
STATUTORY INSTRUMENTS

2023 No. 134

The Bereavement Benefits (Remedial) Order 2023

Amendment of the Social Security Contributions and Benefits Act 1992

5.—(1) The Social Security Contributions and Benefits Act 1992 is amended in accordance with the following provisions.

(2) In section 39A (widowed parent's allowance)—

- (a) for “spouse or civil partner” substitute “spouse, civil partner or cohabiting partner” in each place it appears;
- (b) in subsection (1)(b), after “formed a civil partnership” insert “or a cohabiting partnership”;
- (c) in subsection (2)(b)—

- (i) after “surviving spouse” insert “or cohabiting partner”;
- (ii) in sub-paragraph (i), after “late husband” insert “or the deceased cohabiting partner”;
and
- (iii) in sub-paragraph (ii), after “section 37(1)(c) above” insert “(which is to be read as if the references to her late husband included a reference to the deceased cohabiting partner)”;

(d) in subsection (2)(c), after “civil partner” insert “or cohabiting partner” in both places it appears;

(e) after subsection (3), insert—

“(3A) Only one person is entitled to a widowed parent's allowance in respect of one death.

(3B) Where, apart from subsection (3A), more than one person would be so entitled, entitlement is to be determined in accordance with subsections (3C) and (3D).

(3C) Where only one of those persons is a member of the same household as the deceased, that person is entitled.

(3D) Where there is more than one person who is a member of the same household as the deceased and would (apart from subsection (3A)) be entitled—

- (a) if one of those persons is the deceased's spouse or civil partner and is pregnant or entitled to child benefit as described in subsection (2), that person is entitled;
 - (b) if there is no spouse or civil partner entitled under paragraph (a), the deceased's cohabiting partner who is pregnant or entitled to child benefit as described in subsection (2) is entitled (but this is subject to paragraphs (c) and (d));
 - (c) if there is more than one cohabiting partner within paragraph (b), the cohabiting partner who has been a member of the same household as the deceased for longest is entitled;
 - (d) if there is more than one cohabiting partner within paragraph (b) and each partner has been a member of the same household as the deceased for the same length of time, the Secretary of State must determine who is entitled.”;
- (f) in subsection (4), after “forms a civil partnership” insert “or a cohabiting partnership”;

- (g) in subsection (4A), after “subsequent civil partnership” insert “or a cohabiting partnership”;
- (h) after subsection (4A), insert—
- “(4B) The surviving cohabiting partner shall not be entitled to the allowance for any period after she or he forms a subsequent cohabiting partnership or a civil partnership or marries, but, subject to that, the surviving cohabiting partner shall continue to be entitled to it for any period throughout which she or he—
- (a) satisfies the requirements of subsection (2)(a), (b) or (c) above; and
- (b) is under pensionable age.”;
- (i) in subsection (5)(a), for “spouse’s or civil partner’s” substitute “spouse’s, civil partner’s or cohabiting partner’s”; and
- (j) after subsection (5), insert—
- “(6) For the purposes of this section, the Secretary of State may by regulations prescribe—
- (a) circumstances in which the fact that two persons are married to each other, or are civil partners or cohabiting partners of each other, is to be disregarded;
- (b) circumstances in which two persons are to be treated as if they were married to each other or were civil partners or cohabiting partners of each other (or as marrying or forming a civil partnership or a cohabiting partnership);
- (c) circumstances in which people are to be treated as being, or as not being, members of the same household.
- (7) For the purposes of this section and section 39C(1), two persons are cohabiting partners if they are not married to, or civil partners of, each other but are living together as if they were married or in a civil partnership (and “cohabiting partnership” is to be read accordingly).
- (8) The Secretary of State must issue a statement of the Secretary of State’s policy with respect to making determinations under subsection (3D)(d).”.
- (3) In section 39C (rate of widowed parent’s allowance)—
- (a) in subsection (3), for “spouse or civil partner” in each place it appears substitute “spouse, civil partner or cohabiting partner”; and
- (b) in subsection (4), for “spouse or civil partner” substitute “spouse, civil partner or cohabiting partner”.
- (4) In section 46 (modifications of section 45 for calculating the additional pension in certain benefits)(2)—
- (a) in subsection (2)—

(1) Section 39C was inserted by section 55(2) of the Welfare Reform and Pensions Act 1999 and amended by section 39(1)(a) and (2)(a) of the Child Support, Pensions and Social Security Act 2000 (c. 19), paragraph 22 of Schedule 24 to the Civil Partnership Act 2004, section 6(6) of and paragraph 4 of Schedule 2 to the Pensions Act 2007 (c. 22), paragraph 4 of Schedule 4 to the Pensions Act 2008 (c. 30) and sections 23 and 31(5) of, and paragraph 93 of Schedule 12 and paragraph 14 of Schedule 16 to, the Pensions Act 2014.

(2) Section 46 was amended by section 11 of, and paragraph 12 of Schedule 1 and Schedule 2 to, the Social Security (Incapacity for Work) Act 1994 (c. 18), section 70 of and paragraph 5 of Schedule 8 to the Welfare Reform and Pensions Act 1999, section 32(1) of the Child Support, Pensions and Social Security Act 2000, section 126(b) and (c) of and paragraphs 5 and 21(5) of Schedule 4 to the Pensions Act 1995 (c. 26), section 254(1) of and paragraph 23 of Schedule 24 to the Civil Partnership Act 2004, section 11(5)(c) of and paragraph 6 of Schedule 2 to the Pensions Act 2007, section 104 of and paragraph 6 of Schedule 4 to the Pensions Act 2008 and section 23 of and paragraph 59 of Schedule 12 to the Pensions Act 2014.

- (i) after “the deceased civil partner died under pensionable age” insert “or by virtue of section 39C(1) above in a case where the deceased cohabiting partner died under pensionable age”;
 - (ii) in the definition of “N”, in paragraph (b)(i), for “spouse or civil partner” substitute “spouse, civil partner or cohabiting partner”; and
 - (b) in subsection (4), for “spouse or civil partner” substitute “spouse, civil partner or cohabiting partner”.
- (5) In Schedule 4A (additional pension: accrual rates for purposes of section 45(2)(c))(3)—
- (a) in paragraph 1(2), after “the deceased civil partner died under pensionable age,” insert “or by virtue of section 39C(1) above, in a case where the deceased cohabiting partner died under pensionable age,”; and
 - (b) in paragraph 1(4), for “spouse or civil partner” in both places it appears substitute “spouse, civil partner or cohabiting partner”.

(3) Schedule 4A was inserted by section 31(3) of and Schedule 4 to the Child Support, Pensions and Social Security Act 2000 and amended by section 254(1) of and paragraph 51 of Schedule 24 to the Civil Partnership Act 2004, sections 11(5)(c) and 27(2) of, and paragraph 11 of Schedule 2 and Schedule 7 to, the Pensions Act 2007 and section 23 of and paragraph 69 of Schedule 12 to the Pensions Act 2014.