
STATUTORY INSTRUMENTS

1987 No. 1967

The Income Support (General) Regulations 1987

PART V

INCOME AND CAPITAL

CHAPTER VII

[^{F1}child maintenance and liable relative payments]

Textual Amendments

- F1** Pt. V Ch. VII heading substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), regs. 1(1), 2(5)

Interpretation

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

[^{F2}“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—

- (a) the Child Support Act 1991;
- (b) the Child Support (Northern Ireland) Order 1991;
- (c) a court order;
- (d) a consent order,
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;]

“claimant” includes a young claimant;

[^{F2}“claimant’s family” shall be construed in accordance with section 137 of the contributions and Benefits Act 1992 (interpretation of part 7 and supplementary provisions);]

[^{F2}“housing costs” means, those costs which may be met under regulation 17(1)(e) or 18(1)(f) (housing costs);]

“liable relative” means—

- (a) a spouse [^{F3}, former spouse, civil partner or former civil partner] 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

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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 [^{F4}in the circumstances set out in section 78(6) (c) of the Social Security Administration Act 1992 (liability to maintain another person)] 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;

[^{F2}“ordinary clothing and footwear” means clothing and footwear for normal daily use but does not include school uniforms;]

“payment” means a periodical payment or any other payment made by or derived from a liable relative ^{F5}... 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; [^{F6}or]
 - (iii) [^{F7}any proceedings for separation, dissolution or nullity in relation to a civil partnership;]
- (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 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) [^{F8}to which regulation 44(2) applies (modifications in respect of children and young persons);]
- (e) [^{F9}made to a third party, or in respect of a third party, unless the payment is—
- (i) in relation to the claimant or the claimant's family; and
 - (ii) the payment is in respect of food, ordinary clothing or footwear, fuel, rent, housing costs, council tax or water charges;]
- (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 ^{F10} ...;
- (b) in a case where the liable relative has established a pattern of making payments at regular intervals, any such payment;
- (c) any payment [^{F11}, after the appropriate disregard under paragraph 73 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) has been applied to it, that does not exceed] 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 [^{F12}20] who makes a claim for income support.

Textual Amendments

- F2** Words in [reg. 54](#) inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [regs. 1\(1\)](#), [2\(6\)\(a\)](#)
- F3** Words in [reg. 54](#) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), [art. 1](#), [Sch. 3 para. 13\(4\)\(a\)](#) (with [art. 3](#))
- F4** Words in [reg. 54](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [regs. 1\(1\)](#), [2\(6\)\(b\)](#)
- F5** Words in [reg. 54](#) omitted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by virtue of [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [regs. 1\(1\)](#), [2\(6\)\(c\)\(i\)](#)
- F6** Word in [reg. 54](#) inserted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), [art. 1](#), [Sch. 3 para. 13\(4\)\(b\)\(i\)](#) (with [art. 3](#))
- F7** Words in [reg. 54](#) inserted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), [art. 1](#), [Sch. 3 para. 13\(4\)\(b\)\(ii\)](#) (with [art. 3](#))
- F8** Words in [reg. 54](#) 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. 14](#)
- F9** Words in [reg. 54](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [regs. 1\(1\)](#), [2\(6\)\(c\)\(ii\)](#)
- F10** Words in [reg. 54](#) omitted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by virtue of [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [regs. 1\(1\)](#), [2\(6\)\(d\)\(i\)](#)
- F11** Words in [reg. 54](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [regs. 1\(1\)](#), [2\(6\)\(d\)\(ii\)](#)
- F12** Word in [reg. 54](#) substituted (10.4.2006) by [The Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), [regs. 1\(2\)\(a\)](#), [2\(5\)](#)

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Commencement Information

I1 Reg. 54 in force at 11.4.1988, see [reg. 1](#)

Treatment of ^{F13}child maintenance or] liable relative payments

55. ^{F14}Subject to regulation 55A and]^{F15}paragraph 73 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings)] 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.

Textual Amendments

- F13** Words in [reg. 55](#) heading inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [regs. 1\(1\), 2\(2\)\(b\)](#)
- F14** Words in [reg. 55](#) inserted (19.4.1996) by [The Social Security Benefits \(Maintenance Payments and Consequential Amendments\) Regulations 1996 \(S.I. 1996/940\)](#), [regs. 1\(1\), 6\(2\)](#)
- F15** Words in [reg. 55](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [regs. 1\(1\), 2\(7\)](#)

Commencement Information

I2 Reg. 55 in force at 11.4.1988, see [reg. 1](#)

^{F16}Disregard of payments treated as not relevant income

55A. Where the Secretary of State treats any payment as not being relevant income for the purposes of section 74A of the Social Security Administration Act 1992 (payment of benefit where maintenance payments collected by Secretary of State), that payment shall be disregarded in calculating a claimant's income.]

Textual Amendments

- F16** [Reg. 55A](#) inserted (19.4.1996) by [The Social Security Benefits \(Maintenance Payments and Consequential Amendments\) Regulations 1996 \(S.I. 1996/940\)](#), [regs. 1\(1\), 6\(3\)](#)

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](#)

[^{F17}Period over which payments other than periodical payments are to be taken into account

57.—(1) The period over which a payment other than a periodical payment (a “non-periodical payment”) is to be taken account shall be determined as follows.

(2) Except in a case where paragraph (4) applies, the number of weeks over which a non-periodical payment is to be taken into account shall be equal to the number obtained by dividing that payment by the amount referred to in paragraph (3).

(3) The amount is the aggregate of £2 and—

- (a) the amount of income support that would be payable had no payment been made, and
- (b) where applicable, the maximum amount of disregard that would apply to the payment under paragraph 73 of Schedule 9.

(4) This paragraph applies in a case where a liable relative makes a periodical payment and a non-periodical payment concurrently and the weekly amount of the periodical payment (as calculated in accordance with regulation 58) is less than B.

(5) In a case where paragraph (4) applies, the non-periodical payment shall, subject to paragraphs (6) and (7), be taken into account over a period of the number of weeks equal to the number obtained by applying the formula—

AB–C

(6) If the liable relative ceases to make periodical payments, the balance (if any) of the non-periodical payment shall be taken into account over the number of weeks equal to the number obtained by dividing that balance by the amount referred to in paragraph (3).

(7) If the amount of any subsequent periodical payment varies, the balance (if any) of the non-periodical payment shall be taken into account over a period of the number of weeks equal to the number obtained by applying the formula—

DB–E

(8) The period under paragraph (2) or (4) 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 the period under paragraph (6) and (7) shall begin on the first day of the benefit week in which the cessation or variation of the periodical payment occurred.

(9) Any fraction which arises by applying a calculation or formula referred to in this regulation shall be treated as a corresponding fraction of a week.

(10) In paragraphs (4) to (7)—

- A = the amount of the non-periodical payment;
- B = the aggregate of £2 and the amount of income support that would be payable had the periodical payment not been made and, where applicable, the maximum disregard under paragraph 73 of Schedule 9;
- C = the weekly amount of the periodical payment;
- D = the balance (if any) of the non-periodical payment;
- E = the weekly amount of any subsequent periodical payment.]

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Textual Amendments

- F17** Reg. 57 substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), regs. 1(1), **2(8)**

Calculation of the weekly amount of a [^{F18}child maintenance or] 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.

Textual Amendments

- F18** Words in [reg. 58](#) heading inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), regs. 1(1), **2(2)(c)**

Modifications etc. (not altering text)

- C2** 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

- I4** Reg. 58 in force at 11.4.1988, see [reg. 1](#)

Date on which a [^{F19}child maintenance or] 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.

Textual Amendments

F19 Words in [reg. 59](#) heading inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [regs. 1\(1\), 2\(2\)\(d\)](#)

Commencement Information

I5 [Reg. 59](#) in force at 11.4.1988, see [reg. 1](#)

Liable relative payments to be treated as capital

^{F20}**60.**

Textual Amendments

F20 [Reg. 60](#) omitted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by virtue of [The Social Security \(Child Maintenance Amendments\) Regulations 2008 \(S.I. 2008/2111\)](#), [regs. 1\(1\), 2\(4\)\(b\)](#)

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