



# Social Security Administration Act 1992

## 1992 CHAPTER 5

### PART I

#### CLAIMS FOR AND PAYMENTS AND GENERAL ADMINISTRATION OF BENEFIT

##### *Necessity of Claim*

#### **1 Entitlement to benefit dependent on claim**

- (1) Except in such cases as may be prescribed, and subject to the following provisions of this section and to section 3 below, no person shall be entitled to any benefit unless, in addition to any other conditions relating to that benefit being satisfied—
  - (a) he makes a claim for it in the manner, and within the time, prescribed in relation to that benefit by regulations under this Part of this Act; or
  - (b) he is treated by virtue of such regulations as making a claim for it.
- (2) Where under subsection (1) above a person is required to make a claim or to be treated as making a claim for a benefit in order to be entitled to it—
  - (a) if the benefit is a widow's payment, she shall not be entitled to it in respect of a death occurring more than 12 months before the date on which the claim is made or treated as made; and
  - (b) if the benefit is any other benefit except disablement benefit or reduced earnings allowance, the person shall not be entitled to it in respect of any period more than 12 months before that date,except as provided by section 3 below.
- (3) Where a person purports to make a claim on behalf of another—
  - (a) for an attendance allowance by virtue of section 66(1) of the Contributions and Benefits Act; or
  - (b) for a disability living allowance by virtue of section 72(5) or 73(12) of that Act,

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.

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- (4) In this section and section 2 below “benefit” means—
  - (a) benefit as defined in section 122 of the Contributions and Benefits Act; and
  - (b) any income-related benefit.
- (5) This section (which corresponds to section 165A of the 1975 Act, as it had effect immediately before this Act came into force) applies to claims made on or after 1st October 1990 or treated by virtue of regulations under that section or this section as having been made on or after that date.
- (6) Schedule 1 to this Act shall have effect in relation to other claims.

## **2 Retrospective effect of provisions making entitlement to benefit dependent on claim**

- (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 of the 1975 Act (general provision as to necessity of claim for entitlement to benefit), 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 the relevant claim enactment and any regulations made under or referred to in that enactment 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 this section “the relevant claim enactment” means section 1 above as it has effect in relation to the claim referred to in subsection (1) above.

- (4) 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.

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- (5) In subsection (4) above “the current requirements” means—
- (a) the relevant claim enactment, and any regulations made or treated as made under that enactment, or referred to in it, as in force at the time of the claim referred to in subsection (1) above, with any necessary modifications; and
  - (b) subsection (1) (with the omission of the words following “at any time”) and subsections (2) and (3) above.

### *Widowhood benefits*

## **3 Late claims for widowhood benefit 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 12 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 12 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 13th July 1990 (the coming into force of section 6 of the Social Security Act 1990, which inserted in the 1975 Act section 165C, the provision of that Act corresponding to 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 20 below on a claim made by the woman; or
    - (ii) under subsection (4) 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 12 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 12 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 1 above, be entitled to—

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- (a) a widow's payment in respect of the husband's death more than 12 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 12 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 80(5) of the Contributions and Benefits Act).

#### **4 Treatment of payments of benefit to certain widows**

In any case where—

- (a) a claim for a widow's pension or a widowed mother's allowance is made, or treated as made, before 13th July 1990 (the date of the passing of the Social Security Act 1990); and
- (b) the Secretary of State has made a payment to or for the claimant on the ground that if the claim had been received immediately after the passing of that Act she would have been entitled to that pension or allowance, or entitled to it at a higher rate, for the period in respect of which the payment is made,

the payment so made shall be treated as a payment of that pension or allowance; and, if and to the extent that an award of the pension or allowance, or an award at a higher rate, is made for the period in respect of which the payment was made, the payment shall be treated as made in accordance with that award.

#### *Claims and payments regulations*

#### **5 Regulations about claims for and payments of benefit**

(1) Regulations may provide—

- (a) for requiring a claim for a benefit to which this section applies to be made by such person, in such manner and within such time as may be prescribed;
- (b) for treating such a claim made in such circumstances as may be prescribed as having been made at such date earlier or later than that at which it is made as may be prescribed;
- (c) for permitting such a claim to be made, or treated as if made, for a period wholly or partly after the date on which it is made;
- (d) for permitting an award on such a claim to be made for such a period subject to the condition that the claimant satisfies the requirements for entitlement when benefit becomes payable under the award;
- (e) for a review of any such award if those requirements are found not to have been satisfied;
- (f) for the disallowance on any ground of a person's claim for a benefit to which this section applies 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;
- (g) for enabling one person to act for another in relation to a claim for a benefit to which this section applies and for enabling such a claim to be made and proceeded with in the name of a person who has died;
- (h) for requiring any information or evidence needed for the determination of such a claim or of any question arising in connection with such a claim to

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- be furnished by such person as may be prescribed in accordance with the regulations;
- (i) for the person to whom, time when and manner in which a benefit to which this section applies is to be paid and for the information and evidence to be furnished in connection with the payment of such a benefit;
  - (j) for notice to be given of any change of circumstances affecting the continuance of entitlement to such a benefit or payment of such a benefit;
  - (k) for the day on which entitlement to such a benefit is to begin or end;
  - (l) for calculating the amounts of such a benefit according to a prescribed scale or otherwise adjusting them so as to avoid fractional amounts or facilitate computation;
  - (m) for extinguishing the right to payment of such a benefit if payment is not obtained within such period, not being less than 12 months, as may be prescribed from the date on which the right is treated under the regulations as having arisen;
  - (n) for suspending payment, in whole or in part, where it appears to the Secretary of State that a question arises whether—
    - (i) the conditions for entitlement are or were fulfilled;
    - (ii) an award ought to be revised;
    - (iii) an appeal ought to be brought against an award;
  - (o) for withholding payments of a benefit to which this section applies in prescribed circumstances and for subsequently making withheld payments in prescribed circumstances;
  - (p) for the circumstances and manner in which payments of such a benefit may be made to another person on behalf of the beneficiary for any purpose, which may be to discharge, in whole or in part, an obligation of the beneficiary or any other person;
  - (q) for the payment or distribution of such a benefit to or among persons claiming to be entitled on the death of any person and for dispensing with strict proof of their title;
  - (r) for the making of a payment on account of such a benefit—
    - (i) where no claim has been made and it is impracticable for one to be made immediately;
    - (ii) where a claim has been made and it is impracticable for the claim or an appeal, reference, review or application relating to it to be immediately determined;
    - (iii) where an award has been made but it is impracticable to pay the whole immediately.
- (2) This section applies to the following benefits—
- (a) benefits as defined in section 122 of the Contributions and Benefits Act;
  - (b) income support;
  - (c) family credit;
  - (d) disability working allowance;
  - (e) housing benefit;
  - (f) any social fund payments such as are mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act;
  - (g) child benefit; and
  - (h) Christmas bonus.

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- (3) The reference in subsection (1)(h) above to information or evidence needed for the determination of a claim includes a reference to information or evidence required by a rent officer under section 121 of the Housing Act 1988.
- (4) Subsection (1)(n) above shall have effect in relation to housing benefit as if the reference to the Secretary of State were a reference to the authority paying the benefit.
- (5) Subsection (1)(g), (i), (l), (p) and (q) above shall have effect as if statutory sick pay and statutory maternity pay were benefits to which this section applies.

*Community charge benefits etc.*

## **6 Regulations about community charge benefits administration**

- (1) Regulations may provide as follows as regards any community charge benefit—
  - (a) for requiring a claim for a benefit to be made by such person, in such manner and within such time as may be prescribed;
  - (b) for treating a claim made in such circumstances as may be prescribed as having been made at such date earlier or later than that at which it is made as may be prescribed;
  - (c) for permitting a claim to be made, or treated as if made, for a period wholly or partly after the date on which it is made;
  - (d) for permitting an award on a claim to be made for such a period subject to the condition that the claimant satisfies the requirements for entitlement when benefit becomes payable, or any right to a reduction or a consequential reduction becomes available, under the award;
  - (e) for a review of any award if those requirements are found not to have been satisfied;
  - (f) for the disallowance on any ground of a person's claim for a benefit 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;
  - (g) for enabling one person to act for another in relation to a claim for a benefit and for enabling such a claim to be made and proceeded with in the name of a person who has died;
  - (h) for requiring any information or evidence needed for the determination of a claim or of any question arising in connection with a claim to be furnished by such person as may be prescribed in accordance with the regulations;
  - (i) for the time when and manner in which any benefit (or part) which takes the form of a payment is to be paid, and for the information and evidence to be furnished in connection with the payment;
  - (j) for the time when the right to make a reduction or consequential reduction may be exercised;
  - (k) for notice to be given of any change of circumstances affecting the continuance of entitlement to a benefit;
  - (l) for the day on which entitlement to a benefit is to begin or end;
  - (m) for calculating the amount of a benefit according to a prescribed scale or otherwise adjusting it so as to avoid fractional amounts or facilitate computation;
  - (n) for suspending (in whole or in part) any payment or right to make a reduction or consequential reduction, where it appears to the authority which allowed

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- a benefit that a question arises whether the conditions for entitlement to the benefit are or were fulfilled or whether the award ought to be revised or whether an appeal ought to be brought against the award;
- (o) for withholding in prescribed circumstances any payment or right to make a reduction or consequential reduction, and for subsequently making in prescribed circumstances any withheld payment or restoring in prescribed circumstances any right to make a reduction or consequential reduction;
  - (p) in the case of any benefit (or part) which takes the form of a payment, for payment or distribution to or among persons claiming to be entitled on the death of any person, and for dispensing with strict proof of their title;
  - (q) in the case of any benefit (or part) which takes the form of a payment, for the circumstances and manner in which payment may be made to one person on behalf of another for any purpose, which may be to discharge, in whole or in part, an obligation of the person entitled to the benefit or any other person;
  - (r) for making a payment on account of a benefit, or conferring a right to make a reduction or consequential reduction on account, where no claim has been made and it is impracticable for one to be made immediately;
  - (s) for making a payment on account of a benefit, or conferring a right to make a reduction or consequential reduction on account, where a claim has been made but it is impracticable for the claim or an appeal, reference, review or application relating to it to be determined immediately;
  - (t) for making a payment on account of a benefit, or conferring a right to make a reduction or consequential reduction on account, where an award has been made but it is impracticable to institute the benefit immediately;
  - (u) generally as to administration.
- (2) Regulations under this section may include provision in relation to community charge benefits that prescribed provisions shall apply instead of prescribed provisions of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 or the Local Government Finance Act 1988, or that prescribed provisions of either of those Acts shall not apply or shall apply subject to prescribed amendments or adaptations.
- (3) References in subsection (2) above to either of the Acts there mentioned include references to regulations made under the Act concerned.

## **7 Relationship between community charge benefits and other benefits**

- (1) Regulations may provide for a claim for one relevant benefit to be treated, either in the alternative or in addition, as a claim for any other relevant benefit that may be prescribed.
- (2) Regulations may provide for treating a payment made or right conferred by virtue of regulations—
- (a) under section 5(1)(r) above; or
  - (b) under section 6(1)(r) to (t) above,
- as made or conferred on account of any relevant benefit that is subsequently awarded or paid.
- (3) For the purposes of subsections (1) and (2) above relevant benefits are—
- (a) any benefit to which section 5 above applies; and
  - (b) any community charge benefit.

### *Industrial injuries benefit*

#### **8 Notification of accidents, etc**

Regulations may provide—

- (a) for requiring the prescribed notice of an accident in respect of which industrial injuries benefit may be payable to be given within the prescribed time by the employed earner to the earner's employer or other prescribed person;
- (b) for requiring employers—
  - (i) to make reports, to such person and in such form and within such time as may be prescribed, of accidents in respect of which industrial injuries benefit may be payable;
  - (ii) to furnish to the prescribed person any information required for the determination of claims, or of questions arising in connection with claims or awards;
  - (iii) to take such other steps as may be prescribed to facilitate the giving notice of accidents, the making of claims and the determination of claims and of questions so arising.

#### **9 Medical examination and treatment of claimants**

- (1) Regulations may provide for requiring claimants for disablement benefit—
  - (a) to submit themselves from time to time to medical examination for the purpose of determining the effect of the relevant accident, or the treatment appropriate to the relevant injury or loss of faculty;
  - (b) to submit themselves from time to time to appropriate medical treatment for the injury or loss of faculty.
- (2) Regulations under subsection (1) above requiring persons to submit themselves to medical examination or treatment may—
  - (a) require those persons to attend at such places and at such times as may be required; and
  - (b) with the consent of the Treasury provide for the payment by the Secretary of State to those persons of travelling and other allowances (including compensation for loss of remunerative time).

#### **10 Obligations of claimants**

- (1) Subject to subsection (3) below, regulations may provide for disqualifying a claimant for the receipt of industrial injuries benefit—
  - (a) for failure without good cause to comply with any requirement of regulations to which this subsection applies (including in the case of a claim for industrial death benefit, a failure on the part of some other person to give the prescribed notice of the relevant accident);
  - (b) for wilful obstruction of, or other misconduct in connection with, any examination or treatment to which he is required under regulations to which this subsection applies to submit himself, or in proceedings under this Act for the determination of his right to benefit or to its receipt,
 or for suspending proceedings on the claim or payment of benefit as the case may be, in the case of any such failure, obstruction or misconduct.



- (2) The regulations to which subsection (1) above applies are—
- (a) any regulations made by virtue of section 5(1)(h), (i) or (l) above, so far as relating to industrial injuries benefit; and
  - (b) regulations made by virtue of section 8 or 9 above.
- (3) Regulations under subsection (1) above providing for disqualification for the receipt of benefit for any of the following matters, that is to say—
- (a) for failure to comply with the requirements of regulations under section 9(1) or (2) above;
  - (b) for obstruction of, or misconduct in connection with, medical examination or treatment,
- shall not be made so as to disentitle a claimant to benefit for a period exceeding 6 weeks on any disqualification.

#### *Disability working allowance*

### **11 Initial claims and repeat claims**

- (1) In this section—
- “initial claim” means a claim for a disability working allowance made by a person—
    - (a) to whom it has not previously been payable; or
    - (b) to whom it has not been payable during the period of 2 years immediately preceding the date on which the claim is made or is treated as made; and
  - “repeat claim” means any other claim for a disability working allowance.
- (2) On an initial claim a declaration by the claimant that he has a physical or mental disability which puts him at a disadvantage in getting a job is conclusive, except in such circumstances as may be prescribed, that for the purposes of section 129(1)(b) of the Contributions and Benefits Act he has such a disability (in accordance with regulations under section 129(3) of that Act).
- (3) If—
- (a) a repeat claim is made or treated as made not later than the end of the period of 8 weeks commencing with the last day of the claimant’s previous award; and
  - (b) on the claim which resulted in that award he qualified under section 129(2) of the Contributions and Benefits Act by virtue—
    - (i) of paragraph (a) of that subsection; or
    - (ii) of there being payable to him a benefit under an enactment having effect in Northern Ireland and corresponding to a benefit mentioned in that paragraph,
- he shall be treated on the repeat claim as if he still so qualified.

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*The social fund*

**12 Necessity of application for certain payments**

- (1) A social fund payment such as is mentioned in section 138(1)(b) of the Contributions and Benefits Act may be awarded to a person only if an application for such a payment has been made by him or on his behalf in such form and manner as may be prescribed.
- (2) The Secretary of State may by regulations—
  - (a) make provision with respect to the time at which an application for such a social fund payment 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.

*Child benefit*

**13 Necessity of application for child benefit**

- (1) Subject to the provisions of this Act, no person shall be entitled to child benefit unless he claims it in the manner, and within the time, prescribed in relation to child benefit by regulations under section 5 above.
- (2) Except where regulations otherwise provide, no person shall be entitled to child benefit for any week on a claim made by him after that week if child benefit in respect of the same child has already been paid for that week to another person, whether or not that other person was entitled to it.

*Statutory sick pay*

**14 Duties of employees etc. in relation to statutory sick pay**

- (1) Any employee who claims to be entitled to statutory sick pay from his employer shall, if so required by his employer, provide such information as may reasonably be required for the purpose of determining the duration of the period of entitlement in question or whether a period of entitlement exists as between them.
- (2) The Secretary of State may by regulations direct—
  - (a) that medical information required under subsection (1) above shall, in such cases as may be prescribed, be provided in a prescribed form;
  - (b) that an employee shall not be required under subsection (1) above to provide medical information in respect of such days as may be prescribed in a period of incapacity for work.
- (3) Where an employee asks an employer of his to provide him with a written statement, in respect of a period before the request is made, of one or more of the following—
  - (a) the days within that period which the employer regards as days in respect of which he is liable to pay statutory sick pay to that employee;
  - (b) the reasons why the employer does not so regard the other days in that period;

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(c) the employer's opinion as to the amount of statutory sick pay to which the employee is entitled in respect of each of those days,  
the employer shall, to the extent to which the request was reasonable, comply with it within a reasonable time.

#### *Statutory maternity pay*

### **15 Duties of women etc. in relation to statutory maternity pay**

- (1) A woman shall provide the person who is liable to pay her statutory maternity pay—
- (a) with evidence as to her pregnancy and the expected date of confinement in such form and at such time as may be prescribed; and
  - (b) where she commences work after her confinement but within the maternity pay period, with such additional information as may be prescribed.
- (2) Where a woman asks an employer or former employer of hers to provide her with a written statement, in respect of a period before the request is made, of one or more of the following—
- (a) the weeks within that period which he regards as weeks in respect of which he is liable to pay statutory maternity pay to the woman;
  - (b) the reasons why he does not so regard the other weeks in that period; and
  - (c) his opinion as to the amount of statutory maternity pay to which the woman is entitled in respect of each of the weeks in respect of which he regards himself as liable to make a payment,
- the employer or former employer shall, to the extent to which the request was reasonable, comply with it within a reasonable time.

#### *Emergency payments*

### **16 Emergency payments by local authorities and other bodies**

- (1) The Secretary of State may make arrangements—
- (a) with a local authority to which this section applies; or
  - (b) with any other body,
- for the making on his behalf by members of the staff of any such authority or body of payments on account of benefits to which section 5 above applies in circumstances corresponding to those in which the Secretary of State himself has the power to make such payments under subsection (1)(r) of that section; and a local authority to which this section applies shall have power to enter into any such arrangements.
- (2) A payment under any such arrangements shall be treated for the purposes of any Act of Parliament or instrument made under an Act of Parliament as if it had been made by the Secretary of State.
- (3) The Secretary of State shall repay a local authority or other body such amount as he determines to be the reasonable administrative expenses incurred by the authority or body in making payments in accordance with arrangements under this section.
- (4) The local authorities to which this section applies are—
- (a) a local authority as defined by section 270(1) of the Local Government Act 1972, other than a parish or community council;

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- (b) the Common Council of the City of London; and
- (c) a local authority as defined in section 235(1) of the Local Government (Scotland) Act 1973.