
STATUTORY RULES OF NORTHERN IRELAND

2004 No. 8

Housing Renewal Grants (Reduction of Grant) Regulations (Northern Ireland) 2004

PART IV

INCOME AND CAPITAL

CHAPTER II

income

Determination of income on a weekly basis

19.—(1) The income of a relevant person shall be determined on a weekly basis by aggregating –

- (a) his average weekly earnings from employment as an employed earner, determined in accordance with this Chapter and Chapter III,
- (b) his average weekly earnings from employment as a self-employed earner, determined in accordance with this Chapter and Chapter IV,
- (c) his average weekly income other than earnings, determined in accordance with this Chapter and Chapter V,
- (d) the weekly tariff income determined under regulation 41 (determination of tariff income from capital), and

by then deducting the average weekly relevant child care charge, determined in accordance with regulation 20 (treatment of child care charges) from the aggregated weekly income or, in a case where the conditions in paragraph (2) are met, from the aggregated weekly income plus whichever credit specified in sub-paragraph (b) of that paragraph is appropriate, up to a maximum deduction in respect of the relevant person's family of whichever of the sums specified in paragraph (3) applies in his case.

(2) The conditions of this paragraph are that –

- (a) the relevant person's average weekly earnings as mentioned in sub-paragraph (a) or (b) of paragraph (1) are less than the lower of either of his relevant child care charges or whichever of the deductions specified in paragraph (3) otherwise applies in his case; and
- (b) the relevant person or, if he is a member of a couple either the relevant person or his partner, is in receipt of either child tax credit or working tax credit.

(3) The maximum deduction for the purposes of paragraph (1) is –

- (a) where the relevant person's family includes only one child in respect of whom relevant child care charges are paid, £94·50 per week; and
- (b) where the relevant person's family includes more than one child in respect of whom relevant child care charges are paid, £140 per week.

(4) For the purposes of paragraph (1) “income” includes income to which regulations 31 (capital treated as income), 32 (notional income), 44 (determination of grant income) and 47 (treatment of student loans) refer.

Treatment of child care charges

20.—(1) This regulation applies where a relevant person has incurred relevant child care charges and –

- (a) is a lone parent and is engaged in remunerative work;
- (b) is a member of a couple both of whom are engaged in remunerative work; or
- (c) is a member of a couple where one member is engaged in remunerative work and the other member is incapacitated.

(2) Relevant child care charges shall be determined over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to care.

(3) For the purposes of paragraph (1)(c) the other member of a couple is incapacitated where –

- (a) the relevant person’s applicable amount includes –
 - (i) disability premium; or
 - (ii) a higher pensioner premium by virtue of the satisfaction of paragraph 9(2)(b) of Schedule 1;
 on account of the other member’s incapacity;
- (b) the relevant person’s applicable amount would include a disability premium or a higher pensioner premium on account of the other member’s incapacity, but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations(1) made under section 167E of the 1992 Act(2) (incapacity for work: disqualification, etc);
- (c) the relevant person (within the meaning of regulation 6) is or is treated as incapable of work, and has been so incapable or has been so treated as incapable of work in accordance with the provisions of, and regulations made under, Part XIA of the 1992 Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
- (d) there is payable in respect of him one or more of the following –
 - (i) short-term incapacity benefit at the higher rate or long-term incapacity benefit under paragraphs 2 and 2A of Part 1 of Schedule 4 to the 1992 Act(3) (rates of benefits, etc.);
 - (ii) attendance allowance under section 64(4) of that Act (entitlement to an attendance allowance);

(1) See the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 41) and the Social Security (Incapacity for Work) (Miscellaneous Amendment) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 149)

(2) Section 167E was inserted into the 1992 Act by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12))

(3) Paragraphs 2 and 2A were substituted for paragraph 2 by Article 4(2) of S.I. 1994/1898 (N.I. 12) and amended by Article 3(1) of, and Schedule 1 to, S.R. 1996 No. 73

(4) Section 64 was amended by Article 63(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

- (iii) severe disablement allowance under section 68 of that Act(5) (severe disablement allowance: entitlement and rate);
 - (iv) disability living allowance under section 71(6) of that Act (disability living allowance);
 - (v) increase of disablement pension under section 104 of that Act (increase where constant attendance needed);
 - (vi) a pension increase under a war pension scheme or an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv) or (v);
 - (e) a pension or allowance to which head (ii), (iv), (v) or (vi) of subparagraph (d) refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient within the meaning of regulation 18(2) of the Housing Benefit (General) Regulations (Northern Ireland) 1987(7) (patients);
 - (f) sub-paragraph (d) or (e) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding statutory provision having effect in Great Britain(8); or
 - (g) he has an invalid carriage or other vehicle provided to him under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(9) (provision of vehicles for persons suffering from physical defect or disability) or provided by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977(10) (provision of vehicles for those suffering disability) or under section 46 of the National Health Service (Scotland) Act 1978(11) (provision of vehicles for persons suffering from physical defect or disability).
- (4) In this regulation –
- “relevant child care charges” are those charges for care to which paragraphs (5) and (6) apply, and shall be calculated on a weekly basis in accordance with paragraph (2).
- (5) This paragraph applies to charges paid by the relevant person for care which is provided –
- (a) in the case of any child of the relevant person’s family who is not disabled, in respect of the period beginning on that child’s date of birth and ending on the day preceding the first Monday in September following that child’s fifteenth birthday;
 - (b) in the case of any child of the relevant person’s family who is disabled, in respect of the period beginning on that child’s date of birth and ending on the day preceding the first Monday in September following that child’s sixteenth birthday.
- (6) This paragraph applies to charges paid for care which is provided in accordance with paragraph (7) but not paid –
- (a) in respect of the child’s compulsory education; or
 - (b) by a relevant person to a partner or by a partner to a relevant person in respect of any child for whom either of any of them is responsible in accordance with regulation 9

(5) Section 68 was repealed by Article 76 and Part IV of Schedule 10 to S.I. 1999/3147 (N.I. 11) which was commenced, with savings, by Articles 2 and 4 of S.R. 2000 No. 332 (c. 14); severe disablement allowance was abolished for new claimants from 6th April 2003

(6) Section 71 was amended by Article 64(1) of S.I. 1999/3147 (N.I. 11)

(7) S.R. 1987 No. 461

(8) S.I. 1994/1924

(9) S.I. 1972/1265 (N.I. 14)

(10) 1977 c. 49; section 5(2) was amended and subsection (2A) inserted by the Public Health Laboratory Service Act 1979 (c. 23), section 1 and subsection (2B) was inserted by section 9 of the Health and Social Security Act 1984 (c. 48)

(11) 1978 c. 29

(circumstances in which a person is to be treated as responsible or not responsible for another).

- (7) The care to which paragraph (6) refers may be provided –
- (a) by persons registered under Article 118 of the Children (Northern Ireland) Order 1995⁽¹²⁾ (registration of childminders and persons providing day care);
 - (b) out of school hours, by a school on school premises or by an education and library board or a Health and Social Services trust –
 - (i) for children who are not disabled in respect of the period beginning on, and including, their twelfth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday, or
 - (ii) for children who are disabled in respect of the period beginning on, and including, their twelfth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday;
 - (c) by a child care scheme operating on Crown property where registration under Article 118 of the Children (Northern Ireland) Order 1995 is not required;
 - (d) in schools or establishments to which Article 118 of the Children (Northern Ireland) Order 1995 does not apply by virtue of Article 121(1) to (3) of that Order; or
 - (e) by a child care provider approved by an organisation accredited by the Secretary of State under the scheme established by the Tax Credit (New Category of Child Care Provider) Regulations 2002⁽¹³⁾.
- (8) For the purposes of paragraphs (5) to (7) –
- (a) a person shall be treated as a child in respect of the period commencing on his sixteenth birthday and ending on the day preceding the first Monday in September following his sixteenth birthday; and
 - (b) a child is disabled if he is a child –
 - (i) in respect of whom disability living allowance is payable, or has ceased to be payable solely because he is a patient;
 - (ii) who is identified as blind in pursuance of arrangements under section 1(1) of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978⁽¹⁴⁾;
 - (iii) who ceased to be identified as blind under such arrangements within the 28 weeks immediately preceding the date of claim.
- (9) For the purposes of paragraph (1) a person on parental leave shall be treated as if engaged in remunerative work for the period specified in sub-paragraph (b) (“the relevant period”) provided that –
- (a) in the week before the period of leave began the person was in remunerative work;
 - (b) the relevant person incurred relevant child care charges in that week; and
 - (c) the person on leave is entitled to parental support.
- (10) For the purposes of paragraph (9) the relevant period shall begin on the day on which the person’s parental leave commences and shall end on –
- (a) the date that leave ends;
 - (b) if no tax credit is in payment on the date that entitlement to parental support ends, the date that entitlement ends; or

⁽¹²⁾ S.I. 1995/755 (N.I. 2); to which there are amendments not relevant to these Regulations

⁽¹³⁾ S.I. 2002/1417

⁽¹⁴⁾ 1978 c. 53

(c) if a tax credit is in payment on the date that entitlement to parental support ends, the date that entitlement to that award of tax credit ends, whichever shall occur first.

(11) In paragraphs (9) and (10) –

(a) “parental support” means –

- (i) statutory maternity pay under section 160 of the 1992 Act;
- (ii) statutory paternity pay under section 167ZA or section 167ZB(15) of that Act;
- (iii) statutory adoption pay under section 167ZL(16) of that Act;
- (iv) maternity allowance under section 35 of that Act, and
- (v) income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support (General) Regulations (Northern Ireland) 1987(17); and

(b) “tax credit” means –

- (i) working tax credit; and
- (ii) child tax credit.

(12) Where paragraph (9) applies to a person on parental leave any child care charges in respect of the child to whom the parental leave relates shall not be treated as relevant child care charges for the purposes of this regulation and regulation 19.

Average weekly earnings of employed earners

21. Where the income of a relevant person consists of or includes earnings from employment as an employed earner, his average weekly earnings from such employment shall be determined by reference to his earnings from such employment over the period of 52 weeks immediately preceding the application or, where his earnings fluctuate, over such other lesser period immediately preceding the application as may enable his average weekly earnings to be determined more accurately.

Average weekly earnings of self-employed earners

22. Where the income of a relevant person consists of or includes earnings from employment as a self-employed earner, his average weekly earnings from such employment shall be determined by reference to his earnings from such employment, over the period of 52 weeks immediately preceding the application or, where his earnings from such employment fluctuate, over such other lesser period immediately preceding the application as may enable his average weekly earnings to be determined more accurately.

Average weekly income other than earnings

23. Any part of a relevant person’s income which does not consist of earnings shall be determined by reference to such income over the period of 52 weeks immediately preceding the application or, where such income fluctuates, over such lesser period immediately preceding the application as may enable his average weekly income to be determined more accurately.

(15) Sections 167ZA and 167ZB were inserted by Article 5 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2))

(16) Section 167ZL was inserted by Article 6 of S.I. 2002/2836 (N.I. 2)

(17) S.R. 1987 No. 459; paragraph 14B was inserted by regulation 2(5) of the Social Security (Paternity and Adoption Amendment) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 363) and amended by regulation 2 and paragraph 19 of Schedule 1 to the Social Security (Working Tax Credit and Child Tax Credit Consequential Amendments) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 195) and regulation 2(3) of the Social Security (Working Tax Credit and Child Tax Credit Consequential Amendments No. 3) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 338)

Determination of weekly income

24.—(1) For the purposes of regulations 21 (average weekly earnings of employed earners) and 23 (average weekly income other than earnings) where the period in respect of which a payment is made –

- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
- (b) exceeds a week, the weekly amount shall be determined –
 - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
 - (ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the quotient by 7.

(2) For the purposes of regulation 22 (average weekly earnings of self employed earners) the weekly amount shall be determined by dividing the relevant person's earnings during the assessment period by the number equal to the number of days in the assessment period and multiplying the quotient by 7.