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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 VII**

liable relatives

**Interpretation**

**54.** In this Chapter, unless the context otherwise requires—

“claimant” includes a young claimant;

“liable relative” means—

- (a) a spouse or former spouse of a claimant or of a member of the claimant's family;
- (b) a parent of a child or young person who is a member of the claimant's family or of a young claimant;
- (c) a person who has not been adjudged to be the father of a child or young person who is a member of the claimant's family or of a young claimant where that person is contributing towards the maintenance of that child, young person or young claimant and by reason of that contribution he may reasonably be treated as the father of that child, young person or young claimant;
- (d) a person liable to maintain another person by virtue of section 26(3)(c) of the Act (liability to maintain) where the latter is the claimant or a member of the claimant's family,

and, in this definition, a reference to a child's, young person's or young claimant's parent includes any person in relation to whom the child, young person or young claimant was treated as a child or a member of the family;

“payment” means a periodical payment or any other payment made by or derived from a liable relative including, except in the case of a discretionary trust, any payment which would be so made or derived upon application being made by the claimant but which has not been acquired by him but only from the date on which [<sup>F1</sup>it could be expected to be acquired were an application made]; but it does not include any payment—

- (a) arising from a disposition of property made in contemplation of, or as a consequence of—
  - (i) an agreement to separate; or
  - (ii) any proceedings for judicial separation, divorce or nullity of marriage;
- (b) made after the death of the liable relative;
- (c) made by way of a gift but not in aggregate or otherwise exceeding £250 in the period of 52 weeks beginning with the date on which the payment, or if there is more than one such payment the first payment, is made; and, in the case of a claimant who continues to be in receipt of income support at the end of the period of 52 weeks, this provision

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shall continue to apply thereafter with the modification that any subsequent period of 52 weeks shall begin with the first day of the benefit week in which the first payment is made after the end of the previous period of 52 weeks;

- (d) to which regulation 44(2) applies (modifications in respect of children and young persons);
- (e) made—
  - (i) to a third party in respect of the claimant or a member of the claimant's family; or
  - (ii) to the claimant or to a member of the claimant's family in respect of a third party, where having regard to the purpose of the payment, the terms under which it is made and its amount it is unreasonable to take it into account;
- (f) in kind;
- (g) to, or in respect of, a child or young person who is to be treated as not being a member of the claimant's household under regulation 16 (circumstances in which a person is to be treated as being or not being a member of the same household);
- (h) which is not a periodical payment, to the extent that any amount of that payment—
  - (i) has already been taken into account under this Part by virtue of a previous claim or determination; or
  - (ii) has been recovered under section 27(1) of the Act (prevention of duplication of payments) or is currently being recovered; or
  - (iii) at the time the determination is made, has been used by the claimant except where he has deprived himself of that amount for the purpose of securing entitlement to income support or increasing the amount of that benefit;

“periodical payment” means—

- (a) a payment which is made or is due to be made at regular intervals in pursuance of a court order or agreement for maintenance;
- (b) in a case where the liable relative has established a pattern of making payments at regular intervals, any such payment;
- (c) any payment not exceeding the amount of income support payable had that payment not been made;
- (d) any payment representing a commutation of payments to which sub-paragraphs (a) or (b) of this definition applies whether made in arrears or in advance,

but does not include a payment due to be made before the first benefit week pursuant to the claim which is not so made;

“young claimant ” means a person aged 16 or over but under 19 who makes a claim for income support.

#### **Textual Amendments**

- F1** Words in reg. 54 substituted (11.4.1988) by [The Income Support \(General\) Amendment Regulations 1988 \(S.I. 1988/663\)](#), regs. 1(1), **23**

#### **Commencement Information**

- II** Reg. 54 in force at 11.4.1988, see reg. 1

## Treatment of liable relative payments

55. Except where regulation 60(1) (liable relative payments to be treated as capital) applies a payment shall—

- (a) to the extent that it is not a payment of income, be treated as income;
- (b) be taken into account in accordance with the following provisions of this Chapter.

### Commencement Information

I2 Reg. 55 in force at 11.4.1988, see reg. 1

## Period over which periodical payments are to be taken into account

56.—(1) The period over which a periodical payment is to be taken into account shall be—

- (a) in a case where the payment is made at regular intervals, a period equal to the length of that interval;
- (b) in a case where the payment is due to be made at regular intervals but is not so made, such number of weeks as is equal to the number (and any fraction shall be treated as a corresponding fraction of a week) obtained by dividing the amount of that payment by the weekly amount of that periodical payment as calculated in accordance with regulation 58(4) (calculation of the weekly amount of a liable relative payment);
- (c) in any other case, a period equal to a week.

(2) The period under paragraph (1) shall begin on the date on which the payment is treated as paid under regulation 59 (date on which a liable relative payment is to be treated as paid).

### Commencement Information

I3 Reg. 56 in force at 11.4.1988, see reg. 1

## Period over which payments other than periodical payments are to be taken into account

57.—(1) Subject to paragraph (2), the number of weeks over which a payment other than a periodical payment is to be taken into account shall be equal to the number (and any fraction shall be treated as a corresponding fraction of a week) obtained by dividing that payment by—

- (a) where the payment is in respect of the claimant or the claimant and any child or young person who is a member of the family, the aggregate of £2 and the amount of income support which would be payable had the payment not been made;
- [<sup>F2</sup>(b) where the payment is in respect of one, or more than one, child or young person who is a member of the family, the lesser of the amount (or the aggregate of the amounts) prescribed under Schedule 2, in respect of—
  - (i) the personal allowance of the claimant and each such child or young person;
  - (ii) any family and lone parent premium;
  - (iii) any disabled child premium in respect of such a child; and
  - (iv) any carer premium if, but only if, that premium is payable because the claimant is in receipt, or is treated as being in receipt, of invalid care allowance by reason of the fact that he is caring for such a child or young person who is severely disabled;and the aggregate of £2 and the amount of income support which would be payable had the payment not been made.]

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(2) Where a liable relative makes a periodical payment and any other payment concurrently and the weekly amount of that periodical payment, as calculated in accordance with regulation 58 (calculation of the weekly amount of a liable relative payment), is less than—

- (a) in a case where the periodical payment is in respect of the claimant or the claimant and any child or young person who is a member of the family, the aggregate of £2 and the amount of income support which would be payable had the payments not been made; or
- (b) in a case where the periodical payment is in respect of one or more than one child or young person who is a member of the family, the aggregate of the amount prescribed in Schedule 2 in respect of each such child or young person and any family and lone parent premium,

that other payment shall, subject to paragraph (3), be taken into account over a period of 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 that payment by an amount equal to the extent of the difference between the amount referred to in sub-paragraph (a) or (b), as the case may be, and the weekly amount of the periodical payment.

(3) If—

- (a) the liable relative ceases to make periodical payments, the balance (if any) of the other payment shall be taken into account over the number of weeks equal to the number (and any fraction shall be treated as a corresponding fraction of a week) obtained by dividing that balance by the amount referred to in sub-paragraph (a) or (b) of paragraph (1), as the case may be;
- (b) the amount of any subsequent periodical payment varies, the balance (if any) of the other payment shall be taken into account over a period of 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 that balance by an amount equal to the extent of the difference between the amount referred to in sub-paragraph (a) or (b) of paragraph (2) and the weekly amount of the subsequent periodical payment.

(4) The period under paragraph (1) or (2) shall begin on the date on which the payment is treated as paid under regulation 59 (date on which a liable relative payment is treated as paid) and under paragraph (3) shall begin on the first day of the benefit week in which the cessation or variation of the periodical payment occurred.

#### **Textual Amendments**

**F2** Reg. 57(1)(b) substituted (15.10.1990) by [The Income Support \(General\) Amendment No. 3 Regulations 1990 \(S.I. 1990/1776\)](#), regs. 1(1)(b), 7 (with reg. 1(2))

#### **Commencement Information**

**I4** Reg. 57 in force at 11.4.1988, see reg. 1

### **Calculation of the weekly amount of a liable relative payment**

**58.**—(1) Where a periodical payment is made or is due to be made at intervals of one week, the weekly amount shall be the amount of that payment.

(2) Where a periodical payment is made or is due to be made at intervals greater than one week and those intervals are monthly, the weekly amount shall be determined by multiplying the amount of the payment by 12 and dividing the product by 52.

(3) Where a periodical payment is made or is due to be made at intervals and those intervals are neither weekly nor monthly, the weekly amount shall be determined by dividing that payment by the number equal to the number of weeks (including any part of a week) in that interval.

(4) Where a payment is made and that payment represents a commutation of periodical payments whether in arrears or in advance, the weekly amount shall be the weekly amount of the individual periodical payments so commuted as calculated under paragraphs (1) to (3) as is appropriate.

(5) The weekly amount of a payment to which regulation 57 applies (period over which payments other than periodical payments are to be taken into account) shall be equal to the amount of the divisor used in calculating the period over which the payment or, as the case may be, the balance is to be taken into account.

**Modifications etc. (not altering text)**

**C1** Reg. 58(5) modified (1.4.1993) by [The National Assistance \(Assessment of Resources\) Regulations 1992 \(S.I. 1992/2977\)](#), regs. 1, **33(2)**

**Commencement Information**

**I5** Reg. 58 in force at 11.4.1988, see reg. 1

**Date on which a liable relative payment is to be treated as paid**

**59.**—(1) A periodical payment is to be treated as paid—

- (a) in the case of a payment which is due to be made before the first benefit week pursuant to the claim, on the day in the week in which it is due to be paid which corresponds to the first day of the benefit week;
- (b) in any other case, on the first day of the benefit week in which it is due to be paid unless, having regard to the manner in which income support is due to be paid in the particular case, it would be more practicable to treat it as paid on the first day of a subsequent benefit week.

(2) Subject to paragraph (3), any other payment shall be treated as paid—

- (a) in the case of a payment which is made before the first benefit week pursuant to the claim, on the day in the week in which it is paid which corresponds to the first day of the benefit week;
- (b) in any other case, on the first day of the benefit week in which it is paid unless, having regard to the manner in which income support is due to be paid in the particular case, it would be more practicable to treat it as paid on the first day of a subsequent benefit week.

(3) Any other payment paid on a date which falls within the period in respect of which a previous payment is taken into account, not being a periodical payment, is to be treated as paid on the first day following the end of that period.

**Commencement Information**

**I6** Reg. 59 in force at 11.4.1988, see reg. 1

**Liable relative payments to be treated as capital**

**60.**—(1) Subject to paragraph (2), where a liable relative makes a periodical payment concurrently with any other payment, and the weekly amount of the periodical payment as calculated in accordance with regulation 58(1) to (4) (calculation of the weekly amount of a liable relative

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payment), is equal to or greater than the amount referred to in sub-paragraph (a) of regulation 57(2) (period over which payments other than periodical payments are to be taken into account) less the £2 referred to therein, or sub-paragraph (b) of that regulation, as the case may be, the other payment shall be treated as capital.

(2) If, in any case, the liable relative ceases to make periodical payments, the other payment to which paragraph (1) applies shall be taken into account under paragraph (1) of regulation 57 but, notwithstanding paragraph (4) thereof, the period over which the payment is to be taken into account shall begin on the first day of the benefit week following the last one in which a periodical payment was taken into account.

**Commencement Information**

**I7** Reg. 60 in force at 11.4.1988, see reg. 1

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