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STATUTORY RULES OF NORTHERN IRELAND

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**1992 No. 78**

**The Disability Working Allowance (General)  
Regulations (Northern Ireland) 1992**

**PART V**

**INCOME AND CAPITAL**

*CHAPTER II:*

*NORMAL WEEKLY INCOME*

**Normal weekly earnings of employed earners**

**16.**—(1) Subject to regulation 19 (periods to be disregarded), where a claimant's income consists of earnings from employment as an employed earner, his normal weekly earnings shall be determined by reference to his earnings from that employment in accordance with paragraphs (2) to (9).

(2) Subject to paragraph (7), where a claimant is paid weekly, his normal weekly earnings shall be determined by reference to his earnings over 5 consecutive weeks in the 6 weeks immediately preceding the week in which the date of claim falls.

(3) Subject to paragraph (7), where at the date of claim there is a trade dispute or period of short-time working at a claimant's place of employment, then his normal weekly earnings shall be determined by reference to his earnings over the 5 weeks immediately preceding the start of that dispute or period of short-time working.

(4) Subject to paragraph (7), where a claimant is paid monthly, his normal weekly earnings shall be determined by reference to his earnings—

- (a) over a period of 2 months immediately preceding the week in which the date of claim falls; or
- (b) where, at the date of claim, there is a trade dispute or a period of short-time working at his place of employment, over a period of 2 months immediately preceding the date of the start of that dispute or period of short-time working.

(5) Subject to paragraph (7), whether or not paragraph (2), (3) or (4) applies, where a claimant's earnings fluctuate or are not likely to represent his weekly earnings, his normal weekly earnings shall be determined by reference to his weekly earnings over such other period preceding the week in which the date of claim falls as may, in any particular case, enable his normal weekly earnings to be determined more accurately.

(6) Where a claimant's earnings include a bonus or commission which is paid within 52 weeks preceding the week in which the date of claim falls, and the bonus or commission is paid separately or relates to a period longer than the period relating to the other earnings with which it is paid, his normal weekly earnings shall be treated as including an amount calculated in accordance with regulation 23 (calculation of bonus or commission).

(7) Where at the date of claim—

- (a) the claimant—
    - (i) has been in his employment,
    - (ii) after a continuous period of interruption exceeding 13 weeks, has resumed his employment, or
    - (iii) has changed the number of hours for which he is contracted to work; and
  - (b) the period of his employment or the period since he resumed his employment or the period since the change in the number of hours took place, as the case may be, is less than 9 weeks,
- his normal weekly earnings shall be determined in accordance with paragraph (8).

(8) In a case to which this paragraph applies, the Department shall require the claimant's employer to furnish an estimate of the claimant's average likely earnings for the period for which he will normally be paid and the claimant's normal weekly earnings shall be determined by reference to that estimate.

- (9) For the purposes of this regulation—
  - (a) the claimant's earnings shall be calculated in accordance with Chapter III of this Part; and
  - (b) "a period of short-time working" means a continuous period not exceeding 13 weeks during which the claimant is not required by his employer to be available to work the full number of hours normal in his case under the terms of his employment.