



Forfeiture Act 1982

1982 CHAPTER 34

4 Commissioner to decide whether rule applies to social security benefits.

- (1) Where a question arises as to whether, if a person were otherwise entitled to or eligible for any benefit or advantage under a relevant enactment, he would be precluded by virtue of the forfeiture rule from receiving the whole or part of the benefit or advantage, that question shall (notwithstanding anything in any relevant enactment) be determined by a Commissioner.
- [^{F1}(1A) Where a Commissioner determines that the forfeiture rule has precluded a person (in this section referred to as “the offender”) who has unlawfully killed another from receiving the whole or part of any such benefit or advantage, the Commissioner may make a decision under this subsection modifying the effect of that rule and may do so whether the unlawful killing occurred before or after the coming into force of this subsection.
- (1B) The Commissioner shall not make a decision under subsection (1A) above modifying the effect of the forfeiture rule in any case unless he is satisfied that, having regard to the conduct of the offender and of the deceased and to such other circumstances as appear to the Commissioner to be material, the justice of the case requires the effect of the rule to be so modified in that case.
- (1C) Subject to subsection (1D) below, a decision under subsection (1A) above may modify the effect of the forfeiture rule in either or both of the following ways—
- (a) so that it applies only in respect of a specified proportion of the benefit or advantage;
 - (b) so that it applies in respect of the benefit or advantage only for a specified period of time.
- (1D) Such a decision may not modify the effect of the forfeiture rule so as to allow any person to receive the whole or any part of a benefit or advantage in respect of any period before the commencement of this subsection.
- (1E) If the Commissioner thinks it expedient to do so, he may direct that his decision shall apply to any future claim for a benefit or advantage under a relevant enactment, on

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which a question such as is mentioned in subsection (1) above arises by reason of the same unlawful killing.

- (1F) It is immaterial for the purposes of subsection (1E) above whether the claim is in respect of the same or a different benefit or advantage.
- (1G) For the purpose of obtaining a decision whether the forfeiture rule should be modified the Secretary of State may refer to a Commissioner for review any determination of a question such as is mentioned in subsection (1) above that was made before the commencement of subsections (1A) to (1F) above (whether by a Commissioner or not) and shall do so if the offender requests him to refer such a determination.
- (1H) Subsections (1A) to (1F) above shall have effect on a reference under subsection (1G) above as if in subsection (1A) the words “it has been determined” were substituted for the words “a Commissioner determines”.]
- (2) Regulations under this section may make such provision as appears to [^{F2}the Lord Chancellor] to be necessary or expedient for carrying this section into effect; and (without prejudice to the generality of that) the regulations may, in relation to the question mentioned in subsection (1) above or any determination under that subsection [^{F3}or any decision under subsection (1A) above]—
- (a) apply any provision of any relevant enactment, with or without modifications, or exclude or contain provision corresponding to any such provision; and
 - (b) make provision for purposes corresponding to those for which provision may be made by regulations under [^{F4}section 16 of the Social Security Act 1998] (matters relating to adjudication).
- (3) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) [^{F5}Section 175(3) to (5) of the Social Security Contributions and Benefits Act 1992] (provision about extent of power to make regulations) shall apply to the power to make regulations conferred by this section as it applies to the power to make regulations conferred by that Act, but as if for references to that Act there were substituted references to this section.
- (5) In this section—
- “Commissioner” has the same meaning as in the [^{F6}Chapter II of Part I of the Social Security Act 1998]; and
- “relevant enactment” means any provision of the following and any instrument made by virtue of such a provision:
- the ^{M1}Personal Injuries (Emergency Provisions) Act 1939,
- [^{F7}the Pension Schemes Act 1993]
- the ^{M2}Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939,
- the ^{M3}Polish Resettlement Act 1947,
- ^{F8}. . . , [^{F9}the Social Security Acts 1975 to 1991],
- [^{F10}the Social Security Contributions and Benefits Act 1992,]
- and any other enactment relating to pensions or social security prescribed by regulations under this section.

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Subordinate Legislation Made

- P1** S. 4: power conferred by s. 4 exercised by [S.I. 1982/1732](#); 1984/451; 1987/214

Textual Amendments

- F1** S. 4(1A)–(1H) inserted by [Social Security Act 1986 \(c. 50, SIF 113:1\)](#), [s. 76\(1\)\(2\)](#)
- F2** Words substituted by [S.I. 1984/1818](#), [art. 3](#)
- F3** Words inserted by [Social Security Act 1986 \(c. 50, SIF 113:1\)](#), [s. 76\(1\)\(3\)](#)
- F4** Words in [s. 4\(2\)\(b\)](#) substituted (in force for specified purposes on 5.7.1999, 6.9.1999 and 29.11.1999 respectively and otherwise *prosp.*) by [1998 c. 14, s. 86\(1\)](#), [Sch. 7 para. 11\(1\)](#); [S.I. 1999/1958](#), [art. 2](#) (subject to transitional provisions in [Sch. 12](#)); [1999/2422](#), [art. 2](#) (subject to transitional provisions in [art. 4, Sch. 14](#)); [S.I. 1999/3178](#), [art. 2](#) (subject to transitional provisions in [art 4, Schs. 21-23](#))
- F5** Words in [s. 4\(4\)](#) substituted (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [ss. 4, 7\(2\)](#), [Sch. 2 para. 63\(2\)](#)
- F6** Words in [s. 4\(5\)](#) substituted (in force for specified purposes on 5.7.1999, 6.9.1999 and 29.11.1999 respectively and otherwise *prosp.*) by [1998 c. 14, s. 86\(1\)](#), [Sch. 7 para. 11\(2\)](#); [S.I. 1999/1958](#), [art. 2](#) (subject to transitional provisions in [Sch.12](#)); [1999/2422](#), [art. 2](#) (subject to transitional provisions in [art. 4 Sch. 14](#)); [S.I. 1999/3178](#), [art. 2](#) (subject to transitional provisions in [art 4, Schs. 21-23](#))
- F7** Words in the definition of "relevant enactment" in [s. 4\(5\)](#) inserted (7.2.1994) by [1993 c. 48, s. 190](#), [Sch. 8 para. 15](#); [S.I. 1994/86](#), [art. 2](#)
- F8** In [s. 4\(5\)](#), entry relating to the Child Benefit Act 1975 repealed (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [ss. 3, 7\(2\)](#), [Sch. 1](#) (subject as mentioned (6.3.1992) in [Local Government Finance Act 1992 \(c. 14\)](#), [s. 118](#))
- F9** Words substituted by virtue of [Statutory Sick Pay Act 1991 \(c. 3, SIF 113:1\)](#), [s. 3\(1\)](#)
- F10** Entry in the definition of "relevant enactment" in [s. 4\(5\)](#) added (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [ss. 4, 7\(2\)](#), [Sch. 2 para. 63\(3\)\(b\)](#)

Modifications etc. (not altering text)

- C1** S. 4: certain functions of the Secretary of State transferred to the Lord Chancellor by [S.I. 1984/1818](#), [art. 2\(c\)](#), [Sch.](#)

Marginal Citations

- M1** [1939 c. 82.](#)
- M2** [1939 c. 83.](#)
- M3** [1947 c. 19.](#)

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