



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

## 1992 CHAPTER 7

### PART VII

#### INCOME-RELATED BENEFITS

##### *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)**

- C1** [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.

*Status: Point in time view as at 05/10/1999.*

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- [<sup>F1</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>F2</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.

#### Textual Amendments

- F1** 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
- F2** 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)

- C2** S. 131(1)(2): certain functions transferred (5.10.1999) by [1999 c. 10](#), ss. 2(1)(a), 20(2), [Sch. 2 para. 3\(f\)](#)
- C3** S. 131(1) modified (1.7.1998) by [S.I. 1998/1506 \(N.I. 10\)](#), [arts. 1\(3\)](#), 73(8)
- C4** 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.

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- (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)**

C5 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>F3</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>F4</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;

“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>M1</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;

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- (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>F5</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**

- F3** Definition of "dwelling" in s. 133(1) inserted (retrospectively) by S.I. 1993/1579 (N.I. 8), **art. 3(2)(4)**
- F4** 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**
- F5** 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)**

- C6** 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**

- M1** 1989 c. 24.

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