

SCHEDULE 1

CALCULATION OF N AND M

PART I

EARNINGS

Chapter 2

Earnings of a self-employed earner

[^{F1}2A.—(1) Subject to paragraphs ^{F2}... 2C, 4 and 5A, “earnings” in the case of employment as a self-employed earner shall have the meaning given by the following provisions of this paragraph.

(2) “Earnings” means the ^{F3}... taxable profits from self-employment of that earner^{F4} ..., less the following amounts—

- (a) any income tax relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (3);
- (b) any National Insurance Contributions relating to the taxable profits from the self-employment determined in accordance with sub-paragraph (4);
- (c) one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or charge secured upon the self-employed earner’s home, 37.5 per centum of the contributions payable.

(3) For the purposes of sub-paragraph (2)(a) the income tax to be deducted from the ^{F5}... taxable profits shall be determined in accordance with the following provisions—

- (a) subject to head (d), an amount of earnings [^{F6}calculated as if it were equivalent to any personal allowance which would be] applicable to the earner by virtue of the provisions of Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 (personal reliefs) shall be disregarded;
- (b) subject to head (c), an amount equivalent to income tax shall be calculated in relation to the earnings remaining following the application of head (a) (the “remaining earnings”);
- (c) the tax rate applicable at the effective date shall be applied to all the remaining earnings, where necessary increasing or reducing the amount payable to take account of the fact that the earnings relate to a period greater or less than one year;
- (d) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by the taxable profits bears to the period of one year.

(4) For the purposes of sub-paragraph (2)(b) above, the amount to be deducted in respect of National Insurance Contributions shall be the total of—

- (a) the amount of Class 2 contributions (if any) payable under [^{F7}section 11(2) or, as the case may be, (8)], of the Contributions and Benefits Act; and
- (b) the amount of Class 4 contributions (if any) payable under section 15(2) of that Act,

at the rates applicable at the effective date.]

[^{F8}(5) For the purposes of this paragraph, “taxable profits” means profits calculated in accordance with Part 2 of the Income Tax (Trading and Other Income) Act 2005.

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(6) A self-employed earner who is a person with care or an absent parent shall provide to the Secretary of State on demand a copy of—

- (a) any tax calculation notice issued to him by Her Majesty’s Revenue and Customs; and
- (b) any revised notice issued to him by Her Majesty’s Revenue and Customs.]

Textual Amendments

- F1** Sch. 1 Pt. 1 Ch. 2 paras. 2A-2C added (4.10.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(a)** (with reg. 7)
- F2** Word in Sch. 1 para. 2A(1) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(2)(a)**
- F3** Word in Sch. 1 para. 2A(2) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(2)(b)(i)**
- F4** Words in Sch. 1 para. 2A(2) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(2)(b)(ii)**
- F5** Word in Sch. 1 para. 2A(3) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(2)(c)**
- F6** Words in Sch. 1 para. 2A(3)(a) substituted (16.3.2005) by [The Child Support \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/785\)](#), regs. 1(2)(a), **4(2)(a)**
- F7** Words in Sch. 1 para. 2A(4)(a) substituted (6.4.2015) by [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), **28**
- F8** Sch. 1 para. 2A(5)-(6) inserted (1.8.2007) by [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(2)(d)**

F9 **2B.**

Textual Amendments

- F9** Sch. 1 para. 2B omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(3)**

[^{F10}**2C.** Where the Secretary of State accepts that it is not reasonably practicable for a self-employed earner to provide any of the information specified in paragraph 2A(6), “earnings” in relation to that earner shall be calculated in accordance with paragraph 3.]

Textual Amendments

- F10** Sch. 1 para. 2C substituted (1.8.2007) by [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(4)**

3.—(1) [^{F11}Where paragraph 2C applies, and subject] to sub-paragraphs (2) and (3) and to paragraph 4, “earnings” in the case of employment as a self-employed earner means the gross receipts of the employment including, where an allowance in the form of periodic payments is paid under section 2 of the Employment and Training Act 1973 ^{M1} or section 2 of the Enterprise and New Towns (Scotland) Act 1990 ^{M2} in respect of the relevant week for the purpose of assisting him in carrying on his business, the total of those payments made during the period by reference to which his earnings are determined under paragraph 5.

(2) Earnings shall not include—

- (a) any allowance paid under either of those sections in respect of any part of the period by reference to which his earnings are determined under paragraph 5 if no part of that allowance is paid in respect of the relevant week;
 - (b) any income consisting of payments received for the provision of board and lodging accommodation unless such payments form the largest element of the recipient's income.
- (3) ^{F12}Subject to sub-paragraph (7),] there shall be deducted from the gross receipts referred to in sub-paragraph (1)—
- (a) ^{F13}except in a case to which paragraph 4 applies,] any expenses which are reasonably incurred and are wholly and exclusively defrayed for the purposes of the earner's business in the period by reference to which his earnings are determined under paragraph 5(1) or, where paragraph 5(2) applies, any such expenses relevant to the period there mentioned (whether or not defrayed in that period);
 - (b) ^{F14}except in a case to which paragraph 4 ^{F15}or 5(2)] applies,] any value added tax paid in the period by reference to which earnings are determined in excess of value added tax received in that period;
 - (c) any amount in respect of income tax determined in accordance with sub-paragraph (5);
 - (d) any amount in respect of National Insurance contributions determined in accordance with sub-paragraph (6);
 - (e) one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme^{F16}, or, where that scheme is intended partly to provide a capital sum to discharge a mortgage or charge secured upon the parent's home, 37.5 per centum of the contributions payable].
- (4) For the purposes of sub-paragraph (3)(a)—
- (a) such expenses include—
 - (i) repayment of capital on any loan used for the replacement, in the course of business, of equipment or machinery, or the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
 - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
 - (iii) any payment of interest on a loan taken out for the purposes of the business;
 - (b) such expenses do not include—
 - ^{F17}(i)
 - (ii) any capital expenditure;
 - ^{F18}(iii)
 - ^{F18}(iv)
 - ^{F18}(v)
 - (vi) any expenses incurred in providing business entertainment;
 - ^{F19}(vii)
- ^{F20}(5) For the purposes of sub-paragraph (3)(c), the amount in respect of income tax shall be determined in accordance with the following provisions—
- (a) subject to head (c), an amount of chargeable earnings ^{F21}calculated as if it were equivalent to any personal allowance which would be] applicable to the earner by virtue of the provisions of Chapter 1 of Part VII of the Income and Corporation Taxes Act 1988 (personal reliefs) shall be disregarded;

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- (b) [^{F22}subject to head (bb),] an amount equivalent to income tax shall be calculated with respect to taxable earnings at the rates applicable at the effective date;
- [^{F23}(bb) where taxable earnings are determined over a period of less or more than one year, the amount of earnings to which each tax rate applies shall be reduced or increased in the same proportion to that which the period represented by the chargeable earnings bears to the period of one year;]
- (c) the amount to be disregarded by virtue of head (a) shall be calculated by reference to the yearly rate applicable at the effective date, that amount being reduced or increased in the same proportion to that which the period represented by the chargeable earnings bears to the period of one year;
- (d) in this sub-paragraph, “taxable earnings” means the chargeable earnings of the earner following the disregard of any applicable personal allowances.]
- (6) For the purposes of sub-paragraph (3)(d), the amount to be deducted in respect of National Insurance contributions shall be the total of—
- (a) the amount of Class 2 contributions (if any) payable under [^{F24}section 11(2) or, as the case may be, (8)] of the Contributions and Benefits Act; and
- (b) the amount of Class 4 contributions (if any) payable under section 15(2) of that Act, at the rates applicable [^{F25}to the chargeable earnings] at the effective date.
- [^{F26}(7) In the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners’ Benefits) Regulations 1975, sub-paragraph (3) shall have effect as though it requires—
- (a) a deduction from the earner’s estimated or, where appropriate, actual share of the gross receipts of the partnership or fishing boat, of his share of the sums likely to be deducted or, where appropriate, deducted from those gross receipts under heads (a) and (b) of that sub-paragraph; and
- (b) a deduction from the amount so calculated of the sums mentioned in heads (c) to (e) of that sub-paragraph.]
- (8) [^{F27}In sub-paragraphs (5) and (6) “chargeable earnings” means the gross receipts of the employment less any deductions mentioned in sub-paragraph (3)(a) and (b).]

Textual Amendments

- F11** Words in Sch. 1 Pt. 1 Ch. 2 para. 3(1) substituted (4.10.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(b)** (with reg. 7)
- F12** Words in Sch. 1 Pt. 1 Ch. 2 para. 3(3) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **27(1)(a)**
- F13** Words in Sch. 1 Pt. 1 Ch. 2 para. 3(3)(a) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **27(1)(b)**
- F14** Words in Sch. 1 Pt. 1 Ch. 2 para. 3(3)(b) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **27(1)(b)**
- F15** Words in Sch. 1 para. 3(3)(b) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(5)(a)**
- F16** Words in Sch. 1 para. 3(3)(e) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(5)(b)**
- F17** Sch. 1 para. 3(4)(b)(i) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(5)**
- F18** Sch. 1 para. 3(4)(b)(iii)-(v) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(5)**

- F19** Sch. 1 para. 3(4)(b)(vii) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(5)**
- F20** Sch. 1 para. 3(5) substituted (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **13(4)**
- F21** Words in Sch. 1 para. 3(5)(a) substituted (16.3.2005) by [The Child Support \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/785\)](#), regs. 1(2)(a), **4(2)(b)**
- F22** Words in Sch. 1 para. 3(5)(b) inserted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **56(3)(a)** (with reg. 59)
- F23** Sch. 1 para. 3(5)(bb) inserted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **56(3)(b)** (with reg. 59)
- F24** Words in Sch. 1 para. 3(6)(a) substituted (6.4.2015) by [The Social Security \(Miscellaneous Amendments No. 2\) Regulations 2015 \(S.I. 2015/478\)](#), regs. 1(4), **28**
- F25** Words in Sch. 1 Pt. 1 Ch. 2 para. 3(6) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **27(3)**
- F26** Sch. 1 para. 3(7) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(8)**
- F27** Sch. 1 Pt. 1 Ch. 2 paras. 3(7), (8) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **27(4)**

Marginal Citations

- M1** 1973 c.50; section 2 was amended by sections 9 and 11 of, and Schedule 2, Part II, paragraph 9 and Schedule 3, to the [Employment and Training Act 1981 \(c.57\)](#).
- M2** 1990 c.35.

4. In a case where a person is self-employed as a childminder the amount of earnings referable to that employment shall be one-third of the gross receipts.

5.—(1) Subject to sub-paragraphs ^{F28}(2) to (3)—

- (a) where a person has been a self-employed earner for 52 weeks or more including the relevant week, the amount of his earnings shall be determined by reference to the average of the earnings which he has received in the 52 weeks ending with the relevant week;
- (b) where the person has been a self-employed earner for a period of less than 52 weeks including the relevant week, the amount of his earnings shall be determined by reference to the average of the earnings which he has received during that period.

(2) ^{F29}Subject to sub-paragraph (2A), where] a person who is a self-employed earner provides in respect of the employment a profit and loss account and, where appropriate, a trading account or a balance sheet or both, and the profit and loss account is in respect of a period at least 6 months but not exceeding 15 months and that period terminates within the ^{F30}24 months] immediately preceding the effective date, the amount of his earnings shall be determined by reference to the average of the earnings over the period to which the profit and loss account relates and such earnings shall include receipts relevant to that period (whether or not received in that period).

^{F31}(2A) Where the ^{F32}Secretary of State] is satisfied that, in relation to the person referred to in sub-paragraph (2) there is more than one profit and loss account, each in respect of different periods, both or all of which satisfy the conditions mentioned in that sub-paragraph, the provisions of that sub-paragraph shall apply only to the account which relates to the latest such period, unless ^{F33}the Secretary of State] is satisfied that the latest such account is not available for reasons beyond the control of that person, in which case he may have regard to any such other account which satisfies the requirements of that sub-paragraph.]

(3) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the ^{F34}Secretary of State], does not accurately reflect the normal amount of the earnings

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of the person in question, such earnings, or any part of them, shall be calculated by reference to such other period as may, in the particular case, enable the normal weekly earnings of that person to be determined more accurately and for this purpose the [^{F34}Secretary of State] shall have regard to—

- (a) the earnings received, or due to be received, from any employment in which the person in question is engaged, or has been engaged or is due to be engaged;
 - (b) the duration and pattern, or the expected duration and pattern, of any employment of that person.
- (4) In sub-paragraph (2)—
- (a) “balance sheet” means a statement of the financial position of the employment disclosing its assets, liabilities and capital at the end of the period in question;
 - (b) “profit and loss account” means a financial statement showing net profit or loss of the employment for the period in question; and
 - (c) “trading account” means a financial statement showing the revenue from sales, the cost of those sales and the gross profit arising during the period in question.

[^{F35}(5) Subject to sub-paragraph (3), where a person has claimed, or has been paid, [^{F36}working tax credit or child tax credit] on any day during the period beginning not earlier than eight weeks before the relevant week and ending not later than the date on which the assessment is made, the [^{F37}Secretary of State] may have regard to the amount of earnings taken into account in determining entitlement to those benefits in order to calculate or estimate the amount of earnings to be taken into account for the purposes of calculating N and M, notwithstanding the fact that entitlement to those benefits may have been determined by reference to earnings attributable to a period other than that specified in sub-paragraph (1).]

[^{F38}(6) This paragraph applies only where the earnings of a self-employed earner have the meaning given by paragraph 3 of this Schedule.]

Textual Amendments

- F28** Words in Sch. 1 para. 5(1) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(9)(a)**
- F29** Words in Sch. 1 para. 5(2) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(9)(b)(i)**
- F30** Words in Sch. 1 para. 5(2) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(9)(b)(ii)**
- F31** Sch. 1 para. 5(2A) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(9)(c)**
- F32** Words in Sch. 1 para. 5(2A) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **19(b)(ii)**
- F33** Words in Sch. 1 para. 5(2A) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **19(b)(i)**
- F34** Words in Sch. 1 para. 5(3) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **19(b)(ii)**
- F35** Sch. 1 para. 5(5) added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **13(5)**
- F36** Words in Sch. 1 para. 5(5) substituted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(a)**
- F37** Words in Sch. 1 para. 5(5) substituted (1.6.1999) by [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1510\)](#), arts. 3(1), **19(b)(ii)**
- F38** Sch. 1 Pt. 1 Ch. 2 para. 5(6) added (4.10.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(c)** (with reg. 7)

[^{F39}**5A.**—(1) Subject to sub-paragraph (2) of this paragraph, the earnings of a self-employed earner may be determined in accordance with the provisions of paragraph 2A only where the ^{F40}... taxable profits concerned relate to a period of not less than 6, and not more than 15 months, which terminated not more than 24 months prior to the relevant week;

(2) Where there is more than one ^{F40}... taxable profit figure which would satisfy the conditions set out in sub-paragraph (1), the earnings calculation shall be based upon the figure pertaining to the latest such period.]

^{F41}(3)

Textual Amendments

- F39** Sch. 1 Pt. 1 Ch. 2 para. 5A added (4.10.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(d)** (with reg. 7)
- F40** Word in Sch. 1 para. 5A omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(6)(a)**
- F41** Sch. 1 para. 5A(3) omitted (1.8.2007) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/1979\)](#), regs. 1, **4(6)(b)**

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