
STATUTORY RULES OF NORTHERN IRELAND

1987 No. 459

**The Income Support (General)
Regulations (Northern Ireland) 1987**

PART V

INCOME AND CAPITAL

CHAPTER II

INCOME

Calculation of income

28.—(1) For the purposes of Article 21(3) of the Order (conditions of entitlement to income support), the income of a claimant shall be calculated on a weekly basis—

- (a) by determining in accordance with this Part, other than Chapter VI (capital), the weekly amount of his income; and
- (b) by adding to that amount the weekly income calculated under regulation 53 (calculation of tariff income from capital).

(2) For the purposes of paragraph (1) “income” includes income derived under regulations 24 and 41 to 43 (treatment of charitable or voluntary payments, capital treated as income, notional income and notional earnings of seasonal workers).

Calculation of earnings derived from employed earner's employment and income other than earnings

29.—(1) Except where regulation 33 (weekly amount of charitable or voluntary payment) applies, earnings derived from employment as an employed earner and income which does not consist of earnings shall be taken into account over a period determined in accordance with paragraphs (2) to (5) and at a weekly amount determined in accordance with regulation 32 (calculation of weekly amount of income).

(2) Subject to paragraph (3), the period over which a payment is to be taken into account shall be—

- (a) in a case where it is payable in respect of a period, a period equal to the length of that period;
- (b) in any other case, a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the net earnings, or in the case of income which does not consist of earnings, the amount of that income by the amount of income support which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from that payment under Schedule 8 or, as the case may be, 9 (earnings and other income to be disregarded) as is appropriate in the claimant's case,

and that period shall begin on the date on which the payment is treated as paid under regulation 31 (date on which income is treated as paid).

(3) Where earnings not of the same kind are derived from the same source and the periods in respect of which those earnings would, but for this paragraph, fall to be taken into account—

- (a) overlap, wholly or partly, those earnings shall be taken into account over a period equal to the aggregate length of those periods;
- (b) and that period shall begin with the earliest date on which any part of those earnings would otherwise be treated as paid under regulation 31.

(4) In a case to which paragraph (3) applies, any payment to which regulation 35(1)(b) or (c) (earnings of employed earners) applies shall be taken into account before a payment to which regulation 35(1)(d) applies but after any earnings normally derived from the employment.

(5) For the purposes of this regulation the claimant's earnings and income which does not consist of earnings shall be calculated in accordance with Chapters III and V (employed earners and other income) respectively of this Part.

Calculation of earnings of self-employed earners

30.—(1) Except where paragraph (2) applies, where a claimant's income consists of earnings from employment as a self-employed earner the weekly amount of his earnings shall be determined by reference to his average weekly earnings from that employment—

- (a) over a period of 52 weeks; or
- (b) where the claimant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period of weeks as may, in any particular case, enable the weekly amount of his earnings to be determined more accurately.

(2) Where the claimant's earnings consist of royalties or sums paid periodically for or in respect of any copyright those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of income support which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 8 (earnings to be disregarded) as is appropriate in the claimant's case.

(3) For the purposes of this regulation, the claimant's earnings shall be calculated in accordance with Chapter IV (self-employed earners) of this Part.

Date on which income is treated as paid

31.—(1) Except where paragraph (2) applies, a payment of income to which regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings) applies shall be treated as paid—

- (a) in the case of a payment which is due to be paid before the first benefit week pursuant to the claim, on the date on which it is due to be paid;
- (b) in any other case, on the first day of the benefit week in which it is due to be paid or the first succeeding benefit week in which it is practicable to take it into account.

(2) Income support, unemployment benefit, sickness or invalidity benefit, or severe disablement allowance under the principal Act(1) shall be treated as paid on the day of the benefit week in respect of which it is paid.

Calculation of weekly amount of income

32.—(1) For the purposes of regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings), subject to paragraphs (2) to (5) and regulation 34 (incomplete benefit weeks), where the period in respect of which a payment is made—

- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
- (b) exceeds a week, the weekly amount shall be determined—
 - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52,
 - (ii) in a case where the period is 3 months, by multiplying the amount of the payment by 4 and dividing the product by 52,
 - (iii) in a case where that period is a year, by dividing the amount of the payment by 52,
 - (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number equal to the number of days in the period in respect of which it is made.

(2) Where a payment for a period not exceeding a week is treated under regulation 31(1)(a) (date on which income is treated as paid) as paid before the first benefit week and a part is to be taken into account for some days only in that week (the relevant days), the amount to be taken into account for the relevant days shall be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(3) Where a payment is in respect of a period equal to or in excess of a week and a part thereof is to be taken into account for some days only in a benefit week (the relevant days), the amount to be taken into account for the relevant days shall, except where paragraph (4) applies, be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(4) In the case of a payment of—

- (a) unemployment benefit, sickness or invalidity benefit, or severe disablement allowance under the principal Act, the amount to be taken into account for the relevant days shall be the amount of benefit paid in respect of those days;

(1) See sections 12(1)(a) to (c), 14 to 16 and 36; section 12(1)(a) and (b) was amended by the Schedule to the Social Security (No. 2) (Northern Ireland) Order 1980 (S.I. 1980/1087 (N.I. 13)) and paragraph 1(a) of Schedule 3 to the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)); section 14 was amended by Article 20(1) of, and paragraph 21 of Schedule 5 to, the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), paragraph 5 of Schedule 3 to the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), the Schedule to the Social Security (No. 2) (Northern Ireland) Order 1980, Article 32(3) of, and paragraph 5 of Schedule 4 to, the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)) and paragraph 53 of Schedule 9 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)); section 15 was amended by paragraph 22 of Schedule 5 to the Social Security Pensions (Northern Ireland) Order 1975, paragraph 1 of Schedule 1 to, and paragraph 6 of Schedule 3 to, the Social Security (Northern Ireland) Order 1979, paragraph 6 of Schedule 4 to the Social Security (Northern Ireland) Order 1982 and paragraph 53 of Schedule 9 to the Social Security (Northern Ireland) Order 1986; section 15A was inserted by Article 18(3) of the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)); section 16 was amended by paragraph 10 of Schedule 1 to the Social Security (Northern Ireland) Order 1979 and Article 11 (1) of the Social Security (Northern Ireland) Order 1985 and modified for certain purposes by Article 6 of the Social Security (Northern Ireland) Order 1986; section 36 was substituted by Article 5(1) of the Health and Social Security (Northern Ireland) Order 1984 and amended by paragraph 2 of Schedule 4 to the Social Security (Northern Ireland) Order 1985

(b) income support, the amount to be taken into account for the relevant days shall be calculated by multiplying the weekly amount of the benefit by the number of relevant days and dividing the product by 7.

(5) Except in the case of a payment which it has not been practicable to treat under regulation 31(1)(b) as paid on the first day of the benefit week in which it is due to be paid, where a payment of income from a particular source is or has been paid regularly and that payment falls to be taken into account in the same benefit week as a payment of the same kind and from the same source, the amount of that income to be taken into account in any one benefit week shall not exceed the weekly amount determined under paragraph (1)(a) or (b), as the case may be, of the payment which under regulation 31(1)(b) is treated as paid first.

(6) Where the amount of the claimant's income fluctuates and has changed more than once, or a claimant's regular pattern of work is such that he does not work every week, paragraphs (1) to (5) may be modified so that the weekly amount of his income is determined by reference to his average weekly income—

- (a) if there is a recognisable cycle of work, over the period of one complete cycle (including, where the cycle involves periods in which the claimant does no work, those periods but disregarding any other absences);
- (b) in any other case, over a period of 5 weeks or such other period as may, in the particular case, enable the claimant's average weekly income to be determined more accurately.

Weekly amount of charitable or voluntary payment

33.—(1) Subject to paragraph (2), the weekly amount of any charitable or voluntary payment which is to be treated as income under regulation 24(3) (treatment of charitable or voluntary payments) shall be determined as follows—

- (a) in a case where the first such payment exceeds the annual limit of £250, the excess shall be divided by 52; and the resulting amount treated as weekly income for a period of 52 weeks beginning on the date on which that payment was made;
- (b) in a case where any subsequent payment in aggregate with earlier payments first exceeds that limit, the excess shall be divided by the number equal to the number of weeks (including any part of a week) in the interval beginning with the date of that payment to the end of the period of 52 weeks; and the resulting amount treated as weekly income for each week in that interval; and
- (c) any payment made after that in either sub-paragraph (a) or (b) shall be divided by the number equal to the number of weeks (including any part of a week) in the interval beginning with the date of that payment to the end of the period of 52 weeks; and the resulting amount treated as weekly income for each week in that interval.

(2) Where the date on which the payment is made is not the first day of the benefit week in which it is made it shall be treated as paid on the first day of that benefit week or the first succeeding benefit week in which it is practicable to take the weekly amount of the payment into account.

Incomplete weeks of benefit

34.—(1) Where a claim for income support is made for a period (the relevant period) which is not a complete benefit week and a payment of income is to be taken into account in that period, for the purposes of calculating the amount to be taken into account—

- (a) the claimant shall be treated as if he had a benefit week beginning 7 days before the end of the relevant period; and
- (b) except where paragraph (2) or (3) applies, the amount to be taken into account in the relevant period shall be determined—

- (i) by multiplying the weekly amount of the payment determined under regulation 32(1) (calculation of weekly amount of income) less any sum which would fall to be disregarded from that amount under Schedule 8 or, as the case may be, 9 (earnings and other income to be disregarded) by the number equal to the number of days in the relevant period, and
- (ii) by dividing the product by 7.

(2) Where entitlement to income support would otherwise end before the last day of a benefit week (the relevant week) and a payment of income is to be taken into account in that week, for the purposes of calculating the amount to be taken into account in the relevant week—

- (a) the claimant shall be treated as if he had a benefit week beginning 7 days before the last day of the relevant week; and
- (b) except where paragraph (3) applies, the amount to be taken into account shall be determined—
 - (i) by multiplying the weekly amount of the payment determined under regulation 32(1) less any sum which would fall to be disregarded from that amount under Schedule 8 or, as the case may be, 9 by the number equal to the number of days in the relevant week in respect of which there is entitlement to income support, and
 - (ii) by dividing the product by 7.

(3) The amount of any unemployment benefit, sickness or invalidity benefit, or severe disablement allowance under the principal Act to be taken into account under paragraph (1) or (2) shall be the amount of benefit payable in respect of those days for which income support is payable.