1. Introductory Outline

Social security means a guarantee provided by the state through its appropriate agencies against certain risks to which member of society may expose.

The insurance and pension are social insurance and social assistance type of program which provides benefit for persons of small means granted as of right, in amount sufficient to meet a minimum standard of need, which combine the contributory effort of the insured with subsidies from the employer as well as the government.

The history of the development of insurance and pension system in U. K. and U. S. is very old. The insurance and pension sector always remain an issue of discussion among the coming and going governments. So many steps relating to structure, regulation and their reformations has been taken by the governments from time to time to make better to the insurance and pension system for the benefits of their working class.

The U. K. and U.S. developed a highly fluid structure of insurance and pension system for their people which regulated by so many agencies. The regulatory mechanism of insurance and pension is a complicated issue in the U. K. and U. S. administration because these sectors demand the regulation by highly specialized agencies. So from time to time there arose the demand of reforms.
The U.K government was very conscious from the beginning for the proper regulation of the insurance and pension sector of the country as per the market demand. So, firstly the government gave the legislative backing to their insurance and pension sector, than move ahead towards the way of privatization for the proper regulation of their insurance and pension sector. In the way of privatization for the proper regulation of both sector it is necessary that their must be one independent authority. So the government established the Financial Services Authority for the insurance sector regulation and appoints special Regulator for the pension sector regulation. Now the insurance and pension system is almost smoothly going on.

In U. S., the insurance sector was regulated by the states with the consultation of insurance companies till the long time but after few decades the position was change, the regulation of insurance sector come in the hand of federal government. Again after some time the problem was still faced by the insurance sector due to the economic crises. So U. S. partially privatized their insurance system. The pension sector of U. S. was also facing problems due to this reason Bush administration decided to privatized the pension sector but before implementing this the government gone and new Obama government come in to power. The present Obama government is active in the field of insurance and pension to provide better social security to the people. Obama wants fewer burdens on the people and much responsibility on the government, due to this reasons he rejected the idea of Bush to privatize the pension sector and choice fully government funded pension plans as well as complete federal control on the regulation of insurance system of U. S. In this reference his government is doing hard work which results will be come in the near future.
2. Insurance and Pension: U. K. System

1. Insurance and Pension: Background

Background of Insurance

The historical development of insurance system in U. K. trace back from 1616, when a number of insurance companies were started to compensate to the people during the Bubble era when the great fire was caused a lot of damages to the people. After that, so many companies were established in 1711. Many of them were fraudulent, get-rich-quick schemes, concerned mainly to sell their securities to the public. Nevertheless, two important and successful English insurance companies were formed during this period- the London Assurance Corporation and Royal Exchange Assurance Corporation. Their operation marked the beginning of modern form of insurance.

No discussion of early development of insurance in U. K. would be completed without reference of Lloyd’s of London, the international insurance market reorganized in 1769. This market was started in 17th century as a coffeehouse patronized by merchants, gradually becoming recognized as the most likely place to find underwriters for insurance.¹

After that so many insurance companies were establish. These companies were regulated by the government of U.K. but in future when the responsibilities of government were increase, the government privatized the insurance sector by passing the Financial Services Authority Act 1986 and gives the responsibility of insurance regulation to the Department of Trade and Industry and Treasury Department with technical assistance of the Government’s Actuary Department. This department was responsible for supervising the equitable life and other insurance companies, and was also responsible for policy and legislation.

But the track was changed in 1997; the U. K. government decided that it would create a single investment industry regulator, independent from
government, the FSA, taking order the roles of nine existing self-regulating bodies.

After that treasury became involve in insurance regulation as part of the preparations to create the Financial Services Authority. The department of Trade and Industry as well as Insurance Director Staff was transferred to the treasury and from 5 January 1998, until January, 1999, the treasury was directly responsible for prudential regulation of insurance.

From January, 1999, as part of a transition arrangement, treasury outsourced the day-to-day supervision of insurance companies to the FSA, but remained ultimately in charge, retaining its regulatory role until the FSA gained its full regulatory power on December 2001 when Financial Services Authority and Market Act was passed.

Now FSA is a single responsible body, independent from government, but whose scope and regulatory powers are still the responsibility of U.K. government.²

Background of Pension

In United Kingdom at the beginning of 20th century the only general support for old age was through the Poor Law. Only a small minority of white – collar and public service workers had access to pension from employer. Though many workers had some mutual insurance, the friendly societies did not cover old age.

There was intense debate over how to provide better support to the elderly. This finally resulted in Lloyd George’s Old Age Pension Act 1908. From January 1909, a non contributory pension became payable to each person over 70 years of age, whose income was 25 pence for a week.

The liberal government went on to introduced contributory insurance against sickness and unemployment in the National Insurance Act 1911. In
1925 the contributory principle was extended to pensioners by Widows, Orphans and Old Age Contributory Pension Act, 1928. The Act provided maintenance outside the Poor Law to the widows and grafted contributory pension from age 65 over the existing non-contributory scheme. Pension required contribution in the five years before 65; those without a recent contribution record were still subject to a means test at age 70. Like other insurance benefits under the Nation Insurance Act 1911, pension coverage was not universal and was aimed mainly at lower paid and mutual workers. It did not provide support for dependants. However, a married woman could use her husband’s contribution record to gain a pension when she reached 65 year of age.

During this period occupational pensions grow steadily. The Finance Act 1921 introduced tax relief on pension scheme contribution and investments, placing them on the same footing as savings through friendly societies and life insurance. The Finance Act, 1947 introduced limits on the amount of tax relief allowable on pensions. By the outbreak of the Second World War, the foundation had been laid for a basic flat-rate state pension entitlement, but the system was by means comprehensive. The flat-rate benefit of 50 pence was not enough by itself to meet subsistence needs, but no additional help was available except subsistence needs, through the Poor Law. A benefit has not been increased since 1919.

In 1935, a new national means-tested assistance scheme had been introduced for the unemployed. This was intended to meet fall subsistence needs, including housing costs. After that the Old Age and Widow Pension Act 1940 of the war time extended this supplementary assistance to pensioners and widows, removing them from the scope of the Poor Law. In addition the Act decreases the women pension age from 65 to 60.

In 1942, William Beveridge’s report Social Insurance and Allied Services mapped the way to the creation of the post-war ‘cradle to grave’
welfare state. The new labour governments National Insurance Act 1946 created a universal social insurance system based around flat-rate benefit in return for flat-rate contributions. Entitlement to pension was based on earning across the whole working life, and for the first time became dependent on retirement from work, as well as age. Married women were encouraged not to insure personally, instead, they could obtain a retirement pension of 60% of their husband’s entitlement.

The new Universal National Insurance System was backed up by a comprehensive safety net- “National Assistance”. In effect, the National Assistance Act 1948 extended to all groups the means-tested benefits previously available to the elderly and the unemployed. Beveridge wanted insurance benefits to be set at subsistence level. So that resources to National Assistance would be the exception for those with extra needs. However, the National Government had taken the view-shared by successive administrations-that it was not feasible to pay flat-rate benefits at a rate high enough to cope with variations in individual need, the most important of which was rent.

By the end of 1950, there were several attempts to reduce reliance on means-tested benefit in old age by increasing national insurance pension rates. But it was increasingly clear that the flat-rate benefits, at a level supportable by flat-rate national insurance contributions, could not achieve this objective. Political thinkers began to see the development of a second, earnings-linked pension as the key to resolving poverty in retirement.

For the next 20 years, the parties competent to produce plans for ‘national assistance’- to give all old people the additional resources enjoyed by those with occupational pensions. The scheme propounded by National Insurance Act 1959 was the State Graduated Retirement Scheme, which came into effect in 1961. By this scheme the national insurance contribution became partly earning-related and extra contributions brought unit of additional
pension on top of the basic. An element of risk relation was introduced women paid more per unit then men.

The Graduated Retirement Benefit Scheme served on immediate purpose in assuming the solvency of the National Insurance Fund, but it was quickly clear that it would not create a sufficient second pension. As inflation began to rise in the late 1960s, protecting the lifetime value of all types of pensions and pension saving also became an issue. Between 1969 and 1975 there were various attempts to regulates or legislate for a more wide-ranging reform of pensions, through reflecting very different views of the way forward. The new conservative administration of 1970 took the view that second pensions should generally be provided through the expansion and improvement of occupational schemes. The Social Security Act 1973 therefore, proposed a limited direct role of the state in running a modest ‘reserve’ scheme—with an investment fund element for people who did not have access to occupational pensions but established powers to regulate occupational schemes through a new occupational pension’s board and to derive up their standards.

Following the February 1974 election, the new labour government did not proceed with the state reserve scheme although it preserved the other elements of the package. Its white paper better pensions, published in September 1974, set out a more ambitious role for the state, aimed in particular at improving the position of women and lower earners. The proposals enacted as the Social Security Pensions Act 1975 and implemented from April 1978—envisaged a reformed state pension scheme built around two elements: a basic pension and an additional earning related pension occurring at 25% of relevant earning.

During the 1980s, concerns about the long-term cost of better state pension led in the Social Security Act, 1986 to cutbacks in state earning related pension scheme, coupled with efforts to encourage a more varied and flexible non-state pension sector. There was particulars concern that existing
occupational pension disadvantaged early leavers' worker who changed job frequently, leaving many small pension fund.

With effect from the end of the century, the 1986 Act abolished the best 20 years provision in SERPS, reduce the accrual rate from 25 to 20% and halved survivors’ rights. From 1988, it introduced a new form of personal money purchase pension scheme in terms of privatization of pension sector. Employers could no longer make membership of their occupational pension scheme compulsory, while workers could opt out of both SERPS and occupational pension schemes on an individual basis, using national insurance contribution rebates to fund a portable personal pension. The new schemes were initially made more attractive by an extra ‘incentive’ rebate.

The changes aimed to broaden options for private pension saving and assist mobile workers. However, the contribution rebate alone was inadequate to the fund without additional employer and employee contribution. So the government passed Pension Act 1995 to equalize pension age at 65 to be phased in between 2010 and 2020.

The state policy of government elected in 1997 has been to seek to improve the position of existing pensioners. A substantial proportion of pensioners continued to be reliant on means-tested benefits, but many who were eligible did not claim them and there was long-standing resentment that the safety-net appeared not to reward thrift. Income support for pensioners was restructured by the minimum income guarantee as well as through Pension Credit Act 2002, which provides different pension credit schemes, as well as guarantees a minimum income to all-over 60s, above the minimum, benefit is tapered away where there are savings, rather than being withdrawn £1 for £1. The government also committed itself to increasing pension credit in line with earning for a period.
Since the beginning of the 21st century there has been rising concern about the adequacy of the pension system in the face of demographic changes, together with high profile insolvencies and a number of closures of defined benefit schemes. This led to intensive debate about how best to stimulate pension saving, balance, interest of workers, employers, government and pension industry, and secure the long term future. A series of reports and enquiries led up the Green Paper Simplicity, Security and Choice: Working and Saving for Retirement in 2002.

By this system proposed a simplification of the tax regime for pensions, replacing the eight existing tax regime with a single universal regime and enacted in the Finance Act 2004. The Pension Act 2004 reformed the pensions regulatory system, setting up a new pension regulator, and among other changes introduced a new levy-based schemes to protect the interest of members whose final salary schemes fail.3

2. Insurance and Pension: Structure

Structure of Insurance

The insurance system of any country regulate to the whole economy. So the system must be simple and highly beneficial for the people especially for working class. The U.K. existing insurance system is of such nature which is beneficial for employee and can be divided under the following categories-

1. Life Insurance and Pension Schemes

The schemes of life insurance and pension are of much importance for the employee of U.K. in their life pre retirement and after retirement. The main schemes offered by the life insurance and pension schemes are-

1. Life Insurance Schemes

These schemes are broadly split into term insurance and whole life insurance schemes. The term insurance pays out if the policy-holder dies within
a certain period. Whole-of life insurance pays an agreed sum on death, regardless of when it happens.

2. Pension Schemes

The pension schemes are tax-efficient long-term investments through which people can save for their retirement, either individually or through a workplace pension scheme. Saving are not accessible until the holder reaches the age of 50, at which point it is possible to take part of the savings pot as a tax-free lump sum and the remainder as an income stream either in the form of an annuity or through a pension income product such as income draw-down.

3. Annuities Schemes

Annuities enable individuals to convert a savings pot into a guaranteed income for life. This insures people against the risk of living for longer than expected. Most annuities are purchased as a result of savings in a pension and are known as pension annuities. However, there is also a market for voluntary purchase of annuities that are not linked directly to pension savings.

4. Saving Schemes

The insurer also offers a range of other savings and investment products, including ISAS, investment bonds, and funds. These schemes save to the employee from their contingencies such as death, employment injury etc. because under these schemes the return on the secure funds are much in comparison to other schemes.

2. Health Insurance and Protection Schemes

The good health for the working class is very important because it increase the working capacity of employees. So the U.K. system provides some health insurance schemes. The main schemes offered by the health insurance and protection schemes are-
1. **Private Medical Insurance Schemes**

   These schemes cover the cost of private medical treatment. These schemes purchased either by a group or individual consumer, but in each case they pay a premium to help protect against unexpected or high health care expenses. Similar benefits are also provided through national health services and funded by the government through taxes.

2. **Long-Term Care Schemes**

   These schemes offer insurance against needs, such as the cost of nursing homes, particularly for the elderly. The existing long term care market is mostly point of need. These schemes provide high amount to the employees in the cases of grave injury and accrued illness.

3. **Critical Illness Schemes**

   These schemes pay a lump some amount to the insured if they are diagnosed with specific critical illness during the term of policy. These schemes provide whole medical diagnosis as well as treatment expenses.

4. **Income Protection Schemes**

   These schemes pay an income as long as the policy holder is unable to work due to accident or sickness. The policy usually last until retirement. These schemes are last hope for the employee’s when his all source of income close.

5. **Accident and Health Schemes**

   These schemes pay either a lump-sum or weekly benefits in the event of accidental death or a specified injury. These schemes are benefited for employees when injury cause to them in their employment.
3. **General Insurance Scheme**

These schemes provide insurance for companies or individuals against unwelcome future events. Such risks are typically shorter-term, and include covering everyday risks, such as the risk of a motor accident, theft or damage to property.  

**Structure of Pension**

The pension schemes are the last source of income for the employee when they retire. So the system of U.K. provides so many pension schemes for their future security, which are as follows.

1. **Government Pension Scheme**

The governmental pension schemes are those schemes introduced by the U.K. government for their employee's future security. These schemes are classified as follows-

1. **Basic State Pension Schemes**

Under these schemes pension paid by the government to workers who have contributed for a sufficient numbers of years. The size of the pension varies with the years of contributions but does not depend on previous earning. The value of basic state pension under these schemes set just above a deemed subsistence level, and workers who wishes to obtain higher pension had to purpose this scheme. Under these schemes the pension reduces proportionality if the coverage is less than the required years, but workers may receive credit for their necessities.

2. **State Earning Related Pension Schemes**

These schemes are supplement to the basic state pension scheme. Under the SERPS benefits depend on the number of the years a worker contributed
and previous earning. These schemes finance by national insurance fund with payroll tax revenues. Their schemes have some limitations, workers receive no benefits if their weekly earning are less than lower earning limit (£64 in 1998) and they receive no additional benefits for weekly earnings above the upper earning limit (£ 485 in 1998).

3. Additional Pension Schemes

The additional pension schemes come out to provide extra pension provision above the basic state pension. These schemes have been available only for the employees paying national insurance and certain exempted group (not including the self employed). These schemes contain three benefits – one is, Graduated Retirement Benefit, second is, State Earning Related Pension Benefit, and third one is State Second Pension Benefit. This scheme is a voluntarily one. Those who do not with wish to participate can contract out.

2. Occupational Pension Schemes

The occupational schemes are arrangements established by employers to provide pension and related benefits for their employee. These schemes further classified into two –

1. Defined Benefit/Final Salary Schemes

Traditionally, a large number of U.K. employers offered their employees access to a defined benefit or final salary occupational scheme. In such as arrangement, the employee was promised a fixed level of pension based on their final salary to which he or she would become entitled on retirement. The amounts payable are restricted by taxation rules, but are typically either a pension of one – sixtieth of their final salary for earn year of membership or a person of one – eightieth of their salary plus a tax free jump-sum of three-eighieths.
2. Defined Contribution/Money Purchase Schemes

Over the recent years, many employers have closed their defined benefit schemes to new members, and established defined contribution or money purchase arrangements. In this arrangement the occupational pension pays into the fund, and the fund is used to buy a pension (typically annuity) when the individual retires. The pension is therefore determined by the value of the fund and the health of the annuity when the individual retires, as opposed to their salary.

3. Individual Personal schemes

It is also possible for an individual to make contribution under an arrangement, they themselves make with a provider (such as insurance company). Similar tax advantage will usually be available as for occupational schemes. Contribution is typically in vested during individuals working life, and the used to purchase a pension at or following retirement. Various names are given to different types of individual arrangement, but they are not finding fundamentally different in nature. The genetic term is used to refer to arrangements established since the rules were liberalized in 1980, but can be sub-divided into offer types which are as –

1. Stakeholder Pension Schemes

The stakeholders are a form of pension schemes or pension arrangement designed to be easily understandable and available. These schemes have been set up on terms which meet standards set by the government (Although these are restrictions on the charges the providers, may make). Although a stakeholder pension is personal pension, they can (and in some circumstances must) be offered by an employer as a cost − effective way of providing pension cover for their workforce.
2. **Group Personal Pension Schemes**

The group personal pension schemes are another pension arrangement that are personal pensions, but are linked to an employer. These schemes can be established by an employer as a way of providing all of its employees with access to a pension plan run by a single provider. By grouping all the employees together in this way, it is normally possible for the employer to negotiate favorable terms with the providers, thus reducing the cost of pension provisions to the employees. The employer will normally contribute to this schemes.\(^6\)

3. **Insurance and Pension: Reformation**

**Reformation of Insurance**

The insurance sector is a key part of the U.K. financial services industry. It is important both from an economic as well as social perspective, that the U.K. has an insurance market, operates effectively, remains competitive in European markets, and in which all participants have confidence. The insurance industry allow consumers, both retail and commercial, to transfer risk, to buy protection and to save.

In addition to providing an important service to individual consumers, the insurance industry under print almost all forms of economic activities and contributes directly and indirectly to wealth generation and social wellbeing.

**Issues and Challenges**

The insurance industry in U.K. is facing significant challenges –

1. Consumer and investor confidence in the management of insurance firms has been affected by insurances of mis-selling.
2. Falling equity markets have seen U.K. and international life insurers’ asset value fall sharply.
3. While both asset prices and liabilities can fluctuate widely even on a day-to-day basis, insurance firm liabilities crystallize over the longer term.

4. The minimum solvency requirements include significant prudential margin, especially for with profits insurance is not transparent.

5. The assessment data's submitted by individual firm is not validated.

6. The firms are not complacent in respect of their financial liabilities.

7. Insurance products are complex and there is no transparency in product information.

8. The regulatory framework restricts the competition.

9. Increased in the life expectancy.

10. Increase in cost and low availability of products.

Proposals for Reforms

There are some necessary steps which must be founded by the U.K. insurance sector which are as follows –

1. A more Consumer-Focused Approach

   Establish a more consumer-focused approach to increased customer's confidence and trust in the insurance industry, and a greater awareness of their own personal responsibility:

   1. By assisting customer to recognize and understand their needs for insurance coverage.
   2. By facilitating improved accessibility and customer engagement with the insurance market by developing insurance products and services.
   3. By widening the distribution of insurance products.
   4. By promoting the important role of insurance in helping customer take on personal responsibility for managing ask and for retirement saving.
   5. By building customer confidence by communicating a positive massage about the role of insurance industry.
2. **A Broad Choice of Risk Management Solution**

Offer a broad choice of risk management solutions, which are competitively priced and provide customers with the product they need:

1. By balancing the freedom to price coverage in line with the underlying risk characteristics with protection of individual rights.
2. By continuing the long term trend of working in partnership with the government.
3. By encouraging innovation and reducing constraints in the development of insurance product.

3. **Partnership with Government**

Acting in partnership with the government to explore options to increases savings and protection provision and to help consumers manage financial distress by accident, in-health or old age:

1. By using a mixture of incentives
2. By encouraging and monitoring the success of initiatives aimed at increasing savings,
3. By considering alternative options to cover the cost of health services and long term case.

4. **Encouraging Capital Flows**

Encouraging capital flows into the U.K. insurance industry by ensuring its competitive position in the global market place is maintained and enhanced, and that capital can earn a competitive return:

1. By ensuring a stable regulatory and competitive tax regime in the U.K.
2. By working with to government to promote open and equal access to international market that will position that U.K. industry as a major player in global insurance.
3. By ensuring a level playing filled for insurance.
4. By investing in the U.K. insurance skills based to maintain leading edge skills in insurance technical management.

Reponses towards Reforms

Over the past two decades, the supervision of insurance companies in the UK has been a complex affair. Until Dec. 2001 insurance companies that sold long term investment products were regulated from by two U.K. Government departments: the Department of Trade and Industry, and Treasury Department with the technical assistance of the Governments Actuary Department. Then, starting in 1998 responsibility was gradually transferred from these department to the new regulator, the Financial Services Authority, which gained full regulatory power in December, 2001, when “Financial Services Authority and Market Act” 2000 was enforced.

The objectives behind this step were-

1. Maintaining confidence in the U.K. financial system,
2. Promoting Public understanding,
3. Consumer protection,
4. Reducing financial crime,
5. Responsibility of the managers of regulated firm,
6. Innovation and competition,

These objectives are achieving by the Financial Service Authority by applying the consistent standard in their supervisory mechanisms. The Financial Service Authority developing an open and transparent approach to supervision to encourage firm to co-operate with it to enable them to pursue their financial stratigies.
Reformation of Pension

The pension sector is important part of social security of U. K. system. The need of reforms was facing by the government in the pension sector. So government moved in that direction by taking some steps.

Issues and Challenges

The U.K. like many other countries was facing the problems attached with the increasing demographic structure. The government was concerned about the future costs of acceptable welfare provision and recognizes some form of private retirement provision will considered necessary. They had need to take measures to ensure that the retire generation are given protection and that the private sector takes an appropriate private role in the provision of products to ensure adequate self-provision in retirement.

The U.K. reformed its pension system as part of the policies that led to reducing the government role in the economy. The conservative government, whose rule lasted from 1979, curtailed the power of trade unions, privatized many public enterprises, and reduced government regulation. In addition government cut back on welfare programs and made labour market more flexible. These government policies aimed to restore market incentives and limit the rapid growth of the state sector to overcome the U.K. sluggish economic performance.

The government made several changes to its pension system in 1986 and 1995. One of the most significant changes enacted in 1986 allows people to partially opt out of the public pension system in favor of private pensions. In return, those workers receive a rebate on their pension contributions. In addition, the U.K. changes the benefit and indexation rules of the pension program in 1986 and instituted another reform in 1995, substantially reducing future benefit level.
Reformed Model of Pension

In U.K., there is a right balance between pension provisions. The pension system in U.K. are built on the framework of partnership and divided into three pillar which are as follows-

Pillar I- State Pension

The first pillar in UK is made up of a basic state pension and a supplementary earning related pension scheme. The basic pension is flat-rate, not earnings related but is reviewed each year in line with prices, on a statutory basis. The additional pension is earning related. The state manages both the basic pension schemes and SERPS on a pay-as-you-go basis. Total contributions go into the National Insurance Fund from which expenses and pension are paid. The basic pension is compulsory for employees and the self-employed, and the unemployed, and the unemployed can join on a voluntary basic. National insurance contributions are paid by any one earning over £ 66 per week, and entitled a person to sickness, maternity, disability, unemployment and pension benefits. The employer pays a proportion of the contributions unlike most countries; it is possible to “contract-out” of the supplementary part of the first pillar.

The state pension is paid from age 65 for men and 60 for women, although the retirement age for women is to be increased gradually to 65 between the year 2010 and 2020. Since April 1999, each member of state pension scheme receives a basic flat-rate pension of £ 66.75 per week, for a full contribution record, and for a married couple of £ 106.70. Although not part of first pillar, it is important to note that income support is available to those with inadequate income, including inadequate pension. The level at which income support become payable in currently is £ 10 per week, which is greater then the basic state pension.
Pillar II—Occupational Pension

About 75% of privately funded pension provision in the U.K. has been built within the second pillar through the voluntary sponsorship of pension schemes by employers. The employer is free to decide whether to setup on occupational pension scheme and will base that decision on advice from an employer benefit consultant or an independent financial adviser. Having established a scheme, which must be separated from the sponsoring company, all eligible employers who work for the company must be allowed to join the scheme. But since the introduction of third pillar personal pension in 1988, employers have no longer been allowed to make membership of an occupational scheme a condition of employment, because employees can not be members of both an occupational and a personal pension scheme for the same period of employment.

The employer will chose the type of scheme; either defined contribution or defined benefit scheme, under a defined contribution scheme, in which the employer and employee make contribution into the fund, the amount of pension is that which the accumulated invested contribution can buy at retirement by the purchase of annuity, usually from an insurance company. Tax relief is offer at both employer and employee contribution, and on investment earning, although the pension is subject to tax when paid.

Under the defined benefit schemes, the amount of pension depends on each individual scheme. Within limit set by the tax authorities, the employer can choose the fraction of salary that is to be offered as pension depending on the number of years of employment within the scheme. The employer agrees a definition of “salary”, often related to a period leading up to leaning employment, and also decides those elements of remuneration to be included. The tax treatment is similar for both first and second pillar.
The amount of contributions also depends on each individual scheme. Under some schemes employees are exempt from contributions, although they can voluntarily contribute up to 15% of salary into the scheme to be additional benefits where employees are required to contribute, they typically pay between 4% and 6% of earnings. In a defined benefit scheme the employer contributes whatever is needed to balance the fund and to purchase the benefits as they fall due.

Pillar III – Personal Pension

The insurance companies are the main providers of personal pension schemes. Personal pensions offer an alternative to both SERPS and occupational pensions. The advantage is that they are fully portable when an employee changes employment, although they suffer obvious disadvantages that an employer is not required to contribute to a personal pension even when the employee could have chosen to join an occupational scheme.

All personal pensions operate on a funded money purchase basis, where amount of the pension is that which the accumulated contributions can buy at retirement by the purchase of an annuity.

The amount of contribution paid into a personal pension is decided by the individual concerned. Employers may choose to contribute as well, although most choose not to individual can choose to opt out of the earning related element of the first pillar and receive rebate on their national insurance contributions which has to be invested in their pensions.  

Effects of Reforms

By allowing workers to opt SERPS, the government lowered the revenue of the National Insurance Fund. By 1995, almost 6 million workers, or 25% of the workforce, chose to purchase pensions. About 5.4 million of those workers have been previously enrolled in SERPS; the rest left occupational
pension plans. As mentioned, the government incurred additional costs by offering a special incentive rebate to workers who opted out of the system.

The U.K. faces some of the typical costs of making the transition from pay-as-you-go system. These costs arise because retiree and older workers continue to collect government finance benefits, and younger workers who opt out of SERPS reduce their national insurance contributions. Moreover, workers who have opted out may still claim SERPS benefits according to the number of years they were covered under SERPS.

The government of U.K. has been able to manage those transition costs easily for several reasons. First, since not all workers opted out of SERPS, the pension system has been only partially privatized. Second, because SERPS is fairly young program, a relatively small number of current retiree receives any benefits. Most retiree receives benefits only from the basic state pension, which is less generous. Third, changes in the programs tax rate of up to 1 percent point do not require parliamentary approval. Changes in national contribution rate are therefore easier to implement than changes in income taxes. According to some analysts, the national insurance contribution rates have been about 2% point higher than they otherwise would have been. Finally in some years the national insurance fund has received transfer from general revenues, while helps reduce the fund deficits.

In addition, the reforms in 1986 and 1995 substantially reduce future benefits from SERPS. SERPS benefits were cut back from 25% of wages to 20%.

Because of the cut in SERPS benefits, the basic state pension accounts for most of the governments remaining obligation. Although basic benefits are projected to decline substantially relative to average earnings, the cost of the basic state pension is still expected to rise from £26.9 billion in 1994-1995 to £41.9 billion in 2030-31 more than three times the projected cost of SERPS.
That increase reflects the aging of the U.K. population, which more than offsets the cut in benefits per receipt.  

4. **Insurance and Pension: Legislations**

There are so many legislations playing important role in the administration of insurance and pension sector of U.K. such legislation are as follows-

1. **National Insurance (Industrial Injuries) Act – 1946**

   The provision for the payment of benefit to persons injured in the cause of their employment come into being concurrently with the comprehensive scheme of national insurance based upon the Beverage report and as an integral part of that scheme, by the National Insurance (Industrial Injuries) Act 1946. The inauguration of the scheme in 1946 marked the ending of a long and for from creditable episode in the law of master and servant as if had evolved from the earlier times.  

   By the passage of National Insurance (Industrial Injury) Act-1946, the new system come into being, and differed from the old in a number of respects. By being integrated with national insurance the injured person no longer claimed against the employer at all, and the employer therefore had no interest in resisting the claim. The new system applied to all employees, whether manual or non-manual and irrespective of remuneration, whereas the old was selective. And, most important perhaps, the receipt of the immediate benefit did not effect the employee’s might to claim damages at common law if he thought he had a cases, and the simultaneous abolition of the doctrinal of common employment strengthened his rights in this regard.  

**Obligations of Employer Regarding National Industrial Injuries Insurance**

The obligations of employers regarding industrial injuries insurance are as follows-
1. Employer identified to the insurable employment with the employment under any contract of service by the employers.

2. No employer insures to the self employed person under the service contract by the employer.

3. No employer discriminate any person on the ground of sex or age in respect to the insurable employment.

4. Employer exempt to the person from insurance, working -
   1. As employee of casual nature
   2. An employee of one's husband and wife.
   3. As employee in correction with household duty or employee as relatives.

Obligation of Employee Regarding National Industrial Injuries Insurance

The obligations on the part of employees required for the benefits of employment injury are as follows-

1. Employee insures under the scheme of Employee National industrial Injurious Act, 1946.

2. Employee pays their contribution by means of a stamp.

3. Employee sustains the injury causes by the accident or arising out of in the course of employment.

4. A prescribed disease or personal injury caused by accident due to the nature of insured person's employment.

Benefits Regard National Industrial Injuries Insurance

1. Industrial Injury Benefit

   This benefit is payable for every working day except Sunday for which the insured is incapable of work. The benefit will terminate when insured person become again capable of work or, in any case, at the end of 156 days. No benefit is payable for the first three days of incapacity except where the incapacity casts for 12 days or more.
2. **Industrial Disablement Benefit**

An insured person can claim this benefit either when his injury leaves some casting effect without his becoming thereby incapable of work.

The amount of benefit payable is not a set figure as for injury benefit, but varies according to what the Act calls "the degree of loss of mental or physical faculty." This means that the insured will have to submit to a medical examination to ascertain the gravity of the effect of the injury. The degree of loss of faculty will be expressed in percentage terms on the scale of disablement benefit for 100 percent. The loss of faculty, being the same as that in case of injury benefit. Proportionately lesser amount will be payable for a lower percentage loss of faculty. In order to standardize the awards, the minister has provided for a scale of assessments to be applied to the more frequent types of disabilities. The medical board will have to rate offer disabilities by fitting them into the scale according to their gravity. Account will be taken of the insured person's state of health or existing disabilities, but not of his occupation. Disablement benefit takes the form of a disablement pension if the degree of loss of faculty has been assessed at 20 percent or more. If the degree of loss of faculty is assessed at less than 20 percent the claimant will receive a lump-sum payment as a disablement gratuity. Provision is made, however, for the claimant to choose a small pension instead of a gratuity where he believes himself to be entitled to one of the supplements mentioned by the concerned Act.\(^{14}\)

3. **Industrial Death Benefit**

The benefit is payable normally to the widow of the insured person, though where the husband of an insured woman has been depend on her, he may claim this benefit as well. In exceptional cases the parents of the deceased person may also claim death benefit if they have been substantially maintain by him or her. For first thirteen weeks of widowhood a widow would receive a
widow's allowance at a slightly light rate, which is intended to help her to adjust her life to the new situation. Afterwards a widow receives a widow's pension at one of two rates. The higher rate is payable where is or become over fifty years old, where she is incapable of self-support, or where she has the case of child of school age. The pension is paid as long as the widow remains unmarried. If she should remarry the pension would cease, but she would be paid a gratuity equal to one year's.¹⁵

Contributory Efforts Regarding National Industrial Injuries Insurance

A contribution is payable in respect of an insurable person if he has been employed during any part of a contribution week. A contribution week lasts from midnight on Sunday and midnight of the following Sunday. Contributions are payable also in respect of a week during which the employee was on paid holiday, but not for weeks in which the insured person was sick, injured, or unemployed.

The insurance card of an employee is kept by his employer but it is the duty of insured person to obtain it from the first place. The insured person to may demand to see his card to make sure that it is property stamped, but he may not do so more often than one month or he can not keep it more than one month. Contribution are payable at the beginning of each contribution week – that is to say, before the employee's remuneration fall due. The employer may then deduct the insured person's share in the contribution – but not more than his share – from his wages. If the employer attempt to deduct his own share also he would be liable to a five. The deduction must be made always in the same week to which the contribution refers. If the insured person is employed by a number of employers in the course of the same week are responsible for the stamping of the card. Arrangements may make, however, between the various employers for the sharing of the cost.
Apart from his responsibility for the stamping of the insurance card, the employer also must investigate every evident that is reported to him, and must on request furnish information about the evident to insurance officer. Where the employer is the occupier of a factory, mines or quarry, or where he employs more than ten persons, he must also keep an accident book.\textsuperscript{16}

**Administrative Steps Regarding National Industrial Injuries Insurance**

The responsibilities of administering the industrial injuries scheme rest on the minister of pension and national insurance. The minister appoints inspectors whose main task is to secure enforcement of the Act. They enter premises in which persons are employed and question anyone they find there. They may ask for the production of wages books and of offer records so as to see that all insurable persons have in fact been insured.

The day to day administration of the scheme falls to the local offices of the ministry. In each of these offices there are one or more insurance officers whose responsibility is to deal with claims for benefit. The insurance officer may either grant benefit, or he may refuse it, or, in exceptional cases, he may refer the claim to the local appeal tribunal. Where, however, the claim involves what is called by the Act a "special question" the insurance officer will have to refer it for division either to minister or the local medical board. The following question has to be referred to the minister:

1. whether a person is or was in insurable employment;
2. Whether a person is exempt from paying contributions;
3. who has to pay contributions as the employer or an insured person;
4. what rate of contribution is payable;
5. where there is more than one person claiming industrial death benefit, to whom payment should be made;
6. When constant attendance allowance is claimed how much should be paid, and for how long;
Where the minister has decided a question under 1 - 4 above the aggrieved claimant may appeal against the minister’s division on a point of law to a judge of the high court. Decision of the minister under point 5 and 6 are final.

The local medical board will have to pronounce on the following –

1. Whether the accident has resulted in a loss of faculty for claimant;
2. Whether this loss of faculty is likely to be permanent, and
3. What the degree of loss of faculty is.

The aggrieved claimant may appeal from the decision of the medical board to a medical appeal tribunal, consisting of a chairman and two other members who are medical practitioners. It is possible to appeal from the tribunal to the industrial injuries commissioner, but only on a point of law and subject to obtaining leave from the tribunal or the commissioner.

From the division of the insurance officer an appeal lies to a local appeal tribunal. Such a tribunal consists of are or more members representing employers and an equal number of members representing work – people, together with an independent chairman. All members are appointed by the minister who will choose the representative members from panel set up by nominations from representative organizations of employers and workers. The tribunal, apart from dealing with appeals from division of insurance officers, who deals with claims directly, where they have been referred to the tribunal by insurance officer.

The provision is made by the Act for a further appeal. For this purpose the crown has appointed an Industrial Injuries Commissioner and a number of Deputy Commissioners, who mast is barristers with a minimum of ten years’ professional experience. Since the Family Allowance and National Insurance Act, 1959, there is no need to obtain leave to appeal. The appeal will be heard either by the commissioner or by one of his deputies, sitting on his own, or by a
tribunal consisting of commissioner and two of his deputies sitting together. This latter method is used where the commissioner falls that the appeal involves a question of some legal difficulty.

An appeal from the decision of a local appeal tribunal may be made either by an insurance officer or by the claimant or by a trade union of which the claimant was a member. The decision of the commissioner and of the tribunal is published by the H. M. Stationery Office, and insurance officers are expected to note the reasoning behind them. There exists, therefore, a kind of national insurance case law.

Before minister makes regulations under the Act, the Stationary Office must submit the regulations in draft form to the industrial injuries advisory council. This council consists of a chairman and of an equal number of persons representing employers and employee. All of them are appointed by the minister. The council’s takes is to advise the minister. The council’s task is to advise the minister on draft regulations and on all other matters concerning the administration of the Act. 17


The National Insurance Act 1946, provide for insurance against the contingencies such as unemployment, sickness, old age, maternity, widowhood, orphan hood and death. The purpose of the national insurance scheme is to provide insurance cover for the entire population, subject only to certain exceptions. Within the purview of Insurance Act, there are three categories to whom insurance are to be given –

1. Employed persons – i.e. those who are gainfully employed under a contract of service.
2. Self-employed person – i.e. those who are gainfully employed otherwise then under a contract of service.
3. None employed persons – i.e. all other persons.
The benefit received by these three classes of insured persons are not the similar in nature. A non-employed person is not entitled to unemployment, sickness, and maternity benefits, while a self-employed person is not entitled to unemployment benefit. The rates of contribution also differ as between the three classes.

The certain other classes of persons are exempt from liability to pay contributions. The most important among them are persons undergoing full time calculation or full time on paid apprenticeship and persons with an income of less than £ 104 a year. Although the former are not paying contributions, they will be credited, with them so their insurance record will not be spoilt. Persons who are sick or unemployed are similarly exempt from the payment of contributions and are credited with them

Obligations of Employer Regarding National Insurance

The obligations of employers in reference of insurance benefits for the employee are as follows-

1. No employer should pay the benefit for the period in which the work stopped by the employee due to the reason of trade dispute.
2. No employer pay unemployment benefit till the period of six weeks in case of –
   1. Voluntarily misconduct toward employer.
   2. Refuse suitable employment without any reasonable cause.
   3. Voluntarily neglect in during work.
   4. Refuse to do work notified to him without any reasonable cause.
3. No employer should pay the sickness benefit till the period of six weeks in cases of -
   1. Incapability of employee due to his own misconduct.
   2. Fail without good cause to attend to such medical or other examinations.
Obligations of Employee Regarding National Insurance

To get benefits under the Insurance Act, the following obligations must be followed-

1. No employee stops work by creating dispute with employer vis. a vis another follow employee.
2. No employee commits misconduct towards the employer.
3. No employee refuses a suitable work without any reasonable cause.
4. No employee neglects towards their work.
5. No employee fails to carry out any written recommendation.

Benefits Regarding National Insurance

The benefits provided within the scheme of National Insurance Act are as follows-

1. **Unemployment Benefit**

   A person is entitled to unemployment benefit in respect of any day of unemployment which forms part of a period of interruption of employment. He is not entitled, however, to benefit for the first three days of any period of interruption of employment, unless within a period of thirteen weeks beginning with the first day of unemployment he has a further period of nine days of interruption of employment forming part of the same period of interruption of employment. For this purpose any two days of interruption of employment, whether consecutive or not, within a period of six consecutive days, are treated as a period of interruption of employment. Thus in order to draw the benefit of the first three days of unemployment for twelve day altogether, these twelve days must have fallen within a period of thirteen weeks, and no days is counted unless it is one of two days falling within a consecutive period of six days. Sunday are disregarded for this purpose.
2. Sickness Benefits

A claimant of sickness benefit must show that he has been incapable of work of every day for which benefit is claimed. A man is incapable for work for this purpose only if there is no type of work which he could be reasonable expected to do, having regard to his age, education, experience, and state of health. Work means remunerated work, so that a woman may be incapable for work, which still able to perform some of her domestic duties.

A person is entitled to the sickness benefit in respect of any day of incapability which also forms part of such a period. He is not however entitled to any benefit for the first three days of any period of thirteen weeks beginning with the first day of sickness; he has a further nine days of interruption of employment forming part of the same period of interruption of employment.

Contributory Efforts Regarding National Insurance

The contribution are paid jointly either by employee and employer. The employer pays the contribution, and deduct them the employer's share from his wages. If any has been considered, the rate of contribution shall be increase by the order of treasury, in order to maintain trade stability. The rate of contribution should be reducing during the period of thirteen days of unemployment; the idea behind this is to leave both employer and employee with more money to spend.

Where the employer fail to pay to the employee the sickness as well as maternity benefit to which he/she would have been entitled, the employee may recover the amount lost form the employer as civil debt. These providing would take place before the local magistrate. Where contributions have been paid in order at a higher rate than which was appropriate, the employer or the insured person may make a claim for the repayment of sum-over paid.
Administrative Steps Regarding National Insurance

The responsibility for the administration of the Act rests again with the ministers of pension and national insurance, and is affected by him through the local and regional offices of the ministry.

The highest court of appeal is the National Insurance Commissioner and his deputies, who are appointed in the same way as their counter part under the industrial injuries scheme. The minister is responsible for the making of the decisions regarding the following matters-

1. Whether a claimant has satisfied the contribution conditions regarding any particular benefits;
2. Where an increase in a benefit is payable which of two persons should be entitled to receive it,
3. Which class of insured persons a person should come under,
4. Family allowance matters.

A person who is dissatisfied with the minister’s decision may appeal from it on a point of law to a judge of the High Court.

There is no appeal from a decision of the commissioner, but any decision, whether made by an insurance officer local tribunal or by the commissioner, may be reviewed by he insurance officer where-

1. Fresh evidence has come into light which was unknown when the decision was given originally,
2. The decision was given in ignorance of some material fact,
3. There has been a material change in circumstances since the decision was first given or
4. Where the decision was based on a ministerial decision regarding a matter which has to be decided by the minister, and the minister has reviewed his own decision.
The minister is advised in performance of his duties by the National Insurance Advisory Committee. This committee has to consider in draft from any regulations which the minister propose to make, and its report on the regulations must be submitted to parliament with the draft regulations, where the letter require parliamentary approval before they can come into operation. The committee consist, a chairman and of four to eight other members appointed by the minister. The membership of committee must contain representative of employers, trade unions and friendly societies, but there may also be other persons, such as representatives of the academic world.


The social security (Incapacity for Work) Act 1994 is the most radical piece of social security legislation in the arena of employee's welfare. This Act abolishes the sickness and invalidity benefit and replaces them with a new less generous benefit "Incapacity Benefit." The conclusion seeks to put these changes in the context of other recent and impending developments in social security provision.

Before passing of this Act, the invalidity benefit had been increase up to £5,771 million. The reasons behind this increase are more difficult to ascertain. At that time the disability benefits have become a form of surrogate early retirement, especially for working class men, due to this reason invalidity benefit become more attractive proposition than reliance on unemployment benefit and income support.

Subsequently econometric studies have identified a number of factors contributing to this growth. First, demographic effects, in term of age and health conditions, have been shown to be very important determinates of both the probability of moving on to invalidity and the duration of invalidity claims. Secondly, areas of high unemployment and the poor housing have also been associated with both these phenomena.
A more recent analysis by the Policy Studies Institute conclude that more than half of the increase in invalidity claims could be accounted for as follows:

The 29% of extra cases were because of people over pension able age drawing invalidity rather than their retirement pension for tax reason; 16% were due to increasing participation by women in the labour market; and 13% were attributable to a gradual increase in the number of disabled people in the relevant age groups. This lifts some 42% of the extra cases arising from unexplained factors.

The future of invalidity benefit moved toward the top of the political agenda in the period of 1992. In 1992, it was widely reported that the government was examining way of cutting back or invalidity benefit. Confirmation of the division to cut back on invalidity benefit comes in June 1993 in a confidential draft policy paper from the secretary of state for social security to the Prime Minister.

In the year of 1993, the department of social security issued several findings of various research projects relating to invalidity benefit. But by this time, of course, the essential framework for the abolition of invalidity benefit had already been set. In the subsequent debate in the parliament on the Social Security (Incapacity for Work) Bill, the findings of these reports were regularly deployed in argument from the opposition benches. Ministers, however made little reference to these studies and ignored the earlier research into the reasons for growth in invalidity benefits expenditure. In the second reading debate, the secretary of state set out three objectives for the new scheme-

"First, to ensure that the huge and rising sums devoted to sickness benefits are properly focused on those who are genuinely too unwell to work; secondly, to ensure that the cost is affordable, and thirdly, to provide a more rational structure of benefit."
So far as the first goal is concerned, the secretary of state argued that the rules for assessing incapacity for work have been progressively widened and complicated, by case law, so making the system open to abuse. The new test would be designed to be more objective, simpler to understand and easier to apply. The second aim reflects the government's continuing adherence to the crises theory of welfare state expenditure. The changes are bound to be controversial but invalidity benefit is one of the where, realistically, savings could be made over the period. Other major sectors of benefit expenditure were protected from cuts either because of the political sensitivity (retirement pension) or because of manifesto commitments (chill benefit). The third reason, while commendable in itself, is difficult to reconcile with the disability benefit.\textsuperscript{22}

Benefits Regarding Incapacity for Work

The benefits regarding incapacity for work are classified into two categories which are as follows-

Benefits after Jan 1994 but before April 1995

1. Sickness Benefit

According to the Beveridge scheme, sickness benefit was paid at a flat rate (equal in value to unemployment benefit) for so long as a person was incapable for work. The role of sickness benefit was further marginalized with the enactment of the statutory sick pay scheme, which has constituted the principal benefit for those off work due to short-term sickness benefit. Statutory sick pay is now payable to eligible employee for 28 weeks. Before April, 1995, incapacitated claimants who did not qualify for statutory sick pay were entitled to sickness benefit for the same period.\textsuperscript{23}
2. Invalidity Benefit

The invalidity benefit would be payable until the person become fit to work again or until five years after pensionable age. Strictly speaking, the invalidity benefit was a composite of three separate elements. The first was the basic invalidity pension, paid at the same rate as the state retirement pension and which could be supplemented by additions for adult and child dependants. The second was the invalidity allowance, paid at one of three rates according to the claimant’s age on the first day of incapacity for work. The third component was an earning related additional pension.

The scope for differing views about an individual’s capacity for work was reflected in the statistic for invalidity benefit appeals. In 1993, social security appeal tribunals determined 77,895 appeals and references, with the success rate for claimants averaging 40%. Claimants bringing invaliding benefit appeals succeeded in 55% of all cases, the highest success rate of all mainstream benefits. Some adjudication officers had undoubtedly developed a some what judicial view in respect of invalidity benefit –

"Fit for limited work cases are destroying because you lose them all you disallow on the papers in front of you by what the doctor says. And that’s an objective thing. The tribunal can subjectively decide on seeing the claimant. The claimant come in looking like death wormed up and course hobbling around, and the tribunal says ‘The man can’t possibly do any work’."

Benefit after April' 1995

Under the new scheme statutory sick pay remains the main source of income maintenance in respect of short-term incapacity for work. The only reform made by 1994 Act, was the abolition of the old lower rate of statutory sick pay. This change was beneficial both to the lower paid and employers, who previously had to administer different rate of statutory sick pay. Sickness benefit was abolished and replaced by the lower rate of short term incapacity
benefit. This appears to be no more than a change of name, as the new benefit was paid at the same rate as its predecessor and the contribution conditions remained essentially the same. The result was that for claimants were see any real difference for the first 28 weeks of their incapacity for work.

The position radically changed after six months. Before April’1995, a claimant who remained incapable of work would transfer directly to invalidity benefit. Such a person would now move to an intermediate level of benefit, which would be paid at the same basic rate as statutory sick pay. This has led Lynes to suggest that as statutory sick pay has not been up rated since 1990, this may be part of a strategy to freeze the higher rate of short-term incapacity benefit until the lower rate catches up, enabling the former rate to be abolished. Additions for dependents became payable top of this basic rate, as from week 29 or from 1 for those entitled to the lower rate of short-term incapacity benefit, although the criteria for their award had been tightened up. Adult dependency additions were payable only if the dependent was aged 60 or more, or was caring for children. Child dependency additions also remained payable as from week 29, contrary to governments original intention to postpone receipt of this supplement until after 52 week of incapacity.

The highest or long-term rate of incapacity benefit would became payable only after 52 weeks for the vast majority of claimants. It follows that the claimants who move from statutory sick pay to the higher rate of short term incapacity benefit without any entitlement to dependency additions would see no change in their level of benefit for the whole of their first year of incapacity. The long term rate was payable so long as the person remained incapable, up until state pension able age. Age additions (which were previously payable from week 29 with invalidity benefit) were available only with this long term rate of incapacity only with this long-term rate of incapacity benefit, instant of the three rate of age, allowance available under invalidity benefit, these are just two rates of incapacity benefit: a higher amount for those aged under 35 and a lower figure for those aged between 35 & 45.
This represents a considerable cut in the value of the age additions; not only does it become payable later, but claimants aged 45 or over are no longer eligible. Finally, the earning-related additional pension had been abolished and existing recipients would have that element in their benefit in cash terms, contrary to commitments given when the Social Security Act 1990 was enacted.

Test to Determine the Incapacity for Work

There are two tests to determine the incapacity for work which are as follows-

1. **Own Occupation Test**

   This test reflects the previous arrangements during initial sickness. For the first 28 weeks of incapacity, claimants who have been in work for more than 8 weeks in the 21 weeks immediately before their claim will be judged according to the demands of that job.

2. **All Work Test**

   After 28 weeks, or from the outset for those without a regular occupation, claimants will be required to satisfy all work test, even though they do not progress to that top rate of benefit until after 52 weeks have elapsed in the principle, the all work test applies to all claimants who transfer from invalidity benefit to incapacity benefit as well as all new claimants, but there are some important exceptions to this rule.

   The stated goal of 'all work test' is to establish a more objective assessment of incapacity for work. The Department of Social Security has developed a series of measures, now embodied in regulations, which seek to quantify various functional abilities e.g. walking, sitting, standing, and them to rate the relative severity combinations of specific functional limitations in each functional area (or activity) a level of impairment is designated as the threshold for incapacity for work. Any impairment equal to or above this
threshold is given a score of 15 less severe disabilities are rated with lower scores, but with the possibility of aggregating scores in relation to different disabilities in order to reach the threshold benefit.  

4. Pension Act-2004

The Pension Act 2004 introduces a number of important changes to the U.K. pension’s environment. The brief description of changes is as follows-

1. Limited Price Indexation

Currently any pension in respect of defined benefit scheme received in respect of service after 6 April 1997 must be increased by the lower of 5% or the increase in the retail price index. This is known as the limited price indexation.

With effect from 6 April 2005 limited price indexation will became lower the lower of 2.5% or the increases in retail price indexation for any pension received in respect of service after 6 April 2005.

This change only applies to pension payments; deferred pensions in excess of the guaranteed minimum pension will continue to be increased by lower of 5% or the increased in retail price indexation.

2. Short Service Transfer Requirement

Currently, the only statutory requirement for members who leaves a scheme with less than two years of pension able service is to receive a refund of their own contributions.

With effect from 6 April 2005 once a member has completed 3 months of pensionable service in addition to offering the option of a refund the pension scheme must also offer a transfer value. A member will still only become
statutory entitled to a deferred pension on completion of 2 years pension able service.

3. Additional Voluntary Contributions

It will no longer to be a legal requirement to allow members to pay additional voluntary contributions. However, the pension scheme will continue to offer its existing additional voluntary contributions arrangement.

4. Disputes Procedure

Since 6 April, 1997 all pension schemes have been required to have an internal dispute resolution procedure to resolve member complaints. Currently, internal dispute resolution must be of two stage process with the second stage being an appeal to the Trustee with effect from 6th April’ 2005 it ceases to be a requirement to have a two stage procedure. However, the scheme is not planning to have a change its existing process and therefore members will still be able to appeal to the Trustee if they are not satisfied with the resolution that they receive.

5. Pension Regulator

The occupational Pension Regulator will ceases to exit on 5 April 2005 and the Pension Regulator will take over from 6th April 2005. The main objectives of the Regulator will be, to protection the benefits of members of company pension arrangements, to keep claims on the pension protection Fund to a minimum and to facilitate good pension scheme administration.

6. Pension Protection Fund

There is to be a new levy on all defined benefit schemes to pay for the new pensions protection Fund, which is an insurance scheme to protect members of an insolvent employer’s defined benefit scheme.
As a compensation scheme, the pension protection fund will offer a range of protection:

1. A 100% of the original pension promises if the member is in the case of past scheme’s retiring age is already receiving pension.
2. For pension earned from or after April 1997, increase at limited price indexation up to 2.5% each year.
3. A 90% of the original pension for other members, capped initially at £25,000 a year as at age 65.

Detail of the amount of levy and exactly how it will be calculated will be published in regulations. However, the levy will be calculated in two parts: a flat rate levy based upon the member’s, and a risk based levy based upon the likelihood of the scheme making a claim on the Pension Protection Fund. In the first year only the flat rate levy will be payable and it is expected that the risk based levy will be introduced at a later stage.

7. Multi-Employer Scheme Debt

The multi-employer-scheme-debt means that in future the Regulator will be able to issue a ‘contribution notice’ stating that is liable to pay a specified sum to the trustee, in respect of any scheme debt.

8. Scheme Funding Requirements

The pension Act 2004 replaces minimum funding requirement with the statutory funding objective, which will be specific to each individual scheme. The trustee must prepare a statement of funding principles for each scheme setting out the policy for achieving the statutory funding objective.

9. Business Transfers

Currently, Pensions are not covered by the Transfer of Undertaking (Protection of Employment) Regulations 1981. With effect from 6th April 2005,
an employer acquiring another business will be obliged to provide pension rights for transferring employees who were or could have been members of the old scheme. There are three options:

1. To provide a replacement defined benefit scheme with a benefit structure at least equivalent to the minimum for contracting-out.
2. To provide a replacement defined contribution scheme with the employer matching employee contributions up to 6%
3. To contribute at the same rate as above to a stakeholder arrangement for the employees

10. Trustee ‘Knowledge and Understanding’

A duty is now placed on all individual and corporate trustees each must have sufficient ‘knowledge and understanding’ that is appropriate for the purpose of enabling the individual to properly exercise the function in question as trustee.

The trustees are instigating an appropriate training programmed and the trustees will continue to employ a full range of professional advisers to ensure this obligation is always met.

11. Member Nominated Trustee

The Pension Act 2004 requires Occupational Pension Schemes to have in place arrangements that will provide for at least one-third of the total number of trustees to be member-nominated if the scheme has a corporate Trustee, at least one-third of directors must be member-nominated.

The Pensions Act 2004 also includes provision for the secretary of state to change the member nominated trustee provisions in the future to require one-half of trustees, or directors in the case of a corporate trustee, to be member-nominated.
12. Financial Planning in the Workplace

The Pension Act 2004 contains powers to compel employers to provide their employees with access to information and advice about their pensions and savings for retirement. The idea is that short falls between current savings and what individuals need for retirement may be identified, and individuals can be provided with information on the saving options available to them.

13. Requirement to Consent on Benefit Changes

Regulations are likely to be made that will require employers to consult with members on changes to schemes.

14. Improvements in the Incentives to defer State Pension

The Pension Act-2004 allows individuals to defer drawing their state pension indefinitely. The rate of state pension increase in being improved to 1/5th of 1% for each week that retirement is deferred past state pension age.

As an alternative to an increased pension, if an individual defers drawing their state pension for at least 12 months then they can claim a lump sum, which would be subject to tax. The lump sum is calculated as the amount of pension foregone, with allowance for interest.  

5. Financial Services Authority and Market Act- 2001

In setting up a single financial services regulator the government aimed to create an effective regulatory regime based on a clear and robust structure within which a single statutory regulation has clearly defined regulatory objectives, a single set of coherent functions and powers, and the flexibility to take full account of the different regulatory approaches appropriate to different firms, markets and consumes and to respond to rapid changes in the financial market.
In this respect the government submitted the draft in the parliament which was passed by the parliament in 2001.

FSA's Statutory Objectives

This Act stated the following objectives of the Financial Services Authority:

1. Maintaining confidence in the financial system.
2. Maintaining public understanding of the financial system, including promoting awareness of benefits and risk associated with different kinds of investment.
3. Securing the appropriate degree of protection for consumers, having regard to the differing degree of risk involved indifferent kind of investment of their transaction, the differing degree of experience and expertise which different consumers may have in regulation, and the general principle that consumer should take responsibility for their decisions.
4. Reducing the extent to which it is possible for business carried on by a regulated person to be used for a purpose connected with financial crime, with particular regard to the desirability of regulated persons being aware of the risk of their business being used in connection with the commission of financial crime and taking adequate measures to prevent, facilitate the detection and monitor the incidence of financial crime.

In addition, in discharging its general functions, the FSA have regard:

1. The need to use its resources in the most efficient and economic way.
2. The responsibilities of those who manage the affairs, of authorized persons:
3. The principle that a burden and restriction that is placed on a person, or on the carrying on of regulated activities, should be proportionate to the benefit intended to be conferred in general by the provisions.
4. The desirability of facilitating innovation in connection with the regulated activities.

5. The international character of financial services and markets and the desirability of maintaining the competitive position of U. K. and

6. The principle that competition between authorized persons shall not be impeded or distorted unnecessarily.

FSA's Authorization and Enforcement Powers

The draft Financial Services Authority and Market Bill provided the FSA with a wide range of powers. These include:

Authorization, Approval and Recognition

1. To authorize persons carrying on a regulated activity in the U.K. and to specify the activities they are permitted to undertake some firm will be authorized.

   1. To withdraw authorization from a firm this does not meet the fit and proper requirement.
   2. To recognize investment exchange
   3. To approve individual employees of regulated firms.
   4. To withdraw approval if an approved employee is no longer fit and proper.
   5. To prohibit an individual's employment in the financial service industry.

Investigation and Intervention

1. To require regulated firms, connected persons and exchange and cleaning houses to provide information, and any person to produce documents relevant to an investigation.

2. To investigate the affairs, ownership or control of any regulated firm
3. To require a regulated firm to appoint auditor, accountant and other professionals to undertake investigation and to report the firm activities.

**Discipline, Civil and Criminal Enforcement**

1. To impose fines and to issue statements of public censure against firms and approved employees for breaches of rules misconduct.
2. To impose a civil fine on any person for abusing confidential information or misleading market-distorting behavior.
3. To require those who breach principles, to make restitution or pay compensation to their customer.
4. To apply the court to freeze the assets of a regulated firm, or any person involved in market abuse.
5. To prosecuted inside dealing, market manipulation and money Laundering offences.
6. To prosecute unauthorized firms.

**FSA’s Decisions Review**

This draft provided a mechanism for the review of the decisions of FSA. In this respect an independent tribunal was established which was to work as a part of court. If any employee or person fully aggrieved by the decision of FSA; allowed to file appeal before tribunal. If found aggrieved against the decision of the Tribunal was allowed to file appeal before the appropriate court in England.27

2. **Insurance and Pension: U. S. System**

1. **Insurance and Pension: Background**

**Background of Insurance**

Insurance is an important element in the economy of U.S. from the beginning till now. In U.S. the first insurance company was established by
Benjamin Franklin in 1752 as the Philadelphia contribution ship. The first life insurance company in America colonies was Presbyterian Minister’s fund organize in 1759. By the end of 1820 there were 17 stock life insurance companies in the state of New York alone. All these Insurance companies comprised a major segment of the U.S. financial services industry. Unlike banks and securities firms, however, insurance companies had been chartered and regulated solely by the states for the past 150 years. This steam from an 1868 decision of the Supreme Court that insurance was not interstate commerce and thus was not subject to regulation by the federal government under the commerce clause of U.S. Constitution. Courts followed that precedent for the next 75 years. In 1944, the U.S. Supreme Court effectively reversed its 1868 ruling and held that insurance was subject to federal oversight. By that time, the state insurance regulatory structure was well established, and a joint effort by state regulator and insurance industry leaders to overturn the decision legislatively led to passage of the McCarran Ferguson Act 1945. That Act relinquished to the state federal authority to regulate, subject to effective insurance regulation by the states, and granted a federal antitrust exemption to the insurance industry for the “business of insurance” which has been determined not synonymous with the business of insurer.

After 1945, the Jurisdictional stewardship to the states under McCarran Ferguson Act was reviewed by congress on various occasions. Some narrow exemptions to the 50 state structure of insurance regulation have been enacted such as that for some types of liability insurance in the Liability Risk Retention Act. In general however, when proposals were made in the past to transfer insurance regulatory authority, back to the federal government, they have been met by successful opposition from the states as well as from a united insurance industry. Such proposals for increased federal involvement usually spurred a series of regulatory reform efforts at the state level and by the National Association of Insurance Commission (NAIC). Such efforts were directed at correcting perceived deficiencies in state regulation and forestalling federal
involvement. They were generally accompanied by pledges from state regulators to work for more uniformity and efficiency in the state regulatory process.

A major effort to transfer insurance authority to the federal government began in the mid-1980s and was secured by insolvencies of several large insurance companies, such as Executive Life and Monarchs Life Former House Energy and Commerce Committee chairman John Dingell, whose committee had jurisdiction over insurance at the time, questioned whether state regulation was up to the task of overseeing such a large and diversified industry. He conducted several hearing on state regulatory structure and also proposed legislation that would have created a federal insurance regulatory agency modeled on the Securities and Exchange Commission (SEC). State insurance regulators and the insurance industry oppose his proposal and worked together to implement a series of reforms at the state level and at NAIC, including a new state accreditation programme setting baseline standards for state solvency regulation. Under those standards, to obtain and retain its accreditation, each state must have adequate statutory and administrative authority to regulate an insurer’s corporate and financial affairs and the necessary resources to carry out the authority. In spite of these changes, however, another breach in the state regulatory system occurred in the late 1990s. Martin Frankel, who had previously been barred from securities dealing by the SEC, slipped through the oversight of several states, insurance, regulators and looted a number of small life insurance companies of some $200 million. Despite the embarrassment to state regulation, this did not bring long term change to federal policy.

In the latter part of the 1990s congress general attention an insurance regulatory matters wanted, because there were so many problems. So the government passes the Gramm-Bliley Leach Act 1999 and partially privatized to the insurance system. The recent congress, however attention has again focused on the regulatory structure of insurance. From the 107th through the 109th congress, the House Financial Services Committee in particular held
more than a dozen hearings at both the subcommittee and full committee level on insurance matters. Representatives Michal Oxcey, who chaired the committee during this time, indicated a strong interest in pursuing legislation to change the regulatory structure. A number of broad proposals for some form of federal chartering or other federal intervention in insurance regulation were put forward in both house of congress, but none were marked up or reported by the various committees of Jurisdiction.

In the first session of 110th congress, Senator John Sununu and Tim Johnson and Representatives Melissa Bean and Edward Royce introduced the National insurance Act 2007 into their respective chambers. While differing slightly, both bills would have created an optional federal charter and corresponding federal regulatory structure for property/casualty and life insurance. Although it stopped short of endorsing these bills, the call for an optional federal charter was echoed by the U.S. Department of Treasury, when it released a blueprint for a modernized financial regulatory structure on March 31, 2008. This blueprint was for a complete reform of the entire financial regulatory system, as an intermediate step, however it also called for an optional federal charter. A number of narrow bills affecting different facets of insurance regulation and regulatory requirements were also introduced in the 110th congress, including bills addressing surplus lines and reinsurance, as well as insurance producer licensing.

As the 110th congress approached its close, the financial crises that began in 2007 reached panic proportions which the nationalization of Fannie Mae and Freddie Mal, the failure of Lehman Brothers, and the government rescue of American International Group (AIG) in September 2008. This crisis has overruled a range of new issues and arguments to the previously existing debate on insurance regulatory reforms.

The 111th congress has seen the introduction of insurance regulatory reform legislation to address issues raised in the crisis as well as issue
predating the crisis. Legislation has included a broad federal chartering bills, the National Insurance Consumer Protection Act, as well as narrower, more focused bill, such as Insurance Industry Competition Act 2009, The National Association of Registered Agents and Brokers Reforms Act of 2009, the Nonadmitted and Reinsurance Reform Act 2009, the Insurance information Act 2009, and the Consumer Financial Protection Agency Act of 2009.28

Background of Pension

The historical development of pension in United States is traced back from late 19th century. First time the pension system was adopted by the railroad industry without any kind of legal framework. At that time pension were regarded as gifts in recognition of long service rather than as a form of compensation protected by law. Pension benefits often were paid from employers’ annual revenues and sometimes were reduced or terminated if the company paying the pension become unprofitable or went out of business.

The Congress first gave pension and profit sharing plans preferential income tax treatment in the 1920s. At that time few households paid income taxes, so these tax benefits did not immediately spur the growth of the private pension system. The Revenue Act of 1938 and 1942 outlined more specific requirements for tax qualified pension plans, including the requirements that benefits and contributions not discriminated in favor of highly compensated employees. Tax qualification means that the employer can detect the amount contributed to the plan, the earning on the pension trust fund were exempted from taxes until distributed and covered employees did not have to pay income tax on the employers’ contributions to the plan. Employers also were allowed to integrate their pension benefit formulae with social security benefits to party offset the relatively more generous income replacement rates that social security paid to law wage workers.
During the Second World War (1741-1945), Pension and other deferred compensation arrangements were exempted from wartime wage controls. Employers who were unable to pay higher wages due to these controls could increase the workers total compensation by offering new or increased pension benefits. Also in 1940s, the federal courts declared that pension were subject to the collective bargaining, and that employers had to include pension among the benefits for which unions could negotiate. In addition the expansion of the income tax to include more households and the introduction of higher marginal income tax to make the tax advantages of pension considerably more valuable to workers. Both of these developments led to more widespread adoption of employer sponsored pensions during the 1950s and 1960s.

As the number of private pension plans grew in 1950s and 1960s so did the number of instances in which employers or union attempted to use the assets of these plans for purposes other than paying benefits to retired workers and their serving dependents. In 1958, congress passed the Welfare and Pension Plan Disclosure Act, which required public disclosure of pension plan finance. But this Act could not fulfill the purpose of congress.

So during 1972, both house of and senate Labor Committees drafted bills to regulate the private pension system, which reported in 1972. On the introduction of this bill ERISA was passed in 1974, which is a comprehensive piece of legislation in the field of regulation of private pension, till now but from time to time, congress passed legislation to amend ERISA to provide better benefits well as their regulation. In 1984, Retirement Equity Act was passed which add some new provisions in ERISA in respect of the extended survival benefits for the dependents benefits, in 1985, Consolidated Omnibus Budget Reconciliation Act, which added new provision of health care plans to the ERISA, again in 1990 the Omnibus Recognition Act added new tax provisions. In 1996 Health Insurance Portability and Adoptability Act, Mental Health Parity Act, New Born and Mothers Health Protection Act were passed and added some new provision for better health care protection. In 1998,
Women’s Health and Cancer Rights Act was enacted, amended ERISA to require group health plans providing mastectomy coverage to cover prosthetic devices and reconstructive surgery.

After that some lacunas were still there which were removed by the passage of Pension Protection Act 2006 which added a lot of provision in ERISA. Now ERISA is a complete code of pension system in United States.29

2. Insurance and Pension: Structure

Structure of Insurance

The insurance is varying and complicated field of social security to provide the benefits to the people for their better future. The insurance system of U.S. provides so many schemes for their peoples which are as follows-

1. Life Insurance Schemes

The life insurance schemes are schemes of contractual nature where insurer agrees to pay a sum of money upon the occurrence of insurer death or other events, such as terminal illness or critical illness. In return, the policy holder agrees to pay a stipulated amount called a premium at regular intervals or in lump sums. These scheme are classified into two categories which are as follows-

1. Temporary Term Insurance Schemes

The temporary term insurance schemes provide for life insurance coverage for a specified term of years for a specified premium. These schemes do not accumulate cash value. Term is generally considered pure insurances, where the premium buys protection in the event of death and nothing else.
2. **Permanent Life Insurance Schemes**

The permanent life insurance schemes are those schemes, remain enforce until the policy mature, unless the owner fails to pay the premium when due. The policy can not be cancelled by the insurer for any reason except fraud in the application. Permanent insurance builds a cash value that reduces the amount at risk to the insurance company and thus the insurance expense over time. The owner can access money in the cash value by withdrawing money, borrowing the cash value, or surrendering the policy and reining the surrender value.

These schemes are again classified under few categories-

1. **Whole Life Insurance Schemes**

The whole life insurance schemes provide for a level premium, and a cash value table included in the policy guaranteed by the company. The primary benefit of these schemes is guaranteed mortality fixed and known annual premiums, and cash value and expense charge will not reduce the cash value shown in the policy. The primary disadvantages' of these schemes are premium inflexibility and the internal rate of return in the policy may not be competitive with other saving alternatives. Also the cash values are generally kept of the insurance company at the time of death, the death benefit only to the beneficiary.

2. **Limited Pays Insurance Schemes**

The limited pays insurance schemes are those schemes in which all the premiums are paid over a specified period after which no additional premium are due to keep the policy in force. Under these schemes common limited pay period include 10-year, 20 years and paid up at age 65.
3. **Endowment Insurance Schemes**

These schemes are the schemes in which the cash value built up inside the policy, equals the death benefit at a certain age. The age commencement is known as the endowment age. Endowment schemes are considerably more expensive than either whole life insurance schemes.  

2. **Annuities Insurance Schemes**

In respect of these schemes the issuer makes a series of payment in future to the buyer, annuitant in exchange for immediate payment of a lump sum, or a series of regular payment, prior to the onset the annuities. These schemes are classified under the following categories-

1. **Fixed and variable Annuities Schemes**

Annuities schemes that make payments in fixed amounts or in amounts that increased by a fixed percentage are called fixed annuities schemes. Variable annuities schemes, by contrast, pay amount that every according to investment performance of a specified set of investments, typically bond equity mutual fund.

2. **Guaranteed Annuities Schemes**

With a pure life annuity an annuitant may die before recovering the value of their original investment in it. If the possibilities of situation called a forfeiture is not desired, it can be ameliorate by the addition of an added clause, forming annuity guarantee, under which annuity issuer is required to make annuity payment for at least a certain number of years, if the annuitant outlives the specified period certain, annuity payments then continue until the annuitant is death, if annuitant died before the expiration period, the annuitant entailed for remaining payment.
3. **Joint Annuities Schemes**

Under these schemes multiple annuitant products include joint-life and joint-survivor annuities, where payments stop upon the death of one or both of the annuitants respectively.

4. **Impaired life Annuities**

These schemes involve improving the term offered due to medical diagnosis which is serving enough to reduce life expectancy. A process of medical underwriting is involved and the range of qualifying conditions had increased substantially in recent years.\(^{31}\)

3. **Disability Insurance Schemes**

The Disability insurance often called disability income insurance, is a kind of insurance where insurers the beneficiary’s earned income against the risk that is disability which make working impossible. These schemes are classified under the following categories.

1. **National Social Insurance Schemes**

These Schemes provide a floor benefit for all the other piecemeal form of disabilities. These schemes are safety net that catches everyone who was either or otherwise uninsured or underinsured. Schemes divided into few categories.

1.1. **Old Age Survivors, Disability Insurance Schemes**

These schemes provide monthly retirement benefits, benefits to the dependents of deceased workers, and disability benefits. Under this scheme the workers and specified dependents become eligible to receive benefits by paying compulsory OASDI payroll taxes. The types of coverage for which worker
become eligible depend on the amount of wages that have been earned and the length of time that the workers has been in workforce.

1.2. Medicare Insurance Schemes

These schemes provide medical insurance to retirees and non retirees aged 65 and over and to certain disabled person under age 65. These schemes provide two types of benefits, and one is Medicare Hospital Insurance and second one is Medicare Supplementary Insurance. These schemes finance by payroll taxes as well as wages of employer.

2. Employer-Supplied Disability Insurance Schemes

Since one of the top reasons for becoming disabled is getting hurt on the job, it is not surprising that the second most form of disability insurance schemes is that provided by employers to following schemes. There schemes classified under following schemes.

2.1. Workman Compensation Schemes

The workman compensation schemes offer payments to employees who are unable to work because of a job-related injury. However workers compensation is infect more than just income insurance, because it may pay compensation for economic loss, reimbursement or payment of medical and like expenses, general damages for pain and suffering, and benefits payable to the dependents of workers killed during employment.

2.2. Temporary Disbarment Schemes

These schemes offers payment to the workers those who are unable to work because of any injury or illness, even if it is not job related. These schemes are essentially just open market plan with the advantage of negotiated group rate. Although these schemes tend to offer rather basic, low end coverage, essentially because most people bulk at paying for any thing more
sometimes each employer has the option to buy upgraded coverage it they are willing to pay for it.

2.3. Permanent Disablement Schemes

These schemes offer monthly payment to the employee those who permanently incapacitate from their working life. These schemes are income security scheme based on the level of income of particular employee who receives benefits under these schemes.  

4. Group Insurance Schemes

The group insurance schemes were employer signs a contractual nature schemes. Under these schemes the insurance company outlines the provision of plan. Each employee receives a certificate that gives indigence of participation in the plan. The amount of insurance depends upon the employee salary or job classification, usually the employer pays a portion of premium and the employee pays the rest, but sometimes the employee pays the entire cost of these plans. 

Structure of pension

One risk which faced by every individual is human capital (ability to earn his living) will decline. Productivity, especially physical productivity, generally declines after some age, which in part explains why people choose to stop working and retire. There are three ways for the people provide for retirement income. One is private employment related retirement schemes, one is mandatory governmental programmed and third one is private pension plan.

1. Employer Sponsored Retirement Schemes

The private employment related schemes means schemes sponsored by the employer for their employees. These schemes are divided under two categories which are as follows-
1.1. Defined Benefit Schemes

In defined benefit schemes an employer promises employees a monthly retirement benefits that is defined by a benefit formula. However, workers often have a benefit formula that equals a flat amount times the employee’s number of the years of service. For example employee might be promised $50 a month times years of service. A worker with 20 years of service would receive $1,000 a month during retirement. This type of benefit formula is not indexed to inflation during the employee’s pre retirement. Consequently, the benefit formula typically is adjusted periodically to correct for the effect of inflation.

The benefit formula for salaried employee’s typically based on the number of years of service and the employee’s salary during the final year of service. The retirement benefit as a percentage of the employee’s final salary is called the replacement rate. Few defined benefit plans have explicit indexing of benefit to postretirement inflation thus the replacement rate can overstate the actual purchasing power of retire of inflation occurs following retirement. During the high inflation period of 1970, some employers increased retiree’s pension benefits to make up, at least in part, for the effects of inflation even though the employer and no contractual requirement to do so.

1.2. Defined Contribution Schemes

With a defined contribution plan, the employer and often the employee makes a specific (defined) contribution to a fund. The contributions are invested on behalf of the employee, and the employee’s retirement benefit depends on the investment returns. The greater investment returns, the greater employees’ retirement benefit. Thus, the employee bears the investment risk in a defined contribution plan. These are some types of Defined contribution plans which are as follows-
1. **Money Purchase and Profit Sharing Schemes**

One of the most common types of defined contribution plans is a money purchase plan, in which the employer makes contribution on behalf of the employee regardless of the firm profits. The contribution usually equals a percentage of the employee's salary but can be a flat amount. In some instances employers requires that employees also make contribution to the plan. A profit sharing plan is other common types of defined contribution plan. As the name suggest, the employers’ contribution to a profit sharing plan depends on the firm profits. With some profit sharing plans, contribution are based on an explicit formula e.g. 5% of pretax profit and in other plan the contribution are at the discretion of the corporation’s board of directors. The profit sharing contributions usually are allocated across employees based on the proportional of the employee’s salary as a percentage of total payroll costs.

2. **Employee Stock Ownership Schemes**

This is defined contribution plan which required holding at last 50% of its assets in the sponsoring firm are stock. ESOPs have another distinguishing feature relative to other retirement plans they can be leveraged. That is an ESOP plan can borrow money to purchase stock for employee. ESOP loans are repaid using the sponsoring firm’s contributions.

The unique features of ESOPs have made them an important financing tool for some corporation and a means of placing stock in friendly hands to prevent takeovers. ESOPs also have been promoted as a means of (1) improving employee productivity by tying employee compensation to the firm’s stock price and (2) improve labour relations. It also have relived tax advantages beyond other retirement plans.
3. 401 (K) Schemes

The section-401 (k) of Revenue Act of 1978, allowed a new form of defined contribution plan that has become known as a 401 (k) plan. The distinguishing features of 401 (k) plans are that employee can elect to make tax-deferred contributions, in addition to the employers tax deferred contributions. The provision of tax-deferred contribution implies that the employee does not pay tax on the contribution until the money is withdrawn from the plan. The use of 401 (k) plans has grown tremendously in the past two decades. The unique feature of this plan is that it is voluntary for both employer/employee as well as the employee can withdraw from this plan before the retirement under certain hardship.

4. Simplified Employee Pension Schemes

Employers without other qualified retirement plans can with minimal paperwork establish retirement plan called simplified employee pension account for each of their employees. The employer then can make tax-deductible contributions up to 15% of employee compensation, or $35,000 which ever is less in 2002. These SEP account must be established for each employee over the age of 21 who has worked for three of the last five years. Small employers can also create, with minimal paperwork work a simple plan. With these plans, the owner can match employee’s contributions up to three percent, or $ 7,000 whichever is less in 2002. From the employee’s perspective, the contribution or investment earnings are tax deferred in other qualified retirement plan.

1.3. Cash Balance Schemes

During the 1990s, interesting hybrids of defined benefit and defined contribution plans become more popular. The most common hybrid plan is called a cash balance plan. There plans operate like defined benefit plans from a sponsor’s perspective and are classified as defined benefit plans for
regulatory purposes, but cash balance plans are similar to defined contribution plans form an employee's perspective.

With the cash balance plan, retirement benefits are determined by the size of an employee's hypothetical account when leaving the firm. While employed, the account bane grows based on salary credits typically are stated as a percentage of earning with the percentage often varying with the years of service.\textsuperscript{35}

2. Employee Sponsored Retirement Schemes

An important source of retirement income for many people, especially those who are not participants in employer sponsored plans is an individual retirement account plans. In addition, participants in employer sponsored plans can in some circumstances augment their retirement savings through IRAs. There are two basic type of IRAs plan.

1. Traditional Individual Retirement Accounts Schemes

The people who are not participating in an employer sponsored retirement plan can make tax dissectible contributions to a traditional IRA. The earning on these funds is tax deferred. All withdrawals from a traditional IRA are taxed as income. The combination of tax deductible contributions and tax-deferred investment earning making traditional IRAs similar to corporate sponsored retirement plans from an individual tax perspective.

2. Roth individual Retirement Account Schemes

Roth IRAs differ from traditional IRAs in that one, contributions to a Roth IRA not tax detectible, second, and withdrawals during retirement from a Roth IRA are not taxed. Thus, once money is placed in a Roth IRA, It is no longer taxed, which implies that investment earning on the entire contribution to a Roth IRA escape taxation.
An important difference between Roth IRA and traditional IRA is that Roth effectively relaxes the constraint on the amount of money on which an individual can earn the before tax rate of return. With a traditional a contribution of $3,000 by an individual with a 30% tax rate effectively allows the individual to avoid tax on the investment earning generated from $2,100. In IRA, Roth scheme, a contribution of $ 3,000 by an individual with a 30% tax rate effectively allows the individual to avoid tax on the investment earning generated from $31,000.

3. Government Sponsored Retirement Schemes

The government sponsored schemes are those schemes which provide a floor of protection that many workers supplement with private pensions, savings, and insurance coverage. The formula adopted by the government in these schemes provides higher benefits in relation to taxes paid to cover paid workers than for higher paid workers. In addition, earned benefits are not funded in advance. Instead, although there is currently some temporal partial funding, over the long run benefit for retiree's and other beneficiaries are paid largely from payroll on current workers on a pay-as you-go basis.36

3. Insurance and Pension: Reformation

Reformation of Insurance

The U.S. insurance industry was regulated by the state with consultation of insurance companies, meaning thereby the insurance system in U.S. was fully privatized from beginning till 1944 as per the commerce class of U.S. Constitution. But the position in 1944 was changed; the federal government decided to take part in the regulatory mechanism of state because there were some changes in the insurance industry of U.S. So the government passed the McCarran Ferguson Act of 1944 and Gramm leach Bliley Act 1999. But there was further demand for insurance sector reforms.
Factors Promoting Reforms

There are some important factors leading change in U.S. insurance industry from the state regulation to the federal control.

1. Changes in the Insurance Market Forces

The drivers of changes in the market forces was globalization, new technology, e-commerce, de-regulation, market liberalization, increase competition, tighter profit margins, and the growing numbers of sophisticated consumers. The goal behind these driving forces, in turn, appear to be the increasing efforts of all financial service providers to find growth, given market share, create new revenue stream, and enter new market.

2. Internationalization of Insurance Services

Although insurance and other finical services are not an industry that produces a tangible goods to be shipped across boarders, the trade in such services makes up a large amount of international trade. The U.S. has generally enjoyed a surplus in trade market in financial services, other than insurance, but in insurance services the U.S. has consistency run a deficit with the rest of the world. Consolidation in the insurance industry are creating larger international entities with growing market shares, particularly in reinsurance market some have speculated that the growing internationalization of financial service industry means government may find it difficult to reform their regulation in isolation from other jurisdictions and international developments. The need for a single voice at the federal level to represent U.S. insurance interests on the international stage is a frequently leased argument for increased federal involvement in insurance regulation.

3. Failure of Insurance Industry leads to Financial Crisis

Although insurers in general appear to have weathered the finical crisis reasonably well so far, the insurance industry has seen two significant failures,
one general and one specific. The first was the spread across the financial guarantee or monoline bond insurance and the second failure in the insurance industry was that of a specific company, AIG. AIG had been global grant of the industry, but is essentially failed.

The near collapse of bond insurances and AIG could be constructed as regulatory failures. One of the responsibilities of an insurance regulator is to make sure that the insurer remains solvent and is able to pay its claims, because the states are the primary insurance regulators. Some may go further and argue that these cases significantly demonstrate the need of for federal involvement in insurance regulations.

Proposals for Reforms

These are two reform proposals for U.S. insurance sector which proposed federal control.

1. 2008 Treasury Blueprint

In March 2008, the Secretary of the Treasury, Henry Paulson released a Blueprint for a modernized financial regulatory structure, it was an attempt to create a more flexible, efficient and effective regulatory framework. A wide ranging document, the blueprint foresaw a completely revamped regulatory structure for all financial services including insurance.

The 2008 Treasury model ultimately would have resulted in a prudential regulator overseeing the solvency of individual companies, a business conduct regulator overseeing consumer protection, a market stability regulator overseeing risks to the entire system. An intermediate step, it made two specific recommendations on insurance regulation. First, it called for creation of a federal insurance regulator to oversee an optional federal charter for insurance as well as federal licensing for agents and brokers. Second recognizing that the debate over an optional federal charter is ongoing in congress, it recommended
the creation of an office of insurance oversight in Department of Treasury as an interim step. This office would be charged with two primary functions (1) dealing with international regulatory issues, including the power to preempt inconsistent the state laws, and (2) collecting information on the insurance industry and advising the secretary of the treasury on insurance matters.

2. Obama's Regulatory Reform Plan

In June 2009, The Treasury Department under Secretary Timothy Geithner released a report entitled financial "Regulatory Reform; A New Foundation", outlining president Obama's regulatory reform plan. This plan proposed change for including explicitly introducing systematic risk oversight by Federal Reserve, combining the office of comptroller of the currency and the office of Thrift Supervision into a single banking regulator, and creating a new Consumer Financial Protection Agency.

Although, this plan definitely bring the changes in the insurance regulatory system. This plan specifically affected the insurance sector in two aspects: the regulation of large financial companies presenting systemic risk and the creation of a new office of National Insurance within the treasury.

Response towards the Reforms

To implement the reform proposal of Obama's government, U.S. Congress introduced some piece of legislation including both broad and narrow proposal to reform insurance regulatory mechanism which are as-

1. Insurance Industry Competition Act-2009

Representative peter DeFazio and five cosponsors introduced this draft in the house on March 18, 2009.

This draft legislation would abolish the current exemption from federal antitrust laws for the "business of insurance" that dates to Ferguson Act of
1945 and remove a prohibition on investigations of insurance companies by the Federal Trade Commission. It would not change the sections of McCarran Ferguson Act that give presence to state insurance regulators.


Representative Melissa Bean and Edward Royse introduced this draft in house on April 2, 2009.

This bill would create a federal charter for the insurance industry, including insurance agencies, and independent insurance producers. The federal insurance regulatory apparatus would be an independent entity under the Department of the Treasury and would preempt most state insurance laws for nationally regulated entities. Thus, nationally licensed insurers, Agencies and producers would be able to operate in the entire U.S. without fulfilling the requirements of each individual 50 state’s insurance laws.

It would also address the issue of systematic risk by designating another entity to serve as a systemic risk regulator for insurance. The systemic risk regulator would have the power to compel systemically significant insurance to be chartered by the federal insurance regulator.

3. Insurance Information Act 2009

Representative Paul Kanjorski and four cosponsors introduced on May 21, 2009.

This bill would create an office of insurance information for non health insurance in the Department of Treasury. The Deputy Assistant secretary heading this office would be charged with collecting and analyzing insurance information and establishing federal policy on international insurance issues, as well as advising, the secretary of the treasury on major insurance policy issues. State laws or regulations that the head of the office finds to be inconsistent with
the federal policy on international insurance issues would be preempted, subject to an appeal to the secretary.

4. **Consumer Financial Protection Agency Act of 2009**

Representative Barney Franks and 12 cosponsors introduced on July 8, 2009.

It would create a new financial regulator, however, would cover only a small portion of insurance products, namely credit insurance, mortgage insurance, and title insurance. This bill would not preempt otherwise conflicting state laws.\(^{37}\)

**Reformation of Pension**

The pension sector of U.S. plays a vital role in the overall role of economy, so the U.S. officials were very conscious about their proper regulations. There was need of some reforms but in the proper directions. But so many complications were also their, under such situation the steps was so difficult but government take it.

**Issues and challenges**

The pension sector of U.S. which comprise old age, survival and disability benefits etc. are funded through the payroll taxes paid equally by the employer and employee. During 2009 the taxes were levied on the first $106,800 of workers income, amount earned above that were not taxed. Covered workers were eligible for retirement benefits, and for disability benefits, if a covered worker died, his or her spouse and children may receive survivor benefits. The programmed did not have individual accounts and tax receipts were not invested on behalf of the worker. Instead, correct receipt were to pay current benefit under pay as you go system as is typical of some insurance and defined benefit plans.
In each year since 1983, tax receipts and other income had exceeded benefit payments and other expenditures, most recently in 2008 by more than $80 billion. However, this annual surplus was expected to change to a deficit around 2016, when payment begins to exceed receipts. The fiscal pressure was due to demographic trends, where the number of workers paying into programmed continued declining relative to those receiving benefits. The number of workers paying into the program was 6.1% retiree in 1960; this declined to 3.2 in 2008 and was projected to decline 2.1 by 2040. Further life expectancy continues to increase, meaning retirees collect benefit longer.

The accumulated fund invested in the treasuries issued by U.S. government, which were deposited in the trust fund. At, the end of 2008, the trust fund stood at $2.4 trillion. The $2.4 trillion amount owned by federal government to the trust fund is also a component of U.S. debt, which stood at $1.3 trillion of as in 2009. By 2016, the government was expected to have borrowed nearly $3.7 trillion against the trust fund.

The value of unfunded obligations under pension sector benefits during financial year 2007 was approximately $5.3 trillion. In other worlds, this amount would have to be set aside today such that the principal and interest would cover the shortfall over the next 75 years. This 1.9% of the payroll taxes based or 0.7% of gross domestic product of each years.

Increasing unemployment due to the sub prime mortgage crisis has significantly reduced the amount of payroll tax income, by which cash tax collection declining. This crisis caused more to apply for both retirement and disability benefit.

Proposals for Reforms

Reform proposals continue to be circulated with some urgency. Due to this reason some projections were made by the Board of Trustee of the Federal Old Age and Survival Insurance and Federal Disability Insurance Trust Fund in
their 69th annual report dated 12th may 2009. According to these projections, based on systems current revenue and benefit structure, expenses will exceed tax receipts beginning in 2016. The trust fund is projected to continue to grow for several years there after because the analyses assume interest income from loans made to the U.S. Treasury is available to cover the differences. However, the fund from the loan made has been spent along with other revenues in the general funds in satisfying annual budgets. At some point, however, absent any change in the law, the Pension Benefit Administration will finance payment of benefit through the trust fund. Because those assets consists solely U.S. government securities, their redemption will represent a call on the federal government general fund, which for decades has been borrowing, the trust fund’s surplus and applying it to its expenses to partially satisfy budget deficits. To finance such projection call on general fund, some combination of increasing taxes, cutting other government spending or programm selling government assets or borrowing would be required.

The balance in the trust fund are projected to be deputed either by 2037 or by 2052 assuming proper and continues repayment of the treasure notes. At, that point, under current law, the system’s benefits would have to be paid from the payroll tax alone. Revenues from payroll taxes are projected at the point to be continued to cover about 75% of projected pension benefits if no change is made to the current tax and benefit schedules.

Reformed Model of Pension

In U.S. the issue of pension reform got attention during the year 2004, in the Bush administration. Bush accepted the “partial privatization”. He announced establishment of 16 member commission to study and report specific recommendation to preserve pension sector for seniors which building wealth of for younger Americans. The commission in its report proposed three alternatives for partial privatization.
Plan 1:

Up to 2% of taxable wages could be diverted from federal income contribution and voluntarily placed by workers into private accounts for investment in stocks, bonds and for mutual funds.

Plan II:

Up to 4% of taxable wages, up to maximum of $1000, could be diverted from federal income contribution and voluntary placed by workers into private accounts for investment.

Plan III:

Up to 1% of wages on top of federal income contribution up to maximum of $1000, could be voluntary placed by workers into private accounts for investment.

Dispute over the Reformed Model

The political heat over the issue of partial privatization divided the politicians into two groups, who gave different argument regarding partial privatization, which is as

Conservative Ideological Arguments

Conservative argued that social security reduced individual ownership by redistributing wealth from workers to retirees and by passing the free market social security taxes paid into the system could not be passed to future generations, as private account could thereby preventing the accumulation of wealth to some degree. Conservative wanted some change in the structure of the programs. Constrictive were pro-privatization.
Liberal Ideological Arguments

Liberal argued that government had the obligations to provide social insurance through mandatory participation and broad programmed. During 2004, social security constituted more than half of the income of nearly two third of retired Americans. Liberal tends to defend the correct programmed, preferring limited tax and payment modification. The liberal were anti-privatization.

Retaliation of Entirely Government Run Pension system

After a long term debate, in the years 2008 president Brack Obama ordered for the retention of entirely government run pension system. He opposed to the privatization and argued that the problem of pension sector could be solve by a lot of way, not only by privatization.

There are two important tools by which the problem of pension system can be solved, which are-

1. Revenue Raisers

The revenue can be raised in several ways-

1. By raise the cap to 90% of taxable earning
2. By raises taxes on benefits
3. By preserve tax on estates over $3.5 million
4. By extent cover age to newly hired state and local government employees.
5. By invest 15% of the trust fund in stock and bond index fund.

2. Cost Trimmers-

The cost can be trimmed by-

1. Adjust the cost of living.
2. By increasing normal retirement age to 70
3. By progressive indexing index benefits to price, not wags
4. Insurance and Pension: Legislations

There are so many legislations regulating to the insurance and pension system of U. S. These legislations are as follows-

1. McCarran Ferguson Act- 1945

The S.C. in *Paul v/s Virginia, (1868)* ruled that issuing a policy of insurance is not a transaction of inter state commerce and not a subject of federal regulations. Again in *United State v/s South-Eastern Underwriters Association (1944)* ruled that federal antitrust laws were applicable to insurance association’s interstate activities in restraint of trade. Although this judgment 1944 did not specifically overrule its prior determination, the case was viewed as a reversal of 75 years of precedent and practice, and created significant apprehension about the continued viability of state insurance regulation and taxation of insurance premiums. In this respect the Congress response was the 1945 “McCarran Ferguson Act”. In addition to preserving the state’s ability to tax insurance premium, “McCarran Ferguson Act” prohibits application of federal antitrust laws and similar provisions in the “Federal Trade Commission Act”, as well as most other federal statutes, to the business of insurance to the extent that such business is regulated by state law except that the antitrust laws are applicable if it is determined that an insurance practice amounts to a boycott.39

Scope of McCarran Ferguson Protection

The scope of McCarran Ferguson protection is that the statute’s applicability in instances in which insurance companies are actors in an area in which the federal government currently has not ceded its regulatory authority to the states has been address numerous times, both by the S.C. and the lower courts. Generally it has been found that federal statutes are not trumped by McCarran Ferguson except where the business of insurance is directly involved or where a state insurance regulatory scheme or state insurance administration
would be adversely affected. The scope of McCarran Ferguson defines under following heads.  

1. Protection of McCarran Ferguson and Insurance Business  

The court in *Securities and Exchange Commission (SEC) v/s National Securities, Inc.* limited the scope of the term business of insurance to activities that involved only insurance company’s relationships with their policy holders. The merger of two insurance companies was challenge by the SEC, which alleged violations of federal securities laws, despite the merger’s approval by the Arizona Director of insurance. N.S.C. argued that the merger was in compliance with state laws, and that the “McCarran Ferguson Act” precluded application of inconsistent federal laws. The court disagreed, holding that a state statute aimed at protecting the stockholders of insurance companies was not a statute regulating the business of insurance.

About 25 years after the decision of SEC’s case the court extended that ruling. It held in *U.S. Department of Treasury v/s Fabe* that state laws addressing the liquidation of insurance constitute the business of insurance and under McCarran Ferguson preempt federal statutes but only to the extent that they are necessary to protect the insolvent’s policy holders.

2. Protection of McCarran Ferguson and State Regulation  

The courts have almost unanimously determined that state regulation need not meet the standard of federal antitrust law in order for McCarran Ferguson to apply and that the federal government may not require uniform state regulation. However, whether state regulation needs to meet any particular standard to qualify as preempted regulation, has remained a question. In 1958, in *Federal Trade commission v/s National Casualty Company* the court had already decided that McCarran Ferguson withdraw from the commission the authority to regulate insurance advertising practices in those states which are regulated those practices, under their own laws, and that the
FTC could not therefore, order the multistage-insurance-company defendants to stop using advertising that the commission deemed false, deceptive and misleading of FTC Act. But the court expressly declined to examine whether state’s laws had been effectively applied, finding it sufficient that each state in question had enacted prohibitory legislation which prescribed unfair advertising and authorized enforcement through a schemes of administrative supervision.

3. Protection of McCarran Ferguson and Agreement of Boycott

Whether the boycott referred to in the statute is solely a boycott of entities within the insurance industry or a consumer protection facet or the otherwise industry friendly McCarran law, which was addressed in *St. Paul Fire Marine Insurance co v/s Barry* where ultimately found in favor of the latter. In St. Paul, doctors sued four companies that sold the medical malpractice insurance, alleging that one of the company had changed its malpractice policy in a manner unfavorable to the doctors, who were then unable to take their business else where because the other companies refuses to sell them malpractices policies of any sort. This, the doctors charged, was the result of unlawful conspiracy and constituted a boycott, in violation of antitrust law. The S.C. agrees holding was that “conduct in question accords with common understanding of a boycott”.

Doctrine of State Action in the realm of McCarran Ferguson

The state action doctrine, first enunciated by the Supreme Court in *Parker v/s Brown*, has curved to stand for the proposition that federalism dictates that the antitrust laws are not applicable to the states. It has over the years since 1943, been interpreted, classified and expanded to the point that it now confers antitrust immunity not only on the states qua-states including state agencies or officials acting on their official state capacity, or those private individual who act in furtherance of state directed activities, but also on those
who act pursuant to state sanctioned, but not necessarily mandated, courses of action. Its essence is captured in the two part test set out in *California Retail Liquor Dealer Association v/s Middle Aluminum* there, the court made clear first, that the challenged restrain must be one clearly articulated and affirmatively cypresses as state policy and second the policy must be actively supervised.

It is thus, apparent that since at least 1980s regulated by state law has been a prong of the judicially created state action doctrine in antitrust law, a doctrine which was developing simultaneously with McCarran Ferguson case law.

2. **Occupational Safety and Health Act- 1970**

The personal injuries and illness arising out of work situations impose a substantial burden in terms of lost production, wage loss, medical expenses and disability compensation payment. So US congress declares policy to provide national safety and healthful working conditions for man and women at workplace. Than the occupational “Safety and Health Act” was passed in 1970 but come into effect from the 1971.

**Occupational Safety and Health standard**

The term occupational safety and health standard means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of empowerment.

The occupational safety and Health standard is a standard recognized by standard producing institute under procedure whereby it can be determining by secretary.
Obligations of Employer Regarding Occupational Health and Safety

Each employer-

1. Shall furnish to each of his employees employment and place of employment which are free from recognized hazardous that are causing or are likely cause death or serious physical harm to his employees;
2. Shall comply with the occupational safety and health standards promulgated for this purpose

Obligations of Employee Regarding Occupational Health and Safety

Each employee-

1. Will comply with the occupational safety and health standard
2. Will comply the all rules and regulation issued in pursuant of the health and safety standard which are applicable to his own actions and conducts. This standard formulated in such manner which affords an opportunity for diverse views to be considered and designated as such a standard by the secretary after consultation with other appropriate federal agencies.

Benefit Regarding Occupational Safety and Health

The occupational safety and health standard provides-

1. Safe and healthful place and conditions of employment, consistent with the set standard,
2. Use of safe equipment, personal protection equipment, and devices reasonably necessary to protect employees,
3. Necessary corrective actions for the elimination of occupation accidents and illness,
4. Joint contribution efforts of employer and employee for providing safe and healthful working condition,
5. Training programs for employer and employee to become competent in the field of occupational safety and health,
6. Medical care at workplace, at over time,

Administration of Occupational Safety and Health Standard

As far as the administration of occupational safety and health standard is concerned, the primary responsibility is on the secretary of labour to form a set standard for occupational health and safety for the protection of working class by creating an Occupational Safety and Health Review Commission for carrying out adjudicatory functions, as well as National Advisory Committee for their own help in setting the occupational safety and health standard at any particular place.

In order to carry out the occupational health and safety standard, the secretary, upon presenting appropriate credentials to the owner, can enter without delay at reasonable times in any factory, plant establishment, construction sites, or other area where work is performed by an employee to inspect and investigate during regular working hours and at other reasonable time, and within reasonable limits and in reasonable manners, any such place of employment and all pertinent conditions, structure, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

If after inspection, if secretary belief that any rule violate by the employer, he can issue the citation against the employer within 15 days of such inspection.

If the employer feel aggrieved from such citation he filed complain before the Occupational Safety and Health Review Commission for adjudication of their dispute. It any aggrieved against the decision of the review commission can apply before District Court.\textsuperscript{48}

This Act protects the interests of the participants and beneficiaries in private sector employee benefit plans. As the number and size of pension plans and insurance plans grew in 1950s and 1960s, so did the number of instances in which employers or unions attempted to use the assets of these plans for purposes other than paying benefit to the employees as well as their dependents after their demise. In 1958, congress passed, the “Welfare and Pension Plans Disclosure Act”, which required public disclosure of pension plan finances. After the Studebaker Automobile company terminated its insurance and pension plans in 1963, leaving several employees and retirees without their insurable and pensionable benefits, congress began considering legislation to ensure the security of insurance and pension benefits in private sector.

During the 1970s both the house and senate labour committees drafted bills to regulated the private pension system. The senate Labour and Public Welfare Committee reported a pension bill in 1972. Up to that point, the legislation had been handled exclusively as labour issues, but most private pension plans benefited from the favorable tax treatment accorded then under the internal revenue code, the Senate Finance Committee also asserted its jurisdiction. As passed by congress in 1974, ERISA included elements produces by the House and Senate Labour Committees, the House Ways and Means Committee and the Senate Finance Committee.

ERISA was signed into law by President Gerald ford on Labour Day, September 2, 1974. Congress amended ERISA over the years to provide greater protection to the employee as well as their dependents.

The ERISA protect the benefits of participants in most private sector pension and insurance plans by requiring companies with defined benefit pension plans to fully fund the benefits that participants have earned. The law prohibits companies from using insurance and pension funds for purpose other
than paying insurable and pensionable benefits. The ERISA also requires all private sector sponsors of defined pension plans to purchase insurance plans to purchase insurance from the pension benefit guaranty corporation.\textsuperscript{49}

Obligations of Employer Regarding ERISA

As the ERISA states that it is the policy of ERISA to protect the interest of plan participants and their beneficiaries by requiring some conditions on the part of the employers. These conditions are as follows.

1. **Compulsory obligations**

These obligations are some like that-

1. Disclosure of information about the financial position of insurance and pension schemes to the participants as well as their beneficiaries.

2. Reporting information about their insurance and pension plans before the governmental agencies.

3. Dissemination of relevant material to the participant at relevant time.

2. **Obligations on the Demand of Employees**

These obligations are as follows which arise on the written request of the employees.

1. Furnish to the participant summary plan descriptions.

2. Furnish to the participant summary of material modifications within 210 days after the close of plan year in which the modifications, was adopted.

3. Made available copy of annual report of plans at the principal office of plan and administrator and other places as may be necessary to make pertinent information readily available to plan participants.
4. Furnish the periodical plan benefit statement to the participants and beneficiaries.

5. Finish the annual plan funding notice to the participants and beneficiaries.

6. Provide to the participant a notice of their eligibility to disinvest in employer securities within 30 days before the date on which the individuals is eligible to disinvest in employer securities.

Obligations of Employee Regarding ERISA

The obligations of employee impose by the ERISA to participate in the plans prescribed by this Act are as follows-

1. Employees must be above the age of 21 years.

2. Employees must have completed a year of service (12 month period during which employee has worked at last 1,000 hours).

3. Employees must enroll him on the first day of plan year after they became eligible.

Benefits Regarding Employee Retirement Income security

ERISA govern benefit accrual, which generally refers to the rate at which benefits are earned by a plan participant. An accrual benefit is defined contribution plans.

For defined benefit plans, accrual benefit means individuals, benefit determined under the plan and expressed in the form of on annual benefit commencing at normal retirement age, subject to exceptions. ERISA provides three primary methods for benefit accrual under a defined benefit plans.

1. Under the “133-1/3 rule”, generally a later rate of accrual for one year of plan participation can not be more than 133-1/3 percent of the rate for any other plan year.
2. Under the "3% rule", a participant must accrue at least 3% of the participants anticipation normal retirement benefit in each year of participation, up to maximum of 33-1/3 years.

3. Under the "fractional rule", benefit accrual is focused on a worker's proportionate years of service under the plan, e.g. If benefits can accrue for a maximum of 40 years up to the date of the plans normal retirement age such as 65 a worker starting under the plan at age 25 and working to age 60 would get 35/40 of the maximum credit toward a pension.

These tests limit the amount of back loading, a practice of providing a higher benefit accrual rate for later years of service than for earlier years. Front loading benefit providing a higher accrual rate for earlier years of service than for later years is permitted, but decreases in the rate of benefit accrual can not be based on the participant's age.

In defined contribution plans, the participant's accrued benefit is balance in his or her account. The participants being accruing a benefit in a defined contribution plan once, they have met the participation requirements under the terms of the plan. However if an employer make contributions to an employee's account, the accrued benefit received may be account, the accrued benefit received may be treated differently for vesting purposes than the accrued benefit from employee contributions.

Instead of the above defines rule regarding the benefit in respect of employee retirement income there are some important rules which must be followed by the administrators such rules are as follow:

ERISA prohibits plan amendments that eliminate or reduce benefits already accrued by plan participants. This prohibition is commonly referred to as the anti-comeback rule. Benefits subject to the anti-comeback rule include basic accrued benefits, as well as any early retirement benefits, retirement type subsidies, and other optional forms of benefits that an individual who met
certain requirements, as defined by the plans is eligible to receive. However, the anti comeback rule does not prevent a plan from freezing accrued benefit, reducing the rate at which benefits will accrue in the future, or eliminating future benefit accruals altogether. 50

Although an accrued benefit is generally defined in monetary terms, the Supreme Court has held that the anti-comeback rule applies not only to a particular sum of money, but to a plan amendment which hinders a participant’s receipt of benefits. In Central Laborers Pension Fund v/s Heinz 51 a retired plan participants benefits were suspended by the plan following a plan amendment that prohibited participants for engaging in the type of post retirement employment he performed. The plaintiff claim that this suspension violated ERISA’s anti-cum-back rule. The plan argued among other thing, that the anti-cum-back rule applies only to amendments affecting the dollar amount the plan was obligated to pay, and that a more suspension of benefits did not reduce the accrued benefit.

The court rejected this argument and stated that as a matter of common sense, a participants benefits can not be understood without reference to the conditions imposed on receiving those benefits, and an amendment placing materially greater restrictions on the receipt of the benefit reduces the benefit just as surely as a decrease in the size of the monthly benefit payment.

ERISA prohibits the age discrimination in benefit accrual. It prohibits a defined benefit plan from ceasing accruals or reducing the rate of accrual on account of the employed age, it provides or defined contribution plans allocation to an employees’ account may not be reduced on account of age. 52

Contributory Efforts Regarding ERISA

To ensure that sufficient money is available to pay promised pension benefits to participants and beneficiaries, ERISA rules that require plan sponsors to fully fund the pension liabilities of defined benefit plans. The
funding requirement of ERISA recognizes that pension liabilities are long term liabilities. Consequently, plan liabilities need not be funded immediately but instead can be amortized (paid off with interest) over a period of years. Single employer plans generally required to amortize initial past service liabilities and past service liabilities arising under plan amendments over no more than seven years. Defined contribution plans do not promise a specific benefit, and so these plans have no funding requirements.

ERISA requires employers that sponsor defined benefit plans to fund the pension benefits that plan participants earn each year. This is referred to as funding the normal cost of the plan. In addition, DB plan sponsors must amortize the cost of pension and insurance benefits granted to employees for past serves but for which no monies were set aside. Furthermore, if a DB plan retrospectively increases the level of benefits by plan amendment these new liabilities must be amortized as well. The assets of the insurance and pension plan must be kept in a trust that is separate from the employer’s general assets. Assets in the insurance and pension trust fund are protected from the claims of creators in the event that the plan sponsor files for bankruptcy.

Administrative Steps Regarding ERISA

One of the primary goals in enacting ERISA was to protect the interest of participants and beneficiaries of employee benefit plans and assure that participants receive promised benefits from their employers. To this end, ERISA provides regulatory responsibilities on the Labour and Treasury Department as well as Pension Benefit Guarantee Corporation and Provides for appropriate remedies, sanctions and ready access to the federal courts. ERISA contain an integrated enforcement mechanism for the proper administration that is also essential to fulfill the goal of this act.

This integrated enforcement mechanism contain so many principles which are as follows-
ERISA authorize to participant, beneficiaries, as well as in some cases to plan fiduciary or the secretary of labour, to:

1- Redress the failure of plan administrator to provide information.
2- Recover benefit due under the plan
3- Receive appropriate relief due to breaches of fiduciary duty.
4- Enjoin any act or practice which violate the terms and condition of plan.
5- Collect civil penalties.54

The above discussed remedy has been strictly confirm by the Supreme Court in *Metropolitan Life Insurance Co. v/s Taylor*,55 where the court was of the view that the ERISA contain so many exclusive remedies for the benefits of the participants as well as their beneficiaries.

ERISA, authorize a plaintiff to bring an action against the plan to recover benefits under the terms and conditions of the plan.56 The Supreme Court in *Pilot Life v/s Dedeaux* 57 explained that the ERISA contain a civil enforcement scheme that represent a careful balancing of the need for prompt and fair claims settlement procedures against the public interest in encouraging the formation of employee benefit plan.

ERISA, authorize the secretary of labour, a beneficiaries or a plan judiciary to bring a civil action caused by a breach of judiciary duty.58 In *Massachusetts Mutual Life Insurance Co. v/s Russell*, 59 the S.C. evaluated whether a plan beneficiary could bring a civil action for monetary damages against a plan fiduciary who has been responsible for the improper processing of a benefit claim. The court held that ERISA does not authorize a beneficiary to bring a claim against a fiduciary for monetary damages. Again in the case of *Larue v/s Dewolff, Boberg & Associate* 60 the S.C. explained that for defined benefit plans; fiduciary misconduct would not affect an individual entitlement to a benefit unless the misconduct detrimentally affected the entire plan.
ERISA permits a participant beneficiary or fiduciary, to bring a civil action to enjoin any act which violates ERISA.\textsuperscript{61} in \textit{Verity v/s Howe},\textsuperscript{62} the S. C. was of the view that ERISA has been referred to the provision for the enforcement of ERISA itself.


Resolving many years controversy in the United States about the nature of financial competition and regulation, the 106\textsuperscript{th} congress passed the Gramm Leach Bliley Act by a large bipartisan majority. The resulting public law will significantly modernize American finance. This comprehensive legislation is very complex and addresses a wide range of issues.

\textbf{Purpose of Gramm- Bliley Act}

This Act modernizes the delivery of financial services to customers by changing the regulatory structure of financial services providers and rationalizing some of the ways in which they do business. The Act-

1. Repeal portions of the “Glass-Seagull Act” of 1933 and the “Bank Holding Company Act” of 1956 to facilitate affiliation among banks, securities firms, and insurance companies, permitting financial conglomerates to cross sell a variety of financial products to their customers.

2. Provides for umbrella regulation of the resulting financial holding companies vested in the Federal Reserve.

3. Preserve the role of federal and for state bank securities and insurance regulators over their respective functions inside financial holding companies.

4. Allows national and state banks to create financial subsidiaries for diversification into insurance sales and fall-service securities activities under specified conditions.
5. Provides consumer safeguards such as more disclosure of the terms and conditions for consumer financial products for privacy of non public financial information, and against foreland access to financial information.

6. Expand bank access to and the mission of the Federal Home Loan Banks.

7. Changes the application of the "Community Reinvestment Act" of 1977 by relieving many smaller bank from frequent examinations, requiring banking organization to be compliant in order to diversify and mandating disclosure CRA related agreement between banks and may non governmental entities.

8. Include other regulatory improvements.

Implication and implementation of the Gramm-Bliley Act

This Act is generally expected to enhance capital formation in the national economy. Because of the range of provisions in this comprehensive legislation it will affect financial services providers ranging from the largest multi-product financial organizations of the smallest, community, based institutions and state and federal regulators community groups, and especially, much of the way this act actually effects financial service will depend on now the regulators write the regulations and now the market place responds to the new opportunities.

Market has already adopted many of the changes in the financial conduct that this Act ratifies. It also allows for flexibility in providing for feature changes in the financial practices and their regulation globalization and technological innovations in finance have been major driving forces. Domestic and foreign banking, insurance and securities service continue to become less compartmentalized such changes, in turn, have effects on all parts of the financial system. The implications of financial system have been solved by the implementation of this Act which is as-
1. **Impact on Consumers**

Accessibility to services, the range of services, their pricing, and possible influence of consumer privacy are important aspects of this legislation's potential effects on consumers.

This measure clearly stimulates competition in the provision of financial services of all kinds. The array of products available to any given customers will become greater, perhaps more convenient to obtain, and perhaps less expensive. Consumers of financial services will feel its impact in different ways. Larger business should benefit from one provider. Smaller business and individuals may benefit from some economies of transactions. That could result in lower prices on some services for individual consumers. On the other hand, consumer group have expressed concern that some changes could result in higher prices to consumers for checking accounts and small loans, for example.

A number of previsions are also designed to protect consumer privacy. At the same time some have expressed concern that customers may experience problems with privacy of their financial information any of the effects of the privacy provisions will not be known until financial providers adapt their practices to the new law and it's yet to be promulgated implementing regulations. How these federal privacy mandates will interact with state initiatives is likely to be tested by interest parties. Other initiatives that could affect actual experience include separate federal and state legislation, the presidents directive to the national economic council to work with other agencies to study information sharing as mandated in this a provision of this Act and call to bankers by the president of the American Bankers Association to make privacy their top priority. Some of these initiatives are an attempt to speed the process embodied in the legislation that requires promulgation of new privacy regulation within a year and requires a study by the secretary of the treasury in conjunction with other regulators before 2002.
2. Impact on Financial Service Provider

The first foremost impact of this legislation may well be feet on Wall Street as merger and acquisition deals take advantage of this legislation. Institutions can also broaden their financial services by starting new activities themselves or by forming cross marketing arrangements with otherwise independent providers of the services. In this way smaller institutions can benefit with or without their own financial subsidiaries.

This Act is expected to further accelerate the trend already under way to consociate like kinds of financial services providers and to enhance the obliged to merge across industry lines. Some cross industry combinations were premised before now in U.S. especially insurance and security affiliation. However, banking and insurance companies have not been able to merge and securities companies have not been able to own banks. The Act ends almost all restrictions limiting the kinds of financial companies that could combine individual combinations still remain subject to antitrust, safety and soundness, and community reinvestment standards. Possibilities of combinations to the same extend as in many other countries.

The number of providers nationwide is expected to shrink. However, many provisions in this Act are designed to continue or even enhance the viability of smaller, community type provider.

Independent insurance agents may find their competitive position weakened by the legislation however, a somewhat counterbalancing provision of the Act provides for functional regulation of insurance sales by state regulators who have traditionally understood the nature and the independent agency system. Securities firms that wish to remain independent will find more competition awaits them because of the ability of banks and banking organization to understand the securities of all kind.
3. Impact on Regulatory Mechanism

The breadth of this legislation calls for many new coordinative efforts among federal and state regulators who are charred with writing the roles to carry out the Act. Not only studies and reports called for in quantity. The duties of much regulation explicitly change with this law as well. Indeed, a new regulator, the National Association of Registered Agents and Brokers, is authorized many of the Acts provisions will be expressed through rules regulations and interpretations by the regulators, a number of which may be tested in court cases.63

Concluding Remark

After the over all discussion of insurance and pension system of U. K. and U. S. the conclusion comes out that the insurance and pension sector are prominent and pervasive in U.K. and U. S. and spread to every corner of economy. These sectors relate to the humane attitudes towards the future and not the present. The quest of insurance and pension system in U. K. and U. S. correlates to the growing complexity of society and ensuring the acceleration of social changes.

From the beginning till now so many changes were taking place in the insurance and pension sector of U. K. and U. S. These ups and duns clerkly indicate that it is not necessary that the process of privatization is only solution for the proper regulation of insurance and pension sector. It depends on the economic pressure like in U. S. where the sources of government income are much higher in comparison of U. K. So the Obama government decides fully funded pension system and federal control on the insurance sector but U. K. decide to privatize their pension and insurance sector.

In comparison to U.K. and U.S. the importance of insurance and pension system is not less in Indian economy. But the conditions are different, so the routes of reformation are different. The Indian government chose the
privatization process in co-operation of foreign players with limit of 49% foreign equity as well as 26% foreign direct investment in the field of insurance sector, on the same pattern the India also trying to privatized its pension sector because the source of income of India are not much as like U.K. and U.S.

So for any nation U. K., U. S. or India, necessary the economy will progress either by way of privatization or federal control as well as by any other method.
Notes and References

8. Supra note-4
11. Supra note-5
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15. Ibid, page no. 103


17. Ibid, page no. 208-9

18. Supra note-14, page no. 212-13

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21. Ibid, page no. 525

22. Ibid, page no. 526-27

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56. Supra note 29, page no 39.
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