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STATUTORY INSTRUMENTS

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**1996 No. 2890**

**The Housing Renewal Grants Regulations 1996**

**PART II**

**MEANS TEST FOR OWNER-OCCUPIER'S AND TENANT'S APPLICATIONS**

*CHAPTER V: INCOME*

**Determination of income on a weekly basis**

- 18.**—(1) The income of a relevant person shall be determined on a weekly basis by aggregating—
- (a) his average weekly earnings from employment as an employed earner, determined in accordance with this Chapter and Chapter VI of this Part,
  - (b) his average weekly earnings from employment as a self-employed earner, determined in accordance with this Chapter and Chapter VII of this Part,
  - (c) his average weekly income other than earnings, determined in accordance with this Chapter and Chapter VIII of this Part,
  - (d) the weekly tariff income determined under regulation 40 (determination of tariff income from capital), and

by then deducting the average weekly relevant child care charge, determined in accordance with regulation 19 (treatment of child care charges), up to a maximum deduction in respect of the relevant person's family of £60 per week.

(2) For the purposes of paragraph (1) "income" includes income to which regulations 30 (annuity treated as income), 31 (notional income), 43 (determination of grant income) and 46 (treatment of student loans) refer.

**Treatment of child care charges**

**19.**—(1) This regulation applies where a relevant person has incurred relevant child care charges and—

- (a) is a lone parent and is engaged in remunerative work;
- (b) is a member of a couple both of whom are engaged in remunerative work; or
- (c) is a member of a couple where one member is engaged in remunerative work and the other member is incapacitated.

(2) Relevant child care charges shall be determined over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of the charge provided by the child minder or person providing the care.

(3) For the purposes of paragraph (1)(c) the other member of a couple is incapacitated where—

- (a) the relevant person's applicable amount includes—
  - (i) a disability premium; or

- (ii) a higher pensioner premium by virtue of the satisfaction of paragraph 10(2)(b) of Schedule 1,  
on account of the other member's incapacity;
- (b) the relevant person's applicable amount would include a disability premium or a higher pensioner premium on account of the other member's incapacity, but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations<sup>(1)</sup> made under section 171E of the 1992 Act<sup>(2)</sup> (incapacity for work: disqualification, etc.);
- (c) the relevant person is or is treated as incapable of work, and has been so incapable or has been so treated as incapable of work in accordance with the provisions of, and regulations made under, Part XIIA of the 1992 Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
- (d) there is payable in respect of him one or more of the following—
- (i) long-term incapacity benefit, or short-term incapacity benefit at the higher rate, under Schedule 4 to the 1992 Act<sup>(3)</sup> (rates of benefits, etc.);
  - (ii) attendance allowance under section 64 of that Act (entitlement to an attendance allowance);
  - (iii) severe disablement allowance under section 68 of that Act<sup>(4)</sup> (severe disablement allowance: entitlement and rate);
  - (iv) disability living allowance under section 71 of that Act (disability living allowance);
- (v) increase of disablement pension under section 104 of that Act (increase where constant attendance needed);
- (vi) a pension increase under a war pension scheme or an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under paragraph (ii), (iv) or (v) above;
- (e) a pension or allowance to which paragraph (ii), (iv), (v) or (vi) of sub-paragraph (d) refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient within the meaning of regulation 18(2) of the Housing Benefit (General) Regulations 1987<sup>(5)</sup> (patients);
- (f) sub-paragraph (d) or (e) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Northern Ireland<sup>(6)</sup>; or
- (g) he has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977<sup>(7)</sup> (provision of vehicles for those suffering disability) or under section 46 of the National Health Service (Scotland) Act 1978<sup>(8)</sup> (provision of vehicles for persons suffering from physical defect or disability) or provided by the Department of Health and Social Services for

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(1) S.I. 1995/311.

(2) Section 171E is inserted into the 1992 Act by section 6(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18).

(3) Paragraph 2 is substituted and paragraph 2A inserted in Schedule 4 by section 2(2) of the Social Security (Incapacity for Work) Act 1994 (c. 18); and Schedule 4 has been further amended by Article 3 of the Social Security Benefits Up-rating Order 1995 (S.I. 1995/559).

(4) Section 68 is amended by section 9 of, and by paragraph 18 of Schedule 1 and by Schedule 2 to, the Social Security (Incapacity for Work) Act 1994.

(5) S.I. 1987/1971.

(6) S.R. (N.I.) 1994 No. 274.

(7) 1977 c. 49; section 5(2) was amended and subsection (2A) inserted by the Public Health Laboratory Service Act 1979 (c. 23), section 1, and subsection (2B) was inserted by section 9 of the Health and Social Security Act 1984 (c. 48).

(8) 1978 c. 29.

Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(9)</sup> (provision of vehicles for persons suffering from physical defect or disability).

(4) In this regulation—

“Crown property” means property held by Her Majesty in right of the Crown or by a government department or which is held in trust for Her Majesty for the purposes of a government department, except (in the case of an interest held by Her Majesty in right of the Crown) where the interest is under the management of the Crown Estate Commissioners;

“local authority” means, in relation to England and Wales, the council of a county or district, a metropolitan district, a London Borough, the Common Council of the City of London or the Council of the Isles of Scilly or, in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(10)</sup>;

“relevant child care charges” means the charges paid by the relevant person for care provided for any child of the relevant person’s family who is under the age of 11 years, other than charges paid in respect of the child’s compulsory education or charges paid by a relevant person to a partner or by a partner to a relevant person in respect of any child for whom either or any of them is responsible in accordance with regulation 8 (circumstances in which a person is to be treated as responsible or not responsible for another), where the care is provided—

- (a) by persons registered under section 71 of the Children Act 1989<sup>(11)</sup> (registration of child minders and persons providing day care for young children);
- (b) for children aged 8 and over but under 11, out of school hours, by a school on school premises or by a local authority;
- (c) by a child care scheme operating on Crown property where registration under section 71 of the Children Act 1989 is not required; or
- (d) in schools or establishments which are exempted from registration under section 71 of the Children Act 1989 by virtue of section 71(16) of, and paragraph 3 or 4 of Schedule 9 to, that Act,

and shall be determined on a weekly basis in accordance with paragraph (2).

#### **Average weekly earnings of employed earners**

**20.** Where the income of a relevant person consists of or includes earnings from employment as an employed earner, his average weekly earnings from such employment shall be determined by reference to his earnings from such employment over the period of 52 weeks immediately preceding the application or, where his earnings fluctuate, over such other lesser period immediately preceding the application as may enable his average weekly earnings to be determined more accurately.

#### **Average weekly earnings of self-employed earners**

**21.** Where the income of a relevant person consists of or includes earnings from employment as a self-employed earner, his average weekly earnings from such employment shall be determined by reference to his earnings from such employment over the period of 52 weeks immediately preceding the application or, where his earnings from such employment fluctuate, over such other lesser period immediately preceding the application as may enable his average weekly income to be determined more accurately.

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<sup>(9)</sup> S.I. 1972/1265 (N.I. 14).

<sup>(10)</sup> 1994 c. 39.

<sup>(11)</sup> 1989 c. 41.

### **Average weekly income other than earnings**

**22.** Any part of a relevant person's income which does not consist of earnings shall be determined by reference to such income over the period of 52 weeks immediately preceding the application or, where such income fluctuate, over such other lesser period immediately preceding the application as may enable his average weekly income to be determined more accurately.

### **Determination of weekly income**

**23.—(1)** For the purposes of regulations 20 (average weekly earnings of employed earners) and 22 (average weekly income other than earnings), where the period in respect of which a payment is made—

- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
- (b) exceeds a week, the weekly amount shall be determined—
  - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
  - (ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the quotient by 7.

(2) For the purposes of regulation 21 (average weekly earnings of self-employed earners) the weekly amount shall be determined by dividing the relevant person's earnings during the assessment period by the number equal to the number of days in the assessment period and multiplying the quotient by 7.