

SCHEDULE 1

Regulation 2(1)

Her Majesty's forces

PART 1

PRESCRIBED ESTABLISHMENTS AND ORGANISATIONS

1. Any of the regular naval, military or air forces of the Crown.

.....
Commencement Information

I1 [Sch. 1 para. 1](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

2. Royal Fleet Reserve.

.....
Commencement Information

I2 [Sch. 1 para. 2](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

3. Royal Navy Reserve.

.....
Commencement Information

I3 [Sch. 1 para. 3](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

4. Royal Marines Reserve.

.....
Commencement Information

I4 [Sch. 1 para. 4](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

5. Army Reserve.

.....
Commencement Information

I5 [Sch. 1 para. 5](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

6. Territorial Army.

.....
Commencement Information

I6 [Sch. 1 para. 6](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

7. Royal Air Force Reserve.

.....
Commencement Information

I7 [Sch. 1 para. 7](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

Status: Point in time view as at 27/10/2008.

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8. Royal Auxiliary Air Force.

Commencement Information

I8 Sch. 1 para. 8 in operation at 27.10.2008, see [reg. 1\(1\)](#)

9. The Royal Irish Regiment, to the extent that its members are not members of any force falling within paragraph 1.

Commencement Information

I9 Sch. 1 para. 9 in operation at 27.10.2008, see [reg. 1\(1\)](#)

PART 2

ESTABLISHMENTS AND ORGANISATIONS OF WHICH HER MAJESTY'S FORCES DO NOT CONSIST

10. Her Majesty's forces are not to be taken to consist of any of the establishments or organisations specified in Part 1 by virtue only of the employment in such establishment or organisation of the following persons—

- (a) any person who is serving as a member of any naval force of Her Majesty's forces and who (not having been an insured person under the National Insurance Act (Northern Ireland) 1966⁽¹⁾ and not having been a contributor under the Social Security (Northern Ireland) Act 1975⁽²⁾ or not being a contributor under the Contributions and Benefits Act) locally entered that force at an overseas base;
- (b) any person who is serving as a member of any military force of Her Majesty's forces and who entered that force, or was recruited for that force outside the United Kingdom, and the depot of whose unit is situated outside the United Kingdom;
- (c) any person who is serving as a member of any air force of Her Majesty's forces and who entered that force, or was recruited for that force, outside the United Kingdom, and is liable under the terms of engagement to serve only in a specified part of the world outside the United Kingdom.

Commencement Information

I10 Sch. 1 para. 10 in operation at 27.10.2008, see [reg. 1\(1\)](#)

(1) 1966 c. 6 (N.I.)
(2) 1975 c. 15

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SCHEDULE 2

Regulation 19(2) and (3)

Assessment of whether a claimant has limited capability for work

PART 1

PHYSICAL DISABILITIES

Commencement Information

III Sch. 2 Pt. 1 in operation at 27.10.2008, see **reg. 1(1)**

(1) Activity	(2) Descriptors	(3) Points
1. Walking with a walking stick or other aid if such aid is normally used.	(a) Cannot walk at all.	15
	(b) Cannot walk more than 50 metres on level ground without repeatedly stopping or severe discomfort.	15
	(c) Cannot walk up or down 2 steps even with the support of a handrail.	15
	(d) Cannot walk more than 100 metres on level ground without stopping or severe discomfort.	9
	(e) Cannot walk more than 200 metres on level ground without stopping or severe discomfort.	6
	(f) None of the above apply.	0
2. Standing and sitting.	(a) Cannot stand for more than 10 minutes, unassisted by another person, even if free to move around, before needing to sit down.	15
	(b) Cannot sit in a chair with a high back and no arms for more than 10 minutes before needing to move from the chair because the degree of discomfort experienced makes it impossible to continue sitting.	15
	(c) Cannot rise to standing from sitting in an upright chair without physical assistance from another person.	15
	(d) Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.	15

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(1) Activity	(2) Descriptors	(3) Points
	(e) Cannot stand for more than 30 minutes, even if free to move around, before needing to sit down.	6
	(f) Cannot sit in a chair with a high back and no arms for more than 30 minutes without needing to move from the chair because the degree of discomfort experienced makes it impossible to continue sitting.	6
	(g) None of the above apply.	0
3. Bending or kneeling.	(a) Cannot bend to touch knees and straighten up again.	15
	(b) Cannot bend, kneel or squat, as if to pick up a light object, such as a piece of paper, situated 15cm from the floor on a low shelf, and to move it and straighten up again without the help of another person.	9
	(c) Cannot bend, kneel or squat, as if to [^{F1} pick up a light object] off the floor and straighten up again without the help of another person.	6
	(d) None of the above apply.	0
4. Reaching.	(a) Cannot raise either arm as if to put something in the top pocket of a coat or jacket.	15
	(b) Cannot put either arm behind back as if to put on a coat or jacket.	15
	(c) Cannot raise either arm to top of head as if to put on a hat.	9
	(d) Cannot raise either arm above head height as if to reach for something.	6
	(e) None of the above apply.	0
5. Picking up and moving or transferring by the use of the upper body and arms (excluding all other activities specified in this Part of this Schedule).	(a) Cannot pick up and move a 0.5 litre carton full of liquid with either hand.	15
	(b) Cannot pick up and move a one litre carton full of liquid with either hand.	9
	(c) Cannot pick up and move a light but bulky object, such as an empty cardboard box, requiring the use of both hands together.	6

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(1) Activity	(2) Descriptors	(3) Points
	(d) None of the above apply.	0
6. Manual dexterity.	(a) Cannot turn a “star-headed” sink tap with either hand.	15
	(b) Cannot pick up a £1 coin or equivalent with either hand.	15
	(c) Cannot turn the pages of a book with either hand.	15
	(d) Cannot physically use a pen or pencil.	9
	(e) Cannot physically use a conventional keyboard or mouse.	9
	(f) Cannot do up/undo small buttons, such as shirt or blouse buttons.	9
	(g) Cannot turn a “star-headed” sink tap with one hand but can with the other.	6
	(h) Cannot pick up a £1 coin or equivalent with one hand but can with the other.	6
	(i) Cannot pour from an open 0.5 litre carton full of liquid.	6
	(j) None of the above apply.	0
7. Speech.	(a) Cannot speak at all.	15
	(b) Speech cannot be understood by strangers.	15
	(c) Strangers have great difficulty understanding speech.	9
	(d) Strangers have some difficulty understanding speech.	6
	(e) None of the above apply.	0
8. Hearing with a hearing aid or other aid if normally worn.	(a) Cannot hear at all.	15
	(b) Cannot hear well enough to be able to hear someone talking in a loud voice in a quiet room, sufficiently clearly to distinguish the words being spoken.	15
	(c) Cannot hear someone talking in a normal voice in a quiet room, sufficiently clearly to distinguish the words being spoken.	9
	(d) Cannot hear someone talking in a loud voice in a busy street, sufficiently clearly to distinguish the words being spoken.	6
	(e) None of the above apply.	0

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(1) Activity	(2) Descriptors	(3) Points
9. Vision including visual acuity and visual fields, in normal daylight or bright electric light, with glasses or other aid to vision if such aid is normally worn.	(a) Cannot see at all.	15
	(b) Cannot see well enough to read 16 point print at a distance of greater than 20cm.	15
	(c) Has 50 per cent. or greater reduction of visual fields.	15
	(d) Cannot see well enough to recognise a friend at a distance of at least 5 metres.	9
	(e) Has 25 per cent. or more but less than 50 per cent. reduction of visual fields.	6
	(f) Cannot see well enough to recognise a friend at a distance of at least 15 metres.	6
	(g) None of the above apply.	0
10(a). Continence other than enuresis (bed wetting) where the claimant does not have an artificial stoma or urinary collecting device.	(a)(i) Has no voluntary control over the evacuation of the bowel.	15
	(a)(ii) Has no voluntary control of the voiding of the bladder.	15
	(a)(iii) At least once a month loses control of bowels so that the claimant cannot control the full evacuation of the bowel.	15
	(a)(iv) At least once a week, loses control of bladder so that the claimant cannot control the full voiding of the bladder.	15
	(a)(v) Occasionally loses control of bowels so that the claimant cannot control the full evacuation of the bowel.	9
	(a)(vi) At least once a month loses control of bladder so that the claimant cannot control the full voiding of the bladder.	6
	(a)(vii) Risks losing control of bowels or bladder so that the claimant cannot control the full evacuation of the bowel or the full voiding of the bladder if not able to reach a toilet quickly.	6
	(a)(viii) None of the above apply.	0
10(b). Continence where the claimant uses a urinary collecting device, worn	(b)(i) Is unable to affix, remove or empty the catheter bag or other collecting device	15

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(1) Activity	(2) Descriptors	(3) Points
for the majority of the time including an indwelling urethral or suprapubic catheter.	without receiving physical assistance from another person.	
	(b)(ii) Is unable to affix, remove or empty the catheter bag or other collecting device without causing leakage of contents.	15
	(b)(iii) Has no voluntary control over the evacuation of the bowel.	15
	(b)(iv) At least once a month, loses control of the bowels so that the claimant cannot control the full evacuation of the bowel.	15
	(b)(v) Occasionally loses control of the bowels so that the claimant cannot control the full evacuation of the bowel.	9
	(b)(vi) Risks losing control of the bowels so that the claimant cannot control the full evacuation of the bowel if not able to reach a toilet quickly.	6
	(b)(vii) None of the above apply.	0
10(c). Contenance other than enuresis (bed wetting) where the claimant has an artificial stoma.	(c)(i) Is unable to affix, remove or empty stoma appliance without receiving physical assistance from another person.	15
	(c)(ii) Is unable to affix, remove or empty stoma appliance without causing leakage of contents.	15
	[F2](c)(iii) Where the claimant's artificial stoma relates solely to the evacuation of the bowel, has no voluntary control over voiding of the bladder.	15
	(c)(iv) Where the claimant's artificial stoma relates solely to the evacuation of the bowel, at least once a week loses control of bladder so that the claimant cannot control the full voiding of the bladder.	15
	(c)(v) Where the claimant's artificial stoma relates solely to the evacuation of the bowel, at least once a month loses control of bladder so that the claimant cannot control the full voiding of the bladder.	9
	(c)(vi) Where the claimant's artificial stoma relates solely to the evacuation of the bowel, risks losing control of the bladder so that the claimant cannot control the	6

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(1) Activity	(2) Descriptors	(3) Points
	full voiding of the bladder if not able to reach a toilet quickly.	
	(c) None of the above apply. (vii)	0]
11. Remaining conscious during waking moments.	(a) At least once a week, has an involuntary episode of lost or altered consciousness, resulting in significantly disrupted awareness or concentration.	15
	(b) At least once a month, has an involuntary episode of lost or altered consciousness, resulting in significantly disrupted awareness or concentration.	9
	(c) At least twice in the 6 months immediately preceding the assessment, has had an involuntary episode of lost or altered consciousness, resulting in significantly disrupted awareness or concentration.	6
	(d) None of the above apply.	0

Textual Amendments

- F1** Words in Sch. 2 para. 3(c) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(28)(a)**
- F2** Sch. 2 paras. 10(c)(iii)-(vii) substituted for Sch. 2 (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(28)(b)**

PART 2

MENTAL, COGNITIVE AND INTELLECTUAL FUNCTION ASSESSMENT

Commencement Information

- I12** Sch. 2 Pt. 2 in operation at 27.10.2008, see [reg. 1\(1\)](#)

(1) Activity	(2) Descriptors	(3) Points
12. Learning or comprehension in the completion of tasks.	(a) Cannot learn or understand how to successfully complete a simple task, such as setting an alarm clock, at all.	15

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(1) Activity	(2) Descriptors	(3) Points
(b)	Needs to witness a demonstration, given more than once on the same occasion, of how to carry out a simple task before the claimant is able to learn or understand how to complete the task successfully, but would be unable to successfully complete the task the following day without receiving a further demonstration of how to complete it.	15
(c)	Needs to witness a demonstration of how to carry out a simple task, before the claimant is able to learn or understand how to complete the task successfully, but would be unable to successfully complete the task the following day without receiving a verbal prompt from another person.	9
(d)	Needs to witness a demonstration of how to carry out a moderately complex task, such as the steps involved in operating a washing machine to correctly clean clothes, before the claimant is able to learn or understand how to complete the task successfully, but would be unable to successfully complete the task the following day without receiving	9

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(1) Activity	(2) Descriptors	(3) Points
	a verbal prompt from another person.	
	(e) Needs verbal instructions as to how to carry out a simple task before the claimant is able to learn or understand how to complete the task successfully, but would be unable, within a period of less than one week, to successfully complete the task without receiving a verbal prompt from another person.	6
	(f) None of the above apply.	0
13. Awareness of hazard.	(a) Reduced awareness of the risks of everyday hazards (such as boiling water or sharp objects) would lead to daily instances of or to near-avoidance of— (i) injury to self or others, or (ii) significant damage to property or possessions, to such an extent that overall day to day life cannot successfully be managed.	15
	(b) Reduced awareness of the risks of everyday hazards would lead for the majority of the time to instances of or to near-avoidance of— (i) injury to self or others, or (ii) significant damage to property or possessions,	9

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<i>(1)</i> <i>Activity</i>		<i>(2)</i> <i>Descriptors</i>	<i>(3)</i> <i>Points</i>
		to such an extent that overall day to day life cannot successfully be managed without supervision from another person.	
	(c)	Reduced awareness of the risks of everyday hazards has led or would lead to frequent instances of or to near-avoidance of— (i) injury to self or others, or (ii) significant damage to property or possessions, but not to such an extent that overall day to day life cannot be managed when such incidents occur.	6
	(d)	None of the above apply.	0
14. Memory and concentration.	(a)	On a daily basis, forgets or loses concentration to such an extent that overall day to day life cannot be successfully managed without receiving verbal prompting, given by someone else in the claimant's presence.	15
	(b)	For the majority of the time, forgets or loses concentration to such an extent that overall day to day life cannot be successfully managed without receiving verbal prompting, given by someone else in the claimant's presence.	9

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<i>(1)</i> <i>Activity</i>	<i>(2)</i> <i>Descriptors</i>	<i>(3)</i> <i>Points</i>
(c)	Frequently forgets or loses concentration to such an extent that overall day to day life can only be successfully managed with pre-planning, such as making a daily written list of all tasks forming part of daily life that are to be completed.	6
(d)	None of the above apply.	0
15. Execution of tasks. (a)	Is unable to successfully complete any everyday task.	15
(b)	Takes more than twice the length of time it would take a person without any form of mental disablement, to successfully complete an everyday task with which the claimant is familiar.	15
(c)	Takes more than one and a half times but no more than twice the length of time it would take a person without any form of mental disablement to successfully complete an everyday task with which the claimant is familiar.	9
(d)	Takes one and a half times the length of time it would take a person without any form of mental disablement to successfully complete an everyday task with which the claimant is familiar.	6

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<i>(1)</i> <i>Activity</i>		<i>(2)</i> <i>Descriptors</i>	<i>(3)</i> <i>Points</i>
	(e)	None of the above apply.	0
16. Initiating and sustaining personal action.	(a)	Cannot, due to cognitive impairment or a severe disorder of mood or behaviour, initiate or sustain any personal action (which means planning, organisation, problem solving, prioritising or switching tasks).	15
	(b)	Cannot, due to cognitive impairment or a severe disorder of mood or behaviour, initiate or sustain personal action without requiring daily verbal prompting given by another person in the claimant's presence.	15
	(c)	Cannot, due to cognitive impairment or a severe disorder of mood or behaviour, initiate or sustain personal action without requiring verbal prompting given by another person in the claimant's presence for the majority of the time.	9
	(d)	Cannot, due to cognitive impairment or a severe disorder of mood or behaviour, initiate or sustain personal action without requiring frequent verbal prompting given by another person in the claimant's presence.	6

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<i>(1)</i> <i>Activity</i>		<i>(2)</i> <i>Descriptors</i>	<i>(3)</i> <i>Points</i>
	(e)	None of the above apply.	0
17. Coping with change.	(a)	Cannot cope with very minor, expected changes in routine, to the extent that overall day to day life cannot be managed.	15
	(b)	Cannot cope with expected changes in routine (such as a pre-arranged permanent change to the routine time scheduled for a lunch break), to the extent that overall day to day life is made significantly more difficult.	9
	(c)	Cannot cope with minor, unforeseen changes in routine (such as an unexpected change of the timing of an appointment on the day it is due to occur), to the extent that overall, day to day life is made significantly more difficult.	6
	(d)	None of the above apply.	0
18. Getting about.	(a)	Cannot get to any specified place with which the claimant is, or would be, familiar.	15
	(b)	Is unable to get to a specified place with which the claimant is familiar, without being accompanied by another person on each occasion.	15
	(c)	For the majority of the time is unable to get to a specified place with	9

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<i>(1)</i> <i>Activity</i>	<i>(2)</i> <i>Descriptors</i>	<i>(3)</i> <i>Points</i>
	which the claimant is familiar without being accompanied by another person.	
	(d) Is frequently unable to get to a specified place with which the claimant is familiar without being accompanied by another person.	6
	(e) None of the above apply.	0
19. Coping with social situations.	(a) Normal activities, for example, visiting new places or engaging in social contact, are precluded because of overwhelming fear or anxiety.	15
	(b) Normal activities, for example, visiting new places or engaging in social contact, are precluded for the majority of the time due to overwhelming fear or anxiety.	9
	(c) Normal activities, for example, visiting new places or engaging in social contact, are frequently precluded, due to overwhelming fear or anxiety.	6
	(d) None of the above apply.	0
20. Propriety of behaviour with other people.	(a) Has unpredictable outbursts of, aggressive, disinhibited, or bizarre behaviour, being either— (i) sufficient to cause disruption to others on a daily basis, or	15

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(1) Activity	(2) Descriptors	(3) Points
	(ii) of such severity that although occurring less frequently than on a daily basis, no reasonable person would be expected to tolerate them.	
(b)	Has a completely disproportionate reaction to minor events or to criticism to the extent that the claimant has an extreme violent outburst leading to threatening behaviour or actual physical violence.	15
(c)	Has unpredictable outbursts of aggressive, disinhibited or bizarre behaviour, sufficient in severity and frequency to cause disruption for the majority of the time.	9
(d)	Has a strongly disproportionate reaction to minor events or to criticism, to the extent that the claimant cannot manage overall day to day life when such events or criticism occur.	9
(e)	Has unpredictable outbursts of aggressive, disinhibited or bizarre behaviour, sufficient to cause frequent disruption.	6
(f)	Frequently demonstrates	6

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(1) Activity	(2) Descriptors	(3) Points
	a moderately disproportionate reaction to minor events or to criticism but not to such an extent that the claimant cannot manage overall day to day life when such events or criticism occur.	
	(g) None of the above apply.	0
21. Dealing with other people.	(a) Is unaware of impact of own behaviour to the extent that— (i) has difficulty relating to others even for brief periods, such as a few hours, or (ii) causes distress to others on a daily basis.	15
	(b) Misinterprets verbal or non-verbal communication to the extent of causing himself significant distress on a daily basis.	15
	(c) Is unaware of impact of own behaviour to the extent that— (i) has difficulty relating to others for longer periods, such as a day or 2, or (ii) causes distress to others for the majority of the time.	9
	(d) Misinterprets verbal or non-verbal communication to the extent of ^{F3} causing himself significant	9

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<i>(1)</i> <i>Activity</i>	<i>(2)</i> <i>Descriptors</i>	<i>(3)</i> <i>Points</i>
	distress] for the majority of the time.	
(e)	Is unaware of impact of own behaviour to the extent that— (i) has difficulty relating to others for prolonged periods, such as a week, or (ii) frequently causes distress to others.	6
(f)	Misinterprets verbal or non-verbal communication to the extent of causing significant distress to himself on a frequent basis.	6
(g)	None of the above apply.	0

Textual Amendments

F3 Words in Sch. 2 para. 21(d) substituted (27.10.2008) by The Employment and Support Allowance (Miscellaneous Amendments) Regulations (Northern Ireland) 2008 (S.R. 2008/413), regs. 1(1), **3(28)(c)**

SCHEDULE 3

Regulation 34(1)

Assessment of whether a claimant has limited capability for work-related activity

Commencement Information

I13 Sch. 3 in operation at 27.10.2008, see **reg. 1(1)**

<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Descriptors</i>
1. Walking or moving on level ground.	Cannot— (a) walk (with a walking stick or other aid if such aid is normally used); (b) move (with the aid of crutches if crutches are normally used); or (c) manually propel the claimant’s wheelchair,

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<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Descriptors</i>
	more than 30 metres without repeatedly stopping, experiencing breathlessness or severe discomfort.
2. Rising from sitting and transferring from one seated position to another.	Cannot complete both of the following— (a) rise to standing from sitting in an upright chair without receiving physical assistance from someone else; and (b) move between one seated position and another seated position located next to one another without receiving physical assistance from someone else.
3. Picking up and moving or transferring by the use of the upper body and arms (excluding standing, sitting, bending or kneeling and all other activities specified in this Schedule).	Cannot pick up and move 0.5 litre carton full of liquid with either hand.
4. Reaching.	Cannot raise either arm as if to put something in the top pocket of a coat or jacket.
5. Manual dexterity.	Cannot— (a) turn a “star-headed” sink tap with either hand; or (b) pick up a £1 coin or equivalent with either hand.
6(a). Continence other than enuresis (bed wetting) where the claimant does not have an artificial stoma or urinary collecting device.	(a) Has no voluntary control over the evacuation of the bowel; (b) Has no voluntary control over the voiding of the bladder; (c) At least once a week, loses control of bowels so that the claimant cannot control the full evacuation of the bowel; (d) At least once a week, loses control of bladder so that the claimant cannot control the full voiding of the bladder; (e) At least once a week, fails to control full evacuation of the bowel, owing to a severe disorder of mood or behaviour; or (f) At least once a week, fails to control full voiding of the bladder, owing to a severe disorder of mood or behaviour.
6(b). Continence where the claimant uses a urinary collecting device, worn for the majority of the time including an indwelling urethral or suprapubic catheter.	(a) Is unable to affix, remove or empty the catheter bag or other collecting device without receiving physical assistance from another person; (b) Is unable to affix, remove or empty the catheter bag or other collecting device without causing leakage of contents; (c) Has no voluntary control over the evacuation of the bowel;

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<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Descriptors</i>
	<ul style="list-style-type: none"> (d) At least once a week, loses control of bowels so that the claimant cannot control the full evacuation of the bowel; or (e) At least once a week, fails to control full evacuation of the bowel, owing to a severe disorder of mood or behaviour.
6(c). Continence other than enuresis (bed wetting) where the claimant has an artificial stoma appliance.	<ul style="list-style-type: none"> (a) Is unable to affix, remove or empty stoma appliance without receiving physical assistance from another person; (b) Is unable to affix, remove or empty stoma without causing leakage of contents; (c) Where the claimant's artificial stoma relates solely to the evacuation of the bowel, has no voluntary control over voiding of bladder; (d) Where the claimant's artificial stoma relates solely to the evacuation of the bowel, at least once a week, loses control of the bladder so that the claimant cannot control the full voiding of the bladder; or (e) Where the claimant's artificial stoma relates solely to the evacuation of the bowel, at least once a week, fails to control the full voiding of the bladder, owing to a severe disorder of mood or behaviour.
7. Maintaining personal hygiene.	<ul style="list-style-type: none"> (a) Cannot clean own torso (excluding own back) without receiving physical assistance from someone else; (b) Cannot clean own torso (excluding own back) without repeatedly stopping, experiencing breathlessness or severe discomfort; (c) Cannot clean own torso (excluding own back) without receiving regular prompting given by someone else in the claimant's presence; or (d) Owing to a severe disorder of mood or behaviour, fails to clean own torso (excluding own back) without receiving— <ul style="list-style-type: none"> (i) physical assistance from someone else, or (ii) regular prompting given by someone else in the claimant's presence.
8(a). Eating and drinking – conveying food or drink to the mouth.	<ul style="list-style-type: none"> (a) Cannot convey food or drink to own mouth without receiving physical assistance from someone else;

<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Descriptors</i>
	<ul style="list-style-type: none"> (b) Cannot convey food or drink to own mouth without repeatedly stopping, experiencing breathlessness or severe discomfort; (c) Cannot convey food or drink to own mouth without receiving regular prompting given by someone else in the claimant's physical presence; or (d) Owing to a severe disorder of mood or behaviour, fails to convey food or drink to own mouth without receiving— <ul style="list-style-type: none"> (i) physical assistance from someone else, or (ii) regular prompting given by someone else in the claimant's presence.
8(b). Eating and drinking – chewing or swallowing food or drink.	<ul style="list-style-type: none"> (a) Cannot chew or swallow food or drink; (b) Cannot chew or swallow food or drink without repeatedly stopping, experiencing breathlessness or severe discomfort; (c) Cannot chew or swallow food or drink without repeatedly receiving regular prompting given by someone else in the claimant's presence; or (d) Owing to a severe disorder of mood or behaviour, fails to— <ul style="list-style-type: none"> (i) chew or swallow food or drink, or (ii) chew or swallow food or drink without regular prompting given by someone else in the claimant's presence.
9. Learning or comprehension in the completion of tasks.	<ul style="list-style-type: none"> (a) Cannot learn or understand how to successfully complete a simple task, such as the preparation of a hot drink, at all; (b) Needs to witness a demonstration, given more than once on the same occasion of how to carry out a simple task before the claimant is able to learn or understand how to complete the task successfully, but would be unable to successfully complete the task the following day without receiving a further demonstration of how to complete it; or (c) Fails to do any of the matters referred to in sub-paragraph (a) or (b) owing to a severe disorder of mood or behaviour.
10. Personal action.	<ul style="list-style-type: none"> (a) Cannot initiate or sustain any personal action (which means planning,

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<i>Column 1</i> <i>Activity</i>	<i>Column 2</i> <i>Descriptors</i>
	<p>organisation, problem solving, prioritising or switching tasks);</p> <p>(b) Cannot initiate or sustain personal action without requiring daily verbal prompting given by someone else in the claimant’s presence; or</p> <p>(c) Fails to initiate or sustain basic personal action without requiring daily verbal prompting given by someone else in the claimant’s presence, owing to a severe disorder of mood or behaviour.</p>
11. Communication.	<p>(a) None of the following forms of communication can be achieved by the claimant—</p> <p>(i) speaking (to a standard that may be understood by strangers),</p> <p>(ii) writing (to a standard that may be understood by strangers),</p> <p>(iii) typing (to a standard that may be understood by strangers),</p> <p>(iv) sign language to a standard equivalent to Level 3 British Sign Language;</p> <p>(b) None of the forms of communication referred to in sub-paragraph (a) are achieved by the claimant, owing to a severe disorder of mood or behaviour;</p> <p>(c) Misinterprets verbal or non-verbal communication to the extent of causing distress to himself on a daily basis; or</p> <p>(d) Effectively cannot make himself understood to others because of the claimant’s disassociation from reality owing to a severe disorder of mood or behaviour.</p>

SCHEDULE 4

Regulations 67 and 68

Amounts

PART 1

PRESCRIBED AMOUNTS

1. The weekly amounts specified in column (2) in respect of each person or couple specified in column (1) are the weekly amounts specified for the purposes of regulations 67(1) and 68 (prescribed amounts and polygamous marriages).

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<i>(1)</i> <i>Person or Couple</i>	<i>(2)</i> <i>Amount</i>
(1) Single claimant—	(1)
(a) (a) who satisfies the conditions set out in section 2(2) or (3) or 4(4) or (5) of the Act;	(a) (a) £60·50;
(b) (b) aged not less than 25;	(b) (b) £60·50;
(c) (c) aged less than 25.	(c) (c) £47·95;
(2) Lone parent—	(2)
(a) (a) who satisfies the conditions set out in section 4(4) or (5) of the Act;	(a) (a) £60·50;
(b) (b) aged not less than 18;	(b) (b) £60·50;
(c) (c) aged less than 18.	(c) (c) £47·95;
(3) Couple—	(3)
(a) (a) where both members are aged not less than 18;	(a) (a) £94·95;
(b) (b) where one member is aged not less than 18 and the other member is a person under 18 who—	(b) (b) £94·95;
(i) had they not been members of a couple, would satisfy the requirements for entitlement to income support other than the requirement to make a claim for it,	
(ii) had they not been members of a couple, would satisfy the requirements for entitlement to an income-related allowance,	
(iii) satisfies the requirements of Article 5(1)(f)(iii) of the Jobseekers Order (prescribed circumstances for persons aged 16 but less than 18); or	
(iv) is the subject of a direction under Article 18 of that Order (persons under 18: severe hardship);	
(c) (c) where the claimant satisfies the conditions set out in section 4(4) or (5) of the Act and both members are aged less than 18 and—	(c) (c) £94·95;
(i) at least one of them is treated as responsible for a child,	

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<i>(1)</i> <i>Person or Couple</i>	<i>(2)</i> <i>Amount</i>
<ul style="list-style-type: none"> (ii) had they not been members of a couple, each would have qualified for an income-related allowance, (iii) had they not been members of a couple the claimant's partner would satisfy the requirements for entitlement to income support other than the requirement to make a claim for it, (iv) the claimant's partner satisfies the requirements of Article 5(1)(f)(iii) of the Jobseekers Order, or (v) there is in force in respect of the claimant's partner a direction under Article 18 of that Order; 	
<p>(d) (d) where both members are aged less than 18 and—</p> <ul style="list-style-type: none"> (i) at least one of them is treated as responsible for a child, (ii) had they not been members of a couple, each would have qualified for an income-related allowance, (iii) had they not been members of a couple the claimant's partner satisfies the requirements for entitlement to income support other than the requirement to make a claim for it, (iv) the claimant's partner satisfies the requirements of Article 5(1)(f)(iii) of the Jobseekers Order, or (v) there is in force in respect of the claimant's partner a direction under Article 18 of that Order; 	(d) (d) £72.35;
<p>(e) (e) where the claimant is aged not less than 25 and the claimant's partner is a person under 18 who—</p> <ul style="list-style-type: none"> (i) would not qualify for an income-related allowance if the person were not a member of a couple, 	(e) (e) £60.50;

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<i>(1)</i> <i>Person or Couple</i>	<i>(2)</i> <i>Amount</i>
(ii) would not qualify for income support if the person were not a member of a couple,	
(iii) does not satisfy the requirements of Article 5(1)(f) (iii) of the Jobseekers Order, and	
(iv) is not the subject of a direction under Article 18 of that Order;	
(f) (f) where the claimant satisfies the conditions set out in section 4(4) or (5) of the Act and the claimant's partner is a person under 18 who—	(f) (f) £60·50;
(i) would not qualify for an income-related allowance if the person [^{F4} were] not a member of a couple,	
(ii) would not qualify for income support if the person was not a member of a couple,	
(iii) does not satisfy the requirements of Article 5(1)(f) (iii) of the Jobseekers Order, and	
(iv) is not the subject of a direction under Article 18 of that Order;	
(g) (g) where the claimant satisfies the conditions set out in section 4(4) or (5) of the Act and both members are aged less than 18 and head (c) does not apply;	(g) (g) £60·50;
[^{F5} (h) [^{F5} (h) where the claimant is aged not less than 18 but less than 25 and the claimant's partner is a person under 18 who—	(h) (h) £47·95;
(i) would not qualify for an income-related allowance if the person were not a member of a couple,	
(ii) would not qualify for income support if the person were not a member of a couple,	
(iii) does not satisfy the requirements of Article 5(1)(f) (ii) of the Jobseekers Order, and	

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(1) <i>Person or Couple</i>	(2) <i>Amount</i>
(iv) is not the subject of a direction under Article 18 of that Order;]	
(i) (i) where both members are aged less than 18 and head (d) does not apply.	(i) (i) £47·95.

Textual Amendments

- F4** Word in [Sch. 4 para. 1](#) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(29)(a)**
- F5** Words in [Sch. 4 para. 1](#) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(29)(b)**

Commencement Information

- I14** [Sch. 4 Pt. 1 para. 1](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

PART 2

PREMIUMS

2. Except as provided in paragraph 4, the weekly premiums specified in Part 3 of this Schedule are, for the purposes of regulations 67(1)(b) and 68(1)(c), to be applicable to a claimant who satisfies the condition specified in paragraphs 5 to 8 in respect of that premium.

Commencement Information

- I15** [Sch. 4 Pt. 2 para. 2](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

3. An enhanced disability premium in respect of a person is not applicable in addition to a pensioner premium.

Commencement Information

- I16** [Sch. 4 Pt. 2 para. 3](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

4.—(1) For the purposes of this Part of this Schedule, once a premium is applicable to a claimant under this Part, a person is to be treated as being in receipt of any benefit—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(3) applies, for any period during which, apart from the provisions of those Regulations, the person would be in receipt of that benefit; and
- (b) for any period spent by a person in undertaking a course of training or instruction provided or approved by the Department for Employment and Learning under sections 2 and 3 of the

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Disabled Persons (Employment) Act(4) or section 1(1) of the Employment and Training Act(5) or for any period during which the person is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 8, a claimant is to be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of 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 Contributions and Benefits Act.

Commencement Information

I17 Sch. 4 Pt. 2 para. 4 in operation at 27.10.2008, see [reg. 1\(1\)](#)

Pensioner premium

5. The condition in respect of a pensioner premium is that the claimant or the claimant's partner has attained the qualifying age for state pension credit.

Commencement Information

I18 Sch. 4 para. 5 in operation at 27.10.2008, see [reg. 1\(1\)](#)

Severe disability premium

6.—(1) The condition in respect of a severe disability premium is that the claimant is a severely disabled person.

(2) For the purposes of sub-paragraph (1), a claimant is to be treated as being a severely disabled person if, and only if—

- (a) in the case of a single claimant, a lone parent or a claimant who is treated as having no partner in consequence of sub-paragraph (3)—
 - (i) the claimant is in receipt of the care component,
 - (ii) subject to sub-paragraph (4), the claimant has no non-dependants aged 18 or over normally residing with the claimant or with whom the claimant is normally residing, and
 - (iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the Contributions and Benefits Act(6) in respect of caring for the claimant;
- (b) in the case of a claimant who has a partner—
 - (i) the claimant is in receipt of the care component,
 - (ii) the claimant's partner is also in receipt of the care component or attendance allowance or, if the claimant is a member of a polygamous marriage, all the partners of that marriage are in receipt of the care component or attendance allowance, and
 - (iii) subject to sub-paragraph (4), the claimant has no non-dependants aged 18 or over normally residing with the claimant or with whom the claimant is normally residing,

(4) Sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986

(5) Section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8))

(6) Section 70 was amended by regulation 2(3) of S.R. 1994 No. 370 and Article 3 of S.R. 2002 No. 321

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and, either a person is entitled to, and in receipt of, a carer's allowance in respect of caring for only one of the couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage or, as the case may be, no person is entitled to, and in receipt of, such an allowance in respect of caring for either member of the couple or any partner of the polygamous marriage.

(3) Where a claimant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii) and that partner is blind or severely sight impaired or is treated as blind or severely sight impaired that partner is to be treated for the purposes of sub-paragraph (2) as if the partner were not a partner of the claimant.

(4) For the purposes of sub-paragraph (2)(a)(ii) and (b)(iii) no account is to be taken of—

- (a) a person receiving attendance allowance or the care component;
- (b) subject to sub-paragraph (7), a person who joins the claimant's household for the first time in order to care for the claimant or the claimant's partner and, immediately before so joining, the claimant or the claimant's partner was treated as a severely disabled person; or
- (c) a person who is blind or severely sight impaired or is treated as blind or severely sight impaired.

(5) For the purposes of sub-paragraph (2)(b) a person is to be treated—

- (a) as being in receipt of attendance allowance or the care component if the person would, but for the person being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being entitled to, and in receipt of, a carer's allowance if the person would, but for the person for whom the person was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (b), no account is to be taken of an award of carer's allowance to the extent that payment of such an award is backdated for a period before the date on which the award is first paid.

(7) Sub-paragraph (4)(b) is to apply only for the first 12 weeks following the date on which the person to whom that provision applies first joins the claimant's household.

(8) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance are to include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6 of the Social Security Fraud Act (Northern Ireland) 2001(7) (loss of benefit for commission of benefit offences).

(9) In this paragraph—

“blind or severely sight impaired” means certified as blind or severely sight impaired and in consequence the person is registered as blind or severely sight impaired in a register maintained by or on behalf of a Health and Social Services Board and a person who has ceased to be registered as blind or severely sight impaired where that person's eyesight has been regained is, nevertheless, to be treated as blind or severely sight impaired for a period of 28 weeks following the date on which the person ceased to be so registered;

“the care component” means the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Contributions and Benefits Act.

Commencement Information

I19 Sch. 4 para. 6 in operation at 27.10.2008, see [reg. 1\(1\)](#)

(7) 2001 c. 17 (N.I.); section 6 was amended by Schedule 6 to the Tax Credits Act 2002 (c. 21), paragraph 33 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)) and section 45(1) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.))

Enhanced disability premium

7.—(1) Subject to sub-paragraph (2), the condition in respect of an enhanced disability premium is that—

- (a) the claimant's applicable amount includes the support component; or
 - (b) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the Contributions and Benefits Act or, but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 72(3) of that Act in respect of—
 - (i) the claimant, or
 - (ii) the claimant's partner (if any) who is aged less than the qualifying age for state pension credit.
- (2) An enhanced disability premium is not applicable in respect of—
- (a) a claimant who—
 - (i) is not a member of a couple or a polygamous marriage, and
 - (ii) is a patient within the meaning of regulation 69(2) and has been for a period of more than 52 weeks; or
 - (b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of regulation 69(2) and has been for a period of more than 52 weeks.

Commencement Information

I20 [Sch. 4 para. 7](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

Carer premium

8.—(1) Subject to sub-paragraphs (2) and (4), the condition in respect of a carer premium is that the claimant or the claimant's partner is, or both of them are, entitled to a carer's allowance under section 70 of the Contributions and Benefits Act.

- (2) Where a carer premium is awarded but—
- (a) the person in respect of whose care the carer's allowance has been awarded dies; or
 - (b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled to a carer's allowance,

the condition for the award of the premium is to be treated as satisfied for a period of 8 weeks from the relevant date specified in sub-paragraph (3).

- (3) The relevant date for the purposes of sub-paragraph (2) is—
- (a) where sub-paragraph (2)(a) applies, the Sunday following the death of the person in respect of whose care a carer's allowance has been awarded or the date of death if the death occurred on a Sunday; or
 - (b) in any other case, the date on which the person who has been entitled to a carer's allowance ceases to be entitled to that allowance.

(4) Where a person who has been entitled to a carer's allowance ceases to be entitled to that allowance and makes a claim for an income-related allowance, the condition for the award of the carer premium is to be treated as satisfied for a period of 8 weeks from the date on which—

- (a) the person in respect of whose care the carer's allowance has been awarded dies; or

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- (b) in any other case, the person who has been entitled to a carer’s allowance ceased to be entitled to that allowance.

Commencement Information
I21 Sch. 4 para. 8 in operation at 27.10.2008, see [reg. 1\(1\)](#)

Persons in receipt of concessionary payments

9. For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 8, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

Commencement Information
I22 Sch. 4 para. 9 in operation at 27.10.2008, see [reg. 1\(1\)](#)

Persons in receipt of benefit

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

Commencement Information
I23 Sch. 4 para. 10 in operation at 27.10.2008, see [reg. 1\(1\)](#)

PART 3

WEEKLY AMOUNT OF PREMIUMS SPECIFIED IN PART 2

Commencement Information
I24 Sch. 4 Pt. 3 in operation at 27.10.2008, see [reg. 1\(1\)](#)

<i>Premium</i>	<i>Amount</i>
11.—(1) Pensioner premium for a person to whom paragraph 5 applies who—	(1)
(a) (a) is a single claimant and—	(a) (a)
(i) is entitled to the work-related activity component,	(i) £39·55;
(ii) is entitled to the support component, or	(ii) £34·55;
(iii) is not entitled to either of those components;	(iii) £63·55;
(b) (b) is a member of a couple and—	(b) (b)

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<i>Premium</i>	<i>Amount</i>
(i) is entitled to the work-related activity component,	(i) £70·40;
(ii) is entitled to the support component, or	(ii) £65·40;
(iii) is not entitled to either of those components.	(iii) £94·40.
(2) Severe disability premium—	(2)
(a) (a) where the claimant satisfies the condition in paragraph 6(2)(a);	(a) (a) £50·35;
(b) (b) where the claimant satisfies the condition in paragraph 6(2)(b)—	(b) (b)
(i) if there is someone in receipt of a carer’s allowance or if the person or any partner satisfies that condition only by virtue of paragraph 6(5),	(i) £50·35;
(ii) if no-one is in receipt of such an allowance.	(ii) £100·70.
(3) Carer premium.	(3) £27·75 in respect of each person who satisfies the condition specified in paragraph 8(1).
(4) Enhanced disability premium where the condition in paragraph 7 is satisfied.	(4)
	(a) (a) £12·60 in respect of each person who is neither—
	(i) a child or young person, nor
	(ii) a member of a couple or a polygamous marriage, in respect of whom the condition specified in paragraph 7 is satisfied;
	(b) £18·15 where the claimant is a member of a couple or a polygamous marriage and the condition specified in paragraph 7 is satisfied in respect of a member of that couple or polygamous marriage.

PART 4

THE COMPONENTS

12. The amount of the work-related activity component is £24·00.

Commencement Information

I25 Sch. 4 para. 12 in operation at 27.10.2008, see [reg. 1\(1\)](#)

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13. The amount of the support component is £29·00.

Commencement Information

I26 Sch. 4 para. 13 in operation at 27.10.2008, see **reg. 1(1)**

SCHEDULE 5

Regulation 69

Special Cases

PART 1

AMOUNTS PRESCRIBED FOR THE
PURPOSES OF SECTION 4(2) OF THE ACT

Commencement Information

I27 Sch. 5 Pt. 1 in operation at 27.10.2008, see **reg. 1(1)**

<i>(1)</i> <i>Person or Couple</i>	<i>(2)</i> <i>Amount</i>
Claimants without accommodation	1. The amount applicable to the claimant under regulation 67(1)(a).
1. A claimant who is without accommodation.	
Members of religious orders	2. Nil.
2. A claimant who is a member of, and fully maintained by, a religious order.	
Prisoners	3
3. A claimant—	
(a) (a) except where sub-paragraph (b) applies, who is a prisoner;	(a) (a) Nil;
(b) (b) who is detained in custody pending trial or sentence following conviction by a court.	(b) (b) Only such amount, if any, as may be applicable under regulation 67(1)(c) and the amount of nil under regulation 67(3).
Specified cases of temporarily separated couples	4. Either—
4. A claimant who is a member of a couple and who is temporarily separated from the claimant’s partner where—	(a) the amount applicable to the claimant as a member of a couple under regulation 67(1); or
(a) one member of the couple is—	(b) the aggregate of the claimant’s applicable amount and that of the claimant’s partner assessed under the provisions of these Regulations as if

Status: Point in time view as at 27/10/2008.

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<i>(1)</i> <i>Person or Couple</i>	<i>(2)</i> <i>Amount</i>
<ul style="list-style-type: none"> (i) not a patient but is residing in a residential care home, a nursing home, an Abbeyfield Home or an independent hospital, (ii) resident in premises used for the rehabilitation of alcoholics or drug addicts, (iii) participating in arrangements for training or rehabilitation provided under sections 2 and 3 of the Disabled Persons (Employment) Act or arranged under section 1(1) of the Employment and Training Act where the person is required to live away from the dwelling occupied as the home, or (iv) in a probation hostel or other establishment for use in connection with the supervision and assistance of offenders or a bail hostel, provided and maintained, or under arrangements entered into, by the Probation Board for Northern Ireland with the approval of the Secretary of State; and <p>(b) the other member of the couple is—</p> <ul style="list-style-type: none"> (i) living in the dwelling occupied as the home, (ii) a patient, or (iii) residing in a residential care home, a nursing home, an Abbeyfield Home or an independent hospital. 	<p>each of them were a single claimant or a lone parent</p> <p>whichever is the greater.</p>

Polygamous marriage where one or more partners are temporarily separated

5. A claimant who is a member of a polygamous marriage and who is temporarily separated from a partner, where one of them is living in the home where the other member is—

- (a) not a patient but is residing in a residential care home, a nursing home, an Abbeyfield Home or an independent hospital;

5. Either—

- (a) the amount applicable to the members of the polygamous marriage under regulation 68; or
- (b) the aggregate of the amount applicable for the members of the polygamous marriage who remain in the home under regulation 68 and the amount applicable in respect of those members not in the home

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<i>(1)</i> <i>Person or Couple</i>	<i>(2)</i> <i>Amount</i>
<ul style="list-style-type: none"> (b) resident in premises used for the rehabilitation of alcoholics or drug addicts; (c) attending a course of training or instruction provided or approved by the Department for Employment and Learning where the course requires the person to live away from home; or (d) in a probation hostel or other establishment for use in connection with the supervision and assistance of offenders or a bail hostel, provided and maintained, or under arrangements entered into, by the Probation Board for Northern Ireland with the approval of the Secretary of State. 	<p>calculated as if each of them were a single claimant or a lone parent, whichever is the greater.</p>

Couple where one member is abroad

6. Subject to paragraph 7, a claimant who is a member of a couple where one member of the couple is temporarily absent from the United Kingdom.

6. For the first 4 weeks of that absence, the amount applicable to them as a couple under regulation 67(1) or 69 as the case may be, and thereafter, the amount applicable to the claimant in Northern Ireland under regulation 67(1) or 69 as the case may be, as if the claimant were a single claimant or, as the case may be, lone parent.

Couple or member of couple taking child or young person abroad for treatment

7.—(1) A claimant who is a member of a couple where either—

- (a) the claimant or the claimant’s partner is; or
- (b) both the claimant and the claimant’s partner are,

absent from the United Kingdom in the circumstances specified in sub-paragraph (2).

7. For the first 26 weeks of that absence, the amount applicable to the claimant under regulation 67(1) or 69 as the case may be, and thereafter, if the claimant is in Northern Ireland, the amount applicable to the claimant under regulation 67(1) or 69 as the case may be, as if the claimant were a single claimant or, as the case may be, a lone parent.

(2) For the purposes of sub-paragraph (1) the specified circumstances are—

- (a) in respect of a claimant those in regulation 153(1)(a), (b), (c)(ii), (d) and (e);
- (b) in respect of a claimant’s partner, as if regulation 153(1)(a), (b), (c)(ii), (d) and (e) applied to that partner.

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(1) <i>Person or Couple</i>	(2) <i>Amount</i>
<p>Polygamous marriage where any member is abroad</p> <p>8. Subject to paragraph 9, a claimant who is a member of a polygamous marriage where one or more members of the marriage are temporarily absent from the United Kingdom.</p>	<p>8. For the first 4 weeks of that absence, the amount applicable to the claimant under regulation 68 or 69 as the case may be, and thereafter, if the claimant is in Northern Ireland, the amount applicable to the claimant under regulation 68 or 69, as the case may be, as if any members of the polygamous marriage not in the United Kingdom were not a member of the marriage.</p>
<p>Polygamous marriage: taking child or young person abroad for treatment</p> <p>9.—(1) A claimant who is a member of a polygamous marriage where one or more members of the marriage are absent from the United Kingdom in the circumstances specified in sub-paragraph (2).</p> <p>(2) For the purposes of sub-paragraph (1) the specified circumstances are—</p> <p>(a) in respect of a claimant, those in regulation 153(1)(a), (b), (c)(ii), (d) and (e);</p> <p>(b) in respect of a claimant’s partner or partners, as the case may be, as if regulation 153(1)(a), (b), (c)(ii), (d) and (e) applied to that partner or those partners.</p>	<p>9. For the first 26 weeks of that absence, the amount applicable to the claimant under regulation 68 or 69 as the case may be, and thereafter, if the claimant is in Northern Ireland, the amount applicable to the claimant under regulation 68 or 69 as the case may be, as if any member of the polygamous marriage not in the United Kingdom were not a member of the marriage.</p>
<p>Partner of a person subject to immigration control</p> <p>10. A claimant—</p> <p>(a) (a) who is the partner of a person subject to immigration control;</p> <p>(b) (b) where regulation 68 (polygamous marriages) applies, is a person—</p> <p>(i) who is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act, or</p>	<p>10</p> <p>(a) (a) The amount applicable in respect of the claimant only under regulation 67(1)(a), any amount which may be applicable to the claimant under regulation 67(1)(b) plus the amount applicable to the claimant under regulation 67(1)(c) or, as the case may be, regulation 69.</p> <p>(b) (b) The amount determined in accordance with regulation 68 or 69 in respect of the claimant and any partners of the claimant who are not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act and to whom section 115 of that Act does not apply for the purposes of exclusion</p>

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<i>(1)</i> <i>Person or Couple</i>	<i>(2)</i> <i>Amount</i>
<p>(ii) to whom section 115 of that Act does not apply by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000⁽⁸⁾, and</p> <p>(iii) who is a member of a couple and one or more of the person's partners is subject to immigration control within the meaning of section 115(9) of that Act and section 115 of that Act applies to that partner or those partners for the purposes of exclusion from entitlement to income-related allowance.</p>	<p>from entitlement to an income-related allowance.</p>
<p>Person from abroad</p> <p>11. Person from abroad.</p>	<p>11. Nil.</p>

PART 2

AMOUNTS PRESCRIBED FOR THE PURPOSES OF SECTIONS 2(1) AND 4(2) OF THE ACT

Commencement Information

I28 Sch. 5 Pt. 2 in operation at 27.10.2008, see [reg. 1\(1\)](#)

<i>(1)</i> <i>Person</i>	<i>(2)</i> <i>Amount</i>
<p>Patients</p> <p>12. A claimant who is detained, or liable to be detained, under Article 53 of the Mental Health Order⁽⁹⁾ (removal to hospital of persons serving sentences of imprisonment, etc.) but not if the detention continues after the date which the Secretary of State certifies would have been the earliest date on which the claimant could have been released in respect of, or from, the prison sentence if the claimant had not been detained in hospital.</p>	<p>12. The amount applicable under regulation 67(2) and the amount of nil under regulation 67(3).</p>

⁽⁸⁾ [S.R. 2000 No. 71](#); regulation 2 was amended by paragraph 1(s) of the Schedule to [S.R. 2002 No. 323](#) and regulation 6 of [S.R. 2003 No. 421](#)

⁽⁹⁾ Article 53 was amended by paragraph 38 of Schedule 12 to the Justice (Northern Ireland) Act 2002 (c. 26)

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(1) Person	(2) Amount
13. Subject to paragraph 12, a single claimant who has been a patient for a continuous period of more than 52 weeks or, where the claimant is one of a couple, the other member of the couple has been a patient for a continuous period of more than 52 weeks.	13. The amounts applicable under regulation 67(1)(a), (c) and (2) and the amount of nil under regulation 67(3).
Person in hardship	
14. Where regulation 157 applies, a claimant who is a person in hardship.	14. The amount to which the claimant is entitled under regulation 67(1)(a) and (2) or 68(1)(a) is to be reduced by 20 per cent.

SCHEDULE 6

Regulations 67(1)(c) and 68(1)(d)

Housing Costs

Housing costs

1.—(1) Subject to the following provisions of this Schedule, the housing costs applicable to a claimant are those costs—

- (a) which the claimant or, where the claimant has a partner, that partner is, in accordance with paragraph 4, liable to meet in respect of the dwelling occupied as the home which the claimant or that claimant’s partner is treated as occupying; and
- (b) which qualify under paragraphs 16 to 18.

(2) In this Schedule—

“existing housing costs” means housing costs arising under an agreement entered into before 2nd October 1995, or under an agreement entered into after 1st October 1995 (“the new agreement”)—

- (a) which replaces an existing agreement, provided that the person liable to meet the housing costs—
 - (i) remains the same in both agreements, or
 - (ii) where in either agreement more than one person is liable to meet the housing costs, the person is liable to meet the housing costs in both the existing agreement and the new agreement;
- (b) where the existing agreement was entered into before 2nd October 1995; and
- (c) which is for a loan of the same amount as, or less than the amount of, the loan under the agreement it replaces, and for this purpose any amount payable to arrange the new agreement and included in the loan must be disregarded;

“housing costs” means those costs to which sub-paragraph (1) refers;

“new housing costs” means housing costs arising under an agreement entered into after 1st October 1995 other than an agreement referred to in the definition of “existing housing costs”;

“standard rate” means the rate for the time being determined in accordance with paragraph 13.

(3) For the purposes of this Schedule a disabled person is a person—

- (a) in respect of whom the main phase employment and support allowance is payable to the claimant or to a person living with the claimant;

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- (b) who, had that person been entitled to income support, would have satisfied the requirements of paragraph 12 of Schedule 2 to the Income Support Regulations (additional condition for the disability premium);
 - (c) aged 75 or over; or
 - (d) who is disabled or severely disabled for the purposes of section 9(6) of the Tax Credits Act (maximum rate).
- (4) For the purposes of sub-paragraph (3), a person shall not cease to be a disabled person on account of that person being disqualified for receiving benefit or treated as not having limited capability for work by virtue of the operation of section 18(1) to (3) of the Act.

Commencement Information

I29 Sch. 6 para. 1 in operation at 27.10.2008, see [reg. 1\(1\)](#)

Remunerative work

2.—(1) Subject to [^{F6}sub-paragraphs (2) to (8)] of this paragraph, a [^{F7}non-dependant (referred to in this paragraph as “person”)] is to be treated for the purposes of this Schedule as engaged in remunerative work if that person is engaged or, where the person’s hours of work fluctuate, is engaged on average, for not less than 16 hours a week, being work for which payment is made or which is done in expectation of payment.

(2) Subject to sub-paragraph (3), in determining the number of hours for which a person is engaged in work where that person’s hours of work fluctuate, regard is to be had to the average of hours worked over—

- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
- (b) in any other case, the period of 5 weeks immediately prior to the date of claim, or such other length of time as may, in the particular case, enable the person’s weekly average hours of work to be determined more accurately.

(3) Where no recognisable cycle has been established in respect of a person’s work, regard is to be had to the number of hours or, where those hours fluctuate, the average of the hours, which that person is expected to work in a week.

(4) A person is to be treated as engaged in remunerative work during any period for which that person is absent from work referred to in sub-paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(5) A person is not to be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave or is absent from work because the person is ill.

(6) For the purposes of this paragraph, in determining the number of hours in which a person is engaged or treated as engaged in remunerative work, no account is to be taken of any hours in which the person is engaged in an employment or a scheme to which regulation 43(1) (circumstances under which partners of persons entitled to an income-related allowance are not to be treated as engaged in remunerative work) applies.

(7) For the purposes of sub-paragraphs (1) and (2), in determining the number of hours for which a person is engaged in work, that number is to include any time allowed to that person by that person’s employer for a meal or for refreshment, but only where that person is, or expects to be, paid earnings in respect of that time.

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[^{F8}(8) A person is to be treated as not being engaged in remunerative work on any day in which that person falls within the circumstances prescribed in regulation 43(2) (circumstances under which partners of claimants entitled to an income-related allowance are not to be treated as engaged in remunerative work).

(9) Whether a claimant or the claimant’s partner is engaged in, or to be treated as being engaged in, remunerative work is to be determined in accordance with regulation 41 or, as the case may be, 42 (meaning of “remunerative work” for the purposes of paragraph 6(1)(e) and (f) of Schedule 1 to the Act).]

Textual Amendments

- F6** Words in Sch. 6 para. 2(1) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(30)(a)(i)(aa)**
- F7** Words in Sch. 6 para. 2(1) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(30)(a)(i)(bb)**
- F8** Sch. 6 para. 2(8), (9) substituted for Sch. 6 para. 2(8) (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(30)(a)(ii)**

Commencement Information

- I30** Sch. 6 para. 2 in operation at 27.10.2008, see [reg. 1\(1\)](#)

Previous entitlement to other income-related benefits

3.—(1) Where the claimant or the claimant’s partner was in receipt of, or was treated as being in receipt of, an income-based jobseeker’s allowance or income support not more than 12 weeks before one of them becomes entitled to an income-related allowance or, where the claimant or the claimant’s partner is a person to whom paragraph 15(2) or (13) (linking rules) refers, not more than 26 weeks before becoming so entitled and—

- (a) the applicable amount for that income-based jobseeker’s allowance or income support included an amount in respect of housing costs under paragraphs 14 to 16 of Schedule 2 to the Jobseeker’s Allowance Regulations(**10**) or, as the case may be, paragraphs 15 to 17 of Schedule 3 to the Income Support Regulations(**11**); and
- (b) the circumstances affecting the calculation of those housing costs remain unchanged since the last calculation of those costs,

the applicable amount in respect of housing costs for an income-related allowance is to be the applicable amount in respect of those costs current when entitlement to an income-based jobseeker’s allowance or income support was last determined.

(2) Where the claimant or the claimant’s partner was in receipt of state pension credit not more than 12 weeks before one of them becomes entitled to [^{F9}an income-related allowance] or, where the claimant or the claimant’s partner is a person to whom paragraph 15(2) or (13) (linking rules) refers, not more than 26 weeks before becoming so entitled and—

(10) Paragraph 16 was amended by paragraph 4(4)(a) of Schedule 2 to [S.R. 2006 No. 407](#)

(11) Schedule 3 was substituted by regulation 2 of [S.R. 1995 No. 301](#) and paragraph 17 was amended by paragraph 1(4)(a) of Schedule 2 to [S.R. 2006 No. 407](#)

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- (a) the appropriate minimum guarantee included an amount in respect of housing costs under paragraphs 11 to 13 of Schedule 2 to the State Pension Credit Regulations (Northern Ireland) 2003(12); and
- (b) the circumstances affecting the calculation of those housing costs remain unchanged since the last calculation of those costs,

the applicable amount in respect of housing costs for an income-related allowance is to be the applicable amount in respect of those costs current when entitlement to state pension credit was last determined.

(3) Where, in the period since housing costs were last calculated for an income-based jobseeker's allowance, income support or, as the case may be, state pension credit, there has been a change of circumstances, other than a reduction in the amount of an outstanding loan, which increases or reduces those costs, the amount to be met under this Schedule must, for the purposes of the claim for an income-related allowance, be recalculated so as to take account of that change.

Textual Amendments

F9 Words in [Sch. 6 para. 3\(2\)](#) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(30)(b)**

Commencement Information

I31 [Sch. 6 para. 3](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

Circumstances in which a person is liable to meet housing costs

4. A person is liable to meet housing costs where—
- (a) the liability falls upon that person or that person's partner but not where the liability is to a member of the same household as the person on whom the liability falls;
 - (b) because the person liable to meet the housing costs is not meeting them, the claimant has to meet those costs in order to continue to live in the dwelling occupied as the home and it is reasonable in all the circumstances to treat the claimant as liable to meet those costs;
 - (c) in practice the claimant shares the housing costs with other members of the household none of whom are close relatives either of the claimant or the claimant's partner and—
 - (i) one or more of those members is liable to meet those costs, and
 - (ii) it is reasonable in the circumstances to treat the claimant as sharing responsibility.

Commencement Information

I32 [Sch. 6 para. 4](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

Circumstances in which a person is to be treated as occupying a dwelling as the home

5.—(1) Subject to the following provisions of this paragraph, a person is to be treated as occupying as the home the dwelling normally occupied as the home by that person or, if that person is a member of a family, by that person and that person's family and that person is not to be treated as occupying any other dwelling as the home.

(12) [S.R. 2003 No. 28](#); paragraph 12 was amended by regulation 5(4)(i) of [S.R. 2006 No. 128](#) and paragraph 13 was amended by paragraph 11(4)(b) of [S.R. 2006 No. 407](#)

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(2) In determining whether a dwelling is the dwelling normally occupied as the claimant's home for the purposes of sub-paragraph (1) regard must be had to any other dwelling occupied by the claimant or by the claimant and that claimant's family whether or not that other dwelling is in Northern Ireland.

(3) Subject to sub-paragraph (4), where a claimant who has no partner is a full-time student or is on a training course and is liable to make payments (including payments of mortgage interest or analogous payments) in respect of either (but not both) the dwelling which that claimant occupies for the purpose of attending the course of study or the training course or, as the case may be, the dwelling which that claimant occupies when not attending that course, that claimant is to be treated as occupying as the home the dwelling in respect of which that claimant is liable to make payments.

(4) A full-time student is not to be treated as occupying a dwelling as that student's home for any week of absence from it, other than an absence occasioned by the need to enter hospital for treatment, outside the period of study, if the main purposes of that student's occupation during the period of study would be to facilitate attendance on that student's course.

(5) Where the claimant has been required to move into temporary accommodation by reason of essential repairs being carried out to the dwelling normally occupied as the home and that claimant is liable to make payments (including payments of mortgage interest or analogous payments) in respect of either (but not both) the dwelling normally occupied or the temporary accommodation, that claimant must be treated as occupying as the home the dwelling in respect of which that claimant is liable to make those payments.

(6) Where the claimant is liable to make payments in respect of 2 (but not more than 2) dwellings, that claimant must be treated as occupying both dwellings as the home only—

- (a) where that claimant has left and remains absent from the former dwelling occupied as the home through fear of violence in that dwelling or of violence by a former member of the claimant's family and it is reasonable that housing costs should be met in respect of both that claimant's former dwelling and that claimant's present dwelling occupied as the home;
- (b) in the case of a couple or a member of a polygamous marriage where a partner is a full-time student or is on a training course and it is unavoidable that that student or they should occupy 2 separate dwellings and it is reasonable that housing costs should be met in respect of both dwellings; or
- (c) in the case where a claimant has moved into a new dwelling occupied as the home, except where sub-paragraph (5) applies, for a period not exceeding 4 benefit weeks from the first day of the benefit week in which the move occurs if that claimant's liability to make payments in respect of 2 dwellings is unavoidable.

(7) Where—

- (a) the claimant has moved into a dwelling and was liable to make payments in respect of that dwelling before moving in;
- (b) that claimant had claimed an income-related allowance before moving in and either that claim has not yet been determined or it has been determined but an amount has not been included under this Schedule and if the claim has been refused a further claim has been made within 4 weeks of the date on which the claimant moved into the new dwelling occupied as the home; and
- (c) the delay in moving into the dwelling in respect of which there was liability to make payments before moving in was reasonable and—
 - (i) that delay was necessary in order to adapt the dwelling to meet the disablement needs of the claimant or any member of the claimant's family,

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- (ii) the move was delayed pending the outcome of an application for a social fund payment under Part 8 of the Contributions and Benefits Act to meet a need arising out of the move or in connection with setting up the home in the dwelling, and—
 - (aa) a member of the claimant’s family is aged 5 or under,
 - (bb) the claimant is a person in respect of whom the main phase employment and support allowance is payable,
 - (cc) the claimant’s applicable amount includes a pensioner premium,
 - (dd) the claimant’s applicable amount includes a severe disability premium, or
 - (ee) a child tax credit is payable for a member of the claimant’s family who is disabled or severely disabled for the purposes of section 9(6) of the Tax Credits Act, or
- (iii) the claimant became liable to make payments in respect of the dwelling while that claimant was a patient or was in residential accommodation,

that claimant is to be treated as occupying the dwelling as the home for any period not exceeding 4 weeks immediately prior to the date on which that claimant moved into the dwelling and in respect of which that claimant was liable to make payments.

- (8) This sub-paragraph applies to a claimant who enters residential accommodation—
 - (a) for the purpose of ascertaining whether the accommodation suits that claimant’s needs; and
 - (b) with the intention of returning to the dwelling which that claimant normally occupies as the home should, in the event, the residential accommodation prove not to suit that claimant’s needs,

and while in the accommodation, the part of the dwelling which that claimant normally occupies as the home is not let or sub-let to another person.

(9) A claimant to whom sub-paragraph (8) applies is to be treated as occupying the dwelling that the claimant normally occupies as the home during any period (commencing on the day that claimant enters the accommodation) not exceeding 13 weeks in which the claimant is resident in the accommodation, but only in so far as the total absence from the dwelling does not exceed 52 weeks.

(10) A claimant, other than a claimant to whom sub-paragraph (11) applies, is to be treated as occupying a dwelling as the home throughout any period of absence not exceeding 13 weeks, if, and only if—

- (a) that claimant intends to return to occupy the dwelling as the home;
- (b) the part of the dwelling normally occupied by that claimant has not been let or sub-let to another person; and
- (c) the period of absence is unlikely to exceed 13 weeks.

(11) This sub-paragraph applies to a claimant whose absence from the dwelling that that claimant normally occupies as the home is temporary and—

- (a) that claimant intends to return to occupy the dwelling as the home;
- (b) the part of the dwelling normally occupied by that claimant has not been let or sub-let; and
- (c) that claimant is—
 - (i) detained in custody on remand pending trial or, as a condition of bail, required to reside in a dwelling other than the dwelling that claimant occupies as the home, or detained pending sentence upon conviction,
 - (ii) resident in a hospital or similar institution as a patient,

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- (iii) undergoing or, as the case may be, that claimant's partner or dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment or medically approved convalescence, in accommodation other than residential accommodation,
 - (iv) following, in the United Kingdom or elsewhere, a training course,
 - (v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere,
 - (vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment,
 - (vii) receiving, whether in the United Kingdom or elsewhere, medically approved care provided in accommodation other than residential accommodation;
 - (viii) a full-time student to whom sub-paragraph (3) or (6)(b) does not apply,
 - (ix) receiving care provided in residential accommodation, other than where sub-paragraph (8) applies, or
 - (x) a claimant to whom sub-paragraph (6)(a) does not apply and who has left the dwelling which that claimant occupies as the home through fear of violence in that dwelling, or by a person who was formerly a member of that claimant's family; and
- (d) the period of that claimant's absence is unlikely to exceed a period of 52 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.
- (12) A claimant to whom sub-paragraph (11) applies is to be treated as occupying the dwelling which that claimant normally occupies as the home during any period of absence not exceeding 52 weeks beginning with the first day of that absence.

(13) In this paragraph—

“medically approved” means certified by a medical practitioner;

“patient” means a person who is undergoing medical or other treatment as an in-patient in a hospital or similar institution;

“residential accommodation” means accommodation which is a residential care home, a nursing home, an Abbeyfield Home or an independent hospital;

“training course” means such a course of training or instruction provided wholly or partly by, or on behalf of, or in pursuance of arrangements made with, or approved by, or on behalf of, a government department.

Commencement Information

I33 Sch. 6 para. 5 in operation at 27.10.2008, see [reg. 1\(1\)](#)

Housing costs not met

6.—(1) No amount may be met under the provisions of this Schedule—

- (a) in respect of housing benefit expenditure; or
- (b) where the claimant is living in a residential care home, a nursing home, an Abbeyfield Home or an independent hospital except where the claimant is living in such a home or hospital during a temporary absence from the dwelling which the claimant occupies as the home and in so far as they relate to temporary absences, the provisions of paragraph 5(8) to (12) apply to that claimant during that absence.

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(2) Subject to the following provisions of this paragraph, loans which, apart from this paragraph, qualify under paragraph 16 must not so qualify where the loan was incurred during the relevant period and was incurred—

- (a) after 27th October 2008;
- (b) after 2nd May 1994 and the housing costs applicable to that loan were not met by virtue of the former paragraph 5A of Schedule 3 to the Income Support Regulations(13), or paragraph 4(2)(a) of that Schedule, paragraph 4(2)(a) of Schedule 2 to the Jobseeker's Allowance Regulations or paragraph 5(2)(a) of Schedule 2 to the State Pension Credit Regulations (Northern Ireland) 2003; or
- (c) subject to sub-paragraph (3), in the 26 weeks preceding 27th October 2008 by a person—
 - (i) who was not at that time entitled to income support, income-based jobseeker's allowance or state pension credit, and
 - (ii) who becomes, or whose partner becomes, entitled to an income-related allowance after 27th October 2008 and that entitlement is within 26 weeks of an earlier entitlement to income support, an income-based jobseeker's allowance or state pension credit of the claimant or the claimant's partner.

(3) Sub-paragraph (2)(c) shall not apply in respect of a loan where the claimant has interest payments on that loan met without restrictions under an award of income support in respect of a period commencing before 27th October 2008.

(4) The "relevant period" for the purposes of this paragraph is any period during which the person to whom the loan was made—

- (a) is entitled to an income-related allowance, an income-based jobseeker's allowance, income support or state pension credit; or
- (b) has a partner and the partner is entitled to an income-related allowance, an income-based jobseeker's allowance, income support or state pension credit,

together with any linked period, that is to say a period falling between 2 periods separated by not more than 26 weeks in which either head (a) or (b) is satisfied.

(5) For the purposes of sub-paragraph (4), a person is to be treated as entitled to an income-related allowance during any period when that person or that person's partner was not so entitled because—

- (a) that person or that person's partner was participating in an employment programme specified in regulation 75(1)(a) of the Jobseeker's Allowance Regulations(14); and
- (b) in consequence of such participation that person or that person's partner was engaged in remunerative work or had an income in excess of the claimant's applicable amount as prescribed in Part 9.

(6) A person treated by virtue of paragraph 15 as being in receipt of an income-related allowance for the purposes of this Schedule is not to be treated as entitled to an income-related allowance for the purposes of sub-paragraph (4).

(7) For the purposes of sub-paragraph (4)—

- (a) any week in the period of 26 weeks ending on 1st October 1995 in which there arose an entitlement to income support such as is mentioned in that sub-paragraph must be taken into account in determining when the relevant period commences; and
- (b) two or more periods of entitlement and any intervening linked periods must together form a single relevant period.

(13) Paragraph 5A was inserted by regulation 2 of S.R. 1994 No. 138

(14) Regulation 75(1) was substituted by regulation 8 of S.R. 1997 No. 541 and amended by paragraph 32(a) and (b) of Schedule 2 to S.R. 2000 No. 350 and sub-paragraph (a) was amended by regulation 2(4) of S.R. 2000 No. 197, regulation 5(a) of S.R. 2001 No. 151 and regulation 2(4) of S.R. 2002 No. 275

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- (8) Where the loan to which sub-paragraph (2) refers has been applied—
- (a) for paying off an earlier loan, and that earlier loan qualified under paragraph 16 during the relevant period; or
 - (b) to finance the purchase of a property where an earlier loan, which qualified under paragraph 16 or 17 during the relevant period in respect of another property, is paid off (in whole or in part) with monies received from the sale of that property,

then the amount of the loan to which sub-paragraph (2) applies is the amount (if any) by which the new loan exceeds the earlier loan.

(9) Notwithstanding the preceding provisions of this paragraph, housing costs must be met in any case where a claimant satisfies any of the conditions specified in sub-paragraphs (10) to (13), but—

- (a) those costs must be subject to any additional limitations imposed by the sub-paragraph; and
- (b) where the claimant satisfies the conditions in more than one of these sub-paragraphs, only one of them shall apply in that claimant's case and the one that applies shall be the one most favourable to the claimant.

(10) The conditions specified in this sub-paragraph are that—

- (a) during the relevant period the claimant or a member of the claimant's family acquires an interest ("the relevant interest") in a dwelling which that claimant then occupies or continues to occupy, as the home; and
- (b) in the week preceding the week in which the relevant interest was acquired, housing benefit was payable to the claimant or a member of the claimant's family,

so however that the amount to be met by way of housing costs shall initially not exceed the aggregate of—

- (i) the housing benefit payable in the first week mentioned at head (b), and
- (ii) any amount included in the applicable amount of the claimant or a member of the claimant's family in accordance with regulation 67(1)(c) or 68(1)(d) in that week,

and is to be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of the acquisition, in the standard rate or in any housing costs which qualify under paragraph 18 (other housing costs).

(11) The condition specified in this sub-paragraph is that the loan was taken out, or an existing loan increased, to acquire alternative accommodation more suited to the special needs of a disabled person than the accommodation which was occupied before the acquisition by the claimant.

(12) The conditions specified in this sub-paragraph are that—

- (a) the loan commitment increased in consequence of the disposal of the dwelling occupied as the home and the acquisition of an alternative such dwelling; and
- (b) the change of dwelling was made solely by reason of the need to provide separate sleeping accommodation for persons of different sexes aged 10 or over but under the age of 20 who belong to the same family as the claimant.

(13) The conditions specified in this sub-paragraph are that—

- (a) during the relevant period the claimant or a member of the claimant's family acquires an interest ("the relevant interest") in a dwelling which that claimant then occupies as the home; and
- (b) in the week preceding the week in which the relevant interest was acquired, the applicable amount of the claimant or a member of the claimant's family included an amount determined by reference to paragraph 18 and did not include any amount specified in paragraph 16 or 17,

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so however that the amount to be met by way of housing costs shall initially not exceed the amount so determined, and shall be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of acquisition, in the standard rate or in any housing costs which qualify under paragraph 18.

(14) The following provisions of this Schedule shall have effect subject to the provisions of this paragraph.

Commencement Information

I34 [Sch. 6 para. 6](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

Apportionment of housing costs

7.—(1) Where, for the purposes of Article 4 of, and Schedule 5 to, the Rates (Northern Ireland) Order 1977(15), it appears to the Department of Finance and Personnel, or it is deemed in pursuance of paragraphs 2 to 4 of that Schedule that the hereditament includes the home and that only a proportion of the rateable value of the hereditament is attributable to use for the purpose of a private dwelling, the amounts applicable under this Schedule are to be such proportion of the amounts applicable in respect of the hereditament or premises as a whole as is equal to the proportion of the rateable value of the hereditament attributable to the part of the hereditament used for the purposes of a private tenancy.

(2) Where responsibility for expenditure which relates to housing costs met under this Schedule is shared, the amounts applicable are to be calculated by reference to the appropriate proportion of that expenditure for which the claimant is responsible.

Commencement Information

I35 [Sch. 6 para. 7](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

Existing housing costs

8.—(1) Subject to the provisions of this Schedule, the existing housing costs to be met in any particular case are—

- (a) where the claimant has been entitled to an employment and support allowance for a continuous period of 26 weeks or more, the aggregate of—
 - (i) an amount determined in the manner set out in paragraph 11 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 16 or 17, and
 - (ii) an amount equal to any payments which qualify under paragraph 18(1)(a) to (c);
- (b) where the claimant has been entitled to an employment and support allowance for a continuous period of not less than 8 weeks but less than 26 weeks, an amount which is half the amount which would fall to be met by applying the provisions of head (a);
- (c) in any other case, nil.

(2) For the purposes of sub-paragraph (1) and subject to sub-paragraph (3), the eligible capital for the time being owing is to be determined on the date the existing housing costs are first met and thereafter on each anniversary of that date.

(15) [S.I. 1977/2157 \(N.I. 28\)](#)

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(3) Where a claimant or that claimant's partner ceases to be in receipt of or treated as being in receipt of income support, income-based jobseeker's allowance or state pension credit and one of them becomes entitled to an income-related allowance in a case to which paragraph 3 applies, the eligible capital for the time being owing is to be recalculated on each anniversary of the date on which the housing costs were first met for whichever of the benefits concerned the claimant or the claimant's partner was first entitled.

Commencement Information

I36 Sch. 6 para. 8 in operation at 27.10.2008, see [reg. 1\(1\)](#)

New housing costs

9.—(1) Subject to the provisions of this Schedule, the new housing costs to be met in any particular case are—

- (a) where the claimant has been entitled to an employment and support allowance for a continuous period of 39 weeks or more, an amount—
 - (i) determined in the manner set out in paragraph 11 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 16 or 17, and
 - (ii) equal to any payments which qualify under paragraph 18(1)(a) to (c);
- (b) in any other case, nil.

(2) For the purposes of sub-paragraph (1) and subject to sub-paragraph (3), the eligible capital for the time being owing is to be determined on the date the new housing costs are first met and thereafter on each anniversary of that date.

(3) Where a claimant or that claimant's partner ceases to be in receipt of or treated as being in receipt of income support, income-based jobseeker's allowance or state pension credit and one of them becomes entitled to an income-related allowance in a case to which paragraph 3 applies, the eligible capital for the time being owing is to be recalculated on each anniversary of the date on which the housing costs were first met for whichever of the benefits concerned the claimant or that claimant's partner was first entitled.

(4) This sub-paragraph applies to a claimant who at the time the claim is made—

- (a) is a person who is described in paragraph 4 or 5 of Schedule 1B to the Income Support Regulations⁽¹⁶⁾ (person caring for another person);
- (b) is detained in custody pending trial or sentence upon conviction; or
- (c) has been refused payments under a policy of insurance on the ground that—
 - (i) the claim under the policy is the outcome of a pre-existing medical condition which, under the terms of the policy, does not give rise to any payment by the insurer, or
 - (ii) that claimant was infected by the Human Immunodeficiency Virus,and the policy was taken out to insure against the risk of being unable to maintain repayments on a loan which is secured by a mortgage or a charge over land.

(5) Subject to sub-paragraph (7), this sub-paragraph applies where a person claims an income-related allowance because of—

- (a) the death of a partner; or

⁽¹⁶⁾ Schedule 1B was inserted by regulation 22 of [S.R. 1996 No. 199](#) and paragraph 4 was amended by regulation 33 of [S.R. 1996 No. 358](#), regulation 4(1) of [S.R. 2000 No. 74](#), regulation 3(3) of [S.R. 2002 No. 80](#) and paragraph 1(g) of the Schedule to [S.R. 2002 No. 323](#)

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(b) being abandoned by that claimant's partner,
and where that claimant's family includes a child.

(6) In the case of a claimant to whom sub-paragraph (4) or (5) applies, any new housing costs are to be met as if they were existing housing costs and paragraph 8 (existing housing costs) applied to them.

(7) Sub-paragraph (5) must cease to apply to a claimant who subsequently becomes one of a couple.

Commencement Information

I37 Sch. 6 para. 9 in operation at 27.10.2008, see [reg. 1\(1\)](#)

General exclusions from paragraphs 8 and 9

10.—(1) Paragraphs 8 and 9 shall not apply where—

- (a) the claimant's partner has attained the qualifying age for state pension credit;
- (b) the housing costs are payments, where the dwelling occupied as the home is a tent, in respect of the tent and the site on which it stands.

(2) In a case falling within sub-paragraph (1), the housing costs to be met are—

- (a) where head (a) of that sub-paragraph applies, an amount—
 - (i) determined in the manner set out in paragraph 11 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 16 or 17, and
 - (ii) equal to the payments which qualify under paragraph 18;
- (b) where head (b) of that sub-paragraph applies, an amount equal to the payments which qualify under paragraph 18(1)(d).

Commencement Information

I38 Sch. 6 para. 10 in operation at 27.10.2008, see [reg. 1\(1\)](#)

The calculation for loans

11. The weekly amount of existing housing costs or, as the case may be, new housing costs to be met under this Schedule in respect of a loan which qualifies under paragraph 16 or 17 are to be calculated by applying the formula—

$$\frac{A \times B}{52}$$

where—

- A = the amount of the loan which qualifies under paragraph 16 or 17; and
- B = the standard rate for the time being applicable in respect of that loan.

Commencement Information

I39 Sch. 6 para. 11 in operation at 27.10.2008, see [reg. 1\(1\)](#)

General provisions applying to new and existing housing costs

12.—(1) Where, on or after 2nd October 1995, a person enters into a new agreement in respect of a dwelling and an agreement entered into before 2nd October 1995 (“the earlier agreement”) continues in force independently of the new agreement, then—

- (a) the housing costs applicable to the new agreement are to be calculated by reference to the provisions of paragraph 9 (new housing costs);
- (b) the housing costs applicable to the earlier agreement are to be calculated by reference to the provisions of paragraph 8 (existing housing costs),

and the resulting amounts are to be aggregated.

(2) Sub-paragraph (1) does not apply in the case of a claimant to whom paragraph 10 applies.

(3) Where for the time being a loan exceeds, or in a case where more than one loan is to be taken into account, the aggregate of those loans exceeds the appropriate amount specified in sub-paragraph (4), then the amount of the loan or, as the case may be, the aggregate amount of those loans, shall for the purposes of this Schedule, be the appropriate amount.

(4) Subject to the following provisions of this paragraph, the appropriate amount is £100,000.

(5) Where a claimant is treated under paragraph 5(6) as occupying 2 dwellings as the home, then the restrictions imposed by sub-paragraph (3) are to be applied separately to the loans for each dwelling.

(6) In a case to which paragraph 7 applies, the appropriate amount for the purposes of sub-paragraph (3) is to be the lower of—

- (a) a sum determined by applying the formula—

$$P \times Q$$

where—

- P = the relevant fraction for the purposes of paragraph 7; and
- Q = the amount or, as the case may be, the aggregate amount for the time being of any loan or loans which qualify under this Schedule; or

- (b) the sum for the time being specified in sub-paragraph (4).

(7) In a case to which paragraph 16(3) or 17(3) applies, the appropriate amount for the purposes of sub-paragraph (3) is to be the lower of—

- (a) a sum representing for the time being the part of the loan applied for the purposes specified in paragraph 16(1) or, as the case may be, paragraph 17(1); or
- (b) the sum for the time being specified in sub-paragraph (4).

(8) In the case of any loan to which paragraph 17(2)(k) applies the whole of the loan, to the extent that it remains unpaid, is to be disregarded in determining whether the amount for the time being specified in sub-paragraph (4) is exceeded.

(9) Where in any case the amount for the time being specified for the purposes of sub-paragraph (4) is exceeded and there are 2 or more loans to be taken into account under either or both paragraphs 16 and 17, then the amount of eligible interest in respect of each of those loans to the extent that the loans remain outstanding is to be determined as if each loan had been reduced to a sum equal to the qualifying portion of that loan.

(10) For the purposes of sub-paragraph (9), the qualifying portion of a loan is to be determined by applying the following formula—

$$R \times \frac{S}{T}$$

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where—

- R = the amount for the time being specified for the purposes of sub-paragraph (3);
 S = the amount of the outstanding loan to be taken into account; and
 T = the aggregate of all outstanding loans to be taken into account under paragraphs 16 and 17.

[^{F10}(11) Sub-paragraph (12) applies to a person who, had the person been entitled to income support and not an employment and support allowance, would have been a person to whom any of the following transitional or savings provisions would have applied—

- (a) regulation 4 of the Income Support (General) (Amendment No. 4) Regulations (Northern Ireland) 1993 (“the 1993 Regulations”);
- (b) regulation 3 of the Income-Related Benefits (Miscellaneous Amendments) Regulations (Northern Ireland) 1995 (“the 1995 Regulations”);
- (c) in a case to which the 1995 Regulations would have applied, the appropriate amount is £125,000.]

Textual Amendments

F10 Sch. 6 para. 12(11)(12) added (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(30)(c)**

Commencement Information

I40 Sch. 6 para. 12 in operation at 27.10.2008, see [reg. 1\(1\)](#)

The standard rate

13.—(1) The standard rate is the rate of interest applicable per annum to a loan which qualifies under this Schedule.

- (2) Subject to sub-paragraph (3), the standard rate is 1.58 per cent. plus—
 - (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets; or
 - (b) where an order under section 19 of the Bank of England Act 1998(**17**) (reserve powers) is in force, any equivalent rate determined by the Treasury under that section.
- (3) The Department will determine the date from which the standard rate calculated in accordance with sub-paragraph (2) takes effect.

Commencement Information

I41 Sch. 6 para. 13 in operation at 27.10.2008, see [reg. 1\(1\)](#)

Excessive housing costs

14.—(1) Housing costs which, apart from this paragraph, fall to be met under this Schedule are to be met only to the extent specified in sub-paragraph (3) where—

- (a) the dwelling occupied as the home, excluding any part which is let, is larger than is required by the claimant, that claimant’s partner (if the claimant has a partner), any person under the

(17) 1998 c. 11

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age of 20 and any other non-dependants having regard, in particular, to suitable alternative accommodation occupied by a household of the same size;

- (b) the immediate area in which the dwelling occupied as the home is located is more expensive than other areas in which suitable alternative accommodation exists; or
- (c) the outgoings of the dwelling occupied as the home which are met under paragraphs 16 to 18 are higher than the outgoings of suitable alternative accommodation in the area.

(2) For the purposes of sub-paragraph (1), no regard is to be had to the capital value of the dwelling occupied as the home.

(3) Subject to the following provisions of this paragraph, the amount of the loan which falls to be met is to be restricted and the excess over the amounts which the claimant would need to obtain suitable alternative accommodation shall not be allowed.

(4) Where, having regard to the relevant factors, it is not reasonable to expect the claimant and the claimant's partner to seek alternative cheaper accommodation, no restriction is to be made under sub-paragraph (3).

(5) In sub-paragraph (4) "the relevant factors" are—

- (a) the availability of suitable accommodation and the level of housing costs in the area; and
- (b) the circumstances of the claimant and those who live with the claimant, including, in particular, the age and state of health of any of those persons, the employment prospects of the claimant and, where a change in accommodation is likely to result in a change of school, the effect on the education of any person under the age of 20 who lives with the claimant.

(6) Where sub-paragraph (4) does not apply and the claimant or the claimant's partner was able to meet the financial commitments for the dwelling occupied as the home when these were entered into, no restriction is to be made under this paragraph during the 26 weeks immediately following the date on which—

- (a) the claimant became entitled to an income-related allowance where the claimant's housing costs fell within one of the cases in sub-paragraph (1) on that date; or
- (b) a decision took effect which was made under Article 11 of the 1998 Order⁽¹⁸⁾ on the ground that the claimant's housing costs fell within one of the cases in sub-paragraph (1),

nor during the next 26 weeks if and so long as the best endeavours of the claimant are used to obtain cheaper accommodation.

(7) For the purposes of calculating any period of 26 weeks referred to in sub-paragraph (6), and for those purposes only, a person is to be treated as entitled to an income-related allowance for any period of 12 weeks or less in respect of which that person was not in receipt of an income-related allowance and which fell immediately between periods in respect of which that person was in receipt of that allowance.

(8) Any period in respect of which—

- (a) an income-related allowance was paid to a claimant; and
- (b) it was subsequently determined that such a claimant was not entitled to an income-related allowance for that period,

shall be treated for the purposes of sub-paragraph (7) as a period in respect of which that claimant was not in receipt of an income-related allowance.

⁽¹⁸⁾ Article 11 was amended by paragraph 17 of Schedule 6 and Schedule 9 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

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(9) Paragraph 15(1)(c) to (f) shall apply to sub-paragraph (7) as it applies to paragraphs 8 and 9 but with the modification as if “Subject to sub-paragraph (2),” was omitted and references to “claimant” were references to the person mentioned in sub-paragraph (7).

(10) References to an income-related allowance in sub-paragraphs (6) and (7) must be treated as including references to income support, income-based jobseeker’s allowance and state pension credit in respect of any period which falls immediately before the appointed day.

Commencement Information

I42 Sch. 6 para. 14 in operation at 27.10.2008, see **reg. 1(1)**

Linking rules

15.—(1) Subject to sub-paragraph (2), for the purposes of this Schedule—

- (a) a claimant is to be treated as being in receipt of an income-related allowance during the following periods—
 - (i) any period in respect of which it was subsequently determined that that claimant was entitled to an income-related allowance, and
 - (ii) any period of 12 weeks or less or, as the case may be, 52 weeks or less in respect of which that claimant was not in receipt of an income-related allowance and which fell immediately between periods in respect of which—
 - (aa) that claimant was, or was treated as being, in receipt of an income-related allowance,
 - (bb) that claimant was treated as entitled to an income-related allowance for the purpose of sub-paragraph (9) or (10), or
 - (cc) sub-head (i) applies;
- (b) a claimant is to be treated as not being in receipt of an income-related allowance during any period other than a period to which head (a)(ii) applies in respect of which it is subsequently determined that that claimant was not so entitled;
- (c) where—
 - (i) the claimant was a member of a couple or a polygamous marriage,
 - (ii) the claimant’s partner was, in respect of a past period, in receipt of an income-related allowance for that claimant’s partner and the claimant,
 - (iii) the claimant is no longer a member of that couple or polygamous marriage, and
 - (iv) the claimant made a claim for an income-related allowance within 12 weeks or, as the case may be, 52 weeks of ceasing to be a member of that couple or polygamous marriage,

the claimant must be treated as having been in receipt of an income-related allowance for the same period as the claimant’s former partner had been or had been treated, for the purposes of this Schedule, as having been;
- (d) where the claimant’s partner’s applicable amount was determined in accordance with paragraph 1(1) or (2) of Part 1 of Schedule 4 in respect of a past period, provided that the claim was made within 12 weeks or, as the case may be, 52 weeks of the claimant and that claimant’s partner becoming one of a couple or polygamous marriage, the claimant is to be treated as having been in receipt of an income-related allowance for the same period as the claimant’s partner had been or had been treated, for the purposes of this Schedule, as having been;

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(e) where the claimant is a member of a couple or a polygamous marriage and the claimant's partner was, in respect of a past period, in receipt of an income-related allowance for that claimant's partner and the claimant, and the claimant has begun to receive an income-related allowance as a result of an election by the members of the couple or polygamous marriage, that claimant is to be treated as having been in receipt of an income-related allowance for the same period as that claimant's partner had been or had been treated, for the purposes of this Schedule, as having been;

(f) where the claimant—

(i) is a member of a couple or a polygamous marriage and the claimant's partner was, immediately before the participation by any member of that couple or polygamous marriage in an employment programme specified in regulation 75(1)(a) of the Jobseeker's Allowance Regulations, in receipt of an income-related allowance and the claimant's applicable amount included an amount for the couple or for the partners of the polygamous marriage, and

(ii) has, immediately after that participation in that programme, begun to receive an income-related allowance as a result of an election under regulation 4(3) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987⁽¹⁹⁾ by the members of the couple or polygamous marriage,

the claimant is to be treated as having been in receipt of an income-related allowance for the same period as that claimant's partner had been or had been treated, for the purposes of this Schedule, as having been;

(g) where—

(i) the claimant was a member of a family of a person (not being a former partner) entitled to an income-related allowance and at least one other member of that family was a child or young person,

(ii) the claimant becomes a member of another family which includes that child or young person, and

(iii) the claimant made a claim for an income-related allowance within 12 weeks or, as the case may be, 52 weeks of the date on which the person entitled to an income-related allowance mentioned in sub-head (i) ceased to be so entitled,

the claimant is to be treated as being in receipt of an income-related allowance for the same period as that person had been or had been treated, for the purposes of this Schedule, as having been.

(2) Where a claimant with the care of a child has ceased to be in receipt of an income-related allowance in consequence of the payment of child support maintenance under the 1991 Order and immediately before ceasing to be so in receipt an amount determined in accordance with paragraph 8(1)(a)(i) or 9(1)(a)(i) was applicable to that claimant, then—

(a) if the child support maintenance assessment or, as the case may be, maintenance calculation concerned is terminated or replaced by a lower assessment or, as the case may be, calculation in consequence of the coming into operation on or after 18th April 1995 of regulations made under the 1991 Order; or

(b) where the child support maintenance assessment or, as the case may be, maintenance calculation concerned is an interim maintenance assessment or, as the case may be, interim maintenance decision or default maintenance decision and, in circumstances other than those referred to in head (a), it is terminated or replaced after termination by another interim maintenance assessment or, as the case may be, interim maintenance decision or

⁽¹⁹⁾ S.R. 1987 No. 465; regulation 4(3) was amended by regulation 3(3)(a) of S.R. 1996 No. 449 and paragraph 15(3) of Schedule 3 to S.R. 2005 No. 536

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default maintenance decision or by a maintenance assessment or, as the case may be, calculation made in accordance with Part 1 of Schedule 1 to the 1991 Order, in either case of a lower amount than the assessment or, as the case may be, calculation concerned, sub-paragraph (1)(a)(ii) shall apply to that claimant as if for “any period of 12 weeks or less” there were substituted “any period of 26 weeks or less”.

(3) For the purposes of this Schedule, where the claimant has ceased to be entitled to an income-related allowance because that claimant or that claimant’s partner is participating in arrangements for training made under sections 2 and 3 of the Disabled Persons (Employment) Act(20) or section 1(1) of the Employment and Training Act(21), the claimant is to be treated as if the claimant had been in receipt of an income-related allowance for the period during which that claimant or that claimant’s partner was participating in such arrangements or attending such a course.

(4) For the purposes of this Schedule, a claimant who has ceased to be entitled to an income-related allowance because—

- (a) that claimant or that claimant’s partner was participating in an employment programme specified in regulation 75(1)(a) of the Jobseeker’s Allowance Regulations; and
- (b) in consequence of such participation the claimant or the claimant’s partner was engaged in remunerative work or had an income in excess of the claimant’s applicable amount as prescribed in Part 9,

shall be treated as if the claimant had been in receipt of an income-related allowance for the period during which that claimant or that claimant’s partner was participating in that programme.

(5) Where, for the purposes of sub-paragraphs (1), (3) and (4), a claimant is treated as being in receipt of an income-related allowance, for a certain period, that claimant shall, subject to sub-paragraph (6), be treated as being entitled to an income-related allowance for the same period.

(6) Where the appropriate amount of a loan exceeds the amount specified in paragraph 12(4), sub-paragraph (5) shall not apply except—

- (a) for the purposes of paragraph 8(1) or 9(1); or
- (b) where the claimant has ceased to be in receipt of an income-related allowance for a period of 104 weeks or less because that claimant or that claimant’s partner is a work or training beneficiary within the meaning of regulation 148 (work or training beneficiaries).

(7) For the purposes of this Schedule, in determining whether a claimant is entitled to, or to be treated as entitled to, an income-related allowance, entitlement to a contribution-based jobseeker’s allowance immediately before a period during which that claimant or that claimant’s partner is participating in an employment programme specified in regulation 75(1)(a) of the Jobseeker’s Allowance Regulations is to be treated as entitlement to an income-related allowance for the purposes of any requirement that a claimant is, or has been, entitled to an income-related allowance for any period of time.

(8) For the purposes of this Schedule, sub-paragraph (9) applies where the claimant is not entitled to an income-related allowance by reason only that the claimant has—

- (a) capital exceeding £16,000;
- (b) income exceeding the applicable amount which applies in that claimant’s case; or
- (c) both capital exceeding £16,000 and income exceeding the applicable amount which applies in that claimant’s case.

(20) Sections 2 and 3 were amended by section 1 of the Disabled Persons (Employment) Act (Northern Ireland) 1960 and Schedule 18 to the Education and Libraries (Northern Ireland) Order 1986

(21) Section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8))

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(9) A claimant to whom sub-paragraph (8) applies is to be treated as entitled to an income-related allowance throughout any period of not more than 39 weeks which comprises only days—

- (a) on which that claimant is entitled to a contributory allowance, a contribution-based jobseeker's allowance, statutory sick pay or incapacity benefit; or
- (b) on which that claimant is, although not entitled to any of the benefits mentioned in head (a), entitled to be credited with earnings equal to the lower earnings limit for the time being in force in accordance with regulation 8A or 8B of the Social Security (Credits) Regulations (Northern Ireland) 1975⁽²²⁾.

(10) Subject to sub-paragraph (11), a claimant to whom sub-paragraph (8) applies and who is either a lone parent or a person who is described in paragraph 4 or 5 of Schedule 1B to the Income Support Regulations (persons caring for another person) is, for the purposes of this Schedule, to be treated as entitled to an income-related allowance throughout any period of not more than 39 weeks following the refusal of a claim for an income-related allowance made by or on behalf of that claimant.

(11) Sub-paragraph (10) shall not apply in relation to a claimant mentioned in that sub-paragraph who, during the period referred to in that sub-paragraph is—

- (a) engaged in, or is treated as engaged in, remunerative work or whose partner is engaged in, or is treated as engaged in, remunerative work;
- ^[F11](b) is in full-time education and in receipt of disability living allowance;]
- (c) temporarily absent from Northern Ireland, other than in the circumstances specified in regulation 152 or 153(1)(c)(ii).

(12) In a case where—

- (a) sub-paragraphs (9) and (10) apply solely by virtue of sub-paragraph (8)(b); and
- (b) the claimant's income includes payments under a policy taken out to insure against the risk that the policy holder is unable to meet any loan or payment which qualifies under paragraphs 16 to 18,

sub-paragraphs (9) and (10) shall have effect as if for “throughout any period of not more than 39 weeks” there were substituted “throughout any period that payments are made in accordance with the terms of the policy”.

(13) This sub-paragraph applies—

- (a) to a person who claims an income-related allowance, or in respect of whom an income-related allowance is claimed and who—
 - (i) received payments under a policy of insurance taken out to insure against loss of employment, and those payments are exhausted, and
 - (ii) had a previous award of an income-related allowance where the applicable amount included an amount by way of housing costs; and
- (b) where the period in respect of which the previous award of an income-related allowance was payable ended not more than 26 weeks before the date the claim was made.

(14) Where sub-paragraph (13) applies, in determining—

- (a) for the purposes of paragraph 8(1) whether a claimant has been entitled to an income-related allowance for a continuous period of 26 weeks or more; or
- (b) for the purposes of paragraph 9(1) whether a claimant has been entitled to an income-related allowance for a continuous period of 39 weeks or more,

(22) [S.R. 1975 No. 113](#); regulations 8A and 8B were inserted by regulation 2(6) of [S.R. 1996 No. 430](#) and regulation 8A was amended by regulation 3 of [S.R. 2000 No. 404](#), regulation 3 of [S.R. 2001 No. 120](#) and regulation 2(4) of [S.R. 2002 No. 80](#) and regulation 8B was amended by regulation 3 of [S.R. 2000 No. 404](#) and regulation 2(2) of [S.R. 2003 No. 151](#)

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any week falling between the date of the termination of the previous award and the date of the new claim is to be ignored.

(15) In the case of a claimant who is a work or training beneficiary, the references in sub-paragraph (1)(a)(ii), (c)(iv), (d) and (g)(iii) to a period of 12 weeks are to be treated as references to a period of 104 weeks.

(16) For the purposes of sub-paragraph (1)(a)(ii), (c)(iv), (d) and (g)(iii), the relevant period shall be—

- (a) 52 weeks in the case of a person to whom sub-paragraph (17) applies;
- (b) subject to sub-paragraph (15), 12 weeks in any other case.

(17) Subject to sub-paragraph (18), this sub-paragraph applies in the case of a claimant who, on or after 27th October 2008, has ceased to be entitled to an income-related allowance because that claimant or that claimant's partner—

- (a) has commenced employment as an employed earner or as a self-employed earner or has increased the hours in which that claimant or that claimant's partner is engaged in such employment;
- (b) is taking active steps to establish that claimant or that claimant's partner in employment as an employed earner or as a self-employed earner under any scheme for assisting persons to become so employed which is mentioned in regulation 19(1)(q) of the Jobseeker's Allowance Regulations; or
- (c) is participating in—
 - (i) a New Deal option, as specified in regulation 75(1)(a)(i), (ii) or (iii) or (b)(ii) of the Jobseeker's Allowance Regulations;
 - (ii) the self-employment route; or
 - (iii) the Preparation for Employment Programme specified in regulation 75(1)(a)(v) of the Jobseeker's Allowance Regulations,

and, as a consequence, that claimant or that claimant's partner was engaged in remunerative work or had income in excess of the applicable amount as prescribed in Part 9.

(18) Sub-paragraph (17) is only to apply to the extent that immediately before the day on which the claimant ceased to be entitled to an income-related allowance, that claimant's housing costs were being met in accordance with paragraph 8(1)(a) or (b) or 9(1)(a) or would have been so met but for any non-dependant deduction under paragraph 19.

(19) For the purpose of determining whether the linking rules set out in this paragraph apply in a case where the claimant's former partner was entitled to state pension credit, any reference to an income-related allowance in this Schedule is to be taken to include also a reference to state pension credit.

(20) Where a person is one to whom regulation 6(5) of the Income Support Regulations (persons not treated as engaged in remunerative work) applies, the period prescribed in paragraph (6) of that regulation is not to be included for the purposes of any linking rule or for determining whether any qualifying or other period is satisfied.

Textual Amendments

- F11** [Sch. 6 para. 15\(11\)\(b\)](#) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(30)(d)**

Commencement Information

I43 [Sch. 6 para. 15\(2\)](#) comes into operation in accordance with reg. 1(2) and otherwise Sch. 6 para. 15 in operation at 27.10.2008, see [reg. 1\(1\)](#)

Loans on residential property

16.—(1) A loan qualifies under this paragraph where the loan was taken out to defray monies applied for—

- (a) acquiring an interest in the dwelling occupied as the home; or
- (b) paying off another loan to the extent that the other loan would have qualified under head (a) had the loan not been paid off.

(2) For the purposes of this paragraph, references to a loan include also a reference to money borrowed under a hire purchase agreement for any purpose specified in sub-paragraph (1).

(3) Where a loan is applied only in part for the purposes specified in sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

Commencement Information

I44 [Sch. 6 para. 16](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

Loans for repairs and improvements to the dwelling occupied as the home

17.—(1) A loan qualifies under this paragraph where the loan was taken out, with or without security, for the purpose of—

- (a) carrying out repairs and improvements to the dwelling occupied as the home;
- (b) paying any service charge imposed to meet the cost of repairs and improvements to the dwelling occupied as the home;
- (c) paying off another loan to the extent that the other loan would have qualified under head (a) or (b) had the loan not been paid off,

and the loan was used for that purpose, or is used for that purpose within 6 months of the date of receipt or such further period as may be reasonable in the particular circumstances of the case.

(2) In sub-paragraph (1) “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of the building containing that dwelling—

- (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
- (b) repairs to existing heating systems;
- (c) damp proof measures;
- (d) provision of ventilation and natural lighting;
- (e) provision of drainage facilities;
- (f) provision of facilities for preparing and cooking food;
- (g) provision of insulation of the dwelling occupied as the home;
- (h) provision of electric lighting and sockets;
- (i) provision of storage facilities for fuel or refuse;
- (j) repairs of unsafe structural defects;

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- (k) adapting a dwelling for the special needs of a disabled person; or
 - (l) provision of separate sleeping accommodation for persons of different sexes aged 10 or over but under the age of 20 who live with the claimant and for whom the claimant or partner is responsible.
- (3) Where a loan is applied only in part for the purposes specified in sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

Commencement Information

I45 Sch. 6 para. 17 in operation at 27.10.2008, see **reg. 1(1)**

Other housing costs

18.—(1) Subject to the deductions specified in sub-paragraph (2), there are to be met under this paragraph the amounts, calculated on a weekly basis, in respect of the following housing costs—

- (a) ground rent;
- (b) service charges;
- (c) payments by way of rentcharge;
- (d) where the dwelling occupied as the home is a tent, payments in respect of the tent and the site on which it stands.

(2) Subject to sub-paragraph (3), the deductions to be made from the weekly amounts to be met under this paragraph are—

- (a) where the costs are inclusive of any of the items mentioned in paragraph 6(2) of Schedule 1 to the Housing Benefit Regulations (payment in respect of fuel charges), the deductions prescribed in that paragraph unless the claimant provides evidence on which the actual or approximate amount of the service charge for fuel may be estimated, in which case the estimated amount;
- (b) where the costs are inclusive of ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the Housing Benefit Regulations⁽²³⁾ (ineligible service charges) the amounts attributable to those ineligible service charges or where that amount is not separated from or separately identified within the housing costs to be met under this paragraph, such part of the payments made in respect of those housing costs which are fairly attributable to the provision of those ineligible services having regard to the costs of comparable services;
- (c) any amount for repairs and improvements, and for this purpose “repairs and improvements” has the meaning given by paragraph 17(2).

(3) Where arrangements are made for the housing costs, which are met under this paragraph and which are normally paid for a period of 52 weeks, to be paid instead for a period of 53 weeks, or to be paid irregularly, or so that no such costs are payable or collected in certain periods, or so that the costs for different periods in the year are of different amounts, the weekly amount shall be the amount payable for the year divided by 52.

(4) Where the claimant or a member of the claimant’s family—

- (a) pays for reasonable repairs or redecorations to be carried out to the dwelling they occupy;
- (b) that work was not the responsibility of the claimant or any member of the claimant’s family; and

⁽²³⁾ Paragraph 1 was amended by regulation 7(4) of [S.R. 2007 No. 154](#)

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(c) in consequence of that work being done, the costs which are normally met under this paragraph are waived,
then those costs shall, for a period not exceeding 8 weeks, be treated as payable.

Commencement Information

I46 Sch. 6 para. 18 in operation at 27.10.2008, see **reg. 1(1)**

Non-dependant deductions

19.—(1) Subject to the following provisions of this paragraph, the following deductions from the amount to be met under the preceding paragraphs of this Schedule in respect of housing costs are to be made—

- (a) in respect of a non-dependant aged 18 or over who is engaged in any remunerative work, £47·75;
- (b) in respect of a non-dependant aged 18 or over to whom head (a) does not apply, £7·40.

(2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies because that non-dependant is in remunerative work, where the claimant satisfies the Department that the non-dependant's gross weekly income is—

- (a) less than £116·00, the deduction to be made under this paragraph shall be the deduction specified in sub-paragraph (1)(b);
- (b) not less than £116·00 but less than £172·00, the deduction to be made under this paragraph shall be £17·00;
- (c) not less than £172·00 but less than £223·00, the deduction to be made under this paragraph shall be £23·35;
- (d) not less than £223·00 but less than £296·00, the deduction to be made under this paragraph shall be £38·20;
- (e) not less than £296·00 but less than £369·00, the deduction to be made under this paragraph shall be £43·50.

(3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, the members of a polygamous marriage, and where, but for this sub-paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount is to be deducted.

(4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard shall be had, for the purpose of sub-paragraph (2), to the couple's or, as the case may be, all the members of the polygamous marriage's, joint weekly income.

(5) Where a person is a non-dependant in respect of more than one joint occupier of a dwelling (except where the joint occupiers are a couple or members of a polygamous marriage), the deduction in respect of that non-dependant is to be apportioned between the joint occupiers (the amount so apportioned being rounded to the nearest penny) having regard to the number of joint occupiers and the proportion of the housing costs in respect of the dwelling occupied as the home payable by each of them.

(6) No deduction is to be made in respect of any non-dependants occupying the dwelling occupied as the home of the claimant, if the claimant or any partner of the claimant is—

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- (a) certified as blind or severely sight impaired and in consequence is registered as blind or severely sight impaired in a register maintained by or on behalf of a Health and Social Services Board, or who is within 28 weeks of ceasing to be so registered;
 - (b) receiving in respect of that claimant or that claimant's partner either—
 - (i) an attendance allowance, or
 - (ii) the care component of the disability living allowance.
- (7) No deduction is to be made in respect of a non-dependant—
- (a) if, although the non-dependant resides with the claimant, it appears to the Department that the dwelling occupied as the non-dependant's home is normally elsewhere;
 - (b) if the non-dependant is in receipt of a training allowance paid in connection with training provided or arranged by the Department for Employment and Learning under sections 2 and 3 of the Disabled Persons (Employment) Act or section 1(1) of the Employment and Training Act for which persons aged under 18 are eligible and for which persons aged 18 to 24 may be eligible;
 - (c) if the non-dependant is a full-time student during a period of study or, if the non-dependant is not in remunerative work, during a recognised summer vacation appropriate to the non-dependant's course;
 - (d) if the non-dependant is aged under 25 and in receipt of income support, an income-based jobseeker's allowance or an income-related allowance which does not include an amount under section 4(2)(b) of the Act;
 - (e) in respect of whom a deduction in the calculation of a rent rebate or allowance falls to be made under regulation 72 of the Housing Benefit Regulations (non-dependant deductions);
 - (f) to whom, but for regulation 71(5) (definition of non-dependant) paragraph (4) of that regulation would apply;
 - (g) if the non-dependant is not residing with the claimant because the non-dependant has been a patient for a period in excess of 52 weeks, or is a prisoner, and for these purposes—
 - (i) "patient" has the meaning given by paragraph 5(13) and "prisoner" has the meaning given by regulation 69(2) (special cases); and
 - (ii) in calculating a period of 52 weeks as a patient, any 2 or more distinct periods separated by one or more intervals each not exceeding 28 days is to be treated as a single period; or
 - (h) if the non-dependant is in receipt of state pension credit.
- (8) In the case of a non-dependant to whom sub-paragraph (2) applies because that non-dependant is in remunerative work, there is to be disregarded from that non-dependant's gross income—
- (a) any attendance allowance or disability living allowance received by that non-dependant;
 - (b) any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust or the Independent Living Fund (2006) which, had that non-dependant's income fallen to be calculated under regulation 104 (calculation of income other than earnings), would have been disregarded under paragraph 21 of Schedule 8 (income in kind); and
 - (c) any payment which, had that non-dependant's income fallen to be calculated under regulation 104 would have been disregarded under paragraph 40 of Schedule 8 (payments made under certain trusts and certain other payments).

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Commencement Information

I47 Sch. 6 para. 19 in operation at 27.10.2008, see [reg. 1\(1\)](#)

Continuity with income support, an income-based jobseeker's allowance or state pension credit

20.—(1) For the purpose of providing continuity between income support, an income-based jobseeker's allowance or state pension credit and an employment and support allowance—

- (a) any housing costs which would, had the claimant been entitled to income support, an income-based jobseeker's allowance or state pension credit, have been existing housing costs and not new housing costs shall, despite the preceding provisions of this Schedule, be treated as existing housing costs, and any qualifications or limitations which would have applied to those costs had the award been an award of income support, an income-based jobseeker's allowance or state pension credit shall likewise apply to the costs in so far as they are met in an employment and support allowance;
- (b) had the award of an employment and support allowance been an award of income support or an income-based jobseeker's allowance and the housing costs which would then have been met would have included an additional amount met in accordance with paragraph 7 of Schedule 3 to the Income Support Regulations or, as the case may be, paragraph 18(1)(b) of Schedule 2 to the Jobseeker's Allowance Regulations, an amount equal to that additional amount must be added to the housing costs to be met under this Schedule, but that amount must be subject to the same qualifications and limitations as it would have been had the award been of income support or an income-based jobseeker's allowance; and
- (c) subject to paragraph 15(20), for the purposes of any linking rule or for determining whether any qualifying or other period is satisfied, any reference to an employment and support allowance in this Schedule must be taken also to include a reference to income support, an income-based jobseeker's allowance or state pension credit.

(2) Any loan which, had the claimant been entitled to income support and not an employment and support allowance, would have been a qualifying loan for the purposes of Schedule 3 to the Income Support Regulations by virtue of regulation 4 of the Income Support (General) (Amendment and Transitional) Regulations (Northern Ireland) 1995⁽²⁴⁾ (transitional protection) must be treated also as a qualifying loan for the purposes of paragraph 16 or 17, and for the purpose of determining whether a claimant would satisfy the provision of regulation 4(2) of those Regulations, a claimant in receipt of an income-related allowance must be treated as being in receipt of income support.

Commencement Information

I48 Sch. 6 para. 20 in operation at 27.10.2008, see [reg. 1\(1\)](#)

SCHEDULE 7

Regulations 96(2) and 98(2)

Sums to be disregarded in the calculation of earnings

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

⁽²⁴⁾ S.R. 1995 No. 350

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- (a) any earnings, other than items to which sub-paragraph (2) applies, paid or due to be paid from that employment which terminated before the first day of entitlement to an income-related allowance;
 - (b) any earnings, other than a payment of the nature described in regulation 95(1)(e) or (l) (in so far as it relates to regulation 95(1)(e)) (earnings of employed earners), paid or due to be paid from that employment which has not been terminated where the claimant is not—
 - (i) engaged in remunerative work, or
 - (ii) suspended from employment.
- (2) This sub-paragraph applies to—
- (a) any payment of the nature described in regulation 95(1)(e); and
 - (b) any award, sum or payment of the nature described in—
 - (i) regulation 95(1)(g), (i) or (l) (in so far as it relates to regulation 95(1)(g) or (i)), or
 - (ii) Article 66 or 102 of the Employment Rights Order (guarantee payments and suspension from work: complaints to employment tribunals),

including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings.

Commencement Information

I49 [Sch. 7 para. 1](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

2.—(1) In the case of a claimant to whom this paragraph applies, any earnings (other than a payment of the nature described in regulation 95(1)(e) or (l) (in so far as it relates to regulation 95(1)(e))) which relate to employment which ceased before the first day of entitlement to an income-related allowance whether or not that employment has terminated.

(2) This paragraph applies to a claimant who has been engaged in part-time employment as an employed earner or, had the employment been in Northern Ireland, would have been so engaged; but it does not apply to a claimant who has been suspended from employment.

Commencement Information

I50 [Sch. 7 para. 2](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

3. If the claimant's partner has been engaged in remunerative work as an employed earner or, had the employment been in Northern Ireland, would have been so engaged, any earnings paid or due to be paid on termination of that employment by way of retirement but only if—

- (a) on retirement the partner is entitled to a retirement pension under the Contributions and Benefits Act; or
- (b) the only reason the partner is not entitled to a retirement pension under that Act is because the contribution conditions are not satisfied.

Commencement Information

I51 [Sch. 7 para. 3](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

4. In the case of a claimant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Northern Ireland, would have been so

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engaged and who has ceased to be so employed, from the date of the cessation of the claimant's employment any earnings derived from that employment except earnings to which regulation 92(2) (royalties, etc.) applies.

Commencement Information

I52 Sch. 7 para. 4 in operation at 27.10.2008, see **reg. 1(1)**

5. In the case of a claimant who is undertaking work which falls within one of the categories in regulation 45(2) to (4) any earnings derived from that work which do not exceed the limits specified for that work of £20 in regulation 45(2) or, as the case may be, [^{F12}£92·00]in regulation 45(3) or (4).

Textual Amendments

F12 Sum in Sch. 7 para. 5 substituted (27.10.2008) by The Employment and Support Allowance (Miscellaneous Amendments) Regulations (Northern Ireland) 2008 (S.R. 2008/413), regs. 1(1), **3(31)**

Commencement Information

I53 Sch. 7 para. 5 in operation at 27.10.2008, see **reg. 1(1)**

6. Where regulation 45(2), (3) or (4) applies to the claimant and that claimant's earnings are less than—

- (a) in a case to which regulation 45(2) applies, £20;
- (b) in a case to which regulation 45(3) or (4) applies, £88·50,

the earnings of the claimant's partner are to be disregarded to the extent that the claimant's earnings are less than £20 or, as the case may be, [^{F13}£92·00,] but only up to a maximum of £20.

Textual Amendments

F13 Sum in Sch. 7 para. 6 substituted (27.10.2008) by The Employment and Support Allowance (Miscellaneous Amendments) Regulations (Northern Ireland) 2008 (S.R. 2008/413), regs. 1(1), **3(31)**

Commencement Information

I54 Sch. 7 para. 6 in operation at 27.10.2008, see **reg. 1(1)**

7.—(1) In a case to which this paragraph applies, £20; but notwithstanding regulation 83 (calculation of income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to the claimant's partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £20.

(2) Subject to sub-paragraph (3), this paragraph applies in the case of a claimant to whom regulation 40(2)(a), (b) or (e), 43(1)(a), (d), (e) or (f) or (2) or 45(5) applies.

(3) Where a claimant is doing the work set out in regulation 40(2)(b) and is also undertaking any of the categories of work set out in regulation 45(2) to (4), this paragraph applies only to the extent that the claimant's earnings are less than the limit of—

- (a) £20 set out in regulation 45(2); or
- (b) [^{F14}£92·00]set out in regulation 45(3) or (4),

as the case may be.

Status: Point in time view as at 27/10/2008.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Employment and Support Allowance Regulations (Northern Ireland) 2008*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(4) This paragraph applies, in a case where the claimant's partner is in part-time employment and paragraph 6 does not apply.

Textual Amendments

F14 Sum in [Sch. 7 para. 7\(3\)\(b\)](#) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(31)**

Commencement Information

I55 [Sch. 7 para. 7](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

8. Notwithstanding the foregoing provisions of this Schedule, where 2 or more payments of earnings of the same kind and from the same source are to be taken into account in the same benefit week, because it has not been practicable to treat the payments under regulation 93(1)(b) (date on which income treated as paid) as paid on the first day of the benefit week in which they were due to be paid, there is to be disregarded from each payment the sum that would have been disregarded if the payment had been taken into account on the date on which it was due to be paid.

Commencement Information

I56 [Sch. 7 para. 8](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

9. 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.

Commencement Information

I57 [Sch. 7 para. 9](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

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

Commencement Information

I58 [Sch. 7 para. 10](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

11. Any earnings which are due to be paid before the date of claim and which would otherwise fall to be taken into account in the same benefit week as a payment of the same kind and from the same source.

Commencement Information

I59 [Sch. 7 para. 11](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

12. In the case of a claimant who—

- (a) has been engaged in employment as a member of any territorial or reserve force prescribed in Part 1 of Schedule 1; and

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- (b) by reason of that employment has failed to satisfy any of the conditions for entitlement to an income-related allowance other than paragraph 6(1)(a) of Schedule 1 to the Act (income not in excess of the applicable amount),

any earnings from that employment paid in respect of the period in which the claimant was not entitled to an income-related allowance.

Commencement Information

I60 Sch. 7 para. 12 in operation at 27.10.2008, see [reg. 1\(1\)](#)

13. In the case of a person to whom regulation 6(5) of the Income Support Regulations (persons not treated as engaged in remunerative work) applies, any earnings.

Commencement Information

I61 Sch. 7 para. 13 in operation at 27.10.2008, see [reg. 1\(1\)](#)

14. In this Schedule—

“part-time employment” means, if the person were entitled to income support, employment in which the person is not to be treated as engaged in remunerative work under regulation 5 or 6(1) or (4) of the Income Support Regulations (persons treated, or not treated, as engaged in remunerative work);

“remunerative work”, for the purposes of this paragraph and paragraphs 1, 3 and 4, has the meaning given by regulation 5 of the Income Support Regulations, except for paragraphs (3B) and (4) of that regulation.

Commencement Information

I62 Sch. 7 para. 14 in operation at 27.10.2008, see [reg. 1\(1\)](#)

SCHEDULE 8

Regulation 104(2)

Sums to be disregarded in the calculation of income other than earnings

1. Any amount paid by way of tax on income which is taken into account under regulation 104 (calculation of income other than earnings).

Commencement Information

I63 Sch. 8 para. 1 in operation at 27.10.2008, see [reg. 1\(1\)](#)

2. Any payment in respect of any expenses incurred, or to be incurred, by a claimant who is—
- (a) engaged by a charitable or voluntary organisation; or
 - (b) a volunteer,

if the claimant otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 108(2) (notional income).

Status: Point in time view as at 27/10/2008.

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Commencement Information

I64 Sch. 8 para. 2 in operation at 27.10.2008, see [reg. 1\(1\)](#)

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.

Commencement Information

I65 Sch. 8 para. 3 in operation at 27.10.2008, see [reg. 1\(1\)](#)

4. In the case of a payment under Parts 11 to 12ZB of the Contributions and Benefits Act(25) or any remuneration paid by or on behalf of an employer to the claimant who for the time being is unable to work due to illness or maternity or who is taking paternity leave or adoption leave—

- (a) any amount deducted by way of primary Class 1 contributions under that Act;
- (b) one half of any sum paid by way of a contribution towards an occupational or personal pension scheme.

Commencement Information

I66 Sch. 8 para. 4 in operation at 27.10.2008 for specified purposes and otherwise in operation at 9.9.2010, see [reg. 1\(1\)\(3\)](#) and [S.R. 2010/295, art. 2\(a\)](#)

5. In the case of a payment under Parts 11 to 12ZB of the Social Security Contributions and Benefits Act 1992(26) or any remuneration paid by or on behalf of an employer to the claimant who for the time being is unable to work due to illness or maternity or who is taking paternity leave or adoption leave—

- (a) any amount deducted by way of primary Class 1 contributions under that Act;
- (b) one half of any sum paid by the claimant by way of a contribution towards an occupational or personal pension scheme.

Commencement Information

I67 Sch. 8 para. 5 in operation at 27.10.2008, see [reg. 1\(1\)](#)

6. Any guardian's allowance.

Commencement Information

I68 Sch. 8 para. 6 in operation at 27.10.2008, see [reg. 1\(1\)](#)

7.—(1) Any child tax credit.

(2) Any child benefit.

(25) Parts 12ZA and 12ZB were inserted by Articles 5 and 6 of the Employment (Northern Ireland) Order 2002 ([S.I. 2002/2836 \(N.I. 2\)](#))

(26) Parts 12ZA and 12ZB were inserted by sections 2 and 4 of the Employment Act 2002 ([c. 22](#))

Status: Point in time view as at 27/10/2008.

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Commencement Information

I69 Sch. 8 para. 7 in operation at 27.10.2008, see [reg. 1\(1\)](#)

8. Any mobility component of disability living allowance.

Commencement Information

I70 Sch. 8 para. 8 in operation at 27.10.2008, see [reg. 1\(1\)](#)

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

(a) any payment specified in paragraph 8 or 11;

[^{F15}(b) an income-related allowance, income support or an income-based jobseeker's allowance.]

Textual Amendments

F15 Sch. 8 para. 9(b) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), [regs. 1\(1\), 3\(32\)\(a\)](#)

Commencement Information

I71 Sch. 8 para. 9 in operation at 27.10.2008, see [reg. 1\(1\)](#)

10. Any mobility supplement or any payment intended to compensate for the non-payment of such a supplement.

Commencement Information

I72 Sch. 8 para. 10 in operation at 27.10.2008, see [reg. 1\(1\)](#)

11. Any attendance allowance or the care component of disability living allowance.

Commencement Information

I73 Sch. 8 para. 11 in operation at 27.10.2008, see [reg. 1\(1\)](#)

12. Any payment to the claimant as holder of the Victoria Cross or George Cross or any analogous payment.

Commencement Information

I74 Sch. 8 para. 12 in operation at 27.10.2008, see [reg. 1\(1\)](#)

13.—(1) Any payment by way of an education maintenance allowance made pursuant to Article 50 or 51 of the Education and Libraries Order(27) or a payment corresponding to such an education maintenance allowance made pursuant to section 3 of the Employment and Training Act.

(27) Article 50 was amended by the Schedule to the Education (Student Support) (Northern Ireland) Order 1998 (S.I. 1998/1760 (N.I. 14)) and Article 51 was substituted by Part 2 of Schedule 5 to the Education (Northern Ireland) Order 1996 (S.I. 1996/274 (N.I. 1))

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(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to Article 50 or 51 of the Education and Libraries Order in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).

Commencement Information

I75 Sch. 8 para. 13 in operation at 27.10.2008, see [reg. 1\(1\)](#)

14.—(1) Any payment made pursuant to section 1 or 3 of the Employment and Training Act except a payment—

- (a) made as a substitute for an employment and support allowance;
- (b) of an allowance referred to in section 1(1B) of that Act⁽²⁸⁾;
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help the claimant enhance that claimant's employment prospects; or
- (d) made in respect of the cost of living away from home to the extent that the payment relates to rent or rates or, as the case may be, both for which housing benefit is payable in respect of accommodation which is not normally occupied by the claimant as that claimant's home.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel, rent or rates for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 67(1)(c) or 68(1)(d) (housing costs), of the claimant or, where the claimant is a member of a family, any other member of the claimant's family, or any water charges for which that claimant or member is liable.

Commencement Information

I76 Sch. 8 para. 14 in operation at 27.10.2008, see [reg. 1\(1\)](#)

15.—(1) Subject to sub-paragraph (2) and paragraph 40, any relevant payment made or due to be made at regular intervals.

(2) Sub-paragraph (1) is not to apply to a payment which is made by a person for the maintenance of any member of that person's family or of that person's former partner or of that person's children.

(3) In this paragraph "relevant payment" means—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within head (a) or (b)) from a trust whose funds are derived from a payment made in consequence of any personal injury to the claimant;
- (d) a payment under an annuity purchased—
 - (i) pursuant to any agreement or court order to make payments to the claimant, or
 - (ii) from funds derived from a payment made,
 in consequence of any personal injury to the claimant; or

⁽²⁸⁾ Subsection (1B) was inserted by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988

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- (e) a payment (not falling within heads (a) to (d)) received by virtue of any agreement or court order to make payments to the claimant in consequence of any personal injury to the claimant.

Commencement Information

I77 [Sch. 8 para. 15](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

16. Subject to paragraphs 38 and 39, £10 of any of the following—
- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 10 or 11);
 - (b) a war widow’s pension or war widower’s pension;
 - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under a statutory provision to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
 - (d) a guaranteed income payment;
 - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in sub-paragraphs (a) to (d);
 - (f) a pension paid by the government of a country outside the United Kingdom which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d);
 - (g) 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;
 - (h) any widowed mother’s allowance paid pursuant to section 37 of the Contributions and Benefits Act(29);
 - (i) any widowed parent’s allowance paid pursuant to section 39A of that Act(30).

Commencement Information

I78 [Sch. 8 para. 16](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

17. Where a claimant 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 that person’s life or with the life of the survivor of 2 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;

(29) Section 37 was amended by paragraph 38 of Schedule 3 to the Tax Credits Act 2002 (c. 21), paragraph 72 of Schedule 24 to the Civil Partnership Act 2004 (c. 33) and paragraph 28 of Schedule 1 to the Child Benefit Act 2005 (c. 6)

(30) Section 39A was inserted by Article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and amended by paragraph 40 of Schedule 3 to the Tax Credits Act 2002, paragraph 74 of Schedule 24 to the Civil Partnership Act 2004 and paragraph 29 of Schedule 1 to the Child Benefit Act 2005

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- (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 accommodation on which it was secured as that person's 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 Taxes Act⁽³¹⁾ (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 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.

Commencement Information

I79 Sch. 8 para. 17 in operation at 27.10.2008, see [reg. 1\(1\)](#)

18. Any payment made to the claimant by a person who normally resides with the claimant, which is a contribution towards that person's living and accommodation costs, except where that person is residing with the claimant in circumstances to which paragraph 19 or 20 refers.

Commencement Information

I80 Sch. 8 para. 18 in operation at 27.10.2008, see [reg. 1\(1\)](#)

19. Where the claimant occupies a dwelling as the claimant's home and the dwelling is also occupied by another person and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of that person's family—

- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of that person's family, or by that person and a member of that person's family, is less than £20, the whole of that amount; or
- (b) where the aggregate of such payments is £20 or more per week, £20.

Commencement Information

I81 Sch. 8 para. 19 in operation at 27.10.2008, see [reg. 1\(1\)](#)

20. Where the claimant occupies a dwelling as the claimant's home and the claimant 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 respect of 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 £20.

⁽³¹⁾ Section 369 was amended by section 81(4) of the Finance Act 1994 (c. 9) and paragraph 4 of Schedule 4 to the Finance Act 1999 (c. 16)

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Commencement Information

I82 Sch. 8 para. 20 in operation at 27.10.2008, see [reg. 1\(1\)](#)

21.—(1) Subject to sub-paragraphs (2) and (3), except where regulation 104(8)(b) (calculation of income other than earnings) or 107(3)(a) (notional income – income due to be paid or income paid to or in respect of a third party) applies, any income in kind.

(2) The exception under sub-paragraph (1) shall not apply where the income in kind is received from the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust or the Independent Living Fund (2006).

(3) The first exception under sub-paragraph (1) shall not apply where the claimant is the partner of a person subject to immigration control and whose partner is receiving support provided under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act and the income in kind is support provided in respect of essential living needs of the partner of the claimant and the claimant's dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to that Act.

(4) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the claimant which is used by the third party to provide benefits in kind to the claimant.

Commencement Information

I83 Sch. 8 para. 21 in operation at 27.10.2008, see [reg. 1\(1\)](#)

22.—(1) Any income derived from capital to which the claimant is or is treated under regulation 117 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraph 1, 2, 4 to 8, 10 or 16 of Schedule 9.

(2) Income derived from capital disregarded under paragraph 2 or 4 to 8 of Schedule 9 but only to the extent of—

(a) any mortgage repayments made in respect of the premises or land in the period during which that income accrued; or

(b) any rates or water charges which the claimant is liable to pay in respect of the premises or land and which are paid in the period during which that income accrued.

(3) The definition of “water charges” in regulation 2(1) is to apply to sub-paragraph (2) with the omission of “in so far as such charges are in respect of the dwelling occupied as the home”.

(4) Where income is derived from conacre or agistment letting any expenses reasonably incurred thereon including the repayment of interest and capital on any loan used for the purchase of land under the Northern Ireland Land Act 1925(32).

Commencement Information

I84 Sch. 8 para. 22 in operation at 27.10.2008, see [reg. 1\(1\)](#)

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

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Commencement Information

I85 Sch. 8 para. 23 in operation at 27.10.2008, see [reg. 1\(1\)](#)

24. 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.

Commencement Information

I86 Sch. 8 para. 24 in operation at 27.10.2008, see [reg. 1\(1\)](#)

25.—(1) Any payment made to the claimant in respect of a child or young person who is a member of the claimant’s family—

- (a) in accordance with regulations made under Article 59A of the Adoption (Northern Ireland) Order 1987⁽³³⁾ (permitted allowances);
- (b) which is a payment made by an authority in pursuance of paragraph 17 of Schedule 1 to the Children Order (contribution by an authority to child’s maintenance);
- (c) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002⁽³⁴⁾ or in accordance with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978⁽³⁵⁾ (schemes for payment of allowances to adopters);
- (d) which is a payment made by a local authority in pursuance of paragraph 15 of Schedule 1 to the Children Act 1989⁽³⁶⁾ (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence order);
- (e) in accordance with regulations made pursuant to section 14F of the Children Act 1989⁽³⁷⁾ (special guardianship support services).

(2) Any payment, other than a payment to which sub-paragraph (1)(c) applies, made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

(3) In this paragraph and paragraphs 27 to 29 “authority” has the meaning given by Article 2 of the Children Order.

Commencement Information

I87 Sch. 8 para. 25 in operation at 27.10.2008, see [reg. 1\(1\)](#)

26. In the case of a claimant who has a child or young person—

- (a) who is a member of the claimant’s family; and
- (b) who is residing at an educational establishment at which that child or young person is receiving relevant education,

⁽³³⁾ [S.I. 1987/2203 \(N.I. 22\)](#); Article 59A was inserted by paragraph 164 of Schedule 9 to the Children (Northern Ireland) Order 1995 ([S.I. 1995/755 \(N.I. 2\)](#))

⁽³⁴⁾ [2002 c. 38](#)

⁽³⁵⁾ [1978 c. 28](#); section 51A was inserted by paragraph 25 of Schedule 2 to the Children (Scotland) Act 1995 ([c. 36](#))

⁽³⁶⁾ [1989 c. 41](#); section 15(1) was amended by paragraph 10(1) of Schedule 16 to the Courts and Legal Services Act 1990 ([c. 41](#)) and paragraph 15 of Schedule 1 was amended by section 78(3) of the Civil Partnership Act 2004

⁽³⁷⁾ Section 14F was inserted by section 115(1) of the Adoption and Children Act 2002 ([c. 38](#))

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any payment made to that educational establishment, in respect of that child or young person's maintenance by or on behalf of a person who is not a member of the family or by a member of the family out of funds contributed for that purpose by a person who is not a member of the family.

Commencement Information

I88 [Sch. 8 para. 26](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

27. Any payment made by—

- (a) an authority to a person who is caring for a child by virtue of arrangements made under Article 27(2)(a) of the Children Order (provision of accommodation and maintenance by an authority for children whom it is looking after) or by a voluntary organisation under Article 75(1)(a) of that Order (provision of accommodation by voluntary organisations); or
- (b) a juvenile justice centre, within the meaning of Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998(38), under Article 43(2) of that Order to a person who is caring for a child and whom that child is in the charge of under paragraph 4 of Schedule 2 to that Order.

Commencement Information

I89 [Sch. 8 para. 27](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

28. Any payment made to the claimant or the claimant's partner for a person ("the person concerned"), who is not normally a member of the claimant's household but is temporarily in the claimant's care, by—

- (a) an authority;
- (b) a voluntary organisation;
- (c) the person concerned pursuant to Article 36(7) of the Health and Personal Social Services Order(39); or
- (d) a juvenile justice centre within the meaning of Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998.

Commencement Information

I90 [Sch. 8 para. 28](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

29.—(1) Any payment made by an authority under Article 18, 34C, 34D or 35A of the Children Order(40) (general duty of an authority to promote the welfare of children or powers to grant financial assistance to persons looked after or in, or formerly in, its care).

(2) Subject to sub-paragraph (3), any payment (or part of a payment) made by an authority under Article 34D of the Children Order to a person ("A") which A passes on to the claimant.

(3) Sub-paragraph (2) only applies where A—

(38) [S.I. 1998/1504 \(N.I. 9\)](#)

(39) Article 36 was substituted by Article 25 of the Health and Personal Social Services (Northern Ireland) Order 1991 ([S.I. 1991/194 \(N.I. 1\)](#)) and amended by paragraph 2(3) to (5) of Schedule 1 to the Registered Homes (Northern Ireland) Order 1992 ([S.I. 1992/3204 \(N.I. 20\)](#)) and section 1(1) and (2) of the [Health and Personal Social Services Act \(Northern Ireland\) 2002 \(c. 9 \(N.I.\)\)](#)

(40) Articles 34C and 34D were inserted by section 2(3) of the [Children \(Leaving Care\) Act \(Northern Ireland\) 2002 \(c. 11 \(N.I.\)\)](#) and Article 35A was inserted by section 4 of that Act

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- (a) was formerly in the claimant's care;
- (b) is aged 18 or over; and
- (c) continues to live with the claimant.

Commencement Information

I91 Sch. 8 para. 29 in operation at 27.10.2008, see [reg. 1\(1\)](#)

30.—(1) Subject to sub-paragraph (2), any payment received under an insurance policy, taken out to insure against the risk of being unable to maintain repayments on a loan which qualifies under paragraph 16 or 17 of Schedule 6 (housing costs – loans to acquire an interest in a dwelling, or for repairs and improvements to the dwelling, occupied as the home) and used to meet such repayments, to the extent that it does not exceed the aggregate of—

- (a) the amount, calculated on a weekly basis, of any interest on that loan which is in excess of the amount met in accordance with that Schedule;
- (b) the amount of any payment, calculated on a weekly basis, due on the loan attributable to the repayment of capital; and
- (c) any amount due by way of premiums on—
 - (i) that policy, or
 - (ii) a policy of insurance taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as the claimant's home.

(2) This paragraph does not apply to any payment which is treated as possessed by the claimant by virtue of regulation 107(3)(c) (notional income – income due to be paid or income paid to or in respect of a third party).

Commencement Information

I92 Sch. 8 para. 30 in operation at 27.10.2008, see [reg. 1\(1\)](#)

31.—(1) Except where paragraph 30 or 32 applies, and subject to sub-paragraph (2), any payment made to the claimant which is intended to be used and is used as a contribution towards—

- (a) any payment due on a loan if secured on the dwelling occupied as the home which does not qualify under Schedule 6;
- (b) any interest payment or charge which qualifies in accordance with paragraphs 16 to 18 of that Schedule to the extent that the payment or charge is not met;
- (c) any payment due on a loan which qualifies under paragraph 16 or 17 of that Schedule attributable to the payment of capital;
- (d) any amount due by way of premiums on—
 - (i) an insurance policy taken out to insure against the risk of being unable to make the payments referred to in heads (a) to (c), or
 - (ii) a policy of insurance taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as the claimant's home;
- (e) the claimant's rent in respect of the dwelling occupied by the claimant as the home but only to the extent that it is not met by housing benefit; or the claimant's accommodation charge but only to the extent that the actual charge exceeds the amount payable by the

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Department of Health, Social Services and Public Safety under Article 36(3) of the Health and [F16Personal] Social Services Order.

(2) This paragraph does not apply to any payment which is treated as possessed by the claimant by virtue of regulation 107(3)(c).

Textual Amendments

F16 Word in Sch. 8 para. 31(1)(e) inserted (27.10.2008) by The Employment and Support Allowance (Miscellaneous Amendments) Regulations (Northern Ireland) 2008 (S.R. 2008/413), regs. 1(1), 3(32)(b)

Commencement Information

I93 Sch. 8 para. 31 in operation at 27.10.2008, see reg. 1(1)

32.—(1) Subject to sub-paragraph (2), any payment received under an insurance policy, other than an insurance policy referred to in paragraph 30, taken out to insure against the risk of being unable to maintain repayments under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974(41) or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 6 of the Hire-Purchase Act (Northern Ireland)1966(42).

(2) A payment referred to in sub-paragraph (1) is to only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis which are used to—

- (a) maintain the repayments referred to in sub-paragraph (1); and
- (b) meet any amount due by way of premiums on that policy.

Commencement Information

I94 Sch. 8 para. 32 in operation at 27.10.2008, see reg. 1(1)

33.—(1) Subject to sub-paragraphs (2) and (3), in the case of a claimant residing in a residential care home, a nursing home, an Abbeyfield Home or an independent hospital, any payment, except a charitable or voluntary payment disregarded under paragraph 15 made to the claimant which is intended to be used and is used to meet the cost of maintaining the claimant in that home or hospital.

(2) This paragraph does not apply to a claimant for whom accommodation in a residential care home, a nursing home, an Abbeyfield Home or an independent hospital is provided by the Department of Health, Social Services and Public Safety under Article 15 or 36 of the Health and Personal Social Services Order.

(3) The amount to be disregarded under this paragraph is not to exceed the difference between—

- (a) the claimant's applicable amount; and
- (b) the weekly charge for the accommodation.

Commencement Information

I95 Sch. 8 para. 33 in operation at 27.10.2008, see reg. 1(1)

34. Any social fund payment made pursuant to Part 8 of the Contributions and Benefits Act.

(41) 1974 c. 39

(42) 1966 c. 42 (N.I.); Part 6 was substituted by paragraph 49 of Schedule 4 to the Consumer Credit Act 1974 (c. 39)

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Commencement Information

I96 Sch. 8 para. 34 in operation at 27.10.2008, see [reg. 1\(1\)](#)

35. Any payment of income which under regulation 112 (income treated as capital) is to be treated as capital.

Commencement Information

I97 Sch. 8 para. 35 in operation at 27.10.2008, see [reg. 1\(1\)](#)

36. Any payment under Part 10 of the Contributions and Benefits Act (pensioner's Christmas bonus).

Commencement Information

I98 Sch. 8 para. 36 in operation at 27.10.2008, see [reg. 1\(1\)](#)

37. Any payment which is due to be paid before the date of claim which would otherwise fall to be taken into account in the same benefit week as a payment of the same kind and from the same source.

Commencement Information

I99 Sch. 8 para. 37 in operation at 27.10.2008, see [reg. 1\(1\)](#)

38. The total of a claimant's income or, if the claimant is a member of a family, the family's income and the income of any person which the claimant is treated as possessing under regulation 83(3) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulations 133(2)(b), 134(1)(c) (calculation of covenant income), 137(1) and (2) (treatment of student loans) and 138(3) (treatment of payments from access funds) and paragraph 16 is in no case to exceed £20 per week.

Commencement Information

I100 Sch. 8 para. 38 in operation at 27.10.2008, see [reg. 1\(1\)](#)

39. Notwithstanding paragraph 38 where 2 or more payments of the same kind and from the same source are to be taken into account in the same benefit week, there is to be disregarded from each payment the sum which would otherwise fall to be disregarded under this Schedule; but this paragraph is to apply only in the case of a payment which it has not been practicable to treat under regulation 93(1)(b) (date on which income is treated as paid) as paid on the first day of the benefit week in which it is due to be paid.

Commencement Information

I101 Sch. 8 para. 39 in operation at 27.10.2008, see [reg. 1\(1\)](#)

40.—(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 Eileen Trust or the Independent Living Fund (2006).

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(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia, or who is or was a qualifying person which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom that person is not, or where that person has died was not, estranged or divorced or with whom that person has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
- (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 claimant'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 claimant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was 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 or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers 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 claimant'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 claimant'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 to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom that person is not estranged or divorced or with whom that person has formed a civil partnership that has not been dissolved, 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 full-time student who has not completed full-time education and had no parent or step-parent, to that person's 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 to which sub-paragraph (1) refers, where—

- (a) that person at the date of that person's death ("the relevant date") had no partner or former partner from whom that person was not estranged or divorced or with whom that person had formed a civil partnership that had not been dissolved, nor any child or young person who was 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 relevant date was a child, a young person or a full-time student who had not completed full-time education and had no parent or step-parent, to that person's guardian,

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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 to which sub-paragraph (1) refers.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, the Skipton Fund and the London Bombings Relief Charitable Fund.

Commencement Information

I102 Sch. 8 para. 40 in operation at 27.10.2008, see [reg. 1\(1\)](#)

41. Any payment made by the Department to compensate for the loss (in whole or in part) of entitlement to housing benefit.

Commencement Information

I103 Sch. 8 para. 41 in operation at 27.10.2008, see [reg. 1\(1\)](#)

42. Any payment made to a juror or a 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 benefit Acts.

Commencement Information

I104 Sch. 8 para. 42 in operation at 27.10.2008, see [reg. 1\(1\)](#)

43. Any payment in consequence of a reduction of liability for rates under Article 30A of the Rates (Northern Ireland) Order 1977(**43**) (relief in respect of dwellings) or reduction of council tax under section 13 or 80 of the Local Government Finance Act 1992(**44**) (reduction of liability for council tax).

Commencement Information

I105 Sch. 8 para. 43 in operation at 27.10.2008, see [reg. 1\(1\)](#)

44.—(1) Any payment or repayment made under regulation 5, 6 or 11 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004(**45**) (entitlement to full remission and payment, entitlement to partial remission and payment, or repayment);

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

Commencement Information

I106 Sch. 8 para. 44 in operation at 27.10.2008, see [reg. 1\(1\)](#)

(43) [S.I. 1977/2157 \(N.I. 28\)](#); Article 30A was inserted by Article 14 of the Rates (Amendment) (Northern Ireland) Order 2006 ([S.I. 2006/2954 \(N.I. 18\)](#))

(44) [1992 c.14](#); section 13 was amended by paragraph 42 of Schedule 7 to the Local Government Act 2003 ([c. 26](#)) and section 80 was amended by paragraph 176(4)(a) and (b) of Schedule 13 to the Local Government etc. (Scotland) Act 1994 ([c. 39](#))

(45) [S.R. 2004 No. 91](#)

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45. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to Article 13 of the Social Security (Northern Ireland) Order 1988⁽⁴⁶⁾ in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).

Commencement Information

I107 [Sch. 8 para. 45](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

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

Commencement Information

I108 [Sch. 8 para. 46](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

47. Any payment (other than a training allowance) made under the Disabled Persons (Employment) Act to assist disabled persons to obtain or retain employment despite their disability.

Commencement Information

I109 [Sch. 8 para. 47](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

48. Any supplementary pension under Article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006⁽⁴⁷⁾ (pensions to widows, widowers or surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.

Commencement Information

I110 [Sch. 8 para. 48](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

49. Where the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Contributions and Benefits Act or pension under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that benefit arising under Part 4 (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 claimant's family.

Commencement Information

I111 [Sch. 8 para. 49](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

⁽⁴⁶⁾ [S.I. 1988/594 \(N.I. 2\)](#); Article 13 was substituted by Article 3 of the Food Benefit Schemes (Northern Ireland) Order 2003 ([S.I. 2003/3202 \(N.I. 19\)](#))

⁽⁴⁷⁾ [S.I. 2006/606](#)

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50. In the case of a pension awarded at the supplementary rate under Article 27(3) of the Personal Injuries (Civilians) Scheme 1983⁽⁴⁸⁾ (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

Commencement Information

I112 Sch. 8 para. 50 in operation at 27.10.2008, see [reg. 1\(1\)](#)

51.—(1) Any payment which is—

- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner 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 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(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).

Commencement Information

I113 Sch. 8 para. 51 in operation at 27.10.2008, see [reg. 1\(1\)](#)

52. Any payment made under regulations made under section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002⁽⁴⁹⁾.

Commencement Information

I114 Sch. 8 para. 52 in operation at 27.10.2008, see [reg. 1\(1\)](#)

53.—(1) Any payment specified in sub-paragraph (2) to a claimant who was formerly a student and who has completed the course in respect of which those payments were made.

- (2) The payments specified for the purposes of sub-paragraph (1) are—
 - (a) any grant income and covenant income as defined for the purposes of Chapter 10 of Part 10;
 - (b) any student loan as defined in Chapter 10 of Part 10;
 - (c) any contribution as defined in Chapter 10 of Part 10 which—
 - (i) is taken into account in ascertaining the amount of a student loan referred to in head (b), and
 - (ii) has been paid.

⁽⁴⁸⁾ S.I. 1983/686; Article 27(3) and paragraph 1(c) of Schedule 4 were added by Articles 2 and 3 of S.I. 1994/2021 respectively and Schedule 4 was substituted by Schedule 3 to S.I. 2006/765

⁽⁴⁹⁾ 2002 c. 6 (N.I.)

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Commencement Information

I115 Sch. 8 para. 53 in operation at 27.10.2008, see [reg. 1\(1\)](#)

54.—(1) Subject to sub-paragraph (2), in the case of a person who is receiving, or who has received, assistance under the self-employment route, any payment to the person—

- (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;
- (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purposes of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) is to apply only in respect of payments which are paid to that person from the special account as defined for the purposes of Chapter 5 of Part 10.

Commencement Information

I116 Sch. 8 para. 54 in operation at 27.10.2008, see [reg. 1\(1\)](#)

55. Any payment made with respect to a person on account of the provision of accommodation, aftercare or other personal social services to which Articles 15 and 36 of the Health and Personal Social Services Order refer which falls to be treated as notional income under regulation 107(6) (payments made in respect of a person residing in a residential care home, nursing home, an Abbeyfield Home or an independent hospital).

Commencement Information

I117 Sch. 8 para. 55 in operation at 27.10.2008, see [reg. 1\(1\)](#)

56.—(1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel, rent or rates for which housing benefit is payable or any housing costs to the extent that they are met under regulation 67(1)(c) or 68(1)(d) (housing costs), of the claimant or, where the claimant is a member of a family, any other member of the claimant's family, or water charges for which that claimant or member is liable.

(3) For the purposes of sub-paragraph (2) "food" does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

Commencement Information

I118 Sch. 8 para. 56 in operation at 27.10.2008, see [reg. 1\(1\)](#)

57.—(1) Subject to sub-paragraph (3), any payment of child maintenance where the child or young person in respect of whom the payment is made is a member of the claimant's family except where the person making the payment is the claimant or the claimant's partner.

(2) For the purposes of sub-paragraph (1), where more than one payment of child maintenance—

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- (a) in respect of more than one child or young person; or
- (b) made by more than one person in respect of a child or young person,

falls to be taken into account in any week, all such payments are to be aggregated and treated as if they were a single payment.

[^{F17}(3) No more than £20 is to be disregarded in respect of each week to which any payment of child maintenance is attributed in accordance with regulations 120 to 125 (child maintenance and liable relatives).

- (4) In this paragraph “child maintenance” has the meaning given by regulation 119.]

Textual Amendments

F17 Sch. 8 para. 57(3)(4) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(32)(c)**

Commencement Information

I119 Sch. 8 para. 57 in operation at 27.10.2008, see [reg. 1\(1\)](#)

58. In the case of a person to whom regulation 6(5) of the Income Support Regulations (persons not treated as in remunerative work) applies, the whole of that person’s income.

Commencement Information

I120 Sch. 8 para. 58 in operation at 27.10.2008, see [reg. 1\(1\)](#)

59. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations (Northern Ireland) 2001(**50**).

Commencement Information

I121 Sch. 8 para. 59 in operation at 27.10.2008, see [reg. 1\(1\)](#)

60. Any payment made by the Housing Executive to or on behalf of the claimant or the claimant’s partner relating to a service which is provided to develop or sustain the capacity of the claimant or the claimant’s partner to live independently in the claimant’s or the claimant’s partner’s accommodation.

Commencement Information

I122 Sch. 8 para. 60 in operation at 27.10.2008, see [reg. 1\(1\)](#)

- 61. Any housing benefit to which the claimant is entitled.

Commencement Information

I123 Sch. 8 para. 61 in operation at 27.10.2008, see [reg. 1\(1\)](#)

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SCHEDULE 9

Regulation 111(2)

Capital to be disregarded

1. The dwelling occupied as the home but, notwithstanding regulation 83 (calculation of income and capital of members of claimant's family and of a polygamous marriage), only one dwelling is to be disregarded under this paragraph.

Commencement Information

I124 Sch. 9 para. 1 in operation at 27.10.2008, see **reg. 1(1)**

2. Any premises or land acquired for occupation by the claimant which that claimant intends to occupy as the home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises or land.

Commencement Information

I125 Sch. 9 para. 2 in operation at 27.10.2008, see **reg. 1(1)**

3. Any sum directly attributable to the proceeds of sale of—
- (a) any premises or land formerly occupied by the claimant as the home; or
 - (b) any premises or land which the claimant continues to occupy as the home and which were occupied by the claimant as the home immediately before the compulsory acquisition of those premises or land from the claimant under any statutory provision,

which is to be used for the purchase of other premises or land intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

Commencement Information

I126 Sch. 9 para. 3 in operation at 27.10.2008, see **reg. 1(1)**

4. Any premises or land occupied in whole or in part by—
- (a) a partner or relative of a single claimant or any member of the family as the home where that person is aged 60 or over or is incapacitated;
 - (b) the former partner of a claimant as the home; but this provision is not to apply where the former partner is a person from whom the claimant is estranged or divorced or with whom the person formed a civil partnership that has been dissolved.

Commencement Information

I127 Sch. 9 para. 4 in operation at 27.10.2008, see **reg. 1(1)**

5. Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following the claimant's estrangement or divorce from, or dissolution of the claimant's civil partnership with, the claimant's former partner, that dwelling for a period of 26 weeks from the date on which the claimant ceased to occupy that dwelling or, where that dwelling is occupied as the home by the former partner who is a lone parent, for as long as it is so occupied.

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Commencement Information

I128 Sch. 9 para. 5 in operation at 27.10.2008, see [reg. 1\(1\)](#)

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

Commencement Information

I129 Sch. 9 para. 6 in operation at 27.10.2008, see [reg. 1\(1\)](#)

7. Any premises or land which the claimant intends to occupy as the home, and in respect of which that claimant is taking steps to obtain 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 the claimant first sought such advice or first commenced such proceedings whichever is earlier, or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of those premises or land.

Commencement Information

I130 Sch. 9 para. 7 in operation at 27.10.2008, see [reg. 1\(1\)](#)

8. Any premises or land which the claimant intends to occupy as the home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the claimant first takes steps to effect those repairs or alterations, or such longer period as is reasonable in the circumstances to enable those repairs or alterations to be carried out and the claimant to commence occupation of the premises.

Commencement Information

I131 Sch. 9 para. 8 in operation at 27.10.2008, see [reg. 1\(1\)](#)

9. Any future interest in property of any kind, other than premises or land in respect of which the claimant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

Commencement Information

I132 Sch. 9 para. 9 in operation at 27.10.2008, see [reg. 1\(1\)](#)

10.—(1) The assets of any business owned in whole or in part by the claimant and for the purposes of which that claimant is engaged as a self-employed earner or, if the claimant 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 claimant where that claimant—
- (a) is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but

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- (b) intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as the claimant recovers or is able to become engaged, or re-engaged, in that business,

for a period of 26 weeks from the date on which the claim for an income-related allowance is made, or is treated as made, or, if it is unreasonable to expect the claimant to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable the claimant to become so engaged or re-engaged.

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

(4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

Commencement Information

I133 Sch. 9 para. 10 in operation at 27.10.2008, see **reg. 1(1)**

11.—(1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) any payment specified in paragraph 8, 10 or 11 of Schedule 8 (other income to be disregarded);
- (b) an income-related allowance, an income-related benefit or an income-based jobseeker's allowance, child tax credit or working tax credit;
- (c) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations (Northern Ireland) 2001,

but only for a period of 52 weeks from the date of the receipt of the arrears or of the concessionary payment.

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances, amounts to £5,000 or more (referred to in this sub-paragraph and sub-paragraph (3) as the “relevant sum”) and is—

- (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations(51); and
- (b) received by the claimant in full on or after 14th October 2001,

sub-paragraph (1) is to have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of an income-related allowance, for the remainder of that award if that is a longer period.

(3) For the purposes of sub-paragraph (2), “the award of an income-related allowance” means—

- (a) the award either of an income-related allowance, income support or of an income-based jobseeker's allowance in which the relevant sum (or first part thereof where it is paid in more than one instalment) is received; and
- (b) where that award is followed by one or more further awards which in each case may be either of an income-related allowance, income support or of an income-based jobseeker's

(51) The definition of “official error” was substituted by paragraph 2(b) of Schedule 4 to S.R. 2001 No. 176 and amended by regulation 2(2)(a) of S.R. 2002 No. 189

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allowance and which, or each of which, begins immediately after the end of the previous award, such further awards until the end of the last such award, provided that for any such further awards the claimant—

- (i) is the person who received the relevant sum,
- (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of that person's death, or
- (iii) in the case of a joint-claim jobseeker's allowance, is a joint-claim couple either member or both members of which received the relevant sum.

(4) In sub-paragraph (3)(b) “joint-claim couple” and “joint-claim jobseeker's allowance” have the meanings given by Article 2(2) of the Jobseekers Order(52).

Commencement Information

I134 Sch. 9 para. 11 in operation at 27.10.2008, see [reg. 1\(1\)](#)

12. Any sum—

- (a) paid to the claimant in consequence of damage to, or loss of, the home or any personal possession and intended for its repair or replacement; or
- (b) acquired by the claimant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvements to the home,

and 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 enable the claimant to effect the repairs, replacement or improvements.

Commencement Information

I135 Sch. 9 para. 12 in operation at 27.10.2008, see [reg. 1\(1\)](#)

13. Any sum—

- (a) deposited with a housing association as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as is reasonable in the circumstances to complete the purchase.

Commencement Information

I136 Sch. 9 para. 13 in operation at 27.10.2008, see [reg. 1\(1\)](#)

14. Any personal possessions except those which had or have been acquired by the claimant with the intention of reducing that claimant's capital in order to secure entitlement to an employment and support allowance, a jobseeker's allowance or income support or to increase the amount of those benefits.

(52) The definitions of “joint-claim couple” and “joint-claim jobseeker's allowance” were inserted by paragraph 2(3) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

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Commencement Information

I137 [Sch. 9 para. 14](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

15. The value of the right to receive any income under an annuity and the surrender value (if any) of such an annuity.

Commencement Information

I138 [Sch. 9 para. 15](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

16. Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant or the claimant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.

Commencement Information

I139 [Sch. 9 para. 16](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

17.—(1) Subject to sub-paragraph (2), any payment made to the claimant or the claimant's partner in consequence of any personal injury to the claimant or, as the case may be, the claimant's partner.

(2) Sub-paragraph (1)—

- (a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in [^{F18}consequence] of that personal injury;
- (b) does not apply to any subsequent payment made to the claimant in consequence of that injury (whether it is made by the same person or another);
- (c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;
- (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.

(3) For the purpose of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.

Textual Amendments

F18 Word in [Sch. 9 para. 17\(2\)\(a\)](#) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(33)(a)**

Commencement Information

I140 [Sch. 9 para. 17](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

18. The value of the right to receive any income under a life interest.

Commencement Information

I141 [Sch. 9 para. 18](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

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19. The value of the right to receive any income which is disregarded under paragraph 9 of Schedule 7 or paragraph 23 of Schedule 8 (earnings or other income to be disregarded).

Commencement Information

I142 Sch. 9 para. 19 in operation at 27.10.2008, see **reg. 1(1)**

20. The surrender value of any policy of life insurance.

Commencement Information

I143 Sch. 9 para. 20 in operation at 27.10.2008, see **reg. 1(1)**

21. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

Commencement Information

I144 Sch. 9 para. 21 in operation at 27.10.2008, see **reg. 1(1)**

22.—(1) Any payment made by an authority under Article 18, 34C, 34D or 35A of the Children Order (general duty of an authority to promote the welfare of children or powers to grant financial assistance to persons looked after or in, or formerly in, its care).

(2) Subject to sub-paragraph (3), any payment (or part of a payment) made by an authority under Article 34D of the Children Order to a person (“A”) which A passes on to the claimant.

(3) Sub-paragraph (2) only applies where A—

- (a) was formerly in the claimant’s care,
- (b) is aged 18 or over, and
- (c) continues to live with the claimant.

(4) In this paragraph “authority” has the meaning given by Article 2 of the Children Order.

Commencement Information

I145 Sch. 9 para. 22 in operation at 27.10.2008, see **reg. 1(1)**

23. Any social fund payment made pursuant to Part 8 of the Contributions and Benefits Act.

Commencement Information

I146 Sch. 9 para. 23 in operation at 27.10.2008, see **reg. 1(1)**

24. Any refund of tax which falls to be deducted under section 369 of the Taxes Act (mortgage interest payable under deduction of tax) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements in the home.

Commencement Information

I147 Sch. 9 para. 24 in operation at 27.10.2008, see **reg. 1(1)**

25. Any capital which under regulation 105 or 137 (capital treated as income or treatment of student loans) is to be treated as income.

Commencement Information

I148 Sch. 9 para. 25 in operation at 27.10.2008, see **reg. 1(1)**

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

Commencement Information

I149 Sch. 9 para. 26 in operation at 27.10.2008, see **reg. 1(1)**

27.—(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 Eileen Trust, the Independent Living Fund (2006), the Skipton Fund or the London Bombings Relief Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person’s partner or former partner from whom the person is not, or where that person has died was not, estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person’s death;
- (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 claimant’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 claimant’s family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was 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 or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers 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 claimant’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 claimant’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 to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom the person is not estranged or divorced or with whom the person has formed a civil partnership that has not been dissolved, 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

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- (ii) where that person at the date of the payment is a child, a young person or a full-time student who has not completed full-time education and had no parent or step-parent, to that person's 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 to which sub-paragraph (1) refers, where—

- (a) that person at the date of the person's death ("the relevant date") had no partner or former partner from whom the person was not estranged or divorced or with whom the person had formed a civil partnership that had not been dissolved, nor any child or young person who was 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 relevant date was a child, a young person or a full-time student who had not completed full-time education and had no parent or step-parent, to that person's 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 is to be construed as including a reference to the Fund, the Eileen Trust, the Skipton Fund or the London Bombings Relief Charitable Fund.

Commencement Information

I150 [Sch. 9 para. 27](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

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

Commencement Information

I151 [Sch. 9 para. 28](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

29. The value of any funds held under a personal pension scheme.

Commencement Information

I152 [Sch. 9 para. 29](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

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

Commencement Information

I153 [Sch. 9 para. 30](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

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31. Any payment in kind made by a charity or under the Macfarlane Trust, Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust or the Independent Living Fund (2006).

Commencement Information

I154 [Sch. 9 para. 31](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

32. Any payment made pursuant to section 1 of the Employment and Training Act(53) but only for the period of 52 weeks beginning on the date of receipt of the payment.

Commencement Information

I155 [Sch. 9 para. 32](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

33. Any payment made under arrangements made by the Department to compensate for the loss (in whole or in part) of entitlement to housing benefit.

Commencement Information

I156 [Sch. 9 para. 33](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

34. Any payment made to a juror or a 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 benefit Acts.

Commencement Information

I157 [Sch. 9 para. 34](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

35. Any payment in consequence of a reduction of liability for rates under Article 30A of the Rates (Northern Ireland) Order 1977 (rate relief in respect of dwellings) or reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 (reduction of liability for council tax) or, but only for a period of 52 weeks from the date of the receipt of the payment.

Commencement Information

I158 [Sch. 9 para. 35](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

36. Any grant made in Great Britain to the claimant in accordance with a scheme under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988(54) (schemes for payments to assist local housing authorities and local authority tenants to obtain other accommodation) which is to be used—

- (a) to purchase premises intended for occupation as the claimant's home; or
- (b) to carry out repairs or alterations which are required to render premises fit for occupation as the claimant's home,

(53) Section 1 was amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10)) and Article 5 of the Industrial Training (Northern Ireland) Order 1990 (S.I. 1990/1200 (N.I. 8))

(54) 1988 c. 43

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for a period of 26 weeks from the date on which the claimant 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 claimant to commence occupation of those premises as the claimant's home.

Commencement Information

I159 [Sch. 9 para. 36](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

37.—(1) Any payment or repayment made under regulation 5, 6 or 11 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004 (entitlement to full remission and payment, entitlement to partial remission and payment, or repayment), but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

(2) Any payment or repayment by the Department of Health, Social Services and Public Safety which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

Commencement Information

I160 [Sch. 9 para. 37](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

38. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to Article 13 of the Social Security (Northern Ireland) Order 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins) but only for a period of 52 weeks from the date of receipt of the payment.

Commencement Information

I161 [Sch. 9 para. 38](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

39. Any payment made under a scheme established by the Secretary of State to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of receipt of the payment.

Commencement Information

I162 [Sch. 9 para. 39](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

40. Any arrears of supplementary pension which is disregarded under paragraph 48 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 50 or 51 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

Commencement Information

I163 [Sch. 9 para. 40](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

41. Any payment (other than a training allowance) made under the Disabled Persons (Employment) Act to assist disabled persons to obtain or retain employment despite their disability.

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Commencement Information

I164 Sch. 9 para. 41 in operation at 27.10.2008, see [reg. 1\(1\)](#)

- 42.—(1) Any sum to which sub-paragraph (2) applies and—
- (a) which is administered on behalf of a person by the High Court under the provisions of Order 80 or 109 of the Rules of the Supreme Court (Northern Ireland) 1980⁽⁵⁵⁾ or by a County Court under Order 44 of the County Court Rules (Northern Ireland) 1981⁽⁵⁶⁾ or Article 21 of the County Courts (Northern Ireland) Order 1980⁽⁵⁷⁾;
 - (b) which can only be disposed of by order or direction of any such court; or
 - (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.
- (2) This sub-paragraph applies to a sum which is derived from—
- (a) an award of damages for a personal injury to that person; or
 - (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

Commencement Information

I165 Sch. 9 para. 42 in operation at 27.10.2008, see [reg. 1\(1\)](#)

43. Any payment to the claimant as holder of the Victoria Cross or George Cross.

Commencement Information

I166 Sch. 9 para. 43 in operation at 27.10.2008, see [reg. 1\(1\)](#)

44. In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

Commencement Information

I167 Sch. 9 para. 44 in operation at 27.10.2008, see [reg. 1\(1\)](#)

- 45.—(1) [^{F19}Any payment of] a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel, rent or rates for which housing benefit is payable or any housing costs to the extent that they are met under regulation 67(1)(c) or 68(1)(d) (housing costs), of the claimant or, where the claimant is a member of a family, any other member of the claimant's family, or any water charges for which that claimant or member is liable.

⁽⁵⁵⁾ S.R. 1980 No. 346; Order 109 was added by S.R. 1986 No. 184

⁽⁵⁶⁾ S.R. 1981 No. 225

⁽⁵⁷⁾ S.I. 1980/397 (N.I. 3)

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(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

Textual Amendments

F19 Words in [Sch. 9 para. 45\(1\)](#) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\)](#), regs. 1(1), **3(33)(b)**

Commencement Information

I168 [Sch. 9 para. 45](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

46. Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—

- (a) the claimant;
- (b) the claimant’s partner;
- (c) the claimant’s deceased spouse or deceased civil partner; or
- (d) the claimant’s partner’s deceased spouse or deceased civil partner,

by the Japanese during the Second World War, £10,000.

Commencement Information

I169 [Sch. 9 para. 46](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

47. In the case of a person to whom regulation 6(5) of the Income Support Regulations (persons not treated as in remunerative work) applies, the whole of the claimant’s capital.

Commencement Information

I170 [Sch. 9 para. 47](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

48.—(1) Any payment by way of an education maintenance allowance made pursuant to Article 50 or 51 of the Education and Libraries Order(**58**) or a payment corresponding to such an education maintenance allowance made pursuant to section 3 of the Employment and Training Act.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to Article 50 or 51 of the Education and Libraries Order, in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).

Commencement Information

I171 [Sch. 9 para. 48](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

49.—(1) Subject to sub-paragraph (2), the amount of any trust payment made to a claimant or a member of a claimant’s family who is—

(58) Article 50 was amended by the Schedule to the Education (Student Support) (Northern Ireland) Order 1998 ([S.I. 1998/1760 \(N.I. 14\)](#)) and Article 51 was substituted by Part 2 of Schedule 5 to the Education (Northern Ireland) Order 1996 ([S.I. 1996/274 \(N.I. 1\)](#))

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- (a) a diagnosed person;
 - (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
 - (c) a parent of a diagnosed person, a person acting in the place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
 - (d) a member of the diagnosed person's family (other than that person's partner) or a person who was a member of the diagnosed person's family (other than that person's partner) at the date of the diagnosed person's death.
- (2) Where a trust payment is made to—
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending 2 years after that date;
 - (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—
 - (i) two years after that date, or
 - (ii) on the day before the day on which that person—
 - (aa) ceases receiving full-time education, or
 - (bb) attains the age of 20,

whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made, or of any payment out of the estate of a person to whom a trust payment has been made, which is made to a claimant or a member of a claimant's family who is—

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in the place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than that person's partner) or a person who was a member of the diagnosed person's family (other than that person's partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

- (4) Where a payment as referred to in sub-paragraph (3) is made to—
- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending 2 years after that date;
 - (c) a person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—
 - (i) two years after that date, or
 - (ii) on the day before the day on which that person—
 - (aa) ceases receiving full-time education; or

Status: Point in time view as at 27/10/2008.

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(bb) attains the age of 20,
whichever is the latest.

- (5) In this paragraph, a reference to a person—
- (a) being the diagnosed person’s partner;
 - (b) being a member of the diagnosed person’s family; or
 - (c) acting in the place of the diagnosed person’s parents,

at the date of the diagnosed person’s death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a residential care home, a nursing home, an Abbeyfield Home or an independent hospital on that date.

- (6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after that person’s death, has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;

“relevant trust” means 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;

“trust payment” means a payment under a relevant trust.

Commencement Information

I172 [Sch. 9 para. 49](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

50. The amount of a payment, other than a war pension within the meaning of section 25 of the Social Security Act 1989(**59**), to compensate for the fact that the claimant, the claimant’s partner, the claimant’s deceased spouse or deceased civil partner or the claimant’s partner’s deceased spouse or deceased civil partner—

- (a) was a slave labourer or a forced labourer;
- (b) had suffered property loss or had suffered personal injury; or
- (c) was a parent of a child who had died,

during the Second World War.

Commencement Information

I173 [Sch. 9 para. 50](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

51.—(1) Any payment made by the Housing Executive to or on behalf of the claimant or the claimant’s partner relating to a service which is provided to develop or sustain the capacity of the claimant or the claimant’s partner to live independently in the claimant’s or the claimant’s partner’s accommodation.

Commencement Information

I174 [Sch. 9 para. 51](#) in operation at 27.10.2008, see [reg. 1\(1\)](#)

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52. Any payment made under regulations made under section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002⁽⁶⁰⁾.

Commencement Information

I175 Sch. 9 para. 52 in operation at 27.10.2008, see [reg. 1\(1\)](#)

53. Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002⁽⁶¹⁾.

Commencement Information

I176 Sch. 9 para. 53 in operation at 27.10.2008, see [reg. 1\(1\)](#)

54. Any payment made to the claimant in accordance with regulations made pursuant to section 14F of the Children Act 1989⁽⁶²⁾ (special guardianship support services).

Commencement Information

I177 Sch. 9 para. 54 in operation at 27.10.2008, see [reg. 1\(1\)](#)

55. Where an ex-gratia payment has been made by the Secretary of State to members of the families of the disappeared, but only for a period of 52 weeks from the date of receipt of that payment.

Commencement Information

I178 Sch. 9 para. 55 in operation at 27.10.2008, see [reg. 1\(1\)](#)

⁽⁶⁰⁾ 2002 c. 6 (N.I.)

⁽⁶¹⁾ 2002 c. 38

⁽⁶²⁾ 1989 c. 41; section 14F was inserted by section 115 of the Adoption and Children Act 2002 (c. 38)

Status:

Point in time view as at 27/10/2008.

Changes to legislation:

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