
STATUTORY INSTRUMENTS

1987 No. 1967

The Income Support (General) Regulations 1987

PART V

INCOME AND CAPITAL

CHAPTER V

other income

Calculation of income other than earnings

40.—(1) For the purposes of regulation 29 (calculation of income other than earnings) the income of a claimant which does not consist of earnings to be taken into account shall, subject to [^{F1}paragraphs (2) to (3B)], be his gross income and any capital treated as income under regulations ^{F2}... 41 and 44 (^{F2}... capital treated as income and modifications in respect of children and young persons).

(2) There shall be disregarded from the calculation of a claimant's gross income under paragraph (1), any sum, where applicable, specified in Schedule 9.

(3) Where the payment of any benefit under the benefit Acts ^{F3} is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) shall be the gross amount payable.

[^{F4}(3A) Where a loan is made to a person pursuant to arrangements made under section 1 of the Education (Student Loans) Act 1990 [^{F5}or article 3 of the Education (Student Loans) (Northern Ireland) Order 1990] and that person ceases to be a [^{F6}full-time student] before the end of the academic year in respect of which the loan is payable or, as the case may be, before the end of his course, a sum equal to the weekly amount apportionable under paragraph (2) of regulation 66A shall be taken into account under paragraph (1) for each [^{F7}benefit week], in the period over which the loan fell to be apportioned, following the date on which that person ceases to be a [^{F6}full-time student]; but in determining the weekly amount apportionable under paragraph (2) of regulation 66A so much of that paragraph as provides for a disregard shall not have effect.]

[^{F8}(3B) In the case of income to which regulation 29(2B) applies (calculation of income of former students), the amount of income to be taken into account for the purposes of paragraph (1) shall be the amount of that income calculated in accordance with regulation 32(6A) and on the basis that none of that income has been repaid.]

(4) [^{F9}Subject to paragraph (5)] for the avoidance of doubt there shall be included as income to be taken into account under paragraph (1)[^{F10}—

- (a) any payment to which regulation 35(2) or 37(2) (payments not earnings) applies; or
- (b) in the case of a claimant who is receiving support provided under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential

living needs of the claimant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act;]

[^{F11}(5) In the case of a claimant who is the partner of a person subject to immigration control and whose partner is receiving support provided under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act, there shall not be included as income to be taken into account under paragraph (1) the amount of support provided in respect of essential living needs of the partner of the claimant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.]

Textual Amendments

- F1** Words in [reg. 40\(1\)](#) substituted (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\(2\)](#), [13\(1\)\(a\)](#)
- F2** Words in [reg. 40\(1\)](#) omitted (12.12.1988) by virtue of [The Income Support \(General\) Amendment No. 5 Regulations 1988 \(S.I. 1988/2022\)](#), [regs. 1\(1\)\(a\)](#), [9](#)
- F3** The benefit Acts are specified in section 84(1) of the [Social Security Act 1986 \(c. 50\)](#).
- F4** [Reg. 40\(3A\)](#) inserted (1.9.1990) by [The Social Security Benefits \(Student Loans and Miscellaneous Amendments\) Regulations 1990 \(S.I. 1990/1549\)](#), [regs. 1\(1\)\(a\)](#), [5\(4\)\(b\)](#) (with [reg. 7\(1\)](#))
- F5** Words in [reg. 40\(3A\)](#) inserted (13.3.1991) by [The Income Support \(General\) Amendment Regulations 1991 \(S.I. 1991/236\)](#), [regs. 1\(1\)\(a\)](#), [9](#) (with [reg. 1\(2\)](#))
- F6** Words in [reg. 40\(3A\)](#) substituted (31.7.2000) by [The Social Security Amendment \(Students\) Regulations 2000 \(S.I. 2000/1981\)](#), [regs. 1\(1\)](#), [5\(5\)](#), [Sch.](#)
- F7** Words in [reg. 40\(3A\)](#) 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\(2\)](#), [5\(3\)](#)
- F8** [Reg. 40\(3B\)](#) inserted (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\(1\)\(2\)](#), [7\(1\)](#)
- F9** Words in [reg. 40\(4\)](#) inserted (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), [regs. 1\(1\)](#), [3\(6\)\(a\)](#)
- F10** [Reg. 40\(4\)\(a\)\(b\)](#) substituted for words (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), [regs. 1\(1\)](#), [3\(6\)\(b\)](#)
- F11** [Reg. 40\(5\)](#) added (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), [regs. 1\(1\)](#), [3\(6\)\(c\)](#)

Commencement Information

- I1** [Reg. 40](#) in force at 11.4.1988, see [reg. 1](#)

Status:

Point in time view as at 31/07/2000. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the The Income Support (General) Regulations 1987, Section 40.