Staying cases – Bereavement Support Payment – Satisfaction of the contribution conditions – Supreme Court decision R (on the application of Jwanczuk) v Secretary of State for Work and Pensions

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Introduction

1. DMG Memo Vol 10/90 made decision makers aware of the decision of the Supreme Court[1] delivered on 20th November 2025. The purpose of this memo is to inform decision makers of further developments in that case and the impact that this has on decision making in look-alike claims and appeals.

1 R (on the application of Jwanczuk) v Secretary of State for Work and Pensions

Background

2. The respondent, Mr Jwanczuk, applied for Bereavement Support Payment following the death of his wife, Suzanne who had a progressive degenerative condition that meant she was severely disabled. During her working life, Mrs Jwanczuk was never in employment and never paid any relevant national insurance contributions.

3. Paragraphs 15 to 17 of DMG Memo Vol 10/90 advised decision maker to disapply the guidance in DMG Memo Vol 10/77 from 20th November 2025. From that date the exception to the contribution condition where the deceased was unable to work throughout their life due to disability should no longer be considered. From 20th November 2025 claims to Bereavement Support Payment from this cohort of claimants are subject to the conditions of entitlement as set out in the legislation[1] and that decision makers should determine such claims as they would have done prior to the guidance in DMG Memo Vol 10/77.

1 Pensions Act (NI) 15, sec 29(1)(d)

4. DMS have become aware that Mr Jwanczuk has applied for leave to challenge the Supreme Court's ruling to the European Court of Human Rights.

Impact on decision making

5. Where the circumstances in paragraphs 2 & 3 apply to a new claim for Bereavement Support Payment or where a claim has been decided in accordance with the guidance in DMG Memo Vol 10/90 and a mandatory reconsideration is requested decision makers should stay making the decision until such time as DMS issue further guidance[1].

1 SS (NI) Order 98, art 25(1), (2) & (5)

6. Where a claimant has been adversely affected by the circumstances set out in paragraphs 2 & 3 and has an appeal outstanding against that decision the

appeals officer should ask the Tribunal to consider staying the appeal pending the outcome of the European Court of Human Rights judgment[1].

1 SS (NI) Order 98, art 26(1), (2) & (4)

Annotations

Please annotate the number of this memo (DMG Memo Vol 10/91) against the following DMG paragraphs:

59012
DMG Memo Vol 10/90 (Heading)

Contacts

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