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STATUTORY RULES OF NORTHERN IRELAND

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**1992 No. 78**

**The Disability Working Allowance (General)  
Regulations (Northern Ireland) 1992**

PART V

INCOME AND CAPITAL

CHAPTER IV:

SELF-EMPLOYED EARNERS

**Calculation of net profit of self-employed earners**

**25.**—(1) For the purposes of regulation 17 (normal weekly earnings of self-employed earners), the earnings of a claimant to be taken into account shall be—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations (Northern Ireland) 1975(1), his share of the net profit derived from that employment less—
  - (i) an amount in respect of income tax and social security contributions payable under the principal Act calculated in accordance with regulation 26 (deduction of tax and contributions for self-employed earners), and
  - (ii) one half of any qualifying premium payable.

(2) There shall be disregarded from a claimant's net profit any sum, where applicable, specified in Schedule 2.

(3) For the purposes of paragraph (1)(a) the net profit of the employment shall, except where paragraph (4), (11) or (12) applies, be calculated by taking into account the earnings of the employment received in the assessment period less—

- (a) subject to paragraphs (7) to (9), any expenses wholly and exclusively defrayed in that period for the purposes of that employment;
- (b) an amount in respect of—
  - (i) income tax, and
  - (ii) social security contributions payable under the principal Act, calculated in accordance with regulation 26; and
- (c) one half of any qualifying premium payable.

(4) For the purposes of paragraph (1)(a), in the case where the assessment period is determined under regulation 17(1)(b), the net profit of the employment shall, except where paragraph (11) applies, be calculated by taking into account the earnings of the employment relevant to that period (whether or not received in that period), less—

- (a) subject to paragraphs (7) to (9), any expenses relevant to that period (whether or not defrayed in that period) and which were wholly and exclusively incurred for the purposes of that employment;
- (b) an amount in respect of—
  - (i) income tax, and
  - (ii) social security contributions payable under the principal Act, calculated in accordance with regulation 26; and
- (c) one half of any qualifying premium payable.

(5) For the purposes of paragraph (1)(b) the net profit of the employment shall, except where paragraph (6), (11) or (12) applies, be calculated by taking into account the earnings of the employment received in the assessment period less, subject to paragraphs (7) to (9), any expenses wholly and exclusively defrayed in that period for the purposes of that employment.

(6) For the purposes of paragraph (1)(b), in a case where the assessment period is determined under regulation 17(1)(b), the net profit of the employment shall, except where paragraph (11) applies, be calculated by taking into account the earnings of the employment relevant to that period (whether or not received in that period) less, subject to paragraphs (7) to (9), any expenses relevant to that period (whether or not defrayed in that period) and which were wholly and exclusively incurred for the purposes of that employment.

(7) Subject to paragraph (8), no deduction shall be made under paragraph (3)(a), (4)(a), (5) or (6), as the case may be, in respect of—

- (a) any capital expenditure;
- (b) the depreciation of any capital asset;
- (c) any sum employed, or intended to be employed, in the setting up or expansion of the employment;
- (d) any loss incurred before the beginning of the assessment period;
- (e) the repayment of capital on any loan taken out for the purposes of the employment; or
- (f) any expenses incurred in providing business entertainment.

(8) A deduction shall be made under paragraph (3)(a), (4)(a), (5) or (6), as the case may be, in respect of the repayment of capital on any loan used for—

- (a) the replacement in the course of business of equipment or machinery;
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair; and
- (c) the purchase of land under the Northern Ireland Land Act 1925(2).

(9) An adjudication officer shall refuse to make a deduction in respect of any expenses under paragraph (3)(a), (4)(a), (5) or (6), as the case may be, where he is not satisfied that the expense has been defrayed or given the nature and the amount of the expense that it has been reasonably incurred.

(10) For the avoidance of doubt—

- (a) a deduction shall not be made under paragraph (3)(a), (4)(a), (5) or (6), as the case may be, in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction shall be made thereunder in respect of—

- (i) the excess of any value added tax paid over value added tax received in the assessment period,
  - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair,
  - (iii) any payment of interest on a loan taken out for the purposes of the employment.
- (11) Where a claimant is engaged in employment as a child minder the net profit of the employment shall be one third of the earnings of that employment, less—
- (a) an amount in respect of—
    - (i) income tax, and
    - (ii) social security contributions payable under the principal Act, calculated in accordance with regulation 26; and
  - (b) one half of any qualifying premium payable.
- (12) Where regulation 17(3) applies—
- (a) for the purposes of paragraph (1)(a), the net profit derived from the employment shall be calculated by taking into account the claimant's estimated and, where appropriate, actual earnings from the employment, less the amount of the deductions likely to be made and, where appropriate, made under paragraph (3)(a) to (c);
  - (b) for the purposes of paragraph (1)(b), his share of the net profit of the employment shall be calculated by taking into account the claimant's estimated and, where appropriate, his share of the actual earnings from the employment, less the amount of his share of the expenses likely to be deducted and, where appropriate, deducted under paragraph (5); or
  - (c) in the case of employment as a child minder, the net profit of the employment shall be calculated by taking into account one third of the claimant's estimated and, where appropriate, actual earnings from that employment, less the amount of the deductions likely to be made and, where appropriate, made under paragraph (11)(a) and (b).
- (13) For the avoidance of doubt where a claimant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.
- (14) In this regulation “qualifying premium” means any premium or other consideration payable under an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision for the claimant of a life annuity in old age or the provision of an annuity for his partner or for any one or more of his dependants and in respect of which relief from income tax may be given.
- (15) Where the claimant is a self-employed earner in the Republic of Ireland the amounts to be deducted for income tax and social security contributions under this regulation shall be such amounts as, in the opinion of the adjudication officer, would have been deducted had the claimant been employed in Northern Ireland.