
STATUTORY RULES OF NORTHERN IRELAND

1994 No. 485

The Social Security (Incapacity Benefit — Increases for Dependants) Regulations (Northern Ireland) 1994

PART III

ADULT DEPENDANTS

Increase of incapacity benefit for adult dependants and persons having the care of children

9.—(1) Subject to regulation 14, a beneficiary shall be entitled to an increase of incapacity benefit under section 86A(1) of the Contributions and Benefits Act if—

- (a) he is residing with a spouse of his and either—
 - (i) the spouse is aged at least 60, or
 - (ii) the beneficiary is entitled to an increase of incapacity benefit under section 80 of that Act in respect of a child;
- (b) he has a spouse who is aged at least 60 and not residing with him but to whose maintenance he contributes at a weekly rate equal to or greater than the rate of the increase;
- (c) there is an adult who—
 - (i) is resident with him, and
 - (ii) cares for a child for whom the beneficiary is entitled to an increase under section 80 of that Act; or
- (d) subject to paragraph (3), there is an adult who—
 - (i) is not resident with him, and
 - (ii) cares for a child for whom the beneficiary is entitled to an increase under section 80 of that Act,

and in regulation 10 “dependent” means a person who satisfies any of the conditions set out in any of the sub-paragraphs of this paragraph.

(2) For the purposes of paragraph (1) a person shall be treated as entitled to an increase for a child under section 80 of the Contributions and Benefits Act if he would be so entitled if the day in question was a day on which he was entitled to either short-term incapacity benefit at the higher rate or to long-term incapacity benefit.

(3) A beneficiary shall not be entitled to an increase of incapacity benefit under paragraph (1) unless the other person—

- (a) is employed by the beneficiary in an employment in respect of which the weekly expenses incurred by the beneficiary are not less than the standard rate of increase and was so employed before the beneficiary became incapable of work, subject to the qualification that the condition of employment before that event shall not apply in a case where the necessity for the employment first arose thereafter; or

- (b) is a person to whose maintenance the beneficiary is contributing at a weekly rate not less than the standard rate of increase.

Earnings rules for increases for adult dependents

10.—(1) Subject to paragraphs (2) and (3), the increase in benefit to which a beneficiary is entitled under regulation 9 shall not be payable for the benefit week immediately following any benefit week in which the dependent has earnings which exceed the amount of the standard rate of increase.

(2) Where the beneficiary is entitled to long-term incapacity benefit or to short-term incapacity benefit at the higher rate under section 30B(4) of the Contributions and Benefits Act⁽¹⁾ (incapacity benefit: rate), and the dependant is residing with the beneficiary, the increase of benefit shall not be payable for the benefit week immediately following any benefit week in which the dependant has earnings which exceed the amount specified in paragraph 1 of Part I of Schedule 4 to that Act.

(3) In determining the earnings of a dependent for the purposes of this regulation no account shall be taken of any earnings of the dependent from employment by the beneficiary to care for a child such as is mentioned in regulation 9(1)(c).

(4) Where the dependent satisfies the conditions set out in regulation 9(1)(d) and is employed by the beneficiary to care for a child such as is mentioned in that sub-paragraph, the increase shall be payable irrespective of the dependant's earnings.

Apportionment of payments by way of occupational or personal pension made otherwise than weekly

11. For the purposes of section 89 of the Contributions and Benefits Act (earnings to include occupation or personal pensions for certain purposes), in so far as they relate to incapacity benefit, where payment by way of occupational or personal pension is for any period made otherwise than weekly, the amount of any such payment for any week in that period shall be determined—

- (a) where payment is made for a year, by dividing the total by 52;
- (b) where payment is made for three months, by dividing the total by 13;
- (c) where payment is made for a month, by multiplying the total by 12 and dividing the result by 52;
- (d) where payment is made for two or more months, otherwise than for a year or for three months, by dividing the total by the number of months, multiplying the result by 12 and dividing the result of that multiplication by 52; or
- (e) in any other case, by dividing the amount of the payment by the number of days in the period for which it is made and multiplying the result by 7.

Contribution to maintenance of adult dependent

12.—(1) Subject to paragraph (2), for the purposes of regulation 9—

- (a) a beneficiary shall not be deemed to satisfy the requirement contained in that regulation that he is contributing to the maintenance of his spouse or a person having the care of a child, as the case may be, at a weekly rate of not less than the standard rate of increase unless when in employment, or not incapable of work, (except in a case where the dependency did not arise until later), he contributed to that spouse's or person's maintenance at a weekly rate of not less than the standard rate of increase;
- (b) in a case where an increase of benefit is, apart from the said requirement, payable at a weekly rate less than the standard rate of increase, a beneficiary shall, subject to sub-

(1) Section 30B was inserted by Article 4(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

paragraph (a) above, be deemed to satisfy the said requirement if he is contributing to the maintenance of the spouse or the person having the care of a child at a weekly rate of not less than that of the increase.

- (2) Where, within one month of having been entitled to an increase—
- (a) of unemployment benefit under section 82 of the Contributions and Benefits Act(2) (short-term benefit: increase for adult dependents) by virtue of having satisfied the requirement of either—
- (i) subsection (1)(a)(ii) of that section, or
- (ii) subsection (3)(b) of that section by reason of her contributing to the maintenance of her husband; or
- (b) of incapacity benefit under regulation 9 by virtue of having satisfied either the requirement in paragraph (1)(b) or the requirement in paragraph (3)(b) of that regulation,

a person becomes entitled to incapacity benefit which attracts a standard rate of increase higher than that to which he had been entitled, he shall be deemed to satisfy the condition in paragraph (1)(a) if he satisfies it in relation to the benefit to which he had been entitled; and in this paragraph “entitled” includes deemed to have been entitled.

(3) Until 13th May 1995 the reference in paragraph (2)(a) to unemployment benefit includes a reference to sickness benefit.

Increase of short-term incapacity benefit for persons over pensionable age

13.—(1) In relation to any increase of short-term incapacity benefit to which section 87 of the Contributions and Benefits Act (rate of increase where associated retirement pension is attributable to reduced contributions) applies the amount of such increase shall be determined in accordance with paragraphs (2) and (3).

(2) The amount of the increase shall be the relevant percentage of the amount specified in column (3) of paragraph 1A of Part IV: of Schedule 4 to the Contributions and Benefits Act(3).

(3) In this regulation “relevant percentage” means the percentage specified in regulation 6(3B) of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(4) (benefit at reduced rates for those who do not satisfy the contribution conditions in full).

Disqualification for receipt of increases in cases of imprisonment and absence abroad

14.—(1) Subject to paragraph (2), where an adult (other than the spouse of the beneficiary) in respect of whom a beneficiary is entitled to an increase of incapacity benefit under regulation 9(1)(c) or (d) is absent from Northern Ireland, or is undergoing imprisonment or detention in legal custody, the beneficiary shall not be entitled to that increase.

(2) Paragraph (1) shall not apply in the case of an adult who is absent from Northern Ireland and who is resident with the beneficiary in circumstances where the disqualification for receipt of incapacity benefit does not apply in the case of the beneficiary by virtue of regulation 2 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978.

(2) Section 82 is amended by paragraph 19 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 with effect from 6th April 1995

(3) Paragraph 1A is inserted by Article 4(2) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 with effect from 6th April 1995

(4) S.R. 1979 No. 243; relevant amending regulations are S.R. 1990 No. 452