

1989 No. 348

HEALTH AND PERSONAL SOCIAL SERVICES**Travelling Expenses and Remission of Charges
Regulations (Northern Ireland) 1989**

Made 22nd August 1989

Coming into operation 1st October 1989

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 45, 98; 106 and 107 of and paragraph 1(b) of Schedule 15 to the Health and Personal Social Services (Northern Ireland) Order 1972(a) and with the approval of the Department of Finance and Personnel(b) in so far as they relate to the remission of charges, and in conjunction with the Department of Finance and Personnel in so far as they relate to travelling expenses, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989 and shall come into operation on 1st October 1989.

Interpretation

2. In these regulations—

- “appropriate office” means an office of the Department of Health and Social Services;
- “capital limit” means the amount prescribed for the purposes of Article 23(6) of the Social Security (Northern Ireland) Order 1986(c) as it applies to income support;
- “claimant” means a person who makes a claim for remission, payment or repayment in accordance with regulation 7 or 8;
- “date of claim” means the date on which a claim is received in an appropriate office;
- “family” has the meaning assigned to it by Article 21(11) of the Social Security (Northern Ireland) Order 1986 as it applies to income support(d) except in regulation 4(d) where it has the meaning assigned to it by Article 21(11) of that Order as it applies to family credit(e);

(a) S.I. 1972/1265 (N.I. 14). The relevant amending instrument is S.I. 1988/594 (N.I. 2)

(b) Formerly Department of Finance: see S.I. 1982/338 (N.I. 6) Art. 3

(c) S.I. 1986/1888 (N.I. 18); regulation 45 of the Income Support (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 459) has prescribed the amount of £6,000 as the capital limit

(d) See S.R. 1987 No. 459, regulations 14 to 16

(e) See S.R. 1987 No. 463, regulations 6 to 9

“family credit” means family credit under Part III of the Social Security (Northern Ireland) Order 1986;

“income support” means income support under Part III of the Social Security (Northern Ireland) Order 1986 and includes personal expenses addition, special transition addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations (Northern Ireland) 1987(a);

“Order” means the Health and Personal Social Services (Northern Ireland) Order 1972;

“relevant charges” and “relevant travelling expenses” have the meanings prescribed by regulation 3(1);

“trade dispute” has the same meaning as in the Social Security (Northern Ireland) Act 1975(b);

“week” means a period of 7 days beginning with midnight between Saturday and Sunday.

Entitlement to full remission and payment

3.—(1) Any person of a description prescribed by regulation 4 is entitled, in accordance with the following provisions, to the remission of the whole amount of any charges referred to in paragraph (2) which would otherwise be payable by him (“relevant charges”) and payment of the whole amount of the travelling expenses referred to in paragraphs (3) to (5) (“relevant travelling expenses”).

(2) Paragraph (1) applies to the following charges—

(a) charges for drugs, medicines, appliances and pharmaceutical services payable in pursuance of Article 98(2) of and Schedule 15 to the Order;

(b) charges for dental appliances and dental treatment payable in pursuance of Article 61 of and Schedule 15 to the Order.

(3) Paragraph (1) applies in the case of travelling expenses necessarily incurred or to be incurred by a person—

(a) in attending a hospital in Northern Ireland for the purpose of availing himself of services provided under the care of a hospital consultant in pursuance of the Order, including the travelling expenses of a companion in a case where it is necessary on medical grounds that that person should be accompanied; or

(b) who is a relative of a person transferred to Great Britain for the purpose of availing himself of accommodation or services arranged under the Order; or

(c) who is a relative of a person transferred to the Republic of Ireland for the purpose of availing himself of accommodation or services arranged under the Order; or

(d) who is a relative of a person ordinarily resident in Northern Ireland who requires hospital treatment while in the Republic of Ireland. In such cases travelling expenses will be payable only where:—

(a) S.R. 1987 No. 460

(b) 1975 c. 15; see section 19(2)(b)

- (i) the patient has been certified by the medical officer in charge of his case to be dangerously ill; or
- (ii) the patient, because of his medical condition cannot be transferred to a hospital in Northern Ireland and the medical officer in charge of the case certifies that the visit of the relative is necessary or expedient on medical grounds for the success of his treatment.

(4) The travelling expenses to be taken into account for the purposes of paragraph (3)(a) are to be the cost of travelling by the cheapest appropriate means of transport available.

(5) The travelling expenses to be taken into account for the purposes of paragraph (3)(b), (c) and (d), are to be the cost of travelling by the cheapest appropriate means of transport available, and may include overnight expenses necessarily incurred.

Description of persons entitled to full remission and payment

4.—(1) Subject to paragraph (2) regulation 3(1) applies to any person who, at the time when the relevant charge is made or when the relevant travelling expenses are incurred, is—

- (a) a person who is in receipt of income support; or
- (b) a member of the same family as a person who is in receipt of income support; or
- (c) a person who is in receipt of family credit; or
- (d) a member of the same family as a person who is in receipt of family credit; or
- (e) a person whose requirements equal or exceed his income resources and whose capital resources do not exceed the capital limit; or
- (f) a member of the same family as a person described in paragraph (e).

(2) Regulation 3(3)(b) applies to any person who, at the time when the relevant travelling expenses are incurred, is—

- (a) a person of a description prescribed in paragraph (1)(c), (d), (e) or (f); or
- (b) a person of a description prescribed in paragraph (1)(a) or (b) who has been refused payment of travelling expenses from the social fund established under Part IV of the Social Security (Northern Ireland) Order 1986 because his total capital resources exceed the limit determined in accordance with Article 34(10) of that Order.

Persons entitled to remission in part or payment in part

5.—(1) A person who is not of a description prescribed by regulation 4 and whose capital resources do not exceed the capital limit is entitled, in accordance with the following provisions, to the remission of part of any relevant charges or, as the case may be, payment of part of any relevant travelling expenses if at the time when the relevant charge is made or when the travelling expenses are incurred he is—

- (a) a person whose income resources exceed his requirements by less than a third of the relevant charge or, as the case may be, by less than the relevant travelling expenses; or

(b) a member of the same family as a person described in sub-paragraph (a).

(2) This regulation applies only in respect of charges for wigs, fabric supports and surgical brassieres payable in pursuance of Article 98(2) of and Schedule 15 to the Order, charges for dental appliances and dental treatment payable in pursuance of Article 61 of and Schedule 15 to the Order, and any relevant travelling expenses.

(3) The amount of any relevant charge which a person is entitled by paragraph (1) to have remitted is the difference between the relevant charge and 3 times the amount by which his income resources exceed his requirements.

(4) The amount of the relevant charge for the purposes of paragraph (3) is—

(a) in the case of a charge under Article 98(2) of and Schedule 15 to the Order for the supply of an appliance, the charge made for that appliance;

(b) in the case of a charge for dental treatment or for the supply of a dental appliance under Part VI of the Order (Arrangements for general dental services), the charge made for one course of treatment, including any charge made for a dental appliance supplied in that course of treatment;

(c) in the case of a charge for the supply of a dental appliance supplied otherwise than under Part VI of the Order, the charge made for that appliance.

(5) The amount of the relevant travelling expenses which a person is entitled by paragraph (1) to be paid is the difference between the relevant travelling expenses incurred in any week and the amount by which his income resources exceed his requirements.

Calculation of resources and requirements

6.—(1) Where it is necessary that the resources and requirements of a person, and the relationship between them, should be calculated for the purposes of these regulations, they shall be calculated by the Department according to the provisions of this regulation and Schedule 1.

(2) For the purposes of paragraph (1), the resources and requirements of a person shall be calculated—

(a) in the case of a claim made under regulation 7(1), by reference to his resources and requirements at the date of claim;

(b) in the case of a claim made under regulation 8(2), by reference to his resources and requirements at the date when he paid the relevant charge or travelling expenses.

(3) Unless any provision referred to in Schedule 1 specifies to the contrary, where a claimant is a member of a family, the resources of the other members of his family shall be calculated or estimated in the same manner as those of the claimant and shall be taken into account as if they were his resources; and in calculating his requirements, the requirements of the other members of his family shall be taken into account according to the provisions of Schedule 1.

(4) In a case to which paragraph (3) applies, any reference to a "claimant" in Schedule 1 or in the provisions referred to in that Schedule shall be construed as including the other members of his family.

(5) In a case where the earnings of any person are to be calculated for the purpose of this regulation and those earnings have been affected by a trade dispute, the earnings to be taken into account shall be the earnings which that person would have received if there had been no trade dispute.

Claims for remission or payment

7.—(1) A person who is within a description prescribed by regulation 4(1)(e) or (f) or 5(1) and who wishes to claim his entitlement under regulation 3(1) or 5(1) (full or partial remission of relevant charges or payment of relevant travelling expenses) shall make a claim to the Department on a form provided by or on behalf of the Department for that purpose and shall send or deliver that form to an appropriate office.

(2) A claimant shall produce in support of his claim such evidence as the Department may reasonably require.

(3) The Department may treat any claim under paragraph (1) as a claim to entitlement in respect of all the relevant charges and relevant travelling expenses and shall calculate the resources and requirements of the claimant according to the provisions of regulation 6 and Schedule 1.

(4) If the Department determines that the claimant and any member of his family are entitled to any remission of the relevant charges or any payment of the relevant travelling expenses, they shall issue a notice of entitlement to the claimant which shall be effective in respect of the claimant and any member of his family for the purposes of any remission of those charges, and any payment of those travelling expenses to which they are entitled.

(5) A notice of entitlement issued under paragraph (4) shall indicate whether the claimant and any member of his family are entitled to full or partial remission or payment and in the case of partial remission or payment shall specify the amount of any relevant charge or relevant travelling expenses for which there is no entitlement to remission or payment.

(6) A notice of entitlement issued under paragraph (4) shall be effective for a period of 6 months from the date of claim, subject to its being superseded by any further notice issued as a result of a claim made in accordance with paragraph (8), and shall specify the dates of commencement and expiry of that period.

(7) Subject to paragraph (8), any change in the financial or other circumstances of a claimant, or of any member of his family, during the period for which a notice of entitlement has been issued shall not affect the validity of the notice of entitlement in respect of that period or, in the case of partial remission or payment, the amounts referred to in paragraph (5).

(8) A claimant who is issued with a notice of entitlement in a case of partial remission may make a further claim in accordance with paragraph (1) at any time during the period for which the notice of entitlement has been issued, if he considers that by reason of a change in his financial circumstances or those of any member of his family the amounts referred to in paragraph (5) should be reduced.

Repayment

8.—(1) Subject to the following provisions of these regulations, a person of a description prescribed by regulation 4(1) or 5(1) who pays any relevant charge or relevant travelling expenses without exercising his right under regulation 3(1) or 5(1) to remission or payment is entitled to be repaid whatever amount would otherwise have been remitted or paid.

(2) It is a condition of the entitlement of a person of any description to repayment under paragraph (1) that he makes a claim to the Department for repayment within one month after payment of the relevant charge or relevant travelling expenses and that he makes that claim on a form provided by or on behalf of the Department for that purpose for persons of that description.

(3) It is a further condition of entitlement to repayment under paragraph (1) that the claimant produces in support of his claim such evidence as the Department may reasonably require.

(4) If the Department is satisfied that a claimant is entitled to any repayment under paragraph (1) they shall cause a repayment to be made to him in such manner as appears to the Department to be appropriate in the circumstances of the particular case.

Revocation

9. The Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1988 are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services on 22nd August 1989.

(L.S.)

J. Scott

Assistant Secretary

Sealed with the Official Seal of the Department of Finance and Personnel in so far as the foregoing regulations relate to Travelling Expenses on 22nd August 1989.

(L.S.)

R. A. H. Miller

Assistant Secretary

The Department of Finance and Personnel hereby approves the foregoing regulations in so far as they relate to the Remission of Charges.

Sealed with the Official Seal of the Department of Finance and Personnel on 22nd August 1989.

(L.S.)

R. A. H. Miller

Assistant Secretary

SCHEDULE 1

regulation 6

PART I

CALCULATION OF RESOURCES

1. A claimant's resources shall be calculated in terms of income and capital and shall be calculated as follows:—

- (a) income shall be calculated on a weekly basis according to the method of calculating or estimating income under Article 23 of the Social Security (Northern Ireland) Order 1986 as prescribed by the provisions of Part V of, and Schedules 8 and 9 to, the Income Support (General) Regulations (Northern Ireland) 1987(a) subject to the modifications referred to in paragraph 2;
- (b) capital shall be calculated according to the method of calculating or estimating capital under Article 23(7), (8) and (9) of the Social Security (Northern Ireland) Order 1986 as prescribed by the provisions of Chapter VI in Part V of, and Schedule 10 to, the Income Support (General) Regulations (Northern Ireland) 1987 subject to the modifications referred to in paragraph 2.

2. The provisions of the Income Support (General) Regulations (Northern Ireland) 1987 shall be applied as follows:—

- (a) as respects the provisions specified in column 1 of Table A, in accordance with the modifications specified in the corresponding entries in column 2;
- (b) as if—
 - (i) references to income support were to the remission of any relevant charges and the payment of any relevant travelling expenses,
 - (ii) references to an adjudication officer were to the Department, and
 - (iii) references in any of those provisions to any other of those provisions were to that other provision as modified in accordance with this paragraph;
- (c) according to the provisions of regulation 2 of those Regulations (interpretation) but as if there were inserted after the definition of "relative" the following definition:—
 - “ “relevant date” means—
 - (a) in the case of a claim made under regulation 7(1) of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989, the date of claim;
 - (b) in the case of a claim made under regulation 8(2) of those Regulations, the date when the claimant paid the relevant charge or travelling expenses.”.

(a) S.R. 1987 No. 459: the relevant amending regulations are S.R. 1988 No. 146

TABLE A

**Modifications of Provisions of the Income Support (General) Regulations
(Northern Ireland) 1987 for the Purposes of Part I of this Schedule**

Column 1 <i>Regulation or Schedule</i>	Column 2 <i>Modification</i>
regulation 23	As if in paragraph (1) for "Article 23(5) of the Order" there were substituted "regulation 6(3) of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989".
regulation 24	As if for the whole of regulation 24 (treatment of charitable or voluntary payments) there were substituted— "24. Any charitable or voluntary payment, other than one which is, or is due to be, made at regular intervals, or which is made under the Macfarlane Trust; shall be treated as capital."
regulation 25	As if for the whole of regulation 25 (liable relative payments) there were substituted— "25.—(1) Where a claimant's income consists of any payments made by a person, whether under a court order or not, for the maintenance of himself or any member of his family, and those payments are made or due to be made at regular intervals, his normal weekly income shall be determined— (a) if before the relevant date those payments are made at regular intervals and in regular amounts by reference to the normal weekly amount; (b) if they are not so made, by reference to the average of such payments received in the 13 weeks immediately preceding the week which includes the relevant date. (2) Any maintenance payment other than one to which paragraph (1) of this regulation applies shall be treated as capital."
regulation 28	As if in paragraph (1) the words from "For the purposes" to "income support" were omitted; in paragraph (1)(a) for "the weekly amount of his income" there were substituted "the normal weekly amount of his income at the relevant date"; and for "and 41 to 43" there were substituted ", 41 and 42".
regulation 29	As if this regulation were omitted.
regulation 30	As if in paragraph (1) the words "Except where paragraph (2) applies" were omitted; and paragraph (2) were omitted.
regulation 31	As if this regulation were omitted.

Column 1 <i>Regulation or Schedule</i>	Column 2 <i>Modification</i>
regulation 32	As if in paragraph (1) for the words from “regulation 29” to “paragraphs (2) to (5),” there were substituted “regulation 28 (calculation of income)” ; and paragraphs (2) to (6) were omitted.
regulation 33	As if this regulation were omitted.
regulation 35	As if in paragraph 1(d) the words after “employment” were omitted.
regulation 36	As if in paragraph (1) for “regulation 29 (calculation of earnings of employed earners)” there were substituted “regulation 28 (calculation of income)” .
regulation 37	As if in paragraph (2) the words after “such a charge” were omitted.
regulation 40	As if in paragraph (1) for “regulation 29 (calculation of income other than earnings)” there were substituted “regulation 28 (calculation of income)” .
regulation 41	As if in paragraph (1) for the words from “on the first day” to “subsequent review” there were substituted “at the relevant date” ; and paragraph (3) were omitted.
regulation 42	As if in paragraph (4) the words from “and in the case” to “(trade disputes) applies” were omitted.
regulation 43	As if this regulation were omitted.
regulation 44	As if in paragraph (1) for the words from “on the first day” to “subsequent review” there were substituted “at the relevant date” ; and paragraphs (2), (3) and (8) were omitted.
regulation 45	As if this regulation were omitted.
regulation 46	As if in paragraph (1) the words from “For the purposes” to “income support” were omitted.
regulation 48	As if in paragraph (2) the words from “Except” to “applies” were omitted; and paragraph (6) were omitted.
regulation 49	As if in sub-paragraph (b)(i) for the words from “first day” to “subsequent review” there were substituted “relevant date” .
regulation 53	As if in paragraph (3) the reference to regulation 60 were a reference to regulation 25.
regulations 54 to 60	As if these regulations were omitted.

Column 1 <i>Regulation or Schedule</i>	Column 2 <i>Modification</i>
Schedule 8	<p>As if paragraph 6 were omitted.</p> <p>As if there were inserted after paragraph 8 the following paragraph;</p> <p style="padding-left: 40px;">“8A. In a case in which none of paragraphs 4 to 8 applies to the claimant and he is one of a married or unmarried couple and a member of that couple is engaged in employment, £10; but if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £10.”</p> <p>As if in paragraph 9 for “8” there were substituted “8A”.</p> <p>As if paragraphs 10 and 13 were omitted.</p>
Schedule 9	<p>As if paragraph 12 were omitted.</p> <p>As if in paragraphs 15, 21 and 28 the exceptions relating to persons to whom Article 24 of the Order (trade disputes) applies were omitted.</p> <p>As if paragraphs 30 and 37 were omitted.</p>

PART II

CALCULATION OF REQUIREMENTS

3. A claimant's requirements shall be calculated as being the amount referred to in sub-paragraph (a), less any amount referred to in sub-paragraph (b), as follows:—

- (a) the applicable amounts which would apply to him, including those in respect of any other member of his family, in connection with a claim for income support as specified by the provisions of regulations 17 to 21 of, and Schedules 2, 3, 4, 5 and 7 to, the Income Support (General) Regulations (Northern Ireland) 1987, but subject to the modifications referred to in paragraph 2(b) and (c), and paragraph 4;
- (b) less any amount of housing benefit received by him or by any member of his family under the provisions of Part III of the Social Security (Northern Ireland) Order 1986.

4. The provisions of the Income Support (General) Regulations (Northern Ireland) 1987 specified in column 1 of Table B in this Schedule shall be applied in accordance with the modifications specified in the corresponding entries in column 2.

TABLE B

**Modifications of Provisions of the Income Support (General) Regulations
(Northern Ireland) 1987 for the purposes of Part II of this Schedule**

Column 1 <i>Regulation or Schedule</i>	Column 2 <i>Modification</i>
regulation 17	As if for the words from "18 to 22" to "urgent cases)" there were substituted "18 to 21".
regulation 18	As if for the words from "19 to 22" to "urgent cases)" there were substituted "19 to 21".
regulation 19 to 21	As if in paragraph (1) in these regulations the words "subject to Regulation 22 (reductions in applicable amounts)" were omitted.
Schedule 3	<p>As if in paragraph 1 after sub-paragraph (f) there were added—</p> <ul style="list-style-type: none"> (g) mortgage capital payments; (h) payments in respect of an endowment policy in connection with the purchase of the dwelling occupied as the home; (i) payments by way of rent which do not otherwise fall within sub-paragraph (c) of this paragraph; (j) 80 per cent. of the general rates payable in respect of the dwelling occupied as the home." <p>As if paragraphs 7, 8 and 10 were omitted.</p>
Schedule 4	<p>As if in paragraph 1(1)(a) the words from "but, except" to "paragraph 5" were omitted.</p> <p>As if paragraphs 4 to 11 were omitted.</p>
Schedule 5	<p>As if in paragraph 1(1)(a) the words from "but, except" to "paragraph 5" were omitted.</p> <p>As if paragraphs 4 to 10 were omitted.</p>
Schedule 7	As if paragraphs 7 and 15 were omitted.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations replace the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1988 which are revoked. They provide for the remission and repayment of certain charges which would otherwise be payable under the Health and Personal Social Services (Northern Ireland) Order 1972 and for the payment by the Department of travelling expenses incurred by a person attending a hospital in Northern Ireland for treatment under the Health Service. The regulations also provide for payment of travelling expenses incurred by relatives visiting a person transferred to Great Britain or the Republic of Ireland for treatment.

Regulations 3 to 5 provide entitlement to full remission of charges and full payment of travelling expenses for persons who are in receipt of income support or family credit under the Social Security (Northern Ireland) Order 1986. They also provide entitlement to full or partial remission, and full or part payment of travelling expenses, depending on the result of a calculation of a person's resources and requirements, and those of his immediate family, in accordance with regulation 6 of these regulations and Schedule 1.

Regulation 3 provides that the relevant charges for entitlement to full remission are those made for pharmaceutical services under Part VI of the Order, for the supply of drugs, medicines or appliances (such as wigs, fabric supports, surgical brassieres and elastic hosiery), and for dental treatment and dental appliances. It provides that the relevant travelling expenses are those incurred by a person attending a hospital in Northern Ireland for treatment, and by a companion where it is necessary on medical grounds for that person to be accompanied, and those incurred by a relative visiting a person transferred to Great Britain or the Republic of Ireland for treatment. Travelling expenses may also be paid to allow a relative to visit a patient who is dangerously ill in a hospital in the Republic of Ireland.

Regulation 5 provides for partial remission of certain of the relevant charges (excluding, in particular, prescription charges for pharmaceutical services) and part payment of travelling expenses even though the person's weekly income resources, including those of his family, exceed his requirements, so long as his capital resources do not exceed the capital limit (£6,000). Under this regulation a person is entitled to the remission of any amount by which the charge exceeds 3 times his net resources (after deducting the amount of his requirements), and payment of the amount by which the travelling expenses incurred in any week exceed his net resources.

Regulation 6 provides for the calculation of resources and requirements to be made in accordance with Schedule 1, which applies, with specified modifications, the provisions of the Income Support (General) (Northern Ireland) Regulations 1987 relating to income and capital and to applicable amounts in respect of a claimant and any member of his family.

Regulation 7 provides for a claim to be made to the Department and for the Department to determine entitlement and to issue a notice of entitlement. It provides that the notice of entitlement is effective in respect of the claimant and any member of his family, for any remission of the relevant charges and any payment of travelling expenses to which they are entitled during the period of validity of the notice (6 months).

Regulation 8 makes provision for a person to claim the repayment of any relevant charge or travelling expenses which he has already paid, by applying for repayment within one month after making that payment.