
STATUTORY INSTRUMENTS

1987 No. 1973

The Family Credit (General) Regulations 1987

PART IV

INCOME AND CAPITAL

CHAPTER VI

CAPITAL

Capital limit

28. For the purposes of section 22(6) of the Act as it applies to family credit (no entitlement to benefit if capital exceeds prescribed amount), the prescribed amount is £6,000.

Calculation of capital

29.—(1) For the purposes of Part II of the Act as it applies to family credit, the capital of a claimant to be taken into account shall, subject to paragraph (2), be the whole of his capital calculated in accordance with this Part and any income treated as capital under regulation 31 (income treated as capital).

(2) There shall be disregarded from the calculation of a claimant's capital under paragraph (1) any capital, where applicable, specified in Schedule 3.

Disregard of capital of child or young person

30. The capital of a child or young person who is a member of the claimant's family shall not be treated as capital of the claimant.

Income treated as capital

31.—(1) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

(2) Any holiday pay which is not earnings under regulation 19(1)(b) (earnings of employed earners) shall be treated as capital.

(3) Any charitable or voluntary payment, other than one which is, or is due to be, made at regular intervals shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraph 1, 2, 4, 6 or 13 of Schedule 3, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the claimant's account.

(5) In the case of employment as an employed earner, any advance of earnings or any loan made by the claimant's employer shall be treated as capital.

(6) Any maintenance payment other than one to which regulation 16(2) (normal weekly income other than earnings) applies shall be treated as capital.

Calculation of capital in the United Kingdom

32. Capital which a claimant possesses in the United Kingdom shall be calculated—

- (a) except in a case to which sub-paragraph (b) applies, at its current market or surrender value less—
 - (i) where there would be expenses attributable to sale, 10 per cent; and
 - (ii) the amount of any incumbrance secured on it;
- (b) in the case of a National Savings Certificate—
 - (i) if purchased from an issue the sale of which ceased before 1st July last preceding the date of claim, at the price which it would have realised on that 1st July had it been purchased on the last day of that issue;
 - (ii) in any other case, at its purchase price.

Calculation of capital outside the United Kingdom

33. Capital which a claimant possesses in a country outside the United Kingdom shall be calculated—

- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent and the amount of any incumbrance secured on it.

Notional capital

34.—(1) A claimant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to family credit or increasing the amount of that benefit.

(2) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtainable only if secured against capital disregarded under Schedule 3,

any capital 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 him.

(3) Any payment of capital made—

- (a) to a third party 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 member to the extent that it is used for food, clothing, footwear, fuel or housing costs of any member of that family;
- (b) to a member of the family in respect of a third party (but not in respect of another member of the family) shall be treated as possessed by that member to the extent that it is kept by him or used on behalf of any member of the family.

(4) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case—

- (a) the value of his holding in that company shall, notwithstanding regulation 29 (calculation of capital), be disregarded; and
- (b) he shall, subject to paragraph (5), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(5) For so long as the claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (4) shall be disregarded.

(6) Where a claimant is treated as possessing capital under any of paragraphs (1) to (4) the foregoing provisions of this Chapter shall apply for the purposes of calculating its amount as if it were actual capital which he does possess.

Capital jointly held

35. Except where a claimant possesses capital which is disregarded under regulation 34(4) (notional capital), where a claimant and one or more persons are beneficially entitled in possession to any capital asset they shall be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share.

Calculation of tariff income from capital

36.—(1) Where the claimant's capital calculated in accordance with this Chapter exceeds £3,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £3,000 but not exceeding £6,000.

(2) Notwithstanding paragraph (1), where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly income of £1.

(3) For the purposes of paragraph (1), capital includes any income treated as capital under regulation 31 (income treated as capital).