
STATUTORY INSTRUMENTS

1987 No. 1973

SOCIAL SECURITY

The Family Credit (General) Regulations 1987

Made - - - - - *20th November 1987*

Coming into force - - - - - *11th April 1988*

Whereas a draft of this instrument was laid before Parliament in accordance with section 83(3) of the Social Security Act 1986 and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State for Social Services, in exercise of the powers conferred by section 20(1), (5)(c), (6), (10), (11) and (12), section 21(3) and (6)(a), section 22(1) and (5) to (9), section 51(1)(h) and section 84(1) of the Social Security Act 1986⁽¹⁾ and sections 104(5) and 166(1) to (3A) of the Social Security Act 1975⁽²⁾ and of all other powers enabling him in that behalf, by this instrument, which is made before the end of a period of 12 months from the commencement of the enactments under which it is made, makes the following Regulations:

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Family Credit (General) Regulations 1987, and shall come into force on 11th April 1988.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1986;

“assessment period” means such period as is prescribed in regulations 14 to 17 over which income falls to be calculated;

(1) 1986 c. 50; section 84(1) is an interpretation provision and is cited because of the meanings assigned to the words “prescribed” and “regulations”.

(2) 1975 c. 14; section 104(5) (relevant change of circumstances) is inserted by paragraph 10 of Schedule 5 to the Social Security Act 1986 and is applied to family credit by section 52 of that Act; section 166(3A) is inserted by section 62 of that Act, and section 166(1) to (3A) (extent of powers) is applied by section 83(1) of the Social Security Act 1986 to regulation-making powers conferred by that Act.

“claim” means a claim for family credit;

“claimant” means a person claiming family credit;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit under the Act, the Social Security Act or the Child Benefit Act 1975(3) are charged;

“date of claim” means the date on which the claimant makes, or is treated as making, a claim for family credit;

“earnings” has the meaning prescribed in regulation 19 or, as the case may be, 21;

“employed earner” shall be construed in accordance with section 2(1)(a) of the Social Security Act(4);

“mobility allowance” means an allowance under section 37A of the Social Security Act(5);

“mobility supplement” means any supplement under article 26A of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983(6) including such a supplement by virtue of any other scheme or order or under article 25A of the Personal Injuries (Civilians) Scheme 1983(7);

“net earnings” means such earnings as are calculated in accordance with regulation 20;

“net profit” means such profit as is calculated in accordance with regulation 22;

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“partner” means, where a claimant—

- (a) is a member of a married or unmarried couple, the other member of that couple,
- (b) is married polygamously to two or more members of the same household, any such member;

“payment” includes a part of a payment;

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“self-employed earner” shall be construed in accordance with section 2(1)(b) of the Social Security Act;

“Social Security Act” means the Social Security Act 1975(8)

“student” has the meaning prescribed in regulation 37;

“week” means a period of seven days beginning with midnight between Saturday and Sunday;

“week of claim” means the week which includes the date of claim;

(3) 1975 c. 61.

(4) 1975 c. 14.

(5) Section 37A was inserted by section 22(1) of the Social Security Pensions Act 1975 (c. 60) and amended by the National Health Service Act 1977 (c. 49) Schedule 15 paragraph 64, the Social Security Act 1979 (c. 18) section 3 and by the Social Security Act 1986 (c. 50) sections 71 and 86 and Schedule 11.

(6) S.I. 1983/883; article 26A was added by S.I. 1983/1116 and amended by S.I. 1983/1521 and 1986/592.

(7) S.I. 1983/686, amended by S.I. 1983/1164, 1540 and 1986/628.

(8) 1975 c. 14.

“year of assessment” has the same meaning prescribed in section 526(5) of the Income and Corporation Taxes Act 1970(9);

“young person” has the meaning prescribed in regulation 6.

(2) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation, Part or Schedule is a reference to the regulation, Part or Schedule bearing that number in these Regulations and any reference in a regulation or Schedule to a numbered paragraph is a reference to the paragraph in that regulation or Schedule bearing that number.

PART II

PRESENCE IN GREAT BRITAIN AND REMUNERATIVE WORK

Circumstances in which a person is treated as being or as not being in Great Britain

3.—(1) A person shall be treated as being in Great Britain if, on the date of claim—

- (a) he is present and ordinarily resident in Great Britain; and
- (b) his partner, if any, is ordinarily resident in the United Kingdom; and
- (c) his earnings or the earnings of his partner, if any, derive at least in part from remunerative work in the United Kingdom; and
- (d) his earnings do not wholly derive from remunerative work outside the United Kingdom nor do the earnings of his partner, if any.

(2) A person shall be treated as not being in Great Britain during any period for which he, or his partner, is entitled to be paid family credit under the law of Northern Ireland.

Remunerative work

4.—(1) Subject to the following provisions of this regulation, for the purposes of section 20(5)(b) of the Act (conditions of entitlement to family credit) and these Regulations, remunerative work is work in which a person is engaged, or, where his hours of work fluctuate, is engaged, on average, for not less than 24 hours a week, being work for which payment is made or which is done in expectation of payment.

(2) The number of hours for which a person is engaged in work shall be determined—

- (a) where no recognisable cycle has been established at the date of claim in respect of a person’s work, by reference to the number of hours or, where those hours are likely to fluctuate, the average of the hours, which he is expected to work in a week;
- (b) where the number of hours for which he is engaged fluctuate, by reference to the average of hours worked over—
 - (i) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
 - (ii) in any other case, the period of 5 weeks immediately preceding the week in which the claim is received, or such other length of time preceding that week as may, in the particular case, enable the person’s weekly average hours of work to be determined more accurately.

(3) A person shall be treated as engaged in work during any period during which he is absent from work if the absence is by reason of a recognised, customary or other holiday.

Engagement in remunerative work and normal engagement

5.—(1) Subject to paragraph (3), a person shall be treated, for the purposes of section 20(5)(b) of the Act (conditions of entitlement to family credit), as engaged in remunerative work only if he carries out activities in the course of his work for not less than 24 hours in—

- (a) the week of claim; or
- (b) either of the two weeks immediately preceding the week of claim and he has not become unemployed before the date of claim.

(2) Subject to paragraph (3), a person shall be treated, for the purposes of section 20(5)(b) of the Act, as normally engaged in remunerative work if the remunerative work in which he is engaged in the period specified in paragraph (1)(a) or (b) is work in which he is normally engaged.

(3) A person shall not be treated as engaged in remunerative work if he is engaged by a charity or voluntary body or is a volunteer where the only payment received by him, or due to be paid to him, is a payment which is to be disregarded under regulation 24(2) and paragraph 2 of Schedule 2 (sums to be disregarded in the calculation of income other than earnings).

PART III**MEMBERSHIP OF A FAMILY****Persons of a prescribed description**

6.—(1) Subject to paragraph (2), a person of a prescribed description for the purposes of section 20(5)(c) (entitlement) and section 20(11) of the Act (definition of the family) as it applies to family credit is a person aged 16 or over but under 19 who is receiving full-time education within section 2(1)(b) of the Child Benefit Act 1975(10) (meaning of child), and in these Regulations such a person is referred to as “a young person”.

(2) Paragraph (1) shall not apply to a person who is entitled to income support or would, but for section 20(9) of the Act (provision against dual entitlement of members of family), be so entitled.

Circumstances in which a person is to be treated as responsible or not responsible for another

7.—(1) Subject to the following provisions of this regulation, a person shall be treated as responsible for a child or young person who is normally living with him.

(2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person shall be treated for the purposes of paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of him; or
- (b) if there is no such person—
 - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
 - (ii) in any other case the person who has the primary responsibility for him.

(3) For the purposes of these Regulations a child or young person shall be treated as the responsibility of only one person during the period of an award and any person other than the one

(10) 1975 c. 61, as amended by sections 4, 8 and 21 of, and Schedule 5 Part I to, the Social Security Act 1980 (c. 30) and by section 70 of the Social Security Act 1986 (c. 50).

treated as responsible for the child or young person under the foregoing paragraphs shall be treated as not so responsible.

Membership of the same household

8.—(1) Except in a case to which paragraph (2) applies, where a claimant or any partner is treated as responsible for a child or young person by virtue of regulation 7 (circumstances where a person is treated as responsible or not responsible for another), that child or young person and any child of that child or young person shall be treated as a member of the claimant’s household.

(2) A child or young person shall not be treated as a member of the claimant’s household in any case where the child or young person—

- (a) is a patient or in residential accommodation on account of physical or mental handicap or physical or mental illness and has been so accommodated for the 12 weeks immediately before the date of claim and is no longer in regular contact with the claimant or any member of the claimant’s household; or
- (b) has been boarded out with the claimant or his partner prior to adoption; or
- (c) is boarded out with the claimant or his partner under a relevant enactment; or
- (d) has been placed for adoption with the claimant or his partner pursuant to a decision under the Adoption Agencies Regulations 1983(11) or the Adoption Agencies (Scotland) Regulations 1984(12); or
- (e) is detained in custody under a sentence imposed by a court.

(3) In this regulation—

- (a) “patient” means a person (other than a person who is serving a sentence imposed by a court in a prison or youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975(13).
- (b) “relevant enactment” means the Army Act 1955(14), the Air Force Act 1955(15), the Naval Discipline Act 1957(16), the Adoption Act 1958(17), the Matrimonial Proceedings (Children) Act 1958(18), the Children Act 1958(19), the Social Work (Scotland) Act 1968(20), the Family Law Reform Act 1969(21), the Children and Young Persons Act 1969(22), the Matrimonial Causes Act 1973(23), the Guardianship Act 1973(24), the Children Act 1975(25), the Domestic Proceedings and Magistrates' Courts Act 1978(26), the Adoption (Scotland) Act 1978(27), the Child Care Act 1980(28) and the Foster Children Act 1980(29);

(11) S.I. 1983/1964.

(12) S.I. 1984/988.

(13) S.I. 1975/555; the relevant amending instruments are S.I. 1977/1693 and 1987/1683.

(14) 1955 c. 18.

(15) 1955 c. 19.

(16) 1957 c. 53.

(17) 1958 c. 5.

(18) 1958 c. 40.

(19) 1958 c. 65.

(20) 1968 c. 49.

(21) 1969 c. 46.

(22) 1969 c. 54.

(23) 1973 c. 18.

(24) 1973 c. 29.

(25) 1975 c. 72.

(26) 1978 c. 22.

(27) 1978 c. 28.

(28) 1980 c. 5.

(29) 1980 c. 6.

- (c) “residential accommodation” means accommodation for a person whose stay in the accommodation has become other than temporary which is provided under—
- (i) sections 21 to 24 and 26 of the National Assistance Act 1948⁽³⁰⁾ (provision of accommodation); or
 - (ii) section 21(1) of, and paragraph 1 or 2 of Schedule 8 to, the National Health Service Act 1977⁽³¹⁾ (prevention, care and after-care) or, in Scotland, for the purposes of section 27 of the National Health Services (Scotland) Act 1947⁽³²⁾ (prevention of illness and after-care) or under section 59 of the Social Work (Scotland) Act 1968⁽³³⁾ (provision of residential and other establishments) or under section 7 of the Mental Health (Scotland) Act 1984⁽³⁴⁾ (functions of local authorities).

Circumstances in which a person is to be treated as being no longer a member of the same household

9.—(1) Where one member of a married or unmarried couple has taken up residence in accommodation provided under sections 21 to 24 and 26 of the National Assistance Act 1948 (provision of accommodation) he shall be treated as no longer being a member of the same household as his partner unless the stay in that accommodation is temporary.

(2) Where one of the members of a married or unmarried couple is a hospital in-patient or in a prison or youth custody institution he shall not be treated, on this account, as ceasing to be a member of the same household as his partner—

- (a) unless he has been an in-patient in a hospital for 52 weeks or more; or
- (b) unless he is a patient detained in a hospital provided under section 4 of the National Health Service Act 1977⁽³⁵⁾ (special hospitals) or section 90(1) of the Mental Health (Scotland) Act 1984 (provision of hospitals for patients requiring special security); or
- (c) unless he is in a prison or youth custody institution serving a sentence of 52 weeks or more imposed by a court,

but shall be treated as not being a member of the same household as his partner wherever the conditions in sub-paragraphs (a), (b) or (c) are fulfilled.

(30) 1948 c. 29; section 21 was amended by the Local Government Act 1972 (c. 70), Schedule 23 paragraphs 1 and 2 and Schedule 30; the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4 paragraph 44 and Schedule 5; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule; the National Health Service Act 1977 (c. 49), Schedule 15 paragraph 5; the Health Services Act 1980 (c. 53), Schedule 1 Part 1 paragraph 5. Section 22 was amended by the Social Work (Scotland) Act 1968 (c. 49), section 87(4) and Schedule 9 Part I; the Supplementary Benefits Act 1976 (c. 71) Schedule 7 paragraph 3; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule; the Social Security Act 1980 (c. 30), section 20, Schedule 4 paragraph 2(1) and Schedule 5 Part II and the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 20(1)(a). Section 24 was amended by the National Assistance (Amendment) Act 1959 (c. 30), section 1(1); the National Health Service (Scotland) Act 1972 (c. 58), Schedule 6 paragraph 82; the Local Government Act 1972 (c. 70), Schedule 23 paragraph 2; the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4 paragraph 45 and the Housing (Homeless Persons) Act 1977 (c. 48), Schedule. Section 26 was amended by the Health Services and Public Health Act 1968 (c. 46), section 44 and Schedule 4 and the Social Work (Scotland) Act 1968 (c. 49) Schedule 9 Part I and applied by section 87(3); the Local Government Act 1972 (c. 70), Schedule 23 paragraph 2; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule and the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 20(1)(b).

(31) 1977 c. 49; paragraphs 1(2) and 2(5) of Schedule 8 were repealed by section 30 of, and Schedule 10 Part I to, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) and paragraphs 2(1) to (3) were amended by the Mental Health Act 1983 (c. 20) section 148 and Schedule 4.

(32) 1947 c. 27, as applied by section 1(4)(c) of the Social Work (Scotland) Act 1968 (c. 49); section 27 is continued in force for the purposes of section 1(4)(c) by paragraph 15 of Schedule 15 to the National Health Service (Scotland) Act 1978 (c. 29).

(33) 1968 c. 49.

(34) 1984 c. 36.

(35) 1977 c. 49; section 4 was amended by the Mental Health Act 1983 (c. 20) section 148, Schedule 4, paragraph 47.

PART IV INCOME AND CAPITAL

CHAPTER I GENERAL

Calculation of income and capital of members of claimant's family and of a polygamous marriage

10.—(1) The income and capital of a claimant's partner and, subject to regulation 27 (modifications in respect of children and young persons), the income of a child or young person, which by virtue of section 22(5) of the Act is to be treated as income and capital of the claimant, shall be calculated or estimated in accordance with the following provisions of this Part in like manner as for the claimant; and any reference to the "claimant" shall, except where the context otherwise requires, be construed, for the purposes of this Part, as if it were a reference to his partner or that child or young person.

(2) Where a claimant or the partner of a claimant is married polygamously to two or more members of the same household—

- (a) the claimant shall be treated as possessing capital and income belonging to each such member and the income of any child or young person who is one of that member's family; and
- (b) the income and capital of that member or, as the case may be, the income of that child or young person shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant or, as the case may be, as for any child or young person who is a member of his family.

Calculation of income and capital of students

11. The provisions of Chapters II to VI of this Part (income and capital) shall have effect in relation to students and their partners subject to the modifications set out in Chapter VII thereof (students).

Disregard of fractions

12. Where any income or capital calculated in accordance with this Part includes a fraction of a penny that fraction shall be disregarded.

CHAPTER II NORMAL WEEKLY INCOME

Calculation of income on a weekly basis

13.—(1) For the purposes of section 20(5) of the Act (conditions of entitlement to family credit), the income of a claimant shall be calculated on a weekly basis—

- (a) by ascertaining in accordance with this Chapter and Chapter V of this Part (other income) the amount of his normal weekly income; and
- (b) by adding to that amount the weekly income calculated under regulation 36 (calculation of tariff income from capital).

(2) For the purposes of paragraph (1) “income” includes income derived under regulations 25 and 26 (capital treated as income and notional income).

Normal weekly earnings of employed earners

14.—(1) Subject to regulation 17 (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 weekly earnings from that employment—

- (a) over a period immediately preceding the week in which the claim is received or, if there is a trade dispute or a period of short-time working at his place of employment, over a period immediately preceding the date of the start of that dispute or period of short-time working, and being a period of—
 - (i) 5 weeks, if he is paid weekly; or
 - (ii) 2 months, if he is paid monthly; or
- (b) whether or not sub-paragraph (a)(i) or (ii) applies, where a claimant’s earnings fluctuate or are not likely to represent his weekly earnings, over such other period preceding the week in which the claim is received as may, in any particular case, enable his normal weekly earnings to be determined more accurately.

(2) Where the claimant has been in his employment or, after a continuous period of interruption exceeding 13 weeks, has resumed his employment, for less than the period specified in paragraph (1) (a)(i) or (ii)—

- (a) if he has received any earnings for the period that he has been in that employment or for the period after his resumption, and those earnings are likely to represent his weekly earnings from that employment his normal weekly earnings shall be determined by reference to those earnings;
- (b) in any other case, the Secretary of State shall require the claimant’s employer to furnish an estimate of the claimant’s likely earnings over a period of—
 - (i) 5 weeks, if he is paid weekly; or
 - (ii) 2 months, if he is paid monthly; or
 - (iii) whether or not head (i) or (ii) applies, such other period as may, in any particular case, enable his normal weekly earnings to be determined more accurately,
 and the claimant’s normal weekly earnings shall be determined by reference to that estimate.

(3) For the purposes of this regulation, the claimant’s earnings shall be calculated in accordance with Chapter III of this Part.

(4) For the purposes of this regulation “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.

Normal weekly earnings of self-employed earners

15.—(1) Subject to regulation 17 (periods to be disregarded), where a claimant’s income consists of earnings from employment as a self-employed earner, his normal weekly earnings shall be determined, subject to paragraph (2), by reference to his weekly earnings from that employment—

- (a) over a period of 26 weeks immediately preceding the week in which the claim is received; or

- (b) where any accounts of the employment are maintained and audited by a person qualified for appointment as an auditor under section 389 of the Companies Act 1985⁽³⁶⁾, over a 52 week period in respect of which such accounts are maintained provided that that period terminates within the 26 weeks preceding the date on which the claim is received; or
- (c) over such other period of weeks preceding the week in which the claim is received as may, in any particular case, enable his normal weekly earnings to be determined more accurately.

(2) Subject to regulation 17, where the claimant has been in employment as a self-employed earner for less than the period specified in paragraph (1)(a), his normal weekly earnings shall be determined by reference to any earnings received for the period that he has been in that employment and by reference to an estimate of his likely weekly earnings over the remainder of the first 26 weeks of the employment or by reference to such other evidence as may, in any particular case, enable his normal weekly earnings to be determined more accurately.

(3) For the purposes of this regulation, the claimant's earnings shall be calculated in accordance with Chapter IV of this Part.

Normal weekly income other than earnings

16.—(1) Subject to paragraph (2), a claimant's normal weekly income which does not consist of earnings shall be determined by reference to his weekly income over a period of 26 weeks immediately preceding the date of claim or over such period immediately preceding that date as may, in any particular case, enable his normal weekly income to be determined more accurately.

(2) Where a claimant's income consists of any payments made by a person, whether under a court order or not, for the maintenance of any member of his family, and those payments are made or due to be made at regular intervals, his normal weekly income shall be determined—

- (a) if before the date of claim those payments are made at regular intervals, by reference to the normal weekly amount;
- (b) if they are not so made, by reference to the average of such payments received in the 13 weeks immediately preceding the week in which the claim is received.

(3) For the purposes of this regulation, income other than earnings shall be calculated in accordance with Chapter V of this Part.

Periods to be disregarded

17. For the purposes of ascertaining a claimant's normal weekly earnings there shall be disregarded—

- (a) in the case of an employed earner, any period in the assessment period where the earnings of the claimant are irregular or unusual;
- (b) in the case of a self-employed earner, any period in the assessment period during which no activities have been carried out for the purposes of the business,

and his normal weekly earnings shall be determined by reference to his weekly earnings in the remainder of that period and in such a case any reference in these Regulations to a claimant's assessment period shall be construed as a reference to the latter period.

Calculation of weekly amount of income

18. For the purposes of regulations 14 to 16 (normal weekly income), where the period in respect of which a payment is made—

(36) 1985 c. 6.

- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
- (b) exceeds a week, the weekly amount shall be determined—
 - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
 - (ii) in a case where that period is 3 months, by multiplying the amount of the payment by 4 and dividing the product by 52;
 - (iii) in a case where that period is a year, by dividing the amount of the payment by 52;
 - (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number equal to the number of days in the period in respect of which it is made.

CHAPTER III

EMPLOYED EARNERS

Earnings of employed earners

19.—(1) Subject to paragraph (2), “earnings” means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
 - (b) any holiday pay except any payable more than 4 weeks after termination of the employment;
 - (c) any payment by way of a retainer;
 - (d) any payment made by the claimant’s employer in respect of any expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant’s employer in respect of—
 - (i) travelling expenses incurred by the claimant between his home and place of employment;
 - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant’s absence from home;
 - (e) any award of compensation made under section 68(2) or 71(2)(a) of the Employment Protection (Consolidation) Act 1978⁽³⁷⁾ (remedies and compensation for unfair dismissal);
 - (f) any such sum as is referred to in section 18(2) of the Social Security (Miscellaneous Provisions) Act 1977⁽³⁸⁾ (certain sums to be earnings for social security purposes);
 - (g) any statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982⁽³⁹⁾ or statutory maternity pay under Part V of the Act where the claimant has been in receipt of either for a continuous period of 13 weeks or more.
- (2) Earnings shall not include—
- (a) subject to paragraph (3), any payment in kind;
 - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;

⁽³⁷⁾ 1978 c. 44; section 68(2) was amended by section 21 Schedule 3 paragraph 21 of the Employment Act 1982 (c. 46); section 71(2) was amended by the Employment Act 1982 (c. 46) sections 5 and 21 Schedule 3 paragraph 22 and Schedule 4.

⁽³⁸⁾ 1977 c. 5; section 18(2) was amended by section 159 Schedule 16 paragraph 29 of the Employment Protection (Consolidation) Act 1978 (c. 44) and by section 86(2) of, and Schedule 10 Part IV paragraph 75 and Schedule 11 to, the Social Security Act 1986 (c. 50).

⁽³⁹⁾ 1982 c. 24.

(c) any occupational pension.

(3) Where living accommodation is provided for a claimant by reason of his employment, the claimant shall be treated as being in receipt of weekly earnings of an amount equal to—

- (a) where no charge is made in respect of the provision of that accommodation, £12;
- (b) where a charge is made and that weekly charge is less than £12, the amount of the difference,

except that where the claimant satisfies the adjudication officer that the weekly value to him of the provision of that accommodation is an amount less than the amount in sub-paragraph (a) or (b), as the case may be, he shall be treated as being in receipt of that lesser value.

Calculation of net earnings of employed earners

20.—(1) For the purposes of regulation 14 (normal weekly earnings of employed earners), the earnings of a claimant derived or likely to be derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.

(2) There shall be disregarded from a claimant's net earnings, any sum, where applicable, specified in Schedule 1.

(3) For the purposes of paragraph (1), net earnings shall, except where paragraph (4) applies, be calculated by taking into account the gross earnings of the claimant from that employment over the assessment period, less—

- (a) any amount deducted from those earnings by way of—
 - (i) income tax;
 - (ii) primary Class 1 contributions under the Social Security Act(40); and
- (b) one-half of any sum paid by the claimant by way of a contribution towards an occupational or personal pension scheme.

(4) Where the earnings of a claimant are estimated under paragraph (2)(b) of regulation 14 (normal weekly earnings of employed earners), his net earnings shall be calculated by taking into account those earnings over the assessment period, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax in the year of assessment in which the claim was made less only the personal relief to which the claimant is entitled under sections 8(1) and (2) and 14(1)(a) and (2) of the Income and Corporation Taxes Act 1970(41) (personal relief) as is appropriate to his circumstances; but, if the assessment period is less than a year, the

(40) See sections 1 and 4 of the Social Security Act 1975 (c. 14); section 1 was amended by section 40 of the Employment Protection Act 1975 (c. 71), section 24 of, and Schedule 2 to, the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), section 2 of the Social Security (Contributions) Act 1982 (c. 2), section 29 of, and paragraph 5 of Schedule 5 to, the Social Security Act 1985 (c. 53), section 86 of, and Schedule 11 to, the Social Security Act 1986 (c. 50) and S.I. 1987/48; section 4 was amended by paragraph 36 of Schedule 4 to the Social Security Pensions Act 1975 (c. 60), section 2(4) of the Education (School-Leaving Dates) Act 1976 (c. 5), section 14(1) of the Social Security Act 1979 (c. 18), Schedule 5 of the Social Security and Housing Benefits Act 1982 (c. 24), sections 7(1) and (2) and 8(1) of the Social Security Act 1985, sections 74(1)(a) and (2) and 86 of, and paragraph 104 of Schedule 10 to, the Social Security Act 1986 and S.I. 1986/25 and 1987/46.

(41) 1970 c. 10; section 8(1) was amended by the Finance Act 1971 (c. 68) section 37, Schedule 6 paragraphs 1 and 5, and by the Finance Act 1985 (c. 54) section 36; subsection (1A) was added by the Finance (No. 2) Act 1975 (c. 45) section 31 and amended by the Finance Act 1977 (c. 36) section 22. Subsection (1B) was added by the Finance (No. 2) Act 1975, section 31. Section 8(2) was amended by the Finance Act 1971 section 37, Schedule 6 paragraphs 1 and 5 and by article 2 of S.I. 1985/430; sub-paragraph (b) was substituted by the Finance (No. 2) Act 1979 (c. 47) section 12, Schedule 2 paragraph 1; sub-paragraphs (b)(i) and (ii) were amended by the Finance Act 1981 (c. 35), section 139, Schedule 19 Part VI and the Finance Act 1982 (c. 39) section 157, Schedule 22 Part IV; sub-paragraph (b)(iii) was added by the Finance Act 1981 section 27 and sub-paragraph (b)(iv) by the Finance Act 1987 (c. 16) section 27. Section 14(1) was amended by the Finance Act 1970 (c. 24) section 14, Schedule 8 Part VI; section 14(2) was amended by the Finance Act 1976 (c. 40) section 36, the Finance (No. 2) Act 1979, section 11, Schedule 1 paragraph 2 and the Finance Act 1980 (c. 48) section 24.

amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;

- (b) an amount in respect of primary Class 1 contributions payable under the Social Security Act in respect of those earnings; and
- (c) one-half of any sum payable by the claimant by way of a contribution towards an occupational or personal pension scheme.

CHAPTER IV

SELF-EMPLOYED EARNERS

Earnings of self-employed earners

21.—(1) Subject to paragraph (2), “earnings”, in the case of employment as a self-employed earner, means the gross receipts of the employment and shall include any allowance paid under section 2 of the Employment and Training Act 1973⁽⁴²⁾ to the claimant for the purpose of assisting him in carrying on his business unless at the date of claim the allowance has been terminated.

(2) Where a claimant is employed in providing board and lodging accommodation for which a charge is payable, any income consisting of payments of such a charge shall only be taken into account under this Chapter as earnings if it forms a major part of the total of the claimant’s weekly income less any sums disregarded under Schedule 2.

Calculation of net profit of self-employed earners

22.—(1) For the purposes of regulation 15 (normal weekly earnings of self-employed earners), the earnings of a claimant to be taken into account shall be—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975⁽⁴³⁾, his share of the net profit derived from that employment less—
 - (i) an amount in respect of income tax and social security contributions payable under the Social Security Act calculated in accordance with regulation 23 (deduction of tax and contributions for self-employed earners); and
 - (ii) one-half of any qualifying premium payable.

(2) There shall be disregarded from a claimant’s net profit any sum, where applicable, specified in Schedule 1.

(3) For the purposes of paragraph (1)(a) the net profit of the employment shall, except where paragraph (9) or (10) applies, be calculated by taking into account the earnings of the employment over the assessment period, less—

- (a) subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed in that period for the purposes of that employment;
- (b) an amount in respect of—
 - (i) income tax; and

⁽⁴²⁾ 1973 c. 50; section 2 was amended by sections 9 and 11 and Schedule 2, Part II, paragraph 9 and Schedule 3 of the Employment and Training Act 1981 (c. 57).

⁽⁴³⁾ S.I. 1975/529.

(ii) social security contributions payable under the Social Security Act, calculated in accordance with regulation 23 (deduction of tax and contributions for self-employed earners); and

(c) one-half of any qualifying premium payable.

(4) For the purposes of paragraph (1)(b) the net profit of the employment shall, except where paragraph (10) applies, be calculated by taking into account the earnings of the employment over the assessment period less, subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed in that period for the purposes of that employment.

(5) Subject to paragraph (6), no deduction shall be made under paragraph (3)(a) or (4) in respect of—

- (a) any capital expenditure;
- (b) the depreciation of any capital asset;
- (c) any sum employed, or intended to be employed, in the setting up or expansion of the employment;
- (d) any loss incurred before the beginning of the assessment period;
- (e) the repayment of capital on any loan taken out for the purposes of the employment;
- (f) any expenses incurred in providing business entertainment.

(6) A deduction shall be made under paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—

- (a) the replacement in the course of business of equipment or machinery; and
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(7) An adjudication officer shall refuse to make a deduction in respect of any expenses under paragraph (3)(a) or (4) where he is not satisfied that the expense has been defrayed or given the nature and the amount of the expense that it has been reasonably incurred.

(8) For the avoidance of doubt—

- (a) a deduction shall not be made under paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction shall be made thereunder in respect of—
 - (i) the excess of any VAT paid over VAT received in the assessment period;
 - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
 - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where a claimant is engaged in employment as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less—

- (a) an amount in respect of—
 - (i) income tax; and
 - (ii) social security contributions payable under the Social Security Act, calculated in accordance with regulation 23 (deduction of tax and contributions for self-employed earners); and
- (b) one-half of any qualifying premium payable.

(10) Where the earnings of a claimant are estimated under paragraph (2) of regulation 15 (normal weekly earnings of self-employed earners), his net profit shall be calculated by taking into account

his estimated earnings from the employment less the amount of the deductions likely to be made under sub-paragraphs (a) to (c) of paragraph (3) in respect of those earnings.

(11) For the avoidance of doubt where a claimant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.

(12) In this regulation “qualifying premium” means any premium or other consideration payable under an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision for the claimant of a life annuity in old age or the provision of an annuity for his partner or for any one or more of his dependants and in respect of which relief from income tax may be given.

Deduction of tax and contributions for self-employed earners

23.—(1) The amount to be deducted in respect of income tax under regulation 22(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income, and as if that income were assessable to income tax at the basic rate of tax in the year of assessment in which the claim was made, less only the personal relief to which the claimant is entitled under sections 8(1) and (2) and 14(1)(a) and (2) of the Income and Corporation Taxes Act 1970 (personal relief) as is appropriate to his circumstances; but, if the assessment period is less than a year the amount of the personal relief deductible under this paragraph shall be calculated on a pro rata basis.

(2) The amount to be deducted in respect of social security contributions under regulation 22(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) shall be the total of—

- (a) the amount of Class 2 contributions payable under section 7(1) or, as the case may be, (4) of the Social Security Act(44) where the claimant’s chargeable income is less than the amount for the time being specified in section 7(5) of that Act(45) (small earnings exception); and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 9 of that Act(46) (Class 4 contributions recoverable under Tax Acts) in respect of profits or gains equal to the amount of that income.

(3) In this regulation “chargeable income” means—

- (a) except where sub-paragraph (b) or (c) applies, the earnings derived from the employment less any expenses deducted under paragraph (3)(a) or, as the case may be, (4) of regulation 22;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment; or
- (c) where the earnings of the claimant are estimated under paragraph (2) of regulation 15 (normal weekly earnings of self-employed earners), his estimated earnings from the employment less any expenses likely to be deducted under paragraph (3)(a) or, as the case may be, (4) of regulation 22.

(44) Section 7(1) was amended by section 2(4) of the Education (School-Leaving Dates) Act 1976 (c. 5), section 17(1) of the Health and Social Security Act 1984 (c. 48) article 3 of S.I. 1986/25 and article 3 of S.I. 1987/46.

(45) Section 7(5) was amended by article 3 of S.I. 1986/25 and S.I. 1987/46.

(46) Section 9 was amended by sections 4 and 65 of, and Schedule 5 to, the Social Security Pensions Act 1975 (c. 60), by the Social Security Contributions Act 1982 (c. 2) section 1 and S.I. 1986/25.

CHAPTER V
OTHER INCOME

Calculation of income other than earnings

24.—(1) For the purposes of regulation 16 (normal weekly income other than earnings), the income of a claimant which does not consist of earnings to be taken into account shall, subject to paragraphs (2) to (4), be his gross income and any capital treated as income under regulation 25 (capital treated as income).

(2) There shall be disregarded from the calculation of a claimant's gross income under paragraph (1) any sum, where applicable, specified in Schedule 2.

(3) There shall be taken into account as income under paragraph (1) 20 per cent of any income consisting of payments of a board and lodging charge which, but for regulation 21(2) (earnings of self-employed earners), would fall to be taken into account as earnings.

(4) Where the payment of any benefit under the benefit Acts⁽⁴⁷⁾ is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) shall be the gross amount payable.

(5) For the avoidance of doubt there shall be included as income to be taken into account under paragraph (1) any payment to which regulation 19(2) applies (payments not earnings).

Capital treated as income

25.—(1) Any capital payable by instalments which are outstanding at the date of the claim shall, if the aggregate of the instalments outstanding and the amount of the claimant's capital otherwise calculated in accordance with Chapter VI of this Part exceeds £6,000, be treated as income.

(2) Any payment received under an annuity shall be treated as income.

Notional income

26.—(1) A claimant shall be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to family credit or increasing the amount of that benefit.

(2) Except in the case of a discretionary trust or a trust derived from a payment made in consequence of a personal injury, any income which would become available to the claimant upon application being made, but which has not been acquired by him, shall be treated as possessed by the claimant.

(3) Any payment of income made—

(a) to a third party in respect of a member of the family (but not a member of the third party's family) shall be treated as possessed by that member to the extent that it is used for his food, clothing, footwear, fuel or housing costs;

(b) to a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that member to the extent that it is kept by him or used by or on behalf of any member of the family.

(4) Where—

(a) a claimant performs a service for another person; and

(b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area; and

⁽⁴⁷⁾ The benefit Acts are specified in section 84(1) of the Social Security Act 1986 (c. 50).

- (c) the adjudication officer is satisfied that the means of that person are sufficient for him to pay or to pay more for the service,

the adjudication officer shall treat the claimant as possessing such earnings (if any) as is reasonable for that employment; but this paragraph shall not apply to a claimant who is engaged by a charitable or voluntary body or is a volunteer if the adjudication officer is satisfied that it is reasonable for him to provide his services free of charge.

(5) Where a claimant is treated as possessing any income under any of paragraphs (1) to (3), the foregoing provisions of this Part shall apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(6) Where a claimant is treated as possessing any earnings under paragraph (4), the foregoing provisions of this Part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess, except that paragraph (3) of regulation 20 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax in the year of assessment in which the claim was made less only the personal relief to which the claimant is entitled under sections 8(1) and (2) and 14(1)(a) and (2) of the Income and Corporation Taxes Act 1970 (personal relief) as is appropriate to his circumstances; but, if the assessment period is less than a year, the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;
- (b) an amount in respect of primary Class 1 contributions payable under the Social Security Act in respect of those earnings; and
- (c) one-half of any sum payable by the claimant by way of a contribution towards an occupational or personal pension scheme.

Modifications in respect of children and young persons

27.—(1) Any capital of a child or young person payable by instalments which are outstanding at the date of claim shall, if the aggregate of the instalments outstanding and the amount of that child's or young person's other capital calculated in accordance with Chapter VI of this Part in like manner as for the claimant, except where otherwise provided, would exceed £3,000, be treated as income.

(2) Where the income of a child or young person, other than income consisting of payments of maintenance whether under a court order or not, calculated in accordance with the foregoing provisions of this Part exceeds the sum specified as a credit for that child or young person in Schedule 4 and regulation 46(5) (sum for child or young person who has income in excess to be nil) applies, that income shall not be treated as income of the claimant.

(3) Where the capital of a child or young person, if calculated in accordance with Chapter VI of this Part in like manner as for the claimant, except where otherwise provided, would exceed £3,000, any income of that child or young person shall not be treated as income of the claimant.

(4) Any income of a child or young person which is to be disregarded under Schedule 2 shall be disregarded in such manner as to produce the result most favourable to the claimant.

CHAPTER VI

CAPITAL

Capital limit

28. For the purposes of section 22(6) of the Act as it applies to family credit (no entitlement to benefit if capital exceeds prescribed amount), the prescribed amount is £6,000.

Calculation of capital

29.—(1) For the purposes of Part II of the Act as it applies to family credit, the capital of a claimant to be taken into account shall, subject to paragraph (2), be the whole of his capital calculated in accordance with this Part and any income treated as capital under regulation 31 (income treated as capital).

(2) There shall be disregarded from the calculation of a claimant's capital under paragraph (1) any capital, where applicable, specified in Schedule 3.

Disregard of capital of child or young person

30. The capital of a child or young person who is a member of the claimant's family shall not be treated as capital of the claimant.

Income treated as capital

31.—(1) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

(2) Any holiday pay which is not earnings under regulation 19(1)(b) (earnings of employed earners) shall be treated as capital.

(3) Any charitable or voluntary payment, other than one which is, or is due to be, made at regular intervals shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraph 1, 2, 4, 6 or 13 of Schedule 3, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the claimant's account.

(5) In the case of employment as an employed earner, any advance of earnings or any loan made by the claimant's employer shall be treated as capital.

(6) Any maintenance payment other than one to which regulation 16(2) (normal weekly income other than earnings) applies shall be treated as capital.

Calculation of capital in the United Kingdom

32. Capital which a claimant possesses in the United Kingdom shall be calculated—

(a) except in a case to which sub-paragraph (b) applies, at its current market or surrender value less—

(i) where there would be expenses attributable to sale, 10 per cent; and

(ii) the amount of any incumbrance secured on it;

(b) in the case of a National Savings Certificate—

(i) if purchased from an issue the sale of which ceased before 1st July last preceding the date of claim, at the price which it would have realised on that 1st July had it been purchased on the last day of that issue;

(ii) in any other case, at its purchase price.

Calculation of capital outside the United Kingdom

33. Capital which a claimant possesses in a country outside the United Kingdom shall be calculated—

- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent and the amount of any incumbrance secured on it.

Notional capital

34.—(1) A claimant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to family credit or increasing the amount of that benefit.

(2) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtainable only if secured against capital disregarded under Schedule 3,

any capital which would become available to the claimant upon application being made but which has not been acquired by him shall be treated as possessed by him.

(3) Any payment of capital made—

- (a) to a third party in respect of a member of the family (but not a member of the third party's family) shall be treated as possessed by that member to the extent that it is used for food, clothing, footwear, fuel or housing costs of any member of that family;
- (b) to a member of the family in respect of a third party (but not in respect of another member of the family) shall be treated as possessed by that member to the extent that it is kept by him or used on behalf of any member of the family.

(4) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case—

- (a) the value of his holding in that company shall, notwithstanding regulation 29 (calculation of capital), be disregarded; and
- (b) he shall, subject to paragraph (5), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(5) For so long as the claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (4) shall be disregarded.

(6) Where a claimant is treated as possessing capital under any of paragraphs (1) to (4) the foregoing provisions of this Chapter shall apply for the purposes of calculating its amount as if it were actual capital which he does possess.

Capital jointly held

35. Except where a claimant possesses capital which is disregarded under regulation 34(4) (notional capital), where a claimant and one or more persons are beneficially entitled in possession to any capital asset they shall be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share.

Calculation of tariff income from capital

36.—(1) Where the claimant’s capital calculated in accordance with this Chapter exceeds £3,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £3,000 but not exceeding £6,000.

(2) Notwithstanding paragraph (1), where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly income of £1.

(3) For the purposes of paragraph (1), capital includes any income treated as capital under regulation 31 (income treated as capital).

CHAPTER VII

STUDENTS

Interpretation

37. In this Chapter, unless the context otherwise requires—

“a course of advanced education” means—

- (a) a full-time course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a diploma of higher education, a higher national diploma, a higher national diploma of the Business & Technician Education Council or the Scottish Vocational Education Council or a teaching qualification; or
- (b) any other full-time course which is a course of a standard above ordinary national diploma, a national diploma of the Business & Technician Education Council or the Scottish Vocational Education Council, a general certificate of education (advanced level), a Scottish certificate of education (higher grade) or a Scottish certificate of sixth year studies;

“contribution” means any contribution in respect of the income of any other person which a Minister of the Crown or an education authority takes into account in assessing the amount of the student’s grant and by which that amount is, as a consequence, reduced;

“course of study” means any full-time course of study or sandwich course whether or not a grant is made for attending it;

“covenant income” means the gross income payable to a student under a Deed of Covenant by a person whose income is, or is likely to be, taken into account in assessing the student’s grant or award;

“education authority” means a government department, a local education authority as defined in section 114(1) of the Education Act 1944⁽⁴⁸⁾ (interpretation), an education authority as defined in section 135(1) of the Education (Scotland) Act 1980⁽⁴⁹⁾ (interpretation), an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986⁽⁵⁰⁾, any body which is a research council for the purposes of

⁽⁴⁸⁾ 1944 c. 31, as amended by S.I. 1974/595 article 3(22) Schedule 1 Part I and S.I. 1977/293, article 4(1).

⁽⁴⁹⁾ 1980 c. 44.

⁽⁵⁰⁾ S.I. 1986/594 (NI 3).

the Science and Technology Act 1965⁽⁵¹⁾ or any analogous government department, authority, board or body of the Channel Islands, Isle of Man or any other country outside Great Britain; “grant” means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary;

“grant income” means—

- (a) any income by way of a grant;
- (b) any contribution which has been assessed whether or not it has been paid,

and any such contribution which is paid by way of a covenant shall be treated as part of the student’s grant income;

“period of study” means—

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course to the end,
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, the period beginning with the start of the course or, as the case may be, that year’s start and ending with either—
 - (i) the day before the start of the next year of the course in a case where the student’s grant is assessed at a rate appropriate to his studying throughout the year, or, if he does not have a grant, where it would have been assessed at such a rate had he had one; or
 - (ii) in any other case the day before the start of the normal summer vacation appropriate to his course;

“periods of experience” has the meaning prescribed in paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1987⁽⁵²⁾;

“sandwich course” has the meaning prescribed in paragraph 1(1) of Schedule 5 to the Education (Mandatory Awards) Regulations 1987;

“standard maintenance grant” means—

- (a) except where paragraph (b) applies, in the case of a student attending a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 1987 for such a student; and
- (b) in the case of a student residing at his parents' home, the amount specified in paragraph 3(2) thereof;
- (c) in any other case, the amount specified in paragraph 2(2) other than in sub-paragraph (a) or (b) thereof;

“student” means a person aged less than 19 who is attending a full-time course of advanced education or, as the case may be, a person aged 19 or over who is attending a full-time course of study at an educational establishment; and for the purposes of this definition—

- (a) a person who has started on such a course shall be treated as attending it throughout any period of term or vacation within it, until the end of the course or such earlier date as he abandons it or is dismissed from it;
- (b) a person on a sandwich course shall be treated as attending a full-time course of advanced education or, as the case may be, of study;

⁽⁵¹⁾ 1965 c. 4.

⁽⁵²⁾ S.I. 1987/1261.

“year” in relation to a course, means the period of 12 months beginning on 1st January, 1st April or 1st September according to whether the academic year of the course in question begins in the spring, the summer or the autumn respectively.

Calculation of grant income

38.—(1) The amount of a student’s grant income to be taken into account shall, subject to paragraph (2), be the whole of his grant income.

(2) There shall be disregarded from a student’s grant income any payment—

- (a) intended to meet tuition fees or examination fees;
- (b) intended to meet the cost of special equipment for a student on a course which began before 1st September 1986 in architecture, art and design, home economics, landscape architecture, medicine, music, ophthalmic optics, orthoptics, physical education, physiotherapy, radiography, occupational therapy, dental hygiene, dental therapy, remedial gymnastics, town and country planning and veterinary science or medicine;
- (c) intended to meet additional expenditure incurred by a disabled student in respect of his attendance on a course;
- (d) intended to meet additional expenditure connected with term time residential study away from the student’s educational establishment;
- (e) on account of the student maintaining a home at a place other than that at which he resides during his course;
- (f) intended to meet the cost of books and equipment (other than special equipment) or, if not so intended, an amount equal to £210 towards such costs;
- (g) intended to meet travel expenses incurred as a result of his attendance on the course.

(3) A student’s grant income shall be apportioned—

- (a) subject to paragraph (4), in a case where it is attributable to the period of study, equally between the weeks in that period;
- (b) in any other case, equally between the weeks in the period in respect of which it is payable.

(4) In the case of a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student’s grant income shall be apportioned equally between the remaining weeks in that period.

Calculation of covenant income where a contribution is assessed

39.—(1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account shall be the whole amount of his covenant income less, subject to paragraph (3), the amount of the contribution.

(2) The weekly amount of the student’s covenant income shall be determined—

- (a) by dividing the amount of income which falls to be taken into account under paragraph (1) by 52; and
- (b) by disregarding from the resulting amount, £5.

(3) For the purposes of paragraph (1), the contribution shall be treated as increased by the amount, if any, by which the amount excluded under regulation 38(2)(g) (calculation of grant income) falls short of the amount included in the standard maintenance grant to meet travel expenses.

Covenant income where no grant income or no contribution is assessed

40.—(1) Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows—

- (a) any sums intended for any expenditure specified in regulation 38(2)(a) to (e) (calculation of grant income), necessary as a result of his attendance on the course, shall be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded shall be apportioned equally between the weeks of the period of study and there shall be disregarded from the covenant income to be so apportioned the amount which would have been disregarded under regulation 38(2)(f) and (g) had the student been in receipt of the standard maintenance grant; and
- (c) the balance, if any, shall be divided by 52 and treated as weekly income of which £5 shall be disregarded.

(2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenant income shall be calculated in accordance with sub-paragraphs (a) to (c) of paragraph (1), except that—

- (a) the value of the standard maintenance grant shall be abated by the amount of his grant income less an amount equal to the amount of any sums disregarded under regulation 38(2) (a) to (e); and
- (b) the amount to be disregarded under paragraph (1)(b) shall be abated by an amount equal to the amount of any sums disregarded under regulation 38(2)(f) and (g).

Relationship with amounts to be disregarded under Schedule 2

41. No part of a student's covenant income or grant income shall be disregarded under paragraph 13 of Schedule 2 and any other income shall be disregarded thereunder only if, and to the extent that, the amount disregarded under regulation 39(2)(b) (calculation of covenant income where a contribution is assessed) or, as the case may be, 40(1)(c) (covenant income where no grant income or no contribution is assessed) is less than £5.

Other amounts to be disregarded

42. For the purposes of ascertaining income other than grant income and covenant income, any amounts intended for any expenditure specified in regulation 38(2) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under regulation 38(2), 39(3) and 40(1)(a) or (b) (calculation of grant income and covenant income) on like expenditure.

Disregard of contribution

43. Where the claimant or his partner is a student and the income of one has been taken into account for the purpose of assessing a contribution to the student's grant, an amount equal to the amount of the contribution shall be disregarded for the purpose of calculating the income of the one liable to make that contribution.

Disregard of tax refund

44. Any amount by way of a refund of tax deducted from a student's covenant income shall be disregarded in calculating the student's income or capital.

Disregard of changes occurring during summer vacation

45. In calculating a student's income there shall be disregarded any change in the standard maintenance grant occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study, from the date on which the change occurred to the end of that vacation.

PART V

CALCULATION OF ENTITLEMENT

Determination of appropriate maximum family credit

46.—(1) Subject to paragraphs (2) to (6) of this regulation, the appropriate maximum family credit shall be the aggregate of the following credits—

- (a) in respect of a claimant or, if he is a member of a married or unmarried couple, in respect of the couple, the credit specified in column (2) of Schedule 4 against paragraph 1 (adult);
- (b) in respect of any child or young person for whom the claimant or his partner is treated as responsible by virtue of regulation 7 (circumstances in which a person is treated as responsible, or not responsible, for another), the credit specified in column (2) of Schedule 4 against whichever description in either paragraph 2 or 3 of column (1) fits the child or young person concerned.

(2) Where a claimant or, as the case may be, the partner of a claimant is married polygamously to two or more members of the same household, the maximum amount shall include, in respect of every such member but the first, an additional credit which equals—

- (a) in the case of a person aged less than 18 years, the credit specified in column (2) of Schedule 4 against paragraph 3(a) in column (1); or
- (b) in any other case, the credit specified in column (2) of Schedule 4 against paragraph 3(b) in column (1).

(3) For the purposes of paragraph (2), a person shall not be treated as a member of the same household as someone to whom he is married polygamously if he would not be so treated in the case of a monogamous marriage.

(4) Where the capital of a child or young person, if calculated in accordance with Part IV (income and capital) in like manner as for the claimant, except where otherwise provided, would exceed £3,000, the credit in respect of that child or young person shall be nil.

(5) Where the income of a child or young person, other than income consisting of payments of maintenance whether under a court order or not, calculated in accordance with Part IV, exceeds the amount specified for that child or young person in Schedule 4, the credit in respect of that child or young person shall be nil.

(6) Where a child or young person is, for the purposes of regulation 8(2)(a) (membership of the same household), a patient or in residential accommodation on account of physical or mental handicap or physical or mental illness and has been so accommodated for the 52 weeks immediately before the date of claim, the credit in respect of that child or young person shall be nil.

Applicable amount of family credit

47. The applicable amount of family credit for the purposes of section 20(5)(a) of the Act (conditions of entitlement to family credit) shall be £51.45 per week.

Entitlement to family credit where income exceeds the applicable amount

48. The prescribed percentage for the purpose of section 21(3) of the Act (percentage of excess of income over applicable amount which is deducted from maximum family credit) shall be 70 per cent.

PART VI

CHANGES OF CIRCUMSTANCES

Death of claimant

49.—(1) Except as provided in paragraph (2), an award of family credit shall cease to have effect upon the death of the claimant.

(2) Where a claimant dies and is survived by a partner who was the claimant's partner at the date of claim, an award of family credit made in the claimant's favour shall have effect for its unexpired period as if originally made in favour of the partner.

Prevention of duplication of awards of family credit and income support

50. Where provision is made for the same child or young person in awards for overlapping periods, the first being an award of family credit and the second an award of either family credit or income support, and at the start of the period of overlap that child or young person is no longer a member of the household of the claimant under the first award, the first award shall terminate with effect from the start of the period of overlap.

Overlapping awards of family credit

51. An award of family credit which is made on review or appeal shall be treated as a relevant change of circumstances affecting any other award of family credit which it overlaps.

Signed by authority of the Secretary of State for Social Services.

20th November 1987

Nicholas Scott
Minister of State,
Department of Health and Social Security

SCHEDULE 1

Regulations 20(2) and 22(2)

SUMS TO BE DISREGARDED IN THE CALCULATION OF EARNINGS

1. Any earnings derived from employment which are payable in a country outside the United Kingdom where there is a prohibition against the transfer to the United Kingdom of those earnings.
2. Any earnings of a child or young person.
3. Where a payment of earnings is made in a currency other than sterling, any banking charge or commission payable in converting that payment to sterling.

SCHEDULE 2

Regulation 24(2)

SUMS TO BE DISREGARDED IN THE CALCULATION OF INCOME OTHER THAN EARNINGS

1. Any amount paid by way of tax on income which is taken into account under regulation 24 (calculation of income other than earnings).
2. Any payment in respect of any expenses incurred by a claimant who is—
 - (a) engaged by a charitable or voluntary body; or
 - (b) a volunteer,if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 26(4) (notional income).
3. Any housing benefit or income support.
4. Any mobility allowance.
5. Any concessionary payment made to compensate for the non-payment of—
 - (a) any payment specified in paragraph 4 or 7;
 - (b) income support.
6. Any mobility supplement or any payment intended to compensate for the non-payment of such a supplement.
7. Any payment which is—
 - (a) an attendance allowance under section 35 of the Social Security Act(53);
 - (b) an increase of disablement pension under sections 61 or 63 of that Act(54);
 - (c) a payment made under regulations made in exercise of the power conferred by section 159(3)(b) of that Act;
 - (d) an increase of allowance payable in respect of constant attendance under section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975(55);
 - (e) payable by virtue of articles 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(56) or any analogous payment; or
 - (f) a payment based on need for attendance which is paid as part of a war disablement pension.

(53) 1975 c. 14; section 35 was amended by the National Health Service Act 1977 (c. 49) Schedule 15 paragraph 63, and by the Social Security Act 1979 (c. 18) section 2 and by the Social Security Act 1980 (c. 30) Schedule 1 Part II paragraph 8.

(54) Subsections (3) and (4) of section 61 were added by the Social Security Act 1986 (c. 50) section 39 and Schedule 3 paragraph 6.

(55) 1975 c. 16.

(56) S.I. 1983/686, amended by S.I. 1983/1164 and 1984/1675.

8. Any payment to the claimant as holder of the Victoria Cross or of the George Cross or any analogous payment.

9. Any sum in respect of a course of study attended by a child or young person payable by virtue of regulations made under section 81 of the Education Act 1944**(57)** (assistance by means of scholarship or otherwise), or by virtue of section 2(1) of the Education Act 1962**(58)** (awards for courses of further education) or section 49 of the Education (Scotland) Act 1980**(59)** (power to assist persons to take advantage of educational facilities).

10. In the case of a student, any sums intended for any expenditure specified in paragraph (2) of regulation 38 (calculation of grant income) necessary as a result of his attendance on his course.

11. In the case of a claimant attending a training course provided under the Adult and Youth Training Programme established under section 2(1) of the Employment and Training Act 1973**(60)** or a course at an employment rehabilitation centre established under that section—

- (a) any travelling expenses reimbursed to the claimant;
- (b) if he receives an allowance under section 2(2)(d) of that Act such amount, if any, of that allowance expressed to be a living away from home allowance.

12. Any Job Start Allowance payable pursuant to arrangements made under section 2(1) of the Employment and Training Act 1973.

13. Subject to paragraph 29, £5 of any charitable payment or of any voluntary payment made or due to be made, whether or not so made, at regular intervals other than a payment which is made by a person for the maintenance of any member of his family or his former partner or of his children; and, for the purposes of this paragraph, where a number of such charitable or voluntary payments fall to be taken into account in any one week they shall be treated as though they were one such payment.

14. Subject to paragraph 29, £5 of any of the following, namely—

- (a) war disablement pension or war widow's pension or a payment made to compensate for the non-payment of such a pension;
- (b) a pension paid under the social security scheme of a country outside Great Britain and which either—
 - (i) is analogous to a war disablement pension; or
 - (ii) is paid to a war widow in respect of a person's death but is otherwise analogous to such a pension;
- (c) a pension paid under any special provision made by the law of the Federal Republic of Germany or any part of it, or of the Republic of Austria, to victims of National Socialist persecution.

15. Any child benefit under Part I of the Child Benefit Act 1975**(61)**.

16.—(1) Any income derived from capital to which the claimant is, or is treated under regulation 35 (capital jointly held) as, beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraph 1, 2, 4, 6 or 13 of Schedule 3.

(2) Income derived from capital disregarded under paragraph 2 or 4 of Schedule 3 but only to the extent of any mortgage repayments and payment of rates made in respect of the dwelling or premises in the period during which that income accrued.

(57) 1944 c. 31; section 81 was amended by S.I. 1984/490.

(58) 1962 c. 12; section 2(1) was substituted by section 19 of, and Schedule 5 to, the Education Act 1980 (c. 20).

(59) 1980 c. 44.

(60) 1973 c. 50; section 2 was amended by sections 9 and 11 of Schedule 2 Part II paragraph 9 and Schedule 3 of the Employment and Training Act 1981 (c. 57).

(61) 1975 c. 61.

17. Where a person receives income under an annuity purchased with a loan which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;
- (b) that the interest on the loan is payable by the person to whom it was made or by one of the annuitants;
- (c) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (d) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling; and
- (e) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid,

the amount, calculated on a weekly basis equal to—

- (i) where, or insofar as, section 26 of the Finance Act 1982⁽⁶²⁾ (deduction of tax from certain loan interest) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the basic rate for the year of assessment in which the payment of interest becomes due;
- (ii) in any other case the interest which is payable on the loan without deduction of such a sum.

18. Any payment made to the claimant by a member of his household as a contribution towards his living and accommodation costs except a payment to which paragraph 19 or regulation 21(2) or 24(3) (earnings of self-employed earners and calculation of income other than earnings) applies.

19. Where the claimant occupies a dwelling as his home which is also occupied by a person other than one to whom paragraph 18 refers or one who is provided with board and lodging accommodation and that person is contractually liable to make payments in respect of his occupation of the dwelling to the claimant—

- (a) £4 of any payment made by that person; and
- (b) a further £6.70, where that payment is inclusive of an amount for heating.

20. Any income in kind.

21. Any income which is payable in a country outside the United Kingdom where there is a prohibition against the transfer to the United Kingdom of that income.

22.—(1) Any payment made to the claimant in respect of a child or young person who is a member of his family—

- (a) in accordance with a scheme approved by the Secretary of State under section 50(4) of the Adoption Act 1958⁽⁶³⁾, or as the case may be, section 51 of the Adoption (Scotland) Act 1978⁽⁶⁴⁾ (schemes for payments of allowances to adopters);

⁽⁶²⁾ 1982 c. 39.

⁽⁶³⁾ 1958 (7—8 Eliz 2) c.5 section 50(4) was added by section 32 of the Children Act 1975 (c. 72).

⁽⁶⁴⁾ 1978 c. 28.

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(b) which is a payment made by a local authority in pursuance of section 34(6) or, as the case may be, section 50 of the Children Act 1975⁽⁶⁵⁾ (contributions to a custodian towards the cost of the accommodation and maintenance of a child),
to the extent specified in sub-paragraph (2).

(2) In the case of a child or young person—

- (a) to whom regulation 27(2) applies (capital in excess of £3,000), the whole payment;
- (b) to whom that regulation does not apply, so much of the weekly amount of the payment as exceeds the credit in respect of that child or young person under Schedule 4.

23. Any payment made by a local authority to the claimant with whom a person is boarded out by virtue of arrangements made under section 21(1)(a) of the Child Care Act 1980⁽⁶⁶⁾ or, as the case may be, section 12 of the Social Work (Scotland) Act 1968⁽⁶⁷⁾ or by a voluntary organisation under section 61 of the 1980 Act or by a care authority under regulation 9 of the Boarding Out and Fostering of Children (Scotland) Regulations 1985⁽⁶⁸⁾ (provision of accommodation and maintenance for children in care).

24. Any payment made by a health authority, local authority or voluntary organisation to the claimant in respect of a person who is not normally a member of the claimant's household but is temporarily in his care.

25. Any payment made under section 1 of the Child Care Act 1980 (duty of local authorities to promote welfare of children) or, as the case may be, section 12 of the Social Work (Scotland) Act 1968.

26. Any payment of income which under regulation 31 (income treated as capital) is to be treated as capital.

27. Any statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982 or statutory maternity pay under Part V of the Act where the claimant has not been in receipt of either for a continuous period of 13 weeks or more.

28. Any payment under paragraph 2 of Schedule 6 to the Act (pensioners' Christmas bonus).

29. The total of a claimant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under regulation 10(2) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulation 39(2)(b) (calculation of covenant income where a contribution assessed) and paragraphs 13 and 14, shall in no case exceed £5 per week.

30. Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

SCHEDULE 3

Regulation 29(2)

CAPITAL TO BE DISREGARDED

1. The dwelling, together with any garage, garden and outbuildings, normally occupied by the claimant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling

⁽⁶⁵⁾ 1975 c. 72, as amended by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).

⁽⁶⁶⁾ 1980 c. 5, amended by section 9, Schedule 2, paragraph 49 of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41).

⁽⁶⁷⁾ 1968 c. 49.

⁽⁶⁸⁾ S.I. 1985/1799.

is situated; but, notwithstanding regulation 10 (calculation of income and capital of members of claimant's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

2. Any premises acquired for occupation by the claimant which he intends to occupy within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises.

3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the claimant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

4. Any premises occupied in whole or in part by a partner or relative (that is to say any close relative, grandparent, grandchild, uncle, aunt, nephew or niece) of any member of the family, where that person is aged 60 or over or has been incapacitated for a continuous period of at least 13 weeks immediately preceding the date of the claim.

5. Any reversionary interest.

6. The assets of any business owned in whole or in part by the claimant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

7. Any sum attributable to the proceeds of sale of any asset of such a business which is re-invested or to be re-invested in the business within 13 weeks of the date of sale or such longer period as may be reasonable to allow for the re-investment.

8. Any arrears of, or any concessionary payment made to compensate for arrears due to non-payment of—

- (a) any payment specified in paragraphs 4, 6 or 7 of Schedule 2;
- (b) an income-related benefit or supplementary benefit under the Supplementary Benefits Act 1976⁽⁶⁹⁾, family income supplement under the Family Income Supplements Act 1970⁽⁷⁰⁾ or housing benefit under Part II of the Social Security and Housing Benefits Act 1982⁽⁷¹⁾,

but only for a period of 52 weeks from the date of the receipt of the arrears or of the concessionary payment.

9. Any sum—

- (a) paid to the claimant in consequence of damage to, or loss of, the home or any personal possession and intended for its repair or replacement; or
- (b) acquired by the claimant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvements to the home,

which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to enable the claimant to effect the repairs, replacement or improvements.

10. Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985⁽⁷²⁾ or section 338(1) of the Housing (Scotland) Act 1987⁽⁷³⁾ as a condition of occupying the home;

⁽⁶⁹⁾ 1976 c. 71.

⁽⁷⁰⁾ 1970 c. 55.

⁽⁷¹⁾ 1982 c. 24.

⁽⁷²⁾ 1985 c. 69.

⁽⁷³⁾ 1987 c. 26.

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- (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as is reasonable in the circumstances to complete the purchase.

11. Any personal possessions except those which have been acquired by the claimant with the intention of reducing his capital in order to secure entitlement to family credit or to increase the amount of that benefit.

12. The value of the right to receive any income under an annuity and the surrender value (if any) of such an annuity.

13.—(1) Where the funds of a trust are derived from a payment made in consequence of any personal injury, the value of the trust fund and the value of the right to receive any payment under that trust, for a period of 2 years or such longer period as is reasonable in the circumstances beginning—

- (a) if, at the date of the payment the claimant or his partner is in receipt of an income-related benefit, on that date;
- (b) in any other case, on the date on which an income-related benefit is first payable to the claimant or his partner after the date of that payment;

but, for the purposes of regulations 27(1) and (3) and 46(4) (modification in respect of children and young persons, and determination of appropriate maximum family credit) in calculating the capital of a child or young person there shall be no limit as to the period of disregard under this paragraph.

(2) For the purposes of sub-paragraph (1) any reference to an income-related benefit shall be construed as if it included a reference to family income supplement under the Family Income Supplements Act 1970 or supplementary benefit under the Supplementary Benefits Act 1976.

14. The value of the right to receive any income under a life interest or from a liferent.

15. The value of the right to receive any income which is disregarded under paragraph 1 of Schedule 1 or 21 of Schedule 2.

16. The surrender value of any policy of life insurance.

17. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

18. Any payment made under section 1 of the Child Care Act 1980 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 (duty of local authorities to promote welfare of children).

19. Any social fund payment.

20. Any refund of tax which falls to be deducted under section 26 of the Finance Act 1982⁽⁷⁴⁾ (deductions of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

21. Any capital which by virtue of regulation 25 (capital treated as income) is to be treated as income.

22. Where a payment of capital is made in currency other than sterling, any banking charge or commission payable in converting that payment to sterling.

(74) 1982 c. 39.

SCHEDULE 4

Regulation 46

DETERMINATION OF MAXIMUM FAMILY CREDIT:
ADULT, CHILD AND YOUNG PERSON CREDITS

<i>(1)Adult, child, young person</i>	<i>(2)Amount of credit</i>
1. Adult.	£32.10.
2. Child—	
(a) (a) aged less than 11 years;	(a) (a) £6.05;
(b) (b) aged not less than 11 but less than 16 years.	(b) (b) £11.40.
3. Young person—	
(a) (a) aged not less than 16 but less than 18 years;	(a) (a) £14.70;
(b) (b) aged not less than 18 but less than 19 years.	(b) (b) £21.35.

EXPLANATORY NOTE*(This note is not part of the Regulations)*

These Regulations provide for various matters which affect entitlement to family credit. Regulations 3 to 5 prescribe the circumstances in which a person is treated as being in Great Britain; and provide for 24 hours' work a week as a minimum requirement. Regulations 6 to 9 make provision in respect of children and young persons who are normally living with the claimant as members of the household.

Regulations 10 to 45 and Schedules 1, 2 and 3 are concerned with the calculation of income and capital: regulation 28 sets the capital limit at £6,000 and regulation 36 provides for tariff income on capital over £3,000 at the rate of £1 a week for every £250 excess capital.

Regulations 46 to 48 concern the computation of entitlement. Regulation 46 and Schedule 4 prescribe the maximum family credit: for the claimant (whether or not a couple) £32.10 and for each child or young person £6.05 (under 11), £11.40 (under 16), £14.70 (under 18) or £21.35 (under 19). Regulation 47 sets the applicable amount for family credit at £51.45 per week and regulation 48 fixes the percentage of income over £51.45 a week deductible from the maximum family credit at 70 per cent.

Regulations 49 to 51 provide for various situations, including the death of the claimant, which may affect an award of family credit.

These Regulations are made before the expiry of 12 months from the commencement of the provisions under which they are made: they are accordingly exempt, by section 61(5) of the Social Security Act 1986, from reference to the Social Security Advisory Committee and have not been so referred.

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