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## STATUTORY INSTRUMENTS

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### 2006 No. 216

## The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

### PART 4

#### Income and capital

#### SECTION 3

#### *Employed earners*

#### **Calculation of net earnings of employed earners**

**26.**—(1) For the purposes of regulation 20 (calculation of income on a weekly basis), the earnings of a claimant derived or likely to be derived from employment as an employed earner to be taken into account shall, subject to regulation 23(4) and Schedule 2, be his net earnings.

(2) For the purposes of paragraph (1) net earnings shall, except where paragraph (5) applies, be calculated by taking into account the gross earnings of the claimant from that employment over the assessment period, less—

- (a) any amount deducted from those earnings by way of—
  - (i) income tax;
  - (ii) primary Class 1 contributions under the Act;
- (b) one-half of any sum paid by the claimant by way of a contribution towards an occupational pension scheme;
- (c) one-half of the amount calculated in accordance with paragraph (4) in respect of any qualifying contribution payable by the claimant; and
- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, [<sup>F1</sup>ordinary or additional statutory paternity pay] or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the Act.

(3) In this regulation “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.

(4) The amount in respect of any qualifying contribution shall be calculated by multiplying the daily amount of the qualifying contribution 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 contribution shall be determined—

- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;

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- (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.
- (5) Where the earnings of a claimant are determined under sub-paragraph (b) of paragraph (2) of regulation 23 (calculation of weekly income), his net earnings shall be calculated by taking into account those earnings over the assessment period, less—
- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings <sup>F2</sup>... the basic rate of tax applicable to the assessment period less only the personal relief to which the claimant is entitled under sections 257(1) of the Income and Corporation Taxes Act 1988 <sup>M1</sup> (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the [<sup>F3</sup>[<sup>F4</sup>basic] rate] of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;
  - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
  - (c) one-half of any sum which would be payable by the claimant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

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#### Textual Amendments

- F1** Words in reg. 26(2)(d) substituted (1.4.2012) by [The Social Security \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/757\)](#), regs. 1(4), **10(6)**
- F2** Words in reg. 26(5)(a) omitted (6.4.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **9(6)(a)**
- F3** Words in reg. 26(5)(a) substituted (1.10.2007) by [The Social Security \(Miscellaneous Amendments\) \(No. 5\) Regulations 2007 \(S.I. 2007/2618\)](#), regs. 1(1), **14(3)**
- F4** Word in reg. 26(5)(a) substituted (6.4.2009) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), regs. 1(2), **9(6)(b)**
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#### Marginal Citations

- M1** 1988 c. 1; sections 257 and 257A were substituted by the [Finance Act 1988 \(c. 39\)](#), **section 33**.

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- [Blanket amendment words substituted by S.I. 2011/1043 art. 3-68-10](#)