STATUTORY RULES OF NORTHERN IRELAND

2016 No. 219

The Employment and Support Allowance Regulations (Northern Ireland) 2016

PART 10

INCOME AND EARNINGS

Calculation of earnings derived from employed earner's employment and income other than earnings

76.—(1) Earnings derived from employment as an employed earner and income which does not consist of earnings are to be taken into account over a period determined in accordance with the following provisions of this regulation and at a weekly amount determined in accordance with regulation 79 (calculation of weekly amount of income).

(2) Subject to the following provisions of this regulation, the period over which a payment is to be taken into account is to be—

(a) where the payment is monthly, a period equal to the number of weeks beginning with the date on which the payment is treated as paid and ending with the date immediately before the date on which the next monthly payment would have been treated as paid whether or not the next monthly payment is actually paid;

(b) where the payment is in respect of a period which is not monthly, a period equal to the length of the period for which payment is made;

(c) in any other case, a period equal to such number of weeks as is equal to the number obtained (see paragraph (9)) by applying the formula—

$$\frac{E}{J}$$

where—

E is the net earnings;

J is the amount of an employment and support allowance which would be payable had the payment not been made;

and that period is to begin on the date on which the payment is treated as paid under regulation 78 (date on which income is to be treated as paid).

(3) Where—

(a) earnings are derived from the same source but are not of the same kind; and

(b) but for this paragraph, the periods in respect of which those earnings would fall to be taken into account overlap, wholly or partly,

those earnings are to be taken into account over a period equal to the aggregate length of those periods, and that period is to begin with the earliest date on which any part of those earnings would be treated as paid under regulation 78.

(4) In a case to which paragraph (5) applies, earnings under regulation 80 (earnings of employed earners) are to be taken into account in the following order of priority—

(a) earnings normally derived from the employment;

(b) any payment to which paragraph (1)(b) or (c) of that regulation applies;

(c) any payment to which paragraph (1)(j) of that regulation applies;

(d) any payment to which paragraph (1)(d) of that regulation applies.

(5) Where earnings to which regulation 80(1)(b) to (d) applies are paid in respect of part of a day, those earnings are to be taken into account over a period equal to a day.

(6) Any earnings to which regulation 80(1)(j) applies which are paid in respect of, or on the termination of, part-time employment, are to be taken into account over a period of one week.

(7) For the purposes of this regulation the claimant's earnings are to be calculated in accordance with regulations 80 and 81.

(8) For the purposes of paragraph 10 of Schedule 2 to the Act (effect of work), the income which consists of earnings of a claimant is to be calculated on a weekly basis by determining the weekly amount of those earnings in accordance with regulations 77 to 84.

(9) For the purposes of the number obtained as mentioned in paragraph (2)(c), any fraction is to be treated as a corresponding fraction of a week.