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STATUTORY INSTRUMENTS

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**1991 No. 2887**

**The Disability Working Allowance (General) Regulations 1991**

**PART VI**

**CALCULATION OF ENTITLEMENT**

**Determination of appropriate maximum disability working allowance**

**51.**—(1) Subject to paragraphs (2) to (7), the appropriate maximum disability working allowance shall be the aggregate of the following allowances—

- (a) in respect of a single claimant, the allowance specified in column (2) of Schedule 5 at paragraph 1;
- (b) in respect of a claimant who is a member of a married or unmarried couple, or who is a lone parent who is treated as responsible for a child or young person by virtue of regulation 9 (circumstances in which a person is treated as responsible or not responsible for another), the allowance specified in column (2) of Schedule 5 at paragraph 2;
- (c) in respect of any child or young person for whom the claimant or his partner is treated as responsible by virtue of regulation 9 (circumstances in which a person is treated as responsible or not responsible for another), the allowance specified in column (2) of Schedule 5 at whichever description in paragraph 3 or 4 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 allowance which equals—

- (a) in the case of a person aged less than 18 years, the allowance specified in column (2) of Schedule 5 at paragraph 4(a) in column (1); or
- (b) in any other case, the allowance specified in column (2) of Schedule 5 at paragraph 4(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 V (income and capital) in like manner as for the claimant, except where otherwise provided, would exceed £3,000, the allowance in respect of that child or young person shall be nil.

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

(6) Where a child or young person is, for the purposes of regulation 10(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 allowance in respect of that child or young person shall be nil.

(7) For the purposes of this regulation the amount of any disability working allowance and the age of any child or young person shall be determined by reference to the allowance specified in Schedule 5 and the age of the child or young person at the date on which the period under section 20(6F)(1) of the Act (period of award) begins.

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(1) Subsections (6A) to (6F) were inserted by section 6(4) of the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21).