

# Social Security (Non-Contributory Benefits and Unemployment Insurance) Act

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## Principal Act

<b>Act. No. 1955-15</b>	<i>Commencement</i>	3.10.1955
	<i>Assent</i>	14.7.1955

Amending enactment	Relevant current provisions	Commencement date
Act. 1966-09	ss. 1, 3-4, 6(1), 7(1), 8(1), Sch. 1	
1968-09	–	
1973-03	s. 17	
1974-17	ss. 3, 5, 8(1), 11(1), 15(1), Sch. 1	
1974-32	ss. 2(1), 3(2), 4, 8(1)-(2)	
1975-29	s. 2	
1976-33	s. 11	
1977-22	ss. 8(1), 12(1), 18	
LN. 1977/139	s. 11(1)	
1978/106	–	
1979/097	–	
1980/112	–	
1981/108	–	
1982/088	–	
Act. 1983-20	s. 9(1A)	
LN. 1983/100	Schs. 2-3	
1984/096	Sch. 2	25.12.1984
“	Sch. 3	26.12.1984
Act. 1984-22	ss. 4(1), 6-7, 11(1), (3), 12, 17, 18(1), Sch. 2.	
		26.12.1984
LN. 1986/130	Sch. 3	24.12.1986
Act. 1987-02	s. 9(1A)	19.2.1987
LN. 1987/166	Sch. 3	29.12.1987
1988/123	Sch. 3	27.12.1988
Act. 1990-09	s. 19	1.3.1990
1993-14	ss. 11, 15-16	1.9.1993 <sup>1</sup>
LN. 1994/037	s. 19(1)-(2), (4)	14.4.1994
Act. 2001-04	ss. 2, 10(3), 16	19.4.2001
LN. 2004/126	Sch. 3	12.7.2004
Act. 2007-17	s. 18(1)-(2)	14.6.2007
LN. 2007/150	Sch. 3	1.7.2007
2011/135	Sch. 3	1.7.2011

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<sup>1</sup> Notice of Commencement – LN.1993/137

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Act. 2014-10 ss. 2(2)(a), 3(1), 11, 13, Sch. 3

28.3.2014

## **English Sources:**

National Insurance Act 1946 (9 & 10 Geo.6 c.67)

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## ARRANGEMENT OF SECTIONS

### Section

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2. Interpretation.
3. Application of Act.
4. Source of funds.
5. *Revoked.*
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11. Increase of benefit for adult dependants.
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13. Application of Social Security (Insurance) Act.
14. Recovery of sums by deduction from benefit.
15. General provisions as to offences and penalties.
16. Regulations.
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18. Review of benefits, etc.
19. Provisions relating to persons who are not community nationals.

### **SCHEDULE 1**

*Revoked.*

### **SCHEDULE 2**

*Revoked.*

### **SCHEDULE 3**

Unemployment benefit.

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AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A NON-CONTRIBUTORY SYSTEM OF SOCIAL INSURANCE BENEFITS AND TO PROVIDE UNEMPLOYMENT BENEFIT FOR INSURED PERSONS.

## Short title.

1. This Act may be cited as the Social Security (Non-Contributory Benefits and Unemployment Insurance) Act.

## Interpretation.

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

“benefit” means benefit payable under this Act;

“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;

“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;

“insured person” mean; a person insured under the provisions of the Social Security (Insurance) 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 regulation; made by the Minister under this Act.

(2) For the purposes of this Act each of the following shall be treated as constituting a family, that is to say—

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- (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 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.

- (3) 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, shall be treated as if the child were legitimate issue of the adopter, or, if the child was adopted by two spouses jointly, or by one of two spouses after their marriage, as if the child were legitimate issue of their marriage, and shall not be treated as being issue of any other person;
  - (d) an illegitimate child shall not be treated as being issue of the child's father;
  - (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.

(4) 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.

- (5) For the purposes of this Act—

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- (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.
- (6) 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.

### **Application of Act.**

3.(1) The whole of this Act shall apply to all persons who are insured persons or the wives, widows, civil partners or surviving civil partners of such persons and are either-

- (a) British subjects; or
- (b) ordinarily resident in Gibraltar.

(2) Any provisions of this Act relating to unemployment benefit shall apply to all persons who are insured persons, other than insured persons who are self-employed.

### **Source of funds.**

4.(1) *Revoked.*

(2) All such sums of money as may be granted by way of unemployment benefit shall be paid out of the Social Insurance Fund established under the Social Security (Insurance) Act.

5. *Revoked.*

6. *Revoked.*

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7. *Revoked.*

## **Unemployment benefit.**

8.(1) Subject to the provisions of this Act an insured person other than a self-employed insured person, shall be entitled to unemployment benefit at the weekly rate set out in Part I or Part I(A) of Schedule 3 as hereinafter provided in respect of any day of unemployment if-

- (a) he is under pensionable age on the day for which the benefit is claimed;
- (b) he satisfies the prescribed conditions as to contributions; and
- (c) he has not exhausted his right to unemployment benefit under this Act.

Such benefit shall be-

- (i) at the rates specified in Part I(A) in the case of a person who has for at least 104 weeks in the aggregate since the 2nd day of July, 1970, been:
    - (a) ordinarily resident in Gibraltar; or
    - (b) insured (which expression shall include a retrospective payment of contributions made under the Social Security (Insurance) Act) in an employed or self-employed person's capacity;
  - (ii) at the rates specified in Part I in all other cases.
- (2) For the purposes of any provision of this Act relating to unemployment benefit-
- (a) a day shall not be treated in relation to any person as a day of unemployment unless on that day he is capable of work and is, or is deemed in accordance with regulations, to be available for employment;
  - (b) any two days of unemployment, whether consecutive or not, within a period of six consecutive days shall be treated as a period of unemployment and any two such periods not separated by a period of more than thirteen weeks shall be treated as one period of unemployment;
  - (c) Sunday, or such other day in each week as may be prescribed, shall not be treated as a day of unemployment and shall be disregarded in computing any period of consecutive days;

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- (d) a person shall not be deemed to be unemployed on any day on which he is following any gainful occupation, unless he can prove that—
    - (i) the occupation could ordinarily have been followed by him in addition to his usual employment and outside the ordinary working hours of such employment; and
    - (ii) the earnings in respect of that day do not exceed 17 pence;
  - (e) a person whose employment has terminated shall not be deemed to be unemployed on any day on or in respect of which he receives any earnings, or any compensation for the loss of, and which is substantially equivalent to, the earnings he would have received if the employment had not been terminated.
- (3) Regulations may make provision (subject to subsection (2)) as to the days which are or are not to be treated for the purposes of unemployment benefit as days of unemployment.
- (4) The amount payable by way of benefit for any day of unemployment shall be one-sixth of the appropriate weekly rate.

### **Exhaustion and re-qualification for benefit.**

9.(1) A person who, in respect of any period of unemployment, has been entitled to unemployment benefit for seventy-eight days shall not thereafter be entitled to that benefit for any day of unemployment (whether in the same or a subsequent period) unless before that day he has re-qualified for benefit.

(1A) A person shall not, in respect of any one period of unemployment, be entitled to unemployment benefit for any day of unemployment after the expiry of the period of twenty-six weeks following the expiry of the last week of employment in respect of which a contribution has been paid or credited in respect of that person as an employed person.

(2) Where a person has exhausted his right to unemployment benefit, he shall re-qualify therefor by being employed in employment which is insurable under the Social Security (Insurance) Act, for a period of, or periods totaling, thirteen weeks.

### **Disqualifications and special conditions.**

10.(1) A person who has lost his employment by reason of a stoppage of work which was due to a trade dispute at his place of employment shall be disqualified for receiving unemployment benefit so long as the stoppage of work continues, except in a case where, during the stoppage of work, he has become bona fide employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation:

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Provided that this subsection shall not apply in the case of a person who proves–

- (a) that he is not participating in or financing or directly interested in the trade dispute which caused the stoppage of work; and
- (b) that he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at his place of employment any of whom are participating in or financing or directly interested in the dispute.

(2) A person shall be disqualified for receiving unemployment benefit for such period not exceeding six weeks as may be determined in such manner as may be prescribed by regulations made under the provisions of this Act relating to the determination of claims to benefit, if–

- (a) he has lost his employment in an employed contributor's employment through his misconduct, or has voluntarily left such employment without just cause;
- (b) after a situation in any suitable employment has been notified to him by an employment exchange, or by or on behalf of an employer, as vacant or about to become vacant, he has without good cause refused or failed to apply for that situation or refused to accept that situation when offered to him;
- (c) he has neglected to avail himself of a reasonable opportunity of suitable employment; or
- (d) he has without good cause refused or failed to carry out any written recommendations given to him by an officer of an employment exchange with a view to assisting him to find suitable employment, being recommendations which were reasonable having regard to his circumstances and to the means of obtaining that employment usually adopted in Gibraltar.

(2A) Where a person–

- (a) has not reached pensionable age;
- (b) has retired from regular employment at his own request before reaching an age at which he is required compulsorily to retire from that employment; and
- (c) is in receipt of a pension in respect of his retirement from such regular employment–

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Then notwithstanding any other provision in this Act, so long as he receives a pension specified in paragraph (c) he shall be disqualified for receiving unemployment benefit until he attains the compulsory retiring age in such regular employment

(3) Regulations may provide for imposing in the case of any class of persons additional conditions with respect to the receipt of unemployment benefit and restrictions on the rate and duration thereof, if, having regard to special circumstances, it appears to the Minister necessary so to do for the purpose of preventing inequalities, or in justice to the general body of employed persons.

(4) For the purposes of this section, employment shall not be deemed to be employment suitable in the case of any person if it is either—

- (a) employment in a situation vacant in consequence of a stoppage of work due to a trade dispute; or
- (b) employment in his usual occupation at a rate of remuneration lower, or on conditions less favourable, than those which he might reasonably have expected to obtain having regard to those which he habitually obtained in his usual occupation, or would have obtained had he continued to be so employed;

but, after the lapse of such an interval from the date on which he becomes unemployed as in the circumstances of the case is reasonable, employment shall not be deemed to be unsuitable by reason only that it is employment of a kind other than employment in his usual occupation, if it is employment at a rate of remuneration not lower, and on conditions not less favourable, than those generally observed by agreement between associations of employers and of employees, or, failing any such agreement, than those generally recognized by good employers.

(5) In this section—

- (a) the expression “place of employment,” in relation to any person, means the factory, workshop or other premises or place at which he was employed, so, however, that, where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments shall for the purposes of this paragraph be deemed to be a separate factory or workshop or separate premises or a separate place, as the case may be ;
- (b) the expression “trade dispute” means any dispute between employers and employees or between employees and employers which is connected with the employment or non- employment or the terms of employment or the conditions of

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employment of any persons, whether employees in the employment of the employer with whom the dispute arises or not.

## **Increase of benefit for adult dependants.**

11.(1) Subject to the following provisions of this section for any period during which the beneficiary is residing with or is wholly or mainly maintaining his wife or civil partner who is not engaged in any gainful occupation from which her aggregate weekly earnings exceed £12.20, or such other amount as the Minister may, by notice in the Gazette specify, the weekly rate of unemployment benefit shall be increased by the amount specified in the third column of Part I of Schedule 3 in the case of a person entitled to such benefit at the rates specified in the said Part I and by the amount specified in the third column of Part I(A) of that Schedule in the case of a person entitled to such benefit at the rates specified in the said Part I(A).

(2) The weekly rate of unemployment benefit shall, except in the case of a beneficiary entitled to an increase thereof in respect of his wife or civil partner under subsection (1), be increased by the amount set out as aforesaid for any period during which—

- (a) the beneficiary is wholly or mainly maintaining her husband or civil partner who is incapable of self-support;
- (b) the beneficiary has residing with him and is wholly or mainly maintaining such other relatives as may be prescribed, being a relative in relation to whom such further conditions as may be prescribed are fulfilled;
- (c) some female person (not being a child) has the care of a child or children of the beneficiary's family, or of a child or children treated as such for the purposes of section II, being a person in relation to whom such further conditions as may be prescribed are fulfilled:

Provided that a beneficiary shall not be entitled for the same period to an increase of benefit under this subsection in respect of more than one person.

(3) In this section, the expression “relative” does not include any person who is a child, but includes a person who is a relative by marriage, civil partnership or adoption and a person who would be a relative if some person born illegitimate had been born legitimate.

## **Increase of benefit for children.**

12.(1) The weekly rate of unemployment benefit payable under this Act shall, for any period for which the beneficiary has a family which includes a child or children be increased in respect of such child or children by the amount set out in the fourth column of the Third Schedule.

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(2) Where the beneficiary is a man, a child of the family of any woman for the time being residing with him shall be treated for the purposes of this section as a child of his family if the child-

- (a) is an illegitimate son or daughter of such man and woman; or
- (b) was born not later than six months before the date for which benefit is claimed and is wholly or mainly maintained by the beneficiary throughout the six months immediately before that day.

## **Application of Social Security (insurance) Act.**

13. Subject to such modifications as may be prescribed the following provisions of the Social Security (Insurance) Act, shall be deemed to be incorporated in this Act, that is to say—

Section 22.	Claims and notices.
Section 23.	Disqualification or suspension for absence abroad or imprisonment.
Section 24.	Overlapping benefits, etc.
Section 25.	Disqualifications, etc., to be disregarded for certain purposes.
Section 26.	Benefit to be inalienable.
Section 28.	Provisions as to maintenance and incapacity for self-support.
Section 32.	Determination of claims and questions by Director.
Section 33.	Constitution of Appeals Board.
Section 34.	Appeals to the Board.
Section 35.	Appeals to Supreme Court.
Section 36.	Review.
Section 37.	Administration of benefit.
Section 38.	Interim payments, arrears and repayments.
Section 40.	Inspectors.
Section 41.	Information as to, and proof of, age, marriage, civil partnership and death.
Section 44.	General provisions as to prosecutions under Act.

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

14.(1) Where any sum is recoverable by deduction from benefit under this Act, it may instead be recovered, in whole or in part, by deduction from any payment under the Social Security (Employment Injuries Insurance) Act or under the Social Security (Insurance) Act, and any amount so recovered shall be paid into the Consolidated 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 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 deducted shall be paid into the Employment Injuries Insurance Fund.

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(3) Where in the case of any person, any sum may, by virtue of any provision of the Social Security (Insurance) Act, be recovered by deduction 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 deducted shall be paid into the Social Insurance Fund.

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

15.(1) A person who, for the purposes 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—

- (a) knowingly makes any false statement or false representation; or
- (b) 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 at level 3 on the standard scale.

(2) Nothing in this section shall be construed as preventing the Director from recovering by means of civil proceedings any sums due.

## **Regulations.**

16. The Minister may make regulations for carrying this Act into effect, and without prejudice to the generality of the foregoing and where, in the opinion of the Government it is in the interest of the employment situation in Gibraltar, such regulations may, for the purpose of applying the provisions of sections 8 and 19 to any category of persons or to all persons, vary the provisions of those sections as they relate to the eligibility for the payment of unemployment benefit or to the method and timing of such payment.

17. *Revoked.*

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

18.(1) The Minister shall, at such time as shall seem to him appropriate, in respect of each year review, taking into account the general level of prices and earnings in Gibraltar, the sums specified in the following section and Schedules to this Act:—

section 11;  
Schedule 3,

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and shall advise the Government thereon.

(2) The Government may, by order, amend the sum specified in section 11 and the sums payable under the Schedules specified in subsection (1) and in so doing shall consider the advice of the Minister and shall take into account as he considers appropriate the nature, rate or amount of the sum or benefit in question.

(3) No order shall be made under this section unless it has been approved by resolution of the Parliament.

### **Provisions relating to persons who are not community nationals.**

19.(1) This section shall only apply to insured persons who non-entitled workers as defined by the Employment Regulations 1994.

(2) Notwithstanding any other provisions in this Act where-

- (a) an insured person to whom this section applies becomes entitled to unemployment benefits; and
- (b) *Revoked.*
- (c) the Director is satisfied-
  - (i) *Revoked.*
  - (ii) that the person has no reasonable prospects of obtaining employment in Gibraltar for the remainder of the period of unemployment in which the person makes the application; and
  - (iii) that it is in the interest of the employment situation in Gibraltar,

the Director may, subject to such conditions (if any) as he may impose, pay to the person, in lieu of all unemployment benefits that would be payable under this Act to that person during that period of unemployment if he had remained unemployed and entitled to the benefit throughout the remainder of that period, a lump sum payment equal to that unemployment benefit.

(3) Without limitation of the conditions that the Director may impose under subsection (2), and without prejudice to the provisions of the Immigration Control Act, it shall in every case be a condition of payment under subsection (2)-

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- (a) that if the person subsequently on any day or days during that period of unemployment obtains employment in Gibraltar he shall refund to the Director so much of the lump sum payment as represents the amount of unemployment benefit that would have been payable to that person if he had been unemployed on that day or days; and
  - (b) that if the person being in Gibraltar during that period of unemployment becomes disqualified under subsection (2) of section 10 by reason of any matter specified in any of paragraphs (b), (c) and (d) of that subsection, he shall refund to the Director so much of the lump sum payment as represents the amount of unemployment benefits that would have been payable during the period of disqualification if he were not disqualified.
- (4) Notwithstanding anything to the contrary in the Employment Act, the Director may refuse to grant a permit under that Act for the employment of any person to whom this section applies.
- (5) The payment of a lump sum payment under subsection (2) shall extinguish any right of the person to unemployment benefit in respect of the period for which the lump sum payment is made.

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## **SCHEDULE 1.**

*Revoked.*

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## **SCHEDULE 2.**

*Revoked.*

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## SCHEDULE 3.

### UNEMPLOYMENT BENEFIT

#### PART I

Section 8

(1)	(2)	Weekly Rates Payable	
		(3)	(4)
<b>Beneficiaries</b>	<b>Weekly basic rate</b>	<b>Increase for wife or civil partner or dependant (where applicable)</b>	<b>Increase for children per child (where applicable)</b>
(a) Persons over 18.	£21.18	£10.58	£5.01
(b) Young persons (i.e. over 15 but under 18)			
(i) during any period during which the person is entitled to an increase of benefit in respect of a child or adult dependant.	£21.18	£10.58	£5.01
(ii) during any other period.	£10.58		

#### PART I (A)

(1)	Weekly Rates Payable		
	(2)	(3)	(4)
<b>Beneficiaries</b>	<b>Weekly basic rate</b>	<b>Increase for wife or civil partner or dependant (where applicable)</b>	<b>Increase for children per child (where applicable)</b>
(a) Persons over 18.	£62.70	£30.80	£14.30
(b) Young persons (i.e. over 15 but under 18).			
(i) during any period during which the person is entitled to an increase of benefit in respect of a child or adult dependant.	£62.70	£30.80	£14.30

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(ii) during any other period.	£30.80		
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