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## STATUTORY INSTRUMENTS

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# 2006 No. 213

## The Housing Benefit Regulations 2006

### PART 8

#### Amount of benefit

##### Non-dependant deductions

<sup>F1</sup>74.—(1) Subject to the following provisions of this regulation, the deductions referred to in regulation 70 (maximum housing benefit) shall be—

- (a) in respect of a non-dependant aged 18 or over in remunerative work, [<sup>F2</sup>£91.15 ]per week;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, [<sup>F3</sup>£14.15 ]per week.

(2) In the case of a non-dependant aged 18 or over to whom paragraph (1)(a) applies because he is in remunerative work, where it is shown to the appropriate authority that his normal weekly gross income is—

- (a) less than [<sup>F4</sup>£128.00,] the deduction to be made under this regulation shall be that specified in paragraph (1)(b);
- (b) not less than [<sup>F5</sup>£128.00 ]but less than [<sup>F5</sup>£188.00,] the deduction to be made under this regulation shall be [<sup>F5</sup>£32.45;]
- (c) not less than [<sup>F6</sup>£188.00 ]but less than [<sup>F6</sup>£245.00,] the deduction to be made under this regulation shall be [<sup>F6</sup>£44.55;]
- (d) not less than [<sup>F7</sup>£245.00 ]but less than [<sup>F7</sup>£326.00,] the deduction to be made under this regulation shall be [<sup>F7</sup>£72.95;]
- (e) not less than [<sup>F8</sup>£326.00 ]but less than [<sup>F8</sup>£406.00,] the deduction to be made under this regulation shall be [<sup>F8</sup>£83.05.]

(3) Only one deduction shall be made under this regulation in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this 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 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 paragraph (2) to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross 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 payments in respect of the dwelling payable by each of them.

- (6) No deduction shall be made in respect of any non-dependants occupying a claimant's dwelling if the claimant or his partner is—
- (a) [<sup>F9</sup>severely sight impaired or blind or treated as severely sight impaired or blind] by virtue of paragraph 13 of Schedule 3 (additional condition [<sup>F10</sup>for the disability premium]); or
  - (b) receiving in respect of himself either—
    - (i) attendance allowance; <sup>F11</sup> ...
    - (ii) the care component of the disability living allowance; <sup>F12</sup> ...
    - (iii) the daily living component of personal independence payment; [<sup>F13</sup>or
    - (iv) armed forces independence payment.]
- (7) No deduction shall be made in respect of a non-dependant if—
- (a) although he resides with the claimant, it appears to the appropriate authority that his normal home is elsewhere; or
  - (b) he is in receipt of a training allowance paid in connection with [<sup>F14</sup>youth training] established under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
  - (c) he is a full-time student during a period of study within the meaning of Part 7 (Students); or
  - (d) he is a full-time student and during a recognised summer vacation appropriate to his course he is not in remunerative work; or
  - (e) he is a full-time student and the claimant or his partner has attained the age of 65; or
  - (f) he is not residing with the claimant because he has been a patient for a period in excess of 52 weeks, or a prisoner, and for these purposes—
    - (i) “patient” has the meaning given in paragraph (18) of regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home);
    - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods; and
    - (iii) “prisoner” means a person who is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995.
  - <sup>F15</sup>(g) he is not residing with the claimant because he is a member of the armed forces away on operations.]
- (8) [<sup>F16</sup>No deduction shall be made in calculating the amount of a rent rebate or allowance in respect of a non-dependant aged less than 25 who is—
- (a) on income support, an income-based jobseeker's allowance or an income-related employment and support allowance which does not include an amount under section 4(2) (b) of the Welfare Reform Act (the support component and the work-related activity component); or
  - (b) entitled to an award of universal credit where the award is calculated on the basis that the non-dependant does not have any earned income.]
- (9) In the case of a non-dependant to whom paragraph (2) applies because he is in remunerative work, there shall be disregarded from his weekly gross income—

- (a) any attendance allowance<sup>[F17]</sup>, disability living allowance<sup>[F18]</sup>, armed forces independence payment] or personal independence payment] 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<sup>[F19]</sup>, MFET Limited<sup>[F20]</sup>, the Skipton Fund, the Caxton Foundation] or the Independent Living <sup>[F21]</sup>Fund (2006)] which had his income fallen to be calculated under <sup>[F22]</sup>or by] regulation 40 (calculation of income other than earnings) would have been disregarded under paragraph 23 of Schedule 5 (income in kind); and
  - (c) any payment which had his income fallen to be calculated under regulation 40 would have been disregarded under paragraph 35 of Schedule 5 (payments made under certain trusts and certain other payments).
- (10) No deduction shall be made in respect of a non-dependant who is on state pension credit.]
- <sup>[F23]</sup>(11) For the purposes of paragraph (8), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013.]

#### Textual Amendments

- F1** Reg. 74 substituted (7.4.2008) by [The Housing Benefit \(Local Housing Allowance and Information Sharing\) Amendment Regulations 2007 \(S.I. 2007/2868\)](#), regs. 1(3), **14** (with reg. 1(6))
- F2** Reg. 74(1)(a) substituted (1.4.2014 for specified purposes, 7.4.2014 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2014 \(S.I. 2014/516\)](#), arts. 1(2)(g), **17(1)(4)(a)**
- F3** Reg. 74(1)(b) substituted (1.4.2014 for specified purposes, 7.4.2014 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2014 \(S.I. 2014/516\)](#), arts. 1(2)(g), **17(1)(4)(b)**
- F4** Reg. 74(2)(a) substituted (1.4.2014 for specified purposes, 7.4.2014 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2014 \(S.I. 2014/516\)](#), arts. 1(2)(g), **17(1)(4)(c)**
- F5** Reg. 74(2)(b) substituted (1.4.2014 for specified purposes, 7.4.2014 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2014 \(S.I. 2014/516\)](#), arts. 1(2)(g), **17(1)(4)(d)**
- F6** Reg. 74(2)(c) substituted (1.4.2014 for specified purposes, 7.4.2014 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2014 \(S.I. 2014/516\)](#), arts. 1(2)(g), **17(1)(4)(e)**
- F7** Reg. 74(2)(d) substituted (1.4.2014 for specified purposes, 7.4.2014 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2014 \(S.I. 2014/516\)](#), arts. 1(2)(g), **17(1)(4)(f)**
- F8** Reg. 74(2)(e) substituted (1.4.2014 for specified purposes, 7.4.2014 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2014 \(S.I. 2014/516\)](#), arts. 1(2)(g), **17(1)(4)(g)**
- F9** Words in reg. 74(6)(a) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Universal Credit and Miscellaneous Amendments \(No.2\) Regulations 2014 \(S.I. 2014/2888\)](#), regs. 1(1), **3(5)(b)**
- F10** Words in reg. 74(6)(a) substituted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(3)(a), **8(8)**
- F11** Word in reg. 74(6)(b)(i) omitted (8.4.2013) by virtue of [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 36(4)(a)**
- F12** Word in reg. 74(6)(b) omitted (8.4.2013) by virtue of [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 34(4)(a)**
- F13** Words in reg. 74(6)(b)(iv) inserted (8.4.2013) by [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 34(4)(b)**
- F14** Words in reg. 74(7)(b) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **6(6)(11)**

- F15** Reg. 74(7)(g) added (1.4.2013) by [The Housing Benefit \(Amendment\) Regulations 2013 \(S.I. 2013/665\)](#), regs. 1, **2(6)**
- F16** Reg. 74(8) substituted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **35(7)(a)**
- F17** Words in reg. 74(9)(a) substituted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 36(4)(c)**
- F18** Words in reg. 74(9)(a) inserted (8.4.2013) by [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 34(4)(c)**
- F19** Words in reg. 74(9)(b) inserted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(3)(a), **8(3)(e)**
- F20** Words in reg. 74(9)(b) inserted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **19(5)**
- F21** Words in reg. 74(9)(b) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **6(4)(d)(11)**
- F22** Words in reg. 74(9)(b) inserted (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(3)(a), **8(5)(d)**
- F23** Reg. 74(11) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **35(7)(b)**

#### **Modifications etc. (not altering text)**

- C1** Reg. 74(1)(a) sum confirmed (for specified purposes and with effect in accordance with art. 1(3)(a) 6 of the amending S.I., in force in so far as not already in force and with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(i), **19(4)(a)**
- C2** Reg. 74(1)(a) sum confirmed (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(j), **19(3)(a)**
- C3** Reg. 74(1)(b) sum confirmed (for specified purposes and with effect in accordance with art. 1(3)(a) 6 of the amending S.I., in force in so far as not already in force and with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(i), **19(4)(b)**
- C4** Reg. 74(1)(b) sum confirmed (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(j), **19(3)(b)**
- C5** Reg. 74(2)(a) sum confirmed (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(j), **19(3)(c)**
- C6** Reg. 74(2)(b) sum confirmed (for specified purposes and with effect in accordance with art. 1(3)(a) 6 of the amending S.I., in force in so far as not already in force and with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(i), **19(4)(d)**
- C7** Reg. 74(2)(b) sum confirmed (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(j), **19(3)(d)**
- C8** Reg. 74(2)(c) sum confirmed (for specified purposes and with effect in accordance with art. 1(3)(a) 6 of the amending S.I., in force in so far as not already in force and with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(i), **19(4)(e)**
- C9** Reg. 74(2)(c) sum confirmed (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(j), **19(3)(e)**
- C10** Reg. 74(2)(d) sum confirmed (for specified purposes and with effect in accordance with art. 1(3)(a) 6 of the amending S.I., in force in so far as not already in force and with effect in accordance with art.

1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(i), **19(4)(f)**

**C11** Reg. 74(2)(d) sum confirmed (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(j), **19(3)(f)**

**C12** Reg. 74(2)(e) sum confirmed (for specified purposes and with effect in accordance with art. 1(3)(a) 6 of the amending S.I., in force in so far as not already in force and with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(i), **19(4)(g)**

**C13** Reg. 74(2)(e) sum confirmed (1.4.2010 for specified purposes, 5.4.2010 in so far as not already in force) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(j), **19(3)(g)**

**Status:**

Point in time view as at 26/11/2014. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the The Housing Benefit Regulations 2006, Section 74.