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STATUTORY INSTRUMENTS

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**1987 No. 1967**

**The Income Support (General) Regulations 1987**

**PART V**

**INCOME AND CAPITAL**

**CHAPTER II**

income

**Calculation of income**

**28.**—(1) For the purposes of section 20(3) of the Act (conditions of entitlement to income support) the income of a claimant shall be calculated on a weekly basis—

- (a) by determining in accordance with this Part, other than Chapter VI, the weekly amount of his income; and
- (b) by adding to that amount the weekly income calculated under regulation 53 (calculation of tariff income from capital).

[<sup>F1</sup>(2) For the purposes of paragraph (1) “income” includes capital treated as income under regulation 41 (capital treated as income) and income which a claimant is treated as possessing under regulation 42 (notional income).]

**Textual Amendments**

- F1** Reg. 28(2) substituted (7.10.1991) by [The Income Support \(General\) Amendment No. 4 Regulations 1991 \(S.I. 1991/1559\)](#), regs. 1(1)(c), 7 (with reg. 1(2))

**Commencement Information**

- I1** Reg. 28 in force at 11.4.1988, see reg. 1

**Calculation of earnings derived from employed earner's employment and income other than earnings**

**29.**—(1) <sup>F2</sup>... Earnings derived from employment as an employed earner and income which does not consist of earnings shall be taken into account over a period determined in accordance with the following paragraphs and at a weekly amount determined in accordance with regulation 32 (calculation of weekly amount of income).

(2) Subject to [<sup>F3</sup>paragraphs (3) [<sup>F4</sup>and (4A) to (4D)]]], the period over which a payment is to be taken into account shall be—

- (a) in a case where it is payable in respect of a period, a period equal to the length of that period;

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- (b) in any other case, a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the net earnings, or in the case of income which does not consist of earnings, the amount of that income [<sup>F5</sup>less any amount paid by way of tax on that income which is disregarded under paragraph 1 of Schedule 9 (income other than earnings to be disregarded)] by the amount of income support which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from that payment under Schedule 8 [<sup>F6</sup>(earnings to be disregarded) or, as the case maybe, any paragraph of Schedule 9 other than paragraph 1 of that Schedule,] as is appropriate in the claimant's case,

and that period shall begin on the date on which the payment is treated as paid under regulation 31 (date on which income is treated as paid).

(3) Where earnings not of the same kind are derived from the same source and the periods in respect of which those earnings would, but for this paragraph, fall to be taken into account—

- (a) overlap, wholly or partly, those earnings shall be taken into account over a period equal to the aggregate length of those periods;
- (b) and that period shall begin with the earliest date on which any part of those earnings would otherwise be treated as paid under regulation 31 (date on which income is treated as paid).

[<sup>F7</sup>(4) In a case to which paragraph (3) applies, earnings under regulation 35 (earnings of employed earners) shall be taken into account in the following order of priority—

- (a) earnings normally derived from the employment;
- (b) any payment to which paragraph (1)(b) or (c) of that regulation applies;
- (c) any payment to which paragraph (1)(i) of that regulation applies;
- (d) any payment to which paragraph (1)(d) of that regulation applies.]

[<sup>F8</sup>(4A) Where earnings to which regulation 35(1)(b) to (d) (earnings of employed earners) applies are paid in respect of part of a day, those earnings shall be taken into account over a period equal to a day.]

[<sup>F9</sup>(4B) Where earnings to which regulation 35(1)(i)(i) applies (earnings of employed earners) are paid in respect of or on the termination of any employment which is not part-time employment, the period over which they are to be taken into account shall be—

- (a) a period equal to such number of weeks as is equal to the number (less any fraction of a whole number) obtained by dividing the net earnings by the maximum weekly amount which, on the date on which the payment of earnings is made, is specified in paragraph 8(1)(c) of Schedule 14 to the Employment Protection (Consolidation) Act 1978; or
- (b) a period equal to the length of the specified period, whichever is the shorter, and that period shall begin on the date on which the payment is treated as paid under regulation 31 (date on which income is treated as paid).]

[<sup>F9</sup>(4C) Any earnings to which regulation 35(1)(i)(ii) applies which are paid in respect of or on the termination of part-time employment, shall be taken into account over a period equal to one week.]

[<sup>F9</sup>(4D) In this regulation—

- (a) “part-time employment” means employment in which a person is not to be treated as engaged in remunerative work under regulation 5 or 6 (persons treated, or not treated, as engaged in remunerative work);
- (b) “specified period” means a period equal to—
- (i) the period of notice which is applicable to a person, or would have been applicable if it had not been waived; less

- (ii) any part of that period during which the person has continued to work in the employment in question or in respect of which he has received a payment to which regulation 35(1)(c) applies, and for the purposes of this definition “period of notice” means the period of notice of termination of employment to which a person is entitled by statute or by contract, whichever is the longer, or, if he is not entitled to such notice, the period of notice which is customary in the employment in question.]

(5) For the purposes of this regulation the claimant's earnings and income which does not consist of earnings shall be calculated in accordance with Chapters III and V respectively of this Part.

#### Textual Amendments

- F2** Words in reg. 29(1) omitted (12.12.1988) by virtue of [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(a), **7(a)**
- F3** Words in reg. 29(2) substituted (12.12.1988) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(a), **7(b)**
- F4** Words in reg. 29(2) substituted (9.10.1989) by [The Income Support \(General\) Amendment No. 2 Regulations 1989 \(S.I. 1989/1323\)](#), regs. 1(1)(b), **9(a)**
- F5** Words in reg. 29(2)(b) inserted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1990 \(S.I. 1990/547\)](#), regs. 1(1)(b), **10(a)**
- F6** Words in reg. 29(2)(b) substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income Support \(General\) Amendment Regulations 1990 \(S.I. 1990/547\)](#), regs. 1(1)(b), **10(b)**
- F7** Reg. 29(4) substituted (9.10.1989) by [The Income Support \(General\) Amendment No. 2 Regulations 1989 \(S.I. 1989/1323\)](#), regs. 1(1)(b), **9(b)**
- F8** Reg. 29(4A) inserted (12.12.1988) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(a), **7(c)**
- F9** Reg. 29(4B)-(4D) inserted (9.10.1989) by [The Income Support \(General\) Amendment No. 2 Regulations 1989 \(S.I. 1989/1323\)](#), regs. 1(1)(b), **9(c)**

#### Commencement Information

- I2** Reg. 29 in force at 11.4.1988, see reg. 1

### Calculation of earnings of self-employed earners

**30.—**(1) Except where paragraph (2) applies, where a claimant's income consists of earnings from employment as a self-employed earner the weekly amount of his earnings shall be determined by reference to his average weekly earnings from that employment—

- (a) over a period of [<sup>F10</sup>one year]; or
- (b) where the claimant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period <sup>F11</sup>... as may, in any particular case, enable the weekly amount of his earnings to be determined more accurately.

(2) Where the claimant's earnings consist of royalties or sums paid periodically for or in respect of any copyright those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of income support which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 8 (earnings to be disregarded) as is appropriate in the claimant's case.

(3) For the purposes of this regulation the claimant's earnings shall be calculated in accordance with Chapter IV of this Part.

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#### Textual Amendments

- F10** Words in [reg. 30\(1\)\(a\)](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Income-related Benefits Schemes \(Miscellaneous Amendments\) \(No. 4\) Regulations 1993 \(S.I. 1993/2119\)](#), [regs. 1\(1\)\(a\)](#), **11(a)**
- F11** Words in [reg. 30\(1\)\(b\)](#) omitted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by virtue of [The Income-related Benefits Schemes \(Miscellaneous Amendments\) \(No. 4\) Regulations 1993 \(S.I. 1993/2119\)](#), [regs. 1\(1\)\(a\)](#), **11(b)**

#### Commencement Information

- I3** [Reg. 30](#) in force at 11.4.1988, see [reg. 1](#)

### Date on which income is treated as paid

**31.**—(1) Except where paragraph (2) applies, a payment of income to which regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings) applies shall be treated as paid—

- (a) in the case of a payment which is due to be paid before the first benefit week pursuant to the claim, on the date on which it is due to be paid;
- (b) in any other case, on the first day of the benefit week in which it is due to be paid or the first succeeding benefit week in which it is practicable to take it into account.

(2) Income support, unemployment benefit, [<sup>F12</sup>maternity allowance,][<sup>F13</sup>short-term or long-term incapacity benefit], or severe disablement allowance <sup>F14</sup>... shall be treated as paid on the day of the benefit week in respect of which [<sup>F15</sup>it is payable].

#### Textual Amendments

- F12** Words in [reg. 31\(2\)](#) inserted (12.9.1988) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), [regs. 1\(1\)\(b\)](#), **8**
- F13** Words in [reg. 31\(2\)](#) substituted (13.4.1995) by [The Disability Working Allowance and Income Support \(General\) Amendment Regulations 1995 \(S.I. 1995/482\)](#), [regs. 1\(1\)](#), **10** (with [reg. 1\(4\)](#))
- F14** Words in [reg. 31\(2\)](#) omitted (13.4.1995) by virtue of [The Disability Working Allowance and Income Support \(General\) Amendment Regulations 1995 \(S.I. 1995/482\)](#), [regs. 1\(1\)](#), **10** (with [reg. 1\(4\)](#))
- F15** Words in [reg. 31\(2\)](#) substituted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), [regs. 1\(1\)](#), **14**

#### Commencement Information

- I4** [Reg. 31](#) in force at 11.4.1988, see [reg. 1](#)

### Calculation of weekly amount of income

**32.**—(1) For the purposes of regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings), subject to [<sup>F16</sup>paragraphs (2) to (7)]<sup>F17</sup> ..., 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 a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
- (iii) in a case where that period is a year by dividing the amount of the payment by 52;
- (iv) in any other case by multiplying the amount of the payment by 7 and dividing the product by the number equal to the number of days in the period in respect of which it is made.

(2) Where a payment for a period not exceeding a week is treated under regulation 31(1)(a) (date on which income is treated as paid) as paid before the first benefit week and a part is to be taken into account for some days only in that week (the relevant days), the amount to be taken into account for the relevant days shall be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(3) Where a payment is in respect of a period equal to or in excess of a week and a part thereof is to be taken into account for some days only in a benefit week (the relevant days), the amount to be taken into account for the relevant days shall, except where paragraph (4) applies, be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(4) In the case of a payment of—

- (a) unemployment benefit, [<sup>F18</sup>maternity allowance,][<sup>F19</sup>short-term or long-term incapacity benefit], or severe disablement allowance<sup>F19</sup> ..., the amount to be taken into account for the relevant days shall be the amount of benefit [<sup>F20</sup>payable] in respect of those days;
- (b) income support, the amount to be taken into account for the relevant days shall be calculated by multiplying the weekly amount of the benefit by the number of relevant days and dividing the product by seven.

(5) Except in the case of a payment which it has not been practicable to treat under regulation 31(1)(b) as paid on the first day of the benefit week in which it is due to be paid, where a payment of income from a particular source is or has been paid regularly and that payment falls to be taken into account in the same benefit week as a payment of the same kind and from the same source, the amount of that income to be taken into account in any one benefit week shall not exceed the weekly amount determined under paragraph (1)(a) or (b), as the case may be, of the payment which under regulation 31(1)(b) (date on which income is treated as paid) is treated as paid first.

(6) Where the amount of the claimant's income fluctuates and has changed more than once, or a claimant's regular pattern of work is such that he does not work every week, the foregoing paragraphs may be modified so that the weekly amount of his income is determined by reference to his average weekly income—

- (a) if there is a recognisable cycle of work, over the period of one complete cycle (including, where the cycle involves periods in which the claimant does no work, those periods but disregarding any other absences);
- (b) in any other case, over a period of five weeks or such other period as may, in the particular case, enable the claimant's average weekly income to be determined more accurately.

[<sup>F21</sup>(7) Where any payment of earnings is taken into account under paragraph (4C) of regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings), over the period specified in that paragraph, the amount to be taken into account shall be equal to the amount of the payment.]

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**Textual Amendments**

- F16** Words in reg. 32(1) substituted (9.10.1989) by [The Income Support \(General\) Amendment No. 2 Regulations 1989 \(S.I. 1989/1323\)](#), regs. 1(1)(b), **10(a)**
- F17** Words in reg. 32(1) omitted (11.4.1988) by virtue of [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **15(a)**
- F18** Words in reg. 32(4)(a) inserted (12.9.1988) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), regs. 1(1)(b), **8**
- F19** Words in reg. 32(4)(a) substituted (13.4.1995) by [The Disability Working Allowance and Income Support \(General\) Amendment Regulations 1995 \(S.I. 1995/482\)](#), regs. 1(1), **11** (with reg. 1(4))
- F20** Word in reg. 32(4)(a) substituted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **15(b)**
- F21** Reg. 32(7) added (9.10.1989) by [The Income Support \(General\) Amendment No. 2 Regulations 1989 \(S.I. 1989/1323\)](#), regs. 1(1)(b), **10(b)**

**Commencement Information**

- I5** Reg. 32 in force at 11.4.1988, see reg. 1

**Weekly amount of charitable or voluntary payment**

<sup>F22</sup>**33.** . . . . .

**Textual Amendments**

- F22** Reg. 33 omitted (12.12.1988) by virtue of [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(a), **8**

**Commencement Information**

- I6** Reg. 33 in force at 11.4.1988, see reg. 1

**Incomplete weeks of benefit**

<sup>F23</sup>**34.** . . . . .

**Textual Amendments**

- F23** Reg. 34 omitted (11.4.1988) by virtue of [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **16**

**Commencement Information**

- I7** Reg. 34 in force at 11.4.1988, see reg. 1

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**Changes to legislation:**

There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, CHAPTER II.