

SCHEDULE 1

Regulations 7(1), (2) and 8

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, [^{F1}payment in respect of overtime,] royalty or fee;
- [^{F2}(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;
- [^{F3}(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 ^{M1} (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 ^{M2} or statutory maternity pay under Part V of the Social Security Act 1986 ^{M3};
- [^{F4}(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 [^{F5},] [^{F6}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) [^{F7}a part-time fireman in a fire brigade maintained in pursuance of the Fire Services Acts 1947 to 1959;]
- [^{F8}(ia) a part-time fire-fighter employed by a fire and rescue authority;]
- (ia) [^{F9}a part-time fire-fighter employed by a fire and rescue authority;]

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- [^{F10}(iib) a part-time fire-fighter employed by [^{F11}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 ^{M4};
- (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 [^{F12}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.
- [^{F13}(h) any tax-exempt allowance made by an employer to an employee [^{F14}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 [^{F15}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 [^{F16}occupational pension scheme].
- [^{F17}(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)**

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.—^[F18](1) Subject to sub-paragraphs ^[F19](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 ^[F20]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.]

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[^{F21}(1A) Subject to sub-paragraph (4), where a person has claimed, or has been paid, [^{F22}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 [^{F23}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).]

[^{F24}(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.

[^{F25}(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 [^{F26}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 [^{F27}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 [^{F27}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

[^{F28}**2A.**—(1) Subject to paragraphs ^{F29}... 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 ^{F30}... taxable profits from self-employment of that earner^{F31} ..., 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 ^{F32}... taxable profits shall be determined in accordance with the following provisions—

- (a) subject to head (d), an amount of earnings [^{F33}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—

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- (a) the amount of Class 2 contributions (if any) payable under [^{F34}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.]

[^{F35}(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)**

^{F36}**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)**

[^{F37}**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) [^{F38}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^{M5} or section 2 of the Enterprise and New Towns (Scotland) Act 1990^{M6} 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) [F39 Subject to sub-paragraph (7),] there shall be deducted from the gross receipts referred to in sub-paragraph (1)—

- (a) [F40 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) [F41 except in a case to which paragraph 4 [F42 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[F43, 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—

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

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[^{F47}(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 [^{F48}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) [^{F49}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;

[^{F50}(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 [^{F51}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 [^{F52}to the chargeable earnings] at the effective date.

[^{F53}(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) [^{F54}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 ^[F55](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) ^[F56]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 ^[F57]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).

^[F58](2A) Where the ^[F59]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,

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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 [^{F60}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 [^{F61}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 [^{F61}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.

[^{F62}(5) Subject to sub-paragraph (3), where a person has claimed, or has been paid, [^{F63}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 [^{F64}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).]

[^{F65}(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)**

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- 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)

[^{F66}**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 ^{F67}... 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 ^{F67}... 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.]

^{F68}(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)**

PART II

BENEFIT PAYMENTS

6.—(1) The benefit payments to be taken into account in calculating or estimating N and M shall be determined in accordance with this Part.

(2) “Benefit payments” means any benefit payments under the Contributions and Benefits Act^{F69}, the Jobseekers Act or the Welfare Reform Act] except amounts to be disregarded by virtue of Schedule 2.

(3) The amount of any benefit payment to be taken into account shall be determined by reference to the rate of that benefit applicable at the effective date.

Textual Amendments

- F69** Words in Sch. 1 para. 6(2) substituted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **58(5)**

7.—(1) Where a benefit payment under the Contributions and Benefits Act includes an adult or child dependency increase—

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- (a) if that benefit is payable to a parent, the income of that parent shall be calculated or estimated as if it did not include that amount;
- (b) if that benefit is payable to some other person but includes an amount in respect of the parent, the income of the parent shall be calculated or estimated as if it included that amount.

[^{F70}(1A) For the purposes of sub-paragraph (1), an addition to a contribution-based jobseeker’s allowance under [^{F71}regulation 10(4)] of the Jobseeker’s Allowance (Transitional Provisions) Regulations [^{F72}1996] shall be treated as a dependency increase included with a benefit under the Contributions and Benefits Act.]

- ^{F73}(2)
- ^{F73}(3)
- ^{F73}(4)
- ^{F73}(5)

[^{F74}(6) Where child benefit in respect of a relevant child is in payment at the rate specified in regulation 2(1)(a)(ii) of the Child Benefit Rates Regulations, the difference between that rate and the basic rate applicable to that child, as defined in regulation 4.]

Textual Amendments	
F70	Words in Sch. 1 para. 7(1A) inserted (7.10.1996) by The Social Security and Child Support (Jobseeker’s Allowance) (Consequential Amendments) Regulations 1996 (S.I. 1996/1345) , regs. 1, 6(4)(a)
F71	Words in Sch. 1 Pt. II para. 7(1A) substituted (6.4.1999) by The Child Support (Miscellaneous Amendments) Regulations 1999 (S.I. 1999/977) , regs. 1(1), 6(5)(e)(i) (with reg. 7)
F72	Word in Sch. 1 Pt. II para. 7(1A) substituted (6.4.1999) by The Child Support (Miscellaneous Amendments) Regulations 1999 (S.I. 1999/977) , regs. 1(1), 6(5)(e)(ii) (with reg. 7)
F73	Sch. 1 para. 7(2)-(5) omitted (6.4.2003) by virtue of The Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/328) , regs. 1(3)(d), 6(6)(b)
F74	Sch. 1 para. 7(6) added (7.4.1997) by The Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1803) , regs. 1(b), 17(2)

PART III

OTHER INCOME

8. The amount of the other income to be taken into account in calculating or estimating N and M shall be the aggregate of the following amounts determined in accordance with this Part.

9. Any periodic payment of pension or other benefit under an occupational or personal pension scheme or a retirement annuity contract or other such scheme for the provision of income in retirement.

- [^{F75}**9A.**—(1) Where a war disablement pension includes an adult or child dependency increase—
- (a) if that pension, including the dependency increase, is payable to a parent, the income of that parent shall be calculated or estimated as if it did not include that amount;
 - (b) if that pension, including the dependency increase, is payable to some other person but includes an amount in respect of the parent, the income of the parent shall be calculated or estimated as if it included that amount.

(2) For the purposes of this paragraph, a “war disablement pension” includes [^{F76}a war widow's pension, a war widower's pension and a surviving civil partner's war pension], a payment made to compensate for non-payment of such a pension, and a pension or payment analogous to such a pension or payment paid by the government of a country outside Great Britain.]

Textual Amendments

- F75** Sch. 1 Pt. III para. 9A added (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(f)** (with reg. 7)
- F76** Words in Sch. 1 para. 9A(2) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 4 para. 2(4)(a)** (with art. 3)

10. Any payment received on account of the provision of board and lodging which does not come within Part I of this Schedule.

11. Subject to regulation 7(3)(b) and paragraph 12, any payment to a student of—

- (a) grant;
- (b) an amount in respect of grant contribution;
- (c) covenant income except to the extent that it has been taken into account under sub-paragraph (b);
- (d) a student loan.

12. The income of a student shall not include any payment—

- (a) intended to meet tuition fees or examination fees;
- (b) intended to meet additional expenditure incurred by a disabled student in respect of his attendance on a course;
- (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
- (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
- (e) intended to meet the cost of books, and equipment (other than special equipment) or, if not so intended, an amount equal to the amount allowed under [^{F77}regulation 62(2A)(b) of the Income Support (General) Regulations 1987 towards such costs;]
- (f) intended to meet travel expenses incurred as a result of his attendance on the course.

Textual Amendments

- F77** Words in Sch. 1 para. 12(e) substituted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(c)**

13. Any interest, dividend or other income derived from capital.

14. Any maintenance payments in respect of a parent.

[^{F78}**14A.**—(1) Subject to sub-paragraph (2), the amount of any earnings top-up paid to or in respect of the absent parent or the parent with care.

(2) Subject to sub-paragraphs (3) and (4), where earnings top-up is payable and the amount which is payable has been calculated by reference to the weekly earnings of either the absent parent and another person or the parent with care and another person—

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- (a) if during the period which is used to calculate his earnings under paragraph 2 or, as the case may be, paragraph 5, the normal weekly earnings of that parent exceed those of the other person, the amount payable by way of earnings top-up shall be treated as the income of that parent;
 - (b) if during that period, the normal weekly earnings of that parent equal those of the other person, half of the amount payable by way of earnings top-up shall be treated as the income of that parent;
 - (c) if during that period, the normal weekly earnings of that parent are less than those of that other person, the amount payable by way of earnings top-up shall not be treated as the income of that parent.
- (3) Where any earnings top-up is in payment and, not later than the effective date, the person, or, if more than one, each of the persons by reference to whose engagement and normal engagement in remunerative work that payment has been calculated is no longer the partner of the person to whom that payment is made, the payment in question shall be treated as the income of the parent in question only where that parent is in receipt of it.
- (4) Where earnings top-up is in payment and, not later than the effective date, either or both of the persons by reference to whose engagement and normal engagement in remunerative work that payment has been calculated has ceased to be employed, half of the amount payable by way of earnings top-up shall be treated as the income of the parent in question.]

Textual Amendments

F78 Sch. 1 para. 14A added (7.10.1996) by [The Child Support \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1945\)](#), regs. 1(2), **24(4)**

[^{F79}14B.—(1) Subject to sub-paragraph (2), payments to a person of working tax credit shall be treated as the income of the parent who has qualified for them by his normal engagement in remunerative work at the rate payable at the effective date.

(2) Where working tax credit is payable and the amount which is payable has been calculated by reference to the earnings of the absent parent and another person—

- (a) if during the period which is used to calculate his earnings under paragraph 2 or, as the case may be, paragraph 5, the normal weekly earnings of that parent exceed those of the other person, the amount payable by way of working tax credit shall be treated as the income of that parent;
- (b) if during that period the normal weekly earnings of that parent equal those of the other person, half of the amount payable by way of working tax credit shall be treated as the income of that parent; and
- (c) if during that period the normal weekly earnings of that parent are less than those of that other person, the amount payable by way of working tax credit shall not be treated as the income of that parent.]

Textual Amendments

F79 Sch. 1 para. 14B inserted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(d)**

15. Any other payments or other amounts received on a periodical basis which are not otherwise taken into account under Part I, II, IV or V of this [^{F80}except payments or other amounts which—

- (a) are excluded from the definition of “earnings” by virtue of paragraph 1(2);
- (b) are excluded from the definition of “the relevant income of a child” by virtue of paragraph 23; or
- (c) are the share of housing costs attributed by virtue of paragraph (3) of regulation 15 to any former partner of the parent of the qualifying child in respect of whom the maintenance assessment is made and are paid to that parent.]

Textual Amendments

F80 Words in Sch. 1 para. 15 substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **56(4)** (with reg. 59)

16.—(1) Subject to sub-paragraphs (2) to [F81(7)] the amount of any income to which this Part applies shall be calculated or estimated—

- (a) where it has been received in respect of the whole of the period of 26 weeks which ends at the end of the relevant week, by dividing such income received in that period by 26;
 - (b) where it has been received in respect of part of the period of 26 weeks which ends at the end of the relevant week, by dividing such income received in that period by the number of complete weeks in respect of which such income is received and for this purpose income shall be treated as received in respect of a week if it is received in respect of any day in the week in question.
- (2) The amount of maintenance payments made in respect of a parent—
- (a) where they are payable weekly and have been paid at the same amount in respect of each week in the period of 13 weeks which ends at the end of the relevant week, shall be the amount equal to one of those payments;
 - (b) in any other case, shall be the amount calculated by aggregating the total amount of those payments received in the period of 13 weeks which ends at the end of the relevant week and dividing by the number of weeks in that period in respect of which maintenance was due.
- (3) In the case of a student—
- (a) the amount of any grant and any amount paid in respect of grant contribution shall be calculated by apportioning it equally between the weeks in respect of which it is payable;
 - (b) the amount of any covenant income shall be calculated by dividing the amount payable in respect of a year by 52 (or, where such amount is payable in respect of a lesser period, by the number of complete weeks in that period) and, subject to sub-paragraph (4), deducting £5·00;
 - (c) the amount of any student loan shall be calculated by apportioning the loan equally between the weeks in respect of which it is payable and, subject to sub-paragraph (4), deducting £10·00.
- (4) For the purposes of sub-paragraph (3)—
- (a) not more than £500 shall be deducted under sub-paragraph (3)(b);
 - (b) not more than £1000 in total shall be deducted under sub-paragraphs (3)(b) and (c).
- (5) Where in respect of the period of 52 weeks which ends at the end of the relevant week a person is in receipt of interest, dividend or other income which has been produced by his capital, the amount of that income shall be calculated by dividing the aggregate of the income so received by 52.
- (6) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the [F82Secretary of State], does not accurately reflect the normal amount of the other

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income of the person in question, such income, or any part of it, shall be calculated by reference to such other period as may, in the particular case, enable the other income of that person to be determined more accurately and for this purpose the [^{F82}Secretary of State] shall have regard to the nature and pattern of receipt of such income.

[^{F83}(7) This paragraph shall not apply to payments of working tax credit referred to in paragraph 14B.]

Textual Amendments

- F81** Word in Sch. 1 para. 16(1) substituted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(e)(i)**
- F82** Words in Sch. 1 para. 16(6) 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(c)**
- F83** Sch. 1 para. 16(7) added (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(e)(ii)**

PART IV

INCOME OF CHILD TREATED AS INCOME OF PARENT

17. The amount of any income of a child which is to be treated as the income of the parent in calculating or estimating N and M shall be the aggregate of the amounts determined in accordance with this Part.

18. Where a child has income which falls within the following paragraphs of this Part and that child is a member of the family of his parent (whether that child is a qualifying child in relation to that parent or not), the relevant income of that child shall be treated as that of his parent.

19. Where child support maintenance is being assessed for the support of only one qualifying child, the relevant income of that child shall be treated as that of the parent with care.

20. Where child support maintenance is being assessed to support more than one qualifying child, the relevant income of each of those children shall be treated as that of the parent with care to the extent that it does not exceed the aggregate of—

- (a) the amount determined under—
- (i) regulation 3(1)(a) (calculation of AG) in relation to the child in question; and
 - (ii) the total of any other amounts determined under regulation 3(1)(b) [^{F84}and (c)] which are applicable in the case in question divided by the number of children for whom child support maintenance is being calculated,
- less the basic rate of child benefit (within the meaning of regulation 4) for the child in question; and
- (b) [^{F85}one-and-a-half times] the total of the amounts calculated under regulation 3(1)(a) (income support personal allowance for child or young person) in respect of that child and regulation [^{F86}3(1)(c)] (income support family premium).

Textual Amendments

- F84** Words in Sch. 1 para. 20(a)(ii) substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **17(3)(a)**

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992, SCHEDULE 1*. (See end of Document for details)

- F85** Words in Sch. 1 para. 20(b) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(10)** (with regs. 62, 64)
- F86** Word in Sch. 1 para. 20(b) substituted (6.4.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(3), **56(5)** (with reg. 59)

21. Where child support maintenance is not being assessed for the support of the child whose income is being calculated or estimated, the relevant income of that child shall be treated as that of his parent to the extent that it does not exceed the amount determined under regulation 9(1)(g).

22.—^{F87}(1) Where a benefit under the Contributions and Benefits Act includes an adult or child dependency increase in respect of a relevant child, the relevant income of that child shall be calculated or estimated as if it included that amount.

^{F88}(1A) For the purposes of sub-paragraph (1), an addition to a contribution-based jobseeker's allowance under ^{F89}regulation 10(4) of the Jobseeker's Allowance (Transitional Provisions) Regulations ^{F90}1996 shall be treated as a dependency increase included with a benefit under the Contributions and Benefits Act.]

- (a) ^{F91}(1B) (a) Where a war disablement pension includes a dependency allowance paid in respect of a relevant child, the relevant income of that child shall be calculated or estimated as if it included that amount.
- (b) For the purposes of this paragraph, a "war disablement pension" includes ^{F92}a war widow's pension, a war widower's pension and a surviving civil partner's war pension], a payment made to compensate for non-payment of such a pension, and a pension or payment analogous to such a pension or payment paid by the government of a country outside Great Britain.]

Textual Amendments

- F87** Sch. 1 para. 22(1): Sch. 1 para. 22 renumbered as Sch. 1 para. 22(1) (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(4)(b)**
- F88** Sch. 1 para. 22(1A) added (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(4)(b)**
- F89** Words in Sch. 1 Pt. IV para. 22(1A) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(g)(i)** (with reg. 7)
- F90** Word in Sch. 1 Pt. IV para. 22(1A) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(g)(ii)** (with reg. 7)
- F91** Sch. 1 Pt. IV para. 22(1B) inserted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(h)** (with reg. 7)
- F92** Words in Sch. 1 para. 22(1B)(b) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 4 para. 2(4)(b)** (with art. 3)

23. For the purposes of this Part, "the relevant income of a child" does not include—

- (a) any earnings of the child in question;
- (b) payments by an absent parent ^{F93}to] the child for whom maintenance is being assessed;
- (c) where the class of persons who are capable of benefiting from a discretionary trust include the child in question, payments from that trust except in so far as they are made to provide for food, ordinary clothing and footwear, gas, electricity or fuel charges or housing costs; or

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- (d) any interest payable on arrears of child support maintenance for that child^{F94};
- (e) the first £10 of any other income of that child]

Textual Amendments

- F93** Word in Sch. 1 para. 23(b) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **56(6)** (with reg. 59)
- F94** Sch. 1 para. 23(e) added (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(11)** (with regs. 62, 64)

24. The amount of the income of a child which is treated as the income of the parent shall be determined in the same way as if such income were the income of the parent.

PART V

AMOUNTS TREATED AS THE INCOME OF A PARENT

25. The amounts which fall to be treated as income of the parent in calculating or estimating N and M shall include amounts to be determined in accordance with this Part.

26. Where [^{F95}the Secretary of State] is satisfied—

- (a) that a person has performed a service either—
 - (i) without receiving any remuneration in respect of it; or
 - (ii) for remuneration which is less than that normally paid for that service;
- (b) that the service in question was for the benefit of—
 - (i) another person who is not a member of the same family as the person in question; or
 - (ii) a body which is neither a charity nor a voluntary organisation;
- (c) that the service in question was performed for a person who, or as the case may be, a body which was able to pay remuneration at the normal rate for the service in question;
- (d) that the principal purpose of the person undertaking the service without receiving any or adequate remuneration is to reduce his assessable income for the purposes of the Act; and
- (e) that any remuneration foregone would have fallen to be taken into account as earnings,

the value of the remuneration foregone shall be estimated by [^{F95}the Secretary of State] and an amount equal to the value so estimated shall be treated as income of the person who performed those services.

Textual Amendments

- F95** Words in Sch. 1 para. 26 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(d)**

27. Subject to paragraphs 28 to 30, where the [^{F96}Secretary of State] is satisfied that, otherwise than in the circumstances set out in paragraph 26, a person has intentionally deprived himself of—

- (a) any income or capital which would otherwise be a source of income;
- (b) any income or capital which it would be reasonable to expect would be secured by him,

with a view to reducing the amount of his assessable income, his net income shall include the amount estimated by [^{F97}the Secretary of State] as representing the income which that person would have had if he had not deprived himself of or failed to secure that income, or as the case may be, that capital.

Textual Amendments

F96 Words in Sch. 1 para. 27 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(e)**

F97 Words in Sch. 1 para. 27 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(d)**

28. No amount shall be treated as income by virtue of paragraph 27 in relation to—

[^{F98}(a) if the parent satisfies the conditions for payment of the rate of child benefit specified in regulation 2(1)(a)(ii) of the Child Benefit Rates Regulations, an amount representing the difference between that rate and the basic rate, as defined in regulation 4;]

(b) if the parent is a person to, or in respect of, whom income support is payable, [^{F99}a contribution-based jobseeker's allowance];

(c) a payment from a discretionary trust or a trust derived from a payment made in consequence of a personal injury.

Textual Amendments

F98 Sch. 1 para. 28(a) substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **17(4)**

F99 Words in Sch. 1 para. 28(b) substituted (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(4)(c)**

29. Where an amount is included in the income of a person under paragraph 27 in respect of income which would become available to him on application, the amount included under that paragraph shall be included from the date on which it could be expected to be acquired.

30. Where [^{F100}the Secretary of State] determines under paragraph 27 that a person has deprived himself of capital which would otherwise be a source of income, the amount of that capital shall be reduced at intervals of 52 weeks, starting with the week which falls 52 weeks after the first week in respect of which income from it is included in the calculation of the assessment in question, by an amount equal to the amount which the [^{F101}Secretary of State] estimates would represent the income from that source in the immediately preceding period of 52 weeks.

Textual Amendments

F100 Words in Sch. 1 para. 30 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(d)**

F101 Words in Sch. 1 para. 30 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(e)**

31. Where a payment is made on behalf of a parent or a relevant child in respect of food, ordinary clothing or footwear, gas, electricity or fuel charges, housing costs or council tax, an amount equal to the amount which the [^{F102}Secretary of State] estimates represents the value of that payment shall be treated as the income of the parent in question except to the extent that such amount is—

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- (a) disregarded under paragraph 38 of Schedule 2;
- (b) a payment of school fees paid by or on behalf of someone other than the absent parent.

Textual Amendments

F102 Words in Sch. 1 para. 31 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(e)**

32. Where paragraph 26 applies the amount to be treated as the income of the parent shall be determined as if it were earnings from employment as an employed earner and in a case to which paragraph 27 or 31 applies the amount shall be determined as if it were other income to which Part III of this Schedule applies.

[^{F103}CHAPTER 3 Estimate of earnings where insufficient information available

Textual Amendments

F103 Sch. 1 Ch. 3 para. 5B inserted (30.4.2012) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2012 \(S.I. 2012/712\)](#), regs. 1(1), **5**

5B.—(1) Where the [^{F104}Secretary of State] is calculating earnings of an employed earner or a self-employed earner under Part 1 of Schedule 1 and the information available in relation to those earnings is insufficient or unreliable, the [^{F104}Secretary of State] may estimate those earnings and, in doing so, may make any assumptions as to any fact.

(2) Where the [^{F105}Secretary of State] is satisfied that the person is engaged in a particular occupation, whether as an employee or a self-employed person, the assumptions referred to in subparagraph (1) may include an assumption that the person has the average weekly earnings of a person engaged in that occupation in the United Kingdom or in any part of the United Kingdom.]

Textual Amendments

F103 Sch. 1 Ch. 3 para. 5B inserted (30.4.2012) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2012 \(S.I. 2012/712\)](#), regs. 1(1), **5**

F104 Words in Sch. 1 para. 5B(1) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 110**

F105 Words in Sch. 1 para. 5B(2) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 110**

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There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992, SCHEDULE 1.