



# Social Security Act 1990

## 1990 CHAPTER 27

### *Benefits*

#### **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.”
- (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,

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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

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- (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.