
STATUTORY INSTRUMENTS

2006 No. 215

The Council Tax Benefit Regulations 2006

PART 4

Income and capital

SECTION 5

Other income

Calculation of income other than earnings

30.—(1) For the purposes of regulation 21 (average weekly income other than earnings), the income of a claimant which does not consist of earnings to be taken into account shall, subject to paragraphs (2) to (8), be his gross income and any capital treated as income under regulation 31 (capital treated as income).

(2) There shall be disregarded from the calculation of a claimant's gross income under paragraph (1), any sum, where applicable, specified in Schedule 4.

^{F1}(3)

^{F1}(4)

^{F1}(4A)

(5) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) shall be the gross amount payable.

[^{F2}(5A) Where the claimant or, where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations, the amount of that benefit to be taken into account is the amount as if it had not been reduced.]

(6) Where an award of any working tax credit or child tax credit under the Tax Credits Act is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under paragraph (1) shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

(7) In paragraph (6), “tax year” means a period beginning with 6th April in one year and ending with 5th April in the next.

(8) [^{F3}Paragraphs (9) and (9A) apply] where—

- (a) a relevant payment has been made to a person in an academic year; and
- (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.

(9) [^{F4}Where a relevant payment is made quarterly, the] amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (8) applies, shall be calculated by applying the formula—

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$$\frac{A - (B \times C)}{D}$$

where—

A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under regulation 51(5);

B = the number of benefit weeks from the benefit week immediately following that which includes the first day of that academic year to the benefit week which includes the day on which the person abandoned, or was dismissed from, his course;

C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under regulation 51(2) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to council tax benefit immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;

D = the number of benefit weeks in the assessment period.

[^{F5}(9A) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (8) applies, shall be calculated by applying the formula in paragraph (9) but as if—

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under regulation 51(5).]

(10) [^{F6}In this regulation]—

“academic year” and “student loan” shall have the same meanings as for the purposes of Part 5;

[^{F7}“assessment period” means—

- (a) in a case where a relevant payment is made quarterly, the period beginning with the benefit week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the benefit week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;
- (b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the benefit week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the benefit week which includes—
 - (i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
 - (ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person,

whichever of those dates is earlier;]

[^{F8}“quarter” in relation to an assessment period means a period in that year beginning on—

- (a) 1st January and ending on 31st March;
- (b) 1st April and ending on 30th June;
- (c) 1st July and ending on 31st August; or
- (d) 1st September and ending on 31st December;]

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in regulation 46(7) or both.

(11) For the avoidance of doubt there shall be included as income to be taken into account under paragraph (1)—

- (a) any payment to which regulation 25(2) (payments not earnings) applies; or
- (b) in the case of a claimant who is receiving support under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the claimant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.

Textual Amendments

- F1** Reg. 30(3)(4)(4A) omitted (3.7.2007) by virtue of [Housing Benefit and Council Tax Benefit \(War Pension Disregards\) Regulations 2007 \(S.I. 2007/1619\)](#), regs. 1, **5(b)**
- F2** Reg. 30(5A) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/1082\)](#), regs. 1, **52**
- F3** Words in reg. 30(8) substituted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1599\)](#), reg. 1(3)(a)(b)**6(2)(a)**
- F4** Words in reg. 30(9) substituted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1599\)](#), reg. 1(3)(a)(b)**6(2)(b)**
- F5** Reg. 30(9A) inserted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1599\)](#), reg. 1(3)(a)(b)**6(2)(c)**
- F6** Words in reg. 30(10) substituted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1599\)](#), reg. 1(3)(a)(b)**6(2)(d)(i)**
- F7** Words in reg. 30(10) substituted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1599\)](#), reg. 1(3)(a)(b)**6(2)(d)(ii)**
- F8** Words in reg. 30(10) inserted (1.9.2008 for specified purposes) by [The Social Security \(Students and Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1599\)](#), reg. 1(3)(a)(b)**6(2)(d)(iii)**

Capital treated as income

31.—(1) Any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or, at the date of any subsequent revision or supersession, shall, if the aggregate of the instalments outstanding and the amount of the claimant's capital otherwise calculated in accordance with Section 6 exceeds £16,000, be treated as income.

(2) Any payment received under an annuity shall be treated as income.

(3) Any earnings to the extent that they are not a payment of income shall be treated as income.

(4) Any Career Development Loan paid pursuant to section 2 of the 1973 Act shall be treated as income.

(5) Where an agreement or court order provides that payments shall be made to the claimant in consequence of any personal injury to the claimant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the claimant (but not a payment which is treated as capital by virtue of this Part), shall be treated as income.

Notional income

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

(2) Except in the case of—

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- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;
- (c) a personal pension scheme^{F9}, occupational pension scheme^{F10}^{F11} ... or a payment made by the Board of the Pension Protection Fund] where the claimant ^{F12}has not attained the qualifying age for state pension credit];
- ^{F13}(d) any sum to which paragraph 47(2)(a) of Schedule 5 (capital to be disregarded) applies which is administered in the way referred to in paragraph 47(1)(a);
- (da) any sum to which paragraph 48(a) of Schedule 5 refers;]
- (e) rehabilitation allowance made under section 2 of the 1973 Act;
- (f) child tax credit; or
- (g) working tax credit,
- ^{F14}(h) any sum to which paragraph (13) applies;]

any income 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 the claimant but only from the date on which it could be expected to be acquired were an application made.

- ^{F15}(3)
- ^{F15}(3A)
- ^{F15}(4)
- ^{F15}(5)

- (6) Any payment of income, other than a payment of income specified in paragraph (7), made—
 - (a) to a third party in respect of a single claimant or a member of the family (but not a member of the third party's family) shall, where that payment is a payment of an occupational pension^{F16}, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fun] be treated as possessed by that single claimant or, as the case may be, by that member;
 - (b) to a third party in respect of a single claimant or in respect of a member of the family (but not a member of the third party's family) shall, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single claimant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that claimant or member is liable;
 - (c) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.
- (7) Paragraph (6) shall not apply in respect of a payment of income made—
 - (a) under ^{F17}or by] the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust^{F18}, MFET Limited] or the Independent Living ^{F19}Fund (2006)];
 - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal);
 - (c) pursuant to section 2 of the 1973 Act in respect of a person's participation—
 - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;

- (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations^{F20} ...; ^{F21} ...
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
 - [^{F22}(v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;]
 - [^{F23}(cb) in respect of a person's participation in the Mandatory Work Activity Scheme;]
 - [^{F24}(cc) in respect of a claimant's participation in the Employment, Skills and Enterprise Scheme;]
 - (d) under an occupational pension scheme[^{F25}, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund] where—
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980^{M1};
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.
- (8) Where a claimant is in receipt of any benefit (other than council tax benefit) under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the relevant authority shall treat the claimant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the relevant authority shall select to apply in its area, to the date on which the altered rate is to take effect.
- (9) Subject to paragraph (10), where—
 - (a) a claimant performs a service for another person; and
 - (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,the relevant authority shall treat the claimant as possessing such earnings (if any) as is reasonable for that employment unless the claimant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.
- (10) Paragraph (9) shall not apply—
 - (a) to a claimant who is engaged by a charitable or voluntary organisation or who is a volunteer if the relevant authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or
 - (b) in a case where the service is performed in connection with—
 - (i) the claimant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations, other than where the service is performed in connection with the claimant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations^{F26} ...; or
 - (ii) the claimant's or the claimant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme[^{F27}; or

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(c) to a claimant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.]

[^{F27}(10A) In paragraph (10)(c) “work placement” means practical work experience which is not undertaken in expectation of payment.]

(11) Where a claimant is treated as possessing any income under any of paragraphs (1) to (8), the foregoing provisions of this Part shall apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(12) Where a claimant is treated as possessing any earnings under paragraph (9) the foregoing provisions of this Part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (3) of regulation 26 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account those earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings ^{F28}... the basic rate of tax applicable to the assessment period less only the personal relief to which the claimant is entitled under sections 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the [^{F29}[^{F30}basic] rate] of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum payable by the claimant by way of a contribution towards an occupational or personal pension scheme.

[^{F31}(13) Paragraphs (1), (2), (6) and (9) shall not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the claimant’s participation in a service user group.]

Textual Amendments

- F9** Words in reg. 32(2)(c) inserted by SI 2005/2465 reg. 4A(2) (as inserted) (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), Sch. 2 para. 28(3), **(6)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F10** Words in reg. 32(2)(c) omitted (16.7.2007) by virtue of [Social Security \(Miscellaneous Amendments\) \(No.3\) Regulations 2007 \(S.I. 2007/1749\)](#), regs. 1, **6(4)(a)**
- F11** Words in reg. 32(2)(c) substituted (6.4.2006) by [Social Security \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/588\)](#), regs. 1(9), **9(2)(a)**
- F12** Words in reg. 32(2)(c) substituted (6.4.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(1), **10(4)**
- F13** Reg. 32(2)(d)(da) substituted for reg. 32(2)(d) (2.4.2007) by [Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), **8(2)**
- F14** Reg. 32(2)(h) inserted (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(c), **8(4)(a)**
- F15** Reg. 32(3)-(5) omitted (19.5.2008) by virtue of [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **5(4)**
- F16** Words in reg. 32(6)(a) substituted (6.4.2006) by [Social Security \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/588\)](#), regs. 1(2), **9(2)(b)**

- F17** Words in reg. 32(7)(a) inserted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 (S.I. 2010/641), regs. 1(3)(c), **10(5)(a)**
- F18** Words in reg. 32(7)(a) inserted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 (S.I. 2010/641), regs. 1(3)(c), **10(3)(b)**
- F19** Words in reg. 32(7)(a) substituted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **8(4)(a)**
- F20** Words in reg. 32(7)(c)(iii) omitted (14.4.2008) by virtue of Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **7(4)(a)**
- F21** Word in reg. 32(7)(c)(iii) omitted (5.10.2009) by virtue of The Social Security (Flexible New Deal) Regulations 2009 (S.I. 2009/480), regs. 1(3), **3(2)(a)**
- F22** Reg. 32(7)(c)(v) and word inserted (5.10.2009) by The Social Security (Flexible New Deal) Regulations 2009 (S.I. 2009/480), regs. 1(3), **3(2)(b)**
- F23** Reg. 32(7)(cb) inserted (E.W.S.) (25.4.2011) by The Jobseekers Allowance (Mandatory Work Activity Scheme) Regulations 2011 (S.I. 2011/688), regs. 1, **12(1)(a)**, (2)
- F24** Reg. 32(7)(cc) inserted (20.5.2011) by The Jobseekers Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011 (S.I. 2011/917), regs. 1, **12(1)(a)**, (2)
- F25** Words in reg. 32(7)(d) substituted (6.4.2006) by Social Security (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/588), regs. 1(2), **9(2)(c)**
- F26** Words in reg. 32(10)(b)(i) omitted (14.4.2008) by virtue of Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **7(4)(a)**
- F27** Reg. 32(10)(c)(10A) and word added (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **13(6)(a)**
- F28** Words in reg. 32(12)(a) omitted (6.4.2009) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/583), regs. 1(2), **8(4)(a)**
- F29** Words in reg. 32(12)(a) substituted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **13(6)(b)**
- F30** Word in reg. 32(12)(a) substituted (6.4.2009) by The Social Security (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/583), regs. 1(2), **8(4)(b)**
- F31** Reg. 32(13) inserted (2.11.2009) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009 (S.I. 2009/2655), regs. 1(3)(c), **8(4)(b)**

Modifications etc. (not altering text)

- C1** Reg. 32(7) modified (22.11.2010) by The Jobseekers Allowance (Work for Your Benefit Pilot Scheme) Regulations 2010 (S.I. 2010/1222), regs. 1(2), **14**

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- M1** 1980 c. 46.

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