STATUTORY INSTRUMENTS

1992 No. 1814

The Council Tax Benefit (General) Regulations 1992

PART IV

Income and Capital

CHAPTER II

Income

Calculation of income on a weekly basis

13.—(1) Subject to regulation 18 (disregard of changes in tax, contributions etc), for the purposes of section 131(5) of the Contributions and Benefits Act 1992 (conditions of entitlement to council tax benefit) the income of a claimant shall be calculated on a weekly basis—

(a) by estimating the amount which is likely to be his average weekly income over the benefit period in accordance with this Chapter and Chapters III to V of this Part and Part V; and

(b) by adding to that amount the weekly income calculated under regulation 37 (calculation of tariff income from capital).

(2) For the purposes of paragraph (1) "income" includes capital treated as income under regulation 25 (capital treated as income) and income which a claimant is treated as possessing under regulation 26 (notional income).

Average weekly earnings of employed earners

14.—(1) Where a claimant's income consists of earnings from employment as an employed earner his average weekly earnings shall be estimated by reference to his earnings from that employment—

(a) over a period immediately preceding the benefit week in which the claim is made or treated as made 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, over such other period preceding the benefit week in which the claim is made or treated as made may, in any particular case, enable his average weekly earnings over the benefit period to be estimated more accurately.

(2) Where the claimant has been in 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 and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings shall be estimated by reference to those earnings;

(b) in any other case, the appropriate authority shall require the claimant's employer to furnish an estimate of the claimant's likely weekly earnings over such period as the appropriate authority may require and the claimant's average weekly earnings shall be estimated by reference to that estimate.

(3) Where the amount of a claimant's earnings changes during a benefit period the appropriate authority shall estimate his average weekly earnings by reference to his likely earnings from the employment over the remainder of the benefit period.

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

Average weekly earnings of self-employed earners

15.—(1) Where a claimant's income consists of earnings from employment as a selfemployed earner his average weekly earnings shall be estimated by reference to his earnings from that employment over such period as is appropriate in order that his average weekly earnings over the benefit period may be estimated accurately but the length of the period shall not in any case exceed 52 weeks.

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

Average weekly income other than earnings

16.—(1) A claimant's income which does not consist of earnings shall, except where paragraph (2) applies, be estimated over such period as is appropriate in order that his average weekly income over the benefit period may be estimated accurately but the length of the period shall not in any case exceed 52 weeks; and nothing in this paragraph shall authorise an authority to disregard any such income other than that specified in Schedule 4.

(2) The period over which any benefit under the Contributions and Benefits Act 1992 is to be taken into account shall be the period in respect of which that benefit is payable.

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

Calculation of weekly income

17. For the purposes of regulations 14 to 16 (average weekly income), 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.

Disregard of changes in tax, contributions etc

18. In calculating the claimant's income the appropriate authority may disregard any legislative change—

(a) in the basic or other rates of income tax;

(b) in the amount of any personal tax relief;

(c) in the rates of social security contributions payable under the Contributions and Benefits Act 1992 or in the lower earnings limit or weekly earnings figures for Class 1 contributions under that Act;

(d) in the amount of tax payable as a result of an increase in the weekly rate of Category A, B, C or D retirement pension or any addition thereto or any graduated pension payable under that Act,

for a period not exceeding 30 benefit weeks beginning with the benefit week immediately following the date from which the change is effective.