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STATUTORY INSTRUMENTS

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**1987 No. 1967**

**The Income Support (General) Regulations 1987**

**PART V**

**INCOME AND CAPITAL**

**CHAPTER III**

**employed earners**

**Earnings of employed earners**

**35.**—(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 claimant 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 in so far as it represents loss of income;
  - (d) any holiday pay except any payable more than four weeks after the termination or interruption of employment but this exception shall not apply to a claimant to whom, and for so long as, section 23 of the Act (trade disputes) applies;
  - (e) any payment by way of a retainer;
  - (f) any payment made by the claimant’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 claimant’s employer in respect of—
    - (i) travelling expenses incurred by the claimant between his home and place of employment;
    - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant’s absence from home;
  - (g) any award of compensation made under section 68(2) or 71(2)(a) of the Employment Protection (Consolidation) Act 1978(1) (remedies for unfair dismissal and compensation);
  - (h) any such sum as is referred to in section 18(2) of the Social Security (Miscellaneous Provisions) Act 1977(2) (certain sums to be earnings for social security purposes).
- (2) “Earnings” shall not include—
- (a) any payment in kind;

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(1) 1978 c. 44; section 68(2) was amended by the Employment Act 1982 (c. 46) section 21 Schedule 3 paragraph 21; section 71(2) was amended by the Employment Act 1982 (c. 46) sections 5 and 21 Schedule 3 paragraph 22 and Schedule 4.

(2) 1977 c. 5; section 18(2) was amended by section 159 Schedule 16 paragraph 29 of the Employment Protection (Consolidation) Act 1978 (c. 44) and by section 86(2) of, and Schedule 10 Part IV paragraph 75 and Schedule 11 to, the Social Security Act 1986 (c. 50).

- (b) any remuneration paid by or on behalf of an employer to the claimant who for the time being is unable to work due to illness or maternity;
- (c) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (d) any occupational pension.

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

**36.**—(1) For the purposes of regulation 29 (calculation of earnings of employed earners) the earnings of a claimant derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.

(2) There shall be disregarded from a claimant's net earnings, any sum, where applicable, specified in paragraphs 1 to 13 of Schedule 8.

(3) For the purposes of paragraph (1) net earnings shall be calculated by taking into account the gross earnings of the claimant from that employment less—

- (a) any amount deducted from those earnings by way of—
  - (i) income tax;
  - (ii) primary Class 1 contributions under the Social Security Act(3); and
- (b) one-half of any sum paid by the claimant by way of a contribution towards an occupational or personal pension scheme.

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