Welfare Reform and Pensions Act 1999

1999 CHAPTER 30

PART V

WELFARE

CHAPTER I

SOCIAL SECURITY BENEFITS

Benefits for widows and widowers

54 Bereavement payments

(1) For section 36 of the Contributions and Benefits Act there shall be substituted—

"**36 Bereavement payment**

(1) A person whose spouse dies on or after the appointed day shall be entitled to a bereavement payment if—

(a) either that person was under pensionable age at the time when the spouse died or the spouse was then not entitled to a Category A retirement pension under section 44 below; and

(b) the spouse satisfied the contribution condition for a bereavement payment specified in Schedule 3, Part I, paragraph 4.

(2) A bereavement payment shall not be payable to a person if that person and a person of the opposite sex to whom that person was not married were living together as husband and wife at the time of the spouse's death.

(3) In this section "the appointed day" means the day appointed for the coming into force of sections 54 to 56 of the Welfare Reform and Pensions Act 1999."

(2) In Schedule 4 to the Contributions and Benefits Act (rates of benefits etc.), for Part II there shall be substituted—

"**PART II**

BEREAVEMENT PAYMENT

Bereavement payment.	£2,000.00."

55 New allowances for bereaved spouses

(1) After section 36 of the Contributions and Benefits Act there shall be inserted—

"**36A Cases in which sections 37 to 41 apply**

(1) Sections 37 to 39 and section 40 below apply only in cases where a woman's husband has died before the appointed day, and section 41 below applies only in cases where a man's wife has died before that day.

(2) Sections 39A to 39C below apply in cases where a person's spouse dies on or after the appointed day, but section 39A also applies (in accordance with subsection (1)(b) of that section) in cases where a man's wife has died before that day.

(3) In this section, and in sections 39A and 39B below, "the appointed day" means the day appointed for the coming into force of sections 54 to 56 of the Welfare Reform and Pensions Act 1999."

(2) After section 39 of the Contributions and Benefits Act there shall be inserted—

"**39A Widowed parent's allowance**

(1) This section applies where—
  (a) a person whose spouse dies on or after the appointed day is under pensionable age at the time of the spouse's death, or
  (b) a man whose wife died before the appointed day—
    (i) has not remarried before that day, and
    (ii) is under pensionable age on that day.

(2) The surviving spouse shall be entitled to a widowed parent's allowance at the rate determined in accordance with section 39C below if the deceased spouse satisfied the contribution conditions for a widowed parent's allowance specified in Schedule 3, Part I, paragraph 5 and—
  (a) the surviving spouse is entitled to child benefit in respect of a child falling within subsection (3) below; or
  (b) the surviving spouse is a woman who either—
    (i) is pregnant by her late husband, or
    (ii) if she and he were residing together immediately before the time of his death, is pregnant in circumstances falling within section 37(1)(c) above.

(3) A child falls within this subsection if one of the conditions specified in section 81(2) below is for the time being satisfied with respect to the child and the child is either—

(a) a son or daughter of the surviving spouse and the deceased spouse; or

(b) a child in respect of whom the deceased spouse was immediately before his or her death entitled to child benefit; or

(c) if the surviving spouse and the deceased spouse were residing together immediately before his or her death, a child in respect of whom the surviving spouse was then entitled to child benefit.

(4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries, but, subject to that, the surviving spouse shall continue to be entitled to it for any period throughout which she or he—

(a) satisfies the requirements of subsection (2)(a) or (b) above; and

(b) is under pensionable age.

(5) A widowed parent's allowance shall not be payable—

(a) for any period falling before the day on which the surviving spouse's entitlement is to be regarded as commencing by virtue of section 5(1)(k) of the Administration Act; or

(b) for any period during which the surviving spouse and a person of the opposite sex to whom she or he is not married are living together as husband and wife.

39B Bereavement allowance where no dependent children

(1) This section applies where a person whose spouse dies on or after the appointed day is over the age of 45 but under pensionable age at the spouse's death.

(2) The surviving spouse shall be entitled to a bereavement allowance at the rate determined in accordance with section 39C below if the deceased spouse satisfied the contribution conditions for a bereavement allowance specified in Schedule 3, Part I, paragraph 5.

(3) A bereavement allowance shall be payable for not more than 52 weeks beginning with the date of the spouse's death or (if later) the day on which the surviving spouse's entitlement is to be regarded as commencing by virtue of section 5(1)(k) of the Administration Act.

(4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries, but, subject to that, the surviving spouse shall continue to be entitled to it until—

(a) she or he attains pensionable age, or

(b) the period of 52 weeks mentioned in subsection (3) above expires,

whichever happens first.

(5) The allowance shall not be payable—

(a) for any period for which the surviving spouse is entitled to a widowed parent's allowance; or

(b) for any period during which the surviving spouse and a person of the opposite sex to whom she or he is not married are living together as husband and wife.

39C Rate of widowed parent's allowance and bereavement allowance

(1) The weekly rate of a widowed parent's allowance shall be determined in accordance with the provisions of sections 44 to 45A below as they apply in the case of a Category A retirement pension, but subject, in particular, to the following provisions of this section and section 46(2) below.

(2) The weekly rate of a bereavement allowance shall be determined in accordance with the provisions of section 44 below as they apply in the case of a Category A retirement pension so far as consisting only of the basic pension referred to in subsection (3)(a) of that section, but subject, in particular, to the following provisions of this section.

(3) In the application of sections 44 to 45A or (as the case may be) section 44 below by virtue of subsection (1) or (2) above—

(a) where the deceased spouse was over pensionable age at his or her death, references in those sections to the pensioner shall be taken as references to the deceased spouse, and

(b) where the deceased spouse was under pensionable age at his or her death, references in those sections to the pensioner and the tax year in which he attained pensionable age shall be taken as references to the deceased spouse and the tax year in which he or she died.

(4) Where a widowed parent's allowance is payable to a person whose spouse dies after 5th April 2000, the additional pension falling to be calculated under sections 44 to 45A below by virtue of subsection (1) above shall be one half of the amount which it would be apart from this subsection.

(5) Where a bereavement allowance is payable to a person who was under the age of 55 at the time of the spouse's death, the weekly rate of the allowance shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied by the number of years by which that person's age at that time was less than 55 (any fraction of a year being counted as a year)."

56 Entitlement to Category B retirement pension by reference to new allowances

After section 48B of the Contributions and Benefits Act there shall be inserted—

"**48BB Category B retirement pension: entitlement by reference to benefits under section 39A or 39B**

(1) Subsection (2) below applies where a person ("the pensioner") who has attained pensionable age—

(a) was, immediately before attaining that age, entitled to a widowed parent's allowance in consequence of the death of his or her spouse; and

(b) has not remarried.

(2) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse, which shall be payable at the same weekly rate as the widowed parent's allowance.

(3) Subsections (4) to (10) below apply where a person ("the pensioner") who has attained pensionable age—

(a) was in consequence of the death of his or her spouse either—

(i) entitled to a bereavement allowance at any time prior to attaining that age, or

(ii) entitled to a widowed parent's allowance at any time when over the age of 45 (but not immediately before attaining pensionable age); and

(b) has not remarried.

(4) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse.

(5) A Category B retirement pension payable by virtue of subsection (4) above shall be payable at a weekly rate corresponding to the weekly rate of the additional pension determined in accordance with the provisions of sections 44 to 45A above as they apply in relation to a Category A retirement pension, but subject, in particular, to the following provisions of this section and section 46(2) above.

(6) Where the spouse died under pensionable age, references in the provisions of sections 44 to 45A above, as applied by subsection (5) above, to the tax year in which the pensioner attained pensionable age shall be taken as references to the tax year in which the spouse died.

(7) Where the spouse dies after 5th April 2000, the pension payable by virtue of subsection (4) above shall (before making any reduction required by subsection (8) below) be one half of the amount which it would be apart from this subsection.

(8) Where the pensioner was under the age of 55 at the relevant time, the weekly rate of the pension shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied—

(a) by the number of years by which the pensioner's age at that time was less than 55 (any fraction of a year being counted as a year), or

(b) by ten, if that number exceeds ten.

(9) In subsection (8) above "the relevant time" means—

(a) where the pensioner became entitled to a widowed parent's allowance in consequence of the death of the spouse, the time when the pensioner's entitlement to that allowance ended; and

(b) otherwise, the time of the spouse's death.

(10) The amount determined in accordance with subsections (5) to (9) above as the weekly rate of the pension payable to the pensioner by virtue of subsection (4) above shall be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date of the spouse's death until the date when the pensioner attained pensionable age, that weekly rate would have been increased during that period by virtue of any orders under section 150 of the Administration Act (anual up-rating of benefits)."