

[See S.I. 1999/779 at page 1.6401 for details of treatment of persons and payments participating in New Deal 25 plus].

[In the following S.I. wherever the words “training for work” appear substitute the words “work based training for adults” except in the case of reference to the title or principal order or of the 1993 order. As per S.I. 1998/1426 from 3.7.98].

## 1987 No.1967

### SOCIAL SECURITY

#### The Income Support (General) Regulations 1987

*Made* - - - - - 20th November 1987

*Laid before Parliament* 11th April 1988

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Whereas a draft of this instrument was laid before Parliament in accordance with section 83(3) of the Social Security Act 1986 and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Services, in exercise of the powers conferred by sections 20(1), (3)(d), (4), (9), (11) and (12), 22(1), (2), (4) and (5) to (9), 23(1), (3) and (5), 51(1)(n) and 84(1) of the Social Security Act 1986(a) and sections 114, 166(1) to (3A) of the Social Security Act 1975(b) and of all other powers enabling him in that behalf by this instrument, which is made before the end of a period of 12 months from the commencement of the enactments under which it is made, hereby makes the following Regulations:

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(a) 1986 c. 50; section 84(1) is an interpretation provision and is cited because of the meanings assigned to the words "prescribed" and "regulations".

(b) 1975 c. 14; section 114 is applied by section 52(3)(b) of the Social Security Act 1986 (c. 50); section 166(3A) is inserted by section 62 of that Act and section 166(1) to (3A) is applied by section 83(1) of that Act.

## PART I GENERAL

### Citation and commencement

1. These Regulations may be cited as the Income Support (General) Regulations 1987 and shall come into force on 11th April 1988.

### Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

<sup>1</sup>Defn. of “Abbeyfield Home” inserted by para. 1(a)(ii) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>2</sup>Defn. of “the 2012 Act” inserted by para. 11(a) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>3</sup>Defn. of “adoption leave” inserted by reg. 2(2)(a) of S.I. 2002/2689 as from 8.12.02.

<sup>4</sup>Defn. of “approved blood scheme” inserted by reg. 2(2)(a) of S.I. 2017/870 as from 23.10.17.

<sup>5</sup>Defn. of “the Armed Forces and Reserve Forces Compensation Scheme” inserted by reg. 2(1) of S.I. 2005/574 as from 4.4.05.

<sup>6</sup>Defn. of “armed forces independence payment” inserted by para. 4(2) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>7</sup>Defn. of “basic rate” inserted by reg. 2(2)(a) of S.I. 2009/583 as from 6.4.09.

<sup>8</sup>Defn. of “the benefit Acts” in reg. 2(1) inserted by reg. 2(a) of S.I. 1996/206 as from 7.10.96.

<sup>9</sup>Words inserted in defn. of “the benefit Acts” by reg. 2(2)(a) of S.I. 2008/1554 as from 27.10.08.

▶<sup>1</sup>“Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society; ◀  
“the Act” means the Social Security Act 1986;

▶<sup>2</sup>“the 2012 Act” means the Welfare Reform Act 2012; ◀

▶<sup>3</sup>“adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996(a); ◀

▶<sup>4</sup>“approved blood scheme” means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products; ◀

▶<sup>5</sup>“the Armed Forces and Reserve Forces Compensation Scheme” means the scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004(b); ◀

▶<sup>6</sup>“armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) order 2011; ◀

“attendance allowance” means—

- (a) an attendance allowance under section 35 of the Social Security Act(c);
- (b) an increase of disablement pension under section 61 or 63 of that Act(d);
- (c) a payment under regulations made in exercise of the power conferred by section 159(3)(b) of that Act;
- (d) an increase of an allowance which is payable in respect of constant attendance under section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975(e);
- (e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(f) or any analogous payment; or
- (f) any payment based on need for attendance which is paid as part of a war disablement pension;

▶<sup>7</sup>“basic rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007(g) (see section 989 of that Act); ◀

▶<sup>8</sup>“the benefit Acts” means the Contributions and Benefits Act▶<sup>9</sup>; the

(a) 1996 c. 18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c. 22).

(b) 2004 c. 32

(c) Section 35 was amended by the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 63, by the Social Security Act 1979 (c. 18) section 2 and by the Social Security Act 1980 (c. 30), Schedule 1, Part II, paragraph 8.

(d) Subsections (3) and (4) of section 61 were added by the Social Security Act 1986 (c. 50), section 39 and Schedule 3, paragraph 6.

(e) 1975 c. 16.

(f) S.I. 1983/686; the relevant amending instruments are S.I. 1983/1164 and 1984/1675.

(g) 2007 c. 3.

Jobseekers Act 1995<sup>1</sup>, Part 1 of the Welfare Reform Act<sup>2</sup>, Part 4 of the 2012 Act and<sup>3</sup> Parts 1 and 5 of the Pensions Act 2014◀◀◀◀◀

“benefit week” has the meaning prescribed in paragraph 4 of Schedule 7 to the Social Security (Claims and Payments) Regulations 1987(a);<sup>4</sup> and for the purposes of calculating any payment of income and of regulation 74(2)(a) “benefit week” shall also mean the period of 7 days ending on the day before the first day of the first benefit week following the date of claim or the last day on which income support is paid if it is in payment for less than a week;◀

<sup>5</sup>“board and lodging accommodation” means—

- (a) accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked and prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises; or
- (b) accommodation provided to a person in a hotel, guest house, lodging house or some similar establishment,

except accommodation provided by a close relative of his or of any other member of his family, or other than on a commercial basis;◀

<sup>6</sup>“care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000, and in Scotland means a care home service within the meaning assigned to it by<sup>7</sup> paragraph 2 of Schedule 12 to the Public Services Reform (Scotland) Act 2010◀◀◀

<sup>8</sup>“child tax credit” means a child tax credit under section 8 of The Tax Credits Act 2002;◀

<sup>9</sup>“the Children Order” means the Children (Northern Ireland) Order 1995(b);◀ “claimant” means a person claiming income support;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister,<sup>10</sup> or, if any of the preceding persons is one member of a couple, the other member of that couple◀◀;

<sup>11</sup>◀

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit<sup>12</sup> or tax credits under the benefit Acts or the Tax Credits Act 2002(c)◀ are charged;

<sup>13</sup>“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992(d);◀

<sup>14</sup>“contribution-based jobseeker’s allowance” means an allowance under the Jobseekers Act 1995 as amended by the provisions of Part 1 of Schedule 14 to the 2012 Act that removed references to an income-based allowance, and a contribution-based allowance under the Jobseekers Act 1995 as that Act has effect apart from those provisions;◀

<sup>15</sup>“the Contributions Regulations” means the Social Security (Contributions) Regulations 2001;◀

*The following defn. of “contributory employment and support allowance continues to be reproduced as it is maintained in force in certain circumstances. See explanatory note of S.I. 2013/630 for when to apply.*

<sup>16</sup>“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act (employment and support allowance);◀

<sup>1</sup>Words substituted in defn. of “the benefit Acts” by para. 11(b) of the Sch. to S.I. 2013/388 as from 8.4.13.

<sup>2</sup>Words in defn. of “the benefit Acts” substituted by art. 8(2) of S.I. 2015/1985 as from 6.4.16.

<sup>3</sup>Words substituted in the defn. of “the benefits Acts” by art. 9(2) of S.I. 2017/422 as from 6.4.17.

<sup>4</sup>Words added to reg. 2(1) by reg. 2(a) of S.I. 1988/1445 as from 12.9.88.

<sup>5</sup>Defn. inserted in reg. 2(1) by reg. 2(a) of S.I. 1988/2022 as from 10.4.89.

<sup>6</sup>Defn. of “care home” inserted by para. 1(a)(ii) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>7</sup>Words in defn. of “care home” substituted by para. 14(a) of Sch. 2 to S.I. 2011/2581 as from 28.10.11.

<sup>8</sup>Defn. of “child tax credit” inserted by Sch. 1, para. 1(a) of S.I. 2002/2402 as from 6.4.03.

<sup>9</sup>Defn. of “the Children Order” inserted by reg. 5(1) of S.I. 1998/563 as from 6.4.98.

<sup>10</sup>Words substituted in defn. of “close relative” by para. 13(2)(a) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>11</sup>Defn. of “community charge benefit” omitted in reg. 2(1) by reg. 2(2)(a)(i) of S.I. 2008/2767 as from 17.11.08.

<sup>12</sup>Words substituted in reg. 2(1)(a) by reg. 2(2)(a) of S.I. 2008/3157 as from 5.1.09.

<sup>13</sup>Defn. of “the Contributions & Benefits Act” inserted in reg. 2(1) by reg. 3 of S.I. 1993/315 as from 12.4.93.

<sup>14</sup>Defn. of “contribution-based jobseekers Allowance” inserted by reg. 28(2)(a) of S.I. 2013/630 as from 29.4.13.

<sup>15</sup>Defn. of “the Contributions Regulations” inserted in reg. 2(1) by reg. 2(2) of S.I. 2012/2575.

<sup>16</sup>Words inserted in defn. of “contributory employment and support allowance” by reg. 2(2)(b) of S.I. 2008/1554 as from 27.10.08.

(a) S.I. 1987/1968.

(b) S.I. 1995/755 (N.I. 2).

(c) 2002 c. 21.

(d) 1992 c. 4.

**Reg. 2**

<sup>1</sup>Defn. of “contributory employment and support allowance” inserted by reg. 28(2)(b) of S.I. 2013/630 as from 29.4.13.

<sup>2</sup>Defn. of “couple” substituted by para. 13(2)(b) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>3</sup>Defn. of “course of study” substituted by reg. 5(2)(a) of S.I. 2000/1981 as from 31.7.00.

<sup>4</sup>Defn. “date of claim” inserted by reg. 2(a) of S.I. 1993/2119 as from 4.10.93.

<sup>5</sup>Defn. “disability living allowance” inserted by reg. 11(2) of S.I. 1991/2742 as from 6.4.92.

<sup>6</sup>Defn. of “disabled person’s tax credit” omitted by Sch. 1, para. 1(c) of S.I. 2002/2402 as from 6.4.03.

<sup>7</sup>Defns. of “earnings top-up” and “the Earnings top-up scheme” omitted by reg. 3(2)(a) of S.I. 2005/574 as from 4.4.05.

<sup>8</sup>Defn. of “employment” inserted by reg. 2(b) of S.I. 1988/1445 as from 12.9.88.

<sup>9</sup>Defn. of “the employment and support allowance regulations” inserted by reg. 2(2)(c) of S.I. 2008/1554 as from 27.10.08.

<sup>10</sup>Defn. of “the Employment, Skills and Enterprise Scheme” omitted by reg. 13 of 2013/276 as from 6.45 pm on 12.2.13.

<sup>1</sup>“contributory employment and support allowance” means an allowance under Part 1 of the Welfare Reform Act as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the 2012 Act that removed references to an income-related allowance, and a contributory allowance under Part 1 of the Welfare Reform Act as that Part has effect apart from those provisions; ◀

“co-ownership scheme” means a scheme under which a dwelling is let by a housing association and the tenant, or his personal representative, will, under the terms of the tenancy agreement or of the agreement under which he became a member of the association, be entitled, on his ceasing to be a member and subject to any condition stated in either agreement, to a sum calculated by reference directly or indirectly to the value of the dwelling;

<sup>2</sup>“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex; ◀

<sup>3</sup>“course of study” means any course of study, whether or not it is a sandwich course (within the meaning prescribed in regulation 61(1)) and whether or not a grant is made for attending or undertaking it; ◀

“Crown tenant” means a person who occupies a dwelling under a tenancy or licence where the interest of the landlord belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department, except (in the case of an interest belonging to Her Majesty in right of the Crown) where the interest is under the management of the Crown Estate Commissioners;

<sup>4</sup>“date of claim” means the date on which the claimant makes, or is treated as making, a claim for income support for the purposes of regulation 6 of the Social Security (Claims and Payments) Regulations 1987(a); ◀

<sup>5</sup>“disability living allowance” means a disability living allowance under section 37ZA of the Social Security Act(b); ◀

<sup>6</sup> ◀

“dwelling occupied as the home” means the dwelling together with any garage, garden and outbuildings, normally occupied by the claimant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated;

“earnings” has the meaning prescribed in regulation 35 or, as the case may be, 37;

<sup>7</sup> ◀

“employed earner” shall be construed in accordance with section 2(1)(a) of the Social Security Act;

<sup>8</sup>“employment” except for the purposes of section 20(3)(d) of the Act, includes any trade, business, profession, office or vocation; ◀

<sup>9</sup>“the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008(c); ◀

<sup>10</sup> ◀

(a) S.I. 1987/1968; regulation 6 was amended by S.I. 1988/522, 1989/1686, 1990/725, 1990/2208, 1991/2284 and 1991/2741.

(b) 1975 c. 14; section 37ZA was inserted by the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21), section 1(2).

(c) S.I. 2008/794.



**Reg. 2**<sup>1</sup>◀

<sup>2</sup>“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999(a) and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;

“employment zone contractor” means a person who is undertaking the provision of facilities in respect of an employment zone programme on behalf of the Secretary of State for Education and Employment;◀

<sup>3</sup>“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament <sup>4</sup>or the National Assembly for Wales◀;◀

<sup>5</sup>“first year of training” means a period of time beginning with a person’s first day of training.◀

<sup>6</sup>◀

<sup>7</sup>“full-time student” has the meaning prescribed in regulation 61(1);◀

<sup>8</sup>“a guaranteed income payment” means a payment made under article 14(1)(b) or article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(b);◀

<sup>9</sup>“Health Service Act” means the National Health Service Act 2006(c);

“Health Service (Wales) Act” means the National Health Service (Wales) Act 2006(d);◀

“housing association” has the meaning assigned to it by section 1(1) of the Housing Associations Act 1985(e);

<sup>10</sup>“housing benefit expenditure” means expenditure in respect of which housing benefit is payable as specified in <sup>11</sup>regulation 12(1) of the Housing Benefit Regulations 2006◀ but does not include any such expenditure in respect of which an amount is applicable under regulation 17(1)(e) or 18(1)(f) (housing costs); ◀

<sup>12</sup>“Immigration and Asylum Act” means the Immigration and Asylum Act 1999(f).◀

<sup>1</sup>Defn. of “full-time student” omitted from after defn. of “employment” and inserted after defn. of “employment zone contractor”, by reg. 4 of S.I. 2000/2422 as from 9.10.00. Originally inserted by reg. 4 of S.I. 2000/1981 as from 31.7.00.

<sup>2</sup>Defns. of “employment zone”, “employment zone programme” and “employment zone contractor” inserted by reg. 2 of S.I. 2000/724 as from 3.4.00.

<sup>3</sup>Defn. of “enactment” inserted by reg. 2(2) of S.I. 2009/2655 on or after 26.10.09 subject to reg. 1 *ibid*.

<sup>4</sup>Words inserted into defn. of “enactment” by reg. 4(2) of S.I. 2013/2536 as from 29.10.13.

<sup>5</sup>Defn. “first year of training” inserted by reg. 2(2) of S.I. 2015/389 as from 6.4.15.

<sup>6</sup>Defn. of “ERA payment” omitted by reg. 2(2) of S.I. 2004/565 as from 1.4.04.

<sup>7</sup>Defn. of “full-time student” omitted from after defn. of “employment” and inserted after defn. of “employment zone contractor”, by reg. 4 of S.I. 2000/2422 as from 9.10.00. Originally inserted by reg. 5 of S.I. 2000/1981 as from 31.7.00.

<sup>8</sup>Defn. of “a guaranteed income payment” inserted by reg. 2(1) of S.I. 2005/574 as from 4.4.05.

<sup>9</sup>Defns. of “Health Service Act” & Health Service (Wales) Act” inserted in reg. 2(1) by reg. 2(2)(b) of S.I. 2008/2767 as from 17.11.08.

<sup>10</sup>Defn. of “housing benefit expenditure” substituted by reg. 4(1) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

<sup>11</sup>Words in defn. of “housing benefit expenditure” substituted by reg. 1(2) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>12</sup>Defn. of “Immigration and Asylum Act” inserted by reg. 3(2) of S.I. 2000/636 as from 3.4.00.

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(a) 1999 c. 30.

(b) S.I. 2005/439.

(c) 2006 c. 41.

(d) 2006 c. 42.

(e) 1985 c. 69.

(f) 1999 c. 33.

**Reg. 2**

<sup>1</sup>Defn. of “income-related employment & support allowance” inserted by reg. 2(2)(d) of S.I. 2008/1554 as from 27.10.08.

<sup>2</sup>Defn. of “immigration authorities” omitted by reg. 3(2) of S.I. 2000/636 as from 3.4.00.

<sup>3</sup>Defn. of “independent hospital” substituted by reg. 5 of S.I. 2010/1881 as from 1.10.10.

<sup>4</sup>Words in defn. of “independent hospital” substituted by para. 14(b) of Sch. 2 to S.I. 2011/2581 as from 28.10.11.

<sup>5</sup>Defn. of “Intensive Activity Period for 50 plus” omitted by reg. 2(2) of S.I. 2008/698 as from 14.4.08.

<sup>6</sup>Defn. of “last day of the course” substituted by reg. 5(2)(c) of S.I. 2000/1981 as from 31.7.00.

<sup>7</sup>Defn. of “local welfare provision” inserted by reg. 2(2) of S.I. 2013/443 as from 4.3.13.

<sup>8</sup>Defn. of “long-term patient” inserted by reg. 2(2) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

<sup>9</sup>Defn. of “lower rate” inserted by reg. 12 of S.I. 1992/2155 as from 5.10.92.

<sup>10</sup>Defn. of “the Mandatory Work Activity Scheme” inserted by reg. 4(3) of S.I. 2011/1707 as from 5.8.11.

<sup>11</sup>Defn. of “maternity leave” inserted by reg. 2(b) of S.I. 1993/2119 as from 4.10.93.

<sup>12</sup>Words substituted in defn. of “maternity leave” by reg. 5(2)(a) of S.I. 2007/2618 as from 1.10.07.

<sup>14</sup>“Income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (employment and support allowance); ◀

<sup>2</sup>◀

<sup>3</sup>“independent hospital”–

- (a) in England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section;
- (b) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000; and
- (c) in Scotland, means an independent healthcare service as defined in <sup>4</sup>section 10F(1)(a) and (b) of the National Health Service (Scotland) Act 1978 ◀; ◀

<sup>5</sup>◀

“invalid carriage or other vehicle” means a vehicle propelled by petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

<sup>6</sup>“last day of the course” has the meaning prescribed in regulation 61(1); ◀

“liable relative” has the meaning prescribed in regulation 54;

<sup>7</sup>“local welfare provision” means occasional financial or other assistance given by a local authority, the Scottish Ministers or the Welsh Ministers, or a person authorised to exercise any function of, or provide a service to, them, to or in respect of individuals for the purpose of–

- (a) meeting, or helping to meet, an immediate short term need–
  - (i) arising out of an exceptional event, or exceptional circumstances; and
  - (ii) that requires to be met in order to avoid a risk to the well-being of an individual; or
- (b) enabling individuals to establish or maintain a settled home, where those individuals have been or, without the assistance, might otherwise be–
  - (i) in prison, hospital, a residential care establishment or other institution; or
  - (ii) homeless or otherwise living an unsettled way of life; ◀

“lone parent” means a person who has no partner and who is responsible for, and a member of the same household as, a child or young person;

“long tenancy” means a tenancy granted for a term of years certain exceeding twenty one years, whether or not the tenancy is, or may become, terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture (or, in Scotland, irritancy) or otherwise and includes a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal unless it is a lease by sub-demise from one which is not a long tenancy;

<sup>8</sup>“long-term patient” means a person who–

- (a) is a patient within the meaning of regulation 21(3); and
- (b) has been such a patient for a continuous period of more than 52 weeks; ◀

<sup>9</sup>“lower rate” where it relates to rates of tax has the same meaning as in the Income and Corporation Taxes Act 1988(a) by virtue of section 832(1) of that Act; ◀

<sup>10</sup>“the Mandatory Work Activity Scheme” means a scheme within section 17A of the Jobseekers Act 1995, known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to provide work or work-related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting claimants to improve their prospects of obtaining employment; ◀

<sup>11</sup>“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under <sup>12</sup>Part VIII of the Employment Rights Act 1996(b) ◀; ◀

- (a) 1988 c. 1; the definition of “lower rate” was added by the Finance Act 1992 (c. 20), section 9(9).
- (b) 1996 c. 18.

## Reg. 2

<sup>1</sup>“member of the support group” means a claimant who has or is treated as having limited capability for work-related activity under either—

- (a) Part 6 of the Employment and Support Allowance Regulations 2008; or
- (b) Part 5 of the Employment and Support Allowance Regulations 2013;

“member of the work-related activity group” means a claimant who has or is treated as having limited capability for work under either—

- (a) Part 5 of the Employment and Support Allowance Regulations 2008 other than by virtue of regulation 30 of those Regulations; or
- (b) Part 4 of the Employment and Support Allowance Regulations 2013 other than by virtue of regulation 26 of those Regulations;◀

<sup>2</sup>“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;◀

<sup>3</sup>◀

“mobility supplement” means any supplement under article <sup>3</sup>article 20 of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 2006(a)◀ including such a supplement by virtue of any other scheme or order or under Article 25A of the Personal Injuries (Civilians) Scheme 1983(b);

“net earnings” means such earnings as are calculated in accordance with regulation 36;

“net-profit” means such profit as is calculated in accordance with regulation 38;

<sup>4</sup>“the New Deal options” means the employment programmes specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996(c) and the training scheme specified in regulation 75(1)(b)(ii) of those Regulations;◀

“non-dependant” has the meaning prescribed in regulation 3;

“non-dependant deduction” means a deduction that is to be made under regulation 17(e) and paragraph <sup>5</sup>18◀ of Schedule 3;

<sup>6</sup>◀

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“partner” means where a claimant—

- (a) is a member of <sup>7</sup>a couple◀, the other member of that couple;
- (b) is married polygamously to two or more members of his household, any such member;

<sup>8</sup>“paternity leave” means a period of absence from work on <sup>9</sup>◀ paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996(d) <sup>9</sup>◀;◀

“payment” includes a part of a payment;

<sup>10</sup>“pay period” means the period in respect of which a claimant is, or expects to be normally paid by his employer, being a week, a fortnight, four weeks, a month or other shorter or longer period as the case may be;◀

<sup>11</sup>“pension fund holder” means with respect to a personal pension scheme or

<sup>12</sup>an occupational pension scheme◀, the trustees, managers or scheme administrators, as the case may be, of the scheme <sup>12</sup>◀ concerned;◀

<sup>13</sup>“period of study” means the period beginning with the date on which a person starts attending or undertaking a course of study and ending with the last day of the course or such earlier date (if any) as he finally abandons it or is dismissed from it;◀

<sup>1</sup>Defns. of “member of the support group” and member of the work-related activity group” inserted by Sch. 1, para. 1(2) of S.I. 2017/204 as from 3.4.17.

<sup>2</sup>Defn. of “MFET Limited” inserted by reg. 2(2) of S.I. 2010/641 as from 1.4.10.

<sup>3</sup>Defn. of “mobility allowance” omitted & words in defn. of “mobility supplement” substituted by reg. 2(2)(b) & (c) of S.I. 2008/3157 as from 5.1.09.

<sup>4</sup>Defn. of “the New Deal options” inserted by reg. 2 of S.I. 2001/488 as from 9.4.01.

<sup>5</sup>Words substituted in defn. of “non-dependent deduction” by reg. 2(2)(c) of S.I. 2008/2767 as from 17.11.08.

<sup>6</sup>Defn. of “nursing home” omitted by para. 1(a)(i) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>7</sup>Words substituted in para. (a) of defn. of “partner” by para. 13(2)(c) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>8</sup>Defn. of “paternity leave” substituted by reg. 3(2) of S.I. 2012/757 as from 1.4.12.

<sup>9</sup>Words omitted in defn. of “paternity leave” by art. 5(2)(a) of S.I. 2014/3255 as from 5.4.15.

<sup>10</sup>Defn. of “pay period” inserted by reg. 22(a) of S.I. 1994/2139 as from 3.10.94.

<sup>11</sup>Defn. of “pension fund holder” inserted by reg. 6(2)(a) of S.I. 1995/2303 as from 2.10.95.

<sup>12</sup>Words substituted and omitted in defn. of “pension fund holder” by reg. 2(2)(a) of S.I. 2007/1749 as from 16.7.07.

<sup>13</sup>Defn. “period of study” substituted by reg. 5(2)(d) of S.I. 2000/1981 as from 31.7.00.

(a) S.I. 2006/606.

(b) S.I. 1983/686, amended by S.I. 1983/1164, 1540 and 1986/628.

(c) S.I. 1996/207; the relevant amending instruments are S.I. 1997/2863 and 1998/1174 & 1274.

(d) Sections 80A and 80B are inserted by section 1 of the Employment Act 2002 (c. 22).

**Reg. 2**

<sup>1</sup>Defn. of “personal independence payment” inserted by para. 11(a) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>1</sup>“personal independence payment” means personal independence payment under Part 4 of the 2012 Act; ◀

## Reg. 2

“personal pension scheme” means—

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993(a);
- (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988(b) under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;◀

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

<sup>2</sup>“polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;◀

<sup>3</sup>◀

<sup>4</sup>“public authority” includes any person certain of whose functions are functions of a public nature;◀

<sup>5</sup>“qualifying person” means a person in respect of whom payment has been made from the Fund <sup>6</sup>, the Eileen Trust◀<sup>7</sup>, MFET Limited◀<sup>8</sup>, the Skipton Fund <sup>9</sup>, the Caxton Foundation◀<sup>10</sup>, the Scottish Infected Blood Support Scheme <sup>11</sup>, an approved blood scheme◀<sup>12</sup>, the London Emergencies Trust, the We Love Manchester Emergency Fund◀ or the London Bombings Relief Charitable Fund◀;◀

<sup>13</sup>◀

“relative” means close relative, grand-parent, grand-child, uncle, aunt, nephew or niece;

“relevant enactment” has the meaning prescribed in regulation 16(8)(a);

“remunerative work” has the meaning prescribed in regulation 5;

<sup>14</sup>“Scottish basic rate” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007(c).◀

<sup>15</sup>“Scottish Infected Blood Support Scheme” means the scheme of that name administered by the Common Services Agency (constituted by section 190 of the National Health Service (Scotland) Act 1978);◀

<sup>14</sup>“Scottish taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998(d);◀

<sup>1</sup>Defn. of “personal pension scheme” substituted by reg. 2(2)(b) of S.I. 2007/1749 as from 16.7.07.

<sup>2</sup>Defn. “polygamous marriage” substituted by reg. 2(b) of S.I. 1988/2022 as from 12.12.99.

<sup>3</sup>Defn. of “preserved right” omitted by reg. 1(a)(iii) of Sch. to S.I. 2001/3767 as from 8.4.02.

<sup>4</sup>Defns. of “public authority” inserted by reg. 2(2) of S.I. 2009/2655 on or after 26.10.09, subject to reg. 1 ibid.

<sup>5</sup>Defn. of “qualifying person” inserted by reg. 6(2)(a) of S.I. 1992/1101 as from 7.5.92.

<sup>6</sup>Words substituted in the defn. of “qualifying person” by reg. 2(a) of S.I. 2004/1141 as from 12.5.04.

<sup>7</sup>Words inserted in the defn. of “qualifying person” by reg. 2(3)(a) of S.I. 2010/641 as from 1.4.10.

<sup>8</sup>Words substituted in the defn. of “qualifying person” by reg. 2(1)(b) of S.I. 2005/3391 as from 12.12.05.

<sup>9</sup>Words inserted in defn. of “qualifying person” by reg. 7(2)(a) of S.I. 2011/2425 as from 31.10.11.

<sup>10</sup>Words in defn. of “qualifying person” inserted by reg. 3(2)(a) of S.I. 2017/329 as from 3.4.17.

<sup>11</sup>Words in defn. of “qualifying person” inserted by reg. 2(2)(b) of S.I. 2017/870 as from 23.10.17.

<sup>12</sup>Words in defn. of “qualifying person” inserted by reg. 2(2)(b) of S.I. 2017/689 as from 19.6.17.

<sup>13</sup>Defn. of “registered person” deleted by reg. 2(b) of S.I. 1996/206 as from 7.10.96.

<sup>14</sup>Defns. of “Scottish basic rate” & “Scottish taxpayer” inserted by reg. 2(2) of S.I. 2016/233 as from 6.4.16.

<sup>15</sup>Defns. of “Scottish Infected Blood Support Scheme” inserted by reg. 3(2)(b) of S.I. 2017/329 as from 3.4.17.

(a) 1993 c. 48.

(b) 1988 c. 1. Sections 620 to 622 were repealed by the Finance Act 2004 (c. 12).

(c) 2007 c. 3. Section 6A was inserted by paragraph 3 of Schedule 38 to the Finance Act 2014 (c. 26).

(d) 1998 c. 46 Part 4A, sections 80A and 80B were inserted by section 23(2) of the Scotland Act 2012 (c. 11) and sections 80C to 80H were inserted by section 25(3) of that Act.

**Reg. 2**

<sup>1</sup>Defn. of “residential allowance” omitted by para. 1 to Sch. 1 of S.I. 2003/1121 as from 6.10.03.

<sup>2</sup>Defns. of “residential accommodation” & “residential care home” omitted by para. 1(a)(i) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>3</sup>Defn. of “retirement annuity contract” omitted by reg. 2(2) of S.I. 2007/1749 as from 16.7.07.

<sup>4</sup>Defn. of “self-employment route” substituted by reg. 2 of S.I. 2004/963 as from 4.5.04.

<sup>5</sup>Defn. of “service user group” omitted by reg. 2(2)(a) of S.I. 2014/591 as from 28.4.14.

<sup>6</sup>Defn. of “shared parental leave” inserted by art. 5(3) of S.I. 2014/3255 as from 31.12.14.

<sup>7</sup>Defn. of “sports award” inserted by reg. 2(2)(e) of S.I. 1999/2165 as from 23.8.99.

<sup>8</sup>Defn. of “starting rate” omitted by reg. 2(2)(b) of S.I. 2009/583 as from 6.4.09.

<sup>9</sup>Defn. of “student” omitted by reg. 5(2)(e) of S.I. 2000/1981 as from 31.7.00.

<sup>10</sup>Defn. of “subsistence allowance” inserted by reg. 2 of S.I. 2000/724 as from 3.4.00.

<sup>11</sup>Defn. of “the Caxton Foundation” inserted by reg. 7(2)(b) of S.I. 2011/2425 as from 31.10.11.

<sup>12</sup>Defn. of “the Eileen Trust” inserted by reg. 4(2)(b) of S.I. 1993/1249 as from 14.5.93.

1 ◀

2 ◀

1 ◀

3 ◀

“self-employed earner” shall be construed in accordance with section 2(1)(b) of the Social Security Act;

<sup>4</sup>“self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in—

(a) an employment zone programme; or

(b) a programme provided or other arrangements made pursuant to section 2 of the Employment and Training Act 1973(a) (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(b) (functions in relation to training for employment etc.); ◀

5 ◀

“single claimant” means a claimant who neither has a partner nor is a lone parent;

<sup>6</sup>“shared parental leave” means leave under section 75E or 75G of the Employment Rights Act 1996; ◀

“Social Security Act” means the Social Security Act 1975(c);

<sup>7</sup>“sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993(d) out of sums allocated to it for distribution under that section; ◀

8 ◀

9 ◀

<sup>10</sup>“subsistence allowance” means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme; ◀

“supplementary benefit” means a supplementary pension or allowance under section 1 or 4 of the Supplementary Benefits Act 1976(e);

“terminal date” in respect of a claimant means the terminal date in his case for the purposes of regulation 7 of the Child Benefit (General) Regulations 1976(f);

*\*The said Regulation 7 is reproduced at Annex 1 to this S.I.*

<sup>11</sup>“the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions; ◀

<sup>12</sup>“the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions; ◀

(a) 1973 c. 50 section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 9). It was amended by section 29(4) of, and Schedule 7 to, the Employment Act 1989 (c. 38) and, in relation to Scotland only, by section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(b) 1990 c. 35 section 2 applies to Scotland only. It was amended by sections 47(2) and (4) and 51 of, and Schedule 10 to, the Trade Union Reform and Employment Rights Act 1993 (c. 19) and by S.I. 1999/1820.

(c) 1975 c. 14.

(d) 1993 c. 39.

(e) 1976 c. 71, as amended by section 6(1) of, and Part I of Schedule 2, to the Social Security Act 1980 (c. 30).

(f) S.I. 1976/965; the relevant amending instruments are S.I. 1980/1054, 1982/470 and 1987/357.

**Reg. 2**

<sup>1</sup>“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992; ◀

<sup>2</sup>◀

<sup>2</sup>◀

<sup>3</sup>“the Independent Living Fund (2006)” means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part; ◀

<sup>4</sup>◀

<sup>4</sup>◀

<sup>5</sup>“the London Bombings Relief Charitable Fund” means the company limited by guarantee (number 5505072) and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005; ◀

<sup>6</sup>“the London Emergencies Trust” means the company of that name (number 09928465) incorporated on 23rd December 2015 and the registered charity of that name (number 1172307) established on 28th March 2016; ◀

<sup>7</sup>“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia; ◀

<sup>8</sup>“the Macfarlane (Special Payments) (No. 2) Trust” means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries; ◀

<sup>9</sup>“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia; ◀

<sup>10</sup>“the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions; ◀

<sup>1</sup>Defn. of “the Fund” inserted by reg. 6(2)(b) of S.I. 1992/1101 as from 7.5.92.

<sup>2</sup>Defns. “the Independent Living (ex) Fund” “the Independent Living Fund” omitted by reg. 2(2)(a)(ii)-(iii) of S.I. 2008/2767 as from 17.11.08.

<sup>3</sup>Defn. of “the Independent Living Fund (2006)” inserted by reg. 2(2)(a) of S.I. 2007/2538 as from 1.10.07.

<sup>4</sup>Defns. “The Independent Living (1993) Fund” & “the Independent Living Funds” omitted by reg. 2(2)(a)(iv)-(v) of S.I. 2008/2767 as from 17.11.08.

<sup>5</sup>Defn. of “the London Bombing Relief Charitable Fund” inserted by reg. 2(1)(a) of S.I. 2005/3391 as from 12.12.05.

<sup>6</sup>Defn. of “the London Emergencies Trust” inserted by reg. 2(2)(a) of S.I. 2017/689 as from 19.6.17.

<sup>7</sup>Defn. of “the Macfarlane (Special Payments) Trust” inserted by reg. 3(2) of S.I. 1990/127 as from 31.1.90.

<sup>8</sup>Defn. of “the Macfarlane (Special Payments) (No. 2) Trust” inserted by reg. 5(2) of S.I. 1991/1175 as from 11.5.91.

<sup>9</sup>Defn. of “the Macfarlane Trust” inserted by reg. 2 of S.I. 1988/663 as from 11.4.88.

<sup>10</sup>Defn. of “the Skipton Fund” inserted by reg. 2(b) of S.I. 2004/1141 as from 12.5.04.

## Reg. 2

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the <sup>1</sup>Secretary of State for Employment<sup>2</sup>, <sup>3</sup>Skills Development Scotland,<sup>4</sup> Scottish Enterprise or Highlands and Islands Enterprise<sup>4</sup>,<sup>5</sup> <sup>6</sup>the Chief Executive of Skills Funding.<sup>6</sup> or the <sup>7</sup>Welsh Ministers<sup>6</sup>;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the <sup>8</sup>Secretary of State for <sup>9</sup>Education and<sup>10</sup> Employment<sup>10</sup>, <sup>11</sup>Skills Development Scotland,<sup>11</sup> Scottish Enterprise of Highlands and Islands Enterprise<sup>12</sup> or the <sup>13</sup>Welsh Ministers<sup>11</sup>.

<sup>1</sup>Words in defn. of “training allowance” substituted by reg. 2 of S.I. 1991/236 as from 8.4.91.

<sup>2</sup>Words inserted in defn. of “training allowance” by art. 9(a) of S.I. 1991/387 as from 1.4.91.

<sup>3</sup>Words inserted in defn. of “training allowance” by reg. 2(3)(a) of S.I. 2009/583 as from 6.4.09.

<sup>4</sup>Words inserted in defn. of “training allowance” by reg. 2(6) of S.I. 2001/652 as from 26.3.01.

<sup>5</sup>Words substituted in defn. of “training allowance” by reg. 3(2) of S.I. 2010/1941 as from 1.9.10.

<sup>6</sup>Words omitted in defn. of “training allowance” by reg. 3(2) of S.I. 2012/956 as from 1.5.12.

<sup>7</sup>Words substituted in defn. of “training allowance” by reg. 2(2)(d) of S.I. 2008/3157 as from 5.1.09.

<sup>8</sup>Words inserted in defn. of “training allowance” by virtue of art. 6(5) of S.I. 1995/2986 as from 1.1.96.

<sup>9</sup>Words added to defn. of “training allowance” by reg. 2 of S.I. 1989/1323 as from 21.8.89.

<sup>10</sup>Words inserted in defn. of “training allowance” by art. 9(a) of S.I. 1991/387 as from 1.4.91.

<sup>11</sup>Words inserted in defn. of “training allowance” para. (c) by reg. 2(3)(a) of S.I. 2009/583 as from 6.4.09.

<sup>12</sup>Words inserted in defn. of “training allowance” by reg. 2(6) of S.I. 2001/652 as from 26.3.01.

<sup>13</sup>Words substituted in reg. 2(1)(c) by reg. 2(2)(d) of S.I. 2008/3157 as from 5.1.09.



but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education <sup>1</sup>, other than under arrangements made under section 2 of the Employment and Training Act 1973(a), ◀ or is training as a teacher;

<sup>2</sup>“universal credit” means universal credit under Part 1 of the 2012 Act; ◀

<sup>3</sup>“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit; ◀

<sup>4</sup>◀

<sup>4</sup>“war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(b);

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person; ◀

<sup>5</sup>“water charges” means—

(a) as respects England and Wales, any water and sewerage charges under Chapter I of Part V of the Water Industry Act 1991(c);

(b) as respects Scotland, any water and sewerage charges under Schedule 11 to the Local Government Finance Act 1992(d);

in so far as such charges are in respect of the dwelling which a person occupies as his home; ◀

<sup>6</sup>“the We Love Manchester Emergency Fund” means the registered charity of that name (number 1173260) established on 30th May 2017; ◀

<sup>7</sup>“the Welfare Reform Act” means the Welfare Reform Act 2007; ◀

<sup>8</sup>“welfare to work beneficiary” means a person—

(a) to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies; and

(b) who again becomes incapable of work for the purposes of Part XIII A of the Contributions and Benefits Act 1992(e); ◀

<sup>9</sup>“working tax credit” means a working tax credit under section 10 of The Tax Credits Act 2002; ◀

<sup>9</sup>◀

<sup>10</sup>“year of assessment” has the meaning prescribed in section 832(1) of the Income and Corporation Taxes Act 1988(f); ◀

“young person” has the meaning prescribed in regulation 14.

<sup>11</sup>◀ <sup>12</sup>◀◀ <sup>13</sup>“youth training” means—

(a) arrangements made under section 2 of the Employment and Training Act 1973(g) (functions of the Secretary of State); or

(b) arrangements made by the Secretary of State for persons enlisted in Her Majesty’s forces for any special term of service specified in regulations made under section 2 of the Armed Forces Act 1966(h) (power of Defence Council to make regulations as to engagement of persons in regular forces);

(a) 1973 c. 50.

(b) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).

(c) 1991 c. 56.

(d) 1992 c. 14.

(e) Part XIII A was inserted by sections 5 and 6 of the Social Security (Incapacity for Work) Act 1994 (c. 18).

(f) 1988 c. 1.

(g) 1973 c. 50; section 2 is substituted by the Employment Act 1988 (c. 19), section 25(1).

(h) 1966 c. 45.

<sup>1</sup>Words added to defn. of “training allowance” by reg. 2 of S.I. 1989/1323 as from 21.8.89.

<sup>2</sup>Defn. of “universal credit” inserted by reg. 28(2)(c) of S.I. 2013/630 as from 29.4.13.

<sup>3</sup>Defn. of “voluntary organisation” inserted by reg. 17 of S.I. 1995/516 as from 10.4.95.

<sup>4</sup>Defn. of “war widower’s pension” deleted & defns. of “war disablement pension”, “war pension”, “war widow’s pension” and “war widower’s pension” inserted in reg. 2(1) by reg. 2(2)(e) & (f) of S.I. 2008/3157 as from 5.1.09.

<sup>5</sup>Defn. of “water charges” substituted by reg. 3(c) of S.I. 1993/315 as from 12.4.93.

<sup>6</sup>Defn. of “the We Love Manchester Emergency Fund” inserted by reg. 2(2)(c) of S.I. 2017/689 as from 19.6.17.

<sup>7</sup>Defn. of “the Welfare Reform Act” inserted by reg. 2(2)(e) of S.I. 2008/1554 as from 27.10.08.

<sup>8</sup>Defn. of “welfare to work beneficiary” inserted by reg. 13(2) of S.I. 1998/2231 as from 5.10.98.

<sup>9</sup>Defn. of “working tax credit” inserted & defn. of “working families tax credit” omitted by Sch. 1, para. 1 of S.I. 2002/2402 as from 6.4.03.

<sup>10</sup>Defn. of “year of assessment” substituted by reg. 22(b) of S.I. 1994/2139 as from 3.10.94.

<sup>11</sup>Defn. inserted in reg. 2(1) by reg. 2(b) of S.I. 1988/1228 as from 12.9.88.

<sup>12</sup>Words in title to defn. of “youth training scheme or youth training” omitted by reg. 2(2)(d) of S.I. 2008/2767 as from 17.11.08.

<sup>13</sup>Words inserted by reg. 2(4) of S.I. 1991/236 as from 8.4.91.

## Regs. 2-2A

for purposes which include the training of persons who, at the beginning of their training, are under the age of 18.◀

<sup>1</sup>Reg. 2(1A) inserted by reg. 2(1) of, and para. 1(b) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>2</sup>Words in reg. 2(1A) substituted by para. 1(b) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>3</sup>52 substituted for six in reg. 2(1A)(a) by reg. 3(2) of S.I. 2003/1195 as from 15.5.03 or later subject to reg. 1(c) *ibid.*

<sup>4</sup>Reg. 2(1B) inserted by reg. 2(2)(b) of S.I. 2014/591 as from 28.4.14.

<sup>1</sup>(1A) For the purposes of these Regulations, where a person's principal place of residence is a <sup>2</sup>care home, an Abbeyfield Home or an independent hospital and he is temporarily absent from that home or hospital, he shall be regarded as continuing to reside in that home or hospital◀—

- (a) where he is absent because he is a patient, for the first <sup>3</sup>52◀ weeks of any such period of absence and for this purpose—
  - (i) “patient” has the meaning it has in Schedule 7 by virtue of regulation 21(3); and
  - (ii) periods of absence separated by not more than 28 days shall be treated as a single period of absence equal in duration to all those periods; and
- (b) for the first three weeks of any other period of absence.◀

<sup>4</sup>(1B) References in these Regulations to a claimant participating as a service user are to—

- (a) a person who is being consulted by or on behalf of—
  - (i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or
  - (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,
 in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or
- (b) the carer of a person consulted under sub-paragraph (a).◀

(2) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered Part is to the Part of these Regulations bearing that number;
- (b) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;
- (c) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (d) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(3) Unless the context requires otherwise, any reference to the claimant's family or, as the case may be, to a member of his family, shall be construed for the purposes of these Regulations as if it included in relation to a polygamous marriage a reference to any partner and to any child or young person who is treated as the responsibility of the claimant or his partner, where that child or young person is a member of the claimant's household.

<sup>5</sup>Reg. 2(4) omitted by reg. 3(2)(b) of S.I. 2005/574 as from 4.4.05.

<sup>6</sup>Reg. 2A inserted by reg. 10 of S.I. 1997/2676 as from 1.12.97.

<sup>7</sup>Reg. 2A(a) omitted by para. 1 of Sch. 1 to S.I. 2003/455 as from 6.4.04

(4) <sup>5</sup>◀

#### <sup>6</sup>Disapplication of section 1(1A) of the Administration Act

**2A.** Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply—

(a) <sup>7</sup>◀

*This regulation continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

- (a) to a child or young person in respect of whom income support is claimed;
- (b) to a partner in respect of whom a claim for income support is made or treated as made before <sup>8</sup>5th October 1998◀◀
- <sup>9</sup>(c) to a person who—
  - (i) is a person in respect of whom a claim for income support is made;
  - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act;

<sup>8</sup>Date in reg. 2A(b) amended by reg. 2 of S.I. 1997/2814 as from 1.12.97.

<sup>9</sup>Reg. 2A(c) inserted by reg. 5 of S.I. 2009/471 as from 6.4.09.

- (iii) is not entitled to any income support for the purposes of section 124 of the Contributions and Benefits Act(a); and
- (iv) has not previously been allocated a national insurance number.◀

**Definition of non-dependant**

3.—(1) In these Regulations, “non-dependant” means any person, except someone<sup>1</sup> to whom paragraph (2), (2A) or (2B) applies◀, who normally resides with a claimant<sup>2</sup> or with whom a claimant normally resides.◀

<sup>3</sup>(2) This paragraph applies to—

- (a) any member of the claimant’s family;
- (b) a child or young person who is living with the claimant but who is not a member of his household by virtue of regulation 16 (circumstances in which a person is to be treated as being or not being a member of the household);
- (c) 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<sup>4</sup> voluntary organisation◀ which makes a charge to the claimant or the claimant’s partner for the care provided by that person;
- (d) the partner of a person to whom sub-paragraph (c) applies.

(2A) This 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;
- (b) to whom the claimant or the claimant’s partner is liable to make payments on a commercial basis in respect of his occupation of that person’s dwelling;
- (c) who is a member of the household of a person to whom sub-paragraph (a) or (b) applies.

(2B) Subject to paragraph (2C), this paragraph applies to—

- (a) a person who jointly occupies the claimant’s dwelling and who is either—
  - (i) a co-owner of that dwelling with the claimant or the claimant’s partner (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 or a person to whom sub-paragraph (a) applies.

(2C) Where a person is a close relative of the claimant or the claimant’s partner, paragraph (2B) shall apply to him only if the claimant’s, or the claimant’s partner’s co-ownership, or joint liability to make payments to a landlord in respect of his occupation of the dwelling arose either before 11th April 1988, or, if later, on or before the date upon which the claimant or the claimant’s partner first occupied the dwelling in question.◀

*Reg. 3(1) and (2), as it stands without amendment by reg. 2 of S.I. 1991/2334, is reproduced below for use where the saving provisions in regs. 4–6 *ibid.* apply:—*

3.—(1) In these Regulation, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a claimant<sup>5</sup> or with whom a claimant normally resides.◀

(2) This paragraph applies to—

- (a) any member of the claimant’s family;
- (b) a child or young person who is living with the claimant but who is not a member of his household by virtue of regulation 16 (membership of the same household);

<sup>1</sup>Words substituted in reg. 3(1) by reg. 2(a) of S.I. 1991/2334 as from 11.11.91.

<sup>2</sup>Words added to reg. 3(1) by reg. 2(2) of S.I. 1994/3061 as from 1.12.94.

<sup>3</sup>Paras. (2) to (2C) of reg. 3 substituted for para. (2) by reg. 2(b) of S.I. 1991/2334 as from 11.11.91.

<sup>4</sup>Words substituted in reg. 3(2)(c) by reg. 18 of S.I. 1995/516 as from 10.4.95.

<sup>5</sup>Words added to reg. 3(1) by reg. 2(2) of S.I. 1994/3061 as from 2.12.94.

(a) 1992 c. 4. Relevant amendments were made by paragraph 30 of Schedule 2 and Schedule 3 to the Jobseeker’s Act 1995 (c. 18), paragraph 28 of Schedule 8 to the Welfare Reform and Pensions Act 1999 (c. 30), paragraph 2 of Schedule 2 to the State Pension Credit Act 2002 (c. 16) and paragraph 9(9) and (10) of Schedule 3 and Schedule 8 to the Welfare Reform Act 2007 (c. 5).

**Regs. 3-3A**

<sup>1</sup>Words added to reg. 3(2)(c) by reg. 3 of S.I. 1989/1678 as from 9.10.89.

<sup>2</sup>Sub-paras. (d), (da) and (db) substituted for sub-para. (d) of reg. 3(2) by reg. 3 of S.I. 1990/1776 as from 1.10.90.

<sup>3</sup>Reg. 3(3) deleted by para. 2(b) of Sch. 1 to S.I. 1989/534 as from 9.10.89.

<sup>4</sup>Words added to reg. 3(4) by reg. 2(c) of S.I. 1989/534 as from 10.4.89.

<sup>5</sup>Reg. 3A inserted by reg. 2 of S.I. 1989/1678 as from 9.10.89.

<sup>6</sup>Words deleted in reg. 3A(1) by reg. 4 of S.I. 1995/2927 as from 12.12.95.

<sup>7</sup>Words deleted in reg. 3A(1)(a) and paras. (2) and (3) deleted by reg. 3 of S.I. 1996/206 as from 7.10.96.

(c) a person who jointly occupies the claimant's dwelling<sup>1</sup> and either is a co-owner of that dwelling with the claimant or his partner (whether or not there are other co-owners) or is liable with the claimant or his partner to make payments in respect of his occupation of the dwelling<sup>1</sup>;

<sup>2</sup>(d) any person who is liable to make payments on a commercial basis to the claimant or the claimant's partner in respect of the occupation of the dwelling;

(da) any person to whom or to whose partner the claimant or the claimant's partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling;

(db) any other member of the household of the person to whom or to whose partner the claimant or the claimant's partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling;<sup>2</sup>

(e) a person who lives with the claimant in order to care for him or a partner of his and who is engaged by a charitable or voluntary body (other than a public or local authority) which makes a charge to the claimant or his partner for the services provided by that person.

(3) <sup>3</sup>◀

(4) For the purposes of this regulation a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area<sup>4</sup> but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord<sup>4</sup>.

(5) In this regulation "communal area" means any area (other than rooms) of common access (including halls and passageways) and rooms of common use in sheltered accommodation.

**<sup>5</sup>Permitted period**

**3A.**—(1) For the purposes of regulation 17(6), <sup>6</sup>◀ paragraph 7(6) of Schedule 3A, paragraph 6(3) of Schedule 3B and paragraphs 4 and 6 of Schedule 8 (applicable amounts, mortgage interest, protected sums and earnings to be disregarded), where a claimant has ceased to be entitled to income support—

(a) because he or his partner becomes engaged in remunerative work the permitted period, <sup>7</sup>◀ shall be twelve weeks; or

(b) for any other reason, the permitted period shall be eight weeks.

(2) and (3) <sup>7</sup>◀◀

*For the purpose of applying para. 6 of reg. 87 (transitional supplement to income-based jobseeker's allowance) of the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), reg 3A above is modified by reg. 87(7) ibid. (reproduced in vol. 11).*

## PART II

### CONDITIONS OF ENTITLEMENT

#### <sup>1</sup>Prescribed categories of person

**4ZA.**—(1) Subject to the following provisions of this regulation, a person to whom any paragraph of Schedule 1B applies falls within a prescribed category of person for the purposes of section 124(1)(e) of the Contributions and Benefits Act (entitlement to income support).

(2) Paragraph (1) does not apply to a <sup>2</sup>full-time student◀ during the period of study.

<sup>1</sup>Reg. 4ZA inserted by reg. 4 of S.I. 1996/206 as from 7.10.96.

<sup>2</sup>Words substituted by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

## Regs. 4ZA-4

<sup>1</sup>Words substituted by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

<sup>2</sup>Para. 3(a) omitted by reg. 4(3) of S.I. 2013/2536 as from 29.10.13.

<sup>3</sup>Words omitted and substituted in regs. 4ZA(3)(b) and 4(2)(c)(ii) by reg. 3(2)(a)-(b) of S.I. 2009/3152 as from 30.12.09.

<sup>4</sup>Number inserted in para. (3)(b) of reg. 4ZA by reg. 2(4) of S.I. 2009/583 as from 6.4.09.

<sup>5</sup>Para. (3)(c) substituted by reg. 2 of S.I. 2008/1826 as from 9.7.08.

<sup>6</sup>Reg. 4ZA(3)(d) omitted by reg. 2(3) of S.I. 2009/2655 on or after 26.10.09, subject to reg. 1 *ibid.*

<sup>7</sup>Para. (3A) inserted in reg. 4ZA by Sch. 1, para. (a) of S.I. 2001/3070 as from 1.10.01.

<sup>8</sup>Sub-para. (4) inserted in reg. 4ZA by reg. 5(2) of S.I. 1997/2197 as from 6.10.97.

<sup>9</sup>Words in reg. 4(1) substituted by reg. 3(a) of S.I. 1990/547 as from 9.4.90.

<sup>10</sup>Reg. 4(2)(c)(i) and (ii) substituted by reg. 5(2) of S.I. 1996/206 as from 7.10.96.

<sup>11</sup>Number inserted in reg. 4(2)(c)(iv) by reg. 6(3) of S.I. 1996/1944 as from 7.10.96.

(3) A <sup>1</sup>full-time student<sup>2</sup> during the period of study falls within a prescribed category of person for the purposes of section 124(1)(e) of the Contributions and Benefits Act only if—

- (a) <sup>2</sup>
- (b) paragraph 1, 2, <sup>3</sup>, 11, <sup>3</sup>, <sup>4</sup>15A, or 18 of Schedule 1B applies to him; or
- <sup>5</sup>(c) any other paragraph of Schedule 1B applies to him and—
  - (i) in the case of a person with a partner, the partner is also a full-time student and either he or his partner is treated as responsible for a child or young person, or
  - (ii) in any other case, he is treated as responsible for a child or young person, but this provision applies only for the period of the summer vacation appropriate to his course; <sup>6</sup>

<sup>7</sup>(3A) Paragraph (1) does not apply to a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies.

<sup>8</sup>(4) A person who falls within a prescribed category in Schedule 1B(a) for the purposes of this regulation for any day in a benefit week, shall fall within that category for the whole of that week.

#### Temporary absence from Great Britain

4.—(1) Where a claimant is entitled to income support for a period immediately preceding a period of temporary absence from Great Britain, his entitlement to income support <sup>9</sup>shall continue only—

- (a) in the circumstances specified in paragraph (2), during the first 4 weeks of that period of temporary absence; and
- (b) in the circumstances specified in paragraph (3), during the first 8 weeks of that period.

(2) The circumstances in which a claimant's entitlement to income support is to continue during the first four weeks of a temporary absence from Great Britain are that—

- (a) the period of absence is unlikely to exceed 52 weeks; and
- (b) while absent from Great Britain, the claimant continues to satisfy the other conditions of entitlement to income support; and
- (c) any one of the following conditions applies—

- <sup>10</sup>(i) the claimant falls within one or more of the prescribed categories of person listed in Schedule 1B other than paragraphs 7, 15, 20, 21, 24, 25, 26 or 27 of that Schedule; or
- (ii) the claimant falls within paragraph 7 of Schedule 1B (<sup>3</sup>persons treated as capable of work and persons entitled to statutory sick pay) and his absence from Great Britain is for the sole purpose of receiving treatment from an appropriately qualified person for the incapacity by reason of which he satisfies the conditions of that paragraph; or
- (iii) he is in Northern Ireland; or
- (iv) he is a member of a couple and he and his partner are both absent from Great Britain, and a premium referred to in paragraph 9, <sup>11</sup>9A or 10, 11 or 13 of Schedule 2 (applicable amounts) is applicable in

(a) Schedule 1B was inserted by S.I. 1996/206, regulation 22.

- respect of his partner<sup>1</sup> or
- <sup>2</sup>(v) on the day on which the absence began he had satisfied the provisions of<sup>3</sup> paragraph 7 of Schedule 1B ( <sup>4</sup>persons treated as capable of work and persons entitled to statutory sick pay ) for a continuous period of not less than—
- (aa) 196 days in the case of a claimant who is terminally ill within the meaning of section 30B(4) of the Contributions and Benefits Act(a), or who is entitled to the highest rate of the care component of disability living allowance<sup>5</sup>, armed forces independence payment<sup>6</sup> or the enhanced rate of the daily living component of personal independence payment<sup>7</sup>; or
- (bb) 364 days in any other case,
- and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period.◀◀
- <sup>7</sup>(3) The circumstances in which a claimant's entitlement to income support is to continue during the first 8 weeks of a temporary absence from Great Britain are that—
- (a) the period of absence is unlikely to exceed 52 weeks; and
- (b) the claimant continues to satisfy the other conditions of entitlement to income support; and
- (c) the claimant is, or the claimant and any other member of his family are, accompanying a member of the claimant's family who is a child or young person solely in connection with arrangements made for the treatment of that child or young person for a disease or bodily or mental disablement; and
- (d) those arrangements relate to treatment—
- (i) outside Great Britain;
- (ii) during the period whilst the claimant is, or the claimant and any member of his family are, temporarily absent from Great Britain; and
- (iii) by, or under the supervision of, a person appropriately qualified to carry out that treatment.
- <sup>8</sup>(3A) A claimant's entitlement to income support shall continue during a period of temporary absence from Great Britain if—
- (a) he satisfied the conditions of entitlement to income support immediately before the beginning of that period of temporary absence; and
- <sup>9</sup>(b) that period of temporary absence is for the purpose of the claimant receiving treatment at a hospital or other institution outside Great Britain where the treatment is being provided—
- (i) under section 6(2) of the Health Service Act (performance of functions outside England) or section 6(2) of the Health Service (Wales) Act (performance of functions outside Wales);
- (ii) pursuant to arrangements made under section 12(1) of the Health Service Act (Secretary of State's arrangements with other bodies), section 10(1) of the Health Service (Wales) Act (Welsh Minister's arrangements with other bodies), paragraph 18 of Schedule 4 to the Health Service Act (joint exercise of functions) or paragraph 18 of Schedule 3 to the Health Service (Wales) Act (joint exercise of functions); or
- (iii) under any equivalent provision in Scotland or pursuant to arrangements made under such provision.◀◀
- (4) In paragraphs (2) and (3) "appropriately qualified" means qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.◀

<sup>1</sup>Word and head (v) added to reg. 4(2)(c) by reg. 3 of S.I. 1988/663 as from 11.4.88.

<sup>2</sup>Head (v) of reg. 4(2)(c) substituted by reg. 5 of S.I. 1995/482 as from 13.4.95.

<sup>3</sup>Words substituted in reg. 4(2)(c)(v) by reg. 5(3) of S.I. 1996/206 as from 7.10.96.

<sup>4</sup>Words substituted in reg. 4(2)(c)(v) by reg. 3(2)(b) of S.I. 2009/3152 as from 30.12.09.

<sup>5</sup>Words inserted in reg. 4(2)(c)(v)(aa) by para. 4(3) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>6</sup>Words added to reg. 4(2)(c)(v)(aa) by para. 11(3) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>7</sup>Paras. (3) and (4) added to reg. 4 by reg. 3(b) of S.I. 1990/547 as from 9.4.90.

<sup>8</sup>Para. (3A) added to reg. 4(3) by reg. 2(2) of S.I. 2004/1869 as from 4.10.04.

<sup>9</sup>Para. (3A)(b) substituted by reg. 2(3) of S.I. 2008/2767 as from 17.11.08.

### Persons treated as engaged in remunerative work

5.—(1) Subject to the following provisions of this regulation, for the purposes of section 20(3)(c) of the Act (conditions of entitlement to income support), remunerative work is work in which a person is engaged, or, where his hours of work fluctuate, he is

- (a) Section 30B is inserted by section 2(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18).

**Reg. 5**

<sup>1</sup>Words substituted in reg. 5(1) by reg. 3 of S.I. 1991/1559 as from 7.4.92, subject to saving in regs. 22–24 *ibid.* and in reg. 10 of S.I. 1992/468.

<sup>2</sup>Reg. 5(1A) inserted by reg. 6(4) of S.I. 1996/1944 as from 7.10.96.

<sup>3</sup>In reg. 5(2) words in para. (2) & para. (3B) inserted by reg. 19(a) & (b) of S.I. 1995/516 as from 10.4.95.

<sup>4</sup>Words substituted in reg. 5(2)(b)(ii) by art. 3(3) & Sch. 5, para. 1 to S.I. 1999/3178 from 29.11.99.

<sup>5</sup>Reg. 5(3A) inserted by reg. 3(2) of S.I. 1993/2119 as from 4.10.93.

<sup>6</sup>Words inserted in reg. 5(3A) by reg. 2(3) of S.I. 2002/2689 as from 8.12.02.

<sup>7</sup>Words substituted in reg. 5(3A) by art. 5(3) of S.I. 2014/3255 as from 31.12.14.

<sup>8</sup>Words inserted in reg. 5(4) by reg. 4 of S.I. 1988/663 as from 11.4.88.

<sup>9</sup>Words substituted in reg. 5(5) and para. (5A) added by reg. 5(3) of S.I. 2007/2618 as from 1.10.07.

<sup>10</sup>Ref. substituted in reg. 5(5) by reg. 3 of S.I. 1989/1323 as from 9.10.89.

<sup>11</sup>Words in reg. 5(5) substituted by reg. 2(3) of S.I. 2008/698 as from 14.4.08.

<sup>12</sup>Words in reg. 5(5) substituted by reg. 3 of S.I. 1988/2022 as from 12.12.88.

<sup>13</sup>Reg. 5(6) added by reg. 3 of S.I. 1988/1445 as from 12.9.88.

<sup>14</sup>Words in reg. 5(6) substituted by reg. 2(a) of S.I. 2000/681 as from 3.4.00.

engaged on average, for <sup>1</sup>not less than 16 hours◀ a week being work for which payment is made or which is done in expectation of payment.

<sup>2</sup>(1A) In the case of any partner of the claimant paragraph (1) shall have effect as though for the words “16 hours” there were substituted the words “24 hours”.◀

(2) <sup>3</sup>Subject to paragraph (3B),◀ the number of hours for which a person is engaged in work shall be determined—

- (a) where no recognisable cycle has been established in respect of a person’s work, by reference to the number of hours or, where those hours are likely to fluctuate, the average of the hours, which he is expected to work in a week;
- (b) where the number of hours for which he is engaged fluctuate, by reference to the average of hours worked over—
  - (i) 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 not work, those periods but disregarding any other absences).
  - (ii) in any other case, the period of five weeks immediately before the date of claim or the date <sup>4</sup>on which a superseding decision is made under section 10 (decisions superseding earlier decisions) of the Social Security Act 1998◀, or such other length of time as may, in the particular case, enable the person’s average hours of work to be determined more accurately.

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

<sup>5</sup>(3A) A person shall not be treated as engaged in remunerative work on any day on which the person is on maternity leave <sup>6</sup>, paternity leave <sup>7</sup>, adoption leave or shared parental leave◀◀ or is absent from work because he is ill.◀

<sup>3</sup>(3B) Where for the purpose of paragraph (2)(b)(i), a person’s recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.◀

(4) A person who makes a claim and to whom or whose partner section 23 of the Act (trade disputes) applies <sup>8</sup>or applied◀ shall, for the period of seven days following the date on which the stoppage of work due to a trade dispute at his or his partner’s place of work commenced or, if there is no stoppage, the date on which he or his partner first withdrew his labour in furtherance of a trade dispute, be treated as engaged in remunerative work.

(5) <sup>9</sup>Subject to paragraph (5A), a person◀ who was, or was treated as being, engaged in remunerative work and in respect of that work earnings to which <sup>10</sup>regulation <sup>11</sup>35(1)(b) and (d)◀◀ (earnings of employed earners) applies are <sup>12</sup>paid◀ shall be treated as being engaged in remunerative work for the period for which those earnings are taken into account in accordance with Part V.

<sup>8</sup>(5A) Paragraph (5) shall not apply to earnings disregarded under paragraph 1 of Schedule 8 to these regulations.◀

<sup>13</sup>(6) For the purposes of this regulation, in determining the number of hours in which a person is engaged or treated as engaged in remunerative work, no account shall be taken of any hours in which the person is engaged in an employment or a scheme to which <sup>14</sup>regulation 6(1)◀ (persons not treated as engaged in remunerative work) applies.◀



## Regs. 5-6

<sup>1</sup>(7) For the purposes of paragraphs (1) and (2), in determining the number of hours for which a person is engaged in work, that number shall include any time allowed to that person by his employer for a meal or for refreshment, but only where that person is, or expected to be, paid earnings in respect of that time. ◀

(8)-(10) <sup>2</sup>◀

**Persons not treated as engaged in remunerative work**

6. <sup>3</sup>—(1) ◀ A person shall not be treated as engaged in <sup>4</sup>remunerative work in so far as—◀

(a) <sup>5</sup>◀

*For cases falling within the saving provision in regs. 22–24 of S.I. 1991/1559 reg. 6(a) remains in force as before it was replaced by reg. 4(a) of and omitted by reg. 2(b) of S.I. 2000/681, as follows:—*

(a) he is mentally or physically disabled and his earning capacity is, by reason of that disability, reduced to 75 per cent or less of what he would, but for that disability, be reasonably expected to earn;

(b) he is engaged in child minding in his home;

(c) he is engaged by a charity or <sup>6</sup>voluntary organisation <sup>7</sup>◀, or is a volunteer where the only payment received by him or due to be paid to him, is a payment which is to be disregarded under regulation 40(2) and paragraph 2 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) <sup>8</sup>and in this paragraph “volunteer” means a person who is engaged in voluntary work, otherwise than for a relative, where the only payment received, or due to be paid to the person by virtue of being so engaged, is in respect of any expenses reasonably incurred by the person in connection with that work◀;

(d) he is engaged on a scheme for which a training allowance is being paid; <sup>9</sup>◀

<sup>10</sup>(dd) he is receiving assistance under the self-employment route;◀

(e) to (g) <sup>11</sup>◀

<sup>9</sup>(h) he is engaged in any one of the employments mentioned in heads (a) to (d) of sub-paragraph (1) of paragraph 7 of Schedule 8 (which relates to persons serving as firemen, in coastal rescue activities etc.); <sup>12</sup>◀

(j) he is performing his duties as a councillor, and for this purpose “councillor” has the same meaning as in <sup>12</sup>section 171F(2) of the Contributions and Benefit Act (a)◀ <sup>12</sup>1989; or

(k) he is engaged in caring for a person who is accommodated with him by virtue of arrangements made under any of the provisions referred to in paragraph 26 <sup>13</sup>or in accordance with paragraph 27◀ of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) and is in receipt of any payment specified in <sup>13</sup>those paragraphs◀.◀

<sup>14</sup>(ka) he is engaged in caring for a person who is provided with continuing care by a local authority by virtue of arrangements made under section 26A of the Children (Scotland) Act 1995(b) (duty to provide continuing care) and is in receipt of a payment made under that section of that Act;◀

*The text below modifies regulation 6 from 28.11.00 to 27.11.01 unless revoked earlier, by adding para. (l). Modified by S.I. 2000/3134 (see volume 11 page 11.5801).*

(l) he is participating in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations.

<sup>15</sup>(m) he is engaged in an activity in respect of which—

(i) a sports award has been made, or is to be made, to him; and

(a) Section 171F was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 8), section 6(1).

(b) 1995 c. 36. Section 26A is inserted by section 67(1) of the Children and Young People (Scotland) Act 2014 (asp. 8).

<sup>1</sup>Para. (7) added to reg. 5 by reg. 4 of S.I. 1990/547 as from 9.4.90.

<sup>2</sup>Paras. (8) to (10) of reg. 5 deleted by reg. 3 of S.I. 2001/488 as from 9.4.01.

<sup>3</sup>Reg. 6 renumbered 6(1) by reg. 2(3) of S.I. 1999/2556 as from 4.10.99.

<sup>4</sup>Words substituted in reg. 6 by reg. 4(a) of S.I. 1988/1445 as from 12.9.88.

<sup>5</sup>Reg. 6(1)(a) omitted by reg. 2(b) of S.I. 2000/681 as from 3.4.00.

<sup>6</sup>Words in reg. 6(c) substituted by reg. 23(a) of S.I. 1994/2139 as from 3.10.94.

<sup>7</sup>Words deleted in reg. 6(c) by reg. 20 of S.I. 1995/516 as from 10.4.95.

<sup>8</sup>Words inserted in reg. 6(1)(c) by reg. 2(4) of S.I. 2010/641 as from 1.4.10.

<sup>9</sup>Word deleted from reg. 6(1)(d) and paras. (h) and (j) added by reg. 2 of S.I. 1992/468 as from 6.4.92.

<sup>10</sup>Reg. 6(1)(dd) inserted by reg. 3 of S.I. 2004/963 as from 4.5.04.

<sup>11</sup>Reg. 6(1)(e) to (g) omitted by reg. 2(b) of S.I. 2000/681 as from 3.4.00.

<sup>12</sup>Words deleted from reg. 6(1)(h), substituted in reg. 6(1)(j) & para. (k) added by reg. 13 of S.I. 1992/2155 as from 5.10.92.

<sup>13</sup>Words inserted and substituted in reg. 6(k) by reg. 23(b) of S.I. 1994/2139 as from 3.10.94.

<sup>14</sup>Sub-para. (ka) inserted by reg. 10(2) of S.I. 2017/995 as from 7.11.17.

<sup>15</sup>Sub-para. (m) inserted by reg. 6(2) of S.I. 1999/2165 as from 23.8.99.

**Reg. 6**

(ii) no other payment is made or is expected to be made to him.◀

<sup>1</sup>Paras. (2) and (3) of reg. 6 omitted by reg. 2(a)(i) of S.I. 2003/1589 as from 25.10.04.

<sup>2</sup>Para. (4) added to reg. 6 by reg. 2(b)(iii) of S.I. 2000/681 as from 3.4.00.

(2) - (3) <sup>1</sup>◀

<sup>2</sup>(4) The following persons shall not be treated as engaged in remunerative work—

*Reg. 6(4)(a) is revoked, by reg. 4(1)(a)(i) of S.I. 2009/3228, however it remains in force for certain circumstances. See S.I. 2009/3228 reg. 4(3) to (7) for details.*

(a) a person who is mentally or physically disabled and by reason of that disability—

(i) his earnings are reduced to 75 per cent. or less of what a person without that disability and working the same number of hours would reasonably be expected to earn in that employment or in comparable employment in the area; or

(ii) his number of hours of work are 75 per cent. or less of what a person without that disability would reasonably be expected to undertake in that employment or in comparable employment in the area;

(b) subject to regulation 5(4) and (5) (persons treated as engaged in remunerative work), a person to whom section 126 of the Contributions and Benefits Act (trade disputes) applies or in respect of whom section 124(1) of that Act (conditions of entitlement to income support) has effect as modified by section 127(b) of that Act (effect of return to work);

(c) a person to whom paragraph 4 of Schedule 1B applies;

*Reg. 6(4)(d) is revoked by reg. 4(1)(a)(i) of S.I. 2009/3228, however it remains in force for certain circumstances. See S.I. 2009/3228, reg. 4(3) to (7) for details.*

<sup>3</sup>(d) a person who—

(i) is in employment;

(ii) lives in, or is temporarily absent from, a care home, an Abbeyfield Home or an independent hospital; and

(iii) requires personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness.◀◀

<sup>3</sup>Reg. 6(4)(d) substituted by para. 2 of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>4</sup>Paras. (5) to (8) inserted in reg. 6 by reg. 4 of S.I. 2001/488 as from 9.4.01.

<sup>4</sup>(5) A person shall not be treated as engaged in remunerative work for the period specified in paragraph (6) in so far as—

(a) he or his partner is engaged in work which—

(i) is remunerative work; and

(ii) he, or his partner, is expected to be engaged in for a period of no less than five weeks;

(b) he or his partner had, for a continuous period of 26 weeks ending on the day before the day on which he commenced the work referred to in sub-paragraph (a), been entitled to and in receipt of income support <sup>5</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance◀

(c) he or his partner had, as at the day before the day on which he commenced the work referred to in sub-paragraph (a), an applicable amount which included—

(i) an amount determined in accordance with Schedule 3 (housing costs) as applicable to him in respect of <sup>6</sup>housing costs which qualify under paragraphs 15 to 17◀ of that Schedule; <sup>5</sup>◀

(ii) an amount determined in accordance with Schedule 2 to the Jobseeker's Allowance Regulations 1996 (housing costs) as applicable to him in respect of <sup>6</sup>housing costs which qualify under paragraphs 14 to 16◀ of that Schedule; <sup>4</sup>or

(iii) an amount determined in accordance with Schedule 6 to the Employment and Support Allowance Regulations (housing costs) as applicable to him

<sup>5</sup>Words in reg. 6(5)(b) substituted in sub-para. (c)(i) omitted and inserted in sub-para. (c)(ii) by reg. 2(3)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

<sup>6</sup>Words in reg. 6(5)(c)(i), (ii) & (d) substituted by reg. 3(2)(a)-(c) of S.I. 2007/3183 as from 17.12.07.

in respect of housing costs which qualify under paragraphs 16 and 18 of that Schedule; and

- (d) he or his partner remain liable to make payments <sup>1</sup>in respect of such housing costs.

<sup>1</sup>Words in reg. 6(5)(d) substituted by reg. 3(2)(a)-(c) of S.I. 2007/3183 as from 17.12.07.

(6) A person referred to in paragraph (5) shall not be treated as engaged in remunerative work for—

- (a) the period of four weeks commencing with the day on which he was first engaged in the work referred to in sub-paragraph (a) of that paragraph; <sup>2</sup>
- (b) <sup>2</sup>

<sup>2</sup>Words in Reg. 6(6)(a), (b) & (7) omitted by reg. 2(a)(i)-(iii) of S.I. 2003/1589 as from 25.10.04.

(7) In calculating the period of benefit entitlement referred to in paragraph (5)(b), no account shall be taken of entitlement arising by virtue of paragraph (6).

(8) In paragraph (5), a reference to the claimant or his partner being entitled to and in receipt of an income-based jobseeker's allowance or to an amount being applicable to either of them under the Jobseeker's Allowance Regulations 1996 shall include a reference to the claimant and his partner being entitled to, and in receipt of, a joint-claim jobseeker's allowance and to an amount being applicable to that couple under those Regulations.

**7.-11.**

<sup>3</sup>Regs. 7-11 revoked by Sch. 3 to S.I. 1996/206 as from 7.10.96.

**<sup>4</sup>Relevant education**

**12.** For the purposes of these Regulations a person is to be treated as receiving relevant education if he is a qualifying young person within the meaning of section 142 of the Contributions and Benefits Act (child and qualifying young person)(a).

<sup>4</sup>Reg. 12 & words in 13(2) substituted by reg. 2(2) & (3)(a) & (b) of S.I. 2006/718 as from 10.4.06.

**Circumstances in which persons in relevant education are to be entitled to income support**

**13.—(1)** Notwithstanding that a person is to be treated as receiving relevant education under regulation 12 (relevant education) he shall, if paragraph (2) applies to him and he satisfied the other conditions of entitlement to income support, be entitled to income support.

(2) This paragraph applies to <sup>5</sup>a person <sup>4</sup>who <sup>6</sup>(subject to paragraph (2A)) is a qualifying young person within the meaning of section 142 of the Contributions and Benefits Act (child and qualifying young person) (hereinafter referred to as an eligible person) who—

<sup>5</sup>Words in reg. 13(2) substituted by reg. 6(a) of S.I. 1991/1559 as from 7.10.91.

- (a) is the parent of a child for whom he is treated as responsible under regulation 15 (circumstances in which a person is to be treated as responsible or not responsible for another) and who is treated as a member of his household under regulation 16 (circumstances in which a person is to be treated as being or not being a member of the household); or

<sup>6</sup>Words inserted in reg. 13(2) by reg. 2(4)(a) of S.I. 2008/698 as from 14.4.08.

(b)-(bb) <sup>7</sup>

<sup>7</sup>Reg. 13(2)(b) & (bb) revoked by reg. 2(1)(a) of S.I. 2009/3152 as from 30.12.09.

(bc) <sup>8</sup>

- (c) he has no parent nor any person acting in the place of his parents; or
- <sup>9</sup>(d) of necessity has to live away from his <sup>10</sup>parents and any person acting in the place of his parents because—

<sup>8</sup>Para. 13(2)(bc) omitted by para. 4(4) of S.I. 2013/2536 as from 29.10.13.

- (i) he is estranged from his <sup>10</sup>parents and that person; or
- (ii) he is in physical or moral danger; or
- (iii) there is a serious risk to his physical or mental health; or

<sup>9</sup>Reg. 13(2)(d) substituted by reg. 4 of S.I. 1989/1034 as from 10.7.89 subject to saving in reg. 13 *ibid*.

<sup>10</sup>Words in reg. 13(2)(d) substituted by reg. 5 of S.I. 1991/236 as from 8.4.91.

(a) Section 142 was substituted by the Child Benefit Act 2005 (c. 6).

**Reg. 13**

<sup>1</sup>Sub-para. (dd) inserted into reg. 13(2) by reg. 3(1) of S.I. 1992/468 as from 6.4.92.

<sup>2</sup>Words inserted in reg. 13(2)(dd) by reg. 2(5) of S.I. 2010/641 as from 1.4.10.

<sup>3</sup>Words inserted in reg. 13(2)(dd) by art. 2(2) of S.I. 2017/901 as from 3.11.17.

<sup>4</sup>Words in reg. 13(2)(dd) inserted by para. 12(2) of Sch. 1 to S.I. 2013/1465 as from 24.6.13.

<sup>5</sup>Reg. 13(2)(f)(g) deleted & (2)(h) substituted by reg. 7 & Sch. 3 of S.I. 1996/206 as from 7.10.96.

<sup>6</sup>Reg. 13(2A) inserted by reg. 2(4)(b) of S.I. 2008/698 as from 14.4.08.

<sup>7</sup>Reg. 13(3)(a) as substituted (Eng. & Wales) by para. 2 of Sch. to S.I. 1992/468 as from 6.4.92.

<sup>8</sup>Reg. 13(3)(a) as in force in Scotland.

<sup>9</sup>Words in reg. 13(3)(a) substituted by reg. 6(b) of S.I. 1991/1559 as from 7.10.91.

<sup>10</sup>Reg. 13(3)(b)(ii) omitted by reg. 2(4) of S.I. 2009/2655 on or after 26.10.09 subject to reg. 1 *ibid.*

<sup>1</sup>(dd) has ceased to live in accommodation provided for him by a local authority under Part III of the Children Act 1989<sup>(a)</sup> (local authority support for children and families) <sup>2</sup>or Part II of the Children (Scotland) Act 1995<sup>(b)</sup> (promotion of children's welfare by local authorities and by children's hearing etc.)<sup>◀</sup> <sup>3</sup>or Part 4 (meeting needs) or Part 6 (looked after and accommodated children) of the Social Services and Well-being (Wales) Act 2014<sup>(c)</sup><sup>◀</sup>, <sup>4</sup>or by virtue of any order or warrant made under the children's Hearings (Scotland) Act 2011,<sup>◀</sup> and is of necessity living away from his parents and any person acting in place of his parents;<sup>◀</sup>

(e) is living away from his parents and any person acting in the place of his parents in a case where his parents are or, as the case may be, that person is unable financially to support him and—

(i) chronically sick or mentally or physically disabled; or

(ii) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or

(iii) prohibited from entering or re-entering Great Britain; or

<sup>5</sup>(f)-(g)<sup>◀</sup>

<sup>5</sup>(h) is a person to whom paragraph 18 of Schedule 1B (refugees) applies.<sup>◀</sup>

<sup>6</sup>(2A) For the purposes of paragraph (2)—

(a) the eligible person shall be treated as satisfying the condition prescribed in regulation 8 of the Child Benefit (General) Regulations 2006<sup>(d)</sup> (child benefit not payable in respect of qualifying young person: other financial support);

(b) where sub-paragraphs (c) to (e) apply, the eligible person shall be treated as satisfying the condition prescribed in regulation 5(2)(e) and (f) of the Child Benefit (General) Regulations 2006 (extension period: 16 and 17 year olds).<sup>◀</sup>

(3) In this regulation—

<sup>7</sup>(a) any reference to a person acting in the place of an eligible person's parents includes—

(i) for the purposes of paragraph (2)(c), (d) and (dd), a reference to a local authority or voluntary organisation where the eligible person is being looked after by them under a relevant enactment or where the eligible person is placed by the local authority or voluntary organisation with another person, that other person, whether or not a payment is made to him;

(ii) for the purposes of paragraph (2)(e), the person with whom the person is so placed;<sup>◀</sup>

<sup>8</sup>(a) any reference to a person acting in the place of <sup>9</sup>an eligible person's parents<sup>◀</sup> includes—

(i) for the purposes of paragraph (2)(c) and (d), a reference to a local authority or voluntary organisation where the <sup>9</sup>eligible<sup>◀</sup> person is in their care under a relevant enactment, or to a person with whom the <sup>9</sup>eligible<sup>◀</sup> person is boarded out by a local authority or voluntary organisation whether or not any payment is made by them; and

(ii) for the purposes of paragraph (2)(e), any person with whom the <sup>9</sup>eligible<sup>◀</sup> person is so boarded out;<sup>◀</sup>

(b) “chronically sick or mentally or physically disabled” means, in relation to a person to whom that expression refers, a person—

(i) in respect of whom the condition specified in paragraph 12(1) of Schedule 2 (additional condition for the higher pensioner and disability premiums) is satisfied; or

(ii) <sup>10</sup><sup>◀</sup>

(iii) who is substantially and permanently disabled.

(a) 1989 c. 41.

(b) 1995 c. 36.

(c) 2014 anaw 4.

(d) S.I. 2006/223.

<sup>1</sup>; or

- (iv) who is entitled to an employment and support allowance which includes a work-related activity component or support component <sup>2</sup>or who would be entitled to an employment and support allowance including a work-related activity component but for the application of section 1A of the Welfare Reform Act (duration of contributory allowance)◀

<sup>3</sup>13A.◀

**Regs. 13-13A**

<sup>1</sup>Reg. 13(3)(b)(iv) inserted by reg. 14 of S.I. 2012/757 as from 1.4.12.

<sup>2</sup>Words in reg. 13(3)(b)(iv) inserted by reg. 3(2) of S.I. 2012/913 as from 1.5.12.

<sup>3</sup>Reg. 13A revoked by Sch. 3 of S.I. 1996/206 as from 7.10.96.

## Regs. 14-15

## PART III

## MEMBERSHIP OF THE FAMILY

**Persons of a prescribed description**

**14.**—(1) Subject to paragraph (2), a person of a prescribed description for the purposes of section 10(11) of the Act as it applies to income support (definition of the family) and section 12(1) <sup>1</sup>and(3)◀ of the Act (trade disputes) is a person <sup>2</sup>who falls within the definition of qualifying young person in section 142 of the Contributions and Benefit Act (child and qualifying young person)◀ and in these Regulations such a person is referred to as a “young person”.

<sup>1</sup>Words substituted in reg. 14(1) by reg. 5 of S.I. 1988/1445 as from 12.9.88.

<sup>2</sup>Words substituted in reg. 14(1) and para. (2)(a) omitted by reg. 2(4)(a) and (b) of S.I. 2006/718 as from 10.4.06.

<sup>3</sup>Para. (2) of reg. 14 substituted by Sch. 1, para. (b) of S.I. 2001/3070 as from 1.10.01.

<sup>4</sup>Words omitted in para. (2)(b) & sub-para. (d) inserted by reg. 2(4)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

<sup>5</sup>Words omitted & sub-para. (e) inserted in reg. 14(2) by reg. 28(3) of S.I. 2013/630 as from 29.4.13.

<sup>6</sup>Reg. 14(3) inserted by Sch. 1, para. 2 of S.I. 2002/2402 as from 6.4.03.

<sup>3</sup>(2) Paragraph (1) shall not apply to a person who is—

- (a) <sup>2</sup>◀
- (b) entitled to income support or would, but for section 134(2) (provision against dual entitlement of members of family) of the Contributions and Benefits Act, be so entitled; <sup>4</sup>◀
- (c) a person to whom section 6 of the Children (Leaving Care) Act 2000(a) (exclusion from benefits) applies;◀<sup>4</sup> <sup>5</sup>◀
- (d) entitled to an employment and support allowance or would, but for paragraph 6(1)(d) of Schedule 1 to the Welfare Reform Act (conditions of entitlement to income-related employment and support allowance), be so entitled.◀<sup>5</sup>;or
- (e) entitled to universal credit.◀

<sup>6</sup>(3) A person of a prescribed description for the purposes of section 137(1) of the Contributions and Benefits Act as it applies to income support (definition of family) includes a child or young person in respect of whom section 145A(b) of that Act applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of that Act.◀

**Circumstances in which a person is to be treated as responsible or not responsible for another**

**15.**— <sup>7</sup>(1) Subject to the following provisions of this regulation, a person is to be treated as responsible for a child or young person for whom he is receiving child benefit <sup>8</sup>and this includes a child or young person to whom paragraph (3) of regulation 14 applies.◀

<sup>7</sup>Reg. 15(1), (1A) and (2) substituted for reg. 15(1) and (2) by reg. 5 of S.I. 1993/2119 as from 4.10.93.

<sup>8</sup>Words added in reg. 15(1) by Sch. 1, para. 3 of S.I. 2002/2402 as from 6.4.03.

(1A) In a case where a child (“the first child” is in receipt of child benefit in respect of another child (“the second child”), the person treated as responsible for the first child in accordance with the provisions of this regulation shall also be treated as responsible for the second child.

(2) In the case of a child or young person in respect of whom no person is receiving child benefit, the person who shall be treated as responsible for that child or young person shall be—

- (a) except where sub-paragraph (b) applies, the person with whom the child or young person usually lives; or
- (b) where only one claim for child benefit has been made in respect of the child or young person, the person who made that claim.◀

(a) 2000 c. 35.

(b) Section 145A is inserted by section 55 of the Tax Credits Act 2002 (c. 21).

(3) Where regulation 16(6) (circumstances in which a person is to be treated as being or not being a member of the household) applies in respect of a child or young person, that child or young person shall be treated as the responsibility of the claimant for that part of the week for which he is under that regulation treated as being a member of the claimant's household.

(4) Except where paragraph (3) applies, for the purposes of these Regulations a child or young person shall be treated as the responsibility of only one person in any benefit week and any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

### Circumstances in which a person is to be treated as being or not being a member of the household

**16.—**(1) Subject to paragraphs (2) to (5), the claimant and any partner and, where the claimant or his partner is treated as responsible under regulation 15 (circumstances in which a person is to be treated as responsible or not responsible for another) for a child or young person, that child or young person and any child of that child or young person shall be treated as members of the same household notwithstanding that any of them<sup>1</sup> is temporarily living away from the other members of his family<sup>2</sup>.

<sup>3</sup>(2) Paragraph (1) shall not apply to a person who is living away from the other members of his family where—

- (a) that person does not intend to resume living with the other members of his family; or
- (b) his absence from the other members of his family is likely to exceed 52 weeks, unless there are exceptional circumstances (for example the person is in hospital or otherwise has no control over the length of his absence), and the absence is unlikely to be substantially more than 52 weeks.<sup>4</sup>

(3) Paragraph (1) shall not apply in respect of any member of a couple or of a polygamous marriage where—

- (a) one, both or all of them are patients detained in a hospital provided under section 4 of the National Health Service Act 1977<sup>5</sup>(a) or section 90(1) of the Mental Health (Scotland) Act 1984<sup>6</sup>(b) (provision of hospitals for patients requiring special security); or

<sup>5</sup>(b) one, both or all of them are—

- (i) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
- (ii) on temporary release in accordance with the provisions of the Prison Act 1952<sup>7</sup>(c) or the Prisons (Scotland) Act 1989<sup>8</sup>(d); or

(c) <sup>6</sup>

(d) the claimant is abroad and does not satisfy the conditions of regulation 4 (temporary absence from Britain); or

(e) one of them is permanently<sup>9</sup> residing in a care home, an Abbeyfield Home or an independent hospital<sup>10</sup>.

(4) A child or young person shall not be treated as a member of the claimant's household where he is—

<sup>8</sup>(a) placed with the claimant or his partner by a local authority under section 22C(2) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act; or

<sup>10</sup>(aa) placed with the claimant or his partner by a local authority under section 81(2) of the Social Services and Well-being (Wales) Act 2014; or

(b) placed with the claimant or his partner prior to adoption; or

<sup>1</sup>Words in reg. 16(1) substituted by reg. 8(a) of S.I. 1988/663 as from 11.4.88.

<sup>2</sup>Words in reg. 16(1) substituted by reg. 6(2) of S.I. 1993/2119 as from 4.10.93.

<sup>3</sup>Reg. 16(2) substituted by reg. 6(3) of S.I. 1993/2119 as from 4.10.93.

<sup>4</sup>Words substituted in reg. 16(3)(a) by reg. 5(2) of S.I. 2006/2378 as from 2.10.06.

<sup>5</sup>Reg. 16(3)(b) substituted by reg. 6(5) of S.I. 1996/1944 as from 7.10.96.

<sup>6</sup>Reg. 16(3)(c) deleted by para. 1 of Sch.1 to S.I. 1992/3147 as from 1.4.93.

<sup>7</sup>Words in reg. 16(3)(e) substituted by para. 3(a) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>8</sup>Sub-paras. (a) & (b) of reg. 16(4) substituted (Eng. & Wales) by para. 3(a) of Schedule to S.I. 1992/468 as from 6.4.92.

<sup>9</sup>Words in reg. 16(4)(a) substituted by art. 20(2) of S.I. 2017/901 as from 3.11.17.

<sup>10</sup>Sub-para. (aa) of reg. 16(4) inserted by art. 2(3)(a) of S.I. 2017/901 as from 3.11.17.

(a) 1977 c. 49; section 4 was amended by section 148, schedule 4, paragraph 47 of the Mental Health Act 1983 (c. 20).

(b) 1984 c. 36.

(c) 1952 c. 52.

(d) 1989 c. 45.

**Reg. 16**

<sup>1</sup>Sub-paras. (a) and (b) of reg. 16(4) as in force in Scotland.

<sup>2</sup>Words in reg. 16(4)(c) & (5)(e) substituted by para. 9(2)(a) of Sch. 1 to S.I. 2011/1740 as from 15.7.11.

<sup>3</sup>Words in reg. 16(5) substituted by reg. 8(d) of S.I. 1988/663 as from 11.4.88.

<sup>4</sup>Words inserted in reg. 16(5)(a) by reg 7(a) of S.I. 1990/547 as from 9.4.90.

<sup>5</sup>Words added in sub-paras. (a)(i), (aa)(i) and (b)(i) of reg. 16(5) by reg. 8(2) of S.I. 1996/206 as from 7.10.96.

<sup>6</sup>Words substituted in reg. 16(5)(a)(ii) by reg. 7(a) of S.I. 1990/547 as from 9.4.90.

<sup>7</sup>Sub-para. (aa) inserted in reg. 16(5) by reg. 7(b) of S.I. 1990/547 as from 9.4.90.

<sup>8</sup>Word in reg. 16(5)(b) substituted by reg. 8(d)(ii) of S.I. 1988/663 as from 11.4.88.

<sup>9</sup>Words in reg. 16(5)(b) omitted by para. 3(b) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>10</sup>Sub-paras. (c) and (d) of reg. 16(5) substituted (Eng. & Wales) by para. 3(b) of Schedule S.I. 1992/468 as from 6.4.92.

<sup>11</sup>Sub-paras. (c) and (d) of reg. 16(5) as in force in Scotland.

<sup>12</sup>Reg. 16(5A) inserted by reg. 8(3) of S.I. 1996/206 as from 7.10.96.

- <sup>1</sup>(a) boarded out with the claimant or his partner under a relevant enactment; or
- (b) boarded out with the claimant or his partner prior to adoption; or
- (c) placed for adoption with the claimant or his partner pursuant to a decision under the Adoption Agencies regulations 1983(a) or <sup>2</sup>the Adoption Agencies (Scotland) Regulations 2009(b).

(5) Subject to paragraph (6), paragraph (1) shall not apply to a child or young person who is not living with the claimant <sup>3</sup>and who

- (a) <sup>4</sup>in a case which does not fall within sub-paragraph (aa), has been continuously absent from Great Britain for a period of more than four weeks commencing—

- (i) <sup>5</sup>subject to paragraph (5A) where he went abroad before the date of claim for income support, with that date;
- (ii) in any other case, <sup>6</sup>on the day which immediately follows the day on which he went abroad; or

- <sup>7</sup>(aa) where regulation 4(3) or paragraph 11A or 12A of Schedule 7 temporary absence abroad for the treatment of a child or young person) applies, has been continuously absent from Great Britain for a period of more than 8 weeks, that period of 8 weeks commencing—

- (i) <sup>5</sup>subject to paragraph (5A) where he went abroad before the date of the claim for income support, on the date of that claim;
- (ii) in any other case, on the day which immediately follows the day on which he went abroad; or

- (b) has been an in-patient or in <sup>8</sup>accommodation <sup>9</sup> for a continuous period of more than 12 weeks commencing—

- (i) <sup>5</sup>subject to paragraph (5A) where he became an in-patient or, as the case may be, entered that accommodation before the date of the claim for income support, with that date; or
- (ii) in any other case, with the date on which he became an in-patient or entered that accommodation,

and, in either case, has not been in regular contact with either the claimant or any member of the claimant's household; or

- <sup>10</sup>(c) is being looked after by local authority under a relevant enactment; or

- (d) has been boarded out with a person other than the claimant prior to adoption; or

- <sup>11</sup>(c) is in the care of a local authority under a relevant enactment; or

- (d) has been boarded out with a person other than the claimant prior to adoption; or

- (e) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations 1983 or <sup>2</sup>the Adoption Agencies (Scotland) Regulations 2009(b); or

- (f) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court.

<sup>12</sup>(5A) Sub-paragraphs (a)(i), (aa)(i) and (b)(i) of paragraph (5) shall not apply in a case where immediately before the date of claim for income support the claimant was entitled to an income-based jobseeker's allowance.

(6) A child or young person to whom any of the circumstances mentioned in sub-paragraphs (c) or (f) of paragraph (5) applies shall be treated as being a member of the claimant's household only for that part of any benefit week where that child or young person lives with the claimant.

(7) Where a child or young person for the purposes of attending the educational establishment at which he is receiving relevant education is living with the claimant or his partner and neither one is treated as responsible for that child or young

(a) S.I. 1983/1964.

(b) S.S.I. 2009/154, amended by S.S.I. 2010/172.



person that child or young person shall be treated as being a member of the household of the person treated as responsible for him and shall not be treated as a member of the claimant's household.

(8) In this regulation—

- <sup>1</sup>(za) “accommodation” means accommodation provided by a local authority in a home owned or managed by that local authority—
  - (i) under sections 21 to 24 of the National Assistance Act 1948<sup>(a)</sup> (provision of accommodation),
  - (ii) in Scotland, under section 13B or 59 of the Social Work (Scotland) Act 1968<sup>(b)</sup> (provision of residential or other establishment),<sup>2</sup> ◀
  - (iii) under section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003<sup>(c)</sup> (care and support services etc.);<sup>2 3</sup> ◀
  - (iv) under section 18 or 19 of the Care Act 2014 (duty and power to meet needs for care and support); ◀<sup>3</sup> or
  - (v) under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult), ◀
 where the accommodation is provided for a person whose stay in that accommodation has become other than temporary; ◀
- <sup>4</sup>(a) “relevant enactment” means the Army Act 1955<sup>(d)</sup>, the Social Work (Scotland) Act 1968<sup>(e)</sup>, the Matrimonial Causes Act 1973<sup>(f)</sup>,<sup>5</sup> the Adoption and Children (Scotland) Act 2007 ◀, the Family Law Act 1986<sup>(g)</sup><sup>6</sup>, the Children Act 1989<sup>(h)</sup> and the Social Services and Well-being (Wales) Act 2014 ◀; ◀
- (b) “voluntary organisation” has the meaning assigned to it in the<sup>4</sup> Children Act 1989 ◀ or, in Scotland, the Social Work (Scotland) Act 1968.

<sup>1</sup>Sub-para. (za) inserted in reg. 16(8) by para. 3(c) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>2</sup>Words omitted & inserted in reg. 16(8)(za) by paras. 5(2)(a) & (b) of the Sch. to S.I. 2015/643 as from 1.4.15.

<sup>3</sup>Words omitted & inserted in reg. 16(8)(za) by art. 2(3)(b)(i) of S.I. 2017/901 as from 3.11.17.

<sup>4</sup>Sub-para. (a) of reg. 16(8) substituted (Eng. & Wales) and words in reg. 16(8)(b) substituted (Eng. & Wales) by para. 3(c) of Sch. to S.I. 1992/468 as from 6.4.92.

<sup>5</sup>Words in reg. 16(8)(a) substituted by para. 9(2)(b) of Sch. 1 to S.I. 2011/1740 as from 15.7.11.

<sup>6</sup>Words substituted in reg. 16(8)(a) by art. 2(3)(b)(ii) of S.I. 2017/901 as from 3.11.17.

<sup>7</sup>Words substituted in reg. 17(1) by reg. 9 of S.I. 1996/206 as from 7.10.96.

<sup>8</sup>Words omitted in reg. 17(1) by reg. 3(2)(a) of S.I. 2009/3228 as from 25.1.10.

<sup>9</sup>Reg 17(1)(b) and (c) omitted by para. 2(a) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>10</sup>Words in reg. 17(1)(b) substituted by reg. 7 of S.I. 1993/2119 as from 4.10.93.

<sup>11</sup>Reg. 17(1)(bb) omitted by para. 2 of Sch. 1 to S.I. 2003/1121 as from 6.10.03.

#### PART IV APPLICABLE AMOUNTS

##### Applicable amounts

**17.—(1)** Subject to regulations <sup>7</sup>18 to 22A ◀ <sup>8</sup> ◀ (applicable amounts in other cases and reductions in applicable amounts <sup>8</sup> ◀), a claimant's weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case;

- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1(1), (2) or (3), as the case may be, of Schedule 2;
- (b) <sup>9</sup> ◀

*This regulation continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

- (b) an amount determined in accordance with paragraph 2 of Schedule 2 in respect of any child or young person who is a member of his family, except a child or young person whose capital, if calculated in accordance with Part V in like manner as for the claimant,<sup>10</sup> except as provided in regulation 44(1) (modifications in respect of children and young persons) ◀, would exceed £3,000;\*

*\*The sum of £3,000 in reg. 17(1)(b) above is maintained in force (9.4.18) by article 21(2) of S.I. 2018/281. See art. 1(2)(g) of this S.I. for details of when to apply.*

- (bb) <sup>11</sup> ◀
- (c) <sup>9</sup> ◀

- 
- (a) 1948 c. 29.
  - (b) 1968 c. 49.
  - (c) 2003 asp. 13.
  - (d) 1955 c. 18. The provisions relating to reception orders were repealed as from 1st January 1992 by the Armed Forces Act 1991 (c. 62) but with savings (articles 2 and 3(1) of S.I. 1991/2719).
  - (e) 1968 c. 49.
  - (f) 1973 c. 18.
  - (g) 1986 c. 55.
  - (h) 1989 c. 41.

## Reg. 17

*This regulation continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

- (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part II of Schedule 2 (family premium);
- (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts III and IV of Schedule 2 (premiums);
- (e) any amounts determined in accordance with Schedule 3 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule;
- <sup>1</sup>(f) any amounts determined in accordance with <sup>2</sup>paragraphs (2) to (7)◀◀;

<sup>1</sup>Sub-para. (f) added to reg. 17 by reg. 2 of S.I. 1988/910 as from 30.5.88.

<sup>2</sup>Words substituted in reg. 17(1)(f) by para. 11 of Sch. 1 to S.I. 1988/1445 as from 10.4.89.

<sup>3</sup>Reg. 17(1)(g) revoked by reg. 2(4)(a) of S.I. 2006/588 as from 3.4.06.

<sup>4</sup>Paras. (2) to (7) added to reg. 17 by reg. 2 of S.I. 1988/910 as from 30.5.88.

(g) <sup>3</sup>◀

<sup>4</sup>(2) Where—

- (a) a claimant has throughout the period beginning on 11th April 1988 and ending immediately before the coming into force of paragraphs 25 to 28 of Schedule 10 (capital to be disregarded) failed to satisfy the capital condition in section 22(6) of the Act (no entitlement to benefit if capital exceeds prescribed amount); and
- (b) as a consequence he is not entitled to any transitional addition, special transitional addition or personal expenses addition under Part II of the Transitional Regulations; and
- (c) had those paragraphs been in force on 11th April 1988 he would have satisfied that condition and been entitled to any such addition,

the amount applicable under this paragraph shall, subject to paragraph (3), be equal to the amount of any transitional addition, special transitional addition and personal expenses addition to which he would be entitled under Part II of the Transitional Regulations had he been entitled to any such addition in the week commencing 11th April 1988.

(3) For the purposes of paragraph (2), in determining a claimant's total benefit income in his second benefit week for the purpose of calculating the amount of any transitional addition to which he would have been entitled, no account shall be taken of any payment referred to in paragraph (1)(j) of regulation 9 of the Transitional Regulations (total benefit income) which is made in respect of that week to compensate for the loss of entitlement to income support.

(4) Subject to paragraph (6), where—

- (a) the claimant or any member of his family was temporarily absent from his home in the claimant's first or second benefit week (or both), because he was—
  - (i) a patient; or
  - (ii) outside Great Britain for the purpose of receiving treatment for any disease or bodily or mental disablement or for the purpose of accompanying a child or young person who is outside Great Britain for the purpose of receiving such treatment; or
  - <sup>5</sup>(iii) in a care home, an Abbeyfield Home or an independent hospital; or◀
  - (iv) in the care of a local authority under a relevant enactment; or
  - (v) staying with a person who was contributing to his maintenance; and
- (b) as a result—
  - (i) in the claimant's first benefit week his requirements for the purpose of calculating his entitlement to supplementary benefit were increased or reduced or he was not entitled to that benefit; or
  - (ii) in the claimant's second benefit week his applicable amount was increased or reduced or he was not entitled to income support; and

<sup>5</sup>Para. (4)(a)(iii) in reg. 17 substituted by para. 4 of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

- (c) the period during which his requirements were, or his applicable amount was, increased or reduced, or he was not entitled to benefit, or any one or more of those circumstances existed, did not exceed 8 weeks,

the amount applicable under this paragraph shall be equal to the amount determined under paragraph (5).

(5) The amount for the purposes of paragraph (4) shall be an amount equal to the difference between—

- (a) the amount that his total benefit income in his first benefit week would have been had he been entitled in respect of that week to supplementary benefit calculated on the basis that he or any member of his family had not been absent from the home; and, if less,
- (b) the amount of his total benefit income in the first complete week after the period of temporary absence ends; but for the purpose of calculating his total benefit income in that week—
- (i) no account shall be taken of any payment referred to in paragraph (1)(j) of regulation 9 of the Transitional Regulations which is made in respect of that week to compensate for the loss (in whole or in part) of entitlement to income support; and
- (ii) if the period of temporary absence ends after the coming into force of paragraph (4), the amount of income support to be taken into account shall, notwithstanding regulation 9(6) of the Transitional Regulations, be calculated as if that paragraph were not in force.

(6) The amount under paragraph (4) shall cease to be applicable to a claimant if he ceases to be entitled to income support for a period exceeding <sup>1</sup>the permitted period determined in accordance with regulation 3A (permitted period)◀.

<sup>1</sup>Words substituted in reg. 17(6) and para. (6A) and (7) inserted by reg. 4 of S.I. 1989/1678 as from 9.10.89.

<sup>1</sup>(6A) For the purposes of paragraph (6), where a claimant has ceased to be entitled to income support because he or his partner is participating in arrangements for training made under section 2 of the Employment and Training Act 1973(a) <sup>2</sup>or section 2 of the Enterprise and New Towns (Scotland) Act 1990◀ (b) or attending a course at an employment rehabilitation centre established under that section <sup>2</sup>of the 1973 Act◀, he shall be treated as if he had been entitled to income support for the period during which he or his partner is participating in such arrangements or attending such a course.◀

<sup>2</sup>Words inserted in reg. 17(6A) by arts. 2 & 9(c) of, and Sch. to, S.I. 1991/387 as from 1.4.91.

(7) In this Regulation—

“first benefit week” and “second benefit week” have the meanings given to those expressions in regulations 2(1) of the Transitional Regulations and shall also include the week which would have been the claimant’s “first benefit week” or, as the case may be, “second benefit week” had he been entitled to supplementary benefit or, as the case may be, income support in that week;

“total benefit income” has, subject to paragraphs (3) and (5)(b), the same meaning as in regulation 9 of the Transitional Regulations;

“Transitional Regulations” means the Income Support (Transitional) Regulations 1987(c).◀◀

### Polygamous marriages

18. <sup>3</sup>(1) Subject to paragraph (2) and◀ <sup>4</sup>regulations 21◀ <sup>5</sup>to 22A◀ <sup>6</sup>◀ (applicable amounts in other cases and reductions in applicable amounts <sup>6</sup>◀), where a claimant is a member of a polygamous marriage his weekly applicable amount shall be the aggregate of such of the following amounts as may apply in his case:

- (a) the highest amount applicable to him and one of his partners determined in accordance with sub-paragraph (3) of paragraph 1 of Schedule 2 as if he and that partner were a couple;

<sup>3</sup>Words in reg. 18 substituted by reg. 5(a) of S.I. 1988/1228 as from 12.9.88.

<sup>4</sup>Words substituted in reg. 18(1) by reg. 2(1) of, & para. 4 of Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>5</sup>Words substituted in reg. 18(1) by reg. 10(2)(a) of S.I. 1996/206 as from 7.10.96.

<sup>6</sup>Words omitted in reg. 18(1) by reg. 3(2)(b) of S.I. 2009/3228 as from 25.1.10.

(a) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25(1).

(b) 1990 c. 35.

(c) S.I. 1987/1969 amended by S.I. 1988/521 and 670.

**Regs. 18-20**

<sup>1</sup>Words substituted in reg. 18(1)(b) by reg. 10(2)(b) of S.I. 1996/206 as from 7.10.96.

<sup>2</sup>Ref. in reg. 18(1)(b) substituted by reg. 5 of S.I. 1989/1034 as from 10.7.89.

<sup>3</sup>Reg. 18(1)(c) & (d) omitted by para. 3(a) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>4</sup>Words in reg. 18(1)(c) substituted by reg. 8 of S.I. 1993/2119 as from 4.10.93.

- (b) an amount equal to the difference between the amounts specified in <sup>1</sup>sub-paragraphs (3)(d) and (1)(e) of paragraph 1 of Schedule 2 in respect of each of his other partners;

(c) <sup>3</sup>

*This regulation continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

- (c) an amount determined in accordance with paragraph 2 of Schedule 2 (applicable amounts) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household except a child or young person whose capital, if calculated in accordance with Part V in like manner as for the claimant, <sup>4</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons), would exceed £3,000;\*

*\*The sum of £3,000 in reg. 18(1)(c) above is maintained in force (9.4.18) by article 21(2) of S.I. 2018/281. See art. 1(2)(g) of this S.I. for when to apply.*

<sup>5</sup>Sub-para. (cc) of reg. 18(1) omitted by para. 3 to Sch. 1 of S.I. 2003/1121 as from 6.10.03.

(cc) <sup>5</sup>

(d) <sup>3</sup>

*This regulation continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

- (d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part II of Schedule 2 (family premiums);

- (e) the amount of any premiums which may be applicable to him determined in accordance with Parts III and IV of Schedule 2 (premiums);

- (f) any amounts determined in accordance with Schedule 3 (housing costs) which may be applicable to him in respect of mortgage interest payments or such other housing costs as are prescribed in that Schedule;

<sup>6</sup>Sub-para. (g) inserted in reg. 18(1) by reg. 6 of S.I. 1988/1445 as from 12.9.88.

- <sup>6</sup>(g) any amount determined in accordance with regulation 17(1)(f) (applicable amounts);

(h) <sup>7</sup>

<sup>7</sup>Reg 18(1)(h) revoked by reg. 2(4)(b) of S.I. 2006/588 as from 3.4.06.

- <sup>8</sup>(2) In the case of a partner who is aged less than 18, the amount which applies in respect of that partner shall be nil unless—

<sup>8</sup>Reg. 18(2) added by reg. 5(c) of S.I. 1988/1228 as from 12.9.88.

- (a) that partner is treated as responsible for a child, or

<sup>9</sup>Sub-para. (b) of reg. 18(2) substituted by reg. 10(3) of S.I. 1996/206 as from 7.10.96.

- <sup>9</sup>(b) that partner is a person who—

- (i) had he not been a member of a polygamous marriage would have qualified for income support under regulation 4ZA; or

- (ii) satisfies the requirements of section 3(1)(f)(iii) of the Jobseekers Act 1995 (prescribed circumstances for persons aged 16 but less than 18); or

- (iii) is the subject of a direction under section 16 of the Jobseekers Act 1995 (persons under 18: severe hardship).

**Applicable amounts for persons in residential care and nursing homes**

<sup>10</sup>Reg. 19 omitted by reg. 2(1) of, & para. 5 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

**19.** <sup>10</sup>

[Regulation 20 deleted by para. 4 of Schedule 1 to S.I. 1989/534 as from 9.10.89.]

Special cases

21.—(1) Subject to <sup>1</sup>paragraph (1B),<sup>2</sup> <sup>3</sup>regulation 21ZB<sup>4</sup>\* (treatment of refugees) and<sup>4</sup>regulation 22A (reductions in applicable amounts) in the case of a person to whom any paragraph in column (1) of Schedule 7 applies (applicable amounts in special cases), the amount included in the claimant’s weekly amount in respect of him shall be the amount prescribed in the corresponding paragraph in column (2) of that Schedule;<sup>5</sup>

*\*For cases falling within the transitional arrangements and savings provisions in reg. 12 of S.I. 2000/636, reg. 21(1) remains in force as if the words “regulation 21ZB” had not been substituted for the words “regulation 21ZA” by reg. 3(4)(a) of S.I. 2000/636.*

*Reg. 21(1) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 7.7203 for details of when to apply this version.*

21.—(1) Subject to <sup>1</sup>paragraph (1B),<sup>2</sup> <sup>3</sup>regulation 21ZB<sup>4</sup>\* (treatment of refugees) and<sup>4</sup>regulation 22A (reductions in applicable amounts) in the case of a person to whom any paragraph in column (1) of Schedule 7 applies (applicable amounts in special cases), the amount included in the claimant’s weekly amount in respect of him shall be the amount prescribed in the corresponding paragraph in column (2) of that Schedule; but no amount shall be included in respect of a child or young person if the capital of that child or young person calculated in accordance with Part V in like manner as for the claimant, <sup>6</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)<sup>4</sup>, would exceed £3,000.\*\*

*\*For cases falling within the transitional arrangements and savings provisions in reg. 12 of S.I. 2000/636, reg. 21(1) remains in force as if the words “regulation 21ZB” had not been substituted for the words “regulation 21ZA” by reg. 3(4)(a) of S.I. 2000/636.*

*\*\*The sum of £3,000 in reg. 21(1) above is maintained in force (9.4.18) by article 21(2) of S.I. 2018/281. See art. 1(2)(g) of this S.I. for when to apply.*

- (1A) <sup>7</sup>
- (1B) <sup>8</sup>
- (2) <sup>9</sup>

*Reg. 21(2) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg 1 of that S.I. at page 6.7203 for details of when to apply this version.*

(2) In Schedule 7, for the purposes of <sup>8</sup>paragraph 1, 2 or 3 (patients)<sup>4</sup>, where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

- (3) <sup>10</sup>in Schedule 7<sup>4</sup>

<sup>11</sup>“partner of a person subject to immigration control” means a person—

- (i) who is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act; or
- (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 2000; and
- (iii) who is a member of a couple and <sup>12</sup>the member’s<sup>4</sup> are subject to immigration control within the meaning of section 115(9) of that Act and section 115 of that Act applies to <sup>12</sup>the partner<sup>4</sup> for the purposes of exclusion from entitlement to income support;<sup>4</sup>

<sup>1</sup>Words inserted in reg. 21(1) by para. 6(a) of Sch. to S.I. 2001/3767 as from 8.4.02.

<sup>2</sup>Words inserted in reg. 21(1) by reg. 2 of S.I. 1996/2431 as from 15.10.96.

<sup>3</sup>Words substituted in reg. 21(1) by reg. 3(4)(a) of S.I. 2000/636 as from 3.4.00, subject to saving in reg. 12 of S.I. 2000/636.

<sup>4</sup>Words substituted in reg. 21(1) by reg. 12 of S.I. 1996/206 as from 7.10.96.

<sup>5</sup>Words omitted from reg. 21(1) by para. 4 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>6</sup>Words in reg. 21(1) substituted by reg. 3 of S.I. 1994/527 as from 11.4.94.

<sup>7</sup>Reg. 21(1A) deleted by reg. 2(5) of S.I. 2009/583 as from 6.4.09.

<sup>8</sup>Para. (1B) omitted & words substituted in Para. (2) by reg. 3 of S.I. 2003/2325 as from 6.10.03.

<sup>9</sup>Reg. 21(2) omitted by reg. 4(2)(a) of S.I. 2005/3360 as from 10.4.06 (see reg. 1(c) of this S.I. page 3.4081 for other instances to apply.)

<sup>10</sup>Words in reg. 21(3) substituted by reg. 6(2)(a)(i) of S.I. 2006/1026 as from 30.4.06.

<sup>11</sup>Defn. of “partner of a person subject to immigration control” inserted by reg. 3(4)(c) of S.I. 2000/636 as from 3.4.00.

<sup>12</sup>Words substituted in defn. of “partner of a person subject to immigration control” by para. 13(3) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

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<sup>1</sup>Defn. of “partner from abroad” omitted by reg. 3(4) of S.I. 2000/636 as from 3.4.00.

<sup>2</sup>Defn. of “person from abroad” substituted by reg. 6(2)(a)(ii) of S.I. 2006/1026 as from 30.4.06.

<sup>3</sup>Words in defn. of “patient” substituted by reg. 4(2)(b) of S.I. 2005/3360 as from 10.4.06. See reg. 1(c) of this S.I. page 3.4081 for other instances to apply.

<sup>4</sup>Defn. of “prisoner” substituted by reg. 21(a)(i) of S.I. 1995/516 as from 10.4.95.

<sup>5</sup>Words in defn. of “prisoner” substituted by reg. 8(2)(c) of S.I. 1998/563 as from 6.4.98.

<sup>6</sup>In reg. 21(3) defn. of “residential accommodation” omitted, reg. 21(3A)-(3E) & (4)-(4B) omitted by para. 5 of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>7</sup>Paras. (3ZA)-(3ZC) inserted by reg. 3(2) of S.I. 2010/442 as from 25.3.10.

<sup>8</sup>Regs. 21(3F) & (3G) omitted and reg. 21AA inserted by reg. 6(2)(b) & (3) of S.I. 2006/1026 as from 30.4.06.

<sup>1</sup>◀

<sup>2</sup>“person from abroad” has the meaning given in regulation 21AA;◀

“patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of <sup>3</sup>regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005(**a**)◀;

*Regulation 2(2) of the Social Security (Hospital In-Patients) Regulations 1975 (S.I. 1975/555) is reproduced at Annex 4 to this S.I.*

<sup>4</sup>“prisoner” means a person who—

- (a) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
- (b) is on temporary release in accordance with the provisions of the Prison Act 1952(**b**) or the Prisons (Scotland) Act 1989(**c**).

other than a person <sup>5</sup>who is detained in hospital under the provisions of the Mental Health Act 1983(**d**), or, in Scotland, under the provisions of the Mental Health (Scotland) Act 1984(**e**) or the Criminal Procedure (Scotland) Act 1995(**f**);◀◀

<sup>6</sup>◀

<sup>7</sup>(3ZA) In Schedule 7 “person serving a sentence of imprisonment detained in hospital” means a person (“P”) who satisfies either of the following conditions.

(3ZB) The first condition is that—

- (a) P is being detained under section 45A or 47 of the Mental Health Act 1983 (power of higher courts to direct hospital admission; removal to hospital of persons serving sentences of imprisonment etc.); and
- (b) in any case where there is in relation to P a release date within the meaning of section 50(3) of that Act, P is being detained on or before the day which the Secretary of State certifies to be that release date.

(3ZC) The second condition is that P is being detained under—

- (a) section 59A of the Criminal Procedure (Scotland) Act 1995 (hospital direction); or
- (b) section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (transfer of prisoners for treatment of mental disorder).◀

(3A)-(3E) <sup>6</sup>◀

(3F) & (3G) <sup>8</sup>◀

(4)-(4B) <sup>6</sup>◀

(5) A claimant to whom paragraph 19 of Schedule 7 (disability premium) applies shall be entitled to income support for the period in respect of which that paragraph applies to him notwithstanding that his partner was also entitled to income support for that same period.

**<sup>8</sup>Special cases: supplemental – persons from abroad**

**21AA.**—(1) “Person from abroad” means, subject to the following provisions of this regulation, a claimant who is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(2) No claimant shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless he has a right to reside in (as the case may be) the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland other than a right to reside which falls within paragraph (3).

(a) S.I. 2005/3360.

(b) 1952 c. 52.

(c) 1989 c. 45.

(d) 1983 c. 72.

(e) 1984 c. 36.

(f) 1995 c. 46.

(3) A right to reside falls within this paragraph if it is one which exists by virtue of, or in accordance with, one or more of the following—

- (a) regulation 13 of the Immigration (European Economic Area) Regulations 2006(a);
- (b) regulation 14 of those Regulations, but only in a case where the right exists under that regulation because the claimant is—
  - (i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or
  - (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;
- <sup>1</sup>(bb) regulation 15A(1) of those Regulations(b), but only in a case where the right exists under that regulation because the claimant satisfies the criteria in regulation 15A(4A) of those Regulations; ◀
- (c) Article 6 of Council Directive No. 2004/38/EC(c); <sup>1</sup> ◀
- (d) Article 39 of the Treaty establishing the European Community (in a case where the claimant is a person seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland) <sup>1</sup>; or ◀
- <sup>1</sup>(e) Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen. ◀

<sup>1</sup>Reg. 21AA(3)(bb), (c), (d) and (e) inserted or omitted by reg. 2 of S.I. 2012/2587 as from 8.11.12.

(4) A claimant is not a person from abroad if he is—

- <sup>2</sup>(za) a qualified person for the purposes of regulation 6 of the Immigration (European Economic Area) Regulation 2006(d) as a worker or a self-employed person;
- (zb) a family member of a person referred to in sub-paragraph (za) within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations;
- (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those Regulations; ◀
- (g) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(e), as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(f);
- <sup>3</sup>(h) a person who has been granted leave or who is deemed to have been granted leave outside the rules made under section 3(2) of the Immigration Act 1971(g) where that leave is—
  - (i) discretionary leave to enter or remain in the United Kingdom;
  - (ii) leave to remain under the Destitution Domestic Violence concession(h); or
  - (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005(i); ◀

<sup>2</sup>Reg. 21AA(a)-(f) substituted for sub-para. (za)-(zc) by reg. 2 of S.I. 2014/902 as from 31.5.14.

<sup>3</sup>Reg. 21AA(4)(h) substituted by reg. 4(5)(a) of S.I. 2013/2536 as from 29.10.13.

(a) S.I. 2006/1003.

(b) S.I. 2006/1003; regulation 15A(1) was inserted by S.I. 2012/1547 and regulation 15A(4A) was inserted by S.I. 2012/2560.

(c) OJL 158, 30.4.04, p. 77.

(d) S.I. 2006/1003; regulation 6 was amended by S.I. 2013/3032; there are other amending instruments but none is relevant

(e) Cmnd. 9171.

(f) Cmnd. 3906.

(g) 1971 c. 77.

(h) The Destitution Domestic Violence concession is published by the Home Office at: <http://www.ukba.homeoffice.gov.uk>.

(i) S.I. 2005/1379, amended by S.I. 2013/630; there are other amending instruments but none is relevant.

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<sup>1</sup>Para. 21AA(4)(hh) inserted by reg. 2(2) of S.I. 2006/2528 as from 19.10.06.

<sup>2</sup>Words added in reg. 21AA(hh) & sub-paras. (j) and (k) omitted by reg. 4(5)(c) of S.I. 2013/2536 as from 29.10.13.

<sup>3</sup>Words omitted in reg. 21AA(i) by reg. 2(2) of S.I. 2009/362 as from 18.3.2009.

<sup>4</sup>Reg. 21ZB lapsed by the revocation of S. 123 to the Immigration and Asylum Act 1999 (c. 33) by S. 12 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 as from 14.6.2007.

- <sup>1</sup>(hh) a person who has humanitarian protection granted under those rules; <sup>2</sup>or◀  
 (i) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom; <sup>3</sup>◀  
 (j) <sup>2</sup>◀  
 (k) <sup>2</sup>◀

**Treatment of refugees****21ZB.—(1)-(3) <sup>4</sup>◀**

*For cases falling within the transitional arrangements and savings provision in reg. 12 of S.I. 2000/636, reg. 21ZA remains in force as before it was replaced by reg. 3(5) of that S.I. as follows:—*

21ZA.—(1) Where a person has submitted a claim for asylum and is notified that he has been recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(a) as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(b) he shall cease to be a person from abroad for the purposes of regulation 21 (special cases) and Schedule 7 (applicable amounts in special cases) from the date he is so recorded.

(2) Except in the case of a refugee to whom paragraph (3) refers, a refugee to whom paragraph (1) applies, who claims income support within 28 days of receiving the notification referred to in that paragraph, shall have his claim for income support for whichever of the periods referred to in paragraph (4) applies in his case determined as if he had been an asylum seeker for the purposes of regulation 70 (urgent cases) in respect of any such period.

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(a) Cmd. 9171.

(b) Cmd. 3906.



(3) A refugee to whom paragraph (1) applies, who was notified that he had been recorded as a refugee in the period from 24th July 1996 to 15th October 1996 and who claims income support within 28 days of the later date, shall have his claim for income support for whichever of the periods referred to in paragraph (4) applies in his case determined as if he had been an asylum seeker for the purposes of regulation 70 in respect of any such period.

(4) The periods to which this paragraph refers are—

- (a) in the case of a claimant who made a claim for asylum upon arrival in the United Kingdom, the period from the date on which his claim for asylum was first refused by the Secretary of State or 5th February 1996 if that is later, to the date he is recorded by the Secretary of State as a refugee;
- (b) in the case of a claimant whose claim for asylum is made other than on arrival in the United Kingdom, the period from the date of that claim, or 5th February 1996 if that is later, to the date he is recorded by the Secretary of State as a refugee.

(5) Any income support, which has otherwise been paid to the claimant or any partner of his in respect of any part of the period of an award to which paragraph (2) or (3) applies, shall be offset against any award due to the claimant by virtue of that paragraph except to the extent that the benefit paid to that partner was due in respect of a period during which he was not a partner of the claimant.

[Reg. 21A (reductions in applicable amounts in certain cases of failure to attend courses), and

Reg. 22 (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification), were revoked by Sch. 3 to S.I. 1996/206. They are however included among those provisions of S.I. 1987/1967 which, although so revoked, will temporarily continue to be reproduced at Annex 7 on page 6.4064 et seq.]

**<sup>1</sup>Reduction in applicable amount where the claimant is appealing against a decision <sup>2</sup>which embodies a determination◀ that he is not incapable of work**

**22A.**—(1) Subject to paragraph (3), where a claimant falls within paragraph 25 of Schedule 1B (persons appealing against a decision <sup>2</sup>which embodies a determination◀ that they are not incapable of work under the <sup>3</sup>personal capability assessment◀), and none of the other paragraphs of that Schedule applies to him, his applicable amount shall be reduced by a sum equivalent to 20 per cent.\* of the following amount—

- (a) in the case of a person to whom regulation 17 or 18 or paragraphs 6, 9 to 12 <sup>4</sup>◀ of Schedule 7 applies—
    - (i) where he is a single claimant aged less than 18 or a member of a couple or a polygamous marriage where all the members, in either case, are less than 18, the amount specified in paragraph 1(1)(a), (b) or (c), as the case may be, of Schedule 2 (applicable amounts);
    - (ii) where he is a single claimant aged not less than 18 but less than 25 or a member of a couple or a polygamous marriage where one member is aged not less than 18 but less than 25 and the other member, or in the case of polygamous marriage each other member, is a person under 18 who—
      - (aa) does not qualify for income support under regulation 4ZA, or who would not so qualify if he were to make a claim; and
      - (bb) does not satisfy the requirements of section 3(1)(f)(iii) of the Jobseekers Act 1995 (prescribed circumstances for persons aged 16 but less than 18); and
      - (cc) is not the subject of a direction under section 16 of the Jobseekers Act 1995 (persons under 18: severe hardship),
- the amount specified in paragraph 1(1)(d) of that Schedule;

<sup>1</sup>Reg. 22A added by reg. 13 of S.I. 1996/206 as from 7.10.96.

<sup>2</sup>Words added to the heading of reg. 22A and to reg. 22A(1) by para. 1(a) of Sch. 6 to S.I. 1999/2422 as from 6.9.99.

<sup>3</sup>Words substituted in reg. 22A(1) by reg. 6 of S.I. 1999/3109 as from 3.4.00.

<sup>4</sup>Words omitted in reg. 22A(1)(a) by reg. 5(4) of S.I. 2007/2618 as from 1.10.07.

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- (iii) where he is a single claimant aged not less than 25 or a member of a couple or a polygamous marriage (other than a member of a couple or a polygamous marriage to whom head (ii) of this sub-paragraph applies) at least one of whom is aged not less than 18, the amount specified in paragraph 1(1)(e) of that Schedule;

<sup>1</sup>Reg. 22A(1)(b) omitted by reg. 2(1) of, & para. 7 of Sch. to, S.I. 2001/3767 as from 8.4.02.

(b) <sup>1</sup>◀

*Regulation 22A(1) is disapplied in cases falling within reg. 27(3) (transitional provisions) of S.I. 1996/206.*

*\*Percentage in reg. 22A(1) maintained in force (10.4.17) by Sch. 4 to S.I. 2017/260. See art. 1(2)(j) of this S.I. for when to apply.*

(2) A reduction under paragraph (1) shall, if it is not a multiple of 5p, be round to the nearest such multiple or, if it is a multiple of 2.5p but not of 5p, to the next lower multiple of 5p.

<sup>2</sup>Words in reg. 22A(3) inserted and substituted by para. 1 of Sch. 6 to S.I. 1999/2422 as from 6.9.99.

(3) Paragraph (1) shall not apply to a claimant who is appealing against a decision <sup>2</sup>which embodies a determination◀ that he is not incapable of work under the all work test where that <sup>2</sup>determination◀ was <sup>3</sup>the first determination made in accordance with, the all work test before 3rd April 2000 or, after that date, the personal capability assessment, in relation to the claimant◀, and the claimant was, immediately prior to 13th April 1995, either—

<sup>3</sup>Words substituted in reg. 22A(3) by reg. 5 of S.I. 2000/590 as from 3.4.00.

- (a) in receipt of invalidity pension under Part II of the Contributions and Benefits Act as then in force, or severe disablement allowance; or
- (b) incapable of work in accordance with paragraph 5 of Schedule 1 as in force on 12th April 1995 and had been so for a continuous period of 28 weeks.◀

<sup>4</sup>Reg. 22B omitted by reg. 4(6) of S.I. 2013/2536 as from 29.10.13.

<sup>4</sup>◀

## PART V

### INCOME AND CAPITAL

#### CHAPTER I

#### GENERAL

#### **Calculation of income and capital of members of claimant's family and of a polygamous marriage**

<sup>5</sup>Words substituted in reg. 23(1), reg 23(2) substituted and words omitted in reg. 23(1), (3)(a) by para. 6 of Sch. 1 to S.I. 2003/455.

**23.—**(1) <sup>5</sup>Subject to paragraphs (4), the income and capital of a claimant's partner which by virtue of section 136(1) of the Contributions and Benefits Act◀ is to be treated as income and capital of the claimant, shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant; and any reference to the "claimant" shall, except where the context otherwise requires, be construed, for the purposes of this Part, as if it were a reference to his partner <sup>5</sup>◀.

<sup>5</sup>(2) Subject to the following provisions of this Part, the income paid to, or in respect of, and capital of, a child or young person who is a member of the claimant's family shall not be treated as the income or capital of the claimant.◀

<sup>6</sup>Words in reg. 23(3) inserted by reg. 6(b) of S.I. 1988/1228 as from 12.9.88.

(3) <sup>6</sup>Subject to paragraph (5)◀ where a claimant or the partner of a claimant is married polygamously to two or more members of his household—

- (a) the claimant shall be treated as possessing capital and income belonging to each such member <sup>5</sup>◀; and

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- (b) the income and capital of that member <sup>1</sup>◀ shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant <sup>1</sup>◀.

<sup>1</sup>Words omitted in reg. 23(3)(b) by para. 6 of Sch. 1 to S.I. 2003/455.

*Reg. 23(1)-(5) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

23.—(1) <sup>2</sup>Subject to paragraphs (2) and (4) and to regulation 44 (modifications in respect of children and young persons), the income and capital of a claimant's partner and <sup>2</sup>◀ the income of a child or young person which by virtue of section 22(5) of the Act is to be treated as income and capital of the claimant, shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant; and any reference to the "claimant" shall, except where the context otherwise requires, be construed, for the purposes of this Part, as if it were a reference to his partner or that child or young person.

<sup>2</sup>Words in reg. 23(1) substituted & (3) inserted by reg. 6 of S.I. 1988/1228 as from 12.9.88.

(2) Regulations 36(2) and 38(2), so far as they relate to paragraphs 1 to 10 of Schedule 8 (earnings to be disregarded) and regulation 41(1) (capital treated as income) shall not apply to a child or young person.

(3) <sup>2</sup>Subject to paragraph (5) <sup>2</sup>◀ where a claimant or the partner of a claimant is married polygamously to two or more members of his household—

- (a) the claimant shall be treated as possessing capital and income belonging to each such member and the income of any child or young person who is one of that member's family; and
- (b) the income and capital of that member or, as the case may be, the income of that child or young person shall be calculated in accordance with the following provisions of this Part in like manner as for the claimant or, as the case may be, as for any child or young person who is a member of his family.

<sup>3</sup>(4) Where at least one member of a couple is aged less than 18 and the applicable amount of the couple falls to be determined under <sup>4</sup>paragraph 1(3)(b), (c), (f) or (g) <sup>4</sup>◀ of Schedule 2 (applicable amounts), the income of the claimant's partner shall not be treated as the income of the claimant to the extent that—

<sup>3</sup>Paras. (4) & (5) inserted by reg. 6 of S.I. 1988/1228 as from 12.9.88.

- (a) in the case of a couple where both members are aged less than 18, the amount specified in paragraph (1)(3)(a) of that Schedule exceeds the amount specified in <sup>4</sup>paragraph 1(3)(c) <sup>4</sup>◀ of that Schedule; and
- (b) in the case of a couple where only one member is aged less than 18, the amount specified in paragraph 1(3)(d) of that Schedule exceeds the amount which applies in that case which is specified in <sup>4</sup>paragraph 1(3)(f) or (g) <sup>4</sup>◀ of that Schedule.

<sup>4</sup>Words substituted in reg. 23(4), (4)(a) & (4)(b) by reg. 14(4) of S.I. 1996/206 as from 7.10.96.

(5) Where a member of a polygamous marriage is a partner aged less than 18 and the amount which applies in respect of him under regulation 18(2) (polygamous marriages) is nil, the claimant shall not be treated as possessing the income of that partner to the extent that an amount in respect of him would have been included in the applicable amount if he had fallen within the circumstances set out in regulation 18(2)(a) or (b). <sup>4</sup>◀

#### <sup>5</sup>**Income of participants in the self-employment route** <sup>6</sup>◀

**23A.** Chapters II, III, IV, V, VII and VIIA of this Part and regulations 62 to 66A, 68 and 69 shall not apply to any income which is to be calculated in accordance with Chapter IVA of this Part (participants in the self-employment route <sup>6</sup>◀). <sup>6</sup>◀

<sup>5</sup>Reg. 23A inserted by reg. 6(2) of S.I. 1998/1174 as from 1.6.98.

[Regulation 24 (treatment of charitable or voluntary payments) deleted by regulation 5 of S.I. 1988/2022 as from 12.12.88.]

<sup>6</sup>Words omitted in the title to, and in reg. 23A itself, by reg. 5(1) of S.I. 2000/2910 as from 27.11.00.

**Regs. 25-29**

<sup>1</sup>Words omitted in heading to & in reg. 25 by reg. 2(5) & (6) of S.I. 2009/2655. See reg. 2(6)(a) to this S.I. for the relevant commencement date.

<sup>2</sup>Number substituted in reg. 25 by para. 7 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>3</sup>Words substituted in reg. 25 & reg. 25A omitted by reg. 2(3) of S.I. 2008/2111 as from 27.10.08.

<sup>4</sup>Words substituted in reg. 26 by reg. 2(a) of S.I. 2000/721 as from 29.3.01.

<sup>5</sup>Reg. 27 substituted by reg. 13 of S.I. 1988/663 as from 11.4.88.

<sup>6</sup>Reg. 28(2) substituted by reg. 7 of S.I. 1991/1559 as from 7.10.91.

<sup>7</sup>Words deleted in reg. 29(1) by reg. 7(a) of S.I. 1988/2022 as from 12.12.88.

<sup>8</sup>Words in reg. 29(2) substituted by reg. 5(1)(a) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

<sup>9</sup>Reg. 29(2)(a) substituted by reg. 2(5) of S.I. 2008/698 as from 14.4.08.

<sup>10</sup>Words inserted and substituted in reg. 29(2)(b) by reg. 10 of S.I. 1990/547 as from 9.4.90.

**<sup>1</sup>◀Liable relative payments**

**25.** Regulations 29 to <sup>2</sup>42◀, 46 to 52 and Chapter VIII of this Part shall not apply to any payment which is to be calculated in accordance with Chapter VII thereof ( <sup>3</sup> <sup>1</sup>◀liable relative payments◀).

*Reg. 25 is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

25. Regulations 19 to 44, 46 to 52 and Chapter VIII of this Part shall not apply to any payment which is to be calculated in accordance with Chapter VII thereof (liable relatives).

<sup>3</sup>◀

**Calculation of income and capital of students**

**26.** The provisions of Chapters II to VI of this Part (income and capital) shall <sup>4</sup>have effect in relation to students and their partners subject to the modifications set out in Chapter VIII thereof (students)◀

**<sup>5</sup>Rounding of fractions**

**27.** Where any calculation under this Part results in a fraction of a penny that fraction shall, if it would be to the claimant's advantage, be treated as a penny, otherwise it shall be disregarded.◀

**CHAPTER II****INCOME****Calculation of income**

**28.—(1)** For the purposes of section 20(3) of the Act (conditions of entitlement to income support) the income of a claimant shall be calculated on a weekly basis—

- (a) by determining in accordance with this Part, other than Chapter VI, the weekly amount of his income; and
- (b) by adding to that amount the weekly income calculated under regulation 53 (calculation of tariff income from capital).

<sup>6</sup>(2) For the purposes of paragraph (1) "income" includes capital treated as income under regulation 41 (capital treated as income) and income which a claimant is treated as possessing under regulation 42 (notional income).◀

**Calculation of earnings derived from employed earner's employment and income other than earnings.**

**29.—(1)** <sup>7</sup>◀Earnings derived from employment as an employed earner and income which does not consist of earnings shall be taken into account over a period determined in accordance with the following paragraphs and at a weekly amount determined in accordance with regulation 32 (calculation of weekly amount of income).

(2) Subject to <sup>8</sup>the following provisions of this regulation◀ the period over which a payment is to be taken into account shall be—

- <sup>9</sup>(a) where the payment is monthly, a period equal to the number of weeks from the date on which the payment is treated as paid to the date immediately before the date on which the next monthly payment would have been so treated as paid whether or not the next monthly payment is actually paid;
- (aa) where the payment is in respect of a period which is not monthly, a period equal to the length of the period for which payment is made;◀
- (b) in any other case, a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the net earnings, or in the case of income which does not consist of earnings, the amount of that income <sup>10</sup>less any amount paid by way of tax on that income which is disregarded under paragraph 1 of Schedule 9 (income other than earnings to be disregarded)◀ by the amount

of income support which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from that payment under Schedule 8<sup>1</sup>(earnings to be disregarded) or, as the case may be, any paragraph of Schedule 9 other than paragraph 1 of that Schedule,◀ as is appropriate in the claimant's case, and that period shall begin on the date on which the payment is treated as paid under regulation 31 (date on which income is treated as paid).

<sup>1</sup>Words inserted and substituted in reg. 29(2)(b) by reg. 10 of S.I. 1990/547 as from 9.4.90.

<sup>2</sup>(2A) The period over which a Career Development Loan, which is paid pursuant to section 2 of the Employment and Training Act 1973, shall be taken into account shall be the period of education and training intended to be supported by that loan.

<sup>2</sup>Paras. (2A) and (2B) inserted into reg. 29 by reg. 5(1)(b) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

(2B) Where grant income as defined in Chapter VIII of this Part has been paid to a person who ceases to be a <sup>3</sup>full-time student◀ before the end of the period in respect of which that income is payable and, as a consequence, the whole or part of that income falls to be repaid by that person, that income shall be taken into account over the period beginning on the date on which that income is treated as paid under regulation 31 and ending—

<sup>3</sup>Words substituted in reg. 29(2B) by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

- (a) on the date on which repayment is made in full; or
- <sup>4</sup>(aa) where the grant is paid in instalments, on the day before the next instalment would have been paid had the claimant remained a <sup>3</sup>full-time student◀; or◀
- (b) on the last date of the academic term or vacation during which that person ceased to be a <sup>3</sup>full-time student◀,

<sup>4</sup>Sub-para. (aa) inserted into para. (2b) by reg. 12 of S.I. 1998/563 as from 6.4.98.

whichever shall first occur.◀

<sup>5</sup>(2C)(a) This paragraph applies where earnings are derived by a claimant as a member of a reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations—

<sup>5</sup>Reg. 29(2C) substituted by reg. 2(3) of S.I. 2015/389 as from 6.4.15.

- (i) in respect of a period of annual continuous training for a maximum of 15 days in any calendar year, or
- (ii) in respect of training in the claimant's first year of training as a member of a reserve force for a maximum of 43 days in that year.
- (b) Earnings, whether paid to the claimant alone or together with other earnings derived from the same source, are to be taken into account—
  - (i) in the case of a period of training which lasts for the number of days listed in column 1 of the table in sub-paragraph (c), over a period of time which is equal to the number of days set out in the corresponding row in column 2 of that table; or
  - (ii) in any other case, over a period which is equal to the number of days of the training period.
- (c) This is the table referred to in sub-paragraph (b)(i)—

<i>Column 1</i> <i>Period of training in days</i>	<i>Column 2</i> <i>Period of time over which earnings are to be taken into account in days</i>
8 to 10	7
15 to 17	14
22 to 24	21
29 to 31	28
36 to 38	35
43	42◀

<sup>6</sup>(2D) The period over which earnings to which paragraph (2C) applies are to be taken into account shall begin on the date on which the payment is treated as paid under regulation 31.◀

<sup>6</sup>Reg. 29(2D) inserted by reg. 3 of S.I. 2012/2575 as from 5.11.12.

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(3) Where earnings not of the same kind are derived from the same source and the periods in respect of which those earnings would, but for this paragraph, fall to be taken into account—

- (a) overlap, wholly or partly, those earnings shall be taken into account over a period equal to the aggregate length of those periods;
- (b) and that period shall begin with the earliest date on which any part of those earnings would otherwise be treated as paid under regulation 31 (date on which income is treated as paid).

<sup>1</sup>Reg. 29(4) substituted and reg. 29(4B)–(4D) inserted by reg. 9 of S.I. 1989/1323 as from 9.10.89.

<sup>1</sup>(4) In a case to which paragraph (3) applies, earnings under regulation 35 (earnings of employed earners) shall be taken into account in the following order of priority—

- (a) earnings normally derived from the employment;
- (b) any payment to which paragraph (1)(b) or (c) of that regulation applies;
- (c) any payment to which paragraph (1)(i) of that regulation applies;
- (d) any payment to which paragraph (1)(d) of that regulation applies. ◀

<sup>2</sup>Reg. 29(4A) inserted by reg. 7(c) of S.I. 1988/2022 as from 12.12.88.

<sup>2</sup>(4A) Where earnings to which regulation 35(1)(b) to (d) (earnings of employed earners) applies are paid in respect of part of a day, those earnings shall be taken into account over a period equal to a day. ◀

<sup>3</sup>Reg. 29(4B) omitted by reg. 2(5)(b) of S.I. 2008/698 as from 14.4.08.

(4B) <sup>1</sup> <sup>3</sup>◀

(4C) Any earnings to which regulation 35(1)(i)(ii) applies which are paid in respect of or on the termination of part-time employment, shall be taken into account over a period equal to one week.

(4D) In this regulation—

- (a) “part-time employment” means employment in which a person is not to be treated as engaged in remunerative work under regulation 5 or <sup>4</sup>6(1) <sup>5</sup>and (4)◀◀ (persons treated, or not treated, as engaged in remunerative work);
- (b) <sup>6</sup>◀

<sup>4</sup>Reference substituted in reg. 29(4D)(a) by reg. 2(4) of S.I. 1999/2556 as from 4.10.99.

<sup>5</sup>Words inserted in reg. 29(4D)(a) by reg. 2(c) of S.I. 2000/681 as from 3.4.00.

<sup>6</sup>Reg. 29(4D)(b) omitted & words in reg. 30(2) substituted by regs. 2(5)(b) & 2(6)(a) of S.I. 2008/698 as from 14.4.08.

and for the purposes of this definition “period of notice” means the period of notice of termination of employment to which a person is entitled by statute or by contract, whichever is the longer, or, if he is not entitled to such notice, the period of notice which is customary in the employment in question. ◀

(5) For the purposes of this regulation the claimant’s earnings and income which does not consist of earnings shall be calculated in accordance with Chapters III and V respectively of this Part.

### Calculation of earnings of self-employed earners

**30.—(1)** Except where paragraph (2) applies, where a claimant’s income consists of earnings from employment as a self-employed earner the weekly amount of his earnings shall be determined by reference to his average weekly earnings from that employment—

- (a) over a period of <sup>7</sup>one year◀; or
- (b) where the claimant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period <sup>7</sup>◀ as may, in any particular case, enable the weekly amount of his earnings to be determined more accurately.

<sup>7</sup>Words substituted in, and words deleted from reg. 30(1) by reg. 11 of S.I. 1993/2119 as from 4.10.93.

(2) Where the claimant’s earnings consist of <sup>6</sup>any items to which paragraph (2A) applies◀ those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of income support which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 8 (earnings to be disregarded) as is appropriate in the claimant’s case.

<sup>1</sup>(2A) This paragraph applies to—

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
- (b) any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,

<sup>1</sup>Para. (2A) substituted by reg. 2(6) of S.I. 2009/583. See reg. 1(4) of this S.I. for the commencement date.

where the claimant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.◀

(3) For the purposes of this regulation the claimant's earnings shall be calculated in accordance with Chapter IV of this Part.

#### **Date on which income is treated as paid**

**31.**—(1) Except where paragraph <sup>2</sup>(2) <sup>3</sup>applies◀◀ a payment of income to which regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings) applies shall be treated as paid—

- (a) in the case of a payment which is due to be paid before the first benefit week pursuant to the claim, on the date on which it is due to be paid;
- (b) in any other case, on the first day of the benefit week in which it is due to be paid or the first succeeding benefit week in which it is practicable to take it into account.

<sup>2</sup>Words in reg. 31(1) substituted by reg. 2(4)(a) of S.I. 2008/2767 as from 17.11.08.

<sup>3</sup>Words in reg. 31(1) substituted by reg. 3(2)(a) of S.I. 2011/674 as from 11.4.11.





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(2) Income support, <sup>1</sup>jobseeker's allowance, <sup>2</sup>maternity allowance, <sup>3</sup>short-term or long-term incapacity benefit, <sup>4</sup>severe disablement allowance, <sup>5</sup>employment and support allowance or universal credit shall be treated as paid <sup>5</sup>on any day of the benefit week in respect of which <sup>6</sup>it is payable.

*The following regulation 31(2) continues to be reproduced as it is maintained in force in certain circumstances. See Explanatory Note of S.I. 2013/630 for when to apply.*

(2) Income support, <sup>1</sup>jobseeker's allowance, <sup>2</sup>maternity allowance, <sup>3</sup>short-term or long-term incapacity benefit, <sup>4</sup>severe disablement allowance or employment and support allowance shall be treated as paid on the day of the benefit week in respect of which <sup>5</sup>it is payable.

(3)-(4) <sup>7</sup>

**Calculation of weekly amount of income**

**32.—**(1) For the purposes of regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings) <sup>7</sup>, subject to <sup>8</sup>paragraphs (2) to (7) <sup>9</sup>, where the period in respect of which payment <sup>9</sup>of income or tax credit is made—

- (a) does not exceed a week, the weekly amount shall be the amount of that payment;
- (b) exceeds a week, the weekly amount shall be determined—
  - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
  - (ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
  - <sup>10</sup>(iii) in a case where that period is a year and the payment is an award of working tax credit, by dividing the payment by the number of days in the year and multiplying the result by 7;
  - (iiia) in a case where that period is a year and the payment is income other than an award of working tax credit, by dividing the amount of the payment by 52;
  - (iv) in any other case by multiplying the amount of the payment by 7 and dividing the product by the number equal to the number of days in the period in respect of which it is made.

(2) Where a payment for a period not exceeding a week is treated under regulation 31(1)(a) (date on which income is treated as paid) as paid before the first benefit week and a part is to be taken into account for some days only in that week (the relevant days), the amount to be taken into account for the relevant days shall be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(3) Where a payment is in respect of a period equal to or in excess of a week and a part thereof is to be taken into account for some days only in a benefit week (the relevant days), the amount to be taken into account for the relevant days shall, except where paragraph (4) applies, be calculated by multiplying the amount of the payment by the number equal to the number of relevant days and dividing the product by the number of days in the period in respect of which it is made.

(4) In the case of a payment of—

- (a) <sup>1</sup>, <sup>2</sup>maternity allowance, <sup>3</sup>short-term or long-term incapacity benefit, or severe disablement allowance <sup>3</sup>, the amount to be taken into account for the relevant days shall be the amount of benefit <sup>3</sup>payable in respect of those days;
- (b) income support <sup>4</sup>, jobseeker's allowance or employment and support allowance, the amount to be taken into account for the relevant days shall be calculated by multiplying the weekly amount of the benefit by the number of relevant days and dividing the product by seven.

<sup>1</sup>Words substituted and words deleted in regs. 31(2) & 32(4)(a) by regs. 15 & 16 of S.I. 1996/206 as from 7.10.96.

<sup>2</sup>Words inserted into regs. 31(2) & 32(4)(a) by reg. 8 of S.I. 1988/1445 as from 12.9.88.

<sup>3</sup>Words substituted and words deleted in regs. 31(2) & 32(4)(a) by regs. 10 & 11 of S.I. 1995/482 as from 13.4.95.

<sup>4</sup>Words inserted and words substituted in regs. 31(2) & 32(4)(b) by reg. 2(5) & (6) of S.I. 2008/1554 as from 27.10.08.

<sup>5</sup>Words substituted in reg. 31(2) by reg. 28(4) of S.I. 2013/630 as from 29.4.13.

<sup>6</sup>Words in reg. 31(2) substituted by reg. 14 of S.I. 1988/663 as from 1.4.88.

<sup>7</sup>Regs. 31(3)-(4) omitted and words in reg. 32(1) omitted by reg. 3(2)(b) and (3) of S.I. 2011/674 as from 4.4.11.

<sup>8</sup>Reference in reg. 32(1) substituted by reg. 10(a) of S.I. 1989/1323 as from 9.10.89.

<sup>9</sup>Words omitted in reg. 32(1) by reg. 15 of S.I. 1988/663 as from 11.4.88.

<sup>10</sup>Words in reg. 32(1) & paras. (1)(b)(iii) & (iiia) inserted & substituted by reg. 2(5)(a) & (b) of S.I. 2008/2767 as from 17.11.08.

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(5) Except in the case of a payment which it has not been practicable to treat under regulation 31(1)(b) as paid on the first day of the benefit week in which it is due to be paid, where a payment of income from a particular source is or has been paid regularly and that payment falls to be taken into account in the same benefit week as a payment of the same kind and from the same source, the amount of that income to be taken into account in any one benefit week shall not exceed the weekly amount determined under paragraph (1)(a) or (b), as the case may be, of the payment which under regulation 31(1)(b) (date on which income is treated as paid) is treated as paid first.

(6) Where the amount of the claimant's income fluctuates and has changed more than once, or a claimant's regular pattern of work is such that he does not work every week, the foregoing paragraphs may be modified so that the weekly amount of his income is determined by reference to his average weekly income—

- (a) if there is a recognisable cycle of work, over the period of one complete cycle (including, where the cycle involves periods in which the claimant does no work, those periods but disregarding any other absences);
- (b) in any other case, over a period of five weeks or such other period as may, in the particular case, enable the claimant's average weekly income to be determined more accurately.

<sup>1</sup>Para. (6A) inserted into reg. 32 by reg. 6(1) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

<sup>2</sup>Words substituted in reg. 32(6A) by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

<sup>3</sup>Reg. 32(7) added by reg. 10(b) of S.I. 1989/1323 as from 9.10.89.

<sup>1</sup>(6A) Where income is taken into account under paragraph (2B) of regulation 29 over the period specified in that paragraph, the amount of that income to be taken into account in respect of any week in that period shall be an amount equal to the amount of that income which would have been taken into account under regulation 62 had the person to whom that income was paid not ceased to be a <sup>2</sup>full-time student◀◀

<sup>3</sup>(7) Where any payment of earnings is taken into account under paragraph (4C) of regulation 29 (calculation of earnings derived from employed earner's employment and income other than earnings), over the period specified in that paragraph, the amount to be taken into account shall be equal to the amount of the payment.◀

[Regulation 33 (weekly amount of charitable or voluntary payment) deleted by regulation 8 of S.I. 1988/2022 as from 12.12.88.]

[Regulation 34 (incomplete weeks of benefit) deleted by regulation 16 of S.I. 1988/663 as from 11.4.88.]

## CHAPTER III

## Reg. 35

## EMPLOYED EARNERS

**Earnings of employed earners**

**35.—(1)** <sup>1</sup>Subject to paragraphs (2) and (3), “earnings” means in the case of employment as an employed earner, any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to a claimant on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice <sup>1</sup>◀;
- (d) any holiday pay except any payable more than four weeks after the termination or interruption of employment but this exception shall not apply to a claimant to whom <sup>2</sup>section 23 of the Act (trade disputes) applies or in respect of whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) of the Act (effect of return to work)◀;
- (e) any payment by way of a retainer;
- (f) any payment made by the claimant’s employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant’s employer in respect of—
  - (i) travelling expenses incurred by the claimant between his home and place of employment;
  - (ii) expenses incurred by the claimant under arrangements made for the case of a member of his family owing to the claimant’s absence from home;
- (g) any award of compensation made under section <sup>3</sup>112(4) or 117(3)(a) of the Employment Rights Act 1996 (the remedies: orders and compensation, enforcement of order and compensation)◀;
- <sup>3</sup>(gg) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);◀
- (h) any such sum as is referred to in section <sup>3</sup>112(3) of the Contributions and Benefits Act◀ (certain sums to be earnings for social security purposes);
- <sup>1</sup>(i) where—
  - <sup>4</sup>◀◀
  - (ii) a payment of compensation is made in respect of employment which is part-time employment, the amount of the compensation.
- <sup>5</sup>(j) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person’s earnings in accordance with <sup>6</sup>Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001(a).◀

(1A) <sup>4</sup>◀

(2) “Earnings” shall not include—

- (a) <sup>5</sup>subject to paragraph (2A)◀ any payment in kind;
- (b) any remuneration paid by or on behalf of an employer to the claimant <sup>7</sup>in respect of a period throughout which the claimant is on maternity leave <sup>8</sup>, paternity leave <sup>9</sup>, adoption leave or shared parental leave◀◀ or is absent from work because he is ill◀;
- (c) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- (d) any occupation pension

<sup>1</sup>Words substituted in reg. 35(1), deleted in para. (1)(c) & added in para. (1)(i) by reg. 11(a)(i)-(iii) of S.I. 1989/1323 as from 9.10.89.

<sup>2</sup>Words in reg. 35(1)(d) substituted by reg. 17 of S.I. 1988/663 as from 11.4.88.

<sup>3</sup>Words in reg. 35(1)(g) and (h) substituted & (gg) inserted by reg. 5(6)(a)(i)-(iii) of S.I. 2007/2618 as from 1.10.07.

<sup>4</sup>Reg. 35(1)(i) & para. (1A) omitted by reg. 2(7) of S.I. 2008/698 as from 14.4.08.

<sup>5</sup>Reg. 35(j) inserted & words in reg. 35(2)(a) inserted by regs. 2(5) & 5(b) of S.I. 1999/1509 as from 1.7.99.

<sup>6</sup>Words in reg. 35(1)(j) substituted by reg. 5(3) of S.I. 2006/2378 as from 2.10.06.

<sup>7</sup>Words in reg. 35(2)(b) substituted by reg. 12 of S.I. 1993/2119 as from 4.10.93.

<sup>8</sup>Words inserted in reg. 35(2)(b) by reg. 2(4) of S.I. 2002/2689 as from 8.12.02.

<sup>9</sup>Words in reg. 35(2)(b) substituted by art. 5(4) of S.I. 2014/3255 as from 31.12.14.

(a) S.I. 2001/1004.

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<sup>1</sup>Reg. 35(2)(e) inserted & word substituted in para. 3(a)(ii) by reg. 7(a) & (b) of S.I. 1997/454 as from 7.4.97.

<sup>2</sup>Reg. 35(2)(f) inserted by reg. 2(7) of S.I. 2009/2655 on or after 26.10.09 subject to reg. 1 *ibid*.

<sup>3</sup>Words in reg. 35(2)(f) substituted by reg. 2(3) of S.I. 2014/591 as from 28.4.14.

<sup>4</sup>Sub-para (2A) inserted by reg. 5(c) of S.I. 1999/1509 as from 1.7.99.

<sup>5</sup>Reg. 35(3) added by reg. 11(b) of S.I. 1989/1323 as from 9.10.89.

<sup>6</sup>Words substituted in para. (3)(a)(iii) by reg. 5(6)(b) and (c) of S.I. 2007/2618 as from 1.10.07.

<sup>7</sup>Head (v) added to reg. 35(3)(a) by art. 2 of S.I. 1990/774 as from 1.4.90.

<sup>8</sup>Reg. 35(3)(b) omitted by reg. 2(7) of S.I. 2008/698 as from 14.4.08.

<sup>9</sup>Reference substituted in reg. 35(3)(c) by reg. 2(4) of S.I. 1999/2556 as from 4.10.99.

<sup>10</sup>Words inserted in reg. 35(3)(c) by reg. 2(c) of S.I. 2000/681 as from 3.4.00.

<sup>1</sup>(e) any lump sum payment made under the Iron and Steel Re-adaption Benefits Scheme(a)◀.

<sup>2</sup>(f) any payment in respect of expenses arising out of the <sup>3</sup>claimant participating as a service user.◀◀

<sup>4</sup>(2A) Paragraph (2)(a) shall not apply in respect of any non-cash voucher referred to in paragraph (1)(j).◀

<sup>5</sup>(3) In this regulation—

(a) “compensation” means any payment made in respect of or on the termination of employment in a case where a person has not received or received only part of a payment in lieu of notice due or which would have been due to him had he not waived his right to receive it, other than—

(i) any payment specified in paragraph (1)(a) to (h);

(ii) any payment specified in paragraph (2)(a) to <sup>1</sup>(e)◀;

(iii) any redundancy payment within the meaning of section <sup>6</sup>135(1) of the Employment Rights Act 1996◀, and

(iv) any refund of contributions to which that person was entitled under an occupation pension scheme within the meaning of section 66(1) of the Social Security Persons Act 1975(b);

<sup>7</sup>(v) any compensation payable by virtue of section 173 or section 178(3) or (4) of the Education Reform Act 1988;◀

(b) <sup>8</sup>◀

*Para. 8(1)(c) was repealed and re-enacted (22.8.96) in s. 227(1) of Employment Rights Act 1996 (c. 18).*

(c) “part-time employment” means employment in which a person is not to be treated as engaged in remunerative work under regulation 5 or <sup>9</sup>6(1) <sup>10</sup>and (4)◀◀ (persons treated, or not treated, as engaged in remunerative work).◀

**Calculation of net earnings of employed earners**

**36.—**(1) For the purposes of regulation 29 (calculation of earnings of employed earners) the earnings of a claimant derived from employment as an employed earner to be taken into account shall, subject to paragraph (2), be his net earnings.

(a) The Scheme is set out in regulation 4 of and the Schedule to, the European Communities (Iron and Steel Employees Re-adaptation Benefits Scheme) (No. 2) (Amendment) Regulations 1996 (S.I. 1996/3812).

(b) 1975 c. 60.

(2) There shall be disregarded from a claimant's net earnings, any sum, where applicable, specified in paragraphs 1 to 13<sup>1</sup> or 15A<sup>1</sup> of Schedule 8.

<sup>1</sup>Words in reg. 36(2) substituted by reg. 2(b) of S.I. 2003/1589 as from 25.10.04.

(3) For the purposes of paragraph (1) net earnings shall be calculated by taking into account the gross earnings of the claimant from that employment less—

- (a) any amount deducted from those earnings by way of—
  - (i) income tax;
  - (ii) primary Class 1 contributions under the Social Security Act(a); and
- (b) one-half of any sum paid by the claimant<sup>2</sup> in respect of a pay period<sup>2</sup> by way of a contribution towards an occupational or personal pension scheme.

<sup>2</sup>Words inserted into reg. 36(3)(b) by reg. 26 of S.I. 1994/2139 as from 3.10.94.

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(a) See sections 1(2) and 4 of the Social Security Act 1975 (c. 14); section 1 was amended by the Employment Protection Act 1975 (c. 71), section 40, the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), section 24 and Schedule 2, the Social Security (Contributions) Act 1982 (c. 2) section 2, the Social Security Act 1985 (c. 53) section 29 and Schedule 5, paragraph 5, the Social Security Act 1986 (c. 50), section 86 and Schedule 11 and S.I. 1987/48; section 4 was amended by the Social Security Pensions Act 1975 (c. 60), Schedule 4, paragraph 36, the Education (School Leaving Dates) Act 1976 (c. 5), section 2(4), the Social Security Act 1979 (c. 18), section 14(1), the Social Security and Housing Benefits Act 1982 (c. 24), Schedule 5, the Social Security Act 1985 (c. 53) sections 7(1) and (2) and 8(1) the Social Security Act 1986 (c. 50) sections 74(1)(a) and (2) and 86 and Schedule 10, paragraph 104, article 2 of S.I. 1986/25 and article 2 of S.I. 1987/46.

## Regs. 37-38

## CHAPTER IV

## SELF-EMPLOYED EARNERS

**Earnings of self-employed earners**

**37.—**(1) Subject to paragraph (2) “earnings”, in the case of employment as a self-employed earner, means the gross receipts of the employment and shall include any allowance paid under section 2 of the Employment and Training Act 1973<sup>1</sup>(a) or section 2 of the Enterprise and New Towns (Scotland) Act 1990<sup>2</sup>(b) to the claimant for the purpose of assisting him in carrying on his business.

<sup>1</sup>Words inserted into reg. 37(1) by art. 2 of, and Sch. to, S.I. 1991/387 as from 1.4.91.

<sup>2</sup>Reg. 37(2) substituted by reg. 16 of S.I. 1992/2155 as from 5.10.92.

<sup>3</sup>Reg. 37(2)(b) substituted by reg. 27 of S.I. 1994/2139 as from 3.10.94.

<sup>4</sup>Words substituted, words & reg. 37(2)(ba) & (3) inserted in reg. 37 by regs. 2(2) & 10(3) of S.I. 2017/995 as from 7.11.17.

<sup>5</sup>Sub-para. (c) inserted by reg. 6(3) of S.I. 1999/2165 as from 23.8.99.

<sup>2</sup>(2) “Earnings” shall not include—

- (a) where a claimant is involved in providing board and lodging accommodation for which a charge is payable, any payment by way of such a charge;
- <sup>3</sup>(b) any payment to which paragraph <sup>4</sup>26, 27 or 27A<sup>4</sup> of Schedule 9 refers (payments in respect of a person accommodated with the claimant under an arrangement made by a local authority or voluntary organisation<sup>4</sup>, payments<sup>4</sup> made to the claimant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the claimant’s care<sup>4</sup> and any payments made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014<sup>5</sup>(c) (kinship care assistance)).<sup>4</sup>
- <sup>4</sup>(ba) any payment made in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care)—
  - (i) to a claimant; or
  - (ii) where paragraph (3) applies, to another person (“A”) which A passes on to the claimant;<sup>4</sup>
- <sup>5</sup>(c) any sports award.<sup>4</sup>
- <sup>4</sup>(3) This paragraph applies only where A—
  - (a) was formerly in the claimant’s care;
  - (b) is aged 16 or over; and
  - (c) continues to live with the claimant.<sup>4</sup>

**Calculation of net profit of self-employed earners**

**38.—**(1) For the purposes of regulation 30 (calculation of earnings of self-employed earners), the earnings of a claimant to be taken into account shall be—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners’ Benefits) Regulation 1975<sup>6</sup>(d), his share of the net profit derived from that employment less—
  - (i) an amount in respect of income tax and of social security contributions payable under the Social Security Act calculated in accordance with regulation 39 (deduction of tax and contributions for self-employed earners); and
  - (ii) <sup>6</sup>one half of any premium paid<sup>7</sup> in the period that is relevant under regulation 30<sup>8</sup> in respect of<sup>8</sup> a personal pension scheme<sup>4</sup>.

<sup>6</sup>Words in reg. 38(1)(b)(ii) substituted by reg. 13(2) of S.I. 1993/2119 as from 4.10.93.

<sup>7</sup>Words inserted into reg. 38(1)(b)(ii) by reg. 28 of S.I. 1994/2139 as from 3.10.94.

<sup>8</sup>Words omitted in reg. 38(1)(b)(ii) by reg. 2(3) of S.I. 2007/1749 as from 16.7.07.

<sup>9</sup>Words in reg. 38(2) omitted by reg. 2(c) of S.I. 2003/1589 as from 25.10.04.

(2) There shall be disregarded from a claimant’s net profit any sum, where applicable, specified in paragraphs 1 to 13<sup>9</sup> of Schedule 8.

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- (a) 1973 c. 50; section 2 was amended by section S. 9 and 11 and Schedule 2 Part II paragraph 9 and Schedule 3 of the Employment and Training Act 1981 (c. 57).
  - (b) 1990 c. 35.
  - (c) 2014 asp. 8.
  - (d) S.I. 1975/529.

(3) For the purposes of paragraph (1)(a) the net profit of the employment shall, except where paragraph (9) applies, be calculated by taking into account the earnings of the employment over the period determined under regulation 30 (calculation of earnings of self-employed earners) less—

- (a) subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed in that period for the purposes of that employment;
- (b) an amount in respect of—
  - (i) income tax; and
  - (ii) social security contributions payable under the Social Security Act. calculated in accordance with regulation 39 (deduction of tax and contributions for self-employed earners); and
- (c) <sup>1</sup>one half of any premium paid <sup>2</sup>in the period that is relevant under regulation 30<sup>3</sup> in respect of <sup>3</sup>a personal pension scheme<sup>4</sup>.

(4) For the purposes of paragraph (1)(b), the net profit of the employment shall be calculated by taking into account the earnings of the employment over the period determined under regulation 30 less, subject to paragraphs (5) to (7), any expenses wholly and exclusively defrayed in that period for the purposes of that employment.

(5) Subject to paragraph (6), no deduction shall be made under paragraph (3)(a) or (4) in respect of—

- (a) any capital expenditure;
- (b) the depreciation of any capital asset;
- (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
- (d) any loss incurred before the beginning of the period determined under regulation 30 (calculation of earnings of self-employed earners);
- (e) the repayment of capital on any loan taken out for the purposes of the employment;
- (f) any expenses incurred in providing business entertainment.

(6) A deduction shall be made under paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—

- (a) the replacement in the course of business of equipment or machinery; and
- (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

(7) <sup>4</sup>The Secretary of State<sup>4</sup> shall refuse to make a deduction in respect of any expenses under paragraph (3)(a) or (4) where he is not satisfied that the expense has been defrayed or, having regard to the nature of the expense and its amount, that it has been reasonably incurred.

(8) For the avoidance of doubt—

- (a) a deduction shall not be made under paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction shall be made thereunder in respect of—
  - (i) the excess of any VAT paid over VAT received in the period determined under regulation 30 (calculation of earnings of self-employed earners);
  - (ii) any income expended in the repair of an existing asset except to the extent that any sum is payable under an insurance policy for its repair;
  - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where a claimant is engaged in employment as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less—

- (a) an amount in respect of—
  - (i) income tax; and

<sup>1</sup>Words in reg. 38(3)(c) substituted by reg. 13(2) of S.I. 1993/2119 as from 4.10.93.

<sup>2</sup>Words inserted into reg. 38(3)(c) by reg. 28 of S.I. 1994/2139 as from 3.10.94.

<sup>3</sup>Words omitted in reg. 38(3)(c) by reg. 2(2) of S.I. 2007/1749 as from 16.7.07.

<sup>4</sup>Words substituted in reg. 38(7) by para. 2(a) of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

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(ii) social security contributions payable under the Social Security Act, calculated in accordance with regulation 39 (deduction of tax and contributions for self-employed earners); and

(b) <sup>1</sup>one half of any premium paid in respect of <sup>2</sup>◀ a personal pension scheme◀.

<sup>1</sup>Words in reg. 38(9)(b) substituted by reg. 13(2) of S.I. 1993/2119 as from 4.10.93.

<sup>2</sup>Words omitted in reg. 38(9)(b) by reg. 2(3) of S.I. 2007/1749 as from 16.7.07.

<sup>3</sup>Words substituted in reg. 38(10) by para. 2(b) of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

<sup>4</sup>Reg. 38(12) deleted by reg. 6(3) of S.I. 1995/2303 as from 3.10.95.

<sup>5</sup>Words substituted and words inserted in reg. 39(1) by reg. 17 of S.I. 1992/2155 as from 5.10.92.

<sup>6</sup>Words omitted and words substituted in reg. 39(1) by reg. 2(7)(a) & (b) of S.I. 2009/583 as from 6.4.09.

<sup>7</sup>Words in reg. 39(1) inserted & substituted by reg. 2(3)(a)-(d) of S.I. 2016/233 as from 6.4.16.

<sup>8</sup>Words substituted in reg. 39(1) by reg. 5(7) of S.I. 2007/2618 as from 1.10.07.

<sup>9</sup>Words deleted from reg. 39(1) by reg. 29 of S.I. 1994/2139 as from 3.10.94.

<sup>10</sup>Sub-paras. (a) & (b) of reg. 39(2) substituted by reg. 14 of S.I. 1993/2119 as from 4.10.93.

<sup>11</sup>Words in reg. 39(2)(a) substituted by reg. 27(a)-(c) of S.I. 2015/478 as from 6.4.15.

(10) Notwithstanding regulation 30 (calculation of earnings of self-employed earners) and the foregoing paragraphs, <sup>3</sup>the Secretary of State◀ may assess any item of a claimant's income or expenditure over a period other than that determined under regulation 30 as may, in the particular case, enable the weekly amount of that item of income or expenditure to be determined more accurately.

(11) For the avoidance of doubt where a claimant is engaged in employment as a self-employed earner and he is engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.

(12) <sup>4</sup>◀

### Deduction of tax and contributions for self-employed earners

**39.—**(1) The amount to be deducted in respect of income tax under regulation 38(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at <sup>5</sup> <sup>6</sup>◀ the basic rate <sup>7</sup>, or in the case of a Scottish taxpayer, the Scottish basic rate,◀ of tax◀ less only the <sup>7</sup>personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007(a) as are◀ appropriate to his circumstances; but, if the period determined under regulation 30 (calculation of earnings of self-employed earners) is less than a year, <sup>5</sup>the earnings to which the <sup>8</sup> <sup>6</sup>basic◀ rate◀<sup>7</sup>, or the Scottish basic rate,◀<sup>9</sup>◀ of tax is to be applied and◀ the amount of the personal relief deductible under this paragraph shall be calculated on a *pro rata* basis.

(2) The amount to be deducted in respect of social security contributions under regulations 38(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) shall be the total of—

<sup>10</sup>(a) the amount of Class 2 contributions payable under section <sup>11</sup>11(2)◀ or, as the case may be, <sup>11</sup>11(8)◀ of the Contributions and Benefits Act at the rate applicable at the date of claim except where the claimant's chargeable income is less than the amount specified in section 11(4) of that Act ( <sup>11</sup>small profits threshold◀) for the tax year in which the date of claim falls; but if the assessment period is less than a year, the amount specified for that tax year shall be reduced *pro rata*; and

(b) the amount of Class 4 contributions (if any) which would be payable under section 15 of that Act (Class 4 contributions recoverable under the Income Tax Acts) at the chargeable income as exceed the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year in which the date of claim falls; but if the assessment period is less than a year, those limits shall be reduced *pro rata*.◀

(a) 2007 c. 3. Chapter 3A was inserted by section 11(2) of the Finance Act 2014 (c. 26).



- (3) In this regulation “chargeable income” means—
- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph (3)(a) or, as the case may be, (4) of regulation 38;
  - (b) in the case of employment as a child minder, one-third of the earnings of that employment.

<sup>1</sup>CHAPTER IVA

PARTICIPANTS IN THE SELF-EMPLOYMENT ROUTE <sup>2</sup>◀

**Interpretation**

**39A.** In this Chapter—

<sup>2</sup>◀

“special account ” means, where a person was carrying on a commercial activity in respect of which assistance is received under the self-employed route, the account into which the gross receipts from that activity were payable during the period in respect of which such assistance was received.

<sup>1</sup>Chapter IVA (regs. 39A-39D) inserted by reg. 6(3) of S.I. 1998/1174 as from 1.6.98.  
<sup>2</sup>Words omitted in reg. 39C(1)(a) and in the titles to Chapter IVA and regs. 39B and 39C defn. of “self-employment route” omitted in reg. 39A, by reg. 5 of S.I. 2000/2910 as from 27.11.00.

**Treatment of gross receipts of participants in the self-employment route** <sup>2</sup>◀

**39B.** The gross receipts of a commercial activity carried on by a person in respect of which assistance is received under the self-employment route, shall be taken into account in accordance with the following provisions of this Chapter.

**Calculation of income of participants in the self-employment route** <sup>2</sup>◀

**39C.—**(1) The income of a person who has received assistance under the self-employment route shall be calculated by taking into account the whole of the monies in the special account at the end of the last day upon which such assistance was received and deducting from those monies—

- (a) an amount in respect of income tax calculated in accordance with regulation 39D (deduction in respect of tax for participants in the self-employment route <sup>2</sup>◀); and
- (b) any sum to which paragraph (4) refers.

(2) Income calculated pursuant to paragraph (1) shall be apportioned equally over a period which starts on the date the income is treated as paid under paragraph (3) and is equal in length to the period beginning with the day upon which assistance was first received under the self-employment route and ending on the last day upon which such assistance was received.

- (3) Income calculated pursuant to paragraph (1) shall be treated as paid—
- (a) in the case where it is due to be paid before the first benefit week in respect of which the participant or his partner first claims income support following the last day upon which assistance was received under the self-employment route, on the day in the week in which it is due to be paid which corresponds to the first day of the benefit week;
  - (b) in any other case, on the first day of the benefit week in which it is due to be paid.

(4) This paragraph refers, where applicable in each benefit week in respect of which income calculated pursuant to paragraph (1) is taken into account pursuant to paragraphs (2) and (3), to the sums which would have been disregarded under paragraphs 4 to 6B and 9 of Schedule 8 had the income been earnings.

**Regs. 39D-40**

<sup>1</sup>Words omitted in the title to reg. 39D and in reg. 39D(1) by reg. 5 of S.I. 2000/2910 as from 27.11.00.

<sup>2</sup>Reg. 39D(1)(b) substituted & words in para. (1)(c) & (2) substituted & inserted by reg. 2(4)(a)-(c) of S.I. 2016/233 as from 6.4.16.

<sup>3</sup>Words omitted & words substituted in reg. 39D(1)(c) & (2) by reg. 2(8) of S.I. 2009/583 as from 6.4.09.

<sup>4</sup>Words substituted in reg. 39D(2) by reg. 5(8) of S.I. 2007/2618 as from 1.10.07.

<sup>5</sup>Words in reg. 40(1) omitted by reg. 3(4) of S.I. 2011/674 as from 11.4.11.

<sup>6</sup>Ref. in reg. 40(1) substituted by reg. 13(1) of S.I. 1998/563 as from 6.4.98.

<sup>7</sup>Words substituted in reg. 40(1) by para. 8 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>8</sup>Words substituted in reg. 40(1) by para. 8 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>9</sup>Words deleted from reg. 40(1) by reg. 9 of S.I. 1988/2022 as from 12.12.88.

<sup>10</sup>Para. (3A) substituted by reg. 5(1) of S.I. 2001/2319 as from 1.8.01.

<sup>11</sup>Words substituted in reg. 40(3A) by reg. 2(2)(a) of S.I. 2008/1599 as from 1.9.08 (or during August 2008 if reg. 1(3)(a) (ibid) applies).

**Deduction in respect of tax for participants in the self-employment route <sup>1</sup>◀**

**39D.**—(1) The amount to be deducted in respect of income tax under regulation 39C(1)(a) (calculation of income of participants in the self-employment route <sup>1</sup>◀) in respect of the period determined under regulation 39C(2) shall be calculated as—

- (a) the chargeable income is the only income chargeable to tax;
- <sup>2</sup>(b) the personal reliefs applicable to the person receiving assistance under the self-employment route under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 are allowable against that income;◀ and
- (c) the rate at which the chargeable income less the personal <sup>2</sup>reliefs◀ is assessable to income tax is <sup>3</sup>◀ the basic rate <sup>2</sup>, or in the case of a Scottish taxpayer, the Scottish basic rate,◀ of tax.

(2) For the purpose of paragraph (1), the <sup>4</sup> <sup>3</sup>basic◀ rate◀<sup>2</sup>, or the Scottish basic rate,◀ of tax to be applied and the amount of the <sup>2</sup>personal reliefs◀ deductible shall, where the period determined under regulation 39C(2) is less than a year, be calculated on a pro rata basis.

(3) In this regulation, “chargeable income” means the monies in the special account at the end of the last day upon which assistance was received under the self-employment route.◀

## CHAPTER V

## OTHER INCOME

**Calculation of income other than earnings**

**40.**—(1) For the purposes of regulation 29 (calculation of income other than earnings) <sup>5</sup>◀ the income of a claimant which does not consist of earnings to be taken into account shall, subject to <sup>6</sup>paragraphs (2) to (3B)◀, be his gross income and any capital treated as income under <sup>7</sup>regulation 41 (capital treated as income)◀

*Reg. 40 is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

40.—(1) For the purposes of regulation 29 (calculation of income other than earnings) the income of a claimant which does not consist of earnings to be taken into account shall, subject to <sup>8</sup>paragraphs (2) to (3B)◀, be his gross income and any capital treated as income under regulations <sup>9</sup>◀ 41 and 44 ( <sup>9</sup>◀ capital treated as income and modifications in respect of children and young persons).

(2) There shall be disregarded from the calculation of a claimant’s gross income under paragraph (1), any sum, where applicable, specified in Schedule 9.

(3) Where the payment of any benefit under the benefit Acts(a) is subject to any deduction by way of recovery the amount to be taken into account under paragraph (1) shall be the gross amount payable.

<sup>10</sup>(3A) <sup>11</sup>Paragraphs (3AA) and (3AAA) apply◀ where—

- (a) a relevant payment has been made to a person in an academic year; and
- (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.

(a) The benefit Acts are specified in section 84(1) of the Social Security Act 1986 (c. 50).

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(3AA) <sup>1</sup>Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (3A) applies, shall be calculated by applying the formula—

$$\frac{A - (B \times C)}{D}$$

where—

A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under regulation 66A(5);

B = the number of benefit weeks from the benefit week immediately following that which includes the first day of that academic year to the benefit week immediately before that which includes the day on which the person abandoned, or was dismissed from, his course;

C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under regulation 66A(2) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to income support immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to income support;

D = the number of benefit weeks in the assessment period.

<sup>1</sup>(3AAA) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of paragraph (1) in respect of a person to whom paragraph (3A) applies, shall be calculated by applying the formula in paragraph (3AA) but as if—

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under regulation 66A(5).◀

(3AB) <sup>1</sup>In this regulation◀—

“academic year” and “student loan” shall have the same meanings as for the purposes of Chapter VIII of this Part;

<sup>1</sup>“assessment period” means—

- (a) in a case where a relevant payment is made quarterly, the period beginning with the benefit week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the benefit week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;
- (b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the benefit week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the benefit week which includes—
  - (i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
  - (ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person,

whichever of those dates is earlier;◀

<sup>1</sup>“quarter” in relation to an assessment period means a period in that year beginning on—

- (a) 1st January and ending on 31st March;
- (b) 1st April and ending on 30th June;

<sup>1</sup>Words substituted in paras. (3AA) and (3AB), para. (3AAA) inserted, “assessment period” substituted and “quarter” inserted by regs. 2(2)(b)-(d) of S.I. 2008/1599 as from 1.9.08 (or during August 2008 if reg. 1(3)(a) (ibid) applies).

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- (c) 1st July and ending on 31st August; or  
 (d) 1st September and ending on 31st December;◀

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in regulation 62(3B) or both.◀

<sup>1</sup>Para. (3B) inserted in reg. 40 by reg. 7(1) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.  
<sup>2</sup>Words inserted in reg. 40(4) by reg. 3(6) of S.I. 2000/636 as from 3.4.00.

<sup>1</sup>(3B) In the case of income to which regulation 29(2B) applies (calculation of income of former students), the amount of income to be taken into account for the purposes of paragraph (1) shall be the amount of that income calculated in accordance with regulation 32(6A) and on the basis that none of that income has been repaid.◀

(4) <sup>2</sup>Subject to paragraph (5)◀ for the avoidance of doubt there shall be included as income to be taken into account under paragraph (1)–

<sup>2</sup>(a) any payment to which regulation 35(2)(a) or 37(2) (payments not earnings) applies; or

(b) in the case of a claimant who 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, the amount of such support provided in respect of essential living needs of the claimant and his <sup>3</sup>partner◀ (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act;◀

<sup>3</sup>Word substituted in reg. 40(4)(b) by para. 8 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

*Reg. 40(4)(b) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

(b) in the case of a claimant who 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, the amount of such support provided in respect of essential living needs of the claimant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act;◀

<sup>4</sup>Para. 40(5) added by reg. 3(6) of S.I. 2000/636 as from 3.4.00.

<sup>4</sup>(5) In the case of a claimant who 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, there shall not be included as income to be taken into account under paragraph (1) the amount of support provided in respect of essential living needs of the partner of the claimant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.◀

<sup>5</sup>Reg. 40(6) added by reg. 2(7) of S.I. 2008/1554 as from 27.10.08.

- <sup>5</sup>(6) Where the claimant–
- (a) is a member of a couple;
- (b) his partner is receiving a contributory employment and support allowance; and
- (c) that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations, <sup>6</sup>or section 11J of the Welfare Reform Act (b) as the case may be◀.

<sup>6</sup>Words inserted in reg. 40(6)(c) by reg. 28(5) of S.I. 2013/630 as from 29.4.13.

the amount of that benefit to be taken into account is the amount as if it has not been so reduced.◀

**Capital treated as income**

<sup>7</sup>Reg. 41(1) substituted by para. 3 of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

- 41.—** <sup>7</sup>(1) Capital which is payable by instalments which are outstanding on–
- (a) the first day in respect of which income support is payable or the date of the determination of the claim, whichever is earlier; or
- (b) in the case of supersession, the date of that supersession,

shall be treated as income if the aggregate of the instalments outstanding and the amount of the claimant’s capital otherwise calculated in accordance with Chapter VI of this Part exceeds <sup>8</sup>◀ £16,000.◀

<sup>8</sup>Words omitted in reg. 41(1) by reg. 2(2) of S.I. 2005/2465 as from 10.4.06.

(a) Regulation 35(2) is amended by regulation 2(5) of S.I. 1999/1509.

(b) Section 11J was inserted by section 57 of the Welfare Reform Act 2012 (c. 5).

(2) Any payment received under an annuity shall be treated as income.

(3) <sup>1</sup>◀

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

(3) In the case of a person to whom section 23 of the Act (trade disputes) applies <sup>2</sup>or in respect of whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) of the Act (effect of return to work)◀, any payment under <sup>3</sup> <sup>4</sup>section 17, 23B, 23C or 24A of the Children Act 1989◀ or, as the case may be, <sup>5</sup>section 12 of the Social Work (Scotland) Act 1968 or sections 29 or 30 of the Children (Scotland) Act 1995◀ (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) shall be treated as income◀.

<sup>6</sup>(4) In the case of a person to whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) of that Act (effect of return to work), any amount by way of repayment of income tax deducted from his emoluments in pursuance of section 203 of the Income and Corporation Taxes Act 1988(a), shall be treated as income.◀

<sup>7</sup>(5) Any earnings to the extent that they are not a payment of income shall be treated as income.◀

<sup>8</sup>(6) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 shall be treated as income.◀

<sup>9</sup>(7) Where an agreement or court order provides that payments shall be made to the claimant in consequence of any personal injury to the claimant and that such payments are to be made, wholly or partly, by way of periodical payments, any such periodical payments received by the claimant (but not a payment which is treated as capital by virtue of this Part), shall be treated as income.◀

**Notional income**

**42.—** <sup>10</sup>(1) A claimant is to be treated as possessing income of which the claimant has deprived themselves for the purpose of securing entitlement to income support or increasing the amount of that benefit, or for the purpose of securing entitlement to, or increasing the amount of a jobseeker's allowance or an employment and support allowance.◀

(2) Except in the case of—

- (a) discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury;

<sup>11</sup>(c) jobseeker's allowance;◀

(d) <sup>12</sup>◀

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

<sup>13</sup>(d) child benefit to which paragraph (2D) refers;◀

<sup>14</sup>(e) <sup>15</sup>working tax credit◀;

(f) <sup>15</sup>child tax credit◀◀

<sup>1</sup>Reg. 41(3) omitted by para. 9 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>2</sup>Words in reg. 41(3) substituted by reg. 18 of S.I. 1988/663 as from 11.4.88.

<sup>3</sup>Words in reg. 41(3) substituted by reg. 7 of S.I. 1989/1034 as from 10.7.89.

<sup>4</sup>Words in reg. 41(3) substituted by Sch. 1, para. (c)(i), of S.I. 2001/3070 as from 1.10.01.

<sup>5</sup>Words substituted in reg. 41(3) by reg. 5 of S.I. 2004/1141 as from 12.5.04.

<sup>6</sup>Para. (4) added to reg. 41 by reg. 9 of S.I. 1988/1445 as from 12.9.88.

<sup>7</sup>Reg. 41(5) added by reg. 13 of S.I. 1989/1323 as from 9.10.89.

<sup>8</sup>Reg. 41(6) inserted by reg. 3(3)(e) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

<sup>9</sup>Para. (7) inserted into reg. 41 by reg. 2(c) of S.I. 2002/2442 as from 28.10.02.

<sup>10</sup>Reg. 42(1) substituted by reg. 7(4) of S.I. 2011/2425 as from 31.10.11.

<sup>11</sup>Reg. 42(2)(c) substituted by reg. 17 of S.I. 1996/206 as from 7.10.96.

<sup>12</sup>Reg 42(2)(d) omitted by para. 10(a) of Sch. 1 to S.I. 2003/455 as from 6.4.04

<sup>13</sup>Reg. 2(2)(d) substituted by reg. 37(a) of S.I. 1996/1803 as from 7.4.97.

<sup>14</sup>Sub-para. (e) and (f) inserted in reg. 42(2) by reg. 4 of S.I. 1992/468 as from 6.4.92.

<sup>15</sup>Words substituted in reg. 42(2)(e) and (f) by Sch. 1 para. 10(b) & (c) of S.I. 2003/455 as from 7.4.03 or after subject to reg. 1(5)(a) *ibid.*

(a) 1988 c. 1.

**Reg. 42**

<sup>1</sup>Sub-para. (g) added to reg. 42(2) by reg. 6(4)(a) of S.I. 1995/2303 as from 2.10.95.

<sup>2</sup>Words inserted in reg. 42(2)(g) & reg. 42(2A) substituted by reg. 2(3)(a) & (b) of S.I. 2005/2465 as from 6.4.06.

<sup>3</sup>Words substituted in reg. 42(2)(g) & (2ZA)(a) by reg. 2(2)(a) & (b) of S.I. 2006/588 as from 6.4.06.

<sup>4</sup>In reg. 42 words omitted in (2)(g) & (2ZA)(a); (2A) & (2AA) substituted for (2A) & words substituted in (2B) by reg. 2(6)(a)-(d) of S.I. 2007/1749 as from 16.7.07.

<sup>5</sup>Words substituted in reg. 42(2)(g), (2ZA) & (2A) by reg. 2(6)(a)-(c) of S.I. 2010/641 as from 1.4.10.

<sup>6</sup>Reg. 42(2)(ga) inserted by reg. 2(9)(a) of S.I. 2009/2655 on or after 26.10.09 & subject to reg. 1 *ibid.*

<sup>7</sup>Reg. 42(2)(h) omitted by reg. 3(3)(a) of S.I. 2005/574 as from 4.4.05.

<sup>8</sup>Sub-para. (i) inserted in reg. 42(2) by reg. 5(4) of S.I. 1997/2197 as from 6.10.98.

<sup>9</sup>Reg. 42(2)(i) & (ia) substituted for (i) by reg. 2(3) of S.I. 2007/719 as from 2.4.07.

<sup>10</sup>Sub-para. (j) inserted in reg. 42(2) by reg. 6(1) of S.I. 1998/563 as from 6.4.98.

<sup>11</sup>Words in reg. 42(2) substituted by reg. 19(a) of S.I. 1988/663 as from 11.4.88.

<sup>12</sup>Paras. (2B)-(2C) inserted in reg. 42 by reg. 6(4)(b) of S.I. 1995/2303 as from 2.10.95 for new cases, or for existing cases, from date of review specified in reg. 1(5)(a)(i) *ibid.* but not later than 1.10.98.

<sup>13</sup>Words substituted in reg. 42(2B) by reg. 4 of S.I. 2017/1015 as from 16.11.17.

<sup>14</sup>Words substituted in reg. 42(2B) by para. 4(a) of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

<sup>1</sup>(g) a personal pension scheme <sup>2</sup>, occupational pension scheme<sup>3</sup>, <sup>4</sup> or a payment made by the Board of the Pension Protection Fund<sup>5</sup> where the claimant has not attained the qualifying age for state pension credit<sup>6</sup>

<sup>6</sup>(ga) any sum to which paragraph (8ZA) applies;<sup>7</sup>

(h) <sup>7</sup>

<sup>8</sup> <sup>9</sup>(i) any sum to which paragraph 44(2)(a) of Schedule 10 (capital to be disregarded) applies which is administered in the way referred to in paragraph 44(1)(a);<sup>10</sup>

(ia) any sum to which paragraph 45(a) of Schedule 10 refers; or<sup>11</sup>

<sup>10</sup>(j) rehabilitation allowance made under section 2 of the Employment and Training Act 1973(a).<sup>11</sup>

income which would become available to the claimant upon application being made but which has not been acquired by him shall be treated as possessed by him but only from the date on which <sup>11</sup>it could be expected to be acquired were an application made<sup>12</sup>.

<sup>2</sup>(2ZA) A claimant who has attained the <sup>5</sup>qualifying age for state pension credit<sup>6</sup> shall be treated as possessing—

(a) the amount of any income from an occupational pension scheme, <sup>3</sup>a personal pension scheme, <sup>4</sup> or the Board of the Pension Protection fund<sup>5</sup>—

(i) for which no claim has been made, and

(ii) to which he might expect to be entitled if a claim for it were made;

(b) income from an occupational pension scheme which the claimant elected to defer,

but only from the date on which it could be expected to be acquired were an application for it to be made.

<sup>4</sup>(2A) This paragraph applies where a person <sup>5</sup>who has attained the qualifying age for state pension credit<sup>6</sup>—

(a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;

(b) fails to purchase an annuity with the funds available in that scheme; and

(c) either—

(i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or

(ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or

(iii) income withdrawal is not available to him under that scheme.

(2AA) Where paragraph (2A) applies, the amount of any income foregone shall be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.<sup>13</sup>

<sup>12</sup>(2B) The amount of any income foregone in a case <sup>4</sup>where paragraph (2A)(c)(i) or (ii)<sup>13</sup> applies shall be the <sup>13</sup>rate of the annuity which may have been purchased with the fund<sup>14</sup> and shall be determined by the <sup>14</sup>Secretary of State<sup>14</sup> who shall take account of information provided by the pension fund holder in accordance with regulation 7(5) of the Social Security (Claims and Payments) Regulations 1987(b).

(a) 1973 c. 50 as amended by s. 25 of the Employment Act 1988 (c. 19).

(b) Para. (5) is inserted in reg. 7 by reg. 10(3) of S.I. 1995/2303.

(2C) The amount of any income foregone in a case <sup>1</sup>where paragraph (2A)(c)(iii)◀ applies shall be the income that the <sup>2</sup>person◀ could have received without purchasing an annuity had the funds held under the <sup>3</sup>relevant occupational or personal pension scheme◀ <sup>4</sup>◀ been held <sup>3</sup>under a scheme◀ where income withdrawal was available and shall be determined in the manner specified in paragraph (2B).◀

<sup>3</sup>(2CA) In paragraph (2A), “money purchase benefits” has the meaning it has in the Pension Schemes Act 1993(a).◀

(2D) <sup>5</sup>◀

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

<sup>6</sup>(2D) This paragraph refers to child benefit payable in accordance with regulation 2(1)(a)(ii) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976(b) (weekly rate for only, elder or eldest child of a lone parent) but only to the extent that it exceeds the amount specified in regulation 2(1)(a)(i) of those Regulations.◀

(3) Except in the case of a discretionary trust, or a trust derived from a payment made in consequence of a personal injury, any income which is due to be paid to the claimant but—

- (a) has not been paid to him;
- (b) is not a payment prescribed in regulation <sup>7</sup>8 or 9◀ of the Social Security (Payments on Account, Overpayment and Recovery) Regulations <sup>7</sup>1988◀ (duplication and prescribed payments or maintenance payments) and not made on or before the date prescribed in relation to it,

shall <sup>8</sup>except for any amount to which paragraph (3A) <sup>9</sup>, (3B) or (3C)◀ applies◀ be treated as possessed by the claimant.

<sup>8</sup>(3A) This paragraph applies to an amount which is due to be paid to the claimant under an occupational pension scheme but which is not paid because the trustees or managers of the scheme have suspended or ceased payments <sup>10</sup>◀ due to an insufficiency of resources.

(3B) This paragraph applies to any amount by which a payment is made to the claimant from an occupational pension scheme falls short of the payment to which he was due under the scheme where the shortfall arises because the trustees or managers of the scheme have insufficient resources available to them to meet in full the scheme’s liabilities <sup>10</sup>◀◀

<sup>9</sup>(3C) This paragraph applies to any earnings which are due to an employed earner on the termination of his employment by reason of redundancy but which have not been paid to him.◀

<sup>11</sup>(4) <sup>12</sup>Any payment of income, other than a payment of income specified in paragraph (4ZA).◀

- (a) to a third party in respect of a single claimant or <sup>13</sup>his partner◀ (but not a member of the third party’s family) shall be treated—
  - (i) in a case where that payment is derived from a payment of any benefit under the benefits Acts, <sup>14</sup>a payment from the Armed Forces and Reserve Forces Compensation Scheme,◀ war disablement pension <sup>15</sup>,

<sup>1</sup>In reg. 42 words substituted in (2C) by reg. 2(6) of S.I. 2007/1749 as from 16.7.07.

<sup>2</sup>Word in reg. 42(2C) substituted by reg. 29(2) of S.I. 2002/3019 as from 6.10.03.

<sup>3</sup>Words substituted in reg. 42(2C) & (2CA) inserted by reg. 2(3) of S.I. 2005/2465 as from 6.4.06.

<sup>4</sup>Words omitted in reg. 42(2C) by reg. 2(6) of S.I. 2007/1749 as from 16.7.07.

<sup>5</sup>Reg 42(2D) omitted by para 19(d) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>6</sup>Reg. 42(2D) inserted by reg. 37(b) of S.I. 1996/1803 as from 7.4.97.

<sup>7</sup>Words substituted in reg. 42(3)(b) by reg. 3(2) of S.I. 2001/859. See reg. 1 of S.I. 2001/859 for relevant effective dates.

<sup>8</sup>Words inserted in reg. 42(3), and reg. 42(3A) and (3B) inserted, by reg. 2 of S.I. 1992/1198 as from 22.5.92.

<sup>9</sup>Words inserted in reg. 42(3) & para. (3C) inserted by reg. 2 of S.I. 1999/3324 as from 7.1.00.

<sup>10</sup>Words deleted from reg. 42(3A) and (3B) by reg. 6 of S.I. 1993/315 as from 12.4.93.

<sup>11</sup>Reg. 42(4)(a)(i) substituted by reg. 10 of S.I. 1988/1445 as from 12.9.88.

<sup>12</sup>Words substituted in reg. 42(4) by reg. 2(2)(a) of S.I. 1998/2117 as from 24.9.98.

<sup>13</sup>Words substituted in reg. 42(4)(a), (a)(i) & (ia) by para 10(e) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>14</sup>Words inserted in reg. 42(4)(a)(i) by reg. 2(5) of S.I. 2005/574 as from 4.4.05.

<sup>15</sup>Words in reg. 42(4)(a)(i) substituted by reg. 6(2) of S.I. 1995/2792 as from 28.10.95.

(a) 1993 c. 48.

(b) S.I. 1976/1267; relevant amending instruments are S.I. 1998/110, 1986/1172 and 1987/45.





benefit is payable <sup>1</sup>or <sup>2</sup>any housing costs to the extent that they are met under regulations 17(1)(e) or 18(1)(f) (housing costs) <sup>3</sup>of that single claimant or, as the case may be, of any member of that family <sup>4</sup>, or is used for any <sup>5</sup>council tax or water charges for which that claimant or member is liable;

- (b) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of that family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family;

but except where sub-paragraph (a)(i) applies and in the case of a person to whom section 23 of the Act (trade disputes) applies, this paragraph shall not apply to any payment in kind <sup>6</sup>to the third party.

<sup>7</sup>(4ZA) Paragraph (4) shall not apply in respect of a payment of income made—

- (a) under <sup>8</sup>or by the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust <sup>9</sup>, MFET Limited <sup>10</sup>, the Skipton Fund, the Caxton Foundation <sup>11</sup>, the Scottish Infected Blood Support Scheme <sup>12</sup>, the London Emergencies Trust, the We Love Manchester Emergency Fund or the Independent Living <sup>13</sup>Fund (2006);
- (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal); or
- (c) pursuant to section 2 of the Employment and Training Act 1973 in respect of a persons' participation—
- (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseekers' Allowance Regulations 1996;
- (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations; or
- <sup>14</sup>(iia) in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations <sup>15</sup> or
- (iii) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations.
- <sup>16</sup>(ca) in respect of a person's participation in <sup>17</sup>a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013 or the Mandatory Work Activity Scheme; or
- <sup>18</sup>(d) under an occupational pension scheme <sup>19</sup>, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980(a);
- (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (iii) the person referred to in (i) and <sup>20</sup>his partner (if any) does not possess, or is not treated as possessing, any other income apart from that payment.

*Reg 42(4ZA) (d) (iii) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

<sup>1</sup>Words inserted in, and deleted from, reg 42(4)(a)(ii) by reg. 4(2) of S.I. 1994/527 as from 11.4.94.

<sup>2</sup>Words in reg. 42(4)(a)(ii) deleted & added by reg. 8 of S.I. 1991/1559 as from 7.10.91.

<sup>3</sup>Words omitted in reg 42(2)(a)(ii) by para. 4 of Sch. 1 to S.I. 1988/1445 as from 10.4.89.

<sup>4</sup>Words omitted in reg. 42(4)(a)(ii) by para. 7 of Sch. 1 to S.I. 1989/534 as from 9.10.89 or later see reg. 1 ibid

<sup>5</sup>Words in reg. 42(4)(a)(ii) substituted by para. 2 of Sch. to S.I. 1993/315 as from 1.4.93.

<sup>6</sup>Words inserted in reg. 42(4) by reg. 2(3)(e) of S.I. 2005/2465 as from 3.10.05.

<sup>7</sup>Reg. 42(4ZA) inserted by reg. 2(2)(b) of S.I. 1998/2117 as from 24.9.98.

<sup>8</sup>Words inserted in reg. 42(4ZA)(a) by reg. 2(3)(b) & (7)(a) of S.I. 2010/641 as from 1.4.10.

<sup>9</sup>Words inserted in reg. 42(4ZA)(a) by reg. 7(5) of S.I. 2011/2425 as from 31.10.11.

<sup>10</sup>Words inserted in reg. 42(4ZA)(a) by reg. 3(3)(a) of S.I. 2017/329 as from 3.4.17.

<sup>11</sup>Words in reg. 42(4ZA)(a) inserted by reg. 2(3)(a) of S.I. 2017/870 as from 23.10.17.

<sup>12</sup>Words in reg. 42(4ZA)(a) inserted by reg. 2(3)(a) of S.I. 2017/689 as from 19.6.17.

<sup>13</sup>Words in reg. 42(4ZA)(a) substituted by reg. 2(6)(a) of S.I. 2008/2767 as from 17.11.08.

<sup>14</sup>Words inserted in reg. 42(4ZA)(c) by reg. 15(4) of S.I. 2001/1029 as from 9.4.01.

<sup>15</sup>Words omitted in reg. 42(4ZA)(c)(iia) by reg. 2(8)(a) of S.I. 2008/698 as from 14.4.08.

<sup>16</sup>Words in reg. 42(4ZA)(ca) inserted by reg. 4(5) of S.I. 2011/1707 as from 5.8.11.

<sup>17</sup>Words in reg. 42(4ZA)(ca) substituted by reg. 13(b) of S.I. 2013/276 as from 6.45pm on 12.2.13.

<sup>18</sup>Reg. 42(4ZA)(d) inserted by reg. 2(3)(c) of S.I. 1999/2640 as from 15.11.99.

<sup>19</sup>Words substituted in reg. 42(4ZA)(d) by reg. 2(2)(d) of S.I. 2006/588 as from 6.4.06.

<sup>20</sup>Words substituted in reg. 42(4ZA)(d)(iii) by para. 10(g) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

(a) 1980 c. 46.

**Reg. 42**

<sup>1</sup>Reg. 42(4ZA)(d)(iii) inserted by reg. 2(3)(c) of S.I. 1999/2640 as from 15.11.99.

<sup>1</sup>(iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.◀

<sup>2</sup>Reg. 42(4A) inserted by reg. 4(3) of S.I. 1994/527 as from 11.4.94.

<sup>2</sup>(4A) Where the claimant <sup>3</sup>resides in a care home, an Abbeyfield Home or an independent hospital, or is temporarily absent from such a home or hospital◀, any payment made by a person other than the claimant or a member of his family in respect of some or all of the cost of maintaining the claimant <sup>4</sup>or his partner in that home <sup>5</sup>or hospital◀ shall be treated as possessed by the claimant or his partner.◀

<sup>3</sup>Words in reg. 42(4A) substituted by para. 6 of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

*Reg. 42(4A) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

<sup>4</sup>Words substituted in reg. 42(4A) by para. 10(h) of Sch. 1 of S.I. 2003/455 as from 6.4.04.

<sup>6</sup>(4A) Where the claimant lives in a residential care home or a nursing home, or is temporarily absent from such a home, any payment made by a person other than the claimant or a member of his family in respect of some or all of the cost of maintaining the claimant or a member of his family in that home shall be treated as possessed by the claimant or by that member of his family.◀

<sup>5</sup>Words in reg. 42(4A) substituted by reg. 2(7) of S.I. 2008/2767 as from 17.11.08.

<sup>6</sup>Reg. 42(4A) inserted by reg. 4(3) of S.I. 1994/527 as from 11.4.94.

(5) Where a claimant's earnings are not ascertainable at the time of the determination of the claim or of any <sup>7</sup>revision or supersession the Secretary of State◀ shall treat the claimant as possessing such earnings as is reasonable in the circumstances of the case having regard to the number of hours worked and the earnings paid for comparable employment in the area.

<sup>7</sup>Words substituted in reg. 42(5) & (6) by para. 4 of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

<sup>8</sup>Reg. 42(5A) inserted by reg. 3(1) of S.I. 2000/724 as from 3.4.00.

<sup>8</sup>(5A) Where the amount of a subsistence allowance paid to a claimant in a benefit week is less than the amount of income-based jobseeker's allowance that person would have received in that benefit week had it been payable to him, less 50p, he shall be treated as possessing the amount which is equal to the amount of income-based jobseeker's allowance which he would have received in that week, less 50p.◀

<sup>9</sup>Words inserted and deleted in para. (6) by reg. 2(2)(a) of S.I. 1999/2554 as from 4.10.99.

(6) <sup>9</sup>Subject to paragraph (6A),◀ where—  
 (a) a claimant performs a service for another person; and  
 (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,

the <sup>7</sup>Secretary of State◀ shall treat the claimant as possessing such earnings (if any) as is reasonable for that employment unless the claimant satisfies him that the means of that person are insufficient for him to pay or to pay more for the service; <sup>7</sup>◀

<sup>10</sup>Para. (6A)-(6C) inserted & words in para. (6A) substituted by para. 2(2)(b) & (c) of S.I. 1999/2554 as from 29.11.99.

<sup>10</sup>(6A) Paragraph (6) shall not apply—

(a) to a claimant who is engaged by a charitable or voluntary organisation or who is a volunteer if the <sup>10</sup>Secretary of State◀ is satisfied in any of those cases that it is reasonable for him to provide the service free of charge;

<sup>11</sup>Para. (6A)(b) inserted by reg. 3(1) of S.I. 2000/724 as from 3.4.00.

<sup>11</sup>(b) in a case where the service is performed in connection with—

(i) the claimant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations 1996 <sup>12</sup>, other than where the service is performed in connection with the claimant's participation in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations <sup>13</sup>◀◀; or

<sup>12</sup>Words inserted in reg. 42(6A)(b)(i) by reg. 15(6) of S.I. 2001/1029 as from 9.4.01.

(ii) the claimant's or the claimant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme; or◀

<sup>13</sup>Words in reg. 42(6A)(b)(i) omitted by reg. 2(8) of S.I. 2008/698 as from 14.4.08.

- (c) to a claimant who is engaged in work experience whilst participating in—
  - (i) the New Deal for Lone Parents<sup>(a)</sup>; or
  - (ii) a scheme which has been approved by the Secretary of State as supporting the objectives of the New Deal for Lone Parents<sup>1</sup>; or
- (d) to a claimant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.

<sup>1</sup>Word “or” sub-para. (6A)(d) & para. (6AA) inserted by reg. 5(9)(a) of S.I. 2007/2618 as from 1.10.07.

(6AA) In paragraph (6A)(d) “work placement” means practical work experience which is not undertaken in expectation of payment. ◀

<sup>2</sup>◀

<sup>2</sup>◀◀

<sup>2</sup>Words in para. (6A)(c) and paras. (6B) & (6C) omitted by reg. 5(2) (a) & (b) of S.I. 2004/2308 as from 4.10.04.

(7) Where a claimant is treated as possessing any income under any of <sup>3</sup>paragraphs (1) to (4A)◀ the foregoing provisions of this Part shall apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

<sup>3</sup>Words substituted in reg. 42(7) by reg. 13(1) of S.I. 1998/563 as from 6.4.98.

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(a) The New Deal for Lone Parents Operational Vision was produced for the Department of Social Security and the Employment Service by the Central Office of Information - October 1998 HSSS 98 3255.



(8) Where a claimant is treated as possessing any earnings under paragraph (5) or (6) the foregoing provisions of this Part shall apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph (3) of regulation 36 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account the earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings <sup>1</sup> <sup>2</sup>◀ the basic rate <sup>3</sup>, or in the case of a Scottish taxpayer, the Scottish basic rate,◀ of tax◀ in the year of assessment less only the <sup>3</sup>personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are◀ appropriate to his circumstances; but, if the period over which those earnings are to be taken into account is less than a year, <sup>1</sup>the earnings to which the <sup>4</sup> <sup>2</sup>basic◀ rate◀<sup>3</sup>, or the Scottish basic rate,◀ <sup>5</sup>◀ of tax is to be applied and◀ the amount of the <sup>3</sup>personal reliefs◀ deductible under this paragraph shall be calculated on a *pro rata* basis;
- <sup>6</sup>(b) where the weekly amount of those earnings equals or exceeds the lower earnings limit, an amount representing primary Class I contributions under the Contributions and Benefits Act, calculated by applying to those earnings the initial and main primary percentages in accordance with section 8(1)(a) and (b) of that Act; and◀
- (c) one-half of any sum payable by the claimant <sup>7</sup>in respect of a pay period◀ by way of a contribution towards an occupational or personal pension scheme.

<sup>8</sup>(8ZA) Paragraphs (1), (2), (3), (4), (5) and (6) shall not apply in respect of any amount of income other than earnings, or earnings derived from employment as an employed earner, arising out of the <sup>9</sup>claimant participating as a service user.◀◀

<sup>10</sup>(8A) In paragraph (3A) and (3B) the expression “resources” has the same meaning as in the Social Security Pensions Act 1975(a) by virtue of section 66(1) of that Act.◀

<sup>11</sup>(9) In paragraph (4) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.◀

[Regulation 43 (notional earnings of seasonal workers) revoked by regulation 14 of S.I. 1989/1323 as from 9.10.89.]

#### 44. <sup>12</sup>◀

*This regulation continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page. 6.7203 for details of when to apply this version.*

Modifications in respect of children and young persons

44.— <sup>13</sup>(1) Any capital of a child or young person payable by instalments which are outstanding on—

- (a) the first day in respect of which income support is payable or at the date of the determination of the claim, whichever is the earlier; or
- (b) in the case of a supersession, the date of that supersession,

shall be treated as income if the aggregate of the instalments outstanding and the amount of that child's or young person's other capital calculated in accordance with Chapter VI of this Part in like manner as for the claimant would exceed £3,000.◀

(2) In the case of a child or young person who is residing at an educational establishment at which he is receiving relevant education—

<sup>1</sup>Words substituted & words inserted in reg. 42(8)(a) by reg. 18 of S.I. 1992/2155 as from 5.10.92.

<sup>2</sup>Words omitted & words substituted in reg. 42(8)(a) by reg. 2(7) of S.I. 2009/583 as from 6.4.09.

<sup>3</sup>Words inserted & substituted in reg. 42(8)(a) by reg. 2(5)(a)-(d) of S.I. 2016/233 as from 6.4.16.

<sup>4</sup>Word substituted in reg. 42(8)(a) by reg. 5(9)(b) of S.I. 2007/2618 as from 1.10.07.

<sup>5</sup>Words deleted from reg. 42(8)(a) by reg. 29 of S.I. 1994/2139 as from 3.10.94.

<sup>6</sup>Reg. 42(8)(b) substituted by reg. 4(4) of S.I. 1994/527 as from 11.4.94.

<sup>7</sup>Words inserted into reg. 42(8)(c) by reg. 26 of S.I. 1994/2139 as from 3.10.94.

<sup>8</sup>Reg. 42(8ZA) inserted by reg. 2(9)(b) of S.I. 2009/2655 on or after 26.10.09 & subject to reg. 1 *ibid*.

<sup>9</sup>Words in reg. 42(8ZA) substituted by reg. 2(4) of S.I. 2014/591 as from 28.4.14.

<sup>10</sup>Reg. 42(8A) inserted by reg. 2(c) of S.I. 1992/1198 as from 22.5.92.

<sup>11</sup>Para. (9) added to reg. 42 by reg. 10(b) of S.I. 1988/1445 as from 12.9.88.

<sup>12</sup>Reg. 44 omitted by para. 11 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>13</sup>Reg. 44(1) substituted by para. 5 of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

(a) 1975 c. 60.

## Reg. 44

- (a) any payment made to the educational establishment, in respect of that child's 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, shall be treated as income of that child or young person but it shall only be taken into account over periods during which that child or young person is present at that educational establishment; and
- (b) if a payment has been so made, for any period in a benefit week in term-time during which that child or young person returns home, he shall be treated as possessing an amount of income in that week calculated by multiplying the amount of <sup>1</sup>personal allowance, any disabled child premium and any enhanced disability premium<sup>◀</sup> applicable in respect of that child or young person by the number equal to the number of days in that week in which he was present at his educational establishment and dividing the product by seven; but this sub-paragraph shall not apply where the educational establishment is provided under section 8 of the Education Act 1944(a) (duty of local authority to secure primary and secondary schools) by a local education authority or where the payment is made under section 49 or 50 of the Education (Scotland) Act 1980(b) (power of education authority to assist persons).

<sup>1</sup>Words substituted in reg. 44(2)(b), (3) & (4), by reg. 2(a) of S.I. 2000/2629 as from 9.4.01.

## (3) Where a child or young person—

- (a) is resident at an educational establishment and he is wholly or partly maintained at that establishment by a local education authority under section 8 of the Education Act 1944; or
- (b) is maintained at an educational establishment under section 49 or 50 of the Education (Scotland) Act 1980,

he shall for each day he is present at that establishment be treated as possessing an amount of income equal to the sum obtained by dividing the amount of <sup>1</sup>personal allowance, any disabled child premium and any enhanced disability premium<sup>◀</sup> applicable in respect of him by seven.

(4) Where the income of a child or young person who is a member of the claimant's family calculated in accordance with <sup>2</sup>Chapters I to V<sup>◀</sup> of this Part exceeds the amount of the <sup>1</sup>personal allowance, any disabled child premium and any enhanced disability premium<sup>◀</sup> applicable in respect of that child or young person, the excess shall not be treated as income of the claimant.

(5) Where the capital of a child or young person if calculated in accordance with Chapter VI of this Part in like manner as for the claimant, <sup>2</sup>except as provided in paragraph (1)<sup>◀</sup>, would exceed £3,000, any income of that child or young person shall not be treated as income of the claimant.

(6) In calculating the net earnings or net profit of a child or young person here shall be disregarded, (in addition to any sum which falls to be disregarded under paragraphs 11 to 13), any sum specified in paragraphs 14 and 15 of Schedule 8 (earnings to be disregarded).

(7) Any income of a child or young person which is to be disregarded under Schedule 9 (income other than earnings to be disregarded) shall be disregarded in such manner as to produce the result most favourable to the claimant.

(8) Where a child or young person is treated as possessing any income under paragraphs (2) and (3) the foregoing provisions of this Part shall apply for the purposes of calculating that income as if a payment had actually been made and as if it were actual income which he does possess.

(a) 1944 c. 31; section 8 was amended by the Education (Miscellaneous Provisions) Act 1948 (c. 40) section 3, the Education Act 1980 (c. 20) section 38 and Schedule 7 and by the Education Act 1981 (c. 60), section 2.

(b) 1980 c. 44; section 50 was amended by the Education (Scotland) Act 1981 (c. 58), section 2.

<sup>1</sup>(9) For the purposes of this regulation, a child or young person shall not be treated as present at his educational establishment on any day if on that day he spends the night with the claimant or a member of his household.◀

<sup>1</sup>Reg. 44 (9) added by reg. 20 of S.I. 1988/663 as from 11.4.88.

## CHAPTER VI

## CAPITAL

**<sup>2</sup>Capital Limit**

**45.** For the purposes of section 134(1) of the Contributions and Benefits Act as it applies to income support (no entitlement to benefit if capital exceeds prescribed amount), the prescribed amount is £16,000.◀

<sup>2</sup>Reg. 45 substituted by reg. 2(4) of S.I. 2005/2465 as from 10.4.06.

**Calculation of capital**

**46.—**(1) For the purposes of Part II of the Act as it applies to income support, the capital of a claimant to be taken into account shall, subject to paragraph (2), be the whole of his capital calculated in accordance with this part and any income treated as capital under <sup>3</sup>regulation 48 (income treated as capital).◀

<sup>3</sup>Words in reg. 46(1) substituted by reg. 10 of S.I. 1988/2022 as from 12.12.88.

(2) There shall be disregarded from the calculation of a claimant's capital under paragraph (1) any capital, where applicable, specified in Schedule 10.

**47.** <sup>4</sup>◀

*This regulation continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

<sup>4</sup>Reg. 47 omitted by para. 11 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

**Disregard of capital of child or young person**

47. The capital of a child or young person who is a member of the claimant's family shall not be treated as capital of the claimant.

**Income treated as capital**

**48.—**(1) Any <sup>5</sup>◀ bounty derived from employment to which paragraph 7 of Schedule 8 applies <sup>5</sup>and paid at intervals of at least one year◀ shall be treated as capital.

<sup>5</sup>Words deleted and inserted in reg. 48(1) & (2) by reg. 11 of S.I. 1988/1445 as from 12.9.88.

(2) Except in the case of an amount to which section 23(5)(a)(ii) of the Act (refund of tax in trade disputes cases) <sup>5</sup>or regulation 41(4) (capital treated as income)◀ applies, any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

(3) Any holiday pay which is not earnings under regulation 35(1)(d) (earnings of employed earners) shall be treated as capital.

(4) Except any income derived from capital disregarded under paragraph 1, 2 4, 6, <sup>6</sup>12 or <sup>7</sup>, 25 to 28, 44 or 45◀◀ of Schedule 10, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the claimant's account.

<sup>6</sup>Refs. in reg. 48(4) substituted by reg. 11(a) of S.I. 1988/2022 as from 12.12.88.

(5) Subject to paragraph (6), in the case of employment as an employed earner, any advance of earnings or any loan made by the claimant's employer shall be treated as capital.

<sup>7</sup>Words in reg. 48(4) substituted by reg. 5(4) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

<sup>8</sup>(6) Paragraph (5) shall not apply to a person to whom section 23 of the Act (trade disputes) applies or in respect of whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) (effect of return to work).◀

<sup>8</sup>Reg. 48(6) substituted by reg. 21 of S.I. 1988/663 as from 1.4.88.

(7) Any payment under section 30 of the Prison Act 1952(a) (payments for discharged prisoners) or allowance under section 17 of the Prisons (Scotland) Act 1952(b) (allowances to prisoners on discharge) shall be treated as capital.

(8) <sup>9</sup>◀

(a) 1952 c. 52; section 30 was substituted by section 66(3) of the Criminal Justice Act 1967 (c. 80).  
(b) 1952 c. 61.

<sup>9</sup>Reg. 48(8), omitted by para. 12 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

**Reg. 48**

<sup>1</sup>Reg. 48(8A) & (10)(b) omitted, words substituted in para. (10)(a) by para. 12 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>2</sup>Para. (8) substituted and (8A) inserted by reg. 14(1) of S.I. 1998/563 as from 6.4.98.

<sup>3</sup>Reg. 48(9) & (10) added by reg. 11(b) of S.I. 1988/2022 as from 12.12.88.

<sup>4</sup>Words inserted in reg. 48(10)(c) by reg. 2(3)(c) & (7)(b) of S.I. 2010/641 as from 1.4.10.

<sup>5</sup>Words inserted into reg. 48(10)(c) by reg. 3(3)(b) of S.I. 1990/127 as from 31.1.90.

<sup>6</sup>Words inserted into reg. 48(10)(c) by reg. 5(4) of S.I. 1991/1175 as from 11.5.91.

<sup>7</sup>Words inserted into reg. 48(10)(c) by reg. 6(4) of S.I. 1992/1101 as from 7.5.92.

<sup>8</sup>Words inserted into reg. 48(10)(c) by reg. (4)(3)(b) of S.I. 1993/1249 as from 14.5.93.

<sup>9</sup>Words inserted in reg. 48(10)(c) by reg. 7(5) of S.I. 2011/2425 as from 31.10.11.

<sup>10</sup>Words in reg. 48(10)(c) inserted by reg. 3(3)(b) of S.I. 2017/329 as from 3.4.17.

(8A) <sup>1</sup>◀

*This regulation continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

<sup>2</sup>(8) Any payment made by a local authority which represents arrears of payments under—

- (a) paragraph 15 of Schedule 1 to the Children Act 1989 (power of a local authority to make contributions to a person with whom a child lives as a result of a residence order); or
- (b) Section 34(6) or as the case may be, section 50 of the Children Act 1975(a)(payments towards maintenance for children),

shall be treated as capital.

(8A) Any payment made by an authority, as defined in Article 2 of the Children Order[74] which represents arrears of payments under Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance), shall be treated as capital.◀

<sup>3</sup>(9) Any charitable or voluntary payment which is not made or not due to be made at regular intervals, other than one to which paragraph (10) applies, shall be treated as capital.

(10) This paragraph applies to a payment—

- (a) which is made to a person to whom section 23 of the Act (trade disputes) applies or in respect of whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) of the Act(b) (effect of return to work) <sup>1</sup>or to the partner◀ of such a person;
- (b) <sup>1</sup>◀

*Reg. 48(10)(a) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

- (a) which is made to a person to whom section 23 of the Act (trade disputes) applies or in respect of whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) of the Act(b) (effect of return to work) or to a member of the family of such a person;

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

- (b) to which regulation 44(2) (modification in respect of children and young persons) applies; or

- (c) which is made under <sup>4</sup>or by◀ the Macfarlane Trust <sup>5</sup>, the Macfarlane (Special Payments) Trust◀<sup>6</sup>, the Macfarlane (Special Payments) (No. 2) Trust◀<sup>7</sup>, the Fund◀<sup>8</sup>, the Eileen Trust◀<sup>4</sup>, MFET Limited◀<sup>9</sup>, the Skipton Fund, the Caxton Foundation◀<sup>10</sup>, the Scottish Infected Blood

(a) 1975 c. 72; as amended by section 64 of the Domestic Proceedings and Magistrates Courts Act 1978 (c. 22).

(b) Section 23A was added by the Social Security Act 1988 (c. 7), Schedule 4, paragraph 25.



Support Scheme<sup>1</sup>, an approved blood scheme<sup>2</sup>, the London Emergencies Trust, the We Love Manchester Emergency Fund<sup>3</sup> or the Independent Living Fund (2006)<sup>4</sup>.

<sup>5</sup>

<sup>6</sup>(12) Any arrears of subsistence allowance which are paid to a claimant as a lump sum shall be treated as capital.

#### <sup>7</sup>Calculation of capital in the United Kingdom

**49.** Capital which a claimant possesses in the United Kingdom shall be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to sale, 10 per cent; and
- (b) the amount of any incumbrance secured on it

#### Calculation of capital outside the United Kingdom

**50.** Capital which a claimant possesses in a country outside the United Kingdom shall be calculated—

- (a) in a case in which there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent and the amount of any incumbrance secured on it.

#### Notional capital

**51.—(1)** A claimant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to income support or increasing the amount of that benefit<sup>8</sup> except—

- (a) where that capital is derived from a payment made in consequence of any personal injury and is placed on trust for the benefit of the claimant; or
- (b) to the extent that the capital which he is treated as possessing is reduced in accordance with regulation 51A (diminishing notional capital rule)<sup>9</sup> or
- <sup>10</sup>(c) any sum to which paragraph 44(2)(a) of Schedule 10 (capital to be disregarded) applies which is administered in the way referred to in paragraph 44(1)(a);
- (d) any sum to which paragraph 45(a) of Schedule 10 refers.

(2) Except in the case of—

- (a) a discretionary trust;
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtainable only if secured against capital disregarded under Schedule 10;<sup>11</sup> or
- (d) a personal pension scheme<sup>12</sup> or<sup>13</sup>

<sup>1</sup>Words in reg. 48(10)(c) inserted by reg. 2(3)(b) of S.I. 2017/870 as from 23.10.17.

<sup>2</sup>Words in reg. 48(10)(c) inserted by reg. 2(3)(b) of S.I. 2017/689 as from 19.6.17.

<sup>3</sup>Words substituted in reg. 48(10)(c) by reg. 2(3) & (4) of S.I. 1993/963 as from 22.4.93.

<sup>4</sup>Words in reg. 48(10)(c) substituted by reg. 2(6)(b) of S.I. 2008/2767 as from 17.11.08.

<sup>5</sup>Reg. 48(11) omitted by reg. 2(9) of S.I. 2008/698 as from 14.4.08.

<sup>6</sup>Reg. 48(12) added by reg. 3(2) of S.I. 2000/724 as from 3.4.00.

<sup>7</sup>Reg. 49 substituted by reg. 5(10) of S.I. 2007/2618 as from 1.10.07.

<sup>8</sup>Words in reg. 51(1) substituted by reg. 5(a) of S.I. 1990/1776 as from 2.10.90.

<sup>9</sup>Sub-para. (c) inserted into reg. 51(1) by reg. 5(4) of S.I. 1997/2197 as from 6.10.97.

<sup>10</sup>Reg. 51(1)(c) & (d) substituted for (c) by reg. 3(4) of S.I. 2007/719 as from 2.4.07.

<sup>11</sup>Word “or” and sub-para. (d) added to reg. 51(2) by reg. 6(5) of S.I. 1995/2303 as from 8.10.95.

<sup>12</sup>Words omitted in reg. 51(2)(d) by reg. 2(7) of S.I. 2007/1749 as from 16.7.07.

<sup>13</sup>Word “or” and sub-para. (e) inserted into reg. 51(2) by reg. 5(4) of S.I. 1997/2197 as from 6.10.97.

**Reg. 51**

<sup>1</sup>Sub-para. (da) inserted in reg. 51(2) by reg. 2(6) of S.I. 2005/2465 as from 6.4.06.

<sup>2</sup>Words inserted in reg. 51(2)(da) by reg. 2(3)(a) by S.I. 2006/588 as from 6.4.06.

<sup>3</sup>Words substituted in reg. 51(2)(da) by reg. 2(8) of S.I. 2010/641 as from 1.4.10.

<sup>4</sup>Reg. 51(2)(e) & (f) substituted for (e) by reg. 2(4) of S.I. 2007/719 as from 2.4.07.

<sup>5</sup>Words in reg. 51(2) substituted by reg. 22(a) of S.I. 1988/663 as from 11.4.88.

<sup>6</sup>Reg. 51(3) substituted by reg. 12 of S.I. 1988/1445 as from 5.9.88.

<sup>7</sup>Words substituted in reg. 51(3) by reg. 3(2)(a) of S.I. 1998/2117 as from 24.9.98.

<sup>8</sup>Words substituted in reg. 51(3)(a)-(a)(ii) by para. 13(a) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>9</sup>Words inserted & deleted in regs. 51(3)(a)(i) & (ii) by regs. 2(5) & 3(4) of S.I. 2005/574 as from 4.4.05.

<sup>10</sup>Words in reg. 51(3)(a)(i) substituted by reg. 9 of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

<sup>11</sup>Words inserted in reg. 51(3)(a)(i) by reg. 2(3) of S.I. 2002/841 as from 8.4.02.

<sup>12</sup>Words substituted in reg. 51(3)(a)(i) by reg. 4(3) of S.I. 2005/2878 as from 5.12.05.

<sup>13</sup>Words deleted in reg. 51(3)(a)(i) by reg. 2(4) of S.I. 2008/3157 as from 5.1.09.

<sup>14</sup>Reg. 51(3)(a)(ia) inserted by reg. 2(1)(a) of S.I. 1999/2640 as from 15.11.99.

<sup>15</sup>Words substituted in reg. 51(3)(a)(ia) by reg. 2(3)(b) of S.I. 2006/588 as from 6.4.06.

<sup>16</sup>Words substituted in reg. 51(3)(a)(ii) by reg. 2(1) of, & para. 8 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>17</sup>Words in reg. 51(3)(a)(ii) deleted by reg. 9 of S.I. 1991/1559 as from 7.10.91.

<sup>1</sup>(da) an occupational pension scheme <sup>2</sup>or a payment made by the Board of the Pension Protection Fund◀ where the claimant <sup>3</sup>has not attained the qualifying age for state pension credit◀; or◀

<sup>4</sup>(e) any sum to which paragraph 44(2)(a) of Schedule 10 (capital to be disregarded) applies which is administered in a way referred to in paragraph 44(1)(a); or

(f) any sum to which paragraph 45(a) of Schedule 10 refers,◀◀

any capital which would become available to the claimant upon application being made but which has not been acquired by him shall be treated as possessed by him but only from the date on which <sup>5</sup>it could be expected to be acquired were an application made◀.

<sup>6</sup>(3) <sup>7</sup>Any payment of capital, other than a payment of capital specified in paragraph (3A)◀ made—

(a) to a third party in respect of a single claimant or <sup>8</sup>his partner◀ (but not a member of the third party's family) shall be treated—

(i) in a case where that payment is derived from a payment of any benefit under the benefit Acts, <sup>9</sup>a payment from the Armed Forces and Reserve Forces Compensation Scheme,◀ a war disablement pension <sup>10</sup>, war widow's pension <sup>11</sup>or war widower's pension◀ or a pension payable to a person as a <sup>12</sup>widow, widower or surviving civil partner◀ <sup>13</sup>◀under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or who have died in consequence of service as members of the armed forces of the Crown,◀ as possessed by that single claimant, if it is paid to him, <sup>8</sup>or by his partner, if it is paid to his partner◀;

<sup>14</sup>(ia) in a case where that payment of an occupational pension <sup>15</sup>, a pension or other periodical payment made under a personal pension scheme, or a payment made by the Board of the Pension Protection Fund◀ as possessed by that single claimant or, as the case may be, by <sup>8</sup>the claimant's partner◀,◀

(ii) in any other case, as possessed by that single claimant <sup>8</sup>or his partner◀ to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent <sup>9</sup>◀ for which housing benefit <sup>16</sup>is payable or◀ <sup>17</sup>◀ any housing costs to the extent that they are met

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under regulation 17(1)(e) and 18(1)(f) (housing costs) <sup>1</sup>◀ <sup>2</sup>◀ <sup>3</sup>◀), of that single claimant or, as the case may be, of <sup>4</sup>his partner▶<sup>5</sup>, or is used for any <sup>6</sup>council tax◀ or water charges for which that claimant or <sup>4</sup>partner is liable◀◀;

- <sup>4</sup>(b) to a single claimant or his partner in respect of a third party (but not in respect of another member of his family) shall be treated as possessed by that single claimant or, as the case may be, his partner, to the extent that it is kept or used by him or used by or on behalf of his partner.◀◀

*Reg. 51(3)(a) & (b) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

- (a) to a third party in respect of a single claimant or in respect of a member of the family (but not a member of the third party's family) shall be treated—

- (i) in a case where that payment is derived from a payment of any benefit under the benefit Acts, <sup>7</sup>a payment from the Armed Forces and Reserve Forces Compensation Scheme,◀ a war disablement pension <sup>8</sup>, war widow's pension <sup>9</sup>or war widow's pension◀ or a pension payable to a person as a widow <sup>9</sup>or widower◀ under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(a) in so far as that Order is made under the Naval and Marine Pay and Pensions Act 1865(b) or the Pensions and Yeomanry Pay Act 1884(c), or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(d) and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or who have died in consequence of service as members of the armed forces of the Crown,◀ as possessed by that single claimant, if it is paid to him, or by that member if it is paid to any member of the family;

- <sup>10</sup>(ia) in a case where that payment of an occupational pension or is a pension or other periodical payment made under a personal pension scheme, as possessed by that single claimant or, as the case may be, by that member,◀

- (ii) in any other case, as possessed by that single claimant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel, rent or rates for which housing benefit <sup>11</sup>is payable,or◀▶<sup>12</sup>◀ any housing costs to the extent that they are met under regulation 17(1)(e) and 18(1)(f) (housing costs) <sup>11</sup>◀▶<sup>13</sup>◀▶<sup>14</sup>◀), of that single claimant or, as the case may be, of any member of that family <sup>12</sup>, or is used for any <sup>15</sup>council tax◀ or water charges for which that claimant or member is liable◀;

- (b) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of the family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.◀

<sup>1</sup>Words omitted in reg. 51(3)(a)(ii) by reg. 2(1) of, & para. 8 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>2</sup>Words in reg. 51(3)(a)(ii) deleted by para. 7 of Sch. 1 to S.I. 1989/534 as from 9.10.89.

<sup>3</sup>Words in reg. 51(3)(a)(ii) deleted by para. 4 of Sch. 1 to S.I. 1988/1445 as from 10.4.89.

<sup>4</sup>Words substituted in reg. 51(3)(a)(ii) & (3)(b) inserted by paras. 13(a) & (b) of Sch. 1 to S.I. 2003/455 as from 6.4.05

<sup>5</sup>Words in reg. 51(3)(a)(ii) added by reg. 9 of S.I. 1991/1559 as from 7.10.91.

<sup>6</sup>Words in reg. 51(3)(a)(ii) substituted by para. 3 of Sch. to S.I. 1993/315 as from 1.4.93.

<sup>7</sup>Words inserted in reg. 51(3)(a)(i) by reg. 2(5) of S.I. 2005/574 as from 4.4.05.

<sup>8</sup>Words in reg. 51(3)(a)(i) substituted by reg. 9 of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

<sup>9</sup>Words inserted in reg. 51(3)(a)(i) by reg. 2(3) of S.I. 2002/841 as from 8.4.02.

<sup>10</sup>Reg. 51(3)(a)(ia) inserted by reg. 2(1)(a) of S.I. 1999/2640 as from 15.11.99.

<sup>11</sup>Words substituted & omitted in reg. 51(3)(a)(ii) by reg. 2(1) of, & para. 8 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>12</sup>Words in reg. 51(3)(a)(ii) deleted & added by reg. 9 of S.I. 1991/1559 as from 7.10.91.

<sup>13</sup>Words in reg. 51(3)(a)(ii) deleted by para. 7 of Sch. 1 to S.I. 1989/534 as from 9.10.89.

<sup>14</sup>Words in reg. 51(3)(a)(ii) deleted by para. 4 of Sch. 1 to S.I. 1988/1445 as from 10.4.89.

<sup>15</sup>Words in reg. 51(3)(a)(ii) substituted by para. 3 of Sch. to S.I. 1993/315 as from 1.4.93.

(a) S.I. 1983/883; relevant amending instruments are S.I. 1993/598, 1994/1906, 1995/766 and 1996/732 and 1638. The Order needs to be read subject to the provisions of section 168 of the Pensions Act 1995 (c. 26), the effect of which is to disregard subsequent marriages which have been dissolved or been the subject of a decree of judicial separation, in determining a person's entitlement to a widow's pension.

(b) 1865 c. 73.

(c) 1884 c. 55.

(d) 1977 c. 5.

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<sup>1</sup>Reg. 51(3A) inserted by reg. 3(2)(b) of S.I. 1998/2117 as from 24.9.98.

<sup>2</sup>Words inserted in reg. 51(3A)(a) by reg. 2(3)(d) & (7)(c) of S.I. 2010/641 as from 1.4.10.

<sup>3</sup>Words in reg. 51(3A)(a) substituted by reg. 3(2)(a) of S.I. 2004/2308 as from 4.10.04.

<sup>4</sup>Words in reg. 51(3A)(a) substituted by reg. 2(6)(c) of S.I. 2008/2767 as from 17.11.08.

<sup>5</sup>Words in reg. 51(3A)(a) substituted by reg. 2(3) of S.I. 2005/3391 as from 12.12.05.

<sup>6</sup>Words inserted in reg. 51(3A)(a) by reg. 7(6) of S.I. 2011/2425 as from 31.10.11.

<sup>7</sup>Words in reg. 51(3A)(a) inserted by reg. 3(3)(c) of S.I. 2017/329 as from 3.4.17.

<sup>8</sup>Words in reg. 51(3A)(a) inserted by reg. 2(3)(c) of S.I. 2017/870 as from 23.10.17.

<sup>9</sup>Words in reg. 51(3A)(a) inserted by reg. 2(3)(c) of S.I. 2017/689 as from 19.6.17.

<sup>10</sup>Head (iia) inserted in reg. 51(3A)(b) by reg. 15(8) of S.I. 2001/1029 as from 9.4.01.

<sup>11</sup>Words omitted in reg. 51(3A)(b)(iia) by reg. 2(8)(b) of S.I. 2008/698 as from 14.4.08.

<sup>12</sup>Sub-para. (ba) inserted in reg. 42(4ZA) by reg. 4(6)(a)-(7) of S.I. 2011/1707 as from 5.8.11.

<sup>13</sup>Words in reg. 51(3A)(ba) substituted by reg. 13(b) of S.I. 2013/276 as from 6.45 pm. on 12.2.13.

<sup>14</sup>Sub-para. (c) inserted in reg. 51(3A) by reg. 2(3)(c) of S.I. 1999/2640 as from 15.11.99.

<sup>15</sup>Words substituted in reg. 51(3A)(c) by reg. 2(3)(c) of S.I. 2006/588 as from 6.4.06.

<sup>16</sup>Words substituted in reg. 51(3A)(c)(iii) by para. 13(c) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>17</sup>Reg. 51(7) added by reg. 22(c) of S.I. 1988/663 as from 11.4.88.

<sup>1</sup>(3A) Paragraph (3) shall not apply in respect of a payment of capital made—

- (a) under <sup>2</sup>or by◀ the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust <sup>2</sup>, MFET Limited◀<sup>3</sup>, the Independent Living <sup>4</sup>Fund (2006)◀<sup>5</sup>, the Skipton Fund <sup>6</sup>, the Caxton Foundation◀<sup>7</sup>, the Scottish Infected Blood Support Scheme◀<sup>8</sup>, an approved blood scheme◀<sup>9</sup>, the London Emergencies Trust, the We Love Manchester Emergency Fund◀ or the London Bombings Relief Charitable Fund◀;
- (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
  - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
  - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations; or
  - <sup>10</sup>(iia) in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations <sup>11</sup>◀; or◀
  - (iii) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations.◀
  - <sup>12</sup>(ba) in respect of a person's participation in <sup>13</sup>a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013◀ or the Mandatory Work Activity Scheme;◀
- <sup>14</sup>(c) under an occupational pension scheme <sup>15</sup>, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund◀ where—
  - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980(a)
  - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - (iii) the person referred to in (i) and <sup>16</sup>his partner (if any)◀ does not possess, or is not treated as possessing, any other income apart from that payment.◀

*Reg. 51(3A)(c)(iii) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

- (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.◀

(4) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case—

- (a) the value of his holding in that company shall, notwithstanding regulation 46 (calculation of capital), be disregarded; and
- (b) he shall, subject to paragraph (5), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(5) For so long as the claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (4) shall be disregarded.

(6) Where a claimant is treated as possessing capital under any of paragraphs (1) to (4), the foregoing provisions of this Chapter shall apply for the purposes of calculating its amount as if it were actual capital which he does possess.

<sup>17</sup>(7) For the avoidance of doubt a claimant is to be treated as possessing capital under paragraph (1) only if the capital of which he has deprived himself is actual capital.◀

(a) 1980 c. 46.

<sup>1</sup>(8) In paragraph (3) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.◀

<sup>1</sup>Reg. 51A inserted by reg. 6 of S.I. 1990/1776 as from 1.10.90.

### <sup>2</sup>Diminishing notional capital rule

<sup>2</sup>Reg. 51(8) added by reg. 12(b) of S.I. 1988/1445 as from 12.9.88.

**51A.**—(1) Where a claimant is treated as possessing capital under regulation 51(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
  - (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied, or
  - (ii) a week which follows that relevant week and which satisfies those conditions,
 shall be reduced by an amount determined under paragraph (2);
- (b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—
  - (i) that week is a week subsequent to the relevant week, and
  - (ii) that relevant week is a week in which the condition in paragraph (3) is satisfied,
 shall be reduced by the amount determined under paragraph (3).

(2) This paragraph applies to a benefit week or part week where the claimant satisfies the conditions that—

- (a) he is in receipt of income support; and
- (b) but for regulation 51(1), he would have received an additional amount of income support in that benefit week, or as the case may be, that part week;

and in such a case, the amount of the reduction for the purposes of paragraph (1)(a) shall be equal to that additional amount.

(3) Subject to paragraph (4), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to income support in the relevant week, but for regulation 51(1), and in such a case the amount of the reduction shall be equal to the aggregate of—

- (a) the amount of income support to which the claimant would have been entitled in the relevant week but for regulation 51(1); and for the purposes of this sub-paragraph if the relevant week is a part-week that amount shall be determined by dividing the amount of income support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient by 7;
- (b) the amount of housing benefit (if any) equal to the difference between his maximum housing benefit and the amount (if any) of housing benefit which he is awarded in respect of the benefit week, within the meaning of regulation 2(1) of <sup>3</sup>the Housing Benefit Regulations 2006◀ (interpretation), which includes the last day of therelevant week;

<sup>4</sup>◀

- (d) the amount of council tax benefit (if any) equal to the difference between his maximum council tax benefit and the amount (if any) of council tax benefit which he is awarded in respect of the benefit week which includes the last day of the relevant week, and for this purpose “benefit week” has the same meaning as in <sup>3</sup>regulation 2(1) of the Council Tax Benefit Regulations 2006◀ (interpretation).◀

(4) The amount determined under paragraph (3) shall be re-determined under that paragraph if the claimant makes a further claim for income support and the conditions in paragraph (5) are satisfied, and in such a case—

<sup>3</sup>Words in reg. 51A(3)(b) & (d) substituted by reg. 1(3) & (4) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>4</sup>Reg. 51A(3)(c) omitted by reg. 2(8) of S.I. 2008/2767 as from 17.11.08.

<sup>5</sup>Sub-para. (d) added to reg. 51A(3) by para. 4 of Sch. to S.I. 1993/315 as from 1.4.93.



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- (a) sub-paragraphs <sup>1</sup>(a) to (d) of paragraph (3) shall apply as if for the words “relevant week” there were substituted the words “relevant subsequent week”; and
- (b) subject to paragraph (6), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.
- (5) The conditions are that—
- (a) a further claim is made 26 or more weeks after—
- (i) the date on which the claimant made a claim for income support in respect of which he was first treated as possessing the capital in question under regulation 51(1); or
- (ii) in a case where there has been at least one re-determination in accordance with paragraph (4), the date on which he last made a claim for income support which resulted in the weekly amount being re-determined; or
- (iii) the date on which he last ceased to be in receipt of income support; whichever last occurred; and
- (b) the claimant would have been entitled to income support but for regulation 51(1).
- (6) The amount as re-determined pursuant to paragraph (4) shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.
- (7) For the purpose of this regulation—
- (a) “part-week” means a period to which sub-section (1A) of section 21 of the Act (amount etc. of income support) applies;
- (b) “relevant week” means the benefit week or part-week in which the capital in question of which the claimant has deprived himself within the meaning of regulation 51(1)—
- (i) was first taken into account for the purpose of determining his entitlement to income support; or
- (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to income support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, income support;
- and where more than one benefit week or part-week is identified by reference to heads (i) and (ii) of this sub-paragraph the later or latest such benefit week or, as the case may be, the later or latest such part-week;
- (c) “relevant subsequent week” means the benefit week or part-week which includes the day on which the further claim or, if more than one further claim had been made, the last such claim was made. ◀

<sup>1</sup>Words substituted in reg. 51A(4)(a) by reg. 6(2) of S.I. 2001/859. See reg. 1 of S.I. 2001/859 for relevant effective dates.

**Capital jointly held**

**52.** Except where a claimant possesses capital which is disregarded under regulation 51(4) (notional capital), where a claimant and one or more persons are beneficially entitled in possession to any capital asset they shall be treated as if each of them were entitled in possession <sup>2</sup>to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter shall apply for the purposes of calculating the amount of capital which the claimant is treated as possessing as if it were actual capital which the claimant does possess. ◀

<sup>2</sup>Words substituted in reg. 52 by reg. 2(2)(e) of S.I. 1998/2250 as from 12.10.98.

## Reg. 53

<sup>1</sup>Words inserted in reg. 53(1) by reg. 12(1)(b)(i) of S.I. 1996/462 as from 8.4.96.

<sup>2</sup>In reg. 53 words deleted in paras. (1), (1B), (2) & (3); amounts substituted in para. (1) & para. (1ZA) omitted by reg. 2(6) of S.I. 2005/2465.

<sup>3</sup>Reg. 53(1A) to (1C) inserted by reg. 12(1)(b)(ii) of S.I. 1996/462 as from 8.4.96.

<sup>4</sup>In reg. 53, (1B)(a) & (b) substituted, (1B)(d) omitted, words in (1C) inserted & substituted & (4) omitted by para. 7 of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>5</sup>Words substituted in reg. 53(1B)(c) by reg. 7(6)(a) of S.I. 1997/2197 as from 6.10.97.

<sup>6</sup>Words substituted in para. (1C)(a) of reg. 53 by reg. 8 of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

<sup>7</sup>Words omitted from reg. 53(1C)(a)(i) by reg. 2(1) of, & para. 9 of Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>8</sup>Words substituted in reg. 53(2) and (3) by reg. 12(1)(b)(iii) of S.I. 1996/462 as from 8.4.96.

<sup>9</sup>Words deleted from reg. 53(3) by reg 13 of S.I. 1988/2022 as from 12.12.88.

**Calculation of tariff income from capital**

**53.—(1)** <sup>1</sup>Except where the circumstances prescribed in paragraph <sup>2</sup>(1B) apply to the claimant, <sup>3</sup>where the claimant's capital calculated in accordance with this Part exceeds <sup>2</sup>£6,000 <sup>4</sup>it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of <sup>2</sup>£6,000 <sup>4</sup>but not exceeding <sup>2</sup>£16,000 <sup>4</sup>.

<sup>3</sup>(1A) Where the circumstances prescribed in paragraph (1B) apply to the claimant and that claimant's capital calculated in accordance with this Part exceeds £10,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £10,000 but not exceeding £16,000.

(1B) For the purposes of paragraph (1A) <sup>2</sup>, the prescribed circumstances are that the claimant lives permanently in—

- <sup>4</sup>(a) a care home or an independent hospital;
- (b) an Abbeyfield Home; <sup>4</sup>
- (c) accommodation provided under section 3 of, and Part II of the Schedule to, the Polish Resettlement Act 1947 <sup>(a)</sup> (provision of accommodation in camps) where the claimant requires personal care <sup>5</sup>by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness and the care is provided in the home <sup>4</sup>

(d) <sup>4</sup>

(1C) For the purposes of paragraph (1B), a claimant shall be treated as living permanently in such home <sup>4</sup> hospital <sup>4</sup> or accommodation where he is absent—

- (a) from a home <sup>4</sup>, hospital <sup>4</sup> or accommodation referred to in sub-paragraph <sup>6</sup>(a) <sup>4</sup> or (b) <sup>4</sup> of paragraph (1B)—
  - (i) <sup>7</sup>
  - (ii) in any other case, for a period not exceeding 13 weeks;
- (b) from accommodation referred to in sub-paragraph (c) of paragraph (1B), where the claimant, with the agreement of the manager of the accommodation, intends to return to the accommodation in due course. <sup>4</sup>

(2) Notwithstanding <sup>8</sup>paragraphs (1) <sup>2</sup> and (1A) <sup>4</sup>, where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly income of £1.

(3) For the purposes of <sup>8</sup>paragraphs (1) <sup>2</sup> and (1A) <sup>4</sup>, capital includes any income treated as capital under regulations <sup>9</sup> 48 and 60 ( <sup>9</sup> income treated as capital and liable relative payments treated as capital).

(4) <sup>4</sup>

(a) 1947 (c. 19).



## CHAPTER VII

<sup>1</sup> <sup>2</sup> ◀ LIABLE RELATIVE PAYMENTS ▶**Interpretation**

**54.** In this Chapter, unless the context otherwise requires—

<sup>2</sup> ◀

“claimant” includes a young claimant;

<sup>3</sup>“claimant’s family” shall be construed in accordance with section 137 of the Contributions and Benefits Act 1992 (interpretation of part 7 and supplementary provisions);

“housing costs” means, those costs which may be met under regulation 17(1)(e) or 18(1)(f) (housing costs); ◀

“liable relative” means—

- (a) a spouse <sup>4</sup>, former spouse, civil partner or former civil partner ◀ of a claimant or of a member of the claimant’s family;
- (b) a parent of a child or young person who is a member of the claimant’s family or of a young claimant;
- (c) a person who has not been adjudged to be the father of a child or young person who is a member of the claimant’s family or of a young claimant where that person is contributing towards the maintenance of that child, young person or young claimant and by reason of that contribution he may reasonable by treated as the father of that child, young person or your claimant;
- (d) a person liable to maintain another person <sup>3</sup>in the circumstances set out in section 78(6)(c) of the Social Security Administration Act 1992 (liability to maintain another person) ◀ where the latter is the claimant or a member of the claimant’s family,

and, in this definition, a reference to a child’s, young person’s or young claimant’s parent includes any person in relation to whom the child, young person or young claimant was treated as a child or a member of the family;

<sup>3</sup>“ordinary clothing and footwear” means clothing and footwear for normal daily use but does not include school uniforms; ◀

“payment” means a periodical payment or any other payment made by or derived from a liable relative <sup>3</sup> ◀ but it does not include any payment—

- (a) arising from a disposition of property made in contemplation of, or as a consequence of—
  - (i) an agreement to separate; or
  - (ii) any proceedings for judicial separation, divorce or nullity of marriage; <sup>4</sup>or
  - (iii) any proceedings for separation, dissolution or nullity in relation to a civil partnership; ◀
- (b) made after the death of the liable relative;
- (c) made by way of a gift but not in aggregate or otherwise exceeding £250 in the period of 52 weeks beginning with the date on which the payment, or if there is more than one such payment the first payment, is made; and, in the case of a claimant who continues to be in receipt of income support at the end of the period of 52 weeks, this provision shall continue to apply thereafter with the modification that any subsequent period of 52 weeks shall begin with the first day of the benefit week in which the first payment is made after the end of the previous period of 52 weeks;

<sup>1</sup>Heading substituted by reg. 2(5) of S.I. 2008/2111 as from 27.10.08.

<sup>2</sup>Words in heading to Chapter VII & defn. of “child maintenance” in reg. 54 omitted by reg. 2(6) & 10(a) of S.I. 2009/2655. See reg. 1(6)(a) of the S.I. for the relevant commencement date.

<sup>3</sup>In reg. 54 defns. of “child maintenance”, “claimant’s family”, “housing costs” & “ordinary clothing and footwear” inserted, words substituted in defn. of “liable relative”, in defn. of “payment” words omitted by reg. 2 of S.I. 2008/2111 as from 27.10.08.

<sup>4</sup>In defn. of “liable relative” words substituted & in defn. of “payment” word “or” & para. (a)(iii) inserted by para. 13(u) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

**Reg. 54**

<sup>1</sup>Para. (d) in defn. of payment omitted by para. 14 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

(d) <sup>1</sup>◀

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

(d) to which regulation 44(2) applies (modifications in respect of children and young persons);

<sup>2</sup>In reg. 54, sub-para. (e) in defn. of “payment” substituted by reg. 2 of S.I. 2008/2111 as from 27.10.08.

<sup>2</sup>(e) made to a third party, or in respect of a third party, unless the payment is—

(i) in relation to the claimant or the claimant’s <sup>3</sup>partner or is made or derived from a person falling within sub-paragraph (d) of the definition of liable relative◀; and

<sup>3</sup>In reg. 54, defn. of “payment”, words substituted in sub-para. (e) & sub-para. (i) inserted & words omitted in sub-para. (c) defn. of “periodical payment” by reg. 2(10)(b) & (c) of S.I. 2009/2655. See reg. 1(6)(a) to this S.I. for the relevant commencement date.

(ii) <sup>4</sup>◀ in respect of food, ordinary clothing or footwear, fuel, <sup>4</sup>rent for which housing benefit is payable, housing costs to the extent that they are met under regulation 17(1)(e) or 18(1)(f) (housing costs),◀ council tax or water charges;◀

(f) in kind;

(g) to, or in respect of, a child or young person who is to be treated as not being a member of the claimant’s household under regulation 16 (circumstances in which a person is to be treated as being or not being a member of the same household);

<sup>4</sup>Words in reg. 54(e)(ii) of the defn. of “payment” omitted and substituted by reg. 2(3) of S.I. 2013/443 as from 4.3.13.

(h) which is not a periodical payment, to the extent that any amount of that payment—

(i) has already been taken into account under this Part by virtue of a previous claim or determination; or

(ii) has been recovered under section 27(1) of the Act (prevention of duplication of payments) or is currently being recovered; or

(iii) at the time the determination is made, has been used by the claimant except where he has deprived himself of that amount for the purpose of securing entitlement to income support or increasing the amount of that benefit;

<sup>3</sup>(i) to which paragraph 73 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) has been applied to it.◀

“periodical payment” means—

<sup>5</sup>In defn. of “periodical payment” words omitted & substituted by reg. 2(6) of S.I. 2008/2111 as from 27.10.08.

(a) a payment which is made or is due to be made at regular intervals <sup>5</sup>◀;

(b) in a case where the liable relative has established a pattern of making payments at regular intervals, any such payment;

(c) any payment <sup>5</sup> <sup>3</sup>◀ that does not exceed◀ the amount of income support payable had that payment not been made;

(d) any payment representing a commutation of payments to which sub-paragraphs (a) or (b) of this definition applies whether made in arrears or in advance,

but does not include a payment due to be made before the first benefit week pursuant to the claim which is not so made;

<sup>6</sup>Words substituted in reg. 54 defn. of “young claimant” by reg. 2(5) of S.I. 2006/718 as from 10.4.06.

“young claimant” means a person aged 16 or over but under <sup>6</sup>20◀ who makes a claim for income support.

**Regs. 55-57**

**Treatment of <sup>1</sup>◀ liable relative payments**

**55.** <sup>2</sup>Subject to regulation 55A <sup>1</sup>◀◀ <sup>1</sup>◀ a payment shall—

- (a) to the extent that it is not a payment of income, be treated as income;
- (b) be taken into account in accordance with the following provisions of this Chapter.

**<sup>3</sup>Disregard of payments treated as not relevant income**

**55A.** Where the Secretary of State treats any payment as not being relevant income for the purposes of section 74A of the Social Security Administration Act 1992 (payment of benefit where maintenance payments collected by Secretary of State), that payment shall be disregarded in calculating a claimant's income.◀

<sup>1</sup>Words in heading to & in reg. 55 & reg. 57(3)(b) omitted by reg. 2(5), (11) & (12)(a) of S.I. 2009/2655. See reg. 2(6)(a) to this S.I. for the relevant commencement date.

<sup>2</sup>Words inserted into reg. 55 by reg. 6(2) of S.I. 1996/940 as from 19.4.96.

<sup>3</sup>Reg. 55A inserted by reg. 6(3) of S.I. 1996/940 as from 19.4.96.

**Period over which periodical payments are to be taken into account**

**56.—(1)** The period over which a periodical payment is to be taken into account shall be—

- (a) in a case where the payment is made at regular intervals, a period equal to the length of that interval;
- (b) in a case where the payment is due to be made at regular intervals but is not so made, such number of weeks as is equal to the number (and any fraction shall be treated as a corresponding fraction of a week) obtained by dividing the amount of that payment by the weekly amount of that periodical payment as calculated in accordance with regulation 58(4) (calculation of the weekly amount of a liable relative payment);
- (c) in any other case, a period equal to a week.

(2) The period under paragraph (1) shall begin on the date on which the payment is treated as paid under regulation 59 (date on which a liable relative payment is to be treated as paid).

**<sup>4</sup>Period over which payments other than periodical payments are to be taken into account**

**57.—(1)** The period over which a payment other than a periodical payment (a “non-periodical payment”) is to be taken account shall be determined as follows.

(2) Except in a case where paragraph (4) applies, the number of weeks over which a non-periodical payment is to be taken into account shall be equal to the number obtained by dividing that payment by the amount referred to in paragraph (3).

(3) The amount is the aggregate of £2 and—

- (a) the amount of income support that would be payable had no payment been made.
- (b) <sup>1</sup>◀

(4) This paragraph applies in a case where a liable relative makes a periodical payment and a non-periodical payment concurrently and the weekly amount of the periodical payment (as calculated in accordance with regulation 58) is less than B.

(5) In a case where paragraph (4) applies, the non-periodical payment shall, subject to paragraphs (6) and (7), be taken into account over a period of the number of weeks equal to the number obtained by applying the formula—

$$\frac{A}{B - C}$$

(6) If the liable relative ceases to make periodical payments, the balance (if any) of the non-periodical payment shall be taken into account over the number of weeks equal to the number obtained by dividing that balance by the amount referred to in paragraph (3).

<sup>4</sup>Reg. 57 substituted by reg. 2(8) of S.I. 2008/2111 as from 27.10.08.

**Regs. 57-59**

(7) If the amount of any subsequent periodical payment varies, the balance (if any) of the non-periodical payment shall be taken into account over a period of the number of weeks equal to the number obtained by applying the formula—

$$\frac{D}{B - E}$$

(8) The period under paragraph (2) or (4) shall begin on the date on which the payment is treated as paid under regulation 59 (date on which a liable relative payment is treated as paid) and the period under paragraph (6) and (7) shall begin on the first day of the benefit week in which the cessation or variation of the periodical payment occurred.

(9) Any fraction which arises by applying a calculation or formula referred to in this regulation shall be treated as a corresponding fraction of a week.

(10) In paragraphs (4) to (7)—

A = the amount of the non-periodical payment;

B = the aggregate of £2 and the amount of income support that would be payable had the periodical payment not been made <sup>1</sup>◀;

C = the weekly amount of the periodical payment;

D = the balance (if any) of the non-periodical payment;

E = the weekly amount of any subsequent periodical payment.◀

<sup>1</sup>Words omitted in reg. 57(10) & heading to regs. 58 & 59 by reg. 2(5) & (12)(b) of S.I. 2009/2655. See reg. 2(6)(a) for the relevant commencement date.

**Calculation of the weekly amount of a <sup>1</sup>◀ liable relative payment**

**58.**—(1) Where a periodical payment is made or is due to be made at intervals of one week, the weekly amount shall be the amount of that payment.

(2) Where a periodical payment is made or is due to be made at intervals greater than one week and those intervals are monthly, the weekly amount shall be determined by multiplying the amount of the payment by 12 and dividing the product by 52.

(3) Where a periodical payment is made or is due to be made at intervals and those intervals are neither weekly nor monthly, the weekly amount shall be determined by dividing that payment by the number equal to the number of weeks (including any part of a week) in that interval.

(4) Where a payment is made and that payment represents a commutation of periodical payments whether in arrears or in advance, the weekly amount shall be the weekly amount of the individual periodical payments so commuted as calculated under paragraphs (1) to (3) as is appropriate.

(5) The weekly amount of a payment to which regulation 57 applies (period over which payments other than periodical payments are to be taken into account) shall be equal to the amount of the divisor used in calculating the period over which the payment or, as the case may be, the balance is to be taken into account.

**Date on which a <sup>1</sup>◀ liable relative payment is to be treated as paid**

**59.**—(1) A periodical payment is to be treated as paid—

- (a) in the case of a payment which is due to be made before the first benefit week pursuant to the claim, on the day in the week in which it is due to be paid which corresponds to the first day of the benefit week;

- (b) in any other case, on the first day of the benefit week in which it is due to be paid unless, having regard to the manner in which income support is due to be paid in the particular case, it would be more practicable to treat it as paid on the first day of a subsequent benefit week.
- (2) Subject to paragraph (3), any other payment shall be treated as paid—
- (a) in the case of a payment which is made before the first benefit week pursuant to the claim, on the day in the week in which it is paid which corresponds to the first day of the benefit week;
- (b) in any other case, on the first day of the benefit week in which it is paid unless, having regard to the manner in which income support is due to be paid in the particular case, it would be more practicable to treat it as paid on the first day of a subsequent benefit week.
- (3) Any other payment paid on a date which falls within the period in respect of which a previous payment is taken into account, not being a periodical payment, is to be treated as paid on the first day following the end of that period.

**60.** <sup>1</sup>◀

**60A-60E.** <sup>1</sup>◀

<sup>1</sup>Reg. 60 & Chapter VIIA (regs. 60A-60E) omitted by reg. 2(4) of S.I. 2008/2111 as from 27.10.08.

## Reg. 61

## CHAPTER VIII

<sup>1</sup>STUDENTS◀

<sup>1</sup>Words substituted in title by reg. 2(b) of S.I. 2001/721 as from 29.3.01.

<sup>2</sup>Reg. 61 renumbered 61(1) by reg. 5(3) and (5) of S.I. 2000/1981 as from 31.7.00.

<sup>3</sup>Defn. of “academic year” inserted, words substituted, deleted and inserted in defn. of “access funds” by reg. 2 of S.I. 2001/2319 as from 1.8.01.

<sup>4</sup>Defn. of “access funds” inserted by reg. 2(2) of S.I. 2000/1922 as from 1.8.00.

<sup>5</sup>Words substituted and deleted in defn. of “access funds” by reg. 2(13)(a) & (b) of S.I. 2009/2655 as from 26.10.09.

<sup>6</sup>Word “or” deleted from para. (c) & para. (e) inserted in defn. of “access funds” by reg. 2(1)(a) of S.I. 2002/1589 as from 1.8.02.

<sup>7</sup>Words substituted in reg. 61(d) by reg. 3(3)(a) of S.I. 2010/1941 as from 1.9.10.

<sup>8</sup>Words substituted in defn. of “access funds”, reg. 61(d) by reg. 3(3)(a) of S.I. 2012/956 as from 1.5.12.

<sup>9</sup>Words substituted in reg. 61(1)(e) by reg. 2(5)(A) of S.I. 2008/3157 as from 5.1.09.

<sup>10</sup>Defn. of “college of further education” inserted by reg. 6(8) of S.I. 1996/1944 as from 7.10.96.

<sup>11</sup>Defn. of “contribution” substituted in reg. 61(1) by reg. 2(9)(a) of S.I. 2009/583 as from 6.4.09.

## Interpretation

<sup>2</sup>61.—(1)◀ In this Chapter, unless the context otherwise requires—

<sup>3</sup>“academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course shall be considered to begin in the autumn rather than the summer;◀

<sup>4</sup>“access funds” means—

(a) grants made under section <sup>5</sup>68◀ of the Further and Higher Education Act 1992(a) <sup>5</sup>◀▶<sup>3</sup> for the purpose of providing funds on a discretionary basis to be paid to students◀;

(b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980(b); <sup>3</sup>◀

(c) grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993(c), or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997(d) in each case being grants, or grants, loans or other payments as the case may be, made for the purpose of assisting students in financial difficulties; <sup>3</sup> <sup>6</sup>◀

(d) discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds provided by the <sup>7</sup> <sup>8</sup>Secretary of State under section 14 of the Education Act 2002◀ or the Chief Executive of Skills Funding under sections 100 and 101 of <sup>8</sup>the Apprenticeships Skills, Children and Learning Act 2009◀;◀▶<sup>6</sup>◀ or

(e) Financial Contingency Funds made available by the <sup>9</sup>Welsh Ministers◀;◀

<sup>10</sup>“college of further education” means a college of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992;◀

<sup>11</sup>“contribution” means—

(a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or

(b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following persons to contribute towards the holder’s expenses—

(i) the holder of the allowance or bursary;

(ii) the holder’s parents;

(iii) the holder’s parent’s spouse, civil partner or a person ordinarily living with the holder’s parent as if he or she were the spouse or civil partner of that parent; or

(iv) the holder’s spouse or civil partner;◀

(a) 1992 c. 13.

(b) 1980 c. 44. The functions of the Secretary of State were transferred to Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(c) S.I. 1993/2810 (N.I. 12).

(d) S.I. 1997/1772 (N.I. 15).

<sup>1</sup>“course of advanced education“ means—

- (a) a course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a diploma or higher education or a higher national diploma; or
- (b) any other course which is of a standard above advanced GNVQ or equivalent, including a course which is of a standard above a general certificate of education (advanced level), <sup>2</sup>a Scottish national qualification (higher or advanced higher);◀◀

“covenant income” means the income <sup>3</sup>◀ payable to a student under a Deed of Covenant by a person whose income is, or is likely to be taken into account in assessing the student’s grant or award;

“education authority” means a government department, a local education authority as defined in section 114(1) of the Education Act 1944(**a**) (interpretation), <sup>3</sup>a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973(**b**)◀ an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) order 1986(**c**), any body which is a research council for the purposes of the Science and Technology Act 1965(**d**) or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain.

<sup>4</sup>◀

<sup>5</sup>“full-time course of advanced education” means a course of advanced education which is <sup>6</sup>◀—

- (a) <sup>7</sup>◀ a full-time course of study which is not funded in whole or in part by <sup>8</sup>the <sup>9</sup><sup>10</sup>Secretary of State under section 14 of the Education Act

<sup>1</sup>Defn. of “course of advanced education” substituted by reg. 6(8) of S.I. 1996/1944 as from 7.10.96.

<sup>2</sup>Words in the defn. of “course of advanced education” substituted by reg. 5(1) of S.I. 2004/1708 as from 9.7.04.

<sup>3</sup>Words deleted from defn. of “covenant income” and words substituted in defn. of “education authority” by reg. 6(8) of S.I. 1996/1944 as from 7.10.96.

<sup>4</sup>Defn. of “the FEFC” deleted by reg. 3 of S.I. 2001/652 as from 1.4.01.

<sup>5</sup>Defn. of “full-time course of advanced education” inserted by reg. 6(8)(b) of S.I. 1996/1944 as from 7.10.96.

<sup>6</sup>Words omitted from defn. of “full-time course of advanced education” by reg. 5(3)(a) of S.I. 2000/1981 as from 31.7.00.

<sup>7</sup>Words omitted from defn. of “full-time course of advanced education” by reg. 5(3)(a) of S.I. 2000/1981 as from 31.7.00.

<sup>8</sup>Words in para. (a) & para. (b) substituted in defn. of “full-time course of advanced education” and “full-time course of study” by reg. 3 of S.I. 2001/652 as from 1.4.01.

<sup>9</sup>Words substituted in reg. 61 defn. of “full-time course of advanced education” by reg. 3(b)(i) of S.I. 2010/1941 as from 1.9.10.

<sup>10</sup>Words substituted in reg. 61(1) defn. of “full-time course of advanced education” by reg. 3(3)(b) of S.I. 2012/956 as from 1.5.12.

(a) 1944 c. 31, as amended by S.I. 1974/595, article 3(22), Schedule 1, Part I and by S.I. 1977/293, article 4(1).

(b) 1973 c. 65.

(c) S.I. 1986/594 (N.I. 3).

(d) 1965 c. 4.

## Reg. 61

<sup>1</sup>Words substituted in defn. "full-time course of advanced education" and "full-time course of study" by reg. 2(5)(b) of S.I. 2008/3157 as from 5.1.09.

<sup>2</sup>Words substituted in defn. of "full-time course of advanced education" and "full-time course of study" by reg. 2(3) of S.I. 2001/2319 as from 1.8.01.

<sup>3</sup>Words in para. (a) & para. (b) substituted in defn. of "full-time course of advanced education" and "full-time course of study" by reg. 3 of S.I. 2001/652 as from 1.4.01.

<sup>4</sup>Words substituted in reg. 61 defn. of "full-time course of advanced education" & "full-time course of study" by reg. 3(b)(i)-(ii) & (c) of S.I. 2010/1941 as from 1.9.10.

<sup>5</sup>Words substituted in reg. 61(1) defn. of "full-time course of advanced education and "full-time course of study" by reg. 3(3)(b) & (c) of S.I. 2012/956 as from 1.5.12.

<sup>6</sup>Words omitted from defn. of "full-time course of advanced education" by reg. 5(3)(a) of S.I. 2000/1981 as from 31.7.00.

<sup>7</sup>Defn. of "full-time course of study" inserted by reg. 6(8)(b) of S.I. 1996/1944 as from 7.10.96.

2002◀, the Chief Executive of Skills Funding◀ or by the <sup>1</sup>Welsh Ministers◀◀ or a full-time course of study which is not funded in whole or in part by the <sup>2</sup>Scottish Ministers◀ at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the <sup>2</sup>Scottish Ministers◀;

<sup>3</sup>(b) a course of study which is funded in whole or in part by the <sup>4</sup><sup>5</sup>Secretary of State under section 14 of the Education Act 2002◀, the Chief Executive of Skills Funding◀ or by the <sup>1</sup>Welsh Ministers◀ if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—

<sup>4</sup>(i) in the case of a course funded by the <sup>5</sup>Secretary of State under section 14 of the Education Act 2002◀ or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those <sup>5</sup>persons◀ for the delivery of that course; or◀

(ii) in the case of a course funded by the <sup>1</sup>Welsh Ministers◀, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or◀

(c) <sup>6</sup>◀ a course of study (not being higher education) which is funded in whole or in part by the <sup>2</sup>Scottish Ministers◀ at a college of further education if it involves—

(i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or

(ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 per week, according to the number of hours set out in a document signed on behalf of the college;◀

<sup>7</sup>"full-time course of study" means a full-time course of study which—

(a) is not funded in whole or in part by <sup>2</sup>the <sup>4</sup><sup>5</sup>Secretary of State under section 14 of the Education Act 2002◀ or the Chief Executive of Skills Funding◀ or by the <sup>1</sup>Welsh Ministers◀◀**(a)**◀

or a full-time course of study which is not funded in whole or in part by the <sup>2</sup>Scottish Ministers◀ at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the <sup>2</sup>Scottish Ministers◀;

<sup>7</sup>(b) a course of study which is funded in whole or in part by the <sup>4</sup><sup>5</sup>Secretary of State under section 14 of the Education Act 2002◀ or the Chief Executive of Skills Funding◀ or by the <sup>1</sup>Welsh Ministers◀ if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—

<sup>4</sup>(i) in the case of a course funded by the <sup>5</sup>Secretary of State under section 14 of the Education Act 2002◀ or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those <sup>5</sup>persons◀ for the delivery of that course; or◀

(ii) in the case of a course funded by the <sup>1</sup>Welsh Ministers◀, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or◀

(c) is not higher education and is funded in whole or in part by the <sup>2</sup>Scottish Ministers◀ at a college of further education if it involves—

(i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or

**(a)** The Council was established by section 30 of the Learning and Skills Act 2000 (c. 21).



- (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 per week, according to the number of hours set out in a document signed on behalf of the college; ◀

<sup>1</sup>“full-time student” <sup>2</sup>means a person who is not a qualifying young person or child within the meaning of section 142 of the Contributions and Benefits Act (child and qualifying young person) and ◀ who is—

- (a) aged less than 19 and is attending or undertaking a full-time course of advanced education;
- (b) aged 19 or over but under pensionable age and is attending or undertaking a full-time course of study at an educational establishment; or
- (c) on a sandwich course; ◀

<sup>3</sup>“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds <sup>4</sup>or any payment to which paragraph 11 of Schedule 9 or paragraph 63 of Schedule 10 applies ◀; ◀

“grant income” means—

- (a) any income by way of a grant;
- (b) in the case of a student other than one to whom sub-paragraph (c) refers, any contribution which has been assessed whether or not it has been paid;
- (c) in the case of a student to whom <sup>5</sup>paragraph 1, 2, 10, 11 ◀ ◀<sup>6</sup>, 12 or 15A of Schedule 1B applies (lone parent, disabled student or persons in education) ◀, any contribution which has been assessed and which has been paid;

and any such contribution which is paid by way of a covenant shall be treated as part of the student’s grant income.

<sup>7</sup>“higher education” means higher education within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992(a); ◀

<sup>8</sup>“last day of the course” means the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled; ◀

“period of study” means—

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course <sup>8</sup>and ending with the last day of the course; ◀
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, <sup>8</sup>other than the final year of the course, ◀ the period beginning with the start of the course or, as the case may be, that year’s start and ending with either—
- <sup>9</sup>(i) the day before the start of the next year of the course in a case where the student’s grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or ◀
- (ii) in any other case the day before the start of the normal summer vacation appropriate to his course;

- <sup>10</sup>(c) in the final year of a course of study of more than one year, the period beginning with that year’s start and ending with the last day of the course; ◀

<sup>11</sup>“periods of experience” means periods of work experience which form part of a sandwich course; ◀;

<sup>12</sup>“postgraduate master’s degree loan” means a loan which a student is eligible to receive under the Education (Postgraduate Master’s Degree Loans) Regulations 2016(b); ◀

<sup>1</sup>Defn. of “full-time student” inserted by reg. 5(3)(b) of S.I. 2000/1981 as from 31.7.00.

<sup>2</sup>Words substituted in defn. of “full-time student” by reg. 2(6) of S.I. 2006/718 as from 10.4.06.

<sup>3</sup>Defn. of “grant” substituted by reg. 2(2) of S.I. 2000/1922 as from 1.8.00.

<sup>4</sup>Words inserted in defn. of “grant” by reg. 5(1)(b) of S.I. 2004/1708 as from 1.8.04 where students course of study begins on or after that date but before 1.9.04, or 1.9.04 in any other case.

<sup>5</sup>Words in para. (c) of defn. of “grant income” substituted by reg. 5(5) of S.I. 1997/2197 as from 6.10.97.

<sup>6</sup>Words substituted in defn. of “grant income” in reg. 61(1) by reg. 2(9)(b) of S.I. 2009/583 as from 6.4.09.

<sup>7</sup>Defn. of “higher education” inserted by reg. 6(8)(b) of S.I. 1996/1944 as from 7.10.96.

<sup>8</sup>Defn. of “last day of the course” inserted and words in reg. 61 substituted and inserted by reg. 10 of S.I. 1991/1559 as from 5.8.91.

<sup>9</sup>Para. (b)(i) of defn. of “period of study” substituted by reg. 2(3) of S.I. 2000/1922 as from 1.8.00.

<sup>10</sup>Para. (c) added to defn. of “period of study” by reg. 10(b)(iii) of S.I. 1991/1559 as from 5.8.91.

<sup>11</sup>Defn. of “periods of experience” substituted by reg. 2(1)(b) of S.I. 2002/1589 as from 1.8.02.

<sup>12</sup>Words in reg. 61(1) inserted by reg. 2(2) of S.I. 2016/743 as from 4.8.16.

(a) 1992 c. 37.

(b) S.I. 2016/606.

**Reg. 61**

<sup>1</sup>Defn. of “sandwich course” substituted by reg. 2(9)(b) of S.I. 2008/2767 as from 17.11.08.

<sup>2</sup>Defn. of “standard maintenance grant” substituted by reg. 6(8)(a) of S.I. 1996/1944 as from 7.10.96.

<sup>3</sup>Words inserted in para. (a) of defn. of “standard maintenance grant” by reg. 5(3)(c) of S.I. 2000/1981 as from 31.7.00.

<sup>4</sup>Para. (c) of defn. of “standard maintenance grant” substituted by reg. 2 of S.I. 2001/2319 as from 1.8.01.

<sup>5</sup>Words in para. (c) of Defn. of “standard maintenance grant” omitted by reg. 2(9) & (c) of S.I. 2008/2767 as from 17.11.08.

<sup>6</sup>Defn. of “student” substituted by reg. 5(3)(d) of S.I. 2000/1981 as from 31.7.00.

<sup>7</sup>Defn. of “student loan” inserted by reg. 3(1)(b) of S.I. 1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(b)(i) *ibid* applies).

<sup>8</sup>Words inserted in defn. of student loan and defn. of “year” deleted by reg. 2 of S.I. 2001/2319 as from 1.8.01.

<sup>9</sup>Para. (2) inserted in reg. 61 by reg. 5(4) of S.I. 2000/1981 as from 31.7.00.

“sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008(a), regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007(b), regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007(c)◀,

“standard maintenance grant” means—

(a) except where paragraph (b) or (c) applies, in the case of a student attending <sup>3</sup>or undertaking◀ a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 1995 (“the 1995 Regulations”) for such a student;

(b) except where paragraph (c) applies, in the case of a student residing at his parent’s home, the amount specified in paragraph 3(2) thereof;

<sup>4</sup>(c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980(d), the amount of money specified as “standard maintenance allowance” for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland(e), or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority <sup>5</sup>◀;

(d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 1995 Regulations other than in sub-paragraph (a) or (b) thereof;◀

*Those parts of Schedules 2 and 5 to the Education (Mandatory Awards) Regulations 1998 (S.I. 1998/1166) which are mentioned in the last three definitions, are reproduced at Annex 2 to this S.I.*

<sup>6</sup>“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking a course of study at an educational establishment;◀

<sup>7</sup>“student loan” means a loan towards a student’s maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998(f) section 73 of the Education (Scotland) Act 1980(g) or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998(h) <sup>8</sup>and shall include, in Scotland, a young student’s bursary paid under regulation 4(1)(c) of the Students’ Allowances (Scotland) Regulations 1999(i)◀;◀

<sup>8</sup>◀

<sup>9</sup>(2) For the purposes of the definition of “full-time student” in paragraph (1), a person shall be regarded as attending or, as the case may be, undertaking a full-time course of study, a full-time course of advanced education or as being on a sandwich course—

(a) subject to paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—

(i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or

(a) S.I. 2008/529.

(b) S.S.I 2007/154.

(c) S.R. (NI) 2007 No. 195.

(d) 1980 c. 44.

(e) The relevant leaflets are SA52, SA54 and SA56.

(f) 1998 c. 30; *see* the Education (Student Support) Regulations 1999 (S.I. 1999/496) and the Education (Student Loans) Regulations 1998 (S.I. 1998/211).

(g) 1980 c. 44; section 73(f) was amended by the Teaching and Higher Education Act 1998 (c. 30), section 29(1); *see* the Education (Student Loans) Regulations 1999. (S.I. 1999/1001 (s. 71)) and the Education (Student Loans) Regulations 1998.

(h) S.I. 1998/1760 (N.I. 14); *see* the Education (Student Support) Regulations (Northern Ireland) 1999 (S.R. 1999 No. 192) for loans to students commencing courses after 1st September 1998.

(i) S.I. 1999/1131 (s. 91).

- (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;
- (b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it. ◀

<sup>1</sup>(3) For the purpose of sub-paragraph (a) of paragraph (2), the period referred to in that sub-paragraph shall include—

- (a) where a person has failed examinations or has failed to successfully complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
- (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

(4) In paragraph (2), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course. ◀

### Calculation of grant income

**62.—**(1) The amount of a student’s grant income to be taken into account shall, subject to <sup>2</sup>paragraphs <sup>3</sup>(2) and (2A)◀◀, be the whole of his grant income.

(2) There shall be disregarded from the amount of a student’s grant income any payment—

- (a) intended to meet tuition fees or examination fees;
- (b) <sup>4</sup>◀
- (c) intended to meet additional expenditure incurred by a disabled student in respect of his attendance on a course;
- (d) intended to meet additional expenditure connected with term time residential study away from the student’s educational establishment;
- (e) on account of the student maintaining a home at a place other than that at which he resides while attending his course but only to the extent that his rent <sup>5</sup>◀ is not met by housing benefit;
- (f) on account of any other person but only if that person is residing outside of the United Kingdom and there is no applicable amount in respect of him;
- (g) intended to meet the cost of books and equipment <sup>4</sup>◀▶<sup>6</sup>◀
- (h) intended to meet travel expenses incurred as a result of his attendance on the course.
- <sup>7</sup>(i) intended for the maintenance <sup>8</sup>◀ of a child dependant;◀
- <sup>8</sup>(j) intended for the child care costs of a child dependant.◀

<sup>1</sup>Para. (3) & (4) inserted in reg. 61 by reg. 5(4) of S.I. 2000/1981 as from 31.7.00.

<sup>2</sup>Words substituted in reg. 62(1) by reg. 20 of S.I. 1992/2155 as from 5.10.92.

<sup>3</sup>Words substituted in reg. 62(1) by reg. 2(4)(a) of S.I. 2000/1922 as from 1.8.00.

<sup>4</sup>Reg. 62(2)(b) deleted and words deleted from reg. 62(2)(g) by reg. 6(9) of S.I. 1996/1944 as from 7.10.96.

<sup>5</sup>Words deleted in reg. 62(2)(e) by reg. 3(4) of S.I. 2005/574 as from 4.4.05.

<sup>6</sup>Words deleted in reg. 62(2)(g) by reg. 3 of S.I. 1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(b)(i) *ibid* applies).

<sup>7</sup>Reg 62(2)(i) inserted, by para. 16(a) & (c) of Sch. 1 to S.I. 2003/455 as from 6.4.04 or later see reg. 1 *ibid*.

<sup>8</sup>Words omitted in reg. 62(2)(i) & sub-para. (j) added by reg. 3(3)(a) & (b) of S.I. 2004/1708 as from 1.9.04 (or during August 2004 if reg. 1(1)(b)(i) (*ibid*) applies).

**Reg. 62**

<sup>1</sup>Reg. 62(2)(k) inserted by reg. 2(10) of S.I. 2009/583 as from 6.4.09.

<sup>2</sup>Words added to reg. 62(2)(k) by art. 2(4) of S.I. 2017/901 as from 3.11.17.

<sup>3</sup>Reg. 62(2A) substituted by reg. 3 of S.I. 1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(b)(i) (ibid) applies).

<sup>4</sup>Words in reg. 62(2A) inserted & substituted by reg. 2(3) of S.I. 2016/743 as from 4.8.16.

<sup>5</sup>Words in reg. 62(2A) substituted by reg. 2(2)(a) & (b) of S.I. 2007/1632 as from 1.9.07 (or during August 07 if reg. 1(3)(a) (ibid) applies).

<sup>6</sup>Amounts in reg. 62(2A) substituted by regs. 2(2), (3) & (4)(a) of S.I. 2009/1575 as from 1.9.09 (or during August 2009 if reg. 1(3)(a) (ibid) applies).

<sup>7</sup>Reg. 62(2A)(b) substituted by reg. 3 of S.I. 2001/2319 as from 27.8.01 (or during August 2001 if reg. 1 (ibid) applies).

<sup>8</sup>Para. (2B) omitted by reg. 2(6) of S.I. 2005/1807 as from 1.9.05 (or during August if reg. 1(2)(a) (ibid) applies) except in a case where reg. 2(8) (ibid) applies, in which case sub-para. (a) & (b) are omitted.

<sup>9</sup>Words substituted in reg. 62(3) by reg. 2(4) of S.I. 2000/1922 as from 1.8.00.

<sup>10</sup>Words in reg. 62(3) substituted and omitted by para. 16(a) & (c) of Sch. 1 to S.I. 2003/455 as from 6.4.04 or later see reg. 1 ibid.

<sup>1</sup>(k) of higher education bursary for care leavers made under Part III of the Children Act 1989<sup>(a)</sup> <sup>2</sup>or Part 6 of the Social Services and Well-being (Wales) Act 2014.◀◀

<sup>3</sup>(2A) Where a student does not have a student loan <sup>4</sup>or a postgraduate master's degree loan◀ and is not treated as possessing <sup>4</sup>a student loan or a postgraduate master's degree loan◀, there shall be excluded from the student's grant income—

(a) the sum of <sup>5</sup> £303◀ per academic year◀ in respect of travel costs; and

<sup>7</sup>(b) the sum of <sup>5</sup> £390◀ per academic year◀ towards the costs of books and equipment,◀

whether or not any such are incurred.◀

(2B) <sup>8</sup>◀

(3) <sup>9</sup>Subject to paragraph (3B), a student's grant income except any amount intended for the maintenance of <sup>10</sup>adult◀ dependants under Part III of Schedule 2 to the Education (Mandatory Awards) Regulations 1999<sup>(b)</sup>◀ <sup>10</sup>◀ shall be apportioned—

(a) 1989 c. 41. Provisions relating to higher education bursaries for care leavers were inserted into the Children Act 1989 by the Children and Young Persons Act 2008 (c. 23).

(b) S.I. 1999/1494.

**Reg. 62**

- (a) subject to paragraph (4), in a case where it is attributable to the period of study, equally between the weeks <sup>1</sup>in the period beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period study◀;
- (b) in any other case, equally between the weeks in the period <sup>1</sup>beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable◀.

<sup>1</sup>Words added in reg. 62(3)(a) & (b) by reg. 4(3)(b) of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if reg. 1(1)(b)(i) *ibid* applies).

*Reg. 62(3) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

(2B) <sup>2</sup>◀

(3) <sup>3</sup>Subject to paragraph (3B), a student's grant income except any amount intended for the maintenance of dependants under Part III of Schedule 2 to the Education (Mandatory Awards) Regulations 1999(a) or intended for an older student under Part IV of that Schedule◀ shall be apportioned-

<sup>2</sup>Reg. 62(2B) omitted by reg. 4(3) of S.I. 2006/7152 as from 1.9.06 or during August 06 if reg. 1(2)(b) *ibid* applies.

<sup>3</sup>Words substituted in reg. 62(3) by reg. 2(4) of S.I. 2000/1922 as from 1.8.00.

- (a) subject to paragraph (4), in a case where it is attributable to the period of study, equally between the weeks <sup>4</sup>in the period beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period study◀;
- (b) in any other case, equally between the weeks in the period <sup>4</sup>beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable ◀

<sup>4</sup>Words added in reg. 62(3)(a) & (b) by reg. 4(3)(b) of S.I. 2002/1589 as from 26.8.02.

*Those parts of Sch. 2 to the Education (Mandatory Awards) Regulations 2002 (S.I. 2002/1330) which are mentioned in reg. 62(2A) and (3) above are reproduced, as later re-enacted with modifications, at Annex 2 to this S.I.*

<sup>5</sup>(3A) <sup>6</sup>Any grant in respect of <sup>7</sup>an adult dependant◀ paid under section 63(6) of the Health Services and Public Health Act 1968(b) (grants in respect of the provision of instruction to officers of hospital authorities) and◀ any amount intended for the maintenance of <sup>7</sup>an adult dependant◀ or for an older student under the provisions referred to in paragraph (3) shall be apportioned equally over a period of 52 weeks or, if there are 53 benefit weeks (including part-weeks) in the year, 53.◀

<sup>5</sup>Reg. 62(3A) inserted by reg. 24(b) of S.I. 1988/663 as from 11.4.88.

<sup>6</sup>Words inserted in reg. 62(3A) by reg. 6 of S.I. 2001/2319 as from 27.8.01 (or during August 2001 if reg. 1 (*ibid*) applies).

<sup>7</sup>Words substituted in reg. 62(3A) & (3B) by paras. 16(d) & (e) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>8</sup>Para. (3B) inserted in reg. 62 by reg. 2(4)(e) of S.I. 2000/1922 as from 1.8.00.

<sup>9</sup>Words inserted and substituted in para. (3B) by reg. (4)(5)(a) of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if reg. 1(1)(b)(i) *ibid* applies).

<sup>10</sup>Reg. 62(3A) inserted by reg. 24(b) of S.I. 1988/663 as from 11.4.88.

<sup>11</sup>Words inserted in reg. 62(3A) by reg. 6 of S.I. 2001/2319 as from 27.8.01 (or during August 2001 if reg. 1 (*ibid*) applies).

<sup>8</sup>(3B) <sup>9</sup>In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so,◀ any amount intended for the maintenance of <sup>7</sup>an adult dependant◀ under provisions other than those referred to in paragraph (3) shall be apportioned over the same period as the student's loan is apportioned <sup>9</sup>, as the case may be, would have been apportioned.◀◀

*Reg 62(3A) & (3B) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

<sup>10</sup>(3A) <sup>11</sup>Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968(c) (grants in respect of the provision of instruction to officers of hospital authorities) and◀ any amount intended for the maintenance of dependants or for an older student under the provisions referred to in paragraph (3) shall be apportioned equally over a period of 52 weeks or, if there are 53 benefit weeks (including part-weeks) in the year, 53.◀

(a) S.I. 1999/1494.

(b) 1968 c. 46.

(c) 1968 c. 46.



**Regs. 62-64**

<sup>1</sup>(3B) <sup>2</sup>In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants under provisions other than those referred to in paragraph (3) shall be apportioned over the same period as the student's loan is apportioned <sup>2</sup>, as the case may be, would have been apportioned. ◀◀

<sup>1</sup>Para. (3B) inserted in reg. 62 by reg. 2(4)(e) of S.I. 2000/1922 as from 1.8.00.

<sup>2</sup>Words inserted and substituted in paras. (3B) by reg. (4)(5)(a) of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if reg. 1(1)(b)(i) *ibid* applies).

(4) In the case of a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between <sup>3</sup>the weeks in the period beginning with the benefit week, the first day of which immediately follows the last day of period of experience and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period of study ◀.

<sup>3</sup>Words added in reg. 62(4) by reg. 4(7) of S.I. 2002/1589 as from 26.8.02.

**Calculation of covenant income where a contribution is assessed**

**63.—**(1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following shall be the whole amount of his covenant income less, subject to paragraph (3), the amount of the contribution.

(2) The weekly amount of the student's covenant income shall be determined—

- (a) by dividing the amount of income which falls to be taken into account under paragraph (1) by 52 or, if there are 53 benefit weeks (including part weeks) in the year, 53; and
- (b) by disregarding from the resulting amount, £5.

(3) For the purposes of paragraph (1), the contribution shall be treated as increased by the amount, if any, by which the amount excluded under <sup>4</sup>regulation 62(2)(h) (calculation of grant income) falls short of the amount for the time being specified in paragraph 7(4)(i) of Schedule 2 to the Education (Mandatory Awards) Regulations 1991 (travel expenditure). ◀

<sup>4</sup>Words substituted in reg. 63(3) by reg. 5(3) of S.I. 1992/468 as from 6.4.92.

*Para. 7(4)(i) of Sch. 2 to the Education (Mandatory Awards) Regulations 1998 is reproduced, as later re-enacted with modifications, at Annex 2 to this S.I.*

**Covenant income where no grant income or no contribution is assessed**

**64.—**(1) Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows—

- (a) any sums intended for any expenditure specified in regulation 62(2)(a) to (f), (calculation of grant income) necessary as a result of his attendance on the course, shall be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study and there shall be disregarded from the covenant income to be so apportioned the amount which would have been disregarded under <sup>5</sup>regulation 62(2)(g) and (h) and (2A) ◀ (calculation of grant income) had the student been in receipt of the standard maintenance grant;
- (c) the balance, if any, shall be divided by 52 or, if there are 53 benefit weeks (including part weeks) in the year, 53 and treated as weekly income of which £5 shall be disregarded.

<sup>5</sup>Words substituted in reg. 64(1)(b) by reg. 5(4) of S.I. 1992/468 as from 6.4.92.

(2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenant income shall be calculated in accordance with sub-paragraphs (a) to (c) of paragraph (1), except that—

- (a) the value of the standard maintenance grant shall be abated by the amount of his grant income less an amount equal to the amount of any sums disregarded under regulation 62(2)(a) to (f); and
- (b) the amount to be disregarded under paragraph (1)(b) shall be abated by an amount equal to the amount of any sums disregarded under <sup>6</sup>regulation 62(2)(g) and (h) and (2A) ◀.

<sup>6</sup>Words substituted in reg. 64(2)(b) by reg. 5(4) of S.I. 1992/468 as from 6.4.92.

## Regs. 65-66A

## Relationship with amounts to be disregarded under Schedule 9

**65.** No part of a student's covenant income or grant income shall be disregarded under paragraph 15 of Schedule 9 (charitable and voluntary payments) <sup>1</sup>◀.

<sup>1</sup>Words omitted in reg. 65 by reg. 5(5) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

<sup>2</sup>Words substituted and inserted in reg. 66(1) by reg. 5 of S.I. 1994/527 as from 11.4.94.

<sup>3</sup>Words substituted in reg. 66 by reg. 3(4) of S.I. 1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(b)(i) *ibid* applies).

<sup>4</sup>Reg. 66A inserted by reg. 5(7) of S.I. 1990/1549 as from 1.9.90.

<sup>5</sup>Words in heading to reg. 66A added & words inserted in reg. 66A(1) by reg. 2(4) of S.I. 2016/743 as from 4.8.16.

<sup>6</sup>Paras. (1), (1A) & (2) substituted for paras. (1) & (2) of reg. 66A by reg. 2(5) of S.I. 2000/1922 as from 1.8.00.

<sup>7</sup>Words in reg. 66A(1) omitted & para. (1A) deleted by reg. 2(10) of S.I. 2008/2767 as from 17.11.08.

<sup>8</sup>Para. (a) of reg. 66A(2) substituted by reg. 5 of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if reg. 1(1)(b)(i) *ibid* applies.)

<sup>9</sup>Sub-para. (aa) inserted in reg. 66A(2) by reg. 4 of S.I. 2001/2319 as from 27.8.01 (or during August 2001 if reg. 1 (*ibid*) applies).

<sup>10</sup>Words substituted in para. (aa) & omitted from para (b) of reg. 66A(2) by reg. (5)(3) & (4) of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if reg. 1(1)(b)(i) *ibid* applies).

## Other amounts to be disregarded

**66.**—(1) for the purposes of ascertaining income <sup>2</sup>other than grant income, covenant income and loans treated as income in accordance with regulation 66A(a)◀, any amounts intended for any expenditure specified in regulation 62(2) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under regulation 62(2) <sup>2</sup>and (2A)◀, 63(3) <sup>3</sup>, 64(1)(a) or (b) and 66A(5) (calculation of grant income, covenant income and treatment of student loans)◀ on like expenditure.

(2) Where a claim is made in respect of any period in the normal summer vacation and any income is payable under a Deed of Covenant which commences or takes effect after the first day of that vacation, that income shall be disregarded.

<sup>4</sup>Treatment of student loans <sup>5</sup>and postgraduate master's degree loans◀

**66A.**— <sup>6</sup>(1) A student loan <sup>5</sup>and a postgraduate master's degree loan◀ shall be treated as income <sup>7</sup>◀.

(1A) <sup>7</sup>◀

(2) In calculating the weekly amount of the loan to be taken into account as income—

<sup>8</sup>(a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period shall be apportioned equally between the weeks in the period beginning with—

(i) except in a case where (ii) below applies, the benefit week, the first day of which coincides with, or immediately follows, the first day of the single academic year;

(ii) where the student is required to start attending the course in August or where the course is of less than an academic year's duration, the benefit week, the first day of which coincides with, or immediately follows, the first day of the course;

and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the course;◀

<sup>9</sup>(aa) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year shall be apportioned equally between the weeks in the period beginning with the benefit week <sup>10</sup>, the first day of which coincides with, or immediately follows, the first day of that academic year and ending with the benefit week, the last day of which coincides with, or immediately precedes,◀ the last day of that academic year but excluding any benefit weeks falling entirely within the quarter during which, in the opinion of the Secretary of State, the longest of any vacation is taken and for the purposes of this sub-paragraph, "quarter" shall have the same meaning as for the purposes of the Education (Student Support) Regulations 2001.◀

(b) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year shall be apportioned equally between the weeks in the period beginning with the <sup>10</sup>◀—

(a) Reg. 66A was inserted by S.I. 1990/1549 and amended by S.I. 1991/236 and 559.



**Reg. 66A**

- <sup>1</sup>(i) except in cases where (ii) below applies, the benefit week, the first day of which coincides with, or immediately follows, the first day of that academic year;
- (ii) where the final academic year starts on 1st September, the benefit week, the first day of which coincides with, or immediately follows, the earlier of 1st September or the first day of the autumn term; ◀  
and ending with the <sup>1</sup>the benefit week, the last day of which coincides with, or immediately precedes, ◀ the last day of the course;
- (c) in any other case, the loan shall be apportioned equally between the weeks in the period beginning with the earlier of—
- (i) the first day of the first benefit week in September; or
- <sup>2</sup>(ii) the benefit week, the first day of which coincides with, or immediately follows, the first day of the autumn term, ◀  
and ending with <sup>2</sup>the benefit week, the last day of which coincides with, or immediately precedes, the last day of June ◀,

<sup>1</sup>Reg. 66A(2)(b)(i) & (ii) substituted and words substituted in reg. 66A(2)(b) by reg. 5(4) & (5) of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if reg. 1(1)(b)(i) ibid applies).

<sup>2</sup>Para. (2)(c) & (c)(ii) substituted in reg. 66A by reg. 5 of S.I. 2002/1589 as from 26.8.02 (or during August 2002 if reg. 1(1)(b)(i) ibid applies).

and, in all cases, from the weekly amount so apportioned there shall be disregarded £10. ◀

<sup>3</sup>(3) A student shall be treated as possessing a student loan <sup>4</sup>or a postgraduate master's degree loan ◀ in respect of an academic year where—

- (a) a student loan <sup>4</sup>or a postgraduate master's degree loan ◀ has been made to him in respect of that year; or
- (b) he could acquire <sup>4</sup>a student loan or a postgraduate master's degree loan ◀ in respect of that year by taking reasonable steps to do so.

<sup>3</sup>Para. (3) substituted and paras. (4) & (5) inserted by reg. 3(5)(b) of S.I. 1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(b)(i) ibid applies).

(4) Where a student is treated as possessing a student loan under paragraph (3), the amount of the student loan to be taken into account as income shall be, subject to paragraph (5)—

<sup>4</sup>Reg. 66A(4A) inserted & words inserted & substituted in reg. 66A(3) & (5) by reg. 2(4) of S.I. 2016/743 as from 4.8.16.

- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so and either—
- (i) in the case of a student other than one to whom head (ii) refers, any contribution whether or not it has been paid to him; or
- (ii) in the case of a student to whom paragraph 1, 2, <sup>5</sup>◀, 11 <sup>6</sup>, <sup>5</sup>◀ or 15A of Schedule 1B applies (lone parent, disabled student or persons in education) ◀, any contribution which has actually been paid to him;
- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—
- (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and
- (ii) no deduction in that loan was made by virtue of the application of a means test.

<sup>5</sup>Words in reg. 66A(4)(a)(ii) omitted by reg. 3(d) of S.I. 2009/3152 as from 30.12.09.

<sup>6</sup>Words substituted in para. 4(a)(ii) of reg. 66A by reg. 2(11) of S.I. 2009/583 as from 6.4.09.

<sup>4</sup>(4A) Where a student is treated as possessing a postgraduate master's degree loan under paragraph (3) in respect of an academic year, the amount of that loan to be taken into account as income shall be, subject to paragraph (5), a sum equal to 30 per cent. of the maximum postgraduate master's degree loan the student is able to acquire in respect of that academic year by taking reasonable steps to do so. ◀

(5) There shall be deducted from the amount of income taken into account under paragraph (4) <sup>4</sup>or (4A) ◀—

**Regs. 66A-66D**

<sup>1</sup>Words in reg. 66A(5) substituted by reg. 2(3)(a) & (b) of S.I. 2007/1632 as from 1.9.07 (or during August 2007 if reg. 1(3)(a) (ibid) applies).

<sup>2</sup>Amounts in reg. 66A(5) substituted by reg. 2(2), (3) & (4)(a) of S.I. 2009/1575 as from 1.9.09 (or during August 2009 if reg. 1(3)(a) (ibid) applies).

<sup>3</sup>Reg. 66A(5)(b) substituted by reg. 3 of S.I. 2001/2319 as from 27.8.01 (or during August 2001 if reg. 1 (ibid) applies).

<sup>4</sup>Reg. 66B inserted by reg. 2(6) of S.I. 2000/1922 as from 1.8.00.

<sup>5</sup>Words omitted in reg. 66B(3) & (3A) inserted by reg. 2(5) of S.I. 2007/719 as from 2.4.07.

<sup>6</sup>Words substituted & omitted in reg. 66B(3) by reg. 2(1) of, & para. 10 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>7</sup>Words substituted in reg. 66B(3) by para. 17 of Sch. 1 to S.I. 2003/455 as from 6.4.04.

(a) the sum of <sup>1</sup> £303◀ per academic year◀ in respect of travel costs; and

<sup>3</sup>(b) the sum of <sup>1</sup> £390◀ per academic year◀ towards the costs of books and equipment.◀

whether or not any such costs are incurred.◀

**<sup>4</sup>Treatment of payments from access funds**

**66B.**—(1) This regulation applies to payments from access funds that are not payments to which regulation 68(2) or (3) (income treated as capital) applies.

(2) A payment from access funds, other than a payment to which paragraph (3) of this regulation applies, shall be disregarded as income.

(3) Subject to paragraph (4) of this regulation and paragraph 36 of Schedule 9, any payments from access funds which are intended and used for food, ordinary clothing or footwear <sup>5</sup>◀, household fuel, rent for which housing benefit is payable <sup>6</sup>or any housing costs◀ to the extent that they are met under regulation 17(1)(e) or 18(1)(f) (housing costs) <sup>6</sup>◀ of a single claimant or, as the case may be, of <sup>7</sup>his partner◀, and any payments from access funds which are used for any council tax or water charges for which that claimant or <sup>7</sup>partner is liable◀ shall be disregarded as income to the extent of £20 per week.

*Reg 66B(3) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented . See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

(3) Subject to paragraph (4) of this regulation and paragraph 36 of Schedule 9, any payments from access funds which are intended and used for food, ordinary clothing or footwear <sup>5</sup>◀, household fuel, rent for which housing benefit is payable <sup>6</sup>or any housing costs◀ to the extent that they are met under regulation 17(1)(e) or 18(1)(f) (housing costs) <sup>6</sup>◀ of a single claimant or, as the case may be, of any other member of his family, and any payments from access funds which are used for any council tax or water charges for which that claimant or member is liable shall be disregarded as income to the extent of £20 per week.

<sup>5</sup>(3A) In paragraph (3) “ordinary clothing or footwear” means clothing or footwear for normal daily use, but it does not include—

- (a) school uniforms, or
- (b) clothing or footwear used solely for sporting activities.◀

(4) Where a payment from access funds is made—

- (a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or
- (b) before the first day of the course to a person in anticipation of that person becoming a student.

that payment shall be disregarded as income.◀

<sup>8</sup>Reg. 66C inserted by reg. 4(4) of S.I. 2006/1752 as from 1.9.06 or during August 06 if reg. 1(2)(b) abid applies.

**<sup>8</sup>Treatment of fee loans**

**66C.** A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income.◀

<sup>9</sup>Reg. 66D inserted by reg. 2(5) of S.I. 2016/743 as from 4.8.16.

**<sup>9</sup>Treatment of special support loans**

**66D.** A special support loan within the meaning of regulation 68 of the Education (Student Support) Regulations 2011(a) is to be disregarded as income.◀

(a) S.I. 2011/1986. Relevant Amendment Instrument is S.I. 2015/1951.

**Disregard of contribution**

**67.** Where the claimant or his partner is a student and <sup>1</sup>, for the purposes of assessing a contribution to the student's grant <sup>2</sup> or student loan<sup>3</sup>, the other partner's income has been taken into account, an amount equal to that contribution shall be disregarded for the purposes of assessing that other partner's income.◀

<sup>1</sup>Words substituted in reg. 67 by reg. 10(1) and (2)(a) of S.I. 1996/462 as from 8.4.96.

<sup>2</sup>Words inserted in reg. 67 by reg. 3(6) of S.I. 1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(b)(i) *ibid* applies).

<sup>3</sup>Reg. 67A inserted by reg. 4(3) of S.I. 1998/563 as from 6.4.98.

<sup>4</sup>Words substituted in reg. 67A by reg. 2(6) of S.I. 2016/743 as from 4.8.16.

**Further disregard of student's income**

<sup>3</sup>**67A.** Where any part of a student's income has already been taken into account for the purposes of assessing his entitlement to a grant <sup>4</sup>, student loan or postgraduate master's degree loan<sup>5</sup>, the amount taken into account shall be disregarded in assessing that student's income.◀

<sup>5</sup>Reg. 68 renumbered 68(1) and paras. (2) & (3) inserted by reg. 2(7) of S.I. 2000/1922 as from 1.8.00.

**Income treated as capital**

<sup>5</sup>**68.**—(1)◀ Any amount by way of a refund of tax deducted from a student's income shall be treated as capital.

<sup>5</sup>(2) An amount paid from access funds as a single lump sum shall be treated as capital.

(3) An amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear <sup>6</sup>◀, household fuel, rent for which housing benefit is payable <sup>7</sup> or any housing costs◀ to the extent that they are met under regulation 17(1)(e) or 18(1)(f) (housing costs) <sup>7</sup>◀, of a single claimant or, as the case may be, of any other member of his family, or which is used for an item other than any council tax or water charges for which that claimant or member is liable shall be disregarded as capital but only for a period of 52 weeks from the date of the payment.◀

<sup>6</sup>Words deleted in reg. 68(3) & (4) inserted by reg. 2(6) of S.I. 2007/719 as from 2.4.07.

<sup>7</sup>Words substituted & omitted in reg. 68(3) by reg. 2(1) & para. 11 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>6</sup>(4) In paragraph (3) "ordinary clothing or footwear" means clothing or footwear for normal daily use, but it does not include—

- (a) school uniforms, or
- (b) clothing or footwear used solely for sporting activities.◀

**Disregard of changes occurring during summer vacation**

**69.** In calculating a student's income <sup>8</sup>there shall be disregarded◀ any change in the standard maintenance grant occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study, from the date on which the change occurred up to the end of that vacation.

<sup>8</sup>Words substituted in reg. 69 by para. 7 of Sch. 5 to S.I. 1999/3178 as from 29.11.99.



## PART VI

### URGENT CASES

1◀

*Regs. 70-72 continue to be reproduced below as they remain in force in certain situations. See reg. 2(2)-(4) for details.*

#### Urgent cases

70.—(1) In a case to which this regulation applies, a claimant's weekly applicable amount and his income and capital shall be calculated in accordance with the following provisions of this Part.

(2) Subject to paragraph (4), this regulation applies to—

- <sup>2</sup>(a) a claimant to whom paragraph (2A) applies (persons not excluded from income support under section 115 of the Immigration and Asylum Act);◀
- (b) a claimant who is treated as possessing income under regulation 42(3) (notional income);
- (c) <sup>3</sup>◀

<sup>2</sup>(2A) This paragraph applies to a person not excluded from entitlement to income support under section 115 to the Immigration and Asylum Act by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 except for a person to whom paragraphs 3 and 4 of Part I of the Schedule to those Regulations applies.◀

(3)-(3B) <sup>2</sup>◀

(4) This regulation shall only apply to a person to whom paragraph (2)(b) <sup>3</sup>applies, where the income he is treated as possessing by virtue of regulation 42(3) (notional income)◀ is not readily available to him; and

- (a) the amount of income support which would be payable but for this Part is less than the amount of income support payable by virtue of the provisions of this Part; and
- (b) the <sup>4</sup>Secretary of State◀ is satisfied that, unless the provisions of this Part are applied to the claimant, the claimant or his family will suffer hardship.

#### Applicable amounts in urgent cases

71.—(1) For the purposes of calculating any entitlement to income support under this Part—

- (a) except in a case to which <sup>5</sup>sub-paragraph <sup>6</sup>◀, (c) or (d),◀ applies, a claimant's weekly applicable amount shall be the aggregate of—
  - (i) 90 per cent. † of the amount applicable in respect of himself or, if he is a member of a couple or a polygamous marriage, of the amount applicable in respect of both of them under paragraph 1(1), (2) or (3) of Schedule 2 or, as the case may be, the amount applicable in respect of them under regulation 18 (polygamous marriages); <sup>7</sup>and where regulation 22A (reduction in applicable amount where the claimant is appealing against a decision <sup>8</sup>which embodies a determinationF that he is not incapable of work) applies, the reference in this head to 90 per cent. † of the amount applicable shall be construed as a reference to 90 per cent. † of the relevant amount under that regulation reduced by 20 per cent;◀
  - (ii) <sup>9</sup>◀

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

- (ii) the amount applicable under paragraph 2 of Schedule 2 in respect of any child or young person who is a member of his family except a child or young person

<sup>1</sup>Regs. 70-72 revoked by reg. 2(1)(a) of S.I. 2009/3228. See reg. 1(3) to this S.I. for the commencement dates.

<sup>2</sup>Reg. 70(2)(a) substituted, 70(2A) inserted and 70(3), (3A) and (3B) omitted by reg. 3(7) of S.I. 2000/636 as from 3.4.00.

<sup>3</sup>Reg. 70(2)(c) deleted and words substituted in reg. 70(4) by reg. 16 of S.I. 1989/1323 as from 9.10.89.

<sup>4</sup>Words substituted in reg. 70(4)(b) by para. 8 of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

<sup>5</sup>Words in reg. 71(1)(a) substituted by reg. 25(a) of S.I. 1988/663 as from 11.4.88.

<sup>6</sup>Words in reg. 71(1)(a) deleted by para. 12(za) of Part I to the Sch. of S.I. 2001/3767 as from 8.4.02.

<sup>7</sup>Words in head (i) of reg. 71(1)(a) substituted by reg. 18(2) of S.I. 1996/206 as from 7.10.96.

<sup>8</sup>Words in reg. 71(1)(a) (i) inserted by para. 2 of Sch. 6 to S.I. 1999/2422 as from 6.9.99.

<sup>9</sup>Reg 71(1)(a)(ii) omitted by para. 18(a) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

## Reg. 71

<sup>1</sup>Words substituted in reg. 71(1)(a)(ii) by reg. 6 of S.I. 1994/527 as from 11.4.94.

<sup>2</sup>Ref. in reg. 71(1)(a)(iii) substituted by reg. 9(a) of S.I. 1989/1034 as from 10.7.89.

<sup>3</sup>Words omitted in reg. 71(1)(a)(iii) by para. 18(b) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>4</sup>Ref. in reg. 71(1)(a)(iii) substituted by reg. 9(a) of S.I. 1989/1034 as from 10.7.89.

<sup>5</sup>Words substituted in reg. 71(1)(a)(iv) by reg. 15(a) of S.I. 1988/1445 as from 12.9.88.

<sup>6</sup>Reg. 71(1)(a)(v) and (d)(iv) revoked by reg. 2(4)(a) of S.I. 2006/588 as from 3.4.06.

<sup>7</sup>In reg. 71, para. (1)(a)(vi), (c) & para. (1A) omitted by para. 5 of Sch. 1 to S.I. 2003/1121 as from 6.10.03.

<sup>8</sup>Reg. 71(1)(b) omitted by reg. 2(1) of, & para. 12 of Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>9</sup>Reg. 71(1)(d) added by reg. 25(b) of S.I. 1988/663 as from 11.4.88.

<sup>10</sup>Words in reg. 71(1)(d) deleted by para. 12(bb) of Part I to the Sch. of S.I. 2001/3767 as from 8.4.02.

<sup>11</sup>Words in reg. 71(1)(d), substituted by reg. 3(8) of S.I. 2000/636 as from 3.4.00.

<sup>12</sup>Reg 71(1)(d)(i) omitted by para. 18(a) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>13</sup>Words substituted in reg. 71(1)(d)(i) by reg. 6 of S.I. 1994/527 as from 11.4.94

<sup>14</sup>Ref. in reg. 71(1)(d)(ii) substituted by reg. 9(b) of S.I. 1989/1034 as from 10.7.89.

<sup>15</sup>Words omitted from reg. 71(1)(d)(ii) by para 18(b) of Sch. 1 to S.I. 2003/455.

<sup>16</sup>Reg. 71(1)(d)(iii) substituted by reg. 15(b) of S.I. 1988/1445 as from 12.9.88.

<sup>17</sup>Reg. 71(2) substituted by reg. 3(3) of S.I.2001/859. See reg. 1 of S.I. 2001/859 for relevant effective dates.

whose capital, if calculated in accordance with Part V in like manner as for the claimant, <sup>1</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)◀, would exceed £3,000\*;

- (iii) the amount, if applicable, specified in <sup>2</sup>Part <sup>3</sup>◀ III of Schedule 2 (premiums)◀; and

*Reg. 71(1)(a)(iii) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

- (iii) the amount, if applicable, specified in <sup>4</sup>Part II or III of Schedule 2 (premiums)◀; and

- (iv) any amounts applicable under <sup>5</sup>regulation 17(1)(e) or, as the case may be, 18(1)(f) (housing costs)◀;

- (v) <sup>6</sup>◀

- (vi) <sup>7</sup>◀

- (b) <sup>8</sup>◀

- (c) <sup>7</sup>◀

- <sup>9</sup>(d) except where sub-paragraph <sup>10</sup>◀ or (c) applies, in the case of a person to whom any paragraph, other than

<sup>11</sup>paragraph 16A◀, in column (1) of Schedule 7 (special cases) applies, the amount shall be 90 per cent.† of the amount applicable in column 2 of that Schedule in respect of the claimant and partner (if any), plus, if applicable—

- (i) <sup>12</sup>◀

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

- (i) any amount in respect of a child or young person who is a member of the family except a child or young person whose capital, if calculated in accordance with Part V in like manner as for the claimant, <sup>13</sup>except as provided in regulation 44(1) (modifications in respect of children and young persons)◀, would exceed £3,000\*;

- (ii) any premium under <sup>14</sup>Part <sup>15</sup>◀ III of Schedule 2◀; and

*Reg. 71(1)(d)(ii) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

- (ii) any premium under <sup>13</sup>Part II or III of Schedule 2◀; and

- <sup>16</sup>(iii) any amounts applicable under regulation 17(1)(e) or, as the case may be, 18(1)(f)◀

- ((iv) <sup>6</sup>◀

*\*The sums of £3,000 asterisked above in reg. 71(1)(a)(ii) & (d)(i) are maintained in force (6.4.09) by art. 16(2)(a) of S.I. 2009/497.*

*†The percentages (90%) mentioned in reg. 71(1)(a)(i) and (d) (or, where those percentages are included in material substituted since 8.4.96, mentioned in the corresponding material replaced by such substitutions) were maintained in force (6.4.09) by Sch. 4 to S.I. 2009/497.*

- (1A) <sup>7</sup>◀

<sup>17</sup>(2) In a case to which paragraph 1 of Part 1 of the Schedule to the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000(a) applies, the period for which a claimant's weekly applicable amount is to be calculated in accordance with paragraph (1) shall be any period, or the aggregate of any periods, not exceeding 42 days during any one period of leave to which that paragraph of that Part of the Schedule to those Regulations applies.◀

*Reg. 71(2)(b), as it stood before deletion by reg. 8(4) of S.I. 1996/30, is reproduced below for cases subject to saving in regs. 12(1) and (2) *ibid*:-*

- (b) in a case to which sub-paragraph (b) of paragraph (3) of that regulation applies—
  - (i) the period ending not later than the date on which that determination is sent to the claimant; or
  - (ii) if he has a right to appeal against the determination under Part II of the 1971 Act, the period ending not later than 28 days after the date on which that determination is sent to him;

<sup>1</sup>(3) Where the calculation of a claimant's applicable amount under this regulation results in a fraction of a penny that fraction shall be treated as a penny.◀

<sup>1</sup>Reg. 71(3) added by reg. 25(c) of S.I. 1988/663 as from 11.4.88

Assessment of income and capital in urgent cases

72.—(1)The claimant's income shall be calculated in accordance with Part V subject to the following modifications—

- <sup>2</sup>(a) any income, other than—
  - (i) a payment of income or income in kind 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 <sup>3</sup>Fund (2006)◀; or
  - (ii) income to which paragraph 5, 7 (but only to the extent that a concessionary payment would be due under that paragraph for any non-payment of income support under regulation 70 of these Regulations or of jobseeker's allowance under regulations 147 of the Jobseeker's Allowance Regulations 1996 <sup>4</sup>or of employment and support allowance under regulation 164 of the Employment and Support Allowance Regulations◀ (urgent cases)), 31, 39(2), (3) or (4), 40, 42, 52 or 57 of Schedule 9 (disregard of income other than earnings) applies, possessed or treated as possessed by him, shall be taken into account in full notwithstanding any provision in that Part disregarding the whole or any part of that income;◀
- (b) any income to which regulation 53 (calculation of tariff income from capital) applies shall be disregarded;
- (c) income treated as capital by virtue of <sup>5</sup>regulation 48(1), (2), (3) and (9)◀ (income treated as capital) shall be taken into account as income;
- (d) in a case to which paragraph (2)(b) of regulation 70 (urgent cases) applies, any income to which regulation 42(3) (notional income) applies shall be disregarded.
- (e) <sup>6</sup>◀.

<sup>2</sup>Reg. 72(1)(a) substituted & words inserted in reg. 72(2) by reg. 19(1) & (b) of S.I.1998/563 as from 6.4.98.

<sup>3</sup>Words substituted in reg. 72(1)(a)(i) by reg. 2(6)(d) of S.I. 2008/2767 as from 17.11.08.

<sup>4</sup>Words inserted in reg. 72(1)(a)(ii) by reg. 2(8)(a) of S.I. 2008/1554 as from 27.10.08.

<sup>5</sup>Words in reg. 72(1)(c) and (2) substituted by reg. 15 of S.I. 1988/2022 as from 12.12.88.

<sup>6</sup>Reg. 72(1)(e) deleted by reg. 17 of S.I. 1989/1323 as from 9.10.89.

(2) The claimant's capital calculated in accordance with Part V, but including any capital referred to in paragraphs 3 and, to the extent that such assets as are referred to in paragraph 6 consist of liquid assets, <sup>6</sup> <sup>1</sup>and, except to the extent that the arrears referred to in paragraph 7 consist of arrears of housing benefit payable under Part II of the Act or <sup>7</sup>Part 7 of the Contributions and Benefits Act◀ <sup>2</sup>or any arrears of benefit due under regulation 70 of these Regulations <sup>8</sup>, regulation 164 of the Employment and Support Allowance Regulations◀ or regulation 147 of the Jobseeker's Allowance Regulations 1996 (urgent cases)◀ 7, 9(b), 19, 30, <sup>9</sup>32 and 47 to 49◀ of Schedule 10◀ (capital to be disregarded) shall be taken into account in full and the amount of income support which would but for this paragraph be payable under this regulation, shall be payable only to the extent that it exceeds the amount of that capital.

<sup>7</sup>Words substituted in reg. 72(2) by reg. 2(10) of S.I. 2008/698 as from 14.4.08.

<sup>8</sup>Words inserted in reg. 72(2) by reg. 2(8) of S.I. 2008/1554 as from 27.10.08.

<sup>9</sup>Words substituted in reg. 72(2) by reg. 4(b) of S.I. 1996/2431 as from 15.10.96.





**PART VII****CALCULATION OF INCOME SUPPORT FOR PART-WEEKS**

<sup>1</sup>Part VII inserted by reg. 27 of S.I. 1988/662 as from 11.4.88.

**Amount of income support payable**

**73.**—(1) Subject to regulations 75 (modifications in income) and 76 (reduction in certain cases), where a claimant is entitled to income support for a period (referred to in this Part as a part-week) to which subsection (1A) of section 21 of the Act (amount etc. of income-related benefit<sup>(a)</sup>) applies, the amount of income support payable shall, except where paragraph (2) applies, be calculated in accordance with the following formulae—

(a) if the claimant has no income,  $\frac{N \times A}{7}$

(b) if the claimant has income,  $\left( \frac{N \times (A-I)}{7} \right) - B$

(2) <sup>2</sup>◀

(3) In this Regulation—

“A” <sup>2</sup>◀ means the claimant’s weekly applicable amount in the relevant week;

“B” means the amount of any income support, <sup>3</sup>jobseeker’s allowance◀, <sup>4</sup>maternity allowance,◀ <sup>5</sup>short-term or long-term incapacity benefit◀, <sup>6</sup>severe disablement allowance or employment and support allowance◀ payable in respect of any day in the part-week;

“I” means his weekly income in the relevant week less B;

“N” means the number of days in the part-week;

“relevant week” means the period of 7 days determined in accordance with regulation 74.

(4)–(5) <sup>2</sup>◀;

<sup>2</sup>Paras. (2), (4) & (5) & words in para. (3) omitted from reg. 73 by reg. 2(1) of, & para. 13 of Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>3</sup>Words substituted in reg. 73(3) by reg. 19 of S.I. 1996/206 as from 7.10.96.

<sup>4</sup>Words inserted in reg. 73(3) by reg. 17 of S.I. 1988/1445 as from 12.9.88.

<sup>5</sup>Words in reg. 73(3) substituted by reg. 12 of S.I. 1995/482 as from 13.4.95.

<sup>6</sup>Words inserted in reg. 73(3) by reg. 2(9) of S.I. 2008/1554 as from 27.10.08.

**Relevant week**

**74.**—(1) Where the part-week—

(a) is the whole period for which income support is payable or occurs at the beginning of the claim, the relevant week is the period of 7 days ending on the last day of that part-week; or

(b) occurs at the end of the claim, the relevant week is the period of 7 days beginning on the first day of that part-week.

(2) Where during the currency of a claim the claimant makes a claim for a relevant social security benefit within the meaning of paragraph 4 of Schedule 7 to the Social Security (Claims and Payments) Regulations 1987<sup>(b)</sup> and as a result his benefit week changes, for the purpose of calculating the amount of income support payable—

(a) for the part-week beginning of the day after his last complete benefit week before the date from which he makes a claim for the relevant social security benefit and ending immediately before that date, the relevant week is the period of 7 days beginning on the day after his last complete benefit week (the first relevant week);

(b) for the part-week beginning on the date from which he makes a claim for the relevant social security benefit and ending immediately before the start of his next benefit week after the date of that claim, the relevant weeks is the period of 7 days ending immediately before the start of his next benefit week (the second relevant week).

(a) Subsection (1A) was inserted by the Social Security Act 1988 (c. 7), Schedule 4, paragraph 23(2).

(b) 1987/1968.

**Reg. 74**

(3) Where during the currency of a claim the claimant's benefit week changes at the direction of the Secretary of State under paragraph 3 of Schedule 7 to the Social Security (Claims and Payments) Regulations 1987, for the purpose of calculating the amount of income support payable for the part-week beginning on the day after his last complete benefit week before the change and ending immediately before the change, the relevant week is the period of 7 days beginning on the day after the last complete benefit week.

**Modifications in the calculation of income**

**75.** For the purposes of regulation 73 (amount of income support payable for part-weeks), a claimant's income and the income of any person which the claimant is treated as possessing under section 22(5) of the Act or regulation 23(3) shall be calculated in accordance with Part V and, where applicable, VI subject to the following modifications—

- (a) any income which is due to be paid in the relevant week shall be treated as paid on the first day of that week;
- (b) any income support, <sup>1</sup>jobseeker's allowance◀, <sup>2</sup>maternity allowance,◀ <sup>3</sup>short-term or long-term incapacity benefit◀, <sup>4</sup>severe disablement allowance◀ <sup>5</sup>, employment and support allowance or universal credit◀ <sup>3</sup>◀ payable in the relevant week but not in respect of any day in the part-week shall be disregarded;

*The following regulation 75(b) continues to be reproduced as it is maintained in force in certain circumstances. See Explanatory Note of S.I. 2013/630 for when to apply.*

- (b) any income support, <sup>1</sup>jobseeker's allowance◀, <sup>2</sup>maternity allowance,◀ <sup>3</sup>short-term or long-term incapacity benefit◀, <sup>4</sup>severe disablement allowance◀ or employment and support allowance <sup>3</sup>◀ payable in the relevant week but not in respect of any day in the part-week shall be disregarded;
- (c) where the part-week occurs at the end of the claim, any income or any change in the amount of income of the same kind which is first payable within the relevant week but not on any day in the part-week shall be disregarded;
- (d) where the part-week occurs immediately after a period in which a person was treated as engaged in remunerative work under regulation 5(5) (persons treated as engaged in remunerative work) any earnings which are taken into account for the purposes of determining that period shall be disregarded;
- (e) where regulation 74(2) (relevant week) applies, any payment of income which—
- (i) is the final payment in a series of payments of the same kind or, if there has been an interruption in such payments, the last one before the interruption;
- (ii) is payable in respect of a period not exceeding a week; and
- (iii) is due to be paid on a day which falls within both the first and second relevant week,

shall be taken into account in either the first relevant week or, if it is impracticable to take it into account in that week, in the second relevant week; but this paragraph shall not apply to a payment of income support, <sup>1</sup>jobseeker's allowance◀, <sup>2</sup>maternity allowance,◀ <sup>3</sup>short-term or long-term incapacity benefit◀ <sup>4</sup>, severe disablement allowance or employment and support allowance◀ <sup>3</sup>◀;

- (f) where regulation 74(2) applies, any payment of income which—
- (i) is the final payment in a series of payments of the same kind or, if there has been an interruption in such payments, the last one before the interruption;
- (ii) is payable in respect of a period exceeding a week but not exceeding 2 weeks; and
- (iii) is due to be paid on a day which falls within both the first and second relevant weeks,
- shall be disregarded; but this sub-paragraph shall not apply to a payment of income support, <sup>1</sup>jobseeker's allowance◀, <sup>2</sup>maternity allowance,◀ <sup>3</sup>short-term or long term incapacity benefit◀, <sup>4</sup>severe disablement allowance or employment and support allowance◀ <sup>3</sup>◀;

<sup>1</sup>Words substituted in reg. 75(b), (e) & (f) by reg. 20 of S.I. 1996/206 as from 7.10.96.

<sup>2</sup>Words inserted into reg. 75(b), (e) & (f) by reg. 17 of S.I. 1988/1445 as from 12.9.88.

<sup>3</sup>Words in reg. 75(b), (e) & (f) substituted and words deleted by reg. 13 of S.I. 1995/482 as from 13.4.95.

<sup>4</sup>Words inserted in reg. 75(b), (e) & (f) by reg. 2(10)(a)-(c) of S.I. 2008/1554 as from 27.10.08.

<sup>5</sup>Words in reg. 75(b) substituted by reg. 28(6) of S.I. 2013/630 as from 29.4.13.

- (g) where regulation 74(2) applies, if the weekly amount of any income which is due to be paid on a day which falls within both the first and second relevant weeks is more than the weekly amount of income of the same kind due to be paid in the last complete benefit week, the excess shall be disregarded;
- (h) where only part of the weekly amount of income is taken into account in the relevant week, the balance shall be disregarded.

#### Reduction in certain cases

**76.** There shall be deducted from the amount of income support which would, but for this regulation, be payable for a part-week—

<sup>1</sup>Words substituted in reg. 76(a) by reg. 21 of S.I. 1996/206 as from 7.10.96.

<sup>2</sup>Words in reg. 76(a) inserted by para. 2 of Sch. 6 to S.I. 1999/2422 as from 6.9.99.

- (a) <sup>1</sup>in the case of a claimant to whom regulation 22A (reduction in applicable amount the claimant is appealing against a decision <sup>2</sup>which embodies a determination◀ that he is not incapable of work) applies◀, the proportion of the relevant amount specified therein appropriate to the number of days in the part-week;
- (b) where regulation 75(f) (modifications in the calculation of income) applies, one-half of the amount disregarded under regulation 75(f) less the weekly amount of any disregard under Schedule 8 or 9 appropriate to that payment.

#### Modification of section 23(5) of the Act

**77.** Where income support is payable for a part-week, section 23(5) of the Act (trade disputes) shall have effect as if the following paragraph were substituted for paragraph (b)—

- ‘(b) any payment by way of income support for a part-week which apart from this paragraph would be made to him, or to a person whose applicable amount is aggregated with his—
  - (i) shall not be made if the payment for that part-week is equal to or less than the proportion of the relevant sum appropriate to the number of days in that part-week; or
  - (ii) if it is more than that proportion, shall be made at a rate equal to the difference.’◀

Signed by authority of the Secretary of State for Social Services

20th November 1987

*Nicholas Scott*  
Minister of State,  
Department of Health and Social Security

[Sch. 1 (persons not required to be available for employment), and

Sch. 1A (circumstances in which a person aged 16 or 17 is eligible for income support), were revoked by Sch. 3 to S.I. 1996/206. They are however included among those provisions of S.I. 1987/1967 which, although so revoked, will temporarily continue to be reproduced at Annex 7 on page 6.4064 et seq.]

<sup>1</sup>SCHEDULE 1B Regulation 4ZA  
PRESCRIBED CATEGORIES OF PERSON

<sup>1</sup>Sch. 1B inserted by Sch. 1 to S.I. 1996/206 as from 7.10.96.

<sup>2</sup>Lone Parents

1.—(1) A lone parent who is responsible for, and a member of the same household as—

<sup>2</sup>Para. 1 substituted in Sch. 1B by reg. 2(2) of S.I. 2012/874 as from 21.5.12.

- (a) a single child aged under 5, or
- (b) more than one child where the youngest is aged under 5.

(2) A lone parent who is under the age of 18.◀

*This paragraph continues to be reproduced as it remains in force in certain cases, see reg. 7(5) of S.I. 2012/874.*

<sup>3</sup>Lone parents

<sup>3</sup>Para. 1 substituted in Sch. 1B by reg. 4 of S.I. 2008/3051 as from 26.10.10.

- 1. A person who is a lone parent and responsible for—
  - (a) a single child aged under 7, or
  - (b) more than one child where the youngest is aged under 7, who is a member of that person's household.◀◀

**Single persons looking after foster children**

<sup>4</sup>2. A single claimant or a lone parent with whom a child is placed—

<sup>4</sup>Para. 2 of Sch. 1B substituted by para. 12(3) of Sch. 1 to S.I. 2013/1465 as from 24.6.13.

- (a) by a local authority or voluntary organisation within the meaning of the Children Act 1989;
- (b) by a local authority or voluntary organisation within the meaning of the Children (Scotland) Act 1995;
- (c) by virtue of any order or warrant made under the Children's Hearings (Scotland) Act 2011.◀

<sup>5</sup>Single persons looking after children placed with them prior to adoption

<sup>5</sup>Para. 2A inserted by reg. 2(14)(a) & (b) of S.I. 2009/2655 on or after 26.10.09 & subject to reg. 1 *ibid*.

2A. A single claimant or a lone parent with whom a child is placed for adoption by an adoption agency within the meaning of the Adoption and Children Act 2002(a) or the Adoption and Children (Scotland) Act 2007(b)◀.

**Person temporarily looking after another person**

3. A person who is—

- (a) looking after a child because the parent of that child or the person who usually looks after him is <sup>6</sup>temporarily◀ ill or is temporarily absent from his home; or
- (b) looking after a member of his family who is temporarily ill.

<sup>6</sup>Word inserted in para. 3(a) of Sch. 1B by reg. 2(12)(a) of S.I. 2009/583 as from 6.4.09.

**Persons caring for another person**

4. A person (the carer)—

- (a) who is regularly and substantially engaged in caring for another person if—
  - (i) the person being cared for is in receipt of attendance allowance <sup>7</sup>◀ <sup>8</sup>,

<sup>7</sup>Words in para. 4(a)(i) and (ii) deleted by reg. 33(2)-(3) of S.I. 1996/1517 as from 7.10.96.

<sup>8</sup>Words substituted in para. 4(a)(i) of Sch. 1B by para. 11(4)(a) of Sch. to S.I. 2013/388 as from 8.4.13.

(a) 2002 c. 38.  
(b) 2007 asp. 4.

**Sch. 1B**

<sup>1</sup>Words inserted in para. 4(a)(i) of Sch. 1B by para. 4(4)(a) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>2</sup>Words in para. 4(a)(ii) deleted by reg. 33(2)-(3) of S.I. 1996/1517 as from 7.10.96.

<sup>3</sup>Para. (4)(a)(iia) & (iiaa) inserted by reg. 33(4) & (5) of S.I. 1996/1517 as from 7.10.96.

<sup>4</sup>Word inserted in para. 4(a)(iia) by reg. 3(4) of S.I. 2001/859. See reg. 1 of S.I. 2001/859 for relevant effective dates.

<sup>5</sup>Words inserted in para. 4(a)(iii) of Sch. 1B by para. 4(4)(b) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>6</sup>Words added to para. 4(a)(iii) & para. (iv) inserted to Sch. 1B by para. 11(4)(b) & (c) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>7</sup>Words substituted in para. 4(b) by reg. 4(1) of S.I. 2000/681 as from 3.4.00.

<sup>8</sup>Words substituted in Sch. 1B, para. 4(b) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

<sup>9</sup>Words in Sch. 1B reg. 4(b) inserted by reg. 4 of the S.I. 2002/490 as from 1.4.02.

<sup>10</sup>Words inserted in para. 4(b) by reg. 10(2) of S.I. 2010/1160 as from 1.4.10.

<sup>11</sup>Heading preceding para. 7 of Sch. 1B substituted by reg. 3(2)(e) of S.I. 2009/3152 as from 30.12.09.

<sup>12</sup>Paras. 7(a)-(b) of Sch. 1B revoked by reg. 2(1)(b) of S.I. 2009/3152 as from 30.12.09.

<sup>13</sup>Words inserted in para. 7(c) of Sch. 1B by reg. 2(2)(a) of S.I. 2010/2429 as from 1.11.10.

<sup>1</sup>, armed forces independence payment, 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<sup>2</sup> or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act<sup>4</sup>; or

(ii) the person being cared for has claimed attendance allowance<sup>2</sup> but only for the period up to the date of determination of that claim, or the period of 26 weeks from the date of that claim, whichever date is the earlier; or

<sup>3</sup>(iia) the person being cared for has claimed attendance allowance in accordance with section 65(6)(a) of the Contributions and Benefits Act (claims in advance of entitlement), an award has been made in respect of that claim under section 65(6)(b) of that Act and, where the period for which the award is payable has begun, that person is in receipt of the allowance;<sup>4</sup> or

(iii) the person being cared for has claimed entitlement to a disability living allowance<sup>5</sup>, armed forces independence payment<sup>6</sup> or personal independence payment<sup>4</sup> but only for the period up to the date of determination of that claim, or the period of 26 weeks from the date of that claim, whichever date is the earlier; or

<sup>3</sup>(iiaa) the person being cared for has claimed entitlement to the care component of a disability living allowance in accordance with regulation 13A of the Social Security (Claims and Payments) Regulations 1987(a) (advance claims and awards), an award at the highest or middle rate has been made in respect of that claim and, where the period for which the award is payable has begun, that person is in receipt of the allowance<sup>6</sup>; or

(iv) the person being cared for has claimed entitlement to the daily living component of personal independence payment in accordance with regulation 33 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (advance claim for and award of personal independence payment)(b), an award at the standard or enhanced rate has been made in respect of that claim and, where the period for which the award is payable has begun, that person is in receipt of the payment;<sup>4</sup>

(b) who is engaged in caring of another person and<sup>7</sup> who is both entitled to, and in receipt of,<sup>8</sup> a carer's allowance<sup>9</sup> or would be in receipt of that allowance but for the application of a restriction under section<sup>10</sup> 6B or<sup>7</sup> 7 of the Social Security Fraud Act 2001 (loss of benefit provisions)<sup>4</sup>.

**5.** A person to whom paragraph 4 applied, but only for a period of 8 weeks from the date on which that paragraph ceased to apply to him.

**6.** A person who, had he previously made a claim for income support, would have fulfilled the conditions of paragraph 4, but only for a period of 8 weeks from the date on which he ceased to fulfil those conditions.

*Under the transitional provision in reg. 27(1) of S.I. 1996/206, certain persons are, for purposes of paras. 5 and 6 above, treated for a certain period as if para. 4 above had applied or would have applied to them.*

**<sup>11</sup>Persons treated as capable of work and persons entitled to statutory sick pay<sup>4</sup>**

**7.** A person who—

(a)-(b)<sup>12</sup>

(c) is treated as capable of work by virtue of regulations made under section 171E(1) of<sup>13</sup> the Contributions and Benefits Act<sup>4</sup> (disqualification etc.); or

(d) is entitled to statutory sick pay.

(a) S.I. 1987/1968; regulation 13A was inserted by S.I. 1991/2741.

(b) S.I. 2013/380.

<sup>1</sup>**Certain persons in receipt of the daily living component of personal independence payment**

<sup>1</sup>Para. 7A of Sch. 1B inserted by reg. 2(2) of S.I. 2017/1187 as from 21.12.17.

**7A.** A person who is in receipt of the daily living component of personal independence payment at the enhanced rate but only where, immediately before receiving that benefit, the person was entitled to and in receipt of income support because he or she was treated as incapable of work under regulation 10(2)(a)(i) of the Social Security (Incapacity for Work) (General) Regulations 1995(a).◀

*Paragraphs 8 and 9 of Schedule 1B revoked by reg. 4(1)(a)(ii) of S.I. 2009/3228, however it remains in force for certain circumstances, see S.I. 2009/3228 reg. 4(3) to (7) for details.*

Disabled workers

8. A person to whom <sup>2</sup>regulation 6(4)(a)◀ (persons not treated as engaged in remunerative work) applies.

<sup>2</sup>Words substituted in paras. 8 & 9 by regs. 4(1) & 2(d) of S.I. 2000/681 as from 3.4.00.

Persons in employment living in residential care homes, nursing homes or residential accommodation

9. A person to whom <sup>2</sup>regulation 6(4)(a)◀ applies.

<sup>3</sup>**Persons who have commenced remunerative work**

<sup>3</sup>Para. 9A inserted by reg. 5 of S.I. 2001/488 as from 9.4.01.

**9A.** A person to whom regulation 6(5) (persons not treated as engaged in remunerative work) applies.◀

**10.** <sup>4</sup>◀

<sup>4</sup>Sch. 1B, paras. 10, 12 & 13 revoked by reg. 2(1)(b) of S.I. 2009/3152 as from 30.12.09 in accordance with reg. 2(2).

**11.** A person who is a <sup>5</sup>full-time student◀ and who—

- (a) immediately before 1st September 1990 was in receipt of income support by virtue of paragraph 7 of Schedule 1 as then in force; or
- (b) on or after that date makes a claim for income support and at a time during the period of 18 months immediately preceding the date of that claim was in receipt of income support either by virtue of that paragraph or regulation 13(2)(b),

<sup>5</sup>Words substituted in para. 11 by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

but this paragraph shall not apply where for a continuous period of 18 months or more the person has not been in receipt of income support.

**12.-13.** <sup>4</sup>◀

**Pregnancy**

**14.** A woman who—

- (a) is incapable of work by reason of pregnancy; or
- (b) is or has been pregnant but only for the period commencing 11 weeks before her expected week of confinement and ending <sup>6</sup> <sup>7</sup>◀ fifteen weeks after the date on which her pregnancy ends <sup>7</sup>◀.

<sup>6</sup>Words inserted in para. 14(b) by reg. 2(5)(a) of S.I. 2002/2689 as from 24.11.02.

<sup>7</sup>Words omitted in para. 14(b) of Sch. 1B by reg. 2(2)(b) of S.I. 2010/2429 as from 1.11.10.

<sup>8</sup>Para. 14A inserted by reg. 2 of S.I. 1999/3329 as from 5.1.00.

<sup>8</sup>**Parental leave**

**14A.**—(1) A person who is—

- (a) entitled to, and taking, parental leave by virtue of Part III of the Maternity and Parental Leave etc. Regulations 1999(b) in respect of a child who is a member of his household; and
- (b) not entitled to any remuneration from his employer in respect of that leave for the period to which his claim for income support relates; and
- (c) entitled to <sup>9</sup>◀<sup>10</sup>working tax credit, child tax credit payable at a rate higher than the family element,◀ housing benefit or council tax benefit on the day before that leave begins.

<sup>9</sup>Words omitted in para. 14A(1)(c) by reg. 2(3) of S.I. 2003/1731 as from 8.8.03.

<sup>10</sup>Words inserted in para. 14A(1)(c) & added in reg. 14A(2) by Sch. 1 para. 19(a) & (b) of S.I. 2003/455 as from 7.4.03.

(2) In this paragraph “remuneration” means payment of any kind <sup>10</sup>and “family element” means in a case where any child in respect of whom child tax credit is payable is under the age of one year, the amount specified in regulation 7(3)(a) of the Child Tax Credit Regulations 2002(c) or in any other case, the amount specified in

(a) S.I. 1995/311. Amended by S.I. 1995/987 and 1999/3109. There are other amending instruments but none is relevant.

(b) S.I. 1999/3312.

(c) S.I. 2002/2007.

**Sch. 1B**

<sup>1</sup>Words inserted in para. 14A(1)(2) by reg. 2(3) of S.I. 2003/1731 as from 8.8.03.

<sup>2</sup>Para. 14B inserted by reg. 2(5)(b) of S.I. 2002/2689 as from 8.12.02.

<sup>3</sup>Words substituted in para. 14B(1) & (2)(a) of Sch. 1B by reg. 3(3) of S.I. 2012/757 as from 1.4.12.

<sup>4</sup>Words omitted in Sch. 1B, para. 14B(1) & (2)(a) by art. 5(5) of S.I. 2014/3255 as from 5.4.15.

<sup>5</sup>Words omitted & inserted in para. 14B(2)(b) & (3) by reg. 2(3) of S.I. 2003/1731 as from 8.8.03.

<sup>6</sup>Words inserted in para. 14B(2)(b) and (3) by para. 19 of Sch. 1 to S.I. 2003/455 as from 7.4.03.

<sup>7</sup>Words inserted in para. 15 by reg. 2(7) by S.I. 2006/718 as from 10.4.06.

<sup>8</sup>Heading and sub-para. (1) to (4) of para. 15A of Sch. 1B substituted and sub-para. 5 omitted by reg. 11(a)-(c) of S.I. 2012/757 as from 1.4.12.

regulation 7(3)(b) of those Regulations<sup>1</sup> but subject in any case to calculations of those amounts made in accordance with the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002(a).<sup>2</sup>

**<sup>2</sup>Paternity Leave**

**14B.**—(1) A person who is entitled to, and is taking, <sup>3</sup> <sup>4</sup> paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996<sup>5</sup> and who satisfies either or both of the conditions set out in sub-paragraph (2) below.

(2) The conditions for the purposes of sub-paragraph (1) are—

- (a) he is not entitled to <sup>3</sup> <sup>4</sup> statutory paternity pay<sup>6</sup> by virtue of Part 12ZA of the Contributions and Benefits Act(b), or to any remuneration from his employer in respect of that leave for the period to which his claim for income support relates;
- (b) he is entitled to <sup>5</sup> <sup>6</sup> working tax credit, child tax credit payable at a rate higher than the family element,<sup>7</sup> housing benefit or council tax benefit on the day before that leave begins.

(3) In this paragraph “remuneration” means payment of any kind <sup>6</sup> and “family element” means in a case where any child in respect of whom child tax credit is payable is under the age of one year, the amount specified in regulation 7(3)(a) of the Child Tax Credit Regulations 2002(c) or in any other case, the amount specified in regulation 7(3)(b) of those Regulations<sup>8</sup> but subject in any case to calculations of those amounts made in accordance with the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002.<sup>8</sup>

**Persons in education**

**15.** A person to whom any provision of regulation 13(2)(a) to (e) (persons receiving relevant education who are parents, <sup>7</sup> disabled persons, persons with limited leave to enter or remain<sup>8</sup>, orphans and persons estranged from their parents or guardian) applies.

**<sup>8</sup>Certain persons who have enrolled on, been accepted for or are undertaking full-time, non-advanced education<sup>8</sup>**

**15A.**— <sup>8</sup>(1) A person (“P”) who satisfied the following conditions.

(2) The first condition is that P has enrolled on, been accepted for or is undertaking a course of full-time, non-advanced education.

(3) The second condition is that P is—

- (a) under the age of 21; or
- (b) 21 and attained that age whilst undertaking a course of full-time, non-advanced education.

(4) The third condition is

- (a) P has no parent;
- (b) of necessity P has to live away from P’s parents because—
  - (i) P is estranged from P’s parents
  - (ii) P is in physical or moral danger, or
  - (iii) there is a serious risk to P’s physical or mental health; or
- (c) P is living away from P’s parents because they are unable to support P financially and are—
  - (i) chronically sick or mentally or physically disabled,
  - (ii) detained in custody pending trial or sentencing upon conviction or under a sentence imposed by a court, or
  - (iii) prohibited from entering or re-entering Great Britain.<sup>8</sup>

(5) <sup>8</sup>

(a) S.I. 2002/2008.

(b) 1992 c. 4. Part 12ZA was inserted by s. 2 of the Employment Act 2002.

(c) S.I. 2002/2007.



(6) In this paragraph—

“chronically sick or mentally or physically disabled” has the meaning given in regulation 13(3)(b);

<sup>1</sup>“course of full-time, non-advanced education” means a course of full-time education which is not a course of advanced education and which is not provided to P by virtue of P’s employment or any office held by P, which is—

- (a) provided at a school or college, or
- (b) provided elsewhere but is approved by the Secretary of State as being such a course,

and for the purpose, “course of advanced education” has the same meaning as in regulation 61(1)◀

“parent” includes a person acting in place of a parent which—

- (a) for the purposes of sub-paragraph (5)(a) and (b) has the meaning given in regulation 13(3)(a)(i), and
- (b) for the purposes of sub-paragraph (5)(c), has the meaning given in regulation 13(3)(a)(ii).◀

16. <sup>2</sup>◀

16A. <sup>3</sup>◀

17. <sup>4</sup>◀

### Refugees

18. A person who is a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(a) as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(b) and who—

- (a) is attending for more than 15 hours a week a course for the purpose of learning English so that he may obtain employment; and
- (b) on the date on which that course commenced, had been in Great Britain for not more than 12 months,

but only for a period not exceeding nine months.

18A. <sup>5</sup>◀

### <sup>6</sup>Persons required to attend court or tribunal

19.—(1) A person who is required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror.

(2) In this paragraph, “tribunal” means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992.◀

### Persons affected by a trade dispute

20. A person to whom section 126 of the Contributions and Benefits Act(c) (trade disputes) applies or in respect of whom section 124(1) of that Act (conditions of entitlement to income support) has effect as modified by section 127(b) of that Act (effect of return to work).

### <sup>7</sup>Persons from abroad

21. A person not excluded from entitlement to income support under section 115 of the Immigration and Asylum Act 1999 by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 except for a person to whom paragraphs 2, 3 and 4 of Part 1 of the Schedule to those Regulations applies.◀

<sup>1</sup>Defn. of “course of full-time, non-advanced education” substituted by reg. 11(d) of S.I. 2012/757 as from 1.4.12.

<sup>2</sup>Para. 16 omitted by reg. 5(6) of S.I. 2006/2378 as from 1.10.06.

<sup>3</sup>Para. 16A of Sch. 1B revoked by reg. 2(4)(d) of S.I. 2006/588 as from 3.4.06.

<sup>4</sup>Para. 17 omitted by reg. 29(4) of S.I. 2002/3019 as from 6.10.03.

<sup>5</sup>Para. 18A of Sch. 1B lapsed by the revocation of S. 123 to the Immigration and Asylum Act 1999 (c. 33) by S. 12 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 as from 14.6.2007.

<sup>6</sup>Para. 19 substituted by reg. 3 of S.I. 2006/1402 as from 30.5.06.

<sup>7</sup>Para. 21 of Sch. 1B substituted by reg. 3(2)(d) of S.I. 2009/3228. See reg. 1(3) of the S.I. for the relevant commencement date, subject to transitional arrangements and saving in reg. 12 of S.I. 2000/636.

(a) Cmd. 9171.

(b) Cmnd. 3906.

(c) Sections 126 and 127 are amended by the Jobseekers Act 1995, Schedule 2 paragraph 31.

**Sch. 1B**

*For case falling within the transitional arrangements and saving provision in reg. 12 of S.I. 2000/636, para. 21 remains in force as before it was replaced by reg. 3(9) of that S.I., as follows:—*

21. A person to whom regulation 70(3) (applicable amount of certain persons from abroad) applies.

**Persons in custody**

22. A person remanded in, or committed in, custody for trial or for sentencing.

**Member of couple looking after children while other member temporarily abroad**

23. A person who is a member of a couple and who is treated as responsible for a child who is a member of his household where the other member of that couple is temporarily not present in the United Kingdom.

<sup>1</sup>Words in heading to para. 24 inserted by para. 3(c) of Sch. 6 to S.I. 1999/2422 as from 6.9.99.

**Persons appealing against a decision <sup>1</sup>which embodies a determination◀ that they are not incapable of work**

24. A person—

- (a) in respect of whom it has been determined for the purposes of section 171B of the Contributions and Benefits Act(a) (the own occupation test) that he is not incapable of work; and
- (b) whose medical practitioner continues to supply evidence of his incapacity for work in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976(b) (evidence of incapacity for work); and
- (c) who has made and is pursuing an appeal against the <sup>2</sup>decision which embodies a◀ determination that he is not so incapable,

but only for the period prior to the determination of his appeal.

<sup>2</sup>Words inserted in para. 24(c) & 25(b) by para. 3 of Sch. 6 to S.I. 1999/2422 as from 6.9.99.

25. A person—

- (a) in respect of whom it has been determined for the purposes of section 171C of the Contributions and Benefits Act (the all work test) that he is not incapable of work; and
- (b) who has made and is pursuing an appeal against the <sup>2</sup>decision which embodies a◀ determination that he is not so incapable,

but only for the period <sup>3</sup>beginning with the date on which that determination takes effect until◀ the determination of his appeal.

<sup>3</sup>Words inserted in Sch. 1B para. 25 by reg. 6 of S.I. 2005/337 as from 18.3.05.

<sup>4</sup>Paras. 26 & 27 omitted by reg. 2(11) of S.I. 2008/698 as from 14.4.08.

<sup>5</sup>Heading and words inserted in para. 28 by reg. 2(7)(b) and (c) of S.I. 2006/718 as from 10.4.06.

<sup>6</sup>Words substituted in para. 28 by reg. 4 of S.I. 2001/652 as from 26.3.01.

<sup>7</sup>Words substituted in para. 28 of Sch. 1B by reg. 3(4) of S.I. 2010/1941 as from 1.9.10.

<sup>8</sup>Words substituted in para. 28 of Sch. 1B by reg. 3(4) of S.I. 2012/956 as from 1.5.12.

<sup>9</sup>Words substituted in Sch. 1B, para. 28 by reg. 2(6) of S.I. 2008/3157 as from 5.1.09.

**26.-27.** <sup>4</sup>◀

**<sup>5</sup>Persons engaged in training◀**

28. A person who is <sup>5</sup>not a qualifying young person or child within the meaning of section 142 of the Contributions and Benefits Act (child and qualifying young person) and who is◀ engaged in training, and for this purpose “training” means training for which persons aged under 18 are eligible and for which persons aged 18 to 24 may be eligible <sup>6</sup>secured by the <sup>7</sup> <sup>8</sup>Secretary of State◀ or the Chief Executive of Skills Funding◀ or by the <sup>9</sup>Welsh Ministers◀◀ and, in Scotland, directly or indirectly by a Local Enterprise Company pursuant to its arrangement with, as the case may be,

(a) Sections 171A to 171C were inserted by section 5 of the Social Security (Incapacity for Work) Act 1994 (c. 18).

(b) S.I. 1976/615; relevant amending instruments are S.I. 1982/699, 1987/409, 1992/247, 1994/2975 and 1995/987.

**Schs. 1B-2**

<sup>1</sup>Skills Development Scotland, ◀ Scottish Enterprise or Highlands and Islands Enterprise (whether that arrangement is known as an Operating Contract or by any other name).

<sup>1</sup>Words inserted in para. 28 of Sch. 1B by reg. 2(3)(b) of S.I. 2009/583 as from 6.4.09.

**SCHEDULE 2**

Regulations 17 and 18

**APPLICABLE AMOUNTS**

<sup>2</sup>PART I

PERSONAL ALLOWANCES

<sup>2</sup>Para. 1 of Sch. 2 substituted by Sch. 1 to S.I. 2015/30. See reg. 1(2)(f) for commencement dates.

**1.** The weekly amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the weekly amounts specified for the purposes of regulations 17(1) and 18(1) (applicable amounts and polygamous marriages)–

(1) <i>Person or Couple</i>	(2) <i>Amount</i>
<b>(1)(a)</b> Single claimant aged–	
(a) except where head (b) or (c) of this sub-paragraph applies, less than 18;	(1) (a) £57.90;
(b) less than 18 who falls within any of the circumstances specified in paragraph 1A <b>(b)</b> ;	(b) £57.90;
(c) less than 18 who satisfies the condition in paragraph 11(1)(a);	(c) £57.90;
(d) not less than 18 but less than 25;	(d) £57.90;
(e) not less than 25.	(e) £73.10.
<b>(2)</b> Lone parent aged–	
(a) except where head (b) or (c) of this sub-paragraph applies, less than 18;	(2) (a) £57.90;
(b) less than 18 who falls within any of the circumstances specified in paragraph 1A;	(b) £57.90;
(c) less than 18 who satisfies the condition in paragraph 11(1)(a);	(c) £57.90;
(d) not less than 18.	(d) £73.10.
<b>(3)(c)</b> Couple–	
(a) where both members are aged less than 18 and–	(a) £87.50.
(i) at least one of them is treated as responsible for a child; or	
(ii) had they not been members of a couple, each would have qualified for income support under regulation 4ZA or income-related employment and support allowance; or	
(iii) the claimant’s partner satisfies the requirements of section 3(1)(f)(iii) of the Jobseekers Act 1995 (prescribed circumstances for persons aged 16 but less than 18); or	

(a) Sub-paragraphs (1) and (2) were substituted by S.I. 1990/1168 and amended by S.I. 1996/206 and 2007/719.

(b) Paragraph 1A of Part 1 of Schedule 2 was inserted by S.I. 1996/206.

(c) Sub-paragraph (3) was substituted by S.I. 1996/206 and amended by S.I. 2010/641.

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(1) <i>Person or Couple</i>	(2) <i>Amount</i>
(iv) there is in force in respect of the claimant's partner a direction under section 16 of the Jobseekers Act 1995 (persons under 18; severe hardship);	
(b) where both members are aged less than 18 and head (a) does not apply but one member of the couple falls within any of the circumstances specified in paragraph 1A;	(b) £57.90;
(c) where both members are aged less than 18 and heads (a) and (b) do not apply	(c) £57.90;
(d) where both members are aged not less than 18;	(d) £114.85;
(e) where one member is aged not less than 18 and the other member is a person under 18 who—	(e) £114.85;
(i) qualifies for income support under regulation 4ZA or income-related employment and support allowance, or who would so qualify if he were not a member of a couple; or	
(ii) satisfies the requirements of section 3(1)(f)(iii) of the Jobseekers Act 1995 (prescribed circumstances for persons aged 16 but less than 18); or	
(iii) is the subject of a direction under section 16 of the Jobseekers Act 1995 (persons under 18; severe hardships);	
(f) where the claimant is aged not less than 18 but less than 25 and his partner is a person under 18 who—	(f) £57.90;
(i) would not qualify for income support under regulation 4ZA or income-support employment and support allowance if he were not a member of a couple; and	
(ii) does not satisfy the requirements of section 3(1)(f)(iii) of the Jobseekers Act 1995 (prescribed circumstances for persons aged 16 but less than 18); and	
(iii) is not the subject of a direction under section 16 of the Jobseekers Act 1995 (persons under 18; severe hardship);	
(g) where the claimant is aged not less than 25 and his partner is a person under 18 who—	(g) £73.10.
(i) would not qualify for income support under regulation 4ZA or income-related employment and support allowance if he were not a member of a couple; and	
(ii) does not satisfy the requirements of section 3(1)(f)(iii) of the Jobseekers Act 1995 (prescribed circumstances for persons aged 16 but less than 18); and	
(iii) is not the subject of a direction under section 16 of the Jobseekers Act 1995 (persons under 18: severe hardship).◀	

- 1A.**—(1) The circumstances referred to in paragraph 1 are that—
- (a) the person has no parents nor any person acting in the place of his parents;
  - (b) the person—
    - (i) is not living with his parents nor any person acting in the place of his parents; and
    - (ii) in England and Wales, was being looked after by a local authority pursuant to a relevant enactment who placed him with some person other than a close relative of his; or in Scotland, was in the care of a local authority under a relevant enactment and whilst in that care was not living with his parents or any close relative, or was in custody in any institution to which the Prison Act 1952(a) or the Prisons (Scotland) Act 1989(b) applied immediately before he attained the age of 16;
  - (c) the person is in accommodation which is other than his parental home, and which is other than the home of a person acting in the place of his parents, who entered that accommodation—
    - (i) as part of a programme of rehabilitation or resettlement, that programme being under the supervision of the probation service or a local authority; or
    - (ii) in order to avoid physical or sexual abuse; or
    - (iii) because of a mental or physical handicap or illness and needs such accommodation because of his handicap or illness;
  - (d) the person is living away from his parents and any person who is acting in the place of his parents in a case where his parents are or, as the case may be, that person is, unable financially to support him and his parents are, or that person is—
    - (i) chronically sick or mentally or physically disabled; or
    - (ii) detained in custody pending trial or sentence upon conviction or under sentence imposed by a court; or
    - (iii) prohibited from entering or re-entering Great Britain; or
  - (e) the person of necessity has to live away from his parents and any person acting in the place of his parents because—
    - (i) he is estranged from his parents and that person; or
    - (ii) he is in physical or moral danger; or
    - (iii) there is a serious risk to his physical or mental health.

<sup>1</sup>Para. 1A inserted by para. 4 of Sch. 2 to S.I. 1996/206 as from 7.10.96.

(2) In this paragraph

- (a) “chronically sick or mentally or physically disabled” has the same meaning it has in regulation 13(3)(b) (circumstances in which persons in relevant education are to be entitled to income support);
- (b) in England and Wales, any reference to a person acting in place of a person’s parents includes a reference to—
  - (i) where the person is being looked after by a local authority or voluntary organisation who place him with a family, a relative of his, or some other suitable person, the person with whom the person is placed, whether or not any payment is made to him in connection with the placement; or
  - (ii) in any other case, any person with parental responsibility for the child, and for this purpose “parental responsibility” has the meaning it has in the Children Act 1989(c) by virtue of section 3 of that Act;
- (c) in Scotland, any reference to a person acting in place of a person’s parents includes a reference to a local authority or voluntary organisation where the persons in their care under a relevant enactment, or to a person with whom

(a) 1952 c. 25.

(b) 1989 c. 45.

(c) 1989 c. 41.

Sch. 2

the person is boarded out by a local authority or voluntary organisation whether or not any payment is made by them.◀

<sup>1</sup>Para. 2 omitted by para. 20(a) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

2. <sup>1</sup>◀

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

<sup>2</sup>Amdts to para. 2 and insertions of para. 2(2) by reg. 2 of S.I. 1996/2545 as from 7.4.97.

2. <sup>2</sup>—(1)◀ The weekly amounts specified in column (2) below in respect of each person specified in column (1) shall <sup>2</sup>, for the relevant period specified in column(1),◀ be the weekly amounts specified for the purposes of regulations 17(1)(b) and 18(1)(c).

(1) Child or Young Person	(2) Amount
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<sup>3</sup>Cols. (1) and (2) of para. 2(1) substituted by reg. 2(1)(a) & (b) of S.I. 1999/2555 as from 10.4.00.

<sup>3</sup>Person in respect of the period—

<sup>4</sup>Amounts in col. (2) of para. 2(1) remain unchanged by art. 21(3) & Sch. 2 of S.I. 2018/281. See art. 1(2)(g) of this S.I. for when to apply in certain cases.

- |  |                           |
|--|---------------------------|
| (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;                     | (a) <sup>4</sup> £66.90;◀ |
| (b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's <sup>5</sup> twentieth◀ birthday;◀ | (b) <sup>4</sup> £66.90;◀ |

<sup>5</sup>Words in para. (b) of column (1) substituted by reg. 2(8) of S.I. 2006/718 as from 10.4.06 immediately after art. 16(3) of the Social Security Benefits Up-rating Order 2006 comes into force.

<sup>2</sup>(2) In column (1) of the table in paragraph (1), "the first Monday in September" means the Monday which first occurs in the month of September in any year.◀

2A. <sup>6</sup>◀

<sup>6</sup>Para. 2A omitted by para. 6 of Sch. 1 to S.I. 2003/1121 as from 6.10.03.

## PART II

3. <sup>1</sup>◀

*These paragraphs continue to be reproduced as they remain in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

Regulations 17 <sup>2</sup>(1)◀(c)  
and 18(1)◀(d)

<sup>1</sup>Para 3. omitted by para. 20(a) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>2</sup>Refs. inserted and substituted in para. 3 by reg. 19 of S.I. 1988/1445 as from 12.9.88.

## FAMILY PREMIUM

3. <sup>3</sup>—(1)◀ The weekly amount for the purposes of regulations 17 <sup>2</sup>(1)◀(c) <sup>2</sup>and 18(1)◀(d) in respect of a family of which at least one member is a child or young person shall be—

<sup>3</sup>Sub-para. number inserted in para. 3 of Sch. 2 by reg. 12 of S.I. 1998/766 as from 6.4.98.

- (a) where the claimant is a lone parent <sup>4</sup>to whom the conditions in both sub-paragraphs (2) and (3) apply <sup>5</sup>£17.45◀;
- (b) in any other case, <sup>5</sup>£17.45◀.

<sup>4</sup>Words inserted in para. (3)(a) by reg. 12 of S.I. 1998/766 as from 6.4.98.

<sup>5</sup>Amounts in para. 3(1)(a) & (b) remain unchanged by art. 21(4)(a) & (b) of S.I. 2018/281. See art.

<sup>6</sup>(2) The first condition for the purposes of sub-paragraph (1)(a) is that the claimant—

1(2)(g) to this S.I. for relevant effective dates.

- (a) was both a lone parent and entitled to income support on 5th April 1998; or
- (b) does not come within head (a) above but—
  - (i) was both a lone parent and entitled to income support on any day during the period of 12 weeks ending on 5th April 1998;
  - (ii) was both a lone parent and entitled to income support on any day during the period of 12 weeks commencing on 6th April 1998; and
  - (iii) the last day in respect of which (i) above applied was no more than 12 weeks before the first day in respect of which (ii) above applied.

<sup>6</sup>Sub-para. (2)-(6) inserted in para. 3 of Sch. 2 by reg. 12(b) of S.I. 1998/766 as from 6.4.98

(3) The second condition for the purposes of sub-paragraph (1)(a) is that as from the appropriate date specified in sub-paragraph (4), the claimant has continued, subject to sub-paragraph (5), to be both a lone parent and entitled to income support.

(4) The appropriate date for the purposes of sub-paragraph (3) is—

- (a) in a case to which sub-paragraph (2)(a) applies, 6th April 1998;
- (b) in a case to which sub-paragraph (2)(b) applies, the first day in respect of which sub-paragraph (2)(b)(ii) applied.

(5) For the purposes of sub-paragraph (3), where the claimant has ceased, for any period of 12 weeks or less, to be—

- (a) a lone parent; or
- (b) entitled to income support; or
- (c) both a lone parent and entitled to income support,

the claimant shall be treated, on again becoming both a lone parent and entitled to income support, as having continued to be both a lone parent and entitled to income support throughout that period.

(6) In determining whether the conditions in sub-paragraphs (2) and (3) apply, entitlement to an income based jobseeker's allowance shall be treated as entitlement to income support for the purposes of any requirement that a person is entitled to income support.◀

<sup>7</sup>(7) For the purposes of this paragraph, a claimant shall be treated as having been entitled to income support throughout any period which comprises only days on which he was participating in an employment zone programme and was not entitled to income support because, as a consequence of his participation in that programme, he was engaged in remunerative work or had income in excess of his applicable amount as prescribed in Part IV.◀

<sup>7</sup>Sub-para. (7) added to para. 3 of Sch. 2 by reg. 4(3)(a) of S.I. 2000/724 as from 3.4.00.

## Sch. 2

<sup>1</sup>Refs. inserted and substituted in para. 4, by reg. 19 of S.I. 1988/1445 as from 12.9.88.

## PART III

Regulations 17 <sup>1</sup>(1)◀(d)  
<sup>1</sup>and 18(1)◀(e)

## PREMIUMS

<sup>2</sup>Words in para. 4 substituted by reg. 39(3)(a) of S.I. 1996/1803 as from 6.4.97.

<sup>3</sup>Ref. in para. 4 substituted by reg. 8(a) of S.I. 1990/1776 as from 1.10.90.

<sup>4</sup>Para. 6 substituted by reg. 2(c)(i) of S.I. 2000/2629 as from 9.4.01.

<sup>5</sup>Para 6(1)(c) omitted by para. 20(a) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

**4.** Except as provided in paragraph 5, the weekly premiums specified in Part IV of this Schedule shall, for the purposes of regulations 17 <sup>1</sup>(1)◀(d) <sup>1</sup>and 18(1)◀(e), be applicable to a claimant who satisfies the condition specified in <sup>2</sup>paragraphs 9◀<sup>3</sup> to 14ZA◀ in respect of that premium.

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

**6.**—(1) Subject to sub-paragraph (2), the following premiums, namely—

- (a) a severe disability premium to which paragraph 13 applies;
- (b) an enhanced disability premium to which paragraph 13A applies;
- (c) <sup>5</sup>◀

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

- (c) a disabled child premium to which paragraph 14 applies; and

- (d) a carer premium to which paragraph 14ZA applies,

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

(2) An enhanced disability premium in respect of a person shall not be applicable in addition to—

- (a) a pensioner premium under paragraph 9 or 9A(a); or
- (b) a higher pensioner premium under paragraph 10(b).◀

<sup>6</sup>Para. 7 renumbered 7(1) & words inserted by reg. 8(c)(i) of S.I. 1990/1776 as from 1.10.90.

**7.** <sup>6</sup>—(1) Subject to sub-paragraph (2)◀ for the purposes of this Part of this Schedule, once a premium is applicable to a claimant under this Part, a person shall be treated as being in receipt of any benefit—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979(c) applies, for any period during which, apart from the provisions of those Regulations, he 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 <sup>7</sup>Secretary of State for Education and Employment◀ under section 2 of the Employment and Training Act 1973(d) <sup>8</sup>, or by the <sup>9</sup>Skills Development Scotland,◀ Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(e),◀▶<sup>10</sup> or for any period during which he is in receipt of a training allowance◀.

<sup>7</sup>Words inserted in para. 7(1)(b) by virtue of art. 6(5) S.I. 1995/2986 as from 1.1.96.

<sup>8</sup>Words added to para. 7(1)(b) by art. 9(d) of S.I. 1991/387 as from 1.4.91.

<sup>9</sup>Words inserted in para. 7(1)(b) of Sch. 2 by reg. 2(3)(c) of S.I. 2009/583 as from 6.4.09.

<sup>10</sup>Words added to para. 7(1)(b) by reg. 6(e) of S.I. 1989/1678 as from 9.10.89.

(a) Paras. 9 and 9A were substituted by S.I. 1989/534.

(b) Para. 10 is amended by S.I. 1988/663, 1992/468 and 1998/2231.

(c) S.I. 1979/597.

(d) 1973 c. 50, as amended by ss. 9 and 11 and Sch. 2, Part II para. 9 and Sch. 3 of the Employment and Training Act 1981 (c. 57).

(e) 1990 c. 35.



<sup>1</sup>(2) For the purposes of the carer premium under paragraph 14ZA, a person shall be treated as being in receipt of <sup>2</sup>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 <sup>3</sup>, <sup>4</sup>◀ the care component of disability living allowance at the higher or middle rate prescribed in accordance with section 37ZB(3) of the Social Security Act <sup>4</sup>or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act <sup>5</sup>or armed forces independence payment◀◀◀

#### [ <sup>6</sup>Bereavement Premium

**8A.**—(1) Subject to sub-paragraphs (2) and (3), the condition is that the claimant—

- (a) had, as at 9th April 2001 <sup>7</sup>or of a civil partner who died on or after 5th December 2005◀, attained the age of 55 but not the age of 60;
- (b) was in receipt of, but is no longer entitled to, a bereavement allowance under section 39B of the Contributions and Benefits Act(a) in respect of the death of a spouse who died on or after 9th April 2001; and
- (c) is claiming income support as a single claimant.

(2) A premium under sub-paragraph (1) shall not be applicable in respect of a claimant who claims income support more than 8 weeks after the last day on which he was entitled to a bereavement allowance.

(3) Where a claimant to whom a premium under sub-paragraph (1) is applicable, ceases to be entitled to income support or to be a single claimant, a premium under sub-paragraph (1) shall only again be applicable to that claimant where he claims income support as a single claimant no more than 8 weeks after the date on which he ceased to be entitled to income support or to an income-based jobseeker's allowance or, as the case may be, to be a single claimant.◀]

#### Lone Parent Premium

**8.** <sup>8</sup>◀

##### <sup>9</sup>Pensioner premium for persons under 75

<sup>10</sup>**9.** The condition is that the claimant has a partner aged <sup>11</sup>not less than the qualifying age for state pension credit◀ but less than 75.◀

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

<sup>10</sup>**9A.** The condition is that the claimant has a partner aged not less than 75 but less than 80.◀◀

#### Higher Pensioner Premium

**10.**— <sup>12</sup>(1) <sup>13</sup>Subject to sub-paragraph (6), the◀ condition is that—

- (a) the claimant's partner is aged not less than 80; or

<sup>1</sup>Sub-para. (2) added to para. 7 by reg. 8(c)(ii) of S.I. 1990/1776 as from 1.10.90.

<sup>2</sup>Words substituted in para. 7(2) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

<sup>3</sup>Words added to para. 7(2) by reg. 11(4)(a) of S.I. 1991/2742 as from 6.4.92.

<sup>4</sup>Words omitted & added to para. 7(2) of Sch. 2 by para. 11(5)(a) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>5</sup>Words inserted in para. 7(2) of Sch. 2 by para. 4(5)(a) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>6</sup>For the period 9.4.01 to 9.4.06 only, para. 8A in square brackets inserted by reg. 2(3)(b) of S.I. 2000/2239.

<sup>7</sup>Words inserted in para. 8A(1)(a) by para. 13(7) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>8</sup>Sch. 2, Part III, para. 8 deleted by reg. 39(3)(b) as from 7.4.97.

<sup>9</sup>Paras. 9 and 9A of Sch. 2 substituted for para. 9 by reg. 5(a) of S.I. 1989/534 as from 9.10.89.

<sup>10</sup>Paras. 9 & 9A substituted by reg. 29(5)(a) & (b) of S.I. 2002/3019 as from 6.10.03.

<sup>11</sup>Words substituted in para. 9 by reg. 3(2) of S.I. 2009/1488 as from 6.4.10.

<sup>12</sup>Para. 10(1) substituted by reg. 29(5)(c) of S.I. 2002/3019 as from 6.10.03.

<sup>13</sup>Words substituted in para. 10(1) by reg. 2(7) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid.*

(a) S. 39B was inserted by s. 55(2) of the Welfare Reform and Pensions Act 1999 (c. 30).



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- (b) the claimant's partner is aged less than 80 but <sup>1</sup>not less than the qualifying age for state pension credit~~◀~~ and either—
  - (i) the additional condition specified in paragraph 12(1)(a) <sup>2</sup>, (c) or (d)(a)~~◀~~ is satisfied; or
  - (ii) the claimant was entitled to, or was treated as being in receipt of, income support and—
    - (aa) the disability premium was or, as the case may be, would have been, applicable to him in respect of a benefit week within eight weeks of <sup>1</sup>the day his partner attained the qualifying age for state pension credit~~◀~~; and
    - (bb) he has, subject to sub-paragraph (3), remained continuously entitled to income support since his partner attained <sup>1</sup>the qualifying age for state pension credit~~◀~~.

<sup>1</sup>Words substituted in paras. 10(1), 10(3) & 11(1)(b)(ii) of Sch. 2 by regs. 3(3) & (4) of S.I. 2009/1488 as from 6.4.2010.  
<sup>2</sup>Words inserted into reg. 10(1)(b)(i) & reg. 11(1)(b)(i) & (ii) of S.I. 2003/2379 as from 6.10.03.

(3) For the purposes of this paragraph and paragraph 12—

- (a) once the higher pensioner premium is applicable to a claimant, if he then ceases, for a period of eight weeks or less, to be entitled to <sup>3</sup>, or treated as entitled to~~◀~~ income support, he shall, on becoming re-entitled to income support, thereafter be treated as having been continuously entitled thereto;
- (b) in so far as <sup>4</sup>sub-paragraph (1)(b)(ii) is~~◀~~ concerned, if a claimant ceases to be entitled to <sup>3</sup>or treated as entitled to~~◀~~ income support for a period not exceeding eight weeks which includes <sup>1</sup>the day his partner attained the qualifying age for state pension credit~~◀~~, he shall, on becoming re-entitled to income support, thereafter be treated as having been continuously entitled thereto.

<sup>3</sup>Words inserted in para. 10(3)(a) & (b) & para. 10(5) added by reg. 4(3)(b) of S.I. 2000/724 as from 3.4.00.  
<sup>4</sup>Words in 10(3)(b) & 11(1)(a) substituted & omitted, para. 11(1)(b)(i) substituted by reg. 29(5)(d) of S.I. 2002/3019 as from 6.10.03.

<sup>5</sup>(4) In the case of a claimant who is a welfare to work beneficiary, references in sub-paragraphs (1)(b)(ii), <sup>6</sup>~~◀~~ and (3)(b) to a period of 8 weeks shall be treated as references to a period of <sup>7</sup>104 weeks~~◀~~.

<sup>5</sup>Para. 10(4) inserted by reg. 13(3)(a) of S.I. 1998/2231 as from 5.10.98.

<sup>3</sup>(5) For the purposes of this paragraph, a claimant shall be treated as having been entitled to and in receipt of income support throughout any period which comprises only days on which he was participating in an employment zone programme and was not entitled to income support because, as a consequence of his participation in that programme, he was engaged in remunerative work or had income in excess of his applicable amount as prescribed in Part IV.~~◀~~

<sup>6</sup>Words omitted in para. 10(4) by reg. 2(7) of S.I. 2007/719 as from 2.4.07.

<sup>8</sup>(6) The condition is not satisfied if the claimant's partner to whom sub-paragraph (1) refers is a long-term patient.~~◀~~

<sup>7</sup>Words substituted in para. 10(4) by reg. 5(7)(a) of S.I. 2006/2378 as from 1.10.06.

<sup>8</sup>Para. 10(6) inserted by reg. 2(7) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

**Disability Premium**

11. <sup>9</sup>—(1) Subject to sub-paragraph (2), the~~◀~~ condition is that—

- (a) where the claimant is a single claimant or a lone parent, <sup>4</sup>~~◀~~ the additional condition specified in paragraph 12 is satisfied; or
- (b) where the claimant has a partner, either—
  - <sup>4</sup>(i) the claimant satisfies the additional condition specified in paragraph 12(1)(a), (b) <sup>2</sup>, (c) or (d)~~◀◀~~
  - (ii) his partner <sup>1</sup>has not attained the qualifying age for state pension credit~~◀~~ and the additional condition specified in paragraph 12(1)(a) <sup>2</sup>, (c) or (d)~~◀~~ is satisfied by his partner.

<sup>9</sup>Para. 11 renumbered 11(1), words substituted in 11(1) and 11(2) inserted by reg. 2(7) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

<sup>9</sup>(2) The condition is not satisfied if—

- (a) the claimant is a single claimant or a lone parent and (in either case) is a long-term patient;
- (b) the claimant is a member of a couple or polygamous marriage and each member of the couple or polygamous marriage is a long-term patient; or
- (c) the claimant is a member of a couple or a polygamous marriage and a member of that couple or polygamous marriage is—
  - (i) a long-term patient; and

(a) Paragraph 12(1) is amended by S.I. 2002/3019.

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- (ii) the only member of the couple or polygamous marriage to whom sub-paragraph (1)(b) refers.◀

**Additional condition for the Higher Pensioner and Disability Premium**

**12**—(1) Subject to sub-paragraph (2) and paragraph 7 the additional condition referred to in paragraphs 10 and 11 is that either—

- (a) the claimant, or as the case may be, his partner—
- (i) is in receipt of one or more of the following benefits: attendance allowance,<sup>1</sup> disability living allowance,<sup>2</sup> armed forces independence payment,<sup>3</sup> personal independence payment<sup>4</sup> 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 (Entitlement and Maximum Rate) Regulations 2002<sup>5</sup> mobility supplement,<sup>6</sup> long-term incapacity benefit<sup>7</sup> under Part II of the Contributions and Benefits Act or severe disablement allowance under Part III of that Act<sup>8</sup> but, in the case of long-term incapacity benefit<sup>9</sup> or severe disablement allowance only where it is paid in respect of him<sup>10</sup>; or
- (ii) is provided by the Secretary of State with an invalid carriage or other vehicle under section 5(2) of the National Health Service Act 1977<sup>(a)</sup> (other services) or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978<sup>(b)</sup> (provision of vehicles) or received payments by way of grant from the Secretary of State under paragraph 2 of Schedule 2 to that 1977 Act (additional provisions as to vehicles) or, in Scotland, under that section 46; or
- <sup>8</sup>(iii) is certified as severely sight impaired or blind by a consultant ophthalmologist; or◀
- <sup>9</sup>(b) the claimant—
- (i) is entitled to statutory sick pay or<sup>10</sup> is, or is treated as, incapable of work,<sup>11</sup> in accordance with the provisions of Part XIIA of the Contributions and Benefits Act and the regulations made there-under (incapacity for work)(c), and
- (ii) has been so entitled or so incapable<sup>10</sup>, or has been treated as so incapable,<sup>12</sup> for a continuous period of not less than—
- (aa) 196 days in case of a claimant who is terminally ill within the meaning of section 30B(4) of the Contributions and Benefits Act<sup>(d)</sup>; or
- (bb) <sup>11</sup>subject to <sup>12</sup>paragraph 2A<sup>13</sup> of Schedule 7,<sup>14</sup> 364 days in any other case;
- and for these purposes any two or more periods of entitlement or incapacity separated by a break of not more than 56 days shall be treated as one continuous period; or◀

<sup>1</sup>Words substituted in para. 12(1)(a)(i) by reg. 11(4)(b) of S.I. 1991/2742 as from 6.4.92.  
<sup>2</sup>Words inserted in para. 12(1)(a)(i) of Sch. 2 by para. 4(5)(b) of Sch. to S.I. 2013/591 as from 8.4.13.  
<sup>3</sup>Words added to para. 12(1)(a)(i) of Sch. 2 by para. 11(5)(b)(i) of Sch. to S.I. 2013/388 as from 8.4.13.  
<sup>4</sup>Words in para 12(1)(a)(i) substituted by Sch. 1 para. 20(b) of S.I. 2003/455 as from 7.4.03 or later subject to reg. 1(5)(a) *ibid.*  
<sup>5</sup>Words in para. 12(1)(a)(i) substituted for “invalidity pension” by reg. 16(2) of S.I. 1995/482 as from 13.4.95, subject to saving in reg. 20(4) *ibid.*  
<sup>6</sup>Words in para. 12(1)(a)(i) substituted by reg. 30(2) of S.I. 1994/2139 as from 3.10.94.  
<sup>7</sup>Words inserted into para. 12(1)(a)(i) by reg. 29(c)(i) of S.I. 1988/663 as from 11.4.88.  
<sup>8</sup>Para. 12(1)(a)(iii) substituted by reg. 3(2)(a)(i)(aa) of S.I. 2014/2888 as from 26.11.14. (See reg. 1(2) for revised effective dates in certain circumstances).  
<sup>9</sup>Head (b) of para. 12(1) substituted by reg. 17(a) of S.I. 1995/482 as from 13.4.95.  
<sup>10</sup>Words substituted in para. 12(1)(b)(i), & words inserted in para. 12(1)(b)(ii), by reg. 6(8)(a) and 6(8)(b) respectively of S.I. 1995/2303 as from 2.10.95.  
<sup>11</sup>Words inserted in para. 12(1)(b)(ii)(bb) by reg. 4(3)(a) of S.I. 2005/3360 as from 10.4.06 (see reg. 1(c) of this S.I. page 3.4081 for other instances to apply).  
<sup>12</sup>Words substituted in para. 12(1)(b)(ii)(bb) by reg. 2(7)(d) of S.I. 2007/719 as from 9.4.07 or later see reg. 1 *ibid.*

(a) 1977 c. 49; s. 5(2) amended and subsection (2A) added by s. 1 of the Public Health Laboratory Service Act 1979 (c. 23) and subsection (2B) added by s. 9 of the Health and Social Security Act 1984 (c. 48).

(b) 1978 c. 29.

(c) Part XIIA is inserted by ss. 5 and 6(1) of the Social Security (Incapacity for Work) Act 1994.

(d) S. 30B is inserted by s. 2(1) of the Social Security (Incapacity for Work) Act 1994.

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- <sup>1</sup>(c) the claimant's partner was in receipt of long-term incapacity benefit under Part II of the Contributions and Benefits Act when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act <sup>2</sup>or a state pension under Part 1 of the Pensions Act 2014◀ and—
- (i) the claimant has since remained continuously entitled to income support;
- (ii) the higher pensioner premium or disability premium has been applicable to the claimant; and
- (iii) the partner is still alive;
- (d) except where paragraph <sup>3</sup>2A <sup>4</sup>◀◀ of Schedule 7 (patients) applies, the claimant or, as the case may be, his partner was in receipt of attendance allowance <sup>5</sup>, disability living allowance or personal independence payment◀—
- (i) but payment of that benefit has been suspended under the <sup>6</sup>Social Security (Attendance Allowance) Regulations 1991 <sup>5</sup>, the Social Security (Disability Living Allowance) Regulations 1991 or regulations made under section 86(1) (hospital in-patients) of the 2012 Act◀◀ or otherwise abated as a consequence of the claimant or his partner becoming a patient within the meaning of regulation 21(3); and
- (ii) a higher pensioner premium or disability premium has been applicable to the claimant.◀

<sup>7</sup>(1A) In the case of a claimant who is a welfare to work beneficiary, the reference in sub-paragraph (1)(b) to a period of 56 days shall be treated as a reference to a period of <sup>8</sup>104 weeks◀.◀

<sup>9</sup>(2) For the purposes of sub-paragraph (1)(a)(iii), a person who has ceased to be certified as severely sight impaired or blind on regaining his eyesight shall nevertheless be treated as severely sight impaired or blind, as the case may be, and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so certified.◀

(3) <sup>10</sup>◀

(4) For the purpose of <sup>11</sup>sub-paragraph (1)(c) and (d)◀, once the higher pensioner premium is applicable to the claimant by virtue of his satisfying the condition specified in that provision, if he then ceases, for a period of eight weeks or less, to be entitled to income support, he shall on again becoming so entitled to income support, immediately thereafter be treated as satisfying the conditions in <sup>11</sup>sub-paragraph (1)(c) and (d)◀.

<sup>12</sup>(5) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973(a) <sup>13</sup>or for any period during which he is in receipt of a training allowance◀.◀

<sup>10</sup>(6) For the purposes of <sup>11</sup>sub-paragraph (1)(a)(i) and (c)◀, a reference to a person in receipt of long-term incapacity benefit includes a person 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 Contributions and Benefits Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.◀

(7) <sup>14</sup>◀

### Severe Disability Premium

**13.—**(1) The condition is that the claimant is a severely disabled person.

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

<sup>1</sup>Para. 12(1)(c) substituted for (c) & (d) by reg. 29(5)(e) of S.I. 2002/3019 as from 6.10.03.

<sup>2</sup>Words in para. 12(1)(c) to Sch. 2 inserted by art. 8(2) of S.I. 2015/1985 as from 6.4.16.

<sup>3</sup>Words in para. 12(1)(d) substituted by reg. 4(3)(b) of S.I. 2005/3360 as from 10.4.06 (See reg. 1(c) of S.I. page 3.4081 for other instances to apply).

<sup>4</sup>Words omitted in para. 12(1)(d) by reg. 2(7)(d) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

<sup>5</sup>Words in para. 12(d) substituted by para. 11(5)(b)(ii) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>6</sup>Words substituted in para. 12(1)(d)(i) by reg. 6 of S.I. 2004/1141 as from 12.5.04.

<sup>7</sup>Para. 12(1A) inserted by reg. 13(3)(b) of S.I. 1998/2231 as from 5.10.98.

<sup>8</sup>Words substituted in para. 12(1A) by reg. 5(7)(a) of S.I. 2006/1378 as from 1.10.06.

<sup>9</sup>Para. 12(2) substituted by reg. 3(2)(a)(i)(bb) of S.I. 2014/2888 as from 26.11.14. (See reg. 1(2) for revised effective dates in some circumstances).

<sup>10</sup>Para. 12(3) deleted & by 12(6) inserted to Sch. 2 by regs. 16(3) & 17(b) of S.I. 1995/482 as from 13.4.95.

<sup>11</sup>Words substituted in Sch. 2 paras. 12(4) & (6) by reg. 2(4)(a) & (b) of S.I. 2003/2379 as from 6.10.03.

<sup>12</sup>Para. 12(5) added to Sch. 2 by reg. 17(b) of S.I. 1988/2022 as from 12.12.88.

<sup>13</sup>Words added to para. 12(5) by reg. 6(e) of S.I. 1989/1678 as from 9.10.89.

<sup>14</sup>Para. 12(7) of Sch. 2 omitted by reg. 2(d) of S.I. 2003/1589 as from 25.10.04.

(a) 1973 c. 50; Section 2 was substituted by the Employment Act 1988 (c. 19), Section 25.

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<sup>1</sup>Words in para. 13(2)(a) substituted by reg. 3(2) of S.I. 1993/1150 as from 25.5.93.

<sup>2</sup>Words inserted into para. 13(2)(a)(i), (2)(b)(i), (3)(a) and (3A)(a) by reg. 11(4)(e) of S.I. 1991/2742 as from 6.4.92.

<sup>3</sup>Words omitted & inserted in para. 13 by para. 11(5)(c) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>4</sup>Words inserted in paras. 13(2)(a)(i), (b)(i) & (3)(a) of Sch. 2 by para. 4(5)(c) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>5</sup>Words substituted in para. 13(2)(a)(ii) and (2)(b)(iii) by reg. 2(3) of S.I. 1994/3061 as from 2.12.94.

<sup>6</sup>Paras. 13(2)(a)(iii) and (3A)(b) substituted and words in para. (2)(b), (3A) and (3A)(a) & b substituted and deleted by reg. 4(2)(a) of S.I. 2000/681 as from 3.4.00.

<sup>7</sup>Words substituted in para. 13(2)(a)(iii), (2)(b), (3A)(b) & (3ZA) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

<sup>8</sup>Words inserted in para. 13(2)(a)(iii) & (2)(b) by reg. 14(2)-(3) of S.I. 2015/1754 as from 3.11.15.

<sup>9</sup>Para. 13(2A) inserted by reg. 3(3) of S.I. 1993/1150 as from 25.5.93.

<sup>10</sup>Words substituted in para. 13(2A) & (3)(d) by reg. 3(2)(a)(ii) of S.I. 2014/2888 as from 26.11.14. (See reg. 1(2) for revised effective dates in certain circumstances).

<sup>11</sup>Para. 13(3)(b) deleted by reg. 18(3) of S.I. 1993/2119 as from 4.10.93.

<sup>12</sup>Word "or" and para. 13(3)(d) added by reg. 3(4) of S.I. 1993/1150 as from 25.5.93.

<sup>13</sup>Sub-para. (3A) inserted in para. 13 by reg. 29(d) of S.I. 1988/663 as from 11.4.88.

- (a) in the case of a single claimant <sup>1</sup>, a lone parent or a claimant who is treated as having no partner in consequence of sub-paragraph (2A)◀–
- (i) he is in receipt of attendance allowance <sup>2</sup>, <sup>3</sup>◀ the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the Social Security Act <sup>3</sup>or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act◀◀<sup>4</sup>or armed forces independence payment◀◀, and
- (ii) subject to sub-paragraph (3), he has no non-dependants aged 18 or over <sup>5</sup>normally residing with him or with whom he is normally residing,◀ and
- <sup>6</sup>(iii) no person is entitled to, and in receipt of, <sup>7</sup>a carer's allowance◀ under section 70 of the Contributions and Benefits Act <sup>8</sup>or has an award of universal credit which includes the carer element◀ in respect of caring for him;◀
- (b) <sup>6</sup>in the case of a claimant who◀ has a partner–
- (i) he is in receipt of attendance allowance <sup>2</sup> <sup>3</sup>◀ the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the Social Security Act <sup>3</sup>or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act◀◀<sup>4</sup>or armed forces independence payment◀◀; and
- (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt thereof; and
- (iii) subject to sub-paragraph (3), he has no non-dependants aged 18 or over <sup>5</sup>normally residing with him or with whom he is normally residing,◀ and, either <sup>6</sup>a person is entitled to, and in receipt of, <sup>7</sup>a carer's allowance◀ <sup>8</sup>or has an award of universal credit which includes the carer element◀ 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◀ <sup>8</sup>or has such an award of universal credit◀ in respect of caring for either member of the couple or any partner of the polygamous marriage.
- <sup>9</sup>(2A) Where a claimant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii) and that partner is <sup>10</sup>severely sight impaired or blind or treated as severely sight impaired or blind◀ within the meaning of paragraph 12(1)(a)(iii) and (2), that partner shall be treated for the purposes of sub-paragraph (2) as if he were not a partner of the claimant.◀
- (3) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account shall be taken of–
- (a) a person receiving attendance allowance <sup>2</sup>, <sup>3</sup>◀ the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the Social Security Act <sup>3</sup>or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act◀◀<sup>4</sup>or armed forces independence payment◀◀; or
- (b) <sup>11</sup>◀
- (c) subject to sub-paragraph (4), a person who joins the claimant's household for the first time in order to care for the claimant or his partner and immediately before so joining the claimant or his partner was treated as a severely disabled person <sup>12</sup>or
- (d) a person who is <sup>10</sup>severely sight impaired or blind or treated as severely sight impaired or blind◀ within the meaning of paragraph 12(1)(a)(iii) and (2).◀
- <sup>13</sup>(3A) for the purposes of sub-paragraph (2)(b) a person shall be treated <sup>6</sup>◀–
- (a) <sup>6</sup>as being in receipt of◀ attendance allowance <sup>2</sup>, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the Social Security Act◀ if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;

- <sup>1</sup>(b) as being entitled to and in receipt of <sup>2</sup>a carer's allowance◀ <sup>3</sup>or having an award of universal credit which includes the carer element◀ if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt <sup>3</sup>of carer's allowance or have such an award of universal credit◀.
- <sup>4</sup>(c) as being in receipt of the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78(3) of the 2012 Act if he would, but for a suspension of benefit in accordance with regulations under section 86(1) (hospital in-patients) of the 2012 Act, be so in receipt.◀
- <sup>5</sup>(3ZA) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account shall be taken of an award of <sup>6</sup>carer's allowance◀ <sup>7</sup>or universal credit which includes the carer element◀ to the extent that payment of such an award is back-dated for a period before <sup>8</sup>the date on which the award is first paid◀◀.

(4) Sub-paragraph (3)(c) shall 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.

<sup>9</sup>(5) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of <sup>10</sup>a carer's allowance◀ or as having an award of universal credit which includes the carer element◀ shall include references to a person who would have been in receipt of that allowance <sup>3</sup>or had such an award◀ but for the application of a restriction under section <sup>11</sup>6B or◀ 7 of the Social Security Fraud Act 2001 (loss of provisions).◀

<sup>3</sup>(6) For the purposes of this paragraph, a person has an award of universal credit which includes the carer element if the person has an award of universal credit which includes an amount which is the carer element under regulation 29 of the Universal Credit Regulations 2013.◀

## <sup>12</sup>Enhanced disability premium

**13A.**— <sup>13</sup>(1) Subject to sub-paragraph (2), the condition is that—

- (a) the claimant; or
- (b) the claimant's partner (if any) who has not attained the qualifying age for state pension credit,

is a person to whom sub-paragraph (1ZA) applies.◀

*Para 13A(1)(b) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

- <sup>14</sup>(b) a member of the claimant's family who is aged less than 60.◀

<sup>13</sup>(1ZA) This sub-paragraph applies to the person mentioned in sub-paragraph (1) where—

- (a) armed forces independence payment is payable to that person;
- (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 to that person at the highest rate prescribed under section 72(3) of that Act; or
- (c) the daily living component of personal independence payment is, or would, but for regulations made under section 86(1) (hospital in-patients) of the 2012 Act, be payable to that person at the enhanced rate in accordance with section 78(2) of that Act.◀

<sup>1</sup>Para. (3A)(b) substituted by reg. 4(2)(a) of S.I. 2000/681 as from 3.4.00.

<sup>2</sup>Words substituted in para. (3A)(b) & (3ZA) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

<sup>3</sup>Words inserted in para. 13(2)(b) & (3ZA) by reg. 14(2)-(4) of S.I. 2015/1754 as from 3.11.15.

<sup>4</sup>Words omitted & inserted in para. 13 by para. 11(5)(c) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>5</sup>Para. 13(3ZA) inserted by reg. 30(4) of S.I. 1994/2139 as from 3.10.94.

<sup>6</sup>Words substituted in para. 13(2)(a)(iii), (2)(b), (3A)(b) & (3ZA) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

<sup>7</sup>Words in para. 13(5) of Sch. 2 & sub-para. (6) inserted by reg. 14(5)-(7) of S.I. 2015/1754 as from 3.11.15.

<sup>8</sup>Words substituted in para. 13(3ZA) by reg. 2(7)(e) of S.I. 2007/719 as from 2.4.07.

<sup>9</sup>Sub-para. (5) inserted in reg. 13 by reg. 2 of S.I. 2002/490 as from 1.4.02.

<sup>10</sup>Words substituted in para. 13(5) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

<sup>11</sup>Words inserted in para. 13(5) by reg. 10(3) of S.I. 2010/1160 as from 1.4.10.

<sup>12</sup>Para. 13A inserted by reg. 2(c)(ii) of S.I. 2000/2629 as from 9.4.01.

<sup>13</sup>Para. 13A(1) & (1ZA) substituted by para. 4(5)(d) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>14</sup>Head. (b) of para. 13A(1) substituted by reg. 29(5)(f) of S.I. 2002/3019 as from 6.10.03.

**Sch. 2**

<sup>1</sup>Sub-para. (1A) inserted in para. 13A by reg. 3(5)(a) of S.I. 2011/674 and comes into force on the first day of the first benefit week to commence for that claimant on or after 11.4.11.

<sup>2</sup>Words inserted in para. 13A(1A) by reg. 7(7) of S.I. 2011/2425 as from 31.10.11.

<sup>3</sup>Para. 13A(2) substituted by reg. 2(7)(f) of S.I. 2007/719 as from 9.4.07 or later. See reg. 1, *ibid*

<sup>1</sup>◀(1A) 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 claimant <sup>2</sup>or partner◀ is entitled to child benefit in respect of that person under section 145A of the Contributions and Benefits Act(a) (entitlement after death of child or qualifying young person).◀

<sup>3</sup>(2) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—

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(a) Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c. 21). It has been amended but not in a way material to these Regulations.



*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

- (a) a child or young person—
  - (i) whose capital if calculated in accordance with Part 5 of these Regulations in like manner as for the claimant, except as provided in regulation 44(1), would exceed £3,000\*; or
  - (ii) who is a long-term patient;

*\*The sum of £3,000 in para. 13A(2)(a) above is maintained in force (9.4.18) by art. 21(2) of S.I. 2018/281. See art. 1(2)(g) for when to apply in certain cases.*

- (b) a single claimant or a lone parent and (in either case) is a long-term patient;
- (c) a member of a couple or polygamous marriage and each member of the couple or polygamous marriage is a long-term patient; or
- (d) a member of a couple or polygamous marriage who—
  - (i) is a long-term patient; and
  - (ii) is the only member of the couple or polygamous marriage to whom sub-paragraph (1) refers. ◀

14. 1◀

*These paragraphs continue to be reproduced as they remain in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

<sup>2</sup>Disabled Child Premium

14.—(1) Subject to sub-paragraph (2), the condition is that where the child or young person for whom the claimant or a partner of his is responsible and who is a member of the claimant's household is—

- (a) in receipt of disability living allowance or is no longer in receipt of that allowance because he is a patient provided that the child or young person continues to be a member of the family; <sup>3</sup>◀
- (b) <sup>4</sup>severely sight impaired or blind◀ within the meaning of paragraph 12(1)(a)(iii) and (2) <sup>3</sup>; or
- (c) a child or young person in respect of whom section 145A of the Contributions and Benefits 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 claimant's applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant's applicable amount because of that child or young person's death◀<sup>5</sup>; or
- (d) a young person who is in receipt of personal independence payment or who would, but for regulations made under section 86(1) (hospital in-patients) of the 2012 Act, be so in receipt provided that the young person continues to be a member of the family.◀<sup>6</sup>; or
- (e) in receipt of armed forces independence payment.◀

(2) The condition <sup>7</sup>in sub-paragraph (1)(a) <sup>8</sup>, (b), (d) or (e)◀◀ is not satisfied in respect of a child or young person—

- (a) whose capital, if calculated in accordance with Part 5 of these Regulations in like manner as for the claimant, except as provided in regulation 44(1), would exceed £3,000\*; or
- (b) who is a long-term patient.◀

*\*The sum of £3,000 in para. 14(2)(a) above is maintained in force (9.4.18) by art. 21(2) of S.I. 2018/281. See art. 1(2)(g) of the S.I. for when to apply in certain cases.*

<sup>1</sup>Para. 14 omitted by para. 20(a) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>2</sup>Para. 14 substituted by reg. 2(7)(g) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.

<sup>3</sup>Words in para. 14(1)(a) omitted & para. 14(1)(c) inserted by reg. 3(5)(b) of S.I. 2011/674 and come into force on the first day of the first benefit week to commence for that claimant on or after 11.4.11.

<sup>4</sup>Words in para. 14(1)(b) substituted by reg. 3(2)(a)(iii) of S.I. 2014/2888 as from 26.11.14. (See reg. 1(2) for revised effective dates in certain circumstances).

<sup>5</sup>Para. 14(1)(d) inserted by para. 11(5)(d) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>6</sup>Word & para. 14(1)(e) inserted in Sch. 2 by para. 4(5)(e) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>7</sup>Words in para. 14(2) inserted by reg. 3(5)(b) of S.I. 2011/674 and come into force on the first day of the first benefit week to commence for that claimant on or after 11.4.11.

<sup>8</sup>Words in para. 14(2) substituted by reg. 2(5) of S.I. 2014/591 as from 28.4.14.

**Sch. 2**

<sup>1</sup>Para. 14ZA inserted by reg. 8(d) of S.I. 1990/1776 as from 1.10.90.

<sup>2</sup>Words inserted in para. 14ZA by reg. 15(d)(i) of S.I. 1991/1559 as from 7.10.91.

<sup>3</sup>Words substituted in para. 14ZA(1) by reg. 4(2)(b) of S.I. 2000/681 as from 3.4.00.

<sup>4</sup>Words substituted & inserted in para. 14ZA(1), (3)(a), (b), (3A)(a), (c), (4) & (4)(a) by Sch. 2 of S.I. 2002/2497 as from 1.4.03

<sup>5</sup>Para. 14ZA(2), (3A)(b) & (4)(b) omitted by reg. 2(3)(a), (c)(ii) & (d)(i) of S.I. 2003/2279 as from 1.10.03.

<sup>6</sup>In para. 14ZA, sub-para. (3) substituted with (3) & (3A) & sub-para. (4)(a) & (b) substituted with (4)(a)-(c) by reg. 2 of S.I. 2002/2020 as from 28.10.02.

<sup>7</sup>In para. 14ZA, words omitted in sub-para. (3)(b) & inserted in sub-para. (3A)(a) & sub-para. (4)(c) substituted by reg. 2(3)(b), (c)(i) & (d)(ii) of S.I. 2003/2279 as from 1.10.03.

<sup>8</sup>Para. 14ZA(4) substituted by reg. 4(2)(b) of S.I. 2000/681 as from 3.4.00.

<sup>9</sup>Para. 14A inserted by reg. 19(d) of S.I. 1988/1445 as from 12.9.88.

<sup>10</sup>Words substituted in para. 14A by reg. 15(e) of S.I. 1991/1559 as from 5.8.91.

<sup>11</sup>Para. 14B inserted into Sch. 2 by reg. 17 of S.I. 1990/547 as from 9.4.90.

**<sup>1</sup>Carer premium**

**14ZA.**—(1) <sup>2</sup>Subject to sub-paragraph (3) and (4),<sup>4</sup> the condition is that the claimant or his partner is, or both of them are, <sup>3</sup>entitled to <sup>4</sup>a carer's allowance<sup>4</sup> under section 70 of the Contributions and Benefits Act.<sup>4</sup>

(2) <sup>5</sup>

<sup>6</sup>(3) Where a carer premium is awarded but—

- (a) the person in respect of whose care the <sup>4</sup>carer's allowance<sup>4</sup> 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 <sup>7</sup> to <sup>4</sup>a carer's allowance<sup>4</sup>,

the condition for the award of the premium shall be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3A) below.

(3A) The relevant date for the purposes of sub-paragraph (3) above shall be—

- (a) <sup>7</sup>where sub-paragraph (3)(a) applies,<sup>4</sup> the Sunday following the death of the person in respect of whose care <sup>4</sup>a carer's allowance<sup>4</sup> has been awarded or the date of death if the death occurred on a Sunday;
- (b) <sup>5</sup>
- (c) in any other case, the date on which the person who has been entitled to <sup>4</sup>a carer's allowance<sup>4</sup> ceases to be entitled to that allowance.<sup>4</sup>

<sup>8</sup>(4) Where a person who has been entitled to <sup>4</sup>a carer's allowance<sup>4</sup> ceases to be entitled to that allowance and makes a claim for income support, the condition for the award of the carer premium shall be treated as satisfied for a period of eight weeks from the date on which—

- <sup>6</sup>(a) the person in respect of whose care the <sup>4</sup>carer's allowance<sup>4</sup> has been awarded dies;
- (b) <sup>5</sup>
- <sup>7</sup>(c) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.<sup>4</sup>

**<sup>9</sup>Persons in receipt of concessionary payments**

**14A.** For the purpose of determining whether a premium is applicable to a person <sup>10</sup>under paragraphs 12 to 14ZA<sup>4</sup>, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.<sup>4</sup>

**<sup>11</sup>Person in receipt of benefit**

**14B.** For the purposes of this Part of this Schedule, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.<sup>4</sup>

**Sch. 2**

<sup>1</sup>PART IV

<sup>1</sup>Part IV of Sch. 2 substituted by Sch. 3 to S.I. 2009/497 as from 6.4.09.

WEEKLY AMOUNTS OF PREMIUMS SPECIFIED IN PART III

<i>Premium</i>	<i>Amount</i>
<b>15.—(2)(a)</b> Pensioner premium for persons to whom paragraph 9 applies.	(2) <sup>2</sup> £133.95◀.
(2A) Pensioner premium for persons to whom paragraph 9A applies.	(2A) <sup>2</sup> £133.95◀.
(3) Higher Pensioner Premium for persons to whom paragraph 10 applies.	(3) <sup>2</sup> £133.95◀.
(4)(b) Disability Premium—	(4)
(a) where the claimant satisfies the condition in paragraph 11(1)(a);	(a) <sup>2</sup> £33.55◀;
(b) where the claimant satisfies the condition in paragraph 11(1)(b).	(b) <sup>2</sup> £47.80◀.
(5) Severe Disability Premium—	(5)
(a) where the claimant satisfies the condition in paragraph 13(2)(a);	(a) <sup>2</sup> £64.30◀;
(b) where the claimant satisfies the condition in paragraph 13(2)(b)—	(b)
(i) if there is someone in receipt of a carer's allowance(c) or if he or any partner satisfies that condition only by virtue of paragraph 13(3A);	(i) <sup>2</sup> £64.30◀;
(ii) if no-one is in receipt of such an allowance.	(ii) <sup>2</sup> £128.60◀.
(6) <sup>3</sup> ◀	
<i>This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.</i>	
(6) Disabled Child Premium.	(6) <sup>2</sup> £62.86◀ in respect of each child or young person in respect of whom the conditions specified in paragraph 14 are satisfied.
(7)(d) Carer Premium	(7) <sup>2</sup> £36.00◀ in respect of each person who satisfied the condition specified in paragraph 14ZA.

<sup>2</sup>Amounts in col. 2, substituted by art. 21(5) & Sch. 3 of S.I. 2018/281. See art. 1(2)(g) of this S.I. for the relevant commencement date.

<sup>3</sup>Para. 15(6) omitted by para. 20(d) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

(a) Sub-paragraphs (2), (2A) and (3) were substituted by S.I. 2002/3019.  
 (b) Relevant amending instrument is S.I. 2007/719.  
 (c) Relevant amending instrument is S.I. 2002/2497.  
 (d) Sub-paragraph (7) was added by S.I. 1990/1776.

<i>Premium</i>	<i>Amount</i>
(8)(a) Enhanced disability premium where the conditions in paragraph 13A are satisfied.	(8)
<sup>1</sup> Para. (8)(a) omitted by para. 20(d) of Sch. 1 to S.I. 2003/455 as from 6.4.04.	(a) <sup>1</sup> ◀
<sup>2</sup> Amounts in col. 2 substituted by art. 21(5) & Sch. 3 of S.I. 2018/281. See art. 1(2)(g) of this S.I. for the relevant commencement date.	<p><i>This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.</i></p> <p>(a) <sup>2</sup>£25.48◀ in respect of each child or young person in respect of whom the conditions specified in paragraph 13A are satisfied;</p> <p>(b) <sup>2</sup>£16.40◀ in respect of each person who is neither—</p> <p style="margin-left: 20px;">(i) a child or young person; nor</p> <p style="margin-left: 20px;">(ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 13A are satisfied;</p> <p>(c) <sup>2</sup>£23.55◀ where the claimant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 13A are satisfied in respect of a member of that couple or polygamous marriage.◀</p>

## PART V

## ROUNDING OF FRACTIONS

**16.** Where income support is awarded for a period which is not a complete benefit week and the applicable amount in respect of that period results in an amount which includes a fraction of a penny that fraction shall be treated as a penny.

<sup>3</sup>SCHEDULE 3

Regulation 17(1)(e) and 18(1)(f)

## 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 he or, where he is a member of a family, he or any member of that family is, in accordance with paragraph 2, liable to meet in respect of the

(a) Sub-paragraph (8) was added by S.I. 2000/2629 and amended by S.I. 2003/455.

dwelling occupied as the home which he or any other member of his family is treated as occupying, and

(b) which qualify under paragraphs 15 to 17.

(2) In this Schedule—

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

<sup>1</sup>◀

“standard rate” means the rate for the time being <sup>2</sup>determined in accordance with◀ paragraph 12.

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

(a) in respect of whom a disability premium, a disabled child premium, a pensioner premium for persons aged 75 or over or a higher pensioner premium is included in his applicable amount or the applicable amount of a person living with him; or

(b) <sup>3</sup>◀ who, had he in fact been entitled to income support, would have had included in his applicable amount a disability premium, a disabled child premium, a pensioner premium for persons aged 75 or over or a higher pensioner premium <sup>4</sup>; or

(c) who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002 (a).◀

<sup>5</sup>(d) who—

(i) is in receipt of an employment and support allowance which includes an amount under section 2(2) <sup>6</sup>◀ or 4(4) <sup>6</sup>◀ of the Welfare Reform Act <sup>6</sup>(component) or is a member of the work-related activity group◀ <sup>6</sup>◀; or

(ii) would be entitled to an employment and support allowance <sup>6</sup>◀ but for the application of section 1A of that Act (duration of contributory allowance)◀<sup>7</sup>; or

*Paras. 1(3)(d)(i) & (ii) are reproduced below as they remain in force for certain cases. See Sch. 2, para. 1 of S.I. 2017/204 for details.*

<sup>5</sup>(d)who—

(i) 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); or

(ii) would be entitled to an employment and support allowance including an amount of a work-related activity components 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)◀<sup>7</sup>; or

(e) who is entitled to an award of universal credit the calculation of which includes an amount under regulation 27(1) of the Universal Credit Regulations 2013 in respect of the fact that he has limited capability for work or limited capability for work and work-related activity, or would include such an amount but for regulation 27(4) or 29(4) of those Regulations.◀

(4) For the purposes of sub-paragraph (3), 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 Contributions and Benefits Act(b) (incapacity for work, disqualification etc.) <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)◀.

<sup>1</sup>Defns. of “existing housing costs” & “new housing costs” omitted by reg. 2(2)(a) of S.I. 2015/1647 as from 1.4.16.

<sup>2</sup>Words in defn. of “standard rate” substituted by reg. 2(2) of S.I. 2004/2825 as from 28.11.04.

<sup>3</sup>Words deleted in para. 1(3)(b) by reg. 5(2)(b) of S.I. 1995/2927 as from 12.12.95.

<sup>4</sup>Word or and sub-para. (c) added to para. 1(3) by reg. 5(8)(a) of S.I. 2006/2378 as from 2.10.06.

<sup>5</sup>Para. 1(3)(d) of Sch. 3 substituted by reg. 3(3) of S.I. 2012/913 as from 1.5.12.

<sup>6</sup>Words in para. 1(3)(d)(i) & (ii) omitted & inserted by Sch. 1, para. 1(3)(a) of S.I. 2017/204 as from 3.4.17.

<sup>7</sup>Para. 1(3)(e) inserted by reg. 28(7) of S.I. 2013/630 as from 29.4.13.

<sup>8</sup>Words in sub-para. (4) added, heading & para. 1A(1) & (1)(a) inserted by reg. 2(11)(a)(ii) & (b)(i)-(iii) of S.I. 2008/1554 as from 27.10.08.

(a) 2002 c. 21.

(b) 1994 (c. 18).

**Sch. 3**

<sup>1</sup>Para. 1A inserted by reg. 2(2)(a) of S.I. 1997/2305 as from 22.10.97.

<sup>2</sup>Heading and words in para. 1A(1)(a) substituted and inserted, by reg. 3(3)(a)(i)-(ii) of S.I. 2007/3183 as from 17.12.07.

<sup>3</sup>Para. 1(3)(d) of Sch. 3 substituted by reg. 3(3) of S.I. 2012/913 as from 1.5.12.

<sup>4</sup>Para. 1(3)(d) of Sch. 3 substituted by reg. 3(3) of S.I. 2012/913 as from 1.5.12.

<sup>5</sup>Words in para. (2) substituted and inserted, and sub-para. (1A) added by reg. 3(3)(a)(iii)-(iv) of S.I. 2007/3183 as from 17.12.07.

<sup>1</sup> <sup>2</sup>**Previous entitlement to income-based jobseeker's allowance** <sup>3</sup>, **income-related employment and support allowance** ◀ or **state pension credit** ◀

**1A.**—(1) Where a claimant or his partner was in receipt of or was treated as being in receipt of income-based jobseeker's allowance <sup>5</sup> or income-related employment and support allowance ◀ not more than 12 weeks before one of them becomes entitled to income support or, where the claimant or his partner is a person to whom paragraph 14(2) or (8) (linking rules) refers, not more than 26 weeks before becoming so entitled and—

- (a) the applicable amount for that allowance included an amount in respect of housing costs under <sup>2</sup>paragraphs 14 to 16 ◀ of Schedule 2 to the Jobseeker's Allowance Regulations 1996 <sup>3</sup> or paragraphs 16 to 18 of Schedule 6 to the Employment and Support Allowance Regulations ◀(a); 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 income support shall be the applicable amount in respect of those costs current when entitlement to income-based jobseeker's allowance <sup>4</sup> or income-related employment and support allowance ◀ was last determined.

<sup>5</sup>(1A) Where a claimant or his partner was in receipt of state pension credit not more than 12 weeks before one of them becomes entitled to income support or, where the claimant or his partner is a person to whom paragraph 14(2) or (8) (linking rules) refers, not more than 26 weeks before becoming so entitled, and—

- (a) the appropriate minimum guarantee included an amount in respect of housing costs under paragraphs 11 to 13 of Schedule II to the State Pension Credit Regulations 2002; 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 income support shall be the amount applicable in respect of those costs current when entitlement to state pension credit was last determined. ◀

(2) Where, in the period since housing costs were last calculated for income-based jobseeker's allowance <sup>56</sup> 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 shall, for the purposes of the claim for income support, be recalculated so as to take account of that change. ◀

**Circumstances in which a person is liable to meet housing costs**

**2.**—(1) A person is liable to meet housing costs where—

- (a) the liability falls upon him or his 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) he in practice shares the housing costs with other members of the household none of whom are close relatives either of the claimant or his 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 him as sharing responsibility.

(2) Where any one or more, but not all, members of the claimant's family are affected by a trade dispute, the housing costs shall be treated as wholly the responsibility of those members of the family not so affected.

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(a) 1996/207.

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

3.—(1) Subject to the following provisions of this paragraph, a person shall be treated as occupying as his home the dwelling normally occupied as his home by himself or, if he is a member of a family, by himself and his family and he shall not be treated as occupying any other dwelling as his home.

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

(3) Subject to sub-paragraph (4), where a single claimant or a lone parent is a <sup>1</sup>full-time student◀ or is on a training course and is liable to make payments (including payments of mortgage interest or, in Scotland, payments under heritable securities or, in either case, analogous payments) in respect of either (but not both) the dwelling which he occupies for the purpose of attending his course of study or his training course or, as the case may be, the dwelling which he occupies when not attending his course, he shall be treated as occupying as his home the dwelling in respect of which he is liable to make payments.

<sup>1</sup>Words substituted in para. 3(3) by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

(4) A full-time student shall not be treated as occupying a dwelling as his 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 purpose of his occupation during the period of study would be to facilitate attendance on his course.

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

(6) Where a person is liable to make payments in respect of two (but not more than two) dwellings, he shall be treated as occupying both dwellings as his home only—

- (a) where he has left and remains absent from the former dwelling occupied as the home through fear of violence in that dwelling or by a former member of his family and it is reasonable that housing costs should be met in respect of both his former dwelling and his present dwelling occupied as the home; or
- (b) in the case of a couple or a member of a polygamous marriage where a partner is a <sup>2</sup>full-time student◀ or is on a training course and it is unavoidable that he or they should occupy two separate dwellings and reasonable that housing costs should be met in respect of both dwellings; or
- (c) in the case where a person has moved into a new dwelling occupied as the home, except where sub-paragraph (5) applies, for a period not exceeding four benefit weeks <sup>3</sup>from the first day of the benefit week in which the move occurs◀ if his liability to make payments in respect of two dwellings is unavoidable.

<sup>2</sup>Words substituted in para. 3(6)(b) by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

<sup>3</sup>Words inserted in para. 3(6)(c) by reg. 2 of S.I. 2006/3274 as from 8.1.07.

(7) Where—

- (a) a person has moved into a dwelling and was liable to make payments in respect of that dwelling before moving in; and
- (b) he had claimed income support 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 four 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 his family; or

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<sup>1</sup>Para. 3(7)(c)(ii) substituted by reg. 5(8)(b) of S.I. 2006/2378 as from 2.10.06.  
<sup>2</sup>Words inserted in para. 3(7)(c)(ii) by reg. 2(4) of S.I. 2013/443 as from 4.3.13.

- <sup>1</sup>(ii) the move was delayed pending <sup>2</sup>local welfare provision or ◀ the outcome of an application under Part 8 of the Contributions and Benefits Act for a social fund payment 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 five or under,
  - (bb) the claimant's applicable amount includes a premium under paragraph 9, 9A, 10, 11, 13 or 14 of Schedule 2 (applicable amounts), or
  - (cc) a child tax credit is paid for a member of the claimant's family who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002; or ◀
- (iii) the person became liable to make payments in respect of the dwelling while he was a patient or was in residential accommodation,

he shall be treated as occupying the dwelling as his home for any period not exceeding four weeks immediately prior to the date on which he moved into the dwelling and in respect of which he was liable to make payments.

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

and while in the accommodation, the part of the dwelling which he normally occupies as his home is not let, or as the case may be, sub-let to another person.

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

- (10) A person, other than a person to whom sub-paragraph (11) applies, shall be treated as occupying a dwelling as his home throughout any period of absence not exceeding 13 weeks, if, and only if–
- (a) he intends to return to occupy the dwelling as his home; and
  - (b) the part of the dwelling normally occupied by him has not been let or, as the case may be, sub-let to another person; and
  - (c) the period of absence is unlikely to exceed 13 weeks.

- (11) This sub-paragraph applies to a person whose absence from the dwelling he normally occupies as his home is temporary and–
- (a) he intends to return to occupy the dwelling as his home; and
  - (b) while the part of the dwelling which is normally occupied by him has not been let or, as the case may be, sub-let; and



(c) he is—

<sup>1</sup>(i) detained in custody on remand pending trial or, as a condition of bail, required to reside—

(aa) in a dwelling, other than the dwelling he occupies as his home; or

(bb) in premises approved under <sup>2</sup>section 13 of the Offender Management Act 2007(a)◀,

or, detained pending sentence upon conviction, or◀

(ii) resident in a hospital or similar institution as a patient, or

(iii) undergoing or, as the case may be, his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation, or

(iv) following, in the United Kingdom or elsewhere, a training course, or

(v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere, or

(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, or

(vii) a person who is, whether in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation, or

(viii) a <sup>3</sup>full-time student◀ to whom sub-paragraph (3) or (6)(b) does not apply, or

(ix) a person other than a person to whom sub-paragraph (8) applies, who is receiving care provided in residential accommodation; or

(x) a person to whom sub-paragraph (6)(a) does not apply and who has left the dwelling he occupies as his home through fear of violence in that dwelling <sup>4</sup>, or by a person◀ who was formerly a member of his family; and

(d) the period of his absence is unlikely to exceed a period of 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(12) A person to whom sub-paragraph (11) applies is to be treated as occupying the dwelling he normally occupies as his home during any period of absence not exceeding 52 weeks beginning with the first day of that absence.

(13) In this paragraph—

(a) “medically approved” means certified by a medical practitioner;

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

<sup>5</sup>(ba) “period of study” has the meaning given in regulation 61(1) (interpretation);◀

<sup>6</sup>(c) “residential accommodation” means accommodation which is a care home, an Abbeyfield Home or an independent hospital;◀

(d) “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, <sup>7</sup>Skills Development Scotland,◀ Scottish Enterprise, Highlands and Islands Enterprise, a government department of the Secretary of State.

<sup>1</sup>Para. 3(11)(c)(i) substituted by reg. 5(a) of S.I. 2004/2327 as from 4.4.05.

<sup>2</sup>Words in para. 3(11)(c)(i)(bb) substituted by reg. 2(11)(a) of S.I. 2008/2767 as from 17.11.08.

<sup>3</sup>Words substituted in para. 3(11)(c)(viii) by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

<sup>4</sup>Words substituted in para. 3(11)(c)(x) by reg. 5(3) of S.I. 1995/2927 as from 12.12.95.

<sup>5</sup>Para. 3(13)(ba) inserted by reg. 2(15)(a) of S.I. 2009/2655 as from 26.10.09.

<sup>6</sup>Para. 3(13)(c) substituted by para. 8(a) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>7</sup>Words inserted in para. (13)(d) of Sch. 3 by reg. 2(3)(d) of S.I. 2009/583 as from 6.4.09.

(a) 2007 c. 21.

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**Housing costs not met**

4.—(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 <sup>1</sup>living in a care home, an Abbeyfield Home or an independent hospital except where he is living in such a home or hospital◀ during temporary absence from the dwelling he occupies as his home and in so far as they relate to temporary absences, the provisions of paragraphs 3(8) to (12) apply to him during that absence.

<sup>1</sup>Words in para. 4(1)(b) substituted by para. 8(b) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

(2) Subject to the following provisions of this paragraph, loans which, apart from this paragraph, qualify under paragraph 15 shall not so qualify where the loan was incurred during the relevant period and was incurred—

- (a) after 1st October 1995, or
- (b) after 2nd May 1994 and the housing costs applicable to that loan were not met by virtue of the former paragraph 5A of this Schedule(a) in any one or more of the 26 weeks preceding 2nd October 1995, or
- (c) subject to sub-paragraph (3), in the 26 weeks preceding 2nd October 1995 by a person—
  - (i) who was not at that time entitled to income support; and
  - (ii) who becomes, or whose partner becomes entitled to income support after 1st October 1995 so that entitlement is within 26 weeks of an earlier entitlement to income support for the claimant or his 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 2nd October 1995.

<sup>2</sup>(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 income support <sup>3</sup>or income-related employment and support allowance◀, or
- (b) is living as a member of a family one of whom is entitled to income support <sup>3</sup>or income-related employment and support allowance◀,

together with any linked period, that is to say a period falling between two such periods of entitlement to income support <sup>3</sup>or income-related employment and support allowance◀ separated by not more than 26 weeks.◀

<sup>2</sup>Para. 4(4) substituted by reg. 5(4)(a) of S.I. 1995/2927 as from 12.12.95.

<sup>3</sup>Words inserted in para. 4(4) by reg. 2(11)(c) of S.I. 2008/1554 as from 27.10.08.

<sup>4</sup>Para. 4(4A) inserted by reg. 16(2) of S.I. 1997/2863 as from 5.1.98.

<sup>4</sup>(4A) For the purposes of sub-paragraph (4), a person shall be treated as entitled to income support during any period when he is or his partner was not so entitled because—

- (a) that person or his partner was participating in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996 <sup>5</sup>, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations <sup>6</sup>◀◀; and
- (b) in consequence of such participation that person or his partner was engaged in remunerative work or had an income <sup>7</sup>equal to or◀ in excess of the claimant’s applicable amount as prescribed in Part IV.◀

<sup>5</sup>Words inserted in para. 4(4A)(a) by reg. 14(a) of S.I. 2001/1029 as from 9.4.01.

<sup>6</sup>Words omitted in para. 4(4A)(a) by reg. 2(8)(c) of S.I. 2008/698 as from 14.4.08.

<sup>7</sup>Words inserted in para. 4(4A)(b) by reg. 3(6)(a) of S.I. 2011/674 and comes into force on the first day of the first benefit week to commence for that claimant on or after 11.4.11.

<sup>8</sup>Para. 4(4B) inserted by reg. 3(3)(b) of S.I. 2007/3183 as from 17.12.07.

<sup>8</sup>(4B) A person treated by virtue of paragraph 14 as being in receipt of income support for the purposes of this Schedule is not to be treated as entitled to income support for the purposes of sub-paragraph (4).◀

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

- (a) any week in the period of 26 weeks ending on 1st October 1995 on which there arose an entitlement to income support such as is mentioned in that sub-paragraph shall be taken into account in determining when the relevant period commences; and

(a) Paragraph 5A of Schedule 3 was inserted by S.I. 1994/1004 and is revoked by regulation 3 of and Schedule 4 to these Regulations.

- (b) two or more periods of entitlement and any intervening linked periods shall together form a single relevant period.

(6) 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 15<sup>1</sup> during the relevant period; or
- <sup>2</sup>(b) to finance the purchase of a property where an earlier loan, which qualified under paragraph 15 or 16 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;◀

<sup>1</sup>Words substituted in para. 4(6)(a) by reg. 6(10)(a)(i) of S.I. 1996/1944 as from 7.10.96.

<sup>2</sup>Para. 4(6)(b) substituted by reg. 6(10)(a)(ii) of S.I. 1996/1944 as from 7.10.96.

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.

(7) Notwithstanding the preceding provisions of this paragraph, housing costs shall be met in any case where a claimant satisfies any of the conditions specified in sub-paragraphs (8) to (11) below, but—

- (a) those costs shall 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 sub-paragraph shall apply in his case and the one that applies shall be the one most favourable to him.

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

- (a) during the relevant period the claimant or a member of his family acquires an interest (“the relevant interest”) in a dwelling which he then occupies or continues to occupy, as his 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 his family;

so however that the amount to be met by way of <sup>3</sup>◀ housing costs shall initially not exceed the aggregate of—

- (i) the housing benefit payable in the week mentioned at sub-paragraph (8)(b); and
- (ii) any amount included in the applicable amount of the claimant or a member of his family in accordance with regulation 17(1)(e) or 18(1)(f) in that week;

<sup>3</sup>Words deleted in para. 4(8) by reg. 5(4)(b) of S.I. 1995/2927 as from 12.12.95.

and shall 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 17 (other housing costs).

(9) 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.

(10) 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 <sup>4</sup>persons◀ of different sexes aged 10 or over <sup>4</sup>but under the age of 20 who live with the claimant and for whom the claimant or the claimant’s partner is responsible◀.

<sup>4</sup>Words in para. 4(10)(b) substituted by reg. 2(11)(b) of S.I. 2008/2767 as from 17.11.08.

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

- (a) during the relevant period the claimant or a member of his family acquires an interest (“the relevant interest”) in a dwelling which he then occupies as his home; and

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- (b) in the week preceding the week in which the relevant interest was acquired, the applicable amount of the claimant or a member of his family included an amount determined by reference to paragraph 17 and did not include any amount specified in paragraph 15 or paragraph 16;

<sup>1</sup>Words substituted in para. 4(11) by reg. 5(4)(c) of S.I. 1995/2927 as from 12.12.95.

so however that the amount be met <sup>1</sup>by way of housing costs◀ shall initially not to 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 17 (other housing costs).

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

### Apportionment of housing costs

5.—(1) Where the dwelling occupied as the home is a composite hereditament and—

- (a) before 1st April 1990 for the purposes of section 48(5) of the General Rate Act 1967(a) (reduction of rates on dwellings), it appeared to a rating authority or it was determined in pursuance of subsection (6) of section 48 of that Act that the hereditament, including the dwelling occupied as the home, was a mixed hereditament and that only a proportion of the rateable value of the hereditament was attributable to use for the purpose of a private dwelling; or
- (b) in Scotland, before 1st April 1989 an assessor acting pursuant to section 45(1) of the Water (Scotland) Act 1980(b) (provision as to valuation roll) has apportioned the net annual value of the premises including the dwelling occupied as the home between the part occupied as a dwelling and the remainder,

the amounts applicable under this Schedule shall 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 or, in Scotland, the proportion of the net annual value of the premises apportioned to the part occupied as a dwelling house.

(2) Subject to sub-paragraph (1) and the following provisions of this paragraph, where the dwelling occupied as the home is a composite hereditament, the amount applicable under this Schedule shall be the relevant fraction of the amount which would otherwise be applicable under this Schedule in respect of the dwelling occupied as the home.

(3) For the purposes of sub-paragraph (2), the relevant fraction shall be obtained in accordance with the formula\*—

$$\frac{A}{A + B}$$

where—

“A” is the current market value of the claimant’s interest in that part of the composite hereditament which is domestic property within the meaning of section 66 of the Act of 1988;

“B” is the current market value of the claimant’s interest in that part of the composite hereditament which is not domestic property within that section.

\*Formula in para. 5(3) above is maintained in force (10.4.17) by Sch. 4 to S.I. 2017/260. See art. 1(2)(j) of this S.I. for when to apply.

(a) 1967 c. 9; ss. 48(5) and (6) were amended by the Local Government, Planning and Land Act 1980 (c. 65), s. 33; s. 48(6) was also amended by the Rates Act 1984 (c. 33), s. 16 and Sch. 1, para. 10.

(b) 1980. c. 45.

(4) In this paragraph—

“composite hereditament” means—

- (a) as respects England and Wales, any heritages which is shown as a composite hereditament in a local non-domestic rating list;
- (b) as respects Scotland, any lands and heritages entered in the valuation roll which are part residential subjects within the meaning of section 26(1) of the Act of 1987;

“local non-domestic rating list” means a list compiled and maintained under section 41(1) of the Act of 1988;

“the Act of 1987” means the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a);

“the Act of 1988” means the Local Government Finance Act 1988(b).

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

**Existing housing costs**

6.-7. <sup>1</sup>◀

<sup>2</sup>**Housing costs**◀

8.—(1) Subject to the provisions of this Schedule, the <sup>2</sup>◀ housing costs to be met in any particular case are—

- (a) where the claimant has been <sup>3</sup>entitled to◀ income support for a continuous period of 39 weeks or more, an amount—
  - (i) determined in the manner set out in paragraph 10 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 15 or 16; and
  - (ii) equal to any payments which qualify under paragraph 17(1)(a) to (c);
- (b) in any other case, nil\*.

*\*Nil amount in para. 8(1)(b) maintained in force (10.4.17) by Sch. 4 to S.I. 2017/260. See art. 1(2)(j) of this S.I. for when to apply.*

<sup>4</sup>(1A) For the purposes of sub-paragraph (1), <sup>5</sup>and subject to sub-paragraph (1B)◀ the eligible capital for the time being owing shall be determined on the date the <sup>2</sup>◀ housing costs are first met and thereafter on each anniversary of that date.◀

<sup>5</sup>(1B) Where a claimant or his partner ceases to be in receipt of or treated as being in receipt of income-based jobseeker’s allowance <sup>6</sup>, state pension credit or income-related employment and support allowance◀ and one of them becomes entitled to income support in a case to which paragraph 1A applies, the eligible capital for the time being owing shall 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 his partner was first entitled;◀

(2)–(5) <sup>7</sup>◀

<sup>1</sup>Paras. 6 & 7 omitted by reg. 2(2)(b) & (c) of S.I. 2015/1647 as from 1.4.16.

<sup>2</sup>Words in heading to para. 8 inserted & words in sub paras. (1) & (1A) omitted by reg. 2(2)(d)(i) & (iii) of S.I. 2015/1647 as from 1.4.16.

<sup>3</sup>Words substituted in para. 8(1)(a) by reg. 5(7)(a) of S.I. 1995/2927 as from 12.12.95.

<sup>4</sup>Para. 8(1A) inserted by reg. 5(7)(b) of S.I. 1995/2927 as from 12.12.95.

<sup>5</sup>Words inserted in para. 8(1A) and sub-para. 8(1B) inserted by reg. 2(2) of S.I. 1997/2305 as from 22.10.97.

<sup>6</sup>Words substituted in para. 8(1B) by reg. 2(11)(e) of S.I. 2008/1554 as from 27.10.08.

<sup>7</sup>Para. 8(2)-(5) omitted by reg. 2(2)(d)(ii) of S.I. 2015/1647 as from 1.4.16.

(a) 1987 c. 47.  
(b) 1988 c. 41.

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**General exclusions from <sup>1</sup>paragraph 8◀**

<sup>1</sup>Words in heading to para. 9, sub-para. (1) & para. 10 substituted by reg. 2(2)(e) & (f) of S.I. 2015/1647 as from 1.4.16.

<sup>2</sup>Head (a) in para. 9(1) substituted by reg. 29(6)(c) of S.I. 2002/3019 as from 6.10.03.

**9.**—(1) <sup>1</sup>Paragraph 8◀ shall not apply where—

- <sup>2</sup>(a) the claimant's partner has attained the qualifying age for state pension credit;◀
- (b) the housing costs are payments—
  - (i) under a co-ownership agreement;
  - (ii) under or relating to a tenancy or licence of a Crown tenant; or
  - (iii) 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 sub-paragraph (1) applies, an amount—
  - (i) determined in the manner set out in paragraph 10 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraphs 15 or 16; and
  - (ii) equal to the payments which qualify under paragraph 17;
- (b) where head (b) of sub-paragraph (1) applies, an amount equal to the payments which qualify under paragraph 17(1)(d) to (f).

<sup>3</sup>Para. 10 substituted by reg. 2(1) of S.I. 2001/3651 as from 10.12.01.

**<sup>3</sup>The calculation for loans**

**10.** The weekly amount of <sup>1</sup>housing costs◀ to be met under this Schedule in respect of a loan which qualifies under paragraph 15 or 16 shall be calculated by applying the formula\*—

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

where—

A = the amount of the loan which qualifies under paragraph 15 or 16;

B = the standard rate for the time being <sup>4</sup>applicable in respect of that loan◀;◀

\*Formula in para. 10 above is maintained in force (10.4.17) by Sch. 4 to S.I. 2017/260. See art. 1(2)(j) of this S.I. for when to apply.

<sup>4</sup>Words in para. 10 of Sch. 3 substituted by reg. 2(3)(a) of S.I. 2004/2825 as from 28.11.04.

**General provisions applying to <sup>5</sup>◀ housing costs**

<sup>5</sup>Words in heading to para. 11 & sub-paras. (2) & (3) omitted by reg. 2(2)(g)(i) & (ii) of S.I. 2015/1647 as from 1.4.16.

<sup>6</sup>Para. 11(1) deleted by reg. 5(8)(a) of S.I. 1995/2927 as from 12.12.95.

**11.**—(1) <sup>6</sup>◀

(2)-(3) <sup>5</sup>◀.

(4) 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 (5), 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.

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

\*Sum £100,000 in para. 11(5) maintained in force (9.4.18) by art. 21(6) of S.I. 2018/281. See art. 1(2)(g) of this S.I. for when to apply.

(6) Where a person is treated under paragraph 3(6) (payments in respect of two dwellings) as occupying two dwellings as his home, then the restrictions imposed by sub-paragraph (4) shall be applied separately to the loans for each dwelling.

(7) In a case to which paragraph 5 (apportionment of housing costs) applies, the appropriate amount for the purposes of sub-paragraph (4) shall 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 5, 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 (5).

*\*Formula "P × Q" in para. 11(7)(a) maintained in force (10.4.17) by Sch. 4 to S.I. 2017/260. See art. 1(2)(j) of this S.I. for when to apply.*

(8) In a case to which paragraph 15(3) or 16(3) (loans which qualify in part only) applies, the appropriate amount for the purposes of sub-paragraph (4) shall be the lower of—

(a) a sum representing for the time being the part of the loan applied for the purposes specified in paragraph 15(1) or (as the case may be) paragraph 16(1); or

(b) the sum for the time being specified in sub-paragraph (5).

(9) In the case of any loan to which paragraph 16(2)(k) (loans taken out and used for the purpose of adapting a dwelling for the special needs of a disabled person) applies the whole of the loan, to the extent that it remains unpaid, shall be disregarded in determining whether the amount for the time being specified in sub-paragraph (5) is exceeded.

<sup>1</sup>(10) Where in any case the amount for the time being specified for the purposes of sub-paragraph (5) is exceeded and there are two or more loans to be taken into account under either or both paragraphs 15 and 16, then the amount of eligible interest in respect of each of those loans to the extent that the loans remain outstanding shall be determined as if each loan had been reduced to a sum equal to the qualifying portion of that loan.

<sup>1</sup>Para. 11(10) and (11) inserted by reg. 5(8)(c) of S.I. 1995/2927 as from 12.12.95.

(11) For the purposes of sub-paragraph (10), the qualifying portion of a loan shall be determined by applying the following formula\*—

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

where—

R = the amount for the time being specified for the purposes of sub-paragraph (4);

S = the amount of the outstanding loan to be taken into account;

T = the aggregate of all outstanding loans to be taken into account under paragraphs 15 and 16.◀

*\*Formula in para. 11(11) above is maintained in force (10.4.17) by Sch. 4 to S.I. 2017/260. See art. 1(2)(j) of this S.I. for when to apply.*

### The standard rate

**12.—** <sup>2</sup>(1) The standard rate is the rate of interest applicable per annum to a loan which qualifies under this Schedule.

<sup>2</sup>Para. 12 substituted by reg. 2(4)(a) of S.I. 2004/2825.

<sup>3</sup>(2) Subject to the following provisions of this paragraph, the standard rate is to be the average mortgage rate published by the Bank of England in August 2010.

<sup>3</sup>Para. 12(2) of Sch. 3 substituted by reg. 2(2) of S.I. 2010/1811 as from 20.7.10.

(2A) The standard rate is to be varied each time that sub-paragraph (2B) applies.

(2B) This sub-paragraph applies when, on any reference day, the Bank of England publishes an average mortgage rate which differs by <sup>4</sup>0.5 percentage points◀ or more from the standard rate that applies on that reference day (whether by virtue of sub-paragraph (2) or of a previous application of this sub-paragraph).

<sup>4</sup>Words in para. 12(2B) substituted by reg. 2(6) of S.I. 2014/591 as from 28.4.14.

(2C) The average mortgage rate published on that reference day then becomes the new standard rate in accordance with sub-paragraph (2D).

(2D) Any variation in the standard rate by virtue of sub-paragraphs (2A) to (2C) comes into effect—

(a) for the purposes of sub-paragraph (2B) (in consequence of its first and any subsequent application), on the day after the reference day referred to in sub-paragraph (2C);

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- (b) for the purpose of calculating the weekly amount of housing costs to be met under this Schedule, on the day specified by the Secretary of State<sup>(a)</sup>.

(2E) In this paragraph—

“average mortgage rate” means the effective interest rate (non-seasonally adjusted) of United Kingdom resident banks and building societies for loans to households secured on dwellings published by the Bank of England in respect of the most recent period for that rate specified at the time of publication<sup>(b)</sup>;

“reference day” means any day falling after 1st October 2010.◀◀

- (3) The Secretary of State shall determine the date from which the standard rate calculated in accordance with sub-paragraph (2) takes effect<sup>(c)</sup>.

*Sch. 3, para. 12(2) maintained in force (10.4.17) by Sch. 4 to S.I. 2017/260.*

<sup>1</sup>Para. 12(4)-(6) omitted by reg. 3(3)(c)(i) & (ii) of S.I. 2007/3183 as from 17.12.07.

(4)-(6) <sup>1</sup>◀

- 
- (a) The new standard rate, and the day specified by the Secretary of State as the day on which it comes into effect for the purpose of calculating the weekly amount of housing costs, will be made available at: [http://www.direct.gov.uk/en/MoneyTaxAndBenefits/TaxCreditsAndOtherSupport/On\\_a\\_low\\_income/DG\\_180321](http://www.direct.gov.uk/en/MoneyTaxAndBenefits/TaxCreditsAndOtherSupport/On_a_low_income/DG_180321) at least seven day before the variation comes into effect.
- (b) This is available on the Bank of England website: <http://www.bankofengland.co.uk/statistics/bankstats/current/index.htm>. The effective rate appears in Table G1.4 in the column headed “HSDE”.
- (c) The date determined by the Secretary of State and the amount of the standard rate are available from the Department for Work and Pensions at the following address: DWP, Housing Support Division, 5th Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT. The date determined and the standard rate are published on the DWP website ([www.dwp.gov.uk](http://www.dwp.gov.uk)) at least seven days before the new standard rate becomes applicable.



**Excessive Housing Costs**

**13.**—(1) Housing costs which, apart from this paragraph, fall to be met under this Schedule shall 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 and his family and any child or young person to whom regulation 16(4) applies (foster children) and any other non-dependants having regard, in particular, to suitable alternative accommodation occupied by a household of the same size; or
- (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 15 to 17 are higher than the outgoings of suitable alternative accommodation in the area.

(2) For the purposes of heads (a) to (c) of sub-paragraph (1), no regard shall 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 shall 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 his family to seek alternative cheaper accommodation, no restriction shall 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 family including in particular the age and state of health of its members, 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 child or young person who is a member of his family, or any child or young person who is not treated as part of his family by virtue of regulation 16(4) (foster children).

<sup>1</sup>(6) Where sub-paragraph (4) does not apply and the claimant (or other member of the family) was able to meet the financial commitments for the dwelling occupied as the home when these were entered into, no restriction shall be made under this paragraph during the 26 weeks immediately following the date on which—

<sup>1</sup>Para. 13(6) substituted by para. 9(a)(i) of Sch. 5 to S.I. 1999/3178 as from 29.11.99.



- (a) the claimant became entitled to income support 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 section 10 (decisions superseding earlier decisions) of the Social Security Act 1998 on the grounds that the claimant's housing cost fell within one of the cases in sub-paragraph (1),

nor during the next 26 weeks if and so long as the claimant uses his best endeavours 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 shall be treated as entitled to income support for any period of 12 weeks or less in respect of which he was not in receipt of income support and which fell immediately between periods in respect of which he was in receipt thereof.

(8) Any period in respect of which—

- (a) income support was paid to a person, and
- (b) it was subsequently determined <sup>1</sup>◀ that he was not entitled to income support for that period,

shall be treated for the purposes of sub-paragraph (7) as a period in respect of which he was not in receipt of income support.

(9) Heads (c) to (f) of sub-paragraph (1) of paragraph 14 shall apply to sub-paragraph (7) as they apply to <sup>2</sup>paragraph 8◀ but with the modification that the words “Subject to sub-paragraph (2)” were omitted and references to “the claimant” were reference to the person mentioned in sub-paragraph (7).

<sup>1</sup>Words omitted in para. 13(8)(b) by para. 9(a)(ii) of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

<sup>2</sup>Words in para. 13(9) substituted by reg. 2(2)(h) of S.I. 2015/1647 as from 1.4.16.

### Linking rule

14.—(1) <sup>3</sup>◀ for the purposes of this Schedule—

- (a) a person shall be treated as being in receipt of income support during the following periods—
  - (i) any period in respect of which it was subsequently <sup>4</sup>determined◀, that he was entitled to income support; and
  - (ii) any period of 12 weeks or less <sup>5</sup>or, as the case may be, 52 weeks or less,◀ in respect of which he was not in receipt of income support and which fell immediately between periods in respect of which—
    - <sup>6</sup>(aa) he was, or was treated as being, in receipt of income support,
    - (bb) he was treated as entitled to income support for the purpose of sub-paragraph (5) or (5A)(a), or
    - (cc) (i) above applies;◀
- (b) a person shall be treated as not being in receipt of income support during any period other than a period to which (a)(ii) above applies in respect of which it is subsequently <sup>4</sup>determined◀ that he was not so entitled;
- (c) where—
  - (i) the claimant was a member of a couple or a polygamous marriage; and
  - (ii) his partner was, in respect of a past period, in receipt of income support for himself and the claimant; and
  - (iii) the claimant is no longer a member of that couple or polygamous marriage; and
  - (iv) the claimant made his claim for income support within twelve weeks <sup>5</sup>or, as the case may be, 52 weeks,◀ of ceasing to be a member of that couple or polygamous marriage,

he shall be treated as having been in receipt of income support for the same period as his former partner and 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) (single claimant) or paragraph 1(2) (lone parent) of Schedule 2 (applicable amounts) in respect of a past period, provided that the claim was made within twelve weeks <sup>5</sup>or, as the case may be, 52 weeks,◀ of the claimant and his partner becoming one of a couple or polygamous marriage, the claimant shall be treated as having been in receipt of income support for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;

<sup>3</sup>Words omitted in Reg. 14(1) by reg. 3(6)(b) of S.I. 2011/674 and comes into force on the first day of the first benefit week to commence for that claimant on or after 11.4.11.

<sup>4</sup>Words substituted in para. 14(1)(a)(i) and (b) by para. 9(b) of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

<sup>5</sup>Words inserted in paras. 14(1)(a) and (c) by reg. 6(a) of S.I. 2001/488 as from 9.4.01.

<sup>6</sup>Sub-paras. (aa)–(cc) substituted for words in para. 14(1)(a)(ii) by reg. 6(10)(b) of S.I. 1996/1944 as from 7.10.96.

(a) Sub-paragraph 5A was inserted by S.I. 1995/2927, regulation 5(10)(c).

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

<sup>1</sup>Sub-para. (ee) inserted in para. 14(1) and para. 14(3ZA) inserted by regs. 16(3)(a) & (b) of S.I. 1997/2863 as from 5.1.98.

<sup>2</sup>Words inserted in paras. 14(1)(ee)(i) & (3ZA) by reg. 14(b) of S.I. 2001/1029 as from 9.4.01.

<sup>3</sup>Words omitted in paras. 14(1)(ee)(i) & (3ZA)(a) by reg. 2(8)(c) of S.I. 2008/698 as from 14.4.08.

<sup>1</sup>(ee) 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)(ii) of the Jobseeker's Allowance Regulations 1996<sup>2</sup>, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations<sup>3</sup> ◀◀ in receipt of income support and his applicable amount included an amount for the couple or the partners of the polygamous marriage; and

- (ii) has, immediately after that participation in that programme, begun to receive income as a result of an election under regulation 4(3) of the Social Security (Claims and Payments) Regulations 1987 by the members of the couple or polygamous marriage, the claimant shall be treated as having been in receipt of income support for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been; ◀

(f) where—

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

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

- (iii) the claimant made his claim for income support within 12 weeks<sup>4</sup> or, as the case may be, 52 weeks, ◀ of the date on which the person entitled to income support mentioned in (i) above ceased to be so entitled,

the claimant shall be treated as being in receipt of income support for the same period as that person had been or had been treated, for the purposes of this Schedule, as having been.

<sup>4</sup>Words inserted in para. 14(1)(f)(iii) by reg. 6(a) of S.I. 2001/488 as from 9.4.01.

<sup>5</sup>Para. 14(2) omitted by reg. 3(6)(c) of S.I. 2011/674 and comes into force on the first day of the first benefit week to commence for that claimant on or after 11.4.11.

<sup>6</sup>Words inserted in para. 14(3) by reg. 2(11)(c) of S.I. 2008/2767 as from 17.11.08.

<sup>7</sup>Words inserted in para. 14(3ZA) by reg. 4(3)(c) of S.I. 2000/724 as from 3.4.00.

(2) <sup>5</sup> ◀

(3) For the purposes of this Schedule, where a claimant has ceased to be entitled to income support because he or his partner is participating in arrangements for training made under section 2 of the Employment and Training Act 1973(a) or attending a course at an employment rehabilitation centre established under that section,<sup>6</sup> or under the Enterprise and New towns (Scotland) Act 1990(b) ◀ he shall be treated as if he had been in receipt of income support for the period during which he or his partner was participating in such arrangements or attending such a course.

<sup>1</sup>(3ZA) For the purposes of this Schedule, a claimant who has ceased to be entitled to income support because—

- (a) that claimant or his partner was participating in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996<sup>2</sup>, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations<sup>3</sup> ◀◀<sup>7</sup> or in an employment zone scheme ◀<sup>2</sup> or activity ◀; and

- (b) in consequence of such participation the claimant or his partner was engaged in remunerative work or had income in excess of the claimant's applicable amount as prescribed in Part IV,

shall be treated as if he had been in receipt of income support for the period during which he or his partner was participating in that programme. ◀

(a) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25(1) and repealed in part by the Employment Act 1989 (c. 38), section 29(4), Schedule 7, Part I.

(b) 1990 c. 35.

<sup>1</sup>(3A) Where, for the purposes of sub-paragraphs <sup>2</sup>(1),(3) and (3ZA)◀, a person is treated as being in receipt of income support, for a certain period, he shall <sup>3</sup>subject to sub-paragraph (3AA)◀ be treated as being entitled to income support for the same period.◀

<sup>2</sup>(3AA) Where the appropriate amount of a loan exceeds the amount specified in paragraph 11(5), sub-paragraph (3A) shall not apply except—

- (a) for the purposes of paragraph <sup>4</sup>◀ 8(1); or
- (b) where a person has ceased to be in receipt of income support for a period of <sup>5</sup>104 weeks◀ or less because he or his partner is a welfare to work beneficiary.◀

<sup>3</sup>(3B) For the purposes of this Schedule, in determining whether a person is entitled to or to be treated as entitled to income support, entitlement to a contribution-based jobseeker's allowance immediately before a period during which that person or his partner is participating in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996 <sup>6</sup>, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations <sup>7</sup>◀◀ shall be treated as entitlement to income support for the purposes of any requirement that a person is, or has been, entitled to income support for any period of time. ◀

(4) For the purposes of this Schedule, sub-paragraph (5) applies where a person is not entitled to income support by reason only that he has—

- (a) capital exceeding <sup>8</sup>£16,000◀; or
- (b) income <sup>9</sup>equal to or◀ exceeding the applicable amount which applies in his case, or
- (c) both capital exceeding <sup>8</sup>£16,000◀ and income exceeding the applicable amount which applies in his case.

(5) A person to whom sub-paragraph (4) applies shall be treated as entitled to income support throughout any period of not <sup>10</sup>more◀ than 39 weeks which comprises only days—

- (a) on which he is entitled to unemployment benefit, <sup>11</sup>a contribution-based jobseeker's allowance,◀ statutory sick pay <sup>12</sup>, incapacity benefit or contributory employment and support allowance;◀ or
- (b) on which he is, although not entitled to any of the benefits mentioned in head (a) above, entitled to be credited with earnings equal to the lower earnings limit for the time being in force in accordance with <sup>13</sup>regulation 8A or 8B◀ of the Social Security (Credits) Regulations 1975(a); or
- (c) in respect of which the claimant is treated as being in receipt of income support.

<sup>10</sup>(5A) Subject to sub-paragraph (5B), a person to whom sub-paragraph (4) applies and who is either a person to whom <sup>11</sup>paragraph 4 or 5 of Schedule 1B (persons caring for another person) applies◀ or a lone parent shall, for the purposes of this Schedule, be treated as entitled to income support throughout any period of not more than 39 weeks following the refusal of a claim for income support made by or on behalf of that person.

(5B) Sub-paragraph (5A) shall not apply in relation to a person mentioned in that sub-paragraph who, during the period referred to in that sub-paragraph—

- (a) is engaged in, or is treated as engaged in, remunerative work or whose partner is engaged in, or is treated as engaged in, remunerative work;

<sup>1</sup>Para. 14(3A) inserted by reg. 5(10)(a) of S.I. 1995/2927 as from 12.12.95.

<sup>2</sup>Words inserted in para. 14(3A) & para. (3AA) inserted by reg. 2 of S.I. 1999/1921 as from 2.8.99.

<sup>3</sup>Words substituted in para. 14(3A) and sub-para. (3B) inserted by reg. 16(3) of S.I. 1997/2863 as from 5.1.98.

<sup>4</sup>Words in para. 14(3AA)(a) omitted by reg. 2(2)(1)(i) of S.I. 2015/1647 as from 1.4.16.

<sup>5</sup>Words substituted in para. 14(3AA)(b) by reg. 5(7)(b) of S.I. 2006/2378 as from 1.10.06.

<sup>6</sup>Words inserted in paras. 14(3ZA) and (3B) by reg. 14(b) of S.I. 2001/1029 as from 9.4.01.

<sup>7</sup>Words omitted in para. 14(3B) by reg. 2(13) of S.I. 2008/698 as from 14.4.08.

<sup>8</sup>Amount substituted in paras. 14(4)(a) & (c) by reg. 2(7) of S.I. 2005/2465 see reg. 1(6) for relevant effective date.

<sup>9</sup>Words inserted in para. 14(4)(b) by reg. 3(6)(a) of S.I. 2011/674 and comes into force on the first day of the first benefit week to commence for that claimant on or after 11.4.11.

<sup>10</sup>Word substituted in para. 14(5) and para. 14(5A) and (5B) inserted by reg. 5(10) of S.I. 1995/2927 as from 12.12.95.

<sup>11</sup>Words inserted in para. 14(5)(a) and substituted in para. 14(5A) by reg. 24(3)(b) of S.I. 1996/206 as from 7.10.96.

<sup>12</sup>Words substituted in para. 14(5)(a) by reg. 2(11)(f)(i) of S.I. 2008/1554 as from 27.10.08.

<sup>13</sup>Words substituted in para. 14(5)(b) by reg. 3 of S.I. 1999/714 as from 6.4.99.

(a) S.I. 1975/556; regulation 9 is amended by S.I. 1976/1736, 1977/788, 1978/409, 1981/1501 1982/96, 1983/197, 1987/414, 687, 1988/516, 1545, 1989/1627, 1992/726, 1994/1837.

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<sup>1</sup>Para. 14(5B)(b) substituted by reg. 24(3)(c) of S.I. 1996/206 as from 7.10.96.

<sup>2</sup>Words substituted in para. 14(5B)(b) by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

<sup>3</sup>Words substituted in para. 14(6) and para. 14(7) deleted by reg. 5(10) of S.I. 1995/2927 as from 12.12.95.

<sup>1</sup>(b) is a <sup>2</sup>full-time student<sup>4</sup>, other than one who would qualify for income support under regulation 4ZA(3) (prescribed categories of person);<sup>4</sup>

(c) is temporarily absent from Great Britain, other than in the circumstances specified in regulation 4(2) and (3)(a) (temporary absence from Great Britain.)<sup>4</sup>

(6) In a case where—

(a) <sup>3</sup>sub-paragraphs (5) and (5A) apply<sup>4</sup> solely by virtue of sub-paragraph (4)(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 15 to 17.

<sup>3</sup>sub-paragraphs (5) and (5A)<sup>4</sup> shall have effect as if for the words "throughout any period of not <sup>3</sup>more<sup>4</sup> than 39 weeks" there shall be substituted the words "throughout any period that payments are made in accordance with the terms of the policy".

(7) <sup>3</sup><sup>4</sup>

(8) This sub-paragraph applies—

(a) to a person who claims income support, or in respect of whom income support 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 income support 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 income support was payable ended not more than 26 weeks before the date the claim was made.

(9) Where sub-paragraph (8) applies, in determining—

(a) <sup>4</sup><sup>4</sup>

(b) for the purposes of paragraph 8(1) whether a claimant has been <sup>3</sup>entitled to<sup>4</sup> income support for a continuous period of 39 weeks or more.

and week falling between the date of the termination of the previous award and the date of the new claim shall be ignored.

<sup>5</sup>(10) In the case of a person who is a welfare to work beneficiary, the references in sub-paragraphs (1)(a)(ii), <sup>6</sup>(1)(c)(iv),<sup>4</sup> (1)(d) and (1)(f)(iii) to a period of 12 weeks shall be treated as references to a period of <sup>7</sup>104 weeks<sup>4</sup>.<sup>4</sup>

<sup>6</sup>(11) For the purposes of sub-paragraph (1)(a)(ii), (1)(c)(iv), (1)(d) and (1)(f)(iii), the relevant period shall be—

(a) 52 weeks in the case of a person to whom sub-paragraph (12) applies;

(b) subject to sub-paragraph (10), 12 weeks in any other case.

(12) This sub-paragraph applies, subject to sub-paragraph (13), in the case of a person who, on or after 9th April 2001, has ceased to be entitled to income support because he or his partner—

(a) has commenced employment as an employed earner or as a self-employed earner or has increased the hours in which he is engaged in such employment;

(b) is taking active steps to establish himself 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)(r)(i) to (iii) of the Jobseeker's Allowance Regulations 1996; or

<sup>4</sup>Para. 14(9)(a) omitted by reg. 2(2)(i)(ii) of S.I. 2015/1647 as from 1.4.16.

<sup>5</sup>Para. 14(10) inserted by reg. 13(4)(b) of S.I. 1998/2231 as from 5.10.98.

<sup>6</sup>Ref. inserted in para. 14(10) and paras. 14(11) to (13) inserted by reg. 6 of S.I. 2001/488 as from 9.4.01.

<sup>7</sup>Words in para. 14(10) substituted by reg. 5(7)(b) of S.I. 2006/2378 as from 1.10.06.

(a) Relevant amending instruments are S.I. 1988/663, 1990/547 & 1995/482.

- (c) is participating in—
  - (i) a New Deal option;
  - (ii) an employment zone programme; or
  - (iii) the self-employment route, <sup>1</sup>or
  - (iv) the Intensive Activity Period specified in regulation 75(1)(a)(iv) of the Jobseeker’s Allowance Regulations 1996 <sup>2</sup>◀◀

<sup>1</sup>Sub-para. (iv) inserted in para. 14(12)(c) by reg. 14(b) of S.I. 2001/1029 as from 9.4.01.

and, as a consequence, he or his partner was engaged in remunerative work or had income <sup>3</sup>equal to or◀ in excess of the applicable amount as prescribed in Part IV.

<sup>2</sup>Words omitted in para. 14(12)(c)(iv) by reg. 2(8)(c) of S.I. 2008/698 as from 14.4.08.

(13) Sub-paragraph (12) shall only apply to the extent that immediately before that day on which the person ceased to be entitled to income support, his housing costs were being met in accordance with paragraph <sup>4</sup>◀ 8(1)(a) or would have been so met but for any non-dependant deduction under paragraph 18.◀

<sup>3</sup>Words inserted in para. 14(12)(c) by reg. 3(6)(a) of S.I. 2011/674 and comes into force on the first day of the first benefit week to commence for that claimant on or after 11.4.11.

<sup>5</sup>(14) For the purpose of determining whether the linking rules set out in this paragraph apply in a case where a claimant’s former partner was entitled to state pension credit, any reference to income support in this Schedule shall be taken to include also a reference to state pension credit.◀

<sup>4</sup>Words in para. 14(3) omitted by reg. 2(2)(i)(iii) of S.I. 2015/1647 as from 1.4.16.

<sup>6</sup>(15) For the purpose of determining whether the linking rules set out in this paragraph apply in a case where <sup>7</sup>a claimant, a claimant’s partner or◀ a claimant’s former partner was entitled to income-related employment and support allowance, any reference to income support in this Schedule shall be taken to include also a reference to income-related employment and support allowance.◀

<sup>5</sup>Sub-para. (14) inserted in para. 14 by reg. 29(6)(d) of S.I. 2002/3019 as from 6.10.03.

**Loans on residential property**

\*15.—(1) A loan qualifies under this paragraph where the loan was taken out to defray monies applied for any of the following purposes—

<sup>6</sup>Sub-para. (15) inserted by reg. 2(11)(f)(ii) of S.I. 2008/1554 as from 27.10.08.

- (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) above had the loan not been paid off.

<sup>7</sup>Words inserted in para. 15(15) by reg. 41(2)(a) of S.I. 2008/2428 as from 27.10.08.

(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 heads (a) and (b) of sub-paragraph (1) above.

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

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

\*16.—(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) of this sub-paragraph 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;

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- (e) provision of drainage facilities;
- (f) provision of facilities for preparing and cooking food;
- (g) provision on 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;
- (k) adapting a dwelling for the special needs of a disabled person; or
- (l) provision of separate sleeping accommodation for <sup>1</sup>persons of different sexes aged 10 or over <sup>1</sup>but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible.

<sup>1</sup>Words in para. 16(2)(l) substituted by reg. 2(11)(d) of S.I. 2008/2767 as from 17.11.08.

(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.

*\*Loans which would not qualify under paras. 15 and 16 above but which came within paras. 7(6), 7(7) or 8(1)(a) of the former Sch. 3 (which was superseded as from 2.10.95) may in certain cases attract the transitional protection in reg. 3 of S.I. 1995/2287.*

**Other housing costs**

**17.—(1)** Subject to the deduction specified in sub-paragraph (2) and the reductions applicable in sub-paragraph (5), there shall be met under this paragraph the amounts, calculated on a weekly basis, in respect of the following housing costs—

- (a) payments by way of rent or ground rent relating to a long tenancy <sup>2</sup>;
- (b) service charges;
- (c) payments by way of rentcharge within the meaning of section 1 of the Rentcharges Act 1977(a);
- (d) payments under a co-ownership scheme;
- (e) payments under or relating to a tenancy or licence of a Crown tenant;
- (f) where the dwelling occupied as the home is a tent, payments in respect of the tent and the site on which it stands.

<sup>2</sup>Words omitted in para. 17(1)(a) by reg. 5(8)(d) of S.I. 2006/2378 as from 2.10.06.

(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 <sup>3</sup>paragraph 6(2) of Schedule 1 to the Housing Benefit Regulations 2006 (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 <sup>3</sup>paragraph 1 of Schedule 1 to the Housing Benefit Regulations 2006 (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 or comparable services;
- (c) any amount for repairs and improvements, and for this purpose the expression “repairs and improvements” has the same meaning it has in paragraph 16(2).

<sup>3</sup>Words in paras. 17(2)(a) & (b) of Sch. 3 substituted by reg. 1(5) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

(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 of 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 his family—

- (a) pays for reasonable repairs or redecorations to be carried out to the dwelling they occupy; and

(a) 1977 c. 30.



- (b) that work was not the responsibility of the claimant or any member of his family; and
- (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.

(5) Where in England and Wales an amount calculated on a weekly basis in respect of housing costs specified in sub-paragraph (1)(e) (Crown tenants) includes water charges, that amount shall be reduced—

- (a) where the amount payable in respect of water charges is known, by that amount;
- (b) in any other case, by the amount which would be the likely weekly water charge had the property not been occupied by a Crown tenant.

### Non-dependant deductions

**18.**—(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 shall be made—

- <sup>1</sup>(a) in respect of a non-dependant aged 18 or over who is engaged in any remunerative work, <sup>2</sup>£98.30◀;
- (b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, <sup>2</sup>£15.25◀;

(2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies because he is in <sup>3</sup>remunerative◀ work, where the claimant satisfies the <sup>4</sup>Secretary of State◀ that the non-dependant's gross weekly income is—

- (a) less than <sup>2</sup>£139.00◀, the deductions to be made under this paragraph shall be the deduction specified in sub-paragraph (1)(b);
- (b) not less than <sup>2</sup>£139.00◀ but less than <sup>2</sup>£204.00◀, the deduction to be made under this paragraph shall be <sup>2</sup>£35.00◀;
- (c) not less than <sup>2</sup>£204.00◀ but less than <sup>2</sup>£265.00◀, the deduction to be made under this paragraph shall be <sup>2</sup>£48.05◀.
- <sup>5</sup>(d) not less than <sup>2</sup>£265.00◀ but less than <sup>2</sup>£354.00◀ the deduction to be made under this paragraph shall be <sup>2</sup>£78.65◀;
- (e) not less than <sup>2</sup>£354.00◀ but less than <sup>2</sup>£439.00◀, the deduction to be made under this paragraph shall be <sup>2</sup>£89.55◀.

(3) Only one deduction shall 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 shall 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 shall 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 shall 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 his is—

- (a) <sup>6</sup>severely sight impaired or blind or treated as severely sight impaired or blind◀ by virtue of paragraph 12 of Schedule 2 (additional condition for higher pensioner and disability premiums); or
- (b) receiving in respect of himself either—

<sup>1</sup>Para. 18(1)(a) to (c) substituted for (a) & (b) by reg. 5(b)(i) of S.I. 2004/2327 as from 4.4.05.

<sup>2</sup>Amounts in para. 18(1) & (2) substituted by reg. 21(7) of S.I. 2018/281 as from 9.4.18. See art. 1(2)(g) for when to apply.

<sup>3</sup>Word inserted in para. 18(2) by reg. 5(11)(b) of S.I. 1995/2927 as from 12.12.95.

<sup>4</sup>Words substituted in para. 18(2) by para. 9(c) of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

<sup>5</sup>Sub-paras. (d) & (e) inserted by reg. 4(b) of S.I. 1996/2518 as from 6.4.98.

<sup>6</sup>Words in para. 18(6)(a) substituted by reg. 3(2)(b) of S.I. 2014/2888 as from 26.11.14. (See reg. 1(2) for revised effective dates in certain circumstances).

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<sup>1</sup>Words omitted & inserted in para. 18 of Sch. 3 by para. 11(6) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>2</sup>Word in para. 18(6)(b)(ii) omitted & words in 18(6)(b)(iii), (8)(a) & para. 18(6)(b)(iv) inserted in Sch. 3 by para. 4(6) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>3</sup>Words substituted in para. 18(7)(a) by para. 9(c) of Sch. 5 to S.I. 1999/3178 as from 29.11.99.

<sup>4</sup>Words in para. 18(7)(b) substituted by reg. 2(11)(e) of S.I. 2008/2767 as from 17.11.08.

<sup>5</sup>Words inserted in para. 18(7)(d) by reg. 6 of S.I. 1997/827 as from 7.4.97.

<sup>6</sup>Words in para 18(7)(e) substituted by reg. 5 & para. 1(5)(c) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>7</sup>52 substituted for six in para. 18(7)(g) by reg. 3(4) of S.I. 2003/1195 as from 15.5.03 or later subject to reg 1(c) *ibid.*

<sup>8</sup>Sub-para. (7)(g)(i) & (ii) substituted by reg. 4(4) of S.I. 2005/3360 as from 10.4.06. or later subject to reg. 1(c) on page. 3.4081 *ibid.*

<sup>9</sup>Para. (h) inserted by reg. 5(b)(ii) of S.I. 2004/2327 as from 4.4.05.

<sup>10</sup>Para. (i) inserted by reg. 2(11)(g) of S.I. 2008/1554 as from 27.10.08.

<sup>11</sup>Words inserted in para. 18(7)(i) by reg. 2(4)(b) of S.I. 2013/443 as from 4.3.13.

<sup>12</sup>Words in para. 18(7)(i) of Sch. 3 substituted by reg. 1(3)(b) of S.I. 2017/240 as from 3.4.17.

<sup>13</sup>Words deleted in para. 18(7)(i) by reg. 41(2)(b) of S.I. 2008/2428 as from 27.10.08.

<sup>14</sup>Para. 18(7)(j) inserted by reg. 28(7)(b)(i) of S.I. 2013/630 as from 29.4.13.

<sup>15</sup>Words inserted in para. 18(8) by reg. 5(11)(c) of S.I. 1995/2927 as from 12.12.95.

<sup>16</sup>Words inserted in para. 18(8)(b) by regs. 2(3)(e) & (7)(c) of S.I. 2010/641 as from 1.4.10.

<sup>17</sup>Words in para. 18(8)(b) inserted by reg. 7(5) of S.I. 2011/2425 as from 31.10.11.

- (i) an attendance allowance; <sup>1</sup>◀
- (ii) the care component of the disability living allowance <sup>1</sup>; <sup>2</sup>◀
- (iii) the daily living component of personal independence payment◀ <sup>2</sup>or
- (iv) armed forces independence payment.◀

(7) No deduction shall be made in respect of a non-dependant—

- (a) if, although he resides with the claimant, it appears to the <sup>3</sup>Secretary of State◀ that the dwelling occupied as his home is normally elsewhere; or
- (b) if he is in receipt of a training allowance paid in connection with <sup>4</sup>youth training◀ established under section 2 of the Employment and Training Act 1973(a) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(b); or
- (c) if he is a full-time student during a period of study or, if he is not in remunerative work, during a recognised summer vacation appropriate to his course; or
- (d) if he is aged under 25 and in receipt of income support <sup>5</sup>or an income-based jobseeker's allowance◀; or
- (e) in respect of whom a deduction in the calculation of a rent rebate or allowance falls to be made under <sup>6</sup>regulation 74 of the Housing Benefit Regulations 2006◀ (non-dependent deductions); or
- (f) to whom, but for paragraph (2C) of regulation 3 (definition of non-dependant) paragraph (2B) of that regulation would apply; or
- (g) if he is not residing with the claimant because he has been a patient for a period in excess of <sup>7</sup>52◀ weeks, or is a prisoner, and for these purposes—
  - <sup>8</sup>(i) “patient” has the meaning given in paragraph 3(13)(b) and “prisoner” has the meanings given in regulation 21(3); and
  - (ii) in calculating a period of 52 weeks as a patient, any two or more distinct periods separated by one or more intervals each not exceeding 28 days shall be treated as a single period;◀
- <sup>9</sup>(h) if he is in receipt of state pension credit.◀
- <sup>10</sup>(i) he is aged less than 25 and is in receipt of <sup>11</sup>income-related◀ employment and support allowance <sup>12</sup>and is not a member of the work-related activity group or a member of the support group; or◀◀

*Sch. 3, para. 18(7)(i) is reproduced below as it remains in force for certain cases. See Sch. 2, para. 1 of S.I. 2017/204 for details.*

- <sup>10</sup>(i) he is aged less than 25 and is in receipt of <sup>11</sup>income-related◀ employment and support allowance which does not include an amount under section <sup>13</sup>◀ 4(4) or (5) of the Welfare Reform Act (components).◀
  - <sup>14</sup>(j) if he is aged less than 25 and is entitled to an award of universal credit where the award is calculated on the basis that he does not have any earned income◀
- (8) In the case of a non-dependant to whom sub-paragraph (2) applies because he is in <sup>15</sup>remunerative◀ work, there shall be disregarded from his gross income—
- (a) any attendance allowance <sup>1</sup>, disability living allowance or personal independence payment◀ <sup>2</sup>or armed forces independence payment◀ received by him;
  - (b) any payment made under <sup>16</sup>or by◀ the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust <sup>16</sup>, MFET Limited◀<sup>17</sup>, the Skipton Fund, the

(a) 1973 c. 50; s. 2 was submitted by the Employment Act 1988 (c. 19) s. 25(1) & repealed in part by the Employment Act 1989 (c. 38) s. 29(4), Sch. 7, Part I.

(b) 1990 c. 35.

Caxton Foundation<sup>1</sup>, the Scottish Infected Blood Support Scheme<sup>2</sup>, an approved blood scheme<sup>3</sup>, the London Emergencies Trust, the We Love Manchester Emergency Fund<sup>4</sup> or the Independent Living Fund 2006<sup>4</sup> which, had his income fallen to be calculated under regulation 40 (calculation of income other than earnings)(a), would have been disregarded under paragraph 21 of Schedule 9 (income in kind); and

- (c) any payment which, had his income fallen to be calculated under regulation 40 would have been disregarded under paragraph 39 of Schedule 9 (payments made under certain trusts and certain other payments)(b).
- <sup>2</sup>(d) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother's pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.<sup>4</sup>

<sup>5</sup>(9) For the purposes of sub-paragraph (7)(j), "earned income" has the meaning given in regulation 52 of the Universal Credit Regulations 2013(c).<sup>4</sup>

### Rounding of fractions

**19.** Where any calculation made under this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.<sup>4</sup>

[Schedule 3A revoked (3.4.06) by reg. 2(4)(e) of S.I. 2006/588.]

[Schedule 3B revoked (3.4.06) by reg. 2(4)(f) of S.I. 2006/588.]

[Schedule 3C omitted (6.10.03) by para. 7 of Schedule 1 to S.I. 2003/1121.]

[Schedule 4 omitted (8.4.02) by para. 16 of Schedule to S.I. 2001/3767.]

[Schedule 5 deleted (9.10.89) by para. 12 of Schedule 1 to S.I. 1989/534.]

[Schedule 6 deleted (10.4.89) by para. 10 of Schedule 1 to S.I. 1988/1445.]

<sup>1</sup>Words in para. 18(8)(b) of Sch. 3 inserted by reg. 3(3)(d) of S.I. 2017/329 as from 3.4.17.

<sup>2</sup>Words inserted in para. 18(8)(b) of Sch. 3 & (d) inserted by regs. 2(3)(d) & (5) of S.I. 2017/870 as from 23.10.17.

<sup>3</sup>Words in para. 18(8)(b) of Sch. 3 inserted by reg. 2(3)(d) of S.I. 2017/689 as from 19.6.17.

<sup>4</sup>Words substituted in para. 18(8)(b) by reg. 2(6) of S.I. 2008/2767 as from 17.11.08.

<sup>5</sup>Para. 18(9) inserted by reg. 28(7)(b)(ii) of S.I. 2013/630 as from 29.4.13.

(a) Relevant amending instruments are S.I. 1988/2022 and 1990/1549.

(b) Relevant amending instruments are S.I. 1991/1175 and 1992/1101.

(c) S.I. 2013/376.

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## SCHEDULE 7

<sup>1</sup>Regulation 21 and 21AA◀<sup>1</sup>Reference in heading substituted by reg. 2(8) of S.I. 2007/719 as from 2.4.07.

## APPLICABLE AMOUNTS IN SPECIAL CASES

*Column (1)**Column (2)*<sup>2</sup>Paras. 1 & 2 omitted by reg. 4(5)(a) of S.I. 2005/3360 as from 10.4.06 or later subject to reg. 1(c) to page 3.4081 *ibid*.<sup>3</sup>Heading & column 1 in para. 2A of Sch. 7 substituted by reg. 3(3) of S.I. 2010/442 as from 25.3.10.<sup>4</sup>Para. 2B omitted by reg. 2(8) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid*.**1. - 2.** <sup>2</sup>◀<sup>3</sup>**Persons serving a sentence of imprisonment detained in hospital****2A.** A person serving a sentence of imprisonment detained in hospital.◀ **2A.** Nil\***2B.** <sup>4</sup>◀◀\**The nil amount is maintained in force (10.4.17) by Sch. 4 to S.I. 2017/260. See art. 1(2)(j) of this S.I. for when to apply in certain cases.*



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<sup>1</sup>Para 3 omitted by para 21(d) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>2</sup>Para. 3, as it remained in force, omitted by reg. 2(8) of S.I. 2007/719 as from 8.4.07, see reg. 1 *ibid*.

<sup>3</sup>Refs. in col. (2) of paras. 6 and 8(b) adjusted by reg. 23 of S.I. 1988/1445 as from 12.9.88.

**3.** <sup>1</sup>◀

<sup>2</sup>◀

[Paras. 4 and 5 deleted by para. 10 of Sch. 1 to S.I. 1988/1445 as from 10.4.89.]

**Claimants without accommodation**

**6.** A claimant who is without accommodation.

**6.** The amount applicable to him under regulation 17 <sup>3</sup>(1)◀(a) only.

**Members of religious orders**

**7.** A claimant who is a member of and fully maintained by a religious order.

**7.** Nil\*.

**Prisoners**

**8.** A person

- (a) except where sub-paragraph (b) applies, who is a prisoner;
- (b) who is detained in custody pending trial or sentence following conviction by a court.

**8.**

- (a) Nil\*;
- (b) only such amount, if any, as may be applicable under regulation 17 <sup>3</sup>(1)◀(e).

\*The nil rates in paras. 7 and 8(a) are maintained in force (10.4.17) by Sch. 4 to S.I. 2017/260. See art. 1(2)(j) of this S.I. for when to apply in certain cases.

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(a) Paragraph 3 was amended by S.I. 1988/1445, reg. 23.

SCHEDULE 7 (contd.)

Column (1)

Column (2)

**Specified cases of temporarily separated couples**

9. A claimant who is a member of a couple and who is temporarily separated from his partner <sup>1</sup>where—

(a) one member of the couple is—

<sup>3</sup>(i) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital; or

(iii) resident in premises used for the rehabilitation of alcoholics or drug addicts, or whichever is the greater.

(iv) resident in accommodation provided under section 3 of and Part II of the Schedule to, the Polish Resettlement Act 1947 (provision of accommodation in camps)(a), or

(v) participating in arrangements for training made under section 2 of the employment and Training Act 1973(b) <sup>4</sup>or section 2 of the Enterprise and New Towns (Scotland) Act 1990(c) or attending a course at an employment rehabilitation centre established under that section <sup>4</sup>of the 1973 Act, where the course requires him to live away from the dwelling occupied as the home, or

(vi) in a probation or bail hostel approved for the purpose by the Secretary of State; and

(b) the other member of the couple is—

(i) living in the dwelling occupied as the home, or

(ii) a patient, or

<sup>3</sup>(iii) residing in a care home, an Abbeyfield Home or an independent hospital. ◀◀

9. Either—

(a) the amount applicable to him as a member of a couple under regulation 17 <sup>2</sup>(1)◀; or

(b) the aggregate of his applicable amount and that of his partner assessed under the provisions of these Regulations as if each of them were a single claimant, or a lone parent,

<sup>1</sup>Word and sub-paras. (a) and (b) substituted for words and sub-paras. (a) to (f) in para. 9 col. (1) by reg. 11(a) of S.I. 1989/1678 as from 9.10.89.

<sup>2</sup>Ref. in para. 9(a) col. (2) adjusted by reg. 23 of S.I. 1988/1445 as from 12.9.88.

<sup>3</sup>Heads (i) & (ii) in para. 9(a) & (iii) & (iv) in 9(b) of col. 1 substituted for (i) & (iii) respectively by para. 10(a) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>4</sup>Words inserted and added in para. 9(a)(v) col. (1) by art. 2 and 9(e) of, and Sch. to, S.I. 1991/387 as from 1.4.91.

(a) 1947 c. 19; amended by Sch. 4 of the Social Security Act 1980 (c. 30) and by S.I. 1951/174 and 1968/1699.

(b) 1973 c. 50; s. 2 was substituted by the Employment Act 1988 (c. 19), s. 25(1).

(c) 1990 c. 35.

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## SCHEDULE 7 (contd.)

Column (1)

Column (2)

**Polygamous marriages where one or more partners are temporarily separated**

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

- <sup>1</sup>(a) not a patient but is residing in a care home, an Abbeyfield Home or an independent hospital, or<sup>2</sup>◀
- (c) <sup>2</sup>◀
- (d) resident in premises used for the rehabilitation of alcoholics or drug addicts; or
- (e) attending a course of training or instruction provided or approved by the <sup>3</sup>Secretary of State for <sup>4</sup>Education and◀ Employment◀ where the course requires him to live away from home; or
- (f) in a probation or bail hostel approved for the purpose by the Secretary of State.

**10A. - 10C.** <sup>5</sup>◀

[Para. 10D deleted by para. 6(c) of Sch. 1 to S.I. 1992/3147 as from 1.4.93.]

**Couples where one member is abroad**

**11.** <sup>6</sup>Subject" to paragraph 11A,◀ a claimant who is a member of a couple and whose partner is temporarily not present <sup>7</sup>United Kingdom.◀

**11.** For the first four weeks of that absence the amount applicable to them as a couple under regulation 17 <sup>8</sup>(1)◀, <sup>9</sup>◀▶<sup>10</sup>or 21◀ as the case may be and thereafter the amount applicable to the claimant in Great Britain under regulation 17 <sup>8</sup>(1)◀ <sup>9</sup>◀▶<sup>10</sup>or 21◀ as the case may be as if the claimant were a single claimant or, as the case may be, a lone parent.

<sup>1</sup>In col. 1, para. 10(a) & (b) substituted by (a) by para. 10(b) of S.I. 2005/2687 as from 24.10.05.

<sup>2</sup>Sub-para. (c) of para. 10 col. (1), omitted by reg. 33(a) of S.I. 1988/663 as from 11.4.88.

<sup>3</sup>Words in sub-para. (e) of para. 10, col. (1) substituted by reg. 2(1)(f) of S.I. 1991/236 as from 8.4.91.

<sup>4</sup>Words inserted in sub-para. (e) of para. 10, col. (1), by art. 6(5) of S.I. 1995/2986 as from 1.1.96.

<sup>5</sup>Paras. 10A-10C omitted by para. 8(a) of Sch. 1 to S.I. 2003/1121 as from 6.10.03.

<sup>6</sup>Words inserted in para. 11, col. (1) by reg. 21(g) of S.I. 1990/547 as from 9.4.90.

<sup>7</sup>Words substituted in para. 11 col. (1) by reg. 23(c) of S.I. 1988/1445 as from 12.9.88.

<sup>8</sup>Ref. in para. 11, col. (2), adjusted by reg. 23 of S.I. 1988/1445 as from 12.9.88.

<sup>9</sup>Words omitted in col. (2) of paras. 11 by reg. 2(1) of, & para. 17 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>10</sup>Ref. substituted in para. 11 col. (2) by para. 13(c) of Sch. 1 to S.I. 1989/534 as from 9.10.89.



SCHEDULE 7 (*contd.*)

Column (1)

Column (2)

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

**11A.**— (1)◀ A claimant who is a member of a couple where either—

- (a) he or his partner is, or
- (b) both he and his partner are absent from the United Kingdom in the circumstances specified in paragraph (2).

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

- (a) in respect of a claimant, those in regulation 4(3)(a) to (d);
- (b) in respect of a claimant's partner, as if regulation 4(3)(a) to (d) applied to that partner.

◀

**Polygamous marriages where any member is abroad**

**12.** Subject to paragraph 12A, a claimant who is a member of a polygamous marriage where—

- (a) he or one of his partners is, or
- (b) he and one or more of his partners are, or
- (c) two or more of his partners are, temporarily absent from the United Kingdom.

◀

**Polygamous marriage: taking child or young person abroad for treatment**

**12A.** —(1)◀ A claimant who is a member of a polygamous marriage where—

- (a) he or one of his partners is,
- (b) he and one or more of his partners are, or
- (c) two or more of his partners are, absent from the United Kingdom in the circumstances specified in paragraph (2).  
the marriage.

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

- (a) in respect of a claimant, those in regulation 4(3)(a) to (d);
- (b) in respect of a claimant's partner or partners, as the case may be, as if regulation 4(3)(a) to (d) applied to that partner or those parents.◀

**11A.** For the first 8 weeks of that absence, the amount applicable to the claimant under regulation 17(1), ▶◀ or 21, as the case may be and, thereafter, if the claimant is in Great Britain the amount applicable to him under regulation 17(1), ▶◀ or 21, as the case may be, as if the claimant were a single claimant, or, as the case may be, a lone parent.

Para. 11A inserted by reg. 21(h) of S.I. 1990/547 as from 9.4.90.  
Former para. 11A (col. (1)) redesignated as para. 11A(1) as from 7.10.91.  
Words substituted in para. 11A col. (1) by reg. 19(a) of S.I. 1991/1559 as from 7.10.91 (Words omitted in col. (2) of paras. 11 & 11A by reg. 2(1) of, & para. 17 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

Para. 12 substituted by reg. 21(i) of S.I. 1990/547 as from 9.4.90.

**12.** For the first four weeks of that absence, the amount applicable to the claimant under regulations 18 to 21, as the case may be, and thereafter, if the claimant is in Great Britain the amount applicable to him under regulations 18 to 21, 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.

Para. 12A inserted by reg. 21(j) of S.I. 1990/547 as from 9.4.90.  
Former para. 12A (col. (1)) redesignated as para. 12A(1) as from 7.10.91.

Words substituted in para. 12A col. (1) by reg. 19(b) of S.I. 1991/1559 as from 7.10.91.

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SCHEDULE 7 (contd.)

Column (1)	Column (2)
<p>(a) Paras. 13(1), 13A &amp; 13B omitted by para. 8 of Sch. 1 to S.I. 2003/1121 as from 6.10.03.                      Para. 13(2) deleted by reg. 3(5)(b) of S.I. 2003/1195 as from 15.5.03 or later subject to reg. 1(c) <i>ibid.</i>                      See note (a) above.                      Paras. 14 &amp; 15 deleted by para. 13(e) of Sch. 1 to S.I. 1989/534 as from 9.10.89.                      Para. 16 omitted by reg. 2(1) of, para. 17(f) of the Sch. to, S.I. 2001/3767 as from 8.4.02.                      Para. 16A inserted by reg. 3(10) of S.I. 2000/636 as from 3.4.00.                      Para 16A(a) &amp; (b) in column 2 substituted by para 21(i) of Sch. 1 to S.I. 2003/455 as from 6.4.04.</p>	<p><b>13.</b> ▶▶                      ▶▶  <b>13A.</b> ▶▶  <b>13B.</b> ▶▶                      ▶▶                      ▶▶</p> <p style="text-align: center;"><b>Partner of a person subject to immigration control</b></p> <p><b>16A.</b></p> <p>(a) A claimant who is the partner of a person subject to immigration control.</p> <p>(b) Where regulation 18 (polygamous marriages) applies and the claimant 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>(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 2000; and</p> <p>(iii) who is a member of a couple and one or more of his partners is subject to immigration control within the meaning of section 115(9) of that Act and section 115 of that Act applies to her for the purposes of exclusion from entitlement to income support.</p> <p><b>16A.</b></p> <p>(a) The amount applicable in respect of the claimant only under regulation 17(1)(a) any amount which may be applicable to him under regulation 17(1)(d) plus the amount applicable to him under regulation 17(1)(e), (f) and (g) or, as the case may be, regulation 21.</p> <p>(b) The amount determined in accordance with that regulation or regulation 21 in respect of the claimant and any partners of his 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 from entitlement to income support. ◀</p> <p style="text-align: right;"><i>This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.</i></p> <p>(a) The amounts applicable in respect of the claimant only under regulation 17(1)(a) plus that in respect of any child or young person who is a member of his family and who is not a person 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 from entitlement to income support, any amounts which may be applicable to him under regulation 17(1)(b), (c) or (d) plus the amount applicable to</p>

SCHEDULE 7 (contd.)

Sch. 7

Column (1)	Column (2)
	him under regulation 17(1)(e), (f) and (g) or, as the case may be, regulation <sup>1</sup> ◀ or 21.
	(b) The amount determined in accordance with that regulation or regulation <sup>1</sup> ◀ 21 in respect of the claimant and any partners of his and any child or young person for whom he or his partner is treated as responsible, who are not subject to immigration control within section 115 of that Act does not apply for the purposes of exclusion from entitlement to income support. ◀
<b>Persons from abroad</b>	
<b>17.</b> <sup>2</sup> Person from abroad◀	<b>17.</b> <sup>2</sup> Nil*◀
<i>*The nil amount is maintained in force (10.4.17) by Sch. 4 to S.I. 2017/260. See art. 1(2)(j) of this S.I. for when to apply in certain cases.</i>	
<b>18.</b> <sup>3</sup> ◀	
<b>Claimants entitled to the disability premium for a past period</b>	
<b>19.</b> A claimant—	<b>19.</b> The amount only of the disability premium applicable by virtue of
(a) whose time for claiming income support has been extended under regulation <sup>3</sup> 19(4)◀ of the Social Security (Claims and Payments) Regulations 1987(a) (time for claiming benefit); and	<sup>4</sup> paragraph 11(1)(b)◀ of Schedule 2 as specified in paragraph 15(4)(b) of that Schedule.
(b) whose partner was entitled to income support in respect of the period beginning with the day on which the claimant's claim is treated as made under <sup>6</sup> regulation 6(3) of those regulations(b)◀ and <sup>6</sup> ending with the day before the day◀ on which the claim is actually made; and	
(c) who satisfied the condition in <sup>4</sup> paragraph 11(1)(b)◀ of Schedule 2 and the additional condition referred to in that paragraph 12(1)(b) of that Schedule in respect of that period.	
<b><sup>7</sup>Persons who have commenced remunerative work</b>	
<b>19A.</b> A person to whom regulation 6(5) (persons not treated as in remunerative work applies.	<b>19A.</b> —(1) Subject to sub-paragraph (2), the lowest of either—
	(a) the amount determined in accordance with—
	(i) Schedule 3 (housing costs); <sup>8</sup> ◀
	(ii) as the case may be, Schedule 2 to the Jobseeker's Allowance Regulations 1996 (housing costs), <sup>8</sup> or
	(iii) as the case may be, Schedule 6 to the Employment and Support Allowance Regulations (housing costs), ◀
	which was applicable to the claimant or his partner immediately before he or his partner commenced the remunerative work referred to in regulation 6(5)(a); or

<sup>1</sup>Words omitted in col. (2) of para. 16A by reg. 2(1) of & para. 17(g) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>2</sup>Words substituted in para. 17 cols. (1) & (2) by reg. 3(11) of S.I. 2000/636 as from 3.4.00.

<sup>3</sup>Para. 18 omitted by reg. 2(1) of, & para. 17(h) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>4</sup>Word substituted in para. 19 by reg. 2(8) of S.I. 2007/719 as from 9.4.07 or later, see reg. 1 *ibid.*

<sup>5</sup>Words substituted in para. 19(a) col. (1) by reg. 6 of S.I. 2000/681 as from 3.4.00.

<sup>6</sup>Words substituted in para. 19(b) col. (1) by reg. 26(3) of S.I. 1995/516 as from 10.4.95.

<sup>7</sup>Para. 19A inserted by reg. 7 of S.I. 2001/488 as from 9.4.01.

<sup>8</sup>Words omitted in para. 19A(a)(i) col. (2) and sub-para. (iii) added by reg. 2(12)(a)(i) of S.I. 2008/1554 as from 28.10.08.

(a) S.I. 1987/1968.

(b) Reg. 6(3) was inserted in the Social Security (Claims and Payments) Regs. 1987 by S.I. 1988/522, reg. 2(3).

SCHEDULE 7 (*contd.*)

<sup>1</sup>Words inserted in para. 19A(1)(b), Col. (2) by reg. 2(12)(a)(ii) of S.I. 2008/1554 as from 27.10.08

<sup>2</sup>Words in col. 2 of para. 19A(2) deleted by reg. 17(i) of S.I. 2001/3767 as from 8.4.02.

<i>Column (1)</i>	<i>Column (2)</i>
	<p>(b) the amount of income support <sup>1</sup>, income-related employment and support allowance ◀ or, as the case may be, income-based jobseeker's allowance which the claimant or his partner was entitled to in the benefit week immediately before the benefit week in which he or his partner commenced the remunerative work referred to in regulation 6(5)(a) or, where he or his partner was in receipt of a training allowance in that benefit week, the amount of income support or income-based jobseeker's allowance which he would have been entitled to in that week had he not been in receipt of a training allowance.</p> <p>(2) Nothing in sub-paragraph (1) shall prevent any adjustment being made to the amount referred to in (a) or, as the case may be, (b) of that sub-paragraph during the period referred to in regulation 6(6), in order to reflect changes during that period to the amounts prescribed in Schedule 2 <sup>2</sup>◀ or in this Schedule or to reflect changes in circumstances during that period relating to the matters specified to in sub-paragraph (3).</p> <p>(3) The changes in circumstances referred to in sub-paragraph (2) are changes to the amount of housing costs to be met in accordance with Schedule 3 in the claimant's case occasioned by—</p> <p>(a) the claimant becoming entitled to income support for a continuous period of 26 weeks or more;</p> <p>(b) a change to the standard interest rate; or</p> <p>(c) any non-dependant deduction becoming applicable, or ceasing to be applicable.</p> <p>(4) In sub-paragraph (1), a reference to the claimant or his partner being entitled to and in receipt of an income-based jobseeker's allowance or to an amount being applicable to either of them under the Jobseeker's Allowance Regulations 1996 shall include a reference to the claimant and his partner being entitled to, and in receipt of, a joint-claim jobseeker's allowance and to an amount being applicable to that couple under those Regulations. ◀</p>

**Rounding of fractions**

**20.** Where any calculation under this Schedule or as a result of income support being awarded for a period of less than one complete benefit week results in a fraction of a penny that fraction shall be treated as a penny.

## SCHEDULE 8 Regulations 36(2), 38(2) and 44(6)

## Sch. 8

## SUMS TO BE DISREGARDED IN THE CALCULATION OF EARNINGS

<sup>1</sup>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 Great Britain, would have been so engaged—

- (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 income support;
- (b) any earnings, other than a payment of the nature described in <sup>2</sup>sub-paragraph (2)(a) or (b)(ii)◀, 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 his employment.

(2) This sub-paragraph applies to—

- <sup>2</sup>(a) any payment of the nature described in—
  - (i) regulation 35(1)(e), or
  - (ii) section 28, 64 or 68 of the Employment Rights Act 1996(a) (guarantee payments, suspension from work on medical or maternity grounds); and◀
- (b) any award, sum or payment of the nature described in—
  - (i) regulation 35(1)(g) or (h), or
  - (ii) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals)(b), including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings.◀

<sup>3</sup>1A. If the claimant's partner has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, 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 the partner has attained the qualifying age for state pension credit on retirement.◀

<sup>1</sup>2.—(1) In the case of a claimant to whom this paragraph applies, any earnings (other than a payment of the nature described in <sup>2</sup>paragraph 1(2)(a) or (b)(ii)◀ which relate to employment which ceased before the first day of entitlement to income support 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 Great Britain, would have been so engaged; but it does not apply to a claimant who has been suspended from his employment.◀

3. In the case of a claimant who has been engaged in remunerative work or part-time employment as a self-employed earner <sup>4</sup>or, had the employment been in Great Britain, would have been so engaged◀ and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which regulation 30(2) (royalties etc.) applies.

<sup>5</sup>4.—(1) In a case to which this paragraph applies, <sup>6</sup>£20◀; but notwithstanding regulation 23 (calculation of income and capital of member of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than <sup>6</sup>£20◀.

(2) This paragraph applies where the claimant's applicable amount includes, or but for his being an in-patient <sup>7</sup>◀ <sup>8</sup>◀ would include an amount by way of a disability premium under Schedule 2 (applicable amounts).

(3) This paragraph applies where—

- (a) the claimant is a member of a couple, and—
  - (i) his applicable amount would include an amount by way of the disability premium under Schedule 2 but for the higher pensioner premium under that Schedule being applicable; or

<sup>1</sup>Para. (1) and (2) substituted by reg. 5(11)(a) and (b) of S.I. 2007/2618 as from 1.10.07.

<sup>2</sup>Words in para. 1(1)(b) & 2 and para. 1(2)(a) substituted by reg. 2(16)(a)-(c) of S.I. 2009/2655 on or after 26.10.09 & subject to reg. 1 *ibid*.

<sup>3</sup>Para. 1A inserted by reg. 29(7)(a)-(b) of S.I. 2002/3019 as from 6.10.03.

<sup>4</sup>Words inserted in para. 3 by reg. 34 of S.I. 1988/663 as from 11.4.88.

<sup>5</sup>Para. 4 substituted by reg. 10 of S.I. 1989/534 as from 9.10.89.

<sup>6</sup>Amount substituted in para. 4(1) by reg. 3 of S.I. 2000/2545 as from 9.4.01 (subject to the saving provision in reg. 4 of that S.I.).

<sup>7</sup>Words omitted in paras. 4(2) by reg. 2(1) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>8</sup>Words omitted in para. 4(2) by para. 11 of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

(a) 1996 c. 18.

(b) 1996 c. 18.

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<sup>1</sup>Words omitted in paras. 4(3)(a)(ii) & (4)(a) by reg. 2(1) of, & para. 18(a) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>2</sup>Words omitted in para. 4(3)(a)(ii) & (4)(a) by para. 11 of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>3</sup>Para. 4(3)(b) omitted, para. 4(4)(b) & (7)(a)(i) substituted, words in (4)(c) omitted & words in (7)(b) & (c) substituted by reg. 29(7)(c) of S.I. 2002/3019 as from 6.10.03.

<sup>4</sup>Amount substituted in para. 4(4)(c) by reg. 3 of S.I. 2000/2545 as from 9.4.01 (subject to the saving provision in reg. 4 of that S.I.).

<sup>5</sup>Para. 4(5) and (6) deleted by reg. 12(a) of S.I. 2000/681 as from 3.4.00.

<sup>6</sup>Para. 4(7) substituted by reg. 12(a) of S.I. 1989/1678 as from 9.10.89.

<sup>7</sup>Words inserted in para. 4(7) by reg. 2(13) of S.I. 2008/1554 as from 27.10.08.

<sup>8</sup>Words inserted in para. 4(7)(a)(ii) & (c) by arts. 2 & 9(f)(i) & (ii) of, & Sch. to, S.I. 1991/387 as from 1.4.91.

<sup>9</sup>Words in para. 5 of Sch. 8 substituted by reg. 41 of S.I. 1996/1803 as from 7.4.97.

<sup>10</sup>Word deleted from para. 5 by para. 14(a) of Sch. 1 to S.I. 1989/534 as from 9.10.89.

<sup>11</sup>Words deleted from para. 5 by para. 8(a) of Sch. 1 to S.I. 1988/1445 as from 10.4.89.

(ii) had he not been an in-patient <sup>1</sup>◀ <sup>2</sup>◀ his applicable amount would include the higher pensioner premium under that Schedule and had that been the case he would also satisfy the condition in (i) above; and

<sup>3</sup>◀

(4) This paragraph applies where—

(a) the claimant's applicable amount includes, or but for his being an in-patient <sup>1</sup>◀ <sup>2</sup>◀ would include, an amount by way of the higher pensioner premium under Schedule 2; and

<sup>3</sup>(b) the claimant's partner has attained the qualifying age for state pension credit;◀

(c) immediately before attaining that age <sup>3</sup>◀ his partner was engaged in part-time employment and the claimant was entitled by virtue of sub-paragraph (2) <sup>3</sup>◀ to a disregard of <sup>4</sup>£20◀; and

(d) he or, as the case may be, he or his partner has continued in part-time employment.

(5) and (6) <sup>5</sup>◀

<sup>6</sup>(7) For the purposes of this paragraph—

(a) except where head (b) or (c) applies, no account shall be taken of any period not exceeding eight consecutive weeks occurring—

<sup>3</sup>(i) on or after the date on which the claimant's partner attained the qualifying age for state pension credit during which the partner was not engaged in part-time employment or the claimant was not entitled to income support <sup>7</sup>or employment and support allowance◀; or◀

(ii) immediately after the date on which the claimant or his partner ceased to participate in arrangements for training made under section 2 of the employment and Training Act 1973 <sup>8</sup>or section 2 of the Enterprise and New Towns (Scotland) Act 1990◀(a) or to attend a course at an employment rehabilitation centre established under that section <sup>7</sup>of the 1973 Act;

(b) in a case where the claimant has ceased to be entitled to income support <sup>7</sup>or employment and support allowance◀ because he, or if he is a member of a couple, he or his partner becomes engaged in remunerative work, no account shall be taken of any period, during which he was not entitled to income support <sup>7</sup>or employment and support allowance◀, not exceeding the permitted period determined in accordance with regulation 3A (permitted period) occurring on or after the date on which <sup>3</sup>the claimant's partner attains the qualifying age for state pension credit.◀

(c) no account shall be taken of any period occurring on or after the date on which <sup>3</sup>the claimant's partner, if he is a member of a couple, attained the qualifying age for state pension credit◀ during which the claimant was not entitled to income support <sup>7</sup>or employment and support allowance◀ because he or his partner was participating in arrangements for training made under section 2 of the Employment and Training Act 1973 <sup>8</sup>or section 2 of the Enterprise and New Towns (Scotland) Act 1990◀(b) or attending a course at an employment rehabilitation centre established under that section <sup>8</sup>of the 1973 Act ◀.◀◀

*This version of para. 5 in force from 7.4.97 to 5.4.98.*

5. If an amount by way of a <sup>9</sup>family premium under paragraph 3(a) of◀ Schedule 2 (applicable amounts) is, or but for the pensioner premium being applicable to him or for his accommodation in a residential care home, nursing home <sup>10</sup>◀ <sup>11</sup>◀ or in residential accommodation would be, included in the calculation of the claimant's applicable amount, £15.

(a) 1990 c. 35.

(b) 1990 c. 35.

**Sch. 8**

**5.** In a case where the claimant is a lone parent and paragraph 4 does not apply, £20◀.◀

**6.** Where the claimant is a member of a couple—

- (a) in a case to which none of paragraphs 4, 6A, 6B, 7 and 8 applies(a), £10; but notwithstanding regulation 23 (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 his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this sub-paragraph are less than £10;
- (b) in a case to which one or more of paragraphs 4, 6A, 6B, 7 and 8 applies and the total amount disregarded under those paragraphs is less than £10, so much of the claimant's earnings as would not in aggregate with the amount disregarded under those paragraphs exceed £10.◀

**6A.**—(1) In a case to which none of paragraphs 4 to 6 applies to the claimant, and subject to sub-paragraph (2), where the claimant's applicable amount includes an amount by way of the carer premium under Schedule 2 (applicable amounts, £20◀ of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance◀ or treated in accordance with paragraph 14ZA(2)(b) of that Schedule as being in receipt of invalid care allowance.

(2) Where the carer premium is awarded in respect of the claimant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £20◀ of the aggregated amount.

**6B.** Where the carer premium is awarded in respect of a claimant who is a member of the couple and whose earnings are less than £20◀, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

- (a) specified in paragraph 7(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 6A exceed £20◀;
- (b) other than one specified in paragraph 7(1), so much of the other member's earnings from such other employment up to £5 as would not when aggregated with the amount disregarded under paragraph 6A exceed £20◀.◀

Para. 5 substituted by reg. 13 of S.I. 1998/766 as from 6.4.98.

Amount substituted in para. 5 of Sch. 8 by reg. 3 of S.I. 2000/2545 as from 9.4.01 (subject to the saving provision in reg. 4 of S.I. 2000/2545).

Para. 6 substituted by reg. 6(11)(a) of S.I. 1996/1944 as from 7.10.96.

Para. 6A and 6B inserted into Sch. 8 by reg. 8(2) of S.I. 1993/315 as from 12.4.93.

(a) Amount substituted in para. 6A & 6B of Sch. 8 by reg. 3 of S.I. 2000/2545 as from 9.4.01 (subject to the saving provision in reg. 4 of S.I. 2000/2545).

Words substituted in para. 6A(1) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

See note (a) above.

(a) Para. 6A and 6B were inserted in Sch. 8 by S.I. 1993/315.

(b) Para. 14ZA was inserted by S.I. 1990/1776; relevant amending instruments are S.I. 1991/1559 and 1991/2742.





7.—(1) In a case to which none of paragraphs <sup>1</sup>4 to 6B◀ applies to the claimant, <sup>2</sup>£20◀ of earnings derived from one or more employments as—

(a)-(ab) <sup>3</sup>◀

- <sup>3</sup>(a) a part-time fire-fighter employed by a fire and rescue authority under the Fire and Rescue Services Act 2004 or by the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005;◀
- (b) an auxiliary coastguard in respect of coast rescue activities;
- (c) a person engaged part time in the manning or launching of a lifeboat;
- (d) a member of any <sup>4</sup>◀ reserve force prescribed in Part I of <sup>5</sup>Schedule 6 to the Social Security (Contributions) Regulations 2001◀;

but, notwithstanding regulation 23 (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 his partner except to the extent specified in sub-paragraph (2).

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

- (a) specified in sub-paragraph (1) so much of his earnings as would not in aggregate with the amount of the claimant's earnings disregarded under this paragraph exceed <sup>2</sup>£20◀;
- (b) other than one specified in sub-paragraph (1) so much of his earnings from that employment up to £5 as would not in aggregate with the claimant's earnings disregarded under this paragraph exceed <sup>2</sup>£20◀ <sup>4</sup>or in respect of training in the claimant's first year of training as a member of a reserve force for a maximum of 43 days in that year.◀

8. Where the claimant is engaged in one or more employments specified in paragraph 7(1) but his earnings derived from such employments are less than <sup>2</sup>£20◀ in any week and he is also engaged in any other part-time employment so much of his earnings from that other employment up to £5 as would not in aggregate with the amount of his earnings disregarded under paragraph 7 exceed <sup>2</sup>£20◀.

9. In a case to which none of paragraphs 4 to 8 applies to the claimant, £5.

<sup>6</sup>10. Notwithstanding the foregoing provisions of this Schedule, where two or more payments 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 31(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 shall 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.◀

11. 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.

12. 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.

13. 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.

14. Any earnings of a child or young person <sup>7</sup>◀.

*Para 14. is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

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

<sup>1</sup>Words in para. 7(1) substituted by reg. 8(3) of S.I. 1993/315 as from 12.4.93.

<sup>2</sup>Amount substituted in para. 7 & 8 by reg. 3 of S.I. 2000/2545 as from 9.4.01 (subject to the saving provision in reg. 4 of that S.I.).

<sup>3</sup>Paras. (a), (aa) & (ab) omitted & para. (a) inserted by reg. 4(7)(a)-(d) of S.I. 2013/2536 as from 30.10.13.

<sup>4</sup>Words in Sch. 8 para. 7(1)(d) omitted & inserted in sub-para. (2) by reg. 2(4) of S.I. 2015/389 as from 6.4.15.

<sup>5</sup>Words substituted in para. 7(1)(d) by reg. 5(9) of S.I. 2006/2378 as from 2.10.06.

<sup>6</sup>Para. 10 substituted by reg. 6(11) of S.I. 1996/1944 as from 7.10.96.

<sup>7</sup>Words omitted from para. 14 by para. 22(a) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

## Sch. 8

<sup>1</sup>Para. 15 omitted by para. 22(b) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>2</sup>Words substituted in para. 15 by reg. 7 of S.I. 1992/468 as from 6.4.92.

<sup>3</sup>Words in para. 15(a) omitted by reg. 2(1) of, & para. 18(b) of the Sch. to S.I. 2001/3767 as from 8.4.02.

<sup>4</sup>Amount substituted in para. 15 by reg. 3 of S.I. 2000/2545 as from 9.4.01 (subject to the saving provision in reg. 4 of S.I. 2000/2545).

<sup>5</sup>Para. 15A substituted by reg. 4 of S.I. 2012/2575 as from 5.11.12.

<sup>6</sup>Para. 15B of Sch. 8 omitted by reg. 2(d) of S.I. 2003/1589 as from 25.10.04.

<sup>7</sup>Para. 15C inserted by reg. 8 of S.I. 2001/488 as from 9.4.01.

**15.** <sup>1</sup>◀

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

15. <sup>2</sup>In the case of earnings of a child or young person who although not receiving full-time education for the purposes of section 2 of the Child Benefit Act 1975(a) (meaning of “child”) is nonetheless treated for the purposes of these Regulations as receiving relevant education and◀ who is engaged in remunerative work, if—

- (a) an amount by way of a disabled child premium under Schedule 2 (applicable amounts) is, <sup>3</sup>◀ included in the calculation of his applicable amount and his earning capacity is not, by reason of his disability, less than 75 per cent of that which he would, but for that disability normally be expected to earn, <sup>4</sup>£20◀;
- (b) in any other case, £5.

<sup>5</sup>**15A.**—(1) Where earnings to which sub-paragraph (2) applies (in aggregate with the claimant’s other income (if any) calculated in accordance with this part) exceed the applicable amount (as specified in Part IV and Schedule 2) less 10 pence, the amount of those earnings corresponding to that excess.

(2) This sub-paragraph applies to earnings, in so far as they exceed the amount disregarded under paragraph 7, derived by the claimant from employment as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations in respect of a period of annual continuous training for a maximum of 15 days in any calendar year.◀

**15B.** <sup>6</sup>◀

<sup>7</sup>**15C.** In the case of a person to whom paragraph (5) of regulation 6 (persons not treated as in remunerative work) applies, any earnings.◀

**16.** In this Schedule “part-time employment” means employment in which the person is not to be treated as engaged in remunerative work under regulation 5 or 6 (persons treated, or not treated, as engaged in remunerative work).

(a) 1975 c. 61; section 2 is amended by the Social Security Act 1980 (c. 30), Schedule 5, Part I; the Social Security Act 1986 (c. 50), section 70(1), and the Social Security Act 1988 (c. 7), section 4(3).

## SCHEDULE 9

Regulation 40(2)

## Sch. 9

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 40 ( calculation of income other than earnings).

<sup>1</sup>**1A.** Any payment in respect of any travel or other expenses incurred, or to be incurred by the claimant in respect of that claimant's participation in <sup>2</sup>a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013<sup>◀</sup> or the Mandatory Work Activity Scheme.<sup>◀</sup>

<sup>1</sup>Para. 1A inserted in Sch. 9 by reg. 4(9) of S.I. 2011/1707 as from 5.8.11.

2. Any payment in respect of any expenses incurred <sup>3</sup>, or to be incurred,<sup>◀</sup> by a claimant who is—

<sup>2</sup>Words in reg. 51(3A)(ba) substituted by reg. 13(b) of S.I. 2013/276 as from 6.45 pm on 12.2.13.

(a) engaged by a charitable or <sup>4</sup>voluntary organisation<sup>◀</sup>; or

(b) a volunteer,

<sup>3</sup>Words inserted in para. 2 by reg. 2 of S.I. 2001/2296 as from 24.9.01.

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 42(6) (notional income).

<sup>4</sup>Words substituted in para. 2(a) by reg. 27(a) of S.I. 1995/516 as from 10.4.95.

<sup>5</sup>**2A.** Any payment in respect of expenses arising out of the <sup>6</sup>claimant participating as a service user.<sup>◀◀</sup>

<sup>5</sup>Para. 2A inserted in Sch. 9 by reg. 2(17)(a) of S.I. 2009/2655 on or after 26.10.09 subject to reg. 1 *ibid*.

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.

<sup>6</sup>Words in para. 2A substituted by reg. 2(7) of S.I. 2014/591 as from 28.4.14.

4. In the case of a payment <sup>7</sup>under Parts 11 to<sup>◀</sup> <sup>8</sup>12ZB of the Contributions and Benefits Act(a)<sup>◀</sup> 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 <sup>8</sup>or who is taking paternity leave <sup>9</sup>, adoption leave or shared parental leave<sup>◀◀</sup>—

<sup>7</sup>Words substituted in para. 4 by reg. 2(14)(a) of S.I. 2008/698 as from 14.4.08.

(a) any amount deducted by way of primary Class 1 contributions under the Social Security Act;

(b) one-half of any sum paid by the claimant by way of a contribution towards an occupational or personal pension scheme.

<sup>8</sup>Words inserted in para. 4 and substituted in para. 4A by reg. 2(6)(a)(i) & (ii) of S.I. 2002/2689 as from 8.12.02.

<sup>10</sup>**4A.** In the case of the payment of statutory sick pay under Part II of the Social Security (Northern Ireland) Order 1982(b) <sup>8</sup>, statutory maternity pay under Part XII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c) or a payment under any enactment having effect in Northern Ireland corresponding to a payment of <sup>11</sup> <sup>9</sup>◀ statutory paternity pay◀▶<sup>9</sup>, statutory adoption pay or statutory shared parental pay◀◀—

<sup>9</sup>Words substituted & omitted in paras. 4 & 4A of Sch. 9 by art. 5(6)(a) & (b) of S.I. 2014/3255 as from 23.2.15.

(a) any amount deducted by way of primary Class 1 contributions under the Social Security (Northern Ireland) Act 1975(d);

(b) one-half of any sum paid by way of a contribution towards an occupational or personal pension scheme.<sup>◀</sup>

<sup>10</sup>Para. 4A inserted by reg. 35(a) of S.I. 1988/663 as from 11.4.88.

<sup>12</sup>**5.** Any housing benefit to which the claimant is entitled.<sup>◀</sup>

<sup>11</sup>Words substituted in para. 4A of Sch. 9 by reg. 3(4) of S.I. 2012/757 as from 1.4.12.

<sup>13</sup>**5A.** Any guardian's allowance.<sup>◀</sup>

<sup>13</sup>**5B.**—(1) Any child tax credit.

<sup>12</sup>Words substituted in Sch. 9, paras. 5 by reg. 2(7) of S.I. 2008/3157 as from 5.1.09.

(2) Any child benefit.<sup>◀</sup>

<sup>14</sup>(3) Any increase in respect of a dependent child or dependent young person under section 80 or 90(e) of the Contributions and Benefits Act where—

<sup>13</sup>Paras. 5A & 5B inserted by Sch. 1, para. 23(a) & (b) to S.I. 2003/455 as from 7.4.03 or later subject to reg. 1(5)(a) *ibid*.

(a) Part 12ZB was inserted by s. 2 of the Employment Act 2002.

(b) S.I. 1982/1086 (N.I. 6).

(c) 1992 c. 7.

(d) 1975 c. 15 (N.I.).

(e) Section 80 was repealed by Schedule 6 to the Tax Credits Act 2002, with savings under article 3 of S.I. 2003/938 and section 90 was repealed by Part 2 of Schedule 7 to the Welfare Reform Act 2009 (c. 24), with transitional provisions under section 15(2) and (3) of that Act.

<sup>14</sup>Para. 5B(3) of Sch. 9 inserted by reg. 2(3)(a) of S.I. 2010/2429 as from 1.11.10.

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- (a) the claimant has a child or young person who is a member of the claimant's family for the purposes of the claimant's claim for income support, and
- (b) the claimant, or that claimant's partner, has been awarded a child tax credit.◀

<sup>1</sup>Words substituted in Sch. 9, paras. 6 & 7 by reg. 2(7) of S.I. 2008/3157 as from 5.1.09.

<sup>2</sup>Words inserted in para. 6 by reg. 11(6)(a) of S.I. 1991/2742 as from 6.4.92.

<sup>3</sup>Words inserted & substituted in para. 6 & 9 of Sch. 9 by para. 11(7) of Sch. to S.I. 2013/388 as from 8.4.13.

<sup>4</sup>Words substituted in para. 7(a) by reg. 15(1) of S.I. 1998/563 as from 6.4.98.

<sup>5</sup>Words omitted & para. 7(e) inserted in para. 7 by reg. 28(8) of S.I. 2013/630 as from 29.4.13.

<sup>6</sup>Para. 9 substituted by 1993/518 as from 1.4.93.

<sup>7</sup>Words in para. 9 omitted by para. 9(a) of Sch. 1 to S.I. 2003/1121 as from 6.10.03.

<sup>8</sup>Para. 9A deleted by reg. 23(2) of S.I. 1993/2119 as from 4.10.93.

<sup>9</sup>Para. 11 substituted by reg. 5(2) of S.I. 2004/1708 as from 1.8.04 where students course of study begins on or after that date but before 1.9.04, or 1.9.04 in any other case.

<sup>10</sup>Words substituted in Sch. 9 para. 11 by reg. 2(7)(d)(i) & (ii) of S.I. 2008/3157 as from 5.1.09.

<sup>11</sup>Words omitted and inserted in para. 11 by reg. 7(8) of S.I. 2011/2425 as from 31.10.11.

<sup>12</sup>Para. 11A inserted by reg. 2(a) of S.I. 2002/2380 as from 14.10.02.

<sup>13</sup>Para. 12 deleted by reg. 12(a) of S.I. 2000/681 as from 3.4.00.

**6.** <sup>1</sup>The◀ <sup>2</sup>mobility component of disability living allowance <sup>3</sup>or the mobility component of personal independence payment◀◀

**7.** Any concessionary payment made to compensate for the non-payment of–

- (a) any payment specified in <sup>4</sup>paragraph 6, or 9◀;
- <sup>1</sup>(b) income support;
- (c) an income-based jobseeker's allowance; <sup>5</sup>◀
- (d) an income-related employment and support allowance.◀ <sup>5</sup>; or
- (e) universal credit.◀

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

**9.** Any attendance allowance <sup>3</sup>, the care component of disability living allowance or the daily living component of personal independence payment. <sup>7</sup>◀◀◀

**9A.** <sup>8</sup>◀

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

**11.**—(1) Any payment–

- (a) by way of an education maintenance allowance made pursuant to–
  - (i) regulations made under section 518 of the Education Act 1996;
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
  - <sup>10</sup>(iii) directions made under section 73ZA of the Education (Scotland) Act 1980(a) and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992(b); <sup>11</sup>◀◀
- (b) corresponding to such an education maintenance allowance, made pursuant to–
  - (i) section 14 or section 181 of the Education Act 2002; or
  - (ii) regulations made under section 181 of that Act <sup>10</sup>; or
  - (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.◀

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to–

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- <sup>10</sup>(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,◀

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 <sup>11</sup>or other payment◀ made pursuant to any provision specified in sub-paragraph (1).◀

<sup>12</sup>**11A.** Any payment made to the claimant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002(c).

**12.** <sup>13</sup>◀

(a) Section 73ZA was inserted by the Further and Higher Education (Scotland) Act 2005 (asp 6), section 19(1).

(b) 1992 c. 37.

(c) S.I. 2002/2086.

<sup>1</sup>13.—(1) Any payment made pursuant to section 2 of the Employment and Training Act 1973(**a**) (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(**b**) (functions in relation to training for employment etc.) except a payment—

- (a) made as a substitute for income support, a jobseeker’s allowance, incapacity benefit <sup>2</sup>, severe disablement allowance or an employment and support allowance◀;
- (b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990;
- (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 him enhance his employment prospects unless the payment is a Career Development Loan(**c**) paid pursuant to section 2 of the Employment and Training Act 1973 and the period of education or training or the scheme, which is supported by that loan, has been completed; or
- (d) made in respect of the cost of living away from home to the extent that the payment relates to rent for which housing benefit is payable in respect of accommodation which is not normally occupied by the claimant as his home.

<sup>1</sup>Para. 13 substituted by reg. 2(3)(a) of S.I. 2004/565 as from 1.4.04.

<sup>2</sup>Words substituted in para. 13(1)(a) by reg. 2(14)(b) of S.I. 2008/1554 as from 27.10.08.

(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 for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 17(1)(e) or 18(1)(f) (housing costs), of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of this paragraph, “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.◀

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(a) 1973 c. 50. s. 2 was substituted by section 25(i) of the Employment Act 1988 (c. 19).

(b) 1990 c. 35.

(c) Information about this Loan can be obtained from any Jobcentre Plus office or by telephoning 0800-585 505.



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14. <sup>1</sup>◀

15.— <sup>2</sup>(1) Subject to sub-paragraph (3) and paragraph 39, any relevant payment made or due to be made at regular intervals.◀

(2) <sup>2</sup>◀

(3) <sup>2</sup>Sub-paragraph (1)◀ shall not apply—

- (a) to a payment which is made by a person for the maintenance of any member of his family or of his former partner or of his children;
- (b) in the case of a person to whom section 23 of the Act (trade disputes) applies or in respect of whom section 20(3) of the Act (conditions of entitlement to income support) has effect as modified by section 23A(b) of the Act (effect of return to work).

(4)-(5) <sup>2</sup>◀

<sup>3</sup>(5A) In this paragraph, relevant payment” means—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within sub-paragraph (a) or (b) above) 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
- (e) a payment (not falling within sub-paragraphs (a) to (d) above) received by virtue of any agreement or court order to make payments to the claimant in consequence of any personal injury to the claimant.◀

(6) <sup>4</sup>◀

15A. <sup>2</sup>◀

15B. <sup>5</sup>◀

<sup>6</sup>16. Subject to paragraphs 36 and 37, £10 of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 8 or 9);
- (b) a war widow’s pension <sup>7</sup>or war widower’s pension◀;
- (c) a pension payable to a person as a <sup>8</sup>widow, widower or surviving civil partner◀ under <sup>9</sup>◀ any power of Her Majesty otherwise than under an enactment 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;
- <sup>10</sup>(cc) a guaranteed income payment <sup>11</sup>and, if the amount of that payment has been abated to less than £10 by a <sup>12</sup>pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(a)◀, so much of <sup>12</sup>that pension or payment◀ as would not, in aggregate with the amount of <sup>12</sup>any◀ guaranteed income payment disregarded, exceed £10◀;◀
- (d) a payment made to compensate for the non-payment of such a pension <sup>10</sup>or payment◀ as is mentioned in any of the preceding sub-paragraphs;
- (e) a pension paid by the government of a country outside Great Britain which is analogous to any of the <sup>10</sup>pensions or payments mentioned in sub-paragraphs (a) to (cc) above;◀

<sup>1</sup>Para. 14 deleted by reg. 6(9)(b) of S.I. 1995/2303 as from 2.10.95.  
<sup>2</sup>Para. 15(1) & words in sub-para. (3) substituted & paras. 15(2), (4), (5) & 15A omitted by reg. 5(10(a)-(b) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

<sup>3</sup>Sub-para. (5A) inserted by reg. 3(1)(d) of S.I. 2002/2442 as from 28.10.02.

<sup>4</sup>Para. 15(6) omitted by reg. 2(1) of, & para. 19(b) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>5</sup>Para. 15B omitted by para. 9(b) of Sch. 1 to S.I. 2003/1121 as from 6.10.03.

<sup>6</sup>Para. 16 substituted by reg. 6(3) of S.I. 1995/2792 as from 28.10.95.

<sup>7</sup>Words in reg. 16(b) inserted by reg. 2(4)(a) of S.I. 2002/841 as from 8.4.02.

<sup>8</sup>Words substituted in para. 16(c) by para. 13(8)(a) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>9</sup>Words omitted in para. 16(c) by reg. 2(7)(e)(i) of S.I. 2008/3157 as from 5.1.09.

<sup>10</sup>Para. 16(cc) added & words inserted & substituted in paras. 16(d) & (e) by reg. 2(7) of S.I. 2005/574 as from 4.4.05.

<sup>11</sup>Words inserted in Sch. 9 para. 16 by reg. 2(7)(e)(ii) of S.I. 2008/3157 as from 5.1.09, subject to reg. 1(2) *ibid*.

<sup>12</sup>Words substituted in para. 16(cc) by reg. 2(17)(b) of S.I. 2009/2655 on or after 26.10.09 subject to reg. 1 *ibid*.

(a) S.I. 2005/439.

## Sch. 9

<sup>1</sup>Sch. 9, para. 16(f) substituted by reg. 2 of S.I. 2017/174 as from 20.3.17.

<sup>2</sup>Sub-paras. (g) and (h) added to para. 16 by reg. 2(4) of S.I. 2000/2239 as from 9.4.01.

- <sup>1</sup>(f) a pension paid by a government to victims of National Socialist persecution;◀  
<sup>2</sup>(g) any widowed mother's allowance paid pursuant to section 37 of the Contributions and Benefits Act;  
 (h) any widowed parent's allowance paid pursuant to section 39A of the Contributions and Benefits Act(a).◀

**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 his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;  
 (b) that the interest on the loan is payable by the person to whom it was made or by one of the annuitants;  
 (c) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;  
 (d) that the loan was secured on a dwelling in Great Britain 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 his home at the time the interest is paid,

the amount, calculated on a weekly basis equal to—

<sup>3</sup>Head (i) of para. 17(e) substituted by reg. 32(2) of S.I. 1994/2139 as from 3.10.94.

- <sup>3</sup>(i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax)(b) 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.

<sup>4</sup>Para. 18 & words in para. 19 substituted by reg. 27(c) & (d) of S.I. 1995/516 as from 10.4.95.

<sup>5</sup>Para. 19 substituted by reg. 9 of S.I. 1994/527 as from 11.4.94.

**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.◀

**19.** Where the claimant occupies a dwelling as his home and the dwelling is also occupied by <sup>4</sup>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 his family—

- (a) £4 of 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 his family, or by that person and a member of his family; and  
 (b) a further <sup>6</sup>£15.45◀, where the aggregate of any such payments is inclusive of an amount for heating.◀

<sup>6</sup>Amount £15.45 in para. 19(b) substituted for £11.95 by art. 16(9) of S.I. 2007/688 as from 9.4.07.

<sup>7</sup>Para. 20 substituted by reg. 9 of S.I. 1994/527 as from 11.4.94.

**20.** Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

(a) S. 39A was inserted by s. 55(2) of the Welfare Reform and Pensions Act 1999 (c. 30).  
 (b) 1988 c. 1.



- (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 £20.00 100% of such payments; or
- (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50% of the excess over £20.00. ◀

<sup>1</sup>21.—(1) <sup>2</sup>Subject to sub-paragraphs (2) and (3)◀, except where <sup>2</sup>regulation 40(4)(b) (provision of support 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 in calculation of income other than earnings) or◀ regulation 42(4)(a)(i) (notional income) applies or in the case of a person to whom section 23 of the Act (trade disputes) 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 <sup>3</sup>, the Macfarlane (Special Payments) Trust◀<sup>4</sup>, the Macfarlane (Special Payments) (No. 2) Trust◀<sup>5</sup>, the Fund◀<sup>6</sup>, the Eileen Trust◀<sup>7</sup>, MFET Limited◀<sup>8</sup>, the Skipton Fund, the Caxton Foundation◀<sup>9</sup>, the Scottish Infected Blood Support Scheme◀<sup>10</sup>, an approved blood scheme◀<sup>11</sup>, the London Emergencies Trust, the We Love Manchester Emergency Fund◀<sup>12</sup>or <sup>13</sup>the Independent Living <sup>14</sup>Fund (2006)◀◀◀◀.

<sup>2</sup>(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 his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act. ◀

<sup>15</sup>(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. ◀

**22.**—(1) Any income derived from capital to which the claimant is or is treated under regulation 52 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraph 1, 2, 4, 6 <sup>16</sup>12 or 25 to 28◀ of Schedule 10.

(2) Income derived from capital disregarded under paragraph 2 <sup>16</sup>4 or 25 to 28◀ of Schedule 10 but <sup>17</sup>only to the extent of—

- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
- (b) any council tax or water charges which the claimant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued. ◀

<sup>17</sup>(3) The definition of “water charges” in regulation 2(1) shall apply to sub-paragraph (2) with the omission of the words “in so far as such charges are in respect of the dwelling which a person occupies as his home”. ◀

**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.

**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.

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

<sup>1</sup>Para. 21 substituted by reg. 35(d) of S.I. 1988/663 as from 11.4.88.

<sup>2</sup>Words substituted in para. 21(1) & para. 21(3) added by reg. 3(12) of S.I. 2000/636 as from 3.4.00.

<sup>3</sup>Words inserted in para. 21(2) by reg. 3(3)(e) of S.I. 1990/127 as from 31.1.90.

<sup>4</sup>Words inserted in para. 21(2) by reg. 5(7)(a) of S.I. 1991/1175 as from 11.5.91.

<sup>5</sup>Words inserted in para. 21(2) by reg. 6(7)(a) of S.I. 1992/1101 as from 7.5.92.

<sup>6</sup>Words inserted in para. 21(2) by reg. 4(4)(a) of S.I. 1993/1249 as from 14.5.93.

<sup>7</sup>Words inserted in para. 21(2) by reg. 2(3)(f) of S.I. 2010/641 as from 1.4.10.

<sup>8</sup>Words inserted in para. 21(2) by reg. 7(5) of S.I. 2011/2425 as from 31.10.11.

<sup>9</sup>Words in para. 21(2) of Sch. 9 inserted by reg. 3(3)(e) of S.I. 2017/329 as from 3.4.17.

<sup>10</sup>Words in para. 21(2) of Sch. 9 inserted by reg. 2(3)(e) of S.I. 2017/870 as from 23.10.17.

<sup>11</sup>Words in para. 21(2) of Sch. 9 inserted by reg. 2(3)(e) of S.I. 2017/689 as from 19.6.17.

<sup>12</sup>Words in para. 21(2) inserted by reg. 5(d) of S.I. 1988/999 as from 9.6.88.

<sup>13</sup>Words substituted in para. 21(2) by reg. 2(3) of S.I. 1993/963 as from 22.4.93.

<sup>14</sup>Words in para. 21(2) substituted by reg. 2(6)(f) of S.I. 2008/2767 as from 17.11.08.

<sup>15</sup>Para. 21(4) inserted by reg. 2(8)(a) of S.I. 2005/2465 as from 3.10.05.

<sup>16</sup>Words substituted in para. 22(1) & (2) by reg. 25(a) of S.I. 1988/1445 as from 12.9.88.

<sup>17</sup>Words substituted in para. 22(2) & sub-para. (3) added by reg. 9(2) & (3) of S.I. 1993/315 as from 1.4.93 in relation to council tax or council tax benefit, 12.4.93 otherwise.

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<sup>1</sup>Head (a) of para. 25(1) substituted by para. 9(a) of Sch. to S.I. 1992/468 as from 6.4.92.

<sup>2</sup>In para. 25, words substituted in sub-para. (1)(a) & sub-para. (1A) substituted by reg. 2(8)(b) & (c) of S.I. 2005/2465 as from 30.12.05.

<sup>3</sup>Words inserted in para. 25(1)(a) by para. 9(3) of Sch. 1 to S.I. 2011/1740 as from 15.7.11.

<sup>4</sup>Head (b) substituted by reg. 15(2) of S.I. 1998/563 as from 6.4.98.

<sup>5</sup>Words deleted & substituted in Sch. 9 para. 25(1) by reg. 2(7)(f) of S.I. 2008/3157 as from 5.1.09.

<sup>6</sup>Para. 25(1)(ba) inserted by reg. 2(17)(c) of S.I. 2009/2655 on or after 26.10.09 subject to reg. 1 *ibid*.

<sup>7</sup>Sub-para (e) inserted in para. 25(1) by reg. 4(4)(a) of S.I. 2004/2308 as from 4.10.04.

<sup>8</sup>Words omitted from para. 25(1) by para. 23(c) of Sch. 1 to S.I. 2003/455 as from 6.4.04.

<sup>9</sup>Head (a) of para. 25(1) substituted by para. 9(a) of Sch. to S.I. 1992/468 as from 6.4.92.

<sup>10</sup>Words inserted in para. 25(1)(a) and (1A) inserted by reg. 2(4)(a) of S.I. 2003/2279 as from 1.10.03.

<sup>11</sup>Head (b) substituted by reg. 15(2) of S.I. 1998/563 as from 6.4.98.

<sup>1</sup>(a) <sup>2</sup>pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002(a) or in accordance with a scheme approved by the Scottish Ministers under Section 51A of the Adoption (Scotland) Act 1978(b) (schemes for payment of allowances to adopters) <sup>3</sup>or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowance schemes);

<sup>4</sup>(b) ;

<sup>6</sup>(ba) which is a payment made by a local authority in Scotland in pursuance of section 50 of the Children Act 1975(c) (payments towards maintenance of children);

(c) which is a payment made by the local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution of a child's maintenance where the child is living with a person as a result of a residence order);

(d) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);

<sup>7</sup>(e) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);

**25.** <sup>8</sup>

*Para 25(1) is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

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

<sup>9</sup>(a) in accordance with regulations made pursuant to section 57A of the Adoption Act 1976(a) (permitted allowances) <sup>10</sup>or paragraph 3 of Schedule 4 to the Adoption and Children Act 2002(b) or with a scheme approved by the Secretary of State under section 51 of the Adoption (Scotland) Act 1978(c) (schemes for payment of allowances to adopters);

<sup>11</sup>(b) which is a payment made by a local authority in pursuance of section 34(6) or, as the case may be, section 50 of the Children Act 1975 (contributions towards the cost of the accommodation and maintenance of a child);

(c) which is a payment made by the local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution of a child's maintenance where the child is living with a person as a result of a residence order);

(d) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);

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

(a) 1976 c. 36; s. 57A was introduced by the Children Act 1989 (c. 41), Sch. 10, para. 25.

(b) 2002 c. 38.

(c) 1978 c. 28.

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

**(2)** <sup>12</sup>

*This paragraph continues to be reproduced as it remains in force in certain cases. See reg. 1 of S.I. 2003/455 at page 6.7203 for details of when to apply this version.*

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

(a) to whom regulation 44(5) (capital in excess of £3,000) applies, the whole payment;

(a) 2002 c. 38.

(b) 1978 c. 28.

(c) 1975 c. 72. The Children Act 1975 was revoked by the Children Act 1989 (c. 41), except as saved by Schedule 14 of the Children Act 1989.

- (b) to whom that regulation does not apply, so much of the weekly amount of the payment as exceeds the applicable amount in respect of that child or young person and where applicable to him any amount by way of a disabled child premium.

<sup>1</sup>**25A.** In the case of a claimant who has a child or young person—

- (a) who is a member of his family, and  
(b) who is residing at an educational establishment at which he is receiving relevant education.

<sup>1</sup>Para. 25A inserted by para. 23(d) of Sch. 1 to S.I. 2003/455 as from 6.4.04 or later subject to reg. 1 *ibid.*

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. ◀

<sup>2</sup>**26.** Any payment made to the claimant with whom a person is accommodated by virtue of arrangements made—

- (a) by a local authority under—  
<sup>3</sup>(i) section 22C(2) of the Children Act 1989 (ways in which looked after children are to be accommodated and maintained); ◀  
<sup>4</sup>(ia) section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained); ◀  
(ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or  
(iii) regulation 33 or 51 of the Looked After Children (Scotland) Regulations 2009(a) (fostering and kinship care allowances and fostering allowances); or  
(b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations). ◀

<sup>2</sup>Para. 26 of Sch. 9 substituted by reg. 2(3)(b) of S.I. 2010/2429 as from 1.11.10.

<sup>3</sup>Para. 26(a)(i) of Sch. 9 substituted by art. 20(3) of S.I. 2017/901 as from 3.11.17.

<sup>4</sup>Para. 26(a)(ia) of Sch. 9 inserted by art. 2(5)(a) of S.I. 2017/901 as from 3.11.17.

<sup>5</sup>**27.** Any payment made to the claimant or his partner for a person (“the person concerned”), who is not normally a member of the claimant's household but is temporarily in his care, by—

- (a) a health authority;  
(b) a local authority <sup>6</sup>but excluding payments of housing benefit made in respect of the person concerned ◀;  
(c) a voluntary organisation; or  
(d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948(b); ◀

<sup>5</sup>Para. 27 substituted by reg. 7(3) of S.I. 1998/563 as from 6.4.98.

<sup>6</sup>Words inserted in para. 27(b) by reg. 3(5)(c) of S.I. 2005/574 as from 4.4.05.

<sup>7</sup>(dza) the person concerned where the payment is for the provision of accommodation in respect of the meeting of that person's needs under section 18 or 19 of the Care Act 2014 (duty and power to meet needs for care and support); ◀

<sup>7</sup>Para. 27(dza) of Sch. 9 inserted by para. 5(3)(a) of the Sch. to S.I. 2015/643 as from 1.4.15.

<sup>8</sup>(dzb) the person concerned where the payment is for the provision of accommodation to meet that person's needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult); ◀

<sup>8</sup>Para. 27(dzb) of Sch. 9 inserted by art. 2(5)(b) of S.I. 2017/901 as from 3.11.17.

<sup>9</sup>(da) a clinical commissioning group established under section 14D of the National Health Service Act 2006;

<sup>9</sup>Sub-paras. 27(da) & (db) inserted & sub-para. 27(e) omitted by para. 10(3) of Sch. 2 to S.I. 2013/235 as from 1.4.13.

(db) the National Health Service Commissioning Board; or ◀

(e) <sup>9</sup>◀

<sup>10</sup>(f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the Health Service (Wales) Act. ◀

<sup>10</sup>Sch. 9 para. 27 inserted by reg. 2(7)(g)(iii) of S.I. 2008/3157 as from 5.1.09.

(a) S.I. 2009/210.

(b) 1948 c. 29; section 26(3A) was inserted by section 42(4) of the National Health Service and Community Care Act 1990 (c. 19).

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<sup>1</sup>Para. 27A inserted in Sch. 9 by reg. 2(3) of S.I. 2017/995 as from 7.11.17.

<sup>2</sup>Para. 28 substituted by reg. 2(14)(b) of S.I. 2008/698 on or after 7.4.08, subject to reg. 1(2) *ibid.*

<sup>3</sup>Words omitted, substituted & inserted in Sch. 9 para. 28 by art. 2(5)(c) of S.I. 2017/901 as from 3.11.17.

<sup>4</sup>Words inserted in para. 28(1)(c) & (2) by reg. 2(3)(c) of S.I. 2010/2429 as from 1.11.10.

<sup>5</sup>Words in para. 28(1)(c) & (2) substituted by para. 2(2)(a) & (b) of S.I. 2016/732 as from 5.8.16.

<sup>6</sup>Words substituted in Sch. 9 para. 28(5)(b) by reg. 2(2)(c) of S.I. 2016/732 as from 5.8.16.

<sup>7</sup>Paras. 29 and 30 substituted by Sch. 3 to S.I. 1995/1613 as from 2.10.95.

<sup>1</sup>**27A.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).◀

<sup>2</sup>**28.**—(1) Any payment made by a local authority in accordance with—

- (a) section 17, 23B, 23C or 24A of the Children Act 1989(a)
- (b) section 12 of the Social Work (Scotland) Act 1968(b); <sup>3</sup>◀
- (c) section <sup>4</sup>22◀ <sup>5</sup>26A, 29◀ or 30 of the Children (Scotland) Act <sup>3</sup>1995(c), or
- (d) the following sections of the Social Services and Well-being (Wales) Act 2014—
  - (aa) section 37 or 38, but excluding any direct payment made in accordance with regulations made under section 51 of that Act; or
  - (bb) section 109, 110, 114 or 115.◀

(2) Any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section <sup>4</sup>22 <sup>5</sup>, 26A or 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children, duty to provide continuing care and provision of advice and assistance for certain young persons)◀ to a person ("A") which A passes on to the claimant.

(3) Sub-paragraphs (1) and (2) are subject to the following provisions.

(4) Neither of those sub-paragraphs applies where the claimant is a person—

- (a) to whom section 126 of the Contributions and Benefits Act (trade disputes) applies, or
- (b) in respect of whom section 124(1) of the Contributions and Benefits Act (conditions of entitlement to income support) has effect as modified by section 127 of that Act (effect of return to work).

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

- (a) was formerly in the claimant's care, and
- <sup>6</sup>(b) is aged 18 or over or, in the case of a payment or part of a payment made in accordance with section 26A of the Children (Scotland) Act 1995, aged 16 or over, and◀
- (c) continues to live with the claimant.◀

<sup>7</sup>**29.**—(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 15 or 16 of Schedule 3 (housing costs in respect of 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 Schedule 3 (housing costs);
- (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 his home.

(2) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 42(4)(a)(ii) (notional income).

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(a) 1989 c. 41. Section 23B and 23C were inserted by section 2(1) and (4) of the Children (Leaving Care) Act 2000 (c. 35). Section 24A was substituted by section 4(1) of the Children (Leaving Care) Act 2000.

(b) 1968 c. 49.

(c) 1995 c. 36.

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**30.**—(1) Except where paragraph 29<sup>1</sup> or 30ZA<sup>6</sup> 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 3 (housing costs);
- (b) any interest payment or charge which qualifies in accordance with paragraphs 15 to 17 of Schedule 3 to the extent that the payment or charge is not met;
- (c) any payment due on a loan which qualifies under paragraph 15 or 16 of Schedule 3 attributable to the payment of capital;
- (d) any amount due by way of premiums on—
  - (i) <sup>2</sup>an insurance policy taken out to insure against the risk of being unable to make the payments referred to in (a) to (c) above;<sup>4</sup> 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 his home.
- (e) his rent in respect of the dwelling occupied by him as his home but only to the extent that it is not met by housing benefit; or his accommodation charge but only to the extent that the actual charge <sup>3</sup>exceeds<sup>5</sup> the amount payable by a local authority in accordance with Part III of the National Assistance Act 1948<sup>4</sup> or Part 1 of the Care Act 2014 (care and support)<sup>5</sup> or Part 4 of the Social Services and Well-being (Wales) Act 2014 (meeting needs) other than any direct payment made in accordance with regulations made under section 50 or 52 of that Act.<sup>4</sup>

(2) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 42(4)(a)(ii) (notional income).<sup>4</sup>

<sup>6</sup>**30ZA.**—(1) Subject to sub-paragraph (2), any payment received under an insurance policy, other than an insurance policy referred to in paragraph 29, 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 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part III of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) shall 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.<sup>4</sup>

<sup>1</sup>Words inserted in para. 30 by reg. 4 of S.I. 1998/1173 as from 1.6.98 or from the first day of the first benefit week.

<sup>2</sup>Words substituted in para. 30(1)(d)(i) by reg. 6 of S.I. 1995/2927 as from 12.12.95.

<sup>3</sup>Words in para. 30(1)(e) substituted by reg. 2(1) of, & para. 19(e) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>4</sup>Words inserted in Sch. 9 para. 30(1)(e) by para. 5(3)(b) of the Sch. to S.I. 2015/643 as from 1.4.15.

<sup>5</sup>Words inserted in Sch. 9 para. 30(1)(e) by art. 2(5)(d) of S.I. 2017/901 as from 3.11.17.

<sup>6</sup>Para. 30ZA inserted by reg. 4 of S.I. 1998/1173 as from 1.6.98 or from the first day of the first benefit week.



<sup>1</sup>**30A.**—(1) Subject to sub-paragraphs (2) and (3), in the case of a claimant<sup>2</sup> residing in a care home, an Abbeyfield Home or an independent hospital◀, any payment,<sup>3</sup> except a charitable or voluntary payment disregarded under paragraph 15◀<sup>4</sup> made to the claimant which is intended to be used and is used to meet the cost of maintaining the claimant in that home<sup>2</sup> or hospital◀.

(2) This paragraph shall not apply to a claimant for whom accommodation in a<sup>2</sup> care home, an Abbeyfield Home or an independent hospital◀ is provided by—

- <sup>5</sup>(a) a local authority under section 26 of the National Assistance Act 1948(a);<sup>6</sup> or
- (b) a person other than a local authority under arrangements made with the person by a local authority in the exercise of the local authority's functions under section 18 or 19 of the Care Act 2014 (duty and power to meet needs for care and support)◀<sup>7</sup> or under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult)◀

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

- <sup>7</sup>(a) the claimant's applicable amount; and◀
- (b) the weekly charge for the accommodation◀

<sup>8</sup>**31.** Any social fund payment made pursuant to<sup>9</sup> Part 8 of the Contributions and Benefits Act◀.◀

<sup>10</sup>**31A.** Any local welfare provision.◀

**32.** Any payment of income which under regulation 48 (income treated as capital) is to be treated as capital.

**33.** Any payment under<sup>9</sup> Part 10 of the Contributions and Benefits Act◀ (pensioner's Christmas bonus).

**34.** In the case of a person to whom section 23 of the Act (trade disputes) applies and for so long as it applies, any payment up to the amount of the relevant sum within the meaning of subsection 6 of that section made by a trade union; but, notwithstanding regulation 23 (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 his partner except where, and to the extent that, the amount to be disregarded under this paragraph is less than the relevant sum.

(a) 1948 c. 29; section 21 was amended by the Local Government Act 1972 (c. 70), Schedule 23, paragraphs 1 and 2 and Schedule 30; the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 44 and Schedule 5; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule; the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 5; the Health Services Act 1980 (c. 53), Schedule 1, Part I, paragraph 5; and the National Health Service and Community Care Act 1990 (c. 19), section 42(1), Schedule 9, paragraph 5(1) and (2) and Schedule 10. Section 22 was amended by the Social Work (Scotland) Act 1968 (c. 49), section 87(4) and Schedule 9, Part I; the Supplementary Benefits Act 1976 (c. 71), Schedule 7, paragraph 3; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule; the Social Security Act 1980 (c. 30), section 20, Schedule 4, paragraph 2(1) and Schedule 5, Part II; the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 20(1)(a), and the National Health Service and Community Care Act 1990, section 44, Schedule 10. Section 24 was amended by the National Assistance (Amendment) Act 1959 (c. 30), section 1(1); the National Health Service (Scotland) Act 1972 (c. 58), Schedule 6, paragraph 82; the Local Government Act 1972 (c. 70), Schedule 23, paragraph 2; the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 45; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule, and the National Health Service and Community Care Act 1990, Schedule 9, paragraph 5(4). Section 26 was amended by the Health Services and Public Health Act 1968 (c. 46), section 44 and Schedule 4; the Social Work (Scotland) Act 1968 (c. 49), Schedule 9, Part I and applied by section 87(3); the Local Government Act 1972 (c. 70), Schedule 23, paragraph 2; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule; the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 20(1)(b), the National Health Service and Community Care Act 1990, section 42(3) to (5), Schedule 9, paragraph 5(5), and Schedule 10, and section 1 of the Community Care (Residential Accommodation) Act 1992 (c. 49).

<sup>1</sup>Para. 30A inserted by reg. 23(6) of S.I. 1993/2119 as from 4.10.93.

<sup>2</sup>Words in para. 30A substituted & inserted by para. 12(b) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>3</sup>Words substituted in 30A(1) by reg. 2(9) of S.I. 2007/719 as from 2.4.07.

<sup>4</sup>Words omitted in para. 30A by reg. 5(10)(d) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

<sup>5</sup>Para. 30A(2) of Sch. 9 renumbered with 30A(2)(a) & 30A(2)(b) inserted by para. 5(3)(c) of the Sch. to S.I. 2015/643 as from 1.4.15.

<sup>6</sup>Words omitted in para. 30A(2) & para.

30A(3)(a) substituted by reg. 2(1) of, & para. 19(f) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

<sup>7</sup>Words inserted in sub-para. 2(b) by art. 2(5)(e) of S.I. 2017/901 as from 3.11.17.

<sup>8</sup>Para. 31 substituted by reg. 8(2) of S.I. 1992/468 as from 6.4.92.

<sup>9</sup>Words substituted in Sch. 9 paras. 31 & 33 by reg. 2(7)(h) & (i) of S.I. 2008/3157 as from 5.1.09.

<sup>10</sup>Para. 31A inserted by reg. 2(5)(a) of S.I. 2013/443 as from 4.3.13.

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**35.** 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.

**36.** The total of a claimant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under regulation 23(3) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulation 63(2)(b) and 64(1)(c) (calculation of covenant income where a contribution assessed)<sup>1</sup>, regulation 66A(2) (treatment of student loans)<sup>2</sup>, regulation 66B(3) (treatment of payments from access funds)<sup>3</sup> and <sup>4</sup>paragraph 16 shall in no case exceed <sup>4</sup>£20 per week.

**37.** Notwithstanding paragraph 36 where two or more payments of the same kind and from the same source are to be taken into account in the same benefit week, there shall be disregarded from each payment the sum which would otherwise fall to be disregarded under this Schedule; but this paragraph shall only apply in the case of a payment which it has not been practicable to treat under regulation 31(1)(b) (date on which income treated as paid) as paid on the first day of the benefit week in which it is due to be paid.

**38.** <sup>5</sup>◀

**39.**—(1) Any payment made under <sup>7</sup>, or by◀ the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (“the Trusts”), <sup>8</sup>the Fund◀<sup>9</sup>, the Eileen Trust◀<sup>7</sup>, MFET Limited◀<sup>10</sup>, the Skipton Fund, the Caxton Foundation◀<sup>11</sup>, the Scottish Infected Blood Support Scheme◀<sup>12</sup>, an approved blood scheme◀<sup>13</sup>, the London Emergencies Trust, the We Love Manchester Emergency Fund◀ or <sup>14</sup>the Independent Living <sup>15</sup>Fund (2006)◀◀.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia <sup>8</sup>or who is or was a qualifying person◀, which derives from a payment made under <sup>7</sup>or by◀ 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 he is not, or where that person has died was not, estranged or divorced <sup>16</sup>or with whom he 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 <sup>8</sup>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 <sup>16</sup>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 <sup>7</sup>or by◀ 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 <sup>8</sup>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 <sup>8</sup>or who is a qualifying person◀, which derives from a payment under any <sup>7</sup>or by◀ of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced <sup>16</sup>or with whom he 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

<sup>1</sup>Words inserted in para. 36 by reg. 5(4) of S.I. 1990/1657 as from 1.9.90.

<sup>2</sup>Words inserted in para. 36 by reg. 2(9) of S.I. 2000/1922 as from 1.8.00.

<sup>3</sup>Words substituted in para. 36 by reg. 5(10)(e) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

<sup>4</sup>Amount substituted in para. 36 by reg. 8(a) of S.I. 1996/462 as from 8.4.96.

<sup>5</sup>Para. 38 omitted by reg. 4(6) of S.I. 2005/3360 as from 10.4.06 or later subject to reg. 1(c) on page 3.4081 *ibid.*

<sup>6</sup>Para. 39 substituted by reg. 5(7)(b) of S.I. 1991/1175 as from 11.5.91.

<sup>7</sup>Words inserted in para. 39(1) to (4) by reg. 2(3)(f) & (7)(e) of S.I. 2010/641 as from 1.4.10.

<sup>8</sup>Words inserted in para. 39(1)-(4) by reg. 6(7)(b) of S.I. 1992/1101 as from 7.5.92.

<sup>9</sup>Words inserted in para. 39(1) by reg. 4(4)(b)(i) of S.I. 1993/1249 as from 14.5.93.

<sup>10</sup>Words inserted in para. 39(1) by reg. 7(5) of S.I. 2011/2425 as from 31.10.11.

<sup>11</sup>Words in para. 39(1) of Sch. 9 inserted by reg. 3(3)(e) of S.I. 2017/329 as from 3.4.17.

<sup>12</sup>Words in para. 39(1) of Sch. 9 inserted by reg. 2(3)(e) of S.I. 2017/870 as from 23.10.17.

<sup>13</sup>Words in para. 39(1) of Sch. 9 inserted by reg. 2(3)(e) of S.I. 2017/689 as from 19.6.17.

<sup>14</sup>Words substituted in para. 39(1) by reg. 2(3) and (4) of S.I. 1993/963 as from 22.4.93

<sup>15</sup>Words in para. 39(1) substituted by reg. 2(6)(f) of S.I. 2008/2767 as from 17.11.08.

<sup>16</sup>In para. 39 words inserted in sub-paras. (2)(a), (3) & (4)(a) by para. 13(8)(b) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.



(ii) where that person at the date of the payment is a child, a young person or a <sup>1</sup>full-time student◀ who has not completed his full-time education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia <sup>2</sup>or who was a qualifying person◀, which derives from a payment under <sup>3</sup>or by◀ any of the Trusts to which sub-paragraph (1) refers, where—

(a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced <sup>4</sup>or with whom he had formed a civil partnership that had not been dissolved◀, nor any child or young person who was or had been a member of his family; and

(b) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the relevant date was a child, a young person or a <sup>1</sup>full-time student◀ who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two 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.

<sup>2</sup>(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund <sup>5</sup>, the Eileen Trust <sup>3</sup>, MFET Limited◀<sup>6</sup>, the Skipton Fund <sup>7</sup>, the Caxton Foundation◀<sup>8</sup>, the Scottish Infected Blood Support Scheme◀<sup>9</sup>, an approved blood scheme◀<sup>10</sup>, the London Emergencies Trust, the We Love Manchester Emergency Fund◀ or the London Bombings Relief Charitable Fund◀◀◀

<sup>11</sup>40. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.◀

41.-42. <sup>12</sup>◀

<sup>13</sup>43. 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.

44. <sup>14</sup>◀◀

45. <sup>15</sup>◀.

<sup>12</sup>46. Any payment in consequence of a reduction of council tax under section 13 <sup>16</sup>, 13A◀ or 80 of the Local Government Finance Act 1992(a) (reduction of liability for council tax).◀

<sup>1</sup>Words substituted in para. 39(4)(b)(ii) and (5)(b)(ii) by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

<sup>2</sup>Words inserted into para. 39(5) and sub-para. (7) added by reg. 6(7)(b) of S.I. 1992/1101 as from 7.5.92.

<sup>3</sup>Words inserted in para. 39(5) & (7) by reg. 2(3)(f) & (7) of S.I. 2010/641 as from 1.4.10.

<sup>4</sup>Words inserted in para. 39(5)(a) by para. 13(8)(b)(iv) of Sch. 3 to S.I. 2005/877 as from 5.12.05.

<sup>5</sup>Words in para. 39(7) substituted by reg. 3(4)(a) of S.I. 2004/2308 as from 4.10.04.

<sup>6</sup>Words substituted in para. 39(7) by reg. 2(4) of S.I. 2005/3391 as from 12.12.05.

<sup>7</sup>Words inserted in para. 39(7) by reg. 7(6) of S.I. 2011/2425 as from 31.10.11.

<sup>8</sup>Words in para. 39(7) of Sch. 9 inserted by reg. 3(3)(e) of S.I. 2017/329 as from 3.4.17.

<sup>9</sup>Words in para. 39(7) of Sch. 9 inserted by reg. 2(3)(e) of S.I. 2017/870 as from 23.10.17.

<sup>10</sup>Words in para. 39(7) of Sch. 9 inserted by reg. 2(3)(e) of S.I. 2017/689 as from 19.6.17.

<sup>11</sup>Para. 40 inserted by reg. 25(d) of S.I. 1988/1445 as from 12.9.88.

<sup>12</sup>Paras. 41 & 42 omitted & para. 46 substituted by reg. 2(14)(c) & (d) of S.I. 2008/698 as from 14.4.08.

<sup>13</sup>Paras. 43 to 44 added to Sch. 9 by reg. 22(b) of S.I. 1988/2022 as from 12.12.88.

<sup>14</sup>Para. 44 deleted by para. 5(3) of Sch. to S.I. 1993/315 as from 1.4.93.

<sup>15</sup>Para. 45 omitted by reg. 2(12) of S.I. 2008/2767 as from 17.11.08.

<sup>16</sup>Words inserted in para. 46 by reg. 2(5)(b) of S.I. 2013/443 as from 4.3.13.

(a) 1992 c. 14.

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<sup>1</sup>Para. 47 of Sch. 9 deleted by reg. 2(7)(j) of S.I. 2008/3157 as from 5.1.09.

<sup>2</sup>Para. 48 of Sch. 9 substituted by reg. 2(7)(k) & (m) of S.I. 2008/3157 as from 5.1.09.

<sup>3</sup>Para. 50 added to Sch. 9 by reg. 10(b) of S.I. 1990/1776 as from 1.10.90.

<sup>4</sup>Words substituted in para. 50 by reg. 13(2) of Sch. to S.I. 2007/2128 as from 22.8.07.

<sup>5</sup>Words substituted in Sch. 9 para. 50 by reg. 2(7)(1) of S.I. 2008/3157 as from 5.1.09.

<sup>6</sup>Para. 51 added to Sch. 9 by reg. 8(3) of S.I. 1992/468 as from 6.4.92.

<sup>7</sup>Words omitted from para. 51 by reg. 2(3)(b) of S.I. 2004/565 as from 1.4.04.

<sup>8</sup>Paras. 52, 53 & 54 of Sch. 9 substituted by reg. 2(7)(k) & (m) of S.I. 2008/3157 as from 5.1.09.

**47.** <sup>1</sup>◀**<sup>2</sup>48.—(1)** Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(**a**) (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007(**b**) (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(**c**) (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).

**49.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988(**d**) 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).◀

**<sup>3</sup>50.** Any payment made either by the Secretary of State for <sup>4</sup>Justice◀ or by the <sup>5</sup>Scottish Ministers◀ under a scheme established to assist relatives and other persons to visit persons in custody.◀

**<sup>6</sup>51.** Any payment (other than a training allowance) made, whether by the Secretary of State or by any other person, under the Disabled Persons (Employment) Act 1944(**e**) <sup>7</sup>◀ to assist disabled persons to obtain or retain employment despite their disability.◀

**<sup>8</sup>52.** Any council tax benefit.

**53.—(1)** If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

**54.** Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and 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.◀

(a) S.I. 2003/2382.

(b) S.I. 2007/1104.

(c) S.S.I 2003/460.

(d) 1988 c. 7.

(e) 1944 c. 10.

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<sup>1</sup>55. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to <sup>2</sup>widows, widowers or surviving civil partners◀), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

56.—(1) Any payment which is—

- (a) made under any of the Dispensing Instruments to a <sup>2</sup>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
- <sup>3</sup>(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).◀

57. <sup>3</sup>◀

<sup>4</sup>58. Any payment made <sup>5</sup>◀ under section 12B of the Social Work (Scotland) Act 1968 <sup>6</sup>, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)(a)◀ <sup>7</sup>or under sections 31 to 33 of the Care Act 2014 (direct payments),◀▶<sup>8</sup> or under Regulations made under section 57 of the Health and Social Care Act 2001 (direct payments)◀▶<sup>9</sup>, or in accordance with regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)◀.◀

59.-60. <sup>10</sup>◀

<sup>4</sup>61.—(1) Any payment specified in sub-paragraph (2) to a claimant who was formerly a <sup>11</sup>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 VIII of Part V;
- <sup>12</sup>(b) any student loan as defined in Chapter VIII of Part V;
- (c) any contribution as defined in Chapter VIII of Part V which—
  - (i) is taken into account in ascertaining the amount of a student loan referred to in head (b); and
  - (ii) has been paid.◀◀

62.-63. <sup>10</sup>◀

<sup>13</sup>64.—(1) Subject to sub-paragraph (2), in the case of a person who is receiving, or who has received, assistance under <sup>14</sup>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 purpose of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

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

<sup>1</sup>Paras. 55 & 56 added by reg. 32(3) of S.I. 1994/2139 as from 3.10.94.

<sup>2</sup>Words substituted in paras. 55 & 56 by para. 13(8)(c)-(e) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>3</sup>Para. 56(1)(b) substituted & para. 57 deleted by reg. 2(7)(n) & (o) of S.I. 2008/3157 as from 5.1.09.

<sup>4</sup>Paras. 58 & 61 inserted by reg. 2(3)(b) of S.I. 1997/65 as from 7.4.97, or the first day of the benefit week on or after that date, whichever is the later.

<sup>5</sup>Words deleted in para. 58 of Sch. 9 by reg. 2(13) of S.I. 2009/583 as from 6.4.09.

<sup>6</sup>Words inserted in para. 58 by reg. 2(10) of S.I. 2010/614 as from 1.4.10.

<sup>7</sup>Words inserted in Sch. 9 para. 58 by para. 5(3)(d) of the Sch. to S.I. 2015/643 as from 1.4.15.

<sup>8</sup>Words inserted in Sch. 9, para. 58 by reg. 11(2) of S.I. 2003/762 as from 8.4.03.

<sup>9</sup>Words inserted in Sch. 9 para. 58 by art. 2(5)(f) of S.I. 2017/901 as from 3.11.17.

<sup>10</sup>Paras. 59, 60, 62, 62A & 63 deleted by reg. 2(3)(d) of S.I. 2004/565 as from 1.4.04.

<sup>11</sup>Words substituted in para. 61 by reg. 2(c) of S.I. 2001/721 as from 29.3.01.

<sup>12</sup>Heading (b) substituted & (c) inserted in para. 61 by reg. 3(8) of S.I. 1999/1935 as from 30.8.99 (or during August 1999 if reg. 1(1)(b)(i) *ibid* applies.)

<sup>13</sup>Para. 64 inserted by reg. 6(4) of S.I. 1998/1174 as from 1.6.98.

<sup>14</sup>Words substituted in para. 64(1) by reg. 4 of S.I. 2000/2910 as from 27.11.00.

(a) Inserted by S.I. 1997/65. Relevant amending instruments are S.I. 2003/762 (in relation to England), 2004/1748 (in relation to Wales) and 2009/583.

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*Paragraph 64 above shall be modified from 28.11.00 to 27.11.01 as if for the references to a person receiving, or having received, assistance under an employment programme specified in regulation 75(1)(a)(ii)(aa)(ii) of the Jobseeker's Allowance Regulations, there were substituted references to a person receiving or, as the case may be, having received assistance in pursuing self-employed earner's employment whilst participating in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations. Modified by S.I. 2000/3134 (see volume 11 page 11.5801).*

<sup>1</sup>Para. 65 deleted by reg. 2(3)(d) of S.I. 2004/565 as from 1.4.04.

<sup>2</sup>Para. 66 inserted by regs. 6(2)(b) of S.I. 1998/2117 as from 24.9.98.

<sup>3</sup>Words substituted in para. 66 by reg. 7 of S.I. 2000/681 as from 3.4.00.

<sup>4</sup>Words inserted in para. 66 by para. 5(3)(e) of the Sch. to S.I. 2015/643 as from 1.4.15.

<sup>5</sup>Words inserted in para. 66 by art. 2(5)(g) of S.I. 2017/901 as from 3.11.17.

<sup>6</sup>Words in para. 66 substituted by para. 12(c) of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

<sup>7</sup>Para. 69 inserted by reg. 6(4) of S.I. 1999/2165 as from 23.8.99.

<sup>8</sup>Words omitted in para. 69(2) by reg. 2(1) & para. 19(h) of the Sch. to, S.I. 2001/3767 as from 8.4.02.

**65.** <sup>1</sup>◀

<sup>2</sup>**66.** Any payment made with respect to a person on account of the provision of after-care under section 117 of the Mental Health Act 1983(a) or section 8 of the Mental Health (Scotland) Act 1984(b) or the provision of accommodation or welfare services to which <sup>3</sup>Part III of the National Assistance Act 1948(c) refers or to which the Social Work Scotland Act(d) refers◀, <sup>4</sup>or the provision of care and support under Part 1 of the Care Act 2014 (care and support) <sup>5</sup>, or provision of care and support in respect of an adult under Part 4 of the Social Services and Well-being (Wales) Act 2014 (meeting needs)◀,◀ which falls to be treated as notional income under paragraph (4A) of regulation 42 above (payments made in respect of a person <sup>6</sup>living in a care home, an Abbeyfield Home or an independent hospital◀)◀

*The text below modifies Sch. 9 from 28.11.00 to 27.11.01, unless revoked earlier. Modified by S.I. 2000/3134 (see volume 11 page 11.5801).*

**67.** Any child care expenses reimbursed to the claimant in respect of his participation in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations.

**68.** Any top-up payment made to a person ("the participant") pursuant to—

- (a) section 2 of the Employment and Training Act 1973 in respect of the participant's participation in the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations ("the intensive activity period"); or
- (b) a written arrangement entered into between the Secretary of State and the person who has arranged for the participant's participation in the intensive activity period and which is made in respect of the participant's participation in that period.

<sup>7</sup>**69.**—(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 which housing benefit is payable or any housing costs to the extent that they are met under regulation 17(1)(e) or 18(1)(f) (housing costs) <sup>8</sup>◀ of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of sub-paragraph (2)—

"food" does not include vitamins, mineral or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made;

"ordinary clothing and footwear" means clothing or footwear for normal daily use but does not include school uniforms or clothing or footwear used solely for sporting activities.◀

- 
- (a) 1983 c. 20.
  - (b) 1984 c. 30.
  - (c) 1948 c. 29.
  - (d) 1968 c. 49.

**Sch. 9****70.** <sup>1</sup>◀

<sup>2</sup>**71.** Where the amount of a subsistence allowance paid to a person in a benefit week exceeds the amount of income-based jobseeker's allowance that person would have received in that benefit week had it been payable to him, less 50p, that excess amount.

**72.** In the case of a claimant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the claimant, being a fee, grant, loan or otherwise.◀

<sup>3</sup>**73.**—(1) Any payment of child maintenance made or derived from a liable relative 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) In paragraph (1)—

“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—

- (a) the Child Support Act 1991(a);
- (b) the Child Support (Northern Ireland) Order 1991(b);
- (c) a court order;
- (d) a consent order;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

“liable relative” means a person listed in regulation 54 (interpretation) other than a person falling within sub-paragraph (d) of that definition.◀

<sup>4</sup>**74.** In the case of a person to whom paragraph (5) of regulation 6 (persons not treated as in remunerative work) applies, the whole of his income.◀

<sup>5</sup>**75.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Directionary Financial Assistance Regulations 2001(c).◀

<sup>6</sup> <sup>7</sup>**76.**—(1) Any payment made by a local authority, or by the <sup>8</sup>Welsh Ministers◀, to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity to live independently in his accommodation.◀

(2) For the purposes of sub-paragraph (1) “local authority” includes, in England, a county council.◀

<sup>9</sup>**76A.** Armed forces independence payment◀

**77.-78.** <sup>10</sup>◀

<sup>11</sup>**79.** Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)◀

<sup>12</sup>**80.** Any bereavement support payment under section 30 of the Pensions Act 2014 (bereavement support payment) except any such payment which is disregarded as capital under paragraph 7(1)(f) or 72 of Schedule 10.◀

<sup>1</sup>Para. 70 of Sch. 9 omitted by reg. 2(d) of S.I. 2003/1589 as from 25.10.04.

<sup>2</sup>Para. 71 & 72 added by reg. 3(3) of S.I. 2000/724 as from 3.4.00.

<sup>3</sup>Para. 73 of Sch. 9 substituted by reg. 2(17)(d) of S.I. 2009/2655. See reg. 2(6)(a) of the S.I. for the relevant commencement date.

<sup>4</sup>Para. 74 inserted by reg. 9 of S.I. 2001/488 as from 9.4.01.

<sup>5</sup>Para. 75 inserted by reg. 2(1) of S.I. 2001/2333 as from 2.7.01.

<sup>6</sup>Para. 76 inserted by reg. 2(2) of S.I. 2003/511 as from 1.4.03.

<sup>7</sup>Para. 76(1) substituted by reg. 2(4)(b) & (c) of S.I. 2003/2279 as from 1.10.03.

<sup>8</sup>Words substituted in para. 76 by reg. 2(7)(p) of S.I. 2008/3157 as from 5.1.09.

<sup>9</sup>Para. 76A inserted in Sch. 9 by para. 4(7) of Sch. to S.I. 2013/591 as from 8.4.13.

<sup>10</sup>Paras. 77 & 78 deleted by reg. 2(3)(d) of S.I. 2004/565 as from 1.4.04.

<sup>11</sup>Para. 79 inserted in Sch. 9 by art. 3(2) of S.I. 2014/2103 as from 1.9.14.

<sup>12</sup>Para. 80 inserted in Sch. 9 by art. 9(3) of S.I. 2017/422 as from 6.4.17.

(a) 1991 c. 48.

(b) S.I. 1991/2628 (N.I. 23).

(c) S.I. 2001/1167.

## SCHEDULE 10

Regulation 46(2)

## CAPITAL TO BE DISREGARDED

1. The dwelling occupied as the home but, notwithstanding regulation 23 (calculation of income and capital of members of claimant's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

<sup>1</sup>Para. 1A inserted in Sch. 10 by reg. 4(11) of S.I. 2011/1707 as from 5.8.11.

<sup>2</sup>Words in para. 1A of Sch. 10 substituted by reg. 13(b) of S.I. 2013/276 as from 6.45 pm on 12.2.13.

<sup>3</sup>Words inserted in para. 2 and 4(a) by reg. 26 of S.I. 1988/1445 as from 12.9.88.

<sup>1</sup>1A. Any payment in respect of any travel or other expenses incurred, or to be incurred, by the claimant in respect of that claimant's participation in <sup>2</sup>a scheme prescribed in regulation 3 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013<sup>1</sup> or the Mandatory Work Activity Scheme, but only for 52 weeks beginning with the date of receipt of the payment.<sup>2</sup>

2. Any premises acquired for occupation by the claimant which he intends to occupy <sup>3</sup>as his home<sup>4</sup> 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.

3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the claimant as his home which is to be used for the purchase of other premises 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.

4. Any premises occupied in whole or in part by—

- (a) a partner or relative of <sup>4</sup>a single claimant or any member of<sup>5</sup> the family <sup>3</sup>as his home<sup>4</sup> where that person <sup>5</sup>has attained the qualifying age for state pension credit<sup>6</sup> or is incapacitated;
- (b) the former partner of a claimant <sup>6</sup>as his home; but this provision shall not apply where the former partner is a person from whom the claimant is estranged or divorced <sup>7</sup>or with whom he formed a civil partnership that has been dissolved<sup>8</sup>.

<sup>4</sup>Words substituted in para. 4(a) by reg. 11(a) of S.I. 1990/1776 as from 1.10.90.

<sup>5</sup>Words substituted in para. 4(a) by reg. 4(2) of S.I. 2009/1488 as from 6.4.10.

<sup>6</sup>Words deleted from para. 4(b) by reg. 3(a) of S.I. 1988/910 as from 30.5.88.

<sup>7</sup>Words inserted in para. 4(b) by para. 13(9)(a) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>8</sup>Para. 5 substituted by reg. 6(10)(a) of S.I. 1995/2303 as from 2.10.95.

<sup>9</sup>Former para. 6 redesignated 6(1) and sub-para. 2 added to para. 6 by reg. 11 of S.I. 1990/1776 as from 1.10.90.

<sup>8</sup>5. Any future interest in property of any kind, other than land or premises in respect of which the claimant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.<sup>9</sup>

6. <sup>9</sup>—(1)<sup>10</sup> The assets of any business owned in whole or in part by the claimant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

<sup>9</sup>(2) The assets of any business owned in whole or in part by the claimant where—

- (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
- (b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged, or re-engaged, in that business;

for a period of 26 weeks from the date on which the claim for income support is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.<sup>11</sup>

<sup>10</sup>(3) In the case of a person who is receiving assistance under <sup>11</sup>the self-employment route<sup>12</sup>, 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.<sup>13</sup>

<sup>10</sup>Sub-paras. (3) and (4) inserted by reg. 7(7) of S.I. 1998/1174 as from 1.6.98.

<sup>11</sup>Words substituted in para. 6(3) by reg. 4 of S.I. 2000/2910 as from 27.11.00.

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7. <sup>1</sup>—(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 6, 8 <sup>1</sup> or 9 of Schedule 9 (other income to be disregarded);
- <sup>2</sup>(b) an income-related benefit <sup>3</sup>an employment and support allowance or an income-based jobseeker's allowance, child tax credit or working tax credit under Part I of the Tax Credits Act 2002(a);
- (c) <sup>4</sup>
- <sup>5</sup>(d) any discretionary housing payment paid to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001<sup>6</sup>;
- (e) universal credit
- <sup>7</sup>(f) bereavement support payment under section 30 of the Pensions Act 2014,

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

<sup>1</sup>(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 in 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(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(b), and
- (b) received by the claimant in full on or after 14th October 2001,

sub-paragraph (1) shall 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 income support, for the remainder of that award if that is a longer period.

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

- (a) the award <sup>6</sup>of any of income support <sup>3</sup>, an income-related employment and support allowance<sup>6</sup>, an income-based jobseeker's allowance or universal credit 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 <sup>6</sup>any of income support <sup>3</sup>, an income-related employment and support allowance<sup>6</sup>, an income-based jobseeker's allowance or universal credit 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, or
  - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his 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.<sup>6</sup>, or
  - (iv) in a case where universal credit is awarded to the claimant and another person as joint claimants, either the claimant or the other person, or both of them, received the relevant sum.

*The following regulation Schedule 10, 7(3) continues to be reproduced as it is maintained in force in certain circumstances. See Explanatory Note of S.I. 2013/630 for when to apply.*

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

- (a) the award either of income support <sup>3</sup>, an income-related employment and support allowance or of an income-based jobseeker's allowance in which the relevant sum

(a) 2002 c. 21.

(b) S.I. 1999/991; relevant amending instruments are S.I. 2000/897 and 2000/1596. See also articles 8(5) and 9(5) of S.I. 2002/1397.

<sup>1</sup>Para. 7 renumbered as 7(1), words in 7(1)(a) substituted & 7(2) & (3) inserted by reg. 2(b) of S.I. 2002/2380 as from 14.10.02.

<sup>2</sup>Para. 7(1)(b) substituted by reg. 2(15)(a) of S.I. 2008/698 as from 14.4.08.

<sup>3</sup>Words inserted in para. 7(1)(b) & sub-para. (3)(a) & (b) by reg. 2(15)(a) & (b) of S.I. 2008/1554.

<sup>4</sup>Para. 7(c) omitted by reg. 3(6) of S.I. 2005/574 as from 4.4.05.

<sup>5</sup>Para. 7(d) inserted by reg. 2(2) of S.I. 2001/2333 as from 2.7.01.

<sup>6</sup>Paras. 7(1)(e) & (3)(b)(iv) inserted & words in (3) & (3)(a) & (b) substituted by reg. 28(9) of S.I. 2013/630 as from 29.4.13.

<sup>7</sup>Para. 7(f) inserted by art. 9(4)(a) of S.I. 2017/422 as from 6.4.17.

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<sup>1</sup>Words inserted in para. (3)(b) by reg. 2(15)(b) of S.I. 2008/1554.

- (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 income support <sup>1</sup>, an income-related employment and support allowance ◀ or of an income-based jobseeker's 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, or
- (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his 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. ◀

**8. 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.

**9. Any sum**

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985(a) or section 338(1) of the Housing (Scotland) Act 1987(b) 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.

**10.** Any personal possessions except those which had or have been acquired by the claimant with the intention of reducing his capital in order to secure entitlement to <sup>2</sup>◀ income support or to increase the amount of that benefit.

<sup>2</sup>Words in para. 10 omitted by reg. 2(15)(b) of S.I. 2008/698 as from 14.4.08.

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

<sup>3</sup>Para. 12 substituted by reg. 11(c) of S.I. 1990/1776 as from 1.10.90.

<sup>4</sup>Words inserted in para. 12 and para. 12A added by reg. 5(11)(a) & (b) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

<sup>3</sup>**12.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant <sup>4</sup>or the claimant's partner ◀, the value of the trust fund and the value of the right to receive any payment under that trust. ◀

<sup>4</sup>**12A.**—(1) 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) But 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 consequence of that personal injury;
- (b) does not apply to any subsequent payment made to him 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.

(a) 1985 c. 69.

(b) 1987 c. 26.



(3) For the purposes 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.

(4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).◀

**13.** The value of the right to receive any income under a life interest or from a liferent.

**14.** The value of the right to receive any income which is disregarded under paragraph 11 of Schedule 8 or paragraph 23 of Schedule 9 (earnings or other income to be disregarded).

**15.** The surrender value of any policy of life insurance.

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

<sup>1</sup>**17**—(1) Any payment made by a local authority in accordance with—

- (a) section 17, 23B, 23C or 24A of the Children Act 1989,
- (b) section 12 of the Social Work (Scotland) Act 1968, <sup>2</sup>◀
- (c) section <sup>3</sup>26A,◀ 29 or 30 of the Children (Scotland) Act <sup>2</sup>1995, or
- (d) the following sections of the Social Services and Well-being (Wales) Act 2014—
  - (aa) section 37 or 38, but excluding any direct payment made in accordance with regulations made under section 51 of that Act, or
  - (bb) section 109, 110, 114 or 115.◀

(2) Any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 <sup>3</sup>or section 26A or 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote Welfare of Children, duty to provide continuing care and provision of advice and assistance for certain young persons)◀ a person ("A") which A passes on to the claimant.

(3) Sub-paragraphs (1) and (2) are subject to the following provisions.

(4) Neither of those sub-paragraphs applies where the claimant is a person—

- (a) to whom section 126 of the Contributions and Benefits Act (trade disputes) applies, or
- (b) in respect of whom section 124(1) of the Contributions and Benefits Act (conditions of entitlement to income support) has effect as modified by section 127 of that Act (effect of return to work).

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

- (a) was formerly in the claimant's care, and
- <sup>3</sup>b) is aged 18 or over or, in the case of a payment or part of a payment made in accordance with section 26A of the Children (Scotland) Act 1995, aged 16 or over, and
- (c) continues to live with the claimant.◀

<sup>4</sup>**18.** Any social fund payment made pursuant to <sup>5</sup>Part 8 of the Contributions and Benefits Act◀.◀

<sup>6</sup>**18A.** Any local welfare provision.◀

**19.** Any refund of tax which falls to be deducted under <sup>5</sup>section 369 of the Income and Corporation Taxes Act 1988(a) (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.

**20.** Any capital which under <sup>7</sup>regulation 41 <sup>8</sup>◀ or 66A (capital treated as income, <sup>8</sup>◀ or treatment of student loans)◀ is to be treated as income.

*Para. 20 is reproduced below as it was before the amdt. by S.I. 2003/455 was implemented. See reg. 1 of that S.I. at page 6.7203 for details of when to apply this version.*

<sup>1</sup>Para. 17 substituted by reg. 2(15)(c) of S.I. 2008/698 on or after 7.4.08, subject to reg. 1(2) *ibid*.

<sup>2</sup>Word omitted & substituted in Sch. 10 para. 17(1) by art. 2(6)(a) of S.I. 2017/901 as from 3.11.17.

<sup>3</sup>Word in para. 17(1)(c) inserted, words in sub-paras. (2) & (5)(b)(c) substituted by art. 2(3)(a)-(c) of S.I. 2016/732 as from 5.8.16.

<sup>4</sup>Para. 18 of Sch. 10 substituted by reg. 9(2) of S.I. 1992/468 as from 6.4.92.

<sup>5</sup>Words substituted in Sch. 10 paras. 18 & 19 by reg. 2(8)(a) & (b) of S.I. 2008/3157 as from 5.1.09.

<sup>6</sup>Para. 18A inserted by reg. 2(6)(a) of S.I. 2013/443 as from 4.3.13.

<sup>7</sup>Words substituted in para. 20 by reg. 5(9) of S.I. 1990/1549 as from 1.9.90.

<sup>8</sup>Words omitted in para. 20 by para. 24(b) of Sch. 1 to 2003/455 as from 6.4.04.

(a) 1988 c. 1.

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<sup>1</sup>Words substituted in para. 20 by reg. 5(9) of S.I. 1990/1549 as from 1.9.90.

20. Any capital which under <sup>1</sup>regulation 41, 44(1) or 66A (capital treated as income, modifications in respect of children and young persons or treatment of student loans)◀ is to be treated as income.

**21.** 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.

<sup>2</sup>Paras. 22, 23 and 24 added by reg. 36(b) of S.I. 1988/663 as from 11.4.88.

<sup>3</sup>Para. 22 substituted by reg. 5(8)(a) of S.I. 1991/1175 as from 11.5.91.

<sup>4</sup>Words inserted in para. 22(1)-(2) by reg. 2(3) (g) & (7)(f) of S.I. 2010/641 as from 1.4.10.

<sup>5</sup>Words inserted in para. 22(1)-(2) by reg. 6(8)(a) of S.I. 1992/1101 as from 7.5.92.

<sup>6</sup>Words inserted in paras. 22(1) by reg. 4(5)(a) of S.I. 1993/1249 as from 14.5.93.

<sup>7</sup>Words substituted in para. 22(1) by reg. 3 of S.I. 2004/1141 as from 12.5.04.

<sup>8</sup>Words in para. 22(1) substituted by reg. 2(6)(g) of S.I. 2008/2767 as from 17.11.08.

<sup>9</sup>Words inserted in para. 22(1) by reg. 7(6) of S.I. 2011/2425 as from 31.10.11.

<sup>10</sup>Words in para. 22(1) of Sch. 10 inserted by reg. 3(3)(f) of S.I. 2017/329 as from 3.4.17.

<sup>11</sup>Words in para. 22(1) of Sch. 10 inserted by reg. 2(3)(f) of S.I. 2017/870 as from 23.10.17.

<sup>12</sup>Words in para. 22(1) of Sch. 10 inserted by reg. 2(3)(f) of S.I. 2017/689 as from 19.6.17.

<sup>13</sup>In para. 22, words inserted in sub-paras. (2)(a) & (3) by para. 13(9)(a)(b) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>14</sup>Words inserted in para. 22(3)-(4) by reg. 6(8)(a) of S.I. 1992/1101 as from 7.5.92.

<sup>15</sup>Words in para. 22(3) to (5) inserted by reg. 2(7)(f) of S.I. 2010/641 as from 1.4.10.

<sup>16</sup>Words inserted in sub-para. (4)(a) by para. 13(9)(b) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>17</sup>Words substituted in para. 22(4)(b)(ii) by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

<sup>2</sup> **22.**—(1) Any payment made under <sup>4</sup>or by◀ the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (“the Trusts”), <sup>5</sup>the Fund◀<sup>6</sup>, the Eileen Trust◀<sup>4</sup>, MFET Limited◀<sup>7</sup>, the Independent Living <sup>8</sup>Fund (2006)◀, the Skipton Fund◀<sup>9</sup>, the Caxton Foundation◀<sup>10</sup>, the Scottish Infected Blood Support Scheme◀<sup>11</sup>, an approved blood scheme◀<sup>12</sup>, the London Emergencies Trust, the We Love Manchester Emergency 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 <sup>4</sup>or who is or was a qualifying person◀, which derives from a payment made under <sup>4</sup>or by◀ 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 he is not, or where that person has died was not, estranged or divorced <sup>13</sup>or with whom he 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 <sup>14</sup>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 <sup>13</sup>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 <sup>15</sup>or by◀ 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 <sup>14</sup>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 <sup>14</sup>or who is a qualifying person◀, which derives from a payment under <sup>15</sup>or by◀ any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced, <sup>16</sup>or with whom he 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 <sup>17</sup>full-time student◀ who has not completed his full-time education and has no parent or step-parent, to his guardian,

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

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(5) Any payment out of the estate of a person who suffered from haemophilia <sup>1</sup>or who was a qualifying person◀, which derives from a payment under <sup>2</sup>or by◀ any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced, <sup>3</sup>or with whom he has formed a civil partnership that has not been dissolved◀ nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the relevant date was a child, a young person or a <sup>4</sup>full-time student◀ who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two 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.

<sup>1</sup>(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund <sup>5</sup>, the Eileen Trust <sup>6</sup>, MFET Limited◀<sup>7</sup>, the Skipton Fund <sup>8</sup>, the Caxton Foundation◀<sup>9</sup>, the Scottish Infected Blood Support Scheme◀<sup>10</sup>, an approved blood scheme◀<sup>11</sup>, the London Emergencies Trust, the We Love Manchester Emergency Fund◀ or the London Bombings Relief Charitable Fund◀◀◀

**22A.** <sup>7</sup>◀

**23.** The value of the right to receive an occupational <sup>12</sup>or personal◀ pension.

<sup>13</sup>**23A.** The value of any funds held under a personal pension scheme <sup>14</sup>◀◀

**24.** The value of the right to receive any rent <sup>13</sup>except where the claimant has a reversionary interest in the property in respect of which rent is due.◀◀

<sup>15</sup>**25.** Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from <sup>16</sup>, or dissolution of his civil partnership with,◀ his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling <sup>17</sup>or, where that dwelling is occupied as the home by the former partner who is a lone parent, for as long as it is occupied◀.

<sup>18</sup>**26.** Any premises where the claimant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

<sup>19</sup>**27.** Any premises which the claimant intends to occupy as his home, and in respect of which he 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 he first sought such advice or first commenced such proceedings whichever is earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.◀

**28.** Any premises which the claimant intends to occupy as his 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.◀

<sup>19</sup>**29.** Any payment in kind made by a charity <sup>2</sup>or under <sup>3</sup>or by◀ the Macfarlane

<sup>1</sup>Words inserted in para. 22(5) and sub-para. (7) added, by reg. 6(8)(a) of S.I. 1992/1101 as from 7.5.92.

<sup>2</sup>Words in paras. 22(3) to (5) inserted by reg. 2(7)(f) of S.I. 2010/641 as from 1.4.10.

<sup>3</sup>Words inserted in sub-paras. (4)(a) & (5)(a) of para. 5 by para. 13(9)(b) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>4</sup>Words substituted in para. 22(4)(b)(ii) and (5)(b)(ii) by reg. 5(5) of S.I. 2000/1981 as from 31.7.00.

<sup>5</sup>Words substituted in para. 22(7) by reg. 3 of S.I. 2004/1141 as from 12.5.04.

<sup>6</sup>Words inserted in paras. 22(7) & (29) by reg. 2(3)(g) & (7)(f) of S.I. 2010/641 as from 1.4.10.

<sup>7</sup>Words substituted in paras. 22(7) & 22A omitted by reg. 2(5) of S.I. 2005/3391 as from 12.12.05.

<sup>8</sup>Words inserted in paras. 21(7) & 29 by reg. 7(5) & (6) of S.I. 2011/2425 as from 31.10.11.

<sup>9</sup>Words in para. 22(7) of Sch. 10 inserted by reg. 3(3)(f) of S.I. 2017/329 as from 3.4.17.

<sup>10</sup>Words in para. 22(7) inserted by reg. 2(3)(f) of S.I. 2017/870 as from 23.10.17.

<sup>11</sup>Words in para. 22(7) inserted by reg. 2(3)(f) of S.I. 2017/689 as from 19.6.17.

<sup>12</sup>Words inserted in para. 23 by reg. 21 of S.I. 1991/1559 as from 7.10.91.

<sup>13</sup>Para. 23A, & words in para. 24, inserted by reg. 6(10) of S.I. 1995/2303 as from 2.10.95.

<sup>14</sup>Words omitted in para. 23A by reg. 2(8) of S.I. 2007/1749 as from 16.7.07.

<sup>15</sup>Para. 25 added by reg. 3(b) of S.I. 1988/910 as from 30.5.88.

<sup>16</sup>Words inserted in para. 25 by para. 13(a)(c) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>17</sup>Words inserted in para. 25 by reg. 2(3) of S.I. 2003/511 as from 1.4.03.

<sup>18</sup>Paras. 26 to 28 added by reg. 3(b) of S.I. 1988/910 as from 30.5.88.

<sup>19</sup>Para. 27 substituted by reg. 23(a) of S.I. 1988/2022 as from 12.12.88.

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<sup>1</sup>Paras. 29 to 31 added by reg. 26(c) of S.I. 1988/1445 as from 12.9.88.

<sup>2</sup>Words added to para. 29 by reg. 3(4) of S.I. 1990/127 as from 31.1.90.

<sup>3</sup>Words inserted in paras. 22(7) & (29) by reg. 2(3)(g) & (7)(f) of S.I. 2010/641 as from 1.4.10.

<sup>4</sup>Words substituted in para. 29 by reg. 6(8)(b) of S.I. 1992/1101 as from 7.5.92.

<sup>5</sup>Words substituted in para. 29 by reg. 2(3) of S.I. 2007/2538 as from 1.10.07.

<sup>6</sup>Words inserted in para. 29 by reg. 2(11) of S.I. 2010/641 as from 1.4.10.

<sup>7</sup>Words inserted in paras. 21(7) & 29 by reg. 7(5) & (6) of S.I. 2011/2425 as from 31.10.11.

<sup>8</sup>Words in para. 29 of Sch. 10 inserted by reg. 3(3)(f) of S.I. 2017/329 as from 3.4.17.

<sup>9</sup>Words in para. 29 of Sch. 10 inserted by reg. 2(3)(f) of S.I. 2017/870 as from 23.10.17.

<sup>10</sup>Words in para. 29 omitted by reg. 2(13) of S.I. 2008/2767 as from 17.11.08.

<sup>11</sup>Para. 30 substituted by reg. 2(4)(a) of S.I. 2004/565 as from 1.4.04.

<sup>12</sup>Paras. 32 & 33 omitted by reg. 2(15)(d) of S.I. 2008/698 as from 14.4.08.

<sup>13</sup>Paras. 34 to 35 added to Sch. 10 by reg. 23(b) of S.I. 1988/2022 as from 12.12.88.

<sup>14</sup>Para. 35 deleted by para. 6 of Sch. to S.I. 1993/315 as from 1.4.93.

<sup>15</sup>Paras. 36 & 37 added to Sch. 10 by reg. 23(a) of S.I. 1990/547 as from 1.4.90.

<sup>16</sup>Words in para. 36 omitted by reg. 2(15)(e) of S.I. 2008/698 as from 14.4.08.

<sup>17</sup>Words inserted in para. 36 by para. 6 of Sch. to S.I. 1993/315 as from 1.4.93.

<sup>18</sup>Words in para. 36 inserted by reg. 2(6)(b) of S.I. 2013/443 as from 4.3.13.

(Special Payments) Trust<sup>4</sup>, the Macfarlane (Special Payments) (No. 2) Trust<sup>5</sup> the Fund<sup>6</sup>, MFET Limited<sup>7</sup>, the Skipton Fund, the Caxton Foundation<sup>8</sup>, the Scottish Infected Blood Support Scheme<sup>9</sup>, an approved blood scheme<sup>10</sup> or the Independent Living Fund (2006).<sup>11</sup>

**30.** <sup>11</sup>Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.<sup>12</sup>

**31.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.<sup>13</sup>

**32.-33.** <sup>12</sup>

<sup>13</sup>**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.

**35.** <sup>14</sup>

<sup>15</sup>**36.** Any payment in consequence of a reduction of <sup>16</sup><sup>17</sup>council tax under section 13<sup>18</sup>, 13A or, as the case may be, section 80 of the Local Government Finance Act 1992(a) (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

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

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

(a) 1992 c. 14.

(b) 1988 c. 50.

(c) 1988 c. 43.

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

<sup>1</sup>38.—(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

<sup>1</sup>Paras. 38, 39 & 41 of Sch. 10 substituted by reg. 2(8)(c) & (e) of S.I. 2008/3157 as from 5.1.09.

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

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers 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 receipt of the payment or repayment.

**39.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 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.◀

<sup>2</sup>39A. Any payment made under Part 8A of the Contributions and Benefits Act (entitlement to health in pregnancy grant)(a).◀

<sup>2</sup>Para. 39A inserted in Sch. 10 by reg. 2(14)(a) of S.I. 2009/583. See reg. 1 of S.I. 2009/583 for the coming into force date.

<sup>3</sup>40. Any payment made either by the Secretary of State for <sup>4</sup>Justice◀ or by the <sup>5</sup>Scottish Ministers◀ under a scheme established 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.◀

<sup>3</sup>Para. 40 added by reg. 11(d) of S.I. 1990/1776 as from 1.10.90.

<sup>1</sup>41. Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.◀

<sup>4</sup>Words substituted in para. 40 of Sch. 10 by reg. 13(3) of S.I. 2007/2128 as from 22.8.07.

<sup>6</sup>42. Any payment (other than a training allowance <sup>7</sup>◀) made, whether by the Secretary of State or by any other person, under the Disabled Persons (Employment) Act 1944(b) <sup>7</sup>◀ to assist disabled persons to obtain or retain employment despite their disability.

<sup>5</sup>Words substituted in Sch. 10 para. 40 by reg. 2(8)(d) of S.I. 2008/3157 as from 5.1.09.

**43.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958(c) <sup>8</sup>or under Part 4 of the Social Services and Well-being (Wales) Act 2014◀ to homeworkers assisted under the Blind Homeworkers' Scheme.◀

<sup>6</sup>Paras. 42 and 43 added by reg. 9(3) of S.I. 1992/468 as from 6.4.92.

<sup>9</sup>44.—(1) Any sum of capital to which sub-paragraph (2) applies and—

- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
- (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

<sup>7</sup>Words deleted in para. 42 by reg. 2(4)(b) of S.I. 2004/565 as from 1.4.04.

<sup>8</sup>Words inserted in Sch. 10 para. 43 by art. 2(6)(b) of S.I. 2017/901 as from 3.11.17.

<sup>9</sup>Para. 44 substituted by reg. 5(1)(c) of S.I. 2006/2378. See reg. 1 of S.I. 2006/2378 for relevant effective dates.

(a) See section 140A of the Social Security Contributions and Benefits Act 1992, inserted by section 131 of the Health and Social Care Act 2008 (c. 14).

(b) 1944 c. 10.

(c) 1958 c. 33.

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of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital 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.◀

<sup>1</sup>45. Any sum of capital administered on behalf of a <sup>2</sup>◀ in accordance with an order made under <sup>3</sup>section 13 of the Children (Scotland) Act 1995(a)◀, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of the Ordinary Cause Rules, where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents <sup>3</sup>where the person concerned is under the age of 18◀◀

<sup>4</sup>46. Any payment to the claimant as holder of the Victoria Cross or George Cross.◀

47. – 49. <sup>5</sup>◀

50. – 51. <sup>6</sup>◀

<sup>7</sup>52. In the case of a person who is receiving, or who has received, assistance under <sup>8</sup>the self-employment route◀, any sum of capital 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.◀

*Paragraph 52 above shall be modified from 28.11.00 to 27.11.01 as if for the references to a person receiving, or having received, assistance under an employment programme specified in regulation 75(1)(a)(ii)(aa)(ii) of the Jobseeker's Allowance Regulations, there were substituted references to a person receiving or, as the case may be, having received, assistance in pursuing self-employed earner's employment whilst participating in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations. Modified by S.I. 2000/3134 (see volume 11 page 11.5801).*

53. <sup>6</sup>◀

*The text below modifies Schedule 10 from 28.11.00 to 27.11.01 unless*

<sup>1</sup>Para. 45 added by reg. 33(b) of S.I. 1994/2139 as from 3.10.94.

<sup>2</sup>Words deleted from para. 45 by reg. 7(10)(e) of S.I. 1997/2197 as from 6.10.97.

<sup>3</sup>Words substituted in para. 45 by reg. 2(5)(b) of S.I. 2003/2279 as from 1.10.03.

<sup>4</sup>Para. 46 added by reg. 11(1) of S.I. 1996/462 as from 8.4.96.

<sup>5</sup>Sch. 10 paras. 47-49 deleted by reg. 2(8)(f) of S.I. 2008/3157 as from 5.1.09.

<sup>6</sup>Paras. 50-51 and 53 deleted by reg. 2(4)(c) of S.I. 2004/565 as from 1.4.04.

<sup>7</sup>Para. 52 added by reg. 17(11) of S.I. 1998/1174 as from 1.6.98.

<sup>8</sup>Words substituted in para. 52 by reg. 4 of S.I. 2000/2910 as from 27.11.00.

*revoked earlier, by adding paras. 54 & 55. Modified by S.I. 2000/3134 (see volume 11 page 11.5801).*

**54.** Any child care expenses reimbursed to the claimant in respect of his participation in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations but only for a period of 52 weeks from the date of receipt of the payment.

*The text below modifies Sch. 3 from 28.11.00 to 27.11.01 unless revoked earlier by adding para. 55. Modified by S.I. 2000/3134 (see volume 11 page 11.5801).*

**55.** Any top-up payment made to a person (“the participant”) pursuant to—

- (a) section 2 of the Employment and Training Act 1973 in respect of the participant’s participation in the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 2000 in regulation 2(1) of those Regulations (“the intensive activity period”); or
- (b) a written arrangement entered into between the Secretary of State and the person who has arranged for the participant’s participation in the intensive activity period and which is made in respect of the participant’s participation in that period,

but only for the period of 52 weeks beginning on the date of receipt of the payment.

<sup>1</sup>**56.**—(1) 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).

<sup>1</sup>Para. 56 inserted by reg. 6(5) of S.I. 1999/2165 as from 23.8.99.

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable or any housing costs to the extent that they are met under regulation 17(1)(e) or 18(1)(f) (housing costs) <sup>2</sup> of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

<sup>2</sup>Words in para. 56(2) omitted by reg. 2(1) of & para. 20 of the Sch. to, S.I. 2001/3767 as from 8.4.02.

(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;

“ordinary clothing and footwear” means clothing or footwear for normal daily use but does not include school uniforms or clothing or footwear used solely for sporting activities.◀

**57.** <sup>3</sup>◀

<sup>4</sup>◀

<sup>5</sup>**58.** In the case of a claimant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the claimant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

<sup>3</sup>Para. 57 of Sch. 10 omitted by reg. 2(d) of S.I. 2003/1589 as from 25.10.04.

<sup>4</sup>Second para. 57 deleted by reg. 3(6) of S.I. 2001/859. See reg. 1 of S.I. 2001/859 for relevant effective dates.

**59.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.◀

<sup>5</sup>Paras. 58 and 59 added by reg. 3(4) of S.I. 2000/724 as from 3.4.00.

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<sup>1</sup>Para. 60 inserted by reg. 12(2)(c) of S.I. 2000/637 as from 3.4.00.

<sup>2</sup>Para. 61 added by reg. 2 of S.I. 2001/22 as from 1.2.01.

<sup>3</sup>Words inserted in para. 61(c) & (d) by para. 13(a)(d) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>4</sup>Para. 62 inserted by reg. 10 of S.I. 2001/488 as from 9.4.01.

<sup>5</sup>Para. 63 substituted by reg. 5(3) of S.I. 2004/1708 as from 1.8.04 where students course of study begins on or after that date but before 1.9.04, or 1.9.04 in any other case.

<sup>6</sup>Words substituted in Sch. 10 para. 63 by reg. 2(8)(g)(i) & (ii) of S.I. 2008/3157 as from 5.1.09.

<sup>7</sup>Words omitted and inserted in para. 63 by reg. 7(8) of S.I. 2011/2425 as from 31.10.11.

<sup>1</sup>**60.** Any payment made to a person under regulation 11 of the Social Security (Payments to Reduce Under-occupation) Regulations 2000, but only for a period of 52 weeks from the date of payment.◀

<sup>2</sup>**61.** 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 <sup>3</sup>or deceased civil partner◀; or
- (d) the claimant's partner's deceased spouse <sup>3</sup>or deceased civil partner◀,

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

<sup>4</sup>**62.** In the case of a person to whom paragraph (5) of regulation 6 (persons not treated as in remunerative work) applies, the whole of his capital.◀

<sup>5</sup>**63.**—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
  - (i) regulations made under section 518 of the Education Act 1996;
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
  - <sup>6</sup>(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; <sup>7</sup>◀◀

- (b) corresponding to such an education maintenance allowance, made pursuant to—
  - (i) section 14 or section 181 of the Education Act 2002; or
  - (ii) regulations made under section 181 of that Act <sup>7</sup>; or
- (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.◀

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- <sup>6</sup>(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,◀

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 <sup>7</sup>or other payment◀ made pursuant to any provision specified in sub-paragraph (1).◀

<sup>8</sup>Para. 64 inserted by reg. 2(1) of S.I. 2001/1118 as from 12.4.01.

<sup>8</sup>**64.** (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—

- (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 his partner) or a person who was a member of the diagnosed person's family (other than his 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 two 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 <sup>1</sup>20◀,

<sup>1</sup>Words in para. 64(2)(c)(ii)(bb) and (4)(c)(ii)(bb) substituted by reg. 2(9) of S.I. 2006/718 as from 10.4.06.

(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 his partner) or a person who was a member of the diagnosed person's family (other than his 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 two 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
    - (bb) attains the age of <sup>1</sup>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 <sup>2</sup>residing in a care home, an Abbeyfield Home or an independent hospital◀ on that date.

<sup>2</sup>Words in para. 64(5) substituted by para. 13 of Sch. 1 to S.I. 2005/2687 as from 24.10.05.

## Sch. 10

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his 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.◀

<sup>1</sup>Para. 65 inserted in Sch. 10 by reg. 2(d) of S.I. 2001/3481 as from 19.11.01.

<sup>2</sup>Words deleted in Sch. 10 para. 65 by reg. 2(8)(h) of S.I. 2008/3157 as from 5.1.09.

<sup>3</sup>In para. 65 words inserted by para. 13(a)(d) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>4</sup>Para. 66 inserted by reg. 2(3) of S.I. 2003/511 as from 11.4.03.

<sup>5</sup>Para. 66(1) substituted by reg. 2(5)(i) of S.I. 2003/2279 as from 1.10.03.

<sup>6</sup>Words substituted in Sch. 10 para. 66(1) by reg. 2(8)(i) of S.I. 2008/3157 as from 5.1.09.

<sup>7</sup>Para. 67 inserted in Sch. 10 by reg. 2(5)(d) of S.I. 2003/2279 as from 1.10.03.

<sup>8</sup>Words inserted in Sch. 10, para. 67 by para. 5(4) of the Sch. to S.I. 2015/643 as from 1.4.15.

<sup>9</sup>Words deleted in para. 67 of Sch. 10 by reg. 2(14)(b) of S.I. 2009/583 as from 6.4.09.

<sup>10</sup>Words inserted in para. 67 by reg. 2(10) of S.I. 2010/641 as from 1.4.10.

<sup>11</sup>Words inserted in Sch. 10, para. 67 by art. 2(6)(c) of S.I. 2017/901 as from 3.11.17.

<sup>12</sup>Para. 68 substituted by reg. 2(9) of S.I. 2005/2465 as from 30.12.05.

<sup>13</sup>Para. 68A inserted in sch. 10 by reg. 4(5) of S.I. 2004/2308 as from 4.10.04.

<sup>14</sup>Paras. 69 & 70 deleted by reg. 2(4)(c) of S.I. 2004/565 as from 1.4.04.

<sup>15</sup>Para. 71 inserted in Sch. 10 by art. 3(3) of S.I. 2014/2103 as from 1.9.14.

<sup>16</sup>Para. 72 inserted in Sch. 10 by art. 9(4)(b) of S.I. 2017/422 as from 6.4.17.

<sup>17</sup>Para. 73 inserted in Sch. 10 by reg. 2(5) of S.I. 2017/870 as from 23.10.17.

<sup>1</sup>**65.** The amount of a payment, other than a war pension <sup>2</sup>◀, to compensate for the fact that the claimant, the claimant’s partner, the claimant’s deceased spouse <sup>3</sup>or deceased civil partner◀ or the claimant’s partner’s deceased spouse <sup>3</sup>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.◀

<sup>4</sup> <sup>5</sup>**66.**—(1) Any payment made by a local authority or by the <sup>6</sup>Welsh Ministers◀, to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity of the claimant or his partner to live independently in his accommodation.◀

- (2) For the purposes of sub-paragraph (1) “local authority” includes, in England, a county council.◀

<sup>7</sup>**67.** Any payment made under <sup>8</sup>sections 31 to 33 of the Care Act 2014 (direct payments) or under◀ <sup>9</sup>◀ regulations made under section 57 of the Health and Social Care Act 2001(a) or under section 12B of the Social Work (Scotland) Act 1968(b) <sup>10</sup>, or under section 12A to 12D of the National Health Services Act 2006 (direct payments for health care)(c)◀◀<sup>11</sup>, or in accordance with regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments).◀◀

<sup>12</sup>**68.** Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.◀

<sup>13</sup>**68A.** Any payment made to the claimant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).◀

**69.—70.** <sup>14</sup>◀

<sup>15</sup>**71.** Any payments to a claimant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments)◀

<sup>16</sup>**72.** Any bereavement support payment in respect of the rate set out in regulation 3(2) or (5) of the Bereavement Support Payment Regulations 2017 (rate of bereavement support payment)(d), but only for a period of 52 weeks from the date of receipt of the payment.◀

<sup>17</sup>**73.** Any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled person whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.◀

(a) c. 15.

(b) c. 49.

(c) Inserted by S.I. 1997/65. Relevant amending instruments are S.I. 2003/762 (in relation to England), 2004/1748 (in relation to Wales) and 2009/583.

(d) S.I. 2017/470.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations provide for various matters concerning entitlement to, and the amount of, income support.

Part I contains general provisions affecting the citation, commencement and interpretation of the Regulations (regulations 1 to 3).

Part II prescribes the circumstances in which a person's entitlement is to continue notwithstanding his absence from Great Britain; provide for what is to be treated as remunerative work and relevant education; specifies the circumstances in which a person is not required to be available for employment, or is to be treated or not treated as in remunerative work, available for employment, or in relevant education; and also provides for a person under the age of 18 to be registered for employment (regulations 4 to 13).

Part III makes provision in respect of children and young persons and prescribes, for the purpose of determining the members of a family, the circumstances in which a person is to be treated as responsible for another or as a member of the same household (regulations 14 to 17).

Part IV provides for a claimant's applicable amount (by reference to which the amount of his income support is calculated) to consist of the following: a personal allowance for the claimant and members of his family; where applicable, a family, lone parent, pensioner or disability premium and an amount in respect of mortgage interest payments or other prescribed housing costs. It also makes special provision in the case of polygamous marriages, boarders, certain cases of disqualification from unemployment benefit, and other special cases (regulations 17 to 22).

Part V contains provisions for the calculation of income and capital. Chapters II to V make provision for income not expressly disregarded to be taken into account on a weekly basis; define earnings and prescribe the manner in which earnings and other income are to be calculated; they also prescribe the circumstances in which capital is to be treated as income and a person is to be treated as possessing income which he in fact does not possess. Chapter VI makes provision for the calculation of capital; sets the capital limit over which a person is not to be entitled to benefit at £6,000 and provides for a weekly tariff income on capital over £3,000 and under that limit at a rate of £1 for every £250. Chapters VII and VIII make special provision in relation to the calculation of payments made by liable relatives and in respect of students (regulations 23 to 69).

Part VI makes provision for persons from abroad and for persons who are treated as possessing earnings who could not otherwise qualify for income support to be entitled to income support in cases of hardship; and for determining their applicable amount and income and capital (regulations 70 to 72).

These regulations are made before the expiry of 12 months from the commencement of provisions under which they are made: they are accordingly exempt, by section 61(5) of the Social Security Act 1986, from reference to the Social Security Advisory Committee and have not been so referred.



## ANNEX 2

## Extracts from Education (Mandatory Awards) Regulations 2003, S.I. 2003/1994

*Regulations 2 to 4, 6(3) and (4), 10, 17, 18, 20 to 22, Schedule 2, and paragraphs 1 and 2 of Schedule 5 are reproduced below. The Schedule 2 and 5 extracts are in particular relevant to regulations 61 and 62(2A) and (3) and para. 12 of Sch. 1B above.*

*In these extracts, differences from the wording of the corresponding provisions in the Education (Mandatory Awards) Regulations 2002 (S.I. 2002/1330, superseded by S.I. 2003/1994 as from 1.9.03) are indicated in bold type (new or substituted text) or by a row of 3-dots (deleted text).*

[In the following Annex wherever the words “training for work” appear substitute the words “work based training for adults” except in the case of reference to the title or principal order or of the 1993 order. As per S.I. 1998/1426 from 3.7.98.]

## PART I

### GENERAL

#### Definitions

##### 2. In these Regulations—

<sup>1</sup>“the 2005 Act” means the Education Act 2005(a);◀

“academic authority” means, in relation to an institution, the governing body, or other body having the functions of a governing body and includes a person acting with the authority of that body;

“authority” means a local education authority;

“award” includes—

- (i) either a fees only award or a full award bestowed under these Regulations; and
- (ii) **any award bestowed under previous Awards Regulations in respect of a person’s attendance at a designated course the first year of which begins before 1st September 1998, or begins on or after that date if the person meets the conditions referred to in regulation 6(7);**

<sup>1</sup>“category 2 European Student” means a person who is a national of a member state of the European Community—

- (a) who has been ordinarily resident in the British Islands throughout the three year period immediately preceding the start of the relevant designated course;
- (b) who, where he is a national of the United Kingdom, has a right to be treated no less favourably than a national of another member state by virtue of having exercised a Community right of free movement; and
- (c) who, in a case where his ordinary residence referred to in sub-paragraph (a) was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the European Economic Area immediately prior to the period of ordinary residence referred to in sub-paragraph (a).◀

“Certificate in Education” includes a Teacher’s Certificate;

<sup>2</sup>“child of a Turkish worker” means a person who falls within paragraph 12 of Schedule 5A◀

“course”, “designated course”, “sandwich course” and other qualified references to courses have the meanings respectively assigned to them by regulation 4;

“degree” means a degree awarded by a university, institution of higher education in the United Kingdom or the Council for National Academic Awards;

“dependent” means wholly or mainly financially dependent;

“employment” means full-time employment or part-time employment which, in a normal week, involves a significant number of hours of work and “employed” shall be construed accordingly, and for the purposes hereof the references to employment include references to the holding of any office and to any occupation for gain;

<sup>1</sup>Defns. of “the 2005 Act” & “category 2 European student” inserted by reg. 6(2) & (3) of S.I. 2005/2083 as from 1.9.04.

<sup>2</sup>Defn. of “child of a Turkish worker” inserted by reg. 6(2) of S.I. 2007/1629 as from 16.7.07.

(a) 2005 c. 18.

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(a) as adjusted by the Protocol signed at Brussels on 17th March 1993(b);

“EEA migrant worker” has the meaning assigned to it in regulation 5;

“European Community” means the area comprised by the member states of the European Community (including the United Kingdom) as constituted from time to time;

“European Economic Area” means the European Community and subject to the conditions laid down in the EEA Agreement the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

<sup>1</sup>“European student” means a person who is a national of a member state of the European Community or the child of such a national—

- (a) who has not been ordinarily resident in the British Islands as described in regulation 13(1)(a), whose residence in the British Islands has been wholly or mainly for the purposes of receiving full-time education as described in regulation 13(1)(b) or who is not settled in the United Kingdom as described in regulation 13(1)(c); and

- (b) who is not a category 2 European student; ◀

“fees only award” means an award bestowed only in respect of fees described in Schedule 1;

“full award” means an award bestowed in respect of both fees described in Schedule 1 and a maintenance grant;

...

“independent student” has the meaning assigned to it by regulation 3;

“institution” means an educational institution in the United Kingdom providing further or higher education or both, or providing a course which qualifies for funding under <sup>1</sup>Part 3 of the 2005 Act◀;

“maintenance grant” has the meaning assigned to it by regulation 17

“Metropolitan Police District” means the areas referred to in section 76(1) of the London Government Act 1963(c) as it had effect prior to its amendment by section 323 of the Greater London Authority Act 1999(d);

<sup>2</sup>“new academic term” means any academic term beginning on or after 1 September <sup>3</sup>2007◀;

<sup>3</sup>“new payment” means a payment made under these Regulations as amended by the Education (Mandatory Awards) (Amendment) Regulations 2004, the Education (Mandatory Awards) (Amendment) (No. 2) Regulations 2004, the Education (Mandatory Awards) (Amendment) Regulations 2005, the Education (Mandatory Awards) (Amendment) Regulations 2006 and the Education (Mandatory Awards) (Amendment) Regulations 2007; ◀

<sup>3</sup>“old payment” means a payment which would have been made under these Regulations, as amended by the Education (Mandatory Awards) (Amendment) Regulations 2004, the Education (Mandatory Awards) (Amendment) (No. 2) Regulations 2004, the Education (Mandatory Awards) (Amendment) Regulations 2005 and the Education (Mandatory Awards) (Amendment) Regulations 2006, if they had not been amended by the Education (Mandatory Awards) (Amendment) Regulations 2007; ◀◀

...

“overseas institution” means an educational institution outside the United Kingdom providing further or higher education or both;

“previous Awards Regulations” means Regulations made under section 1 of the Education Act 1962 and revoked either by regulation 6 or before the coming into force of these Regulations;

“refugee” means a person who is recognized by Her Majesty’s Government as a refugee within the meaning of the United Nations Convention relating to the Status of Refugees done at Geneva on 28th July 1951(e) as extended by the

(a) Cmnd.2073.

(b) Cmnd 2183.

(c) 1963 c. 33; section 76 was amended by the Local Authorities etc. (Miscellaneous Provisions) Order 1974 (S.I. 1974/482), article 11.

(d) 1999 c. 29.

(e) Cmnd. 9171.

<sup>1</sup>Defn. of “European student” substituted & words in defn. of “institution” & “new academic term” substituted by reg. 6(4)-(8) of S.I. 2005/2083 as from 1.9.05.

<sup>2</sup>Defns. of “new academic term” inserted by reg. 4(3) of S.I. 2004/1038 as from 1.9.04.

<sup>3</sup>Words inserted in defn. of “new academic term” and defn. of “new payment” and “old payment” substituted by reg. 6(2) to (5) of S.I. 2007/1629 as from 16.7.07.

## Extracts from Education (Mandatory Awards) Regulations 2003, S.I. 2003/1994

Protocol thereto which entered into force on 4th October 1967<sup>(a)</sup> and any reference to the child of a refugee includes a reference to a person adopted in pursuance of adoption proceedings and a step-child;

“**sandwich course**” and in relation to such a course “periods of experience”, “prescribed proportion”, “**modified proportion**” and “sandwich year” have the meanings respectively assigned to them by paragraph 1 of Schedule 5;

“statutory award” means any award bestowed or grant paid by virtue of the Education Act 1962 or any comparable award, grant or other payment made in respect of attendance at a course which is paid out of moneys provided by Parliament;

“student” means a person upon whom an award has been bestowed under these Regulations or previous Awards Regulations;

<sup>1</sup>“**Switzerland Agreement**”◀ means the Agreement between the European Community and its Member States of the one part, and the Swiss Confederation, of the other, on the free movement of Persons signed at Luxembourg on 21st June 1999 and which came into force on 1st June 2002<sup>(b)</sup>;

<sup>2</sup>“Turkish worker” means a Turkish national who—

- (a) is ordinarily resident in the British Island; and
- (b) is, or has been, lawfully employed in the United Kingdom;◀

“**university**” means a university in the United Kingdom and includes a university college and a constituent college, school or hall of a university;

“year”, in relation to a course, means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according as to whether the academic year of the course in question begins in the winter, the spring, the summer or the autumn respectively; and references to the first or the final year of a designated course shall be construed accordingly.

<sup>1</sup>Defn. of “Swiss Agreement” amended to read “Switzerland Agreement” by reg. 4(2) of S.I. 2004/1038 as from 1.9.04.

<sup>2</sup>Defn. of “Turkish worker” inserted by reg. 6(6) of S.I. 2007/1629 as from 16.7.07.

**References to independent students**

3.—(1) In these Regulations “independent student” means a student who—

- (a) has attained the age of 25 years before the beginning of the year for which payments in pursuance of his award fall to be made; or
- (b) has supported himself out of his earnings for periods before the first year of his course aggregating not less than three years; or
- (c) has been married before the beginning of the year for which payments in pursuance of his award fall to be made whether or not the marriage is still subsisting; or
- (d) has no parent living; or
- (e) is irreconcilably estranged from his parents.

(2) For the purposes of paragraph (1) (b) a student shall be treated as having supported himself out of his earnings for any period or periods for which—

- (a) he was participating in arrangements for training for the unemployed under any scheme operated, sponsored or funded by any state authority or agency, national, regional or local;
- (b) the student was in receipt of benefit payable by any state authority or agency, national, regional or local, in respect of a person who is available for employment but who is unemployed;
- (c) the student was available for employment and had complied with any requirement of registration imposed by a body referred to in paragraphs (a) and (b) as a condition of entitlement for participation in arrangements for training or receipt of benefit; or
- (d) the student held a State Studentship bestowed under regulation 4 of the State Awards Regulations 1978<sup>(c)</sup> or a comparable award; or

(a) Cmnd 3906 (Out of print).

(b) Cm 4904.

(c) S.I. 1978/1096, amended by S.I. 1979/333, S.I. 1983/188, S.I.1983/920 and S.I.1987/1365, S.I. 1988/1392 and S.I. 1991/831.

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- (e) the student received any pension, allowance or other benefit paid by reason of a disability to which the student is subject, or by reason of confinement, injury or sickness, paid by any state authority or agency, national, regional or local, by an employer or any former employer, or by any other person; or
- (f) the student could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was dependent upon him.

(3) For the purposes of paragraph (1)(e) a student shall be regarded as irreconcilably estranged from his parents if, but not only if, he has not communicated with either one of them for the period of one year before the beginning of the year for which payments in pursuance of his award fall to be made.

(4) In this regulation “parent” shall have the same meaning as in Part II of Schedule 3 to these Regulations.

**References to courses**

4.—(1) In these Regulations any reference to a designated course shall be construed as a reference to a course designated by or under regulation 10 and, in relation to any person, any reference to such a course (otherwise unqualified) shall, as the context requires, be construed as a reference to a designated course which the person in question attends or has applied to attend; and, in relation to any designated course except one designated under regulation 10(1)(d), any reference to a course shall be construed as a reference to either a course of full-time study or a sandwich course.

(2) In these Regulations any reference to a first degree course, a DipHE course, an HND course, a course of initial training for teachers, a course comparable to a first degree course or an international course shall be construed in accordance with regulation 10.

(3) In these Regulations any reference to a sandwich course shall be construed as a reference to such a course within the meaning of paragraph 1 of Schedule 5.

(4) In these Regulations, any reference to a course of higher education shall be construed in accordance with section 120(1) of the Education Reform Act 1988(a).

(5) For the purposes of these Regulations a course the standard of which is not higher than a first degree course which leads to a qualification as a medical doctor, a dentist, a veterinary doctor, an architect, a landscape architect, a landscape designer, a landscape manager, a town planner or a town and country planner shall be considered to be a single course for a first degree or for an equivalent qualification notwithstanding that the course may lead to another degree or qualification being conferred before the degree or equivalent qualification, and notwithstanding that part of the course may be optional.

.....

**Revocations and transitional provisions**

6.—<sup>1</sup>(3). The payment to be made in relation to any new academic term shall be a new payment, and the payment in relation to any other academic term shall be an old payment, and a payment in relation to any year shall be calculated accordingly.◀

(4) <sup>1</sup>◀

.....

**Designated courses**

10.—(1) The following courses are hereby designated—

- (a) a first degree course, that is to say—
  - (i) a course provided by a publicly funded institution for a first degree or for the degree of Bachelor of Medicine or an equivalent degree;

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(a) 1988 c. 40.

<sup>1</sup>In reg. 6, para. (3) substituted & (4) omitted by reg. 5 of S.I. 2004/1038 as from 1.9.04.



## Extracts from Education (Mandatory Awards) Regulations 2003, S.I. 2003/1994

- (ii) a course provided by the University of Buckingham for a first degree of that university;
- (iii) an international course, that is to say a course provided by a publicly funded institution in conjunction with an overseas institution for a first degree;
- (iv) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for a first degree or for the degree of Bachelor of Medicine or an equivalent degree, which is for the time being designated for the purposes of this provision by the Secretary of State;
- (b) a Dip HE course, that is to say–
  - (i) a course provided by a publicly funded institution for the Diploma of Higher Education;
  - (ii) a course provided by a publicly funded institution for the Diploma of Higher Education or a first degree as the student may elect after the commencement of the course;
  - (iii) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for the Diploma of Higher Education which is for the time being designated for the purposes of this provision by the Secretary of State;
- (c) an HND course, that is to say–
  - (i) a course provided by a publicly funded institution for the Higher National Diploma or the Higher National Diploma of the Business & Technology Education Council;
  - (ii) a course provided by a publicly funded institution in conjunction with a private institution, or by a private institution, for the Higher National Diploma or the Higher National Diploma of the Business & Technology Education Council, which is for the time being designated for the purposes of this provision by the Secretary of State;
- (d) a course of initial training for teachers, that is to say–
  - (i) a full-time course for the initial teacher training of teachers (other than a course for the degree of Bachelor of Education) provided–
    - (aa) by a publicly funded institution; or
    - (bb) where a private institution is a training provider within the meaning of section 78 of the 2005 Act or an eligible institution within the meaning of section 86 of the 2005 Act, by a public institution in conjunction with such a private institution; or
    - (cc) by a private institution of the type referred to in (bb); ◀
  - (ii) a part-time course of teacher training, involving not less than 3 days' attendance for the purposes of study or teaching practice during each of at least 30 weeks during each year of the course, for the time being designated for the purposes of this provision by the Secretary of State;
  - (iii) any other course of teacher training, whether full-time, part-time or partly full-time and partly part-time, for the time being so designated;
- (e) a course comparable to a first degree course, that is to say–
  - (i) a course of at least three academic years' duration provided by a university or universities for a certificate, diploma, or other academic award; or
  - (ii) a course for the time being designated for the purposes of this provision by the Secretary of State.

Para. (1)(d)(i) of reg. 10 substituted by reg. 8 of S.I. 2005/2083 as from 1.9.05.

(2) In this regulation a reference to a publicly funded institution is a reference to an institution or institutions which are maintained or assisted by recurrent grants out of public funds, and a reference to a private institution is a reference to an institution or institutions which are not so maintained or assisted.

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(3) For the purposes of paragraph (1) (d) a full-time course is a course involving not less than 30 weeks' full-time attendance for the purposes of study or teaching practice during each year of the course, a part-time course is a course involving periods of attendance for those purposes all of which are part-time, and a partly full-time and partly part-time course is any other course.

(4) In paragraphs (1) (d)(ii) and (3) in relation to a course provided at the University of Oxford or Cambridge a reference to a period of 30 weeks shall have effect as a reference to a period of 25 weeks.

.....

**PART 3**  
**PAYMENTS**

**Payments**

**17.**—(1) Subject to regulations 16, 20, 21, 22, 23, 25 and 26, the authority shall in respect of each year pay in pursuance of an award—

- (a) in respect of fees, a sum equal to the aggregate of any such fees payable in respect of the student as are described in Schedule 1, less—
  - (i) the amount if any by which the student's resources exceed his requirements for the purposes of regulation 18(1) (whether or not a maintenance grant is calculated under sub-paragraph (b)), or
  - (ii) the amount of any income referred to in paragraph 1(1) (b) of Schedule 3 which is not disregarded under that paragraph,whichever is the less;
- (b) where the award is a full award, in respect of maintenance a sum calculated in accordance with regulation 18.

(2) The aggregate of any sums paid in respect of maintenance shall be called the "maintenance grant", and so much of the maintenance grant as appears to the authority to be appropriate shall be treated as being in respect of the Easter and Christmas vacations.

**Calculation of grant**

**18.**—(1) Subject to paragraph (2) the sum mentioned in regulation 17(1)(b) shall be the amount by which the student's resources fall short of his requirements and for the purposes of ascertaining that amount—

- (a) the requirements of the student shall be taken to be the aggregate of the amounts specified in Schedule 2 other than those specified in paragraphs 9 and 10 as are applicable in his case; and
- (b) the resources of the student shall be taken to be the aggregate of his income for the year calculated in accordance with Part I of Schedule 3 and any contribution applicable in his case by virtue of Part II or III of that Schedule.

(2) There shall be added to the sum referred to in regulation 17(1) (b) the amount of any supplementary requirements of the student specified in paragraphs 9 and 10 of Schedule 2, less such part of any amount subtracted in accordance with regulation 17(1) (a) as is not required to reduce the amount payable in respect of fees to nil.

(3) This regulation and Schedules 2 and 3 shall have effect—

- (a) in the case of such a student as is mentioned in Schedule 4, subject to the provisions thereof; and
- (b) where regulation 20 applies, subject as therein provided.

.....

**Sandwich courses**

**20.**—(1) This regulation shall apply where the course is a sandwich course unless—

- (a) the student is a member of a religious order and regulation 21 applies; or
- (b) the course is a course for the initial training of teachers designated under regulation 10(1) (d).

(2) For the purpose of calculating payments under regulation 17 in respect of a sandwich year, that regulation and Schedules 2 and 3 shall have effect subject to the provisions of Schedule 5; but no payments in respect of maintenance shall be made in respect of a year in which there are no periods of full-time study.

**Members of religious orders**

**21.**—(1) This regulation shall apply where the student is a member of a religious order (“the Order”) unless the course is a course of teacher training designated under regulation 10(1)(d)(iii) and regulation 22 applies.

(2) The payment in respect of maintenance under regulation 17(1)(b) in the case of a student upon whom an award bestowed under previous Awards Regulations has been bestowed shall be the sum specified as appropriate in paragraph (3) or (4):

Provided that—

- (a) where the course is a sandwich course, the payment in respect of a sandwich year shall be the prescribed proportion of the sum otherwise payable in respect of maintenance and no payment shall be made in respect of a year which includes no periods of full-time study;
- (b) where the course is a part-time course of teacher training designated under regulation 10(1) (d) (ii), the payment shall be three-quarters of the sum so specified.

(3) In the case of a student who resides at his parents’ home or in a house of the Order, the appropriate sum shall be **£790**.

(4) In the case of any other student, the appropriate sum shall be **£1,075** except that—

- (a) if he attends **one of the following**:
  - (i) a course at the University of London, or
  - (ii) **a course at an institution which requires attendance for at least half the time in aggregate of any term of the academic year excluding vacations at a site within the area comprising the City of London and the Metropolitan Police District, or**
  - (iii) **a sandwich course at an institution which requires him to undertake work experience or a combination of work experience and study for at least half the time in aggregate of any term of the academic year excluding vacations at a site or sites within the area comprising the City of London and the Metropolitan Police District,**

**it shall be £1,345.**

- (b) if he attends as part of his course an overseas institution, it shall be ... **£1,160**.

(5) In this regulation “prescribed proportion” shall have the same meaning as in Schedule 5.

**Courses of teacher training**

**22.**—(1) This regulation shall apply—

- (a) where the course is a part-time course of teacher training designated under sub-paragraph (d) (ii) or (d) (iii) of regulation 10(1); or
- (b) where it is a partly full-time and partly part-time course designated under the said sub-paragraph (d) (iii),

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unless the student is a member of a religious order, the course is a part-time course of teacher training designated under the said sub-paragraph (d) (ii) and regulation 21 applies.

(2) Where the course is designated under the said sub-paragraph (d) (ii), the payment in respect of maintenance under regulation 17(1) (b) shall be a grant equal to three-quarters of the sum otherwise payable.

(3) Subject to the following paragraphs, where the course is designated under the said sub-paragraph (d) (iii), the said payment under regulation 17(1) (b) shall be—

- (a) in a year in which the student’s periods of attendance are all periods of full-time attendance or in which his aggregate period of full-time attendance is 30 weeks or more, the maintenance grant;
- (b) in a year in which the student’s periods of attendance are all periods of part-time attendance ..., the sum of £325;
- (c) in any other year, a sum equal to the aggregate of—
  - (i) the proportion of the maintenance grant which the student’s aggregate period of full-time attendance in the year, expressed in weeks, bears to 30, and
  - (ii) ..the proportion of £325 which the difference between the said aggregate period and 30 weeks bears to 30.

(4) In relation to a student employed full-time as a teacher, paragraph (3) shall have effect except in such a year as is mentioned in sub-paragraph (a) thereof, as if it provided that the said payment under regulation 17 should be £90;

(5) In relation to a student attending a course provided at the University of Oxford or Cambridge, sub-paragraphs (a) and (c) of paragraph (3) shall have effect as if any reference therein to—

- (a) a period of 30 weeks were a reference to a period of 25 weeks; and
- (b) the proportion which a period expressed in weeks bears to 30 were a reference to the proportion which that period bears to 25.

(6) For the purposes of this regulation a day shall be reckoned as a seventh of a week, and “attendance” means attendance for the purposes of study or teaching practice.

.....

28th July 2003

*Alan Johnson*  
Minister of State,  
Department for Education and Skills

.....

## SCHEDULE 2

## Regulations 18 and 20(2)

## REQUIREMENTS

## PART 1

## ORDINARY MAINTENANCE

**1.**—(1) The requirements of the student referred to in regulation 18(1) (a) shall include his requirement for ordinary maintenance during—

- (a) any period while he is attending the course; and
- (b) the Christmas and Easter vacations;

and the amount of such requirement (“ordinary maintenance requirement”) shall be determined in accordance with this Part of this Schedule.

(2) Where a student’s ordinary maintenance requirements are different in respect of different parts of a year, his ordinary maintenance requirement for that year shall be the aggregate of the proportionate parts of those differing requirements.

**2.**—(1) This paragraph shall apply in the case of—

- (a) any student who does not reside at his parents’ home; and
- (b) any student residing at his parents’ home whose parents by reason of age, incapacity or otherwise cannot reasonably be expected to support him and in respect of whom the authority are satisfied that in all the circumstances the ordinary maintenance requirement specified herein would be appropriate.

(2) In the case of such a student the ordinary maintenance requirement shall be **£2,045** except that—

- (a) if he attends **one of the following**:
  - (i) a course at the University of London, or
  - (ii) **a course at an institution which requires attendance for at least half the time in aggregate of any term of the academic year excluding vacations at a site within the area comprising the City of London and the Metropolitan Police District, or**
  - (iii) **a sandwich course at an institution which requires him to undertake work experience or a combination of work experience and study for at least half the time in aggregate of any term of the academic year excluding vacations at a site or sites within the area comprising the City of London and the Metropolitan Police District,**  
**it shall be £2,510.**
- (b) if he attends for a period **of** at least eight weeks and as part of his course an overseas institution, it shall be ... **£2,920.**

**3.** In the case of any other student the ordinary maintenance requirement shall be **£1,665.**

## PART 2

## SUPPLEMENTARY MAINTENANCE ETC.

**4.** The requirements referred to in regulation 18 shall include the student’s requirements—

- (a) for supplementary maintenance in the cases and for the periods mentioned in paragraphs 5, 6 and 10; and

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- (b) in respect of such expenditure as is mentioned in paragraphs 7 to 9;

and the amount of any such requirement (“supplementary requirement”) shall be determined in accordance with this Part of this Schedule.

**5.—**(1) This paragraph shall apply in the case of a student who having, in any academic year, attended his course—

- (a) in the case of a course provided at the University of Oxford or Cambridge, for a period of 25 weeks 3 days; or  
 (b) in the case of any other course, for a period of 30 weeks 3 days,

in that year attends a course so provided for a further period (“the excess period”).

(2) In respect of each week and any part of a week comprised in the excess period the supplementary requirement shall be—

- (a) in the case of a student residing at his parents’ home, **£48**;  
 (b) in the case of any other student, **£71** except that—  
 (i) if he attends **one of the following**:

(aa) a course at the University of London, or

**(bb) a course at an institution which requires attendance for at least half the time in aggregate of any term of the academic year excluding vacations at a site within the area comprising the City of London and the Metropolitan Police District, or**

**(cc) a sandwich course at an institution which requires him to undertake work experience or a combination of work experience and study for at least half the time in aggregate of any term of the academic year excluding vacations at a site or sites within the area comprising the City of London and the Metropolitan Police District,**

**it shall be £92;**

- (ii) **if he attends for a period of** at least eight weeks as part of his course an overseas institution, it shall be ... **£99**.

**6.—**(1) This paragraph shall apply in the case of a student who attends his course for a period of not less than 45 weeks in any continuous period of 52 weeks.

(2) In respect of each aggregate period of a complete week for which he does not attend his course in the period of 52 weeks in question, the student’s supplementary requirement shall be determined in accordance with paragraph 5(2).

**7.—**(1) This paragraph shall apply in the case of a student who is obliged to incur reasonable expenditure—

- (a) in the case of a student attending a course in medicine, dentistry or nursing, a necessary part of which is a period of study by way of clinical training, for the purpose of attending in connection with his course any hospital or other premises in the United Kingdom (not comprised in the institution) at which facilities for clinical training are provided, but not incurred for the purpose of residential study away from the institution;  
 (b) within or outside the United Kingdom for the purpose of attending for a period of at least eight weeks and as part of his course an overseas institution.

(2) The student’s supplementary requirement in respect of such expenditure shall be the amount of such expenditure less **£270**.

(3) For the purposes of this paragraph any reference to expenditure incurred for the purpose of attending an institution or period of study—

- (a) includes expenditure both before and after so attending; and  
 (b) does not include any expenditure for a purpose specified in paragraph 9.

**8.—**(1) This paragraph shall apply in the case of a student who reasonably incurs any expenditure in insuring against liability for the cost of medical treatment provided

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outside the United Kingdom for any illness or bodily injury contracted or suffered during a period of study outside the United Kingdom which is part of the student's course.

(2) The student's supplementary requirement in respect of such expenditure shall be the amount reasonably incurred.

**9.**—(1) This paragraph shall apply in the case of a disabled student where the authority is satisfied that by reason of his disability he is obliged to incur additional expenditure in respect of his attendance at the course.

(2) The student's supplementary requirements shall be such amounts as the authority consider appropriate—

- (a) in respect of a non-medical personal helper not exceeding **£11,280**;
- (b) in respect of major items of specialist equipment not exceeding **£4,460** in total for the duration of his course;
- (c) in respect of expenditure incurred—
  - (i) within the United Kingdom for the purposes of attending the institution;
  - (ii) within or outside the United Kingdom for the purpose of attending as part of his course an overseas institution;

in respect of any other expenditure including expenditure incurred for the purposes specified in paragraphs (a) and (b) which exceed the maxima specified therein not exceeding **£1,490**.

**10.**—(1) This paragraph shall apply in the case of a student—

- (a) who is under the age of 21 on the first day of the course;
- (b) in respect of whom a parental contribution is not applicable in accordance with Part II of Schedule 3 because he has pursuant to an order of a competent court been in **such** custody or care or has been provided with accommodation as described in paragraph 3(c) of that Schedule; and
- (c) who in the opinion of the authority is subject to greater financial hardship by reason of having been in custody, care or having been provided with accommodation as mentioned in paragraph (b) than he would have been if he had not been in custody, care or having been provided with accommodation.

(2) The student's supplementary requirement shall be such amount as the authority in all the circumstances consider appropriate not exceeding £100 for each week or part of a week which—

- (a) falls within the longest vacation taken; and
- (b) during no part of which week the student attends his course.

## PART 3

## MAINTENANCE OF DEPENDANTS

**11.**—(1) The requirements referred to in regulation 18(1)(a) shall include the student's requirements for the maintenance of dependants during the year and the amount of any such requirement ("dependants requirement") shall be determined in accordance with this Part of this Schedule.

(2) Where a student's requirements for the maintenance of dependants are different in respect of different parts of a year, his dependants requirement for that year shall be the aggregate of the proportionate parts of those differing requirements.

**12.**—(1) In this Part of this Schedule—

"adult dependant" means, in relation to a student, an adult person dependent on the student not being his child, his spouse or a person living with him as his spouse or his former spouse, subject however to sub-paragraphs (2) and (3);

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“child”, in relation to a student, includes a person adopted in pursuance of adoption proceedings, a step-child and any child for whom the student has parental responsibility and who is dependent on him;

“dependant” means, in relation to a student, his spouse, his dependent child **for whom he or his spouse is in receipt of child tax credit under Part I of the Tax Credits Act 2002(a)**, or an adult dependant, subject, subject however to sub-paragraphs (2) and (3);

“income” means income for the year from all sources (reduced by income tax and social security contributions) but disregarding—

- (a) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the person is subject;
- (b) child benefit payable under Part IX of the Social Security Contributions and Benefits Act 1992**(b)**;
- (c) any allowance payable to his spouse by an adoption agency in accordance with regulations made under section 57A of the Adoption Act 1976**(c)**;
- (d) any guardian’s allowance to which his spouse is entitled under section 77 of the Social Security Contributions and Benefits Act 1992;
- (e) in the case of a spouse with whom a child in the care of a local authority is boarded out, any payment made to him in pursuance of section 23 of the Children Act 1989**(d)**;
- (f) any payments made to his spouse in pursuance of an order made under section 34 of the Children Act 1975**(e)**, or under section 15 of and Schedule 1 to the Children Act 1989 or any assistance given by a local authority pursuant to section 24 of that Act, in respect of a person who is not the spouse’s child;
- (g) **any child tax credit to which he is entitled under Part I of the Tax Credits Act 2002;**
- (h) where the spouse holds an award in respect of a course of teacher training designated under regulation 10(1) (b) (iii), being a part-time course or a course which is partly full-time and partly part-time, the payments in respect of maintenance made to the spouse in pursuance of regulation 17(1) (b) or so much of those payments as related to the part-time part of the course;
  - (i) where the spouse or the student make any recurrent payments which were previously made by the student in pursuance of an obligation incurred before the first year of the student’s course—
  - (ii) if, in the opinion of the authority, the obligation had been reasonably so incurred, an amount equal to the payment in question;
  - (iii) if, in their opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to them appropriate;

“relevant award” means a statutory award in respect of a person’s attendance at—

- (a) a full-time course of higher education or a comparable course outside England and Wales;
- (b) a course designated under sub-paragraph (d) (ii) of regulation 10(1); or
- (c) the full-time part of a course designated under sub-paragraph (d) (iii) of regulation 10(1) which is partly full-time and partly part-time;

“spouse”, except in the definition above of adult dependant, shall not include a student’s spouse if they have ceased ordinarily to live together whether or not an order for their separation has been made by any court.

---

(a) 2002 c. 21.

(b) 1992 c. 4.

(c) 1976 c. 36; section 57A was introduced by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41). The relevant instruments are S.I. 1991/2030 and 2742.

(d) 1989 c. 41.

(e) 1975 c. 72; a new section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22); the Act was repealed by the Children Act 1989 (c. 41), section 108(7) and Schedule 15.



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(2) A person, including the student's spouse, shall not be treated as a dependant of the student during any period for which that person—

- (a) holds a relevant award; or
- (b) (save for the purposes of paragraph 15) is ordinarily living outside the United Kingdom.

(3) A person shall not be treated as a student's adult dependant ... **if the person's net income exceeds £3,280.**

...

**13.—**(1) Subject to the following sub-paragraphs the dependants requirement of a student shall in respect of each academic year be £2,280 in total for only one of the following—

- (a) **a spouse, or**
- (b) **an adult dependant whose net income does not exceed £3,280.**

(2) **The amount of dependants requirement under sub-paragraph (1) shall be reduced or extinguished by the difference between—**

- (a) **the aggregate of the net income of each of the student's dependants; and**
- (b) **where the student—**
  - (i) **has no dependent child, £1,000;**
  - (ii) **is not a lone parent and has one dependent child, £3,000;**
  - (iii) **is not a lone parent and has more than one dependent child, £4,000;**
  - (iv) **is a lone parent and has one dependent child, £4,000; or**
  - (v) **is a lone parent and has more than one dependent child, £5,000**

**provided the aggregate amount calculated under paragraph (a) of this sub-paragraph is greater than the amount applicable under paragraph (b) of this sub-paragraph.**

(3) The dependants requirement of the student shall, subject to paragraphs **14 and 15** be—

- (a) if the student's spouse holds a statutory award and in calculating payments under it account is taken of the spouse's dependants requirement, one half of the amount determined in accordance with sub-paragraphs **(1) and (2)**;
- (b) in any other case, the whole of the amount so determined.

...

(4) *Where the student—*

- (a) **is entitled to dependants requirement under sub-paragraph (1) and he has one or more dependent children, in addition to any dependants requirement referred to in the preceding paragraphs he shall be entitled to receive the sum of £1,300;**
- (b) **is not entitled to receive dependants requirement under sub-paragraph (1) and has one or more dependent children, he shall be entitled to receive the sum of £1,300 less the amount up to a maximum of £1,250 by which the aggregate of the net income of each of the student's dependants exceeds the amount applicable in paragraph 13(2)(b) provided such excess amount is less than £1,300.**

Words substituted & omitted in para. 13(4) & 14(1) by reg. 12 of S.I. 2005/2083 as from 1.9.05.

**14.—**(1) Subject to the following sub-paragraphs where the student and he or his spouse has elected not to receive the child care element of the working tax credit under Part I of the Tax Credits Act 2002(a), his dependants requirement shall in respect of each academic year be increased in respect of childcare costs for each dependent child where the childcare is provided by an approved or registered childcare provider, if—

- (a) the child is under the age of 15 immediately before the beginning of the academic year; or

(a) 2002 c. 21.

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- (b) the child has registered special educational needs within the meaning of the Education Act 1996(a) and is under the age of 17 immediately before the beginning of the academic year.

...

(2) The dependants requirement for each week for which a student shall be eligible under sub-paragraph (1) is:

...

- (a) **for one dependent child, 85 per cent. of the costs of the childcare, subject to a maximum amount of £114.75, or**
- (b) **for two or more dependent children, 85 per cent. of the costs of the childcare, subject to a maximum amount of £170**

**except that the student shall not be eligible for any such amount in respect of each week falling within the period between the end of the course and the end of the academic year in which the course ends.**

...

(3) **Where the amount to be deducted from a student's dependants requirement in accordance with paragraph 13(2) exceeds the amount calculated under paragraph 13(1) and dependants requirement is payable under sub-paragraph (2) the amount of such dependants requirement shall be reduced or extinguished by the amount of the excess and if the excess is greater than is required to extinguish any dependants requirement payable under sub-paragraph (2) any dependants requirement payable under paragraph 13(4) shall be reduced or extinguished by the amount of the remaining excess.**

Words in para. 14(3) substituted by reg. 12 of S.I. 2005/2083 as from 1.9.05.

(4) **Where the amount to be deducted from a student's dependants requirement in accordance with paragraph 13(2) exceeds the amount of dependants requirement calculated under paragraph 13(1) and no dependants requirement is payable under sub-paragraph (2), any dependants requirement payable under paragraph 13(4) shall be reduced or extinguished by the amount of the excess.**

(5) **Where no amount is to be deducted from a dependants requirement in accordance with paragraph 13(2) because paragraph 13(1) does not apply and dependants requirement is payable under sub-paragraph (2) the amount so payable shall be reduced or extinguished by the difference between—**

- (a) **the aggregate of the net income of each of the student's dependants; and**
- (b) **where the student—**
- (i) **has no dependent child, £1,000;**
  - (ii) **is not a lone parent and has one dependent child, £3,000;**
  - (iii) **is not a lone parent and has more than one dependent child, £4,000;**
  - (iv) **is a lone parent and has one dependent child, £4,000; or**
  - (v) **is a lone parent and has more than one dependent child, £5,000**

**provided the aggregate amount calculated under paragraph (a) of this sub-paragraph is greater than the amount applicable under paragraph (b) of this sub-paragraph.**

(6) **If the difference calculated under sub-paragraph (5) exceeds the amount required to extinguish any dependants requirement payable under sub-paragraph (2) any dependants requirement payable under paragraph 13(4) shall be reduced or extinguished by the amount of the excess.**

(7) **Where no amount is to be deducted from a dependants requirement in accordance with paragraph 13(2) because paragraph 13(1) does not apply and no dependants requirement is payable under sub-paragraph (2) the amount of dependants requirement payable under 13(4) shall be reduced or extinguished by the difference between—**

(a) 1996 c. 56, section 312.

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- (a) **the aggregate of the net income of each of the student’s dependants; and**
- (b) **where the student–**
  - (i) **has no dependent child, £1,000;**
  - (ii) **is not a lone parent and has one dependent child, £3,000;**
  - (iii) **is not a lone parent and has more than one dependent child, £4,000;**
  - (iv) **is a lone parent and has one dependent child, £4,000; or**
  - (v) **is a lone parent and has more than one dependent child, £5,000**

**provided the aggregate amount calculated under paragraph (a) of this sub-paragraph is greater than the amount applicable under paragraph (b) of this sub-paragraph.**

(8) If the student’s spouse holds a statutory award and if in calculating payments under it account is taken of the spouse’s dependants requirement, account is taken of his dependants, the amount of grant calculated under sub-paragraph (2) shall be reduced by one half.

...

(9) In this paragraph–

“approved childcare provider” means a childcare provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999(a) or the Tax Credits (Approval of Child Care Providers) Scheme 2005(b); and

“registered childcare provider” means a person who acts as a child minder or provides day care and is registered within the meaning of section 79F of the Children Act 1989(c), (grant or refusal of registration of child minders and persons providing day care for young children).

Defn. of “approved childcare provider” substituted by reg. 12(3)(c) of S.I. 2005/2083 as from 1.9.05.

...

15.—(1) This paragraph shall apply in the case of a student who maintains any dependant outside the United Kingdom.

(2) Notwithstanding anything in the foregoing paragraphs of this Part of this Schedule, the dependants requirement of the student shall be of such amount, if any, as the authority consider reasonable in all the circumstances, not exceeding the amount determined in accordance with those paragraphs.

PART 4

CONSTRUCTION OF PARTS 1 TO 3

16. In this Schedule, any reference to the home of the student’s parents shall be construed, in the case of a student whose spouse attends a full-time course at any institution, as including a reference to the home of the parents of the student’s spouse.

17. In this Schedule, except where the context otherwise requires, any reference to a requirement, expenditure or attendance in respect of which no period of time is specified shall be construed as a reference to a requirement, expenditure or attendance for the year.

.....

(a) 1999/3110.

(b) 2005/93.

(c) 1989 c. 41; section 79F was inserted by the Care Standards Act 2000(c. 14).

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SCHEDULE 5

Regulations 2, 4(3) and 20

SANDWICH COURSES

1.—(1) In this Schedule—

“sandwich course” means a course consisting of alternate periods of full-time study in an institution and periods of experience so organised that, taking the course as a whole, the student attends the periods of full-time study for an average of not less than 19 weeks in each year; and for the purpose of calculating his attendance the course shall be treated as beginning with the first period of full-time study and ending with the last such period;

“periods of experience” means, subject to sub-paragraph (2), periods of industrial, professional or commercial experience associated with full-time study at the institution but at a place outside the institution;

“sandwich year” means, as respects any student, any year of a sandwich course which includes both periods of full-time study in the institution and periods of experience, other than—

- (a) unpaid service in a hospital or in a public health service laboratory or with a Primary Care Trust in the United Kingdom;
- (b) unpaid service with a local authority in the United Kingdom acting in the exercise of their functions relating to health, welfare or the care of children and young persons or with a voluntary organisation providing facilities or carrying out activities of a like nature in the United Kingdom;
- (c) unpaid service in the prison or probation and aftercare service in the United Kingdom;
- (d) teaching practice;
- (e) unpaid research in an institution or, in the case of a student attending an overseas institution as part of his course, in an overseas institution;
- (f) such experience as aforesaid falling wholly within the usual periods of attendance at the institution in any year which do not comprise paid service or employment and either—
  - (i) do not aggregate more than 6 weeks during that year; or
  - (ii) fall within that year and another year and do not aggregate more than 12 weeks during the two years taken together, where that other year has not already been taken into account for the purposes hereof; or
- (g) unpaid service with—
  - (i) a Health Authority or a Strategic Health Authority established pursuant to section 8 of the National Health Service Act 1977(**a**) or a Special Health Authority established pursuant to section 11 of that Act(**b**);
  - (ii) a Health Board or a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(**c**); or
  - (iii) a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(**d**);

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(a) 1977 c. 49; section 8 was substituted by the Health Authorities Act 1995 (c. 17), section 1(1) and the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 1.

(b) Section 11 was amended by the Health Services Act 1980 (c. 53), Schedule 1, paragraph 31, the National Health Service and Community Care Act 1990 (c. 19), Schedule 10 and the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 2.

(c) 1978 c. 29; section 2 was amended by the Health and Social Security Adjudications Act 1983 (c. 41), Schedule 7, paragraph 1, and by the National Health Service and Community Care Act 1990 (c. 19), section 28 and Schedule 9, paragraph 19(1).

(d) S.I. 1972/1265 (N.I. 14).

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“prescribed proportion” means the proportion which the number of weeks in the year for which the student in question attends the institution bears to 30, except that where that proportion is greater than the whole it means the whole;

“modified proportion” means the proportion which the number of weeks in the year in which there are no periods of experience for the student in question bears to 52.

(2) In the case of a student whose course includes the study of one or more modern languages for not less than one half of the time spent studying on the course and which includes periods of residence in a country whose language is a language of the course, “periods of experience” means such periods of residence during which the student is employed.

(3) For the purposes of determining the prescribed proportion or the modified proportion where the number of weeks in question is not a whole number, a day shall be reckoned as a seventh of a week.

(4) In the application of this Schedule to a student to whom Schedule 4 applies, references to Schedule 3 are to be construed as references to that Schedule as modified in accordance with Schedule 4.

Words substituted in para. 1(4) by reg. 15(2) of S.I. 2005/2083 as from 1.9.05.

(5) In the application of this Schedule to a student attending a course provided at the University of Oxford or of Cambridge the provisions thereof shall have effect as if—

- (a) in the definition of “prescribed proportion” in sub-paragraph (1) for the number “30” there were substituted the number “25”; and
- (b) in paragraph 3 for the words “30 weeks 3 days”, in both places where they occur, there were substituted the words “25 weeks 3 days”.

2. For the purposes of calculating payments in respect of maintenance under regulation 17(1) (b) (ii) the prescribed proportion of the aggregate of the amounts specified in Schedule 2, paragraph 9 shall, as respects any sandwich year, be treated as the aggregate of the amounts so specified.

.....

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1st September 2003 supersede the Education (Mandatory Awards) Regulations 2002 as amended (“the 2002 Regulations”).

Provisions in these Regulations which differ from the corresponding provisions in the 2002 Regulations (except as a result of minor drafting or consequential changes) are indicated by the use of heavy type. Omissions are indicated by the use of dots. The changes of substance other than changes in the rates of fees, grants and allowances are described below.

The definition of “high cost country” in regulation 2(1) is omitted.

Regulation 2 defines and regulations 5 and 13 give effect to the Switzerland Agreement which provides that Swiss nationals are to be treated in the same way as EEA nationals.

Regulation 21(4) is amended to link the London grant rate for course attendance and work experience to the site of study or work experience rather than the location of the institution. It also provides that the London rate applies where at least half the aggregate course time in the academic year is at a site or sites within the London area as defined. The same paragraph applies one rate in relation to attendance at any overseas institution. Similar amendments have been made to paragraphs 2 and 5 of Schedule 2.

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Schedule 2 is amended as follows. The definition of “dependants” in 12(1) has been amended to take account of children for whom the student or his spouse receive child tax credit under Part I of the Tax Credits Act 2002.

Paragraph 13(1) is amended to provide that a student may only be entitled to dependants requirement for an adult dependant whose net income does not exceed the prescribed amount or a spouse. Paragraph 13(2) sets out the amounts by which a student’s dependants requirement may be reduced or extinguished based on the aggregate of the net income of each of his dependants. A student will no longer be able to obtain an increase in his dependants requirement for children or travel, books and equipment.

Paragraph 14(1) has been amended to provide that where a student or his spouse has elected not to receive the child care element of the working tax credit under Part I of the Tax Credits Act 2002 the dependants requirement shall be increased in respect of child care costs.

A student will no longer receive an increase in dependants requirement for school meals or to help with the maintenance of a second home where his dependant or dependants reside but he does not.

Schedule 3 has been amended as follows. Paragraph 2(1) has been amended so that the definition of “financial year” no longer takes account of the transitional provisions relating to income tax legislation of the Republic of Ireland and the assessment of parental contribution which have been omitted from the Regulations.

Paragraph 4(1) provides that a parental contribution in respect of more than one child cannot exceed the parental contribution that would apply if only that child held an award. Paragraph 4(2) provides that the Secretary of State’s discretion to determine how to apportion the parental contribution shall only apply where a statutory award other than the Education (Student Support) (No.2) Regulations 2002 or section 63 of the Health Services and Public Health Act 1968 is held by any of the specified persons. Further the parental contribution is apportioned equally where sub-paragraph (4) does not apply subject to exceptions.

## ANNEX 3

Extract from Social Security (Contributions) Regulations 1979, S.I.  
1979/591*(referred to in para. 7(1)(d) of Schedule 8 to S.I. 1987/1967 above)*

## SCHEDULE 3

## Regulation 113

## PART I

Pt. I substituted by reg.  
6 of S.I. 1980/1975 as  
from 8.1.81.**Prescribed establishments and organisations for purposes of section 116(3) of the Social Security Contributions and Benefits Act 1992\***

1. Any of the regular naval, military or air forces of the Crown.
2. Retired and Emergency Lists of Officers of the Royal Navy.
3. Royal Naval Reserves (including Women's Royal Naval Reserve and Queen Alexandra's Royal Naval Nursing Service Reserve).
4. Royal Marines Reserve.
5. Army Reserves (including Regular Army Reserve of Officers, Regular Reserves, Long Term Reserve and Army Pensioners).
6. Territorial and Army Volunteer Reserve.
7. Royal Air Force Reserves (including Royal Air Force Reserve of Officers, Women's Royal Air Force Reserve of Officers, Royal Air Force Volunteer Reserve, Women's Royal Air Force Volunteer Reserve, Class E Reserve of Airmen, Princess Mary's Royal Air Force Nursing Service Reserve, Officers on the Retired List of the Royal Air Force and Royal Air Force Pensioners).
8. Royal Auxiliary Air Force (including Women's Royal Auxiliary Air Force).
9. The Royal Irish Regiment, to the extent that its members are not members of any force falling within paragraph 1 of this Part of this Schedule.◀◀

Para. 9 of Pt. I of Sch. 3  
substituted by reg. 4 of  
S.I. 1994/1553 as from  
6.7.94.*\*Reference amended in consequence of consolidation in Social Security Contributions and Benefits Act 1992.*

## ANNEX 4

Regulation 2(2) of Social Security (Hospital In-Patients) Regulations 1975,  
S.I. 1975/555

*(relevant to definition of "patient" in reg. 21(3) above).*

Reg. 2(2) substituted by  
reg. 11 of S.I. 1992/  
2595 as from 16.11.92.

**2.—** (2) For the purposes of these Regulations, a person shall be regarded as receiving or having received free in-patient treatment for any period for which he is or has been maintained free of charge while undergoing medical or other treatment as an in-patient—

- (a) in a hospital or similar institution, under the National Health Service Act, 1977(**a**), the National Health Service (Scotland) Act 1978(**b**) or the National Health Service and Community Care Act 1990(**c**); or
- (b) in a hospital or similar institution maintained or administered by the Defence Council;

and such a person shall for the purposes of sub-paragraph (a) be regarded as being maintained free of charge in a hospital or similar institution unless his accommodation and services are provided under section 65 of the National Health Service Act 1977, section 58 of, or paragraph 14 of Schedule 7A to, the National Health Service (Scotland) Act 1978 or paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990.◀

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(a) 1977 c.49.

(b) 1978 c.29.

(c) 1990 c.19.