



# Social Security Contributions and Benefits (Northern Ireland) Act 1992

## 1992 CHAPTER 7

### PART VII **N.I.**

#### INCOME-RELATED BENEFITS

##### *Disability working allowance*

#### 128 **Disability working allowance.** **N.I.**

- (1) A person in Northern Ireland who has attained the age of 16 and [<sup>F1</sup>qualifies under subsection (2) [<sup>F2</sup>, (2A) or (2C)] below] is entitled to a [<sup>F3</sup>disabled person's tax credit] if, when the claim for it is made or is treated as made—
- (a) he is engaged and normally engaged in remunerative work;
  - (b) he has a physical or mental disability which puts him at a disadvantage in getting a job;
  - (c) his income—
    - (i) does not exceed the amount which is the applicable amount at such date as may be prescribed; or
    - (ii) exceeds it, but only by such an amount that there is an amount remaining if the deduction for which subsection (5)(b) below provides is made; and
  - (d) except in such circumstances as may be prescribed, neither he nor, if he has a family, any member of it, is entitled to [<sup>F4</sup>working families' tax credit].
- (2) Subject to subsection (4) below, a person qualifies under this subsection if—
- (a) for one or more of the [<sup>F5</sup>182 days] immediately preceding the date when the claim for a [<sup>F3</sup>disabled person's tax credit] is made or is treated as made there was payable to him one or more of the following—
    - [<sup>F6</sup>(i) the higher rate of short-term incapacity benefit or long-term incapacity benefit;]

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- <sup>F7</sup>(ii) .....
- (iii) income support [<sup>F8</sup>,an income-based jobseeker’s allowance] or housing benefit,  
or a corresponding benefit under any statutory provision having effect in Great Britain;
- (b) when the claim for a [<sup>F3</sup>disabled person’s tax credit] is made or is treated as made, there is payable to him one or more of the following—
  - (i) an attendance allowance;
  - (ii) a disability living allowance;
  - (iii) an increase of disablement pension under section 104 above;
  - (iv) an analogous pension increase under a war pension scheme or the industrial injuries regulations;
 or a corresponding benefit under any statutory provision having effect in Great Britain; or
- (c) when the claim for a [<sup>F3</sup>disabled person’s tax credit] is made or is treated as made, he has an invalid carriage or other vehicle provided under Article 30(1) of the <sup>M1</sup>Health and Personal Social Services (Northern Ireland) Order 1972 or provided by the Secretary of State under section 5(2)(a) of the <sup>M2</sup>National Health Service Act 1977 and Schedule 2 to that Act or under section 46 of the <sup>M3</sup>National Health Service (Scotland) Act 1978.

[<sup>F9</sup>(2A) A person qualifies under this subsection if—

- (a) on one or more of the 56 days immediately preceding the date when the claim for a [<sup>F3</sup>disabled person’s tax credit] is made or is treated as made he was engaged in training for work; and
- (b) a relevant benefit was payable to him for one or more of the 56 days immediately preceding—
  - (i) the first day of training for work falling within the 56 days mentioned in paragraph (a) above; or
  - (ii) an earlier day of training for work which formed part of the same period of training for work as that day.

(2B) For the purposes of subsection (2A) above—

- (a) the following are relevant benefits—
  - (i) the higher rate of short-term incapacity benefit;
  - (ii) long-term incapacity benefit;
  - <sup>F7</sup>(iii) .....
 or a corresponding benefit under any enactment having effect in Great Britain;
- (b) “training for work” means training for work in pursuance of arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or training of such other description as may be prescribed; and
- (c) a period of training for work means a series of consecutive days of training for work, there being disregarded for this purpose such days as may be prescribed.]

[<sup>F10</sup>(2C) A person qualifies under this subsection if—

- (a) the condition mentioned in subsection (2D) below is satisfied;
- (b) a medical practitioner (within the meaning of the Administration Act) certifies, not more than 14 days before the date when the claim for disabled person’s tax credit is made—

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- (i) that in his opinion the person will continue to have the disability in question for a period of at least six months; or
    - (ii) that in his opinion the person will continue to have that disability for the remainder of his life; and
  - (c) the level of the person's expected earnings is lower, by at least the required amount, than it would have been if he had not had the disability.
- (2D) The condition is that there are 140 qualifying days, the last falling within the period of 56 days immediately preceding the date when the claim for disabled person's tax credit is made, which are days in respect of which—
  - (a) statutory sick pay has been payable to the person;
  - (b) the lower rate of short-term incapacity benefit has been payable to him;
  - (c) income support has been payable to him on grounds of incapacity; or
  - (d) earnings have been credited to him under regulations made under section 22(5) above.
- (2E) For the purposes of subsections (2C) and (2D) above—
  - (a) the required amount, in relation to a person's expected earnings, is—
    - (i) 20 per cent of what those earnings would have been if he had not had the disability; or
    - (ii) if the amount given by sub-paragraph (i) above is less than the prescribed amount, the prescribed amount;
  - (b) qualifying days are days forming part of a single period of incapacity for work within the meaning of Part XI of this Act; and
  - (c) income support is payable to a person on grounds of incapacity if and only if he satisfies the condition in section [F11123(1)(e)] above by virtue of being a person who—
    - (i) is, or is treated as, incapable of work for any purposes of this Act; or
    - (ii) is treated as capable of work by virtue of regulations under section [F11167E] below.
- (2F) Sections 3 and 112 above shall apply as if this section were included in Parts I to V of this Act.]
- (3) For the purposes of subsection (1) above a person has a disability which puts him at a disadvantage in getting a job only if he satisfies prescribed conditions, or prescribed circumstances exist in relation to him.
- (4) If the only benefit mentioned in paragraph (a) of subsection (2) above which is payable to a person as there mentioned is—
  - (a) a benefit mentioned in sub-paragraph (iii) of that paragraph; or
  - (b) a corresponding benefit under any statutory provision having effect in Great Britain,he only qualifies under that subsection in prescribed circumstances.
- (5) Where a person is entitled to a [F3disabled person's tax credit], then—
  - (a) if his income does not exceed the amount which is the applicable amount at the date prescribed under subsection (1)(c)(i) above, the amount of the [F3disabled person's tax credit] shall be the amount which is the appropriate maximum [F3disabled person's tax credit] in his case; and
  - (b) if his income exceeds that amount, the amount of the [F3disabled person's tax credit] shall be what remains after the deduction from the appropriate

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maximum [<sup>F3</sup>disabled person's tax credit] of a prescribed percentage of the excess of his income over that amount.

- (6) A [<sup>F3</sup>disabled person's tax credit] shall be payable for a period of 26 weeks or such other period as may be prescribed and, subject to regulations, an award of a [<sup>F3</sup>disabled person's tax credit] and the rate at which it is payable shall not be affected by any change of circumstances during that period or by any order under section 132 of the Administration Act.
- (7) Regulations may provide that an award of a [<sup>F3</sup>disabled person's tax credit] to a person shall terminate if—
- (a) a [<sup>F3</sup>disabled person's tax credit] becomes payable in respect of some other person who was a member of his family at the date of his claim for a [<sup>F3</sup>disabled person's tax credit]; or
  - (b) income support [<sup>F8</sup>, an income-based jobseeker's allowance] or [<sup>F4</sup>working families' tax credit] becomes payable in respect of a person who was a member of the family at that date.
- <sup>F12</sup>(8) Regulations shall prescribe the manner in which the appropriate maximum [<sup>F3</sup>disabled person's tax credit] is to be determined in any case.
- (9) The provisions of this Act relating to [<sup>F3</sup>disabled person's tax credit] apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

#### Textual Amendments

- F1** Words in s. 128(1) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. I para. 12(2)**; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F2** Words in s. 128(1) substituted (1.10.2000) by 1999 c. 10, **ss. 14(1)(2)(6)(9)**, 20(2)(c)
- F3** Words in s. 128(1)(2)(2A)(a)(5)-(9) substituted (5.10.1999) by 1999 c. 10, **ss. 1(2)**, 20(2), **Sch. 1 paras. 1(b)**, **4(h)**
- F4** Words in s. 128(1)(d)(7)(b) substituted (5.10.1999) by 1999 c. 10, **ss. 1(2)**, 20(2), **Sch. 1 paras. 1(a)**, **4(h)**
- F5** Words in s. 128(2)(a) substituted (5.10.1999) by 1999 c. 10, **ss. 14(3)**, 20(2)
- F6** S. 128(2)(a)(i) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. I para. 32**; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F7** S. 128(2)(a)(ii) and (2B)(a)(iii) repealed (3.11.2000 for specified purposes and 6.4.2001 otherwise) by S.I. 1999/3147 (N.I. 11), art. 76, **Sch. 10 Pt. IV**; S.R. 2000/332, **art. 2(3)(g)(4)(5)**
- F8** Words in s. 128(2)(a)(iii)(7)(b) inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 17**; S.R. 1996/401, **art. 2**
- F9** S. 128(2A)(2B) inserted (21.11.1994 for the purpose of making regulations and 13.4.1995 otherwise) by S.I. 1994/1898 (N.I. 12), **art. 12(3)**; S.R. 1994/450, art. 2(b)(d), **Sch. Pts. II, IV**
- F10** S. 128(2C)-(2F) inserted (1.10.2000) by 1999 c. 10, **ss. 14(1)(4)(6)(9)**, 20(2)(c)
- F11** Words in s. 128(2E) substituted (1.10.2000) by 1999 c. 10, **ss. 14(1)(6)(9)**, 20(2)(c)
- F12** S. 128(8): by 1999 c. 10, **ss. 14(1)(5)(6)(9)**, 20(2)(c) it is provided (1.10.2000) that, after "allowance", there shall be substituted ", or the level of a person's expected earnings,"

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

- C1** S. 128: certain functions transferred (5.10.1999) by 1999 c. 10, **ss. 2(1)(a)**, 20(2), **Sch. 2 para. 3(d)**
- C2** S. 128(1)(b) modified (1.7.1992) by **Social Security Administration (Northern Ireland) Act 1992 (c. 8)**, **ss. 9(2)**, 168(4).

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- C3** S. 128(2) modified (1.7.1992) by Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), ss. 6, 7(2), **Sch. 4**, Pt. II para. 16
- C4** S. 128(2A) amended (13.4.1995) by S.R. 1992/78, **reg. 7A** (as inserted by S.R. 1995/67, **reg. 1(1)(b)(3)**, 3(2))
- C5** S. 128(2A) modified (13.4.1995) by S.R. 1995/67, **regs. 1(1)(b)(3)**, 6(2))
- C6** S. 128(2B) amended (13.4.1995) by S.R. 1992/78, **reg. 7B** (as inserted by S.R. 1995/67, **regs. 1(1)(b)(3)**, 3(2))
- C7** S. 128(8): power to modify conferred (5.10.1999) by 1999 c. 10, **ss. 15(1)**, 20(2)

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**Marginal Citations**

- M1** S.I. 1972/1265 (N.I. 14).
- M2** 1977 c. 49.
- M3** 1978 c. 29.

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