



# Social Security Administration (Northern Ireland) Act 1992

## 1992 CHAPTER 8

### PART X **N.I.**

#### COMPUTATION OF BENEFITS

#### 135 **Effect of alteration of rates of benefit under Parts II to V of Contributions and Benefits Act. **N.I.****

- (1) This section has effect where the rate of any benefit to which this section applies is altered—
- by a statutory provision made subsequent to this Act;
  - by an order under section 132 or 133 above; or
  - in consequence of any such statutory provision or order altering any maximum rate of benefit;

and in this section “the commencing date” means the date fixed for payment of benefit at an altered rate to commence.

- (2) This section applies to benefit under Part II, III, IV or V of the Contributions and Benefits Act.
- (3) Subject to such exceptions or conditions as may be prescribed, where—
- the weekly rate of a benefit to which this section applies is altered to a fixed amount higher or lower than the previous amount; and
  - before the commencing date an award of that benefit has been made (whether before or after the making of the relevant statutory provision),

except as respects any period falling before the commencing date, the benefit shall become payable at the altered rate without any claim being made for it in the case of an increase in the rate of benefit or any review of the award in the case of a decrease, and the award shall have effect accordingly.

- (4) Where—

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- (a) the weekly rate of a benefit to which this section applies is altered; and
- (b) before the commencing date (but after that date is fixed) an award is made of the benefit,

the award either may provide for the benefit to be paid as from the commencing date at the altered rate or may be expressed in terms of the rate appropriate at the date of the award.

- (5) Where in consequence of the making of a statutory provision altering the rate of disablement pension, regulations are made varying the scale of disablement gratuities, the regulations may provide that the scale as varied shall apply only in cases where the period taken into account by the assessment of the extent of the disablement in respect of which the gratuity is awarded begins or began after such day as may be prescribed.
- (6) Subject to such exceptions or conditions as may be prescribed, where—
- (a) for any purpose of any statutory provision the weekly rate at which a person contributes to the cost of providing for a child, or to the maintenance of an adult dependant, is to be calculated for a period beginning on or after the commencing date for an increase in the weekly rate of benefit; but
  - (b) account is to be taken of amounts referable to the period before the commencing date,

those amounts shall be treated as increased in proportion to the increase in the weekly rate of benefit.

- [<sup>F1</sup>(7) So long as sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966 (graduated retirement benefit) continue in force by virtue of regulations made under Schedule 3 to the Social Security (Consequential Provisions) Act 1975 or under Schedule 3 to the Consequential Provisions Act, regulations may make provision for applying the provisions of this section—
- (a) to the amount of graduated retirement benefit payable for each unit of graduated contributions,
  - (b) to increases of such benefit under any provisions made by virtue of Article 26(1)(a) of the Pensions Order or section 62(1)(a) of the Contributions and Benefits Act, and
  - (c) to any addition under section 36(1) of the National Insurance Act (Northern Ireland) 1966 (addition to weekly rate of retirement pension for widows and widowers) to the amount of such benefit.]

#### Textual Amendments

- F1** S. 135(7) inserted (19.12.1995) by [S.I. 1995/3213 \(N.I. 22\)](#), arts. 1(2), 165, [Sch. 4](#), para. 3; [S.R. 1995/477](#), art. 2, [Sch. Pt. I](#)

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

- C1** S. 135(3) restricted (12.4.1993) by [S.R. 1993/159](#), [reg. 2](#) (with exceptions as indicated in [S.R. 1994/75](#), [art. 2](#))  
 s. 135(3) restricted (10.4.1995) by [S.R. 1995/72](#), [art. 2](#)  
 s. 135 applied (29.1.1996) by [S.R. 1978/105](#), [reg. 1A](#) (as inserted by [S.R. 1995/483](#), [art. 2](#))  
 S. 135(3) restricted (12.4.1999) by [S.R. 1999/139](#), [art. 2](#)
- C2** S. 135(3) excluded (11.4.2005) by [The Guardians Allowance Up-rating Regulations 2005 \(S.I. 2005/719\)](#), [regs. 1\(1\), 2](#)

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## **[<sup>F2</sup>135A Power to anticipate pensions up-rating order. **N.I.****

- (1) This section applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—
  - (a) the amounts by which he proposes, by an order under section 150 of the Great Britain Administration Act, to increase—
    - (i) the weekly sums that are payable by way of retirement pension [<sup>F3</sup>or shared additional pension]; or
    - (ii) the amount of graduated retirement benefit payable for each unit of graduated contributions; and
  - (b) the date on which he proposes to bring the increases into force (“the commencing date”).
- (2) Where, before the commencing date and after the date on which the statement is made, an award is made of a retirement pension [<sup>F4</sup>a shared additional pension] or a graduated retirement benefit, the award either may provide for the pension or benefit to be paid as from the commencing date at the increased rate or may be expressed in terms of the rate appropriate at the date of the award.]

### **Textual Amendments**

- F2** S. 135A inserted (16.11.1998) by S.I. 1998/1506 (N.I. 10), **art. 72**; S.R. 1998/395, **art. 2(2)** (subject to **art. 3** (as amended (2.4.2001) by 2000 c. 4 (N.I.), **Sch. 9 Pt. I**; S.R. 2001/141, **art. 2(1)(a)**, **Sch. Pt. I**))
- F3** Words in s. 135A(1)(a)(i) inserted (1.12.2000) by S.I. 1999/3147 (N.I. 11), **art. 74**, **Sch. 9 para. 14(2)** (with **art. 75**); S.R. 2000/133, **art. 2(3)(d)**, **Sch. Pt. IV**
- F4** Words in s. 135A(2) inserted (1.12.2000) by S.I. 1999/3147 (N.I. 11), **art. 74**, **Sch. 9 para. 14(3)** (with **art. 75**); S.R. 2000/133, **art. 2(3)(d)**, **Sch. Pt. IV**

## **<sup>F5F5</sup>[136 Up-rating under section 132 of pensions increased under section 52(3) of Contributions and Benefits Act. **N.I.****

- (1) This section applies in any case where a person is entitled to a Category A retirement pension with an increase, under section 52(3) of the Contributions and Benefits Act, in the additional pension on account of the contributions of a spouse who has died.
- (2) Where in the case of any up-rating order under section 132 above—
  - (a) the spouse’s final relevant year is the tax year preceding the tax year in which the up-rating order comes into force, but
  - (b) the person’s final relevant year was an earlier tax year,then the up-rating order shall not have effect in relation to that part of the additional pension which is attributable to the spouse’s contributions.
- (3) Where in the case of any up-rating order under section 132 above—
  - (a) the person’s final relevant year is the tax year preceding the tax year in which the up-rating order comes into force, but
  - (b) the spouse’s final relevant year was an earlier tax year,then the up-rating order shall not have effect in relation to that part of the additional pension which is attributable to the person’s contributions.]

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### Textual Amendments

**F5** S. 136 substituted (16.12.1995 subject to Sch. 2 of the amending S.I.) by [S.I. 1995/3213 \(N.I. 22\)](#), [arts. 1\(3\), 127](#)

## 137 Effect of alteration of rates of child benefit. **N.I.**

- (1) Subsections (3) and (4) of section 135 above shall have effect where there is an increase in the rate or any of the rates of child benefit as they have effect in relation to the rate of benefit to which that section applies.
- (2) Where in connection with child benefit—
  - (a) any question arises in respect of a period after the date fixed for the commencement of payment of child benefit at an increased rate—
    - (i) as to the weekly rate at which a person is contributing to the cost of providing for a child; or
    - (ii) as to the expenditure that a person is incurring in respect of a child; and
  - (b) in determining that question account falls to be taken of contributions made or expenditure incurred for a period before that date, the contributions made or expenditure incurred before that date shall be treated as increased in proportion to the increase in the rate of benefit.

## 138 Treatment of excess benefit as paid on account of child benefit. **N.I.**

- (1) In any case where—
  - (a) any benefit as defined in section 121 of the Contributions and Benefits Act or any increase of such benefit (“the relevant benefit or increase”) has been paid to a person for a period in respect of a child; and
  - (b) subsequently child benefit for that period in respect of the child becomes payable at a rate which is such that, had the relevant benefit or increase been awarded after the child benefit became payable, the rate of the relevant benefit or increase would have been reduced,
 then, except in so far as regulations otherwise provide, the excess shall be treated as paid on account of child benefit for that period in respect of the child.
- (2) In subsection (1) above “the excess” means so much of the relevant benefit or increase as is equal to the difference between—
  - (a) the amount of it which was paid for the period referred to in that subsection; and
  - (b) the amount of it which would have been paid for that period if it had been paid at the reduced rate referred to in paragraph (b) of that subsection.

## 139 Effect of alteration in the component rates of income support. **N.I.**

- (1) Subject to such exceptions and conditions as may be prescribed, where—
  - (a) an award of income support is in force in favour of any person (“the recipient”); and
  - (b) there is an alteration in any of the relevant amounts, that is to say—

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- (i) any of the component rates of income support;
      - (ii) any of the other sums specified in regulations under Part VII of the Contributions and Benefits Act; or
      - (iii) the recipient's benefit income; and
    - (c) the alteration affects the computation of the amount of income support to which the recipient is entitled,
- then subsection (2) or (3) below (as the case may be) shall have effect.
- (2) Where, in consequence of the alteration in question, the recipient becomes entitled to an increased or reduced amount of income support (“the new amount”), then, as from the commencing date, the amount of income support payable to or for the recipient under the award shall be the new amount, without any further decision of [<sup>F6</sup>the Department], and the award shall have effect accordingly.
- (3) Where, notwithstanding the alteration in question, the recipient continues on and after the commencing date to be entitled to the same amount of income support as before, the award shall continue in force accordingly.
- (4) In any case where—
- (a) there is an alteration in any of the relevant amounts; and
  - (b) before the commencing date (but after that date is fixed) an award of income support is made in favour of a person,
- the award either may provide for income support to be paid as from the commencing date, in which case the amount shall be determined by reference to the relevant amounts which will be in force on that date, or may provide for an amount determined by reference to the amounts in force at the date of the award.
- (5) In this section—
- “alteration” means—
- (a) in relation to—
- (i) the component rates of income support; or
  - (ii) any other sums specified in regulations under Part VII of the Contributions and Benefits Act,
- their alteration by or under any statutory provision whether or not contained in that Part; and
- (b) in relation to a person's benefit income, the alteration of any of the applicable sums—
- (i) by any statutory provision; or
  - (ii) by an order under section 132 or 133 above,
- to the extent that any such alteration affects the amount of his benefit income;
- “applicable sums” means sums to which an order made under section 132 above corresponding to an order made under section 150 of the Great Britain Administration Act by virtue of subsection (1) of that section may apply;
- “benefit income”, in relation to any person, means so much of his income as consists of—
- (a) benefit under the Contributions and Benefits Act, other than income support; or
  - (b) a war disablement pension or war widow's pension;
- “the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in the case of the person in question;

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- “component rate”, in relation to income support, means the amount of—
- (a) the sum referred to in section 125(5)(b)(i) and (ii) of the Contributions and Benefits Act; or
  - (b) any of the sums specified in regulations under section 131(1) of that Act;
- “relevant amounts” has the meaning given by subsection (1)(b) above.

#### Textual Amendments

**F6** Words in s. 139(2) substituted (29.11.1999 for certain purposes, otherwise *prosp.*) by S.I. 1998/1506 (N.I. 10), arts. 1(2), 78(1), **Sch. 6 para. 73**; S.R. 1999/472, art. 2(1), **Sch. 1** (with arts. 20-22) (subject to art. 2(2) of the said S.R. 1999/472)

#### [<sup>F7</sup>139A Effect of alteration of rates of a jobseeker’s allowance. **N.I.**

- (1) This section applies where—
  - (a) an award of a jobseeker’s allowance is in force in favour of any person (“the recipient”); and
  - (b) an alteration—
    - (i) in any component of the allowance, or
    - (ii) in the recipient’s benefit income, affects the amount of the jobseeker’s allowance to which he is entitled.
- (2) Subsection (3) applies where, as a result of the alteration, the amount of the jobseeker’s allowance to which the recipient is entitled is increased or reduced.
- (3) As from the commencing date, the amount of the jobseeker’s allowance payable to or for the recipient under the award shall be the increased or reduced amount, without any further decision of [<sup>F8</sup>the Department], and the award shall have effect accordingly.
- (4) In any case where—
  - (a) here is an alteration of a kind mentioned in subsection (1)(b); and
  - (b) before the commencing date (but after that date is fixed) an award of a jobseeker’s allowance is made in favour of a person,

the award may provide for the jobseeker’s allowance to be paid as from the commencing date, in which case the amount of the jobseeker’s allowance shall be determined by reference to the components applicable on that date, or may provide for an amount determined by reference to the components applicable at the date of the award.
- (5) In this section—
 

“alteration” means—

  - (a) in relation to any component of a jobseeker’s allowance, its alteration by or under any enactment; and
  - (b) in relation to a person’s benefit income, the alteration of any of the applicable sums by any enactment or by an order under section 132 above, to the extent that any such alteration affects the amount of the recipient’s benefit income;

“applicable sums” has the same meaning as in section 139 above;

“benefit income”, in relation to a recipient, means so much of his income as consists of—

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- (a) benefit under the Contributions and Benefits Act; or
- (b) a war disablement pension or war widow's pension;

“the commencing date” in relation to an alteration, means the date on which the alteration comes into operation in relation to the recipient;

“component”, in relation to a jobseeker's allowance, means any of the sums specified in regulations under the Jobseekers (Northern Ireland) Order 1995 which are relevant in calculating the amount payable by way of a jobseeker's allowance.]

#### Textual Amendments

**F7** S. 139A inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), **art. 26**; S.R. 1996/401, **art. 2(b)**

**F8** Words in s. 139A(3) substituted (18.10.1999 for certain purposes, otherwise *prosp.*) by S.I. 1998/1506 (N.I. 10), **arts. 1, 78(1), Sch. 6 para. 74**; S.R. 1999/428, **art. 2(b), Sch. 1** (with arts. 4, 16)

### [<sup>F9</sup>139B Effect of alterations affecting state pension credit **N.I.**]

- (1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) below shall have effect where—
  - (a) an award of state pension credit is in force in favour of any person (“the recipient”); and
  - (b) an alteration—
    - (i) in any component of state pension credit,
    - (ii) in the recipient's benefit income,
    - (iii) in any component of a contribution-based jobseeker's allowance, or
    - (iv) in the recipient's war disablement pension or war widow's or widower's pension,affects the computation of the amount of state pension credit to which he is entitled.
- (2) Where, as a result of the alteration, the amount of state pension credit to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of state pension credit payable in the case of the recipient under the award shall be the increased or reduced amount, without any further decision of the Department, and the award shall have effect accordingly.
- (3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount of state pension credit as before, the award shall continue in force accordingly.
- (4) Subsection (5) below applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—
  - (a) in relation to any of the items referred to in subsection (1)(b)(i) to (iv) above, the amount of the alteration which he proposes to make by an order under section 150 or 152 of the Great Britain Administration Act or by or under any other enactment; and
  - (b) the date on which he proposes to bring the alteration into force (“the proposed commencing date”).
- (5) If, in a case where this subsection applies, an award of state pension credit is made in favour of a person before the proposed commencing date and after the date on which the statement is made, the award—

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- (a) may provide for state pension credit to be paid as from the proposed commencing date at a rate determined by reference to the amounts of the items specified in subsection (1)(b)(i) to (iv) above which will be in force on that date; or
- (b) may be expressed in terms of the amounts of those items in force at the date of the award.

(6) In this section—

“alteration” means—

- (a) in relation to any component of state pension credit, its alteration by or under any enactment;
- (b) in relation to a person’s benefit income, the alteration of any of the applicable sums by any enactment or by an order under section 132 or 133 above to the extent that any such alteration affects the amount of his benefit income;
- (c) in relation to any component of a contribution-based jobseeker’s allowance, its alteration by or under any enactment; and
- (d) in relation to a person’s war disablement pension or war widow’s or widower’s pension, its alteration by or under any enactment;

“benefit income”, in relation to a person, means so much of his income as consists of benefit under the Contributions and Benefits Act;

“the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;

“component”—

- (a) in relation to contribution-based jobseeker’s allowance, means any of the sums specified in regulations under the Jobseekers (Northern Ireland) Order 1995 which are relevant in calculating the amount payable by way of a jobseeker’s allowance;
- (b) in relation to state pension credit, means any of the sums specified in regulations under section 2, 3 or 12 of the State Pension Credit Act (Northern Ireland) 2002;

“war disablement pension” means—

- (a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under—
  - (i) the Air Force (Constitution) Act 1917;
  - (ii) the Personal Injuries (Emergency Provisions) Act 1939;
  - (iii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939;
  - (iv) the Polish Resettlement Act 1947; or
  - (v) Part VII or section 151 of the Reserve Forces Act 1980; or
- (b) without prejudice to paragraph (a), any retired pay or pension to which [F10 any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003] applies;

“war widow’s or widower’s pension” means—

- (a) any widow’s or widower’s pension or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment mentioned in paragraph (a) of the definition of “war disablement pension”; or



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- (b) a pension or allowance for a widow or widower granted under any scheme mentioned in [F11section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003] .]

#### Textual Amendments

- F9** S. 139B inserted (2.12.2002 for certain purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\)](#), ss. 14, 21(2), [Sch. 2 Pt. 2 para. 15](#); S.R. 2002/366, [art. 2\(I\)](#); S.R. 2003/373, art. 2
- F10** Words in s. 139B(6) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 6 para. 205\(2\)](#) (with [Sch. 7](#))
- F11** Words in s. 139B(6) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 6 para. 205\(3\)](#) (with [Sch. 7](#))

### 140 Implementation of increases in income support due to attainment of particular ages. **N.I.**

- (1) This section applies where—
- an award of income support is in force in favour of a person (“the recipient”); and
  - there is a component which becomes applicable, or applicable at a particular rate, in his case if he or some other person attains a particular age.
- (2) If, in a case where this section applies, the recipient or other person attains the particular age referred to in paragraph (b) of subsection (1) above and, in consequence,
- the component in question becomes applicable, or applicable at a particular rate, in the recipient’s case (whether or not some other component ceases, for the same reason, to be applicable, or applicable at a particular rate, in his case); and
  - after taking account of any such cessation, the recipient becomes entitled to an increased amount of income support,
- then, except as provided by subsection (3) below, as from the day on which he becomes so entitled, the amount of income support payable to or for him under the award shall be that increased amount, without any further decision of [F12the Department], and the award shall have effect accordingly.
- (3) Subsection (2) above does not apply in any case where, in consequence of the recipient or other person attaining the age in question, some question arises in relation to the recipient’s entitlement to any benefit under the Contributions and Benefits Act, other than—
- the question whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in his case; and
  - the question whether, in consequence, the amount of his income support falls to be varied.
- (4) In this section “component”, in relation to a person and his income support, means any of the sums specified in regulations under section 131(1) of the Contributions and Benefits Act.

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#### Textual Amendments

**F12** Words in s. 140(2) substituted (29.11.1999 for certain purposes, otherwise *prosp.*) by S.I. 1998/1506 (N.I. 10), arts. 1, 78(1), **Sch. 6 para. 75**; S.R. 1999/472, art. 2(1), **Sch. 1** (with arts. 20-22) (subject to art. 2(2) of the said S.R. 1999/472)

### <sup>F13</sup>**[140A Implementation of increases in income-based jobseeker's allowance due to attainment of particular ages. **N.I.****

- (1) This section applies where—
  - (a) an award of an income-based jobseeker's allowance is in force in favour of a person ("the recipient"); and
  - (b) a component has become applicable, or applicable at a particular rate, because he or some other person has reached a particular age ("the qualifying age").
- (2) If, as a result of the recipient or other person reaching the qualifying age, the recipient becomes entitled to an income-based jobseeker's allowance of an increased amount, the amount payable to or for him under the award shall, as from the day on which he becomes so entitled, be that increased amount, without any further decision of [<sup>F14</sup>the Department]] and the award shall have effect accordingly.
- (3) Subsection (2) above does not apply where, in consequence on the recipient or other person reaching the qualifying age, a question arises in relation to the recipient's entitlement to—
  - (a) a benefit under the Contributions and Benefits Act; or
  - (b) a jobseekers's allowance.
- (4) Subsection (3)(b) above does not apply to the question—
  - (a) whether the component concerned, or any other component, becomes or ceases to be applicable, or applicable at a particular rate, in the recipient's case; and
  - (b) whether, in consequence, the amount of his income-based jobseeker's allowance falls to be varied.
- (5) In this section "component", in relation to a recipient and his jobseeker's allowances, means any of the amounts determined in accordance with regulations made under Article 6(5) of the Jobseekers (Northern Ireland) Order 1995.

#### Textual Amendments

**F13** S. 140A inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), **art. 27**; S.R. 1996/401, **art. 2**

**F14** Words in s. 140A(2) substituted (18.10.1999 for certain purposes, otherwise *prosp.*) by S.I. 1998/1506 (N.I. 10), arts. 1(2), 78(1), **Sch. 6 para. 76**; S.R. 1999/428, art. 2(b), **Sch. 1** (with arts. 4, 16)

**Status:**

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**Changes to legislation:**

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