
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 218

The Jobseeker's Allowance Regulations (Northern Ireland) 2016

PART 9

SHARE FISHERMEN

Calculation of earnings

73.—(1) In the calculation of earnings derived from work as a share fisherman for the purposes of establishing entitlement to a jobseeker's allowance, the provisions of Part 7 (earnings) apply subject to paragraphs (2) and (3).

(2) Regulation 55 (calculation of earnings of self-employed earners) is to be omitted.

(3) For regulation 61 (calculation of net profit of self-employed earners) there is to be substituted the following regulation—

“Calculation of earnings derived from work as a share fisherman

61.—(1) Earnings derived from work as a share fisherman within the meaning of regulation 67 (interpretation) are to be calculated in accordance with paragraphs (2) to (13).

(2) Any such earnings are to be treated as paid in the benefit week in respect of which they are earned.

(3) The amount of earnings to be taken into account in respect of any benefit week are to be the claimant's share of the net profit derived from the work as a share fisherman less—

(a) an amount in respect of income tax and national insurance contributions under the Benefits Act calculated in accordance with regulation 62 (deduction of tax and contributions for self-employed earners); and

(b) half of any premium paid in respect of a personal pension scheme.

(4) Subject to paragraph (5), there is to be disregarded from a claimant's share of the weekly net profit—

(a) £20; and

(b) the amount of any earnings specified in paragraphs 4 and 10 of the Schedule to these Regulations, if applicable.

(5) Where a share fisherman has earnings from work other than work as a share fisherman, and an amount is disregarded from those earnings in accordance with paragraph 5, 6 or 7 of the Schedule—

(a) if the amount so disregarded is £20, paragraph (4)(a) does not apply;

(b) if the amount so disregarded is less than £20, the amount disregarded under paragraph (4)(a) must not exceed the difference between the amount disregarded from those other earnings and £20.

(6) For the purposes of paragraph (3), the net profit is to be calculated by taking into account the earnings less, subject to paragraphs (7) to (9), any expenses relevant to that benefit week which were wholly, exclusively and necessarily incurred for the purposes of the employment.

(7) Subject to paragraph (8), no deduction is to be made under paragraph (6) 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) the repayment of capital on any loan taken out for the purposes of the employment;
- (e) any expenses incurred in providing business entertainment.

(8) A deduction is to be made under paragraph (6) 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 ^{M1}.

(9) No reduction is to be made under paragraph (6) in respect of any expenses where the Department is not satisfied that the expense has been incurred or, having regard to the nature of the expense and its amount, that it has been reasonably incurred.

(10) A deduction under paragraph (6)—

- (a) must not be made in respect of any sum unless it has been incurred for the purposes of the business;
- (b) must be made in respect of—
 - (i) the excess of any Value Added Tax paid over Value Added Tax received in the benefit week;
 - (ii) any expense incurred in the repair of an existing 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) Notwithstanding paragraphs (1) to (10) the Department may calculate earnings or expenditure over a period other than the benefit week if the Department considers it is reasonable to do so having regard to all the facts of the case and in particular whether the earnings earned or expenditure incurred in respect of a benefit are unusually high or low.

(12) Where the claimant is a share fisherman in the Republic of Ireland the amounts to be deducted for income tax and contributions under this regulation shall be such amounts as, in the opinion of the Department, would have been deducted had the claimant been employed in Northern Ireland.

(13) In this regulation “benefit week” has the same meaning as in regulation 74 (share fishermen: amount payable).”.

(4) In regulation 62 (deduction of tax and contributions for self-employed earners)—

- (a) in paragraphs (1) and (3), for “regulation 61(1)(b)(i)” there is to be substituted “regulation 61(3)(a) ”;
- (b) paragraphs (2) and (4) are to be omitted.

[^{F1}(ba) in paragraph (3) for “Subject to paragraph (4), the” substitute “The”];

- (c) in paragraph (5)(a) for “regulation 61(3)(a) or, as the case may be, (4)” there is to be substituted “ regulation 61(6) ”;
- (d) at the end of the regulation there is to be added the following paragraph—
- “(6) For the purposes of paragraphs (1) and (3) the earnings to which the basic rate [^{F2}, or the Scottish basic rate,] of tax is to be applied and the amount of personal [^{F3}reliefs] deductible, ^{F4}... ^{M2}, and the upper limit of profits and gains referred to in paragraph (3)(b), are to be apportioned pro rata according to the period over which the earnings are assessed in accordance with regulation 61.”.

Textual Amendments

- F1** Reg. 73(4)(ba) inserted (coming into operation in accordance with reg. 1(7) of the amending Regulations) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(7), **10(13)(a)**
- F2** Words in reg. 73(4) inserted (coming into operation in accordance with reg. 1(7) of the amending Regulations) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(7), **10(13)(b)(i)**
- F3** Word in reg. 73(4) substituted (coming into operation in accordance with reg. 1(7) of the amending Regulations) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(7), **10(13)(b)(ii)**
- F4** Words in reg. 73(4)(d) omitted (6.4.2024) by virtue of [The Social Security \(Class 2 National Insurance Contributions\) \(Consequential Amendments and Savings\) Regulations 2024 \(S.I. 2024/377\)](#), regs. 1(1), **8(24)(b)** (with reg. 1(4))

Marginal Citations

- M1** 1925 c. 34
- M2** Section 11(4) was amended by paragraph 13 of schedule 3 to the [Social Security Contributions \(Transfer of Functions, etc.\) Order 1999 \(S.I. 1999/671\)](#) and Article 2 of the [Social Security \(Contributions\) \(Re-rating\) Order 2012 \(S.I. 2012/807\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Jobseeker's Allowance Regulations (Northern Ireland) 2016, Section 73.