
STATUTORY INSTRUMENTS

1987 No. 1971

The Housing Benefit (General) Regulations 1987

PART VI

INCOME AND CAPITAL

CHAPTER III

employed earners

Earnings of employed earners

28.—(1) Subject to paragraph (2), “earnings” means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to a claimant on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- (e) any payment by way of a retainer;
- (f) any payment made by the claimant’s employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant’s employer in respect of—
 - (i) travelling expenses incurred by the claimant between his home and place of employment;
 - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant’s absence from home;
- (g) any award of compensation made under section 68(2) or 71(2)(a) of the Employment Protection (Consolidation) Act 1978(1) (remedies and compensation for unfair dismissal);
- (h) any such sum as is referred to in section 18(2) of the Social Security (Miscellaneous Provisions) Act 1977(2) (certain sums to be earnings for social security purposes);
- (i) any statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982(3) or statutory maternity pay under Part V of the Act.

(2) Earnings shall not include—

-
- (1) 1978 c. 44; section 68(2) was amended by section 21 Schedule 3 paragraph 21 of the Employment Act 1982 (c. 46); section 71(2) was amended by sections 5 and 21, Schedule 3 paragraph 22 and Schedule 4 of the Employment Act 1982.
- (2) 1977 c. 5; section 18(2) was amended by section 159 Schedule 16 paragraph 29 of the Employment Protection (Consolidation) Act 1978 (c. 44) and by section 86(2) of, and Schedule 10 Part IV paragraph 75 and Schedule 11 to, the Social Security Act 1986 (c. 50).
- (3) 1982 c. 24.

- (a) any payment in kind;
- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (c) any occupational pension.

Calculation of net earnings of employed earners

29.—(1) For the purposes of regulation 22 (average weekly earnings of employed earners), the earnings of a claimant derived or likely to be derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.

(2) There shall be disregarded from a claimant's net earnings, any sum, where applicable, specified in paragraphs 1 to 11 of Schedule 3.

(3) For the purposes of paragraph (1) net earnings shall, except where paragraph (4) applies, be calculated by taking into account the gross earnings of the claimant from that employment over the assessment period, less—

- (a) any amount deducted from those earnings by way of—
 - (i) income tax;
 - (ii) primary Class 1 contributions under the Social Security Act(4); 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 the earnings of a claimant are estimated under paragraph (2) of regulation 22 (average weekly earnings of employed earners), his net earnings shall be calculated by taking into account those earnings over the assessment period, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax in the year of assessment in which the claim was made less only the personal relief to which the claimant is entitled under sections 8(1) and (2) and 14(1)(a) and (2) of the Income and Corporation Taxes Act 1970 (personal relief)(5) as is appropriate to his circumstances but, if the assessment period is less than a year, the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro-rata basis;
- (b) an amount in respect of primary Class 1 contributions payable under the Social Security Act in respect of those earnings; and
- (c) one-half of any sum payable by the claimant by way of a contribution towards an occupational or personal pensions scheme.

(4) See sections 1(2) and 4 of the Social Security Act 1975 (c. 14): section 4 was amended by the Social Security Pensions Act 1975 (c. 60), Schedule 4 paragraph 36(a), the Education (School-Leaving Dates) Act 1976 (c. 5), Section 2(4), the Social Security Act 1979 (c. 18), section 14(1), the Social Security and Housing Benefits Act 1982 (c. 24), Schedule 5, the Social Security Act 1985 (c. 53), sections 7(1) and (2) and 8(1) and the Social Security Act 1986 (c. 50), section 74(1)(a) and (2) and Schedule 10, paragraph 104, article 2 of S.I.1986/25 and article 2 of S.I. 1987/46.

(5) 1970 c. 10; section 8(1) was amended by the Finance Act 1971 (c. 68) section 37 Schedule 6 paragraphs 1 and 5, and the Finance Act 1985 (c. 54) section 36, sub-section (1A) was added by the Finance (No. 2) Act 1975 (c. 45) section 31 and amended by the Finance Act 1977 (c. 36) section 22 and the Finance Act 1985 section 36. Sub-section (1B) was added by the Finance (No. 2) Act 1975 section 31 and amended by the Finance Act 1985 section 36. Section 8(2) was amended by the Finance Act 1971 Section 37 Schedule 6 paragraphs 1 and 5 and article 2 of S.I. 1985/430; sub-paragraph (b) was substituted by the Finance (No. 2) Act 1979 (c. 47) section 12 Schedule 2 paragraph 1; sub-paragraph (b)(i) and (ii) was amended by the Finance Act 1981 (c. 35) section 139 Schedule 19 Part VI and the Finance Act 1982 (c. 39) section 157 Schedule 22 Part IV; sub-paragraph (b)(iii) was added by the Finance Act 1981 (c. 35) section 27 and sub-paragraph (b)(iv) by the Finance Act 1987 (c. 16) section 27. Section 14(1) was amended by the Finance Act 1970 (c. 24) section 14 Schedule 8 Part VI; section 14(2) was amended by the Finance Act 1976 (c. 40) section 36, the Finance (No. 2) Act 1979 (c. 47) section 11 Schedule 1 section 24 paragraph 2 and the Finance Act 1980 (c. 48) section 24.

