



# 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) [<sup>F1</sup>working families’ tax credit];
  - (c) [<sup>F2</sup>disabled person’s tax credit];
  - (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.

#### **Textual Amendments**

**F1** Words in s. 122(1)(b) substituted (5.10.1999) by 1999 c. 10, ss. 1(2), 20(2), Sch. 1 paras. 1(a), 4(f)

*Status: Point in time view as at 01/04/2003.*

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**F2** Words in s. 122(1)(c) substituted (5.10.1999) by 1999 c. 10, ss. 1(2), 20(2), Sch. 1 paras. 1(b), 4(f)

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

**C1** S. 122(1)(b)(c): certain functions transferred (5.10.1999) by 1999 c. 10, ss. 2(1)(a), 20(2), **Sch. 2 para. 3(b)**

**C2** S. 122(2) modified (5.10.1999) by 1999 c. 10, ss. 2(4), 20(2), **Sch. 2 para. 28**

**C3** S. 122(3): certain functions transferred (1.12.1999) by S.R. 1999/481, art. 6(b), **Sch. 4 Pt. II**

*Income support*

**123 Income support.**

- (1) A person in Northern Ireland is entitled to income support if—
- [<sup>F3</sup>(a) he is of or over the age of 16;]
  - [<sup>F4</sup>(aa) he has not attained the qualifying age for state pension credit;]
  - (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; <sup>F5</sup> . . .
  - [<sup>F6</sup>(d) except in such circumstances as may be prescribed, he is not receiving relevant education;]
  - [<sup>F7</sup>(e) he falls within a prescribed category of person; and
  - (f) he is not entitled to a jobseeker’s allowance and, if he is a member of a married or unmarried couple, the other member of the couple is not [<sup>F8</sup>, and the couple are not,] entitled to an income-based jobseeker’s allowance[<sup>F9</sup>; and
  - (g) if he is a member of a married or unmarried couple, the other member of the couple is not entitled to state pension credit.]
- (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.

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#### Textual Amendments

- F3** S. 123(1)(a) substituted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 13(2)**; S.R. 1996/401, **art. 2**
- F4** S. 123(1)(aa) inserted (2.12.2002 for certain purposes and otherwise prosp.) by State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), ss. 14, 21(2), **Sch. 2 para. 2(a)**; S.R. 2002/366, **art. 2(1)(I)**
- F5** Word in s. 123(1)(c) repealed (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1)(2), Sch. 2 para. 13(3), **Sch. 3**; S.R. 1996/401, **art. 2**
- F6** S. 123(1)(d) substituted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 13(4)**; S.R. 1996/401, **art. 2**
- F7** S. 123(1)(e)(f) inserted (5.2.1996 for the purpose only of authorising the making of regulations and 7.10.1996 otherwise) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 13(5)**; S.R. 1996/26, art. 2(b), **Sch.**; S.R. 1996/401, **art. 2**
- F8** Words in s. 123(1)(f) inserted (19.3.2001) by S.I. 1999/3147 (N.I. 11), art. 67, **Sch. 8 para. 26**; S.R. 2001/114, **art. 4(a)**
- F9** S. 123(1)(g) and preceding word added (2.12.2002 for certain purposes and otherwise prosp.) by State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), ss. 14, 21(2), **Sch. 2 para. 2(b)**; S.R. 2002/366, **art. 2(1)(I)**

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

- C4** S. 123(1)(e) modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), **arts. 1(3)**, 73(8)(d)

<sup>F10</sup> 124 .....

#### Textual Amendments

- F10** S. 124 repealed (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(2), **Sch. 3**; S.R. 1996/401, **art. 2**

## 125 Trade disputes.

- (1) This section applies to a person, other than a child or a person of a prescribed description—
- (a) who [<sup>F11</sup>is prevented from being entitled to a jobseeker’s allowance by Article 16 of the Jobseekers (Northern Ireland) Order 1995 (trade disputes)]; or
  - (b) who would be so [<sup>F12</sup>prevented] if otherwise entitled to that benefit,
- except during any period shown by the person to be a period of incapacity for work <sup>F13</sup> . . . 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—

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- (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.
- (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>F14</sup>£29.00].
- (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

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- (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

- F11** Words in s. 125(1)(a) substituted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 14(a)**; S.R. 1996/401, **art. 2**
- F12** Word in s. 125(1)(b) substituted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 14(b)**; S.R. 1996/401, **art. 2**
- F13** Words in s. 125(1) repealed (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1)(2), Sch. 1 Pt. I para. 31, **Sch. 2**; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F14** Sum in s. 125(7) substituted (with effect as mentioned in art. 1(1)(h) of amending S.R.) by The Social Security Benefits Up-rating Order (Northern Ireland) 2002 (S.R. 2002/99), **art. 18**

#### Marginal Citations

- M1** 1988 c. 1.
- M2** S.R. (N.I.) 1987 No. 459.

## 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 <sup>[F15]</sup>prevented from being entitled to a jobseeker's allowance]—

- (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”; 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.

#### Textual Amendments

- F15** Words in s. 126 substituted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 15**; S.R. 1996/401, **art. 2**

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### *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 [<sup>F16</sup>working families' tax 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 [<sup>F17</sup>disabled person's tax credit]; 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 [<sup>F16</sup>working families' tax 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 [<sup>F16</sup>working families' tax credit] shall be the amount which is the appropriate maximum [<sup>F16</sup>working families' tax credit] in his case; and
  - (b) if his income exceeds the amount which is the applicable amount at that date, the amount of the [<sup>F16</sup>working families' tax credit] shall be what remains after the deduction from the appropriate maximum [<sup>F16</sup>working families' tax credit] of a prescribed percentage of the excess of his income over the applicable amount.
- (3) [<sup>F16</sup>Working families' tax credit] shall be payable for a period of 26 weeks or such other period as may be prescribed and, subject to regulations, an award of [<sup>F16</sup>working families' tax credit] and the rate at which it is payable shall not be affected by any change of circumstances during that period or by any order under section 132 of the Administration Act.
- (4) Regulations may provide that an award of [<sup>F16</sup>working families' tax 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 [<sup>F16</sup>working families' tax credit]; or
  - (b) if income support [<sup>F18</sup>, an income-based jobseeker's allowance] or a [<sup>F17</sup>disabled person's tax credit] becomes payable in respect of a person who was a member of the family at the date of the claim for [<sup>F16</sup>working families' tax credit].
- (5) Regulations shall prescribe the manner in which the appropriate maximum [<sup>F16</sup>working families' tax credit] is to be determined in any case.

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- (6) The provisions of this Act relating to [<sup>F16</sup>working families' tax credit] apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

#### Textual Amendments

- F16** Words in s. 127(1)-(6) substituted (5.10.1999) by 1999 c. 10, ss. 1(2), 20(2), Sch. 1 paras. 1(a), 4(g)  
**F17** Words in s. 127(1)(4)(b) substituted (5.10.1999) by 1999 c. 10, ss. 1(2), 20(2), Sch. 1 paras. 1(b), 4(g)  
**F18** Words in s. 127(4)(b) inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 16**;  
S.R. 1996/401, **art. 2**

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

- C5** S. 127: certain functions transferred (5.10.1999) by 1999 c. 10, ss. 2(1)(a), 20(2), **Sch. 2 para. 3(d)**  
**C6** S. 127(5): power to modify conferred (5.10.1999) by 1999 c. 10, **ss. 15(1)**, 20(2)

### *Disability working allowance*

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

- (1) A person in Northern Ireland who has attained the age of 16 and [<sup>F19</sup>qualifies under subsection (2) [<sup>F20</sup>, (2A) or (2C)] below] is entitled to a [<sup>F21</sup>disabled person's tax credit] if, when the claim for it is made or is treated as made—
- (a) he is engaged and normally engaged in remunerative work;
  - (b) he has a physical or mental disability which puts him at a disadvantage in getting a job;
  - (c) his income—
    - (i) does not exceed the amount which is the applicable amount at such date as may be prescribed; or
    - (ii) exceeds it, but only by such an amount that there is an amount remaining if the deduction for which subsection (5)(b) below provides is made; and
  - (d) except in such circumstances as may be prescribed, neither he nor, if he has a family, any member of it, is entitled to [<sup>F22</sup>working families' tax credit].
- (2) Subject to subsection (4) below, a person qualifies under this subsection if—
- (a) for one or more of the [<sup>F23</sup>182 days] immediately preceding the date when the claim for a [<sup>F21</sup>disabled person's tax credit] is made or is treated as made there was payable to him one or more of the following—
    - [<sup>F24</sup>(i) the higher rate of short-term incapacity benefit or long-term incapacity benefit;]
    - <sup>F25</sup>(ii) .....
    - (iii) income support [<sup>F26</sup>,an income-based jobseeker's allowance] or housing benefit,or a corresponding benefit under any statutory provision having effect in Great Britain;
  - (b) when the claim for a [<sup>F21</sup>disabled person's tax credit] is made or is treated as made, there is payable to him one or more of the following—
    - (i) an attendance allowance;

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- (ii) a disability living allowance;
  - (iii) an increase of disablement pension under section 104 above;
  - (iv) an analogous pension increase under a war pension scheme or the industrial injuries regulations;
- or a corresponding benefit under any statutory provision having effect in Great Britain; or
- (c) when the claim for a [<sup>F21</sup>disabled person’s tax credit] is made or is treated as made, he has an invalid carriage or other vehicle provided under Article 30(1) of the <sup>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.
- [<sup>F27</sup>(2A) A person qualifies under this subsection if—
- (a) on one or more of the 56 days immediately preceding the date when the claim for a [<sup>F21</sup>disabled person’s tax credit] is made or is treated as made he was engaged in training for work; and
  - (b) a relevant benefit was payable to him for one or more of the 56 days immediately preceding—
    - (i) the first day of training for work falling within the 56 days mentioned in paragraph (a) above; or
    - (ii) an earlier day of training for work which formed part of the same period of training for work as that day.
- (2B) For the purposes of subsection (2A) above—
- (a) the following are relevant benefits—
    - (i) the higher rate of short-term incapacity benefit;
    - (ii) long-term incapacity benefit;
    - <sup>F25</sup>(iii) .....
 or a corresponding benefit under any enactment having effect in Great Britain;
  - (b) “training for work” means training for work in pursuance of arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or training of such other description as may be prescribed; and
  - (c) a period of training for work means a series of consecutive days of training for work, there being disregarded for this purpose such days as may be prescribed.]
- [<sup>F28</sup>(2C) A person qualifies under this subsection if—
- (a) the condition mentioned in subsection (2D) below is satisfied;
  - (b) a medical practitioner (within the meaning of the Administration Act) certifies, not more than 14 days before the date when the claim for disabled person’s tax credit is made—
    - (i) that in his opinion the person will continue to have the disability in question for a period of at least six months; or
    - (ii) that in his opinion the person will continue to have that disability for the remainder of his life; and
  - (c) the level of the person’s expected earnings is lower, by at least the required amount, than it would have been if he had not had the disability.



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- (2D) The condition is that there are 140 qualifying days, the last falling within the period of 56 days immediately preceding the date when the claim for disabled person's tax credit is made, which are days in respect of which—
- (a) statutory sick pay has been payable to the person;
  - (b) the lower rate of short-term incapacity benefit has been payable to him;
  - (c) income support has been payable to him on grounds of incapacity; or
  - (d) earnings have been credited to him under regulations made under section 22(5) above.
- (2E) For the purposes of subsections (2C) and (2D) above—
- (a) the required amount, in relation to a person's expected earnings, is—
    - (i) 20 per cent of what those earnings would have been if he had not had the disability; or
    - (ii) if the amount given by sub-paragraph (i) above is less than the prescribed amount, the prescribed amount;
  - (b) qualifying days are days forming part of a single period of incapacity for work within the meaning of Part XI of this Act; and
  - (c) income support is payable to a person on grounds of incapacity if and only if he satisfies the condition in section [F<sup>29</sup>123(1)(e)] above by virtue of being a person who—
    - (i) is, or is treated as, incapable of work for any purposes of this Act; or
    - (ii) is treated as capable of work by virtue of regulations under section [F<sup>29</sup>167E] below.
- (2F) Sections 3 and 112 above shall apply as if this section were included in Parts I to V of this Act.]
- (3) For the purposes of subsection (1) above a person has a disability which puts him at a disadvantage in getting a job only if he satisfies prescribed conditions, or prescribed circumstances exist in relation to him.
- (4) If the only benefit mentioned in paragraph (a) of subsection (2) above which is payable to a person as there mentioned is—
- (a) a benefit mentioned in sub-paragraph (iii) of that paragraph; or
  - (b) a corresponding benefit under any statutory provision having effect in Great Britain,
- he only qualifies under that subsection in prescribed circumstances.
- (5) Where a person is entitled to a [F<sup>21</sup>disabled person's tax credit], then—
- (a) if his income does not exceed the amount which is the applicable amount at the date prescribed under subsection (1)(c)(i) above, the amount of the [F<sup>21</sup>disabled person's tax credit] shall be the amount which is the appropriate maximum [F<sup>21</sup>disabled person's tax credit] in his case; and
  - (b) if his income exceeds that amount, the amount of the [F<sup>21</sup>disabled person's tax credit] shall be what remains after the deduction from the appropriate maximum [F<sup>21</sup>disabled person's tax credit] of a prescribed percentage of the excess of his income over that amount.
- (6) A [F<sup>21</sup>disabled person's tax credit] shall be payable for a period of 26 weeks or such other period as may be prescribed and, subject to regulations, an award of a [F<sup>21</sup>disabled person's tax credit] and the rate at which it is payable shall not be affected by any

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change of circumstances during that period or by any order under section 132 of the Administration Act.

- (7) Regulations may provide that an award of a [<sup>F21</sup>disabled person's tax credit] to a person shall terminate if—
- (a) a [<sup>F21</sup>disabled person's tax credit] becomes payable in respect of some other person who was a member of his family at the date of his claim for a [<sup>F21</sup>disabled person's tax credit]; or
  - (b) income support [<sup>F26</sup>,an income-based jobseeker's allowance] or [<sup>F22</sup>working families' tax credit] becomes payable in respect of a person who was a member of the family at that date.
- <sup>F30</sup>(8) Regulations shall prescribe the manner in which the appropriate maximum [<sup>F21</sup>disabled person's tax credit] is to be determined in any case.
- (9) The provisions of this Act relating to [<sup>F21</sup>disabled person's tax credit] apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

#### Textual Amendments

- F19** Words in s. 128(1) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. I para. 12(2)**; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F20** Words in s. 128(1) substituted (1.10.2000) by 1999 c. 10, **ss. 14(1)(2)(6)(9)**, 20(2)(c)
- F21** Words in s. 128(1)(2)(2A)(a)(5)–(9) substituted (5.10.1999) by 1999 c. 10, ss. 1(2), 20(2), Sch. 1 paras. 1(b), **4(h)**
- F22** Words in s. 128(1)(d)(7)(b) substituted (5.10.1999) by 1999 c. 10, ss. 1(2), 20(2), Sch. 1 paras. 1(a), **4(h)**
- F23** Words in s. 128(2)(a) substituted (5.10.1999) by 1999 c. 10, **ss. 14(3)**, 20(2)
- F24** S. 128(2)(a)(i) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. I para. 32**; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F25** S. 128(2)(a)(ii) and (2B)(a)(iii) repealed (3.11.2000 for specified purposes and 6.4.2001 otherwise) by S.I. 1999/3147 (N.I. 11), art. 76, **Sch. 10 Pt. IV**; S.R. 2000/332, **art. 2(3)(g)(4)(5)**
- F26** Words in s. 128(2)(a)(iii)(7)(b) inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 17**; S.R. 1996/401, **art. 2**
- F27** S. 128(2A)(2B) inserted (21.11.1994 for the purpose of making regulations and 13.4.1995 otherwise) by S.I. 1994/1898 (N.I. 12), **art. 12(3)**; S.R. 1994/450, art. 2(b)(d), Sch. Pts. II, **IV**
- F28** S. 128(2C)–(2F) inserted (1.10.2000) by 1999 c. 10, **ss. 14(1)(4)(6)(9)**, 20(2)(c)
- F29** Words in s. 128(2E) substituted (1.10.2000) by 1999 c. 10, **ss. 14(1)(6)(9)**, 20(2)(c)
- F30** S. 128(8): by 1999 c. 10, **ss. 14(1)(5)(6)(9)**, 20(2)(c) it is provided (1.10.2000) that, after "allowance", there shall be substituted ", or the level of a person's expected earnings,"

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

- C7** S. 128: certain functions transferred (5.10.1999) by 1999 c. 10, ss. 2(1)(a), 20(2), **Sch. 2 para. 3(d)**
- C8** S. 128(1)(b) modified (1.7.1992) by Social Security Administration (Northern Ireland) Act 1992 (c. 8), **ss. 9(2)**, 168(4).
- C9** 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**
- C10** S. 128(2A) amended (13.4.1995) by S.R. 1992/78, **reg. 7A** (as inserted by S.R. 1995/67, **reg. 1(1)(b)(3)**, 3(2))
- C11** S. 128(2A) modified (13.4.1995) by S.R. 1995/67, **regs. 1(1)(b)(3)**, 6(2))
- C12** S. 128(2B) amended (13.4.1995) by S.R. 1992/78, **reg. 7B** (as inserted by S.R. 1995/67, **regs. 1(1)(b)(3)**, 3(2))

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**C13** S. 128(8): power to modify conferred (5.10.1999) by 1999 c. 10, ss. 15(1), 20(2)

#### 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. [<sup>F31</sup>This subsection is subject to subsection (2A).
- (2A) Except to the extent that regulations otherwise provide, payments in respect of services which provide support, assistance, advice or counselling to individuals with particular needs are not “payments in respect of a dwelling” for the purposes of subsection (1).]
- (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.

#### Textual Amendments

**F31** S. 129(2A) and preceding words inserted (1.4.2003) by [The Housing Support Services \(Northern Ireland\) Order 2002 \(S.I. 2002/3154\)](#), arts. 1(2), **8(1)**; [S.R. 2003/171](#), art. 2

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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)

- C14** 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.
- (3) <sup>F32</sup> .....
- (4) <sup>F32</sup> .....
- (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.

#### Textual Amendments

- F32** S. 131(3)(4) repealed (8.4.2002) by **Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002 (c. 5 (N.I.))**, ss. 4, 7, **Sch.**; S.R. 2002/131, **art. 3**

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

- C15** 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)**
- C16** S. 131(1) modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), **arts. 1(3), 73(8)**
- C17** S. 131(1) restricted (26.3.2002) by **Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002 (c. 5 (N.I.))**, **s. 3(a)**

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## 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)

C18 S. 132: certain functions transferred (5.10.1999) by 1999 c. 10, ss. 2(1)(a), 20(2), Sch. 2 para. 3(g)

### [<sup>F33</sup>132A Effect of attaining qualifying age for state pension credit

- (1) Subsections (2) and (3) below apply in relation to housing benefit in the case of any person who has attained the qualifying age for state pension credit.
- (2) Regulations may make provision for section 130(1) above or any provision of section 132 above not to have effect in relation to that benefit in the case of any such person.
- (3) In relation to that benefit, regulations may make provision for the determination of the income and capital of any such person, and any such regulations may include provision applying (with such modifications as the Department thinks fit)—
  - (a) section 5 of the State Pension Credit Act (Northern Ireland) 2002 (provision for treating income of spouse as income of claimant, etc.); and
  - (b) section 15 of that Act (determination of income and capital for purposes of state pension credit).
- (4) Regulations under subsection (3) above may also include provision—
  - (a) authorising or requiring the use of any calculation or estimate of a person's income or capital made by the Department for the purposes of the State Pension Credit Act (Northern Ireland) 2002; or
  - (b) requiring that, if and so long as an assessed income period is in force under section 6 of that Act in respect of a person falling within subsection (1) above,
    - (i) the assessed amount of any element of his retirement provision shall be treated as the amount of that element for the purposes of housing benefit; and
    - (ii) his income shall be taken for those purposes not to include any element of retirement provision which it is taken not to include for

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the purposes of state pension credit by virtue of a determination under subsection (5) of that section.

- (5) In subsection (4) above “assessed amount”, “element” and “retirement provision” have the same meaning as in the State Pension Credit Act (Northern Ireland) 2002.
- (6) The Department may by regulations make provision for the provisions of this section to apply with modifications in cases to which section 12 of the State Pension Credit Act (Northern Ireland) 2002 (polygamous marriages) applies.]

#### Textual Amendments

**F33** S. 132A inserted (27.1.2003 for specified purposes) by [The State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\), s. 21\(2\), Sch. 2 para. 3; S.R. 2003/29, art. 2](#)

### 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>F34</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;
- (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;

[<sup>F35</sup>“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;]

“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;

[<sup>F36</sup>“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995;

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

[<sup>F37</sup>“the qualifying age for state pension credit” is (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act (Northern Ireland) 2002)—

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

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[<sup>F38</sup>“state pension credit” means state pension credit under the State Pension Credit Act (Northern Ireland) 2002;

“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;
- [<sup>F39</sup>(d) as to circumstances in which a person is or is not to be treated as engaged or normally engaged in remunerative work;]
- (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

- F34** Definition of “dwelling” in s. 133(1) inserted (retrospectively) by S.I. 1993/1579 (N.I. 8), **art. 3(2)(4)**
- F35** Definition in s. 133(1) inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), **art. 40(1)**, **Sch. 2 para. 18(2)**; S.R. 1996/401, **art. 2**
- F36** S. 133(1): definition of “pensionable age” inserted (2.12.2002 for certain purposes and otherwise prosp.) by **State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.))**, ss. 14, 21(2), **Sch. 2 para. 4**; S.R. 2002/366, **art. 2(1)(l)**
- F37** S. 133(1): definition of “the qualifying age for state pension credit” inserted (2.12.2002 for certain purposes and otherwise prosp.) by **State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.))**, ss. 14, 21(2), **Sch. 2 para. 4**; S.R. 2002/366, **art. 2(1)(l)**
- F38** S. 133(1): definition of “state pension credit” inserted (2.12.2002 for certain purposes and otherwise prosp.) by **State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.))**, ss. 14, 21(2), **Sch. 2 para. 4**; S.R. 2002/366, **art. 2(1)(l)**

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**F39** S. 133(2)(d) substituted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 18(3)**; S.R. 1996/401, **art. 2**

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

**C19** S. 133(2) applied (1.1.2000 for specified purposes and 3.4.2000 otherwise) by 1999 c. 33, **s. 115(8)**; S.I. 1999/3190, **art. 2, Sch.**; S.I. 2000/464, **art. 2, Sch.**

**Marginal Citations**

**M6** 1989 c. 24.



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