



# Social Security Administration Act 1992

## 1992 CHAPTER 5

### PART XVI

#### GENERAL

##### *Subordinate legislation*

#### **189 Regulations and orders - general**

- (1) Subject to subsection (2) below and to any other express provision of this Act, regulations and orders under this Act shall be made by the Secretary of State.
- (2) Regulations with respect to proceedings before the Commissioners (whether for the determination of any matter or for leave to appeal to or from the Commissioners) shall be made by the Lord Chancellor.
- (3) Powers under this Act to make regulations or orders are exercisable by statutory instrument.
- (4) Except in the case of regulations under section 24 or 175 above and in so far as this Act otherwise provides, any power conferred by this Act to make an Order in Council, regulations or an order may be exercised—
  - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
  - (b) so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act;
    - (iii) any such provision either unconditionally or subject to any specified condition;

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*Status: This is the original version (as it was originally enacted).*

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and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and powers to make an Order in Council, regulations or an order for the purposes of any one provision of this Act are without prejudice to powers to make regulations or an order for the purposes of any other provision.

- (5) Without prejudice to any specific provision in this Act, a power conferred by this Act to make an Order in Council, regulations or an order (other than the power conferred by section 24 above) includes power to make thereby such incidental, supplementary, consequential or transitional provision as appears to Her Majesty, or the authority making the regulations or order, as the case may be, to be expedient for the purposes of the Order in Council, regulations or order.
- (6) Without prejudice to any specific provisions in this Act, a power conferred by any provision of this Act, except sections 14, 24, 130 and 175, to make an Order in Council, regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.
- (7) Any power conferred by this Act to make orders or regulations relating to housing benefit or community charge benefits shall include power to make different provision for different areas.
- (8) An order under section 135, 140, 150, 152, 165(4) or 169 above and regulations prescribing relevant benefits for the purposes of Part IV of this Act or under section 85 above shall not be made without the consent of the Treasury.
- (9) Any power of the Secretary of State under any provision of this Act, except under sections 80, 154, 175 and 178, to make any regulations or order, where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.
- (10) Where the Lord Chancellor proposes to make regulations under this Act, other than under section 24 above, it shall be his duty to consult the Lord Advocate with respect to the proposal.
- (11) A power under any of sections 177 to 179 above to make provision by regulations or Order in Council for modifications or adaptations of the Contributions and Benefits Act or this Act shall be exercisable in relation to any enactment passed after this Act which is directed to be construed as one with them, except in so far as any such enactment relates to a benefit in relation to which the power is not exercisable; but this subsection applies only so far as a contrary intention is not expressed in the enactment so passed, and is without prejudice to the generality of any such direction.
- (12) Any reference in this section or section 190 below to an Order in Council, or an order or regulations, under this Act includes a reference to an Order in Council, an order or regulations made under any provision of an enactment passed after this Act and directed to be construed as one with this Act; but this subsection applies only so far as a contrary intention is not expressed in the enactment so passed, and without prejudice to the generality of any such direction.