

STATUTORY INSTRUMENTS

1987 No. 1967

The Income Support (General) Regulations 1987

PART V

INCOME AND CAPITAL

CHAPTER VI

capital

Modifications etc. (not altering text)

- C1** Pt. V applied (with modifications) (S.) (6.10.2003) by [The National Health Service \(Travelling Expenses and Remission of Charges\) \(Scotland\) \(No. 2\) Regulations 2003 \(S.S.I. 2003/460\)](#), reg. 1, [sch. Pt. I Table A \(with reg. 13\)](#)
- C2** Pt. V Ch. VI applied (with modifications) (S.) (6.10.2003) by [The National Health Service \(Travelling Expenses and Remission of Charges\) \(Scotland\) \(No. 2\) Regulations 2003 \(S.S.I. 2003/460\)](#), reg. 1, [sch. Pt. I Table A \(with reg. 13\)](#)

[^{F1}Capital limit

45. For the purposes of section 134(1) of the Contributions and Benefits Act as it applies to income support (no entitlement to benefit if capital exceeds prescribed amount), the prescribed amount is £16,000.]

Textual Amendments

- F1** [Reg. 45](#) substituted (with effect in accordance with reg. 1(6) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005 \(S.I. 2005/2465\)](#), regs. 1(6)(a), **2(4)**

Modifications etc. (not altering text)

- C3** [Reg. 45](#) applied (with modifications) (1.5.2006) by [S.I. 2003/2382 \(as amended \(E.\) by The National Health Service \(Travel Expenses and Remission of Charges\) Amendment Regulations 2006 \(S.I. 2006/1065\)](#), regs. 1(1), **2(2)(a)**
- C4** [Reg. 45](#) applied (with modifications) (1.5.2007) by [S.I. 2003/2382 \(as amended \(E.\) by The National Health Service \(Travel Expenses and Remission of Charges\) Amendment Regulations 2007 \(S.I. 2007/988\)](#), regs. 1(1), **2(2)(a)**
- C5** [Reg. 45](#) applied (with modifications) (1.5.2008) by [S.I. 2003/2382 \(as amended \(E.\) by The National Health Service \(Travel Expenses and Remission of Charges\) Amendment Regulations 2008 \(S.I. 2008/843\)](#), regs. 1(1), **2(2)(a)**
- C6** [Reg. 45](#) applied (with modifications) (1.7.2008) by [W.S.I. 2007/1104 \(as amended \(W.\) by The National Health Service \(Travelling Expenses and Remission of Charges\) \(Wales\) \(Amendment\) Regulations 2008 \(S.I. 2008/1480\)](#), regs. 1(2), **2(2)**

Status: Point in time view as at 01/07/2008.

Changes to legislation: There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, CHAPTER VI. (See end of Document for details)

Commencement Information

I1 Reg. 45 in force at 11.4.1988, see [reg. 1](#)

Calculation of capital

46.—(1) For the purposes of Part II of the Act as it applies to income support, the capital of a claimant to be taken into account shall, subject to paragraph (2), be the whole of his capital calculated in accordance with this Part and any income treated as capital under [^{F2}regulation 48 (income treated as capital).]

(2) There shall be disregarded from the calculation of a claimant's capital under paragraph (1) any capital, where applicable, specified in Schedule 10.

Textual Amendments

F2 Words in reg. 46(1) substituted (12.12.1988) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(a), **10**

Commencement Information

I2 Reg. 46 in force at 11.4.1988, see [reg. 1](#)

Disregard of capital of child or young person

47. [^{F3}The capital of a child or young person who is a member of the claimant's family shall not be treated as capital of the claimant.]

Textual Amendments

F3 [Reg. 47](#) omitted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by virtue of [The Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) Regulations 2003 \(S.I. 2003/455\)](#), **Sch. 1 para. 11**

Commencement Information

I3 Reg. 47 in force at 11.4.1988, see [reg. 1](#)

Income treated as capital

48.—(1) Any ^{F4}... bounty derived from employment to which paragraph 7 of Schedule 8 applies [^{F5}and paid at intervals of at least one year] shall be treated as capital.

(2) Except in the case of an amount to which section 23(5) (a) (ii) of the Act (refund of tax in trade disputes cases) [^{F6}or regulation 41(4) (capital treated as income)] applies, any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

(3) Any holiday pay which is not earnings under regulation 35(1) (d) (earnings of employed earners) shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraph 1, 2, 4, 6, [^{F7}12 [^{F8}, 25 to 28, 44 or 45]] of Schedule 10, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the claimant's account.

(5) Subject to paragraph (6), in the case of employment as an employed earner, any advance of earnings or any loan made by the claimant's employer shall be treated as capital.

[^{F9}(6) Paragraph (5) shall not apply to a person to whom section 23 of the Act (trade disputes) applies or in respect of whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) (effect of return to work).]

(7) Any payment under section 30 of the Prison Act 1952 ^{F10} (payments for discharged prisoners) or allowance under section 17 of the Prisons (Scotland) Act 1952 ^{F11} (allowances to prisoners on discharge) shall be treated as capital.

[^{F12}(8) [^{F13}Any payment made by a local authority, which represents arrears of payments under—

(a) paragraph 15 of Schedule 1 to the Children Act 1989 (power of a local authority to make contributions to a person with whom a child lives as a result of a residence order); or

(b) section 34(6) or as the case may be, section 50 of the Children Act 1975 (payments towards maintenance for children),

shall be treated as capital.]

(8A) [^{F14}Any payment made by an authority, as defined in Article 2 of the Children Order which represents arrears of payments under Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance), shall be treated as capital.]]

[^{F15}(9) Any charitable or voluntary payment which is not made or not due to be made at regular intervals, other than one to which paragraph (10) applies, shall be treated as capital.]

[^{F15}(10) This paragraph applies to a payment—

(a) which is made to a person to whom section 23 of the Act (trade disputes) applies or in respect of whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) of the Act (effect of return to work) [^{F16}or to a member of the family][^{F16}or to the partner] of such a person;

(b) [^{F17}to which regulation 44(2) (modification in respect of children and young persons) applies; or]

(c) which is made under the Macfarlane Trust^{F18}, the Macfarlane (Special Payments) Trust^{F19}, the Macfarlane (Special Payments) (No. 2) Trust^{F20}, the Fund^{F21}, the Eileen Trust^{F22}] or [^{F22}the Independent Living Funds].]

^{F23}(11)

[^{F24}(12) Any arrears of subsistence allowance which are paid to a claimant as a lump sum shall be treated as capital.]

Textual Amendments

F4 Word in reg. 48(1) omitted (12.9.1988) by virtue of [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), regs. 1(1)(b), **11(a)**

F5 Words in reg. 48(1) inserted (12.9.1988) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), regs. 1(1)(b), **11(a)**

F6 Words in reg. 48(2) inserted (12.9.1988) by [The Income Support \(General\) Amendment No. 4 Regulations 1988 \(S.I. 1988/1445\)](#), regs. 1(1)(b), **11(b)**

F7 Words in reg. 48(4) substituted (12.12.1988) by [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), regs. 1(1)(a), **11(a)**

F8 Words in reg. 48(4) substituted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), **reg. 5(4)**

Status: Point in time view as at 01/07/2008.

Changes to legislation: There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, CHAPTER VI. (See end of Document for details)

- F9** Reg. 48(6) substituted (11.4.1988) by The Income Support (General) Amendment Regulations 1988 (S.I. 1988/663), regs. 1(1), **21**
- F10** 1952 c. 52; section 30 was substituted by section 66 (3) of the Criminal Justice Act 1967 (c. 80).
- F11** 1952 c. 61.
- F12** Reg. 48(8)(8A) substituted for reg. 48(8) (coming into force in accordance with reg. 1(2)(3) of the amending S.I.) by The Social Security (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/563), regs. 1(2), **14(1)**
- F13** Reg. 48(8) omitted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by virtue of The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 1 para. 12(a)**
- F14** Reg. 48(8A) omitted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by virtue of The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 1 para. 12(a)**
- F15** Reg. 48(9)(10) added (12.12.1988) by The Income Support (General) Amendment No. 5 Regulations 1988 (S.I. 1988/2022), regs. 1(1)(a), **11(b)**
- F16** Words in reg. 48(10)(a) substituted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 1 para. 12(b)**
- F17** Reg. 48(10)(b) omitted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by virtue of The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 1 para. 12(a)**
- F18** Words in reg. 48(10)(c) inserted (31.1.1990) by The Income-related Benefits Schemes Amendment Regulations 1990 (S.I. 1990/127), regs. 1(1), **3(3)(b)**
- F19** Words in reg. 48(10)(c) inserted (11.5.1991) by The Income-related Benefits Schemes and Social Security (Recoupment) Amendment Regulations 1991 (S.I. 1991/1175), regs. 1(1), **5(4)**
- F20** Words in reg. 48(10)(c) inserted (7.5.1992) by The Income-related Benefits Schemes and Social Security (Recoupment) Amendment Regulations 1992 (S.I. 1992/1101), regs. 1(1), **6(4)**
- F21** Words in reg. 48(10)(c) inserted (14.5.1993) by The Income-related Benefits Schemes and Social Security (Recoupment) Amendment Regulations 1993 (S.I. 1993/1249), regs. 1(1)(a), **4(3)(b)**
- F22** Words in reg. 48(10)(c) substituted (22.4.1993) by The Social Security Benefits (Miscellaneous Amendments) (No. 2) Regulations 1993 (S.I. 1993/963), regs. 1, **2(3)(4)**
- F23** Reg. 48(11) omitted (14.4.2008) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **2(9)**
- F24** Reg. 48(12) added (3.4.2000) by The Social Security Amendment (Employment Zones) Regulations 2000 (S.I. 2000/724), regs. 1(1), **3(2)(c)**

Commencement Information

- I4** Reg. 48 in force at 11.4.1988, see [reg. 1](#)

[^{F25}Calculation of capital in the United Kingdom

49. Capital which a claimant possesses in the United Kingdom shall be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to sale, 10 per cent; and
- (b) the amount of any incumbrance secured on it.]

Textual Amendments

- F25** Reg. 49 substituted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **5(10)**

Commencement Information

I5 Reg. 49 in force at 11.4.1988, see [reg. 1](#)

Calculation of capital outside the United Kingdom

50. Capital which a claimant possesses in a country outside the United Kingdom shall be calculated—

- (a) in a case in which there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent and the amount of any incumbrance secured on it.

Commencement Information

I6 Reg. 50 in force at 11.4.1988, see [reg. 1](#)

Notional capital

51.—(1) A claimant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to income support or increasing the amount of that benefit ^[F26]except—

- (a) where that capital is derived from a payment made in consequence of any personal injury and is placed on trust for the benefit of the claimant; or
- (b) to the extent that the capital which he is treated as possessing is reduced in accordance with regulation 51A (diminishing notional capital rule) ^[F27]or]
- ^[F28](c) any sum to which paragraph 44(2)(a) of Schedule 10 (capital to be disregarded) applies which is administered in the way referred to in paragraph 44(1)(a);
- (d) any sum to which paragraph 45(a) of Schedule 10 refers.]
- (2) Except in the case of—
 - (a) a discretionary trust;
 - (b) a trust derived from a payment made in consequence of a personal injury; or
 - (c) any loan which would be obtainable only if secured against capital disregarded under Schedule 10, ^[F29]or
 - (d) a personal pension scheme ^{F30}...^[F31]or]
 - ^[F32](da) an occupational pension scheme ^[F33]or a payment made by the Board of the Pension Protection Fund] where the claimant is aged under 60; or]
 - ^[F34](e) any sum to which paragraph 44(2)(a) of Schedule 10 (capital to be disregarded) applies which is administered in a way referred to in paragraph 44(1)(a); or
 - (f) any sum to which paragraph 45(a) of Schedule 10 refers,]

any capital 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 him but only from the date on which ^[F35]it could be expected to be acquired were an application made]

^{F36}(3) ^{F37}Any payment of capital, other than a payment of capital specified in paragraph (3A)], made—

(a) to a third party in respect of a single claimant or ^{F38}in respect of a member of the family]^{F38}[his partner] (but not a member of the third party's family) shall be treated—

(i) in a case where that payment is derived from a payment of any benefit under the benefit Acts, ^{F39}a payment from the Armed Forces and Reserve Forces Compensation Scheme,] a war disablement pension^{F40}, war widow's pension ^{F41}or war widower's pension] or a pension payable to a person as a ^{F42}widow, widower or surviving civil partner] under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 in so far as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or who have died in consequence of service as members of the armed forces of the Crown,] as possessed by that single claimant, if it is paid to him, ^{F43}or by that member if it is paid to any member of the family]^{F43}or by his partner, if it is paid to his partner];

^{F44}(ia) in a case where that payment is a payment of an occupational pension ^{F45}, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund], as possessed by that single claimant or, as the case may be, by ^{F46}that member]^{F46}[the claimant's partner];]

(ii) in any other case, as possessed by that single claimant ^{F47}or by that member]^{F47}or his partner] to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent ^{F48}... for which housing benefit ^{F49}is payable or]^{F50}... any housing costs to the extent that they are met under regulation 17(1)(e) and 18(1) (f) (housing costs) ^{F51}..., of that single claimant or, as the case may be, ^{F47}of any member of that family]^{F47}of his partner]^{F52}, or is used for any ^{F53}council tax] or water charges for which that claimant or ^{F47}member is liable]^{F47}partner is liable];]

(b) ^{F54}to a single claimant or his partner in respect of a third party (but not in respect of another member of his family) shall be treated as possessed by that single claimant or, as the case may be, his partner, to the extent that it is kept or used by him or used by or on behalf of his partner.]

^{F55}(3A) Paragraph (3) shall not apply in respect of a payment of capital made—

(a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust^{F56}, the Independent Living Funds^{F57}, the Skipton Fund or the London Bombings Relief Charitable Fund];]

(b) pursuant to section 2 of the Employment and Training Act 1973 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 1996;

(ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations; or

[in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those

^{F58}(ia) Regulations^{F59} ...; or]

(iii) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations.]

[^{F60}(c) under an occupational pension scheme]^{F61}, 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;
- (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 [^{F62}any member of his family][^{F62}his partner (if any)] does not possess, or is not treated as possessing, any other income apart from that payment.]

(4) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case—

- (a) the value of his holding in that company shall, notwithstanding regulation 46 (calculation of capital), be disregarded; and
- (b) he shall, subject to paragraph (5), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(5) For so long as the claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (4) shall be disregarded.

(6) Where a claimant is treated as possessing capital under any of paragraphs (1) to (4), the foregoing provisions of this Chapter shall apply for the purposes of calculating its amount as if it were actual capital which he does possess.

[^{F63}(7) For the avoidance of doubt a claimant is to be treated as possessing capital under paragraph (1) only if the capital of which he has deprived himself is actual capital.]

[^{F64}(8) In paragraph (3) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.]

Textual Amendments

- F26** Words in reg. 51(1) substituted (1.10.1990) by [The Income Support \(General\) Amendment No. 3 Regulations 1990 \(S.I. 1990/1776\)](#), regs. 1(1)(a), **5(a)** (with reg. 1(2))
- F27** Reg. 51(1)(c) and word added (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income-related Benefits and Jobseeker's Allowance \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/2197\)](#), regs. 1(2), **5(4)**
- F28** Reg. 51(1)(c)(d) substituted for reg. 51(1)(c) (2.4.2007) by [The Social Security \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/719\)](#), regs. 1(2), **2(4)(a)**
- F29** Reg. 51(2)(d) added (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Income-related Benefits Schemes and Social Security \(Claims and Payments\) \(Miscellaneous Amendments\) Regulations 1995 \(S.I. 1995/2303\)](#), regs. 1(1)(a), **6(5)** (with reg. 8)
- F30** Words in reg. 51(2)(d) omitted (16.7.2007) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2007 \(S.I. 2007/1749\)](#), regs. 1, **2(7)**
- F31** Reg. 51(2)(e) and word added (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income-related Benefits and Jobseeker's Allowance \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/2197\)](#), regs. 1(2), **5(4)**

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- F32** Reg. 51(2)(da) inserted (6.4.2006) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005 (S.I. 2005/2465), regs. 1(5)(a), **2(5)**
- F33** Words in reg. 51(2)(da) inserted (6.4.2006) by The Social Security (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/588), regs. 1(9), **2(3)(a)**
- F34** Reg. 51(2)(e)(f) substituted for reg. 51(2)(e) (2.4.2007) by The Social Security (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/719), regs. 1(2), **2(4)(b)**
- F35** Words in reg. 51(2) substituted (11.4.1988) by The Income Support (General) Amendment Regulations 1988 (S.I. 1988/663), regs. 1(1), **22(a)**
- F36** Reg. 51(3) substituted (12.9.1988) by The Income Support (General) Amendment No. 4 Regulations 1988 (S.I. 1988/1445), regs. 1(1)(b), **12(a)**
- F37** Words in reg. 51(3) substituted (24.9.1998) by The Social Security Amendment (New Deal) (No.2) Regulations 1998 (S.I. 1998/2117), regs. 1(1), **3(2)(a)(3)(c)**
- F38** Words in reg. 51(3)(a) substituted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 1 para. 13(a)(i)**
- F39** Words in reg. 51(3)(a)(i) inserted (4.4.2005) by The Social Security (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/574), regs. 1(1), **2(5)**
- F40** Words in reg. 51(3)(a)(i) substituted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/65), regs. 1(1)(2), **9**
- F41** Words in reg. 51(3)(a)(i) inserted (8.4.2002) by The Social Security (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/841), regs. 1(1), **2(3)**
- F42** Words in reg. 51(3)(a)(i) substituted (5.12.2005) by The Social Security (Civil Partnership) (Consequential Amendments) Regulations 2005 (S.I. 2005/2878), regs. 1, **4(3)**
- F43** Words in reg. 51(3)(a)(i) substituted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 1 para. 13(a)(ii)**
- F44** Reg. 51(3)(a)(ia) inserted (15.11.1999) by The Social Security Amendment (Notional Income and Capital) Regulations 1999 (S.I. 1999/2640), regs. 1(1), **2(1)(a)**
- F45** Words in reg. 51(3)(a)(ia) substituted (6.4.2006) by The Social Security (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/588), regs. 1(2), **2(3)(b)**
- F46** Words in reg. 51(3)(a)(ia) substituted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 1 para. 13(a)(iii)**
- F47** Words in reg. 51(3)(a)(ii) substituted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 1 para. 13(a)(iv)**
- F48** Words in reg. 51(3)(a)(ii) omitted (4.4.2005) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/574), regs. 1(1), **3(4)**
- F49** Words in reg. 51(3)(a)(ii) substituted (8.4.2002) by The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), **Sch. Pt. 1 para. 8(a)(i)**
- F50** Words in reg. 51(3)(a)(ii) omitted (7.10.1991) by virtue of The Income Support (General) Amendment No. 4 Regulations 1991 (S.I. 1991/1559), regs. 1(1)(c), **9(a)** (with reg. 1(2))
- F51** Words in reg. 51(3)(a)(ii) omitted (8.4.2002) by virtue of The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), **Sch. Pt. 1 para. 8(a)(ii)**
- F52** Words in reg. 51(3)(a)(ii) added (7.10.1991) by The Income Support (General) Amendment No. 4 Regulations 1991 (S.I. 1991/1559), regs. 1(1)(c), **9(b)** (with reg. 1(2))
- F53** Words in reg. 51(3)(a)(ii) substituted (1.4.1993) by The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1993 (S.I. 1993/315), reg. 1(1)(b), **Sch. para. 3**
- F54** Reg. 51(3)(b) substituted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 1 para. 13(b)**

- F55** Reg. 51(3A) inserted (24.9.1998) by The Social Security Amendment (New Deal) (No.2) Regulations 1998 (S.I. 1998/2117), regs. 1(1), **3(2)(b)(3)(c)**
- F56** Words in reg. 51(3A)(a) substituted (4.10.2004) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2004 (S.I. 2004/2308), regs. 1(1), **3(1)(2)(a)**
- F57** Words in reg. 51(3A)(a) substituted (12.12.2005) by The Income-related Benefits (Amendment) (No. 2) Regulations 2005 (S.I. 2005/3391), regs. 1, **2(3)**
- F58** Reg. 51(3A)(b)(iia) inserted (9.4.2001) by The Social Security Amendment (New Deal) Regulations 2001 (S.I. 2001/1029), regs. 1(1), **15(8)(9)(c)**
- F59** Words in reg. 51(3A)(b)(iia) omitted (14.4.2008) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2008 (S.I. 2008/698), regs. 1(1), **2(8)(b)**
- F60** Reg. 51(3A)(c) added (15.11.1999) by The Social Security Amendment (Notional Income and Capital) Regulations 1999 (S.I. 1999/2640), regs. 1(1), **2(3)(c)**
- F61** Words in reg. 51(3A)(c) substituted (6.4.2006) by The Social Security (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/588), regs. 1(2), **2(3)(c)**
- F62** Words in reg. 51(3A)(c)(iii) substituted (for specified purposes and with effect in accordance with reg. 1(2)-(5) of the amending S.I.) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455), **Sch. 1 para. 13(c)**
- F63** Reg. 51(7) added (11.4.1988) by The Income Support (General) Amendment Regulations 1988 (S.I. 1988/663), regs. 1(1), **22(c)**
- F64** Reg. 51(8) added (12.9.1988) by The Income Support (General) Amendment No. 4 Regulations 1988 (S.I. 1988/1445), regs. 1(1)(b), **12(b)**

Modifications etc. (not altering text)

- C7** Reg. 51(2) applied with modifications (1.4.1993) by The National Assistance (Assessment of Resources) Regulations 1992 (S.I. 1992/2977), regs. 1, **25(3)(a)**
- C8** Reg. 51(3)(a)(ii) applied with modifications (1.4.1993) by The National Assistance (Assessment of Resources) Regulations 1992 (S.I. 1992/2977), regs. 1, **25(3)(b)**

Commencement Information

- I7** Reg. 51 in force at 11.4.1988, see [reg. 1](#)

[^{F65}Diminishing notional capital rule

51A.—(1) Where a claimant is treated as possessing capital under regulation 51(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
- (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied, or
- (ii) a week which follows that relevant week and which satisfies those conditions,

shall be reduced by an amount determined under paragraph (2);

- (b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—
- (i) that week is a week subsequent to the relevant week, and
- (ii) that relevant week is a week in which the condition in paragraph (3) is satisfied,
- shall be reduced by the amount determined under paragraph (3).

(2) This paragraph applies to a benefit week or part week where the claimant satisfies the conditions that—

- (a) he is in receipt of income support; and

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(b) but for regulation 51(1), he would have received an additional amount of income support in that benefit week or, as the case may be, that part week;
and in such a case, the amount of the reduction for the purposes of paragraph (1)(a) shall be equal to that additional amount.

(3) Subject to paragraph (4), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to income support in the relevant week, but for regulation 51(1), and in such a case the amount of the reduction shall be equal to the aggregate of—

- (a) the amount of income support to which the claimant would have been entitled in the relevant week but for regulation 51(1); and for the purposes of this sub-paragraph if the relevant week is a part-week that amount shall be determined by dividing the amount of income support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7;
- (b) the amount of housing benefit (if any) equal to the difference between his maximum housing benefit and the amount (if any) of housing benefit which he is awarded in respect of the benefit week, within the meaning of regulation 2(1) of [F66the Housing Benefit Regulations 2006] (interpretation), which includes the last day of the relevant week;
- (c) the amount of community charge benefit (if any) equal to the difference between his maximum community charge benefit and the amount (if any) of community charge benefit which he is awarded in respect of the benefit week, within the meaning of regulation 2(1) of the Community Charge Benefits (General) Regulations 1989 (interpretation) which includes the last day of the relevant week.

[the amount of council tax benefit (if any) equal to the difference between his maximum
F67(d) council tax benefit and the amount (if any) of council tax benefit which he is awarded in respect of the benefit week which includes the last day of the relevant week, and for this purpose “benefit week” has the same meaning as in [F68regulation 2(1) of the Council Tax Benefit Regulations 2006] (interpretation).]

(4) The amount determined under paragraph (3) shall be re-determined under that paragraph if the claimant makes a further claim for income support and the conditions in paragraph (5) are satisfied, and in such a case—

- (a) sub-paragraphs [F69(a) to (d)] of paragraph (3) shall apply as if for the words “relevant week” there were substituted the words “relevant subsequent week”; and
- (b) subject to paragraph (6), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

(5) The conditions are that—

- (a) a further claim is made 26 or more weeks after—
 - (i) the date on which the claimant made a claim for income support in respect of which he was first treated as possessing the capital in question under regulation 51(1); or
 - (ii) in a case where there has been at least one re-determination in accordance with paragraph (4), the date on which he last made a claim for income support which resulted in the weekly amount being re-determined; or
 - (iii) the date on which he last ceased to be in receipt of income support; whichever last occurred; and
- (b) the claimant would have been entitled to income support but for regulation 51(1).

(6) The amount as re-determined pursuant to paragraph (4) shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

(7) For the purpose of this regulation—

- (a) “part-week” means a period to which sub-section (1A) of section 21 of the Act (amount etc. of income support) applies;
- (b) “relevant week” means the benefit week or part-week in which the capital in question of which the claimant has deprived himself within the meaning of regulation 51(1)–
- (i) was first taken into account for the purpose of determining his entitlement to income support; or
 - (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to income support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, income support;
- and where more than one benefit week or part-week is identified by reference to heads (i) and (ii) of this sub-paragraph the later or latest such benefit week or, as the case may be, the later or latest such part-week;
- (c) “relevant subsequent week” means the benefit week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.]

Textual Amendments

- F65** Reg. 51A inserted (1.10.1990) by [The Income Support \(General\) Amendment No. 3 Regulations 1990](#) (S.I. 1990/1776), regs. 1(1)(a), **6** (with reg. 1(2))
- F66** Words in reg. 51A(3)(b) substituted (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. 1(3)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F67** Reg. 51A(3)(d) added (1.4.1993) by [The Income-related Benefits Schemes \(Miscellaneous Amendments\) Regulations 1993](#) (S.I. 1993/315), reg. 1(1)(b), **Sch. para. 4**
- F68** Words in reg. 51A(3)(d) substituted (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. 1(4)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F69** Words in reg. 51A(4)(a) substituted (9.4.2001 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2001](#) (S.I. 2001/859), regs. 1(1)(c), **6(2)**

Capital jointly held

52. Except where a claimant possesses capital which is disregarded under regulation 51 (4) (notional capital), where a claimant and one or more persons are beneficially entitled in possession to any capital asset they shall be treated as if each of them were entitled in possession [^{F70}to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter shall apply for the purposes of calculating the amount of capital which the claimant is treated as possessing as if it were actual capital which the claimant does possess].

Textual Amendments

- F70** Words in reg. 52 substituted (12.10.1998) by [The Social Security Amendment \(Capital\) Regulations 1998](#) (S.I. 1998/2250), regs. 1, **2(1)(2)(e)**

Commencement Information

- I8** Reg. 52 in force at 11.4.1988, see [reg. 1](#)

Status: Point in time view as at 01/07/2008.

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Calculation of tariff income from capital

53.—(1) [F71 Except where the circumstances prescribed in paragraph F72 ... (1B) apply to the claimant,] where the claimant's capital calculated in accordance with this Part exceeds [F73 £6,000] it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of [F73 £6,000] but not exceeding [F74 £16,000].

F75(1ZA)

[F76(1A) Where the circumstances prescribed in paragraph (1B) apply to the claimant and that claimant's capital calculated in accordance with this Part exceeds £10,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £10,000 but not exceeding £16,000.

(1B) For the purposes of paragraph (1A) F77 ..., the prescribed circumstances are that the claimant lives permanently in—

[F78(a) a care home or an independent hospital;]

[F78(b) an Abbeyfield Home;]

(c) accommodation provided under section 3 of, and Part II of the Schedule to, the Polish Resettlement Act 1947 (provision of accommodation in camps) where the claimant requires personal care [F79 by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness and the care is provided in the home].

F80(d)

(1C) For the purposes of paragraph (1B), a claimant shall be treated as living permanently in such home [F81, hospital] or accommodation where he is absent—

(a) from a home[F81, hospital] or accommodation referred to in sub-paragraph [F82(a) [F83 or (b)]] of paragraph (1B)—

(i) F84 ... in the case of a person over pensionable age, for a period not exceeding 52 weeks, and

(ii) in any other case, for a period not exceeding 13 weeks;

(b) from accommodation referred to in sub-paragraph (c) of paragraph (1B), where the claimant, with the agreement of the manager of the accommodation, intends to return to the accommodation in due course.]

(2) Notwithstanding [F85 paragraphs (1) F86 ... and (1A)], where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly income of £1.

(3) For the purposes of [F85 paragraphs (1) F86 ... and (1A)], capital includes any income treated as capital under regulations F87 ... 48 and 60 (F87 ... income treated as capital and liable relative payments treated as capital).

F88(4)

Textual Amendments

F71 Words in reg. 53(1) inserted (8.4.1996) by The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/462), regs. 1(2), **12(1)(b)(i)**

F72 Words in reg. 53(1) omitted (with effect in accordance with reg. 1(6) of the amending S.I.) by virtue of The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005 (S.I. 2005/2465), regs. 1(6)(a), **2(6)(a)(i)**

- F73** Word in reg. 53(1) substituted (with effect in accordance with reg. 1(6) of the amending S.I.) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005 (S.I. 2005/2465), regs. 1(6)(a), **2(6)(a)(ii)**
- F74** Word in reg. 53(1) substituted (with effect in accordance with reg. 1(6) of the amending S.I.) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005 (S.I. 2005/2465), regs. 1(6)(a), **2(6)(a)(iii)**
- F75** Reg. 53(1ZA) omitted (with effect in accordance with reg. 1(6) of the amending S.I.) by virtue of The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005 (S.I. 2005/2465), regs. 1(6)(a), **2(6)(b)**
- F76** Reg. 53(1A)-(1C) inserted (8.4.1996) by The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/462), regs. 1(2), **12(1)(b)(ii)**
- F77** Words in reg. 53(1B) omitted (with effect in accordance with reg. 1(6) of the amending S.I.) by virtue of The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005 (S.I. 2005/2465), regs. 1(6)(a), **2(6)(c)**
- F78** Reg. 53(1B)(a)(b) substituted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 1 para. 7(a)(i)**
- F79** Words in reg. 53(1B)(c) substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Amendment) (No. 2) Regulations 1997 (S.I. 1997/2197), regs. 1(2), **7(5)(6)(a)**
- F80** Reg. 53(1B)(d) omitted (24.10.2005) by virtue of The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 1 para. 7(a)(ii)**
- F81** Word in reg. 53(1C) inserted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 1 para. 7(b)(i)**
- F82** Words in reg. 53(1C)(a) substituted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/65), regs. 1(1)(2), **8(b)**
- F83** Words in reg. 53(1C)(a) substituted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 1 para. 7(b)(ii)**
- F84** Words in reg. 53(1C)(a)(i) omitted (8.4.2002) by virtue of The Social Security Amendment (Residential Care and Nursing Homes) Regulations 2001 (S.I. 2001/3767), reg. 1, **Sch. Pt. I para. 9**
- F85** Words in reg. 53(2)(3) substituted (8.4.1996) by The Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/462), regs. 1(2), **12(1)(b)(iii)**
- F86** Word in reg. 53(2)(3) omitted (with effect in accordance with reg. 1(6) of the amending S.I.) by virtue of The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005 (S.I. 2005/2465), regs. 1(6)(a), **2(6)(d)**
- F87** Words in reg. 53(3) omitted (12.12.1988) by virtue of The Income Support (General) Amendment No. 5 Regulations 1988 (S.I. 1988/2022), regs. 1(1)(a), **13**
- F88** Reg. 53(4) omitted (24.10.2005) by virtue of The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 1 para. 7(c)**

Modifications etc. (not altering text)

- C9** Reg. 53 applied (with modifications) (11.4.2005) by S.I. 2003/2382 (as amended (E.) by The National Health Service (Charges for Drugs and Appliances) and (Travel Expenses and Remission of Charges) Amendment Regulations 2005 (S.I. 2005/578), regs. 1(1), **19(2)(a)**)
- C10** Reg. 53 applied (with modifications) (11.4.2005) by S.I. 2003/2382 (as amended (E.) by The National Health Service (Charges for Drugs and Appliances) and (Travel Expenses and Remission of Charges) Amendment Regulations 2005 (S.I. 2005/578), regs. 1(1), **19(2)(b)**)
- C11** Reg. 53 applied (with modifications) (1.5.2006) by S.I. 2003/2382 (as amended (E.) by The National Health Service (Travel Expenses and Remission of Charges) Amendment Regulations 2006 (S.I. 2006/1065), regs. 1(1), **2(2)(b)**)
- C12** Reg. 53 applied (with modifications) (1.5.2006) by S.I. 2003/2382 (as amended (E.) by The National Health Service (Travel Expenses and Remission of Charges) Amendment Regulations 2006 (S.I. 2006/1065), regs. 1(1), **2(2)(c)**)

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Changes to legislation: There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, CHAPTER VI. (See end of Document for details)

- C13** Reg. 53 applied (with modifications) (1.5.2007) by S.I. 2003/2382 (as amended (E.) by The National Health Service (Travel Expenses and Remission of Charges) Amendment Regulations 2007 (S.I. 2007/988), regs. 1(1), **2(2)(b)**)
- C14** Reg. 53 applied (with modifications) (1.5.2008) by S.I. 2003/2382 (as amended (E.) by The National Health Service (Travel Expenses and Remission of Charges) Amendment Regulations 2008 (S.I. 2008/843), regs. 1(1), **2(2)(b)**)
- C15** Reg. 53 applied (with modifications) (1.7.2008) by W.S.I. 2007/1104 (as amended (W.) by The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) Regulations 2008 (S.I. 2008/1480), regs. 1(2), **2(3)**)

Commencement Information

- I9** Reg. 53 in force at 11.4.1988, see [reg. 1](#)

Status:

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Changes to legislation:

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