

The Tax Credit
(Definition and Calculation of Income)
Regulations 2002

Statutory Instrument 2002 No. 2006

As at 6th April 2011

1. This version of the Tax Credit (Definition and Calculation of Income) Regulations 2002 (“the regulations”) consolidates the amendments listed in the table overleaf, and is up to date as at 6th April 2011. Latest amendments are highlighted in red.
2. For polygamous units, this version of the regulations *must* be read alongside the modifications made by the Tax Credits (Polygamous Marriages) Regulations 2003 (SI 2003/742) (April 6, 2003).
3. Throughout these regulations, references to “the Board” should be taken as a reference to the Commissioners for HM Revenue & Customs (section 50 of the Commissioners for Revenue and Customs Act 2005).
4. Any suggestions for improvements or amendments to this document should be notified to the authors at the address below.

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Table of Amendments

Amendment	Source	Wef
1	Amended by SI 2003 No. 732	6/4/03
2	Amended by SI 2003 No. 2815	26/11/03
3	Amended by SI 2004 No. 762	6/4/04
4	Amended by SI 2004 No. 2663	3/11/04
5	Amended by SI 2005 No. 2919	5/12/05
6	Amended by SI 2006 No. 745	6/4/06
7	Amended by SI 2006 No. 766	6/4/06
8	Amended by SI 2007 No. 824	6/4/07
9	Amended by SI 2007 No. 1305	16/5/07
9A	Amended by SI 2007 No. 2538	1/10/07
10	Amended by SI 2008 No. 604	1/4/08
11	Amended by SI 2008 No. 2169	1/9/08
12	Amended by SI 2008 No. 1879	27/10/08
13	Amended by SI 2009 No. 697	6/4/09
14	Amended by SI 2009 No. 697	5/10/09
15	Amended by SI 2009 No. 2887	21/11/09
16	Amended by SI 2010 No. 751	6/4/10
17	Amended by SI 2010 No.2494	14/11/10
18	Amended by SI 2010 No. 2914	31/12/10
19	Amended by SI 2011 No. 721	6/4/11

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STATUTORY INSTRUMENTS

2002 No. 2006

TAX CREDITS

The Tax Credit (Definition and Calculation of Income) Regulations 2002

Made 30th July 2002

Coming into force in accordance with regulation 1

Whereas a draft of this instrument, which contains the first regulations made under section 7(8) and (9) of the Tax Credits Act 2002, has been laid before, and approved by resolution of, each House of Parliament:

Now, therefore, the Treasury, in exercise of the powers conferred upon them by sections 7(8) and (9), 65(1), (7) and (9) and 67 of the Tax Credits Act 2002, hereby make the following Regulations:

PART 1

General Provisions

1. Citation, commencement and effect

These Regulations may be cited as the Tax Credits (Definition and Calculation of Income) Regulations 2002 and shall come into force –

- (a) for the purpose of enabling claims to be made, on 1st August 2002;
- (b) for the purpose of enabling awards to be made, on 1st January 2003;
and
- (c) for all other purposes, on 6th April 2003;

and shall have effect for the tax year beginning on 6th April 2003 and subsequent tax years.

2. Interpretation

(1) In these Regulations, unless the context otherwise requires –

"the Act" means the Tax Credits Act 2002;

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits Act 1992; [³...]

"the Employment Act" means the Employment and Training Act 1973³; and

"the Northern Ireland Contributions and Benefit Act" means the Social Security Contributions and Benefits Act (Northern Ireland) Act 1992.]

(2) In these Regulations except where the context otherwise requires -

"the 1992 Fund" means moneys made available from time to time by the Secretary of State for Social Security for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 as respects England and Wales and Northern Ireland and on 10th April 1992 as respects Scotland;

[⁷"the Board" means the Commissioners for Her Majesty's Revenue and Customs;]

"child" has the meaning given in the Child Tax Credit Regulations 2002;

"claim" means a claim for child tax credit or working tax credit and "joint claim" and "single claim" shall be construed in accordance with [²section 3(8)] of the Act and "claimant" shall be construed accordingly;

[⁵"couple" has the meaning given by section 3(5A) of the Act;]

[¹"earnings" shall be construed in accordance with section 62 of the ITEPA]

"the Eileen Trust" means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for Social Security for the benefit of persons eligible in accordance with its provisions;

[¹.....]

[⁷"employment zone" means an area within Great Britain—

(i) subject to a designation for the purposes of the Employment Zones Regulations 2003 by the Secretary of State, or

[⁸ (ii) listed in the Schedule to the Employment Zones (Allocation to Contractors) Pilot Regulations 2006,]

pursuant to section 60 of the Welfare Reform and Pensions Act 1999;]

"employment zone programme" means a programme which is -

- (a) established for one or more employment zones, and
- (b) designed to assist claimants for a jobseeker's allowance to obtain sustainable employment;

"family" means -

- (a) in the case of a joint claim, the [⁵.....] couple by whom the claim is made and any child or qualifying young person for whom at least one of them is responsible, in accordance with regulation 3 of the Child Tax Credit Regulations 2002; and
- (b) in the case of a single claim, the claimant and any child or qualifying young person for whom he is responsible in accordance with regulation 3 of the Child Tax Credit Regulations 2002;

[^{9A}“the Independent Living Fund (2006)” means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part;]

"the Independent Living Fund" means the charitable trust of that name established out of funds provided by the Secretary of State for Social Services for the purpose of providing financial assistance to those persons incapacitated by or otherwise suffering from very severe disablement who are in need of such assistance to enable them to live independently;

"the Independent Living Funds" means the Independent Living Fund, [^{9A}the Independent Living (Extension) Fund, the Independent Living (1993) Fund and the Independent Living Fund (2006)];

"the Independent Living (Extension) Fund" means the trust of that name established on 25th February 1993 by the Secretary of State for Social Security and Robin Glover Wendt and John Fletcher Shepherd;

"the Independent Living (1993) Fund" means the trust of that name established on 25th February 1993 by the Secretary of State for Social Security and Robin Glover Wendt and John Fletcher Shepherd;

[⁹“ITA” means the Income Tax Act 2007;]

[¹“ITEPA” means the Income Tax (Earnings and Pensions) Act 2003;]

[⁷“ITTOIA” means the Income Tax (Trading and Other Income) Act 2005;]

"the Macfarlane (Special Payments) Trust" means the trust of that name established on 29th January 1990 partly out of funds provided by the Secretary of State for Health for the benefit of certain persons suffering from haemophilia;

"the Macfarlane (Special Payments) (No. 2) Trust" means the trust of that name established on 3rd May 1991 partly out of funds provided by the Secretary of State for Health for the benefit of certain persons suffering from haemophilia and other beneficiaries;

"the Macfarlane Trust" means the charitable trust established partly out of funds provided by the Secretary of State for Health to the Haemophilia Society for the relief of poverty or distress among those suffering from haemophilia;

"the Macfarlane Trusts" means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust;

"pensionable age" has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995;

"pension fund holder", in relation to a [⁶registered pension scheme], means the trustees, managers or scheme administrators of the scheme [⁶.....];

[⁶.....];

[¹⁹ "qualifying care receipts" has the meaning given to that expression by section 805 of the Income Tax (Trading and Other Income) Act 2005;]

"qualifying young person" has the meaning given in the Child Tax Credit Regulations 2002;

[⁶"registered pension scheme" has the meaning given by section 150(2) of the Finance Act 2004;]

[¹⁶ "Saving Gateway account" has the meaning given by section 1 of the Saving Gateway Accounts Act 2009;]

[⁶.....];

[⁶.....];

[⁷.....];

[¹.....];

[¹⁸.....];

"tax year" means a period beginning with the 6th April in one year and ending with 5th April in the next;

"the Taxes Act" means the Income and Corporation Taxes Act 1988;

"voluntary organisation" means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

"war pension" has the meaning given in section 25(4) of the Social Security Act 1989.

[³ (2A) Paragraph (2B) applies if a claimant is a member of the Brigade of Gurkhas, to whom the voluntary settlement of tax liabilities of certain members of those units between the Ministry of Defence and the Board ("the voluntary settlement") applies.

(2B) In the case of a claimant to whom this paragraph applies, the amount of his employment income from that employment for a particular tax year shall be the amount published by the Ministry of Defence as the UK equivalent rate in his case.]

(3) For the purposes of these Regulations, whether a person is responsible for a child or a qualifying young person is determined in accordance with regulation 3 of the Child Tax Credit Regulations 2002.

(4) In these Regulations -

(a) a reference to a claimant's partner is a reference to a claimant's spouse [⁵or civil partner] or a person with whom the claimant lives as a spouse [⁵or civil partner]; and

(b) a reference to a claimant's former partner is a reference to a claimant's former spouse [⁵or civil partner] or a person with whom the claimant has lived as a spouse [⁵or civil partner]; and

(c) a reference in these Regulations to an Extra Statutory Concession is a reference to that Concession as published by the Inland Revenue on 1st July 2002.

PART 2

INCOME FOR THE PURPOSES OF TAX CREDITS

CHAPTER 1

General

3. Calculation of income of claimant

(1) The manner in which income of a claimant or, in the case of a joint claim, the aggregate income of the claimants, is to be calculated for a tax year for the purposes of Part 1 of the Act is as follows.

Step One

Calculate and then add together –

- (a) the pension income (as defined in regulation 5(1)),
- (b) the investment income (as defined in regulation 10),
- (c) the property income (as defined in regulation 11),
- (d) the foreign income (as defined in regulation 12) and
- (e) the notional income (as defined in regulation 13) of the claimant, or, in the case of a joint claim, of the claimants.

If the result of this step is £300 or less, it is treated as nil.

If the result of this step is more than £300, only the excess is taken into account in the following steps.

Step Two

Calculate and then add together –

- (a) the employment income (as defined in regulation 4),
- (b) the social security income (as defined in regulation 7),
- (c) the student income (as defined in regulation 8) and
- (d) the miscellaneous income (as defined in regulation 18) of the claimant, or in the case of a joint claim, of the claimants.

Step Three

Add together the results of Steps One and Two.

Step Four

Calculate the trading income (as defined in regulation 6) of the claimant, or in the case of a joint claim, of the claimants.

Add the result of this step to that produced by Step Three, [¹....] the year.

If there has been a trading loss in the year, [¹subtract] the amount of that loss from the result of Step Three.

[⁷A loss shall not be available for tax credits purposes, unless the trade was being carried on upon a commercial basis and with a view to the realisation of profits in the trade or, where the carrying on of the trade formed part of a larger undertaking, in the undertaking as a whole.]

[² Any trading loss in the year not set off as a result of the calculations in Steps One to Four above due to an insufficiency of income may be carried forward and set off against trading income (if any) of the same trade, profession or vocation in subsequent years (taking earlier years first) for the purposes of calculation of income under this regulation]

(2) Subject to the qualifications in the following paragraphs of this regulation, and the provisions of Part 3, the result of Step Four in paragraph (1) is the income of the claimant, or, in the case of a joint claim, of the claimants, for the purposes of the Act.

(3) Income which -

(a) arises in a territory outside the United Kingdom and

(b) is, for the time being, unremittable for the purposes of [⁷Chapter 4 of Part 8 of ITTOIA,]

is disregarded in calculating the income of the claimant or, in the case of a joint claim, of the claimants.

(4) Paragraph (5) applies in the case of a claimant who is [¹for income tax purposes] –

(a) resident [¹and domiciled but not ordinarily resident] in the United Kingdom, [²...]

(b) resident and ordinarily resident but not domiciled in the United Kingdom[² or]

[²(c) resident but neither ordinarily resident nor domiciled in the United Kingdom.]

(5) In the case of a person to whom this paragraph applies -

(a) [¹any income arising outside the United Kingdom is to be taken into account, subject to any specific provision of these Regulations, regardless of the domicile or residence of the claimant; and]

(b) references to a sum being [¹taken into account] are to be construed as including a sum which would be taxable if he were resident, ordinarily resident and domiciled in the United Kingdom.

[¹“(5A) Any income is to be taken into account, subject to any specific provision of these Regulations, notwithstanding the provision of any Order in Council under section 788 of the Taxes Act (double taxation agreements)]

(6) In the case of a claimant who would be chargeable to income tax but for some special exemption or immunity from income tax, income shall be calculated on the basis of the amounts which would be so chargeable but for that exemption or immunity.

[¹(6A) Income paid to a claimant in a currency other than sterling shall be converted into sterling at the average of the exchange rates applicable for the conversion of that currency into sterling in the period of 12 months [⁸ ending on 31st March] in the tax year in which the income arises.]

(7) In calculating income under this Part there shall be deducted [¹....] –

(a) [¹the amount of] any banking charge or commission payable in converting to sterling a payment of income which is made in a currency other than sterling;

(b) [¹the grossed-up amount of] any qualifying donation (within the meaning of [⁹Chapter 2 of Part 8 of ITA (gift aid)], made by the claimant or, in the case of a joint claim, by either or both of the claimants; [²....][⁶and]

[⁶(c) the amount of any contribution made by the claimant, or in the case of joint claimants, by either or both of the claimants to a registered pension scheme together with the amount of any tax relief due on those contributions.]

[⁶.....]

[²(8) If—

(a) a claimant has sustained a loss in relation to a [⁷UK property business] or an overseas property business; and

(b) the relief to which he is entitled in accordance with [⁹section 120 of ITA (deduction of property losses from general income)] exceeds the amount of his property income or foreign income for tax credits purposes, for the year in question;

the amount of his total income for tax credit purposes, computed in accordance with the preceding provisions of this regulation, shall be reduced by the amount of the excess.

[⁷In this paragraph “UK property business” and “overseas property business” have the same meanings as they have in Chapter 2 of Part 3 of ITTOIA.]

CHAPTER 2

Employment Income

4. Employment income

(1) In these regulations "employment income" means -

- (a) any [¹earnings] from an office or employment received in the tax year;
- (b) so much of any payment made to a claimant in that year in respect of expenses as is chargeable to income tax [¹by virtue of section 62 or section 72 of ITEPA] ;
- (c) [¹the cash equivalent of] any non-cash voucher received by the claimant in that year and chargeable to income tax under [¹section 87 of ITEPA] ;
- (d) [¹the cash equivalent of] any credit-token received by the claimant in that year and chargeable to income tax under [¹section 94 of ITEPA] ;
- (e) [¹the cash equivalent of] any cash voucher received by the claimant in that year and chargeable to income tax under [¹section 81 ITEPA] ;
- (f) [¹any amount chargeable to tax under Chapter 3 of Part 6 ITEPA] ;
- (g) so much of a payment of statutory sick pay, received by the claimant during the year, as is subject to income tax [¹by virtue of section 660 of ITEPA] ;
- (h) the amount (if any) by which a payment of [¹statutory maternity pay, [¹⁷ ordinary statutory paternity pay, additional statutory paternity pay,] or statutory adoption pay] exceeds £100 per week;
- (i) any amount charged to income tax for that year [¹under section 120 or section 149 of ITEPA] ;
- (j) [¹any sum to which section 225 of ITEPA applies;]
- (k) any amount paid in that year by way of strike pay to the claimant as a member of a trade union.
- [²(l) any amount charged to income tax for that year under Part 7 of ITEPA.]
- [⁸ (m) any amount paid to a person serving a custodial sentence or remanded in custody awaiting trial or sentence, for work done while

serving the sentence or remanded in custody.]

For the purposes of this paragraph, references to the receipt of a payment of any description are references to its receipt by or on behalf of the claimant, or in the case of a joint claim of either of the claimants, in any part of the world.

This paragraph is subject to the following qualifications.

(2) Employment income does not include pension income.

[⁷.....]

[¹..²

(3) This paragraph applies if (apart from section 64 of ITEPA) the same benefit would give rise to two amounts (“A” and “B”)—

(a) “A” being an amount of earnings from a claimant’s employment as defined in section 62 of ITEPA, and

(b) “B” being an amount to be treated as earnings under any provision of Chapter 10 of Part 3 of ITEPA.

In such a case, the amount to be taken into account in computing the claimant’s employment income is the greater of A and B, and the lesser amount shall be disregarded]]

(4) In calculating employment income, the payments and benefits listed in Table 1 shall be disregarded.

Table 1 Payments [¹and benefits] disregarded in the calculation of employment income

1. Any payment in respect of qualifying removal expenses, or the provision of any qualifying removal benefit, within the meaning of [¹Chapter 7 of Part 4 of ITEPA] .

[¹**2A.** The payment or reimbursement of expenses incurred in the provision of transport to a disabled employee (as defined in section 246(4) of ITEPA) by his employer, if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of section 246 of ITEPA.

2B. The provision to a disabled employee (as defined in section 246(4) of ITEPA) by his employer of a car, the provision of fuel for the car, or the reimbursement of expenses incurred in connection with the car, if no liability to income tax arises in respect of that provision or reimbursement (as the case may be) by virtue of section 247 of ITEPA.

2C. The payment or reimbursement of expenses incurred on transport, if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of section 248 of ITEPA];

3. Travel facilities provided for the claimant as a member of the naval, military or air forces of the Crown for the purpose of going on, or returning from, leave.

[⁸ **3A.** The payment by the Secretary of State for Defence of an operational allowance to a member of Her Majesty's forces in respect of service in an operational area specified by the Secretary of State for Defence.]

[¹⁰ **3B** A payment designated by the Secretary of State for Defence as Council Tax Relief and made by the Secretary of State for Defence to a member of Her Majesty's forces.]

4. Payment or reimbursement of expenses in connection with the provision for, or use by, the claimant as a person holding an office or employment of a car parking space at or near his place of work.

5. Any benefit or non-cash voucher provided to the claimant, or to any member of his family or household, [¹in respect of which no liability to income tax arises by virtue of Chapter 5 of Part 4 of ITEPA;]

6. Any payment of incidental overnight [¹in respect of which no liability to income tax arises by virtue of section 240 of ITEPA.]

[¹⁷ **7.** Food, drink and mess allowances for the armed forces and training allowances payable to members of the reserve forces in respect of which no liability to income tax arises by virtue of section 297 or 298 of ITEPA.]

8. The value of meal vouchers issued to the claimant as an employee, [¹if section 89 of ITEPA applies to the vouchers.]

9. Any cash payment received by the claimant as a miner in lieu of free coal, or the provision of the coal itself, [¹in respect of which no liability to income tax arises by virtue of section 306 of ITEPA.]

10. An award made to the claimant as a director or employee by way of a testimonial to mark long service, [¹if, or to the extent that, no liability to income tax arises in respect of it by virtue of section 323 of ITEPA.]

11. Payment of a daily subsistence allowance [¹in respect of which no liability to income tax arises by virtue of section 304 of ITEPA.]

[¹**11A.** The payment or reimbursement of reasonable expenses incurred by an employee who has a permanent workplace at an offshore installation, on transfer transport, related accommodation and subsistence or local transport, if no liability to income tax arises in

respect of that payment or reimbursement (as the case may be) by virtue of section 305 of ITEPA.

For the purposes of this item, expressions which are defined in section 305 of ITEPA have the same meaning here as they do there.

11B. Payment of an allowance to a person in employment under the Crown in respect of which no liability to income tax arises by virtue of section 299 of ITEPA.

11C. The payment or reimbursement to an employee of any sum in connection with work-related training, or individual learning account training (as respectively defined in sections 251 and 256 of ITEPA) if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of any provision of Chapter 4 of Part 4 of ITEPA.

11D. The provision for an employee of a non-cash voucher or a credit-token, to the extent that liability to income tax does not arise in respect of that voucher or credit-token (as the case may be), under Chapter 4 of [2Part 3 of ITEPA, by virtue of any provision of Chapter 6 of Part 4 of ITEPA].

11E. The provision for an employee of free or subsidised meal vouchers or tokens (within the meaning of section 317(5) of ITEPA), if no liability to income tax arises in respect of that provision by virtue of section 317 of ITEPA.]

[8 **11F.** The provision of one mobile telephone for an employee in respect of which no liability to income tax arises by virtue of section 319 of ITEPA.]

12. An award made to the claimant under a Staff Suggestion Scheme, if the conditions specified in [1sections 321 and 322 of ITEPA][3are satisfied.]

13. Travelling and subsistence allowances paid to or on behalf of the claimant by his employer [1in respect of which no liability to income tax arises by virtue of section 245 of ITEPA.]

14. Any gift consisting of goods, or a voucher or token to obtain goods, [1in respect of which no liability to income tax arises by virtue of section 270 or 324 of ITEPA.]

[1**14A.** Any payment or reimbursement of expenses incurred in connection with an employment-related asset transfer (as defined in section 326(2) of ITEPA), if no liability to income tax arises in respect of that payment or reimbursement (as the case may be) by virtue of section 326 of ITEPA.

14B. Any payment of expenses incurred by an employee in connection with a taxable car if no liability to income tax arises in respect of the payment by virtue of section 239(2) of ITEPA.]

[²**14C.** The discharge of any liability of an employee in connection with a taxable car if no liability to income tax arises by virtue of section 239(1) of ITEPA.]

14D. A benefit connected with a taxable car if no liability to income tax arises by virtue of section 239(4) of ITEPA.]

15. A cash voucher, non-cash voucher or credit-token to the extent that it is used by the recipient for the provision of child care, the costs of which if borne by the recipient would be relevant child care charges within the meaning of regulation 14 of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002.

[[³**16.** A payment made by the Department for Work and Pensions under section 2 of the Employment Act—

(a) by way of In-Work Credit [¹¹Better Off In-Work Credit], Job Grant or Return to Work Credit, [¹¹...]

(b) under the Employment Retention and Advancement Scheme or the Working Neighbourhoods Pilot.]

[¹¹(c) under the City Strategy Pathfinder Pilots,

(d) by way of an In-Work Emergency Discretion Fund payment pursuant to arrangements made by the Secretary of State, [¹⁵...]

(e) by way of an Up-front Childcare Fund payment pursuant to arrangements made by the Secretary of State.][¹⁵, or

(f) under the Future Capital pilot scheme.]

[⁷**16A.** A payment made by the Department for Employment and Learning in Northern Ireland under section 1 of the Employment and Training Act (Northern Ireland) 1950 by way of Return to Work Credit.]

[¹¹**16B.** Any In-Work Emergency Fund payment made to a person pursuant to arrangements made by the Department of Economic Development under section 1 of the Employment and Training Act (Northern Ireland) 1950.]

[²**17.** The payment or reimbursement of reasonable additional household expenses incurred by an employee who works from home, within the meaning of section 316A of ITEPA.]

18. The payment or reimbursement of retraining course expenses within the meaning of section 311 of ITEPA.]

[⁴**19.** Provision of computer equipment in respect of which no liability to income tax arises by virtue of section 320 of ITEPA]

[¹¹**20.** Pay As You Earn (PAYE) settlement agreements made under Part 6 of the Income Tax (PAYE) Regulations (“the PAYE Regulations”) 2003.

For the purposes of this item the special arrangements under regulation 141 of the PAYE Regulations also apply.]

(5) From the amount of employment income, calculated in accordance with the preceding provisions of this regulation, there shall be deducted the amount of any deduction permitted in calculating [¹calculating earnings by virtue of any provision of sections [²231 to 232] 336 to 344, or section 346, 347, 351, 352, 362, 363, 367, 368, 370, 371, 373, 374, 376, 377 or 713 of ITEPA].

CHAPTER 3

Pension Income

5. Pension Income

[¹“(1) In these Regulations, except where the context otherwise require, “pension income”

means—

- (a) any pension to which section 577 or 629 of ITEPA applies;
- (b) any pension to which section 569 of ITEPA applies;
- (c) any voluntary annual payment to which section 633 of ITEPA applies;
- [⁶(d) any pension, annuity or income withdrawal to which section 579A of ITEPA applies;
- (e) any unauthorised member payments to which section 208(2)(a) or (b) of the Finance Act 2004 applies;]
- (f) any periodical payment to which section 619 of ITEPA applies;
- [⁶.....;]
- [⁶(k) any annuity paid under a retirement annuity contract to which Chapter 9 of Part 9 of ITEPA applies;]
- (l) any annuity to which section 609, 610 or 611 of ITEPA applies; [¹⁰... ..]
- [⁷(n) any social security pension lump sum to which section 7 of the Finance (No. 2) Act 2005 applies; and
- (o) any lump sum payment to which section 636B or 636C of ITEPA applies.]

(2) In calculating the amount of a person's pension income there shall be disregarded any [¹payment or benefit mentioned] in Column 1 of Table 2 to the extent specified in the corresponding entry in Column 2.

Table 2 [¹Pensions, other payments and benefits] disregarded in the calculation of pension income

1. Payment

2. *Extent of disregard*

1. A wounds pension or disability pension to which [¹section 641 ITEPA] applies.

So much of the payment as is disregarded by virtue of section [¹section 641 ITEPA].

2. An annuity or additional pension payable to a holder of the Victoria Cross, George Cross or any other decoration mentioned in [¹section 638 of ITEPA].

The whole of the annuity or additional pension and, if both are payable, the whole of both such annuity and additional pension.

3. A pension or allowance to which [¹section 639 of ITEPA] applies.

[¹The amount of the pension or allowance]

4. A pension or allowance by reason of payment of which a pension or allowance specified in [¹section 639 of ITEPA] is withheld or abated.

[¹The amount treated as falling within section 639 of ITEPA by virtue of section 640(2) of that Act.]

5. [¹⁸.....].

6. A mobility supplement, or a payment in respect of attendance, paid in conjunction with a war pension.

The amount of the supplement or payment.

7. [¹⁸.....].

8. A pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983.

The amount for the time being specified in paragraph 1(c) of Schedule 4 to the Scheme.

9. A pension awarded on retirement through disability caused by injury on duty or by a work-related illness.

[¹The exempt amount of the pension calculated in accordance with section 644(3) of ITEPA.]

[¹10. A lump sum on which no liability to income tax arises by virtue of [⁶section 636A of ITEPA].

The amount of the lump sum.

11. Coal or smokeless fuel provided as mentioned in section 646(1) of ITEPA, or an allowance in lieu of such provision.

The amount on which no liability to income tax arises by virtue of that section.]

[¹(3) From the amount of pension income, calculated in accordance with the preceding provisions of this regulation, there shall be deducted any amount deductible for income tax purposes in computing pension income (as defined in ITEPA) under section 713 of that Act.]

CHAPTER 4

Trading Income

6. Trading income

The claimant's trading income is –

- (a) the amount of his taxable profits for the tax year from -
 - (i) any trade carried on in the United Kingdom or elsewhere;
 - (ii) any profession or vocation the income from which does not fall under any other provisions of these Regulations; or
- (b) if the claimant is a partner in the trade, profession or vocation, his taxable profit for the year arising from his share of the partnership's trading or professional income.

[⁷Here “taxable profits” has the same meaning as it has in Part 2 of ITTOIA but disregarding Chapter 16 of that Part (averaging profits of farmers and creative artists).]

CHAPTER 5

Social Security Income

7. Social security income

(1) The claimant's social security income is the total amount payable -

(a) under any provision of the Social Security Act 1988, the Contributions and Benefits Act [¹², the Jobseekers Act 1995 or Part 1 of the Welfare Reform Act 2007] or under section 69 of the Child Support, Pensions and Social Security Act 2000;

(b)[¹.....];

(c) by the Secretary of State in respect of the non-payment of a payment which ought to have been made under a provision mentioned in subparagraph (a); and

(d) by way of an ex gratia payment made by the Secretary of State, or in Northern Ireland by the Department for Social Development, in connection with a benefit, pension or allowance under the Contributions and Benefits Act.

This is subject to the following provisions of this regulation.

(2) Pensions under the Contributions and Benefits Act which are pension income by virtue of regulation 5(1)(a) are not social security income.

(3) In calculating the claimant's social security income the payments in Table 3 shall be disregarded.

Table 3 Payments under, or in connection with, the Act, the Social Security Act 1988, the Contributions and Benefits Act [¹², the Jobseekers Act 1995 or Part 1 of the Welfare Reform Act 2007] disregarded in calculation of social security income

1. An attendance allowance under section 64 of the Contributions and Benefits Act.
2. A back to work bonus under section 26 of the Jobseekers Act 1995.
3. A bereavement payment under section 36 of the Contributions and Benefits Act.
4. Child benefit under Part 2 of the Act.

- 5.** A Christmas bonus under section 148 of the Contributions and Benefits Act.
- 6.** Council tax benefit under section 131 of the Contributions and Benefits Act.
- 7.** A disability living allowance under section 71 of the Contributions and Benefits Act.
- 8.** Disabled person's tax credit under section 129 of the Contributions and Benefits Act.
- 9.** Any discretionary housing payment pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.
- 10.** An ex-gratia payment by the Secretary of State or, in Northern Ireland, the Department for Social Development, to a person over pensionable age by way of supplement to incapacity benefit.
- 11.** A guardian's allowance under section 77 of the Contributions and Benefits Act.
- 12.** Housing benefit under section 130 of the Contributions and Benefits Act.
- 13.** Income support under section 124 of the Contributions and Benefits Act, unless it is chargeable to tax under^[1]section 665 of ITEPA].
- 14.** Incapacity benefit which is -
 - (a) short term incapacity benefit payable at the lower rate; or
 - (b) payable to a person who had received invalidity benefit before 13th April 1995 if the period of incapacity for work is treated, by virtue of regulation 2 of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 (days to be treated as days of incapacity for work) as having begun before that date.
- 15.** Industrial injuries benefit [¹except industrial death benefit] under section 94 of the Contributions and Benefits Act.
- 16.** A contribution-based jobseeker's allowance under the Jobseekers Act 1995, to the extent that it exceeds the maximum contained in [¹section 674 of ITEPA].
- 17.** An income-based jobseeker's allowance under the Jobseekers Act 1995.
- 18.** A maternity allowance under section 35 of the Contributions and Benefits Act.

- 19.** A severe disablement allowance under section 68 or 69 of the Contributions and Benefits Act.
- 20.** A social fund payment under Part 8 of the Contributions and Benefits Act.
- [¹**20A.** Statutory adoption pay under Part 12ZB of the Contributions and Benefits Act.]
- 21.** Statutory maternity pay under Part 12 of the Contributions and Benefits Act.
- [¹**21A.** [¹⁷ Ordinary statutory paternity pay and additional statutory paternity pay] under Part 12ZA of the Contributions and Benefits Act.]
- 22.** Statutory sick pay under Part 11 of the Contributions and Benefits Act.
- 23.** Working families' tax credit under section 128 of the Contributions and Benefits Act.
- 24.** A payment by way of compensation for the non-payment of, or in respect of loss of entitlement (whether wholly or partly) of, income support, jobseeker's allowance, [²or housing benefit].
- 25.** A payment in lieu of milk tokens or the supply of vitamins under the Welfare Foods Regulations 1996.
- [¹²**26.** An income-related employment and support allowance payable under Part 1 of the Welfare Reform Act 2007.]
- [¹³**27.** A payment by way of health in pregnancy grant made pursuant to Part 8A of the Contributions and Benefits Act.]

(4) If an increase in respect of a child dependant is payable with an allowance, benefit, pension or other payment ("the main payment") listed in Table 3, the increase shall also be wholly disregarded in calculating the income of the recipient of the main payment.

(5) [¹.....]

[¹(5A) From the amount of social security income, calculated in accordance with the preceding provisions of this regulation, there shall be deducted any amount deductible for income tax purposes in computing social security income (as defined in ITEPA) under section 713 of ITEPA.]

(6) A reference in this regulation to an enactment applying only in Great Britain includes a reference to a corresponding enactment applying in Northern Ireland.

CHAPTER 6

Student Income

8. Student income

[²“Student income” means, in relation to a student—

[¹¹(a) in England, any adult dependant’s grant payable—

(i) under regulation 41 of the Education (Student Support) Regulations 2006 in relation to an academic year which begins on or after 1st September 2006 but before 1st September 2007;

(ii) under regulation 43 of the Education (Student Support) Regulations 2007 in relation to an academic year which begins on or after 1st September 2007 but before 1st September 2008;

(iii) under regulation 42 of the Education (Student Support) Regulations 2008 in relation to an academic year which begins on or after 1st September 2008 but before 1st September 2009; or

(iv) under regulation 44 of the Education (Student Support) (No. 2) Regulations 2008 in relation to an academic year which begins on or after 1st September 2009;]

(b) in Scotland, any dependant’s grant payable under regulation 4(1)(c) of the Students’ Allowances (Scotland) Regulations 1999; [⁷....]

(c) in Northern Ireland, any grant which corresponds to income treated as student income in England and Wales by virtue of paragraph (a)] [⁷and]

[¹¹(d) in Wales, any adult dependant’s grant payable—

(i) under regulation 22 of the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2006 in relation to an academic year which begins on or after 1st September 2006 but before 1st September 2007;

(ii) under regulation 26 of the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007 in relation to an academic year which begins on or after 1st September 2007 but before 1st September 2008; or

(iii) under regulation 26 of the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2008 in relation to an academic year which begins on or after 1st September 2008.]

9.7 Payments of income in connection with students to be disregarded for the purposes of regulation 3

Income which is exempt from income tax by virtue of section 753 or 776 of ITTOIA (which deal respectively with interest on the repayment of student loans and scholarship income) is disregarded in calculating a claimant's income under regulation 3.]

CHAPTER 7

Investment Income

10. Investment income

(1) In these Regulations "investment income" means the gross amount of -

(a) any interest of money, whether yearly or otherwise, or any annuity or other annual payment, whether such payment is payable within or out of the United Kingdom, either as a charge on any property of the person paying it by virtue of any deed or will or otherwise, or as a reservation out of it, or as a personal debt or obligation by virtue of any contract, or whether the payment is received and payable half-yearly or at any shorter or longer periods, but not including property income;

(b) any discounts on securities;

(c) any income from securities payable out of the public revenues of the United Kingdom or Northern Ireland;

(d) dividends and other distributions of a company resident in the United Kingdom and any tax credit associated with that payment; and

(e) any amount treated as forming part of the individual's income for the year for income tax purposes by virtue of [⁷Chapter 9 of Part 4 of ITTOIA disregarding section 535 (top slicing relief)].

This is subject to the following qualification.

(2) In calculating investment income, there shall be disregarded –

(a) any amount listed in column 1 of Table 4 to the extent shown in the corresponding entry in column 2;

(b) any amount listed in column 1 of Table 5 during the period shown in the corresponding entry in column 2;

(c) any income arising from savings certificates, and interest on tax reserve certificates, exempted from tax by [⁷section 692, 693 or 750 of ITTOIA] (savings certificates and tax reserve certificates);

(d) the first £70 in any tax year of interest on deposits with National Savings and Investments, exempted from income tax by [⁷section 691 of ITTOIA (National Savings Bank ordinary account interest).]

(e) any payment to a claimant which does not form part of his income for the purposes of income tax by virtue of [⁷section 727 of ITTOIA (certain

annual payments by individuals).]

Table 4 Payments disregarded in the calculation of investment income

1. Description of income to be disregarded

2. *Extent of disregard*

1. Any interest, dividends, distributions, profits or gains in respect of investments under -

(a) a Personal Equity Plan, or

(b) an Individual Savings Account,

in respect of which the claimant is entitled to relief from income tax under [⁷Chapter 3 of Part 6 of ITTOIA], or which is taxed only in accordance with regulation 23 of the Individual Savings Account Regulations 1998.

The whole amount, unless it is interest under a personal equity plan to which regulation 17A(2) of the Personal Equity Plan Regulations 1989 applies. Interest to which that paragraph applies is disregarded only to the extent that it does not exceed the annual limit of £180 mentioned in that regulation.

2. [⁷.....].

3. [⁷Any interest payable under a certified SAYE savings arrangement for the purposes of Chapter 4 of Part 6 of ITTOIA.]

4. Any winnings from betting, including pool betting, or lotteries or games with prizes.

The whole amount.

5. Any interest on a payment of £10,000 made by the Secretary of State to a person who was held prisoner by the Japanese during the Second World War or to the spouse of such a person, if the payment is held in a distinct account and no payment (other than interest) has been added to the account.

The whole amount of the interest.

6. Any interest on a payment made to the claimant by, or on behalf of a government of a country outside the United Kingdom, either from its own resources or with contributions from any other organisation, by way of compensation for a victim of National Socialism if the payment is held in a distinct account and no payment (other than interest) has been added to the account.

Here a reference to a victim of National Socialism is a reference to a

person who was required to work as a slave or a forced labourer for National Socialists or their sympathisers during the Second World War, or suffered property loss, or suffered injury or is the parent of a child who died, at the hands of National Socialists or their sympathisers during the Second World War.

The whole amount of the interest.

7. Any monies paid to the claimant by a bank or building society as compensation in respect of an unclaimed account held by a Holocaust victim and which vested in the Custodian of Enemy Property under section 7 of the Trading with the Enemy Act 1939 and treated as exempt from income tax by [⁸ section 756A of ITTOIA].

The amount [⁸ of interest exempted from income tax under section 756A of ITTOIA].

8. Any interest, or payment [⁷....], which is disregarded for income tax purposes by virtue of -

[⁷(a) section 751 of ITTOIA (interest on damages for personal injury), or]

(b) [⁷section 731 of ITTOIA (periodical payments of personal injury damages)]

The amount so disregarded.

[¹9]. Annuity payments under an award of compensation made under the Criminal Injuries Compensation Scheme (within the meaning of [⁷section 732(3) of ITTOIA]).

The amount of any payment which is treated as not being income of the claimant or his partner by virtue of [⁷section 731 of ITTOIA].

[¹10]. A payment under a life annuity.

The amount of interest eligible for relief under section 353 of the Taxes Act by virtue of section 365 of that Act.

[¹11]. Any interest, or payment in respect of interest, which is compensation to a person who is under the age of 18 years for the death of one or both of his parents.

The whole of the interest or payment.

[²12. A purchased life annuity to which [⁷Chapter 7 of Part 4 of ITTOIA] applies.

[⁷The amount exempted under section 717 of ITTOIA as calculated under section 719 of that Act].

[⁷13. Any payments which are exempt from income tax by virtue of

(a) section 725 of ITTOIA (annual payments under immediate needs annuities), or

(b) section 735 of ITTOIA (health and employment insurance payments)

The whole amount.]

[¹⁶ 14. Any income arising from or payment made in respect of a Saving Gateway account.

The whole amount]

Table 5 Payments in connection with very severe disablement, Creutzfeldt-Jakob disease and haemophilia

1. Description of income to be disregarded

2. *Applicable period*

1. A trust payment made to -

(a) a diagnosed person;

(b) the diagnosed person's partner; or

(c) the person who was his partner at the date of his death.

The period beginning on the date on which the trust payment is made and ending with the death of the person to whom the payment is made.

2. A trust payment made to a parent of a deceased diagnosed person, or a person acting in the place of his parent.

The period beginning on the date on which the trust payment is made and ending two years after that date.

3. The amount of any payment out of the estate of a person to whom a trust payment has been made, which is made to the person who was the diagnosed person's partner at the date of his death.

The period beginning on the date on which the payment is made and ending on the date on which that person dies.

4. The amount of any payment out of the estate of a person to whom a trust payment has been made, which is made to a parent of a deceased diagnosed person, or a person acting in the place of his parent.

The period beginning on the date on which the payment is made and ending two years after that date.

(3) The amounts disregarded under items 3 and 4 in Table 5 shall not exceed the total amount of any trust payments made to the person to whom the trust payment had been made.

(4) In this regulation "diagnosed person" means -

(a) a person who has been diagnosed as suffering from, or who after his death has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;

(b) a person who is suffering or has suffered from haemophilia; or

(c) a person in respect of whom a payment has been made from the 1992 Fund, the Eileen Trust or the Independent Living Funds; and

a reference to a person being a member of the diagnosed person's household at the date of the diagnosed person's death includes a person who would have been a member of his household but for the diagnosed person being in residential accommodation, a residential care home or a nursing home on that date.

(5) In this regulation -

"relevant trust" means -

(a) a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

(b) the Macfarlane Trusts, or

(c) the 1992 Fund, the Eileen Trust or the Independent Living Funds. "residential accommodation", "residential care home" and "nursing home" have the meanings given by regulation 2(1) of the Income Support (General) Regulations 1987; and

"trust payment" means a payment under a relevant trust.

CHAPTER 8

Property income

11. Property income

(1) In these Regulations "property income" means the annual taxable profits arising from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land in the United Kingdom.

Expressions which are used in this paragraph which are defined in [⁷Part 3 of ITTOIA] for the purposes of [⁷that Part] bear the same meaning here as they bear in [⁷that Part].

This paragraph is subject to the following [²qualifications].

[⁷(2) In calculating property income there shall be disregarded any profits—

- (a) treated as nil by section 791 to 794 of ITTOIA (full rent-a-room relief); or
- (b) excluded from profits by section 795 to 798 of ITTOIA (alternative calculation of profits if amount exceeds limit).]

[² (3) [⁷Where a property business (as defined in Part 3 of ITTOIA)] makes a loss to which the relief provisions [⁹ contained in sections 118 (carry forward against subsequent property business profits) and 119 (how relief works) of ITA] apply, then such relief as may arise under [⁹ those sections] shall be applied in calculating property income for the purposes of this regulation.]

CHAPTER 9

Foreign income

12.

(1) In these Regulations "foreign income" means income arising, in the year in question, from [⁷a source outside the United Kingdom or from foreign holdings] which is not -

- (a) employment income;
- (b) trading income; or
- (c) investment income falling within regulation 10(1)(e).

This is subject to the following provisions of this regulation.

[⁷(2) The reference in paragraph (1) to "foreign holdings" shall be construed in accordance with section 571 of ITTOIA.]

(3) In calculating the claimant's foreign income there shall be disregarded -

(a) any payment by way of an annuity or pension payable under any special provision for victims of National Socialist persecution which is made by the law of the Federal Republic of Germany, or any part of it, or of Austria;

[⁸(aa) any monies paid by a bank or building society which are exempted from income tax under section 756A of ITTOIA (interest on certain deposits of victims of National-Socialist persecution).]

[⁷(b) the amount authorised to be deducted by the relevant provision if the claimant's foreign income comprises or includes a pension to which the following provisions of ITEPA apply—

- (i) section 567(5) and 617 (deduction allowed from taxable pension income);
- (ii) section 575(2) (taxable pension income: foreign pensions);
- (iii) section 613(3) (taxable pension income: foreign annuities); and

(iv) section 635(3) (taxable pension income: foreign voluntary annual payments); and]

(c) any amount which would be disregarded for the purposes of income tax by virtue of -

(i) Extra Statutory Concession A10 (lumps sums paid by overseas pension schemes);

(ii) [¹section 681 of ITEPA];

(iii) [⁷section 751(1)(c) of ITTOIA] (interest on damages for personal injuries awarded by a foreign court); [⁷...]

(iv) Extra Statutory Concession A44 (education allowances payable to public officials of overseas territories) [⁷or

(v) section 730 of ITTOIA (foreign maintenance payments)]

[²(4) Where an overseas property business [⁷(within the meaning of Part 3 of ITTOIA)] makes a loss to which the relief provisions [⁹ contained in sections 118 (carry forward against subsequent property business profits) and 119 (how relief works) of ITA], then such relief as may arise under [⁹ those sections] shall be applied in calculating foreign income for the purposes of this regulation.]

CHAPTER 10

Notional Income

13. Introduction

In these Regulations "notional income" means income which, by virtue of regulations 14 to 17 a claimant is treated as having, but which he does not in fact have.

14. Claimants treated for any purpose as having income by virtue of the Income Tax Acts

(1) If an amount is treated for any purpose as the claimant's income under any provision mentioned in paragraph (2), he is to be treated as having that amount of income.

(2) The provisions mentioned in paragraph (1) are -

(a) the following provisions of the Taxes Act -

[⁷.....];

(ix) section 714 (transfers of securities: treatment of deemed sums and reliefs) or 716 (transfer of unrealised interest);

(x) section 730 (transfer of income arising from securities);

[⁹];

[⁹];

[⁹];

(xiv) section 761 (charge to income tax of offshore income gain);
and

[⁹]; and

[⁷(b) the following provisions of ITTOIA—

(i) sections 277 to 283 (amounts treated as receipts: leases);

(ii) Chapter 5 of Part 4 (stock dividends from UK resident companies);

- (iii) Chapter 6 of Part 4 (release of loan to participator in close company);
- (iv) section 427 (charge to tax on profits from deeply discounted securities);
- (v) Chapter 11 of Part 4 (transactions in deposits);
- (vi) sections 624 to 628 (income treated as income of settlor: retained interests);
- (vii) sections 629 to 632 (income treated as income of settlor: unmarried children);
- (viii) section 633 (capital sums paid to settlor by trustees of settlement);
- (ix) section 641 (capital sums paid to settlor by body connected with settlement);
- (x) section 652 (estate income: absolute interests in residue); and
- (xi) sections 654 to 655 (estate income: interests in residue); and

[⁹(ba) the following provisions of ITA—

- (i) Chapter 5 of Part 11 (price differences under repos);
- (ii) Chapter 2 of Part 13 (transfer of assets abroad); and
- (iii) Chapter 3 of Part 13 (transactions in land).]

(c) section 84 and Schedule 15 to the Finance Act 2004 (charge to income tax by reference to enjoyment of property previously owned).]

15. Claimants depriving themselves of income in order to secure entitlement

If a claimant has deprived himself of income for the purpose of securing entitlement to, or increasing the amount of, a tax credit, he is treated as having that income.

16. Claimants to whom income becomes available upon the making of a claim

(1) If income would become available to a claimant upon the making of an application for that income he is treated as having that income.

This is subject to the following qualification.

(2) Paragraph (1) does not apply in relation to income -

(a) under a trust derived from a payment made in consequence of a personal injury;

(b) under a personal pension scheme or retirement annuity contract;

(c) consisting in a sum to which item 8 of Table 4 in regulation 10 refers (compensation for personal injuries which is administered by the Court);
or

(d) consisting in a rehabilitation allowance made under section 2 of the Employment Act.

[³(3) Paragraph (1) also does not apply to income by way of—

(a) a Category A or Category B retirement pension,

(b) a graduated retirement benefit, or

(c) a shared additional pension,

payment of which has been deferred.

Here—

“Category A retirement pension” means a pension to which a person is entitled by virtue of section 44 of the Contributions and Benefits Act or the Northern Ireland Contributions and Benefits Act;

“Category B retirement pension” means a pension to which a person is entitled by virtue of any of sections 48A to 48C of the Contributions and Benefits Act or sections 48A to 48C of the Northern Ireland Contributions and Benefits Act;

“graduated retirement benefit” means a pension payable under—

(a) sections 36 and 37 of the National Insurance Act 1965; or

(b) sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966; and

“shared additional pension” means a pension to which a person is entitled by virtue of section 55A of the Contributions and Benefits Act or section 55A of the Northern Ireland Contributions and Benefits Act.]

17. Claimants providing services to other persons for less than full earnings

(1) If a claimant provides a service for another person and -

(a) the other person makes no payment of earnings or pays less than those paid for a comparable employment (including self-employment) in the area; and

(b) the Board are satisfied that the means of the other person are sufficient for him to pay for, or to pay more for, the service,

the claimant is to be treated as having such an amount of employment income, or in the case of a service provided in the course of a trade or business, such an amount of trading income as is reasonable for the employment of the claimant to provide the service.

This is subject to the following qualification.

(2) Paragraph (1) does not apply where -

(a) the claimant is a volunteer or is engaged to provide the service by a charitable or voluntary organisation and the Board are satisfied that it is reasonable for the claimant to provide the service free of charge; or

(b) the service is provided in connection with the claimant's participation in an employment or training programme -

(i) in Great Britain in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations 1996 other than where it is provided in connection with the claimant's participation in the Intensive Activity period specified in regulation 75(1)(a)(iv) of those Regulations; or

(ii) in Northern Ireland in accordance with regulation 19(1)(p) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996 other than where it is provided in connection with the claimant's participation in the Preparation for Employment Programme specified in regulation 75(1)(a)(v) of those Regulations.

CHAPTER 11

Miscellaneous income

18. *Miscellaneous income*

In these Regulations "miscellaneous income" means income which does not fall within any other provision of these Regulations and which is subject to income tax under [7Part 5 of ITTOIA].

PART 3

Sums disregarded in the calculation of income

19. General disregards in the calculation of income

(1) For the purposes of regulation 3 -

(a) the sums specified in Table 6 are disregarded in the calculation of income;

(b) the sums specified in column 1 of Table 7 are disregarded in the calculation of income if the condition in the corresponding entry in column 2 of that Table is satisfied; and

(c) the sums specified in column 1 of Table 8 are disregarded in the calculation of income to the extent specified in the corresponding entry in column 2 of that Table.

(2) In this regulation -

"the JSA Regulations" means the Jobseeker's Allowance Regulations 1996; and

"the JSA (NI) Regulations" means the Jobseeker's Allowance (Northern Ireland) Regulations 1996.

Table 6 Sums disregarded in the calculation of income

1. Any payment of an employment credit under a scheme under section 2(2) of the Employment Act known as "New Deal 50 plus" or the corresponding scheme under section 1 of the Employment and Training Act (Northern Ireland) 1950.

2. Any payment made -

(a) under section 15 of the Disabled Persons (Employment) Act 1944 or section 15 of the Disabled Persons (Employment) Act (Northern Ireland) 1945; or

(b) in accordance with arrangements made under section 2 of the Employment Act or section 1 of the Employment and Training Act (Northern Ireland) 1950

to assist disabled persons to obtain or retain employment despite their disability.

3. Any mandatory top-up payment made pursuant to -

(a) section 2 of the Employment Act [³or section 1 of the Employment and Training Act (Northern Ireland 1950)] in respect of the claimant's participation in -

(i) an employment programme specified in regulation 75(1)(a)(ii)(bb) of the JSA Regulations or regulation 75(1)(a)(ii) of the JSA (NI) Regulations (Voluntary Sector Option of the New Deal);

(ii) an employment programme specified in regulation 75(1)(a)(ii)(cc) of the JSA Regulations (Environmental Task Force Option of the New Deal) or regulation 75(1)(a)(iii) of the JSA (NI) Regulations; [¹⁶ ...]

(iia) an employment programme specified in regulation 75(1)(a)(ii)(dd) of the JSA Regulations (Community Task Force);]

(iii) the Intensive Activity Period of the New Deal Pilots for 25 plus specified in regulation 75(1)(a)(iv) of the JSA Regulations or, in Northern Ireland, the Preparation for Employment Programme specified in regulation 75(1)(a)(v) of the JSA (NI) Regulations; [¹⁵ ...]

[¹⁶ (iv) the Backing Young Britain programme pursuant to arrangements made under section 2 of the Employment Act.]

(b) a written arrangement entered into between -

(i) the Secretary of State and the person who has arranged for the claimant's participation in the Intensive Activity Period of the New Deal for 25 plus and which is made in respect of his participation in that Period; or

(ii) the Department for Employment and Learning and the person who has arranged for the claimant's participation in the Preparation for Employment Programme and which is made in respect of the claimant's participation in the Programme

[¹⁵ or

(c) the Steps to Work Programme specified in regulation 75(1)(a)(vi) of the Jobseeker's Allowance Regulations (Northern Ireland 1996.)

[³This item only applies to the extent that the payment is not taxable as a profit of trade, profession or vocation.]

4. Any discretionary payment pursuant to section 2 of the Employment Act, or, in Northern Ireland, section 1(1) of the Employment and Training Act (Northern Ireland) 1950 to meet, or help to meet, special needs in respect of the claimant's participation in the Full-Time Education and Training Option of the New Deal as specified in regulation 75(1)(b)(ii) of the JSA Regulations or of the JSA (NI) Regulations.

5. Any -

(a) education maintenance allowance in accordance with regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc.); or

(b) payment (not within sub-paragraph (a)) in respect of a course of study attended by a child or qualifying young person payable -

(i) in accordance with regulations made under section 518 of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities) or section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992 (provision of financial assistance to students); or

(ii) by virtue of regulations made Article 50, 51 or 55(1) of the Education and Libraries (Northern Ireland) Order 1986 (provisions to assist persons to take advantage of educational facilities).

6. Any payment made by an employment zone contractor payable in respect of the claimant's participation in the employment zone programme by way of -

(a) a training premium;

(b) a discretionary payment, being a fee, grant, loan or otherwise;
or

(c) any arrears of subsistence allowance paid as a lump sum.

7. [³.....]

8. An amount of income equal to any qualifying maintenance payment within section 347B of the Taxes Act.

[¹⁹ **9.** Any payment by way of qualifying care receipts to the extent that those receipts qualify for relief under Chapter 2 of Part 7 of the Income Tax (Trading and Other Income) Act 2005.]

10. Any payment of maintenance, whether under a court order or not, which is made or due to be made by -

(a) the claimant's former partner, or the claimant's partner's former partner; or

(b) the parent of a child or qualifying young person where that child or qualifying young person is a member of the claimant's household except where that parent is the claimant or the claimant's partner.

11. Any payment in respect of a child or qualifying young person who is a member of the claimant's household made -

[² (a) to adopters which is exempt from income tax by virtue of [⁷sections 744 to 746 of ITTOIA;]]

(b) by a local authority in pursuance of paragraph 15(1) of Schedule 1 to the Children Act 1989 (local authority contribution to child's maintenance);

[³(bb) by a local authority by way of special guardianship support services pursuant to regulations under section 14F(1)(b) of the Children Act 1989; or]

(c) by an authority, as defined in Article 2 of the Children (Northern Ireland) Order 1995, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance).

[¹⁸**12.** Any payment in respect of travelling expenses—

(a) in relation to England under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003;

(b) in relation to Wales under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007;

(c) in relation to Scotland, under regulation 3, 5, or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003;

(d) in relation to Northern Ireland, under regulation 5, 6 or 11 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004; or

(e) made by the Secretary of State for Health, the Scottish Ministers, the Welsh Ministers or the Department of Health, Social Services and Public Safety and which is analogous to a payment specified in paragraph (a), (b), (c) or (d).]

13. Any payment made by the Secretary of State or the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.

[² **14.** Any payment under the Community Care (Direct Payments) Act 1996, section 57 of the Health and Social Care Act 2001, section 12B of the Social Work (Scotland) Act 1968, Article 15A of the Health and Personal Social Services (Direct Payments) (Northern Ireland) Order 1996 or section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002.]

[¹**14A.** Any payment made under the “Supporting People” programme—

(a) in England and Wales, under section 93 of the Local Government Act 2000;

(b) in Scotland, under section 91 of the Housing (Scotland) Act 2001; or

(c) in Northern Ireland, under Article 4 of the Housing Support Services (Northern Ireland) Order 2002.]

15. [¹Any payment or a voucher] provided under section 95 or 98 of the Immigration and Asylum Act 1999 for any former asylum-seeker or his dependants.

16. Any payment of a provident benefit by a trade union.

Here -

"provident benefit" has the meaning given in section 467(2) of the Taxes Act; and

"trade union" has the meaning given in section 467(4) of the Taxes Act.

Table 7 Sums disregarded in calculating income if conditions are satisfied

1. Description of payment
2. [³Conditions] that must be satisfied

1. Any payment in respect of any expenses incurred by a claimant who is engaged by a charitable or voluntary organisation or is a volunteer.

The claimant does not receive remuneration or profit from the engagement and is not treated as possessing any employment income under regulation 17 in respect of that engagement.

2. A payment by way of -

- (a) travelling expenses reimbursed to the claimant;
- (b) a living away from home allowance under section 2(2)(d) of the Employment Act, section 2(4)(c) of the Enterprise and New Towns (Scotland) Act 1990 or section 1 of the Employment and Training Act (Northern Ireland) 1950;
- (c) training grant; [¹⁵ ...]
- (d) child care expenses reimbursed to the claimant in respect of his participation in -
 - (i) a New Deal option,
 - (ii) the Intensive Activity Period of the New Deal Pilots for 25 plus, [¹⁴ ...]
 - (iii) the Preparation for Employment Programme [¹⁶ ...]
 - [¹⁴ (iv) the Flexible New Deal specified in regulation 75(1)(a)(v) of the [¹⁶JSA Regulations].]
 - [¹⁶ (v) the Community Task Force specified in regulation 75(1)(a)(ii)(dd) of the JSA Regulations; or]
- [¹⁵ ...]
- (e) child care expenses under the Steps to Work Programme specified in regulation 75(1)(a)(vi) of the [¹⁶ JSA (NI) Regulations]

The claimant -

- (a) *participates in arrangements for training made under -*
 - (i) *section 2 of the Employment Act;*
 - (ii) *section 2 of the Enterprise and New Towns (Scotland) Act 1990; or*
 - (iii) *section 1 of the Employment and Training Act (Northern Ireland) 1950; or*
- (b) *attends a course at an employment rehabilitation centre established under section 2 of the Employment Act.*

[³The payment is not taxable as a profit of a trade, profession or vocation.]

Table 8 Sums partly disregarded in the calculation of income

Type of payment to be disregarded
Limit on, or exception to, the extent of disregard

1. Any discretionary payment made pursuant to section 2 of the Employment Act, or, in Northern Ireland section 1(1) of the Employment and Training Act (Northern Ireland) 1950 to meet, or help meet, the claimant's special needs in undertaking a qualifying course within the meaning of regulation 17A(7) of the JSA Regulations or regulation 17A(7) of the JSA (NI) Regulations.

A payment is not within this item to the extent that it relates to travel expenses incurred as a result of the claimant's attendance on the course if an amount in respect of those expenses has already been disregarded pursuant to regulation 8.

2. Any payment made in respect of a career development loan paid pursuant to section 2 of the Employment Act.

A payment is not within this item to the extent that the loan has been applied for or paid in respect of living expenses for the period of education and training supported by the loan.

3. Any payment made to the claimant or his partner in respect of a person who is not normally a member of the claimant's household but is temporarily in his care, by -

(a) a health authority;

(b) a local authority;

(c) a voluntary organisation;

(d) that person pursuant to section 26(3A) of the National Assistance Act 1948;

(e) a primary care trust established under section 16A of the National Health Service Act 1977.

A payment is only to be disregarded by virtue of this item if [¹

(a)] any profits [⁷.....] arising from the payment mentioned in column 1 are treated as nil by [⁷section 791 to 794 of ITTOIA (full rent-a-room relief)]¹; or

(b) excluded from profits [7] by section 795 to 798 of ITTOIA (alternative calculation of profits if amount exceeds limit).]

4. Any payment made in Northern Ireland to the claimant or his partner in respect of a person who is not normally a member of the claimant's household but is temporarily in his care -

(a) pursuant to Article 36(7) of the Health and Personal Social Services (Northern Ireland) Order 1972 by an authority; a voluntary organisation; or the person concerned, or

(b) by a training school within the meaning of section 137 of the Children and Young Persons Act (Northern Ireland) 1968. In this item "an authority" has the meaning given by Article 2 of the Children (Northern Ireland) Order 1995.

A payment is only to be disregarded by virtue of this item if [1]

(a)] any profits [7].....] arising from the payment mentioned in column 1 are treated as nil by [7] section 791 to 794 of ITTOIA (full rent-a-room relief) [1]; or

(b) excluded from profits [7] by section 795 to 798 of ITTOIA (alternative calculation of profits if amount exceeds limit).]

5. Any payment under an insurance policy taken out to insure against the risk of being unable to maintain the repayments -

(a) on a loan which is secured on the dwelling house which the claimant occupies as his home; or

(b) under a regulated agreement or under a hire-purchase agreement or a conditional sale agreement.

For the purposes of paragraph (b) -

"regulated agreement" has the meaning given in the Consumer Credit Act 1974; and

"hire-purchase agreement" and "conditional sale agreement" have the meanings given in Part 3 of the Hire-Purchase Act 1964.

A payment is only to be disregarded by virtue of this item to the extent that it is used to -

(a) maintain the repayments referred to in column (1); and

(b) meet any amount due by way of premiums on -

(i) that policy; or

(ii) in a case to which paragraph (a) of this item applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home and which is required as a condition of the loan referred to in column (1).

[16]. Any payment in respect of the claimant's attendance at court as a juror or witness.

This item applies only to the extent that the payment is not compensation for loss of earnings or for the loss of payment of social security income.

[17]. Any payment of a sports award except to the extent that it has been made in respect of living expenses.

For the purposes of this item "living expenses" does not include -

(a) the cost of vitamins, minerals or other special dietary supplements intended to enhance the performance of the claimant in the sport in respect of which the award was made; or

(b) accommodation costs incurred as a consequence of living away from home whilst training for, or competing in, the sport in respect of which the award was made.

Jim Fitzpatrick

John Heppell

Two of the Lords Commissioners of Her Majesty's Treasury

30th July 2002

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations define what is income for the purposes of working tax credit and child tax credit under the Tax Credits Act 2002 (c.21).

Regulation 1 provides for the commencement and citation of these Regulations, and regulation 2 for the interpretation of certain terms used in them.

Regulation 3 sets out the steps to be taken to calculate the income of a claimant, or in the case of a joint claim, of the claimants for an award of either of the tax credits payable under Part 1 of the Tax Credits Act 2002 (c.21).

Regulations 4 to 12 set out the extent to which a claimant's employment income, pension income, trading income, social security income, student income, investment income, property income and foreign income are to be taken into account for the purposes of regulation 3.

Regulations 13 to 17 contain a series of provisions which treat a claimant as having income which he does not have.

Regulation 14 provides that if a person is treated as having income for income tax purposes under specified provisions of the Income and Corporation Taxes Act 1988 (c.1) or under paragraph 1 of Schedule 13 to the Finance Act 1996 (c.8).

Regulation 15 provides that a claimant depriving himself of income in order to secure entitlement to or increasing the amount of a tax credit is to be treated as having it.

Regulation 16 provides that a claimant to whom income would become available upon the making of an application for it is to be treated as having that income. It does not apply if the income in question arises under a trust derived from a payment made in consequence of a personal injury, a personal pension scheme or retirement annuity contract, comprises compensation for personal injury which is being administered by a court, or a rehabilitation allowance under section 2 of the Employment and Training Act 1973 (c.50).

Regulation 17(1) treats a claimant who provides a service for another, either without payment or at less than the rate which would be reasonable for comparable employment in the area in question, where the other has the means to pay or to pay more for the service, as having such amount of employment or trading income as would be reasonable for the employment of the claimant to provide the service. The paragraph does not apply where the

recipient of the service is a charity or voluntary organisation. Nor does it apply if the service is provided in connection with participation in an employment or training programme in Great Britain under regulation 19(1)(q) of the Jobseekers Allowance Regulations 1996 (S.I. 1996/207) unless it is provided in connection with the Intensive Activity period specified in regulation 75(1)(a)(iv) of those Regulations, or in corresponding circumstances in Northern Ireland.

Regulation 18 provides that income which is not otherwise dealt with in the Regulations, but which is chargeable to income tax under Case VI of Schedule D for the purposes of income tax, is to be taken into account in calculating the claimant's income under regulation 3.

Regulation 19 provides a series of miscellaneous disregards in the calculation of income under regulation 3.

A regulatory impact assessment in respect of the Tax Credits Act 2002 has been prepared and placed in the Library of each House of Parliament. A copy may be found on the Inland Revenue website (www.inlandrevenue.gov.uk).

