



Social Security (Northern Ireland) Act 1975

1975 CHAPTER 15

PART II

BENEFIT AND ITS ADMINISTRATION

CHAPTER III

INCREASES FOR DEPENDANTS

Child dependants

41 Beneficiary's dependent children

- (1) Subject to section 30(1) of this Act and to the following provisions of this Part, the weekly rate of any benefit to which this subsection applies shall, for any period for which the beneficiary has a family which includes a child or children, be increased in respect of that child, or each respectively of those children, by the appropriate amount specified in relation to the benefit in question in Schedule 4, Part IV, column (2) or (3).
- (2) Subsection (1) above applies to—
 - (a) unemployment benefit;
 - (b) sickness benefit;
 - (c) invalidity pension;
 - (d) maternity allowance;
 - (e) widow's allowance; and
 - (f) Category A, B or C retirement pension.
- (3) In the application of subsection (1) of this section to a maternity allowance, references to a child or children shall include references to any child or children born to the

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beneficiary on the occasion of the confinement by reason of whose actual or expected occurrence she became entitled to the allowance.

- (4) Subject to section 43 below, the weekly rate of a widowed mother's allowance payable by virtue of section 25(1)(a) shall be increased for any period in respect of the child or, if more than one, each respectively of the children falling within paragraph (a), (b) or (c) of section 25(2) for the time being included in her family by the appropriate amount specified in relation to that allowance in Schedule 4, Part IV, column (2) or (3).
- (5) Subject to section 43, the weekly rate of a child's special allowance shall, for any period for which the beneficiary has a family which includes 2 or more children with respect to whom the conditions specified in section 31(b) and (c) are satisfied, be increased in respect of each respectively of those children other than the elder or eldest by the appropriate amount specified in relation to that allowance in Schedule 4, Part IV, column (3).
- (6) Where the beneficiary by whom an increase of benefit under this section is claimed is a married woman residing with her husband, it shall be an additional condition with respect to receipt of that increase that her husband is incapable of self-support.

42 Additional provisions as to increase under s. 41

- (1) This section has effect with respect to increases under section 41 of this Act of benefits other than a child's special allowance.
- (2) Subject to section 43, a child of the family of a woman for the time being residing with the beneficiary is to be treated for the purposes of section 41 as a child of the beneficiary's family if the child—
 - (a) is an illegitimate son or daughter of theirs; or
 - (b) was born not less than 6 months before the day for which the increase provided for by that section is claimed and was wholly or mainly maintained by the beneficiary throughout the 6 months ending immediately before that day.
- (3) Subject to section 43, where a man is entitled to unemployment benefit, sickness benefit, an invalidity pension, or a Category A or C retirement pension, there is to be treated for the purposes of section 41 as included in the beneficiary's family—
 - (a) a child who, on the day for which the increase provided by section 41 is claimed, could (though not otherwise included in the beneficiary's family) have been treated as so included by virtue of paragraph 3 of the Schedule to the Family Allowances Act; and
 - (b) a child who could have been so treated but for the fact that the beneficiary is contributing at the appropriate rate to the cost of providing for the child;

and " the appropriate rate" is a weekly rate which, though not less than the prescribed rate, is less than the minimum rate for the time being required for the purposes of section 3(2) of the Family Allowances Act.
- (4) In the case of retirement pensions (except Category D)—
 - (a) where a man and his wife are both entitled to a retirement pension (being a Category A or C pension in his case and a Category B or C pension in hers)—
 - (i) they shall not both be entitled for the same period to an increase under section 41(1) in respect of the same child, nor shall they both be entitled for the same period, in respect of different children, to such an increase at the rate applicable to an only, elder or eldest child;

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- (ii) where one of them is entitled to such an increase at the rate above mentioned in respect of a child not included or treated as included in the other's family, the rates of any such increases to which the other is entitled shall be the rates which would have been appropriate if that child had been the elder or eldest child of the other's family;
- (b) for any reference in subsection (2) above to the day for which the increase provided for by section 41 is claimed there shall be substituted a reference to the date of retirement or, where the beneficiary is a woman who became entitled to the pension without having retired, the date when she so became entitled;

and where, but for paragraph (a) above, a man and his wife would both be entitled to an increase of a retirement pension under section 41(1), regulations may make provision as to their priority.

43 Limits of increase for dependent children

- (1) Where, apart from this subsection, a person is entitled to receive, in respect of a particular child who is, or who falls to be treated for the purposes of the relevant provision as, a child of that person's family, payment of an amount by way of a child's special allowance under section 31, or a guardian's allowance under section 38, or of any increase under section 41 of any benefit, that amount shall not be payable unless one of the following conditions is satisfied—
 - (a) that the child in question is living with the beneficiary; or
 - (b) that the requisite contributions are being made to the cost of providing for the child.
- (2) The condition specified in subsection (1)(b) above is to be treated as satisfied if, but only if—
 - (a) such contributions are being made at a weekly rate not less than the amount referred to in subsection (1)—
 - (i) by the beneficiary, or
 - (ii) where the beneficiary is one of two spouses living together, by them together; and
 - (b) where an allowance under the Family Allowances Act is payable in respect of the child as a child of the beneficiary's family, the contributions are over and above those required for the purposes of satisfying section 3(2) of that Act or (as the case may be) the Schedule to that Act, paragraph 1(2).
- (3) For the purposes of subsection (1) above, a child's special allowance is to be treated as a payment in respect of an only, or the elder or eldest, child with respect to whom the conditions specified in section 31(b) and (c) of this Act are satisfied, without prejudice, however, to any payment by way of an increase of the allowance in respect of any other such child under section 41(5).
- (4) Where a person is entitled in respect of a child to a guardian's allowance under section 38, the amount (if any) payable to that or any other person by way of any other benefit under Chapters I to III of this Part of this Act in respect of children of any family shall be such, and such only, as would be payable if the first-mentioned child were not included or treated as included in any family.