
STATUTORY INSTRUMENTS

2006 No. 216

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

PART 4

Income and capital

SECTION 3

Employed earners

Earnings of employed earners

25.—(1) Subject to paragraph (2), “earnings” means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to a claimant on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice;
- (d) any holiday pay;
- (e) any payment by way of a retainer;
- (f) any payment made by the claimant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant's employer in respect of—
 - (i) travelling expenses incurred by the claimant between his home and place of employment;
 - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant's absence from home;
- (g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001 ^{M1};
- (h) statutory sick pay and statutory maternity pay payable by the employer under the Act;
- [^{F1}(i) ordinary statutory paternity pay payable under Part 12ZA of the Act^{M2};
- [^{F1}(ia) additional statutory paternity pay payable under Part 12ZA of the Act;
- (j) statutory adoption pay payable under Part 12ZB of the Act ^{M3};
- (k) any sums payable under a contract of service—
 - (i) for incapacity for work due to sickness or injury; or
 - (ii) by reason of pregnancy or confinement.

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- (2) Earnings shall not include—
- (a) subject to paragraph (3), any payment in kind;
 - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
 - (c) any occupational pension;
 - (d) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme ^{M4};
 - (e) any payment of compensation made pursuant to an award by an employment tribunal ^{M5} established under the Employment Tribunals Act 1996 ^{M6} in respect of unfair dismissal or unlawful discrimination.
 - [^{F2}(f) any payment in respect of expenses arising out of the claimant's participation in a service user group.]
- (3) Paragraph (2)(a) shall not apply in respect of any non-cash voucher referred to in paragraph (1)(g).

Textual Amendments

- F1** Reg. 25(1)(i)(ia) substituted for reg. 25(1)(i) (1.4.2012) by [The Social Security \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/757\)](#), regs. 1(4), **10(5)**
- F2** Reg. 25(2)(f) added (2.11.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(3)(d), **9(3)**

Marginal Citations

- M1** [S.I. 2001/1004](#).
- M2** Part 12ZA was inserted by section 2 of the [Employment Act 2002 \(c. 22\)](#).
- M3** Part 12ZB was inserted by section 4 of the [Employment Act 2002](#).
- M4** The Scheme is set out in regulation 4 of, and the Schedule to, the [European Communities \(Iron and Steel Employees Re-adaptation Benefits Scheme\) \(No. 2\) Regulations 1996 \(S.I. 1996/3182\)](#).
- M5** Industrial tribunals were renamed employment tribunals under section 1 of the [Employment Rights \(Dispute Resolution\) Act 1998 \(c. 8\)](#) and, under the same section, the [Industrial Tribunals Act 1996](#) may be cited as the [Employment Tribunals Act 1996](#).
- M6** [1996 c. 17](#).

Calculation of net earnings of employed earners

26.—(1) For the purposes of regulation 20 (calculation of income on a weekly basis), the earnings of a claimant derived or likely to be derived from employment as an employed earner to be taken into account shall, subject to regulation 23(4) and Schedule 2, be his net earnings.

(2) For the purposes of paragraph (1) net earnings shall, except where paragraph (5) applies, be calculated by taking into account the gross earnings of the claimant from that employment over the assessment period, less—

- (a) any amount deducted from those earnings by way of—
 - (i) income tax;
 - (ii) primary Class 1 contributions under the Act;
- (b) one-half of any sum paid by the claimant by way of a contribution towards an occupational pension scheme;
- (c) one-half of the amount calculated in accordance with paragraph (4) in respect of any qualifying contribution payable by the claimant; and

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- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, [^{F3}ordinary or additional statutory paternity pay] or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the Act.

(3) In this regulation “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.

(4) The amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying contribution shall be determined—

- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
- (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.

(5) Where the earnings of a claimant are determined under sub-paragraph (b) of paragraph (2) of regulation 23 (calculation of weekly income), his net earnings shall be calculated by taking into account those earnings over the assessment period, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings ^{F4}... 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 ^{M7} (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the [^{F5}[^{F6}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 which would be payable by the claimant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

Textual Amendments

- F3** Words in reg. 26(2)(d) substituted (1.4.2012) by [The Social Security \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/757\)](#), regs. 1(4), **10(6)**
- F4** Words in reg. 26(5)(a) omitted (6.4.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **9(6)(a)**
- F5** Words in reg. 26(5)(a) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **14(3)**
- F6** Word in reg. 26(5)(a) substituted (6.4.2009) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **9(6)(b)**
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Marginal Citations

- M7** 1988 c. 1; sections 257 and 257A were substituted by the [Finance Act 1988 \(c. 39\)](#), **section 33**.

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- [Blanket amendment words substituted by S.I. 2011/1043 art. 3-68-10](#)