**1975 No. 15**

**SOCIAL SECURITY**

# The Social Security Benefit (Computation of Earnings) (Northern Ireland) Regulations 1975

*Made* . . . . . *23rd January* 1975

*Coming into operation* . . . *6th April* 1975

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 99(14) of, and paragraph 2(7) of Schedule 10 to, the Social Security Act 1973(**a**), and section 80(3) of the National Insurance Act (Northern Ireland) 1966(**b**) as amended(**c**), 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 Social Security Benefit (Computation of Earnings) (Northern Ireland) Regulations 1975 and shall come into operation on 6th April 1975.

(2) In these regulations, unless the context otherwise requires—

"the 1966 Act" means the National Insurance Act (Northern Ireland) 1966;

"the 1973 Act" means the Social Security Act 1973;

"the Acts" means the 1966 Act and the 1973 Act;

"the Department" means the Department of Health and Social Services for Northern Ireland;

"earnings" means earnings derived from a gainful employment;

"employer" includes any person making a payment which is, or which falls to be taken into account in the calculation or estimation of, another's earnings;

"the determining authorities" means, as the case may require, the Chief National Insurance Commissioner appointed under paragraph 13(1) of Schedule 25 to the 1973 Act or any other National Insurance Commissioner so appointed, a tribunal constituted under paragraph 13(2) of that Schedule, a local tribunal constituted under section 76 of the 1966 Act or an insurance officer appointed under section 67(1) of the 1966 Act;

"gainful employment" means employment as an employed earner or a self-employed earner, and includes any such employment which, in accordance with the provisions of the 1973 Act and of any regulations made under it, is to be disregarded in relation to liability for contributions;

and other expressions have the same meanings as in the 1973 Act.

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(a) 1973 c. 38
(b) 1966 c. 6 (N.I.)
(c) The relevant amendments are contained in paragraphs 12, 17 and 33 of Schedule 25 to the Social Security Act 1973.

(3) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**d**) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

*Calculation and estimation of amount of earnings*

**2.**—(1) For the purposes of any provision of the Acts and of any regulations made under them which relates to benefit under the Acts, the amount of a person's earnings for any period shall be calculated or estimated in the manner set out in these regulations.

(2) The amount of a person's earnings for any period to be taken into account shall be the whole of his earnings for that period except in so far as regulations 3 and 4 below provide that no account shall be taken of certain payments or perquisites and that certain payments shall be deducted.

(3) Except in relation to earnings which fall to be calculated in accordance with regulation 5 or regulation 7 below, if a person has earnings which do not consist of salary, wages, fees or other payments related to a fixed period or if his earnings from any employment for any period are not immediately ascertainable, the determining authorities shall calculate or estimate the amount of those earnings, for any day or week on or in which that person is following the employment from which they are derived, as best they may having regard to the information (if any) available to them and to what appear to them to be the probabilities of the case.

*Payments to be disregarded*

**3.**—(1) Except in relation to earnings which fall to be calculated in accordance with regulation 5 or regulation 7 below, in calculating or estimating the amount of a person's earnings for any period no account shall be taken—

(*a*) for the purposes of any provision of the Acts and of any regulations made under them which relates to benefit under the Acts, of the value—

(i) up to 15 pence for each working day, of meal vouchers supplied to him which are not transferable and are valid only for meals;

(ii) of meals provided for him at the place of work;

(iii) of accommodation in which he is required to live as a condition of his employment; and

(iv) of food or produce provided for his personal needs and those of his household;

(*b*) for the purposes only of sections 23, 26, 34 and 35 of the 1973 Act, of any sums of money not exceeding £10 in the aggregate, or of the first £10 of any sums the aggregate of which exceeds that amount, and of any remuneration in kind, if those sums are or (as the case may be) that remuneration in kind is paid by the employer in December of any year by way of Christmas bonus.

(**d**) 1889 c. 63

(2) A sum shall not be treated as paid to a person by way of Christmas bonus within the meaning of paragraph (1)(*b*) of this regulation if—

(*a*) it is one of a series of sums paid to him at intervals of less than one year; or

(*b*) it is received by him by way of payment for work done and either accrues to him as overtime or incentive payment or is otherwise directly related to his hours of work or to the amount of work performed by him.

*Deductions to be made*

**4.** Except in relation to earnings which fall to be calculated in accordance with regulation 5 or regulation 7 below, in calculating or estimating for the purposes of any provision of the Acts and of any regulations made under them which relates to benefit the amount of a person's earnings for any period, there shall be deducted from the earnings which he derives from employment in that period—

(*a*) any contribution payable under Part I of the 1973 Act or any scheme made under the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(e)—

(i) which his employer pays or is liable to pay on his behalf and the amount of which the employer deducts from a payment of his earnings from that employment; or

(ii) which is duly paid by him otherwise than as a secondary Class 1 contributor and which either is so paid in respect of any period falling wholly or partly within that period or is fairly attributable to that period or any part of it;

(*b*) expenses reasonably incurred by him without reimbursement in respect of—

(i) travel between his place of residence and his place of work and travel which he undertakes in connection with and for the purposes of that employment;

(ii) premises (other than premises in which he normally resides), tools and equipment reasonably required by him for the purposes of that employment;

(iii) protective clothing reasonably required by him for the purposes of that employment (including the laundering and cleaning of such clothing) and excessive wear and tear of his clothing attributable to the conditions and circumstances of that employment;

(iv) subscriptions paid by him to any association of employed persons or other association or body to which, having regard to the nature or objects of the association or body and the nature and circumstances of that employment, it is reasonable for him to subscribe;

(v) the making of reasonable provision for the care of another member of his household because of his own necessary absence from home to carry out his duties in connection with that employment; and

(vi) the cost, up to 15 pence, of each meal taken during the hours of that employment for which no meal voucher has been provided; and

(e) 1966 c. 9 (N.I.)