

SCHEDULES

SCHEDULE 1

Regulations 83 and 84(1)

APPLICABLE AMOUNTS

PART 1

PERSONAL ALLOWANCES

Modifications etc. (not altering text)

- C1** Sch. 1 Pt. 1 sums confirmed (6.4.1998 for specified purposes) by [The Social Security Benefits Up-rating Order 1998 \(S.I. 1998/470\)](#), arts. 1(2)(i), 24(3), **Sch. 13**
- C2** Sch. 1 Pt. 1 sums amended (with effect in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1999 \(S.I. 1999/264\)](#), arts. 1(2)(j), 24(3), **Sch. 13**

1. The weekly amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the weekly amounts specified for the purposes of regulations 83 and 84(1) (applicable amounts and polygamous marriages).

(1) Person or Couple	(2) Amount
(1) Single claimant aged—	(1)(a) [^{F1} £30.95]
(a) except where head (b) or (c) of this subparagraph applies, less than 18;	
(b) less than 18 who falls within paragraph (2) of regulation 57 and who—	(b) [^{F1} £40.70]
is a person to whom regulation 59, 60 or 61 applies ^{F2} ...; or	
(ii) is the subject of a direction under section 16;	
(c) less than 18 who satisfies the condition in paragraph 13(a) of Part 3;	(c) [^{F1} £40.70]
(d) not less than 18 but less than 25;	(d) [^{F1} £40.70]
(e) not less than 25.	(e) [^{F1} £51.40]
(2) Lone parent aged—	(2)(a) [^{F1} £30.95]
(a) except where head (b) or (c) of this subparagraph applies, less than 18;	

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- (b) less than 18 who falls within paragraph (2) of regulation 57 and who— (b) [^{F1}£40.70]
- (i) is a person to whom regulation 59, 60 or 61 applies ^{F3} ...; or
- (ii) is the subject of a direction under section 16;
- (c) less than 18 who satisfies the condition in paragraph 13(a) [^{F4}of Part 3]; (c) [^{F1}£40.70]
- (d) not less than 18. (d) [^{F1}£51.40]
- (3) Couple— (3)(a) [^{F1}£61.35]
- (a) where both members are aged less than 18 and—
- (i) at least one of them is treated as responsible for a child; or
- (ii) had they not been members of a couple, each would have been a person to whom regulation 59, 60 or 61 (circumstances in which a person aged 16 or 17 is eligible for a jobseeker's allowance) applied or
- (iii) had they not been members of a couple, the claimant would have been a person to whom regulation 59, 60 or 61 (circumstances in which a person aged 16 or 17 is eligible for a jobseeker's allowance) applied and his partner satisfies the requirements for entitlement to income support other than the requirement to make a claim for it; or
- (iv) [^{F5}they are married and one member of the couple is a person to whom regulation 59, 60 or 61 applies and the other member is registered in accordance with regulation 62; or
- (iva) they are married and each member of the couple is a person to whom regulation 59, 60 or 61 applies; or]
- (v) there is a direction under section 16 (jobseeker's allowance in cases of severe hardship) in respect of each member; or
- (vi) there is a direction under section 16 in respect of one of them and the other is a person to whom regulation 59, 60 or 61 applies ^{F6} ...; or

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(vii) there is a direction under section 16 in respect of one of them and the other satisfies requirements for entitlement to income support other than the requirement to make a claim for it;

(b) where both members are aged less than 18 and sub-paragraph (3)(a) does not apply but one member of the couple falls within paragraph (2) of regulation 57 and either— (b) [^{F1}£40.70]

(i) is a person to whom regulation 59, 60 or 61 applies ^{F7} ...; or

(ii) is the subject of a direction under section 16 of the Act;

(c) where both members are aged less than 18 and neither head (a) nor (b) of sub-paragraph (3) applies but one member of the couple— (c) [^{F1} £30.95]

(i) is a person to whom regulation 59, 60 or 61 applies ^{F8} ...; or

(ii) is the subject of a direction under section 16;

(d) where both members are aged less than 18 and none of heads (a), (b) or (c) of sub-paragraph (3) apply but one member of the couple is a person who satisfies the requirements of paragraph 13(a); (d) [^{F1}£40.70]

(e) where both members are aged not less than 18; (e) [^{F1}£80.65]

(f) where one member is aged not less than 18 and the other member is a person under 18 who— (f) [^{F1} £80.65]

(i) is a person to whom regulation 59, 60 or 61 applies ^{F9} ...; or

(ii) is the subject of a direction under section 16; and

(iii) satisfies requirements for entitlement to income support other than the requirement to make a claim for it;

(g) where one member is aged not less than 18 but less than 25 and the other member is a person under 18— (g) [^{F1}£40.70]

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- (i) to whom none of the regulations 59 to 61 applies; or
- (ii) who is not the subject of a direction under section 16; and
- (iii) does not satisfy requirements for entitlement to income support disregarding the requirement to make a claim for it;
- (h) where one member is aged not less than 25 and the other member is a person under 18— (h) [^{F1}£51.40]
- (i) to whom none of the regulations 59 to 61 applies; or
- (ii) is not the subject of a direction under section 16; and
- (iii) does not satisfy requirements for entitlement to income support disregarding the requirement to make a claim for it.

Textual Amendments

- F1** Sums in Sch. 1 Pt. 1 substituted (with effect in accordance with art. 1(2)(j) of the amending S.I.) by The Social Security Benefits Up-rating Order 1999 (S.I. 1999/264), arts. 1(2)(j), 24(3), **Sch. 13**
- F2** Words in Sch. 1 para. 1(1)(b)(i) omitted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **18(a)**
- F3** Words in Sch. 1 para. 1(2)(b)(i) omitted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **18(a)**
- F4** Words in Sch. 1 para. 1(2)(c) inserted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F5** Sch. 1 para. 1(3)(a)(iv) (iva) substituted for Sch. 1 para. 1(3)(a)(iv) (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **18(b)**
- F6** Words in Sch. 1 para. 1(3)(a)(vi) omitted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **18(a)**
- F7** Words in Sch. 1 para. 1(3)(b)(i) omitted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **18(a)**
- F8** Words in Sch. 1 para. 1(3)(c)(i) omitted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **18(a)**
- F9** Words in Sch. 1 para. 1(3)(f)(i) omitted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), **18(a)**

2.—^{F10}(1) The weekly amounts specified in column (2) below in respect of each person specified in column (1) shall^{F11}, for the relevant period specified in column (1),] be the weekly amounts specified for the purposes of regulations 83(b) and 84(1)(c).

(1) Child or Young Person	(2) Amount
^{F12} Person in respect of the period—	

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- (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday; (a) £25.90
- (b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's nineteenth birthday.] (b) £30.95

[^{F13}(2) In column (1) of the table in paragraph (1), "the first Monday in September" means the Monday which first occurs in the month of September in any year.]

The following Table is for transitional purposes only see SI 1997/543 Art. 24(4).

(1) [^{F14} Child or Young Person Person aged—	(2) Amount
(a) less than 11;	(a) £16.45
(b) not less than 11 but less than 16;	(b) [^{F15} £24.75]
(c) not less than 16 but less than 18;	(c) [^{F16} £29.60]
(d) not less than 18.]	(d) [^{F17} £38.90]

Textual Amendments

- F10** Words in Sch. 1 para. 2 inserted (7.4.1997) by [The Income-related Benefits and Jobseekers Allowance \(Personal Allowances for Children and Young Persons\) \(Amendment\) Regulations 1996 \(S.I. 1996/2545\)](#), regs. 1(2), **2(1)(2)(7)(b)** (with reg. 10)
- F11** Words in Sch. 1 para. 2 inserted (7.4.1997) by [The Income-related Benefits and Jobseekers Allowance \(Personal Allowances for Children and Young Persons\) \(Amendment\) Regulations 1996 \(S.I. 1996/2545\)](#), regs. 1(2), **2(1)(3)(7)(b)** (with reg. 10)
- F12** Words in Sch. 1 para. 2(1) substituted (10.4.2000) by [The Social Security Amendment \(Personal Allowances for Children and Young Persons\) Regulations 1999 \(S.I. 1999/2555\)](#), regs. 1(7)(a), **2(1)(b)(2)(d)**
- F13** Sch. 1 para. 2(2) inserted (7.4.1997) by [The Income-related Benefits and Jobseekers Allowance \(Personal Allowances for Children and Young Persons\) \(Amendment\) Regulations 1996 \(S.I. 1996/2545\)](#), regs. 1(2), **2(1)(6)(7)(b)** (with reg. 10)
- F14** Words in Sch. 1 para. 2 substituted (7.4.1997) by [The Income-related Benefits and Jobseekers Allowance \(Personal Allowances for Children and Young Persons\) \(Amendment\) Regulations 1996 \(S.I. 1996/2545\)](#), regs. 1(2), **2(1)(4)(7)(b)** (with reg. 10)
- F15** Sum in Sch. 1 para. 2(b) substituted (with effect in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1997 \(S.I. 1997/543\)](#), arts. 1(2)(j), **24(4)(a)**
- F16** Sum in Sch. 1 para. 2(c) substituted (with effect in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1997 \(S.I. 1997/543\)](#), arts. 1(2)(j), **24(4)(b)**
- F17** Sum in Sch. 1 para. 2(d) substituted (with effect in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1997 \(S.I. 1997/543\)](#), arts. 1(2)(j), **24(4)(c)**

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3.—(1) The weekly amount for the purposes of regulations 83(c) and 84(1)(d) (residential allowance) in respect of a person who satisfies the conditions specified in sub-paragraph (2) shall be—

- (a) except in a case to which head (b) applies, [^{F1}£59.40;] and
- (b) where the home in which the person resides is situated within the area described in Schedule 3 (the Greater London area), [^{F1}£66.10.]

(2) Subject to sub-paragraphs (3), (4) and (5), the conditions are—

- (a) the person resides in a residential care home or a nursing home or is regarded pursuant to sub-paragraph (5) as residing in such a home;
- (b) the person both requires personal care [^{F18}by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness and the care is provided in the home];
- (c) he does not have a preserved right;
- (d) he is aged 16 or over;
- (e) both the person's accommodation and such meals (if any) as are provided for him are provided on a commercial basis; and
- (f) no part of the weekly charge for accommodation is met by housing benefit.

(3) For the purposes of sub-paragraph (2), but subject to sub-paragraph (4), a person resides in a residential care home where the home in which he resides—

- (a) is registered under Part I of the Registered Homes Act 1984 ^{F19} or is deemed to be so registered by virtue of section 2(3) of the Registered Homes (Amendment) Act 1991 ^{F20} (registration of small homes where application for registration not determined);
- (b) is managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament (other than a social services authority) and provides both board and personal care for the claimant; or
- (c) is in Scotland and is registered under section 61 of the Social Work (Scotland) Act 1968 ^{F21} or is an establishment provided by a housing association registered with Scottish Homes established by the Housing (Scotland) Act 1988 ^{F22} which provides care equivalent to that given in residential accommodation provided under Part IV of the Social Work (Scotland) Act 1968;

and a person resides in a nursing home where the home in which he resides is such a home within the meaning of regulation 1(3).

(4) A person shall not be regarded as residing in a nursing home for the purposes of sub-paragraph (2) where the home in which he resides is a hospice, and for this purpose "hospice" means a nursing home which—

- (a) if situate in England or Wales, is registered under Part II of the Registered Homes Act 1984, or
- (b) if situate in Scotland, is exempted from the operation of the Nursing Homes Registration (Scotland) Act 1938 by virtue of section 6 of that Act ^{F23}, and whose primary function is to provide palliative care for persons resident there who are suffering from a progressive disease in its final stages.

(5) For the purposes of sub-paragraph (2)(a), where a person's principal place of residence is a residential care home or a nursing home, and he is temporarily absent from that home, he shall be regarded as continuing to reside at that home

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- (a) where he is absent because he is a patient, for the first six weeks of any such period of absence, and for this purpose—
 - (i) "patient" has the meaning it has in Schedule 5 by virtue of regulation 85, and
 - (ii) periods of absence separated by not more than 28 days shall be treated as a single period of absence equal in duration to all those periods; and
 - (b) for the first three weeks of any other period of absence.
- (6) Where—
- (a) a person has been registered under the Registered Homes Act 1984 in respect of premises which have been carried on as a residential care home or, as the case may be, a nursing home, and that person has ceased to carry on such a home; and
 - (b) an application for registration under that Act has been made by another person and that application has not been determined or abandoned,

then any question arising for determination under this paragraph shall be determined as if the most recent registration under that Act in respect of those premises continued until the day on which the application is determined or abandoned.

Textual Amendments

- F1** Sums in Sch. 1 Pt. 1 substituted (with effect in accordance with art. 1(2)(j) of the amending S.I.) by [The Social Security Benefits Up-rating Order 1999 \(S.I. 1999/264\)](#), arts. 1(2)(j), 24(3), **Sch. 13**
- F18** Words in Sch. 1 para. 3(2)(b) substituted (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income-related Benefits and Jobseekers Allowance \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/2197\)](#), regs. 1(2), **7(5)(6)(b)**
- F19** 1984 c.23.
- F20** 1991 c.20.
- F21** 1968 c.49; section 61 was amended by the [Criminal Procedure \(Scotland\) Act 1975 \(c.21\)](#) sections 289C and 289G and Schedule 7C.
- F22** 1988 c.43.
- F23** 1938 c.73.

PART II

FAMILY PREMIUM

4.—^{F24}(1) The weekly amount for the purposes of regulations 83(d) and 84(1)(e) in respect of a family of which at least one member is a child or young person shall be—

^{F25}(a) where the claimant is a lone parent ^{F26}[to whom the conditions in both sub-paragraphs (2) and (3) apply] and no premium is applicable under paragraph 10, ^{F27}... 12 or 13, ^{F28}[£15.90;]

(b) in any other case, ^{F29}[£14.25.]

(2) ^{F30}The first condition for the purposes of sub-paragraph (1)(a) is that the claimant—

(a) was both a lone parent and entitled to an income-based jobseeker's allowance on 5th April 1998; or

(b) does not come within head (a) above but—

(i) was both a lone parent and entitled to an income-based jobseeker's allowance on any day during the period of 12 weeks ending on 5th April 1998;

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- (ii) was both a lone parent and entitled to an income-based jobseeker's allowance on any day during the period of 12 weeks commencing on 6th April 1998; and
- (iii) the last day in respect of which (i) above applied was no more than 12 weeks before the first day in respect of which (ii) above applied.

(3) The second condition for the purposes of sub-paragraph (1)(a) is that as from the appropriate date specified in sub-paragraph (4), the claimant has continued, subject to sub-paragraph (5), to be both a lone parent and entitled to an income-based jobseeker's allowance.

(4) The appropriate date for the purposes of sub-paragraph (3) is—

- (a) in a case to which sub-paragraph (2)(a) applies, 6th April 1998;
- (b) in a case to which sub-paragraph (2)(b) applies, the first day in respect of which sub-paragraph 2(b)(ii) applied.

(5) For the purposes of sub-paragraph (3), where the claimant has ceased, for any period of 12 weeks or less, to be—

- (a) a lone parent; or
- (b) entitled to an income-based jobseeker's allowance; or
- (c) both a lone parent and entitled to an income-based jobseeker's allowance,

the claimant shall be treated, on again becoming both a lone parent and entitled to an income-based jobseeker's allowance, as having continued to be both a lone parent and entitled to an income-based jobseeker's allowance throughout that period.

(6) In determining whether the conditions in sub-paragraphs (2) and (3) apply, entitlement to income support shall be treated as entitlement to an income-based jobseeker's allowance for the purposes of any requirement that a person is entitled to an income-based jobseeker's allowance.]

[^{F31}(7) For the purposes of this paragraph, a claimant shall be treated as having been entitled to an income-based jobseeker's allowance throughout any period which comprises only days on which he was participating in an employment zone programme and was not entitled to a jobseeker's allowance because, as a consequence of his participation in that programme, he was engaged in remunerative work or failed to satisfy the condition specified in section 2(1)(c) or in section 3(1)(a).]

Textual Amendments

- F24** Sch. 1 para. 4(1): Sch. 1 para. 4 renumbered as Sch. 1 para. 4(1) (6.4.1998) by [The Social Security Amendment \(Lone Parents\) Regulations 1998 \(S.I. 1998/766\)](#), regs. 1(1), **14**
- F25** Words in Sch. 1 Pt. II para. 4 inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **44(2)**
- F26** Words in Sch. 1 para. 4(1)(a) inserted (6.4.1998) by [The Social Security Amendment \(Lone Parents\) Regulations 1998 \(S.I. 1998/766\)](#), regs. 1(1), **14(a)(i)**
- F27** Word in Sch. 1 para. 4(1)(a) omitted (6.4.1998) by virtue of [The Social Security Amendment \(Lone Parents\) Regulations 1998 \(S.I. 1998/766\)](#), regs. 1(1), **14(a)(ii)**
- F28** Sum in Sch. 1 para. 4(1)(a) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(4)(a)**
- F29** Sum in Sch. 1 para. 4(1)(b) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(4)(b)**
- F30** Sch. 1 para. 4(2)-(6) inserted (6.4.1998) by [The Social Security Amendment \(Lone Parents\) Regulations 1998 \(S.I. 1998/766\)](#), regs. 1(1), **14(b)**
- F31** Sch. 1 para. 4(7) added (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000 \(S.I. 2000/724\)](#), regs. 1(1), **4(4)(b)**

PART III

PREMIUMS

5. Except as provided in paragraph 6, the weekly premiums specified in Part IV of this Schedule shall for the purposes of regulations 83(e) and 84(1)(f), be applicable to a claimant who satisfies the condition specified in ^{F32}paragraphs 10] to 17 in respect of that premium.

Textual Amendments

F32 Words in Sch. 1 Pt. III para. 5 substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **44(3)(a)**

6. Subject to paragraph 7, where a claimant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.

7.—(1) The severe disability premium to which paragraph 15 applies may be applicable in addition to any other premium which may apply under this Schedule.

(2) The disabled child premium to which paragraph 16 applies may be applicable in addition to any other premium which may apply under this Schedule.

(3) The carer premium to which paragraph 17 applies may be applicable in addition to any other premium which may apply under this Schedule.

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

(a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 ^{F33} applies, for any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and

^{F34}(b) for any period spent by a claimant in undertaking a course of training or instruction provided or approved by the Secretary of State for Education and Employment under section 2 of the Employment and Training Act 1973, or by Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.]

(2) For the purposes of the carer premium under paragraph 17, a person shall be treated as being in receipt of invalid care allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Benefits Act.

Textual Amendments

F33 [S.I. 1979/597](#).

F34 Sch. 1 para. 8(1)(b) substituted (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(11)(a)**

Lone Parent Premium

^{F35}9.

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Textual Amendments

F35 Sch. 1 Pt. III para. 9 omitted (with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **44(3)(b)**

Pensioner premium for persons over 60

10. The condition is that the claimant—

- (a) is a single claimant or lone parent who has attained the age of 60; or
- (b) has attained the age of 60 and has a partner; or
- (c) has a partner and the partner has attained the age of 60 but not the age of 75.

Pensioner premium where claimant's partner has attained the age of 75

11. The condition is that the claimant has a partner who has attained the age of 75 but not the age of 80.

Higher Pensioner Premium

12.—(1) The condition is that—

- (a) the claimant is a single claimant or lone parent who has attained the age of 60 and either—
 - (i) satisfies one of the additional conditions specified in paragraph 14(1)(a), (c), (e), (f) or (h); or
 - (ii) was entitled to either income support or income-based jobseeker's allowance^[F36], or was treated as being entitled to either of those benefits and the disability premium was or, as the case may be, would have been, applicable to him in respect of a benefit week within 8 weeks of his 60th birthday and he has, subject to sub-paragraph (2), remained continuously entitled to one of those benefits since attaining that age; or
- (b) the claimant has a partner and—
 - (i) the partner has attained the age of 80; or
 - (ii) the partner has attained the age of 60 but not the age of 80, and the additional conditions specified in paragraph 14 are satisfied in respect of him; or
- (c) the claimant—
 - (i) has attained the age of 60;
 - ^[F37](ii) satisfies the requirements of either sub-head (i) or (ii) of paragraph 12(1)(a); and
 - (iii) has a partner.

(2) For the purposes of this paragraph and paragraph 14—

- (a) once the higher pensioner premium is applicable to a claimant, if he then ceases, for a period of eight weeks or less, to be entitled to either income support or income based jobseeker's allowance, ^[F38]or ceases to be treated as entitled to either of those benefits] he shall, on becoming re-entitled to either of those benefits, thereafter be treated as having been continuously entitled thereto;
- (b) in so far as sub-paragraphs (1)(a)(ii) and (1)(c)(ii) are concerned, if a claimant ceases to be entitled to either income support or an income-based jobseeker's allowance ^[F38]or ceases to be treated as entitled to either of those benefits] for a period not exceeding eight

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weeks which includes his 60th birthday, he shall, on becoming re-entitled to either of those benefits, thereafter be treated as having been continuously entitled thereto.

[^{F39}(3) In this paragraph where a claimant's partner is a welfare to work beneficiary, subparagraphs (1)(a)(ii) and (2)(b) shall apply to him as if for the words "8 weeks" there were substituted the words "52 weeks".]

[^{F40}(4) For the purposes of this paragraph, a claimant shall be treated as having been entitled to income support or to an income-based jobseeker's allowance throughout any period which comprises only days on which he was participating in an employment zone programme and was not entitled to—

- (a) income support because, as a consequence of his participation in that programme, he was engaged in remunerative work or had income in excess of the claimant's applicable amount as prescribed in Part IV of the Income Support Regulations; or
- (b) a jobseeker's allowance because, as a consequence of his participation in that programme, he was engaged in remunerative work or failed to satisfy the condition specified in section 2(1)(c) or in section 3(1)(a).]

Textual Amendments

- F36** Words in Sch. 1 para. 12(1)(a)(ii) substituted (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000 \(S.I. 2000/724\)](#), regs. 1(1), [4\(4\)\(c\)\(i\)](#)
- F37** Sch. 1 para. 12(1)(c)(ii) substituted (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, [2\(11\)\(b\)](#)
- F38** Words in Sch. 1 para. 12(2)(a)(b) inserted (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000 \(S.I. 2000/724\)](#), regs. 1(1), [4\(4\)\(c\)\(ii\)](#)
- F39** Sch. 1 para. 12(3) added (5.10.1998) by [The Social Security \(Welfare to Work\) Regulations 1998 \(S.I. 1998/2231\)](#), regs. 1, [14\(3\)](#)
- F40** Sch. 1 para. 12(4) added (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000 \(S.I. 2000/724\)](#), regs. 1(1), [4\(4\)\(c\)\(iii\)](#)

Disability Premium

13. The condition is that the claimant—

- (a) is a single claimant or lone parent who has not attained the age of 60 and satisfies any one of the additional conditions specified in paragraph 14(1)(a), (c), (e), (f) or (h); or
- (b) has not attained the age of 60, has a partner and the claimant satisfies any one of the additional conditions specified in paragraph 14(1)(a), (c), (e), (f) or (h); or
- (c) has a partner and the partner has not attained the age of 60 and also satisfies any one of the additional conditions specified in paragraph 14.

Additional Conditions for Higher Pensioner and Disability Premium

14.—(1) The additional conditions specified in this paragraph are that

- (a) the claimant or, as the case may be, his partner, is in receipt of either [^{F41}Disabled Person's Tax Credit] or mobility supplement;
- (b) the claimant's partner is in receipt of severe disablement allowance;
- (c) the claimant or, as the case may be, his partner, is in receipt of attendance allowance or disability living allowance or is a person whose disability living allowance is payable, in whole or in part, to another in accordance with regulation 44 of the Claims and Payments Regulations (payment of disability living allowance on behalf of third party);

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- (d) the claimant's partner is in receipt of long-term incapacity benefit or is a person to whom section 30B(4) of the Benefits Act (long term rate of incapacity benefit payable to those who are terminally ill) applies ^{F42};
- (e) the claimant or, as the case may be, his partner, has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977 ^{F43} or under section 46 of the National Health Service (Scotland) Act 1978 ^{F44} or provided by the Department of Health and Social Services for Northern Ireland under article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972 ^{F45}, or receives payments by way of grant from the Secretary of State under paragraph 2 of Schedule 2 to the Act of 1977 (additional provisions as to vehicles) or, in Scotland, under section 46 of the Act of 1978;
- (f) the claimant or, as the case may be, his partner, is a person who is entitled to the mobility component of disability living allowance but to whom the component is not payable in accordance with regulation 42 of the Claims and Payments Regulations (cases where disability living allowance not payable);
- (g) the claimant's partner was either—
- (i) in receipt of long term incapacity benefit under section 30A(5) of the Benefits Act ^{F46} immediately before attaining pensionable age and he is still alive; or
 - (ii) entitled to attendance allowance or disability living allowance but payment of that benefit was suspended in accordance with regulations under section 113(2) of the Benefits Act or otherwise abated as a consequence of [^{F47}the partner] becoming a patient within the meaning of regulation 85(4) (special cases),
- and in either case the higher pensioner premium or disability premium had been applicable to the claimant or his partner;
- (h) the claimant or, as the case may be, his partner, is registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948 ^{F48} (welfare services), or, in Scotland, has been certified as blind and in consequence is registered as blind in a register maintained by or on behalf of a regional or islands council.
- (2) For the purposes of sub-paragraph (1)(h), 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.

Textual Amendments

- F41** Words in Sch. 1 para. 14(1)(a) substituted (5.10.1999) by [The Social Security and Child Support \(Tax Credits\) Consequential Amendments Regulations 1999 \(S.I. 1999/2566\)](#), regs. 1(2), 2(2), **Sch. 2 Pt. II**
- F42** Section 30B was inserted by the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#) section 2(1).
- F43** [1977 c.49](#).
- F44** [1978 c.29](#).
- F45** [S.I. 1972/1265 \(N.I. 14\)](#).
- F46** Section 30A was inserted by the [Social Security \(Incapacity for Work\) and Act 1994](#) section 1(1).
- F47** Words in Sch. 1 para. 14(1)(g)(ii) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**
- F48** [1948 c.29](#); section 29 was amended by section 1(2) of the [National Assistance \(Amendment\) Act 1959 \(c.30\)](#); the [Mental Health \(Scotland\) Act 1960 \(c.61\)](#) sections 113 and 114 and Schedule 4; the [Local Government Act 1972 \(c.70\)](#) Schedule 23 paragraph 2; the [Employment and Training Act 1973 \(c.50\)](#) Schedule 3 paragraph 3; the [National Health Service Act 1977 \(c.49\)](#) Schedule 15 paragraph

6; and the [Health and Social Services and Social Security Adjudications Act 1983 \(c.41\)](#) Schedule 10 Part I.

Severe Disability Premium

15.—(1) In the case of a single claimant, a lone parent or a claimant who is treated as having no partner in consequence of sub-paragraph (3), the condition is that—

- (a) 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 Benefits Act; and
- (b) subject to sub-paragraph (4), there are no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
- ^{F49}(c) no person is entitled to, and in receipt of, an invalid care allowance under section 70 of the Benefits Act in respect of caring for him;]

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

- (a) the claimant 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 Benefits Act (the “qualifying benefit”); and
- (b) the partner is also in receipt of a qualifying benefit, or if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of a qualifying benefit; and
- (c) subject to sub-paragraph (4), there is no non-dependant aged 18 or over normally residing with him or with whom he is normally residing; and
- (d) either—
 - (i) ^{F50}no person is entitled to, and in receipt of, an invalid care allowance under section 70 of the Benefits Act in respect of] caring for either member of the couple or all the members of the polygamous marriage; or
 - (ii) a person is engaged in caring for one member (but not both members) of the couple, or one or more but not all members of the polygamous marriage, and in consequence is ^{F51}entitled to] an invalid care allowance under section 70 of the Benefits Act.

(3) Where the claimant has a partner who does not satisfy the condition in sub-paragraph (2) (b), and that partner is blind or treated as blind within the meaning of paragraph 14(1)(h) and (2), that partner shall be treated for the purposes of sub-paragraph (2) as if he were not a partner of the claimant.

(4) The following persons shall not be regarded as a non-dependant for the purposes of sub-paragraphs (1)(b) and (2)(c)—

- (a) a person 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 Benefits Act;
 - (b) subject to sub-paragraph (6), a person who joins the claimant’s household for the first time in order to care for the claimant or his partner and immediately before so joining the claimant or his partner satisfied the condition in sub-paragraph (1) or, as the case may be, (2);
 - (c) a person who is blind or treated as blind within the meaning of paragraph 14(1)(h) and (2).
- (5) For the purposes of sub-paragraph (2), a person shall be treated ^{F52}...—

- (a) ^{F53}as being 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

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Benefits Act if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;

[^{F54}(b) as being entitled to and in receipt of an invalid care allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.]

(6) Sub-paragraph (4)(b) shall apply only for the first 12 weeks following the date on which the person to whom that provision applies first joins the claimant's household.

(7) For the purposes of sub-paragraph (1)(c) and (2)(d), no account shall be taken of an award of invalid care allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is made.

(8) A person shall be treated as satisfying this condition if he would have satisfied the condition specified for a severe disability premium in income support in paragraph 13 of Schedule 2 to the Income Support Regulations by virtue only of regulations 4 to 6 of the Income Support (General) Amendment (No.6) Regulations 1991^{F55} (savings provisions in relation to severe disability premium) and for the purposes of determining whether in the particular case regulation 4 of those Regulations had ceased to apply in accordance with regulation 5(2)(a) of those Regulations, a person who is entitled to an income-based jobseeker's allowance shall be treated as entitled to income support.

Textual Amendments

- F49** Sch. 1 para. 15(1)(c) substituted (3.4.2000) by [The Social Security \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/681\)](#), regs. 1(1)(c), **4(3)(a)(i)**
- F50** Words in Sch. 1 para. 15(2)(d)(i) substituted (3.4.2000) by [The Social Security \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/681\)](#), regs. 1(1)(c), **4(3)(a)(ii)(aa)**
- F51** Words in Sch. 1 para. 15(2)(d)(ii) substituted (3.4.2000) by [The Social Security \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/681\)](#), regs. 1(1)(c), **4(3)(a)(ii)(bb)**
- F52** Words in Sch. 1 para. 15(5) omitted (3.4.2000) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/681\)](#), regs. 1(1)(c), **4(3)(a)(iii)(aa)**
- F53** Words in Sch. 1 para. 15(5)(a) inserted (3.4.2000) by [The Social Security \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/681\)](#), regs. 1(1)(c), **4(3)(a)(iii)(bb)**
- F54** Sch. 1 para. 15(5)(b) substituted (3.4.2000) by [The Social Security \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/681\)](#), regs. 1(1)(c), **4(3)(a)(iii)(cc)**
- F55** S.I. 1991/2334.

Disabled Child Premium

16. The condition is that a child or young person for whom the claimant or a partner of his is responsible and who is a member of the claimant's household—

- (a) has no capital or capital which, if calculated in accordance with Part VIII in like manner as for the claimant, except as provided in regulation 106(1) (modifications in respect of children and young persons), would not exceed £3,000; and
- (b) is in receipt of disability living allowance or is no longer in receipt of that allowance because he is a patient provided that the child or young person continues to be a member of the family; or
- (c) is blind or treated as blind within the meaning of paragraph 14(1)(h) and (2).

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Modifications etc. (not altering text)

- C3** Sch. 1 para. 16(a): sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(2)**

Carer Premium

17.—(1) Subject to sub-paragraphs (3) and (4), the condition is that the claimant or his partner is, or both of them are, [^{F56}entitled to] invalid care allowance under section 70 of the Benefits Act.

(2) The claimant, his partner, or both of them, as the case may be, shall be treated for the purposes of sub-paragraph (1) as being [^{F57}entitled to] an invalid care allowance where—

- (a) either or both of them would be in receipt of such an allowance but for any provision of the Social Security (Overlapping Benefits) Regulations 1979 ^{F58}; and
- (b) the claim for that allowance was made on or after 1st October 1990; and
- (c) 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 Benefits Act.

[^{F59}(3) Where a carer premium is awarded but the person in respect of whom it has been awarded ceases to be entitled to an invalid care allowance, the condition for the award of the premium shall be treated as satisfied for a period of eight weeks from the date on which—

- (a) where sub-paragraph (2) applies, the person in respect of whose care the invalid care allowance has been claimed ceased to be in receipt of the allowances referred to in paragraph (c) of that sub-paragraph;
- (b) in any other case, that person ceased to be entitled to an invalid care allowance.]

[^{F59}(4) Where a person who has been entitled to an invalid care allowance ceases to be entitled to that allowance and makes a claim for a jobseeker's allowance, the condition for the award of the carer premium shall be treated as satisfied for a period of eight weeks from the date on which—

- (a) where sub-paragraph (2) applies, the person in respect of whose care the invalid care allowance has been claimed ceased to be in receipt of the allowances referred to in paragraph (c) of that sub-paragraph;
- (b) in any other case, that person was last entitled to an invalid care allowance.]

Textual Amendments

- F56** Words in Sch. 1 para. 17(1) substituted (3.4.2000) by [The Social Security \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/681\)](#), regs. 1(1)(c), **4(3)(b)(i)**
- F57** Words in Sch. 1 para. 17(2) substituted (3.4.2000) by [The Social Security \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/681\)](#), regs. 1(1)(c), **4(3)(b)(ii)**
- F58** S.I. 1979/597.
- F59** Sch. 1 para. 17(3)(4) substituted (3.4.2000) by [The Social Security \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/681\)](#), regs. 1(1)(c), **4(3)(b)(iii)**

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Persons in receipt of concessionary payments

18. For the purpose of determining whether a premium is applicable to a person under paragraphs 14 to 17, 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.

Person in receipt of benefit

19. 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

WEEKLY AMOUNTS OF PREMIUMS SPECIFIED IN PART III

Premium	Amount
20.	£60
£60
(2) Pensioner premium for persons aged over 60—	(2) (a) [£26.25.]
(a) where the claimant satisfies the condition in paragraph 10(a);	
(b) where the claimant satisfies the condition in paragraph 10(b).	(b) [£40.00.]
(c) where the claimant satisfies the condition in paragraph 10(c).	(c) [£40.00.]
(3) Pensioner premium for claimants whose partner has attained the age of 75 where the claimant satisfies the condition in paragraph 11;	(3) [£43.40.]
(4) Higher Pensioner Premium—	(4) (a) [£33.85.]
(a) where the claimant satisfies the condition in paragraph 12(1)(a);	
(b) where the claimant satisfies the condition in paragraph 12(1)(b) or (c).	(b) [£49.10.]
(5) Disability Premium—	(5) (a) [£22.25.]
(a) where the claimant satisfies the condition in paragraph 13(a);	
(b) where the claimant satisfies the condition in paragraph 13(b) or (c).	(b) [£31.75.]
(6) Severe Disability Premium—	(6) (a) [£40.20.]

- (a) where the claimant satisfies the condition in paragraph 15(1);
- (b) where the claimant satisfies the condition in paragraph 15(2)–
- (i) if there is someone in receipt of an invalid care allowance or ^[F62]if any partner of the claimant] satisfies that condition by virtue of paragraph 15(5);
- (ii) if no-one is in receipt of such an allowance. (ii) ^[F61]£80.40.]
- (7) Disabled Child Premium. (7) ^[F61]£22.25] in respect of each child or young person in respect of whom the conditions specified in paragraph 16 are satisfied.
- (8) Carer Premium. (8) ^[F61] £14.15] in respect of each person who satisfied the condition specified in paragraph 17.

Textual Amendments

- F60** Sch. 1 Pt. IV para. 20(1) entries omitted (with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **44(4)**
- F61** Sum in Sch. 1 Pt. IV substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(5), **Sch. 12**
- F62** Words in Sch. 1 para. 20(6)(b)(i) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

PART V

ROUNDING OF FRACTIONS

21. Where an income-based jobseeker's allowance is awarded for a period which is not a complete benefit week and the applicable amount in respect of that period results in an amount which includes a fraction of one penny that fraction shall be treated as one penny.

SCHEDULE 2

Regulations 83(f) and 84(1)(g)

HOUSING COSTS

Housing Costs

1.—(1) Subject to the following provisions of this Schedule, the housing costs applicable to a claimant are those costs—

- (a) which he or, where he is a member of a family, he or any member of that family is, in accordance with paragraph 2, liable to meet in respect of the dwelling occupied as the home which he or any other member of his family is treated as occupying; and

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(b) which qualify under paragraphs 14 to 16.

(2) In this Schedule—

“housing costs” means those costs to which sub-paragraph (1) refers;

“existing housing costs” means housing costs arising under an agreement entered into before 2nd October 1995, or under an agreement entered into after 1st October 1995 (“the new agreement”)—

- (a) which replaces an existing agreement between the same parties in respect of the same property; and
- (b) where the existing agreement was entered into before 2nd October 1995; and
- (c) which is for a loan of the same amount as or less than the amount of the loan under the agreement it replaces, and for the purpose of determining the amount of the loan under the new agreement, any sum payable to arrange the new agreement and included in the loan shall be disregarded;

“new housing costs” means housing costs arising under an agreement entered into after 1st October 1995 other than an agreement referred to in the definition of “existing housing costs”;

“standard rate” means the rate for the time being specified in paragraph 11.

(3) For the purposes of this Schedule a disabled person is a person—

- (a) in respect of whom a disability premium, a disabled child premium, a pensioner premium where the claimant's partner has attained the age of 75 or a higher pensioner premium is included in his applicable amount or the applicable amount of a person living with him; or
- (b) who, had he in fact been entitled to a jobseeker's allowance or to income support, would have had included in his applicable amount a disability premium, a disabled child premium, a pensioner premium where the claimant's partner has attained the age of 75 or a higher pensioner premium; or
- (c) who satisfies the requirements of paragraph 9 A of Schedule 2 to the Income Support [^{F63}Regulations]^{F64} (pensioner premium for person aged 75 or over).

(4) For the purposes of sub-paragraph (3), a person shall not cease to be a disabled person on account of his being disqualified for receiving benefit or treated as capable of work by virtue of the operation of section 171E of the Benefits Act ^{F65} (incapacity for work, disqualification etc.).

Textual Amendments

F63 Word in Sch. 2 para. 1(3)(c) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

F64 Paragraph 9A was inserted by [S.I. 1989/534](#).

F65 Section 171E was inserted by the [Social Security \(Incapacity for Work\) Act 1994 \(c.18\)](#), **section 6(1)**.

^{F66}Previous entitlement to income support

1A.—(1) Where a claimant or his partner was in receipt of or was treated as being in receipt of income support not more than 12 weeks before one of them becomes entitled to income-based jobseeker's allowance or, where the claimant or his partner is a person to whom paragraph 13(2) or (10) (linking rules) refers, not more than 26 weeks before becoming so entitled and—

- (a) the applicable amount for income support included an amount in respect of housing costs under paragraph 15 or 16 of Schedule 3 to the Income Support Regulations; and
- (b) the circumstances affecting the calculation of those housing costs remain unchanged since the last calculation of those costs,

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the applicable amount in respect of housing costs for income-based jobseeker's allowance shall be the applicable amount in respect of those costs current when entitlement to income support was last determined.

(2) Where, in the period since housing costs were last calculated for income support, there has been a change of circumstances, other than a reduction in the amount of an outstanding loan, which increases or reduces those costs, the amount to be met under this Schedule shall, for the purposes of the claim for income-based jobseeker's allowance, be recalculated so as to take account of that change.]

Textual Amendments

F66 Sch. 2 para. 1A inserted (22.10.1997) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1997 \(S.I. 1997/2305\)](#), regs. 1, **3(2)(a)**

Circumstances in which a person is liable to meet housing costs

2.—(1) A person is liable to meet housing costs where—

- (a) the liability falls upon him or his partner but not where the liability is to a member of the same household as the person on whom the liability falls;
- (b) because the person liable to meet the housing costs [^{F67}is not meeting them], the claimant has to meet those costs in order to continue to live in the dwelling occupied as the home and it is reasonable in all the circumstances to treat the claimant as liable to meet those costs;
- (c) he in practice shares the housing costs with other members of the household none of whom are close relatives either of the claimant or his partner, and
 - (i) one or more of those members is liable to meet those costs, and
 - (ii) it is reasonable in the circumstances to treat him as sharing responsibility.

(2) Where any one or more, but not all, members of the claimant's family are affected by a trade dispute, the housing costs shall be treated as wholly the responsibility of those members of the family not so affected.

Textual Amendments

F67 Words in Sch. 2 para. 2(1)(b) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

Circumstances in which a person is to be treated as occupying a dwelling as his home

3.—(1) Subject to the following provisions of this paragraph, a person shall be treated as occupying as his home the dwelling normally occupied as his home by himself or, if he is a member of a family, by himself and his family and he shall not be treated as occupying any other dwelling as his home.

(2) In determining whether a dwelling is the dwelling normally occupied as the claimant's home for the purposes of sub-paragraph (1) regard shall be had to any other dwelling occupied by the claimant or by him and his family whether or not that other dwelling is in Great Britain.

(3) Subject to sub-paragraph (4), where a single claimant or a lone parent is a full-time student or is on a training course and is liable to make payments (including payments of mortgage interest or, in Scotland, payments under heritable securities or, in either case, analogous payments) in respect of either (but not both) the dwelling which he occupies for the purpose of attending his course of study

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or his training course or, as the case may be, the dwelling which he occupies when not attending his course, he shall be treated as occupying as his home the dwelling in respect of which he is liable to make payments.

(4) A full-time student shall not be treated as occupying a dwelling as his home for any week of absence from it, other than an absence occasioned by the need to enter hospital for treatment, outside the period of study, if the main purpose of his occupation during the period of study would be to facilitate attendance on his course.

(5) Where a claimant has been required to move into temporary accommodation by reason of essential repairs being carried out to the dwelling normally occupied as his home and he is liable to make payments (including payments of mortgage interest or, in Scotland, payments under heritable securities or, in either case, analogous payments) in respect of either (but not both) the dwelling normally occupied or the temporary accommodation, he shall be treated as occupying as his home the dwelling in respect of which he is liable to make those payments.

(6) Where a person is liable to make payments in respect of two (but not more than two) dwellings, he shall be treated as occupying both dwellings as his home only—

- (a) where he has left and remains absent from the former dwelling occupied as the home through fear of violence in that dwelling or by a former member of his family and it is reasonable that housing costs should be met in respect of both his former dwelling and his present dwelling occupied as the home; or
- (b) in the case of a couple or a member of a polygamous marriage where a partner is a full-time student or is on a training course and it is unavoidable that he or they should occupy two separate dwellings and reasonable that housing costs should be met in respect of both dwellings; or
- (c) in the case where a person has moved into a new dwelling occupied as the home, except where sub-paragraph (5) applies, for a period not exceeding four benefit weeks if his liability to make payments in respect of two dwellings is unavoidable.

(7) Where—

- (a) a person has moved into a dwelling and was liable to make payments in respect of that dwelling before moving in; and
- (b) he had claimed a jobseeker's allowance before moving in and either that claim has not yet been determined or it has been determined but an amount has not been included under this Schedule and if the claim has been refused a further claim has been made within four weeks of the date on which the claimant moved into the new dwelling occupied as the home; and
- (c) the delay in moving into the dwelling in respect of which there was liability to make payments before moving in was reasonable and—
 - (i) that delay was necessary in order to adapt the dwelling to meet the disablement needs of the claimant or any member of his family; or
 - (ii) the move was delayed pending the outcome of an application under Part VIII of the Benefits Act for a social fund payment to meet a need arising out of the move or in connection with setting up the home in the dwelling and either a member of the claimant's family is aged five or under or the claimant's applicable amount includes a premium under paragraph 10, 11, 12, 13, 15 or 16 of Schedule 1; or
 - (iii) the person became liable to make payments in respect of the dwelling while he was a patient or was in residential accommodation,

he shall be treated as occupying the dwelling as his home for any period not exceeding four weeks immediately prior to the date on which he moved into the dwelling and in respect of which he was liable to make payments.

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(8) This sub-paragraph applies to a person who enters residential accommodation—

- (a) for the purpose of ascertaining whether the accommodation suits his needs; and
- (b) with the intention of returning to the dwelling which he normally occupies as his home should, in the event, the residential accommodation prove not to suit his needs,

and while in the accommodation, the part of the dwelling which he normally occupies as his home is not let, or as the case may be, sub-let to another person.

(9) A person to whom sub-paragraph (8) applies shall be treated as occupying the dwelling he normally occupies as his home during any period (commencing with the day he enters the accommodation) not exceeding 13 weeks in which the person is resident in the accommodation, but only in so far as the total absence from the dwelling does not exceed 52 weeks.

(10) A person, other than a person to whom sub-paragraph (11) applies, shall be treated as occupying a dwelling as his home throughout any period of absence not exceeding 13 weeks, if, and only if—

- (a) he intends to return to occupy the dwelling as his home; and
- (b) the part of the dwelling normally occupied by him has not been let or, as the case may be, sub-let to another person; and
- (c) the period of absence is unlikely to exceed 13 weeks.

(11) This sub-paragraph applies to a person whose absence from the dwelling he normally occupies as his home is temporary and—

- (a) he intends to return to occupy the dwelling as his home; and
- (b) while the part of the dwelling which is normally occupied by him has not been let or, as the case may be, sub-let; and
- (c) he is—

- (i) required, as a condition of bail, to reside in a hostel approved under section 27(1) of the Probation Service Act 1993 ^{F68}, or
- (ii) resident in a hospital or similar institution as a patient and is treated under regulation 55 as capable of work, or
- (iii) undergoing or, as the case may be, his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation, or
- (iv) following, in the United Kingdom or elsewhere, a training course, or
- (v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere, or
- (vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment, or
- (vii) a person who is, whether in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation, or
- (viii) a full-time student to whom sub-paragraph (3) or (6)(b) does not apply, or
- (ix) a person other than a person to whom sub-paragraph (8) applies, who is receiving care provided in residential accommodation, or
- (x) a person to whom sub-paragraph (6)(a) does not apply and who has left the dwelling he occupies as his home through fear of violence in that dwelling or by a person who was formerly a member of [^{F69}his] family, and

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- (d) the period of his absence is unlikely to exceed a period of 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.
- (12) A person to whom sub-paragraph (11) applies is to be treated as occupying the dwelling he normally occupies as his home during any period of absence not exceeding 52 weeks beginning with the first day of that absence.
- (13) In this paragraph–
- (a) “medically approved” means certified by a registered medical practitioner;
 - (b) “patient” means a person who is undergoing medical or other treatment as an in-patient in a hospital or similar institution;
 - (c) “residential accommodation” means accommodation–
 - (i) provided under sections 21 to 24 and 26 of the National Assistance Act 1948 ^{F70} (provision of accommodation); or
 - (ii) provided under sections 13B and 59 of the Social Work (Scotland) Act 1968 ^{F71} (provision of residential and other establishments) where board is available to the claimant; or
 - (iii) which is a residential care home within the meaning of that expression in regulation 1(3) other than sub-paragraph (b) of that definition; or
 - (iv) which is a nursing home;
 - (d) “training course” means such a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

Textual Amendments

F68 1993 c.47.

F69 Word in Sch. 2 para. 3(11)(c)(x) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

F70 1948 c.29; section 21 was amended by the [Local Government Act 1972 \(c.70\)](#), **Schedule 23 paragraphs 1 and 2** and [Schedule 30](#); the [National Health Service Reorganisation Act 1973 \(c.32\)](#), **Schedule 4 paragraph 44** and [Schedule 5](#); the [Housing \(Homeless Persons\) Act 1977 \(c.48\)](#), **Schedule**; the [National Health Service Act 1977 \(c.49\)](#), **Schedule 15 paragraph 5**; the [Health Services Act 1980 \(c.53\)](#), **Schedule 1 Part I paragraph 5**. Section 22 was amended by the [Social Work \(Scotland\) Act 1968 \(c.49\)](#), section 87(4) and [Schedule 9 Part I](#); the [Supplementary Benefits Act 1976 \(c.71\)](#) [Schedule 7 paragraph 3](#); the [Housing \(Homeless Persons\) Act 1977 \(c.48\)](#), **Schedule**; the [Social Security Act 1980 \(c.30\)](#), section 20, **Schedule 4 paragraph 2(1)** and [Schedule 5 Part II](#) and the [Health and Social Services and Social Security Adjudications Act 1983 \(c.41\)](#), **section 20(1)(a)**. Section 24 was amended by the [National Assistance \(Amendment\) Act 1959 \(c.30\)](#), **section 1(1)**; the [National Health Service \(Scotland\) Act 1972 \(c.58\)](#), **Schedule 6 paragraph 82**; the [Local Government Act 1972 \(c.58\)](#), **Schedule 6 paragraph 82**; the [Local Government Act 1972 \(c.70\)](#), **Schedule 23 paragraph 2**; the [National Health Service Reorganisation Act 1972 \(c.32\)](#), **Schedule 4 paragraph 45** and the [Housing \(Homeless Persons\) Act 1977 \(c.48\)](#), **Schedule**. Section 26 was amended by the [Health services and Public Health Act 1968 \(c.46\)](#), **section 44** and [Schedule 4](#) and the [Social Work \(Scotland\) Act 1968 \(c.49\)](#) [Schedule 9 Part I](#) and applied by section 87(3); the [Local Government Act 1972 \(c.70\)](#), **Schedule 23 paragraph 2**; the [Housing \(Homeless Persons\) Act 1977 \(c.48\)](#), **Schedule**; the [Health and Social Services and Social Security Adjudications Act 1983 \(c.41\)](#), **section 20(1)(b)**, and the [Community Care \(Residential Accommodation\) Act 1992 \(c.49\)](#).

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F71 1968 c.49; section 13B was inserted by section 56 of the [National Health Service and Community Care Act 1990 \(c.19\)](#).

Housing costs not met

4.—(1) No amount may be met under the provisions of this Schedule—

- (a) in respect of housing benefit expenditure; or
- (b) where the claimant is in accommodation which is a residential care home or a nursing home except where he is in such accommodation during a temporary absence from the dwelling he occupies as his home and in so far as they relate to temporary absences, the provisions of paragraph 3(8) to (12) apply to him during that absence.

(2) Subject to the following provisions of this paragraph, loans which, apart from this paragraph, qualify under paragraph 14 shall not so qualify where the loan was incurred during the relevant period and was incurred—

- (a) after 7th October 1996, or
- (b) after 2nd May 1994 and the housing costs applicable to that loan were not met in income support by virtue of the former paragraph 5A of Schedule 3 to the Income Support Regulations ^{F72} or paragraph 4(2)(a) of that Schedule in any one or more of the 26 weeks [^{F73}preceding] 7th October 1996, or
- (c) subject to sub-paragraph (3), in the 26 weeks preceding 7th October 1996 by a person—
 - (i) who was not at that time entitled to income support; and
 - (ii) who becomes, or whose partner becomes entitled to a jobseeker's allowance after 6th October 1996 and that entitlement is within 26 weeks of an earlier entitlement to income support for the claimant or his partner.

(3) Sub-paragraph (2)(c) shall not apply in respect of a loan where the claimant has interest payments on that loan met without restrictions under an award of income support in respect of a period commencing before 7th October 1996.

(4) The "relevant period" for the purposes of this paragraph is any period during which the person to whom the loan was made—

- (a) is entitled to a jobseeker's allowance, or
- (b) is living as a member of a family one of whom is entitled to a jobseeker's allowance,

together with any linked period, that is to say a period falling between two such periods of entitlement to a jobseeker's allowance, separated by not more than 26 weeks.

[^{F74}(4A) For the purposes of sub-paragraph (4), a person shall be treated as entitled to a jobseeker's allowance during any period when he or his partner was not so entitled because—

- (a) that person or his partner was participating in an employment programme specified in regulation 75(1)(a)(ii); and
- (b) in consequence of such participation that person, or his partner, was engaged in remunerative work or failed to satisfy the condition specified either in section 2(1)(c) or in section 3(1)(a).]

(5) For the purposes of sub-paragraph (4)—

- (a) any week in the period of 26 weeks ending on 7th October 1996 on which there arose an entitlement to income support shall be taken into account in determining when the relevant period commences; and
- (b) two or more periods of entitlement and any intervening linked periods shall together form a single relevant period.

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- (6) Where the loan to which sub-paragraph (2) refers has been applied—
- (a) for paying off an earlier loan, and that earlier loan qualified under paragraph 14 [^{F75}during the relevant period]; or
 - [^{F76}(b) to finance the purchase of a property where an earlier loan, which qualified under paragraphs 14 and 15 during the relevant period in respect of another property, is paid off (in whole or in part) with monies received from the sale of that property;]

then the amount of the loan to which sub-paragraph (2) applies is the amount (if any) by which the new loan exceeds the earlier loan.

(7) Notwithstanding the preceding provisions of this paragraph, housing costs shall be met in any case where a claimant satisfies any of the conditions specified in sub-paragraphs (8) to (11) below, but—

- (a) those costs shall be subject to any additional limitations imposed by the sub-paragraph; and
- (b) where the claimant satisfies the conditions in more than one of these sub-paragraphs, only one sub-paragraph shall apply in his case and the one that applies shall be the one most favourable to him.

(8) The conditions specified in this sub-paragraph are that—

- (a) during the relevant period the claimant or a member of his family acquires an interest ("the relevant interest") in a dwelling which he then occupies or continues to occupy as his home; and
- (b) in the week preceding the week in which the relevant interest was acquired, housing benefit was payable to the claimant or a member of his family;

so however that the amount to be met by way of housing costs shall initially not exceed the aggregate of—

- (i) the housing benefit payable in the week mentioned at sub-paragraph (8) (b); and
- (ii) any amount included in the applicable amount of the claimant or a member of his family in accordance with regulation 83(f) or 84(1)(g) in that week;

and shall be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of the acquisition, in the standard rate or in any housing costs which qualify under paragraph 16 (other housing costs).

(9) The condition specified in this sub-paragraph is that the loan was taken out, or an existing loan increased, to acquire alternative accommodation more suited to the special needs of a disabled person than the accommodation which was occupied before the acquisition by the claimant.

(10) The conditions specified in this sub-paragraph are that—

- (a) the loan commitment increased in consequence of the disposal of the dwelling occupied as the home and the acquisition of an alternative such dwelling; and
- (b) the change of dwelling was made solely by reason of the need to provide separate sleeping accommodation for children of different sexes aged 10 or over who belong to the same family as the claimant.

(11) The conditions specified in this sub-paragraph are that—

- (a) during the relevant period the claimant or a member of his family acquires an interest ("the relevant interest") in a dwelling which he then occupies as his home; and
- (b) in the week preceding the week in which the relevant interest was acquired, the applicable amount of the claimant or a member of his family included an amount determined by reference to paragraph 16 and did not include any amount specified in paragraph 14 or paragraph 15;

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so however that the amount to be met by way of housing costs shall initially not exceed the amount so determined, and shall be increased subsequently only to the extent that it is necessary to take account of any increase, arising after the date of acquisition, in the standard rate or in any housing costs which qualify under paragraph 16 (other housing costs).

(12) The following provisions of this Schedule shall have effect subject to the provisions of this paragraph.

Textual Amendments

- F72** Paragraph 5A of Schedule 3 was inserted by [S.I. 1994/1004](#) and is revoked by regulation 3 of and Schedule 4 to [S.I. 1995/1613](#).
- F73** Word in Sch. 2 para. 4(2)(b) substituted (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(12)(a)**
- F74** Sch. 2 para. 4(4A) inserted (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **13(2)**
- F75** Words in Sch. 2 para. 4(6)(a) inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **29(2)(a)**
- F76** Sch. 2 para. 4(6)(b) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **29(2)(b)**

Apportionment of housing costs

- 5.—(1) Where the dwelling occupied as the home is a composite hereditament and—
- (a) before 1st April 1990 for the purposes of section 48(5) of the General Rate Act 1967 ^{F77} (reduction of rates on dwellings), it appeared to a rating authority or it was determined in pursuance of sub-section (6) of section 48 of that Act that the hereditament, including the dwelling occupied as the home, was a mixed hereditament and that only a proportion of the rateable value of the hereditament was attributable to use for the purpose of a private dwelling; or
- (b) in Scotland, before 1st April 1989 an assessor acting pursuant to section 45(1) of the Water (Scotland) Act 1980 ^{F78} (provision as to valuation roll) has apportioned the net annual value of the premises including the dwelling occupied as the home between the part occupied as a dwelling and the remainder,

the amounts applicable under this Schedule shall be such proportion of the amounts applicable in respect of the hereditament or premises as a whole as is equal to the proportion of the rateable value of the hereditament attributable to the part of the hereditament used for the purposes of a private tenancy or, in Scotland, the proportion of the net annual value of the premises apportioned to the part occupied as a dwelling house.

(2) subject to sub-paragraph (1) and the following provisions of this paragraph, where the dwelling occupied as the home is a composite hereditament, the amount applicable under this Schedule shall be the relevant fraction of the amount which would otherwise be applicable under this Schedule in respect of the dwelling occupied as the home.

(3) For the purposes of sub-paragraph (2), the relevant fraction shall be obtained in accordance with the formula—

$$\frac{A}{A+B}$$

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where— "A" is the current market value of the claimant's interest in that part of the composite hereditament which is domestic property within the meaning of section 66 of the Act of 1988;

"B" is the current market value of the claimant's interest in that part of the composite hereditament which is not domestic property within that section.

(4) In this paragraph—

"composite hereditament" means—

- (a) as respects England and Wales, any hereditament which is shown as a composite hereditament in a local non-domestic rating list;
- (b) as respects Scotland, any lands and heritages entered in the valuation roll which are part residential subjects within the meaning of section 26(1) of the Act of 1987;

"local non-domestic rating list" means a list compiled and maintained under section 41(1) of the Act of 1988;

"the Act of 1987" means the Abolition of Domestic Rates Etc. (Scotland) Act 1987 ^{F79};

"the Act of 1988" means the Local Government Finance Act 1988 ^{F80}.

(5) Where responsibility for expenditure which relates to housing costs met under this Schedule is shared, the amounts applicable shall be calculated by reference to the appropriate proportion of that expenditure for which the claimant is responsible.

Textual Amendments

F77 1967 c.9; sections 48(5) and (6) were amended by the Local Government, Planning, and Land Act 1980 (c.65), **section 33**; section 48(6) was also amended by the Rates Act 1984 (c.33), **section 16** and Schedule 1, paragraph 10.

F78 1980 c.45.

F79 1987 c.47.

F80 1988 c.41.

Modifications etc. (not altering text)

C4 Sch. 2 para. 5(3) sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(i), 22(9), **Sch. 15**

Existing housing costs

6.—(1) Subject to the provisions of this Schedule the existing housing costs to be met in any particular case are—

- (a) where the claimant has been entitled to a jobseeker's allowance for a continuous period of 26 weeks or more, the aggregate of—
 - (i) an amount determined in the manner set out in paragraph 9 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 14 or 15; and
 - (ii) an amount equal to any payments which qualify under paragraph 16(1)(a) to (c);
- (b) where the claimant has been entitled to a jobseeker's allowance for a continuous period of not less than 8 weeks but less than 26 weeks, an amount which is half the amount which would fall to be met by applying the provisions of sub-paragraph (a);
- (c) in any other case, nil.

(2) For the purposes of sub-paragraph (1) [^{F81}and subject to sub-paragraph (3)], the eligible capital for the time being owing shall be determined on the date the existing housing costs are first met and thereafter on each anniversary of that date.

[^{F82}(3) Where a claimant or his partner ceases to be in receipt of or treated as being in receipt of income support and one of them becomes entitled to income-based jobseeker's allowance in a case to which paragraph 1A applies, the eligible capital for the time being owing shall be recalculated on each anniversary of the date on which the housing costs were first met for whichever of the benefits concerned the claimant or his partner was first entitled.]

Textual Amendments

- F81** Words in Sch. 2 para. 6(2) inserted (22.10.1997) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1997 \(S.I. 1997/2305\)](#), regs. 1, **3(2)(b)**
- F82** Sch. 2 para. 6(3) added (22.10.1997) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1997 \(S.I. 1997/2305\)](#), regs. 1, **3(2)(c)**

Modifications etc. (not altering text)

- C5** Sch. 2 para. 6(1)(b) sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(9), **Sch. 15**
- C6** Sch. 2 para. 6(1)(c) sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(9), **Sch. 15**

New housing costs

7.—(1) Subject to the provisions of this Schedule, the new housing costs to be met in any particular case are—

- (a) where the claimant has been entitled to a jobseeker's allowance for a continuous period of 39 weeks or more, an amount—
 - (i) determined in the manner set out in paragraph 9 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 14 or 15; and
 - (ii) equal to any payments which qualify under paragraph 16(1)(a) to (c);
- (b) in any other case, nil.

(2) For the purposes of sub-paragraph (1) [^{F83}and subject to sub-paragraph (2A)], the eligible capital for the time being owing shall be determined on the date the new housing costs are first met and thereafter on each anniversary of that date.

[^{F84}(2A) Where a claimant or his partner ceases to be in receipt of or treated as being in receipt of income support and one of them becomes entitled to income-based jobseeker's allowance in a case to which paragraph 1A applies, the eligible capital for the time being owing shall be recalculated on each anniversary of the date on which the housing costs were first met for whichever of the benefits concerned the claimant or his partner was first entitled.]

(3) This sub-paragraph applies to a claimant who at the time the claim is made has been refused payments under a policy of insurance on the grounds that—

- (a) the claim under the policy is the outcome of a pre-existing medical condition which, under the terms of the policy, does not give rise to any payment by the insurer; or
- (b) he was infected by the Human Immunodeficiency Virus,

and the policy was taken out to insure against the risk of being unable to maintain repayments on a loan which is secured by a mortgage or a charge over land, or (in Scotland) by a heritable security.

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(4) This sub-paragraph applies subject to [^{F85}sub-paragraph (7)] where a person claims a jobseeker's allowance because of—

- (a) the death of a partner; or
- (b) being abandoned by his partner,

and where the persons family includes a child.

(5) This sub-paragraph applies to a person who at the time the claim is made is engaged in caring for a person who falls within any of the circumstances specified in [^{F86}heads (i) to (iv) of sub-paragraph (c)] of paragraph (3) of regulation 51 (remunerative work).

(6) In the case of a claimant to whom sub-paragraph (3), (4) or (5) applies, any new housing costs shall be met as though they were existing housing costs and paragraph 6 applied to them.

(7) Sub-paragraph(4) shall cease to apply to a person who subsequently becomes one of a couple.

Textual Amendments

F83 Words in Sch. 2 para. 7(2) inserted (22.10.1997) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1997 \(S.I. 1997/2305\)](#), regs. 1, **3(2)(d)**

F84 Sch. 2 para. 7(2A) inserted (22.10.1997) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1997 \(S.I. 1997/2305\)](#), regs. 1, **3(2)(e)**

F85 Words in Sch. 2 para. 7(4) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

F86 Words in Sch. 2 para. 7(5) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

Modifications etc. (not altering text)

C7 Sch. 2 para. 7(1)(b) sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(9), **Sch. 15**

General exclusions from paragraphs 6 and 7

8.—(1) Paragraphs 6 and 7 shall not apply where—

- (a) the claimant or his partner is aged 60 or over;
- (b) the housing costs are payments—
 - (i) under a co-ownership agreement;
 - (ii) under or relating to a tenancy or licence of a Crown tenant; or
 - (iii) where the dwelling occupied as the home is a tent, in respect of the tent and the site on which it stands.

(2) In a case falling within sub-paragraph (1), the housing costs to be met are—

- (a) where head (a) of sub-paragraph (1) applies, an amount—
 - (i) determined in the manner set out in paragraph 9 by applying the standard rate to the eligible capital for the time being owing in connection with a loan which qualifies under paragraph 14 or 15; and
 - (ii) equal to the payments which qualify under paragraph 16;
- (b) where head (b) of sub-paragraph (1) applies, an amount equal to the payments which qualify under paragraph 16(1)(d) to (f).

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The calculation for loans

9.—(1) The weekly amount of existing housing costs or, as the case may be, new housing costs to be met under this Schedule in respect of a loan which qualifies under paragraph 14 or 15 shall be calculated by applying the formula—

$$\frac{A \times B \times C}{52}$$

where—A = the amount of the loan which qualifies under paragraph 14 or 15;

B = the standard rate for the time being specified in respect of that loan under paragraph 11;

C = the difference between 100 per cent. and the applicable percentage of income tax within the meaning of section 369(1A) of the Income and Corporation Taxes Act 1988 ^{F87} (mortgage interest payable under deduction of tax) for the year of assessment in which the payment of interest becomes due.

(2) Where section 369 of the Income and Corporation Taxes Act 1988 does not apply to the interest on a loan or a part of a loan, the formula applied in sub-paragraph (1) shall have effect as if C had a value of 1.

Textual Amendments

F87 1988 c.1.

Modifications etc. (not altering text)

C8 Sch. 2 para. 9(1) sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(9), **Sch. 15**

General provisions applying to new and existing housing costs

10.—(1) Where a person enters into a new agreement in respect of a dwelling and an agreement entered into before 2nd October 1995 ("the earlier agreement") continues in force independently of the new agreement, then—

- (a) the housing costs applicable to the new agreement shall be calculated by reference to the provisions of paragraph 7 (new housing costs);
- (b) the housing costs applicable to the earlier agreement shall be calculated by reference to the [^{F88}provisions] of paragraph 6 (existing housing costs);

and the resulting amounts shall be aggregated.

(2) Sub-paragraph (1) does not apply in the case of a claimant to whom paragraph 8 applies.

(3) Where for the time being a loan exceeds, or in a case where more than one loan is to be taken into account, the aggregate of those loans exceeds the appropriate amount specified in sub-paragraph (4), then the amount of the loan or, as the case may be, the aggregate amount of those loans, shall for the purposes of this Schedule, be the appropriate amount.

(4) Subject to the following provisions of this paragraph, the appropriate amount is £100,000.

(5) Where a person is treated under paragraph 3(6) (payments in respect of two dwellings) as occupying two dwellings as his home, then the restrictions imposed by sub-paragraph (3) shall be applied separately to the loans for each dwelling.

(6) In a case to which paragraph 5 (apportionment of housing costs) applies, the appropriate amount for the purposes of sub-paragraph (3) shall be the lower of—

- (a) a sum determined by applying the formula—

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$$P \times Q,$$

where—P = the relevant fraction for the purposes of paragraph 5, and

Q = the amount or, as the case may be, the aggregate amount for the time being of any loan or loans which qualify under this Schedule; or

(b) the sum for the time being specified in sub-paragraph (4).

(7) In a case to which paragraph 14(3) or 15(3) (loans which qualify in part only) applies, the appropriate amount for the purposes of sub-paragraph (3) shall be the lower of—

(a) a sum representing for the time being the part of the loan applied for the purposes specified in paragraph 14(1) or (as the case may be) paragraph 15(1); or

(b) the sum for the time being specified in sub-paragraph (4).

(8) In the case of any loan to which paragraph 15(2)(k) (loan taken out and used for the purpose of adapting a dwelling for the special needs of a disabled person) applies the whole of the loan, to the extent that it remains unpaid, shall be disregarded in determining whether the amount for the time being specified in sub-paragraph (4) is exceeded.

(9) Where in any case the amount for the time being specified for the purposes of sub-paragraph (4) is exceeded and there are two or more loans to be taken into account under either or both [^{F89}paragraphs 14 and 15], then the amount of eligible interest in respect of each of those loans to the extent that the loans remain outstanding shall be determined as if each loan had been reduced to a sum equal to the qualifying portion of that loan.

(10) For the purposes of sub-paragraph (9), the qualifying portion of a loan shall be determined by applying the following formula—

$$R \times \frac{S}{T}$$

where—R = the amount for the time being specified for the purposes of sub-paragraph (4);

S = the amount of the outstanding loan to be taken into account;

T = the aggregate of all outstanding loans to be taken into account under paragraphs 14 and 15.

Textual Amendments

F88 Word in Sch. 2 para. 10(1)(b) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

F89 Words in Sch. 2 para. 10(9) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

Modifications etc. (not altering text)

C9 Sch. 2 para. 10(4) sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(9), **Sch. 15**

C10 Sch. 2 para. 10(6)(a) sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(9), **Sch. 15**

C11 Sch. 2 para. 10(10) sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(9), **Sch. 15**

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The standard rate

11.—(1) The standard rate is the rate of interest applicable to a loan which qualifies under this Schedule and—

- [^{F90}(a) except where sub-paragraph (2) applies shall be the rate specified in paragraph 12(1)(a) of Schedule 3 to the Income Support Regulations; or]
- (b) where sub-paragraph (2) applies, shall equal the actual rate of interest charged on the loan on the day the housing costs first fall to be met.

(2) This sub-paragraph applies where the actual rate of interest charged on the loan which qualifies under this Schedule is less than 5 per cent. per annum on the day the housing costs first fall to be met and ceases to apply when the actual rate of interest on that loan is 5 per cent. per annum or higher.

(3) Where in a case to which sub-paragraph (2) applies, the actual rate of interest on the loan rises to 5 per cent. per annum or higher, the standard rate applicable on that loan shall be determined in accordance with sub-paragraph (1)(a).

Textual Amendments

F90 Sch. 2 para. 11(1)(a) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **29(3)**

Modifications etc. (not altering text)

C12 Sch. 2 para. 11(2)(3) sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(9), **Sch. 15**

Excessive Housing Costs

12.—(1) Housing costs which, apart from this paragraph, fall to be met under this Schedule shall be met only to the extent specified in sub-paragraph (3) where—

- (a) the dwelling occupied as the home, excluding any part which is let, is larger than is required by the claimant and his family and any child or young person to whom regulation 78(4) applies (foster children) and any other non-dependants having regard, in particular, to suitable alternative accommodation occupied by a household of the same size; or
- (b) the immediate area in which the dwelling occupied as the home is located is more expensive than other areas in which suitable alternative accommodation exists; or
- (c) the outgoings of the dwelling occupied as the home which are met under paragraphs 14 to 16 are higher than the outgoings of suitable alternative accommodation in the area.

(2) For the purposes of heads (a) to (c) of sub-paragraph (1), no regard shall be had to the capital value of the dwelling occupied as the home.

(3) Subject to the following provisions of this paragraph, the amount of the loan which falls to be met shall be restricted and the excess over the amounts which the claimant would need to obtain suitable alternative accommodation shall not be allowed.

(4) Where, having regard to the relevant factors, it is not reasonable to expect the claimant and his family to seek alternative cheaper accommodation, no restriction shall be made under sub-paragraph (3).

(5) In sub-paragraph (4) "the relevant factors" are—

- (a) the availability of suitable accommodation and the level of housing costs in the area; and

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- (b) the circumstances of the family including in particular the age and state of health of its members, the employment prospects of the claimant and, where a change in accommodation is likely to result in a change of school, the effect on the education of any child or young person who is a member of his family, or any child or young person who is not treated as part of his family by virtue of regulation 78(4) (foster children).

(6) Where sub-paragraph (4) does not apply and the claimant (or other member of the family) was able to meet the financial commitments for the dwelling occupied as the home when these were entered into, no restriction shall be made under this paragraph during the first 26 weeks of any period of entitlement to a jobseeker's allowance nor during the next 26 weeks if and so long as the claimant uses his best endeavours to obtain cheaper accommodation or, as the case may be, no restriction shall be made under this paragraph on [F91 suppression] during the 26 weeks from the date of the [F91 suppression] nor during the next 26 weeks if and so long as the claimant uses his best endeavours.

(7) For the purposes of calculating any period of 26 weeks referred to in sub-paragraph (6), and for those purposes only, a person shall be treated as entitled to a jobseeker's allowance for any period of 12 weeks or less in respect of which he was not in receipt of a jobseeker's allowance and which fell immediately between periods in respect of which he was in receipt thereof.

(8) Any period in respect of which—

(a) a jobseeker's allowance was paid to a person, and

(b) it was subsequently determined on appeal[F92], revision or supersession] that he was not entitled to a jobseeker's allowance for that period,

shall be treated for the purposes of sub-paragraph (7) as a period in respect of which he was not in receipt of a jobseeker's allowance.

(9) Heads (c) to (f) of sub-paragraph (1) of paragraph 13 shall apply to sub-paragraph (7) as they apply to paragraphs 6 and 7 but with the modification that the words "Subject to sub-paragraph (2)" are omitted and as if references to "the claimant" were references to the person mentioned in sub-paragraph (7).

Textual Amendments

F91 Words in Sch. 2 para. 12(6) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 5](#)

F92 Words in Sch. 2 para. 12(8)(b) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), [Sch. 12 para. 10](#)

Linking rule

13.—(1) Subject to sub-paragraph (2) for the [F93 purposes] of this Schedule—

(a) a person shall be treated as being in receipt of a jobseeker's allowance during the following periods—

(i) any period in respect of which it was subsequently held, on appeal or [F94 revision], that he was so entitled to a jobseeker's allowance; and

(ii) any period of 12 weeks or less in respect of which he was not in receipt of a jobseeker's allowance and which fell immediately between periods in respect of which F95 ...;

[F96(aa) he was, or was treated as being, in receipt of a jobseeker's allowance,

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- (bb) he was treated as entitled to a jobseeker's allowance for the purposes of subparagraphs (5), (6) and (7), or
 - (cc) (i) above applies;]
- (b) a person shall be treated as not being in receipt of a jobseeker's allowance during any period other than a period to which (a)(ii) above applies in respect of which it is subsequently held on appeal^[F97], revision or supersession] that he was not so entitled;
- (c) where—
 - (i) the claimant was a member of a couple or a polygamous marriage; and
 - (ii) his partner was, in respect of a past period, in receipt of a jobseeker's allowance for himself and the claimant; and
 - (iii) the claimant is no longer a member of that couple or polygamous marriage; and
 - (iv) the claimant made his claim for a jobseeker's allowance within twelve weeks of ceasing to be a member of that couple or polygamous marriage,he shall be treated as having been in receipt of a jobseeker's allowance for the same period as his former partner had been or had been treated, for the purposes of this Schedule, as having been;
- (d) where the claimant's partner's applicable amount was determined in accordance with paragraph 1(1) (single claimant) or paragraph 1(2) (lone parent) of Schedule 1 (applicable amounts) in respect of a past period, provided that the claim was made within twelve weeks of the claimant and his partner becoming one of a couple or polygamous marriage, the claimant shall be treated as having been in receipt of a jobseeker's allowance for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;
- (e) where the claimant is a member of a couple or a polygamous marriage and his partner was, in respect of a past period, in receipt of a jobseeker's allowance for himself and the claimant, and the claimant has begun to receive a jobseeker's allowance as a result of an election by the members of the couple or polygamous marriage, he shall be treated as having been in receipt of a jobseeker's allowance for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;
- ^[F98](ee) where the claimant—
 - (i) is a member of a couple or a polygamous marriage and the claimant's partner was, immediately before the participation by any member of that couple or polygamous marriage in an employment programme specified in regulation 75(1)(a)(ii), in receipt of income-based jobseeker's allowance and his applicable amount included an amount for the couple or for the partners of the polygamous marriage; and
 - (ii) has, immediately after that participation in that programme, begun to receive income-based jobseeker's allowance as a result of an election under regulation 4(3B) of the Claims and Payments Regulations by the members of the couple or polygamous marriage,the claimant shall be treated as having been in receipt of a jobseeker's allowance for the same period as his partner had been or had been treated, for the purposes of this Schedule, as having been;]
- (f) where—
 - (i) the claimant was a member of a family of a person (not being a former partner) entitled to a jobseeker's allowance and at least one other member of that family was a child or young person; and

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- (ii) the claimant becomes a member of another family which includes that child or young person; and
- (iii) the claimant made his claim for a jobseeker's allowance within 12 weeks of the date on which the person entitled to a jobseeker's allowance mentioned in head(i) above ceased to be so entitled,

the claimant shall be treated as being in receipt of a jobseeker's allowance for the same period as that person had been or had been treated, for the purposes of this Schedule, as having been.

(2) Where a claimant, with the care of a child, has ceased to be in receipt of a jobseeker's allowance in consequence of the payment of child support maintenance under the Child Support Act 1991 ^{F99} and immediately before ceasing to be so in receipt an amount determined in accordance with paragraph 6(1)(a)(i) or paragraph 7(1)(a)(i) was applicable to him, then—

- (a) if the child support maintenance assessment concerned is terminated or replaced on [^{F100}suppression] by a lower assessment in consequence of the coming into force on or after 18th April 1995 of regulations made under the Child Support Act 1991; or
- (b) where the child support maintenance assessment concerned is an interim maintenance assessment and, in circumstances other than those referred to in head (a), it is terminated or replaced after termination by another interim maintenance assessment or by a maintenance assessment made in accordance with Part I of Schedule 1 to the Child Support Act 1991, in either case of a lower amount than the assessment concerned,

sub-paragraph (1)(a)(ii) shall apply to him as if for the words "any period of 12 weeks or less" there were substituted the words "any period of 26 weeks or less".

[^{F101}(3) For the purposes of this Schedule, where a claimant has ceased to be entitled to a jobseeker's allowance because he or his partner is participating in arrangements for training made under section 2 of the Employment and Training Act 1973 or attending a course at an employment rehabilitation centre established under that section, he shall be treated as if he had been in receipt of a jobseeker's allowance for the period during which he or his partner was participating in such a course.]

[^{F102}(3A) For the purposes of this Schedule, a claimant who has ceased to be entitled to a jobseeker's allowance because—

- (a) that claimant or his partner was participating in an employment programme specified in regulation 75(1)(a)(ii) [^{F103}or in an employment zone programme], and
- (b) in consequence of such participation the claimant or his partner was engaged in remunerative work or failed to satisfy the condition specified either in section 2(1)(c) or in section 3(1)(a),

shall be treated as if he had been in receipt of a jobseeker's allowance for the period during which he or his partner was participating in that programme.]

(4) Where, for the purposes of sub-paragraphs [^{F104}(1), (3) and (3A)], a person is treated as being in receipt of a jobseeker's allowance, for a certain period, he shall [^{F105}, subject to sub-paragraph (4A),] be treated as being entitled to a jobseeker's allowance for the same period.

(4A) [^{F106}Where the appropriate amount of a loan exceeds the amount specified in paragraph 10(4), sub-paragraph (4) shall not apply except—

- (a) or the purposes of paragraph 6(1) or 7(1); or
- (b) where a person has ceased to be in receipt of a jobseeker's allowance for a period of 52 weeks or less because he or his partner is a welfare to work beneficiary.]

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(5) For the purposes of this Schedule, sub-paragraph (6) applies where a person is not entitled to an income-based jobseeker's allowance by reason only that he has—

- (a) capital exceeding £8,000; or
- (b) income exceeding the applicable amount which applies in his case; or
- [^{F107}(b) a personal rate of contribution-based jobseeker's allowance that is equal to, or exceeds, the applicable amount in his case; or]
- (c) both capital exceeding £8,000 and income exceeding the applicable amount which applies in his case.

(6) A person to whom sub-paragraph (5) applies shall be treated as entitled to a jobseeker's allowance throughout any period of not more than 39 weeks which comprises only days—

- (a) on which he is entitled to a contribution-based jobseeker's allowance, statutory sick pay or incapacity benefit; or
- (b) on which he is, although not entitled to any of the benefits mentioned in head (a) above, entitled to be credited with earnings equal to the lower earnings limit for the time being in force in accordance with [^{F108}regulation 8A or 8B of the Social Security (Credits) Regulations 1975].

(7) Subject to sub-paragraph (8), a person to whom sub-paragraph (5) applies and who is either a person to whom regulation 13(4) applies (persons with caring responsibilities) or a lone parent shall, for the purposes of this Schedule, be treated as entitled to a jobseeker's allowance throughout any period of not more than 39 weeks following the refusal of a claim for a jobseeker's allowance made by or on behalf of that person.

(8) Sub-paragraph (7) shall not apply in relation to a person mentioned in that sub-paragraph who, during the period referred to in that sub-paragraph—

- (a) is engaged in, or is treated as engaged in, remunerative work or whose partner is engaged in, or is treated as engaged in, remunerative work;
- (b) is treated as not available for employment by virtue of regulation 15(a) (circumstances in which students are not treated as available for employment);
- (c) is temporarily absent from Great Britain, other than in the circumstances specified in regulation 50 (temporary absence from Great Britain).

(9) In a case where—

- (a) sub-paragraphs (6) and (7) apply solely by virtue of sub-paragraph (5)(b), and
- (b) the claimant's income includes payments under a policy taken out to insure against the risk that the policy holder is unable to meet any loan or payment which qualifies under paragraphs 14 to 16,

sub-paragraphs (6) and (7) shall have effect as if for the words "throughout any period of not more than 39 weeks" there are substituted the words " throughout any period that payments are made in accordance with the terms of the policy ".

(10) This sub-paragraph applies—

- (a) to a person who claims a jobseeker's allowance, or in respect of whom a jobseeker's allowance is claimed, and who—
 - (i) received payments under a policy of insurance taken out to insure against loss of employment, and those payments are exhausted; and
 - (ii) had a previous award of a jobseeker's allowance where the applicable amount included an amount by way of housing costs; and
- (b) where the period in respect of which the previous award of a jobseeker's allowance was payable ended not more than 26 weeks before the date the claim was made.

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(11) Where sub-paragraph (10) applies, in determining—

- (a) for the purposes of paragraph 6(1) whether a person has been entitled to a jobseeker's allowance for a continuous period of 26 weeks or more; or
- (b) for the purposes of paragraph 7(1) whether a claimant has been entitled to a jobseeker's allowance for a continuous period of 39 weeks or more,

any week falling between the date of the termination of the previous award and the date of the new claim shall be ignored.

[^{F109}(12) Where the claimant's partner to whom this paragraph applies is a welfare to work beneficiary, sub-paragraphs (1)(a)(ii), (1)(d) and (1)(f)(iii) shall apply to him as if for the words "twelve weeks" there were substituted the words "52 weeks".]

Textual Amendments

- F93** Word in Sch. 2 para. 13(1) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**
- F94** Word in Sch. 2 para. 13(1)(a)(i) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 11**
- F95** Words in Sch. 2 para. 13(1)(a)(ii) omitted (7.10.1996) by virtue of [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **29(4)**
- F96** Sch. 2 para. 13(1)(a)(ii), (aa)-(cc) inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **29(4)**
- F97** Words in Sch. 2 para. 13(1)(b) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 10**
- F98** Sch. 2 para. 13(1)(ee) inserted (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **13(3)(a)**
- F99** 1991 c.48.
- F100** Word in Sch. 2 para. 13(2)(a) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 5**
- F101** Sch. 2 para. 13(3) substituted (7.4.1997) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/827\)](#), regs. 1(1), **4(2)**
- F102** Sch. 2 para. 13(3A) inserted (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **13(3)(b)**
- F103** Words in Sch. 2 para. 13(3A)(a) inserted (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000 \(S.I. 2000/724\)](#), regs. 1(1), **4(4)(d)**
- F104** Words in Sch. 2 para. 13(4) substituted (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **13(3)(c)**
- F105** Words in Sch. 2 para. 13(4) inserted (2.8.1999) by [The Income Support \(General\) and Jobseeker's Allowance Amendment Regulations 1999 \(S.I. 1999/1921\)](#), regs. 1, **2(2)(a)**
- F106** Sch. 2 para. 13(4A) inserted (2.8.1999) by [The Income Support \(General\) and Jobseeker's Allowance Amendment Regulations 1999 \(S.I. 1999/1921\)](#), regs. 1, **2(2)(b)**
- F107** Sch. 2 para. 13(5)(bb) inserted (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(12)(b)**
- F108** Words in Sch. 2 para. 13(6)(b) substituted (5.4.1999) by [The Social Security Benefits \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/714\)](#), reg. **2(2)(a)**
- F109** Sch. 2 para. 13(12) added (5.10.1998) by [The Social Security \(Welfare to Work\) Regulations 1998 \(S.I. 1998/2231\)](#), regs. 1, **14(4)**

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Loans on residential property

14.—(1) A loan qualifies under this paragraph where the loan was taken out to defray monies applied for any of the following purposes—

- (a) acquiring an interest in the dwelling occupied as the home; or
- (b) paying off another loan to the extent that the other loan would have qualified under head (a) above had the loan not been paid off.

(2) For the purposes of this paragraph, references to a loan include also a reference to money borrowed under a hire purchase agreement for any purpose specified in heads (a) and (b) of sub-paragraph (1) above.

(3) Where a loan is applied only in part for the purposes specified in heads (a) and (b) of sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

Loans for repairs and improvements to the dwelling occupied as the home

15.—(1) A loan qualifies under this paragraph where the loan was taken out, with or without security, for the purpose of—

- (a) carrying out repairs and improvements to the dwelling occupied as the home;
- (b) paying any service charge imposed to meet the cost of repairs and improvements to the dwelling occupied as the home;
- (c) paying off another loan to the extent that the other loan would have qualified under head (a) or (b) of this sub-paragraph had the loan not been paid off,

and the loan was used for that purpose, or is used for that purpose within 6 months of the date of receipt or such further period as may be reasonable in the particular circumstances of the case.

(2) In sub-paragraph (1) “repairs and improvements” means any of the following measures undertaken with a view to maintaining the fitness of the dwelling for human habitation or, where the dwelling forms part of a building, any part of the building containing that dwelling—

- (a) provision of a fixed bath, shower, wash basin, sink or lavatory, and necessary associated plumbing, including the provision of hot water not connected to a central heating system;
- (b) repairs to existing heating system;
- (c) damp proof measures;
- (d) provision of ventilation and natural lighting;
- (e) provision of drainage facilities;
- (f) provision of facilities for preparing and cooking food;
- (g) provision of insulation of the dwelling occupied as the home;
- (h) provision of electric lighting and sockets;
- (i) provision of storage facilities for fuel or refuse;
- (j) repairs of unsafe structural defects;
- (k) adapting a dwelling for the special needs of a disabled person; or
- (l) provision of separate sleeping accommodation for children of different sexes aged 10 or over who are part of the same family as the claimant.

(3) Where a loan is applied only in part for the purposes specified in sub-paragraph (1), only that portion of the loan which is applied for that purpose shall qualify under this paragraph.

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Other housing costs

16.—(1) Subject to the deduction specified in sub-paragraph (2) and the reductions applicable in sub-paragraph (5), there shall be met under this paragraph the amounts, calculated on a weekly basis, in respect of the following housing costs—

- (a) payments by way of rent or ground rent relating to a long tenancy and, in Scotland, payments by way of feu duty;
- (b) service charges;
- (c) payments by way of the rentcharge within the meaning of section 1 of the Rentcharges Act 1977^{F110};
- (d) payments under a co-ownership scheme;
- (e) payments under or relating to a tenancy or licence of a Crown tenant;
- (f) where the dwelling occupied as the home is a tent, payments in respect of the tent and the site on which it stands.

(2) Subject to sub-paragraph (3), the deductions to be made from the weekly amounts to be met under this paragraph are—

- (a) where the costs are inclusive of any of the items mentioned in paragraph 5(2) of Schedule 1 to the Housing Benefit (General) Regulations 1987^{F111} (payment in respect of fuel charges), the deductions prescribed in that paragraph unless the claimant provides evidence on which the actual or approximate amount of the service charge for fuel may be estimated, in which case the estimated amount;
- (b) where the costs are inclusive of ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the Housing Benefit (General) Regulations 1987 (ineligible service charges) the amounts attributable to those ineligible service charges or where that amount is not separated from or separately identified within the housing costs to be met under this paragraph, such part of the payments made in respect of those housing costs which are fairly attributable to the provision of those ineligible services having regard to the costs of comparable services;
- (c) any amount for repairs and improvements, and for this purpose the expression “repairs and improvements” has the same meaning it has in paragraph 15(2).

(3) Where arrangements are made for the housing costs, which are met under this paragraph and which are normally paid for a period of 52 weeks, to be paid instead for a period of 53 weeks, or to be paid irregularly, or so that no such costs are payable or collected in certain periods, or so that the costs for different periods in the year are of different amounts, the weekly amount shall be the amount payable for the year divided by 52.

(4) Where the claimant or a member of his family—

- (a) pays for reasonable repairs or redecoration to be carried out to the dwelling they occupy; and
- (b) that work was not the responsibility of the claimant or any member of his family; and
- (c) in consequence of that work being done, the costs which are normally met under this paragraph are waived,

then those costs shall, for a period not exceeding 8 weeks, be treated as payable.

(5) Where in England and Wales an amount calculated on a weekly basis in respect of housing costs specified in sub-paragraph (1)(e) (Crown tenants) includes water charges, that amount shall be reduced—

- (a) where the amount payable in respect of water charges is known, by that amount;

- (b) in any other case, by the amount which would be the likely weekly water charge had the property not been occupied by a Crown tenant.

Textual Amendments

F110 1977 c.30

F111 S.I. 1987/1971

Non-dependant deductions

17.—(1) Subject to the following provisions of this paragraph, the following deductions from the amount to be met under the preceding paragraphs of this Schedule in respect of housing costs shall be made—

[^{F112}(a) in respect of a non-dependant aged 18 or over who is engaged in any remunerative work, [^{F113}£47.75;]]

(b) in respect of a non-dependant aged 18 or over to whom head (a) does not apply, [^{F114}£7.40.]

(2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies because he is in remunerative work, where the claimant satisfies [^{F115}the Secretary of State] that the non-dependant's gross weekly income is—

(a) less than [^{F116}£81.00,] the deduction to be made under this paragraph shall be the deduction specified in sub-paragraph (1)(b);

(b) not less than [^{F117}£81.00] but less than [^{F118}£120.00,] the deduction to be made under this paragraph shall be [^{F119}£17.00;]

(c) not less than [^{F120} £120.00] but less than [^{F121}£157.00,] the deduction to be made under this paragraph shall be [^{F122}£23.35.]

[^{F123}(d) not less than [^{F124}£157.00] but less than [^{F125}£207.00,] the deduction to be made under this paragraph shall be [^{F126}£38.20;]]

[^{F123}(e) not less than [^{F127}£207.00] but less than [^{F128}£259.00,] the deduction to be made under this paragraph shall be [^{F129}£43.50].]

(3) Only one deduction shall be made under this paragraph in respect of a couple or, as the case may be, the members of a polygamous marriage, and where, but for this sub-paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other member, the higher amount shall be deducted.

(4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard shall be had, for the purpose of sub-paragraph (2), to the couple's or, as the case may be, all the members of the polygamous marriage's, joint weekly income.

(5) Where a person is a non-dependant in respect of more than one joint occupier of a dwelling (except where the joint occupiers are a couple or members of a polygamous marriage), the deduction in respect of that non-dependant shall be apportioned between the joint occupiers (the amount so apportioned being rounded to the nearest penny) having regard to the number of joint occupiers and the proportion of the housing costs in respect of the dwelling occupied as the home payable by each of them.

(6) No deduction shall be made in respect of any non-dependants occupying the dwelling occupied as the home of the claimant, if the claimant or any partner of his is—

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- (a) blind or treated as blind within the meaning of paragraph 14(1)(h) and (2) of Schedule 1 (additional condition for the higher pensioner and disability premiums); or
- (b) receiving in respect of himself either—
 - (i) an attendance allowance, or
 - (ii) the care component of the disability living allowance.
- (7) No deduction shall be made in respect of a non-dependant—
 - (a) if, although he resides with the claimant, it appears to [^{F130}the Secretary of State] that the dwelling occupied as his home is normally elsewhere; or
 - [^{F131}(b) if he is in receipt of [^{F132}a training allowance paid in connection with a Youth Training Scheme established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or]]
 - (c) if he is a full-time student during a period of study or, if he is not in remunerative work, during a recognised summer vacation appropriate to his course; or
 - (d) if he is aged under 25 and in receipt of [^{F133}an income-based jobseeker's allowance] or income support; or
 - (e) in respect of whom a deduction in the calculation of a rent rebate or allowance falls to be made under regulation 63 of the Housing Benefit (General) Regulations 1987 ^{F134} (non-dependant deductions); or
 - (f) to whom, but for paragraph (5) of regulation 2 (definition of non-dependant) paragraph (4) of that regulation would apply; or
 - (g) if he is not residing with the claimant because he has been a patient for a period in excess of six weeks, or is a prisoner, and for these purposes—
 - (i) "patient" and "prisoner" respectively have the meanings given in regulation 85(4) (special cases), and
 - (ii) the period of six weeks shall be calculated by reference to paragraph (2) of that regulation as if that paragraph applied in his case.
- (8) In the case of a non-dependant to whom sub-paragraph (2) applies because he is in remunerative work, there shall be disregarded from his gross income—
 - (a) any attendance allowance or disability living allowance received by him;
 - (b) any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments)(No.2) Trust, the Fund, the Eileen Trust or the Independent Living Funds which, had his income fallen to be calculated under regulation 103 (calculation of income other than earnings), would have been disregarded under paragraph 22 of Schedule 7 (income in kind); and
 - (c) any payment which, had his income fallen to be calculated under regulation 103 would have been disregarded under paragraph 41 of Schedule 7 (payments made under certain trusts and certain other payments).

Textual Amendments

F112 Sch. 2 para. 17(1)(a) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Non-Dependant Deductions\) Regulations 1996 \(S.I. 1996/2518\)](#), regs. 1(1)(c), **4(a)**

F113 Sum in Sch. 2 para. 17(1)(a) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(a)**

F114 Sum in Sch. 2 para. 17(1)(b) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(b)**

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- F115** Words in Sch. 2 para. 17(2) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 2**
- F116** Sum in Sch. 2 para. 17(2)(a) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(c)**
- F117** Sum in Sch. 2 para. 17(2)(b) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(d)(i)**
- F118** Sum in Sch. 2 para. 17(2)(b) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(d)(ii)**
- F119** Sum in Sch. 2 para. 17(2)(b) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(d)(iii)**
- F120** Sum in Sch. 2 para. 17(2)(c) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(e)(i)**
- F121** Sum in Sch. 2 para. 17(2)(c) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(e)(ii)**
- F122** Sum in Sch. 2 para. 17(2)(c) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(e)(iii)**
- F123** Sch. 2 para. 17(2)(d)(e) added (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Non-Dependant Deductions\) Regulations 1996 \(S.I. 1996/2518\)](#), regs. 1(1)(c), **4(b)**
- F124** Sum in Sch. 2 para. 17(2)(d) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(f)(i)**
- F125** Sum in Sch. 2 para. 17(2)(d) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(f)(ii)**
- F126** Sum in Sch. 2 para. 17(2)(d) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(f)(iii)**
- F127** Sum in Sch. 2 para. 17(2)(e) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(g)(i)**
- F128** Sum in Sch. 2 para. 17(2)(e) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(g)(ii)**
- F129** Sum in Sch. 2 para. 17(2)(e) substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(6)(g)(iii)**
- F130** Words in Sch. 2 para. 17(7)(a) substituted (18.10.1999) by [The Social Security Act 1998 \(Commencement No. 11, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2860\)](#), art. 3(1), **Sch. 12 para. 2**
- F131** Sch. 2 para. 17(7)(b) substituted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **29(5)**
- F132** Words in Sch. 2 para. 17(7)(b) substituted (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(12)(c)(ii)**
- F133** Words in Sch. 2 para. 17(7)(d) substituted (7.4.1997) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/827\)](#), regs. 1(1), **4(3)**
- F134** S.I. 1987/1971; the relevant amending instrument is S.I. 1992/50.

Continuity with Income Support

18.—(1) For the purpose of providing continuity between income support and a jobseeker's allowance—

- (a) any housing costs which would, had the claimant been entitled to income support, have been existing housing costs and not new housing costs shall, notwithstanding the preceding provisions of this Schedule, be treated as existing housing costs, and any qualifications or limitations which would have applied to those costs had the award been an award of

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income support shall likewise apply to the costs in so far as they are met in jobseeker's allowance;

- (b) had the award of a jobseeker's allowance been an award of income support and the housing costs which would then have been met would have included an additional amount met in accordance with paragraph 7 of Schedule 3 to the Income Support Regulations (add back), an amount equal to that additional amount shall be added to the housing costs to be met under this Schedule, but that amount shall be subject to the same qualifications and limitations as it would have been had the award been of income support; and
- (c) for the purposes of any linking rule [^{F135}or for determining whether any qualifying or other period is satisfied], any reference to a jobseeker's allowance in this Schedule shall be taken also to include a reference to income support.

(2) Any loan which, had the claimant been entitled to income support and not a jobseeker's allowance, would have been a qualifying loan for the purposes of Schedule 3 to the Income Support Regulations by virtue of regulation 3 of the Income Support (General) Amendment and Transitional Regulations 1995 ^{F136} shall be treated also as a qualifying loan for the purposes of paragraph 14 or 15, as the case may be, of this Schedule; and for the purpose of determining whether a claimant would satisfy the provision of regulation 3(2) of those Regulations, a person in receipt of an income-based jobseeker's allowance shall be treated as being in receipt of income support.

Textual Amendments

F135 Words in Sch. 2 para. 18(1)(c) inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **29(6)**

F136 [S.I. 1995/2287](#)

Rounding of Fractions

19. Where any calculation made under this Schedule results in a fraction of a penny, that fraction shall be treated as a penny.

SCHEDULE 3

Schedule 1, paragraph 3(1)(b)

THE GREATER LONDON AREA

The area described in this Schedule comprises—

- (a) the Boroughs of
- Barking and Dagenham
 - Barnet
 - Bexley
 - Brent
 - Bromley
 - Camden
 - City of Westminster
 - Croydon
 - Ealing

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Enfield
Greenwich
Hackney
Hammersmith & Fulham
Haringay
Harrow
Havering
Hillingdon
Hounslow
Islington
Kensington and Chelsea
Kingston-upon-Thames
Lambeth
Lewisham
Merton
Newham
Redbridge
Richmond-upon-Thames
Southwark
Sutton
Tower Hamlets
Waltham Forest
Wandsworth;

- (b) the City of London, the Inner Temple and the Middle Temple;
- (c) in the County of Essex that part of the district of Epping Forest which comprises the parishes of Chigwell and Waltham Holy Cross;
- (d) in the County of Hertfordshire, that part of the Borough of Broxbourne which lies south of Cheshunt Park, including Slipe Lane, and that part of the district of Hertsmere which comprises the former parishes of Elstree, Ridge, Shenley and South Mimms;
- (e) in the County of Surrey, the Borough of Spelthorne and that part of the Borough of Elmbridge which was formerly administered by the [F137old] Esher District Council.

Textual Amendments

F137 Word in Sch. 3 substituted (7.4.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(c), **2(14)**

Textual Amendments

F137 Word in Sch. 3 substituted (7.4.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(c), **2(14)**

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SCHEDULE 4

Regulation 86

APPLICABLE AMOUNTS OF PERSONS IN RESIDENTIAL CARE AND NURSING HOMES

1.—(1) Subject to sub-paragraph (2), the weekly applicable amount of a claimant to whom regulation 86 applies shall be the aggregate of—

- (a) subject to paragraph 3, the weekly charge for the accommodation, including all meals and services, provided for him or, if he is a member of a family, for him and his family increased, where appropriate, in accordance with paragraph 2 but, except in a case to which paragraph 10 applies, subject to the maximum determined in accordance with paragraph 4; and
- (b) a weekly amount for personal expenses for him and, if he is a member of a family, for each member of his family determined in accordance with paragraph 11; and
- (c) where he is only temporarily in such accommodation any amount applicable under regulation 83(f) or 84(1)(g) (housing costs) in respect of the dwelling normally occupied as the home; and
- (d) any amount applicable in accordance with regulation 87(3).

(2) No amount shall be included in respect of any child or young person who is a member of the claimant's family if the capital of that child or young person calculated in accordance with Part VIII in like manner as for the claimant, except where otherwise provided, would exceed £3,000.

Modifications etc. (not altering text)

C13 Sch. 4 para. 1(2) sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(2)**

2.—(1) Where, in addition to the weekly charge for accommodation, a separate charge is made for the provision of heating, attention in connection with bodily functions, supervision, extra baths, laundry or a special diet needed for a medical reason, the weekly charge for the purpose of paragraph 1(1)(a) shall be increased by the amount of that charge.

(2) Where the weekly charge for the accommodation does not include the provision of all meals, it shall for the purpose of paragraph 1(1)(a), be increased in respect of the claimant or, if he is a member of a family, in respect of each member of his family by the following amount:

- (a) if the meals can be purchased within the residential care or nursing home, the amount equal to the actual cost of the meals, calculated on a weekly basis; or
- (b) if the meals cannot be so purchased, the amount calculated on a weekly basis—
 - (i) for breakfast, at a daily rate of £1.10;
 - (ii) for a midday meal, at a daily rate of £1.55; and
 - (iii) for an evening meal, at a daily rate of £1.55;

except that, if some or all of the meals are normally provided free of charge or at a reduced rate, the amount shall be reduced to take account of the lower charge or reduction.

Modifications etc. (not altering text)

C14 Sch. 4 para. 2(2)(b) sums confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), **22(7)**, **Sch. 13**

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3. Where any part of the weekly charge for the accommodation is met by housing benefit, an amount equal to the part so met shall be deducted from the amount calculated in accordance with paragraph 1(1)(a).

- 4.—(1) Subject to paragraph 10 the maximum referred to in paragraph 1(1)(a) shall be—
- (a) in the case of a single claimant, the appropriate amount in respect of that claimant specified in or determined in accordance with paragraphs 5 to 9;
 - (b) in the case of a claimant who is a member of a family the aggregate of the following amounts—
 - (i) in respect of the claimant, the appropriate amount in respect of him specified in or determined in accordance with paragraphs 5 to 9;
 - (ii) in respect of each member of his family who lives in the home aged under 11, 1½ times the amount specified in paragraph 2(a) of Schedule 1;
 - (iii) in respect of each member of his family aged not less than 11 who lives in the home, an amount which would be the appropriate amount specified in or determined in accordance with paragraphs 5 to 9 if the other member were the claimant.

(2) The maximum amount in respect of a member of the family aged under 11 calculated in the manner referred to in sub-paragraph (1)(b)(i) shall be rounded to the nearest multiple of 5p by treating an odd amount of 2.5p or more as 5p and by disregarding an odd amount of less than 2.5p.

Residential care homes

5. Subject to paragraphs 7 to 9, where the accommodation provided for the claimant is a residential care home for persons in need of personal care by virtue of—

- (a) past or present mental disorder but excluding mental handicap, the appropriate amount shall be [^{F138}£234.00] per week;
- (b) past or present drug or alcohol dependence, the appropriate amount shall be [^{F138}£234.00] per week;
- (c) mental handicap, the appropriate amount shall be [^{F138}£266.00] week;
- (d) physical disablement, the appropriate amount shall be [^{F138}£303.00] per week;
- (e) any condition not falling within sub-paragraphs (a) to (d) above, the appropriate amount shall be [^{F138}£221.00] per week.

Textual Amendments

F138 Sums in Sch. 4 substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(7), [Sch. 13](#)

Nursing homes

6. Subject to paragraphs 7 to 9, where the accommodation provided for the claimant is a nursing home for persons in need of personal care by virtue of—

- (a) past or present mental disorder but excluding mental handicap, the appropriate amount shall be [^{F138}£331.00] per week;
- (b) mental handicap, the appropriate amount shall be [^{F138} £337.00] per week;
- (c) past or present drug or alcohol dependence, the appropriate amount shall be [^{F138}£331.00] per week;

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- (d) physical disablement, the appropriate amount shall be [^{F138}£373.00] per week;
- (e) terminal illness, the appropriate amount shall be [^{F138}£330.00] per week;
- (f) any condition not falling with sub-paragraphs (a) to (e), the appropriate amount shall be [^{F138}£330.00] per week.

Textual Amendments

F138 Sums in Sch. 4 substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(7), **Sch. 13**

7. The appropriate amount applicable to a claimant in a residential care home or nursing home shall, subject to paragraph 8, be determined—

- (a) where the home is a residential care home registered under Part I of the Registered Homes Act 1984 ^{F139}, by reference to the particulars recorded in the register kept by the relevant registration authority for the purposes of that Act; or
- (b) where the home is a residential care home not so registered or a nursing home, by reference to the type of care which, taking into account the facilities and accommodation provided, the home is providing to the claimant.

Textual Amendments

F139 1984 c.23.

8.—(1) Where more than one amount would otherwise be applicable, in accordance with paragraph 7, to a claimant in a residential care home or a nursing home, the appropriate amount in any case shall be determined in accordance with the following sub-paragraphs.

(2) Where the home is a residential care home registered under Part I of the Registered Homes Act 1984 and where the personal care that the claimant is receiving corresponds to the care received by a category of residents for whom the register indicates that the home provides accommodation, the appropriate amount shall be the amount, in paragraph 5, as is consistent with that personal care.

(3) Where the home is a residential care home which is so registered but where the personal care that the claimant is receiving does not correspond to the care received by a category of residents for whom the register indicates that the home provides accommodation, the appropriate amount [^{F140}shall be the lesser or least amount], in paragraph 5, as is consistent with those categories.

(4) In any case not falling within sub-paragraph (2) or (3), the appropriate amount shall be whichever amount of the amounts applicable in accordance with paragraph 5, 6, or 7 is, having regard to the types of personal care that the home provides, most consistent with personal care being received by the claimant in that accommodation.

Textual Amendments

F140 Words in Sch. 4 para. 8(3) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

9.—(1) Where the accommodation provided for the claimant is a residential care home or a nursing home which is, in either case, situated in the Greater London area and the actual charge for that accommodation exceeds the appropriate amount in his case by virtue of the preceding paragraphs of this Schedule, the amount shall be increased by any excess up to—

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- (a) in the case of a residential care home, [^{F138}£46.00;]
 - (b) in the case of a nursing home, [^{F138}£51.00.]
- (2) In sub-paragraph (1), the "Greater London area" means all those areas specified in Schedule 3.

Textual Amendments

F138 Sums in Sch. 4 substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(7), [Sch. 13](#)

Circumstances in which the maximum is not to apply

10.—(1) Where a claimant who satisfies the conditions in sub-paragraph (2) has been able to meet the charges referred to in paragraphs 1 and 2 without recourse to a jobseeker's allowance, income support or supplementary benefit, the maximum determined in accordance with paragraph 4 shall not apply for the period of 13 weeks or, if alternative accommodation is found earlier, such lesser period following the date of claim except to the extent that the claimant is able to meet out of income disregarded for the purposes of Part VIII the balance of the actual charge over the maximum.

- (2) The conditions for the purposes of sub-paragraph (1) are that—
- (a) the claimant has lived in the same accommodation for more than 12 months; and
 - (b) he was able to afford the charges in respect of that accommodation when he took up residence; and
 - (c) having regard to the availability of suitable alternative accommodation and to the circumstances mentioned in paragraph 12(5)(b) of Schedule 2 (housing costs), it is reasonable that the maximum should not apply in order to allow him time to find alternative accommodation; and
 - (d) he is not a person who is being accommodated—
 - (i) by a housing authority under Part III of the Housing Act 1985 ^{F141} (housing the homeless), or
 - (ii) by a local authority under section 20 of the Children Act 1989 ^{F142} (provision for accommodation for children: general) or, in Scotland, section 12 of the Social Work (Scotland) Act 1968 ^{F143} (general welfare); and
 - (e) he is seeking alternative accommodation and intends to leave his present accommodation once alternative accommodation is found.
- (3) Where—
- (a) the claimant was a resident in a residential care home or nursing home immediately before 29th April 1985 and has continued after that date to be resident in the same accommodation, apart from any period of temporary absence; and
 - (b) immediately before that date, the actual charge for the claimant's accommodation was being met either wholly or partly out of the claimant's resources, or, wholly or partly out of other resources which can no longer be made available for this purpose; and
 - (c) since that date the local authority have not at any time accepted responsibility for the making of arrangements for the provision of such accommodation for the claimant; and
 - (d) [^{F144}the Secretary of State] is satisfied that, unless this provision applies in the claimant's case, he will suffer exceptional hardship,

the maximum amount shall be the rate specified in sub-paragraph (4) if that rate exceeds the maximum which, but for this sub-paragraph, would be determined under paragraph 4.

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- (4) For the purposes of sub-paragraph (3) the rate is either—
- (a) the actual weekly charge for the accommodation immediately before 29th April 1985 plus £10; or
 - (b) the aggregate of the following amounts—
 - (i) the amount estimated under regulation 9(6) of the Supplementary Benefit (Requirements) Regulations 1983 ^{F145} as then in force as the reasonable weekly charge for the area immediately before that date;
 - (ii) £26.15; and
 - (iii) if the claimant was entitled at that date to attendance allowance under [^{F146}section 64] of the Benefits Act at the higher rate £28.60 or, as the case may be, at the lower rate, £19.10,
 whichever is the lower amount.

Textual Amendments

F141 1985 c.68.

F142 1989 c.41.

F143 1968 c.49.

F144 Words in Sch. 4 para. 10(3)(d) substituted (18.10.1999) by [The Social Security Act 1998](#) (Commencement No. 11, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2860), art. 3(1), **Sch. 12 para. 2**

F145 S.I. 1983/1399.

F146 Words in Sch. 4 para. 10(4)(b)(iii) substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996](#) (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**

Personal allowances

11. The allowance for personal expenses for the claimant and each member of his family referred to in paragraph 1(1)(b) shall be—

- (a) for the claimant [^{F138}£15.45,] and if he has a partner, for his partner, [^{F138}£15.45;]
- (b) for a young person aged 18, [^{F138} £15.00;]
- (c) for a young person aged under 18 but over 16, [^{F138}£10.40;]
- (d) for a child aged under 16 but over 11, [^{F138}£9.00;]
- (e) for a child aged under 11, [^{F138}£6.15.]

Textual Amendments

F138 Sums in Sch. 4 substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000](#) (S.I. 2000/440), arts. 1(2)(i), 22(7), **Sch. 13**

SCHEDULE 5

Regulation 85

APPLICABLE AMOUNTS IN SPECIAL CASES

Column (1)	Column (2)
Person other than claimant who is a patient	
1. Subject to paragraphs [F1472, 15 and 17], a person who has been a patient for more than 6 weeks and who is—	1.—(a) the applicable amount for a couple under regulation 83 reduced by [F148£13.50;]
(a) a member of a couple and the other member is the claimant, or	
(b) a member of a polygamous marriage and the claimant is a member of the marriage but not a patient.	(b) the applicable amount under regulation 84 (polygamous marriages) reduced by [F148£13.50] in respect of each member who is a patient.
2.—(a) A claimant who is not a patient and who is a member of a family of which another member is a child or young person who has been a patient for a period of more than 12 weeks; or	2.—(a) The amount applicable to him under [F147regulation 83 or 84] except that the amount applicable under [F147regulation 83(b) or 84(1)(c)] in respect of the child or young person referred to in Column (1) of this paragraph shall be [F148£13.50] instead of an amount Column (2)
(b) where the person is a member of a family and paragraph 1 applies to him and another member of the family who is a child or young person has been a patient for a period of more than 12 weeks.	(b) the amount applicable to him under paragraph 1 except that the amount applicable under regulation 83(b) or 84(1)(c) in respect of the child or young person referred to in Column (1) of this paragraph shall be [F148£13.50] instead of an amount determined in accordance with paragraph 2 of Schedule 1.
Claimants Without Accommodation	
3. A claimant who is without accommodation.	3. The amount applicable to him under regulation 83(a) (personal allowance) only.
Members of Religious Orders	
4. A claimant who is a member of and fully maintained by a religious order.	4. Nil
Specified Cases of Temporarily Separated Couples	
5. A claimant who is a member of a couple and who is temporarily separated from his partner, where—	5. Either—
(a) one member of the couple is—	(a) the amount applicable to him as a member of a couple under regulation 83; or
	(b) the aggregate of his applicable amount and that of his partner assessed under the provisions

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(i) not a patient but is resident in a nursing home, or

(ii) resident in a residential care home, or

(iii) resident in premises used for the rehabilitation of alcoholics or drug addicts, or

(iv) resident in accommodation provided under section 3 of and Part II of the Schedule to, the Polish Resettlement Act 1947 (provision of accommodation in camps) ^{F149},

(v) or participating in arrangements for training made under section 2 of the Employment and Training Act 1973 ^{F150}, or section 2 of the Enterprise and New Towns (Scotland) Act 1990 ^{F151} or participating in an employment rehabilitation programme established under that section of the Act of 1973, where the course requires him to live away from the dwelling occupied as the home, or

(vi) in a probation or bail hostel approved for the purpose by the Secretary of State, and

(b) the other member of the couple is—

(i) living in the dwelling occupied as the home, or

(ii) a patient, or

(iii) in residential accommodation, or

(iv) resident in a residential care home or nursing home.

Polygamous Marriages where one or more partners are temporarily separated

6. A claimant who is a member of a polygamous marriage and who is temporarily separated from a partner of his, where one of them is living in the home while the other member is—

(a) not a patient but is resident in a nursing home; or

(b) resident in a residential care home; or

of these Regulations as if each of them were a single claimant, or a lone parent, whichever is the greater.

6. Either—

(a) the amount applicable to the members of the polygamous marriage under regulation 84; or

(b) the aggregate of the amount applicable for the members of the polygamous marriage who remain in the home under regulation 84 and the amount applicable in respect of those members not in the home calculated as if each of them were a single claimant, or a lone parent, whichever is the greater.

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(c) resident in premises used for the rehabilitation of alcoholics or drug addicts; or

(d) attending a course of training or instruction provided or approved by the Secretary of State where the course requires him to live away from home; or

(e) in a probation or bail hostel approved for the purpose by the Secretary of State.

Single claimants temporarily in local authority accommodation

7. A single claimant who is temporarily in accommodation provided by a local authority of a kind specified in the definition of residential accommodation in regulation 85 (special cases).

Couples and members of polygamous marriages where one member is or all are temporarily in local authority accommodation

8.—(1) A claimant who is a member of a couple and temporarily separated from his partner where one of them is living in the home while the other is in accommodation provided by a local authority of a kind specified in the definition of residential accommodation in regulation 85 (special cases).

(2) A claimant who is a member of a polygamous marriage and who is temporarily separated from a partner of his where one is, or some are, living in the home while one is, or some are, in accommodation referred to in sub— paragraph (1).

(3) A claimant who is a member of a couple or a member of a polygamous marriage where both members of that couple or all the members of that marriage are in accommodation referred to in sub-paragraph (1).

Lone parents who are in residential accommodation temporarily.

9. A claimant who is a lone parent who has entered residential accommodation temporarily.

7. [^{F148}£67.50] of which [^{F148}£15.45] is for personal expenses plus any amounts applicable under regulation 83(f) and 87(2) and (3).

8.

(1) The aggregate of the amount applicable for the member who remains in the home calculated as if he were a single claimant under regulation 83, 85 or 86 and in respect of the other member [^{F148}£67.50] of which [^{F148}£15.45] is for personal expenses.

(2) The aggregate of the amount applicable, for the members of the polygamous marriage who remain in the home, under regulation 84 and in respect of each member not in the home [^{F148}£67.50] of which [^{F148}£15.45] is for personal expenses.

(3) For each member of that couple or marriage [^{F148}£67.50] of which [^{F148}£15.45] is for personal expenses plus, if appropriate, the amount applicable under regulation 83(f), [^{F147}84(1)(g)] and 87(2) and (3).

9. [^{F148}£67.50] of which [^{F148}£15.45] is for personal expenses, plus—

(a) in respect of each child or young person who is a member of his family, the amount in respect of him prescribed in paragraph 2(a), (b), (c) or (d) of Schedule 1 or under this Schedule as appropriate; and

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- Couples where one member is absent from the United Kingdom
10. Subject to paragraph 11, a claimant who is a member of a couple and whose partner is temporarily absent from the United Kingdom.
- Couple or member of couple taking child or young person abroad for treatment
- 11.—(1) A claimant who is a member of a couple where either—
- (a) he or his partner is, or
- (b) both he and his partner are absent from [^{F147}United Kingdom] in the circumstances specified in sub— paragraph (2),
- (2) For the purpose of sub-paragraph (1), the specified circumstances are—
- (a) the claimant is absent from the United Kingdom but is treated as [^{F153}available for and actively seeking] employment in accordance with regulations 14(1) and 19(1);
- (b) the claimant's partner is absent from the United Kingdom and regulation 50(5) would have applied to him if he had claimed a jobseeker's allowance.
- Polygamous marriages where any member is abroad
12. Subject to paragraph 13 a claimant who is a member of a polygamous marriage where—
- (a) he or one of his partners is, or
- (b) he and one or more of his partners are, or
- (c) two or more of his partners are, temporarily absent from the United Kingdom;
- (b) any amount which would be applicable to the claimant if he were not temporarily living away from the dwelling occupied as his home, under [^{F152}regulation 83(d) or (f)] or under regulation 87(2) or (3).
10. For the first four weeks of that absence, the amount applicable to them as a couple under regulation 83 or 86 as the case may be and thereafter the amount applicable to the claimant in Great Britain under regulation 83 or 86 as the case may be as if the claimant were a single claimant or, as the case may be, a lone parent.
11. For the first 8 weeks of that absence, the amount applicable to the claimant under regulation 83 or 86, as the case may be, and thereafter, if the claimant is in Great Britain the amount applicable to him under regulation 83 or 86, as the case may be, as if the claimant were a single claimant, or, as the case may be, a lone parent.
12. For the first four weeks of that absence, the amount applicable to the claimant under regulations 84 to 87, as the case may be, and thereafter, if the claimant is in Great Britain the amount applicable to him under regulations 84 to 87, as the case may be, as if any member of the polygamous marriage not in the United Kingdom were not a member of the marriage.

Polygamous marriage: taking child or young person abroad for treatment

13.—(1) A claimant who is a member of a polygamous marriage where—

(a) he or one of his partners is,

(b) he and one of his partners are, or

(c) [^{F147}two or more of his partners are, absent from the United Kingdom in the circumstances specified in sub-paragraph (2).]

(2) For the purposes of sub-paragraph (1) the specified circumstances are—

(a) in respect of the claimant, ^{F154}... he is absent from the United Kingdom but is treated as available for and actively seeking employment in accordance with regulations 14(1) and 19(1); or

[^{F155}(b)] one or more of the members of the polygamous marriage is absent from the United Kingdom and regulation 50(5) would have applied to the absent partner [^{F147} if he had claimed a jobseeker's allowance]

[^{F156}had claimed a jobseeker's allowance.]

[^{F157} Partner of a person subject to immigration control

(a) (a) A claimant who is the partner of a person subject to immigration control.

(b) Where regulation 84 (polygamous marriages) applies and the claimant is a person—

(i) who is not subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act; or

(ii) to whom section 115 of that Act does not apply by virtue of regulation 2 of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000; and

13. For the first 8 weeks of that absence, the amount applicable to the claimant under regulations 84 to 87, as the case may be, and thereafter, if the claimant is in Great Britain the amount applicable to him under regulations 84 to 87, as the case may be, as if any member of the polygamous marriage not in the United Kingdom were not a member of the marriage.

[^{F158}13A

(a) The amount applicable in respect of the claimant only under regulation 83(a) plus that in respect of any child or young person who is a member of his family and who is not a person subject to immigration control within the meaning of section 115(9) of the and to whom section 115 of that Act does not apply for the purposes of exclusion from entitlement to jobseeker's allowance, any amounts which may be applicable to him under regulation 83(b), (d) or (e) plus the amount applicable to him under regulation 87(2) or (3) or, as the case may be, regulation 85 or 86.

(b) The amount determined in accordance with that regulation or regulation 85 or 86 in respect of the claimant and any partners of his and any child or young person for whom he

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- (iii) who is a member of a couple and one or more of his partners is subject to immigration control within the meaning of section 115(9) of that Act and section 115 of that Act applies to her for the purposes of exclusion from entitlement to income-based jobseeker's allowance.] or his partner is treated as responsible, who are not subject to immigration control within the meaning of section 115(9) of the and to whom section 115 of that Act does not apply for the purposes of exclusion from entitlement to jobseeker's allowance.]

Persons from Abroad

14. [F159] person from abroad]

14.—(a) [F160]nil]

Persons in residential accommodation

15.—(1) Subject to sub-paragraph (2), a person in or only temporarily absent from residential accommodation who is—

15.—

(1) Any amount applicable under regulation 87(2) and (3), plus—

(a) a single claimant;

(a) [F148]£67.50] of which [F148]£15.45] is for personal expenses;

(b) a lone parent;

(b) the amount specified in sub— paragraph (a) of [F147]this] column;

(c) one of a couple;

(c) twice the amount specified in sub— paragraph (a) of this column;

(d) a child or young person;

(d) the appropriate amount in respect of him prescribed in paragraph 2 of Schedule 1 (applicable amounts);

(e) a member of a polygamous marriage.

(e) the amount specified in sub— paragraph (a) of this column multiplied by the number of members of the polygamous marriage in or only temporarily absent from that accommodation.

(2) A single claimant who has become a patient and whose residential accommodation was provided by and managed by a local authority.

(2) Any amount applicable under regulation 87(2) and (3), plus [F148]£15.45]

Persons temporarily absent from a hostel, residential care or nursing home

16. Where a person is temporarily absent from accommodation for which he is liable to pay a retaining fee, and but for his temporary absence from that accommodation his applicable amount would be calculated in accordance with regulation 86 (applicable amounts for persons in residential care and nursing homes), and

16. The amount otherwise applicable to him under these Regulations may be increased to take account of the retaining fee by an amount not exceeding 80 per cent of the applicable amount referred to in paragraph 1(1)(a) of Schedule 4 (applicable amounts of persons in residential care or nursing homes) and any such increase shall not be for a continuous period of more than 52 weeks;

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(a) he is a person in accommodation provided by a local authority of a kind specified in the definition of residential accommodation in regulation 85(4) (special cases) and paragraph 15 does not apply to him by reason only that his stay in that accommodation has not become other than temporary; or

(b) he is a person to whom paragraph 1 or 2 (person other than claimant who is a patient) applies.

Persons in residential care or nursing homes who become patients

17.—(a)

17. A claimant to whom regulation 86 (persons in residential care or nursing homes) applies immediately before he or a member of his family became a patient where—

(a) he has been a patient for not more than 2 weeks or any member of his family has been a patient for not more than six weeks and the claimant—

(i) continues to be liable to meet the weekly charge for the accommodation without reduction in respect of himself or that member of his family who is a patient;

(ii) continues to be liable to meet the weekly charge for the accommodation but at a reduced rate;

(iii) is a single claimant who has been a patient for not more than 2 weeks and is likely to return to the accommodation, but has ceased to be liable to meet the weekly charge for that accommodation; or

(iv) is a single claimant who has been a patient for not more than 2 weeks and who ceases to be liable to meet the weekly charge for the accommodation, and who is unlikely to return to the accommodation;

(b) the claimant is one of a couple or polygamous marriage and either—

(i) the amount which would be applicable under regulation 86 as if the claimant or the member of the family who is a patient were resident in the accommodation to which regulation 86 applies;

(ii) the amount which would be applicable under regulation 86 having taken into account the reduced charge, as if the claimant or the member of the family who is a patient were resident in the accommodation to which regulation 86 applies;

(iii) the amount applicable to him (if any) under paragraph 2(2) of Schedule 4 (meal allowances) plus the amount in respect of him as an allowance for personal expenses under paragraph 11 of Schedule 4 as if he were residing in the accommodation to which regulation 86 applies plus any amount applicable under regulation 87(3);

(iv) the amount which would be applicable to him under regulation 83;

(b) Where—

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- | | |
|--|--|
| <p>(i) ^{F161}the claimant is not a patient and the other member of the couple or one or more members of the marriage has been a patient for a period of more than 6 weeks; or]</p> | <p>(i) the members of the family not patients remain in the accommodation, the amount applicable to the family as if regulation 86 having taken into account any reduction in charge, continued to apply to all the members of the family except that in respect of the member of the couple or polygamous marriage who has been a patient for more than six weeks no amount shall be applicable in respect of him under paragraph 2(2) of Schedule 4 and for the amount in respect of the allowance for personal expenses prescribed by paragraph 11 of Schedule 4 there shall be substituted the amount of ^{F148}£16.90;]</p> |
| <p>(ii) ^{F161}the claimant is a patient but has not been a patient for more than 2 weeks and the other member of the couple or one or more members of the marriage has been a patient for more than 6 weeks;]</p> | <p>(ii) one or more children or young persons are also patients and have been so for more than 12 weeks, in respect of those children and young persons and the member of the couple ^{F147}or polygamous] marriage remaining in the accommodation the amount specified in column (2) of sub— paragraph (b)(i) save that the child or young person who has been a patient for more than 12 weeks shall be disregarded as a member of the family in assessing the amount applicable under regulation 86 and in respect of each such child or young person there shall be added the amount of ^{F148}£13.50;]</p> |
| <p>(c) a child or young person who has been a patient for a period of more than 12 weeks.</p> | <p>(c) the amount applicable under regulation 85 as if that child or young person was not a member of the family plus an amount of ^{F148}£13.50] in respect of that child or young person.</p> |

Textual Amendments

- F147** Words in Sch. 5 substituted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**
- F148** Sums in Sch. 5 substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(i), 22(8), **Sch. 14**
- F149** 1947 c.19; amended by Schedule 4 of the [Social Security Act 1980 \(c.30\)](#) and by [S.I. 1951/174](#) and [1968/1699](#).
- F150** 1973 c.50; section 2 was substituted by the [Employment Act 1988 \(c.19\)](#), **section 25(1)**.
- F151** 1990 c.35.
- F152** Words in Sch. 5 para. 9(b) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), **45**
- F153** Word in Sch. 5 para. 11 substituted (7.4.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(c), **2(15)**

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- F154** Word in Sch. 5 para. 13(2) omitted (28.10.1996) by virtue of The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2538), regs. 1, **2(13)(b)(i)**
- F155** Word in Sch. 5 para. 13(2) substituted (28.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2538), regs. 1, **2(13)(b)(ii)**
- F156** Words in Sch. 5 para. 13(2) added (28.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2538), regs. 1, **2(13)(b)(iii)**
- F157** Words in Sch. 5 inserted (3.4.2000) by The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636), regs. 1(2), **4(7)(a)**
- F158** Words in Sch. 5 inserted (3.4.2000) by The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636), regs. 1(2), **4(7)(b)**
- F159** Words in Sch. 5 para. 14 substituted (3.4.2000) by The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636), regs. 1(2), **4(8)**
- F160** Words in Sch. 5 para. 14 substituted (3.4.2000) by The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636), regs. 1(2), **4(8)**
- F161** Sch. 5 para. 17(b)(i)(ii) substituted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **30**

Modifications etc. (not altering text)

- C15** Sch. 5 para. 4 sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(i), 22(8), **Sch. 14**
- C16** Sch. 5 para. 14 sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(i), 22(8), **Sch. 14**
- C17** Sch. 5 para. 16 sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(i), 22(8), **Sch. 14**

Textual Amendments

- F147** Words in Sch. 5 substituted (7.10.1996) by The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), reg. 1(1), **Sch. Pt. 2**
- F148** Sums in Sch. 5 substituted (with effect in accordance with art. 1(2)(i) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(i), 22(8), **Sch. 14**
- F149** 1947 c.19; amended by Schedule 4 of the Social Security Act 1980 (c.30) and by S.I. 1951/174 and 1968/1699.
- F150** 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), **section 25(1)**.
- F151** 1990 c.35.
- F152** Words in Sch. 5 para. 9(b) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1803), regs. 1(b), **45**
- F153** Word in Sch. 5 para. 11 substituted (7.4.1997) by The Social Security (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/454), regs. 1(c), **2(15)**
- F154** Word in Sch. 5 para. 13(2) omitted (28.10.1996) by virtue of The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2538), regs. 1, **2(13)(b)(i)**
- F155** Word in Sch. 5 para. 13(2) substituted (28.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2538), regs. 1, **2(13)(b)(ii)**
- F156** Words in Sch. 5 para. 13(2) added (28.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/2538), regs. 1, **2(13)(b)(iii)**
- F157** Words in Sch. 5 inserted (3.4.2000) by The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636), regs. 1(2), **4(7)(a)**

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- F158** Words in Sch. 5 inserted (3.4.2000) by The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636), regs. 1(2), **4(7)(b)**
- F159** Words in Sch. 5 para. 14 substituted (3.4.2000) by The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636), regs. 1(2), **4(8)**
- F160** Words in Sch. 5 para. 14 substituted (3.4.2000) by The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636), regs. 1(2), **4(8)**
- F161** Sch. 5 para. 17(b)(i)(ii) substituted (7.10.1996) by The Jobseeker's Allowance and Income Support (General) (Amendment) Regulations 1996 (S.I. 1996/1517), regs. 1, **30**

Modifications etc. (not altering text)

- C15** Sch. 5 para. 4 sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(i), 22(8), **Sch. 14**
- C16** Sch. 5 para. 14 sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(i), 22(8), **Sch. 14**
- C17** Sch. 5 para. 16 sum confirmed (with effect in accordance with art. 1(2)(i) of the amending S.I.) by The Social Security Benefits Up-rating Order 2000 (S.I. 2000/440), arts. 1(2)(i), 22(8), **Sch. 14**

Rounding of fractions

18. Where any calculation under this Schedule or as a result of a jobseeker's allowance being awarded for a period less than one complete benefit week results in a fraction of a penny that fraction shall be treated as a penny.

SCHEDULE 6

Regulations 99(2), 101(2) and 106(6)

SUMS TO BE DISREGARDED IN THE CALCULATION OF EARNINGS

1. In the case of a claimant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged—

- (a) any earnings paid or due to be paid in respect of that employment which has terminated—
- (i) by way of retirement but only if on retirement he is entitled to a retirement pension under the Benefits Act, or would be so entitled if he satisfied the contribution conditions;
 - (ii) otherwise than by retirement except earnings to which [^{F162}regulation 98(1)(b), (c), (d), (f)[^{F163}, (ff)] and (g)] applies (earnings of employed earners);
- (b) where—
- (i) the employment has not been terminated, but
 - (ii) the claimant is not engaged in remunerative work,
- any earnings in respect of that employment except earnings to which regulation 98(1) (c) and (d) applies; but this sub-paragraph shall not apply where the claimant has been suspended from his employment.

Textual Amendments

- F162** Words in Sch. 6 para. 1(a)(ii) substituted (7.10.1996) by virtue of The Jobseeker's Allowance (Amendment) Regulations 1996 (S.I. 1996/1516), regs. 1(1), 20, **Sch. Pt. 2**

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F163 Word in Sch. 6 para. 1(a)(ii) inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **31(2)**

2. In the case of a claimant who, before the date of claim—
 - (a) has been engaged in part-time employment as an employed earner or, where the employment has been 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 terminated,

any earnings in respect of that employment except earnings to which regulation 98(1)(b), (c), (d), (f)^{F164}, (ff)] or (g) applies; but this paragraph shall not apply where the claimant has been suspended from his employment.

Textual Amendments

F164 Word in Sch. 6 para. 2 inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **31(3)**

3. Any payment to which regulation 98(1)(f) applies—
 - (a) which is due to be paid more than 52 weeks after the date of termination of the employment in respect of which the payment is made; or
 - (b) which is a compensatory award within the meaning of section 72(1)(b) of the Employment Protection (Consolidation) Act 1978^{F165} for so long as such an award remains unpaid and the employer is insolvent within the meaning of section 127 of that Act.

Textual Amendments

F165 1978 c.44; section 72 was amended by the [Trade Union Reform and Employment Rights Act 1993 \(c.19\)](#), [Schedule 5 paragraph 7](#).

4. In the case of a claimant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain, would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which regulation 95(2) (royalties etc.) applies.

- 5.—(1) In a case to which this paragraph applies, £15; but notwithstanding regulation 88 (calculation of income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £15.

- (2) This paragraph applies where the claimant's applicable amount includes, or but for his being an in-patient or in accommodation in a residential care home or nursing home or in residential accommodation would include, an amount by way of a disability premium under Schedule 1 (applicable amounts).

- (3) This paragraph applies where—
 - (a) the claimant is a member of a couple, and—
 - (i) his applicable amount would include an amount by way of the disability premium under Schedule 1 but for the higher pensioner premium under that Schedule being applicable; or

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- (ii) had he not been an in-patient or in accommodation in a residential care home or nursing home or in residential accommodation his applicable amount would include the higher pensioner premium under that Schedule and had that been the case he would also satisfy the condition in (i) above; and
 - (b) he or his partner is under the age of 60 and at least one is engaged in part-time employment.
- (4) This paragraph applies where—
- (a) the claimant's applicable amount includes, or but for his being an in-patient or in accommodation in a residential care home or nursing home or in residential accommodation would include, an amount by way of the higher pensioner premium under Schedule 1; and
 - (b) the claimant 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 part-time employment and the claimant was entitled by virtue of subparagraph (2) or (3) to a disregard of £15; and
 - (d) he or, as the case may be, he or his partner has continued in part-time employment.
- ^{F166}(5)
- ^{F166}(6)
- (7) For the purposes of this paragraph—
- (a) except where head (b) or (c) applies, no account shall be taken of any period not exceeding eight consecutive weeks occurring—
 - (i) on or after the date on which the claimant or, if he is a member of a couple, he or his partner attained the age of 60 during which either was or both were not engaged in part-time employment or the claimant was not entitled to a jobseeker's allowance or income support; or
 - (ii) immediately after the date on which the claimant or his partner ceased to participate in arrangements for training made under section 2 of the Employment and Training Act 1973 ^{F167} or section 2 of the Enterprise and New Towns (Scotland) Act 1990 ^{F168} or to participate in an employment rehabilitation programme established under that section of the 1973 Act;
 - (b) in a case where the claimant has ceased to be entitled to a jobseeker's allowance or income support because he, or if he is a member of a couple, he or his partner becomes engaged in remunerative work, no account shall be taken of any period, during which he was not entitled to a jobseeker's allowance or income support, not exceeding the permitted period, occurring on or after the date on which the claimant or, as the case may be, his partner attained the age of 60;
 - (c) no account shall be taken of any period occurring on or after the date on which the claimant or, if he is a member of a couple, he or his partner attained the age of 60 during which the claimant was not entitled to a jobseeker's allowance or income support because he or his partner was participating in arrangements for training made under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or participating in an employment rehabilitation programme established under that section of the 1973 Act;

Textual Amendments

- F166** Sch. 6 para. 5(5)(6) revoked (3.4.2000) by [The Social Security \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/681\)](#), regs. 1(1)(c), **12(b)**
- F167** 1973 c.50; section 2 was amended by section 25(1) of the [Employment Act 1988 \(c.19\)](#), Part I of Schedule 7 to the [Employment Act 1989 \(c.38\)](#), and section 47(1) of the [Trade Union Reform and Employment Rights Act 1993 \(c.19\)](#).
- F168** 1990 c.35.

[^{F169}6. In a case where the claimant is a lone parent and paragraph 5 does not apply, £15.]

Textual Amendments

- F169** Sch. 6 para. 6 substituted (6.4.1998) by [The Social Security Amendment \(Lone Parents\) Regulations 1998 \(S.I. 1998/766\)](#), regs. 1(1), **15**

7.—(1) In a case to which neither paragraph 5 or 6 applies to the claimant, and subject to sub-paragraph (2), where the claimant's applicable amount includes an amount by way of the carer premium under Schedule 1 (applicable amounts), £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 17(2) of that Schedule as being in receipt of invalid care allowance.

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

8. Where the carer premium is awarded in respect of a claimant 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 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 7 exceed £15;
- (b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £5 as would not when aggregated with the amount disregarded under paragraph 7 exceed £15.

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

- (a) a part-time member of a fire brigade maintained in pursuance of the Fire Services Acts 1947 to 1959 ^{F170};
- (b) an auxiliary coastguard in respect of coast rescue activities;
- (c) a person engaged part-time in the manning or launching of a lifeboat;
- (d) a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979 ^{F171};

but, notwithstanding regulation 88 (calculation of income and capital of members of claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the claimant's partner is engaged in employment—

- (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the claimant's earnings disregarded under this paragraph exceed £15;

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- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £5 as would not in aggregate with the claimant's earnings disregarded under this paragraph exceed £15.

Textual Amendments

F170 1947 c.41; 1951 c.27; 1959 c.44.

F171 S.I. 1979/591; relevant amending instruments are S.I. 1980/1975 and 1994/1553.

10. Where the claimant is engaged in one or more employments specified in paragraph 9(1) but his earnings derived from such employments are less than £15 in any week and he is also engaged in any other part-time employment, so much of his earnings from that other employment up to £5 as would not in aggregate with the amount of his earnings disregarded under paragraph 9 exceed £15.

11. Where the claimant is a member of a couple^{F172} ...—

- (a) in a case to which none of paragraphs 5 to 10 applies, £10; but, notwithstanding regulation 88 (calculation of income and capital of members of a claimant's family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this sub-paragraph are less than £10;
- (b) in a case to which one or more of paragraphs 5 to 10 applies and the total amount disregarded under those paragraphs is less than £10, so much of the claimant's earnings as would not in aggregate with the amount disregarded under paragraphs 5 to 10 exceed £10.

Textual Amendments

F172 Words in Sch. 6 para. 11 omitted (7.10.1996) by virtue of [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), regs. 1(1), **19**

12. In a case to which none of paragraphs 5 to 11 applies to the claimant, £5.

13. Notwithstanding the foregoing provisions of this Schedule, where two or more payments of the same kind and from the same source are to be taken into account in the same benefit week, because it has not been practicable to treat the payments under regulation 96(1)(b) (date on which income treated as paid) as paid on the first day of the benefit week in which they were due to be paid, there shall be disregarded from each payment the sum that would have been disregarded if the payment had been taken into account on the date on which it was due to be paid.

14. 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.

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

16. Any earnings which are due to be paid before the date of claim and which would otherwise fall to be taken into account in the same benefit week as a payment of the same kind and from the same source.

17. Any earnings of a child or young person except earnings to which paragraph 18 applies.

18. In the case of earnings of a child or young person who although not receiving full-time education for the purposes of section 142 of the Benefits Act (meaning of "child") is nonetheless treated for the purposes of these Regulations as receiving relevant education and who is engaged in remunerative work—

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- (a) if an amount by way of a disabled child premium under Schedule 1 (applicable amounts) is, or but for his accommodation in a residential care home or nursing home would be, included in the calculation of his applicable amount and his earning capacity is not, by reason of his disability, less than 75 per cent. of that which he would, but for that disability, normally be expected to earn, £15;
- (b) in any other case, £5.

19. In the case of a claimant who—

- (a) has been engaged in employment as a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979; and
- (b) by reason of that employment has failed to satisfy any of the conditions of entitlement to a jobseeker's allowance, other than the condition in section 2(1)(c) (prescribed amount of earnings) or section 3(1)(a) (income not in excess of applicable amount),

any earnings from that employment paid in respect of the period in which the claimant was not entitled to a jobseeker's allowance.

20. In this Schedule "part-time employment" means employment in which the person is not to be treated as engaged in remunerative work under regulation 52 or 53 (persons treated as engaged, or not engaged, in remunerative work).

21. In paragraph 5(7)(b) "permitted period" means a period determined in accordance with regulation 3A of the Income Support Regulations^{F173}, as it has effect by virtue of regulation 87(7) of these Regulations.

Textual Amendments

F173 Regulation 3A was inserted by [S.I. 1989/1678](#) and is amended by [S.I. 1996/206](#).

SCHEDULE 7

Regulation 103(2)

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

Modifications etc. (not altering text)

C18 Sch. 7 para. 65 modified (temp.) (29.11.1999) by [The Social Security \(New Deal Pilot\) Regulations 1999 \(S.I. 1999/3156\)](#), [regs. 1\(1\), 16](#) (with [regs. 1\(2\), 11, 19](#))

1. Any amount paid by way of tax on income which is taken into account under regulation 103 (calculation of income other than earnings).

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

- (a) engaged by a charitable or voluntary organisation; 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 105(13) (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.

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4. In the case of a payment of statutory sick pay or statutory maternity pay or any remuneration paid by or on behalf of an employer to the claimant who for the time being is unable to work due to illness or maternity—

- (a) any amount deducted by way of primary Class 1 contributions under the Benefits Act;
- (b) one-half of any sum paid by the claimant by way of a contribution towards an occupational or personal pension scheme.

5. In the case of the payment of statutory sick pay or statutory maternity pay under Parts XI or XII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 ^{F174}—

- (a) any amount deducted by way of primary Class 1 contributions under that Act;
- (b) one-half of any sum paid by way of a contribution towards an occupational or personal pension scheme.

Textual Amendments

F174 1992 c.7.

6. Any housing benefit.

7. The mobility component of disability living allowance, or any mobility allowance accrued under the repealed section 37A of the Social Security Act 1975 ^{F175}.

Textual Amendments

F175 1975 c.14; Section 37A was inserted by the [Social Security Pensions Act 1975 \(c.60\)](#), [section 22\(1\)](#).

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

- (a) any payment specified in paragraph 7 or 10;
- (b) a jobseeker's allowance or income support.

9. Any mobility supplement or any payment intended to compensate for the non-payment of such a supplement.

10. Any attendance allowance or the care component of disability living allowance, but, where the claimant's applicable amount falls to be calculated in accordance with Schedule 4, only to the extent that it exceeds the amount for the time being specified as the higher rate of attendance allowance for the purposes of section 64(3) of the Benefits Act or, as the case may be, the highest rate of the care component of disability living allowance for the purposes of section 72(4)(a) of that Act.

11. Any payment to the claimant as holder of the Victoria Cross or George Cross or any analogous payment.

Any—

- (a) education maintenance allowance payable by virtue of regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc.) ("the 1996 Act"); or
- (b) sum (not being an allowance coming within sub-paragraph (a)) in respect of a course of study attended by a child or young person payable by virtue of regulations made under section 518 of the 1996 Act, section 49 of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities) or section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992 (provision of financial assistance to students).]]

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Textual Amendments

- F176** Sch. 7 para. 12 substituted (for specified purposes and with effect in accordance with of the amending S.I.) by [The Social Security Amendment \(Educational Maintenance Allowance\) Regulations 1999 \(S.I. 1999/1677\)](#), regs. 1(1), **2(1)(2)(f)**
- F177** Sch. 7 para. 12 substituted (7.2.2000) by [The Social Security Amendment \(Education Maintenance Allowance\) Regulations 2000 \(S.I. 2000/55\)](#), regs. 1(1), **2(1)(2)**

13. In the case of a claimant to whom regulation 11 (part-time students) applies, any sums intended for any expenditure specified in paragraph (2) of regulation 131 (calculation of grant income) necessary as a result of his attendance on his course.

14. In the case of a claimant participating in arrangements for training made under section 2 of the Employment and Training Act 1973 ^{F178} or section 2 of the Enterprise and New Towns (Scotland) Act 1990 ^{F179}, or in an employment rehabilitation programme established under that section of the 1973 Act—

- (a) any travelling expenses reimbursed to the claimant;
- (b) any living away from home allowance under section 2(2)(d) of the 1973 Act or section 2(4)(c) of the 1990 Act but only to the extent that rent payable in respect of accommodation not normally occupied by him as his home is not met by housing benefit;
- (c) any training premium,
- ^{F180}(d) any child care expenses reimbursed to the claimant in respect of his participation in an employment programme specified in regulation 75(1)(a)(ii) or in a training scheme specified in regulation 75(1)(b)(ii),]

but this paragraph, except in so far as it relates to a payment under sub-paragraph (a), [^{F181}(b), (c) or (d)], does not apply to any part of any allowance under section 2(2)(d) of the 1973 Act or section 2(4)(c) of the 1990 Act.

Textual Amendments

- F178** 1973 c.50 section 2 was amended by section 25(1) of the [Employment Act 1988 \(c.19\)](#), Part I of Schedule 7 to the [Employment Act 1989 \(c.38\)](#), and section 47(1) of the [Trade Union Reform and Employment Rights Act 1993 \(c.19\)](#).
- F179** 1990 c.35.
- F180** Sch. 7 para. 14(d) added (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **14(a)(i)**
- F181** Words in Sch. 7 para. 14 substituted (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **14(a)(ii)**

15.—(1) Subject to sub-paragraph (3) and paragraphs 38, 39 and 41, £20 of any charitable payment or of any voluntary payment made or due to be made at regular intervals, except any payment to which sub-paragraph (2) or paragraph 16 applies.

(2) Subject to sub-paragraphs (3) and (6) and paragraph 41, 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, rent for which housing benefit is payable, any housing costs to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs) or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes), of a single claimant or, as the case may be, of the claimant or any other

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member of his family, or is used for any council tax or water charges for which that claimant or member is liable.

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

(a) to a payment which is made by a person for the maintenance of any member of his family or of his former partner or of his children;

(b) to a payment made—

(i) to a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes); or

(ii) to a member of the family of such a person where the payment is made by virtue of that person's involvement in the trade dispute.

(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) the expression "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.

(6) Sub-paragraph (2) shall apply to a claimant in a residential care home or nursing home only if his applicable amount falls to be calculated in accordance with regulation 86.

16.—(1) Subject to the following provisions of this paragraph, in the case of a claimant placed in a residential care home or nursing home by a local authority under section 26 of the National Assistance Act 1948 ^{F182}, sections 13A, 13B and 59(2)(c) of the Social Work (Scotland) Act 1968 ^{F183} or section 7 of the Mental Health (Scotland) Act 1984 ^{F184} any charitable payment or voluntary payment made or due to be made at regular intervals.

(2) This paragraph shall apply only where—

(a) the claimant was placed in the residential care or nursing home by the local authority because the home was the preferred choice of the claimant, and

(b) the cost of the accommodation was in excess of what the authority would normally expect to pay having regard to the needs of the claimant assessed in accordance with section 47 of the National Health Service and Community Care Act 1990 ^{F185}.

(3) This paragraph shall not apply in the case of a person whose applicable amounts falls to be calculated under regulation 86 (persons in residential care or nursing homes with preserved rights).

(4) The amount to be disregarded under sub-paragraph (1) shall not exceed the difference between the actual cost of the accommodation provided by the local authority and the cost the authority would normally incur for a person with the particular needs of the claimant.

Textual Amendments

F182 1948 c.29, **section 26** was amended by the [Health Services Act and Public Health Act 1968 \(c.46\)](#), **section 44** and Schedule 4 and the [Social Work \(Scotland\) Act 1968 \(c.49\)](#) Schedule 9 Part I and applied by section 87(3); the [Local Government Act 1972 \(c.70\)](#), **Schedule 23 paragraph 2**; the [Housing \(Homeless Persons\) Act 1977 \(c.48\)](#), **Schedule**; the [Health and Social Services and Social Security Adjudications Act 1983 \(c.41\)](#), **section 20(1)(b)**, and the [Community Care \(Residential Accommodation\) Act 1992 \(c.49\)](#).

F183 1968 c.49; sections 13A and 13B were inserted by the [National Health Service and Community Care Act 1990 \(c.19\)](#) section 56, and section 59 was amended by Schedule 9 paragraph 10(7) to that Act.

F184 1984 c.36.

F185 1990 c.19.

^{F186}**16A.**—(1) Subject to sub-paragraphs (2) and (3), where a claimant—

- (a) is a person to whom Schedule 4 (applicable amounts of persons in residential care and nursing homes) or paragraph 16 or 17 of Schedule 5 (applicable amounts in special cases) applies;
- (b) is not residing with his spouse; and
- (c) has at least 50 per cent. of any occupational pension of his^{F187}, or of any income from a personal pension scheme of his,] being paid to, or in respect of, his spouse for that spouse's maintenance, an amount equal to 50 per cent. of the pension^{F188}, pensions or income] concerned.

^{F189}(2) Where a claimant is entitled to pensions or income referred to in sub-paragraph (1) from more than one source, all such pensions and income to which he is entitled shall be aggregated for the purposes of that sub-paragraph.]

(3) This paragraph shall not have effect in respect of that part of any ^{F190}pension or income referred to in sub-paragraph (1)] to which a spouse is legally entitled whether under a court order or not.]

Textual Amendments

F186 Sch. 7 para. 16A inserted (7.10.1996) by [The Jobseeker's Allowance and Income Support \(General\) \(Amendment\) Regulations 1996 \(S.I. 1996/1517\)](#), regs. 1, **32**

F187 Words in Sch. 7 para. 16A(1)(c) inserted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits and Jobseeker's Allowance \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/65\)](#), reg. 1(1)(2), **2(4)(a)(i)(aa)**

F188 Words in Sch. 7 para. 16A(1) substituted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits and Jobseeker's Allowance \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/65\)](#), reg. 1(1)(2), **2(4)(a)(i)(bb)**

F189 Sch. 7 para. 16A(2) substituted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits and Jobseeker's Allowance \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/65\)](#), reg. 1(1)(2), **2(4)(a)(ii)**

F190 Words in Sch. 7 para. 16A(3) substituted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Income-related Benefits and Jobseeker's Allowance \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/65\)](#), reg. 1(1)(2), **2(4)(a)(iii)**

17. Subject to paragraphs 38 and 39, £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 9 or 10;
- (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.

18. Where a claimant receives income under an annuity purchased with a loan which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in

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this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;

- (b) that the interest on the loan is payable by the person to whom it was made or by one of the annuitants;
- (c) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (d) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling; and
- (e) that the person to whom the loan was made or one of the annuitants occupies the accommodation on which it was secured as his home at the time the interest is paid,

the amount, calculated on a weekly basis equal to—

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988^{F191} (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 applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case the interest which is payable on the loan without deduction of such a sum.

Textual Amendments

F191 1988 c.1; subsection (1A) was inserted by the [Finance Act 1994 \(c.9\)](#), [section 81\(3\)](#).

19. Any payment made to the claimant by a person who normally resides with the claimant, which is a contribution towards that person’s living and accommodation costs, except where that person is residing with the claimant in circumstances to which paragraph 20 or 21 refers.

20. Where the claimant occupies a dwelling as his home and the dwelling is also occupied by another person and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family; and
- (b) a further £9.25, where the aggregate of any such payments is inclusive of an amount for heating.

21. Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100% of such payments; or
- (b) where the aggregate of any such payments exceeds £20, £20 and 50% of the excess over £20.

22.—(1) [^{F192}Subject to sub-paragraphs (2) and (3)], except where [^{F193}regulation 103(6)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act in the calculation of income other than earnings) or] regulation 105(10)(a)(i) (notional income) applies or in the case of a payment made—

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- (a) to a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes); or
- (b) to a member of the family of such a person where the payment is made by virtue of that person's involvement in the trade dispute,

any income in kind.

(2) The exceptions under sub-paragraph (1) shall not apply where the income in kind is received from the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust or the Independent Living Funds.

[^{F194}(3) The first exception under sub-paragraph (1) shall not apply where the claimant is the partner of a person subject to immigration control and whose partner is receiving support provided under section 95 or 98 of the Immigration and Asylum Act including support provided by virtue of regulations made under Schedule 9 to that Act and the income in kind is support provided in respect of essential living needs of the partner of the claimant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act.]

Textual Amendments

F192 Words in Sch. 7 para. 22(1) substituted (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), regs. 1(2), **reg. 4(9)(a)**

F193 Words in Sch. 7 para. 22(1) added (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), regs. 1(2), **4(9)(b)**

F194 Sch. 7 para. 22(3) added (3.4.2000) by [The Social Security \(Immigration and Asylum\) Consequential Amendments Regulations 2000 \(S.I. 2000/636\)](#), regs. 1(2), **4(9)(c)**

23.—(1) Any income derived from capital to which the claimant is, or is treated under regulation 115 (capital jointly held) as, beneficially entitled but, subject to sub-paragraph (2), not income [^{F195}derived] from capital disregarded under paragraph 1, 2, 4 to 8, 11 or 17 of Schedule 8.

(2) Income derived from capital disregarded under paragraph 2 or 4 to 8 of Schedule 8 but only to the extent of—

- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
- (b) any council tax or water charges which the claimant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.

(3) The definition of "water charges" in regulation 1(3) shall apply to sub-paragraph (2) with the omission of the words "in so far as such charges are in respect of the dwelling which a person occupies as his home".

Textual Amendments

F195 Word in Sch. 7 para. 23(1) inserted (7.10.1996) by [The Jobseeker's Allowance \(Amendment\) Regulations 1996 \(S.I. 1996/1516\)](#), reg. 1(1), **Sch. Pt. 2**

24. Any income which is payable in a country outside the United Kingdom for such period during which there is prohibition against the transfer to the United Kingdom of that income.

25. 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.

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26.—(1) Any payment made to the claimant in respect of a child or young person who is a member of his family—

- (a) in accordance with regulations made pursuant to section 57A of the Adoption Act 1976 ^{F196} (permitted allowances) or with a scheme approved by the Secretary of State under section 51 of the Adoption (Scotland) Act 1978 ^{F197} (schemes for payment of allowances to adopters);
- (b) which is a payment made by a local authority in pursuance of section 50 of the Children Act 1975 ^{F198} (contributions to a custodian towards the cost of the accommodation and maintenance of a child);
- (c) 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 ^{F199} (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order);
- ^{F200}(d) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);]

to the extent specified in sub-paragraph (2).

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

- (a) to whom regulation 106(5) (capital in excess of £3,000) applies, the whole payment;
- (b) to whom that regulation does not apply, so much of the weekly amount of the payment as exceeds the applicable amount in respect of that child or young person and where applicable to him any amount by way of a disabled child premium.

Textual Amendments

F196 1976 c.36; section 57A was inserted by the Children Act 1989 (c.41), **section 88** and Schedule 10 paragraph 25.

F197 1978 c.28.

F198 1975 c.72.

F199 1989 c.41.

F200 Sch. 7 para. 26(1)(d) added (coming into force in accordance with reg. 1(2)(3)(4)(5)(6) of the amending S.I.) by The Social Security (Miscellaneous Amendments) Regulations 1998 (S.I. 1998/563), regs. 1, **7(1)(2)(e)**

27. Any payment made by a local authority to the claimant with whom a person is accommodated by virtue of arrangements made under section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after) or, as the case may be, section 21 of the Social Work (Scotland) Act 1968 ^{F201} or by a voluntary organisation under section 59(1)(a) of the 1989 Act (provision of accommodation by voluntary organisations) or by a care authority under regulation 9 of the Boarding Out and Fostering of Children (Scotland) Regulations 1985 ^{F202} (provision of accommodation and maintenance for children in care).

Textual Amendments

F201 1968 c.49.

F202 S.I. 1985/1799.

^{F203}**28.** Any payment made to the claimant or his partner for a person ("the person concerned"), who is not normally a member of the claimant's household but is temporarily in his care, by—

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- (a) a health authority;
- (b) a local authority;
- (c) a voluntary organisation; or
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948.]

Textual Amendments

F203 Sch. 7 para. 28 substituted (coming into force in accordance with reg. 1(2)(3)(4)(5)(6) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 1998 \(S.I. 1998/563\)](#), regs. 1, 7(3)(4)(f)

29. Except in the case of a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes), any payment made by a local authority in accordance with section 17 or 24 of the Children Act 1989 or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care).

30.—(1) Subject to sub-paragraph (2), any payment received under an insurance policy, taken out to insure against the risk of being unable to maintain repayments on a loan which qualifies under paragraph 14 or 15 of Schedule 2 (housing costs in respect of loans to acquire an interest in the dwelling, or for repairs and improvements to the dwelling, occupied as the home) and used to meet such repayments, to the extent that it does not exceed the aggregate of—

- (a) the amount, calculated on a weekly basis, of any interest on that loan which is in excess of the amount met in accordance with Schedule 2 (housing costs);
- (b) the amount of any payment, calculated on a weekly basis, due on the loan attributable to the repayment of capital; and
- (c) any amount due by way of premiums on—
 - (i) that policy, or
 - (ii) an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home.

(2) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 105(10)(a)(ii) (notional income).

31.—(1) Except where paragraph 30 [^{F204} or 31A] applies, and subject to sub-paragraph (2), any payment made to the claimant which is intended to be used and is used as a contribution towards—

- (a) any payment due on a loan if secured on the dwelling occupied as the home which does not qualify under Schedule 2 (housing costs);
- (b) any interest payment or charge which qualifies in accordance with paragraphs 14 to 16 of Schedule 2 to the extent that the payment or charge is not met;
- (c) any payment due on a loan which qualifies under paragraph 14 or 15 of Schedule 2 attributable to the payment of capital;
- (d) any amount due by way of premiums on—
 - (i) an insurance policy taken out to insure against the risk of being unable to make the payments referred to in (a) to (c) above, or
 - (ii) an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home;

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- (e) his rent in respect of the dwelling occupied by him as his home but only to the extent that it is not met by housing benefit; or his accommodation charge but only to the extent that the actual charge increased, where appropriate, in accordance with paragraph 2 of Schedule 4 exceeds the amount determined in accordance with regulation 86 (residential care and nursing homes) or the amount payable by a local authority in accordance with Part III of the National Assistance Act 1948 ^{F205}.

(2) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 105(10)(a)(ii) (notional income).

Textual Amendments

F204 Words in Sch. 7 para. 31(1) inserted (1.6.1998 for specified purposes) by [The Social Security \(Miscellaneous Amendments\) \(No.3\) Regulations 1998 \(S.I. 1998/1173\)](#), regs. 1(5), **5(a)**

F205 1948 c.29.

^{F206}**31A.**—(1) Subject to sub-paragraph (2), any payment received under an insurance policy, other than an insurance policy referred to in paragraph 30, taken out to insure against the risk of being unable to maintain repayments under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part III of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

- (a) maintain the repayments referred to in sub-paragraph (1); and
- (b) meet any amount due by way of premiums on that policy.]

Textual Amendments

F206 Sch. 7 para. 31A inserted (1.6.1998 for specified purposes) by [The Social Security \(Miscellaneous Amendments\) \(No.3\) Regulations 1998 \(S.I. 1998/1173\)](#), regs. 1(5), **5(b)**

32.—(1) Subject to sub-paragraphs (2) and (3), in the case of a claimant in a residential care home or nursing home, any payment, whether or not the payment is charitable or voluntary but not a payment to which paragraph 16 applies, made to the claimant which is intended to be used and is used to meet the cost of maintaining the claimant in that home.

(2) This paragraph shall not apply to a claimant for whom accommodation in a residential care home or nursing home is provided by a local authority under section 26 of the National Assistance Act 1948 or section 59 of the Social Work (Scotland) Act 1968, or whose applicable amount falls to be calculated in accordance with regulation 86.

(3) The amount to be disregarded under this paragraph shall not exceed the difference between—

- (a) the claimant's applicable amount less any of the amounts referred to in paragraph 11 of Schedule 4 (personal allowances) which would be applicable to the claimant if his applicable amount fell to be calculated in accordance with that Schedule, and
- (b) the weekly charge for the accommodation.

33. Any social fund payment made pursuant to Part VIII of the Benefits Act.

34. Any payment of income which under regulation 110 (income treated as capital) is to be treated as capital.

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35. Any payment under Part X of the Benefits Act (pensioner's Christmas bonus).

36. In the case of a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes), any payment up to the amount of the prescribed sum within the meaning of section 15(2)(d) made by a trade union.

37. Any payment which is due to be paid before the date of claim which would otherwise fall to be taken into account in the same benefit week as a payment of the same kind and from the same source.

38. The total of a claimant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under regulation 88(4) (calculation of income and capital of members of claimant's family and of a polygamous marriage) to be disregarded under regulations 132(2)(b) and 133(1)(c) (calculation of covenant income where a contribution assessed), regulation 136(2) (treatment of student loans) and paragraphs 15(1) and 17 shall in no case exceed £20 per [^{F207}benefit week].

Textual Amendments

F207 Words in Sch. 7 para. 38 substituted (7.4.1997) by [The Social Security \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/454\)](#), regs. 1(c), **2(16)**

39. Notwithstanding paragraph 38, where two or more payments of the same kind and from the same source are to be taken into account in the same benefit week, there shall be disregarded from each payment the sum which would otherwise fall to be disregarded under this Schedule; but this paragraph shall only apply in the case of a payment which it has not been practicable to treat under regulation 96(1)(b) (date on which income treated as paid) as paid on the first day of the benefit week in which it is due to be paid.

40. Any resettlement benefit which is paid to the claimant by virtue of regulation 3 of the Social Security (Hospital In-Patients) Amendment (No.2) Regulations 1987 ^{F208}.

Textual Amendments

F208 [S.I. 1987/1683](#).

41.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust ("the Trusts") or the Independent Living Funds.

(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 Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

(a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced;

(b) any child or young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia 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 Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

(a) the person who is suffering from haemophilia or who is a qualifying person;

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- (b) any child or young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from the payment under any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced, 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 had 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 Trusts to which sub-paragraph (1) refers, where—
- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced, 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 Trusts.
- 42.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 43.** Any payment made to a juror or a witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the Act or the Benefits Act.
- 44.** Any community charge benefit.
- 45.** 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 ^{F209} or section 9A of the Abolition of Domestic Rates Etc (Scotland) Act 1987 ^{F210} (reduction of liability for personal community charges) or reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 ^{F211} (reduction of liability for council tax).

Textual Amendments

F209 1988 c.41; section 13A was inserted by the [Local Government and Housing Act 1989 \(c.42\)](#) (the 1989 Act), Schedule 5 paragraph 5.

F210 1987 c.47; section 9A was inserted by the 1989 Act, section 143.

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F211 [1992 c.14](#).

46. 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 ^{F212};
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977 ^{F213};
- (c) the Queen's Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917 ^{F214};
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980 ^{F215};
- (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;

and any analogous payment 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.

Textual Amendments

F212 [1865 c.73](#).

F213 Army Code No. 13045 published by HMSO.

F214 [1917 c.51](#); Queen's Regulations for the Royal Air Force are available from HMSO.

F215 [1980 c.9](#).

47.—(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 ^{F216} (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 ^{F217} (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).

Textual Amendments

F216 [S.I. 1988/551](#); relevant amending instruments are [S.I. 1989/394](#), [1990/918](#), [1991/557](#) and [1992/1104](#).

F217 [S.I. 1988/546](#).

48. Any payment made under regulation 9 to 11 or 13 of the Welfare Food Regulations 1988 ^{F218} (payments made in place of milk tokens or the supply of vitamins).

Textual Amendments

F218 [S.I. 1988/536](#); relevant amending instruments are [S.I. 1990/3](#) and [1991/585](#).

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49. 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.

50. Any payment (other than a training allowance) made, whether by the Secretary of State or by any other person, under the Disabled Persons (Employment) Act 1944 ^{F219} 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.

Textual Amendments

F219 [1944 c.10](#).

51. Any council tax benefit.

52. Where the claimant is in receipt of any benefit under Parts II, III or V of the Benefits 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 claimant's family.

53. Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 ^{F220} (pensions to widows).

Textual Amendments

F220 [S.I. 1983/883](#); relevant amending instruments are [S.I. 1993/598](#) and 1994/1906.

54. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 ^{F221} (pensions to widows), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

Textual Amendments

F221 [S.I. 1983/686](#); relevant amending instruments are [S.I. 1994/715](#) and 2021.

55.—(1) Any payment which is—

(a) made under any of the Dispensing Instruments to a widow of a person—

(i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and

(ii) whose service in such capacity terminated before 31st March 1973; and

(b) equal to the amount specified in article 29(1A) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows).

(2) In this paragraph "the Dispensing Instruments" means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances) ^{F222}.

Textual Amendments

F222 Copies of the Dispensing Instruments are available from the Department of Social Security, 6th Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT.

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^[F223]56. Any payment made under the Community Care (Direct Payments) Act 1996 or under section 12B of the Social Work (Scotland) Act 1968.

Textual Amendments

F223 Sch. 7 paras. 56-59 added (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/65), **reg. 1(1)(2), 2(4)(b)**

57.—(1) Subject to paragraph 58, any Career Development Loan paid to the claimant pursuant to section 2 of the Employment and Training Act 1973 except to the extent that the loan has been applied for and paid in respect of living expenses for the period of education and training supported by that loan and those expenses relate to any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs) or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes), of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of this paragraph, “ordinary clothing and footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities.

Textual Amendments

F223 Sch. 7 paras. 56-59 added (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/65), **reg. 1(1)(2), 2(4)(b)**

58. Any Career Development Loan paid to the claimant pursuant to section 2 of the Employment and Training Act 1973 where the period of education and training supported by that loan has been completed.

Textual Amendments

F223 Sch. 7 paras. 56-59 added (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by The Income-related Benefits and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/65), **reg. 1(1)(2), 2(4)(b)**

59.—(1) Any payment specified in sub-paragraph (2) to a claimant who was formerly a full-time student and who has completed the course in respect of which those payments were made.

(2) The payments specified for the purposes of sub-paragraph (1) are—

(a) any grant income and covenant income as defined for the purposes of Chapter IX of Part VIII;

^[F224](b) any student loan as defined in Chapter IX of Part VIII;

(c) any contribution as defined in Chapter IX of Part VIII which—

(i) is taken into account in ascertaining the amount of a student loan referred to in head (b); and

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(ii) has been paid.]

Textual Amendments

F223 Sch. 7 paras. 56-59 added (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by *The Income-related Benefits and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/65)*, reg. **1(1)(2)**, 2(4)(b)

F224 Sch. 7 para. 59(2)(b)(c) substituted for para. 59(2)(b) (with effect in accordance with reg. 1(1)(b) of the amending S.I.) by *The Social Security Amendment (Students) Regulations 1999 (S.I. 1999/1935)*, regs. 1(1)(b), **2(8)**

[^{F225}**60.** Any mandatory top-up payment made to a person pursuant to section 2 of the Employment and Training Act 1973 in respect of that person's participation in an employment programme specified in—

- (a) regulation 75(1)(a)(ii)(aa)(ii) (self-employment route of the Employment Option of the New Deal);
- (b) regulation 75(1)(a)(ii)(bb) (Voluntary Sector Option of the New Deal); or
- (c) regulation 75(1)(a)(ii)(cc) (Environment Task Force Option of the New Deal).]

Textual Amendments

F225 Sch. 7 para. 60 substituted (1.6.1998) by *The Social Security (Miscellaneous Amendments) (No. 4) Regulations 1998 (S.I. 1998/1174)*, regs. 1(1), **4(a)**

[^{F226}**61.** Any discretionary payment to meet, or to help to meet, special needs, made to a person pursuant to section 2 of the Employment and Training Act 1973 in respect of that person's participation in the Full-Time Education and Training Option of the New Deal as specified in regulation 75(1)(b)(ii).]

Textual Amendments

F226 Sch. 7 paras. 60, 61 added (5.1.1998) by *The Social Security Amendment (New Deal) Regulations 1997 (S.I. 1997/2863)*, regs. 1(1), **14(b)**

[^{F227}**62.**—(1) Subject to sub-paragraph (2), in the case of a person who is receiving, or who has received, assistance under an employment programme specified in regulation 75(1)(a)(ii)(aa)(ii) (self-employment route of the Employment Option of the New Deal), any payment to that person—

- (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;
- (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) shall apply only in respect of payments which are paid to that person from the special account as defined for the purposes of Chapter IVA of Part VIII.]

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Textual Amendments

F227 Sch. 7 para. 62 added (1.6.1998) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1998 \(S.I. 1998/1174\)](#), regs. 1(1), **4(b)**

Modifications etc. (not altering text)

C19 Sch. 7 para. 62 modified (temp.) (29.11.1999) by [The Social Security \(New Deal Pilot\) Regulations 1999 \(S.I. 1999/3156\)](#), regs. 1(1), **18(2)(3)** (with regs. 1(2), 11, 19)

[^{F228}**63.**—(1) Subject to sub-paragraph (2), any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7).

(2) No amount shall be disregarded pursuant to sub-paragraph (1) in respect of travel expenses incurred as a result of the student's attendance on the course where an amount in respect of those expenses has already been disregarded pursuant to regulation 135(1) (student's income to be disregarded).]

Textual Amendments

F228 Sch. 7 para. 63 substituted (24.9.1998) by [The Social Security Amendment \(New Deal\) \(No.2\) Regulations 1998 \(S.I. 1998/2117\)](#), regs. 1(1), **4(1)**

[^{F229}**64.** Any payment which falls to be treated as notional income made under paragraph (11) of regulation 105 above (payments made in respect of a person in a residential care or nursing home).]

Textual Amendments

F229 Sch. 7 para. 64 added (24.9.1998) by [The Social Security Amendment \(New Deal\) \(No.2\) Regulations 1998 \(S.I. 1998/2117\)](#), regs. 1(1), **6(1)**

[^{F230}**65.** Any child care expenses reimbursed to the claimant in respect of his participation in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 1999 in regulation 2(1) of those Regulations.]

Textual Amendments

F230 Sch. 7 para. 65 modified (temp.) (29.11.1999) by [The Social Security \(New Deal Pilot\) Regulations 1999 \(S.I. 1999/3156\)](#), regs. 1(1), **16** (with regs. 1(2), 11, 19)

[^{F231}**66.** Any top-up payment made to a person (“the participant”) pursuant to—

(a) section 2 of the Employment and Training Act 1973 in respect of the participant's participation in the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 1999 in regulation 2(1) of those Regulations (“the intensive activity period”); or

(b) a written arrangement entered into between the Secretary of State and the person who has arranged for the participant's participation in the intensive activity period and which is made in respect of the participant's participation in that period.]

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Textual Amendments

F231 Sch. 7 para. 66 modified (temp.) (29.11.1999) by [The Social Security \(New Deal Pilot\) Regulations 1999](#) (S.I. 1999/3156), regs. 1(1), **16** (with regs. 1(2), 11, 19)

[^{F232}**67.**—(1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable or any housing costs to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs) or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes), of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of sub-paragraph (2)—

“food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made;

“ordinary clothing and footwear” means clothing or footwear for normal daily use but does not include school uniforms or clothing or footwear used solely for sporting activities.]

Textual Amendments

F232 Sch. 7 para. 67 added (23.8.1999) by [The Social Security Amendment \(Sports Awards\) Regulations 1999](#) (S.I. 1999/2165), regs. 1(1), **7(4)**

[^{F233}**68.** Where the amount of a subsistence allowance paid to a person in a benefit week exceeds the amount of income-based jobseeker's allowance that person would have received in that benefit week had it been payable to him, less 50p, that excess amount.

Textual Amendments

F233 Sch. 7 paras. 68, 69 added (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000](#) (S.I. 2000/724), regs. 1(1), **3(3)(b)**

69. In the case of a claimant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the claimant, being a fee, grant, loan or otherwise.]

Textual Amendments

F233 Sch. 7 paras. 68, 69 added (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000](#) (S.I. 2000/724), regs. 1(1), **3(3)(b)**

Textual Amendments

F232 Sch. 7 para. 67 added (23.8.1999) by [The Social Security Amendment \(Sports Awards\) Regulations 1999](#) (S.I. 1999/2165), regs. 1(1), **7(4)**

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F233 Sch. 7 paras. 68, 69 added (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000 \(S.I. 2000/724\)](#), regs. 1(1), **3(3)(b)**

SCHEDULE 8

Regulation 108(2)

CAPITAL TO BE DISREGARDED

Modifications etc. (not altering text)

C20 Sch. 8 para. 49 modified (temp.) (29.11.1999) by [The Social Security \(New Deal Pilot\) Regulations 1999 \(S.I. 1999/3156\)](#), regs. 1(1), **17** (with regs. 1(2), 11, 19)

1. The dwelling occupied as the home but, notwithstanding regulation 88, (calculation of income and capital of members of claimant's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.

2. Any premises acquired for occupation by the claimant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises.

3. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the claimant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale, or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

4. Any premises occupied in whole or in part by—

- (a) a partner or relative of a single claimant or of any member of the family as his home where that person is aged 60 or over or is incapacitated;
- (b) the former partner of a claimant as his home; but this provision shall not apply where the former partner is a person from whom the claimant is estranged or divorced.

5. Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home 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.

6. Any premises where the claimant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

7. Any premises which the claimant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice or has commenced legal proceedings with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings, whichever is earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

8. Any premises which the claimant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the claimant first takes steps to effect those repairs or alterations, or such longer period as is reasonable in the circumstances to enable those repairs or alterations to be carried out and the claimant to commence occupation of the premises.

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9. Any grant made to the claimant in accordance with a scheme made under section 129 of the Housing Act 1988^{F234} or section 66 of the Housing (Scotland) Act 1988^{F235} (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

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

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the claimant to commence occupation of those premises as his home,

Textual Amendments

F234 1988 c.50; section 129 was amended by the [Local Government and Housing Act 1989 \(c.42\)](#), [section 194](#) and Schedule 12.

F235 1988 c.43.

10. Any future interest in property of any kind, other than land or premises in respect of which the claimant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

11.—(1) The assets of any business owned in whole or in part by the claimant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

- (2) The assets of any business owned in whole or in part by the claimant where—
 - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
 - (b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business,

for a period of 26 weeks from the date on which the claim for a jobseeker's allowance is made, or is treated as made, or if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

[^{F236}(3) In the case of a person who is receiving assistance under an employment programme specified in regulation 75(1)(a)(ii)(aa)(ii) (self-employment route of the Employment Option of the New Deal), the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

(4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.]

Textual Amendments

F236 Sch. 8 para. 11(3)(4) added (1.6.1998) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1998 \(S.I. 1998/1174\)](#), regs. 1(1), [5\(a\)](#)

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Modifications etc. (not altering text)

C21 Sch. 8 para. 11 modified (temp.) (29.11.1999) by [The Social Security \(New Deal Pilot\) Regulations 1999 \(S.I. 1999/3156\)](#), regs. 1(1), **18(2)(3)** (with regs. 1(2), 11, 19)

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

- (a) any payment specified in paragraph 7, 9 or 10 of Schedule 7 (other income to be disregarded);
- (b) a jobseeker's allowance or an income-related benefit under Part VII of the Benefits Act;
- ^[F237](c) any allowance paid by the Secretary of State under the Earnings Top-up Scheme.]

but only for a period of 52 weeks from the date of receipt of the arrears or the concessionary payment.

Textual Amendments

F237 Sch. 8 para. 12(c) inserted (28.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/2538\)](#), regs. 1, **2(14)**

13. Any sum—

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

and which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to enable the claimant to effect the repairs, replacement or improvements.

14. Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 ^{F238} as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home, for the period of 26 weeks or such longer period as is reasonable in the circumstances to complete the purchase.

Textual Amendments

F238 1985 c.69.

15. Any personal possessions except those which have or had been acquired by the claimant with the intention of reducing his capital in order to secure entitlement to a jobseeker's allowance or to income support or to increase the amount of those benefits.

16. The value of the right to receive any income under an annuity and the surrender value (if any) of such an annuity.

17. Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant, the value of the trust fund and the value of the right to receive any payment under that trust.

18. The value of the right to receive any income under a life interest or from a liferent.

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19. The value of the right to receive any income which is disregarded under paragraph 14 of Schedule 6 or paragraph 24 of Schedule 7 (earnings or other income payable in a country outside the United Kingdom).

20. The surrender value of any policy of life insurance.

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

22. Except in the case of a person who is, or would be prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes), any payment made by a local authority in accordance with section 17 or 24 of the Children Act 1989 ^{F239} or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968 ^{F240} (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care).

Textual Amendments

F239 1989 c.41.

F240 1968 c.49.

23. Any social fund payment made pursuant to Part VIII of the Benefits Act.

24. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 ^{F241} (deductions of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements in the home.

Textual Amendments

F241 1988 c.1; section 369 was amended by the Finance Act 1993 (c.34), section 58 and the Finance Act 1994 (c.9), section 81.

25. Any capital which under regulation 104, 106(1) or 136 (capital treated as income, modifications in respect of children and young persons and treatment of student loans) is to be treated as income.

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

27.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust ("the Trusts") or the Independent Living Funds.

(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 Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom he is not, or where that person had died was not, estranged or divorced;
- (b) any child or young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia 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,

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which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of

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

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced, 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 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 made under any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced, 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 Trusts.

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

29. The value of any funds held under a personal pension scheme.

30. The value of the right to receive any rent except where the claimant has a reversionary interest in the property in respect of which rent is due.

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

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 ^{F242} or section 2 of the Enterprise and New Towns (Scotland) Act 1990, ^{F243} as a training bonus to a person participating in arrangements for training.

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Textual Amendments

F242 1973 c.50; section 2 was amended by section 25(1) of the [Employment Act 1988 \(c.19\)](#), Part I of Schedule 7 to the [Employment Act 1989 \(c.38\)](#), and section 47(1) of the [Trade Union Reform and Employment Rights Act 1993 \(c.19\)](#).

F243 1990 c.35.

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

34. Any payment made to a juror or a witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the Act or under the Benefits Act.

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 ^{F244} or section 9A of the Abolition of Domestic Rates Etc (Scotland) Act 1987 ^{F245} (reduction of liability for personal community charge) or reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 ^{F246} (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

Textual Amendments

F244 1988 c.41; section 13A was inserted by the [Local Government and Housing Act 1989 \(c.42\)](#) ("the 1989 Act"), Schedule 5 paragraph 5.

F245 1987 c.47; section 9A was inserted by the 1989 Act, section 143.

F246 1992 c.14.

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

- (a) as respects England and Wales, under regulations 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 ^{F247} (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 ^{F248} (travelling expenses and health service supplies),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the 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); but only for a period of 52 weeks from the date of receipt of the payment or repayment.

Textual Amendments

F247 S.I. 1988/551; relevant amending instruments are S.I. 1989/394, 1990/918, 1991/557 and 1992/1104.

F248 S.I. 1988/546.

37. Any payment made under regulation 9 to 11 or 13 of the Welfare Food Regulations 1988 ^{F249} (payments made in place of milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

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Textual Amendments

F249 [S.I. 1988/536](#); relevant amending instruments are [S.I. 1990/3](#) and 1991/585.

38. 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, but only for a period of 52 weeks from the date of receipt of the payment.

39. Any arrears of special war widows payment which is disregarded under paragraph 46 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 53, 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

40. 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 by any other person, under the Disabled Persons (Employment) Act 1944 ^{F250} 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.

Textual Amendments

F250 [1944 c.10](#).

41. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958 ^{F251} to homeworkers assisted under the Blind Homeworkers Scheme.

Textual Amendments

F251 [1958 c.33](#).

42. Any sum of capital administered on behalf of a person under the age of 18 by the High Court under the provisions of Order 80 of the Rules of the Supreme Court ^{F252}, the County Court under Order 10 of the County Court Rules 1981 ^{F253}, or the Court of Protection where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents [^{F254}where the person concerned is under the age of 18].

Textual Amendments

F252 [S.I. 1965/1776](#).

F253 [S.I. 1981/1687](#).

F254 Words in Sch. 8 para. 42 added (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income-related Benefits and Jobseekers Allowance \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/2197\)](#), regs. 1(2), **7(9)(b)(10)(f)**

43. Any sum of capital administered on behalf of a person under the age of 18 in accordance with an order made under Rule 43.15 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 ^{F255} or under Rule 131 of the Act of Sederunt (Rules of the Court, consolidation and amendment) 1965

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^{F256}, or under Rule 36.14 of the Ordinary Cause Rules 1993 ^{F257} or under Rule 128 of the Ordinary Cause Rules ^{F258}, where such sum derives from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents [^{F259}where the person concerned is under the age of 18].

Textual Amendments

F255 S.I. 1994/1443.

F256 S.I. 1965/321.

F257 First Schedule to the [Sheriff Courts \(Scotland\) Act 1907 \(c.51\)](#) as substituted in respect of causes commenced on or after 1 January 1994 by S.I. 1993/1956.

F258 First Schedule to the aforesaid Act of 1907 as substituted by S.I. 1983/747.

F259 Words in Sch. 8 para. 43 added (with effect in accordance with reg. 1(2)(3) of the amending S.I.) by [The Income-related Benefits and Jobseekers Allowance \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/2197\)](#), regs. 1(2), **7(9)(b)(10)(f)**

44. Any payment to the claimant as holder of the Victoria Cross or George Cross.

[^{F260}45. Any mandatory top-up payment made to a person pursuant to section 2 of the Employment and Training Act 1973 in respect of that person's participation in an employment programme specified in—

- (a) regulation 75(1)(a)(ii)(aa)(ii) (self-employment route of the Employment Option of the New Deal);
- (b) regulation 75(1)(a)(ii)(bb) (Voluntary Sector Option of the New Deal); or
- (c) regulation 75(1)(a)(ii)(cc) (Environment Task Force Option of the New Deal),

but only for a period of 52 weeks from the date of receipt of the payment.]

Textual Amendments

F260 Sch. 8 para. 45 substituted (1.6.1998) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1998 \(S.I. 1998/1174\)](#), regs. 1(1), **5(b)**

[^{F261}46. Any discretionary payment to meet, or to help to meet, special needs made to a person pursuant to section 2 of the Employment and Training Act 1973 in respect of that person's participation in the Full-Time Education and Training Option of the New Deal as specified in regulation 75(1)(b)(ii) but only for a period of 52 weeks from the date of receipt of the payment.]

Textual Amendments

F261 Sch. 8 paras. 45, 46 added (5.1.1998) by [The Social Security Amendment \(New Deal\) Regulations 1997 \(S.I. 1997/2863\)](#), regs. 1(1), **15**

[^{F262}47. In the case of a person who is receiving, or who has received, assistance under an employment programme specified in regulation 75(1)(a)(ii)(aa)(ii) (self-employment route of the Employment Option of the New Deal), any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.]

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Textual Amendments

F262 Sch. 8 para. 47 added (1.6.1998) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 1998 \(S.I. 1998/1174\)](#), regs. 1(1), **5(c)**

Modifications etc. (not altering text)

C22 Sch. 8 para. 47 modified (temp.) (29.11.1999) by [The Social Security \(New Deal Pilot\) Regulations 1999 \(S.I. 1999/3156\)](#), regs. 1(1), **18(2)(3)** (with regs. 1(2), 11, 19)

[^{F263}**48.** Any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7) but only for the period of 52 weeks from the date of receipt of that payment.]

Textual Amendments

F263 Sch. 8 para. 48 added (24.9.1998) by [The Social Security Amendment \(New Deal\) \(No.2\) Regulations 1998 \(S.I. 1998/2117\)](#), regs. 1(1), **5(1)**

49. [^{F264}Any child care expenses reimbursed to the claimant in respect of his participation in the programme known as the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 1999 in regulation 2(1) of those Regulations, but only for a period of 52 weeks from the date of receipt of the payment.]

Textual Amendments

F264 Sch. 8 para. 49 modified (temp.) (29.11.1999) by [The Social Security \(New Deal Pilot\) Regulations 1999 \(S.I. 1999/3156\)](#), regs. 1(1), **17** (with regs. 1(2), 11, 19)

50. [^{F265}Any top-up payment made to a person (“the participant”) pursuant to—

(a) section 2 of the Employment and Training Act 1973 in respect of the participant’s participation in the intensive activity period of the New Deal pilots for 25 plus as defined for the purposes of the Social Security (New Deal Pilot) Regulations 1999 in regulation 2(1) of those Regulations (“the intensive activity period”); or

(b) a written arrangement entered into between the Secretary of State and the person who has arranged for the participant’s participation in the intensive activity period and which is made in respect of the participant’s participation in that period

but only for the period of 52 weeks beginning on the date of receipt of the payment]

Textual Amendments

F265 Sch. 8 para. 50 modified (temp.) (29.11.1999) by [The Social Security \(New Deal Pilot\) Regulations 1999 \(S.I. 1999/3156\)](#), regs. 1(1), **17** (with regs. 1(2), 11, 19)

[^{F266}**51.**—(1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

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(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable or any housing costs to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs) or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes), of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of sub-paragraph (2)—

“food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made;

“ordinary clothing and footwear” means clothing or footwear for normal daily use but does not include school uniforms or clothing or footwear used solely for sporting activities.]

Textual Amendments

F266 Sch. 8 para. 51 added (23.8.1999) by [The Social Security Amendment \(Sports Awards\) Regulations 1999 \(S.I. 1999/2165\)](#), regs. 1(1), **7(5)**

52. [^{F267}Any education maintenance allowance payable by virtue of regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc.) which is payable as a termly bonus or as an achievement bonus at the end of an academic term but only for a period of 52 weeks from the date of receipt of that allowance.]

Textual Amendments

F267 Sch. 8 para. 52 added (7.2.2000) by [The Social Security Amendment \(Education Maintenance Allowance\) Regulations 2000 \(S.I. 2000/55\)](#), regs. 1(1), **2(3)(4)**

[^{F268}**53.** In the case of a claimant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the claimant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

Textual Amendments

F268 Sch. 8 paras. 53, 54 added (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000 \(S.I. 2000/724\)](#), regs. 1(1), **3(4)(b)**

54. Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.]

Textual Amendments

F268 Sch. 8 paras. 53, 54 added (3.4.2000) by [The Social Security Amendment \(Employment Zones\) Regulations 2000 \(S.I. 2000/724\)](#), regs. 1(1), **3(4)(b)**

[^{F269}**55.** Any payment made to a person under regulation 11 of the Social Security (Payments to Reduce Under-occupation) Regulations 2000, but only for a period of 52 weeks from the date of payment.]

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Textual Amendments

F269 Sch. 8 para. 55 added (3.4.2000) by [The Social Security \(Payments to Reduce Under-occupation\) Regulations 2000 \(S.I. 2000/637\)](#), regs. 1(2), **12(1)(2)(d)** (with reg. 15)

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