



Social Security Act 1975

1975 CHAPTER 14

PART III

DETERMINATION OF CLAIMS AND QUESTIONS

Adjudication by Secretary of State

93 Principal questions for Secretary of State

- (1) Subject to this Part of this Act, any of the following questions arising under this Act shall be determined by the Secretary of State—
 - (a) a question whether a person is an earner and, if he is, as to the category of earners in which he is to be included;
 - (b) subject to subsection (2) below, a question whether the contribution conditions for any benefit are satisfied, or otherwise relating to a person's contributions or his earnings factor;
 - (c) a question which of two or more persons satisfying the conditions for an increase of benefit (whether benefit of the same or a different description) is entitled to the increase where by virtue of some provision of Part II not more than one of those persons is so entitled;
 - (d) a question whether a person is or was employed in employed earner's employment for the purposes of Part II, Chapters IV and V.
- (2) Subsection (1)(b) above includes any question arising—
 - (a) under section 9(7) of this Act as to whether by regulations under that subsection a person is excepted from liability for Class 4 contributions, or his liability is deferred; or
 - (b) under regulations made by virtue of section 9(9) or 10;but not any other question relating to Class 4 contributions, nor any question within section 98(1)(c) (disqualification for unemployment benefit, etc.).
- (3) The Secretary of State may, if he thinks fit, before determining any question within subsection (1) above, appoint a person to hold an inquiry into the question, or any

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matters arising in connection therewith, and to report on the question, or on those matters, to the Secretary of State.

94 Appeal on question of law

- (1) A question of law arising in connection with the determination by the Secretary of State of any question within section 93(1) above may, if the Secretary of State thinks fit, be referred for decision to the High Court or, in Scotland, the Court of Session.
- (2) If the Secretary of State determines in accordance with subsection (1) above to refer any question of law to the court, he shall give notice in writing of his intention to do so—
 - (a) in a case where the question arises on an application made to the Secretary of State, to the applicant; and
 - (b) in any case to such persons as appear to him to be concerned with the question.
- (3) Any person aggrieved by the decision of the Secretary of State on any question of law within subsection (1) above which is not referred in accordance with that subsection may appeal from that decision to the court.
- (4) The Secretary of State shall be entitled to appear and be heard on any such reference or appeal.
- (5) Rules of court shall include provision for regulating references and appeals under this section and for limiting the time within which such appeals may be brought.
- (6) So much of section 63(1) of the Supreme Court of Judicature (Consolidation) Act 1925 as requires an appeal from any person to the High Court to be heard and determined by a divisional court shall not apply to appeals under this section.
- (7) Notwithstanding anything in any Act, the decision of the court on a reference or appeal under this section shall be final.
- (8) On any such reference or appeal the court may order the Secretary of State to pay the costs (in Scotland, the expenses) of any other person, whether or not the decision is in that other person's favour and whether or not the Secretary of State appears on the reference or appeal.

95 Other questions for Secretary of State

- (1) It shall be for the Secretary of State to determine—
 - (a) a question which of two or more persons would be entitled for the same day to an invalid care allowance where there has been no joint election by those persons under section 37(7);
 - (b) a question whether—
 - (i) an increase of disablement pension under section 61 (constant attendance), or
 - (ii) a further increase under section 63 (exceptionally severe disablement),
 is to be granted or renewed and, if so, for what period and of what amount;
 - (c) a question how the limitations under Schedule 9 on the benefit payable in respect of any death are to be applied in the circumstances of any case;

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- (d) a question as to the person to be treated as maintaining a child, or as to the family in which a child is to be treated as included (in a case where, by virtue of the Schedule to the Family Allowances Act, that question falls to be decided by the Secretary of State in his discretion);
 - (e) a question arising under section 80 (claims in the alternative).
- (2) A decision of the Secretary of State on a question within subsection (1)(a) or (d) above may be given so as to have effect with respect to a period before the date of the decision; and he may at any time and from time to time reconsider the exercise of his discretion with respect to such a question and decide it again with such other effect as may seem to him to be proper in the circumstances of the case.

96 Review of decisions under ss.93, 95

- (1) Subject to subsection (2) below, the Secretary of State may, on new facts being brought to his notice, or if he is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact, review any decision given by him on any question within section 93(1) or 95(1)(b) or (c) above.
- (2) Such a decision shall not be reviewed while an appeal under section 94 is pending against the decision of the Secretary of State on a question of law arising in connection therewith, or before the time for so appealing has expired; and section 94 applies with any necessary modifications to any case in which a question has been raised with a view to the review under this section of any such decision.