



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.

Status: This is the original version (as it was originally enacted).

- (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.

Status: This is the original version (as it was originally enacted).

- (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.