



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Status: Point in time view as at 27/10/2008.

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- (3) ^{F1}
- (4) ^{F1}
- (5) ^{F2}... 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- F1** S. 131(3)(4) repealed (8.4.2002) by [Personal Social Services \(Preserved Rights\) Act \(Northern Ireland\) 2002 \(c. 5 \(N.I.\)\)](#), ss. 4, 7, [Sch.](#); S.R. 2002/131, [art.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](#)
- F2** Words in s. 131(5) repealed (8.4.2003) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 6](#); S.I. 2003/962, [art. 2\(4\)\(e\)](#), [Sch. 2](#) (with [art. 3](#))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)

- 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.
- (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\(g\)](#)
- C6** 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](#)
- C7** 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](#)

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[^{F3}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 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

- F3** 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.

- (1) In this Part of this Act—
 - “child” means a person under the age of 16;
 - [^{F4}“couple” means—
 - (a) a man and woman who are married to each other and are members of the same household;

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- (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;]

[^{F5}“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 [^{F6}couple];
- (b) a [^{F6}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 [^{F6}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;

[^{F7}“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;

^{F8}

[^{F9}“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;

[^{F10}“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;]

[^{F11}“state pension credit” means state pension credit under the State Pension Credit Act (Northern Ireland) 2002;]

^{F8}

“war pension scheme” means a scheme under which war pensions (as defined in section 25(4) of the ^{M1}Social Security Act 1989) are provided.

[^{F12}(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;

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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;
- [^{F13}(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

- F4** 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.
- F5** Definition of "dwelling" in s. 133(1) inserted (retrospectively) by S.I. 1993/1579 (N.I. 8), **art. 3(2)(4)**
- F6** 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.
- F7** 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**
- F8** 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.
- F9** 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**
- F10** 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**
- F11** 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**
- F12** 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.
- F13** 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**

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Modifications etc. (not altering text)

- C8** 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**
- C9** 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**
- C10** 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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