

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY BENEFIT (COMPUTATION OF EARNINGS)**  
**(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2009**

**2009 No. 2679**

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument amends provisions in the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1996 (S. R. 1996 No. 520) (“the Computation of Earnings Regulations”) which deal with the determination of earnings on claims to certain benefits. The purpose is to:

- Completely disregard expenses paid to service users who are also paid for their involvement in a service user group. Service users are those people who are consulted by public bodies, as part of a statutory requirement, about the way their services are designed, delivered and monitored;
- Amend the reference to “royalties” in those regulations so that it aligns with the new definition which was introduced across the income related benefits administered by the Department for Social Development in an April 2009 Miscellaneous Regulations package by SR 2009/92.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 This instrument will amend the Computation of Earnings Regulations. These Regulations provide a framework for the way that earnings are to be calculated for the purpose of Parts II to V of the Social Security Contributions and Benefits (Northern Ireland) Act 1992. They deal with such subjects as the way earnings of employed earners and self employed earners are calculated.

Service Users

4.2 The changes will allow expenses paid or reimbursed to service users who are receiving Incapacity Benefit, Severe Disablement Allowance, Carer’s Allowance and State Pension (as far as Adult Dependency Increases are concerned) to be disregarded.

## Royalties

- 4.3 All of the income-related benefits specify how payments of “royalties” should be calculated in deciding benefit entitlement. The royalties provisions were last amended in April 2009 in order to fully align the treatment of those payments across the income-related benefits. As well as referring to payments for copyright, they now include specific reference to design, patent and trademark rights; and to Public Lending Right payments including, where appropriate, those received from abroad.
- 4.4 A similar calculation is made in the Computation of Earnings Regulations. Broadly, the amount of royalties received is divided by the relevant earnings limit plus 1p, together with any appropriate earnings disregard and any relevant deduction for childcare charges or, in the case of Carer’s Allowance, care charges. The royalties are then taken into account for an equivalent number of weeks. (For example, the relevant earnings limit in Carer’s Allowance is presently £95. If royalties of £500 are received, and if no other disregards or deductions are appropriate, the royalties payment would cover for five weeks.)
- 4.5 The Computation of Earnings Regulations presently refer to royalties and payments in respect of any copyright. These provisions are therefore being amended in order to align with the updated references which were introduced across the income-related benefit regulations in April 2009.

## **5. Territorial Extent and Application**

- 5.1 This instrument applies to Northern Ireland.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- *What is being done and why*

## Service Users

- 7.1 The changes being introduced by this instrument are intended to remove barriers within the benefit system that might prevent people carrying out the service user role. At present people can be deterred from participating in service user activity because the receipt of expenses they are paid or reimbursed as a result of their involvement could reduce the amount of benefit they are entitled to.

- 7.2 At present any expenses paid to a service user who is also being paid for their involvement would be treated as part of their earnings (with some small exceptions where those expenses are ‘wholly, exclusively and necessarily’ incurred in the performance of the duties of employment). In practice, this means that, for example, travel to meetings, and the expenses of carers or support workers may be taken into account and benefit reduced accordingly. People who are paid expenses only are generally treated as volunteers and all reasonable expenses can be disregarded.
- 7.3 We believe that given the special nature of the service user role it would be reasonable to ignore for benefit purposes any expenses paid to them in the same way as we do for volunteers.

*Who will these changes apply to?*

- 7.4 This would apply to any service user who is claiming benefits (or for State Pension is the adult dependant of the claimant) but importantly would make it easier for disabled people to take part. They are particularly affected by the current rules as they may have additional expenses arising from their disability – for example, someone to read papers to a blind person prior to a meeting or the cost of a carer to accompany and assist them at a Service User event.

### Royalties

- 7.5 These regulations align the references to “royalties” in the Computation of Earnings regulations with the updated references in the income-related benefits by including specific reference to design, patent and trademark rights; and to Public Lending Right payments including, where appropriate, those received from abroad.
- 7.6 This means that “royalties” payments will now cover:
- (i) payments consisting of royalties or other sums received as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark where these payments are made to the original owner; and
  - (ii) any payment made where the claimant (or spouse, partner, or other adult in respect of whom a claim for an increase in benefit is made) is an original contributor to the book registered under the Public Lending Right Scheme 1982 or to a work under an analogous international Public Lending Right Scheme.

## **8. Consultation outcome**

- 8.1 There has been no formal consultation on this instrument.

## **9. Guidance**

9.1 Guidance on the changes to regulations will be issued to Jobs and Benefits Offices and Social Security Offices in Northern Ireland as well as Pensions, Disability and Carers Service Decision Makers and the Northern Ireland Housing Executive which administers Housing Benefit. The Department for Social Development intends to publicise the changes being made in respect of service users.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is negligible.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring and review**

12.1 The Department for Social Development will, in line with the Department for Work and Pensions (“DWP”), consider advice and recommendations made by the Social Security Advisory Committee in respect of the equivalent legislative changes that are being made to regulations that fall within their vires.

12.2 The Department for Social Development will also monitor the effectiveness of these changes in conjunction with DWP.

## **13. Contact**

Kevin Rice at HM Revenue and Customs Tel: 0207 147 2508 or e-mail: kevin.rice@hmrc.gsi.gov.uk can answer any queries regarding the instrument.