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STATUTORY INSTRUMENTS

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**1996 No. 2890**

**The Housing Renewal Grants Regulations 1996**

**PART II**

**MEANS TEST FOR OWNER-OCCUPIER'S AND TENANT'S APPLICATIONS**

*CHAPTER IX: CAPITAL*

**Determination of capital**

**33.**—(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 35 (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**

**34.** 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.

**Income treated as capital**

**35.**—(1) Any bounty derived from employment to which paragraph 8 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 of emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

(3) Any holiday pay which is not earnings under regulation 24(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 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 any of the MacFarlane Trusts, the Independent Living Funds or the Fund, shall be treated as capital.

**Determination of capital in the United Kingdom**

**36.** Capital which a relevant person possesses in the United Kingdom shall be determined—

- (a) except in a case to which sub-paragraph (b) applies, at its current market or surrender value less—
  - (i) where there would be expenses attributable to sale, 10 per cent., and
  - (ii) the amount of any incumbrance secured on it;
- (b) in the case of a National Savings Certificate—
  - (i) if purchased from an issue the sale of which ceased before 1st July last preceding the date of 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**

**37.** 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 incumbrance secured on it.

### **Notional capital**

**38.—**(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; or
  - (b) a trust derived from a payment made in consequence of a personal injury; or
  - (c) any loan which would be obtained only if secured against capital disregarded under Schedule 4; or
  - (d) a personal pension scheme or retirement annuity contract,

any capital which would have become available to the relevant person upon application for that income 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 a payment of capital made under any of the McFarlane Trusts, the Independent Living Funds or the Fund—

- (a) if made 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 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 or rent of that single person or, as the case may be, of any member of that family, or is used for any council tax, personal community charge, collective community charge contribution or water charges for which that relevant person or member is liable;
- (b) if made 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) 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 33 (determination of capital) be disregarded; and
- (b) he shall, subject to paragraph (5), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the preceding provisions of this Chapter shall apply for the purposes of determining that amount as if it were actual capital which he does possess.

(5) 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 (4) shall be disregarded.

(6) Where a relevant person is treated as possessing capital under any of paragraphs (1) to (3) the preceding provisions of this Chapter shall apply for the purposes of determining its amount as if it were actual capital which he does possess.

(7) In paragraph (3)—

- (a) the expression “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; and
- (b) “rent” means eligible rent within the meaning of regulation 10(3)(1) (rent) of the Housing Benefit (General) Regulations 1987, less any deductions in respect of non-dependants which fall to be made under regulation 63(2) (non-dependant deductions) of those Regulations.

### **Capital jointly held**

**39.** Except where a relevant person possesses capital which is disregarded under regulation 38(4) (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 an equal share of the whole beneficial interest therein; and the value of that equal share shall be calculated by taking the value of the whole beneficial interest calculated in accordance with the foregoing provisions of this Chapter, as though—

- (a) that interest is solely owned by the relevant person; and
- (b) in the case of a dwelling, none of the other joint owners occupies the dwelling concerned,

and dividing the same by the number of persons who have a beneficial interest in the capital in question.

### **Determination of tariff income from capital**

**40.—**(1) Where the relevant person’s capital determined in accordance with this Chapter and Chapters IV to VIII exceeds £5,000 it shall be treated as equivalent to a weekly tariff income of £1 for each complete £250 in excess of £5,000.

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

(3) For the purposes of paragraph (1), capital includes any income treated as capital under regulation 35 (income treated as capital).

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(1) [S.I. 1987/1971](#); regulation 10 was amended by [S.I. 1988/1971](#), [1990/546](#), [1993/317](#) and [1995/1644](#) and [2868](#).

(2) Regulation 63 was amended by [S.I. 1990/546](#) and [1775](#), [1991/235](#), [387](#) and [503](#), [1992/50](#) and [2148](#), [1993/317](#), [963](#) and [1249](#), [1994/542](#) and [1995/559](#) and [2868](#).

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