



# Age-Related Payments Act 2004

## 2004 CHAPTER 10

An Act to make provision for payments by the Secretary of State to persons over the age of 70; and to enable provision to be made for payments by the Secretary of State to persons over the age of 60. [8th July 2004]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Payments for 2004*

#### **1 “Qualifying individual” and “relevant week”**

- (1) In this Act “qualifying individual” means an individual who—
  - (a) is ordinarily resident in Great Britain on at least one day in the relevant week, and
  - (b) attains the age of 70 years on or before the last day of the relevant week.
- (2) In this Act “the relevant week” means the week beginning with Monday 20th September 2004 and ending with Sunday 26th September 2004.

#### **2 Entitlement: basic cases**

- (1) A qualifying individual shall be entitled to a payment of £100 if at any time in the relevant week—
  - (a) he is single, and
  - (b) either—
    - (i) he is not living with another qualifying individual, or
    - (ii) he is in receipt of state pension credit.
- (2) A qualifying individual shall be entitled to a payment of £50 if at any time in the relevant week—

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- (a) he is single,
  - (b) he is not in receipt of state pension credit, and
  - (c) he is living with another qualifying individual.
- (3) A qualifying individual shall be entitled to a payment of £100 if at any time in the relevant week he is part of a couple and—
- (a) the other member of the couple is not a qualifying individual, or
  - (b) either member of the couple is in receipt of—
    - (i) state pension credit,
    - (ii) an income-based jobseeker's allowance, or
    - (iii) income support.
- (4) A qualifying individual shall be entitled to a payment of £50 if at any time in the relevant week he is part of a couple and—
- (a) the other member of the couple is a qualifying individual, and
  - (b) neither member of the couple is in receipt of state pension credit.
- (5) This section is subject to section 3.

### **3 Entitlement: special cases**

- (1) Where—
- (a) two or more couples live together, and
  - (b) two or more individuals, each of whom is part of one of the couples, would (but for this subsection) be entitled to a payment under section 2(3)(a) (and not under section 2(3)(b)),
- then each of those individuals shall instead be entitled to a payment of £50.
- (2) Where each member of a couple would (but for this subsection) be entitled to a payment under section 2(3)(b)—
- (a) the member who is to receive a payment in 2004 under the Social Fund Winter Fuel Payment Regulations 2000 (S.I. 2000/729) shall be entitled to the payment under section 2(3)(b), and
  - (b) the other member shall not be entitled to a payment under section 2(3)(b).
- (3) Where—
- (a) only one member of a couple is a qualifying individual,
  - (b) he would (but for this subsection) be entitled to a payment under section 2(3),
  - (c) the other member of the couple is to receive a payment in 2004 under the Social Fund Winter Fuel Payment Regulations 2000, and
  - (d) the qualifying individual is not to receive a payment in 2004 under those regulations,
- then—
- (i) that other member of the couple shall be entitled to a payment of £100, and
  - (ii) the qualifying individual shall not be entitled to a payment under section 2(3).
- (4) Subsection (5) applies to a qualifying individual if—
- (a) on the last day of the relevant week he is living in a care home, and
  - (b) throughout the period of 13 weeks ending with the relevant week his ordinary place of residence was a care home.

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- (5) Where this subsection applies to a qualifying individual—
  - (a) if he is not in receipt of state pension credit at any time in the relevant week, he shall be entitled to a payment of £50 (and he shall not be entitled to a payment under section 2), and
  - (b) if at any time in the relevant week he is in receipt of state pension credit, he shall not be entitled to a payment under section 2 or this section.
- (6) Where a person to whom subsection (5) applies is part of a couple, in the application of section 2(3) and (4) to the other member of the couple the person to whom subsection (5) applies shall be treated as a non-qualifying individual.

#### **4 Disqualifications**

- (1) A qualifying individual who would (but for this section) be entitled to a payment under section 2 or 3 shall not be entitled to the payment if—
  - (a) he is in receipt of free in-patient treatment throughout the period of 52 weeks ending with the relevant week,
  - (b) he is in custody throughout the relevant week, or
  - (c) he is subject to immigration control throughout the relevant week.
- (2) For the purposes of subsection (1)—
  - (a) the reference to receipt of free in-patient treatment shall be construed in accordance with regulation 2(2) and (2A) of the Social Security (Hospital In-Patients) Regulations 1975 (S.I. 1975/555),
  - (b) a person is in custody if he is detained in custody under a sentence imposed by a court, and
  - (c) the reference to being subject to immigration control shall be construed in accordance with section 115(9) of the Immigration and Asylum Act 1999 (c. 33).
- (3) Where a person to whom this section applies is part of a couple, in the application of section 2(3) and (4) to the other member of the couple the person to whom this section applies shall be treated as a non-qualifying individual.

#### **5 Procedure**

- (1) Where before 31st December 2004 the Secretary of State thinks that a person is entitled to a payment under section 2 or 3, the Secretary of State shall make the payment before that date (without a claim being required).
- (2) A person who is entitled to a payment under section 2 or 3 and who does not receive it before 31st December 2004, may claim the payment.
- (3) A claim under subsection (2) must—
  - (a) be in writing to the Secretary of State,
  - (b) be received by the Secretary of State before 31st March 2005, and
  - (c) specify—
    - (i) the claimant's name, address, date of birth and national insurance number (if he has one), and
    - (ii) the date on which the claim is sent to the Secretary of State, and

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- (d) include a declaration that the claimant was ordinarily resident in Great Britain on at least one day in the relevant week.
- (4) If the Secretary of State thinks that a person making a claim under subsection (2) is entitled to a payment under section 2 or 3, the Secretary of State shall make the payment.
- (5) The provisions of Chapter II of Part I of the Social Security Act 1998 (c. 14) (revision, appeal, &c.) shall apply to a decision of the Secretary of State about a person's entitlement to a payment under section 2 or 3 (whether or not following a claim) as they apply to a decision of the Secretary of State under section 8 of that Act.

## 6 Payment to be disregarded for tax and social security

No account shall be taken of entitlement to a payment under section 2 or 3 in considering a person's—

- (a) liability to tax,
- (b) entitlement to benefit under an enactment relating to social security (irrespective of the name or nature of the benefit), or
- (c) entitlement to a tax credit.

### Modifications etc. (not altering text)

C1 S. 6 applied (28.11.2013) by [The Age-Related Payments Regulations 2013 \(S.I. 2013/2980\)](#), regs. 1(1), 5

## *Future payments*

## 7 Power to provide for payments

- (1) The Secretary of State may make regulations providing for the making of payments by him to persons who have attained the age of 60 years.
- [<sup>F1</sup>(1A) In so far as the power conferred by subsection (1) relates to payments in cases where a with-profits policy has been purchased from the Equitable Life Assurance Society on or before 31st August 1992, the references in that subsection to the Secretary of State are to be read as references to the Secretary of State or the Treasury.]
- (2) Regulations under subsection (1) may provide for payments to be made—
  - (a) to persons in a specified class (which may be defined by reference to age or otherwise);
  - (b) in specified circumstances.
- (3) Regulations under subsection (1) may, in particular—
  - (a) provide for payments to be made only once, at specified times or over a specified period,
  - (b) provide for exceptions,
  - (c) apply (with or without modifications) an enactment relating to social security (including, in particular, an enactment relating to claims, payments, evidence, revision of decisions, appeals or recovery of payment in error), and
  - (d) make different provision for different cases or circumstances.

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- (4) Regulations under this section—
- (a) shall be made by statutory instrument, and
  - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

[<sup>F2</sup>(4A) In subsection (1A), a “with-profits policy” is a contract of insurance under which the policyholder is eligible to receive a financial benefit at the discretion of the insurer.]

- (5) In section 170(5) of the Social Security Administration Act 1992 (c. 5) (Social Security Advisory Committee) in the definition of “the relevant enactments” after paragraph (ah) insert—
- “(ai) section 7 of the Age-Related Payments Act 2004;”.

#### Textual Amendments

- F1** S. 7(1A) inserted (11.7.2013) by [The Transfer of Functions \(Age-Related Payments\) Order 2013 \(S.I. 2013/1442\)](#), arts. 1(2), 3(2)
- F2** S. 7(4A) inserted (11.7.2013) by [The Transfer of Functions \(Age-Related Payments\) Order 2013 \(S.I. 2013/1442\)](#), arts. 1(2), 3(3)

#### Modifications etc. (not altering text)

- C2** S. 7 function made exercisable concurrently (11.7.2013) by [The Transfer of Functions \(Age-Related Payments\) Order 2013 \(S.I. 2013/1442\)](#), arts. 1(2), 2

### General

## 8 Interpretation

- (1) In this Act—
- “care home”—
- (a) in relation to England <sup>F3</sup>..., has the same meaning as that given by section 3 of the Care Standards Act 2000 (c. 14), <sup>F4</sup>...
  - (aa) [<sup>F5</sup>in relation to Wales, means a place at which a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) is provided wholly or mainly to persons aged 18 or over, and]
  - (b) in relation to Scotland, means accommodation provided by a care home service within the meaning of [<sup>F6</sup>paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8)],
- “couple” means a man and a woman who share a household and who are, or who live as, husband and wife,
- “income-based jobseeker’s allowance” has the meaning given by section 1(1) and (4) of the Jobseekers Act 1995 (c. 18),
- “income support” means income support under section 124 of the Social Security Contributions and Benefits Act 1992 (c. 4),
- “qualifying individual” has the meaning given by section 1,
- “the relevant week” has the meaning given by section 1,
- “single”, in relation to an individual, means not part of a couple, and

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“state pension credit” has the meaning given by section 1(1) of the State Pension Credit Act 2002 (c. 16).

- (2) The provisions of this Act shall apply, with any necessary modifications, to the parties to a polygamous marriage as if they together formed one couple.

#### Textual Amendments

- F3** Words in s. 8(1) omitted (2.4.2018) by virtue of [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), regs. 2(1), **25(2)(a)(i)**
- F4** Word in s. 8(1) omitted (2.4.2018) by virtue of [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), regs. 2(1), **25(2)(a)(ii)**
- F5** Words in s. 8(1) inserted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), regs. 2(1), **25(2)(b)**
- F6** Words in s. 8(1)(b) substituted (28.10.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications of Enactments\) Order 2011 \(S.I. 2011/2581\)](#), art. 1(2)(b), **Sch. 2 para. 8**

## 9 Money

Expenditure of the Secretary of State under or by virtue of this Act shall be paid out of money provided by Parliament.

## 10 Extent

This Act shall extend only to—

- (a) England and Wales, and
- (b) Scotland.

## 11 Citation

This Act may be cited as the Age-Related Payments Act 2004.

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