
STATUTORY INSTRUMENTS

1994 No. 527

SOCIAL SECURITY

**The Income-related Benefits Schemes
(Miscellaneous Amendments) Regulations 1994**

<i>Made</i>	- - - -	<i>3rd March 1994</i>
		<i>10th March 1994</i>
		<i>Coming in to force</i>
<i>Laid before Parliament</i>		<i>in accordance with</i>
		<i>regulation 1(1)</i>

The Secretary of State for Social Security, in exercise of powers conferred on him by sections 123(1), 124(1)(d)(i), 135(1), 136(3), (4), and (5)(a) and (b), 137(1) and 175(1) to (5) of the Social Security Contributions and Benefits Act 1992(1), and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(2), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1994 and shall come into force—

- (a) for the purposes of this regulation and regulations 7 and 8(1) and (2), on 31st March 1994;
- (b) for the purposes of regulations 2 to 6, 8(3) and (4) and 9, on 11th April 1994;
- (c) for the purposes of regulations 10 to 28, on 12th April 1994.

(2) Regulations 7 and 8(1) and (2) of these Regulations shall have effect in relation to any particular claimant at the beginning of the first benefit week to commence for that claimant on or after 31st March 1994 which applies in his case.

(3) Regulations 2 to 6, 8(3) and (4) and 9 of these Regulations shall have effect in relation to any particular claimant at the beginning of the first benefit week to commence for that claimant on or after 11th April 1994 which applies in his case.

(4) For the purposes of paragraphs (2) and (3) the expressions “claimant” and “benefit week” have the same meanings as in the Income Support Regulations.

(5) Regulations 10 to 28 of these Regulations shall have effect in relation to any particular claimant—

(1) 1992 c. 4; section 137(1) is an interpretation provision and is cited because of the meaning assigned to the word “prescribed”.
(2) See the Social Security Administration Act 1992 (c. 5), section 173(1)(b).

- (a) except where sub-paragraph (b) applies, on 12th April 1994, or
 - (b) where a claimant has an award of family credit or disability working allowance which is current on 11th April 1994, on the day following the expiration of that award.
- (6) In these Regulations—
- “the Disability Working Allowance Regulations” means the Disability Working Allowance (General) Regulations 1991(3);
 - “the Family Credit Regulations” means the Family Credit (General) Regulations 1987(4);
 - “the Income Support Regulations” means the Income Support (General) Regulations 1987(5).

Amendment of regulation 19 of the Income Support Regulations

2.—(1) Regulation 19 of the Income Support Regulations (applicable amounts for persons in residential care and nursing homes) shall be amended in accordance with the following provisions of this regulation.

- (2) In paragraph (1ZD)(6) for the word “property” there shall be substituted the word “home”.
- (3) After paragraph (1ZL)(7) there shall be inserted the following paragraph—
 - “(1ZM) Where a person is treated in accordance with paragraph (1ZK) as having a preserved right, paragraph (1ZG) shall apply to that person as if he had acquired a preserved right under paragraph (1ZB).”.

Amendment of regulation 21 of the Income Support Regulations

3. In regulation 21(1) of the Income Support Regulations (special cases)(8) for the words “except where otherwise provided” there shall be substituted the words “except as provided in regulation 44(1) (modifications in respect of children and young persons)”.

Amendment of regulation 42 of the Income Support Regulations

4.—(1) Regulation 42 of the Income Support Regulations (notional income)(9) shall be amended in accordance with the following provisions of this regulation.

- (2) In paragraph (4)(a)(ii)—
 - (a) after the words “housing benefit is payable,” there shall be inserted the word “or”;
 - (b) the words from “or accommodation charge” to “nursing homes)” shall be omitted.
- (3) After paragraph (4) there shall be inserted the following paragraph—
 - “(4A) Where the claimant lives in a residential care home or a nursing home, or is temporarily absent from such a home, any payment made by a person other than the claimant or a member of his family in respect of some or all of the cost of maintaining the claimant or a member of his family in that home shall be treated as possessed by the claimant or by that member of his family.”
- (4) In paragraph (8) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

(3) S.I.1991/2887.

(4) S.I.1987/1973.

(5) S.I.1987/1967.

(6) Paragraphs (1ZB) to (1ZJ) were inserted by S.I.1992/3147.

(7) Paragraphs (1ZK) and (1ZL) were inserted by S.I.1993/2119.

(8) Relevant amending instrument is S.I.1990/2324.

(9) Relevant amending instruments are S.I.1988/1445, 1989/534, 1990/127, 1991/1175 and 1559, 1992/1101, 1993/315, 963 and 1249.

- “(b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages in accordance with section 8(1) (a) and (b) of that Act; and”.

Amendment of regulation 66 of the Income Support Regulations

5. In regulation 66(1) of the Income Support Regulations (certain amounts to be disregarded in respect of students' income)—

- (a) for the words “other than grant income and covenant income” there shall be substituted the words “other than grant income, covenant income and loans treated as income in accordance with regulation 66A”(10);
- (b) after the words “sums disregarded under regulation 62(2)” there shall be inserted the words “and (2A)”(11).

Amendment of regulation 71 of the Income Support Regulations

6. In regulation 71(1) of the Income Support Regulations (applicable amounts in urgent cases)(12) for the words “except where otherwise provided” in each place where they occur there shall be substituted the words “except as provided in regulation 44(1) (modifications in respect of children and young person)”.

Amendment of Schedule 1 to the Income Support Regulations

7. In Schedule 1 to the Income Support Regulations (persons not required to be available for employment) for paragraph 5 (persons incapable of work)(13) there shall be substituted the following paragraph—

- “5. A person who—
- (a) is entitled to sickness benefit or invalidity pension under Part II of the Contributions and Benefits Act, or severe disablement allowance under Part III of that Act, or is in receipt of statutory sick pay within the meaning of Part XI of that Act; or
- (b) would be entitled to—
- (i) sickness benefit but for the provisions of section 31(4) of the Contributions and Benefits Act (no entitlement to sickness benefit for the first three days of interruption of employment), or but for a failure to satisfy the contribution conditions specified for that benefit in paragraph 2 of Schedule 3 to the Contributions and Benefits Act; or
- (ii) sickness benefit or invalidity benefit but for the provisions of regulation 7(1)(c) of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983(14) (lays not to be treated as days of unemployment or incapacity for work).”.

(10) Regulation 66A was inserted by S.I.1990/1549 and amended by S.I. 1991/236 and 1559.

(11) Regulation 62(2A) was inserted by S.I.1992/468.

(12) Relevant amending instruments are S.I.1988/663 and 1445, 1989/534 and 1034, 1992/3147 and 1993/2119.

(13) Relevant amending instrument is S.I.1988/2022.

(14) S.I.1983/1598; relevant amending instrument is S.I.19881/674.

Amendment of Schedule 3 to the Income Support Regulations

8.—(1) Paragraph 7 of Schedule 3 to the Income Support Regulations (interest on loans to acquire an interest in the dwelling occupied as the home)(**15**) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (4)(**16**) for the words from “the basic rate”to “1988” there shall be substituted the words “the applicable percentage of income tax within the meaning of section 369(1A) of the Income and Corporation Taxes Act 1988(**17**)”.

(3) In sub-paragraph (7) for head (b) there shall be substituted the following head—

“(b) has left that dwelling and either cannot or will not pay the interest on the loan, or has died.”.

(4) Sub-paragraph (8) shall be omitted.

Amendment of Schedule 9 to the Income Support Regulations

9.—(1) Schedule 9 to the Income Support Regulations (sums to be disregarded in the calculation of income other than earnings) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 15(2)(**18**) the words “or by a local authority under Part III of the National Assistance Act 1948” shall be omitted.

(3) For paragraph 19(**19**) there shall be substituted the following paragraph—

“**19.** Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 18 or 20 refers, and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

(a) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family; and

(b) a further £8.60, where the aggregate of any such payments is inclusive of an amount for heating.”.

(4) For paragraph 20(**20**) there shall be substituted the following paragraph—

“**20.** Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

(a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100% of such payments; or

(b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50% of the excess over £20.00.”.

(5) At the end of the Schedule there shall be added the following paragraph—

(15) Relevant amending instruments are S.I.1988/2022 and 1990/1776.

(16) Sub-paragraph (4) was substituted by S.I.1990/776.

(17) 1988 c. 1; subsection (1A) of section 369 was inserted by paragraph 13 of resolution no.20 passed by the House of Commons on 7 December 1993, that resolution having statutory effect under section 1 of the Provisional Collection of Taxes Act 1968 (c. 2) as amended by section 205 of the Finance Act 1993 (c. 34), until the Finance Bill receives Royal Assent.

(18) Relevant amending instruments are S.I.1990/547, 1991/1559, 1992/3147 and 1993/315, 518 and 2119.

(19) Relevant amending instruments are S.I.1988/1445 and 1991/2910.

(20) Relevant amending instrument is S.I.1990/547.

“53. Where the claimant is in receipt of any benefit under Parts II, III or V of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.”.

Amendment of regulation 2 of the Family Credit Regulations

10. In regulation 2 of the Family Credit Regulations (interpretation)—

- (a) in the definition of “assessment period”(21) for the words “regulation 14” there shall be substituted the words “regulation 14 or, as the case may be, 14A”;
- (b) after the definition of “date of claim” there shall be inserted the following definition—

““director” means a director of a company, and for this purpose “company” means a company within the meaning of section 735(1) of the Companies Act 1985(22) or a body corporate to which, by virtue of section 718 of that Act, any provision of that Act applies;”.

Amendment of regulation 14 of the Family Credit Regulations

11. In regulation 14(1) of the Family Credit Regulations (normal weekly earnings of employed earners)(23)—

- (a) after the words “an employed earner,” there shall be inserted the words “except where those earnings arise from employment as a director,”;
- (b) for the words “his weekly earnings from that employment over” there shall be substituted the words “his earnings from that employment received in”.

Insertion of regulation 14A of the Family Credit Regulations

12. After regulation 14 of the Family Credit Regulations there shall be inserted the following regulation—

“Normal weekly earnings of directors

14A.—(1) Subject to paragraph (2) and regulation 17 (periods to be disregarded), where a claimant’s income includes earnings from employment as a director, his normal weekly earnings from that employment shall be determined by reference to his earnings from that employment received in the year immediately preceding the week of claim.

(2) Where at the date of claim the claimant has been in employment as a director for less than a year, his normal weekly earnings from that employment shall be determined by reference to any earnings received in the period that he has been in that employment and by reference to an estimate of the earnings likely to be received in the remainder of the first year of the employment.”.

(21) Relevant amending instrument is S.I.1992/573.

(22) 1985 c. 6.

(23) Relevant amending instrument is S.I.1992/573.

Amendment of regulation 15 of the Family Credit Regulations

13.—(1) Regulation 15 of the Family Credit Regulations (normal weekly earnings of self-employed earners)⁽²⁴⁾ shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for sub-paragraph (a) there shall be substituted the following sub-paragraphs—

- “(a) except where sub-paragraph (aa) or (b) applies, over a period of 6 consecutive complete months up to and including the second last complete month immediately preceding the date of claim; or
- (aa) except where sub-paragraph (b) applies, where the claimant provides in respect of the employment a statement of his earnings and expenses for the six consecutive complete months up to and including the last complete month immediately preceding the date of claim, over that period of six months; or”.

(3) For paragraph (2) there shall be substituted the following paragraph—

“(2) Subject to regulation 17, in a case where the claimant has been in employment as a self-employed earner for less than 7 complete months, his normal weekly earnings shall be determined over a period of 6 consecutive complete months commencing with the first complete month after the claimant began that employment, and that determination shall be based on either—

- (a) where the claimant provides in relation to that employment a statement of his earnings and expenses for the complete months up to and including the last complete month immediately preceding the date of claim, the earnings he received in those months, or
- (b) where no such statement is provided, any earnings he received in the period up to and including the second last complete month immediately preceding the date of claim,

together with an estimate of the earnings likely to be received in the balance of the 6 month period.”.

(4) At the end of the regulation there shall be added the following paragraph—

“(4) In this regulation a “complete month” begins on the first day of the month and ends on the last day of the month.”.

Substitution of regulation 17 of the Family Credit Regulations

14. For regulation 17 of the Family Credit Regulations (periods to be disregarded)⁽²⁵⁾ there shall be substituted the following regulation—

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

- (a) where the claimant is a self-employed earner, any week or period of weeks in his assessment period during which no activities have been carried out for the purposes of the business;
- (b) where the claimant is a director, any week or period of weeks in his assessment period during which he has done no work and in respect of which he has received no earnings; and

(24) Relevant amending instruments are S.I.1988/1970 and 1992/2155.

(25) Relevant amending instrument is S.I.1992/573.

his normal weekly earnings shall be determined by reference to his earnings in the remainder of that period (the reduced period) and in these Regulations any reference to an assessment period shall in its application to such a case be construed as a reference to that reduced period.”.

Amendment of regulation 18 of the Family Credit Regulations

15. In regulation 18 of the Family Credit Regulations (calculation of weekly amount of income)~~(26)~~—

(a) for sub-paragraph (a) of paragraph (2) there shall be substituted the following sub-paragraph—

“(a) except where sub-paragraph (b) applies, by multiplying by 7 his earnings

(i) received in the assessment period, or

(ii) estimated for the assessment period, or

(iii) both received in and estimated for that period,

as the case may be, and dividing the product by the number equal to the number of days in that period;”;

(b) after paragraph (2) there shall be added the following paragraph—

“(3) For the purposes of regulation 14A (normal weekly earnings of directors) the weekly amount of earnings of a claimant shall be determined by dividing his earnings—

(i) received in the assessment period, or

(ii) estimated for the assessment period, or

(iii) both received in and estimated for that period,

as the case may be, by the number equal to the number of weeks in that period.”.

Amendment of regulation 20 of the Family Credit Regulations

16. In regulation 20 of the family Credit Regulations (calculation of net earnings of employed earners)~~(27)~~ for sub-paragraph (b) of paragraph (4) there shall be substituted the following sub-paragraphs—

“(b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1) (a) and (b) of that Act; and”.

Insertion of regulation 20ZA of the Family Credit Regulations

17. After regulation 20 of the Family Credit Regulations there shall be inserted the following regulation—

“Calculation of net earnings of directors

20ZA.—(1) For the purposes of regulation 14A (normal weekly earnings of directors) the earnings of a claimant to be taken into account shall be his net earnings derived from, or likely to be derived from, his employment as a director during the assessment period relevant

(26) Relevant amending instruments are S.I.1988/1438 and 1970.

(27) Relevant amending instruments are S.I.1988/660 and 1992/573 and 2155.

to his case, and those net earnings shall be determined in accordance with the following paragraphs.

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

(3) A claimant's net earnings shall, except where paragraph (4) applies, be calculated by taking into account his gross earnings from that employment, less—

- (a) any amount deducted from those earnings by way of—
 - (i) income tax;
 - (ii) primary Class 1 contributions under the Contributions and Benefits Act; 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 some or all of the claimant's earnings are estimated under regulation 14A(2), those net earnings shall be calculated by taking into account the estimated gross earnings, less—

- (a) an amount representing income tax, calculated by applying to those earnings the lower rate or, as the case may be, the lower rate and the basic rate of income tax in the year of assessment in which the claim was made, taking into account the personal relief to which the claimant would be entitled under sections 257(1), 257A(1) and 259 of the Income and Corporation Taxes Act 1988⁽²⁸⁾ (personal relief); except that if the period in respect of which the estimate is made is less than a year, the lower rate and, if appropriate, the basic rate of tax and the amount of the personal relief allowable under this sub-paragraph shall be reduced pro-rata;
- (b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1) (a) and (b) of that Act; and
- (c) one-half of any sum which would be payable by the claimant by way of a contribution towards an occupational or personal pension scheme.”

Amendment of regulation 20A of the Family Credit Regulations

18. In regulation 20A of the Family Credit Regulations (calculation of bonus or commission)⁽²⁹⁾ for paragraph (b) there shall be substituted the following paragraph—

- “(b) an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to that part of the earnings the main primary percentage applicable at the date of claim; and”.⁰

Amendment of regulation 22 of the Family Credit Regulations

19.—(1) Regulation 22 of the Family Credit Regulations (calculation of net profit of self-employed earners)⁽³⁰⁾ shall be amended in accordance with the following provisions of this regulation.

⁽²⁸⁾ 1988 c. 1; sections 257 to 257F were substituted for section 257 by section 33 of the Finance Act 1988 (c. 39); the amounts in sections 257(1) and 257A(1) were substituted by the income Tax (Indexation) Order 1993, S.I.1993/755. Section 259 was amended by sections 30 and 35 of the Finance Act 1988 and section 20 of the Finance (No.2) Act 1992 (c. 48).

⁽²⁹⁾ Regulation 20A was inserted by S.I.1990/574; relevant amending instruments are S.I.1992/573 and 2155.

⁽³⁰⁾ Relevant amending instruments are S.I.1988/1970 and 1993/2119.

(2) For the words “one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme” in each place in the regulation where they occur there shall be substituted the words “one-half of the amount in respect of any qualifying premium calculated in accordance with paragraph (13)”.

(3) In paragraph (12) for the words “In this regulation” there shall be substituted the words—
“In this regulation—

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

(b)

(4) After paragraph (12) there shall be added the following paragraph—

“(13) 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.”

Amendment of regulation 26 of the Family Credit Regulations

20. In regulation 26 of the Family Credit Regulations (national income)(**31**) for sub-paragraph (b) of paragraph (6) there shall be substituted the following sub-paragraph—

“(b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1) (a) and (b) of that Act; and”.

Amendment of regulation 42 of the Family Credit Regulations

21. In regulation 42 of the Family Credit Regulations (certain amounts to be disregarded in respect of students' income)—

(a) for the words “other than grant income and covenant income” there shall be substituted the words “other than grant income, covenant income and loans treated as income in accordance with regulation 42A(**32**)”;

(b) after the words “sums disregarded under regulation 38(2)” there shall be inserted the words “and (2A)”(**33**).

Amendment of Schedule 2 to the Family Credit Regulations

22.—(1) Schedule 2 to the Family Credit Regulations (sums to be disregarded in the calculation of income other than earnings) shall be amended in accordance with the following provisions of this regulation.

(31) Relevant amending instrument is S.I.1988/660.

(32) Regulation 42A was inserted by S.I.1990/1549 and amended by S.I. 1991/1520.

(33) Regulation 38(2A) was inserted by S.I.1992/573.

(2) For paragraph 19(34) there shall be substituted the following paragraph—

“19. Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 18 or 40 refers, and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family; and
- (b) a further £8.60, where the aggregate of any such payments is inclusive of an amount for heating.”

(3) For paragraph 40(35) there shall be substituted the following paragraph—

“40. Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100% of such payments; or
- (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50% of the excess over £20.00.”

(4) At the end of the Schedule there shall be added the following paragraph—

“51. Where the claimant is in receipt of any benefit under Parts II, III or V of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.”

Amendment of regulation 22 of the Disability Working Allowance Regulations

23. In regulation 22 of the Disability Working Allowance Regulations (calculation of net earnings of employed earners) for sub-paragraph (b) of paragraph (4) there shall be substituted the following sub-paragraph—

- “(b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1)(a) and (b) of that Act; and”.

Amendment of regulation 23 of the Disability Working Allowance Regulations

24. In regulation 23 of the Disability Working Allowance Regulations (calculation of bonus or commission)(36) for paragraph (b) there shall be substituted the following paragraph—

- “(b) an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to that part of the earnings the main primary percentage applicable at the date of claim; and”.

(34) Relevant amending instrument is S.I.1991/2910.

(35) Relevant amending instrument is S.I.1990/574.

(36) Relevant amending instrument is S.I.1992/2155.

Amendment of regulation 25 of the Disability Working Allowance Regulations

25.—(1) Regulation 25 of the Disability Working Allowance Regulations (calculation of net profit of self-employed earners)⁽³⁷⁾ shall be amended in accordance with the following provisions of this regulation.

(2) For the words “one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme” in each place in the regulation where they occur there shall be substituted the words “one-half of the amount in respect of any qualifying premium calculated in accordance with paragraph (15)”.

(3) In paragraph (14) for the words “In this regulation” there shall be substituted the words—
“In this regulation—

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

(b)

(4) After paragraph (14) there shall be added the following paragraph—

“(15) 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.”.

Amendment of regulation 29 of the Disability Working Allowance Regulations

26. In regulation 29 of the Disability Working Allowance Regulations (notional income) for sub-paragraph (b) of paragraph (6) there shall be substituted the following sub-paragraph—

“(b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class 1 contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages applicable at the date of claim in accordance with section 8(1)(a) and (b) of that Act; and”.

Amendment of regulation 46 of the Disability Working Allowance Regulations

27. In regulation 46 of the Disability Working Allowance Regulations (certain amounts to be disregarded in respect of students' income)—

(a) for the words “other than grant income and covenant income” there shall be substituted the words “other than grant income, covenant income and loans treated as income in accordance with regulation 47”;

(b) after the words “sums disregarded under regulation 42(2)” there shall be inserted the words “and (2A)”⁽³⁸⁾.

(37) Relevant amending instrument is S.I.1993/2119.

(38) Regulation 42(2A) was inserted by S.I.1992/2155.

Amendment of Schedule 3 to the Disability Working Allowance Regulations

28.—(1) Schedule 3 to the Disability Working Allowance Regulations (sums to be disregarded in the calculation of income other than earnings) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph 19 there shall be substituted the following paragraph—

“**19.** Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 18 or 38 refers, and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by State person or a member of his family—

- (a) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family; and
- (b) a further £8.60, where the aggregate of any such payments is inclusive of an amount for heating.”.

(3) For paragraph 38 there shall be substituted the following paragraph—

“**38.** Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100% of such payments; or
- (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50% of the excess over £20.00.”.

(4) At the end of the Schedule there shall be added the following paragraph—

“**49.** Where the claimant is in receipt of any benefit under Parts II, III or V of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.”.

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

Department of Social Security
3rd March 1994

Alistair Burt
Parliamentary Under-Secretary of State,

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further amendments to the Income Support (General) Regulations 1987 (S. I.1987/1967), the Family Credit (General) Regulations 1987 (S. I.1987/1973) and the Disability Working Allowance (General) Regulations (S. I.1991/2887) in the following respects—

- (a) they further define the amount to be disregarded in the calculation of a student's income (regulations 5, 21 and 27);
- (b) in the calculation of income other than earnings, they provide a disregard in certain circumstances where an increase of a specified benefit is payable in respect of a dependant, and they further define the amount to be disregarded in respect of payments made to a claimant where other persons occupy the claimant's home (regulations 9(3) to (5), 22 and 28);
- (c) in the calculation of earnings, they further specify the amount to be deducted for national insurance contributions in certain circumstances (regulations 4(4), 16, 18, 20, 23, 24 and 26);

with respect to the Income Support (General) Regulations 1987—

- (d) they further amend the provisions specifying the circumstances in which people in residential care homes and nursing homes have preserved rights (regulation 2);
- (e) they make minor amendments with respect to the calculation of the income and capital of a child (regulations 3 and 6);
- (f) they specify the circumstances in which people in residential care homes and nursing homes will be treated as having notional income (regulation 4(2) and (3));
- (g) they amend the provision specifying that a person who is incapable of work does not have to be available for work (regulation 7);
- (h) in the calculation of housing costs, they alter the rate of deductions in respect of mortgage interest tax relief, they amend the provisions specifying the circumstances in which mortgage interest can be met where the claimant's former partner has left the home, and they remove the rule which allowed the amount of housing costs in the applicable amount to remain constant notwithstanding a reduction in interest rates (regulation 8);
 - (i) in the calculation of income other than earnings, they make a minor amendment to the disregard of charitable or voluntary payments (regulation 9(2));

with respect to the Family Credit (General) Regulations 1987 and the Disability Working Allowance (General) Regulations 1991—

- (j) they further amend the provisions specifying the amount to be deducted in respect of any premium paid towards a personal pension scheme in the calculation of earnings of self-employed earners (regulations 19 and 25);

with respect to the Family Credit (General) Regulations 1987—

- (k) they provide specific rules for the calculation of earnings of company directors, and define "director" (regulations 10, 11(a), 12, 14, 15 and 17);
- (l) they amend the provision specifying the earnings to be taken into account in the calculation of earnings of employed earners (regulation 11(b));

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (m) they amend the provisions specifying the period over which a self-employed earner's earnings should be calculated (regulation 13).

These Regulations do not impose a charge on businesses.