



Social Security Contributions and Benefits (Northern Ireland) Act 1992

1992 CHAPTER 7

PART II

CONTRIBUTORY BENEFITS

[^{F1}Bereavement benefits: deaths before the day on which section 29 of the Pensions Act (Northern Ireland) 2015 comes into operation]

[^{F1}39A Widowed parent's allowance.

[^{F2}(1) This section applies where—

- (a) a person's [^{F3}spouse, civil partner or cohabiting partner] has died before the day on which section 29 of the Pensions Act (Northern Ireland) 2015 comes into operation (but see subsection (1A)),
- (b) the person has not married or formed a civil partnership [^{F4}or a cohabiting partnership] after the death but before that day, and
- (c) the person is under pensionable age on that day.]

[This section does not apply in cases where a woman's husband has died before 9 April ^{F2}(1A) 2001.]

(2) The surviving [^{F3}spouse, civil partner or cohabiting partner] shall be entitled to a widowed parent's allowance at the rate determined in accordance with section 39C below if the deceased [^{F3}spouse, civil partner or cohabiting partner] satisfied the contribution conditions for a widowed parent's allowance specified in Schedule 3, Part I, paragraph 5 and—

- (a) the surviving [^{F3}spouse, civil partner or cohabiting partner] is entitled to child benefit in respect of a child [^{F5}or qualifying young person] falling within subsection (3) below; ^{F6}...
- (b) the surviving spouse [^{F7}or cohabiting partner] is a woman who either—

Status: Point in time view as at 30/08/2018. This version of this provision has been superseded.

Changes to legislation: Social Security Contributions and Benefits (Northern Ireland) Act 1992, Section 39A is up to date with all changes known to be in force on or before 26 June 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)

- (i) is pregnant by her late husband [^{F8}or the deceased cohabiting partner]
, or
- (ii) if she and he were residing together immediately before the time of his death, is pregnant in circumstances falling within section 37(1)(c) above [^{F9}(which is to be read as if the references to her late husband included a reference to the deceased cohabiting partner)]; [^{F10}or
- (c) the surviving civil partner [^{F11}or cohabiting partner] is a woman who—
 - (i) was residing together with the deceased civil partner [^{F11}or cohabiting partner] immediately before the time of the death, and
 - (ii) is pregnant as the result of being artificially inseminated before that time with the semen of some person, or as a result of the placing in her before that time of an embryo, of an egg in the process of fertilisation, or of sperm and eggs].
- (3) A child [^{F12}or qualifying young person] falls within this subsection if ^{F13}... the child [^{F14}or qualifying young person] is either—
 - (a) a son or daughter of the surviving [^{F3}spouse, civil partner or cohabiting partner] and the deceased [^{F3}spouse, civil partner or cohabiting partner]; or
 - (b) a child [^{F15}or qualifying young person] in respect of whom the deceased [^{F3}spouse, civil partner or cohabiting partner] was immediately before his or her death entitled to child benefit; or
 - (c) if the surviving [^{F3}spouse, civil partner or cohabiting partner] and the deceased [^{F3}spouse, civil partner or cohabiting partner] were residing together immediately before his or her death, a child [^{F15}or qualifying young person] in respect of whom the surviving [^{F3}spouse, civil partner or cohabiting partner] was then entitled to child benefit.

^{F16}(3A) [Only one person is entitled to a widowed parent’s allowance in respect of one death.

- (3B) Where, apart from subsection (3A), more than one person would be so entitled, entitlement is to be determined in accordance with subsections (3C) and (3D).
- (3C) Where only one of those persons is a member of the same household as the deceased, that person is entitled.
- (3D) Where there is more than one person who is a member of the same household as the deceased and would (apart from subsection (3A)) be entitled—
 - (a) if one of those persons is the deceased’s spouse or civil partner and is pregnant or entitled to child benefit in accordance with subsection (2), that person is entitled;
 - (b) if there is no spouse or civil partner entitled under paragraph (a), the deceased’s cohabiting partner who is pregnant or entitled to child benefit in accordance with subsection (2) is entitled (but this is subject to paragraphs (c) and (d));
 - (c) if there is more than one cohabiting partner within paragraph (b), the cohabiting partner who has been a member of the same household as the deceased for longest is entitled;
 - (d) if there is more than one cohabiting partner within paragraph (b) and each partner has been a member of the same household as the deceased for the same length of time, the Department must determine who is entitled.]

Status: Point in time view as at 30/08/2018. This version of this provision has been superseded.

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- (4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries [^{F17}or forms a civil partnership][^{F18}or a cohabiting partnership], but, subject to that, the surviving spouse shall continue to be entitled to it for any period throughout which she or he—
- (a) satisfies the requirements of subsection (2)(a) or (b) above; and
 - (b) is under pensionable age.
- [The surviving civil partner shall not be entitled to the allowance for any period after she
- ^{F19}(4A) or he forms a subsequent civil partnership [^{F20}or a cohabiting partnership] or marries, but, subject to that, the surviving civil partner shall continue to be entitled to it for any period throughout which she or he—
- (a) satisfies the requirements of subsection (2)(a) or (b) above; and
 - (b) is under pensionable age.]
- [The surviving cohabiting partner shall not be entitled to the allowance for any period
- ^{F21}(4B) after she or he forms a subsequent cohabiting partnership or a civil partnership or marries, but, subject to that, the surviving cohabiting partner shall continue to be entitled to it for any period throughout which she or he—
- (a) satisfies the requirements of subsection (2)(a), (b) or (c) above; and
 - (b) is under pensionable age.]
- (5) A widowed parent’s allowance shall not be payable—
- (a) for any period falling before the day on which the surviving [^{F22}spouse’s, civil partner’s or cohabiting partner’s] entitlement is to be regarded as commencing by virtue of section 5(1)(l) of the Administration Act; ^{F23}...
 - (b) for any period during which the surviving [^{F3}spouse, civil partner or cohabiting partner] and a person of the opposite sex to whom she or he is not married are living together as husband and wife; [^{F24}or
 - (c) for any period during which the surviving [^{F3}spouse, civil partner or cohabiting partner] and a person of the same sex who is not his or her civil partner are living together as if they were civil partners].
- [For the purposes of this section, the Department may by regulations prescribe—
- ^{F25}(6) (a) circumstances in which the fact that two persons are married to each other, or are civil partners or cohabiting partners of each other, is to be disregarded;
- (b) circumstances in which two persons are to be treated as if they were married to each other or were civil partners or cohabiting partners of each other (or as marrying or forming a civil partnership or a cohabiting partnership);
 - (c) circumstances in which people are to be treated as being, or as not being, members of the same household.
- (7) For the purposes of this section and section 39C, two persons are cohabiting partners if they are not married to, or civil partners of, each other but are living together as if they were married or in a civil partnership (and “cohabiting partnership” is to be read accordingly).
- (8) The Department must issue a statement of its policy with respect to making determinations under subsection (3D)(d).]]

Status: Point in time view as at 30/08/2018. This version of this provision has been superseded.

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Textual Amendments

- F1** Ss. 39A-39C inserted (24.4.2000 for specified purposes and 9.4.2001 otherwise) by S.I. 1999/3147 (N.I. 11), **art. 52(2)**; S.R. 2000/133, art. 2(3)(a), **Sch. Pt. I**
- F2** S. 39A(1)(1A) substituted for s. 39A(1) (6.4.2017) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(1), **Sch. 16 para. 12**; S.R. 2017/44, art. 2(2) (with arts. 3, 4)
- F3** Words in s. 39A substituted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(a)**
- F4** Words in s. 39A(1)(b) inserted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(b)**
- F5** Words in s. 39A(2)(a) inserted (10.4.2006) by Child Benefit Act 2005 (c. 6), s. 6(2), **Sch. 1 para. 29(2)**
- F6** Word in s. 39A(2) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b)(d), **Sch. 30**; S.I. 2005/3255, art. 2(1), Sch.
- F7** Words in s. 39A(2)(b) inserted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(c)(i)**
- F8** Words in s. 39A(2)(b)(i) inserted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(c)(ii)**
- F9** Words in s. 39A(2)(b)(ii) inserted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(c)(iii)**
- F10** S. 39A(2)(c) and preceding word inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 74(4)**; S.I. 2005/3255, art. 2(1), Sch.
- F11** Words in s. 39A(2)(c) inserted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(d)**
- F12** Words in s. 39A(3) inserted (10.4.2006) by Child Benefit Act 2005 (c. 6), s. 6(2), **Sch. 1 para. 29(3)(a)**
- F13** Words in s. 39A(3) repealed (7.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 47, 60(1), **Sch. 8**; S.R. 2008/339, art. 2(3)(a) (with art. 3(3))
- F14** Words in s. 39A(3) inserted (10.4.2006) by Child Benefit Act 2005 (c. 6), s. 6(2), **Sch. 1 para. 29(3)(b)**
- F15** Words in s. 39A(3) inserted (10.4.2006) by Child Benefit Act 2005 (c. 6), s. 6(2), **Sch. 1 para. 29(3)(c)**
- F16** S. 39A(3A)-(3D) inserted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(e)**
- F17** Words in s. 39A(4) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 74(5)**; S.I. 2005/3255, art. 2(1), Sch.
- F18** Words in s. 39A(4) inserted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(f)**
- F19** S. 39A(4A) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 74(6)**; S.I. 2005/3255, art. 2(1), Sch.
- F20** Words in s. 39A(4A) inserted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(g)**
- F21** S. 39A(4B) inserted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(h)**
- F22** Words in s. 39A(5)(a) inserted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(i)**
- F23** Word in s. 39A(5) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b)(d), **Sch. 30**; S.I. 2005/3255, art. 2(1), Sch.
- F24** S. 39A(5)(c) and preceding word inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 74(7)**; S.I. 2005/3255, art. 2(1), Sch.
- F25** S. 39A(6)-(8) inserted (retrospective to 30.8.2018) by The Bereavement Benefits (Remedial) Order 2023 (S.I. 2023/134), arts. 1(3), **8(2)(j)**

Status:

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Changes to legislation:

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