STATUTORY RULES OF NORTHERN IRELAND

2009 No. 52

HEALTH AND PERSONAL SOCIAL SERVICES

The Travelling Expenses and Remission of Charges (Amendment) Regulations (Northern Ireland) 2009

Made - - - - 16th February 2009

Coming into operation 9th March 2009

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred by Articles 45, 98, 106 and 107(6) of, and paragraphs 1(b) and 1B of Schedule 15 to, the Health and Personal Social Services (Northern Ireland) Order 1972(**2**) and with the approval of the Department of Finance and Personnel 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.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Travelling Expenses and Remission of Charges (Amendment) Regulations (Northern Ireland) 2009 and shall come into operation on 9th March 2009.

(2) In these Regulations—

"the principal Regulations" means the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004(**3**).

Amendment of regulation 13 of the principal Regulations

2. At the end of regulation 13 of the principal Regulations add the following paragraph—

"(6) Where the claimant is a member of a polygamous marriage, the resources and requirements of members of that marriage must be calculated in the same manner as those of the claimant and they must be taken into account as if they were the resources and requirements of the claimant, except that the applicable amount shall be calculated in accordance with regulation 18 of the Income Support Regulations."

(**1**) See S.I. 1999/283 (N.I. 1) Article 3(6)

(**2**) S.I. 1972/1265 (N.I. 14); relevant amending Instruments are S.I. 1988/594 (N.I. 2) Article 14 and S.I. 1991/194 (N.I. 1) Article 34 and Part II of Schedule 5 and S.R. 1999 No. 11

(**3**) S.R. 2004 No. 91; relevant amending Regulations are S.R. 2004 Nos. 156 and 162, S.R. 2005 Nos. 107 and 386, S.R. 2006 Nos. 136, 190, and 333, S.R. 2007 Nos. 264 and 437 and S.R. 2008 Nos. 39, 292 and 391

Amendment of Schedule 1 to the principal Regulations, Table A

3. In Schedule 1 to the principal Regulations (modifications of the Income Support (General) Regulations (Northern Ireland) 1987(**4**)), Table A—

(a) in column (2) of the entry relating to regulation 40 (calculation of income other than earnings), insert at the end—

"After paragraph (5) insert the following paragraphs—

"(6) Where—

(a) the claimant is a member of a couple or a polygamous marriage;

(b) the claimant or the claimant's partner (or either or any of them if the claimant has more than one partner) is receiving a contributory employment and support allowance; and

(c) that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations(**5**),

that reduction shall not affect the amount of benefit that is to be taken into account.

(7) Where—

(a) the claimant is a single claimant or a lone parent;

(b) the claimant is receiving a contributory employment and support allowance; and

(c) that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations,

that reduction shall not affect the amount of benefit that is to be taken into account."; and"

(b) in column (2) of the entry relating to Schedule 8 (sums to be disregarded in the calculation of earnings), after the second entry for paragraph 4 insert —

"After paragraph 4 insert—

"**4A.**—(1) Income is disregarded under this sub-paragraph where —

(a) the claimant is undertaking work which falls within the categories in regulation 45(2) to (4) of the Employment and Support Allowance Regulations;

(b) the partner of a claimant is in receipt of employment and support allowance and is undertaking work which falls within the categories in paragraphs (2) to (4) of regulation 45 of the Employment and Support Allowance Regulations but paragraph (c) is not applicable; or

(c) both a claimant and the partner of the claimant are in receipt of employment and support allowance and both are undertaking work which falls within the categories in regulation 45(2) to (4) of the Employment and Support Allowance Regulations.

(2) Where sub-paragraph (1)(a) or (b) applies, income is disregarded to the same extent as it would be disregarded under paragraphs 5 and 6 of Schedule 7 to the Employment and Support Allowance Regulations.

(**4**) S.R. 1987 No. 459

(**5**) See the definition of "the Employment and Support Allowance Regulations" in regulation 2(1) of S.R. 1987 No. 459 as inserted by regulation 12(2)(d) of S.R. 2008 No. 286

(3) Where sub-paragraph (1)(c) applies, the aggregate income of the claimant and the partner is disregarded to the same extent as it would be disregarded under paragraphs 5 and 6 of that Schedule in the case of an individual.

(4) The other disregards in paragraphs 4 to 9 are not applicable where income is disregarded under this paragraph.

(5) In this paragraph "employment and support allowance" means an employment and support allowance under Part 1 of the Welfare Reform Act(**6**).""

Amendment of Schedule 1 to the principal Regulations, Table B

4. In Schedule 1 to the principal Regulations (modifications of the Income Support (General) Regulations (Northern Ireland) 1987), in Table B—

(a) in column (2) after the first entry relating to regulation 18(1) (polygamous marriages), insert the following entry—

"For regulation 18 (1)(a) and (b) substitute—

"(a) where each member of the marriage is aged less than 60—

(i) the amount applicable to the claimant plus the amount applicable to one of the other members of the marriage determined in accordance with sub-paragraph (5) of paragraph 1 of Schedule 2; and

(ii) an amount equal to the difference between the amounts specified in sub-paragraphs (5) and (1) of paragraph 1 of that Schedule in respect of each of the members of the marriage who were not taken into account in determining the amount under (i) above;

(b) where any member of the marriage is aged 60 or more—

(i) the amount applicable to the claimant plus the amount applicable to one of the other members of the marriage determined in accordance with sub-paragraph (6) of paragraph 1 of Schedule 2; and

(ii) an amount equal to the difference between the amounts specified in sub-paragraphs (6) and (2) of paragraph 1 of that Schedule in respect of each of the members of the marriage who were not taken into account in determining the amount under (i) above.""

(b) in column (2) of the entry relating to Schedule 2—

(i) after the second entry insert—

"After paragraph 1 (personal allowances) insert—

"**1ZA.**—(1) A single claimant or lone parent aged less than 25 who—

(a) is entitled to an ESA component; or

(b) is incapable of work and has been incapable of work for a continuous period of not less than 28 weeks which begins no earlier than 27th October 2008,

has a personal allowance equal to the amount of the personal allowance which would apply if that person were not less than 25 years old.

(**6**) See the definition of "the Welfare Reform Act" in regulation 2(1) of S.R. 1987 No. 459 as inserted by regulation 12(2)(b) of S.R. 2008 No. 286