Překlad britského Zákona o reformě veřejného sociálního zabezpečení 2007

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ABSTRAKT

Hlavním tématem této bakalářské práce je překlad právnického textu. Teoretická část je rozdělena do dvou hlavních kapitol, první se zabývá překladem všeobecně, druhá se soustřeďuje na výčet a popis jednotlivých rysů právnických dokumentů. Následné podkapitoly se zmíněnou problematikou zabývají detailněji.
Praktická část sestává ze samotného překladu zvoleného textu a následného komentáře.

Klíčová slova: překlad, ekvivalence, pragmatika, překladatelský proces, funkční styl, právnický dokument, zákon

ABSTRACT

The main topic of this bachelor thesis is translation of legal documents. The theoretical part is divided into two main chapters. The first one deals with translation generally, the second one is dedicated to the characteristics of legal documents. The subchapters offer a more detailed view into the discussed problems.
The analysis involves the translation of the chosen text, a commentary follows.

Keywords: translation, equivalence, pragmatics, translation procedure, functional style, legal document, act

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CONTENTS

INTRODUCTION

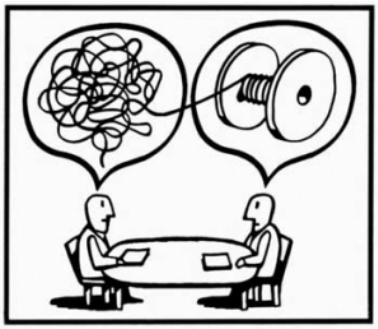
This work discusses a specific branch of translation – the translation of legal regulations. If we are not experts, legal documents are not kind of text we often deal with. However, if we like it or not, they strongly affect our lives and we might get into a situation when exact understanding of a legal text could be crucial.

Language of legal documents represents a subgroup of the administrative style distinguished by its original graphic layout, composition, sentence structure and terminology. Its primary aim is to provide precise information excluding ambiguities in meaning or misunderstandings. It is used for writing contracts, regulations, laws and other document of high formality describing rights and duties of persons involved.

Translators of these documents have to have quite deep knowledge of cultural, social and political background of both legal systems. They need to be familiar with legal language of their country as well as with legal terms of the source language. The discrepancies arising from two different legal systems have the historical roots and can cause many problems. That is why there does not exist a single procedure applicable for translating these texts. The translated version does not only have to be accurate but it also has to be assimilated to the different culture.

I. THEORY

1 TRANSLATION



“Language is the source of misunderstandings.“
Antoine de Saint-Exupery, French writer (1900 – 1944)

The activity of translation is a great task that has been performed for centuries. Its main concern is to facilitate the communication and to break borders between different languages and cultures.

Of course, translating does not only mean “copying” text from one language to another. It is a complex process involving both linguistic and non-linguistic elements, which make the new translated version a unique piece of work. We could say that there exist two equal authors of the text – the original one and the translator. That is why translating cannot be seen as just looking up words in a dictionary.

Basically, meaning of the text is made up of two main dimensions: the primary dimension is the semantic one expressed by lexical units structured into a grammatical system. Each word carries denotative information – its dictionary meaning focused on the objective situation, and some of them also connotative information - emotional and imaginative associations. The next level of the text is its pragmatic value. This is what we usually mean by "reading between the lines”. It marks the relationship between language devices and communication participants and their life experience.

Even though, both of these qualities can be examined individually, pragmatics cannot exist without semantics and vice versa. Because the core aim of each translation is to transmit both semantic and pragmatic features of the source language (SL) to the target language (TL) in such a way that the reader´s reaction corresponds to the translator´s intentions, translator has to solve a great problem: whether to preserve the semantics and change the pragmatic characteristic or how much to sacrifice the semantic part to maintain the pragmatics.[1]

All these three aspects that influence the final image of the target language text version are tightly bound together and could be involved in the term equivalence.

[1] Dagmar Knittlová, *K teorii i praxi překladu* (Olomouc: Univerzita Palackého v Olomouci, 2003) 6.

1.1 Translation Equivalence

Equivalence is the central aim of every translation, although one single explanation of what translation equivalence means is impossible to find. It involves many definitions and theories and also ways of application in the translation process.

There are several points of view from which equivalence can be seen. The first one is strictly linguistic and emphasizes transferring all information from SL to TL regardless the differences in grammatical systems of both languages. It is obvious that this approach does not satisfy the demands for an accurate translation and that all linguistic elements of SL do not necessarily have to have their counterparts in TL. When a message is transferred from one language to another, the translator is also dealing with two different cultures at the same time, so there are aspects other than lexis and grammar that have to be taken into account.

1.1.1 Functional Equivalence

The idea of functional equivalence first appeared in the work of the British linguist John Catford. This theory suggests that the important task of translation is to maintain the original denotation and connotation features of the source text, no matter which linguistic means the translator uses. Today, the functional equivalence is considered to be the core principle of translation.

As many opinions about equivalence exist, some parts of language seem to be more than problematic to translate; puns, idioms, clichés, slogans, mottos, all these represent a dilemma: literal translation or free translation?

Literal translation (also called word-to-word translation) is an accurate translation of individual words keeping the original text form, structure, word order and so on unchanged.

On the other hand free translation fully respects the pragmatic qualities of the original, so the language devices of the SL the TL text may differ. The aim of such a translation is to sound natural and smoothly.

When translating, the strict way of either literal or free translation does not seem to be optimal. Generally speaking, literal translation is a good choice and it has been advised to

translate literally, wherever possible. On the other hand, literal translation, if ever possible, does not always allow to express all the inconspicuous elements hidden behind the words. Sarcastic allusions, witty charge, emotional tinge, all kinds of dialects and other nuances could be lost among individually translated words. Then, a moment for free translation comes. Indeed free translation can not be understood as deleting or adding content to the original. Translators must handle the original with great care, translate it naturally, express the meaning of the original by suitable language devices. If literal translation is considered to be a skill, then free translation is definitely an art.

And is it even possible to translate everything? Yes, it is, but it is not necessary. Contemporary linguistics does not discuss the possibility or impossibility of translation, it prefers to transfer the original characteristics to the TL, above all in meaning and also in style. In spite of fact, that some words or phrases are untranslatable to the TL, the text as a whole can be always translated. Every language system is able to fulfill the communication function and contains appropriate stylistic means to achieve certain reaction of the recipient.[2]

The question of translating all characteristics of the original text, mainly cultural references, is discussed in the next chapter.

1.2 Pragmatics

Semantic transmission to TL is considered to be self-evident, maintaining pragmatic features seems to be a more difficult task and remains more or less facultative, depending on subjective approach of the translator. Pragmatics of TL is not the crucial point of conveying given information, however, if we talk about precise translation, all possible aspects of the text should be taken into account.[3]

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[2] Knittlová Dagmar, *K teorii i praxi překladu*, 6.

[3] Knittlová Dagmar, *K pragmatickému aspektu překladu* (Praha: Univerzita Karlova 1981), 4-5

Pragmatics simply means that the author chooses proper language devices which the recipient understands in the intended way. This interplay is closely tight to the usage of communicative means varying according to situation, place, and time and assumes certain common experience on both sides. With regard to cultural aspects the author – sender – selects the proper volume of the message and proper language means. While certain phrase can convey only a certain message, it is just the sender and his preferences that determine the nature of a discourse. By contrast the recipient decodes the message depending upon his judgment of situation and his language and nonlanguage experience.

The medium conveying the message, the purpose of the text and the audience belong among aspects that influence the process of choosing appropriate language devices. One has to distinguish between referential styles (administrative, scientific prose style and informative), where clear and easily understandable statements prevail. In contrast, a susceptibly selected form supports the content in publicist style, style of literary works, and especially poetry and sometimes it is mainly this form that impresses the reader even more.

The translator´s task is to assimilate the given text to the recipient´s different background knowledge, in other words to denote objects and situations connected with history, culture, economy and life style typical for the SL country. The translator has to, in ideal way, find the proper equivalent, or, if the equivalent does not exist in the TL, to find a very similar one, or to solve this problem by adding an explanatory note into the text. Stretches of the TL text can be partially reduced by omitting the redundant details.

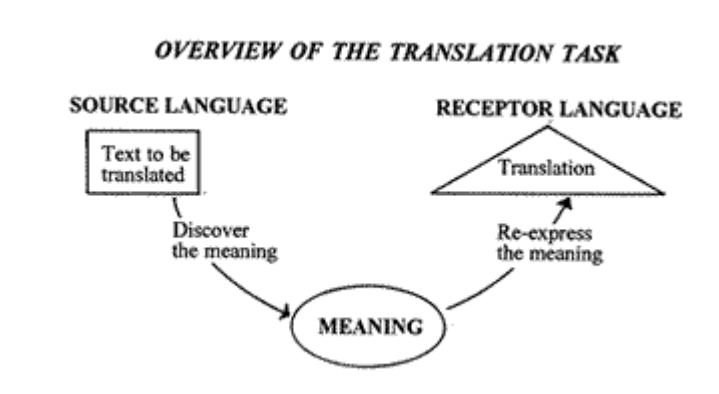
Also functional style plays one of the key roles when deciding to make any changes of the original text. New information can be highly desirable in formal articles and documents but if inserted in style of literary works it might be disturbing. Such a text becomes too descriptive and clumsy and loses qualities of literal text. As a result the appeal to the reader may be completely changed, thereby the relevance of translation dissolves because it does not fulfill one of its core tasks. The more acceptable solution is to use footnotes giving necessary detailed information without producing a disturbing effect. However, translator would hardly avoid stretching the text, due to some lexical units and phrases not occurring in the TL require added explanation. In this case there is the possibility of omitting some irrelevant details. Firstly, this procedure balances the large expansiveness of the translation.

Secondly, some information can be easily guessed from the context. Maybe from a fear of not performing an exhaustive translation, translators generally tend to add explanations to the text and make the text more extensive for its clarity, rather than to omit and make the text brief for its simplicity.[4]

1.3 Translation procedure

Contemporary translation trends do not concentrate on the final product but they point out the procedure. Figure 1 demonstrates the basic steps of how the SL text is transmitted in the TL. As translation and activities connected involve plenty of theories, the translation procedure does not step out of the row. Nevertheless, all of them try to solve one common problem – a perfect translation retaining all aspects of original text.

Figure 1[5]



One of the modern approaches divides translation into two major steps:[6]

- Firstly it is the procedure of collecting information about the SL text, its historical, geographical and cultural settings, functional style, the author, the audience etc. This phase is called macro-approach and strategic decision-making.

[4] Knittlová, *K pragmatickému aspektu překladu,* 4-5.

[5] SIL International, "Translation Theory and Practice", http://www.sil.org/TRANSLATION/TrTheory.htm

[6] Knittlová, *K teoriii a praxi překladu,* 21.

- In the process of translating the translator concentrates on individual lexical and grammatical elements and their proper transmitting in the TL. This step is called micro-approach and detailed decision-making.

Being aware of the "general" when dealing with the "individual" leads to an accurate translation, keeping both linguistic and stylistic pregnancy.

The theory suggested by Hervey and Higgins in their work *Thinking Translation* tries to find solution for the problem how to erase cultural discrepancies between SL and TL. For this purpose it uses textual filters. Briefly, translator works with a set of points – filters – that categorize the text in terms of its cultural. formal, semantic, language, social, and genre characteristics. According to them the TL version can be compared to the SL text and differences between them can be more easily found and corrected.[7]

Next possibility, how to handle a translation, is to use the sociolinguistic model. It is focused on the role the language plays in life of a certain society. Here, the translator is actually perceived as a medium between the author and the public. It is important to consider what is translated by whom, for whom, when, where and why. Stress is laid not only on meaning of individual words, but more on the mood of the whole text and genre. It is up to the translator to recognize intertextuality – certain collocations and standards set up by previous similar texts – and to decide on the extent of free translation. Because it is his personality that is strongly reflected in the TL text, he has to be aware of social and cultural environment the text refers to.[8]

Psycholinguistic model thinks of translation as a matter of science. Psycholinguistics is *"the interdisciplinary field of psychology and linguistics in which language behavior is examined."*[9] *"It studies how language is understood and interpreted and how and why the individual responds to discrete aspects of language."*[10] It breaks up the translation

[7] Knittlová, *K teorii a praxi překladu*, 22-24.

[8] Knittlová, *K teorii a praxi překladu*, 25.

[9] See: Master - Mc Neil Inc. Community Resources Glossary, http://naming.com/resources.html

[10] See: Reading Frameworks: Glossary, http://www.nde.state.ne.us/READ/FRAMEWORK/glossary/general_p-t.html

procedure to analysis of syntax and individual lexis meanings of SL text and following synthesis of elements to adequate TL version. Such a procedure can help when creating self-sufficient translation programs.[11] Maybe in far future a translator will be a kind of assembly line operator putting texts into a translation machine on one side and taking out complete translations on another.

To sum it up, the main goal of a good translation is to impress the reader in the same way as the original text does. It is to transmit vocabularies from one language to another as well as to maintain the textual characteristics as far as style and form are concerned. Therefore language means chosen for the TL version do not have to necessarily correspond to those in SL text. Translator is the one who decides about changes (including omitting or adding explanatory notes) crucial for keeping the flavor of the original text.

Translation is a very complex activity which claims quite thorough knowledge of both SL and TL culture, history, and life style and translator has to be aware of language exceptionalities arising from different cultural backgrounds. There are plenty of approaches to how the text should be translated. Each of them is definitely valid, however, none of them can be proclaimed as the best and only possible one.

[11] Knittlová, *K teorii a praxi překladu*, 21-26.

2 FUNCTIONAL STYLES

"Functional styles (FS) are the subsystems of language, each subsystem having its own peculiar features in what concern vocabulary means, syntactical constructions, and even phonetics. The appearance and existence of FS is connected with the specific conditions of communication in different spheres of human life. FS differ not only by the possibility or impossibility of using some elements but also due to the frequency of their usage. For example, some terms can appear in the colloquial style but the possibility of its appearance is quite different from the possibility to meet it in an example of scientific style."[12]

Functional style from translator´s point of view means a specialized translation subcategory involving a range of linguistic peculiarities in both SL and TL the translator has to master. Dagmar Knittlová distinguishes five basic functional styles:[13]

- style of literary works - this is the most emotional style of all where the author ´s personality is strongly reflected, the informative function is secondary, if any. It occurs in stories, novels, poetry, dramas, etc.
- publicist style - it describes the language of massmedia. Thanks to its major developing during times, it carries features of both pragmatic and referential styles, it covers administrative, scientific, journalist style, and style of literary works. It informs and amuses at the same time.
- journalist style - this denotes language of newspaper, TV news and also surprisingly language of dictionaries. Due to its wide and diverse public, it serves for informing and telling facts without any commentary or added opinions. News has to be condensated to as little space and little time as possible, has to be brief and clear. It lacks emotional charge, the form is rather stereotypic.
- scientific prose style - it includes language of science. It has mainly cognitive function, it precisely explains and fully describes objective facts, using especially terms and carefully formulated sentence structures. On account of its high specialization and

[12] Novgorod State Univesity, "Functional Styles of the English Language", http://www.novsu.ru/file/5008.

[13] Knittlová, *K teorii a praxi překladu*, 121.

difficulties in understanding this style also requires using of linking devices between sentences and larger parts of text which help the reader to orient throughout the text.

- administrative style - this style carries almost no esthetic values whereas its main aim is to deliver information to the reader. It is noted for stereotypic language, prefabricated phrases, briefness, lucidity, and strictly given composition. It involves official documents, circulars, advertisements, questionnaires, etc.

3 LANGUAGE OF LEGAL DOCUMENTS

This very significant functional style is not homogeneous and is represented by the following substyles or variants:[14]

- the language of business documents,
- the language of legal documents,
- the language of diplomacy,
- the language of military documents.

The style of legal documents is considered to be the least communicative one among all others. Its complexity claims long, self-contained sentences, special vocabularies and set phrases strongly differing from common conversation. For these purposes also a very significant grammar is being used.

The basic aim of legal text is not to entertain or attract attention but to convey the precise information to the reader without any ambiguities and doubts about the meaning. It is destined mainly for experts and those involved in the problems, and that is why a legal text may seem obscure and overcomplicated for the general public.

3.1 Graphic Layout of Legal Documents

Graphic layout of any text attracts the reader´s attention at the fist sight. Also in this area, legal documents are quite unique, what is given by their specific purpose and historical development.

Early legal documents were hand written parchments in form of long lines from margin to margin with no indentation, which could distinguish individual sections. The reason for that could be either sparing space or preventing unauthorized infringements into the text or both. The sentences were rather long, the punctuation was rare, if any, for there was a tendency to omit features not forming an essential part of language and to interrupt the text as little as possible. Orientation in such a document claimed a great experience but on the

[14] Novgorod State Univesity, “Functional Styles of the English Language”, http://www.novsu.ru/file/5008.

other hand there was a minimum opportunity to make any fraudulent changes in the text. Such approach has remained in usage even after invention of printing and can be seen till these days but more often the meaning of the whole document is pointed out by using various graphic means.

The content is organized into sections and subsections and divided into separate blocks of print in order to reflect the logical flow of ideas. Various lettering and numbering of the individual parts of text and other visual means as capitalization, spacing or different kind of fonts were adopted to mark their relative importance and relationships between them.[15]

3.2 Stylistics of Legal Documents

Legal English contains only complete major sentence of which most have the form of statements. *"A major sentence is a term used for a complete sentence, containing a subject and main verb that is either present or readily identifiable."*[16]

3.2.1 Prefabricated Formulae

Language of legal documents is a form of language that must always be in conformity with the body of rules. Legal documents are written records of events and deals and as such they entirely rely on the precise meaning of the words. There exists a set of rules for arranging information in legal documents. The most important of all is the Golden Rule of Interpretation. "*This rule states that whatever the intention behind a legal document, when it is being interpreted only the grammatical and ordinary sense of the words is to be adhered."*[17] The composer has to be sure that the document says exactly what he intended to say, otherwise it could cause many misinterpretations later on. This very specific style having been formed for centuries uses many oddities and patterns that do not appear in

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[15] David Crystal and Derek Davy, *Investigating English Style*, (Bloomington: Indiana University Press, 1969), 197 – 198

[16] Using English, "Term: Major Sentences", http://www.usingenglish.com/glossary/major-sentence.html

[17] David Crystal and Derek Davy, *Investigating English Style*, 215.

everyday language and even do not make any sense without competent knowledge in the field of law and the special language.

When composing a legal document lawyers have been basically repeating the same procedure over and over again. They do not invent any new formulations and simply reuse the notorious formulae which have been tested throughout history and proved to work. This linguistic conservatism guarantees avoiding the danger of composing imprecise and misleading document however readable and understandable. [18]

3.2.2 Long Sentences and Little Punctuation

As mentioned above, the exceptionality and one of the main features of legal document is the length of sentences and missing punctuation. Legal sentences are able to stand alone – they are usually complex, self-contained, and not very closely linked units with an array of subordinating devices and sections of language which would elsewhere be much more likely to appear as separate sentences.

Present day documents tend to provide punctuation as a guide to grammatical structure. The appearance of punctuation throughout the text is not random but strictly systematic, although it still occurs rather sporadically.[19]

3.2.3 Logical Linkers, Sentence Structure

Great majority of legal sentences have an underlying logical structure. Conditional and concessive clauses occur very often. *"Every action or requirement, from a legal point of view, is hedged around with, and even depends upon, a set of conditions which must be satisfied before anything at all can happen."*[20]

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[18] David Crystal and Derek Davy, *Investigating English Style*, 194.

[19] Tomášek Michal, *Překlad v právní praxi*, (Praha: Linde Praha, a. s., 2003), 52-54

[20] David Crystal and Derek Davy, *Investigating English Style*, 203.

Coordination is extremely common in legal English as well. Counting is important to strictly denote involved objects, persons and events, so relationships inside and between sentences have to be clear. For these purpose legal language densely use logical conjunctions “and” and “or”.[21]

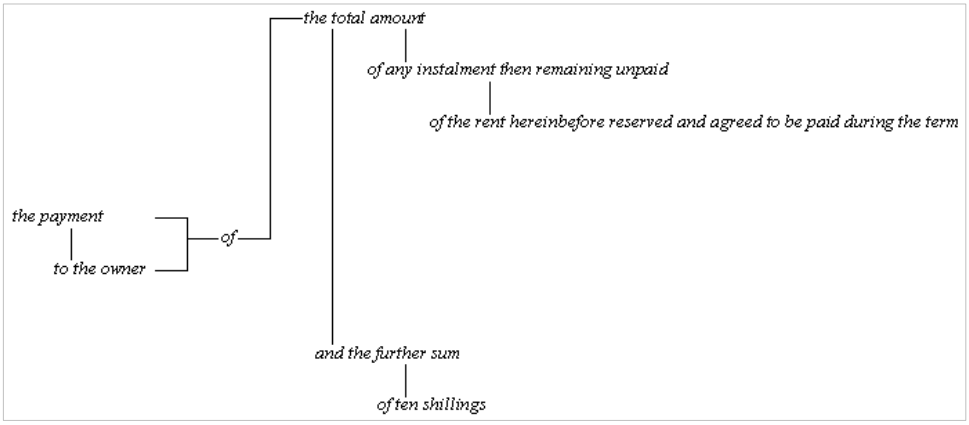
3.2.4 Repetitions

The reference in the text can be expressed either by repetition or anaphora i. e. substitute words referring back to a lexical item that would otherwise have needed repeating. Anaphoric elements are pronouns (he, she it, they), demonstratives (this, that) or forms of the verb “do” replacing section of clauses and reducing stretches of language. Nevertheless, for the exactness of legal documents anaphora is almost never suitable as it may look as it is referring back to the item other than the composer had in mind. Through being tiresome and stretching the text, repetition, as an important part of legal text, cannot be left out in order to avoiding misreading.

3.2.5 Nominalizations

Nominalization belongs to the most striking characteristics of legal documents. Long and complicated nominal group structures substitute lack of verb groups used in this type of text.

Figure 2: Structure of noun group in legal text[22]



However, the

[21] David Crystal and Derek Davy, *Investigating English Style*, 203.

[22] David Crystal and Derek Davy, *Investigating English Style*, 205.

overuse of nominalization makes the text clumsy, so nowadays there is a strong tendency to prefer plain English where possible:[23]

- If they had made a decision...=> If they had decided...
- The Court, in its ruling, held that...=> The Court ruled...

Postmodification dominates. Postmodifying elements are tightly connected to a group they are related to. This is to avoid ambiguity but, on the other hand, readers may have troubles with orientation in such an unusual clause structure. Lack of verbs along with lack of punctuation push readers into scanning the text repeatedly in order to find out the logical structure and information flow in the text.

Fiure. 3: Post- and premodification[24]

Postmodification	**Premodification**
More explicit (e.g. tense and number marking)	Less explicit (condensed form)
New information	Given information

As the chart shows, premodifying elements carry the meaning less explicitly and that it less suitable for highly precise texts as legal documents are.

As far as determiners are concerned, they play a role in a fair amount of nominal phrases, zero determination is quite impossible.[25]

3.2.6 Verbs, Passive Voice

Verbs are mostly chosen from a closed group and tent to create set phrases as they are mostly abstract and their meanings are difficult to define. Verbal groups used in legal

[23] Cheryl Stephens, "A Crash Course in Plain Legal Language", http://www.plainlanguagenetwork.org/Legal/crash.html

[24] NTNU, Engelsk Institutt, Nouns and Noun Phrases, http://www.hf.ntnu.no/engelsk/staff/johannesson/111gram/lect07.htm

[25] David Crystal and Derek Davy, *Investigating English Style*, 204.

language are characterized by large proportion of past participles, ing participles, gerunds and infinitives emphasizing neutrality and impersonality of the text. Modal auxiliaries are used very often as well, defining rights and duties and describing possible situations and events.[26]

3.2.7 Archaic, Formal and Unusual or Difficult Vocabulary

There exists a reliable guide for identifying the language of legal documents as far as words preferences. Archaic words and phrases set up in deep past have been used for centuries with no changes. There appear many borrowings originated in Latin and French, languages which were spoken among rich and educated people. Firstly, their usage is a matter of tradition (they look and sound noble and add the necessary touch of formality), secondly, archaic expression proved their suitability for unambiguous and pregnant formulations.

This category involves a special subcategory of Middle English adverbial words no more in general usage: whereas, whereof, herein, hereinbefore, thereby, therefore, etc. All of them have a function of precise reference to the whole document or its certain parts. [27]

3.2.8 Technical Terminology

Legal documents are full of technical vocabularies that the law has built up for itself. Special group of technical terms is made up of so called terms of art. They include "*words or phrases used by legal professionals that have precise meaning in a particular subject area. Knowing them and their definitions saves time and effort in research. For instance the term -blue sky laws- refers to state securities laws, -TINA- is an acronym for the Truth in Negotiation Act.*"[28] Thanks to their clear definition and close specialization, the lawyers have decided that there can be no argument about their meaning.

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[26] David Crystal and Derek Davy, *Investigating English Style*, 206.

[27] David Crystal and Derek Davy, *Investigating English Style*, 209.

[28] E. B. Williams Library Turorials, "Legal Research Definitions", http://www.ll.georgetown.edu/tutorials/definitions/term_art.html

Also common vocabularies of everyday use have become terms in legal English. By narrowing or restricting their original meaning they become terminology. They are used in a special way, keeping only one of a range of meanings they may have elsewhere. In law they simply mean something far more precise. For example the word "part" generally means a separate piece, something that creates the whole. In a legal document "Part" denotes a concrete structural unit superior to units of a lower level.

Although locutions such as "seisin", "qui pro quo", "fee simple", "hedonic damages" and others would be hardly found in common forms of communication, in texts of legal kind they are no rarity. Furthermore, much of terminology (e. g. "valid", "adequate", "intention", "malice") is handled according the purpose they serve because they are not exact enough and could be qualified differently in different situations. Unlike in other styles, in legal English there exists great pressure to use lexis of precise or vague meaning according to the purpose of the sentence. To avoid hostile interpretation, lawyers are forced to draft extensive pieces of text to be sure that the document says exactly what they wanted to say. They have to be precise and vague enough at the same time.[29]

3.2.9 Wordiness and Redundancy

Tautologous expressions, e.g. "terms and conditions", "require and request", "null and void", "each and every", "assistance and protection" etc. are distinctive quality of legal documents on the field of lexicology as well. Their use in legal documents is due to the influence of different languages (French, Latin and Anglo-Saxon) throughout the history and reflects the effort of early draftsmen to attain the pregnancy. Whether the two terms had the same meaning, the safest way of creating an accurate text was to use both of them.[30]

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[29] David Crystal and Derek Davy, *Investigating English Style*, 210 – 211.

[30] David Crystal and Derek Davy, *Investigating English Style*, 208 -209.

3.2.10 Legalese versus Plain English

All the features discussed above create legalese - a special kind of language unexchangeable for any other. Hutchinson Encyklopedia sais: *"This is a kind of long-winded jargon used by lawyers which it is difficult to understand. Contracts, insurance policies, and guarantees are among the documents in which you may find it."*[31]

Today, there is a growing demand for making legal text more readable, so the wide public can become familiar with them more easily. For instance the Mississippi Bar Association - an organization of layers, which *"shall serve the public good by promoting excellence in the profession and in American system of justice"*[32], have put on their web pages Guide to Legalese, where some of the plenty of specific terms are "translated" to the plain English.[33] Moreover, in 1998 Al Gore, the Vice President of the United States at that time, announced the No-Gobbledygook Award *"to recognize federal employees who use plain language in innovative ways."*[34] The award was the centerpiece of Gore's plain language initiative, under which a group called the Plain Language Action Network (PLAN) was formed providing plain-language training to agencies.

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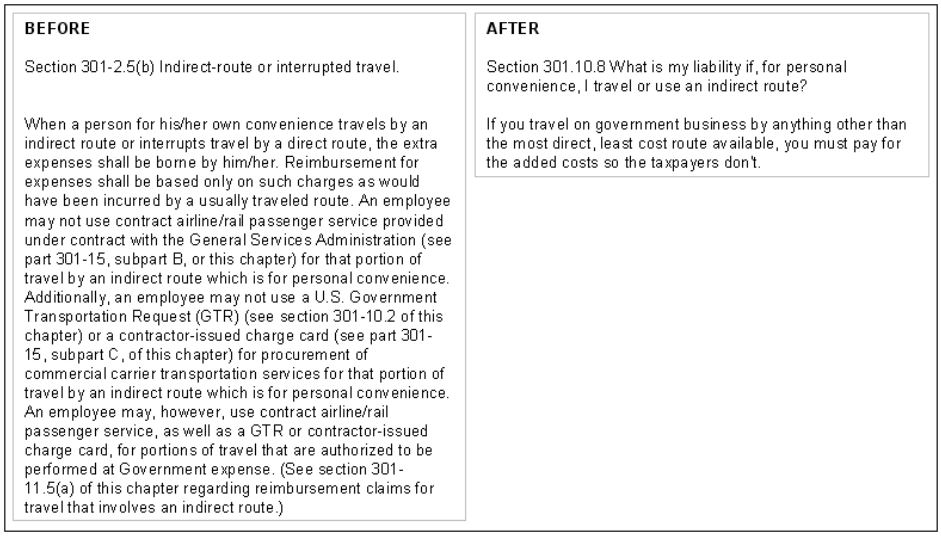
[31] Tiscali reference, "Legalese", http://www.tiscali.co.uk/reference/dictionaries/english/data/d0082341.html

[32] The Mississippi Bar, "MS Bar Missions and Goals", http://www.msbar.org/mission.php

[33] The Mississippi Bar, "Guide to Legalese", http://www.msbar.org/guide_to_legalese.php#

[34] Plain Language.gov. Improving Communication from the Federal Government to the Public, http://www.plainlanguage.gov/index.cfm

Fiure. 4: No-Gobbledygook Award winners for the year 2000: Jim Harte and Umeki Thorne, both program analysts at General Service Administration of the United States government, clarified and streamlined a 194-word rule on government-sponsored travel down to 45 words[35]



BEFORE

Section 301-2.5(b) Indirect-route or interrupted travel.

When a person for his/her own convenience travels by an indirect route or interrupts travel by a direct route, the extra expenses shall be borne by him/her. Reimbursement for expenses shall be based only on such charges as would have been incurred by a usually traveled route. An employee may not use contract airline/rail passenger service provided under contract with the General Services Administration (see part 301-15, subpart B, or this chapter) for that portion of travel by an indirect route which is for personal convenience. Additionally, an employee may not use a U.S. Government Transportation Request (GTR) (see section 301-10.2 of this chapter) or a contractor-issued charge card (see part 301-15, subpart C, of this chapter) for procurement of commercial carrier transportation services for that portion of travel by an indirect route which is for personal convenience. An employee may, however, use contract airline/rail passenger service, as well as a GTR or contractor-issued charge card, for portions of travel that are authorized to be performed at Government expense. (See section 301-11.5(a) of this chapter regarding reimbursement claims for travel that involves an indirect route.)

AFTER

Section 301.10.8 What is my liability if, for personal convenience, I travel or use an indirect route?

If you travel on government business by anything other than the most direct, least cost route available, you must pay for the added costs so the taxpayers don't.

In conclusion, the language of legal documents belongs to one of the most remarkable functional styles and is noted for several typical features. Its structure being developed in Middle Ages and having been maintained till these days is strictly logical, however overcomplicated as much. Therefore legal English may cause difficulties for not experienced readers.

At first sight, it is the graphic layout that gives us a clear hint that we are dealing with a legal text. It attracts attention to the crucial parts of the document. In addition, *"there are grammatical characteristics such as the chain-like nature of some of the constructions, and the restriction on the use of pronouns, both of which are connected with the need to avoid ambiguity; and in vocabulary there is studied interplay of precise with flexible terminology."*[36]

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[35] Plain Language.gov. Improving Communication from the Federal Government to the Public, "Vice President Gore Presents Third Plain Language Award", http://www.plainlanguage.gov/testexamples/indexExample.cfm?record=124&search=legal

[36] David Crystal and Derek Davy, *Investigating English Style*, 213.

II. ANALYSIS

4 TRANSLATION

ALŽBĚTA II.

Zákon o reformě veřejného sociálního zabezpečení z roku 2007

2007 KAPITOLA 5

Novela Zákona o odškodnění následků vakcinace z roku 1979 ustanovující sociální zabezpečení a věci s ním spojené.
[3. května 2007]

Z NAŘÍZENÍ JEJÍHO VELIČENSTVA KRÁLOVNY A ZA RADY A SOUHLASU SHROMÁŽDĚNÍ ČLENŮ SNĚMOVNY LORDŮ A DOLNÍ SNĚMOVNY PARLAMENTU SE TAKTO USTANOVUJE: -

ČÁST 1

INVALIDNÍ DŮCHOD

Oprávnění

1 Invalidní důchod

(1) Invalidní důchod je finanční dávka poskytovaná v souladu s ustanoveními této části.

(2) Nárok na invalidní důchod má na základě ustanovení této části žadatel, který splňuje základní podmínky nebo -

(a) první a druhou podmínku uvedenou v Části 1 Přehledu 1 (podmínky týkající se sociálního a zdravotního pojištění) nebo třetí podmínku uvedenou v téže části téhož přehledu (podmínka týkající se nezletilosti) nebo

(b) podmínky uvedené v Části 2 Přehledu 1 (podmínky týkající se finanční situace).

(3) Základními podmínkami je, že žadatel -

(a) má sníženou pracovní schopnost,

(b) dosáhl šestnácti let věku,

(c) nedosáhl důchodového věku,

(d) se zdržuje na území Velké Británie,

(e) nepobírá sociální dávky,

(f) nepobírá podporu v nezaměstnanosti (a jeho manžel nebo manželka, druh nebo družka neuplatňuje nárok na společnou podporu v nezaměstnanosti).

(4) V této části se osobou se sníženou pracovní schopností rozumí ten, jehož -

(a) pracovní schopnost je omezena jeho fyzickým nebo duševním stavem a

(b) omezení je takové povahy, že není možné od něj vyžadovat pracovní činnost.

(5) Invalidní důchod se vyplácí týdně.

(6) V odstavci 3

„společná podpora v nezaměstnanosti“ znamená nárok na podporu v nezaměstnanosti podle článku 1(odstavce 2 písmene B) Zákona o nezaměstnanosti z roku 1995 (kapitola 18);

„důchodový věk“ je definován bodem 1 Přehledu 4 v Zákoně o starobním důchodu z roku 1995 (kapitola 26).

(7) V této části. –

„dávka přiznaná na základě příspěvkového modelu“ je nárok na invalidní důchod podle odstavce (2) písmene (a);

„dávka přiznaná na základě příjmového modelu“ je nárok na invalidní důchod podle odstavce (2) písmene (b).

2 Výše dávky invalidního důchodu přiznané na základě příspěvkového modelu

(8) Částka dávky invalidního důchodu přiznané žadateli na základě příspěvkového modelu se vypočítá jako –

(a) samostatná dávka, jak stanovuje zákon,

(b) dávka, jež se přičítá k příspěvku v nemohoucnosti nebo příspěvku v pracovním omezení, má-li na ně žadatel nárok,

(c) předepsané srážky z plateb, jež vyplývají z článku 3.

(9) Podmínky získání nároku na příspěvek v nemohoucnosti jsou, že –

(a) žadatel podstoupil zdravotní prohlídku,

(b) žadatel má sníženou schopnost vykonávat činnosti spojené s výkonem práce,

(c) byly splněny jiné podmínky, jak stanovuje zákon.

(10) Podmínky získání nároku na příspěvek v pracovním omezení jsou, že –

(a) žadatel podstoupil zdravotní prohlídku,

(b) žadatel nemá sníženou schopnost vykonávat činnosti spojené s výkonem práce,

(c) byly splněny jiné podmínky, jak stanovuje zákon.

(11) Vyhlášky mohou –

(a) předepsat okolnosti, za kterých se odstavec (2) písmeno (a) nebo odstavec (3) písmeno (a) neuplatňuje;

(b) předepsat okolnosti, za kterých je možno zpětně uplatnit nárok příspěvek podle odstavce (2) nebo (3);

(c) nařídit výši částky příspěvků podle odstavce (2) nebo (3).

(12) V této části má osoba sníženou schopnost vykonávat pracovní aktivity, pokud –

(a) je její schopnost vykonávat činnosti spojené s výkonem práce omezena z důvodu jejího fyzického či duševního stavu a

(b) toto omezení je takové povahy, že není možné od ní takové činnosti vyžadovat.

3 Srážky z dávky přiznané na základě příspěvkového modelu: dodatek

(1) Tento článek se vztahuje na následující příjmy vyplácené žadateli –

(a) příjmy starobního důchodu

(b) pravidelné platby z Fondu penzijního připojištění

(c) stanovené příjmy spojené s výkonem určitých veřejných funkcí.

(2) Vyhlášky mohou –

(a) zrušit platnost článku 2 odstavce (1) písmene (c), co se týče pravidelných plateb z Fondu penzijního připojištění stanoveným osobám;

(b) vyloučit stanovené příjmy starobního důchodu nebo pravidelné platby z Fondu penzijního připojištění z příjmů, jež jsou předmětem tohoto článku;

(c) v rámci tohoto článku považovat konkrétní příjmy osob za příjmy starobního důchodu nebo pravidelné platby z Fondu penzijního připojištění (a to včetně odložených plateb);

(d) v článku 2 stanovit metodu určení doby, po kterou má osoba právo na dávku přiznanou na základě příspěvkového modelu.

(3) V tomto článku –

„příjem starobního důchodu“ je –

(a) pravidelný příjem osoby vyplývající z občanského penzijního programu nebo, na základě ukončení pracovního poměru, ze zaměstnaneckého penzijního programu nebo z penzijního programu zaměstnanců veřejné správy,

(b) vyjmenovaný příjem pojistného plnění vypláceného na základě fyzické nebo duševní nemoci nebo invalidity

(c) další vyjmenované příjmy;

„pravidelné platby z Fondu penzijního připojištění“ jsou –

(a) všechny pravidelné finanční náhrady vyplývající z ustanovení o náhradách penzijního připojištění podle článku 162 odstavce (2) Zákona o starobním důchodu z roku 2004 (kapitola 35) nebo Článku 146 odstavce (2) Nařízení o starobním důchodu z roku 2005 (Severní Irsko) (S.I. 2005/255 (N.I. 1)) (výplata starobního důchodu),

(b) všechny pravidelné platby podle článku 166 Zákona o starobním důchodu z roku 2004 nebo Článku 150 Nařízení o starobním důchodu z roku 2005 (Severní Irsko) (povinnost výplaty nárokovaných příspěvků nesplacených do data zdravotní prohlídky aj.).

(4) V odstavci (3) jsou „zaměstnanecký penzijní program“, „občanský penzijní program“ a „penzijní program zaměstnanců veřejné správy“ definovány článkem 1 Zákona o penzijních programech z roku 1993 (kapitola 48), přičemž „občanský penzijní program“také zahrnuje –

(a) pravidelnou roční rentu připisovanou na základě smlouvy nebo zástavy majetku podle článku 620 nebo 621 Zákona o daních z příjmů fyzických a právnických osob z roku 1998 (kapitola 1),

(b) náhradní smlouvu ve smyslu článku 622 odstavce (3) stejného Zákona, jež je považována za řádný penzijní program na základě ustanovení článku 1 odstavce (1) písmene (f) Přehledu 36 Zákona o financích z roku 2004 (kapitola 12).

4 Výše dávky přiznané na základě příjmového modelu

(1) Částka dávky invalidního důchodu přiznané žadateli na základě příjmového modelu je vyplácena ve výši –

(a) plné žádané částky, pokud žadatel nemá žádný příjem;

(b) žádané částky přesahující příjem žadatele,

(2) Předmět článku (3), tzn. výše žádané částky dávky v odstavci (1) se vypočítává jako –

(a) stanovená částka nebo souhrn stanovených částek,

(b) částka přičtená k příspěvku v nemohoucnosti nebo příspěvku v pracovním omezení, má-li na ně žadatel právo.

(3) V případech vyjmenovaných v odstavci (1) nemusí být na základě vyhlášek žádaná částka přiznána.

(4) Podmínky přiznání příspěvku v nemohoucnosti jsou, že –

(a) žadatel podstoupil zdravotní prohlídku,

(b) žadatel má sníženou schopnost vykonávat činnosti spojené s výkonem práce,

(c) byly splněny jiné podmínky, jak stanovuje zákon.

(5) Podmínky k získání nároku na příspěvek v pracovním omezení jsou, že –

(a) žadatel podstoupil zdravotní prohlídku,

(b) žadatel nemá sníženou schopnost vykonávat činnosti spojené s výkonem práce,

(c) byly splněny jiné podmínky, jak stanovuje zákon.

(6) Vyhlášky mohou –

(a) předepsat okolnosti, za kterých se písmeno (a) odstavce (4) nebo písmeno (a) odstavce (5) neuplatňuje;

(b) předepsat okolnosti, za kterých je možno zpětně uplatnit nárok podle odstavce (4) nebo (5);

(c) nařídit výši částky příspěvků podle odstavce (4) nebo (5).

5 Rozhodnutí o výplatě zálohy na dávku přiznanou na základě příjmového modelu

(1) Tento článek se týká osob, jež uplatňují nárok na příspěvek v nemohoucnosti a příspěvek v pracovním omezení a které -

(a) nemají nárok na příspěvek v pracovním omezení z důvodu nesplnění podmínek uvedených v bodě 6(1)(a) Přehledu 1,

(b) splňují podmínky uvedené v bodě 6(1)(a) Přehledu 1, protože jim byla přiznána poměrná částka podle článku 4odstavce (4) nebo (5),

(c) nemají nárok na dávku přiznanou na základě příspěvkového modelu.

(2) Nároky uplatňované podle tohoto článku upravuje článek 5 odstavec (1) Zákona o sociální správě (vyhlášky o nároku na přídavky), jestliže –

(a) v odstavci (d) (pravomoc udělit souhlas s výplatou záloh dávek na základě oprávněného nároku na přídavek, za předpokladu, že žadatel splní určené požadavky; přídavek bude vyplácen jako součást výplaty dávek) bude před středník připsán text: „a budou splněny ostatní stanovené podmínky“,

(b) v písmenu (e) (pravomoc provádět kontrolu nebo dohled při poskytování výplat dávek podle Zákona o sociálním zabezpečení z roku 1998 (kapitola 14), jsou-li zjištěny nedostatky v plnění požadavků) bude slovo „požadavků“ zaměněno za text „podmínek, za kterých je výplata dávek přiznána“.

(3) Na základě vyhlášek může být nárok na příspěvek plynoucí z tohoto článku přiznán rozhodnutím soudu za podmínky, že takto přiznaný příspěvek se začne vyplácet až poté, co soudní rozhodnutí nabude právní moci.

6 Částky dávky v případě, že má žadatel nárok na dávky přiznané na základě obou modelů

(1) Tento článek se týká osob, které mají nárok na výplatu dávky přiznané na základě příspěvkového i příjmového modelu.

(2) Pokud nemá žadatel žádný příjem, částka dávky přiznané na základě příspěvkového i příjmového modelu se navýší o –

(a) jeho osobnostní tarif,

(b) příslušnou částku.

(3) Pokud žadatel má příjem, částka dávky přiznané na základě příspěvkového i příjmového modelu se navýší o –

(a) jeho osobnostní tarif,

(b) žádanou částku přesahující příjem žadatele.

(4) Pokud částka dávky přiznané na základě příspěvkového i příjmového modelu nedosahuje osobnostního tarifu žadatele, považuje se tato částka za součást příspěvkového modelu, na jehož základě se žadateli dávky vyplatí.

(5) Pokud částka dávky přiznané na základě příspěvkového i příjmového modelu přesahuje osobnostní tarif žadatele, sestává dávka ze dvou částí, a to –

(a) dávky ve výši jeho osobnostního tarifu,

(b) dávky ve výši částky přesahující jeho osobnostní tarif.

(6) Osobnostní tarif zmíněný v odstavci (5) písmenu (a) se připočítává k nároku žadatele na dávku přiznanou na základě příspěvkového modelu.

(7) Osobnostní tarif zmíněné v odstavci (5) písmenu (b) se připočítává k nároku žadatele na dávku přiznanou na základě příjmového modelu.

(8) V tomto článku –

„příslušná částka“ znamená částku, která žadateli náleží podle článku 4 odstavce (1);

„osobnostní tarif“ znamená částku vypočítanou na základě článku 2 odstavce (1).

7 Odepření výplaty částky nedosahující předepsaného minima

Jestliže výše vyplácené částky příspěvku v nemohoucnosti a příspěvku v pracovním omezení nedosahuje předepsaného minima, je její výplata zamítnuta, kromě okolností, které upravují vyhlášky.

Zdravotní prohlídka vztahující se k oprávnění na příspěvek

8 Snížená pracovní schopnost

(1) V této Části, je-li pracovní schopnost osoby omezena jejím fyzickým nebo duševním stavem a je-li toto omezení takové povahy, že není možné od ní vyžadovat pracovní činnost, stanovují další postup vyhlášky.

(2) Vyhlášky odstavce (1) –

(a) na základě odborného posudku určují postup v případě příslušné osoby;

(b) blíže specifikují zdravotní prohlídku, jež určuje rozsah konkrétní choroby či tělesného nebo duševního postižení a schopnost osoby vykonávat určité aktivity;

(c) určují průběh zdravotní prohlídky.

(3) Vyhlášky odstavce (1) mohou upravovat zejména –

(a) informace a důkazy potřebné pro účely stanovené v tomto odstavci;

(b) způsoby, jakými jsou tyto informace a důkazy shromažďovány;

(c) povinnost osoby, která žádá o statut osoby se sníženou pracovní schopností, podstoupit lékařskou prohlídku.

(4) Vyhlášky odstavce (1) mohou také upravovat –

(a) nepřiznání statutu osoby se sníženou pracovní schopností osobě, která nedostatečně prokázala svůj zdravotní stav tak, že–

(i) nedoložila požadované informace nebo důkazy,

(ii) doložila informace nebo důkazy nesprávným způsobem,

(iii) nepodstoupila předepsanou lékařskou prohlídku.

(b) skutečnosti, za kterých osoba koná či nekoná a na něž je brán ohled při dalším postupu na základě ustanovení článku (a);

(c) podmínky, ve kterých se osoba nalézá a které jsou nezbytné pro další opatření, na jejichž základě osoba koná či nekoná.

(5) Za přesně vymezených podmínek je možno osobu, která žádá o statut osoby se sníženou pracovní schopností, považovat za osobu se sníženou pracovní schopností do doby než –

(a) je určeno, zdali se jedná o osobu se sníženou pracovní schopností,

(b) se na základě vyhlášek tohoto článku přestane považovat za osobu se sníženou pracovní schopností.

(6) Podmínky vyjmenované v odstavci (5) mohou zahrnovat i podmínku, která zde není popsána, za které příslušná osoba ve stanoveném období pozbývá statutu osoby se sníženou pracovní schopností.

9 Snížená schopnost vykonávat činnosti spojené s výkonem práce

(1) V této Části, je-li schopnost osoby vykonávat činnosti spojené s výkonem práce omezena jejím fyzickým nebo duševním stavem a je-li toto omezení takové povahy, že není možné od ní takové činnosti vyžadovat, stanovují další postup vyhlášky.

(2) Vyhlášky odstavce (1) –

(a) na základě odborného posudku stanovují postup v případě příslušné osoby;

(b) blíže specifikují zdravotní prohlídku s odvoláním na skutečnosti, za kterých je vyhláška prováděna,

(c) určují průběh zdravotní prohlídky.

(3) Vyhlášky odstavce (1) mohou upravovat zejména –

(a) informace a důkazy potřebné pro účely stanovené v tomto odstavci;

(b) způsoby, jakými jsou tyto informace a důkazy shromažďovány;

(c) povinnost osoby, která žádá o statut osoby se sníženou schopností vykonávat činnosti spojené s výkonem práce, podstoupit lékařskou prohlídku.

(4) Vyhlášky odstavce (1) mohou taktéž upravovat –

(a) nepřiznání statutu osoby se sníženou schopností vykonávat činnosti spojené s výkonem práce osobě, která nedostatečně prokázala svůj zdravotní stav tak, že–

(i) nedoložila požadované informace nebo důkazy,

(ii) doložila informace nebo důkazy nesprávným způsobem,

(iii) nepodstoupila předepsanou lékařskou prohlídku.

(b) skutečnosti, za kterých osoba koná či nekoná a na něž je brán ohled při dalším postupu na základě ustanovení článku (a);

(c) podmínky, ve kterých se osoba nalézá a které jsou nezbytné pro další opatření, na jejich základě osoba koná či nekoná.

10 Zpráva

Ministr předloží Parlamentu nezávislou zprávu o průběhu zdravotních prohlídek podle článků 8 a 9 a bude tak činit každoročně po dobu pěti let od doby, kdy tyto články vstoupily v platnost.

Ustanovení

11 Zdravotní prohlídka se zaměřením na schopnost vykonávat práci

(1) Vyhlášky se mohou vztahovat na -

(a) osoby, které mají nárok na dávky invalidního důchodu,

(b) nemají statut osoby v nemohoucnosti.

Tyto vyhlášky upravují povinnost osoby podstoupit jednu či více zdravotních prohlídek se zaměřením na schopnost vykonávat práci, na jejichž základě nadále potrvá nárok na pobírání dávek. Částka dávky se může lišit s ohledem na ostatní dávky, které tyto vyhlášky neupravují.

(2) Tomto článku vyhlášky mohou upravovat zejména –

(a) podmínky, za kterých má osoba povinnost podstoupit jednu či více zdravotních prohlídek se zaměřením na schopnost vykonávat práci;

(b) upozornění osoby na tuto povinnost;

(c) nařízení povinnosti příslušné osoby podstoupit zdravotní prohlídku se zaměřením na schopnost vykonávat práci;

(d) způsob určení a oznámení času a místa konání této prohlídky;

(e) podmínky, za kterých se považuje povinnost podstoupit zdravotní prohlídku za splněnou,

(f) zajištění následných kroků v případě osoby, která měla povinnost podstoupit zdravotní prohlídku a -

(i) k této prohlídce se nedostavila a

(ii) ve stanovené lhůtě řádně nedoložila důvody, proč se nedostavila;

(g) relevantní skutečnosti, za kterých měla osoba důvod nesplnit povinnosti vyplývající z vyhlášek;

(h) relevantní podmínky, za kterých měla osoba důvod nesplnit povinnosti vyplývající z vyhlášek.

(3) V odstavci (2) písmenu (f) má nesplnění povinností vyplývajících z této vyhlášky za následek snížení dávek invalidního důchodu příslušné osobě ve smyslu této vyhlášky.

(4) Vyhlášky odstavce (3) určují zejména –

(a) výši částky, o kterou je dávka snížena,

(b) datum, od kterého se dávka snižuje a

(c) dobu, po kterou je dávka snížena,

a můžou zahrnovat ustanovení určující podmínky, za kterých bude tato srážka nulová.

(5) V tomto článku vyhlášky upravují zánik povinnosti podstoupit jednu nebo více zdravotních prohlídek se zaměřením na schopnost vykonávat práci, jestliže osoba, na kterou se povinnost vztahuje, je v plném invalidním důchodu.

(6) V tomto článku vyhlášky mohou stanovit, že –

(a) za předepsaných podmínek pomíjí povinnost osoby podstoupit zdravotní prohlídku se zaměřením na schopnost vykonávat práci;

(b) tato povinnost zaniká až do stanovené doby;

(c) za předepsaných podmínek může být určen nový čas a místo výkonu zdravotní prohlídky se zaměřením na schopnost vykonávat práci.

(7) V tomto článku "zdravotní prohlídka se zaměřením na schopnost vykonávat práci“ je prohlídka, jež se provádí za účelem posouzení –

(a) míry, do jaké je osoba schopna vykonávat práci,

(b) míry, do jaké lze zvýšit schopnost osoby vykonávat práci zlepšením fyzického a duševního stavu a možné kroky, kterými lze tohoto zlepšení dosáhnout;

(c) dalších stanovených skutečností vztahujících se k fyzickému a duševnímu stavu a ochoty as schopnosti osoby získat a udržet si práci.

Tuto prohlídku vykonává profesionální zdravotnický personál schválený ministrem.

(8) V odstavci (7) „profesionální zdravotnický personál“ je

(a) registrovaný lékař,

(b) registrovaná zdravotní sestra,

(c) odborný psychoterapeut nebo fyzioterapeut registrovaný u regulačního orgánu zřízeného Nařízením Královské rady podle článku 60 Zákona o zdraví z roku 1999 (kapitola 8) nebo

(d) jiný odborník podléhající regulačnímu orgánu zmiňovanému v článku 25 odstavci (3) Zákona o Reformě veřejného zdravotnictví a o zdravotnickém personálu z roku 2002 (kapitola 17).

5 ANALYSIS OF THE TRANSLATED TEXT

The source text represents a fragment of the UK Welfare Reform Act 2007 – a law applicable in case of a person looses his/her job and claims social benefits. It is to give the reader the detailed and precise description of the rights and duties when applying for the social support. The style is highly formal, the precise language and structure omit ambiguities in meaning. Although the terminology is mostly defined at the end of the sections and subsections, for good understanding the reader of the text should have at least a general knowledge of the UK social security system.

After a brief scanning the graphic layout clearly suggests that we are dealing with a legal text. First of all, we can notice the introductory parts that occur in no text but laws. The whole document is introduced by the name of the sovereign followed by the symbol of Coat of Arms of the United Kingdom. The motto "Dieut et mon droit" comes from French and could be translated as "God and my right shall me defend" and refers to the divine right of the Monarch to govern. Then the title and the number of a chapter, by which the law was adopted, follow. The next section – the so called long title – gives us details about the purpose of the Act. The text is opened by the enacting formula referring to the legislative powers of the United Kingdom.

The law itself is divided in sections and subsections. The top divisions are matched by cardinal numbers, the sections of lower degree by cardinal numbers in brackets. The subsections can be identified by lower case letters in brackets and lower case Roman numerals in brackets. As far as translating the particular parts I have used the Czech pattern, so the structure *Part - Section – Subsection* corresponds to the Czech *Část – Článek – Odstavec – Písmeno*. Structuring of the text into separate parts has two main functions: firstly, it omits ambiguities in referring back in the text: *In this Part…..is based on subsection (2)(a) – V této části…..na základě odstavce (2) písmene (a); to which section 3 applies – jež vyplývají z článku3.* Secondly, it helps the reader to orient and find the flow of the information.

The SL text is written in simple present tense which emphasizes the impersonality and neutrality and validity. The auxiliary verb "shall" expresses the duty: *The Secretary of State shall lay before Parliament – Ministr předloží Parlamentu*; *the amount …..shall be*

calculated by – částka dávky…..se vypočítá jako. The order “shall do/be” disappears in the Czech version and is replaced by the future tense. The verb “may” expresses the possibility and is translated in this sense: *Regulation may make provision – Vyhlášky mohou upravovat.*

Another typical feature of a legal document is the length of the sentences. In the translation long sentences of the SL sometimes have to be broken into several shorter ones: *In this section, “work –focused health-related assessment” means an assessment by a health care professional approved by the Secretary of State which is carried out for the purpose of assessing….. – V tomto článku “zdravotní prohlídka se zaměřením na schopnost vykonávat práci” je prohlídka, jež se provádí za účelem posouzení…..Tuto prohlídku vykonává profesionální zdravotnický personál schválený ministrem.* In this text mainly long coordinated sentences are used. Their logical structure can be easily traced because of densely used counting. In fact matching by the lower letters and the lower case Roman numerals serve as a mean of counting. The aim of counting is to clarify the subjects of the regulations of the superior parts. This way the authors avoid overusing the linker “and”.

(4) Regulations under subsection (1) may include provision—
(a) for a person to be treated as.....
(i) to provide.....,
(ii) to provide....., or
(iii) to attend for.....;
(b) as to matters which are.....;
(c) as to circumstances.....

At the first sight the TL version is much longer than the SL language text. That is because some expressions and phrases need to be explained. In this area nominalization plays a key role. Because in Czech language compounding a noun group is not possible additional information must be added. For instance *contributory allowance – dávka přiznaná na základě příspěvkového modelu; income allowance – dávka přiznaná na základě příjmového modelu; occupational pension scheme - zaměstnanecký penzijní program; public service pension scheme –penzijní program zaměstnanců veřejné správy.* In the Czech version either adjective or an object must be added. However, this must be done with great care otherwise the translated version would sound unnatural.

Omitting redundant or repetitive elements can balance the stretched parts, e. g. the nominal group *work focused interview – zdravotní prohlídka se zaměřením na schopnost vykonávat práci* can be in certain part translated as *tato prohlídka.* Another example, *Regulation under this subsection may make provision as to…..as the regulation may require* – the closing part is not necessary in the translated version.

Another issue the translator has to deal with is the terminology equivalence. In spite of discrepancies in legal systems, some expressions are similar in both languages: *pensionable age – důchodový věk; limited capability for work – snížená pracovní schopnost.*
With certain terminology I have avoided using word-to-word translation not because missing equivalence in the TL but because the changed version sounds more natural. Such a process was implemented by translation of some names of law, such as: *Jobseeker Act – Zákon o nezaměstnanosti; Pension Act- Zákon o starobním důchodu.*
For example the title Welfare Reform Act has been translated as *Zákon o reformě veřejného sociálního zabezpečení* because there is no equivalent Czech expression to the word "welfare". Another example is the *advance award – rozhodnutí o výplatě zálohy.* Also in this case a clear equivalence to the word "award" does not exist.

Legal documents generally involve many prefabricated formulae and patterns that are repeated throughout the text and this law is no exception. Terms like *make provision – upravují; person in question – příslušná osoba; within meaning of section – ve smyslu článku* or *by virtue of – na základě ustanovení* occur in the text repeatedly. In fact these lexical units are used in common language as well but making up a legal phrase they gain special meaning. Therefore, by translating them translators work with special dictionaries.

What makes the translation of a legal document difficult is the diversity of the legal systems. When dealing with the terminology the translator has to decide whether to use the word-to-word translation: *pensionable age – důchodový věk* or adapt the terms to the TL culture – *employment and support allowance – invalidní důchod; national insurance – sociální a zdravotní pojištění.*

CONCLUSION

In this work I aimed to explain to the reader that the translation does not only involve work with dictionaries and that the translation process requires deeper insight into the given topic and culture. Every translation – especially translation of a legal document - is to maintain the factual correctness with a stress laid on the pragmatic value of the text. I have pointed out the characteristics of legal documents and linked these general aspects with the concrete examples in the act translated.

One of these significant features is the graphic layout and the logical structuring of the text. This is related to the length of sentences and makes the orientation in text easier. As far as terminology is concerned the translation varies from word to word translation to finding an expression commonly used in the TL culture. The TL text seems to be longer as the SL version. This is due to the nominalization that is less common to use in the Czech language and the necessity to add new lexis to make the translation sound natural. Last but not least, the translator of legal regulations has to take in account the discrepancies between the legal systems of both countries.

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ENGLISH SOURCE DOCUMENT

Welfare Reform Act 2007

2007 CHAPTER 5

An Act to make provision about social security; to amend the Vaccine Damage Payments Act 1979; and for connected purposes. [3rd May 2007]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

EMPLOYMENT AND SUPPORT ALLOWANCE

Entitlement

1 Employment and support allowance

(1) An allowance, to be known as an employment and support allowance, shall be payable in accordance with the provisions of this Part.

(2) Subject to the provisions of this Part, a claimant is entitled to an employment and support allowance if he satisfies the basic conditions and either—

(a) the first and the second conditions set out in Part 1 of Schedule 1 (conditions relating to national insurance) or the third condition set out in that Part of that Schedule (condition relating to youth), or

(b) the conditions set out in Part 2 of that Schedule (conditions relating to financial position).

(3) The basic conditions are that the claimant—

(a) has limited capability for work,

(b) is at least 16 years old,

(c) has not reached pensionable age,

(d) is in Great Britain,

(e) is not entitled to income support, and

(f) is not entitled to a jobseeker's allowance (and is not a member of a couple who are entitled to a joint-claim jobseeker's allowance).

(4) For the purposes of this Part, a person has limited capability for work if—

(a) his capability for work is limited by his physical or mental condition, and

(b) the limitation is such that it is not reasonable to require him to work.

(5) An employment and support allowance is payable in respect of a week.

(6) In subsection (3)—

"joint-claim jobseeker's allowance" means a jobseeker's allowance entitlement to which arises by virtue of section 1(2B) of the Jobseekers Act 1995 (c. 18);

"pensionable age" has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26).

(7) In this Part—

"contributory allowance" means an employment and support allowance entitlement to which is based on subsection (2)(a);

"income-related allowance" means an employment and support allowance entitlement to which is based on subsection (2)(b).

2 Amount of contributory allowance

(1) In the case of a contributory allowance, the amount payable in respect of a claimant shall be calculated by—

(a) taking such amount as may be prescribed,

(b) if in his case the conditions of entitlement to the support component or the work-related activity component are satisfied, adding the amount of that component, and

(c) making prescribed deductions in respect of any payments to which section 3 applies.

(2) The conditions of entitlement to the support component are—

(a) that the assessment phase has ended,

(b) that the claimant has limited capability for work-related activity, and

(c) that such other conditions as may be prescribed are satisfied.

(3) The conditions of entitlement to the work-related activity component are—

(a) that the assessment phase has ended,

(b) that the claimant does not have limited capability for work-related activity, and

(c) that such other conditions as may be prescribed are satisfied.

(4) Regulations may—

(a) prescribe circumstances in which paragraph (a) of subsection (2) or (3) is not to apply;

(b) prescribe circumstances in which entitlement under subsection (2) or (3) is to be backdated;

(c) make provision about the amount of the component under subsection (2) or (3).

(5) For the purposes of this Part, a person has limited capability for work-related activity if—

(a) his capability for work-related activity is limited by his physical or mental condition, and

(b) the limitation is such that it is not reasonable to require him to undertake such activity.

3 Deductions from contributory allowance: supplementary

(1) This section applies to payments of the following kinds which are payable to the claimant—

(a) pension payments,

(b) PPF periodic payments, and

(c) payments of a prescribed description made to a person who is a member of, or has been appointed to, a prescribed body carrying out public or local functions.

(2) Regulations may—

(a) disapply section 2(1)(c), so far as relating to pension payments or PPF periodic payments, in relation to persons of a prescribed description;

(b) provide for pension payments or PPF periodic payments of a prescribed description to be treated for the purposes of that provision as not being payments to which this section applies;

(c) provide for sums of a prescribed description to be treated for the purposes of this section as payable to persons as pension payments or PPF periodic payments (including, in particular, sums in relation to which there is a deferred right of receipt);

(d) make provision for the method of determining how payments to which this section applies are, for the purposes of section 2, to be related to periods for which a person is entitled to a contributory allowance.

(3) In this section—

"pension payment" means—

(a) a periodical payment made in relation to a person under a personal pension scheme or, in connection with the coming to an end of an employment of his, under an occupational pension scheme or a public service pension scheme,

(b) a payment of a prescribed description made under an insurance policy providing benefits in connection with physical or mental illness or disability, and

(c) such other payments as may be prescribed;

"PPF periodic payment" means—

(a) any periodic compensation payment made in relation to a person, payable under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004 (c. 35) or Article 146(2) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (the pension compensation provisions), and

(b) any periodic payment made in relation to a person, payable under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.).

(4) For the purposes of subsection (3), "occupational pension scheme", "personal pension scheme" and "public service pension scheme" each have the meaning

given by section 1 of the Pension Schemes Act 1993 (c. 48), except that "personal pension scheme" includes—

(a) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 (c. 1), and

(b) a substituted contract within the meaning of section 622(3) of that Act,

which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004 (c. 12).

4 Amount of income-related allowance

(1) In the case of an income-related allowance, the amount payable in respect of a claimant shall be—

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

(b) if he has an income, the amount by which the applicable amount exceeds his income.

(2) Subject to subsection (3), the applicable amount for the purposes of subsection (1) shall be calculated by—

(a) taking such amount, or the aggregate of such amounts, as may be prescribed, and

(b) if in the claimant's case the conditions of entitlement to the support component or the work-related activity component are satisfied, adding the amount of that component.

(3) Regulations may provide that, in prescribed cases, the applicable amount for the purposes of subsection (1) shall be nil.

(4) The conditions of entitlement to the support component are—

(a) that the assessment phase has ended,

(b) that the claimant has limited capability for work-related activity, and

(c) that such other conditions as may be prescribed are satisfied.

(5) The conditions of entitlement to the work-related activity component are—

(a) that the assessment phase has ended,

(b) that the claimant does not have limited capability for work-related activity, and

(c) that such other conditions as may be prescribed are satisfied.

(6) Regulations may—

(a) prescribe circumstances in which paragraph (a) of subsection (4) or (5) is not to apply;

(b) prescribe circumstances in which entitlement under subsection (4) or (5) is to be backdated;

(c) make provision about the amount of the component under subsection (4) or (5).

5 Advance award of income-related allowance

(1) This section applies to claims for an employment and support allowance by a person who—

(a) would be entitled to an income-related allowance, but for the fact that he does not satisfy the condition in paragraph 6(1)(a) of Schedule 1,

(b) would satisfy that condition if he were entitled to the component mentioned in section 4(4) or (5), and

(c) is not entitled to a contributory allowance.

(2) In relation to claims to which this section applies, section 5(1) of the Administration Act (regulations about claims for benefit) shall have effect as if—

(a) in paragraph (d) (power to permit an award on a claim for benefit for a future period to be made subject to the condition that the claimant satisfies the requirements for entitlement when the benefit becomes payable under the award), there were inserted at the end "and to such other conditions as may be prescribed", and

(b) in paragraph (e) (power to provide for such an award to be revised or superseded under the Social Security Act 1998 (c. 14) if any of those requirements are found not to have been satisfied), for "any of those requirements" there were substituted "any of the conditions to which the award is made subject".

(3) Regulations may, in relation to claims to which this section applies, make provision enabling an award to be made on terms such that the time at which benefit becomes payable under the award is later than the start of the period for which the award is made.

6 Amount payable where claimant entitled to both forms of allowance

(1) This section applies where a claimant is entitled to both a contributory allowance and an income-related allowance.

(2) If the claimant has no income, the amount payable by way of an employment and support allowance shall be the greater of—

(a) his personal rate, and

(b) the applicable amount.

(3) If the claimant has an income, the amount payable by way of an employment and support allowance shall be the greater of—

(a) his personal rate, and

(b) the amount by which the applicable amount exceeds his income.

(4) Where the amount payable to the claimant by way of an employment and support allowance does not exceed his personal rate, the allowance shall be treated as attributable to the claimant's entitlement to a contributory allowance.

(5) Where the amount payable to the claimant by way of an employment and support allowance exceeds his personal rate, the allowance shall be taken to consist of two elements, namely—

(a) an amount equal to his personal rate, and

(b) an amount equal to the excess.

(6) The element mentioned in subsection (5)(a) shall be treated as attributable to the claimant's entitlement to a contributory allowance.

(7) The element mentioned in subsection (5)(b) shall be treated as attributable to the claimant's entitlement to an income-related allowance.

(8) In this section—

"applicable amount" means the amount which, in the claimant's case, is the applicable amount for the purposes of section 4(1);

"personal rate" means the amount calculated in accordance with section 2(1).

7 Exclusion of payments below prescribed minimum

Except in such circumstances as regulations may provide, an employment and support allowance shall not be payable where the amount otherwise payable would be less than a prescribed minimum.

Assessments relating to entitlement

8 Limited capability for work

(1) For the purposes of this Part, whether a person's capability for work is limited by his physical or mental condition and, if it is, whether the limitation is such that it is not reasonable to require him to work shall be determined in accordance with regulations.

(2) Regulations under subsection (1) shall –
- (a) provide for determination on the basis of an assessment of the person concerned;
- (b) define the assessment by reference to the extent to which a person who has some specific disease or bodily or mental disablement is capable or incapable of performing such activities as may be prescribed;
- (c) make provision as to the manner of carrying out the assessment.

(3) Regulations under subsection (1) may, in particular, make provision–
- (a) as to the information or evidence required for the purpose of determining the matters mentioned in that subsection;
- (b) as to the manner in which that information or evidence is to be provided;
- (c) for a person in relation to whom it falls to be determined whether he has limited capability for work to be called to attend for such medical examination as the regulations may require.

(4) Regulations under subsection (1) may include provision –
- (a) for a person to be treated as not having limited capability for work if he fails without good cause –
  - (i) to provide information or evidence which he is required under such regulations to provide,
  - (ii) to provide information or evidence in the manner in which he is required under such regulations to provide it, or
  - (iii) to attend for, or submit himself to, a medical examination for which he is called under such regulations to attend;
- (b) as to matters which are, or are not, to be taken into account in determining for the purposes of any provision made by virtue of paragraph (a) whether a person has good cause for any act or omission;
- (c) as to circumstances in which a person is, or is not, to be regarded for the purposes of any such provision as having good cause for any act or omission.

(5) Regulations may provide that, in prescribed circumstances, a person in relation to whom it falls to be determined whether he has limited capability for work, shall, if prescribed conditions are met, be treated as having limited capability for work until such time as—

(a) it has been determined whether he has limited capability for work, or

(b) he falls in accordance with regulations under this section to be treated as not having limited capability for work.

(6) The prescribed conditions referred to in subsection (5) may include the condition that it has not previously been determined, within such period as may be prescribed, that the person in question does not have, or is to be treated as not having, limited capability for work.

9 Limited capability for work-related activity

(1) For the purposes of this Part, whether a person's capability for work-related activity is limited by his physical or mental condition and, if it is, whether the limitation is such that it is not reasonable to require him to undertake such activity shall be determined in accordance with regulations.

(2) Regulations under subsection (1) shall—

(a) provide for determination on the basis of an assessment of the person concerned;

(b) define the assessment by reference to such matters as the regulations may provide;

(c) make provision as to the manner of carrying out the assessment.

(3) Regulations under subsection (1) may, in particular, make provision—

(a) as to the information or evidence required for the purpose of determining the matters mentioned in that subsection;

(b) as to the manner in which that information or evidence is to be provided;

(c) for a person in relation to whom it falls to be determined whether he has limited capability for work-related activity to be called to attend for such medical examination as the regulations may require.

(4) Regulations under subsection (1) may include provision—

(a) for a person to be treated as not having limited capability for work-related activity if he fails without good cause—

(i) to provide information or evidence which he is required under such regulations to provide,

(ii) to provide information or evidence in the manner in which he is required under such regulations to provide it, or

(iii) to attend for, or submit himself to, a medical examination for which he is called under such regulations to attend;

(b) as to matters which are, or are not, to be taken into account in determining for the purposes of any provision made by virtue of paragraph (a) whether a person has good cause for any act or omission;

(c) as to circumstances in which a person is, or is not, to be regarded for the purposes of any such provision as having good cause for any act or omission.

10 Report

The Secretary of State shall lay before Parliament an independent report on the operation of the assessments under sections 8 and 9 annually for the first five years after those sections come into force.

Conditionality

11 Work-focused health-related assessments

(1) Regulations may make provision for or in connection with imposing on a person who is—

(a) entitled to an employment and support allowance, and

(b) not a member of the support group,

a requirement to take part in one or more work-focused health-related assessments as a condition of continuing to be entitled to the full amount payable to him in respect of the allowance apart from the regulations.

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

(a) prescribing circumstances in which such a person is subject to a requirement to take part in one or more work-focused health-related assessments;

(b) for notifying such a person of any such requirement;

(c) prescribing the work-focused health-related assessments in which a person who is subject to such a requirement is required to take part;

(d) for the determination, and notification, of the time and place of any such assessment;

(e) prescribing circumstances in which a person attending such an assessment is to be regarded as having, or not having, taken part in it;

(f) for securing that the appropriate consequence follows if a person who is required under the regulations to take part in a work-focused health-related assessment—

(i) fails to take part in the assessment, and

(ii) does not, within a prescribed period, show that he had good cause for that failure;

(g) prescribing matters which are, or are not, to be taken into account in determining whether a person had good cause for any failure to comply with the regulations;

(h) prescribing circumstances in which a person is, or is not, to be regarded as having good cause for any such failure.

(3) For the purposes of subsection (2)(f), the appropriate consequence of a failure falling within that provision is that the amount payable to the person in question in respect of an employment and support allowance is reduced in accordance with regulations.

(4) Regulations under subsection (3) may, in particular, make provision for determining—

(a) the amount by which an allowance is to be reduced,

(b) when the reduction is to start, and

(c) how long it is to continue,

and may include provision prescribing circumstances in which the amount of the reduction is to be nil.

(5) Regulations under this section shall include provision for a requirement to take part in one or more work-focused health-related assessments to cease to have effect if the person subject to the requirement becomes a member of the support group.

(6) Regulations under this section may include provision—

(a) that in such circumstances as the regulations may prescribe a requirement to take part in a work-focused health-related assessment that would otherwise apply to a person by virtue of such regulations is not to apply, or is to be treated as not having applied;

(b) that in such circumstances as the regulations may prescribe such a requirement is not to apply until a prescribed time;

(c) that in such circumstances as the regulations may prescribe the time and place of a work-focused health-related assessment in which a person is required by regulations under this section to take part may be redetermined.

(7) In this section, "work-focused health-related assessment" means an assessment by a health care professional approved by the Secretary of State which is carried out for the purpose of assessing—

(a) the extent to which a person still has capability for work,

(b) the extent to which his capability for work may be improved by the taking of steps in relation to his physical or mental condition, and

(c) such other matters relating to his physical or mental condition and the likelihood of his obtaining or remaining in work or being able to do so, as may be prescribed.

(8) In subsection (7), "health care professional" means—

(a) a registered medical practitioner,

(b) a registered nurse,

(c) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999 (c. 8), or

(d) a member of such other profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17) as may be prescribed.

12 Work-focused interviews

(1) Regulations may make provision for or in connection with imposing on a person who is—

(a) entitled to an employment and support allowance, and

(b) not a member of the support group,

a requirement to take part in one or more work-focused interviews as a condition of continuing to be entitled to the full amount payable to him in respect of the allowance apart from the regulations.

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

(a) prescribing circumstances in which such a person is subject to a requirement to take part in one or more work-focused interviews;

(b) for notifying such a person of any such requirement;

(c) prescribing the work-focused interviews in which a person who is subject to such a requirement is required to take part;