

Status: Point in time view as at 28/01/2013.

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SCHEDULE 1

Applicable amount

PART 3

Disability premiums

5. For the purposes of regulation 20(d), a premium of an amount specified in Part 4 of this Schedule is applicable to an applicant who satisfies the conditions specified in this Part which relate to that premium.

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

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 ^{M1} applies, any period during which, but for the provisions of those Regulations, the applicant 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 ^{M2} or the Secretary of State under section 2 of the 1973 Act ^{M3} for any period during which the applicant is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 10, a person is to be treated as being in receipt of a 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.

Marginal Citations

- M1** [S.I. 1979/597](#) as amended by [S.I. 1980/1927](#), 1982/1173, 1983/186, 1984/1303, 1988/1446, 1991/387, 547, 1617 and 2742, 1992/589 and 3194, 1993/965, 1995/829, 1996/1345, 1803 and 3207, 1999/820 and 1362, 2000/799 and 1483, 2002/2497, 2003/136 and 937, 2004/565, 2005/337, 1551 and 2877, 2006/2379, 2008/1554, 2010/1941 and 2012/956.
- M2** 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](#).
- M3** [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](#).

Severe disability premium

7.—(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, lone parent or an applicant who is treated as having no partner under sub-paragraph (3)—

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- (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;
 - (ii) subject to sub-paragraph (6), 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 entitled to, and in receipt of, a carer's allowance in respect of caring for the applicant; and
- (b) in the case of an applicant who has a partner—
- (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;
 - (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, each other member of that marriage is in receipt of such an allowance or payment; and
 - (iii) subject to sub-paragraph (6), 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 member of the couple or, if the applicant is a member of a polygamous marriage, for one or more but not all the members 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 of the members of the marriage.
- (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 sub-paragraph (4), that partner is to be treated for the purposes of sub-paragraph (2) as if the partner was not a partner of the applicant.
- (4) For the purposes of sub-paragraph (3), a person is blind if that person has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a local authority in Scotland or is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 ^{M4} (welfare services).
- (5) For the purposes of sub-paragraphs (3) and (4), a person who has ceased to be registered as blind on regaining eyesight is to be treated as blind for a period of 28 weeks following the date on which the person ceased to be registered as blind.
- (6) 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, 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
 - (b) a person who is blind within the meaning of sub-paragraph (4) or is treated as blind within the meaning of sub-paragraph (5).
- (7) 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

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1992 Act or the daily living component of personal independence payment, if the person would, but for being a patient for a period exceeding 28 days, be 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, as the case may be; and

- (b) as being entitled to and in receipt of a carer's allowance if the person would, but for the person in respect of whose care the care allowance was awarded being a patient in hospital for a period exceeding 28 days, be entitled to and in receipt of a carer's allowance.
- (8) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b)—
- (a) no account is to be taken of an award of carer's allowance to the extent that payment of that award is back-dated for a period before the date on which the award is first paid; 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 ^{M5} (loss of benefit).

Marginal Citations

- M4** 1948 c.29. 1948 c.29. Section 29 was repealed in relation to Scotland by Schedule 9 to the [Social Work \(Scotland\) Act 1968 \(c.49\)](#). In relation to England and Wales, 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 \(c.61\)](#), [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](#) of 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 \(c.14\)](#).
- M5** 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](#) 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](#) and [S.I. 2011/2298](#).

Enhanced disability premium

8.—(1) Subject to sub-paragraph (2), with regard to enhanced disability premium the condition referred to in paragraph 5 is that—

- (a) 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 1992 Act or but for 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 a child or young person who is a member of the applicant's family; or
- (b) 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](#) ^{M6} or an abatement as a consequence of hospitalisation, be payable in respect of a child or young person who is a member of the applicant's family.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition referred to in paragraph 5 is that the applicant or the applicant's partner is entitled to child benefit in respect of that child or young person under section 145A of the 1992 Act ^{M7} (entitlement after death of child or qualifying young person).

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M6 2012 c.5.

M7 Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c.21) and amended by paragraph 12 of Schedule 1 to the Child Benefit Act 2005 (c.6) and paragraph 48 of Schedule 24 to the Civil Partnership Act 2004 (c.33).

Disabled child premium

9. 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 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 that allowance or payment because the child or young person is a patient, provided that the child or young person continues to be a member of the family;
- (b) is blind within the meaning of paragraph 7(4) or treated as blind in accordance with paragraph 7(5); 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

10.—(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 has been awarded but—

- (a) the person in respect of whose care the carer's allowance was awarded dies; or
- (b) the person in respect of whom the premium was awarded ceases to be entitled, or ceases to be treated as entitled, to a carer's allowance,

the condition for the award of the premium must 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 the carer's allowance was awarded (or beginning with the date of death if the date occurred on a Sunday); and
- (b) in any other case, the date on which the person who was entitled to a carer's allowance ceases to be entitled to it.

(4) For the purposes of this paragraph, a person is to be treated as being entitled to and in receipt of a carer's allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

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Persons in receipt of concessionary payments

11.—(1) For the purpose of determining whether a premium is applicable to a person under paragraphs 7 to 10, 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 was a payment of that benefit.

(2) In this paragraph “concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act 2002 ^{M8} are charged.

Marginal Citations

M8 2002 c.21.

Person in receipt of benefit

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

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