
STATUTORY RULES OF NORTHERN IRELAND

2004 No. 8

**Housing Renewal Grants (Reduction of
Grant) Regulations (Northern Ireland) 2004**

PART IV

INCOME AND CAPITAL

CHAPTER I

general

Income and capital of relevant person

17. Where a relevant person is a member of a family, the income and capital of any member of that family shall, except where otherwise provided, be treated as the income and capital of that person.

Determination of income and capital of members of relevant person's family and of a polygamous marriage

18.—(1) The income and capital of a relevant person's partner and, subject to paragraph (2) and to regulation 33 (modifications in respect of child and young person), the income of a child or young person which by virtue of regulation 17 is to be treated as income and capital of the relevant person shall be determined in accordance with the following provisions of this Part in like manner as for the relevant person; and any reference to the relevant person shall be construed for the purposes of this Part as if it were a reference to his partner or that child or young person.

(2) Regulations 26(2) and 28(2), so far as they relate to paragraphs 1 to 12 of Schedule 2 (sums to be disregarded in the determination of earnings), shall not apply to a child or young person.

(3) Where a relevant person or the partner of that person is married polygamously to two or more members of his household –

- (a) the relevant person 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 determined in accordance with the following provisions of this Part in like manner as for the relevant person or, as the case may be, as for any child or young person who is a member of his family.

CHAPTER II

income

Determination of income on a weekly basis

19.—(1) The income of a relevant person shall be determined on a weekly basis by aggregating –

- (a) his average weekly earnings from employment as an employed earner, determined in accordance with this Chapter and Chapter III,
- (b) his average weekly earnings from employment as a self-employed earner, determined in accordance with this Chapter and Chapter IV,
- (c) his average weekly income other than earnings, determined in accordance with this Chapter and Chapter V,
- (d) the weekly tariff income determined under regulation 41 (determination of tariff income from capital), and

by then deducting the average weekly relevant child care charge, determined in accordance with regulation 20 (treatment of child care charges) from the aggregated weekly income or, in a case where the conditions in paragraph (2) are met, from the aggregated weekly income plus whichever credit specified in sub-paragraph (b) of that paragraph is appropriate, up to a maximum deduction in respect of the relevant person's family of whichever of the sums specified in paragraph (3) applies in his case.

(2) The conditions of this paragraph are that –

- (a) the relevant person's average weekly earnings as mentioned in sub-paragraph (a) or (b) of paragraph (1) are less than the lower of either of his relevant child care charges or whichever of the deductions specified in paragraph (3) otherwise applies in his case; and
- (b) the relevant person or, if he is a member of a couple either the relevant person or his partner, is in receipt of either child tax credit or working tax credit.

(3) The maximum deduction for the purposes of paragraph (1) is –

- (a) where the relevant person's family includes only one child in respect of whom relevant child care charges are paid, £94·50 per week; and
- (b) where the relevant person's family includes more than one child in respect of whom relevant child care charges are paid, £140 per week.

(4) For the purposes of paragraph (1) "income" includes income to which regulations 31 (capital treated as income), 32 (notional income), 44 (determination of grant income) and 47 (treatment of student loans) refer.

Treatment of child care charges

20.—(1) This regulation applies where a relevant person has incurred relevant child care charges and –

- (a) is a lone parent and is engaged in remunerative work;
- (b) is a member of a couple both of whom are engaged in remunerative work; or
- (c) is a member of a couple where one member is engaged in remunerative work and the other member is incapacitated.

(2) Relevant child care charges shall be determined over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to care.

(3) For the purposes of paragraph (1)(c) the other member of a couple is incapacitated where –

- (a) the relevant person's applicable amount includes –
 - (i) disability premium; or
 - (ii) a higher pensioner premium by virtue of the satisfaction of paragraph 9(2)(b) of Schedule 1;

on account of the other member's incapacity;

- (b) the relevant person's applicable amount would include a disability premium or a higher pensioner premium on account of the other member's incapacity, but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations⁽¹⁾ made under section 167E of the 1992 Act⁽²⁾ (incapacity for work: disqualification, etc);
- (c) the relevant person (within the meaning of regulation 6) is or is treated as incapable of work, and has been so incapable or has been so treated as incapable of work in accordance with the provisions of, and regulations made under, Part XIA of the 1992 Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
- (d) there is payable in respect of him one or more of the following –
 - (i) short-term incapacity benefit at the higher rate or long-term incapacity benefit under paragraphs 2 and 2A of Part 1 of Schedule 4 to the 1992 Act⁽³⁾ (rates of benefits, etc.);
 - (ii) attendance allowance under section 64⁽⁴⁾ of that Act (entitlement to an attendance allowance);
 - (iii) severe disablement allowance under section 68 of that Act⁽⁵⁾ (severe disablement allowance: entitlement and rate);
 - (iv) disability living allowance under section 71⁽⁶⁾ of that Act (disability living allowance);
 - (v) increase of disablement pension under section 104 of that Act (increase where constant attendance needed);
 - (vi) a pension increase under a war pension scheme or an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under head (ii), (iv) or (v);
- (e) a pension or allowance to which head (ii), (iv), (v) or (vi) of subparagraph (d) refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient within the meaning of regulation 18(2) of the Housing Benefit (General) Regulations (Northern Ireland) 1987⁽⁷⁾ (patients);
- (f) sub-paragraph (d) or (e) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding statutory provision having effect in Great Britain⁽⁸⁾; or
- (g) he has an invalid carriage or other vehicle provided to him under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972⁽⁹⁾ (provision of vehicles for persons suffering from physical defect or disability) or provided by the Secretary of State

(1) See the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995 ([S.R. 1995 No. 41](#)) and the Social Security (Incapacity for Work) (Miscellaneous Amendment) Regulations (Northern Ireland) 1995 ([S.R. 1995 No. 149](#))

(2) Section 167E was inserted into the 1992 Act by Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 ([S.I. 1994/1898 \(N.I. 12\)](#))

(3) Paragraphs 2 and 2A were substituted for paragraph 2 by Article 4(2) of [S.I. 1994/1898 \(N.I. 12\)](#) and amended by Article 3(1) of, and Schedule 1 to, [S.R. 1996 No. 73](#)

(4) Section 64 was amended by Article 63(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 ([S.I. 1999/3147 \(N.I. 11\)](#))

(5) Section 68 was repealed by Article 76 and Part IV of Schedule 10 to [S.I. 1999/3147 \(N.I. 11\)](#) which was commenced, with savings, by Articles 2 and 4 of [S.R. 2000 No. 332](#) (c. 14); severe disablement allowance was abolished for new claimants from 6th April 2003

(6) Section 71 was amended by Article 64(1) of [S.I. 1999/3147 \(N.I. 11\)](#)

(7) [S.R. 1987 No. 461](#)

(8) [S.I. 1994/1924](#)

(9) [S.I. 1972/1265 \(N.I. 14\)](#)

under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977⁽¹⁰⁾ (provision of vehicles for those suffering disability) or under section 46 of the National Health Service (Scotland) Act 1978⁽¹¹⁾ (provision of vehicles for persons suffering from physical defect or disability).

(4) In this regulation –

“relevant child care charges” are those charges for care to which paragraphs (5) and (6) apply, and shall be calculated on a weekly basis in accordance with paragraph (2).

(5) This paragraph applies to charges paid by the relevant person for care which is provided –

- (a) in the case of any child of the relevant person’s family who is not disabled, in respect of the period beginning on that child’s date of birth and ending on the day preceding the first Monday in September following that child’s fifteenth birthday;
- (b) in the case of any child of the relevant person’s family who is disabled, in respect of the period beginning on that child’s date of birth and ending on the day preceding the first Monday in September following that child’s sixteenth birthday.

(6) This paragraph applies to charges paid for care which is provided in accordance with paragraph (7) but not paid –

- (a) in respect of the child’s compulsory education; or
- (b) by a relevant person to a partner or by a partner to a relevant person in respect of any child for whom either of any of them is responsible in accordance with regulation 9 (circumstances in which a person is to be treated as responsible or not responsible for another).

(7) The care to which paragraph (6) refers may be provided –

- (a) by persons registered under Article 118 of the Children (Northern Ireland) Order 1995⁽¹²⁾ (registration of childminders and persons providing day care);
- (b) out of school hours, by a school on school premises or by an education and library board or a Health and Social Services trust –
 - (i) for children who are not disabled in respect of the period beginning on, and including, their twelfth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday, or
 - (ii) for children who are disabled in respect of the period beginning on, and including, their twelfth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday;
- (c) by a child care scheme operating on Crown property where registration under Article 118 of the Children (Northern Ireland) Order 1995 is not required;
- (d) in schools or establishments to which Article 118 of the Children (Northern Ireland) Order 1995 does not apply by virtue of Article 121(1) to (3) of that Order; or
- (e) by a child care provider approved by an organisation accredited by the Secretary of State under the scheme established by the Tax Credit (New Category of Child Care Provider) Regulations 2002⁽¹³⁾.

(8) For the purposes of paragraphs (5) to (7) –

⁽¹⁰⁾ 1977 c. 49; section 5(2) was amended and subsection (2A) inserted by the Public Health Laboratory Service Act 1979 (c. 23), section 1 and subsection (2B) was inserted by section 9 of the Health and Social Security Act 1984 (c. 48)

⁽¹¹⁾ 1978 c. 29

⁽¹²⁾ S.I. 1995/755 (N.I. 2); to which there are amendments not relevant to these Regulations

⁽¹³⁾ S.I. 2002/1417

- (a) a person shall be treated as a child in respect of the period commencing on his sixteenth birthday and ending on the day preceding the first Monday in September following his sixteenth birthday; and
 - (b) a child is disabled if he is a child –
 - (i) in respect of whom disability living allowance is payable, or has ceased to be payable solely because he is a patient;
 - (ii) who is identified as blind in pursuance of arrangements under section 1(1) of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978⁽¹⁴⁾;
 - (iii) who ceased to be identified as blind under such arrangements within the 28 weeks immediately preceding the date of claim.
- (9) For the purposes of paragraph (1) a person on parental leave shall be treated as if engaged in remunerative work for the period specified in sub-paragraph (b) (“the relevant period”) provided that –
- (a) in the week before the period of leave began the person was in remunerative work;
 - (b) the relevant person incurred relevant child care charges in that week; and
 - (c) the person on leave is entitled to parental support.
- (10) For the purposes of paragraph (9) the relevant period shall begin on the day on which the person’s parental leave commences and shall end on –
- (a) the date that leave ends;
 - (b) if no tax credit is in payment on the date that entitlement to parental support ends, the date that entitlement ends; or
 - (c) if a tax credit is in payment on the date that entitlement to parental support ends, the date that entitlement to that award of tax credit ends,
- whichever shall occur first.
- (11) In paragraphs (9) and (10) –
- (a) “parental support” means –
 - (i) statutory maternity pay under section 160 of the 1992 Act;
 - (ii) statutory paternity pay under section 167ZA or section 167ZB⁽¹⁵⁾ of that Act;
 - (iii) statutory adoption pay under section 167ZL⁽¹⁶⁾ of that Act;
 - (iv) maternity allowance under section 35 of that Act, and
 - (v) income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support (General) Regulations (Northern Ireland) 1987⁽¹⁷⁾; and
 - (b) “tax credit” means –
 - (i) working tax credit; and
 - (ii) child tax credit.

⁽¹⁴⁾ 1978 c. 53

⁽¹⁵⁾ Sections 167ZA and 167ZB were inserted by Article 5 of the Employment (Northern Ireland) Order 2002 ([S.I. 2002/2836 \(N.I. 2\)](#))

⁽¹⁶⁾ Section 167ZL was inserted by Article 6 of [S.I. 2002/2836 \(N.I. 2\)](#)

⁽¹⁷⁾ [S.R. 1987 No. 459](#); paragraph 14B was inserted by regulation 2(5) of the Social Security (Paternity and Adoption Amendment) Regulations (Northern Ireland) 2002 ([S.R. 2002 No. 363](#)) and amended by regulation 2 and paragraph 19 of Schedule 1 to the Social Security (Working Tax Credit and Child Tax Credit Consequential Amendments) Regulations (Northern Ireland) 2003 ([S.R. 2003 No. 195](#)) and regulation 2(3) of the Social Security (Working Tax Credit and Child Tax Credit Consequential Amendments No. 3) Regulations (Northern Ireland) 2003 ([S.R. 2003 No. 338](#))

(12) Where paragraph (9) applies to a person on parental leave any child care charges in respect of the child to whom the parental leave relates shall not be treated as relevant child care charges for the purposes of this regulation and regulation 19.

Average weekly earnings of employed earners

21. Where the income of a relevant person consists of or includes earnings from employment as an employed earner, his average weekly earnings from such employment shall be determined by reference to his earnings from such employment over the period of 52 weeks immediately preceding the application or, where his earnings fluctuate, over such other lesser period immediately preceding the application as may enable his average weekly earnings to be determined more accurately.

Average weekly earnings of self-employed earners

22. Where the income of a relevant person consists of or includes earnings from employment as a self-employed earner, his average weekly earnings from such employment shall be determined by reference to his earnings from such employment, over the period of 52 weeks immediately preceding the application or, where his earnings from such employment fluctuate, over such other lesser period immediately preceding the application as may enable his average weekly earnings to be determined more accurately.

Average weekly income other than earnings

23. Any part of a relevant person's income which does not consist of earnings shall be determined by reference to such income over the period of 52 weeks immediately preceding the application or, where such income fluctuates, over such lesser period immediately preceding the application as may enable his average weekly income to be determined more accurately.

Determination of weekly income

24.—(1) For the purposes of regulations 21 (average weekly earnings of employed earners) and 23 (average weekly income other than earnings) where the period in respect of which a payment is made –

- (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 any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the quotient by 7.

(2) For the purposes of regulation 22 (average weekly earnings of self employed earners) the weekly amount shall be determined by dividing the relevant person's earnings during the assessment period by the number equal to the number of days in the assessment period and multiplying the quotient by 7.

CHAPTER III

employed earners

Earnings of employed earners

25.—(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 payment in lieu of remuneration except any periodic sum paid to a relevant person on account of the termination of his employment by reason of redundancy;
 - (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only insofar as it represents loss of income;
 - (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
 - (e) any payment by way of a retainer;
 - (f) any payment made by the relevant person's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the employer in respect of –
 - (i) travelling expenses incurred by the relevant person between his home and place of employment,
 - (ii) expenses incurred by the relevant person under arrangements made for the care of a member of his family owing to the relevant person's absence from home;
 - (g) any award of compensation made under Article 146(4) or 151(1) of the Employment Rights (Northern Ireland) Order 1996⁽¹⁸⁾ (remedies and compensation for unfair dismissal);
 - (h) any such sum as is referred to in section 112(3) of the 1992 Act (certain sums to be earnings for social security purposes);
 - (i) any statutory sick pay under Part XI of the 1992 Act or statutory maternity pay under Part XII of that Act or a corresponding payment under any statute of the Parliament of the United Kingdom extending solely to Great Britain;
 - (j) any payment made under the legislation of, or under any scheme operating in, the Republic of Ireland which is analogous to income to which sub-paragraphs (g) to (i) relate;
 - (k) any remuneration paid by or on behalf of an employer to the relevant person who for the time being is on parental leave or is absent from work because he is ill.
 - (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with regulation 18(22) to (25) of the Social Security (Contributions) Regulations (Northern Ireland) 1979⁽¹⁹⁾;
 - (m) any amount, where a relevant person qualifies for the national minimum wage under section 1 of the National Minimum Wage Act 1998⁽²⁰⁾, which under section 17 of that Act that person shall be taken to be entitled to be paid under his contract as additional remuneration in respect of any pay reference period falling within the 52 weeks immediately preceding the application.
- (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;
 - (c) any occupational pension.
- (3) Paragraph 2(a) shall not apply in respect of any non-cash voucher referred to in paragraph (1) (l).

⁽¹⁸⁾ S.I. 1996/1919 (N.I. 16); Article 146(4) was amended by paragraph 10 of Schedule 1 to the Employment Rights (Dispute Resolution) (Northern Ireland) Order 1998 (S.I. 1998/1256 (N.I. 8)) and paragraph 11 of Schedule 9 to the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (N.I. 9))

⁽¹⁹⁾ S.R. 1979 No. 186; paragraphs (22) to (25) were added by regulation 3(d) of S.R. 1999 No. 119

⁽²⁰⁾ 1998 c. 39

(4) In this regulation, “any pay reference period” means the period prescribed by the Secretary of State in regulations made under section 1(4) of the National Minimum Wage Act 1998.

Determination of net earnings of employed earners

26.—(1) For the purposes of regulation 21 (average weekly earnings of employed earners), the earnings of a relevant person derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings as determined under paragraph (3).

(2) There shall be disregarded from a relevant person’s net earnings, any sum, where applicable, specified in any of paragraphs 1 to 16 or 18 of Schedule 2.

(3) For the purposes of paragraph (1) net earnings shall be determined by taking into account the gross earnings of the relevant person 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 1992 Act;
- (b) one-half of any sum paid by the relevant person by way of a contribution towards an occupational pension scheme;
- (c) one-half of the amount calculated in accordance with paragraph (4) in respect of any qualifying contribution payable by the relevant person; and
- (d) where those earnings include a payment which is payable under any statutory provision having effect in Great Britain and which corresponds to statutory sick pay or statutory maternity pay, any amount deducted from those earnings by way of any contributions which are payable under any statutory provision having effect in Great Britain and which correspond to primary Class 1 contributions under the 1992 Act.

(4) The amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying contribution shall be determined –

- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
- (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.

(5) Where the relevant person is an employed earner in the Republic of Ireland the amounts to be deducted for income tax and primary Class 1 contributions under this regulation shall be such amounts as would have been deducted had the relevant person been employed in Northern Ireland.

(6) In this regulation “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.

CHAPTER IV

self-employed earners

Earnings of self-employed earners

27.—(1) Subject to paragraph (2), “earnings”, in the case of employment as a self-employed earner, means the gross income of the employment and shall include any allowance payable pursuant to provision or arrangements made by the Department of Employment and Learning⁽²¹⁾ under

(21) See [S.R. & O. \(N.I.\) 1964 No. 205](#), Article 3 for change in style of Ministry of Labour and National Insurance to Ministry of Health and Social Services; [S.R. & O. \(N.I.\) 1973 No. 504](#), Article 6 for transfer of functions from Ministry of Health

section 1(1) of the Employment and Training Act (Northern Ireland) 1950⁽²²⁾ or any equivalent allowance payable under Republic of Ireland legislation to the relevant person for the purpose of assisting him in carrying on his business, unless at the date of the application the allowance has been terminated.

(2) “Earnings” shall not include any payment to which paragraph 24 or 25 of Schedule 3 refers (payments in respect of a person accommodated with the relevant person under arrangements made by a Health and Social Services Board, Health and Social Services trust, training school or voluntary organisation and payments made to the relevant person by a Health and Social Services Board, Health and Social Services trust or voluntary organisation in respect of persons temporarily in the relevant person’s care) and also shall not include any sports award.

Determination of net profit of self-employed earners

28.—(1) For the purposes of regulation 22 (average weekly earnings of self-employed earners) the earnings of a relevant person 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 (Northern Ireland) 1975⁽²³⁾, his share of the net profit derived from that employment, less –
 - (i) an amount in respect of income tax and of social security contributions payable under the 1992 Act determined in accordance with regulation 29 (deduction of tax and contributions for self-employed earners), and
 - (ii) one half of the amount calculated in accordance with paragraph (12) in respect of any qualifying premium.

(2) There shall be disregarded from a relevant person’s net profit, any sum, where applicable, specified in any of paragraphs 1 to 16 or 18 of Schedule 2.

(3) For the purposes of paragraph (1)(a) the net profit of the employment shall, except where paragraph (9) applies, be determined 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 incurred in that period for the purposes of that employment;
- (b) an amount in respect of –
 - (i) income tax, and
 - (ii) social security contributions payable under the 1992 Act, determined in accordance with regulation 29 (deduction of tax and contributions for self-employed earners); and
- (c) one half of the amount calculated in accordance with paragraph (12) in respect of any qualifying premium.

(4) For the purposes of paragraph (1)(b) the net profit of the employment shall be determined by taking into account the earnings of the employment over the assessment period less, subject to

and Social Services to Department of Manpower Services; [S.I. 1982/846 \(N.I. 11\)](#), Article 3 for renaming the Department of Manpower Services the Department of Economic Development; [S.I. 1999/283 \(N.I. 1\)](#), Article 3(1)(c) for establishing the Department of Higher and Further Education, Training and Employment and [2001 c. 15 \(N.I.\)](#), section 1(1) for renaming the Department of Higher and Further Education, Training and Employment the Department for Employment and Learning

(22) [1950 c. 29 \(N.I.\)](#); section 1(1) was substituted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 ([S.I. 1988/1087 \(N.I. 10\)](#))

(23) [S.R. 1975 No. 108](#)

paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of the 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) any 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; and
- (g) any debts, except bad debts proved to be such, but this sub-paragraph shall not apply to any expenses incurred in the recovery of a debt.

(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) No deduction shall be made in respect of any expenses under paragraph (3)(a) or (4) where, given the nature and the amount of the expense, it has been unreasonably incurred.

(8) For 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 value added tax paid by the relevant person in respect of taxable supplies made to him, over any such tax received by him in respect of taxable supplies made by him, calculated with reference to 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 relevant person 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 1992 Act, determined in accordance with regulation 29 (deduction of tax and contributions for self-employed earners); and
- (b) one half of the amount calculated in accordance with paragraph (12) in respect of any qualifying premium.

(10) For the avoidance of doubt, where a relevant person is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed earner 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.

(11) In this regulation –

“qualifying premium” means any premium which at the date of application is payable periodically in respect of a retirement annuity contract or a personal pension scheme;

(12) The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying premium shall be determined –

- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;
- (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

(13) Where the relevant person is a self-employed earner in the Republic of Ireland the amounts to be deducted for income tax and contributions under this regulation shall be such amounts as, in the opinion of the Executive, would have been deducted had the relevant person been employed in Northern Ireland.

Deduction of tax and contributions for self-employed earners

29.—(1) The amount to be deducted in respect of income tax under regulation 28(1)(b)(i), (3)(b)(i) or (9)(a)(i) (determination of net profit of self-employed earners) shall be determined on the basis of the amount of chargeable income and as if that income were assessable to income tax at the lower rate or, as the case may be, the lower rate and the basic rate or the basic rate and higher rate of tax in the year of assessment in which the application was made less only the personal relief to which the relevant person is entitled under sections 257(1), (6) and (7) and 259 (1)(a) and (2) of the Income and Corporation Taxes Act 1988(**24**) (personal reliefs) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the lower rate and, if appropriate, the basic rate and higher rate of tax is to be applied and 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 28(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 11(1) or, as the case may be, (3) of the 1992 Act at the rate applicable at the date of application except where the relevant person’s chargeable income is less than the amount for the time being specified in subsection (4) of that section (small earnings exception) for the tax year in which the date of the application falls; but if the assessment period is less than a year, the amount specified for that tax year shall be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15(3) of that Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable at the date of the application on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year in which the date of the application falls; but, if the assessment period is less than a year, those limits shall be reduced pro rata.

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

- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (3)(a) or, as the case may be, (4) of regulation 28;
- (b) in the case of employment as a child minder, one third of the earnings of that employment.

(24) 1988 c. 1; section 257 was substituted by section 33 of the Finance Act 1988 (c. 39) and section 259 was amended by sections 30 and 35 of, and paragraphs 1 and 5 of Schedule 3 to, 1988 c. 39

CHAPTER V

other income

Determination of income other than earnings

30.—(1) For the purposes of regulation 23 (average weekly income other than earnings), the income of a relevant person which does not consist of earnings to be taken into account shall, subject to paragraphs (2) and (3), be his gross income and any capital treated as income under regulations 31 (capital treated as income) or 33 (modifications in respect of child and young person).

(2) There shall be disregarded from the determination of a relevant person's gross income under paragraph (1) any sum, where applicable, specified in Schedule 3.

(3) Where the payment of any benefit under the 1992 Act 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.

(4) For the avoidance of doubt there shall be included as income to be taken into account under paragraph (1) any payment to which regulation 25(2) applies (payments which are not earnings).

Capital treated as income

31. The following shall be treated as income –

- (a) any payment received under an annuity; and
- (b) any payment made in consequence of any personal injury to a relevant person pursuant to any agreement or court order, where such payments are to be made, wholly or partly, by way of periodical payments.

Notional income

32.—(1) A relevant person shall be treated as possessing income of which he has deprived himself for the purpose of increasing the amount of grant.

(2) Except in the case of –

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;
- (c) a personal pension scheme or retirement annuity contract where the relevant person is aged under 60, or
- (d) any sum to which paragraph 39, 40 or 41 of Schedule 4 refers,

any income which would have become available to the relevant person upon application being made, but which has not been acquired by him, shall be treated as possessed by him but only from the date on which it could be expected to have been acquired had an application been made.

(3) Where a person, aged not less than 60, is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, and –

- (a) in the case of a personal pension scheme, he fails to purchase an annuity with the funds available in that scheme where –
 - (i) he defers, in whole or in part, the payment of any income which would have been payable to him by his pension fund holder;
 - (ii) he fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid; or

(iii) income withdrawal is not available to him under that scheme; or

(b) in the case of a retirement annuity contract, he fails to purchase an annuity with the funds available under that contract,

the amount of any income foregone shall be treated as possessed by him, but only from the date on which it could be expected to be acquired were an application for it to be made.

(4) The amount of any income foregone in a case to which either paragraph (3)(a)(i) or (ii) applies shall be the maximum amount of income which may be withdrawn from the fund and may be determined taking account of information provided by the pension fund holder in accordance with paragraph (7).

(5) The amount of any income foregone in a case to which either paragraph (3)(a)(iii) or subparagraph (3)(b) applies shall be the income that the relevant person could have received without purchasing an annuity had the funds held under the relevant personal pension scheme or retirement annuity contract been held under a personal pension scheme where income withdrawal was available, and may be determined taking account of information provided by the pension fund holder in accordance with paragraph (7).

(6) In the case of an application to which Article 61 or 62 of the Order applies, where a relevant person or any partner is aged not less than 60 and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, he shall where the Executive so requires furnish the following information –

- (a) the name and address of the pension fund holder;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme or retirement annuity contract to be identified.

(7) In the case of an application to which Article 61 or 62 of the Order applies, where the pension fund holder receives from the Executive a request for details concerning a personal pension scheme or retirement annuity contract relating to a person or any partner to whom paragraph (6) refers, the pension fund holder shall provide the Executive with any information to which paragraph (8) refers.

(8) The information to which this paragraph refers is –

- (a) where the purchase of an annuity under a personal pension scheme has been deferred, the amount of any income which is being withdrawn from the personal pension scheme;
- (b) in the case of –
 - (i) a personal pension scheme where income withdrawal is available, the maximum amount of income which may be withdrawn from the scheme; or
 - (ii) a personal pension scheme where income withdrawal is not available, or a retirement annuity contract, the maximum amount of income which might be withdrawn from the fund if the fund were held under a personal pension scheme where income withdrawal was available,

calculated by or on behalf of the pension fund holder by means of tables prepared from time to time by the Government Actuary which are appropriate for this purpose.

(9) Any payment of income, other than any of the payments referred to in paragraph (10), made –

- (a) to a third party in respect of a single relevant person or a member of his family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension or is a pension or other periodical payment made under a personal pension scheme, be treated as possessed by that single relevant person or, as the case may be, by that member;
- (b) to a third party in respect of a relevant person being a single person or in respect of a member of the family (but not a member of the third party's family) shall, where it is not

- a payment referred to in sub-paragraph (a), be treated as possessed by that single person or by that member to the extent that it is used for food, ordinary clothing or footwear, household fuel, eligible rates or rent to which regulation 9 or 10 of the Housing Benefit (General) Regulations (Northern Ireland) 1987⁽²⁵⁾ refers, or both, of that single person or, as the case may be, of any member of that family;
- (c) to a relevant person being a single person or 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 single person or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.
- (10) The payments for the purposes of the exclusion in paragraph (9) are any payment of income –
- (a) made under the Macfarlane Trusts, the Fund, the Eileen Trust or the Independent Living Funds;
 - (b) made pursuant to section 19(1)(a) of the Coal Industry Act 1994⁽²⁶⁾ (concessionary coal);
 - (c) made pursuant to section 1 of the Employment and Training Act (Northern Ireland) 1950⁽²⁷⁾ in respect of a person's participation –
 - (i) in an employment programme specified under regulation 75(1)(a)(ii)⁽²⁸⁾ of the Jobseeker's Allowance Regulations;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in a qualifying course within the meaning specified in regulation 17A(7)⁽²⁹⁾ of those Regulations; or
 - (iv) in the Preparation for Employment Programme or the Preparation for Employment Programme for 50 plus;
 - (d) made under an occupational pension scheme or in respect of a pension or other periodical payment made under a personal pension scheme where –
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980⁽³⁰⁾;
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any income apart from that payment.
- (11) Subject to paragraph (12), where –
- (a) a relevant person 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;

(25) S.R. 1987 No. 461; the relevant amending regulations are S.R. 1988 No. 424, S.R. 1990 No. 297, S.R. 1990 No. 442, S.R. 1993 No. 145, S.R. 1993 No. 149 and S.R. 1996 No. 111

(26) 1994 c. 21

(27) 1950 c. 29 (N.I.); section 1(1) was substituted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and section 1(2) and (3) was substituted by Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8))

(28) Regulation 75 was substituted by regulation 8 of S.R. 1997 No. 541 and amended by S.R. 1998 No. 182, S.R. 2000 No. 197 and S.R. 2001 No. 151

(29) Regulation 17A was inserted by regulation 4 of S.R. 1998 No. 198 and amended by S.R. 1998 No. 418 and S.R. 1999 No. 467

(30) 1980 c. 46

the relevant person shall be treated as possessing such earnings (if any) as is reasonable for that employment unless the relevant person satisfies the Executive that the means of that person are insufficient for him to pay or pay more for the service.

(12) Paragraph (11) shall not apply –

- (a) to a relevant person who is engaged by a charitable or voluntary organisation or is a volunteer if the Executive is satisfied that it is reasonable for him in any of those cases to provide his services free of charge; or
- (b) to a service performed in connection with the relevant person's participation –
 - (i) in an employment or training programme in accordance with regulation 19(1)(p) of the Jobseeker's Allowance Regulations, other than where the service is performed in connection with the claimant's participation in the Preparation for Employment Programme or the Preparation for Employment Programme for 50 plus; or
 - (ii) the relevant person's or the relevant person's partner's participation in an employment or training programme as defined in regulation 19(3) of the Jobseeker's Allowance Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme.

(13) Where a relevant person is treated as possessing any income under any of paragraphs (1) to (9), the foregoing provisions of this Part shall apply for the purposes of determining the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(14) Where a relevant person is treated as possessing any earnings under paragraph (11) the foregoing provisions of this Part shall apply for the purposes of determining 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 26 (determination of net earnings of employed earners) shall not apply and his net earnings shall be determined 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 determined by applying to those earnings the lower rate or, as the case may be, the lower rate and the basic rate or the basic rate and higher rate of tax in the year of assessment in which the application was made less only the personal relief to which the relevant person is entitled under sections 257(1), (6) and (7) and 259(1)(a) and (2) of the Income and Corporation Taxes Act 1988 (personal reliefs) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the lower rate and, if appropriate, the basic rate and higher rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be determined on a pro-rata basis;
 - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the 1992 Act in respect of those earnings if –
 - (i) those earnings were actual earnings; and
 - (ii) the rate of any primary percentage applicable to those earnings were the rate applicable at the date of application; and
 - (c) one-half of any sum payable by the relevant person by way of a contribution towards an occupational or personal pension scheme.
- (15) In paragraph (9) –
- (a) "rates or rent" means eligible rates or rent to which regulations 9 or 10, as the case may be, of the Housing Benefit (General) Regulations (Northern Ireland) 1987 refer, less any

deductions in respect of non-dependants which fall to be made under regulation 63(31) (non-dependant deductions) of those regulations;

- (b) “ordinary clothing or footwear” means clothing or footwear for normal daily use but does not include school uniforms, or clothing or footwear used solely for sporting activities.

(16) Where the relevant person is an employed earner in the Republic of Ireland the amounts to be deducted for income tax and primary, Class 1 contributions under this regulation shall be such amounts as would have been deducted had the relevant person been employed in Northern Ireland.

Modifications in respect of child and young person

33.—(1) Where the income of a child or young person, other than income consisting of any maintenance payment whether under a court order or not, determined in accordance with Chapters I to V of this Part exceeds the amount included under Schedule 1 in the determination of the relevant person’s applicable amount for that child or young person by way of the personal allowance and any disabled child premium and any enhanced disability premium the excess shall not be treated as income of the relevant person.

(2) Where the capital of a child or young person, if determined in accordance with Chapter VI in like manner as for the relevant person, except as provided in paragraph (5), would exceed £6,000, any income of that child or young person, other than income consisting of any maintenance payment whether under a court order or not, shall not be treated as income of the relevant person.

(3) In determining the net earnings or net profit of a child or young person there shall be disregarded (in addition to any sum which falls to be disregarded under paragraphs 13 and 14 of Schedule 2) any sum specified in paragraphs 15 and 16 of that Schedule.

(4) Any income of a child or young person which is to be disregarded under Schedule 3 shall be disregarded in such manner as to produce the result most favourable to the relevant person.

(5) There shall be treated as income any capital of a child or young person payable to him by instalments, one or more of which is outstanding at the date of the application, where the instalment or aggregate of all the instalments outstanding at that date, taken together with the amount of that child’s or young person’s other capital calculated in accordance with Chapter VI in like manner as for the relevant person, would exceed £6,000.

CHAPTER VI

capital

Determination of capital

34.—(1) The capital of a relevant person to be taken into account shall, subject to paragraph (2), be the whole of his capital determined in accordance with this Part and any income treated as capital under regulation 36 (income treated as capital).

(2) There shall be disregarded from the determination of a relevant person’s capital under paragraph (1), any capital, where applicable, specified in Schedule 4.

Disregard of capital of child or young person

35. The capital of a child or young person who is a member of the relevant person’s family shall not be treated as capital of the relevant person.

(31) Regulation 63 was amended by S.R. 1989 No. 125, S.R. 1990 Nos. 136 and 345, S.R. 1991 Nos. 47 and 79, S.R. 1992 Nos. 404 and 549, S.R. 1993 Nos. 195 and 233 and S.R. 1994 No. 81

Income treated as capital

36.—(1) Any bounty derived from employment to which paragraph 6 of Schedule 2 applies and paid at intervals of at least one year shall be treated as capital.

(2) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to –

- (a) income tax under Schedule D or E;
- (b) income tax under the legislation of the Republic of Ireland which is analogous to income tax under Schedule D or E,

shall be treated as capital.

(3) Any holiday pay which is not earnings under regulation 25(1)(d) (earnings of employed earners) shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraphs 1, 2, 3, 5, 8, 14, 25 or 26 of Schedule 4, any income derived from capital over the period of 52 weeks immediately preceding the application shall be treated as capital but only from the date it is normally due to be credited to the relevant person's account.

(5) In the case of employment as an employed earner, any advance of earnings or any loan made by the relevant person's employer shall be treated as capital except insofar as the advance or loan is spent; and thereupon the advance or loan, so far as it is spent, shall not be treated as income.

(6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Independent Living (Extension) Fund, the Independent Living (1993) Fund or the Independent Living Fund, shall be treated as capital.

Determination of capital in the United Kingdom

37. Capital which a relevant person possesses in the United Kingdom shall be determined –

- (a) except in a case to which 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 encumbrance secured on it;
- (b) in the case of an Ulster or National Savings Certificate –
 - (i) if purchased from an issue the sale of which ceased before 1st July last preceding the date of the application, 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.

Determination of capital outside the United Kingdom

38. Capital which a relevant person possesses in a country outside the United Kingdom shall be determined –

- (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 encumbrance secured on it.

Notional capital

39.—(1) A relevant person shall be treated as possessing capital of which he has deprived himself for the purpose of increasing the amount of grant.

(2) Except in the case of –

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 4;
- (d) a personal pension scheme or retirement annuity contract, or
- (e) any sum to which paragraph 39, 40 or 41 of Schedule 4 refers,

any capital which would have become available to the relevant person upon application being made, but which has not been acquired by him, shall be treated as possessed by him but only from the date on which it could be expected to have been acquired had an application been made.

(3) Any payment of capital, other than any of the payments referred to in paragraph (4), made –

- (a) to a third party in respect of a single relevant person or a member of his family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension or is a pension or other periodical payment made under a personal pension scheme, be treated as possessed by that single relevant person or, as the case may be, by that member;
- (b) to a third party in respect of a single relevant person or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single person or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, eligible rates or rent to which regulation 9 or 10 of the Housing Benefit (General) Regulations (Northern Ireland) 1987 refers, or both, of that single person or, as the case may be, of any member of that family;
- (c) to a single relevant person or 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 single person or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) The payments for the purposes of the exclusion in paragraph (3) are any payment of capital –

- (a) made under any of the Macfarlane Trusts, the Fund, the Eileen Trust or the Independent Living Funds;
- (b) made pursuant to section 1 of the Employment and Training Act (Northern Ireland) 1950⁽³²⁾ in respect of a person's participation –
 - (i) in an employment programme specified under section 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or

⁽³²⁾ 1950 c. 29 (N.I.); section 1(1) was substituted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and section 1(2) and (3) was substituted by Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8))

- (iv) in the Preparation for Employment Programme or the Preparation for Employment Programme for 50 plus;
- (c) made under an occupational pension scheme or in respect of a pension or other periodical payment made under a personal pension scheme where –
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any income apart from that payment.
- (5) Where a relevant person 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 may 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 34 (determination of capital), be disregarded; and
 - (b) he shall, subject to paragraph (6), 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 the company and the foregoing provisions of this Chapter shall apply for the purposes of determining that amount as if it were actual capital which he does possess.
- (6) For so long as the relevant person undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (5) shall be disregarded.
- (7) Where a relevant person is treated as possessing capital under any of paragraphs (1) to (3) the foregoing provisions of the Chapter shall apply for the purposes of determining its amount as if it were actual capital which he does possess.
- (8) In paragraph (3) –
 - (a) “rates or rent” means eligible rates or rent to which regulations 9 or 10, as the case may be, of the Housing Benefit (General) Regulations (Northern Ireland) 1987 refer, less any deductions in respect of, non dependants which fall to be made under regulation 63 (non-dependant deductions) of those Regulations;
 - (b) “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.

Capital jointly held

40. Except where a relevant person possesses capital which is disregarded under regulation 39(5) (notional capital) where a relevant person 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 in the asset in an equal share and the preceding provisions of this Chapter shall apply for the purposes of calculating the amount of capital which the relevant person is treated as possessing as if it were actual capital which the relevant person does possess.

Determination of tariff income from capital

41.—(1) Where the relevant person's capital determined in accordance with this Part exceeds £6,000 it shall be treated as equivalent to a weekly tariff income of –

- (a) where the relevant person is aged under 60, £1 for each complete £250 in excess of £6,000; and
 - (b) where the relevant person is aged 60 or over, £1 for each complete £500 in excess of £6,000.
- (2) Notwithstanding paragraph (1) where any part of the excess is not a complete £250 or £500, as the case may be, that part shall be treated as equivalent to a weekly tariff income of £1.
- (3) For the purposes of paragraph (1), capital includes any income treated as capital under regulation 36 (income treated as capital).