

LAW CHANGES FOR BEREAVED PARENTS

Legal Information Briefing

February 2023

OVERVIEW

Bereavement Support is now available to cohabiting parents following the death of their partner following a recent change in the law. This makes it possible for cohabiting parents with dependent children to claim bereavement benefits following the death of their partner. Previously, a bereaved parent had to show that they were married or in a civil partnership with the deceased in order to be eligible for support.

The change follows two decisions of the Supreme Court ([*In the matter of an application by Siobhan McLaughlin for Judicial Review \(Northern Ireland\)* \[2018\] UKSC 48](#)) and the High Court in England and Wales ([*R\(Jackson and Simpson\) v. Secretary of State for Work and Pensions* \[2020\] EWHC 183 \(Admin\)](#)) which both held that the Government's policy of excluding unmarried parents from eligibility for bereavement benefits was contrary to human rights law. As a result, Parliament recently approved the Bereavement Benefits (Remedial) Order 2023 to address this Human Rights breach.

WHAT DOES THIS MEAN IN PRACTICE?

From **9th February 2023** the surviving cohabiting parent can now make a retrospective claim to either Widows Parent's Allowance or Bereavement Support Payment **provided they would have been eligible to either benefit on or after 30 August 2018**. In some cases, this could mean that there is entitlement to benefit for people who were bereaved as long ago as 2001.

It is important to note that there is a 12-month window from the 9 February 2023 to make a retrospective claim and receive the payments the claimant would be entitled to.

Commenting on the change, Law Centre NI's Head of Social Security, Owen McCloskey said:

"We are delighted that the legislation has finally been amended to make bereavement benefits more accessible to families in such difficult circumstances. We have been pursuing a case for our client to challenge the refusal of benefit at a time when it was needed most. We were [granted leave](#) to judicially review a decision to reject her claim for Bereavement Support Payment and we are now pleased that today she will be able to progress her claim for this much needed support".

WHAT SHOULD I DO NEXT?

Information on how to make a claim is outlined below.

If you need help, contact the local independent advice organisation in your area. Specialist social security legal advice can be obtained by calling Law Centre NI's Telephone Advice Line on 028 90 244401.

Claims can now be made by calling Bereavement Service on 0800 085 2463 or by downloading and posting an application form from [NI Direct](#).

To make the claim you will need to have the following information:

1. Your contact details, date of birth, National Insurance number;
2. Deceased partner's (date of birth, National Insurance number, employment, pensions;
3. Child/children's (name, date of birth, where they live, child benefit details;
4. Applicant's account details

You will also require evidence that the claimant and partner were living together as a married couple or in a civil partnership at the date of the partner's death. If this can be verified by the Departmental system, nothing further will be required. Otherwise, evidence will be required. This may include:

1. Death Certificate (full)
2. A (UK or NI) full or provisional photo-card driving licence (if not already presented as personal photographic identity)
3. Correspondence from HM Revenue and Customs (HMRC), for example
 - i. most recent tax notification
 - ii. tax assessment
 - iii. statement of account, or notice of coding
 - iv. P45 or P60 are not accepted
4. Mortgage statement from a recognised lender
5. NI Housing Executive tenancy agreement
6. Letter from employer (on headed notepaper or with the employer stamp)
7. Personal loan account statement
8. Vehicle registration documents

9. UK full old-style paper driving licence
10. Letter from an accountant or solicitor
11. Letter from an educational institution
12. Student loan documentation
13. Life assurance or insurance policies
14. Financial statement or utilities bill

Note that this is not an exhaustive list.

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