

SCHEDULE 3

Regulation 26(2)

SUMS TO BE DISREGARDED IN THE DETERMINATION OF INCOME OTHER THAN EARNINGS

1. Any amount paid by way of tax on income which is to be taken into account under regulation 26 (determination of income other than earnings).

2. Any payment in respect of any expenses incurred by a relevant person who is—

- (a) engaged by a charitable or voluntary body, or
- (b) a volunteer,

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 28(4) (notional income).

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.

4. Where a relevant person is in receipt of income support, the whole of his income.

5. Any disability living allowance.

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

- (a) any payment specified in paragraph 5 or 8;
- (b) income support;
- (c) mobility allowance under section 37A of the Social Security Act 1975(1) .

7. Any mobility supplement under article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(2) (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983(3) or any payment intended to compensate for the non-payment of such a supplement.

8. Any attendance allowance.

9. Any payment to the relevant person as holder of the Victoria Cross or of the George Cross or any analogous payment.

10. Any sum in respect of a course of study attended by a child or young person payable by virtue of Regulations made under section 81 of the Education Act 1944(4) (assistance by means of scholarships or otherwise), or by virtue of section 2(1) of the Education Act 1962(5) (awards for courses of further education), or section 49 of the Education (Scotland) Act 1980(6) (power to assist persons to take advantage of educational facilities).

11. In the case of a relevant person attending a course at an employment rehabilitation centre established under section 2 of the Employment and Training Act 1973(7) or participating in

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- (1) 1975 c. 14; section 37A was inserted by section 22(1) of the Social Security Pensions Act 1975 (c. 60), and amended by the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 64; the Social Security Act 1979 (c. 18), section 3 and the Social Security Act 1986 (c. 50), sections 71 and 86 and Schedule 11.
 - (2) S.I.1983/883; article 26A was added by S.I. 1983/1116 and amended by S.I. 1983/1521, 1986/592, 1990/1308, 1991/766 and 1992/710.
 - (3) S.I. 1983/686; article 25A was added by S.I. 1983/1164 and amended by S.I. 1983/1540, 1986/628, 1990/1300, 1991/708 and 1992/702.
 - (4) 1944 c. 31, amended by S.I. 1964/490 and the Education Reform Act 1988 (c. 40), section 237(1), Schedule 12, paragraph 6.
 - (5) 1962 c. 12; section 2(1) was substituted by section 19 of, and Schedule 5 to, the Education Act 1980 (c. 20).
 - (6) 1980 c. 44.
 - (7) 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988 (c. 19), and repealed in part by the Employment Act 1989 (c. 38), section 29 and Schedule 7.

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arrangements for training made under that section or under section 2 of the Enterprise and New Towns (Scotland) Act 1990⁽⁸⁾—

- (a) any travelling expenses reimbursed to the relevant person;
- (b) if he receives an allowance under section 2(2)(d) of the former Act or under section 2(4)(c) of the latter Act, such amount, if any, of that allowance expressed to be a living away from home allowance;
- (c) any training premium,

but this paragraph, except in so far as it relates to a payment under sub-paragraph (a), (b) or (c), does not apply to any part of any allowance under the said section 2(2)(d) or the said section 2(4)(c).

12. Any Job Start Allowance payable under section 2(1) of the Employment and Training Act 1973.

13.—(1) Except where sub-paragraph (2) applies and subject to sub-paragraph (3) and paragraphs 32 and 33, £10 of any charitable payment or of any voluntary payment made or due to be made at regular intervals.

(2) Subject to sub-paragraph (3) and paragraph 33, any charitable payment or voluntary payment made or due to be made at regular intervals which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent of that single person or, as the case may be, of any member of that family, or is used for any council tax, personal community charge, collective community charge contribution or water charges for which that relevant person or member is liable.

(3) Sub-paragraphs (1) and (2) shall not apply 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.

(4) For the purposes of sub-paragraph (1) where a number of charitable or voluntary payments fall to be taken into account in any one week they shall be treated as though they were one such payment.

(5) for the purposes of sub-paragraph (2),—

- (a) the expression “ordinary clothing or footwear” has the same meaning as in regulation 28(8); and
- (b) “rent” means eligible rent within the meaning of regulation 10(3) of the Housing Benefit (General) Regulations 1987⁽⁹⁾, less any deductions in respect of non-dependants which fall to be made under regulation 63⁽¹⁰⁾ of those Regulations.

14. Subject to paragraph 33, £10 of any of the following, namely—

- (a) a war disablement pension or war widow’s pension or a payment made to compensate for the non-payment of such a pension, except in so far as such a pension or payment falls to be disregarded under paragraphs 7 or 8;
- (b) a pension paid by the government of a country outside Great Britain which is either—
 - (i) analogous to a war disablement pension, or
 - (ii) analogous to a war widow’s pension;
- (c) a pension paid under any special provision made by the law of the Federal Republic of Germany or any part of it, or of the Republic of Austria, to victims of National Socialist persecution;
- (d) a loan treated as income by virtue of regulation 43 (treatment of student loans).

⁽⁸⁾ 1990 c. 35; section 2 was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 51 and Schedule 10.

⁽⁹⁾ S.I. 1987/1971. Regulation 10 was amended by S.I. 1988/1971 and 1990/546.

⁽¹⁰⁾ Regulation 63 was amended by S.I. 1990/546, 1990/1775, 1991/235, 1991/503, and 1992/50.

15.—(1) Any income derived from capital to which the relevant person is or is treated under regulation 36 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 1, 2, 3, 5, 8, 14, 25 or 26 of Schedule 4.

(2) Income derived from capital disregarded under paragraphs 3(a), 5, 25 or 26 of Schedule 4 but only to the extent of—

- (a) any mortgage payments or payment of rates made in respect of the dwelling or buildings, or
- (b) any standard community charge, council tax or water charges which the relevant person is liable to pay in respect of the dwelling or building,

in the period during which that income accrued.

(3) The definition of “water charges” in regulation 2(1) shall apply to sub-paragraph (2) of this paragraph in respect of the dwelling or buildings with the omission of the words “in so far as such charges are in respect of the dwelling which a person occupies as his only or main residence”.

16. Where a relevant person 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 dwelling on which it was secured as his home at the time the interest is paid,

the amount, calculated on a weekly basis, equal to—

- (i) where, or in so far as, section 369 of the Income and Corporation Taxes Act 1988⁽¹¹⁾ (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the basic rate for the year of assessment in which the payment of interest becomes due;
- (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

17. Where the relevant person makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

- (a) under regulations made in exercise of the powers conferred by section 1 of the Education Act 1962⁽¹²⁾, that student’s award under that section;

⁽¹¹⁾ 1988 c. 1; section 369 was amended by the Finance Act 1991 (c. 31), section 27, and the Finance (No. 2) Act 1992 (c. 48), section 19.

⁽¹²⁾ 1962 c. 12; sections 1 and 2 were substituted by section 19 and Schedule 5 of the Education Act 1980 (c. 20) and section 1(3) amended by section 4 of the Education (Grants and Awards) Act 1984 (c. 11) and see the Education (Mandatory Awards) Regulations 1993 (S.I. 1993/1850) and the Education (Mandatory Awards) (No. 2) Regulations 1993 (S.I. 1993/2914).

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- (b) that student's award under section 2 of that Act(12); or
- (c) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980(13) that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

18.—(1) Where the relevant person is the parent of a student aged under 25 in advanced education who either—

- (a) is not in receipt of any award or grant in respect of that education; or
- (b) is in receipt of an award under section 2 of the Education Act 1962 (discretionary awards) or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the relevant person makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 17, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount shall be equal to—

- (a) the weekly amount of the payments; or
- (b) the amount by way of a personal allowance for a single person under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

19. Any payment made to the relevant person by a child or young person or a non-dependant.

20. Where the relevant person occupies a dwelling as his only or main residence which is also occupied by a person other than one to whom paragraph 19 or 40 refers and there is a contractual liability to make payments to the relevant person 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 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 £8.60, where the aggregate of any such payments is inclusive of an amount for heating.

21. Any income in kind.

22. Any income which is 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 that income.

23.—(1) Any payment made to the relevant person in respect of a person who is a member of his family—

- (a) in accordance with regulations made pursuant to section 57A of the Adoption Act 1976(14) (permitted allowances) or with a scheme approved by the Secretary of State under

(12) 1962 c. 12; sections 1 and 2 were substituted by section 19 and Schedule 5 of the Education Act 1980 (c. 20) and section 1(3) amended by section 4 of the Education (Grants and Awards) Act 1984 (c. 11) and see the Education (Mandatory Awards) Regulations 1993 (S.I. 1993/1850) and the Education (Mandatory Awards) (No. 2) Regulations 1993 (S.I. 1993/2914).

(13) 1980 c. 44 and see the Education Authority Bursaries (Scotland) Regulations 1988 (S.I. 1988/1042).

(14) 1976 c. 36; section 57A was inserted by paragraph 25 of Schedule 10 to the Children Act 1989.

section 51 of the Adoption (Scotland) Act 1978⁽¹⁵⁾ (schemes for payments of allowances to adopters);

- (b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989⁽¹⁶⁾ (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or, as the case may be, section 50 of the Children Act 1975⁽¹⁷⁾ (payment towards maintenance of children); to the extent specified in sub-paragraph (2).

(2) In the case of a child or young person—

- (a) to whom regulation 29(2) (capital in excess of £5,000) applies, the whole payment;
- (b) to whom that regulation does not apply, so much of the weekly amount of the payment as exceeds the amount included under Schedule 1 in the determination of the relevant person's applicable amount for that child or young person by way of the personal allowance and disabled child premium, if any.

24. Any payment made by a local authority to the relevant person with whom a person is accommodated by virtue of arrangements made under section 23(2)(a) of the Children Act 1989 or, as the case may be, section 21 of the Social Work (Scotland) Act 1968⁽¹⁸⁾ or by a voluntary organisation under section 59(1)(a) of the Children Act 1989 or by a care authority under regulation 9 of the Boarding-out and Fostering of Children (Scotland) Regulations 1985⁽¹⁹⁾ (provision of accommodation and maintenance for children by local authorities and voluntary organisations).

25. Any payment made by a health authority, local authority or voluntary organisation to the relevant person in respect of a person who is not normally a member of the relevant person's household but is temporarily in his care.

26. Any payment made by a local authority in accordance with section 17 or 24 of the Children Act 1989⁽²⁰⁾ or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968 (provision of services for children and their families and advice and assistance to certain children).

27. Any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on a loan for the purchase of the dwelling which the relevant person occupies as his only or main residence and secured on that dwelling to the extent that it does not exceed the amount calculated, on a weekly basis, of that repayment.

28. Any payment of income which by virtue of regulation 32 (income treated as capital) is to be treated as capital.

29. Any social fund payment.

30. Any payment under section 148 of the 1992 Act (pensioners' Christmas bonus).

31. 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.

32. The total of a relevant person'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 15(3) (determination of income and capital of members of relevant person's family and of a polygamous marriage) to be disregarded under paragraphs 13 and 14 shall in no case exceed £10 per week.

⁽¹⁵⁾ 1978 c. 28.

⁽¹⁶⁾ 1989 c. 41; section 15(1) was amended by the Courts and Legal Services Act 1990 (c. 41), section 116 and Schedule 16.

⁽¹⁷⁾ 1975 c. 72.

⁽¹⁸⁾ 1968 c. 49.

⁽¹⁹⁾ S.I. 1985/1799.

⁽²⁰⁾ Section 17 was amended by the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21), section 7 and Schedule 3, and by the Social Security (Consequential Provisions) Act 1992 (c. 6), section 4 and Schedule 2; section 24 was amended by the National Health Service and Community Care Act 1990 (c. 19), section 66 and Schedules 9 and 10, and by the Courts and Legal Services Act 1990 (c. 41), section 116 and Schedule 16.

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33.—(1) Any payment made under any of the MacFarlane Trusts, the Independent Living Funds or the Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under any of the MacFarlane Trusts or the Fund 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;
- (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 relevant person’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 relevant person’s family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, which derives from a payment made under any of the MacFarlane Trusts or the Fund and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person’s family or who was such a member and who is a member of the relevant person’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 relevant person’s family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under any of the MacFarlane Trusts or the Fund, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced, 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 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 or who was a qualifying person, which derives from a payment under any of the MacFarlane Trusts or the Fund, 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, 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 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 MacFarlane Trusts or the Fund.

- 34.** Any housing benefit and any housing benefit in the form of a community charge rebate.
- 35.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 36.** Any payment made by the Secretary of State to compensate for the loss of housing benefit supplement under regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983**(21)**.
- 37.** Any resettlement benefit which is paid to the relevant person by virtue of regulation 3 of the Social Security (Hospital In-Patients) Amendment (No. 2) Regulations 1987**(22)**.
- 38.** Any community charge benefit.
- 39.** Any payment in consequence of a reduction of a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988**(23)** or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987**(24)** (reduction of liability for personal community charges) or reduction of council tax either under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992**(25)** (reduction of liability for council tax).
- 40.**—(1) Where the relevant person occupies a dwelling as his only or main residence 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) where the aggregate of any payments made in any one week in respect of such accommodation provided to such persons does not exceed £20, 100 per cent. of such payments; or
 - (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent. of the excess over £20.
- (2) In this paragraph “board and lodging accommodation” means accommodation provided to a person or, where 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 and prepared meals which are both cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and consumed in that accommodation or associated premises.
- 41.** Any special war widows payment made under—
- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865**(26)**;
 - (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977**(27)**;
 - (c) the Queen’s Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917**(28)**;

(21) S.I. 1983/1399; relevant amending instruments are S.I. 1984/282 and 1986/1293.

(22) S.I. 1987/1683.

(23) 1988 c. 41; section 13A was inserted by Schedule 5, paragraphs 1, 5 and 79(3) of the Act and was repealed, with savings, by the Local Government Finance Act 1992 (c. 14), section 117(2) and Schedule 14.

(24) 1987 c. 47; section 9A was inserted by section 143 of the Act and was repealed, with savings, by the Local Government Finance Act 1992 (c. 14), section 117(2) and Schedule 14.

(25) 1992 c. 14.

(26) 1865 c. 73. Copies of the Order are available from: Ministry of Defence, SP Sec. 2c3, Room 5/42, Metropole Building, Northumberland Avenue, London WC2N 5BL.

(27) Army Code No. 13045 published by HMSO.

(28) 1917 c. 51; section 2 was amended by S.I. 1968/1699, article 5(4)(a). Queen’s Regulations for the Royal Air Force are available from HMSO.

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- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980(29);
- (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980(30),

and any analogous payments made by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e) of this paragraph.

42. Any payment to a juror or 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.

43.—(1) Any payment or repayment made—

- (a) as respects England and Wales, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(31) (travelling expenses and health service supplies);
- (b) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988(32) (travelling expenses and health service supplies);

(2) Any payment or repayment made by the Secretary of State for Health, the Secretary of State for Scotland or the Secretary of State for Wales, which is analogous to a payment or repayment mentioned in sub-paragraph (1).

44. Any payment made under regulations 9 to 11 or regulation 13 of the Welfare Food Regulations 1988(33) (payments made in place of milk tokens or the supply of vitamins).

45. Any payment made by either the Secretary of State for the Home Department or by the Secretary of State for Scotland under a scheme established to assist relatives and other persons to visit persons in custody.

46.—(1) Where a relevant person's applicable amount includes an amount by way of the family premium, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by—

- (a) the relevant person's former partner, or the relevant person's partner's former partner; or
- (b) the parent of a child or young person where that child or young person is a member of the relevant person's family except where that parent is the relevant person or the relevant person's partner.

(2) For the purpose of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

47. Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.

48. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944(34) or in accordance with

(29) 1980 c. 9. Copies of the Regulations are available from: Ministry of Defence, SP Sec. 2d, Room 5/36, Metropole Building, Northumberland Avenue, London WC2N 5BL.

(30) Army Code 60589 published by HMSO.

(31) S.I.1988/551; relevant amending instruments are S.I.1990/918, 1991/557 and 1992/1104.

(32) S.I.1988/546; relevant amending instruments are S.I.1989/393, 1990/551 and 917, and 1991/575.

(33) S.I. 1988/536; regulation 9A was inserted by S.I. 1990/3, and regulation 10 was amended by S.I. 1990/571 and 1991/585.

(34) 1944 c. 10.

arrangements made under section 2 of the Employment and Training Act 1973⁽³⁵⁾ to assist disabled persons to obtain or retain employment despite their disability.

49. Any guardian's allowance under Part III of the 1992 Act.

50. Any council tax benefit.

51. Where the relevant person is in receipt of any benefit under Parts II, III, or V of the 1992 Act, any increase in the rate of that benefit arising under Part IV (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 relevant person's family.

⁽³⁵⁾ 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988 (c. 19), and repealed in part by the Employment Act 1989 (c. 38), section 29 and Schedule 7.