

SCHEDULE 1

Regulations 7(1), (2) and 8

CALCULATION OF N AND M

PART I

EARNINGS

Chapter 1

Earnings of an employed earner

1.—(1) Subject to sub-paragraphs (2) and (3), “earnings” means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus, commission, [^{F1}payment in respect of overtime,] royalty or fee;
- [^{F2}(aa) any profit-related pay, whether paid in anticipation of, or following, the calculation of profits;]
- (b) any holiday pay except any payable more than 4 weeks after termination of the employment;
- (c) any payment by way of a retainer;
- [^{F3}(d) any payments made by the parent’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 parent’s employer in respect of—
 - (i) travelling expenses incurred by that parent between his home and place of employment; and
 - (ii) expenses incurred by that parent under arrangements made for the care of a member of his family owing to that parent’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 ^{M1} (remedies and compensation for unfair dismissal);
- (f) any such sum as is referred to in section 112 of the Contributions and Benefits Act (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 ^{M2} or statutory maternity pay under Part V of the Social Security Act 1986 ^{M3};
- (h) any payment in lieu of notice and any compensation in respect of the absence or inadequacy of any such notice but only insofar as such payment or compensation represents loss of income;
- (i) any payment relating to a period of less than a year which is made in respect of the performance of duties as—
 - (i) an auxiliary coastguard in respect of coast rescue activities;
 - (ii) a part-time fireman in a fire brigade maintained in pursuance of the Fire Services Acts 1947 to 1959 ^{M4};
 - (iii) a person engaged part-time in the manning or launching of a lifeboat;
 - (iv) a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979 ^{M5};

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- (j) any payment made by a local authority to a member of that authority in respect of the performance of his duties as a member, other than any expenses wholly, exclusively and necessarily incurred in the performance of those duties.
- (2) Earnings shall not include—
- (a) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment [^{F4}except any such payment which is made in respect of housing costs and those housing costs are included in the calculation of the exempt or protected income of the absent parent under regulation 9(1) (b) or, as the case may be, regulation 11(1) (b)];
 - (b) any occupational pension;
 - (c) any payment where—
 - (i) the employment in respect of which it was made has ceased; and
 - (ii) a period of the same length as the period by reference to which it was calculated has expired since that cessation but prior to the effective date;
 - (d) any advance of earnings or any loan made by an employer to an employee;
 - (e) any amount received from an employer during a period when the employee has withdrawn his services by reason of a trade dispute;
 - (f) any payment in kind;
 - (g) where, in any week or other period which falls within the period by reference to which earnings are calculated, earnings are received both in respect of a previous employment and in respect of a subsequent employment, the earnings in respect of the previous employment.
 - [^{F5}(h) any tax-exempt allowance made by an employer to an employee [^{F6}except any such allowance which is made in respect of housing costs and those housing costs are included in the calculation of the exempt or protected income of the absent parent under regulation 9(1)(b) or, as the case may be, regulation 11(1)(b)].]
- (3) The earnings to be taken into account for the purposes of calculating N and M shall be gross earnings less—
- (a) any amount deducted from those earnings by way of—
 - (i) income tax;
 - (ii) primary Class 1 contributions under the Contributions and Benefits Act [^{F7}or under the Social Security Contributions and Benefits (Northern Ireland) Act 1992]; and
 - (b) one half of any sums paid by the parent towards an [^{F8}occupational pension scheme].
 - [^{F9}(c) one half of any sums paid by the parent towards a personal pension scheme, or, where that scheme is intended partly to provide a capital sum to discharge a mortgage secured upon the parent's home, 37.5 per centum of any such sums.]

Textual Amendments

- F1** Words in Sch. 1 para. 1(1)(a) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(2)**
- F2** Sch. 1 para. 1(1)(aa) added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **13(2)(a)**
- F3** Sch. 1 para. 1(1)(d) substituted (7.10.1996) by [The Child Support \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1945\)](#), regs. 1(2), **24(2)**

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- F4** Words in Sch. 1 para. 1(2)(a) added (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **56(2)(a)** (with reg. 59)
- F5** Sch. 1 para. 1(2)(h) added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **13(2)(b)**
- F6** Words in Sch. 1 para. 1(2)(h) added (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **56(2)(b)** (with reg. 59)
- F7** Words in Sch. 1 para. 1(3)(a)(ii) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(3)(a)**
- F8** Words in Sch. 1 para. 1(3)(b) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(3)(b)**
- F9** Sch. 1 para. 1(3)(c) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(3)(c)**

Marginal Citations

- M1** 1978 c.44.
- M2** 1982 c.24.
- M3** 1986 c.50.
- M4** 1947 c.41, 1951 c.27, 1959 c.44.
- M5** S.I. 1979/591; the relevant amending instrument is [S.I. 1980/1975](#).

2.—^[F10](1) Subject to sub-paragraphs ^[F11](1A) to (4), the amount of the earnings to be taken into account for the purpose of calculating N and M shall be calculated or estimated by reference to the average earnings at the relevant week having regard to such evidence as is available in relation to that person's earnings during such period as appears appropriate to the ^[F12]Secretary of State beginning not earlier than eight weeks before the relevant week and ending not later than the date of the assessment and for the purpose of that calculation or estimate he may consider evidence of that person's cumulative earnings during the period beginning with the start of the year of assessment (within the meaning of section 832 of the Income and Corporation Taxes Act 1988) in which the relevant week falls and ending with a date no later than the date of the assessment.]

^[F13](1A) Subject to sub-paragraph (4), where a person has claimed, or has been paid, ^[F14]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 ^[F15]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).]

^[F16](2) Where a person's earnings during the period of 52 weeks ending with the relevant week include—

- (a) a bonus, commission, or payment of profit-related pay made in anticipation of the calculation of profits which is paid separately from or in relation to a longer period than, the other earnings with which it is paid; or
- (b) a payment in respect of profit-related pay made following the calculation of the employer's profits,

the amount of that bonus, commission or profit-related payment shall be determined for the purposes of the calculation of earnings by aggregating any such payments received in that period and dividing by 52.]

(3) Subject to sub-paragraph (4), the amount of any earnings of a student shall be determined by aggregating the amount received in the year ending with the relevant week and dividing by 52

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or, where the person in question has been a student for less than a year, by aggregating the amount received in the period starting with his becoming a student and ending with the relevant week and dividing by the number of complete weeks in that period.

[^{F17}(3A) Where a case is one to which regulation 30A(1) or (3) of the Maintenance Assessment Procedure Regulations applies (effective dates of new maintenance assessments in particular cases), the term “relevant week” shall, for the purpose of this paragraph, mean the period of 7 days immediately preceding the date on which the information or evidence is received which enables a [^{F18}the Secretary of State] to make a new maintenance assessment calculated in accordance with the provisions of Part I of Schedule 1 to the Act in respect of that case for a period beginning after the effective date applicable to that case.]

(4) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the [^{F19}Secretary of State], does not accurately reflect the normal amount of the earnings 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 [^{F19}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, 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.

Textual Amendments

- F10** Sch. 1 para. 2(1) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(4)**
- F11** Word in Sch. 1 para. 2(1) substituted (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **13(3)(a)**
- F12** Words in Sch. 1 para. 2(1) 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(a)(i)**
- F13** Sch. 1 para. 2(1A) added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **13(3)(b)**
- F14** Words in Sch. 1 para. 2(1A) substituted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(a)**
- F15** Words in Sch. 1 para. 2(1A) 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(a)(i)**
- F16** Sch. 1 para. 2(2) substituted (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **13(3)(c)**
- F17** Sch. 1 para. 2(3A) added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **13(3)(d)**
- F18** Words in Sch. 1 para. 2(3A) 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(a)(ii)**
- F19** Words in Sch. 1 para. 2(4) 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(a)(i)**

Chapter 2

Earnings of a self-employed earner

[^{F20}**2A.**—(1) Subject to paragraphs 2B, 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 total taxable profits from self-employment of that earner as submitted to the Inland Revenue, 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 total taxable profits shall be determined in accordance with the following provisions—

- (a) subject to head (d), an amount of earnings equivalent to any personal allowance 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 section 11(1) or, as the case may be, (3), 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.

Textual Amendments

F20 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)

2B.—(1) Where—

- (a) a self-employed earner cannot provide the child support officer with the total taxable profit figure from self-employment for the period concerned as submitted to the Inland Revenue, but can provide a copy of his tax calculation notice; or
- (b) the child support officer becomes aware that the total taxable profit figure from the self-employment submitted by the self-employed earner has been revised by the Inland Revenue,

the earnings of that earner shall be calculated by reference to the income from employment as a self-employed earner as set out in the tax calculation notice issued in relation to his case, and if a revision of the figures included in that notice has occurred, by reference to the revised notice.

(2) In this paragraph and elsewhere in this Schedule—

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“submitted to” means submitted to the Inland Revenue in accordance with their requirements by or on behalf of the self-employed earner; and

a “tax calculation notice” means a document issued by the Inland Revenue containing information as to the income of a self-employed earner;

a “revision of the figures” means the revision of the figures relating to the total taxable profit of a self-employed earner following an enquiry under section 9A of the Taxes Management Act 1970 or otherwise by the Inland Revenue.

Textual Amendments

F20 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)

2C. Where the child support officer accepts that it is not reasonably practicable for the self-employed earner to provide information relating to his total taxable profits from self-employment in the form submitted to, or (where paragraph 2B applies) as issued or revised by, the Inland Revenue, “earnings” in relation to that earner shall have the meaning given by paragraph 3 of this Schedule.]

Textual Amendments

F20 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)

3.—(1) [^{F21}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 ^{M6} or section 2 of the Enterprise and New Towns (Scotland) Act 1990 ^{M7} 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) [^{F22}Subject to sub-paragraph (7),] there shall be deducted from the gross receipts referred to in sub-paragraph (1)—

- (a) [^{F23}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) [^{F24}except in a case to which paragraph 4 [^{F25}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);

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- (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^[F26], 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—
 - (i) repayment of capital on any other loan taken out for the purposes of the business;
 - (ii) any capital expenditure;
 - (iii) the depreciation of any capital asset;
 - (iv) any sum employed, or intended to be employed, in the setting up or expansion of the business;
 - (v) any loss incurred before the beginning of the period by reference to which earnings are determined;
 - (vi) any expenses incurred in providing business entertainment;
 - (vii) any loss incurred in any other employment in which he is engaged as a self-employed earner.
- ^[F27](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 equivalent to any personal allowance 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) ^[F28]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;
- ^[F29](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—

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- (a) the amount of Class 2 contributions (if any) payable under section 11(1) or, as the case may be, [F30(3)] 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 [F31to the chargeable earnings] at the effective date.

[F32(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) [F33In 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

- F21** 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)
- F22** Words in Sch. 1 Pt. I 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)**
- F23** Words in Sch. 1 Pt. I 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)**
- F24** Words in Sch. 1 Pt. I 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)**
- F25** 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)**
- F26** 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)**
- F27** 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)**
- F28** 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)
- F29** 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)
- F30** Word in Sch. 1 para. 3(6)(a) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(7)**
- F31** Words in Sch. 1 Pt. I 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)**
- F32** 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)**
- F33** Sch. 1 Pt. I 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

- M6** [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 \(c.57\)](#).
- M7** [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 [^{F34}(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) [^{F35}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 [^{F36}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).

[^{F37}(2A) Where the [^{F38}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 [^{F39}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 [^{F40}Secretary of State], does not accurately reflect the normal amount of the earnings 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 [^{F40}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.

[^{F41}(5) Subject to sub-paragraph (3), where a person has claimed, or has been paid, [^{F42}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 [^{F43}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).]

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

[^{F44}(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

- F34** 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)**
- F35** 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)**
- F36** 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)**
- F37** 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)**
- F38** 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)**
- F39** 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)**
- F40** 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)**
- F41** 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)**
- F42** 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)**
- F43** 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)**
- F44** 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)

[^{F45}**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 total 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 total 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.

(3) Where, in the opinion of the child support officer, information as to the total taxable profits of the self-employed earner which would satisfy the criteria set out in sub-paragraphs (1) and (2) of this paragraph does not accurately reflect the normal weekly earnings of the self-employed earner, the earnings of that earner can be calculated by reference to the provisions of paragraphs 3 and 5 of this Schedule]

Textual Amendments

- F45** 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)

PART II

BENEFIT PAYMENTS

6.—(1) The benefit payments to be taken into account in calculating or estimating N and M shall be determined in accordance with this Part.

(2) “Benefit payments” means any benefit payments under the Contributions and Benefits Act [F46 or the Jobseekers Act] except amounts to be disregarded by virtue of Schedule 2.

(3) The amount of any benefit payment to be taken into account shall be determined by reference to the rate of that benefit applicable at the effective date.

Textual Amendments

F46 Words in Sch. 1 para. 6(2) inserted (7.10.1996) by [The Social Security and Child Support \(Jobseeker’s Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(6)(7)(b)**

7.—(1) Where a benefit payment under the Contributions and Benefits Act includes an adult or child dependency increase—

- (a) if that benefit is payable to a parent, the income of that parent shall be calculated or estimated as if it did not include that amount;
- (b) if that benefit is payable to some other person but includes an amount in respect of the parent, the income of the parent shall be calculated or estimated as if it included that amount.

[F47(1A) For the purposes of sub-paragraph (1), an addition to a contribution-based jobseeker’s allowance under [F48 regulation 10(4)] of the Jobseeker’s Allowance (Transitional Provisions) Regulations [F49 1996] shall be treated as a dependency increase included with a benefit under the Contributions and Benefits Act.]

F50(2)

F50(3)

F50(4)

F50(5)

[F51(6) Where child benefit in respect of a relevant child is in payment at the rate specified in regulation 2(1)(a)(ii) of the Child Benefit Rates Regulations, the difference between that rate and the basic rate applicable to that child, as defined in regulation 4.]

Textual Amendments

F47 Words in Sch. 1 para. 7(1A) inserted (7.10.1996) by [The Social Security and Child Support \(Jobseeker’s Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(4)(a)**

F48 Words in Sch. 1 Pt. II para. 7(1A) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(e)(i)** (with reg. 7)

F49 Word in Sch. 1 Pt. II para. 7(1A) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(e)(ii)** (with reg. 7)

F50 Sch. 1 para. 7(2)-(5) omitted (6.4.2003) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(b)**

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

F51 Sch. 1 para. 7(6) added (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), 17(2)

PART III

OTHER INCOME

8. The amount of the other income to be taken into account in calculating or estimating N and M shall be the aggregate of the following amounts determined in accordance with this Part.

9. Any periodic payment of pension or other benefit under an occupational or personal pension scheme or a retirement annuity contract or other such scheme for the provision of income in retirement.

[^{F52}**9A.**—(1) Where a war disablement pension includes an adult or child dependency increase—

- (a) if that pension, including the dependency increase, is payable to a parent, the income of that parent shall be calculated or estimated as if it did not include that amount;
- (b) if that pension, including the dependency increase, is payable to some other person but includes an amount in respect of the parent, the income of the parent shall be calculated or estimated as if it included that amount.

(2) For the purposes of this paragraph, a “war disablement pension” includes a war widow’s pension, a payment made to compensate for non-payment of such a pension, and a pension or payment analogous to such a pension or payment paid by the government of a country outside Great Britain.]

Textual Amendments

F52 Sch. 1 Pt. III para. 9A added (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), 6(5)(f) (with reg. 7)

10. Any payment received on account of the provision of board and lodging which does not come within Part I of this Schedule.

11. Subject to regulation 7(3)(b) and paragraph 12, any payment to a student of—

- (a) grant;
- (b) an amount in respect of grant contribution;
- (c) covenant income except to the extent that it has been taken into account under subparagraph (b);
- (d) a student loan.

12. The income of a student shall not include any payment—

- (a) intended to meet tuition fees or examination fees;
- (b) intended to meet additional expenditure incurred by a disabled student in respect of his attendance on a course;
- (c) intended to meet additional expenditure connected with term time residential study away from the student’s educational establishment;
- (d) on account of the student maintaining a home at a place other than that at which he resides during his course;

- (e) intended to meet the cost of books, and equipment (other than special equipment) or, if not so intended, an amount equal to the amount allowed under [^{F53}regulation 62(2A)(b) of the Income Support (General) Regulations 1987 towards such costs;]
- (f) intended to meet travel expenses incurred as a result of his attendance on the course.

Textual Amendments

F53 Words in Sch. 1 para. 12(e) substituted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(c)**

13. Any interest, dividend or other income derived from capital.

14. Any maintenance payments in respect of a parent.

[^{F54}**14A.**—(1) Subject to sub-paragraph (2), the amount of any earnings top-up paid to or in respect of the absent parent or the parent with care.

(2) Subject to sub-paragraphs (3) and (4), where earnings top-up is payable and the amount which is payable has been calculated by reference to the weekly earnings of either the absent parent and another person or the parent with care and another person—

- (a) if during the period which is used to calculate his earnings under paragraph 2 or, as the case may be, paragraph 5, the normal weekly earnings of that parent exceed those of the other person, the amount payable by way of earnings top-up shall be treated as the income of that parent;
- (b) if during that period, the normal weekly earnings of that parent equal those of the other person, half of the amount payable by way of earnings top-up shall be treated as the income of that parent;
- (c) if during that period, the normal weekly earnings of that parent are less than those of that other person, the amount payable by way of earnings top-up shall not be treated as the income of that parent.

(3) Where any earnings top-up is in payment and, not later than the effective date, the person, or, if more than one, each of the persons by reference to whose engagement and normal engagement in remunerative work that payment has been calculated is no longer the partner of the person to whom that payment is made, the payment in question shall be treated as the income of the parent in question only where that parent is in receipt of it.

(4) Where earnings top-up is in payment and, not later than the effective date, either or both of the persons by reference to whose engagement and normal engagement in remunerative work that payment has been calculated has ceased to be employed, half of the amount payable by way of earnings top-up shall be treated as the income of the parent in question.]

Textual Amendments

F54 Sch. 1 para. 14A added (7.10.1996) by [The Child Support \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1945\)](#), regs. 1(2), **24(4)**

[^{F55}**14B.**—(1) Subject to sub-paragraph (2), payments to a person of working tax credit shall be treated as the income of the parent who has qualified for them by his normal engagement in remunerative work at the rate payable at the effective date.

(2) Where working tax credit is payable and the amount which is payable has been calculated by reference to the earnings of the absent parent and another person—

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

- (a) if during the period which is used to calculate his earnings under paragraph 2 or, as the case may be, paragraph 5, the normal weekly earnings of that parent exceed those of the other person, the amount payable by way of working tax credit shall be treated as the income of that parent;
- (b) if during that period the normal weekly earnings of that parent equal those of the other person, half of the amount payable by way of working tax credit shall be treated as the income of that parent; and
- (c) if during that period the normal weekly earnings of that parent are less than those of that other person, the amount payable by way of working tax credit shall not be treated as the income of that parent.]

Textual Amendments

F55 Sch. 1 para. 14B inserted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(d)**

15. Any other payments or other amounts received on a periodical basis which are not otherwise taken into account under Part I, II, IV or V of this [F56 except payments or other amounts which—

- (a) are excluded from the definition of “earnings” by virtue of paragraph 1(2);
- (b) are excluded from the definition of “the relevant income of a child” by virtue of paragraph 23; or
- (c) are the share of housing costs attributed by virtue of paragraph (3) of regulation 15 to any former partner of the parent of the qualifying child in respect of whom the maintenance assessment is made and are paid to that parent.]

Textual Amendments

F56 Words in Sch. 1 para. 15 substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **56(4)** (with reg. 59)

16.—(1) Subject to sub-paragraphs (2) to [F57(7)] the amount of any income to which this Part applies shall be calculated or estimated—

- (a) where it has been received in respect of the whole of the period of 26 weeks which ends at the end of the relevant week, by dividing such income received in that period by 26;
 - (b) where it has been received in respect of part of the period of 26 weeks which ends at the end of the relevant week, by dividing such income received in that period by the number of complete weeks in respect of which such income is received and for this purpose income shall be treated as received in respect of a week if it is received in respect of any day in the week in question.
- (2) The amount of maintenance payments made in respect of a parent—
- (a) where they are payable weekly and have been paid at the same amount in respect of each week in the period of 13 weeks which ends at the end of the relevant week, shall be the amount equal to one of those payments;
 - (b) in any other case, shall be the amount calculated by aggregating the total amount of those payments received in the period of 13 weeks which ends at the end of the relevant week and dividing by the number of weeks in that period in respect of which maintenance was due.
- (3) In the case of a student—

- (a) the amount of any grant and any amount paid in respect of grant contribution shall be calculated by apportioning it equally between the weeks in respect of which it is payable;
 - (b) the amount of any covenant income shall be calculated by dividing the amount payable in respect of a year by 52 (or, where such amount is payable in respect of a lesser period, by the number of complete weeks in that period) and, subject to sub-paragraph (4), deducting £5·00;
 - (c) the amount of any student loan shall be calculated by apportioning the loan equally between the weeks in respect of which it is payable and, subject to sub-paragraph (4), deducting £10·00.
- (4) For the purposes of sub-paragraph (3)—
- (a) not more than £500 shall be deducted under sub-paragraph (3)(b);
 - (b) not more than £1000 in total shall be deducted under sub-paragraphs (3)(b) and (c).
- (5) Where in respect of the period of 52 weeks which ends at the end of the relevant week a person is in receipt of interest, dividend or other income which has been produced by his capital, the amount of that income shall be calculated by dividing the aggregate of the income so received by 52.
- (6) Where a calculation would, but for this sub-paragraph, produce an amount which, in the opinion of the [^{F58}Secretary of State], does not accurately reflect the normal amount of the other income of the person in question, such income, or any part of it, shall be calculated by reference to such other period as may, in the particular case, enable the other income of that person to be determined more accurately and for this purpose the [^{F58}Secretary of State] shall have regard to the nature and pattern of receipt of such income.
- [^{F59}(7) This paragraph shall not apply to payments of working tax credit referred to in paragraph 14B.]

Textual Amendments

- F57** Word in Sch. 1 para. 16(1) substituted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(e)(i)**
- F58** Words in Sch. 1 para. 16(6) 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(c)**
- F59** Sch. 1 para. 16(7) added (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(6)(e)(ii)**

PART IV

INCOME OF CHILD TREATED AS INCOME OF PARENT

17. The amount of any income of a child which is to be treated as the income of the parent in calculating or estimating N and M shall be the aggregate of the amounts determined in accordance with this Part.

18. Where a child has income which falls within the following paragraphs of this Part and that child is a member of the family of his parent (whether that child is a qualifying child in relation to that parent or not), the relevant income of that child shall be treated as that of his parent.

19. Where child support maintenance is being assessed for the support of only one qualifying child, the relevant income of that child shall be treated as that of the parent with care.

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

20. Where child support maintenance is being assessed to support more than one qualifying child, the relevant income of each of those children shall be treated as that of the parent with care to the extent that it does not exceed the aggregate of—

- (a) the amount determined under—
 - (i) regulation 3(1)(a) (calculation of AG) in relation to the child in question; and
 - (ii) the total of any other amounts determined under regulation 3(1)(b) [^{F60}and (c)] which are applicable in the case in question divided by the number of children for whom child support maintenance is being calculated,
 less the basic rate of child benefit (within the meaning of regulation 4) for the child in question; and
- (b) [^{F61}one-and-a-half times] the total of the amounts calculated under regulation 3(1)(a) (income support personal allowance for child or young person) in respect of that child and regulation [^{F62}3(1)(c)] (income support family premium).

Textual Amendments

F60 Words in Sch. 1 para. 20(a)(ii) substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **17(3)(a)**

F61 Words in Sch. 1 para. 20(b) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(10)** (with regs. 62, 64)

F62 Word in Sch. 1 para. 20(b) substituted (6.4.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(3), **56(5)** (with reg. 59)

21. Where child support maintenance is not being assessed for the support of the child whose income is being calculated or estimated, the relevant income of that child shall be treated as that of his parent to the extent that it does not exceed the amount determined under regulation 9(1)(g).

22.—[^{F63}(1)] Where a benefit under the Contributions and Benefits Act includes an adult or child dependency increase in respect of a relevant child, the relevant income of that child shall be calculated or estimated as if it included that amount.

[^{F64}(1A) For the purposes of sub-paragraph (1), an addition to a contribution-based jobseeker’s allowance under [^{F65}regulation 10(4)] of the Jobseeker’s Allowance (Transitional Provisions) Regulations [^{F66}1996] shall be treated as a dependency increase included with a benefit under the Contributions and Benefits Act.]

- (a) [^{F67}(1B) (a) Where a war disablement pension includes a dependency allowance paid in respect of a relevant child, the relevant income of that child shall be calculated or estimated as if it included that amount.
- (b) For the purposes of this paragraph, a “war disablement pension” includes a war widow’s pension, a payment made to compensate for non-payment of such a pension, and a pension or payment analogous to such a pension or payment paid by the government of a country outside Great Britain.]

Textual Amendments

F63 Sch. 1 para. 22(1): Sch. 1 para. 22 renumbered as Sch. 1 para. 22(1) (7.10.1996) by [The Social Security and Child Support \(Jobseeker’s Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(4)(b)**

- F64** Sch. 1 para. 22(1A) added (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(4)(b)**
- F65** Words in Sch. 1 Pt. IV para. 22(1A) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(g)(i)** (with reg. 7)
- F66** Word in Sch. 1 Pt. IV para. 22(1A) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(g)(ii)** (with reg. 7)
- F67** Sch. 1 Pt. IV para. 22(1B) inserted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(5)(h)** (with reg. 7)

23. For the purposes of this Part, "the relevant income of a child" does not include—

- (a) any earnings of the child in question;
- (b) payments by an absent parent [^{F68}to] the child for whom maintenance is being assessed;
- (c) where the class of persons who are capable of benefiting from a discretionary trust include the child in question, payments from that trust except in so far as they are made to provide for food, ordinary clothing and footwear, gas, electricity or fuel charges or housing costs; or
- (d) any interest payable on arrears of child support maintenance for that child [^{F69};
- (e) the first £10 of any other income of that child]

Textual Amendments

- F68** Word in Sch. 1 para. 23(b) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **56(6)** (with reg. 59)
- F69** Sch. 1 para. 23(e) added (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **54(11)** (with regs. 62, 64)

24. The amount of the income of a child which is treated as the income of the parent shall be determined in the same way as if such income were the income of the parent.

PART V

AMOUNTS TREATED AS THE INCOME OF A PARENT

25. The amounts which fall to be treated as income of the parent in calculating or estimating N and M shall include amounts to be determined in accordance with this Part.

26. Where [^{F70}the Secretary of State] is satisfied—

- (a) that a person has performed a service either—
 - (i) without receiving any remuneration in respect of it; or
 - (ii) for remuneration which is less than that normally paid for that service;
- (b) that the service in question was for the benefit of—
 - (i) another person who is not a member of the same family as the person in question; or
 - (ii) a body which is neither a charity nor a voluntary organisation;
- (c) that the service in question was performed for a person who, or as the case may be, a body which was able to pay remuneration at the normal rate for the service in question;
- (d) that the principal purpose of the person undertaking the service without receiving any or adequate remuneration is to reduce his assessable income for the purposes of the Act; and

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

(e) that any remuneration foregone would have fallen to be taken into account as earnings, the value of the remuneration foregone shall be estimated by [^{F70}the Secretary of State] and an amount equal to the value so estimated shall be treated as income of the person who performed those services.

Textual Amendments

F70 Words in Sch. 1 para. 26 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(d)**

27. Subject to paragraphs 28 to 30, where the [^{F71}Secretary of State] is satisfied that, otherwise than in the circumstances set out in paragraph 26, a person has intentionally deprived himself of—

- (a) any income or capital which would otherwise be a source of income;
- (b) any income or capital which it would be reasonable to expect would be secured by him,

with a view to reducing the amount of his assessable income, his net income shall include the amount estimated by [^{F72}the Secretary of State] as representing the income which that person would have had if he had not deprived himself of or failed to secure that income, or as the case may be, that capital.

Textual Amendments

F71 Words in Sch. 1 para. 27 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(e)**

F72 Words in Sch. 1 para. 27 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(d)**

28. No amount shall be treated as income by virtue of paragraph 27 in relation to—

- [^{F73}(a) if the parent satisfies the conditions for payment of the rate of child benefit specified in regulation 2(1)(a)(ii) of the Child Benefit Rates Regulations, an amount representing the difference between that rate and the basic rate, as defined in regulation 4;]
- (b) if the parent is a person to, or in respect of, whom income support is payable, [^{F74}a contribution-based jobseeker's allowance];
- (c) a payment from a discretionary trust or a trust derived from a payment made in consequence of a personal injury.

Textual Amendments

F73 Sch. 1 para. 28(a) substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **17(4)**

F74 Words in Sch. 1 para. 28(b) substituted (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(4)(c)**

29. Where an amount is included in the income of a person under paragraph 27 in respect of income which would become available to him on application, the amount included under that paragraph shall be included from the date on which it could be expected to be acquired.

30. Where [^{F75}the Secretary of State] determines under paragraph 27 that a person has deprived himself of capital which would otherwise be a source of income, the amount of that capital shall be reduced at intervals of 52 weeks, starting with the week which falls 52 weeks after the first week in respect of which income from it is included in the calculation of the assessment in question, by an

amount equal to the amount which the [^{F76}Secretary of State] estimates would represent the income from that source in the immediately preceding period of 52 weeks.

Textual Amendments

- F75** Words in Sch. 1 para. 30 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(d)**
- F76** Words in Sch. 1 para. 30 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(e)**

31. Where a payment is made on behalf of a parent or a relevant child in respect of food, ordinary clothing or footwear, gas, electricity or fuel charges, housing costs or council tax, an amount equal to the amount which the [^{F77}Secretary of State] estimates represents the value of that payment shall be treated as the income of the parent in question except to the extent that such amount is—

- (a) disregarded under paragraph 38 of Schedule 2;
- (b) a payment of school fees paid by or on behalf of someone other than the absent parent.

Textual Amendments

- F77** Words in Sch. 1 para. 31 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(e)**

32. Where paragraph 26 applies the amount to be treated as the income of the parent shall be determined as if it were earnings from employment as an employed earner and in a case to which paragraph 27 or 31 applies the amount shall be determined as if it were other income to which Part III of this Schedule applies.

SCHEDULE 2

Regulations 7(2) and 8

AMOUNTS TO BE DISREGARDED WHEN CALCULATING OR ESTIMATING N and M

- 1.** The amounts referred to in this Schedule are to be disregarded when calculating or estimating N and M (parent's net income).
- 2.** An amount in respect of income tax applicable to the income in question where not otherwise allowed for under these Regulations.
- 3.** Where a payment is made in a currency other than sterling, an amount equal to any banking charge or commission payable in converting that payment to sterling.
- 4.** Any amount payable in a country outside the United Kingdom where there is a prohibition against the transfer to the United Kingdom of that amount.
- 5.** Any compensation for personal injury and any payments from a trust fund set up for that purpose.
- 6.** Any advance of earnings or any loan made by an employer to an employee.
- 7.** Any payment by way of, or any reduction or discharge of liability resulting from entitlement to, housing benefit or council tax benefit.
- 8.** Any disability living allowance, mobility supplement or any payment intended to compensate for the non-payment of any such allowance or supplement.

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

9. Any payment which is—

- (a) an attendance allowance under section 64 of the Contributions and Benefits Act;
- (b) an increase of disablement pension under section 104 or 105 of that Act (increases where constant attendance needed or for exceptionally severe disablement);
- (c) a payment made under regulations made in exercise of the power conferred by Schedule 8 to that Act (payments for pre-1948 cases);
- (d) an increase of an allowance payable in respect of constant attendance under that Schedule;
- (e) payable by virtue of articles 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983 ^{M8} (allowances for constant attendance and exceptionally severe disablement and severe disablement occupational allowance) or any analogous payment; or
- (f) a payment based on the need for attendance which is paid as part of a war disablement pension.

Marginal Citations

M8 [S.I. 1983/686](#).

10. Any payment under section 148 of the Contributions and Benefits Act (pensioners' Christmas bonus).

11. Any social fund payment within the meaning of Part VIII of the Contributions and Benefits Act.

12. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

13. Any payment made by the Secretary of State to compensate for loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983 ^{M9}.

Marginal Citations

M9 [S.I. 1983/1399](#).

14. Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.

15. Any concessionary payment made to compensate for the non-payment of income support, [^{F78}income-based jobseeker's allowance,] disability living allowance, or any payment to which paragraph 9 applies.

Textual Amendments

F78 Words in Sch. 2 para. 15 inserted (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(5)**

16. Any payments of child benefit to the extent that they do not exceed the basic rate of that benefit as defined in regulation 4.

17. Any payment made under regulations 9 to 11 or 13 of the Welfare Food Regulations 1988 ^{M10} (payments made in place of milk tokens or the supply of vitamins).

Marginal Citations

M10 S.I. 1988/536; the relevant amending instrument is S.I. 1990/3.

18. Subject to paragraph 20 and to the extent that it does not exceed £10·00—

- (a) war disablement pension or war widow's pension or a payment made to compensate for non-payment of such a pension;
- (b) a pension paid by the government of a country outside Great Britain and which either—
 - (i) is analogous to a war disablement pension; or
 - (ii) is analogous to a war widow's pension.

19.—(1) Except where sub-paragraph (2) applies and subject to sub-paragraph (3) and paragraphs 20, 38 and 47, [^{F79}up to £20.00] of any charitable or voluntary payment made, or due to be made, at regular intervals.

(2) Subject to sub-paragraph (3) and paragraphs 38 and 47, any charitable or voluntary payment made or due to be made at regular intervals which is intended and used for an item other than food, ordinary clothing or footwear, gas, electricity or fuel charges, housing costs of any member of the family or the payment of council tax.

(3) Sub-paragraphs (1) and (2) shall not apply to a payment which is made by a person for the maintenance of any member of his family or of his former partner or of his children.

(4) For the purposes of sub-paragraph (1) where a number of charitable or voluntary payments fall to be taken into account they shall be treated as though they were one such payment.

Textual Amendments

F79 Words in Sch. 2 para. 19(1) substituted (8.4.1996) by *The Child Support (Maintenance Assessments and Special Cases) and Social Security (Claims and Payments) Amendment Regulations 1996* (S.I. 1996/481), regs. 1(1), **3(2)** (with reg. 4)

20.—(1) Where, but for this paragraph, more than [^{F80}£20.00] would be disregarded under paragraphs 18 and 19(1) in respect of the same week, only [^{F80}£20.00] in aggregate shall be disregarded and where an amount falls to be deducted from the income of a student under paragraph 16(3)(b) or (c) of Schedule 1, that amount shall count as part of the [^{F80}£20.00] disregard allowed under this paragraph.

(2) Where any payment which is due to be paid in one week is paid in another week, sub-paragraph (1) and paragraphs 18 and 19(1) shall have effect as if that payment were received in the week in which it was due.

Textual Amendments

F80 Sum in Sch. 2 para. 20(1) substituted (8.4.1996) by *The Child Support (Maintenance Assessments and Special Cases) and Social Security (Claims and Payments) Amendment Regulations 1996* (S.I. 1996/481), regs. 1(1), **3(3)** (with reg. 4)

21. In the case of a person participating in arrangements for training made under section 2 of the Employment and Training Act 1973 ^{M11} or section 2 of the Enterprise and New Towns (Scotland)

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Act 1990 ^{M12} (functions in relation to training for employment etc.) or attending a course at an employment rehabilitation centre established under section 2 of the 1973 Act—

- (a) any travelling expenses reimbursed to the person;
- (b) any living away from home allowance under section 2(2)(d) of the 1973 Act or section 2(4)(c) of the 1990 Act;
- (c) any training premium,

but this paragraph, except in so far as it relates to a payment mentioned in sub-paragraph (a), (b) or (c), does not apply to any part of any allowance under section 2(2)(d) of the 1973 Act or section 2(4)(c) of the 1990 Act.

Marginal Citations

M11 1973 c.50; section 2 was substituted by section 25(1) of the [Employment Act 1988 \(c.19\)](#).

M12 1990 c.39.

22. Where a parent occupies a dwelling as his home and that dwelling is also occupied by a person, other than a non-dependant or a person who is provided with board and lodging accommodation, and that person is contractually liable to make payments in respect of his occupation of the dwelling to the parent, the amount or, as the case may be, the amounts specified in [^{F81}paragraph 19 of Schedule 9 to the Income Support (General) Regulations 1987 which would have applied if he had been in receipt of income support.]

Textual Amendments

F81 Words in Sch. 2 para. 22 substituted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(7)(a)**

23. Where a parent, who is not a self-employed earner, is in receipt of rent or any other money in respect of the use and occupation of property other than his home, that rent or other payment to the extent of any sums which that parent is liable to pay by way of—

- [^{F82}(a) payments which are to be taken into account as eligible housing costs under sub-paragraphs (b), (c), (d) and (t) of paragraph 1 of Schedule 3 (eligible housing costs for the purposes of determining exempt income and protected income) and paragraph 3 of that Schedule (exempt income: additional provisions relating to eligible housing costs);]
- (b) council tax payable in respect of that property;
- (c) water and sewerage charges payable in respect of that property.

Textual Amendments

F82 Sch. 2 para. 23(a) substituted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **28**

24. [^{F83}For each week in which a parent provides] board and lodging accommodation in his home otherwise than as a self-employed earner—

- (a) £20.00 of any payment for that accommodation made by [^{F84}, on behalf or in respect of] the person to whom that accommodation is provided; and
- (b) where any such payment exceeds £20.00, 50 per centum of the excess.

Textual Amendments

- F83** Words in Sch. 2 para. 24 substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **55(2)**
- F84** Words in Sch. 2 para. 24(a) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **55(3)**

25. Any payment made to a person in respect of an adopted child who is a member of his family that is made in accordance with any regulations made under section 57A or pursuant to section 57A(6) of the Adoption Act 1976 ^{M13} (permitted allowances) or, as the case may be, [^{F85}section 51A] of the Adoption (Scotland) Act 1978 ^{M14} (schemes for the payment of allowances to adopters)—

- (a) where the child is not a child in respect of whom child support maintenance is being assessed, to the extent that it exceeds [^{F86}the aggregate of the amounts to be taken into account in the calculation of E under regulation 9(1)(g)], reduced, as the case may be, under regulation 9(4);
- (b) in any other case, to the extent that it does not exceed the amount of the income of a child which is treated as that of his parent by virtue of Part IV [^{F87}of Schedule 1.]

Textual Amendments

- F85** Words in Sch. 2 para. 25 substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(6)** (with reg. 7)
- F86** Words in Sch. 2 para. 25(a) substituted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **29**
- F87** Words in Sch. 2 para. 25 added (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), **57** (with reg. 59)

Marginal Citations

- M13** 1976 c.36. Section 57A was inserted by paragraph 25 of Schedule 10 to the [Children Act 1989 \(c.41\)](#). [The Adoption Allowance Regulations 1991 \(S.I. 1991/2030\)](#) and the Adoption Allowance (Amendment) Regulations 1991(S.I. 1991/2130) have been made.
- M14** 1978 c.28.

26. Where a local authority makes a payment in respect of the accommodation and maintenance of a child in pursuance of paragraph 15 of Schedule 1 to the Children Act 1989 ^{M15} (local authority contribution to child's maintenance) to the extent that it exceeds the amount referred to in [^{F88}regulation 9(1)(g)] (reduced, as the case may be, under regulation 9(4)).

Textual Amendments

- F88** Words in Sch. 2 para. 26 substituted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **30**

Marginal Citations

- M15** 1989 c.41.

27. Any payment received under a policy of insurance taken out to insure against the risk of being unable to maintain repayments on a loan taken out to acquire an interest in, or to meet the cost of repairs or improvements to, the parent's home and used to meet such repayments, to the extent that

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the payment received under that policy exceeds [^{F89}the total of the amount of the payments set out in paragraphs 1(b), 3(2) and (4) of Schedule 3 as modified, where applicable, by regulation 18.]

Textual Amendments

F89 Words in Sch. 2 para. 27 substituted (22.1.1996) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **46**

28. In the calculation of the income of the parent with care, any maintenance payments made by the absent parent in respect of his qualifying child.

29. Any payment made by a local authority to a person who is caring for a child under section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance by a local authority for children whom the authority is looking after) or, as the case may be, section 21 of the Social Work (Scotland) Act 1968 ^{M16} or by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations) or by a care authority under regulation 9 of the Boarding Out and Fostering of Children (Scotland) Regulations 1985 ^{M17} (provision of accommodation and maintenance for children in care).

Marginal Citations

M16 1968 c.49.

M17 S.I. 1985/1799.

30. Any payment made by a health authority [^{F90}, Primary Care Trust], local authority or voluntary organisation in respect of a person who is not normally a member of the household but is temporarily in the care of a member of it.

Textual Amendments

F90 Words in Sch. 2 para. 30 inserted (1.10.2002) by [The National Health Service Reform and Health Care Professions Act 2002 \(Supplementary, Consequential etc. Provisions\) Regulations 2002 \(S.I. 2002/2469\)](#), regs. 1, 9, **Sch. 6**

31. Any payment made by a local authority under section 17 or 24 of the Children Act 1989 or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons looked after, or in, or formerly in, their care).

32. Any resettlement benefit which is paid to the parent by virtue of regulation 3 of the Social Security (Hospital In-Patients) Amendment (No. 2) Regulations 1987 ^{M18} (transitional provisions).

Marginal Citations

M18 S.I. 1987/1683.

33.—(1) Any payment or repayment made—

- (a) as respects England and Wales, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 ^{M19} (travelling expenses and health service supplies);

(b) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988^{M20} (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Secretary of State for Scotland or the Secretary of State for Wales which is analogous to a payment or repayment mentioned in sub-paragraph (1).

Marginal Citations

M19 [S.I. 1988/546](#).

M20 [S.I. 1988/551](#).

34. Any payment made (other than a training allowance), whether by the Secretary of State or any other person, under the Disabled Persons Employment Act 1944^{M21} or in accordance with arrangements made under section 2 of the Employment and Training Act 1973^{M22} to assist disabled persons to obtain or retain employment despite their disability.

Marginal Citations

M21 [1944 c.10](#).

M22 [1973 c.50](#).

35. Any contribution to the expenses of maintaining a household which is made by a non-dependant member of that household.

36. Any sum in respect of a course of study attended by a child payable by virtue of regulations made under section 81 of the Education Act 1944^{M23} (assistance by means of scholarship or otherwise), or by virtue of section 2(1) of the Education Act 1962^{M24} (awards for courses of further education) or section 49 of the Education (Scotland) Act 1980^{M25} (power to assist persons to take advantage of educational facilities).

Marginal Citations

M23 [1944 c.31](#).

M24 [1962 c.12](#).

M25 [1980 c.44](#); section 49 was amended by the [Self Governing Schools \(Scotland\) Act 1989 \(c.39\)](#), [Schedule 10](#).

37. Where a person receives income under an annuity purchased with a loan which satisfies the following conditions—

- (a) that loan was made as part of a scheme under which not less than 90 per centum of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;
- (b) that the interest on the loan is payable by the person to whom it was made or by one of the annuitants;
- (c) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;

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- (d) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling; and
- (e) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid,

the amount, calculated on a weekly basis equal to—

- (i) where, or insofar as, section 26 of the Finance Act 1982 ^{M26} (deduction of tax from certain loan interest) applies to the payments of interest on the loan, the interest which is payable after the deduction of a sum equal to income tax on such payments at the basic rate for the year of assessment in which the payment of interest becomes due;
- (ii) in any other case the interest which is payable on the loan without deduction of such a sum.

Marginal Citations

M26 [1982 c.39](#).

38. Any payment of the description specified in paragraph 39 of Schedule 9 to the Income Support Regulations ^{M27} (disregard of payments made under certain trusts and disregard of certain other payments) and any income derived from the investment of such payments.

Marginal Citations

M27 Paragraph 39 was substituted by [S.I. 1991/1175](#).

39. Any payment made to a juror or witness in respect of attendance at court other than compensation for loss of earnings or for loss of a benefit payable under the Contributions and Benefits Act [^{F91}or the Jobseekers Act].

Textual Amendments

F91 Words in Sch. 2 para. 39 inserted (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(6)(7)(c)**

40. Any special war widows' payment made under—

- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865 ^{M28};
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977 ^{M29};
- (c) the Queen's Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917 ^{M30};
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980 ^{M31};
- (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980 ^{M32};

and any analogous payment by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e).

Marginal Citations

- M28** 1865 c.73. Copies of the Order are available from the Ministry of Defence, NPC2, Room 317, Archway Block South, Old Admiralty Buildings, Spring Gardens, London SW1A 2BE.
- M29** Army Code No. 13045 published by HMSO.
- M30** 1917 c.51. Queen's Regulations for the Royal Air Force are available from HMSO.
- M31** 1980 c.9. Copies of the Regulations are available from the Ministry of Defence, NPC2, Room 317, Archway Block South, Old Admiralty Building, Spring Gardens, London SW1A 2BE.
- M32** Army Code No. 60589 published by HMSO.

41. Any payment to a person as holder of the Victoria Cross or the George Cross or any analogous payment.

42. Any payment made either by the Secretary of State for the Home Department or by the Secretary of State for Scotland under a scheme established to assist relatives and other persons to visit persons in custody.

43. Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or Schedule E.

44. Maintenance payments (whether paid under the Act or otherwise) insofar as they are not treated as income under Part III or IV [^{F92}of Schedule 1.]

Textual Amendments

- F92** Words in Sch. 2 para. 44 added (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/58\)](#), regs. 1(2), 57 (with reg. 59)

45. Where following a divorce or separation—

- (a) capital is divided between the parent and the person who was his partner before the divorce or separation; and
- (b) that capital is intended to be used to acquire a new home for that parent or to acquire furnishings for a home of his,

income derived from the investment of that capital for one year following the date on which that capital became available to the parent.

[^{F93}46. Except in the case of a self-employed earner, payments in kind.]

Textual Amendments

- F93** Sch. 2 para. 46 substituted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), 31

47. Any payment made by the Joseph Rowntree Memorial Trust from money provided to it by the Secretary of State for Health for the purpose of maintaining a family fund for the benefit of severely handicapped children.

48. Any payment of expenses to a person who is—

- (a) engaged by a charitable or voluntary body; or

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(b) a volunteer,

if he otherwise derives no remuneration or profit from the body or person paying those expenses.

[^{F94}48A. Any guardian's allowance under Part III of the Contributions and Benefits Act.

Textual Amendments

F94 Sch. 2 paras. 48A, 48B inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **32**

48B. Any payment in respect of duties mentioned in paragraph 1(1)(i) of Chapter 1 of Part I of Schedule 1 relating to a period of one year or more.]

Textual Amendments

F94 Sch. 2 paras. 48A, 48B inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **32**

[^{F95}48C. Any payment to a person under section 1 of the Community Care (Direct Payments) Act 1996 or section 12B of the Social Work (Scotland) Act 1968 [^{F96}or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments)] in respect of his securing community care services, as defined in section 46 of the National Health Services and Community Care Act 1990.]

Textual Amendments

F95 Sch. 2 para. 48C added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **14**

F96 Words in Sch. 2 para. 48C inserted (E.) (8.4.2003) by [The Community Care, Services for Carers and Children's Services \(Direct Payments\) \(England\) Regulations 2003 \(S.I. 2003/762\)](#), regs. 1(1), 11(2), **Sch. 2**

[^{F97}48D. Any payment of child tax credit.]

Textual Amendments

F97 Sch. 2 para. 48D inserted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(7)(b)**

[^{F98}48E. Any payment made by a local authority relating to—

- (a) welfare services in respect of which the Secretary of State has paid a grant to the local authority under section 93(1) of the Local Government Act 2000;
- (b) welfare services in respect of which the National Assembly for Wales has paid a grant to the local authority under section 93(2) of the Local Government Act 2000; or
- (c) housing support services in respect of which the Scottish Ministers have paid a grant to the local authority under section 91(1) of the Housing (Scotland) Act 2001,

where the person qualified for those services.]

Textual Amendments

- F98** Sch. 2 para. 48E inserted (1.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(c), **6(7)(c)**

Textual Amendments

- F95** Sch. 2 para. 48C added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **14**
- F96** Words in Sch. 2 para. 48C inserted (E.) (8.4.2003) by [The Community Care, Services for Carers and Children's Services \(Direct Payments\) \(England\) Regulations 2003 \(S.I. 2003/762\)](#), regs. 1(1), 11(2), **Sch. 2**
- F97** Sch. 2 para. 48D inserted (6.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(7)(b)**
- F98** Sch. 2 para. 48E inserted (1.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(c), **6(7)(c)**

49. In this Schedule—

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit under the Contributions and Benefits Act [^{F99}or the Jobseekers Act] are charged;

“health authority” means a health authority established under the National Health Service Act 1977^{M33} or the National Health Service (Scotland) Act 1978^{M34};

“mobility supplement” has the same meaning as in regulation 2(1) of the Income Support Regulations;

“war disablement pension” and “war widow” have the same meanings as in section 150(2) of the Contributions and Benefits Act.

Textual Amendments

- F99** Words in Sch. 2 para. 49 inserted (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **6(6)(7)(c)**

Marginal Citations

- M33** 1977 c.49.
- M34** 1978 c.29.

SCHEDULE 3

Regulation 14

ELIGIBLE HOUSING COSTS

Eligible housing costs for the purposes of determining exempt income and protected income

1. Subject to the following provisions of this Schedule, [^{F100}the following amounts payable] in respect of the provision of a home shall be eligible to be taken into account as housing costs for the purposes of these Regulations—

- (a) [^{F101}amounts payable by way of] rent;

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- [^{F102}(b) amounts payable by way of mortgage interest;]
- (c) [^{F103} amounts payable by way of interest] under a hire purchase agreement to buy a home;
- (d) [^{F103} amounts payable by way of interest] on loans for repairs and improvements to the home^{F104}, including interest on a loan for any service charge imposed to meet the cost of such repairs and improvements;]
- (e) [^{F105} amounts payable] by way of ground rent or in Scotland, [^{F105} amounts payable] by way of feu duty;
- (f) [^{F105} amounts payable] under a co-ownership scheme;
- (g) [^{F105} amounts payable] in respect of, or in consequence of, the use and occupation of the home;
- (h) where the home is a tent, [^{F105} amounts payable] in respect of the tent and the site on which it stands;
- (i) [^{F105} amounts payable] in respect of a licence or permission to occupy the home (whether or not board is provided);
- (j) [^{F105} amounts payable] by way of mesne profits or, in Scotland, violent profits;
- (k) [^{F106} amounts payable by way of] service charges, the payment of which is a condition on which the right to occupy the home depends;
- (l) [^{F107} amounts payable] under or relating to a tenancy or licence of a Crown tenant;
- (m) mooring charges payable for a houseboat;
- (n) where the home is a caravan or a mobile home, [^{F108} amounts payable] in respect of the site on which it stands;
- (o) any contribution payable by a parent resident in an almshouse provided by a housing association which is either a charity of which particulars are entered in the register of charities established under section 4 of the Charities Act 1960 ^{M35} (register of charities) or an exempt charity within the meaning of that Act, which is a contribution towards the cost of maintaining that association's almshouses and essential services in them;
- (p) [^{F109} amounts payable] under a rental purchase agreement, that is to say an agreement for the purchase of a home under which the whole or part of the purchase price is to be paid in more than one instalment and the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid;
- (q) where, in Scotland, the home is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1955^{M36}, the [^{F110} amount payable] in respect of the croft land;
- (r) where the home is provided by an employer (whether under a condition or term in a contract of service or otherwise), [^{F111} amounts payable] to that employer in respect of the home, including [^{F112} any amounts deductible by the employer] from the remuneration of the parent in question;
- ^{F113}(s)
- [^{F114}(t) amounts payable in respect of a loan taken out to pay off another loan but only to the extent that it was incurred in respect of amounts eligible to be taken into account as housing costs by virtue of other provisions of this Schedule.]

Textual Amendments

- F100** Words in Sch. 3 para. 1 substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(a)** (with reg. 59)
- F101** Words in Sch. 3 para. 1(a) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(b)** (with reg. 59)
- F102** Sch. 3 para. 1(b) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(c)** (with reg. 59)
- F103** Words in Sch. 3 para. 1(c)(d) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(d)** (with reg. 59)
- F104** Words in Sch. 3 para. 1(d) inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **33(a)**
- F105** Words in Sch. 3 para. 1(e)(j) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(e)** (with reg. 59)
- F106** Words in Sch. 3 para. 1(k) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(b)** (with reg. 59)
- F107** Words in Sch. 3 para. 1(l) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(e)** (with reg. 59)
- F108** Words in Sch. 3 para. 1(n) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(e)** (with reg. 59)
- F109** Words in Sch. 3 para. 1(p) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(e)** (with reg. 59)
- F110** Words in Sch. 3 para. 1(q) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(f)** (with reg. 59)
- F111** Words in Sch. 3 para. 1(r) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(g)(i)** (with reg. 59)
- F112** Words in Sch. 3 para. 1(r) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(g)(ii)** (with reg. 59)
- F113** Sch. 3 para. 1(s) omitted (5.4.1993) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **33(b)**
- F114** Sch. 3 para. 1(t) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(2)(h)** (with reg. 59)

Marginal Citations

- M35** [1960 c.58](#); subsections (8) and (10) of section 4 were amended by section 1(4) and (5) and Schedule 2, [Parts I and II of the Education Act 1973 \(c.16\)](#).
- M36** [1955 c.21](#); section 3(1) was amended by section 14 of the [Crofting Reform \(Scotland\) Act 1976 \(c.21\)](#).

Loans for repairs and improvements to the home

2. [^{F115}Subject to paragraph 2A (loans for repairs and improvements in transitional cases), for the purposes of] paragraph 1(d) “repairs and improvements” means major repairs necessary to maintain the fabric of the home and any of the following measures undertaken with a view to improving its fitness for occupation—

- (a) installation of a fixed bath, shower, wash basin or lavatory, and necessary associated plumbing;
- (b) damp proofing measures;
- (c) provision or improvement of ventilation and natural lighting;
- (d) provision of electric lighting and sockets;
- (e) provision or improvement of drainage facilities;

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

- (f) improvement of the structural condition of the home;
- (g) improvements to the facilities for the storing, preparation and cooking of food;
- (h) provision of heating, including central heating;
- (i) provision of storage facilities for fuel and refuse;
- (j) improvements to the insulation of the home;
- (k) other improvements which the [F116Secretary of State] considers reasonable in the circumstances.

Textual Amendments

F115 Words in Sch. 3 para. 2 substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **56(3)**

F116 Words in Sch. 3 para. 2(k) 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), **20**

[F117Loans for repairs and improvements in transitional cases

2A. In the case of a loan entered into before the first date upon which a maintenance application or enquiry form is given or sent or treated as given or sent to the relevant person, for the purposes of paragraph 1(d) “repairs and improvements” means repairs and improvements of any description whatsoever.]

Textual Amendments

F117 Sch. 3 para. 2A inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **56(4)**

Exempt income: additional provisions relating to eligible housing costs

3.—(1) The additional provisions made by this paragraph shall have effect only for the purpose of calculating or estimating exempt income.

(2) Subject to sub-paragraph (6), where the home of an absent parent or, as the case may be, a parent with care, is subject to a mortgage or charge and that parent [F118is liable to make periodical payments] to reduce the capital secured by that mortgage or charge of an amount provided for in accordance with the terms thereof, [F118those amounts payable] shall be eligible to be taken into account as the housing costs of that parent.

[F119(2A) Where an absent parent or as the case may be a parent with care has entered into a loan for repairs or improvements of a kind referred to in paragraph 1(d) and that parent [F118is liable to make periodical payments] of an amount provided for in accordance with the terms of that loan to reduce the amount of that loan, [F118those amounts payable] shall be eligible to be taken into account as housing costs of that parent.]

(3) Subject to sub-paragraph (6), where the home of an absent parent or, as the case may be, a parent with care, is held under an agreement and [F120certain amounts payable] under that agreement are included as housing costs by virtue of paragraph 1 of this Schedule, [F121any other amounts payable] in accordance with that agreement by the parent in order either—

- (a) to reduce his liability under that agreement; or
- (b) to acquire the home to which it relates,

shall also be eligible to be taken into account as housing costs.

(4) Where a policy of insurance has been obtained and retained for the purpose of discharging a mortgage or charge on the home of the parent in question, the amount of the [^{F122}premiums payable] under that policy shall be eligible to be taken into account as a housing cost [^{F123}including for the avoidance of doubt such a policy of insurance whose purpose is to secure the payment of monies due under the mortgage or charge in the event of the unemployment, sickness or disability of the insured.]

[^{F124}(4A) Where—

- (a) an absent parent or parent with care has obtained a loan which constitutes an eligible housing cost falling within sub-paragraph (d) or (t) of paragraph 1; and
- (b) a policy of insurance has been obtained and retained, the purpose of which is solely to secure the payment of monies due under that loan in the event of the unemployment, sickness or disability of the insured person,

the amount of the premiums payable under that policy shall be eligible to be taken into account as a housing cost.]

[^{F125}(5) Where a policy of insurance has been obtained and retained for the purpose of discharging a mortgage or charge on the home of the parent in question and also for the purpose of accruing profits on the maturity of the policy, there shall be eligible to be taken into account as a housing cost—

- (a) where the sum secured by the mortgage or charge does not exceed £60,000, the whole of the [^{F122}premiums payable] under that policy; and
- (b) where the sum secured by the mortgage or charge exceeds £60,000, the part of the [^{F122}premiums payable] under that policy which are necessarily incurred for the purpose of discharging the mortgage or charge or, where that part cannot be ascertained, 0.0277 per centum of the amount secured by the mortgage or charge.]

[^{F126}(5A) Where a plan within the meaning of regulation 4 of the Personal Equity Plans Regulations 1989 has been obtained and retained for the purpose of discharging a mortgage or charge on the home of the parent in question and also for the purpose of accruing profits upon the realisation of the plan, there shall be eligible to be taken into account as a housing cost—

- (a) where the sum secured by the mortgage or charge does not exceed £60,000, the whole of the premiums payable in respect of the plan; and
- (b) where the sum secured by the mortgage or charge exceeds £60,000, that part of the premiums payable in respect of the plan which is necessarily incurred for the purpose of discharging the mortgage or charge or, where that part cannot be ascertained, 0.0277 per centum of the amount secured by the mortgage or charge.

(5B) Where a personal pension plan [^{F127}derived from a personal pension scheme] has been obtained and retained for the purpose of discharging a mortgage or charge on the home of the parent in question and also for the purpose of securing the payment of a pension to him, there shall be eligible to be taken into account as a housing cost 25 per centum of the contributions payable in respect of that personal pension plan.]

(6) For the purposes of sub-paragraphs (2) and (3), housing costs shall not include—

- (a) [^{F128}any payments in excess of those required] to be made under or in respect of a mortgage, charge or agreement to which either of those sub-paragraphs relate;
- (b) [^{F129}amounts payable] under any second or subsequent mortgage on the home to the extent that [^{F130}they would not be eligible] to be taken into account as housing costs;
- (c) premiums payable in respect of any policy of insurance against loss caused by the destruction of or damage to any building or land.

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

Textual Amendments

- F118** Words in Sch. 3 para. 3(2)(2A) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(3)(a)** (with reg. 59)
- F119** Sch. 3 para. 3(2A) inserted (22.1.1996) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **47(2)**
- F120** Words in Sch. 3 para. 3(3) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(3)(b)(i)** (with reg. 59)
- F121** Words in Sch. 3 para. 3(3) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(3)(b)(ii)** (with reg. 59)
- F122** Words in Sch. 3 para. 3(4)(5) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(3)(c)** (with reg. 59)
- F123** Words in Sch. 3 para. 3(4) added (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **56(5)(a)**
- F124** Sch. 3 para. 3(4A) added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **15(3)(a)**
- F125** Sch. 3 para. 3(5) substituted (7.2.1994) by [The Child Support \(Miscellaneous Amendments and Transitional Provisions\) Regulations 1994 \(S.I. 1994/227\)](#), regs. 1, **4(8)**
- F126** Sch. 3 para. 3(5A)(5B) inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **56(5)(b)**
- F127** Words in Sch. 3 para. 3(5B) inserted (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **15(3)(b)**
- F128** Words in Sch. 3 para. 3(6)(a) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **56(5)(c)(i)**
- F129** Words in Sch. 3 para. 3(6)(b) substituted (19.1.1998) by [The Child Support \(Miscellaneous Amendments\) Regulations 1997 1998 \(S.I. 1998/58\)](#), regs. 1(2), **58(3)(d)** (with reg. 59)
- F130** Words in Sch. 3 para. 3(6)(b) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **56(5)(c)(ii)**

Conditions relating to eligible housing costs

4.—(1) Subject to the following provisions of this paragraph the housing costs referred to in this Schedule shall be included as housing costs only where—

- [^{F131}(a) they are necessarily incurred for the purpose of purchasing, renting or otherwise securing possession of the home for the parent and his family, or for the purpose of carrying out repairs and improvements to that home;]
- (b) the parent or, if he is one of a family, he or a member of his family, is responsible for those costs; and
- (c) the liability to meet those costs is to a person other than a member of the same household.

[^{F132}(1A) For the purposes of sub-paragraph (1)(a) “repairs and improvements” shall have the meaning given in paragraph 2 of this Schedule.]

(2) For the purposes of sub-paragraph (1)(b) a parent shall be treated as responsible for housing costs where—

- (a) because the person liable to meet those costs is not doing so, he has to meet those costs in order to continue to live in the home and either he was formerly the partner of the person liable, or he is some other person whom it is reasonable to treat as liable to meet those costs; or
- (b) he pays a share of those costs in a case where—
- (i) he is living in a household with other persons;

- (ii) those other persons include persons who are not close relatives of his or his partner;
- (iii) a person who is not such a close relative is responsible for those costs under the preceding provisions of this paragraph or has an equivalent responsibility for housing expenditure; and
- (iv) it is reasonable in the circumstances to treat him as sharing that responsibility.

[^{F133}(3) Subject to sub-paragraph (4), payments on a loan shall constitute an eligible housing cost only if that loan has been obtained for the purposes specified in sub-paragraph (1)(a).

(4) Where a loan has been obtained only partly for the purposes specified in sub-paragraph (1)(a), the eligible housing cost shall be limited to that part of the payment attributable to those purposes.]

Textual Amendments

- F131** Sch. 3 para. 4(1)(a) substituted (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **15(4)(a)**
- F132** Sch. 3 para. 4(1A) added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **15(4)(b)**
- F133** Sch. 3 para. 4(3)(4) added (13.1.1997) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1996 \(S.I. 1996/3196\)](#), regs. 1(1), **15(4)(c)**

Accommodation also used for other purposes

5. Where amounts are payable in respect of accommodation which consists partly of residential accommodation and partly of other accommodation, only such proportion thereof as is attributable to residential accommodation shall be eligible to be taken into account as housing costs.

Ineligible service and fuel charges

6. Housing costs shall not include—

[^{F134}(a) where the costs are inclusive of ineligible service charges within the meaning of paragraph 1(a)(i) of Schedule 1 to the Housing Benefit (General) Regulations 1987 (ineligible service charges), the amounts specified as ineligible in paragraph 1A of that Schedule;]

^{F135}(aa)

(b) where the costs are inclusive of any of the items mentioned in paragraph 5(2) of Schedule 1 to the Housing Benefit (General) Regulations 1987 (payment in respect of fuel charges), the deductions prescribed in that paragraph unless the parent provides evidence on which the actual or approximate amount of the service charge for fuel may be estimated, in which case the estimated amount; ^{F136}...

(c) charges for water, sewerage or allied environmental services and where the amount of such charges is not separately identified, such part of the charges in question as is attributable to those services [^{F137}and

(d) where the costs are inclusive of charges, other than those which are not to be included by virtue of sub-paragraphs (a) to (c), that part of those charges which exceeds the greater of the following amounts—

(i) the total of the charges other than those which are ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the Housing Benefit Regulations (housing costs);

(ii) 25 per centum of the total amount of eligible housing costs,

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

and for the purposes of this sub-paragraph, where the amount of those charges is not separately identifiable, that amount shall be such amount as is reasonably attributable to those charges.]

Textual Amendments

- F134** Sch. 3 para. 6(a) substituted (22.1.1996) by *The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995* (S.I. 1995/3261), regs. 1(2), **47(3)(i)**
- F135** Sch. 3 para. 6(aa) omitted (22.1.1996) by virtue of *The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995* (S.I. 1995/3261), regs. 1(2), **47(3)(ii)**
- F136** Word in Sch. 3 para. 6(b) omitted (22.1.1996) by virtue of *The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995* (S.I. 1995/3261), regs. 1(2), **47(3)(iii)**
- F137** Sch. 3 para. 6(d) and word added (22.1.1996) by *The Child Support (Miscellaneous Amendments) (No. 2) Regulations 1995* (S.I. 1995/3261), regs. 1(2), **47(3)(iv)**

Interpretation

7. In this Schedule except where the context otherwise requires—

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;

“co-ownership scheme” means a scheme under which the dwelling is let by a housing association and the tenant, or his personal representative, will, under the terms of the tenancy agreement or of the agreement under which he became a member of the association, be entitled, on his ceasing to be a member and subject to any conditions stated in either agreement, to a sum calculated by reference directly or indirectly to the value of the dwelling;

“housing association” has the meaning assigned to it by section 1(1) of the Housing Association Act 1985^{M37}.

Marginal Citations

M37 1985 c.69.

[^{F138}SCHEDULE 3A

Regulations 9(1)(bb)

AMOUNT TO BE ALLOWED IN RESPECT OF TRANSFER OF PROPERTY

Textual Amendments

- F138** Sch. 3A inserted (18.4.1995) by *The Child Support and Income Support (Amendment) Regulations 1995* (S.I. 1995/1045), regs. 1(2), **57**

Interpretation

1.—(1) In this Schedule—

“property” means—

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992. (See end of Document for details)

- (a) a legal estate or an equitable interest in land; or
- (b) a sum of money which is derived from or represents capital, whether in cash or in the form of a deposit with—
 - (i) the Bank of England;
 - (ii) an authorised institution or an exempted person within the meaning of the Banking Act 1987;
 - (iii) a building society incorporated or deemed to be incorporated under the Building Societies Act 1986;
- (c) any business asset as defined in sub-paragraph (2) (whether in the form of money or an interest in land or otherwise);
- (d) any policy of insurance which has been obtained and retained for the purpose of providing a capital sum to discharge a mortgage or charge secured upon an estate or interest in land which is also the subject of the transfer (in this schedule referred to as an endowment policy);

“qualifying transfer” means a transfer of property—

- (a) which was made in pursuance of a court order made, or a written maintenance agreement executed, before 5th April 1993;
- (b) which was made between the absent parent and either the parent with care or a relevant child^[F139], or both whether jointly or otherwise including, in Scotland, in common property];
- (c) which was made at a time when the absent parent and the parent with care were living separate and apart;
- (d) ^[F140]the effect of which is that (subject to any mortgage or charge) the parent with care or a relevant child is solely beneficially entitled to the property of which the property transferred forms the whole or part, or the business asset, or the parent with care is beneficially entitled to that property or that asset together with the relevant child or absent parent or both, jointly or otherwise or, in Scotland, in common property, or the relevant child is so entitled together with the absent parent;]
- (e) ^[F141]which was not made for the purpose only of compensating the parent with care either for the loss of a right to apply for, or receive, periodical payments or a capital sum in respect of herself, or for any reduction in the amount of such payments or sum;]

“Compensating transfer” means a transfer of property which would be a qualifying transfer (disregarding the requirement of paragraph (e) of the definition of “qualifying transfer”) if it were made by the absent parent, but which is made by the parent with care in favour of the absent parent^[F142], or] relevant child ^[F143]or both jointly or otherwise, or, in Scotland, in common property];

“relevant date” means the date of the making of the court order or the execution of the written maintenance agreement in pursuance of which the qualifying transfer was made.

(2) For the purposes of sub-paragraph (1) “business asset” means an asset, whether in the form of money or an interest in land or otherwise which, prior to the date of transfer was use in the course of a trade or business carried on—

- (a) by the absent parent as a sole trader;
- (b) by the absent parent in partnership, whether with the parent with care or not;
- (c) by a close company within the meaning of sections 414 and 415 of the Income and Corporation Taxes Act 1988 in which the absent parent was a participator at the date of the transfer.

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

- (3) Where the condition specified in regulation 10(a) is satisfied this Schedule shall apply as if references—
- (a) to the parent with care were references to the absent parent; and
 - (b) to the absent parent were references to the parent with care.

Textual Amendments

- F139** Words in Sch. 3A para. 1(1) inserted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(a)(i)** (with reg. 7)
- F140** Words in Sch. 3A para. 1(1) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(a)(ii)** (with reg. 7)
- F141** Words in Sch. 3A para. 1(1) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(a)(iii)** (with reg. 7)
- F142** Word in Sch. 3A para. 1(1) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(b)(i)** (with reg. 7)
- F143** Words in Sch. 3A para. 1(1) added (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(b)(ii)** (with reg. 7)

Evidence to be produced in connection with the allowance for transfers of property

- 2.—(1) Where the absent parent produces to the Secretary of State—
- (a) contemporaneous evidence in writing of the making of a court order or of the execution of a written maintenance agreement, which requires the relevant person to make a qualifying transfer of property;
 - (b) evidence in writing and whether contemporaneous or not as to—
 - (i) the fact of the transfer;
 - (ii) the value of the property transferred at the relevant date;
 - (iii) the amount of any mortgage or charge outstanding at the relevant date,
 an amount in respect of the relevant value of the transfer determined in accordance with the following provisions of this Schedule shall be allowed in calculating or estimating the exempt income of the absent parent.
- (2) Whether the evidence specified in sub-paragraph (1) is not produced within a reasonable time after the Secretary of State has been notified of the wish of the absent parent that [^{F144}the Secretary of State] consider the question, [^{F145}he] shall determine the question on the basis that the relevant value of the transfer is nil.

Textual Amendments

- F144** Words in Sch. 3A para. 2(2) 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), **21(a)(i)**
- F145** Word in Sch. 3A para. 2(2) 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), **21(a)(ii)**

Consideration of evidence produced by other parent

- [^{F146}3.—(1) Where an absent parent has notified the Secretary of State that he wishes him to consider whether an amount should be allowed in respect of the relevant value of a qualifying transfer, the Secretary of State shall—

- (a) give notice to the other parent of that application; and
- (b) have regard in determining the application to any representations made by the other parent which are received within the period specified in sub-paragraph (2).

(2) The period specified in this sub-paragraph is one month from the date on which the notice referred to in sub-paragraph (1)(a) above was sent or such longer period as the Secretary of State is satisfied is reasonable in the circumstances of the case.]

Textual Amendments

F146 Sch. 3A para. 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), **21(b)**

Computation of qualifying value—business assets and land

4.—(1) Subject to paragraph 6, where the property [^{F147}transferred] by the absent parent is, or includes an estate or interest in land, or a business asset, the qualifying value of that estate, interest or asset shall be determined in accordance with the formula—

$$QV=(VPMCP)2(VAPMCR)VCR$$

[^{F148}where—

QV is the qualifying value,

VP is the value at the relevant date of the business asset or the property of which the estate or interest forms the whole or part,

and

for the purposes of this calculation it is assumed that the estate, interest or asset held on the relevant date by the absent parent or by the absent parent and the parent with care is held by them jointly in equal shares or, in Scotland, in common property;

MCP is the amount of any mortgage or charge outstanding immediately prior to the relevant date on the business asset or on the property of which the estate or interest forms the whole or part;

VAP is the value calculated at the relevant date of the business asset or of the property of which the estate or interest forms the whole or part beneficially owned by the absent parent immediately following the transfer (if any);

MCR is, where immediately after the transfer the absent parent is responsible for discharging a mortgage or charge on the business asset or on the property of which the estate or interest forms the whole or part, the amount calculated at the relevant date which is a proportion of any such mortgage or charge outstanding immediately following the transfer, being the same percentage as VAP bears to that property as a whole; and

VCR is the value of any charge in favour of the absent parent on the business asset or on the property of which the estate or interest forms the whole or part, being the amount specified in the court order or written maintenance agreement in relation to the charge, or the amount of a proportion of the value of the business asset or the property on the relevant date specified in the court order or written maintenance agreement.]

(2) For the purposes of sub-paragraph (1) the value of an estate or interest in land is to be determined upon the basis that the parent with care and any relevant child, if in occupation of the land, would quit on completion of the sale.

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

Textual Amendments

- F147** Words in Sch. 3A para. 4(1) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(c)(i)** (with reg. 7)
- F148** Words in Sch. 3A para. 4(1) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(c)(ii)** (with reg. 7)

Computation of qualifying value—cash, deposits and endowment policies

5. —Subject to paragraph 6, where the property which is the subject of the qualifying transfer is, or includes—

- (i) a sum of money whether in cash or in the form of a deposit with the Bank of England, and authorised institution or exempted person within the meaning of the Banking Act 1987, or a building society incorporated or deemed to be incorporated under the Building societies Act 1986, derived from or representing capital; or
- (ii) an endowment policy,

the amount of the qualifying value shall be determined by applying the formula—

$$QV=VT^2$$

where—

- a QV is the qualifying value; and
- b VT is the amount of cash, the balance of the account or the surrender value of the endowment policy on the relevant date [^{F149}and for the purposes of this calculation it is assumed that the cash, balance or policy held on the relevant date by the absent parent and the parent with care is held by them jointly in equal shares or, in Scotland, in common property.]

Textual Amendments

- F149** Words in Sch. 3A para. 5(b) inserted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(d)** (with reg. 7)

Transfer wholly in lieu of periodical payments for relevant child

6. Where the evidence produced in relation to a transfer to, or in respect of, a relevant child, shows expressly that the whole of that transfer was made exclusively in lieu of periodical payments in respect of that child—

- (a) in a case to which paragraph 4 applies, [^{F150}the qualifying value shall be treated as being twice the qualifying value calculated in accordance with that paragraph];
- and
- (b) in a case to which paragraph 5 applies, the qualifying value shall be [^{F151}treated as being twice the qualifying value calculated in accordance with that paragraph.]

Textual Amendments

- F150** Words in Sch. 3A para. 6(a) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(e)(i)** (with reg. 7)

F151 Words in Sch. 3A para. 6(b) substituted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(e)(ii)** (with reg. 7)

Multiple transfers to related persons

- 7.—(1) Where there has been more than one qualifying transfer from the absent parent—
- (a) to the same parent with care;
 - (b) to or for the benefit of the same relevant child;
 - (c) to or for the benefit of two or more relevant children with respect to all of whom the same persons are respectively the parent with care and the absent parent;

or any combination thereof, the relevant value by reference to which the allowance is to be calculated in accordance with paragraph 10 shall be the aggregate of the qualifying transfers calculated individually in accordance with the preceding paragraphs of this Schedule, less the value of any compensating transfer or where there has been more than one, the aggregate of the values of the compensating transfers so calculated.

(2) Except as provided by sub-paragraph (1), the values of transfers shall not be aggregated for the purposes of this Schedule.

Computation of the value of compensation transfers

8. [^{F152}Subject to paragraph 8A, the value of] a compensation transfer shall be determined in accordance with paragraph 4 to 7 above, but as if any reference in those paragraphs—

- (a) to the absent parent were a reference to the parent with care;
- (b) to the parent with care were a reference to the absent parent; and
- (c) to a qualifying transfer were a reference to a compensating transfer.

Textual Amendments

F152 Words in Sch. 3A para. 8 substituted (18.12.1995) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **48(1)**

[^{F153}**8A.**—(1) This paragraph applies where—

- (a) the property which is the subject of a compensating transfer is or includes cash or deposits as defined in paragraph 5(i);
- (b) that property was acquired by the parent with care after the relevant date;
- (c) the absent parent has no legal interest in that property;
- (d) if that property is or includes cash obtained by a mortgage or charge, that mortgage or charge was executed by the parent with care after the relevant date and was of property to the whole of which she is legally entitled; and
- (e) the effect of the compensating transfer is that the parent with care or a relevant child is beneficially entitled (subject to any mortgage or charge) to the whole of the absent parent's legal estate in the land which is the subject of the qualifying transfer.

(2) Where sub-paragraph (1) applies, the qualifying value of the compensating transfer shall be the amount of the cash or deposits transferred pursuant to the court order or written maintenance agreement referred to in head (a) of the definition of "qualifying transfer" in paragraph 1(1).]

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

Textual Amendments

F153 Sch. 3A para. 8A inserted (18.12.1995) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **48(2)**

Computation of relevant value of a qualifying transfer

9. The relevant value of a qualifying transfer shall be calculated by deducting from the qualifying value of the qualifying transfer the qualifying value of any compensating transfer between the same persons as are parties to the qualifying transfer.

Amount to be allowed in respect of a qualifying transfer

10. For the purposes of regulation 9(1)(bb), the amount to be allowed in the computation of E, or in the case where regulation 10(a) applies, F, shall be—

- (a) where the relevant value calculated in accordance with paragraph 9 is less than £5,000, nil;
- (b) where the relevant value calculated in accordance with paragraph 9 is at least £5,000, but less than £10,000, £20.00 per week;
- (c) where the relevant value calculated in accordance with paragraph 9 is at least £10,000, but less than £25,000, £40.00 per week;
- (d) where the relevant value calculated in accordance with paragraph 9 is not less than £25,000, £60.00 per week.

11. This Schedule in its application to Scotland shall have effect as if—

- (a) in paragraph 1 for the words “legal estate or equitable interest in land” [^{F154}and in head (e) of paragraph 8A(1), for the words “legal estate in the land”] there were substituted the words “an interest in land within the meaning of section 2(6) of the Conveyancing and Feudal Reform (Scotland) Act 1970”;
- (b) in paragraph 4 the word “estate.” and the words “estate or” in each place where they respectively occur were omitted.]
- [^{F155}(c) in paragraphs 1, 2, 4 and 8A for the word “mortgage” there were substituted the words “heritable security”.]

Textual Amendments

F154 Words in Sch. 3A para. 11(a) inserted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(f)(i)** (with reg. 7)

F155 Sch. 3A para. 11(c) inserted (6.4.1999) by [The Child Support \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/977\)](#), regs. 1(1), **6(7)(f)(ii)** (with reg. 7)

[^{F156}SCHEDULE 3B

Regulation 9(1)(i) and 11(1)(k)

AMOUNT TO BE ALLOWED IN RESPECT OF TRAVELLING COSTS

Textual Amendments

F156 Sch. 3B inserted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), 57

Interpretation

1. In this Schedule—

“day” means, in relation to a person who attends at a work place for one period of work which commences before midnight of one day and concludes the following day, the first of those days;

“journey” means a single journey, and “pair of journeys” means two journeys in opposing directions, between the same two places;

“relevant employment” means an employed earner’s employment in which the relevant person is employed and in the course of which he is required to attend at a work place, and “relevant employer” means the employer of the relevant person in that employment;

“relevant person” means—

(a) in the application of the provisions of this Schedule to regulation 9, the absent parent or the parent with care; and

(b) in the application of the provisions of this Schedule to regulation 11, the absent parent; “straight-line distance” means the straight-line distance measured in miles and calculated to 2 decimal places, and, where that distance is not a whole number of miles, rounded to the nearest whole number of miles, a distance which exceeds a whole number of miles by 0.50 of a mile being rounded up;

“travelling costs” means the costs of—

(a) purchasing either fuel or a ticket for the purpose of travel;

(b) contributing to the costs borne by a person other than a relevant employer in providing transport; or

(c) paying another to provide transport,

which are incurred by the relevant person in travelling between the relevant person’s home and his work place, and where he has more than one relevant employment between any of his work places in those employments;

“work place” means the relevant person’s normal place of employment in a relevant employment, and “deemed work place” means a place which has been selected by the [^{F157}Secretary of State], pursuant either to paragraph 8(2) or 15(2) for the purpose of calculating the amount to be allowed in respect of the relevant person’s travelling costs.

Textual Amendments

F157 Words in Sch. 3B para. 1 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), 22

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992. (See end of Document for details)

Computation of amount allowable in respect of travelling costs

2. For the purpose of regulation 9 and regulation 11 an amount in respect of the travelling costs of the relevant person shall be determined in accordance with the following provisions of this Schedule if the relevant person—

- (a) has travelling costs; and
- (b) provides the information required to enable the amount of the allowance to be determined.

Computation in cases where there is one relevant employment and one work place in that employment

3. Subject to paragraphs 21 to 23, where the relevant person has one relevant employment and is normally required to attend at only one work place in the course of that employment the amount to be allowed in respect of travelling costs shall be determined in accordance with paragraphs 4 to 7 below.

4. There shall be calculated or, if this is impracticable, estimated—

- (a) the straight-line distance between the relevant person's home and his work place;
- (b) the number of journeys between the relevant person's home and this work place which he makes during a period comprising a whole number of weeks which appears to the [F158Secretary of State] to be representative of his normal pattern of work, there being disregarded any pair of journeys between his work place and his home and where the first journey is from his work place to his home and where the time which elapses between the start of the first journey and the conclusion of the second is not more than two hours.

Textual Amendments

F158 Words in Sch. 3B para. 4(b) 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), **22**

5. The results of the calculation or estimate produced by sub-paragraph (a) of paragraph 4 shall be multiplied by the result of the calculation or estimate required by sub-paragraph (b) of that paragraph.

6. The product of the multiplication required by paragraph 5 shall be divided by the number of weeks in the period.

7. Where the result of the division required by paragraph 6 is less than or equal to 150, the amount to be allowed in respect of the relevant person's travelling costs shall be nil, and where it is greater than 150 the weekly allowance to be made in respect of the relevant person's travelling costs shall be 10 pence multiplied by the number by which that number exceeds 150.

Textual Amendments

F158 Words in Sch. 3B para. 4(b) 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), **22**

Computation in cases where there is more than one work place but only one relevant employment

8.—(1) Subject to sub-paragraph (2) and paragraphs 21 to 23 below, where the relevant person has one relevant employment but attends at more than one work place the amount to be allowed in respect of travelling costs for the purposes of regulations 9 and 11 shall be determined in accordance with paragraphs 9 to 13.

(2) Where it appears that the relevant person works at more than one work place but his pattern of work is not sufficiently regular to enable the calculation of the amounts to be allowed in respect of his travelling costs to be made readily, the [^{F159}Secretary of State] may—

- (a) select a place which is either one of the relevant person's work places or some other place which is connected with the relevant employment; and
- (b) apply the provisions of paragraphs 4 to 7 above to calculate the amount of the allowance to be made in respect of travelling costs upon the basis that the relevant person makes one journey from his home to the deemed work place and one journey from the deemed work place to home on each day on which he attends at a work place in connection with relevant employment,

and the provision of paragraphs 9 to 13 shall not apply.

(3) For the purposes of sub-paragraph (2)(b) there shall be disregarded any day upon which the relevant person attends at a work place and in order to travel to or from that work place he undertakes a journey in respect of which—

- (a) the travelling costs are borne wholly or in part by the relevant employer; or
- (b) the relevant employer provides transport for any part of the journey for the use of the relevant person,

and where he attends at more than one work place on the same day that day shall be disregarded only if the condition specified in this sub-paragraph is satisfied in respect of all the work places at which he attends on that day,

Textual Amendments

F159 Words in Sch. 3B para. 8(2) 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), **22**

9. There shall be calculated, or if that is impracticable, estimated—

- (a) the straight-line distances between the relevant person's home and each work place; and
- (b) the straight-line distances between each of the relevant person's work places, other than those between which he does not ordinarily travel.

10. Subject to paragraph 11, there shall be calculated for each pair of places referred to in paragraph 9 the number of journeys which the relevant person makes between them during a period comprising a whole number of weeks which appears to the [^{F160}Secretary of State] to be representative of the normal working pattern of the relevant person.

Textual Amendments

F160 Words in Sch. 3B para. 10 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), **22**

11. For the purposes of the calculation required by paragraph 10 there shall be disregarded—

- (a) any pair of journeys between the same work place and the relevant person's home where the first journey is from his work place to his home and the time which elapses between the start of the first journey and the conclusion of the second is not more than two hours; and
- (b) any journey in respect of which—
 - (i) the travelling costs are borne wholly or in part by the relevant employer; or

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

- (ii) the relevant employer provides transport for any part of the journey for the use of the relevant person.

12. The result of the calculation of the number of journeys made between each pair of places required by paragraph 10 shall be multiplied by the result of the calculation or estimate of the straight-line distance between them required by paragraph 9.

13. All the products of the multiplications required by paragraph 12 shall be added together and the resulting sum divided by the number of weeks in the period.

14. Where the result of the division required by paragraph 13 is less than or equal to 150, the amount to be allowed in respect of travelling costs shall be nil, and where it is greater than 150, the weekly allowance to be made in respect of the relevant person's travelling costs shall be 10 pence multiplied by the number by which that number exceeds 150.

Textual Amendments

F159 Words in Sch. 3B para. 8(2) 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), **22**

F160 Words in Sch. 3B para. 10 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), **22**

Computation in cases where there is more than one relevant employment

15.—(1) Subject to sub-paragraph (2) and paragraphs 21 to 23, where the relevant person has more than one relevant employment the amount to be allowed in respect of travelling costs for the purposes of regulations 9 and 11 shall be determined in accordance with paragraphs 16 to 20.

(2) Where it appears that in respect of any of his relevant employments, whilst the relevant person works at more than one work place, his pattern or work is not sufficiently regular to enable the calculations of the amount to be allowed in respect of his travelling costs to be made readily, the [F161Secretary of State]—

- (a) may select a place which is either one of the relevant person's work places in that relevant employment or some other place which is connected with that relevant employment;
- (b) may calculate the weekly average distance travelled in the course of his journeys made in connection with the relevant employment upon the basis that—
 - (i) the relevant person makes one journey from his home, or from another work place or deemed work place in another relevant employment, to the deemed work place and one journey from the deemed work place to his home, or to another work place or deemed work place in another relevant employment, on each day on which he attends at a work place in connection with the relevant employment in relation to which the deemed work place has been selected, and
 - (ii) the distance he travels between those places is the straight-line distance between them; and
- (c) shall disregard any journeys made between work places in the relevant employment in respect of which a deemed work place has been selected.

(3) For the purposes of sub-paragraph (2)(b) there shall be disregarded any day upon which the relevant person attends at a work place and in order to travel to or from that work place he undertakes a journey in respect of which—

- (a) the travelling costs are borne wholly or in part by the relevant employer; or

- (b) the relevant employer provides transport for any part of the journey for the use of the relevant person,

and where in the course of the particular relevant employment he attends at more than one work place on the same day, that day shall be disregarded only if the condition specified in this paragraph is satisfied in respect of all the work places at which he attends on that day in the course of that employment.

Textual Amendments

F161 Words in Sch. 3B para. 15(2) 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), **22**

16. There shall be calculated, or if that is impracticable, estimated—

- (a) the straight-line distances between the relevant person's home and each work place; and
(b) the straight-line distances between each of the relevant person's work places, except—
(i) those between which he does not ordinarily travel, and
(ii) those for which a calculation of the distance from the relevant person's home is not required by virtue of paragraph 15(c).

[^{F162}**17.** Subject to paragraph 17A, there shall be calculated, or if that is impracticable estimated, for each pair of places referred to in paragraph 16 between which straight-line distances are required to be calculated or estimated, the number of journeys which the relevant person makes between them during a period comprising a whole number of weeks which appears to the [^{F163}Secretary of State] to be representative of the normal working pattern of the relevant person.]

Textual Amendments

F162 Sch. 3B paras. 17-17A substituted for Sch. 3B para. 17 (22.1.1996) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **49**

F163 Words in Sch. 3B para. 17 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), **22**

[^{F162}**17A.** For the purposes of the calculation required by paragraph 17, there shall be disregarded—

- (a) any pair of journeys between the same work place and his home where the first journey is from his work place to his home and the time which elapses between the start of the first journey and the conclusion of the second is not more than two hours; and
(b) any journey in respect of which—
(i) the travelling costs are borne wholly or in part by the relevant employer; or
(ii) the relevant employer provides transport for any part of the journey for the use of the relevant person.]

Textual Amendments

F162 Sch. 3B paras. 17-17A substituted for Sch. 3B para. 17 (22.1.1996) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **49**

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

18. The result of the calculation or estimate of the number of journeys made between each pair of places required by paragraph 17 shall be multiplied by the result of the calculation or estimate of the straight-line distance between them required by paragraph 16.

19. All the products of the multiplications required by paragraph 18, shall be added together and the resulting sum divided by the number of weeks in the period.

20. Where the result of the division required by paragraph 19, plus where appropriate the result of the calculation required by paragraph 15 in respect of a relevant employment in which a deemed work place has been selected, is less than or equal to 150 the amount to be allowed in respect of travelling costs shall be nil, and where it is greater than 150, the weekly allowance to be made in respect of the relevant person's travelling costs shall be 10 pence multiplied by the number by which that number exceeds 150.

Textual Amendments

- F161** Words in Sch. 3B para. 15(2) 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), **22**
- F162** Sch. 3B paras. 17-17A substituted for Sch. 3B para. 17 (22.1.1996) by [The Child Support \(Miscellaneous Amendments\) \(No. 2\) Regulations 1995 \(S.I. 1995/3261\)](#), regs. 1(2), **49**
- F163** Words in Sch. 3B para. 17 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), **22**

Relevant employments in respect of which no amount is to be allowed

21.—(1) No allowance shall be made in respect of travelling costs in respect of journeys between the relevant person's home and his work place or between his work place and his home in a particular relevant employment if the condition set out in paragraph 22 or 23 is satisfied in respect of that employment.

(2) The condition mentioned in paragraph 22, or as the case may be 23, is satisfied in relation to a case where the relevant person has more than one work place in a relevant employment only where the employer provides assistance of the kind mentioned in that paragraph in respect of all of the work places to or from which the relevant person travels in the course of that employment, but those journeys in respect of which that assistance is provided shall be disregarded in computing the total distance travelled by the relevant person in the course of the relevant employment.

22. The conditions is that relevant employer provides transport of any description in connection with the employment which is available to the relevant person for any part of the journey between his home and his work place or between his work place or between his work place and his home.

23. The condition is that the relevant employer bears any part of the travelling costs arising from the relevant person travelling between his home and his work place or between his work place and his home in connection with that employment, and for the purposes of this paragraph he does not bear any part of that cost where he does no more than—

- (a) make a payment to the relevant person which would fail to be taken into account in determining the amount of the relevant person's net income;
- (b) make a loan to the relevant person;
- (c) pay to the relevant person an increased amount of remuneration,

to enable the relevant person to meet those costs himself.]

SCHEDULE 4

Regulation 26(1)(b)(i)

CASES WHERE CHILD SUPPORT MAINTENANCE IS NOT TO BE PAYABLE

The payments and awards specified for the purposes of regulation 26(1)(b)(i) are—

- (a) the following payments under the Contributions and Benefits Act—
 - [^{F164}(i) incapacity benefit under section 30A;]
 - [^{F164}(ii) long-term incapacity benefit for widows under section 40;]
 - [^{F164}(iii) long-term incapacity benefit for widowers under section 41;]
 - (iv) maternity allowance under section 35;
 - ^{F165}(v)
 - (vi) attendance allowance under section 64;
 - (vii) severe disablement allowance under section 68;
 - (viii) [^{F166}carer’s allowance] under section 70;
 - (ix) disability living allowance under section 71;
 - (x) disablement benefit under section 103;
 - ^{F167}(xi)
 - (xii) statutory sick pay within the meaning of section 151;
 - (xiii) statutory maternity pay within the meaning of section 164;
- (b) awards in respect of disablement made under (or under provisions analogous to)—
 - (i) the War Pensions (Coastguards) Scheme 1944 ^{M38};
 - (ii) the War Pensions (Naval Auxiliary Personnel) Scheme 1964 ^{M39};
 - (iii) the Pensions (Polish Forces) Scheme 1964 ^{M40};
 - (iv) the War Pensions (Mercantile Marine) Scheme 1964 ^{M41};
 - (v) the Royal Warrant of 21st December 1964 (service in the Home Guard before 1945) ^{M42};
 - (vi) the Order by Her Majesty of 22nd December 1964 concerning pensions and other grants in respect of disablement or death due to service in the Home Guard after 27th April 1952 ^{M43};
 - (vii) the Order by Her Majesty (Ulster Defence Regiment) of 4th January 1971 ^{M44};
 - (viii) the Personal Injuries (Civilians) Scheme 1983 ^{M45};
 - (ix) the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 ^{M46}; and
- (c) payments from [^{F168}the Independent Living (1993) Fund or the Independent Living (Extension) Fund].

Textual Amendments

F164 Sch. 4 para. a(i)(iii) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **58(a)**

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the *The Child Support (Maintenance Assessments and Special Cases) Regulations 1992*. (See end of Document for details)

- F165** Sch. 4 para. a(v) omitted (18.4.1995) by virtue of [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **58(b)**
- F166** Words in Sch. 4 substituted (1.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(c), **6(8)(a)**
- F167** Sch. 4 para. (a)(xi) omitted (6.4.2003) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(8)(b)**
- F168** Words in Sch. 4 para. (c) substituted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **34**

Marginal Citations

- M38** [S.I. 1944/500](#).
- M39** [S.I. 1964/1985](#).
- M40** [S.I. 1964/2007](#).
- M41** [S.I. 1964/2058](#).
- M42** Cmnd. 2563.
- M43** Cmnd. 2564.
- M44** Cmnd. 4567.
- M45** [S.I. 1983/686](#).
- M46** [S.I. 1983/883](#).

Textual Amendments

- F164** Sch. 4 para. a(i)(iii) substituted (18.4.1995) by [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **58(a)**
- F165** Sch. 4 para. a(v) omitted (18.4.1995) by virtue of [The Child Support and Income Support \(Amendment\) Regulations 1995 \(S.I. 1995/1045\)](#), regs. 1(2), **58(b)**
- F166** Words in Sch. 4 substituted (1.4.2003) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(c), **6(8)(a)**
- F167** Sch. 4 para. (a)(xi) omitted (6.4.2003) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(d), **6(8)(b)**
- F168** Words in Sch. 4 para. (c) substituted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993 \(S.I. 1993/913\)](#), regs. 1(1), **34**

Marginal Citations

- M38** [S.I. 1944/500](#).
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- M41** [S.I. 1964/2058](#).
- M42** Cmnd. 2563.
- M43** Cmnd. 2564.
- M44** Cmnd. 4567.
- M45** [S.I. 1983/686](#).
- M46** [S.I. 1983/883](#).

[^{F169}SCHEDULE 5

Regulation 28(5)

PROVISIONS APPLYING TO CASES TO WHICH
SECTION 43 OF THE ACT AND REGULATION 28 APPLY

Textual Amendments

F169 Sch. 5 inserted (5.4.1993) by [The Child Support \(Miscellaneous Amendments\) Regulations 1993](#) (S.I. 1993/913), regs. 1(1), **26(3)**, Sch.

^{F170}**1.**

Textual Amendments

F170 Sch. 5 paras. 1-8 omitted (1.6.1999) by virtue of [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999](#) (S.I. 1999/1510), arts. 3(1), **23**

^{F170}**2.**

Textual Amendments

F170 Sch. 5 paras. 1-8 omitted (1.6.1999) by virtue of [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999](#) (S.I. 1999/1510), arts. 3(1), **23**

^{F170}**3.**

Textual Amendments

F170 Sch. 5 paras. 1-8 omitted (1.6.1999) by virtue of [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999](#) (S.I. 1999/1510), arts. 3(1), **23**

^{F170}**3A.**

Textual Amendments

F170 Sch. 5 paras. 1-8 omitted (1.6.1999) by virtue of [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999](#) (S.I. 1999/1510), arts. 3(1), **23**

^{F170}**4.**

Textual Amendments

F170 Sch. 5 paras. 1-8 omitted (1.6.1999) by virtue of [The Social Security Act 1998 \(Commencement No. 7 and Consequential and Transitional Provisions\) Order 1999](#) (S.I. 1999/1510), arts. 3(1), **23**

^{F170}**5.**

Status: Point in time view as at 08/04/2003.

Changes to legislation: There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992. (See end of Document for details)

Textual Amendments

F170 Sch. 5 paras. 1-8 omitted (1.6.1999) by virtue of The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **23**

F170 **6.**

Textual Amendments

F170 Sch. 5 paras. 1-8 omitted (1.6.1999) by virtue of The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **23**

F170 **7.**

Textual Amendments

F170 Sch. 5 paras. 1-8 omitted (1.6.1999) by virtue of The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **23**

F170 **7A.**

Textual Amendments

F170 Sch. 5 paras. 1-8 omitted (1.6.1999) by virtue of The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **23**

F170 **8.**

Textual Amendments

F170 Sch. 5 paras. 1-8 omitted (1.6.1999) by virtue of The Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510), arts. 3(1), **23**

9. The provisions of paragraphs (1) and (2) of regulation 5 of the Child Support (Collection and Enforcement) Regulations 1992 shall apply to the transmission of payments in place of payments of child support maintenance under section 43 of the Act and regulation 28 as they apply to the transmission of payments of child support maintenance.]

Status:

Point in time view as at 08/04/2003.

Changes to legislation:

There are currently no known outstanding effects for the The Child Support (Maintenance Assessments and Special Cases) Regulations 1992.