



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

## 1992 CHAPTER 7

### PART VII **N.I.**

#### INCOME-RELATED BENEFITS

##### *General*

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

- (1) Prescribed schemes shall provide for the following benefits (in this Act referred to as “income-related benefits”)—
  - (a) income support;
  - <sup>F1</sup>(b) .....
  - <sup>F1</sup>(c) .....
  - (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*Status: Point in time view as at 31/10/2016.*

**Changes to legislation:** *Social Security Contributions and Benefits (Northern Ireland) Act 1992, Part VII is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F1** S. 122(1)(b)(c) repealed (8.4.2003) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 6](#); S.I. 2003/962, art. 2(4)(e), [Sch. 2](#) (with art. 3)

### Modifications etc. (not altering text)

**C1** S. 122(2) modified (5.10.1999) by [1999 c. 10](#), ss. 2(4), 20(2), [Sch. 2 para. 28](#)

**C2** 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.** **N.I.**

- (1) A person in Northern Ireland is entitled to income support if—
- [<sup>F2</sup>(a) he is of or over the age of 16;]
  - [<sup>F3</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 [<sup>F4</sup>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; <sup>F8</sup> . . .
  - (f) he is not entitled to a jobseeker’s allowance and, if he is a member of a [<sup>F9</sup>couple], the other member of the couple is not [<sup>F10</sup> and the couple are not,] entitled to an income-based jobseeker’s allowance]; <sup>F11</sup> . . .
  - [<sup>F12</sup>(g) if he is a member of a [<sup>F13</sup>couple], the other member of the couple is not entitled to state pension credit][<sup>F14</sup>; and
  - (h) he is not entitled to an employment and support allowance and, if he is a member of a couple, the other member of the couple is not entitled to an income-related employment and support allowance].

- [<sup>F15</sup>(1A) Regulations under paragraph (e) of subsection (1) must secure that a person who—
- (a) is not a member of a couple, and
  - (b) is responsible for, and a member of the same household as, a child under the age of 7,
- falls within a category of person prescribed under that paragraph.

- (1B) Subsection (1A) does not apply if regulations under paragraph (4)(c) of Article 3A of the Jobseekers (Northern Ireland) Order 1995 containing the provision mentioned in paragraph (5) of that Article are in operation.]

- (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.

*Status: Point in time view as at 31/10/2016.*

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- (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.

[<sup>F16</sup>(7) In this section, “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance).]

#### Textual Amendments

- F2** 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**
- F3** S. 123(1)(aa) inserted (2.12.2002 for certain purposes, 6.10.2003 in so far as not already in force) by State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), ss. 14, 21(2), **Sch. 2 para. 2(a)**; S.R. 2002/366, **art. 2(1)(I)**; S.R. 2003/373, **art. 2**
- F4** Word in s. 123(1)(c) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 96**; S.I. 2005/3255, art. 2(1), Sch.
- 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** Word in s. 123(1) repealed (6.10.2003) by State Pension Credit Act (Northern Ireland) 2002 (c. 14), s. 21(2), **Sch. 3**; S.R. 2003/373, art. 2
- F9** Word in s. 123(1)(f) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 96**; S.I. 2005/3255, art. 2(1), Sch.
- F10** 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)**
- F11** Word in s. 123(1) repealed (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), s. 60(1), **Sch. 8**; S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2
- F12** S. 123(1)(g) and preceding word added (2.12.2002 for certain purposes, 6.10.2003 in so far as not already in force) by State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), ss. 14, 21(2), **Sch. 2 para. 2(a)**; S.R. 2002/366, **art. 2(1)(I)**; S.R. 2003/373, **art. 2**
- F13** Word in s. 123(1)(g) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 96**; S.I. 2005/3255, art. 2(1), Sch.
- F14** S. 123(1)(h) and preceding word added (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), s. 60(1), **Sch. 3 para. 3(9)**; S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2
- F15** S. 123(1A)(1B) inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), **ss. 3(1), 36(1)(b)**

*Status: Point in time view as at 31/10/2016.*

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**F16** S. 123(7) added (27.10.2008) by **Welfare Reform Act (Northern Ireland) 2007 (c. 2), s. 60(1), Sch. 3 para. 3(10)**; S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2

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

**C3** S. 123(1)(e) modified (1.7.1998) by **S.I. 1998/1506 (N.I. 10), arts. 1(3), 73(8)(d)**

<sup>F17</sup> **124** ..... **N.I.**

**Textual Amendments**

**F17** 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. N.I.**

- (1) This section applies to a person, other than a child or a person of a prescribed description—
- (a) who [<sup>F18</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>F19</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>F20</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 [<sup>F21</sup>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 [<sup>F22</sup>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 [<sup>F23</sup>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.

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- (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 [<sup>F24</sup>taxable earnings (as defined by section 10 of the Income Tax (Earnings and Pensions) Act 2003) under PAYE regulations]; 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>F25</sup>£40.50].
- (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>M1</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

- F18** 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**
- F19** 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**
- F20** 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**
- F21** Words in s. 125(3)(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 97**; S.I. 2005/3255, art. 2(1), Sch.

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- F22** Words in s. 125(3)(c) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 97](#); S.I. 2005/3255, art. 2(1), Sch.
- F23** Words in s. 125(3)(d) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 97](#); S.I. 2005/3255, art. 2(1), Sch.
- F24** Words in s. 125(5)(a)(ii) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 200](#) (with Sch. 7)
- F25** Sum in s. 125(7) substituted (coming into force in accordance with art. 1(1)(h) of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2015 \(S.R. 2015/124\), arts. 1\(1\)\(h\), 18](#)

#### Marginal Citations

- M1** S.R. (N.I.) 1987 No. 459.

## 126 Effect of return to work. **N.I.**

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>F26</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 [<sup>F27</sup>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 [<sup>F27</sup>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 [<sup>F27</sup>couple], from the other member of the couple.

#### Textual Amendments

- F26** 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
- F27** Words in s. 126 substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), s. 263\(8\)\(d\), Sch. 24 para. 98](#); S.I. 2005/3255, art. 2(1), Sch.

### *Family credit*

## <sup>F28</sup>127 Family credit. **N.I.**

#### Textual Amendments

- F28** S. 127 repealed (8.4.2003) by [Tax Credits Act 2002 \(c. 21\), s. 61, Sch. 6](#); S.I. 2003/962, art. 2(4)(e), Sch. 2 (with art. 3)

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### Disability working allowance

#### <sup>F29</sup> 128 Disability working allowance. **N.I.**

##### Textual Amendments

**F29** S. 128 repealed (8.4.2003) by Tax Credits Act 2002 (c. 21), s. 61, Sch. 6; S.I. 2003/962, art. 2(4)(e), Sch. 2 (with art. 3)

### Housing benefit

#### 129 Housing benefit. **N.I.**

- (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>F30</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.

<sup>F31</sup>(4) .....

##### Textual Amendments

**F30** 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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**F31** S. 129(4) repealed (7.4.2008) by [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\)](#), ss. 30(1), 60(1), [Sch. 8](#); S.R. 2008/93, art. 2(b)

**[<sup>F32</sup>129A Appropriate maximum housing benefit N.I.**

- (1) For the purposes of section 129 above, the appropriate maximum housing benefit (in this section referred to as “the AMHB”) is determined in accordance with this section.
- (2) Regulations must prescribe the manner in which the AMHB is to be determined.
- (3) [<sup>F33</sup>The provision which may be made by the regulations includes provision] for the AMHB to be ascertained in the prescribed manner by reference to Executive determinations.
- [<sup>F34</sup>(4) The regulations may, for the purpose of determining the AMHB, provide for the amount of the liability mentioned in section 129(1)(a) above to be taken to be an amount other than the actual amount of that liability (and, without prejudice to the generality of this subsection, may provide for it to be taken to be the amount of an Executive determination).]
- [<sup>F34</sup>(5) The regulations may, for that purpose, make provision for determining the amount of liability under section 129(1)(a) above which a person is treated as having by virtue of regulations under section 133(2)(j) below (and, without prejudice to the generality of this subsection, may provide for that amount to be the amount of an Executive determination).]
- (6) An Executive determination is a determination made by the Executive in the exercise of functions under this section or regulations under this section.]

**Textual Amendments**

- F32** S. 129A inserted (10.3.2008 for specified purposes, 7.4.2008 in so far as not already in force) by [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\)](#), ss. **30(2)**, 60(1); S.R. 2008/93, art. 2(a)(b)
- F33** Words in s. 129A(3) substituted (9.9.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **75(2)**; S.R. 2016/325, art. 2(2)
- F34** S. 129A(4)(5) substituted (9.9.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **75(3)**; S.R. 2016/325, art. 2(2)

*General*

**130 Exclusions from benefit. N.I.**

- (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.



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

- C4 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. N.I.**

- (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>F35</sup> .....
- (4) <sup>F35</sup> .....
- (5) <sup>F36</sup>... 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**

- F35** 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**
- F36** Words in s. 131(5) repealed (8.4.2003) by Tax Credits Act 2002 (c. 21), s. 61, **Sch. 6**; S.I. 2003/962, art. 2(4)(e), **Sch. 2** (with art. 3)

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

- C5 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)**
- C6 S. 131(1) modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), **arts. 1(3), 73(8)**
- C7 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. N.I.**

- (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;

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- (c) income is to be treated as capital;
- (d) capital is to be treated as income.

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

- C8** S. 132: certain functions transferred (5.10.1999) by 1999 c. 10, ss. 2(1)(a), 20(2), **Sch. 2 para. 3(g)**
- C9** S. 132(1) applied (with modifications) (1.4.2007) by [The Rate Relief \(General\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/204\)](#), regs. 1(1), **18**
- C10** S. 132(1) applied (with modifications) (1.4.2007) by [The Rate Relief \(Qualifying Age\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/203\)](#), regs. 1(1), **18**

**[<sup>F37</sup>132A Effect of attaining qualifying age for state pension credit **N.I.****

- (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 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.]

*Status: Point in time view as at 31/10/2016.*

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### Textual Amendments

- F37** S. 132A inserted (27.1.2003 for specified purposes, 6.10.2003 in so far as not already in force) by State Pension Credit Act (Northern Ireland) 2002 (c. 14), s. 21(2), **Sch. 2 para. 3**; S.R. 2003/29, art. 2; S.R. 2003/373, art. 2

## 133 Interpretation of Part VII and supplementary provisions. **N.I.**

(1) In this Part of this Act—

“child” means a person under the age of 16;

[<sup>F38</sup>“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;]

[<sup>F39</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 [<sup>F40</sup>couple];
- (b) a [<sup>F40</sup>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 [<sup>F40</sup>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>F41</sup>“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;]

<sup>F42</sup>

<sup>F43</sup>

[<sup>F44</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>F45</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>F46</sup>“state pension credit” means state pension credit under the State Pension Credit Act (Northern Ireland) 2002;]

<sup>F43</sup>  
 .....

“war pension scheme” means a scheme under which war pensions (as defined in section 25(4) of the <sup>M2</sup>Social Security Act 1989) are provided.

[<sup>F47</sup>(1A) For the purposes of this Part, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]

(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>F48</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 <sup>F49</sup>... 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

- F38** Words in s. 133(1) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 99(3)**; S.I. 2005/3255, art. 2(1), Sch.
- F39** Definition of "dwelling" in s. 133(1) inserted (retrospectively) by S.I. 1993/1579 (N.I. 8), **art. 3(2)(4)**
- F40** Words in s. 133(1) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 99(2)**; S.I. 2005/3255, art. 2(1), Sch.
- F41** 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**
- F42** Words in s. 133(1) repealed (31.10.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 6**; S.R. 2016/234, art. 3(3)
- F43** Words in s. 133(1) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), Sch. 24 para. 99(4), **Sch. 30**; S.I. 2005/3255, art. 2(1), Sch.

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- F44** S. 133(1): definition of "pensionable age" inserted (2.12.2002 for certain purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14 \(N.I.\)\)](#), ss. 14, 21(2), [Sch. 2 para. 4](#); S.R. 2002/366, [art. 2\(1\)\(I\)](#); S.R. 2003/373, [art. 2](#)
- F45** S. 133(1): definition of "the qualifying age for state pension credit" inserted (2.12.2002 for certain purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14 \(N.I.\)\)](#), ss. 14, 21(2), [Sch. 2 para. 4](#); S.R. 2002/366, [art. 2\(1\)\(I\)](#); S.R. 2003/373, [art. 2](#)
- F46** S. 133(1): definition of "state pension credit" inserted (2.12.2002 for certain purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14 \(N.I.\)\)](#), ss. 14, 21(2), [Sch. 2 para. 4](#); S.R. 2002/366, [art. 2\(1\)\(I\)](#); S.R. 2003/373, [art. 2](#)
- F47** S. 133(1A) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 99\(5\)](#); S.I. 2005/3255, art. 2(1), [Sch.](#)
- F48** 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](#)
- F49** Words in s. 133(2)(g) repealed (31.10.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), [Sch. 12 Pt. 6](#); S.R. 2016/234, art. 3(3)

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

- C11** S. 133(1) applied (with modifications) (1.4.2007) by [The Rate Relief \(Qualifying Age\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/203\)](#), regs. 1(1), [15](#)
- C12** S. 133(1) applied (with modifications) (1.4.2007) by [The Rate Relief \(General\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/204\)](#), regs. 1(1), [15](#)
- C13** 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**

- M2** 1989 c. 24.

**Status:**

Point in time view as at 31/10/2016.

**Changes to legislation:**

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