

## SCHEDULE II

### HOUSING COSTS

#### Housing costs

1.—(1) Subject to the following provisions of this Schedule, the housing costs applicable to a claimant in accordance with regulation 6(6)(c) are those costs—

- (a) which the claimant or, if he has a partner, his partner is, in accordance with paragraph 3, liable to meet in respect of the dwelling occupied as the home which he or his partner is treated as occupying; and
- (b) which qualify under paragraphs 11 to 13.

(2) In this Schedule—

- (a) “disabled person” means a person—
  - (i) aged 75 or over;
  - (ii) who, had he in fact 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 Higher Pensioner and Disability Premiums); or
  - (iii) who—
    - (aa) has not attained the age of [F<sup>1</sup>20] and for whom the claimant or his partner is responsible; [F<sup>2</sup>and]
    - (bb) is a person in respect of whom disability living allowance is payable or would be payable but for [F<sup>3</sup>suspension or abatement because the person becomes a patient]; [F<sup>4</sup>or]
    - (cc) is registered as blind in a register compiled under section 29 of the National Assistance Act 1948<sup>M1</sup> (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a regional or islands council, or who is within 28 weeks of ceasing to be so registered; [F<sup>5</sup>or]
    - (dd) is in receipt of an employment and support allowance which includes an amount under section 2(2) or (3) or 4(4) or (5) of the Welfare Reform Act (components) [F<sup>6</sup>or would be entitled to an employment and support allowance including an amount of a work-related activity component under section 2(3) of that Act (amount of contributory allowance: work-related activity component), but for the application of section 1A of that Act (duration of contributory allowance)].]
- (b) “housing costs” means those costs to which sub-paragraph (1) refers;
- (c) “standard rate” means the rate for the time being [F<sup>7</sup>determined in accordance with] paragraph 9.

(3) For the purposes of sub-paragraph (2)(a), a person shall not cease to be a disabled person on account of his being disqualified for receiving benefit or treated as capable of work by virtue of the operation of section 171E of the 1992 Act<sup>M2</sup> (incapacity for work, disqualification etc.) [F<sup>8</sup>or disqualified for receiving employment and support allowance or treated as not having limited capability for work in accordance with regulations made under section 18 of the Welfare Reform Act (disqualification)].

(4) In this Schedule, “non-dependant” means any person, except someone to whom sub-paragraph (5), (6) or (7) applies, who normally resides with the claimant.

Status: Point in time view as at 01/05/2012. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the The State Pension Credit Regulations 2002, Paragraph 1. (See end of Document for details)

- (5) This sub-paragraph applies to—
  - (a) a partner of the claimant or any person under the age of [F920] for whom the claimant or the claimant’s partner is responsible;
  - (b) a person who lives with the claimant in order to care for him or for the claimant’s partner and who is engaged for that purpose by a charitable or voluntary organisation which makes a charge to the claimant or the claimant’s partner for the care provided by that person;
  - (c) the partner of a person to whom head (b) above applies.
- (6) This sub-paragraph applies to a person, other than a close relative of the claimant or the claimant’s partner,—
  - (a) who is liable to make payments on a commercial basis to the claimant or the claimant’s partner in respect of his occupation of the claimant’s dwelling; [F10or]
  - <sup>F11</sup>(b) .....
  - (c) who is a member of the household of a person to whom head (a) <sup>F12</sup>... above applies.
- (7) This sub-paragraph applies to—
  - (a) a person who jointly occupies the claimant’s dwelling and who is either—
    - (i) co-owner of that dwelling with the claimant or the claimant’s partners (whether or not there are other co-owners); or
    - (ii) jointly liable with the claimant or the claimant’s partner to make payments to a landlord in respect of his occupation of that dwelling;
  - (b) a partner of a person to whom head (a) above applies.
- (8) For the purpose of sub-paragraphs (4) to (7) a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord.
- (9) In sub-paragraph (8), “communal area” means any area (other than rooms) of common access (including halls and passageways) and rooms of common use in sheltered accommodation.

**Textual Amendments**

- F1** Word in Sch. II para. 1(2)(a)(iii) (aa) substituted (10.4.2006) by [The Social Security \(Young Persons\) Amendment Regulations 2006 \(S.I. 2006/718\)](#), regs. 1(2)(a), **6(4)(a)**
- F2** Word in Sch. II para. 1(2)(a) inserted (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), reg. 1(1)(b), **Sch. para. 9(a)(i)**
- F3** Words in Sch. II para. 1(2)(a)(iii) (bb) substituted (10.4.2006) by [The Social Security \(Hospital In-Patients\) Regulations 2005 \(S.I. 2005/3360\)](#), regs. 1(a), **8(4)(a)**
- F4** Word in Sch. II para. 1(2)(a) inserted (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), reg. 1(1)(b), **Sch. para. 9(a)(ii)**
- F5** Sch. II para. 1(2)(a)(iii), (dd) and word added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **4(8)(a)(i)**
- F6** Words in Sch. II para. 1(2)(a)(iii)(dd) inserted (1.5.2012) by [The Employment and Support Allowance \(Duration of Contributory Allowance\) \(Consequential Amendments\) Regulations 2012 \(S.I. 2012/913\)](#), regs. 1(2), **6**
- F7** Words in Sch. II para. 1(2) substituted (28.11.2004) by [The Social Security \(Housing Costs Amendments\) Regulations 2004 \(S.I. 2004/2825\)](#), regs. 1(2)(a), **2(2)**
- F8** Words in Sch. II para. 1(3) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **4(8)(a)(ii)**

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- F9** Word in Sch. II para. 1(5)(a) substituted (10.4.2006) by The Social Security (Young Persons) Amendment Regulations 2006 (S.I. 2006/718), regs. 1(2)(a), **6(4)(b)**
- F10** Word in Sch. II para. 1(6)(a) inserted (6.10.2003) by The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) (No. 2) Regulations 2002 (S.I. 2002/3197), reg. 1(1)(b), **Sch. para. 9(b)(i)**
- F11** Sch. II para. 1(6)(b) omitted (6.10.2003) by virtue of The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) (No. 2) Regulations 2002 (S.I. 2002/3197), reg. 1(1)(b), **Sch. para. 9(b)(ii)**
- F12** Words in Sch. II para. 1(6)(c) omitted (6.10.2003) by virtue of The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) (No. 2) Regulations 2002 (S.I. 2002/3197), reg. 1(1)(b), **Sch. para. 9(b)(iii)**

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### Marginal Citations

- M1** 1948 c. 29.
- M2** Section 171E was inserted by section 6 of the Social Security (Incapacity for Work) Act 1994 (c. 18).

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the The State Pension Credit Regulations 2002, Paragraph 1.