
STATUTORY INSTRUMENTS

1992 No. 2977

**The National Assistance (Assessment
of Resources) Regulations 1992**

PART II

TREATMENT OF INCOME

Calculation of income

- 9.**—(1) A resident's income shall be calculated on a weekly basis—
- (a) by determining in accordance with this Part the weekly amount of his income; and
 - (b) by adding to that amount his weekly tariff income from capital calculated in accordance with regulation 28 (calculation of tariff income from capital).
- (2) For the purposes of paragraph (1), "income" includes capital treated as income and notional income under regulations 16 and 17.

Earnings of self-employed earners

10. A resident's gross earnings derived from employment as a self-employed earner shall be assessed in accordance with the definition of "earnings" in regulation 37 of the Income Support Regulations⁽¹⁾ (earnings of self-employed earners).

Calculation of net profit of self-employed earners

11.—(1) For the purposes of regulation 12, the earnings of a resident derived from employment as a self-employed earner to be taken into account shall, subject to paragraph (3), be his net profit from that employment.

(2) For the purposes of paragraph (1), a resident's net profit shall be calculated by taking into account his gross earnings from his employment as a self-employed earner less any relevant outgoings, liabilities or expenses.

(3) There shall be disregarded from the calculation of a resident's net profit any sum, where applicable, specified in Schedule 2.

Weekly amount of net profit of self-employed earners

12.—(1) Subject to paragraphs (2) and (3), the weekly amount of a resident's income from employment as a self-employed earner shall be determined by reference to his average weekly net profit from that employment—

- (a) over a period of 52 weeks; or

(1) Amended by regulation 12 of S.I. [1989/1323](#), and article 2 of and the Schedule to S.I. [1991/387](#).

- (b) where the resident has recently become engaged in that employment or where there has been a change which is likely to affect the normal pattern of business, over such other period of weeks as may, in any particular case, enable the weekly amount of his earnings to be determined more accurately.

(2) Subject to paragraph (3), where a resident's earnings consist of or include royalties or sums paid periodically for or in respect of any copyright, those earnings ("the royalties etc.") shall be taken into account over a period of such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the amount of the royalties etc.—

- (a) unless sub-paragraph (b) applies, by the difference between the standard rate for the accommodation provided for that resident and the lower rate for that accommodation which he would be liable to pay if he did not have the royalties etc.;
- (b) where a resident would be assessed as liable to make no contribution towards the cost of his accommodation if he did not have the royalties etc., by the standard rate for his accommodation.

(3) Where a resident's earnings consist of or include royalties or sums paid periodically for or in respect of any copyright and immediately before the date of one such payment he is in receipt of income support, that payment ("the royalty payment") shall be taken into account over such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the amount of the royalty payment by—

- (a) unless sub-paragraph (b) applies, the weekly amount of income support which would have been paid to him, had the royalty payment not been made; or
- (b) in circumstances where the royalty payment has disqualified the resident from receiving income support, the weekly amount referred to in sub-paragraph (a) added to the weekly amount of any part of the royalty payment which would have fallen to be disregarded in the calculation of his income support (as is appropriate to his case).

Earnings of employed earners

13. A resident's gross earnings derived from employment as an employed earner shall be assessed in accordance with the definition of "earnings" in regulation 28 of the Housing Benefit (General) Regulations (earnings of employed earners)(2).

Calculation of net earnings of employed earners

14.—(1) For the purposes of regulation 18, the earnings of a resident derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings calculated in accordance with the method prescribed in regulation 36(3) of the Income Support Regulations (calculation of net earnings of employed earners).

(2) There shall be disregarded from the calculation of a resident's net earnings under paragraph (1) any sum, where applicable, specified in Schedule 2.

Calculation of income other than earnings

15.—(1) For the purposes of regulation 18, the income of a resident 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 16 and 17 (capital treated as income and notional income).

(2) There shall be disregarded from the calculation of a resident's gross income under paragraph (1) any sum, where applicable, specified in Part I of Schedule 3, in accordance with Part II of that Schedule.

(3) Where the payment of any benefit under the Contributions and Benefits 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 before that deduction is made.

Capital treated as income

16.—(1) Any capital payable to the resident by instalments which—

- (a) are outstanding on the first day from which a resident becomes liable to pay for his accommodation; or
- (b) where a local authority limits the payments required from a resident for his accommodation pursuant to section 22(5A) of the Act, are outstanding on the first day on which the local authority ceases to limit the payments required from the resident pursuant to section 22(5A) of the Act,

shall, if the aggregate of the instalments outstanding and the amount of the resident's capital otherwise calculated in accordance with Part III of these Regulations exceeds the amount specified in regulation 41(1) of the Income Support Regulations⁽³⁾ (capital treated as income), be treated as income.

(2) Any payment received under an annuity shall be treated as income.

(3) Any earnings to the extent that they are not a payment of income shall be treated as income.

Notional income

17.—(1) A resident shall be treated as possessing income of which he has deprived himself for the purpose of decreasing the amount that he may be liable to pay for his accommodation.

(2) Subject to paragraph (3), a resident shall be treated as possessing any income which would be treated as income possessed by a claimant of income support under paragraphs (2) to (4) of regulation 42 of the Income Support Regulations⁽⁴⁾ (notional income).

(3) For the purposes of paragraph (2), regulation 42(4) of the Income Support Regulations shall apply as if—

- (a) for the words in sub-paragraph (a)(ii) from “the food, ordinary” to the end of head (ii) there were substituted the words “any item which was taken into account when the standard rate was fixed for the accommodation provided”; and
- (b) the words from “except where sub-paragraph (a)(i) applies” to “the Act (trade disputes) applies” were deleted.

(4) A resident shall be treated as possessing any income paid or due to be paid to a local authority by a third party pursuant to an agreement between the local authority and the third party made in connection with the liability of the resident to pay the local authority for his accommodation.

⁽³⁾ Amended by regulation 5(2) of S.I. 1990/671. The amount specified is currently £8,000.

⁽⁴⁾ Amended by regulation 19(a) of S.I. 1988/663; regulation 10(a) of, and paragraph 4 of Schedule 1 to, S.I. 1988/1445; paragraph 7 of Schedule 1 to S.I. 1989/534; regulation 3(3)(a) of S.I. 1990/127; regulation 5(3) of S.I. 1991/1175; regulation 8 of S.I. 1991/1559; regulation 4 of S.I. 1992/468; regulation 6(3) of S.I. 1992/1101; and regulation 2 of S.I. 1992/1198.

Calculation of income derived from employed earners' employment and income other than earnings

18.—(1) A resident's net earnings derived from employment as an employed earner and income which does not consist of earnings shall be taken into account as income—

- (a) in a case where it is payable in respect of a period, over a period equal to the length of that period and at a weekly amount determined in accordance with regulation 19; or
- (b) in any other case except where paragraph (2) applies, over a period of such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the amount of that income—
 - (i) unless head (ii) applies, by the difference between the standard rate for the accommodation provided for that resident and the lower rate for that accommodation which he would be liable to pay if he did not possess that income;
 - (ii) where a resident would be assessed as liable to make no contribution towards the cost of his accommodation if he did not possess that income, by the standard rate for his accommodation.

(2) In a case where a resident's earnings as an employed earner or income other than earnings are not payable in respect of a period and immediately before a payment of such income ("the income payment") is made the resident is in receipt of income support, the income payment shall be taken into account over such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the amount of the income payment by—

- (a) unless sub-paragraph (b) applies, the weekly amount of income support which would have been paid to him, had the income payment not been made; or
- (b) in circumstances where the income payment has disqualified the resident from receiving income support, the weekly amount referred to in sub-paragraph (a) added to the weekly amount of any part of the income payment which would have fallen to be disregarded in the calculation of his income support (as is appropriate to his case).

Weekly amount of income derived from employed earners' income and income other than earnings

19. For the purposes of regulation 18(1)(a) , where the period in respect of which 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) where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
 - (ii) where that period is three months, by dividing the amount of the payment by 13;
 - (iii) where that period is a year by dividing the amount of the payment by 52;
 - (iv) in any other case by multiplying the amount of the payment by 7 and dividing the product by the number equal to the number of days in the period in respect of which it is made.