



Social Security Act 1990

1990 CHAPTER 27

Benefits

1 Attendance allowance for the terminally ill

(1) In section 35 of the principal Act (attendance allowance) after subsection (2A) there shall be inserted—

“(2B) If a terminally ill person makes a claim expressly on the ground that he is such a person, then—

- (a) he shall be taken for the purposes of subsection (2) above—
 - (i) to satisfy, or to be likely to satisfy, both of those conditions for the remainder of his life, beginning with the date of the claim or, if later, the date determined under section 105 or 106 below as the first date on which he is terminally ill; and
 - (ii) to have satisfied those conditions for the period of six months immediately preceding that date (so however that no allowance shall be payable by virtue of this sub-paragraph for any period preceding that date); and
- (b) the period specified in a certificate issued by virtue of paragraph (a) above shall be the remainder of the person’s life, beginning with that date.

(2C) For the purposes of subsection (2B) above—

- (a) a person is “terminally ill” at any time if at that time he suffers from a progressive disease and his death in consequence of that disease can reasonably be expected within 6 months; and
- (b) where a person purports to make a claim for an attendance allowance by virtue of that subsection on behalf of another, that other shall be regarded as making the claim, notwithstanding that it is made without his knowledge or authority.”

(2) In subsection (4) of that section, after the words “otherwise provide” there shall be inserted the words “and subject to subsection (2B) above”.

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- (3) In section 105(3) of that Act (questions to be determined by the Attendance Allowance Board) after the words “whether a person” there shall be inserted “(a)” and for the words “section 35(1) of this Act” there shall be substituted the words—
- “subsection (1) of section 35 above;
- (b) suffers, or has at any time suffered, from renal failure, for the purposes of subsection (2A) of that section; or
- (c) is or has at any time been terminally ill, within the meaning of subsection (2B) of that section.”
- (4) In section 106 of that Act (review of, and appeal from, Board’s decisions) at the beginning of subsection (1) there shall be inserted the words “Subject to the following provisions of this section” and after paragraph (a) of that subsection there shall be inserted—
- “(aa) at any time review a determination of theirs under section 105(3) above or this subsection of any question whether a person is or was at any time terminally ill, within the meaning of section 35(2B) above, if there has been a change in medical opinion with respect to his condition or his reasonable expectation of life;”
- (5) After that subsection there shall be inserted—
- “(1A) No determination under section 105(3) or subsection (1) above shall be reviewed on the ground that the person in question is or was at any time terminally ill, within the meaning of section 35(2B) above, unless an application for review is made expressly on that ground either—
- (a) by the person himself; or
- (b) by any other person purporting to act on his behalf, whether or not that other person is acting with his knowledge or authority;
- and a determination may be so reviewed on such an application, notwithstanding that no claim under section 35(2B) above has been made.”
- (6) In section 165A of that Act (making of claim a condition of entitlement) there shall be added at the end—
- “(3) Where a person purports to make a claim for an attendance allowance by virtue of section 35(2B) above on behalf of another, that other shall be regarded for the purposes of this section as making the claim, notwithstanding that it is made without his knowledge or authority.”
- (7) It shall be the duty of the Secretary of State to publish a draft of the first form to be used by terminally ill persons for claiming an attendance allowance, to invite comments on the draft from interested persons and organisations and to consider any such comments received within one month of that invitation before ordering the printing of the form.

2 Severe disablement allowance: age related addition

- (1) After section 36 of the principal Act (severe disablement allowance) there shall be inserted the following section—

“36A Severe disablement allowance: age related addition

- (1) If a person was under the age of 60 on the day on which he qualified for severe disablement allowance, the weekly rate of his severe disablement allowance shall be increased by an age related addition at whichever of the weekly rates specified in the second column of paragraph 2A of Part III of Schedule 4 to this Act is applicable in his case, that is to say—
 - (a) the higher rate, if he was under the age of 40 on the day on which he qualified for severe disablement allowance;
 - (b) the middle rate, if he was between the ages of 40 and 50 on that day; or
 - (c) the lower rate, if he was between the ages of 50 and 60 on that day.
 - (2) Subject to subsection (4) below, for the purposes of this section the day on which a person qualified for severe disablement allowance is his first day of incapacity for work in the period of not less than 196 consecutive days mentioned in section 36(2)(b) or (3)(b) above, as the case may be, which preceded the first day in his current period of entitlement.
 - (3) For the purposes of this section, a person’s “current period of entitlement” is a current period—
 - (a) which consists of one or more consecutive days on which he is or has been entitled to a severe disablement allowance; and
 - (b) which begins immediately after the last period of one or more consecutive days for which he was not entitled to such an allowance.
 - (4) Regulations—
 - (a) may prescribe cases where a person is to be treated for the purposes of this section as having qualified for severe disablement allowance on a prescribed day earlier than the day ascertained in accordance with subsection (2) above;
 - (b) may provide for days which are not days of incapacity for work in relation to a person to be treated as days of incapacity for work for the purpose of determining under this section the day on which he qualified for severe disablement allowance; and
 - (c) may make provision for disregarding prescribed days in computing any period of consecutive days for the purposes of subsection (3) above.”
- (2) In Part III of Schedule 4 to that Act, after paragraph 2 (weekly rate of severe disablement allowance) there shall be inserted the following—

“2A. Age related addition (section 36A).	(a) Higher rate	10.00
	(b) Middle rate	6.20
	(c) Lower rate	3.10

(the appropriate rate being determined in accordance with section 36A(1))”.

- (3) In consequence of subsections (1) and (2) above, in section 34(1)(b) of that Act (which specifies severe disablement allowance as one of the non-contributory benefits under

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Chapter II of Part II of that Act) after the word “(with” there shall be inserted the words “age related addition and”.

3 Reduced earnings allowance and retirement allowance

- (1) In subsection (1) of section 59A of the principal Act (conditions of entitlement to reduced earnings allowance) after paragraph (b) there shall be added the words—

“but a person shall not be entitled to reduced earnings allowance to the extent that the relevant loss of faculty results from an accident happening on or after the appointed day.”

- (2) After that subsection there shall be inserted—

“(1A) A person—

- (a) who immediately before the appointed day is entitled to reduced earnings allowance in consequence of the relevant accident, but
- (b) who subsequently ceases to be entitled to that allowance for one or more days,

shall not again be entitled to reduced earnings allowance in consequence of that accident; but this subsection does not prevent the making at any time of a claim for, or an award of, reduced earnings allowance in consequence of that accident for a period which commences not later than the day after that on which the claimant was last entitled to that allowance in consequence of that accident.

(1B) For the purposes of subsection (1A) above—

- (a) a person who, apart from section 57(4) above, would have been entitled to reduced earnings allowance immediately before the appointed day shall be treated as entitled to that allowance on any day (including a Sunday) on which he would have been entitled to it apart from that provision;
- (b) regulations may prescribe other circumstances in which a person is to be treated as entitled, or as having been entitled, to reduced earnings allowance on any prescribed day.”

- (3) In paragraph (b) of subsection (6) of that section (further awards) after the words “for such further period” there shall be inserted the words “, commencing as mentioned in subsection (1A) above,”.

- (4) After subsection (10A) of that section there shall be inserted—

“(10B) In this section “the appointed day” means the day on which section 3 of the Social Security Act 1990 comes into force.”

- (5) In section 59B of that Act (retirement allowance) the following provisions shall cease to have effect—

- (a) in subsection (1) (circumstances in which a beneficiary ceases to be entitled to reduced earnings allowance and in which he may become entitled to it again) the words from “and may become” onwards;
- (b) in subsection (3) (retirement allowance payable for life, unless beneficiary returns to regular employment etc) the words “Unless he returns to regular employment”; and

- (c) subsection (4) (entitlement to retirement allowance to cease on return to regular employment etc).
- (6) That section shall have effect, and be taken at all times on and after 1st January 1990 to have had effect, with the addition of the following subsection after subsection (8)—
 - “(9) “Day of interruption of employment” has the same meaning for the purposes of this section as it has for the purposes of provisions of this Act relating to unemployment benefit, sickness benefit or invalidity benefit.”
- (7) In section 77(2)(a) of that Act (regulations modifying provisions relating to certain benefits in their application to prescribed diseases and injuries) after the words “disablement benefit” there shall be inserted the words “or reduced earnings allowance”.
- (8) The following provisions shall cease to have effect—
 - (a) in section 2 of the Social Security Act 1988, the subsection (8) originally enacted (restriction on entitlement to reduced earnings allowance); and
 - (b) in Schedule 1 to the 1989 Act, paragraph 8(7) (which substitutes for that subsection a subsection (8) and a subsection (8A)).

4 Computation of additional pension for purposes of invalidity pension etc

- (1) In section 14 of the Pensions Act (which provides for the rate of an invalidity pension under section 15 of the principal Act to be calculated in accordance with section 6 of the Pensions Act, in similar manner to a Category A retirement pension, but with modifications) for the words from “taking the reference” onwards there shall be substituted the words “but with the substitution for subsection (6) of that section of the following—
 - “(6) In the application of this section for the purpose of determining the weekly rate of a person’s invalidity pension for any period of interruption of employment—
 - (a) “relevant year” means any tax year, being neither earlier than the tax year 1978-79 nor later than the tax year 1990-91, in the period which—
 - (i) begins with the tax year in which the invalidity pensioner attained the age of 16; and
 - (ii) ends with the tax year immediately preceding the tax year which includes or included the first day of entitlement to the pension in respect of that period of interruption of employment; and
 - (b) “final relevant year” means the last tax year which is a relevant year in relation to the invalidity pensioner.””
- (2) In section 15 of the Pensions Act, in subsection (4) (determination of weekly rate of widow’s invalidity pension by reference to notional rates of widow’s pension) after paragraph (b) there shall be added the words—

“but, in calculating the weekly rate of a widow’s pension for the purposes of paragraph (a) above, or the weekly rate of a widow’s pension without reduction, for the purposes of paragraph (b) above, any additional pension by virtue of section 6 above as it applies for the purposes of section 13

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above shall be determined without reference to any surpluses in her late husband's earnings factors for tax years after 1990-91."

- (3) In section 16 of that Act (invalidity pension for widowers) for subsection (4) there shall be substituted—

“(4) The weekly rate mentioned in paragraph (b) of subsection (3) above is a rate determined in the manner specified in section 6 above for a Category A retirement pension, but with the modifications that—

- (a) where the man's wife was over pensionable age when she died, references in that section to the pensioner shall be taken as references to the wife;
- (b) where the man's wife was under pensionable age when she died, references in that section to the pensioner and the tax year in which he attained pensionable age shall be taken as references to the wife and the tax year in which she died; and
- (c) any additional pension shall be determined without reference to any surpluses in her earnings factors for tax years after 1990-91.”

5 Retrospective effect of section 165A of the principal Act

- (1) The following section shall be inserted after section 165A of the principal Act—

“165B Retrospective effect of section 165A

- (1) This section applies where a claim for benefit is made or treated as made at any time on or after 2nd September 1985 (the date on which section 165A above, as originally enacted, came into force) in respect of a period the whole or any part of which falls on or after that date.

- (2) Where this section applies, any question arising as to—

- (a) whether the claimant is or was at any time (whether before, on or after 2nd September 1985) entitled to the benefit in question, or to any other benefit on which his entitlement to that benefit depends, or
- (b) in a case where the claimant's entitlement to the benefit depends on the entitlement of another person to a benefit, whether that other person is or was so entitled,

shall be determined as if section 165A above, as in force at the time of the claim referred to in subsection (1) above, and any regulations made under or referred to in that section as so in force, had also been in force, with any necessary modifications, at all times relevant for the purpose of determining the entitlement of the claimant, and, where applicable, of the other person, to the benefit or benefits in question (including the entitlement of any person to any benefit on which that entitlement depends, and so on).

- (3) In any case where—

- (a) a claim for benefit was made or treated as made (whether before, on or after 2nd September 1985, and whether by the same claimant as the claim referred to in subsection (1) above or not), and benefit was awarded on that claim, in respect of a period falling wholly or partly before that date, but

- (b) that award would not have been made had the current requirements applied in relation to claims for benefit, whenever made, in respect of periods before that date, and
 - (c) entitlement to the benefit claimed as mentioned in subsection (1) above depends on whether the claimant or some other person was previously entitled or treated as entitled to that or some other benefit, then, in determining whether the conditions of entitlement to the benefit so claimed are satisfied, the person to whom benefit was awarded as mentioned in paragraphs (a) and (b) above shall be taken to have been entitled to the benefit so awarded, notwithstanding anything in subsection (2) above.
- (4) In subsection (3) above “the current requirements” means—
 - (a) the provisions of section 165A above, as in force at the time of the claim referred to in subsection (1) above, and any regulations made under or referred to in that section as so in force, with any necessary modifications; and
 - (b) subsection (1) (with the omission of the words following “at any time”) and subsection (2) above.
- (5) Any reference in any enactment to section 165A of this Act (but not a reference to any specific provision of that section) shall be taken to include a reference to this section.
- (6) This section shall be taken to have come into force on 2nd September 1985.”
- (2) In Schedule 20 to the principal Act (glossary of expressions), the entry relating to “entitled” and cognate expressions—
 - (a) shall be taken at all times on or after 2nd September 1985 but before the passing of this Act to have had effect with the substitution, in the second column, of the words “sections 165A and 165B” for the words “section 165A” ; and
 - (b) shall have effect as from the passing of this Act with the substitution for those words of the words “sections 165A to 165D”.
- (3) Section 32(4) of the Social Security Act 1985 (which made similar provision to that made by subsection (3) of the section inserted by subsection (1) above) shall be deemed never to have been enacted.
- (4) In paragraph 48 of Schedule 10 to the 1986 Act (which applies sections 87 and 165A(1) of the principal Act to income-related benefits) in paragraph (b), for the words “section 165A(1)” there shall be substituted the words “sections 165A(1) and 165B”.
- (5) Paragraph 48 of Schedule 10 to the 1986 Act shall have effect, and be taken always to have had effect, as if it had originally been enacted with the amendment made by subsection (4) above.

6 Late claims for widowhood benefits where death is difficult to establish

- (1) In section 165A of the principal Act (no entitlement to benefit without claim)—
 - (a) in subsection (1), after the words “Except in such cases as may be prescribed” there shall be inserted the words “and subject to section 165C below”; and
 - (b) in subsection (2), after paragraph (b) there shall be inserted the words—

“except as provided by section 165C below.”

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(2) After the section 165B of that Act inserted by section 5 above there shall be inserted—

“165C Late claims for widowhood benefits where death is difficult to establish

- (1) This section applies where a woman’s husband has died, or may be presumed to have died, and the circumstances are such that—
- (a) more than twelve months have elapsed since the date of death (whether he died, or is presumed to have died, before or after the coming into force of this section);
 - (b) either—
 - (i) the husband’s body has not been discovered or identified or, if it has been discovered and identified, the woman does not know that fact, or
 - (ii) less than twelve months have elapsed since she first knew of the discovery and identification of the body; and
 - (c) no claim for any of the widowhood benefits, that is to say—
 - (i) widow’s benefit,
 - (ii) an invalidity pension under section 15 of the Pensions Act, or
 - (iii) a Category A retirement pension by virtue of subsection (5) of that section,

was made or treated as made in respect of the death by the woman before the coming into force of this section.
- (2) Where this section applies, notwithstanding that any time prescribed for making a claim for a widowhood benefit in respect of the death has elapsed, then—
- (a) in any case falling within paragraph (b)(i) of subsection (1) above where it has been determined—
 - (i) under subsection (1)(b) of section 98 above on a claim made by the woman, or
 - (ii) under subsection (2A) of that section on the submission of a question by her,

that the husband has died or is presumed to have died, or
 - (b) in any case falling within paragraph (b)(ii) of subsection (1) above where the identification was made not more than twelve months before the woman first knew of the discovery and identification of the body,
- such a claim may be made or treated as made at any time before the expiration of the period of twelve months beginning with the date on which that determination was made or, as the case may be, the date on which she first knew of the discovery and identification.
- (3) If, in a case where a claim for a widowhood benefit is made or treated as made by virtue of this section, the claimant would, apart from subsection (2) of section 165A above, be entitled to—
- (a) a widow’s payment in respect of the husband’s death more than twelve months before the date on which the claim is made or treated as made,
- or

- (b) any other widowhood benefit in respect of his death for a period more than twelve months before that date,
then, notwithstanding anything in that section, she shall be entitled to that payment or, as the case may be, to that other benefit (together with any increase under section 41(4) above).”
- (3) In section 104 of that Act, after subsection (5) (regulations restricting the arrears of benefit payable in consequence of a review etc) there shall be inserted—
- “(6) Regulations under subsection (5)(b) above shall not restrict the payment to or for a woman of so much of—
- (a) any widow’s benefit, any invalidity pension under section 15 of the Pensions Act or any Category A or Category B retirement pension, or
- (b) any increase of such a benefit or pension,
as falls to be paid by reason of a review which takes place by virtue of subsection (1)(a) or (b) above in consequence of a claim for a widowhood benefit, within the meaning of section 165C below, which is made or treated as made by virtue of that section.”
- (4) The Social Security (Widow’s Benefit) Transitional Regulations 1987 shall have effect with the insertion in regulation 2, at the end of paragraph (b), of the words—
- “; and
- (c) any reference in section 165C of the 1975 Act to widow’s payment included a reference to widow’s allowance, together with any increase under section 41(2)(e) of that Act.”
- (5) The amendment by subsection (4) above of a provision contained in regulations shall not be taken to have prejudiced any power to make further regulations revoking or amending that provision.

7 Recovery from damages etc of sums equivalent to benefit: further provision

The enactments specified in Schedule 1 to this Act shall have effect with the amendments specified in that Schedule.

8 Liability to maintain dependants

- (1) After section 24 of the 1986 Act (recovery of expenditure on benefit from person liable for maintenance) there shall be inserted—

“24A Recovery of expenditure on income support: additional amounts and transfer of orders

- (1) In any case where—
- (a) the claim for income support referred to in subsection (1) of section 24 above is or was made by the parent of one or more children in respect of both himself and those children, and
- (b) the other parent is liable to maintain those children but, by virtue of not being the claimant’s husband or wife, is not liable to maintain the claimant,

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the sum which the court may order that other parent to pay under subsection (4) of that section may include an amount, determined in accordance with regulations, in respect of any income support paid to or for the claimant by virtue of such provisions as may be prescribed.

- (2) Where the sum which a court orders a person to pay under section 24(4) above includes by virtue of subsection (1) above an amount (in this section referred to as a “personal allowance element”) in respect of income support by virtue of paragraph 1(2) of Schedule 2 to the Income Support (General) Regulations 1987 (personal allowance for lone parent) the order shall separately identify the amount of the personal allowance element.
- (3) In any case where—
- (a) there is in force an order under subsection (4) of section 24 above made against a person (“the liable parent”) who is the parent of one or more children, in respect of the other parent or the children, and
 - (b) payments under the order fall to be made to the Secretary of State by virtue of subsection (6)(a) of that section, and
 - (c) that other parent (“the dependent parent”) ceases to claim income support,

the Secretary of State may, by giving notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer to the dependent parent the right to receive the payments under the order, exclusive of any personal allowance element, and to exercise the relevant rights in relation to the order, except so far as relating to that element.

- (4) Notice under subsection (3) above shall not be given (and if purportedly given, shall be of no effect) at a time when there is in force a maintenance order made against the liable parent—
- (a) in favour of the dependent parent or one or more of the children; or
 - (b) in favour of some other person for the benefit of the dependent parent or one or more of the children;
- and if such a maintenance order is made at any time after notice under that subsection has been given, the order under section 24(4) above shall cease to have effect.

- (5) Except as provided by subsections (7) and (8) below, where the Secretary of State gives notice under subsection (3) above, he shall cease to be entitled—
- (a) to receive any payment under the order in respect of any personal allowance element, or
 - (b) to exercise the relevant rights, so far as relating to any such element, notwithstanding that the dependent parent does not become entitled to receive any payment in respect of that element or to exercise the relevant rights so far as so relating.
- (6) If, in a case where the Secretary of State gives notice under subsection (3) above, a payment under the order is or has been made to him wholly or partly in respect of the whole or any part of the period beginning with the day on which the transfer takes effect and ending with the day on which the notice under subsection (3) above is given to the liable parent, the Secretary of State shall—

- (a) repay to or for the liable parent so much of the payment as is referable to any personal allowance element in respect of that period or, as the case may be, the part of it in question; and
 - (b) pay to or for the dependent parent so much of any remaining balance of the payment as is referable to that period or part;and a payment under paragraph (b) above shall be taken to discharge, to that extent, the liability of the liable parent to the dependent parent under the order in respect of that period or part.
- (7) If, in a case where the Secretary of State has given notice under subsection (3) above, the dependent parent makes a further claim for income support, then—
 - (a) the Secretary of State may, by giving a further notice in writing to the court which made the order and to the liable parent and the dependent parent, transfer back from the dependent parent to himself the right to receive the payments and to exercise the relevant rights; and
 - (b) that transfer shall revive the Secretary of State's right to receive payment under the order in respect of any personal allowance element and to exercise the relevant rights so far as relating to any such element.
- (8) A transfer under subsection (3) or (7) above does not transfer or otherwise affect the right of any person—
 - (a) to receive a payment which fell due to him at a time before the transfer took effect; or
 - (b) to exercise the relevant rights in relation to any such payment;and, where notice is given under subsection (3), subsection (5) above does not deprive the Secretary of State of his right to receive such a payment in respect of any personal allowance element or to exercise the relevant rights in relation to such a payment.
- (9) For the purposes of this section—
 - (a) a transfer under subsection (3) above takes effect on the day on which the dependent parent ceases to be in receipt of income support in consequence of the cessation referred to in paragraph (c) of that subsection, and
 - (b) a transfer under subsection (7) above takes effect on—
 - (i) the first day in respect of which the dependent parent receives income support after the transfer under subsection (3) above took effect, or
 - (ii) such later day as may be specified for the purpose in the notice under subsection (7),irrespective of the day on which notice under the subsection in question is given.
- (10) Any notice required to be given to the liable parent under subsection (3) or (7) above shall be taken to have been given if it has been sent to his last known address.
- (11) In this section—
 - “child” means a person under the age of 16, notwithstanding section 26(3)(d) below;
 - “court” shall be construed in accordance with section 24 above;

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“maintenance order”—

- (a) in England and Wales, means—
- (i) any order for the making of periodical payments or for the payment of a lump sum which is, or has at any time been, a maintenance order within the meaning of the Attachment of Earnings Act 1971;
 - (ii) any order under Part III of the Matrimonial and Family Proceedings Act 1984 (overseas divorce) for the making of periodical payments or for the payment of a lump sum;
- (b) in Scotland, has the meaning given by section 106 of the Debtors (Scotland) Act 1987, but disregarding paragraph (h) (alimentary bond or agreement);

“the relevant rights”, in relation to an order under section 24(4) above, means the right to bring any proceedings, take any steps or do any other thing under or in relation to the order which the Secretary of State could have brought, taken or done apart from any transfer under this section.

24B Reduction of expenditure on income support: certain maintenance orders to be enforceable by the Secretary of State

- (1) This section applies where—
- (a) a person (“the claimant”) who is the parent of one or more children is in receipt of income support either in respect of those children or in respect of both himself and those children; and
 - (b) there is in force a maintenance order made against the other parent (“the liable person”)—
 - (i) in favour of the claimant or one or more of the children; or
 - (ii) in favour of some other person for the benefit of the claimant or one or more of the children;
 and in this section “the primary recipient” means the person in whose favour that maintenance order was made.
- (2) If, in a case where this section applies, the liable person fails to comply with any of the terms of the maintenance order—
- (a) the Secretary of State may bring any proceedings or take any other steps to enforce the order that could have been brought or taken by or on behalf of the primary recipient; and
 - (b) any court before which proceedings are brought by the Secretary of State by virtue of paragraph (a) above shall have the same powers in connection with those proceedings as it would have had if they had been brought by the primary recipient.
- (3) The Secretary of State’s powers under this section are exercisable at his discretion and whether or not the primary recipient or any other person consents to their exercise; but any sums recovered by virtue of this section shall be payable to or for the primary recipient, as if the proceedings or steps in question had been brought or taken by him or on his behalf.

- (4) The powers conferred on the Secretary of State by subsection (2)(a) above include power—
- (a) to apply for the registration of the maintenance order under—
 - (i) section 17 of the Maintenance Orders Act 1950;
 - (ii) section 2 of the Maintenance Orders Act 1958; or
 - (iii) the Civil Jurisdiction and Judgments Act 1982; and
 - (b) to make an application under section 2 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (application for enforcement in reciprocating country).
- (5) Where this section applies, the prescribed person shall in prescribed circumstances give the Secretary of State notice of any application—
- (a) to alter, vary, suspend, discharge, revoke, revive, or enforce the maintenance order in question; or
 - (b) to remit arrears under that maintenance order;
- and the Secretary of State shall be entitled to appear and be heard on the application.
- (6) Where, by virtue of this section, the Secretary of State commences any proceedings to enforce a maintenance order, he shall, in relation to those proceedings, be treated for the purposes of any enactment or instrument relating to maintenance orders as if he were a person entitled to payment under the maintenance order in question (but shall not thereby become entitled to any such payment).
- (7) Where, in any proceedings under this section in England and Wales, the court makes an order for the whole or any part of the arrears due under the maintenance order in question to be paid as a lump sum, the Secretary of State shall inform the Legal Aid Board of the amount of that lump sum if he knows—
- (a) that the primary recipient either—
 - (i) received legal aid under the Legal Aid Act 1974 in connection with the proceedings in which the maintenance order was made, or
 - (ii) was an assisted party, within the meaning of the Legal Aid Act 1988, in those proceedings; and
 - (b) that a sum remains unpaid on account of the contribution required of the primary recipient—
 - (i) under section 9 of the Legal Aid Act 1974 in respect of those proceedings, or
 - (ii) under section 16 of the Legal Aid Act 1988 in respect of the costs of his being represented under Part IV of that Act in those proceedings,
- as the case may be.
- (8) In this section “maintenance order” has the same meaning as it has in section 24A above, but does not include any such order for the payment of a lump sum.”
- (2) Until such time as there comes into force an amendment of Schedule 1 to the Attachment of Earnings Act 1971 (maintenance orders to which the Act applies) which

Status: This is the original version (as it was originally enacted).

has the effect of including among the orders specified in that Schedule any order for periodical or other payments made or having effect as if made under Schedule 1 to the Children Act 1989, the definition of “maintenance order” in subsection (11) of the section 24A of the 1986 Act inserted by subsection (1) above shall have effect as if, in paragraph (a), after sub-paragraph (ii) there were inserted—

“(iii) any order under paragraph 1(2)(a), (b) or (c) of Schedule 1 to the Children Act 1989 (financial provision for children against their parents);”.

- (3) In section 26 of the 1986 Act, in subsection (3) (definitions for purposes of sections 24, 25 and 26) after the words “section 24” there shall be inserted “24A, 24B”.

9 Income support in respect of accommodation charges for certain persons in residential care and nursing homes

—In section 22 of the 1986 Act (calculation of income-related benefits) after subsection (2) there shall be inserted—

“(2A) In prescribing, for the purposes of income support, amounts under subsection (1) above in respect of accommodation in any area for qualifying persons in cases where prescribed conditions are fulfilled, the Secretary of State shall take into account information provided by local authorities or other prescribed bodies or persons with respect to the amounts which they have agreed to pay for the provision of accommodation in relevant premises in that area.

(2B) In subsection (2A) above—

“accommodation” includes any board or care;

“local authority”—

- (a) in relation to areas in England and Wales, has the same meaning as it has in Part III of the National Assistance Act 1948; and
- (b) in relation to areas in Scotland, has the meaning given by section 1(2) of the Social Work (Scotland) Act 1968;

“qualifying person” means any person who falls within—

- (a) subsection (1) of section 26A of the National Assistance Act 1948 (which is inserted by the National Health Service and Community Care Act 1990 and relates to persons ordinarily resident in residential care or nursing homes immediately before the commencement of that section); or
- (b) subsection (1) of section 86A of the Social Work (Scotland) Act 1968 (the corresponding provision for Scotland),

or who would fall within either of those subsections apart from any regulations under subsection (3) of the section in question;

“relevant premises”—

- (a) in relation to areas in England and Wales, has the meaning given by section 26A(2) of the National Assistance Act 1948; and
- (b) in relation to areas in Scotland, has the meaning given by section 86A(2) of the Social Work (Scotland) Act 1968.”

10 Amendments relating to the social fund

- (1) In section 32 of the 1986 Act, after subsection (8D) there shall be inserted—
- “(8E) The Secretary of State may give general directions to social fund officers or groups of social fund officers, or to any class of social fund officers, with respect to the control and management by social fund officers or groups of social fund officers of the amounts allocated to them under subsections (8A) to (8D) above.”
- (2) In subsection (10) of that section (power to nominate a social fund officer to issue guidance to other officers in his area on specified matters) for the words “to issue” there shall be substituted the words “who shall issue”.
- (3) In section 33 of that Act, after subsection (10) (questions to be determined in accordance with general directions) there shall be inserted—
- “(10ZA) Without prejudice to the generality of subsection (10) above, the Secretary of State may issue directions under that subsection for the purpose of securing that a social fund officer or group of social fund officers shall not in any specified period make awards of any specified description which in the aggregate exceed the amount, or a specified portion of the amount, allocated to that officer or group of officers under section 32(8A) to (8D) above for payments under awards of that description in that period.”
- (4) In subsection (10A) of that section (which specifies certain matters with respect to which directions may be given) after paragraph (e) there shall be inserted—
- “(f) that a social fund payment such as is mentioned in section 32(2)(b) above shall only be awarded to a person if either—
- (i) he is in receipt of a benefit under the benefit Acts which is specified in the direction and the circumstances are such as are so specified; or
 - (ii) in a case where the conditions specified in sub-paragraph (i) above are not satisfied, the circumstances are such as are specified in the direction;”.
- (5) At the end of that section there shall be added—
- “(13) The Secretary of State may by regulations—
- (a) make provision with respect to the time at which an application for a social fund payment such as is mentioned in section 32(2)(b) above is to be treated as made;
 - (b) prescribe conditions that must be satisfied before any determination in connection with such an application may be made or any award of such a payment may be paid;
 - (c) prescribe circumstances in which such an award becomes extinguished.”