
STATUTORY INSTRUMENTS

1987 No. 1973

The Family Credit (General) Regulations 1987

PART IV

INCOME AND CAPITAL

CHAPTER III

EMPLOYED EARNERS

Earnings of employed earners

19.—(1) Subject to paragraph (2), “earnings” means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any holiday pay except any payable more than 4 weeks after termination of the employment;
- (c) any payment by way of a retainer;
- (d) any payment made by the claimant’s employer in respect of any expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant’s employer in respect of—
 - (i) travelling expenses incurred by the claimant between his home and place of employment;
 - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant’s absence from home;
- (e) any award of compensation made under section 68(2) or 71(2)(a) of the Employment Protection (Consolidation) Act 1978(1) (remedies and compensation for unfair dismissal);
- (f) any such sum as is referred to in section 18(2) of the Social Security (Miscellaneous Provisions) Act 1977(2) (certain sums to be earnings for social security purposes);
- (g) any statutory sick pay under Part I of the Social Security and Housing Benefits Act 1982(3) or statutory maternity pay under Part V of the Act where the claimant has been in receipt of either for a continuous period of 13 weeks or more.

(2) Earnings shall not include—

- (a) subject to paragraph (3), any payment in kind;

(1) 1978 c. 44; section 68(2) was amended by section 21 Schedule 3 paragraph 21 of the Employment Act 1982 (c. 46); section 71(2) was amended by the Employment Act 1982 (c. 46) sections 5 and 21 Schedule 3 paragraph 22 and Schedule 4.
(2) 1977 c. 5; section 18(2) was amended by section 159 Schedule 16 paragraph 29 of the Employment Protection (Consolidation) Act 1978 (c. 44) and by section 86(2) of, and Schedule 10 Part IV paragraph 75 and Schedule 11 to, the Social Security Act 1986 (c. 50).
(3) 1982 c. 24.

- (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (c) any occupational pension.

(3) Where living accommodation is provided for a claimant by reason of his employment, the claimant shall be treated as being in receipt of weekly earnings of an amount equal to—

- (a) where no charge is made in respect of the provision of that accommodation, £12;
- (b) where a charge is made and that weekly charge is less than £12, the amount of the difference,

except that where the claimant satisfies the adjudication officer that the weekly value to him of the provision of that accommodation is an amount less than the amount in sub-paragraph (a) or (b), as the case may be, he shall be treated as being in receipt of that lesser value.

Calculation of net earnings of employed earners

20.—(1) For the purposes of regulation 14 (normal weekly earnings of employed earners), the earnings of a claimant derived or likely to be derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.

(2) There shall be disregarded from a claimant's net earnings, any sum, where applicable, specified in Schedule 1.

(3) For the purposes of paragraph (1), net earnings shall, except where paragraph (4) applies, be calculated by taking into account the gross earnings of the claimant from that employment over the assessment period, less—

- (a) any amount deducted from those earnings by way of—
 - (i) income tax;
 - (ii) primary Class 1 contributions under the Social Security Act(4); and
- (b) one-half of any sum paid by the claimant by way of a contribution towards an occupational or personal pension scheme.

(4) Where the earnings of a claimant are estimated under paragraph (2)(b) of regulation 14 (normal weekly earnings of employed earners), his net earnings shall be calculated by taking into account those earnings over the assessment period, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax in the year of assessment in which the claim was made less only the personal relief to which the claimant is entitled under sections 8(1) and (2) and 14(1)(a) and (2) of the Income and Corporation Taxes Act 1970(5) (personal relief)

(4) See sections 1 and 4 of the Social Security Act 1975 (c. 14); section 1 was amended by section 40 of the Employment Protection Act 1975 (c. 71), section 24 of, and Schedule 2 to, the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), section 2 of the Social Security (Contributions) Act 1982 (c. 2), section 29 of, and paragraph 5 of Schedule 5 to, the Social Security Act 1985 (c. 53), section 86 of, and Schedule 11 to, the Social Security Act 1986 (c. 50) and S.I.1987/48; section 4 was amended by paragraph 36 of Schedule 4 to the Social Security Pensions Act 1975 (c. 60), section 2(4) of the Education (School-Leaving Dates) Act 1976 (c. 5), section 14(1) of the Social Security Act 1979 (c. 18), Schedule 5 of the Social Security and Housing Benefits Act 1982 (c. 24), sections 7(1) and (2) and 8(1) of the Social Security Act 1985, sections 74(1)(a) and (2) and 86 of, and paragraph 104 of Schedule 10 to, the Social Security Act 1986 and S.I. 1986/25 and 1987/46.

(5) 1970 c. 10; section 8(1) was amended by the Finance Act 1971 (c. 68) section 37, Schedule 6 paragraphs 1 and 5, and by the Finance Act 1985 (c. 54) section 36; subsection (1A) was added by the Finance (No. 2) Act 1975 (c. 45) section 31 and amended by the Finance Act 1977 (c. 36) section 22. Subsection (1B) was added by the Finance (No. 2) Act 1975, section 31. Section 8(2) was amended by the Finance Act 1971 section 37, Schedule 6 paragraphs 1 and 5 and by article 2 of S.I. 1985/430; sub-paragraph (b) was substituted by the Finance (No. 2) Act 1979 (c. 47) section 12, Schedule 2 paragraph 1; sub-paragraphs (b)(i) and (ii) were amended by the Finance Act 1981 (c. 35), section 139, Schedule 19 Part VI and the Finance Act 1982 (c. 39) section 157, Schedule 22 Part IV; sub-paragraph (b)(iii) was added by the Finance Act 1981 section 27 and sub-paragraph (b)(iv) by the Finance Act 1987 (c. 16) section 27. Section 14(1) was amended by the Finance Act 1970 (c. 24) section 14, Schedule 8 Part VI; section 14(2) was amended by the Finance Act 1976 (c. 40) section 36, the Finance (No. 2) Act 1979, section 11, Schedule 1 paragraph 2 and the Finance Act 1980 (c. 48) section 24.

as is appropriate to his circumstances; but, if the assessment period is less than a year, the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;

- (b) an amount in respect of primary Class 1 contributions payable under the Social Security Act in respect of those earnings; and
- (c) one-half of any sum payable by the claimant by way of a contribution towards an occupational or personal pension scheme.