

SCHEDULE 1

Regulations 12 and 13

APPLICABLE AMOUNTS

Regulations 12(a) and (b) and 13(a) to (c)

PART I

PERSONAL ALLOWANCES

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of regulations 12(a) and 13(a) and (b)—

(1) Person or couple	(2) Amount
(1) Single person aged—	(a) (1) (a) £36.15;
(a) less than 25	(b) £45.70
(b) not less than 25	
(2) Lone parent aged—	(a) (2) (a) £36.15;
(a) less than 18	(b) £45.70,
(b) not less than 18	
(3) Couple—	(a) (3) (a) £54.55;
(a) where both members are aged less than 18	(b) £71.70
(b) where at least one member is aged not less than 18	

2. The amounts specified in column (2) below in respect of each person specified in column (1) shall be the amounts specified for the purposes of regulations 12(b) and 13(c)—

(1) Child or Young Person	(2) Amount
Person aged —	
(a) (a) less than 11	(a) (a) £15.65;
(b) not less than 11 but less than 16	(b) £23.00;
(c) not less than 16 but less than 18	(c) £27.50;
(d) not less than 18	(d) £36.15.

Regulations 12(c) and 13(d)

PART II

FAMILY PREMIUM

3. The amount for the purposes of regulations 12(c) and 13(d) in respect of a family of which at least one member is a child or young person shall be £10.05.

Regulations 12(d) and 13(e)

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## PART III PREMIUMS

4. Except as provided in paragraph 5, the premiums specified in Part IV of this Schedule shall for the purposes of regulations 12(d) and 13(e) be applicable to a relevant person who satisfies the condition specified in paragraphs 7 to 15 in respect of that premium.

5. Subject to paragraph 6, where a relevant person satisfies the condition 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) The severe disability premium to which paragraph 13 applies may be applicable in addition to any other premium which may apply under this Schedule.

(2) The disabled child premium and the carer premium to which paragraphs 14 and 15 respectively apply may be applicable in addition to any other premium which may apply under this Schedule.

### **Lone parent premium**

7. The condition is that the relevant person is a lone parent.

### **Pensioner premium for persons under 75**

8. The condition is that the relevant person—

- (a) is a single person or lone parent aged not less than 60 but less than 75; or
- (b) has a partner and is, or his partner is, aged not less than 60 but less than 75.

### **Pensioner premium for persons 75 and over**

9. The condition is that the relevant person—

- (a) is a single person or lone parent aged not less than 75 but less than 80; or
- (b) has a partner and is, or his partner is, aged not less than 75 but less than 80.

### **Higher pensioner premium**

10.—(1) Where the relevant person is a single person or a lone parent, the condition is that—

- (a) he is aged not less than 80; or
- (b) he is aged less than 80 but not less than 60, and the additional condition specified in paragraph 12(1)(a) is satisfied.

(2) Where the relevant person has a partner, the condition is that—

- (a) he or his partner is aged not less than 80; or
- (b) he or his partner is aged less than 80 but not less than 60 and the additional condition specified in paragraph 12(1)(a) is satisfied.

### **Disability premium**

11. The condition is that—

- (a) where the relevant person is a single person or a lone parent, he is aged less than 60 and the additional condition specified in paragraph 12 is satisfied; or
- (b) where the relevant person has a partner, either—

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- (i) the relevant person is aged less than 60 and the additional condition specified in paragraph 12(1)(a) or (b) is satisfied by him, or
- (ii) his partner is aged less than 60 and the additional condition specified in paragraph 12(1)(a) or (b) is satisfied by his partner.

### **Additional condition for the higher pensioner and disability premiums**

**12.**—(1) Subject to sub-paragraph (2) and paragraphs 15 and 16, the additional condition referred to in paragraphs 10 and 11 is that either—

- (a) the relevant person or, as the case may be, his partner—
  - (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, disability working allowance, mobility supplement, an invalidity pension under section 33 of the 1992 Act or severe disablement allowance under section 68 of that Act but in the case of invalidity pension or severe disablement allowance only where it is paid in respect of him, or
  - (ii) was in receipt of invalidity pension under section 33 of the 1992 Act when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and, if the invalidity pension was payable to his partner, the partner is still a member of the family, or
  - (iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the 1992 Act, or
  - (iv) 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>(1)</sup> (other services) or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978<sup>(2)</sup> (provision of services) or receives 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
  - (v) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948<sup>(3)</sup> (welfare services) or, in Scotland, has been certified as blind and in consequence is registered in a register maintained by or on behalf of a regional or islands council; or
- (b) the circumstances of the relevant person or of his partner fall, and have fallen, in respect of a continuous period of not less than 28 weeks, within sub-paragraph (5) or, if either was in Northern Ireland for the whole or part of that period, within one or more of the comparable Northern Irish provisions.

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

(3) For the purposes of sub-paragraph (1)(b), once the higher pensioner premium or the disability premium is applicable to a person by virtue of his satisfying the additional condition specified in that

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(1) 1977 c. 49; section 5(2) was amended and subsection (2A) inserted by the Public Health Laboratory Service Act 1979 (c. 23) section 1, and subsection (2B) was inserted by section 9 of the Health and Social Security Act 1984 (c. 48).

(2) 1978 c. 29.

(3) 1948 c. 29; section 29 was amended by the National Assistance (Amendment) Act 1959 (c. 30), section 1; the Mental Health (Scotland) Act 1960 (c. 61), sections 113 and 114 and Schedule 4, as retained in force by section 126 of the Mental Health (Scotland) Act 1984 (c. 36); the Local Government Act 1972 (c. 70), sections 195 and 272 and Schedules 23 and 30, paragraph 2; the Employment and Training Act 1973 (c. 50), section 14 and Schedule 3; and the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 30 and Schedule 10.

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provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable for work for the purposes of the provisions specified in that provision he shall, on again becoming so incapable of work, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a person 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(4) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(5) or for any period during which he is in receipt of a training allowance.

(5) For the purposes of sub-paragraph (1)(b) the circumstances of a person fall within this sub-paragraph if—

- (a) he provides evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976(6) (evidence of incapacity for work) in support of a claim for sickness benefit, invalidity pension or severe disablement allowance within the meaning of sections 31, 33 or 68 of the 1992 Act, provided that an adjudication officer has not determined he is not incapable of work, or
- (b) he is in receipt of statutory sick pay within the meaning of Part XI of the 1992 Act.

### **Severe disability premium**

**13.**—(1) Subject to paragraphs 16 and 17, the condition is that the relevant person is a severely disabled person.

(2) For the purposes of sub-paragraph (1), a relevant person shall be treated as a severely disabled person if, and only if—

- (a) in the case of a single person, a lone parent or a relevant person who is treated as having no partner in consequence of sub-paragraph (3)—
  - (i) he is in receipt of attendance allowance or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act, and
  - (ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over residing with him, and
  - (iii) an invalid care allowance under section 70 of the 1992 Act is not in payment to anyone in respect of caring for him;
- (b) in the case of a relevant person who has a partner—
  - (i) the relevant person is in receipt of attendance allowance or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act, 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 of such an allowance, and
  - (iii) subject to sub-paragraph (4), the relevant person has no non-dependants aged 18 or over residing with him, and either an invalid care allowance is payable to someone in respect of caring for only one of a couple, or, in the case of a polygamous marriage for one or more but not all the partners of the marriage, or else such an allowance is

(4) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25, and repealed in part by the Employment Act 1989 (c. 38), section 29 and Schedule 7.

(5) 1990 c. 35; section 2 was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 51 and Schedule 10.

(6) S.I. 1976/615; relevant amending instruments are S.I. 1982/699 and 1987/409.

not in payment to anyone in respect of caring for either member of a couple or any partner of a polygamous marriage.

(3) Where a relevant person has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 12(1)(a)(v) and (2), that partner shall be treated for the purposes of sub-paragraph (2) as if he were not a partner of the relevant person.

(4) For the purposes of sub-paragraphs (2)(a)(ii) and (2)(b)(iii) no account shall be taken of either—

- (a) a person receiving attendance allowance or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act; or
- (b) a person who is blind or is treated as blind within the meaning of paragraph 12(1)(a)(v) and (2).

### **Disabled child premium**

**14.**—(1) Subject to paragraphs 16 and 17, the condition is that a child or young person for whom the relevant person or a partner of his is responsible and who is a member of the relevant person's household—

- (a) has no capital or capital which, if determined in accordance with Chapter VI of Part IV (income and capital) in like manner as for the relevant person except as provided in regulation 29(5) (modifications in respect of children and young persons), would not exceed £5,000; and
- (b) is in receipt of disability living allowance or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
- (c) is blind or treated as blind within the meaning of paragraph 12.

(2) In paragraph (1), “patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975(7).

### **Carer premium**

**15.**—(1) The condition is that the relevant person or his partner is, or both of them are, in receipt of invalid care allowance under section 70 of the 1992 Act.

(2) If a relevant person or his partner, or both of them, would be in receipt of invalid care allowance but for the provisions of the Social Security (Overlapping Benefits) Regulations 1979(8), where—

- (a) the claim for that allowance was made on or after 1st May 1991, and
- (b) the person or persons in respect of whose care the allowance has been claimed remains or remain in receipt of attendance allowance or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act,

he or his partner, or both of them, as the case may be, shall be treated for the purposes of sub-paragraph (1) as being in receipt of invalid care allowance.

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(7) S.I. 1975/555; relevant amending instruments are S.I. 1977/1693 and 1987/1683.

(8) S.I. 1979/597, amended by S.I. 1980/1927, 1982/1173, 1983/186, 1984/1303, 1988/1446, 1991/547, 1991/1617, 1992/589 and 1992/3194.

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(3) Where the relevant person or his partner ceases to be in receipt of, or ceases to be treated as being in receipt of, invalid care allowance, the condition mentioned in sub-paragraph (1) shall be treated as satisfied for a period of eight weeks from the date on which he or his partner, as the case may be, was last in receipt of, or was last treated as being in receipt of, invalid care allowance.

### Persons in receipt of concessionary payments

**16.** For the purposes of determining whether a premium is applicable to a person under paragraphs 12 to 15, 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.

### Persons in receipt of benefit Persons in receipt of benefit

**17.** 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.

## PART IV

### AMOUNTS OF PREMIUMS SPECIFIED IN PART III

Premium	Amount
<b>18.—</b> (1) Lone parent premium	(1) £11.25.
(2) Pensioner premium for persons aged under 75—	(a) (2) (a) £18.25; (b) £27.55.
(a) where the relevant person satisfies the condition in paragraph 8(a)—	
(b) where the relevant person satisfies the condition in paragraph 8(b)	
(3) Pensioner premium for persons aged 75 and over—	(a) (3) (a) £20.35; (b) £30.40.
(a) where the relevant person satisfies the condition in paragraph 9(a)	
(b) where the relevant person satisfies the condition in paragraph 9(b)	
(4) Higher pensioner premium—	(a) (4) (a) £24.70; (b) £35.30.
(a) where the relevant person satisfies the condition in paragraph 10(1)(a) or (b)	
(b) where the relevant person satisfies the condition in paragraph 10(2)(a) or (b)	
(5) Disability premium—	(a) (5) (a) £19.45; (b) £27.80.
(a) where the relevant person satisfies the condition in paragraph 11(a)	

Premium	Amount
(b) where the relevant person satisfies the condition in paragraph 11(b)	
(6) Severe disability premium—	(a) (6) (a) £34.30;
(a) where the relevant person satisfies the condition in paragraph 13(2)(a)	(b) (i) £34.30; (ii) £68.60.
(b) where the relevant person satisfies the condition in paragraph 13(2)(b)	
(i) in a case where there is someone in receipt of an invalid care allowance	
(ii) in a case where there is no-one in receipt of such an allowance	
(7) Disabled child premium	(7) £19.45 in respect of each child or young person in respect of whom the condition specified in paragraph 14 is satisfied.
(8) Carer premium	(8) £12.40 in respect of each person who satisfies the condition specified in paragraph 15.

## SCHEDULE 2

Regulations 22(2), 24(2) and 29(3)

## SUMS TO BE DISREGARDED IN THE DETERMINATION OF EARNINGS

1. In the case of a relevant person 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) where—
  - (i) the employment has been terminated because of retirement, and
  - (ii) on retirement he is entitled to a retirement pension under the 1992 Act, or is not so entitled solely because of his failure to satisfy the contribution conditions, any earnings in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;
- (b) where before the date of the application the employment has been terminated otherwise than because of retirement, any earnings in respect of that employment except earnings to which regulation 21(1)(b) to (e), (g) and (h) (earnings of employed earners) applies;
- (c) where at the date of claim—
  - (i) the employment has not been terminated, but
  - (ii) the relevant person is not engaged in remunerative work, any earnings in respect of that employment except earnings to which regulation 21(1)(d), (e), (i) and (j) applies.

2. In the case of a relevant person who, before the date of application—

- (a) has been engaged in part-time employment as an employed earner or, where the employment was outside Great Britain, would have been so engaged had the employment been in Great Britain, and
- (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

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any earnings in respect of that employment except—

- (i) where that employment has been terminated, earnings to which regulation 21(1)(e) applies;
- (ii) where that employment has not been terminated, earnings to which regulation 21(1)(e), (i) and (j) applies.

**3.—(1)** In a case to which this paragraph applies, and paragraph 4 does not apply, £15; but notwithstanding regulation 15 (determination of income and capital of members of a relevant person's family and of a polygamous marriage) if this paragraph applies to a relevant person it shall not apply to his partner except where, and to the extent that, the earnings of the relevant person which are to be disregarded under this paragraph are less than £15.

(2) This paragraph applies where the relevant person's applicable amount includes an amount by way of the disability premium or severe disability premium under Schedule 1 (applicable amounts).

(3) This paragraph applies where—

- (a) the relevant person is a member of a couple and his applicable amount would, but for the higher pensioner premium under Schedule 1 being applicable, include an amount by way of the disability premium under that Schedule; and
- (b) he or his partner is under the age of 60 and at least one is engaged in employment.

(4) This paragraph applies where—

- (a) the relevant person's applicable amount includes an amount by way of the higher pensioner premium under Schedule 1; and
- (b) the relevant person or, if he is a member of a couple, either he or his partner has attained the age of 60; and
- (c) immediately before attaining that age he or, as the case may be, he or his partner was engaged in employment and the relevant person would have been entitled by virtue of subparagraph (2) or (3) to a disregard of £15; and
- (d) he or, if he is a member of a couple, he or his partner has continued in employment.

(5) This paragraph applies where—

- (a) the relevant person is a member of a couple and his applicable amount would include an amount by way of the disability premium under Schedule 1, but for—
  - (i) the pensioner premium for persons aged 75 and over under that Schedule being applicable, or
  - (ii) the higher pensioner premium under that Schedule being applicable; and
- (b) he or his partner has attained the age of 75 but is under the age of 80 and the other is under the age of 60 and at least one member of the couple is engaged in employment.

(6) This paragraph applies where—

- (a) the relevant person is a member of a couple and he or his partner has attained the age of 75 but is under the age of 80 and the other has attained the age of 60; and
- (b) immediately before the younger member attained that age either member was engaged in employment and the relevant person would have been entitled by virtue of subparagraph (5) to a disregard of £15; and
- (c) either he or his partner has continued in employment.

(7) For the purposes of this paragraph, no account shall be taken of any period not exceeding eight consecutive weeks occurring on or after the date on which the relevant person or, if he is a member of a couple, he or his partner attained the age of 60 during which either or both ceased to be engaged in employment.



4. If an amount by way of a lone parent premium under Schedule 1 is or, but for any pensioner premium, higher pensioner premium or disability premium being applicable to him, would be included in the determination of the relevant person's applicable amount, £25.

5.—(1) In a case where neither paragraph 3 nor 4 applies to the relevant person, and subject to sub-paragraph (2), where the relevant person's applicable amount includes an amount by way of carer premium under Schedule 1, £15 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of invalid care allowance or treated in accordance with paragraph 15(2) of that Schedule as being in receipt of invalid care allowance.

(2) Where the carer premium is awarded in respect of the relevant person and of any partner of his, their earnings shall for the purpose of this paragraph be aggregated, but the amount of earnings to be disregarded in accordance with sub-paragraph (1) shall not exceed £15 of the aggregated amount.

6. Where the carer premium is awarded in respect of a relevant person who is a member of a couple and whose earnings are less than £15, 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 8(1), so much of the other member's earnings as would not, when aggregated with the amount disregarded under paragraph 5, exceed £15;
- (b) other than an employment specified in paragraph 8(1), so much of the other member's earnings from such other employment up to £10 as would not, when aggregated with the amount disregarded under paragraph 5, exceed £15.

7. In a case where paragraphs 3, 5, 6 and 8 do not apply to the relevant person and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding regulation 15 (determination of income and capital of members of relevant person's family and of a polygamous marriage), if this paragraph applies to a relevant person it shall not apply to his partner except where, and to the extent that, the earnings of the relevant person which are to be disregarded under this paragraph are less than £10.

8.—(1) In a case to which none of paragraphs 3, 4, 5 or 6 applies to the relevant person, £15 of earnings derived from one or more employments as—

- (a) a part-time fireman in a fire-brigade maintained in pursuance of the Fire Services Acts 1947 to 1959<sup>(9)</sup>;
- (b) an auxiliary coastguard in respect of coast rescue activities;
- (c) a person engaged part-time in the manning or launching of a life-boat;
- (d) a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979<sup>(10)</sup>;

but, notwithstanding regulation 15 (determination of income and capital of members of relevant person's family and of a polygamous marriage), if this paragraph applies to a relevant person it shall not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the relevant person's partner is engaged in an employment—

- (a) specified in sub-paragraph (1), so much of his earnings as would not, when aggregated with the amount of the relevant person's earnings disregarded under this paragraph, exceed £15;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not, when aggregated with the applicant's earnings disregarded under this paragraph, exceed £15.

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<sup>(9)</sup> 1947 c. 41, 1951 c. 27, 1959 c. 44.

<sup>(10)</sup> S.I. 1979/591; Part I of Schedule 3 was substituted by S.I. 1980/1975.

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9. Where the relevant person is engaged in one or more employments specified in paragraph 8(1), but his earnings derived from such employments are less than £15 in any week and he is also engaged in any other employment, so much of his earnings from that other employment, up to £5 if he is a single person, or up to £10 if he has a partner, as would not, when aggregated with the amount of his earnings disregarded under paragraph 6, exceed £15.

10. In a case to which none of paragraphs 3 to 9 applies, £5.

11. Any amount or the balance of any amount which would fall to be disregarded under paragraph 17 or 18 of Schedule 3 had the relevant person's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

12. Where a relevant person is in receipt of income support, his earnings.

13. 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.

14. Where a payment of earnings is made in a currency other than sterling, any banking charges or commission payable in converting that payment into sterling.

15. Any earnings of a child or young person except earnings to which paragraph 16 applies.

16. In the case of earnings of a child or young person who has ceased full-time education for the purposes of section 142 of the 1992 Act (meaning of child) and who is engaged in remunerative work—

- (a) if an amount by way of a disabled child premium under Schedule 1 is included in the determination of his applicable amount, £15;
- (b) in any other case, £5.

17. In this Schedule “part-time employment” means employment in which the person is engaged on average for less than 16 hours a week.

## 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;

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- (b) income support;
- (c) mobility allowance under section 37A of the Social Security Act 1975(11) .

7. Any mobility supplement under article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(12) (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983(13) 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(14) (assistance by means of scholarships or otherwise), or by virtue of section 2(1) of the Education Act 1962(15) (awards for courses of further education), or section 49 of the Education (Scotland) Act 1980(16) (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(17) or participating in arrangements for training made under that section or under section 2 of the Enterprise and New Towns (Scotland) Act 1990(18)—

- (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.

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(11) 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.

(12) 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.

(13) 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.

(14) 1944 c. 31, amended by S.I. 1964/490 and the Education Reform Act 1988 (c. 40), section 237(1), Schedule 12, paragraph 6.

(15) 1962 c. 12; section 2(1) was substituted by section 19 of, and Schedule 5 to, the Education Act 1980 (c. 20).

(16) 1980 c. 44.

(17) 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.

(18) 1990 c. 35; section 2 was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 51 and Schedule 10.

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(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(19), less any deductions in respect of non-dependants which fall to be made under regulation 63(20) 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).

**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;

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

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

- (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<sup>(21)</sup> (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<sup>(22)</sup>, that student's award under that section;
- (b) that student's award under section 2 of that Act<sup>(22)</sup>; or
- (c) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980<sup>(23)</sup> 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

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(21) 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.

(22) 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).

(23) 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).

(23) 1980 c. 44 and see the Education Authority Bursaries (Scotland) Regulations 1988 (S.I. 1988/1042).

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- (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<sup>(24)</sup> (permitted allowances) or with a scheme approved by the Secretary of State under section 51 of the Adoption (Scotland) Act 1978<sup>(25)</sup> (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<sup>(26)</sup> (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<sup>(27)</sup> (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<sup>(28)</sup> 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<sup>(29)</sup> (provision of accommodation and maintenance for children by local authorities and voluntary organisations).

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<sup>(24)</sup> 1976 c. 36; section 57A was inserted by paragraph 25 of Schedule 10 to the Children Act 1989.

<sup>(25)</sup> 1978 c. 28.

<sup>(26)</sup> 1989 c. 41; section 15(1) was amended by the Courts and Legal Services Act 1990 (c. 41), section 116 and Schedule 16.

<sup>(27)</sup> 1975 c. 72.

<sup>(28)</sup> 1968 c. 49.

<sup>(29)</sup> S.I. 1985/1799.

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(30) 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.

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.

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(30) 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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(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<sup>(31)</sup>.

**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<sup>(32)</sup>.

**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<sup>(33)</sup> or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987<sup>(34)</sup> (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<sup>(35)</sup> (reduction of liability for council tax).

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<sup>(31)</sup> S.I. 1983/1399; relevant amending instruments are S.I. 1984/282 and 1986/1293.

<sup>(32)</sup> S.I. 1987/1683.

<sup>(33)</sup> 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.

<sup>(34)</sup> 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.

<sup>(35)</sup> 1992 c. 14.



**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**(36)**;
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977**(37)**;
- (c) the Queen’s Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917**(38)**;
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980**(39)**;
- (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**(40)**,

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**(41)** (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**(42)** (travelling expenses and health service supplies);

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**(36)** 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.

**(37)** Army Code No. 13045 published by HMSO.

**(38)** 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.

**(39)** 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.

**(40)** Army Code 60589 published by HMSO.

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

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

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(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(43) (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(44) or in accordance with arrangements made under section 2 of the Employment and Training Act 1973(45) 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.

#### SCHEDULE 4

Regulation 30(2)

#### CAPITAL TO BE DISREGARDED

1. The dwelling or building to which the application relates.
2. Any one dwelling normally occupied by the relevant person as his only or main residence 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; but, notwithstanding

(43) 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.

(44) 1944 c. 10.

(45) 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.

regulation 15 (determination of income and capital of members of relevant person's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

3. Any dwelling which the relevant person intends to occupy as his only or main residence and—
  - (a) which he acquires for occupation, and intends to occupy as such residence within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the relevant person to obtain possession and commence occupation, or
  - (b) 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 the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation, or
  - (c) to which essential repairs or alterations are required in order to render it fit for such occupation, for such period as is necessary to enable those repairs or alterations to be carried out,

but, notwithstanding regulation 15 (determination of income and capital of members of relevant person's family and of a polygamous marriage) only one dwelling shall be disregarded under this paragraph.

4.—(1) Subject to sub-paragraph (2), any sum directly attributable to the proceeds of sale of any dwelling formerly occupied by the relevant person as his only or main residence to the extent to which it is to be used for the purchase of either—

- (a) the dwelling or building to which the application relates, or
- (b) any dwelling, other than that to which the application relates, which is 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 relevant person to complete the purchase.

(2) Sub-paragraph (1) shall not apply where a dwelling is disregarded under paragraph 26, and sub-paragraph (1)(b) shall not apply where a dwelling is disregarded under paragraph 3.

5. Any dwelling occupied in whole or in part as his only or main residence—
  - (a) by a partner, close relative, grandparent, grandchild, uncle, aunt, nephew or niece of a relevant person who is single or of any member of the family of the relevant person where that person is either aged 60 or over or incapacitated;
  - (b) by the former partner of the relevant person; but this provision shall not apply where the former partner is a person from whom the relevant person is estranged or divorced.

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

7. Any reversionary interest.

8.—(1) The assets of any business owned in whole or in part by the relevant person 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.

- (2) The assets of any business owned in whole or in part by the relevant person 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.

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**9.** Any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) any payment specified in paragraph 5, 7 or 8 of Schedule 3;
- (b) an income-related benefit or supplementary benefit, family income supplement under the Family Income Supplements Act 1970<sup>(46)</sup> or housing benefit under Part II of the Social Security and Housing Benefits Act 1982<sup>(47)</sup>.

**10.**—(1) Subject to sub-paragraph (2), any sum—

- (a) paid to the relevant person in consequence of damage to or loss of his only or main residence or any personal possession and intended for its repair or replacement; or
- (b) acquired by the relevant person (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to his only or main residence,

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 effect the repairs, replacement or improvement.

(2) A sum to which sub-paragraph 1(b) applies shall be disregarded under this paragraph to the extent only that it is not for carrying out works to which the application relates.

**11.** Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985<sup>(48)</sup> as a condition of occupying the only or main residence;
- (b) which was so deposited and which is to be used for the purchase of another dwelling being the only or main residence, for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the relevant person to complete the purchase.

**12.** Any personal possessions except those which have been acquired by the relevant person with the intention of reducing his capital in order to increase the amount of grant.

**13.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

**14.**—(1) Subject to sub-paragraph (2), where the funds of a trust are derived from a payment made in consequence of any personal injury to the relevant person, the value of the trust fund and the value of the right to receive any payment under that trust.

(2) Any value to which sub-paragraph (1) applies shall be disregarded under this paragraph to the extent only that it does not represent funds or a payment which are for carrying out works to which the application relates.

**15.** The value of the right to receive any income under a life interest or from a life rent.

**16.** The value of the right to receive any income which is disregarded under paragraph 13 of Schedule 2 or paragraph 22 of Schedule 3.

**17.** The surrender value of any policy of life insurance.

**18.** Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

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<sup>(46)</sup> 1970 c. 55.

<sup>(47)</sup> 1982 c. 24.

<sup>(48)</sup> 1985 c. 69.

**19.** Any payment made by a local authority in accordance with section 17 or 24 of the Children Act 1989<sup>(49)</sup> or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968<sup>(50)</sup> (provision of services for children and their families and advice and assistance to certain children).

**20.** Any social fund payment.

**21.** Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988<sup>(51)</sup> (mortgage interest payable under deduction of tax) on a payment of relevant loan interest for the purpose of acquiring an interest in the only or main residence or carrying out repairs or improvements to that residence.

**22.** Any capital which by virtue of regulation 27, 29(5) or 43 (capital treated as income, modifications in respect of children and young persons, and treatment of student loans) is to be treated as income.

**23.** Where any payment of capital is made in currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

**24.—(1)** Any payment made under the MacFarlane Trusts, the Independent Living Funds or the Fund.

(2) Any payment by or on behalf of a person who is suffering or 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—

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<sup>(49)</sup> 1989 c. 41; 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.

<sup>(50)</sup> 1968 c. 49.

<sup>(51)</sup> 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.

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- (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 capital resource which derives from any payment of income or capital made under or deriving from any of the MacFarlane Trusts or the Fund.

**25.**—(1) Where a relevant person has ceased to occupy what was formerly the dwelling occupied as the only or main residence following his estrangement or divorce from his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling, or where the dwelling is occupied by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph "dwelling" includes 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.

**26.** Any premises where the relevant person 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.

**27.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

**28.** 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(**52**).

**29.** The value of the right to receive an occupational or personal pension.

**30.** The value of the right to receive any rent.

**31.** Any payment in kind made by a charity or under the MacFarlane (Special Payments) Trust, the MacFarlane (Special Payments) (No. 2) Trust, the Fund, or the Independent Living (1993) Fund.

**32.** £200 of any payment or, if the payment is less than £200, the whole of any payment, made under section 2 of the Employment and Training Act 1973(**53**) (functions of the Secretary of State)

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(52) S.I. 1983/1399.

(53) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25, and repealed in part by the Employment Act 1989 (c. 38), section 29 and Schedule 7.

or under section 2 of the Enterprise and New Towns (Scotland) Act 1990<sup>(54)</sup> (functions in relation to training for employment etc) as a training bonus to a person participating in arrangements for training made under either of those sections.

**33.** Any housing benefit, or housing benefit in the form of a community charge rebate.

**34.** Any community charge benefit.

**35.** 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<sup>(55)</sup> or section 9A of the Abolition of Domestic Rates Etc. (Scotland) Act 1987<sup>(56)</sup> (reduction of liability for personal community charge) or reduction of council tax either under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992<sup>(57)</sup> (reduction of liability for council tax).

**36.**—(1) Subject to sub-paragraph (2), any grant made to the relevant person in accordance with a scheme made under section 129 of the Housing Act 1988<sup>(58)</sup> or section 66 of the Housing (Scotland) Act 1988<sup>(59)</sup> (schemes for payments to assist local authority tenants to obtain other accommodation) which is to be used—

- (a) to purchase premises intended for occupation as his only or main residence; or
- (b) to carry out repairs or alterations which are required to render premises fit for such occupation,

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 relevant person to commence such occupation.

(2) A grant to which sub-paragraph (1) applies shall be disregarded under this paragraph to the extent only that it is not for carrying out works to which the application relates.

**37.** Any arrears of special war widows payment which is disregarded under paragraph 41 of Schedule 3 (sums to be disregarded in the determination of income other than earnings).

**38.**—(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<sup>(60)</sup> (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<sup>(61)</sup> (travelling expenses and health service supplies).

(2) Any payment or repayment 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).

**39.** Any payment made under regulations 9 to 11 or regulation 13 of the Welfare Food Regulations 1988<sup>(62)</sup> (payments made in place of milk tokens or the supply of vitamins).

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<sup>(54)</sup> 1990 c. 35.

<sup>(55)</sup> 1988 c. 41; section 13A was inserted by paragraphs 1, 5 and 79(3) of Schedule 5 to the Act and was repealed, with savings, by the Local Government Finance Act 1992 (c. 14), section 117(2) and Schedule 14.

<sup>(56)</sup> 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.

<sup>(57)</sup> 1992 c. 14.

<sup>(58)</sup> 1988 c. 50.

<sup>(59)</sup> 1988 c. 43; section 129(5)(a) and was repealed by section 194 of, and Schedule 12 to, the Act.

<sup>(60)</sup> S.I. 1988/551, relevant amending instruments are S.I. 1990/918, 1991/557 and 1992/1104.

<sup>(61)</sup> S.I. 1988/546; relevant amending instruments are S.I. 1989/393, 1990/551, 1990/917, and 1991/575.

<sup>(62)</sup> 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.

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**40.** Any payment made either by 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.

**41.** 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.

**42.** Any payment (other than a training allowance, or a training bonus under section 2 of the Employment and Training Act 1973) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944<sup>(63)</sup> or in accordance with arrangements made under section 2 of the Employment and Training Act 1973 to assist disabled persons to obtain or retain employment despite their disability.

**43.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958<sup>(64)</sup> to homeworkers assisted under the Blind Homeworkers' Scheme.

**44.** Any council tax benefit.

## SCHEDULE 5

Regulation 45

### REVOCATIONS

Regulations revoked	References
The Housing Renovation etc. Grants (Reduction of Grant) Regulations 1990	<a href="#">S.I. 1990/1189</a>
The Housing Renovation etc. Grants (Reduction of Grant) (Amendment) Regulations 1991	<a href="#">S.I. 1991/897</a>
The Housing Renovation etc. Grants (Reduction of Grant) (Amendment) Regulations 1992	<a href="#">S.I. 1992/705</a>
The Housing Renovation etc. Grants (Reduction of Grant) (Amendment) Regulations 1993	<a href="#">S.I. 1993/551</a>

<sup>(63)</sup> 1944 c. 10.

<sup>(64)</sup> 1958 c. 33; section 3 was amended by the Local Authority Social Services Act 1970 (c. 42), section 14 and Schedule 3; the Local Government Act 1972 (c. 70), sections 195 and 272 and Schedules 23 and 30; the National Health Service Act 1979 (c. 49), section 129 and Schedule 15; and the Local Government Act 1985 (c. 51), section 102 and Schedule 17.