
STATUTORY RULES OF NORTHERN IRELAND

2004 No. 91

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

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 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(1), 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(2);

“child tax credit” means child tax credit under section 8 of the Tax Credits Act 2002(3) and as specified under regulations made pursuant to that section(4);

“the charges regulations” means the Charges for Drugs and Appliances (Northern Ireland) Regulations 1997(5);

“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;

(1) 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
(2) 1992 c. 7
(3) 2002 c. 21
(4) The current regulations are the Child Tax Credit Regulations 2002 (S.I. 2002/2007)
(5) S.R. 1997 No. 382

“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⁽⁶⁾;

“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⁽⁷⁾;
- (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⁽⁸⁾; and
- (c) where a claim has been made for support under Part VI of the Immigration and Asylum Act 1999⁽⁹⁾, 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⁽¹⁰⁾;

“full time student” has the meaning given in regulation 61 of the Income Support (General) Regulations (Northern Ireland) 1987⁽¹¹⁾;

“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⁽¹²⁾;

“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)⁽¹³⁾ 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⁽¹⁴⁾;

“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⁽¹⁵⁾;

“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;

(6) The current regulations are the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005)

(7) S.I. 1995/2705 (N.I. 15)

(8) S.I. 2002/2006

(9) 1999 c. 33

(10) 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)

(11) S.R. 1987 No. 459; the definition of “full time student” was inserted by regulation 3(3)(a) of S.R. 2000 No. 241

(12) 2002 c. 17

(13) 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))

(14) S.R. 1987 No. 460

(15) The definition of “nursing home” was substituted by paragraph 1(a)(i) of Part 1 of the Schedule to S.R. 2002 No. 132

“pension credit guarantee credit” shall be construed in accordance with sections 1 and 2 of the State Pension Credit Act (Northern Ireland) 2002⁽¹⁶⁾;

“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⁽¹⁷⁾;

“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⁽¹⁸⁾;

“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⁽¹⁹⁾.

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 –

⁽¹⁶⁾ 2002 c. 14 (N.I.)

⁽¹⁷⁾ 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

⁽¹⁸⁾ Article 99(2) was substituted by Article 27 of S.I. 1991/194 (N.I. 1)

⁽¹⁹⁾ The current regulations are the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005)

- (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(20), 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;
- (b) an asylum-seeker for whom support is provided under Part VI of the Immigration and Asylum Act 1999;
- (c) a member of the same family as an asylum seeker described in sub-paragraph (b);
- (d) any other person who satisfies the Department in accordance with Part V that his capital resources do not exceed the capital limit and that his requirements equal or exceed his income resources; and
- (e) a member of the same family as a person described in sub-paragraph (d).

(3) A persons entitlement under paragraph (1) or (2) arises only where he is of a description mentioned in either of those paragraphs at the time when –

- (a) the charge is made;
- (b) the HS travel expenses are incurred; or
- (c) in the case of a charge for the supply of a denture or other dental appliance mentioned in regulation 4(1)(b) or for dental treatment mentioned in regulation 4(1)(c), either –
 - (i) the arrangements for the treatment or course of treatment are made, or
 - (ii) the charge is made.

Entitlement to partial remission and payment

6.—(1) Subject to paragraphs (2) to (4), a person is entitled to the payment in part of any HS travel expenses and remission in part of a HS charge provided that at the time the travel expenses are incurred or the charge is made –

- (a) his capital resources do not exceed the capital limit; and
- (b) either –
 - (i) his income resources exceed his requirements by less than a third of the charge or, as the case may be, by less than the travel expenses, or
 - (ii) he is a member of the family of a person described in sub-paragraph (b)(i), but is required to make a claim for such remission or payment in accordance with regulation 7 (Claims to entitlement).

(2) In the case of a HS charge mentioned in regulation 4(1)(a), the entitlement under paragraph (1) to partial remission applies only to a charge for the supply of an appliance specified in Schedule 1 to the Charges Regulations (Charges for Fabric Supports and Wigs) and not to a charge for any other appliance or for drugs, medicines or pharmaceutical services.

- (3) Subject to paragraph (4), the amount to which a person is entitled under paragraph (1) is –
 - (a) in the case of a HS charge, the difference between the charge and three times the amount by which his income resources exceed his requirements; and
 - (b) in the case of recoverable travel expenses, the difference between the amount of the expenses incurred and the amount by which his income resources exceed his requirements.
- (4) In the case of a HS charge –
 - (a) for dental treatment or for the supply of a dental appliance provided as general dental services under Part VI of the Order, or
 - (b) for dental treatment provided as personal dental services under Part II of the Health Services (Primary Care) Order (Northern Ireland) 1997,

the charge which is partially remissible under this regulation and which must be used for the purposes of the calculation required under paragraph (3)(a) is the charge made for one course of treatment, including any charge made for a dental appliance supplied in that course of treatment.

Claims to entitlement

7.—(1) Subject to paragraph (3), a person who wishes to claim entitlement under regulation 5 (entitlement to full remission and payment) or regulation 6 (entitlement to partial remission and payment) must make a claim to the Department on a form provided or approved for the purpose by the Department.

(2) On a claim under paragraph (1), the claimant must provide such evidence and information as the Department may reasonably request within such time as the Department may reasonably request.

(3) A claim may be made on behalf of another person where that person is unable, by reason of mental or physical incapacity, to make the claim himself.

(4) Where a claimant does not comply with the Department's requests in respect of evidence, information and timing mentioned in paragraph (2), the Department may notify the claimant that the claim will not be determined and must be regarded as closed.

Notices of entitlement

8.—(1) Where the Department determines, on a claim made under regulation 7 (Claims to entitlement), that the claimant and any member of his family is entitled to any remission of a HS

charge or any payment in respect of HS travel expenses, it must issue a notice of entitlement to the claimant.

(2) Where a person is entitled to full remission of a HS charge and payment in full of HS travel expenses on the grounds only that he is a member of a family described in regulation 5(1)(d) (tax credit families), the Department must issue a notice of entitlement to that family and in such a case the notice shall apply to all members of that family.

(3) A notice of entitlement issued under paragraph (1) applies to all members of the claimant's family and must state –

- (a) whether those persons are entitled to full or partial remission or payment;
- (b) in the case of partial remission or payment, the amount of any HS charge or HS travel expenses for which there is no entitlement to remission or payment.

(4) A notice of entitlement issued under paragraph (1) or paragraph (2) must state the length of time for which it is valid and the dates on which that time begins and ends.

(5) A notice of entitlement issued under paragraph (1) is valid for 12 months beginning on the date on which the claim was made except that –

- (a) in the case of a notice issued to a full time student in the final or only year of a course of study, it is valid from the date of the claim until the last day of that course;
- (b) in the case of a notice issued to a person mentioned in regulation 5(2)(b) (asylum seeker), it is valid for 6 months beginning on the date of the claim.

(6) A notice of entitlement issued under paragraph (2) is valid from such date and for such period as the Department may determine.

(7) Subject to paragraphs (9) and (10), any change in the financial or other circumstances of a claimant, or of any member of his family, during the life of a notice of entitlement shall not affect its validity in respect of that period or, in the case of partial remission or payment, the amounts referred to in paragraph (3)(b).

(8) A claimant who is issued with a notice of entitlement to partial remission may make a further claim in accordance with regulation 7 at any time during the life of the notice if he considers that by reason of a change in his financial circumstances or those of any member of his family the amounts referred to in paragraph (3)(b) should be reduced.

(9) A claimant to whom a notice of entitlement has been issued under this regulation must return it to the Department in any case where his claim is subsequently found to have been based on a false representation.

(10) A notice of entitlement issued under this regulation is effective only for the purpose of entitlement to remission of charges and payment of travel expenses in accordance with these Regulations.

PART III

PAYMENTS AND REPAYMENTS

Payment of HS travel expenses

9.—(1) Subject to paragraphs (2) to (4), where a person is entitled in accordance with regulation 5 or 6 to a payment in respect of HS travel expenses –

- (a) he must make an application for payment to the provider; and
- (b) the provider must calculate the actual amount payable in accordance with these Regulations and make the payment.

(2) Where services are provided pursuant to arrangements made under Article 14A(21) of the Order or paragraph 13 of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991(22), the application for payment must be made to, and the calculation and payment may be made by, either the provider or by the health service body which made those arrangements.

(3) A person who makes an application for payment in respect of HS travel expenses must sign a declaration of entitlement and provide such evidence of his entitlement and of his travel expenses as the provider, or as the case may be the health service body which made the arrangements, may require.

(4) Payment of HS travel expenses may be made before the expenses are incurred.

Claims for repayment

10.—(1) A person who is entitled under these Regulations to full or partial remission of a HS charge or to full or partial payment in respect of HS travel expenses and who pays such a charge or such travel expenses without exercising his right to remission or payment, is entitled to be repaid that amount which would have been remitted or paid.

(2) A person who wishes to exercise his right to repayment under paragraph (1) must make a claim to the Department on a form provided or approved by the Department for this purpose.

(3) A claim under paragraph (2) must be made within three months of the date on which the payment of the HS charge or the HS travel expenses was made or within such longer period as the Department may for good cause allow.

(4) Paragraphs (2) to (4) of regulation 7 (Claims to entitlement) apply to a claim under this regulation.

Repayments

11.—(1) Where the Department is satisfied that a claimant is entitled to any repayment under regulation 10, it must –

(a) in the case of a repayment to be made –

(i) in respect of a charge made by an HSS trust for an appliance specified in Schedule 1 to the Charges Regulations (Charges for Fabric Supports and Wigs), calculate the amount payable and notify in writing the HSS trust of the claimant's entitlement and the amount to be paid,

(ii) in respect of HS travel expenses incurred by a person in attending a hospital or any other place managed by an HSS trust notify in writing the HSS trust of the claimant's entitlement; or

(b) in any other case, cause a repayment to be made to the claimant in such manner as appears to the Department to be appropriate in the circumstances of the particular case.

(2) Where a HSS trust receives notification as mentioned in paragraph (1), it must calculate any amount payable in respect of HS travel expenses in accordance with these Regulations and make any repayment due to a claimant in respect of such travel expenses or HS charge.

(3) A person who is entitled to repayment in respect of HS travel expenses must sign a declaration of entitlement and provide such evidence of his entitlement and of his travel expenses as the health service body which is making the repayment may require.

(21) Article 14A was inserted by paragraph 2 of Schedule 1 to S.I. 1992/3204 (N.I. 20)

(22) S.I. 1991/194 (N.I. 1)

Reimbursement of payments made in respect of HS travel expenses

12. Where a provider makes a payment under regulation 9(1) or (2) or a repayment under regulation 11(1)(a), in respect of HS travel expenses incurred by a person who is receiving services from the provider, the amount of the payment or repayment in question may be reimbursed to the provider by the health service body for which those services are provided.

PART IV

CALCULATION OF RESOURCES AND REQUIREMENTS

General

13.—(1) Where it is necessary that the resources or requirements of a person should be calculated for the purposes of these Regulations, they must be calculated by the Department according to the provisions of this Part and Schedule 1.

(2) The resources and requirements of a person must be calculated –

- (a) in the case of a claim made under regulation 7 (Claims to entitlement) by reference to his resources and requirements at the date of claim; or
- (b) in the case of a claim for repayment made under regulation 10(2) (Claims for repayment) by reference to his resources and requirements at the date when the HS charge or HS travel expenses were paid.

(3) Where a claimant is a member of a family, the resources and requirements of the other members of his family must be calculated in the same manner as those of the claimant and must be taken into account as if they were his resources and requirements, and in this Part and in the provisions referred to in Schedule 1, any reference to the claimant includes the other members of his family.

(4) In a case where the earnings of any person are to be calculated and those earnings have been affected by a trade dispute, the earnings to be taken into account are the earnings which that person would have received if there had been no trade dispute.

(5) In the application of the Income Support Regulations as mentioned in regulation 14 and regulation 15, the provisions of those Regulations shall be applied as if –

- (a) references to income support were to the remission of HS charges and the payment of any HS travel expenses,
- (b) references in any of those provisions to any other of those provisions were to that other provision as modified in accordance with regulation 14(4) or, as the case may be, regulation 15(2); and
- (c) the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations (Northern Ireland) 2003(23) had not been made.

Calculation of resources

14.—(1) A claimant's resources must be calculated in terms of income and capital.

(2) Income must be calculated on a weekly basis according to the method of calculating or estimating income prescribed by the Income Support Regulations, subject to the modifications referred to in paragraph (4).

(3) Capital must be calculated according to the method of calculating or estimating capital as prescribed by the provisions of Chapter VI in Part V of, and Schedule 10 to, the Income Support Regulations subject to the modifications referred to in paragraph (4).

(4) The provisions of the Income Support Regulations apply and those provisions specified in column 1 of Table A in Schedule 1 shall be applied in accordance with the modifications specified in the corresponding entries in column 2.

Calculation of requirements

15.—(1) A claimant's requirements must be calculated as being the amount referred to in sub-paragraph (a) less, where applicable, the amount referred to in sub-paragraph (b), as follows –

- (a) the amount which represents the aggregate of the weekly applicable amount which would apply to him, including that in respect of any other member of his family, in connection with a claim for income support as specified by the Income Support Regulations, but subject to the modifications referred to in paragraph (2), and
- (b) the amount which represents the aggregate of the weekly amount of any housing benefit to which the claimant or any member of his family is entitled under the provisions of Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽²⁴⁾.

(2) The provisions of the Income Support Regulations apply and those provisions specified in column 1 of Table B in Schedule 1 shall be applied in accordance with the modifications specified in the corresponding entries in column 2.

PART V

CONCLUSION

Transitional Provisions

16.—(1) Any claim made under the Travelling Expenses and Remission of Charges (Northern Ireland) Regulations 1989⁽²⁵⁾ which has not been determined before 6th April 2004 must be treated as if it were a claim under these Regulations and determined accordingly.

(2) A notice of entitlement to remission of a HS charge or payment of HS travel expenses which has been issued under the Travelling Expenses and Remission of Charges (Northern Ireland) Regulations 1989 remains valid until its expiry in accordance with the provisions of those Regulations.

Repeals

17. The Regulations listed in column 1 of Schedule 2 are repealed to the extent indicated in column 2.

⁽²⁴⁾ 1992 c. 7

⁽²⁵⁾ S.R. 1989 No. 348

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 8th March 2004.

L.S.

Dr. J. F. Livingstone
Senior Officer of the
Department of Health, Social Services and
Public Safety

Sealed with the Official Seal of the Department of Finance and Personnel insofar as the foregoing Regulations relate to Travelling Expenses on 8th March 2004.

L.S.

Michael Brennan
Senior Officer of the
Department of Finance and Personnel

The Department of Finance and Personnel hereby approves the foregoing Regulations insofar as they relate to Remission of Charges.

Sealed with the Official Seal of the Department of Finance and Personnel on 8th March 2004.

L.S.

Michael Brennan
Senior Officer of the
Department of Finance and Personnel