

## SCHEDULE 1

### CALCULATION OF N AND M

#### PART I

#### EARNINGS

##### Chapter 1

##### *Earnings of an employed earner*

1.—(1) Subject to sub-paragraphs (2) and (3), “earnings” means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus, commission, [<sup>F1</sup>payment in respect of overtime,] royalty or fee;
- [<sup>F2</sup>(aa) any profit-related pay, whether paid in anticipation of, or following, the calculation of profits;]
- (b) any holiday pay except any payable more than 4 weeks after termination of the employment;
- (c) any payment by way of a retainer;
- [<sup>F3</sup>(d) any payments made by the parent’s employer in respect of any expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the parent’s employer in respect of—
  - (i) travelling expenses incurred by that parent between his home and place of employment; and
  - (ii) expenses incurred by that parent under arrangements made for the care of a member of his family owing to that parent’s absence from home;]
- (e) any award of compensation made under section 68(2) or 71(2)(a) of the Employment Protection (Consolidation) Act 1978 <sup>M1</sup> (remedies and compensation for unfair dismissal);
- (f) any such sum as is referred to in section 112 of the Contributions and Benefits Act (certain sums to be earnings for social security purposes);
- (g) any statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982 <sup>M2</sup> or statutory maternity pay under Part V of the Social Security Act 1986 <sup>M3</sup>;
- [<sup>F4</sup>(gg) any statutory paternity pay under Part 12ZA of the Contributions and Benefits Act or any statutory adoption pay under Part 12ZB of that Act [<sup>F5</sup>,] [<sup>F6</sup>or any statutory shared parental pay under Part 12ZC of that Act]]
- (h) any payment in lieu of notice and any compensation in respect of the absence or inadequacy of any such notice but only insofar as such payment or compensation represents loss of income;
- (i) any payment relating to a period of less than a year which is made in respect of the performance of duties as—
  - (i) an auxiliary coastguard in respect of coast rescue activities;
  - (ii) [<sup>F7</sup>a part-time fireman in a fire brigade maintained in pursuance of the Fire Services Acts 1947 to 1959;]
  - [<sup>F8</sup>(ia) a part-time fire-fighter employed by a fire and rescue authority;]
  - (ia) [<sup>F9</sup>a part-time fire-fighter employed by a fire and rescue authority;]

- [<sup>F10</sup>(iib) a part-time fire-fighter employed by [<sup>F11</sup>the Scottish Fire and Rescue Service];]
- (iii) a person engaged part-time in the manning or launching of a lifeboat;
- (iv) a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979 <sup>M4</sup>;
- (j) any payment made by a local authority to a member of that authority in respect of the performance of his duties as a member, other than any expenses wholly, exclusively and necessarily incurred in the performance of those duties.
- (2) Earnings shall not include—
- (a) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment [<sup>F12</sup>except any such payment which is made in respect of housing costs and those housing costs are included in the calculation of the exempt or protected income of the absent parent under regulation 9(1) (b) or, as the case may be, regulation 11(1) (b)];
- (b) any occupational pension;
- (c) any payment where—
- (i) the employment in respect of which it was made has ceased; and
- (ii) a period of the same length as the period by reference to which it was calculated has expired since that cessation but prior to the effective date;
- (d) any advance of earnings or any loan made by an employer to an employee;
- (e) any amount received from an employer during a period when the employee has withdrawn his services by reason of a trade dispute;
- (f) any payment in kind;
- (g) where, in any week or other period which falls within the period by reference to which earnings are calculated, earnings are received both in respect of a previous employment and in respect of a subsequent employment, the earnings in respect of the previous employment.
- [<sup>F13</sup>(h) any tax-exempt allowance made by an employer to an employee [<sup>F14</sup>except any such allowance which is made in respect of housing costs and those housing costs are included in the calculation of the exempt or protected income of the absent parent under regulation 9(1)(b) or, as the case may be, regulation 11(1)(b)].]
- (3) The earnings to be taken into account for the purposes of calculating N and M shall be gross earnings 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 [<sup>F15</sup>or under the Social Security Contributions and Benefits (Northern Ireland) Act 1992]; and
- (b) one half of any sums paid by the parent towards an [<sup>F16</sup>occupational pension scheme].
- [<sup>F17</sup>(c) one half of any sums paid by the parent towards a personal pension scheme, or, where that scheme is intended partly to provide a capital sum to discharge a mortgage secured upon the parent's home, 37.5 per centum of any such sums.]

#### Textual Amendments

- F1** Words in Sch. 1 para. 1(1)(a) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(2)**

- F2** Sch. 1 para. 1(1)(aa) added (13.1.1997) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1996 (S.I. 1996/3196), regs. 1(1), **13(2)(a)**
- F3** Sch. 1 para. 1(1)(d) substituted (7.10.1996) by The Child Support (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1945), regs. 1(2), **24(2)**
- F4** Sch. 1 para. 1(1)(gg) inserted (16.9.2004) by The Child Support (Miscellaneous Amendments) Regulations 2004 (S.I. 2004/2415), regs. 1(2)(a), **5(2)**
- F5** Sch. 1 para. 1(1)(gg): semicolon substituted for full stop (31.12.2014) by The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(2), **6(a)**
- F6** Words in Sch. 1 para. 1(1)(gg) inserted (31.12.2014) by The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(2), **6(b)**
- F7** Sch. 1 Pt. I paras. 1(1)(i), (ii) revoked (S.) (2.8.2005) by The Fire (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/2060), art. 1(2)(f), **Sch. para. 8(a)**
- F8** Sch. 1 Pt. I para. 1(1)(i)(ia) inserted (W.) (25.10.2005) by The Fire and Rescue Services Act 2004 (Consequential Amendments) (Wales) Order 2005 (S.I. 2005/2929), arts. 1(1), **29**
- F9** Sch. 1 para. 1(1)(i)(ia) inserted (E.) (30.12.2004) by The Child Support (Miscellaneous and Consequential Amendments) Regulations 2004 (S.I. 2004/3168), arts. 1(1), **28**
- F10** Sch. 1 Pt. I para. 1(1)(i)(iib) inserted (S.) (2.8.2005) by The Fire (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/2060), art. 1(2)(f), **Sch. para. 8(b)**
- F11** Words in Sch. 1 para. 1(1)(i)(iib) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 72**
- F12** Words in Sch. 1 para. 1(2)(a) added (19.1.1998) by The Child Support (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/58), regs. 1(2), **56(2)(a)** (with reg. 59)
- F13** Sch. 1 para. 1(2)(h) added (13.1.1997) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1996 (S.I. 1996/3196), regs. 1(1), **13(2)(b)**
- F14** Words in Sch. 1 para. 1(2)(h) added (19.1.1998) by The Child Support (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/58), regs. 1(2), **56(2)(b)** (with reg. 59)
- F15** Words in Sch. 1 para. 1(3)(a)(ii) inserted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **54(3)(a)**
- F16** Words in Sch. 1 para. 1(3)(b) substituted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **54(3)(b)**
- F17** Sch. 1 para. 1(3)(c) inserted (18.4.1995) by The Child Support and Income Support (Amendment) Regulations 1995 (S.I. 1995/1045), regs. 1(2), **54(3)(c)**

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#### Marginal Citations

- M1** 1978 c.44.
- M2** 1982 c.24.
- M3** 1986 c.50.
- M4** S.I. 1979/591; the relevant amending instrument is S.I. 1980/1975.

2.—<sup>[F18]</sup>(1) Subject to sub-paragraphs <sup>[F19]</sup>(1A) to (4), the amount of the earnings to be taken into account for the purpose of calculating N and M shall be calculated or estimated by reference to the average earnings at the relevant week having regard to such evidence as is available in relation to that person's earnings during such period as appears appropriate to the <sup>[F20]</sup>Secretary of State beginning not earlier than eight weeks before the relevant week and ending not later than the date of the assessment and for the purpose of that calculation or estimate he may consider evidence of that person's cumulative earnings during the period beginning with the start of the year of assessment (within the meaning of section 832 of the Income and Corporation Taxes Act 1988) in which the relevant week falls and ending with a date no later than the date of the assessment.]

[<sup>F21</sup>(1A) Subject to sub-paragraph (4), where a person has claimed, or has been paid, [<sup>F22</sup>working tax credit or child tax credit] on any day during the period beginning not earlier than eight weeks before the relevant week and ending not later than the date on which the assessment is made, the [<sup>F23</sup>Secretary of State] may have regard to the amount of earnings taken into account in determining entitlement to those benefits in order to calculate or estimate the amount of earnings to be taken into account for the purposes of calculating N and M, notwithstanding the fact that entitlement to those benefits may have been determined by reference to earnings attributable to a period other than that specified in sub-paragraph (1).]

[<sup>F24</sup>(2) Where a person's earnings during the period of 52 weeks ending with the relevant week include—

- (a) a bonus, commission, or payment of profit-related pay made in anticipation of the calculation of profits which is paid separately from or in relation to a longer period than, the other earnings with which it is paid; or
- (b) a payment in respect of profit-related pay made following the calculation of the employer's profits,

the amount of that bonus, commission or profit-related payment shall be determined for the purposes of the calculation of earnings by aggregating any such payments received in that period and dividing by 52.]

(3) Subject to sub-paragraph (4), the amount of any earnings of a student shall be determined by aggregating the amount received in the year ending with the relevant week and dividing by 52 or, where the person in question has been a student for less than a year, by aggregating the amount received in the period starting with his becoming a student and ending with the relevant week and dividing by the number of complete weeks in that period.

[<sup>F25</sup>(3A) Where a case is one to which regulation 30A(1) or (3) of the Maintenance Assessment Procedure Regulations applies (effective dates of new maintenance assessments in particular cases), the term "relevant week" shall, for the purpose of this paragraph, mean the period of 7 days immediately preceding the date on which the information or evidence is received which enables a [<sup>F26</sup>the Secretary of State] to make a new maintenance assessment calculated in accordance with the provisions of Part I of Schedule 1 to the Act in respect of that case for a period beginning after the effective date applicable to that case.]

(4) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the [<sup>F27</sup>Secretary of State], does not accurately reflect the normal amount of the earnings of the person in question, such earnings, or any part of them, shall be calculated by reference to such other period as may, in the particular case, enable the normal weekly earnings of that person to be determined more accurately and for this purpose the [<sup>F27</sup>Secretary of State] shall have regard to—

- (a) the earnings received, or due to be received, from any employment in which the person in question is engaged, has been engaged or is due to be engaged;
- (b) the duration and pattern, or the expected duration and pattern, of any employment of that person.

#### Textual Amendments

- F18** Sch. 1 para. 2(1) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(4)**
- F19** Word in Sch. 1 para. 2(1) substituted (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **13(3)(a)**
- F20** Words in Sch. 1 para. 2(1) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **19(a)(i)**

- F21** Sch. 1 para. 2(1A) added (13.1.1997) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1996 (S.I. 1996/3196), regs. 1(1), **13(3)(b)**
- F22** Words in Sch. 1 para. 2(1A) substituted (6.4.2003) by The Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/328), regs. 1(3)(d), **6(6)(a)**
- F23** Words in Sch. 1 para. 2(1A) substituted (1.6.1999) by The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **19(a)(i)**
- F24** Sch. 1 para. 2(2) substituted (13.1.1997) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1996 (S.I. 1996/3196), regs. 1(1), **13(3)(c)**
- F25** Sch. 1 para. 2(3A) added (13.1.1997) by The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1996 (S.I. 1996/3196), regs. 1(1), **13(3)(d)**
- F26** Words in Sch. 1 para. 2(3A) substituted (1.6.1999) by The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **19(a)(ii)**
- F27** Words in Sch. 1 para. 2(4) substituted (1.6.1999) by The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **19(a)(i)**

## Chapter 2

### *Earnings of a self-employed earner*

[<sup>F28</sup>**2A.**—(1) Subject to paragraphs <sup>F29</sup>... 2C, 4 and 5A, “earnings” in the case of employment as a self-employed earner shall have the meaning given by the following provisions of this paragraph.

(2) “Earnings” means the <sup>F30</sup>... taxable profits from self-employment of that earner<sup>F31</sup> ..., less the following amounts—

- (a) any income tax relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (3);
- (b) any National Insurance Contributions relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (4);
- (c) one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or charge secured upon the self-employed earner’s home, 37.5 per centum of the contributions payable.

(3) For the purposes of sub-paragraph (2)(a) the income tax to be deducted from the <sup>F32</sup>... taxable profits shall be determined in accordance with the following provisions—

- (a) subject to head (d), an amount of earnings [<sup>F33</sup>calculated as if it were equivalent to any personal allowance which would be] applicable to the earner by virtue of the provisions of Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 (personal reliefs) shall be disregarded;
- (b) subject to head (c), an amount equivalent to income tax shall be calculated in relation to the earnings remaining following the application of head (a) (the “remaining earnings”);
- (c) the tax rate applicable at the effective date shall be applied to all the remaining earnings, where necessary increasing or reducing the amount payable to take account of the fact that the earnings relate to a period greater or less than one year;
- (d) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by the taxable profits bears to the period of one year.

(4) For the purposes of sub-paragraph (2)(b) above, the amount to be deducted in respect of National Insurance Contributions shall be the total of—

**Changes to legislation:** There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992, PART I. (See end of Document for details)

- (a) the amount of Class 2 contributions (if any) payable under [<sup>F34</sup>section 11(2) or, as the case may be, (8)], of the Contributions and Benefits Act; and
  - (b) the amount of Class 4 contributions (if any) payable under section 15(2) of that Act,
- at the rates applicable at the effective date.]

[<sup>F35</sup>(5) For the purposes of this paragraph, “taxable profits” means profits calculated in accordance with Part 2 of the Income Tax (Trading and Other Income) Act 2005.

(6) A self-employed earner who is a person with care or an absent parent shall provide to the Secretary of State on demand a copy of—

- (a) any tax calculation notice issued to him by Her Majesty’s Revenue and Customs; and
- (b) any revised notice issued to him by Her Majesty’s Revenue and Customs.]

**Textual Amendments**

- F28** Sch. 1 Pt. 1 Ch. 2 paras. 2A-2C added (4.10.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(a)** (with reg. 7)
- F29** Word in Sch. 1 para. 2A(1) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(2)(a)**
- F30** Word in Sch. 1 para. 2A(2) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(2)(b)(i)**
- F31** Words in Sch. 1 para. 2A(2) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(2)(b)(ii)**
- F32** Word in Sch. 1 para. 2A(3) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(2)(c)**
- F33** Words in Sch. 1 para. 2A(3)(a) substituted (16.3.2005) by [The Child Support \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/785\)](#), regs. 1(2)(a), **4(2)(a)**
- F34** Words in Sch. 1 para. 2A(4)(a) substituted (6.4.2015) by [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), **28**
- F35** Sch. 1 para. 2A(5)-(6) inserted (1.8.2007) by [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(2)(d)**

<sup>F36</sup>**2B.** . . . . .

**Textual Amendments**

- F36** Sch. 1 para. 2B omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(3)**

[<sup>F37</sup>**2C.** Where the Secretary of State accepts that it is not reasonably practicable for a self-employed earner to provide any of the information specified in paragraph 2A(6), “earnings” in relation to that earner shall be calculated in accordance with paragraph 3.]

**Textual Amendments**

- F37** Sch. 1 para. 2C substituted (1.8.2007) by [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(4)**

**3.—(1)** [<sup>F38</sup>Where paragraph 2C applies, and subject] to sub-paragraphs (2) and (3) and to paragraph 4, “earnings” in the case of employment as a self-employed earner means the gross receipts of the employment including, where an allowance in the form of periodic payments is paid under

section 2 of the Employment and Training Act 1973<sup>M5</sup> or section 2 of the Enterprise and New Towns (Scotland) Act 1990<sup>M6</sup> in respect of the relevant week for the purpose of assisting him in carrying on his business, the total of those payments made during the period by reference to which his earnings are determined under paragraph 5.

(2) Earnings shall not include—

- (a) any allowance paid under either of those sections in respect of any part of the period by reference to which his earnings are determined under paragraph 5 if no part of that allowance is paid in respect of the relevant week;
- (b) any income consisting of payments received for the provision of board and lodging accommodation unless such payments form the largest element of the recipient's income.

(3) [<sup>F39</sup>Subject to sub-paragraph (7),] there shall be deducted from the gross receipts referred to in sub-paragraph (1)—

- (a) [<sup>F40</sup>except in a case to which paragraph 4 applies,] any expenses which are reasonably incurred and are wholly and exclusively defrayed for the purposes of the earner's business in the period by reference to which his earnings are determined under paragraph 5(1) or, where paragraph 5(2) applies, any such expenses relevant to the period there mentioned (whether or not defrayed in that period);
- (b) [<sup>F41</sup>except in a case to which paragraph 4 [<sup>F42</sup>or 5(2)] applies,] any value added tax paid in the period by reference to which earnings are determined in excess of value added tax received in that period;
- (c) any amount in respect of income tax determined in accordance with sub-paragraph (5);
- (d) any amount in respect of National Insurance contributions determined in accordance with sub-paragraph (6);
- (e) one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme<sup>F43</sup>, or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or charge secured upon the parent's home, 37.5 per centum of the contributions payable].

(4) For the purposes of sub-paragraph (3)(a)—

- (a) such expenses include—
  - (i) repayment of capital on any loan used for the replacement, in the course of business, of equipment or machinery, or the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
  - (ii) any income expended in the repair of an existing business 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 business;

(b) such expenses do not include—

- <sup>F44</sup>(i) .....
- (ii) any capital expenditure;
- <sup>F45</sup>(iii) .....
- <sup>F45</sup>(iv) .....
- <sup>F45</sup>(v) .....
- (vi) any expenses incurred in providing business entertainment;
- <sup>F46</sup>(vii) .....



[<sup>F47</sup>(5) For the purposes of sub-paragraph (3)(c), the amount in respect of income tax shall be determined in accordance with the following provisions—

(a) subject to head (c), an amount of chargeable earnings [<sup>F48</sup>calculated as if it were equivalent to any personal allowance which would be] applicable to the earner by virtue of the provisions of Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 (personal reliefs) shall be disregarded;

(b) [<sup>F49</sup>subject to head (bb),] an amount equivalent to income tax shall be calculated with respect to taxable earnings at the rates applicable at the effective date;

[<sup>F50</sup>(bb) where taxable earnings are determined over a period of less or more than one year, the amount of earnings to which each tax rate applies shall be reduced or increased in the same proportion to that which the period represented by the chargeable earnings bears to the period of one year;]

(c) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by the chargeable earnings bears to the period of one year;

(d) in this sub-paragraph, “taxable earnings” means the chargeable earnings of the earner following the disregard of any applicable personal allowances.]

(6) For the purposes of sub-paragraph (3)(d), the amount to be deducted in respect of National Insurance contributions shall be the total of—

(a) the amount of Class 2 contributions (if any) payable under [<sup>F51</sup>section 11(2) or, as the case may be, (8)] of the Contributions and Benefits Act; and

(b) the amount of Class 4 contributions (if any) payable under section 15(2) of that Act,

at the rates applicable [<sup>F52</sup>to the chargeable earnings] at the effective date.

[<sup>F53</sup>(7) 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, sub-paragraph (3) shall have effect as though it requires—

(a) a deduction from the earner’s estimated or, where appropriate, actual share of the gross receipts of the partnership or fishing boat, of his share of the sums likely to be deducted or, where appropriate, deducted from those gross receipts under heads (a) and (b) of that sub-paragraph; and

(b) a deduction from the amount so calculated of the sums mentioned in heads (c) to (e) of that sub-paragraph.]

(8) [<sup>F54</sup>In sub-paragraphs (5) and (6) “chargeable earnings” means the gross receipts of the employment less any deductions mentioned in sub-paragraph (3)(a) and (b).]

#### Textual Amendments

**F38** Words in Sch. 1 Pt. 1 Ch. 2 para. 3(1) substituted (4.10.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(b)** (with reg. 7)

**F39** Words in Sch. 1 Pt. 1 Ch. 2 para. 3(3) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **27(1)(a)**

**F40** Words in Sch. 1 Pt. I Ch. 2 para. 3(3)(a) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **27(1)(b)**

**F41** Words in Sch. 1 Pt. I Ch. 2 para. 3(3)(b) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **27(1)(b)**



- F42** Words in Sch. 1 para. 3(3)(b) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(5)(a)**
- F43** Words in Sch. 1 para. 3(3)(e) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(5)(b)**
- F44** Sch. 1 para. 3(4)(b)(i) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(5)**
- F45** Sch. 1 para. 3(4)(b)(iii)-(v) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(5)**
- F46** Sch. 1 para. 3(4)(b)(vii) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(5)**
- F47** Sch. 1 para. 3(5) substituted (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **13(4)**
- F48** Words in Sch. 1 para. 3(5)(a) substituted (16.3.2005) by [The Child Support \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/785\)](#), regs. 1(2)(a), **4(2)(b)**
- F49** Words in Sch. 1 para. 3(5)(b) inserted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **56(3)(a)** (with reg. 59)
- F50** Sch. 1 para. 3(5)(bb) inserted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **56(3)(b)** (with reg. 59)
- F51** Words in Sch. 1 para. 3(6)(a) substituted (6.4.2015) by [The Social Security \(Miscellaneous Amendments\) No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), **28**
- F52** Words in Sch. 1 Pt. I Ch. 2 para. 3(6) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **27(3)**
- F53** Sch. 1 para. 3(7) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(8)**
- F54** Sch. 1 Pt. I Ch. 2 paras. 3(7), (8) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **27(4)**

#### Marginal Citations

- M5** [1973 c.50](#); section 2 was amended by sections 9 and 11 of, and Schedule 2, Part II, paragraph 9 and Schedule 3, to the [Employment and Training Act 1981 \(c.57\)](#).
- M6** [1990 c.35](#).

4. In a case where a person is self-employed as a childminder the amount of earnings referable to that employment shall be one-third of the gross receipts.

5.—(1) Subject to sub-paragraphs <sup>[F55]</sup>(2) to (3)—

- (a) where a person has been a self-employed earner for 52 weeks or more including the relevant week, the amount of his earnings shall be determined by reference to the average of the earnings which he has received in the 52 weeks ending with the relevant week;
- (b) where the person has been a self-employed earner for a period of less than 52 weeks including the relevant week, the amount of his earnings shall be determined by reference to the average of the earnings which he has received during that period.

(2) <sup>[F56]</sup>Subject to sub-paragraph (2A), where] a person who is a self-employed earner provides in respect of the employment a profit and loss account and, where appropriate, a trading account or a balance sheet or both, and the profit and loss account is in respect of a period at least 6 months but not exceeding 15 months and that period terminates within the <sup>[F57]</sup>24 months] immediately preceding the effective date, the amount of his earnings shall be determined by reference to the average of the earnings over the period to which the profit and loss account relates and such earnings shall include receipts relevant to that period (whether or not received in that period).

<sup>[F58]</sup>(2A) Where the <sup>[F59]</sup>Secretary of State] is satisfied that, in relation to the person referred to in sub-paragraph (2) there is more than one profit and loss account, each in respect of different periods,

both or all of which satisfy the conditions mentioned in that sub-paragraph, the provisions of that sub-paragraph shall apply only to the account which relates to the latest such period, unless [<sup>F60</sup>the Secretary of State] is satisfied that the latest such account is not available for reasons beyond the control of that person, in which case he may have regard to any such other account which satisfies the requirements of that sub-paragraph.]

(3) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the [<sup>F61</sup>Secretary of State], does not accurately reflect the normal amount of the earnings of the person in question, such earnings, or any part of them, shall be calculated by reference to such other period as may, in the particular case, enable the normal weekly earnings of that person to be determined more accurately and for this purpose the [<sup>F61</sup>Secretary of State] shall have regard to—

- (a) the earnings received, or due to be received, from any employment in which the person in question is engaged, or has been engaged or is due to be engaged;
- (b) the duration and pattern, or the expected duration and pattern, of any employment of that person.

(4) In sub-paragraph (2)—

- (a) “balance sheet” means a statement of the financial position of the employment disclosing its assets, liabilities and capital at the end of the period in question;
- (b) “profit and loss account” means a financial statement showing net profit or loss of the employment for the period in question; and
- (c) “trading account” means a financial statement showing the revenue from sales, the cost of those sales and the gross profit arising during the period in question.

[<sup>F62</sup>(5) Subject to sub-paragraph (3), where a person has claimed, or has been paid, [<sup>F63</sup>working tax credit or child tax credit] on any day during the period beginning not earlier than eight weeks before the relevant week and ending not later than the date on which the assessment is made, the [<sup>F64</sup>Secretary of State] may have regard to the amount of earnings taken into account in determining entitlement to those benefits in order to calculate or estimate the amount of earnings to be taken into account for the purposes of calculating N and M, notwithstanding the fact that entitlement to those benefits may have been determined by reference to earnings attributable to a period other than that specified in sub-paragraph (1).]

[<sup>F65</sup>(6) This paragraph applies only where the earnings of a self-employed earner have the meaning given by paragraph 3 of this Schedule.]

#### Textual Amendments

**F55** Words in Sch. 1 para. 5(1) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(9)(a)**

**F56** Words in Sch. 1 para. 5(2) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(9)(b)(i)**

**F57** Words in Sch. 1 para. 5(2) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(9)(b)(ii)**

**F58** Sch. 1 para. 5(2A) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(9)(c)**

**F59** Words in Sch. 1 para. 5(2A) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **19(b)(ii)**

**F60** Words in Sch. 1 para. 5(2A) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **19(b)(i)**

**F61** Words in Sch. 1 para. 5(3) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **19(b)(ii)**

**Changes to legislation:** There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992, PART I*. (See end of Document for details)

- F62** Sch. 1 para. 5(5) added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **13(5)**
- F63** Words in Sch. 1 para. 5(5) substituted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(a)**
- F64** Words in Sch. 1 para. 5(5) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **19(b)(ii)**
- F65** Sch. 1 Pt. 1 Ch. 2 para. 5(6) added (4.10.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(c)** (with reg. 7)

[<sup>F66</sup>**5A.**—(1) Subject to sub-paragraph (2) of this paragraph, the earnings of a self-employed earner may be determined in accordance with the provisions of paragraph 2A only where the <sup>F67</sup>... taxable profits concerned relate to a period of not less than 6, and not more than 15 months, which terminated not more than 24 months prior to the relevant week;

(2) Where there is more than one <sup>F67</sup>... taxable profit figure which would satisfy the conditions set out in sub-paragraph (1), the earnings calculation shall be based upon the figure pertaining to the latest such period.]

<sup>F68</sup>(3) .....

**Textual Amendments**

- F66** Sch. 1 Pt. 1 Ch. 2 para. 5A added (4.10.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(d)** (with reg. 7)
- F67** Word in Sch. 1 para. 5A omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(6)(a)**
- F68** Sch. 1 para. 5A(3) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(6)(b)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992, PART I.