STATUTORY RULES OF NORTHERN IRELAND

2004 No. 91

HEALTH AND PERSONAL SOCIAL SERVICES

Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004

Made - - - -	*8th March 2004*
Coming into operation	*6th April 2004*

The Department of Health, Social Services and Public Safety(**1**), in exercise of the powers conferred on it by Articles 45, 98, 106 and 107(b) 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, and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I

GENERAL AND INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004 and shall come into operation on 6th April 2004.

Interpretation

2. In these Regulations –

"appropriate office" means an office of the Department for Social Development;

"capital limit" –

(a) in the case of a person who lives permanently in a nursing home or residential care home or in accommodation provided under arrangements made under Article 15 or 36 of the

(**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

Order, has the meaning it bears in regulation 20 (Capital limit) of the Health and Personal Social Services (Assessment of Resources) Regulations (Northern Ireland) 1993(**3**), and

(b) in the case of any other person, means the amount prescribed for the purposes of section 130(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**4**);

"child tax credit" means child tax credit under section 8 of the Tax Credits Act 2002(**5**) and as specified under regulations made pursuant to that section(**6**);

"the charges regulations" means the Charges for Drugs and Appliances (Northern Ireland) Regulations 1997(**7**);

"claimant" means a person who makes a claim for remission, payment or repayment in accordance with regulation 7 or 10;

"couple" means a married couple or unmarried couple as specified under section 133 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"date of claim" means the date on which a claim made under regulation 7 or regulation 10 is received in an appropriate office or by the Department;

"disability element" means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002 and as determined under regulations made pursuant to section 11(7) of that Act(**8**);

"doctor" means a medical practitioner;

"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, except that –

(a) in regulation 5(1)(d), in relation to a person who is receiving income based jobseeker's allowance it has the meaning assigned to it by Article 2(2) of the Jobseekers (Northern Ireland) Order 1995(**9**);

(b) in regulation 5(1)(e) and 8(2) it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definitions and Calculation of Income) Regulations 2002(**10**); and

(c) where a claim has been made for support under Part VI of the Immigration and Asylum Act 1999(**11**), it means the asylum-seeker who has made that claim and any dependant, as defined in section 94 of that Act, whom he has included in that claim and the references to "family" in regulations 5(2)(c) and 8(1),(3) and (7) shall be construed accordingly;

"full rate" means the rate determined under Article 36(3) of the Order(**12**);

"full time student" has the meaning given in regulation 61 of the Income Support (General) Regulations (Northern Ireland) 1987(**13**);

"health care professional" means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(**14**);

(**3**) S.R. 1993 No. 127: relevant amending Regulations are S.R. 1996 No. 83, S.R. 2001 No. 205, S.R. 2002 No. 113 and S.R. 2003 No. 320
(**4**) 1992 c. 7
(**5**) 2002 c. 21
(**6**) The current regulations are the Child Tax Credit Regulations 2002 (S.I. 2002/2007)
(**7**) S.R. 1997 No. 382
(**8**) The current regulations are the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005)
(**9**) S.I. 1995/2705 (N.I. 15)
(**10**) S.I. 2002/2006
(**11**) 1999 c. 33
(**12**) Article 36 was substituted by Article 25 of S.I. 1991/194 (N.I. 1) and amended by S.I. 1992/3204 (N.I. 20) and S.I. 2003/431 (N.I. 9)
(**13**) S.R. 1987 No. 459; the definition of "full time student" was inserted by regulation 3(3)(a) of S.R. 2000 No. 241
(**14**) 2002 c. 17

"HS charge" has the meaning given in regulation 4;

"HS travel expenses" has the meaning given in regulation 3;

"income-based jobseekers allowance" has the meaning assigned to it by Article 3(4)(**15**) of the Jobseekers (Northern Ireland) Order 1995;

"income support" means income support under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 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(**16**);

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987;

"nursing home" has the meaning assigned to it by regulation 2(1) of the Income Support (General) Regulations (Northern Ireland) 1987(**17**);

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

"partner" means where a claimant –

(a) is a member of a married or an unmarried couple, the other member of that couple;

(b) is married polygamously to two or more members of his household, any such member;

"pension credit guarantee credit" shall be construed in accordance with sections 1 and 2 of the State Pension Credit Act (Northern Ireland) 2002(**18**);

"pension credit savings credit" shall be construed in accordance with sections 1 and 3 of the State Pension Credit Act (Northern Ireland) 2002;

"provider" means the provider of any services mentioned in regulation 3(1)(a);

"relevant date" means –

(a) in the case of a claim under regulation 7, the date of the claim; and

(b) in the case of a claim under regulation 10(2), the date when the HS charge or HS travel expenses were paid;

"relevant income" has the same meaning as in section 7(3) of Part I of the Tax Credits Act 2002;

"residential care home" has the meaning assigned to it by regulation 19(2) of the Income Support (General) Regulations (Northern Ireland)1987(**19**);

"severe disability element" means the severe disability element of working tax credit as specified in section 11(6) of the Tax Credits Act 2002;

"standard rate" means the standard rate determined under Article 99(2) of the Order(**20**);

"trade dispute" has the same meaning as in Article 2(2) of the Jobseekers (Northern Ireland) Order 1995;

"week" means a period of 7 days beginning with midnight between Saturday and Sunday;

"working tax credit" means working tax credit under section 10 of the Tax Credits Act 2002 and as specified in regulations made pursuant to section 11 of that Act(**21**).

(**15**) Article 3(4) was amended by paragraph 3(4) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
(**16**) S.R. 1987 No. 460
(**17**) The definition of "nursing home" was substituted by paragraph 1(a)(i) of Part 1 of the Schedule to S.R. 2002 No. 132
(**18**) 2002 c. 14 (N.I)
(**19**) The definition of "residential care home" was inserted by paragraph 1(3)(a) of Schedule 1 to S.R. 1993 No. 149 and amended by regulation 4(9)(d) of S.R.1993 No.373 and paragraph 1(e) of Schedule 12 to S.R. 1994 No. 65
(**20**) Article 99(2) was substituted by Article 27 of S.I. 1991/194 (N.I. 1)
(**21**) The current regulations are the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005)

HS travel expenses

3.—(1) In these Regulations "HS travel expenses" means the travelling expenses which a person necessarily incurs –

(a) in attending –

(i) a hospital

(ii) any other establishment managed by a HSS Trust, or

(iii) any other place in the United Kingdom,

for the provision of any services (except personal medical or personal dental services provided under Article 15B of the Order) under the care of a consultant in accordance with the Order.

(2) HS travel expenses include the travel expenses of a companion in a case where the person to whom the services are provided is either –

(a) a child; or

(b) a person whose medical condition is such that, in the opinion of a doctor involved in the provision of the services or, where appropriate, another health care professional so involved, a companion is necessary.

(3) HS travel expenses include the travel expenses necessarily incurred or to be incurred by a person –

(a) 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

(b) 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

(c) who is the relative of a person ordinarily resident in Northern Ireland who requires hospital treatment while in the Republic of Ireland, and in such cases travelling expenses will be payable only where –

(i) the patient has been certified by the doctor 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 doctor 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) A person who wishes to rely on entitlement to HS travel expenses must –

(a) unless he is a person who by virtue of regulation 5(1) is not required to make such a claim, make a claim to entitlement under regulation 7; and

(b) make an application for payment of HS travel expenses under regulation 9.

(5) The amount of any HS travel expenses to which a person is entitled under these Regulations –

(a) must be calculated by reference to the cost of travelling by the cheapest means of transport which is reasonable having regard to the person's age, medical condition and any other relevant circumstances; and

(b) where travel is by private car, may include a mileage allowance and car parking expenses.

Remissible HS charges

4.—(1) In these regulations "HS charge" means any charge which would otherwise be payable –

(a) in accordance with regulations made under Article 98 of, and Schedule 15 to, the Order, for the supply of drugs, medicines, appliances and pharmaceutical services;

(b) in accordance with regulations made under Article 61 of the Order, for the supply of dentures and other dental appliances; and

(c) in accordance with regulations made under Article 98 of, and Schedule 15 to, the Order, or Article 20(1) of the Health Services (Primary Care) Order (Northern Ireland) 1997(**22**), for the provision of dental treatment.

(2) A person who wishes to rely on entitlement under these Regulations to remission of a HS charge must –

(a) unless he is a person who by virtue of regulation 5(1) is not required to make such a claim, make a claim to entitlement under regulation 7 or regulation 10; and

(b) provide any declaration or evidence of entitlement which is required under the Charges Regulations.

PART II

ENTITLEMENT TO PAYMENT OF HS TRAVEL EXPENSES AND REMISSION OF HS CHARGES

Entitlement to full remission and payment

5.—(1) Subject to paragraph (3), a person is entitled, without making a claim under regulation 7 (Claims to entitlement), to the payment in full of HS travel expenses and the full remission of a HS charge if –

(a) he is receiving income support;

(b) he is receiving income based jobseeker's allowance;

(c) he is receiving pension credit guarantee credit;

(d) he is a member of the same family as a person who is receiving income support, income based jobseeker's allowance or pension credit guarantee credit; or

(e) he is a member of a family one member of which is receiving –

(i) working tax credit and child tax credit,

(ii) working tax credit which includes a disability element or severe disability element, or

(iii) child tax credit, but is not eligible for working tax credit,

provided that the relevant income of the member to whom the tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,600.

(2) Subject to paragraph (3), the following persons are entitled to the payment in full of HS travel expenses and the remission in full of a HS charge but are required to make a claim for such payment or remission in accordance with regulation 7 (Claims to entitlement) –

(a) a person who lives permanently in accommodation arranged under Article 15 (General Social Welfare) or Article 36 (Provision of accommodation in premises maintained by voluntary organisations, etc.) of the Order, and who has satisfied the Department that he is unable to pay for that accommodation at the standard rate or, as the case may be, the full rate;

(**22**) S.I. 1997/1177(N.I. 7)