
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 198

The Jobseeker's Allowance Regulations (Northern Ireland) 1996

Part VIII

Income and Capital

Chapter III

Employed Earners

Earnings of employed earners

98.—(1) Subject to paragraphs (2) and (3), “earnings” means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any compensation payment;
- (c) any holiday pay except any payable more than 4 weeks after the termination or interruption of employment but this exception shall not apply to a person who is, or would be, prevented from being entitled to a jobseeker's allowance by Article 16 of the Order (trade disputes);
- (d) any payment by way of a retainer;
- (e) any payment made by the claimant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant's employer in respect of—
 - (i) travelling expenses incurred by the claimant between his home and place of employment;
 - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant's absence from home;
- (f) any payment, remuneration or award of compensation made under Article 31, 32(2)(a) or (5), 39 or 41(1) to (3) of the Industrial Relations (Northern Ireland) Order 1976(1) (order for reinstatement or re-engagement, compensation for unfair dismissal and interim relief pending determination of complaint) or Article 3, 9 or 23 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976(2) (right to guarantee payment, right to remuneration on suspension on medical grounds and payments to employees out of maternity pay fund);

(1) S.I. 1976/1043 (N.I. 16); Article 32(2)(a) and (5) was amended by paragraph 4(5) of Schedule 3 to the Industrial Relations (Northern Ireland) Order 1987 (S.I. 1987/936 (N.I. 9)). Articles 39 and 41 were substituted by Schedule 3 to the Industrial Relations (Northern Ireland) Order 1993 (S.I. 1993/2668 (N.I. 11)).

(2) S.I. 1976/2147 (N.I. 28); Article 3 was amended by paragraph 8(1) of Schedule 2 to, and paragraph 5(2) of Schedule 3 to, the Industrial Relations (Northern Ireland) Order 1987. Article 9 was amended by paragraph 5(a) of Schedule 6 of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)) and paragraph 9(1) of Schedule 2 to the Industrial Relations (Northern Ireland) Order 1987. Article 23 was substituted by Schedule 1 to the Industrial Relations (Northern Ireland) Order 1993.

- (g) any award of compensation made under Article 33, 34, 39(1) to (10), 39A, 40, 40A, 41, 51 or 53 of the Industrial Relations (Northern Ireland) Order 1976(3) (compensation for unfair dismissal or redundancy on grounds of involvement in trade union activities);
 - (h) any payment made under the legislation of, or under any scheme operating in, the Republic of Ireland which is analogous to any income to which sub-paragraphs (a) to (g) relate.
- (2) “Earnings” shall not include—
- (a) any payment in kind;
 - (b) any periodic sum paid to a claimant on account of the termination of his employment by reason of redundancy;
 - (c) any remuneration paid by or on behalf of an employer to the claimant in respect of a period throughout which the claimant is on maternity leave or is absent from work because he is ill;
 - (d) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
 - (e) any occupational pension;
 - (f) any redundancy payment within the meaning of section 11(1) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(4).
- (3) In this regulation “compensation payment” means any payment made in respect of the termination of employment other than—
- (a) any remuneration or emolument (whether in money or in kind) which accrued in the period before the termination;
 - (b) any holiday pay;
 - (c) any payment specified in paragraph (1)(f) or (2);
 - (d) any refund of contributions to which that person was entitled under an occupational pension scheme.

Calculation of net earnings of employed earners

99.—(1) For the purposes of regulation 94 (calculation of earnings of employed earners) the earnings of a claimant derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.

(2) Subject to paragraph (3), there shall be disregarded from a claimant’s net earnings, any sum, where applicable, specified in paragraphs 1 to 16 and 19 of Schedule 6.

(3) For the purposes of calculating the amount to be deducted in respect of earnings under regulation 80 (contribution-based jobseeker’s allowance: deductions in respect of earnings) the disregards specified in paragraphs 5 to 8 and 11 of Schedule 5 shall not apply.

(4) For the purposes of paragraph (1) net earnings shall be calculated by taking into account the gross earnings of the claimant from that employment less—

- (a) any amount deducted from those earnings by way of—
 - (i) income tax;
 - (ii) primary Class 1 contributions payable under the Benefits Act, and

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- (3) Article 33 was inserted by Article 7(2) of the Industrial Relations (Northern Ireland) Order 1987. Article 34 was amended by Article 11 of the Industrial Relations (Northern Ireland) Order 1982 (S.I. 1982/528 (N.I. 8)), Article 6 of, paragraph 5(3) of Schedule 2 to, paragraph 4(6) of Schedule 3 to, and Schedule 4 to, the Industrial Relations (Northern Ireland) Order 1987 and paragraph 6 of the Schedule to S.R. 1995 No. 342. Articles 39 to 41 were substituted by Schedule 3 to the Industrial Relations (Northern Ireland) Order 1993 (S.I. 1993/2668 (N.I. 11)). Article 51 was amended by regulation 5 of S.R. 1995 No. 417
 - (4) Section 11(1) was amended by Part II paragraph 13 of Schedule 5 to the Industrial Relations (Northern Ireland) Order 1976

(b) one half of any sum paid by the claimant in respect of a pay period by way of a contribution towards an occupational or personal pension scheme.

(5) Where the claimant is an employed earner in the Republic of Ireland the amounts to be deducted for income tax and primary Class 1 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.