included as being issue of the parents or parent.

- (4) For the purposes of this section-
  - (a) “issue” means issue of the first generation;
  - (b) where a child born before the marriage of the child’s parents has been legitimated by virtue of the subsequent marriage of the parents, the child shall be deemed to be issue of the marriage;
  - (c) an adopted child within the meaning of the Adoption Act 2023 shall be treated as if the child were legitimate issue of the adopter, or, if the child was adopted by two spouses or civil partners jointly, or by one of two spouses or civil partners after their marriage, or civil partnership, as the case may be; as if the child were legitimate issue of their marriage, or civil partnership and shall not be treated as being issue of any other person;
  - (cc) a child by virtue of a parental order shall be treated as if the child were legitimate issue of the applicant on the said order or if the child was deemed by the parental order to be the child of spouses or civil partners jointly, or by one of two spouses or civil partners after their marriage, or civil partnership, as the case may be; as if the child were legitimate issue of their marriage, or civil partnership and shall not be treated as being issue of any other person

- (d) *Deleted*
- (e) references to the parents, a parent, the father or the mother of a child, or to an illegitimate child shall be construed in accordance with the foregoing provisions of this subsection.
- (5) For the purposes of this Act, two persons shall not be deemed to have ceased to reside together by reason of any temporary absence of either or both of them, and in particular by reason of any such absence at school or while receiving medical treatment as an in-patient in a hospital or similar institution.
- (6) For the purposes of this Act –
- (a) a person shall be deemed to be over or under any age therein mentioned if he has or has not attained that age;
  - (b) a person shall be deemed to be between two ages therein mentioned if he has attained the first-mentioned age but has not attained the second-mentioned age;
  - (c) a person shall be deemed not to have attained the age of twenty years until the commencement of the twentieth anniversary of the day of his birth, and similarly with respect to any other age;
  - (d) regulations may provide that, for the purpose of determining whether a contribution is payable in respect of any person, or at what rate a contribution is payable, that person shall be treated as having attained at the beginning of a contribution week, or as not having attained until the end of a contribution week, any age which he attains during the course of that week.
- (7) For the purpose of this Act, the amount of a person's earnings for any period, and the rate of a person's remuneration, shall be calculated or estimated in such manner and on such basis as may be prescribed.

**PART I.**  
**INSURED PERSONS AND CONTRIBUTIONS.**

**Description of insured persons.**

3.(1) Subject to the provisions of this Act, every person who on or after the 6th day of January, 1975, is–

- (a) under pensionable age; and

- (b) either self-employed or in insurable employment under the Social Security (Employment Injuries Insurance) Act,

shall be insured under this Act and shall thereafter continue throughout his life to be so insured.

(2) Provision may be made by regulations for modifying the application of this Act to persons who are insured under the provisions of the United Kingdom's Social Security Act, 1975.

(3) Provision may be made by regulations for modifying the application of this Act in relation to cases where it appears to the Minister desirable by reason of the nature or circumstances of a person's employment or otherwise, and such regulations may in particular provide—

- (a) for disregarding employment which is of a casual or subsidiary nature or in which the insured person is engaged only to an inconsiderable extent;
- (b) for treating a person's employment as continuing during periods of holiday, unemployment or incapacity for work and in such other circumstances as may be prescribed.

(4) *Repealed.*

**3A, 3B and 3C.** *Omitted.*

## **Source of funds.**

4.(1) For the purpose of providing the funds required for paying benefit, and for making any other payments which under this Act are to be made out of the Fund established under this Act, contributions shall be payable by self-employed persons, employed persons and by employers in accordance with the following provisions of this section.

(2)

- (a) Every employed person and every employer of such person shall be liable to pay weekly contributions at the respective rates set out in Schedule 1.
- (b) Every self-employed person shall be liable to pay weekly contributions at the rates set out in Schedule 1.

(3) Regulations may provide that where an insured person ceases to be a self-employed person or an employed person at a time when he satisfies such other conditions as may be prescribed, he may elect to pay such contributions as may be prescribed.

(4) Subject to the provisions of this Act and of any regulations, no person shall be entitled to pay any contribution thereunder other than a contribution which he is liable to pay.

(5) An employer or insured person who fails to pay any contribution which he is liable under this Act to pay, is guilty of an offence and is liable on summary conviction to a fine equivalent to half of level 1 on the standard scale.

(6) No insured person over the age of 60 or one who has retired at age 55 by operation of law shall be liable to make contributions pursuant to the provisions of this Act. For the avoidance of doubt, nothing in this sub-section affects the application of this Act as it applies to employers.

(7) An insured person whose retirement age is 55 by operation of law and who retires at a prior age shall continue to be liable to make contributions pursuant to the provisions of this Act until age 55 is reached.

**Number and class of contribution for any week.**

5.(1) A person shall not be liable to pay more than the maximum contribution for an insured person in any contribution week and not more than the maximum contribution for an employer shall be payable in respect of any person for any contribution week.

(2) Where, as respects any employed contributor's employment—

- (a) no services are rendered by an employed person in any contribution week; and
- (b) no remuneration is paid wholly or partly in respect of any day in that week other than a day on which he either—
  - (i) is incapable of work and would but for the incapacity have been working; or
  - (ii) does not work in a normal week,

then that employment shall, in relation to that week, be disregarded for the purposes of the foregoing provisions of this section; and regulations may provide, as respects any period during which no services are rendered by an employed person, that for the purposes of this subsection any payments which he receives or is entitled (whether conditionally or not) to receive in any prescribed circumstances are or are not to be deemed to be remuneration paid in respect of any day in that period.

(3) Regulations may provide for disregarding for the purposes of this section any employment in which a person engages or continues to be engaged solely or mainly for the purpose of acquiring or preserving a right or a larger right to benefit.

- (4) In subsection (1), “maximum contribution”–
- (a) in respect of an insured person, means the maximum contribution as set out in Schedule 1 for an employee or self-employed; and
  - (b) in respect of an employer’s contribution, means the maximum contribution as set out in Schedule 1 for an employer.

**Crediting of contributions.**

6. Regulations may provide for crediting contributions to insured persons for–

- (a) periods of unemployment or of incapacity for work;
- (b) periods of full-time education or of full-time unpaid apprenticeship;
- (c) *omitted*.
- (d) such other periods as may be prescribed.

**Credit for employers.**

6A. Regulations may provide for the granting of a credit of a prescribed amount to employers who employ a prescribed number of employees subject to such terms and conditions as may be prescribed.

**Contributions of employed persons and employers.**

7.(1) Except where regulations otherwise prescribe, an employer liable to pay a contribution in respect of a person employed by him shall, in the first instance, be liable to pay also, on behalf of and to the exclusion of that person any contribution as an insured person payable by that person for the same contribution week, and for the purposes of this Act contributions paid by an employer on behalf of an insured person shall be deemed to be contributions by the insured person.

(2) Notwithstanding any contract to the contrary, an employer shall not be entitled to deduct from the wages or other remuneration of a person employed by him, or otherwise to recover from such a person, the employer’s contribution in respect of that person; and an employer who deducts or attempts to deduct the whole or any part of the employer’s contribution in respect of any person from his wages or other remuneration is guilty of an offence and is liable on summary conviction to a fine equivalent to one quarter of level 1 on the standard scale.

(3) An employer shall be entitled, subject to and in accordance with regulations, to recover from an insured person the amount of any contribution paid or to be paid by him on behalf of that person, and, notwithstanding anything in any enactment, regulations under this subsection may authorize recovery by deductions from the insured person's wages or remuneration:

Provided that any such regulations shall provide that—

- (a) where the insured person does not receive any wages or other pecuniary remuneration in respect of an employed contributor's employment either from the employer or from any other person, the employer shall not be entitled to recover the amount of any such contribution from him; and
- (b) where the insured person does receive any such wages or remuneration from the employer, the employer shall not be entitled to recover any such contribution otherwise than by deductions from the wages or remuneration.
- (4) Notwithstanding subsection (1), no contribution shall be payable in respect of an employee for any week during the whole or any part of which she is absent from work in exercise of her right to maternity leave under the Employment (Maternity and Health and Safety) Regulations 1996.

**Method of payment of contribution.**

8. Subject to the provisions of this Act, regulations may provide for any matters incidental to the payment and collection of contributions under this Act, and in particular but without prejudice to the generality of the foregoing—

- (a) for assessing the amount of contributions liable to be paid by any person,
- (b) for payment of contributions by such means as the Minister shall deem appropriate, and for regulating the manner, times, and conditions in, at and under which such payments are to be made;
- (c) for the issue, replacement, custody, production and delivery up of prescribed certificates,
- (d) for treating, for the purpose of any right to benefit, contributions paid after the due dates as paid on those dates or on such later dates as may be prescribed, or as not having been paid and for treating, for the purpose aforesaid, contributions payable by an employer on behalf of an insured person, but not paid, as paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, the insured person;

- (e) for treating contributions of the wrong class or at the wrong rate as paid on account of the contributions properly payable or on account of contributions under the Social Security (Employment Injuries Insurance) Act or under the Social Security (Open Long-Term Benefits Scheme) Act 1997, and for treating contributions under those Acts which were not payable as paid on account of contributions under this Act, notwithstanding anything in that Act;
- (f) for the return of contributions under this Act paid in error or in accordance with the law as it stood prior to the coming into force of the Social Security (Miscellaneous Provisions) Act 2001;
- (g) (without prejudice to any other remedy) for the recovery, on prosecutions brought under or by virtue of this Act, of contributions under this Act, under the Social Security (Employment Injuries Insurance) Act or under the Social Security (Open Long-Term Benefits Scheme) Act 1997; and

any such regulations relating to the time of payment of contributions may require or authorise an employer, where an insured person's remuneration is paid in advance and in such other cases as may be prescribed, to pay contributions in advance and in connection therewith may make provision for the event of contributions so paid proving not to be payable.

## **Persons to be treated as employers.**

9.(1) In relation to persons who—

- (a) are employed by more than one employer in any contribution week; or
- (b) work under the general control or management of some person other than their immediate employer,

and in relation to any other cases for which it appears to the Minister that special provision is needed, regulations may provide that for the purposes of this Act the prescribed person shall be treated as their employer; and regulations made by virtue of paragraph (b) may provide for adjusting the rights between themselves of the person prescribed as the employer, the immediate employer and the persons employed.

(2) References in this Act to a person's employer shall not be construed as including his employer in any employment other than one which is an employed contributor's employment (or, in the case of a person who is not, but would if he were under pensionable age be, an insured person, an employment which would be an employed contributor's employment in his case if he were under that age).

## **PART II.—BENEFIT.**

*Preliminary.*

**10. Descriptions and rates of benefit and contribution conditions.**

- (1) Benefit shall be of the following descriptions:—
- (a) maternity grants and maternity allowance;
  - (b) *omitted.*
  - (c) *omitted.*
  - (d) *omitted.*
  - (e) death grant;
  - (f) *omitted.*
- (2) Subject to the provisions of this Act—
- (a) the amount of a maternity grant or a death grant shall be as set out in the second columns of Parts II and IV of Schedule 2; and
  - (b) the contribution conditions for the several descriptions of benefit set out in Part II of Schedule 2 shall be as set out in Part I of Schedule 3; and
  - (c) the additional contribution conditions for the descriptions of benefit set out in Part IV of Schedule 2 shall be as set out in Part II of Schedule 3.
- (3) Subject to the provisions of this Act, any reference therein to the yearly average of the contributions paid by or credited to any person shall be construed as referring to contributions as an insured person only, and to that average (calculated in the prescribed manner) over the period—
- (a) beginning with the contribution year in which he attained the age of twenty; and
  - (b) ending with the end of the last complete contribution year before the date as at which the average is to be ascertained.

**Residence or contribution conditions for increased rates of benefit.**

10A.(1) Subject to the provisions of this Act, where a person entitled to a benefit at any of the rates specified in the second column of Part II of Schedule 2.



has, or the person on whose insurance record title to such benefit is established has, for at least one hundred and four weeks in the aggregate since the 2nd day of July, 1970, been—

- (i) ordinarily resident in Gibraltar; or
- (ii) insured under this Act in a self-employed person's or an employed person's capacity,

he shall be entitled to receive benefit at the rates as set out in the corresponding column of Part VI of Schedule 2 in lieu of the rates as set out in Parts II and IV.

(1A) The amount of a maternity grant as set out in the second column of Part VI of Schedule 2, and the second column of Part V of Schedule 2 of the Social Insurance (Benefits) Regulations shall be reduced by £35 for every £1,000 of joint income above £30,000.

(1B) For the purposes of subsection (1A), joint income means the joint assessable income of the parents of the child in respect of which a maternity grant is claimed, in the year of assessment under the Income Tax Act immediately prior to the date of expected confinement or confinement.

(2) Any person who has on the date of entitlement to a benefit established a right to an increased rate of benefit under subsection (1) shall not lose such right by reason of ceasing to reside in Gibraltar at any time thereafter.

### *Maternity benefits.*

#### **Maternity benefits.**

11.(1) Subject to the provisions of this Act, a woman shall be entitled to a maternity grant if—

- (a) she has been confined; and
- (b) she, her husband, civil partner or the child's father satisfies the relevant contribution conditions;

Provided that she shall not be entitled to a maternity grant twice by virtue of her own insurance and that of her husband, civil partner or the child's father.

(2) Except where regulations otherwise provide, a woman shall not be entitled to a maternity grant in respect of a confinement if on the date of the confinement she is outside Gibraltar or the Campo district.

(3) A woman confined of twins or a greater number of children shall, if the other conditions for payment of a maternity grant are satisfied in respect of the confinement, be entitled to a maternity grant for each of them.

(4) Regulations may modify the provisions of this section with a view to making the grant payable, if the woman's claim indicates that she so desires, by virtue of a certificate that it is to be expected that she will be confined.

(5) For the purposes of this section the expression "husband" includes a widow's late husband, where the benefit is claimed in respect of a posthumous son or daughter of his.

**Maternity allowance.**

11A.(1) Subject to section 4 of the Social Security (Insurance) Act (Amendment) Act 1999, a woman shall be entitled to maternity allowance if—

- (a) she has, on or after the 5 July 1999, paid contributions as an employed person under this Act for at least 26 weeks in the 52-week period ending in the 15<sup>th</sup> week before the expected week of confinement, and
- (b) she has exercised her right to maternity leave in accordance with the Employment (Maternity and Health and Safety) Regulations 1996,
- (c) she claims maternity allowance within 6 months of exercising that right; and
- (d) she has, where relevant complied with the duty to inform the Director under regulations 4, 6, 7, 8 and 14 of the Employment (Maternity and Health and Safety) Regulations 1996.\*

(2) Maternity allowance shall be paid for a maximum period of 18 weeks, at fortnightly intervals, or in such other manner as the Director may, in any particular circumstances, deem appropriate♦.

(3) Maternity allowance shall be paid at the weekly rate of injury benefit (excluding dependants allowance) to which the person entitled to maternity allowance would have been entitled to receive during her maternity leave period had she been a beneficiary in relation to such benefit.

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\* *Saving provision inserted at the end of this Act*

♦ *This amendment shall not apply to persons who were entitled to maternity allowance in respect of a confinement if the date of confinement was prior to the 1<sup>st</sup> day of July 2004.*

(4) The employer shall be entitled to deduct from any maternity pay, payable to an employee under a contract of employment or terms of employment, the amount of any benefit to which the employee may be entitled under this section.

(5) In this section –

“injury benefit” means injury benefit payable to persons who have attained the age of 18 years under Part I of Schedule 2 to the Social Security (Employment Injuries Insurance) Act; and

“maternity leave period” shall be construed in accordance with the Employment (Maternity and Health and Safety) Regulations 1996.

**Maternity allowance for self-employed women.**

11B.(1) A woman may apply for maternity allowance under this section if she has become pregnant and she–

- (a) has paid contributions as a self-employed person under this Act for at least 26 weeks in the 52-week period ending in the 15<sup>th</sup> week before the expected week of confinement;
- (b) has paid additional voluntary contributions as set out in Schedule 1 for this purpose for at least 26 weeks in the 52-week period ending in the 15<sup>th</sup> week before the expected week of confinement;
- (c) claims maternity allowance within 6 months of the delivery of the child; and
- (d) is not entitled to a maternity allowance under section 11A for the same week in respect of the same pregnancy.

(2) The maternity allowance under this section shall be paid –

- (a) for a maximum period of 18 weeks, at fortnightly intervals, or in such other manner as the Director may, in any particular circumstances, deem appropriate; and
- (b) at the weekly rate of injury benefit (excluding dependants allowance) to which the person entitled to maternity allowance would have been entitled to receive during her maternity leave period had she been a beneficiary in relation to such benefit.

(3) If a self-employed woman has opted for the additional voluntary contribution referred to in subsection (1)(b), she must maintain the payment of that contribution during her self-employed working life.

(4) In this section, “injury benefit” means injury benefit payable to persons who have attained the age of 18 years under Part I of Schedule 2 to the Social Security (Employment Injuries Insurance) Act.

(5) For the avoidance of doubt, a self-employed person is not entitled to receive the maternity allowance under this section if that person undertakes any form of paid work in any period during which the maternity allowance is paid.

**Supplemental provisions as to maternity grants.**

12. For the purpose of the provisions of this Act relating to maternity grant and maternity allowance—

- (a) the expression “confinement” means labour resulting in the issue of a living child, or labour after twenty-four weeks of pregnancy<sup>♦</sup> resulting in the issue of a child whether alive or dead, and the expression “confined” shall be construed accordingly ;
- (b) references to the date of the confinement shall be taken as referring, where labour begun on one day results in the issue of a child on another day, to the date of the issue of the child or, if the woman is confined of twins or a greater number of children, to the date of issue of the last of them.

13. *Revoked.*

14. *Revoked.*

14A. *Revoked.*

15. *Revoked.*

16. *Revoked.*

16A. *Revoked.*

17. *Revoked.*

*Death grant.*

**Death grant.**

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<sup>♦</sup> See *Transitional provisions in the amendments list page (Act 2012-11)*

18.(1) Subject to the provisions of this Act, a person shall be entitled to a death grant in respect of the death of any person (hereinafter in this section referred to as “the deceased”) if–

- (a) he has reasonably incurred or reasonably intends to incur, in connection with the deceased’s death, expenses to which this section applies; and
- (b) the deceased either himself satisfied the relevant contribution conditions, or was at death the husband, wife, civil partner, widower, widow, surviving civil partner or a child of the family, of a person satisfying those conditions, or a child who–
  - (i) had, immediately before the death of some person satisfying those conditions, been a child of the family of that other person; or
  - (ii) was a posthumous son or daughter of a man satisfying those conditions.

(2) The expenses to which this section applies are any expenses, of an appreciable amount, in connection with the funeral of the deceased, or with the claimant’s attendance thereat, or with the attendance thereat of other persons, or with the purchase of mourning; and for the purposes of this subsection–

- (a) the expression “funeral” includes any memorial service or similar observance; and
- (b) references to expenses in connection with attendance at a funeral include references to any loss of remunerative time due to the attendance.

(3) Except where regulations otherwise provide, a death grant shall not be payable in respect of a death occurring outside Gibraltar or the Campo district.

(4) A death grant shall not be payable to any body corporate or to any unincorporated association of persons, or to any person in respect of expenses incurred as a member of or on behalf of any such body or association.

(5) The cost, to such amount as may be prescribed, of the burial or cremation of any person by or under the direction of the Director of Medical and Health Services or by or under the direction of any such other association of persons as may be approved by the Minister may be paid into the Consolidated Fund or to the association out of the Social Insurance Fund if–

- (a) the conditions for the payment of a death grant in respect of the said person’s death are satisfied so far as relates to subsection (1)(b) and subsection (3); and
- (b) no such death grant has been paid,

and where any sum is paid under this subsection in respect of any person's burial or cremation any death grant subsequently paid in respect of his death shall be reduced by the amount of that sum.

(6) Not more than one person shall be entitled to a death grant in respect of the same death; and regulations may make provision—

(a) as to the priority of two or more claimants satisfying the conditions for receipt of the grant in respect of the same death; and

(b) for suspending proceedings on any claim where there is reason to suppose that another claim may be or may have been made in respect of the same death by a person having a prior right by virtue of the foregoing paragraph.

*Additional rights to benefit.*

19. *Revoked.*

20. *Revoked.*

**Partial satisfaction of contribution conditions.**

21.(1) Subject to the provisions of this section, regulations may provide for entitling to maternity grant and maternity allowance or a death grant persons who would be entitled thereto but for the fact that the relevant contribution conditions are not satisfied as respects the total number of contributions paid or credited, the number of contributions paid or credited in a contribution year, the number of contributions paid at a particular rate or the yearly average of contributions paid or credited.

(2) Regulations under this section shall provide that benefit payable by virtue of any such regulations shall be payable at a rate, or shall be of an amount, less than that specified in Schedule 2, and the rate or amount prescribed by the regulations may vary with the extent to which the contribution conditions are satisfied.

*Miscellaneous provisions as to benefit.*

**Claims and notices.**

22.(1) Subject to the provisions of subsections (3) and (4), it shall be a condition of any person's right to any benefit that he makes a claim therefor in the prescribed manner.

(2) Regulations may provide for disqualifying a person (subject to the provisions of subsection (3)) for the receipt of any benefit if he fails to make his claim therefor within the prescribed time:

Provided that any such regulations shall provide for extending, subject to any prescribed conditions, the time within which the claim may be made in cases where good cause is shown for delay.

(3) *Omitted.*

(4) Any claim for any benefit under this Act may be treated—

(a) for the purposes of this section as a claim, in the alternative, for such other benefit thereunder as may be prescribed; or

(b) for the purposes of the Social Security (Employment Injuries Insurance) Act, as a claim, in the alternative, for such benefit under that Act as may be prescribed,

and any claim for benefit under the Social Security (Employment Injuries Insurance) Act, may be treated for the purposes of this section as a claim, in the alternative, for such benefit under this Act as may be prescribed.

(5) For the purposes of this Part any claim or notice made or sent by post shall be deemed to have been made or given on the day on which it was posted.

### **Disqualification or suspension for absence abroad or imprisonment.**

23. Except where regulations otherwise provide, a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband, or civil partner for any period during which that person—

(a) is absent from Gibraltar or the Campo district; or

(b) is undergoing imprisonment or detention in legal custody.

24. *Revoked.*

### **Disqualifications, etc., to be disregarded for certain purposes.**

25. Regulations may provide that a person who would be entitled to any benefit but for the operation of either section 23 or of any other provision of this Act disqualifying him for the receipt of that benefit shall be treated as if entitled thereto for the purpose of any rights or obligations under this Part (whether of himself or any other person) which depend on his being so entitled, other than the right to payment of that benefit.

### **Benefit to be inalienable.**

26. Subject to the provisions of this Act, every assignment of, or charge on, benefit, and every agreement to assign or charge benefit shall be void, and on the bankruptcy of a beneficiary, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.

*Supplementary.*

**Proceedings by employees for benefit lost by employer's default.**

27.(1) Where an employer has failed or neglected—

- (a) to pay any contributions which under this Act he is liable to pay on behalf of any employed person in his employment; or
- (b) to comply, in relation to any such person, with the requirements of any regulations relating to the payment and collection of contributions,

and by reason thereof that person has lost, in whole or in part, any maternity grant or maternity allowance to which she would have been entitled, that person shall be entitled to recover summarily from the employer as a civil debt a sum equal to the amount of the grant so lost.

(2) Where the employed person is a man, his wife, civil partner or widow or surviving civil partner or the child's mother shall have the same right to recover under subsection (1) in respect of maternity grant lost by her as if the employer's failure or neglect had been in respect of her.

(3) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provision of this Act in respect of the same failure or neglect.

(4) Proceedings under this section may, notwithstanding any enactment to the contrary, be brought at any time within one year after the date on which the employed person or his wife or civil partner or widow or surviving civil partner or the child's mother, but for the failure or neglect of the employer, would have been entitled to receive the benefit lost.

**Provisions as to maintenance and incapacity for self-support.**

28.(1) Regulations may provide for determining the circumstances in which a person is or is not to be deemed for the purposes of applying the provisions of this Part to the calculation of benefits payable under the Social Security (Non-Contributory Benefits and Unemployment Insurance) Act, to be wholly or mainly maintaining another person.

(2) Regulations under subsection (1) may provide, for the purpose of the provisions relating to an increase of benefit in respect of a husband, wife, civil partner or other adult dependant, that where—



- (a) a person is partly maintained by each of two or more beneficiaries, each of whom would be entitled to such an increase in respect of that person if he were wholly or mainly maintaining that person; and
- (b) the contributions made by those two or more beneficiaries towards the maintenance of the person amount in the aggregate to sums which would, if they had been contributed by one of those beneficiaries, be sufficient to satisfy the requirements of regulations made by virtue of subsection (1),

that person shall be deemed for the purpose of those provisions to be wholly or mainly maintained by such of those beneficiaries as may be prescribed.

(3) For the purposes of this Act, a person shall be deemed to be incapable of self-support if he is incapable of supporting himself by reason of physical or mental infirmity and is likely to remain so incapable for a prolonged period.

## **PART III.—FINANCE, ADMINISTRATION AND LEGAL PROCEEDINGS.**

### *Finance.*

#### **Social insurance Fund.**

29.(1) For the purpose of this Act there is established the short-term benefits fund\* out of which there shall be paid all claims for—

- (a) the maternity and death grants under this Act; and
- (b) unemployment and other benefits payable under the Social Security (Non-Contributory Benefits and Unemployment Insurance) Act,

together with the costs of the administration of the Fund.

(2) There shall be charged upon the short term benefits fund any moneys transferred to the Consolidated Fund or any special fund being moneys which, in the opinion of the Financial Secretary, are surplus to requirements of the Fund.

(3) Accounts of the Fund shall be prepared in such form, in such manner and at such times as the Financial Secretary may direct, and the Principal Auditor shall examine and certify every such account.

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\* Referred to as the "Social Insurance (Short-Term Benefits) Fund" in the Public Finance (Control and Audit) Act.

(4) Any moneys forming part of the Fund may from time to time be invested, in accordance with such directions as may be given by the Financial Secretary and any interest received from such investments shall be credited to the Fund.

**Report by actuary.**

30. As soon as may be after the 31st day of December of every successive fifth year a report to the Director shall be made by an actuary appointed by the Minister on the financial condition of the Fund and on the adequacy or otherwise of the contributions payable under this Act to support the benefits payable thereunder having regard to the liabilities of the Fund:

Provided that the Minister may at any time direct that the period to be covered by any report under this subsection shall be reduced to some lesser period than five years, not being less than one year.

*Administration.***Social Insurance Advisory committee.**

31.(1) There shall be constituted a committee, to be called “the Social Insurance Advisory Committee,” to give advice and assistance to the Director in connection with the discharge of his functions under this Act and to perform any other duties allotted to them under this Act.

(2) The provisions of Schedule 4 shall have effect with respect to the constitution of the Committee and other matters relating to the Committee.

(3) The Director may from time to time refer to the Committee for consideration and advice such questions relating to the operation of this Act as he thinks fit (including questions as to the advisability of amending this Act).

(4) The Director shall furnish the Committee with such information as they may reasonably require for the proper discharge of their functions under this Act.

**Determination of claims and questions by Director.**

32.(1) All questions and claims arising under this Act shall be determined by the Director:

Provided that any question of law arising in connection with such determination may, if the Director thinks fit, at the instance of the Attorney-General, be referred for decision to the Supreme Court.

(2) References and appeals to the Supreme Court under this Act shall be governed by rules of court and such rules shall provide for limiting the time within which appeals may be brought.

- (3) The Director shall be entitled to appear and be heard on any such reference.

**Constitution of Appeal Board.**

33.(1) There shall be established a Social Insurance Appeals Board for the purpose of hearing and determining appeals under this Act.

- (2) The Board shall consist of the following members appointed by the Minister:–
- (a) a person entitled to practice in Gibraltar as a legal practitioner, who shall be chairman;
  - (b) a person deemed to be representative of the interests of insured persons; and
  - (c) a person deemed to be representative of the interests of employers of insured persons.

(3) The Minister may also appoint supplementary members of the Board having the respective qualifications prescribed in subsection (2) to surrogate the chairman or other member of the Board as occasion may require.

(4) The Board shall not be competent to decide any question or appeal unless all members are present and give their opinion thereon.

(5) Subject to any regulation in that behalf the Board may regulate its proceedings in such manner as it thinks fit.

(6) The Minister shall appoint a secretary to the Board.

**Appeals to the Board.**

34.(1) Any person aggrieved by the decision of the Director on any question or claim may appeal to the Board.

(2) Where any person desires to appeal to the Board he shall give notice of appeal, setting out his grounds of appeal, to the secretary to the Board within eight days of the date of the communication to him of the decision.

(3) The Board or Director may, if they think that the interests of justice so require, extend the time for appealing notwithstanding that the time for appealing has elapsed.

(4) The Director or his representative shall be entitled to appear and be heard on any appeal.

(5) On an appeal the Board may give such directions and make such decisions in the matter as it shall think proper, including directions as to the costs of the appeal.

(6) Subject to the provisions of section 35 a decision of the Board shall be final and not subject to appeal.

(7) The Board shall have power to take expert advice when necessary at its discretion, and to summon any person to appear before it to give evidence on oath or to produce documents and for these purposes the Board shall have all the powers of the magistrates' court. Every summons shall be signed by the chairman and may be served either personally or by registered post, and in the latter case, in proving service, it shall be sufficient to prove that the summons was properly addressed and posted.

#### **Appeal to Supreme Court.**

35.(1) Any person aggrieved by the decision of the Board on any question of law or on any question of mixed fact and law may appeal to the Supreme Court.

(2) On an appeal the Supreme Court may give such directions and make such decisions in the matter as it thinks proper, including directions as to the costs of the appeal.

(3) The Board shall be entitled to appear and be heard on any appeal, either by counsel or in person by any member of the Board.

#### **Review.**

36. Any decision of the Director, Supreme Court or Board may be reviewed at any time by the Director, Supreme Court or Board, as the case may be, if—

(a) it can be proved that the decision was given in ignorance of, or was based on a mistake as to some material fact; or

(b) there has been any relevant change of circumstances:

Provided that a decision shall not be reviewed while an appeal is pending against the decision of the Director, or the Board, or before the time for lodging such appeal has expired, and the proviso to section 32(1) shall apply, mutatis mutandis, to such review by the Director.

#### **Administration of benefit.**

37.(1) Provision may be made by regulations as to the time and manner of payment of benefit, and as to the information and evidence to be furnished by beneficiaries when applying for payment, and for payment of benefit through the Post Office.

- (2) Regulations made under this section as to the time of payment of benefit may provide—
- (a) notwithstanding anything in this Act, for adjusting the commencement and termination of benefit, or of changes in the rate of benefit, so that payments shall not be made in respect of periods less than a week or at different rates for different parts of a week;
  - (b) for extinguishing the right to any sum payable by way of benefit where payment thereof is not obtained within thirteen weeks or such shorter period as may be prescribed from the time at which that sum is receivable in accordance with regulations.
- (3) Regulations may also provide—
- (a) for enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who is a child or who may be or become unable for the time being to act, any right or power which the claimant or beneficiary may be entitled to exercise under this Act, and for authorizing a person so appointed to receive and deal with any sum payable by way of benefit on behalf of the claimant or beneficiary;
  - (b) in connection with the death of any person, for enabling a claim for benefit to be made or proceeded with in his name, for authorizing payment or distribution of benefit to or amongst persons claiming as his personal representatives, legatees, next of kin or creditors (or, in cases of illegitimacy of deceased persons, to or amongst others) and for dispensing with strict proof of the title of persons so claiming.
- (4) For the purposes of paragraph (b) of subsection (3), the expression “next of kin” shall be construed as referring to persons who would take beneficially on an intestacy under the provisions of Part IV of the Administration of Estates Act.

**Interim payments, arrears and repayments.**

- 38.(1) Regulations may make provisions as respects matters arising—
- (a) pending the determination under this Act (whether in the first instance or on an appeal or reference, and whether originally or on review) of any claim for benefit or of any question affecting any person’s right to benefit or to the receipt thereof or any person’s liability for contributions; or
  - (b) out of the revision on appeal or review of any decision under this Act, on any such claim or question.

(2) Without prejudice to the generality of subsection (1), regulations there under may include provisions–

- (a) for the suspension of benefit where it appears to the Director that there is or may be a question whether the conditions for receipt thereof in accordance with an award are or were fulfilled or whether the award ought to be revised;
- (b) as to the date from which any decision on a review is to have effect or to be deemed to have had effect;
- (c) for treating any benefit paid to any person under an award or by virtue of any provision of the regulations, which it is subsequently decided was not payable, as properly paid or as paid on account of any other benefit which it is decided was payable to him, or for the repayment of any such benefit and the recovery thereof by deduction from other benefit or otherwise;
- (d) for treating benefit paid to one person in respect of another as being a child of the family, or the wife or husband, or civil partner or an adult dependant, of the first-mentioned person as having been properly paid for any period, notwithstanding that under regulations relating to overlapping benefits it is not payable for that period by reason of a subsequent decision either–
  - (i) that the other person is himself entitled to benefit for that period; or
  - (ii) that a third person is entitled to benefit for that period in respect of the other person in priority to the first mentioned person; and for reducing or withholding accordingly any arrears payable for that period by virtue of the subsequent decision.

**Recovery of sums by deduction from benefit.**

39.(1) Where, in the case of any person, any sum may by virtue of section 38 be recovered by deduction from benefit under this Act, it may instead be recovered from him in whole or in part by deduction from any payment under the Social Security (Employment Injuries Insurance) Act, and any amount so recovered shall be paid to the Fund.

(2) Where, in the case of any person, any sum may by virtue of any provision of the Social Security (Employment Injuries Insurance) Act, be recovered by deduction from any payment under that Act, it may instead be recovered from him in whole or in part by deduction from benefit under this Act, and any amount so recovered shall be paid into the Employment Injuries Insurance Fund.

**Inspectors.**

40.(1) For the purposes of this Act, the Minister may appoint such inspectors as he may determine.

(2) An inspector appointed under this Act, shall, for the purposes of the execution of this Act, have power to do all or any of the following things, namely—

- (a) to enter at all reasonable times any premises or place liable to inspection under this section;
- (b) to make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Act are being or have been complied with in any such premises or place;
- (c) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Act on which he may reasonably require information, every person whom he finds in any such premises or place, or whom he has reasonable cause to believe to be or to have been an insured person, and to require every such person to be so examined;
- (d) to exercise such other powers as may be necessary for carrying this Act into effect.

(3) The occupier of any premises or place liable to inspection under this section, and any person who is or has been employing any person, and the servants and agents of such occupier or other person, and any insured person, shall furnish to an inspector all such information and produce for inspection all such documents as the inspector may reasonably require for the purpose of ascertaining whether contributions are or have been payable, or have been duly paid, by or in respect of any person, or whether benefit is or was payable to or in respect of any person.

(4) A person who—

- (a) wilfully delays or obstructs an inspector in the exercise of any power under this section; or
- (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required so to do under this section, is guilty of an offence and is liable on summary conviction to a fine equivalent to half of level 1 on the standard scale in the case of a first offence under this subsection and half of level 3 on the standard scale in the case of a second or subsequent such offence:

Provided that no one shall be required under this section to answer any questions or to give any evidence tending to incriminate himself.

(5) For the purposes of subsection (4) an offence shall be deemed not to be a first offence if the offender has previously been found guilty of an offence against the provisions of the Social Security (Employment Injuries Insurance) Act, which relate to inspectors, and for the purposes of the provisions of that Act an offence shall not be deemed to be a first offence if the offender has previously been found guilty of an offence against subsection (4) of this section.

(6) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises or place for the purposes of this Act shall, if so required, produce such certificate.

(7) The premises and places liable to inspection under this section are any premises or places where an inspector appointed under this Act has reasonable grounds for supposing that any persons are self-employed or employed, except that they do not include any private dwelling-house not used by or by permission of the occupier for the purposes of a trade or business.

**Information as to, and proof of, age, marriage, civil partnership and death.**

41.(1) Rules made under the Births and Deaths Registration Act, the Marriage Act and the Civil Partnership Act 2014 may provide for the furnishing by the Registrar subject to the payment of such fee as may be prescribed by the rules, of such information for the purposes of this Act including copies or extracts from the registers in their custody, as may be so prescribed.

(2) Where the age, marriage, civil partnership, death of a person or the identity of the child's father is required to be ascertained or proved for the purposes of this Act, any person shall

- (a) on presenting to the custodian of the register under the laws relating to the registration of births, marriages, civil partnerships and deaths, wherein particulars of the birth, marriage, civil partnership 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 the prescribed fee,

be entitled to obtain a copy, certified under the hand of the custodian, of the entry of those particulars.

(2A) Any certified copy obtained under subsection (2) shall be retained by the Director.



(3) Requisitions for the purposes of subsection (2) shall be in such form and contain such particulars as may from time to time be specified by the Registrar, and suitable forms thereof shall, on request, be supplied without charge by the Registrar.

(4) In this section the word “Registrar” means either the Registrar of Births and Deaths appointed under the Births and Deaths Registration Act, the Marriage Registrar, appointed under the Marriage Act or the Civil Partnership Registrar appointed under the Civil Partnership Act, as the case may be.

**Exemption from stamp duty.**

42. Stamp duty shall not be chargeable upon such documents used in connection with business under this Act as may be specified in Schedule 5.

*Legal Proceedings.*

**General provisions as to offences and penalties.**

43. (1) A person who—

- (a) *Omitted.*
- (b) *Omitted.*
- (c) for the purpose of obtaining any benefit or other payment under this Act, whether for himself or some other person, or for any other purpose connected with this Act—
  - (i) knowingly makes any false statement or false representation; or
  - (ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

is guilty of an offence and is liable on summary conviction to imprisonment for three months and to a fine of three quarters of level 3 on the standard scale.

(2) Regulations may provide for the recovery on summary conviction of monetary penalties in respect of any offence under this Act, being a contravention of or failure to comply with regulations, so however, that such penalties shall not exceed one half of level 1 on the standard scale for each offence or, where the offence consists of continuing any such contravention or failure after conviction thereof, one tenth of level 1 on the standard scale together with a further one tenth of level 1 on the standard scale for each day on which it is so continued.

(3) Where an offence against this Act 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 negligence on the part of, any director, manager, secretary or other officer of the body corporate, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) *Omitted.*

(5) Nothing in this section shall be construed as preventing the Director or such other person authorised by him in writing from recovering by means of civil proceedings any sums due to the Fund.

#### **General provisions as to prosecutions under Act.**

44.(1) Proceedings for an offence under this Act shall not be instituted except by or with the consent of the Attorney-General or by an inspector or other officer authorized in that behalf by special or general directions of the Attorney-General.

(2) Any such inspector or other officer may, although not a barrister or a solicitor, prosecute or conduct before the magistrates' court any such proceedings as aforesaid.

(3) Notwithstanding any provision in any Act prescribing the period within which summary proceedings may be commenced, proceedings for an offence against this Act may be commenced at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Attorney-General to justify a prosecution for the offence, comes to his knowledge, or within the period of twelve months after the commission of the offence, whichever period last expires.

(4) For the purposes of subsection (3) a certificate, purporting to be signed by or on behalf of the Attorney-General as to the date on which such evidence came to his knowledge shall be conclusive evidence thereof.

(5) In any proceedings for an offence against this Act, the wife, husband or civil partner of the accused shall be competent to give evidence, whether for or against the accused:

Provided that the wife, husband or civil partner shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or him during the marriage or civil partnership by the accused.

#### **Civil proceedings to recover sums due to fund.**

45.(1) All sums due to the Fund shall be recoverable as debts due to the Crown, and without prejudice to any other remedy may be recovered by the Director summarily as a civil debt.

(2) Proceedings for the summary recovery as civil debts of sums due to the Fund may, notwithstanding section 65 of the Magistrates' Court Act or anything in any law to the contrary, be brought at any time.

(3) Proceedings for the summary recovery as civil debts of sums due to the Fund may be instituted by an inspector or other officer authorized in that behalf by special or general directions of the Director, and any such inspector or officer may, although not a barrister or a solicitor, conduct such proceedings.

(4) Proceedings for the recovery as civil debts of sums due to the Fund, other than by summary proceedings, may be instituted by the Director or any person authorised by him in writing.

(5) If the employer, being a body corporate, fails to pay to the Fund any sum which the employer has been ordered to pay, that sum, or such part thereof as remains unpaid, shall be a debt due to the Fund jointly and severally from any directors of the body corporate.

**PART IV.—MISCELLANEOUS AND GENERAL.**

*Application to special classes of persons.*

**Crown servants.**

46. This Act shall apply to persons employed by or under the Crown, subject to any special provision made by or by virtue of any other section thereof, in like manner as if the employer were a private person, which such modifications as may be made therein by regulations for the purpose of adapting the provisions of this Act to the case of such persons.

**Members of the Gibraltar Regiment.**

47.(1) Subject to any prescribed exceptions, any person who, being over school leaving age and under pensionable age, is serving as a member of the Royal Gibraltar Regiment shall, notwithstanding that he does not fulfil the conditions of section 3, be an insured person, and any such person while he is serving as aforesaid shall, in respect of his membership of that Regiment, be an employed person.

(2) Without prejudice to the generality of any other power to make regulations, the Minister may make regulations modifying in such manner, subject to the foregoing provisions of this section, as he thinks proper the provisions of this Act, in their application in relation to persons who are or have been members of the Royal Gibraltar Regiment.

**Married women.**

48. Without prejudice to the generality of any other power to make regulations, the Minister may make regulations modifying in such manner as he thinks proper the provisions of this Act in their application in relation to married women, and in relation to women who have been married and during their marriage were affected by any such regulations.

**Reciprocal agreements with United Kingdom, dominions, and foreign countries.**

49.(1) For the purpose of giving effect to any agreement with the government of the United Kingdom, or of any part of Her Majesty's dominions, or the government of any foreign country, or an international organisation, providing for reciprocity in matters relating to payments in respect of interruption of employment by sickness or otherwise, or payments in respect of the confinement of women, widowhood, surviving civil partners, orphanhood, retirement, old age or death, and any related matters to which the Social Security Coordination Regulations apply, it shall be lawful for the Minister by order to make provision for modifying or adapting this Act in its application to cases affected by the agreement.

(2) The modifications of this Act, which may be made by virtue of subsection (1) shall include provision—

- (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 shall have a corresponding effect for the purposes of this Act (but not so as to confer a right to double benefit);
- (b) for determining, in cases where rights accrue both under this Act and under the law of the said country, which of those rights shall be available to the person concerned;
- (c) for making any provisions as to administration and enforcement contained in this Act or in any regulations applicable also for the purposes of the law of the said country;
- (d) for making any necessary financial adjustments by payments into or out of the Fund.

(3) In this section—

“international organisation” means an organisation of which—

- (a) two or more sovereign powers are members; or
- (b) the governments of two or more sovereign powers are members;

“Social Security Coordination Regulations” means—

- (a) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as it forms part of domestic law by virtue of section 6 of the European Union (Withdrawal) Act 2019;
- (b) Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) 883/2004, as it forms part of domestic law by virtue of section 6 of the European Union (Withdrawal) Act 2019;
- (c) Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as it forms part of domestic law by virtue of section 6 of the European Union (Withdrawal) Act 2019;
- (d) Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as it forms part of domestic law by virtue of section 6 of the European Union (Withdrawal) Act 2019; and
- (e) Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality, as it forms part of domestic law by virtue of section 6 of the European Union (Withdrawal) Act 2019.

50. *Revoked.*

### **Transitional provisions as to death grants.**

51.(1) Death grant shall not be payable in respect of the death of any person who immediately before the 3rd day of October, 1955, was over pensionable age.

(2) *Repealed.*

### **Review of contributions, benefits, etc.**

52.(1) The Minister shall, at such time as shall seem to him appropriate, review the sums specified in Schedule 1 and Part VI of Schedule 2.

(2) The Minister may, by order amend the sums payable under Schedule 1 and Part VI of Schedule 2.

- (3) An order made in pursuance of subsection (2) shall be laid before the Parliament.
- (4) If any such order is annulled by the Parliament in pursuance of the provisions of section 28 of the Interpretation and General Clauses Act, then—
- (a) any moneys paid in pursuance of such order which, but for that order, would not have been payable shall be repaid or made good; and
  - (b) subsection (2) of that section shall have effect only in so far as it relates to the duty of a person or authority to revoke the rule.

**Power to wind up funds etc.**

53. The Government may, by regulation, make such provisions as may appear to him necessary or expedient for the purpose for the winding up and dissolution in an equitable and non-discriminatory manner of any fund provided for in this Act and without prejudice to the generality of the foregoing and notwithstanding any other provision of this Act, such regulations may—

- (a) make provision for the transfer of the assets of any fund so wound up to one or more special funds;
- (b) provide for the making of contributions by employers and self employed persons to any special fund referred to in paragraph (a) or to any special fund set up for the purpose of making interim or transitional arrangements in advance of the coming into operation of occupational pension arrangements in respect of employment in Gibraltar;
- (c) allow for the payment of amounts out of any special fund referred to amounts out of any special fund referred to in paragraph (a) or set up for the purpose of making transitional arrangements in advance of the coming into operation of occupational pension arrangements in respect of employment in Gibraltar;
- (d) permit the making of advances from any fund due to be so wound up to any fund referred to in paragraph (a);
- (e) amend, vary, modify or repeal any provision of this or any other Act for the purpose of giving effect to the winding up and dissolution of any fund;
- (f) make such transitional or other incidental or supplementary provisions as may appear to the Government necessary or expedient for the purpose of this section.

SCHEDULE 1

**Combined Social Insurance and Other Contribution Rates.**

**Rate of Contribution for an Employed Person.**

**Employee - 10% of Gross Earnings.**

Subject to a maximum contribution of £1,924.00 per annum.

Contributions are payable weekly subject to a minimum of £13.00 per week and a maximum of £37.00 per week.

**Employer - 18% of Gross Earnings.**

Subject to a maximum contribution of £2,652.00 per annum.

Contributions are payable weekly subject to a minimum of £29.00 per week up to a maximum of £51.00 per week.

Where the person employed is 60 years or over or one who has retired at age 55 by operation of law, only the employer's share of the contribution is payable.

**Rate of Contribution for a Self-Employed Person - 20% of Gross Earnings.**

Subject to a maximum contribution of £2,652.00 per annum.

Contributions are payable weekly subject to a minimum of £29.00 per week up to a maximum of £51.00 per week.

**Voluntary Contribution.**

Such rate per week as corresponds to the maximum weekly amount payable by an employee.

This version is out of date

**SCHEDULE 2.**

PART I.

*Omitted.*

PART II.

AMOUNT OF GRANTS.

Description of Grant	Amount
1. Maternity grant, per child –	6.00
2. Death grant, where the person in respect of whose death the grant is paid was at his death –	
(a) under the age of five	7.50
(b) between the ages of five and eighteen	10.00
(c) over the age of eighteen	15.00

PART III.

*Omitted.*

PART IV.

AMOUNT OF GRANTS.

Description of Grant	Amount
1. Maternity grant, per child –	10.00
2. Death grant, where the person in respect of whose death the grant is paid was at his death –	
(a) under the age of five	10.00
(b) between the ages of five and eighteen	15.00
(c) over the age of eighteen	20.00



This version is out of date

PART V.  
*Omitted.*

PART VI.

AMOUNT OF GRANTS<sup>1</sup>

DESCRIPTION OF GRANT	AMOUNT (£)
1. Maternity Grant per child	700
2. Death Grant	600

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<sup>1</sup> The rates of benefits provided for in the table, shall apply only in respect of births and deaths that occur on or after 1<sup>st</sup> August 2015.

**SCHEDULE 3.**

Section 10(2)(b).

**PART I.**

**CONTRIBUTION CONDITIONS.**

**MATERNITY GRANT.**

- 1.(1) The contribution conditions for maternity grant are that—
  - (a) not less than fifty-two contributions have been paid by the relevant person in respect of the period beginning with that person’s entry into insurance and ending immediately before the relevant time; and
  - (b) not less than forty such contributions have been paid by or credited to that person in respect of the last complete contribution year before the relevant time.
- (2) In this paragraph—
  - (a) the expression “relevant person” means the person by whom the conditions are to be satisfied; and
  - (b) the expression “relevant time” means the date of the confinement, or, where the relevant person is the husband, civil partner or the child’s father, and that person was dead or over pensionable age on that date, the date of that person attaining pensionable age or dying under that age.

**WIDOW’S BENEFIT OR WIDOWER’S PENSION.**

- 2. *Omitted.*

**GUARDIAN’S ALLOWANCE.**

- 3. *Omitted.*

**OLD AGE PENSION.**

- 4. *Omitted.*

**DEATH GRANT.**

- 5. (1) The contribution conditions for death grant are that—

- (a) not less than twenty-six contributions have been paid by or credited to the relevant person in respect of the period between the 3rd day of October, 1955, and the relevant time; and
- (b) either—
  - (i) not less than forty-five such contributions have been paid by or credited to that person in respect of the last complete contribution year before the relevant time; or
  - (ii) the yearly average of the contributions paid by or credited to that person (ascertained at the relevant time) is not less than forty-five.
- (2) In this paragraph—
  - (a) the expression “relevant person” means the person by whom the conditions are to be satisfied;
  - (b) the expression “relevant time” means the date of the deceased’s death or, where immediately before that date the relevant person was dead or over pensionable age, the date of that person attaining pensionable age or dying under that age.

**PART II.**

**ADDITIONAL CONTRIBUTION CONDITIONS.**

Benefits at the rate specified in Part IV of Schedule 2 shall be payable if the contributions which satisfy the contribution conditions specified in Part I of this Schedule includes contributions paid after the 1<sup>st</sup> day of January 1968 as follows-

- (a) Maternity grant                      not less than 52.
- (b) Death grant                              not less than 45.

## SCHEDULE 4.

Section 31(2).

CONSTITUTION, ETC., OF SOCIAL INSURANCE ADVISORY  
COMMITTEE.

1. The Social Insurance Advisory Committee (in this Schedule referred to as “the Committee”) shall consist of a chairman appointed by the Government and six other members so appointed. At least one member of the Committee shall be a woman.
2. The chairman and other members shall hold office for a period which, in the cases of each of the members first appointed and of any member appointed to fill a casual vacancy shall be of such duration not exceeding five years as may be determined by the Government, and in the case of all other members shall be a period of five years:  
  
Provided that any member may by notice in writing to the Government resign office at any time and shall be eligible for re- appointment from time to time on or after the expiration of his term of office.
3. Of the members, other than the chairman, there shall be appointed—
  - (a) two after consultation with organizations representative of employers;
  - (b) two after consultation with organizations representative of workers;
  - (c) one representative of the Director; and
  - (d) one independent member.
4. Notwithstanding anything contained in paragraph 2, the Government may, in his discretion, terminate the appointment of any member of the Committee at any time.
5. The Government shall appoint a secretary to the Committee, and may appoint other officers and servants to the Committee.
6. There may be paid as part of the expenses of the Committee to persons attending its meetings at the request of the Committee such allowances (including compensation for loss of remunerative time) as may be prescribed.
7. The Committee may act notwithstanding any vacancy among the members of the Committee.

8. The Committee may make rules for regulating the procedure (including the quorum) of the Committee.

**SCHEDULE 5**

Section 42.

**DOCUMENTS EXEMPTED FROM STAMP DUTY**

1. Claim or application made by any person under or for the purposes of this Act.
2. Power of attorney which grants a mandate solely to claim benefit or to receive and give acquittance for payment in respect of benefit.

## SOCIAL SECURITY (INSURANCE) ACT (AMENDMENT) ACT 1999

**Principal Act**

Act. No. 1999-27	<i>Commencement</i>	5.7.1999
	<i>Assent</i>	21.10.1999

**Title and commencement.**

1. This Act may be cited as the Social Security (Insurance) Act (Amendment) Act 1999 and shall be deemed to have come into effect on the 5th July 1999.

2. *Amendments and insertions to the Social Security (Insurance) Act*

3. *Other amendments to the Social Security (Insurance) Act.*

**Continuity of law.**

4.(1) Section 11A(1)(d) of the Social Security (Insurance) Act shall not apply to persons who have exercised a right to maternity leave on or after the 5th July 1999, but prior to the coming into force of this Act.

(2) Without prejudice to the foregoing provisions of this section, a person who has exercised her right to maternity leave on or after the 5th July 1999, but prior to the coming into force of this Act, shall be entitled to maternity allowance as if section 10B(1) of the Social Security (Insurance) Act had not been enacted.

(3) In this section, “maternity leave” means maternity leave in accordance with the Employment (Maternity and Health and Safety) Regulations 1996.

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<sup>i</sup> (1) *This section applies to the birth of a stillborn child which—*

- (a) *occurred between the dates of 1<sup>st</sup> January 1996 and the date of the commencement of this Act;*
- (b) *took place after twenty-four weeks of pregnancy but before twenty-eight weeks of pregnancy; and*
- (c) *other than due to the fact that the stillbirth took place before twenty-eight weeks of pregnancy, should have been registered under the Births and Deaths Registration Act.*

(2) *This Act shall not be construed as imposing a duty on any person to apply to register the birth of a stillborn child to which this section applies.*

(3) *The birth of a stillborn child to which this section applies shall, subject to the provisions of this section, be registered by the Registrar in a supplementary register of stillbirths on the application the person who would, if the child had been born alive, have been required by the Births and Death Registration Act to give information concerning the birth.*

(4) *An application under subsection (3) shall be accompanied by such particulars and information as the Registrar shall require for the purposes of the registration of the stillbirth and the person giving such particulars and information shall either—*

- (a) *deliver to the Registrar a written certificate that the child was not born alive, signed by a registered medical practitioner or certified midwife who was in attendance at the birth or who examined the body of such child; or*
- (b) *provide such other evidence to the satisfaction of the Registrar and in such form as the Registrar may require that the certificate referred to in (a) cannot be obtained and that the child was not born alive.*

(5) *A stillbirth to which this section applies may only be registered if—*

- (a) *the application for registration is received by the Registrar before the expiration of twelve months next after the coming into force of this Act; or*
- (b) *with the written authority of the Minister responsible for personal status, and the fact of such authority having been given shall be entered in the register.*

(6) *Subject to the provisions of this section, and in particular the non-mandatory nature of the registration of stillbirths to which this section applies, the provisions of the Births and Deaths Registration Act and subsidiary legislation made under that Act shall apply to the registration and entry of a stillbirth to which this section applies as they apply to the registration or entry of a stillbirth under that Act.*


(7) *The Registrar shall keep the supplementary register of stillbirths and shall cause an index thereof to be prepared and maintained.*

(8) *For the purposes of—*

- (a) *searches of the register and index,*
- (b) *the making and use of certified copies of the register and index,*
- (c) *the provision of certificates to persons providing information concerning a stillbirth, and*
- (d) *section 6 of the Births and Deaths Registration Act,*

ii *If between 30 June 2014 and the date of publication of this Act—*

- (a) *a woman received a maternity grant at a reduced rate due to not satisfying the relevant contribution conditions; and*
- (b) *the child's father satisfied the relevant contribution conditions,*

*that woman shall be entitled to claim an additional benefit (the "additional benefit") on the basis of the contributions of the*  *Government of Gibraltar ([www.gibraltarlaws.gov.gi](http://www.gibraltarlaws.gov.gi))*

*(3) The additional benefit must not amount to more than the difference between the reduced maternity grant received and the sum specified in paragraph 1 of Part VI of Schedule 2 of the principal Act.*

*(4) Notwithstanding the prescribed time set out in paragraph 1(b) of Schedule 2 of the Social Insurance (Claims and Payments) Regulations, if between 30 June 2014 and the date of publication of this Act—*

- (a) a woman has received a maternity grant at a reduced rate due to not satisfying the relevant contribution conditions and she wishes to claim the additional benefit; or*
- (b) a woman was confined and wishes to claim for a maternity grant on the basis of the contributions of the child's father,*

*the prescribed time for claiming the benefit shall be the period of 18 months beginning with the date of confinement.*