



Social Security Contributions and Benefits (Northern Ireland) Act 1992

1992 CHAPTER 7

PART III

NON-CONTRIBUTORY BENEFITS

Guardian's allowance

77 Guardian's allowance.

- (1) A person shall be entitled to a guardian's allowance in respect of a child if—
 - (a) he is entitled to child benefit in respect of that child, and
 - (b) the circumstances are any of those specified in subsection (2) below;
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...
- (2) The circumstances referred to in subsection (1)(b) above are—
 - (a) that both of the child's parents are dead;
 - (b) that one of the child's parents is dead and the person claiming a guardian's allowance shows that he was at the date of the death unaware of, and has failed after all reasonable efforts to discover, the whereabouts of the other parent; or
 - (c) that one of the child's parents is dead and the other is in prison.
- (3) There shall be no entitlement to a guardian's allowance in respect of a child unless at least one of the child's parents satisfies, or immediately before his death satisfied, such conditions as may be prescribed as to nationality, residence, place of birth or other matters.
- (4) Where, apart from this subsection, a person is entitled to receive, in respect of a particular child, payment of an amount by way of a guardian's allowance, that amount shall not be payable unless one of the conditions specified in subsection (5) below is satisfied.

Status: Point in time view as at 05/12/2005. This version of this provision has been superseded.

Changes to legislation: Social Security Contributions and Benefits (Northern Ireland) Act 1992, Section 77 is up to date with all changes known to be in force on or before 20 July 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)

- (5) Those conditions are—
- (a) that the beneficiary would be treated for the purposes of Part IX of this Act as having the child living with him; or
 - (b) that the requisite contributions are being made to the cost of providing for the child.
- (6) The condition specified in subsection (5)(b) above is to be treated as satisfied if, but only if—
- (a) such contributions are being made at a weekly rate not less than the amount referred to in subsection (4) above—
 - (i) by the beneficiary; or
 - (ii) where the beneficiary is one of two spouses [^{F2}or civil partners] residing together, by them together; and
 - (b) except in prescribed cases, the contributions are over and above those required for the purpose of satisfying section 139(1)(b) below.
- (7) A guardian's allowance in respect of a child shall be payable at the weekly rate specified in Schedule 4, Part III, paragraph 5.
- (8) Regulations—
- (a) may modify subsection (2) or (3) above in relation to cases in which a child has been adopted or is illegitimate, or the marriage of a child's parents has been terminated by divorce [^{F3}or the civil partnership of the child's parents has been dissolved];
 - (b) shall prescribe the circumstances in which a person is to be treated for the purposes of this section as being in prison (by reference to his undergoing a sentence of imprisonment for life or of a prescribed minimum duration, or to his being in legal custody in prescribed circumstances); and
 - (c) may, for cases where entitlement to a guardian's allowance is established by reference to a person being in prison, provide—
 - (i) for requiring him to pay to the National Insurance Fund sums paid by way of a guardian's allowance;
 - (ii) for suspending payment of an allowance where a conviction, sentence or order of a court is subject to appeal, and for matters arising from the decision of an appeal;
 - (iii) for reducing the rate of an allowance in cases where the person in prison contributes to the cost of providing for the child.
- (9) Where a husband and wife are residing together and, apart from this subsection, they would each be entitled to a guardian's allowance in respect of the same child, only the wife shall be entitled, but payment may be made either to her or to him unless she elects in the prescribed manner that payment is not to be made to him.
- (10) Subject to subsection (11) below, no person shall be entitled to a guardian's allowance in respect of a child of which he or she is the parent.
- (11) Where a person—
- (a) has adopted a child; and
 - (b) was entitled to guardian's allowance in respect of the child immediately before the adoption,
- subsection (10) above shall not terminate his entitlement.

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Textual Amendments

- F1** Words in s. 77(1) repealed (6.4.2003) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 6](#); S.I. 2003/962, art. 2(3)(e), [Sch. 1](#) (with savings in [S.R. 2003/212](#), art. 2)
- F2** Words in s. 77(6)(a)(ii) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 88\(a\)](#); S.I. 2005/3175, art. 2(1), [Sch. 1](#)
- F3** Words in s. 77(8)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), [Sch. 24 para. 88\(b\)](#); S.I. 2005/3175, art. 2(1), [Sch. 1](#)

Modifications etc. (not altering text)

- C1** S. 77: functions of the Northern Ireland Department transferred (prosp.) to the Treasury by [Tax Credits Act 2002 \(c. 21\)](#), [ss. 49\(2\)](#), 61 (with s. 54(1)(3)(4)(6)(8))
- C2** S. 77: transfer of functions (1.4.2003 for specified purposes, 7.4.2003 in so far as not already in force) by [Tax Credits Act 2002 \(c. 21\)](#), [ss. 49\(2\)\(a\)](#), 61 (with s. 54(1)(3)(4)(6)(8)); S.I. 2003/392, art. 2
- C3** S. 77(2) modified (7.4.2003) by [The Guardians Allowance \(General\) Regulations 2003 \(S.I. 2003/495\)](#), regs. 1, [3-6](#)

Status:

Point in time view as at 05/12/2005. This version of this provision has been superseded.

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