



Social Security Act 1989

1989 CHAPTER 24

Benefits under the principal Act

6 Benefits for women widowed before 11th April 1988

(1) In the case of a widow whose late husband died before 11th April 1988 and who either—

- (a) was over the age of 40 but under the age of 55 at the time of her husband's death, or
- (b) is over the age of 40 but under the age of 55 at the time when she ceases to be entitled to a widowed mother's allowance,

section 26 of the principal Act (widow's pension) shall have effect, and be taken always to have had effect, as if section 36(3) of the 1986 Act (which substituted "45" for "40", and "55" for "50", in subsections (1) and (2)) had never been enacted.

(2) The Social Security (Widow's Benefit and Retirement Pensions) Amendment Regulations 1987 shall have effect, and be taken always to have had effect, with the addition at the end of regulation 3 (transitional provision for widowed mother's allowance where husband died before 11th April 1988) of the following—

“(3) In determining whether a widow—

- (a) whose late husband died on or after 7th October 1987 and before 11th April 1988, and
- (b) who became entitled to a widow's allowance on his death,

is also entitled, after the cessation of that allowance, to a widowed mother's allowance for any period beginning on or after 11th April 1988, regulation 16(1) of the principal Regulations shall apply as if regulation 2(6) above had not been made.

(4) In determining whether a widow—

- (a) whose late husband died before 11th April 1988,
- (b) who immediately before that date was entitled to a widowed mother's allowance otherwise than by virtue of regulation 16(1) of the principal Regulations, and

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- (c) who would, apart from this paragraph, cease to be entitled to that allowance on or after that date,
is entitled to such an allowance for any period beginning on or after that date, that regulation shall apply as if regulation 2(6) above had not been made.”
- (3) The Social Security Benefit (Dependency) Amendment Regulations 1989 shall have effect, and be taken always to have had effect, with the insertion after regulation 3 (which made amendments concerning widowed mother’s allowance to regulation 4B of the Social Security Benefit (Dependency) Regulations 1977) of the following—
- “3A The first amendment made by regulation 3 above shall not have effect in relation to a widow whose late husband died before 11th April 1988.”
- (4) In any case where—
- (a) a claim for a widow’s pension or a widowed mother’s allowance is made, or treated as made, before the passing of this Act, and
 - (b) the Secretary of State has made a payment to or for the claimant on the ground that if the claim had been received immediately after its passing she would have been entitled to that pension or allowance, or entitled to it at a higher rate, for the period in respect of which the payment is made,
- the payment so made shall be treated as a payment of that pension or allowance; and, if and to the extent that an award of the pension or allowance, or an award at a higher rate, is made for the period in respect of which the payment was made, the payment shall be treated as made in accordance with that award.
- (5) Where, apart from section 165A of the principal Act (making of claim a condition of entitlement), a widow falling within subsection (1) above would be entitled to a widow’s pension for any period beginning on or after 11th April 1988, then, notwithstanding anything in that section, she shall be entitled to that pension for that period if she has made a claim for it before the end of the period of twelve months beginning with the passing of this Act.
- (6) Where a widow’s late husband died on or after 7th October 1987 and before 11th April 1988 and, apart from section 165A of the principal Act, she would have become entitled to a widow’s allowance on his death, then if either—
- (a) she was over the age of 40 but under the age of 55 at the time of his death, or
 - (b) she would, apart from that section, have been entitled to a widowed mother’s allowance on the cessation of her entitlement to the widow’s allowance,
- she shall, notwithstanding anything in that section, be entitled to the widow’s allowance (and, accordingly, in a case falling within paragraph (b) above, to the widowed mother’s allowance) if she has made a claim, or is treated as having made a claim, for it before the end of the period of twelve months beginning with the passing of this Act.
- (7) Where in consequence of any of the amending provisions an adjudicating authority has decided before the passing of this Act that a widow whose husband died before 11th April 1988 either—
- (a) is not entitled to a benefit under section 25 or 26 of the principal Act, or
 - (b) is entitled to such a benefit at a particular rate,
- an adjudication officer may review that decision, notwithstanding anything in section 104 of the principal Act.
- (8) In any case where—

- (a) it is determined on such a review that the widow in question was entitled to a benefit under section 25 or 26 of the principal Act, or was entitled to such a benefit at a higher rate, and
 - (b) the application for the review was made before the end of the period of twelve months beginning with the passing of this Act,
- the decision on the review may take effect on 11th April 1988 or any later date, notwithstanding any provision of any Act or instrument restricting the payment of any benefit or increase of benefit to which a person would otherwise be entitled by reason of a review in respect of any period before the review.
- (9) Subsection (4) of section 104 of the principal Act (appeals from reviews) shall apply in relation to a review under this section as it applies in relation to a review under that section.
- (10) In this section—
- “adjudicating authority” means—
 - (a) an adjudication officer;
 - (b) a social security appeal tribunal;
 - (c) a Commissioner; and
 - “the amending provisions” are—
 - (a) section 36(3) of the 1986 Act; and
 - (b) regulation 2(6) of the Social Security (Widow’s Benefit and Retirement Pensions) Amendment Regulations 1987 (deemed entitlement to child allowance for purposes of widowed mother’s allowance etc).
- (11) The amendment by this section of provisions contained in regulations shall not be taken to have prejudiced any power to make further regulations revoking or amending those provisions.
- (12) Nothing in this section shall be taken to prejudice section 16 or 17 of the Interpretation Act 1978 (effect of repeals, substitutions etc).

7 Abolition of earnings rule etc

- (1) In section 30 of the principal Act, subsection (1) (the earnings rule) shall cease to have effect.
- (2) In section 28(1)(a) of that Act (conditions of entitlement to Category A retirement pension) the words “and has retired from regular employment” shall cease to have effect.
- (3) In section 29 of that Act (woman’s Category B retirement pension)—
 - (a) in subsections (2) and (3) (first and second cases of entitlement) in paragraph (a), for the words “both of them have retired from regular employment” there shall be substituted the words “has become entitled to a Category A retirement pension”; and
 - (b) in subsection (5), paragraph (a) (requirement, in fourth such case, to have retired from regular employment) shall cease to have effect.
- (4) For section 12 of the Pensions Act (deferred retirement) there shall be substituted the following—

“12 Increase of retirement pension where entitlement is deferred

- (1) Where a person’s entitlement to a Category A or Category B retirement pension is deferred, Schedule 1 to this Act shall have effect for increasing the rate of his pension.
- (2) For the purposes of this Act and the principal Act, a person’s entitlement to a Category A or Category B retirement pension is “deferred” if and so long as he does not become entitled to that pension by reason only—
 - (a) that he has not satisfied the conditions of section 165A of the principal Act (requirement to claim); or
 - (b) that, in the case of a woman’s Category B retirement pension by virtue of her husband’s contributions, her husband has not satisfied those conditions with respect to his Category A retirement pension;
 and, in relation to any such pension, “period of deferment” shall be construed accordingly.”
- (5) Subsection (1) above affects the rate of pension to which a person is entitled for the week in which that subsection comes into force as well as any subsequent week (“week” having the same meaning in this subsection as it had in the proviso to the said section 30(1) immediately before its repeal).
- (6) The enactments mentioned in Schedule 1 to this Act shall have effect with the amendments there specified.

8 Mobility allowance: increase of age limit to 80 years

- (1) In section 37A of the principal Act (mobility allowance), in paragraphs (a) and (aa) of subsection (5) and in subsection (6A) (each of which refers to the age of 75) for “75” there shall be substituted “80”.
- (2) For subsection (6B) of that section there shall be substituted—

“(6B) Where, before the coming into force of this subsection, a person has been awarded a mobility allowance for a specified period ending with—

 - (a) the date on which he will attain pensionable age, or
 - (b) the date on which he will attain the age of 75,
 that award shall have effect as if it referred instead to a period ending with the date on which he will attain the age of 80.”

9 Extension to personal pensions of occupational pension provisions relating to the abatement of unemployment benefit and the meaning of “earnings”

- (1) In section 5 of the Social Security (No. 2) Act 1980 (abatement of unemployment benefit on account of payments of occupational pensions) in subsections (1), (2) and (4) for the words “occupational pension” in each place where they occur there shall be substituted the words “occupational or personal pension”.
- (2) In subsection (3) of that section (definitions) for the definition of “payments by way of occupational pension” there shall be substituted—

““payments by way of occupational or personal pension” means, in relation to a person, periodical payments which, in connection with the coming to an end of an employment of his, fall to be made to him—

- (a) out of money provided wholly or partly by the employer or under arrangements made by the employer; or
- (b) out of money provided under an enactment or instrument having the force of law in any part of the United Kingdom or elsewhere; or
- (c) under a personal pension scheme as defined in section 84(1) of the Social Security Act 1986; or
- (d) under a contract or trust scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988; or
- (e) under a personal pension scheme approved under Chapter IV of that Part of that Act,

and such other payments as are prescribed.”

- (3) In sections 47B and 66A of the principal Act (earnings to include occupational pensions for the purposes of certain benefits) for the words “occupational pension” in each place where they occur there shall be substituted the words “occupational or personal pension”.
- (4) In Schedule 20 to that Act (glossary of expressions) in the entry relating to “payments by way of occupational pension” for the words “occupational pension” there shall be substituted the words “occupational or personal pension”.

10 Unemployment benefit: requirement to seek employment actively

- (1) Section 17 of the principal Act (determination of days for which benefit is payable) shall have effect with the amendments made by subsections (2) to (4) below, which are made for the purpose of requiring a claimant for unemployment benefit to show that he is actively seeking employment.
- (2) In subsection (1)(a)(i) (days not to be treated as days of unemployment unless certain conditions are fulfilled) after the words “available to be employed in employed earner’s employment” there shall be inserted the words “and that day falls in a week in which he is, or is deemed in accordance with regulations to be, actively seeking such employment”.
- (3) In subsection (2) (regulations) after paragraph (a) there shall be inserted—
 - “(aa) make provision with respect to—
 - (i) steps which a person is required to take in any week if he is to be regarded as actively seeking employed earner’s employment in that week;
 - (ii) the meaning of “week” in subsection (1)(a)(i) above or in any other provision relating to a person’s actively seeking employed earner’s employment;”.
- (4) After subsection (2A) of that section (determination of actual availability for employment on review of determination of deemed availability) there shall be inserted—

“(2B) Where it has been determined that a person is to be deemed in accordance with regulations to be actively seeking employed earner’s employment in any

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week, the question of his actually doing so in that week may be subsequently determined on a review of the determination as to his deemed doing so.”

- (5) In section 104 of that Act (review of decisions), in subsection (1)(d), after the words “section 17(2A)” there shall be inserted the words “or (2B)”.

11 Requalification for unemployment benefit

In section 18 of the principal Act, for subsection (2) (requalification for unemployment benefit) there shall be substituted—

“(2) A person who has exhausted his right to unemployment benefit requalifies for it on the next occasion when, having again been in employment as an employed earner, he makes a claim for that benefit in circumstances such that the requalification conditions are satisfied with respect to each of at least 13 weeks in the period of 26 weeks immediately preceding—

- (a) the day on which the claim is made, or
- (b) if he would not requalify by reference to that day, his first day of unemployment since he was last in employment as an employed earner.

(2A) For the purposes of subsection (2) above the requalification conditions are satisfied with respect to any week if—

- (a) the person in question has been in employment as an employed earner in that week;
- (b) he has worked in such employment for at least 16 hours in that week; and
- (c) the week begins after the last day for which he was entitled to unemployment benefit.

(2B) Subsection (2) above shall have effect in prescribed cases with the substitution for the reference to 26 weeks of a reference to such longer period as may be prescribed.”

12 Disqualification for unemployment benefit

(1) In subsection (1) of section 20 of the principal Act (disqualifications etc)—

- (a) at the beginning, there shall be inserted the words “Subject to section 20A below”;
- (b) in paragraphs (b), (c) and (d), for the words “suitable employment” there shall be substituted the word “employment”;
- (c) in paragraphs (c) and (g), immediately before the word “neglected” there shall be inserted the words “without good cause”.

(2) In subsection (1A) of that section the words “longer or” shall cease to have effect.

(3) For subsection (4) of that section (meaning of “suitable employment”) there shall be substituted—

“(4) For the purposes of subsection (1) above, regulations may—

- (a) prescribe matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any act or omission; or

(b) prescribe circumstances in which a person is or is not to be regarded as having or not having good cause for any act or omission; but, subject to any such regulations, in determining for the purposes of that subsection whether a person does or does not have good cause for any act or omission, there shall be disregarded any matter relating to the level of remuneration in the employment in question.”

(4) After that section there shall be inserted—

“20A Exemptions from disqualification for unemployment benefit

(1) Nothing in section 20 above or in regulations under that section shall be taken to disqualify a person for receiving unemployment benefit by reason only of his refusal—

- (a) to seek or accept employment in a situation which is vacant in consequence of a stoppage of work due to a trade dispute; or
- (b) to seek or accept during the permitted period any employment other than employment in his usual occupation at a level of remuneration not lower than he is accustomed to receive.

(2) Regulations shall make provision for the purpose of enabling any person of a prescribed description to accept any employed earner’s employment without being disqualified under—

- (a) subsection (1)(a) of section 20 above, so far as it relates to a person who voluntarily leaves such employment without just cause, or
- (b) subsection (1)(c) of that section,

should he leave that employment voluntarily and without just cause at any time after the end of the sixth week, but not later than the end of the twelfth week, of a trial period.

(3) In this section—

“permitted period”, in relation to any person, means such period, whether expired or not, as may be determined in accordance with regulations by an adjudication officer on the submission of the question whether that person is disqualified under section 20 above for receiving unemployment benefit; and any such regulations may prescribe—

- (a) the day on which any such period shall be regarded as having commenced in any case;
- (b) the shortest and longest periods which may be so determined in any case; and
- (c) criteria to which the adjudication officer is to have regard in determining the permitted period in any case; and

“trial period” means a period of twelve weeks beginning with the commencement of the employment in question; but regulations may—

- (a) make provision for the purpose of determining the day on which a person’s employment is to be regarded as commencing; and
- (b) provide that, for the purpose of determining the time at which the sixth or twelfth week of a trial period ends, prescribed periods may be disregarded in prescribed circumstances.”

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- (5) In Schedule 20 to that Act (glossary of expressions) in the second column of the entry relating to “employment”, the following paragraph shall be added at the end—
- “Regulations may make provision modifying the meaning of “employment” for the purposes of any provision of this Act.”
- (6) Nothing in subsection (2) above shall affect the continuing operation of the Unemployment Benefit (Disqualification Period) Order 1988 (which substituted the period of 26 weeks for the period of 13 weeks in section 20(1) of the principal Act).