
STATUTORY INSTRUMENTS

1994 No. 648

**The Housing Renovation etc. Grants
(Reduction of Grant) Regulations 1994**

PART IV

INCOME AND CAPITAL

CHAPTER I:

GENERAL

Income and capital of relevant person

14. Where a relevant person is a member of a family, the income and capital of any member of that family shall, except where otherwise provided, be treated as the income and capital of that person.

Determination of income and capital of members of relevant person's family and of a polygamous marriage

15.—(1) The income and capital of a relevant person's partner and, subject to paragraph (2) and to regulation 29 (modifications in respect of children and young persons), the income of a child or young person which by virtue of regulation 14 is to be treated as income and capital of the relevant person shall be determined in accordance with the following provisions of this Part in like manner as for the relevant person; and any reference to the relevant person shall, except where the context otherwise requires, be construed for the purposes of this Part as if it were a reference to his partner or that child or young person.

(2) Regulations 22(2) and 24(2), so far as they relate to paragraphs 1 to 12 of Schedule 2 (sums to be disregarded in the determination of earnings), shall not apply to a child or young person.

(3) Where a relevant person or the partner of that person is married polygamously to two or more members of his household—

- (a) the relevant person shall be treated as possessing capital and income belonging to each such member and the income of any child or young person who is one of that member's family; and
- (b) the income and capital of that member or, as the case may be, the income of that child or young person shall be determined in accordance with the following provisions of this Part in like manner as for the relevant person or, as the case may be, as for any child or young person who is a member of his family.

*CHAPTER II:
INCOME*

Determination of income on a weekly basis

16.—(1) The income of a relevant person shall be determined on a weekly basis by aggregating—

- (a) his average weekly earnings from employment as an employed earner, determined in accordance with this Chapter and Chapter III of this Part,
- (b) his average weekly earnings from employment as a self-employed earner, determined in accordance with this Chapter and Chapter IV of this Part,
- (c) his average weekly income other than earnings, determined in accordance with this Chapter and Chapter V of this Part,
- (d) the weekly tariff income determined under regulation 37 (determination of tariff income from capital).

(2) For the purposes of paragraph (1) “income” includes income to which regulations 27 (capital treated as income), 28 (notional income) and 43 (treatment of student loans) refer.

Average weekly earnings of employed earners

17. Where the income of a relevant person consists of or includes earnings from employment as an employed earner, his average weekly earnings from such employment shall be determined by reference to his earnings from such employment over the period of 52 weeks immediately preceding the application or, where his earnings fluctuate, over such other lesser period immediately preceding the application as may enable his average weekly earnings to be determined more accurately.

Average weekly earnings of self-employed earners

18. Where the income of a relevant person consists of or includes earnings from employment as a self-employed earner, his average weekly earnings from such employment shall be determined by reference to his earnings from such employment over such period, not exceeding one year immediately preceding the application, as is appropriate in order that his average weekly earnings over such period may be determined accurately.

Average weekly income other than earnings

19. Any part of a relevant person’s income which does not consist of earnings shall be determined by reference to such income over such period not exceeding 52 weeks immediately preceding the application as is appropriate in order that his average weekly income over such period may be determined accurately.

Determination of weekly income

20.—(1) For the purposes of regulations 17 (average weekly earnings of employed earners) and 19 (average weekly income other than earnings), where the period in respect of which a payment is made—

- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
- (b) exceeds a week, the weekly amount shall be determined—
 - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;

(ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the quotient by 7.

(2) For the purposes of regulation 18 (average weekly earnings of self-employed earners) the weekly amount shall be determined by dividing the relevant person's earnings during the assessment period by the number equal to the number of days in the assessment period and multiplying the quotient by 7.

CHAPTER III: EMPLOYED EARNERS

Earnings of employed earners

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

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to a relevant person on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only to the extent that it represents loss of income;
- (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
- (e) any payment by way of a retainer;
- (f) any payment made by the relevant person's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the employer in respect of—
 - (i) travelling expenses incurred by the relevant person between his home and place of employment,
 - (ii) expenses incurred by the relevant person under arrangements made for the care of a member of his family owing to the relevant person's absence from home;
- (g) any award of compensation made under section 68(2) or 71(2)(a) of the Employment Protection (Consolidation) Act 1978(1) (remedies and compensation for unfair dismissal);
- (h) any such sum as is referred to in section 112(3) of the 1992 Act (certain sums to be earnings for social security purposes);
- (i) any statutory sick pay under Part XI of the 1992 Act or statutory maternity pay under Part XII of that Act, or a corresponding payment under any enactment having effect in Northern Ireland;
- (j) any remuneration paid by or on behalf of an employer to the relevant person who for the time being is on maternity leave or is absent from work because he is ill.

(2) Earnings shall not include—

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

(1) 1978 c. 44; section 68(2) was amended by the Employment Act 1982 (c. 46), section 21 and Schedule 3; section 71(2) was amended by the Employment Act 1982, sections 5 and 21 and Schedule 3.

Determination of net earnings of employed earners

22.—(1) For the purposes of regulation 17 (average weekly earnings of employed earners), the earnings of a relevant person derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings as determined under paragraph (3).

(2) There shall be disregarded from a relevant person's net earnings, any sum, where applicable, specified in paragraphs 1 to 14 of Schedule 2 (sums to be disregarded in the determination of earnings).

(3) For the purposes of paragraph (1) net earnings shall be determined by taking into account the gross earnings of the relevant person from that employment over the assessment period, less—

- (a) any amount deducted from those earnings by way of—
 - (i) income tax,
 - (ii) primary Class 1 contributions under Part I of the 1992 Act; and
- (b) one-half of any sum paid by the relevant person by way of a contribution towards an occupational or personal pension scheme.

CHAPTER IV:

SELF-EMPLOYED EARNERS

Earnings of self-employed earners

23. “Earnings”, in the case of employment as a self-employed earner, means the gross income of the employment and

- (a) shall include any allowance paid under section 2 of the Employment and Training Act 1973(2) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(3) to the relevant person for the purpose of assisting him in carrying on his business, unless at the date of the application the allowance has been terminated; but
- (b) shall not include any payment to which paragraph 24 of Schedule 3 refers (payments in respect of a person accommodated with the relevant person under arrangements made by a local authority or voluntary organisation).

Determination of net profit of self-employed earners

24.—(1) For the purposes of regulation 18 (average weekly earnings of self-employed earners) the earnings of a relevant person to be taken into account shall be—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) 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(4), his share of the net profit derived from that employment, less—
 - (i) an amount in respect of income tax and of social security contributions payable under the 1992 Act determined in accordance with regulation 25 (deduction of tax and contributions for self-employed earners), and

(2) 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988 (c. 19) and repealed in part by the Employment Act 1989 (c. 38), section 29 and Schedule 7.

(3) 1990 c. 35; section 2 was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 51 and Schedule 10.

(4) S.I.1975/529.

(ii) one-half of the amount calculated in accordance with paragraph (12) in respect of any qualifying premium.

(2) There shall be disregarded from a relevant person's net profit, any sum, where applicable, specified in paragraphs 1 to 14 of Schedule 2.

(3) For the purposes of paragraph (1)(a) the net profit of the employment shall, except where paragraph (9) applies, be determined by taking into account the earnings of the employment over the assessment period less—

- (a) subject to paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
- (b) an amount in respect of—
 - (i) income tax, and
 - (ii) social security contributions payable under the 1992 Act, determined in accordance with regulation 25 (deduction of tax and contributions for self-employed earners); and
- (c) one-half of the amount calculated in accordance with paragraph (12) in respect of any qualifying premium.

(4) For the purposes of paragraph (1)(b) the net profit of the employment shall be determined by taking into account the earnings of the employment over the assessment period less, subject to paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to paragraph (6), no deduction shall be made under paragraph (3)(a) or (4), in respect of—

- (a) any capital expenditure;
- (b) any depreciation of any capital asset;
- (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
- (d) any loss incurred before the beginning of the assessment period;
- (e) the repayment of capital on any loan taken out for the purposes of the employment;
- (f) any expenses incurred in providing business entertainment; and
- (g) any debts, except bad debts proved to be such, but this sub-paragraph shall not apply to any expenses incurred in the recovery of a debt.

(6) A deduction shall be made under paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—

- (a) the replacement in the course of business of equipment or machinery; and
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(7) The local housing authority shall not make a deduction in respect of any expenses under paragraph (3)(a) or (4) where, given the nature and the amount of the expense, it has been unreasonably incurred.

(8) For the avoidance of doubt—

- (a) a deduction shall not be made under paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction shall be made under paragraph (3)(a) or (4) in respect of—

- (i) the excess of any value added tax paid over value added tax received in the assessment period;
 - (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 employment.
- (9) Where a relevant person is engaged in employment as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less—
- (a) an amount in respect of—
 - (i) income tax, and
 - (ii) social security contributions payable under the 1992 Act, determined in accordance with regulation 25 (deduction of tax and contributions for self-employed earners); and
 - (b) one-half of the amount calculated in accordance with paragraph (12) in respect of any qualifying premium.
- (10) For the avoidance of doubt where a relevant person is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed earner or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.
- (11) In this regulation—
- “qualifying premium” means any premium which at the date of the application is payable periodically in respect of a retirement annuity contract or a personal pension scheme; and
- “retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision for the relevant person of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief for income tax may be given on any premium.
- (12) The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying premium shall be determined—
- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;
 - (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

Deduction of tax and contributions for self-employed earners

25.—(1) The amount to be deducted in respect of income tax under regulation 24(1)(b)(i), (3)(b)(i) or (9)(a)(i) (determination of net profit of self-employed earners) shall be determined on the basis of the amount of chargeable income and as if that income were assessable to income tax at the lower rate or, as the case may be, the lower rate and the basic rate of tax in the year of assessment in which the application was made less only the personal relief to which the relevant person is entitled under sections 257(1), (6) and (7) and 259(1)(a) and (2) of the Income and Corporation Taxes Act 1988⁽⁵⁾ (personal reliefs) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the lower rate and, if appropriate the basic rate of tax is to be

(5) 1988 c. 1; section 257 was amended by section 25(1) of the Finance Act 1988 (c. 39), and see sections 30, 33 and 35 and Schedule 3, paragraph 5.

applied and the amount of the personal relief deductible under this paragraph shall be calculated on a pro-rata basis.

(2) The amount to be deducted in respect of social security contributions under regulation 24(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) shall be the total of—

- (a) the amount of Class 2 contributions payable under subsection (1) or, as the case may be, subsection (3) of section 11 of the 1992 Act (liability for Class 2 contributions) at the rate applicable at the date of the application except where the relevant person's chargeable income is less than the amount for the time being specified in subsection (4) of that section (small earnings exception) for the tax year in which the date of the application falls; but if the assessment period is less than a year, the amount specified for that tax year shall be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of that Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable at the date of the application on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year in which the date of the application falls; but if the assessment period is less than a year, those limits shall be reduced pro rata.

(3) In this regulation "chargeable income" means—

- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (3)(a) or, as the case may be, (4) of regulation 24;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

CHAPTER V:

OTHER INCOME

Determination of income other than earnings

26.—(1) For the purposes of regulation 19 (average weekly income other than earnings), the income of a relevant person which does not consist of earnings to be taken into account shall, subject to paragraphs (2) and (3), be his gross income and any capital treated as income under regulations 27 (capital treated as income) or 29 (modifications in respect of children and young persons).

(2) There shall be disregarded from the determination of a relevant person's gross income under paragraph (1) any sum, where applicable, specified in Schedule 3.

(3) Where the payment of any benefit under the 1992 Act is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) shall be the gross amount payable.

(4) For the avoidance of doubt there shall be included as income to be taken into account under paragraph (1) any payment to which regulation 21(2) applies (payments which are not earnings).

Capital treated as income

27. Any payment received under an annuity, and any earnings to the extent that they are not a payment of income, shall be treated as income.

Notional income

28.—(1) A relevant person shall be treated as possessing income of which he has deprived himself for the purpose of increasing the amount of grant.

(2) Except in the case of a discretionary trust or a trust derived from a payment made in consequence of a personal injury, any income which would have become available to the relevant

person upon application being made, but which has not been acquired by him, shall be treated as possessed by the relevant person but only from the date on which it could be expected to have been acquired had an application been made.

(3) Any payment of income, other than a payment of income made under any of the MacFarlane Trusts, the Independent Living Funds or the Fund, made—

- (a) to a third party in respect of a relevant person being a single person or in respect of a member of the family (but not a member of the third party's family), shall be treated as possessed by that single person or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single person or, as the case may be, of any member of that family, or is used for any council tax, personal community charge, collective community charge contribution or water charges for which that relevant person or member is liable;
- (b) to a relevant person being a single person or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single person or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) Where—

- (a) a relevant person performs a service for another person; and
- (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area;

the local housing authority shall treat the relevant person as possessing such earnings (if any) as is reasonable for that employment unless the relevant person satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service; but this paragraph shall not apply to a relevant person who is engaged by a charitable or voluntary body or is a volunteer if it is reasonable for him to provide his service free of charge.

(5) In the case of an application to which section 126(3)(b) of the Act applies (renovation grants relating to two or more dwellings), there shall be treated as possessed by the relevant person 90 per cent. of the amount of the aggregate of the rents of each of the dwellings to be provided, other than any in respect of which an owner-occupation certificate accompanies the application, which may reasonably be expected to be obtained on a letting on the open market under an assured tenancy and assuming that no premium is paid.

(6) Where a relevant person is treated as possessing any income under any of paragraphs (1) to (3) and (5), the preceding provisions of this Part shall apply for the purposes of determining the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(7) Where a relevant person is treated as possessing any earnings under paragraph (4), the preceding provisions of this Part shall apply for the purposes of determining the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (3) of regulation 22 (determination of net earnings of employed earners) shall not apply and his net earnings shall be determined by taking into account those earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount determined by applying to those earnings the lower rate or, as the case may be, the lower and the basic rate of tax in the year of assessment in which the application was made less only the personal relief to which the relevant person is entitled under sections 257(1), (6) and (7) and 259(1)(a) and (2) of the Income and Corporation Taxes Act 1988 (personal reliefs) as is appropriate to his circumstances; but if the assessment period is less than a year the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be determined on a pro-rata basis;

- (b) an amount equivalent to the amount of primary Class 1 contributions which would be payable under the 1992 Act in respect of those earnings if—
 - (i) those earnings were actual earnings; and
 - (ii) the rate of any primary percentage (within the meaning of that Act) applicable to those earnings under that Act were the rate applicable at the date of application; and
 - (c) one-half of any sum payable by the relevant person by way of a contribution towards an occupational or personal pension scheme.
- (8) In paragraph (3)—
- (a) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities; and
 - (b) “rent” means eligible rent within the meaning of regulation 10(3) of the Housing Benefit (General) Regulations 1987(6) (rent), less any deductions in respect of non-dependants which fall to be made under regulation 63(7) (non-dependant deductions) of those Regulations.

Modifications in respect of children and young persons

29.—(1) Where the income of a child or young person, except income consisting of any payment of maintenance, whether under a court order or not, determined in accordance with Chapters I to V of this Part exceeds the amount included under Schedule 1 in the determination of the relevant person’s applicable amount for that child or young person by way of the personal allowance and disabled child premium, if any, the excess shall not be treated as income of the relevant person.

(2) Where the capital of a child or young person, if determined in accordance with Chapter VI of this Part in like manner as for the relevant person (except as provided in paragraph (5)) would exceed £5,000, any income of that child or young person, except income consisting of any payment of maintenance whether under a court order or not, shall not be treated as income of the relevant person.

(3) In determining the net earnings or net profit of a child or young person there shall be disregarded (in addition to any sum which falls to be disregarded under paragraphs 13 and 14) any sum specified in paragraphs 15 and 16 of Schedule 2.

(4) Any income of a child or young person which is to be disregarded under Schedule 3 shall be disregarded in such manner as to produce the result most favourable to the relevant person.

(5) There shall be treated as income any capital of a child or young person payable to him by instalments, one or more of which is outstanding at the date of the application, where the instalment or aggregate of all the instalments outstanding at that date, taken together with the amount of that child’s or young person’s other capital calculated in accordance with Chapter VI of this Part in like manner as for the relevant person, would exceed £5,000.

(6) S.I. 1987/1971; regulation 10 was amended by S.I. 1988/1971, 1990/546 and 1993/317.

(7) Regulation 63 was amended by S.I. 1990/546, 1990/1775, 1991/235, 1991/503, and 1992/50.

*CHAPTER VI:
CAPITAL*

Determination of capital

30.—(1) The capital of a relevant person to be taken into account shall, subject to paragraph (2), be the whole of his capital determined in accordance with this Part and any income treated as capital under regulation 32 (income treated as capital).

(2) There shall be disregarded from the determination of a relevant person's capital under paragraph (1) any capital, where applicable, specified in Schedule 4.

Disregard of capital of child or young person

31. The capital of a child or young person who is a member of the relevant person's family shall not be treated as capital of the relevant person.

Income treated as capital

32.—(1) Any bounty derived from employment to which paragraph 8 of Schedule 2 applies and paid at intervals of at least one year shall be treated as capital.

(2) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

(3) Any holiday pay which is not earnings under regulation 21(1)(d) (earnings of employed earners) shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraphs 1, 2, 3, 5, 8, 14, 25 or 26 of Schedule 4, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the relevant person's account.

(5) In the case of employment as an employed earner, any advance of earnings or any loan made by the relevant person's employer shall be treated as capital.

(6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under any of the MacFarlane Trusts, the Independent Living Funds or the Fund, shall be treated as capital.

Determination of capital in the United Kingdom

33. Capital which a relevant person possesses in the United Kingdom shall be determined—

(a) except in a case to which sub-paragraph (b) applies, at its current market or surrender value less—

(i) where there would be expenses attributable to sale, 10 per cent., and

(ii) the amount of any incumbrance secured on it;

(b) in the case of a National Savings Certificate—

(i) if purchased from an issue the sale of which ceased before 1st July last preceding the date of application, at the price which it would have realised on that 1st July had it been purchased on the last day of that issue;

(ii) in any other case, at its purchase price.

Determination of capital outside the United Kingdom

34. Capital which a relevant person possesses in a country outside the United Kingdom shall be determined—

- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer;

less, where there would be expenses attributable to sale, 10 per cent. and the amount of any incumbrance secured on it.

Notional capital

35.—(1) A relevant person shall be treated as possessing capital of which he has deprived himself for the purpose of increasing the amount of grant.

(2) Except in the case of—

- (a) a discretionary trust; or
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 4,

any capital which would have become available to the relevant person upon application being made, but which has not been acquired by him, shall be treated as possessed by him but only from the date on which it could be expected to have been acquired had an application been made.

(3) Any payment of capital, other than a payment of capital made under any of the MacFarlane Trusts, the Independent Living Funds or the Fund—

- (a) if made to a third party in respect of a single relevant person or in respect of a member of the family (but not a member of the third party's family), shall be treated as possessed by that single person or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single person or, as the case may be, of any member of that family, or is used for any council tax, personal community charge, collective community charge contribution or water charges for which that relevant person or member is liable;
- (b) if made to a single relevant person or a member of the family in respect of a third party (but not in respect of another member of that family), shall be treated as possessed by that single person or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) Where a relevant person stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case—

- (a) the value of his holding in that company shall, notwithstanding regulation 30 (determination of capital), be disregarded; and
- (b) he shall, subject to paragraph (5), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the preceding provisions of this Chapter shall apply for the purposes of determining that amount as if it were actual capital which he does possess.

(5) For so long as the relevant person undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (4) shall be disregarded.

(6) Where a relevant person is treated as possessing capital under any of paragraphs (1) to (3) the preceding provisions of this Chapter shall apply for the purposes of determining its amount as if it were actual capital which he does possess.

(7) In paragraph (3)—

- (a) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use but does not include school uniforms, or clothing or footwear used solely for sporting activities; and
- (b) “rent” means eligible rent within the meaning of regulation 10(3) of the Housing Benefit (General) Regulations 1987, less any deductions in respect of non-dependants which fall to be made under regulation 63 of those Regulations.

Capital jointly held

36. Except where a relevant person possesses capital which is disregarded under regulation 35(4) (notional capital), where a relevant person and one or more persons are beneficially entitled in possession to any capital asset they shall be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the preceding provisions of this Chapter shall apply for the purposes of determining the amount of capital which the relevant person is treated as possessing as if it were actual capital which the relevant person does possess.

Determination of tariff income from capital

37.—(1) Where the relevant person’s capital determined in accordance with this Part exceeds £5000 it shall be treated as equivalent to a weekly tariff income of £1 for each complete £250 in excess of £5000.

(2) Notwithstanding paragraph (1) where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly tariff income of £1.

(3) For the purposes of paragraph (1), capital includes any income treated as capital under regulation 32 (income treated as capital).