

SCHEDULE

NET WEEKLY INCOME

PART II

EMPLOYED EARNER

Calculation or estimate

6.—(1) Subject to sub-paragraphs (2) to (4), the amount of earnings to be taken into account for the purpose of calculating net income 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 Secretary of State, beginning not earlier than 8 weeks before the relevant week and ending not later than the date of the calculation, and for the purposes of the 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 when the calculation is made.

(2) Subject to sub-paragraph (4), where a person has claimed, or has been paid, working families' tax credit or disabled person's tax credit on any day during the period beginning not earlier than 8 weeks before the relevant week and ending not later than the date on which the calculation is made, the Secretary of State may have regard to the amount of earnings taken into account in determining entitlement to those tax credits in order to calculate or estimate the amount of earnings to be taken into account for the purposes of calculating net earnings, notwithstanding the fact that entitlement to those tax credits may have been determined by reference to earnings attributable to a period other than that specified in sub-paragraph (1).

(3) Where a person's earnings during the period of 52 weeks ending with the relevant week include a bonus or commission 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, the amount of that bonus or commission shall be determined for the purposes of the calculation of earnings by aggregating any such payments received in that period and dividing by 52.

(4) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the 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 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; and
- (b) the duration and pattern, or the expected duration and pattern, of any employment of that person.