

## SCHEDULE 1

### Applicable amount

## PART 3

### Disability premiums

5. Except as provided in paragraph 6, a premium specified in Part 4 of this Schedule is, for the purposes of regulations 21(d) (applicable amount) and 22(e) (applicable amount: polygamous marriages), applicable to an applicant who satisfies the conditions specified in paragraphs 9 to 14 which relate to that premium.

6. Subject to paragraph 7, where an applicant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium is applicable to the applicant and, if they are of different amounts, the higher or highest amount applies.

7. The following premiums, namely—

- (a) a severe disability premium to which paragraph 11 applies;
- (b) an enhanced disability premium to which paragraph 12 applies;
- (c) a disabled child premium to which paragraph 13 applies; and
- (d) a carer premium to which paragraph 14 applies,

may be applicable in addition to any other premium which may apply under this Schedule.

8.—(1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979(1) applies, any period during which, apart from the provisions of those Regulations, the person would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(2) or the Secretary of State under section 2 of the 1973 Act(3) for any period during which the person is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 14, a person is to be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment.

### Disability premium

9. With regard to disability premium the condition referred to in paragraph 5 is that—

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(1) S.I. 1979/597.  
(2) Section 2 was amended by section 47 of, and Schedule 10 to, the Trade Union Reform and Employment Rights Act 1993 (c.19), paragraph 20 of Schedule 26 to the Equality Act 2010 (c.15) and S.I. 1999/1820.  
(3) Section 2 was substituted by section 25 of the Employment Act 1988 (c.19) and was amended by paragraph 29 of Schedule 7 to the Employment Act 1989 (c.38) and section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c.19).

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- (a) where the applicant is a single applicant or a lone parent, the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1) is satisfied; or
- (b) where the applicant has a partner, either—
  - (i) the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1) is satisfied by the applicant; or
  - (ii) the applicant’s partner has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) is satisfied by the applicant’s partner.

### **Additional condition for the disability premium**

**10.**—(1) Subject to sub-paragraph (2) and paragraph 8, the additional condition referred to in paragraph 9 is that either—

- (a) the applicant or, as the case may be, the applicant’s partner—
  - (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit Regulations<sup>(4)</sup>, mobility supplement, long-term incapacity benefit or severe disablement allowance under Part 3 of the 1992 Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of the applicant;
  - (ii) was in receipt of long-term incapacity benefit when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant remained continuously entitled to council tax benefit under the Council Tax Benefit (General) Regulations 1992<sup>(5)</sup> or the Council Tax Benefit Regulations 2006<sup>(6)</sup> before 1st April 2013 and to council tax reduction from that date, and, if the long-term incapacity benefit was payable to the applicant’s partner, the partner is still a member of the family;
  - (iii) was in receipt of attendance allowance, disability living allowance or personal independence payment, but payment of the benefit has been suspended in accordance with regulations made under section 113(2) of the 1992 Act or section 86(1) of the Welfare Reform Act 2012 or otherwise abated as a consequence of the applicant or the applicant’s partner becoming a patient within the meaning of regulation 28(11) (g) (treatment of child care charges);
  - (iv) is provided with an invalid carriage or other vehicle under section 46 of the National Health Service (Scotland) Act 1978<sup>(7)</sup> (“the 1978 Act”), paragraph 9(1) of Schedule 1 to the National Health Service Act 2006<sup>(8)</sup> (“the 2006 Act”) or article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(9)</sup> or receives payments by way of grant from the Scottish Ministers under section 46 of the 1978 Act or the Secretary of State under paragraph 9(3) of Schedule 1 to the 2006 Act; or
  - (v) has been certified as blind and in consequence the applicant or the applicant’s partner is registered as blind in a register maintained by or on behalf of a local authority in

<sup>(4)</sup> Regulation 20(1)(f) was amended by [S.I. 2012/848](#).

<sup>(5)</sup> [S.I. 1992/1814](#).

<sup>(6)</sup> [S.I. 2006/215](#).

<sup>(7)</sup> [1978 c.29](#). Section 46 was amended by sections 17 and 114 of the Mental Health (Scotland) Act [1984 \(c.36\)](#).

<sup>(8)</sup> [2006 c.41](#). Paragraph 9(1) was substituted by section 17(10) of the Health and Social Care Act [2012 \(c.7\)](#).

<sup>(9)</sup> [S.I. 1972/1265](#).

Scotland or has been registered as blind, in a register compiled under section 29 of the National Assistance Act 1948(10) (welfare services); or

(b) the applicant—

(i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the 1992 Act (incapacity for work); and

(ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

(aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the 1992 Act(11), 196 days; and

(bb) in any other case, 364 days.

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

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

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of the applicant satisfying the additional condition specified in that provision, the applicant is to continue to be treated as satisfying that condition for any period spent by the applicant in undertaking a course of training provided under section 2 of the 1973 Act(12) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(13) or for any period during which the applicant is in receipt of a training allowance.

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

(6) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of the applicant satisfying the additional condition specified in that provision, the applicant is to continue to be treated as satisfying that condition for any period spent by the applicant in undertaking a course of training provided under section 2 of the Enterprise and New Towns (Scotland) Act 1990 or section 2 of the 1973 Act .

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

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(10) 1948 c.29. Section 29 was amended by section 1 of the National Assistance (Amendment) Act 1959 (c.30), Schedule 4 to the Mental Health (Scotland) Act 1960 (c.61), Part 1 of Schedule 9 to the Social Work (Scotland) Act 1968 (c.49), section 195 of, and paragraph 2 of Schedule 23 and Schedule 30 to, the Local Government Act 1972 (c.70), paragraph 3 of Schedule 3 to the Employment and Training Act 1973 (c.50), section 30 and Schedule 10 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 44 of the National Health Service and Community Care Act 1990 (c.19), paragraph 8 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c.43) and section 147 of the Health and Social Care Act 2008 (c.14).

(11) Section 30B was inserted by S.I. 1994/2926.

(12) Section 2 was substituted by section 25 of the Employment Act 1988 (c.19) and amended by section 29 of, and Schedule 7 to, the Employment Act 1989 (c.38) and section 47 of the Trade Union Reform and Employment Rights Act 1993 (c.19).

(13) 1990 c.35. Section 2 was amended by section 47 of, and Schedule 10 to, the Trade Union Reform and Employment Rights Act 1993 (c.19), paragraph 20 of Schedule 26 to the Equality Act 2010 (c.15) and S.I. 1999/1820.

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(8) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995<sup>(14)</sup> applies, and who again becomes incapable of work for the purposes of Part 12A of the 1992 Act)—

- (a) the reference to a period of 8 weeks in sub-paragraph (3); and
- (b) the reference to a period of 56 days in sub-paragraph (5),

is in each case to be treated as a reference to a period of 104 weeks.

(9) The applicant is not entitled to the disability premium if the applicant has, or is treated as having, limited capability for work.

(10) In this paragraph “invalid carriage or other vehicle” means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant.

### **Severe disability premium**

**11.**—(1) With regard to severe disability premium the condition referred to in paragraph 5 is that the applicant is a severely disabled person.

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

- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
  - (i) the applicant is in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment; and
  - (ii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with the applicant or with whom the applicant normally resides; and
  - (iii) no person is in receipt of a carer’s allowance under section 70 of the 1992 Act<sup>(15)</sup> in respect of caring for the applicant; or
- (b) in the case of an applicant who has a partner—
  - (i) the applicant is 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 1992 Act or the daily living component of personal independence payment;
  - (ii) the applicant’s partner is also in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment or, if the applicant is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance or payment;
  - (iii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with the applicant or with whom the applicant normally resides, 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 a carer’s allowance in respect of caring for either member of the couple or any partner of the polygamous marriage.

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<sup>(14)</sup> S.I. 1995/311. Regulation 13A was inserted by S.I. 1998/2231. Regulation 13A(1) was amended by S.I. 2006/2378.

<sup>(15)</sup> Section 70 was amended by S.I. 1994/2556, 2002/1457 and 2011/2426.

(3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2), that partner is to be treated for the purposes of sub-paragraph (2)(b)(ii) as if the partner was not a partner of the applicant.

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

- (a) a person receiving attendance allowance, disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment; or
- (b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2).

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

- (a) as being in receipt of attendance allowance, the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act or the daily living component of personal independence payment if the person would, but for being a patient in hospital for a period exceeding 28 days, be in receipt of that allowance or payment;
- (b) as being entitled to and in receipt of a carer's allowance if the person would, but for the person being cared for being a patient in hospital for a period exceeding 28 days, be entitled to and in receipt of a carer's allowance.

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

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001(16) (loss of benefit provisions).

### **Enhanced disability premium**

**12.**—(1) With regard to enhanced disability premium and subject to sub-paragraph (2) the condition referred to in paragraph 5 is that—

- (a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity;
- (b) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations made under section 113(2) of the 1992 Act or an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 72(3) of the 1992 Act in respect of—
  - (i) the applicant; or
  - (ii) a member of the applicant's family, who has not attained the qualifying age for state pension credit; or
- (c) the daily living component of personal independence payment is, or would, but for a suspension of benefit in accordance with regulations made under section 86(1) of the Welfare Reform Act 2012 or an abatement as a consequence of hospitalisation, be payable

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(16) 2001 c.11. Section 6B was inserted by section 24 of the Welfare Reform Act 2009 (c.24) and amended by section 113 of the Welfare Reform Act 2012 (c. 5). Section 7 was amended by paragraph 45 of Schedule 2 to the State Pension Credit Act 2002 (c.16), section 49 of, and paragraph 23 of schedule 3 to, the Welfare Reform Act 2007 (c.5), paragraph 2 of Schedule 4 and Schedule 7 to the Welfare Reform Act 2009 (c.24) and S.I. 2011/2298.

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in respect of the applicant or a member of the applicant's family who has not attained the qualifying age for state pension credit.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or the applicant's partner is entitled to child benefit in respect of child or young person under section 145A of the 1992 Act((17)) (entitlement after death of child or qualifying young person).

(3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—

- (a) an applicant who—
  - (i) is not a member of a couple or a polygamous marriage; and
  - (ii) is a patient within the meaning of regulation 28(11)(g) (treatment of child care charges: patients) 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 28(11)(g) and has been for a period of more than 52 weeks.

### **Disabled child premium**

**13.** With regard to disabled child premium the condition referred to in paragraph 5 is that a child or young person for whom the applicant or the applicant's partner is responsible and who is a member of the applicant's household—

- (a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because the child or young person is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind or treated as blind within the meaning of paragraph 10(1)(a)(v) and (2) (disability premium); or
- (c) is a child or young person in respect of whom section 145A of the 1992 Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

### **Carer premium**

**14.—(1)** With regard to carer premium the condition referred to in paragraph 5 is that the applicant or the applicant's partner is, or both of them are, entitled to a carer's allowance.

(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; and

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(17) Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c. 21) and amended by paragraph 48 of Schedule 24 to the Civil Partnership Act 2004 (c. 33) and paragraph 12 of Schedule 1 to the Child Benefit Act 2005 (c. 6).

- (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 an application for council tax reduction, the condition for the award of the carer premium is to be treated as satisfied for a period of eight weeks from the date on which—
  - (a) the person in respect of whose care the carer's allowance has been awarded dies; and
  - (b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

**Persons in receipt of concessionary payments**

**15.** For the purpose of determining whether a premium is applicable to a person under paragraphs 10 to 14, 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.

**Persons in receipt of benefit for another**

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