

SCHEDULE 1

Regulations 13 and 14

Applicable Amounts

Regulations 13(a) and (b) and 14(a) to (c)

Part I

Personal Allowances

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of regulations 13(a) and 14(a) and (b)—

Column (1) Person or couple	Column (2) Amount
(1) Single person aged—	(1)
(a) (a) less than 25	(a) (a) £38·90;
(b) (b) not less than 25	(b) (b) £49·15.
(2) Lone parent aged—	(2)
(a) (a) less than 18	(a) (a) £38·90;
(b) (b) not less than 18	(b) (b) £49·15;
(3) Couple—	(3)
(a) (a) where both members are aged less than 18	(a) (a) £58·70;
(b) (b) where at least one member is aged not less than 18	(b) (b) £77·15.

2. The amounts specified in column (2) below in respect of each person specified in column (1) shall be the amounts specified for the purposes of regulations 13(b) and 14(c)—

Column (1) Child or Young Person	Column (2) Amount
Person aged—	
(a) (a) less than 11	(a) (a) £16·90;
(b) (b) not less than 11 but less than 16	(b) (b) £24·75;
(c) (c) not less than 16 but less than 19	(c) (c) £29·60.

Regulations 13(c) and 14(d)

Part II

Family Premium

3. The amount for the purposes of regulations 13(c) and 14(d) in respect of a family of which at least one member is a child or young person shall be £10·55.

Regulations 13(d) and 14(e)

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## Part III

### Premiums

4. Except as provided in paragraph 5, the premiums specified in Part IV shall for the purposes of regulations 13(d) and 14(e) be applicable to a relevant person who satisfies the condition specified in paragraphs 7 to 15 in respect of that premium.

5. Subject to paragraph 6, where a relevant person satisfies the condition in this Part in respect of more than one premium, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.

6.—(1) The severe disability premium to which paragraph 13 applies may be applicable in addition to any other premium which may apply under this Schedule.

(2) The disabled child premium and the carer premium to which paragraphs 14 and 15 respectively apply may be applicable in addition to any other premium which may apply under this Schedule.

#### **Lone parent premium**

7. The condition is that the relevant person is a lone parent.

#### **Pensioner premium for persons under 75**

8. The condition is that the relevant person—

- (a) is a single person or lone parent aged not less than 60 but less than 75; or
- (b) has a partner and is, or his partner is, aged not less than 60 but less than 75.

#### **Pensioner premium for persons 75 and over**

9. The condition is that the relevant person—

- (a) is a single person or lone parent aged not less than 75 but less than 80; or
- (b) has a partner and is, or his partner is, aged not less than 75 but less than 80.

#### **Higher pensioner premium**

10.—(1) Where the relevant person is a single person or a lone parent, the condition is that—

- (a) he is aged not less than 80; or
- (b) he is aged less than 80 but not less than 60, and the additional condition specified in paragraph 12(1)(a) is satisfied.

(2) Where the relevant person has a partner, the condition is that—

- (a) he or his partner is aged not less than 80; or
- (b) he or his partner is aged less than 80 but not less than 60 and the additional condition specified in paragraph 12(1)(a) is satisfied.

#### **Disability premium**

11. The condition is that—

- (a) where the relevant person is a single person or a lone parent, he is aged less than 60 and the additional condition specified in paragraph 12 is satisfied; or
- (b) where the relevant person has a partner, either—

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- (i) the relevant person is aged less than 60 and the additional condition specified in paragraph 12(1)(a) or (b) is satisfied by him, or
- (ii) his partner is aged less than 60 and the additional condition specified in paragraph 12(1)(a) is satisfied by his partner.

#### **Additional condition for the higher pensioner and disability premiums**

12.—(1) Subject to sub-paragraph (2) and paragraphs 16 and 17, the additional condition referred to in paragraphs 10 and 11 is that either—

- (a) the relevant person, or as the case may be, his partner—
  - (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, disability working allowance, mobility supplement, long-term incapacity benefit under Part III of the 1992 Act or severe disablement allowance under Part II of that Act but in the case of long-term incapacity benefit or severe disablement allowance only where it is paid in respect of him, or
  - (ii) was in receipt of long-term incapacity benefit under Part II of the 1992 Act when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and, if the invalidity pension was payable to his partner, the partner is still a member of the family, or
  - (iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the 1992 Act, or otherwise abated as a consequence of the relevant person or his partner being a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(2) of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(1),
  - (iv) is provided by the Department of Health and Social Services with an invalid carriage or other vehicle under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(2) or receives payments by way of grant from the Department of Health and Social Services under Article 30(3) of that Order, or
  - (v) has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a Health and Social Services Board; or
- (b) the relevant person—
  - (i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part XIIA of the 1992 Act(3) (incapacity for work), and
  - (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
- (c) in the case of a relevant person who is terminally ill within the meaning of Section 30B(4) of the 1992 Act(4), 196 days; and
- (d) in any other case, 364 days.

(2) For the purposes of sub-paragraph (1)(a)(v), a person who has ceased to be registered as blind on regaining his eyesight shall nevertheless be treated as blind and as satisfying the condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(1) S.R. 1975 No. 109; regulation 2(2) was substituted by regulation 2 of S.R. 1992 No. 453

(2) S.I. 1972/1265 (N.I. 14); to which there are no relevant amendments

(3) Part XIIA was inserted by Articles 7 and 8(1) of S.I. 1994/1898 (N.I. 12)

(4) Section 30B was inserted by Article 4(1) of S.R. 1994/1898 (N.I. 12)

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(3) For the purposes of sub-paragraph (1)(b), once the higher pensioner premium or the disability premium is applicable to a person by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable for work or to be incapable of work, he shall, on again becoming so incapable of work, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a person by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945<sup>(5)</sup> or section 3 of the Employment and Training Act (Northern Ireland) 1950<sup>(6)</sup> or for any period during which he is in receipt of a training allowance.

(5) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods shall be treated as one continuous period.

(6) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of Section 30B(4)(a) of the 1992 Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.

### Severe disability premium

13.—(1) Subject to paragraphs 16 and 17, the condition is that the relevant person is a severely disabled person.

(2) For the purposes of sub-paragraph (1), a relevant person shall be treated as a severely disabled person if, and only if—

- (a) in the case of a single person, a lone parent or a relevant person who is treated as having no partner in consequence of sub-paragraph (3)—
  - (i) he is in receipt of attendance allowance or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 72 of the 1992 Act, and
  - (ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing, and
  - (iii) an invalid care allowance under section 70 of the 1992 Act is not in payment to anyone in respect of caring for him;
- (b) in the case of a relevant person who has a partner—
  - (i) the relevant person is in receipt of attendance allowance or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 72 of the 1992 Act,
  - (ii) and his partner is also in receipt of such allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance, and
  - (iii) subject to sub-paragraph (4), the relevant person has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing, and either an invalid care allowance is payable to someone in respect of caring for only one

<sup>(5)</sup> 1945 c. 6 (N.I.); section 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 c. 4 (N.I.) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

<sup>(6)</sup> S.I. 1950 c. 29 (N.I.); section 3 was amended by Article 35 and Schedule 4 to the Industrial Training (Northern Ireland) Order 1984 (S.I. 1984/1159 (N.I. 9))

of a couple or, in the case of a polygamous marriage for one or more but not all the partners of the marriage, or else such an allowance is not in payment to anyone in respect of caring for either member of a couple or any partner of a polygamous marriage.

(3) Where a relevant person has a partner who does not satisfy the conditions in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 12(1)(a)(v) and (2), that partner will be treated for the purposes of sub-paragraph (2) as if he were not a partner of the relevant person.

(4) For the purposes of sub-paragraph (2)(b) a person shall be treated as being in receipt of—

- (a) attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) invalid care allowance if he would, but for the person for whom he was caring being a patient for a period exceeding 28 days, be so in receipt.

(5) For the purposes of sub-paragraphs (2)(a)(ii) and (2)(b)(iii) no account shall be taken of either—

- (a) a person receiving attendance allowance or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 72 of the 1992 Act, or
- (b) a person who is blind or is treated as blind within the meaning of paragraph 12(1)(a)(v) and (2).

(6) For the purposes of sub-paragraph (2)(a)(iii) and (b), no account shall be taken of an award of invalid care allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is made.

### **Disabled child premium**

14.—(1) Subject to paragraphs 16 and 17, the condition is that a child or young person for whom the relevant person or a partner of his is responsible and who is a member of the relevant person's household—

- (a) has no capital or capital which, if determined in accordance with Chapter VI of Part IV (capital) in like manner as for the relevant person except as provided in regulation 31(5) (modifications in respect of child and young person), would not exceed £5,000; and
- (b) is in receipt of disability living allowance or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
- (c) is blind or treated as blind within the meaning of paragraph 12(1)(a)(v) or (2).

(2) In paragraph (1), “patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(2) of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(7).

### **Carer premium**

15.—(1) Subject to paragraphs 16 and 17, the condition is that the relevant person or his partner is, or both of them are, in receipt of invalid care allowance under section 70 of the 1992 Act.

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(7) [S.R. 1975 No. 109](#); regulation 2(2) was substituted by regulation 2 of [S.R. 1992 No. 453](#)

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(2) If a relevant person or his partner, or both of them, would be in receipt of invalid care allowance but for the provisions of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979<sup>(8)</sup>, where—

- (a) the claim for that allowance was made after 31st October 1992, and
- (b) the person or persons in respect of whose care the allowance has been claimed remains or remain in receipt of attendance allowance or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 72 of the 1992 Act,

he or his partner, or both of them, as the case may be, shall be treated for the purposes of sub-paragraph (1) as being in receipt of invalid care allowance.

(3) Where the relevant person or his partner ceases to be in receipt of, or ceases to be treated as being in receipt of, invalid care allowance, the condition mentioned in sub-paragraph (1) shall be treated as satisfied for a period of 8 weeks from the date on which he or his partner, as the case may be, was last in receipt of, or was last treated as being in receipt of, invalid care allowance.

#### Persons in receipt of concessionary payments

16. For the purposes of determining whether a premium is applicable to a person under paragraphs 12 to 15, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

#### Persons in receipt of benefit

17. For the purposes of this Part, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

Regulations 13(d) and 14(e)

## Part IV

### Amounts of premiums specified in Part III

18. —

(1) Lone parent premium	(1) £11·50.
(2) Pensioner premium for persons aged under 75—	(2)
(a) (a) where the relevant person satisfies the condition in paragraph 8(a)	(a) (a) £19·65;
(b) (b) where the relevant person satisfies the condition in paragraph 8(b)	(b) (b) £29·65.
(3) Pensioner premium for persons aged 75 and over—	(3)

<sup>(8)</sup> S.R. 1979 No. 242; the relevant amending regulations are S.R. 1980 No. 451, S.R. 1983 No. 36 and S.R. 1984 No. 317

(a) (a) where the relevant person satisfies the condition in paragraph 9(a)	(a) (a) £21·85;
(b) (b) where the relevant person satisfies the condition in paragraph 9(b)	(b) (b) £32·75.
(4) Higher pensioner premium—	(4)
(a) (a) where the relevant person satisfies the condition in paragraph 10(1)(a) or (b)	(a) (a) £26·55;
(b) (b) where the relevant person satisfies the condition in paragraph 10(2)(a) or (b)	(b) (b) £38·00.
(5) Disability premium—	(5)
(a) (a) where the relevant person satisfies the condition in paragraph 11(a)	(a) (a) £20·95;
(b) (b) where the relevant person satisfies the condition in paragraph 11(b)	(b) (b) £29·90.
(6) Severe disability premium—	(6)
(a) (a) where the relevant person satisfies the condition in paragraph 13(2)(a)	(a) (a) £37·15;
(b) (b) where the relevant person satisfies the condition in paragraph 13(2)(b)—	(b) (b)
(i) in a case where there is someone in receipt of an invalid care allowance or if he or any partner satisfies that condition only by virtue of paragraph 13(4)	(i) £37·15
(ii) in a case where there is no one in receipt of such an allowance	(ii) £74·30
(7) Disabled child premium	(7) £20·95 for each child or young person for whom the condition specified in paragraph 14 is satisfied.
(8) Carer premium	(8) £13·35 for each person who satisfies the condition specified in paragraph 15.

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## SCHEDULE 2

Regulations 24(2) 26(2) and 31(3)

## Sums to be disregarded in the determination of earnings

1. In the case of a relevant person who has been engaged in remunerative work as an employed earner or, had the employment been in Northern Ireland, would have been so engaged—

(a) where—

(i) the employment has been terminated because of retirement; and

(ii) on retirement he is entitled to a retirement pension under the 1992 Act, or is not so entitled solely because of his failure to satisfy the contribution conditions, any earnings in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

(b) where before the date of the application the employment has been terminated otherwise than because of retirement, any earnings in respect of that employment except earnings to which regulation 23(1)(b) to (e), (g) and (h) (earnings of employed earners) applies;

(c) where at the date of application—

(i) the employment has not been terminated, but

(ii) the relevant person is not engaged in remunerative work, any earnings in respect of that employment except earnings to which regulation 23(1)(d), (e), (i) and (k) and sub-paragraph (j) insofar as it relates to regulation 23(1)(i) applies.

2. In the case of a relevant person who before the date of application—

(a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Northern Ireland, would have been so engaged had the employment been in Northern Ireland, and

(b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings in respect of that employment except—

(i) where that employment has been terminated, earnings to which regulation 23(1)(e) applies,

(ii) where that employment has not been terminated, earnings to which regulation 23(1)(e), (i) and (k) and sub-paragraph (j) insofar as it relates to regulation 23(1)(i) applies.

3.—(1) In a case to which this paragraph applies and paragraph 4 does not apply, £15; but notwithstanding regulation 16 (determination of income and capital of members of a relevant person's family and of a polygamous marriage) if this paragraph applies to a relevant person it shall not apply to his partner except where, and to the extent that, the earnings of the relevant person which are to be disregarded under this paragraph are less than £15.

(2) This paragraph applies where the relevant person's applicable amount includes an amount by way of the disability premium or severe disability premium under Schedule 1 (applicable amounts).

(3) This paragraph applies where—

(a) the relevant person is a member of a couple and his applicable amount would, but for the higher pensioner premium under Schedule 1 being applicable, include an amount by way of the disability premium under that Schedule; and

(b) he or his partner is under the age of 60 and at least one is engaged in employment.

(4) This paragraph applies where—



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- (a) the relevant person's applicable amount includes an amount by way of the higher pensioner premium under Schedule 1; and
  - (b) the relevant person or, if he is a member of a couple, either he or his partner has attained the age of 60; and
  - (c) immediately before attaining that age he or, as the case may be, he or his partner was engaged in employment and the relevant person would have been entitled by virtue of sub-paragraph (2) or (3) to a disregard of £15; and
  - (d) he or, if he is a member of a couple, he or his partner has continued in employment.
- (5) This paragraph applies where—
- (a) the relevant person is a member of a couple and his applicable amount would include an amount by way of the disability premium under Schedule 1, but for—
    - (i) the pensioner premium for persons aged 75 and over under that Schedule being applicable, or
    - (ii) the higher pensioner premium under that Schedule being applicable; and
  - (b) he or his partner has attained the age of 75 but is under the age of 80 and the other is under the age 60 and at least one member of the couple is engaged in employment.
- (6) This paragraph applies where—
- (a) the relevant person is a member of a couple and he or his partner has attained the age of 75 but is under the age of 80 and the other has attained the age of 60; and
  - (b) immediately before the younger member attained that age either member was engaged in employment and the relevant person would have been entitled by virtue of sub-paragraph (5) to a disregard of £15; and
  - (c) either he or his partner has continued in employment.
- (7) For the purposes of this paragraph, no account shall be taken of any period not exceeding 8 consecutive weeks occurring on or after the date on which the relevant person or, if he is a member of a couple, he or his partner attained the age of 60 during which either or both ceased to be engaged in employment.
4. If an amount by way of a lone parent premium under Schedule 1 is or, but for any pensioner premium, higher pensioner premium or disability premium being applicable to him, would be included in the determination of the relevant person's applicable amount, £25.
- 5.—(1) In a case to which neither paragraph 3 nor 4 applies to the relevant person, and subject to sub-paragraph (2), where the relevant person's applicable amount includes an amount by way of the carer premium under Schedule 1 (applicable amounts), £15 of the earnings of the person who is, or at any time in the preceding 8 weeks was, in receipt of invalid care allowance or treated in accordance with paragraph 15(2) of that Schedule as being in receipt of invalid care allowance.
- (2) Where the carer premium is awarded in respect of the relevant person and of any partner of his, their earnings shall, for the purposes of this paragraph, be aggregated, but the amount of earnings to be disregarded in accordance with sub-paragraph (1) shall not exceed £15 of the aggregated amount.
6. Where the carer premium is awarded in respect of a relevant person who is a member of a couple and whose earnings are less than £15, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—
- (a) specified in paragraph 8(1), so much of the other member's earnings as would not, when aggregated with the amount disregarded under paragraph 5, exceed £15;

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- (b) other than an employment specified in paragraph 8(1), so much of the other member's earnings from such other employment up to £10 as would not, when aggregated with the amount disregarded under paragraph 5, exceed £15.

7. In a case where paragraphs 3, 5, 6 and 8 do not apply to the relevant person and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding regulation 16 (determination of income and capital of members of relevant person's family and of a polygamous marriage), if this paragraph applies to a relevant person it shall not apply to his partner except where, and to the extent that, the earnings of the relevant person which are to be disregarded under this paragraph are less than £10.

8.—(1) In a case to which none of paragraphs 3, 4, 5 or 6 applies to the relevant person, £15 or earnings derived from one or more employments as—

- (a) a part-time fireman in a fire brigade maintained in pursuance of the Fire Services (Northern Ireland) Order 1984(9);
- (b) an auxiliary coastguard in respect of coast rescue activities;
- (c) a person engaged part-time in the manning or launching of a life-boat;
- (d) a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979(10);
- (e) a person in the army whose service is restricted to part-time service in Northern Ireland pursuant to section 1 of the Army Act 1992(11), regulations made under section 2 of the Armed Forces Act 1966(12), or the terms of his commission;
- (f) a part-time member of the Royal Ulster Constabulary Reserve appointed under section 9(1) of the Police Act (Northern Ireland) 1970(13),

but, notwithstanding regulation 16 (determination of income and capital of members of relevant person's family and of a polygamous marriage), if this paragraph applies to a relevant person it shall not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the relevant person's partner is engaged in employment—

- (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the relevant person's earnings disregarded under this paragraph exceed £15;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not, in aggregate with the applicant's earnings disregarded under this paragraph, exceed £15.

9. Where the relevant person is engaged in one or more employments specified in paragraph 8(1), but his earnings derived from such employments are less than £15 in any week and he is also engaged in any other employment so much of his earnings from that other employment, up to £5 if he is a single person, or up to 10 if he has a partner, as would not, in aggregate with the amount of his earnings disregarded under paragraph 8, exceed £15.

10. In a case to which none of the paragraphs 3 to 9 applies, £5.

11. Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 3 had the relevant person's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

(9) S.I. 1984/1821 (N.I. 11); to which there are no relevant amendments

(10) S.I. 1979/591; the relevant amending instrument is S.I. 1980/1975

(11) 1992 c. 39; to which there are no relevant amendments

(12) 1966 c. 45; section 2 was amended by section 2 of the Army Act 1992

(13) 1970 c. 9 (N.I.); to which there are relevant amendments

12. Where a relevant person is in receipt of income support or an income-based jobseeker's allowance, his earnings.

13. Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

14. Where a payment of earnings is made in a currency other than sterling, any banking charges or commission payable in converting that payment into sterling.

15. Any earnings of a child or young person except earnings to which paragraph 16 applies.

16. In the case of earnings of a child or young person who has ceased full-time education for the purposes of section 138 of the 1992 Act (meaning of child) and who is engaged in remunerative work—

- (a) if an amount by way of a disabled child premium under Schedule 1 is included in the determination of his applicable amount, £15;
- (b) in any other case, £5.

17. In this Schedule "part-time employment" means employment in which the person is engaged on average for less than 16 hours a week.

### SCHEDULE 3

Regulation 28(2)

#### Sums to be disregarded in the determination of income other than earnings

1. Any amount attributable to tax on income which is to be taken into account under regulation 28 (determination of income other than earnings).

2. Any payment in respect of any expenses incurred by a relevant person who is—

- (a) engaged by a charitable or voluntary organisation, or
- (b) a volunteer,

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 30(4) (notional income).

3. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

4. Where a relevant person is in receipt of income support or an income-based jobseeker's allowance, the whole of his income.

5. Any disability living allowance.

6. Any concessionary payment made to compensate for the non-payment of—

- (a) any payment specified in paragraph 5 or 8;
- (b) income support;
- (c) or an income-based jobseeker's allowance.

7. Any mobility supplement under Article 26A of the Naval, Military and Air Forces, etc, (Disablement and Death) Service Pensions Order 1983(14) (including such a supplement by virtue

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(14) S.I. 1983/883; Article 26A was inserted by S.I. 1983/1116 and amended by S.I. 1983/1521, S.I. 1986/592, S.I. 1990/1308 and S.I. 1991/766

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of any other scheme or order) or under Article 25A of the Personal Injuries (Civilians) Scheme 1983(15) or any payment intended to compensate for the non-payment of such a supplement.

8. Any attendance allowance.

9. Any payment to the relevant person as holder of the Victoria Cross or of the George Cross or any analogous payment.

10. Any sum in respect of a course of study attended by a child or young person payable by virtue of Regulations made under Article 50, 51 or 55(1) of the Education and Libraries (Northern Ireland) Order 1986(16) (provisions to assist persons to take advantage of educational facilities).

11. In the case of a relevant person participating in provision or arrangements for training under sections 2 and 3 of the Disabled Persons (Employment) Act (Northern Ireland) 1945(17) or section 1(1) of the Employment and Training Act (Northern Ireland) 1950(18), or attending a course at an employment rehabilitation unit established under any of those sections—

(a) any travelling expenses reimbursed to the relevant person;

(b) if he receives any lodging allowance under section 4 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or section 3(3) of the Employment and Training Act (Northern Ireland) 1950, such amount, if any, of that allowance expressed to be a living away from home allowance;

(c) any training premium under the Employment and Training Act (Northern Ireland) 1950,

but this paragraph, except insofar as it relates to a payment under sub-paragraph (a), (b) or (c), does not apply to any part of any allowance under section 4 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or section 3(3) of the Employment and Training Act (Northern Ireland) 1950.

12.—(1) Except where sub-paragraph (2) applies and subject to sub-paragraph (3) and paragraphs 33 and 34, £20 of any charitable payment or of any voluntary payment made or due to be made at regular intervals.

(2) Subject to sub-paragraph (3) and paragraph 34, any charitable payment or voluntary payment made or due to be made at regular intervals which is intended and used for an item other than food, ordinary clothing or footwear, household fuel, eligible rates or rent to which regulation 9 or 10 of the Housing Benefit (General) Regulations (Northern Ireland) 1987(19) refers, or both, of a single relevant person or, as the case may be, of the relevant person or any other member of his family.

(3) Sub-paragraphs (1) and (2) shall not apply to a maintenance payment which is made or due to be made by—

(a) a former partner of the relevant person, or a former partner of any member of the relevant person's family; or

(b) the parent of a child or young person where that child or young person is a member of the relevant person's family.

(4) For the purposes of sub-paragraph (1) where a number of charitable or voluntary payments fall to be taken into account in any one week they shall be treated as though they were one such payment.

(5) In sub-paragraph (2)—

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(15) S.I. 1983/686; Article 25A was inserted by S.I. 1983/1164 and amended by S.I. 1983/1540, S.I. 1986/628 and S.I. 1991/708

(16) S.I. 1986/594 (N.I. 3); to which there are no relevant amendments

(17) 1945 c. 6 (N.I.); sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 c. 4 (N.I.) and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

(18) 1950 c. 29 (N.I.); section 1(1) was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

(19) S.R. 1987 No. 461; the relevant amending regulations are S.R. 1988 No. 424, S.R. 1990 No. 297, S.R. 1990 No. 442, S.R. 1993 No. 145, S.R. 1993 No. 149 and S.R. 1996 No. 111

- (a) “rates or rents” means eligible rates or rents to which regulations 9 or 10, as the case may be, of the Housing Benefit (General) Regulations (Northern Ireland) 1987 refer, less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions) of those regulations;
  - (b) “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.
13. Any war disablement pension or war widow’s pension or a payment made to compensate for the non-payment of such a pension.
14. Any pension paid by the Government of a country outside the United Kingdom and which either—
- (a) is analogous to a war disablement pension;
  - (b) is analogous to a war widow’s pension.
15. Subject to paragraph 33, £10 of any of the following, namely—
- (a) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
  - (b) loan treated as income by virtue of regulation 45.
- 16.—(1) Any income derived from capital to which the relevant person is, or is treated under regulation 38 (capital jointly held) as, beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 1, 2, 3, 5, 8, 14, 25 or 26 of Schedule 4.
- (2) Income derived from capital disregarded under paragraphs 3(a), 5, 25 or 26 of Schedule 4 but only to the extent of any mortgage payments or payment of rates made in respect of the dwelling or buildings in the period during which that income accrued.
17. Where a relevant person receives income under an annuity purchased with a loan which satisfies the following conditions—
- (a) that the loan was made as part of a scheme under which not less than 90 per cent of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as ‘the annuitants’) who include the person to whom the loan was made;
  - (b) that the interest on the loan is payable by the person to whom it was made or by one of the annuitants;
  - (c) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
  - (d) that the loan was secured on a dwelling in Northern Ireland and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling; and
  - (e) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid,
- the amount, calculated on a weekly basis, equal to—
- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988(20) (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal

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(20) 1988 c. 1; section 369(1A) was inserted by section 81(3) of the Finance Act 1994 (c. 9)

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to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;

- (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

18. Where the relevant person makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating under regulations made in exercise of the powers conferred by Articles 50 and 51 of the Education and Libraries (Northern Ireland) Order 1986<sup>(21)</sup>, that student's award under those Articles, an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

19.—(1) Where the relevant person is the parent of a student aged under 25 in advanced education who either—

- (a) is not in receipt of any award or grant in respect of that education; or  
(b) is in receipt of an award under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986 (awards made at the discretion of boards),

and the relevant person makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 18, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount shall be equal to—

- (a) the weekly amount of the payments; or  
(b) the amount by way of a personal allowance for a single person under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

20. Any payment made to the relevant person by a child or young person or a non-dependant.

21. Where the relevant person occupies a dwelling as his only or main residence which is also occupied by a person other than one to whom paragraph 20 or 41 refers and there is a contractual liability to make payments to the relevant person in respect of the occupation of the dwelling by that person or a member of his family—

- (a) £4 of the aggregate of any payments made in any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family; and  
(b) a further £9·25, where the aggregate of any such payments is inclusive of an amount for heating.

22. Any income in kind.

23. Any income which is payable in a country outside the United Kingdom for such a period during which there is a prohibition against the transfer to the United Kingdom of that income.

24.—(1) Any payment made to the relevant person in respect of a child or young person who is a member of his family—

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(21) S.I. 1986/594 (N.I. 3); to which there are no relevant amendments

- (a) in accordance with a scheme provided by the Department of Health and Social Services under Article 59(4) of the Adoption (Northern Ireland) Order 1987(22) (schemes for payments of allowances to adopters);
- (b) in accordance with regulations made by the Secretary of State under section 57(A) of the Adoption Act 1976(23) or a scheme approved by the Secretary of State under section 51(5) of the Adoption (Scotland) Act 1978(24) (schemes for payments of allowances to adopters);
- (c) which is a payment made by a local authority in pursuance of paragraph 15(1) of Schedule 1 to the Children Act 1989(25) (local authority contribution to child's maintenance),

to the extent specified in sub-paragraph (2).

(2) In the case of a child or young person—

- (a) to whom regulation 31(2) applies (capital in excess of £5,000), the whole payment;
- (b) to whom that regulation does not apply, so much of the weekly amount of the payment as exceeds the amount included under Schedule 1 in the determination of the relevant person's applicable amount for that child or young person by way of the personal allowance and disabled child premium, if any.

25. Any payment made by a voluntary organisation under Article 75 of the Children (Northern Ireland) Order 1995(26) to the relevant person with whom a person is placed by virtue of arrangements made under that Article.

26. Any payment made by a Health and Social Services Board, training school or voluntary organisation to the relevant person in respect of a person who is not normally a member of the relevant person's household but is temporarily in his care.

27. Any payment made by a Health and Social Services Board under Article 18, 35 or 36 of the Children (Northern Ireland) Order 1995 (Health and Social Services Boards' duty to promote the welfare of children or powers to grant financial assistance to persons in, or formerly in, their care).

28. Any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on a loan for the purchase of the dwelling which the relevant person occupies as his only or main residence and secured on that dwelling to the extent that it does not exceed the amount calculated, on a weekly basis, of that repayment.

29. Any payment of income which by virtue of regulation 34 (income treated as capital) is to be treated as capital.

30. Any social fund payment.

31. Any payment under section 144 of the 1992 Act (entitlement of pensioners to Christmas bonus).

32. Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

33. The total of a relevant person's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under regulation 16(3) (determination of income and capital of members of relevant person's family and of a polygamous marriage) to be disregarded under paragraphs 12 and 15 shall in no case exceed £20 per week.

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(22) S.I. 1987/2203 (N.I. 22); to which there are no relevant amendments

(23) 1976 c. 36; section 57A was inserted by paragraph 25 of Schedule 10 to the Children Act 1989 c. 41

(24) 1978 c. 28; to which there are no relevant amendments

(25) 1989 c. 41; to which there are no relevant amendments

(26) S.I. 1995/755 (N.I. 2); to which there are no relevant amendments

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34.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (“the Trusts”), the Fund, the Independent Living (Extension) Fund, the Independent Living (1993) Fund or the Independent Living Fund.

(2) Any payment by or on behalf of a person who suffered or is suffering from haemophilia or who was or is a qualifying person, which derives from a payment made under any of the Trusts and which is made to or for the benefit of—

- (a) that person’s partner or former partner from whom he is not, or where that person has died was not, estranged or divorced;
- (b) any child who is a member of that person’s family or who was such a member and who is a member of the relevant person’s family; or
- (c) any young person who is a member of that person’s family or who was such a member and who is a member of the relevant person’s family.

(3) Any payment by or on behalf of the partner or former partner of a person who suffered or is suffering from haemophilia or who was or is a qualifying person, provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, which derives from a payment made under any of the Trusts and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person’s family or who was such a member and who is a member of the relevant person’s family; or
- (c) any young person who is a member of that person’s family or who was such a member and who is a member of the relevant person’s family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under any of the Trusts where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person’s family; and
- (b) the payment is made either—
  - (i) to that person’s parent or step-parent, or
  - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of 2 years from that person’s death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under any of the Trusts where—

- (a) that person at the date of his death (“the relevant date”) had no partner or former partner from whom he was not estranged or divorced, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either—
  - (i) to that person’s parent or step-parent, or
  - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of 2 years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.



(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund.

35. Any housing benefit and any housing benefit in the form of a community charge rebate.

36. Any payment made under arrangements made by the Department of Health and Social Services to compensate for the loss (in whole or in part) of entitlement to housing benefit.

37. Any payment made under arrangements made by the Department of Health and Social Services to compensate for the loss of housing benefit supplement under regulation 19A of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(27).

38. Any resettlement benefit which is paid to the relevant person by virtue of regulation 3 of the Social Security (Hospital In-Patients) (Amendment No. 2) Regulations (Northern Ireland) 1987(28).

39. Any community charge benefit.

40. Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988(29) or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(30) (reduction of liability for personal community charge) or reduction of council tax either under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992(31) (reduction of liability for council tax).

41.—(1) Where the relevant person occupies the dwelling as his only or main residence and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent of such payments; or
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent of the excess over this £20.

(2) In this paragraph “board and lodging accommodation” means accommodation provided to a person or, where he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provisions of that accommodation and at least some cooked and prepared meals which are both cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and consumed in that accommodation or associated premises.

42. Any special war widows payment made under—

- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865(32);
- (b) the Royal Warrant dated 21st February 1990 amending the Schedule to the Army Pensions Warrant 1977(33);

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(27) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 No. 291, S.R. 1984 No. 79 and S.R. 1986 No. 236

(28) S.R. 1987 No. 391; to which there are no relevant amendments

(29) 1988 c. 41; section 13A was inserted by Schedule 5, paragraphs 1, 5 and 79(3) of the Local Government and Housing Act 1989 c. 42 and was repealed, with savings, by the Local Government Finance Act 1992 c. 14, section 117(2) and Schedule 14

(30) 1987 c. 47; section 9A was inserted by section 143 of the Local Government and Housing Act 1989 c. 42 and was repealed, with savings, by the Local Government Finance Act 1992 c. 14, section 117(2) and Schedule 14

(31) 1992 c. 14; to which there are no relevant amendments

(32) 1865 c. 73. Copies of the Order are available from: Ministry of Defence, SP Sec. 2c3, Room 5/42, Metropole Building, Northumberland Avenue, London WC2N 5BL

(33) Army Code No. 13045 published by HMSO

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- (c) the Queen's Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917(34);
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980(35);
- (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980(36);

and any analogous payments made by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e) of this paragraph.

43. Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the 1992 Act.

44.—(1) Any payment or repayment made under regulations 3, 5 or 8 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989(37) (entitlement to full remission and payment, persons entitled to remission in part or payment in part, or repayment).

(2) Any payment or repayment made by the Department of Health and Social Services which is analogous to a payment or repayment mentioned in sub-paragraph (1).

45. Any payment made under regulation 8, 9, 10 or 12 of the Welfare Foods Regulations (Northern Ireland) 1988(38) (failure to receive milk tokens, inability to purchase dried milk at a reduced price, inability to obtain free vitamins or absence of beneficiary for less than a week).

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

47.—(1) Where a relevant person's applicable amount includes an amount by way of the family premium, £15 of any maintenance payment, whether under a court order or not, which is made or due to be made by—

- (a) the relevant person's former partner, or the relevant person's partner's former partner; or
- (b) the parent of a child or young person where that child or young person is a member of the relevant person's family except where that parent is the relevant person or the relevant person's partner.

(2) For the purpose of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

48. Any payment made by the Department of Health and Social Services to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with and including that day.

49. Any payment (other than a training allowance) made, whether by the Department of Economic Development or any other person, under the Disabled Persons (Employment) Act (Northern Ireland) 1945(39) or in accordance with arrangements made under section 1(1) of the

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(34) 1917 c. 51; section 2 was amended by S.I. 1968/1699, Article 5(4)(a). Queen's Regulations for the Royal Air Force are available from HMSO

(35) 1980 c. 9 Copies of the Regulations are available from Ministry of Defence at the address given in footnote (a)

(36) Army Code No. 60589 published by HMSO

(37) S.R. 1989 No. 348; the relevant amending regulations are S.R. 1990 No. 313 and S.R. 1991 No. 224

(38) S.R. 1988 No. 137; the relevant amending regulations are S.R. 1991 No. 81

(39) 1945 c. 6 (N.I.); to which there are no relevant amendments

Employment and Training Act (Northern Ireland) 1950(40) to assist disabled persons to retain employment despite their disability.

50. Any guardian's allowance under Part III of the 1992 Act.

51. Any council tax benefit.

52.—(1) Where the relevant person is in receipt of any benefit under Parts II, III or V of the 1992 Act or pension under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(41) any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act or the rate of that pension under that Order where the dependant in respect of whom the increase is paid is not a member of the relevant person's family.

(2) For the purposes of sub-paragraph(1), an addition to a contribution-based jobseeker's allowance under regulation 9(4) of the Jobseeker's Allowance (Transitional Provisions) Regulations (Northern Ireland) 1996(42) shall be treated as an increase of a benefit under the 1992 Act arising under Part IV of that Act.

53. Any payment made under the legislation of, or under any scheme operating in the Republic of Ireland which is analogous to any income to which the preceding paragraphs relate.

54. Any supplementary pension under Article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows)(43).

55. In the case of a pension awarded at the supplementary rate under Article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows)(44), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

56.—(1) Any payment which is—

(a) made under any of the Dispensing Instruments to a widow of a person—

(i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and

(ii) whose service in such capacity terminated before 31st March 1973; and

(b) equal to the amount specified in Article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows).

(2) In this paragraph "the Dispensing Instruments" means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances)(45).

57. Where the relevant person is entitled to the allowance under regulation 51(1)(bb) of the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(46) (which applies in respect of a person who works for not less than 30 hours a week), any amount of disability working allowance up to the amount specified in Column (2) against paragraph 2A(47) of Schedule 5 to those Regulations.

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(40) 1950 c. 29 (N.I.); section 1(1) was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

(41) S.I. 1983/883, was amended by S.I. 1983/1116, 1521, 1984/1154, 1687, 1985/1201, 1986/592, 1987/165, 1988/248, 2248, 1989/156, 1990/250, 1308, 1991/766, 1992/710, 3208, 1993/598, 1994/772, 1906 and 1995/766

(42) S.R. 1996 No. 200; to which there are no relevant amendments

(43) S.I. 1983/883; relevant amending instruments are S.I. 1993/598 and 1994/1906

(44) S.I. 1983/686; relevant amending instruments are S.I. 1994/715 and 1994/2021

(45) Copies of the Dispensing Instruments are available from the Department of Social Security, A1, 6th Floor, Adelphi, 1-11 John Adam Street, London, WC2N 6HT

(46) S.R. 1992 No. 78; sub-paragraph (bb) was inserted by regulation 4(3) of S.R. 1995 No. 223

(47) Paragraph 2A was inserted by regulation 4(4) of S.R. 1995 No. 223

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58. Where the relevant person is entitled to the credit under regulation 46(1)(aa) of the Family Credit (General) Regulations (Northern Ireland) 1987<sup>(48)</sup> (which applies in respect of a person who works for not less than 30 hours a week), any amount of family credit up to the amount specified in Column (2) against paragraph 1A<sup>(49)</sup> of Schedule 4 to those Regulations.

#### SCHEDULE 4

Regulation 32(2)

##### Capital to be disregarded

1. The dwelling or building to which the application relates.

2. Any one dwelling normally occupied by the relevant person as his only or main residence including any premises not so occupied which it is impracticable or unreasonable to sell separately, but, notwithstanding regulation 16 (determination of income and capital of members of relevant person's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

3. Any dwelling which the relevant person intends to occupy as his only or main residence and—

- (a) which he acquires for occupation, and intends to occupy as such residence within 26 weeks from the date of acquisition or such longer period as is reasonable in the circumstances to enable the relevant person to obtain possession and commence occupation, or
- (b) in respect of which he is taking steps to attain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings, whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation, or
- (c) to which essential repairs or alterations are required in order to render it fit for such occupation, for such period as is necessary to enable those repairs or alterations to be carried out,

but, notwithstanding regulation 16 (determination of income and capital of members of relevant person's family and of a polygamous marriage) only one dwelling shall be disregarded under this paragraph.

4.—(1) Subject to sub-paragraph (2), any sum directly attributable to the proceeds of sale of any dwelling formerly occupied by the relevant person as his only or main residence to the extent to which it is to be used for the purchase of either—

- (a) the dwelling or building to which the application relates, or
- (b) any dwelling, other than that to which the application relates, which is intended for such occupation within 26 weeks from the date of sale or such longer period as is reasonable in the circumstances to enable the relevant person to complete the purchase.

(a) (2) (a) Sub-paragraph (1) shall not apply where a dwelling is disregarded under paragraph 26;

(b) sub-paragraph (1)(b) shall not apply where a dwelling is disregarded under paragraph 3.

5. Any dwelling occupied in whole or in part as his only or main residence—

<sup>(48)</sup> S.R. 1987 No. 463; sub-paragraph (aa) was inserted by regulation 3(3) of S.R. 1995 No. 223

<sup>(49)</sup> Paragraph 1A was inserted by regulation 3(4) of S.R. 1995 No. 223

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- (a) by a partner, close relative, grandparent, grandchild, uncle, aunt, nephew or niece of a relevant person who is single or of any member of the family of the relevant person where that person is either aged 60 or over or incapacitated;
  - (b) by the former partner of the relevant person; but this provision shall not apply where the former partner is a person from whom the relevant person is estranged or divorced.
6. Where a relevant person is in receipt of income support or an income-based jobseeker's allowance, the whole of his capital.
7. Any future interest in property of any kind, other than land or premises in respect of which the relevant person has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
- 8.—(1) The assets of any business owned in whole or in part by the relevant person and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.
- (2) The assets of any business owned in whole or in part by the relevant person where—
- (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
  - (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business.
9. Any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of,—
- (a) any payment specified in paragraph 5, 7 or 8 of Schedule 3;
  - (b) an income-related benefit or family income supplement under the Family Income Supplements Act (Northern Ireland) 1971(50), supplementary benefit under the Supplementary Benefits (Northern Ireland) Order 1977(51) or housing benefit under the Housing Benefits (Northern Ireland) Order 1983(52);
  - (c) an income-based jobseeker's allowance.
- 10.—(1) Subject to sub-paragraph (2), any sum—
- (a) paid to the relevant person in consequence of damage to or loss of his only or main residence or any personal possession and intended for its repair or replacement; or
  - (b) acquired by the relevant person (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvements to his only or main residence,
- which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.
- (2) A sum to which sub-paragraph 1(b) applies shall be disregarded under this paragraph to the extent only that it is not for carrying out works to which the application relates.
11. Any sum—

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(50) 1971 c. 8 (N.I.); repealed with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

(51) S.I. 1977/2156 (N.I. 27); repealed in part with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986

(52) S.I. 1983/1121 (N.I. 14); repealed with effect from 11th April 1988 by Schedule 10 to the Social Security (Northern Ireland) Order 1986

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- (a) deposited with a housing association as a condition of occupying the only or main residence;
  - (b) which was so deposited and which is to be used for the purchase of another dwelling being the only or main residence, for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the relevant person to complete the purchase.
12. Any personal possessions except those which have been acquired by the relevant person with the intention of reducing his capital in order to increase the amount of grant.
13. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 14.—(1) Subject to sub-paragraph (2), where the funds of a trust are derived from a payment made in consequence of any personal injury to the relevant person, the value of the trust fund and the value of the right to receive any payment under that trust.
- (2) Any value to which sub-paragraph (1) applies shall be disregarded under this paragraph to the extent only that it does not represent funds or a payment which are for carrying out works to which the application relates.
15. The value of the right to receive any income under a life interest or from a life rent.
16. The value of the right to receive any income which is disregarded under paragraph 13 of Schedule 2 or paragraph 23 of Schedule 3.
17. The surrender value of any policy of life insurance.
18. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
19. Any payment made by a Health and Social Services Board under Article 18, 35 or 36 of the Children (Northern Ireland) Order 1995<sup>(53)</sup> (Health and Social Services Boards' duty to promote the welfare of children or powers to grant financial assistance to persons in, or formerly in, their care).
20. Any social fund payment.
21. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988<sup>(54)</sup> (mortgage interest payment under deduction of tax) on a payment of relevant loan interest for the purpose of acquiring an interest in the only or main residence or carrying out repairs or improvements to that residence.
22. Any capital which by virtue of regulation 29, 31(5) or 45 (annuity treated as income, modifications in respect of child and young person or treatment of student loans) is to be treated as income.
23. Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
- 24.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (“the Trusts”), the Fund, the Independent Living (Extension) Fund, the Independent Living (1993) Fund or the Independent Living Fund.
- (2) Any payment by or on behalf of a person who suffered or is suffering from haemophilia or who was or is a qualifying person, which derives from a payment made under any of the Trusts and which is made to or for the benefit of—

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<sup>(53)</sup> S.I. 1995/755 (N.I. 2); to which there are no relevant amendments

<sup>(54)</sup> 1988 c. 1; section 369(1A) was inserted by section 81(3) of the Finance Act 1994 (c. 9)

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- (a) that person's partner or former partner from whom he is not, or where that person had died was not, estranged or divorced;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the relevant person's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the relevant person's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who suffered or is suffering from haemophilia or who was or is a qualifying person, provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, which derives from a payment made under any of the Trusts and which is made to or for the benefit of—
- (a) the person who is suffering from haemophilia or who is a qualifying person;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the relevant person's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the relevant person's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under any of the Trusts where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person's family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent, or
    - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,but only for a period from the date of the payment until the end of 2 years from that person's death.
- (5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under any of the Trusts where—
- (a) that person at the date of his death ("the relevant date") had no partner or former partner from whom he was not estranged or divorced, nor any child or young person who was or had been a member of his family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent, or
    - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,but only for a period of 2 years from the relevant date.
- (6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.
- (7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund.

25.—(1) Where a relevant person has ceased to occupy what was formerly the dwelling occupied as the only or main residence following his estrangement or divorce from his former partner, that

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dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling, or where the dwelling is occupied by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph “dwelling” includes any premises not so occupied which it is impracticable or unreasonable to sell separately.

26. Any premises where the relevant person is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

27. Any payment made under arrangements made by the Department of Health and Social Services to compensate for the loss (in whole or in part) of entitlement to housing benefit.

28. Any payment made under arrangements made by the Department of Health and Social Services to compensate for the loss of housing benefit supplement under regulation 19A of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1983(55).

29. The value of the right to receive an occupational or personal pension.

30. The value of any funds held under a personal pension scheme or retirement annuity contract.

31. The value of the right to receive any rent except where the relevant person has a reversionary interest in the property in respect of which rent is due.

32. Any payment in kind made by a charity or under the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund or the Independent Living (1993) Fund.

33. £200 of any payment, or if the payment is less than £200, the whole of the payment made under section 4 of the Disabled Persons (Employment) Act (Northern Ireland) 1945 or section 1 of the Employment and Training Act (Northern Ireland) 1950 as a training bonus to a person participating in provision or arrangements for training under either of those Acts but only for a period of 52 weeks from the date of receipt of that payment.

34. Any housing benefit, or housing benefit in the form of a community charge rebate.

35. Any community charge benefit.

36. Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988(56) or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(57) (reduction of liability for personal community charge) or reduction of council tax either under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992(58) (reduction of liability for council tax).

37.—(1) Subject to sub-paragraph (2), any grant made in Great Britain to the relevant person in accordance with a scheme made under section 129 of the Housing Act 1988(59) or section 66 of the Housing (Scotland) Act 1988(60) (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

(a) to purchase premises intended for occupation as his only or main residence; or

(b) to carry out repairs or alterations which are required to render premises fit for such occupation,

(55) S.R. 1983 No. 61; the relevant amending regulations are S.R. 1983 No. 291, S.R. 1984 No. 79 and S.R. 1986 No. 236

(56) 1988 c. 41; section 13A was inserted by paragraphs 1, 5 and 79(3) of Schedule 5 to the Local Government and Housing Act 1989 c. 42 and was repealed, with savings, by section 117(2) of, and Schedule 14 to, the Local Government Finance Act 1992 c. 14

(57) 1987 c. 47; section 9A was inserted by section 143 of the Local Government and Housing Act 1989 c. 42 and was repealed, with savings, by section 117(2) of, and Schedule 14 to, the Local Government Finance Act 1992 c. 14

(58) 1992 c. 14; to which there are no relevant amendments

(59) 1988 c. 50; section 129(5)(b) was repealed by section 194 of, and Schedule 12 to, the Local Government and Housing Act 1989 c. 42

(60) 1988 c. 43; to which there are no relevant amendments



for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the relevant person to commence such occupation.

(2) A grant to which sub-paragraph (1) applies shall be disregarded under this paragraph to the extent only that it is not for carrying out works to which the application relates.

38. Any arrears of special war widows payment which is disregarded under paragraph 42 of Schedule 3 (sums to be disregarded in the determination of income other than earnings) or of any amount which is disregarded under paragraph 54, 55 or 56 of that Schedule.

39.—(1) Any payment or repayment made under regulation 3, 5 or 8 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989<sup>(61)</sup> (entitlement to full remission and payment, persons entitled to remission in part or payment in part, or repayment).

(2) Any payment or repayment made by the Department of Health and Social Services which is analogous to a payment or repayment mentioned in sub-paragraph (1).

40. Any payment made under regulation 8, 9, 10 or 12 of the Welfare Foods Regulations (Northern Ireland) 1988<sup>(62)</sup> (failure to receive milk tokens, inability to purchase dried milk at a reduced price, inability to obtain free vitamins or absence of beneficiary for less than a week).

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

42. Any payment made by the Department of Health and Social Services to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with and including that day.

43. Any payment (other than a training allowance, or a training bonus paid under section 3(3) of the Employment and Training Act (Northern Ireland) 1950<sup>(63)</sup> made, whether by the Department of Economic Development or any other person, under the Disabled Persons (Employment) Act (Northern Ireland) 1945<sup>(64)</sup> or in accordance with arrangements made under section 1(1) of the Employment and Training Act (Northern Ireland) 1950<sup>(65)</sup> to assist disabled persons to obtain or retain employment despite their disability.

44. Any council tax benefit.

45.—(1) Any sum of capital administered—

(a) by the High Court—

(i) on behalf of a person under the age of 18 under the provisions of Order 80 of the Rules of the Supreme Court (Northern Ireland) 1980<sup>(66)</sup>; or

(ii) on behalf of a patient under the provisions of Order 109 of those Rules<sup>(67)</sup>;

(b) by the county court—

(i) under the provisions of Order 44 of the County Court Rules (Northern Ireland) 1981<sup>(68)</sup>; or

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<sup>(61)</sup> S.R. 1989 No. 348; the relevant amending regulations are S.R. 1990 No. 313 and S.R. 1991 No. 224

<sup>(62)</sup> S.R. 1988 No. 137; the relevant amending regulations are S.R. 1991 No. 81

<sup>(63)</sup> 1950 c. 29 (N.I.); section 3 was amended by Article 35 of, and Schedule 4 to, the Industrial Training (Northern Ireland) Order 1984 (S.I. 1984/1159 (N.I. 9))

<sup>(64)</sup> 1945 c. 6 (N.I.); to which there are no relevant amendments

<sup>(65)</sup> Section 1(1) was amended by Article 3 of the Employment and Training (Amendments) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

<sup>(66)</sup> S.R. 1980 No. 346 as amended by S.R. 1986 No. 184 and S.R. 1996 No. 321

<sup>(67)</sup> Order 109 was amended by S.R. 1986 No. 184 and S.R. 1995 No. 462

<sup>(68)</sup> S.R. 1981 No. 225 as amended by S.R. 1986 No. 218 rule 3 and S.R. 1988 No. 100 rule 2(5)

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(ii) under Article 21 of the County Courts (Northern Ireland) Order 1980(69).

(2) Paragraph (1) applies to a sum which derives from—

- (a) an award of damages for a personal injury to a person mentioned in that paragraph; or
- (b) compensation for the death of one or both parents of such person.

46. Any sum of capital administered on behalf of a person under the age of 18 by Her Majesty's High Court of Justice in England under the provisions of Order 80 of the Rules of the Supreme Court 1965(70), the county court under Order 10 of the County Court Rules 1981(71), or the Court of Protection, where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents.

47. Any sum of capital administered on behalf of a person under the age of 18 in accordance with an order made under Rule 43.15 of the Act of Sederunt (Rules of the Court of Session 1994) 1994(72) or under Rule 131 of the Act of Sederunt (Rules of the Court, consolidation and amendment) 1965(73), or under Rule 36.14 of the Ordinary Cause Rules 1993(74) or under Rule 128 of the Ordinary Cause Rules(75) where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents.

48. Any payment to the relevant person as a holder of the Victoria Cross or George Cross.

49. Any back to work bonus payable by way of a jobseeker's allowance or income support in accordance with Article 28 of the Jobseekers (Northern Ireland) Order 1995(76) or a corresponding payment under section 26 of the Jobseekers Act 1995(77).

50. Any amount of housing benefit to which a person is entitled by virtue of regulation 7B of the Housing Benefit (General) Regulations (Northern Ireland) 1987(78).

51. Any amount of income support to which a person is entitled by virtue of regulation 21A of the Income Support (General) Regulations (Northern Ireland) 1987(79).

## SCHEDULE 5

Regulation 45

### Revocations

Regulations revoked	References
The Housing Renovation, etc. Grants (Reduction of Grant) Regulations (Northern Ireland) 1992	<a href="#">S.R. 1992 No. 412</a>

(69) [S.I. 1980/397 \(N.I. 3\)](#); to which there are no relevant amendments

(70) [S.I. 1965/1776](#); for Order 80 as currently in force *see* "The Supreme Court Practice 1997": ISBN 0-421-57620-0

(71) [S.I. 1981/1687](#); for Order 10 as currently in force *see* "The County Court Practice 1996"; ISBN 0-406-06506-3

(72) [S.I. 1994/1443](#); to which there are no relevant amendments

(73) [S.I. 1965/321](#); to which there are no relevant amendments

(74) First Schedule to the Sheriff Courts (Scotland) Act 1907 (c. 51) as substituted in respect of causes commenced on or after 1st January 1994 by [S.I. 1993/1956](#)

(75) First Schedule to the Sheriff Courts (Scotland) Act 1907 as substituted by [S.I. 1983/747](#)

(76) [S.I. 1995/2705 \(N.I. 15\)](#); to which there are no relevant amendments

(77) 1995 c. 18

(78) [S.R. 1987 No. 461](#); regulation 7B was inserted by [S.R. 1996 No. 448](#)

(79) [S.R. 1987 No. 459](#); regulation 21A was inserted by [S.R. 1996 No. 449](#)

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Regulations revoked	References
The Housing Renovation, etc. Grants (Reduction of Grant) (Amendment) Regulations (Northern Ireland) 1993	<a href="#">S.R. 1993 No. 399</a>
The Housing Renovation, etc. Grants (Reduction of Grant) (Amendment) Regulations (Northern Ireland) 1994	<a href="#">S.R. 1994 No. 348</a>
The Housing Renovation, etc. Grants (Reduction of Grant) (Amendment) Regulations (Northern Ireland) 1996	<a href="#">S.R. 1996 No. 110</a>