



# Social Security Act 1975

## 1975 CHAPTER 14

### PART II

#### BENEFIT AND ITS ADMINISTRATION

### CHAPTER VI

#### ADMINISTRATION OF BENEFIT

*Provisions relating to benefit under Chapters I to V*

#### **79 Claims and awards**

- (1) Subject to the following provisions of this Chapter, and, in the case of retirement pensions, to section 27(6), it shall be a condition of a person's right to any benefit that he makes a claim for it in the prescribed manner and within the prescribed time.
- (2) In such cases as may be prescribed, the following benefits may be paid without a claim—
  - (a) a Category A or Category B retirement pension to a woman over the age of 65 on her ceasing to be entitled to widow's benefit;
  - (b) a Category C or Category D retirement pension ;
  - (c) age addition.
- (3) Regulations may make provision—
  - (a) for permitting, in prescribed circumstances, a claim for unemployment benefit, sickness benefit, invalidity benefit, non-contributory invalidity pension or injury benefit to be made, or to be treated as if made, for a period falling partly after the date of the claim ;
  - (b) for permitting an award on any such claim to be made for a period after the date of the claim of not more than 13 weeks (or such shorter period as the Secretary of State may in any case direct) subject to the condition that

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- the claimant continues during that period to satisfy the requirements for the benefit in question;
- (c) for the review of any such award if those requirements are found not to have been satisfied at some time during the period of the award ;
  - (d) for the disallowance of a person's claim for unemployment benefit, sickness benefit, invalidity benefit or non-contributory invalidity pension on any grounds to be treated as a disallowance of any further claim by that person for that benefit until the grounds of the original disallowance have ceased to exist.
- (4) Regulations may provide for treating a person for the purposes of the following provisions of this Act—
- (a) section 14(7) (earnings-related supplement of unemployment or sickness benefit);
  - (b) section 18 (duration of unemployment benefit); and
  - (c) section 22(4) (earnings-related supplement of a maternity allowance),
- as having been entitled to benefit for any day if he would have been so entitled but for any delay or failure to make or prosecute a claim ; but a person is not to be so treated where he shows that he did not intend, by failing to acquire or establish a right to benefit for that day, to cause a new period of interruption of employment to begin for the purposes of earnings-related supplement, or to avoid the necessity of re-qualifying for benefit.
- (5) Regulations may provide for requiring claimants to furnish to the prescribed person any information required for the determination of the claim or of any question arising in connection with it.
- (6) For the purposes of this Act any claim or notice made or sent by post shall be deemed to have been made or given on the day on which it was posted.

## **80 Claims in the alternative**

- (1) A claim for any one benefit under Chapters I to III of this Part may be treated as a claim in the alternative—
- (a) for such other benefit under those Chapters as may be prescribed; or
  - (b) for such benefit under Chapter IV or V as may be prescribed,
- or may be treated for the purposes of the Family Allowances Act as a claim for a payment under that Act.
- (2) A claim—
- (a) for industrial injuries benefit; or
  - (b) for benefit under the Supplementary Benefit Act 1966 ; or
  - (c) for a payment under the Family Allowances Act,
- may be treated as a claim in the alternative for such benefit under Chapters I to III as may be prescribed.

## **81 Payment**

- (1) Provision may be made by regulations as to the time and manner of payment of benefit and as to the information and evidence to be furnished by beneficiaries when applying for payment.

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- (2) Regulations under subsection (1) above as to the time of payment of benefit may provide—
- (a) for adjusting the commencement and termination of benefit, or of changes in the rate of benefit, so that (except in the case of the benefits listed in subsection (3) below) payments are not to be made in respect of periods of less than a week or at different rates for different parts of a week;
  - (b) for extinguishing the right to payment of any sum by way of benefit if payment is not obtained within a prescribed period, not being less than 12 months, from the date on which the right is to be treated under the regulations as having arisen.
- (3) The benefits excepted from subsection (2) (a) above are—
- unemployment benefit,
  - sickness benefit,
  - invalidity benefit,
  - a maternity allowance, and
  - injury benefit.
- (4) Regulations may provide—
- (a) for requiring beneficiaries—
    - (i) to furnish to the prescribed person any information required for the determination of a question arising in connection with the award,
    - (ii) to give notice to the prescribed person of any change of circumstances affecting the continuance of the right to benefit or its receipt;
  - (b) for enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who is a child or who may be or become unable for the time being to act, any right or power which the claimant or beneficiary may be entitled to exercise under this Act;
  - (c) for authorising a person so appointed to receive and deal with any sum payable by way of benefit, on behalf of the claimant or beneficiary;
  - (d) as to the circumstances in which any benefit which is payable to one person may be paid to another on his behalf; and
  - (e) in connection with a person's death—
    - (i) for enabling a claim for benefit to be made or proceeded with in his name,
    - (ii) for authorising payment or distribution of benefit to or amongst persons claiming as his personal representatives, legatees, next of kin or creditors (or, in cases of illegitimacy of deceased persons, to or amongst others), and
    - (iii) for dispensing with strict proof of the title of persons so claiming.
- (5) In subsection (4)(e) above " next of kin " means—
- (a) in England and Wales, the persons who would take beneficially on an intestacy;
  - (b) in Scotland, the persons entitled to the moveable estate of the deceased on intestacy ;

and regulations under that paragraph may make provision with respect to claims for, and the payment of, a death grant as if it were a benefit due to the deceased at his death and as if the reference to creditors included a person who undertakes in writing to pay the whole or part of the deceased's funeral expenses.

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- (6) Regulations may make provision for calculating the amounts payable by way of any benefit according to a prescribed scale, or otherwise adjusting them so as to avoid fractional amounts or facilitate computation.

## 82 Disqualification and suspension

- (1) Regulations may provide for disqualifying a person for the receipt of any benefit if he fails to make his claim for it within the prescribed time; but any such regulations shall provide for extending, subject to any prescribed conditions, the time within which the claim may be made in cases where good cause is shown for the delay.
- (2) Notwithstanding any regulations made by virtue of subsection (1) above, no sum shall be paid to any person—
- (a) on account of a maternity grant in respect of a confinement occurring more than 12 months before the date on which the claim for the grant is made ;
  - (b) on account of a death grant in any case where the prescribed time for making a claim falls to be extended by virtue of subsection (1) above by more than 12 months;
  - (c) on account of any other benefit (except a death grant, or disablement benefit or industrial death benefit) in respect of any period more than 12 months before the date on which the claim is made.
- (3) Subject to subsection (4) below, where it appears to the Secretary of State that a question has arisen whether—
- (a) the conditions for the receipt of benefit payable under an award are or were fulfilled ; or
  - (b) an award ought to be revised in accordance with Part III of this Act (determination of claims and questions),
- he may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined; but this does not apply in any case where the question has arisen as to whether the claimant has ceased to be entitled to receive unemployment benefit by reason of any of the provisions of section 20(1)(b) to (e).
- (4) Regulations may provide for subsection (3) above—
- (a) to cease to apply to any case, or to cases of any specified description, to which it would otherwise apply; or
  - (b) to apply to cases of any specified description to which it would otherwise not apply.
- (5) Except where regulations otherwise provide, a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband, for any period during which the person—
- (a) is absent from Great Britain ; or
  - (b) is undergoing imprisonment or detention in legal custody.
- (6) Regulations may provide—
- (a) for the suspension of payment to or in respect of any person, during any such period, of benefit which is excepted from the operation of subsection (5) above or is payable otherwise than in respect of that period;
  - (b) for suspending payment of benefit to a person during any period in which he is undergoing medical or other treatment as an in-patient in a hospital or similar institution.

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### **83 Disqualifications disregarded for certain purposes**

- (1) Subject to subsection (2) below, regulations may provide for a person who would be entitled to any benefit but for the operation of any provision of this Act disentitling him to receipt of that benefit to be treated as if entitled thereto for the purposes of any rights or obligations (whether his own or another's) under this Act which depend on his entitlement, other than the right to payment of the benefit.
- (2) Regulations under this section shall not provide for a person disqualified for receiving unemployment benefit by reason only of a delay or failure to make a claim to be treated as having been entitled thereto for the purpose of ascertaining whether his right to the benefit has been exhausted.

### **84 Persons maintaining dependants, etc.**

- (1) Regulations may provide for determining the circumstances in which a person is or is not to be deemed, for the purposes of this Part of this Act—
  - (a) to be wholly or mainly, or to a substantial extent, maintaining, or to be contributing at any weekly rate to the maintenance of, another person; or
  - (b) to be, or have been, contributing at any weekly rate to the cost of providing for a child.
- (2) Regulations under this section may provide, for the purposes of the provisions relating to an increase of benefit in respect of a wife or other adult dependant, that where—
  - (a) a person is partly maintained by each of two or more beneficiaries, each of whom would be entitled to such an increase in respect of that person if he were wholly or mainly maintaining that person ; and
  - (b) the contributions made by those two or more beneficiaries towards the maintenance of that person amount in the aggregate to sums which would, if they had been contributed by one of those beneficiaries, have been sufficient to satisfy the requirements of regulations under this section,that person shall be deemed to be wholly or mainly maintained by such of those beneficiaries as may be prescribed.
- (3) Regulations under this section may further provide, for the purposes of sections 71 and 72 of this Act, that where—
  - (a) a person was partly maintained by each of two or more employed earners of whom he was a parent within the meaning of section 71 or a relative prescribed for the purposes of section 72, as the case may be; and
  - (b) the employed earners have died as a result of accidents arising out of and in the course of their employed earner's employment,the parent or relative is to be treated as having received, from such of those employed earners as may be prescribed, contributions to his maintenance equal to the aggregate amount which they were together contributing before the accidents happened, and as having received nothing from the others.
- (4) Regulations may provide for any sum or sums paid by a person by way of contribution towards either or both of the following, that is to say—
  - (a) the maintenance of his wife; and
  - (b) the cost of providing for one or more children,to be treated for the purposes of any of the provisions of this Act specified in subsection (5) below as such contributions, of such respective amounts equal in the

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aggregate to the said sum or sums, in respect of such persons, as may be determined in accordance with the regulations so as to secure as large a payment as possible by way of benefit in respect of dependants.

- (5) The provisions in question are—
- (a) section 31 (child's special allowance);
  - (b) sections 42, 43 and 65 (dependent children); and
  - (c) sections 44, 45 and 66 (maintained wife).

## **85 Overlapping benefits**

- (1) Regulations may provide for adjusting benefit payable to or in respect of any person, or the conditions for its receipt, where—
- (a) there is payable in his case any such pension or allowance as is described in subsection (2) below; or
  - (b) the person is, or is treated under the regulations as, undergoing medical or other treatment as an in-patient in a hospital or similar institution.
- (2) Subsection (1)(a) above applies to any pension or allowance payable out of public funds (excluding an allowance under the Family Allowances Act, but including any other benefit under this Act, whether of the same or a different description) which is payable to or in respect of—
- (a) the person referred to in subsection (1);
  - (b) that person's wife or husband;
  - (c) any child or adult dependant of that person ; or
  - (d) the wife or husband of any adult dependant of that person.
- (3) Where but for regulations made by virtue of subsection (1)(a) above two persons would both be entitled to an increase of benefit in respect of a third person, regulations may make provision as to their priority.

## **86 Set-off of overpayments**

- (1) Where a person has received on account of benefit or a family allowance sums to which, by virtue of any provision of, or regulation under, this Act, or by virtue of section 11(6) of the Family Allowances Act, he was disentitled by reason of his being entitled by virtue of a subsequent award to other benefit, or as the case may be, to a guardian's allowance under section 38 of this Act, then (except in so far as regulations otherwise provide) the decision making that subsequent award shall direct that those sums shall be treated as having been paid on account of the benefit thereby awarded.
- (2) Where on review or appeal a decision awarding a person benefit is revised, or is reversed or varied, but he retains any sums paid in pursuance of the original decision which would not have been payable if the decision on the review or appeal had been given in the first instance, then, except in so far as regulations otherwise provide, any decision awarding him other benefit or a family allowance, being a benefit or allowance to which a right to any of those sums would by virtue of any such provision as aforesaid or of the said section 11(6) have disentitled him, shall direct that that sum, up to the amount of the other benefit or allowance to which he would by his right to that sum have been so disentitled, shall be treated as having been paid on account of the other benefit or allowance.

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- (3) Where a sum paid on account of any benefit, or of a family allowance, is by virtue of subsection (1) or (2) above, or any other enactment, to be treated as having been paid on account of other benefit or such an allowance, it shall be so treated for all purposes, including the subsequent operation in relation to it of subsection (1) or (2) or any other enactment relating to benefit or family allowance overpaid.
- (4) For the purposes of subsections (1) to (3) above—
- (a) a person is to be treated as retaining any sum which has been received by him and not repaid, except that he is not to be treated as retaining a sum if under any other enactment a direction has been given for it to be repaid;
  - (b) in the case of sums paid by way of benefit in respect of a child of the family of a man and his wife living together or on account of a family allowance for such a family, the man is to be treated as having received any sum which, if properly paid, would have been receivable by him, and the wife any sum which, if properly paid, would have been receivable by her.
- (5) Regulations may provide for treating benefit paid to one person in respect of another as being a child of the family, or the wife or husband, or an adult dependant, of the payee as having been properly paid for any period for which it is not in fact payable in cases where in consequence of a subsequent decision either—
- (a) the other person is himself entitled to benefit for that period", or
  - (b) a third person is entitled to benefit for that period in respect of the other person in priority to the payee,
- and for reducing or withholding accordingly any arrears payable for that period by virtue of the subsequent decision.
- (6) In subsections (1) and (2) above any reference to a decision awarding benefit or a family allowance includes a decision making any benefit or family allowance payable at a higher rate.

## **87 Benefit to be inalienable**

- (1) Subject to the provisions of this Act, every assignment of, or charge on, benefit and every agreement to assign or charge benefit shall be void; and, on the bankruptcy of a beneficiary, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.
- (2) In the application of this section to Scotland—
- (a) the reference to assignment of benefit shall be read as a reference to its assignation, "assign" being construed accordingly;
  - (b) the reference to a beneficiary's bankruptcy shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 14 of the Bankruptcy (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958.
- (3) In calculating for the purposes of section 5 of the Debtors Act 1869 or section 4 of the Civil Imprisonment (Scotland) Act 1882 the means of any beneficiary, no account shall be taken of any increase of injury benefit or disablement benefit in respect of a child, or of industrial death benefit.