

1997-16 Social Security (Open Long-Term Benefits Scheme)

Subsidiary Legislation made under ss.24, 34 and 35.

Social Security (Open Long-Term Benefits) (Claims and Payments) Regulations 1997

LN.1997/118

		<i>Commencement</i>	1.4.1997
Amending enactments	Relevant current provisions		Commencement date
LN. 2009/020	r. 9(1), (1A)		1.4.2008
Act. 2011-29	rr. 2, 4(2), 6(1), 7(1), Sch.		1.7.2009
2014-10	rr. 4(3), (c), 6(1)-(2), 7(1), 8, Sch.		28.3.2014

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SCHEDULE 1

Benefits under the Social Security (Employment Injuries Insurance) Act and the Social Security (Open Long-Term Benefits Scheme) Act 1997 for which claims may be treated as interchangeable.

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In exercise of the powers conferred on him by sections 24, 34 and 35 of the Social Security (Open Long-Term Benefits Scheme) Act 1997 and of all other enabling powers, the Minister for Social Affairs has made the following regulations -

Title and commencement.

1. These regulations may be cited as the Social Security (Open Long-Term Benefits) (Claims and Payments) Regulations 1997 and shall be deemed to have come into effect on the 1st day of April, 1997.

Interpretation.

2. In these regulations, unless the context otherwise requires -

“pension” means old age pension, survivor’s benefit or guardian’s allowance, as the case may require;

“pension order” means an order for the payment of a sum by way of a pension.

Manner of claiming benefit.

3.(1) Every claim to benefit shall be made in writing to the Director on the form approved by him for the purpose of the benefit for which the claim is made or in such other manner being in writing as he may accept as sufficient in the circumstances of any particular case or class of cases.

(2) Claim forms shall be supplied without charge by such persons as the Director may appoint or authorise for that purpose.

Information to be given when making a claim.

4.(1) Every person who makes a claim to benefit shall furnish to the Director such certificates, documents, information and evidence for the purpose of determining the claim as may reasonably be required by him.

(2) Every person who makes a claim to widowed parent’s allowance or guardian’s allowance or to an increase of benefit in respect of a child shall furnish such certificate relating to the birth of the child and such other information to show that the child is or may be treated as included in the family of that person as the Director may require.

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(3) Every person who makes a claim to an increase of benefit in respect of a spouse or civil partner shall furnish, if required, the following information concerning such spouse or civil partner –

- (a) his identity, usual place of residence, occupation and relationship to the claimant;
- (b) his position in regard to benefit under the Act and under the Social Security (Employment Injuries Insurance) Act, available sources of income and the amounts contributed by any person towards his maintenance; and
- (c) certificate of marriage or civil partnership schedule and birth certificate.

Amendment of claim forms.

5. Any person who has made a claim to benefit in accordance with regulations 3 and 4 above may amend it at any time before a decision has been given on the claim, by notice in writing delivered or sent to the Director and any claim so amended shall be treated as if it had been made as so amended in the first instance.

Interchange with claims for other benefits.

6.(1) Where it appears that a woman who has made a claim to old age pension by virtue of her husband's or civil partner insurance may be entitled to survivor's benefit, the claim may be treated as if it were a claim to that benefit.

(2) Where it appears that a person who has made a claim to guardian's allowance in respect of any child is not entitled to that allowance, but that the claimant, or the wife, husband or civil partner the claimant, may be entitled to an increase of benefit for that child, the claim may be treated as if it were a claim by the claimant or the wife, husband or civil partner the claimant to an increase of benefit for that child.

(3) Where it appears that a person who has made a claim to–

- (a) a benefit under the Social Security (Employment Injuries Insurance) Act specified in the first column of the Schedule may be entitled to the benefit under the Act specified opposite thereto in the second column of the Schedule; or
- (b) a benefit under the Act specified in the second column may be entitled to the benefit under the Social Security (Employment Injuries Insurance) Act specified opposite thereto in the first column,

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any such claim may be treated as a claim in the alternative to that other benefit.

Time for claiming.

7.(1) The time for claiming benefit (not being an old age pension for a widow, widower or surviving civil partner by virtue of the insurance of a spouse or civil partner in respect of whose death the beneficiary was immediately before attaining pensionable age entitled to survivor's benefit) is six months from the date on which, apart from satisfying the condition of making a claim, the claimant becomes entitled to the benefit.

(2) If a person fails to make a claim within that time he shall be disqualified for receiving benefit for any period more than six months before the date on which the claim is made.

(3) A claim to old age pension may be made at any time not more than four months before the date on which the claimant will, subject to the fulfilment of the necessary conditions, become entitled to such a pension.

Increases of benefit to be treated as separate benefits.

8. Every increase of benefit in respect of a child or a husband, wife or civil partner shall be treated as a separate benefit.

Payment of pensions.

9.(1) Subject to the provisions of these regulations, all pensions shall be paid monthly in advance by means of pension orders payable in each case to the beneficiary at such place as the Director may from time to time, after enquiry of the beneficiary, specify.

(1A) Where the date as from which a pension commences is not the first day of the month, the amount of pension payable for that month shall be the sum of:

The monthly entitlement multiplied by the total number of days from the first day of entitlement to the end of that month and divided by the total number of days in that particular month.

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- (2) In every case in which there is an award of a pension the Director shall—
- (a) cause arrangements to be made whereby, on furnishing such evidence as to identify and other particulars as the Director may require, the beneficiary may obtain a book of pension orders; and
 - (b) notify the beneficiary of those arrangements so far as they affect the beneficiary.
- (3) The Director shall arrange for the issue, to every beneficiary entitled to a pension, of a fresh book of orders on the expiration of the previous book.
- (4) All pension orders shall be payable on a Monday or any other day which the Director may approve in any particular case.
- (5) A book of pension orders issued to any person shall remain the property of the Government.
- (6) Any person having a book of pension orders or any unpaid pension order shall, on the termination of the benefit to which such book or order relates or when required by the Director, send or deliver such book or order to the Department of Social Affairs.
- (7) Notwithstanding anything contained in the foregoing provisions of this regulation, the Director may in any particular case or class of cases arrange for the payment of any pension otherwise than monthly in advance or otherwise than by means of pension orders payable to the beneficiary.

Information to be given when obtaining payment.

10.(1) Every beneficiary and every person by whom or on whose behalf sums payable by way of benefit are receivable shall furnish in such manner and at such times as the Director may determine such certificates and other documents and such information of facts affecting the right to benefit or to the receipt of benefit as the Director may require as a condition on which any such sum shall be receivable.

(2) Where a sum is receivable on account of an increase of benefit for an adult dependant the beneficiary shall, in such case or class of cases as the Director may direct, furnish a declaration signed by such dependant confirming the particulars respecting him furnished by the claimant.

Suspension of payment.

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11. Where it appears to the Director that a question has arisen whether—

- (a) the conditions for receipt of benefit under an award are or were fulfilled; or
- (b) an award of benefit ought to be revised in accordance with section 33 of the Act,

he may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined.

Deduction of benefit required to be repaid.

12. Where any benefit is required to be repaid in accordance with the provisions of the Act or of any regulations made thereunder, such benefit may without prejudice to any other method of recovery be deducted—

- (a) from any benefit then or thereafter payable to the person by whom it is to be repaid; or
- (b) in the case of death, from any benefit due to the deceased,

and such deduction may be at such rate as the Director may determine.

Extinction of right to payment of benefit.

13. The right to any sum payable by way of benefit shall be extinguished if payment of the sum is not obtained within the period of twelve months following the date on which the payment becomes due.

Persons unable to act.

14.(1) In the case of any person to whom benefit is payable or who is alleged to be entitled to benefit or by whom or on whose behalf a claim to benefit has been made and who, by reason of any mental or other incapacity is unable for the time being to act, and where in the case of such person no committee or receiver of his estate has been appointed by the Supreme Court, the Director may upon written application being made to him, appoint a person to exercise on behalf of such person any right to which such person may be entitled under the Act and to receive and deal with any sums payable on behalf of such person.

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(2) For the purposes of paragraph (1) above—

- (a) any appointment by the Director under this regulation shall terminate on the day the Director is notified that a committee or receiver has been appointed;
- (b) a person who has not attained the age of eighteen years shall not be capable of being appointed to act under this regulation;
- (c) the Director may at any time revoke any appointment made under this regulation; and
- (d) any person appointed under this regulation may, on giving the Director one month's notice in writing of his intention to do so, resign his appointment.

(3) Anything required by these regulations to be done by or to any person who is for the time being unable to act may be done by or to the committee or receiver, if any, or by or to the person appointed under this regulation to act on his behalf, and the receipt of any person appointed under this regulation shall be a good discharge to the Director and the Fund for any sum paid.

Payments on death.

15.(1) On the death of a person who has made a claim to benefit or who is alleged to have been entitled to benefit, the Director may appoint such person as he may think fit to proceed with or to make a claim for the benefit, and the provisions of these regulations shall apply subject to the necessary modifications to any such claim.

(2) Subject to the provisions of paragraph (5) below, any sum payable by way of benefit to which the deceased was entitled at the date of his death or which is payable under an award or on a claim made under paragraph (1) above may be paid or distributed by the Director to or amongst persons claiming as personal representatives, legatees, next of kin or creditors of the deceased and thereupon any such sum shall be receivable by such person or persons.

(3) The receipt of any person referred to in paragraph (2) above who has attained the age of eighteen years shall be a good discharge to the Director and the Fund for the sum paid.

(4) Where the Director is satisfied that any sum or part of such a sum referred to in paragraph (2) above is needed for the benefit of any person under the age of eighteen years, he may obtain a good discharge by paying the sum or part of it to a person over that age (who need not be a

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person specified in paragraph (2) above) who satisfies the Director that he will apply the sum so paid for the benefit of the person under the age of eighteen years.

(5) No sum payable by way of benefit to the deceased shall be paid or distributed by the Director to or amongst any other persons unless written application for the payment of such sum is made to the Director within six months from the date of the deceased's death or within such longer period as the Director may allow in any particular case.

(6) The Director may dispense with strict proof of the title of any person claiming in accordance with the provisions of this regulation.

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SCHEDULE

Regulation 6(3).

BENEFITS UNDER THE SOCIAL SECURITY (EMPLOYMENT INJURIES INSURANCE) ACT AND THE SOCIAL SECURITY (OPEN LONG-TERM BENEFITS SCHEME) ACT 1997, FOR WHICH CLAIMS MAY BE TREATED AS INTERCHANGEABLE

Benefit under the Social Security (Employment Injuries Insurance) Act	Benefit under the Social Security (Open Long-Term Benefits Scheme) Act 1997
Industrial death benefit for a widow or surviving civil partner in respect of her late husband or civil partner.	Survivor's benefit.
Industrial death benefit in respect of a child.	Guardian's allowance.