
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 520

The Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996

Part III

Self-Employed Earners

Calculation of earnings of self-employed earners

11.—(1) Except where paragraph (2) applies, where a claimant's earnings consist of earnings from employment as a self-employed earner the weekly amount of his earnings shall be determined by reference to his average weekly earnings from that employment—

- (a) over a period of one year; or
- (b) where the claimant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period as may, in the particular case, enable the weekly amount of his earnings to be determined more accurately.

(2) Where the claimant's earnings consist of royalties or sums paid periodically for, or in respect of, any copyright, those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number (less any fraction of a whole number) calculated in accordance with the formula—

$$\frac{S}{T + U}$$

where—

S is the earnings;

T is the amount of the relevant earnings limit plus one penny; and

U is the total of the sums which would fall to be disregarded or deducted as appropriate under regulation 13(2) or (3) (calculation of net profit of self-employed earners),

and that period shall begin on the date on which the earnings are treated as paid under regulation 7.

Earnings of self-employed earners

12.—(1) Subject to paragraph (2), “earnings”, in the case of employment as a self-employed earner, means the gross receipts of the employment and includes any allowance paid to the claimant pursuant to provision or arrangements made by the Department of Economic Development under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945(1) or

(1) 1945 c. 6 (N.I.); sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 (c. 4 (N.I.)) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I.1986/594 (N.I. 3))

section 1(1) of the Employment and Training Act (Northern Ireland) 1950(2) or any sum analogous to such an allowance payable to the claimant under the legislation of, or any scheme operating in, the Republic of Ireland for the purpose of assisting him in carrying on his business.

- (2) “Earnings” shall not include—
- (a) any payment to be disregarded in the calculation of earnings as referred to in paragraphs 1 to 3 of Schedule 1;
 - (b) any payment to which paragraph 6 or 7 of Schedule 1 refers.

Calculation of net profit of self-employed earners

13.—(1) For the purposes of regulations 3 (calculation of earnings) and 11 (calculation of earnings of self-employed earners), the earnings of a claimant to be taken into account shall be—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman, his share of the net profit derived from that employment less—
 - (i) an amount in respect of income tax and of contributions payable under Part I of the Contributions and Benefits Act, calculated in accordance with regulation 14 (deduction of tax and contributions for self-employed earners), and
 - (ii) one half of any premium paid in the period that is relevant under regulation 11 in respect of a retirement annuity contract or a personal pension scheme;
- (c) in this regulation “share fisherman” means any person who—
 - (i) is ordinarily employed in the fishing industry otherwise than under a contract of service, as a master or member of the crew of a fishing boat manned by more than one person, and is remunerated, in whole or in part, in respect of that employment by a share of the profits or gross earnings of that boat, or
 - (ii) has ordinarily been so employed, but who, by reason of age or infirmity, permanently ceases to be so employed and becomes ordinarily engaged in employment ashore in Northern Ireland, otherwise than under a contract of service, making or mending any gear appurtenant to a fishing boat or performing other services ancillary to, or in connection with, that boat and is remunerated, in whole or in part, in respect of that employment by a share of the profits or gross earnings of that boat and has not ceased to be ordinarily engaged in such employment.

(2) Except in a case to which paragraph (3) applies, there shall be disregarded or deducted as appropriate from a claimant’s net profit—

- (a) any sum, where applicable, specified in Schedule 1; and
- (b) any relevant child care charges to which Schedule 2 applies up to a maximum deduction in respect of any claimant of £60 per week.

(3) In the case of entitlement to invalid care allowance under section 70 of the Contributions and Benefits Act, there shall be disregarded or deducted as appropriate from a claimant’s net profit—

- (a) any sum, where applicable, specified in Schedule 1; and
- (b) any care charges to which Schedule 3 applies up to a maximum deduction, in respect of any claimant, of 50 per cent. of his net profit less those sums, if any, specified in Schedule 1 which are disregarded.

(2) 1950 c. 29 (N.I.); section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8))

(4) For the purposes of paragraph (1)(a), the net profit of the employment shall, except where paragraph (10) applies, be calculated by taking into account the earnings of the employment over the period determined under regulation 11 less—

- (a) subject to paragraphs (6) to (8), any expenses wholly and exclusively defrayed in that period for the purposes of that employment;
- (b) an amount in respect of—
 - (i) income tax, and
 - (ii) contributions payable under Part I of the Contributions and Benefits Act, calculated in accordance with regulation 14; and
- (c) one half of any premium paid in the period that is relevant under regulation 11 in respect of a retirement annuity contract or personal pension scheme.

(5) For the purposes of paragraph (1)(b), the net profit of the employment shall be calculated by taking into account the earnings of the employment over the period determined under regulation 11 less, subject to paragraphs (6) to (8), any expenses wholly and exclusively defrayed in that period for the purposes of that employment.

(6) Subject to paragraph (7), a deduction shall not be made under paragraph (4)(a) or (5) in respect of—

- (a) any capital expenditure;
- (b) the depreciation of any capital asset;
- (c) any sum employed, or intended to be employed, in the setting up or expansion of the employment;
- (d) any loss incurred before the beginning of the period determined under regulation 11;
- (e) the repayment of capital on any loan taken out for the purposes of the employment;
- (f) any expenses incurred in providing business entertainment.

(7) A deduction shall be made under paragraph (4)(a) or (5) in respect of the repayment of capital on any loan used for—

- (a) the replacement, in the course of business, of equipment or machinery;
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair; and
- (c) the purchase of land under the Northern Ireland Land Act 1925(3).

(8) The adjudicating authority shall refuse to make a deduction in respect of any expenses under paragraph (4)(a) or (5) where it is not satisfied that the expense has been defrayed or, having regard to the nature of the expense and its amount, that it has been reasonably incurred.

(9) For the avoidance of doubt—

- (a) a deduction shall not be made under paragraph (4)(a) or (5) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction shall be made thereunder in respect of—
 - (i) the excess of any value added tax paid over value added tax received in the period determined under regulation 11,
 - (ii) any income expended in the repair of an existing asset except to the extent that any sum is payable under an insurance policy for its repair,
 - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(10) Where a claimant is engaged in employment as a child minder, the net profit of the employment shall be one third of the earnings of that employment, less—

- (a) an amount in respect of—
 - (i) income tax, and
 - (ii) contributions payable under Part I of the Contributions and Benefits Act, calculated in accordance with regulation 14; and
- (b) one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme.

(11) Notwithstanding regulation 11 and the foregoing paragraphs, an adjudicating authority may assess any item of a claimant's earnings or expenditure over a period other than that determined under regulation 11 as may, in the particular case, enable the weekly amount of that item of earnings or expenditure to be determined more accurately.

(12) For the avoidance of doubt, where a claimant is engaged in employment as a self-employed earner and he is engaged in one or more other employments as a self-employed or employed earner, any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.

(13) Where the claimant is a self-employed earner or a share fisherman in the Republic of Ireland the amounts to be deducted for income tax and contributions under this regulation shall be such amounts as, in the opinion of the adjudicating authority, would have been deducted had the claimant been employed in Northern Ireland.

Deduction of tax and contributions for self-employed earners

14.—(1) The amount to be deducted in respect of income tax under regulation 13(1)(b)(i), (4)(b)(i) or (10)(a)(i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the lower rate or, as the case may be, the lower rate and the basic rate of tax less only the personal relief to which the claimant is entitled under sections 257(1), 257A(1) and 259 of the Taxes Act(4) as is appropriate to his circumstances; but if the period determined under regulation 11 (calculation of earnings of self-employed earners) is less than a year, the earnings to which the lower rate of tax is to be applied and the amount of the personal relief deductible under this paragraph shall be calculated on a pro rata basis.

(2) The amount to be deducted in respect of contributions under regulation 13(1)(b)(i), (4)(b)(ii) or (10)(a)(ii) shall be the total of—

- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, (3) of the Contributions and Benefits Act(5) at the rate applicable at the date of the determination of the claim or of any subsequent review except where the claimant's chargeable income is less than the amount specified in section 11(4) of that Act for the tax year in which that date falls; but if the assessment period is less than a year, the amount specified for that year shall be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of that Act(6) at the percentage rate applicable at the date of the determination of the claim or of any subsequent review on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year

(4) Sections 257 to 257F were substituted for section 257 by section 33 of the Finance Act 1988 (c. 39); section 257A(1) was amended by section 77(2) of the Finance Act 1994 (c. 9); section 259 was amended by section 30 of, and paragraph 5 of Schedule 3 to, the Finance Act 1988, paragraph 5 of Schedule 5 to the Finance (No. 2) Act 1992 (c. 48) and section 77(3) of, and paragraph 6 of Schedule 8 to, the Finance Act 1994

(5) Section 11 was amended by Article 3 of S.R. 1996 No. 72

(6) Section 15 was amended by Article 5 of S.R. 1996 No. 72

in which that date falls; but if the assessment period is less than a year, those limits shall be reduced pro rata.

- (3) In this regulation “chargeable income” means—
- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under regulation 13(4)(a) or, as the case may be, (5);
 - (b) in the case of employment as a child minder, one third of the earnings of that employment.