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STATUTORY INSTRUMENTS

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**1987 No. 1967**

**The Income Support (General) Regulations 1987**

**PART V**

**INCOME AND CAPITAL**

**CHAPTER IV**

**self-employed earners**

**Calculation of net profit of self-employed earners**

**38.**—(1) For the purposes of regulation 30 (calculation of earnings of self-employed earners), the earnings of a claimant 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 1975<sup>F1</sup>, 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 Social Security Act calculated in accordance with regulation 39 (deduction of tax and contributions for self-employed earners); and
  - (ii) [<sup>F2</sup>one half of any premium paid [<sup>F3</sup>in the period that is relevant under regulation 30] in respect of <sup>F4</sup>... a personal pension scheme].

(2) There shall be disregarded from a claimant's net profit any sum, where applicable, specified in paragraphs 1 to 13 <sup>F5</sup>... of Schedule 8.

(3) For the purposes of paragraph (1) (a) the net profit of the employment shall, except where paragraph (9) applies, be calculated by taking into account the earnings of the employment over the period determined under regulation 30 (calculation of earnings of self-employed earners) less—

- (a) subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed 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 Social Security Act, calculated in accordance with regulation 39 (deduction of tax and contributions for self-employed earners); and
- (c) [<sup>F2</sup>one half of any premium paid [<sup>F6</sup>in the period that is relevant under regulation 30] in respect of <sup>F7</sup>... a personal pension scheme].

(4) For the purposes of paragraph (1) (b), the net profit of the employment shall be calculated by taking into account the earnings of the employment over the period determined under regulation 30

less, subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed in that period for the purposes of that 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) the 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 period determined under regulation 30 (calculation of earnings of self-employed earners);
- (e) the repayment of capital on any loan taken out for the purposes of the employment;
- (f) any expenses incurred in providing business entertainment.

(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) [<sup>F8</sup>The Secretary of State] shall refuse to make a deduction in respect of any expenses under paragraph (3) (a) or (4) where he is not satisfied that the expense has been defrayed or, having regard to the nature of the expense and its amount, that it has been reasonably incurred.

(8) For the 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 VAT paid over VAT received in the period determined under regulation 30 (calculation of earnings of self-employed earners);
  - (ii) any income expended in the repair of an existing 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 claimant 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 Social Security Act, calculated in accordance with regulation 39 (deduction of tax and contributions for self-employed earners); and
- (b) [<sup>F2</sup>one half of any premium paid in respect of <sup>F9</sup>... a personal pension scheme].

(10) Notwithstanding regulation 30 (calculation of earnings of self-employed earners) and the foregoing paragraphs, [<sup>F10</sup>the Secretary of State] may assess any item of a claimant's income or expenditure over a period other than that determined under regulation 30 as may, in the particular case, enable the weekly amount of that item of income or expenditure to be determined more accurately.

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

<sup>F11</sup>(12) .....

**Textual Amendments**

- F1** S.I. 1975/529.
- F2** Words in reg. 38 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits Schemes \(Miscellaneous Amendments\) \(No. 4\) Regulations 1993](#) (S.I. 1993/2119), regs. 1(1)(a), **13(2)**
- F3** Words in reg. 38(1)(b)(ii) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits Schemes \(Miscellaneous Amendments\) \(No.5\) Regulations 1994](#) (S.I. 1994/2139), regs. 1(1)(a), **28**
- F4** Words in reg. 38(1)(b)(ii) omitted (16.7.2007) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007](#) (S.I. 2007/1749), regs. 1, **2(3)**
- F5** Words in reg. 38(2) omitted (25.10.2004) by virtue of [The Social Security \(Back to Work Bonus and Lone Parent Run-on\) \(Amendment and Revocation\) Regulations 2003](#) (S.I. 2003/1589), regs. 1(1), **2(c)**
- F6** Words in reg. 38(3)(c) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits Schemes \(Miscellaneous Amendments\) \(No.5\) Regulations 1994](#) (S.I. 1994/2139), regs. 1(1)(a), **28**
- F7** Words in reg. 38(3)(c) omitted (16.7.2007) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007](#) (S.I. 2007/1749), regs. 1, **2(3)**
- F8** Words in reg. 38(7) substituted (29.11.1999) by [The Social Security Act 1998 \(Commencement No. 12 and Consequential and Transitional Provisions\) Order 1999](#) (S.I. 1999/3178), reg. 3(1)(a), **Sch. 5 para. 2(a)** (with reg. 3(1)(b), Schs. 21-23)
- F9** Words in reg. 38(9)(b) omitted (16.7.2007) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007](#) (S.I. 2007/1749), regs. 1, **2(3)**
- F10** Words in reg. 38(10) substituted (29.11.1999) by [The Social Security Act 1998 \(Commencement No. 12 and Consequential and Transitional Provisions\) Order 1999](#) (S.I. 1999/3178), reg. 3(1)(a), **Sch. 5 para. 2(b)** (with reg. 3(1)(b), Schs. 21-23)
- F11** Reg. 38(12) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of [The Income-related Benefits Schemes and Social Security \(Claims and Payments\) \(Miscellaneous Amendments\) Regulations 1995](#) (S.I. 1995/2303), regs. 1(1)(a), **6(3)** (with reg. 8)

**Commencement Information**

- I1** Reg. 38 in force at 11.4.1988, see [reg. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, Section 38.