



# Social Security (Northern Ireland) Act 1975

## 1975 CHAPTER 15

### PART II

#### BENEFIT AND ITS ADMINISTRATION

### CHAPTER I

#### CONTRIBUTORY BENEFITS

##### *Preliminary*

## 12 Descriptions of contributory benefits

- (1) Contributory benefits under this Chapter are of the following descriptions, namely—
- (a) unemployment benefit (with earnings-related supplement, and increase for adult and child dependants);
  - (b) sickness benefit (with earnings-related supplement, and increase for adult and child dependants);
  - (c) invalidity benefit, comprising—
    - (i) invalidity pension (with increase for adult and child dependants),
    - (ii) invalidity allowance;
  - (d) maternity benefit, comprising—
    - (i) maternity grant,
    - (ii) maternity allowance (with earnings-related supplement, and increase for adult and child dependants);
  - (e) widow's benefit, comprising—
    - (i) widow's allowance (with earnings-related addition, and increase for child dependants),

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- (ii) widowed mother's allowance (with increase for child dependants),
  - (iii) widow's pension;
  - (f) retirement pensions of the following categories—
    - Category A, payable to a person by virtue of his own contributions (with increase for adult and child dependants), and
    - Category B, payable to a woman by virtue of her husband's contributions (with increase for child dependants);
  - (g) child's special allowance;
  - (h) death grant.
- (2) In this Part of this Act, " short-term benefit" means unemployment benefit, sickness benefit, maternity grant, maternity allowance and widow's allowance.
- (3) The amounts and rates of benefits given in this Chapter and the other figures in this Part which affect those amounts and rates or the entitlement of any beneficiary shall be subject to alteration by up-rating orders.

### 13 Contribution conditions and the earnings factor

- (1) In the case of the benefits specified in section 12(1) above (except invalidity benefit), entitlement depends on contribution conditions being satisfied (either by the claimant or by some other person, according to the particular benefit); and there are set out below, in relation to each such benefit, the class or classes of contribution which for this purpose are relevant thereto:—

#### *Short-term benefit*

Unemployment benefit	Class 1
Sickness benefit	Class 1 or 2
Maternity grant	Class 1, 2 or 3
Maternity allowance	Class 1 or 2
Widow's allowance	Class 1, 2 or 3

#### *Other benefits*

Widowed mother's allowance	} Class 1, 2 or 3
Widow's pension	
Category A retirement pension	
Category B retirement pension	
Child's special allowance	
Death grant	

- (2) Subject to the following subsections, a person shall be treated as having annual earnings factors derived from his contributions in respect of each tax year, being contributions of any of the classes specified in subsection (1) above; and this shall be for the purposes—
- (a) of establishing entitlement to any benefit specified in that subsection by reference to satisfaction of contribution conditions; and
  - (b) of arriving at the weekly rate—

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- (i) of earnings-related supplement of unemployment benefit, sickness benefit or a maternity allowance, or
  - (ii) of earnings-related addition to a widow's allowance.
- (3) No earnings factor shall be derived from primary Class 1 contributions paid at the reduced rate, or from secondary Class 1 contributions; and for the purposes of earnings-related supplement of, or addition to, any benefit there shall be disregarded any Class 2 or Class 3 contributions, and any Class 1 contributions not actually paid.
- (4) Regulations may provide for crediting contributions of any class for the purpose of bringing a person's earnings factor for any tax year to a figure which will enable him to satisfy contribution conditions of entitlement to any prescribed description of benefit (whether his own entitlement or another person's), but not so as to entitle him or any other person to earnings-related supplement of, or addition to, any benefit.
- (5) Earnings factors derived from a person's contributions in respect of any tax year shall be expressed as whole numbers of pounds and be made ascertainable from tables or rules to be drawn up by the Department and embodied in regulations ; and such tables and rules shall be drawn up so that in general—
- (a) any amount of Class 1 contributions in respect of a tax year gives rise to an earnings factor for that tax year equal or approximating to the minimum actual earnings sufficient to yield contributions of that amount; and
  - (b) any number of Class 2 or Class 3 contributions in respect of a tax year gives rise to an earnings factor for that tax year equal or approximating to that year's lower earnings limit for Class 1 contributions multiplied by the number of contributions;
- and separate earnings factors shall be derived from contributions of different classes paid or credited in the same tax year, and from contributions which have been actually paid, as opposed to those not paid but credited.
- (6) In relation to the benefits specified in subsection (1) above, the relevant contribution conditions are those specified in Part I of Schedule 3 to this Act; and in that Schedule and in subsection (8) below—
- (a) " the contributor concerned", for the purpose of any contribution condition, means the person by whom the condition is to be satisfied ;
  - (b) " a relevant class ", in relation to any benefit, means a class of contributions specified in relation to that benefit in subsection (1) above;
  - (c) "the earnings factor ", in relation to a person's contributions of any class or classes, means the aggregate of his earnings factors derived from all those contributions ; and
  - (d) except in the expression " benefit year ", " year " means a tax year.
- (7) In this Part of this Act, " benefit year " means a period beginning with the first Sunday in January in any calendar year and ending with the Saturday immediately preceding the first Sunday in January in the following calendar year:
- Provided that for any prescribed purposes of this Chapter " benefit year " may by regulations be made to mean such other period (whether or not a period of 12 months) as may be specified in the regulations.
- (8) Part II of Schedule 3 to this Act shall have effect as to the satisfaction of contribution conditions for benefit in certain cases where a claim for short-term benefit is, or has on a previous occasion been, made in the first or second tax year after that in which the contributor concerned first became liable for primary Class 1 or Class 2 contributions.

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*Benefits for unemployment, sickness and invalidity*

**14 Unemployment benefit and sickness benefit**

- (1) Subject to the provisions of this section, a person who satisfies any of the three conditions of subsection (2) below shall be entitled—
- (a) to unemployment benefit in respect of any day of unemployment which forms part of a period of interruption of employment; and
  - (b) to sickness benefit in respect of any day of incapacity for work which forms part of such a period.
- (2) The conditions of this subsection are that—
- (a) the person is under pensionable age on the day in question and satisfies the contribution conditions specified for unemployment or, as the case may be, sickness benefit in Schedule 3, Part I, paragraph 1; or
  - (b) the person would on that day have been entitled to a Category A retirement pension (section 28) if he had retired from regular employment on attaining pensionable age; or
  - (c) the person is a woman and—
    - (i) she would on that day have been entitled to a Category B retirement pension (section 29) and the husband by virtue of whose contributions she would have been so entitled is dead, but
    - (ii) she has made an election for the purposes of section 30(3) of this Act (return to work after retirement) and has not revoked her election.
- (3) A person shall not be entitled either to unemployment benefit or to sickness benefit for the first 3 days of any period of interruption of employment.
- (4) In the case of a person entitled under subsection (2)(a) above, unemployment or sickness benefit shall be payable—
- (a) at the higher rate specified in relation thereto in Schedule 4, Part I, paragraph 1—
    - (i) in the case of a married woman, during any period falling within subsection (5) below, and
    - (ii) in the case of a person other than a married woman; and
  - (b) at the lower rate so specified in the case of a married woman during any period not falling within that subsection.
- (5) The periods during which unemployment or sickness benefit is payable to a married woman at the higher rate are—
- (a) any period during which she is entitled to an increase of benefit in respect of her husband under section 44(2) of this Act (dependant husband incapable of self-support) ; and
  - (b) any period, during which she is residing with her husband and he is entitled to—
    - (i) an invalidity pension (section 15), or
    - (ii) a Category A retirement pension (section 28), or
    - (iii) a Category C or Category D retirement pension (Chapter II, section 39), or
    - (iv) any unemployability supplement or allowance (which expression is defined in Schedule 5); and

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- (c) any period during which she is not residing with her husband nor is he contributing to her maintenance at a weekly rate not less than the difference between the higher rate and the lower rate of the benefit.
- (6) In the case of a person entitled under subsection (2)(b) or (c) above (being over pensionable age), unemployment benefit or sickness benefit shall be payable at the weekly rate at which, apart from any increase to be disregarded for the purposes of this subsection, the retirement pension referred to in the applicable paragraph of subsection (2) would have been payable; and the increases to be so disregarded are—
- (a) any increase (for days of increment between pensionable age and retirement) under section 28(4) or (5) or 29(10) of this Act;
  - (b) any increase (for dependants) under section 41, 45 or 46; and
  - (c) where the claim is for unemployment benefit, any increase (for invalidity) under section 28(7);

and, in determining for the purposes of this subsection the rate at which a retirement pension would have been payable, section 30(1) of this Act (earnings rule) shall be taken not to apply.

- (7) Where a person is entitled to unemployment or sickness benefit, he shall also be entitled to earnings-related supplement of the benefit, at a weekly rate ascertained in accordance with Schedule 6, Part I, for any day of unemployment or incapacity for work, being a day—
- (a) on which he is under pensionable age ; and
  - (b) which forms part of a period of interruption of employment and is not earlier than the 13th day of that period;

but where he has been entitled to the supplement in respect of an aggregate of 156 days in the same period of interruption of employment (including for this purpose, in the case of a woman, any days in that period in respect of which she has been entitled to earnings-related supplement of a maternity allowance), he shall not be entitled thereto in respect of any further day in that period.

This subsection is subject to Schedule 6, Part II.

- (8) The amount payable by way of benefit under this section for any day of unemployment or of incapacity for work shall be 1/6th of the appropriate weekly rate.

## 15 Invalidity pension

- (1) Subject to the following provisions of this section, where in respect of any period of interruption of employment a person has been entitled to sickness benefit for 168 days (including, in the case of a woman, any day for which she was entitled to a maternity allowance), then—
- (a) he shall cease to be entitled to that benefit for any subsequent day of incapacity for work falling within that period; and
  - (b) he shall be entitled to an invalidity pension for any day of incapacity for work in that period for which, by virtue only of paragraph (a) above, he is not entitled to sickness benefit if on that day either—
    - (i) he is under pensionable age, or
    - (ii) being over that age and not having retired from regular employment, he satisfies either of the conditions of subsection (2) below ;

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and any day in the first 3 days of a period of interruption of employment which was a day of incapacity for work shall be treated for the purposes of this subsection as a day on which he was so entitled.

- (2) The conditions of this subsection are that—
- (a) the person would on that day have been entitled to a Category A retirement pension (section 28) if he had retired from regular employment on attaining pensionable age; or
  - (b) the person is a woman and—
    - (i) she would on that day have been entitled to a Category B retirement pension (section 29) and the husband by virtue of whose contributions she would have been so entitled is dead, but
    - (ii) she has made an election for the purposes of section 30(3) of this Act (return to work after retirement) and has not revoked her election.
- (3) Subject to subsection (4) below, an invalidity pension shall be payable at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 2.
- (4) In the case of a person entitled to an invalidity pension under subsection (2)(a) or (b) above (being over pensionable age), the pension shall be payable at the weekly rate at which, apart from any increase to be disregarded for the purposes of this subsection, the retirement pension referred to in the applicable paragraph of subsection (2) would have been payable; and the increases to be so disregarded are—
- (a) any increase (for days of increment between pensionable age and retirement) under section 28(4) or (5) or 29(10) of this Act; and
  - (b) any increase (for dependants) under section 41, 45 or 46.
- (5) The amount payable by way of an invalidity pension shall for any day of incapacity for work be 1/6th of the appropriate weekly rate.

## 16 Invalidity allowance

- (1) If a person is more than 5 years below pensionable age on the qualifying date in any period of interruption of employment then, in respect of every day of that period in respect of which he is entitled to an invalidity pension, he shall also be entitled to an invalidity allowance at the appropriate weekly rate specified in relation thereto in Schedule 4, Part i, paragraph 3; and "the qualifying date" means the first day in that period (whether before the coming into force of this section or later) which is a day of incapacity for work or such earlier day as may be prescribed.
- (2) An invalidity allowance shall be payable—
- (a) at the higher rate specified in relation thereto in Schedule 4, Part I, if on the qualifying date the beneficiary was under the age of 35, or if that date fell before 5th July 1948;
  - (b) at the middle rate so specified if paragraph (a) above does not apply and on the qualifying date the beneficiary was under the age of 45;
  - (c) at the lower rate so specified if paragraphs (a) and (b) above do not apply, and on the qualifying date the beneficiary was a man under the age of 60 or a woman under the age of 55.
- (3) The amount payable by way of invalidity allowance shall for any day of incapacity for work be 1/6th of the appropriate weekly rate.

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## 17 Determination of days for which benefit is payable

- (1) For the purposes of any provisions of this Act relating to unemployment benefit, sickness benefit or invalidity benefit—
- (a) subject to the provisions of this Act, a day shall not be treated in relation to any person—
    - (i) as a day of unemployment unless on that day he is capable of work and he is, or is deemed in accordance with regulations to be, available to be employed in employed earner's employment; or
    - (ii) as a day of incapacity for work unless on that day he is, or is deemed in accordance with regulations to be, incapable of work by reason of some specific disease or bodily or mental disablement,("work", in this paragraph, meaning work which the person can reasonably be expected to do);
  - (b) where a person is an employed earner and his employment as such has not been terminated, then in any week a day on which in the normal course that person would not work in that employment or in any other employed earner's employment shall not be treated as a day of unemployment unless each other day in that week (other than the day referred to in paragraph (e) below) on which in the normal course he would so work is a day of interruption of employment;
  - (c) the expression "day of interruption of employment" means a day which is a day of unemployment or of incapacity for work;
  - (d) any two days of interruption of employment, whether consecutive or not, within a period of 6 consecutive days shall be treated as a period of interruption of employment and any two such periods not separated by a period of more than 13 weeks ("week" for this purpose meaning any period of 7 days) shall be treated as one period of interruption of employment;
  - (e) Sunday or such other day in each week as may be prescribed shall not be treated as a day of unemployment or of incapacity for work and shall be disregarded in computing any period of consecutive days.
- (2) Regulations may—
- (a) make provision (subject to subsection (1) above) as to the days which are or are not to be treated for the purposes of unemployment benefit, sickness benefit, invalidity benefit and a maternity allowance as days of unemployment or of incapacity for work;
  - (b) prescribe respective circumstances in which, for the purposes of subsection (1) (b) above—
    - (i) employment which has not been terminated may be treated as if it had been terminated; or
    - (ii) a day which falls in a period when an employed earner's employment is suspended but does not fall to be so treated and which, apart from the regulations, would not fall to be treated as a day of interruption of employment may be treated as such a day.
- (3) Subsections (1) and (2) above shall, for the purposes of earnings-related supplement under section 14(7) of this Act and, on and after such day as the Department may by order appoint, for all other purposes of this Part of this Act, have effect—
- (a) with the substitution for paragraph (b) of subsection (1) of the following paragraph—

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- “(b) where a person is an employed earner and his employment as such has not been terminated but has been suspended by the employer, a day shall not be treated in relation to that person as a day of unemployment unless it is the 7th or a later day in a continuous period of days on which that suspension has lasted, there being disregarded for the purposes of determining the first 6 days of the period (but for no other purpose)—
- (i) Sunday or such other day in each week as may have been prescribed under paragraph (e) of this subsection,
  - (ii) any day of recognised or customary holiday in connection with the suspended employment,
  - (iii) such other day or days as may be prescribed ;”and
- (b) with the substitution for paragraph (b) of subsection (2) of the following paragraph—
- “(b) prescribe respective circumstances in which for the purposes of subsection (1)(b) above an employed earner's employment may be treated—
- (i) as having been or, as the case may be, as not having been terminated, or
  - (ii) as having been or, as the case may be, as not having been suspended.”.

## 18 Duration of unemployment benefit

- (1) A person who, in respect of any period of interruption of employment, has been entitled to unemployment benefit for 312 days shall not thereafter be entitled to that benefit for any day of unemployment (whether in the same or a subsequent period of interruption of employment) unless before that day he has requalified for benefit.
- (2) A person who has exhausted his right to unemployment benefit requalifies for it when—
  - (a) he has again been in employment as an employed earner and has been so employed in 13 weeks since the last day for which he was entitled to that benefit; and
  - (b) in each of those weeks he has worked in such employment for 21 hours or more.
- (3) Where a person requalifies for unemployment benefit, subsection (1) above shall again apply to him but, in a case where the period of interruption of employment in which he exhausted his right to that benefit continues after his requalification, as if the part before and the part after his requalification were distinct periods of interruption of employment.

## 19 Loss of employment due to stoppage of work

- (1) A person who has lost employment as an employed earner by reason of a stoppage of work which was due to a trade dispute at his place of employment shall be disqualified for receiving unemployment benefit so long as the stoppage continues, except in a case where, during the stoppage, he has become bona fide employed elsewhere in the



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occupation which he usually follows or has become regularly engaged in some other occupation; but this subsection does not apply in the case of a person who proves—

- (a) that he is not participating in or financing or directly interested in the trade dispute which caused the stoppage of work; and
- (b) that he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at his place of employment any of whom are participating in or financing or directly interested in the dispute.

(2) In this Act—

- (a) " place of employment" in relation to any person, means the factory, workshop, farm or other premises or place at which he was employed, so however that, where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments shall for the purposes of this paragraph be deemed to be a separate factory or workshop or farm or separate premises or a separate place, as the case may be ;
- (b) " trade dispute " means any dispute between employers and employees, or between employees and employees, which is connected with the employment or non-employment or the terms of employment or the conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises, or not.

## **20 Other disqualifications, etc.**

(1) A person shall be disqualified for receiving unemployment benefit for such period not exceeding 6 weeks as may be determined in accordance with sections 97 to 104 of this Act (adjudication by insurance officers and other statutory authorities) if—

- (a) he has lost his employment as an employed earner through his misconduct, or has voluntarily left such employment without just cause ;
- (b) after a situation in any suitable employment has been properly notified to him as vacant or about to become vacant, he has without good cause refused or failed to apply for that situation or refused to accept that situation when offered to him ;
- (c) he has neglected to avail himself of a reasonable opportunity of suitable employment;
- (d) he has without good cause refused or failed to carry out any official recommendations given to him with a view to assisting him to find suitable employment, being recommendations which were reasonable having regard to his circumstances and to the means of obtaining that employment usually adopted in the district in which he resides ; or
- (e) he has without good cause refused or failed to avail-himself of a reasonable opportunity of receiving training approved by the Department of Manpower Services in his case for the purpose of becoming or keeping fit for entry into, or return to, regular employment.

(2) Regulations may provide for disqualifying a person for receiving sickness benefit or invalidity benefit for such period not exceeding 6 weeks as may be determined in accordance with sections 97 to 104 if—

- (a) he has become incapable of work through his own misconduct; or

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- (b) he fails without good cause to attend for, or to submit himself to, such medical or other examination or treatment as may be required in accordance with the regulations, or to observe any prescribed rules of behaviour.
- (3) Regulations may also provide for imposing, in the case of any prescribed category of persons, additional conditions with respect to the receipt of unemployment benefit, sickness benefit or invalidity benefit, and restrictions on the rate and duration thereof, if, having regard to special circumstances, it appears to the Department necessary to do so for the purpose of preventing inequalities, or injustice to the general body of employed earners, or of earners generally, as the case may be.
- (4) For the purposes of this section, employment shall not be deemed to be employment suitable in the case of any person if it is either—
  - (a) employment in a situation vacant in consequence of a stoppage of work due to a trade dispute; or
  - (b) employment in his usual occupation in the district where he was last ordinarily employed at a rate of remuneration lower, or on conditions less favourable, than those which he might reasonably have expected to obtain having regard to those which he habitually obtained in his usual occupation in that district, or would have obtained had he continued to be so employed; or
  - (c) employment in his usual occupation in any other district at a rate of remuneration lower, or on conditions less favourable, than those generally observed in that district by agreement between associations of employers and of employees or, failing any such agreement, than those generally recognised in that district by good employers ;

but, after the lapse of such an interval from the date on which he becomes unemployed as in the circumstances of the case is reasonable, employment shall not be deemed to be unsuitable by reason only that it is employment of a kind other than employment in his usual occupation if it is employment at a rate of remuneration not lower, and on conditions not less favourable, than those generally observed by agreement between associations of employers and of employees or, failing any such agreement, than those generally recognised by good employers.

- (5) For the purposes of this section the following definitions apply—
  - (a) " properly notified ", in subsection (1)(b), means notified by the Department of Manpower Services or some other recognised agency, or by or on behalf of an employer;
  - (b) " official recommendations ", in subsection (1)(d), means recommendations in writing made by an officer of the Department of Manpower Services ;
  - (c) " week " means any period of 7 days.

### *Maternity*

## **21 Maternity grant**

- (1) A woman shall be entitled to a maternity grant of the amount specified in relation thereto in Schedule 4, Part II, paragraph 1, if she has been confined and either—
  - (a) she or her husband satisfies the contribution conditions for a maternity grant specified in Schedule 3, Part I, paragraph 2; or
  - (b) she satisfies either—

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- (i) the contribution conditions for a maternity allowance specified in Schedule 3, Part I, paragraph 3, or
  - (ii) any contribution conditions which she is required to satisfy in order to become entitled to maternity allowance at a reduced rate by virtue of regulations under section 33 of this Act (partial satisfaction of contribution conditions).
- (2) In subsection (1)(a) above, the reference to a woman's husband includes a widow's late husband in a case where she has been confined of a posthumous son or daughter of his.
- (3) Except where regulations otherwise provide, a woman shall not be entitled to a maternity grant in respect of a confinement if on the date of the confinement she was outside Northern Ireland.
- (4) Regulations may provide that a woman confined of twins or a greater number of children shall, if the other conditions for the payment of a maternity grant are satisfied in respect of the confinement, be entitled to a maternity grant for each of them.
- (5) Regulations may provide that the provisions of this section shall apply to a woman, in a case where her claim indicates that she so desires, with the substitution for the condition that she has been confined of the condition that she is pregnant and has reached a stage in her pregnancy which is not more than the prescribed number of weeks before that in which it is to be expected that she will be confined, and may modify the contribution conditions for a maternity grant in their application to such a case.
- (6) Subject to subsection (4) above, a woman shall not be entitled to more than one maternity grant in respect of any one confinement.

## 22 Maternity allowance

- (1) A woman shall be entitled to a maternity allowance at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 4, if—
- (a) she is pregnant and has reached a stage in her pregnancy which is not more than the prescribed number of weeks before that in which it is to be expected that she will be confined (in this section referred to as "the expected week of confinement"); and
  - (b) she satisfies the contribution conditions for a maternity allowance specified in Schedule 3, Part I, paragraph 3.
- (2) Subject to the following provisions of this section, the period for which a maternity allowance is payable shall be the period of 18 weeks beginning with the 11th week before the expected week of confinement; and this shall be the maternity allowance period for the purposes of this section and the relevant contribution conditions.
- (3) A day for which a woman is entitled to a maternity allowance shall be deemed for the purposes of this Part of this Act to be for her a day of incapacity for work.
- (4) Where a woman is entitled to a maternity allowance, she shall also be entitled to earnings-related supplement of the allowance, at a weekly rate ascertained in accordance with Schedule 6, Part I, in respect of every day of the maternity allowance period which forms part of a period of interruption of employment and is not earlier than the 13th day of the latter period; but where she has been entitled to the supplement in respect of an aggregate of 156 days in the same period of interruption of employment (including for this purpose any days in that period in respect of which she has been

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entitled to earnings-related supplement of unemployment or sickness benefit) she shall not be entitled thereto in respect of any further day in that period.

This subsection is subject to Schedule 6, Part II.

- (5) A woman who has become entitled to a maternity allowance shall cease to be entitled to it if she dies before the beginning of the maternity allowance period; and if she dies after the beginning, but before the end, of that period the allowance shall not be payable for any week subsequent to that in which she dies.
- (6) Regulations may provide that a woman who has become entitled to a maternity allowance shall cease to be entitled to it if her pregnancy is terminated otherwise than by confinement.
- (7) Regulations may make provision, as respects cases where the date of the confinement occurs after the end of the expected week of confinement, for extending the maternity allowance period until the end of such week (not being later than the 6th week after that in which the date of the confinement occurs) as may be prescribed.
- (8) Regulations may modify subsections (1)(a) and (b), (2) and (5) above in relation to cases where a woman has been confined and either—
  - (a) she has not made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed); or
  - (b) she has made a claim for a maternity allowance in expectation of that confinement (other than a claim which has been disallowed), but the date of the confinement was more than 11 weeks before the expected week of confinement.
- (9) Regulations may provide for disqualifying a woman for receiving a maternity allowance if—
  - (a) during the maternity allowance period, she does any work in employment as an employed or self-employed earner, or fails without good cause to observe any prescribed rules of behaviour; or
  - (b) at any time before her confinement occurs, she fails without good cause to attend for, or submit herself to, any medical examination required in accordance with the regulations.
- (10) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of a maternity allowance—
  - (a) Sunday or such other day in each week as may be prescribed shall be disregarded ; and
  - (b) the amount payable by way of that allowance for any other day shall be taken as 1/6th of the weekly rate of the allowance.

## **23 Supplementary provisions as to maternity benefit**

- (1) In this Chapter—
  - (a) "confinement" means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead, and "confined" shall be construed accordingly ; and
  - (b) references to the date of the confinement shall be taken as referring, where labour begun on one day results in the issue of a child on another day, to the date of the issue of the child, or if the woman is confined of twins or a greater number of children, to the date of the issue of the last of them.

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- (2) The fact that the mother of an illegitimate child is entitled to maternity benefit shall not be taken into consideration by any court of summary jurisdiction in deciding whether or not to make an order under the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924.

### *Widowhood*

#### **24 Widow's allowance**

- (1) A woman who has been widowed shall be entitled to a widow's allowance at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 5, if—
- (a) she was under pensionable age at the time when her late husband died, or he was then not entitled to a Category A retirement pension (section 28); and
  - (b) her late husband satisfied the contribution condition for a widow's allowance specified in Schedule 3, Part I, paragraph 4.

- (2) The period for which a widow's allowance is payable to a widow shall be the 26 weeks next following the husband's death:

Provided that the allowance shall not be payable for any period after the widow's death or remarriage or for any period during which she is cohabiting with a man as his wife.

- (3) A woman entitled to a widow's allowance shall be entitled to earnings-related addition to the allowance, at a weekly rate ascertained in accordance with Schedule 6, Part I, in respect of each week of the period for which the allowance is payable.

This subsection is subject to Schedule 6, Part II.

#### **25 Widowed mother's allowance**

- (1) A woman who has been widowed shall be entitled to a widowed mother's allowance at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 6, if her late husband satisfied the contribution conditions for a widowed mother's allowance specified in Schedule 3, Part I, paragraph 5, and either—

- (a) she has a family which satisfies the condition specified in subsection (2) below; or
- (b) subject to such exceptions and conditions as may be prescribed, she has residing with her a person who—
  - (i) is under the age of 19 and is or has been a child falling within any of the paragraphs of that subsection, or
  - (ii) is under that age and would have been such a child but for the fact that, at the time when the woman's late husband died, the person, had attained school-leaving age or was not in Northern Ireland; or
- (c) she is pregnant by her late husband.

- (2) The condition referred to in subsection (1)(a) above is that the woman's family includes a child with respect to whom one of the conditions specified in section 43(1) of this Act (conditions of payment of increase for child dependants) is for the time being satisfied and who either—

- (a) at her late husband's death was, or could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as, a child of his family; or

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- (b) is a son or daughter of theirs ; or
  - (c) subject to such exceptions and conditions as may be prescribed, having at the death of a previous husband of the widow by a marriage which ended with that husband's death been a child of that husband's family, was at the death of her late husband a child of the woman's family.
- (3) The period for which a widowed mother's allowance is payable to a woman shall be any period during which she satisfies the requirements of subsection (1)(a), (b) or (c) above and for which she is not entitled to a widow's allowance:

Provided that the allowance shall not be payable for any period after the widow's remarriage or for any period during which she is cohabiting with a man as his wife.

## 26 Widow's pension

- (1) A woman who has been widowed shall be entitled to a widow's pension at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 7, if her late husband satisfied the contribution conditions for a widow's pension specified in Schedule 3, Part I, paragraph 5, and either—
- (a) she was, at the husband's death, over the age of 40 but under the age of 65 ; or
  - (b) she ceased to be entitled to a widowed mother's allowance at a time when she was over the age of 40 but under the age of 65.
- (2) The weekly rate of a widow's pension payable to a woman who was under the age of 50 at the time when her late husband died or, as the case may be, when she ceased to be entitled to a widowed mother's allowance shall be reduced by an amount equal to 7 per cent, of its amount apart from this subsection multiplied by the number of years by which her age at that time was less than 50 (any fraction of a year being counted as a year).
- (3) The period for which a widow's pension is payable to a woman shall be any period during which she is under the age of 65 and for which she is not entitled to a widow's allowance or a widowed mother's allowance:

Provided that the pension shall not be payable for any period after the widow's remarriage or for any period during which she is cohabiting with a man as his wife.

### *Retirement pensions (Categories A and B)*

## 27 Matters affecting entitlement to pension

- (1) In this Act " pensionable age " means—
- (a) in the case of a man, the age of 65 ; and
  - (b) in the case of a woman, the age of 60.
- (2) For the purposes of this Act a person's working life is the period between (inclusive) the tax year in which he attained the age of 16 and (exclusive) the tax year in which he attained pensionable age or died under that age.
- (3) For those purposes, a person may (subject to the following subsection) be treated as having retired from regular employment at any time after he has attained pensionable age—
- (a) whether or not he has previously been an earner;

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- (b) notwithstanding that he is, or intends to be, an earner, if—
  - (i) he is or intends to be so only occasionally or to an inconsiderable extent, or otherwise in circumstances not inconsistent with retirement, or
  - (ii) his earnings can be expected not to exceed, or only occasionally to exceed, the amount any excess over which would, under section 30(1) below (earnings rule), involve a reduction of the weekly rate of his pension ;

and a person so treated under this subsection shall not cease to be so treated except in pursuance of an election under section 30(3) below (return to work after retirement).

- (4) Subject to the following subsection, a person shall not be treated as having retired from regular employment unless he has complied with the prescribed requirements as to the giving of notice of the date of his retirement; and where the date of retirement specified in the notice falls before the date when the notice is given, the person shall not be treated as having so retired earlier than on the date of commencement of the prescribed period before the giving of the notice.
- (5) For the purposes of this Act a person who has not previously retired from regular employment shall be deemed so to retire on the expiration of 5 years from his attaining pensionable age; and references in this Part of this Act to the date of a person's retirement shall be construed in accordance with this section.
- (6) No person shall be entitled for the same period to more than one retirement pension; but where under the following sections in this Part (whether Chapter I or Chapter II) a person would otherwise be entitled to more than one such pension, he shall be entitled (whichever pension he may apply for) to whichever one is from time to time the most favourable to him.

## 28 Category A retirement pension

- (1) A person shall be entitled to a Category A retirement pension at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 8, if—
  - (a) he is over pensionable age and has retired from regular employment; and
  - (b) he satisfies the contribution conditions for a Category A retirement pension specified in Schedule 3, Part I, paragraph 5;
 and the pension shall commence from the date of retirement and (subject to section 30(1) of this Act (earnings rule)) be payable for the pensioner's life.
- (2) A woman who on attaining pensionable age is married shall not be entitled to a Category A retirement pension unless either—
  - (a) her marriage (to the man to whom she is married on attaining that age) took place on or after the date on which she attained the age of 55 ; or
  - (b) the number of years of her working life (disregarding the year in which that marriage took place and any previous year) for which her earnings factor was sufficient for satisfaction by her of paragraph (b) of the second contribution condition for a Category A retirement pension specified in Schedule 3, Part I, paragraph 5, was at least—
    - (i) one half of the number of complete years between (exclusive) the year in which that marriage took place and (exclusive) the year in which she attained pensionable age, or

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- (ii) if that number of years is an odd number, one half of the next lowest even number.

In this subsection " year " means tax year.

- (3) Where a woman is a widow at the time when she attains pensionable age and does not with her own contributions satisfy the second contribution condition for a Category A retirement pension specified in Schedule 3, Part I, paragraph 5, then the contributions of her late husband may, to the extent provided by Schedule 7 to this Act, be treated as if they were contributions of her own.
- (4) The weekly rate of a Category A retirement pension shall be increased by 1/8th per cent, of its rate apart from this subsection for every 6 days (excluding Sundays) which—
- (a) fall in the period beginning with the day on which the pensioner attained pensionable age and ending with the day before that of his retirement; and
  - (b) are treated by regulations as being, in relation to him and his pension, days of increment under this subsection,
- but only if the number of such days is at least 48; and a day may be so treated by reference to the pensioner or some other person having received, or not having received, benefit of any prescribed description (whether or not under this Act) in respect of that day or a period in which it falls or by reference to any other circumstances whatsoever.
- (5) In the case of a woman entitled to a Category A retirement pension, the rate of the pension (with or without any increase under subsection (4) above) shall, if—
- (a) she has had a husband and he has died, and she was married to him when he died ; and
  - (b) the husband either—
    - (i) was entitled to a Category A retirement pension with increases under subsection (4) above, or
    - (ii) would have been so entitled if he had retired on the date of his death, be increased by 1/16th per cent, of the rate of the pension to which he was (or would have been) entitled for every 6 days which were (or would have been) in relation to him and that pension days of increment under subsection (4), but only if the number of such days is at least 48.
- (6) Where under subsection (4) or (5) above an increase is calculated as a percentage applied to a rate, there shall in arriving at that rate be disregarded any increase otherwise than under subsection (7) below.
- (7) The weekly rate of a Category A retirement pension shall be increased under this subsection if the pensioner was entitled to an invalidity allowance in respect of—
- (a) any day falling within the period of 13 weeks ending immediately before the day on which he attains pensionable age, or
  - (b) the last day before the beginning of that period;
- and the increase shall be of an amount equal to the weekly rate of the invalidity allowance (whether the higher, the middle or the lower rate) to which he was entitled on that day.
- (8) In ascertaining—
- (a) for the purposes of subsection (5) above, the rate of the pension of a woman's former husband; and



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(b) for the purposes of subsection (7) above, the rate of a pensioner's invalidity allowance, regard is to be had to the rates in force from time to time as increased by up-rating orders, or by any Act passed, or Measure of the Northern Ireland Assembly enacted, after the 1973 Act.

## 29 Category B retirement pension

- (1) A woman who is or has been married, and has attained pensionable age, shall be entitled to a Category B retirement pension by virtue of the contributions of her husband ; and the cases in which a woman is so entitled are those specified in subsections (2) to (5) below.
- (2) The first case of entitlement is where the woman is married to that husband at the time when she attains pensionable age and—
  - (a) he also has attained pensionable age, and both of them have retired from regular employment; and
  - (b) he satisfies the relevant contribution conditions.
- (3) The second case of entitlement is where the woman marries after attaining pensionable age and—
  - (a) her husband has also attained pensionable age and both of them have retired from regular employment; and
  - (b) he satisfies the relevant contribution conditions.
- (4) The third case of entitlement is where the woman's husband is dead and his death was after she attained pensionable age, and—
  - (a) she was married to him when he died; and
  - (b) before his death he satisfied the relevant contribution conditions.
- (5) The fourth case of entitlement is where the woman's husband is dead and his death was before she attained pensionable age, and—
  - (a) she has retired from regular employment; and
  - (b) she was a widow immediately before attaining pensionable age and is entitled (or is treated by regulations as entitled) to a widow's pension ; and
  - (c) she became entitled to the pension in consequence of the husband's death.
- (6) The relevant contribution conditions for the purposes of the first, second and third cases of entitlement are those specified in Schedule 3, Part I, paragraph 5 (Category B retirement pension or widow's pension, as the case may be).
- (7) A woman's Category B retirement pension—
  - (a) in the first and second cases of entitlement shall—
    - (i) during any period in which the husband is alive, be at the lower rate specified in relation thereto in Schedule 4, Part I, paragraph 9, and
    - (ii) during any period after he is dead, be at the higher rate so specified; and
  - (b) in the third case of entitlement, shall be at the higher rate so specified ; and
  - (c) in the fourth case of entitlement, shall be at the same weekly rate as her widow's pension.

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- (8) Where a woman would but for section 27(6) of this Act be entitled both to a Category A and also to a Category B retirement pension, and section 28(7) above would apply for the increase of the former pension, it shall be taken as applying also for the increase of the latter.
- (9) Subject to the provisions of this Act, a woman's Category B retirement pension shall commence from the date on which she becomes entitled under whichever of subsections (2) to (5) above is applicable in her case, and shall be payable for her life.
- (10) Where a woman is entitled to a Category B retirement pension by virtue of the contributions of her husband, the weekly rate of the pension shall be increased—
- (a) during any period in which he is alive (and she remains his wife) by 1/16th per cent, of his pension for every 6 days (excluding Sundays) which—
    - (i) fall in the period beginning with the day on which he attained pensionable age and ending with the day before that of his retirement and not in a period before she married him or attained pensionable age; and
    - (ii) in relation to him and his pension, were days of increment under section 28(4),  
but only if the number of such days is at least 48 ; and
  - (b) during any period after he is dead, if she was married to him when he died, by that amount plus an additional 1/16th per cent, of the husband's pension for every 6 days which were in relation to him and his pension days of increment under section 28(4), but only if the number of such days is at least 48.
- (11) References in subsection (10) above to the husband's pension are to that pension without any increase otherwise than under section 28(7) above; and in ascertaining the rate of his pension for the purposes of subsection (10) regard is to be had to the rates in force from time to time as increased by up-rating orders, or by any Act passed, or Measure of the Northern Ireland Assembly enacted, after the 1973 Act.
- (12) Where a woman has made an election in accordance with regulations under section 30(3) of this Act (return to work after retirement) and has not revoked her election, there shall be taken into account, as days of increment in relation to her for the purposes of any increase of her pension under subsection (10)(b) above, any days after the date of her election and after the date of the death of her husband by virtue of whose contributions she is entitled to the pension, being days which would, if she were entitled to a Category A retirement pension, be days of increment under section 28(4) above in relation to her and that pension.

### **30 Category A and B pensions (supplementary)**

- (1) Where the earnings of a person entitled to a Category A or Category B retirement pension, being a person who is less than 5 years over pensionable age, have exceeded £20 for the week ending last before any week for which he is entitled to the pension, the weekly rate of pension for the last-mentioned week shall be reduced—
- (a) where the excess is less than £4, by 5 pence for each complete 10 pence of the excess; and
  - (b) where the excess is not less than £4, by 5 pence for each complete 10 pence of the excess up to £4 and by 5 pence for each complete 5 pence of any further excess:

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Provided that this subsection shall not affect the rate of the pension for the first week after the date of the beneficiary's retirement.

In this subsection "week", where used in the expression "week for which he is entitled to the pension" and in the proviso, means such period of 7 days as may be prescribed by regulations relating to the payment of pensions.

- (2) With effect from such day as may be prescribed in the week containing 6th April in a year mentioned in the first column below, subsection (1) above shall have effect with the substitution for "£20" of the amount specified in relation to that year in the second column below—

1976	£35
1977	£50.

- (3) Regulations may provide that in the case of a person of any prescribed description who—

- (a) has retired from regular employment or has otherwise become entitled to a retirement pension (whether Category A or Category B) but is, in the case of a woman, under the age of 65 or, in the case of a man, under the age of 70; and
- (b) elects in such manner and in accordance with such conditions as may be prescribed that the regulations shall apply in his case,

this Part of this Act shall have effect as if that person had not retired or become entitled to such a retirement pension; and any such regulations may make such modifications of the provisions of this Part, or of those of Part III below as those provisions apply in a case where a person makes an election under the regulations, as may appear to the Department necessary or expedient.

- (4) Where a husband and wife have both become entitled to retirement pensions and—

- (a) the husband's pension is Category A; and
- (b) the wife's pension is Category B by virtue of that husband's contributions,

the husband shall not be entitled to make an election in accordance with regulations made under subsection (3) above without the consent of the wife, unless that consent is unreasonably withheld.

- (5) Where a person has given notice for the purposes of regulations under section 27(4) above and the date of retirement specified in the notice falls after the date when the notice was given, a Category A or Category B retirement pension may be awarded as from the date of retirement so specified, but if so awarded shall be conditional on the person's having retired on or before that date.

#### *Other benefits*

### **31 Child's special allowance**

Subject to the provisions of this Act (and in particular to those of section 43 imposing limitations on payment of benefit in respect of children), a woman whose marriage has been terminated by divorce shall be entitled to a child's special allowance at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 10, if—

- (a) the husband of that marriage is dead and satisfied the contribution condition for a child's special allowance specified in Schedule 3, Part I, paragraph 6; and

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- (b) she has a family which includes a child and at that husband's death the child—
  - (i) was either a child of her family or, where the child is issue of theirs within the meaning of the Family Allowances Act, a child of that husband's family, or
  - (ii) would have been within sub-paragraph (i) above but for the fact that the child was not then in Northern Ireland; and
- (c) either—
  - (i) that husband had before his death been contributing at not less than the prescribed weekly rate to the cost of providing for that child, or
  - (ii) at the date of that husband's death she was entitled, under an order of a court, trust or agreement which she has taken reasonable steps to enforce, to receive (whether from that husband or from another person) payments in respect of that child at not less than that rate provided or procured by that husband :

Provided that the allowance shall not be payable for any period after the woman's remarriage or for any period during which she is cohabiting with a man as his wife.

## 32 Death grant

- (1) Subject to the provisions of this Act, a death grant of the amount specified in relation thereto in Schedule 4, Part II, paragraph 2, shall be payable in respect of the death of any person (" the deceased ") where the case is one falling within any of the paragraphs of subsection (2) below; and in that subsection and subsection (4) below references to a person being, or having been, a qualifying contributor are to his satisfying or having satisfied the contribution condition specified for death grant in Schedule 3, Part I, paragraph 7.
- (2) The following are the cases in which a death grant is payable—
  - (a) the deceased was a qualifying contributor;
  - (b) the deceased was at death the husband, wife, widower, widow or a child of the family of a qualifying contributor;
  - (c) the deceased was a child and either—
    - (i) he had been a child of the family of a person who pre-deceased him (and was so at the death of that person) and that person was a qualifying contributor immediately before his death, or
    - (ii) he was the posthumous son or daughter of a man who was a qualifying contributor ;
  - (d) the deceased was over the age of 19 at death and—
    - (i) he was at death, and had ever since attaining the age of 19 been, incapacitated for regular employment, and
    - (ii) he was at death residing (or would, if not living in an institution, have been residing) with a near relative being either a qualifying contributor or the wife or widow of a qualifying contributor.
- (3) For the purposes of subsection (2) above, the following definitions apply—
  - (a) " incapacitated " means incapacitated by reason of illness or disability of mind or body;
  - (b) " institution " means a school, hospital or establishment accepted by the Department as providing residential accommodation for disabled persons ; and

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- (c) "near relative" means a person—
- (i) of whom the deceased was the son or daughter or remoter issue ; or
  - (ii) who was the deceased's son or daughter or remoter issue; or
  - (iii) who was the deceased's step-father, stepmother or step-child, or brother, sister, half-brother, or half-sister, step-brother or step-sister, (any such relationship as is specified in sub-paragraph (i), (ii) or (iii) being taken to include the same relationship by adoption, and to include also any such relationship as would have subsisted if some person born illegitimate had been born legitimate).
- (4) Regulations may provide that, in a case where the deceased—
- (a) was a child either at his death or at any time during the tax year in which he died or the preceding tax year; or
  - (b) was at his death over the age of 16 and under the age of 19 and was then incapacitated for regular employment (within the meaning given to that expression by subsection (3)(a) above),
- but (in either case) a death grant is not payable by virtue of subsection (1), it shall nevertheless be payable if a person having such connection with the deceased as may be prescribed is or was at any time a qualifying contributor.
- (5) A death grant shall not be payable in respect of the death of a person who attained pensionable age before 5th July 1948 nor, except in prescribed cases, in respect of a death occurring outside Northern Ireland.

### *Supplementary*

## **33 Partial satisfaction of contribution conditions**

- (1) This section applies to—
- (a) unemployment benefit;
  - (b) sickness benefit;
  - (c) maternity allowance;
  - (d) widowed mother's allowance ;
  - (e) widow's pension;
  - (f) Category A retirement pension ; and
  - (g) Category B retirement pension.
- (2) Subject to the provisions of this section, regulations may provide for persons to be entitled to a benefit to which this section applies, in cases where the first contribution condition specified in relation to that benefit in Schedule 3, Part I, is satisfied, and the second contribution condition so specified is not.
- (3) Regulations under this section shall provide for benefit payable by virtue of any such regulations to be payable at a rate, or to be of an amount, less than that specified in Schedule 4 to this Act, and the rate or amount prescribed by the regulations may vary with the extent to which the relevant contribution conditions are satisfied; but the amount of any increase of benefit in respect of a child shall be the same as if both of the relevant contribution conditions had been fully satisfied.