
STATUTORY INSTRUMENTS

2006 No. 214

The Housing Benefit (Persons who have attained the
qualifying age for state pension credit) Regulations 2006

PART 6

Assessment of income and capital

SECTION 4

Self-employed earners

Earnings of self-employed earners

38.—(1) Subject to paragraph (2), “earnings”, in the case of employment as a self-employed earner, means the gross receipts of the employment ^{F1}....

(2) “Earnings” in the case of employment as a self-employed earner does not include—

(a) where a claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;

(b) any payment made by a local authority to a claimant—

(i) with whom a person is accommodated by virtue of arrangements made under ^{F2}section 22C(2) of the Children Act 1989 (ways in which looked after children are to be accommodated and maintained)] or, as the case may be, ^{F3}section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained),] ^{F4}section 26 or 26A of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority and duty to provide continuing care); or]

^{F5}(ii) with whom a local authority foster a child under the Looked After Children (Scotland) Regulations 2009 or who is a kinship carer under those Regulations;]

(c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations);

(d) any payment made to the claimant or his partner for a person (“the person concerned”) who is not normally a member of the claimant’s household but is temporarily in his care, by—

(i) a health authority;

(ii) a local authority, but excluding payments of housing benefit made in respect of the person concerned;

(iii) a voluntary organisation;

(iv) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948

^{F6, F7}
, ...

- (iva) [^{F8}an integrated care board established under Chapter A3 of Part 2 of the National Health Service Act 2006];
- [^{F9}(ivb) [^{F10}NHS England]; ^{F11} ...]
- ^{F12}(v)
- (vi) [^{F13}a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006]^{F14} ...;
- (vii) the person concerned where the payment is for the provision of accommodation in respect of the meeting of that person’s needs under section 18 or 19 of the Care Act 2014 (duty and power to meet needs for care and support) [^{F15} or;]
- [^{F15}(viii) the person concerned where the payment is for the provision of accommodation to meet that person’s needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult);]
- [^{F16}(da) any payment or part of a payment made by a local authority in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care) to a person (“A”) which A passes on to the claimant where A—
- (i) was formerly in the claimant’s care;
- (ii) is aged 16 or over; and
- (iii) continues to live with the claimant;]
- [^{F17}(db) any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).]
- (e) any sports award.

Textual Amendments

- F1** Words in reg. 38(1) omitted (31.10.2011) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **20(5)**
- F2** Words in reg. 38(2)(b)(i) substituted (3.11.2017) by [The Social Services and Well-being \(Wales\) Act 2014 and the Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Order 2017 \(S.I. 2017/901\)](#), arts. 1, **26(3)**
- F3** Words in reg. 38(2)(b)(i) inserted (3.11.2017) by [The Social Services and Well-being \(Wales\) Act 2014 and the Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Order 2017 \(S.I. 2017/901\)](#), arts. 1, **12(4)(a)**
- F4** Words in reg. 38(2)(b)(i) substituted (5.8.2016) by [The Children and Young People \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2016 \(S.I. 2016/732\)](#), arts. 1(1), **7(2)(a)**
- F5** Reg. 38(2)(b)(ii) substituted (1.11.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2010 \(S.I. 2010/2429\)](#), regs. 1(2), **8(3)**
- F6** 1948 c. 29; section 26(3A) was inserted by section 42(4) of the National Health Service and community [Care Act 1990 \(c. 19\)](#).
- F7** Word in reg. 38(2)(d)(iv) omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **6(6)(a)**
- F8** Words in reg. 38(2)(d)(iva) substituted (1.7.2022) by [The Health and Care Act 2022 \(Consequential and Related Amendments and Transitional Provisions\) Regulations 2022 \(S.I. 2022/634\)](#), reg. 1(2), Sch. para. 1(1)(**3**) (with Sch. para. 1(2))
- F9** Reg. 38(2)(d)(iva)(ivb) inserted (1.4.2013) by [The National Treatment Agency \(Abolition\) and the Health and Social Care Act 2012 \(Consequential, Transitional and Saving Provisions\) Order 2013 \(S.I. 2013/235\)](#), art. 1(2), **Sch. 2 para. 94(3)(a)**

- F10** Words in reg. 38(2)(d)(ivb) substituted (6.11.2023) by The Health and Care Act 2022 (Further Consequential Amendments) (No. 2) Regulations 2023 (S.I. 2023/1071), regs. 1(1), **22(2)**
- F11** Word in reg. 38(2)(d)(ivb) omitted (1.4.2015) by virtue of The Care Act 2014 (Consequential Amendments) (Secondary Legislation) Order 2015 (S.I. 2015/643), art. 1(2), **Sch. para. 25(2)(a)** (with art. 4)
- F12** Reg. 38(2)(d)(v) omitted (1.4.2013) by virtue of The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 94(3)(b)**
- F13** Reg. 38(2)(d)(vi) inserted (5.1.2009) by The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **6(6)(c)**
- F14** Word in reg. 38(2)(d)(vi) omitted (3.11.2017) by virtue of The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **12(4)(b)(i)**
- F15** Reg. 38(2)(d)(viii) and word inserted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **12(4)(b)(ii)**
- F16** Reg. 38(2)(da) inserted (5.8.2016) by The Children and Young People (Scotland) Act 2014 (Consequential Modifications) Order 2016 (S.I. 2016/732), arts. 1(1), **7(2)(b)**
- F17** Reg. 38(2)(db) inserted (7.11.2017) by The Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017 (S.I. 2017/995), regs. 1, **6(2)**

Changes to legislation:

There are currently no known outstanding effects for the The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, Section 38.