

## 1995 No. 138

## HEALTH AND PERSONAL SOCIAL SERVICES

**Travelling Expenses and Remission of Charges (Amendment)  
Regulations (Northern Ireland) 1995**

*Made* . . . . . 30th March 1995

*Coming into operation* . . . . . 1st April 1995

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 45, 98, 106 and 107(6) 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 insofar as they relate to the remission of charges, and in conjunction with the Department of Finance and Personnel insofar as they relate to travelling expenses, and of all other powers enabling it in that behalf, hereby makes the following regulations:

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Travelling Expenses and Remission of Charges (Amendment) Regulations (Northern Ireland) 1995 and shall come into operation on 1st April 1995.

(2) In these regulations, “the principal regulations” means the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989(b).

*Amendment of regulation 2 of the principal regulations*

2. In regulation 2 of the principal regulations (interpretation)—

(a) after the definition of “date of claim” there shall be inserted the following definition—

“ “disability working allowance” means disability working allowance under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(c);”;

(b) for the definition of “family” there shall be substituted the following definition—

“ “family” has the meaning assigned to it by section 133(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as it applies to income support (d), except that—

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(a) S.I. 1972/1265 (N.I. 14); the relevant amending Instruments are S.I. 1988/594 (N.I. 2) Article 14(1) and 2(a) and S.I. 1991/194 (N.I. 1) Article 34 and Part II of Schedule 5  
 (b) S.R. 1989 No. 348; relevant amending regulations are S.R. 1991 No. 224 and S.R. 1993 No. 161  
 (c) 1992 c. 7  
 (d) See S.R. 1987 No. 459, regulations 14 to 16; relevant amending regulations are S.R. 1988 No. 146, S.R. 1989 No. 139, S.R. 1990 Nos. 131 and 387 and S.R. 1993 Nos. 149 and 373

- (a) in regulation 4(1)(d) it has the meaning assigned to it by section 133(1) of that Act as it applies to family credit(a), and
- (b) in regulation 4(1)(h) it has the meaning assigned to it by section 133(1) of that Act as it applies to disability working allowance(b);”.

*Substitution of regulation 3 of the principal regulations*

3. For regulation 3 of the principal regulations there shall be substituted the following regulation—

“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, in accordance with regulation 5A, 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) in attending a hospital or any other place for the provision of disablement services by a Health and Social Services Board or an HSS trust in pursuance of the Order or the 1991 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

(c) 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

(d) 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

(a) See S.R. 1987 No. 463, regulations 6 to 9; relevant amending regulations are S.R. 1988 No. 131, S.R. 1990 Nos. 138 and 387 and S.R. 1993 No. 373

(b) S.R. 1992 No. 78, regulations 8 to 11 as amended by S.R. 1993 No. 373

- (e) 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:—
- (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) and (b) 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)(c), (d) and (e), are to be the cost of travelling by the cheapest appropriate means of transport available, and may include overnight expenses necessarily incurred.

(6) In this regulation, “disablement services” means—

- (a) the provision (including fitting and repair) of artificial limbs, limb appurtenances and arm appliances;
- (b) the provision (including repair and maintenance) of wheelchairs and of wheelchair accessories (including the provision of special seating); and
- (c) the provision of other facilities, articles or appliances for use in the care of persons suffering from severe physical defect or disability.”.

#### *Amendment of regulation 4 of the principal regulations*

4.—(1) In regulation 4 of the principal regulations (description of persons entitled to full remission and payment), in paragraph (1) there shall be added at the end of head (f) the word “or” and the following paragraphs—

- “(g) a person who is in receipt of disability working allowance and whose capital calculated in accordance with the regulations concerning entitlement to that allowance(a) did not exceed £8,000 at the date on which that allowance was claimed; or
- (h) a member of the same family as a person described in head (g); or
- (i) a person, not being a person described in head (g), who is in receipt of disability working allowance and whose capital resources calculated according to the provisions of regulation 6 and Schedule 1 do not exceed £8,000; or
- (j) a member of the same family as a person described in head (i).”.

(2) In paragraph (2) of regulation 4, for “3(3)(b)” there shall be substituted “3(3)(c)”.

(3) In paragraph (2)(a) of regulation 4, for the words “or (f)” there shall be substituted “, (f), (g), (h), (i), or (j)”.

*Amendment of regulation 6 of the principal regulations*

5. In regulation 6(1) of the principal regulations (calculation of resources and requirements) for the words “the resources and requirements of a person, and” there shall be substituted “the resources or requirements of a person, or”.

*Amendment of regulation 7 of the principal regulations*

6. In regulation 7 of the principal regulations (claims for remission or payment)—

(a) in paragraph (1), for the words “regulation 4(1)(e) or (f)” there shall be substituted “regulation 4(1)(e), (f), (i) or (j)”;

(b) in paragraph (3), after the word “requirements” there shall be inserted the words “or, in the case of a claim by a person who is within a description prescribed by regulation 4(1)(i) or (j), the capital resources”; and

(c) for paragraph (6), there shall be substituted the following paragraph—

“(6) A notice of entitlement issued under paragraph (4) shall be effective—

(a) in the case of a person who is within a description prescribed by regulation 4(1)(i) or (j), from the date of claim until the date on which disability working allowance payable at the date of claim to that person or, as the case may be, to a member of that person’s family, under an award of that allowance made on or before the date of claim, ceases to be payable; or

(b) in any other case, 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.”.

*Amendment of Schedule 1 to the principal regulations*

7. In Table B of Part II of Schedule 1 to the principal regulations (modifications of provisions of the Income Support (General) Regulations (Northern Ireland) 1987)—

(a) at the beginning, the following entry shall be inserted—

“regulation 3 As if in paragraph (1) the words “or with whom a claimant normally resides” were omitted.”;

(b) in column 2 at the end of the entry relating to “Schedule 2” there shall be added—

“As if in paragraph 12(1)(a)(i)—

(a) for the words “long term incapacity benefit” the first time they appear, there were substituted the words “incapacity benefit, where the claimant or partner has been in receipt of that benefit for at least 28 weeks,”; and

(b) the words from “but, in the case” to the end were omitted.

As if in paragraph 12(1)(b) sub-head (ii) there were substituted the following sub-head—

“(ii) has been so entitled or so incapable for a continuous period of at least 28 weeks;”.

As if in paragraph 12(1)(c)(i) for the words “long term incapacity benefit”—

(a) the first time they appear, there were substituted the words “incapacity benefit and had been receiving that benefit for at least 28 weeks,”; and

(b) the second time they appear, there were substituted the words “incapacity benefit”.

As if in paragraph 12(6) for the words “long-term incapacity benefit” the first time they appear, there were substituted the words “incapacity benefit, notwithstanding the requirement that the claimant or his partner has been in receipt of that benefit for at least 28 weeks,”.

As if in paragraph 13(2)(a)(ii) and 13(2)(b)(iii) for the words “normally residing with him or with whom he is normally residing” there were substituted the words “residing with him”.

### *Transitional*

8.—(1) In the case of a claim made under regulation 8(2) of the principal regulations (repayment), where that claim relates to a relevant charge or relevant travelling expenses paid before 1st April 1995, the claimant’s resources and requirements shall be calculated as if these regulations had not been made.

(2) In this regulation “relevant charge” and “relevant travelling expenses” have the same meanings as in the principal regulations.

Sealed with the Official Seal of the Department of Health and Social Services on 30th March 1995.

(L.S.)

*D. A. Baker*

Assistant Secretary

Sealed with the Official Seal of the Department of Finance and Personnel insofar as the foregoing Regulations relate to Travelling Expenses on 30th March 1995.

(L.S.)

*J. Sullivan*

Assistant Secretary

The Department of Finance and Personnel hereby approves the foregoing Regulations insofar as they relate to the Remission of Charges.

Sealed with the Official Seal of the Department of Finance and Personnel on 30th March 1995.

(L.S.)

*J. Sullivan*

Assistant Secretary

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### EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations further amend the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989 ("the principal regulations") which 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 in attending hospital.

Regulation 2 inserts a definition of "disability working allowance" and amends the definition of "family".

Regulation 3 of the principal regulations has been substituted by a consolidated version of the regulation for ease of reference (regulation 3).

Regulation 4 amends the principal regulations so as to provide that a person who is in receipt of disability working allowance and whose capital is not more than £8,000 shall be entitled to full remission of charges and full payment of travelling expenses, and that a member of that person's family shall be similarly entitled. Regulations 5 and 6 amend regulations 6 and 7 of the principal regulations to provide for assessment of that person's capital in accordance with the principal regulations in certain cases, and to provide that in such cases notice of entitlement to remission or payment claimed under the principal regulations shall be effective until the award of disability working allowance current at the date of claim ceases to be payable.

Regulation 7 amends Table B in Part II of Schedule 1 to the principal regulations, which governs the manner in which a person's requirements are to be calculated, in consequence of the introduction of incapacity benefit.

Regulation 8 is a transitional provision which provides that claims for repayment of charges or expenses paid before 1st April 1995 shall be calculated as if these regulations had not been made.