

2007 No. 2614

SOCIAL SECURITY, NORTHERN IRELAND

**The Social Security Benefit (Computation of Earnings)
(Amendment) Regulations (Northern Ireland) 2007**

Made - - - - *7th September 2007*

Laid before Parliament *10th September 2007*

Coming into force in accordance with regulation 1

The Treasury make the following Regulations in exercise of the powers conferred on them by sections 3(2) and (3) and 171(3), (4) and (10) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, and now exercisable by them^(a).

The Department for Social Development concurs in the making of these Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security Benefit (Computation of Earnings) (Amendment) Regulations (Northern Ireland) 2007.

(2) This regulation and regulations 2(1) and 2(4)(b) shall come into force on 1st October 2007.

(3) Regulations 2(2) and (3), in so far as they relate to a particular beneficiary, shall come into force on the first day of the first benefit week commencing for that beneficiary on or after 1st October 2007.

(4) Regulation 2(4)(a), in so far as it relates to a particular beneficiary, shall come into force on the first day of the first benefit week commencing for that beneficiary on or after 7th April 2008.

(5) In these Regulations—

“benefit week” has the meaning given in regulation 2(1) of the Computation of Earnings Regulations;

“the Computation of Earnings Regulations” means the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996^(b).

^(a) 1992 c. 7 (N.I.); section 3(2) was amended, and the power to make regulations under it transferred to the Treasury, by SI 1999/671, Article 4, Schedule 3 paragraph 4 (with savings and transitional provisions in Schedule 7); S.R. 1999 No 149 (C.15), Article 2(c), Schedule 2 (subject to Articles 3-6). Section 171(10) was also amended by SI 1999/671, Article 4, Schedule 3 paragraph 28(3) (with savings and transitional provisions in Schedule 7); S.R. 1999 No 149 (C.15), Article 2(c), Schedule 2 (subject to Articles 3-6). “The Department” was originally defined in section 170 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as the Department for Health and Social Services for Northern Ireland. The functions of that Department under that Act were transferred to the Department for Social Development by Article 8(b) of, and Part 2 of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. 1999 No 481).

^(b) S.R. 1996 No 520.

Amendment of the Computation of Earnings Regulations

2.—(1) The Computation of Earnings Regulations are amended as follows.

(2) In regulation 12 (earnings of self-employed earners)—

(a) in paragraph (1)—

(i) omit “Subject to paragraph (2),” and

(ii) for ““earnings”” substitute ““Earnings””; and

(b) omit paragraph (2).

(3) In regulation 13 (calculation of net profit of self-employed earners)(a)—

(a) at the end of sub-paragraph (6)(f), for “entertainment.” substitute “entertainment;”; and

(b) after sub-paragraph (6)(f) insert—

“(g) where the claimant provides accommodation to another person in the dwelling the claimant occupies as his home, any expenses defrayed by the claimant in providing the accommodation to that person (including any expenses defrayed in providing board as well as lodging).”.

(4) In Schedule 1 (sums to be disregarded in the calculation of earnings)—

(a) for paragraphs 2(a) and (b) substitute—

“(a) where the aggregate of any payments made in respect of any one week in respect of the occupation of that dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or

(b) where the aggregate of any such payments is £20 or more per week, £20.”; and

(b) after paragraph 11 insert—

“**11A.**—(1) Any earnings, other than items to which sub-paragraph (2) applies, paid or due to be paid from the claimant’s employment as an employed earner which ended before the day in respect of which the claimant first satisfies the conditions for entitlement to the benefit, pension or allowance to which the claim relates.

(2) This sub-paragraph applies to—

(a) any payment by way of occupational or personal pension; and

(b) except in a case where the claimant’s employment terminated by reason of retirement at a time when he had attained pensionable age (within the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995)(b)—

(i) any payment or remuneration of the nature described in regulation 9(1)(e) or (j)(c), and

(ii) any award or sum of the nature described in regulation 9(1)(g) or (h) (including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings).

(3) Sub-paragraph (1) is subject to the following provisions.

(4) Sub-paragraph (1) does not apply in relation to a claim for, or an award of, incapacity benefit (within the meaning given by paragraph 11 of Schedule 4 to the Welfare Reform Act (Northern Ireland) 2007(d)) or severe disablement allowance (also within the meaning given by that paragraph).

(a) Regulation 13 has been amended, but none of the amendments are relevant to these Regulations.

(b) SI 1995/3213 (N.I.22).

(c) Regulation 9(1)(j) was amended by SI 2002/2925.

(d) 2007 c.2 (N.I.).

(5) Sub-paragraph (1) applies in relation to a claim for an increase in benefit under Part IV of the Contributions and Benefits Act (increases in respect of dependants) only in a case where—

- (a) the spouse or partner or other adult in respect of whom that claim is made was in employment as an employed earner, but
- (b) that employment ended before the day referred to in sub-paragraph (1).”.

Dave Watts
Steve McCabe

7th September 2007

Two of the Lords Commissioners of Her Majesty’s Treasury

The Department for Social Development concurs.
Sealed with the Official Seal of the Department for Social Development



John O'Neill

3rd September 2007

A Senior Officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security Benefits (Computation of Earnings) Regulations (Northern Ireland) 1996 (S.I. 1996 No. 520) (“the principal Regulations”), and correspond to provisions contained in Regulations made by the Treasury with the concurrence of the Secretary of State for Work and Pensions in relation to Great Britain.

Regulation 1 provides for the citation, commencement and interpretation of these Regulations. All but one of the regulations will come into force on 1st October 2007: regulation 2(4)(a) will come into force on 7th April 2008 in line with the annual benefits uprating timetable.

Regulation 2(2) amends regulation 12 of the principal Regulations by removing the provision which disregards as earnings of a self-employed earner certain payments received in connection with the provision of accommodation by the claimant. These payments will continue to be disregarded from the calculation of a claimant’s net profit under regulation 13(2)(a).

Regulation 2(3) amends regulation 13 of the principal Regulations by inserting a new subparagraph (6)(g). This provides that there will be no deduction of expenses from a self-employed earner’s net profit in respect of any expenses incurred in connection with the provision of accommodation by the claimant to another person in the dwelling that the claimant occupies as his home.

Regulation 2(4) amends Schedule 1 to the principal Regulations by providing a disregard in the calculation of earnings of £20 per week in respect of payments received from a sub-tenancy arrangement. Where the payments are less than £20 per week, the disregard will be the whole of the amount of the payments. Previously the Schedule made provision for a basic disregard with a further disregard to be applied where the payments included an amount for heating. Regulation 2(4) also amends Schedule 1 by inserting a new paragraph 11A. This provides that where a claimant’s employment as an employed earner ends before the claimant becomes entitled to certain benefits, payments made in respect of that employment (with some exceptions) will be disregarded in the calculation of the claimant’s earnings.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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