

Community
Legal Service



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legal action for the community

Introduction to the Social Security System

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The Social Security system is very complex. However, the benefits can all be divided into two types.

- Means tested benefits
- Non-means tested benefits

Means tested benefits do not depend on paying National Insurance contributions. Claimants can only receive these benefits when rules regarding income and capital are satisfied.

Examples of means tested benefits are:

- Income support
- Income based job seekers allowance
- Housing benefit
- Council tax benefit
- Pension credit

Tax Credits

These are paid by the Inland Revenue and not now considered as benefits. They are means tested. There are two types of credits:

- Child Tax Credits
- Working Tax Credits

Contributory and non-contributory benefits

These benefits are not means tested. Each has their own rules based on Acts of Parliament and Regulations so that decisions can be made by Decision Makers and the Secretary of State.

Contributory benefits

These benefits are paid out of the National Insurance Fund. They can be paid to any claimant who has made sufficient contributions into the fund at the appointed times according to Regulations.

Note well – there are no residence conditions for contributory benefits.

- Contribution based job seekers allowance
- Incapacity benefit
- Maternity allowance
- Bereavement payment – lump sum £2,000
- Widowed parent's allowance
- Bereavement allowance – available to men and women aged 45 or over but only for maximum of 52 weeks
- Category A and B retirement pension
- Graduated retirement pension

Non-contributory benefits

These benefits are paid out of general taxation (except guardians' allowance). There are residence conditions that prevent these benefits being paid. Although no National Insurance benefits need to be paid, each benefit has regulations, which should provide for any relevant eventuality.

- Incapacity Benefit – see below
- Carers Allowance
- Disability Living Allowance
- Attendance Allowance
- Industrial Injuries Benefits
- Category D retirement pension
- Child benefit
- Guardians allowance

Severe disablement allowance was abolished for new claims from April 2001. Instead, people who claim before they reach 20 (or in some circumstances before 25) will be eligible for incapacity benefit without needing National Insurance contributions.

Contribution based job seekers allowance

There are two main contribution conditions:

- 1) You must actually have **paid** Class 1 National Insurance contributions with an earnings factor of at least 25 times the lower earnings level in one of the two relevant contribution years.

Class 1 National Insurance contributions are only paid by somebody working for an employer (not self-employed).

Earnings factor of at least 25 times the lower earnings level means that, for example, in 2003/04 you must have paid $25 \times £77 = £1,925$.

Relevant contribution year runs from April to April in the two years prior to the date of claim. The benefit year runs from the first Sunday in January to the end of the first Saturday in the following January.

- 2) The second contribution condition is that in each of the relevant contribution years you must have either paid or been credited with Class 1 contributions with an earnings factor of at least 50 times the lower earnings limit for that year.

In 2003/04 this was $50 \times £77$, which is £3,850.

Even if the contribution conditions are satisfied, contribution based job seekers allowance may not be paid at the start of or during the claim for several reasons:

- The full time work rule
- Waiting days
- Other benefits
- Absence from Great Britain

- Capacity for work
- Availability and actively seeking work
- Misconduct or leaving previous job voluntarily
- Failure to take up a job or training
- Personal occupational pension

This benefit is only paid for a maximum six-month period.

It is possible to appeal against a refusal of benefit because of a decision relating to contributions or credits. In practice, the matter may be referred to the Inland Revenue for an investigation and the decision may be revised.

Incapacity benefit

The two contribution conditions for incapacity benefit are similar to job seekers allowance.

The first contribution condition is slightly more generous. The two differences are:

1) The 25 paid contributions must have been paid in one of the last three tax years before the benefit year in which your claim is made.

A Claimant will be exempt from this condition if:

- i) they were getting Carers Allowance or would have been but for an overlapping benefit
- ii) they had received incapacity benefit in the tax year before the benefit year in which they claim

The contributions may be either Class 1 or Class 2. This means that self-employed workers can claim incapacity benefit.

2) The second contribution condition is the same as for job seekers allowance (see above).

Maternity allowance

If it is not possible to claim statutory maternity pay because a claimant has changed her job during pregnancy or is self-employed, it may be possible to claim maternity allowance.

The conditions of entitlement are:

- You are pregnant and within 11 weeks of the expected date or have recently given birth.
- You have been employed or self-employed for any part of at least 26 weeks in the 66 weeks preceding the expected week of childbirth. It is possible to work for different employers during this period.
- You satisfy the earnings conditions – your average weekly earnings are at least £30 per week.

Bereavement payment

There is only one contribution condition for bereavement payment.

The claimant's deceased husband or wife had paid class 1, 2, or 3 contributions in any one tax year worth 25 times that year's lower earnings limit. In 2003/04 this was £1,925 25 x £77

Widowed parent's allowance, bereavement

Pension and category A and B retirement pension

The National Insurance contributors for the above benefits are:

- Category A Retirement Pension – the claimant
- Bereavement Pension and Widowed Parent's Allowance – the late spouse
- Category B Retirement Pension – the claimant, claimant's husband or late spouse
- There are two contribution conditions

The First Condition

The contributor must actually have paid in any one tax year before death or pensionable age, contributions with an earnings factor of 52 times that year's lower earnings limit.

E.g. £4,004 in 2003/04, 52 x £77

The Second Condition

The contributor must have paid or been credited with contributions with an earnings factor of at least 52 times that year's lower earnings limit for each of the requisite number of years.

The requisite number of years depends on the length of your working life. This is defined as from the tax year when the age of 16 is reached up to pensionable age or the date of death.

The requisite number of years is calculated as below.

Length of Working Life	Requisite Number of Years
1-10 years	Length of working life minus 1
11-20 years	Length of working life minus 2
21-30 years	Length of working life minus 3
31-40 years	Length of working life minus 4
41-50 years	Length of working life minus 5

Note – Looking after a child or disabled person does not count as a year of working life.

Insufficient contributions

A reduced rate of pension is paid on a percentage basis as long as there are at least 25% of the requisite number of years paid.

Category D retirement pension

You qualify for this if you are:

- Aged 80 or over
- Ordinarily resident in Great Britain on the day you reached 80
- Any other retirement pension is less than the current rate of category D pension
- You have been resident in Great Britain for at least 10 years in any continuous period of 20 years immediately before you reached the age of 80.