



Social Security Contributions and Benefits (Northern Ireland) Act 1992

1992 CHAPTER 7

PART VII

INCOME-RELATED BENEFITS

Disability working allowance

128 **Disability working allowance.**

- (1) A person in Northern Ireland who has attained the age of 16 and [^{F1}qualifies under subsection (2) or (2A) below] is entitled to a disability working allowance if, when the claim for it is made or is treated as made—
- (a) he is engaged and normally engaged in remunerative work;
 - (b) he has a physical or mental disability which puts him at a disadvantage in getting a job;
 - (c) his income—
 - (i) does not exceed the amount which is the applicable amount at such date as may be prescribed; or
 - (ii) exceeds it, but only by such an amount that there is an amount remaining if the deduction for which subsection (5)(b) below provides is made; and
 - (d) except in such circumstances as may be prescribed, neither he nor, if he has a family, any member of it, is entitled to family credit.
- (2) Subject to subsection (4) below, a person qualifies under this subsection if—
- (a) for one or more of the 56 days immediately preceding the date when the claim for a disability working allowance is made or is treated as made there was payable to him one or more of the following—
 - [^{F2}(i) the higher rate of short-term incapacity benefit or long-term incapacity benefit;]

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- (ii) a severe disablement allowance;
 - (iii) income support [^{F3},an income-based jobseeker’s allowance] or housing benefit,
- or a corresponding benefit under any statutory provision having effect in Great Britain;
- (b) when the claim for a disability working allowance is made or is treated as made, there is payable to him one or more of the following—
 - (i) an attendance allowance;
 - (ii) a disability living allowance;
 - (iii) an increase of disablement pension under section 104 above;
 - (iv) an analogous pension increase under a war pension scheme or the industrial injuries regulations;
 or a corresponding benefit under any statutory provision having effect in Great Britain; or
 - (c) when the claim for a disability working allowance is made or is treated as made, he has an invalid carriage or other vehicle provided under Article 30(1) of the ^{M1}Health and Personal Social Services (Northern Ireland) Order 1972 or provided by the Secretary of State under section 5(2)(a) of the ^{M2}National Health Service Act 1977 and Schedule 2 to that Act or under section 46 of the ^{M3}National Health Service (Scotland) Act 1978.
- [^{F4}(2A) A person qualifies under this subsection if—
- (a) on one or more of the 56 days immediately preceding the date when the claim for a disability working allowance is made or is treated as made he was engaged in training for work; and
 - (b) a relevant benefit was payable to him for one or more of the 56 days immediately preceding—
 - (i) the first day of training for work falling within the 56 days mentioned in paragraph (a) above; or
 - (ii) an earlier day of training for work which formed part of the same period of training for work as that day.
- (2B) For the purposes of subsection (2A) above—
- (a) the following are relevant benefits—
 - (i) the higher rate of short-term incapacity benefit;
 - (ii) long-term incapacity benefit;
 - (iii) a severe disablement allowance;
 or a corresponding benefit under any enactment having effect in Great Britain;
 - (b) “training for work” means training for work in pursuance of arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950 or training of such other description as may be prescribed; and
 - (c) a period of training for work means a series of consecutive days of training for work, there being disregarded for this purpose such days as may be prescribed.]
- (3) For the purposes of subsection (1) above a person has a disability which puts him at a disadvantage in getting a job only if he satisfies prescribed conditions, or prescribed circumstances exist in relation to him.

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- (4) If the only benefit mentioned in paragraph (a) of subsection (2) above which is payable to a person as there mentioned is—
- (a) a benefit mentioned in sub-paragraph (iii) of that paragraph; or
 - (b) a corresponding benefit under any statutory provision having effect in Great Britain,
- he only qualifies under that subsection in prescribed circumstances.
- (5) Where a person is entitled to a disability working allowance, then—
- (a) if his income does not exceed the amount which is the applicable amount at the date prescribed under subsection (1)(c)(i) above, the amount of the disability working allowance shall be the amount which is the appropriate maximum disability working allowance in his case; and
 - (b) if his income exceeds that amount, the amount of the disability working allowance shall be what remains after the deduction from the appropriate maximum disability working allowance of a prescribed percentage of the excess of his income over that amount.
- (6) A disability working allowance shall be payable for a period of 26 weeks or such other period as may be prescribed and, subject to regulations, an award of a disability working allowance and the rate at which it is payable shall not be affected by any change of circumstances during that period or by any order under section 132 of the Administration Act.
- (7) Regulations may provide that an award of a disability working allowance to a person shall terminate if—
- (a) a disability working allowance becomes payable in respect of some other person who was a member of his family at the date of his claim for a disability working allowance; or
 - (b) income support [^{F3},an income-based jobseeker's allowance] or family credit becomes payable in respect of a person who was a member of the family at that date.
- (8) Regulations shall prescribe the manner in which the appropriate maximum disability working allowance is to be determined in any case.
- (9) The provisions of this Act relating to disability working allowance apply in relation to persons employed by or under the Crown as they apply in relation to persons employed otherwise than by or under the Crown.

Textual Amendments

- F1** Words in s. 128(1) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. I para. 12(2)**; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F2** S. 128(2)(a)(i) substituted (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1), **Sch. 1 Pt. I para. 32**; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F3** Words in s. 128(2)(a)(iii)(7)(b) inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2 para. 17**; S.R. 1996/401, **art. 2**
- F4** S. 128(2A)(2B) inserted (21.11.1994 for the purpose of making regulations and 13.4.1995 otherwise) by S.I. 1994/1898 (N.I. 12), **art. 12(3)**; S.R. 1994/450, art. 2(b)(d), **Sch. Pts. II, IV**

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Modifications etc. (not altering text)

- C1** S. 128(1)(b) modified (1.7.1992) by Social Security Administration (Northern Ireland) Act 1992 (c. 8), **ss. 9(2)**, 168(4).
- C2** S. 128(2) modified (1.7.1992) by Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), ss. 6, 7(2), **Sch. 4**, Pt. II para. 16
- C3** S. 128(2A) amended (13.4.1995) by S.R. 1992/78, **reg. 7A** (as inserted by S.R. 1995/67, **reg. 1(1)(b)(3)**, 3(2))
- C4** S. 128(2A) modified (13.4.1995) by S.R. 1995/67, **regs. 1(1)(b)(3)**, 6(2))
- C5** S. 128(2B) amended (13.4.1995) by S.R. 1992/78, **reg. 7B** (as inserted by S.R. 1995/67, **regs. 1(1)(b)(3)**, 3(2))

Marginal Citations

- M1** S.I. 1972/1265 (N.I. 14).
- M2** 1977 c. 49.
- M3** 1978 c. 29.

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