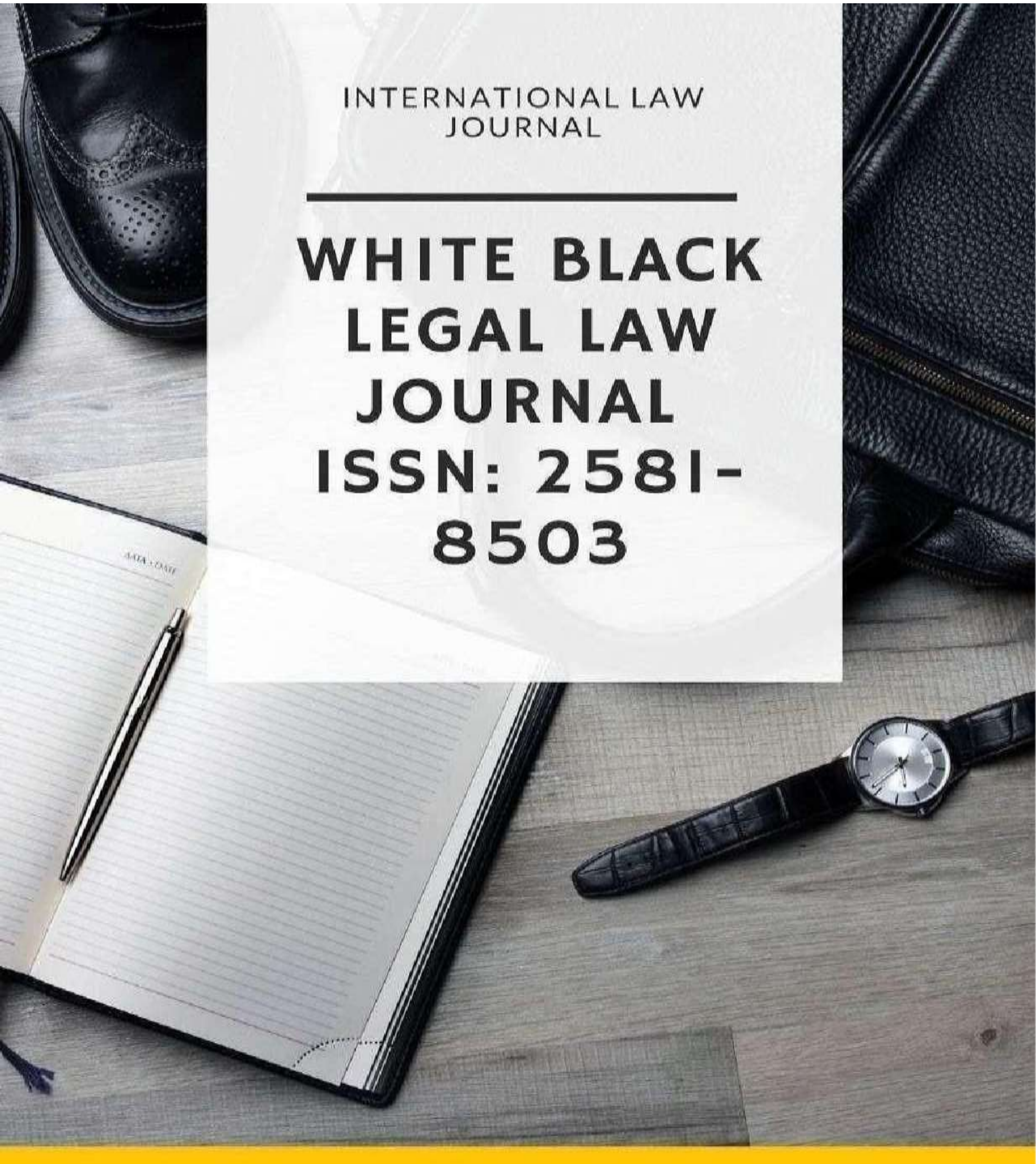

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

“ENSURING TOMORROW: NAVIGATING THE EVOLUTION AND IMPACT OF SOCIAL SECURITY IN THE UNITED KINGDOM”

AUTHORED BY - RIYA MESHAK

Introduction

Social security is the protection that a society provides to individuals and households to ensure access to health care and to guarantee income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner. Social security protection is clearly defined in ILO conventions and UN instruments as a basic human right – albeit one that a small proportion of the people on our planet actually enjoy. Broadly defined as a system of contribution based health, pension and unemployment protection, along with tax-financed social benefits, social security has become a universal challenge in a globalizing world.

Only 20 percent of the world’s population has adequate social security coverage, while more than half lacks any kind of social security protection at all. Those without coverage tend to be part of the informal economy – they are generally not protected in old age by social security, and they cannot afford to pay their health care bill. In addition, many people have insufficient coverage – that is, they may lack significant elements of protection (such as health care or pension) or what protection they do have is low or declining. Experience shows that people are willing to contribute to social security benefits that satisfy their priority needs.

The welfare state of the United Kingdom began to evolve in the 1900s and early 1910s, and comprises expenditures by the government of the United Kingdom of Great Britain and Northern Ireland intended to improve health, education, employment and social security. The British system has been classified as a liberal welfare state system.

History of social security system in UK

The English Poor Laws:-

In 1601, England was experiencing a severe economic depression, with large scale unemployment and widespread famine. Queen Elizabeth proclaimed a set of laws designed to maintain order and contribute to the general good of the kingdom: the English Poor Laws. These laws remained in force for more than 250 years with only minor changes. Essentially, the laws distinguished three major categories of dependents: the vagrant, the involuntary unemployed, and the helpless. The laws also set forth ways and means for dealing with each category of dependents. Most important, the laws established the parish (i.e.,local government), acting through an overseer of the poor appointed by local officials, as the administrative unit for executing the law.

The poor laws gave the local government the power to raise taxes as needed and use the funds to build and maintain almshouses; to provide indoor relief (i.e., cash or sustenance) for the aged, handicapped and other worthy poor; and the tools and materials required to put the unemployed to work. Parents were required to support their children and grandchildren. Likewise, children were responsible for the care of their unemployable parents and grandparents. Children whose parents could not support them were forced into mandatory apprenticeships. They had no right to object to the compensation or the interference with their own child-rearing activities. Vagrants and any able bodied persons who refused to work could be committed to a house of correction or fined.

In response to concerns that dependent persons would move to parishes where financial assistance was more generous, in 1662 a severe Law of Settlement and Removal was enacted in England. The law made it possible for local authorities to force individuals and families to leave a town and return to their home parish if they became dependent. In effect, this law allowed a local government to restrict aid only to persons and families known to be "residents."

The welfare state in the modern sense was anticipated by the Royal Commission into the Operation of the Poor Laws 1832 which found that the old poor law (a part of the English Poor laws) was subject to widespread abuse and promoted squalor, idleness and criminality in its recipients, compared to those who received private charity. Accordingly, the qualifications for receiving aid were tightened up, forcing many recipients to either turn to private charity or accept employment. The Liberal Party launched the welfare state in the United Kingdom of Great Britain and Ireland with a series of major welfare reforms in 1906–1914.[1] The reforms were greatly extended over the next forty years.

The minimum wage was introduced in Great Britain in 1909 for certain low-wage industries and expanded to numerous industries, including farm labour, by 1920. However, by the 1920s, a new perspective was offered by reformers to emphasise the usefulness of family allowance targeted at low-income families was the alternative to relieving poverty without distorting the labour market. The trade unions and the Labour Party adopted this view. In 1945, family allowances were introduced; minimum wages faded from view.

The experience of almost total state control during the Second World War had encouraged the belief that the state might be able to solve problems in wide areas of national life.[6] The Liberal government of 1906–1914 implemented welfare policies concerning three main groups in society: the old, the young and working people.[2]

Beveridge Report: -

Early on during the Second World War, the Minister of Health commissioned a committee to investigate the state of social services and welfare benefits in the UK and invited Beveridge to be chair. In 1942, the report Social Insurance and Allied Services was published, which quickly simply became known as 'the Beveridge report'. It was followed in 1944 by a report entitled Full Employment in a Free Society. Both reports were to have far reaching consequences, way beyond the government's initial intentions.[3]

Beveridge's work labeled the main challenges for social policy as 'the five giants': squalor, ignorance, want, idleness and disease. Social insurance was but one element introduced to address these challenges. Equally important were education, health care, and housing and employment services. Social workers are currently active in all of these sectors. Beveridge argued for the state to have a central role in guaranteeing the necessary resources for people`s welfare, as well as being the main

[1] Abel-Smith, Brian (1992). "The Beveridge report: Its origins and outcomes". *International Social Security Review*.
[2] Timmins, Nicholas (1995). *The Five Giants: A Biography of the Welfare State*.
[3] Jefferys, Kevin, ed. (1994). *War and Reform: British Politics during the Second World War*.

provider of services. Every citizen would contribute to this universal system through national insurance payments, set according to his/her capabilities, and would be able to make use of it according to his/her needs. Key to all this was full employment.[4]

In 1945, the Labour party won the elections and defeated Churchill. They quickly announced their intention to build a welfare state based on solidarity and regular earnings-related contributions, as described by Beveridge. This resulted in, among other things, the establishment of the National Health Service (NHS) in 1948. The relevance of Beveridge`s approach was however not confined to the United Kingdom. Many leading politicians from across the world spent time in London during the Second World War, and were well aware of the proposals contained in the Beveridge report. [5]

The United Kingdom social security schemes include:

The **National Insurance Scheme (NIS),** which provides cash benefits for sickness, unemployment, death of a partner, retirement, etc. People earn entitlement to these benefits by paying National Insurance contributions.

a. **The National Health Service (NHS),** which provides medical, dental and optical treatment and which is normally available free of charge only to people who live in Great Britain and Northern Ireland.
b. The **child benefit and Child Tax Credit schemes**, which provide cash benefits for people bringing up children.
c. **Non-contributory benefits** for certain categories of disabled persons or carers.
d. **Other statutory payments** made by employers to employees entitled to maternity, paternity and adoption leave.[6]

<u>Sickness cash benefits</u>

(i) Eligibilty

Statutory sick pay (SSP)

Employee will be able to get Statutory Sick Pay (SSP) from employer if they have done some work

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[4] Beveridge, Janet (1954). *Beveridge and his Plan*. London: Hodder and Stoughton.
[5] Harris, Jose. *William Beveridge: a biography* (1997)
[6] Stephen Mckay and Karen Rowlingson, Social Security in Britain, 100-115, Palgrave Macmillan

under the contract of employment and if they are sick for at least **four days** in a row (including weekends and bank holidays) and if they have average weekly earnings of at least equal to the **lower earning limit (LEL)**[7]. The lower earnings limit for the year **2023-2024** is **£123 per week, £533 per month, £6,396 per year.**

Employment and Support Allowance

Employment and Support Allowance (ESA) was introduced in October 2008 when it replaced Incapacity Benefit for all new claimants. Employee can claim ESA if they are incapable of work because of illness or disability if the period of illness is **four days or more**; and if they are not entitled to payment of SSP from an employer for that period. No benefit is payable for the first **three days of incapacity**.[8]

(ii)Contribution conditions

Employee must have paid either **Class 1[9] or Class 2[10] contributions**, or a combination of both, equal to at least **26 times the lower earnings limit** in any one tax year .Contributions must have been paid in one of the **last two tax years** before the benefit claim); and Employee must have paid or been credited with either Class 1 or Class 2 contributions, or a combination of both, equal to at least **50 times** the lower earnings limit in each of the two income tax years (6 April to 5 April) which ended before the beginning of the benefit year (first Sunday in January to the Saturday before the first Sunday in January of the following year) in which the claim is made.[11]

(iii)Coverage

Employer is liable to pay SSP for a maximum of **28 weeks in a period of incapacity** for work. If the employee is still sick, the employer's liability to pay SSP comes to an end and the employee will be able to claim Employment and Support Allowance from the Department for Work and Pensions. An increase in short-term incapacity benefit for one adult dependant may be claimed if the applicant has

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[7] The amount of earnings that allow an employee to qualify for certain state benefits (such as qualifying years for the basic state pension). The lower earnings limit is set each tax year by the government.
[8] Social Security in Britain by Stephen Mckay and Karen Rowlingson
[9] Class 1 contributions are paid by employers and their employees.
[10] Class 2 contributions are fixed weekly amounts paid by self-employed people
[11] Stephen Hardy, Social Security Law in the United Kingdom, 90-157, Wolters Kluwer, (3rd edition)

dependent children or if a partner is aged 60 or over. A claim can be made for an increase in short-term incapacity benefit for dependent children after **28 weeks of sickness.**[12]

(iv)Accessibility

For the **first seven days of illness**, employer cannot ask to provide medical evidence for sickness. They may ask to fill in a self-certificate of their own design or an SC2 form obtainable from a GP surgery, or from the HM Revenue and Customs (HMRC) website. If the employee is still sick for **more than seven days**, employer can ask for **medical evidence** to support payment of SSP. It is up to the employer to decide whether the employee is incapable of work. A medical certificate from a GP is strong evidence that the employee is sick and would normally be accepted, unless there is evidence to prove otherwise. Employee could also receive evidence from someone who is not a medical practitioner, e.g. a dentist, however it is for the employer to decide whether or not this evidence is acceptable. If the employer has any doubts, they may still ask for a medical certificate from a GP.

Maternity and paternity benefits

(i)Eligibility

Statutory Maternity Pay (SMP)

Most pregnant working women may be eligible to receive SMP from their employer. It is payable for up to **39 weeks** starting, at the earliest, **11 weeks before the expected week of confinement (EWC**). Employee can choose when to stop work but the latest SMP can start is the day following the birth of the baby. Employee may work for up to **ten days** without losing any SMP. These "Keeping in Touch days" (KIT) allow the employee to keep in touch with her work place and receive training, for example, before returning. KIT days can only be taken with consent and that of the employer. To qualify the employee must have worked for the same employer continuously for **26 weeks** including and **ending with the 15th week** before the EWC (the qualifying week). Average weekly earnings must also be at least equal to the lower earnings limit for National Insurance (NI) purposes.[13]

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[13] Stephen Mckay and Karen Rowlingson, Social Security in Britain, 180-185, Palgrave Macmillan

Maternity allowance (MA)

Employee can only get MA if she cannot get SMP, have been employed and/or self-employed and earned on average at least equal to the Maternity Allowance Threshold (MAT) in force at the beginning of your test period. To qualify she must have been employed and/or self-employed for at **least 26 weeks in her 66 week test period**. The 26 weeks do not have to be consecutive. The test period is the period of 66 weeks up to and including the week before the week the baby is due.

Ordinary Statutory Paternity pay (OSPP)

An employee whose partner is expecting a baby may be able to receive Ordinary Statutory Paternity Pay (OSPP) after the baby is born. To qualify he must have worked for the same employer for **26 weeks** including and ending with the **15th week** before the week the baby is expected to be born and remain with the employer until the baby is born. He must also have earned on average in the last eight weeks of that period at least the lower earnings limit for the payment of national insurance contributions.[14]

Additional Statutory Paternity Pay (ASPP)

An employee whose partner is entitled to statutory maternity pay, Maternity Allowance or Statutory Adoption Pay may be able to receive Additional Statutory Paternity Pay (ASPP) if the mother or adopter has returned to work before the end of their maternity or adoption pay period. To qualify he must have worked for the same employer for **26 weeks** including and ending with the **15th week** before the week the baby is expected to be born and remain with the employer until the week before payment begins. He must also have earned on average in the last eight weeks of that period at least the lower earnings limit for the payment of national insurance contributions.

(ii)Coverage

The amount of Statutory Maternity Pay the employee get depends on her earnings. SMP is paid for a maximum of **39 weeks**. For the first six weeks employee get **90%** of average gross weekly earnings with no upper limit. The remaining **33 weeks** are paid at the standard rate SMP or the earnings-related rate if this is less than standard rate SMP. The amount of Maternity Allowance you get depends on

[14] Stephen Hardy, Social Security Law in the United Kingdom, 110-147, Wolters Kluwer, (3rd edition)

average weekly earnings. Employee will get either standard rate MA, which is **£123 per week or 90 % of average weekly earnings**, if this calculation results in a figure which is less than GBP 124.88 The employer will usually pay in the same way and at the same time as for normal wages. It can be paid for up to 39 weeks.[15]

Ordinary Statutory Paternity Pay is paid at a standard rate, which is £123 per week or 90% of average weekly earnings if this calculation is less than £123. Employee can choose whether to receive OSPP for **one week or for two consecutive weeks** and when to start receiving it, from the time the baby is born up to **eight weeks** after the birth.

Additional Statutory Paternity Pay is paid at a standard rate, which is **£123 per week or 90% of average weekly earnings** if this calculation is less £123. Employee can start receiving ASPP from **20 weeks** after the child is born providing that the child's mother has returned to work. Payment ends when he return to work or at the end of the mother's maternity pay period, whichever is earliest.[16]

(iii) Accessibility

To get SMP, the employee should give the employer at least **28 days' notice** of the date the employee intend to stop work. Employer may need the notice in writing. The employee must also give the employer maternity certificate, which the doctor or midwife will give around the **21st week of the pregnancy.** Employee can claim MA when they reach the 14th week before the week in which the baby is due (the 27th week of pregnancy).

To get SPP, employee will need to give the employer a self-certificate confirming that they: (a) have or expect to have responsibility for the child's upbringing;
(b) are the biological father of the child or the mother's husband, civil partner or partner;
(c) are taking time off work to care for the child and/or support the mother.

[15] Stephen Mckay and Karen Rowlingson, Social Security in Britain, 50-85, Palgrave Macmillan
[16] Michael Hill, Social Security Policy in Britain, 117 (1st edition) Edgar Elgar Pub

Invalidity benefits

(i)Eligibility

Employment and Support Allowance replaced the Incapacity Benefit and Income Support that is paid because of an illness or disability for new claimants from 27 October 2008. Employment and Support Allowance consists of two phases. The first phase is the assessment phase rate is paid for the first **13 weeks** of a claim while a decision is made on capability for work through the Work Capability Assessment. The main phase starts from **week 14** of the claim, if the Work Capability Assessment shows that the illness or disability does limit ability to work.[17]

There are two groups within the main phase. The first group is the work related activity group. In this group if an employee is placed in the Work Related Activity Group, he will be expected to take part in work focused interviews with his personal adviser. He will get support to help prepare for suitable work. In return, he will receive a work related activity component in addition to the basic rate. The second group is the support group. In this group if an employee are placed in the Support Group because illness or disability has a severe effect on your ability to work, he will not be expected to take part in any work. He can do so on a voluntary basis.

(ii)Coverage

The main phase starts from **week 14** of the claim, if the Work Capability Assessment shows that the illness or disability does limit an ability to work. In most cases benefits are paid for the first three days of the claim. Income Tax will not be taken from income-related Employment Support Allowance.[18]

(iii) Accessibility

There is a **13-week assessment phase** during which time a Work Capability Assessment must be carried out before opening an entitlement to the main phase of Employment and Support Allowance benefits. This procedure may include a medical assessment if more information is needed about your illness or disability before a decision can be made on your capability for work.

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[17] Stephen Hardy, Social Security Law in the United Kingdom, 200-209, Wolters Kluwer, (3rd edition)
[18] Stephen Mckay and Karen Rowlingson, Social Security in Britain, 20-45, Palgrave Macmillan

Old-age pensions and benefits

(i)Eligibility

The basic State Pension is a government-administered pension. It is based on the number of qualifying years gained through National Insurance contributions (NICs) paid or credited throughout the applicant's working life. State retirement pension can be claimed once you reach State pensionable age. This is 65 for men born on or before 5 April 1959 and 60 for women born on or before 5 April 1950. The State Pension age for women born on or after 6 April 1950 but before 6 April 1955 is rising from 60 to 65 between 2010 and 2020. The State Pension age for women born on or after 6 April 1955 but before 6 April 1959 is 65. State Pension age will increase for both men and women from age 65 to 68 between 2024 and 2046.[19]

A qualifying year is a tax year where a worker has sufficient income to pay National Insurance Contributions (NICs), or is treated as having paid or being credited with NICs.

If an employee chooses to put off claiming State Pension for at least **12 consecutive months** he can get a one-off lump sum payment. This will be in addition to the normal State Pension. The 12 consecutive months must all have fallen after 5 April 2005. Company pension schemes vary from company to company. The scheme is likely to be one of two general types – a **'salary related' or 'money purchase' scheme**. In a salary related scheme the amount obtained is based on salary and the number of years in the scheme. With a money purchase scheme the amount obtained is based on how much has been paid into the scheme and how well the money has been invested. On retirement, the fund is used to provide a pension, usually by buying an annuity (a regular income for life). The employer is required to offer an opportunity to join a pension scheme.

(ii)Coverage

In 2022 the full basic State Pension is **£179.60** per week for a single person and **£359.20** a week for a couple, individual circumstances may affect the amount received.

[19] Michael Hill, Social Security Policy in Britain, 127 (1st edition) Edgar Elgar Pub

(iii)Accessibility

The Pension Service should automatically send the employee a claim form four months before he reaches State Pension age. [20]

Benefits in respect of accidents at work and occupational diseases

(i)Eligibility

Disablement benefit

Industrial injury benefits are payable if an employee becomes disabled as a result of an accident at work or if he contracts a prescribed industrial disease. Entitlement to benefits does not depend on the amount of national insurance contributions paid. These benefits are not payable to self-employed persons.

Industrial Injuries Disablement Benefit can be claimed if a worker was employed in a job that caused the disease. The scheme covers more than 70 diseases, including: a disease caused by working with asbestos, asthma,chronic bronchitis or emphysema, deafness, pneumoconiosis (including silicosis and asbestosis) tenosynovitis, prescribed disease A11 (previously known as vibration white finger)

(ii)Coverage

Disablement benefit is payable if the employee is still disabled **15 weeks** after the date of the accident at work or 15 weeks after the onset of the disease. The amount of benefit depends on the extent of the disablement, assessed as a percentage. The benefit is payable in addition to any sickness or invalidity benefit. Individual circumstances, including age and the severity of disability, will affect the level of benefit received. This will be assessed by a doctor on a scale of 1 to 100 %. For certain lung diseases, payment is made at the 100 % rate from the start of the claim.[21]

(iii)Accessibilty

Disablement benefit is normally payable if disablement is assessed at **14% or more** for all accidents and most prescribed diseases. For the respiratory diseases pneumoconiosis and byssinosis, benefits may be paid in respect of disablement of at least 1%. For sufferers of diffuse mesothelioma, asbestosis

[20] Ibid

[21] Stephen Mckay and Karen Rowlingson, Social Security in Britain, 211-215, Palgrave Macmillan

and lung cancer due to specific exposure to asbestos in the workplace, benefits are paid at the **100 % rate**. Benefits are either paid directly into a bank account every four weeks in arrears or weekly in advance. In Great Britain, employee can claim the benefit via your regional Disablement Benefit Centre as soon as possible after the first signs of disablement appear. [22]

Family benefits

(i)Eligibilty

Child benefit

Child Benefit is a cash benefit payable if the employee is responsible for one or more children **under age 16, or up to age 20** if the child is in full-time education (but not if on a degree or other advanced course) or approved unwaged training. There are no contribution conditions, but the employee (or their partner) and the child should be present in the UK. Employee (or their partner) must also have a right to reside in the United Kingdom and actually reside there.

Child Tax Credit

This is an income-related payment to support families with children. Employee can claim it if them, or their partner, are responsible for one or more children under age 16, or if the child is in full-time education (but not if on a degree or other advanced course) or approved unwaged training. There are no contribution conditions, but if the employee or their partner, must normally be present, ordinarily resident and have a right to reside in the UK.

(ii)Coverage

Child Tax Credit rates for the 2022 to 2023 tax year

Element	**Yearly amount**
The basic amount (this is known as 'the family element')	Up to £545

[22] Stephen Hardy, Social Security Law in the United Kingdom, 210-247, Wolters Kluwer, (3rd edition)

Element	Yearly amount
For each child (this is known as ‘the child element’)	Up to £3,235
For each disabled child	Up to £3,905 (on top of the child element)
For each severely disabled child	Up to £5,480 (on top of the child element and the disabled child element)

(iii)Accessibility

Claims for child benefits should be made to Her Majesty’s Revenue and Customs Child Benefit Office, enclosing the children's birth certificates if possible. Claim forms can be obtained from Her Majesty’s Revenue and Customs Child Benefit Office or from one of their local enquiry centres or from a local social security office. Claims for child tax credit should be made to Her Majesty’s Revenue and Customs, Tax Credits Office. Claim forms can be obtained from Her Majesty’s Revenue and Customs Tax Credit Office and from any of their local enquiry centres or from a local social security office.

Conclusion

Beyond the size and make-up of social security spending, it is important for policy makers to account for wider trends that social security should be responding to, like rising disability prevalence with the working-age population, the growing importance of assets, and a shift in public attitudes in favour of rising benefits for the poor. Moreover the welfare system needs to evolve to meet Britain’s 21st century challenges. Whichever party forms the next government should prioritise that task in the years to come.