
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 196

The Civil Legal Services (Financial)
Regulations (Northern Ireland) 2015

PART 2

DETERMINATIONS IN RESPECT OF AN
INDIVIDUAL'S FINANCIAL RESOURCES

CHAPTER 3

CALCULATION OF INCOME AND CAPITAL – ADVICE AND
ASSISTANCE AND REPRESENTATION (LOWER COURTS)

Application of regulations 23 to 32

22. Regulations 23 to 32 apply only for the purposes of determining the client's eligibility for—
- (a) advice and assistance; and
 - (b) representation (lower courts).

Calculation of income and capital

23. The disposable income and disposable capital of the person concerned shall be the income and capital as determined by the supplier after deducting any sums which are to be left out of account or for which an allowance is to be made under the provisions of this Chapter.

Disregard of financial resources which are the subject matter of any claim

24. In calculating the income and capital of the person concerned, there shall be left out of account the value of the subject matter of any claim in respect of which the client is seeking advice and assistance or representation (lower courts).

Disregards from income – certain welfare and other allowances, payments etc.

25. In calculating the disposable income of the person concerned, the following payments shall be disregarded—

- (a) disability living allowance paid under section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the 1992 Act”)(1);
- (b) attendance allowance paid under section 64 of, or paragraph 4(2)(b) of Schedule 8 to, the 1992 Act;
- (c) constant attendance allowance paid under section 104 of the 1992 Act as an increase to a disablement pension;

- (d) any payment made out of the social fund under Part 8 of the 1992 Act;
- (e) carer's allowance paid under section 70 of the 1992 Act;
- (f) any direct payment made under regulations made under section 8(1) of the Carers and Direct Payments Act (Northern Ireland) 2002⁽²⁾;
- (g) any extra-statutory job grant paid by the Department for Social Development;
- (h) severe disablement allowance paid under section 68 of the 1992 Act;
- (i) exceptionally severe disablement allowance paid under Article 15 of the Personal Injuries (Civilian) Scheme 1983⁽³⁾;
- (j) any pensions paid under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006⁽⁴⁾;
- (k) any armed forces independence payment made under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011⁽⁵⁾;
- (l) to the extent that it exceeds the relevant figure referred to in regulation 27(1)(b), any financial support paid under any agreement for the care of a foster child;
- (m) any payment made out of the Independent Living Fund (2006).

Deductions from income – income tax and national insurance contributions

26. In calculating the disposable income of the person concerned, the following payments shall be deducted—

- (a) any income tax paid or payable on income treated under the provisions of this Chapter as their income;
- (b) contributions estimated to have been paid under Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 or any scheme made under that Act during or in respect of the seven days up to and including the date of the application for advice and assistance or representation (lower courts).

Deductions from income – maintenance of partner and dependants

27.—(1) In calculating the disposable income of the person concerned there shall be a deduction at or equivalent to the following rates, as they applied at the beginning of the period of calculation referred to in regulation 12(2)—

- (a) in respect of the maintenance of their partner, the difference between the income support allowance for a couple both aged not less than 18 (which is specified in column 2 of paragraph 1(3)(d) of Part I of the Schedule) and the allowance for a single person aged not less than 25 (which is specified in column 2 of paragraph 1(1)(e) of that Part of the Schedule); and
- (b) in respect of the maintenance of any dependant child or dependant relative, where such persons are members of their household—
 - (i) in the case of a dependant child or a dependant relative aged 18 or under, at a rate equivalent to the amount specified for the time being in paragraph 2 of Part 1 of the Schedule appropriate to the age of the child or relative; and

(2) 2002 c. 6 (N.I.)

(3) S.I. 1983/686

(4) S.I. 2006/606

(5) S.I. 2011/517

- (ii) in the case of a dependant child or a dependant relative aged 19 or over, at a rate equivalent to the amount which would have been specified for the time being in accordance with head (i) immediately before they attained the age of 19.

(2) For the purposes of this regulation, “the Schedule” means Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987(6).

Deductions from income – maintenance of former partner and dependants outside the household

28. In calculating the disposable income of the person concerned, where that person is making and, throughout such period as the supplier considers adequate, has regularly made payments for the maintenance of—

- (a) a former partner;
- (b) a child; or
- (c) a relative,

who is not a member of the household of the person concerned, a reasonable amount shall be deducted in respect of such payments.

Main dwelling, household furniture and effects, personal clothing, and tools and equipment

29. In calculating the disposable capital of the person concerned—

- (a) there shall be left out of account the value of the main or only dwelling in which that person resides and the value of their household furniture and effects, their articles of personal clothing, and the tools and equipment of their trade;
- (b) where the person concerned resides in more than one dwelling in which they have an interest, there shall be taken into account in respect of the value to them of any interest in a dwelling which is not the main dwelling any sum which may be obtained by borrowing money on the security thereof.

Disregard from capital – income support

30.—(1) This regulation applies where the client is seeking representation (lower courts).

(2) In calculating the disposable capital of the person concerned, where that person is (directly or indirectly) in receipt of income support, there shall be left out of account any sum which for the time being exceeds the sum specified in regulation 6(3).

Disregard from capital – arrears of payments

31. In calculating the disposable capital of the person concerned, there shall be left out of account any arrears of direct payments made under regulations made under section 8(1) of the Carers and Direct Payments Act (Northern Ireland) 2002.

Deductions from capital – maintenance of partner and dependants

32. In calculating the capital of the person concerned, where that person has living with them one or more of the following persons—

- (a) a partner whose resources are required to be aggregated with theirs under regulation 17;
- (b) a dependant child; or

(c) a dependant relative wholly or substantially maintained by them,
a deduction shall be made of £335 in respect of the first person, £200 in respect of the second person and £100 in respect of each further person.