



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

## 1992 CHAPTER 7

### PART VII

#### INCOME-RELATED BENEFITS

##### *General*

#### **122 Income-related benefits.**

- (1) Prescribed schemes shall provide for the following benefits (in this Act referred to as “income-related benefits”)—
  - (a) income support;
  - (b) family credit;
  - (c) disability working allowance;
  - (d) housing benefit.
- (2) The Department shall make copies of schemes prescribed under subsection (1)(a), (b) or (c) above available for public inspection at social security offices of the Department at all reasonable hours without payment.
- (3) The Department of the Environment and the Executive—
  - (a) shall take such steps as appear to them appropriate for the purpose of securing that persons who may be entitled to housing benefit become aware that they may be entitled to it; and
  - (b) shall make copies of the housing benefit scheme available for public inspection at their offices at all reasonable hours without payment.

*Status: Point in time view as at 12/04/1993.*

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### *Income support*

#### **123 Income support.**

- (1) A person in Northern Ireland is entitled to income support if—
  - (a) he is of or over the age of 18 or, in prescribed circumstances and for a prescribed period, of or over the age of 16 or he is a person to whom section 124(1) below applies;
  - (b) he has no income or his income does not exceed the applicable amount;
  - (c) he is not engaged in remunerative work and, if he is a member of a married or unmarried couple, the other member is not so engaged; and
  - (d) except in such circumstances as may be prescribed—
    - (i) he is available for, and actively seeking, employment;
    - (ii) he is not receiving relevant education.
- (2) In subsection (1)(a) above “period” includes—
  - (a) a period of a determinate length;
  - (b) a period defined by reference to the happening of a future event; and
  - (c) a period of a determinate length but subject to earlier determination upon the happening of a future event.
- (3) Circumstances may be prescribed in which a person must not only satisfy the condition specified in subsection (1)(d)(i) above but also be registered in the prescribed manner for employment.
- (4) Subject to subsection (5) below, where a person is entitled to income support, then—
  - (a) if he has no income, the amount shall be the applicable amount; and
  - (b) if he has income, the amount shall be the difference between his income and the applicable amount.
- (5) Where a person is entitled to income support for a period to which this subsection applies, the amount payable for that period shall be calculated in such manner as may be prescribed.
- (6) Subsection (5) above applies—
  - (a) to a period of less than a week which is the whole period for which income support is payable; and
  - (b) to any other period of less than a week for which it is payable.

#### **124 Severe hardship cases.**

- (1) If it appears to the Department—
  - (a) that a person of or over the age of 16 but under the age of 18 is not entitled to income support; and
  - (b) that severe hardship will result to that person unless income support is paid to him,

the Department may direct that this subsection shall apply to him.
- (2) Any such direction may specify a period for which subsection (1) above is to apply to the person to whom the direction relates.

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- (3) The person to whom such a direction relates shall be treated in accordance with it, but if at any time it appears to the Department that there has been a change of circumstances as a result of which failure to receive income support need no longer result in severe hardship to him, the Department may revoke the direction.
- (4) The Department may also revoke the direction if—
  - (a) it is satisfied that the direction was given in ignorance of some material fact or was based on a mistake as to some material fact; and
  - (b) it considers that but for its ignorance or mistake it would not have determined that failure to receive income support would result in severe hardship.
- (5) In this section “period” includes—
  - (a) a period of a determinate length;
  - (b) a period defined by reference to the happening of a future event; and
  - (c) a period of a determinate length but subject to earlier determination upon the happening of a future event.

## 125 Trade disputes.

- (1) This section applies to a person, other than a child or a person of a prescribed description—
  - (a) who is disqualified under section 27 above for receiving unemployment benefit; or
  - (b) who would be so disqualified if otherwise entitled to that benefit,except during any period shown by the person to be a period of incapacity for work by reason of disease or bodily or mental disablement or to be within the maternity period.
- (2) In subsection (1) above “the maternity period” means the period commencing at the beginning of the 6th week before the expected week of confinement and ending at the end of the 7th week after the week in which confinement takes place.
- (3) For the purpose of calculating income support—
  - (a) so long as this section applies to a person who is not a member of a family, the applicable amount shall be disregarded;
  - (b) so long as it applies to a person who is a member of a family but is not a member of a married or unmarried couple, the portion of the applicable amount which is included in respect of him shall be disregarded;
  - (c) so long as it applies to one of the members of a married or unmarried couple—
    - (i) if the applicable amount consists only of an amount in respect of them, it shall be reduced to one-half; and
    - (ii) if it includes other amounts, the portion of it which is included in respect of them shall be reduced to one-half and any further portion of it which is included in respect of the member of the couple to whom this section applies shall be disregarded;
  - (d) so long as it applies to both the members of a married or unmarried couple—
    - (i) if neither of them is responsible for a child or person of a prescribed description who is a member of the same household, the applicable amount shall be disregarded; and
    - (ii) in any other case, the portion of the applicable amount which is included in respect of them and any further portion of it which is included in respect of either of them shall be disregarded.

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- (4) Where a reduction under subsection (3)(c) above would not produce a sum which is a multiple of 5p, the reduction shall be to the nearest lower sum which is such a multiple.
- (5) Where this section applies to a person for any period, then, except so far as regulations provide otherwise—
- (a) in calculating the entitlement to income support of that person or a member of his family the following shall be treated as his income and shall not be disregarded—
    - (i) any payment which he or a member of his family receives or is entitled to obtain by reason of the person to whom this section applies being without employment for that period; and
    - (ii) without prejudice to the generality of sub-paragraph (i) above, any amount which becomes or would on an application duly made become available to him in that period by way of repayment of income tax deducted from his emoluments in pursuance of section 203 of the <sup>M1</sup>Income and Corporation Taxes Act 1988 (PAYE); and
  - (b) any payment by way of income support for that period or any part of it which apart from this paragraph would be made to him, or to a person whose applicable amount is aggregated with his—
    - (i) shall not be made if the weekly rate of payment is equal to or less than the relevant sum; or
    - (ii) if it is more than the relevant sum, shall be at a weekly rate equal to the difference.
- (6) In respect of any period less than a week, subsection (5) above shall have effect subject to such modifications as may be prescribed.
- (7) Subject to subsection (8) below, “the relevant sum” for the purposes of subsection (5) above shall be [<sup>F1</sup>£23.50].
- (8) If an order under section 132 of the Administration Act (annual up-rating) has the effect of increasing payments of income support, from the time when the order comes into operation there shall be substituted, in subsection (5)(b) above, for the references to the sum for the time being mentioned in it references to a sum arrived at by—
- (a) increasing that sum by the percentage by which the personal allowance under paragraph 1(1) of Part I of Schedule 2 to the <sup>M2</sup>Income Support (General) Regulations (Northern Ireland) 1987 for a single person aged not less than 25 has been increased by the order; and
  - (b) if the sum as so increased is not a multiple of 50p, disregarding the remainder if it is 25p and, if it is not, rounding it up or down to the nearest 50p,
- and the order shall state the substituted sum.

#### Textual Amendments

**F1** Sum in s. 125(7) substituted (with effect as mentioned in art. 1(f) of the amending S.R.) by S.R. 1993/150, arts. 1(f), 18

#### Marginal Citations

**M1** 1988 c. 1.

**M2** S.R. (N.I.) 1987 No. 459.

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## 126 Effect of return to work.

If a person returns to work with the same employer after a period during which section 125 above applies to him, and whether or not his return is before the end of any stoppage of work in relation to which he is or would be disqualified for receiving unemployment benefit—

- (a) that section shall cease to apply to him at the commencement of the day on which he returns to work; and
- (b) until the end of the period of 15 days beginning with that day, section 123(1) above shall have effect in relation to him as if the following paragraph were substituted for paragraph (c)—
  - “(c) in the case of a member of a married or unmarried couple, the other member is not engaged in remunerative work; and”;
- (c) any sum paid by way of income support for that period of 15 days to him or, where he is a member of a married or unmarried couple, to the other member of that couple, shall be recoverable in accordance with the regulations from the person to whom it was paid or from any prescribed person or, where the person to whom it was paid is a member of a married or unmarried couple, from the other member of the couple.

### *Family credit*

## 127 Family credit.

- (1) Subject to regulations under section 5(1)(a) of the Administration Act, a person in Northern Ireland is entitled to family credit if, when the claim for it is made or is treated as made—
  - (a) his income—
    - (i) does not exceed the amount which is the applicable amount at such date as may be prescribed; or
    - (ii) exceeds it, but only by such an amount that there is an amount remaining if the deduction for which subsection (2)(b) below provides is made;
  - (b) he or, if he is a member of a married or unmarried couple, he or the other member of the couple, is engaged and normally engaged in remunerative work;
  - (c) except in such circumstances as may be prescribed, neither he nor any member of his family is entitled to a disability working allowance; and
  - (d) he or, if he is a member of a married or unmarried couple, he or the other member, is responsible for a member of the same household who is a child or a person of a prescribed description.
- (2) Where a person is entitled to family credit, then—
  - (a) if his income does not exceed the amount which is the applicable amount at the date prescribed under subsection (1)(a)(i) above, the amount of the family credit shall be the amount which is the appropriate maximum family credit in his case; and
  - (b) if his income exceeds the amount which is the applicable amount at that date, the amount of the family credit shall be what remains after the deduction

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from the appropriate maximum family credit of a prescribed percentage of the excess of his income over the applicable amount.

- (3) Family credit shall be payable for a period of 26 weeks or such other period as may be prescribed and, subject to regulations, an award of family credit and the rate at which it is payable shall not be affected by any change of circumstances during that period or by any order under section 132 of the Administration Act.
- (4) Regulations may provide that an award of family credit shall terminate—
  - (a) if a person who was a member of the family at the date of the claim becomes a member of another family and some member of that family is entitled to family credit; or
  - (b) if income support or a disability working allowance becomes payable in respect of a person who was a member of the family at the date of the claim for family credit.
- (5) Regulations shall prescribe the manner in which the appropriate maximum family credit is to be determined in any case.
- (6) The provisions of this Act relating to family credit apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

#### *Disability working allowance*

### **128 Disability working allowance.**

- (1) A person in Northern Ireland who has attained the age of 16 and qualifies under subsection (2) below is entitled to a disability working allowance if, when the claim for it is made or is treated as made—
  - (a) he is engaged and normally engaged in remunerative work;
  - (b) he has a physical or mental disability which puts him at a disadvantage in getting a job;
  - (c) his income—
    - (i) does not exceed the amount which is the applicable amount at such date as may be prescribed; or
    - (ii) exceeds it, but only by such an amount that there is an amount remaining if the deduction for which subsection (5)(b) below provides is made; and
  - (d) except in such circumstances as may be prescribed, neither he nor, if he has a family, any member of it, is entitled to family credit.
- (2) Subject to subsection (4) below, a person qualifies under this subsection if—
  - (a) for one or more of the 56 days immediately preceding the date when the claim for a disability working allowance is made or is treated as made there was payable to him one or more of the following—
    - (i) an invalidity pension under section 33, 40 or 41 above;
    - (ii) a severe disablement allowance;
    - (iii) income support or housing benefit,
 or a corresponding benefit under any statutory provision having effect in Great Britain;

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- (b) when the claim for a disability working allowance is made or is treated as made, there is payable to him one or more of the following—
    - (i) an attendance allowance;
    - (ii) a disability living allowance;
    - (iii) an increase of disablement pension under section 104 above;
    - (iv) an analogous pension increase under a war pension scheme or the industrial injuries regulations;or a corresponding benefit under any statutory provision having effect in Great Britain; or
  - (c) when the claim for a disability working allowance is made or is treated as made, he has an invalid carriage or other vehicle provided under Article 30(1) of the <sup>M3</sup>Health and Personal Social Services (Northern Ireland) Order 1972 or provided by the Secretary of State under section 5(2)(a) of the <sup>M4</sup>National Health Service Act 1977 and Schedule 2 to that Act or under section 46 of the <sup>M5</sup>National Health Service (Scotland) Act 1978.
- (3) For the purposes of subsection (1) above a person has a disability which puts him at a disadvantage in getting a job only if he satisfies prescribed conditions, or prescribed circumstances exist in relation to him.
- (4) If the only benefit mentioned in paragraph (a) of subsection (2) above which is payable to a person as there mentioned is—
  - (a) a benefit mentioned in sub-paragraph (iii) of that paragraph; or
  - (b) a corresponding benefit under any statutory provision having effect in Great Britain,he only qualifies under that subsection in prescribed circumstances.
- (5) Where a person is entitled to a disability working allowance, then—
  - (a) if his income does not exceed the amount which is the applicable amount at the date prescribed under subsection (1)(c)(i) above, the amount of the disability working allowance shall be the amount which is the appropriate maximum disability working allowance in his case; and
  - (b) if his income exceeds that amount, the amount of the disability working allowance shall be what remains after the deduction from the appropriate maximum disability working allowance of a prescribed percentage of the excess of his income over that amount.
- (6) A disability working allowance shall be payable for a period of 26 weeks or such other period as may be prescribed and, subject to regulations, an award of a disability working allowance and the rate at which it is payable shall not be affected by any change of circumstances during that period or by any order under section 132 of the Administration Act.
- (7) Regulations may provide that an award of a disability working allowance to a person shall terminate if—
  - (a) a disability working allowance becomes payable in respect of some other person who was a member of his family at the date of his claim for a disability working allowance; or
  - (b) income support or family credit becomes payable in respect of a person who was a member of the family at that date.

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- (8) Regulations shall prescribe the manner in which the appropriate maximum disability working allowance is to be determined in any case.
- (9) The provisions of this Act relating to disability working allowance apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

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

- C1** S. 128(1)(b) modified (1.7.1992) by *Social Security Administration (Northern Ireland) Act 1992 (c. 8), ss. 9(2), 168(4)*.
- C2** S. 128(2) modified (1.7.1992) by *Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), ss. 6, 7(2), Sch. 4, Pt. II para. 16*

**Marginal Citations**

- M3** S.I. 1972/1265 (N.I. 14).
- M4** 1977 c. 49.
- M5** 1978 c. 29.

*Housing benefit*

**129 Housing benefit.**

- (1) A person is entitled to housing benefit if—
- (a) he is liable to make payments in respect of a dwelling in Northern Ireland which he occupies as his home;
  - (b) there is an appropriate maximum housing benefit in his case; and
  - (c) either—
    - (i) he has no income or his income does not exceed the applicable amount; or
    - (ii) his income exceeds that amount, but only by so much that there is an amount remaining if the deduction for which subsection (3)(b) below provides is made.
- (2) In subsection (1) above “payments in respect of a dwelling” means such payments as may be prescribed, but the power to prescribe payments does not include power to prescribe mortgage payments.
- (3) Where a person is entitled to housing benefit, then—
- (a) if he has no income or his income does not exceed the applicable amount, the amount of the housing benefit shall be the amount which is the appropriate maximum housing benefit in his case; and
  - (b) if his income exceeds the applicable amount, the amount of the housing benefit shall be what remains after the deduction from the appropriate maximum housing benefit of prescribed percentages of the excess of his income over the applicable amount.
- (4) Regulations shall prescribe the manner in which the appropriate maximum housing benefit is to be determined in any case.



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## General

### 130 Exclusions from benefit.

- (1) No person shall be entitled to an income-related benefit if his capital or a prescribed part of it exceeds the prescribed amount.
- (2) Except in prescribed circumstances the entitlement of one member of a family to any one income-related benefit excludes entitlement to that benefit for any other member for the same period.
- (3) Where the amount of any income-related benefit would be less than a prescribed amount, it shall not be payable except in prescribed circumstances.

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

- C3 S. 130(1)(2): certain functions transferred (5.10.1999) by 1999 c. 10, ss. 2(1)(a), 20(2), Sch. 2 para. 3(e)

### 131 The applicable amount.

- (1) The applicable amount, in relation to any income-related benefit, shall be such amount or the aggregate of such amounts as may be prescribed in relation to that benefit.
- (2) The power to prescribe applicable amounts conferred by subsection (1) above includes power to prescribe nil as an applicable amount.
- [<sup>F2</sup>(3) In prescribing, for the purposes of income support, amounts under subsection (1) above in respect of accommodation in any area for qualifying persons in cases where prescribed conditions are fulfilled, the Department shall take into account—
  - (a) the amounts which the Department has agreed to pay, and
  - (b) information provided by the Board or other prescribed persons with respect to the amounts which the Board or such persons have agreed to pay,for the provision of accommodation in relevant premises in that area.
- (4) In subsection (3) above—

“accommodation” includes any board or care;

“the Board” means the Health and Social Services Board for that area;

[<sup>F3</sup>“qualifying persons” means any person who falls within paragraph (1) of Article 36A of the Health and Personal Social Services (Northern Ireland) Order 1972 (persons ordinarily resident in residential care or nursing homes immediately before the coming into operation of that Article) or who would fall within that paragraph apart from any regulations under paragraph (2) of that Article;

“relevant premises” means premises mentioned in paragraph (1) of the said Article 36A.]]
- (5) In relation to income support and housing benefit, the applicable amount for a severely disabled person shall include an amount in respect of his being a severely disabled person.
- (6) Regulations may specify circumstances in which persons are to be treated as being or as not being severely disabled.

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#### Textual Amendments

- F2** S. 131(3)(4) omitted (temp. from 1.7.1992) by virtue of [Social Security \(Consequential Provisions\) \(Northern Ireland\) Act 1992 \(c. 9\)](#), ss. 6, 7(2), Sch. 4 Pt. I paras. 1, 4
- F3** Definitions in s. 131(4) substituted (1.4.1993) by [S.I. 1992/3204 \(N.I. 20\)](#), art. 37, [Sch. 1](#), para. 5; [S.R. 1993/75](#), [art.2](#)

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

- C4** S. 131(1)(2): certain functions transferred (5.10.1999) by [1999 c. 10](#), ss. 2(1)(a), 20(2), [Sch. 2 para. 3\(f\)](#)
- C5** S. 131(1) modified (1.7.1998) by [S.I. 1998/1506 \(N.I. 10\)](#), [arts. 1\(3\)](#), 73(8)
- C6** S. 131(1) restricted (26.3.2002) by [Personal Social Services \(Preserved Rights\) Act \(Northern Ireland\) 2002 \(c. 5 \(N.I.\)\)](#), [s. 3\(a\)](#)

### 132 Income and capital.

- (1) Where a person claiming an income-related benefit is a member of a family, the income and capital of any member of that family shall, except in prescribed circumstances, be treated as the income and capital of that person.
- (2) Regulations may provide that capital not exceeding the amount prescribed under section 130(1) above but exceeding a prescribed lower amount shall be treated, to a prescribed extent, as if it were income of a prescribed amount.
- (3) Income and capital shall be calculated or estimated in such manner as may be prescribed.
- (4) Circumstances may be prescribed in which—
  - (a) a person is treated as possessing capital or income which he does not possess;
  - (b) capital or income which a person does possess is to be disregarded;
  - (c) income is to be treated as capital;
  - (d) capital is to be treated as income.

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

- C7** S. 132: certain functions transferred (5.10.1999) by [1999 c. 10](#), ss. 2(1)(a), 20(2), [Sch. 2 para. 3\(g\)](#)

### 133 Interpretation of Part VII and supplementary provisions.

- (1) In this Part of this Act—
  - “child” means a person under the age of 16;
  - [<sup>F4</sup>“dwelling” means any residential accommodation, whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;]
  - “the Executive” means the Northern Ireland Housing Executive;
  - “family” means—
    - (a) a married or unmarried couple;
    - (b) a married or unmarried couple and a member of the same household for whom one of them is or both are responsible and who is a child or a person of a prescribed description;

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(c) except in prescribed circumstances, a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child or a person of a prescribed description;

“industrial injuries regulations” means the regulations made under Schedule 8 to this Act or section 150 of the 1975 Act or under the Old Cases Act;

“married couple” means a man and woman who are married to each other and are members of the same household;

“prescribed” means specified in or determined in accordance with regulations;

“unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;

“war pension scheme” means a scheme under which war pensions (as defined in section 25(4) of the <sup>M6</sup>Social Security Act 1989) are provided.

(2) Regulations may make provision for the purposes of this Part of this Act—

- (a) as to circumstances in which a person is to be treated as being or not being in Northern Ireland;
- (b) continuing a person’s entitlement to benefit during periods of temporary absence from Northern Ireland;
- (c) as to what is or is not to be treated as remunerative work or as employment;
- (d) as to circumstances in which a person is or is not to be treated as—
  - (i) engaged or normally engaged in remunerative work;
  - (ii) available for employment; or
  - (iii) actively seeking employment;
- (e) as to what is or is not to be treated as relevant education;
- (f) as to circumstances in which a person is or is not to be treated as receiving relevant education;
- (g) specifying the descriptions of pension increases under war pension schemes or the industrial injuries regulations that are analogous to the benefits mentioned in section 128(2)(b)(i) to (iii) above;
- (h) as to circumstances in which a person is or is not to be treated as occupying a dwelling as his home;
  - (i) for treating any person who is liable to make payments in respect of a dwelling as if he were not so liable;
  - (j) for treating any person who is not liable to make payments in respect of a dwelling as if he were so liable;
- (k) for treating as included in a dwelling any land used for the purposes of the dwelling;
- (l) as to circumstances in which persons are to be treated as being or not being members of the same household;
- (m) as to circumstances in which one person is to be treated as responsible or not responsible for another.

#### Textual Amendments

**F4** Definition of “dwelling” in s. 133(1) inserted (retrospectively) by S.I. 1993/1579 (N.I. 8), art. 3(2)(4)

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**Marginal Citations**

**M6** 1989 c. 24.

**Status:**

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