
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 219

The Employment and Support Allowance
Regulations (Northern Ireland) 2016

PART 9

AMOUNTS OF ALLOWANCE

Prescribed amounts

62.—(1) Subject to regulation 63 (special cases) the amount prescribed for the purposes of the calculation of the amount of a claimant's employment and support allowance under section 2(1)(a) of the Act is—

- (a) where the claimant satisfies the conditions set out in section 2(2) or (3) of the Act, £73.10; or
 - (b) where the claimant does not satisfy the conditions set out in section 2(2) or (3) of the Act—
 - (i) where the claimant is aged not less than 25, £73.10, or
 - (ii) where the claimant is aged less than 25, £57.90.
- (2) Subject to regulation 63, the amount of—
- (a) the work-related activity component is £29.05; and
 - (b) the support component is £36.20.

Special cases

63.—(1) The amount prescribed for the purposes of the calculation of the amount of a claimant's employment and support allowance under section 2(1)(a) of the Act in respect of a claimant who—

- (a) satisfies the condition in paragraph (3); or
- (b) has been a patient for a continuous period of more than 52 weeks,

is the amount applicable under regulation 62(1) and the amount of nil under regulation 62(2).

(2) The amount prescribed for those purposes in respect of a claimant who is a person in hardship, is the amount to which the claimant is entitled—

- (a) under regulation 62(1) reduced by 20 per cent.; and
- (b) under regulation 62(2).

(3) The condition mentioned in paragraph (1)(a) is that—

- (a) the claimant is being detained under Article 53 of the Mental Health Order⁽¹⁾ (removal to hospital of persons serving sentences of imprisonment etc.); and

(1) [S.I. 1986/595 \(N.I. 4\)](#); Article 53 was amended by paragraph 38 of Schedule 12 to the Justice (Northern Ireland) Act 2002 (c. 26)

- (b) in any case where there is in relation to the claimant a release date within the meaning of Article 56(3) of that Order⁽²⁾ (further provisions as to prisoners under sentence), the claimant is being detained on or before the day which the Department of Justice certifies to be that release date.
- (4) In this regulation—
- “patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 2005⁽³⁾;
- “prisoner” means a person who—
- (a) is detained in custody pending trial or sentence on conviction or under a sentence imposed by a court; or
- (b) is on temporary release in accordance with the provisions of the Prison Act (Northern Ireland) 1953⁽⁴⁾,
- other than a person who is detained in hospital under the provisions of the Mental Health Order.
- (5) For the purposes of this regulation—
- (a) except where sub-paragraph (b) applies, a person is a “person in hardship” if they satisfy regulation 94; and
- (b) where a person satisfies regulation 94 for more than 6 weeks, they are a person in hardship only for the first 6 weeks.

Permanent health insurance

64. For the purposes of sections 2(1)(c) and 3(3) of the Act (deductions from an employment and support allowance) “pension payment” is to include a permanent health insurance payment.

Financial Assistance Scheme

65.—(1) For the purposes of sections 2(1)(c) and 3(3) of the Act “pension payment” is to include a Financial Assistance Scheme payment.

(2) In this regulation “Financial Assistance Scheme payment” means a payment made under the Financial Assistance Scheme Regulations 2005⁽⁵⁾.

Councillor’s allowance

66. For the purposes of section 3(1)(c) of the Act—

- (a) a councillor’s allowance is a payment of a prescribed description; and
- (b) the prescribed bodies carrying out public or local functions are district councils.

Deductions for pension payment and PPF payment

67.—(1) Where—

- (a) a claimant is entitled to an employment and support allowance in respect of any period of a week or part of a week;
- (b) there is—

(2) Article 56(3) was substituted by section 296(3) of the Criminal Justice Act 2003 (c. 44) and amended by paragraph 5(2) of Schedule 5 to the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008 1216 (N.I. 1))

(3) S.R. 2005 No. 580

(4) 1953 c. 18 (N.I.)

(5) S.I. 2005/1986

- (i) a pension payment,
 - (ii) a PPF periodic payment, or
 - (iii) both of the payments specified in heads (i) and(ii),
- payable to that person in respect of that period (or a period which forms part of that period or includes that period or part of it); and
- (c) the amount of the payment, or payments when taken together, exceeds—
 - (i) if the period in question is a week, £85, or
 - (ii) if that period is not a week, such proportion of £85 as falls to be calculated in accordance with regulation 79(1) or (5) (calculation of weekly amount of income),
- the amount of that allowance is to be reduced by an amount equal to 50 per cent. of the excess.
- (2) For the purposes of regulations 67 to 72 “payment” means a payment or payments, as the case may be, referred to in paragraph (1)(b).

Payments treated as not being payments to which section 3 applies

68. The following payments are to be treated as not being payments to which section 3 of the Act applies—

- (a) any pension payment made to a claimant as a beneficiary on the death of a member of any pension scheme;
- (b) any PPF periodic payment made to a claimant as a beneficiary on the death of a person entitled to such a payment;
- (c) where a pension scheme is in deficit or has insufficient resources to meet the full pension payment, the extent of the shortfall;
- (d) any pension payment made under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003⁽⁶⁾;
- (e) any guaranteed income payment (which means a payment made under Article 15(1)(a) or 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011⁽⁷⁾);
- (f) any permanent health insurance payment in respect of which the employee had contributed to the premium to the extent of more than 50 per cent..

Deductions for councillor’s allowance

69.—(1) Where the net amount of councillor’s allowance to which a claimant is entitled in respect of any week exceeds 16 multiplied by the national living wage, subject to paragraph (3), an amount equal to the excess is to be deducted from the amount of an employment and support allowance to which that claimant is entitled in respect of that week, and only the balance remaining (if any) is to be payable.

(2) In paragraph (1) “net amount”, in relation to any councillor’s allowance to which a claimant is entitled, means the aggregate amount of the councillor’s allowance or allowances, or remuneration to which that claimant is entitled for the week in question, reduced by the amount of any payment in respect of expenses wholly, exclusively and necessarily incurred by that claimant, in that week, in the performance of the duties of a councillor.

(3) Where the amount determined by the calculation in paragraph (1) would, but for this paragraph, include an amount of—

⁽⁶⁾ 2003 c. 1. Section 639(2) was inserted by section 19 of the Finance Act 2005 (c.7)

⁽⁷⁾ S.I. 2011/517

- (a) less than 50p, that amount is to be rounded up to the nearest 50p; or
- (b) less than £1 but more than 50p, that amount is to be rounded up to the nearest £1.

Date from which payments are to be taken into account

70. Where regulation 67(1) or 69(1) applies, a deduction must have effect, calculated where appropriate in accordance with regulation 79(1) or (5), from the first day of the benefit week in which the payment or councillor's allowance is paid to a claimant who is entitled to an employment and support allowance in that week.

Date from which a change in the rate of the payment takes effect

71. Where a payment or councillor's allowance is already being made to a claimant and the rate of that payment or allowance changes, the deduction at the new rate must take effect, calculated where appropriate in accordance with regulation 79(1) or (5), from the first day of the benefit week in which the new rate of the payment or councillor's allowance is paid.

Calculation of payment made other than weekly

72.—(1) Where the period in respect of which a payment or councillor's allowance is paid is otherwise than weekly, an amount calculated or estimated in accordance with regulation 79(1) or (5) is to be regarded as the weekly amount of that payment or allowance.

(2) In determining the weekly payment, where two or more payments are payable to a claimant, each payment is to be calculated separately in accordance with regulation 79(1) or (5) before aggregating the sum of those payments for the purposes of the reduction of an employment and support allowance in accordance with regulation 67.

Effect of statutory maternity pay on an employment and support allowance

73.—(1) This regulation applies where—

- (a) a woman is entitled to statutory maternity pay and, on the day immediately preceding the first day in the maternity period, she—
 - (i) is in a period of limited capability for work, and
 - (ii) satisfies the conditions of entitlement to an employment and support allowance in accordance with section 1(2)(a) of the Act; and
- (b) on any day during the maternity pay period—
 - (i) she is in a period of limited capability for work, and
 - (ii) that day is not a day where she is treated as not having limited capability for work.

(2) Where this regulation applies, notwithstanding section 20(2) of the Act, a woman who is entitled to statutory maternity pay is to be entitled to an employment and support allowance in respect of any day that falls within the maternity pay period.

(3) Where by virtue of paragraph (2) a woman is entitled to an employment and support allowance for any week (including part of a week), the total amount of employment and support allowance payable to her for that week is to be reduced by an amount equivalent to any statutory maternity pay to which she is entitled in accordance with Part 12 of the Contributions and Benefits Act for the same week (or equivalent part of a week where entitlement to an employment and support allowance is for part of a week), and only the balance, if any, of the employment and support allowance is to be payable to her.

Effect of statutory adoption pay on an employment and support allowance

74.—(1) This regulation applies where—

- (a) a claimant is entitled to statutory adoption pay and, on the day immediately preceding the first day in the adoption pay period, she—
 - (i) is in a period of limited capability for work, and
 - (ii) satisfies the conditions of entitlement to an employment and support allowance in accordance with section 1(2)(a) of the Act; and
- (b) on any day during the adoption pay period—
 - (i) that claimant is in a period of limited capability for work, and
 - (ii) that day is not a day where that claimant is treated as not having limited capability for work.

(2) Where this regulation applies, notwithstanding section 20(4) of the Act, a claimant who is entitled to statutory adoption pay is to be entitled to an employment and support allowance in respect of any day that falls within the adoption pay period.

(3) Where by virtue of paragraph (2) a claimant is entitled to an employment and support allowance for any week (including part of a week), the total amount of employment and support allowance payable to that claimant for that week is to be reduced by an amount equivalent to any statutory adoption pay to which that claimant is entitled in accordance with Part 12ZB of the Contributions and Benefits Act(8) for the same week (or equivalent part of a week where entitlement to an employment and support allowance is for part of a week), and only the balance, if any, of the employment and support allowance is to be payable to that claimant.

Effect of statutory shared parental pay on an employment and support allowance

75.—(1) This regulation applies where—

- (a) a claimant is entitled to statutory shared parental pay and, on the day immediately preceding the first day in the shared parental pay period the claimant—
 - (i) is in a period of limited capability for work, and
 - (ii) satisfies the conditions of entitlement to an employment and support allowance in accordance with section 1(2)(a) of the Act; and
- (b) on any day during the statutory shared parental pay period—
 - (i) that claimant is in a period of limited capability for work, and
 - (ii) that day is not a day where that claimant is treated as not having limited capability for work.

(2) Where this regulation applies, notwithstanding section 20(6) of the Act, a claimant who is entitled to statutory shared parental pay is to be entitled to an employment and support allowance in respect of any day that falls within the shared parental pay period.

(3) Where by virtue of paragraph (2) a person is entitled to an employment and support allowance for any week (including part of a week), the total amount of such benefit payable to that claimant for that week is to be reduced by an amount equivalent to any statutory shared parental pay to which that claimant is entitled in accordance with Part 12ZC of the Contributions and Benefits Act(9) for the same week (or equivalent part of a week where entitlement to an employment and support allowance

(8) Part 12ZB was inserted by Article 6 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)) and amended by paragraph 269(2) of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1), paragraph 103 of Schedule 24 to the Civil Partnership Act 2004 (c. 33) and Article 4 of, and paragraph 20 of Schedule 1 to, the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)) and paragraph 1(7) of Schedule 7 and Schedule 8 to S.R. 2006 No. 261

(9) Part 12ZC was inserted by section 5 of the Work and Families Act (Northern Ireland) 2015 (c.1. (N.I.))

is for part of a week), and only the balance, if any, of the employment and support allowance is to be payable to that claimant.

(4) In this regulation “statutory shared parental pay period” means the weeks in respect of which statutory shared parental pay is payable to a person under section 167ZZ2(2) of the Contributions and Benefits Act.