

---

STATUTORY INSTRUMENTS

---

**1992 No. 1814**

**The Council Tax Benefit (General) Regulations 1992**

PART IV

Income and Capital

*CHAPTER V*

*Other Income*

**Calculation of income other than earnings**

**24.**—(1) For the purposes of regulation 16 (average weekly income other than earnings), the income of a claimant which does not consist of earnings to be taken into account shall, subject to paragraphs (2) to (4), be his gross income and any capital treated as income under regulation 25 (capital treated as income).

(2) There shall be disregarded from the calculation of a claimant's gross income under paragraph (1) any sum, where applicable, specified in Schedule 4.

(3) Where the payment of any benefit under the Contributions and Benefits Act 1992 is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) shall be the gross amount payable.

(4) Where a loan is made to a person pursuant to arrangements made under section 1 of the Education (Students Loans) Act 1990(1) or Article 3 of the Education (Student Loans) (Northern Ireland) Order 1990(2) and that person ceases to be a student before the end of the academic year in respect of which the loan is payable or, as the case may be, before the end of his course, a sum equal to the weekly amount apportionable under paragraph (2) of regulation 47 shall be taken into account under paragraph (1) for each week, in the period over which the loan fell to be apportioned, following the date on which that person ceases to be a student; but in determining the weekly amount apportionable under paragraph (2) of regulation 47 so much of that paragraph as provides for a disregard shall not have effect.

(5) For the avoidance of doubt there shall be included as income to be taken into account under paragraph (1) any payment to which regulation 19(2) applies (payments not earnings).

**Capital treated as income**

**25.**—(1) Any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or at the date of any subsequent review, shall, if the aggregate of the instalments outstanding and the amount of the claimant's capital otherwise calculated in accordance with Chapter VI exceeds £16,000, be treated as income.

(2) Any payment received under an annuity shall be treated as income.

---

(1) 1990 c. 6.

(2) S.I.1990/1506 (N.I. 11).

- (3) Any earnings to the extent that they are not a payment of income shall be treated as income.

### **Notional income**

**26.**—(1) A claimant shall be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to council tax benefit or increasing the amount of that benefit.

(2) Except in the case of a discretionary trust or a trust derived from a payment made in consequence of a personal injury, any income which would become available to the claimant upon application being made, but which has not been acquired by him, shall be treated as possessed by the claimant but only from the date on which it could be expected to be acquired were an application made.

(3) Any payment of income, other than a payment of income made under the Trusts, the Fund or the Independent Living Fund, made—

- (a) to a third party in respect of a single claimant 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 claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, or eligible rent to which regulation 10 of the Housing Benefit (General) Regulations 1987 refers, of that single claimant or, as the case may be, of any member of that family or is used for any council tax, or water charges for which that claimant or member is liable;
- (b) to a single claimant 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 claimant 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 claimant is in receipt of any benefit (other than council tax benefit) under the Contributions and Benefits Act 1992 and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the appropriate authority shall treat the claimant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year whichever date the appropriate authority shall select to apply in its area, to the date on which the altered rate is to take effect.

(5) Where—

- (a) a claimant performs a service for another person; and
- (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,

the appropriate authority shall treat the claimant as possessing such earnings (if any) as is reasonable for that employment unless the claimant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service; but this paragraph shall not apply to a claimant who is engaged by a charitable or voluntary body or is a volunteer if the appropriate authority is satisfied that it is reasonable for him to provide his services free of charge.

(6) Where a claimant is treated as possessing any income under any of paragraphs (1) to (3), the foregoing provisions of this Part shall apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(7) Where a claimant is treated as possessing any earnings under paragraph (5), the foregoing provisions of this Part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (3) of regulation 20 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, 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 257(1), (6) and (7) and 259(1)(a) and (2) of the Income and Corporation Taxes Act 1988 (personal relief) 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 prorata basis;
- (b) an amount in respect of primary Class 1 contributions payable under the Contributions and Benefits Act 1992 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 pension scheme.

(8) In paragraph (3), 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.

### **Modifications in respect of child or young person**

27.—(1) Where the income of a child or young person, other than income consisting of any payment of maintenance whether under a court order or not, calculated in accordance with the foregoing provisions of this Part exceeds the amount included under Schedule 1 in the calculation of the claimant’s applicable amount for that child or young person by way of the personal allowance and disabled child premium, if any, the excess shall not be treated as income of the claimant.

(2) Where the capital of a child or young person, if calculated in accordance with Chapter VI in like manner as for the claimant would exceed £3,000, any income of that child or young person shall not be treated as income of the claimant.

(3) In calculating the net earnings or net profit of a child or young person there shall be disregarded (in addition to any sum which falls to be disregarded under paragraphs 11 and 12) any sum specified in paragraphs 13 and 14 of Schedule 3.

(4) Any income of a child or young person which is to be disregarded under Schedule 4 shall be disregarded in such manner as to produce the result most favourable to the claimant.