



# Social Security Administration Act 1992

## 1992 CHAPTER 5

### PART XVI

#### GENERAL

##### *Subordinate legislation*

#### **189 Regulations and orders—general**

(1) Subject to <sup>F1</sup>... [<sup>F2</sup>any provision providing for an order or regulations to be made by the Treasury or the Inland Revenue and to] any <sup>F3</sup>... express provision of this Act, regulations and orders under this Act shall be made by the Secretary of State.

<sup>F4</sup>(2) .....

(3) Powers under this Act to make regulations or orders are exercisable by statutory instrument [<sup>F5</sup>(subject to section 24(6B))].

(4) Except in the case of regulations under section <sup>F6</sup>... <sup>F7</sup>... 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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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<sup>F8</sup>... 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.

[<sup>F9</sup>(5A) The provision referred to in subsection (5) includes, in a case where regulations under this Act require or authorise the use of electronic communications, provision referred to in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000.

(5B) For the purposes of subsection (5A), references in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000 to an order under section 8 of that Act are to be read as references to regulations under this Act; and references to anything authorised by such an order are to be read as references to anything required or authorised by such regulations.]

(6) Without prejudice to any specific provisions in this Act, a power conferred by any provision of this Act, except [<sup>F10</sup>sections 14, 24 and 130], 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.

[<sup>F11</sup>(7) Any power conferred by this Act to make orders or regulations relating to housing benefit or [<sup>F12</sup>council tax benefit] shall include power to make different provision for different areas [<sup>F13</sup>or different authorities].]

[<sup>F14</sup>[<sup>F11</sup>(7A) Without prejudice to the generality of any of the preceding provisions of this section, regulations under any of sections 2A to [<sup>F15</sup>2F] and 7A above may provide for all or any of the provisions of the regulations to apply in relation to any area or areas specified in the regulations].]

(8) An order under section [<sup>F16</sup>[<sup>F17</sup>140B, 140C]] 150, [<sup>F18</sup>150A,] 152, [<sup>F19</sup>165(4)(a)] or 169 above<sup>F20</sup>... shall not be made [<sup>F21</sup>by the Secretary of State] without the consent of the Treasury.

(9) Any powers of the Secretary of State under any provision of this Act, except under [<sup>F22</sup>sections 80 and 154], 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.

<sup>F23</sup>(10) .....

(11) A power under [<sup>F24</sup>section 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.

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- (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.

### Textual Amendments

- F1** Words in s. 189(1) repealed (6.9.1999 for specified purposes; 5.10.1999 for specified purposes; 18.10.1999 for specified purposes; 29.11.1999 for specified purposes) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 109\(a\)](#), [Sch. 8](#); S.I. 1999/2739, art. 2(c), [Sch. 1](#); S.I. 1999/2739, art. 2, [Sch. 1](#); S.I. 1999/2860, art. 2(c), [Sch. 1](#); S.I. 1999/3178, art. 2(1), [Sch. 1](#)
- F2** Words in s. 189(1) inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), [Sch. 3 para. 57\(2\)](#); S.I. 1999/527, art. 2(b), [Sch. 2](#)
- F3** Word in s. 189(1) repealed (26.2.2003 for specified purposes, 6.4.2003 in so far as not already in force) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 6](#); S.I. 2003/392, art. 2; S.I. 2003/962, art. 2(3)(e), [Sch. 1](#)
- F4** S. 189(2) repealed (6.9.1999 for specified purposes; 5.10.1999 for specified purposes; 18.10.1999 for specified purposes; 29.11.1999 for specified purposes) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 109\(b\)](#), [Sch. 8](#); S.I. 1999/2739, art. 2(c), [Sch. 1](#); S.I. 1999/2739, art. 2, [Sch. 1](#); S.I. 1999/2860, art. 2(c), [Sch. 1](#); S.I. 1999/3178, art. 2(1), [Sch. 1](#)
- F5** Words in s. 189(3) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 18 para. 45\(3\)](#) (with arts. 28-31)
- F6** Words in s. 189(4) repealed (6.9.1999 for specified purposes; 5.10.1999 for specified purposes; 18.10.1999 for specified purposes; 29.11.1999 for specified purposes) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 109\(c\)](#), [Sch. 8](#); S.I. 1999/2739, art. 2(c), [Sch. 1](#); S.I. 1999/2739, art. 2, [Sch. 1](#); S.I. 1999/2860, art. 2(c), [Sch. 1](#); S.I. 1999/3178, art. 2(1), [Sch. 1](#)
- F7** Words in s. 189(4) repealed (7.2.2013) by [The Public Bodies \(Abolition of the Disability Living Allowance Advisory Board\) Order 2013 \(S.I. 2013/252\)](#), art. 1(2), [Sch. Pt. 1](#)
- F8** Words in s. 189(5) repealed (6.9.1999 for specified purposes; 5.10.1999 for specified purposes; 18.10.1999 for specified purposes; 29.11.1999 for specified purposes) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 109\(d\)](#), [Sch. 8](#); S.I. 1999/2739, art. 2(c), [Sch. 1](#); S.I. 1999/2739, art. 2, [Sch. 1](#); S.I. 1999/2860, art. 2(c), [Sch. 1](#); S.I. 1999/3178, art. 2(1), [Sch. 1](#)
- F9** S. 189(5A)(5B) inserted (25.2.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 104\(1\)](#), 150(3); S.I. 2013/358, art. 2(2), [Sch. 2 para. 38](#)
- F10** Words in s. 189(6) substituted (7.2.2013) by [The Public Bodies \(Abolition of the Disability Living Allowance Advisory Board\) Order 2013 \(S.I. 2013/252\)](#), art. 1(2), [Sch. Pt. 1](#)
- F11** S. 189(7)(7A) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), [Sch. 4](#) (with arts. 9, 10, [Sch. 5](#))
- F12** Words in s. 189(7) substituted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 118(4), [Sch. 9 para. 24](#)
- F13** Words in s. 189(7) substituted (1.7.97) by [Social Security Administration \(Fraud\) Act 1997 \(c. 47\)](#), s. 25(1), [Sch. 1 para. 10](#); S.I. 1997/1577, art. 2, [Sch.](#)
- F14** S. 189(7A) inserted (11.11.1999) by the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(4)(e), [Sch. 12 para. 83](#)
- F15** Word in s. 189(7A) substituted (12.11.2009) by [Welfare Reform Act 2009 \(c. 24\)](#), [ss. 2\(4\)](#), 61(1)
- F16** Words in s. 189(8) substituted (1.4.1997) by [Housing Act 1996 \(c. 52\)](#), s. 232(3), [Sch. 13](#), para. 3(5); S.I. 1997/618, art. 2(1) (with [Sch.](#))
- F17** Words in s. 189(8) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), [Sch. 4](#) (with arts. 9, 10, [Sch. 5](#))

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- F18** Word in s. 189(8) inserted (with effect in accordance with s. 5(3)-(7) of the amending Act) by Pensions Act 2007 (c. 22), s. 30(1)(a)(3), **Sch. 1 para. 29**
- F19** Words in s. 189(8) substituted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 3 para. 57(3)**; S.I. 1999/527, art. 2(b), Sch. 2
- F20** Words in s. 189(8) omitted (6.10.1997) by virtue of Social Security (Recovery of Benefits) Act 1997 (c. 27), s. 34(2), **Sch. 3 para. 10, Sch. 4**; S.I. 1997/2085, art. 2(2)
- F21** Words in s. 189(8) inserted (26.2.2003 for specified purposes, 1.4.2003 for specified purposes, 7.4.2003 in so far as not already in force) by Tax Credits Act 2002 (c. 21), s. 61, **Sch. 4 para. 3**; S.I. 2003/392, art. 2
- F22** Words in s. 189(9) substituted (7.2.2013) by The Public Bodies (Abolition of the Disability Living Allowance Advisory Board) Order 2013 (S.I. 2013/252), art. 1(2), **Sch. Pt. 1**
- F23** S. 189(10) repealed (6.9.1999 for specified purposes; 5.10.1999 for specified purposes; 18.10.1999 for specified purposes; 29.11.1999 for specified purposes) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 109(f), **Sch. 8**; S.I. 1999/2739, art. 2(c), Sch. 1; S.I. 1999/2739, art. 2, Sch. 1; S.I. 1999/2860, art. 2(c), Sch. 1; S.I. 1999/3178, art. 2(1), Sch. 1
- F24** Words in s. 189(11) substituted (2.12.1999) by Northern Ireland Act 1998 (c. 47), s. 101(3), **Sch. 13 para. 11**; S.I. 1999/3209, art. 2, Sch.

#### Modifications etc. (not altering text)

- C1** S. 189 modified (19.5.1999) by The Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I. 1999/678), arts. 1, 2(1), **Sch.**; (30.6.1999) by The Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I. 1999/1748), arts. 1, 3, Sch. 1 para. 13; (1.7.1999) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750), arts. 1(1), 2, Sch.
- C2** S. 189(3) excluded (5.9.2016) by Scotland Act 2016 (c. 11), **ss. 30(7)(a), 72(4)(b)**; S.I. 2016/759, reg. 3(g)
- C3** S. 189(3) excluded (5.9.2016) by Scotland Act 2016 (c. 11), **ss. 29(8)(a), 72(4)(b)**; S.I. 2016/759, reg. 3(f)

## 190 Parliamentary control of orders and regulations

- (1) Subject to the provision of this section, a statutory instrument containing (whether alone or with other provisions)—
- [<sup>F25</sup>(zza) an order under section 115A(3B);]
- [<sup>F26</sup>(zzb) regulations under section 115C(2) or 115D(1) or (2);]
- [<sup>F27</sup>(za) regulations under section 132A(4);]
- (a) an order under section 141, 143<sup>F28</sup> ..., 145, <sup>F29</sup> ..., 150, [<sup>F30</sup>150A,][<sup>F31</sup>151A,] 152, or 162(7) above;
- [<sup>F32</sup>(aza) any order containing provision adding any person to the list of persons falling within section 109B(2A) above;]
- [<sup>F33</sup>(aa) the first regulations to be made under section 2A;]or
- [<sup>F34</sup>(ab) the first regulations to be made under section 2AA;]
- (b) regulations under section <sup>F35</sup> ... [<sup>F36</sup>122B(1)(b) or] 154 above,
- shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House of Parliament.
- (2) Subsection (1) above does not apply to a statutory instrument by reason only that it contains regulations under section 154 above which are to be made for the purpose of consolidating regulations to be revoked in the instrument.
- (3) A statutory instrument—

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- (a) which contains (whether alone or with other provisions) orders or regulations made under this Act by the Secretary of State [<sup>F37</sup>, the Treasury or the Inland Revenue]; and
- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.

<sup>F38</sup>(4) .....

#### Textual Amendments

- F25** S. 190(1)(zza) inserted (8.5.2012) by Welfare Reform Act 2012 (c. 5), **ss. 114(2)**, 150(3); S.I. 2012/863, art. 2(3)(b)
- F26** S. 190(1)(zzb) inserted (10.5.2012) by Welfare Reform Act 2012 (c. 5), **ss. 116(2)**, 150(3); S.I. 2012/1246, art. 2(1)(b)
- F27** S. 190(1)(za) inserted (30.3.2006) by National Insurance Contributions Act 2006 (c. 10), **ss. 7(3)**, 9
- F28** Words in s. 190(1)(a) repealed (6.4.2000) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 89(3)(c), **Sch. 13 Pt. VI**; S.I. 1999/3420, art. 4(e)
- F29** Words in s. 190(1)(a) repealed (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 110(1)(b)**, **Sch. 8**; S.I. 1999/418, art. 2
- F30** Word in s. 190(1)(a) inserted (with effect in accordance with s. 5(3)-(7) of the amending Act) by Pensions Act 2007 (c. 22), s. 30(1)(a)(3), **Sch. 1 para. 30**
- F31** Word in s. 190(1)(a) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 27**
- F32** S. 190(1)(aza) inserted (26.2.2002) by Social Security Fraud Act 2001 (c. 11), **ss. 1(9)**, 20(1); S.I. 2002/403, art. 2(b)
- F33** S. 190(1)(aa) inserted (11.11.1999) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(4)(e), **Sch. 12 para. 83**
- F34** S. 190(1)(ab) inserted (5.7.2003) by Employment Act 2002 (c. 22), s. 55(2), **Sch. 7 para. 15**; S.I. 2003/1666, art. 2(b)
- F35** Words in s. 190(1)(b) omitted (6.10.1997) by virtue of Social Security (Recovery of Benefits) Act 1997 (c. 27), s. 34(2), **Sch. 3 para. 11**, **Sch. 4**; S.I. 1997/2085, art. 2(2)
- F36** Words in s. 190(1)(b) inserted (1.7.1997) by Social Security Administration (Fraud) Act 1997 (c. 47), s. 25(1), **Sch. 1 para. 11**; S.I. 1997/1577, art. 2, **Sch.**
- F37** Words in s. 190(3)(a) inserted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 3 para. 58**; S.I. 1999/527, art. 2(b), **Sch. 2**
- F38** S. 190(4) repealed (29.11.1999 for specified purposes) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 110(2)**, **Sch. 8**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1**

#### Modifications etc. (not altering text)

- C4** S. 190(1) excluded (25.3.2020) by Coronavirus Act 2020 (c. 7), **ss. 72(1)(5)**, 87(1)
- C5** S. 190(1) excluded (25.3.2020) by Coronavirus Act 2020 (c. 7), **ss. 73(1)(4)**, 87(1)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))
- Act modified by [S.I. 2019/1302 art. 2](#) (This amendment not applied to legislation.gov.uk S.I. 2019/1302 revoked (17.12.2020) by The Social Security (Iceland, Liechtenstein and Norway) (Citizens' Rights Agreement) (Revocation) Order 2020 (S.I. 2020/1569), arts. 1(2), 2)
- Act modified by [S.I. 2019/1303 art. 2](#) (This amendment not applied to legislation.gov.uk. S.I. 2019/1303 revoked (17.12.2020) by The Social Security (Switzerland) (Citizens' Rights Agreement) (Revocation) Order 2020 (S.I. 2020/1570), arts. 1(2), 2)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 2G(1)(d) inserted by [2012 c. 5 s. 59\(5\)](#)
- s. 5(1A)-(1C) inserted by [2009 c. 24 s. 22\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 22 repealed (1.4.2013) by 2012 c. 5, s. 101(2); S.I. 2013/358, art. 4(2))
- s. 78A inserted by [2009 c. 24 s. 16\(2\)](#) (This amendment not applied to legislation.gov.uk. Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- s. 121B(1)(aa) inserted by [2007 asp 3 Sch. 5 para. 19\(a\)](#) (S. 121B repealed by Finance Act 2008 (c. 9), Sch. 43 para. 14)
- s. 121B(4) words inserted by [2007 asp 3 Sch. 5 para. 19\(b\)](#) (S. 121B repealed by Finance Act 2008 (c. 9), Sch. 43 para. 14)
- s. 122F(5) inserted by [2012 c. 5 Sch. 4 para. 12\(4\)](#)
- s. 122G inserted by [2009 c. 24 s. 18](#) (This amendment not applied to legislation.gov.uk. Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- s. 122H inserted by [2009 c. 24 s. 20\(3\)](#) (This amendment not applied to legislation.gov.uk. Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- s. 134(2)-(2B) substituted for s. 134(2) by [2007 c. 5 s. 37](#)
- s. 148AB inserted by [2008 c. 30 Sch. 4 para. 14](#) (This amendment not applied to legislation.gov.uk. Sch. 4 paras. 13-22 repealed (1.10.2014) without ever being in force by 2014 c. 19, Sch. 12 para. 96(c); S.I. 2014/2377, art. 2(1)(a)(ii)(3)(c))
- s. 148AB(1)(2) words substituted by [2011 c. 19 Sch. 3 para. 8\(2\)](#)
- s. 148AB(9) inserted by [2011 c. 19 Sch. 3 para. 8\(3\)](#)
- s. 151(10)(b)(i)(ii) repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 160C inserted by [2012 c. 5 Sch. 2 para. 24](#)
- s. 165(1)(b)(viii) and word inserted by [2023 c. 20 Sch. para. 19\(2\)\(b\)](#)
- s. 190(1)(ac) inserted by [2009 c. 24 s. 21](#) (This amendment not applied to legislation.gov.uk. Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- Sch. 4 Pt. 3 para. 5 word substituted by [S.I. 2010/978 art. 2](#)